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34571–34730

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MONDAY, AUGUST 16, 1976



highlights

PART I:

CONSUMER CLAIMS
FTC adopts enforcement policy statement; comments by 10–15–76 34594

CONSUMER PRODUCT WARRANTIES
FTC proposed interpretations of Magnuson-Moss Warranty Act; comments by 9–15–76 34654

NEW DRUGS
HEW/FDA offers hearing opportunity on effective indications of sodium succinate and certain long-acting systemic sulfonamides (2 documents) 34661, 34664
HEW/FDA announces reevaluation of furazolidone for oral use 34662

FOOD ADDITIVES
HEW/FDA approves use of azelaic acid and provides specification change for polyamide—imide resin (2 documents); effective 8–16–76 34598

INCOME TAX
Treasury/IRS regulations on loss of exemption of certain organizations 34618

HOUSING INTEREST SUBSIDY GRANTS
HUD procedures and requirements for submission, selection and approval of applications; effective 9–15–76 34608

FARMERS LOAN PROGRAMS
USDA/FmHA eliminates monitoring on certain accounts; effective 8–16–76 34571
USDA/FmHA revises adjusted limits for low-income families; effective 8–16–76 34577
USDA/FmHA implements simplified system of processing certain loans; effective 8–16–76 34578
USDA/FmHA includes certain loans among Davis-Bacon Act provisions; effective 8–16–76 34583

RELOCATION AND LAND ACQUISITION
Justice proposes policy revisions; comments by 8–31–76 34636

LAND SALES REGISTRATION
HUD proposal regarding statement of record and property report; comments by 9–15–76 34648

PIPELINE SAFETY
DOT/OPSO final rules on offshore facilities; effective 11–1–76 34598

CONTINUED INSIDE

V41159 AUG 16 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 14514..... Pub. Law 94–379
To permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.
(Aug. 10, 1976; 90 Stat. 1111)

Rules Going Into Effect Today

CSA—Emergency energy conservation programs..... 29125; 7–15–76
DOT/FAA—Airworthiness directive; Cessna 29093; 7–15–76
FCC—Program logs for AM, FM and TV stations 28497; 7–12–76
GSA—Federal procurement regulations; formal advertising mistakes in bids. 27725; 7–6–76
USDA/AMS—Sweet potatoes, canned; grade standards 25987; 6–24–76

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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HIGHLIGHTS—Continued

MEETINGS—

Commerce/NOAA: National Conference for Regional Fishery Management Councils, 9–13 to 9–17–76.... 34660
HEW: National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 8–17–76..... 34669
NIH: Cancer Center Directors, 10–25 to 10–27–76.. 34668
Commission for the Control of Huntington's Disease and its consequences, 8–30–76..... 34668
Mammalian Cell Lines Committee, 10–1 and 10–2–76 34669
Workshops on Connective Tissue Biochemistry in Health and Disease, and Peptide Releasing Hormones, 11–2 and 11–3–76..... 34669
Workshop on Rational Evaluation of Pesticidal versus Mutagenic/Carcinogenic Action, 9–15–76 34669
Workshop on Tumor Promotion and Cofactors in Carcinogenesis, 10–12 to 10–14–76..... 34669
Interior/NPS: Cuyahoga Valley National Recreation Area Advisory Commission, 9–9–76..... 34659
NRC: Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems, 9–2–76..... 34705
Advisory Committee on Reactor Safeguards, Subcommittee on the Diablo Canyon Nuclear Power Station Units 1 and 2, 8–31–76..... 34704
NSF: Project Directors' for Comprehensive Assistance to Undergraduate Science Education, 9–10–76.... 34712
National Commission on Supplies and Shortages: Advisory Committee on National Growth Policy Processes, 8–27–76..... 34703
Treasury/AT & F: Advisory Committee on Explosives Tagging, 9–22–76..... 34658

PART II:

SUPERSONIC AIRCRAFT

EPA establishes standards limiting emissions from engines; effective 9–13–76..... 34721

PART III:

RAIL PASSENGER SERVICE ASSISTANCE PROGRAM

DOT/UMTA issues grant guidelines and procedures; effective 8–11–76..... 34727

contents

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Almonds grown in Calif., rate of assessment 34647
Grapes (tokay) grown in Calif., rate of assessment..... 34647
Hops of domestic production; rate of assessment..... 34648

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Farmers Home Administration; Forest Service.

ALCOHOL, TOBACCO AND FIREARMS BUREAU
Notices
Meetings:
Advisory Committee on Explosives Tagging..... 34658

CIVIL AERONAUTICS BOARD
Rules
Organization and functions:
Rules of conduct in board proceedings 34587
Proposed Rules
Rules of conduct in board proceedings 34650
Notices
Fares, domestic passenger; increase; various carriers..... 34679
Hearings, etc.:
Alaska Airlines, Inc., et al.; domestic passenger-fare increase; correction..... 34679
International Air Transport Association 34679

COAST GUARD
Proposed Rules
Anchorage grounds:
Hawaii 34649

COMMERCE DEPARTMENT
See also National Oceanic and Atmospheric Administration.
Notices
Committees; establishment, renewals, etc.:
CTAB Panel on Energy Policy.. 34660

CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, OFFICE OF THE ASSISTANT SECRETARY
Proposed Rules
Land sales registration; statement of record and property report... 34648

CUSTOMS SERVICE
Rules
Antidumping:
Tuners (of the type used in consumer electronic products) from Japan; correction..... 34597

DRUG ENFORCEMENT ADMINISTRATION
Notices
Registrations, actions affecting:
Winthrop Laboratory..... 34658

ENVIRONMENTAL PROTECTION AGENCY
Rules
Air pollution control:
Aircraft and aircraft engines; supersonic aircraft..... 34721
National emission standards for hazardous air pollutants; authority delegation to Virgin Islands 34629
Air programs; standards of performance for new stationary source; authority delegation to Virgin Islands..... 34628
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
S-[2-(ethylsulfinyl) ethyl] O,O-dimethyl phosphorolhioate... 34629
Notices
Air pollutants, hazardous; National emission standards:
U.S. Virgin Islands; authority delegation 34685
Pesticide registration:
Applications (2 documents)..... 34680, 34682

FARMERS HOME ADMINISTRATION
Rules
Real property insurance:
Elimination of monitoring on certain loan amounts..... 34571
Rural housing loans and grants:
Adjusted income limits for low-income families..... 34577
Davis-Bacon Act; new project construction 34583
Simplified system of processing Sections 8 and 515 loans..... 34578

FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Beech 34583
Cessna 34584
General Electric..... 34584
Lockheed-California 34584
Pitts Aviation Enterprises, Inc.. 34585
Teledyne Continental Motors... 34585
Control zone..... 34586
Federal airway..... 34586
Restricted areas (2 documents).. 34587
Terminal control area; correction. 34586
Transition area (4 documents)... 34586, 34587
Proposed Rules
Airworthiness directives:
McDonnell Douglas..... 34649
Restricted areas, alteration; extension of time..... 34650
VOR Federal airways..... 34650

V41N159 AUG 16 76 UMI

Notices
Hearings; partial closing of control towers:
Cedar Rapids, Iowa 34676
Sioux City, Iowa 34676
Springfield, Mo 34676

FEDERAL COMMUNICATIONS COMMISSION
Notices
World Administrative Radio Conference 34686

FEDERAL INSURANCE ADMINISTRATION
Rules
Crime insurance program, Federal: Current list of servicing companies and eligible States 34618
Flood insurance program, National: Special hazard areas, map correction (29 documents) 34611–34618

FEDERAL PAPERWORK COMMISSION
Notices
Hearings 34680

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Exxon Corp 34701

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
Commonwealth of Massachusetts 34701
Evans Insurance Agency, Inc 34701
Philadelphia National Corp 34701
Trust Co. of Georgia 34701
Union Trust Bancorp 34701

FEDERAL TRADE COMMISSION
Rules
Administrative opinions and rulings:
Private association; publication of advertising standards 34594
Trade associations; refusal of membership 34594
Training school; Commission declines to issue advisory opinion 34594
Consumers' claims and defenses; preservation; enforcement policy statement and invitation to comment on statement 34594
Proposed Rules
Warranties:
Warrantors and suppliers of consumer products; proposed interpretations of Magnuson-Moss Act to assist in compliance 34654
Notices
Line of business reporting program; confidentiality rules and procedures for 1975/1976; amendment 34703

FOOD AND DRUG ADMINISTRATION
Rules
Authority delegations:
Field officials and field structure; redelegation 34597
Food and food products:
Polyamide-imide resins 34598
Resinous and polymeric coatings 34598
Notices
Human drugs:
Certain long-acting systemic sulfonamides 34661
Furazolidone, reevaluation for oral use 34662
Hydroxydione sodium succinate 34664
Orphenadrine hydrochloride tablets; correction 34665

FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Caney Unit Plan 34660
Mt. Charleston Planning Unit 34660

GENERAL SERVICES ADMINISTRATION
Rules
Public buildings and space:
Metropolitan Washington; transfer of responsibility for change of hours of duty 34629
Supply and procurement:
Procurement sources and programs 34630
Teleprocessing services program; establishment and procedures 34634

GEOLOGICAL SURVEY
Notices
Coal mining; list of proposed plans for exploration and mining on Federal lands 34658
Environmental statements; availability, etc.:
Tract leasing for oil shale development by in SITU processes 34659

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION
Rules
Organization and functions:
Attorneys-in-fact; additions and deletions to list 34611

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Food and Drug Administration; Health Services Administration; National Institutes of Health.
Notices
Meetings:
Protection of Human Subjects of Biomedical and Behavioral Research National Commission 34669

HEALTH SERVICES ADMINISTRATION
Notices
Professional Standards Review Organizations; nominations, designations, etc.:
Arizona 34665
California 34667
Indiana 34665
Louisiana 34666
Missouri 34667
North Carolina 34666
North Dakota 34668
Virginia 34666

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Consumer Affairs and Regulatory Functions, Office of Assistant Secretary; Federal Insurance Administration; Housing Production and Mortgage Credit, Office of Assistant Secretary; Interstate Land Sales Registration Office.

HOUSING PRODUCTION AND MORTGAGE CREDIT, OFFICE OF ASSISTANT SECRETARY
Rules
Mortgage and loan insurance program:
Interest subsidy grants 34608

INTERIOR DEPARTMENT
See also Geological Survey; National Park Service.
Notices
Communications relating to international air transportation cases; correction 34659

INTERNAL REVENUE SERVICE
Rules
Income, estate and gift taxes:
Loss of exemption of certain organizations 34618

INTERSTATE COMMERCE COMMISSION
Rules
Car service orders:
Octoraro Railway, Inc.; correction 34607
Notices
Agreements under sections 5a and b, applications for approval, etc.:
Western Railroads 34720
Fourth section applications for relief 34718
Hearing assignments 34717
Motor carriers:
Temporary authority applications 34718

INTERSTATE LAND SALES REGISTRATION OFFICE
Notices
Land developers; investigatory hearings, orders of suspension, etc.:
Bonadelle Sierra Highlands 34669
Briarcliff-by-the-Lake 34670
Cypress Acres 34670
Indian Trails 34670
Lake-Front Royal 34671
Lost Creek 34671
Moonridge 34671
Mountain Shadow Lake 34672
Mt. Pocono Ski Haven Lake Estates 34672
Pebble Beach Townhouses 34673
Pescadero Heights 34673
Pocono Ranchettes 34673
Rainbow Acres 34674
Ranch Lands in the Poconos 34674
River Hills 34674
Spyglass Woods 34675
Stella Maris Estates 34675
Sunridge Pines, etc 34675
Winona Lakes 34676

JUSTICE DEPARTMENT
See also Drug Enforcement Administration.
Proposed Rules
Relocation assistance and land acquisition policies 34636

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Rules
Consumer information:
Vehicle stopping distance; correction 34607

NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Cancer Center Directors 34668
Commission for the Control of Huntington's Disease and Its Consequences 34668
Interagency Collaborative Group on Environmental Carcinogenesis 34669
Mammalian Cell Lines Committee 34669
Pathobiological Chemistry Study Section and Reproductive Biology Study Section 34669
Tumor Promotion and Cofactors in Carcinogenesis 34669

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Meetings:
National Conference for Regional Fishery Management Councils 34660

NATIONAL PARK SERVICE
Notices
Meetings:
Cuyahoga Valley National Recreation Area Advisory Commission 34659

NATIONAL SCIENCE FOUNDATION
Notices
Meetings:
Comprehensive assistance to undergraduate science education 34712

NUCLEAR REGULATORY COMMISSION
Rules
Human uses of byproduct material; group licensing for certain medical uses 34635
Notices
Applications, etc.:
Allied-General Nuclear Services, et al 34705
Baltimore Gas and Electric Co 34705
General Electric Co 34706
Tennessee Valley Authority 34706
Virginia Electric & Power Co 34707
Wisconsin Electric Power Co 34707
Environmental effects of the uranium fuel cycle; general statement of policy 34707
International Atomic Energy Agency codes of practice and safety guides; availability of drafts; correction 34707
Meetings:
Advisory Committee on Reactor Safeguards, Subcommittee on the Diablo Canyon Nuclear Power Station Units 1 and 2 34704
Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems 34705
Natural Resources Defense Council; petition for rulemaking 34709

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
Proposed Rules
Rules of procedure, extension of time for comments 34657

PIPELINE SAFETY OPERATIONS OFFICE
Rules
Pipeline transportation of gas: Offshore pipeline facilities 34598
Notices
Petition for waiver; pipeline: Trans-Alaska 34676

SECURITIES AND EXCHANGE COMMISSION
Notices
Self-regulatory organizations; proposed rule changes:
Municipal Securities Rulemaking Board (2 documents) 34712, 34715
Pacific Stock Exchange Inc 34717

SUPPLIES AND SHORTAGES, NATIONAL COMMISSION
Notices
Meetings:
National Growth Policy Processes Advisory Committee 34703

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Pipeline Safety Operations Office; Urban Mass Transportation Administration.

TREASURY DEPARTMENT
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.

URBAN MASS TRANSPORTATION ADMINISTRATION
Notices
Rail passenger service; grants 34727

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"
Weekly Briefings at the Office of the Federal Register
(For Details, See 41 FR 22997, June 8, 1976)
RESERVATIONS: JANET SOREY, 523–5282

V41 I59 AUG 16 76 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

1806 34571
1822 (2 documents) 34577, 34578
1901 34583

PROPOSED RULES:

926 34647
981 34647
991 34648

10 CFR

35 34635

14 CFR

39 (6 documents) 34583–34585
71 (7 documents) 34586, 34587
73 (2 documents) 34587
300 34587

PROPOSED RULES:

39 34649
71 (2 documents) 34650
73 34650
300 34650

16 CFR

15 (3 documents) 34594
433 34594

PROPOSED RULES:

700 34654

19 CFR

153 34597

21 CFR

5 34597
121 (2 documents) 34598

24 CFR

260 34608
300 34611
1920 (29 documents) 34611–34618
1930 34618
1931 34618

PROPOSED RULES:

1710 34648

26 CFR

1 34619
20 34627
25 34628

29 CFR

PROPOSED RULES:

2200 34657

33 CFR

PROPOSED RULES:

110 34649

40 CFR

60 34628
61 34629
87 34722
180 34629

41 CFR

101–20 34629
101–26 34630
101–32 34634

PROPOSED RULES:

128–18 34636

49 CFR

192 34598
575 34607
1033 34607

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:

18 32861

3 CFR

PROCLAMATIONS:

3279 (See EO 11930) 32399

EXECUTIVE ORDERS:

October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32399
11931 32689
11932 32691

DIRECTIVES:

May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693

MEMORANDUMS:

July 19, 1976 32403

5 CFR

213 ..... 32892, 33545, 34246
591 32892

7 CFR

35 32877
52 32222
103 34005
105 34005
108 34005
108 34006
111 34006
220 32405
235 32405
331 ..... 32229, 32409
722 32878
790 34247
791 34247
905 34248
908 ..... 32229, 32695, 34006
910 ..... 32878, 34248
916 32410
917 32410–32411
926 34007
947 ..... 32230, 32695
989 32412
1012 32417
1099 32575
1124 32418
1421 32879
1430 32881
1472 34248
1701 33546
1806 34571

7 CFR—Continued

1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697

PROPOSED RULES:

47 32231
51 32896
909 32234
910 33922
911 34049
919 32234
926 34647
927 34050
930 32606
931 32757
946 32758
981 34647
991 34648
993 33275
1004 34282
1007 33275
1011 ..... 33275, 34444
1030 33275
1032 33275
1033 34444
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275
1099 33275
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34288
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1430 32899
1701 22419
1801 33561
1813 33922
1861 33561
1980 33561

8 CFR

100 32419

9 CFR

73 32882
76 32882
83 32432
113 32882
201 34007

PROPOSED RULES:

327 34293

10 CFR

35 34635
211 33881
212 34008

PROPOSED RULES:

212 ..... 33282, 34080

12 CFR

217 32578
561 32419
563 32419
611 33546
615 33547
618 33547

PROPOSED RULES:

16 32864
225 33306
584 33566

13 CFR

105 33547
120 33245
122 33549

PROPOSED RULES:

120 33567

14 CFR

13 32205
39 ..... 32206, 32207, 32736, 32734, 33245, 33246, 34008, 34009, 34583–34585
47 34009
49 34009
71 ..... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587
73 ..... 34011, 34587
95 34011
97 ..... 32735, 34016
253 34249
300 34587
300 34587
310 32579

PROPOSED RULES:

39 ..... 32238, 32239, 34076, 34649
45 34076
71 ..... 32240, 32758–32759, 33280, 34077, 34650
73 ..... 34077, 34650
75 34077
300 34650

15 CFR

905 34017

V41I159 AUG 16 76 UMI

16 CFR

13 ..... 32420, 34019, 34249
15 34594
433 34594

PROPOSED RULES:

456 33925
700 34554
704 32911
1145 33636
1150 33636
1500 33639

17 CFR

200 32736
210 32737

PROPOSED RULES:

239 32540
240 ..... 32856, 33004
270 32760

18 CFR

2 ..... 32883, 33364
154 33364
157 ..... 32212, 32883,

PROPOSED RULES:

1 34324
2 32910
35 32911
154 32911
260 ..... 33642, 33780

19 CFR

142 33248
153 ..... 32421, 32893, 34597
159 ..... 32230, 34250
158 33248

PROPOSED RULES:

1 ..... 34049, 34261
18 34271
101 34261
123 34271
144 34271
201 34081

20 CFR

404 32885
410 33549

PROPOSED RULES:

404 34060
701 34294
702 34294

21 CFR

2 ..... 32738, 32886
5 ..... 33248, 34597
11 33249
27 32886
121 ..... 32580, 34598
193 32888
310 32580
510 32213
520 32889
522 ..... 32583, 32889, 33882
555 ..... 32583, 33882
701 32583

PROPOSED RULES:

1 34051
500 ..... 32434, 34052
1301 32756

22 CFR

606 33550

PROPOSED RULES:

130 33446

23 CFR

230 34239
420 33440
630 33253

PROPOSED RULES:

658 32240
661 33280
1204 33280

24 CFR

10 33909
203 32216
207 32216
220 32216
260 34608
300 34611
886 32686
1914 ..... 32216, 32738, 33551
1915 33911
1916 ..... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ..... 33255–33260, 34022–34025
1920 ..... 33260–33262, 34611–34618
1930 34618
1931 34618
2205 32359

PROPOSED RULES:

201 32564
570 34301
868 32370
1710 34648
1917 ..... 34063–34075, 34305–34322
2205 32237

25 CFR

41 33556
43h 32421

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619
20 34627
25 34628
141 ..... 32889, 32890
301 34025

PROPOSED RULES:

1 33285
31 32231
54 32895

28 CFR

16 32423

29 CFR

1602 33557
1952 ..... 32424, 34251, 34252
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

1601 33924
1910 ..... 32911, 32912
1952 ..... 32912, 34298
2200 34657

30 CFR

55 33263
56 33263
57 33263

31 CFR

PROPOSED RULES:

210 32605

32 CFR

581 34253
725 32742

PROPOSED RULES:

642 32346
1286 32231

33 CFR

117 ..... 32217, 34034
127 32742
207 34034

PROPOSED RULES:

110 34649
117 32238
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

3002 32742

40 CFR

52 ..... 32743, 32890, 34259
60 ..... 33264, 34628
61 ..... 33264, 34629
87 34722
180 ..... 32426, 33265, 34629
402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34322
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
8–1 32219
8–3 32219
28–1 32426

41 CFR—Continued

101–20 34629
101–26 34630
101–32 34634

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

101 33436
110 33557

43 CFR

419 32427
2650 33267
3302 32891

PUBLIC LAND ORDERS:

5592 32589
5595 33267
5596 33267
5597 33267
5598 34035
232 34299
302 34298

45 CFR

121d 33558
177 33268
190 33868
801 33559
1069 33268

PROPOSED RULES:

73b 32235
146 34052
190 33962

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560
74 ..... 32429, 32593
76 32429
78 32429
83 32220
89 ..... 32680, 33902
91 ..... 32680, 33889, 33903
93 ..... 32682, 33907
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323
76 33281
81 ..... 32434, 33281
83 ..... 32434, 33281
87 32242

49 CFR

81 32593
192 34598
195 34035

49 CFR—Continued

571 32221
575 34607
613 33443
1033 ..... 32221, 32429, 32430, 34607
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 34260

PROPOSED RULES:

266 33354
571 33280
801 34082
1067 33307
1109 32434
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34047
33 ..... 32222, 32431, 32603, 32755
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	33545–33880	10
32399–32574	3	33881–34003	11
32575–32688	4	34005–34238	12
32689–32875	5	32239–34570	13
32877–33244	6	34571–34730	16
33245–33543	9		

V 41 I 159 AUG 16 76 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 426.1]

PART 1806—INSURANCE

Subpart A—Real Property Insurance

On pages 23410–23417 of the FEDERAL REGISTER dated June 10, 1976, there was published a notice of proposed rulemaking to revise Subpart A of Part 1806, Title 7, Code of Federal Regulations (35 FR 17238, and amended at 37 FR 17051, 37 FR 2879, 37 FR 25499, as redesignated at 39 FR 17093, and amended at 40 FR 2420, 40 FR 10953). This revision included the provision that relieved the County Supervisor of the responsibility to check and monitor Farmer Programs and Section 502 Rural Housing borrower insurance accounts for adequate coverage after the loan has been outstanding 1 year Also included were editorial changes for clarity but specifically this revision will:

1. Relieve the County Supervisor of the responsibility for checking or monitoring to see that Farmer Programs (FP) or section 502 RH borrowers maintain adequate insurance coverage on their property after the loan has been outstanding for 1 year.

2. Authorize the County Supervisor to return the insurance policy or declaration page to Farmer Program and section 502 Rural Housing borrowers after the first year of the loan.

3. Limit authorization to pay insurance premiums by SF 1034, "Public Voucher for Purchases and Services Other Than Personal," for insurance on property securing a Farmer Program or section 502 RH loan to instances where unusual and severe hazards exist and insurance is necessary to protect the interests of the Government.

4. State the borrower's and County Supervisor's responsibilities in cases of partial or total losses and damage to security property with or without adequate insurance coverage.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed revision. All comments with respect to the proposed revisions were given due consideration, and as a result, the following changes in the revised rules are made:

1. In § 1806.2(d)(1), the revision was made to require that any insurance on essential buildings with restrictions which limit the amount of collectable insurance must meet FmHA requirements or have such restrictions eliminated or modified to afford required protection; otherwise, the policy will not be accepted.

2. In § 1806.5(c)(iii) the revision was made to set forth the requirement that proceeds for loss or damage to a nonessential building the borrower voluntarily insured be: (1) Applied on prior liens, delinquencies to FmHA, or as an extra payment on the borrower's loan accounts secured by real estate; or (2) disposed of as authorized by the State Director.

Effective date: August 16, 1976.

Dated: August 6, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

The amendments are adopted with changes as set forth below:

Subpart A—Real Property Insurance

Sec.
1806.1 General.
1806.2 Companies and policies.
1806.3 Coverage requirements.
1806.4 Examining and general servicing of insurance.
1806.5 Losses.
1806.6 Failure of borrower to provide insurance.
Exhibit B—Escrow agreement real property insurance.
Exhibit B—Notice of expiration of insurance (for FP and section 502 RH borrowers).

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C 301; delegation of authority by the Sec. of Agri., 7 CFR § 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR § 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

Subpart A—Real Property Insurance

§ 1806.1 General.

(a) *Authority.* This Instruction prescribes the authorizations, methods, and procedures to be followed in obtaining and servicing property insurance on buildings and on owned or leased land securing the interest of the Farmers Home Administration (FmHA) in connection with Farmer Program (FP), Rural Housing (RH), Labor Housing (LH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Recreation Loans (RL), Other Real Estate (ORE), Soil and Water (SW), Timber Development (TD), and Land Conservation and Development (LCD) loans. For the purpose of this instruction, FP means direct and insured individual farm real estate, operating and emergency loans secured by real estate.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the property with companies, in amounts, and on terms and conditions satisfactory to the FmHA until the loan is repaid.

(c) *Borrower's selection of company.* The borrower may select the insurance company provided that the company and insurance policy comply with all the requirements set forth in this Instruction.

(d) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of the FmHA. Any unusual situation that may arise with respect to obtaining or servicing insurance should be referred to the State Director. The State Director will refer any questions of a legal nature to the Office of the General Counsel (OGC).

(e) *Use of Form FmHA 426–1, "Valuations of Buildings."* The minimum insurance required will be indicated in the appraisal report by the employee who makes the appraisal of property that includes insurable buildings. In the case where no real estate appraisal is required or the appraisal report does not indicate the minimum insurance coverage, Form FmHA 426–1 will be prepared by the County Supervisor. Reevaluation of the buildings will not be done on appraisal reports; however, when new buildings are constructed or values increase or decrease materially and reevaluation is necessary to properly reflect the buildings' security interest of the FmHA, the County Supervisor will prepare or revise Form FmHA 426–1 as appropriate. Changes made on an existing Form FmHA 426–1 will be dated and initialed. The reason for any deletion will be noted on the Form.

§ 1806.2 Companies and policies.

Property insurance policies or other evidence of insurance will be accepted from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* It is desirable that companies be licensed to do business in the particular State or other jurisdiction where the property is located, or that they be otherwise authorized by law to transact business within such State or other jurisdiction (hereinafter called "State"). If the required insurance is not available locally at comparable rates from an insurance company licensed or otherwise authorized to do business in the State, insurance may be accepted from another company if (1) the OGC advises that policies issued by such company will not be rendered unenforceable by virtue of the company's

V41I159 AUG 16 76 UMI

failure to be licensed or otherwise authorized to transact business in the State and that the company is a legal entity which may be sued in the State where the insured property is located, and (2) the State Director determines that the company is reputable and financially sound. In making the above determinations, the State Director will consider all relevant available information such as that which may be obtained from financial statements, Best's Insurance Reports, State insurance authorities, and other lending institutions.

(b) *Insurance policies*—(1) *Standard policies.* If a standard fire insurance policy has been adopted for the State, it should be used unless State statutes exempt the company from the regulations requiring its use. The standard policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the supervisory insurance authorities of the State in which the security is located.

(2) *Other policies.* To be acceptable, any other insurance policies must conform to the requirements of this Instruction.

(i) "Homeowner's" policies, "All Physical Loss" policies, "Broad Form" policies, and other such all-inclusive policies are acceptable if they otherwise meet the requirements of this Instruction.

(ii) A builder's risk policy naming the borrower as the insured or a builder's risk endorsement for a policy issued to the borrower may be accepted during the period a building is under construction if the policy otherwise meets the requirements of this Instruction. If such a policy or endorsement does not automatically convert to full coverage when the building is completed, acceptable insurance must be obtained simultaneously with the expiration of the builder's risk provisions of the policy.

(iii) A builder's risk insurance policy issued to a contractor only may not be substituted for the property insurance, the borrower is required to provide.

(iv) Borrowers eligible for insurance under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Act of 1973, will be serviced in accordance with Subpart B of this Part.

(3) *State instructions.* If the State Director and the OGC consider it advisable, a State Instruction may be issued to help County Supervisors identify standard insurance policies adopted for the State. The Instruction should also furnish a guide to assist in identifying other acceptable insurance policy forms that are commonly used by insurance companies in the State, recognizing that such information is not all inclusive.

(4) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written binder will be acceptable for a period not to exceed 60 days from the effective date of the insurance. Form FmHA 426–7, "Insurance Binder," may be used in lieu of a standard binder form provided by the insurance company or agent. The written binder must have attached thereto the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder. The State Director, with the advice of the OGC and subject to prior approval of the National Office, may issue a State Instruction authorizing such binders to be accepted for periods longer than 60 days.

(5) *Submission of policies.* The original policy or declaration page must be delivered to the County Supervisor by the borrower, except that a certificate of insurance, a copy of the policy, or other evidence of insurance is acceptable for loans which are secured by other than first liens if the mortgage clauses include the names of prior mortgagees. For FP and section 502 RH loans, the County Supervisor will not retain the insurance policy or declaration page after the loan has been outstanding for 1 year. The County Supervisor will return the insurance policy of FP and Section 502 RH borrowers and notify each borrower by a letter similar to Exhibit B of this Instruction of his continued responsibility to provide and maintain proper insurance. The County Supervisor will not, however, be responsible for further checking or monitoring to see that a FP or section 502 RH borrower insures security property and will process a SF 1034, "Public Voucher for Purchases and Services other than Personal," to pay for insurance only in strict compliance with provisions of § 1806.6.

(6) *Master sets.* If the master sets meet all of the requirements of this Instruction they may be accepted in lieu of an original policy for each FmHA borrower.

(i) One complete master set of the different insurance forms for policies issued by the insurance company must be on file in each County Office where the company insures property of FmHA borrowers.

(ii) The "Declaration Page" furnished by the insurance company for each borrower insured, in lieu of a complete policy, will be filed in the borrower's case folder. When a "Declaration Page" in the form of a computer printout is used by an insurance company an endorsement on every policy issued by that company or a letter from that company will be obtained and attached to the printout. However, a letter signed by an authorized official of the company and addressed to the State Director may cover all policies issued by that company in the State. Any such endorsements or letters should clearly state that the company considers the printout to be an original "Declaration Page". Such endorsements or letters are not necessary if the printout itself clearly states that it is an original "Declaration Page."

(7) *Name and location.* The name or names of the assured in the policy must be readily identifiable as the owners of the property being insured. If title is vested in the husband and wife, the policy should contain the names of both; however, if the policy, when issued, shows the name of only the husband, it will not be necessary to return it for correction. The location of the property should be described sufficiently to identify it. The complete legal description by metes and bounds of the property is not required.

(8) *Loss or damage covered.* Buildings must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(9) *Effective date of insurance.* If there are insurable buildings located on the property, the borrower will arrange with his agent or company to have adequate insurance in force at the time the loan, assumption, or credit sale is closed so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the FmHA in the buildings being erected or improved.

(10) *Term.* The borrower will be required to furnish insurance for a term of at least one year with evidence that a full year's premium is paid. The term "premium" as used herein includes any assessments which may be charged to the borrower. If the assessments are of the type imposed only after a loss occurs involving property insured by the insurance company, then the borrower must present evidence (such as a letter from the company) that he currently does not owe any such assessments. The borrower may receive a discount for insuring for a longer period such as three years or five years and with an annual premium. If the insurance contains an automatic renewal clause, its provision should be substantially the following to be acceptable to FmHA:

> This policy will be automatically extended for successive terms at expiration of the original term and of each extension thereof, upon payment of renewal premiums.' It is a condition of this policy that if the policy expires or is canceled for nonpayment of premium, or for any other reason, the mortgagee will be given 10 days notice.

(11) *Mortgage clause.* The standard mortgage clause adopted by the State must be attached to or printed in the policy, or Form FmHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," must be attached to or the provisions thereof printed in the policy. A letter signed by an authorized official of an insurance company to the State Director, stating that all insurance policies the company issues in the State and in which the FmHA has a mortgage interest incorporates all of the provisions of Form FmHA 426–2 may be accepted in lieu of attaching Form FmHA 426–2 to each policy. If such a blanket letter is used, the FmHA will be named in the loss payable clause and a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such method.

(i) If the use of a mortgage clause, other than the standard mortgage clause (without contribution), has been made mandatory by State laws or insurance regulations, a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such a form.

(ii) When an approved mortgage clause is printed in the policy a "Loss Payable Clause" is acceptable provided the FmHA, as mortgagee, would receive payment in case of loss even though the company would not be liable to the borrower. A "Loss Payable Clause" which contains the statement that the mortgagee is "subject to all terms and conditions of the policy" is not acceptable.

(iii) Whenever a new mortgage clause including the interest of the FmHA is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy. Form FmHA 426–6, "Transmittal of Property Insurance Mortgage Clause," may be used to transmit the mortgage clause to the insurance official.

(iv) The FmHA and all other mortgagees whose interests are insured by the policy will be shown either in the mortgage clause or in the "Declaration Page" in the order of priority of their mortgages.

(A) "United States of America (Farmers Home Administration)" will be named in the mortgage clause for direct and insured loan mortgages naming FmHA as mortgagee, whether in its own right or as trustee under a 2(f) or other agreement with a State Rural Rehabilitation Corporation.

(B) "United States of America (Farmers Home Administration), as first mortgagee or as statutory agent and insurer of such mortgagee," will be named in the mortgage clause for insured FO mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by FmHA under a trust agreement or declaration of trust.

(C) If the designation is not identical to that set forth in paragraphs (b)(11)(iv)(A) or (B) of this section, whichever is applicable, it will be sufficient if the mortgagee is readily identifiable as the Farmers Home Administration.

(c) *Evidence of premium payment.* (1) When Form FmHA 426–2 is attached to or the provisions thereof are printed in the policy, or a blanket letter from an insurance company incorporating the provisions of Form FmHA 426–2 in all policies in which the FmHA has a mortgagee interest is in effect in accordance with paragraph (b)(11) of this section, no evidence of premium or assessment payment is required except for the first year.

(2) When a mortgage clause requires the mortgagee to pay the premium if the insured does not, the borrower will be required to furnish, with the policy, proper evidence that the premium has been paid for the full term of the policy, unless a State Instruction has been issued in accordance with paragraph (c)(3) of this section or an exception is otherwise authorized by the National Office. The evidence of a premium payment may be (i) a receipt, (ii) the policy or bill for the premium stamped "Premium Paid," (iii) the endorsement renewing or continuing the policy stamped "Premium Paid," or (iv) a letter or statement signed by the agent or company stating that the premium has been paid. In case the policy is written by an assessment mutual insurance company on an annual assessment basis, proper evidence will accompany the policy to show that the most recent annual assessment has been paid.

(3) In those States in which laws or regulations do not permit the use of Form FmHA 426–2, the State Director may issue a State Instruction which sets forth the manner in which premium payment will be handled.

(d) *Policy restrictions.* (1) Any insurance on essential buildings as defined in § 1806.3 having restrictions which limit the amount of collectable insurance must meet the FmHA requirements set forth below (except for the clause described in subpargaraph (iv) below which is never acceptable); otherwise, such restrictions must be elliminated or modified to afford the required protection.

(i) *Coinsurance Clause.* This clause generally provides that in consideration of a reduced rate, the borrower agrees to maintain insurance on his buildings up to a specified percentage (usually 80 percent) of their value and that the company will not be liable for a greater proportion of any partial loss than the amount of insurance bears to the specified percentage of either the undepreciated replacement value or the depreciated replacement value or the depreciated replacement value (actual cash value) of the buildings at the time of the loss. When the buildings are insured for the specified percentage of their value, the company, in the event of a partial loss, will be liable for the full amount of the loss not to exceed the amount of insurance. A coinsurance clause can be accepted only where the amount of insurance is at least equal to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value). For example, an 80 percent coinsurance clause can be accepted only where the amount of insurance on each insured building is at least equal to 80 percent of the appropriate replacement value of the insured building.

(ii) *Three-Fourths' Value Clause.* This clause provides that the liability of the company shall be limited to three-fourths of the depreciated replacement value of the buildings covered at the time of the loss, not to exceed the amount of insurance. This clause may be accepted if the unpaid balance of the loan is not greater than three-fourths of the depreciated replacement value of the building and the amount of insurance is at least equal to the unpaid balance of the loan and any prior liens and no building is insured for more than three-fourths of its depreciated replacement value.

(iii) *Loss Deductible Clause.* This clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150, or one percent of the insurance coverage, whichever is greater. In no case, however, may the limitation on any one building exceed $300.00.

(iv) *Three-Fourths' Loss Clause.* This clause provides that the company will not pay more than three-fourths of any loss, nor more than three-fourths of the amount of insurance in force. This clause is never acceptable and must be eliminated.

(v) *Deferred Loss Payable Clause.* This clause provides that, if the amount payable under the policy for any loss to any building insured shall be in excess of a specified portion, (usually 60 percent) of the amount of insurance on such building, the company will withhold from its initial loss payment any sum in excess of the specified portion of the amount of insurance on such building. If the building sustaining such loss is repaired or replaced within six months from the date of the fire and at or within 300 feet of the original location, as described in the policy, the company upon receipt of evidence to that effect from the insured will pay the full balance withheld from the initial payment, provided the amount expended in repairing or replacing the building damaged or destroyed will equal or exceed the amount of loss as determined under the terms of the policy. Failure to repair or replace any insured building within the time and manner provided will constitute acceptance of the initial payment as full and final settlement under the policy with respect to the loss. This clause may be accepted if the amount of insurance is for the full depreciated replacement value (actual cash value) of the building and the unpaid balance of the loan and any prior lien(s) is not greater than the initial loss payment made by the company.

(vi) *Construction Specifications and Use Conditions.* If the insurance policy contains clauses which specify certain standards of construction or prescribes certain uses of the property for the insurance to be valid, the policy is acceptable only if the property meets such specifications or conditions at the time of acceptance. For example, if the policy provides that the chimney be constructed of a certain type of material, the County Supervisor should be assured that the required material has been used, or if the policy provides that farming operations are not carried out on the premises he should be assured that this condition is met.

V 41 N 159 AUG 16 76 UMI

(2) Policies generally will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the FmHA. However, policies which impose assessments on the borrower may be accepted only if the FmHA mortgage will be recorded prior to any failure of the borrower to pay any such assessments. Policies also will not be accepted if, by their terms or other conditions, loss payments are contingent upon collective action by the Board of Directors, or the stockholders, or the members.

(e) *Buildings on leaseholds.* The policy will indicate that the insured is the lessee or tenant and not the owner of the buildings securing the FmHA loan; or, if he is the owner of the building on the leased land, the policy will indicate that the insured is the owner of the building, but not of the land. State Directors, with the advice of the OGC will issue State Instructions to meet any other special requirements needed to conform with the insurance requirements of the State to enable leaseholders to obtain property insurance for buildings which are security for FmHA loans.

§ 1806.3 Coverage requirements.

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all essential buildings. Essential buildings include the dwelling and any other buildings that are necessary for the operation of the property or that provide income to assure orderly repayment of the loan. If insurance is for less than the depreciated replacement value of all essential buildings, the County Supervisor will see that the coverage is obtained on one or more of the most essential buildings. The minimum amount of coverage will be furnished as prescribed below:

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the FmHA loan secured by a first lien is equal to or greater than the depreciated replacement value of the essential buildings, or the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings, the essential buildings will be insured, to the nearest multiple of insurance that is available, for the lesser of (i) their depreciated replacement value, or (ii) the cost of constructing adequate essential buildings. For example, if insurance is available in only multiples of $1,000, the minimum insurance required on an essential building valued at $6,600 would be $7,000, and that required on an essential building valued at $6,400 would be $6,000.

(2) When the unpaid balance of the loan is less than the sum of the depreciated replacement value of the essential buildings to be insured, the total amount of insurance must be at least equal to the lesser of (i) the unpaid balance of the loan, or (ii) the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings to be insured.

(3) When, by the use of loan funds or otherwise, buildings are erected or substantial improvements are made tc essential buildings, the amount of insurance will be adjusted in accordance with paragraphs (a) (1) or (2) of this section, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of FmHA loans secured by other than a first lien will be the same as required in paragraph (a) of this section, with the understanding that the unpaid balance of the loan will be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, plus the debt to the FmHA which is secured by real estate mortgage.

(c) *Exception of buildings from insurance.* (1) Insurance will not be required on a building:

(i) That is not essential.

(ii) In such a state of disrepair that the cost of insurance would be prohibitive.

(iii) Which has a depreciated replacement value of $2,500 or less.

(iv) Which is being or has been repaired with a section 504 loan. Families receiving section 504 loans should be encouraged but not required to carry insurance on their home.

(v) On LH security property which was not built or repaired with FmHA loan funds provided that the State Director determines that the land and other structures adequately secure the FmHA loan and any prior liens.

(vi) On which the hazards are so slight because of the character and construction of the building, or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

(vii) In cases where the unpaid balance of the FmHA loans and any prior liens have been reduced to $2,500 or less, property insurance need not be required if the borrower wants to discontinue it, provided the County Supervisor determines that the value of the land security itself is sufficient to protect the FmHA in its collection of the amount of the outstanding indebtedness.

(viii) If insurance for windstorm and hail to meet all FmHA requirements is not available in a hurricane area, the County Supervisor may accept from the borrower or applicant the windstorm and hail insurance policy that most nearly conforms to FmHA requirements. If such an exception is made, the situation should be fully documented in the borrower's case file. However, if the best insurance policy a borrower or applicant can obtain at the time he receives a loan contains a loss deductible clause for windstorm and hail damage exceeding $250 or 10 percent of the actual cash value of the buildings, whichever amount is greater, the insurance policy, with an explanation of the reasons why more adequate insurance is not available will be submitted to the State Office for prior approval.

§ 1806.4 Examining and general servicing of insurance.

(a) *Examination by county office of policies, endorsements, binders, and other evidence of insurance.* Upon receipt in the County Office of a policy, endorsement, binder, or other evidence of insurance, submitted by a borrower, it will be examined promptly for compliance with the requirements of this Instruction. If the evidence of insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or other evidence of insurance which does not meet the requirements of this Instruction such policy or other evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance by the date the previous policy expired or was canceled, the County Supervisor will proceed as provided in § 1806.6.

(2) *Expiration records and notices.* After the insurance has been accepted, the expiration date will be inserted on Form FmHA 405–1, "Management System Card—Individual," or Form FmHA 405–5, "Management System Card—Individual (Rural Housing Only)," or Form FmHA 405–10, "Management System Card—Association or Organization," or Form FmHA 405–12, "Monthly Insurance Expirations," as provided in FmHA Instruction 405.1 for servicing the renewal of the insurance.

(i) In cases other than those involving FP or section 502 RH borrowers, the County Supervisor will notify the borrower of the expiration of his insurance at least 30 days in advance of such expiration unless he has received written evidence that the insurance has been renewed. Form FmHA 426–3, "Notice of Expiration of Insurance," may be used for this purpose.

(ii) FP and section 502 RH borrowers will be given notice in writing similar to Exhibit B, at least 30 days prior to expiration of the first premium installment regardless of whether the County Supervisor has received written evidence that the insurance has been renewed. Thereafter County Supervisor will not be required to further determine whether the borrower has adequately maintained insurance after the premium expiration period. If, however, further notice of expiration of insurance is received in the county office, the County Supervisor will forward another notice to the borrower similar to Exhibit B.

(3) *Release of mortgage interest.* When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor or his delegate will execute the following Release of Mortgage Interest on the mortgage clause attached to the policy or other evidence of insurance and transmit it with the policy or other evidence of insurance, the paid-in-full note, and the satisfaction to the borrower:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (Date of Final Payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(4) *Lost or misplaced policies.* When an unexpired insurance policy or other evidence of insurance is lost or misplaced, it will be necessary to obtain a replacement policy or other evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the FmHA. For FP and section 502 RH loans, this paragraph applies only during the period the policy is retained in the County Office.

(5) *Disposition of expired and canceled policies.* An expired or canceled policy or other evidence of insurance will be returned to the borrower, unless there is a loss settlement pending.

(b) *Special servicing of insurance.* (1) *Vacancy or unoccupancy—tenant occupancy—increased hazard.* If the County Supervisor has knowledge that insured property is vacant or unoccupied or that the ownership or occupancy has changed from owner to tenant, or that the hazards otherwise are increased, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such conditions, the County Supervisor will immediately notify the company or agent in writing. In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, and upon demand to FmHA from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid by Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," to the company or agent. For FP and Section 502 RH borrowers, Std. Form 1034, "Public Voucher," will not be used except in cases where an unusual and severe hazard exists and insurance is necessary to protect the interests of the Government.

(2) *Transfer of property.* (i) When a borrower or transferee requests the consent of FmHA to a transfer of the security property which already has been made, or when the County Supervisor learns that any such transfer has been made, he will immediately inform the transferee that the mortgage requires the owner to provide and maintain adequate insurance acceptable to, and with loss payable to, FmHA as mortgagee. The transferee may obtain a new insurance policy or the transferor may have the insurance company or agent issue an endorsement to the current insurance policy changing the name of the assured to that of the transferee. If a new insurance policy is obtained, the old policy or other evidence of insurance will be returned to the transferor unless there is an unsettled loss. If there there is an unsettled loss, the policy or other evidence of insurance will not be returned until the claim has been settled. The County Supervisor, with the concurrence of the State Director and the OGC, will notify the borrower and transferee that acceptance of the new policy or endorsement will not constitute consent by the Government to the transfer even though the Government is protected by a loss payable clause in such an insurance policy.

(ii) In case of a transfer for which prior consent is requested insurance will be obtained as required in Subpart A of Part 1872 of this Chapter for a transfer case.

(3) *Voluntary conveyance of property to the government and foreclosure.* Insurance will not be carried on buildings which the Government has acquired. After a foreclosure sale has been held, or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, insurance will not be maintained by the Government (whether or not subject to redemption).

§ 1806.5 Losses.

(a) *Protecting property.* It is the responsibility of the borrower to immediately notify the County Supervisor and insurance company or agent of any loss or damage to insured property and collect the amount of the loss. When the County Supervisor learns of a loss to property which secures an FmHA loan, he will:

(1) Check the borrower's casefile for an insurance policy or other evidence of insurance. When a policy or other evidence of insurance has not been retained by the FmHA, such as for FP and section 502 RH borrowers, the County Supervisor will determine whether the property was insured and whether FmHA was named as mortgagee in the insurance policy.

(2) Determine that the borrower has taken such steps as are necessary to protect the interest of the FmHA in the security property against further damage. When serious problems arise with respect to protecting the property from further damage, the borrower cannot or will not arrange adequate protection for the property, or when legal action appears to be necessary, the County Supervisor will arrange for emergency protection and immediately refer the case with complete information to the State Director.

(b) *Loss covered by insurance.* (1) If the FmHA is listed as mortgagee in the insurance policy, the County Supervisor will collect the amount of the loss and may consent to the borrower using funds to repair or replace damaged or destroyed property or to apply loss proceeds to his loan account or to any prior liens that might exist in the order of their priority.

(2) If the FmHA is not listed as mortgagee in the insurance policy, the County Supervisor will contact the borrower to determine whether he has received the loss proceeds. If the borrower has received the loss proceeds but not yet paid for improvements to repair or replace the property, or has not received the loss proceeds the County Supervisor will:

(i) Notify the insurance company in writing of the FmHA's interest in the security property and request that the loss proceeds be made payable jointly to the FmHA and the borrower.

(ii) Inform the borrower of his responsibility for repairing or replacing the damaged or destroyed property or for authorized disposition of the loss proceeds as outlined in paragraph (b) (1) of this section.

(c) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in a supervised bank account to be used in repairing or replacing the damaged building, except:

(i) Where the amount of the loss is $1,000 or less and the borrower will use the funds for repairing or replacing an essential building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) When (A) the essential buildings are not to be repaired or replaced and other suitable buildings are not to be erected, or (B) a balance remains after all repairs, replacements, and other authorized disbursements have been made, such insurance funds will be applied on prior liens or as an extra payment to the borrower's loan accounts secured by the real estate or disposed of in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this Chapter.

(iii) An insurance payment for loss or damage to a nonessential building the borrower voluntarily insured will be (A) applied on prior liens, or to current delinquencies to FmHA, or as an extra payment on the borrower's loan accounts secured by real estate, (B) disposed of as authorized by the State Director in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this Chapter or (C) used for other purposes as authorized by the State Director if the loan is adequately secured and the loan payments are current.

(iv) When the indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the FmHA has no claim, a loss draft which includes the FmHA as a joint payee may be endorsed without recourse and delivered to the borrower.

(d) *Loss drafts—When loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be proc-

V 41 159 AUG 16 76 UMI

essed as provided in paragraph (c) of this section.

(2) When the loss draft incudes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or replace the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft "in escrow" to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement (see Exhibit A for suggested form). If this procedure is found to be impractical in an individual instance, the State Director may authorize an alternative method for disbursing the loss funds to protect the Government's financial interest.

(iv) Drafts which have been endorsed by all other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods described in paragraph (c) of this section.

(e) *Servicing insurance losses under special circumstances*—(1) *Foreclosures and voluntary conveyances.* Losses on properties in process of foreclosure or voluntary conveyance will be handled with the advice of the OGC. If the necessary cooperation of the borrower cannot be obtained, the State Director, with the advice of the OGC, will determine the proper action to be taken. To the extent feasible from a legal and practical standpoint, all loss payments should be received for a damaged or destroyed building and applied on the borrower's real estate indebtedness before title to the property is taken by the Government through foreclosure sale, voluntary conveyance, or otherwise, unless absolute assignment has been made by the borrower to the Government of all loss funds due from the insurance company.

(2) *Subrogation agreements.* When a company claims nonliability to the borrower and subrogation to the rights of the FmHA, the County Supervisor will forward a full report of the facts in the case to the State Director. The State Director will upon advice from OGC, instruct the County Supervisor regarding further action to be taken.

(f) *Repairs and replacements.* When any loss payments have been deposited in a supervised bank account, all repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

(g) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. The FmHA will not waive any rights which it may have against the company except when the borrower's account or the FmHA claim has been paid-in-full.

(1) The County Supervisor will maintain a proper followup on all loses until satisfactory settlement has been made by the company.

(2) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the FmHA to do so.

(3) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(h) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the FmHA.

(i) *Losses not covered by insurance.* When a loss occurs and insurance is not in force, the County Supervisor will:

(1) Inform the borrower that he has violated the security instrument by not providing insurance coverage and that it is his responsibility to make the needed replacements or repairs.

(2) If the borrower is unable or unwilling to make needed repairs or replacements from his own resources, the County Supervisor will submit complete information to the FmHA official authorized to determine whether FmHA will or will not continue with the loan. The County Supervisor's report will include recommendations on the following items:

(i) The advisability and possibility of making a subsequent loan to pay for needed repairs.

(ii) Subordination of the FmHA real estate lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) The possibility of the borrower obtaining funds secured by a junior lien from another source.

(iv) Whether an advance is needed to protect the Government's interest in the property.

(3) If the loan will not be continued with the borrower, it must be serviced in accordance with the applicable Instructions.

(4) If the borrower has improperly disposed of loss proceeds, the County Supervisor will refer the case with complete information and recommendations to the State Director. The State Director will consult the Regional Attorney when necessary and advise the County Supervisor as to appropriate servicing actions.

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain acceptable property insurance, the County Supervisor will immediately make every effort to have the borrower provide with his own funds a policy acceptable to the FmHA. The County Supervisor will emphasize the borrower's responsibility to continue to provide and maintain proper insurance and that failure to do so is grounds for foreclosure. If a FP or section 502 RH borrower still fails to provide acceptable insurance, the County Supervisor will process a SF 1034 to pay for insurance in accordance with provisions of this paragraph, only in cases where unusual and severe hazard exists such as recurring forest fires or unstable ground conditions. Failure to provide insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued with the borrower. The advice of the State Director will be obtained before foreclosure action is started. If a borrower indebted for any other type loan fails to provide acceptable insurance, the County Supervisor will take the following action:

(a) *Expired Policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy which is acceptable to the FmHA.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of one year. If State insurance regulations require a longer term, the State Director will issue a State Instruction authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The FmHA will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on

the expired policy if it meets or exceeds FmHA requirements. If the coverage shown on the expired policy does not meet FmHA requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium note or otherwise, the County Supervisor will prepare and process Standard form 1034 in accordance with FmHA Instruction 322.1 (which is available at any FmHA office), to cover the amount of the insurance premium. The amount of the premium payment will be charged to the borrower's FmHA account with the highest lien priority as a recoverable cost item.

(vi) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(vii) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and continuance of the account with the borrower is appropriate under § 1872.1(b) of Subpart A of Part 1872 of this Chapter, the County Supervisor will temporarily accept from the borrower the available insurance policy the County Supervisor determines most nearly conforms to the requirements of § 1806.2

(A) In making this determination, the following deficiencies become more objectionable in the order from (*1*) to (5) below:

(*1*) A policy written for an initial term of less than on year.

(2) A policy which will insure the most essential buildings but will not cover all essential buildings.

(3) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in § 1806.2(8).

(*4*) A policy for a lesser amount of insurance than is required by § 1806.3.

(5) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of § 1806.3.

(B) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(C) If the borrower is unable to furnish a property insurance policy of any kind, he is still responsible for the debt in the event of loss.

(D) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the FmHA as mortgagee (or trustee) will pay the premium for one year to continue the policy in effect for that period. The County Supervisor will then prepare and process Standard Form 1034 to cover the amount of the premium for a period of one year. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form FmHA 426–2 is used in connection with the policy and the insurance company or broker refuses to accept payment from the FmHA in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company or broker in accordance with the provisions of paragraph (a) of this section.

EXHIBIT A—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Date _____

_____
(name of bank)
_____
(city or town)
_____
(State)

Gentlemen: Attached is Draft No. _____ for $_____, issued by the _____ Insurance Company in payment of _____ loss which damaged the buildings on the farm of _____, of _____ County, State of _____.

This draft has been endorsed by the undersigned payees who request that you collect these funds and issue cashier's checks to the following payees for the following amounts:

_____, First Mortgage $_____
_____, Second Mortgage $_____
_____, Third Mortgage $_____

The balance only, if any, will be paid to _____, the owner of the property.

_____
First Mortgagee
_____
Second Mortgagee
_____
Third Mortgagee
_____
Owner

EXHIBIT B—NOTICE OF EXPIRATION OF INSURANCE (FOR FP AND SECTION 502 RH BORROWERS)

DATE_____

_____
(name)
_____
(address)

Dear _____: This will advise that the property insurance on your dwelling and other essential buildings will expire on (date). Although the FmHA will no longer require that your original policy or other evidence of insurance be retained in your County Office file, this does not in any way lessen your responsibility to the Government.

The real estate mortgage which you signed at the time the loan was made requires that you continually maintain property insurance in amounts and on terms and conditions satisfactory to the FmHA until the loan is repaid. Failure to provide such insurance and list FmHA on the policy as mortgagee violates the conditions listed in the security instrument you signed when you received your loan and may result in the FmHA taking action to protect its interest in your property.

Sincerely,
County Supervisor.

[FR Doc.76–23822 Filed 8–13–76;8:45 am]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

MAXIMUM ADJUSTED INCOME FOR LOW-INCOME FAMILIES

Exhibit C of Subpart A of Part 1822 of Title 7, Code of Federal Regulations (39 FR 44993; 40 FR 51621) is revised to increase the adjusted income limits for low-income families to $10,000 in all States except Hawaii, Guam, and Alaska, whose new adjusted income limits are $12,200, $12,200, and $15,000, respectively.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published without notice of proposed rulemaking because such notice would delay the provision of

V 41 159 AUG 16 76 UMI

needed housing to low-income rural families and would be contrary to the public interest.

Interested persons are invited to submit written comments, suggestions, or objections regarding Exhibit C on or before September 15, 1976, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. Material thus submitted will be evaluated and acted upon in the same manner as if this document was a proposal. However, this revised part shall remain effective until it is amended. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, during regular business hours (8:15 a.m.–4:45 p.m.).

As revised, Exhibit C of Subpart A of this Part reads as follows:

EXHIBIT C—MAXIMUM ADJUSTED INCOME FOR LOW-INCOME FAMILIES

State:	Maximum adjusted income
Alabama	$10,000
Arizona	10,000
Arkansas	10,000
California	10,000
Colorado	10,000
Connecticut	10,000
Delaware	10,000
Florida	10,000
Georgia	10,000
Idaho	10,000
Illinois	10,000
Indiana	10,000
Iowa	10,000
Kansas	10,000
Kentucky	10,000
Louisiana	10,000
Maine	10,000
Maryland	10,000
Massachusetts	10,000
Michigan	10,000
Minnesota	10,000
Mississippi	10,000
Missouri	10,000
Montana	10,000
Nebraska	10,000
Hawaii	12,200
Guam	12,200
Trust Territory of the Pacific Islands	10,000
American Samoa	10,000
Nevada	10,000
New Hampshire	10,000
New Jersey	10,000
New Mexico	10,000
New York	10,000
North Carolina	10,000
North Dakota	10,000
Ohio	10,000
Oklahoma	10,000
Oregon	10,000
Pennsylvania	10,000
Puerto Rico	10,000
Rhode Island	10,000
South Carolina	10,000
South Dakota	10,000
Tennessee	10,000
Texas	10,000
Utah	10,000
Vermont	10,000
Virginia	10,000
Virgin Islands	10,000
Washington	10,000
West Virginia	10,000
Wisconsin	10,000
Wyoming	10,000
Alaska	15,000

(42 U.S.C. 1480, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Effective date: This revision shall become effective on August 16, 1976.

Date August 11, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-23891 Filed 8-13-76;8:45 am]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

MISCELLANEOUS AMENDMENTS AND ADDITIONS

The following are miscellaneous amendments and additions to Subpart D of Part 1822, Title 7, Code of Federal Regulations (CFR) (40 FR 4278; 40 FR 54421), for the purpose of implementing a simplified system of the processing of section 515 rural rental housing applications involving the Housing and Urban Development Section 8 Housing Assistance Payments Program, in compliance with the signed Memorandum of Understanding between the Department of Agriculture and the Department of Housing and Urban Development. Exhibits 0–3 through 0–11 mentioned in this Subpart and not published in the CFR are available in any FmHA Office. Exhibits K, L, M and N are reserved.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemtpion in 5 U.S.C. 553 with respect to such rules. These amendments and additions, however, are being published without notice of proposed rulemaking because such notice would delay the providing of immediately needed rental housing low- and moderate-income families, and would be thus contrary to the public interest.

In accordance with the spirit of the policy, to publish for comment, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, DC 20250, on or before September 15, 1976. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, these amendments and additions will remain effective until further amended.

1. In § 1822.84, paragraphs (a) (8) (i) and (ii) are deleted and paragraph (a) (8) is revised to read as follows:

§ 1822.84 Eligibility requirements.

(a) *Eligibility of applicant.* • • •

(8) Necessary management will be provided to assure the successful operation of the project. Management services may be provided by the applicant, a management firm, or an agent. If the borrower or a member of the borrower organization does not live in the community where the housing is located, or close enough to the project to provide the general supervision, he must retain a management firm or an individual located in close proximity who is experienced and has full authority to act on behalf of the owner.

(i) [Deleted]

(ii) [Deleted]

• • • • • •

2. In § 1822.88, paragraphs (l) and (n) are revised; paragraphs (q), (r), (s) and (t) are added and read as follows:

§ 1822.88 Special conditions.

• • • • • •

(l) *RRH loans made in connection with the HUD section 8 housing assistance payment program (section 8/515).* RRH loans involving the HUD section 8 housing assistance payment program will be handled in accordance with Exhibit O of this Subpart.

• • • • • •

(n) *Guidelines for preparing environmental assessment and environmental impact statements.* All projects shall be processed in accordance with Subpart G of Part 1901 of this chapter. Projects involving section 8/515 loans shall also comply with Exhibit O of this Subpart.

• • • • • •

(q) *Location of housing.* Be located in residential areas as a part of an established community where essential facilities and services such as schools, shopping, medical services and generally central sewer and water systems are readily available. In addition, to the extent possible, the location of an RRH project should:

(1) Provide housing opportunities for minority families outside areas of minority concentration and areas which are already substantially racially mixed; and

(2) Promote an equal opportunity for inclusion of all groups regardless of race, color, creed, sex, national origin or marital status, thereby, opening up nonsegregated housing opportunities for minorities and helping to overcome the effects of any past discrimination. If the proposed location is in an area of minority concentration, it will not be accepted unless:

(i) Comparable housing opportunities exist outside the minority area for minority families in the income range to be served by the project; or

(ii) The applicant provides written documentation which adequately demonstrates that there are no other acceptable sites available outside the area of minority concentration and housing on the proposed site is necessary to meet an overriding housing need in the market area.

(r) *Clean Air Act and Water Pollution Control Act requirements.* (1) As a condition for FmHA's making a loan in excess of $100,000 and unless otherwise exempted, an applicant for a loan will:

(i) Comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C., 1857 C–9) and section 308 of the Federal Water Pollution Control Act (33 U.S.C., 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder after the award of the contract. (Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126, April 26, 1975.)

(ii) As a condition for the award of contract, notify the FmHA of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities. (Prompt notification is required prior to contract award.)

(iii) Certify that any facility to be utilized in the performance of any nonexempt contractor or subcontractor is not listed on the EPA List of Violating Facilities, pursuant to 40 CFR 15.20 as of the date of contract award; and

(iv) Include or cause to be included the above criteria and requirements in every nonexempt subcontract, and will take such action as the Government may direct as a means of enforcing such provisions.

(2) As a further condition for FmHA's making a loan in excess of $100,000 but not otherwise exempted, the applicant for the loan will secure the services of a contractor who agrees to comply with the provisions in paragraph (r) (1) of this section.

(3) The term "facility" as used in this section only means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

(s) *Approval of construction contracts.* Construction contracts between the borrower and contractor for development of an RRH project will be in compliance with § 1804.5(m) (2) (iii) of this chapter, which provides that the contract is not in full force and effect until it has been approved by the State Director in writing. This approval relates to form, content and proper execution of the document and statement that FmHA is not to be considered a party to the contract or incur any liability thereunder. Therefore, prior to loan closing or prior to the start of construction, whichever occurs first, the State Director will approve the contract, form, content and execution by including the following paragraph at the end of the contract.

The Farmers Home Administration, as potential lenders or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, hereby approves the form, content and execution of this contract.

FmHA Approval Official

Title _____

Date _____

(t) *Historic preservation requirements.* The State Director should take the necessary action to assure that the applicant will comply with the provisions of the "National Historic Preservation Act of 1966" (Public Law 89–665), the "Preservation of Historical and Archeological Data Act of 1974" (Public Law 93–291), and Executive Order 11593 dated 5/13/76.

3. In § 1822.93, new paragraphs (b) (1) (ii) and (b) (1) (iii) are added, and paragraphs (b) (1) (ii) through (b) (1) (vi) are renumbered (b) (1) (iv) through (b) (1) (viii) without change. Section 1822.93 (b) (1) (ii) and (b) (1) (iii) now read as follows:

§ 1822.93 Loan approval.

• • • • • •

(b) *Loan approval action.*—(1) Responsibilities of loan approval official.

• • • • • •

(ii) The location of the housing meets the requirements as outlined in § 1822.88 (q).

(iii) The State Director will take necessary action to comply with § 1901.406 of this chapter, real estate settlement procedures (RESPA), on projects of four or less units.

• • • • • •

4. In Exhibit J, paragraphs IV B (2) (e) and (f), paragraph V B, and paragraphs VI D and E are revised to read as follows:

IV. *Options of borrowers:* • • •

• • • • • •

B. *Plan II.*

• • • • • •

2. A borrower under Plan II, generally must:

• • • • • •

e. Determine the required monthly payments on the loan at 1 percent interest and overage each month for the total units developed with any one RRH loan. The amount of payment will be computed separately for each loan. (See Exhibit J–2.)

f. Execute Form FmHA 444–9, "Certification and Payment Transmittal," each month for each loan.

• • • • • •

V. *Determining the amount of interest credit.*

• • • • • •

B. *Plan II.* The amount of interest credit to be granted will be calculated using the general format as shown in the examples included in Exhibits J–1 and J–2. A State form should be developed similar to Exhibit J–2. The National Finance Office will compute the actual amount of interest to be paid as payments are received.

VI. *Special conditions:*

• • • • • •

D. *Interest credit for projects under the Department of Housing and Urban Development (HUD) housing assistance payments program.* When rental units in an RRH project are leased under the section 8 program, interest credit will be provided in accordance with Exhibit O of this Subpart.

E. *Special Cases.* Cases and situations not covered by this Exhibit or Exhibit O of this Subpart will be handled on an individual case basis with instruction from the National Office.

5. Exhibits J–1 and J–2 are revised to read as follows:

EXHIBIT J–1—EXAMPLE OF INTEREST CREDIT DETERMINATION FOR RRH OR RCH PROJECTS (PLAN II)[1]

$100,000 RRH LOAN—APPROVED DURING 1976 FISCAL YEAR PROJECT CONTAINS FOUR 1-BEDROOM UNITS AND FOUR 2-BEDROOM UNITS

Budget for market rent		Budget for basic rent	
Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.[2]	$5,277	Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.[2]	$5,277
Loan repayment at 9 pct interest $100/mo ×$91.23.[3]	9,123	Loan repayment at 1 pct interest $100/mo ×$25.52.[3]	2,552
Total annual cost	14,400	Total annual cost	7,829
$14,000÷12=$1,200 cost per month. Market rent for 2-bedroom units=$160. Market rent for 1-bedroom units=$140. ($160×4)+($140×4)=$1,200 monthly income.		$7,829÷12=$652[4] cost per month. Basic rent for 2-bedroom units=$91. Basic rent for 1-bedroom units=$72. ($91×4)+($72×4)=$652 minthly income.	

[1] 2 complete and accurate budgets must be prepared, 1 for the Market Rent and 1 for the Basic Rent. (The expense items in the budgets shown in this illustration are only for illustration purposes and are not itemized).

[2] The borrower has the option of paying all utility cost for units except for the telephone. When the borrower pays all utilities, the tenant's rental rate will be calculated on the basis of 25 percent of their monthly adjusted family income. When the tenant pays utilities, the rental rate will be calculated on the basis of 20 percent of their monthly adjusted income.

[3] Factor for 50 years. If the regular installment on the note was amortized using a factor for less than 50 years, substitute the appropriate factor for a corresponding number of years.

[4] Rounded to nearest dollar.

EXHIBIT J–2—REPORT ON RRH OR RCH PROJECTS (PLAN II) [1]

I. Summary: Name of borrower _____, for month of _____, 19____

[1] This example of a Summary Report is for the same project shown in Exhibit J–1.

V 41 159 AUG 16 76 UMI

Apartment No.	Type	Occupant	Basic monthly rental	Market monthly rental	25 pct of adjusted monthly family income [1]	Tenant's monthly rental payment [1]	Overage
1	1 bedroom	Jones	$72	$140	$71	$72	0
2	do	Smith	72	140	79	79	$7
3	do	Brown	72	140	94	94	22
4	do	Wilson	72	140	60	72	0
5	2 bedrooms	Bryant	91	160	90	91	0
6	do	Font	91	160	101	101	10
7	do	Doe	91	160	170	160	69
8	do	Vacant	91	160			0
	Total overage						108

[1] This information is taken from executed copies of form FmHA 444-8, "Tenant Certification." This column should reflect the borrower's option of using 25 pct of the tenant's monthly adjusted family income where utilities are included or 20 pct of the tenant's monthly adjusted family income where utilities are not included.

PAYMENT CALCULATION

(See Forms Manual Insert for Form FmHA 444-9)

A. For note with annual amortized payment:

1. Monthly payment on note as though the note had been written with a 1% interest rate [2] ($2,552 ÷ 12)	$212.67
2. Overage for month	108.00
3. Amount of payment	320.67

B. For note with monthly amortized payment:

1. Monthly payment on note as though the note had been written with a 1% interest rate	$212.00
2. Overage for month	108.00
3. Amount of payment	320.00

[2] Use annual factor applicable for date of note to determine the 1 percent payment.

6. Exhibits O, O–1, and O–2 are added as follows:

EXHIBIT O—RRH LOANS AND THE HUD SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM (NEW CONSTRUCTION)

I. *General.* The attached Exhibit O–1 is the Memorandum of Understanding between the Department of Housing and Urban Development and the Department of Agriculture, Farmers Home Administration concerning the application processing and operation of rural rental projects involving HUD Section 8 housing assistance payments. This Exhibit contains the policies and procedures that will be followed by the Farmers Home Administration in implementing and carrying out the provisions of the Agreement. Exhibit O–2 provides the basc information about the section 8 program. Exhibits O–3 through O–11 are guide letters and certifications required for proper processing and meeting the requirements outlined in the Memorandum of Understanding.

II. *Establishment of interest rate for section 8 units.* The payment of interest on the RRH loan will be based on a 1 percent interest reduction below the established interest rate for RRH loans for the units of a project under HUD's Housing Assistance Payments Contract. (Referred to in subsequent paragraphs as "contract.") The interest rate shown on the note, however, will be in accordance with § 1810.11 of this Chapter. This reduction in interest or interest credit will be accomplished in the manner indicated for Plan I and Plan II in Exhibit J of this Subpart and in accordance with paragraph IV of this Exhibit.

III. *HUD reasonable rents.* The HUD reasonable rent rates will be determined by FmHA. HUD reasonable rents are also referred to as contract rent rates. HUD reasonable rents are determined as outlined in paragraph IV of this Exhibit. The HUD reasonable rents determined by FmHA cannot exceed the effective Fair Market Rents for newly constructed units as published in the FEDERAL REGISTER unless an exception is authorized in writing by HUD. The State Director should contact the HUD field office to obtain the Fair Market Rents in effect for the proposed project's location at the time the certification is made.

IV. *Budgets and interest credit agreements.* Budgets and interest credit agreements must be prepared in accordance with the following:

A. *Total project under section 8.* If a project is developed with all units of the project covered by HUD's contract, one budget will be prepared. The budget will be based on an interest rate which is 1 percent less than the established rate for RRH loans without section 8 assistance. The rental rates will be referred to as "HUD Reasonable Rent." An interest credit agreement will be entered into with the borrower to show the interest reduction of 1 percent. Check Plan I of the agreement and show the amount of interest credit as the difference between the amortized payment at the note rate of interest and the amortized payment calculated at 1 percent less than the note rate of interest. In addition to checking Plan I on the Form FmHA 444-7, "Interest Credit Agreement," type the following notation as an added paragraph until this change is incorporated into the form by revision:

"10. This interest credit agreement is submitted for a section 8/515 project. The interest credit to be applied is based on information contained in Exhibit O, paragraph IV A, of this Subpart. The effective interest rate is 1 percent below the note rate of interest."

B. *Mixed project for profit.* If a mixed project is developed (a project with only a part of the units of the project covered by HUD's contract) and the borrower is operating on straight profit basis, two separate budgets must be prepared: one for HUD reasonable rent and for market rent. An interest credit agreement will be entered into with the borrower to allow interest credit on those units covered by the HUD contract. Check Plan I of the agreement and show the amount of interest credit as the difference between amortized payment at the note rate of interest and the amortized payment calculated at the proportionate part of 1 percent less than the note rate of interest. The proportionate amount of 1 percent will be in direct ratio as the number of units under section 8 are to the total units in the project. (Example: 12 units under section 8 with 16 units in the project equals 12/16 or ¾ of 1 percent. Thus the interest on this project would be reduced ¾ of 1 percent.) In every case, the amount must be rounded to the nearest ⅛ percent. In addition to checking Plan I on the Form FmHA 444-7, "Interest Credit Agreement," type the following notation as an added paragraph and insert the proper percentage in the blank provided until the form is revised to cover this change:

"10. This interest credit agreement is submitted for a section 8/515 project. The interest credit to be applied is based on information contained in Exhibit O, paragraph IV B, of this Subpart. The effective interest rate is ____ percent below the note rate of interest."

C. *Mixed project for nonprofit and limited profit.* When a mixed project is developed (a project with only a part of the units of the project covered by HUD's contract and a part of the units to utilize interest credit Plan II in accordance with paragraph IV B of Exhibit J to this Subpart), three budgets must be prepared. The budgets must be for basic rent, HUD reasonable rent, and market rent. An interest credit agreement will be entered into with the borrower to allow interest credit on all units. Check Plan II of the agreement. The loan payments will be based on the amortized payment at 1 percent interest plus all overages. The amount of overage for those units under HUD contract will be the difference between the basic rent and the HUD reasonable rent. The amount of overage for those units not under HUD contract will be in accordance with Exhibit I of this Subpart.

V. *Compliance and certifications required.* To comply with the provisions of the Memorandum of Understanding with HUD, certain requirements must be met and certifications made. These requirements and certifications are listed below:

A. *Minimum Property Standards.* 1. Since the FmHA has adapted HUD's Minimum Property Standards (MPS). 4910.1, no additional requirement other than compliance with Subpart A of Part 1804 of this Chapter shall be necessary to assure that the housing is planned in accordance with the MPS. However, appropriate State and local laws, codes, ordinances and regulations must also be met.

2. The borrower's architect will provide a certification that the final drawings and specifications meet all MPS, State and local laws, codes, ordinances and regulations.

B. *Rent certification.* The State Director will certify for each project that the rental rates to be used in the contract for the units of the project are reasonable based on quality, location, amenities and comparable rental rates and unless HUD has authorized higher rates, do not exceed the applicable Fair Market Rents for newly contructed section 8 units as published in the FEDERAL REGISTER and in effect at the time the certification is made. Guide letter, Exhibit O–3 may be used for this purpose.

C. *Site and neighborhood standards.* The State director will certify that the location of each project is in compliance with § 1822.-88(q). Exhibit O–4, Checklist for Site and Neighborhood Standards, will be used to assist in determining compliance with § 1822.-88(q). Exhibit O–5 may be used in preparation for the certification to HUD.

D. *Equal opportunity.* 1. FmHA must comply with the requirements of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11246 in accordance with Defense Emergency Loan regulations and Subpart E of Part 1901 of this Chapter. Obtaining properly executed Form FmHA 400–1, "Equal Opportunity Agreement," Form FmHA 400–4, "Nondiscrimination Agreement," and Form FmHA 400–6, "Compliance Statement," and completion and transmittal of Form FmHA 400–3, "Notice to Contractors and Applicants," will meet these requirements.

2. To comply with Executive Order 11063, the applicant must complete HUD Form 935.2, "Affirmative Fair Housing Marketing Plan." (The State Office will obtain the form and instructions for filing from the HUD area office for distribution to applicants.) The completed form will be reviewed for adequacy by the loan approval official. Marketing of the units must begin no later than 90 days before project completion. To further comply with Executive Order 11063, the mortgage must contain the covenants as required in § 1822.95(b).

3. The applicant must agree to and sign a certification that there will be compliance with the provisions of section 3 of the Housing and Urban Development Act of 1968, as it pertains to training and employment of lower income residents in the area of location of the housing. Exhibit O–6 may be used for this purpose.

4. The State Director will prepare a certificate for each project that all of the above equal opportunity requirements will be met. Exhibit O–7 may be used in preparation of the certification to HUD.

E. *Environmental standards.* 1. Subpart G of Part 1901 of this Chapter outlines the program actions requiring environmental assessment and, if found necessary an environmental statement. Subpart G of Part 1901 sets the threshold for multiple housing projects at 50. The references to 50 will be disregarded in the case of section 8/515 loans and a threshold of 5 will apply to conform with the Memorandum of Understanding with HUD. All other requirements of Subpart G of Part 1901 of this Chapter will be followed.

2. In compliance with paragraph VI C of the Memorandum of Understanding, the State Director will prepare a certification for each project that it complies with the National Environmental Policy Act, and all rules, regulations, and requirements issued by FmHA pursuant thereto; and that an environmental assessment on projects consisting of a total 5 units or more has been made. Exhibit O–8 may be used for this purpose.

F. *Relocation.* Compliance with the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 applies to Public Housing Agency applicants only. It will be the responsibility of the applicant to provide any assistance required for relocation of occupants of the site on which the section 8/515 rural rental project will be located. FmHA loan funds will not be used for this purpose. Generally, sites will not be selected which are occupied and relocation necessary.

G. *Davis-Bacon wage rates.* 1. The provisions of the Davis-Bacon Act apply to all section 8/515 projects with 9 or more section 8 assisted units. Subpart D of Part 1901 of this Chapter outlines the procedures to follow to comply with this Act.

2. In compliance with paragraph VII B of the Memorandum of Understanding, the State Director will prepare a certification for each project that there will be compliance with the Davis-Bacon Act. Exhibit O–9 may be used for this purpose.

H. *Other Federal requirements.* 1. Section 1822.88(r) outlines the requirements of the Clean Air Act and Federal Water Pollution Control Act.

2. Part 1890r of this Chapter and § 1822.-88(t) states that the applicant must comply with the requirements of the National Historic Preservation Act, the Archeological and Historic Preservation Act of 1974, and Executive Order 11593.

I. *Previous participation.* It will be the responsibility of all applicants and applicant principals holding an interest in the entity to complete HUD Form 2530, "Previous Participation Certificate." (The State Office will obtain the form and instructions for filing from HUD for distribution to applicants.) The completed forms will be transmitted to HUD at the same time as transmitting the Form AD–621, "Preapplication for Federal Assistance," for their review, clearance and comment.

J. *Project completion.* 1. The borrower's inspecting architect will provide a certification as outlined in Exhibit O–10. This certification and other data required is a part of the backup material necessary for the State Director to provide HUD with the certification required to comply with paragraph XII B of the Memorandum of Understanding.

2. The State Director, after receipt of the borrower's inspecting architect's certification and compliance with other requirements, will prepare a certification for transmittal to HUD that:

a. The project was completed in accordance with the requirements in the Agreement to Enter into a Housing Assistance Payment Contract.

b. The project is in good and tenantable condition.

c. The project has been constructed in substantial compliance with drawings and specifications except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.

d. There has been no change in management capability. Exhibit O–11 may be used for this purpose.

VI. *Processing application.* A. Applicants desiring to develop projects utilizing the section 8/515 loan program should contact the County Supervisor prior to completion of the requirements of the Form AD–621. If the applicant desires to submit an application, after counseling with FmHA personnel, the County Supervisor will accept and process Form AD–621 in accordance with existing regulations and this Exhibit.

B. The State Director, upon receipt of the AD–621 and required attachments will review the preapplication for completion and accuracy. A letter of transmittal will be prepared for submission to HUD listing the data submitted for their review. In addition to items required in Exhibit F–6 of this Subpart, the following items should be included:

1. Exhibit O–3.
2. Exhibit O–6.
3. Exhibit O–7.
4. Exhibit O–8.
5. Exhibit O–9.
6. Required copies of HUD Form 2530, "Previous Participation Certification."

If all of the above items are not completed or available, they may be transmitted to HUD as soon thereafter as possible.

C. Upon receipt of comments from HUD, Form AD–622, "Notice of Preapplication Review Action," will be completed and transmitted to the applicant outlining any further data required or conditions which must be met prior to of in completion of Form AD–625, "Application for Federal Assistance (Short Form)."

D. Construction of the project will not be permitted until an Agreement to Enter Into Housing Assistance Payments Contract has been executed; the loan funds obligated; interim financing arranged, or in case of multiple advances, the loan closed.

E. When the project is completed, the State Director will prepare the Certification of Project Completion, (Exhibit O–11), and submit to HUD. HUD will prepare the Housing Assistance Payments Contract for execution. Upon execution, the project will be considered to be in operation.

F. All borrowers will provide reports to FmHA in accordance with Subpart G of Part 1803 of this Chapter, this Subpart, and applicable loan agreements. Borrowers will also be required to comply with HUD's reporting requirement for Housing Assistance Payments Contract. FmHA will inform HUD of any irregularities found upon review of the borrower's report submitted to FmHA.

EXHIBIT O–1—MEMORANDUM OF UNDERSTANDING ON USE OF SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937 AND SECTION 515 OF THE HOUSING ACT OF 1949

I. INTRODUCTION

For the purpose of encouraging and facilitating the use of assistance under Section 8 of the United States Housing Act of 1937 and Section 515 of the Housing Act of 1949, as amended, to provide newly constructed housing for lower-income families in rural areas, the Department of Agriculture [hereinafter referred to as the Farmers Home Administration (FmHA)] and the Department of Housing and Urban Development (HUD) hereby agree to the policies, procedures and joint working arrangements set forth in this Memorandum. The Secretary of each Department will expedite all necessary actions to implement this Memorandum.

II. PROPERTY STANDARDS

FmHA agrees that any Section 515 Rural Rental Housing Project to be assisted by the Section 8 Housing Assistance Payments Program pursuant to this Memorandum will be in accord with HUD Minimum Property Standards, (7 CFR 1804.3) and appropriate State and local laws, codes, ordinances and regulations.

III. CONTRACT AND FAIR MARKET RENT

A. FmHA agrees to provide interest credit on any newly constructed Section 515 project to be assisted by Section 8 housing assistance payments to reduce the effective interest rate applicable to the Section 8 units by one percentage point below the FmHA interest rate in effect for Section 515 loans at the time of loan closing.

B. HUD agrees to accept FmHA certifications on a project-by-project basis that Contract Rents are reasonable based on the quality, location, amenities and management and maintenance services to be provided and do not exceed the applicable Fair Market Rents for newly constructed Section 8 units. HUD will provide the FmHA State Directors on request with the current applicable Fair Market Rents for newly constructed Section 8 units as published in the FEDERAL REGISTER and in effect at the time the certification is made.

C. HUD agrees to provide the FmHA State Directors on request with the current income limits for determining eligibility for the Section 8 program.

IV. SITE AND NEIGHBORHOOD STANDARDS

The site (location) and neighborhood standards to be set forth in the revised FmHA regulations which have been agreed to by HUD and FmHA shall be applicable to all newly constructed Section 515 projects to be assisted by Section 8 housing assistance payments. HUD agrees to accept FmHA's certification as to compliance with such standards on a project-by-project basis.

V. EQUAL OPPORTUNITY REQUIREMENTS

A. FmHA agrees to assure compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968 and will issue regulations pursuant thereto.

B. HUD agrees to accept certifications from FmHA that projects approved by FmHA will be developed and operated in accordance with the provisions of pargraph V(A) above.

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VI. ENVIRONMENTAL STANDARDS

A. HUD and FmHA have issued regulations to implement the National Environmental Policy Act (NEPA) in accordance with guidelines issued by the Council on Environmental Quality (CEQ). HUD and FmHA agree to discuss their environmental regulations, procedures and forms to achieve uniform threshold and forms.

B. FmHA shall comply with NEPA and all rules, regulations and requirements issued by FmHA pursuant thereto including:

1. Environmental assessments will be made for such projects with five or more units;

2. The suitability and effect of the existing environment will be considered for each project for which an assessment is required, as well as the impacts that would result from a project approval.

3. Proposals shall be rejected if, after appropriate modifications to a proposal, there would remain environmental impacts which are unacceptable under NEPA and FmHA policies.

C. HUD agrees to accept the certification that sites approved by FmHA in accordance with the provisions of paragraph VI(B) above.

VII. RELOCATION

In the case of a Public Housing Agency (PHA)-Owner project which is to be constructed on a site which has occupants, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be met.

VIII. DAVIS-BACON WAGE RATES

A. FmHA agrees to assure that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of any new construction projects with nine or more assisted units.

B. HUD agrees to accept a certification on a project-by-project basis from FmHA that there will be compliance with the provisions of paragraph VIII(A) above.

IX. OTHER FEDERAL REQUIREMENTS

FmHA agrees to comply with the following requirements:

1. Clean Air and Federal Water Pollution Control Act and all rules and regulations and requirements issued by FmHA pursuant thereto.

2. The National Historic Preservation Act (Public Law 89-665), the Archeological and Historic Preservation Act of 1974 (Public Law 93-291) and Executive Order 11593 on Protection and Enhancement of the Cultural Environment.

X. DISTRIBUTION OF HOUSING ASSISTANCE FUNDS

A. Housing assistance funds shall be allocated by HUD in accordance with the requirements of Section 213(d)(1) of the Housing and Community Development (HCD) Act of 1974 and HUD regulations pursuant thereto.

B. The HUD field office director, in planning the utilization of housing assistance funds in accordance with the Section 213(d)(1) factors, shall consult with the appropriate FmHA State Director(s) in order that the use of the housing assistance funds be coordinated as nearly as possible with FmHA Section 515 activities.

C. HUD agrees to make a set-aside during Fiscal Year 1976, including the transition quarter, sufficient Section 8 contract authority to assist not less than 4,000 newly constructed dwelling units to be financed by the FmHA under the Section 515 rural rental housing program. Subject to congressional authorizations of contract authority, HUD agrees to make a set-aside of such assistance for not less than 10,000 units in subsequent fiscal years.

D. To the extent any Section 8 housing assistance funds set-aside for use with Section 515 projects are not committed to such projects 45 days prior to the end of any fiscal year, HUD may withdraw and redistribute such funds except that HUD will not withdraw any Section 8 funds which FmHA advises HUD will be committed before the end of the fiscal year. Funds shall be deemed to be committed for such projects after receipt and review by HUD of the Form AD-621 (Preapplication for Federal Assistance) and the verification by HUD's Regional Accounting Division of the availability of funds.

XI. BASIC PROCESSING

A. When FmHA has a completed Form AD-621 (Preapplication for Federal Assistance) for a Section 515 project for which a commitment for Section 8 assistance is desired, it shall transmit a copy of the completed form and all completed attachments with a covering letter stating that Section 8 is desired. Upon receipt thereof, the HUD field office director shall initiate reviews under Section 213 of the HCD Act, all reviews to establish acceptability under HUD's previous participation requirements, and any reviews necessary to establish consistency with the Section 8 requirements. HUD shall indicate to FmHA any negative information on the proposed project as submitted, the availability of funds and that funding is contingent upon compliance with section 213 requirements and clearance under the previous participation requirements.

B. Such reports as may be deemed necessary by HUD and FmHA concerning Section 8/Section 515 projects will be provided to HUD.

XII. EXECUTION OF AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT AND HOUSING ASSISTANCE PAYMENTS CONTRACT

A. HUD will prepare an Agreement to Enter Into a Housing Assistance Payments Contract for execution by the owner only after the receipt of certifications on a project-by-project basis by FmHA. The certifications to be submitted at this time or as specified in paragraphs III(B), IV, V(B), VI(C) and VIII(B).

B. HUD will prepare a Housing Assistance Payments Contract for execution by HUD and the owner after the project is completed and FmHA submits on a project-by-project basis, certification that:

1. The project was completed in accordance with the requirements of the Agreement to Enter Into Housing Assistance Payments Contract.

2. The project is in good and tenantable condition.

3. The project has been constructed in substantial compliance with drawings and specifications except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.

4. There has been no change in management capability.

C. If HUD has any information or other substantial reason to question the correctness of any FmHA certification, HUD shall promptly bring the matter to the attention of FmHA and FmHA shall advise HUD of its final determination in the matter.

XIII. HUD REVIEW RESPONSIBILITIES

A. FmHA assumes no responsibility for assuring compliance by the owner with the terms of the Housing Assistance Payments (HAP) Contract. FmHA and HUD agree to attempt to work out procedures for FmHA to assume responsibility for Housing Assistance Payments Contract compliance for Private-Owner and Public Housing Agency-Owner projects.

B. It is understood that to carry out its responsibilities for the administration of the Section 8 program, HUD may audit and review FmHA Section 8 related activities for compliance with outstanding HUD requirements covered by the provisions of this Memorandum of Understanding.

XIV. INTERDEPARTMENTAL TASK FORCE

FmHA and HUD agree to the establishment of an interdepartmental task force, consisting of Headquarters and field office personnel, which will periodically, and as needed, convene for the purpose of reviewing program issues and recommending solutions thereto to assure the effective coordination of the Section 8 and Section 515 in areas served by the FmHA.

XV. TRAINING

FmHA and HUD agree to make available appropriate personnel to carry out any interdepartmental training that may be necessary to implement an effective combination of the Section 8 and Section 515 programs.

Dated: June 23, 1976.

EARL L. BUTZ,
Secretary of Agriculture.

Dated: June 23, 1976.

CARLA A. HILL,
Secretary of Housing and Urban Development.

EXHIBIT O—2—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM: INFORMATION AID FOR NEW CONSTRUCTION

The Section 8 Housing Assistance Payments Program was authorized by the United States Housing Act of 1937, as amended by Section 201 of the Housing and Community Development Act of 1974.

Basic concept. HUD will provide housing assistance payments on behalf of eligible low-income families (i.e., families whose income does not exceed 80 percent of the median income for the locality) occupying newly constructed housing. This payment will make up the difference between the approved rent for the unit and the amount the family is required to pay which is not less than 15 percent nor more than 25 percent of the family's adjusted income.

NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

Who may participate. Housing projects may be owned by private owners, both profit-motivated and nonprofit, and by public housing agencies.

How do they participate. Applicants will submit required data to FmHA County Office. If both, the preliminary and final data submitted is acceptable to FmHA and HUD, HUD will enter into an agreement that upon completion of the project, it will enter into a Housing Assistance Payments Contract with the owner for a specified term. Under this Contract, HUD will make housing assistance payments with respect to units occupied by eligible families.

Initial maximum rents to owners. The rents approved under the Contract (Contract Rents) may not exceed the HUD established Fair Market Rents for new construction for the housing market area in which the project will be located, and must be reasonable in relation to the quality, location, amenities, and the management and maintenance services provided by the owner.

Rent adjustments. Contract Rents to the owner will be adjusted annually by the HUD established Automatic Annual Adjustment Factor. Special additional adjustments may be approved to reflect actual and necessary expenses of owning and maintaining the project which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments and utilities not covered by regulated rates), but only to the extent that such general increases are not compensated for by the Automatic Annual Adjustments.

Term of housing assistance payments contract. The maximum term for the Contract is 20 years, or 40 years in the case of a project owned by a State or local agency. The criteria for determining the actual terms are stated in the respective HUD regulations.

Responsibilities of the owner. The owner will be responsible for performance of all maintenance and management functions (including taking of applications, selection of families, collection of rents, termination of tenancies, reexamination of family income and compliance with equal opportunity requirements). In connection with selection of families the owner is responsible for leasing at least 30 percent of the units to very low-income families (i.e., families whose income does not exceed 50 percent of the median income for the locality). The owner may contract with another entity to perform such services provided the management contract will not shift any of the owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (i.e., a PHA in the case of Private-Owner/PHA project) may contract to perform such services.

Effective date. These revisions and additions shall become effective August 16, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: August 10, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-23823 Filed 8-13-76;8:45 am]

SUBCHAPTER H—GENERAL

[FmHA Instruction 1901-D]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act *C*

REVISION

Section 1901.152 of Subpart D of Part 1901, Title 7, Code of Federal Regulations (41 FR 19967) is revised. The purpose of this revision is to add paragraph (a)(6) to include among those loans to which the Davis-Bacon Act applies certain rural rental housing loans for the construction of new projects. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This addition, however, is being published without notice of proposed rulemaking because such notice would delay the providing of immediately needed rental housing to low- and moderate-income families and would be thus contrary to the public interest.

In accordance with the spirit of the policy, to publish for comment, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, DC 20250, on or before September 15, 1976. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Section 1901.152(a)(6) of Subpart D of Part 1901 as revised, however, will remain effective until it is further revised. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.) As revised, § 1901.152(a)(6) reads as follows:

§ 1901.152 Policy and scope.

(a) • • •

(6) Rural rental housing loans for new construction of projects with nine or more units assisted by the Department of Housing and Urban Development section 8 housing assistance payments program.

• • • • • •

(7 U.S.C. 1989 (Con. Act); 42 U.S.C. 1480 (Housing); 5 U.S.C. 301 (General); delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date: This addition shall become effective August 16, 1976.

Dated: August 10, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-23824 Filed 8-13-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-20-AD; Amdt. 39-2690]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65, 70, 80, 88 and 90 Series Airplanes

Fatigue cracks have been found in P/N 50-440028-7, -8, -9 and -10 stiffeners located on the fuselage station 380.00 bulkhead where the rear spar of the horizontal stabilizer is attached on Beech Models B90 and E90 airplanes. This condition could result in an adverse effect on aircraft structural integrity if allowed to propogate to complete failure. Since this condition is likely to exist or develop in other airplanes of the same type design, and Airworthiness Directive (AD) is being issued requiring inspection of the P/N 50-440028 fuselage station 380.00 bulkhead and P/N 50-440028-7, -8 or -69, -70 as applicable, and -9, -10, -29 and -30 stiffeners and P/N 50-440028-5 doublers for cracks and the replacement and/or repair of defective parts as appropriate on Beech Models 65, A65, A65-8200, 70, 65-80, 65-A80, 65-A80-8800, 65-B80, 65-88, 65-90, 65-A90, B90, C90 and E90 airplanes.

Since a situation exists that requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Beech Models 65, A65 and A65-8200 (Serial Numbers L-1, L-2, L-6, LF-7, LF-8 and LC-1 thru LC-335), 70 (Serial Numbers LB-1 thru LB-35), 65-80, 65-A80, 65-A80-8800 and 65-B80 (Serial Numbers LD-1 and after), 65-88 (Serial Numbers LP-1 thru LP-26, LP-28 and LP-30 thru LP-47), 65-90, 65-A90, B90 and C90 (Serial Numbers LJ-1 and after), and E90 (Serial Numbers LW-1 and after) airplanes certificated in all categories.

Compliance: Required as indicated, unless already accomplished.

To assure continued structural integrity of the fuselage to the horizontal tail rear spar attachment within 50 hours' time in service after the effective date of this AD for aircraft with 600 hours' or more time in service, or upon the accumulation of 650 hours' time in service for aircraft with less than 600 hours' time in service on the effective date of this AD, and at 600 hour intervals thereafter, accomplish the following:

(A) Visually inspect the forward side of the P/N 50-440028 fuselage station 380.00 bulkhead, attached P/N 50-440028-7, -8, or -69, -70 as applicable and -9, -10, -29 and -30 stiffeners and P/N 50-440028-5 doubler for fatigue cracks as follows:

1. Remove the tail cone from the airplane.

2. Using a light and mirror, inspect the forward side of the P/N 50-440028 (F.S. 380.00) bulkhead and all of the above noted bulkhead stiffeners, doublers and other components that attach to the forward side of the bulkhead for cracks. Pay particular attention to the edges of these parts and the areas around their attaching rivets and bolts.

3. Remove spar attach bolts one at a time and inspect the contact areas under the bolt heads and nuts for cracks.

4. If no cracks are detected no further action is required by this AD.

5. If cracks are found, proceed with Paragraph B below.

(B) If cracks are found as a result of any inspection required by this AD, prior to further flight, contact Beech Aircraft Corporation, Commercial Services Operations, Wichita, Kansas 67201, for appropriate instructions and either repair (using acceptable methods, techniques and practices per Advisory Circular 43.13-1A) or replace any cracked P/N 50-440028 fuselage station 380.00 bulkhead and replace any cracked attached P/N 50-440028-7, -8 or -69, -70 as applicable, and -9, -10, -29, and -30 stiffeners and P/N 50-440028-5 doublers.

(C) Aircraft found to have the bulkhead or stiffeners cracked may be flown in accordance with FAR 21.197 to a base where the required repair or replacement can be accomplished.

(D) The time interval between the repetitive bulkhead and stiffener inspections required by this AD, after initial inspection of the bulkhead and stiffeners in accordance with this AD, can be adjusted up to 50 hours'

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time in service to a maximum interval of 650 hours to allow coordination of these inspections with regular scheduled maintenance or inspections.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective August 19, 1976.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.76-23606 Filed 8-13-76;8:45 am]

[Airworthiness Docket No. 76-WE-4-AD; Amdt. 39-2694]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 401 and 402 Airplanes and Model 414 Airplanes; Modified in Accordance With STC SA2424WE and STC SA117NW

Amendment 39-2597 (41 FR 18647), AD 76-09-08, requires repetitive 10 hour inspections of the forward and aft tangs of all three engine attachment points on the engine support truss for cracks. After issuing Amendment 39-2597, American Jet Industries conducted static tests to identify the possible failure mode of the engine mount tangs and has recommended that modifications be incorporated into the engine truss design to minimize the possibility of a catastrophic failure of the tangs. The agency has determined that engine mounts modified as recommended by AJI need not be subjected to the requirement of repetitive 10 hour inspections specified in Amendment 39-2597. Therefore, the AD is being superseded by a new AD that establishes new inspection intervals for the engine mount tangs, until modified in accordance with the manufacturer's Service Bulletin.

Since this amendment provides an alternative means of compliance, and imposes no additional burden on any persons, notice and public procedure hereon are unecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

CESSNA AVIATION. Applies to Cessna models 401 and 402 series airplanes and model 410 airplanes certificated in all categories, which have been modified in accordance with either Supplemental Type Certificate SA2424WE or SA117NW, incorporating Allison turboprop engines.

Compliance required as indicated.

To prevent and detect possible failures of the engine attachment tangs, of engine mount PN5002, accomplish the following:

(a) Within 10 hours' time in service after the effective date of this AD, unless already accomplished, loosen the engine attach bolts and compress the rubber mounts. Use steel shims to reduce the gap between the forward tang and AN970 washer (with the bushing and washers compressed against the aft tang) to no greater than 0.005 inch and retorque the bolts to 160-190 inch pounds.

(b) Within 10 hours' time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed the time limits indicated below, visually inspect, with a glass of at least 8-power, the forward and aft tangs of all three engine attachment points on the engine support truss for cracks:

Time in service on engine mount:	*Time in service before next inspection (hours)*
0 to 1,000 hr	500
1,000 to 2,000 hr	200
2,000 and above	10

Example: Engine mount with 100 hours time in service on effective date of this AD. Inspections required at or before 110, 610, 1110, 1310, 1510, 1710, 1910, 2110, 2120, 2130, etc., hours.

(c) If any crack is detected as a result of any of the inspections conducted in accordance with paragraph (b), before further flight the engine mount, P/N 5002, must be replaced with an uncracked engine mount of the same part number or an engine mount approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) The modification and repetitive inspections required by paragraphs (a) and (b) may be discontinued on engine mounts modified in accordance with American Jet Industries Service Bulletin 400-1 dated June 7, 1976, or later FAA-approved revision.

(e) Equivalent inspections or modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued per FAR 21.197 and FAR 21.199 to authorize flight to perform the modification required by paragraph (a), the initial inspection required by paragraph (b), and the modification specified in paragraph (d).

This supersedes amendment 39-2597 (41 FR 18647), AD 76-09-08.

This amendment becomes effective August 20, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California, on August 5, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23608 Filed 8-13-76;8:45 am]

[Docket No. 76-GL-10; Amdt. 39-2696]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric CF6-50 Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring installation of improved material in the fan booster shrouds of General Electric CF6-50 series engines was published in the FEDERAL REGISTER dated May 24, 1976 (41 FR 21202).

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89) § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GENERAL ELECTRIC: Applies to Models CF6-50A, CF6-50C, CF6-50D, CF6-50E, CF6-50E1, and CF6-50H Turbofan Engines.

Compliance required by June 1, 1977, unless previously accomplished.

To prevent excessive overpressure in the high pressure compressor, accomplish the following in accordance with General Electric Service Bulletin (CF6-50) 72-412, Revision 1, or subsequent FAA Approved Revision thereto:

(a) Remove the fan stator stages 1, 2 and 3 inner shrouds, stage 2 outer shroud and stages 2 and 3 cases with abradable epoxy resin.

(b) Replace with new or reworked parts incorporating aluminum honeycomb material.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, Cincinnati, Ohio 45215. These documents may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Great Lakes Region.

This amendment becomes effective August 20, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on August 6, 1976.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.76-23607 Filed 8-13-76;8:45 am]

[Airworthiness Docket No. 76-WE-13-AD; Amdt. 39-2693]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on July 23, 1976, and made effective as to all known United States operators of Lockheed-California Company Model L-1011-385 Series airplanes certificated in all categories. This AD is required because of a possibility that the Visco Industries Jet Restrictors, (P/N 19XVC112DN1 or P/N VXCA2501112D) in the A and B hydraulic rudder control systems may be missing which could result in serious degradation of airplane performance. The agency has determined that training flights and dispatch per the minimum equipment list (MEL) with the C system main pump or C system air turbine motor pump inoperative must be discontinued, as provided in the AD, until the inspection to verify the installation of the restrictors is accomplished.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of airplanes by individual telegrams dated July 23, 1976. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

LOCKHEED-CALIFORNIA. Applies to Lockheed L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated,

To prevent serious degradation of airplane flight performance due to possibility of missing Visco Jet Restrictors, P/N 19XVC112DN1 or P/N VXCA2501112D, in the A and B rudder control system, accomplish the following:

(a) Within the next 10 additional hours time in service or 24 hours after receipt of this telegraphic AD, whichever occurs earlier, discontinue training flights, and do not dispatch any airplane with the C system main pump or C system air turbine motor pump inoperative, until (b) is accomplished.

(b) Within the next 50 additional hours time in service after receipt of this telegraphic AD, perform the following inspection:

(1) Turn on aircraft electric power, no hydraulic power.

(2) Turn on B system AC motor driven hydraulic pump.

(3) Note and record hydraulic system B pressure indicated on flight engineering panel.

(4) Engage 8 degree mechanical rudder limiter stops with switches on overhead instrument panel.

(5) Slowly push rudder pedals to move rudder against travel limiter, then continue to push pedal until stop is felt.

(6) Note and record system B hydraulic pressure. If pressure is at least 200 psi lower than recorded in step 3, Visco Jet Restrictor is missing.

(7) Release pedal.

(8) Turn on hydraulic system power transfer unit B to A.

(9) Open circuit breaker K-12 on CB-2 panel 'Rudder Servo A.'

(10) Switch off rudder Servo with guarded switch on overhead instrument panel.

(11) Note and record system A hydraulic pressure on flight engineers panel. (If pressure fluctuates widely turn on/off servos as required to minimize fluctuations.)

(12) Repeat item 5.

(13) Note and record system A hydraulic pressure. If pressure is at least 200 psi lower than recorded in step 11, Visco Jet Restrictor is missing.

(14) Release pedal.

(15) Turn off hydraulic and electric power.

If the Visco Jet Restrictor(s) is not installed, install prior to further flight. Record compliance and method of compliance with this AD per FAR 91.173.

(c) Equivalent inspections and installation may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued per FAR 21.197 and 21.199 to operate the airplane to a base to perform the inspection or repair required by (b), provided that the C System main pump and C System air turbine motor pump are operative."

This amendment is effective August 19, 1976 for all persons except those to whom it was made effective by telegram dated July 23, 1976, which contained this amendment.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California, on August 4, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23605 Filed 8-13-76;8:45 am]

[Docket No. 76-SO-75; Amdt. No. 39-2692]

PART 39—AIRWORTHINESS DIRECTIVES

Pitts Aviation Enterprises, Inc., Models S-1S and S-2A

There has been a failure of a Nicopress fitting on the rudder control cable on a Pitts Model S-1S airplane which resulted in partial loss of rudder control. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the Nicopress sleeves on the rudder control cables for proper swaging and repair if necessary, on Pitts Models S-1S and S-2A airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PITTS AVIATION ENTERPRISES, INC.: Applies to Model S-1S, Serial Numbers 1-0001 through 1-0043, and Model S-2A, Serial Numbers 2001 through 2122, airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished:

To prevent partial loss of rudder control due to control cable slippage resulting from improper swaging of the Nicopress sleeves, accomplish the following:

A. Within 10 hours' time in service after the effective date of this airworthiness directive or by September 13, 1976, whichever occurs first, inspect the 3 swaged grooves of the Nicopress part number 18-3-M sleeves in the rudder control system to assure that the major axis diameter is between .348 and .353 inches. The Nicopress "go" gage for this sleeve is part number 64-CGMP and has an opening of .353 inches. The correct opening for checking these sleeves is marked "M." The Model S-2A airplane has a total of 8 sleeves to be checked and the Model S-1S has 4. If improperly swaged sleeves are found, before further flight, reswage to the proper limits or replace as required.

B. Until compliance with paragraph A is accomplished, acrobatic flight (including but not limited to, maneuvers delineated in the respective FAA Approved Airplane Flight Manuals) is prohibited and prior to further flight a placard must be installed on the instrument panel in full view of the pilot which reads:

ACROBATIC FLIGHT PROHIBITED

C. Upon compliance with paragraph A, the placard required by paragraph B may be removed.

This amendment becomes effective August 20, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia, on August 4, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-23777 Filed 8-13-76;8:45 am]

[Docket No. 76-SO-58; Amdt. 39-2691]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors, Model TSIO-520-L Engines

Amendment 39-2655, 41 FR 27716, AD 76-13-09 requires inspection and eventual replacement of certain exhaust system components of the Teledyne Continental Motors TSIO-520-L engine. After issuing Amendment 39-2655 an engine serial number cut-off was established since all necessary inspections and modifications are being accomplished at the engine manufacturer's facility on new production. Therefore, the AD is being amended to provide appropriate engine serial numbers to which the AD applies.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations Amendment 39-2655, 41 FR 27716, AD 76-13-09 is amended by revising the first sentence to read as follows:

Applies to Teledyne Continental Motors Model TSIO-520-L, serial numbers 508000 through 508164, and serial numbers 508166 through 508261.

This amendment becomes effective August 26, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Depart-

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ment of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia, on August 5, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-23778 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-SO-53]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On June 21, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 24902), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Raleigh, North Carolina, control zone.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

71.181 [Amended]

In § 71.181 (41 FR 440), the Raleigh, North Carolina, control zone is amended as follows:

"• • • 034° and 231° radials • • •" is deleted and "• • • 033°, 127° and 230° radials • • •" is substituted therefor, and "• • • northeast and southwest • • •" is deleted and "• • • northeast, southeast and southwest • • •" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on August 3, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-23601 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-EA-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On May 6, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 18684) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V-260 from Hopewell, Va., to Cofield, N.C.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. We received one response to the NPRM in which the commentator posed no objection to the proposal.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

§ 71.123 [Amended]

§ 71.123 (41 FR 307, 17878, 20650) is amended as follows:

In V-260 "Hopewell, Va.," is deleted and "Hopewell, Va.; Franklin, Va.; to Cofield, N.C." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23597 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WA-4]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area; Denver, Colorado: Correction

In FR Doc. 76-19601 on page 27957 in the FEDERAL REGISTER of July 8, 1976, Area C is corrected to read as follows:

All after "Stapleton International Airport DME antenna," is deleted and "excluding Areas, A, B, and G." is substituted therefor.

Issued in Washington, D.C., on Aug. 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23599 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-CE-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On Page 15868 of the FEDERAL REGISTER dated April 15, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Topeka, Kansas.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, November 4, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on August 2, 1976.

C. R. MELUGIN, JR.,
Director, Central Region.

In § 71.181 (41 FR 440), the following transition area is amended to read:

TOPEKA, KANSAS

That airspace extending upward from 700 feet above the surface within a 7 mile radius of Philip Billard Airport, Topeka, Kansas (latitude 39°04'09" N., longitude 95°37'18" W.) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7 mile radius area to 8 miles NE. of the VORTAC, within 5 miles SW. and 8 miles NE. of the Philip Billard Airport ILS Localizer NW. course, extending from 3 miles SE. to 12 miles NW. of the OM, within an 8.5 mile radius of Forbes Field, Topeka, Kansas (latitude 38°57'10" N., longitude 95°39'50" W.), within 2 miles each side of the Forbes Field TACAN 321° radial extending from the 8.5 mile radius area to 9 miles NW. of the TACAN, and within 3.5 miles each side of the Forbes Field ILS localizer SE. course extending from the 8.5 mile radius area to 8 miles SE. of the Richland LOM.

[FR Doc.76-23604 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-CE-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On Pages 15867 and 15868 of the FEDERAL REGISTER dated April 15, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Leavenworth, Kansas.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, November 4, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on August 2, 1976.

C. R. MELUGIN, JR.,
Director, Central Region.

In § 71.181 (41 FR 440), the following transition area is amended to read:

LEAVENWORTH, KANSAS

That airspace extending upward from 700 feet above the surface within a 10 mile radius of the Kansas City Municipal Airport (latitude 39°07'20" N., longitude 94°35'30" W.), and within a 9.5 mile radius of Sherman AAF (latitude 39°22'05" N., longitude 94°54'45" W.); and that airspace extending from 700 feet above the surface within an 8.5 mile radius of the Kansas City International Airport (latitude 39°18'05" N., longitude 94°43'47" W.) and within 5 miles either side of the Rwy 19 ILS localizer north course extending from the 8.5 mile radius zone to 25 miles N of the Wyandotte OM; and within 5 miles either side of the 088° radial of the Kansas City VORTAC; extending from the 8.5 mile radius zone to 11.5 miles E of the VORTAC; and within 5 miles either side of the Rwy 1 ILS localizer south course extending from the 8.5 mile radius zone to 11 miles S of the Wyandotte OM.

[FR Doc.76-23603 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On July 1, 1976 a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (41 FR 27085) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Montague, California Transition Area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 GMT, September 9, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Los Angeles, California on August 4, 1976.

LYNN L. HINK,
Acting Director, Western Region.

In consideration of the foregoing, the FAA amends § 71.181 as follows:

§ 71.181 [Amended]

In § 71.181 (41 FR 440) the description of the Montague, California Transition Area is amended by substituting 29 miles in lieu of 26 miles in the last sentence of the description.

[FR Doc.76-23600 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-SO-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On April 5, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 14394) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Whiteville, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments received were favorable.

Subsequent to publication of the notice, the proposed instrument approach procedure predicated on a nonfederal nondirectional radio beacon was changed from Runway 23 to Runway 5. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (41 FR 440), the following transition area is added:

WHITEVILLE, N.C.

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Columbus County Municipal Airport (lat. 34°16'23" N., long. 78°42'52" W.); within 3 miles each side of the 231° bearing from the Camp RBN (lat. 34°16'19" N., long. 78°42'55" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on August 3, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-23602 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-NW-7]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area; Correction

In FR Doc. 76-20355 appearing on page 29095 in the FEDERAL REGISTER of July 15, 1976, "longitude 119°58'30" W." contained in the description of R-6714A Yakima, Wash., and listed on the fourth line, of that description should be corrected to read "longitude 119°58'15" W."

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23598 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WA-15]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Areas

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke Restricted Areas R-3201 Arco, Idaho; R-6004 Savannah River Plant, S.C.; and R-6715 Richland, Wash.

These restricted areas were designated a number of years ago for use of the Atomic Energy Commission (replaced by the Energy Research and Development Administration (ERDA)). Air safety considerations initially required that airspace over those locations be restricted because of possible exposure of overflying aircraft to nuclear radiation. The Energy Research and Development Administration is in agreement that these restricted areas can no longer be justified on the basis of hazards to overflying aircraft. Accordingly, the Federal Aviation Administration has determined there is no longer any aviation safety requirement to restrict use of the airspace over those ERDA facilities.

This amendment relieves a restriction on the public and it is a minor amendment upon which the public should have no particular reason to comment. Therefore, notice and public procedure thereon are deemed unnecessary. As this action relieves a burden on the public, it may become effective on August 16, 1976, without regard to the statutory period of 30 days preceding effectiveness.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective August 16, 1976, as hereinafter set forth.

§§ 73.32, 73.60, 73.67 [Revoked]

1. In § 73.32 (41 FR 673) R-3201 Arco, Idaho, is revoked.

2. In § 73.60 (41 FR 693) R-6004 Savannah River Plant, S.C., is revoked.

3. In § 73.67 (41 FR 698) R-6715 Richland, Wash., is revoked.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23596 Filed 8-13-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-154; Docket 29626]

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Reissuance

This amendment to Part 300 governs the conduct of parties and their representatives and the relationships between the Board, its staff, and all other persons in all Board matters. Though some portions of this regulation are concerned principally with quasi-judicial proceedings, where the analogy to judicial proceedings and conduct is wholly appropriate, it must be remembered that the Board is not a court. It is an administrative agency with quasi-judicial legislative and administrative functions. It is expected to initiate, develop and establish policy for the future as well as to adjudicate matters on past facts as courts do. For certain purposes, it is imperative, therefore, that open lines of communication be maintained with all segments

V 41 N 159 AUG 16 76 UMI

of the general public and especially those concerned with airline regulations.[1] Therefore, while the changes being established in our regulation are designed to enhance the fairness of Board proceedings and the public acceptability of their results, the limitations on ex parte statements should not be regarded as isolating the Board from those sources which are essential to a proper assessment of the problems facing the agency.

Primarily the existing regulation prohibited (and after this amendment will still prohibit) communication on a substantive or procedural issue in specified kinds of matters from persons in private or public life to Members of the Board, their personal staff, the administrative law judge involved, or any other Board employee, except when made in accordance with the Board's Rules of Practice.

In broad summary, this amendment of Part 300 prohibits ex parte statements:

In hearing cases, the definition of which is significantly expanded;

In contested nonhearing cases.

The amendment however, permits ex parte statements, but limits them to responses to communications initiated by Board Members or employees and requires public recordation of such responses by both Board Members and Employees:

In rulemaking cases, but only up to the time the Board issues an advance notice or notice of proposed rulemaking;

In tariff cases, whether or not a complaint is filed, unless and until the Board orders the tariff investigated;

In contested nonhearing cases to be decided within 30 days (such as requests for emergency exemptions or waivers to perform charters on specified dates);[2]

In uncontested nonhearing cases, except that only Board Members, not employees, are required to make a public record of the responses received in such cases;

In emergency cases, not involving a trial-type hearing, where the Board directs Board employees to obtain needed information not otherwise available on a timely basis.[3]

The existing rules prohibit ex parte statements in so-called hearing matters. The rules as here amended retain that prohibition and expand the hearing concept to include matters as to which the Board has issued an order giving interested persons the opportunity to participate by written or oral submissions even though a formal evidentiary hearing is not involved. The expanded hearing concept includes rulemaking from the time the Board by order establishes specific dates for receipt of comments on an advance notice or notice of proposed rulemaking (ANPRM and NPRM).

Another principal change embodied in this amendment of Part 300 is to expand the rules against prohibited communications (§ 300.2) to include, with certain exceptions, those matters which are decided without hearing but where the Board's rules authorize a responsive pleading to the document initiating the proceeding, whether that initiating document is docketed or not, when such nonhearing matters are contested. A nonhearing matter is deemed contested at the time an identifiable and detailed written opposition to the document initiating the matter is filed or received, whether or not the opposition is in technical compliance with the Rules of Practice.[4] The exceptions to the prohibition of ex parte statements in contested nonhearing cases permit ex parte statements in the very early stages of contested rulemaking proceedings (that is, prior to Board issuance of an ANPRM or NPRM), in tariff cases up to the time the Board orders the tariff investigated, and in contested nonhearing cases to be decided within 30 days. However, such ex parte communications are permitted only where responsive to Board-initiated requests to obtain additional information[5] and must be recorded if "significant," a term defined in the Rules. Also, the amendment expands the rules against improper influence and solicitation to nonhearing cases (§ 300.2a).

Finally, ex parte statements are permitted in nonhearing rulemaking matters and in other uncontested nonhearing matters. Both Board Members and staff must record significant communications relating to rulemaking, but only Members must do so in connection with other uncontested nonhearing cases.

As summarized above and discussed more fully hereinafter, ex parte communications are permitted in certain defined instances. In most of these instances either Board Members or staff, or both, must record "significant" oral communications, that is, communications which are, or appear to be, likely to affect the outcome of a matter, and must place such records and any written ex parte statements in the public file of the matter with which they are concerned. However, oral ex parte communications on certain enumerated subjects are permitted and need not be recorded (§ 300.2(c)). One such subject is, as in the past, an inquiry with respect to the status of a case. Another such subject which was treated differently in the past, and was formerly prohibited, is a request for expedited treatment of a pending matter. The Board firmly believes that requests for expedition of matters, except in conformity with the Rules of Practice, are to be discouraged. Nevertheless, because they are not always readily distinguishable from status inquiries, they will not be prohibited as such. Instead, other means of dealing with this problem will be substituted. All inquiries as to status or expedition should be directed to the processing bureau or the Office of the Managing Director. If calls are made to Members, the Members may, at their discretion, refer any or all such inquiries to the Office of the Managing Director for answer. Should a Member, or his assistant, undertake to answer any such inquiry he will make an explanatory record of the call or other communication which will be placed in the public file of the pending matter.[6] We call the public's attention to the fact that the Rules of Practice (particularly Rules 14 and 18) provide a motion procedure by which the Board may be requested to expedite a pending matter. Oral or written inquiries not in compliance with such Rules will not be considered.

A new paragraph (d) of § 300.4 will require all Board employees to report to the Managing Director any requests, other than status or Freedom of Information Act requests, for information concerning Board proceedings that has not been made public. It is not intended by this requirement to imply that such requests are necessarily improper, but rather to gather at one point information concerning such requests with a view to determining whether Board procedures should be changed to serve the public better, advising employees concerning appropriate responses to such requests, and considering whether practices are developing that should be discouraged.

Permitting ex parte communications in defined situations is believed necessary to the maintenance of the quality and prompt disposition of the Board's work without unfairness to those persons opposed to a course of action the Board proposes to take. In all of the situations which we discuss below, the requirement for speedy action either by statute or by economic necessity and/or the sheer volume of cases would result in the crippling of desirable programs without significantly furthering the interests of other concerned persons if a rigid prohibition against ex parte statements were established. However, to prevent action in these areas from being enveloped in secrecy, provision is made for the recordation and public filing of ex parte statements in such cases if contested. Thus, in rulemaking the prohibitions of § 300.2 will apply only when the Board by order shall so indicate or from the time when the Board by order has established specific dates for receipt of public comments on a notice or advance notice of proposed rulemaking. Similarly, the prohibitions of § 300.2 will not apply to nonhearing matters to be decided within 30 days following the receipt of the document initiating such matter, even though contested. However, recordation will apply in both instances.

As a practical matter, many nonhearing matters are uncontested, and the application of a rule of prohibition to them would not offer benefits outweighing the adverse effect on the efficient performance of the Board's responsibilities. We have, therefore, allowed staff-initiated ex parte communications in such nonhearing cases—but only so long as they are uncontested. When opposition is filed the exception will terminate and the prohibition apply. We do not mean thereby to import any technical rules of pleading. For the purposes of Part 300, a contest will be deemed to have developed whenever written opposition is made, no matter what technical form it takes. Even where the nonhearing matter is not contested Board Members must record ex parte statements which they receive, and members of the staff must do so in rulemaking matters.

Among the exceptions to the prohibited communications listed in § 300.2 two categories, which concern uncontested applications relating to the administration of the charter regulations and rate matters, require special comment. These categories, like other uncontested nonhearing matters, are not only excepted from the prohibited communications but only Board Member recordation of oral ex parte statements is required. The matters involved are by far the most numerous with which we are here concerned, are largely uncontested, and normally call for prompt action by use of the telephone rather than letters or other written documents. These telephonic communications are primarily designed to ascertain facts assuring compliance with Board regulations drafted to protect members of the traveling public and to assure even-handed administration of rate policies. Because of the restricted statutory time limits imposed upon the Board, quick responses to staff-initiated communications, made to obtain additional or clarifying data so the staff can formulate recommendations to the Board concerning the investigation or suspension of tariffs, are essential. Given the extent of the Board's available resources we believe it would be difficult to pass promptly and intelligently on all requests, and thus insure the success of our priority program to provide low-cost transportation to the general public or to meet statutory deadlines for rate suspensions, if substantial additional time were taken to record all necessary oral ex parte communications. For these reasons we have excepted these uncontested matters from the provisions of § 300.2. We have also excepted them from the recordation provisions of § 300.4, unless received by a Member.[7] Such a course permits the Board to achieve its objectives with respect to significant programs without harming the interests of other persons. Should one of these matters be contested, however, ex parte statements in the matter are thereafter prohibited and, if made, must be recorded and placed in the public file. A variation from this would arise if such a matter required decision within 30 days of its presentation to the Board. In these cases, time constraints must be accommodated and ex parte communications will be permitted under the emergency provisions of § 300.2(a)(2), but recordation of such statements would be required under § 300.4.

Thus, subject to the exceptions noted, the change will prohibit ex part statements in a broad new class of contested nonhearing matters, such as those provided for in our Rules of Practice generally (§ 302.6), for exemptions (§ 302.400 et seq.), applications for special operating authorizations (§ 302.1020), contracts for transportation of mail by air (§ 302.1501 et seq.), section 412 contracts and agreements submitted for prior approval (§ 302.1601 et seq.), rulemaking (§ 302.38), and the like.[8]

Comparably to our treatment of hearing cases in the past, the above-described provisions of the regulation do not apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts,[9] or to communications from other Government agencies (not parties or participants in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications from foreign governments (except that, in the latter two categories, communications on substantive aspects of contested cases to be decided after notice and hearing are prohibited and, if made, must be recorded), or to settlement discussions or mediation efforts between parties and the Board's employees. For the most part, these permitted communications track the old regulation. The settlement negotiations will normally involve enforcement employees. On the other hand, the "mediation efforts," referred to for the first time in this revision of this part, may involve employees of a number of different Bureaus. For example, mediation efforts would include communications between the Board's Office of Community and Congressional Relations (OCCR) and representatives of State and local community and civic groups, air carriers, or other persons closely allied thereto, in connection with the adequacy, deletion or suspension of air transportation service to a locality in an effort to settle the differences between such persons or groups with respect to such service. Our intention in such a case, and in comparable cases, is to permit free communication between Board employees and conflicting parties where the objective of the Board employees is to bring about an adjustment of the conflicting interests of the parties and the resultant termination of otherwise burdensome proceedings before the Board. We have also for the first time expressly permitted without recordation the receipt in international matters of communications from other agencies of the United States relating to the conduct of the foreign affairs or the national defense of the United States, and communications from foreign governments so long as such communications do not deal with the merits of a contested case to be decided after notice and hearing.

It will be noted that the starting point in time for the application of the prohibitions against ex parte statements and other forms of improper influence in covered matters is most often the filing of a petition, application, motion, request, or the like. In rulemaking, the starting point will be an order specifying dates for receipt of public comments. In other informal cases it will be the point at which a contest develops. The selection of the starting point in each type of case was made for practical reasons relating to the administration and enforcement of the

[1] For example, preliminary communications on technical accounting and reporting matters prior to rulemaking as embodied in "Observations of the Director" (Bureau of Accounts and Statistics) and the responses thereto are in no way inhibited by this revised regulation.

Similarly, as a preliminary to, during, or as an incident to, negotiations/consultations or in the formulation of U.S. Government positions on international aviation problems full, normal coordination with air carriers or others likely to be affected will go forward as at present without limitation by this part.

[2] This refers to cases in which the Board must take or is expected to take action within 30 days, either because of statutory requirements, its own rules of procedure or announced decisional policies, or because of the factual exigencies of the particular case (e.g., where authority or relief is sought for an operation to take place on a particular date less than 30 days hence).

[3] The Board anticipates that this authority will be sparingly utilized. If it is used, the ex parte information will be recorded and made available publicly.

[4] Of course, we are here referring only to detailed written opposition as opposed to daily letters of inquiry and comment received by the Board.

[5] This limitation, expressed in § 300.2(a), is not intended to preclude an applicant from orally amending its application, provided written documentation of such amendment is filed with the Board together with proof of service upon any other party or person known to be interested in the proceeding.

[6] As provided in section 300.4(b), the recordation requirement is not applicable to communications from U.S. Government agencies relating to the conduct of the foreign affairs or national defense of the United States or to communications from foreign governments, except when such communications are made on substantive aspects of contested cases to be decided after notice and hearing, in which event they are prohibited and, if made, must be recorded, as provided in § 300.2 (b) and (e) of the regulation.

[7] Communications with Board Members are not included in the exception from the recordation requirement because it would rarely be either necessary or appropriate for a Member's office to engage in the type of prompt telephonic communication with regard to technical or factual details of a matter which the exception is designed to facilitate, and because communication directly with a Member, even on an uncontested matter of the nature described, has a greater potential for creating a possible appearance of impropriety.

[8] The prohibitions of this part shall not be understood as in any way limiting the Board's right to take official notice of facts contained in certain documents in hearing cases (14 CFR 302.24(m)), and the Board shall continue the practice of taking official notice in like manner in nonhearing matters subject to this part.

[9] Specifically, the regulation is intended to permit continuation of the existing practices whereby employees of the Bureaus of Operating Rights and Economics, as well as Enforcement, are not prohibited from communicating on the merits with other parties to a formal proceeding when the Bureaus are also formal parties.

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regulations. It is evident, however, that ex parte statements of advocacy—as opposed to inquiry—and other forms of improper influence immediately proceeding such a filing may be equally objectionable, especially when the communication covers a matter as to which a decision to file has already been made. Thus, ex parte statements advocating a course of action on a petition which rests in a briefcase but is about to be filed do not meet the standards expected by the Board.

As before, written ex parte statements in violation of the rule will be placed in the correspondence or other appropriate file for the matter and made available to the public. In addition, a brief summary of any prohibited oral ex parte statement of significance will be placed in the appropriate public file of a matter if the statement is made to a Board Member, his staff, or a Board employee who makes recommendations to or advises the Board on the subject under consideration or who exercises delegated authority for the Board with respect to it. A statement will be deemed to be of "significance" if it is likely in fact or in appearance to affect the outcome of a case. A copy of the summary of a significant oral ex parte statement shall be sent to the communicator.

The regulation has also been amended to state clearly that ex parte statements do not encompass statements or writings made to the Board by persons affiliated with the Board as employees, special government employees, or consultants or experts serving under a contract with the Board. Present rules requiring a separation of functions between the Board and its staff participating in hearings as witness or counsel will be maintained.

As discussed above, in contested nonhearing cases where ex parte statements are permitted, written communications concerning the matter must ordinarily be placed in the appropriate public file. In addition, a brief summary of all significant oral statements made to designated persons will be required to be placed in the appropriate public file. This will primarily insure that a written record will be kept of the basis for action in contested cases. A summary of an oral ex parte statement shall not be necessary if the letter, order or other document ruling on the matter reflects the existence and substance of the ex parte statement.

Further, in this connection, the regulation will now provide that when a private communication takes place within six months prior to the issuance of a notice or advance notice of proposed rulemaking and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

The provisions formerly in paragraphs (d) and (e) of § 300.2, which generally prohibited efforts to bring undue pressure or influence to bear upon the Board or to solicit others to do so, while left unchanged, have been transferred to a new § 300.2a. The effect of this change is to make these provisions applicable to all Board business, including all nonhearing cases, rather than just hearing cases as in the past.

Another change in the regulation gives recognition to the obligations of persons coming to the Board as members or employees, including those coming from other agencies of the United States Government,[10] to protect the integrity of the administrative process by expressing limitations as to their subsequent actions and disclosures (including permanent or temporary disqualification from participation in certain Board proceedings). These limitations are substantially the obverse of those applicable to Board employees leaving the agency for other employment as expressed in § 300.13, § 300.14 and § 300.17.[11] In one particular we have departed from those sections, which are derived from 18 U.S.C. 207. Instead of making the disqualification applicable only to a "partner," as is true in 18 U.S.C. 207, we have made it applicable if the prior personal and substantial participation in a Board proceeding was by a "partner, associate, employer, or the like" of the Board member or employee. Moreover, in view of the breadth of the associations covered and the innumerable internal arrangements and sizes of partnerships and corporations, we have made disqualification mandatory only when the Board employee's subsequent participation in the matter as a Board Member or employee could fairly be said to create the appearance that his participation would be affected by his prior relationship.

The rule is slightly different in the case of an employee coming to the Board from another part of the United States Government, in recognition of the public nature of such employment. Board employees (other than Members)[12] whose personal and substantial participation in a Board proceeding occurred on behalf of another agency of the United States are disqualified only with respect to issues on which the prior governmental employer took a position in the proceeding, unless the employee's subsequent participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

If an employee can show that his prior employment relationships will not affect the integrity of his services, he may request a waiver of §§ 300.9 and 300.10 in accordance with § 370.735–14.

Section 300.8 continues the prohibition on "unusual hospitality" in the present rule. The regulation has also been amended to urge persons interested in the business of the Board to familiarize themselves with Part 370, *Employee Responsibilities and Conduct*, which contains more specific rules concerning employees' acceptance of gifts, entertainment, and favors, so that persons outside the Board can assist in maintaining compliance. Part 370 in its entirety is currently under review by the Board.

The regulation authorizes the Board's General Counsel to render opinions and rulings on the application of the regulations. Such opinions and rulings are to be open to the public, after review by the Board or the expiration of the time for review, with identifying details normally stricken unless the public interest requires the disclosure of such details. The Board reserves the right, in its discretion, to review the opinions of the General Counsel on its own motion within 25 days, or at the instance of an affected person who so requests within ten days. The Board's decision on review or appeal will similarly be available to the public. In the absence of review by the Board, the opinions and rulings of the General Counsel are not binding on the Board or any future General Counsel.

This amendment to Part 300 not only broadens the limitations on ex parte statements and improper influence in Board proceedings but establishes new and, we believe, more effective devices for deterring violations and remedying their effects. For one thing, we are clarifying the authority of the Board and the administrative law judges in all proceedings to call for detailed public reports of all contacts between parties, their agents, or other persons authorized to act on their behalf, and any governmental legislative or executive body, person, or agency, foreign or domestic, made with a view to obtaining the support of such body, person, or agency for such party, or opposition to another party in such proceeding. Such authority is discretionary and may be exercised upon a showing of good cause.

If violations of Part 300 or other unethical or improper professional conduct occur, we may, as in the past, disqualify and deny temporarily or permanently the privilege of appearing before the Board. The regulation empowers the Board to dispose of alleged violations within the framework of the matter during or concerning which the violations allegedly occur. In addition, and also within the framework of the principal matter, we may deny, delay, or condition the requested relief in such manner as to remedy any violations in order to effectuate the public interest. Alternatively, appropriate remedies may be pursued in separate proceedings.

The Board finds that the public interest would best be served by having this revised regulation go into effect on

[10] By its terms this refers to prior employment by agencies of the United States other than the Board. Of course, if an employee of the Board became a Member, or if a former employee of the Board was reemployed, disqualification from future participation in particular matters with which he had an earlier connection would have to be determined on an *ad hoc* basis.

[11] Comments are specifically requested on the question whether the temporary (1-year) disqualification in § 300.14 should be for a longer period.

[12] Members may not participate in any matter in which they previously participated on behalf of another agency of the United States Government. See *Trans World Airlines, Inc. v. C.A.B.*, 254 F. 2d 90 (D.C. Cir., 1958).

an interim basis without undue delay, since it deals with important matters of public communication with the Board in areas where rules are presently unclear or do not exist. The regulation is therefore being issued as an interim rule with an effective date approximately 30 days after issuance. At the same time, because rights of members to participate in Board proceedings are affected, and public comment and our experience under the interim rule will be of value in deciding on the final content of the rule, a notice of proposed rulemaking is being issued today, requesting comments on this rule considered as a proposed final rule.

Any person who considers that the interim rule will inflict such substantial injury as to warrant relief prior to the rule's taking effect should so notify the Board, with reasons, by writing to the Docket Section in the same manner as specified in the notice of proposed rulemaking, not later than September 15, 1976.

Accordingly, 14 CFR Part 300, *Rules of Conduct in Board Proceedings*, is revised to read as set forth below, effective September 30, 1976:

Sec.

300.0 Applicability.
300.1 Judicial standards of practice.
300.2 Prohibited communications.
300.2a Prohibited influence and solicitation.
300.3 Separation of functions.
300.4 Permitted communications.
300.5 Conciseness of presentation.
300.6 Attorney-client relationship.
300.7 Contacts with other governmental agencies.
300.8 Gifts and unusual hospitality and other conduct affecting Board employees.
300.9 Permanent disqualification of Board Members and employees in matters in which they personally participated before joining the Board.
300.10 Temporary disqualification of Board Members and employees in matters in which they had official responsibility before joining the Board.
300.11 Disqualification of Government officers and employees.
300.12 Practice of special Government employees permitted.
300.13 Permanent disqualification of former Board Members and employees in matters in which they personally participated.
300.14 Temporary disqualification of former Board Members and employees in matters formerly under their official responsibility.
300.15 Opinions or rulings by the General Counsel.
300.16 Waivers.
300.17 Disqualification of partners of Board Members and employees.
300.18 [Reserved]
300.19 Use of confidential information.
300.20 Violations.

AUTHORITY: Sec. 204, of the Federal Aviation Act of 1958, as amended, 72 Stat. 731, 49 U.S.C. 1324.

§ 300.0 Applicability.

The rules of conduct set forth in this part shall govern the conduct of parties and their representatives, and the relationships between the Members of the Board, Board employees, and all other persons in all Board matters, except as otherwise provided in this or any other Board regulation. For purposes of this part, the terms "Board employee(s)" shall refer to all persons employed by the Board, including Board Members, personal staff of Members, regular employees, special Government employees, consultants or experts under contract with the Board, and administrative law judges.

§ 300.1 Judicial standards of practice.

The Board is a quasi-judicial agency, and as such certain of its functions are similar to those of a court, and parties to cases before the Board and those who represent such parties are expected—in fact and in appearance—to conduct themselves with honor and dignity as they would before a court. By the same token, the Members of the Board and Board employees who may be making recommendations to the Board Members or advising them are expected to conduct themselves with the same fidelity to appropriate standards of propriety that characterize a court and its staff. The standing and effectiveness of the Board are in direct relation to the observance by the Board, Board employees, and the parties and attorneys appearing before the Board of the highest standards of judicial and professional ethics. The rules of conduct set forth in this part are to be interpreted in light of those standards.

§ 300.2 Prohibited communications.

(a) This section applies to all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order, except that this section shall not apply to responses to communications initiated by Board Members or employees made for the purpose of obtaining additional data or clarification of filed data in the following:

(1) Nonhearing rulemaking matters;

(2) Tariff filings, whether or not a complaint is filed, unless and until the Board orders the tariff investigated (with or without suspension).

(3) Contested nonhearing matters to be decided within 30 days following receipt of the document initiating such matter;

(4) Uncontested nonhearing matters other than nonhearing rulemaking matters; and

(5) Any matter (not involving a hearing where an employee presides at the reception of evidence) where in the Board's opinion emergency conditions exist and the rule prohibiting communications prevents the Board from obtaining needed information in a timely manner and the Board directs Board employees to obtain such information.

For purposes of this part, a matter is uncontested up to the time an identifiable and detailed written opposition to the initiating document is filed or received, whether or not such opposition technically complies with the Board's Rules of Practice. Nonhearing matters (including nonhearing rulemaking matters) are those matters which (i) are not required by statute to be determined after notice and hearing, and (ii) as to which the Board has not issued an order giving interested persons the opportunity to participate by submission of written data, views, or argument, in writing or orally, with or without provision for a hearing at which an employee presides at the reception of evidence.

(b) In a matter subject to this section, from the time of the filing of the initial document, the filing or receipt of an identifiable and detailed written opposition, or issuance of a relevant Board order, as the case may be, a written or oral communication by any person not affiliated with the Board as a Board employee on any substantive or procedural issue in a matter to any Member of the Board or Board employee, other than in compliance with the Board's Rules of Practice, shall be deemed a private communication on the merits and as such is hereby prohibited unless otherwise provided for by law or published rule.

(c) The prohibition of paragraph (b) of this section shall not be deemed to apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts; or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from other U.S. Government agencies (not parties or participatnts in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from foreign governments, or to settlement discussions or mediation efforts between parties and the Board's employees, or to communications in the course of formal negotiations or consultations with one or more foreign governments on international aviation matters. That prohibition shall also not apply to information provided at the request of Board employees who are preparing a hearing case as advocates (witnesses, counsel or their supervisors), in a matter in which § 300.3 prohibits private communications on the merits by those employees to persons, or the staff of persons, hearing the case. Either oral or written communications which make inquiry as to the status of a proceeding or request expeditious treatment of a pending matter without discussing issues are not considered private communications on the merits and are permitted. However, requests for expedition by a party or other person are to be made by motion in accordance with the rules of practice, particularly Rules 14 and 18.

(d) Oral and written communications prohibited by this section shall not be considered as part of the record for decision of the matter.

V 41 159 AUG 16 76 UMI

(e) Any prohibited communication in writing shall be made public by placing it in the correspondence or other appropriate file of the matter, which shall be available for inspection and copying during business hours in the Board's Docket Section or other appropriate office. Any prohibited oral communication shall be briefly summarized by the person receiving it, one copy of the summary being placed in the correspondence or other apropriate public file of the matter and another copy being mailed to the communicator. This requirement with respect to oral ex parte statements shall be limited to matters of significance expressed to Members of the Board or Board employees making recommendations to or advising the Board on the case under consideration or exercising delegated functions on behalf of the Board with respect thereto. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of a case.

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in the case to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any member of the Board or Board employee, or that any person, directly or indirectly, give statements to the communications media by paid advertisements or otherwise to influence the Board's judgment in the matter.

(b) It is improper that any person solicit communications to Members of the Board or Board employees other than proper communications permitted under the Board's rules of practice. Anybody soliciting the support of another person shall call such person's attention to appropriate provisions of the rules of practice, including Rules 14 and 15.

§ 300.3 Separation of functions.

It is improper that there be any private communication on the merits of any substantive or procedural issue in a case of adjudication, or any factually related adjudicatory case, which is to be decided after notice and hearing, to Members of the Board or to Board employees making recommendations to or advising the Board on the matter, or to the administrative law judge in the case, by any members of the Board's staff who participate in the hearing of such case as witnesses or as counsel, or by supervisors exercising review of their positions.

§ 300.4 Permitted communications.

(a) This paragraph applies to those communications excluded from the prohibition of § 300.2 by paragraph (a) thereof. Private communications on the merits in such matters are permissible. However, unless the Board orders otherwise all such communications, written or oral, are to be made public. All written communications concerning a matter are to be placed in an appropriate public file. Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in uncontested nonhearing matters excluded from § 300.2 by clause 3 of paragraph (a) thereof. This practice will only be followed with respect to statements deemed to be of significance by the recipient and only when transmitted to Board Members or Board employees making recommendations to or advising Board Members on the matter under consideration, or exercising delegated functions on behalf of the Board. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of the matter.

(b) This paragraph applies to those communications, oral or written, other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments, making inquiry as to the status of a proceeding or requesting expeditious treatment of a pending matter without discussing the merits, which are excluded from the prohibitions of § 300.2 by paragraph (c) thereof. Board Members shall either refer such oral inquiries to the Office of the Managing Director, or, if they respond, shall make an explanatory record of such communication and place it in the public file of the pending matter. All Board employees shall cause written inquiries, unless filed in accordance with the Rules of Practice, to be placed in the public file of the matter.

(c) When a private communication takes place within six months prior to the issuance of a notice of proposed rulemaking (or issuance of an advance notice) and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

(d) Board employees shall report to the Managing Director, in writing, any request for information or access to records concerning proceedings where such information or records have not been made publicly available at the time of such request. For purposes of this requirement, "proceedings" shall be defined as all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order. This requirement shall not apply to requests for information as to the status of a proceeding or requests for access to records made pursuant to the provisions of Part 310 of this chapter.

§ 300.5 Conciseness of presentation.

Persons practicing before the Board should endeavor to present their cases in concise form avoiding cumulative and repetitious evidence, since the Members of the Board participating in a case which is to be decided after notice and hearing must familiarize themselves with the evidence in the record and with the arguments made on behalf of the parties orally and in written briefs, and must base their decision on the record. The same considerations are applicable to any other matters before the Board in which the public participates and should be recognized to the fullest extent possible.

§ 300.6 Attorney-client relationship.

Persons practicing or appearing before the Board should become cognizant of and have due regard for the standards of professional conduct applicable to the lawyer-client relationship and to the relationship betwee na lawyer and a judicial tribunal.

(a) The nontechnical nature of the Board's procedure calls for special adherence, by practitioners, to scrupulous standards of fairness, candor, and consideration for the rights of others in the pleadings filed, evidence submitted, conduct of hearing, and briefs and arguments made. In appearing for a client, the practitioner thereby vouches on his honor that in his opinion the client's cause is one proper for determination, and in presenting pleadings and offering evidence he represents that the same are not offered for unwarranted delay and that in his opinion the content thereof is not misleading. Nor should he indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations.

(b) A practitioner, moreover, should advise his client to observe the law according to his conscientious belief as to its permissible meaning and should use his best efforts to restrain his client from improprieties in dealing with Members of the Board or Board employees. If a client persists in such improprieties, the practitioner should terminate his representation of the client in the matter.

§ 300.7 Contacts with other governmental agencies.

The Board or any administrative law judge may, for good cause shown and in appropriate cases with respect to, and in the course of, any proceeding, require any party to such proceeding to report any contact by such party, its agents, or persons authorized to act on its behalf, with any federal, state, territorial or local governmental legislative or executive body or agency or any other domestic or foreign governmental authority, person or body made at any time with a view toward obtaining the support of such body, person, or agency for such party or opposition to another party in such proceeding. The reports of such contacts shall be made at such periods and in such detail as ordered by the Board or the administrative law judge and shall be made public in the proceeding.

§ 300.8 Gifts and unusual hospitality and other conduct affecting Board employees.

(a) No person, otherwise than as provided by law for the proper discharge of official duty, shall directly or indirectly give, offer, or promise anything of value to any Board Member or Board employee for or because of any official act performed or to be performed by such Board Member or Board employee (18 U.S.C. 201).

(b) It is improper for persons interested in the business of the Board to provide unusual hospitality, gifts, entertainment, or favors to any Board Member or Board employee.

(c) Persons interested in the business of the Board should familiarize themselves with Part 370 of the Board's Special Regulations—Employee Responsibilities and Conduct (14 CFR Part 370), in order that they shall not encourage or cause any violation of the provisions of Part 370 by any Board Member or Board employee.

§ 300.9 Permanent disqualification of Board members and employees in matters in which they personally participated before joining the Board.

Any Board member or any Board employee shall permanently disqualify himself from participation in every matter before the Board in which he previously personally and substantially participated for an interested person or entity, including other agencies of the United States Government, before joining the Board, and from disclosing any confidential facts learned in such prior employment or representation. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board Member or Board employee as partner, associate, employer, or the like, personally and substantially participated in a matter before the Board prior to the Member's or employee's employment by the Board and the circumstances were such that the Board Member's or employee's subsequent participation in the matter as a Board Member or employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Member, the disqualification of any Board employee, including any member of a Board Member's personal staff or a special Government employee, whose prior personal and substantial participation in a Board proceeding or whose relationship to one who so participated occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding unless participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

§ 300.10 Temporary disqualification of Board members and employees in matters in which they had official responsibility before joining the Board.

Any Board Member and any Board employee shall temporarily disqualify himself from participation in any matter before the Board if he represented, was associated with or was employed by an interested person or entity including other agencies of the United States Government before joining the Board, and, although he did not personally and substantially participate in the matter, the matter was within his "official responsibility," as that term is defined in § 300.14 except that the action referred to therein shall be private action as well as "Government" action. He shall also be prohibited from disclosing any confidential facts learned through his prior representation or association. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board employee as partner, associate, employer, or the like, who, while not personally and substantially participating in the matter, had it within his "official responsibility" as that term is defined in § 300.14, and modified above, and the circumstances are such that the Board employee's subsequent participation in the matter as a Board employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Board Member, the disqualification of any Board employee whose prior "official responsibility" or relationship to one with such responsibility occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding. The temporary disqualification shall run for a period of one year from the date of the termination of the representation, association, or employment with the interested person or entity.

§ 300.11 Disqualification of Government officers and employees.

No officer or employee of the Federal Government, other than a "special government employee" as defined in 18 U.S.C. 202, shal represent anyone, otherwise than in the proper discharge of his official duties, in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.)

§ 300.12 Practice of special Government employees permitted.

A special Government employee, who qualifies as such under the provisions of 18 U.S.C. 202(a), may participate in Board proceedings only to the extent and in the manner specified in 18 U.S.C. 205.

§ 300.13 Permanent disqualification of former Board members and employees in matters in which they personally participated.

No former Board member or Board employee shall act as agent or attorney before the Board for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Board Member or employee. (18 U.S.C. 207(a).)

§ 300.14 Temporary disqualification of former Board members and employees in matters formerly under their official responsibility.

Within one year after termination of employment with the Board, no former Board Member or Board employee shall appear personally before the Board on behalf of any person other than the United States in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action (18 U.S.C. 202(b), 207(b)).

§ 300.15 Opinions or rulings by the General Counsel.

(a) The Board's General Counsel is authorized to render opinions or rulings to employees of the Board and to the public on the application of the provisions of this part. Such opinions and rulings, and the reasons therefor, shall be transmitted to the Board and shall be available to the public in the Public Reference Room after any appeal to or review by the Board has been completed or after the time for review has expired. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details. Absent review by the Board, any opinion or ruling of the General Counsel is not binding on the Board or any future General Counsel.

(b) If any person is disqualified from a particular proceeding under the provisions of §§ 300.9, 300.10, 300.13, 300.14, and 300.17 by a ruling of the General Counsel, or by such person's own action, such disqualification shall be memorialized in a writing filed in the appropriate file of the matter by the General Counsel or such person.

(c) The Board may review any opinion or ruling of the General Counsel at its discretion within 25 days from the issuance of such opinion or ruling. Any person affected by an opinion or ruling may file an appeal to the Board within ten days after issuance of such opinion or ruling. Decisions of the Board on review or appeal shall be available to the public. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details.

§ 300.16 Waivers.

(a) A former Board member or Board employee with outstanding scientific or technological qualifications who is disqualified from acting in a representa-

V 41 159 AUG 16 76 UMI

tive capacity under the provisions of §§ 300.13 or 300.14 may nevertheless participate in a proceeding in a scientific or technological field pursuant to the terms of a certificate issued in compliance with the proviso following 18 U.S.C. 207 (a) and (b).

(b) An employee who believes his prior employment relationships will not affect the integrity of his services may request that the prohibition of §§ 300.9 or 300.10 be waived in accordance with the procedures set forth in § 370.735–14.

§ 300.17 Disqualification of partners of Board members and employees.

No partner of a Board member or of a Board employee shall act as agent or attorney for anyone other than the United States in any Board proceeding or matter in which such member or employee participates or has participated personally and substantially through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, or which is the subject of his official responsibility. (18 U.S.C. 207(c).)

§ 300.18 [Reserved]

§ 300.19 Use of confidential information.

No former Board member or employee, or any person associated with him, shall ever use or undertake to use in any Board proceeding or matter any confidential facts or information which came into the possession of such Member or employee or to his attention by reason of his employment with the Board without first applying for and obtaining the consent of the Board for the use of such facts or information.

§ 300.20 Violations.

(a) The Board may disqualify, and deny temporarily or permanently the privilege of appearing or practicing before it in any way to, any person who is found by the Board after written notice of charges and hearing to have engaged in unethical or improper professional conduct. Any violation of this part shall be deemed to be such conduct.

(b) When appropriate in the public interest, the Board may deny any application or other request of a party in a proceeding subject to this part where the Board finds after hearing that such party has, in connection with any Board proceeding, violated any of the provisions of this part or any of the provisions of Chapter 11 of Title 18 of the United States Code. The Board may also condition its further consideration of such party's application or other request or the effectiveness of any order granting such application or other request upon such party's first taking such action as the Board may deem necessary or appropriate to remedy the violation of this part or Chapter 11 of Title 18 of the United States Code to prevent or deter any repetition of such violation. The Board may in addition issue a cease and desist order against any repetition of such or similar misconduct.

(c) The actions authorized by this section may take place within the framework of the matter during or concerning which the violations occur or in a separate matter, as the Board or the presiding administrative law judge may direct. A complaint alleging that a violation has occurred in the course of a matter shall be filed in the docket or appropriate public file of such matter unless such complaint is made after the Board's decision of the matter has become final, in which event such complaint may be filed pursuant to Part 302, Subpart B of the rules of practice. A violation in the course of a matter which may be attributable to or affect the fitness of a party will ordinarily either be disposed of within the framework of such matter or be considered within the context of any subsequent matter involving the interests of such party. Other violations will ordinarily be disposed of in a separate proceeding.

By the Civil Aeronautics Board.

Effective: September 30, 1976.

Adopted: August 10, 1976.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–23840 Filed 8–13–76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advisory Opinion Denial on Training School Proposal

Three advisory opinions issued by the Commission in 1969, digests of which are set forth below (FR Docs. 76–23771 and 76–23772) were not previously published in the FEDERAL REGISTER. They are considered sufficient in general applicability and legal effect to merit FEDERAL REGISTER publication.

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.317 as follows:

§ 15.317 Commission declines to issue advisory opinion.

The Commission declined to issue an advisory opinion on December 11, 1968 (File No. 693 7061), concerning a proposal by a training school to advertise a refund of charges to graduates who do not receive a timely offer of employment where the conditions stated might be the subject of such a wide variety of interpretations that only the manner of actual implementation would determine legality.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: January 28, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76–23770 Filed 8–13–76;8:45 am]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advertising Standards by Private Association

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.332 as follows:

§ 15.332 Publication of advertising standards by private association.

The Commission issued an advisory opinion on February 12, 1969 (File No. 693 7094), to the effect that a private association's publication of a statement of practices heretofore found unlawful by the Commission for voluntary agreement by industry members to avoid the listed practices would not be objectionable. The Commission advised that it would have no objection to such a publication, or proposed use, as long as each signer agrees to, and abides by, its provisions without coercion, expressed or implied.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: March 19, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76–23771 Filed 8–13–76;8:45 am]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Refusal of Membership in Trade Association

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.335 as follows:

§ 15.335 Refusal of membership in trade association.

The Commission issued an advisory opinion on February 18, 1969 (File No. 693 7078), concerning the right of a trade association to refuse membership to a member's competitor at the member's insistence. The Commission advised that, as a general rule, a trade association may deny membership for failure to meet reasonable qualifications, but may not deny membership to a potential member if to do so would unreasonably restrain interstate or foreign trade or commerce.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: April 18, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76–23772 Filed 8–13–76;8:45 am]

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Statement of Enforcement Policy; Invitation To Comment

Notice is hereby given that the Federal Trade Commission has adopted a Statement of Enforcement Policy regarding the Trade Regulation Rule on Preservation of Consumers' Claims and Defenses (promulgated November 14, 1975, effective May 14, 1976; 40 FR 53506). The Statement explains the Rule's definition of "purchase money loan" and is issued as a guide for compliance.

The Commission formally adopted the Statement and directed that the public be provided until October 15, 1976 to comment on the Statement.

STATEMENT OF ENFORCEMENT POLICY IN REGARD TO TRADE REGULATION RULE ON PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

On May 14, 1976, the Commission's Trade Regulation Rule concerning Preservation of Consumers' Claims and Defenses (16 CFR 433) became effective. In adopting the Rule, the Commission determined that it constitutes an unfair and deceptive practice within the meaning of Section Five of the Federal Trade Commission Act (15 U.S.C. 45), for a seller in the course of financing or arranging the financing of a purchase of consumer goods or services to employ procedures which render the consumer's duty to pay independent of the seller's duty to fulfill his obligations. The Rule requires the insertion of a clause in consumer credit contracts which permits the consumer to raise against the creditor those claims and defenses that he could raise against the seller under applicable law. The Rule does not give the consumer the right to withhold payment unilaterally. The manner and procedure by which a buyer may assert claims and defenses is governed by the terms of any contractual obligation and by applicable state law.

Since the effective date of the Rule, the Commission has received a number of requests for a further clarification of its applicability to transactions in which a seller accepts the proceeds of a loan extended directly from a lender to a purchaser. This Statement of Enforcement Policy explains the Rule's definition of "purchase money loan" which encompasses certain loans of this nature. It is a restatement of the Commission's intent in this regard based on the language of the Rule and the Statement of Basis and Purpose.

This Statement is issued as a guide for compliance with the Rule. It is also intended as an aid to assure consistent application of the Rule under those state laws which create additional private remedies for violation of its requirements.

I. INTRODUCTION

The Rule requires that the prescribed notice be included in a loan document when the seller accepts the proceeds of a "purchase money loan" extended by the creditor directly to the purchaser. The definition of a "purchase money loan" limits the Rule's applicability to direct loans where the seller "refers" customers to the creditor or is "affiliated" with the creditor.[1]

[1] 16 CFR 433.1(d).

The Statement of Basis and Purpose issued with the Rule specifies the nature of the business relationships that are encompassed by this standard.

[C]onsumer credit obligations should be subject to claims and defenses whenever credit is arranged or secured in connection with a continuing relationship between a seller and a creditor. In such cases a seller and creditor may properly be viewed as joint venturers. The basic rationale for the rule . . . applies in any situation where sellers and creditors work cooperatively to finance consumer sales.[2]

The affiliation and referral standards are intended to delineate those business relationships where sellers and creditors engage in concerted or cooperative conduct to arrange credit for consumers. The terms are not intended to be wholly separate concepts and are to some extent coextensive in their impact. They are employed in this manner to assure that the broad spectrum of business relationships which reflect such joint activity are brought within the Rule.

The affiliation test applies where the lender and seller are part of the same business entity, or where there is a preexisting formal or informal contractual agreement or business arrangement to engage in concerted activity in connection with the financing of consumer goods and services. The referral test does not contemplate a preexisting agreement of this type. It encompasses relationships in which the lender and seller cooperate to channel purchases on a continuing basis. Such a course of conduct results in a de facto or implied relationship. If the seller is sending buyers to a creditor without the express or implied agreement of the creditor or without any concerted or cooperative activity between the seller and creditor in connection with the financing of consumer sales, the transaction is not within the Rule. It is important to note that such agreement or concerted or cooperative activity must relate to the actual financing of the sale and not to ancillary conduct such as perfecting a security interest.

(a) *Affiliation.* The Rule requires a seller to insure that the Notice is used in a consumer's loan contract where the seller is "affiliated with the creditor by common control, contract, or business arrangement."[3]

The first type of affiliation is common control. The Commission has concluded that when a creditor and a seller are functionally part of the same business entity, loans made by the lender for the financing of purchases from the seller should be subject to the Rule. For example, common control would be present where two companies are owned by a holding company or by substantially the same individuals; if one is a subsidiary of the other, or if they are under common control relating to retail sales financing.

An affiliation is also created by "contract" and "business arrangement." The Rule defines contract as any oral or written agreement, formal or informal between a creditor and a seller, which contemplates or provides for cooperative or concerted activity in connection with the sale of goods or services to consumers or the financing thereof. A business arrangement includes any understanding, procedure, course of dealing, or arrangement, formal or informal, between a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof.

These definitions encompass all situations where a creditor and seller are party to any agreement, arrangement, understanding, or mutually understood procedure which is specifically related to retail sales or retail sales financing. While the business arrangement or contract need not be formal in a legal sense, it must be ongoing and clearly related to sales or sales financing.

Examples of the business arrangements or contracts which are reached by the Rule's definitions would include those contemplating:

Maintenance of loan application forms in the office of the seller;
Seller agrees with creditor to prepare loan documents;
Creditor's referrals of customers to a sales outlet;
Payment of consideration to a seller for furnishing loan customers or to a creditor for furnishing sales prospects;
The assignment of indirect paper or the referral of loan customers to a creditor;
Active creditor participation in a sales program;
Joint advertising efforts;
An agreement to purchase paper on an indirect basis.

The Rule is not intended to include the many possible business relationships that do not bear directly on the financing of consumers sales. For example, a commercial checking account is not an affiliation within the meaning of the Rule, nor is a commercial credit agreement between the seller and a credit institution which has no relationship to consumer sales activities or the financing thereof. A commercial lease, the factoring of accounts receivable, a general business loan, the financing of inventory, or other similar commercial arrangements or contracts do not invoke the Rule. The installation in a seller's place of business of a system for approval of personal checks is not a business arrangement within the meaning of the Rule. It should also be noted that an agreement between a credit card issuer and a seller does not constitute a business arrangement or a contract within the meaning of the Rule.

The fact that a creditor and seller must confer over a particular transaction does not in itself create an arrangement. Thus, for example, the mere fact that a creditor issues a joint proceeds check to a seller and a buyer or that seller and lender must confer in order to perfect the security agreement under ap-

[2] Statement of Basis and Purpose, 40 FR 53524, November 18, 1975.
[3] 16 CFR 433.1(d)(2).

V 41 159 AUG 16 76 UMI

plicable state law is not a business arrangement or contract.[4]

(b) *Referrals.* The Rule prohibits a seller from accepting the proceeds of a "purchase money loan" unless the credit contract contains the required Notice when the seller "refers consumers to the creditor". The intent of this provision is to reach those situations in which a seller cooperates with a lender to channel consumers to that credit source on a continuing basis. Unlike an "affiliation", which contemplates some preexisting arrangement or agreement, a referral relationship arises from a pattern of cooperative activity directly relating to the arranging of credit.

Several elements are necessary. The seller and creditor must be engaged in cooperative or concerted conduct to channel a consumer to a particular lender. The fact that a seller may suggest credit sources to his customers or otherwise provide information in this regard does not alone invoke the Rule. However, when a seller and a lender work together to arrange financing for seller's customers, the prescribed notice must be incorporated in the loan contract.

This conduct must occur on a continuing basis. Occasional referrals which are not part of a business routine of the seller do not trigger the Rule. Once a referral relationship is established all credit contracts between that lender and buyers who spend the proceeds at the seller's establishment must contain the Notice.

Finally, it should be emphasized that formal consideration need not pass between the seller and lender. The fact that a seller and lender are cooperatively engaged in an effort which is mutually beneficial to their separate business interests is sufficient.

(c) *Application of the referral and affiliation standards.* The following examples illustrate how the referral and affiliation standards are applied.

1. A seller has an agreement with a creditor to maintain loan application forms in the seller's office. When a buyer requests financing, the seller assists the buyer in filing out the forms. This relationship constitutes an affiliation and the Notice must be included in the consumer credit contract.

2. A seller regularly sends his customers to a particular creditor. The creditor, in turn, agrees to provide a favorable financing arrangement for the seller's inventory or directly or indirectly provides some other consideration. The seller and lendor are "affiliated". The Notice must be included in the consumer credit contract.

Comment.—These circumstances would give rise to a "contract" as defined by § 433.1(f).

3. A seller regularly sends his customer to a particular creditor. The creditor agrees that as long as the seller continues to refer his customers, their loan applications will be processed or approved on an expedited basis where the borrower meets certain lending criteria but before a full credit check is completed. The Notice must be in.

Comment. An agreement of this nature would constitute a business arrangement. (Typically in situations such as those in the example, the seller would agree to repurchase any contracts which the lender ultimately did not accept. However, a repurchase agreement of this nature is not essential to bring the above conduct within the Rule.)

4. A seller routinely suggests that customers in need of credit go to a particular source or sources of financing. While the creditor is aware that seller is sending some of his customers, the creditor does not provide any tacit or explicit quid pro quo, and seller and financer have no relationship that would constitute an affiliation and do not otherwise cooperate except insofar as may be necessary to arrange payment, perfect a security interest or otherwise finalize the transaction. The Notice is not required.

Comment. The Rule draws the line between situations in which the seller is acting as an information source or where credit is available and those in which the seller is arranging credit or serving as a conduit for the creditor. For a referral to occur within the meaning of the Rule, there must be something more than a simple suggestion that credit might be available from a particular source. There must be some further affirmative act by the seller to promote the consummation of the loan.

Since a simple suggestion is not a referral, it does not matter how often it is repeated.

This interpretation also answers a question raised by some creditors as to the result if a seller sends customers to them and they do not know the customers are being sent. Such lack of knowledge on the part of the creditor automatically precludes the possibility that a referral has taken place.

5. A buyer asks a seller for credit information. The seller suggests a creditor, calls up the creditor to determine whether the creditor will lend money to the particular buyer, and then sends the buyer to the creditor. Seller and creditor have no agreement, formal or informal, to refer customers. A referral relationship would be created, if the channeling occurs on a continuing basis.

Comment.—When a seller contacts a lender and arranges credit for his customers on a continuing basis, there is sufficient cooperative activity to constitute a referral relationship. Monetary or other formal consideration need not be involved. A pattern of mutual accommodation in arranging loans is sufficient concerted or cooperative activity to establish a referral relationship. However, contact between the seller and creditor which first occurs after the loan has been secured, for purposes of securing a lien or approving a bank draft is not a referral since there is no cooperative activity in the arranging of credit.

6. A buyer asks a seller for credit sources. Seller provides a list of lenders in the area and provides information on the availability of credit from them as an accommodation to his customers. The seller does not contact a creditor to arrange credit for the customers, nor does he have any other business arrangement or affiliation with the creditors in this respect. The Notice is not required.

Comment.—When the seller is merely providing buyer with information on the choices available to the buyer, does not channel the buyer by contacting the creditor, and has no agreement to mention a particular creditor, then the buyer is providing information and the Notice is not required.

7. A seller has a referral or affiliation relationship with a creditor. A buyer, on his own, goes to the creditor to obtain a loan to purchase an item from seller. The Notice must be in.

Comment.—If a seller has an arrangement whereby he refers his customers to a creditor, all loan contracts between that creditor and a borrower who uses the proceeds to purchase goods from that seller must contain the Notice. The Notice must be in whether the particular loan contract was the product of a referral or not.

8. Seller has for years referred his customers to a particular financial institution pursuant to an arrangement with the creditor. He now desires to end the relationship. He stops the referrals and notifies the creditor that he no longer will refer buyers. The referral relationship has been terminated.

Comment.—A referral relationship is a continuing one. It can be stopped as long as the termination is genuine, and the seller is not attempting to temporarily avoid the Rule for a few transactions. The creditor can also end a referral relationship by notifying seller that he does not wish the relationship to continue and by refusing to place the Notice in his loan contracts with purchasers from that seller.

II. DETERMINING THE SOURCE OF THE PROCEEDS

The seller is prohibited from accepting the proceeds of a "purchase money loan" unless the consumer credit contract contains the specified Notice. Since the credit contract is between the borrower and the lender, the seller may not be aware that the money he is receiving is the proceeds of a "purchase money loan." The problem arises when the seller and the creditor are affiliated by common control, contract, or business arrangement or are engaged in a referral relationship and the buyer has unilaterally gone to the creditor for a loan to purchase goods or services from the seller.

The Rule was not intended to subject a seller to liability when he has no reason to believe he is receiving the proceeds of a "purchase money loan." Nor does the Rule require that the seller interrogate the buyer to determine the source of the proceeds. The objective circumstances surrounding the transaction provide the seller with information concerning the source of the proceeds. When these circumstances do not indicate the source of the proceeds or do not provide reason to believe that the proceeds may be from a "purchase money loan", there is no obligation to further investigate the source of the proceeds.

The following examples illustrate how this standard is being applied.

1. A buyer arrives in the seller's showroom with a joint proceeds check or a bank draft drawn on a bank affiliated with the seller. The seller is on notice to inquire as to whether the Notice was included.

Comment.—A joint proceeds check provides actual knowledge that a purchase money loan is involved. A bank draft places a seller on notice that the instrument is probably the proceeds of a purchase money loan.

2. A buyer pays for a seller's product or service with cash or a personal check. There is no duty to inquire.

Comment.—When there are no facts that would place a reasonable man on notice that the money is the proceeds of a "purchase money loan", there is no obligation to interrogate a customer.

3. A buyer pays $5,000 for an automobile with a personal check drawn on the bank that purchases the seller's contracts. The buyer states that he obtained a signature loan from that bank to pay for it. Seller must determine if the Notice was inserted.

4. Seller determines that the money the buyer uses to purchase a product are the proceeds of a "purchase money loan". The seller asks the buyer whether the Notice has been included in the consumer credit contract. The buyer refuses to answer or incorrectly states the Notice was included. The seller must communicate with the creditor.

Comment.—When the seller has a relationship with a creditor, the best source of information concerning the Notice is the creditor. He cannot escape liability through the ignorance of the buyer.

INVITATION TO COMMENT ON STATEMENT OF ENFORCEMENT POLICY

The Commission invites any interested persons to submit data, views, or comments on the above Statement of Enforcement Policy. In light of such data, views, or comments the Commission shall determine what further action, if any, is necessary.

Comments will be accepted until October 15, 1976. To assure prompt consideration, comments should be identified as "Holder in Due Course Statement of Enforcement Policy Comment." Comments should be sent to the Assistant Director for Compliance, Federal Trade Commission, Washington, D.C. 20580.

By direction of the Commission dated August 3, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23832 Filed 8-13-76;8:45 am]

[4] See Federal Trade Commission Advisory Opinion #763-7007 to National Automobile Dealers Association. May, 1976.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-215]

PART 153—ANTIDUMPING

Turners (of the Type Used in Consumer Electronic Products) From Japan

Correction

In FR. Doc. 76-22430 appearing on page 32421 in the issue for Tuesday, August 3, 1976, the signature now reading "Donald R. McDonald" should have read "David R. MacDonald".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0314]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Redelegations of Authority and Field Structure

The Food and Drug Administration (FDA) is amending the regulations setting forth its delegations of authority to field officials and its field structure; effective August 16, 1976.

In a recent personnel action, the organizational title for all "Deputy Regional Food and Drug Directors" of FDA was changed to "District Directors." The organizational title change to "District Director" was made to eliminate confusion that existed in the multidistrict regions and to more accurately indicate the role of these field organization managers. The change does not effect the duties or responsibilities of the positions. This amendment deletes all references to the obsolete title from the Commissioner's redelegations of authority. The amendment also updates the field structure for Region I by adding a reference to the District Office in Boston, MA.

Further redelegation of the authority delegated by this amendment is not authorized. Authority redelegated by this amendment to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 5 is amended as follows:

1. In § 5.21, paragraph (a) is revised to read as follows:

§ 5.21 Delegations regarding hearings and review boards.

(a) The Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, and District Directors are authorized to designate officials to hold informal hearings that relate to their assigned functions under sections 305, 404(b), and 801(a) of the Federal Food, Drug, and Cosmetic Act, section 6 of the Fair Packaging and Labeling Act, section 9(b) of the Federal Caustic Poison Act, and section 5 of the Federal Import Milk Act. Officials so designated are delegated authority vested in the Secretary of Agriculture by 7 U.S.C. 2217 (43 Stat. 803) to administer or to take from any person an oath, affirmation, affidavit, or deposition for use in any prosecution or proceeding under or in enforcement of any law as cited in this section.

• • • • • •

2. In § 5.22, by revising paragraphs (a) and (d) to read as follows:

§ 5.22 Delegations regarding imports.

(a) The Regional Food and Drug Directors and District Directors are authorized to designate officials who may request, under section 801(a) of the Federal Food, Drug, and Cosmetic Act, from the Secretary of the Treasury samples of foods, drugs, devices, or cosmetics imported, or offered for import, in order to determine whether such articles are in compliance with the act.

• • • • • •

(d) The Regional Food and Drug Directors and District Directors are authorized to exercise all of the functions of the Commissioner of Food and Drugs under section 362 of the Public Health Service Act (42 U.S.C. 265) that relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health, and such functions relate to the law enforcement functions of the Food and Drug Administration.

3. By revising § 5.35 to read as follows:

§ 5.35 Delegations regarding certification following inspections.

Regional Food and Drug Directors and District Directors are authorized to issue certificates of sanitation under § 1240.20 of this chapter.

4. In § 5.40, by revising the introductory text to read as follows:

§ 5.40 Delegations regarding detention of meat, poultry, eggs, and related products.

The Regional Food and Drug Directors and District Directors are authorized to perform and to designate other officials

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to perform all the functions of the Commissioner of Food and Drugs under:

• • • • • •

5. In § 5.115, by revising the entry for "Region I" to read as follows:

§ 5.115 Field Structure.

REGION I

Regional Field Office: 585 Commercial Street, Boston, MA 02109. District Office: 585 Commercial Street, Boston, MA 02109. Winchester Engineering and Analytical Center: 109 Holton Street, Winchester, MA 01890.

• • • • • •

Effective date: This amendment shall be effective August 16, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: August 9, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23784 Filed 8-13-76;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0362]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Food and Drug Administration is amending the food additive regulations in § 121.2514 Resinous and polymeric coatings (21 CFR 121.2514) to provide for the use of azelaic acid as a component of polyamide resins intended for use as components of side seam cements for containers intended to contact food; effective August 16, 1976, objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of January 30, 1976 (41 FR 4626) that a petition (FAP 5B3082) had been filed by General Mills Chemical Inc., 2010 E. Hennepin Ave., Minneapolis, MN 55413 proposing that § 121.-2514 be amended to provide for use of azelaic acid as a component of polyamide resins for use as side seam cements in containers intended to contact food.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2514 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.-2514(b)(3)(xxxii), is amended in the list of substances, by alphabetically inserting in the list of acids under the term "Polyamides • • •" a new item, to read as follows:

§ 121.2514 Resinous and polymeric coatings.

• • • • • •

(b) • • •

(3) • • •

(xxxii) • • •

Polyamides derived from the following acids and amines:
Acids: • • •
Azelaic • • •

• • • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23782 Filed 8-13-76;8:45 am]

[Docket No. 76F-0187]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYAMIDE-IMIDE RESINS

The Food and Drug Administration is amending the food additive regulations to provide for a specification change in the minimum solution viscosity of polyamide-imide resin; effective August 16, 1976; objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of June 9, 1976 (41 FR 23223) that a petition (FAP 6B3201) had been filed by the Phelps Dodge Magnet Wire Co., P.O. Box 600, Ft. Wayne, IN 46801, proposing that § 121.2628 (21 CFR 121.2628) be amended to provide for a specification change in the minimum solution viscosity of the resin from 1.550 to 1.200 (as determined by a method available from the Commissioner of Food and Drugs).

The Commissioner, having evaluated data in the petition and other relevant material, concludes that § 121.2628 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2628 is amended by revising paragraph (b)(2) to read as follows:

§ 121.2628 Polyamide-imide resins.

• • • • • •

(b) • • •

(2) Solution viscosity: not less than 1.200.

• • • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective August 16, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23783 Filed 8-13-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPS-30, Amdt. 192-27]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS

Offshore Pipeline Facilities

This amendment modifies many of the design, construction, testing, operation, and maintenance regulations in Part 192 as they relate to gas pipeline facilities and the transportation of gas offshore in or affecting interstate or foreign commerce. The amendment also enlarges the scope of Part 192 by deleting the exemption in § 192.1 for certain rural gathering lines located offshore.

The purpose of the amendment is to more clearly delineate the applicability of Part 192 to offshore pipelines used in the transportation of gas and to better assure the safe operation of those pipelines.

This proceeding was begun by the Office of Pipeline Safety (OPS) which issued an advance notice of proposed rulemaking, Notice 74-6 (39 FR 34568, Sept. 26, 1974), to gain additional information before formulating proposed amendments to the existing rules. (However, after the advance notice was issued, OPS was abolished, and the authority to administer pipeline safety matters was delegated to the Director, Materials Transportation Bureau (MTB) (40 FR 30821, July 23, 1975).)

After reviewing the comments to Notice 74-6, on September 25, 1975, MTB proposed to make this amendment by issuing Notice 75-5 (40 FR 45192, Oct. 4, 1975). Interested persons were invited to submit written comments by October 31, 1975. However, acting on a request by the American Petroleum Institute by Notice 75-5A (40 FR 48940, Oct. 20, 1975) MTB extended the deadline for written comments to December 1, 1975, and scheduled a public hearing on the matter in Washington, D.C., on November 17, 1975. The extension allowed all interested persons additional time to study the benefits and problems involved in the proposed rule changes.

The comments received in writing and at the public hearing have been fully considered by MTB. A discussion of the significant comments and their disposition in developing the final rules is set forth hereinafter in the order that the amendments were proposed in the Notice. Some of the proposed amendments have not been adopted as final. Those which have, are adopted under the same section numbers used in the Notice. Editorial modifications in the final rules which do not alter the substance of the proposed amendments are not discussed.

Section 192.1 Scope of part

MTB proposed that this section be amended to include within the scope of Part 192 rural gathering lines located offshore and thereby subject them to the applicable design, construction, testing, operation, and maintenance standards. At present, both onshore and offshore rural gathering lines are exempt from coverage under Part 192. The proposal to regulate offshore gathering lines was made so that the Federal safety regulations would apply to all offshore pipelines used in the transportation of gas, and because the difficulties in installing, monitoring, and maintaining offshore gathering lines are similar to the difficulties with offshore transmission lines.

Many of the comments received on this section, including those of an industry trade association, concurred with the proposed extension of jurisdiction. The commenters stated, however, that the extended jurisdiction should be limited to gathering lines located seaward of the coast line because it would be confusing to apply the term "offshore" to inland water areas as proposed in Notice 75-5. The concurring commenters also suggested that standards in Part 192 for design, construction, and initial testing not be applied to existing offshore gathering lines.

MTB believes that the reservations which these commenters expressed are satisfied by the final rules. First, the proposed definition of the term "offshore" is changed to apply, in general, to areas located seaward of the coast line, as discussed further hereinafter. Secondly, although the commenters did not estimate how many existing offshore gathering lines would be nonconforming if the design, construction, and testing standards were applied retroactively, MTB does not believe that the various hazards against which the proposed extension of jurisdiction was intended to protect warrant retroactive application of those standards. In the absence of a compelling reason to the contrary, MTB believes that the establishment of a new safety standard does not make existing facilities which do not meet the new standard unsafe. Therefore, a provision has been added to § 192.13 to exempt existing offshore gathering lines or those readied for service before the final rules become effective from the design, construction, and initial testing requirements. Should MTB learn of safety problems with existing offshore gathering lines, however, due to inadequate design, construction, or testing, it will either deal with the pipelines involved on an individual basis or issue another general notice of proposed rulemaking regarding those problems which can be solved through the regulatory process.

A few commenters indicated that the precise effect of the proposed regulation of offshore gas gathering lines could not be evaluated because Part 192 does not clearly state the meaning of the term "gathering line." They said, for example, the term "production facility" in the definition of the term "gathering line" in § 192.3 is not defined and thus the proposed extension of jurisdiction could be interpreted to cover production oriented facilities.

MTB believes that the objection expressed by these commenters arises because of their view that offshore pipelines which carry hydrocarbons between a well and any initial processing equipment are commonly associated with the industry of producing gas rather than with the industry of transporting gas to markets. Also, these pipelines are regulated for safety and other purposes by the U.S. Department of the Interior (DOI).

This indistinctness between production and transportation is of slight significance, however, in view of the recently completed Memorandum of Understanding (MOU) between the Department of Transportation (DOT) and DOI regarding the regulation of offshore pipelines. Under the MOU, which was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23746), DOT exercises exclusive responsibility for the safety regulation of oil and gas offshore pipelines downstream to the shore from the outlet flange of each facility where hydrocarbons are produced, or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. Also, DOT regulation includes subsequent on-line transmission equipment but not any subsequent production equipment. DOI regulates the pipelines upstream from these locations. As shown in item 1 below, § 192.1 is amended to include this provision of the MOU and indicate the seaward limits of the jurisdiction of Part 192 over offshore gathering lines.

MTB recognizes that the MOU does not completely resolve the confusion regarding the meaning of the term "gathering line." The proceeding begun by OPS to redefine the term is still under consideration by MTB (Docket OPS-31, 39 FR 34569, Sept. 26, 1974). However, the purpose of Notice 75-5 as it relates to offshore gathering lines was to extend the scope of Part 192 to cover all offshore transportation of gas by pipeline in or affecting interstate or foreign commerce within the jurisdiction of DOT. Therefore, to the extent that gathering lines located downstream from the aforementioned outlet flanges are subject to that jurisdiction, their inclusion within the scope of Part 192 is consistent with the purpose of the rulemaking proposal.

Other commenters speculated that the cost of compliance would far exceed the safety benefits to be gained because there have not been any deaths or injuries attributable to offshore gas gathering lines. The commenters did not submit any cost or benefit data, though, to support the charge. MTB believes to the contrary that the cost of compliance should not be high because the standards in Part 192 do not largely differ from the industry standards and practices to which offshore gathering lines are designed, constructed, operated, and maintained. These industry standards and practices are by and large based on the B31.8 Code published by the American National Standards Institute, the 1968 edition of which served as a basis for Part 192. Also, since the design and construction requirements in Part 192 are not to be applied retroactively to existing pipelines, any costs projected in this area will not exist. Further, as indicated by one commenter at the public hearing, the total costs of compliance must take into account the likely savings in operating costs and insurance rates due to the reduced potential for accidents.

As for benefits, MTB does not agree with the argument that the absence of deaths and injuries means there would be no benefit from safety regulation. If that argument were true, a gathering line which is patently unsafe by any standard would present no safety problem because, fortuitously, deaths or injuries have not yet occurred. One commenter stated at the public hearing that "Offshore construction requires the highest degree of technology to cope with forces and phenomena encountered. It also requires the very best equipment

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to perform all the functions of the Commissioner of Food and Drugs under:

• • • • •

5. In § 5.115, by revising the entry for "Region I" to read as follows:

§ 5.115 Field Structure.

REGION I

Regional Field Office: 585 Commercial Street, Boston, MA 02109. District Office: 585 Commercial Street, Boston, MA 02109. Winchester Engineering and Analytical Center: 109 Holton Street, Winchester, MA 01890.

• • • • •

Effective date: This amendment shall be effective August 16, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: August 9, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23784 Filed 8-13-76;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0362]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Food and Drug Administration is amending the food additive regulations in § 121.2514 Resinous and polymeric coatings (21 CFR 121.2514) to provide for the use of azelaic acid as a component of polyamide resins intended for use as components of side seam cements for containers intended to contact food; effective August 16, 1976, objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of January 30, 1976 (41 FR 4626) that a petition (FAP 5B3082) had been filed by General Mills Chemical Inc., 2010 E. Hennepin Ave., Minneapolis, MN 55413 proposing that § 121.2514 be amended to provide for use of azelaic acid as a component of polyamide resins for use as side seam cements in containers intended to contact food.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2514 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2514(b)(3)(xxxii), is amended in the list of substances, by alphabetically inserting in the list of acids under the term "Polyamides • • •" a new item, to read as follows:

§ 121.2514 Resinous and polymeric coatings.

• • • • •

(b) • • •

(3) • • •

(xxxii) • • •

Polyamides derived from the following acids and amines:	
Acids: • • •	
Azelaic • • •	

• • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23782 Filed 8-13-76;8:45 am]

[Docket No. 76F-0187]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYAMIDE-IMIDE RESINS

The Food and Drug Administration is amending the food additive regulations to provide for a specification change in the minimum solution viscosity of polyamide-imide resin; effective August 16, 1976; objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of June 9, 1976 (41 FR 23223) that a petition (FAP 6B3201) had been filed by the Phelps Dodge Magnet Wire Co., P.O. Box 600, Ft. Wayne, IN 46801, proposing that § 121.2628 (21 CFR 121.2628) be amended to provide for a specification change in the minimum solution viscosity of the resin from 1.550 to 1.200 (as determined by a method available from the Commissioner of Food and Drugs).

The Commissioner, having evaluated data in the petition and other relevant material, concludes that § 121.2628 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2628 is amended by revising paragraph (b)(2) to read as follows:

§ 121.2628 Polyamide-Imide resins.

• • • • •

(b) • • •

(2) Solution viscosity: not less than 1.200.

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Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective August 16, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23783 Filed 8-13-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPS-30, Amdt. 192-27]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS

Offshore Pipeline Facilities

This amendment modifies many of the design, construction, testing, operation, and maintenance regulations in Part 192 as they relate to gas pipeline facilities and the transportation of gas offshore in or affecting interstate or foreign commerce. The amendment also enlarges the scope of Part 192 by deleting the exemption in § 192.1 for certain rural gathering lines located offshore.

The purpose of the amendment is to more clearly delineate the applicability

of Part 192 to offshore pipelines used in the transportation of gas and to better assure the safe operation of those pipelines.

This proceeding was begun by the Office of Pipeline Safety (OPS) which issued an advance notice of proposed rulemaking, Notice 74-6 (39 FR 34568, Sept. 26, 1974), to gain additional information before formulating proposed amendments to the existing rules. (However, after the advance notice was issued, OPS was abolished, and the authority to administer pipeline safety matters was delegated to the Director, Materials Transportation Bureau (MTB) (40 FR 30821, July 23, 1975).)

After reviewing the comments to Notice 74-6, on September 25, 1975, MTB proposed to make this amendment by issuing Notice 75-5 (40 FR 45192, Oct. 4, 1975). Interested persons were invited to submit written comments by October 31, 1975. However, acting on a request by the American Petroleum Institute by Notice 75-5A (40 FR 48940, Oct. 20, 1975) MTB extended the deadline for written comments to December 1, 1975, and scheduled a public hearing on the matter in Washington, D.C., on November 17, 1975. The extension allowed all interested persons additional time to study the benefits and problems involved in the proposed rule changes.

The comments received in writing and at the public hearing have been fully considered by MTB. A discussion of the significant comments and their disposition in developing the final rules is set forth hereinafter in the order that the amendments were proposed in the Notice. Some of the proposed amendments have not been adopted as final. Those which have, are adopted under the same section numbers used in the Notice. Editorial modifications in the final rules which do not alter the substance of the proposed amendments are not discussed.

Section.192.1 Scope of part

MTB proposed that this section be amended to include within the scope of Part 192 rural gathering lines located offshore and thereby subject them to the applicable design, construction, testing, operation, and maintenance standards. At present, both onshore and offshore rural gathering lines are exempt from coverage under Part 192. The proposal to regulate offshore gathering lines was made so that the Federal safety regulations would apply to all offshore pipelines used in the transportation of gas, and because the difficulties in installing, monitoring, and maintaining offshore gathering lines are similar to the difficulties with offshore transmission lines.

Many of the comments received on this section, including those of an industry trade association, concurred with the proposed extension of jurisdiction. The commenters stated, however, that the extended jurisdiction should be limited to gathering lines located seaward of the coast line because it would be confusing to apply the term "offshore" to inland water areas as proposed in Notice 75-5.

The concurring commenters also suggested that standards in Part 192 for design, construction, and initial testing not be applied to existing offshore gathering lines.

MTB believes that the reservations which these commenters expressed are satisfied by the final rules. First, the proposed definition of the term "offshore" is changed to apply, in general, to areas located seaward of the coast line, as discussed further hereinafter. Secondly, although the commenters did not estimate how many existing offshore gathering lines would be nonconforming if the design, construction, and testing standards were applied retroactively, MTB does not believe that the various hazards against which the proposed extension of jurisdiction was intended to protect warrant retroactive application of those standards. In the absence of a compelling reason to the contrary, MTB believes that the establishment of a new safety standard does not make existing facilities which do not meet the new standard unsafe. Therefore, a provision has been added to § 192.13 to exempt existing offshore gathering lines or those readied for service before the final rules become effective from the design, construction, and initial testing requirements. Should MTB learn of safety problems with existing offshore gathering lines, however, due to inadequate design, construction, or testing, it will either deal with the pipelines involved on an individual basis or issue another general notice of proposed rulemaking regarding those problems which can be solved through the regulatory process.

A few commenters indicated that the precise effect of the proposed regulation of offshore gas gathering lines could not be evaluated because Part 192 does not clearly state the meaning of the term "gathering line." They said, for example, the term "production facility" in the definition of the term "gathering line" in § 192.3 is not defined and thus the proposed extension of jurisdiction could be interpreted to cover production oriented facilities.

MTB believes that the objection expressed by these commenters arises because of their view that offshore pipelines which carry hydrocarbons between a well and any initial processing equipment are commonly associated with the industry of producing gas rather than with the industry of transporting gas to markets. Also, these pipelines are regulated for safety and other purposes by the U.S. Department of the Interior (DOI).

This indistinctness between production and transportation is of slight significance, however, in view of the recently completed Memorandum of Understanding (MOU) between the Department of Transportation (DOT) and DOI regarding the regulation of offshore pipelines. Under the MOU, which was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23746), DOT exercises exclusive responsibility for the safety regulation of oil and gas offshore pipelines downstream to the shore from the outlet flange of each facility where hydrocarbons are produced, or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. Also, DOT regulation includes subsequent on-line transmission equipment but not any subsequent production equipment. DOI regulates the pipelines upstream from these locations. As shown in item 1 below, § 192.1 is amended to include this provision of the MOU and indicate the seaward limits of the jurisdiction of Part 192 over offshore gathering lines.

MTB recognizes that the MOU does not completely resolve the confusion regarding the meaning of the term "gathering line." The proceeding begun by OPS to redefine the term is still under consideration by MTB (Docket OPS-31, 39 FR 34569, Sept. 26, 1974). However, the purpose of Notice 75-5 as it relates to offshore gathering lines was to extend the scope of Part 192 to cover all offshore transportation of gas by pipeline in or affecting interstate or foreign commerce within the jurisdiction of DOT. Therefore, to the extent that gathering lines located downstream from the aforementioned outlet flanges are subject to that jurisdiction, their inclusion within the scope of Part 192 is consistent with the purpose of the rulemaking proposal.

Other commenters speculated that the cost of compliance would far exceed the safety benefits to be gained because there have not been any deaths or injuries attributable to offshore gas gathering lines. The commenters did not submit any cost or benefit data, though, to support the charge. MTB believes to the contrary that the cost of compliance should not be high because the standards in Part 192 do not largely differ from the industry standards and practices to which offshore gathering lines are designed, constructed, operated, and maintained. These industry standards and practices are by and large based on the B31.8 Code published by the American National Standards Institute, the 1968 edition of which served as a basis for Part 192. Also, since the design and construction requirements in Part 192 are not to be applied retroactively to existing pipelines, any costs projected in this area will not exist. Further, as indicated by one commenter at the public hearing, the total costs of compliance must take into account the likely savings in operating costs and insurance rates due to the reduced potential for accidents.

As for benefits, MTB does not agree with the argument that the absence of deaths and injuries means there would be no benefit from safety regulation. If that argument were true, a gathering line which is patently unsafe by any standard would present no safety problem because, fortuitously, deaths or injuries have not yet occurred. One commenter stated at the public hearing that "Offshore construction requires the highest degree of technology to cope with forces and phenomena encountered. It also requires the very best equipment

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available • • • " Given this situation for pipeline transportation offshore, it is reasonable to conclude that since offshore gathering lines located downstream from the aforementioned outlet flanges are so similar to offshore transmission lines, which are currently subject to the safety requirements of Part 192, there is a comparable need for regulation. Clearly, the record does not contain technical justification for an opposite view. Rather, it appears that the many factors which can cause the failure of an offshore transmission line and resulting consequences can also cause gathering lines to fail.

Section 192.3 Definitions

MTB proposed in Notice 75–5 to establish a definition of the term "offshore" based in part on the term "lands beneath inland navigation waters" as it is defined in the Submerged Lands Act (43 USC 1331). One reason for the proposal was to ensure that pipelines in many inland bodies of water, the Chesapeake Bay, meet the same safety requirements as pipelines within the area now generally recognized as "offshore"—the area lying seaward of the coastline—because of alleged similarities of operating conditions.

Proposing this broad definition of "offshore" had the simultaneous effect of proposing that all proposed and existing regulations in Part 192 written in terms of "offshore" apply to pipelines crossing inland navigable waters (except where otherwise specifically provided). MTB considered this result in formulating the various proposed substantive amendments in Notice 75–5 regarding "offshore" pipelines. In addition, interested persons were asked to comment on whether any of the proposed amendments should be modified in view of their intended applicability to inland navigable waters.

Commenters were unanimously opposed to the proposal, generally stating that few, if any, inland waters present the same safety problems as open seas regarding the design, construction, operation, and maintenance of pipeline facilities. The commenters pointed out that different construction techniques are used for river and bay crossings than for pipelines within the area now general recognized as "offshore." For instance, at inland water crossings, commenters stated that during construction, pipe is usually connected onshore and then pulled into a prepared ditch. Also, even when inland water crossings are laid from a barge, commenters noted that unlike open sea conditions, the water is usually not as deep, and, consequently, the location of the pipeline can be ascertained from the surface or divers can work with comparative ease. Commenters further stated that the stresses imposed by pipe laying operations are less, overburden and dynamic loads are seldom significant design considerations, and inland water crossings can be inspected more easily.

Furthermore, commenters were concerned that designating "lands beneath inland navigable waters" as "offshore" would be confusing in light of the present general understanding of the term "offshore." In addition, because dry washes in the West, accretion, and filled areas are "lands beneath inland navigable waters" as defined in the Submerged Lands Act, subjecting pipelines in those areas to "offshore" safety requirements would be onerous.

Clearly, the comments did not support the establishment of a broad definition of "offshore," even to the extent of including within the definition large inland bodies of water. In view of these comments, the proposed definition is not adopted because of the apparent confusion and uncertainty which would result in the industry from applying "offshore" requirements to pipelines in inland water areas and because, contrary to the assertion in the notice, the record shows that operating conditions in inland water areas are not generally similar to open-sea operating conditions. This decision does not mean, however, that the various substantitve amendments proposed in Notice 75–5 for "offshore" pipelines are likewise not adopted as they relate to pipelines crossing inland navigable waters. Some of the proposed amendments regarding pipelines in inland water areas have been adopted, others have not. The decision on whether or not each proposed amendment written in terms of "offshore" should be adopted for either open-sea or inland navigable waters, or both, is based on the merits of the proposal, as discussed hereinafter.

Section 192.5 Class locations

This section classifies gas pipelines according to their proximity to populated areas, and many requirements in Part 192 vary in stringency depending on a pipeline's classification. In Notice 75–5, MTB proposed to amend § 192.5 to clarify that the existing classifications apply to offshore as well as onshore pipelines. At the same time, where it was considered necessary to provide a different level of safety between offshore and onshore pipelines of the same classification, MTB proposed to amend the relevant safety requirements.

Comments to this section were unanimous in their disapproval of the proposed amendment. Most commenters stated that the existing criteria for pipeline classifications are based on onshore operating conditions and are, therefore, unrealistic when applied offshore. Commenters also favored regulation of offshore pipelines to provide a single level of safety rather than various levels based on onshore factors which are not closely related to the risks involved.

MTB concurs with the commenters to the extent that the existing classification criteria are mostly inappropriate when applied to offshore areas. However, the existing standards in Part 192 are, to a large extent, written in terms of pipeline classifications, regardless of whether a pipeline is located offshore or onshore. To delete the classification reference from the many existing requirements applicable to offshore pipelines would in most instances merely result in restating an existing safety standard in different terms. Only in those relatively few instances where the standards applicable to offshore pipelines are amended to require a different level of safety than for offshore pipelines would a separate statement of onshore and offshore requirements be beneficial.

As an alternative, MTB has amended § 192.5(a) to exclusively designate offshore pipelines as "Class 1" pipelines. This designation is consistent with the fact that most offshore pipelines are in Class 1, as that classification is presently defined, and it alleviates the commenters' concerns since there is no need to apply the existing classification criteria to offshore pipelines. This designation also has the benefit of continuing the existing regulatory format which is preferable to one that would largely provide separate but duplicate requirements for onshore and offshore pipelines. As indicated hereinafter, where a different standard is established for Class 1 offshore pipelines than for Class 1 onshore pipelines, the particular section involved is amended to separately state that different requirement.

Section 192.111. Notice 75–5 proposed that a design factor of 0.50, or less, be used in the design formula for steel pipe on an offshore platform and within 300 feet therefrom. If operators were to use the proposed design factor instead of 0.72, as now required for pipe in a Class 1 location, any new, replaced, or relocated pipe installed after the effective date of the amendment would have a lower operating stress level. The comments indicate that for pipe risers on platforms, it is industry practice to use a design factor of 0.60, and that for underwater pipelines the existing 0.72 is used. A few commenters questioned the need for a more stringent design factor in terms of the expected costs and benefits, especially for pipelines within 300 feet of a platform. Other commenters stated that the external force of water on pipelines provides additional safety. At least one commenter supported the proposed 0.50 factor for pipe risers, and MTB believes a more stringent factor is justified for risers because of their vulnerability to wave action and to interference by vessels. In view of these comments and the level of potential hazards involved, the final rule is changed to provide that a design factor of 0.50 must be used for steel pipe on platforms, including risers. The existing factor of 0.72 is not changed as it applies to pipelines located within 300 feet of a platform because of the protection provided by water depth and because these pipelines are not subject to the same causes of excessive stresses as are pipelines on platforms.

MTB believes that pipelines on platforms which are being constructed in inland navigable waters have the same need for protection against increased stresses as pipelines on offshore platforms due to the similarity of operating conditions which can cause excessive stress

levels and the confinement of personnel. Therefore, the final rule provides that a design factor of 0.50 must be used for pipe, including risers, on platforms located in inland navigable waters as well as offshore.

Section 192.145. Alleging that valves with pressure containing parts made of ductile iron may be hazardous if used on an offshore platform, MTB proposed that § 192.145(d) be amended to prohibit the use of those valves on platforms. However, comments submitted by the Ductile Iron Society raise doubts about the veracity of the information upon which MTB relied in making the proposal. Therefore the proposal is withdrawn and not adopted at this time. MTB intends to review further the available information on the use of ductile-iron valves. If that review substantiates the assertion in Notice 75–5 that ductile iron valves on offshore platforms are hazardous, another notice of proposed rulemaking will be issued on the subject.

Section 192.161. It was proposed that offshore pipelines be exempt from the requirement of paragraph (f) that each underground pipeline being connected to a branch line have a firm foundation to prevent lateral and vertical movement. This proposal was intended to allow operators to install flexible connections which are preferable offshore. One commenter objected to the proposal on grounds that an absolute exemption would mean that the connections would not be required to withstand external forces. This commenter further suggested that MTB should regulate the connections used offshore. MTB does not agree with these comments. First, other safety standards in Part 192 are sufficient to provide for the integrity of underground offshore branch connections. Also, as the record indicates, flexible connections are better able to withstand any unusual stresses which may arise in an offshore environment. Secondly, more specific regulation of the types of connections used offshore does not appear warranted at this time based on existing information. However, MTB is seeking additonal information on the hazards associated with operating offshore pipelines. Should this information indicate a problem with the safety of branch connections which can be corrected through regulation, MTB will issue a future notice of proposed rulemaking on the subject. Therefore, the amendment to § 192.161(f) is adopted as proposed.

Because comments to Notice 75–5 indicate that pipelines in inland water areas are not subject to as severe operating conditions as offshore pipelines, the proposed amendment to § 192.161 does not appear warranted for underground pipelines in inland water areas.

Section 192.163. MTB proposed that paragraph (a) of this section be amended to exempt compressor station buildings constructed on offshore platforms from the location requirements. Commenters did not object. Since the rationale for exemption, as stated in the notice, is equally applicable to platforms in open seas and to platforms in inland navigable waters, the proposal is adopted with only editorial change.

Section 192.167. An amendment was proposed for paragraph (a)(4)(ii) of this section to permit the control of a compressor station's emergency shutdown system to be operable near the emergency exit if the station is not fenced. A further amendment was proposed to require that the emergency shutdown system for a station on an offshore platform be actuated automatically by certain events.

While commenters had no problem with the first proposed amendment, the second drew several suggestions for changes. First, the proposal which would have required automatic emergency shutdown of an offshore, unattended compressor station when the gas pressure equals the maximum allowable operating pressure plus 10 percent was viewed as too restrictive and not consistent with § 192.169(a). That section requires each compressor station to have pressure relief devices set to function when the maximum allowable operating pressure (MAOP) of the station is exceeded by more than 10 percent. The commenters asserted that emergency shutdown systems should only function when normal overpressure protection fails. They proposed that the emergency shutdown system should be required to operate automatically at a pressure higher than MAOP plus 10 percent, and recommended a pressure equal to MAOP plus 15 percent.

Secondly, the proposal to require automatic shutdown of an offshore compressor station if there is a leak in a building which has a source of ignition was viewed as unreasonable. Commenters pointed out that it is difficult if not impossible to entirely eliminate the escape of gas from around packing glands and similar areas in compressor equipment. While commenters agreed that stations should be shut down if there is an uncorrected leak that causes a hazardous condition, they opposed the automatic shutdown of operations at the first sign of a leak. As an alternative, these commenters suggested that a system set to shut down when gas in the building reaches 50 percent of the lower explosive limit should provide adequate safety. They projected that with adequate alarms, an operator would have the opportunity to correct the gas leak before the station is shut down automatically.

Finally, the commenters pointed out that many fires occur on platforms under controlled conditions, which are not reasons for actuating an automatic shutdown system. For example, fires in welding operations and in dehydrator reboilers should not cause all operations to cease. Instead, it was suggested that the final rule require automatic shut down in the event of an uncontrolled fire.

MTB concurs with these comments and has changed the final rule accordingly. Also, because of the confining nature of a platform wherever it may be located, the final rule applies to compressor stations or platforms located in open seas and in inland navigable waters.

Section 192.179. MTB proposed that this section be amended to require that offshore transmission lines be equipped with valves which meet the requirements of § 192.179(b) to shut off the flow of gas to and from an offshore platform in an emergency. The comments to this proposal state that the safety of personnel and equipment on a platform can be provided by directing the incoming flow of gas around the facilities on the platform. The commenters stated that in this way, gas may be shut off "to" the facilities on a platform but the continuity of gas flowing "from" the platform is not interrupted. Other comments indicate that in most cases when the flow of gas "to" a platform is shut off, gas will also stop flowing "from" the platform. Commenters also pointed out that the valve standards of § 192.179(b) are more appropriate for valves in onshore transmission lines than for valves near an offshore platform because of the differences in operating conditions. Further, it was stated that components other than valves may be developed in the future which would provide an equal or better means of shutting off the flow of gas to an offshore platform in an emergency.

MTB believes that changing the final rule to reflect these comments would result in a more reasonable standard but still provide for the safety of persons and property on platforms in an emergency situation. Therefore, the proposed new § 192.179(d) is changed as finally adopted to require that offshore segments of transmission lines be equipped with valves or other components to shut off the flow of gas to the facilities on an offshore platform in an emergency. Onshore segments of transmission lines, including those in inland navigable waters, are subject to the existing requirements for valve location in § 192.174.

Section 192.243. The existing paragraph (d) of this section requires that 100 percent if practicable but not less than 90 percent of the butt welds made daily must be nondestructively tested at crossings of major or navigable rivers and that 10 percent must be tested in Class 1 locations. In Notice 75–5 MTB proposed to amend this rule to require that 100 percent if practicable but not less than 90 percent of the butt welds be nondestructively tested on pipelines in all offshore areas. Commenters did not disagree with the desirability of 100 percent testing in offshore areas lying seaward of the coast line. However, because of their objections to the proposed definition of "offshore," the commenters did not favor amending the existing rule as it applies to pipelines in inland navigable waters. MTB concurs with these commenters, and has changed the final rule to require 100 (or 90) percent testing "offshore," as that term is defined by the amendment to § 192.3. MTB believes that the existing requirement for 100 (or 90) percent testing of butt welds on pipelines crossing major or navigable rivers, pro-

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vides for safety in almost all of the inland water areas where problems could arise.

Section 192.245. Only one commenter objected to the proposed amendment to this section which would permit the repair of all unacceptable welds on pipelines being installed from a lay barge. This commenter argued that if unacceptable welds may not be repaired onshore, then, likewise, offshore welds should not be repaired. MTB does not agree with this comment because, as discussed in the Notice, many safety problems arise in connection with removal of welds from pipelines being installed offshore from a lay barge which do not occur onshore. These problems create potential hazards for both the pipeline and the installation personnel which, in the opinion of MTB, overcome the safety advantages to be gained by removing unacceptable welds.

In the final rule, the only change to this section is that the term "lay barge" used in the Notice is replaced with the term "pipelay vessel." This change is made so that as adopted the proposed exception from the existing welding requirements for offshore pipelines is not restricted to pipelines being installed from a vessel called a "lay barge" but applies to pipelines installed from any similar type of marine craft designed to lay offshore pipelines. The change is consistent with the objective of the proposal which was to eliminate the hazard associated with the removal, rather than repair, of unacceptable welds on pipelines being installed under the operating and working conditions of a lay barge.

In view of the comments which indicate that laying pipelines in inland waters from a lay barge is not as hazardous as laying pipelines in open seas, the proposed amendment to § 192.245 has not been adopted as it relates to installation of pipelines in inland waters.

Section 192.317. MTB proposed that the list of hazards in paragraph (a) against which a pipeline must be protected should be amended to include hazards peculiar to offshore pipelines. Commenters indicated that inclusion of the additional named hazards would be redundant since they are within the meaning of the term "other hazards" in the existing list. MTB does not agree because as now written paragraph (a) pertains more to onshore than offshore conditions, and the amendment was intended to call attention to hazards which may occur offshore. In view of the comments, MTB now believes, however, that the existing list of hazards in paragraph (a) is satisfactory for protection in inland water areas. There were no objections to the proposed amendment to paragraph (b), which would clarify that it only applies to onshore pipelines, or to the proposed new paragraph (c) concerning protection of pipelines on platforms. Therefore, the amendments to § 192.317 are adopted as proposed with only minor editorial change, except that the amendment to paragraph (a) does not apply to pipelines in inland waters.

Section 192.319. In Notice 75–5, MTB proposed to amend paragraph (b) to provide that the existing requirements relating to backfilling a ditch dug for a transmission line or main apply only when a ditch is actually backfilled. The proposal arose because many offshore pipelines are installed by directing jets of water under them after they have reached the bottom, and cover for the pipelines results from a natural action of water currents rather than backfilling. Since there were no adverse comments to this proposal, it is adopted without change.

Further, in Notice 75–5, MTB proposed that a new paragraph (c) be added to § 192.319 to require that offshore pipelines in water not more than 200, but at least 12, feet deep be installed so that the top of the pipeline is below the natural bottom. The proposal was intended to provide for protection of these offshore pipelines against possible interference by fishing trawlers, damage by hurricanes, and underwater currents. MTB recognized, however, that installation below the bottom might not be an appropriate safety measure in all cases, and thus included in the proposal a provision that pipelines need not be buried where they are otherwise appropriately protected or where unstable soil conditions would subject the pipelines to greater external forces when buried than when they are laid directly on the bottom.

Two commenters objected to the proposed burial requirement as not an appropriate general rule for all situations because burial may not always be needed for adequate protection. Similarly, another commenter suggested that the proposed rule would be too difficult to meet in areas with a rock bottom. MTB believes, however, that these comments do not warrant changing the final rule in view of the flexibility which the proposed rule would provide by permitting operators to use a means of protection other than burial. MTB does not believe that offshore pipelines should be permitted to be installed without any means of protection. The proposed requirement for burial below the bottom is, therefore, adopted as final, with exceptions as discussed below.

Another commenter criticized the proposed amendment because it would not require that pipelines be buried at least 3 feet below the bottom. This commenter suggested that burial at least 3 feet deep is necessary for protection from dragging trawls and anchors. This comment was not adopted because trawls and anchors were among the possible causes of damage considered by MTB in proposing the requirement for burial below the surface, and the commenter did not submit any evidence to show why pipelines should be buried at least 3 feet deep. Also, while installation below the bottom is the most common method of protecting an offshore pipeline from damage, it is not the only acceptable method available. MTB believes that other means of protection must be permitted because certain seabed materials make ditching a pipeline in the conventional manner very difficult or almost impossible.

In the final rule, MTB has deleted the proposed exception regarding unstable soil as unnecessary because the normal industry safety practice is to protect pipelines in areas of unstable soil by either burial or an appropriate alternate means. If an appropriate alternate means is used, the exception in the proposed amendment which was intended to allow the use of that means would apply.

Although Notice 75–5 provided an exception from the proposed burial requirement for pipelines which are "otherwise appropriately protected," MTB now believes the exception for alternative means of protection should be written in more precise terms to avoid confusion in understanding the requirement. Therefore, in the final rule, the exception is changed to apply to the types of protection which are normally used in the industry in lieu of burial—support on stanchions, anchors, and heavy concrete coating. MTB believes that a pipeline protected by any of these means would be "appropriately protected" as stated in the Notice. Also, under the final rule, a means of protection may be used other than the ones which are named if it provides a level of protection equivalent to those named. MTB anticipates that criteria governing the appropriate level of protection of offshore pipelines will be the subject of future rulemaking. MTB is now seeking additional information on the safety of offshore pipelines to serve as a basis for that criteria. If adopted, the criteria would eliminate the need to specify acceptable means of protection and allow more flexibility in providing that protection.

The new § 192.319(c) does not apply to pipelines in inland navigable waters since the burial requirement contained in § 192.327 appears to provide sufficient protection for those pipelines.

Section 192.327. It was proposed that this section be amended to require at least 36 inches of cover for offshore pipelines installed under water less than 12 feet above the natural bottom. At the same time, at least 48 inches of cover was proposed for all submerged pipelines in a river, stream, or harbor.

Commenters to this section did not object to the proposed burial depths, and they are adopted as final. The final rule is changed, however, to allow installation with one half of the proposed cover in areas with a consolidated rock bottom. Also, in consideration of the comments concerning the proposed definition of "offshore" with respect to inland waters, MTB now believes that adoption of the proposed 48-inch burial requirement for rivers, streams, and harbors is sufficient to cover those inland water situations where additional cover than now required is needed to protect against damage to pipelines by environmental and other external causes. As adopted, the terms "river," "stream," and "harbor" are modified by the word "navigable" to maintain consistent terminology in Part 192. Consistent with the existing cover

requirement, a further change to the final rule allows less cover where an underground structure prevents installation with the minimum cover and additional protection is provided.

Section 192.465. MTB proposed that paragraph (a) of this section be amended to require that cathodically protected offshore pipelines be tested at intervals not exceeding 7 months to determine if the protection is adequate. The existing rule, which does not apply where impractical on offshore pipelines, requires testing once a year, but with intervals not exceeding 15 months. MTB anticipated that if the proposal were adopted, the likelihood of leaks developing due to faulty cathodic protection would be reduced. Moreover, additional testing appeared doubly justified because leaks occurring offshore are more difficult to locate and repair than on shore leaks.

All of the commenters to this section as well as the Technical Pipeline Safety Standards Committee (TPSSC) opposed adoption of the proposed amendment. Several commenters stated that it is not necessary to require more frequent testing of offshore pipelines because corrosion occurs more uniformly and is more predictable offshore. Other commenters argued that corrosion is less of a safety problem offshore than onshore and that cathodic protection is not any more difficult to maintain offshore than onshore. Still others argued that the existing period for testing is not inadequate.

Also, commenters and the TPSSC urged that the existing exception for impractical situations offshore be maintained, alleging that with the various electrical testing means in use, the most practical test points are generally only available at either end of an offshore pipeline or at platforms. They further stated that except in shallow waters, testing at other points along the length of a line would require the use of divers or underwater craft.

MTB recognizes the many problems associated with the testing of cathodic protection on offshore pipelines. MTB also recognizes that, in general, corrosion occurs offshore at a more uniform rate than onshore because the offshore environment is constantly corrosive. However, MTB is not convinced that these factors overcome the apparent benefits to be gained from more frequent testing offshore.

In an offshore underwater environment the need for maintenance is not as observable as onshore. Damage to pipelines by anchor dragging, wave or current action, mud slides, or trawls may go undetected for longer periods of time than onshore. Would disruption of a cathodic protection system by an external cause which goes undetected for 12 months raise the potential for the occurrence of leaks to an unsafe level? What would be the cumulative effect of accelerated corrosion due to a defective or disrupted system over successive 12 month periods? On the other hand, can a uniform rate of corrosion be taken into account as a design factor so that offshore testing of cathodic protection may be performed less frequently than onshore? Unfortunately, the record does not provide satisfactory information on these questions.

The proposed 7-month interval for testing is, therefore, not adopted at this time. This part of the proposal is withdrawn pending receipt of the additional information which MTB is seeking by study contract on the hazards and safety practices in an offshore environment. The study is needed to provide for more comprehensive regulation of the safety of offshore pipelines. If warranted by the additional information, MTB will issue a future notice of proposed rulemaking on the frequency of testing issue.

In view of the comments which indicate that underwater leaks in inland waters do not present problems of the same magnitude as leaks in open seas and the impracticality of scheduling more frequent tests on the relatively few underwater portions of an onshore pipeline, MTB has decided that a requirement for more frequent testing should not be adopted for pipelines crossing inland waters.

MTB does not agree, however, that the testing requirement should provide an exception for impractical situations on offshore pipelines. Even though the argument may be true that with methods now being used it is only practical to conduct tests at the various accessible points on offshore pipelines, § 192.319 does not require testing at particular locations along a pipeline. Any location may be chosen for testing as long as the level of cathodic protection on the pipeline is effectively determined. Given the relative consistency of an underwater offshore environment, testing from accessible points appears to be sufficient for compliance with the annual test requirement for offshore pipelines. On the other hand, as it is now written, the exception may be understood to authorize various reasons for not testing within the required period which are unrelated to the location of tests. Therefore, in the final rule, the exception for impractical situations on offshore pipelines has been deleted.

Section 192.469. This section requires that, except where impractical on offshore and wet marsh area pipelines, each pipeline under cathodic protection must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of that cathodic protection. In Notice 75–5, MTB proposed that the exception for impractical situations be deleted. All the commenters and the TPSSC were opposed to this proposal, stating that for most submerged offshore pipelines it is still impractical to install and maintain test stations along the pipelines. Commenters and the TPSSC indicated that the only practical locations for test stations are on platforms or accessible onshore points. MTB does not disagree with these comments, but believes they are not a compelling argument for keeping the impracticality exception in the rule. Absent the exception, § 192.469 would require each offshore pipeline to have a sufficient number of test stations from which the adequacy of cathodic protection could be checked. The comments to this section and to § 192.465 indicate that tests from accessible locations are "sufficient" to determine the adequacy of cathodic protection in an offshore environment. Under these circumstances, the impracticality of installing and maintaining test stations elsewhere along an offshore line is immaterial. Certainly the exception is not intended to permit some offshore lines to have less than a sufficient number of stations since this result would nullify the rule. Therefore, since there does not appear to be a cogent reason to the contrary, MTB has decided that the proposed deletion of the impracticality exception should be adopted as final.

Section 192.481. This section is amended to require that offshore pipelines exposed to the atmosphere be evaluated yearly to determine the adequacy of atmospheric corrosion protection. No adverse comments were received on the proposal. However, since comments indicate that the potential for atmospheric corrosion is not as significant for pipelines over inland waters, under the final rule, the annual evaluation only applies to pipelines located seaward of the coastline which are exposed to the atmosphere.

Section 192.619. MTB proposed that the table of factors in § 192.619(a)(2)(ii) be amended by adding a footnote to provide that new or uprated offshore steel pipelines be tested at a higher pressure level than presently required. For underwater pipelines, a factor of 1.25 was proposed to require a 25 percent difference between test pressure and a pipeline's maximum allowable operating pressure (MAOP). On platforms a factor of 1.5 would require a 50 percent difference between test pressure and MAOP. None of the comments opposed the proposed amendment except to point out that as expresed in the notice, it could be interpreted to require that existing pipelines be retested. Since retroactive application was clearly not intended, the final rule is restated to remove any doubt that the new factors do not apply to pipelines installed or uprated before the effective date of the amendment. Also, since it appears that submerged pipelines under inland waters are not normally subject to greater stresses due to their environment, the proposed amendment is not adopted regarding those pipelines. The same is not true for pipelines on platforms in inland waters, and the proposed factor of 1.5 is adopted for those pipelines.

Section 192.707. In Notice 75–5, it was proposed that § 192.707 be amended to exempt offshore buried and aboveground pipelines from the existing marking requirements. It was further proposed that risers on platforms that are exposed to damage by marine traffic be marked in the same manner as onshore pipelines at navigable waterway crossings. While the comments did not object to exempting offshore pipelines from the existing requirements, they opposed the proposed new marking requirements. One comment stated that adequate protection

V 41 159
AUG 16 76
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is already provided by the Coast Guard's requirements for navigational aids on platforms which involve warning lights and fog signals (33 CFR Part 67). Also, objections were raised concerning the inappropriateness of the proposed warning "Do Not Anchor or Dredge" for a pipe riser. Finally, commenters emphasized that the relatively few serious incidents which have resulted from vessels contacting platforms did not involve pipe risers. The TPSSC suggested that final action be deferred pending the outcome of MTB's study of offshore safety problems.

On the basis of these comments and other considerations, MTB now believes that additional information is needed to determine whether marking offshore pipe risers would be a significant safety benefit. Therefore, the proposal to require that pipe risers be marked is not adopted as a final rule. The issue may be reopened by a future notice of proposed rulemaking if warranted by the additional information which MTB is seeking on the safety of offshore pipelines.

However, for the reasons stated in the notice, the proposed exemption from marking buried offshore pipelines is adopted as final by an amendment to § 192.707(b). In inland water areas, the exemption is limited to pipelines under navigable waters because a significant factor in the rationale for the exemption, information on pipeline location furnished by the Corps of Engineers, only relates to pipelines crossing navigable waters.

The proposed exemption from marking aboveground "offshore" pipelines is not adopted. Since the existing marking requirement only applies to aboveground pipelines in areas accessible to the public, and compliance is not impractical, MTB now believes that pipelines located over water should not be excluded from the marking requirement of § 192.707(c).

Sections 192.713 and 192.717. MTB proposed in Notice 75–5 that these sections be amended to permit the use of mechanically applied full-encirclement split sleeves in lieu of welding for permanent repairs on submerged pipelines located seaward of the coast and under inland navigable waters. Since there were no adverse comments, the proposed amendments are adopted as final.

Section 192.727. It was proposed that this section be amended to require that abandoned or inactivated offshore pipelines be filled with either water or inert material. The rationale for the proposal was that offshore pipelines have a greater probability of retaining liquid hydrocarbons after being purged of gas. Since no adverse comments were received on the proposal, it is adopted as final. However, in light of comments, the rationale for the proposal now appears more apropos of pipelines lying seaward of the coast, thus, the final rule does not apply to abandoned or inactivated pipelines in inland navigable waters.

REPORT OF THE TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each proposal." The proposed amendment to Part 192 was submitted to the Committee as Item A–2 in a list of three proposed amendments.

On April 16, 1976, the Committee filed the following report:

This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on three amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in New Orleans, Louisiana on March 30, 31, 1976.

• • • • • •

Item A–2 of the agenda was a proposal to revise a number of Sections in Part 192 to recognize unique characteristics of Offshore Pipeline Facilities.

The Committee unanimously voted that the addition of the following definition of the word "Offshore" to Section 192.3 is technically feasible, reasonable and practicable.

• • • • • •

[The suggested definition is adopted as the final rule.]

By a vote (12 affirmative—1 not voting) the Committee found that the change to Section 192.5, Class Locations as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not voting) the Committee found that the change to Section 192.111, Design Factor (F) for steel pipe, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 negative) the Committee found that the revision of Section 192.145, Valves, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

The Committee by unanimous vote agreed that the revision to Section 192.161, Supports and anchors as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

The Committee by unanimous vote agreed that the revision to Section 192.163, Compressor stations; design and construction, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable change to Section 192.167, Compressor stations: emergency shutdown.

• • • • • •

[The suggested language is incorporated in the final rule with minor editorial changes.]

By a unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.179, Transmission line valves.

• • • • • •

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee found that the change to Section 192.243, Nondestructive testing, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.245 Repair or removal of defects, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.317, Protection from hazards, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.319, Installation of pipe in ditch.

• • • • • •

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.327, Cover.

• • • • • •

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee found that the change to Section 192.481, Atmospheric corrosion control: monitoring, as proposed by OPSO is technically feasible, reasonable and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.619 Maximum allowable operating pressure; steel or plastic pipelines, as proposed by OPSO would be technically feasible, reasonable, and practicable provided appropriate changes are made to the regulations to clarify the applicability of effective dates to gathering lines.

[The suggested changes are made in the final rule.]

• • • • • •

By unanimous vote the Committee agreed to recommend that no action be taken on the OPSO proposal to revise Section 192.707, Line markers for mains and transmission lines, pending receipt and review of the results of a contract study on pipeline facility safety practices.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.713, Transmission lines: permanent field repair of imperfections and damages, proposed by OPSO is technically feasible reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.717 Transmission lines: permanent repair of leaks, proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.727 Abandonment or inactivation of facilities, proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (10 affirmative—2 negative—1 not present) the Committee found that the change to Section 192.465 External corrosion control: monitoring, proposed by OPSO is not technically feasible, reasonable, and practicable and the proposed change should not be made until either experience or studies clearly establish the need for more restrictive monitoring of offshore pipelines. A comprehensive discussion of the committee's views may be found in the official transcript of the meeting.

• • • • • •

By a vote (1 affirmative—10 negative—2 not voting) the Committee rejected a motion to approve the change to Section 192.469 External corrosion control: test stations, proposed by OPSO and found the proposed change not to be technically feasible, reasonable, nor practicable. The Committee is convinced that circumstances exist, particularly in offshore areas where it is neither practicable nor beneficial to require "test stations or other contact points for electrical measurements to determine the adequacy of cussion setting forth the Committee's views on this matter will be found in the official transcript of the meeting.

• • • • • •

Throughout the body of this report the OPSO proposals which were accepted by the Committee as technically feasible, reasonable, and practicable were those proposals contained in the agenda submitted to the Committee and do not necessarily conform to the proposals contained in the Notice of Proposed Rulemaking which appeared in the FEDERAL REGISTER.

Effective date. Notice 75–5 requested that interested persons comment on the amount of time that would be needed to comply with the amendments being proposed. MTB also discussed with the Technical Pipeline Safety Standards Committee what time would be needed for compliance. The comments received on this question indicate that design and construction regulations which apply to new, replaced or relocated pipelines require a longer lead time for compliance than regulations for operation or maintenance. One commenter suggested that as much as two years lead time be allowed for lines in the planning stage but not yet under construction. Taking these comments into account and the amount of time reasonably needed for compliance, MTB has decided that the final rules are to become effective November 1, 1976, except as follows:

1. Amendments to §§ 192.111, 192.167, 192.179, 192.317, 192.319, 192.327, and 192.619 do not become effective until August 1, 1977.

2. The corrosion control requirements of Subpart I of Part 192 do not apply to offshore gathering lines until August 1, 1977.

3. Offshore gathering lines which are constructed before August 1, 1977, need not comply with the design and construction requirements of Subparts B–G, and J of Part 192.

Provisions have been added to §§ 192.13 and 192.451 to provide for the extended effective dates regarding offshore gathering lines.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as set forth below:

1. The statement of authority is amended to read as follows:

AUTHORITY: Sec. 3, Pub. L. 90–481, 82 Stat 721 (49 U.S.C. 1672); sections applicable to offshore gathering lines also issued under Sec. 105, Pub. L. 93–633, 88 Stat 2157 (49 U.S.C. 1804); 40 FR 43901, 49 CFR 1.53; unless otherwise noted.

2. Section 192.1(b) is amended to read as follows:

§ 192.1 Scope of part.

• • • • • •

(b) This part does not apply to—

(1) Offshore gathering of gas upstream from the outlet flange of each facility on the outer continental shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; and

(2) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

3. Section 192.3 is amended by adding the following new definition in alphabetical order:

§ 192.3 Definitions.

• • • • • •

"Offshore" means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

• • • • • •

4. Section 192.5(a) is amended to read as follows:

§ 192.5 Class locations.

(a) Offshore is Class 1 location. The Class location onshore is determined by applying the criteria set forth in this section: The class location unit is an area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline. Except as provided in paragraphs (d)(2) and (f) of this section, the class location is determined by the buildings in the class location unit. For the purposes of this section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

• • • • • •

5. In § 192.13, paragraphs (a) and (b) are amended to read as follows:

§ 192.13 General.

(a) No person may operate a segment of pipeline that is readied for service after March 12, 1971, or in the case of an offshore gathering line, after July 31, 1977, unless that pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part.

(b) No person may operate a segment of pipeline that is replaced, relocated, or otherwise changed after November 12, 1970, or in the case of an offshore gathering line, after July 31, 1977, unless that replacement, relocation, or change has been made in accordance with this part.

• • • • • •

6. Section 192.111(d) is revised to read as follows:

§ 192.111 Design factor (F) for steel pipe.

• • • • • •

(d) For Class 1 and Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in § 192.105 for—

(1) Steel pipe in a compressor station, regulating station, or measuring station; and

(2) Steel pipe, including a pipe riser, on a platform located offshore or in inland navigable waters.

7. Section 192.161(f) is amended to read as follows:

§ 192.161 Supports and anchors.

• • • • • •

(f) Except for offshore pipelines, each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent lateral and vertical movement.

8. Section 192.163(a) is revised to read as follows:

§ 192.163 Compressor stations: design and construction.

(a) *Location of compressor building.* Except for a compressor building on a platform located offshore or in inland navigable waters, each main compressor building of a compressor station must be located on property under the control of the operator. It must be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being communicated to the compressor building from structures on adjacent property. There must be enough open space around the main compressor building to allow the free movement of fire-fighting equipment.

• • • • • •

9. In § 192.167, paragraph (a)(4)(ii) is amended and a new paragraph (c) is added to read as follows:

§ 192.167 Compressor stations: emergency shutdown.

(a) • • •

(4) • • •

(ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and

• • • • • •

(c) On a platform located offshore or in inland navigable waters, the emergency shutdown system must be designed and installed to actuate automatically by each of the following events:

(1) In the case of an unattended compressor station—

(i) When the gas pressure equals the maximum allowable operating pressure plus 15 percent; or

(ii) When an uncontrolled fire occurs on the platform; and

(2) In the case of a compressor station in a building—

(i) When an uncontrolled fire occurs in the building; or

(ii) When the concentration of gas in air reaches 50 percent or more of the

V 41 159
AUG 16 76
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lower explosive limit in a building which has a source of ignition.

For the purpose of paragraph (c)(2)(ii) of this section, an electrical facility which conforms to Class 1, Group D of the National Electrical Code is not a source of ignition.

10. In § 192.179, a new paragraph (d) is added to read as follows:

§ 192.179 Transmission line valves.

* * * * *

(d) Offshore segments of transmission lines must be equipped with valves or other components to shut off the flow of gas to an offshore platform in an emergency.

11. In § 192.243, paragraphs (d)(1) and (3) are amended to read as follows:

§ 192.243 Nondestructive testing.

* * * * *

(d) * * *

(1) In Class 1 locations, except offshore, at least 10 percent.

* * * * *

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, and offshore, 100 percent if practicable, but not less than 90 percent.

* * * * *

12. Section 192.245 is amended to read as follows:

§ 192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under § 192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead.

(b) Each weld that is repaired must have the defect removed down to clean metal and the segment to be repaired must be preheated. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability. If the repair is not acceptable, the weld must be removed, except that additional repairs made in accordance with written welding procedures qualified under § 192.225 are permitted for welds on an offshore pipeline being installed from a pipelay vessel.

13. Section 192.317 is amended to read as follows:

§ 192.317 Protection from hazards.

(a) Each transmission line or main must be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, offshore pipelines must be protected from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

(b) Each aboveground transmission line or main, not located offshore or in inland navigable water areas, must be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from the traffic or by installing barricades.

(c) Pipelines, including pipe risers, on each platform located offshore or in inland navigable waters must be protected from accidental damage by vessels.

14. In § 192.319, paragraph (b) is amended and a new paragraph (c) is added to read as follows:

§ 192.319 Installation of pipe in a ditch.

* * * * *

(b) When a ditch for a transmission line or main is backfilled, it must be backfilled in a manner that—

(1) Provides firm support under the pipe; and

(2) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.

(c) All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

15. In § 192.327, paragraph (a) is amended and paragraph (e) is added to read as follows:

§ 192.327 Cover.

(a) Except as provided in paragraphs (c) and (e) of this section, each buried transmission line must be installed with a minimum cover as follows:

* * * * *

(e) All pipe which is installed in a navigable river, stream, or harbor must have a minimum cover of 48 inches in soil or 24 inches in consolidated rock, and all pipe installed in any offshore location under water less than 12 feet deep, as measured from mean low tide, must have a minimum cover of 36 inches in soil or 18 inches in consolidated rock, between the top of the pipe and the natural bottom. However, less than the minimum cover is permitted in accordance with paragraph (c) of this section.

16. In § 192.451, the existing paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 192.451 Scope.

* * * * *

(b) Notwithstanding the deadlines for compliance in this subpart, the corrosion control requirements of this subpart do not apply to offshore gathering lines until August 1, 1977.

17. Section 192.465(a) is amended to read as follows:

§ 192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

* * * * *

18. Section 192.469 is amended to read as follows:

§ 192.469 External corrosion control: test stations.

Each pipeline under cathodic protection required by this subpart must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection.

19. Section 192.481 is amended to read as follows:

§ 192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of §§ 192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and 1 year for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.

20. The table in § 192.619(a)(2)(ii) is amended to read as follows:

§ 192.619 Maximum allowable operating pressure: steel or plastic pipelines.

(a) * * *
(2) * * *
(ii) * * *

Class location	Factors [1]	
	Segment installed before (Nov. 12, 1970)	Segment installed after (Nov. 11, 1970)
1	1.1	1.1
2	1.25	1.25
3	1.4	1.5
4	1.4	1.5

[1] For offshore segments installed or uprated after July 31, 1977, that are not located on a platform, the factor is 1.25. For segments installed or uprated after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

* * * * *

21. In § 192.707(b), subparagraphs (1) and (2) are redesignated as (2) and (3), respectively, and a new subparagraph (1) is added, to read as follows:

§ 192.707 Transmission lines: leakage surveys.

* * * * *

(b) *Exceptions for buried pipelines.* Line markers are not required for buried mains and transmission lines—[1]

(1) Located offshore or under inland navigable waters;

* * * * *

22. Section 192.713 is amended to read as follows:

§ 192.713 Transmission lines: permanent field repair of imperfections and damages.

(a) Except as provided in paragraph (b) of this section, each imperfection or damage that impairs the serviceability of a segment of steel transmission line operating at or above 40 percent of SMYS must be repaired as follows:

(1) If it is feasible to take the segment out of service, the imperfection or damage must be removed by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(2) If it is not feasible to take the segment out of service, a full encirclement welded split sleeve of appropriate design must be applied over the imperfection or damage.

(3) If the segment is not taken out of service, the operating pressure must be reduced to a safe level during the repair operations.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the imperfection or damage.

23. Section 192.717 is amended to read as follows:

§ 192.717 Transmission lines: permanent field repair of leaks.

(a) Except as provided in paragraph (b) of this section, each permanent field repair of a leak on a transmission line must be made as follows:

(1) If feasible, the segment of transmission line must be taken out of service and repaired by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(2) If it is not feasible to take the segment of transmission line out of service, repairs must be made by installing a full encirclement welded split sleeve of appropriate design, unless the transmission line—

(i) Is joined by mechanical couplings; and

(ii) Operates at less than 40 percent of SMYS.

(3) If the leak is due to a corrosion pit, the repair may be made by installing a properly designed bolt-on-leak clamp; or, if the leak is due to a corrosion pit and on pipe of not more than 40,000 psi SMYS, the repair may be made by fillet welding over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the leak.

24. In § 192.727, paragraphs (b) and (c) are amended to read as follows:

§ 192.727 Abandonment or inactivation of facilities.

* * * * *

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

* * * * *

(Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1672), Section 105 of the Hazardous Materials Transportation Act (49 USC 1804), and § 1.53 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.53).)

Issued in Washington, D.C. on August 9, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76-23592 Filed 8-13-76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-27; Notice 05]

PART 575—CONSUMER INFORMATION REGULATIONS

Vehicle Stooping Distance Information Item; Correction

In FR Doc. 76-35248, appearing at page 1066 in the FEDERAL REGISTER of Tuesday January 6, 1976, a conforming amendment that would have deleted the phrase "without locking the wheels" from the text of § 575.101 was inadvertently omitted, although this deletion is necessary to permit the use of a new test procedure as intended. Also the phrase "(d) of this section and procedures specified in paragraph" was inadvertently omitted from the text of § 575.101(c).

Accordingly, the phrase ", without locking the wheels," is deleted from the text of Figure 1 and the text of § 575.101 (c)(5). The phrase "(d) of this section and the procedures specified in paragraph" is inserted before the phrase "(e) of this section" that appears at the end of the first paragraph of § 575.101(c).

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on August 10, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-23796 Filed 8-13-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1249; Corrected]

PART 1033—CAR SERVICE

Octoraro Railway, Inc., Authorized To Operate Over Portion of USRA Line No. 142, Former Octoraro Branch of Penn Central Transportation Company

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of July, 1976.

It appearing, That railroad service on the former Octoraro Branch of the Penn Central, (PC) identified in the Final System Plan of Reorganization of the Northeastern Railroads as USRA Line No. 142 between former PC milepost 18.0 and the end of the branch at Rising Sun, Maryland, has been discontinued; that that portion of this line between mileposts 18.0 and 54.2 at the Maryland-Pennsylvania state line south of Nottingham, Pennsylvania, has been purchased by the Southeastern Pennsylvania Transportation Authority, an agency of the Commonwealth of Pennsylvania (the Commonwealth); that the Commonwealth has designated the Octoraro Railway, Inc. (ORI), as its operator of rail service over this line and has entered into a rail service continuation payment operating agreement with ORI pursuant to Section 304(d)(1) of the Regional Rail Reorganization Act of 1973, as amended (the Rail Act); that by virtue of the Commonwealth's ownership of said line and the stated intention of ORI to provide service over this line so long as it can profitably do so with or without subsidy, the ORI is not eligible to receive a Certificate of Designated Operator pursuant to regulations issued by the Commission on March 17, 1976; that the ORI will apply to the Commission under Section 1(18) of the Interstate Commerce Act seeking permanent authority to operate this line on behalf of the Commonwealth; that unless service over this line is immediately required by the Commission to be continued until the ORI's application has been acted upon there may be a loss of rail service on or about July 29, 1976, in violation of the express requirements of Section 304(d)(3) of the Rail Act; that the Commission act to prevent any disruption or loss of service under the circumstances presented herein; that operation by the ORI over the aforementioned tracks formerly operated by the PC is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

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§ 1033.1249 Octoraro Railway, Inc., authorized to operate over portion of USRA Line No. 142, former Octoraro branch of Penn Central Transportation Company.

(a) The Octoraro Railway, Inc. (ORI) be, and it is hereby authorized to operate over certain tracks of USRA Line No. 142, formerly known as the Octoraro Branch of the Penn Central Transportation Company (PC) between former PC milepost 18.0 in the vicinity of Wawa, Pennsylvania, and milepost 54.2 at the Pennsylvania-Maryland state line south of Nottingham, Pennsylvania, pending disposition by the Commission of the application of ORI seeking permanent authority to operate over the aforementioned tracks.

(b) *Rates Applicable.* Inasmuch as this operation by the ORI over tracks formerly operated by the PC is deemed to be due to carrier disability, the rates applicable to traffic moved by the ORI over these lines shall be the rates which were formerly in effect on such traffic when routed via the PC until tariffs naming rates specifically applicable via the ORI become effective.

(c) *Station Conditions.* The cancellation of former PC Pennsylvania District Stations 7521, Chester Heights, Pennsylvania, to 7582, Nottingham, Pennsylvania, inclusive, published in the Supplement 13 to the Official List of Open and Prepay Stations No. [1] 90, ICC No. A–55, issued by the Station List Publishing Company to become effective July 29, 1976, is hereby suspended until such stations are adopted by the ORI.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) In transporting traffic over these lines the ORI and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., July 28, 1976.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 15, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2). Sec. 304 of Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744); Pub. L. 95–236 and 94–210.)

[1] Correction of Tariff Reference.

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–23896 Filed 8–13–76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—(FHA COMMISSIONER), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–76–411]

PART 260—INTEREST SUBSIDY GRANTS

Final Regulations for Section 802(c)(2) Program

On June 17, 1976, the Department of Housing and Urban Development published a proposed new Part 260 to 24 CFR to implement Section 802(c)(2) of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, (42 USC 1440(c)(2)). Under that subsection, the Secretary is authorized to make grants to a total of $600 million, at a rate of not more than $15 million per year, for the benefit of State housing finance or development agencies to subsidize up to 33⅓ percent of the interest payable on their bonds, debentures, notes, or other obligations which are made subject to Federal taxation at the election of the State agency and which are issued to finance certain development activities. Only eligible taxable obligations, as defined in these regulations, may qualify for the subsidy. The final regulations set forth the procedures and requirements for submission of applications for interest subsidy grants, procedures for selection and approval of applications by the Department, and general program standards.

The Department has received 12 responses to its invitation for public comment on the proposed rule, all of which have been reviewed and carefully considered. These comments are discussed below, along with the Department's action on those comments, and the changes made in the proposed rule.

1. DEFINITIONS: ELIGIBLE OBLIGATION. A number of comments on § 260.2(a)(3) were received, requesting that the maximum mortgage term be extended to either 42 or 45 years, to allow for both temporary note financing and permanent bond financing. The Department has carefully reviewed this requirement, and determined that the maximum mortgage term cannot exceed 40 years. The legislative history of appropriation action indicates that the total term may not exceed 40 years.

2. DEFINITIONS: ELIGIBLE OBLIGATION. Section 260.2(a)(5) has been changed to state that interest on the obligations assisted by interest subsidy grants must be payable annually, semi-annually or quarterly. This was done both for reasons of clarity and for consistency with § 260.5(f).

3. DEFINITIONS: ELIGIBLE PROJECT. Many comments were received on § 260.2(b), suggesting that this program not be limited to obligations used to finance new or substantially rehabilitated projects assisted under Section 8 of the U.S. Housing Act of 1937 (42 USC 1437f). Several comments suggested that both single family and multifamily units be eligible for the subsidy, while another suggested that section 236 assisted project be eligible. Finally, another comment stated that limiting the program to section 8 would be detrimental because this would represent a portfolio of only one type of security to the potential investor, implying that a mixed portfolio would be more marketable.

The Department has determined that the proposed rule will not be changed, i.e., only Section 8 projects will be eligible for the interest subsidy grants. While it is true that some State agencies do have Section 236 assisted projects under construction or completed but without permanent financing, the number of such projects has decreased substantially in recent months along with the general improvement in the tax-exempt bond market and, therefore, it is not essential that further aid be given to these projects. This is especially appropriate in light of the fact that the Department will soon be publishing final regulations implementing a multifamily co-insurance program for State agencies. These projects are eligible under the multifamily coinsurance program.

As to the desirability of a mixed portfolio, we have determined that both tax-exempt bonds and taxable bonds eligible for subsidy under this part, can be included in the same bond issue. However, only that portion of the issue which consists of eligible taxable obligations, which have a commitment from the Department for an interest subsidy grant under this part, will be assisted.

4. APPLICATIONS. Two comments were received on § 260.3. The first comment stated that the proposed two-tier application/batching submission deadline was too short. It was suggested that the first submission period be September 20, 1976. Although the Department realizes that August 20, 1976 is a tight time deadline, it has decided not to change the proposed rule. The Department considers it desirable to adopt a plan which would make the contract authority available for obligation prior to September 30, 1976. If the initial submission period were extended until September 20, 1976, it would be extremely difficult for the Department to carry out this objective. The second comment enumerated that the information stated in § 260.3(a)(6), which is required to accompany an application for interest subsidy grants, is difficult to provide. The Department has decided not to change the proposed rule in this regard, since the information required is essential to judge the applications, and make the appropriate selections, in conjunction with the procedures set forth in § 260.4.

5. SELECTION AND APPROVAL OF APPLICATIONS. A majority of the comments received were opposed to the proposed ranking system set forth in § 260.4. One comment stated that it was not in keeping with the intent of Congress to have potential participants compete for the limited subsidy funds, while others stated that it would be very difficult, if not impossible, for State agencies to predict in advance what interest rates they would have to pay on taxable bonds, which is a new type of security to them. It was suggested that the Department allocate the available funds on the basis of those agencies that applied, and allow the agencies to determine the depth of the subsidy, so long as it did not exceed the statutory maximum. Still another comment suggested that such a ranking system would be inequitable because it would favor those agencies that submitted unrealistically low bids in order to get the subsidy. In addition, it was suggested that the proposed method of settling ties favored the more established agencies because they could reach the market faster.

The Department devoted a substantial amount of time to considering this issue. It believes that the method selected provides the most equitable method of allocating the available subsidy. A fair share allocation (using those factors listed in Section 213(d) of the HCD Act of 1974 (42 USC 1439)) was considered but adoption of this method could result in many agencies getting a very small share of the available subsidy, a share which might be too small to actually use for a reasonably sized housing project. The Department also considered permitting any State agency so inclined to apply for the available funds, and then allocating those funds among those applying on a modified fair share basis. However, this method suffers from the same disadvantage as the previous one.

The Department is, however, sensitive to the comment that some applicants may submit unrealistically low estimates, and after receiving an allocation for interest subsidy grants, not be able to use the funds. For this reason, it intends to pursue the design of another allocation method for possible use if this situation does materialize.

In addition, the Department decided that an outside date must be placed on the use of these funds, since it is possible that a State agency getting a Section 802(c)(2) allocation may not use it within a reasonable time. It has determined that the bonds, to be eligible, must be issued by September 30, 1978. If not, the commitment will terminate.

6. SELECTION AND APPROVAL OF APPLICATIONS. Two comments were received which stated that the actual contract to be executed between the Department and the State agency should have been available for comment. The Department does not believe that final regulations need be delayed for publication of a detailed subsidy contract. It considers the proposed rules published for comment to provide an adequate description of the intended framework of the subsidy program to give interested individuals the basis for informed review and comment.

7. PROGRAM-STANDARDS. Three comments were received on § 260.5. One comment was on § 260.5(g), and stated that a disbursing agent should be permitted to bill the Secretary for each scheduled grant payment, as well as the State agency. This has not been changed in the final rule. Since the State agency is to be both the obligor on the assisted bonds and the obligee of the Federal commitment for assistance and since it must certify as to the current status of its payments on the bonded debt when it submits an invoice for the subsidy, it is considered appropriate that this certification not be delegated to the disbursing agent.

Two comments addressed § 260.5(j). One comment stated that the time period was too short and that more than 90 days should be permitted. The other suggested that one or more extension periods should be permitted before the commitment is terminated. The Department has changed § 260.5(j) to state that the bonds must be issued within 90 days after the date specified in the application, but that one extension period of 30 days may be granted.

8. Two general comments on the proposed regulations were also received. One comment stated that State agencies were being given an unfair competitive advantage by permitting them to receive interest subsidy grants on taxable obligations. However, HUD considers this to be consonant with the statute, which states: "It is the purpose of this section (802) to encourage the formation and effective operation of State housing finance agencies and State development agencies * * *". The other comment stated that the regulations should explicitly provide that the subsidy will continue through default on the obligation. The proposed rule was unclear on this point. The Department will not continue the interest subsidy grant through default; if the State agency does not make its payment, the Department will not make the grant. However, if the State agency resumes its payments after failing to make one or more previous payments, the Department will also resume making the grants.

The proposed regulations did not make clear how the determination of interest payable would be made. The Department has given this serious consideration during the comment period.

On obligations which are amortized, interest as a percentage of debt service decreases as the obligation ages. Thus, if the subsidy were calculated as a percentage of interest payable in a specific year, the subsidy would also decrease. In subsequent years, even though the full $15 million would be obligated during the first year, there would be a reduction of the interest subsidy paid by HUD. Thus, on a level debt service bond issue (and in other payment schedules established on an amortized basis, the revenue requirements to support the bond issue would increase as the subsidy decreases. Therefore, the Department has determined that for the purpose of these regulations, interest payable and the subsidy grant will be calculated in the following manner:

Instead of making an annual determination of interest payable, and calculating the subsidy based on that amount, interest payable will be calculated as a lump-sum amount. The annual amounts of interest payable will be aggregated into one total amount of interest payable over the full term of the bond issue. Thus, if the term of the bond issue is 40 years, HUD will divide the total interest payable amount by forty to determine the average annual interest amount. The subsidy will then be calculated as a percentage of this average. The subsidy payment will then be constant throughout the life of the obligation, instead of a decreasing amount. In addition, this percentage will constitute the ranking criterion for comparing applications, instead of the ratio of the maximum annual interest subsidy grant requested during the term of the eligible obligation to the principal amount of the obligation.

The final rules reflect this determination.

The Department has determined that these regulations will not have an environmental impact, as defined in HUD Handbook 1390.1. The finding of inapplicability may be inspected during regular business hours in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with OMB Circular No. A–107.

Accordingly, Chapter II, Subchapter B of Title 24 of the Code of Federal Regulations, is amended by adding a new Part 260 to provide as follows:

Sec.
260.1 Purpose.
260.2 Definitions.
260.3 Applications.
260.4 Selection and approval of applications.
260.5 Program standards.

AUTHORITY: Sec. 7(d), Department of HUD Act (42 USC 3535(d)); Sec. 802(c)(2), Housing and Community Development Act of 1974 (Pub. L. 93–383, 88 Stat. 633 (42 USC 1440(c)(2))).

§ 260.1 Purpose.

These regulations establish rules and procedures for implementation by the Secretary of Section 802(c)(2) of the Housing and Community Development

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Act of 1974 (42 USC 1440(c)(2)) to the extent of all currently available contract and budget authority under that subsection. State housing finance and development agencies currently obtain capital for low income housing development through the issuance of tax-exempt financing. Section 802(c)(2) authorizes the Secretary to make, and to contract to make, grants to or on behalf of eligible State agencies to cover not to exceed 33⅓ percent of the interest payable on their bonds, debentures, notes and other obligations which are made subject to Federal taxation and which are issued to finance certain development activities including the provision of housing for lower income families. Thus, Section 802(c)(2) and these regulations afford eligible State agencies the option of using taxable obligations to finance certain of their development activities.

§ 260.2 Definitions.

(a) "Eligible obligation"—Any bond, note, debenture or other obligation which:

(1) Is issued by an eligible State Agency;

(2) Is issued for the purpose of financing the construction or development of eligible projects, or issued to refinance short-term obligations of the same issuer issued for such purpose;

(3) Is issued for a term, including refinancings, which shall not exceed forty (40) years;

(4) Would not have been subject to Federal taxation except for the decision of the eligible State agency to obtain assistance under Section 802 (42 USC 1440(c)(2)); and,

(5) Provides for interest payments on the full outstanding principal balance of the obligation annually, semi-annually, or quarterly.

(b) "Eligible project"—A new construction or substantial rehabilitation project (as defined in 24 CFR 883.202) for which a final proposal has been approved by the Secretary pursuant to 24 CFR 880.210(c), 881.210(c) or 883.311(a).

(c) "Eligible State Agency"—A Housing Finance Agency (HFA), designated by the Governor of the State (or Governors in the case of an interstate agency) for purposes of participating in this program under this Part and which has been approved as a participating agency pursuant to § 883.103 of this Title.

(d) "Secretary"—The Secretary of Housing and Urban Development or an officer authorized to perform the functions of the Secretary.

(e) "State"—Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(f) "Subject to Federal taxation"—An obligation is deemed subject to federal taxation for purposes of this part, if the interest paid thereon and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

§ 260.3 Applications.

(a) Any eligible State agency may apply for interest subsidy grants under this Part; however, the allocation of grant contract authority requested by a single such agency for the period commencing October 1, 1976 and ending September 30, 1977, shall not exceed $2 million, nor shall the allocation requested exceed $2 million of contract authority for use in any subsequent annual period. Applications will be processed in two separate groups as more fully described in § 260.4. To be processed with the first group, an application must be delivered to the Office of Assisted Housing, Room 6106, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410 no later than 5:00 p.m., August 20, 1976. Applications so delivered after 5:00 p.m. August 20, 1976, and prior to 5:00 p.m., September 20, 1976, will be processed with the second group. Applications so delivered after 5:00 p.m., September 20, 1976, will be rejected. Applications must be placed in a sealed envelope marked "Section 802(c)(2) Interest Subsidy Grant Application" and must state or include the following:

(1) A certificate executed by the Governor(s) of the State(s) in which the applicant conducts development activities authorizing the applicant to receive interest subsidy grants under this Part and approving the applications.

(2) The amount of interest subsidy grants requested for the period commencing October 1, 1976 and ending September 30, 1977.

(3) The estimated capital amount of the eligible obligation to which those grants will be applied.

(4) The actual or anticipated issue date of the eligible obligation.

(5) A duly certified resolution of the applicant stating that the bond, debenture, note or other obligation to which the interest subsidy grants requested will be applied, is, or will be, an eligible obligation.

(6) A description of the major anticipated features of the eligible obligations to which the interest subsidy grants requested will be applied, including term, type, amortization schedule, interest rate, total interest payable, acceleration rights, prepayment rights and penalties, and identification of purchasers of the obligation (if known at time of application submission).

(7) The estimated total amount of interest subsidy grants required during the term of the eligible obligation, the percentage of interest payable on the eligible obligation anticipated to be defrayed by those grants (not to exceed 33⅓ percent), where interest payable is calculated as provided in § 260.5(d), and the estimated amount of such grants for each annual period commencing October 1, 1977, until the expiration of the eligible obligation.

(8) The requested manner of grant payment, i.e. annually, semi-annually, quarterly, and the identification of the disbursing agent, if known.

Each application must be executed by an authorized officer of the eligible State agency and must be accompanied by an opinion of the counsel for the eligible State agency as to the authority of that officer to so execute the application on behalf of the eligible State agency.

§ 260.4 Selection and approval of applications.

(a) *First group.* (1) All applications delivered prior to 5:00 p.m., August 20, 1976, and otherwise meeting the requirements of § 260.3 of this part will constitute the first group and will be reviewed by the Secretary to determine acceptability under this part. If the total amount of interest subsidy grants requested by acceptable applications for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, does not exceed $15 million, then all such applications in the first group shall be approved.

(2) If the total amount of interest subsidy grants requested by these applications for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, exceeds $15 million, then the applications shall be ranked according to the ratio described in § 260.5(d). First ranking shall be awarded to the application with the lowest such ratio; second ranking shall be awarded to the application with the second lowest such ratio, and so forth. In the event of a tie, higher ranking as between the tied applications shall be awarded to that application setting forth the earlier anticipated issue date for the eligible obligation. The Secretary will then approve applications in the order of ranking in the maximum annual amounts requested. In the event it is not possible under this procedure to approve applications for the total maximum annual amount of interest subsidy grants requested by an application, the applicant shall be so advised by the Secretary and given the option of either having approved an amount equal to the then available annual amount of interest subsidy grants or relinquishing its ranking to the next ranked applicant.

(b) *Second group.* If the total amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, requested by acceptable applications in the first group equals or exceeds $15 million, then all applications delivered pursuant to § 260.3 of this part after 5:00 p.m. August 20, 1976, will be rejected. If the total amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, requested by acceptable applications in the first group is less than $15 million, then all applications delivered after 5:00 p.m. August 20, 1976, and prior to 5:00 p.m. September 20, 1976, and otherwise meeting the requirements of § 260.3, will constitute the second group and will be reviewed by the Secretary. If the total amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or any subsequent annual period, requested by acceptable applications in the second group does not exceed the difference between $15 million and the total amount of such grants for such periods requested by applications in the first group, then all of the applications in the second group shall be approved. If the total amounts of interest subsidy grants requested by applications in the second group for the period commencing October 1, 1976, and ending September 30, 1977, or any subsequent annual period, exceeds the difference between $15 million and the total amount of such grants for such period requested by applications in the first group, then the ranking and approval systems, as set forth in § 260.5(d), shall be used.

(c) *Approved Applications.* The Secretary will promptly notify in writing all eligible State agencies whose applications have been approved.

§ 260.5 Program standards.

(a) Interest subsidy grants under this part will be made only to eligible State agencies or to disbursing agents duly designated by such eligible State agencies.

(b) Interest subsidy grants under this part may be applied only to eligible obligations.

(c) Interest subsidy grants under this part will not exceed $15 million per year commencing October 1, 1976 and $600 million in total amount. No applicant may receive a commitment for more than $2 million during the period commencing October 1, 1976 and ending September 30, 1977, or for any subsequent annual period.

(d) Interest subsidy grants under this part for any eligible obligation shall not exceed 33⅓ percent of interest payable thereon. Interest subsidy grants will be calculated in the following manner:

(1) The total amount of scheduled interest payable during the full term of the obligation will be divided by the number of years in the term of the obligation. The result of this calculation will be the average annual interest payable.

(2) the subsidization percentage will be calculated on the basis of the average annual interest payable, i.e., the ratio of the maximum annual amount of interest subsidy grants requested to the average annual interest payable amount will be defined as the subsidization rate; such rate shall not exceed 33⅓ percent.

(3) The subsidization rate as calculated above will be used to rank applications, as provided in § 260.4.

(e) Interest subsidy grants under this part shall be paid for not more than forty (40) years.

(f) Payments of interest subsidy grants under this part will be made annually, semi-annually or quarterly, at the option of the eligible State agency.

(g) An eligible State agency must bill the Secretary for each scheduled grant payment at least 30 days in advance of the due date of the agency's scheduled interest payment on the eligible obligation to which the grant payment will be applied. The billing will refer to the case number, the amount of grant payment due, and the current status of the agency's payment on the debt.

(h) If the interest payable on each eligible obligation issued by an approved applicant is less than the amount set forth in its approved application, then the approved amounts of interest subsidy grants committed on the basis of said application shall be reduced according to the ratio of interest payable on the eligible obligation set forth in the approved application to interest payable on each eligible obligation actually issued by the applicant.

(i) If the interest payable on each eligible obligation issued by an approved applicant is greater than the amount set forth in its approved application, no adjustment shall be made in the approved amounts of interest subsidy grants committed on the basis of said application.

(j) A commitment of interest subsidy grants under this Part shall automatically terminate in the event the applicant fails to issue the eligible obligation for which the grants were requested within ninety (90) days after the issue date specified in its application, except that one extension period of thirty (30) days may be permitted at the discretion of the Secretary. However, in no event may the obligation be issued any later than September 30, 1978. The commitment of interest subsidy grants under this Part shall automatically terminate if the applicant fails to issue the eligible obligation prior to September 30, 1978.

(k) In the event of default or arrearage by an eligible State agency in the payment of principal and/or interest due on an eligible obligation, payments of interest subsidy grants under this part in relation to such eligible obligation may be suspended and/or terminated at the discretion of the Secretary.

Issued at Washington, D.C., August 9, 1976.

Effective date: August 16, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing.

[FR Doc.76-23799 Filed 8-13-76;8:45 am]

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

[Docket No. R-76-210]

PART 300—GENERAL

List of Attorneys-in-Fact

Section 300.11 is amended to add additional names to the list of attorneys-in-fact authorized to act on behalf of the Association and to remove names from the current list.

Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association in connection with its recent auctions of mortgages.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name	*Region*
Helen M. Eltzeroth	Atlanta, Ga.
B. J. Hendryk	Dallas, Tex.
David G. Hooper	Do.
Clark Lauderdale	Do.
Victoria Leyendecker	Do.
Joseph T. F. Quinn	Philadelphia, Pa.
Thomas W. Page	Dallas, Tex.

2. Paragraph (c) of § 300.11 is further amended by adding the following names in alphabetical sequence to the current list of attorneys-in-fact:

Name	*Region*
Victoria Duffield	Dallas, Tex.
B. J. Hendryx	Do.
Calvin W. Heptinstall	Los Angeles, Calif.
Charleen N. Munson	Philadelphia, Pa.

3. Paragraph (d) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name	*Region*
James W. Cotts	Pittsburgh, Pa.
Robert J. Eisenberg	Boston, Mass.
James P. McTernan	Washington, D.C.
Charles Reid III	Do.

(It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.)

Effective date: This amendment shall be effective on August 16, 1976.

DAVID M. DEWILDE,
President, Government National Mortgage Association.

[FR Doc.76-23850 Filed 8-13-76;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Borough of Upper Saddle River, New Jersey

On January 16, 1974, in 39 F.R. 1986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Borough of Upper Saddle River, New Jersey. Map No. H 340077 01 indicates that Lot 8K, North Valley Estates, Upper Saddle River, New Jersey, as recorded on Map No. 6535, on file in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340077 01

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is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23869 Filed 8–13–76;8:45 am]

[Docket No. FI–454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Chesterfield County, Virginia

On January 28, 1975, in 40 FR 4134, the Federal Insurance Administrator published a list of communities with special hazard areas which included Chesterfield County. Map Nos. H 510035 34, 44 & 45 indicate that Whale Rock Subdivision, Chesterfield County, Virginia, as recorded in Planbook 26, Page 11 in the office of the Clerk of the Circuit Court of Chesterfield County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property with the exception of the 100-year flood plain easement, as shown on the recorded plat map cited above, is not within the Special Flood Hazard Area. Accordingly, Map Nos. H 510035 34, 44 & 45 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23853 Filed 8–13–76;8:45 am]

[Docket No. FI–965]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Auburn, Indiana

On March 30, 1976, in 41 F.R. 13347, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Auburn, Indiana. Map No. H 180046A 01 indicates that Lots 11–14, Foxcroft Addition, Auburn, Indiana, as recorded in Record Plat 5, Pages 74 and 75 in the office of the Recorder of DeKalb County, Indiana, are in their entirety within the Special Flood Hazard Area. However, portions of these lots which can be collectively described as follows:

Commencing at the southwest corner of Lot 10 being on the northern line of Eastwood Drive; thence North along the western line of Lot 10 approximately 78 feet to the actual point of beginning; thence N 32°30' W, approximately 192 feet to a point on the northern line of Lot 12; thence North, approximately 157 feet to a point on the northern line of Lot 13; thence N 16°E, approximately 129.5 feet to a point on the southwestern line of Lot 15; thence S 45°E, approximately 175 feet to a point on the centerline of Duryea Drive; thence South approximately 190 feet to a point on the northern line of Lot 10; thence S 68°W, along the northern line of Lot 10 approximately 62 feet to the northwest corner of Lot 10; thence South along the western line of Lot 10; approximately 106 feet to the actual point of beginning, are not within the Special Flood Hazard Area. Accordingly, Map No. H 180046A 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 28, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23879 Filed 8–13–76;8:45 am]

[Docket No. FI–690]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Auburn, Washington

On September 17, 1975, in 40 FR 42876, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Auburn, Washington. Map No. H 530073A 03 indicates that Lots 27, 28 and 29 of Green River Village Addition, Division No. 5, Auburn, King County, Washington, as recorded in Volume 96, Pages 8 and 9 of the Book of Plats, in the Division of Records and Elections of King County, Washington, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area identified on September 19, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23852 Filed 8–13–76;8:45 am]

[Docket No. FI–326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Aurora, Colorado

On August 7, 1974, in 39 FR 28424, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Aurora, Colorado. Map No. H 080002 05 indicates that Lot 1, I–225 Shopette Subdivision Filing No. 2, Aurora, Colorado, as recorded in Book 28, Page 7, in the office of the Clerk and Recorder of Arapahoe County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 080002 05 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23872 Filed 8–13–76;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Maryland

On August 6, 1974, in 39 FR 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included the city of Baltimore, Maryland. Map No. H 240087 01 indicates that a parcel of land known as 6004 Baywood Avenue being Lot 35, Block 4400A, Ward 27, Section 22, Baltimore, Maryland, as recorded in Plat book 4100–4599, Page 4400–A in the office of the Department of Public Works, Bureau of Surveys of Baltimore, Maryland is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240087 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23865 Filed 8–13–76;8:45 am]

[Docket No. FI–340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Columbus, Ohio

On April 10, 1975, in 40 FR 16192, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Columbus, Ohio. Map No. H 390170 40 indicates that Parcels 1–4 of a tract of land lying along Noe-Bixby Road, Columbus, Franklin County, Ohio, as recorded in Volume 3493, Page 61–68, and Page 379, of Warranty Deeds, in the office of the Recorder of Franklin County, Ohio are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Commencing at the point of intersection of the centerline of Noe-Bixby Road and the extension of the south lot line of parcel number one; thence S 86°20'42" W, 33.39 feet to the point of beginning; thence S 86°20'42" W, 157 feet to a point; thence N 25°10' W, 411.5 feet to a point on the north lot line of parcel number 4; thence N 85°42'01" E, 125 feet to a point; thence S 30°59'31" E, 14.75 feet to a point; thence S 29°42'20" E, 412.31 feet to the point of beginning, is not within the Special Flood Hazard Area. Accordingly, Map No. H 390170 40 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 9, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23860 Filed 8–13–76;8:45 am]

[Docket No. FI–885]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Gulf Breeze, Florida

On February 20, 1976, in 41 FR 7762, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Gulf Breeze, Florida. Map No. H 120275A 01 indicates that Lot 35, Block 1, First Addition to Casablanca, Gulf Breeze, Florida, as recorded in Plat Book A, Page 90, in the office of the Clerk of the Circuit Court of Santa Rosa County, Florida, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 120275A 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc 76–23877 Filed 8–13–76;8:45 am]

[Docket No. FI–440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Houston, Texas

On January 10, 1975, in 40 FR 2190, the Federal Insurance Administrator published a list of communities with special hazard areas which included Houston, Texas. Map. No. H 480296 138 indicates that two tracts of land (7.45 acres and 8.193 acres) both taken from the H. T. & B. R. R. Company Survey No. 7, A–398, Houston, Harris County, Texas, recorded as Trustee's Deeds with Film Code Numbers 122–03–0169 and 105–10–1230 respectively, in the office of the Clerk of Harris County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480296 138 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23854 Filed 8–13–76;8:45 am]

[Docket No. FI–270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Indianapolis, Indiana

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Indianapolis, Indiana. Map No. H 180159 53 indicates that a parcel of land 62 feet by 228 feet being Lot 55, 5023 East Naomi Street, Indianapolis, Indiana, as recorded in Book 85, Page 188 in the office of the Assessor of Marion County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 180159 53 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23880 Filed 8–13–76;8:45 am]

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[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On January 8, 1976, in 41 FR 1472, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 10 indicates that Lot 20, Block 2, Woodlake Subdivision Filing No. 2, Lakewood, Colorado, as recorded in Book 29, Page 5, in the office of the County Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23873 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 FR 26403, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 07 indicates that Linwood Subdivision, Filing No. 2, Lakewood, Colorado, as recorded in Book 7, Page 29, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 1 through 6 and 9 through 11, and the existing structures on Lots 7 and 8 are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 07 is hereby corrected to reflect that the above property and structures are not within the Special Flood Hazard Area identified on July 21, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR-Doc.76-23874 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 11 indicates that Lot 11, Block 12, Calahan Homes, Unit Three, Amended, Lakewood, Colorado, as recorded in Book 21, Page 26, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23875 Filed 8-13-76;8:45 am]

[Docket No. FI-340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Longview, Texas

On August 21, 1975, in 40 F.R. 36564, the Federal Insurance Administrator published a list of communities with special hazard areas which included Longview, Texas. Map No. H 480264A 06 indicates that a parcel of land being Tract I, in Longview, Gregg County, Texas, as recorded in Volume 1000, Page 278 of Deed Records, in the office of the Clerk of the County Court of Gregg County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480264A 06 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on October 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23862 Filed 8-13-76;8:45 am]

[Docket No. FI-352]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lubbock, Texas

On September 12, 1974, in 39 F.R. 32890, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Lubbock, Texas. Map No. H 480452 10 indicates that Lot 4, Holiday Park Addition, as recorded in Volume 1366, Page 473 in the office of the Clerk of Lubbock County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that with the exception of the drainage easement shown on the recorded plat map cited above, the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480452 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 30, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23855 Filed 8-13-76;8:45 am]

[Docket No. FI-898]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Rogers, Arkansas

On March 19, 1976, in 41 F.R. 11485, the Federal Insurance Administrator published a list of communities with special hazard areas which included Rogers, Arkansas. Map No. H 050013A 02 indicates that Lots 9 and 10, Block 2, Lots 1–5, Block 6, and Lots 3–5, Block 5, Unit 1, Turtle Creek Place Subdivision, Rogers, Arkansas, as recorded in Platbook O, Page 18 in the office of the Clerk of Benton County Arkansas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 050013A 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23870 Filed 8-13-76;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jose, California

On January 27, 1975, in 40 F.R. 3986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jose, California. Map No. H 060349 28 indicates that Tract No. 5534, San Jose, California, as recorded in Book 345, Pages 54 and 55, in the office of the County Recorder of Santa Clara County, California, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 060349 28 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23871 Filed 8-13-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 F.R. 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036 28 indicates that Lot 91, The Meadow Subdivision Unit No. 1, Shreveport, Louisiana, as recorded in Book 1500, Page 19, of the records of Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after technical review of the above map in light of additional, recently acquired flood information, that the structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036 28 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on January 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968) as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23863 Filed 8-13-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 F.R. 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036A 26 indicates that a tract of land in Caddo Parish, Louisiana, as recorded in Book 1545, Page 350, in the Conveyance Records of the Clerk of Court, Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above mentioned property legally described as:

"A tract of land located in the NE¼ of Section 26 and the NW¼ of Section 25, T17N–R15W, Caddo Parish, Louisiana and being more particularly described as follows: From the point of intersection of the south right-of-way of West 70th Street and the west right-of-way line of Pines Road as recorded in Book 1100, Pages 459–469, records of Caddo Parish, Louisiana, proceed N. 89°15' W. along said south right-of-way line of West 70th Street a distance of 1285.05 feet to the Point of Beginning, thence S. 5°46'15" E., 108.5 feet, thence S. 37°16'10" E., 656.83 feet, thence S. 85°33'35" E., 150.99 feet, thence N. 55°32' E., 114.91 feet, thence along a curve to the right (arc 228.13 feet, radius 272.30 feet), thence S. 76°28' E., 457.22 feet to the west right-of-way line of Pines Road, thence southerly along the west right-of-way line of Pines Road and along a curve to the right (arc 174.14 feet, radius 1248.39 feet), thence along a curve to the left (arc 362.26 feet, radius 1220.95 feet), thence along a curve to the right (arc 270.77 feet, radius 1581.70 feet), thence S. 11°34'20" W., 100.0 feet, thence along a curve to the left (arc 114.00 feet, radius 2516.05 feet), thence N. 45°33'10" W., 519.13 feet, thence along a curve to the left (arc 103.39 feet, radius 726.68 feet), thence N. 53°42'57" W. 579.89 feet, thence along a curve to the right (arc 96.4 feet, radius 700.21 feet), thence N. 45°49'40", 257.90 feet, thence along a curve to the right (arc 94.75 feet, radius 481.15 feet), thence N. 34°32'40" W., 290.0 feet), thence along a curve to the right (arc 68.86 feet, radius 225.73 feet), thence N. 11°59'20" W., 126.48 feet, thence along a curve to the right (arc 94.03 feet, radius 422.92 feet), thence N. 0°45' E., 32.95 feet to the south right-of-way of West 70th Street (Louisiana Highway 511), thence S. 89°15' E. 332.56 feet along south right-of-way of West 70th Street to Point of Beginning. Said tract containing 22.2 acres, more or less."

is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036A 26 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23864 Filed 8-13-76;8:45 am]

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[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of West Hartford, Connecticut

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of West Hartford, Connecticut. Map No. H 095082 05 indicates that Lot No. 13, Braeburn Acres, West Hartford, Connecticut, as recorded in Volume 544, Pages 772 through 775, in the office of the Town Clerk of West Hartford, Connecticut, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above-mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 095082 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on September 24, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23876 Filed 8-13-76;8:45 am]

[Docket No. FI-209]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Wilmington, North Carolina

On March 1, 1974, in 39 F.R. 7937, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Wilmington, North Carolina. Map No. H 370171 03 indicates that property in Wilmington, North Carolina, as recorded in Book 989, Page 521, in the office of the Register of Deeds of New Hanover County, North Carolina, is in its entirety within the Special Flood Hazard Area. This property is more particularly described as follows:

Beginning at a point in the Western line of North 23rd Street (a 100 foot right-of-way) said point being the Northeast corner of the Mobile Textile Company Tract and located North 5 degrees 54 minutes East 650.0 feet as measured with said Western line from its intersection with the Northern line of Smith Creek Boulevard as shown by map recorded in Map Book 13 at Page 40 in the New Hanover County Registry, running thence from said beginning with said Western line North 5 degrees 54 minutes East 447.38 feet to a point in the Southern edge of Smith Creek, thence with said Southern edge Southwestward 545 feet more or less to an iron pipe in the Eastern line of Mobile Textile Tract, thence with said Eastern line South 5 degrees 54 minutes West 263.46 feet to a corner of said Mobile Textile Tract, thence with a Northern line of said tract South 84 degrees 06 minutes East 480.0 feet to the point of beginning, containing 3.40 acres.

It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 370171 03 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on March 1, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23857 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Maryland

On June 25, 1976, in 41 F.R. 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince Georges County, Maryland. Map No. H & I 245208 47 indicates that Lot 19, Block E, Murray Hill Subdivision, Oxon Hill, Prince Georges County, Maryland, as recorded in Platbook 25, Folio 75 in the office of the Clerk of the Circuit Court of Prince Georges County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 245208 47 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23866 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Maryland

On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince Georges County, Maryland. Map No. H 245208 59 indicates that 2008 Brierhill Road being Lot 22, Block J, Section 3 of Forest Knolls Subdivision, Oxon Hill, Prince Georges County, Maryland as recorded in Liber 4552, Folio 577 in the office of Land Records of Prince Georges County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone B, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 245208 59 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23867 Filed 8-13-76;8:45 am]

[Docket No. FI-483]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Alexandria, New Hampshire

On March 3, 1975, in 40 FR 8815, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Alexandria, New Hampshire. Map No. H 330041 05 indicates that property along the north side of River Road, Alexandria, New Hampshire, as recorded in Liber 1055, Folio 485, in the office of the Registry of Deeds of Grafton County, New Hampshire, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 330041 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23868 Filed 8-13-76;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Fairview, Texas

On January 28, 1975, in 40 FR 4133, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fairview, Texas. Map Nos. H 481069 02 & 04 indicate that Montecito Estates Addition, Fairview, Collin County, Texas, as recorded in Volume 10, Page 3 of Plat Records in the office of the Clerk of Collin County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Beginning at a point being the northwest corner of Lot 1, Block C, Montecito Estates Addition, proceed S 88°34' E, approximately 997.70 feet to a point; thence N 00° 26' E, approximately 965.0 feet to a point; thence S 80°08' E, approximately 1,151.7 feet to a point; thence N 86°12' E, approximately 830.5 feet to a point; thence S 00°45' W, approximately 512.0 feet to a point; thence S 42°45' W, approximately 742 feet to a point; thence S 49°30' W, approximately 600 feet to a point; thence S 22°30' W, approximately 230 feet to a point; thence S 55°30' W, approximately 238 feet to a point; thence S 84°30' W, approximately 315 feet to a point; thence S 56°15' W, approximately 228 feet to a point; thence S 77°30' W, approximately 586 feet to a point; thence S 66°00' W, approximately 326 feet to a point; thence S 36°15' W, approximately 254 feet to a point; thence N 10°00' E, approximately 925 feet to a point; thence to the left along a curve with a radius of approximately 668.25 feet, approximately 328.89 feet to a point; thence N 18°12' W, approximately 493.3 feet to a point, also being the point of beginning,

is not within the Special Flood Hazard Area. Accordingly, Map No. H 481069 02 & 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23861 Filed 8-13-76;8:45 am]

[Docket No. FI-425]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Poughkeepsie, New York

On December 13, 1974, in 40 F.R. 43395, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Town of Poughkeepsie. Map No. H 361142 02 indicates that a parcel of land located at Rochdale Road and Titus Road being the Old Mill Parcel, Poughkeepsie, Dutchess County, New York, as recorded in Book 1362 of Deeds, Pages 496 and 497 as recorded in the office of the Clerk of Dutchess County, New York is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional recently acquired flood information, that a portion of the above property, which can be described as follows:

Beginning at a point in the southerly line of Rochdale Road at the northeasterly corner of the herein described parcel; thence along the easterly line of this parcel, S 0°18'17" W, 20 feet to a point; thence S 59° W, approximately 262 feet to a point; thence S 55° W, approximately 62 feet to a point; thence N 35° W, approximately 22 feet to a point; thence N 26°50'50" E, 90.78 feet to a point; thence N 63°44'00" E, 171.73 feet to a point; thence N 74°19'55" E, 85.16 feet to the point of beginning.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23858 Filed 8-13-76;8:45 am]

[Docket No. FI-204]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Township of Hamilton, New Jersey

On February 25, 1974, in 39 F.R. 7173, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Township of Hamilton, New Jersey. Map No. H 340246 01 indicates that Lot 25, Section Seven, Fairfield Manor, Township of Hamilton, New Jersey, as recorded on Map No. 2237, in the office of the Clerk of Mercer County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340246 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on February 22, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23856 Filed 8-13-76;8:45 am]

[Docket No. FI-352]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Canal Winchester, Ohio

On September 12, 1974, in 39 F.R. 32889, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Canal Winchester. Map No. H 390169 02 indicates that Lot 48, Washington Knoll Subdivision, Canal Winchester, Ohio, as recorded in Platbook 48, Page 11 in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 390169 02 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on August 30, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

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trator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23859 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Palatine, Illinois

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Palatine, Illinois. Map No. H 175170A 02 indicates that Lot 76, Virginia Lake Subdivision Unit No. 1, Palatine, Cook County, Illinois, recorded as Document No. 20990619 in the office of the Recorder of Deeds of Cook County, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area, but is within Zone C. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 175170A 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23878 Filed 8-13-76;8:45 am]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-2249]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Updating List of Companies and States

The purpose of this amendment to § 1930.6 and § 1931.1, is to provide a current list of servicing companies for the Federal Crime Insurance Program and to update the list of States eligible for the sale of crime insurance.

On the basis of the Administrator's continuing review of the crime insurance availability situation in the various States, and on the basis of findings and recommendations by the Governor and the Commissioner of Insurance, it has been determined that a critical market unavailability situation exists in the States set forth in revised § 1931.1 and that as of the effective date of this regulation these States will be made eligible for the sale of crime insurance, or continue to be eligible for such sale. Because the sale of crime insurance is beneficial to the public, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on August 16, 1976.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Names and addresses of servicing companies.

The following companies have been designed to act as servicing companies for the Federal Crime Insurance Program in the State indicated:

Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Minnesota, Missouri, Ohio, Rhode Island, and Tennessee: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20410. SMI toll-free number is 800-638-8780. In D.C. or Md., 301-652-2637. In Md., call collect if outside Metro. Wash. Area.

Massachusetts: Insurance Company of North America, 1 Center Plaza, Boston, Massachusetts 02108 (617-227-7300).

New Jersey: Aetna Casualty and Surety Company, 494 Broad Street, Newark, New Jersey 07102 (201-624-1900).

New York: Insurance Company of North America, 79 John Street, New York, New York 10038 (212-233-5010).

Pennsylvania: Insurance Company of North America, 625 Walnut Street, Philadelphia, Pa. 19105 (215-925-8330).

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 States eligible for sale of crime insurance.

* * * * * * *

(b) On the basis of the information available, the Administrator has determined that the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein. Accordingly, the program is in operation in the following states:

Arkansas	Massachusetts
Colorado	Minnesota
Connecticut	Missouri
Delaware	New Jersey
District of Columbia	New York
Florida	Ohio
Georgia	Pennsylvania
Illinois	Rhode Island
Kansas	Tennessee
Maryland	

* * * * * * *

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); Sec. 1103, 82 Stat. 566, (12 U.S.C. 1749bbb-17.))

Effective date: August 16, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23798 Filed 8-13-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7428]

INCOME TAX; ESTATE TAX; GIFT TAX

Loss of Exemption of Certain Exempt Organizations Under Sections 503 and 504 of the Code

PREAMBLE

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 10, 1976 (41 FR 19115), amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25) were proposed in order to conform such regulations to provisions of section 101(j) of the Tax Reform Act of 1969 (83 Stat. 526) and section 2003(b) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978). This document adopts those amendments without change.

The amendments to the regulations provide that section 503 (relating to prohibited transactions) does not apply to section 501(c)(3) organizations effective January 1, 1970, and to qualified retirement plans (other than certain church and government plans) effective January 1, 1975. Also the amendments reflect the repeal of section 504, effective January 1, 1970.

The amendments provide that those 501(c)(3) organizations that have lost their exemption under section 501(a) because of violation of section 503 or 504 during 1969 or a prior year do not cease to be described in section 501(c)(3). As a result of being described in section 501(c)(3), such organizations may be subject to the provisions of chapter 42 as private foundations. A loss of exemption, however, does mean that contributions to the organization are not to be treated as deductible charitable contributions until the organization has reapplied to the Commissioner for recognition of exemption. In addition, other technical and conforming amendments are adopted.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Based on the foregoing, the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25) are amended by adopting the proposed rules.

(NOTE.—This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: August 10, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Section 1.101 is amended by revising section 101(b)(2)(B)(iii) and by revising the historical note. These amended provisions read as follows:

§ 1.101 Statutory provisions; certain death benefits.

Sec. 101 *Certain death benefits.* * * *
(b) *Employees' death benefits.* * * *
(2) *Special rules for paragraph (1).* * * *
(B) *Nonforfeitable rights.* * * *
(iii) Under an annuity contract purchased by an employer which is an organization referred to in section 170 (b) (1) (A) (ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a), but only with respect to that portion of such total distributions payable which bears the same ratio to the amount of such total distributions payable which is (without regard to this subsection) includible in gross income, as the amounts contributed by the employer for such annuity contract which are excludable from gross income under section 403(b) bear to the total amounts contributed by the employer for such annuity contract.

* * * * * * *

[Sec. 101 as amended by sec. 23(d), Technical Amendments Act 1958 (72 Stat. 1622); sec. 7(c), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 1(c), Act of March 8, 1966 (Pub. Law 89-365, 80 Stat. 32); sec. 101(j)(1), Tax Reform Act 1969 (83 Stat. 526)]

2. Paragraph (d)(2) of § 1.101-2 is amended by revising so much of such paragraph as precedes the examples contained therein, and paragraph (d)(4) of § 1.101-2 is amended by revising paragraph (d)(4)(i)(a), paragraph (d)(4)(iv), the eighth sentence of example (1) of paragraph (d)(4)(v), and the fifth sentence of example (3) of paragraph (d)(4)(v) to read as follows:

§ 1.101-2 Employee's death benefits.

* * * * * * *

(d) *Nonforfeitable rights.* * * *

(2) The application of paragraph (d)(1) of this section may be illustrated by the following examples, in which it is assumed that the plans are not "qualified plans" and that no employer is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or a religious organization (other than a trust) which is exempt from tax under section 501(a):

* * * * * * *

(4)(i) * * *

(a) If such amounts are paid under an annuity contract purchased by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a).

* * * * * * *

(iv) For purposes of this subparagraph, an annuity contract will be considered to have been purchased by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a), if any of the contributions paid toward the purchase price of such contract by the employer were paid at a time when the employer was such an organization. Thus an annuity contract may be regarded as purchased by such an organization even though part of the organization's contributions for such annuity contract were paid at a time when the organization was not such an exempt organization.

* * * * * * *

(v) * * *

Example (1). * * * However, all the contributions paid by X Organization were paid at a time when X Organization was an organization referred to in section 170(b)(1)(A)(ii) and exempt from tax under section 501(a). * * *

* * * * * * *

Example (3). * * * However, all the contributions paid by Y Organization were paid at a time when it was an organization referred to in section 170(b)(1)(A)(ii) and exempt from tax under section 501(a). * * *

3. Paragraph (b)(5) of § 1.401-1 is amended by deleting the last two sentences of paragraph (b)(5)(i) and by changing the first sentence of paragraph (b)(5)(ii) to read as follows:

§ 1.401-1 Qualified pension, profit sharing and stock bonus plans.

* * * * * * *

(b) *General rules.* * * *

(5) * * *

(ii) Where the trust funds are invested in stock or securities of, or loaned to, the employer or other person described in section 503(b), full disclosure must be made of the reasons for such arrangement and the conditions under which such investments are made in order that a determination may be made whether the trust serves any purpose other than constituting part of a plan for the exclusive benefit of employees. * * *

* * * * * * *

4. Paragraph (k) of § 1.401-12 is revised to read as follows:

§ 1.401-12 Requirements for qualification of trusts and plan benefiting owner-employees.

* * * * * * *

(k) *Contributions of property under a qualified plan.* (1) The contribution of property, other than money, prior to January 1, 1975, by the person who is the employer (within the meaning of section 401(c)(4)) to a qualified trust forming a part of a plan which covers employees some or all of whom are owner-employees who control (within the meaning of section 401(d)(9)(B) and the regulations thereunder) the trade or business with respect to which the plan is established is a prohibited transaction between such trust and the employer-grantor of such trust (see section 503(g) prior to its repeal by sec. 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978)).

(2) A contribution of property, other than money, prior to January 1, 1975, to a qualified trust by an owner-employee who controls, or a member of a group of owner-employees who together control, the trade or business with respect to which the plan is established, or a contribution of property, other than money, to a qualified trust by a member of such an owner-employee's family (as defined in section 267(c)(4)), is a prohibited transaction. (See section 503(g) prior to its repeal by section 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978)).

(3) See section 4975 and the regulations thereunder with respect to rules relating to the contribution of property, other than money, made after December 31, 1974.

5. Section 1.501(a) is amended by revising section 501(a) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(a) Statutory provisions; exemption from tax on corporations; certain trusts, etc.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.*—(a) *Exemption from taxation.* An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

[Sec. 501(a) as amended by sec. 101(j)(3), Tax Reform Act 1969 (83 Stat. 526)]

6. Paragraphs (a)(1) and (3) of § 1.501(a)-1 are amended to read as follows:

§ 1.501(a)-1 Exemption from taxation.

(a) *In general; proof of exemption.* (1) Section 501(a) provides an exemption from income taxes for organizations which are described in section 501(c) or (d) and section 401(a), unless such organization is a "feeder organization" (see section 502), or unless it engages in a transaction described in section 503. However, the exemption does not extend to "unrelated business taxable income" of such an organization (see part III

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(Section 511 and following), subchapter F, chapter 1 of the Code).

• • • • • •

(3) An organization claiming exemption under section 501(a) and described in any paragraph of section 501(c) (other than section 501(c)(1)) shall file the form of application prescribed by the Commissioner and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in section 401(a), see the regulations under section 401.

• • • • • •

7. Section 1.501(b) is amended by revising section 501(b) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(b) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; tax on unrelated business income.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.* • • •

(b) *Tax on unrelated business income and certain other activities.* An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III, and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

[Sec. 501(b) as amended by sec. 101(j)(4), Tax Reform Act 1969 (83 Stat. 526); sec. 10(c), Act of Jan. 3, 1975 (P.L. 93-625, 88 Stat. 2119)]

§ 1.501(c)(3)-1 [Amended]

8. Paragraph (c)(3) of § 1.501(c)(3)-1 is deleted.

9. Section 1.501(c)(16) is amended by revising section 501(c)(16) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(c)(16) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to finance crop operations.

Sec. 501 *Exemption from tax on corporations, certain trusts, etc.* • • •

(c) List of exempt organizations. • • •

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

[Sec. 501(c)(16) as amended by sec. 101(j)(5), Tax Reform Act 1969 (83 Stat. 527)]

10. Section 1.503(a) through § 1.503(j)-1 are amended to read as follows:

§ 1.503(a) Statutory provisions; requirements for exemption; denial of exemption to organizations engaged in prohibited transactions.

Sec. 503. *Requirements for exemption.* (a) *Denial of exemption to organizations engaged in prohibited transaction*—(1) *General rule.* (A) An organization described in section 501(c)(17) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(B) An organization described in section 401(a) which is referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

(C) An organization described in section 501(c)(18) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

(2) *Taxable years affected.* An organization described in section 501(c)(17) or (18) or paragraph (a)(1)(B) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

[Sec. 503(a) as amended by sec. 2, Act of July 14, 1960 (P.L. 86-667, 74 Stat. 535); Secs. 101(j)(7) and (8) and 121(b)(6)(B), Tax Reform Act 1969 (83 Stat. 527, 542); secs. 2003(b)(1), (2), and (3), Employee Retirement Income Security Act of 1974 (88 Stat. 978)]

§ 1.503(a)-1 Denial of exemption to certain organizations engaged in prohibited transactions.

(a)(1) Prior to January 1, 1970, section 503 applies to those organizations described in sections 501(c)(3), 501(c)(17), and section 401(a) except—(i) A religious organization (other than a trust);

(ii) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(iii) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public;

(iv) An organization which is operated, supervised, controlled or principally supported by a religious organization (other than a trust) which is itself not subject to the provisions of this section; and

(v) An organization the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical research or agricultural research.

(2) Effective January 1, 1970, and prior to January 1, 1975, section 503 shall apply only to organizations described in section 501(c)(17) or (18) or section 401(a).

(3) Effective January 1, 1975, section 503 shall apply only to organizations described in section 501(c)(17) or (18) or described in section 401(a) and referred to in section 4975(g)(2) or (3).

(b) The prohibited transactions enumerated in section 503(b) are in addition to and not in limitation of the restrictions contained in section 501(c)(3), (17), or (18) or section 401(a). Even though an organization has not engaged in any of the prohibited transactions referred to in section 503(b), it still may not qualify for tax exemptions in view of the general provisions of section 501(c)(3), (17), or (18) or section 401(a). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator or such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purpose.

(c) An organization—(1) Described in section 501(c)(3) which after July 1, 1950, but before January 1, 1970, has engaged in any prohibited transaction as defined in section 503(b), unless it is excepted by the provisions of paragraph (a)(1) of this section;

(2) Described in section 401(a) and referred to in section 4975(g)(2) or (3) which after March 1, 1954, has engaged in any prohibited transaction as defined in section 503(b);

(3) Described in section 401(a) and not referred to in section 4975(g)(2) or (3) which after March 1, 1954, but before January 1, 1975, has engaged in any prohibited transaction as defined in section 503(b) or which after December 31, 1962, but before January 1, 1975, has engaged in any prohibited transaction as defined in section 503(g) prior to its repeal by section 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978);

(4) Described in section 501(c)(17) which after December 31, 1959, has engaged in any prohibited transaction as defined in section 503(b); or

(5) Described in section 501(c)(18) which after December 31, 1969, has engaged in any prohibited transaction described in section 503(b);

shall not be exempt from taxation under section 501(a) for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Commissioner that it has engaged in such prohibited transactions. Such notification by the Commissioner shall be by registered or certified mail to the last known name and address of the organization. However, notwithstanding the requirement of notification by the Commissioner, the exemption shall be denied with respect to any taxable year if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from its exempt purposes and such transaction involved a substantial part of the income or corpus of such organization. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organizations means a calendar year. See 26 CFR § 1.503(j)-1 (rev. as of Apr. 1, 1974) for provisions relating to the definition of prohibited transactions in the case of trusts benefitting certain owner-employees after December 31, 1962, but prior to January 1, 1975. See also section 2003(c)(1)(B) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978) in the case of an organization described in section 401(a) with respect to which a disqualified person elects to pay a tax in the amount and manner provided with respect to the tax imposed by section 4975 of the Code so that the organization may avoid denial of exemption under section 503.

(d) The application of section 503(b) may be illustrated by the following examples:

Example (1). A creates a foundation in 1954 ostensibly for educational purposes. B, a trustee, accumulates the foundation's income from 1957 until 1959 and then uses a substantial part of this accumulated income to send A's children to college. The foundation would lose its exemption for the taxable years 1957 through 1959 and for subsequent taxable years until it regains its exempt status.

Example (2). If under the facts in example (1) such private benefit was the purpose of the foundation from its inception, such foundation is not exempt by reason of the general provisions of section 501(c)(3), without regard to the provisions of section 503, for all years since its inception, that is, for the taxable years 1954 through 1959 and subsequent taxable years, since under section 501(c)(3) the organization must be organized and operated exclusively for exempt purposes. See § 1.501(c)(3)-1.

§ 1.503(b) Statutory provisions; requirements for exemption; prohibited transactions.

Sec. 503. *Requirements for exemption.* • • •

(b) *Prohibited transactions.* For purposes of this section, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this section—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 267(c)(4)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

[Sec. 503(b) as amended by sec. 101(j)(14), Tax Reform Act 1969 (83 Stat. 522)]

§ 1.503(b)-1 Prohibited transactions.

(a) *In general.* The term "prohibited transaction" means any transaction set forth in section 503(b) engaged in by any organization described in paragraph (a) of § 1.503(a)-1. Whether a transaction is a prohibited transaction depends on the facts and circumstances of the particular case. This section is intended to deny tax-exempt status to such organizations which engage in certain transactions which inure to the private advantage of (1) the creator of such organization (if it is a trust); (2) any substantial contributor to such organization; (3) a member of the family (as defined in section 267(c)(4)) of an individual who is such creator of or such substantial contributor to such organization; or (4) a corporation controlled, as set forth in section 503(b), by such creator or substantial contributor.

(b) *Loans as prohibited transactions under section 503(b)(1)*—(1) *Adequate security.* For the purposes of section 503(b)(1), which treats as prohibited transactions certain loans by an organization without receipt of adequate security and a reasonable rate of interest, the term "adequate security" means something in addition to and supporting a promise to pay, which is so pledged to the organization that it may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, the value and liquidity of which security is such that it may reasonably be anticipated that loss of principal or interest will not result from the loan. Mortgages or liens on property, accommodation endorsements of those financially capable of meeting the indebtedness, and stock or securities issued by corporations other than the borrower may constitute security for a loan to the persons or organizations described in section 503(b). Stock of a borrowing corporation does not constitute adequate security. A borrower's evidence of indebtedness, irrespective of its name, is itself not security for a loan, whether or not it was issued directly to the exempt organization. However, if any such evidence of indebtedness provides for security that may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, there may be adequate security for such loan. If an organization subject to section 503(b) purchases debentures issued by a person specified in section 503(b), the purchase is considered, for purposes of section 503(b)(1), as a loan made by the purchaser to the issuer on the date of such purchase. For example, if an exempt organization subject to section 503(b) makes a purchase through a registered security exchange of debentures issued by a person described in section 503(b), and owned by an unknown third party, the purchase will be considered as a loan to the issuer by the purchaser. For rules relating to loan of funds to, or investment of funds in stock or securities of, persons described in section 503(b) by an organization described in section 401(a), see paragraph (b)(5) of § 1.401-1.

(2) *Effective dates.* The effective dates for the application of the definition of adequate security in paragraph (b)(1) of this paragraph are:

(i) March 15, 1956, for loans (other than debentures) made after March 15, 1956;

(ii) January 31, 1957, for loans (other than debentures) made before March 16, 1956, and continued after January 31, 1957;

(iii) November 8, 1956, for debentures which were purchased after November 8, 1956;

(iv) December 1, 1958, for debentures which were purchased before. November 9, 1956, and held after December 1, 1958;

(v) If an employees' pension, stock bonus, or profit-sharing trust described in section 401(a) made a loan before March 1, 1954, repayable by its terms after December 31, 1955, and which would constitute a prohibited transaction if made on or after March 1, 1954, the loan shall not constitute a prohibited transaction if held until maturity (determined without regard to any extension or renewal thereof);

(vi) January 1, 1960, for loans (including the purchase of debentures) made by supplemental unemployment benefit trusts, described in section 501(c)(17);

(vii) January 1, 1970, for loans (including the purchase of debentures) made by employees' contribution pension plan trusts described in section 501(c)(18).

(3) *Certain exceptions to section 503(b)(1).* See section 503(e) and §§ 1.503(e)-1, 1.503(e)-2, and 1.503(e)-3 for special rules providing that certain obligations acquired by trusts described in section 401(a) or section 501(c)(17) or (18) shall not be treated as loans made without the receipt of adequate security for purposes of section 503(b)(1). See section 503(f) and § 1.503(f)-1 for an ex-

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ception to the application of section 503 (b)(1) for certain loans made by employees' trusts described in section 401 (a).

(c) *Examples.* The principles of this section are illustrated by the following examples: (Assume that section 503 (e) and (f) are not applicable.)

Example (1). A, creator of an exempt trust subject to section 503, borrows $100,000 from such trust in 1960, giving his unsecured promissory note. The net worth of A is $1,000,000. The net worth of A is not "security" for such loan and the transaction is a prohibited transaction. If, however, the note is secured by a mortgage on property of sufficient value, or is accompanied by acceptable collateral of sufficient value, or carries with it the secondary promise of repayment by an accommodation endorser financially capable of meeting the indebtedness, it may be adequately secured. However, subordinated debenture bonds of a partnership which are guaranteed by the general partners are not adequately secured since the general partners are liable for the firm's debt and their guaranty adds no additional security.

Example (2). Assume the same facts as in example (1) except that A's promissory note in the amount of $100,000 to the trust is secured by property which has a fair market value of $75,000. A's promissory note secured to the extent of $75,000 is not adequately secured within the meaning of section 503 (b)(1) since the security at the time of the transaction must be sufficient to repay the indebtedness, interest, and charges which may pertain thereto.

Example (3). Corporation M, a substantial contributor to an exempt organization subject to section 503, borrows $150,000 from such organization in 1960, giving its promissory note accompanied by stock of the borrowing corporation with a fair market value of $200,000. Since promissory notes and debentures have priority over stock in the event of liquidation of the corporation, stock of a borrowing corporation is not adequate security. Likewise, debenture bonds which are convertible on default into voting stock of the issuing corporation do not constitute "adequate security" under section 503(b)(1).

Example (4). B, creator of an exempt trust subject to section 503, borrows $100,000 from such trust in 1960, giving his secured promissory note at the rate of 3 percent interest. The prevailing rate of interest charged by financial institutions in the community where the transaction takes place is 5 percent for a loan of the same duration and similarly secured. The loan by the trust to the grantor is a prohibited transaction since section 503 (b)(1) requires both adequate security and a reasonable rate of interest. Further, a promise to repay the loan plus a percentage of future profits which may be greater than the prevailing rate of interest does not meet the reasonable rate of interest requirement.

Example (5). N Corporation, a substantial contributor to an exempt organization subject to section 503 borrows $50,000 on or after March 16, 1956, from the organization. If the loan is not adequately secured, the organization has committed a prohibited transaction at the time the loan was made. If the loan had been made on or before March 15, 1956, and is continued after January 31, 1957, it must be adequately secured on February 1, 1957, or it will be considered a prohibited transaction on that date. However, if the exempt organization were an employees' trust, described in section 401(a), and the loan were made before March 1, 1954, repayable by its terms after December 31, 1955, it would not have to be adequately secured on February 1, 1957. Moreover, if the exempt organization were a supplemental unemployment benefit trust, described in section 501(c)(17), and the loan were made before January 1, 1960, repayable by its terms after December 31, 1959, it would not have to be adequately secured on January 1, 1960.

Example (6). An exempt organization subject to section 503 purchases a debenture issued by O Corporation, which is a substantial contributor to the organization. The organization purchases the debenture in an arm's length transaction from a third person on or after November 9, 1956. The purchase is considered as a loan by the organization to O Corporation. The loan must be adequately secured when it is made, or it is considered as a prohibited transaction at that time. If the organization purchased the debenture before November 9, 1956, and holds it after December 1, 1958, the debenture must be adequately secured on December 2, 1958, or it will then be considered as a prohibited transaction. However, if the organization were an employees' trust described in section 401(a), and if the debenture were purchased before March 1, 1954, and its maturity date is after December 31, 1955, the debenture does not have to be adequately secured. Moreover, if the organization were an employees' contribution pension plan trust described in section 501(c)(18), and if the debenture were purchased before January 1, 1970, and its maturity date is after December 31, 1969, the debenture does not have to be adequately secured.

§ 1.503(c) Statutory provisions; requirements for exemption; future status of organizations denied exemption.

Sec. 503. *Requirements for exemption.* * * *

(c) *Future status of organizations denied exemption.* Any organization described in section 501(c) (17) or (18) or subsection (a)(1)(B) which is denied exemption under section 501(a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary or his delegate, file claim for exemption, and if the Secretary or his delegate, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

[Sec. 503(c) as amended by sec. 2(c), Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535); sec. 101(j) (9) and (14), and by sec. 121(b)(5)(B) Tax Reform Act 1969 (83 Stat. 527, 542); sec. 2003(b)(4), Employee Retirement Income Security Act 1974 (88 Stat. 978).]

§ 1.503(c)-1 Future status of organizations denied exemption.

(a) Any organization described in section 501(c) (3), (17), or (18), or an employees' trust described in section 401(a), which is denied exemption under section 501(a) by reason of the provisions of section 503(a), may file, in any taxable year following the taxable year in which notice of denial was issued, a claim for exemption. In the case of organizations described in section 501(c) (3), (17), or (18), the appropriate exemption application shall be used for this purpose, and shall be filed with the district director. In the case of an employees' trust described in section 401(a), the information described in § 1.404(a)-2 shall be submitted with a letter claiming exemption. An employees' trust described in section 401(a) shall submit this information to the district director with whom a request for a determination as to its qualification under section 401 and exemption under section 501 may be submitted under paragraph (c) of § 601.201 of this chapter (Statement of Procedural Rules). A claim for exemption must contain or have attached to it, in addition to the information generally required of such an organization claiming exemption as an organization described in section 501(c) (17), or (18), or section 401(a) (or section 501(c)(3) prior to January 1, 1970), a written declaration made under the penalties of perjury by a principal officer of such organization authorized to make such declaration that the organization will not knowingly again engage in a prohibited transaction, (as defined in section 503(b) (or 4975(c) if such section applies to such organization)). In the case of section 501(c)(3) organizations which have lost their exemption after December 31, 1969, pursuant to section 503, a claim for exemption must contain or have attached to it a written agreement made under penalties of perjury by a principal officer of such organization authorized to make such agreement that the organization will not violate the provisions of chapter 42. In addition, such organization must comply with the rules for governing instruments as prescribed in § 1.508-3. See § 1.501(a)-1 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction (as defined under section 503(b) or 4975 (c), as applicable to such organization) or in the case of a section 501(c)(3) organization, will not violate the provisions of chapter 42, and the organization also satisfied all the other requirements under section 501(c) (3), (17), or (18), or section 401(a), the organization will be so notified in writing. In such case the organization will be exempt (subject to the provisions of section 501(c)(3), or sections 501(c) (17), (18) or 401 (a), and 503, and 504 when applicable) with respect to the taxable years subsequent to the taxable year in which the claim described in section 503(c) is filed. Section 503 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

(c) For taxable years beginning after December 31, 1969, the denial of an exemption pursuant to this section, for a taxable year prior to January 1, 1970, of an organization described in section 501 (c)(3) shall not cause such organization to cease to be described in section 501(c) (3) for purposes of part II of subchapter F, chapter 1 and for purposes of the application of chapter 42 taxes.

(d) In the case of an organization described in section 501(c)(3), which has lost its exemption pursuant to section 503, and which has not notified the Commissioner that it is applying for recognition of its exempt status under section 508(a) and this section, no gift or contribution made after December 31, 1969, which would otherwise be deductible under sections 170, 642(c), or 545(b)(2) shall be allowed as a deduction. For rules relating to the denial of deductions with respect to gifts or contributions made before January 1, 1970, see, § 1.503 (e)-4.

§ 1.503(d) Statutory provisions; requirements for exemption; special rules for loans.

Sec. 503. *Requirements for exemption.* * * *

(d) *Special rule for loans.* For purposes of the application of subsection (b)(1), in the case of a loan by a trust described in section 401(a), the following rules shall apply with respect to a loan made before March 1, 1954, which would constitute a prohibited transaction if made on or after March 1, 1954:

(1) If any part of the loan is repayable prior to December 31, 1955, the renewal of such part of the loan for a period not extending beyond December 31, 1955, on the same terms, shall not be considered a prohibited transaction.

(2) If the loan is repayable on demand, the continuation of the loan without the receipt of adequate security and a reasonable rate of interest beyond December 31, 1955, shall be considered a prohibited transaction.

[Sec. 503(d) as amended by secs. 101(j) (10) and (14), Tax Reform Act 1969 (83 Stat. 527).]

§ 1.503(d)—1 Cross references.

For provisions relating to loans described in section 503(b)(1) by a trust described in section 401(a), see § 1.503 (b)-1 and section 503 (e) and (f) and the regulations thereunder.

§ 1.503(e) Statutory provisions; requirements for exemption; special rules.

Sec. 503. *Requirements for exemption.* * * *

(e) *Special rules.* For purposes of subsection (b)(1), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this subsection referred to as "obligation") shall not be treated as a loan made without the receipt of adequate security if—

(1) Such obligation is acquired—

(A) On the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of such obligation—

(A) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(B) At least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the trust is invested in obligations of persons described in subsection (b).

[Sec. 503(e) as added by sec. 30(a), Technical Amendments Act 1958 (72 Stat. 1629); amended by Sec. 2(d), Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535); secs. 101 (j) (11) and (14), Tax Reform Act 1969 (83 Stat. 527).]

§ 1.503(e)-1 Special rules.

(a) *In general.* (1) Section 503(e) provides that for purposes of section 503(b)(1) (relating to loans made without the receipt of adequate security and a reasonable rate of interest) the acquisition of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be treated as a loan made without the receipt of adequate security if certain requirements are met. Those requirements are described in § 1.503(e)-2.

(2) Section 503(e) does not affect the requirement in section 503(b)(1) of a reasonable rate of interest. Thus, although the acquisition of a certificate of indebtedness which meets all of the requirements of section 503(e) and of § 1.503(e)-2 will not be considered as a loan made without the receipt of adequate security, the acquisition of such an indebtedness does constitute a prohibited transaction if the indebtedness does not bear a reasonable rate of interest.

(3) The provisions of section 503(e) do not limit the effect of section 401(a) and § 1.401-2, section 501(c)(17)(A)(i), or section 501(c)(18)(A), all relating to the use or diversion of corpus or income of the respective employee trusts. Furthermore, the provisions of section 503 (e) do not limit the effect of any of the provisions of section 503 other than section 503(b)(1). Thus, for example, although a loan made by an employees' trust described in section 503(a)(1)(B) meets all the requirements of section 503(e) and therefore is not treated as a loan made without the receipt of adequate security, such an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(e) will constitute a prohibited transaction within the meaning of section 503(b)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(b).

(b) *Definitions.* For purposes of section 503(e):

(1) The term "obligation" means bond, debenture, note, or certificate or other evidence of indebtedness.

(2) The term "issuer" includes any person described in section 503(b) who issues an obligation.

(3) (i) The term "person independent of the issuer" means a person who is not related to the issuer by blood, by marriage, or by reason of any substantial business interests. Persons who will be considered not to be independent of the issuer include but are not limited to:

(a) The spouse, ancestor, lineal descendant, or brother or sister (whether by whole or half blood) of an individual who is the issuer of an obligaiton;

(b) A corporation controlled directly or indirectly by an individual who is the issuer, or directly or indirectly by the spouse, ancestor, lineal descendant, or brother or sister (whether by whole or half blood) of an individual who is the issuer;

(c) A corporation which directly or indirectly controls, or is controlled by, a corporate issuer;

(d) A controlling shareholder of a corportion which is the issuer, or which controls the issuer;

(e) An officer, director, or other employee of the issuer, of a corporation controlled by the issuer, or of a corporation which controls the issuer;

(f) A fiduciary of any trust created by the issuer, by a corporation which controls the issuer, or by a corporation which is controlled by the issuer; or

(g) A corporation controlled by a person who controls a corporate issuer.

(ii) For purposes of paragraph (b)(3)(i) of this section, the term "control" means, with respect to a corporation, direct or indirect ownership of 50 percent or more of the total combined voting power of all voting stock or 50 percent or more of the total value of shares of all classes of stock. If the aggregate amount of stock in a corporation owned by an individual and by the spouse, ancestors, lineal descendants, brothers, and sisters (whether by whole or half blood) of the individual is 50 percent or more of the total combined voting power of all voting stock or is 50 percent or more of the total value of all classes of stock, then each of these persons shall be considered as the controlling shareholder of the corporation.

(iii) In determining family relationships for purposes of paragraph (b)(3)(i) of this subparagraph, a legally adopted child of an individual shall be treated as a child of such individual by blood.

(4) The term "issue" means all the obligations of an issuer which are offered for sale on substantially the same terms. Obligations shall be considered offered for sale on substantially the same terms if such obligation would, at the same time and under the same circumstances, be traded on the market at the same price. On the other hand, if the terms on which obligations are offered for sale differ in such manner as would cause such obligations to be traded on the market at different prices, then such obligations are not part of the same issue. The following are examples of

V41N159 AUG 16 76 UMI

terms which, if different, would cause obligations to be traded on the market at different prices: (i) Interest rate; (ii) Maturity date; (iii) Collateral; and (iv) Conversion provisions.

The fact that obligations are offered for sale on different dates will not preclude such obligations from being part of the same issue if they all mature on the same date and if the terms on which they are offered for sale are otherwise the same, since such obligations would, at the same time and under the same conditions, be traded on the market at the same price. Obligations shall not be considered part of the same issue merely because they are part of the same authorization or because they are registered as part of the same issue with the Securities and Exchange Commission.

§ 1.503(e)–2 Requirements.

(a) *In general.* The requirements which must be met under section 503(e) for an obligation not to be treated as a loan made without the receipt of adequate security for purposes of section 503(b)(1) are described in paragraphs (b), (c), and (d) of this section. For purposes of this section, the term "employee trust" shall mean any of the three kinds of organizations described in section 503(a)(1).

(b) *Methods of acquisition*—(1) *In general.* The employee trust must acquire the obligation on the market, by purchase from an underwriter, or by purchase from the issuer, in the manner described in subparagraph (2), (3), or (4) of this paragraph.

(2) *On the market.* (i) An obligation is acquired on the market when it is purchased through a national securities exchange which is registered with the Securities and Exchange Commission, or when it is purchased in an over-the-counter transaction. For purposes of the preceding sentence, securities purchased through an exchange which is not a national securities exchange registered with the Securities and Exchange Commission shall be treated as securities purchased in an over-the-counter transaction.

(ii) (*a*) If the obligation is listed on a national securities exchange registered with the Securities and Exchange Commission, it must be purchased through such an exchange or in an over-the-counter transaction at a price not greater than the price of the obligation prevailing on such an exchange at the time of the purchase by the employee trust.

(*b*) For purposes of section 503(e), the price of the obligation prevailing at the time of the purchase means the price which accurately reflects the market value of the obligation. In the case of an obligation purchased through a national securities exchange which is registered with the Securities and Exchange Commission, the price paid for the obligation will be considered the prevailing price of the obligation. In the case of an obligation purchased in an over-the-counter transaction, the prevailing price may be the price at which the last sale of the obligation was affected on such national securities exchange immediately before the employee trust's purchase of such obligation on the same day or may be the mean between the highest and lowest prices at which sales were effected on such exchange on the same day or on the immediately preceding day or on the last day during which there were sales of such obligation or may be a price determined by any other method which accurately reflects the market value of the obligation.

(iii) (*a*) If the obligation is not listed on a national securities exchange which is registered with the Securities and Exchange Commission, it must be purchased in an over-the-counter transaction at a price not greater than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer.

(*b*) For purposes of section 503(e) the offering price for the obligation at the time of the purchase means the price which accurately reflects the market value of the obligation. The offering price may be the price at which the last sale of the obligation to a person independent of the issuer was effected immediately before the employee trust's purchase of such obligation on the same day or may be the mean between the highest and lowest prices at which sales to persons independent of the issuer were effected on the same day or on the immediately preceding day or on the last day during which there were sales of such obligation or may be a price determinated by any other method which accurately reflects the market value of the obligation. The offering price for an obligation must be a valid price for the amount of the obligations which the trust is purchasing. For example, if an employees' trust described in section 503(a)(1)(B) purchases 1,000 bonds of the employer corporation at the offering price established by current prices for a lot of 10 such bonds, such offering price may not be a valid price for 1,000 bonds and the purchase may therefore not meet the requirements of this subdivision. For a purchase of an obligation to qualify under this subdivision, there must be sufficient current prices quoted by persons independent of the issuer to establish accurately the current value of the obligation. Thus, if there are no current prices quoted by persons independent of the issuer, an over-the-counter transaction will not qualify under this subparagraph even though the obligation was purchased in an arm's length transaction from a person independent of the issuer.

(iv) For purposes of this section, an over-the-counter transaction is one not executed on a national securities exchange which is registered with the Securities and Exchange Commission. An over-the-counter transaction may be made through a dealer or an exchange which is not such a national securities exchange or may be made directly from the seller to the purchaser.

(3) *From an underwriter.* An obligation may be purchased from an underwriter if it is purchased at a price not greater than:

(i) The public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, or

(ii) The price at which a substantial portion of the issue including such obligation is acquired by persons independent of the issuer,

whichever is the lesser price. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchasers of such portion by persons independent of the issuer are sufficient to establish that fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding obligations will ordinarily be required. The requirement in paragraph (b)(3)(ii) of this section contemplates purchase of the obligations by persons independent of the issuer contemporaneously with the purchase by the employee trust. If a substantial portion has been purchased at different prices, the price of the portion may be based on the average of such prices, and if several substantial portions have been sold to persons independent of the issuer, the price of any of the substantial portions may be used for purposes of this subparagraph.

(4) *From the issuer.* An obligation may be purchased directly from the issuer at a price not greater than the price paid currently for a substantial portion of the same issue by persons independent of the issuer. This requirement contemplates purchase of a substantial portion of the same issue by persons independent of the issuer contemporaneously with the purchase by the employee trust. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchases of such portion by persons independent of the issuer are sufficient to establish the fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding

obligations will ordinarily be required. The price paid for a substantial portion of the issue may be determined in the manner provided in paragraph (b)(3) of this section.

(c) *Limitations on holdings of obligations.* (1) Immediately following acquisition of the obligation by the employee trust:

(i) Not more than 25 percent of the aggregate amount of the obligations issued in such issue and outstanding immediately after acquisition by the trust may be held by the trust, and

(ii) At least 50 percent of such aggregate amount must be held by persons independent of the issuer.

(2) (i) For purposes of paragraph (c)(1) of this section, an obligation is not considered as outstanding if it is held by the issuer. For example, if an obligation which has been issued and outstanding is repurchased and held by the issuer, without cancellation or retirement, such an obligation is not considered outstanding.

(ii) For purposes of paragraph (c)(1) of this section, the amounts of the obligations held by the trust and by persons independent of the issuer shall be computed on the basis of the face amount of the obligations.

(d) *Limitation on amount invested in obligations.* (1) (i) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the employee trust may be invested in all obligations of all persons described in section 503(b). For purposes of determining the amount of the trust's assets which are invested in obligations of persons described in section 503(b) immediately following acquisition of the obligation, those obligations shall be valued as follows:

(*a*) Those obligations included in the acquisition in respect of which the percentage test in the first sentence of this subdivision is being applied shall be valued at their adjusted basis, as provided in section 1011, relating to adjusted basis for determining gain or loss; and

(*b*) All other obligations of persons described in section 503(b) which were part of the trust's assets immediately before the acquisition of the obligations described in (d)(1)(i)(*a*) of this section shall be valued at their fair market value on the day that the obligations described in (d)(1)(i)(*a*) of this section were acquired. For purposes of determining the total amount of the assets of the trust (including obligations of persons described in section 503(b)), there shall be used the fair market value of those assets on the day the obligation is acquired.

(ii) The application of the rules in paragraph (d)(1)(i) of this section may be illustrated by the following example:

Example. On February 1, 1960, an exempt employees' trust described in section 401(a) purchases unsecured debentures issued by the employer corporation for $1,000. At the time of this purchase, such debentures have a fair market value of $1,200. Immediately after the purchase of such unsecured debentures, the assets of the trust consist of the following:

	Cost	Fair market value on Feb. 1, 1960
(a) Assets other than obligations of persons described in sec. 503(b)	$5,000	$7,800
(b) Obligations of persons described in sec. 503(b) acquired before Feb. 1, 1960	500	1,000
(c) Unsecured debentures of employer purchased on Feb. 1, 1960	1,000	1,200

Immediately following acquisition of the unsecured debentures by the trust, the percent of the assets of the trust that are invested in all obligations of all persons described in section 503(b) is computed as follows:

(1) Obligations of persons described in section 503(b) acquired before Feb. 1, 1960 (valued at fair market value)	$1,000
(2) Unsecured debentures of employer purchased on Feb. 1, 1960 (valued at cost)	$1,000
(3) Total amount of trust's assets invested in obligations of persons described in section 503(b) ((1) plus (2))	$2,000
(4) Assets of the trust other than obligations of persons described in section 503(b) (valued at fair market value on Feb. 1, 1960)	$7,800
(5) Obligations of persons described in section 503(b) acquired before Feb. 1, 1960 (valued at fair market value on Feb. 1, 1960)	$1,000
(6) Unsecured debentures of employer purchased on Feb. 1, 1960 (valued at fair market value on Feb. 1, 1960)	$1,200
(7) Total assets of the trust valued at fair market value on Feb. 1, 1960 (sum of (4), (5), and (6))	$10,000
(8) Percent of assets of the trust invested in all obligations of all persons described in section 503(b) immediately following purchase of unsecured debentures on Feb. 1, 1960 (3) ÷ (7), that is, $2,000÷$10,000)	20%

(2) In determining for purposes of subparagraph (1) of this paragraph the amount invested in obligations of persons described in section 503(b), there shall be included amounts invested in any obligations issued by any such person, irrespective of whether the obligation is secured, and irrespective of whether the obligation meets the conditions of section 503(e) or section 503(f). Obligations of persons described in section 503(b) other than the issuer of the obligation to which section 503(e) applies are also included within the 25 percent limitation. For example, if on February 19, 1959, an exempt employees' trust described in section 401(a) purchases unsecured debentures issued by the employer corporation in a transaction effected on the New York Stock Exchange, and if immediately after the purchase 10 percent of the trust's assets is invested in such debentures and 20 percent of its assets is invested in a loan made with adequate security on January 12, 1959, to the wholly-owned subsidiary of the employer corporation, then the purchase of the employer's debentures will not qualify under section 503(e) since 30 percent of the trust's assets are then invested in obligations of persons described in section 503(b).

(e) *Change of terms of an obligation.* A change in terms of an obligation is considered as the acquisition of a new obligation. If such new obligation is not adequately secured, the requirements of section 503(e) must be met at the time the terms of the obligation are changed for such section to be applicable to such new loan.

§ 1.503(e)–3 Effective dates.

(a) Section 503(e) and §§ 1.503(e)–1 and 1.503(e)–3 are effective in the case of an employees' trust described in section 401(a) for taxable years ending after March 15, 1956. Thus, if during a taxable year ending before March 16, 1956, an employees' trust made a loan which meets the requirements of section 503(e), such loan will not be treated as made without the receipt of adequate security and will not cause the loss of exemption for taxable years ending after March 15, 1956, although such loan was not considered adequately secured when made. (However, section 503 does not apply to organizations described in section 401(a) not referred to in section 4975(g)(2) or (3) for transactions occurring after December 31, 1974.)

(b)(1) In the case of obligations acquired by an employees' trust described in section 401(a) before September 2, 1958, which were held on that date, the requirements described in paragraphs (c) and (d) of § 1.503(e)–2 which were not satisfied immediately following the acquisition shall be treated as satisfied at that time if those requirements would have been satisfied had the obligations been acquired on September 2, 1958. For example, on January 3, 1955, an employees' trust described in section 401(a) purchased through the New York Stock Exchange unsecured debentures issued by the employer corporation. Under section 503(e) the acquisition of such debentures by the trust will not be treated for taxable years ending after March 15, 1956, as a loan made without the receipt of adequate security if the debentures were held by the employees' trust on September 2, 1958, and if the requirements of paragraphs (c) and (d) of § 1.503(e)–2 which were not met on January 3, 1955, were met on September 2, 1958, as if that date were the date of acquisition.

(2) In the case of obligations acquired before September 2, 1958, which were not held by the employees' trust described in section 401(a) on that date, only the requirements described in paragraph (b) of § 1.503(e)–2 must be satisfied for section 503(e) to be applicable to such ac-

V 41 159 AUG 16 76 UMI

quisition. For example, if on December 5, 1956, an employees' trust lent money to the employer corporation by purchasing a debenture issued by the employer and if the trust sold the debenture on August 1, 1958, such loan would not be treated as made without the receipt of adequate security if the requirement described in paragraph (b) of § 1.503(e)–2 was met on December 5, 1956.

(c) Section 503(e) and §§ 1.503(e)–1 and 1.503(e)–2 are effective in the case of trusts described in section 501(c)(17) with respect to loans made, renewed, or, in the case of demand loans, continued after December 31, 1959, and in the case of trusts described in section 501(c)(18) with respect to loans made, renewed or, in the case of demand loans, continued after December 31, 1969.

(d) See paragraph (b)(2) of § 1.503(b)–1 for effective dates for the application of the definition of adequate security.

§ 1.503(e)–4 Disallowance of charitable deductions for certain gifts made before January 1, 1970.

Paragraphs (a), (b), and (c) of this section shall apply only to gifts or contributions made before January 1, 1970, to an organization described in section 501(c)(3). For rules relating to the denial of deductions with respect to gifts or contributions made after December 31, 1969, see § 1.503(c)–1(d).

(a) No gift or contribution which would otherwise be allowable as a charitable or other deductions under section 170, 642(c), or 545(b)(2) shall be allowed as a deduction if made to an organization described in section 501(c)(3) which at the time the gift or contribution is made is not exempt under section 501(a) by reason of the provisions of section 503.

(b) If an organization which is described in section 501(c)(3) is not exempt because it engaged in a prohibited transaction involving a substantial part of its income or corpus with the purpose of diverting its income or corpus from its exempt purposes, and if the organization receives a gift or contribution during, or prior to, its taxable year in which such prohibited transaction occurred, then a deduction by the donor with respect to the gift or contribution shall not be disallowed under section 503(b) unless the donor (or any member of his family if the donor is an individual) is a party to such prohibited transaction. For the purpose of the preceding sentence "family" is defined in section 267(c)(4) and includes brothers and sisters, whether by whole or half blood, spouse, ancestors, and lineal descendants. See the regulations under section 267(c).

(c) The application of § 1.503(e)–4 may be illustrated by the following example:

Example. In 1954, Corporation M, which files its income tax returns on the calendar year basis, creates a foundation purportedly for charitable purposes and deducts from its gross income for that year the amount of the gift to the foundation. Corporation M makes additional gifts to this foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. B, an individual, also contributes to the foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. In 1955, the foundation commences purposely to divert its corpus to the benefit of Corporation M, and a substantial amount of such corpus is so diverted by the close of the taxable year 1956. For 1955 and subsequent taxable years, the exemption allowed the foundation as an organization described in section 501(c)(3) is denied by reason of the provisions of section 503(a). Both Corporation M and individual B would be disallowed any deduction for the contributions made during 1957 to the foundation. Moreover, the charitable deductions taken by Corporation M for contributions to the foundation in the years 1955 and 1956 would also be disallowed since Corporation M was a party to the prohibited transactions. If the facts and surrounding circumstances indicate that the contribution in 1954 by Corporation M was for the purpose of the prohibited transaction, then the charitable deduction for the year 1954 shall also be disallowed with respect to Corporation M, since the prohibited transaction would then have commenced with the making of such contribution and the exemption allowed the foundation would then be denied for 1954 by reason of the provisions of § 1.503(e)–4. B's deductions for his contributions for the years 1955 and 1956 will not be disallowed since he was not a party to the prohibited transaction.

§ 1.503(f) Statutory provisions; requirements for exemption; loan with respect to which employers are prohibited from pledging assets.

Sec. 503. *Requirements for exemption.* • • •

(f) *Loans with respect to which employers are prohibited from pledging certain assets.* Subsection (b)(1) shall not apply to a loan made by a trust described in section 401(a) to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(1) The employer is prohibited (at the time of such making or renewal by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(2) The making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(3) Immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust. For purposes of paragraph (2), the term "trustee" means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subsection (e).

[Sec. 503(f) as added by sec. 30(b), Technical Amendments Act 1958 (72 Stat. 1630); amended by sec. 101(j)(12) and (14), Tax Reform Act 1969 (83 Stat. 527)]

§ 1.503(f)–1 Loans by employers who are prohibited from pledging assets.

(a) *In general.* (1) Section 503(f) provides that section 503(b)(1) shall not apply to a loan made to the employer by an employees' trust described in section 401(a) if the loan bears a reasonable rate of interest and certain conditions are met. Section 503(f) also applies to the renewal of loans to the employer and, in the case of demand loans, to the continuation of such loans.

(2) The provisions of section 503(f) do not limit the effect of section 401(a) and § 1.401–2, relating to use or diversion of corpus or income of an employees' trust, or the effect of any of the provisions of section 503 other than section 503(b)(1). Consequently, although a loan made by an employees' trust described in section 503(a)(1)(B) meets all the requirements of section 503(f) and therefore is not treated as a loan made without the receipt of adequate security, an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(f) will constitute a prohibited transaction within the meaning of section 503(b)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(b).

(b) *Conditions.* (1) Section 503(f) applies to a loan only if, with respect to the making or renewal of the loan, the conditions described in paragraphs (b)(2), (3), and (4) of this section are met. For purpose of this paragraph, the mere continuance of a demand loan is not considered as the making or renewal of such a loan.

(2) The employer must be prohibited (at the time of the making or renewal of the loan) by any law of the United States or regulations thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets. If a loan is made or renewed when the employer is prohibited by a law of the United States (or the regulations thereunder) from pledging a class of his assets, the qualification of such a loan under section 503(f) will not be affected by a subsequent change in such law or regulations permitting the employer to pledge such assets, unless such loan is renewed after such change. See section 8(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78h(a)), which prohibits certain persons from pledging a class of assets as security for loans, and 12 CFR 220.5(a) (credit by brokers, dealers, and members of national securities exchanges).

(3) The making or renewal, as the case may be, must be approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and such written approval must not have been previously refused by any other such trustee. A trustee is independent of the employer, for purposes of this subparagraph, if he is entirely free of influence or control by the employer. For example, if the employer is a partnership, then a partner in such partnership, or a member of a partner's family would not be considered independent of the employer. Similarly, an employee of the employer would not be considered independent of the employer. For purposes of this subparagraph, the term "trustee" means, with respect to any trust for which there are two trustees who are independent of the employer, both of such trustees and, with respect to any trust for which there are more than two such independent trustees, a majority of the trustees independent of the employer.

(4) (i) Immediately following the making or renewal, as the case may be, the aggregate amount lent by the trust to the employer, without the receipt of adequate security, must not exceed 25 percent of the value of all the assets of the trust.

(ii) For purposes of paragraph (b)(4)(i) of this section, the determination as to whether any amount lent by the trust to the employer is a loan made without the receipt of adequate security shall be made without regard to section 503(e). Thus, if an employees' trust makes a loan on January 2, 1959, to the employer without adequate security (but which loan is not considered as made without adequate security under section 503(e)), and if immediately after making such loan 10 percent of the value of all its assets is invested in such loan, then the trust may on that day invest not more than an additional 15 percent of its assets in a loan which would be considered made without adequate security if it were not for the provisions of section 503(f).

(iii) For purposes of paragraph (b)(4)(i) of this section, in determining the value of all the assets of the trust, there shall be used the fair market value of those assets on the day of the making or renewal.

(c) *Reasonable rate of interest.* Section 503(f) only applies if, in addition to meeting the conditions described in paragraph (b) of this section, the loan bears a reasonable rate of interest when it is made, renewed, or, in the case of demand loans, during the period of its existence.

(d) *Change of terms of loan.* A change in the terms of a loan (including a reduction in the security for a loan) is considered as the making of a new loan. If such a new loan is not adequately secured, the requirements of section 503(f) must be met at the time the terms of the loan are changed for such section to be applicable to such new loan.

(e) *Effective date.* (1) This section and section 503(f) are effective for taxable years ending after September 2, 1958, but only with respect to periods after such date. Thus, if a loan was made on or before September 2, 1958, without the receipt of adequate security and if, when such loan was made, it met all of the requirements of section 503(f) and this section, then the loan is not subject to section 503(b)(1) after September 2, 1958, and would not constitute a prohibited transaction after that date because of a lack of adequate security.

(2) See paragraph (b)(2) of § 1.503(b)–1 for the effective dates for application of the definition of adequate security.

§ 1.504 [Repealed]

11. Section 1.504 is repealed.

12. Paragraph (e) of § 1.504–1 is amended and paragraphs (g) and (h) are added to § 1.504–1. The amended and added provisions read as follows:

§ 1.504–1 Denial of exemption.

• • • • • •

(e) An organization that has lost its exemption by reason of the provisions of section 504 may, in order to reestablish its exemption, file a claim for exemption with the district director. Form 1023, the exemption application, shall be used for this purpose in accordance with the provisions of § 1.501(a)–1.

• • • • • •

(g) In the case of an organization described in section 501(c)(3) denied exemption under section 501(a) solely by reason of the provisions of section 504, such organization will not cease to be described in section 501(c)(3) for purposes of Part II of subchapter F, chapter 1 and for purposes of the application of chapter 42 taxes.

(h) Section 504 shall result in a loss of exemption to any organization only as a result of a transaction occurring prior to January 1, 1970.

13. Section 1.663(a) is amended by revising section 663(a)(2) and by adding a historical note. The amended and added provisions read as follows:

§ 1.663(a) Statutory provisions; estates and complex trusts; special rules applicable to sections 661 and 662; exclusions.

Sec. 663. *Special rules applicable to section 661 and 662.* (a) *Exclusions.* • • •

(2) *Charitable, etc. distributions.* Any amount paid or permanently set aside or otherwise qualifying for the deduction provided in section 642(c) (computed without regard to sections 508(d), 681, and 4948(c)(4)).

• • • • • •

[Sec. 663 as amended by sec. 101(j)(17), Tax Reform Act 1969 (83 Stat. 528).]

14. The last sentence of § 1.663(a)–2 is amended to read as follows:

§ 1.663(a)–2 Charitable, etc., distributions.

• • • For purposes of this section, the deduction provided in section 642(c) is computed without regard to the provisions of section 508(d), section 681, or section 4948(c)(4) (concerning unrelated business income and private foundations).

15. Section 1.681(a) is revised to read as follows:

§ 1.681(a) Statutory provision; limitation on charitable deduction.

Sec. 681. *Limitation on charitable deduction.*—(a) *Trade or business income.* In computing the deduction allowable under section 642(c) to a trust, no amount otherwise allowable under section 642(c) as a deduction shall be allowed as a deduction with respect to income of the taxable year which is allocable to its unrelated business income for such year. For purposes of the preceding sentence, the term "unrelated business income" means an amount equal to the amount which, if such trust were exempt from tax under section 501(a) by reason of section 501(c)(3), would be computed as its unrelated business taxable income under section 512 (relating to income derived from certain business activities and from certain property acquired with borrowed funds).

[Sec. 681(a) as amended by sec. 121(d)(2), Tax Reform Act 1969 (83 Stat. 547).]

16. The first sentence of § 1.681(a)–1 is amended to read as follows:

§ 1.681(a)–1 Limitation on charitable contributions deductions of trusts; scope of section 681.

Under section 681, the unlimited charitable contributions deduction otherwise allowable to a trust under section 642(c) is, in general, subject to percentage limitations, corresponding to those applicable to contributions by an individual under section 170(b)(1)(A) and (B), under the following circumstances;

(a) To the extent that the deduction is allocable to "unrelated business income";

(b) For taxable years beginning before January 1, 1970, if the trust has engaged in a prohibited transaction;

(c) For taxable years beginning before January 1, 1970, if income is accumulated for a charitable purpose and the accumulation is (1) unreasonable, (2) substantially diverted to a noncharitable purpose, or (3) invested against the interests of the charitable beneficiaries.

• • • • • •

17. Sections 1.681(b) through § 1.681(d)–1 are deleted and the following is inserted in lieu thereof:

§ 1.681(b) Statutory provisions; cross reference.

Sec. 681. *Limitation on charitable deduction.* • • •

(b) *Cross reference.* For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4).

[Sec. 681(b) as amended by sec. 101(j)(19), Tax Reform Act 1969 (83 Stat. 528).]

§ 1.681(b)–1 Cross reference.

For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4). See also 26 CFR §§ 1.681(b)–1 and 1.681(c)–1 (rev. as of Apr. 1, 1974) for provisions applying before January 1, 1970.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

18. Section 20.2039 is amended by revising section 2039(c)(3) and by revising

V41159 AUG 16 76 UMI

the historical note. The amended provisions read as follows:

§ 20.2039 Statutory provision; annuities.

Sec. 2039. *Annuities.* • • •

(c) *Exemption of annuities under certain trusts and plans.* • • •

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or which is a religious organization (other that a trust), and which is exempt from tax under section 501(a); or

• • • • •

[Sec. 2039 as amended by sec. 23(e), 67(a), Technical Amendments Act 1958 (72 Stat. 1622, 1658); sec. 7(1), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(a) Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 33); sec. 101(j)(23), Tax Reform Act 1969 (83 Stat. 528).]

19. Paragraph (b)(3) and example (5) of paragraph (b)(4) of § 20.2039-2 are amended to read as follows:

§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.

• • • • •

(b) *Plans and annuity contracts to which section 2039(c) applies.* • • •

(3) In the case of a decedent dying after December 31, 1957, a retirement annuity contract purchased for an employee by an employer which, for its taxable year in which the purchase occurred, is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and is exempt from tax under 501(a); or

(4) • • •

Example (5). An employer purchased a retirement annuity contract for an employee which was to provide the employee, upon his retirement at age 60, with an annuity for life and which was to provide his wife, upon the employee's death after retirement, with a similar annuity for life. The employer, for its taxable year in which the annuity contract was purchased, was an organization referred to in section 170(b)(1)(A)(ii), and was exempt from tax under section 501(a). The entire amount of the purchase price of the annuity contract was excluded from the employee's gross income under section 403(b). No part of the value of the survivor annuity payable after the employee's death is includible in the decedent's gross estate by reason of the provisions of section 2039(c).

20. Section 20.2106 is amended by revising section 2106(a)(2)(A) (ii) and (iii), (a)(2)(E), and (a)(3) and the historical note to read as follows:

§ 20.2106 Statutory provisions; taxable estate.

Sec. 2106. *Taxable estate*—(a) *Definition of taxable estate.* • • •

• • • • •

(2) *Transfers for public, charitable, and religious uses*—(A) *In general.*

(ii) To or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

(iii) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contribution or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

• • • • •

(E) *Disallowance of deductions in certain cases.* The provisions of section 2055(c) shall be applied in the determination of the amount allowable as a deduction under this paragraph.

• • • • •

(3) *Exemption.*—

(A) *General rule.* An exemption of $30,000.

(B) *Residents of possessions of the United States.* In the case of a decedent who is considered to be a "nonresident not a citizen of the United States" under the provisions of section 2209, the exemption shall be the greater of (i) $30,000, or (ii) that proportion of the exemption authorized by section 2052 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

• • • • •

[Sec. 2106 as amended by sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 4 (c), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1000); sec. 108(e), Foreign Investors Tax Act 1966 (80 Stat. 1572); secs. 201(d)(2)(B) and (4), Tax Reform Act 1969 (83 Stat. 561).]

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

21. Section 25.2517 is amended by revising section 2517(a)(3) and by revising the historical note. The amended provisions read as follows:

§ 25.2517 Statutory provision; certain annuities under qualified plans.

Sec. 2517. *Certain annuities under qualified plans.* (a) *In general.* • • •

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or which is a religious organization (other than a trust), and which is exempt from tax under section 501(a); or

• • • • •

[Sec. 2517 as added by sec. 68 and as amended by sec. 23(f), Technical Amendments Act 1958 (72 Stat. 1659); sec. 7(j), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(b), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 33); sec. 101(j)(24), Tax Reform Act 1969 (83 Stat. 528).]

22. Paragraph (b)(1)(iii) and Example (3) of paragraph (c)(1) of § 25.2517-1 are amended to read as follows:

§ 25.2517-1 Employees' annuities.

• • • • •

(b) *Annuities or other payments to which section 2517 applies.* • • •

(1) • • •

(iii) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and is exempt from tax under section 501(a); or

• • • • •

(c) *Amount excludible from gift.*

(1) • • •

Example (3). An employer purchased a retirement annuity contract for an employee which was to provide the employee, upon his retirement at age 60, with an annuity for life and which contained a provision for designating a surviving beneficiary. Assume that the employee made an irrevocable election whereby he would receive a lesser annuity, and after his death, annuity payments would be continued to his wife. At the time of making the election (January 20, 1971), the employer was an organization referred to in section 170(b)(1)(A)(vi) and exempt from tax under section 501(a). As of the date of election the total contributions toward the cost of the annuity, all by the employer, amounted to $25,000. Of this amount $5,000 was includible in the employee's income under the requirements of section 403(b) and is, therefore, considered as the employee's contributions for the purpose of applying section 2517(b).

[FR Doc.76-23890 Filed 8-13-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 600-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCE

Delegation of Authority to the U.S. Virgin Islands

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the U.S. Virgin Islands on June 30, 1976, EPA is today amending 40 CFR 60.4, Address, to reflect this delegation. A Notice announcing this delegation is published at page 34685 of today's FEDERAL REGISTER. The amended § 60.4, which adds the address of the U.S. Virgin Islands, Department of Conservation and Cultural Affairs, to which reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on June 30, 1976, and it serves no purpose to delay the technical change of this addition of the U.S. Virgin Islands address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6)

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04 paragraph (b) is amended by revising subparagraph (CCC) to read as follows:

§ 61.04 Address.

• • • • • •

(b) • • •

(BBB) • • •

(CCC)—U.S. Virgin Islands: U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801.

[FR Doc.76-23899 Filed 8-13-76;8:45 am]

[Editorial Note: The following document was published at 41 FR 33265, August 9, 1976. However, the amendatory material was published in the wrong format. The document is reprinted below, without substantive change, to show the correct format.]

1. In § 60.4 paragraph (b) is amended by revising subparagraph (CCC) to read as follows:

§ 60.4 Address.

• • • • • •

(b) • • •

(BBB) • • •

(CCC)—U.S. Virgin Islands: U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801.

[FR Doc.76-23898 Filed 8-13-76;8:45 am]

[FRL 600-5]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the U.S. Virgin Islands

Pursuant to the delegation of authority for national emission standards for hazardous air pollutants (NESHAPS) to the U.S. Virgin Islands on June 30, 1976, EPA is today amending 40 CFR 61.04, Address, to reflect this delegation. A Notice announcing this delegation is published at page 34685 of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the U.S. Virgin Islands Department of Conservation and Cultural Affairs, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on June 30, 1976, and it serves no purpose to delay the technical change of this addition of the U.S. Virgin Islands address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-7)

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

[FRL 597-8; PP3F1391/R109]

PART 180—TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-[2-(Ethylsulfinyl)Ethyl]0,0-Dimethyl Phosphorothioate

On July 20, 1973, notice was given 38 FR 19541 that Chemagro Agricultural Division of Mobay Chemical Corp. (formerly Division of Baychem Corp.), PO Box 4913, Kansas City MO 64120, had filed a petition (PP 3F1391) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.330 be amended by establishing a tolerance for combined residues of the insecticide S-[2-(ethylsulfinyl)-ethyl] 0,0-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities tomatoes at 1 part per million (ppm), onions (bulb) at 0.05 ppm and filberts at 0.01 ppm.

Chemagro subsequently amended the petition by increasing the proposed tolerance level on filberts to 0.05 ppm, revising the commodity "onions (bulb)" to read "onions (dry bulb)" and by withdrawing the proposed tolerance for residues on tomatoes.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. There is no reasonable expectation of residues in eggs, meat, milk or poultry from the proposed uses and 40 CFR 180.6(a)(3) applies. It is concluded therefore that 40 CFR 180.330 should be amended as proposed. The tolerances established by such amendment will protect the public health.

Any person adversely affected by this regulation may, on or before September 8, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearin will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on August 9, 1976, 40 CFR 180.330 is amended as set forth below.

Dated: August 4, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Section 180.330 is amended by alphabetically inserting the following commodities and corresponding tolerance levels in the list of raw agricultural commodities of the regulation.

§ 180.330 S-[2-(ethylsulfinyl)ethyl 0,0-dimethyl phosphorothioate; tolerances for residues.

Commodity:	Parts per million
• • •	•
Filberts	0.05
• • •	•
Onions, dry bulb	0.05
• • •	•

[FR Doc.76-23153 Filed 8-6-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

[FPMR Amdt. D-54]

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

Transfer of Responsibility for Change of Hours of Duty in Metropolitan Washington

This amendment reflects the transfer of responsibility for approving the change of duty hours for Federal agencies in Metropolitan Washington. Also, responsibility for coordinating the proposed change of duty hours with local government transportation systems is transferred from the requesting agency to the General Services Administration.

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

Sections 101-20.113(b), (c)(1), (c)(3) and (d) are revised to read as follows:

§ 101-20.113 Staggering hours of duty in Metropolitan Washington.

• • • • •

(b) *Responsibility.* Except as otherwise provided, any agency considering a schedule of hours of duty differing from, or in addition to, its schedule of hours of duty heretofore approved, shall obtain the approval of the GSA Regional Administrator, Region 3, before the proposed schedule is placed in effect. The Regional Administrator, in approving proposals to change hours of duty, will be guided by the overall policy of maintaining a system of staggered hours of duty in Metropolitan Washington.

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(c) *Requirements.* (1) The requesting agency shall submit a written request to the General Services Administration (3A), Washington, D.C. 20407, which will include the proposed hours of duty, the number of employees affected, and a detailed justification for such action.

• • • • • •

(3) In addition, the GSA Regional Administrator, Region 3, will coordinate the proposal with appropriate agencies of the District of Columbia, Virginia, and Maryland and with the public transportation systems, including the Washington Metropolitan Area Transit Authority, to ensure that the proposed change, if adopted, would not cause additional congestion, impossible transportation demands, or otherwise disrupt normal traffic flow patterns to or from the particular area in which the agency is located.

(d) *Exceptions.* A proposed change in the schedule of hours of duty may be placed in effect by a Federal agency without approval of the GSA Regional Administrator, Region 3, in the following instances:

(1) When neither the current nor the proposed hours of duty begin or end within either of the periods 7–9:30 a.m. or 3:30–6 p.m.; or

(2) when the proposed change in the schedule of hours of duty affects fewer than 50 employees unless the agency plans to apply the change to additional employees, bringing the total to 50 or more within a 3-month period.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Effective date. This regulation is effective on August 16, 1976.

NOTE.—It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 3, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-23774 Filed 8-13-76;8:45 am]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-190]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Procurement Sources and Programs

This amendment provides policy and procedural changes governing procurement from or through GSA supply sources and exceptions to mandatory use of Federal Supply Schedule contracts.

The table of contents for Part 101–26 is amended to delete §§ 101–26.4902–1718 and 101–26.4902–6317, and to include the following revised entries:

Sec.

101–26.407	Procurement of security equipment by Government fixed-price prime contractors and subcontractors.
101–26.407–3	Procedure for ordering security equipment.
101–26.507	Security equipment.
101–26.507–3	Purchase of security equipment from Federal Supply Schedule.

Subpart 101–26.2—Federal Requisitioning System

Section 101–26.202 is revised to read as follows:

§ 101–26.202 Applicability.

This subpart is applicable to all civil agencies requisitioning any item from GSA and, when specifically authorized, items requisitioned from DOD supply sources.

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

1. Section 101–26.401–4 is amended as follows:

§ 101–26.401–4 Exceptions to mandatory use.

• • • • • •

(b) *Small requirements.* A dollar or quantitative minimum has been stipulated for most Federal Supply Schedules. Agencies are not obligated to order and contractors are not obligated to accept orders below the stipulated dollar and quantitative minimums. However, such orders may be placed by agencies, subject to acceptance by the contractor. Whenever the schedule states that the contractor will accept orders below the stipulated dollar or quantitative minimum dollar limitations above which cept such orders. The Ordering Instructions section of the applicable Federal Supply Schedule shall reflect this information.

(c) *Maximum order limitations.* (1) Federal Supply Schedules stipulate maximum dollar limitations above which agencies may not submit orders and contractors may not accept orders.

(2) Unless specified otherwise in the schedules, agencies required to use Federal Supply Schedules, including the Department of Defense (DOD) where the requirement falls with DOD–GSA Interagency Purchase Assignments, shall forward to the GSA support region MIL STRIP/FEDSTRIP requisitions for items included in the schedule which exceed the schedule's applicable maximum order limitations. Non-mandatory users of Federal Supply Schedules, including authorized non-appropriated funded activities and other activities for which GSA is authorized by law to procure, may, at their option, forward MIL STRIP/FEDSTRIP requisitions to the appropriate GSA support region.

(3) In accordance with § 101–26.106, agencies should consolidate their requirements to take advantage of price savings available through separate procurement of quantities exceeding the maximum order limitations. Agencies periodically consolidating requirements for one or more items included in a schedule at an agency headquarters office (national, regional, State, bureau, etc.) shall forward such requisitions to the GSA regional office serving the agency headquarters if the total requirement exceeds the maximum order limitation, unless specified otherwise in the schedule.

• • • • • •

2. Section 101–26.407 is retitled as follows:

§ 101–26.407 Procurement of security equipment by Government fixed-price prime contractors and subcontractors.

3. Section 101–26.407–1 is revised to read as follows:

§ 101–26.407–1 General.

(a) Based on recommendations of the Interdepartmental Committee on Internal Security, it has been determined essential that security equipment be made available for purchase from GSA procurement sources by all Government contractors and subcontractors (at any tier) who are required to maintain custody of security classified records and information under any type of contract or subcontract.

(b) In accordance with Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of General Services has determined that the purchase of security equipment from GSA procurement sources by Government prime contractors and their subcontractors for the protection of security classified information represents procurement for the "use of executive agencies" under the statute.

4. Section 101–26.407–2 is revised to read as follows:

§ 101–26.407–2 Applicability.

The provisions of this § 101–26.407 apply only to the purchase of security equipment under a GSA procurement program by fixed-price prime contractors and lower tier subcontractors under any type of contract. These provisions do not apply to the purchase of security equipment by cost-type prime contractors; these purchases are subject to the provisions of Subpart 1–5.9.

5. Section 101–26.407–3 is retitled and amended to read as follows:

§ 101–26.407–3 Procedure for ordering security equipment.

(a) Cognizant security offices will arrange to notify prime contractors and subcontractors requiring security equipment for the protection of security classified information that, subject to the conditions described in this § 101–26.407–3 and in accordance with procedures included in Federal Supply Schedule, FSC Group 71, Part XI, Sections A and B, they may purchase such equipment under the applicable GSA procurement program as provided in § 101–26.507.

• • • • • •

6. Section 101–26.408–2 is revised to read as follows:

§ 101–26.408–2 Procurement at lowest price.

Each purchase of more than $500 per line item made from a multiple-award schedule by agencies required to use these schedules shall be made at the lowest delivered price available under the schedule unless the agency fully justifies the purchase of a higher priced item. Purchases costing $500 or less per line item should also be made at the lowest delivered price under the schedule; however, justification for the purchase of higher priced items is not required. Agencies not required to use schedules, but which choose to do so, are apprised of the advisability of fully justifying purchases costing more than $500 per line item when the items are not the lowest priced available on the schedule.

Subpart 101–26.5—GSA Procurement Programs

1. Section 101–26.501 is amended as follows:

§ 101–26.501 Purchase of new motor vehicles.

• • • • • •

(b) Requisitions submitted to GSA for new passenger vehicles, other than type I standard passenger vehicles, shall contain a certification by the agency head or his designee that the larger vehicle requisitioned is for law enforcement or otherwise essential to the agency's mission. The certification may be placed on the requisition or on an appropriate attachment thereto. Agency passenger vehicle requisitions for other than type I vehicles omitting such certifications shall be satisfied with the appropriate type I vehicles provided at the discretion of GSA. Agencies requiring other than standard sedans and station wagons shall justify the need for these vehicle requirements and retain the justification in their files.

(c) Light trucks shall be requisitioned in accordance with the provisions of this § 101–26.501 and Federal Standard Nos. 292 (Tables I through VIII) and 307 (Tables I through XI), as applicable. The agency head or his designee shall certify on the requisition or on an appropriate attachment thereto that each light truck requisitioned represents the minimum capacity/performance vehicle which will satisfy the requirements based on overall safety, economy, and efficiency.

• • • • • •

2. Section 101–26.501–3 is amended as follows:

§ 101–26.501–3 Submission of requirements.

Requirements for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration (FY), Washington, DC 20406, and shall contain required FEDSTRIP/MILSTRIP data for mechanized processing. The Department of Defense shall ensure that MILSTRIP data are entered on DD Form 448.

• • • • • •

(c) GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice (illustrated at § 101–26.4902–1781) has been specifically designed for agency use to expedite ordering of all vehicles. GSA Form 1781 is also used by GSA as a purchase order, as a supporting document to billing statements, and by the consignee as a receiving report. When agencies use the GSA Form 1781, they are requested to use it as a single-line-item requisition for non-standard as well as standard-type vehicles. When ordering standard vehicles, the appropriate item number for passenger vehicles equipped to meet specific operational needs may be selected from the applicable table in Federal Standard No. 122; additional systems and equipment may be added by inserting in the "Standard Options" portion of block 9 of the form the appropriate code for the selected items from the table in the standard. If a vehicle equipped as listed in Federal Standard No. 122 includes items which are not required, the item number of the standard vehicle representing the minimum wheelbase required should be selected. All additional systems or equipment required should be identified by inserting in the appropriate portion of block 9 of GSA Form 1781 the applicable codes from the table in the standard listing the additional systems or equipment. When ordering standard vehicles or options, the instructions on the reverse of GSA Form 1781 shall be followed. Submission of GSA Form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation/fund code to be charged and must be signed by an officer authorized to obligate cited funds.

(e) Separate requisition shall be submitted for each vehicle category and consignee.

3. Section 101–26.501–6 is revised to read as follows:

§ 101–26.501–6 Forms used in connection with delivery of vehicles.

(a) *GSA Form 1398, GSA Purchased Vehicle.* This form is used by the contractor to indicate that preshipment inspection and servicing of each vehicle has been performed. The contractor is required to complete GSA Form 1398 (illustrated at § 101–26.4902–1398) and affix it, preferably, to the lock face or door frame of the right front door after the final inspection. The form should be left in place during the warranty period to permit prompt identification of vehicles requiring dealer repairs pursuant to the warranty.

(b) *Standard Form 368, Quality Deficiency Report.* GSA is constantly striving to improve customer service and the quality of motor vehicles for which it contracts. To inform contractors of the deficiencies noted during the life of the vehicles, Standard Form 368 shall be prepared by the consignee and sent to GSA describing details of vehicle deficiency and action taken for correction. This form replaces GSA Form 1718, Unsatisfactory Equipment Report, for reporting deficiencies and repetitive failures of motor vehicles. Agencies are urged to report all deficiencies to GSA irrespective of satisfactory corrective action taken by the manufacturer's authorized dealer. If the dealer refuses to take corrective action on any vehicle within its warranty period, the report shall so state and include an explanation of the circumstances. Standard Form 368 shall also be used to report all noncompliance with specifications or other requirements of the purchase order.

4. Section 101–26.501–8(a) is revised to read as follows:

§ 101–26.501–8 Notification of vehicle defects.

• • • • • •

(a) It is to the Government advantage for agencies to promptly act on motor vehicle defect notices, thus avoiding the possibility of accidents and loss of life which could result from failure to act on such notices. Timely receipt of, and action on, defect notices can also result in avoidance of costly repairs and nonavailability of vehicles due to these repairs. On newly procured vehicles the manufacturers will send "Motor Vehicle Defect Notices" to the original consignee at the consignee's mailing address shown on the vehicle delivery order. However, agency heads shall notify manufacturers of the exact address to which "Motor Vehicle Defect Notices" are to be sent when vehicles are disposed of or transferred. Notification shall be made on all 1971 or later model vehicles. In the interest of uniformity, agencies shall use the following format for either purpose. All identification information shall be annotated on the format as requested.

To: (Vehicle Manufacturer) [1]

FORMAT

Information on the motor vehicles listed is submitted to assist you in complying with section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402).

Complete the following as appropriate: This notice covers (No. of vehicles) disposed of and/or (No. of vehicles) transferred vehicles. Transferred—Fill in the information below on "a," "b," "c," and "d." Disposed—Manufacturer will discontinue the address location for these vehicles. Identification of the disposed vehicles must be reported below in "a," "c," and "d."

a. Address of original owner of vehicle:

---

b. Address to which motor vehicle defect notices are to be sent:

---

c. Complete manufacturer's vehicle identification:

Year	Model	Serial No.

d. Contractual identification:

GSA Contract No.	Item No.

(This information can be obtained from the GSA Form 1398, GSA Purchased Vehicle, which is located on the lock face or door frame of the right front door.)

American Motors Corp., Fleet Sales Department, 14250 Plymouth Road, Detroit, MI 48232.

[1] Addresses of manufacturers.

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AM General Corporation, Logistics Division, 701 West Chippewa Avenue, South Bend, IN 46623.
Ford Customer Service Division, Field Recall Section, General Offices, Park Lane Towers West, 1 Park Lane Boulevard, Dearborn, MI 48126.
Director of Services, FWD Corporation, 105 East 12th Street, Clintonville, WI 54929.
International Harvester Co., Suite 900, 1707 L Street NW., Washington, DC 20036.
Field Service and Engineering, Chrysler Motors Corp., Government Sales Department, Post Office Box 716, Detroit, MI 48231.
Chevrolet Motor Division, Chevrolet Service Department, Argonaut A Building, 485 West Milwaukee Avenue, Detroit, MI 48202.
Director, Product Reliability, Diamond Reo Truck Division, White Motor Corp., 1330 South Washington Avenue, Lansing, MI 48920.
General Parts and Service Manager, GMC Truck and Coach Division, General Motors Corp., 660 South Boulevard, East, Pontiac, MI 48053.
Mack Trucks, Inc., Service Operations, Post Office Box 1000, Somerville, NJ 08876.
Supervisor, Vehicle Service and Safety Programs, White Trucks, Division of White Motor Corp., Post Office Box 5757, Cleveland, OH 44101.

• • • • •

5. Section 101–26.502–1 is amended as follows:

§ 101–26.502–1 Submission of purchase authorities.

(a) Executive agencies shall submit requests to GSA to fill requirements, for land use in the United States, of water coolers (dispensers) of the types covered in § 101–26.502–2. The requests shall be submitted to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSØ.

• • • • •

(c) Requisitions received for water coolers (dispensers) which are stocked by GSA shall be supplied by issue from stock unless direct delivery would be more advantageous to the Government, price and other factors considered.

6. Section 101–26.503–1 is revised to read as follows:

§ 101–26.503–1 General.

To achieve the benefits and economies to be derived from consolidation of requirements, a program for procurement of refrigerators, freezers, ranges, washers, dryers, water heaters, and garbage disposal units is operated through the GSA regional offices in Fort Worth, TX, and San Francisco, CA. Based on estimated requirements, GSA issues indefinite quantity contracts covering standardized types of such appliances identified in Federal or military specifications. Also included are certain types of referigerators and freezers not covered by a Federal specification or standard. (Federal specifications and standards as used in this section mean the latest edition and include any interim specification or standard.)

7. Section 101–26.503–2 is amended as follows:

§ 101–26.503–2 Submission of requirements.

• • • • •

(b) Requirements for water heaters and garbage disposal units shall be submitted to the General Services Administration (7FF), 819 Taylor Street, Fort Worth, TX 76102, in FEDSTRIP/MILSTRIP format using routing identifier code GFØ and for refrigerators, freezers, ranges, washers, and dryers to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSØ. Requisitions for appliances not identified by national stock number as shown in the applicable Federal standard shall be complete as to type, size, description, electrical current characteristics (a.c. or d.c., phase, voltage, and cycles), and other pertinent information. If the item is available from an existing contract, the GSA regional office will procure the appliance from the contractor for direct delivery to the consignee. If the item is not available from an existing contract, GSA will either arrange for procurement of the item or inform the submitting agency of other appropriate action to be taken. Agencies should allow sufficient leadtime (see § 101–26.102–3) in establishing required delivery dates to permit orderly procurement by GSA.

• • • • •

(d) When repetitive need for appliances of a different quality or description from those covered by this § 101–26.503 exists, procurement may be made without recourse to GSA. However, agencies shall notify GSA of these requirements for consideration to include such items in the GSA appliance program. Notices concerning procurement of repetitive requirements shall be submitted to the General Services Administration (FPG), Washington, DC 20406.

8. Section 101–26.505–3 is revised to read as follows:

§ 101–26.505–3 Requests to procure similar items from sources other than GSA supply sources.

When an agency required to obtain items of office and household furniture and furnishings from GSA stock or Federal Supply Schedule contracts determines that items available from these sources will not serve the required functional end use, requests to procure similar items from other than GSA sources shall be submitted for consideration in accordance with § 101–26.100–2.

9. Section 101–26.507 is retitled and revised to read as follows:

§ 101–26.507 Security equipment.

Procurement of security equipment for executive agencies shall be accomplished in accordance with the provisions of this § 101–26.507. Government contractors and subcontractors eligible to purchase security equipment (see §§ 1–5.902 and 101–26.407) and other Federal agencies may participate in this program.

10. Section 101–26.507–1 is revised to read as follows:

§ 101–26.507–1 Submission of requirements.

Requirements for security equipment covered by the latest edition of Federal Specifications AA–F–357, AA–F–358, AA–F–363, AA–S–1518, and AA–D–600, and Interim Federal Specifications AA–F–00364 and AA–C–001697 shall be submitted in FEDSTRIP/MILSTRIP format using routing identified code GWØ to the General Services Administration (3FF), Region 3, Washington, DC 20407. GSA will consolidate the requirements quarterly for procurement on a definite quantity basis.

11. Section 101–26.507–2 is revised to read as follows:

§ 101–26.507–2 Procurement time schedule.

Planned requirements for security equipment will be consolidated by GSA on January 31, April 30, July 31, and October 31 of each year. The consolidation of requirements will serve as a basis for executing definite quantity contracts. To ensure inclusion in the invitation for bids, requirements shall be submitted on or before January 1, April 1, July 1, or October 1 as appropriate. Requirements received after any of these dates normally will be carried over to the subsequent consolidation date. Approximately 180 calendar days following the consolidation dates should be allowed for initial delivery. Requisitions shall include a required delivery date which reflects anticipated receipt under the time schedule.

12. Section 101–26.507–3 is retitled and revised to read as follows:

§ 101–26.507–3 Purchase of security equipment from Federal Supply Schedule.

To ensure that a readily available source exists to meet unforeseen demands for security equipment, indefinite quantity Federal Supply Schedule contracts will remain in effect to satisfy urgent requirements which are not appropriate for consolidated procurement and do not exceed the maximum order limitations. Items of security equipment are listed in Federal Supply Schedule, FSC Group 71, Part XI, Sections A and B, for agencies to order direct from the contractor. Additionally, these sources will be available for purchase within the specified maximum order limitation by Government contractors and subcontractors at any tier) meeting the requirements of §§ 1–5.902 and 101–26.407, as applicable.

13. Section 101–26.507–4 is revised to as follows:

§ 101–26.507–4 Quantities in excess of the maximum order limitation.

Quantities exceeding the maximum order limitation on Federal Supply Schedules will also be consolidated and procured by GSA pursuant to § 101–26.507–2. Where quantities are required to be delivered before the time frames established for the quarterly consolidated procurement, the requisition must indicate the earlier required delivery. As necessary, separate procurement action will be taken by GSA to satisfy the requirements.

14. Section 101–26.508–1 is revised to read as follows:

§ 101–26.508–1 Requirements available from Federal Supply Schedule contracts.

Federal Supply Schedules, FSC Group 74, Part XI, and FSC Group 58, Part V, section C, respectively, include contracts for Government requirements of those types of EDP tape and instrumentation tape (wide and intermediate band) which are most widely used. Federal agencies located within the 48 contiguous United States, Washington, D.C., and Hawaii (applicable to EDP tape only for Hawaii) shall procure their requirements for these tapes in accordance with the provisions of the current schedules and this § 101–26.508–1. Requirements not exceeding the maximum order limitations of the Federal Supply Schedules and ordered direct by activities located outside the above-stated geographical areas shall, to the extent possible, be consolidated and submitted in FEDSTRIP/MILSTRIP format for EDP tape to the General Services Administration (3FF), Region 3, Washington, D.C. 20407, using routing identifier code GWØ and for instrumentation tape to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, using routing identifier code GSØ.

15. Section 101–26.508–2 is amended as follows:

§ 101–26.508–2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for types of EDP tape and instrumentation tape (wide and intermediate band) covered by Federal Supply Schedule contracts which exceed the maximum order limitations of the schedule shall be forwarded to the applicable GSA activity prescribed in § 101–26.508–1 for purchase action.

(b) Requirements for all types of EDP tape and instrumentation tape (wide and intermediate band) not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the requirements exceeds, or is estimated to exceed, $2,500 for EDP tape and $5,000 for instrumentation tape. However, regardless of the amount involved (including requirements estimated to be less than the dollar limitations referenced above), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.401–3. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406. The requests shall fully describe the type of tape required and state the reasons Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on the requests. To reduce leadtime, requisitions may be submitted in FEDSTRIP/MILSTRIP format with the requests for waiver. Requisitions for which a waiver has first been obtained shall be submitted with a copy of the waiver to the appropriate activity prescribed in § 101–26.508–1. GSA will either arrange for procurement of the requirements or authorize the requesting agency to procure them.

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16. Section 101–26.509–1 is revised to read as follows:

§ 101–26.509–1 Requirements available from Federal Supply Schedule contracts.

Federal Supply Schedule, FSC Group 75, Part VIII, includes contracts for Government requirements of tabulating cards applicable to electrical and mechanical contact tabulating machines, including aperture cards and copy cards. Federal agencies shall procure their requirements for these cards in accordance with the provisions of the current schedule. Requirements not exceeding the maximum order limitation of the Federal Supply Schedule, but ordered direct by activities located outside the geographical delivery areas specified in the schedule, shall be ordered by submission of requisitions to the General Services Administration (2FF), 26 Federal Plaza, New York, NY 10007, in FEDSTRIP/MILSTRIP format using routing identifier code GNØ.

17. Section 101–26.509–2 is amended as follows:

§ 101–26.509–2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for tabulating machine cards covered by Federal Supply Schedule contracts which exceed the maximum order limitation of the schedule shall be forwarded in FEDSTRIP/MILSTRIP format using routing identifier code GNØ, to the General Services Administration (2FF), 26 Federal Plaza, New York, NY 10007, for purchase action.

(b) Requirements for tabulating machine cards not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the requirements exceeds or is estimated to exceed $2,500. However, regardless of the amount involved (including requirements estimated to be $2,500 or less) purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for the use of tabulating cards available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.401–3. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406. The requests shall fully describe the items required and state the reasons the tabulating machine cards covered by the Federal Supply Schedule contracts will not adequately serve the end-use purpose. GSA will notify the requesting agency in writing of the action taken on the waiver request. To reduce leadtime, requisitions may be submitted in FEDSTRIP/MILSTRIP format with the requests for waiver. Requisition for requirements for which a waiver has first been obtained shall be submitted with a copy of the waiver to the appropriate GSA activity prescribed in § 101–26.509–1. GSA will either arrange for procurement of the requirements or authorize the requesting agency to procure them.

• • • • •

Subpart 101–26.49—Illustrations of Forms

1. Section 101–26.4901(b) is revised to read as follows:

§ 101–26.4901 Standard forms.

• • • • •

(b) The Standard forms illustrated in this § 101–26.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting agency.

2. Section 101–26.4902(b) is revised to read as follows:

§ 101–26.4902 GSA forms.

• • • • •

(b) Agency field offices may obtain the GSA forms illustrated in this § 101–26.4902 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

§§ 101–26.4902–1718 and 101–26.4902–6317 [Deleted]

3. Sections 101–26.4902–1718 and 101–26.4902–6317 are deleted.

4. Section 101–26.4902–1781 is revised to illustrate the March 1976 edition of GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice.

§ 101–26.4902–1781 GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice.

NOTE.—The form illustrated in § 101–26.4902–1781 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Effective date: This regulation is effective on August 16, 1976.

NOTE.—It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 3, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–23775 Filed 8–13–76;8:45 am]

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[Federal Property Management Regs.; Temporary Reg. E–47]

PART 101–32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Teleprocessing Services Program

1. *Purpose.* This regulation notifies agencies of the establishment of the Teleprocessing Services Program (TSP), describes the program, and prescribes procedures by which Federal agencies utilize the program to acquire teleprocessing services from the private sector.

2. *Effective date.* This regulation is effective August 16, 1976.

3. *Expiration date.* This regulation expires January 31, 1977, unless sooner revised or superseded.

4. *Scope of TSP.* The TSP shall be the mandatory method by which Federal agencies acquire teleprocessing services from the private sector. Services covered by the TSP include full service (interactive and remote batch), interactive, and remote batch processing. The TSP also provides for the acquisition of training, documentation, software packages, and analyst/programer support incidental to the acquisition and use of teleprocessing services. Facilities management services, teleprocessing systems dedicated to an agency's particular application, arrangements where title to ADP equipment is vested at any time in the Federal Government, or ADP equipment that is 100 percent reimbursed by the Government under a cost-type arrangement are not covered under this program. At this time, local batch services are not included.

5. *Procedures for acquiring teleprocessing services*—a. *Initiation of requests.* Agencies requiring teleprocessing service shall define their requirements and submit a GSA Form 2068, Request for ADP Service, to the Agency Services Coordination Division (ASCD), Automated Data and Telecommunications Service, of the appropriate GSA regional office, or to the ADP sharing exchange serving the agency facility. The requirements shall be met by Government resources if they are available. If not, agencies will be granted a delegation of procurement authority to use the TSP, in the form of an approved GSA Form 2068, or agencies will be advised that GSA will perform the procurement as discussed in paragraph 5d. If agencies cannot satisfy their requirements for teleprocessing services from Government resources or through the TSP, they shall submit requests for waivers from the program to the appropriate GSA regional ASCD with a detailed explanation for the request. GSA approval of the request for the waiver is required before agencies initiate action to procure services from non-TSP sources. GSA's decision on the request for the waiver will be provided to the agencies within 30 workdays of receipt of the request by GSA.

b. *Use of TSP.* The TSP offers two methods for acquiring teleprocessing services:

(1) *Multiple award schedule contracts.* (a) GSA will establish multiple award schedule contracts under which agencies may place orders for teleprocessing services. These contracts provide discounts based upon each vendor's Government-wide volume.

(b) Selection of a source of services from among the multiple award schedule contracts will be based on an economic evaluation to determine which vendor meets the requirement at the lowest system life cost. The system life cost includes all quantitative costs, including the price of teleprocessing services plus incidental support services from the vendor during the planned period of the application life, together with conversion and communications costs, if applicable. While the schedule contracts have annual terms and incremental discount rates, user system life cost estimates will be based upon rates and discounts known as being achieved at the time of evaluation. Agencies should use benchmarks in estimating costs instead of depending on pricelists only. Benchmarks are mandatory for large requirements. Specifically, at least three technically capable firms shall be benchmarked if the system life cost exceeds $500,000 or the annual cost exceeds $200,000. If the annual cost exceeds $400,000 or the systems life cost exceeds $1 million, all technically capable firms shall be benchmarked. Guidelines for source selection entitiled "User Source Selection Considerations" are available from GSA regional ASCD and will be made available to agencies granted delegations to use the TSP.

(2) *Basic agreements.* GSA provides a BA defining terms and conditions for obtaining teleprocessing services from commercial firms. Agencies may employ the BA-type competition for any particular teleprocessing services requirement in lieu of ordering from the schedule contracts. Such an action may occur based on a belief that lower costs would result from a fully open competition for the requirement or if the terms and conditions or technical capabilities of the schedule contracts do not meet user requirements.

c. *Noncompetitive acquisitions.* Noncompetitive or sole source orders under TSP are those that can be met by only one vendor through the use of the multiple award schedule contract with that vendor. Orders for such procurements shall be based on a sole source justification rather than on an economic evaluation. If the selected vendor does not have a multiple award schedule contract, a waiver from the program must be obtained from GSA before agencies acquire the sole source services.

d. *Procurement by GSA.* GSA may withhold delegation of authority for the acquisition of teleprocessing services for the BA procurements under the TSP. A decision to procure or delegate will be made at the time the GSA Form 2068 is submitted. If GSA conducts the procurement, the division of responsibility between the requesting agency and GSA will be similar to that used in the procurement of ADP equipment or related items as stated in FPMR 101–32.405.

6. *Procedures for renewal of existing contracts.* a. The TSP provides the means for meeting all of the Government's teleprocessing requirements at the expiration of existing contractual arrangements or when new requirements are identified and services are needed. Agencies with existing contractual sources of teleprocessing services may continue to employ such sources until the end of the agency contract unless an economic analysis indicates that it is in the best interest of the Government to use the TSP sources of supply. While existing contractual arrangements do not have to be terminated upon implementation of the TSP, a basic objective of the program is to recompete, through multiple award schedule contracts or the BA, requirements at the expiration of existing contracts. Toward this end, requests to exercise opinions to renew existing contracts shall be submitted to GSA on GSA Form 2068 for approval and must contain a management and technical plan setting forth the means by which recompetition is to be accomplished. The plan will include a provision for quarterly progress reports to GSA showing achievements toward recompetition. GSA Form 2068A, Quarterly Report of ADP Service Provided to Another Agency or Obtained From a Commercial Source, shall be used for this purpose. This report has been reviewed in accordance with FPMR 101–11.11 and assigned Interagency Reports Control Number 1106–GSA–QU.

b. Agencies who are unable to recompete for a requirement at the expiration of an existing contract, and who plan to exercise a renewal, must submit a request to do so to the appropriate GSA regional ASCD for review at least 60 workdays before the expiration of the contract. The request shall be submitted on a GSA Form 2068 and must include a copy of the management and technical plan for recompetition. Instructions for preparation of these plans are available from the appropriate GSA regional ASCD.

7. *Preorder reviews.* Agencies must submit a request to GSA to place an order against a particular multiple award schedule contract if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole source justification
Annual cost	$200,000	$40,000
System life cost	500,000	100,000

Requests shall include either a copy of the economic analysis or a copy of the sole source justification upon which the proposed order is based. Requests based on a sole source justification also shall include a management and technical plan illustrating how recompetition will be accomplished within a 2-year maximum period from the date that the teleprocessing service is initiated. Agencies shall submit requests to the appropriate GSA regional ASCD and shall not place an order until approval is grated by GSA. The preorder review of user selection procedures is intended to ensure a complete evaluation and competitive selection of teleprocessing services.

8. *Postorder reviews.* Within 20 workdays after placing an order against a multiple award schedule contract, agencies shall submit to the appropriate GSA regional ASCD a copy of the order and a copy of the economic evaluation or sole source justification upon which the order is based if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole Source justification
Annual cost	$20,000	$10,000
System life cost	50,000	25,000

The postorder review is intended to identify problem areas and unique agency methods for selecting teleprocessing firms in an attempt to improve evaluation and selection procedures.

9. *Interim procedures.* The TSP shall become the mandatory method by which agencies meet their commercial teleprocessing requirements when a sufficiently large number of multiple award schedule contracts are awarded. Agencies shall attempt to defer teleprocessing procurements until this occurs. If an agency determines that delay is not feasible, the following procurement methods listed in order of preference shall be employed:

a. *Use the basic agreement for a competitive procurement.* A procurement of this type will be considered as having been made under the TSP, and the later transition in accordance with paragraph 6 of this regulation shall not be required. For these reasons this method of procurement is the most advantageous for the Government agencies requiring teleprocessing services at this time.

b. *Conduct a competitive procurement without incorporating the basic agreement.* Agencies may elect to conduct a competitive procurement of services without using the BA. However, such procurements will be considered as having been made outside the TSP, and recompetition in accordance with paragraph 6 will be required.

c. *Place a sole source order against a multiple award schedule contract.* Agencies with valid sole source requirements shall meet them by placing an order against the multiple award schedule contract of the selected vendor, if one exists. Such a procurement will be considered to have been made under the TSP. The processing procedures for noncompetitive acquisitions shall be followed. (See paragraphs 5c, 7, and 8.)

d. *Make a sole source procurement from a non-multiple award schedule contractor.* This is the least attractive procurement method and is to be used only in the case of an unusual situation. Such procurements shall not be considered as having been made under the TSP and shall require recompetition within 2 years. The provisions of paragraph 6 concerning procedures for recompetition shall apply.

10. *Effect on other issuances.* This regulation supplements requirements expressed in FPMR 101–32.2 and cancels GSA Bulletin FPMR F–72.

11. *Comments.* Comments may be submitted to the General Services Administration (CPSB), Washington, DC 20405, on or before October 15, 1976.

12. *Availability of GSA Forms 2068 and 2068A.* Agency field offices shall submit all requirements for these forms to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

13. *Assistance.* Further information on the TSP may be obtained from the appropriate GSA regional ADP sharing exchanges. (See FPMR 101–32.4800 for addresses.)

JACK ECKERD,
Administrator of General Services.

AUGUST 3, 1976.

[FR Doc.76–23773 Filed 8–13–76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL GROUP LICENSING FOR CERTAIN MEDICAL USES

Notice is hereby given of the amendment of the Nuclear Regulatory Commission's Regulation "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists groups of medical uses of radioisotopes that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures.

The notice of proposed rulemaking that was published in the FEDERAL REGISTER on January 21, 1974, (39 FR 2384) stated that the groups of licensed uses would be amended from time to time to add new radiopharmaceuticals, sources, devices, and uses as they are developed. The Food and Drug Administration (FDA) has approved a "New Drug Application" for iodine-125 as fibrinogen for the detection and monitoring of developing deep vein thrombosis and these procedures are hereby added to Group II.

Because this amendment relates solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rulemaking, and pubilc procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 35 is published as a document subject to codification.

1. Section 35.100, Paragraph (b) (25) is amended by changing the period at the end of the paragraph to a semicolon and a new paragraph (b) (26) is added to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

• • • • • •

(b) *Group II.* Use of prepared radiopharmaceuticals for diagnostic studies involving imaging and tumor localizations.

• • • • • •

(26) Iodine-125 as fibrinogen for detection and monitoring of developing deep vein thrombosis.

Effective date: This amendment becomes effective on August 16, 1976.

(Sec. 81, 161, Pub. Law 83–703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. Law 93–438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 4th day of August 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76–23970 Filed 8–13–76;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

[41 CFR Chapter 128]

RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

Notice of Proposed Rulemaking

The Department of Justice proposes to revise its regulations governing relocation assistance and land acquisition policies under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This departmental order proposes regulations to replace the proposed regulations published in the FEDERAL REGISTER on October 26, 1973, (38 FR 29612). It incorporates changes in the guidelines for agency implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (General Services Administration Federal Management Circular 74–8) published on October 4, 1974, and Supplement 1 thereto, published on July 3, 1975.

Interested persons are invited to submit written views on the proposed revised regulations to my attention at the Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, on or before August 31, 1976.

Pursuant to the authority vested in me by 28 CFR 0.75(j), it is proposed that Part 52 of Chapter I of Title 28, Code of Federal Regulations, be transferred to Chapter 128, Part 18 of Title 41, Code of Federal Regulations, and revised as set forth below.

Dated: July 20, 1976.

GLEN E. POMMERENING,
Assistant Attorney General for Administration.

CHAPTER 128—DEPARTMENT OF JUSTICE

PART 128–18—ACQUISITION OF REAL PROPERTY

Subpart 128–18.50—Uniform Relocation Assistance and Real Property Acquisitions Policies

Sec.

128–18.5001 General provisions.
128–18.5001–1 Purpose.
128–18.5001–2 Definitions.
128–18.5001–3 Time limit on applying for benefits.
128–18.5001–4 Public Information.
128–18.5002 Assurances of adequate replacement housing prior to displacement.
128–18.5002–10 Scope of section.
128–18.5002–11 Determination.
128–18.5002–12 Support.
128–18.5002–13 Waiver.
128–18.5002–14 Decent, safe and sanitary housing.
128–18.5002–15 Absence or inadequacy of local standards.
128–18.5002–16 Housing provided as a last resort.
128–18.5002–17 Loans for planning and preliminary expenses.
128–18.5003 Moving and related expenses.
128–18.5003–20 Eligibility.
128–18.5003–21 Actual reasonable expenses in moving.
128–18.5003–22 Nonallowable moving expenses and losses.
128–18.5003–23 Expenses in searching for replacement business or farm.
128–18.5003–24 Actual direct losses by business or farm operation.
128–18.5004 Payments in lieu of moving and related expenses.
128–18.5004–30 Scope of section.
128–18.5004–31 Dwelling—schedules.
128–18.5004–32 Business.
128–18.5004–33 Farms.
128–18.5004–34 Non-profit organizations.
128–18.5004–35 Net earnings.
128–18.5004–36 Amount of business fixed payments.
128–18.5005 Replacement housing payments for homeowners.
128–18.5005–40 Scope of section.
122–18.5005–41 Eligibility.
122–18.5005–42 Comparable replacement dwellings.
128–18.5005–43 Computation of replacement housing payments for certain others.
128–18.5005–44 Mortgage insurance.
128–18.5006 Replacement housing payment for tenants and certain others.
128–18.5006–50 Scope of section.
128–18.5006–51 Eligibility.
128–18.5006–52 Computation of replacement housing payment for displaced tenants.
128–18.5006–53 Computation of replacement housing payments for certain others.
128–18.5007 Relocation assistance advisory Services.
128–18.5007–60 Relocation assistance advisory program.
128–18.5007–61 Coordination of planned relocation activities.
128–18.5007–62 Contracting for relocation services.
128–18.5007–63 General contacts.
128–18.5008 Federally assisted programs.
128–18.5008–70 Assurances.
128–18.5008–71 Administration of relocation assistance programs.
128–18.5009 Annual reports.
128–18.5009–80 Preparation.
128–18.5009–81 Submission.
128–18.5009–82 Waiver assurance of replacement housing.
128–18.5009–83 Statistical data.
128–18.5010 Uniform real property acquisition policy.
128–18.5010–90 Scope of section.
128–18.5010–91 Acquisition procedures.
128–18.5010–92 Appraisal standards.
128–18.5010–93 Notice to move.
128–18.5010–94 Federally assisted programs.
128–18.5010–95 Exclusion of payments for relocation costs and related items.
128–18.5011 Administrative review.
128–18.5011–111 Scope of section.
128–18.5011–112 Review of procedure.

§ 128–18.5001 General provisions.

§ 128–18.5001–1 Purpose.

(a) The purpose of these regulations is to revise the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (42 U.S.C. 4601 et seq.), to ensure fair and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

(b) These regulations apply with respect to the acquisition of all real property for, and the relocation of all persons displaced, by Federal programs and projects undertaken by only those State agencies which receive Federal financial assistance for all or part of the cost.

§ 128–18.5001–2 Definitions.

(a) "Act" as used in this part means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) "Bureau" means any of the following organizational units of the Department:

(1) Bureau of Prisons;

(2) Law Enforcement Assistance Administration;

(3) Immigration & Naturalization Service.

(c) "Bureau head" means the head of any bureau listed in paragraph (b) of this section, or his designee.

(d) "Initiation of negotiations" means the date the bureau makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase real property.

(e) "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multi-family building; a unit of a condominium; or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under state law, or cannot be moved without substantial damage or unreasonable cost. The term "dwelling" does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

(f) "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(g) "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(h) "Person" means any individual, partnership, corporation, or association.

(i) "Displaced person" means a person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any bureau of the Department of Justice or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of the Act, as a result of the acquisition of or as a result of the written order of the acquiring bureau to vacate other real property, on which such person conducts a business or farm operation, for such program or project. In order to qualify as a displaced person, a person must have moved as a result of a receipt of a written notice to vacate, or the subject real property must in fact have been acquired and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act).

(j) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) Solely for the purpose of section 202(a) of the Act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(k) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materials to the operator's support.

(l) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(m) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations.

(n) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or has an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interests, or who is possessed of such other proprietary interest in the property acquired, as in the judgment of the head of the Bureau, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by device, bequest inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(o) "Financial means": For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirement set forth in § 128–18.5005–40. In order to meet a financial means test a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(p) "Displacing agency" means a bureau in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

(q) "Family" means two or more individuals who are related by blood, adoption, marriage or legal guardianship who live together as a family unit, or upon determination by the head of the bureau, other persons who live together as a family unit.

§ 128–18.5001–3 Time limit on applying for benefits.

Applications for benefits under the Act must be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the bureau or State agency makes final payment of all costs of that real property, whichever is later. The bureau head may extend this period upon a proper showing of good cause.

§ 128–18.5001–4 Public information.

The head of each bureau shall make available to the public full information concerning the bureau's relocation programs and shall insure that persons to be displaced are fully informed, at the earliest possible time, of such matters as available relocation payments and assistance, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right of administrative review by the head of the Bureau.

§ 128–18.5002 Assurances of adequate replacement housing prior to displacement.

§ 128–18.5002–10 Scope of section.

The provisons set forth in this subsection are to guide bureaus and State agencies in implementing section 205(c)(3) and 206(b) of the Act.

§ 128–18.5002–11 Determination.

Bureaus may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has determined, or received satisfactory assurances from the State agency that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 128–18.5002–14, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

§ 128–18.5002–12 Support.

The determination or assurances under § 128–18.5002–11 shall be based on a current survey and analysis of available replacement housing by the displacing agency. Surveys to determine availability of replacement housing shall be undertaken during the planning phase for each area wherein provisions of the Act may be applicable. Such surveys and analysis must take into account the competing demands on available housing. These surveys shall include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys shall list housing currently available. Information needed to develop and maintain the survey may be secured from the Veterans Administion, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

§ 128–18.5002–13 Waiver.

In accordance with section 205(c)(3) of the Act, the bureau head may waive the assurances required under § 128–18.5002–11, but only on the basis of emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate

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findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by § 128–18.5009–80.

§ 128–18.5002–14 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The bureau head shall determine if a dwelling unit is decent, safe, and sanitary based on the following criteria. Adjustments may only be made in the cases of unusual circumstances or unique geographical areas.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink, a cooking stove, or connections for same, a separate complete bathroom, hot and cold running water in both the bathroom and the kitchen, and adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(b) *Non-housekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards shall be subject to the approval of the head of the bureau causing the displacement.

(c) *Occupancy standards.* Occupancy standards for replacement housing shall comply with bureau approved occupancy requirements or shall comply with local codes.

§ 128–18.5002–15 Absence or inadequacy of local standards.

In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the bureau head shall establish the standards.

§ 128–18.5002–16 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the head of the bureau may take action or approve action by a State agency to develop replacement housing. Bureaus taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart A) in accordance with the provision concerning section 206(a) of the Act in the President's memorandum of January 4, 1971. A State agency taking such action shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance.

§ 128–18.5002–17 Loans for planning and preliminary expenses.

Federal agencies will be guided by the criteria and procedures developed by the Secretary of Housing and Development (24 CFR Part 43, Subpart B) when providing loans to eligible borrowers for planning and other preliminary expenses authorized under Section 215. A State agency providing such loans shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance in accordance with the President's memorandum of January 4, 1971.

§ 128–18.5003 Moving and related expenses.

§ 128–18.5003–20 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation), is eligible to receive payment for moving expenses. A person who lives on his own business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement.

(b) Any person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring bureau or State agency to vacate real property, or solely for the purpose of Section 202 (a) and (b) of the Act, as a result of the acquisition of, or a written notice of the acquiring bureau or State agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 128–18.5003–21 Actual reasonable expenses in moving.

(a) *Allowable expenses.*

(1) Transportation of individuals, families, and personal property from the acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the bureau head determines that relocation beyond the 50 mile area is justified.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating and transportation when the bureau head determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the bureau head determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment, including such modifications as deemed necessary by the bureau head, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing bureau is released from any payment for the property.

(7) Property lost, stolen, or damaged, (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined to be allowable by the bureau head.

(b) *Limitations.*

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the bureau head determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the bureau head, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 128–18.5003–22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the bureau head determines should be excluded.

§ 128–18.5003–23 Expenses in searching for replacement business or farm.

(a) To be allowed:

(1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate

of the displaced person's salary or earnings, but not to exceed $10.00 per hour.

(4) In the discretion of the bureau head, necessary broker, real estate or other professional fees to locate a replacement business or farm operation.

(b) *Limitation.*

The total amount which a displaced person may be paid for searching expenses may not exceed $500, unless the bureau head determines that a greater amount is justified based on the circumstances involved.

§ 128–18.5003–24 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

§ 128–18.5004 Payments in lieu of moving and related expenses.

§ 128–18.5004–30 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 202 (b) and (c) of the Act.

§ 128–18.5004–31 Dwellings — schedules.

(a) Section 202(b) provides that at the option of the displaced person, he may receive a moving expense allowance not to exceed $300, based on schedules established by the bureau head, and a dislocation allowance of $200. Moving allowance schedules maintained by the respective State highway departments shall be the basis for the bureau's schedule. These schedules shall provide for adequacy of reimbursement in every locality.

(b) Where there are no highway department schedules, the head of the bureau undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 128–18.5004–32 Business.

(a) *Eligibility.* A person displaced from his business as defined in section 101(7) (A), (B), and (C) of the Act, is eligible under section 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business, as defined in § 128–18.5001–2(j).

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) to the displaced owner of a business only if the local agency determines that, during the two taxable years prior to displacement, or during such other period as the head of the Federal agency determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

If the application of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

(c) Those businesses described in section 101(7)(d) of the Act are not eligible under section 202(c) for a payment in lieu of moving and related expenses.

(d) Where a displaced person is displaced from his place of business, no payment shall be made under section 202(c) of the Act until the head of the displacing bureau determines that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing bureau only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(1) The type of business conducted by the displaced concern; or

(2) The nature of the clientele of the displaced concern; or

(3) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 128–18.5004–33 Farms.

Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by section 202(c) of the Act shall be made only if the displacing bureau determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

(a) *Eligibility.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses (See 128–18.5044–32(b)). Such a payment may be made to the displaced operator of a farm operation only if the acquiring agency determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

If the use of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

§ 128–18.5004–34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under section 202(c) of the Act until after the head of the bureau determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 128–18.5004–35 Net earnings.

The term "average annual net earnings" as used in section 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for a project, or during such other period as the head of the displacing bureau determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has not net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by section 202(c) of the Act.

§ 128–18.5004–36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount

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equal to the average annual net earnings of the business or farm operation except that such payment shall not be less than $2,500 nor more than $10,000.

§ 128–18.5005 Replacement housing payments for homeowners.

§ 128–18.5005–40 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 203(a) of the Act.

§ 128–18.5005–41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property, covered or qualified under section 217 of the Act for not less than 180 days prior to displacement.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing bureau the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this subsection may be eligible for a replacement housing payment under Section 128–18.5006 of these regulations.

§ 128–18.5005–42 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, sex, or national origins, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the finanical means of the displaced family or individual.

(g) Available on the market to the displaced person.

If housing meeting the requirements of this section is not available on the market, the bureau head may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria.

§ 128–18.5005–43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The bureau head may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing bureau, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method. The relocatee is bound to the method selected for use by the displacing bureau.

(1) *Schedule method.* The bureau head may establish a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the head of the bureau concerned shall coordinate the establishment of the schedule for replacement housing payments with such other agencies.

(2) *Comparative method.* Bureaus may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings that are most representative of the dwelling unit acquired, are available to the displaced person, and meet the definition of a comparable replacement dwelling. A single dwelling shall be used when additional comparable dwellings are not available.

(3) *Alternate method.* The bureau head may develop criteria for computing replacement housing payments when neither the schedule nor the comparative method is feasible. An alternate method proposed by a State agency is subject to prior concurrence of the bureau head.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The bureau head shall determine the amount, if any, necessary to compensate a displaced person for any increased interest cost, including amounts paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at a time of acquisition over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(4) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(i) Seller's points are not to be included in the interest computation.

(ii) The actual interest rate of the new mortgage will be used in the computation.

(iii) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(5) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(6) See Appendix 1, Format for Computation of Interest Payment.

(c) *Incidental expenses.*

(1) The bureau head shall determine the amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation;

(ii) Lenders', FHA, or VA, appraisal fees;

(iii) FHA application fee;

(iv) Certification of structural soundness when required by lender, FHA, or VA;

(v) Credit report;

(vi) Title policies or abstracts of title;

(vii) Escrow agent's fee; and

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Public Law 90–321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Case going through condemnation.* No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used on cases involving condemnation:

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, providing the homeowner enters into an agreement with the agency that:

(i) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 128–18.5005–44 Mortgage insurance.

The head of any Federal agency administering Federal mortgage insurance programs may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, if the mortgage is eligible for insurance under any Federal law administered by the agency notwithstanding any requirements under the law relating to age, physical condition, or other personal characteristics of eligible mortgagors and may make commitments for the insurance of the mortgage prior to the date of execution of the mortgage.

§ 128–18.5006 Replacement housing payments for tenants and certain others.

§ 128–18.5006–50 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 204 of the Act.

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling	$_____
2. Outstanding balance of mortgage on replacement dwelling	$_____
3. Lesser of Line 1 or Line 2	$_____
4. Number of months remaining until last payment is due for mortgage on acquired dwelling	_____
5. Number of months remaining until last payment is due for mortgage on replacement dwelling	_____
6. Lesser of Line 4 or Line 5	_____
7. Annual interest rate of mortgage on acquired dwelling	_____%
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located)	_____%
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks	_____%
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense	$_____

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $_____ in _____ (Line 3) (Line 6) months at an annual interest rate of _____% (Line 7)	$_____
B. Monthly payment required to amortize a loan of $_____ in _____ (Line 3) (Line 6) months at an annual interest rate of _____% (Line 8)	$_____
C. Monthly payment required to amortize a loan of $_____ in _____ (Line 3) (Line 6) months at an annual interest rate of _____% (Line 9)	$_____

CALCULATION OF INTEREST PAYMENT

Step 1 Subtract A from B:	
Monthly payment based on rate for replacement dwelling (B)	$_____
Monthly payment based on rate for acquired dwelling (A)	−$_____
Result (difference)	$_____
Step 2 Divide result (difference) of Step 1 by C (carry to 6 decimal places):	
Result (difference) from Step 1	$_____
Monthly payment based on savings rate (C)	÷$_____
Result (quotient)	$_____
Step 3 Multiply outstanding balance of mortgage on acquired dwelling by result (Quotient) of Step 2:	
Outstanding Balance (from Line 3)	$_____
Result (quotient) of Step 2	×$_____
Result (product)	$_____
Step 4 Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:	
Result (product) of Step 3, first mortgage	$_____
*Result (product) of Step 3, second mortgage	$_____
*Sum or difference, as applicable	$_____
Add debt service costs on loan on replacement dwelling (Line 10)	$_____
Amount of interest payment	$_____

*If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through Step 3. A consolidated Step 4 is then completed.

§ 128–18.5006–51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act, if he meets both of the following requirements.

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a ten-

V 41 159 AUG 16 76 UMI

ant, as authorized by section 204 of the Act when he rents a decent, safe, and sanitary replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 128–18.5006–52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.* The bureau head shall determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings as described in § 128–18.5005–42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and substracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule shall be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area the bureau shall cooperate with the respective agencies in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 128–18.5005–42. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The bureau head may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be paid in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to paragraph (a) (1) and (2) of this section. When neither* method is feasible, the head of the bureau shall develop criteria for computing the payment.

(5) *Limitation.* The amount of the rental replacement housing payment shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(i) The amount of rent actually paid for the replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(6) *Disbursement of rental replacement housing payment.* The head of the Federal agency shall develop procedures to implement section 204 to provide, within the $4,000 and four-year limitations of that section, a rental replacement housing payment that will enable the displacee to rent comparable, decent, safe, and sanitary housing. The amount of the rental payment under section 204 (1) shall be determined and paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a downpayment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a downpayment for financing a conventional loan on the replacement dwelling actually purchased.

The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 128–18.5005–43(c).

(3) The maximum payment may not exceed $4,000 except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 128–18.5006–53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirements and who elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128–18.5006–52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128–18.5006–52(b).

§ 128–18.5007 Relocation assistance advisory services.

§ 128–18.5007–60 Relocation assistance advisory program.

(a) The bureau shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act for persons displaced as a result of a program or project undertaken by the bureau.

(b) If the bureau head determines that any person, occupying property immediately adjacent to the real property acquired, is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act.

(c) The State agency shall provide the advisory program when bureau assisted projects are involved.

§ 128–18.5007–61 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the heads of the respective bureaus responsible for the planned activities shall require that appropriate channels of communication be established between the agencies for the purpose of planning relocation activities and coordinating available housing resources. The bureau involved shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. Appendix 2, HUD Field Office Jurisdictions, is a directory of regional offices, which will be maintained on a current basis by the Department of Housing and Urban Development. Subsequent updated directories will be furnished to bureaus upon request. The bureaus causing the displacement shall designate at least one representative who will meet perodically with the representatives of other agencies to review the impact of their respective programs on the community or area.

(b) *Local coordination.* To further insure maximum coordination of relocation activities in a given community or area, each Federal agency's regulations shall require that the displacing bureau consult appropriate local officials before approving any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A–95 (Revised). That circular provides a central point for identifying local officials.

APPENDIX 2

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FIELD OFFICE JURISDICTIONS

OCTOBER 15, 1973

REGION I

Regional Administrator
James J. Barry
Rm 800, John F. Kennedy Federal Building
Boston, Massachusetts 02203
Tel. (617) 223-4066

AREA OFFICES

CONNECTICUT, HARTFORD 06106
999 Asylum Avenue
Tel. (203) 244-3638
AREA DIRECTOR Lawrence L. Thompson

MASSACHUSETTS, BOSTON 02114
Bulfinch Building
15 New Chardon Street
Tel. (617) 223-4111
AREA DIRECTOR M. Daniel Richardson, Jr.

NEW HAMPSHIRE, MANCHESTER 03101
Davison Building
1230 Elm Street
Tel. (603) 669-7681
AREA DIRECTOR - Greeley S. Buchanan

INSURING OFFICES

MAINE, BANGOR 04401
Federal Building and Post Office
202 Harlow Street
Post Office Box 1357
FTS Tel. (207) 942-8271
Commercial Number: 942-8271
DIRECTOR - Wayne M. Johnson

RHODE ISLAND, PROVIDENCE 02903
330 Post Office Annex
Tel. (401) 528-4351
DIRECTOR - Charles J. McCabe

VERMONT, BURLINGTON 05401
Federal Building
Elmwood Avenue
Post Office Box 589
FTS Tel. (802) 862-6374
Commercial Number: 862-6501
DIRECTOR - Leslie E. Snow

REGION II

Regional Administrator
S. William Green
26 Federal Plaza, Room 3541
New York, New York 10007
Tel. (212) 264-8068

AREA OFFICES

NEW JERSEY, CAMDEN 08103
The Parkade Building
519 Federal Street
FTS Tel. (609) 963-2301
Commercial Number 963-2541
AREA DIRECTOR - Philip G. Sadler

NEW JERSEY, NEWARK 07102
Gateway 1 Building
Raymond Plaza
Tel. (201) 645-3010
AREA DIRECTOR - James P. Sweeney

NEW YORK, BUFFALO 14202
Grant Building
560 Main Street
Tel. (716) 842-3510
AREA DIRECTOR - Frank D. Cerabone

NEW YORK, NEW YORK 10007
120 Church Street
Tel. (212) 264-7870
AREA DIRECTOR -
Joseph D. Monticciolo (Acting)

COMMONWEALTH AREA OFFICE

PUERTO RICO, SAN JUAN 00936
255 Ponce de Leon Avenue
Hato Rey, Puerto Rico
Mailing Address:
G Post Office Box 3869
San Juan, Puerto Rico
FTS Tel. (Dial 202-967-1221 ask operator for 6220201; from Washington, D.C. - dial Code 106 - ask operator for 622-0201)
Commercial Number: 809-765-0404
AREA ADMINISTRATOR
Jose E. Febres Silva (Acting)

INSURING OFFICES

NEW YORK, ALBANY 12206
Westgate North
30 Russell Road
Tel. (518) 472-3567
DIRECTOR - Robert J. Wolf (Acting)

NEW YORK, HEMPSTEAD 11550
175 Fulton Avenue
Tel. (516) 485-5000
DIRECTOR - Michael Leon (Acting)

REGION III

Regional Administrator
Theodore R. Robb
Curtis Building
6th and Walnut Streets
Philadelphia, Pennsylvania 19106
Tel. (215) 597-2560

AREA OFFICES

DISTRICT OF COLUMBIA, WASHINGTON 20009
Universal North Building
1875 Connecticut Ave. N.W.
Tel. (202) 382-4855
AREA DIRECTOR - Harry W. Steller (Acting)

MARYLAND, BALTIMORE 21201
Two Hopkins Plaza
Mercantile Bank and Trust Building
Tel. (301) 962-2121
AREA DIRECTOR - Allen T. Clapp

PENNSYLVANIA, PHILADELPHIA 19106
Curtis Building
625 Walnut Street
Tel. (215) 597-2665
AREA DIRECTOR - Joseph A. LaSala (Acting)

PENNSYLVANIA, PITTSBURGH 15212
Two Allegheny Center
Tel. (412) 644-2802
AREA DIRECTOR - Charles J. Lieberth

VIRGINIA, RICHMOND 23219
701 East Franklin Street
Tel. (804) 782-2721
AREA DIRECTOR - Carroll A. Mason

INSURING OFFICES

DELAWARE, WILMINGTON 19801
Farmers Bank Building, 14th Floor
919 Market Street
FTS Tel. (302) 571-6330
DIRECTOR - Henry McC. Winchester, Jr.

WEST VIRGINIA, CHARLESTON 25328
New Federal Building
500 Quarrier Street
Post Office Box 2948
FTS Tel. (304) 343-1321
Commercial Number: 343-6181
DIRECTOR - H. William Rogers

SPECIAL RECOVERY OFFICE

SCRANTON, PENNSYLVANIA 18503
Lackawanna County Building
Spruce and Adams Avenue
Tel. 717-344-7393
DIRECTOR - James D. Corbin

HUD Field Office Jurisdictions
(Part 1 of 4)

V 41 159 AUG 16 76 UMI

APPENDIX 2

REGION IV

Regional Administrator
E. Lamar Seals
Peachtree Seventh Building
50 Seventh Street, N.E.
Atlanta, Georgia 30323
Tel. (404) 526 5585

AREA OFFICES

ALABAMA, BIRMINGHAM 35233
Daniel Building
15 South 20th Street
Tel. (205) 325 3264
AREA DIRECTOR - Jon Will Pitts

FLORIDA, JACKSONVILLE 32204
Peninsular Plaza
661 Riverside Avenue
Tel. (904) 791-2626
AREA DIRECTOR - Forrest W. Howell

GEORGIA, ATLANTA 30303
Peachtree Center Building
230 Peachtree Street, N.W.
Tel. (404) 526-4576
AREA DIRECTOR -
William A. Hartman, Jr. (Acting)

KENTUCKY, LOUISVILLE 40201
Children's Hospital Foundation Bldg.
601 South Floyd Street
Post Office Box 1044
Tel. (502) 582 5251
AREA DIRECTOR - Virgil G. Kinnaird

MISSISSIPPI, JACKSON 39213
101-C Third Floor Jackson Mall
300 Woodrow Wilson Avenue, W.
FTS Tel. (601) 948-2267
Commercial Number: 366-2634
AREA DIRECTOR - James S. Roland

NORTH CAROLINA, GREENSBORO 27408
2309 West Cone Boulevard
Northwest Plaza
FTS Tel. (919) 2759361
Commercial Number: 275-9111
AREA DIRECTOR - Richard B. Barnwell

SOUTH CAROLINA, COLUMBIA 29202
1801 Main Street
Jefferson Square
Tel. (803) 765-5591
AREA DIRECTOR - Chiton G. Brown

TENNESSEE, KNOXVILLE 37919
One Northshore Building
1111 Northshore Drive
FTS Tel. (615) 524-4561
Commercial Number: 584 8527
AREA DIRECTOR - Carroll G. Oakes

INSURING OFFICES

FLORIDA, CORAL GABLES 33134
3001 Ponce de Leon Boulevard
FTS Tel. (305) 350-6221
Commercial Number: 445-2561
DIRECTOR - Louis T. Bono (Acting)

FLORIDA, TAMPA 33609
4224 26 Henderson Boulevard
Post Office Box 18165
Tel. (813) 228 2501
DIRECTOR - K. Wayne Swiger

TENNESSEE, MEMPHIS 38103
28th Floor, 100 North Main Street
Tel. (901) 534-3141
DIRECTOR - Glynn G. Raby, Jr. (Acting)

TENNESSEE, NASHVILLE 37203
1717 West End Building
Tel. (615) 749-5521
DIRECTOR - George N. Grayson

REGION V

Regional Administrator
George J. Vavoulis
300 South Wacker Drive
Chicago, Illinois 60606
Tel. (312) 353 5680

AREA OFFICES

ILLINOIS, CHICAGO 60602
17 North Dearborn Street
Tel. (312) 353-7660
AREA DIRECTOR - John L. Waner

INDIANA, INDIANAPOLIS 46205
Willowbrook 5 Building
4720 Kingsway Drive
Tel. (317) 633-7188
AREA DIRECTOR - Choice Edwards (Acting)

MICHIGAN, DETROIT 48226
5th Floor, First National Building
660 Woodward Avenue
Tel. (313) 226-7900
AREA DIRECTOR - John E. Kane (Acting)

MINNESOTA, MINNEAPOLIS - ST. PAUL
Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104
Tel. (612) 725 4701
AREA DIRECTOR - Thomas T. Feeney

OHIO, COLUMBUS 43215
60 East Main Street
Tel. (614) 469 7345
AREA DIRECTOR - Elmer C. Binford (Acting)

WISCONSIN, MILWAUKEE 53203
744 North 4th Street
Tel. (414) 224-3223
AREA DIRECTOR - Richard A. Kaiser (Acting)

INSURING OFFICES

ILLINOIS, SPRINGFIELD 62704
Lincoln Tower Plaza
524 South Second Street, Room 600
Tel. (217) 525-4414
DIRECTOR - Boyd O. Barton

MICHIGAN, GRAND RAPIDS 49506
Northbrook Building Number II
2922 Fuller Avenue, N.E.
Tel. (616) 456-2725
DIRECTOR - Alfred Raven

OHIO, CINCINNATI 45202
Federal Office Building
550 Main Street, Room 9009
Tel. (513) 684-2884
DIRECTOR - Charles Collins II (Acting)

OHIO, CLEVELAND 44199
Federal Building
1240 East 9th Street
Tel. (216) 522-4065
DIRECTOR - Charles P. Lucas

REGION VI

Regional Administrator
Richard L. Morgan
Room 14B35, New Dallas Federal Building
1100 Commerce Street
Dallas, Texas 75202
Tel. (214) 749-7401

AREA OFFICES

ARKANSAS, LITTLE ROCK 72201
Room 1490, Union National Plaza
Tel. (501) 378-5401
AREA DIRECTOR - Thomas E. Barber

LOUISIANA, NEW ORLEANS 70113
Plaza Tower
1001 Howard Avenue
Tel. (504) 527-2063
AREA DIRECTOR - Thomas J. Armstrong

OKLAHOMA, OKLAHOMA CITY 73102
301 North Hudson Street
FTS Tel. (405) 231-4891
Commercial Number: 231-4181
AREA DIRECTOR - Robert H. Breeden

TEXAS, DALLAS 75202
2001 Bryan Tower, 4th Floor
Tel. (214) 749-1601
AREA DIRECTOR - Manuel Sanchez III

TEXAS, SAN ANTONIO 78285
Kallison Building
410 South Main Avenue
Post Office Box 9163
FTS Tel. (512) 225-4685
Commercial Number: 225-5511
AREA DIRECTOR - Finnis E. Jolly

INSURING OFFICES

LOUISIANA, SHREVEPORT 71101
614 Ricou-Brewster Building
425 Milam Street
FTS Tel. (318) 425-6601
Commercial Number: 425-1241
DIRECTOR - Rudy Langford

NEW MEXICO, ALBUQUERQUE 87110
625 Truman Street, N.E.
Tel. (505) 766-3251
DIRECTOR - Luther G. Branham

OKLAHOMA, TULSA 74152
1708 Utica Square
Post Office Box 4054
Tel. (918) 581-7435
DIRECTOR - Robert H. Gardner

TEXAS, FORT WORTH 76102
819 Taylor Street
Room 13A01 Federal Building
Tel. (817) 334-3233
DIRECTOR - Richard M. Hazlewood

TEXAS, HOUSTON 77046
Two Greenway Plaza East, Suite 200
Tel. (713) 226-4335
DIRECTOR - William A. Painter

TEXAS, LUBBOCK 79408
Courthouse and Federal Office Building
1205 Texas Avenue
Post Office Box 1647
FTS Tel. (806) 747-3765
Commercial Number: 747-3711
DIRECTOR - Don D. Earney

HUD Field Office
Jurisdictions
(Part 2 of 4)

APPENDIX 2

REGION IX

Regional Administrator
Robert H. Baida
450 Golden Gate Avenue
Post Office Box 36003
San Francisco, California 94102
Tel. (415) 556-4752

AREA OFFICES

CALIFORNIA, LOS ANGELES 90057
2500 Wilshire Boulevard
Tel. (213) 688-5973
AREA DIRECTOR - Roland E. Cornfield (Acting)

CALIFORNIA, SAN FRANCISCO 94111
1 Embarcadero Center
Suite 1501
Tel. (415) 556-2238
AREA DIRECTOR - James H. Price

INSURING OFFICES

ARIZONA, PHOENIX 85002
244 West Osborn Road
Post Office Box 13468
FTS Tel. (602) 261-4434
Commercial Number: 261-4441
DIRECTOR - Merritt R. Smith

CALIFORNIA, SACRAMENTO 95809
801 I Street
Post Office Box 1978
Tel. (916) 449-3471
DIRECTOR - Richard O. Chamberlain

CALIFORNIA, SAN DIEGO 92112
110 West C Street
Post Office Box 1648
Tel. (714) 293-5310
DIRECTOR - Albert E. Johnson

CALIFORNIA, SANTA ANA 92701
34 Civic Center Plaza
FTS Tel. (213) 836-2451
Commercial Number: (714) 836-2451
DIRECTOR - Robert L. Simpson

HAWAII, HONOLULU 96813
1149 Bethel Street, 6th Floor
Post Office Box 3379
FTS Tel. (Dial 415) 556-0220 and ask
operator for 455-0220
Commercial Number: 546-2136
DIRECTOR - Alvin K.H. Pang

NEVADA, RENO 89505
1050 Bible Way
Post Office Box 4700
Tel. (702) 784-5356
DIRECTOR - Morley W. Griswold

REGION X

Regional Administrator
Oscar P. Pederson
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101
Tel. (206) 442-5415

AREA OFFICES

OREGON, PORTLAND 97204
520 Southwest 6th Avenue
Tel. (503) 221-2758
AREA DIRECTOR - Russell H. Dennon

WASHINGTON, SEATTLE 98101
Arcade Plaza Building
1321 Second Avenue
Tel. (206) 442-5415
AREA DIRECTOR - Marshall O. Majors

INSURING OFFICES

ALASKA, ANCHORAGE 99501
1016 West Sixth Avenue
FTS Tel. (Dial 206-442-0150 and ask
operator for 265-4700)
Commercial Number: (907) 272-5581 Ext. 731
DIRECTOR - James T. Hurt (Acting)

IDAHO, BOISE 83707
331 Idaho Street
Post Office Box 17
FTS Tel. (208) 342-2727
Commercial Number: 342-2711
DIRECTOR - Charles L. Holley, Jr.

WASHINGTON, SPOKANE 99201
West 920 Riverside Avenue
Tel. (509) 456-4738
DIRECTOR - E. Daryl Mabee

REGION VII

Regional Administrator
Elmer E. Smith
Federal Office Building, Room 300
911 Walnut Street
Kansas City, Missouri 64106
Tel. (816) 374-2661

AREA OFFICES

KANSAS, KANSAS CITY 66101
Fourth Floor, Mercantile
4th and State Streets
Tel. (913) 374-5395
AREA DIRECTOR - William R. Southerland

MISSOURI, ST. LOUIS 63101
210 North 12th Street
Tel. (314) 622-4160
AREA DIRECTOR - Elmo O. Turner

NEBRASKA, OMAHA 68106
Univac Building
7100 West Center Road
Tel. (402) 221-3501
AREA DIRECTOR - Guy J. Birch

INSURING OFFICES

IOWA, DES MOINES 50309
210 Walnut Street
Room 259 Federal Building
Tel. (515) 284-4512
DIRECTOR - Nera Ruben

KANSAS, TOPEKA 66603
700 Kansas Avenue
Tel. (913) 234-8241
DIRECTOR - Jim Helt (Acting)

REGION VIII

Regional Administrator
Robert C. Rosenheim
Federal Building
1961 Stout Street
Denver, Colorado 80202
Tel. (303) 837-4881

INSURING OFFICES

COLORADO, DENVER 80202
909 17th Street
Post Office Box 3607
Tel. (303) 837-2441
DIRECTOR - Joseph D. Wagner

MONTANA, HELENA 59601
616 Helena Avenue
Tel. (406) 442-3237
DIRECTOR - Orvin B. Fjare

NORTH DAKOTA, FARGO 58102
653-2nd Avenue N.
Post Office Box 2483
Tel. (701) 237-5136
DIRECTOR - Duane R. Lillfrig

SOUTH DAKOTA, SIOUX FALLS 57102
119 Federal Building-U.S. Courthouse
400 S. Phillips Avenue
FTS Tel. (605) 336-2233
Commercial Number: 336-2980
DIRECTOR - Roger L. Rosenwald

UTAH, SALT LAKE CITY 84111
125 South State Street
Post Office Box 11580
Tel. (801) 524-5237
DIRECTOR - L.C. Romney

WYOMING, CASPER 82601
Federal Office Building
100 East B Street
Post Office Box 580
FTS Tel. (307) 265-5266
Commercial Number: 265-5550
DIRECTOR - Marshall F. Elliott (Acting)

HUD Field Office Jurisdictions
(Part 3 of 4)

HUD Field Office Jurisdictions
(Part 4 of 4)

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§ 128–18.5007–62 Contracting for relocation services.

(a) *Contracting with central relocation agency.* The head of a bureau contemplating the initiation of displacement activities shall consider contracting with the central relocation agency in a community or area for carrying out its relocation activities and shall require specific performance standards for these services. The appropriate Housing and Urban Development Regional/Area Office shall provide information and assistance, on request from other Federal agencies, concerning these services.

(b) *Contracting with others.* When a centralized agency relocation agency is not available in the community or area, or if in the judgment of the bureau head the centralized agency does not have the capacity to provide the necessary services, within the time required by the bureau's program, the bureau head may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 128–18.5007–63 General contacts.

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and a displaced person priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmer's Home Administration, Department of Agriculture, is recommended when a farm operation is displaced.

(d) *Local governmental organizations.* Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project. Local programs should be utilized where they exist.

Local nongovernmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also, many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and used.

§ 128–18.5008 Federally assisted programs.

§ 128–18.5008–70 Assurances.

(a) *Information.* The State agency shall provide the bureau with a statement assuring the bureau that the affected persons will be adequately informed of the benefits, policies, and procedures described in this part.

(b) *Inability to provide assurances.* The bureau shall not approve or authorize any action by a State agency which will result in the displacement of any person or the acquisition of any real property except in accordance with the following requirements:

(1) A State agency has provided satisfactory assurances as required by sections 210 and 305; or

(2) A State agency's assurances are accompanied by a statement in which it identifies any of the assurances required by section 305 which it is unable to provide, in whole or in part, under its laws. The statement should be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. Federal agencies administering federally assisted programs may adopt procedures setting forth the conditions under which projects will be approved when State agencies cannot fully comply with section 305. In all cases there must be full compliance with all assurances required by section 210.

(c) *Compliance with sections 301 and 302.* A State agency, as part of the assurances required by section 305, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302. If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. State agencies should comply with sections 301 and 302 if, under State law, compliance is legally possible.

(d) *Monitoring assurances.* Bureau heads shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 128–18.5008–71 Administration of relocation assistance programs.

(a) *Approval.* A State agency electing to contract for services pursuant to section 212 shall enter into a written contract consistent with the regulations of the bureau administering the project or program causing the displacement. The bureau head shall take affirmative action to assure that the contract is so administered as to provide uniform and effective relocation for all displaced persons, consistent with these regulations.

(b) *Contract for services by State agencies.* Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance shall be provided in accordance with these regulations as implemented by bureau procedures;

(2) That records required by bureau regulations shall be retained for a period of at least 3 years and shall be available for inspection by representatives of the bureau involved and the General Accounting Office;

(3) Clauses required by regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 88–353); and

(4) Any other provision approved by the bureau head administering the federally assisted program or project.

§ 128–18.5009 Annual report.

§ 128–18.5009–80 Preparation.

Each bureau shall prepare and submit an annual report on a fiscal year basis to the Assistant Attorney General for Administration on its activities with respect to the programs and policies established or authorized by the Act. This report shall consist of narrative comments and supporting statistical data and such information as may be required by the Assistant Attorney General for Administration. Bureaus shall furnish data separately for each Federal program and each federally assisted program, and a summary for the whole bureau. The data shall be provided by completing GSA Form 2997, Annual Report on Relocation and Real Property Acquisition Activities. Bureaus may obtain their initial supply of GSA Form 2997, "Annual Report on Relocation and Real Property Acquisition Activities," from General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Virginia 22314. Field offices should submit all future requirements to their Washington headquarters office.

§ 128–18.5009–81 Waiver of assurance of replacement housing.

The narrative portion of the report shall describe any situations or circumstances which required a waiver of assurance of replacement housing pursuant to subsection 205(c)(3) of the Act. For any waivers reported, submit the bureau's findings and the determination supporting waiver of the requirements of the subsection.

§ 128–18.5009–82 Submission to General Services Administration.

Each bureau shall submit seven copies of its annual report to the Assistant Attorney General for Administration by December 15 of each year in order to enable the Department to submit its complete report to the Administrator of the General Services Administration not later than December 30, of each year.

§ 128–18.5009–83 Maintenance of racial and ethnic data.

The elimination of the requirement to report racial and ethnic data in no way relieves the bureaus or their grantees of responsibility for maintaining racial and ethnic data on relocatees to the extent required by Title VI of the Civil Rights Act of 1964, other applicable Federal law, and Executive Order 11512. Form DJ–245, Table 1, Part II, may be used for this purpose.

§ 128–18.5010 Uniform real property acquisition policy.

§ 128–18.5010–90 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in implementing Title III of the Act.

§ 128–18.5010–91 Acquisition procedures.

(a) *Just compensation.* Before initiation of negotiations for the acquisition of real property, the bureau head, or the head of the State agency with the concurrence of the bureau head, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the bureau's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations.*

(1) *Statement to be furnished to the owner.* When negotiations for the acquisition of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition. This statement shall include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land as well as the fixtures considered to be a part of the real property; and

(ii) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring bureau or agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase.* The bureau head shall make a prompt offer to purchase the property for the amount contained in the statement.

§ 128–18.5010–92 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring real property shall, with the concurrence of the bureau head establish standards for appraisals used in real property acquisition, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent with the current issue of the Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference.

§ 128–18.5010–93 Notice to move.

Section 301(5) provides that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice from the head of the displacing agency of the date by which such move is required. This subsection applies only in those instances where actual displacement of persons, businesses, or farm operations occur.

§ 128–18.5010–94 Federally assisted programs.

The bureau head shall require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The bureau head shall also require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 128–18.5010–95 Exclusion of payments for relocation costs and related items.

For real property acquisitions under Federal Law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.

§ 128–18.5011 Administrative review.

§ 128–18.5011–111 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in providing administrative review of decisions made with respect to duties and responsibilities established under the Act.

§ 128–18.5011–112 Review procedure.

(a) Any person aggrieved by determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may apply in writing for review by the bureau head, in the case of a direct Federal program or project. The bureau head shall:

(1) Give prompt consideration of all requests for administrative review; and

(2) Give prompt written notice to the claimant of any determination made in connection with his application for review, and include a full explanation concerning any amount claimed which has been disallowed; and

(3) Provide for prompt payment of any amounts which are determined to be due the claimant.

(b) In the case of a State program or project receiving Federal financial assistance, the bureau head shall require the State agency to provide for administrative review by the head of the State agency, which review shall be subject to the same requirements as set forth in paragraph (a) of this section.

[FR Doc.76–23789 Filed 8–13–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This notice invites written comments relative to the proposed Industry Committee expenses of $122,262 and an assessment rate of six cents ($0.06) per No. 38L grape lug of Tokay grapes, grown in San Joaquin County, California, to support committee activities during the 1976–77 season under Marketing Order No. 926. It is also proposed that unexpended assessment income from 1975–76 be added to the funds carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Industry Committee established under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), as the agency to administer the provisions thereof. The agreement and order regulate the handling of fresh Tokay grapes grown in San Joaquin County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposals are as follows:

(a) That expenses which are reasonable and likely to be incurred by the Industry Committee, during the period April 1, 1976, through March 31, 1977, will amount to $122,262.

(b) That there be fixed, at six cents ($0.06) per No. 38L grape lug (as specified in § 1387.11 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes, the rate of assessment payable by each handler in accordance with § 926.46 of the marketing agreement and order.

(c) That unexpended assessment funds in excess of expenses incurred during the season ended March 31, 1976, and prior years be carried over as a reserve in accordance with § 926.47.

Terms used in the marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and this part.

All persons who desire to submit written data, views, or arguments in connection with the proposals should file them, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than September 1, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 11, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–23848 Filed 8–13–76;8:45 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Expenses of the Board and Rate of Assessment for the 1976–77 Crop Year

Notice is given of proposed expenses of the Almond Board of California and rate of assessment for the 1976–77 crop year. The proposal is pursuant to §§ 981.80 and

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981.81 of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 41 FR 26852, 27827). The amended marketing agreement and order regulate the handling of almonds grown in California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is based on unanimous recommendation of the Almond Board of California. Proposed expenses of the Board for the 1976–77 marketing year, beginning July 1, 1976, total $5,684,300. The proposed rate of assessment is 2.15 cents per pound of almonds (kernel weight basis).

All persons who desire to submit written data, views, or arguments on this proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received no later than August 31, 1976. All written submissions made pursuant to this notice will be made available during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 981.326 Expenses of the Board and rate of assessment for the 1976–77 crop year.

(a) *Expenses.* Expenses in the amount of $5,684,300 are reasonable and likely to be incurred by the Board during the crop year beginning July 1, 1976, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 2 cents per pound of almonds (kernel weight basis), is fixed at 2.15 cents per pound of almonds (kernel weight basis).

Dated: August 11, 1976.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.76-23821 Filed 8-13-76;8:45 am]

[7 CFR Part 991]

HOPS OF DOMESTIC PRODUCTION

Proposed Expenses of the Hop Administrative Committee and Rate of Assessment for the 1976–77 Marketing Year

Notice is given of proposed expenses of the Hop Administrative Committee, and rate of assessment, for the 1976–77 marketing year. The proposal is pursuant to §§ 991.55 and 991.56 of Order No. 991, as amended (7 CFR Part 991). The amended marketing order regulates the handling of hops of domestic production, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is based on the unanimous recommendation of the Hop Administrative Committee. Proposed expenses of the Committee for the 1976–77 marketing year, beginning August 1, 1976, total $183,582. The proposed rate of assessment is 0.3 cent per pound of salable hops handled by each handler during the 1976–77 marketing year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

The proposal is as follows:

§ 991.311 Expenses of the Hop Administrative Committee and rate of assessment for the 1976–77 marketing year.

(a) *Expenses.* Expenses in the amount of $183,582 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1976, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

Dated: August 11, 1976.

FLOYD F. HEDLUNG,
Director,
Fruit and Vegetable Division.

[FR Doc.76-23847 Filed 8-13-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Consumer Affairs and Regulatory Functions

[24 CFR Part 1710]

[Docket No. R-76-412]

LAND SALES REGISTRATION

Statement of Record and Property Report

Notice is hereby given that the Secretary of Housing and Urban Development proposes to review the Regulations setting forth the requirements for the Statement of Record and Property Report.

The Interstate Land Sales Full Disclosure Act is intended to prevent fraud and misrepresentation in the sale of vacant lots in subdivisions marketed using means of transportation or communication in interstate commerce or with the use of the mails. This objective is achieved by the use of a printed disclosure document called a Property Report which is based on a detailed registration document called a Statement of Record.

These documents are required to be filed and reviewed by the Office of Interstate Land Sales Registration (OILSR). The Property Report must be delivered to all prospective purchasers before they sign a contract or agreement to buy.

Developers attempting to comply with the registration requirements of the Act rely on the format and detailed instructions contained in the regulations implementing the Act found at 24 CFR 1701 et seq.

The Office of Interstate Land Sales Registration is conducting a review to determine whether and how the regulations can be revised to achieve overall simplification without sacrificing any of the public benefits intended by the statute. Some of the questions the Office hopes to address are:

Can the existing exemption provisions be changed or better exemption provisions substituted which relieve developers from the registration requirements when registration seems unnecessary in the public interest or for the protection of land purchasers?

Can the Statement of Record be simplified by reducing duplication, eliminating superfluous documentation and simplifying language and cross-references, and how?

How can the Property Report be made more comprehensible to the average recipient?

Are the environmental disclosure requirements in the current regulations adequate?

What are the costs and benefits of the program generally and the costs and benefits of particular requirements of the program that you may be concerned with?

How helpful are the current financial statement requirements to a lot purchaser? Would some other approach be more helpful?

Is it appropriate for OILSR to accept State subdivision reports as meeting the Federal registration requirements, despite the loss of uniformity?

What changes could be made to the advertising guidelines to further their purpose of standardizing fair land promotion practices?

Constructive comments are sought on these and any other issues interested persons care to raise. The OILSR regulations can be found in Title 24 of the Code of Federal Regulations, Part 1700 et seq.

As a parallel project, the Department plans to seek input directly from the land buying public by use of a questionnaire in order to evaluate the current property report as a consumer tool. Developers registered with OILSR and using a Federal property report, are invited to participate in this effort as well by making available to the Department lists of people who were provided property reports during the last 90–120 days. These lists shall not be deemed to be "written comments" as described below. Interested parties should contact the Office of Interstate Land Sales Registration at 451 7th Street, S.W., Washington, D.C., 20410 or call (202) 755–8182 if they wish additional details.

The Department contemplates publishing the results of this review during the Fall of 1976 as proposed rulemaking incorporating those suggestions considered beneficial.

Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received by September 15, 1976 will be considered before action is taken resulting in proposed revisions to current rules. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

(Sec. 7(d)), Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d)). 1419. 82 Stat. 598 (15 U.S.C. 1718); Secretary's delegation of authority published at 41 FR 19365).

Issued at Washington, D.C., August 4, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-23851 Filed 8-13-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 74-191]

LAHAINA, ISLAND OF MAUI, HAWAII

Proposed Special Anchorage Area

The Coast Guard is considering amending the anchorage regulations by establishing a Special Anchorage Area off Lahaina, Island of Maui, Hawaii. The anchorage is needed to provide for the safety of pleasure craft anchoring in this vicinity. The anchorage has been requested by the State of Hawaii Department of Transportation. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Fourteenth Coast Guard District, 577 Ala Moana, Honolulu, Hawaii 96813. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 74-191), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the office of the Commander, Fourteenth Coast Guard District.

The Commander, Fourteenth Coast Guard District will forward all comments received before October 1, 1976, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that a new section 110.128a be added to Part 110 of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.128a Lahaina, Island of Maui, Hawaii.

The water area of the Pacific Ocean, west of Lahaina, Hawaii enclosed by a line beginning at latitude 20°52'39'' N., longitude 156°41'11'' W.; thence to latitude 20°52'40'' N., longitude 156°41'09'' W.; thence to latitude 20°52'32'' N., longitude 156°41'03'' W., thence to latitude 20°52'31'' N., longitude 156°41'04'' W.; thence to the point of beginning.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2).)

Dated: August 11, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-23839 Filed 8-13-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-WE-14-AD]

MCDONNELL DOUGLAS DC-9 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas DC-9, Series 10 and Series 30 airplanes. Two operators have found fatigue cracks in the lower center of the emergency exist doorjamb in the aft pressure bulkhead on airplanes without the aft ventral stair. In one case, the crack had severed the doorjamb and continued down through the bulkhead web for a total of 17 inches. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspections, rework, and repair of the aft pressure bulkhead on McDonnell Douglas DC-9, Series 10 and Series 30 airplanes without ventral stairs.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Federal Aviation Administration, Regional Counsel, AWE-7, Attention: Airworthiness Rules Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, CA 90009. All communications received by September 15, 1976 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available both before and after the closing date for comments in the Airworthiness Rules Docket for examination by interested persons.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MCDONNELL, DOUGLAS. Applies to McDonnell Douglas Model DC-9, Series 10 and Series 30 airplanes, certificated in all categories, which are not equipped with the aft ventral stairway.

Compliance required as indicated.

To detect possible fatigue cracks and prevent failure of the aft pressure bulkhead, accomplish the following:

(a) Within 500 landings after the effective date of this AD for aircraft having in excess of 30,000 landings, or within 800 landings after the effective date of this AD for aircraft having between 15,000 and 30,000 landings, unless already accomplished, perform a visual inspection for cracks in the aft pressure bulkhead emergency exit doorjamb and bulkhead skin in accordance with McDonnell Douglas TWX DC-9-COM-01 dated January 10, 1976, or Figure 1 of McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision.

(b) If no cracks are found during the inspection required by paragraph (a):

(1) At intervals not to exceed 1000 landings since the last inspection, and until the modification of paragraph (b)(3) is accomplished, repeat the visual inspections required by paragraph (a); or

(2) Within the next 1000 landings after completing the inspection, and thereafter at intervals not to exceed 4000 landings until the modification of paragraph (b)(3) is accomplished, perform an X-ray inspection for cracks in accordance with Figure 1 of Service Bulletin 53-127 dated May 25 1976, or later FAA-approved revisions, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region; or

(3) Within the next 1000 landings after a visual inspection or 4000 landings after an X-ray inspection, accomplish the modification shown for Condition 1 on Figure 2 of McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision, or in accordance with an equivalent rework approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) If cracks are found during the initial inspection required by paragraph (a) or the repetitive inspections required by paragraph (b) that are limited to the emergency exit doorjamb, repair before further flight as shown for Condition 2 in Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision, or an equivalent repair approved by the Chief, Aircraft Engineering Division, FAA Western Region.

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(d) If cracks are found during the initial inspection required by paragraph (a) or the repetitive inspections required by paragraph (b) that extend through the emergency exit doorjamb and into the pressure bulkhead skin, repair before further flight as shown for Condition 3 in Service Bulletin 53-127 dated May 25 1976 or later FAA-approved revision, or an equivalent repair approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) The repetitive inspections required by paragraphs (b)(1) or (b)(2) may be discontinued provided a repair or a modification per paragraph (b)(3), (c), or (d) is accomplished.

(f) The airplane may be flown unpressurized in accordance with FAR 21.197 to a base where the crack repair can be performed.

(g) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

Issued in Los Angeles, California, on August 5, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23611 Filed 8-13-76;8:45 am]

[14 CFR Part 71]

[Airpace Docket No. 76-EA-51]

VOR FEDERAL AIRWAYS

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would: (1) extend V-170 from Modena, Pa., via New Castle, Del., and the INT of New Castle 222° and Andrews, Md., 060° radials, to the INT of Andrews 060° and Baltimore, Md., 165° radials; (2) extend V-312 from Woodstown, N.J., via the INT of Woodstown 230° and Andrews, Md., 060° radials to the INT of Andrews 060° and Baltimore, Md., 165° radials.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 15, 1976, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be change in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would:

(1) Extend V-170 from Modena, Pa., via New Castle, Del., and the INT of New Castle 222° T (231° M) and Andrews, Md., 060° T (067° M) radials; to the INT of Andrews 060° T (067° M) and Baltimore, Md. 165° T (173° M) radials;

(2) Extend V-312 from Woodstown, N.J., via the INT of Woodstown 230° T (240° M) and Andrews, Md., 060° T (067° M) radials to the INT of the Andrews 060° T (067° M) and Baltimore, Md., 165° T (173° M) radials.

The proposed routes would help to expedite the Andrews Air Force Base departures to the north and reduce communication requirements.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23609 Filed 8-13-76;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 75-WA-21]

ALTERATION OF RESTRICTED AREAS

Extension of Comment Period

On March 5, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 9558) stating the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter, redefine and designate certain restricted areas in the vicinity of Tonopah, Nev. In accordance with the terms of the notice, the time for public comment was to expire on June 2, 1976.

Because of a subsequent corrective reprint in the FEDERAL REGISTER (41 FR 10448) it is felt that the airspace users in the affected areas were not given ample opportunity to comment on the proposal prior to the comment period closing date. For this reason, the comment period is hereby extended to October 1, 1976. All comments received before this date will be considered before final rule making is taken on the proposal.

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23610 Filed 8-13-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 300]

[Docket 29626; PDR-41]

RULES OF CONDUCT IN BOARD PROCEEDINGS

Proposed Rulemaking

This notice proposes to adopt as a permanent final rule the revision of 14 CFR Part 300, *Rules of Conduct in Board Proceedings*, issued today as an interim regulation (*See FR Doc. 76-23840*).

By PR-154, published in this issue of the FEDERAL REGISTER, the Board has issued a revision of Part 300 on an interim basis. A detailed discussion of the provisions of the regulation is contained in the preamble of that notice. Because Part 300 affects the rights of persons dealing with the Board, and public comment will be valuable in deciding on the final content of the rule, it is presented by this notice as a proposal on which the public is invited to comment. The Board's experience under the interim regulation will also be relevant to its decision on a final rule.

This revision of 14 CFR Part 300 is proposed under the authority of section 204 of the Federal Aviation Act of 1958, 72 Stat. 731, 49 U.S.C. 1324.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 29, 1976, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be avaibale for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies.

By the Civil Aeronautics Board:

Dated: August 10, 1976.

PHYLLIS T. KAYLOR,
Secretary.

Sec.
300.0 Applicability.
300.1 Judicial standards of practice.
300.2 Prohibited communications.
300.2a Prohibited influence and solicitation.
300.3 Separation of functions.
300.4 Permitted communications.
300.5 Conciseness of presentation.
300.6 Attorney-client relationship.
300.7 Contacts with other governmental agencies.
300.8 Gifts and unusual hospitality and other conduct affecting Board employees.
300.9 Permanent disqualification of Board Members and employees in matters in which they personally participated before joining the Board.
300.10 Temporary disqualification of Board Members and employees in matters in which they had official responsibility before joining the Board.
300.11 Disqualification of Government officers and employees.
300.12 Practice of special Government employees permitted.
300.13 Permanent disqualification of former Board Members and employees in matters in which they personally participated.

Sec.
300.14 Temporary disqualification of former Board Members and employees in matters formerly under their official responsibility.
300.15 Opinions or rulings by the General Counsel.
300.16 Waivers.
300.17 Disqualification of partners of Board Members and employees.
300.18 [Reserved].
300.19 Use of confidential information.
300.20 Violations.

AUTHORITY: Sec. 204, of the Federal Aviation Act of 1958, as amended, 72 Stat. 731, 49 U.S.C. 1324.

§ 300.0 Applicability.

The rules of conduct set forth in this part shall govern the conduct of parties and their representatives, and the relationships between the members of the Board, Board employees, and all other persons in all Board matters, except as otherwise provided in this or any other Board regulation. For purposes of this part, the terms "Board employee(s)" shall refer to all persons employed by the Board, including Board Members, personal staff of Members, regular employees, special Government employees, consultants or experts under contract with the Board, and administrative law judges.

§ 300.1 Judicial standards of practice.

The Board is a quasi-judicial agency and as such certain of its functions are similar to those of a court, and parties to cases before the Board and those who represent such parties are expected—in fact and in appearance—to conduct themselves with honor and dignity as they would before a court. By the same token, the Members of the Board and Board employees who may be making recommendations to the Board Members or advising them are expected to conduct themselves with the same fidelity to appropriate standards of propriety that characterize a court and its staff. The standing and effectiveness of the Board are in direct relation to the observance by the Board, Board employees, and the parties and attorneys appearing before the Board of the highest standards of judicial and professional ethics. The rules of conduct set forth in this part are to be interpreted in light of those standards.

§ 300.2 Prohibited communications.

(a) This section applies to all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order, except that this section shall not apply to responses to communications initiated by Board Members or employees made for the purpose of obtaining additional data or clarification of filed data in the following:

(1) Nonhearing rulemaking matters;

(2) Tariff filings, whether or not a complaint is filed, unless and until the Board orders the tariff investigated (with or without suspension).

(3) Contested nonhearing matters to be decided within 30 days following receipt of the document initiating such matter;

(4) Uncontested nonhearing matters other than nonhearing rulemaking matters; and

(5) Any matter (not involving a hearing where an employee presides at the reception of evidence) where in the Board's opinion emergency conditions exist and the rule prohibiting communications prevents the Board from obtaining needed information in a timely manner and the Board directs Board employees to obtain such information.

For purposes of this part, a matter is uncontested up to the time an identifiable and detailed written opposition to the initiating document is filed or received, whether or not such opposition technically complies with the Board's Rules of Practice. Nonhearing matters (including nonhearing rulemaking matters) are those matters which (i) are not required by statute to be determined after notice and hearing, and (ii) as to which the Board has not issued an order giving interested persons the opportunity to participate by submission of written data, views, or argument, in writing or orally, with or without provision for a hearing at which an employee presides at the reception of evidence.

(b) In a matter subject to this section, from the time of the filing of the initial document, the filing or receipt of an identifiable and detailed written opposition, or issuance of a relevant Board order, as the case may be, a written or oral communication by any person not affiliated with the Board as a Board employee on any substantive or procedural issue in a matter to any Member of the Board or Board employee, other than in compliance with the Board's rules of practice, shall be deemed a private communication on the merits and as such is hereby prohibited unless otherwise provided for by law or published rule.

(c) The prohibition of paragraph (b) of this section shall not be deemed to apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from other U.S. Government agencies (not parties or participants in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from foreign governments, or to settlement discussions or mediation efforts between parties and the Board's employees, or to communications in the course of formal negotiations or consultations with one or more foreign governments on international aviation matters. That prohibition shall also not apply to information provided at the request of Board employees who are preparing a hearing case as advocates (witnesses, counsel or their supervisors), in a matter in which § 300.3 prohibits private communications on the merits by those employees to persons, or the staff of persons, hearing the case. Either oral or written communications which make inquiry as to the status of a proceeding or request expeditious treatment of a pending matter without discussing issues are not considered private communications on the merits and are permitted. However, requests for expedition by a party or other person are to be made by motion in accordance with the Rules of Practice, particularly Rules 14 and 18.

(d) Oral and written communications prohibited by this section shall not be considered as part of the record for decision of the matter.

(e) Any prohibited communication in writing shall be made public by placing it in the correspondence or other appropriate file of the matter, which shall be available for inspection and copying during business hours in the Board's Docket Section or other apporpriate office. Any prohibited oral communication shall be briefly summarized by the person receiving it, one copy of the summary being placed in the correspondence or other appropriate public file of the matter and another copy being mailed to the communicator. This requirement with respect to oral *ex parte* statements shall be limited to matters of significance expressed to members of the Board or Board employees making recommendations to or advising the Board on the case under consideration or exercising delegated functions on behalf of the Board with respect thereto. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of a case.

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in the case to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any Member of the Board or Board employee, or that any person, directly or indirectly, give statements to the communications media by paid advertisements or otherwise to influence the Board's judgment in the matter.

(b) It is improper that any person solicit communications to members of the Board or Board employees other than proper communications permitted under the Board's rules of practice. Anybody soliciting the support of another person shall call such person's attention to appropriate provisions of the rules of practice, including Rules 14 and 15.

§ 300.3 Separation of functions.

It is improper that there be any private communication on the merits of any substantive or procedural issue in a case of adjudication, or any factually related adjudicatory case, which is to be

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decided after notice and hearing, to members of the Board or to Board employees making recommendations to or advising the Board on the matter, or to the administrative law judge in the case, by any members of the Board's staff who participate in the hearing of such case as witnesses or as counsel, or by supervisors exercising review of their positions.

§ 300.4 Permitted communications.

(a) This paragraph applies to those communications excluded from the prohibition of § 300.2 by paragraph (a) thereof. Private communications on the merits in such matters are permissible. However, unless the Board orders otherwise all such communications, written or oral, are to be made public. All written communications concerning a matter are to be placed in an appropriate public file. Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in uncontested nonhearing matters excluded from § 300.2 by clause 3 of paragraph (a) thereof. This practice will only be followed with respect to statements deemed to be of significance by the recipient and only when transmitted to Board Members or Board employees making recommendations to or advising Board Members on the matter under consideration, or exercising delegated functions on behalf of the Board. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of the matter.

(b) This paragraph applies to those communications, oral or written, other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments, making inquiry as to the status of a proceeding or requesting expeditious treatment of a pending matter without discussing the merits, which are excluded from the prohibitions of § 300.2 by paragraph (c) thereof. Board Members shall either refer such oral inquiries to the Office of the Managing Director or, if they respond, shall make an explanatory record of such communication and place it in the public file of the pending matter. All Board employees shall cause written inquiries, unless filed in accordance with the Rules of Practice, to be placed in the public file of the matter.

(c) When a private communication takes place within six months prior to the issuance of a notice of proposed rulemaking (or issuance of an advance notice) and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

(d) Board employees shall report to the Managing Director, in writing, any request for information or access to records concerning proceedings where such information or records have not been made publicly available at the time of such request. For purposes of this requirement, "proceedings" shall be defined as all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order. This requirement shall not apply to requests for information as to the status of a proceeding or requests for access to records made pursuant to the provisions of Part 310 of this chapter.

§ 300.5 Conciseness of presentation.

Persons practicing before the Board should endeavor to present their cases in concise form avoiding cumulative and repetitious evidence, since the members of the Board participating in a case which is to be decided after notice and hearing must familiarize themselves with the evidence in the record and with the arguments made on behalf of the parties orally and in written briefs, and must base their decision on the record. The same considerations are applicable to any other matters before the Board in which the public participates and should be recognized to the fullest extent possible.

§ 300.6 Attorney-client relationship.

Persons practicing or appearing before the Board should become cognizant of and have due regard for the standards of professional conduct applicable to the lawyer-client relationship and to the relationship between a lawyer and a judicial tribunal.

(a) The nontechnical nature of the Board's procedure calls for special adherence, by practitioners, to scrupulous standards of fairness, candor, and consideration for the rights of others in the pleadings filed, evidence submitted, conduct of hearing, and briefs and arguments made. In appearing for a client, the practitioner thereby vouches on his honor that in his opinion the client's cause is one proper for determination, and in presenting pleadings and offering evidence he represents that the same are not offered for unwarranted delay and that in his opinion the content thereof is not misleading. Nor should he indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations.

(b) A practitioner, moreover, should advise his client to ovserve the law according to his conscientious belief as to its permissible meaning and should use his best efforts to restrain his client from improprieties in dealing with members of the Board or Board employees. If a client persists in such improprieties, the practictioner should terminate his representation of the client in the matter.

§ 300.7 Contacts with other governmental agencies.

The Board or any administrative law judge may, for good cause shown and in appropriate cases with respect to, and in the course of, any proceeding, require any party to such proceeding to report any contract by such party, its agents, or persons authorized to act on its behalf, with any federal, state, territorial or local governmental legislative or executive body or agency or any other domestic or foreign governmental authority, person or body made at any time with a view toward obtaining the support of such body, person, or agency for such party or opposition to another party in such proceeding. The reports of such contacts shall be made at such periods and in such detail as ordered by the Board or the administrative law judge and shall be made public in the proceeding.

§ 300.8 Gifts and unusual hospitality and other conduct affecting Board employees.

(a) No person, otherwise than as provided by law for the proper discharge of official duty, shall directly or indirectly give, offer, or promise anything of value to any Board member or Board employee for or because of any official act performed or to be performed by such Board Member or Board employee (18 U.S.C. 201).

(b) It is improper for persons interested in the business of the Board to provide unusual hospitality, gifts, entertainment, or favors to any Board member or Board employee.

(c) Persons interested in the business of the Board should familiarize themselves with Part 370 of the Board's Special Regulations—Employee Responsibilities and Conduct (14 CFR Part 370), in order that they shall not encourage or cause any violation of the provisions of Part 370 by any Board Member or Board employee.

§ 300.9 Permanent disqualification of Board members and employees in matters in which they personally participated before joining the Board.

Any Board member or any Board employee shall permanently disqualify himself from participation in every matter before the Board in which he previously personally and substantially participated for an interested person or entity, including other agencies of the United States Government, before joining the Board, and from disclosing any confidential facts learned in such prior employment or representation. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board Member or Board employee as partner, associate, employer, or the like, personally and substantially participated in a matter before the Board prior to the Member's or employee's employment by the Board and the circumstances were such that the Board member's or employee's subsequent participation in the matter as a Board member or employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Member, the disqualification of any Board employee, including any member of a Board member's personal staff or a special Government employee, whose prior personal and substantial participation in a Board proceeding or whose relationship to one who so participated occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding unless participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

§ 300.10 Temporary disqualification of Board members and employees in matters in which they had official responsibility before joining the Board.

Any Board member and any Board employee shall temporarily disqualify himself from participation in any matter before the Board if he represented, was associated with or was employed by an interested person or entity including other agencies of the United States Government before joining the Board, and, although he did not personally and substantially participate in the matter, the matter was within his "official responsibility," as that term is defined in § 300.14 except that the action referred to therein shall be private action as well as "Government" action. He shall also be prohibited from disclosing any confidential facts learned through his prior representation or association. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board employee as partner, associate, employer, or the like, who, while not personally and substantially participating in the matter, had it within his "official responsibility" as that term is defined in § 300.14, and modified above, and the circumstances are such that the Board employee's subsequent participation in the matter as a Board employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Board Member, the disqualification of any Board employee whose prior "official responsibility" or relationship to one with such responsibility occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding. The temporary disqualification shall run for a period of one year from the date of the termination of the representation, association, or employment with the interested person or entity.

§ 300.11 Disqualification of Government officers and employees.

No officer or employee of the Federal Government, other than a "special government employee" as defined in 18 U.S.C. 202, shall represent anyone, otherwise than in the proper discharge of his official duties, in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.)

§ 300.12 Practice of special Government employees permitted.

A special Government employee, who qualifies as such under the provisions of 18 U.S.C. 202(a), may participate in Board proceedings only to the extent and in the manner specified in 18 U.S.C. 205.

§ 300.13 Permanent disqualification of former Board members and employees in matters in which they personally participated.

No formed Board Member or Board employee shall act as agent or attorney before the Board for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Board Member or employee. (18 U.S.C. 207(a).)

§ 300.14 Temporary disqualification of former Board members and employees in matters formerly under their official responsibility.

Within one year after termination of employment with the Board, no former Board member or Board employee shall appear personally before the Board on behalf of any person other than the United States in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action (18 U.S.C. 202(b), 207(b)).

§ 300.15 Opinions or rulings by the General Counsel.

(a) The Board's General Counsel is authorized to render opinions or rulings to employees of the Board and to the public on the application of the provisions of this part. Such opinions and rulings, and the reasons therefor, shall be transmitted to the Board and shall be available to the public in the Public Reference Room after any appeal to or review by the Board has been completed or after the time for review has expired. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details. Absent review by the Board, any opinion or ruling of the General Counsel is not binding on the Board or any future General Counsel.

(b) If any person is disqualified from a particular proceeding under the provisions of §§ 300.9, 300.10, 300.13, 300.14, and 300.17 by a ruling of the General Counsel, or by such person's own action, such disqualification shall be memorialized in a writing filed in the appropriate file of the matter by the General Counsel or such person.

(c) The Board may review any opinion or ruling of the General Counsel at its discretion within 25 days from the issuance of such opinion or ruling. Any person affected by an opinion or ruling may file an appeal to the Board within ten days after issuance of such opinion or ruling. Decisions of the Board on review or appeal shall be available to the public. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details.

§ 300.16 Waivers.

(a) A former Board member or Board employee with outstanding scientific or technological qualifications who is disqualified from acting in a representative capacity under the provisions of §§ 300.13 or 300.14 may nevertheless participate in a proceeding in a scientific or technological field pursuant to the terms of a certificate issued in compliance with the proviso following 18 U.S.C. 207 (a) and (b).

(b) An employee who believes his prior employment relationships will not affect the integrity of his services may request that the prohibition of §§ 300.9 or 300.10 be waived in accordance with the procedures set forth in § 370.735-14.

§ 300.17 Disqualification of partners of Board members and employees.

No partner of a Board member or of a Board employee shall act as agent or attorney for anyone other than the United States in any Board proceeding or matter in which such member or employee participates or has participated personally and substantially through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, or which is the subject of his official responsibility. (18 U.S.C. 207 (c).)

§ 300.18 [Reserved]

§ 300.19 Use of confidential information.

No former Board Member or employee, or any person associated with him, shall ever use or undertake to use in any Board proceeding or matter any confidential facts or information which came into the possession of such Member or employee or to his attention by reason of his employment with the Board without first applying for and obtaining the consent of the Board for the use of such facts or information.

§ 300.20 Violations.

(a) The Board may disqualify, and deny temporarily or permanently the

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privilege of appearing or practicing before it in any way to, any person who is found by the Board after written notice of charges and hearing to have engaged in unethical or improper professional conduct. Any violation of this part shall be deemed to be such conduct.

(b) When appropriate in the public interest, the Board may deny any application or other request of a party in a proceeding subject to this part where the Board finds after hearing that such party has, in connection with any Board proceeding, violated any of the provisions of this part or any of the provisions of Chapter 11 of Title 18 of the United States Code. The Board may also condition its further consideration of such party's application or other request or the effectiveness of any order granting such application or other request upon such party's first taking such action as the Board may deem necessary or appropriate to remedy the violation of this part or Chapter 11 of Title 18 of the United States Code to prevent or deter any repetition of such violation. The Board may in addition issue a cease and desist order against any repetition of such or similar misconduct.

(c) The action authorized by this section may take place within the framework of the matter during or concerning which the violations occur on in a separate matter, as the Board or the presiding administrative law judge may direct. A complaint alleging that a violation has occurred in the course of a matter shall be filed in the docket or appropriate public file of such matter unless such complaint is made after the Board's decision of the matter has become final, in which event such complaint may be filed pursuant to Part 302, Subpart B of the rules of practice. A violation in the course of a matter which may be attributable to or affect the fitness of a party will ordinarily either be disposed of within the framework of such matter or be considered within the context of any subsequent matter involving the interests of such party. Other violations will ordinarily be disposed of in a separate proceeding.

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FEDERAL TRADE COMMISSION

[16 CFR Part 700]

MAGNUSON-MOSS WARRANTY ACT

Proposed Interpretations

From the time the Magnuson-Moss Warranty Act, Pub. L. 93-637, 15 U.S.C. 2301 was signed into law in January of 1975, many questions concerning the Act have been directed to the Commission. The Commission has determined that guidance should be provided in order that compliance with the terms of the Act may be facilitated. For these same reasons the Commisison published, on June 18, 1975, a policy statement in the FEDERAL REGISTER to provide interim guidance to warrantors during the period of initial implementation of the statute.

As questions and requests for informal staff opinions continue to be directed to the Commission, further guidance of a more permanent nature is appropriate. Therefore, the Federal Trade Commission proposes the following interpretations of the Magnuson-Moss Warranty Act to assist warrantors and suppliers of consumer products to comply with the Act.

These interpretations in many instances parallel the views the Commission expressed in its June 18, 1975, interim policy statement (40 F.R. 25721). In some instances the explanations in the earlier policy statement have been paraphrased or altered in these interpretations. The fact that some items from the earlier statement are omitted herein does not mean that the Commission no longer holds those views.

These interpretations apply to consumer products distributed in commerce and sold with a written warranty. They are intended to clarify the requirements of the Act for consumers, manufacturers, importers, distributors and retailers. They are not, however, substantive rules, and do not have the force or effect of statutory provisions; like industry guides, they are advisory in nature. Failure to comply with them, however, may result in corrective action by the Commission under the applicable statutory provisions.

Accordingly, the Commission proposes to amend 16 CFR Chapter I by adding a new Part 700, reading as follows:

§ 700.1 Products covered.

(a) The Act applies to written warranties on tangible personal property which is normally used for personal, family or household purposes. This definition includes property which is intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

(b) Products such as automobiles and typewriters which are used for both personal and commercial purposes come within the statutory definition of consumer product. Where it is unclear whether a particular product is covered under the definition of consumer product, any ambiguity will be resolved in favor of coverage.

(c) Agricultural products such as farm machinery, structures and implements used in the business or occupation of farming are not covered by the Act where their personal, family, or household use is uncommon. However, those agricultural products normally used for personal or household gardening (for example, to produce goods for personal consumption, and not for resale) are consumer products under the Act.

(d) The definition of "consumer product" limits the applicability of the Act to personal property, "including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed". This provision brings under the Act separate items of equipment attached to real property, such as air conditioners, furnaces and water heaters.

(e) The coverage of separate items of equipment attached to real property includes, but is not limited to, appliances and other thermal, mechanical and electrical equipment. (It does not extend to the wiring, plumbing, ducts, and other items which are integral component parts of the structure.) State law would classify many such products as fixtures to, and therefore a part of, realty. The statutory definition is designed to bring such products under the Act regardless of whether they may be considered fixtures under state law.

(f) The coverage of building materials which are not separate items of equipment is based on the nature of the purchase transaction. An analysis of the transaction will determine whether the goods are real or personal property. The numerous products which go into the construction of a consumer dwelling are all consumer products when sold "over the counter," as by hardware and building supply retailers. This is also true where a consumer contracts for the purchase of such materials in connection with the improvement, repair or modification of a home (for example, paneling, dropped ceilings, siding, roofing, storm windows, remodeling). However, where such products are at the time of sale integrated into the structure of a dwelling they are not consumer products, as they cannot be practically distinguished from realty. Thus, for example, the beams, wallboard, wirings, plumbing, windows, roofing, and other structural components of a dwelling are not consumer products when they are sold as part of real estate covered by a written warranty.

(g) In the case where a consumer contracts with a builder to construct a home, a substantial addition to a home, or other realty (such as a garage or an in-ground concrete swimimng pool) the building materials to be used are not consumer products. Although the materials are separately identifiable at the time the contract is made, it is the intention of the parties to contract for the construction of realty which will integrate the component materials. Of course, as noted above, any separate items of equipment to be attached to such realty are consumer products under the Act.

(h) Certain provisions of the Act apply only to products actually costing the consumer more than a specified amount. Section 103 applies to consumer products actually costing the consumer more than $10.00, excluding tax. The $10.00 minimum will be interpreted to include multiple-packaged items which may individually sell for less than $10.00, but which have been packaged in a manner that does not permit breaking the package to purchase an item or items at a price less than $10.00. Thus, a written warranty on a dozen items packaged and priced for sale at $12.00 must be designated, even though identical items may be offered in smaller quantities at under $10.00. This interpretation applies in the same manner to the minimum dollar limits in Section 102 and rules promulgated under that section.

(i) Warranties on replacement parts and components used to repair consumer products are covered; warranties on services are not covered. Therefore, warranties which apply solely to a repairer's workmanship in performing repairs are not subject to the Act. Where a written agreement warrants both the parts provided to effect a repair and the workmanship in making that repair, the warranty must comply with the Act and the rules thereunder.

(j) The Act covers written warranties on consumer products "distributed in commerce" as that term is defined in Section 101(3). Thus, by its terms the Act arguably applies to products manufactured solely for export to foreign jurisdictions. However, the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result. The Commission does not contemplate the enforcement of the Act with respect to consumer products manufactured solely for export to foreign jurisdictions. Products exported for sale at military post exchanges remain subject to the same enforcement standards as products sold within the United States, its territories and possessions.

§ 700.2 Date of manufacture.

Section 112 of the Act provides that the Act shall apply only to those consumer products manufactured after July 4, 1975. When a consumer purchases repair of a consumer product the date of manufacture of any replacement parts used is the measuring date for determining coverage under the Act. The date of manufacture of the consumer product being repaired is in this instance not relevant. Where a consumer purchases or obtains on an exchange basis a rebuilt consumer product, the date that the rebuilding process is completed determines the Act's applicability.

§ 700.3 Written warranty.

(a) The Act imposes specific duties and liabilities on suppliers who offer written warranties on consumer products. Certain representations, such as energy efficiency ratings for electrical appliances, care labeling of wearing apparel and other product information disclosures may be express warranties under the Uniform Commercial Code. However, these disclosures alone are not written warranties under this Act. Section 101(6) provides that a written affirmation of fact or a written promise of a specified level of performance must relate to a specified period of time in order to be considered a "written warranty".[1] A product information disclosure without a specified time period to which the disclosure relates is therefore not a written warranty. In addition, Section 111(d) exempts from the Act (except Section 102(c)) any written warranty the making or content of which is required by federal law. The Commission encourages the disclosure of product information which is not deceptive and which may benefit consumers, and will not construe the Act to impede information disclosure in product advertising or labeling.

(b) Certain terms, or conditions, of sale of a consumer product may not be "written warranties" as that term is defined in Section 101(6), and should not be offered or described in a manner that may deceive consumers as to their enforceability under the Act. For example, a seller of consumer products may permit consumers to revoke acceptance of goods within a certain number of days after delivery without regard to defects or failure to meet a specified level of performance. Or a seller may permit consumers to return products for any reason for credit toward purchase of another item. Such terms of sale taken alone are not written warranties under the Act.

(c) Such terms of sale should not be described as written warranties, as this may deceive consumers, leading them to believe that such terms may be enforced as warranties under the Act. Therefore, suppliers should avoid any characterization of such terms of sale as warranties. The use of such terms as "free trial period" and "trade-in credit policy" in this regard would be appropriate. Furthermore, such terms of sale should be stated separately from any written warranty. Of course, the offering and performance of such terms of sale remain subject to Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(d) The Magnuson-Moss Warranty Act generally applies to written warranties covering consumer products. Many consumer products are covered by warranties which are neither intended for, nor enforceable by, consumers. A common example is a warranty given by a component supplier to a manufacturer of consumer products. (The manufacturer may, in turn, warrant these components to consumers.) The component supplier's warranty is generally given solely to the product manufacturer, and is neither intended to be conveyed to the consumer nor brought to the consumer's attention in connection with a sale. Such waranties are not subject to the Act, since a written warranty under Section 101(6) of the Act must become "part of the basis of the bargain between a supplier and a buyer for purposes other than resale." However the Act applies to a component supplier's warranty in writing which is given to the consumer. An example is a supplier's written warranty to the consumer covering a refrigerator that is sold installed in a boat or recreational vehicle. The supplier of the refrigerator relies on the boat or vehicle assembler to convey the written agreement to the consumer. In this case, the supplier's written warranty is to a consumer, and is covered by the Act.

§ 700.4 Parties "actually making" a written warranty.

Section 110(f) of the Act provides that only the supplier "actually making" a written warranty is liable for purposes of FTC and private enforcement of the Act. A supplier who does no more than distribute or sell a consumer product covered by a written warranty offered by another person or business and which identifies that person or business as the warrantor is not liable for failure of the written warranty to comply with the Act or rules thereunder. However, other actions and written and oral representations of such a supplier in connection with the offer or sale of a warranted product may obligate that supplier under the Act. Suppliers are advised to consult state law to determine those actions and representations which may make them co-warrantors, and therefore obligated under the warranty.

§ 700.5 Expressions of general policy.

(a) Under Section 103(b), statements or representations of general policy concerning customer satisfaction which are not subject to any specific limitation need not be designated as full or limited warranties, and are exempt from the requirements of Sections 102, 103, and 104 of the Act and rules thereunder. However, such statements remain subject to the enforcement provisions of Section 110 of the Act, and to Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(b) The Section 103(b) exemption applies only to general policies, and not to those which are limited to specific consumer products manufactured or sold by the supplier offering such a policy. In addition, to qualify for an exemption under Section 103(b) such policies may not be subject to any specific limitations. For example, policies which have an express limitation of duration or a limitation of the amount to be refunded are not exempted. This does not preclude the imposition of reasonable limitations based on the circumstances in each instance a consumer seeks to invoke such an agreement. For instance, a warrantor may refuse to honor such an expression of policy where a consumer has used a product for 10 years without previously expressing any dissatisfaction with the product. Such a refusal would not be a specific limitation under this provision.

§ 700.6 Designation of warranties.

(a) Section 103 of the Act provides that written warranties on consumer products manufactured after July 4, 1975, and actually costing the consumer more than $10.00, excluding tax, must be designated either "Full (statement of duration) Warranty" or "Limited Warranty". The designation or designations should appear clearly and conspicuously as a caption, or prominent title, clearly separated from the text of the warranty. The full (statement of duration) warranty and limited warranty are the exclusive designations permitted under the Act, unless a specific exception is created by rule.

[1] A "written warranty" is also created by a written affirmation of fact or a written promise that the product is defect free, or by a written undertaking of remedial action within the meaning of § 101(6)(B).

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(b) Section 104(b)(4) states that "the duties under subsection (a) [of Section 104] extend from the warrantor to each person who is a consumer with respect to the consumer product." Section 101(3) defines a consumer as "a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product . . ." Therefore, a full warranty may not expressly restrict the warranty rights of a transferee during its stated duration.

(c) These provisions do not preclude the offering of a full warranty with its duration determined exclusively by the period during which the first purchaser owns the product, or uses it in conjunction with another product. For example, an automotive battery or muffler warranty may be designated as "full warranty for as long as you own your car". Because this type of warranty leads the consumer to believe that proof of purchase is not needed so long as he or she owns the product, a duty to furnish such proof may not be reasonably imposed on the consumer under this type of warranty. The burden is on the warrantor to prove that a particular claimant under this type of warranty is not the original purchaser or owner of the product.

§ 700.7 Use of warranty registration cards.

(a) Under Section 104(b)(1) of the Act a warrantor offering a full warranty may not impose on consumers any duty other than notification of a defect as a condition of securing remedy of the defect or malfunction, unless such additional duty can be demonstrated by the warrantor to be reasonable. Warrantors have in the past stipulated the return of a warranty registration card as the means of proof of the date of product purchase to determine coverage under a warranty.

(b) A requirement that the consumer return a warranty registration card or a similar notice (other than a notice of a defect) as a condition of performance under a full warranty is an unreasonable duty. Thus, a provision such as "This warranty is void unless the warranty registration card is returned to the warrantor" is not permissible in a full warranty, nor is it permissible to imply such a condition in a full warranty.

(c) This does not prohibit the use of such registration cards where a warrantor suggests use of the card as one possible means of proof of the date the product was purchased. For example, it is permissible to provide in a full warranty that the consumer may fill out and return a card to place on file proof of the date the product was purchased. Any such suggestion to the consumer must include notice that failure to return the card will not affect rights under the warranty, so long as the consumer can show in a reasonable manner the date the product was purchased.

§ 700.8 Warrantor's decision as final.

A warrantor shall not indicate in any written warranty or service contract either directly or indirectly that the decision of the warrantor, service contractor, or any designated third party is final or binding in any dispute concerning the warranty or service contract. Nor shall a warrantor or service contractor state that it alone shall detremine what is a defect under the agreement. Such statements are deceptive since Section 110(d) of the Act gives state and federal courts jurisdiction over suits for breach of warranty and service contract.

§ 700.9 Duty to install under a full warranty.

Under Section 104(a)(1) of the Act, the remedy under a full warranty must be provided to the consumer without charge. If the warranted product has utility only when installed, a full warranty must provide such installation without charge. However, this does not preclude the warrantor from imposing on the consumer a duty to remove, return, or reinstall where such duty can be demonstrated by the warrantor to meet the standard of reasonableness under Section 104(b)(1).

§ 700.10 Section 102(c).

(a) Section 102(c) prohibits tying arrangements that condition coverage under a written warranty on the consumer's purchase of an article or service identified by brand, trade or corporate name.

(b) Under a limited warranty that provides only for replacement of defective parts and no portion of labor charges, Section 102(c) prohibits a condition that the consumer use only service (labor) identified by the warrantor to install the replacement parts. A warrantor or his designated representative may not provide parts under the warranty in a manner which impedes or precludes the choice by the consumer of the person or business to perform necessary labor to install such parts.

(c) No warrantor may condition the contained validity of a warranty on the use of only authorized repair service and/or authorized replacement parts for non-warranty service and maintenance. For example, provisions such as "This warranty is void if service is performed by anyone other than an authorized 'ABC' dealer and all replacement parts must be genuine 'ABC' parts," and the like, are prohibited where the service or parts are not covered by the warranty. These provisions violate the Act in two ways. First, they violate the Section 102(c) ban against tying arrangements. Second, such provisions are deceptive under Section 110 of the Act, because a warrantor cannot, as a matter of law, avoid liability under a written warranty where a defect is unrelated to the use by a consumer of "unauthorized" articles or service. This does not preclude a warrantor from expressly excluding liability for defects or damage caused by such "unauthorized" articles or service; nor does it preclude the warrantor from denying liability where the warrantor can demonstrate that the defect or damage was so caused.

(d) A prohibited tying arrangement may also be created at the time of sale. A warranty which promises to replace a product that is functional only when installed may not condition reinstallation under warranty on the consumer's choice of the warrantor to make the original product installation.

§ 700.11 Written warranty, service contract, and insurance distinguished for purposes of compliance under the act.

(a) The Act recognizes two types of agreements which may provide similar coverage of consumer products, the written warranty and the service contract. In addition, other agreements may meet the statutory definitions of either "written warranty" or "service contract", but are sold and regulated under state law as contracts of insurance. One example is the automobile breakdown insurance policies sold in many jurisdictions. The McCarran-Ferguson Act, 15 U.S.C. § 1101 et seq. precludes jurisdiction under federal law over "the business of insurance" to the extent an agreement is regulated by state law as insurance. Thus, such agreements are subject to the Magnuson-Moss Warranty Act only to the extent they are not regulated in a particular state as the business of insurance.

(b) "Written warranty" and "service contract" are defined in Sections 101(6) and 101(8) of the Act, respectively. A written warranty must be "part of the basis of the bargain." This means that it must be conveyed at the time of sale of the consumer product and the consumer must not give any consideration beyond the purchase of the consumer product in order to benefit from the agreement. It is not a requirement of the Act that an agreement obligate a supplier of the consumer product to be a written warranty, but merely that it be part of the basis of the bargain between a supplier and a consumer. This contemplates written warranties by third-party non-suppliers.

(c) A service contract under the Act must meet the definitions of Section 101(8). An agreement which would meet the definition of written warranty in Section 101(6) (A) or (B) but for its failure to satisfy the basis of the bargain test is a service contract. For example, an agreement which calls for some consideration in addition to the purchase price of the consumer product, or which is entered into at some date after the purchase of the consumer product to which it applies, is a service contract. An agreement which relates only to the performance of maintenance and/or inspection services and which is not an undertaking, promise or affirmation with respect to a specified level of performance, or that the product is free of defects in materials or workmanship, is a service contract. An agreement to perform periodic cleaning and inspection of a product over a specified period of time, even when offered at the time of sale and without charge to the consumer, is an example of such a service contract.

§ 700.12 Effective date of 16 CFR, Parts 701 and 702.

The Statement of Basis and Purpose of the final rules promulgated on December 31, 1975, provides that parts 701 and 702 will become effective one year after the date of promulgation, December 31, 1976. The Commission intends this to mean that these rules apply only to written warranties on products manufactured after December 31, 1976.

INVITATION TO COMMENT ON THE PROPOSED INTERPRETATIONS

All interested presons may submit to the Assistant Director for Special Statutes, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy bearing upon the proposed interpretations. Written comments will be accepted on or before September 15, 1976. To assure prompt consideration of a comment, it should be identified as an "Interpretations Comment" and submitted, when feasible and not burdensome, in duplicate.

Issued: August 16, 1976.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-23831 Filed 8-13-76;8:45 am]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2200]

RULES OF PROCEDURE

Notice of Extension of Time for Comments on Proposed Changes

On June 29, 1976, there was published in the FEDERAL REGISTER (41 FR 26707) an advance notice of proposed rulemaking setting forth the report of an internal committee which proposed changes in the Commission's rules of procedure. Interested parties and agencies were given the opportunity to submit, not later than August 16, 1976, data, views and recommendations regarding changes in the rules of procedure, and answers to certain specific procedural questions raised by the notice.

One party has asked for an extension of time in order to consider more fully the extensive changes proposed by the committee and by the Counsel to the Commission. In the interest of encouraging as many comments as possible, the Commission is hereby extending the time for comment on the proposed changes to not later than October 18, 1976. Communications should be submitted to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006. All communications received on or before October 18, 1976, will be considered by the Commission before taking action on the proposed changes. All comments submitted will be available, both before and after the closing date, in the Office of the Executive Secretary.

Issued at Washington, D.C., on August 11, 1976.

For the Commission.

WILLIAM S. MCLAUGHLIN,
Executive Secretary.

[FR Doc.76-23966 Filed 8-13-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 76-8]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on September 22, 1976, at the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., Room 5041 beginning at 9:00 a.m. (e.d.t.).

The Advisory Committee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of Title 5, United States Code, Section 552(b)(4). Accordingly, the meeting of the Advisory Committee will, under authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, Room 8233.

Dated: August 9, 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.76-23797 Filed 8-13-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By Notice dated May 27, 1976, and published in the FEDERAL REGISTER on June 7, 1976; (41 FR 22849), Winthrop Laboratory, Div. of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pethidine, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of pethidine is granted.

Dated: August 10, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-23820 Filed 8-13-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

COAL MINING

List of Proposed Plans for Exploration and Mining on Federal Lands Determined To Be New or Existing Operations

This notice is published pursuant to the requirement of 30 CFR 211.1(d)(1)(iv) which provides:

On or before August 16, 1976, the Director of the Geological Survey shall review all proposed plans which have been submitted to the Department on or before the effective date of this Part and after consultation with appropriate Federal surface managing agencies, publish in the FEDERAL REGISTER a list which shall identify each such proposed plan and whether it will be considered to cover a new or existing operation.

As required by 30 CFR 211.1(d)(1)(iv), all proposed plans for coal exploration and mining on Federal lands which were submitted to the Department on or before May 17, 1976, the effective date of revised 30 CFR 211, have been reviewed and the appropriate surface managing agency consulted.

The proposed plans have been classified as new or existing operations in accordance with 30 CFR 211.1(d)(1)(iii)(B) which defines existing operations as operations with respect to which a proposed plan has been submitted to the Department on or before the effective date of the Part, and with respect to which proposed plan the Department has on that date either completed its environmental impact analysis and determined that no environmental impact statement under section 102(2)(C) of the National Environmental Policy Act is necessary, or has determined that such a statement is necessary and has commenced, and expended substantial resources of the Department in the preparation or completion, of such a statement.

Substantial resources of the Department are considered to have been expended in the preparation of an environmental impact statement when the preliminary manuscript of the draft environmental impact statement has been completed and circulated internally for comments.

The following list identifies all such plans and indicates whether the plans cover new or existing operations as defined in 30 CFR 211.1(d)(1)(iii).

A. PLANS CONSIDERED TO BE EXISTING OPERATIONS

1. C.M.C. Mine, Cambridge Mining Corporation, Mesa County, Colorado (Colorado-078049)
2. Seneca 2 W. Mine, Peabody Coal Company, Routt County, Colorado (Colorado-081251, -081258)
3. Sun Mine, Ruby Construction Company, Routt County, Colorado. (Denver-051698)
4. Williams Fork Mine, Utah International, Inc., Moffat County, Colorado. (Colorado-07518, -07519, -079641)
5. Colowyo Mine, W. R. Grace and Company, Moffat County, Colorado. (Colorado-034365)
6. East Decker Mine, Decker Coal Company, Big Horn County, Montana. (Montana-073093)
7. North Extension Decker Mine, Decker Coal Company, Big Horn County, Montana. (Montana-057934, -057934-A, -061685)
8. Savage Mine, Knife River Coal Mining Company, Richland County, Montana. (Montana-023207)
9. Area A—Colstrip Mine, Western Energy Company, Rosebud County, Montana. (Billings-020989 -038770)
10. Area E—Colstrip Mine, Western Energy Company, Rosebud County, Montana. (Billings-020989 -038770)
11. Gascoyne Mine, Knife River Coal Mining Company, Bowman County, North Dakota. (BLM-019127 (ND))
12. Milton Mine, Lone Star Steel Company, LeFlore County, Oklahoma. (BLM-C-018820, NM-059992 (OK))
13. Braztah Corporation Mine, Franklin Real Estate Company, Carbon County, Utah. (SL-046852, SL-048442 -050115, SL-029093 -046653, SL-071737, U-019524, U-25485, U-25484, U-014779, U-058184, U-0146345)
14. Wilberg Mine, Peabody Coal Company, Emery County, Utah. (SL-064900, SL-070645, U-02292, U-040151, U-083066, U-1358, U-084924 U-084923)
15. Kaiparowits Project Mines, Resources Company, Mono Power Company, New Albion Resources Company, Kane County, Utah. (U-087805, U-087806, U-087807, U-087828, U-087833, U-087834, U-087835, U-092139, U-092140, U-092141, U-096486, U-096494, U-096495, U-096497)
16. Gordon Creek No. 2 Mine, Swisher Coal Company, Carbon County, Utah. (U-8319)
17. Belina No. 1 Mine, Malcolm N. McKinnon, et al., Carbon and Emery Counties, Utah. (U-017354, U-020305, U-044076)
18. North Belle Ayr Mine, Amax Coal Company, Campbell County, Wyoming. (Wyo-0313773)
19. Vanguard No. 3 Mine, Arch Mineral Corporation, Carbon County, Wyoming. (Wyoming-16466)
20. North Block, Kemmerer Coal Company, Kemmerer Coal Company, Lincoln County, Wyoming. (W-0294513, W-056471, W-060274, W-075207, W-52913, W-52914)
21. Rochelle Mine, Peabody Coal Company, Campbell County, Wyoming. (Wyo-0321779)
22. Cordero Mine, Sun Oil Company, Campbell County, Wyoming. (W-8385)
23. East Gillette Mining Project, Kerr-McGee Corporation, Campbell County, Wyoming. (Wyo-0313668, 0312311)

B. PLANS CONSIDERED TO BE NEW OPERATIONS

1. Energy Mines No. 1 and 2, Energy Fuels Corporation, Routt County, Colorado. (Colorado-081330, Colorado-0128433, Denver-052547)
2. Wise Hill No. 5 Mine, Empire Energy Company, Moffat County, Colorado. (Denver-056298).
3. Martinez Mine, Albert Martinez, Las Animas County, Colorado. (PU-058043)
4. Big Sky Mine, Peabody Coal Company, Rosebud County, Montana. (M-15965)
5. Star Lake Mine, Peabody Coal Company and Thermal Energy Company, McKinley County, New Mexico. (NM-2457)
6. Swisher No. 5 Mine, Intermountain Exploration Company, Emery County, Utah. (SL-050641)
7. Swisher No. 4 Mine, DuVels, Inc., Emery County, Utah. (SL-064903)
8. Exploration, Coastal States Energy Company, Sevier County, Utah. (SL-062583, U-014084, U-062453)
9. Exploration, Coal Search Corporation, Sevier County, Utah. (U-0141171, U-0141178)
10. Coal Search Corporation Mine, Coal Search Corporation, Sevier County, Utah. (U-0141177)
11. McKinnon No. 1 Mine, Malcolm McKinnon, et al., Carbon and Emery Counties, Utah. (U-0142235, U-0147570, U-020305, U044076, U-073120)
12. Exploration, Plateau Mining Company, Carbon and Emery Counties, Utah. (SL-031286, U-13097)
13. Exploration, Franklin Real State Company, Carbon County, Utah. (SL-029093-46653, SL-048442-050115, SL-071737, U-0146345)
14. Seminoe No. 1 Mine, Arch Mineral Corporation, Carbon County, Wyoming. (W-16466)
15. Caballo Mine, Carter Oil Company, Campbell County, Wyoming. (W-3397)
16. Coal Creek Mine, Atlantic Richfield Company, Campbell County, Wyoming. (W-3446)

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-24082 Filed 8-13-76;8:45 am]

TRACT LEASING FOR OIL SHALE DEVELOPMENT BY IN SITU PROCESSES

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS), Department of the Interior, has commenced the preparation of a draft environmental impact statement (EIS) relating to the impacts of in situ processes of oil shale development on selected land tracts to be offered for lease in Uinta County, Utah, and Rio Blanco County, Colo.

This EIS will supplement the August 1937 final environmental impact statement for the Prototype Oil Shale Leasing Program. The focus of the EIS will be on three tracts of land in Uinta County and one tract of land in Rio Blanco County, designated as follows:

Designation	Location	Total acreage
	Salt Lake Meridian, Uinta County, Utah	
U-7	T. 9 S., R. 24 E., sec. 1 T. 9 S., R. 25 E., secs. 3-9	4,912.13
U-8	T. 10 S., R. 21 E., secs. 21, 22, 23, 26, 27, 33, 34, and 35	5,120.00
U-9	T. 13 S., R. 23 E., parts of secs. 13, 14, 22, 23, 24, 25, 26, 27, and 35 T. 13 S., R. 24 E., parts of secs. 18, 19, 30, and 31	5,069.44
	Rio Blanco County, Colo., 6th Principal Meridian	
C-2	T. 3 S., R. 97 W., parts of secs. 27-34 T. 4 S., R. 97 W., parts of secs. 4-7	5,053.37

An interagency task force has been established to prepare the statement.

The draft statement will be circulated for public review, and comments received will be considered in the preparation of the final statement. The final statement will be used as a basis for Secretary of Interior's selection of two tracts to be offered for lease for the development of oil shale using in situ technology.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement should submit them to the Director, U.S. Geological Survey, Mail Stop 108, National Center, Reston, Virginia 22092. Comments and views should be received on or before September 1, 1976.

Dated: August 9, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-23776 Filed 8-13,-76;8:45 am]

National Park Service

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:30 p.m. (EDT), September 9, 1976, at the Rocky River Interpretive Center, Metropolitan Park Drive, Rocky River Reservation (Cleveland Metroparks), North Olmsted, Ohio.

The Commission was established by Pub. L. 93-555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger Rossi
Mrs. George N. Seltzer
Ms. Robin Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

Matters to be discussed at this meeting include:

1. Report on park operations.
2. Legislation regarding transfer of State lands and the "In Lieu of Texas" Bill, HR 9719.
3. Status of land acquisition.
4. Discussion of educational resources and tion concerning adverse landfill.
4. Discussion of educatonal resources and uses.

The meeting will be open to the public. It is expected that about 100 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meetnig may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 653-9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, (State Route 303), two miles east of Peninsula, Ohio.

Dated: August 6, 1976.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc.76-23765 Filed 8-13-76;8:45 am]

Office of the Secretary

COMMUNICATIONS RELATING TO INTERNATIONAL AIR TRANSPORTATION CASES

Staff Coordination

Correction

In FR Doc. 76-21878 appearing at page 31247 in the issue for Tuesday, July 27,

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1976, the following correction should be made: In the 8th line of the document now reading, "partment of the Interior, Staff, Solicitor," should have read "partment of the Interior, Staff Coordinator (Assistant Solicitor—Territories), Office of the Solicitor,".

DEPARTMENT OF AGRICULTURE

Forest Service

CANEY UNIT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Caney Unit Plan, Kisatchie National Forest, USDA–FS–R8–FES (Adm.) 76–09.

The Caney Unit contains 31,989 acres of National Forest Land located in Claiborne and Webster Parishes, Louisiana. The major management objectives are to manage and utilize the resources, consistent with considerations for the protection of the environment and to meet National, Regional and local demands for goods and services. This primarily includes, but is not limited to, recreation, wildlife, harvesting forest products, and maintaining air and water quality standards.

This final environmental statement was transmitted to CEQ August 6, 1976. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230 12th St. and Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Rd., NW, Rm. 804, Atlanta, Georgia 30309.
U.S. Forest Service, Caney Ranger District, P.O. Box 479, Homer, Louisiana 71040.

A limited number of single copies are available upon request to Forest Supervisor, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the CEQ guidelines.

Dated: August 6, 1976.

DAVID F. JOLLY,
Regional Environmental Coordinator.

[FR Doc.76–23768 Filed 8–13–76;8:45 am]

MT. CHARLESTON PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Mt. Charleston Planning Unit, Toiyabe National Forest, Nevada. The Forest Service report number is USDA–FS–FES (Adm) R4–76–11.

The environmental statement identifies and evaluates the probable effects of proposed land uses for the planning unit, evaluates possible alternative courses of action, and provides a summary record of public participation in development of the land use plan. The purpose of the land use plan is to allocate National Forest lands and resources to specific uses and activities; establish management objectives; provide a record of management direction and decisions for specific areas and units of land; coordinate measures between resource uses and activities; and establish protective measures to keep adverse environmental effects to a minimum.

This final environmental statement was transmitted to CEQ on August 9, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
Forest Supervisor, Toiyabe National Forest, 111 North Virginia Street, Room 601 Reno, Nevada 89501.
Regional Planning Office, USDA, Forest Service, Federal Building, Room 4408, 324 25th Street, Ogden, Utah 84401.
District Forest Ranger, Las Vegas Ranger District, Federal Building, 300 Las Vegas Blvd., South Las Vegas, Nevada 89101.

A limited number of single copies are available upon request to Forest Supervisor John J. Lavin, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: August 9, 1976.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.76–23769 Filed 8–13–76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Asmospheric Administration

NATIONAL CONFERENCE FOR REGIONAL FISHERY MANAGEMENT COUNCILS

Public Meeting

Notice is hereby given of a conference for the membership of the Regional Fishery Management Councils, established under the Fishery Conservation and Management Act of 1976 (P.L. 94–265), to be held on September 13–17, 1976, at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The purpose of the conference is to brief Council members on such items as their responsibilties, authorities, and duties under the Act; their relationships to NMFS regional and central offices; legal requirements concerning frequency of meetings; and administrative arrangements for budgeting, organization, and staffing. Sessions will be characterized by individual speakers and panel presentations and discussions.

The conference will be open to the public throughout and members of the public will be admitted to the extent of seating availability on a first-come, first-served basis.

The preliminary agenda is as follows:

September 13, 1976: Registration.
September 14, 1976: Morning Session—(1) Introductory session. (2) NOAA overview of the Fishery Conservation and Management Act of 1976 (FCMA). (3) Congressional commentary on the FCMA. (4) Panel presentation and discussion regarding regional fishery management councils.
Afternoon Session—(1) Panel presentation and discussion regarding regional fishery management councils (continued). (2) Panel presentation and discussion regarding the scientific and technological requirements for managing fisheries under the FCMA.
September 15, 1976: Morning Session—(1) The role of the State Department with respect to foreign fishing under U.S. jurisdiction. (2) The role of the Coast Guard with respect to enforcement of foreign fishing in the U.S. fisheries zone. (3) The role of the Commerce Department with respect to regulation of foreign fishing in the U.S. fisheries zone. (4) Panel presentation and discussion of the FCMA requirements regarding foreign fishing under extended jurisdiction.
Afternoon Session—Panel presentation and discussion regarding fishery management plans.
September 16, 1976: Morning Session—(1) Separate regional council preliminary briefings.
Afternoon Session—(2) Separate regional council preliminary briefings (continued). (3) Administration Commentary on the FCMA.
September 17, 1976: Morning Session—Final summary session.

Additional information concerning this conference may be obtained by contacting the Extended Jurisdiction Program Office, National Marine Fisheries Service, Washington, D.C. 20235, telephone (202) 634–7454.

Issued at Washington, D.C., August 12 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76–23949 Filed 8–13–76;8:45 am]

Office of the Secretary

CTAB PANEL ON ENERGY POLICY

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. IV, 1974)) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with OMB, the Secretary of Commerce has determined that the establishment of the Commerce Technical Advisory Board Panel on Energy Policy is in the public interest in connection with the performance of duties imposed on the Department by law. The Panel previously existed as the Panel on Project Independence Blueprint and terminated (March, 1975) upon submission of its report "CTAB Recommendations For A National Energy Program."

The Panel will appraise the Nation's current energy situation. It will provide an independent and experienced voice to help establish a National energy program. The Panel will do the following:

1. Review from a private sector point of view FEA's National Energy Outlook,
2. Review from a private sector point of view ERDA's 1976 research plan,
3. Update the Panel's earlier recommendations for National energy policies, and
4. Prepare a report for review by CTAB and submission to the Secretary of Commerce.

The Panel will consist of approximately twenty members appointed by the Assistant Secretary of Commerce for Science and Technology. Members will be individuals with experience to render service and to perform an in-depth review and analysis of the Nation's energy posture. To assure a balanced representation, members will be sought representing a broad cross-section of industry, academia, labor, and consumer advocacy.

The Panel will report to the Assistant Secretary for Science and Technology. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and the Office of Management and Budget Circular A–63. The Panel's charter will be filed under the Act, August 31, 1976.

Interested persons are invited to submit comments regarding the establishment of the CTAB Panel on Energy Policy. Such comments, as well as any inquiries, may be addressed to the Executive Director, Commerce Technical Advisory Board, U.S. Department of Commerce, Washington, D.C. 20230, phone: (202) 377–4595.

Dated: August 9, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–23780 Filed 8–13–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N–0253; DESI 10849]

CERTAIN LONG-ACTING SYSTEMIC SULFONAMIDES

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Hearing

In a notice (DESI 10849; Docket No. FDC–D–244 (now Docket No. 76N–0253)) published in the FEDERAL REGISTER of September 8, 1971 (36 FR 18019), the Food and Drug Administration announced its conclusions that the drug products described below are effective in the treatment of various infections. The drug products were also classified as less than effective (probably effective, possibly effective, and lacking substantial evidence of effectiveness) for certain other indications. The notice provided an opportunity for hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. No person submitted data in support of the probably or possibly effective indications and they have been reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for hearing concerning those indications and states the conditions for marketing such drugs for the indications for which the drugs continue to be regarded as effective. Persons who wish to request a hearing may do so on or before September 15, 1976.

The notice that follows does not pertain to the indications stated in the September 8, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 11–389; Kynex Acetyl Pediatric Suspension containing acetyl sulfamethoxypyridazine; Lederle Laboratories, Division of American Cyanamid Company, P.O. Box 500, Pearl River, NY 10965.

2. NDA 10–849; Kynex Tablets containing sulfamethoxypyridazine; Lederle Laboratories.

3. NDA 11–892; Midicel Acetyl Suspension containing acetyl sulfamethoxypyridazine; Parke, Davis & Co., Joseph Campau Ave., at the River, Detroit, MI 48232.

4. NDA 11–305; Midicel Tablets containing sulfamethoxypyridazine; Parke, Davis & Co.

5. That part of NDA 11–625 pertaining to Madribon Chewable Tablets containing sulfadimethoxine; Roche Laboratories, Division of Hoffmann-LaRoche Inc., Nutley, NJ 07110.

6. That part of NDA 11–625 pertaining to Madribon Suspension containing sulfadimethoxine; Roche Laboratories.

7. That part of NDA 11–625 pertaining to Madribon Tablets containing sulfadimethoxine; Roche Laboratories.

8. NDA 11–766; Madribon Pediatric Drops containing sulfadimethoxine; Roche Laboratories.

9. NDA 11–765; Madribon Capsules containing sulfadimethoxine; Roche Laboratories. This product was not submitted for review by the National Academy of Sciences-National Research Council nor was it included in the September 18, 1971 notice, but the conclusions described in this notice are applicable to it.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the September 8, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drugs are in tablet, capsule, suspension, or chewable tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of drug. The Indication section is as follows:

INDICATIONS

Chancroid.
Trachoma.
Inclusion conjunctivitis.
Nocardiosis.

Urinary tract infections (primarily pyelonephritis, pyelitis and cystitis) due to susceptible organisms (usually *E. coli, Klebsiella*, the enterobacter, *S. aureus, P. mirabilis*, and less frequently, *P. vulgaris*) in the absence of obstructive uropathy or foreign bodies.

Toxoplasmosis as adjunctive therapy with pyrimethamine.

Malaria due to chloroquine-resistant strains of *P. falciparum* when used as adjunctive therapy.

In acute otitis media due to *H. influenzae* when used concomitantly with adequate doses of penicillin.

Prophylaxis of rheumatic fever as an alternative to penicillin.

IMPORTANT NOTE: In vitro sulfonamide sensitivity tests are not always reliable. The test must be carefully coordinated with bacteriologic and clinical response. When the patient is already taking a sulfonamide, followup cultures should have aminobenzoic acid added to the culture media.

The currently increasing frequency of resistant organisms is a limitation of the usefulness of antibacterial agents including the sulfonamides.

Wide variation in blood levels may result with identical doses. Blood levels should be measured in patients receiving sulfonamides for serious infections. Free sulfonamide blood levels of 5–15 mg per 100 ml may be considered therapeutically effective for most infections, with blood levels of 12–15 mg per 100 ml optimal for serious infections; 20 mg per 100 ml should be the maximum total

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sulfonamide level as adverse reactions occur more frequently above this level.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application (or, if indications above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and al. identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 15, 1976, a written notice of appearance and request for hearing, and (2) on or before October 15, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the fact of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited fro mpublic disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be sen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 10849, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Anti-Infective Drug Products (HFD–140), Rm. 12B–45 Bureau of Drugs.

Original abbreviated new drug applications (identity as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD–614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

(Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).)

Dated: August 6, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23737 Filed 8-13-76;8:45 am]

[Docket No. 76N–0265; DESI 7358]

FURAZOLIDONE FOR ORAL USE

Drug Efficacy Study Implementation; Followup Notice and Rescission of Portion of Previous Notice for Hearing

In a notice (DESI 7358; Docket No. FDC–D–520 (now Docket No. 76N–0265; NDA 5–795 etc.)) in the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), the Commissioner of Food and Drugs proposed to withdraw approval of the new drug applications for certain drug products for oral use containing furazolidone, an antibacterial agent. The March 29, 1973 notice stated that such drug products were regarded as lacking substantial evidence of effectiveness for their labeled indications and lacking proof of safety because of evidence they were tumorigenic in animals. The lack of substantial evidence of effectiveness and lack of evidence of safety were felt to result in an unfavorable benefit-to-risk ratio. This notice announces that, after a review of all available data, the following single-entity drug products containing furazolidone have been reevaluated as effective for certain indications. Other products that were included in the March 29, 1973 notice are not affected by this notice.

1. NDA 11–270; Furoxone Tablets containing furazolidone; and

2. That part of NDA 11–323 pertaining to Furoxone Liquid containing furazolidone, both marketed by Norwich Products, Division of Morton-Norwich Products, Inc., 17 Eaton Ave., Norwich, NY 13815.

BACKGROUND

The above single-entity product, Furoxone Liquid, containing furazolidone, is a reformulated product. The original product, as listed in the March 29, 1973 notice, was a combination product containing furazolidone with kaolin and pectin. Subsequent to the March 29, 1973 notice, Norwich supplemented its new drug application to reformulate the combination product by removing the kaolin and pectin. By letter of February 27, 1974, the Food and Drug Administration permited marketing of the reformulated Furoxone Liquid pending final effectiveness conclusions.

Norwich filed requests for hearing in response to the March 29, 1973 notice for Furoxone Tablets and the combination product Furoxone Liquid. The firm also submitted additional data, including reports of animal and clinical studies to support the safe and effective use of the single ingredient furazolidone for certain limited indications. No data were submitted to support the combination of furazolidone with kaolin and pectin. No other person requested a hearing.

CONCLUSIONS

All available data have been evaluated and have been determined to provide substantial evidence of effectivenes of the single ingredient furazolidone in the treatment of enteritis due to *Giardia lamblia* and as an adjunct to fluid and electrolyte replacement in the treatment of cholera. The animal findings included in the above data demonstrate tumorigenic activity following chronic oral administration to rodents. The Director of the Bureau of Drugs concludes that these findings and the following factors must be considered in assessing the benefits to be expected against the risks. The unfavorable benefit/risk ratio previously attributed to the drug was based in part on the judgment that the risk associated with a tumorigenic drug is not warranted when there are fully satisfactory alternative drugs. Moreover, effectiveness had not been demonstrated for any indication. Now, however, effectiveness of furazolidone has been demonstrated in two serious conditions, cholera and giavdiasis, for which alternative therapy is needed. Moreover, administration of the drug in either condition would be a short term use. Although the primary treatment of cholera is fluid and electrolyte replacement, antibiotic therapy is effective adjunctive treatment. Tetracycline is the drug generally used for cholera, but there is occasionally need for alternative therapy. Tetracycline is subject to degradation at high temperatures and this may well affect its availability in hot climates where cholera most often occurs. The drugs used at present in giardiasis are not without the risk of adverse effects; one of them, metronidazole, (which is not approved for this use) is also a tumorigen in rats and mice.

It is concluded that the new clinical evidence of effectiveness of furazolidone in these serious, relatively rare diseases, the fact that in both diseases use is short-term, and the need for alternative therapy in these conditions result in favorable benefit-to-risk ratio. A Warning statement describing the animal findings will be required in the labeling. To reflect this conclusion, the March 29, 1973 notice is revised as set forth below, insofar as it pertained to furazolidone for oral use.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has considered reports of the National Academy of Sciences-National Research Council, as well as other available evidence, and concludes that furazolidone is effective when administered orally for the treatment of enteritis due to *Giardia lamblia*, and as an adjunct to fluid and electrolyte replacement in the treatment of cholera.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously new drug applications under conditions described herein.

1. *Form of drug.* The drug is in a form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

1. For use in the treatment of enteritis due to *Giardia lamblia*.

2. As an adjunct to fluid and electrolyte replacement in the treatment of cholera. Controlled studies have shown that furazolidone is comparable to tetracycline in reducing the degree of diarrhea in cholera patients. However, the clearance of *Vibrio comma* organisms from stools is more rapid with tetracycline than with furazolidone.

c. The "Warning" section includes the following statement:

Furazolidone has shown evidence of tumorigenic activity in several studies involving chronic oral administration to rodents. Promotion of the development of mammary neoplasia has been demonstrated in rats of two strains. Prominent among the findings in mice was the furazolidone caused significant increases in malignant lung tumors.

3. *Market status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–365H (21 CFR 314.1(c)).

b. Approval if a full new drug application (21 CFR 314.1(c)) to include limited clinical studies, must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

Communications forwarded in response to this notice should be identified with the reference number DESI 7358, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number) and original new drug applications: Division of Anti-Infective Drug Products (HFD–140), Rm. 12B–45, Bureau of Drugs.

Inquiries concerning clinical studies required: Division of Anti-Infective Drug Products (HFD–140), Rm. 12B–45, Bureau of Drugs.

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Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 5, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23786 Filed 8-13-76;8:45 am]

[Docket No. 76N-0259; DESI 9990]

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Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Hearing

In a notice (DESI 9990; Docket No. FDC-D-239 (now Docket No. 76N-0259)) published in the FEDERAL REGISTER of October 15, 1970 (35 FR 16196), the Food and Drug Administration announced its conclusions that the drug product described below is effective for induction of anesthesia or for supplementing other anesthic agents. The drug product was also classified as possibly effective or lacking substantial evidence of effectiveness for its other indications. The notice provided an opportunity for hearing for the indication concluded at that time to lack substantial evidence of effectiveness. No person submitted data in support of the possibly effective indication and it is now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for hearing concerning the possibly effective indication, which is now reclassified to lacking substantial evidence of effectiveness, and states the conditions for marketing the drugs for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before September 15, 1976.

The notice that follows does not pertain to the indication stated in the October 15, 1970 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning the indication and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

NDA 9-990; Vladril containing hydroxydione sodium succinate; formerly marketed by Pfizer Laboratories, Division Pfizer, Inc., 235 E. 42d St., New York, NY 10017.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indication evaluated as possibly effective in the October 15, 1970 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile powder form suitable, after reconstitution, for intravenous administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For induction of anesthesia or for supplementing other anesthetic agents.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to

a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 15, 1976, a written notice of appearance and request for hearing, and (2) on or before October 15, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 9990, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 6, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23785 Filed 8-13-76;8:45 am]

[Docket No. 76N-0200; DESI 1403]

ORPHENADRINE HYDROCHLORIDE TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 76-19235 appearing at page 27418 in the issue for Friday, July 2, 1976, in the second column, in the last line of the 5th paragraph, "idiapathic" should have read "idiopathic".

Health Services Administration

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Arizona

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c-1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Arizona, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.5 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Arizona. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 2,352 doctors of medicine engaged in active practice in PSRO Area I and 1,221 doctors in PSRO Area II. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Arizona as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the two PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Arizona as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436-33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-23881 Filed 8-13-76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Indiana

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c-1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Indiana, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.18 to a single statewide area designation.

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Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Indiana. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976 may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 788 doctors of medicine engaged in active practice in PSRO Area I; 998 doctors in PSRO Area II; 531 doctors in PSRO Area III; 609 doctors in PSRO Area IV: 2,410 doctors in PSRO Area V: 356 doctors in PSRO Area VI; and 457 doctors in PSRO Area VII. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Indiana as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the seven PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Indiana as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–23883 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Louisiana

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Louisiana, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.22 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Louisiana. Any licensed doctor of medicine or osetopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 1,063 doctors of medicine engaged in active practice in PSRO Area I; 640 doctors in PSRO Area II; 677 doctors in PSRO Area III; and 2,500 doctors in PSRO Area IV. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Louisiana as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the four PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Louisiana as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–23884 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of North Carolina Regarding

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of North Carolina, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.37 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of North Carolina. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976 may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 722 doctors of medicine engaged in active practice in PSRO Area I; 911 doctors in PSRO Area II; 582 doctors in PSRO Area III; 1,328 doctors in PSRO Area IV; 535 doctors in PSRO Area V; 573 doctors in PSRO Area VI; 1,260 doctors in PSRO Area VII; and 636 doctors in PSRO Area VIII. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of North Carolina as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the eight PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of North Carolina as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.-2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator, Health
Services Administration.

[FR Doc.76–23886 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Virginia

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Virginia, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.52 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Virginia. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not recevied a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 1,254 doctors of medicine engaged in active practice in PSRO Area I; 1,448 doctors in PSRO Area II; 1,133 doctors in PSRO Area III; 1,486 doctors in PSRO Area IV; and 1,401 doctors in PSRO Area V. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Virginia as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the five PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Virginia as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator, Health
Services Administration.

[FR Doc.76–23888 Filed 8–13–76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area XVI of the State of California

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties for PSRO Area XVI, Which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engage in active practice in PSRO Area XVI of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties are:

Name and office held: 1. James Conner, M.D., President; 2. Bruce Howard, M.D., Vice President; 3. Ivan Cliff, M.D., Secretary; 4. Stanford Deitrich, M.D., Treasurer.

The official address of the corporation is 9 East Pedregosa, Santa Barbara, California 93101.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XVI of the State of California who objects to the Secretary entering into an agreement with the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 727 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area XVI of the State of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where:

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 11, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator, Health
Services Administration.

[FR Doc.76–23882 Filed 8–13–76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area I of the State of Missouri

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Northwest Missouri PSRO for PSRO Area I, which area is designated a Professional Standards Review Organization area in 42 CFR 101.29.

The Secretary has determined that the Northwest Missouri PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organizations is incorporated, according to the laws of the State of Missouri, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Missouri.

As stipulated in its Articles of Incorporation, the principal officers of the Northwest Missouri PSRO are:

NAME AND OFFICE HELD

1. Fred D. Fowler, M.D., president.
2. William A. Slente, M.D., vice president.
3. Hamilton V. Reid, treasurer.
4. Robert McConnell, secretary.

The official address of the corporation is 3036 Gillham Road, Kansas City, Missouri 64108.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Missouri who objects to the Secretary entering into an agreement with the Northwest

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Missouri PSRO, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976 mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,004 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area I of the State of Missouri. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Northwest Missouri PSRO is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-23885 Filed 8-13-76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for the State of North Dakota

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 USC 1320c–1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the North Dakota Health Care Review for the State of North Dakota, which area is designated a Professional Standards Review Organization area in 42 CFR 101.38.

The Secretary has determined that the North Dakota Health Care Review is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of North Dakota, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of North Dakota.

As stipulated in its Articles of Incorporation, the principal officers of the North Dakota Health Care Review are:

NAME AND OFFICE HELD

1. W. B. Huntley, M.D., President
2. M. A. K. Lomman, M.D., Vice President
3. C. R. Montz, M.D., Secretary-Treasurer

The official address of the corporation is 810 E. Rosser, Bismarck, North Dakota 58501.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of North Dakota who objects to the Secretary entering into an agreement with the North Dakota Health Care Review, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 644 doctors of medicine and/or osteopathy are engaged in active practice in the State of North Dakota. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the North Dakota Health Care Review is representative of such doctors in such area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

Dated: August 11, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-23887 Filed 8-13-76;8:45 am]

National Institutes of Health

CANCER CENTER DIRECTORS

Meeting

Notice is hereby given of the meeting of Cancer Center Directors sponsored by the Division of Cancer Research Resources and Centers, October 25–27, 1976, which will be held at the Beach Club Hotel in Naples, Florida.

This meeting will be open to the public on October 25–27, 1976, from 8:30 a.m. to adjournment. The meeting will be concerned with two major areas: (1) Current items of mutual concern of Cancer Center Directors and National Cancer Institute staff, and (2) exchange of ideas and problems with Administrators of Cancer Centers and National Cancer Institute staff, mainly in the area of grants administration. Attendance by the public will be limited to space available.

Dr. William A. Walter, Assoicate Director for the Centers and Treatment Program, Division of Cancer Research Resources and Centers, National Cancer Institute, Room 826 Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016, 301–496–7427, will provide additional information.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23793 Filed 8-13-76;8:45 am]

CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on August 30, 1976, in Conference Room 5169, DHEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. The purpose of the meeting will be to discuss legislation pertinent to the social management and biomedical research aspects of Huntington's disease; to discuss plans for taking public testimony; and, to continue discussions on the organization of the Commission's work. Attendance by the public will be limited to space available.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, Bethesda, Maryland 20014 (301) 496–5751, will provide summaries of the meeting and rosters of committee members.

Dr. Nancy Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, Building 31, Room 8A11, Bethesda, Maryland 20014 (301) 496–9275, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23790 Filed 8-13-76;8:45 am]

MAMMALIAN CELL LINES COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mammalian Cell Lines Committee, National Institute of General Medical Sciences on October 1–2, 1976, 9 a.m., National Institutes of Health, Building 31C, Conference Room #8. This meeting will be open to the public. It will be concerned with procedural matters and issues relevant to the Genetics Program, including a discussion of genetics center grants. Attendance by the public will be limited to space available.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 919, Bethesda, Maryland 20014, Telephone: 301, 496–7301, will furnish summary minutes of the meeting and a roster of committee members. Substantive program information may be obtained from Dr. Michael I. Goldberg, Executive Secretary, Westwood Building, Room 921, Bethesda, Maryland 20014, Telephone: 301, 496–7175.

(Catalog of Federal Domestic Assistance Program 13–862, General Medical Sciences-Genetics Program)

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23795 Filed 8-13-76;8:45 am]

PATHOBIOLOGICAL CHEMISTRY STUDY SECTION AND REPRODUCTIVE BIOLOGY STUDY SECTION

Workshops

Notice is hereby given of Workshops to be held by the following Study Sections on the dates and places listed below:

PATHOBIOLOGICAL CHEMISTRY STUDY SECTION

Workshop on Connective Tissue Biochemistry in Health and Disease, Room 5, Building 31, Bethesda, Maryland, November 3, 1976, from 9:00 a.m. to 5:00 p.m.

Further information may be obtained from Dr. J. Sri Ram, Executive Secretary, Pathobiological Chemistry Study Section, Westwood Building, Room 206, telephone 301/496–7432.

REPRODUCTIVE BIOLOGY STUDY SECTION

Workshop on Peptide Releasing Hormones, Wilson Hall, Building 1, Bethesda, Maryland, November 1, 1976, 8:30 a.m. to adjournment and November 2, 1976, 8:30 a.m. to adjournment.

Further information may be obtained from Dr. Dharam S. Dhindsa, Executive Secretary, Reproductive Biology Study Section, Westwood Building, Room 307, telephone 301/496–7318.

These workshops will be open to the public. Attendance by the public will be limited to space available.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23794 Filed 8-13-76;8:45 am]

RATIONAL EVALUATION OF PESTICIDAL VERSUS MUTAGENIC/CARCINOGENIC ACTION

Workshop

The Interagency Collaborative Group on Environmental Carcinogenesis (National Cancer Institute) and the Subcommittee on Evironmental Mutagenesis of the DHEW Committee to Coordinate Toxicology and Related Programs wish to announce a Workshop entitled "A Rational Evaluation of Pesticidal versus Mutagenic/Carcinogenic Action", on September 15, 1976, from 9:00 a.m. to 4:30 p.m., National Library of Medicine, Billings Auditorium, Bethesda, Maryland. The agenda will include presentations by scientists actively engaged in research on the mutagenic and carcinogenic properties of pesticides. Attendance by the public will be limited to space available.

For further information, Dr. H. F. Kraybill, NCI, Landow Building, Room C337, phone 496–1625, may be contacted.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23791 Filed 8-13-76;8:45 am]

WORKSHOP ON TUMOR PROMOTION AND COFACTORS IN CARCINOGENESIS

Meeting

Notice is hereby given of the Workshop on Tumor Promotion and Cofactors in Carcinogenesis sponsored by the Division of Cancer Research Resources and Centers, National Cancer Institute, October 12–14, 1976, Swope Center at the Marine Biological Laboratory, Woods Hole, Massachusetts.

This meeting will be open to the public on October 12 from 8:00 p.m. to 10:00 p.m., on October 13 from 9:00 a.m. to 10:00 p.m., and on October 14 from 9:00 a.m. to 1:00 p.m., to discuss current understandings relative to the phenomenon of tumor promotion and to identify areas of tumor promotion research which may be ready for significant, further exploration. Attendance by the public will be limited to space available.

Dr. Thaddeus J. Domanski, Chief, Cause and Prevention Branch, Division of Cancer Research Resources and Centers, National Cancer Institute, Westwood Building, Room 850, 5333 Westbard Avenue, Bethesda, Maryland 20014, Telephone Number (Area Code, 301) 496–7801, will provide additional information.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-23792 Filed 8-13-76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on August 17, 1976, in Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. The meeting will convene at 9:00 a.m. and adjourn at noon; it will be open to the public, subject to the limitation of available space.

The agenda will be a discussion of informed consent and procedures for assuring that the risks and benefits from the swine flu vaccine are fully explained to each individual to whom such vaccine is to be administered.

The usual requirement for 15 days advance notice of this meeting is impossible to meet due to a recent legislative action indicating that the Commission's consultation with respect to the swine flu vaccination program must be completed by September 1, 1976.

Requests for information should be directed to Mr. Don Berreth, Public Information Officer, Center for Disease Control, Room 2067, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, (404) 633–3311.

DAVID J. SENCER,
Director, Center for
Disease Control.

AUGUST 12, 1976.

[FR Doc.76-23967 Filed 8-12-76;12:59 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–587]

BONADELLE SIERRA HIGHLANDS

Hearing

In the matter of: Bonadelle Sierra Highlands, Tract 2240, 76–131–IS OILSR No. 0–1030–04–170.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Bonadelle Sierra Highlands, Tract 2240, Bob C. Gaston, President and Land Dynamics, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the In-

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terstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued June 2, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Officer of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Bonadelle Sierra Highlands, Tract 2240 located in Fresno County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 21, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), It is hereby ordered that a public hearing for the purpose of taking evidence on the qeustions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 26, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 2, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23801 Filed 8–13–76;8:45 am]

[Docket No. N–76–594]

BRIARCLIFF-BY-THE-LAKE

Hearing

In the matter of: Briarcliff-By-The-Lake, Lawrence E. Steelman, President and Resort Land Corporation, 76–157–IS OILSR No. 0–1601–03–71 and (A) and (B).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Briarcliff-By-The-Lake, Lawrence E. Steelman, President and Resort Land Corporation, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Briarcliff-By-The-Lake located in Baxter County, Arkansas, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 2, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 28, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 5, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23802 Filed 8–13–76;8:45 am]

[Docket No. N–76–591]

CYPRESS ACRES

Hearing

In the matter of: Cypress Acres, Harry Holmes, President and Del Monte Properties Company, 76–137–IS, OILSR No. 0–3789–04–700.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Cypress Acres, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Cypress Acres located in Monterey County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 25, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc,76–23803 Filed 8–13–76;8:45 am]

[Docket No. N–76–581]

INDIAN TRAILS

Hearing

In the matter of: Indian Trails, Camp Indian Trails, Inc., and Solomon Gorewitz, President, 76–146–IS, OILSR NO. 0–1436–44–67. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Indian Trails, Camp Indian Trails, Inc., and Solomon Gorewitz, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Indian Trails located in Pike County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 21, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on August 27, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 22, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23804 Filed 8–13–76;8:45 am]

[Docket No. N–76–583]

LAKE-FRONT ROYAL

Hearing

In the matter of: Lake-Front Royal, Martin Price, President, First American Land Corporation, 76–127–IS, OILSR No. 0–1243–54–50.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Lake-Front Royal, Martin Price, President, First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lake Front Royal subdivision located in Warren County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 21, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23805 Filed 8–13–76;8:45 am]

[Docket No. N–76–598]

LOST CREEK

Hearing

In the matter of: Lost Creek, Section One, William C. Davidson, Jr., Esquire, Authorized Agent, Mutual Savings Institution d/b/a Lost Creek Developers, 76–190–IS OILSR No. 0–3960–49–626.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Lost Creek, Section One, William C. Davidson, Jr., Esquire, Authorized Agent Mutual Savings Institution d/b/a Lost Creek Developers, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.), received a Notice of Proceedings and Opportunity for Hearing issued July 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lost Creek, Section One located in Travis County, Texas, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 23, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 8, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 17, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 30, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23806 Filed 8–13–76;8:45 am]

[Docket No. N–76–593]

MOONRIDGE

Hearing

In the matter of: Moonridge, John K. Karlock, Developer d/b/a Moonridge

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Subdivision, 76–185–IS, OILSR No. 0–1791–44–90.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Moonridge, John K. Karlock, Developer d/b/a Moonridge Subdivision, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 30, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Moonridge located in Easton, Pensylvania 18042, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 15, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 1, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 18, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23807 Filed 8–13–76;8:45 am]

[Docket No. N–76–599]

MT. POCONO SKI HAVEN LAKE ESTATES

Hearing

In the matter of: Mt. Pocono Ski Haven Estates, Mt. Pocono Ski Haven Lake Estates, Inc. and Nicholas Kotovos, President, 76–194–IS, OILSR No. 0–2266–44–136.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Mt. Pocono Ski Haven Lake Estates, Mt. Pocono Ski Haven Lake Estates, Inc. and Nicholas Kotovos, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. 90–448) (15 U.S.C. 1710, et seq.,) received a Notice of Proceedings and Opportunity for Hearing issued July 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Mt. Pocono Ski Haven Lake Estates, located in Monroe County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 23, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 5, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 14, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 30, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23808 Filed 8–13–76;8:45 am]

[Docket No. N–76–595]

MOUNTAIN SHADOW LAKE

Hearing

In the matter of: Mountain Shadow Lake, National Recreational Communities, Inc., and Richard W. Gerrity, President, 76–172–IS OILSR No. 0–1798–44–91.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Mountain Shadow Lake, National Recreational Communities, Inc., and Richard W. Gerrity, President, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et. seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Mountain Shadow Lake located in Beaver Township, Columbia County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 19, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 19, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 24, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23809 Filed 8–13–76;8:45 am]

[Docket No. N–76–592]

PEBBLE BEACH TOWNHOUSES

Hearing

In the matter of: Pebble Beach Townhouses No. 2, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, 76–138–IS, OILSR No. 0–4510–04–807.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pebble Beach Townhouses No. 2, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Pebble Beach Townhouses No. 2 located in Monterey County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 25, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), It is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on October 21, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23810 Filed 8–13–76;8:45 am]

[Docket No. N–76–588]

PESCADERO HEIGHTS

Hearing

In the matter of: Pescadero Heights No. 3, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, 76–139–IS, OILSR No. 0–4368–04–797.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pescadero Heights No. 3, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Pescadero Heights No. 3, located in Monterey County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 25, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 21, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23811 Filed 8–13–76;8:45 am]

[Docket No. N–76–585]

POCONO RANCHETTES, INC.

Hearing

In the matter of: Pocono Ranchettes, Pocono Ranchettes, Inc. and B. G. Jones, III, President, 76–161–IS OILSR No. 0–1556–44–17.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pocono Ranchettes, Pocono Ranchettes, Inc. and B. G. Jones, III, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Pocono Ranchettes, located in Wayne County, Pennsylvania, contain untrue statements of material fact or omit to state material facts requried to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 29, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 28, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 21, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 2, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23812 Filed 8–13–76;8:45 am]

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[Docket No. N-76-582]

RAINBOW ACRES

Hearing

In the matter of: Rainbow Acres, B. E. Coffman, President and El Dorado Water Company, Inc., 76-133-IS, OILSR No. 0-2771-02-574.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Rainbow Acres, B. E. Coffman, President and El Dorado Water Company, Inc., authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 2, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Rainbow Acres located in Mohave County, Arizona, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 21, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 14, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 25, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23813 Filed 8-13-76;8:45 am]

[Docket No. N-76-597]

RANCH LANDS IN THE POCONOS

Hearing

In the matter of: Ranch Lands in the Poconos, Pocono Ranch Lands, Ltd. and Karl Hope, Authorized Agent, 76-176-IS OILSR No. 0-2015-44-113 and (A).

Purusant to 15 U.S.C. 1706(d) and 24 CRF 1720.160(d), notice is hereby given that:

1. Ranch Lands in the Poconos, Pocono Ranch Lands, Ltd. and Karl Hope, Authorized Agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ranch Lands in the Poconos, located in Pike County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statemnts therein not misleading.

2. The Respondent filed an Answer received July 14, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 27, 1976 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 6, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23814 Filed 8-13-76;8:45 am]

[Docket No. N-76-584]

RIVER HILLS

Hearing

In the matter of: River Hills, Martin Price, President and First American Land Corporation, 76-162-IS OILSR No. 0-1580-54-67.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. River Hills, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for River Hills Subdivision located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated herein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 1, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the CFR 1720.440.

By the Secretary.

Dated: July 14, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23815 Filed 8-13-76;8:45 am]

[Docket No. N-76-589]

SPYGLASS WOODS UNIT NO. 3

Hearing

In the matter of: Spyglass Woods Unit No. 3, Harry Holmes, President and Del Monte Properties Company, 76-140-IS, OILSR No. 0-3762-04-689.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Spyglass Woods Unit No. 3, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Spglass Woods Unit No. 3 located in Monterey County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 25, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 21, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23816 Filed 8-13-76;8:45 am]

[Docket No. N-76-586]

STELLA MARIS ESTATES

Hearing

In the matter of: Stella Maris Estates, Long Island Estates Developers, Inc., and Joerg B. Schnapka, Executive Vice-President 76-33-IS, OILSR NO. 0-0247-60-11.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Stella Maris Estates, Long Island Estates Developers, Inc., and Joerg B. Schnapka, Executive Vice-President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued February 6, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d). 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Stella Maris Estates, located on Adderly's Island, Bahama Islands, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 3, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 12, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 22, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23817 Filed 8-13-76;8:45 am]

[Docket No. N-76-590]

SUNRIDGE PINES, HAWKINS WAY, ET AL.

Hearing

In the matter of: Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1, and Del Monte Research Park, Harry Holmes, President and Del Monte Properties Company, 76-141-IS OILSR No. 0-3263-04-590.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d),

Notice is hereby given that:

1. Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1, and Del Monte Research Park, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1 and Del Monte Research Park located in Monterey County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 25, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on October 21, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the

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Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23818 Filed 8-13-76;8:45 am]

[Docket No. N-76-596]

WINONA LAKES

Hearing

In the matter of: Winona Lakes, American Landmark Corporation and Karl Hope, President, 76-174-IS, OILSR No. 0-1278-44-53 (A) thru (E).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Winona Lakes, American Landmark Corporation and Karl Hope, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(d)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Winona Lakes, Located in Pike County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 14, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 28, 1976 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 7, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23819 Filed 8-13-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

CEDAR RAPIDS, IOWA, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Tuesday, August 24, 1976, at the Armory, Basement of Veterans Memorial Building, City Hall, Cedar Rapids, Iowa, regarding the proposed closure of the Cedar Rapids, Iowa, Air Traffic Control Tower between the hours of 11:00 p.m. and 7:00 a.m. Said hearing is being convened by reason of the public interest expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23613 Filed 8-13-76;8:45 am]

SIOUX CITY, IOWA, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Monday, August 23, 1976, at the Airport Conference Room, Terminal Building, Sioux City Municipal Airport, Sioux City, Iowa, regarding the proposed closure of the Sioux City, Iowa, Air Traffic Control Tower between the hours of 11:00 p.m. and 7:00 a.m. Said hearing is being convened by reason of the public interest expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23612 Filed 8-13-76;8:45 am]

SPRINGFIELD, MISSOURI, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Wednesday, August 25, 1976, at the City Council Chambers, City Hall, 830 Boonville, Springfield, Missouri, regarding the proposed closure of the Springfield, Missouri, Air Traffic Control Tower between the hours of 11:00 p.m. and 6:00 a.m. Said hearing is being convened by reason of the public interest

expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on Aug. 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23614 Filed 8-13-76;8:45 am]

Office of Pipeline Safety Operations

[Docket No. 76-12W]

TRANS-ALASKA PIPELINE

Anticipated Petition for Waivers

Alyeska Pipeline Service Company (Alyeska) has advised the Department of Transportation that it expects to petition the Director of the Materials Transportation Bureau for waivers of provisions applicable to the construction of liquid pipelines. Alyeska is the company formed by the owners of the trans-Alaska pipeline system to design, construct and operate the pipeline. In its advice to the Department, and in testimony before cognizant Congressional committees in mid-July 1976, statements made on behalf of Alyeska have included the following information:

Late in the summer of 1975 it came to the attention of Alyeska and to officials of the State of Alaska, the Department of the Interior and the Department of Transportation, that there were possible problems with the quality of girth welds, made in the field to join adjacent sections of pipe, and with the radiographic record of girth welds made during the 1975 construction season. Alyeska undertook a reexamination of its 1975 weld and radiograph programs. It determined that of the welds that were accepted in 1975, some 3,955 welds were apparently not radiographed in conformance with applicable requirements, or were radiographed and found to be not in conformity with the Bureau's construction standards (49 CFR Part 195), and in particular, the requirements for weld acceptability, weld repair, and replacement of defective welds.

Of the approximately 1,400 radiographic defects initially determined, it subsequently appeared that some 307 related to welds which had been scheduled for 1975 but had, in fact, not been made. Another 237 welds have now been radiographed by Alyeska. Of the remaining radiographic deficiencies, there are 61 welds for which there is not any radiograph on file, and of that number, 21 are identified by Alyeska as being in "critical areas." Additionally, another 59 radiographic deficiencies, or a total of 80, are both in critical areas and significant in nature. Alyeska includes in the "significant" category radiographs which purport to be of two or more welds but are, in fact, duplicates of one weld.

A total of 2,552 welds were found by x-rays to have discontinuities in excess of the criteria set forth in section 6 of the American Petroleum Institute Standard for Welding Pipelines and Related Facilities (13th ed. 1973) (API-1104), which is incorporated by reference in 49 CFR 195.228, or other variations from the construction standards set forth in Subpart D of 49 CFR 195. As of recent date, remedial work has been undertaken on more than half of those defective welds, leaving a balance of 1,235. Of that figure, some 760 welds are located in "critical areas" meaning, according to Alyeska, under riverbeds, in permafrost, or in other areas of difficult access or environmental sensitivity.

The radiographic deficiencies are measured against the requirement for radiographic inspection of all main line girth welds, which is set forth in Section 3.2.2.3 of the Stipulations for the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, entered into by the United States, acting through the Secretary of the Interior, and by the owner-permittees, but could also be discrepancies in the program intended by Alyeska to demonstrate compliance with 49 CFR 195.234. Since paragraph (a) of § 195.234 provides that nondestructive testing may be performed by any process that will clearly indicate defects affecting weld integrity, use of other accepted techniques for nondestructive testing could meet the Bureau's requirements, but would be at variance with the Stipulation. Alyeska has not explicitly indicated whether it will petition the Department of the Interior for any amendment to or other relief from the present requirements of the Stipulation. In an August 5 news release, however, Alyeska announced that "it has suspended, pending further review, its efforts to develop an acoustic imaging system as an independent tool for examination of buried welds." That news release also stated that Alyeska now believes "the necessary additional development of the system and its acceptance by the government agencies as an independent tool could not occur within the time remaining for construction of the pipeline."

Alyeska has stated its belief that the 1,235 welds, including the 760 located in areas of "critical" access, do not pose a risk to the safety and integrity of the pipeline. Accordingly, it is to be anticipated that Alyeska will apply for waivers with respect to all or a substantial portion of those welds. Although the Bureau is not yet in receipt of any such waiver request, Alyeska has announced in its August 5 news release that it "will apply at this time for exceptions to strict pipeline weld specifications for 11 welds buried beneath rivers" and "* * * that other applications may be filed later." It is expected that Alyeska will not request a waiver for any weld containing a crack.

It is anticipated that in support of its petition(s) Alyeska will present the results of tests being conducted by or for the British Welding Institute. Those tests are intended to establish fracture toughness, by use of crack opening displacement (COD) method, and impact toughness, by use of the Charpy notch test. Further, Alyeska is expected to present a fracture mechanics analysis that is intended to demonstrate mathematical relationships between dimensions of defects of various types and the associated risks of crack formation and crack propagation. Those relationships may be stated as functions of the length, depth and orientation of weld defects or arc burns and, in some cases, functions of other characteristics such as the radial (weld depth) location. Depth, orientation and location may be either estimated by interpretation of radiographs or measured by use of ultrasonic techniques.

In this connection, the National Bureau of Standards (NBS) is serving as technical consultant to the Bureau's Office of Pipeline Safety Operations. The NBS will prepare an analysis of test procedures and methodology, and an assessment of the adequacy of the statistical data base. It will also prepare its own evaluation of any submitted fracture mechanics analysis, including specifically, provision for safety margins taking into consideration projected normal operating conditions, abnormal loading, fatigue cycling, corrosion fatigue cycling, anticipated temperature ranges, and other environmental conditions. The NBS evaluations and analyses will be made part of the record of proceedings on any petition that relies upon the fracture mechanics concept.

Thus, the anticipated petition(s) and the proceedings thereon may raise issues requiring analysis of interrelated technical problems. This Notice is accordingly published to bring the nature of those problems to the attention of interested Federal and State agencies and other interested persons at the earliest practicable time.

Further, since the nature of the anticipated petition(s) is unusual and the number of weld deficiencies to be ad-

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dressed may be large, this Notice sets forth a preliminary determination of the information and data required for processing any request for a waiver to allow girth weld defects or arc burns greater than allowed by 49 CFR Part 195, Subpart D, on the basis of a fracture mechanics concept.

REQUIREMENT I—EVALUATION OF PROPOSED ALTERNATIVE MAXIMUM ALLOWABLE WELD DEFECT AND ARC BURN SIZES

Discussion. Alternative allowable defect sizes should be proposed applicable to each type of defect, other than cracks, for which a waiver is being requested. If a waiver is being requested for any arc burns, allowable arc burn sizes should be proposed. Proposed alternative allowable weld defect and proposed allowable arc burn sizes must be supported by fracture mechanics analyses using the worst case fatigue stress spectrum. For analysis, these defects must be asumed to be surface cracks equal in size to twice the proposed allowable weld defect or arc burn size (in both length and depth). These assumed defects must not grow in size such that stressing to the maximum credible service stress could cause leakage. The crack growth analyses must account for both cyclic and sustained stresses in the most deleterious service environments and temperatures.

For weld defects the final output of the analysis shall be a proposed allowable defect size curve with weld defect depth (Y axis) versus weld defect length (X axis); defects having sizes which fall below this curve will be within the proposed acceptance limits. For arc burns, the final output of the analysis shall be a proposed allowable arc burn size curve with arc burn depth (Y axis) versus arc burn length (X axis); arc burns having sizes which fall below this curve will be within the proposed acceptance limits. Requests for waiver of any weld defects or arc burns which fall above their respective curve must be the subject of separate submittals, as described in Requirement III.

SUPPORTING INFORMATION AND DATA

1. A minimum fracture toughness value for the pipeline shall be established by documenting the fracture toughness in sufficient notch locations and temperatures for the weld metal and the heat-affected zone that is representative of the pipeline welds and, in the case of arc burns, for the base metal. The toughness value used in the fracture mechanics analyses shall be the minimum toughness at 10° C below the minimum anticipated service temperature.

2. A maximum fatigue crack growth rate for the pipeline shall be established by documenting the fatigue crack growth behavior of the weld metal and heat-affected zone that is representative of the pipeline welds and operating conditions and, in the case of arc burns, representative of the base metal. The fatigue crack growth rate used in the fracture mechanics analyses shall be the maximum fatigue growth rate multiplied by an assumed safety factor of four.

3. A minimum threshold for sustained loan crack growth shall be established by documenting for each of the service environments the sustained load cracking behavior of the weld metal and the heat-affected zone that is representative of the pipeline welds and, in the case of arc burns, representative of the base metal. The minimum threshold established shall be used as a terminal condition for the fracture mechanics analyses.

4. The worst case fatigue stress spectrum, the worst case instantaneous credible stress, and the appropriate residual stress, all representative of pipeline welds and heat-affected zones shall be used in the proposed allowable weld defect analysis. Similarly, the worst case of hoop stresses shall be used in the proposed allowable arc burn analysis. Documentation of stress analysis methodology and derivation is necessary for proper assesment of the operating and residual stresses.

5. Any request shall contain relevant documentation of the material property data. This includes tensile, elastic, impact, and corrosion properties of the weld, heat-affected, and base material at appropriate temperatures and environments.

REQUIREMENT II—EVALUATION OF INDIVIDUAL DEFECTS OR ARC BURNS FOR WHICH WAIVER IS REQUESTED AGAINST ALLOWABLE DEFECT AND ARC BURN SIZES ESTABLISHED UNDER REQUIREMENT I

SUPPORTING INFORMATION AND DATA

1. In the case of weld defects, inspection data shall be provided for each individual weld for which a waiver is requested. These data shall include defect type, location and dimensions (length and depth). The methodology used to obtain these data shall also be described. The dimensions of non-planar defects such as porosity and slag inclusions may be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The length of planar defects, such as lack of penetration or lack of fusion, may also be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The depth of planar defects should be determined by a nondestructive test method specifically designed for depth measurement, such as ultrasonics reflection methods. If radiographs are used to determine the depth of planar defects, an additional assumed safety factor of two shall be applied to the estimated depth.

2. In the case of arc burns, inspection data shall be provided for each individual arc burn for which a waiver is requested. These data shall include the location and the maximum length and depth of the arc burn heat-affected area. The methodology used to obtain these data shall also be described. The length of heat-affected areas may be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The depth of each heat-affected area shall be determined by estimating on a conservative basis the depth of other arc burns of representative severity using appropriate metallographic examination techniques and applying an additional assumed safety factor of two to this estimated depth.

REQUIREMENT III—EVALUATION OF SPECIAL CASES NOT MEETING ALLOWABLE DEFECT OR ARC BURN SIZE CRITERIA ESTABLISHED UNDER REQUIREMENT I

Discussions. Separate submittals are required to establish alternative acceptance standards for defects and arc burns that exceed the allowable size criteria that may be established on the worst case basis for Requirement I. This submittal must be based on the fatigue stress spectrum, environment and location of the defect under consideration. All other technical requirements are the same as specified in Requirement I.

The inspection data provided for each individual weld defect or arc burn shall include the maximum width of that defect or arc burn. The width of weld defects and arc burns may be determined in the manner described in Requirement II for determining the length of weld defects and arc burns.

For the most critical combinations of weld defects, arc burns and operating conditions, full (or large) scale tests may be required to demonstrate that the pipeline retains an acceptable level of integrity.

Supporting Information and Data. Except as described in the discussion above, the supporting information and data requirements are the same as specified for Requirements I and II.

Docket No. 76–12W is being established in the Office of Pipeline Safety Operations, 2100 Second Street, SW., Washington, D.C. 20590, at this time to receive any written views or comments that interested persons may wish to submit based on the general discussion of the anticipated waiver petition(s), the statement of evaluation requirements and the description of the required information and data set forth in this Notice. Upon receipt of a petition for waiver from Alyeska, the Bureau will publish a supplemental notice in the FEDERAL REGISTER under this docket number describing the petition, making it available for public inspection and inviting public comment on the specific requests made in the petition.

Persons planning to file comments on this Notice or on the anticipated petition(s) who wish to be served with copies of future notices issued by the Bureau in this matter, may file with the Docket Clerk at the above address a request to be placed on the Notice Mailing List for Docket No. 76–12W.

All comments received will be considered and will be made available in the docket for public inspection along with

the petition(s) and related analyses for public inspection upon receipt.

(18 U.S.C. 831–835, 49 CFR 1.53(g).)

Issued in Washington, D.C., on August 12, 1976.

CESAR DELEON,
Acting Director,
Office of Pipeline Safety Operations.

NOTE.—This document is reprinted without change from the issue of Friday, August 13, 1976.

[FR Doc.76–23938 Filed 8–12–76;11:39 am]

CIVIL AERONAUTICS BOARD

[Order 76–8–17; Docket 29198]

ALASKA AIRLINES, INC., ET AL.

Domestic Passenger-Fare Increase

Correction

In FR Doc. 76–23114, appearing at page 33318 in the issue for Monday, August 9, 1976, the following corrections should be made:

1. On page 33319, column one, first full paragraph, in the 7th line, the last word now reading "correct" should read "incorrect."

2. On page 33319, column two, in footnote 11, the first line should read as follows: "Pan American's fares applicable between".

[Docket 29558; Order 76–8–52]

DOMESTIC PASSENGER-FARE INCREASE

Order Dismissing Complaint

By tariff revisions marked to become effective on various dates from August 11, 1976 to September 15, 1976[1] for travel effective September 15, 1976, all domestic trunkline and local service carriers operating within the 48 contiguous states and the District of Columbia propose a general increase in passenger fares of two percent. In justification, the carriers reiterate previous arguments with respect to the continuing inflation and the Board's adherence to its hypothetical ratemaking return on investment methodology. Various carriers argue that the utilization adjustment is unwarranted since there is nothing abnormal about current utilization levels; that the existence of expiration dates on all discount fares obviates an adjustment for present discount fares, since no uneconomic fare can exist for more than 18 months, and therefore can no longer affect capacity or burden full-fare passengers; and that the Board should make its decision with regard to anticipatory costs in order to begin taking a more realistic view of the persistent effects of inflation. In any event, the carriers assert, the present two-percent increase appears justified under the Board's own methodology.

The National Passenger Traffic Association (NPTA) has filed a complaint against the proposed increase stating that the carriers have already been granted cumulative increases totalling 8 percent since last November; that continued tarffic growth and stabilized fuel prices have had a beneficial impact on earnings which must be assessed by the Board in its evaluation of the present proposal; and that the Board should reject carrier suggestions to alter its present methodology. American Airlines, Inc. and Eastern Air Lines, Inc. have filed answers to the complaint stating that NPTA has failed to indicate any error in the analyses submitted by the carriers, which clearly demonstrate a need for additional revenues; that the brief respite from the pressure of rising fuel costs will not continue into the future; and that the carriers have amply demonstrated the impropriety of the Board's adjustments adopted after the DPFI without notice or hearing.

Upon consideration of the proposals, the complaint and answers thereto, and all relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant investigation, and consequently the request for suspension will be denied and the complaint dismissed.

Both the carriers and complainant state views with which the Board has dealt on several prior occasions. The carriers again argue against the utilization and discount-fare adjustments, but, in our opinion, do not set forth anything new which would cause us to alter our previous decisions. The complainant, NPTA, raises the same general issues it has argued against past increase proposals but which are effectively treated in the Board's evaluative ratemaking methodology. The Board has responded to these issues in several prior orders and we need not repeat ourselves herein. Thus, under the ratemaking methodology we have employed in the past, including all adjustments which we continue to believe are proper, the estimated ratemaking return on investment under the present level of fares is 10.2 percent as of the tariff effective date.[2] The proposed two-percent increase is estimated to provide the carriers the means to attain a 12.1 percent return on their investment,[3] and, therefore, we do not find an investigation is warranted under present circumstances.[4]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that:

1. The complaint in Docket 29558 is hereby dismissed; and

2. Copies of this order be served upon all certificated scheduled carriers operating between points within the 48 contiguous states and the District of Columbia, and the National Passenger Traffic Association, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–23843 Filed 8–13–76;8:45 am]

[Docket 27573; Agreement C.A.B. 26035; Order 76–8–34]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order

Issued under delegated authority August 6, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

With respect to air transportation as defined by the Act, the agreement cancels certain specific commodity rates as shown in the attachment.[1]

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered that:

Agreement C.A.B. 26035 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

[1] Revisions to Airline Tariff Publishing Company, Agent, C.A.B. No. 259. The tariff becomes effective on August 11, 1976 for American Airlines, Inc.; on August 15, 1976 for Continental Air Lines, Inc.; on August 19, 1976 for Braniff Airways, Inc.; and on September 15, 1976 for Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Allegheny Airlines, Inc., Frontier Airlines, Inc., Hughes Air Corp d/b/a Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., and Texas International Airlines, Inc.

[2] The Board is still considering the issue of anticipatory costs.

[3] Both estimates of the ratemaking return include no increase in the average price of fuel over that experienced by the carriers during the month of June. (See Appendix A), filed as part of original document.

[4] For the revised fare formula, see Appendix B, filed as part of original document.

[5] Dissenting statements filed as part of original document.

[1] Filed as part of original.

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This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-23842 Filed 8-13-76;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

IMPACT OF FEDERAL PAPERWORK

Public Hearings

Notice is hereby given of two public hearings of the Commission on Federal Paperwork to be held in New York City. The hearings will be held on September 9 and 10, 1976, at the U.S. Customs Service, 6 World Trade Center, Room 770, New York City.

The hearings will commence each day at 9:00 a.m. and end at 1:00 p.m. On the first day the Commission will receive comments about the impact of Federal paperwork upon income security programs. On the second day the Commission will receive comments about the impact of Federal paperwork upon finance, transportation, importing, and exporting.

Testimony presented at these hearings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the hearings should contact the Commission on Federal Paperwork, located at 1111 20th Street NW., Suite 200, Washington, D.C. 20582, telephone (202) 653-5400.

FRANK HORTON,
Chairman.

[FR Doc.76-23788 Filed 8-13-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 600-1; OPP 33000/445 & 446]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 15, 16, & 17—202/426-9425
PM 21 & 22—202/426-2454
PM 23—202/755-1397
PM 24—202/755-2196
PM 25—202/755-7012
PM 31—202/426-2635
PM 32—202/426-9486
PM 33—202/755-9041
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 15, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended should be made on or before September 15, 1976.

Dated: August 6, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP—33000/445)

EPA Reg. No. 1145-128. Amoco Oil Co., 200 E. Randolph Dr., Chicago IL 60601. AMOCO 2,4-D LV ESTER-M. Active Ingredients: Propylene glycol butyl ether esters of 2,4-Dichlorophenoxy-acetic acid 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1145-130. Amoco Oil Co. AMOCO 2,4-D WEED KILLER NO. 2-M. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1448-44. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108. BUSPERSE 51T. Active Ingredients: 2 - (Thiocyanomethylthio) benzothiazole 1.6%; 2-Hydroxypropyl methanethiolsulfonate 1.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA File Symbol 6288-RE. Capitol Packaging Co., 1502 N. 25th Ave., Melrose Park IL 60160. SURFACE DISINFECTANT AND DEODORIZER. Active Ingredients: Tributylin isopropyl succinate 0.024%; tributyltin benzoate 0.036%; tributyltin linoleate 0.012%; n-alkyl (60% C14, 30% C16, 5% 512, 5%, C18) dimethyl benzyl ammonium chloride 0.339%; isopropyl alcohol 39.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 239-2353. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO WEED AND FEED 21-4-4. Active Ingredients: Isooctyl ester of 2,4-dichlorophenoxyacetic acid 0.97%; Isooctyl ester of 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.98%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-2342. Chevron Chemical Co. ORTHO WEED-B-GON M. Active Ingredients: Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 14.2%; Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 14.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-1857. Chevron Chemical Co. WEED-B-GON Bar. Active Ingredients: Triethylamine salt of 2,4-Dichlorophenoxyacetic acid 18.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715-249. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND 2,4-D BUTYL ESTER 334E. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic Acid 49.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-201. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DACAMINE 4D WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic Acid 31.6%; 2,4-Dichlorophenoxyacetic Acid 25.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-166. Diamond Shamrock Corp. DACTHAL W-75 HERBICIDE (75% WETTABLE POWDER). Active Ingredients: Dimethyl tetrachloroterephthalate 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 11345-2. Dold Feed Co., Inc., 717 Elk St., Buffalo NY 14210. GREENWAY WEED AND FEED PLUS IRON. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464-201. Dow Chemical U.S.A., PO Box 1706, Midland MI 48640. ESTERON 99 CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802-503. The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland OR 97218. SUPER RICH CRABGRASS KILLER & LAWN FOOD. Active Ingredients: Dimethyl Tetrachloroterephthalate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802-441. The Chas. H. Lilly Co. MILLER'S WEEDER. Active Ingredients: Dimethyl tetrachloroterephthalate 6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8249-7. Maintenance Engineering Corp., PO Box 1729, Houston TX 77001. MECO MICROBIOCIDE 74. Active Ingredients: 2-(Thiocyanomethylthio)-benzothiazole 8.0%; 2-Hydroxypropylmethanethiosulfonate 7.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA Reg. No. 524-62. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis MO 63166. 2,4-D BUTYL ESTER TECHNICAL GRADE. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524-85. Monsanto Co. 2,4-D BUTYL ESTER. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic acid 41.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524-115. Monsanto Co. FIELD-CLEAN. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 94.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 33404-4. Stat Enterprises, A Div. of Pride Laboratories, Inc., 1865 New Highway, Farmingdale NY 11735. SAHARA GRANULAR WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl-6-methyluracil) 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 228-95. Riverdale Chemical Co., 220 E. 17th St., Chicago Heights IL. RIVERDALE 2,4-D LV6. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic acid 92.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1918. Swift Agricultural Chemicals Corp., 111 W. Jackson Blvd., Chicago IL 60604. K-MART SATISFACTION ALWAYS WEED AND FEED. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.976%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1823. Swift Agricultural Chemical Corp. EARL MAY DANDELION & WEED CONTROL PLUS LAWN FOOD. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1819. Swift Agricultural Chemical Corp. GOLDEN VIGORO WEED CONTROL PLUS FERTILIZER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.976%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1781. Swift Agricultural Chemical Corp. VIGORO DANDELION KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1706. Swift Agricultural Chemical Corp. K-MART SATISFACTION ALWAYS WEED AND FEED. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557-1654. SWIFT AGRICULTURAL CHEMICAL CORP. SWIFT LAWN WEEDER & FEEDER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1023-43. Tuco, Div. of the Upjohn Co., 7171 Portage Rd., Kalamazoo MI 49001. BOTRAN 90% (DUST BASE). Active Ingredients: 2,6-Dichloro-4-Nitroaniline 90.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023-36. Tuco. BOTRAN 75W FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 876-ELE. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. TSAR INSECTICIDE TECHICAL GRADE. Active Ingredients: 1-Methylethyl (E)-3-[[(ethylamino) methoxyphosphinothioyl] oxy]-2-butenoate 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

APPLICATIONS RECEIVED (OPP—33000/446)

EPA Reg. No. 8590-39. Agway, Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. AGWAY WEED KILLER "66". Active Ingredients: Triethanolamine salt of 2,4-dichlorfophenoxyacetic acid 64.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4185-125. Smith-Douglass, Div. of Borden Chemical, Borden, Inc., PO Box 419, Norfolk VA 23501. STRANGLE WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 67.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for registration. PM23

EPA Reg. No. 677-216. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DACTHAL G-2.5 HERBICIDE. Active Ingredients: Dimethyl tetrachloroterephthalate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-227. Diamond Shamrock Corp. DACTHAL G-5 HERBICIDE (5% DACTHAL GRANULES). Active Ingredients: Dimethyl tetrachloroterephthalate proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-255. Diamond Shamrock Corp. TECHNICAL ISOOCTYL-D (2,4-D). Active Ingredients: Isooctyl Esther of 2,4-Dichlorophenoxyacetic Acid 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-262. Diamond Shamrock Corp. DACTHAL W-75 FOR TURF (75% WETTABLE POWDER). Active Ingredients: Dimethyl tetrachloroterephthalate 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677-318. Diamond Shamrock Corp. DACTHAL FLOWABLE TURF HERBICIDE. Active Ingredients: Dimethyl tetrachloroterephthalate 54.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

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EPA File Symbol 464–LGO. Dow Chemical, PO Box 1706, Midland MI 48640. DMA 6 WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid as the Dimethylamine salt 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–151. Dow Chemical. DMA 6 WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid as the Dimethylamine salt 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 912–54. Farmers Union Central Exchange, Inc., PO Box G, St. Paul MN 55101. 76–BE ESTER WEED KILLER CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990–138. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO–OP WEED-OUT BUTYL ESTER 6 POUND. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2124–421. W. R. Grace & Co. Agricultural Chemicals, PO Box 277, Memphis TN 38101. NACO LV–4D WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 69.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–265. Hysan Corp., 919 W. 38th St. Chicago IL 60609. GCC–535. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 4.05%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 4.02%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–264. Hysan Corp. GCC–533. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 8.10%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 8.05%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–254. Hysan Corp. GCC–531. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 16.2%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 16.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–81. Hysan Corp. GCC–620 2,4-D SELECTIVE WEED KILLER. Active Ingredients: Alkanolamine Salts (of the Ethanol and Isopropanol series) of 2,4-Dichlorophenoxyacetic Acid 16.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 12315–L. I. V. Co., 709–11 Dauphia St., Mobil AL 36602. LEMONOL DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.0%: Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1381–7. Land O'Lakes, Inc., 2827 8th Ave. So., Fort Dodge IA 50501. 4 LB. BUTYL ESTER HV4 WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic acid 57.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1180–43. Midland Cooperatives, Inc., 2021 E. Hennepin Ave., Minneapolis MN 55413. A–40,2,4-WEED KILLER. Active Ingredients: Dimethyl Amine Salt of 2,4-Dichlorophenoxyacetic Acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 524–147. Monsanto Co., Agricultural Products, 800 N. Lindbergh Blvd., St. Louis MO 63166. 2,4-D AMINE CONCENTRATE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 70.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 524–GEN. Monsanto Co. 2,4-D AMINE CONCENTRATE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 70.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–86. Monsanto Co. 2,4-D BUTYL ESTER CONCENTRATE. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic acid 57.7%, Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–82. Monsanto Co. 2,4-D LOW VOLATILE ESTER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 69.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–78. Monsanto Co. 2,4-D AMINE. Acitve Ingredients Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 524–GER. Monsanto Co. 2,4-D AMINE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–76. Monsanto Co. 2,4-D ISOPROPYL ESTER. Active Ingredients: Isopropyl estser of 2,4-Dichlorophenoxyacetic acid 45.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2155–48. I. Schneid, Inc., PO Box 93188, Martech Station, Atlanta GA 30318. 2,4-D DMA AMINE WEED KILLER NON-VOLATILE FOR THE SELECTIVE CONTROL OF MANY BROADLEAVED WEEDS. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–93. O. M. Scott & Sons, Marysville. OH 43040. SCOTTS TURF BUILDER PLUS 2 BRAND. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.75%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2853–36. Vineland Chemical Co., PO Box 745, Vineland NJ 08360. VI-PAR (MCPP+2,4D). Active Ingredients: Diethanolamine salt of 2-methyl-4-chlorophenoxy) propionic acid 30.1%; Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 14.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1769–263. National Chemsearch, Div. of USA Chem, Inc., 2727 Chemsearch Blvd., Irving TX 75062. NATIONAL CHEMSEARCH SELECT-TROL. Active Ingredients: Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) Propionic acid 6.31%; Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 6.37%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76-23474 Filed 8-13-76;8:45 am]

[FRL 600–6; OPP–33000/447 & 448]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended "Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (P. L. 94–140), and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Envrionmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington, DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755–9315.
PM 15, 16, & 17—202/426–9425.
PM 21 & 22—202/426–2454.
PM 23—202/755–1397.
PM 24—202/755–2196.
PM 25—202/755–7012.
PM 31—202/426–2635.
PM 32—202/426–9486.
PM 33—202/755–9041.
PM 34—202/426–9490.

The Interim Policy Statement requires that claims for compensation be filed on or before October 15, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended should be made on or before September 15, 1976.

Dated: August 10, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/447)

EPA File Symbol 150–LE. Anderson Chemical Co., Box 1041, Litchfield MN 55355. GERON II. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 10088–33. Athen Labs., Inc., 4180 N. First St., Milwaukee WI 53212. SELECTIVE HERBICIDE No. 2. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxy-acetic Acid 49%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4–37. Bonide Chemical Co., Inc., 2 Wurz Ave., Yorkville NY 13495. BONIDE 20% 2,4–D. Active Ingredients: Triethanolamine 2,4-Dichlorophenoxyacetate 33.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Filed Symbol 3579–RO. Brewer Chemical Corp., PO Box 48, Honolulu HI 96810. CHLORINE-LIQUEFIED. Active Ingredients: Chlorine 100%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 1448–30. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108. BUSAN 25. Active Ingredients: 2-(Thiocyanomethylthio) benzothiazole 13.3%; 2-Hydroxypropyl methanethiolsulfonate 11.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 5011–128. Carmel Chemical Corp., Box 406, Westfield IN 46074. FORMULA F-500. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500%; Related Compounds 0.068%; Aromatic Petroleum Hydrocarbons 0.662%; Petroleum Hydrocarbons 98.750%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 11345–3. Dold Feed Co., 717 Elk St., Buffalo NY 14210. SUPER GREEN WEED AND FEED PLUS. Active Ingredients: 2,4 - Dichlorophenoxyacetic Acid 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1057–57. C. B. Dolge Co., 11 Ferry Lane West, Westport CT 06880. E.W.T. PLUS/CONTROLS BROADLEAVED WEEDS. Active Ingredients: Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 31.00%; Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 15.35%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1057–6. C. B. Dolge Co. E.W.T./A SELECTIVE WEED-KILLER. Active Ingredients: Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 7774–A. Erny Supply Co., 5406 N. 59th St., Tampa FL 33610. ESCO 501 DISINFECTANT. Aktive Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12315–U.I.V. Co., 709–11 Dauphin St., Mobile AL 36602. MINTOL DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 61–167. Koppers Co., Inc., 1401 Koppers Bldg., Pittsburgh PA 15219. BROLITE Z-SPAR COLORTOX BOTTOM PAINT. Active Ingredients: Tributyltin Flouride 15.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 1706–125. Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook IL 60521. NALKIL 2413 GRANULAR WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl-6-methyl-uracil 2.0%; Diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 1020–20. Oakite Products, Inc., 50 Valley Rd., Berkeley Hts. NJ 07922. OAKITE MICROBIOCIDE 30. Active Ingredients: 2-(thiocyanomethylthio) Benzothiozole 3.2%; 2-Hydroxypropyl Methanethiosulfonate 2.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA Reg. No. 34704–5. Platte Chemical Co., 240 22nd St., P.O. Box 667, Greeley CO 80631. PLATTE AMINE 4 2,4-D WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amended Use. PM23

EPA File Symbol 26693–E. Positive Formulators, Inc., 1044 N. Jerrie Ave., Tucson AZ 85711. KILLMASTER II. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro 2-pyridyl) phosphorothioate] 2.0%; Aromatic petroleum derivative solvent 1.2%; Petroleum distillate 94.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EP. . File Symbol 9538–L. Sellers Chemical Corp., PO Box Harahan LA 70183. FLO-MO 810 SUCKER TOBACCO SUCKER CONTROL AGENT. Active Ingredients: Fatty Alcohols (C6 0.42%, C8 38.68%, C10 45.90%) 85%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Change in method of support from 2(a) to 2(b) and revised offer to pay statement submitted. PM25

EPA File Symbol 11511–ET. Shalco Chemical Corp., PO Box 2508, 2421 Lexington Ave., Toledo OH 43606. SHALCO ALGAECIDE. Active Ingredients: n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chloride 5.0%; ammonium chloride 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. Revised offer to pay statement submitted. PM24

EPA File Symbol 7992–RT. TNT Chemicals Inc., 7301 N.W. 77th St., Miami FL 33166. TNT PROFESSIONAL STRENGTH FORMULA. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related Compounds 0.027%; d-trans Allethrins (allyl homolog of Cinerin I), 0.400%; Related compounds 0.030%; Aromatic petroleum hydrocarbons 0.265%; Petroleum distillate 6.500%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 1023–LO. Tuco Products Co., Division of The Upjohn Co., 7171 Partage Rd., Kalamazoo MI 49001. BAAM EC MITICIDE/INSECTICIDE FOR APPLES AND PEARS. Active Ingredients: N'-(2,4-dimethylphenyl)-N [[(2,4-dimethylphenyl) imino] methyl]-N-methylmethanimidamide 19.8%. Method of Support: Application proceeds under 2(a) of interim policy. PM13

EPA Reg. No. 1386–569. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO TURF TREETER "T". Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 3.23%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 10.59%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–42. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL BANVEL D (+2,4-D. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 18.4%; Dimethylamine Salts of related acids 3.2%; Dimethylamine Salt of 2,4-dichlorophenoxylacetic acid 36.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

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EPA Reg. No. 876–25. Velsicol Chemical Corp. BANVEL D HERBICIDE. Active Ingredients: Dimethyl Salt of dicamba (3,6-dichloro-o-anisic acid) 49.0%; Dimethylamine Salt of Related acids 7.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Application for Reregistration and revised offer to pay statement submitted. PM25

EPA Reg. No. 876–44. Velsicol Chemical Corp. BANVEL K HERBICIDE. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 15.5%, Dimethylamine salt of related acids 2.8%; Dimethylamine salt of 2,4-dichlorophenoxy acetic acid 31.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–215. Velsicol Chemical Corp. VELSICOL 2,4-D AMINE HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Smybol 37648–I. Water Guard Div., Southern Industrial Sales Corp., PO Box 350, Wilson NC 27893. WATER GUARD #166. Active Ingredients: Vinylene bisthiocyanate 8%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 99–RRN. Watkins Products, Inc., Winona MN 55987. DUAL PURPOSE GARDEN DUST. Active Ingredients: Carbaryl (1-naphthyl methyl carbamate) 3.00%; Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 52–EUI. West Agro-Chemical Inc., A Subsidiary of West Chemical Products, Inc., 42–16 West Street, Long Island City NY 11101. ACIDET WEST ACID SANITIZER. Active Ingredients: Phosphoric Acid 50.0%; Dodecylbenzenesulfonic Acid 15.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM32

APPLICATIONS RECEIVED (OPP–33000/448)

EPA Reg. No. 8419–14. The Andersons, PO Box 119, Maumee OH 43537. CRABGRASS PREVENTER WITH DACTHAL. Active Ingredients: 2,3,5,6-Dimethyl Tetrachloroterephthalate 2.87%. Method of Support: Application proceeds under 2(b) of interim policy Application for reregistration. PM23

EPA Reg. 264–249. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. WEED-ONE PREEMERGENCE. Active Ingredients: Dimethyltetrachloroterephthalate 6.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5549–2. Coastal Chemical Corp., PO Box 627, Greenville NC 27834. 15% FERMATE DUST. Active Ingredients: Ferbam (Ferric Dimethyldithiocarbamate) 11.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 4715–168. Colorado International Corp., PO Box 7257, Denver CO 80207. BEST 4 SERVIS BRAND AMINE 400 2,4-D WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 7774–T. Erny Supply Co., 5406 N. 59th St., Tampa FL. ESCO MINT DISINFECTANT (COEF. 7). Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 449–293. Techne Corp., c/o Farmland Industries, Inc., Agricultural Chemicals Div., PO Box 7305, Kansas City MO 64116. TECHNE WEED-D. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 25.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279–388. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. CARBAMATE. Active Ingredients: Ferbam 76.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 8764–7. FMC Corp., Citrus Machinery Div., PO Box 552, Riverside CA 92502. STA-FRESH 101. Active Ingredients: 2,6-Dichloro-4-nitroaniline 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 334–271. Hysan Corp., 919 W. 38th St., Chicago IL 60609. GCC–534. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 0.312%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.310%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–272. Hysan Corp. GCC–532. Actice Ingredients; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 0.312%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.310%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2342–793. Kerr-McGee Chemical Corp., PO Box 25861, Oklahoma City OK 73125. FASCO FERBAM DUST. Active Ingredients: Ferbam (ferric dimethyl dithiocarbamate) 11.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 2342–869. Kerr-McGee Chemical Corp. FASCO FERBAM 76–WP FUNGICIDE. Active Ingredients: Ferbam (ferric dimethyl dithiocarbamate) 76%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1769–242. National Chemsearch, 2727 Chemsearch Blvd., Irving TX 75062. SELEX SELECTIVE BROADLEAF WEED KILLER. Active Ingredients: Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.25%; Diethanolamine salt of 2,4-dichlorophenoxy acetic acid 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistraiton. PM23

EPA Reg. No. 538–51. O. M. Scott & Sons, Marysville OH 43040. SCOTTS PLUS 2 BRAND. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.40%; Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.07%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 33955–245. Acme Div., PBI/Gordon Corp., 300 South St., Kansas City KS 66118. ACME KARBAM BLACK. Active Ingredients: Ferbam (Ferric Dimethyldithiocarbamate) 76%. Method of support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 655–LUT. Prentiss Drug & Chemical Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX PYRETHRUM PASTE RTU. Active Ingredients: Pyrethrins 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 4822–28. S. C. Johnson & Son, Inc., 1525 Home St., Racine WI 53403. JOHNSON RAID WEED KILLER. Active Ingredients: Morpholine 2,4-Dichlorophenoxyacetate 1.59%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1159–162. Seacoast Laboratories, Inc., PO Box 157, 257 Hwy. 18, East Brunswick NJ 08816. TWIN LIGHT CRABGRASS PREVENTER WITH BALAN. Active Ingredients: N-butyl-N-ethyl-α,α,α-trifluro-2,6-dinitro-p-toluidine 1.72%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 4185–374. Smith-Douglass Div. of Borden Chemical, Borden, Inc., PO Box 419, Norfolk VA 23501. BORDEN NUTRO CRABGRASS PREVENTER. Active Ingredients: Tetrachloroterephthalic acid, dimethy ester 3.85%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 11715–LL. Speer Products, Inc., PO Box 9383, Memphis TN 38109. SPEER HOUSE PLANT INSECT SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 148–REAE. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. DIMILIN W–25 FOR SOYBEANS. Active Ingredients: N-[[(4-Chlorophenyl)amino] carbonyl] - 2,6 - difluorobenzamide 25.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 226–13. Tobacco States Chemical Co., PO Box 479, Lexington KY 40501. TOBACCO STATES BRAND 15% FERMATE DUST. Active Ingredients: Ferbam (Ferric dimethyl dithiocarbamate) 10.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 400–RRI. Uniroyal Chemical, Div., of Uniroyal, Inc., 74 Amity Rd., Naugatuck CT 06770. VITAVAX HB–10 COTTON SEED TREATER (VITAVAX WITH CAPTAN). Active Ingredients: Carboxin (5,6 - Dihydro - 2 - Methyl - 1,4-Oxathiin-3-Carboxanilide 5.00%; Captan (N-Trichloromethylthio - 4 - Cyclohexene-1,2-Dicarboximide) 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 7401–141. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. SPOT WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-D-Dichlorophenoxy-acetic acid 0.89%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–24. Voluntary Purchasing Groups, Inc. FERTI-LOME SPRING CRABGRASS PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–27. Voluntary Purchasing Groups, Inc. FERTI-LOME WEED & GRASS PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.41%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–76. Voluntary Purchasing Groups, Inc. CRABGRASS AND WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–140. Voluntary Purchasing Groups, Inc. YEAR-AROUND CRABGRASS AND WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 769–73. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. SECURITY FERBAM DUST. Active Ingredients: Ferbam 11.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1270–138. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP X–12670 SELECTIVE WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic acid 11.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76–23900 Filed 8–13–76;8:45 am]

[FRL 600–3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

Notice of Delegation of Authority to the U.S. Virgin Islands on Behalf of the Department of Conservation and Cultural Affairs

On December 23, 1971 (36 F.R. 24876) and March 8, 1974 (39 F.R. 9308) and August 6, 1974 (39 F.R. 33152), and September 23, 1975 (40 F.R. 43850), and January 15, 1976 (41 F.R. 2232), and January 26, 1976 (41 F.R. 3826), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations codified in 40 CFR Part 60 establishing standards of performance for certain categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 F.R. 8820), and October 14, 1975 (40 F.R. 48292), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate authority to implement and enforce the standards following delegation of authority to a state.

On July 27, 1973, the Regional Administrator, Region II, forwarded to the U.S. Virgin Islands information setting forth the requirements for an adequate procedure for implementing the NSPS and NESHAPS. On October 9, 1973, the Honorable Melvin H. Evans, then Governor of the U.S. Virgin Islands, submitted a request for delegation of authority to implement and enforce the NSPS and certain aspects of the NESHAPS program. A March 9, 1976 letter from the Honorable Cyril E. King, presently Governor of the U.S. Virgin Islands, served to amend the terms of the Virgin Islands original request in certain respects, and to supplement it in others.

Examination of the U.S. Virgin Islands request by the Regional Office revealed statutory inadequacies affecting the authority to implement the NESHAPS for certain asbestos categories. The Regional Administrator otherwise found the procedures proposed to be employed by the Department to be adequate and, by means of a letter to Governor King on June 30, 1976 formally delegated to the U.S. Virgin Islands (per the U.S. Virgin Islands Department of Conservation and Cultural Affairs) certain aspects of the existing federal authority to implement and enforce the NSPS and NESHAPS programs.

What follows is the entire text of the Regional Administrator's June 30 letter, which describes fully the delegated aspects of the relevant programs, and articulates the conditions and understandings upon which delegation was based.

HON. CYRIL E. KING
Governor of the Virgin Islands
of the United States
St. Thomas, U.S. Virgin Islands 00802

DEAR GOVERNOR KING: On October 9, 1973, former Governor Melvin H. Evans submitted the Virgin Islands' formal request for delegation of federal authority for the implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS), pursuant to §§ 111(c)(1) and 112(d)(1) of the Clean Air Act, respectively. Your letter of March 9, 1976 served to amend the original application. This represents EPA's formal response to the referenced requests.

(A) We have reviewed the relevant laws of the U.S. Virgin Islands, and the rules and regulations of the Virgin Islands air pollution control agency and have determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS and NESHAPS programs by the Department of Conservation and Cultural Affairs, Division of Natural Resources Management ("the Department") and the U.S. Virgin Islands. Therefore, we hereby grant delegation of NSPS and NESHAPS to the U.S. Virgin Islands per the Department of Conservation and Cultural Affairs, Division of Natural Resources Management, as follows:

(A) Authority for all sources located in the U.S. Virgin Islands subject to the standards of performance for new stationary sources as promulgated in 40 CFR Part 60 as of the date of delegation. The categories of new sources covered by the delegation are fossil fuel fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry: wet process phosphoric acid plants; phosphate fertilizer industry: superphosphoric acid plants; phosphate fertilizer industry: diammonium phosphate plants; phosphate fertilizer industry: triple superphosphate plants; phosphate fertilizer industry: granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and steel plants: electric arc furnaces.

(2) Authority for all sources located in the U.S. Virgin Islands subject to the national emissions standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of delegation, with the exception of the asbestos building demolition and renovation, road surfacing, spraying, insulating, and waste disposal site regulations codified at 40 CFR §§ 61.22 (b), (d), (e)(1)(1), and § 61.25. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

(B) This delegation is based upon the following conditions:

(1) Semi-annual reports shall be submitted to EPA by the Department which include a list of all identified new sources subject to NSPS and sources of hazardous air pollutants subject to NESHAPS located within the Virgin Islands; the status of compliance of sources; an identification of violators; a report of any legal action initiated by the Government of the Virgin Islands ("the Government") against such violators; and performance tests where applicable.

(2) The Department and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(3) The delegated authority shall be implemented by attaching as conditions to the Department's permits to construct and/or permits to operate:

(a) All substantive emission limitations associated with the standards hereby delegated; and

(b) All notification, record-keeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Parts 60 and 61.

(4) The Department shall employ the test methods and procedures set out in 40 CFR Part 60 Appendix A and Part 61 Appendix B in determining source compliance with the standards herein delegated as appropriate for the particular source involved: except that such test methods as have been formally approved by the Administrator as "equivalent" or "alternative" methods, pursuant to 40 CFR §§ 60.8(b) or 61.14(a) (as limited by § 61.14(c)), may be employed by the Department in lieu of the analogous EPA reference method.

(5) The Department shall utilize the requirements for making emission data public as specified in 40 CFR §§ 60.9 and 61.15 until such time as they become Virgin Islands requirements through adoption by reference. In any instance where the Virgin Islands is unable under its own authority to release emissions data to the public, it shall so notify EPA, so that EPA may take the action necessary to release such data.

(6) Enforcement of the NSPS and NESHAPS in the U.S. Virgin Islands will be the primary responsibility of the Department. If the Department or the Government determined that such enforcement is not feasible and so notify EPA, or where the Department or the Government act in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act with respect to sources within the U.S. Virgin Islands subject to NSPS and NESHAPS.

(7) The Government or the Department shall at no time grant a variance or waiver from compliance with NSPS and NESHAPS. Furthermore, the U.S. Virgin Islands and the Department are not delegated hereby the Administrator's authority pursuant to 40 CFR § 61.11 to grant waivers of compliance to sources subject to the NESHAPS regulations. Should the Government or the Department grant such a waiver or variance, EPA will consider the source receiving such relief to

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be in violation of the applicable federal regulation and may initiate enforcement action against the source pursuant to Secton 113 of the Clean Air Act. The granting of the variance or waiver shall also constitute grounds for revocation of delegation by EPA.

(8) Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the U.S. Virgin Islands and the Department to accept delegation of future standards and requirements. A new request for delegation will be required for any standards and requirements not included in the Virgin Islands request of March 9, 1976.

(9) The delegation to the U.S. Virgin Islands and the Department does not include the authority to implement or enforce the NSPS or NESHAPS against federal facilities located within the Virgin Islands. This condition in no way relieves any federal facility from meeting the requirements of 40 CFR §§ 60 and 61 or any Virgin Islands regulation.

(10) If the Regional Administrator should determine at some future time that a Virgin Islands or Department procedure for enforcing or implementing the NSPS or NESHAPS is inadequate or is not being effectively carried out, this delegation may be revoked in whole or in part, and any such revocation shall be effective as of the date specified in the notice of revocation.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. This notice will state, among other things, that, effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the U.S. Virgin Islands should be submitted to the Department's Office at P.O. Box 578, Charlotte Amalie, St. Thomas. Any such reports which have been or may be received by the Region II Office of EPA will be promptly transmitted to the Department.

Since this delegation is effective upon the date of this letter, there is no requirement that you notify EPA of acceptance. Unless EPA receives a written notice of any objections within ten days of your receipt of this letter the U.S. Virgin Islands will be deemed to have accepted all of the terms and conditions associated with this delegation.

Sincerely yours,

GERALD M. HANSLER, P.E.,
Regional Administrator.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Effective immediately, copies of all reports required by the NSPS and NESHAPS (with the exception of the asbestos building demolition and renovation, road surfacing, spraying, insulating, and waste disposal site regulations codified at 40 CFR § 61.22 (b), (d), (c), (i), (1), and § 61.25) should also be submitted to the office of the U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. § 1857c-6 and 7).

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

[FR Doc.76-23897 Filed 8-13-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20468; FCC 76-677]

INTERNATIONAL TELECOMMUNICATION UNION

1977 World Administrative Radio Conference Preparations; Report and Order

In the matter of an inquiry relating to the preparations for the 1977 World Administrative Radio Conference of the International Telecommunication Union for planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band.

BACKGROUND

1. The 1973 Plenipotentiary Conference of the International Telecommunication Union (ITU) resolved that a World Administrative Radio Conference (WARC) be convened in Geneva, Switzerland for the planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz (12.5 GHz in ITU Region 1) band in 1977. The Administrative Council of the ITU adopted on June 27, 1975, a convening date of January 10, 1977, and the following agenda for the 1977 WARC:

1. To establish the sharing criteria for the bands 11.7–12.2 GHz (in Regions 2 and 3) and 11.7–12.5 GHz (in Region 1) between the Broadcasting Satellite Service and the other services to which these bands are allocated, namely:
—the Fixed Service;
—the Broadcasting Service;
—the Mobile Service (except the Aeronautical Mobile);
—the Fixed-Satellite Service (Space-to-Earth) in Region 2;

2. To plan for the Broadcasting-Satellite Service in the above-mentioned bands in accordance with Resolution No. 27 of the Plenipotentiary Conference (Torremolinos, 1973) and Resolution No. Spa 2–2 of the World Administrative Conference for Space Telecommunications, Geneva, 1971;

3. To establish procedures to govern the use of these bands by the Broadcasting-Satellite Service and by other services mentioned in point 1 above to the extent considered necessary by the Conference.

2. On April 30, 1975, the Commission instituted the above-captioned proceeding with the issuance of a Notice of Inquiry, 52 F.C.C. 2d 1069 (40 F.R. 20673), calling for comments and reply comments on or before August 1 and September 2, 1975, respectively. Then on January 15, 1976, the Commission adopted its Second Notice of Inquiry (41 F.R. 4065), calling for comments and reply comments on or before March 5 and March 24, 1976, respectively. The purpose of these inquiries was to solicit comments and supporting materials to assist in the preparation of the United States proposals for the 1977 Broadcasting Satellite WARC. The Commission pointed out that the results of the conference could have a far reaching effect on the development of both the Broadcasting Satellite and Fixed-Satellite Services which are both allocated to ITU Region 2 (includes the United States) in this band. Even though this Report and Order as well as the preceding Notices of Inquiry are not rule making actions, the results of this conference could cause revision of several of the ITU Radio Regulations, which are annexed to a treaty to which the United States is a signatory nation.[1]

3. On June 24, 1975, the Commission established a Joint Industry-Government Committee (JIGC), pursuant to the Federal Advisory Committee Act, (FACA) 5 U.S.C. §§ 1–15 (App. I, Supp. III, 1973). The Committee is composed of interested industry and government representatives, has held open public meetings in accordance with the FACA, and has six working groups (WG)–WG–A, Definitions and Terminology; WG–B, Sharing Principles; WG–C, Sharing Criteria; WG–D, Evolution and Requirements; WG–E, Non-Technical Implications; and WG–F, Procedures; which have filed reports to the Commission which are summarized in this Report and Order.

4. Ancillary to the proceedings in this docket, additional technical preparatory work is being performed by the United States Study Groups of the International Radio Consultative Committee (CCIR). The CCIR held a Joint Working Party of various concerned study groups from May 10 to June 2, 1976, to provide technical input to the 1977 WARC–BS.

5. It is the purpose of this Report and Order to deal with the Comments filed in response to the Second Notice; to consider the reports filed on behalf of the JI/GC; to terminate the proceedings in this docket; and to present a document entitled "Proposals of the United States of America for the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz Band—Geneva, 1977". This document represents the combined thinking of the Commission and all other interested parties on this subject. The Commission and the Office of Telecommunications Policy (OTP) will recommend to the Department of State that the document be forwarded to the Secretary General of the ITU as the formal proposals of the U.S.A. to the 1977 WARC.

SUMMARY OF COMMENTS

6. Subsequent to the issuance of the Second Notice of Inquiry, comments were filed by twelve parties:
ABC Television Network Affiliates Association,
CBS Television Network Affiliates Association, and
NBC Television Network Affiliates Association (Network Affiliates);
American Broadcasting Companies, Inc. (ABC);
American Telephone and Telegraph Co. (AT&T);
COMSAT General Corporation (COMSAT General);
Joint Council on Educational Telecommunications (JCET);
Corporation for Public Broadcasting (CPB);

[1] The Commission summarized the background of this conference along with the allocations in the band and a history of the Broadcasting-Satellite Service in the U.S. in its First Notice of Inquiry.

Satellite Business Systems (SBS);
Public Service Satellite Consortium (PSSC);
GTE Service Corporation (GTESC);
International Telecommunications Satellite Organization (INTELSAT);
Department of Health, Education, and Welfare (HEW); and
Western Union. (WN)

Reply comments were received from CPB, SBS, and JCET.

7. Regarding the establishment of direct-to-home Broadcasting-Satellite Service in the United States, HEW feels that the only opposition to this is the use of direct-to-home satellite transmissions for "traditional broadcasting program delivery" including entertainment, news, etc. They point out that no respondent to the Notice nor participant in the Joint Industry/Government Committee has formally proposed such a use. They say they have found no serious opposition in the JI/GC or CCIR to the use of either high-powered direct-to-home or medium powered direct-to-community satellite delivery of "specialized" health, educational, or other social or public information. They conclude that there is no significant difference of opinion regarding the need for a broadcasting-satellite service in this country but only on the meaning of the term "broadcasting". HEW feels a definite need exists "for such specialized services delivered to the home and that a satellite might provide the most feasible delivery technology in the more distant future (the next decade)." HEW urges that options be maintained at the WARC to provide high-powered satellite transmissions for direct-to-home reception of specialized social and public services. They further urge the Commission to consider the creation of a domestic "service" fitting in the ITU "broadcasting-satellite" category but which would be called by a more descriptive or meaningful name which would not be confused with the aspects of "traditional broadcast service."

8. The CPB, on the other hand, feels that comments and reply comments to the First Notice of Inquiry made it abundantly clear that there is not a consensus in the U.S. "either on the needs for satellite communications that can be satisfied in the 11.7–12.2 GHz band or on the classification of any of these needs as to whether they can and should be satisfied in the Broadcasting-Satellite Service or the Fixed-Satellite Service." They feel these are domestic issues which should not be considered at the WARC or certainly not in detail. They feel that our flexibility should not be constrained by decisions of the 1977 WARC. They further state that "the corporation strongly supported the allocation of the band 2500–2690 MHz to what was then called Distribution-Satellite Service for the • • •" WARC–ST 1971. They point out that the intended use was clearly stated at that time as for non-entertainment purposes such as health and education. The U.S. requirement, therefore, was interpreted as synonymous with the Broadcasting-Satellite Service (community reception). CPB feels the more restrictive interpretation by the FCC of what constitutes a Broadcasting-Satellite Service casts doubt on the usability of the 2500–2690 MHz band and this together with other services in the band lends additional importance to the preservation of the 11.7–12.2 GHz band for similar services—Broadcasting-Satellite Services or Fixed-Satellite Services. "There are no viable technical alternatives to these two frequency bands—2.5 GHz and 12 GHz—in the foreseeable future."

9. Some respondents feel that a domestic U.S. policy proceeding is necessary to determine probable domestic uses of the 11.7–12.2 GHz band in order to more properly ascertain the most applicable and appropriate technical standard for use of the band. ABC proposed a rulemaking proceeding in its Petition for Rulemaking, RM–2614. They state that "there is no available medium better suited to resolving these questions and promoting orderly growth of satellite services than a rulemaking policy inquiry • • •" In their summary comments ABC states "Apart from supplying the need for clear national goals and plans as the basis for effective participation in the WARC, a rulemaking proceeding is necessary to determine basic allocation decisions before the practical opportunities to structure satellite services are lost."

10. Network Affiliates mentioned a possible confusion on meaning of the term "community reception". They maintain "community reception" does not mean satellite distribution to local broadcast stations and cable systems—that (type of) distribution is "fixed satellite service". "Community reception" refers to *one location* or distribution covering a *limited area*. They further say that there is no need to "do violence" to the meaning of community reception "as the Fixed-Satellite Service has been allocated much more spectrum than the Broadcasting-Satellite Service. The important program distribution function that satellites can offer will be advanced by treating it as within the Fixed-Satellite Service." On the other hand JCET, in reply comments as well as initial comments, stated that discussion of these matters is an internal domestic issue and should not be broached in the international arena. Further, they do not agree that the term "community reception" does not apply to program distribution for rebroadcast or that all program distribution must be in the Fixed-Satellite Service. JCET also does not agree with Network Affiliates "interpretation that 'specialized users' fall into the Fixed-Satellite Service rather than the 'community reception'." WU has stated in their comments (received at the Commission on April 12, 1976) that there is no need for broadcasting-satellites in the 11.7–12.2 GHz frequency band. They further state that orbit sharing is a technological device which can be accommodated under existing regulations. They state that free growth in orbit-spectrum allocation will be most efficient. They feel that the "principles"[2] should not be included in the Radio Regulations or the CCIR, but should rather be treated as "objectives" to be further considered as the state-of-the-art warrants.

11. Regarding placing of principles into the body of the Radio Regulations, all respondents except WU felt that the CCIR was the proper forum to handle this matter at least until more operational experience is gained in the future. with the exception of JCET which feels that the principles recommended by WG–B should be incorporated into the ITU Radio Regulations. All parties responding except WU who addressed the issue, agreed that Working Group F's recommendation to modify Article 9A to include broadcasting satellite operations was the proper way to handle the coordination and notification internationally. WU has suggested that Article 9A be amended to include broadcasting satellites rather than to have an extensive modification to the Article.

12. Most parties responding supported the position of flexibility espoused by the Commission in paragraph 5 of the Second Notice in Docket 20468. They feel that to unduly constrain the efforts of those involved in furthering the use of satellite services at this time would tend to stifle progress and thwart the entry of new ideas, technology and interested entities into the field. They feel over regulation would be detrimental to effective expansion and utilization of this budding technological advancement.

13. In response to the previous two Notices in this proceeding. AT&T has recommended limits on out-of-band emissions radiated from satellites in the 11.7–12.2 GHz band, and that receiver designs for the Broadcasting-Satellite Service provide adequate discrimination against frequencies in adjacent bands. AT&T and GTESC suggest limits 20 dB below those stated in RR 470 NQ. They feel that without more stringent levels, interference problems could become acute in the adjacent 10.7–11.7 GHz band. They cite the inadequacy of RR's 116, 674; and 697 as lacking specific, numerical criteria on which to base practical engineering and planning. AT&T sees no inconsistency between their proposal for specific out-of-band interference criteria and the Commission's view that power limitations sholud be avoided in the 11.7–12.2 GHz band. AT&T is also concerned that receivers will not be adequately selective to avoid receiving unwanted signals from stations authorized to operate in the band below 11.7GHz. COMSAT General Corporation, on the other hand, feels that the establishment of numerical limits for out-of-band emissions is premature at this time. Further, AT&T and GTESC recommend

[2] "Principles" refers to the eight orbit/spectrum sharing principles enunciated by the JI/GC Working Group B.

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that extraneous out-of-band impact on terrestrial microwave systems be limited to 10 picowatts or less as opposed to JI/GC WG C's preliminary recommendation of 100 picowatts. They are of the pinion that power flux density limitations must ultimately be imposed for both Broadcasting- and Fixed-Satellite Services over the entire 11.7–12.2 GHz band and suggest that the Commission study the issue. JCET, on the other hand, has stated in comments to the First Notice, Second Notice and in reply comments that they feel establishment of out-of-band limits is premature. Further JCET and CPB feel that out-of-band limits are outside the terms of reference for WARC 77. SBS believes, as stated in its reply coments, that the imposition of the stringent out-of-band emission controls recommended by AT&T and GTESC are not necessary at this time, pointing out that the relationship between level of interference and power flux density is a function of the number and deployment of satellites in the 11.7–12.2 GHz band and that no such relationship has been put forth by AT&T or GTESC. They say therefore, that there is simply no evidence to support the PFD [2] limits being 20 dB less than that specified in RR 470 NQ. Although GTESC disagrees that 100 picowatts should be used, they state that the value of 100 picowatts was put forth on the basis that it represents a one percent increase in the total noise budget of 10,000 picowatts and that the members of WG–C concluded that the additional noise increase of 0.04 dB (from 10,000 picowatts to 10,100 picowatts) was negligible. While this may have been brought up in deliberations in WG–C, it is not espoused in their report of March 16, 1976 as is pointed out by SBS. SBS further states that since the density of satellites operating in the 11.7–12.2 GHz band having contiguous US coverage will undoubtedly be smaller than that used in the original development of RR 470 NQ, the interference level to terrestrial systems would be significantly less than the acceptable level of 1000 picowatts if a PFD limit were established at the same level as given in 470 NQ. SBS argues that level as given in 470 NQ. SBS argues that the imposition of a PFD limit for out-of-band emissions would also impose a PFD limit in the 11.7–12.2 GHz band notwithstanding AT&T's assertion to the contrary. Also, since AT&T has requested the additional 20 dB of protection beyond 470 NQ for the band 11.7–12.2 GHz, then satellites operating below (and above) the 11.7–12.2 GHz band could operate with power levels 20 dB higher than satellites operating in that band. This more stringent limitation has not been justified and should be rejected, SBS states. Regarding the preliminary study on emission compliance problems prepared by Bell Systems in this conection, using the conservative value of 10 picowatts as the acceptable interference level, it was determined that *no* power flux density limitations are necessary since first generation satellite operations in the 11.7–12.2 GHz band would not cause excessive interference to out-of-band terrestrial systems. SBS also does not agree that choice of power output, control of frequency separation from the band edge, and shaping the power spectrum are not PFD limitation. Also they say that the angle of arrival for satellite systems servin gthe contiguous 48 states from a synchronous orbit position "*cannot*" be controlled to serve the purpose put forth by AT&T.

14. AT&T has also suggested that a new allocation will be needed for common carrier TV pickup stations which will eventually be displaced by the space service authorized to operate in the 11.7–12.2 GHz band.

SUMMARY OF THE REPORTS OF THE JOINT INDUSTRY/GOVERNMENT COMMITTEE WORKING GROUPS

15. As was stated in the Commission's Second Notice of Inquiry in this proceeding, a Joint Industry/Government Committee (JI/GC) was established in June of 1975 to assist in preparation of the position to be set forth by the United States at the 1977 World Administrative Radio Conference concerning the use of the 11.7–12.2 GHz frequency band. This JI/GC formed six working groups to treat various specialized areas of interest to the WARC preparations. These six groups were as follows: WG–A, Definitions and Terminology; WG–B, Sharing Principles; WG–C, Sharing Criteria; WG–D, Evolution and Requirements; WG–E, International Non-Technical Implications; and WG–F, Procedures. Following is a brief summary of the conclusions and recommendations of each of the JI/GC working group reports.

WG–A: DEFINITIONS AND TERMINOLOGY

16. This report presents the historical derivation, intended meanings, and general technological and regulatory characteristics of the satellite radio services sharing the 11.7–12.2 GHz band. Distinguishing technological from regulatory service characteristics, the report diagnoses the ambiguity of the broadcasting service concept. The report concludes that, in making the satellite service definitions consistent with their terrestrial service counterparts, the 1971 WARC adopted long existing definitions, but incorporated the ambiguous relationship between broadcasting and multiple address fixed service. The report also discusses the ambiguity of the Community Reception Service, the only satellite service without a terrestrial counterpart. The report concludes that, despite its broadcasting nomenclature, community reception service is best understood as a unique multipurpose satellite classification within which both multiple address fixed service and broadcasting service may be rendered in traffic combinations to be determined by each nation.

17. The WG–A report suggests that the American delegation should be cognizant that, while apparently not on the WARC agenda, the ITU service definitions appear to be indirectly at issue because of the possibility that a determination of technical standards for satellite services sharing the 12 GHz band may be overly influenced by preconceived use classifications based upon individual interpretations of the ITU service definitions. The report goes on to state that service definitions have a technological as well as regulatory meaning. The ITU service definitions contain elements of both meanings, but one should note that they do not in themselves technically describe stations, nor do they prescribe how each nation will regulate its own radio services. Consequently, the ITU service definitions should be considered an ambiguous technological classification based on the very broadest of service characteristics. Furthermore, technological service characteristics may be independent of, and are not necessarily synonymous with, certain regulatory service concepts. Since all of the benefits of satellite technology have not been perceived, the WARC should avoid artificial treaty distinctions or unnecessary regulatory restrictions which could needlessly hinder future technological and service development. Although the WARC will deal primarily with "broadcasting satellites," the regulatory concept of broadcasting appears to be very ambiguous. The ITU definition offers no guides to distinguish the program content of a large group's multiple address communication from that of special format, broadcasting programming. Rather than a definitional question, such a distinction would appear to be more of a domestic regulatory issue to determine access to scarce broadcast frequencies.

18. Finally, the WG–A report contends that community reception, despite its "broadcasting" nomenclature, appears to be a unique multipurpose satellite classification within which both multiple address fixed service and broadcasting service may be rendered in traffic combinations to be determined by each administration. Because multiple address radio stations are traditionally considered capable of a broadcasting service, domestic regulation will have to weigh the extent of such a need and determine how much community reception service should be broadcasting and how much should be multiple address program distribution. Furthermore, domestic regulation will have to evaluate the content of intended community reception programming in order to apply appropriate regulatory safeguards. Thus, WG–A concluded that "community reception" is a unique international classification which includes services which will be regulated domestically as both broadcasting and fixed.

WG–B: SHARING PRINCIPLES

19. This report deals specifically with orbit sharing methods and orbit use principles that are applicable to Region 2. In particular, it deals with the problems arising from sharing the 12 GHz frequency band and the geostationary arc among several fixed-satellite systems, among several broadcasting-satellite systems, and between systems of these two services. In those parts of Region 2 where terrestrial services may be permitted on a coequal basis, additional measures may have to be considered to prevent excessive levels of mutual interference between the broadcasting-satellite systems and those terrestrial services, and special problems may arise at the boundaries of countries that do and that do not plan such services (e.g., the U.S.A. and Mexico, should the latter choose to establish terrestrial services in this frequency band on a coequal basis). In such cases, special coordination procedures may be required, but no such considerations are included in this report. The WG–B report is divided into three primary sections. The first considers approaches to sharing the geostationary orbit and the band 11.7–12.2 GHz in Region 2; the second on sharing principles for an evolutionary approach to use of the 11.7–12.2 GHz band; and the third is devoted to capacity estimates for the geostationary orbit serving Region 2 in the band 11.7–12.2 GHz.

20. As stated above, the first section considers approaches to sharing the orbit/spectrum resource. From the technical viewpoint, there are two basically different approaches to sharing the orbit and spectrum between two space services that use the geostationary orbit. The first of these, called spectrum division, does not, per se, impose any constraints. Rather, it seeks to eliminate the difficulties of sharing between two services by assigning to each a certain fraction of the band. Aside from the difficulty, at this stage, of choosing the appropriate division, this approach has one overriding disadvantage. This is the fact that, for a given traffic flow, once that flow exceeds the amount that can be accommodated by the assigned share of the band, another satellite becomes necessary. Thus a significant economic penalty may be imposed. Largely for this economic reason, coupled with the fact that it permits equally high or higher orbit-spectrum utilization, it is concluded that the second, or orbit-divison approach, is to be preferred for practical applications.

21. From the point of view of implementation, three approaches to sharing, representing varying degrees of constraint on system design and operation have been described. The first approach, "no advance planning", is basically an extension of the status quo. Consequently, there are no substantial constraints on system design. On the other hand this very lack of guidelines threatens to produce, ultimately, an inefficient utilization of the orbit-spectrum resource. For this reason, this approach would appear to be less than satisfactory.

22. The second approach, called "evolutionary planning", has basically one constraint (aside from its associated sharing principles and criteria) and that is the necessary degree of satellite repositioning flexibility to accommodate new entries as they materialize. The penalty associated with this method is operational disruption in the event of a satellite relocation and the consequent consumption of fuel. On the other hand, satellite repositionings are likely to be rare, particularly in the near term, and maximum flexibility is maintained.

23. The third approach is that of an *a priori* plan, where all technical characteristics and satellite locations are fixed at a certain time and for a certain period. The major difficulty with this approach is the necessity for making decisions regarding traffic demand, implementation, etc., at a stage which, perhaps in most cases, will be too early for such decisions to be soundly based.

24. It appears that, on balance, the second or evolutionary planning approach is to be preferred for Region 2 because it provides the maximum flexibility to system designers while preserving access to the geostationary-satellite orbit for later entries. It does not force premature decisions and in fact permits an orderly evolution of implementations as they naturally arise. The possible penalties described above seem in just proportion to the advantages, and in practice will likely have to be rarely incurred by any particular network. Finally, this approach is compatible with efficient utilization of the spectrum-orbit resource since the proper relative positioning of satellites is the major consideration in achieving this efficiency.

25. Section 2 of the WG–B report considers sharing principles which would compliment the evolutionary approach described in the first section of the report. The report states that sample calculations show that the capacity of the spectrum-orbit resource can exceed the most liberal estimate of need and demand for the next decade or two. This, however, is stated to be true only if many of the techniques for increasing spectrum-orbit utilization are implemented. The principles espoused in the WG–B report include:

(a) Maximum Flexibility with Respect to System Characteristics.

(b) Maximum Flexibility with Respect to Orbit Apportionment: Until relative need and demand can be ascertained, maximum flexibility should be maintained with respect to the apportionment of the orbit between broadcasting- and fixed-satellites.

(c) Use of Orthogonal Polarization.

(d) Use of Frequency Interleaving.

(e) Use of Crossed-Path Geometry: This principle proposes that adjacent satellites should serve areas separated by at least one other service area.

(f) Use of Paired Service Areas: This principle would call for the pairing of widely separated geographic areas which would be served by the same satellite location.

(g) Clustering: This principle would cluster satellites with similar characteristics, and generally attempt to limit the number of interfaces between different clusters to a minimum.

(h) Equitable Burden Sharing: The burden of accepting interference should be shared on an equal basis.

Also considered in this section of the report were some of the problems associated with implementation of the principles:

The orbit sharing principles proposed in Section 2 can be used as guidelines for the establishment of a large number of broadcasting-satellite and fixed-satellite systems. However, it is not expected that a large number of such systems will, in fact, be established in the near future. It is more reasonable to expect that such systems will be established gradually as the need arises and as funds become available. While detailed planning in the face of uncertainties, both technical and administrative, is neither possible nor desirable at this time, it nevertheless is possible to apply these principles in practice as operational satellite systems are gradually introduced into service. The problems are associated basically with the trade-off between satellite spacing and restrictions imposed to avoid harmful interference. One would like initially to space the satellites so far apart that interference problems become negligible. On the other hand, one would like to foresee the positions and characteristics of all future satellite systems in order to make sure that all can be accommodated. It is believed that the principles proposed are sufficient to produce a reasonable compromise for both these features. It should be noted that future needs to be considered do not extend to centuries, or even quarter-centuries. The actual lifetime of satellites in orbit is of the order of 7 to 10 years. There will therefore be a succession of generations of satellites, each new one showing some changes over the previous ones. Also considered in the implementation of these principles were: first positioning of satellites; apportionment of the orbit; eclipse considerations; repositioning requirements; and satellite sharing of services and service areas.

26. The third section of the WG–B report considers capacity estimates of the geostationary orbit serving Region 2 in the 11.7–12.2 GHz band. This section considers the various "sharing principles" of the second section and how the use of these principles affects the orbit capacity. Table 3 of this section indicates that, with the assumptions made, there is capacity for a total of from about 65 to about 252 satellites in geostationary orbit, all operating in the 11.7–12.2 GHz band and serving Region 2. The exact number depends on what portion of the available arc is allocated to broadcasting satellites and what portion to fixed satellites, on whether or not crosspolarization is used for broadcasting satellites, and on the specific characteristics assumed for fixed satellites. The corresponding communication capabilities vary from 172 TV channels plus 1,300,000 voice channels to 3,528 TV channels plus 634,000 voice channels. All the numbers obtained are based on broadcasting satellites being either all used for community reception, or half of them for individual reception. If all of them, or even substantially more than half of them, were used for individual reception, the number of broadcasting satellites would be reduced substantially since the spacing between broadcasting satellites for individual reception may be as much as eight times the spac-

[2] PFD—power flux density.

V41N159 AUG 16 76 UMI

ing required between satellites for community reception.

27. The numbers in Table 3 are critically dependent on the application of certain orbit sharing principles, in particular on satellite pairing, which assures maximum utilization of satellite antenna discrimination, and on the extensive use of crosspolarization, at least for the fixed satellites. Additionally, use of crosspolarization for broadcasting satellites doubles (approximately) the number of possible broadcasting satellites. It should be pointed out that there are several factors that tend to make the capacity estimates larger than can, perhaps, be realized in practice. The most important ones are limitations on the available service arc due to the geography of the service area, additional limitations on the available service arc due to operational characteristics of particular systems (e.g., eclipse occurring at prescribed times, or need for elevation angles greater than 15°), and characteristics that tend to make some particular system more sensitive to interference, or more likely to generate interference than the baseline systems used here (e.g., systems using SCPC, or fixed-satellite systems operating with smaller earth stations than assumed here). On the other hand, there are also factors that tend to make the estimates of Table 3 smaller than might be realized in practice. For example, no use was made of the technique of crossed-beam geometry, which states that adjacent satellites should not serve adjacent (or overlapping) areas (not counting adjacent satellites serving paired areas). The application of this principle allows utilization of satellite antenna discrimination in cases where the separation of service areas is not large enough for pairing. Other examples of such factors are given in the report.

28. While this has been an extremely cursory review of the WG–B report, all comments and recommendations contained therein have been given consideration in the formulation of the final U.S. proposals to the WARC–BS.

WG–C: Sharing Criteria

29. The WG–C report has stated that the need to examine the characteristics and requirements of domestic broadcasting and fixed satellite systems, to define sharing criteria, and to explore the possibility of adopting "performance standards" into future rules and regulations in the 11.7–12.2 GHz band is motivated by three primary considerations:

A. Sharing criteria and performance standards to be adopted may affect the efficiency with which services in the 11.7–12.2 GHz band can share the orbital arc and the frequency band.

B. The 11.7–12.2 GHz band is allocated to two space services and three terrestrial services in Region 2. Sharing criteria and performance standards to be adopted may influence the feasibility and the efficiency of sharing among the services. Without appropriate sharing criteria and performance standards it is possible that certain applications may be precluded. Considering different types of systems sharing the band, appropriate use of sharing criteria or performance standards may affect the quantity and quality of communications.

C. Fixed-Satellite and Broadcasting-Satellite systems operating in the 11.7–12.2 GHz band may affect or be affected by: (a) U.S. terrestrial services in the band, (b) both satellite-based and terrestrial operations that may be implemented outside of the U.S. in the 11.7–12.2 GHz band, and (c) out-of-band services, both satellite and terrestrial, that affect 11.7–12.2 GHz satellite operations.

30. A United States position relating to new radio regulations for the operation of Fixed-Satellite and Broadcasting-Satellite Services in the 11.7–12.2 GHz band must be predicated upon detailed analyses of the technical performance of systems in these services. This must include an assessment of the intersystem interference potential of the two satellite services, and the interference potential of these satellite services to and from terrestrial services operating within the band. At this time, the technical characteristics of domestic satellite systems that will operate in this band are not well defined. This is particularly true of the Broadcasting-Satellite Service in Region 2. In addition, the interpretation of the definitions of Fixed-Satellite and Broadcasting-Satellite Services is currently evolving. In view of the foregoing factors, this report is limited primarily to an identification and discussion of technical considerations that determine the suitability of various system and subsystem parameters as sharing criteria or performance standards. Specific recommendations are given in the case of a few parameters, but it is believed that the specification of additional criteria should await further definition of the services that will share the band and more authoritative information on the technical characteristics and economic considerations of systems in those services.

31. A table is presented as a summary of the results of the analyses and considerations discussed in this report. Each of the candidate areas for sharing criteria and performance standards is listed and a summary of the conclusions drawn is indicated. As a result of the studies and efforts that are described in this report, WG–C has drawn the following conclusions.

A. The values for many candidate sharing parameters have not been specified (and those that have are preliminary) because of uncertainties in system definitions, the services to be offered, and system characteristics.

B. Many system parameters should not be controlled or regulated because control of more fundamental parameters will achieve the desired goal of sharing and efficient use of orbit and the spectrum. These fundamental interrelated parameters include power flux density limits, satellite spacing, and acceptable levels of interference.

The adoption of sharing criteria and performance standards involves a complex situation where technical characteristics are interrelated with system costs and require comprehensive analysis to determine the impact on system performance, cost to implement, and improvement to be gained. The current state of knowledge concerning the technical characteristics of domestic communications satellite systems which may share the 11.7–12.2 GHz band, particularly in the Broadcasting-Satellite Service, is deficient from the point of view of making specific recommendations for performance standards. In fact, definition of the basic nature of the services to be provided in the two service areas is lacking. With this in mind, WG–C sets forth the following recommendations:

Candidate sharing criteria	*Result*
Communication system:	
Polarization	Use of orthogonal polarization recommended. Further study and experimentation necessary to define preferred techniques and standards.
Channelization	No standard recommended at this time.
Quality of communications.	CCIR recommendations exist. Further study indicated to determine if amendment or additions are necessary.
Energy dispersal.	No standard recommended. Acceptable levels of interference and/or power flux density limits are preferred.
Modulation methods.	No standard should be adopted. Acceptable levels of interference and/or PFD limits are preferred.
Acceptable levels of interference.	A basic sharing criterion. Further study required to recommend standard.
Space station:	
Stationkeeping	±0.1 degree limit recommended for East-West control. For North-South control, no limit is specified, however, ±0.1 degrees or the equivalent is suggested.
Satellite repositioning.	Capability to reposition recommended. However, limit maximum required excursion to ±10 degrees and keep the number of moves to a minimum.
Out-of-band emission limits.	No limit recommended at this time. A recommended limit on emissions to and from the systems in the 11.7–12.2 GHz band will be based on studies now in progress.
Cessation of emissions.	Capability to command is recommended.
Satellite spacing.	A basic sharing criterion. Further study required to recommend standard.
Power flux density limits.	A basic sharing criteria. Not recommended at this time. However, a limit will likely be required in the future.
Antenna pointing accuracy and antenna patterns.	No value recommended at this time. Control of antenna sidelobes or PFD limits outside service area may be preferable.
Earth station:	
Receiver interference rejection.	No standard recommended at this time for receiver selectivity. When limits are set for out-of-band emission by transmitters, a complementary limit should be established for receiver selectivity.
Antenna size and discrimination.	No limit on size recommended at this time. Reasonable sidelobe control is suggested.
Receiver noise temperature.	No standard recommended. PFD limit is preferred. Low noise systems should be protected from interference.
Antenna repointing and receiver retuning.	Capability is recommended, however, number of changes should be minimized.
Antenna pointing accuracy.	No standard recommended.

WG–C also recommends considerations of the following:

A. Unambiguous interpretations of the definitions of both the Fixed-Satellite and Broadcasting-Satellite Service should be developed. These interpretations should relate to the characteristics of the services to be provided in addition to postulated system characteristics and their associated technical parameters.

B. Comprehensive models of the technical characteristics of both Fixed-Satellite and Broadcasting-Satellite systems should be developed.

C. Detailed studies of candidate performance standards should be conducted accordingly for system cost effectiveness and orbit-spectrum utilization.

D. A procedure should be instituted to accommodate regional inputs to the study and planning function.

Adoption of specific performance standards should be preceded by the implementation and completion of the studies and definitions recommended above.

WG–D: Evolution and Requirements

32. The WG–D report summarizes as follows. The very complex television program distribution system described in this report has evolved largely through attempts of its various operators to provide a greater service to the ultimate consumer, the television viewer. The billions of dollars spent for transmitting and receiving equipment and for the generation of programs is the result of these attempts to serve the viewers' interests. This makes the program distribution system in the United States "unique" amongst all of the program distribution systems in the world. Probably the most "unique" characteristic of all is the service to local communities by locally-owned and operated television stations. Through the years this type of local service has been fostered by the FCC in its licensing policies and its rules and regulations. Ascertainment of community needs is a key factor in the licensing process. The dramatic increase in local advertising support for television underscores this emphasis on localism. Localism has historically been a part of the American scene. The Working Group D report further states that the U.S. has no national newspaper; national magazines are trending towards localizing; product distribution is through local outlets. Because Federal statutes prohibits the Federal Government from engaging in broadcasting, it appears that localism in television will continue in the United States. In view of the fact that high-power direct-to-the-home satellites may not be commercially viable at least in the near term (until the mid 1980's) and in view of the lack of any real need at present for such satellite service domestically, we suggest that the Commission maintain a position of flexibility, recognizing that options should be kept open for the introduction of such services by domestic satellites using "tomorrow's technology", assuming that these services are dictated by the national interest.

33. The report also directs the attention of the Commission to Dr. Wilmotte's comments contained in Technological Boundaries of Television (FCC/OCE CE74–01), December 1974:

> As the number of stations increases, the allocation process loses flexibility, the benefits of improved and new technology become more and more difficult to introduce even when it would significantly improve the efficient use of the spectrum. The FCC has provided flexibility by leaving certain portions of the spectrum partially vacant. But the pressure is continually growing to use up such space for a current need on the basis of today's technology, with only secondary consideration of tomorrow's.

WG–D believes that for the 11.7–12.2 GHz band, the public interest could best be served at this time by some plan to "opt" for allocations (spectrum), taking into full consiedration the overall need for services such as radio and television programming, but placing these in reserve until some time in the future when "tomorrow's technology" has arrived and there is a substantial public interest in their use.

34. There are strong indications of a need in the immediate future for a satellite service whose basic characteristics would be:

A. Medium EIRP/BW.

B. Relatively low-cost small earth terminals.

C. Easily and inexpensively co-locatable.

D. Including relatively inexpensive uplinks for interactive service at some locations.

E. Interconnecting with a variety of redistribution systems, typically covering a limited area.

F. Providing specialized social services to specific subgroups of the general public.

It is too early to be definite about exact system parameters, channel capacity requirements, markets and organizational arrangements, and other specifics, but research and experiments to clarify these issues are underway. High-power specialized social service distribution systems (for home reception) appear to have some probability of becoming a feasible and desirable service. Certainty is unachievable at present, but options for the development of such a service should be kept open for the coming decades.

WG–E: International Non-Technical Implications

35. The WG–E report can be summarized as follows: Over the past decade, the political, social and cultural aspects of direct broadcasting from satellites have been under intensive and repeated consideration by international organizations whose competences in their respective spheres are directly relevant to those aspects. Principally concerned since at least 1968 have been the United Nations General Assembly and its Committee on the Peaceful Uses of Outer Space (CPUOS) and within the latter the Working Group on Direct Broadcasting Satellites and the Legal Subcommittee. The matter of elaboration of principles on the subject continues on the agenda of the Legal Subcommittee for its 1976 session at least and its ultimate recommendation can be expected to be processed up through the CPUOS and the First Committee of the UN General Assembly to the General Assembly itself by the fall of 1977 at the earliest. The development of an international agreement or agreements based on the elaborated principles is anticipated for their agenda in the further future. Secondly, over the period from 1966 to 1972 the United Nations Educational, Scientific and Cultural Organization (UNESCO) developed and produced a Declaration on the subject, and its continued involvement in the matter is foreseen.

Thirdly, regional unions of broadcasters and two World Conferences of Broadcasting Organizations and a follow-up working group, all representing operating organizations most intimately concerned in the matter, have considered the subject extensively over the last five years and are continuing to do so and will be giving it further consideration at a Third World Conference of Broadcasters scheduled for Teheran in April of 1977. In an event, the ITU, and in particular the 1977 WARC, is not an appropriate forum in which to resolve the

V 41 159
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political, social, and cultural problems being worked on elsewhere.

WG–F: PROCEDURES

36. Working Group F has reviewed the international Radio Regulations with respect to the administrative procedures that are required for the orderly use of the 12 GHz band and concludes that all interests are best served by revising Articles 9 and 9A (and related provisions) of the Radio Regulations where necessary to accommodate the development of the Broadcasting-Satellite Service. The interim procedures of Section A of Resolution No. Spa 2–3 are deemed adequate for the protection of existing terrestrial stations from space stations employing higher power flux densities than would be permitted in other portions of the spectrum, and it is therefore proposed that the procedures of Section A be incorporated into Article 9A. Often there would be a desire to protect receiving earth stations in the Broadcasting-Satellite Service from subsequent frequency assignments to other space systems and terrestrial stations. For this reason, it is recommended that these earth stations be coordinated and notified if such protection is desired. Further, since the number of these stations could become quite large, it is proposed that administrations have the option of either submitting notices no individual receiving earth stations or on a "typical" earth station. In the latter case, an administration would be required to specify the boundaries of the area in which these earth stations would be located.

37. WG–F has also considered the manner in which the sharing principles espoused in the WG–B report could be handled procedurally within the international Radio Regulations. One idea would be to develop a procedure that could be used by the IFRB when examining frequency assignment notices, and just how well an administration adhered to these principles would determine how good a finding they would receive when the assignment is entered into the international frequency register. It is also thought that the provisions of No. 639 AF of the Radio Regulations might be expanded to at least require administrations to consider these principles when planning a satellite network. In any event, the WG–F report advises that incorporation of these principles into the international Radio Regulations would need to be done with great care and careful consideration. At the full JI/GC meeting of June 24, 1976, the above items were considered. It was the general consensus of the Advisory Committee that a broad Radio Regulation in Article 7 for achieving efficient spectrum and orbit ultilization as described in the applicable documents of the CCIR be proposed. Additionally, some illustrative examples of methods to improve orbit spectrum utilization should be included in a proposed new Appendix 30 to the Radio Regulations. It was also generally felt that some modification to Article 9A should be proposed which would in some manner take into account the proposed Article 7 modification.

DISCUSSION

38. The Commission will now address the issues raised in the Second Notice of Inquiry in this proceeding, specifically as addressed in the Comments and Reply Comments, and provide conclusionary remarks and recommendations regarding U.S. proposals to the WARC–BS. The various topical areas have been addressed in a format which would generally follow the established agenda for the conference, namely—"sharing criteria," "plans," and "procedures." Several ancillary issues are also addressed following discussions of those areas related specifically to the conference agenda. Following is a brief synopsis of the Commission's position in the three conference agenda areas.

39. The Commission believes that certain minimal sharing criteria are essential to the efficient sharing the geostationary orbit in the frequency band in question. However, the sharing criteria to be recommended for inclusion into the Radio Regulations should be only those necessary to ensure efficient sharing without needlessly impeding the development of this new and expanding technology.

40. Regarding the development of "plans" for the establishment of the Broadcasting-Satellite Service in the band in question, the Commission envisions this band to be used in a multitude of various applications within Region 2. These may range anywhere from direct point-to-point services within the Fixed-Satellite Service to broadcast-satellite direct reception at individual homes. These applications have considered only the space services—the use of the three terrestrial services in this band within Region 2 are even less exactly defined. The use of terrestrial services in this band within the U.S. is limited to a small number of mobile systems operating on a secondary basis. No expansion of terrestrial use of this band within the U.S. is foreseen. The exact requirements for the use of this band within Region 2 can be forecast only in the vaguest general terms. It is for this reason, along with a desire not to needlessly hinder the development of technology in this area, that the Commission believes that the U.S. should put forth a position of flexibility in the development and implementation of services within this band. Such an approach has been labeled an "evolutionary plan" by various parties within the U.S. and the Commission suports this concept as a basis for the U.S. proposals for the "planning" of the Broadcasting-Satellite Service at the WARC–BS.

41. The "procedures" aspect of the conference agenda will of course be dependent upon the "plans" adopted. With the U.S. proposed evolutionary plan, the current procedures contained within Resolution Spa 2–3 can be very easily incorporated within the current Article 9A, which deals with all space services other than the Broadcasting-Satellite Service. The Commission is proposing that this course of action be adopted within the U.S. proposals.

42. A more detailed elaboration of the above items will now be presented.

SHARING CRITERIA

43. A number of sharing criteria have been proposed by various parties for inclusion in the Radio Regulations.

(a) Station Keeping (of space station): The JI/GC Working Group C has recommended a ±0.1 degree limit for East-West control and suggested a ±0.1 degree limit for North-South control. The PSSC and Comsat General support the above proposal. GTESC, SBS, and CPB oppose inclusion of any sharing criteria in the Radio Regulations. The SBS application proposes to use ±0.05 degree as East-West station keeping. The amount of additional fuel required to control the East-West excursion of a geostationary satellite is generally very small. Western Union, in its comments, points out that "... the limiting factor in stationkeeping capability may well be the precision and accuracy of the sensors required to estimate the positional error of the satellites." CCIR Doc. 11/256 (§ 5.7) states that it is considered feasible to achieve a satellite stationkeeping accuracy in both the N–S and E–W directions to less than ±0.1°. While calculating interference, the allowable satellite drift has to be added to the nominal separation. With ±0.1 degree East-West station keeping, the nominal orbital separation is to be reduced by 0.2 degree when calculating interference. For large satellite antenna pointing losses will be large or a tracking earth station antenna will be required. The Commission accepts the consensus and proposes a relevant Radio Regulation.

(b) Satellite Repositioning: The JI/GC Working Group C has recommended a satellite repositioning capability of ±10 degrees and to keep the number of repositionings to a minimum. Comsat General and the PSSC support the inclusion of this recommendation in the Radio Regulations. GTESC, SBS, WU and CPB oppose the inclusion of this principle in the Radio Regulations. Repositionings of fixed satellites, including changes of more than 10 degrees in longitude, have in fact been performed a number of times in both domestic and INTELSAT systems. For domestic satellite systems, the Commission reserved the right in Docket No. 16495 to change orbital locations during the lifetime of a satellite, and launch authorizations are conditioned to this effect. The SBS application [1] provides for a satellite repositioning capability. The repositioning capability for a fixed-satellite with a comparatively small number of earth terminals may not be an unacceptable burden on the system. However, for a broadcasting satellite, with a large number of individual type receiving earth stations, repointing of earth station antennas resulting from the repositioning of satellites could be a severe burden on the users. CCIR Doc. 11/220 (Rev. 1) states (§ 3.2.8) that "the logistics and economics involved in repointing receiving antennas in the broadcasting satellite service for individual reception would generally make satellite repositioning unacceptable." Western Union, in its comments, states that "* * * the repositioning limit may be interpreted as a constraint on the maintenance of undegraded coverage of a given service area." Considering all factors, the Commission is submitting a U.S. proposal for a ±10° one-time repositioning capability of satellites operating in this band.

[1] (7–DSS–P–76 et al)

(c) Earth Station Receiver Returning Capability: The JI/GC Working Group C has recommended the retuning capability of the earth station receiver. Comsat General states that earth station receivers should have a tuning capability over the entire operating frequency band of the system. GTESC, SBS, WU and CPB oppose the inclusion of any sharing criteria in the Radio Regulations. Broadcasting-satellite earth station receivers for this band, designed in this country and abroad, cover the entire operating frequency band. The earth station receivers for the SBS system and most of the domestic satellite systems in the 6/4 GHz bands cover the entire operating frequency range. Retuning capability of earth station receivers could help resolution of interference problems, particularly during advance coordination procedures. For this reason the Commission proposes to adopt the recommendation of submitting a U.S. proposal on the retuning capability of receivers.

(d) Earth Station Antenna Repointing Capability: The JI/GC Working Group C has recommended the repointing capability of earth station antennas. Comsat General supports the recommendation. GTESC, SBS, WU and CPB oppose the inclusion of any sharing criteria in the Radio Regulations. This requirement for a large number of individual reception earth station antennas would entail considerable hardship. For fixed-satellite systems, however, this capability is generally available. In addition, the proposed Radio Regulation requiring repositioning of satellites would directly imply a repointing capability of earth station antennas. Considering all factors, the Commission is including a U.S. proposal for repointing earth station antennas operating in the 11.7–12.2 GHz (12.5 in Region 1) band.

(e) Emission Control: Comsat General has proposed a Radio Regulation for a capability to turn off emissions if the satellite deviates beyond prescribed station keeping limits. The PSSC supports this proposal. The GTESC, SBS and CPB oppose any Radio Regulation on sharing criteria. If the space station deviates from the designed parameters of operation, then harmful interference could occur to another network. Generally, this provision is available in most satellites. The Commission accepts this recommendation and does include this requirement in the U.S. proposal.

(f) Satellite Antenna Beam Pointing Accuracy: The JI/GC Working Group C has not recommended any value for the space station antenna beam pointing accuracy. This accuracy affects the unwanted signal level in an adjacent area, the signal level within the designed coverage area and also the interference level. Radio Regulation No. 470VF specifies a minimum of 0.5 degree for the pointing accuracy of antennas on geostationary satellites. Current state of the art can provide a lower pointing accuracy for the satellite antenna. For example, the U.S. domestic satellites in the 6/4 GHz band and INTELSAT–V design have a tolerance of 0.2 degree for the satellite antenna pointing accuracy. A less stringent value for the pointing accuracy would require a higher e.i.r.p. for the satellite because of the larger margin. It would also mean larger unwanted radiation into adjacent areas which may be under the jurisdiction of other administrations. Considering these factors, the Commission is proposing a Radio Regulation specifying a ±0.2 degree accuracy for the satellite antenna pointing error in the band under consideration.

(g) Out-of Band Emission Limitations: The Commission recognizes the need to protect the radio relay systems in the 10.7–11.7 GHz band from the emissions of 11.7–12.2 GHz band systems. AT&T has recommended that "the power flux density regulations in Radio Regulation 470NQ appears to be an ideal model for such regulatory structure. The values stated by 470NQ would have to be lowered by 20 dB from— −150dBW/m² and −140dBW/m² to −170dBW/m²." GTE SC has, in general, supported the AT&T position. The imposition of any regulation on adjacent band radiation has been opposed by SBS, COMSAT General, and JCET in their comments; by JI/GC Working Group C in their recommendations; and by CPB, SBS, and JCET in their reply comments to the Second Notice of Inquiry. AT&T stated that "a preliminary study on adjacent band emission compliance problems prepared by the Bell System in conjunction with the work of the Joint Industry/Government Committee Working Group C concluded that a 20 dB reduction in the values stated in 470NQ would not significantly burden the five representative fixed satellite and broadcast satellite systems used as the basis for the study." SBS commented that the "* * * conclusion, using the conservative value of 10 picowatts as the acceptable interference level, was that no power flux density limitations are necessary since first generation satellite operations in the 11.7–12.2 GHz band would not cause excessive interference to out-of-band terrestrial systems."

There is currently no universally applicable out-of-band radiation limitation in the Radio Regulations for any space service. There is no CCIR report or recommendation to support the AT&T proposal. Generally, a CCIR recommendation is desirable, if not essential to support a technical proposal of an administration. The subject of spurious radiation is discussed in Recommendation 329–2, CCIR Study Group 1, for frequencies up to 960 MHz. This document recommends specified levels of attenuation below the power of the fundamental emission. Even with an interference entry of 10 picowatts, the system designer will generally have to design a filter with specified attenuation values. This attenuation is generally a function of frequency. To overcome the shortcomings, if any, of the Commission suggested formula for the attenuation values of out-of-band emissions, required values of attenuation could also be specified as a function of the values of the satellite e.i.r.p. The Commission questions the wisdom of setting power flux density (PFD) limits, even outside the band, when the adjacent band radiation could be controlled or regulated by other methods.

The basic issue is to protect radio relay systems. The development of Radio Regulations is only one method in this process. Administrations could observe or disregard the provisions of the Radio Regulations. The only systems that could introduce interference into radio relay systems in the foreseeable future are either domestic or Canadian. The Commission has already sent to the Canadian Administration the comments of AT&T and GT&E. Canada has informed the Commission that the Telesat specifications for the F–4 spacecraft requires that emissions shall not exceed −60dBW/4KHz in the 10.77 to 11.7 GHz band. The Commission would as a matter of due course have bilateral discussions on the matter of out-of-band emissions with the Canadians or any other administration planning a satellite system in the band for the protection of U.S. radio relay systems. Under these circumstances, delaying the consideration of out-of-band emission limitations until the 1979 General WARC will result in no irreparable harm. Those who believe that provision should be made in the Radio Regulations for the limitation of out-of-band emissions should consider the advisability of preparation of CCIR documentation to support such a position. On balance, therefore, the Commission accepts the consensus that the inclusion of an out-of-band emission limitation provision in the Radio Regulations is premature and would be better considered during the preparations for the 1979 General World Administrative Radio Conference.

RECEIVER DESIGN

44. On a related topic, AT&T has proposed that the Commission consider the "* * * need for suitable design of consumer product receivers." AT&T continues to state that "should such receivers not have sufficient selectivity they might be capable of receiving, along with the desired signals, signals from normal stations in the fixed service operating in the frequency band below 11.7 GHz even though those fixed service signals were

V 41 159 AUG 16 76 UMI

fully contained within the frequency band below 11.7 GHz." The Commission recognizes the problem. The Commission does not have available information to set technical standards on the receivers. At this stage, it will be beneficial for manufacturers and users to develop standards and the necessary data base. Interested parties should keep the Commission informed on technical requirements and other developments in this field. It is premature for the Commission to develop technical standards on receiver design. The interference between the adjacent band terrestrial transmitters and the broadcasting-satellite earth station receivers appears to be entirely a domestic issue and the proper forum to discuss this appears to be a domestic rule making procedure on the broadcasting-satellite service. The Commission is not persuaded that this is a topic for consideration of the 1977 broadcasting-satellite WARC.

ORBIT USE "PRINCIPLES"

45. The Commission is in favor of practical guidelines for efficient use of the orbit-spectrum. The JI/GC Working Group B report has recommended eight sharing "principles." There are discussions on some of these "principles", (i.e., polarization discrimination advantage, interleaved carriers, frequency re-use by means of narrow-beam satellite antennas), in CCIR Study Group 4 Report 453-1. Cross-polarization and frequency interleaving have been used in some U.S. domestic satellite systems. INTELSAT-V has proposed to use cross-polarization and "paired service areas." JCET, GTESC, and SBS endorse all the "principles."

46. The first principle enunciated by the JI/GC Working Group B is the maximum flexibility of system parameters. In the absence of any sharing regulations, it appears that systems should have complete flexibility. It is shown by the U.S. CCIR 4/15 paper and by the CCIR Study Group 4 Report 453-1, Section 6, page 196, that a homogeneous assembly of satellites is required to obtain the most efficient utilization of orbit-spectrum. CPB states, in their comments, that "• • • we believe that the proper balance between maximum flexibility and good orbit-spectrum utilization will be different for different functional services." [1]

47. Cross-polarization is the third principle recommended by the JI/GC Working Group B. The Commission encourages the use of cross-polarization for efficient orbit/spectrum utilization. The basic questions are (1) the amount of cross-polarization discrimination that can be achieved in the sidelobe region of the antenna radiation pattern and (2) the associated costs. Both AT&T and RCA satellites are designed to use cross-polarization. CCIR Study Group 4 Report 555 discusses polarization discrimination for frequencies below 10 GHz. Although a cross-polarization discrimination of 25 to 30 dB could be achieved in the main beam of well designed antennas, its value in the sidelobe regions in the 12 GHz band is not accurately known. Moreover, the depolarization effect due to precipitation, in this band, is not precisely known. There is some discussion on these limitations of cross-polarization discrimination in the JI/GC Working Group C report. Both Working Group B and C agree that "• • • there are some operational advantages in the use of circular polarization in the Broadcasting-Satellite Service • • •" Both these working groups prefer linear polarization "• • • because it affords greater discrimination in the sidelobes." For very small reflector antennas, proposed to be used for individual reception, the feed and its mount may produce significant blockage and may reduce the sidelobe cross-polarization discrimination even for linearly polarized systems. To effectively use the "principle" of cross-polarization, standardized reference directions for linear orthogonal polarizations would be essential. There are currently no agreed standardized reference directions, as recognized by the CCIR Study Group Report 453-1,. Section 2.2, page 191, for linear orthogonal polarizations. WU, in its comments observes that "the cost of such standardization is unknown. Both AT&T and RCA Satellites currently use (or plan to use) different reference directions. Are these merely accidents of design or do their individual systems require a preferred direction of polarization?" PSSC states that there are practical difficulties in implementing this principle. CPB, in its comments, states that, "It has not yet been demonstrated that cross-polarization will be an effective technique in the Broadcasting-Satellite Service to increase orbit/spectrum utilization."

48. The fourth principle considered by the JI/GC Working Group B is frequency interleaving. Both cross-polarization and frequency interleaving schemes are currently used in U.S. domestic satellite systems. When transponders have equal bandwidth and each transponder has one carrier frequency, frequency interleaving is beneficial and easily implemented. The Commission, however, is uncertain about the bandwidth that would be used by different satellites operating in the 12th GHz band. SBS proposes to use all 54 MHz transponders. The INTELSAT V design proposes the use of 77, 72 and 241 MHz transponders. Telesat B-1 design proposes the use of 72 MHz transponders. In another satellite, a transponder may be completely filled with single-channel-per-carrier (SCPC) or other multi-carrier signals. PSSC, in its comments, states that there may be practical difficulties in implementing this principle. WU, in its comments, observes, "It is therefore unwarrantably restrictive to even consider the application of the frequency interleaving principle for orbit-spectrum utilization. Before such a principle is made a part of the Radio Regulations, the effect of actual inhomogeneities on the utility of this principle should be determined." CPB states, in its comments, that, "We agree with the comment in CCIR Report 453-1 concerning frequency interleaving; it is unlikely that such a plan can be implemented especially in a band shared between dissimilar space services such as the Broadcasting-Satellite Service and the Fixed-Satellite Service."

49. The fifth principle enunciated by the JI/GC Working Group B is "paired service area." This principle appears to be utilized in the proposed INTELSAT V for the east and west beams. Countries in the northern portion of Region 2 are physically larger and fewer in number than in the southern portion. There are more countries, many of which are smaller in physical size, in the central and southern portion of Region 2 than in the northern portion. The requirements of the fixed- and the broadcasting-satellite services for each of these areas are not precisely known. PSSC states that there are practical difficulties in implementing this principle. CPB states, in its comments, that "since the efficiency of these principles will depend on the area and shape of countries involved, the squint angle from the satellite as it affects the antenna footprint on the earth, and other factors, it is difficult to predict the effectiveness of these principles except in a very general way." The Commission believes that a realistic modeling study should be done before any quantitative advantage of using this "principle" could be forecast.

50. The sixth principle recommended by the JI/GC Working Group B is "crossed path geometry." There appears to be a similarity between this and a previous "principle"—one related to areas in the north-south direction, the other governing areas in the east-west directions. Working Group B admits the limitation of this principle in Region 2. PSSC states that there are practical difficulties in implementing this principle. In its comments, CPB states that "since the efficiency of these principles will depend on the area and shape of countries involved, the squint angle from the satellite as it affects the antenna footprint on the earth, and other factors, it is difficult to predict the effectiveness of these principles except in a very general way."

51. The seventh principle discussed by the JI/GC Working Group B is "clustering." When computing the orbit capacities, JI/GC Working Group B considered five, (not all at the same time), representative types of satellites in the 12 GHz band. Taking the case of a 75% broadcasting-satellite utilization of the orbit, 196 community type broadcasting-satellites could be accommodated. This number is reduced to 44 when the available arc is divided equally between the individual and community reception type satellites. Although not discussed in the working Group B report, if a third type of system were included, the number of satellites that could be accommodated would appear to be lower. The U.S. domestic satellite system in the 6/4 GHz bands is inhomogeneous. The earth station antenna diameters range from 4.5m to 30m and the transmitter powers range

[1] The second principle is treated in paragraph 51.

from 0.4 to 3 kW. In one case, a digital single channel per carrier system is used. In another, a 1200-voice channel FM system is used. The Commission would not be surprised if no two satellite systems operating in this band were to have very "similar" characteristics because of the dynamic nature of the field. The PSSC states that there are practical difficulties in implementing this principle. CPB states that "application of the clustering principle will depend upon the degree of inhomogeneity between the fixed-satellite sand the broadcasting-satellites, and will be complicated by the fact that this is a regional rather than a U.S.-only problem. Therefore, we would recommend that no attempt be made to adopt clustering configurations at this time." WU, in its comments, states that "• • • the assertion of the principle of clustering, which is equivalent to the assumption of homogeneity, would be the assertion of an unrealistic principle, which further would be made prescriptive for system design and service development." Discussing the second "principle," WU, in its comments, states that "the principle of maximum flexibility with respect to orbit apportionment does not require one to assert the principle of clustering. Conversely, clustering does not imply the principle of maximum flexibility with respect to orbital apportionment. (Clustering imposes the constraint of homogeneity of satellites—a possible reduction of flexibility in apportionment. Random assignments might provide maximum flexibility.) Hence, the two principles are independent and may be asserted independently." In the absence of restraining regulation, flexibility prevails. The Working Group B report discusses the redundancy of this principle.

52. The eighth principle recommended by JI/GC Working Group B is the equitable sharing of interference. The Working Group report points out the limitations of this principle. In its comments, the PSSC "contends that the sharing burden should be based upon economic measures. The total dollar cost of mutual interference avoidance should be minimized with appropriate sharing among affected parties." CPB states that "• • • the distinction between acceptable and harmful interference in the Broadcasting-Satellite Service has not yet been defined • • •" WU, in its comments, points out that "the entire problem of equitable burden sharing is in too early a state of development for it to be formalized in a regulatory principle at this time."

53. JCET has recommended the inclusion of these principles in the Radio Regulations. COMSAT General, SBS, and HEW have opposed the inclusion of these principles in the Radio Regulations. The PSSC states that there are difficulties in implementing several of these principles and goes on to say that "• • • if these principles are carried through the Radio Regulations, then they should be stated as principles to be invoked as needed" (emphasis added). CPB states, in its reply comments, that "• • • generally applicable orbit-spectrum utilization principles could be included in the Radio Regulations; but that utilization criterion are subject to change, based on operational experience and on technology advances, and for these reasons should not be included in the Radio Regulations." Western Union contends that "these principles should not be included in the International Radio Regulations. They base this on the fundamental apprehension that these "technological" principles are not ready to be adopted as "regulatory" principles. The "regulatory" body is responsible for the procedures, standards, and criteria and the specific rules required for the equitable and efficient utilization of the resource and as such should not influence the development of "principles" themselves. "Principles" are consequences of system models. System models are defined in terms of system characteristics, environment and service requirements. The requirements relate the characteristics to the service implementation (for example: coverage area, antenna design, transmitter power, modulation, etc.). Therefore systems (models) and requirements influence each other and have a constantly evolving characteristic. In this context, actions of a regulatory body can be judged by the fairness of its allocations and coordinatons and the degree of stimulation it provides for the development and growth of the "utilization of the resource" in the form of technically efficient systems to handle expanded service requirements. Therefore, any attempt to include the "guiding principles of orbit utilization" within the International Radio Regulations at this stage is not recommended." The basic principles have now been incorporated into CCIR Doc. 11/220 (Rev. 1).

54. In view of the difficulties associated with the implementation and limitations of these "principles," the Commission is proposing a broad Radio Regulation in Article 7 for achieving efficient spectrum and orbit utilization. Some illustrative examples of methods to improve orbit/spectrum utilization are included in a proposed new Appendix 30 to the Radio Regulations.

55. The JI/GC Working Group B has submitted a table of orbital capacities. Respondents to the Second Notice of Inquiry have not specifically addressed this table. The Working Group B has itself revised its original capacity estimates. For a 75% broadcasting satellite usage of the orbit the previous report estimated a less than optimum capacity of 439 broadcasting-satellites. The present report estimates a capacity of 196 broadcasting-satellites. The estimates appear to be based on the RAND report R-1463 analysis. The RAND program calculates the value of the Receiver Transfer Constant (RTC) or Interference Reduction Factor (IRF) as 27.2 dB for two 1200 FM signals compared to a figure of about 23.5 dB calculated by Bell Laboratories. The value of the modulation index used by the RAND program is different from the values used by Bell Laboratories and domestic satellite systems. The RAND program uses a worst case value of 10 dB cross-polarization ratio in the sidelobe region of the fixed-satellite earth station antennas as compared to 6–7.5 dB mentioned by the Working Group B report. The broadcasting satellite EIRP is taken as 58 dBW for individual reception and 52 dBW for community reception. There is no indication of the orbital capacity if satellite systems of other parameters are placed in the group such as the planned EIRP of about 60 dBW by EBU (CCIR Doc. Temp./102 JWP) and 66 dBW by the Germans.

56. Considerable emphasis has been placed on "satellite clustering." The word "similar" is not precise. There is a considerable amount of variation in the parameters of the present adjacent satellites, be it the INTELSAT series or be it the U.S. domestic satellite system.

57. Given the "maximum flexibility" of system parameters, it would not be surprising if there is a large variation in the parameters of the adjacent satellites in the 11.7–12.2 GHz band. For a general case, it may be useful to consider a group of satellites with varying parameters of earth station antenna sizes, transmitter powers, noise temperature of receivers, bandwidths, multiple access schemes, modulation schemes, satellite e.i.r.p. and satellite antenna beamwidths. The Commission is not aware of any calculation of interference being made by developing a model in which all satellites are placed in specific orbital locations with each pointing to an appropriate service area. The orbital capacity, submitted by Working Group B, appears to be theoretical. It appears that Working Group B is not absolutely certain about the actual orbital capacity since the Working Group extensively discusses cases where the capacity would be less than those mentioned in the report of that Group. The broadcasting-satellite advisory service working group for the 1979 GWARC has requested additional frequency allocations for the broadcasting-satellite service although the Commission has yet to identify sufficient domestic demand for this service to warrant an increased allocation, noting in particular that the orbital capacity estimates submitted by the Working Group B are very large. The Commission believes that there is sufficient orbital capacity to meet, with judicious use, the foreseeable demands of Region 2. The orbital capacity, submitted by Working Group B, appears to the Commission to be much larger than can be realized in practice.

58. The frequency band 14.0–14.5 GHz is generally considered to be the uplink associated with the 11.7–12.2 GHz band. The orbital capacity of the 11.7–12.2 GHz will be affected by the use of the 14.0–14.5 GHz band. To obtain the same orbit spectrum utilization, the same "principles" would have to be applied to both the up- and down-link frequencies. As a result, the uplink frequency of 14.0–14.5 GHz, whether used by INTELSAT, MAROTS or a broadcasting-satellite related operation, would have to be governed by the same "principles" as applied to the 11.7–12.2 GHz band. INTELSAT IV and IV-A satellites are assigned (FCC 76T-1, 39107, dated Jan. 29, 1976) to the following positions in the Atlantic

V 41 159 AUG 16 76 UMI

Ocean: 325.5° E, 330.5° E, 335.5° E, 340.5°, and 359° E with a nominal spacing 5°. INTELSAT-V applications may request the same orbital assignments. In addition, one has to consider the required spacing between the INTELSAT-V and the immediately adjacent satellite. As a result, a reasonable section of the arc, which could be used by Region 2, may thus contain a rather small number of satellites.

59. In the Second Notice of Inquiry in this proceeding, the Commission requested comments as to how satellite systems constructed prior to the Final Acts of the 1977 WARC-BS would fit into the framework of the "principles" recommended by the JI/GC Working Group B. SBS appears to have been the only responding party to have addressed this question. In doing so, SBS has referred to an application for a Fixed-Satellite system which it has submitted to the Commission. In describing this system, SBS has described various system characteristics which it believes would make the SBS system compatible with the Working Group B and C "principles" and "sharing criteria." However, all of those characteristics which relate strictly to the Working Group B "principles" would require that any subsequent system take into consideration the SBS system in order for the two systems to be compatible within the framework of the sharing principles. For example, with SBS's use of linear polarization in the vertical direction, a subsequent system would have to use the SBS system as a reference in planning its antenna reference; SBS suggests that systems serving different service areas be placed in adjacent positions to the SBS satellites; and that other fixed-satellites be clustered with the SBS satellites. It is to be noted that, in this connection, Canada has already entered into a contract with RCA for the construction of a satellite utilizing the 14/12 GHz band with a scheduled launch date of 1978 to mid 1979. The contract for the construction of INTELSAT-V, which also proposed to use the 14 GHz band, is currently under negotiation. SBS has no indicated in its comments how three (or more) such systems could be melded into the framework of a comprehensive overall utilization of the orbit-spectrum based on the sharing "principles." Thus, the primary question as to how a number of these systems, each independently conceived prior to the implementation of the Final Acts of the WARC/BS, could fit into the overall framework of the "principles" remains unanswered. With regard to the system characteristics described in the SBS application, as presented in the comments to the Second Notice of Inquiry, the Commission does not believe that this docket is the appropriate forum for such a discussion.

Procedures

Advance notification and coordination procedure

60. Resolution No. Spa 2-3, which is a product of the 1971 World Administrative Radio Conference on Space Telecommunications, sets forth the procedures relating to the bringing into use of space stations in the Broadcasting-Satellite Service. This Resolution states that the procedures contained therein shall be applied until agreements and associated plans pursuant to Resolution No. Spa 2-2 enter into force. Resolution No. Spa 2-2 resolves that stations in the Broadcasting-Satellite Service shall be established and operated in accordance with agreements and associated plans adopted by World or Regional Administrative Radio Conferences, and that the provisions of Resolution No. Spa 2-3 are to be in effect in the interim period. The Broadcasting-Satellite WARC for the 11.7–12.2 (12.5 in Region 1) GHz band was set up by the Administrative Council of the ITU in response to Resolution No. Spa 2-2. Whatever the final outcome of the Broadcasting-Satellite WARC, procedures for the bringing into use of broadcasting satellites in the bands in question will need to be adopted to replace those of Resolution No. Spa 2-3.

61. From all information available to th U.S., it appears likely that the European countries of Region 1 are favoring a predetermined orbit and frequency assignment plan for the Broadcasting-Satellite Service for Region 1. Such a plan would preclude the necessity for such detailed procedures as are contained in the present Resolution No. Spa 2-3 or Article 9A, at least for intra Region 1 considerations. However, as was discussed earlier in this docket, the U.S. favors an evolutionary approach to the development of this band within Region 2. As such, appropriate comprehensive procedures are required.

62. Working Group F of the JI/GC has recommended that Article 9A of the Radio Regulations be modified to include broadcasting-satellite operations in the band 11.7–12.2 GHz. This proposal has been supported by GTESC, HEW, and COMSAT General. If it is deemed appropriate at the 1979 General WARC, that conference could further modify Article 9A to include all of the Broadcasting-Satellite bands. In view of the preceding, the Commission is including appropriate modifications of Article 9A, so as to include the Broadcasting-Satellite Service in the band in question, in the U.S. proposals.

Miscellaneous Topics

ABC's petition for rule making on domestic satellites

63. In its comments[1], ABC has referenced its petition to the Commission, "* * * to institute a rule making proceeding to determine the overall uses of the 4/6 GHz and 14/12 GHz band * * *" ABC further stated[2] that, "In conformity with its preparatory work for the 1977 WARC, we urge the establishment of a broad domestic rulemaking proceeding to determine the overall design of domestic satellite allocations." CPB stated[3] that ". . . we cannot agree with the ABC position, that action on its petition for proposed rulemaking (RM-2614) can be completed in time to influence U.S. proposals for the WARC-77. Furthermore, in our opinion action on that petition constitutes detailed planning for U.S. utilization of the 4/6 and 14/12 GHz bands and is thus not a matter for consideration at the WARC-1977." All respondents agree that the U.S. position should be such that flexibility is retained for future United States utilization of the 11.7–12.2 GHz band. The Commission accepts this position. The Commission also agrees with the CPB position that the rulemaking procedure on the utilization of the satellite bands would take considerable time and as such would not be beneficial for the 1977 broadcasting-satellite conference. The Commission has already instituted an inquiry into the use of small diameter antenna earth stations in the Docket No. 20271. The Commission is studying the comments received on this subject. Any rulemaking on the use of domestic satellite system will include the subject of small earth terminals and many other complex topics. The Commission believes that the initiation of rulemaking on domestic satellite operations, as suggested by ABC, would not be beneficial to the 1977 WARC-BS conference preparations.

Service definition

64. The service definition has been discussed at length by various parties. There appears to be no controversy on the meaning of the definition of the individual reception which is configured on the definition of the terrestrial service. Although no requirement for news, or entertainment programs for individual reception has been thus far expressed, the Commission, however, will not accept the thesis[5] that "* * * satellite-to-home broadcasting in this country is not in the public interest * * *" without first having a thorough discussion of the subject through a domestic rulemaking proceeding. The phrases which appear to be contentious are the (1) "group of the general public" and the (2) "limited area." Network affiliates stated[6] that "The definition of 'community reception' * * * does not extend to specialized audiences such as medical personnel, business executives, and school children." HEW states[7] that "* * * options be maintained at WARC to provide high-powered satellite transmission for direct-to-home reception of specialized social and public services." JI/GC Working Group A States[10] that "* * * we concluded that community reception is a unique international classification, which includes services which will be regulated domestically as both broadcasting and fixed." The question of the service defini-

[1] ABC's comments on Second Notice of Inquiry in this docket.

[2] CPB's reply comments on Second Notice of Inquiry in this docket.

[3] Cmments by Network Affiliates on the Second Notice of Inquiry in this docket.

[5] HEW comments on the Second Notice of Inquiry in this docket.

[10] Final report of JI/GC Working Group A.

tion was discussed over a prolonged period of time in the 1971 WARC-ST. The present, rather loose, definition is the result of the compromised agreement reached at that conference. The Commission does not expect that a more precise definition could be developed in the 1977 WARC even if the conference were competent to do so. The Commission hereby admonishes all the members of the U.S. delegation to the 1977 WARC "* * * to be intimately familiar with the definitional issues as a vital background preparation for negotiation."[11] The Commission agrees with JCET statement[12] that " * * * applicability of these terms within the U.S. is subject to interpretation through the appropriate regulatory proceeding and that they are not pertinent for discussion at WARC 1977."

Administrative matters

65. This proceeding has served as the vehicle by which a major portion of the attached proposals were developed and refined to their present state. The proposals attached hereto are expected to constitute the formal and final proposals of the U.S.A. for consideration by the WARC-BS. However, they are not immutable or irrevocable if, between now and the convening of the WARC, good cause for change can be shown.

66. This Report and Order is issued pursuant to Section 403 of the Communications Act of 1934, as amended. Accordingly, this Report and Order is hereby adopted and it is ordered, noting the proviso in paragraph 65 above, That the proceedings in this docket are hereby terminated.

Adopted: July 15, 1976.

Released: August 6, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Proposals of the United States of America for the World Administrative Radio Conference for Planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz Band (11.7–12.5 GHz in Region 1) (Geneva, 1977)

Contents

Part A—Introduction
Part B—Requirements for Services within the Band 11.7–12.2 GHz
Part C—Sharing in the Band 11.7–12.2 GHz in Region 2
Part D—Notification and Registration Procedures
Part E—Proposed Amendments of the Radio Regulations
Section 1: Method of Presentation
Section 2: Proposed Changes to Article 7
Section 3: Proposed Changes to Article 9A
Section 4: Proposed Changes to Appendix 1A
Section 5: Proposed New Appendix 30

[11] HEW comments on the Second Notice of Inquiry in this docket.

[12] Reply comments of JCET on the Second Notice of Inquiry in this docket.

Part A

Introduction

The United States of America (USA) reaffirms its intent to support, in cooperation with other nations, the International Telecommunication Union (ITU) in achieving the purposes of the Union. In keeping with the purposes stated in Article 4 of the ITU Convention, Malaga-Torremolinos 1973, the Union has a unique and vital role in harmonizing the actions of administrations in the utilization of telecommunications in the interests of mankind.

The objectives of these proposals to the 1977 ITU World Administrative Radio Conference for Planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band are:

a. To establish criteria to ensure the proper development and fullest utilization of the 11.7–12.2 GHz band by the Broadcasting-Satellite Service within a framework of maximum flexibility in order that all countries may realize the benefits promised by this innovative and promising telecommunications concept and technology.

b. To establish a planning approach which will ensure the fullest utilization of the 11.7–12.2 GHz band by both the Broadcasting- and Fixed-Satellite Services in Region 2 on a co-equal basis.

The 1971 World Administrative Radio Conference on Space Telecommunications (WARC-ST) extended the current frequency allocation table from 40 GHz up to 275 GHz, and paved the way for the introduction of a number of space radiocommunication services. Among these was the Broadcasting-Satellite Service. The successful launching of geostationary satellites and the development of stabilized, directional, steerable, narrow beam antennas for satellite use has allowed this mode of communications to offer possibilities that can improve the lives of whole populations. The United States urges the beneficial development of satellite broadcasting, whereby man may be able to use this promising technology to lighten his burden and to share knowledge.

The Agenda adopted by the ITU Administrative Council at its 30th session provides for the planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1) and the establishment of sharing criteria between the Broadcasting-Satellite Service and the other services to which this band is allocated. The USA believes that the development of this band to the maximum benefit of all nations requires that maximum flexibility be maintained through all planning stages.

The USA has gained invaluable experience through the use of the Applications Technology Satellite programs, and is looking to an equally valuable experience with the Communications Technology Satellite, which will utilize the 11.7–12.2 GHz band and should produce much information and insight into the use of capabilities of this band for broadcasting satellites. Every reasonable effort should be made to assure the orderly and unencumbered development of this promising new technology.

In formulating regulatory proposals that ensure the opportunity of all countries to share in the utilization of the 12 GHz band, it should be recognized at the outset that Regional differences in allocations, geography, and service requirements make it unlikely that the same approach to planning the broadcasting-satellite service will be suitable for all Regions.

In Region 1, for example, the 12 GHz band provides 800 MHz of spectrum and the geostationary orbit in this band need accommodate only the broadcasting-satellite service. In Region 2, on the other hand, the allocated band contains only 500 MHz of spectrum and the geostationary orbit in this band must accommodate not only the broadcasting-satellite service, but the fixed-satellite service as well.

In Region 1 there are some 88 countries to be served and the problem of providing independent broadcasting-satellite coverage to each of them is complicated by the fact that many of the countries are geographically small and have common borders with several neighbors. In contrast, there are only about 30 countries in Region 2, but a number of them cover large areas and encompass as many as 7 time zones. Another geographic difference between Regions is that there is a common border between countries of Regions 1 and 3, whereas the boundaries between Regions 1 and 2 and between Regions 2 and 3 lie over water. Moreover, there is a much greater longitudinal overlap between Regions 1 and 3 than for the other pairs of Regions. These differences make it possible for Region 2 to follow a planning approach suitable for this Region.

Still another Regional difference, which has a major impact on the choice of a planning approach, is that in Region 1 there is a pressing need in certain countries to utilize their 12 GHz terrestrial allocations, whereas in Reigon 2 no such need appears to exist. Indeed, the U.S. and Canada have suppressed the terrestrial services from the 12 GHz band in their national tables (except for the secondary mobile service), and other Region 2 countries appear to have not yet fully utilized their terrestrial service allocations in technically more attractive bands at lower frequencies. In the absence of a Region 2 deemed for terrestrial services in the 12 GHz band, the broadcasting- and fixed-satellite services can be planned with much greater flexibility.

A Joint Working Party of several relevant CCIR Study Groups was convened during the 1976 Interim Meetings to consider the outputs of the CCIR with a view toward preparing a Summary Report to be submitted to the WARC-BS to serve as a vehicle for technical guidance to that conference. Bearing in mind the Summary Report of the JWP, it is believed that the proposals in the pages which follow set forth the international regulatory actions deemed necessary to meet the needs of the ITU member countries. It is believed that these proposals are supported by the CCIR Joint Working Party Summary Report.

Part B

Requirements for services within the band 11.7–12.2 GHz

Although the 11.7–12.2 GHz band is allocated to both terrestrial and space radio services on a primary basis in Region 2 by Article 5 of the Radio Regulations, the United States has allocated this band domestically only to the Fixed and Broadcasting-Satellite Services on a primary basis. The reservation of this band domestically to only these space services is considered necessary to assure the development within the United States of innovative communications services in a manner that is unfettered by power flux density limits and the need for frequency coordination between earth stations and terrestrial radio facilities. Retention of the flexibility inherent in the present in-

V41159 AUG 16 76 UMI

ternational regulations governing the use of the 11.7–12.2 GHz band, as well as the associated uplink band, is vital to the development of both fixed and broadcasting satellites within the United States.

Fixed-Satellites operating in the 11.7–12.2 GHz band will be used within the United States in part to provide the same types of satellite communications services presently being provided by domestic satellites in the 4 and 6 GHz bands. These services include point-to-point long haul, high density voice links and high speed data channels, and point-to-multipoint program distribution services. An additional potential significance of the 11.7–12.2 GHz band to the United States is the feasibility of providing satellite communications, services, both fixed and broadcasting, between large numbers of inexpensive earth stations widely dispersed throughout the country. The types of communications services being planned would not be feasible by terrestrial means alone and would be operationally difficult to implement with satellite systems in frequency bands shared with terrestrial radio services.

Plans are already underway within the United States for one such domestic satellite system that would provide users with customized satellite networks in this band which are uniquely configured to satisfy their particular communications requirements. Voice, data and image communications would be provided through this system on an integrated basis by purely digital transmission techniques with a dynamic allocation of satellite capacity on a real-time basis within the system among the networks and user sites being served.

The successful experience being gained through the experiments being conducted over the ATS–6 and CTS satellites has demonstrated the importance of satellite communications in providing new and improved medical, educational and other social services to the people of the United States, particularly those located in remote areas of the country where access to such services is limited or nonexistent. The United States considers the 11.7–12.2 GHz band to be a prime candidate for operational satellite systems that will provide the low cost communications channels required to make the provision of such medical, educational and other social services feasible, particularly since such services could be initially provided over general purpose satellite systems operation in this band.

While the United States does not presently have firm plans for the implementation of a direct-to-home broadcasting-satellite system during the near future, the 11.7–12.2 GHz band is considered essential for the development of such a system. The determination of requirements of most countries is in a very preliminary stage at this time, which is one of the reasons why an evolutionary plan is being proposed.

In summary, the 11.7–12.2 GHz band is vital to the development of the domestic telecommunications network within the countries of Region 2, particularly with respect to the multitude of specialized fixed and broadcasting services which can be provided most efficiently and economically by satellite system operation in this band, together with the associated uplink band. Such systems must, of course, be designed from the outset in a manner that insures the efficient utilization of this orbit-spectrum resource. The wide variety of communications services and networks planned to be established in this band, as well as the evolutionary stages that operational systems in this band will progress through before reaching maturity, requires that the Radio Regulations reflect the flexibility needed in this band to insure its efficient development for the benefit of all of the peoples of Region 2.

PART C

SHARING IN THE BAND 11.7–12.2 GHZ IN REGION 2:

As stated earlier, the band 11.7–12.2 GHz is shared on a co-equal basis between the Broadcasting- and Fixed-Satellite Services in Region 2 (as well as the Fixed, Mobile, and Broadcasting Services). This makes Region 2 the only region which must share this band between two space services. This situation raises several questions as to the manner in which the limited geostationary orbit/spectrum resource is to be shared in this region. With regard to the space services, two apparent, general approaches are possible. The first would be to divide the available spectrum between the two space services and allow each access to the total available service arc of the geostationary orbit. The second approach would be to allow each space service access to the total available spectrum allocated and to divide the available service arc between the services. The primary disadvantage with division of the spectrum between the two space services, aside from the difficulty at this stage of choosing the appropriate division, is the fact that for a given traffic flow, once that flow exceeds the amount that can be accommodated by the assigned share of the band, another satellite becomes necessary. Thus a significant economic penalty may be imposed upon the system user and operator. It is largely for this economic reason, coupled with the fact that studies have indicated an equally high or higher orbit-spectrum utilization capability, that the United States concurs with CCIR Doc. 11/242 that the second, or orbit-division approach, is to be preferred.

Upon examination of the orbit division approach to sharing of the band between the space services, there appear to be several various methods of implementing this type of sharing arrangement. The first would be an approach of no advance planning, whereby systems would be accommodated on a "first come, first served" basis based merely on interference potential to existing systems, be they space or terrestrial. At the antithesis of this approach would be a detailed plan of allotted orbit positions, which would of necessity need to specify well in advance of operational systems most or all of those technical characteristics which would affect sharing of the geostationary orbit-spectrum resource. The United States, in view of the technological infancy of the Broadcasting-Satellite Service, as well as the fact that this band is co-equally shared with the Fixed-Satellite Service in Region 2, does not believe that either of these approaches would be in the best interest of Region 2 administrations. The enormous potential for these services within Region 2, and the valuable resource of the geostationary orbit itself, should not be needlessly encumbered with premature restrictions. Let us continue to examine the potential of this resource, allow science and technology to develop in this area so as to provide economically viable and technologically advanced systems for the maximum benefit of all users of this resource in Region 2.

The United States believes that this can be accomplished through a third approach to the sharing of the geostationary orbit between 11.7–12.2 GHz (in Region 2). This approach the U.S. would refer to as "evolutionary planning." This approach would have system designers take advantage of various "sharing principles" in the planning of their satellite systems in this band. Through the judicious application of these principles wherever possible the capacity of the geostationary orbit should be considerably increased over the situation where no advanced planning occurs, yet the technological encumbrances of a detailed orbit allotment plan could be avoided. The only constraint of any major consequence in this approach would be a requirement that satellites be capable of modest repositioning in order to accommodate later entries. It appears that the "evolutionary planning" approach should be adopted in principle for Region 2 because it provides the maximum flexibility to system designers while preserving access to the geostationary orbit for later entries. It does not force premature decision and in fact permits an orderly evolution of implementations as they naturally arise. The possible penalties which are associated with the repositioning requirement seem in just proportion to the advantages, and in practice will likely have to be rarely incurred by any particular network. Additionally, this approach is compatible with efficient utilization of the spectrum-orbit resource since the proper relative positioning of satellites is the major consideration in achieving this efficiency.

The United States has examined a number of possible sharing principles which could be utilized under an "evolutionary planning" approach. In this regard the CCIR has adopted several documents which will enable a study of these principles to be made with regard to their actual effect on the capacity of the geostationary orbit, and so that an examination of the problems associated with implementation of the principles can also be made. In summary, the evolutionary approach to planning is favored for Region 2 for the following reasons:

1. The requirements for the use of the 11.7–12.2 GHz (12.5 GHz is Region 1) band have not been clearly identified in most countries.

2. The allocations in this band, the geography, and the potential requirements of Region 2 are unique and require a unique approach.

3. The evolutionary approach maintains a high degree of flexibility for incorporation of unforeseen scientific and technological developments in the future and provides for adapting to changing operational needs.

4. With judicious use, which is an essential ingredient of the evolutionary approach, the capacity of the band will be sufficient to meet the requirements of all countries.

5. Experiments are now going on with the ATS–6 and CTS satellites. Further experiments are planned in Japan. In addition, many studies are continuing on relevant topics. The results of all these efforts, some of which will be available for the 1979 WARC, would greatly affect future planning. The evolutionary approach will allow incorporation and utilization of these results, as well as operational experience as they become available.

In this regard the U.S. is proposing an addition to Article 7 of the Radio Regulations which would urge the efficient utilization of the orbit/spectrum resource in the 11.7–12.2 GHz band by taking into account all relevant CCIR documents which deal with the sharing of the geostationary orbit in this frequency band.

The United States is also proposing that several sharing criteria be adopted which will facilitate the sharing of the 11.7–12.2 GHz band among the various services. However, in keeping with the United States' position of allowing maximum possible flexibility of system designers, only those criteria which are viewed as immediately essential to sharing are being proposed at this time. Such criteria will include satellite stationkeeping tolerances, satellite repositioning capability, satellite antenna pointing accuracy requirements, and the capability for retuning of earth station receivers.

It is believed that the above mentioned proposals are supported by relevant CCIR documentation, and in particular by the Summary Report of the CCIR Joint Working Party.

PART D

NOTIFICATION AND REGISTRATION PROCEDURES FOR ASSIGNMENTS IN THE BAND 11.712.2 GHZ

This World Administrative Radio Conference has been charged in part, with the planning, and establishment of procedures to govern the use of the 11.7–12.2 GHz band in Region 2 and 3 and the 11.7–12.5 GHz band in Region 1 for the Broadcasting-Satellite Service. As espoused in Part C of the U.S. proposals, the U.S. envisions an "evolutionary planning" of the Broadcasting- and Fixed-Satellite Services in Region 2 in the band 11.7–12.2 GHz. The provisions of Article 9A currently prescribe the manner in which Fixed-Satellite stations are to be co-ordinated and notified. Resolution No. Spa 2–3 currently deals with the bringing into use of space stations in the Broadcasting-Satellite Service, prior to the entry into force of agreements and associated plans for the Broadcasting-Satellite Service. The United States believes that procedures similar to those contained in Resolution Spa 2–3 will be adequate to ensure a co-ordination and notification procedure which will be compatible with our "evolutionary planning" approach to the use of the 11.7–12.2 GHz band in Region 2. The United States therefore has proposed appropriate modifications to Article 9A of the Radio Regulations so as to include those salient portions of Resolution Spa 2–3 so as to accommodate the Broadcasting-Satellite Service in the band 11.7–12.2 GHz in Region 2. Included in the proposed modifications to Article 9A would be provision to afford international protection to receive only earth stations in the Broadcasting-Satellite Service through the notification of a "typical" receive station and specification of a given geographical area within which such a station is to be afforded protection.

The United States recognizes that the requirements of Region 1 and 3 may differ substantially from those of Region 2—especially in view of the differing allocations for the spectrum in question. Regardless of which approach to the efficient use of the geostationary orbit is adopted by Region 1 and 3 administrations, the United States is prepared to actively participate in developing appropriate provisions to the Radio Regulations which will accommodate any interface problems between differing Regional approaches which may develop, bearing in mind that all countries have equal rights in the use of both the radio frequencies allocated to various space radiocommunication services and the geostationary orbit.

Through the adoption of the proposals above the United States believes that the concept of an "evolutionary planning" approach can best be realized within Region 2, and the full sharing of the 11.7–12.2 GHz band can be accomplished.

PART E

Proposed Amendments of the Radio Regulations

SECTION 1. METHOD OF PRESENTATION

1. Numbers shown are the international Radio Regulation numbers;

2. Italics indicates new text;

3. ADD means an addition to the current provisions;

4. Dashes through the text indicate existing text which is being deleted;

5. MOD means a modification of the current provisions;

6. SUP means to suppress the current provisions;

7. NOC means no change in the current provisions;

8. In view of the action taken by the Final Acts of the 1971 Space Conference all frequencies should be expressed in hertz instead of cycles per second.

SECTION 2. PROPOSED CHANGES TO ARTICLE 7

ADD *470V (bis)*

In the frequency band 11.7–12.2 GHz (11.7–12.5 GHz in Region 1), space stations in the broadcasting- and the fixed-satellite services shall have the capability to insure immediate cessation of emission if the space station deviates from the designated parameters of operation such that harmful interference is reported to be caused by the subject space station.

Reason: This regulation is necessary to prevent interference being caused to a network by the malfunction of a space station.

MOD 470VB

§ 26. Space stations on geostationary *satellites.*[1]

470VB.1

[1] *This regulation applies to all space stations on geostationary satellites except satellites operating in the frequency range 11.7–12.2 GHz (11.7–12.5 GHz in Region 1)*

ADD *470VEA*

Station keeping of space stations on geostationary satellites operating in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1).

ADD *470VEB*

Space stations on geostationary satellites operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band.

ADD *470VEC*

—shall have the capability of maintaining their position within ±0.1 degree of the longitude of their nominal positions.

ADD *470VED*

—shall maintain their positions within ±0.1 degree of the longitude of their nominal position; but

ADD *470VEE*

—need not comply with No. 470VED as long as the satellite network, to which the space station belongs, does not produce an unacceptable level of interference[1] into other satellite networks whose space stations comply with the limits given in No. 470VED

ADD *470VEE.1*

Reason: In the interest of more efficient orbit-spectrum utilization, it is considered necessary to maintain a closer station-keeping tolerance of ±0.1 degree in longitude. This minimizes the loss in receiving antenna gain and aids in reducing the potential for interference.

MOD 470VF

§ 27. The pointing direction of maximum radiation of any earthward beam of antennae on geostationary *satellites*[2] shall be capable of being maintained within:

ADD *470VF.2*

ADD *470VFA*

The pointing direction of maximum radiation of the earthward beam of antennae on geostationary satellites operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band shall be capable of being maintained within: 0.2 degrees relative to the nominal pointing direction.

This accuracy shall be maintained only if it is required to avoid unacceptable interference to other systems.*

ADD *470VFA.1*

**The level of unacceptable interference shall be fixed by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.*

Reason: These regulations are proposed to minimize the spillover outside the intended coverage area and to take maximum advantage of frequency re-use when pencil beams are used. It is necessary to maintain the highest possible beam-pointing accuracy.

ADD

Repointing Capability of Earth Station Antennae

ADD 470VFB

The direction of maximum gain of any earth station antenna, operating the 11.7–12.2 GHz (12.5 GHz in Region 1) band, shall be capable of being changed to accommodate any satellite repositioning in accordance with No. 470VGB.

Reason: This regulation will provide better orbit-spectrum utilization, particularly in case of interference and during the Article 9A coordination procedure by retaining the flexibility of repointing antennae to a repositioned satellite.

ADD

Returning of Earth Station Receivers

ADD *470VGA*

Each earth station receiving system, in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1), shall have a capability of retuning over the entire operating frequency range of the satellite network.

Reason: This regulation will provide better orbit-spectrum utilization particularly in case of interference and during Article 9A coordination procedure by retaining the flexibility of altering the frequency of operation.

ADD

Satellite Repositioning

ADD *470VGB*

In the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1) geostationary space stations shall have one time repositioning capability of ±10 degrees.

Reason: This will improve the orbit-spectrum utilization by providing the flexibility of moving an early entry satellite network to accommodate a late entry satellite network without causing harmful interference.

ADD

Efficiency of Spectrum and Orbit Utilization

ADD *470W*

When planning space stations on geostationary satellites in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1), all available techniques shall be used for achieving efficient spectrum and orbit utilization with particular attention being given to the methods[1] described in the applicable CCIR documents.

ADD *470W.1*

Reason: This Radio Regulation is proposed to make the geostationary orbit available as and when needed.

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[1] *The level of unacceptable interference shall be fixed by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.*

[2] *The regulation 470VF is not applicable to satellite services operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band.*

[1] *For illustrative purposes only, a number of methods are described in Appendix 30.*

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SECTION 3. PROPOSED CHANGES TO ARTICLE 9A

Article 9A

MOD

Co-ordination, Notification and Recording in the Master International Frequency Register of Frequency Assignments[1] to Radio Astronomy and Space Radiocommunication Stations except Stations in the Broadcasting-Satellite Service *in other than the bands 11.7–12.5 GHz in Region 1 and 11.7–12.2 GHz in Regions 2 and 3.*

MOD 639AD

(4) If, after studying the information published under No. 639AC, any administration is of the opinion that interference, which may be unacceptable, may be caused to its existing or planned space radiocommunication *services*,[1] it shall within ninety days after the weekly circular publishing the information listed in Appendix 1B, send its comments to the administration concerned. A copy of these comments shall also be send to the Board. If no such comments are received from an administration within the period mentioned above, it may be assumed that that administration has no basic objections to the planned satellite network(s) of that system on which details have been published.

ADD *639ADA*

When applying the provisions of No. 639 AD in the band 11.7–12.2 GHz (11.7–12.5 GHz in Region 1), if an administration is also of the opinion that additional consideration can be given to efficient utilization of spectrum and orbit, such comments should be supplied to the administration concerned and the Board.

ADD *639AD.1*

[1] *or terrestrial radiocommunication services in the bands 11.7–12.5 GHz in Region 1 and 11.7–12.2 GHz in Regions 2 and 3.*

ADD *639AJA*

Before an administration notifies to the Board or brings into use any frequency assignment to a space station in the 11.7–12.5 GHz band in Region 1 or the 11.7–12.2 GHz band in Regions 2 and 3, where this frequency band is allocated, with equal rights, to the space and terrestrial radiocommunication services, either in the same Region or in different Regions, it shall co-ordinate the use of this assignment with any other administration whose terrestrial radiocommunication services may be affected. For this purpose, the administration requesting co-ordination shall send to any other administration the information listed in Appendix 1A.[2]

ADD *639AJA.2*

[2] *The technical data to be used in effecting co-ordination should be based on the most recent C.C.I.R. Recomendations. In the absence of relevant C.C.I.R. Recommendations, the technical data to be used in effecting co-ordination shall be determined by agreement among the administrations concerned.*

MOD 639AL

An administration initiating the co-ordination procedure referred to in No. 639AJ *or 639AJA* shall at the same time send to the Board a copy of the request for co-ordination, with the information listed in Appendix 1A and the name(s) of the administration(s) with which co-ordination is sought. The Board shall publish this information in a special section of its weekly circular, together with a reference to the weekly circular in which details of the satellite system were published in accordance with Section I of this Article. When the weekly circular contains such information, the Board shall so inform all administrations by circular telegram.

MOD 639AM

(4) An administration believing that it should have been included in the co-ordination procedure under No. 639AJ *or 639AJA* shall have the right to request that it be brought into the co-ordination procedure.

ADD *639APA*

An administration with which co-ordination is sought under No. 639AJA shall acknowledge receipt of the co-ordination data immediately by telegram. If no acknowledgement is received within fifteen days of dispatch of the co-ordination data, the administration seeking co-ordination shall dispatch a telegram requesting acknowledgement, to which the receiving administration shall reply within a further period of fifteen days. Upon receipt of the co-ordination data an administration shall, having regard to the proposed date of bringing into use of the assignment for which co-ordination was requested, promptly examine the matter with regard to interference[1] *which would be caused to the service rendered by its terrestrial radiocommunication stations operating in accordance with the Convention and these Regulations, or to be so operated prior to the planned date of bringing the space station assignment into service, or within the next three years, whichever is the longer. The administration with which co-ordination is sought shall then, within sixty days from dispatch of the co-ordination data, notify the administration requesting co-ordination of its agreement. If the administration with which co-ordination is sought does not agree it shall, within the same period, send to the administration seeking co-ordination all the data on which its comments are based, and make such suggestions as it may be able to offer with a view to a satisfactory solution of the problem.*

ADD *639APA.1*

[1] *The criteria to be employed in evaluating interference levels shall be based upon relevant C.C.I.R. Recommendations or, in the absence of such Recommendations, shall be agreed between the administrations concerned.*

MOD 639AQ

(4) When the administration with which co-ordination is sought sends to the administration seeking co-ordination the information mentioned in No. 639AP *or 639APA*, a copy thereof shall also be sent to the Board. The Board shall consider as notifications in accordance with Section I of Article 9, only that information relating to existing terrestrial radiocommunication stations or to those to be brought into use within the next three years.

MOD 639AR

d) to operate a receiving earth station in the broadcasting-satellite service in the 11.7–12.5 GHz band in Region 1 and the 11.7–12.2 GHz band in Regions 2 and 3. However, if the co-ordination area associated with the operation of such a receiving earth station, in a frequency band referred to in No. 639 AN, includes any of the territory of another country, it is recommended that the administrations concerned reach agreement with a view toward avoiding harmful interference to earth stations in the broadcasting-satellite service. This agreement shall apply to the characteristics of the earth station(s), or to the characteristics of a typical earth station; and in the latter case, it shall apply to a specified service area.

MOD 639AS

An administration seeking co-ordination may request the Board to endeavour to effect co-ordination in those cases where:

a) an administration with which coordination is sought under No. 639AJ fails to acknowledge receipt, under No. 639AO, within sixty days after the date of the weekly circular publishing the information relating to the request for co-ordination;

b) an administration with which co-ordination is sought under No. 639AN *or 639AJA* fails to acknowledge receipt, under No. 639AP *or 639APA, respectively*, within thirty days of dispatch of the coordination data:

c) An administration has acknowledged receipt under No. 639AO, but fails to give a decision within ninety days from the date of the relevant weekly circular;

d) an administration has acknowledged receipt under No. 639AP *or 639 APA* but fails to give a decision within sixty days from dispatch of the co-ordination date;

MOD 639AW

(5) Where the Board receives a request under No. 639AS f), it shall endeavour to effect co-ordination in accordance with the provisions of Nos. 639AJ, *639AJA* and 639AN, as appropriate. The Board shall also, where appropriate, act in accordance with No. 639 AL. Where the Board receives no acknowledgement to its request for co-ordination within the periods specified in No. 639AO, or 639AP, *or 639APA* as appropriate, it shall act in accordance with No. 639AU.

ADD *639BDA*

A notice submitted in accordance with No. 639BA or 639BB and relating to frequency assignment to a receiving earth station in the broadcasting-satellite service in the 11.7–12.5 GHz band in Region 1 and the 11.7–12.2 GHz band in Regions 2 and 3 shall include the technical characteristics of each earth station or of a typical earth station. In the latter case, a diagram indicating the boundary of the service area within which a typical station is to be located shall also be provided.

MOD 639BE

§ 7. For any notification under No. 639BA, 639BB, 639BC, 639BD *or 639BDA*, an individual notice for each frequency assignment shall be drawn up as prescribed in Appendix 1A, the various Sections of which • • •

MOD 639BO

where appropriate, with respect to its conformity with the provisions of No. *639AJA* or 639AN relating to the co-ordination of the use of the frequency assignment with the other administrations concerned vis-a-vis terrestrial radiocommunication stations;

MOD 639CH

(6) Where the notifying administration resubmits the notice with a request that the Board effect the required co-ordination under No. 639AJ, *639AJA* or 639AN, it shall be treated in accordance with the provisions of No. 639CE. However, in any subsequent recording of the assignment, the date of receipt by the Board of the resubmitted notice shall be entered in the Remarks Column.

SECTION 4. PROPOSED CHANGES TO APPENDIX 1A

MOD

Appendix 1A, Section D, Item 13 Co-ordination.

Give the name of any administration or group of administrations with which the use of the satellite network to which the space station belongs has been successfully co-ordinated in accordance with Nos. 639AJ *and 639AJA*.

SECTION 5. PROPOSED NEW APPENDIX 30

Appendix 30

ADD

Examples of Methods for Improving Efficient Use of spectrum and orbit in the 11.7–12.2 GHz Band (11.7–12.5 GHz in Region 1). (See RR 470W of Article 7)

Radio Regulation 470W urges efficient use of spectrum and orbit on the geostationary satellites in the 11.7–12.2 GHz band. In this regard, the following methods are described as examples and for purposes of illustration only. The practical applicability, advantages and limitations of these or other methods are discussed in CCIR documents. Use of these methods should be governed by Numbers 130 and 131 of the Convention.

(a) Such advantages as may be obtainable from polarization discrimination could be used.

(b) Transponder channelization may be chosen to take advantage of frequency interleaving.

(c) Consideration may be given to planning such that nearby or adjacent satellites serve widely separated service areas and not adjacent or overlapping areas.

(d) Satellites, with equal susceptibility to and with equal generating potential for interference, could be placed together in the same portion of the geostationary orbit.

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FEDERAL POWER COMMISSION

[Docket No. RI76–29]

EXXON CORP.

Order Denying Applications for Rehearing

AUGUST 5, 1976.

On June 17, 1976, Exxon Corporation (Exxon) and Michigan Wisconsin Pipe Line (Michigan Wisconsin) filed applications for rehearing of the Commission's May 18, 1976 order responding to a petition for declaratory order in the above docket. On June 21, 1976, Cities Service Oil Company (Cities Service) filed for rehearing adopting the arguments by Exxon in its rehearing application. The Commission's May 18 order responded to questions raised by Exxon with reference to pending litigation between Exxon and certain lessors on the treatment of royalty payments. Citing *Mobil Oil Corporation* v. *F.P.C.*, 463 F. 3d 256 (D.C. Cir. 1972), *cert. den'd* 406 U.S. 976 (1976), we concluded that we were without authority to determine the rate utilized in computing royalty payments by the lessee to the royalty owner except upon proper reference from the appropriate court. Exxon argues in its application that the *Mobil* decision permits a producer to file for declaration of federal ceiling to the FPC, while leaving to the court the resolution of contract issue.

We believe that Exxon misinterprets the court's language in Mobil. The court's suggestion that a producer could file for a declaration of ceiling (Mobil at 266, footnote 25) clearly has reference to a filing to the court, not to this Commission, as we noted in our May 18 order (Order Responding to Petition at 2). To construe it otherwise would lead to the preposterous result of our responding to the question upon reference by the producer without any determination by the court handling the contract issue as to whether such determination was appropriate or necessary.

Exxon states that it has now filed a motion for reference to us of this issue with the court handling the pending litigation. This we deem is the procedure contemplated by Mobil. Should the court elect to refer the matter of "federal ceiling" to this Commission, we shall take appropriate action at that time. Since the court itself may choose to decide the issue, we reject Exxon's suggestion that we grant rehearing solely for purposes of further consideration pending referral of the issue.

Michigan Wisconsin, on the other hand, argues that the Mobil court did not rule on other possible bases for Commission jurisdiction over royalty payments; specifically, whether we have jurisdiction on the basis of royalty payments' interference with interstate commerce and the federal regulatory scheme. But, the court in Mobil rejected the Commission's secondary argument that it had jurisdiction over royalties on the basis of burden on interstate commerce. The Court there said that,

[I]f an interpretative ruling stretching the Act as written to cover leases by landowners is to be countenanced on the score of necessity, and we do not say this will be possible, the underlying record must be more comprehensive • • • than the findings and analysis presented on this record (*Mobil* at 263–264) (Emphasis supplied).

Later, the Court went on to say:

In any event we are not persuaded that the maintenance in either state or federal courts of contract (lease) controversies between royalty owners and lesses will undercut the Federal regulatory system (Mobil at 265).

Moreover, even assuming arguendo that we had jurisdiction on the "burden" theory, as Michigan Wisconsin suggests, it would hardly be possible to construct a record based on such theory—at least until the Exxon Royalty owner litigation has been completed. As the Mobil court again noted:

As to the problem of economic burden and higher prices for consumers, although the record contains evidence and findings concerning different forms of industry contracts • • • we have no findings concerning the extent or significance of market price contracts (Mobil at 264).[1]

Exxon further asserts that our discussion in the May 18 order of Opinion No. 753 does not answer its question related to whether the flow-through of incremental royalty amounts would be permitted were there a judgment ordering payments on a basis higher than the just and reasonable rates. In Opinion No. 753 we dealt with the treatment of royalty flow-through in the context of an actual settlement proposal. In the instant case we have no such proposal nor do we have the benefit of a final court judgment. In the absence of the latter, no further discussion of this issue is warranted.

The Commission orders: (A) The applications for rehearing filed by Exxon, Michigan Wisconsin and Cities Service are denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–23829 Filed 8–13–76;8:45 am]

[1] *Cf. J. M. Huber Corporation* v. *Denman*, 367 F.2d 104, 110 (5th Cir. 1966) wherein amounts claimed by the royalty owner were discussed.

FEDERAL RESERVE SYSTEM

EVANS INSURANCE AGENCY, INC.

Acquisition of Bank

Evans Insurance Agency, Inc., Billings, Oklahoma, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3)) to retain 18.7 per cent of the voting shares of First State Bank in Billings, Billings, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76–23833 Filed 8–13–76;8:45 am]

[Reg. C; Docket No. R–0052]

HOME MORTGAGE DISCLOSURE ACT OF 1975

Application for Exemption

The Commonwealth of Massachusetts, through the Commissioner of Banks for the Commonwealth of Massachusetts, has applied to the Board for an exemption from the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809) for State-chartered banks and credit unions with main offices in the Boston Standard Metropolitan Statistical Area and deposits of at least $20,000,000 on the ground that such banks and credit unions are subject to mortgage loan disclosure directives issued by the Commissioner of Banks for the Commonwealth of Massachusetts which impose requirements substantially similar to those imposed under the Home Mortgage Disclosure Act of 1975 and that there are adequate provisions for enforcement of the State requirements. The Commissioner of Banks for the Commonwealth of Massachusetts lists the following depository institutions as the subject of the application:

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Cambridge Savings Bank
Beverly Savings Bank
Concord Co-operative Bank
Brookline Savings Bank
East Cambridge Savings Bank
Union Warren Savings Bank
Heritage Co-operative Bank
Warren Five Cents Savings Bank
Reliance Co-operative Bank
Equitable Co-operative Bank
Medford Savings Bank
Beverly Co-operative Bank
Coolidge Corner Co-operative Bank
Wakefield Co-operative Bank
Medford Co-operative Bank
Central Co-operative Bank
Woburn Co-operative Bank
Stoneham Co-operative Bank
George Peabody Co-operative Bank
Waverly Co-operative Bank
Meeting House Hill Co-operative Bank
Norwood Co-operative Bank
Brighton Co-operative Bank
Volunteer Co-operative Bank
Home Savings Bank
Salem Savings Bank
West Newton Savings Bank
Lynn Five Cents Savings Bank
Mutual Bank for Savings
Salem Five Cents Savings Bank
Framingham Savings Bank
Elliot Savings Bank
Arlington Five Cents Savings Bank
Lexington Savings Bank
Everett Savings Bank
Suffolk Franklin Savings Bank
Boston Five Cents Savings Bank
Abington Savings Bank
Dorchester Savings Bank
South Boston Savings Bank
Cambridgeport Savings Bank
Dedham Institution for Savings
Haymarket Co-operative Bank
Melrose Savings Bank
Workingmens Co-operative Bank
South Weymouth Savings Bank
Provident Institution for Savings
Winchester Savings Bank
East Boston Savings Bank
Lynn Institution for Savings
Watertown Savings Bank
Charlestown Savings Bank
Waltham Savings Bank
Wakefield Savings Bank
Braintree Savings Bank
Weymouth Savings Bank
Benjamin Franklin Savings Bank
Danvers Savings Bank
Stoneham Savings Bank
Middlesex Institution for Savings
Natick Five Cents Savings Bank
Milton Savings Bank
Atlantic Savings Bank
Winthrop Savings Bank
Merchants Co-operative Bank
Randolph Savings Bank
Malden Savings Bank
Hingham Institution for Savings
Malden Co-operative Bank
Everett Co-operative Bank
Framingham Co-operative Bank
Hibernia Savings Bank
Somerville Savings Bank
Rockland Credit Union
Suburban Credit Union
Hyde Park Savings Bank
Needham Co-operative Bank
East Weymouth Savings Bank
Pioneer Co-operative Bank
Woburn Five Cents Savings Bank
Rockland Savings Bank
Reading Savings Bank
Braintree Co-operative Bank
Quincy Savings Bank
Chestnut Hill Co-operative Bank
Arlington Co-operative Bank
Newton Co-operative Bank
Belmont Savings Bank
Blue Hill Credit Union
Marblehead Savings Bank
Grove Hall Savings Bank
Somerset Savings Bank
Quincy Co-operative Bank
Walpole Co-operative Bank
Bay Bank and Trust Company
Brookline Trust Company
Cambridge Trust Company
Capitol Bank and Trust Company
Century Bank and Trust Company
City Bank and Trust Company
Commonwealth Bank and Trust Company
Coolidge Bank and Trust Company
Essex County Bank and Trust Company
Framingham Trust Company
Guaranty-First Trust Company
Hancock Bank and Trust Company
Harvard Trust Company
Lincoln Trust Company
Malden Trust Company
Naumkeag Trust Company
Newton-Waltham Bank and Trust Company
Norfolk County Bank and Trust Company
Rockland Trust Company
Saugus Bank and Trust Company
Shawmut Melrose-Wakefield Bank and Trust Co.
United States Trust Company
State Street Bank
First National Bank of Boston
New England Merchants National Bank
National Shawmut Bank of Boston
University Bank and Trust Company

The application was filed pursuant to section 306(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805 (b)) and § 203.3(a)(3) of Federal Reserve Regulation C (12 CFR 203.3(a)(3)).

The application is available for inspection and copying at the offices of the Board of Governors of the Federal Reserve System and at the Federal Reserve Bank of Boston.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 16, 1976. Such material will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Federal Reserve Rules Regarding Availability of Information (12 CFR 261.6(a)).

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23837 Filed 8-13-76;8:45 am]

PHILADELPHIA NATIONAL CORP.

Proposed Acquisition of Congress Factors Corporation

Philadelphia National Corporation, Philadelphia, Pennsylvania, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire additional voting shares of Congress Factors Corporation, Philadelphia, Pennsylvania. Notice of the application was published on July 8, 1976 in *The Philadelphia Daily News*, a newspaper circulated in Philadelphia, Pennsylvania; on July 10, 1976 in El Mundo, a newspaper circulated in San Juan, Puerto Rico; on July 13, 1976 in The New York Times, a newspaper circulated in New York, New York; and on July 16, 1976 in The Miami Herald, a newspaper circulated in Miami, Florida.

Applicant states that the subsidiary would continue to engage in the activities of purchasing accounts receivable and of making loans secured by accounts receivable, inventory, machinery and equipment and generally in the factoring and commercial finance business. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23834 Filed 8-13-76;8:45 am]

TRUST COMPANY OF GEORGIA

Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23835 Filed 8-13-76;8:45 am]

UNION TRUST BANCORP

Order Approving Acquisition of Nonbank Assets

Union Trust Bancorp, Baltimore, Maryland ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire all of the assets of Fidelity Finance Company, Elkins, West Virginia ("Company"), through Landmark Finance Corporation of West Virginia, a wholly-owned subsidiary of Applicant's direct subsidiary, Landmark Financial Services, Inc., Silver Spring, Maryland. Company is engaged in the activity of making installment loans to individuals for personal, family or household purposes under a small loan license issued by the State of West Virginia. It also acts as agent in the sale of credit life insurance directly related to its extensions of credit. In addition, Applicant proposes that Company would engage de novo in the activities of purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; and acting as agent in the sale of credit accident and health insurance related to its extensions of credit and insurance protecting collateral held against such extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(1) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors has been duly published (41 F.R. 23486). The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant, the fifth largest banking organization in Maryland, controls a bank with total deposits of approximately $700 million,[1] representing 8.0 per cent of total bank deposits in the State.

Company is a consumer finance company, operating one office in Elkins, West Virginia. Company has total net receivables or approximately $166,000, which represents 24.6 per cent of the total loans originated by consumer finance companies in the relevant market[2] and ranks as the smaller of two such companies operating in the market. Applicant's subsidiary, Landmark Financial Services, Inc. ("Landmark"), is also a consumer finance company operating 48 offices in nine southeastern states, including two offices in West Virginia. The office of Landmark closest to Company is located 84 miles away in Keyser, West Virginia. It appears that no business is derived by Applicant or its subsidiaries from Company's market area and that Company derives no business from the market areas of Applicant and its subsidiaries. Therefore, consummation of the proposed acquisition would not result in the elimination of any existing competition between Applicant and Company. Nor would any significant potential competition between the two be eliminated by approval of the proposal, since it appears unlikely that Applicant would enter the relevant market on a de novo basis.

Acquisition of Company by Applicant should provide Company with access to a larger and more stable source of funds, thereby enabling it to become a more effective competitor. In addition, Applicant proposes to expand the loan services offered by Company and provide, as agent, additional credit-related insurance services de novo. Moreover, there is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of the proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y (12 CFR § 225.4(c)) and to the authority of the Board to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board may find necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations or orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond, pursuant to authority hereby delegated.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective August 9, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23836 Filed 8-13-76;8:45 am]

[1] All banking and financial data are as of December 31, 1975, and reflect holding company formations and acquisitions approved by the Board through June 30, 1976.

[2] The relevant geographic market for purposes of analyzing the anticompetitive effects of the subject proposal is approximated by an area within a ten mile radius of Elkins, West Virginia.

FEDERAL TRADE COMMISSION

LINE OF BUSINESS REPORTING PROGRAM

Amendment to "Confidentiality Rules and Procedures for the 1975/1976 Reporting Years"

This notice amends the Federal Trade Commission Line of Business (LB) Reporting Program's "Confidentiality Rules and Procedures for 1975/1976 Reporting Year," which were published in the July 8, 1976 FEDERAL REGISTER at pages 28041 and 28042. The amendment is made to include reference to a portion of Pub. L. 94-362, the act which provides Commission appropriations for fiscal year 1977. The referred to passage, which the Commission interprets as prohibiting disclosure of LB Reports to any person outside the agency, is the same as that in Pub. L. 94-121, the act which provides Commission appropriations for fiscal year 1976. As a result of making this reference, the first line following *Confidentiality of LB Reports With Respect to Persons Outside the Commission* (page 28041, column 1) should now read:

Pub. L. 94-121 and Pub. L. 94-362, which provide Federal Trade Commission appropriations for the fiscal years 1976 and 1977, state in part that:

By direction of the Commission, dated August 4, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23830 Filed 8-13-76;8:45 am]

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Meeting

Notice is hereby given, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting on August 27, 1976, in Room 2010 of the New Executive Office Building located at 17th and H Streets N.W., Washington, D.C. The meeting will begin at 9:30 A.M.

The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is " * * * to develop recommendations as to the establishment of a policy-making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-state, regional and state governmental jurisdictions."

The summarized agenda for the meeting is as follows:

1. Reports by the Chairman and Executive Director.

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2. Review of preliminary committee recommendations and report language regarding the Executive Branch; the establishment of a new public policy board; and, intergovernmental coordination and decision-sharing.

3. Review of preliminary committee recommendations and report language regarding materials and commodity issues.

4. Discussion of data needs and analytical capability study groups issues and proposals.

5. General discussion of Congressional issues and proposals.

6. Presentation of foreign experience study group findings.

In the event the Committee does not complete its consideration of the items on the agenda on August 27, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254–6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th Floor, Washington, D.C. 20006.

ARNOLD A. SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

AUGUST 11, 1976.

[FR Doc.76–23828 Filed 8–13–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR POWER STATION UNITS 1 AND 2

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Diablo Canyon Nuclear Power Station, Units 1 and 2, will hold a meeting on August 31, 1976 in Dickens Square, Room B, Sheraton Inn, Los Angeles Airport, 9750 Airport Boulevard, Los Angeles, CA. The purpose of this meeting is to continue the review of the application of the Pacific Gas and Electric Company for a license to operate Units 1 and 2.

The agenda for the subject meeting shall be as follows:

Tuesday, August 31, 1976, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to the above review.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by members of the NRC Staff, the Pacific Gas and Electric Company, and their consultants, and will hold discussions with these groups pertinent to its review.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During the session Subcommittee members and consultants will discuss their opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee may meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions with the NRC Staff and Applicant for the purpose of discussing proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical consderations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 24, 1976 to Mr. John C. McKinley, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA, 93406.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed ,whether the meeting has been cancelled or rescheduled the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 30, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m., edt.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after September 9, 1976 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after December 1, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76–23969 Filed 8–13–76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232, b.), the ACRS Subcommittee on Emergency Core Cooling Systems (ECCS) will hold a meeting on September 2, 1976 in Room 1046, 1717 H Street, NW, Washington, DC 20555. The purpose of this meeting is to discuss the effects of upper head injection (UHI) on the Westinghouse Electric Corporation's analytical models formulated to meet current ECCS criterions.

The agenda for the subject meeting shall be as follows:

Thursday, September 2, 1976, at 8:30 a.m. until the conclusion of business. The Subcommittee with any of its consultants who may be present will meet in open session to hear presentations by the NRC Staff and by representatives of the Westinghouse Electric Corporation.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters discussed have been adequately covered and whether the Subcommittee should recommend to the full Committee further ACRS consideration. During the session Subcommittee members and consultants will discuss their opinions and recommendations. Upon conclusion of this caucus, the Subcommittee may meet again in brief open session to announce its determination.

In addition to this closed deliberative session, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and participants matters involving proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while the closed Executive Session is in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 26, 1976 to Mr. T. G. McCreless, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 1, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executive agreement should be provided to Mr. T. G. McCreless, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after September 10, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 after December 2, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76–23968 Filed 8–13–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–332]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL.

Draft Supplement to Final Environmental Statement Extension of Comment Period

Availability of Draft Supplement No. 1 to the Final Environmental Statement for the Barnwell Nuclear Fuel Plant was published in the FEDERAL REGISTER June 28, 1976 (41 FR 26615) with comments due by August 23, 1976. By request from an interested member of the public the comment period is hereby extended to September 7, 1976.

Dated at Bethesda, Maryland, this 5th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT M. BERNERO,
Chief, Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.76–23576 Filed 8–13–76;8:45 am]

[Docket No. 50–317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR–53, issued to Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications

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for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Environmental Technical Specifications for the facility during Special Studies by temporarily extending the duration of special studies from 100 hours to about 3½ months. The purpose of the special studies is to determine the effects of condenser cooling water temperature on organisms.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revisions to the Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement issued April 1973 for the facility (published on April 6, 1973 in the FEDERAL REGISTER—38 F.R. 8759).

For further details with respect to this action, see (1) the application for amendment dated June 21, 1976, (2) Amendment No. 16 to License No. DPR-53, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland 20678. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23577 Filed 8-13-76;8:45 am]

[Docket No. 50-70]

GENERAL ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. TR-1 issued to General Electric Company (the licensee), which revised license conditions for operation of the General Electric Test Reactor, located in Pleasanton, California. The amendment is effective as of its date of issuance.

The amendment changes certain license provisions to increase the amount of (SNM) the licensee is authorized to receive, possess and use from 170 kilograms of contained uranium 235 to 250 kilograms.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1975, (2) Amendment No. 8 to License No. TR-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-23578 Filed 8-13-76;8:45 am]

[Docket Nos. STN 50-553 and 50-554]

TENNESSEE VALLEY AUTHORITY

Availability of Draft Environmental Statement for Phipps Bend Nuclear Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed Phipps Bend Nuclear Plant, Units 1 and 2, to be constructed by the Tennessee Valley Authority in Hawkins County, Tennessee, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Kingsport Public Library, Broad and New Streets, Kingsport, Tennessee. The Draft Statement (NUREG-0098) is also being made available at the Office of Urban and Federal Affairs, 103 Parkway Towers, 404 James Roberton Parkway, Nashville, Tennessee, and at the First Tennessee-Virginia Development District, Eastern Tennessee State University, Johnson City Tennessee. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by the Tennessee Valley Authority is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on April 19, 1976 (41 FR 16522).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by October 4, 1976. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Kingsport Public Library, Broad and New Streets, Kingsport, Tennessee. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch, Division of Site Safety and Environmental Analysis.

[FR Doc.76-23579 Filed 8-13-76;8:45 am]

[Dockets Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 23 to Facility Operating Licenses Nos. DPR-32 and DPR-37 issued to Virginia Electric & Power Company which revised Technical Specifications for operation of the Surry Power Station, Units Nos. 1 and 2, located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the effluent release monitoring requirements in the Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 19, 1976, (2) Amendments No. 23 to Licenses Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Virginia.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of July 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-23580 Filed 8-13-76;8:45 am]

[Docket Nos. 50-502 and 50-503]

WISCONSIN ELECTRIC POWER CO., ET AL.

Availability of NRC Draft Environmental Statement for the Koshkonong Nuclear Plant, Unit Nos. 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of the Koshkonong Nuclear Plant, Unit Nos. 1 and 2, in Jefferson County, Wisconsin, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wisconsin 53538, and the Madison Public Library, Room 103-B, City-County Building, Madison, Wisconsin 53709. The Draft Environmental Statement is also being made available at the Bureau of Planning and Budget, Wisconsin Department of Administration, 1 West Wilson Street, State Office Building, Madison, Wisconsin 53701. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by Wisconsin Electric Power Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation, and Madison Gas and Electric Company is also available for public inspection at the above designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on November 1, 1974 (39 FR 38701).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement. Other interested persons or local agencies may obtain these documents upon request. Comments are due by October 4, 1976. Comments from Federal, State, and local officials, or other persons, received by the Commission, will be made available for public inspection in the Commission's Public Document Room, 1717 H Street NW, Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wisconsin 53538, and the Madison Public Library, Room 103-B, City-County Building, Madison, Wisconsin 53709. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76-23971 Filed 8-13-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

Correction

In FR Doc. 76-21940 appearing at page 31622 in the issue for Thursday, July 29, 1976, in the third column, the first line of the first full paragraph, the designation of "Safety Guide SG-QAS" should have read "Safety Guide SG-QA3".

[Docket RM-50-3]

ENVIRONMENTAL EFFECTS OF THE URANIUM FUEL CYCLE

General Statement of Policy

Two recent decisions by the United States Court of Appeals for the District of Columbia Circuit raise significant questions regarding the future course of Commission licensing activities over the coming months. The decisions are *Natural Resources Defense Council, et al.* v. *NRC*, Nos. 74-1385 and 74-1586; and *Aeschliman, et al.* v. *NRC*, Nos. 73-1776 and 73-1867 (July 21, 1976). The purpose of this policy statement is to indicate how the Commission intends to conduct its licensing activities pending resolution of the several legal questions raised by the decisions. This statement is not intended to resolve, or indicate any resolution of, the question whether the particular licenses before the court in these cases are to be continued, modified, or suspended during the proceedings called for; since the court refused an explicit request to set aside these licenses, the Commission's view is that the court expects it to resolve this question in formal proceedings, in light of the facts and the applicable law. Nor is this statement intended to reflect any position the Commission may take in further litigation in these cases.

As this statement was in the final stages of preparation, the Commission received a proposal for rulemaking from the Natural Resources Defense Council concerning many of the issues discussed herein. Comments on that proposal are solicited in a coordinate FEDERAL REGISTER notice, also published today. Initial consideration of the petition indicates that it varies in several respects from this policy statement. Some of these variations (notably, rules proposed for existing construction permits, LWA's and operating licenses) may reflect differing legal interpretations; however, in general, publication of the present policy statement will not irretrievably commit the Commission or others to a course inconsistent with the proposals made. The

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Commission believes that the need for immediate guidance to its staff and licensing boards, and to the interested public, requires publication of the present statement. The Commission will carefully consider the suggestions of the NRDC and, indeed, is aware that others should have the opportunity to comment on these proposals and to offer suggestions for implementing the recent court of appeals decisions.

While other questions were decided, the principal impact of the court's opinions on Commission actions arises from holdings on three related points:

1. A rule adopted by the former AEC in 1974 to codify the environmental effects of the uranium fuel cycle for individual light-water nuclear power reactors, 10 CFR 51.20(e), was inadequately supported insofar as it treated the reprocessing of spent fuel and of radioactive wastes;

2. The National Environmental Policy Act of 1969 requires analysis of these reprocessing and waste issues, either through rulemaking or in individual licensing proceedings, as a prerequisite to Commission licensing of a nuclear power plant;

3. If the Commission wishes to revise its rule, it must do so by procedures more demanding than the notice-and-comment procedures required for informal rulemaking by the Administrative Procedure Act. (The court divided 2–1 on the question of further procedures, Judge Tamm stating that notice-and-comment procedures would suffice.)

Even though review of one or more of these rulings may be sought, prudent and responsible regulation requires immediate steps to further analyze the reprocessing and waste disposal issues. Accordingly, the Commission's staff has been directed to review the existing literature thoroughly and to produce on an expedited basis a revised and adequately documented environmental survey on the probable contribution to the environmental costs of licensing a nuclear power reactor that is attributable to the reprocessing and waste management stages of the uranium fuel cycle. It is expected that this statement will be ready on or about September 30, 1976.

The Commission intends to reopen the rulemaking proceeding on the Environmental Effects of the Uranium Fuel Cycle, Docket RM–50–3 for the limited purposes of:

1. Supplementing the record on the reprocessing and waste management issues; and

2. Determining whether or not on the basis of the supplemented record, Table S–3 of 10 CFR 51.20(d) should be amended and, if so, in what respect.

The revised environmental survey just described, together with any amendments to Table S–3 that may be proposed as a consequence of that analysis, will be the basis for these reopened proceedings. We understand the court to regard the procedures originally used as capable of fully ventilating the issues involved, permitting a reasoned Commission discussion and producing a valid rule.[1] These procedures, which included an oral hearing and questioning of witnesses by the presiding panel, are set forth at 38 Fed. Reg. 50, January 30, 1973. Alternative procedures, modeled on those to be employed by the Commission in its forthcoming GESMO hearings, have been suggested by the Natural Resources Defense Council in the petition for rulemaking referenced above. An election of procedures to be followed will be made in a forthcoming notice of hearing, following the comment period on that petition, which closes August 31, 1976.

While the extended rulemaking is in progress, the Commission and its licensing boards will be called upon to decide whether nuclear reactor licenses can issue, and whether previously granted licenses should be suspended, modified, or set aside.

In view of the court's recent decisions, the Commission has concluded that no new full-power operating license, construction permit or limited work authorization should be issued pending the developments to be described below. This conclusion is based on recognition that the grant of each of those authorizations, permits, or licenses is premised upon the completion of an adequate environmental impact statement, and that under the subject decisions, absent an acceptable substitute for those portions of Table S–3 which the court has found inadequately supported, the basis for a complete environmental impact statement will not be in place.

The Commission recognizes that this conclusion may have significant impacts on the availability and costs of nuclear power facilities. At present, two nuclear power plants are at the stage where an operating license might otherwise have been issued imminently; two plants will reach that stage within the next four months. Additionally, a decision on whether to issue construction permits for five power plants would in all probability have been reached by the end of the year. The number of plants affected by a cessation of licensing grows with time, and there are obvious costs incurred when plants stand idle. Since existing concepts for reprocessing and waste technology do not vary significantly with the design of nuclear power generating facilities, it is extremely unlikely that the revised environmental survey will result in any modification of these facilities. Only the possibility of discontinuing their construction or use is likely to be at issue.

The Commission does not believe that the licensing constraints here announced must necessarily continue until a rulemaking employing oral hearing procedures has been completed, a process which could take fully a year. If the revised environmental survey justifies, notice and comment rulemaking can provide the basis for an interim rule which would be an adequate substitute for Table S–3 pending issuance of the final rule. In addition to the revised environmental survey, the basis for such an interim rule would include an evaluation of the environmental impact of using that interim rule as a basis for licensing until the final rule is in place, and an assessment of the impact of a suspension of further licensing during that time period. The Commission has directed its staff to develop this information by September 30, 1976. Since interim rulemaking would be accomplished through notice and comment procedures only, an interim rule might be promulgated as early as December 1976, providing a basis for licensing at that time.

The Commission also has under consideration the possibility of a future request to the court of appeals for a stay of its mandate, such a request to be explicitly supported by an appraisal of the likely impact of the court's decision and of granting the stay. If granted, a stay so supported might also provide the basis for resumed licensing.

Finally, some Commission licensing actions do not require preparation of an environmental impact statement, depending upon the circumstances. See 10 CFR 51.5(b). In these instances, which may include authorizations for fuel loading, low-power testing, or amending a construction permit, the Commission's regulations require that an environmental impact appraisal be undertaken in order to determine whether an environmental impact statement must be prepared. 10 CFR 51.5(c). The absence of an effective Table S–3 would not preclude licensing that is not dependent upon an environmental impact statement. Consequently the Commission is instructing its staff and licensing boards that they may continue to take such actions where an environmental impact assessment has been made and has resulted in a determination that no environmental impact statement need be prepared. See 10 CFR 51.5, 51.7.

In all other instances, the staff and the licensing boards shall continue to process applications and hold hearings up to the point of, but not including, licensing. However, in any contested proceeding, reprocessing and waste management issues should be deferred pending completion of the interim rulemaking, unless the evidentiary record on those issues has already been completed and is adequate for decision. The Commission wishes to avoid the needless duplication which proceeding both by rulemaking and in individual contested

[1] The court understood, as do we, that any such rule would be but one step in national planning for radioactive waste management. The Energy Research and Development Administration has undertaken a comprehensive environmental impact statement, now scheduled for issuance in draft form in April, 1977. A variety of other measures, including this agency's development of goals, objectives, and general environmental criteria for waste management, are also under way. As the Commission then proceeds to develop its regulatory framework for waste management, appropriate environmental impact statements will be prepared. Obviously, areas of uncertainty which may be developed by the persent study will help to shape these efforts.

licensing hearings would entail and the overall delay that would result. Where a proceeding is uncontested, licensing shall nevertheless be deferred until the Commission has published the revised environmental survey, documenting the probable contribution to the environmental costs of licensing a nuclear power reactor which is attributable to the reprocessing and waste management stages of the uranium fuel cycle. These values may then be used in reaching a NEPA cost/benefit assessment prerequisite to licensing. Similarly, where a license has been issued, but the action has not become final within the Commission because of pending appeal or possible Commission review, final action or review should be deferred pending publication of the environmental survey; other issues, including as appropriate the issue of suspending activity under the license in question, may be resolved in the interim.

With regard to the Vermont Yankee and Midland licenses at issue in the two court of appeals cases, we agree with the view expressed by the Commission's staff that questions of modification or suspension should be resolved in formal proceedings in light of the facts and the applicable law. Since we have decided that reprocessing and waste management issues should be treated generically by rulemaking rather than on a case-by-case basis, the initial question on remand of the Vermont Yankee and Midland orders will be whether the licenses should be continued, modified, or suspended until an interim rule has been made effective. In resolving this question, the Commission intends to assign the matter to licensing boards with instructions to call for briefs from the parties followed by evidentiary hearings if necessary.[2] The same question would arise on a request for a show cause order seeking the suspension or modification on fuel cycle rule grounds of any other nuclear power plant license.

It is the Commission's understanding that resolution of this question turns on equitable factors well established in prior practice and case law. Such factors include whether it is likely that significant adverse impact will occur until a new interim fuel cycle rule is in place; whether reasonable alternatives will be foreclosed by continued construction or operation; the effect of delay; and the possibility that the cost/benefit balance will be tilted through increased investment. See *Coalition for Safe Nuclear Power* v. *AEC*, 463 F.2d 954 (D.C. Cir. 1972); San Onofre, Units 2 and 3, 7 AEC 986, 996–97 (June 1974). General public policy concerns, the need for the project, the extent of the NEPA violation, and the timeliness of objections are also among the pertinent considerations. See, e.g., *Conservation Society of Southern Vermont Inc.* v. *Secretary of Transportation*, 408 F.2d 927, 933934 (2d Cir. 1974), vacated on other grounds and remanded, 423 U.S. 809 (1975); *Greene County Planning Board* v. *FPC*, 455 F.2d 412, 424–425 (2d Cir.), cert. denied, 409 U.S. 849 (1972); *City of New York* v. *United States*, 337 F. Supp. 150, 163 (E.D.N.Y.) (three-judge court).[3]

[2] An evidentiary hearing on other issues will be required in Midland, barring further review. That hearing, however, should not be commenced until the Midland decision has become final.

[3] In its petition for rulemaking, noticed today, the Natural Resources Defense Council suggests that the appropriate course for the interim period concerning facilities which hold effective licenses should be as follows:

Facilities which received operating licenses before July 21, 1976. NRC will order suspension of the operating license for any such facilities unless the licensee can establish that:

(1) Continued operation of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements, and available interconnections for transmitting power;

(2) Continued operation of the facility will provide adequate protection for the public health and safety, taking into account the health and safety problems associated with production, storage, transportation, reprocessing, if any, and management or disposal of all nuclear fuel required for the plant and all nuclear wastes produced by the plant;

(3) Continued operation of the facility will not tend to foreclose, now or in the future, implementation of alternatives to the operation of his facility or to the design, construction or operation of other facilities which may be considered following completion of the review required by 10 CFR Section ----; and

(4) Continued operation of the facility will not tend to irretrievably commit resources to the producion of nuclear fuel or the storage, reprocessing, if any, management or disposal of any nuclear wastes.

Facilities which received construction permits or LWA's prior to July 21, 1976. NRC will order suspension of the LWA or the construction permit unless the license can establish that:

(1) Continued construction of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements and available interconnections for transmitting power;

(2) Continued construction will not tend to foreclose, now or in the future, implementation of alternatives to the design, construction or operation of this or other facilities which alternatives may be considered following completion of the review required by 10 CFR ----; and

(3) Continued construction will not tend to irretrievably commit resources to the facility.

As noted in the text immediately following this note, we believe the appropriate time for NRC consideration of sua sponte, across-the-board initiation of show cause proceedings to be when it has received from its staff its revised and documented assessment of the reprocessing and waste management issues. While the issues of reprocessing and waste management fully warrant serious and timely attention, no information now at hand calls for so drastic a step in the brief period before this analysis will be available. Also, while the individual factors NRDC suggests are among those relevant to be addressed in seeking a show cause order or in any show cause proceeding, the Commission cannot accept the suggestion that these factors are cumulative and must each be satisfied; its own approved prior practice and established judicial precedent permit balancing of these factors to determine where the equities of each particular case lie.

In adopting this approach, one inconsistent with the NRDC petition, the Commission is aware that neither NRDC nor other concerned parties have been formally heard. In commenting on the NRDC petition, any party interested to do so (including NRDC) may file comments addressed to the point.

Finally, even if no request for suspension of modification of an LWA, CP, or OL is received, the Commission will nevertheless determine whether it should sua sponte initiate show cause proceedings based upon information the Commission receives in the revised environmental survey. As noted earlier, this information should be in hand by September 30. The Commisison's determination whether or not to reopen all licenses will then be issued.

Dated at Washington, D.C., this 13th day of August 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76–24103 Filed 8–13–76;10:25 am]

[Docket No. PRM–51–3]

NATURAL RESOURCES DEFENSE COUNCIL

Filing of Petition for Rule Making

Notice is hereby given that Anthony Z. Roisman, 1712 N Street, NW., Washington, D.C. and J. Gustave Speth, 917 15th Street, NW., Washington, D.C. have filed with the Nuclear Regulatory Commission a petition for rule making dated August 10, 1976 on behalf of the Natural Resources Defense Council.

Petitioners are requesting adoption of rules for implementation of the July 21, 1976 decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Counvil* v. *Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586.)

All interested persons who desire to submit written comments or suggestions concerning the petition should send their comments to the Secretary of the Commission, Attention: Docketing and Service Section, United States Nuclear Regulatory Commission, Washington, D.C. 20555, on or before August 31, 1976.

A copy of the petition is available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. However, in view of the short comment period afforded, the complete text of the petition is set forth below.

Dated at Washington, D.C., this 13th day of August 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

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UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

NATURAL RESOURCES DEFENSE COUNCIL PETITION FOR RULEMAKING

Pursuant to § 2.802, the Natural Resources Defense Council (NRDC) hereby requests that the Nuclear Regulatory Commission adopt the following rules for implementation of the decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586), decided July 21, 1976. These rules represent the minimum requirements necessary to comply with the Court's order and with the mandates of the National Environmental Policy Act.

Because of the importance of the Court decisions and the substantive importance of the issues in the uranium fuel cycle which need further analysis, we urge the Commission to extensively study these proposals, including informal or formal consultations with interested parties, and to act expeditiously on the proposals.

Respectfully submitted.

Anthony Z. Roisman, Roisman Kessler & Cashdan, 1712 N Street, N.W., Washington, D.C. 20036; J. Gustave Speth, Richard E. Ayes, Natural Resources Defense Council, 917 15th Street, NW., Washington, D.C. 20005.—Counsel for Natural Resources Defense Council.

Dated: August 10, 1976.

INTRODUCTION TO RULES IMPLEMENTING "NATURAL RESOURCES DEFENSE COUNCIL V. NUCLEAR REGULATORY COMMISSION" (D.C. CIR. NOS. 74–1385 AND 74–1586, DECIDED JULY 21, 1976)

The recent decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Council v. Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586), decided July 21, 1976, requires a reanalysis of the environmental impact of the uranium fuel cycle and prohibits further issuance of construction permits, limited work authorizations or operating licenses for nuclear facilities until such a review has been completed either on a case-by-case basis or in a rulemaking. The decision also declares illegal the Commission's past practice of issuing licenses without considering fuel cycle impacts or considering them only by reference to the inadequate S–3 Table rule. Thus the decision calls into question the validity of any construction permit, limited work authorization and operating license issued subsequent to January 1, 1970, since all of those licenses were either issued without any consideration of the fuel cycle impacts or with reliance upon the S–3 Table.

This decision is strikingly similar to the *Calvert Cliffs* decision decided five years earlier. In both cases the Commission's implementation of NEPA was declared illegal. In both cases the decision impacted all licenses already issued as well as all pending applications. Following the *Calvert Cliffs* decision, the Commission determined that prompt and full compliance with the Court's decision would minimize the inevitable upheavals and better serve the overall objective of NEPA and the public interest. The Commission's *Calvert Cliffs'* rules (10 CFR Part 50, Appendix D, which has now been replaced by 10 CFR Part 51) were modeled on two principles. First, pending applications would have to be held until the legally-required NEPA obligations had been met.[1] Second, construction permits and operating licenses that had been issued after January 1, 1970, were subject to immediate suspension and ultimate modification or revocation following completion of the legally-required NEPA reviews. The portion of these *Calvert Cliffs'* rules allowing, under certain circumstances, continued construction or operation of facilities pursuant to already-issued licenses pending completion of the NEPA review were sustained in *Coalition for Safe Nuclear Power* v. *A.E.C.*, 463 F.2d 954 (D.C. Cir. 1972).

The attached proposed rules follow the *Calvert Cliffs* precedent, allowing under special circumstances continued construction and operation of nuclear facilities and holding in abeyance further issuance of licenses pending completion of the legally-required NEPA and safety reviews.[2] Adherence to these principles is crucial because the problems, uncertainties and potential impacts of the nuclear fuel cycle in general and waste disposal in particular are so central to the nuclear licensing action that their analysis and resolution could determine the acceptability of the nuclear reactor as a viable component of the utilities' electric supply system.

RULES FOR APPLICATION OF COURT DECISION ON ENVIRONMENTAL IMPACTS OF NUCLEAR FUEL CYCLE TO APPLICATIONS FOR AND ALREADY ISSUED CONSTRUCTION PERMITS, LWA'S AND OPERATING LICENSES

1. No decision on issuance of construction permits, LWA's or operating licenses of any kind shall be made until the NRC has completed the review required by 10 CFR ____, has issued a DES or a supplemental DES and an FES or supplemental FES which incorporates the appropriate portions of that review, reanalyzed the costs and benefits of the facility and alternatives to it in light of that review, restruck the cost-benefit analyses and rendered an initial decision.

2. Facilities which received operating licenses before July 21, 1976:

NRC will order suspension of the operating license for any such facilities unless the licensee can establish that:

(1) Continued operation of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements, and available interconnections for transmitting power;

(2) Continued operation of the facility will provide adequate protection for the public health and safety, taking into account the health and safety problems associated with production, storage, transportation, reprocessing, if any, and management or disposal of all nuclear fuel required for the plant and all nuclear wastes produced by the plant;

(3) Continued operation of the facility will not tend to foreclose, now or in the future, implementation of alternatives to the operation of this facility or to the design, construction or operation of other facilities which may be considered following completion of the review required by 10 CFR Section ____; and

(4) Continued operation of the facility will not tend to irretrievably commit resources to the production of nuclear fuel or the storage, reprocessing, if any, management or disposal of any nuclear wastes.

3. Facilities which received construction permits or LWA's prior to July 21, 1976:

NRC will order suspension of the LWA or the construction permit unless the licensee can establish that:

(1) Continued construction of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements and available interconnections for transmitting power;

(2) Continued construction will not tend to foreclose, now or in the future, implementation of alternatives to the design, construction or operation of this or other facilities which alternatives may be considered following completion of the review required by 10 CFR ——; and

(3) Continued construction will not tend to irretrievably commit resources to the facility.

4. The Commission shall publish in the Federal Register its intent to suspend the operating license, LWA or construction permit for all facilities which received such licenses, authorizations, or permits on or after January 1, 1970. Such notice shall afford any interested party an opportunity for hearing on the relevant factors identified above. The hearings shall be conducted pursuant to the requirements of 10 CFR Part 2 and the Licensing Boards appointed for such hearings shall, consistent with the objectives of a full development of the record, conduct the hearing expeditiously so that an early decision can be reached on suspension of the license.

RULES FOR TREATMENT OF FUEL CYCLE ISSUES IN LICENSING PROCEEDINGS

1. The NRC will reopen its rulemaking proceeding for the purpose of establishing the environmental impact of its nuclear fuel cycle activities required for 1,000 Mw BWR and PWR nuclear reactors. The rules for that proceeding and the issues to be considered are set forth in 10 CFR ——.

2. Every construction permit, LWA and operating license of any kind issued subsequent to January 1, 1970, and still in effect shall be subject to the following procedures:

(a) Upon completion of the rulemaking proceeding referred to in (a) above, a notice shall be published in the FEDERAL REGISTER and as prescribed by 10 CFR § 2.104–(e), which shall state:

(1) The proceeding which resulted in issuance of the order authorizing the license or permit is reopened;

(2) Persons wishing to participate in the reopened proceeding may do so by filing a petition to intervene within 30 days of publication in the FEDERAL REGISTER;

(3) The subject of the reopened hearing will be to determine whether:

a. There is reasonable assurance of adequate protection for the public health and safety with respect to production of fuel for and generation of waste by the subject facility;

b. The issuance of the license or permit will be in accordance with 10 CFR Part 51 with respect to the environmental impact of production of fuel for and generation of waste by the subject facility, alternatives to

[1] A narrow exception for interim operation of some facilities, principally to permit testing, was included in the rules. When the Commission wanted to expand this authorization, it sought legislative approval and P.L. 92–307 (Section 192 of the Atomic Energy Act) was enacted which authorized temporary operating licenses prior to completion of all hearings but only after preparation of the Final EIS and the holding of a limited adjudicatory hearing.

[2] Unlike the more generalized rules which were attacked in *Calvert Cliffs*, the rules which were successfully attacked here were specific and related to a problem—nuclear wastes—which was inevitable with the operation of any plant. Thus allowing even interim operation of plants which have not yet begun to operate creates and exacerbates the very environmental problem which the Court declared has never been adequately analyzed.

the proposed action, and the ultimate cost/benefit analysis;

c. Any party to the proceeding, upon a showing of substantial changed circumstances with respect to any issue which was or could have been determined previously in authorizing the license or permit, may seek and shall be granted a reopening of the the hearing as to that issue. Any party, upon a showing of compliance with the requirements of 10 CFR § 50.100 with respect to any issue, may have the hearing reopened as to that issue.

RULES FOR CONDUCT OF HEARING ON ENVIRONMENTAL EFFECTS OF THE URANIUM FUEL CYCLE

1. *Scope and Purpose of Hearing.* The hearing will be conducted for the purpose of evaluating the environmental impact of the nuclear fuel cycle. The hearing board will supervise completion of all relevant data which will then be referred to the Commission for its determination.

2. *Presiding Officer and Basic Hearing Format.*

(a) The identity of the members of the hearing board will be the subject of a supplemental notice that will be published in the FEDERAL REGISTER. Except as may otherwise be provided by the Commission in accordance with paragraph 11 below, the hearing will be conducted as a legislative-type hearing. The provisions of Subpart G, "Rules of General Applicability," of 10 CFR Part 2 will not be applicable except as specifically provided in this notice.

(b) A majority of the board shall constitute a quorum, if one member of the majority is qualified in the conduct of administrative proceedings.

3. *Participation in the Hearing and Consolidation.*

(a) Persons or organizations who wish to participate in the hearing may do so in either of two ways:

(1) Limited participation—they may participate by making an oral or written statement of position on the issues. Such a limited participant may not otherwise participate in the hearing. The Commission will give due consideration to all such oral or written statements of position in making its final decision on the merits; or

(2) Full participation—they may participate in the conduct of the hearing as a full participant. Subject to the conditions and limitations set forth in this notice, full participants may obtain discovery as provided in paragraph 9 below, present direct and rebuttal testimony, suggests questions to the hearing board, file concluding statements of position for the Commission's consideration, and request cross-examination on particular issues following completion of the legislative-type hearing.

(b) The following persons or organizations who participated in the original hearings on the environmental impact of the nuclear fuel cycle are admitted as full participants in the hearings: (insert.) If any of those persons or organizations wish to withdraw as a full participant or participate on a limited basis, written notice to this effect should be filed with the Secretary of the Commission as soon as possible.

(c) If any other person or organization wishes to participate as a full participant, written notice should be filed with the Secretary of the Commission on or before ---------- Such notice should indicate the name and address of the person or organization. Untimely requests to become a full participant will not be granted by the hearing board unless warranted based upon consideration of (1) the extent to which the requestor's full participation will delay the proceeding, (2) the extent to which the requestor's interest will be represented by other participants or may be served by limited participation, (3) the extent to which the requestor's full participation may reasonably be expected to contribute to informed decision-making, (4) whether the requestor can demonstrate good cause for failure to file on time.

(d) Any other person or organization who wishes to participate on a limited basis by making an oral statement at the hearing, is requested to notify the Secretary of the Commission on or before ---------- Oral statements will be received at the hearing subject to such limits and conditions as may be fixed by the hearing board at its discretion. Any person or organization who wishes to participate on a limited basis by filing a written statement may do so by filing the statement with the hearing board at any time prior to the conclusion of the hearing without requesting special permission of the hearing board.

(e) The hearing board may, on its own initiative or on request, order any full participants who have substantially the same interests and who raise or seek to raise substantially the same questions, to consolidate their requests for discovery, presentation of evidence, suggestion of questions to the hearing board, concluding statements of position, and requests for cross-examination on particular issues following completion of the legislative-type hearing. Consolidation may be for all purposes of the hearing, all issues of the hearing, or with respect to any one or more issues thereof. No consolidation will be ordered that would prejudice the rights of any full participant.

4. *Responsibilities and Authorities of the Hearing Board.* The hearing board shall have the duty to conduct a fair and impartial hearing and develop a record that will contribute to informed decision-making by the Commission. It shall have the power to take appropriate action to avoid unnecessary delay and maintain order, with the objective of completing the legislative-type hearings in a timely maner consistent with the overall objective of development of a full and complete record. Within the framework of this notice, the hearing board shall have all power necessary to these ends, including the power to:

(a) Rule on offers of proof and receive evidence;

(b) Dispose of procedural requests or similar matters;

(c) Ask questions of witnesses as provided in paragraph 5(a);

(d) Order consolidation of full participants as provided in paragraph 3(e);

(e) Establish an order of presentation by the full participants which, if appropriate, may provide for an order of presentation on the basis of subject matter;

(f) Hold conferences before or during the hearing for consolidation of full participants, establishing an order of presentation, or any other proper purpose;

(g) Establish reasonable time limits for the conduct of the proceeding;

(h) Entertain suggestions from full participants as to questions which the board should ask of witnesses for one or more of the other full participants as provided in paragraph 5(a);

(i) Limit the number of witnesses for full participants whose testimony may be cumulative;

(j) Strike cumulative or irrelevant evidence of full participants;

(k) Certify questions or refer rulings to the Commission for its determination, on its own initiative, or in its discretion on request by a full participant, or on direction of the Commission;

(l) Rule on discovery matters as provided in paragraph 9;

(m) Rule on additional requests to become a limited or full participant; and

(n) Regulate the course of the hearing and the conduct of the participants.

5. *Evidence and Representation.*

(a) All full participants will be permitted to present evidence at the hearing on matters relevant to the determination, described above. Except as provided below, full participants' witnesses will be subject to questioning by the hearing board either orally at the hearing or in writing, or both. Questions may be addressed either to individual witnesses or to panels of witnesses. In addition, full participants may submit questions to the board which they would like to have answered by witnesses for other full participants; the board may, in its discretion, refer the questions to the witnesses for response and/or conduct its own examination of the witnesses in the subject areas. Suppoenas will be granted for attendance and testimony of witnesses or for the production of evidence upon a showing that the subpoena is reasonably necessary for full development of the factual issues. Any request by a full participant for a subpoena shall be in the form of a motion under paragraph 7, but shall be addressed to the Commission. The hearing board may, for good cause, receive into evidence on behalf of a full participant the written testimony of a person who is unable to appear at the hearing. In such cases, the hearing board may request (but not order) that the person respond to written questions by the Board.

(b) All direct testimony on behalf of full participants shall be filed in writing 14 days in advance of the hearing, or within such greater or lesser time as may be fixed by the hearing board. The hearing board is authorized to require that rebuttal testimony on behalf of full participants be filed in writing in advance. Written testimony will be received into evidence in exhibit form.

(c) The board may, upon request, permit a qualified individual who has scientific or technical training or experience to participate in the hearing on behalf of a full participant where the board finds that this would contribute to informed decision-making by the Commission.

7. *Motions or Requests.* Except as provided in paragraphs 5 and 11, all motions and requests shall be addressed to the hearing board. All written motions or requests shall be filed with the Secretary of the Commission and served on full participants to the hearing. Service shall be as provided in 10 CFR § 2.712. Within 5 days after service of a written motion, or such other time as may be fixed by the hearing board, any full participant may file a written answer in support of or in opposition to the motion or requests. However, the NRC Staff may file such an answer within 10 days after service. Computation of time shall be as provided in 10 CFR § 2.710.

8. *Interlocutory Appeals; Effect of Motions, Certifications, and Referrals.* No interlocutory appeal may be taken to the Commission from a ruling of the hearing board. When in the judgment of the board prompt decision is necessary to prevent detriment to the public interest or unusual delay or expense, the board may on its own initiative, or in its discretion on request by a full participant, refer the ruling or certify the question promptly to the Commission, and notify the full participants either by announcement on the hearing record or by written notice if the hearing is not in session. Unless otherwise ordered, neither the filing of a motion nor the certification of a question or referral of a ruling shall stay any aspect of the proceeding or extend the time for the performance of any act.

9. *Discovery.* The following rules regarding discovery shall apply:

(a) Except as provided in subparagraph (b) below, there shall be no discovery by

V 41 159 AUG 16 76 UMI

document production or otherwise. The NRC Staff will make available for public inspection and copying, in a timely fashion, documents which are not privileged and which were relied upon in the preparation of the environmental survey. Full participants are encouraged to confer informally for the purpose of exchanging information and documents relied upon in the preparation of their testimony.

(b) Full participants seeking Commission documents[1] which they deem relevant but which have not been made publicly available for inspection and copying pursuant to subparagraph (a) may seek discovery pursuant to this paragraph. Requests for production of any such additional documents may be served on the NRC Staff without leave of the hearing board. Such production of Commission documents shall be governed by the relevant provisions of 10 CFR §§ 2.740(c), 2.740(e), 2.744(a)–(f), and 2.744(h). Full participants' requests for interrogatories or depositions, or requests for documents from persons or organizations other than the Commission, will be allowed if the board finds that it is reasonably necessary for full development of the factual issues. Requests for leave to undertake such additional discovery should be addressed to the board in the form of a motion under paragraph 7. However, any request for a document of the type specified in 10 CFR § 2.790(a)(1) or (2) shall be immediately certified to the Commission.

(c) No discovery shall be granted once the pertinent portion of the hearing has commenced, except for good cause.

10. *Filing of Documents; Docket; Transcripts, Public Notice of Hearing.* Filing of documents in this proceeding by full participants shall be as provided in 10 CFR § 2.701 (only proof of service on full participants need be provided.) A docket for the proceeding shall be maintained as provided in 10 CFR § 2.702, and the provisions of 10 CFR §§ 2.750 and 2.751 regarding official reporter, transcript, and public nature of the hearing shall apply.

11. *Requests for Additional Hearings To Permit Cross-Examination.* It may be that some factual issues in this proceeding cannot be resolved adequately on the basis of a record developed in the manner provided above. If any full participant, after completion of the legislative-type hearing, makes a threshold showing that cross-examination is needed on one or more factual issues because the legislative procedures have been inadequate for full development of the factual issues, a written request for additional hearings to permit cross-examination should be filed with the Commission within 30 days after completion of the legislative-type hearing, or within such greater or lesser time as may be fixed by the Commission. Such requests should specify with particularity the factual issue or issues as to which cross-examination is requested, the identity of the witness or witnesses involved, and demonstrate why in the full participant's view the legislative-type procedures have not proved adequate with respect to the particular issue and testimony. No such request will be granted unless the full participant making the request has participated fully in the conduct of the legislative-type hearing on the particular aspect of the testimony that is the subject of the request, including submission of relevant questions for referral or examination by the board. Other full participants may file written responses to such requests within 15 days after service, or within such greater or lesser time as may be fixed by the Commission. Such request will be granted if the participant has made a threshold showing that cross-examination is needed on one or more factual issues because the legislative procedures have been inadequate for full development of the factual issues. Should any such request be granted by the Commission, a supplemental notice of hearing which identifies the factual issue(s) and any necessary additional procedures will be issued by the Commission.

12. *Certification of Record; Concluding Statements of Position:*

(a) Following completion of the hearing (including any hearing provided under paragraph 11), the hearing board will certify the hearing record to the Commission for decision without rendering any decision or making any recommendations of its own with regard thereto. The board shall identify the pertinent issues developed on the record and the portions of the record which are relevant to those issues.

(b) Within 45 days after completion of the hearing (including any hearing provided under paragraph 11), or within such greater or lesser time as may be fixed by the Commission, the full participants shall file with the Commission a written concluding statement of position. Full participants who are only interested in one or more aspects of the proceeding may confine their concluding statements to such aspects. Concluding statements shall include appropriate citations to the transcript of record and exhibits in support thereof.

13. *Oral Argument.* The Commission will hear oral argument from the full participants prior to rendering its final decision on the merits. Notice of the time and place of argument and the procedures therefor will be given later.

14. *Record and Commission Decision.* The hearing record shall include the transcript of testimony and exhibits, the transcript of oral statements by limited participants, written statements by limited participants, and all papers and requests filed in the proceeding. If at the conclusion of the hearing (including any hearing provided under paragraph 11), the Commission should find it necessary for a sound decision on any disputed issues of material fact to rely on a fact or opinion not contained in the hearing record, the full participants will be advised of the substance of the fact or opinion, and afforded an appropriate opportunity to controvert it prior to the final Commission decision. The Commission may base its decision on other issues, such as issues of law or policy, on matters not contained in the hearing record without prior disclosure to the full participants, although substantial weight will be accorded to material in the hearing record.

15. *Financial Assistance.* The Commission will provide financial assistance to any participant which either:

(a) Demonstrates in advance of the hearing that it is likely to make a significant contribution to development of a legal or factual record and that unless funds are provided in advance, its ability to make such a contribution will be severely limited, or

(b) Demonstrates after the hearing that it has made a significant contribution to development of a legal or factual record and that it is in need of financial assistance to meet its obligations incurred in the hearings.

The total financial assistance to be provided to all participants shall not exceed $150,000.

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[1] Commission documents shall have the same meaning as "Record" in 10 CFR § 9.32 (b).

NATIONAL SCIENCE FOUNDATION

COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION

Project Directors' Meeting

A project directors' meeting will be held from 7:30 p.m. to 10:00 p.m. on Thursday, September 9, 1976, and from 8:30 a.m. to 5:00 p.m. on Friday, September 10, 1976, at the Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Comprehensive Assistance to Undergraduate Science Education (CAUSE) program an opportunity to become better informed regarding appropriate methods for conducting internal project evaluation and to allow the CAUSE staff to set into motion mechanisms for monitoring of projects.

While this project directors' meeting is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 92–463) the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and participation.

The meeting will be chaired by Dr. John A. Maccini. Any member of the public who wishes to attend this meeting should call 202/282–7763.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 11, 1976.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12698; File No. SR-MSRB-76-9]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change filed by the Municipal Securities Rulemaking Board (the "Board") would require brokers, dealers, and municipal securities dealers to send written confirmations of municipal securities transactions to customers and would prescribe the type of information to be provided on the confirmations.

Under the proposed rule change, a customer confirmation would contain information concerning the identity of the parties to the transaction, a description of the securities, the trade date, the settlement date, the yield to maturity or dollar price and other specified details. In addition to the information required to be shown on every confirmation, certain other information, such as whether the securities have been "called" or "prerefunded," would be shown, if applicable.

The Board believes it is important that the proposed rule change would provide specific requirements with respect to the content of customer confirmations for municipal securities transactions. Among other reasons, the Board is of the opinion that customers should have sufficient information on confirmations to enable them to verify for themselves the identity and nature of the security which they purchase (*e.g.*, a general obligation bond as opposed to a revenue bond). In addition, the Board believes that this approach is most likely to provide the necessary guidance for the firms subject to regulations, as well as the regulatory organizations charged with enforcement of Board rules, and will thus promote equal regulation of the municipal securities industry.

STATEMENT OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to require brokers, dealers, and municipal securities dealers to send written confirmations of municipal securities transactions to customers, containing certain specified information of a material nature.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted the proposed rule change pursuant to the provisions of section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the "Act"), which directs the Board to propose and adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.* * *

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Board received letters of comment on its exposure draft relating to the proposed rule change from the following:

Bank of America
Bremer Services Co., Inc. ("Bremer")
CUSIP Service Bureau
Dealer Bank Association (the "DBA")
Deposit Guaranty National Bank ("Deposit Guaranty")
Dupree & Company Inc. ("Dupree")
First Southwest Company ("First Southwest")
Gerwin and Company ("Gerwin")
Hugo Marx & Co. ("Hugo Marx")
Lebenthal & Co., Inc. ("Lebenthal")
Liberty National Bank and Trust Company ("Liberty Bank")
Merchantile Trust Company NA ("Mercantile Trust")
The Merchants National Bank of Mobile ("Merchants National")
National Association of Securities Dealers, Inc. ("NASD")
John Nuveen & Co. Incorporated ("Nuveen")
Shearson Hayden Stone Inc. ("Shearson")
UMIC, Inc. ("UMIC")
Willard B. Vadman ("Vadman")
Wauterlek & Brown, Inc. ("Wauterlek")
Wells Fargo Bank ("Wells Fargo")

The DBA, Dupree and Lebenthal each pointed out that the requirement to describe on a customer confirmation the type of revenue in the case of revenue bonds presented problems because the possible sources of revenue may be numerous. Dupree recommended that this requirement be deleted; Lebenthal recommended that the type of revenue be required to be shown only if easily available or essential to the description. The Board modified this requirement to provide that the type of revenue must be noted if necessary for a materially complete description of the securities.

Gerwin and Shearson suggested that the reference to "advance refunding" in the description of securities would create confusion and, in any event, was unnecessary since there was no need to single out this type of issue. The Board has deleted from the proposed rule reference to "advance refunding" in the description of the securities.

Gerwin, Nuveen and Vadman objected to permitting dollar price to be shown only in the case of securities "normally traded" on the basis of dollar price. Gerwin stated that it was industry practice to permit either yield or dollar price to be shown, depending on the terms of the particular trade. Nuveen stated that occasionally securities that are normally traded on a yield basis are traded on a dollar basis and only dollar price is shown. Nuveen represented that it would have to undertake an extensive reprogramming of its computer system at great cost in order to derive yield from dollar price in such circumstances. Vadman stated that the requirement was unnecessary. The Board modified the provision to permit dollar price to be shown when securities are traded on the basis of dollar price or sold at par.

A number of comments were addressed to the question of whether the time of execution of an agency transaction should be shown on customer confirmations or made available to customers upon request:

DBA—The precise time of a transaction has no particular significance for the customer and ought not to be required on the confirmation. There is no reason of public policy to extend the requirements of Commission rule 15c1–4 to bank dealers. The result would be an unnecessary burden to banks.

Deposit Guaranty—There is no need for incorporating the time requirement of Commission rule 15c1–4 into draft rule G–15. There is little correlation between the time an order is executed and the price in the municipal securities area.

First Southwest—The date of trade is sufficient for municipal securities transactions, but First Southwest would have no objection to time-stamping its confirmations.

Hugo Marx—The inclusion on a customer confirmation of the time of the execution of an agency transaction in municipal securities serves no useful purpose. The way the municipal securities market is structured makes it impossible to obtain exact pricing for comparative purposes on an hourly basis.

Lebenthal—The internal procedure of Lebenthal would permit it to comply with a requirement to disclose the time of execution. The Board should specify the form of notice on the confirmation relating to disclosure of time and contra party.

Merchants National—A record of the date of a transaction should be sufficient. Merchants National would have a "strong objection" to recording the time of a transaction in municipal securities.

Mercantile Trust—The time that a transaction is executed is not significant and a requirement to keep records of such time would cause considerable difficulty as well as waste trader time.

UMIC, Inc.—The requirement to show on confirmations the time of execution of the agency transaction is unnecessary. UMIC, however, would not object to including a statement on the confirmations that the information is available upon request.

Vadman—It is a rare occasion, if at all, that time of execution has any bearing. It should not be required, and if it is required, it should "only apply to trading transactions in fluctuating markets and not to original issues or ordinary secondary offerings which constitute a majority of the trades."

Wauterlek—Unlike the exchange and other corporate markets, the time requirement does not serve a necessary or appropriate purpose in municipal securities transactions. Because of the decentralization and fragmentation of the municipal markets, the time of receipt of an order compared to its ultimate execution has no particular relevance and cannot be verified.

Wells Fargo—No purpose would be served by recording or offering to furnish the time of execution in the case of municipal transactions. The Board has omitted from the proposed rule change a requirement that the time of execution be noted on customer confirmations.

The DBA, Liberty, and Merchants National objected to the requirement of disclosure on customer confirmations of "the source and amount of any remuneration received." The DBA pointed out that Commission rule 15c1–4 does not require such disclosures of a bank dealer. Also, the DBA noted that the effect of the rule would be to require disclosure of a concession received by a bank dealer when a securities firm that acted as principal would have no comparable obligation, although in economic terms the transactions were indistinguishable from the customer's viewpoint. Liberty stated that the source and amount of commis-

V 41 159 AUG 16 76 UMI

sion should be required to be disclosed only if the amount of concession exceeds one percent of the par value of the securities covered by the confirmation.

CUSIP Service Bureau and Mercantile recommended that the use of CUSIP numbers be encouraged. However, the Board believes that at the present time their use should not be mandatory.

The following additional comments were submitted:

The Bank of America stated that (1) the provision requiring the identification of the capacity in which a firm acts is unclear and (2) provision should be made for a category to cover the situation where a firm acts as principal in an original distribution of securities. The Bank of America also questioned how a firm should describe the capacity in which it is acting when it sells securities for a joint account. The Board is of the view that the language of the rule is sufficiently clear with respect to identifying the capacities in which firms effect transactions and, therefore, no change in language is necessary. The Board also believes that the language of the proposed rule change indicates that a firm would be acting as a principal for its own account when it sells securities for a joint account of which it is a member.

The DBA suggested that: (1) the term "customer" should be defined as it is in the Board's proposed rule G-8 on recordkeeping, (2) information as to registration should be required only if the securities are in fact to be registered at the time of delivery and not if they are just registerable, (3) the rule should be clarified as to whether a second confirmation is required in connection with a "when, as and if issued" transaction, and (4) the phrases "including at a minimum the name of the issuer, * * *." and "such other information as may be necessary to ensure that the parties agree to the details of the transaction" should be deleted because they are ambiguous.

The only substantive difference between the definitions of "customer" in the proposed rule change and the Board's proposed rule G-8 on recordkeeping is that in the latter rule issuers of securities which are the subject of the transaction in question are excluded from the definition of customer. The Board determined that such an exclusion would be inappropriate in its rule on customer confirmations since it believes that such issuers are entitled to confirmations. With respect to the second suggestion, the Board intends that the proposed rule change apply only to securities traded as registered securities and believes that the language so indicates. With respect to confirmations in connection with "when, as and if issued" transactions, the proposed rule change contemplates that if a confirmation for such a transaction is sent before all the required information is available, a second confirmation would be sent "at or before the completion of [the] transaction" with the additional information. The Board believes that the phrases cited by the DBA in its fourth comment are necessary and appropriate to effect the Board's intention that all material information be shown on a customer confirmation.

Deposit Guaranty suggested that in the case of revenue bonds the corporate obligor should also be identified on the customer confirmation.

Dupree recommended that the "call premium" be required to be shown on customer confirmations for securities which have been called or pre-refunded. The Board has modified the proposed rule change to require information as to the amount of the call price.

Mercantile Trust suggested that a time limit be established for the generation of a confirmation.

The NASD suggested that the provisions of proposed rule G-8 relating to callable bonds should require, at a minimum, disclosure of the call feature, the dollar price based on yield to maturity, the yield to maturity and the yield to the first call date. The Board believes that subparagraph (c)(iii) and the footnote to subparagraph (a)(viii) provide sufficient disclosure with respect to callable bonds.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule change will impose any burden on competition in the municipal securities industry inasmuch as the proposed rule change will be equally applicable to all participants in the industry.

On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 15, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 9, 1976.

TEXT OF PROPOSED RULE CHANGE

RULE G-15. CUSTOMER CONFIRMATIONS

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Name, address, and telephone number of the broker, dealer, or municipal securities dealer;

(ii) Name of customer;

(iii) Designation of whether the transaction was a purchase from or sale to the customer;

(iv) Par value of the securities;

(v) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including the type of revenue in the case of revenue bonds if necessary for a materially complete description of the securities;

(vi) Trade date;

(vii) Settlement date;

(viii) Yield to maturity [1] and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown;

(ix) Amount of accrued interest;

(x) Extended principal amount;

(xi) Total dollar amount of transaction;

(xii) The capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether

(A) As a principal for its own account,

(B) As an agent for the customer,

(C) As an agent for a person other than the customer, or

(D) As an agent for both the customer and another person; and

(xiii) Instructions, if available, regarding receipt or delivery of securities, and form of payment, if other than as usual and customary between the parties.

(b) If the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall set forth (i) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon request of the customer, and (ii) the source and amount of any commission or other remuneration received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction .

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) The dated date if it affects the price or interest calculation, and the first interest payment date if other than semiannual;

[1] In cases in which securities are priced to call, this must be stated; where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity.

(ii) If the securities are "fully registered" or "registered as to principal only," a designation to such effect;

(iii) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(iv) Denominations, if other than the following:

(A) for bearer bonds, denominations of $1,000 or $5,000 par value.

(B) For registered bonds, denominations which are multiples of $1,000 par value, up to $100,000 par value, and

(C) For notes, denominations which are multiples of $5,000 par value, up to $100,000 par value;

(v) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(vi) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (vii), (ix), (x), (xi) and (xiii) of paragraph (a) or the resulting dollar price as specified in subparagraph (viii).

(e) For purposes of this rule, the term "customer" shall mean any person other than a broker, dealer or municipal securities dealer acting in its capacity as such.

[FR Doc.76-23845 Filed 8-13-76;8:45 am]

[Release No. 34-12696; File No. SR-MSRB-76-8]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 5, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes filed by the Municipal Securities Rulemaking Board (the "Board") would prohibit the dissemination by any means of a quotation relating to municipal securities unless the quotation represents a bona fide bid for, or offer of, securities. A quotation would be deemed to be "bona fide" if the firm on whose behalf the quotation is made is prepared to purchase or sell the municipal securities at the price stated in the quotation and under the conditions, if any, specified at the time the quotation is made. The requirement that all quotations be bona fide would not prohibit requests for bids or offers.

The proposed rule changes would also prohibit (1) a firm from entering a quotation on behalf of another broker, dealer, or municipal securities dealer if the firm entering the quotation has any reason to believe that the quotation does not represent a bona fide bid for, or offer of, municipal securities and (2) participants in a joint account from entering quotations relating to municipal securities which are the subject of the joint account, if such quotations indicate more than one market exists for the same securities.

The proposed rule changes would require that the price stated in a quotation for municipal securities be based on the best judgment of the person making the quotation as to the fair market value of such securities at the time the quotation is made. The proposed rule changes woud make clear that any quotation, unless otherwise indicated at the time the quotation is made, is subject to prior purchase or sale and to change in price.

Under the proposed rule changes, a firm would not be permitted to distribute or publish any report of a purchase or sale of municipal securities unless it has reason to believe that the purchase or sale has been effected and has no reason to believe that the reported transaction is fictitious or in furtherance of any fraudulent, deceptive, or manipulative purpose.

STATEMENT OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule changes is to establish uniform rules applicable to all participants in the municipal securities industry with respect to the dissemination of quotations relating to municipal securities and reports of municipal securities transactions. More specifically, the purposes of proposed rule G-13 are (1) to require persons making quotations to be prepared to honor them, (2) to prevent a firm from entering a quotation on behalf of another broker, dealer, or municipal securities dealer, if the firm entering the quotation has any reason to believe that the quotation does not represent a bona fide bid for, or offer of, municipal securities, (3) to require that a quotation be based on the best judgment of the person making the quotation as to the fair market value of the securities at the time the quotation is made, and (4) to impose a requirement on members of joint accounts to indicate clearly when quotations represent multiple expressions of the same market. The purpose of proposed rule G-14 is to require that, if a firm distributes or publishes, or causes to be distributed or published, a report of a purchase or sale of municipal securities, such firm know or have reason to believe that the purchase or sale was actually effected and have no reason to believe that the reported transaction was fictitious or in furtherance of any fraudulent, deceptive, or manipulative purpose.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted proposed rule G-13 pursuant to section 15B(b)(2)(F) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes and directs the Board to include in its rules

> * * * provisions governing the form and content of quotations relating to municipal securities which may be distributed or published by any municipal securities broker, municipal securities dealer or person associated with such municipal securities broker or municipal securities dealer, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations.

Proposed Rule G-14 was adopted pursuant to section 15B(b)(2)(C) of the Act, which vests the Board with the general authority to prescribe rules which are designed, among other things, "to prevent fraudulent and manipulative acts and practice * * * [and] to protect investors and the public interest."

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Board received letters of comment on its exposure draft relating to the proposed rule changes from the following:

Dealer Bank Association (the "DBA")
National Association of Securities Dealers, Inc. (the "NASD")
Salomon Brothers
Shearson Hayden Stone Inc. ("Shearson")
UMIC, Inc. ("UMIC")
Wells Fargo Bank ("Wells Fargo")

The DBA, Salomon Brothers, and Wells Fargo each commented on subparagraph (b)(ii) of proposed rule G-13 which provides that the price stated in a quotation must "be based on the best judgment [of the dealer] of the fair market value of the securities which are the subject of the quotation." The DBA objected to the inclusion of this provision on several grounds, including (1) it may be a "trap for the unwary" because a dealer's "best judgment" can be second-guessed, (2) it is unclair whether "based on" means "identical to" and, if not, the rule does not provide criteria for determining compliance with this provision, and (3) the provision is unnecessary because of the anti-fraud rules of the Securities and Exchange Commission (the "Commission"), Commission rule 15c1-8, which prohibits improper representations to the effect that securities are being offered "at the market" and subparagraph (b)(iii) of proposed rule G-13. Salomon Brothers expressed approval of this provision, but suggested that the discussion of it in the introduction to the exposure draft was ambiguous and inconsistent with the language of the provision. Wells Fargo stated that the intent of the provision should be clarified.

The Board recognizes that in the municipal securities area, with its frag-

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mented and decentralized market system, there may be more than one "fair market value" for a particular municipal security at any point in time, *i.e.*, there may be a range of prices for a municipal security, reflecting legitimate differences of opinion of participants in the market as to such value. The Board also recognizes that the bid or offer price for a municipal security generally takes into account other factors besides fair market value, including a firm's current inventory position, overall and in respect of the particular security, a firm's anticipation of the direction of the movement of the market and other relevant circumstances. Accordingly, the Board does not intend to require by subparagraph (b)(iii) of proposed rule G–13 that the price stated in a quotation represent only the fair market value of the securities for which the quotation is made. Rather, the Board intends to require only that the price stated in a quotation have a reasonable relationship to the fair market value of the securities, taking into account all relevant circumstances. The Board believes that the inclusion of this provision is appropriate in order to assure fair and informative quotations and that quotations not be misleading.

The NASD suggested that the provision relating to quotations for securities which are the subject of a joint account be clarified because it may be interpreted as prohibiting the existence of secondary joint accounts within a syndicate. The Board does not intend such a result or believe that the language of the provision can be interpreted to require such a result.

Shearson suggested that the terms "bid" and "offer" be substituted for the term "quotation" in proposed rule G–13, stating that a request for a "bid" or "offer" is a much more specific procedure implying the intention to execute an order. The Board has defined the term "quotation" to mean "any bid for, or offer of, municipal securities." Nominal quotations are defined as indications of price given solely for informational purposes and are excluded from the requirement that quotations represent bona fide bids or offers.

Shearson also made the following additional suggestions with respect to proposed rule G–13: (1) substitute the term "quote" for "nominal quotation," (2) explain the meaning of "subject to . . . a subsequent change in price" and (3) make clear that the provision relating to quotations for securities in a joint account applies only to securities identical in maturity and coupon. The Board is of the view that the language of the proposed rule is sufficiently clear on these points and, therefore, no change in language is necessary.

The comments of UMIC were presented as a series of inquiries: (1) Do proposed rules G–13 and G–14 apply to quotations and reports between all professionals, including bank dealers? (2) How does a quotation made by a dealer affect the dealer's obligation in terms of quantity? (3) How does proposed rule G–14 affect the reporting of short sales? (4) Is a dealer required to report all sales and purchases? (5) If a sale to another dealer is reported, is it required that the report include the concession?

The proposed rule changes apply to all quotations and reports with respect to municipal securities transactions, including transactions between professionals. Under proposed rule G–13, a quotation need not be for a specified quantity of securities, but the price quoted might be affected by the quantity involved. While no specification of quantity is required, the proposed rule contemplates that a person may enter a quotation subject to certain conditions, including conditions pertaining to quantity. Under proposed rule G–14, short sales may be reported as such. However, the proposed rule does not require the reporting of all sales and purchases: it does require any such report to be accurate and not misleading. If a sale to another dealer is reported under proposed rule G–14, the report of the sale should be accurate and not misleading. This would not necessarily require that the concession be stated.

UMIC also stated that if there is no quoted market for a security, it appears that proposed rules G–13 and G–14 would not apply. This is not the Board's intention. Rather, any quotation or report of a transaction would, under the proposed rule changes, be required to be fair and informative, and not misleading.

Wells Fargo suggested that proposed rule G–14 should provide that only reports of sales involving customers may be distributed or published because reports of sales by an underwriting syndicate to its members or to a secondary account may be misleading. This view appears to be based on the presumption that reports of all sales are required by the proposed rule, which is not the case.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule changes will impose any burden on competition in the municipal securities industry inasmuch as such rules will be equally applicable to all participants in the industry.

On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 6, 1976.

The text of the proposed rule changes is as follows:

Rule G–13. Quotations relating to municipal securities

(a) *General.* The provisions of this rule shall apply to all quotations relating to municipal securities which are distributed or published, or caused to be distributed or published, by any municipal securities broker or municipal securities dealer or any person associated with and acting on behalf of a municipal securities broker or municipal securities dealer. For purposes of this rule, the term "quotation" shall mean any bid for, or offer of, municipal securities, or any reqest for bids for or offers of municipal securities, including indications of "bid wanted" or "offer wanted." The terms "distributed" or "published" shall mean the dissemination of quotations by any means of communication. Reference in this rule to a municipal securities broker or municipal securities dealer shall be deemed to include reference to any person associated with a municipal securities broker or municipal securities dealer.

(b) *Bona Fide Quotations.* (i) No municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any quotation relating to municipal securities, unless the quotation represents a bona fide bid for, or offer of, municipal securities by such municipal securities broker or municipal securities dealer, provided, however, that all quotations, unless otherwise indicated at the time made, shall be subject to prior purchase or sale and to subsequent change in price. If such municipal securities broker or municipal securities dealer is distributing or publishing the quotation on behalf of another broker, dealer, or municipal securities dealer, such municipal securities broker or municipal securities dealer shall have no reason to believe that such quotation does not represent a bona fide bid for, or offer of, municipal securities. Nothing in this paragraph shall be construed to prohibit requests for bids or offers, including indications of "bid wanted" or "offer wanted," or shall be construed to prohibit nominal quotations, if such quotations are, at the time made, clearly stated or indicated to be such. For purposes of this paragraph, a "nominal quotation" shall mean an indication of the price given solely for informational purposes.

(ii) No municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any quotation relating to municipal securities, unless the price stated in the quotation is based on its best judgment of the fair market value of the securities which are the subject of the quotation at the time the quotation is made.

(iii) For purposes of subparagraph (i), a quotation shall be deemed to represent a "bona fide bid for, or offer of, municipal securities" if the municipal securities broker or municipal securities dealer making the quotation is prepared to purchase or sell the security which is the subject of the quotation at the price stated in the quotation and under such conditions, if any, as are specified at the time the quotation is made.

(c) *Multiple Markets in the Same Securities.* No municipal securities broker or municipal securities dealer participating in a joint account shall, together with one or more other participants in such account, distribute or publish, or cause to be distributed or published, quotations relating to the municipal securities which are the subject of such account if such quotations indicate more than one market for the same securities.

Rule G–14. Reports of sales or purchases

No municipal securities broker or municipal securities dealer or person associated with a municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any report of a purchase or sale of municipal securities, unless such municipal securities broker or municipal securities dealer or associated person knows or has reason to believe that the purchase or sale was actually effected and has no reason to believe that the reported transaction is fictitious or in furtherance of any fraudulent, deceptive or manipulative purpose. For purposes of this rule, the terms "distributed" or "published" shall mean the dissemination of a report by any means of communication.

[FR Doc.76-23846 Filed 8-13-76;8:45 am]

[Release No. 34-12699; File No. SR-PSE-76-29]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change amends Sections 39 and 84 of Rule VI of the Pacific Stock Exchange Incorporated to enable an Options Floor Official to impose fines not exceeding $1000 for conduct on the Options Trading Floor of the Exchange in violation of the Rules and Policies of the Exchange, and to provide that such fines can be appealed pursuant to the provisions of Section 84.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The proposed rule change is designd to simplify and facilitate the administration of disciplinary sanctions for offenses occurring on the Options Trading Floor of the Exchange. By enabling a single floor official to administer a fine, the proposed rule change would enable the Exchange to administer discipline more rapidly, and thus to maintain better control of conduct on the Options Trading Floor. The ability of members adversely affected by such a fine to appeal the fine pursuant to the procedures of Section 84 provides necessary due process guarantees.

The proposed rule change, by enabling the Exchange to administer and enforce its rules more effectively, contributes to the protection of investors and of the public interest.

The Options Floor Trading Committee discussed and approved the proposed rule change. Except for the comments received from the members of this Committee, comments were not solicited from members or participants in the Exchange, and no such comments were received.

The proposed rule change does not impose any burden on competition.

The foregoing proposed rule change has been filed with the Securities and Exchange Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934. On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549.

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 10, 1976.

[FR Doc.76-23844 Filed 8-13-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 118]

ASSIGNMENT OF HEARINGS

AUGUST 11, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interestsed parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141709, West Bros., Inc., now assigned September 21, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 136375 (Sub-No. 11), Donco Carriers, Inc., now assigned September 22, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 128273 (Sub-No. 215), Midwestern Distribution, Inc., now assigned September 23, 1976, at Kansas City, MO. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC-C-8959 Kraftours Corporation, DBA Kraftours and Allan S. Kraft, DBA Universal Travel Service-Investigation of Operations and Revocation of Certificate and License, now assigned September 27, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 120781 (Sub-No. 5), Kraftours Corporation Extension-Special Operations, now assigned September 27, 1976, at Kansas City, Mo. will be held in Room 609, Federal Building, 911 Walnut Street.

MC 22179 (Sub-No. 18), Freeman Truck Line, Inc., application dismissed.

MC 123765 (Sub-No. 5), Barry Transfer and Storage Co., Inc., application dismissed.

MC 141932, Polar Transport, Inc., application dismissed. MC 141641 (Sub-No. 1), Wilson Certified Express, Inc., now assigned September 1, 1976, at Washington, D.C. is canceled and application dismissed.

MC-F 12809, Ryder System, Inc.—Control—Jamesville Auto Transport Company, and MC 119642 Sub 4, Jamesville Auto Transport Company now being asisgned September 21, 1976, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 138253 (Sub-No. 2), Monfort Transportation Company, now assigned September 27, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

MC 123407 (Sub-No. 286), Sawyer Transport, Inc., now assigned September 28, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

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MC-C-7393, Scott Truck Line, Inc.—Investigation and Revocation of Certificates, now assigned September 30, 1976 at Denver, Colorado; will be held in Room 156 U.S. Customs House, 721 19th Street.

MC 140024 (Sub-No. 62), J. B. Montgomery, Inc., now assigned October 4, 1976 at Denver, Colorado; will be held in Room 156 U.S. Customs House, 721 19th Street.

MC 140829 (Sub-No. 6), Cargo Contract Carrier Corp., now assigned October 6, 1976 at Denver, Colorado; will be held in Room 156 U.S. Customs House, 721 19th Street and on October 8, 1976 will be held in Court Room 4, Bankruptcy Court, U.S. Court House, 1929 Stout Street.

MC-C-8830, Browning Freight Lines, Inc., et al. V. Warberg Brothers Company, et al., MC-F-12484, IML Freight, Inc.—Purchase (Portion)—Delbert H. Stephens and Ferdinand A. Klein, dba Spokane-St Maries Auto Freight and Warberg Brothers Company and MC 33641 (Sub-No. 119), IML Freight, Inc., now assigned September 13, 1976, at Salt Lake City, Utah, will be held in Room 4220, Federal Building, 125 South State Street instead of Room 1423.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23892 Filed 8-13-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 11, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 31, 1976.

FSA No. 43211—*Iron and Steel Articles Between Illinois Central Gulf Stations, Chicago, Illinois, and Kansas City, Missouri-Kansas and Points Grouped Therewith.* Filed by Illinois Central Gulf Railroad Company, (No. 76-2). Rates on iron and steel articles, in carloads, as described in the application, between Chicago, Illinois and points grouped therewith, and Kansas City, Missouri-Kansas and points grouped therewith.

Grounds for relief—Carrier competition.

Tariff—Supplement 1 to Illinois Central Gulf Railroad Company tariff 835, I.C.C. No. 52. Rates are published to become effective on September 17, 1976.

FSA No. 43212—*Liquefied Petroleum Gas to Brampton, Ontario, Canada.* Filed by Southwestern Freight Bureau, Agent, (No. B-616), for interested rail carriers. Rates on liquefied petroleum gas, in tank-car loads, as described in the application, from points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, to Brampton, Ontario, Canada.

Grounds for relief—Rate relationship.

Tariff—Supplement 75 to Southwestern Freight Bureau, Agent, tariff SW/E-133-K, I.C.C. No. 5106. Rates are published to become effective on September 18, 1976.

FSA No. 43213—*Barley, Oats, Wheat and Wheat Products from Points in Montana and North Dakota on the Soo Line Railroad Company.* Filed by Trans-Continental Freight Bureau, Agent No. 507), for interested rail carriers. Rates on barley, oats, wheat and wheat products, in carloads, as described in the application, from specified points in Montana and North Dakota on the Soo Line Railroad Company, to points in California, Idaho, Montana, Oregon, and Washington, also Alberta and British Columbia, Canada, on the BN, MILW, and UP RR, on domestic and export traffic.

Grounds for relief—Market competition.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23893 Filed 8-13-76;8:45 am]

[Notice No. 103]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 11, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107295 (Sub-No. 822TA) filed August 3, 1976. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and siding* (except iron or steel and commodities in bulk), from the plantsite and warehouse facilities of Masonite Corporation, Roofing Division, located at Little Rock, Ark., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shipper: Tommy Strickland, Material Control & Traffic Manager, Masonite Corp., Roofing Division, P.O. Box 1300, 2500 E. Roosevelt Road, Little Rock, Ark. 72203. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 111170 (Sub-No. 231TA) filed July 22, 1976. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl bromide*, in bulk, from Ethyl Plant at Magnolia, Ark., to Williamsburg, Va., for 180 days. Supporting shipper: Dow Chemical U.S.A., Eastern Division, P.O. Box 36000, Strongsville, Ohio 44136. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 112713 (Sub-No. 194TA) filed August 2, 1976. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10900 Roe Ave., Shawnee Mission, Kans. 66207. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of the Tennessee Valley Authority near Hartsville, Tenn., as an off-route point in connection with applicant's otherwise authorized regular route operations. Applicant intends to interline with other carriers at various points throughout applicant's system for through movement of shipments to and from offline points, for 180 days. Supporting shipper: Tennessee Valley Authority, Chattanooga, Tenn. 37401. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 113106 (Sub-No. 43TA) (Amendment) filed July 20, 1976, published in the FEDERAL REGISTER issue of July 30, 1976, and republished as amended this issue. Applicant: THE BLUE DIAMOND COMPANY, 4401 E. Fairmont Ave., Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1030 15th St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of Union Camp at Franklin, Va., to points in Maryland, New York (except New York, N.Y., and its commercial zone, and points in Nassau and Suffolk Counties, N.Y.), Pennsylvania and the District of Columbia, for 180 days. Supporting shipper: Wade P. Wagner, Senior Traffic Spec., Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 114290 (Sub-No. 81TA), filed August 2, 1976. Applicant: EXLEY EXPRESS, INC., 210 S.E. 8th Ave., Portland, Oreg. 97202. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit flavored drinks*, in paper cartons, from Anaheim, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper: The Coca Cola Company, P.O. Box 2079, Houston, Tex. 77001. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 115331 (Sub-No. 415TA) filed August 3, 1976. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granular clay*, in bulk, in tank vehicles, from Oran, Mo., to Charles City, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lowe's, Inc., N. Edward St., Cassopolis, Mich. 49031. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 116300 (Sub-No. 26TA) filed August 2, 1976. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid bleach and fabric finish* (except in bulk), from Marion, Ala., to Lafayette and New Orleans, La., and Canton, Jackson and Natchez, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ames Packaging Corporation, Box 670, South Washington St., Marion, Ala. 36756. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 118142 (Sub-No. 129TA), filed August 4, 1976, Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared frozen food and dehydated potatoes*, from the plantsite of Inland Storage Distribution, Kansas City, Kans., to Mobile and Florence, Ala.; Helena, Ark.; Atlanta, Decatur, Columbus, Macon, Augusta, and Tifton, Ga.; Indianapolis, Richmond and South Bend, Ind.; Lexington and Owensboro, Ky.; Landover, Hagerstown, Frederick, and Silver Spring, Md.; Atlantic City, Wildwood, Elmer, Beach Haven, Seccaucus, Edison, McCutcheon and Jersey City, N.J.; Avon, Buffalo, New York City and Jericho, N.Y.; Charlotte, Kinston, Mount Airy, Rocky Mount, Greenville, Warsaw and Durham, N.C.; Cincinnati, Akron, Columbus, Lodi, Portsmouth, Jackson, Springfield and Mansfield, Ohio; Philadelphia, Scranton, Pittsburgh, Reading, Stroudsburg, Wilkes-Barre, Swoyersville, Northumberland, Williamsport, and Chaddsford, Pa.; Columbia and Florence, S.C.; Paris, Nashville, Goodlettsville, Chattanooga, Cookeville and Memphis, Tenn.; Norfolk, Portsmouth, and Virginia Beach, Va.; Parkersburgh and Daniel, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inland Storage Distribution, P.O. Box 2249, Kansas City, Kans. 61110. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 121664 (Sub-No. 14TA) filed August 3, 1976. Applicant: HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement, lime and mortar mix*, from the facilities of National Cement Company, Inc., at or near Ragland, Ala., and the facilities of Martin Marietta Cement, Southern Division at or near Roberta, Ala., to points in Florida, Georgia, Mississippi, Louisiana, Tennessee, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Cement Co., Inc., 110 Office Park Drive, P.O. Box 7348, Mountain Brook Station, Birmingham, Ala. 35223. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 129032 (Sub-No. 24TA), filed August 2, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 40th West Ave., Tulsa, Okla. 74107. Applicant's representative: Martin J. Rosen, 256 Montgomery St., 5th Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138954 (Sub-No. 5TA), filed August 3, 1976. Applicant: G. L. CREECH, doing business as TRUCK SERVICE HAULING AND RENTAL, P.O. Box 15891, 1748 Sherwood Forest Blvd., Baton Rouge, La. 70185. Applicant's representative: James B. Thompson, III, 666 South Foster Drive, Baton Rouge, La. 70806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel reinforcing rods*, from Baton Rouge, La., to construction sites or storage sites in Mississippi, Alabama and that part of Florida west of U.S. Highway 231, under a continuing contract with Armco Steel Corporation, for 180 days. Supporting Shipper: Armco Steel Corporation, 24 N. Main St., Middletown, Ohio 45043. Send portests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 141033 (Sub-No. 14TA), filed July 28, 1976. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James I. Mendenhall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* utilized in the installation of floor coverings and floors; floor mats and runners; adhesives; cove base; carpet binding accessories; maintenance equipment, and products; and materials, equipment and supplies utilized in the manufacture, sale and distribution of the commodities described above, from Piqua, Ohio and Klamazoo, Mich., to (1) points in the United States in and east of the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Ohio); and (2) City of Industry, Calif., and Vancouver, Wash., restricted against the transportation of commodities in bulk and those which by reason of size of weight, require the use of special equipment and further restricted to the transporation of traffic originating at the plantsites of Roberts Consolidated Industries, Inc., for 180 days. Supporting shipper: Roberts Consolidated Industries, 600 North Baldwin Park Blvd., City of Industry, Calif. 91749. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commis-

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sion, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142006 (Sub-No. 1TA), filed August 3, 1976. Applicant: LYNBROOK SALVAGE CORP., 170 Mapes Ave., Newark, N.J. 07112. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated roofing, and siding*, from Jersey City, N.J., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Washington, D.C., and (2) *materials and supplies* used in the manufacturing of roofing and siding (except in bulk and tank vehicles), from the above destination states, to Jersey City, N.J., under a continuing contract with Corrugated Metals, Inc., Jersey City, N.J., for 180 days. Supporting shipper: Corrugated Metals, Inc., 94 First St., Box 465, Jersey City, N.J. 07303. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 142254 (Sub-No. 1TA), filed August 3, 1976. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 West Whitewater St., Whitewater, Wis. 53190. Applicant's representative: Michael J. Wyngaard, 329 West Wilson St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Castings, foundry products and fasteners*, from Palmyra and Whitewater, Wis., to points in Iowa (on and east of U.S. Highway 169), Illinois (on and north of U.S. Highway 36 from the Illinois-Missouri border to the Illinois-Indiana border), and Anoka, Chisago, Ramsey, Washington, Hennepin, Dakota, Goodhue, and Wabasha Counties, Minn.; and (2) *Materials, equipment and supplies* used or useful in the manufacture, sale, installation or distribution of the commodities named in part (1) above, from points in Iowa (on and east of U.S. Highway 169), Illinois (on and north of U.S. Highway 36 from the Illinois-Missouri border to the Illinois-Indiana border), and Anoka, Chisago, Ramsey, Washington, Hennepin, Dakota, Goodhue, and Wabasha Counties, Minn., to Palmyra and Whitewater, Wis., for 180 days. Supporting shipper: Alpha-Cast, Inc., 520 North Jefferson St., Whitewater, Wis. 53190. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 142303TA (Correction), filed July 23, 1976, published in the FEDERAL REGISTER issue of August 6, 1976, as MC 139568 (Sub-No. 1TA), and republished as corrected this issue. Applicant: CUTLER & LEE, INC., Route 73 & Regent Ave., Maple Shade, N.J. 08052. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vehicles*, for salvage, from points in New York, Connecticut, Pennsylvania, Delaware and Maryland, to South Plainfield, N.J., under a continuing contract with Fireman's Fund Customer Service Center, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fireman's Fund Customer Service Center, 3333 California St., San Francisco, Calif. 94119. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608. The purpose of this republication is to change docket No. MC 142303TA in lieu of MC 139568 (Sub-No. 1TA).

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23894 Filed 8-13-76;8:45 am]

[Section 5b Application No. 2]

WESTERN RAILROAD TRAFFIC ASSOCIATION

Agreement

AUGUST 4, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed May 28, 1976 by:

J. M. Souby, Western Railroad Traffic Association, Suite 1200, 222 S. Riverside Plaza, Chicago, IL 60606. (Attorney-in-Fact).

J. D. Feeney and R. T. Opal, Suite 1200, 222 S. Riverside Plaza, Chicago, IL 60606. (Counsel for Applicants).

Agreement involves: Organization, practices, and procedures between and among rail common carrier members of the Western Railroad Traffic Association for the joint consideration, initiation, or establishment of rates, classifications, divisions, allowances, charges, and rules, regulations and practices pertaining thereto, applicable to the transportation of property, in interstate or foreign commerce, from, to, and between points in western territory.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 15, 1976. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23895 Filed 8-13-76;8:45 am]

federal register

MONDAY, AUGUST 16, 1976

PART II:

ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Supersonic Aircraft

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Title 40—Protection of the Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 595-2]

PART 87—CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Supersonic Aircraft

Section 231 of the Clean Air Act, as amended by Pub. L. 91-604, directs the Administrator of the Environmental Protection Agency to establish "standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare." Regulations ensuring compliance with these standards are required to be issued by the Secretary of Transportation in accordance with section 232 of the Act.

Standards were promulgated on July 17, 1973 (38 FR 19088) which specified limits on emissions from classes of new and inuse subsonic aircraft engines. In addition, the preamble to those regulations stated: "A separate class has been established for engines which power supersonic aircraft. Exhaust emission standards for this class will be based on the best available combustor design technology expected in 1979 and later, but with due consideration for the inherently higher emission characteristics of supersonic aircraft engines under landing/takeoff cycle conditions. These standards will represent the same level of emissions reduction from current supersonic aircraft, through application of the same types of combustor design technology as will be required of subsonic aircraft, though the absolute hydrocarbon and carbon monoxide levels will be several times higher."

On July 22, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 26653) which described standards limiting emissions from supersonic aircraft engines. The NPRM proposed a range of standards applicable to newly manufactured engines effective January 1, 1979. This range of values reflected differences in estimates of technical feasibility among the government engineers who had reviewed advanced drafts of these regulations. The preamble to the NPRM went on to state: "The level of the standards to be ultimately adopted may be more or less stringent than the range of values proposed, depending on data presented by interested parties during the public comment period and at the public hearing on these proposals."

The final standards established herein fall within or above the range proposed for each pollutant and are levels which one of the manufacturers of the engines which power the Concorde, Rolls Royce Ltd., has testified could be met. The other manufacturer, SNECMA, testified that comparable emissions levels were achieveable (allowing for differences in measurement methodology) but that additional time should be permitted before compliance. Accordingly, the implementation date for the standards applicable to newly manufactured engines has been shifted from January 1, 1979, as proposed, to January 1, 1980. These standards are believed to be the most stringent that can be imposed by that date. They reflect the emission control technology currently under development and expected to be available to the SST engine manufacturers. The standards established here for newly certified SST engines reflect the best technology expected for subsonic engines, which is transferable to the T5 class. With regard to the oxides of nitrogen standard for newly certified engines, careful evaluation has led EPA to the conclusion that such a level is attainable without reliance upon water injection. Due to the time required to incorporate the necessary technology into T5 class engines, the date of implementation for the standards applicable to newly certified engines has been postponed to January 1, 1984.

A report, "Alternative Derivations of the Standards for T5 (Supersonic Transport) Class Gas Turbine Aircraft Engines," AC-76-01, which describes the derivation of the standards promulgated, is available for inspection and copying at the EPA Public Information Reference Unit.

The basic justification for emissions standards applicable to aircraft was stated in the preamble to the standards promulgated on July 17, 1973, (38 FR 19088) as follows:

> In judging the need for the regulations, the Administrator has determined (1) that the public health and welfare is endangered in several air quality control regions by violation of one or more of the national ambient air quality standards for carbon monoxide, hydrocarbons, nitrogen oxides, and photochemical oxidants, and that the public welfare is likely to be endangered by smoke emissions; (2) that airports and aircraft are now, or are projected to be, significant sources of emissions of carbon monoxide, hydrocarbons, and nitrogen oxides in some of the air quality control regions in which the national ambient air quality standards are being violated, as well as being significant sources of smoke; and therefore (3) that maintenance of the national ambient air quality standards and reduced impact of smoke emissions requires that aircraft and aircraft engines be subject to a program of control compatible with their significance as pollution sources. Accordingly, the Administrator has determined that emissions from aircraft and aircraft engines should be reduced to the extent practicable with present and developing technology.

Therefore, the environmental benefits of this amendment to the basic standards will be to contribute to the maintenance of air quality in and around the major air terminals for international routes which could be served by SST aircraft. Currently, the John F. Kennedy Airport in New York has the most international operations among major United States air terminals. The projected SST operations at JFK in 1990 (assuming that unrestricted use of SSTs is eventually permitted) are approximately 50 landing/takeoff cycles per day, based on an estimated total SST population of 150 (this can be compared to a total of approximately 800 landing/take-off cycles per day for all aircraft). Of these 150 SSTs, it is assumed that 40 would be unregulated, 70 would be subject to the 1980 standards, and 40 would be subject to the 1984 standards. The estimated emissions reductions attributable to the standards applicable to both subsonic and SST aircraft are shown in Table I. The analysis by which this estimate was made is reported in "SST Emissions Projection," AC-76-03, which is available at the EPA Public Information Reference Unit.

EPA projects that the technology capable of reducing emissions from current supersonic (SST) power plants will be essentially the same as that developed for subsonic power plants. Therefore, the research already in progress by engine builders and directed primarily at subsonic aircraft will form the major basis for achieving the standards promulgated herein, supplemented by more advanced research supported by government agencies such as the NASA, U.S. Air Force, and the British National Gas Turbine Establishment. It follows that much of the technology development costs applicable for meeting these standards is already absorbed in the costs estimated for meeting the standards applicable to subsonic aircraft.

TABLE I.—*Emissions impact of supersonic transport aircraft at John F. Kennedy Airport in 1990*

[Tons per year]

	HC	CO	NOx
Uncontrolled subsonic aircraft emissions	3,300	7,950	3,200
Uncontrolled supersonic aircraft emissions	2,100	7,850	1,050
Total uncontrolled aircraft emissions	5,400	15,800	4,250
Reduction in aircraft emissions due to standards for subsonic aircraft only	1,900	3,700	950
Percent reduction from uncontrolled fleet	35	23	22
Reduction in aircraft emissions due to standards for supersonic aircraft only	1,300	3,950	150
Percent reduction from uncontrolled fleet	24	25	4
Reduction in aircraft emissions due to standards for both subsonic and supersonic aircraft	3,200	7,650	1,100
Percent reduction from uncontrolled fleet	59	48	26

NOTE.—(1) Estimate: 150 SST aircraft in world fleet; 50 LTO's per day at JFK; (2) JFK taxi-in and taxi-out times are 9 minutes and 20 minutes respectively.

EPA estimates that the most probable development cost is $10 million which represents an increase of $143,000 per aircraft or 0.36% of the purchase price for a fleet of 70 regulated current technology SST aircraft. EPA estimates that the most probable operational cost penalty is $5 per hour per aircraft due to increased maintenance, a 0.3% increase in the maintenance and depreciation cost. The extreme estimates for the development cost are (1) worst case—$80 million, and (2) best case—$8 million. The extreme estimates for the operational costs are (1) worst case—$24 per hour and $15 per hour for fuel and maintenance respectively, (2) best case—no penalty for either fuel or maintenance. The large disparity between the most optimistic and most pessimistic analysis, especially with regard to the development costs, results largely from the absence of substantive information from the manufacturers on this matter.

As required by section 231 of the Act, the Administrator held public hearings with respect to the proposed aircraft emission standards. One was held in Boston, Massachusetts, on November 14, 1974, and another in Los Angeles, California on November 26, 1974. Testimony was presented at these hearings by eleven organizations, including domestic and foreign manufacturers of aircraft and aircraft engines, Governmental groups, environmental groups and universities. Additional detailed comments were provided prior to the hearings by fourteen organizations. A detailed analysis of this information has been made and is available for inspection and copying at the EPA Public Information Reference Unit.

Several commenters stated that standards applicable to SST Aircraft should be set by the International Civil Aviation Organization (ICAO) and not by EPA because of the international character of SST flight operations. EPA intends to cooperate fully with the ICAO in the development of international standards for control of emissions from all classes of aircraft. Nevertheless, in order to fulfill EPA's responsibility under the Clean Air Act, it is necessary to minimize emissions from aircraft of both United States and foreign registry. Moreover, to exempt foreign aircraft would be unfair to domestic air carriers. Therefore, these standards will apply to aircraft of foreign registry until such time as the ICAO has promulgated regulations of at least equivalent stringency. At that time consideration can be given to applicability of ICAO standards to aircraft of foreign registry while the EPA standards would continue to apply to aircraft of United States registry.

Representatives of environmental groups and state and local governments commented that SST aircraft should be required to meet the same standards as are applicable to subsonic aircraft. However, the Clean Air Act authority relating to aircraft emission standards introduces the term "class or classes of aircraft or aircraft engines" in section 231(a)(2). Later it is stated in section 231(b) that "any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Accordingly, EPA has determined that SST aircraft constitute a discrete class of aircraft under the terms of the Clean Air Act and that the standards to be promulgated should be achievable by this class using reasonably available technology and at reasonable cost. Engines powering SST aircraft are required to incorporate design features which are necessitated by supersonic flight, but which are detrimental to the achievement of emissions as low as those from subsonic aircraft during ground operations and low speed flight in the vicinity of metropolitan airports. Unfortunately, these features are important to achievement of good fuel consumption characteristics during supersonic cruise at high altitudes and therefore cannot readily be compromised. Such features include:

1. Use of afterburners for thrust augmentation at takeoff and climb out, to overcome the inherently poor aerodynamic characteristics of the aircraft during subsonic flight.

2. Limitation to relatively low pressure ratios so as to avoid excessive compressor discharge temperatures during supersonic flight.

3. Use of pure turbojets or very low bypass ratio turbofan operating cycles so as to provide adequate thrust and fuel efficiency and to avoid the excessive weight and aerodynamic drag which would be caused by large diameter high bypass ratio engines, of the type which produce superior fuel consumption characteristics at subsonic flight speeds.

Because of these considerations, SST aircraft meeting the standards promulgated herein will still emit approximately four times more pollutants than will comparable subsonic aircraft. Compounding this problem is the fact that a sizeable percentage of the SST fleet through 1990 will consist of aircraft produced prior to the 1980 date of effectiveness of the standards (at least 27%). The table below compares the emissions contributions of regulated and unregulated SSTs and commercial subsonic aircraft.

Emissions in pounds per aircraft per EPA landing/takeoff (LTO) cycle

	Concorde (SST)	Boeing 747
Unregulated:		
HC	195	50
CO	800	185
NOx	105	125
Regulated:		
HC	45	15
CO	360	65
NOx	110	45

Because of this situation, EPA recognizes the need for this regulation to be supplemented by the implementation of ground operational procedures such as towing the aircraft from the gate to the runway or holding the aircraft at the gate (with propulsion engines off) until the runway is clear for taxi out and non-delayed takeoff. The implementation of such procedures would further reduce SST aircraft emissions (about 30% to 70% for hydrocarbons, 25% to 55% for carbon monoxide, and 4% to 9% for oxides of nitrogen) and save significant quantities of fuel as well, about 160 to 290 gallons per landing/takeoff cycle. The EPA strongly encourages local airport authorities and airlines to work with the Federal Aviation Administration to implement effective ground operational control programs for SST aircraft as soon as is practicable after the introduction of SST commercial service into the United States. In the absence of such improved procedures, the EPA may have to consider alternative strategies of reducing the SST aircraft emissions, if their numbers grow significantly in later years.

Many comments referred to the potential impact of NOx emissions on ozone depletion during very high altitude cruising conditions, going on to suggest that EPA should promulgate standards to protect against this type of problem. EPA recognizes that high altitude flight by supersonic aircraft (and to a lesser extent by subsonic aircraft) may have detrimental effects on the upper atmosphere. The work recently concluded in the Department of Transportation Climatic Impact Assessment Program indicates to EPA that, if stratospheric flights by SST and other aircraft increase significantly, reductions in their emissions of oxides of nitrogen during stratospheric cruising conditions may be necessary. During the public hearings there was a predominance of testimony arguing in favor of controlling emissions in the upper atmosphere. EPA is continuing its investigation of the need and feasibility of controlling cruise emissions and intends to consider additional rule making for such control from both subsonic and supersonic aircraft as necessary to aid in the preservation of the ozone layer. Issuance of the present standards does not preclude a future standard for the emission of oxides of nitrogen at cruise and, in fact, the standards for newly certified engines are expected to reduce the NOx emissions at cruise below that found in the present aircraft. Further, EPA has decided that the newly certified engine standard to limit the oxides of nitrogen emissions should be set so as to preclude the necessity of water injection as a means of compliance. The development of a low NOx "dry" (i.e., with no water injection) combustor for high power departure from the airport should lead to low NOx emissions through the entire power range except, perhaps for idle. Such a combustor should emit low levels of NOx at cruise as well as during departure.

On February 4, 1976, the Secretary of Transportation announced his decision to permit limited scheduled service to the United States of Concorde SST aircraft. In his statement, he indicated that "I shall also request the Secretary of State to initiate discussions through the ICAO and the World Meteorological Organiza-

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AUG 16 76
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tion on the development of international stratospheric standards for the SST." The EPA intends to continue its participation in the work of the ICAO and to participate actively in the discussions on the development of international standards applicable to emissions from SST aircraft under high altitude cruising conditions. The EPA believes that in light of the global nature of the impacts from stratospheric flights by SST aircraft, international standards may be most appropriate in this area.

Emission control technology currently under development for newly manufactured engines will not reduce the NOx level at high power departure sufficiently to improve NOx levels at cruise. Thus, the NOx standard for newly manufactured engines, although met by newly manufactured engines after January 1, 1980, will not be significant in controlling NOx emissions at cruise. The necessary technology for further reduction of NOx can not be implemented by the compliance date chosen for newly manufactured engines of existing design. The 1980 newly manufactured engine standards represent a compromise, to obtain at least some control of emissions in the shortest time possible.

Engine manufacturers commented that the standards proposed did not fully allow for the basic differences in operating cycles between SST and subsonic engines, thereby only partly responding to EPA's expressed intentions in the preamble to the proposed standards. Some of the commenters also stated that more time should be allowed for compliance.

These comments have been considered in formulating the standards promulgated herein, which now allow for all necessary technological and cost considerations inherent in modifying the design of the combustion sections of present design SST engines, such as those which power the Concorde aircraft. This is described more completely in Report AC-76-01, referenced earlier and available in the EPA public information reference unit.

The 1984 standards for newly certified engines reflect a basic change from the values proposed in the NPRM. In the preamble to the NPRM, EPA stated, "For 1981, the proposed levels of newly certified engines assume that such engines will be required to achieve noise levels which will dictate engine cycles for which the indicated emissions are entirely feasible. Specifically, afterburning is not expected to be used for thrust augmentation during takeoff for second generation SST powerplants." Commenters uniformly agreed that SST engine/airframe systems possessing the requisite technology to meet the proposed standards (such as variable cycle engines, swing wing aircraft, etc.) could not be employed for the second generation SST aircraft. Without such advances, it becomes very likely that the features characteristic of the first generation will likely be found also in the second, specifically (1) afterburners, (2) moderate pressure ratios, and (3) low bypass ratios. These features will continue to be the cause of airport emissions from SSTs that are higher than found in advanced subsonic aircraft. The 1984 standards herein adopted reflect this situation. They do, nonetheless, require the same level of technological advance within the combustor as required of newly certified (commercial) subsonic engines. Further stringency in the standards would likely require a compromise in the design features of the engine which would have the effect of increasing the fuel consumption at altitude. Since this would increase the cruise emissions which is contrary to EPA's intent, this additional stringency is rejected.

It is understood that research on very advanced candidate propulsion systems for future generations of SST aircraft include several which would operate at higher pressure ratios during the low altitude portions of their mission than those engine designs upon which these standards are based. While the emissions characteristics of such high pressure ratio SST engines cannot be predicted with certainty at this time, it would be expected that, with given combustor design technology, their nitrogen oxides emissions might be higher and their hydrocarbon and carbon monoxide emissions lower than the levels promulgated herein. The EPA recognizes that in so dynamic a field as aircraft engine development it will be necessary, from time to time, to review existing emission standards for the purpose of determining their impact on the feasibility of utilizing technology that may not have been available when the standards were formulated. As a result of the current NASA work, or other future developments, technology may become available that for fuel consumption or other performance factors is clearly superior but that cannot meet promulgated emission standards. In that case all of the relevant issues will be reconsidered by EPA in the context of all technical and environmental data then available, and a decision made by the Administrator that is appropriate on the basis of the new information.

It is recognized that most SST aircraft engines will utilize afterburners during the takeoff mode of operation, and further, it is recognized that the emissions measurement procedure of Subpart G is not applicable to the afterburning mode of SST engine operation (take-off mode only). Since a uniformly acceptable measuring technique has not been established for afterburning operation, Subpart G has been amended to allow petition to EPA for a variance in the prescribed procedure for such testing.

As required by Section 231 of the Clean Air Act, the effective date of these standards allows for the time necessary to "permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In this respect EPA's actions regarding SST emissions differ from its actions regarding SST noise. EPA has recommended (41 FR 6270, Feb. 12, 1976) that all SST aircraft comply with the same noise standards as apply to subsonic aircraft, without consideration of technology and cost of compliance. This recommendation was based upon the requirement of Section 7 of the Noise Control Act that a proposed standard submitted to the FAA by the EPA "provide such control and abatement through the exercise of any of the FAA's regulatory authority (over air commerce or transportation or over aircraft or aircraft operations) as EPA determines is necessary to protect the public health and welfare."

It is intended that the attainment of any standards proposed herein not result in the increased emission of any substance for which a standard is not proposed if such emission could endanger public health or welfare. The Administrator intends to remain informed throughout engine and aircraft development and certification programs to permit him to determine at the earliest possible time if the emission of a substance is likely to endanger the public health or welfare. Therefore, the Administrator may subsequently publish in the FEDERAL REGISTER a list of those substances whose emissions are likely to increase as a result of the installation or incorporation of any system or component, including fuel additives designed to enable an aircraft or aircraft engine to conform to any prescribed standard. In the event such a list of substances is so published, appropriate testing and sampling methods and/or analytical techniques will be proposed under the normal rule making procedures after consultation with the Department of Transportation.

The standards contained in this notice are being promulgated after consultation with the Secretary of Transportation in order to assure appropriate consideration of aircraft safety. However, the Department of Transportation has advised that it is impossible to make conclusive judgments as to the effects of an emission standard on aircraft safety until engines designed to meet that standard have been developed, constructed, and tested. Therefore, there will be continuing consultation on this issue between this Agency and that Department. Should the Secretary of Transportation determine at any point that an emission standard cannot be met within the specified time without creating a safety hazard, appropriate modifications will be made to that standard or to its effective date.

(Sec. 231 of the Clean Air Act, as amended (42 U.S.C. 1857f-9))

Effective date: This amendment takes effect on September 15, 1976.

Dated: August 10, 1976.

RUSSELL E. TRAIN,
Administrator.

Subparts C and G of Part 87 of Title 40 of the Code of Federal Regulations are amended as follows:

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

In § 87.21, paragraphs (d) and (e) are revised as follows:

§ 87.21 Standards for exhaust emissions.

• • • • •

(d) Exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after the dates indicated shall not exceed:

(1) Class T1 (January 1, 1979):		
•	•	• • • •
(2) Class T2, T3, T4 (January 1, 1979):		
•	•	• • • •
(3) Class P2 (January 1, 1979):		
•	•	• • • •
(4) Class T5 (January 1, 1980):		
(i)	Hydrocarbons	3.9 pounds/1,000 pound-thrust hours/cycle.
(ii)	Carbon Monoxide	30.1 pounds/1,000 pound-thrust hours/cycle.
(iii)	Oxides of nitrogen	9.0 pounds/1,000 pound-thrust hours/cycle.
(iv)	Smoke	Smoke number from Figure 1.

(5) The smoke number for each engine shall be determined by obtaining the smoke number corresponding to the engine rated power from Figure 1 for turbofan or turbojet engines and Figure 2 for turboprop engines.

(e) Exhaust emissions from each newly certified aircraft gas turbine engine of the classes specified below manufactured on or after the dates indicated shall not exceed:

(1) Class T2, T3, or T4 (January 1, 1981):		
(i)	Hydrocarbons	0.4 pound/1,000 pound-thrust hours/cycle.
(ii)	Carbon monoxide	3 pounds/1,000 pound-thrust hours/cycle.
(iii)	Oxides of nitrogen	Do.
(iv)	Smoke	Smoke number from Figure 1.
(2) Class T5 (January 1, 1984):		
(i)	Hydrocarbons	1.0 pound/1,000 pound-thrust hours/cycle.
(ii)	Carbon monoxide	7.8 pounds/1,000 pound-thrust hours/cycle.
(iii)	Oxides of nitrogen	5.0 pounds/1,000 pound-thrust hours/cycle.
(iv)	Smoke	Smoke number from Figure 1.
•	• • • • • • •	

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

1. In § 87.62, paragraph (a) is revised as follows:

§ 87.62 Test procedure (propulsion engines).

(a)(1) The engine shall be tested in each of the following engine operating modes which simulate aircraft operation to determine its mass emission rates.

Actual power setting, that when corrected to standard day conditions, corresponds to the following percentage of rated power, (rated power includes the rcheat contribution and thrust augmentation due to water injection, if applicable):

Mode	Class T1 or P2	Class T2, T3, or T4	Class T5
Taxi/idle (out)	(1)	(1)	(1)
Takeoff	100	100	100
Climbout	90	85	65
Descent	NA	NA	15
Approach	30	30	34
Taxi/idle (in)	(1)	(1)	(1)

[1] See subpar. (2) of this paragraph.

2. In § 87.64, paragraph (c)(1)(ii)(d) is revised and a new paragraph (c)(3) is added as follows:

§ 87.64 Sampling and analytical system for measuring exhaust emissions.

• • • • •

(c) • • •

(1) • • •

(ii) • • •

(d) The axial sampling plane shall be as close to the plane of the exit nozzle as engine performance parameters permit but in any case, shall be within one exit nozzle diameter of the exit plane, except for engine operating modes which employ reheat (afterburning).

• • • • • •

(3) *Sampling system for use with reheat (afterburning).* For engines which employ reheat, a sampling system selected by the manufacturer may be used for tests during afterburner (reheat) operation if shown to yield representative results and if approved in advance by the Administrator.

• • • • • •

3. In § 87.70, paragraph (d) is revised as follows:

§ 87.70 Calculations.

• • • • • •

(d) The time in mode (TIM) shall be as specified below:

Times in mode (minutes)	Class T1 or P2	Class T2, T3, or T4	Class T5
(1) Taxi/idle (out)	19.0	19.0	19.0
(2) Takeoff	.7	.7	1.2
(3) Climbout	2.5	2.2	2.0
(4) Descent	NA	NA	1.2
(5) Approach	4.5	4.0	2.3
(6) Taxi/idle (in)	7.0	7.0	7.0

(Sec. 11 (a)(1), Pub. L. 91-604, 84 Stat. 1703 (42 U.S.C. 1857f-9))

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AUG 16 76
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MONDAY, AUGUST 16, 1976



PART III:

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

■

RAIL PASSENGER SERVICE ASSISTANCE PROGRAM

Guidelines and Procedures

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

RAIL PASSENGER SERVICE ASSISTANCE PROGRAM

Guidelines and Procedures for Grant Assistance Under Section 17(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Section 17(a)(2) of the Urban Mass Transportation (UMT) Act of 1964, as amended, provides a limited period of Federal financial assistance to State and local transportation authorities to help cover Additional Costs incurred by these public entities for the continued operation of certain rail passenger services after September 27, 1976. The amount of this Federal assistance will be determined in accordance with the regulations issued by the Rail Services Planning Office (RSPO) of the Interstate Commerce Commission pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973, as amended (1973 Rail Act). These regulations (49 CFR Part 1127) were issued August 3, 1976 (41 FR 32546).

Under section 304(e) of the 1973 Rail Act, the Consolidated Rail Corporation (ConRail) or other operators of commuter and non-Amtrak rail passenger services are obligated to continue operation of these rail passenger services for a 180-day Mandatory Period commencing on April 1, 1976. Losses incurred by the operator for these services are to be reimbursed by the Secretary of Transportation under section 17(a)(1) of the UMT Act to the extent that they are not compensated by a State or local transportation authority.

At the end of the Mandatory Period, the operator will be obligated to continue rail passenger service only if two conditions are met by the appropriate State or local transportation authority: (a) That the authority offers prior to the end of the Mandatory Period a real service continuation payment to the operator as determined in accordance with RSPO regulations issued under section 205(d)(5) of the 1973 Rail Act; and (b) That the authority provides the operator with any compensation due from the authority for the Mandatory Period.

The Urban Mass Transportation Administration (UMTA) will provide financial assistance to the State or local transportation authorities, pursuant to section 17(a)(2) of the UMT Act, to reimburse them for the Federal share of the Additional Costs incurred for rail service continuation payments made to the operator for service during the Optional Period which commences on September 28, 1976. This Federal assistance will be provided for up to the full 24-months of the Optional Period. The Federal share is 100% of Additional Costs for the first 180 days (Optional Period I), and 90% for the next 12-months (Optional Period II). An addtitional 180 days (Optional Period III) of financial assistance at a 50% Federal share will be provided if the State or local transportation authority provides satisfactory assurances that service will be continued after the end of the Optional Period.

It should be noted that under these procedures, applicants are free to negotiate operating agreements which provide for subsidy levels different from those which would result from the application of RSPO standards; however, if such subsidy agreements provide for higher payments than would be required under RSPO standards, UMTA's assistance will not be increased to provide for this additional payment. While this is at variance with the position taken by RSPO in its final regulations, UMTA has determined that the authorizing legislation does not permit Federal reimbursement of subsidy payments in excess of those computed under RSPO standards.

These procedures are designed to provide basic guidance on eligibility for section 17(a)(2) grants, as well as the requirements and operation of the program. Detailed information will be provided in the "Application Instructions for Section 17(a)(2) Projects" which will be made available to all eligible applicants.

Due to the short period of time available for applications to be developed and submitted by the applicants, and reviewed by UMTA, these procedures are being issued without a formal public comment period; however, applicants, operators, and other interested parties are invited to submit comments on these procedures by September 10, 1976. UMTA will revise or amend the procedures to reflect any changes which may be considered necessary. Any applications submitted prior to the issuance of any such modification of these procedures will be required to be appropriately revised or amended.

Comments and questions about the section 17 program should be addressed to the Section 17 Task Force, c/o Office of Chief Counsel, File No. 76-02, Urban Mass Transportation Administration, Room 9320, 400 7th Street, S.W., Washington, D.C. 20590.

These guidelines and procedures have been reviewed in light of DOT Order 2050.4 (Procedures for Considering Inflationary Impacts), and it has been determined that an Inflation Impact Statement is not required.

Effective date: These guidelines and procedures are effective August 11, 1976.

Dated: August 11, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administrator.

Guidelines and Procedures for Section 17(a)(2) grants.

1. Purpose.
2. Definitions.
3. Eligible services and agencies.
4. Application process.
5. Requirements for continuation of service in 17(a)(2) period.
6. Term of grant and Federal share.
7. Conditions for Extension of grant through Optional Period III.
8. Payment.
9. Local matching share for Optional Periods II and III.
10. General Requirements.

AUTHORITY: Sec. 17, Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1613); 304(e), Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744).

1. PURPOSE

The purpose of this document is to issue guidelines and procedures for Urban Mass Transportation Administration rail passenger service grants to State or local transportation authorities under section 17(a)(2) of the Urban Mass Transportation Act of 1964, as added by section 808 of the Railroad Revitalization Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31, Feb. 5, 1976).

2. DEFINITIONS

As used herein: "Additional Costs" means generally the amount by which the subsidy computed in accordance with RSPO standards exceeds the amount or rate of compensation which the State or local transportation authority was obligated to pay the operator during the base year, to the extent that such costs were actually incurred and are eligible under RSPO standards for reimbursement under section 17(a)(2). The specific definition will vary according to the type of subsidy, as follows:

(a) where service is continued pursuant to the making of a rail service continuation payment in accordance with RSPO standards, Additional Costs are the amount by which the rail service continuation payment exceeds the amount or rate of compensation the State or local transportation authority was obligated to pay the operator for the corresponding period of the base year.

(b) where the authority and the operator have entered into an agreement establishing a total subsidy greater than that which would be required by the RSPO standards, Additional Costs are computed in the same manner provided in (1) above.

(c) where the authority and the operator have entered into an agreement establishing a total subsidy lower than that which would be required under RSPO standards, Additional Costs are the amount by which actual subsidy levels exceed the amount or rate the authority was obligated to pay the operator for the corresponding period of the base year.

Where no compensation was obligated to be provided to the operator by a State or local transportation authority during the Mandatory Period (i.e., where no subsidy payment was being made for service provided by the reorganized railroads immediately prior to April 1, 1976), the Additional Costs are the entire cost of the rail service continuation payment to the operator, as determined in accordance with the RSPO standards.

"Base year" means the one-year period immediately prior to the date of conveyance (April 1, 1975–March 31, 1976).

"Mandatory Period" means the period extending for 180 days, from April 1, 1976 through September 27, 1976, after the date of conveyance of bankrupt rail properties to ConRail. During this period ConRail is required by section 304(e)(1) of the Regional Rail Reorganization Act of 1973, as amended, to continue operation of rail passenger services which existed immediately prior to the date of conveyance.

"1973 Rail Act" means the Regional Rail Reorganization Act of 1973, as amended.

"Operator" means the Consolidated Rail Corporation (ConRail) or other operator of rail passenger services eligible for Federal assistance under section 17(a)(2) of the UMT Act.

"Optional Period" means the period commencing September 28, 1976 during which the operator must continue to provide service if it has received: (1) the compensation due from the State or local transportation authority for services operated during the Mandatory Period; and (2) the offer of a rail service continuation payment required by Section 304(e)(4) of the 1973 Rail Act. The Optional Period is divided in to three parts:

"Optional Period I", which is the 180 days immediately following the expiration of the Mandatory Period; inclusive dates are September 28, 1976 through March 26, 1977.

"Optional Period II", which is the 12-month period following the expiration of Optional Period I; inclusive dates are March 27, 1977 through March 31, 1978.

"Optional Period III", which is the 180-day period following the expiration of Optional Period II, during which Federal assistance is conditional upon compliance with Section G of these procedures; inclusive dates are April 1, 1978 through September 27, 1978.

"Rail passenger service" means both commuter and inter-city rail passenger services eligible for assistance under section 17 of the UMT Act and section 304(e) of the 1973 Rail Act. This does not include inter-city rail passenger services operated by the National Railroad Passenger Corporation pursuant to an agreement in effect prior to April 1, 1976.

"Rail service continuation payment" means a payment made by a State or local transportation authority under section 304(c)(2)(A) of the 1973 Rail Act to continue rail passenger service.

"RSPO" means the Rail Services Planning Office of the Interstate Commerce Commission.

"RSPO standards" means standards issued by the RSPO under section 205(d)(5) of the 1973 Rail Act, for the computation of subsidies for rail passenger service, and for the determination of emergency commuter rail passenger service operating payments pursuant to section 17 of the UMT Act.

"Service Level" means generally the number of train-miles of daily revenue operation. However, changes in train quality or attractiveness of service, or significant changes in costs, may be considered to constitute changes in service level.

"State or local transportation authority" means either a State agency or other public body which serves as the funding entity for rail passenger services operated under section 304(e) of the 1973 Rail Act, and as the recipient of Federal funds under section 17(a)(2) of the UMT Act. Also referred to herein as "authority" and "recipient".

"UMT Act" means the Urban Mass Transportation Act of 1964, as amended (49 USC 1601 et seq.).

3. ELIGIBLE SERVICES AND AGENCIES

(a) A list of the rail passenger services which are eligible for Federal assistance under section 17(a)(2) will be found in Attachment A of these procedures. This list is the most complete compilation of eligible rail passenger services which UMTA has been able to make. However, it is not intended to exclude other rail passenger services which may also be eligible under the authorizing statutes. UMTA will entertain applications from State or local authorities for such services.

(b) It is anticipated that the applicant for Federal assistance under these procedures will be the same State or local transportation authority which has provided compensation to the operator under section 17(a)(1) during the Mandatory Period. If the applicant is a different entity, or if no compensation was being provided to an operator from a State or local transportation authority during the Mandatory Period, then the applicant shall be an agency designated by the Governor. Such agency shall be a public agency legally capable of receiving and dispensing Federal funds, and entering into a formal agreement with UMTA.

4. APPLICATION PROCESS

By August 18, 1976, State or local transportation authorities desiring assistance under section 17(a)(2) shall submit a letter of application to UMTA (as set forth in the Application Instructions), along with as much required supporting material as is feasible. Remaining material needed to complete the application shall be submitted by September 1, 1976, unless a later date is approved by UMTA.

5. REQUIREMENTS FOR CONTINUATION OF SERVICE IN 17(a)(2) PERIOD

Financial assistance under section 17(a)(2) will be provided with the understanding that the State or local transportation authority has carried out its obligations to the operator under section 304(e)(4) of the 1973 Rail Act:

(a) to provide where applicable the compensation due to the operator for operations conducted during the Mandatory Period; and

(b) before September 28, 1976, to offer the operator a rail service continuation payment pursuant to section 304(c)(2)(A) of the 1973 Rail Act, and the RSPO regulations issued under section 205(d)(5) of the 1973 Rail Act.

6. TERM OF GRANT AND FEDERAL SHARE

(a) The base term of the section 17(a)(2) grant shall be from September 28, 1976 through March 31, 1978. This term encompasses (a) Optional Period I, from September 28, 1976 through March 26, 1977, during which the Federal share is 100% of the Additional Costs; and (b) Optional Period II, from March 27, 1977 through March 31, 1978, during which the Federal share is 90% of Additional Costs.

(b) If the recipient complies with the conditions of Section 7 of these procedures, UMTA will extend the term of the grant for an additional 180 days (Optional Period III), ending September 27, 1978. The Federal share of Additional Costs during Optional Period III will be 50%.

7. CONDITIONS FOR EXTENSION OF GRANT THROUGH OPTIONAL PERIOD III

For the grant to be extended through Optional Period III, the recipient shall comply with the following conditions by February 1, 1978, which is 60 days prior to the commencement of Optional Period III:

(a) The recipient shall submit to UMTA a statement signed by the Governor(s) of the State(s) concerned, and, if the recipient is an authority, ratified by the directors of such authority, that specific rail passenger services for which Federal assistance is being sought during Optional Period III will continue for a least one year after the expiration date of Optional Period III.

(b) The recipient shall provide UMTA with documentation that sufficient funds will be available through appropriation, tax sources, or otherwise to meet the RSPO-determined cost of operation for rail passenger services for the one-year period after the expiration of Optional Period III.

8. PAYMENT

(a) UMTA will reimburse the recipient for the Federal share (as indicated in section 6) of Additional Costs incurred by the recipient for the rail service continuation payments made to the operator for Optional Period service. If for any reason, the recipient and an operator negotiate a service level which is higher than the service levels in effect during the corresponding period of the base year, UMTA will be responsible for reimbursement of the Federal share of only those Additional Costs which would have been incurred had the service levels not been increased in the Optional Period. If service levels (and hence rail service continuation payments) are lowered during the Optional Period, the Additional Costs will be considered to be reduced in the ratio that the new rail service continuation payment required by RSPO standards bears to the previously required rail service continuation payment. If service levels are reduced at the commencement of Optional Period I, then Additional Costs will be based on the ratio that the rail service continuation payment for the Optional Period bears to the total Federal, State, and local subsidy for the Mandatory Period. The UMTA payment will then be the Federal share (100, 90, or 50 percent) of such Additional Costs.

(b) Determination of the amount of reimbursement to the recipient will be made in accordance with RSPO regulations, the Application Instructions, and these procedures. UMTA reserves the

V 41 159 AUG 16 76 UMI

right to impose such reasonable record-keeping and accounting requirements as may be necessary to facilitate the determination of reimbursable amounts.

(c) To the extent practicable, UMTA will make monthly payments to the recipient in accordance with RSPO regulations. The amount of such payments will be calculated in accordance with the projections of Additional Costs contained in the financial documentation portion of the recipient's UMTA-approved grant application.

All payments made to the recipient are subject to final adjustments based upon application of RSPO standards to actual cost data. Final adjustments will be made at the end of each Optional Period for payments made during taht period.

(d) In order to facilitate the timely processing of payments, the recipient shall submit requisitions for payment no less than 45 days before payment is due from the recipient to the operator. Requisitions shall be submitted to UMTA in the form and manner set out in the Application Instructions.

9. LOCAL MATCHING SHARE FOR OPTIONAL PERIODS I AND II

(a) The local matching share of Additional Costs required during Optional Period II (10%) and Optional Period III (50%) may not include funds from other Federal sources (including UMTA section 5 funds).

(b) Before the start of each Optional Period after Optional Period I, the recipient shall submit to UMTA documentation that sufficient funds will be available, through appropriations, tax sources, or otherwise, to meet the local matching share of Additional Costs for that period. For Optional Period II, such documentation shall be submitted by February 1, 1977; for Optional Period III, such documentation shall be submitted by February 1, 1978.

10. GENERAL REQUIREMENTS

The recipient shall comply with the general requirements of the "Application Instructions for Section 17(a)(2) Projects" regarding:

(a) Protection of the interests of employees.

(b) Public hearing; however, this hearing may be combined with the section 5 public hearing. Public hearings will be required before entering Optional Period III.

(c) Social, environmental, and economic impact.

(d) Civil rights and equal employment opportunity provisions.

(e) Distribution of transportation benefits.

(f) Fares for elderly and handicapped.

The general requirements of paragraphs (b) through (f) may be considered completed if the recipient has previously fulfilled these requirements as part of an application for section 5 operating assistance for the same rail passenger service which is the subject of the section 17 grant application. If the applicant choses to reference its section 5 grant application in satisfaction of requirements set out in the section 17 procedures and application instructions, it should understand that any actions or recommendations made by UMTA regarding compliance with any section 5 requirements will also apply to its section 17 grant.

Other general requirements for grants under the UMT Act have been determined to be inapplicable to the section 17 program.

ATTACHMENT A

Rail passenger services eligible for Federal assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Region: Boston.
Subsidizing Agency: Massachusetts Bay Transportation Authority, 500 Arborway, Jamaica Plain, Massachusetts 02130.
Railroad: Penn Central.
Routes:
1. South Station—Providence.[1]
2. South Station—Stoughton, Massachusetts.[2]
3. South Station—Franklin, Massachusetts.
4. South Station—Needham, Massachusetts.
5. South Station—Framingham, Massachusetts.

Region: Rhode Island.
Subsidizing Agency: Rhode Island DOT, State Office Building, Providence, Rhode Island 02903.
Railroad: Penn Central.
Route:
1. Providence—Westerly.

Region: New Jersey.
Subsidizing Agency: New Jersey DOT, 1035 Parkway Avenue, Trenton, New Jersey 08520.
Railroad: Central Railroad of New Jersey.
Routes:
1. Newark—Raritan.[3]
2. Newark—Bay Head.
3. Cranford—Bayonne at 33rd Street.

Railroad: Penn Central.
Routes:
1. Penn Station (N.Y.)—Trenton.[4]
2. Penn Station (N.Y.)—Bay Head.[5]
3. Princeton—Princeton Junction.

Railroad: Pennsylvania Reading Seashore Lines.
Routes:
1. Lindenwold—Cape May.
2. Lindenwold—Ocean City.
3. Lindenwold—Atlantic City.

Region: Philadelphia.
Subsidizing Agency: Southeastern Pennsylvania Transportation Authority, 2029 PSFS Building, 12 South 12th Street, Philadelphia, Pennylvania 19107.
Railroad: Reading Company.
Routes:
1. Reading Terminal—Newton.
2. Reading Terminal—Fox Chase.
3. Reading Terminal—Chestnut Hill.
4. Reading Terminal—Norristown.
5. Reading Terminal—West Trenton.
6. Reading Terminal—Warminster.
7. Reading Terminal—Lansdale.[6]
8. Reading Terminal—Pottsville.[7]
9. Reading Terminal—Bethlehem.[8]

Railroad: Penn Central.
1. 30th Street Station—Manayunk.
2. 30th Street Station—Chestnut Hill.
3. 30th Street Station—Trenton.
4. 30th Street Station—Media-West Chester.
5. 30th Street Station—Paoli.
6. 30th Street Station—Wilmington, Delaware.[9]

Region: Baltimore-Washington.
Subsidizing Agency: None.
Railroad: Penn Central.
Route: Baltimore-Washington.

Region: Northwest Ohio.
Subsidizing Agency: None.
Railroad: Erie-Lackawanna.
Route: Cleveland-Youngstown.

Region: Northwest Indiana.
Subsidizing Agency: None.
Railroad: Penn Central.
Route: Chicago-Valparaiso, Indiana.

[FR Doc.76-23779 Filed 8-13-76;8:45 am]

[1] Existing MBTA subsidy ends at Sharon, Massachusetts.
[2] Existing MBTA subsidy ends at Canton, Massachusetts.
[3] Some service extends as far as Phillipsburg.
[4] Most service on the main line terminates at New Brunswick.
[5] Some of this service operates only as far as South Amboy.
[6] Some service extends to Doylestown.
[7] Existing SEPTA subsidy ends at Pottstown, Pa.
[8] Existing SEPTA subsidy ends at Quakertown, Pa.
[9] Existing SEPTA subsidy ends at Marcus Hook, Pa. (State line).

V 41 159
AUG 16 76
UMI

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CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1976)

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_____	Title 41—Public Contracts and Property Management (Chapter 8)	022–003–93259–3	$1.80	$_____
_____	Title 40—Protection of Environment (Part 60–99)	022–003–93253–4	5.70	_____
_____	Title 31—Money and Finance: Treasury	022–003–93230–5	5.65	_____
_____	Title 41—Public Contracts and Property Management (Chapters 19–100)	022–003–93263–1	3.55	_____
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[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]

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V 41 159
AUG 16 76
UMI

160

Vol.51–No.160
8–17–76
PAGES
34731–34935

federal register

TUESDAY, AUGUST 17, 1976

highlights

BLACK LUNG BENEFITS
Labor/ESA proposal on disability or death benefit claims; comments by 8–30–76 34792

SCHOOL BREAKFAST PROGRAM
USDA/FNS amends regulations; effective 7–1–76 34757

FOOD STAMP PROGRAM
USDA/FNS extends eligibility and certification procedures for recipients; effective 7–1–76; comments by 9–16–76 34760

DRUGS
HEW/FDA issues notice on approval of new drug and sets forth regulations on testing of antibiotic drugs (2 documents); effective 8–17–76 34742

FOOD ADDITIVES
HEW/FDA provides for use of retention aid in paper and paperboard; effective 8–17–76; comments by 9–16–76.. 34742

BEEF
USDA/AMS sets hearing dates for September and October, 1976 on research and information order 34772

PROCESSED MEAT
USDA proposes importation limitations for foreign-trade zones; comment by 9–16–76 34777

PROTECTION OF HUMAN SUBJECTS
ERDA proposes rules for research and development supported by agency grants and contracts; comments by 10–18–76 34778

ASSOCIATION-TYPE LOANS
USDA/FmHA proposes amendments on community facilities; comments by 9–16–76 34767

DEFENSE PERSONNEL
DOD/Navy revises regulations on reporting procedures ... 34745

EMPLOYMENT
EEOC sets forth procedures for prevention of unlawful practices 34745

FUELS
FEO proposes exemption of naphtha jet fuel from mandatory allocation and price regulations; comments by 9–3–76 34784

CONTINUED INSIDE

V41160
AUG 17 76
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

FCC—Domestic public radio services; procedures..... 33889; 8–11–76
Offshore radio telecommunications service; creation..... 33883; 8–11–76

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 3735..... Pub. Law 94–380
"National Swine Flu Immunization Program of 1976".
(Aug. 12, 1976; 90 Stat. 1113)

S. 537..... Pub. Law 94–381
To improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes.
(Aug. 12, 1976; 90 Stat. 1119)

S. 3589..... Pub. Law 94–382
To designate the Federal office building located in Manchester, New Hampshire, as the "Norris Cotton Building".
(Aug. 12, 1976; 90 Stat. 1121)

H.R. 5360..... Pub. Law 94–383
To increase benefits provided to American civilian internees in Southeast Asia.
(Aug. 12, 1976; 90 Stat. 1122)

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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PETROLEUM
FEO proposal regarding noncompliance of mandatory regulations; comments by 8–27–76 34783

PRIVACY ACT OF 1974
The following agencies issue documents on implementation:
DOD/Army Department 34764
Commerce Department 34805
Postal Rate Commission 34792
Equal Employment Opportunity Commission 34815

RADIOCOMMUNICATION SERVICE TO VESSELS
FCC proposes to permit operation of communications system on Great Lakes; comments by 9–20–76; reply comments by 9–30–76 34790

NATIONAL CAPITAL PARKS
Interior/NPS regulations on soliciting, advertising and sales; effective 8–17–76 34748

MEETINGS—
State/AID: Funding for Food and Nutrition Research, 10–12 and 10–13–76 34796
DOD/Navy: Underwater Sound Advisory Committee, 9–20–76 34797
Interior/BLM: Burns District Advisory Board, 9–16 and 9–17–76 34797
Prineville District Advisory Board, 9–30–76 34798
Salt Lake District Multiple Use Advisory Board, 9–15 and 9–16–76 34798
NPS: Rocky Mountain Regional Advisory Committee, 8–23 to 8–25–76 34799
Statement for Management Cape Lookout National Seashore, North Carolina, 9–14–76 34799
USDA/FS: California Advisory Committee, 9–21 and 9–22–76 34803
HEW/OE: Advisory Council on Environmental Education's Work Group on Evaluation and Contributions, 8–31–76 34805
CRC: District of Columbia Advisory Committee, 9–9–76 34812
National Endowment for the Humanities: Public Programs Panel, 9–9 and 9–10–76 34833
SBA: Charlotte District Advisory Council, 9–17–76 34834
VA: Medical Research Service Merit Review Boards, 9–76 and 10–76 34835

PART II:
NEW ANIMAL DRUG APPLICATIONS
HEW/FDA proposals, withdrawal of proposals and opportunities for hearings (5 documents); comments by 9–16–76 34883

PART III:
PEST CONTROL
DOD/Army proposes regulations on services; comments 9–16–76 34923

PART IV:
EQUAL EMPLOYMENT
FCC proposes regulations for cable television applicants; comments by 11–10–76; reply comments 12–10–76 34929

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Authority delegations:
Brazil, Aid Representative 34796
Glenwood P. Roane, contracting function; cancellation 34796
Meeting:
Research Advisory Committee 34796

AGRICULTURAL MARKETING SERVICE
Rules
Grapefruit, imported 34762
Pears, plums, and peaches (fresh) grown in Calif 34762
Raisins, processed; grade standards 34751
Proposed Rules
Beef research and information; practice and procedures 34772
Irish potatoes grown in Southeastern States 34766

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Notices
Environmental statements; availability, etc.:
Agricultural Conservation Program 34803

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service Animal and Plant Health Inspection Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration; Food and Nutrition Service; Forest Service; Rural Electrification Administration.
Proposed Rules
Limitation on meat imports; regulations regarding processing in foreign-trade zones 34777

AIR FORCE DEPARTMENT
Notice
Environmental statement, etc.:
McGhee-Tyson Airport, Tennessee 34796

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Livestock and poultry quarantine:
Scabies in cattle 34731

ARMY DEPARTMENT
Proposed Rules
Pest control; facilities engineering 34923
Privacy Act of 1974; implementation 34764

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Meetings:
Public Programs Panel 34833

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Frontier Airlines, Inc 34812

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Connecticut 34812
Delaware 34812
District of Columbia 34812
Georgia 34813
Iowa 34813
Montana 34813
New Jersey 34813

V41I160 AUG 17 76 UMI

V 41 160
AUG 17 76
UMI

CONTENTS

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Community Services Administration ---- 34731

Notices

Noncareer executive assignments:
Treasury Department ---- 34814

COMMERCE DEPARTMENT

See also Economic Development Administration.

Notices

Privacy Act of 1974; adoption of new general routine use and additional system of records ---- 34805

DEFENSE DEPARTMENT

See Air Force; Army Department; Navy Department.

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
Round stainless steel wire industry ---- 34804

EDUCATION OFFICE

Notices

Meeting:
Advisory Council on Environmental Education's Work Group on Evaluation and Contributions ---- 34805

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Migrant and other seasonally employed farmworker programs; correction ---- 34835

EMPLOYMENT STANDARDS ADMINISTRATION

Proposed Rules

Black lung disease; claims for disability or death benefits ---- 34792

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Rules

Conduct of employees ---- 34731

Proposed Rules

Protection of human subjects; research and development ---- 34778

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans, various states:
New Mexico ---- 34749

Proposed Rules

Air quality implementation plans; various States, etc.:
California ---- 34782

Notices

Air quality implementation plans; various States, etc.:
California ---- 34814
Pesticide applicator certification; State plans:
Delaware ---- 34814
Nevada ---- 34815

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules

Procedural regulations:
Definition of terms "region" and "district" ---- 34745
Prevention of unlawful employment practices ---- 34745

Notices

Privacy Act; additional routine use ---- 34815

FARMERS HOME ADMINISTRATION

Proposed Rules

Association, community facility loans ---- 34767

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Cable television; applicant nondiscrimination ---- 34815
FM broadcast stations; table of assignments:
California ---- 34789
Utah ---- 34787
Vessels on Great Lakes; radiocommunication service ---- 34790

Notices

FM broadcast applications ready and available for processing ---- 34923

FEDERAL ENERGY OFFICE

Proposed Rules

Civil and criminal penalties; definition of term ---- 34783
Petroleum allocation regulations; mandatory:
Naphtha jet fuel ---- 34784

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Forwarding Services, Inc., et al. 34817
Agreements filed, etc.:
Far East Conference/Pacific Westbound Conference ---- 34817
Lykes Bros. Steamship, Inc. and Strachan Shipping Co. (2 documents) ---- 34818
South and East Africa/U.S.A. Conference ---- 34818
United States/South and East Africa Conference ---- 34819

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Bonneville Power Administration ---- 34819
Central Hudson Gas and Electric Corp ---- 34819
Central Maine Power Co ---- 34820
Cincinnati Gas and Electric Co. 34820
Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co ---- 34820
Florida Power and Light Co ---- 34821
Illinois Power Co ---- 34821
Iowa Southern Utilities Co ---- 34821
Missouri Public Service Co ---- 34822
Missouri Utilities Co. (2 documents) ---- 34822
Monongahela Power Co ---- 34822
Northern Michigan Exploration Co., et al ---- 34823
Northern Natural Gas Co. (2 documents) ---- 34823, 34824
Northern Natural Gas Co. and Panhandle Eastern Pipe Line Co ---- 34825
Northern States Power Co ---- 34825
Pacific Gas and Electric Co ---- 34825
Public Service Co. of Oklahoma 34826
Small Producer Regulation ---- 34826
Southern California Edison Co. 34832
Southern Energy Co ---- 34826
Southern Natural Gas Co., et al. 34827
Southwestern Power Administration ---- 34828
Specified reasonable rate of return as provided in hydroelectric project licenses ---- 34830
Texas Gas Transmission Corp. 34831
Transcontinental Gas Pipe Line Corp ---- 34831

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
International Bancorporation 34832

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
New England Tractor Trailer Training of Massachusetts, Inc., et al.; correction ---- 34742

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Mark Twain National Wildlife Refuge Iowa (4 documents) 34750, 34751
Seney National Wildlife Refuge, Michigan (2 documents) ---- 34750

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Numerical listing of sponsors ---- 34743
Food additives:
Dimethylamine-epichlorohydrin copolymer ---- 34742
Human drugs:
Petri dish covers used in microbiological assay of certain antibiotic drugs ---- 34742

Proposed Rules

Animal drugs, feeds, and related products:
Furazolidone, nihydrazone, furaltadone, nitrofurazone ---- 34883

CONTENTS

Notices

Animal drugs:
Furaltadone; opportunity for hearing on proposal to withdraw approval ---- 34891
Furazolidone; opportunity for hearing on proposal to withdraw approval; corrections ---- 34891
Nihydrazone; opportunity for hearing on proposal to withdraw approval ---- 34908
Nitrofurazone (NF-7), opportunity for hearing on proposal to withdraw approval ---- 34899
Human drugs:
Oral reserpine; hearing on proposal to withdraw approval ---- 34806

FOOD AND NUTRITION SERVICE

Rules

Food stamp program:
State agencies and eligible households participation ---- 34760
School breakfast program; child nutrition programs ---- 34757

FOREST SERVICE

Notices

Meeting:
California Advisory Committee 34803

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Public Health Service.

Notices

Organization, functions, delegations of authority:
Rehabilitation Services Administration, Office of Human Development ---- 34807
Regulatory policies; memorandum ---- 34811

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT

Notices

Applications, etc.:
Bethlehem Mines Corp ---- 34801
L and M Coal Co., Inc ---- 34802

INDIAN AFFAIRS BUREAU

Rules

Irrigation projects; operation and maintenance charges:
Fort Apache Indian; Arizona 34743

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Hearings and Appeals Office, Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Redwood National Park; boundary modifications ---- 34802
Southwestern Power Administration, Tulsa, Oklahoma; legal review of procurement actions 34803

INTERSTATE COMMERCE COMMISSION

Notices

Abandonment of railroad services, etc.:
St. Louis Union Station, St. Louis, Mo ---- 34847
Hearing assignments ---- 34845
Motor carriers:
Lease and interchange of vehicles ---- 34847
Transfer proceedings (2 documents) ---- 34846, 34847
Transportation of waste products for reuse or recycling ---- 34848

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration; Wage and Hour Division.

Notices

Adjustment assistance:
A. Jacobs and Sons, Inc ---- 34837
Advance Manufacturing Corp. 34837
Chicopee Coat Co ---- 34838
Electro-Mechanical Products 34838
Lawrence Garment Co ---- 34839
Marlboro Footwear Corp ---- 34839
Massillon Spring and Rivet Corp ---- 34840
San-Toro Manufacturing Co ---- 34840
Stafford Clothing Manufacturing Co ---- 34841
Stylecraft Clothing Co ---- 34841
Tarra Hall Clothes, Inc ---- 34842
Teledyne Pittsburg Tool Steel 34843
Washburn Wire Co ---- 34843
WESCO Industries Corp ---- 34844
White Pine Copper Co ---- 34844
Williams Manufacturing Co ---- 34845

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Utah ---- 34749

Notices

Applications, etc.:
New Mexico ---- 34797
Designation of Negit Island Natural Area; correction ---- 34797
Meetings:
Burns District Advisory Board 34797
Montrose District Multiple Use Advisory Board ---- 34798
Prineville District Advisory Board ---- 34798
Salt Lake District Multiple Use Advisory Board ---- 34798
Withdrawal and reservation of lands, proposed, etc.:
Arizona ---- 34798

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests ---- 34833

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Certification; James King, Jr ---- 34833

NATIONAL PARK SERVICE

Rules

National Capital Parks:
Soliciting, advertising sales ---- 34748

Notices

Authority delegations:
Rocky Mountain Region, Superintendents, et al ---- 34799
Historic Places National Register; additions, deletions, etc ---- 34800
Meetings:
Cape Lookout National Seashore, North Carolina ---- 34799
Rocky Mountain Regional Advisory Committee ---- 34799
Permits; building:
Potomac River ---- 34801

NATIONAL SCIENCE FOUNDATION

Notices

Deep sea drilling project; availability of results ---- 34833

NAVY DEPARTMENT

Rules

Defense related employment; reporting procedures ---- 34745

Notice

Meeting:
Underwater Sound Advisory Committee ---- 34797

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices

State plans; development, enforcement, etc.:
Iowa ---- 34835
Washington (3 documents) ---- 34836, 34837

POSTAL RATE COMMISSION

Proposed Rules

Privacy Act; implementation ---- 34792

PUBLIC HEALTH SERVICE

Rules

Health Systems Agencies; designation; correction ---- 34749

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Environmental statements; availability, etc.:
Brazos Electric Power Cooperative, Inc., and South Texas Electric Cooperative, Inc ---- 34803
Chugach Electric Association, Inc ---- 34804
Tri-State Generation and Transmission Association, Inc ---- 34804

V 41 160
AUG 17 76
UMI

CONTENTS

SMALL BUSINESS ADMINISTRATION
Notices
Applications, etc.:
Chinese American Investment Corp ---- 34834
First Business Investment Corp ---- 34834
Disaster areas:
New York ---- 34834
Meetings:
Charlotte District Advisory Council ---- 34834

STATE DEPARTMENT
See also Agency for International Development.
Rules
Civil aviation:
Recommendations to the President; correction ---- 34743
Notices
Bridge permit applications:
Presidio County, Texas ---- 34796

VETERANS ADMINISTRATION
Notices
Meetings:
Medical Research Service Merit Review Boards ---- 34835

WAGE AND HOUR DIVISION
Rules
Puerto Rico; wage orders; certain industries:
Textile mill products ---- 34744

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"
Weekly Briefings at the Office of the Federal Register
(For Details, See 41 FR 22997, June 8, 1976)
RESERVATIONS: JANET SOREY, 523-5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR
213 ---- 34731

7 CFR
52 ---- 34751
220 ---- 34757
271 ---- 34760
917 ---- 34762
944 ---- 34762
PROPOSED RULES:
16 ---- 34777
953 ---- 34766
1260 ---- 34772
1823 ---- 34767

9 CFR
73 ---- 34731

10 CFR
700 ---- 34731
735 ---- 34731
PROPOSED RULES:
205 ---- 34783
210 ---- 34784
211 ---- 34784
212 ---- 34784
705 ---- 34778

16 CFR
13 ---- 34742

20 CFR
PROPOSED RULES:
725 ---- 34792

21 CFR
121 ---- 34742
436 ---- 34742
510 ---- 34743
PROPOSED RULES:
510 ---- 34884
526 ---- 34884
540 ---- 34884
556 ---- 34884
558 ---- 34884

22 CFR
102 ---- 34743

25 CFR
221 ---- 34743

29 CFR
699 ---- 34744
1601 (2 documents) ---- 34745

32 CFR
722 ---- 34745
PROPOSED RULES:
505 ---- 34764
657 ---- 34924

36 CFR
50 ---- 34748

39 CFR
PROPOSED RULES:
3003 ---- 34792

40 CFR
52 ---- 34749
PROPOSED RULES:
52 ---- 34782

42 CFR
122 ---- 34749

43 CFR
PUBLIC LAND ORDERS:
5599 ---- 34749

47 CFR
PROPOSED RULES:
73 (2 documents) ---- 34787-34789
76 ---- 34930
81 ---- 34790
83 ---- 34790

50 CFR
32 (6 documents) ---- 34750, 34751

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR
PROPOSED RULES:
18 ---- 32861

3 CFR
PROCLAMATIONS:
3279 (See EO 11930) ---- 32399
EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ---- 34035
October 19, 1911 (Revoked in part by PLO 5598) ---- 34035
April 16, 1912 (Revoked in part by PLO 5598) ---- 34035
October 27, 1914 (Revoked in part by PLO 5598) ---- 34035
6276 (Revoked in part by PLO 5596) ---- 33267
11652 (See EO 11932) ---- 32691
11790 (See EO 11930) ---- 32399
11814 (See EO 11930) ---- 32399
11912 (See EO 11930) ---- 32399
11930 ---- 32399
11931 ---- 32689
11932 ---- 32691
DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ---- 32693
July 30, 1976 ---- 32693
MEMORANDUMS:
July 19, 1976 ---- 32403

5 CFR
213 ---- 32892, 33545, 43246, 34731
591 ---- 32892

7 CFR
35 ---- 32877
52 ---- 32222, 34751
103 ---- 34005
105 ---- 34005
106 ---- 34005
108 ---- 34006
111 ---- 34006
220 ---- 32405, 34757
235 ---- 32405
271 ---- 34760
331 ---- 32229, 32409
722 ---- 32878
790 ---- 34247
791 ---- 34247
905 ---- 34248
908 ---- 32229, 32695, 34006
910 ---- 32878, 34248
916 ---- 32410
917 ---- 32410-32411, 34762
928 ---- 34007
944 ---- 34762
947 ---- 32230, 32695
989 ---- 32412
1012 ---- 32417
1099 ---- 32575
1124 ---- 32418
1421 ---- 32879
1430 ---- 32881
1472 ---- 34248
1701 ---- 33546
1806 ---- 34571
1821 ---- 32575
1822 ---- 34577, 34678
1831 ---- 32575, 32697
1861 ---- 32576
1871 ---- 32576
1872 ---- 32577, 32578
1890c ---- 32578
1901 ---- 34583
1955 ---- 32697
PROPOSED RULES:
16 ---- 34777
47 ---- 32231
51 ---- 32896
909 ---- 32234
910 ---- 33922
911 ---- 34049
919 ---- 32234
926 ---- 34647
927 ---- 34050
930 ---- 32606
931 ---- 32757
946 ---- 32758
953 ---- 34766
981 ---- 34647
991 ---- 34648
993 ---- 33275
1004 ---- 34282
1007 ---- 33275
1011 ---- 33275, 34444
1030 ---- 33275
1032 ---- 33275
1033 ---- 34444
1046 ---- 33275
1049 ---- 33275
1050 ---- 33275
1062 ---- 33275
1063 ---- 33275
1064 ---- 33275
1065 ---- 33275
1068 ---- 33275
1070 ---- 33275
1071 ---- 33275
1073 ---- 33275
1076 ---- 33275
1078 ---- 33275
1079 ---- 33275
1090 ---- 33275, 34444
1094 ---- 33275
1096 ---- 33275
1097 ---- 33275
1098 ---- 33275
1099 ---- 33275
1101 ---- 33275, 34444
1102 ---- 33275
1104 ---- 33275
1106 ---- 33275
1108 ---- 33275
1120 ---- 33275
1124 ---- 34286
1126 ---- 33275
1131 ---- 33275
1132 ---- 33275
1138 ---- 33275
1207 ---- 32606
1260 ---- 34772
1430 ---- 32899
1701 ---- 32419
1801 ---- 33561
1813 ---- 33922
1823 ---- 34767
1861 ---- 33561
1980 ---- 33561

8 CFR
100 ---- 32419

9 CFR
73 ---- 32882, 34731
76 ---- 32882
83 ---- 32432
113 ---- 32882
201 ---- 34007
PROPOSED RULES:
327 ---- 34293

10 CFR
35 ---- 34635
211 ---- 33881
212 ---- 34008
700 ---- 34731
735 ---- 34731
PROPOSED RULES:
205 ---- 34783
210 ---- 34784
211 ---- 34784
212 ---- 33282, 34080, 34784
705 ---- 34778

12 CFR
217 ---- 32578
561 ---- 32419
563 ---- 32419
611 ---- 33546
615 ---- 33547
618 ---- 33547
PROPOSED RULES:
16 ---- 32864
225 ---- 33306
584 ---- 33566

13 CFR
105 ---- 33547
120 ---- 33245
122 ---- 33549
PROPOSED RULES:
120 ---- 33567

14 CFR
13 ---- 32205
39 ---- 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583-34585
47 ---- 34009
49 ---- 34009
71 ---- 32734, 32735, 33248, 33247, 34010, 34011, 34586, 34587
73 ---- 34011, 34587
95 ---- 34011
97 ---- 32735, 34016
253 ---- 34249
300 ---- 34587
300 ---- 34587
310 ---- 32579
PROPOSED RULES:
39 ---- 32238, 32239, 34076, 34649
45 ---- 34076
71 ---- 32240, 32758-32759, 33280, 34077, 34650
73 ---- 34077, 34650
75 ---- 34077
300 ---- 34650

15 CFR

905 34017

16 CFR

13 ..... 32420, 34019, 34249, 34742
15 34594
433 34594

PROPOSED RULES:

456 33925
700 34654
704 32911
1145 33636
1150 33636
1500 33639

17 CFR

200 32736
210 32737

PROPOSED RULES:

239 32540
240 ..... 32856, 33004
270 32760

18 CFR

2 ..... 32883, 33364
154 33364
157 ..... 32212, 32883,

PROPOSED RULES:

1 34324
2 32910
35 32911
154 32911
260 ..... 33642, 33780

19 CFR

142 33248
153 ..... 32421, 32893, 34597
159 ..... 32230, 34250
158 33248

PROPOSED RULES:

1 ..... 34049, 34261
18 34271
101 34261
123 34271
144 34271
201 34081

20 CFR

404 32885
410 33549

PROPOSED RULES:

404 34060
701 34294
702 34294
725 34972

21 CFR

2 ..... 32738, 32886
5 ..... 33248, 34597
11 33249
27 32886
121 ..... 32580, 34598, 34742
193 32888
310 32580
436 34742
510 ..... 32213, 34743
520 32889
522 ..... 32583, 32889, 33882
555 ..... 32583, 33882
701 32583

21 CFR—Continued

PROPOSED RULES:

1 34051
500 ..... 32434, 34052
510 34884
526 34884
540 34884
556 34884
558 34884
1301 32756

22 CFR

102 34743
606 33550

PROPOSED RULES:

130 33446

23 CFR

230 34239
420 33440
630 33253

PROPOSED RULES:

658 32240
661 33280
1204 33280

24 CFR

10 33909
203 32216
207 32216
220 32216
260 34608
300 34611
886 32686
1914 ..... 32216, 32738, 33551
1915 33911
1916 ..... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ..... 33255–33260, 34022–34025
1920 ..... 33260–33262, 34611–34618
1930 34618
1931 34618
2205 32359

PROPOSED RULES:

201 32564
570 34301
868 32370
1710 34648
1917 ..... 34063–34075, 34305–34322
2205 32237

25 CFR

41 33556
43h 32421
221 34743

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619
20 34627
25 34628
141 ..... 32889, 32890
301 34025

PROPOSED RULES:

1 33285
31 32231
54 32895

28 CFR

16 32423

29 CFR

699 34744
1601 34745
1602 33557
1952 ..... 32424, 34251, 34252
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

1601 33924
1910 ..... 32911, 32912
1952 ..... 32912, 34298
2200 34657

30 CFR

55 33263
56 33263
57 33263

31 CFR

PROPOSED RULES:

210 32605

32 CFR

581 34253
722 34745
725 32742

PROPOSED RULES:

505 34764
642 32346
657 34924
1286 32231

33 CFR

117 ..... 32217, 34034
127 32742
207 34034

PROPOSED RULES:

110 34649
117 32238
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263
50 34748

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

3002 32742

PROPOSED RULES:

3003 34792

40 CFR

52 ..... 32743, 32890, 34259, 34749
60 ..... 33264, 34628
61 ..... 33264, 34629
87 34722

40 CFR—Continued

180 ..... 32426, 33265, 34629
402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34422, 34782
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
8–1 32219
8–3 32219
28–1 32426

101–20 34629
101–26 34630
101–32 34634

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891

PUBLIC LAND ORDERS:

5592 32589
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749

43 CFR—Continued

PROPOSED RULES:

232 34299
302 34298

45 CFR

121d 33558
177 33268
190 33868
801 33559
1069 33268

PROPOSED RULES:

73b 32235
146 34052
190 33962

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560
74 ..... 32429, 32593
76 32429
78 32429
83 32220
89 ..... 32680, 33902
91 ..... 32680, 33889, 33903
93 ..... 32682, 33907
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 32434
33280, 33281, 33566, 34078, 34079, 34323, 34787–34789
76 ..... 32381, 34930

47 CFR—Continued

PROPOSED RULES—Continued

81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242

49 CFR

81 32593
192 34598
195 34035
571 32221
575 34607
613 33443
1033 ..... 32221, 32429, 32430, 34607
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 34260

PROPOSED RULES:

266 33354
571 33280
801 34082
1067 33307
1109 32434
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751
33 ..... 32222, 32431, 32603, 32755
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	33545–33880	10
32399–32574	3	33881–34003	11
32575–32688	4	34005–34238	12
32689–32875	5	32239–34570	13
32877–33244	6	34571–34730	16
33245–33543	9	34731–34935	17

V 41 160
AUG 17 76
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

Section 213.3373 is amended to show that one position of Confidential Secretary (Stenography) to the Deputy Director is excepted under Schedule C.

Effective on publication August 17, 1976, § 213.3373(a)(7) is added as set out below:

§ 213.3373 Community Services Administration.

(a) *Office of the Director.* • • •

(7) One Confidential Secretary (Stenography) to the Deputy Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24136 Filed 8-16-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Release of Area Quarantined

This amendment releases a portion of Filmore County in Nebraska from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded area. No areas in Nebraska remain under quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

§ 731.1a [Amended]

In § 73.1a, paragraph (b) relating to the State of Nebraska is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendment shall become effective August 11, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of August 1976.

F. W. HANSEN, JR.,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76-23849 Filed 8-16-76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 700—CONDUCT OF EMPLOYEES

PART 735—CONDUCT OF EMPLOYEES

These regulations on Conduct of Employees for the Energy Research and Development Administration (ERDA) are revised and redesignated as Part 735, Title 10, CFR.

On January 19, 1975, the former Atomic Energy Commission (AEC) was abolished and ERDA was established as one of two successor agencies pursuant to the provisions of the Energy Reorganization Act of 1974, Pub. L. 93–438; (42 U.S.C. 5801); 88 Stat. 1233. By section 301(b) of that Act the regulations of the AEC which were in effect on that date continued in effect until modified, terminated, superseded, set aside, or revoked by appropriate action or operation of law. On March 3, 1975, notice was given in the FEDERAL REGISTER (40 FR 8794), of ERDA's intent to republish and recodify all regulations applicable to ERDA; and as an interim measure, the regulations of the ABC codified as Parts 0–170 of Title 10, CFR, were redesignated as Parts 700 through 870 of a new Chapter III of Title 10, CFR. 10 CFR Part 700 contains the existing ERDA regulations on Conduct of Employees, which are hereby revised in their entirety and redesignated as Part 735. The current Part 735, Human Uses of Byproduct Material, has no applicability to ERDA, and the material contained therein is hereby removed from 10 CFR, Chapter III.

The establishment of ERDA and its different organizational structure from that of the AEC have rendered obsolete many of the procedural aspects of the existing Conduct of Employees regulations. The expanded program responsibilities of ERDA have also made changes desirable in certain substantive aspects of the revised regulations.

The new Part 735 reflects this change in agency name, organizational structure and functions. It includes a number of language changes designed to achieve greater clarity and employee understanding of the regulations. Substantive changes include:

1. Reducing the level of stock and bond interests determined to be "too remote or too inconsequential to affect the integrity of government officers' or employees' services" under 18 U.S.C. section 208;

2. Enlarging the scope of financial interests required to be reported to include such "remote" or "inconsequential" interests; and

3. Broadening the criteria for determining positions which require the filing of employment and financial interest statements.

Because this revision relates solely to matters of agency management or personnel, good cause exists for omitting notice of proposed rulemaking, and public procedure thereon as unnecessary and for making this revision effective on August 17, 1976.

In consideration of the foregoing, Part 735 is removed, and Part 700 is revised and redesignated as Part 735 as set forth below. This Part 735, Conduct of Employees, has been approved by the Civil Service Commission.

Although these regulations become effective on August 17, 1976, interested persons who desire to submit written comments or suggestions for consideration in connection with such regulation should send them on or before November 1, 1976, to the General Counsel, Energy Research and Development Administration, Washington, D.C. 20545.

Effective date: August 17, 1976.

ROBERT C. SEAMANS, JR.,
Administrator.

Therefore 10 CFR Part 700 is revised and redesignated Part 735 as set forth

V 41 1 160 AUG 17 76 UMI

below and the material contained in the present Part 735 is revoked:

Subpart A—General

Sec.
735.1 Policy.
735.2 Program objective.
735.3 Responsibilities and authorities.
735.4 Definitions.
735.5 Basic requirements.
735.6 National emergency application.

Subpart B—Conflict of Interest Restrictions

735.20 General.
735.21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).
735.22 Future employment (based on 18 U.S.C. 208).
735.23 Activities of officers and employees in claims against and other matters affecting the Government (based on 18 U.S.C. 205).
735.24 Receiving salary from source other than the United States Government (based on 18 U.S.C. 209).
735.25 Compensation to employees in matters affecting the Government (based on 18 U.S.C. 203).
735.26 Disqualification of former officers and employees in matters connected with former duties or official responsibilities (based on 18 U.S.C. 207).
735.27 Appearances by former employees before ERDA.
735.28 Confidential statements of employment and financial interests.

Subpart C—Other Restrictions Imposed by Statute on Conduct of Employees

735.30 Description of statutory provisions.

Subpart D—Other Restrictions Imposed by ERDA on Conduct of Employees

735.40 Outside employment and other outside activity.
735.41 Misuse of information.
735.42 Gifts, entertainment, and favors.
735.43 Use of Government property.
735.44 Scandalous conduct.
735.45 Employee indebtedness.
735.46 Gambling, betting, and lotteries.
735.47 Handling of funds entrusted by fellow employees.
735.48 Ex parte contacts.
735.49 Employment under professional term appointments of persons on extended leave of absence from a previous employer with reemployment rights or other benefits with the previous employer.
735.49a Other proscribed actions.

Subpart E—Ethical and Other Conduct Responsibilities of Special Government Employees

735.50 Use of Government employment.
735.51 Use of inside information.
735.52 Coercion.
735.53 Gifts, entertainment, and favors.
735.54 Miscellaneous statutory provisions.
735.55 Applicable standards of conduct.
Appendix A Concurrent Resolution.
Appendix B Position Categories Requiring Statements of Employment and Financial Interests By Incumbents.
Appendix C Criteria for Determining Positions or Categories of Positions Listed in Appendix B.

AUTHORITY: Pub. L. 94-438, sec. 105(a), 88 Stat. 1238 (42 U.S.C. 5815).

Subpart A—General

§ 735.1 Policy.

(a) The personnel policy of the U.S. Energy Research and Development Administration states in ERDA Manual 4101, in part, that:

> Conduct and self-discipline of ERDA employees, both on and off the job, must measure up to unusual standards * * *. (ERDA Manual Appendix 4101, Personnel Policy—Foreword, paragraph 3.)

(b) Section 735.101 of the Civil Service Commission regulations (5 CFR 735.101), issued pursuant to Executive Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees," May 8, 1965, states that:

> The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards * * *.

§ 735.2 Program objective.

(a) The program objective is to protect the interests of the public and employees by setting forth principles, practices, and standards governing conduct of employees in such a manner that they may be readily understood by the individuals involved and practicably administered by ERDA.

(b) It is expected that the provisions of this part will be observed and administered in a manner which is consistent with both their spirit and their letter.

(c) Of necessity, because of the nature of the criminal statutes and the subject matter involved, this part cannot deal with all of the problems which may arise with regard to the conduct, including conflicts of interest, of employees and former employees.

§ 735.3 Responsibilities and authorities.

(a) Employees shall:

(1) Comply with the statutes and the rules, standards of conduct, and other regulations set forth in this part.

(2) Consult the full text of applicable statutes as to whether an action in question may in any way violate the statutes.

(3) Be guided in all their actions by the Code of Ethics for Government Service, adopted by Concurrent Resolution of the Congress (Appendix A).

(4) Conduct themselves in such a manner as to create and maintain respect for ERDA and the U.S. Government and avoid situations which require or appear to require a balancing of private interests or obligations against official duties.

(5) Be mindful of the high standards of integrity expected of them in all their activities, personal and official.

(6) Not give or appear to give favored treatment or competitive advantage to any member of the public including former employees of ERDA, appearing before them on their own behalf or on behalf of any nongovernmental interest.

(7) Recognize that violation of any of the instructions or statutes referred to in this part may subject them to disciplinary action by ERDA in addition to the penalty prescribed by law for such violation.

(8) Discuss with their immediate supervisor, or counselor as appropriate, any problem arising out of this part.

(b) Supervisors:

(1) Inform themselves of any problems of their employees arising out of this part, consult with the cognizant ERDA counselor as appropriate, and take prompt action to see that the problems, if they cannot be resolved, are referred to higher authority.

(2) Relieve employees from assignments in accordance with § 735-22(a).

(c) The Deputy Administrator assumes responsibilities assigned in §§ 735-22(b), 735-28, 735-40(d), and 735-42(c)(10).

(d) The Heads of Headquarters Divisions and Offices and Heads of Field Organizations:

(1) Bring to the attention of appropriate contractors under their jurisdiction those provisions of this part (such as "Future Employment"; "Ex Parte Contracts"; "Assisting Former Employees"; "Gifts, Entertainment, and Favors"; "Cancellation of Contracts"; and others) which may affect the actions of a contractor and his employees in dealing with ERDA employees.

(2) Report to the Office of Internal Review all complaints concerning fraud, graft, corruption, diversion of ERDA assets, and misconduct of ERDA employees; take action as a result of investigations; and report on action taken, as provided in ERDA Manual Chapter 0702, "Notification and Investigation of Misconduct."

(3) Assume responsibilities assigned in §§ 735-21(b), 735-23(d), 735-27, 735-28, 735-40(b), and 735-49(a). In addition Heads of Field Organizations assume responsibilities assigned in § 735-22(b).

(e) The Heads of Headquarters Divisions and Offices and Heads of Field Organizations in addition:

(1) Provide a copy of this part to each employee and special Government employee, and to each such new employee at the time of his entrance on duty.

(2) Provide a copy of all revisions to each employee and special Government employee.

(3) Bring the provisions of this part to the attention of each employee and special Government employee annually, and at such other times as circumstances warrant.

(4) Assure the availability of counseling services under paragraph (h) of this section to each employee and special Government employee.

(5) Have available for review by employees and special Government employees, as appropriate, copies of laws, Executive Order 11222, ERDA regulations, and pertinent Civil Service Commission regulations and instructions relating to ethical and other conduct.

(6) Notify employees and special Government employees at time of entrance on duty and periodically thereafter of the availability of counseling services under paragraph (h) of this section and how and where these services are available.

(f) The Director, Division of Personnel, Headquarters, assumes the responsibilities assigned in § 735-49.

(g) The Director, Office of Internal Review, Headquarters, investigates all questions of employees' conduct, fraud, etc., in ERDA, in accordance with ERDA Manual Chapter 0702.

(h) The General Counsel:

(1) Is the counselor for ERDA.

(2) Serves as ERDA's designee to the Civil Service Commission on matters covered by this part.

(3) Designates deputy counselors for the Headquarters and for field organizations.

(4) Coordinates counseling services, and assures that counseling and interpretations on questions of conflicts of interest and other matters covered by the part are available to deputy counselors.

(5) Carries out the specific responsibilities assigned in §§ 735-21(b), 735-27, 735-28, and 735-49 (a) and (b).

§ 735.4 Definitions.

(a) "Administrator" means the head of ERDA, as provided by the Energy Reorganization Act of 1974, Section 102, Pub. L. 93-438, (42 U.S.C. 5812).

(b) "ERDA" means the agency established by the Energy Reorganization Act of 1974, Section 101, Pub. L. 93-438 (42 U.S.C. 5811), comprising all officers, employees, and representatives authorized to act in any case or matter, whether clothed with final authority or not.

(c) "Employee" means an ERDA officer or employee (including regular employee and, except where the contents indicate otherwise, a special government employee) or a member of the Uniformed Services or an employee of another Government agency assigned or detailed to ERDA.

(d) "Former employee" means a former Government employee (regular or special Government employee formerly employed by ERDA or by a component of an agency transferred to ERDA by the Energy Reorganization Act of 1974) and a former member of the Uniformed Services (other than enlisted personnel) assigned or detailed to ERDA.

(e) "Special Government employee" means an officer or employee of ERDA, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. The term includes ERDA consultants, experts, and members of advisory boards, but does not include enlisted members of the Uniformed Services.

(f) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(g) "Organization," as used in this part in connection with 18 U.S.C. 208, means universities, foundations, nonprofit research entities and similar nonprofit organizations, States, counties and municipalities and subdivisions thereof as well as business organizations.

(h) "Head of Divisions and Offices, Headquarters," means the Director of a Headquarters Division or Office. For employees in the immediate office of the Administrator, Deputy Administrator or an Assistant Administrator, the term refers to the particular official (Administrator, Deputy Administrator or the Assistant Administrator) to whom the employee reports.

(i) "Head of a Field Organization" means the Manager of an Operations Office, the Director of an Energy Center, or the Head of a Field Office reporting directly to an Assistant Administrator or Headquaters Division or Office Director.

(j) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(k) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Science Services Administration, and Public Health Services. (37 U.S.C. 101(3).)

§ 735.5 Basic requirements.

(a) *Applicability.* The provisions of this part apply to all current and former employees including special Government employees. Members of the Uniformed Services and employees of other Government agencies assigned or detailed to ERDA are required by § 735-28 to furnish a statement of employment and financial interests if they are performing duties of a position specified in § 735-28(a). However, a member of the Uniformed Services or an employee of another Government agency assigned or detailed to ERDA is not relieved of his responsibilities under regulations or code of conduct prescribed by his parent military service or employing agency.

(b) *Cancellation of contracts.* ERDA reserves the right to declare void, in accordance with law, any contract negotiated or administered in violation of the provisions of ERDA regulations, or statute.

(c) *Scope of part.* This part incorporates the statutes, the instructions and specific procedures, pertaining to an employee's conduct.

(d) *Construction of criminal or civil statutes.* The paraphrased version of any criminal or civil statute in this part shall not constitute a binding interpretation thereof upon ERDA or the Federal Government.

(e) *Certifications.* Certifications called for by §§ 735-23(e) and 735-26 (c) and (d), shall be submitted for publication in the FEDERAL REGISTER.

(f) *Disciplinary and other remedial action.* (1) A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(2) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, executive orders, and regulations.

(g) *Presidential appointees.* Presidential appointees covered by section 401(a) of Executive Order 11222 shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of ERDA, or which draws substantially on official data or ideas which have not become part of the body of public information.

§ 735.6 National emergency application.

The provisions of this part continue in effect without modification in a national emergency.

Subpart B—Conflict of Interest Restrictions

§ 735.20 General.

(a) Part I, "Policy," of Executive Order 11222 states:

> Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

(b) The elimination of conflicts of interest in the Federal service is one of the most important objectives in establishing general standards of conduct. A conflict of interest situation may exist where a Federal employee's private interests, usually of an economic form, conflict, or rise a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or only apparent.

(c) An employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or (2) engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(d) An employee is not precluded from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, Civil Service Commission regulations, or the regulations in this part.

(e) Certain provisions in 18 U.S.C. 201-209, dealing with conflicts of interest in Federal employment are referred to in §§ 735-21 through 735-27.

§ 735.21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).

(a) General. Except as permitted by paragraphs (b), (c), and (d) of this section, no employee shall participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation,

V41160 AUG 17 76 UMI

arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(b) Granting of ad hoc exemptions.

(1) If an employee desires to request an exemption from the prohibition of paragraph (a) of this section, he shall fully inform the Head of the Headquarters Division or Office, or Head of the Field Organization, as appropriate, in writing of the nature and circumstances of the particular matter and of the financial interests involved and shall request a written determination in advance as to the propriety of his participation in such matter.

(2) The Head of the Headquarters Division or Office, or Head of the Field Organization, as appropriate, after examining the information submitted, may relieve the employee from participation in the particular matter and so advise him in writing; or, he may approve the employee's participation in such matter upon advising him in writing:

(i) That he has determined the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, and

(ii) That no provision of law and no regulation in this part would appear to be violated by the employee's participation in the particular matter.

(3) When the Head of the Headquarters Division or Office, or Head of the Field Organization, believes it is inappropriate for him to make a determination as provided in paragraph (b)(2) of this section, he shall forthwith submit the information with his recommendation through channels to the Deputy Administrator who shall make a determination as provided in paragraph (b)(2) of this section, forwarding the original of his determination to the submitting official and a copy to the employee involved.

(4) A copy of each request and response made under the provisions of paragraphs (b)(1) and (b)(2) of this section shall be forthwith forwarded through channels to the General Counsel as a matter of record. Copies of all documents referred to in paragraphs (b)(1), (2) and (3) of this section shall be filed by the holders thereof in their confidential files.

(5) Whenever it can be reasonably anticipated that there will be a need to invoke these procedures repeatedly, and where it also appears that a burden would be placed on ERDA thereby, consideration should be given by the Head of the Headquarters Division or Office, or Head of the Field Organization to dismissal or transfer of the employee to another position where the problems will not arise, or to the elimination of the outside interest creating the difficulty. It is expected that the employee concerned will take the initiative in resolving any problem in this area.

(c) Exemption of remote or inconsequential financial interest. (1) In accordance with the provisions of 18 U.S.C. 208(b)(2), ERDA has exempted the following financial interests from paragraph (a) of this section and from the requirements of paragraph (b) of this section, upon the ground that such interests are too remote or too inconsequential to affect the integrity of its employees' services:[1]

(i) Interests in the form of shares of common or preferred stocks, including warrants to purchase such shares, and of corporate bonds or other corporate securities, if the current aggregate market value of the stocks and other securities so owned in any single corporation does not exceed $5,000 and provided such stocks and securities do not exceed 1 percent of the dollar value of the outstanding shares, bonds or other securities of said class.

(ii) Interests in the form of bonds other than corporate bonds, regardless of the value of the interest.

(iii) Interests in the form of shares of a mutual fund or regulated investment company regardless of the value of such interest, provided the mutual fund or regulated investment company does not deal primarily in atomic energy or other energy stocks and bonds.

(2) Where a person covered by this exemption is a member of a group organized for the purpose of investing in equity or debt securities, the interest of such person in any enterprise in which the group holds securities shall be based upon said person's equity share of the holdings of the group in that enterprise.

(3) For purposes of paragraph (c)(1) of this section, computations of dollar value of financial interests in corporations shall be by means of:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(ii) By means of net book value (i.e. assets less liabilities) in the case of stocks not covered by the preceding two categories. With respect to debt securities, face value shall be used for valuation purposes.

(4) The dollar value and percentage of financial interests listed above in paragraph (c)(1) of this section shall be computed as of the date on which the employee first participated personally and substantially in any particular matter, within the meaning of 18 U.S.C. 208(a), relating to the enterprise concerned. The dollar value and percentage so computed shall govern during the entire period that the employee participates in the particular matter unless, after the aforesaid date of computation, he, or other person or organization referred to in paragraph (a) of this section, acquires an additional interest in the same enterprise. In the event of such subsequent acquisition, the dollar value and percentage shall be recomputed as of the date of such acquisition. If, in such case, the dollar value and percentage computed exceeds the limitations described in paragraph (c)(1) of this section, the general exemption provided therein shall no longer be applicable and an ad hoc exemption must be sought in accordance with paragraph (b) of this section.

(d) Special exemption for special Government employees. Federal Personnel Manual Chapter 735, Appendix C, provides that a special Government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by 18 U.S.C. 208. However, that chapter states that the power of exemption may be exercised in this situation "if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization." It is the policy of ERDA, in conformity with the foregoing, to exercise the power of exemption pursuant to 18 U.S.C. 208(b) in such situations. The authority to grant such an exemption is delegated to the ERDA official responsible for appointment or designation of the particular consultant or advisor. This exemption is granted when the appointing official for the consultant or advisor concerned, signs the form ERDA-443 at item 18 which contains the statement that the employee "need not be precluded from rendering general advice in situations where no preference or advantage over others might be gained by any particular person or organization."

§ 735.22 Future employment (based on 18 U.S.C. 208).

(a) Solicitation, negotiation, or arrangements for private employment by an employee who is acting on behalf of ERDA in any particular matter in which the prospective employer has a financial interest are prohibited. With the authorization of his supervisor, an employee may be relieved of any assignment which, in the absence of such relief, might preclude such solicitation, negotiation, or arrangements.

(b) No employee shall undertake to act on behalf of ERDA in any capacity in a matter that to his knowledge affects even indirectly any party outside the Government with whom he is soliciting, negotiating, or has arrangements for future employment, except pursuant to the authorization of the Deputy Administrator after full disclosure, or in the case of a field employee, the Head of the Field Organization under whom he is employed. (See § 735-21.)

§ 735.23 Activities of officers and employees in claims against and other matters affecting the Government (based on 18 U.S.C. 205).

(a) No employee shall otherwise than in the proper discharge of his official duties:

(1) Act as agent or attorney for prosecuting any claim against the United States, or receive any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) Act as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) A special Government employee shall be subjected to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: Provided, That paragraph (b)(2) of this section shall not apply in the case of a special Government employee who has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

(c) Nothing in paragraph (a) of this section prevents an employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(d) Nothing in paragraph (a) of this section prevents an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Head of the Division or Office, Headquarters, or Head of the Field Organization, as appropriate, approves.

(e)(1) Nothing in paragraph (a) of this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States when represented by ERDA provided that the Administrator shall certify in writing that the national interest so requires. Such certification shall be submitted for publication in the FEDERAL REGISTER.

(2) The Special Government employee shall immediately notify ERDA when so designated to act as agent or attorney by his private employer.

(f) Nothing in paragraph (a) of this section prevents an employeee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

§ 735.24 Receiving salary from source other than the U.S. Government (based on 18 U.S.C. 209).

(a) No employee shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee of ERDA from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality.

(b) Nothing in paragraph (a) of this section prevents an employee of ERDA from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) Paragraph (a) of this section does not apply to a special Government employee or to an employee of the Government serving without compensation, whether or not he is a special Government employee.

(d) Paragraph (a) of this section does not prohibit acceptance of contributions, awards, or other expenses for training or to attend meetings under the terms of chapter 41 "Training" of title 5, United States Code. See ERDA Appendix 4150 "Employee Development and Training—Handbook".

§ 735.25 Compensation to employees in matters affecting the Government (based on 18 U.S.C. 203).

(a) No employee shall, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receive or agree to receive, or ask, demand, solicit, or seek, any compensation for any services rendered or to be rendered either by himself or another in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission.

(b) A special Government employee shall be subject to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: Provided, That paragraph (b)(2) of this section shall not apply in the case of a special Government employee who has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

§ 735.26 Disqualification of former officers and employees in matters connected with former duties or official responsibilities (based on 18 U.S.C. 207).

(a) No employee, after his employment has ceased, shall knowingly act as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed.

(b) No employee, within 1 year after his employment has ceased, may appear personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an employee of the Government at any time within a period of 1 year prior to the termination of such responsibility.

(c) Nothing in paragraph (a) or (b) of this section prevents a former employee with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the Administrator shall make a certification in writing, submitted for publication in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former employee.

(d) A former ERDA employee who desires to request for himself an exception to the legal restrictions set forth above on the basis of "scientific or technological" grounds may do so by submitting a written request to the Head of the ERDA office with which he would do business, who in turn will forward it to the Administrator with his recommendation. The Administrator, if he approves the exception, shall advise the former employee in writing through the ERDA office with which he applied and shall submit for publication in the FEDERAL REGISTER a statement to the effect that:

(1) The former employee has outstanding scientific or technological qualifications;

(2) The exception provided by 18 U.S.C. 207(b) is granted for a particular

[1] The interest of the employee includes the interest of the employee's spouse and minor child.

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matter in a scientific or technological field; and

(3) The national interest would be served by granting the exception.

§ 735.27 Appearances by former employees before ERDA.

When a former employee proposes to act as agent or attorney before ERDA on behalf of anyone other than the United States in connection with any of the matters cited in § 735–26, he is expected to make known to the appropriate official of ERDA the fact of his former assignment with ERDA (or with any of the components of other agencies transferred to ERDA under the Energy Reorganization Act of 1974). The Head of the Headquarters Division or Office or of the Field Organization or employee before whom the former employee appears, before transacting business with the former employee or authorizing employees under his jurisdiction to transact any business with the former employee, shall call the former employee's attention to the restrictions and penalties contained in 18 U.S.C. 207. No ERDA official or employee, except the General Counsel, shall offer to the former employee an interpretation of 18 U.S.C. 207 as applied to the situation at hand.

§ 735.28 Confidential statements of employment and financial interests.[1]

(a) Categories of employees required to submit statements. The following employees shall submit statements of employment and financial interests, prepared in accordance with paragraph (d) of this section:

(1) Employees paid at a level of the Executive Schedule in subchapter II of Chapter 53 of title 5, United States Code.

(2) Employees in positions or categories of positions regardless of their official titles, identified in Appendix B to this part.

(3) All consultants (including advisers and experts) (see ERDA Manual Chapter 4139 "Employment of Consultants and Advisers") and special Government employees. (A special Government employee who is not a consultant is not required to submit a statement of employment and financial interests when the operating (appointing) official finds that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For this purpose, "consultant" and "expert" have the meaning given those terms by Chapter 304 of the Federal Personnel Manual ("Employment of Experts and Consultants") but do not include a physician, dentist, or allied medical specialist, whose services are procured to provide care and service to patients.)

(b) Appendix B. (1) Appendix B to this part shall be maintained and changes therein made by ERDA in accordance with the criteria set forth in Appendix C to this part.

(2) Heads of Headquarters Divisions and Offices and of Field Organizations shall, in conformity with the above referenced criteria, recommend changes in Appendix B to the Deputy Administrator for approval.

(c) (1) Heads of Divisions and Offices, Headquarters, and of Field Organizations shall as of September 30 of each year review the positions under their jurisdiction and determine, in accordance with Appendix B, the positions which require financial interest statements from their incumbents. The incumbent of each such position shall be notified of that fact and shall be furnished with three copies of the statement form. By copy of the notification (or a list of the names, grades and positions of employees required to file statements), the counselor or appropriate deputy counselor shall be informed by each Head of those employees required to submit statements. Each employee notified of the filing requirement as of September 30 shall submit his statement to his reviewing official by October 10.

(2) Whenever a new position is established, the Head of the Division or Office, Headquarters, or Field Organization Head establishing the position shall at that time determine whether the position calls for the submission of a statement in accordance with the criteria set out in Appendix B. If it is determined that a financial statement is a requirement of that position, any employee assigned to that position will be notified (with copy to the counselor or appropriate deputy counselor) of the requirement at the time of initial assignment and as of each September 30 thereafter. The employee shall submit the required statement to his reviewing official within 10 days of the notification or by October 10, as the case may be.

(3) Employees assigned to positions as Heads of Divisions or Offices, Headquarters, or of Field Organizations and persons employed under Professional Term Appointments shall submit a statement to their reviewing official prior to assuming the duties of the position and as of each September 30 thereafter. All other employees assigned to positions requiring the submission of a statement shall submit the required statement within 10 days of the initial assignment to that position and as of each September 30 thereafter.

(4) Statements of special Government employees who are not consultants (including experts and advisers) shall be submitted in accordance with the foregoing. Notice to such individuals shall also be in accordance with the foregoing. Statements of consultants (including experts and advisers) shall be submitted prior to appointment, and notice to same shall be in accordance with ERDA Manual Chapter 4139.

(d) Preparation of statement. Statements shall be prepared in accordance with the following:

(1) Form and content of statement. The forms prescribed by ERDA are:

Regular Government employees—Form ERDA–269.
Consultants (including experts and advisers)—Form ERDA–443.
Special Government employees (other than consultants)—Form ERDA–443 (excluding items 2–11).

(2) Interests of employee's relatives. The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this subparagraph, "member of an employee's immediate household" means those blood and in-law relations who are full-time residents of the employee's household.

(3) Information not known by employees. If any information required to be included on the statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf, and shall report such request in Part IV of Form ERDA–269 or item 16b. of Form ERDA–443.

(4) Information not required to be submitted. This section does not require an employee to submit on a statement or supplementary statement the following:

(i) Any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

(ii) Precise amounts of financial interests, indebtedness, or value of real property. The employee may, however, at a later time be required to reveal precise amounts if ERDA needs that information in order to carry out its responsibilities under applicable laws and regulations.

(iii) For special Government employees: In addition to (i) and (ii) above, those financial interests which are determined by the official responsible for such employee's appointment as not to be related either directly or indirectly to the duties and responsibilities of said employee.

(5) Supplementary statements—regular employees. Changes in, or additions to, the information contained in a regular Government employee's statement shall be reported by the employee as of September 30 each year, filed within 10 days thereof. The changes may be reported in a supplementary statement or

[1] Section 401 of Executive Order 11222 establishes separate reporting requirements for an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board, or commission appointed by the President.

a wholly new statement as directed. The forms prescribed in paragraph (d) (1) of this section shall be used for this purpose. Where a supplementary statement is submitted, it shall be plainly marked "Supplementary." The changes and additions in such a supplementary statement shall be identified in terms of the specific part(s) of the statement being modified. All changes or additions occurring during the reporting period are to be reported, not merely employment and financial interests status as of the reporting date. If there are no changes in or additions to report, the supplementary statement shall so indicate. The employee shall submit his supplementary statement to the official who would be the recipient of an initial statement from the employee, as identified in paragraph (h) of this section. Notwithstanding the filing of the report(s) required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or this Part 735.

(6) Supplementary statements—special Government employees. Changes in, or additions to, the information contained in a special Government employee's statement shall be reported in a supplementary statement within 10 days following the end of the calendar quarter in which the changes occur. Quarters end March 31, June 30, September 30, and December 31. The forms prescribed in paragraph (a)(1) shall be used for this purpose and plainly marked supplementary. The changes and additions shall be identified in terms of the specific part(s) of the statement being modified. All changes or additions occurring during the reporting period are to be reported, not merely employment and financial interests status as of the reporting date. If there are no changes or additions to report during a quarter, a negative report is not required. Each Head of Division or Office, Headquarters, and each Field Organization Head shall, 15 days prior to the end of each quarter, notify those special Government employees for whom the Head is responsible of the requirement for reporting changes in or additions to the special Government employee's statement. The special Government employee shall submit his supplementary statement to the official who would be the recipient of an initial statement from the employee, as identified in paragraph (h) of this section. Notwithstanding the filing of the report(s) required by this section, each special Government employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or this Part 735.

(e) Reviewing statements and reporting conflicts of interest.

(1) The employee shall prepare the statement in triplicate, retain one copy, and submit two copies to the appropriate reviewer (see paragraph (h) of this section).

(2) The reviewer of the statement shall assess it for conflicts or the appearance of conflicts of interests in the context of the employee's assigned duties and responsibilities in ERDA.

(3) If the reviewer desires advice and guidance, he may discuss the statement with the counselor or appropriate deputy counselor.

(4) The reviewer shall discuss with the employee and point out any aspects of the statement which give rise, in the reviewer's opinion, to questions of conflict or of appearance of conflict. (The reviewer shall not take, or direct the employee to take, any action with respect to such conflict without first seeking the advice of the counselor or appropriate deputy counselor.)

(5) The reviewer shall in all cases record his opinion as to the absence of a conflict or the presence of an existing or potential conflict on both copies of the statement, and forward same to the ERDA counselor or deputy counselor, as appropriate.

(6) The ERDA counselor or deputy counselor shall review the statement, and discuss any questions with the reviewer and/or employee as necessary.

(7) If the ERDA counselor or deputy counselor believes that the statement evidences no question of conflict of interest, he shall record his opinion on both copies of the statement, and notify the reviewer.

(8) If the ERDA counselor or deputy counselor believes there is a question of conflict of interest, he shall record the question on the form. In addition he shall inform the reviewer of the conflicts question and of appropriate remedial action. (The counselor or deputy counselor shall make his services available to the reviewer and employee involved to assist in effecting a resolution of any conflict or appearance of conflict.) Action inconsistent with the advice of the counselor or deputy counselor shall not be taken without further consultation and approval. The reviewer shall report to the counselor or deputy counselor in writing the remedial action taken.

(9) When a statement submitted or information from other sources indicates a conflict between the interests of an employee and the performance of his services for ERDA and when the conflict or appearance of conflict is not resolved at a lower level in ERDA, the information concerning the conflict or appearance of conflict shall be reported to the Deputy Administrator, as appropriate, through the counselor. The employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(10) When, after consideration of the explanation of the employee provided for in paragraph (e)(9) of this section, the Deputy Administrator decides that remedial action is required, he shall take immediate action to end the conflict or appearance of conflict of interest. Remedial action may include, but is not limited to:

(i) Changes in assigned duties;
(ii) Divestment by the employee of his conflicting interest;
(iii) Disciplinary action; or
(iv) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, executive orders, and regulations. Disciplinary remedial action with respect to a member of the Uniformed Services or an employee of another Government agency assigned or detailed to ERDA shall be effected only by the parent military service or employing agency.

(11) Upon completion of processing, both ERDA copies of statements shall be filed in the office of the counselor or deputy counselor, in a special file maintained for that purpose. If an ERDA reviewer subsequently requires a copy of a statement for purposes of carrying out responsibilities under this part, he may request same from the counselor or deputy counselor.

(12) The required supplementary statements shall be processed in the same manner as an initial statement. When an ERDA reviewer or the counselor or a deputy counselor receives a supplementary statement from an employee for whom he does not have an initial statement, he shall request the file from the counselor or deputy counselor of the employee's previous office.

(f) Confidentiality of employees' statements. ERDA shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the ERDA counselor, deputy counselor(s), and those officials to whom reports are to be submitted under paragraph (h) of this section (including those employees specifically designated by them to assist in the review as may be necessary) are authorized to review the statements as provided in this section. The foregoing employees are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. ERDA shall not disclose information from a statement except in accordance with procedures set forth in paragraph (e) of this section, or as the Administrator or the Civil Service Commission shall determine for good cause shown.

(g) Effect of employee's statements on other requirements. The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee or the absence of any requirement that an employee submit such a statement does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

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(h) To whom statements are to be submitted (reviewing officials). Submission of required statements shall be as indicated below. Each statement upon submission shall be reviewed by the reviewing official in accordance with paragraph (e) of this section.

(1) Submitted to the Administrator:

(i) Members of the Administrator's immediate staff.

(ii) The Deputy Administrator.

(iii) The Assistant Administrator for Fossil Energy.

(iv) The Assistant Administrator for Nuclear Energy.

(v) The Assistant Administrator for Environment and Safety.

(vi) The Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems.

(vii) The Assistant Administrator for National Security.

(viii) The Assistant Administrator for Conservation.

(ix) The Chairman, Contract Appeals Board.

(x) The General Counsel.

(xi) The Director, Office of Internal Review.

(xii) Any other employee who holds a Presidentially appointed position.

(2) Submitted to the Deputy Administrator:

(i) Members of the Deputy Administrator's immediate staff.

(ii) All Assistant Administrators not enumerated in (1) above.

(iii) The Controller.

(iv) The Chairman, Patent Compensation Board.

(v) The Chairman, Military Liaison Committee.

(vi) The Heads of Headquarters Divisions and Offices reporting directly to the Administrator or Deputy Administrator not enumerated in (1) above.

(3) Submitted to the Assistant Administrator for Field Operations:

(i) Members of the immediate staff of the Assistant Administrator for Field Operations.

(ii) Heads of the Field Organizations responsible to the Assistant Administrator for Field Operations.

(4) Submitted to other Assistant Administrators:

(i) Members of the immediate staff of such Assistant Administrators.

(ii) Heads of Headquarters Divisions and Offices and of Field Organizations reporting directly to such Assistant Administrator.

(5) Submitted to Heads of Headquarters Divisions and Offices and of Field Organizations:

(i) Employees under their respective jurisdictions.

(6) Submitted to official responsible for their appointments:

(i) Special Government employees, including consultants, experts, and advisers.

(i) Availability of review. Any employee who believes that his position has been improperly included under this section as one requiring the submission of a statement of employment and financial interests may utilize the grievance procedures in ERDA Manual Chapter 4157 "Employee Grievances", for review of his complaint.

Subchapter C—Other Restrictions Imposed by Statute on Conduct of Employees

§ 735.30 Description of statutory provisions.

Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of ERDA and of the Government. Certain of these statutes are referred to in §§ 735–21—735–27. Attention of employees is also directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy Act of 1954, as amended: Section 222, "Violation of Specific Sections"; Section 223, "Violation of Sections Generally"; Section 224, "Communication of Restricted Data"; Section 225, "Receipt of Restricted Data"; Section 226, "Tampering With Restricted Data"; and Section 227, "Disclosure of Restricted Data" (42 U.S.C. 2272 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibitions against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(e) The prohibition against proscribed political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608. (See ERDA Manual Chapter 4122, "Political Activity.")

(f) The prohibition against bribery of public officials and witnesses (18 U.S.C. 201).

(g) The prohibition against acceptance or solicitation to obtain appointive public office (18 U.S.C. 211).

(h) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). (See also ERDA Manual Chapter 4121, "Oath of Office" and ERDA Manual Chapter 4166, "Labor Management Relations Program for Federal Employees".)

(i) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(j) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a (c)). (See also ERDA Property Management Instruction 109–38, "Motor Equipment Management.")

(k) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(l) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(m) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(n) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071). (See also ERDA Appendix 0230, "Records Disposition.")

(o) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(p) The prohibition against embezzlement of Government money or property (18 U.S.C. 641). (See also ERDA Property Management Instruction 109–1.50, "Personal Property and Supply Management.")

(q) The prohibition against failing to account for public money (18 U.S.C. 643).

(r) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(s) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(t) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(u) The prohibition against making false entries in official records with intent to defraud or making false reports concerning moneys and securities with such intent (18 U.S.C. 2073).

(v) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219). The criminal penalties of this section do not apply in any case in which the Administrator sends to the Attorney General a certification that the employment of the agent as a special Government employee is in the national interest.

(w) The prohibition against discrimination because of politics, race, religion, or color (22 U.S.C. 807).

(x) The prohibition relating to the denial of the right to petition Congress (5 U.S.C. 7102).

(y) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(z) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

(aa) The prohibition against acceptance of any honorarium of more than $2,000 or honorariums totalling more than $25,000 in any calendar year (2 U.S.C. 4411, Public Law 94–283, May 11, 1976). See § 735–40(f).

(bb) The prohibition against arbitrary and capricious withholding of agency records requested under the Freedom of Information Act (5 U.S.C. 552).

(cc) The prohibition against knowing disclosure of information the disclosure of which is prohibited; the prohibition against willfully maintaining a system of records without appropriate notice provisions; and the prohibition against knowingly and willfully requesting or obtaining any record concerning an individual under false pretenses (5 U.S.C. 552a).

(dd) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service." (See Appendix A)

Subpart D—Other Restrictions Imposed by ERDA on Conduct of Employees

§ 735.40 Outside employment and other outside activity.

(a) There is no general prohibition against employees engaging in outside employment or other outside activity. However, no employee shall engage in such employment or activity if it is not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) In any case in which there is a question as to the propriety of outside employment in which an employee proposes to engage, the employee shall inform his Division or Office Head, Headquarters, or Field Organization Head of the proposed activity and request a determination as to whether the proposed activity is compatible with the employee's full and proper discharge of his Government duties and responsibilities. The information submitted shall include: (1) Name, job title, and grade of the employee; (2) a brief summary of his official ERDA duties; (3) a brief description of the proposed employment, including the compensation to be received; and (4) the name and nature of the business of the employing individual or organization. The Division or Office Head, Headquarters, or Field Organization Head, in consultation with the counselor or an appropriate deputy counselor, shall rule on the request.

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(d) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222 ("Prescribing Standards of Ethical Conduct for Government Officers and Employees"), regulations, or the regulations in this part. However, an employee shall not either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Deputy Administrator has given written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(e) Except as allowed for training or to attend meetings under section 4111 ("Acceptance of Contributions, Awards and Other Payments") of title 5, United States Code (formerly, "Government Employees Training Act") and Executive Order 10800 ("Implementing the Government Employees Training Act"), no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the employee; if the public appearance, speech, or lecture was made during official working hours; or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

(f) An employee may accept a fee or other compensation for a private activity which is not prohibited by law or these regulations. However, in accordance with limitations imposed on the receipt of honorariums by Government employees by the Federal Election Campaign Act Amendments of 1976, no employee is permitted to receive more than $2,000 (excluding actual travel and subsistence expense) for any single appearance, speech or article or a total of more than $25,000 (excluding actual travel and subsistence expenses) for such activity in any calendar year.

(g) An employee is not precluded by this § 735–40 or § 735–42 from:

(1) Participation in the activities of political parties not proscribed by law. See ERDA Manual Chapter 4122 for further guidance on permissible and prohibited political activities.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

§ 735.41 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in § 735–40(d), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

(b) In addition to the prohibition specified in (a) above, employees are subject to the prohibition imposed by section 68a of the Atomic Energy Act of 1954, 42 U.S.C., section 2098(a), "Public and Acquired Lands," which has been incorporated into the Energy Reorganization Act of 1974:

> No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made and subsequent to August 30, 1954, made such location, entry, or settlement, or caused the same to be made for his, or its, or their benefit.

§ 735.42 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (c), (e), and (f) of this section the direct or indirect solicitation or acceptance by an ERDA employee or his spouse or minor child of any gift, gratuity, entertainment (including food, refreshments, tickets or invitations to performances and other events), favors, loans, transportation, accommodations, or any other thing of monetary value from any person, is forbidden if the person:

(1) Has or is seeking to obtain contractual or other business or financial relationships with ERDA; or

(2) Has interests which may be substantially affected by such employee's performance or nonperformance of his official duty; or

(3) Is in any way attempting to affect the employee's official action.

(b) There are certain exceptions to the foregoing general rule which are set forth in paragraph (c) of this section. The exceptions are to be strictly construed. In determining whether one or more of the exceptions apply in any particular circumstance, each ERDA employee shall avoid any situation which would bring discredit to the Government or ERDA. Each ERDA employee will so govern his conduct in the light of this part as to have no difficulty in justifying his actions if required to do so. See also § 735–49a.

(c) The following are exceptions to the general rule set forth in paragraph (a) of this section:

(1) Acceptance of food and refreshments of nominal value on an infrequent basis when the conduct of official business will be facilitated and when no provision can be made for individual payment. An employee shall exercise care to avoid, wherever possible, all other situations, e.g., in private clubs, where no provision can be made for individual payment.

(2) Instances in which the interests of the Government are served by participation of an ERDA employee in widely attended luncheons, dinners, and similar gatherings sponsored by industrial, technical, or professional associations for the discussion of matters of mutual interest. Participation in such events is permitted only when the host is the association and not a private company and only when approved by the employee's supervisor as being a part of or related to his official duties. Acceptance of gratuities, food, or refreshments from a private company in connection with such association's activities shall be avoided.

(3) Acceptance of gifts, favors, or entertainment, where there is a family relationship between the employee, or be-

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tween his spouse, children, or parents, and the donor, where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gift, favor, or entertainment.

(4) Acceptance of modest food and refreshments, where there is an obvious personal relationship between the employee and the host, where it is clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the food and refreshments.

(5) Purchase of articles at advantageous rates where such rates are offered to Government employees as a class.

(6) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

(7) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, or other items of trivial value, clearly less than $5.00.

(8) Acceptance of contractor-provided local transportation while on official business when alternative arrangements are clearly impracticable or where such acceptance will facilitate the conduct of official business.

(9) Acceptance of transportation, accommodations, subsistence, or services furnished under a reimbursable arrangement with ERDA from an industrial, technical, or professional association, when authorized in the employee's travel authorization as being in the interest of the Government. When transportation, accommodations, subsistence, or services are furnished in kind by such an association, appropriate deductions shall be made in the travel, per diem, and other allowances otherwise payable to the employee. When transportation, accommodations, subsistence, or services are provided under a cash reimbursable arrangement, the reimbursement must be paid directly to ERDA by check payable to ERDA; the employee will be reimbursed for necessary expenses by ERDA in accordance with applicable laws and regulations. In no case shall an ERDA employee accept benefits which are under prudent standards extravagant or excessive in nature.

(10) Special situations in which the Deputy Administrator, after consultation with the General Counsel, determines in advance in writing that the interest of the Government will be served by an employee's participation, in his official capacity and as a designated ERDA representative, in a public ceremony or other event at the expense of a private company.

(11) Acceptance of transportation or other services provided by a private company in special situations in which the Deputy Administrator determines in advance in writing that acceptance of such transportation or other services will facilitate the conduct of official business and be in the best interest of the Government.

(d) A gift or gratuity, the receipt of which is prohibited under paragraph (a) of this section, will be returned to the donor.

(e) An employee will not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift presented as a contribution from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion such as marriage, illness or death, or retirement.

(f) An employee will not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

§ 735.43 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 735.44 Scandalous conduct.

No employee shall engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government.

§ 735.45 Employee indebtedness.

ERDA considers the credit affairs of its employees essentially their own concern. However, employees are expected to conduct their credit affairs in a manner which does not reflect adversely on the Government as their employer. An employee is expected to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. Failure on the part of an employee without good reason to honor just financial obligations or to make or adhere to satisfactory arrangements for settlement may be cause for disciplinary action. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State, or local taxes and "in a proper and timely manner" means in a manner which ERDA determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of a dispute between an employee and an alleged creditor, ERDA is not obliged to determine the validity or amount of the disputed debt.

§ 735.46 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities;

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 (on Conduct of Fund Raising Activities) and similar agency-approved activities.

§ 735.47 Handling of funds entrusted by fellow employees.

No employee shall receive, retain, or disburse funds entrusted to him by fellow employees, e.g., credit union deposits or donations to charitable organizations except with the utmost care in the safeguarding of such funds and the maintenance of full and complete records with regard to the receipt, custody, and disbursement of such funds. Such records shall be made available to appropriate authorities upon proper request.

§ 735.48 Ex parte contacts.

Ex parte contacts by an employee are prohibited in quasi-judicial proceedings.

§ 735.49 Employment under Professional Term Appointments of persons on extended leave of absence from a previous employer with reemployment rights or other benefits with the previous employer.

(a) ERDA may employ under Professional Term Appointments persons on extended leave of absence from private employers where it is the way most advantageous to ERDA to obtain qualified employees with needed skills and no violation of conflict of interest statutes would be involved. (See ERDA Manual Appendix 4108, Part V, paragraph 4, for the requirements governing Professional Term Appointments.) The necessity for continued employment of such persons shall be reviewed annually by the Director, Division of Personnel, Headquarters. In their ERDA assignments, such employees shall not be permitted to handle, directly or indirectly, or have access to, business confidential data of their former employers' competitors. Such persons shall not be permitted to participate in any matter involving their private employer in accordance with 18 U.S.C. 208. Exemptions from this restriction may be granted to Professional Term Employees by the appropriate Headquarters Division or Office Head or Field Organization Head, only after consultation with the General Counsel or an authorized deputy counselor.

(b) When it is proposed to employ such a person, a statement of the exact terms and conditions of the leave of absence from his employer (including retained benefits) will be obtained from the prospective employee and submitted to the General Counsel for a prior determination of possible violation of statute.

(c) The following quotation from 18 U.S.C. 209 is pertinent.

(b) Nothing herein prevents an officer or employee of the executive branch of the U.S. Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

§ 735.49a Other proscribed actions.

An employee shall avoid any action whether or not specifically prohibited by this Part 735, which might result in, or create the appearance of:

(a) Using a public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

Subpart E—Ethical and Other Conduct Responsibilities of Special Government Employees

§ 735.50 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 735.51 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with § 735–40(d), covering employees generally.

§ 735.52 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 735.53 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with ERDA anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Exceptions authorized for employees under § 735–42 shall have equal application with respect to special Government employees.

§ 735.54 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of ERDA, and of the Government. The ERDA official responsible for his appointment shall call his attention specifically to §§ 735–21, 735–22, 735–23, 735–24(c), 735–25, 735–26, 735–27, and 735–30.

§ 735.55 Applicable standards of conduct.

Special Government employees shall adhere to the standards of conduct made applicable to such employees by Subpart B of this part and to the standards of conduct made applicable to regular employees by §§ 735–43, 735–44, 735–46, and 735–48.

APPENDIX A—CONCURRENT RESOLUTION

H. CON. RES. 175, JULY 11, 1958, 72 STAT. B12

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means of making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

Approved by the House of Representatives August 28, 1957.

Approved by the Senate July 11, 1958.

APPENDIX B—POSITION CATEGORIES REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) The Deputy Administrator, Assistant Administrators, and Heads of Divisions and Offices, Headquarters, and of Field Organizations;

(2) Contracting officers (GG–13 and above);

(3) Contract administrators (GG–13 and above);

(4) Procurement officers (GG–13 and above);

(5) Auditors (GG–13 and above);

(6) Attorneys, including patent attorneys (GG–13 and above);

(7) Positions (in grades GG–13 and above) involving assigned duties and responsibilities which require the incumbent to exercise judgment in making or recommending a decision or in taking or recommending an action in regard to:

(a) Evaluation, appraisal, or selection of contractors or subcontractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.

(b) Negotiation, modification, or approval of contracts or subcontracts.

(c) Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.

(d) Inspection and quality assurance of material, products or components for acceptability.

(e) Review or approval of applications for access permits.

(f) Engineering planning and design which involves preparation of specifications and technical requirements.

(g) Negotiation of agreements for cooperation or implementing arrangements with foreign countries.

(h) Utilization or disposal of excess or surplus property.

(i) Procurement of materials, services, supplies, or equipment.

(j) Authorization or monitoring of grants to educational institutions or other non-Federal enterprises.

(k) Audit of financial transactions.

(l) Promulgation of safety standards, procedures and hazards evaluation systems.

(m) Nuclear materials management.

(n) Activities, other than those covered above, which have an economic impact on the interests of any non-Federal enterprise.

Positions in the above-enumerated categories (2–7) may be excluded when it is determined by the Administrator, Deputy Administrator, Assistant Administrator, Head of Headquarters Division or Office or Field Organization, as appropriate, that: (a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; or (b) the duties of a position are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

APPENDIX C—CRITERIA FOR DETERMINING POSITIONS OF CATEGORIES OF POSITIONS LISTED IN ANNEX B

Annex B shall be maintained and changes therein made by ERDA in accordance with the following criteria:

1. Positions shall be included, the basic duties and responsibilities of which require the incumbent to exercise judgment in making or recommending a Government decision or in taking or recommending Government action in regard to:

a. Contracting or procurement;

b. Administering or monitoring grants or subsidies;

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c. Regulating or auditing private or other non-Federal enterprise; or

d. Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Generally, such duties and responsibilities will have been spelled out in local statements of delegation of authority and responsibility and the degree of responsibility for decisions will be reflected in the Position Evaluation records under the factor "Decisions". Inclusion of positions classified below GG–13 which meet the criteria of this paragraph 1 or paragraph 3 below must be specifically justified by ERDA in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation.

2. Positions in 1., above, may be excluded when:

a. The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; and

b. The duties are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent and the remote and inconsequential effect on the integrity of the Government.

3. In addition to 1., above, those positions classified GG–13 or above shall be included which are determined by ERDA as requiring the incumbents to report employment and financial interests in order to avoid involvement in a possible conflict-of-interest situation and to carry out the purpose of law, Executive Order 11222, and Civil Service Commission and ERDA regulations.

[FR Doc.76–23920 Filed 8–16–76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 9026]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

New England Tractor Trailer Training of Massachusetts, Inc., et al.

Correction

In FR Doc. 76–23453 appearing in the Thursday, August 12, 1976 issue of the FEDERAL REGISTER on page 34021, the second line, paragraph (h) should be corrected to read, "• • • containing all inquiries or complaints • • •".

Title 21—Foods and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76F–0350]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

DIMETHYLAMINE-EPICHLOROHYDRIN COPOLYMER

The Food and Drug Administration is amending the food additive regulations to provide for the use of a retention aid in the manufacture of paper and paperboard; effective August 17, 1976; objections by September 16, 1976.

Notice was given in the FEDERAL REGISTER of December 12, 1975 (40 FR 57829) that a petition (FAP 6B3120) had been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that §121.2526 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 121.2526) be amended to provide for the safe use of dimethylamine-epichlorohydrin copolymer, in which up to 5 mole-percent of dimethylamine may be replaced by an equimolar amount of ethylenediamine, as a component of paper and paperboard for food-contact use.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2526 should be amended as set forth below.

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2526(a)(5) is amended by adding alphabetically a new item to the list of substances as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

• • • • •

(a) • • •

(5) • • •

List of substances	*Limitations*
• • •	• •
Dimethylamine - epichlorohydrin copolymer in which not more than 5 mole-percent of dimethylamine may be replaced by an equimolar amount of ethylenediamine and in which the ratio of total amine to epichlorohydrin does not exceed 1:1. The nitrogen content of the copolymer shall be 9.4 to 10.8 weight percent on a dry basis and a 10 percent by weight aqueous solution of the final product has a minimum viscosity of 5.0 centipoises at 25° C, as determined by LVT-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a retention aid employed before the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 1 percent by weight of the finished paper and paperboard.

• • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 16, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective August 17, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76–23924 Filed 8–16–76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N–0222]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Petri Dish Covers

The Food and Drug Administration (FDA) is amending requirements for Petri dish covers used in microbiological assay of certain antibiotic drugs, effective August 17, 1976.

Section 436.100 (21 CFR 436.100), which describes the equipment used in microbiological assays, specifies that covers of Petri dishes should be made of porcelain. The Food and Drug Administration has conducted a study comparing porcelain and plastic covers, and concludes that covers fabricated from plastic, glass, or other suitable material are satisfactory for use in conducting microbiological assays required by the regulations. However, when nonporous covers are used, they must be left ajar until the agar hardens to prevent condensation from the hot agar base layers.

Therefore, the Commissioner of Food and Drugs concludes that the regulations should be amended to permit the use of Petri dish covers of suitable material and to establish procedures to prevent moisture condensation when nonporous covers are used. Because the porcelain-only restriction for Petri dish covers is being relaxed, references to specific cover materials in two other sections of the regulations should be deleted.

Pursuant to the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the promulgation of this regulation because it is of a minor nature and relieves restrictions under regulations currently in effect.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 436 of Chapter I of Title 21 of the Code of Federal Regulations as follows:

1. In § 436.100 by revising paragraph (a)(2) to read as follows:

§ 436.100 Laboratory equipment.

• • • • •

(a) • • •

(2) *Plates.* Plastic or glass Petri dishes may be used, having dimensions of 20 by 100 millimeters. Covers should be of suitable material.

• • • • •

2. In § 436.104, by deleting the next to the last sentence in paragraph (a), which reads: "Disposable plastic covers may be used in lieu of porcelain covers." Paragraph (a) is revised to read as follows:

§ 436.104 Penicillin activity.

• • • • •

(a) *Preparation of inoculated plates.* Proceed as directed in § 436.105(a), using 10 milliliters of medium 1 for the base layer. For the seed layer, use 4 milliliters of medium 4, inoculated with the amount of test organism C which gave the clearest, sharpest zones of inhibition measuring 17 to 21 millimeters in diameter when standardized as described in § 436.103(b)(1)(ii). Use the plates the same day they are prepared.

• • • • •

3. In § 436.105(a), by revising the second and fifth sentences and adding a new sentence after the second sentence. Paragraph (a) is revised to read as follows:

§ 436.105 Microbiological agar diffusion assay.

• • • • •

(a) *Preparation of inoculated plates.* For each antibiotic listed in the table in this paragraph, select the media (as listed by medium number in § 436.102(b)), the amount of media to be used in the base and seed layers, the test organism (as listed in § 436.103(a)), and the suggested inoculum and prepare the inoculated plates as follows: Prepare the base layer by adding the appropriate amount of melted agar to each Petri dish (nominal dimensions 20 by 100 millimeters). Distribute the agar evenly in each dish on a flat, level surface, placing a cover on each plate in turn; if a nonporous cover is used, leave it slightly ajar to prevent accumulation of condensed moisture from the hot agar base layer. After the agar hardens, seat the nonporous cover on each plate. To prepare the seed layer, add the suggested inoculum of the test organism suspension to a sufficient amount of agar, which has been melted and cooled to 48° C–50° C. Swirl the flask to obtain a homogeneous suspension, and add the appropriate amount of the inoculated media to each of the plates containing the uninoculated base agar. Spread evenly over the agar surface, cover, and allow to harden on a flat, level surface. After the agar has hardened, place 6 cylinders described in § 436.100(a)(1) on the inoculated agar surface so that they are at approximately 60° intervals on a 2.8-centimeter radius.

• • • • •

Effective date: This regulation shall become effective on August 17, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: August 11, 1976.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.76–23922 Filed 8–16–76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Subpart G—Sponsors of Approved Applications

NUMERICAL LISTING OF SPONSORS

The Food and Drug Administration is correcting a listing for Burns-Biotec Laboratories, effective August 17, 1976.

An amendment published in the FEDERAL REGISTER of October 24, 1974 revised the listing for Burns-Biotec in § 135.501(c). Subsequently, the section was redesignated as § 510.600 (21 CFR 510.600) (recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)). Two listings for Burns-Biotec were included in § 510.600, in paragraphs (c)(1) and (2) of the section. The revised listing for Burns-Biotec was made in paragraph (c)(1); it was not made in paragraph (c)(2). The correction below makes the revision in paragraph (c)(2).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 510.600 is corrected in paragraph (c)(2) by revising the listing for numerical entry "000845" to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

• • • • •

(c) • • •

(2) • • •

Drug listing No.:	*Firm name and address*
• •	• • •
000845	Burns-Biotec Laboratories Division, Chromalloy Pharmaceuticals, Inc., 7711 Oakport St., Oakland, CA 94621.

• • • • •

Effective date: This correction shall be effective August 17, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 9, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76–23923 Filed 8–16–76;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER K—ECONOMIC, COMMERCIAL AND CIVIL AVIATION FUNCTIONS

[Departmental Regulation 108.726]

PART 102—CIVIL AVIATION

Recommendations to the President Under Section 801 of the Federal Aviation Act of 1958

Correction

In FR Doc. 76–22153 appearing on page 31548 of the issue for Thursday, July 29, 1976, the Departmental Regulation number was incorrectly printed as 108.76. It should be 108.726, as shown in the headings above.

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Revocation of Assessment Regulations for Fort Apache Indian Irrigation Project

This notice is published in the exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 34605 of the August 18, 1975, FEDERAL REGISTER (40 FR 34605) there was published a notice of proposed rulemaking to revise part 221 of Subchapter T, Chapter I, Title 25 of the Code of Federal Regulations. The purpose of this revocation is to eliminate all assessments for operation and maintenance for the Fort Apache Indian Irrigation Project, Arizona and to reinstate the non-reimbursable status which existed prior to promulgation of these regulations in 1963 and promulgation of the predecessor to these regulations in 1959.

This revision was proposed pursuant to the authority contained in the Act of August 1, 1914 (39 Stat. 583, 25 U.S.C. 385).

The public was given until September 17, 1975 to submit written comments, suggestions, or objections regarding the proposed revision.

No comments, suggestions, or objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Sections (§§) 221.180 through 221.184 of Part 221, Subchapter T, Chapter I of

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Title 25 of the Code of Federal Regulations are hereby revoked.

Effective date. These revised regulations shall become effective September 16, 1976.

(Catalog of Federal Domestic Assistance Program No. 15.106, Indian Lands—Irrigation, Construction, Maintenance, Operation, and Related Power Systems).

JOSE A. ZUNI,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.76-23931 Filed 8-16-76;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 699—TEXTILE MILL PRODUCTS

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L 93-259); 84 Stat. 35 and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 643 (41 FR 11038), the Secretary of Labor appointed and convened Industry Committee No. 132 for Textile Mill Products, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6 of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee 132 are hereby published, revising the title and §§ 699.1, 699.2, and 699.3 of Part 699, Title 29, Code of Federal Regulations.

Sec.
699.1 Definition.
699.2 Wage Rates.
699.3 Notices.

AUTHORITY: Sec. 8, Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18.

§ 699.1 Definition.

The textile mill products industry in Puerto Rico is defined as follows: The preparation of textile fibers, including the ginning and compressing of cotton; the manufacture of batting, wadding, and filling; The manufacture, including dyeing and finishing, of yarn, thread, cordage, twine, felt, woven and knitted fabrics, and lace-machine products from cotton, jute, sisal, coir, maguey, silk, rayon, nylon, wool or other vegetable, animal, or synthetic fiber, or from mixtures of these fibers; and the manufacture of blankets, textile bags, quilts, pillows, swabs, bandages, hairnets, oilcloth and artificial leather containing a textile or paper base, woven carpets and rugs, and hooked or punched rugs and carpeting: *Provided, however,* That the industry shall not include any product or activity included in the chemical, petroleum, and related products industry; the furniture and fixtures and lumber and wood products industry; or in any apparel or needlework industry in Puerto Rico for which a separate wage order has been issued.

§ 699.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under subsection 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the textile mill products industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1961 coverage classifications.* The classifications in this paragraph (a) apply to all activities of employees in the textile mill products industry in Puerto Rico to which section 6 of this Act applies without reference to the Fair Labor Standards Amendments of 1961.

(1) *Multiple-needle power-driven machine operations on hooked rugs classification.*—(i) The minimum wage for this classification is $2.00 an hour through December 31, 1976; $2.15 an hour, effective January 1, 1977; and $2.30 an hour, effective May 1, 1977, by reason of section 6(c)(2).

(ii) This classification is defined as the punching or tufting in the manufacture of hooked or punched rugs and carpeting with multiple-needle machines containing five or more needles, including the operations of the machine, the work of the assistant or helper thereon, and the work of the maintenance employees who set up or repair these machines.

(2) *Other operations on hooked rugs classification.*—(i) The minimum wage for this classification is $1.72 an hour through December 31, 1976; and $1.85 an hour effective January 1, 1977 through April 30, 1977. Under section 6(c) the rate will be increased by $0.15 an hour on May 1, 1977, and on May 1 of each subsequent year until the mainland rate is reached (section 6(c)(2)).

(ii) This classification is defined as all operations and processes in the manufacture of hooked or punched rugs and carpeting except those included in the multiple-needle power-driven machine operations on hooked rugs classification as defined in paragraphs (a)(1).

(3) *Pillow classification.*—(i) The minimum wage for this classification is $2.05 an hour through December 31, 1976; $2.15 an hour, effective January 1, 1977; and $2.30 an hour, effective May 1, 1977, by reason of section 6(c)(2).

(ii) This classification is defined as the manufacture of pillows.

(4) *Cotton swab and bandage classification.*—(i) The minimum wage for this classification is $2.15 an hour, effective September 1, 1976, and $2.30 an hour, effective May 1, 1977, by reason of section 6(c)(2).

(ii) This classification is defined as the manufacture of cotton swabs and elastic and cotton bandages.

(5) *Other products and activities.*—(i) The minimum wage for this classification is $1.90 an hour through December 31, 1976; and $1.95 an hour, effective January 1, 1977 through April 30, 1977. Under section 6(c) the rate will be $2.10 an hour on May 1, 1977; $2.15 an hour, effective January 1, 1978; and $2.30 an hour, effective May 1, 1978, by reason of section 6(c)(2).

(ii) This classification is defined as the manufacture of all products and all activities that are not specifically included in any other pre-1961 coverage classification of the industry.

(b) *1961 coverage classification.* (1) The minimum wage for this classification is $2.05 an hour through December 31, 1976; $2.15 an hour, effective January 1, 1977; and $2.30 an hour effective May 1, 1977, by reason of section 6(c)(2).

(2) This classification is defined as all activities of employees in the textile mill products industry to which section 6 of the Act applies only by reason of the Fair Labor Standards Amendments of 1961.

(c) *1966 coverage classification.* (1) The minimum wage for this classification is $2.05 an hour through December 31, 1976; $2.15 an hour, effective January 1, 1977; and $2.30 an hour, effective May 1, 1977, by reason of section 6(c)(2).

(2) This classification is defined as all activities of employees in the textile mill products industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

§ 699.3 Notices.

Every employer subject to the provisions of § 699.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 699.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe. (Secs. 5, 6, 52 Stat. 1062 and 1064, as amended; 29 U.S.C. 205, 206, 208)

Signed in Washington, D.C. this 10th day of August 1976.

RONALD J. JAMES,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.76-24081 Filed 8-16-76;8:45 am]

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

Definitions

Section 705 of Title VII of the Civil Rights Act of 1964, as amended, provides for the establishment of such regional or district offices of the Equal Employment Opportunity Commission as necessary to carry out the purposes of Title VII, and for the appointment of officers and employees needed in the performance of the Commission's functions. To further implement the provisions of Section 705 of Title VII, the Equal Employment Opportunity Commission has approved certain amendments to § 1601.4 of the Commission's Procedural Regulations. The amendments to § 1601.4 delete the term "subregion" and revise the language to reflect the Commission's present field organizational structure of regional and district offices. The revisions provide the Commission's definitions of the terms region and district, and designate the chief officer of the Commission in each region or district.

The amendments also add a delegation of authority to Regional Directors which previously was not expressly set forth. Finally, the amendments make clear that the Regional Offices of General Counsel are under the direct control of the Commission's General Counsel.

Because this amendment is procedural in nature, the public rulemaking process is not required. This amendment will become effective immediately.

By virtue of the authority vested in it by Section 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, § 1601.4 as follows:

Section 1601.4 is revised to read as follows:

§ 1601.4 Region; district.

The term "region" as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular region. The term "Regional Director" shall refer to that person designated as the Commission's chief officer in each region. The term "district" shall mean that area within a region fixed by the Commission as a particular sub-unit of a region. The term "District Director" shall refer to that person designated as the Commission's chief officer in each district. The Regional Director is hereby delegated all of the authority granted in this part to District Directors to be exercised within the scope of his or her supervisory authority over each District Director in his or her region. The Regional Offices of the General Counsel are under direct control of the Commission's General Counsel.

It is hereby certified that the revised regulation has been assessed for the need of an Inflationary Impact Statement. Because of the nature of the changes, this revision does not require an Inflationary Impact Statement.

Signed at Washington, D.C. on this 11th day of August, 1976.

ETHEL BENT WALSH,
Vice Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-23826 Filed 8-16-76;8:45 am]

PART 1601—PROCEDURAL REGULATIONS

Procedure for the Prevention of Unlawful Employment Practices

The amendment to § 1601.13 sets forth changes necessary to implement Section 706 of Title VII of the Civil Rights Act of 1964, as amended, which requires that a respondent be served with notice of a charge of discrimination within ten days after the filing of such charge. Prior to this revision, § 1601.13 provided that the Commission furnish a respondent charged with an unlawful employment practice with notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) within 10 days after the filing thereof. This revision provides for service of a copy of the charge itself (including the identity of the person filing the charge or, in the case of a charge filed on behalf of any individual or individuals, the identity of the person or organization so filing) by mail or in person within 10 days after filing of the charge where such service would not impede the law enforcement functions of the Commission. Where the Commission determines that service of the charge itself within the 10 day notice period provided in 706(b) of Title VII would impede its law enforcement function, it will serve the notice of the charge, as is its current practice, rather than a copy of the charge.

This amendment is procedural in nature, and the public rulemaking process is not required. This amendment is effective immediately.

By virtue of the authority vested in it by Section 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, § 1601.13 as follows:

Section 1601.13 is revised to read as follows:

§ 1601.13 Service of Notice of Charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent a copy of the charge, by mail or in person except when it is determined that providing a copy of the charge would impede the law enforcement functions of the Commission. Where a copy of the charge is not provided, the respondent will be served with the notice of the charge within ten days after the filing of the charge (including the date, place, circumstances and identity of the person filing the charge or, in the case of a charge filed on behalf of any individual or individuals, the identity of the person or organization so filing).

(b) The District Directors, the Commission's Director of the Office of Compliance Programs, and the designated representative of each are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

It is hereby certified that the revised regulation has been assessed for the need of an Inflationary Impact Statement. Because of the nature of the changes this revision does not require an Inflationary Impact Statement.

Signed at Washington, D.C., on this 11th day of August, 1976.

ETHEL BENT WALSH,
Vice Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-23827 Filed 8-16-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 722—REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

Revision

Pursuant to the authority conferred under 5 U.S.C. 301 and 10 U.S.C. 166 and 5031, the Secretary of the Navy revises 32 CFR Part 722. This reflects a revision to a Secretary of the Navy Instruction (SECNAVINST 5314.5A) entitled "Reporting procedures on defense related employment" adopted on July 7, 1976. This revision implements 50 U.S.C. 1436 and Department of Defense Directive 7700.15 of October 30, 1970, codified at 32 CFR Part 166, which establish requirements and procedures for annual filing and review of reports of Department of Defense and defense related employment to be submitted by certain categories of personnel and former personnel. The objective of this revision is to improve existing Department of the Navy implementation of the underlying statute and DoD directive by: (1) Promoting individual awareness of and compliance with these instructions; (2) providing more explicit instructions concerning the scope and substance of the prescribed review of filed reports; (3) establishing alerting and monitoring systems in this area; and (4) delineating the responsibilities of commanding officers, heads of naval commands and activities, and the Judge Advocate General with respect to acting on reports of violations of this Part. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate to internal naval management and personnel practices that can be administered more effectively without public participation in the rulemaking process. It has therefore been determined that invitation of public comment on this revision would be impracticable and is not

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required under the provisions of Parts 296 and 701 of 32 CFR. Accordingly, 32 CFR Part 722 is revised to provide as follows:

Sec.
722.1 Purpose.
722.2 Scope and effect.
722.3 Persons required to file form DD 1787.
722.4 Filing and review procedures.
722.5 Responsibilities for informing personnel.
722.6 Responsibilities for monitoring and enforcing compliance.
722.7 Availability of forms.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 166 and 5031; 50 U.S.C. 1436.

§ 722.1 Purpose.

This Part 722 implements 50 U.S.C. 1436 and Part 166 of this title, which establish requirements and procedures for annual filing and review of reports of Department of Defense (DoD) and defense related employment (form DD 1787) submitted by:

(a) Certain categories of civilian officers and employees of the Department of Defense who were formerly employed by defense prime contractors, and

(b) Certain categories of former military officers and former DoD civilian officers and employees who were subsequently employed by defense prime contractors.

§ 722.2 Scope and effect.

The provisions of this part apply to all Navy and Marine Corps activities, and to the Department of the Navy personnel and former or retired personnel indicated in § 722.3, including personnel of Navy or Marine Corps nonappropriated fund activities. An individual who is required to file a report of DoD and defense related employment (form DD 1787) and fails to do so for any reason is subject under 50 U.S.C. 1436 to a penalty of six months imprisonment, a fine of $1,000, or both.

§ 722.3 Persons required to file form DD 1787.

(a) *Criteria.* The Department of the Navy personnel and former or retired personnel indicated below shall file form DD 1787 with the Secretary of the Navy, in the manner prescribed in § 722.4, not later than January 15 following the close of any fiscal year in which all the specified conditions occur.

(1) *Civilian personnel formerly employed by defense prime contractors.* A civilian officer or employee of the Department of the Navy, including a consultant or part-time employee, shall file form DD 1787, if:

(i) He was employed during any part of the fiscal year by the Department of the Navy or another DoD component at a salary rate at least equal to the minimum rate for grade GS–13;

(ii) At any time during the three-year period preceding the beginning of the fiscal year, he was employed by or performed services for a defense prime contractor, as defined in paragraph (b)(2) of this § 722.3, at a salary rate of at least $15,000 per year; and

(iii) Such defense prime contractor received $10 million or more of negotiated defense contracts during the fiscal year.

(2) *Former civilian personnel subsequently employed by defense prime contractors.* A former civilian officer or employee of the Department of the Navy, including a consultant or part-time employee, shall file form DD 1787, if:

(i) During any part of the fiscal year, he was employed by or performed services for a defense prime contractor, as defined in paragraph (b)(2) of this § 722.3, at a salary rate of at least $15,000 per year;

(ii) Such defense prime contractor received at least $10 million of negotiated defense contracts during the fiscal year;

(iii) The employee's last employment with the Department of the Navy was terminated not more than three years prior to the beginning of the fiscal year; and

(iv) At any time during the three-year period preceding the termination of his last employment by the Department of the Navy, he was paid at a rate at least equal to the minimum rate provided at the time for grade GS–13.

(3) *Former military officers subsequently employed by defense prime contractors.* A former officer, including a retired officer, of the Navy, Marine Corps, Naval Reserve, or Marine Corps Reserve, who served on extended active duty for at least 10 years and was serving in the grade of lieutenant commander, major, or above, at the time of retirement or release from or termination of extended active duty, shall file a form DD 1787, if:

(i) During any part of the fiscal year, he was employed by or performed services for a defense prime contractor, as defined in paragraph (b)(2) of this § 722.3, at a salary rate of at least $15,000 per year;

(ii) Such defense prime contractor received at least $10 million of negotiated defense contracts during the fiscal year; and

(iii) The former or retired officer's extended active duty terminated not more than three years prior to the beginning of the fiscal year. (A retired military officer is subject to the reporting requirement, if otherwise applicable, even if his military retirement pay is waived. A Reserve officer, not on active duty who is not a "retired officer" is a "former officer" for the purpose of form DD 1787 even though he currently holds a commission in a Reserve component.

(b) *Definitions*—(1) *Employed or employment* is used in a broad sense in this part to include services performed, as a consultant or otherwise, either for a defense prime contractor or for a component of the Department of the Navy or DoD. This definition includes, among other services which might have been performed for a defense prime contractor, representing a contractor at a hearing, trial, appeal, or other action in which the United States was a party and which involved services and materials provided or to be provided to DoD by such contractor, and representing a contractor in any transaction with DoD involving services or materials provided or to be provided by such contractor to DoD.

(2) *Defense prime contractor* is used in this part to mean any individual, firm, corporation, partnership, association, or other legal entity that enters into a contract directly with DoD, or any component thereof, to furnish services or materials, including construction, to DoD or a component, and which is awarded $10 million or more of negotiated defense contracts (as distinguished from contracts awarded by formal advertising) during a given fiscal year. The definition thus excludes subcontractors, and excludes prime contractors that receive less than $10 million of negotiated defense contract awards in a fiscal year. Also, a subsidiary of a large corporation may be a separate entity and contract directly with DoD in its own name, in which case the "defense prime contractor" would be the subsidiary corporation, not the parent corporation. Therefore, only the dollar amount of negotiated contracts awarded by DoD components to a subsidiary contracting in its own name during a fiscal year would be considered in determining whether the subsidiary's employees or former employees may be required to file form DD 1787. A list of the "defense prime contractors" meeting the criteria of this definition for the preceding fiscal year is published each December (each September for fiscal years prior to FY 1976) in the FEDERAL REGISTER, appearing as an amendment of 32 Code of Federal Regulations § 166.11. As provided in paragraph (e) of § 722.5, such a list will also be disseminated annually to all naval activities by a JAG Notice.

(3) *Fiscal year* means the period beginning on July 1, 1975 and ending on September 30, 1976, and, after the latter date, means a year beginning on October 1 and ending on September 30 of the following year. It is designated by the calendar year in which it ends—for example, FY 1977 begins on October 1, 1976 and ends on September 30, 1977.

§ 722.4 Filing and review procedures.

(a) Individuals required under § 722.3 to file reports of DoD and defense related employment (form DD 1787) shall submit such reports, in triplicate, in the format prescribed in form DD 1787 and the completion instruction which accompany the form, not later than January 15 following the close of the fiscal year to which the report pertains. The reports shall be submitted to the following officials:

(1) Active civilian personnel formerly employed by defense prime contractors: the Director of Civilian Manpower Management (Administrative Office (01B)), Department of the Navy, Washington, D.C. 20390, via the commanding officers or heads of the activities at which they are employed;

(2) Former civilian personnel subsequently employed by defense prime contractors: The Director of Civilian Manpower Management (Administrative Office (01B)), Department of the Navy, Washington, D.C. 20390;

(3) Former or retired Navy or Naval Reserve officers subsequently employed by defense prime contractors: the Chief of Naval Personnel (Pers-14), Department of the Navy, Washington, D.C. 20370;

(4) Former or retired Marine Corps or Marine Corps Reserve officers subsequently employed by defense prime contractors: The Commandant of the Marine Corps (Code MSPA–3), Department of the Navy, Washington, D.C. 20380.

(b) The Director of Civilian Manpower Management, Chief of Naval Personnel, and Commandant of the Marine Corps shall receive for the Secretary of the Navy, as provided in paragraph (a) of this § 722.4, all reports of DoD and defense related employment (form DD 1787) submitted by personnel and former personnel of the Department of the Navy, and shall review each report in the manner prescribed in paragraph (d) of this § 722.4. Not later than February 15 each year, they shall forward to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) three copies of each form received by them, together with a listing of the names of individuals submitting the forms, segregated by the names of the defense prime contractors for which the individuals were employed or performed services. (RCS DD–M&RA (A) 1051 (5370).)

(c) Not later than February 28 each year, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) shall forward to the Assistant Secretary of Defense (Manpower and Reserve Affairs) three copies of each form received pursuant to paragraph (b) of this § 722.4, together with a composite listing, in triplicate, of the names of individuals submitting the forms, segregated by the names of the defense prime contractors concerned. (RCS DD–M&RA(A) 1051 (5370).) (Copies of the completed forms and listings are later provided by the Assistant Secretary of Defense (Manpower and Reserve Affairs) to the Congress and are filed for public inspection in the Office of the Secretary of Defense.)

(d) In conducting the review prescribed in paragraph (b) of this § 722.4, the Director of Civilian Manpower Management, Chief of Naval Personnel and Commandant of the Marine Corps, as appropriate, shall determine whether:

(1) Each form submitted is required under this part and 50 U.S.C. 1436;

(2) All required information has been furnished; and

(3) The information submitted indicates an apparent violation of a conflict-of-interests law or regulation cited or provided in Part 721 of this chapter. (For example, the fact that a former officer became employed by a defense prime contractor after terminating Government duties involving that contractor might indicate a possible violation of 18 U.S.C. 207 or 208(a), or the fact that a retired Regular officer represents a contractor in transactions or negotiations with DoD components might indicate a possible violation of 18 U.S.C. 281 or temporarily disentitle him from receiving military retirement pay under 31 U.S.C. 801(c).)

(e) If, upon review of a form, it is determined that the form was not required to be submitted or that all required information has not been furnished, appropriate corrective action shall be taken. If it is determined that a conflict-of-interests violation may have been committed, the form will be processed as provided in paragraph (b) of this § 722.4, but a copy of the form shall be forwarded, for such additional review, inquiry, advice, or further action as may be warranted, to the Chief of Naval Material if involving a possible violation in connection with the procurement, acquisition, or disposal of property within the purview of SECNAVINST 4385.1B; or to the Judge Advocate General in any other case.

§ 722.5 Responsibilities for informing personnel.

Although this part and Part 166 of this title are published in the FEDERAL REGISTER and codified in the "Code of Federal Regulations" in order to provide constructive notice to all individuals affected for purposes of perfecting the legal basis for invoking the penal provisions of 50 U.S.C. 1436 for failure to file form DD 1787, where required, it is imperative that the Department of the Navy take diligent action to ensure that the personnel and former personnel affected receive actual and timely notice of the filing requirement, and to ensure compliance on the part of personnel who are under departmental control. Such action shall include, at the minimum, the following:

(a) Each commanding officer or head of a command, bureau, office, or activity shall:

(1) Direct attention to this part within the organization on a continuing basis in a manner that will ensure that all civilian personnel who may be required to file form DD 1787 are informed of the requirement—this will include providing information in entrance-orientation and exit-interview or separation-counselling procedures, and providing information to civilian personnel who may become subject to the filing requirement by virtue of a promotion or step increase after initial employment; and

(2) Establish controlled procedures to ascertain the identity of each civilian employee within the organization who is required to file form DD 1787 for a given fiscal year, to provide each such employee with a copy of this part and copies of form DD 1787 and the completion instructions which accompany the form, and to ensure that each such employee does file the form in the prescribed manner not later than January 15 following the end of the fiscal year for which it is required.

(3) In providing the foregoing information and notifications, it should be pointed out that the requirement for filing form DD 1787 is distinct from the possible additional requirement for personnel to file confidential statements of employment and financial interests (forms DD 1555 or DD 1555–1) pursuant to Part 721 of this chapter.

(b) The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall provide instructions to each Regular or Reserve officer in pay grade O–4 or above who has served on extended active duty for ten years or more, as part of the separation check-out procedures upon retirement, or upon release from or termination of extended active duty, with instructions concerning the possible future requirement for filing form DD 1787. These instructions should be combined, where applicable, with the instructions prescribed in Part 721 of this title concerning additional requirements for retired Regular officers to file statements of employment (form DD 1357). Further, the Chief of Naval Personnel and the Commandant of the Marine Corps shall provide reminders in appropriate publications directed at former or retired officers who may be subject to the requirement for filing form DD 1787.

(c) The Comptroller of the Navy and the Commandant of the Marine Corps shall ensure that periodic reminders are disseminated to those retired Navy, Naval Reserve, Marine Corps, and Marine Corps Reserve officers who may be subject to the requirement for filing form DD 1787. These reminders should be combined, where appropriate, with reminder concerning additional requirements for retired Regular officers to file statements of employment (form DD 1357) pursuant to Part 721 of the chapter.

(d) The Chief of Naval Material, in coordination with the Office of the Secretary of Defense and the other military departments, if deemed appropriate, shall ensure that the contents of this part are periodically brought to the attention of the principal officer of each defense prime contractor identified by the Assistant Secretary of Defense (Comptroller) as receiving $10 million or more of negotiated defense contracts during the preceding fiscal year. Such contractors' principal officers shall be requested to inform all former or retired Department of the Navy personnel in their employ of the requirements of 50 U.S.C. 1436 and this part.

(e) The Judge Advocate General of the Navy shall, at the earliest practicable time following the end of each fiscal year, disseminate a notice to all naval activities containing the list prepared by the Assistant Secretary of Defense (Comptroller) of the business entities which met the criteria as "defense prime contractors" for the purposes of this part during the preceding fiscal year.

(f) The Judge Advocate General of the Navy and the General Counsel of the Navy shall provide, within their respective areas of cognizance, legal advice regarding questions which may arise under this part. Additionally, the deputy ethics counselors designated in Part 721 of this title shall provide advice in local areas.

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§ 722.6 Responsibilities for monitoring and enforcing compliance.

(a) Each commanding officer or head of command, bureau, office, or activity shall establish the procedures prescribed in paragraph (a)(2) of § 722.5 and take corrective action in the case of any civilian employee of his organization who has not correctly compiled with this part. Where appropriate, corrective action might include reporting the matter to the Judge Advocate General, via the chain of command and the Director of Civilian Manpower Management, for action in accordance with paragraph (b) of this § 722.6. Further, each such officer receiving a report of an apparent violation of this part by a former or retired civilian or military employee or officer shall forward the report, via the chain of command, to the Judge Advocate General for action in accordance with paragraph (b) of this § 722.6.

(b) The Judge Advocate General and the Chief of Naval Material shall receive reports of apparent violations of this part, as provided above, and, where warranted, refer the same to appropriate investigative authorities. When prosecution is indicated, the matter may be referred by Chief of Naval Material (in coordination with the General Counsel of the Navy) or by the Judge Advocate General to the Department of Justice, in coordination with the General Counsel of the Department of Defense.

(c) The Naval Inspector General and the Inspector- General of the Marine Corps shall ensure that periodic administrative inspections of organizations under their cognizance routinely include inquiry into the effectiveness of the organizations' compliance with the provisions of this part.

(d) The Auditor General of the Navy shall ensure that the Naval Audit Service audit program routinely includes inquiry into the effectiveness of organizations' compliance with the provisions of this part.

§ 722.7 Availability of forms.

Supplies of form DD 1787 are available in the Forms and Publications Segment of the Navy Supply System under Stock Number 0102–LF–025–5090.

Dated: August 9, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76–23904 Filed 8–16–76;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

Soliciting, Advertising, Sales

On April 6, 1976, there was published in the FEDERAL REGISTER 41 FR 14525 (1976), a notice of proposed rulemaking concerning the regulations governing the sale or distribution of newspapers, leaflets, and pamphlets in park areas.

Interested persons were given an opportunity to participate in the rulemaking proceedings by submission of written comments to the Director, National Capital Parks, National Park Service. Written comments were received from two parties. All comments with respect to the proposed revision were given due consideration.

A. As a result of comments received, the following change in the proposed regulations was made in addition to language changes for clarification:

1. In order to have the definitions contained in this regulation consistent with those covering Demonstrations/Special Events, 36 CFR 50.19, 41 FR 12879 (1976), the definition of the "Lincoln Memorial" was changed to that used at 36 CFR 50.19(a)(9). It is felt that this change was necessary in order to alleviate the confusion that two definitions caused. This confusion was pointed out in a comment received from the American Civil Liberties Union.

B. Certain other recommendations have been carefully considered but have not been adopted. The following suggestions are not adopted for the reasons outlined below:

1. A comment was received concerning the scope of the proposed regulation in that it only applies to the sale or distribution of newspapers, leaflets, and pamphlets conducted without the aid of stands or structures. The proposed amendment regulates only the sale or distribution of the enumerated literature by itinerant vendors and allows such activities without permit in all park areas except those specifically listed. The sale or distribution from stands or structures is governed by the provisions of 36 CFR 50.24(c)(1) which requires a permit for all other sales activities.

2. Comments were received criticizing the proposed regulation as an unconstitutional limitation upon the First Amendment guarantee of freedom of the press. The National Park Service disagrees. The proposed regulation only limits the method of sale or distribution in a few limited areas. The proposed amendment allows for the unfettered distribution in all other park areas and provides reasonable access to the persons using the enumerated areas while preserving the visitor's park experience.

3. Comments were received criticizing the lack of justification or need for the proposed regulations. The National Park Service respectfully disagrees. The voluntary cooperation of the vendors sought by National Capital Parks was not forthcoming.

The views of park visitors made evident to National Capital Parks that the presence of these vendors substantially detracted from visitors' park experience. It was these views that prompted the National Park Service to act in order to protect the visitor experience at each of the enumerated sites.

4. The proposed regulation was criticized as being overbroad in its application to the Kennedy Center, Ford's Theatre, Constitution Gardens, and "all park buildings." The National Park Service must respectfully disagree. The presence of itinerant vendors inside those park buildings dedicated to the performing arts has proven to be a source of constant irritation to park visitors there to honor the memory of a past president or to attend a performing arts function. The limitation against itinerant distributors of literature was extended to include Constitutional Gardens because it is intended that this park will be an area of tranquility where a park visitor may relax without fear of any activity intrusions. The limitation was also extended to "all park buildings" since it was felt that itinerant sales activities there would unreasonably interfere with park administration.

5. A comment was received indicating that the commentator interpreted the proposed regulation as prohibiting the distribution of written material in the White House area and charging the Department with "carelessness or deception." The National Park Service regrets this characterization. The definition of the "White House area" § 50.24(c)(vi), specifically excludes from the limitation "• • • Lafayette Park, the White House sidewalk (the south Pennsylvania Avenue, NW. sidewalk between East and West Executive Avenues) and the Ellipse." Thus the proposed regulation provides for the unfettered distribution or sale of literature in the same areas within which 36 CFR 50.19 permits demonstrations.

6. A comment was received objecting to the form of the notice and suggesting that in order to be proper the National Park Service must re-publish the notice with diagrams denoting exactly the proscribed areas. The National Park Service respectfully disagrees.

It is the opinion of the National Park Service that the description of the proscribed areas are simple and readily understandable.

7. A comment was received criticizing the proposed amendment's application to the Washington Monument since it "does not have an atmosphere of 'calm, tranquility and reverence'". National Capital Parks has taken steps to alleviate the situation which the commentator relies upon. Moreover, it is the position of the National Park Service that heavy visitation to a memorial does not deprive the Park Service of the ability to take reasonable steps to maintain an atmosphere of calm, tranquility and reverence.

Effective date: This regulation shall become effective August 17, 1976.

Adopted by the National Park Service at its office in Washington, D.C. on the 6th day of August 1976.

GARY EVERHARDT,
Director, National Park Service.

Accordingly, 36 CFR 50.24(c) is revised to read as follows:

§ 50.24 Soliciting, advertising, sales.

• • • • •

(c) *Sales* (1) No sales shall be made nor admission fee charged and no article shall be exposed for sale in a park area without an official permit.

(2) The sale or distribution of newspapers, leaflets, and pamphlets, conducted without the aid of stands or structures, is permitted in all park areas, open to the general public, without permit except the following areas where such sale or distribution is prohibited:

(i) Lincoln Memorial area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level.

(ii) Jefferson Memorial area enclosed by the outermost series of columns, and all portions on the same levels or above the base of these columns.

(iii) Washington Monument area enclosed within a circle extending ten feet from the paved area surrounding the base of the Washington Monument.

(iv) Constitution Gardens area bounded on the north by Constitution Avenue NW.; on the south by the north reflecting pool walk extending from 17th Street NW.; to Bacon Drive NW.; on the east by 17th Street NW.; and on the west by Bacon Drive NW.

(v) The interior of all park buildings, including, but not limited to, those portions of the Kennedy Center and Ford's Theatre administered by the National Park Service.

(vi) The White House Park area bounded on the north by H Street NW.; on the south by Constitution Avenue NW.; on the west by 17th Street NW.; and on the east by 15th Street NW.; except for Lafayette Park, the White House sidewalk (the south Pennsylvania Avenue NW. sidewalk between East and West Executive Avenues) and the Ellipse.

[FR Doc.76–24024 Filed 8–16–76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 599–2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

New Mexico, Revocation of Approval of Regulation for Control of Sulfur Oxides Emissions From Coal Burning Equipment

The purpose of this rulemaking is to revoke the approval of the New Mexico Regulation for control of sulfur oxides emissions from existing coal burning equipment and to disapprove that portion of the State Implementation Plan relating to the attainment of sulfur oxides National Ambient Air Quality Standards (NAAQS), in the Four Corners Air Quality Control Region (AQCR).

On October 3, 1975, the Governor of New Mexico submitted a revision to the State Implementation Plan regarding Regulation 602B, Coal Burning Equipment-Sulfur Dioxide, which controlled emissions from existing facilities. The Environmental Protection Agency had previously disapproved the State plan on July 27, 1972 (37 FR 15086) and corrective regulations were promulgated by EPA on March 23, 1973, (38 FR 7556) with amendments published on March 21, 1974 (39 FR 10582). The New Mexico submittal showed a degree of control greater than the Federal promulgation and was considered corrective action to the State Implementation Plan. Therefore, on February 24, 1976 (41 FR 8057) the Administrator issued approval of the New Mexico plan and revoked the federally promulgated regulation.

In the preamble to the February 24, 1976 action, pending litigation was noted. The State Regulation 602B had been appealed to the New Mexico Court of Appeals. On April 6, 1976, the New Mexico Court of Appeals invalidated a portion of that regulation, namely Sections 602(B) (2) and (3), and the New Mexico Supreme Court subsequently denied a petition for certiorari. With these decisions, the invalidation is now fully operative. Therefore, EPA hereby revokes its previous approval of Regulation 602(B) (2) and (3). In addition, the New Mexico plan is once again deficient in meeting the requirements of § 51.13 of this chapter, since the plan does not provide for attainment and maintenance of national standards for sulfur oxides in New Mexico's portion of the Four Corners Interstate Region. Negotiations with the State are progressing to develop replacement regulations.

Publications occurring on October 20, 1975 (40 FR 48941), February 24, 1976 (41 FR 8057), and April 30, 1976 (41 FR 18077), discussed the actions in New Mexico and the State conducted public hearings on August 27 through August 29, 1974, in accordance with § 51.4 of the chapter. For this reason and since the court decision is fully operative, the Administrator finds good cause to complete the invalidation of New Mexico Regulation 602(B) (2) and (3) and make the actions herein effective immediately. This rulemaking is issued under the authority of section 110 of the Clean Air Act as amended 42 U.S.C. 1857c–5.

Dated: August 11, 1976.

JOHN QUARLES,
Acting Administrator, Environmental Protection Agency.

Part 52 of Chapter I Title 40 of the Code of Federal Regulations is amended as follows:

Subpart GG—New Mexico

1. In § 52.1620, paragraph (c)(8) is amended.

§ 52.1620 Identification of plan.

• • • • •

(c) • • •

(8) Revisions to Air Quality Control Regulation 602, Coal Burning Equipment—Sulfur Dioxide, adopted by the New Mexico Environmental Improvement Board on December 13, 1974, and submitted by the Governor on October 3, 1975, except sections 602B (2) and (3).

2. § 52.1624 is amended by adding paragraphs (a)(1) and (b)(1) as follows:

§ 52.1624 Control strategy and regulations: Sulfur oxides.

• • • • •

(a) • • •

(1) The plan does not provide for attainment and maintenance of the national standards for sulfur oxides in New Mexico's portion of the Four Corners Interstate Region.

• • • • •

(b) • • •

(1) Regulation 602B, except section 602(B)(1) (emission limitation for sulfur dioxide from existing coal-burning equipment) is disapproved since it does not provide for the degree of control necessary to attain and maintain the national standards for sulfur oxides in New Mexico's portion of the Four Corners Interstate Region.

[FR Doc.76–24086 Filed 8–16–76;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 122—HEALTH SYSTEMS AGENCIES

Subpart B—Designation of Health Systems Agencies

Correction

In FR Doc. 76–21707 appearing on page 31208 in the issue for Tuesday, July 27, 1976, the effective date of "August 27, 1976" given twice at the end of the preamble in the third column of page 31208 is incorrect and should have read "July 27, 1976".

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5599; Utah 30209]

UTAH

Powersite Restoration No. 740, Revocation of Powersite Reserve No. 122, San Juan River, Southeastern Utah

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847; 43 U.S.C. 141 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and pursuant to the determination of the Federal Power Commission in DA–200–Utah, it is ordered as follows:

1. The withdrawal order of July 2, 1910, creating Powersite Reserve No. 122, is hereby revoked to the extent that it affects the following described lands:

SALT LAKE MERIDIAN

T. 40 S., R. 22 E.,
Sec. 20, S½SW¼, SW¼SE¼, W½SE¼SE¼;
Sec. 21, E½SW¼SW¼;
Sec. 22, SE¼SE¼;
Sec. 23, S½S½.

The total area aggregates 360 acres in San Juan County.

2. This revocation is made pursuant to a petition for revocation filed by the

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State of Utah to allow a State exchange under section 8 of the Act of June 28, 1934, as amended, 43 U.S.C. 315g (1970).

Inquiries concerning the lands should be addressed to the Utah State Director, Bureau of Land Management, Post Office Box 11505, Salt Lake City, Utah 84111.

JACK O. HORTON,
Assistant Secretary of the Interior.

AUGUST 9, 1976.

[FR Doc.76-23908 Filed 8-16-76;8:45 am]

Title 50—Wildlife

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on August 17, 1976.

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

The public hunting of Ruffed Grouse and Snowshoe Hare on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 33,525 acres, is delineated on maps available at refuge headquarters, Seney, Michigan and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations governing the hunting of these species subject to the following special conditions:

(1) That portion of the refuge designated as Area A is closed to all hunting until November 15.

(2) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles and Snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1977.

JOHN R. FRYE,
Refuge Manager, Seney National Wildlife Refuge, Seney, Mich.

AUGUST 9, 1976.

[FR Doc.76-23910 Filed 8-16-76;8:45 am]

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on August 17, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of deer and bear on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. The open area, comprising 85,200 acres, is delineated on a map available at the refuge headquarters, Seney, Michigan and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and bear subject to the following special conditions:

(1) Bow and arrow hunting is permitted only on 33,525 acres of the refuge designated as Area B, from October 1 through November 14; and on the 85,200 acres of the refuge designated as Area A and Area B, from December 1 through December 31.

(2) Bear may be taken by archers only from October 1 through November 14 and by gun hunters only from November 15 through November 30. Bear may not be taken with the aid of dogs.

(3) Camping is permitted only west of the Driggs River except in designated Wilderness Area during the gun season. A Camp Registration Permit, obtainable at refuge headquarters, is required.

(4) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles and Snowmobiles are not permitted on the refuge.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1976.

AUGUST 9, 1976.

JOHN R. FRYE,
Refuge Manager, Seney National Wildlife Refuge, Seney, Mich.

[FR Doc.76-23911 Filed 8-16-76;8:45 am]

PART 32—HUNTING

Mark Twain National Wildlife Refuge—Illinois

The following special regulation is issued and is effective August 17, 1976.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ILLINOIS

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of black, gray, and fox squirrels on the Mark Twain National Wildlife Refuge, Illinois, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,400 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, United States Fish and Wildlife Service, Federal Building Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of squirrels subject to the following special conditions:

(1) The open season for hunting squirrels on the Keithsburg Division of the Mark Twain National Wildlife Refuge extends from September 1, 1976, through October 15, 1976, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 15, 1976.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge, Quincy, Illinois 62301.

JULY 23, 1976.

[FR Doc.76-23984 Filed 8-16-76;8:45 am]

PART 32—HUNTING

Mark Twain National Wildlife Refuge—Illinois

The following special regulation is issued and is effective August 17, 1976.

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

ILLINOIS

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer with shotgun on the Mark Twain National Wildlife Refuge, Illinois, is permitted from November 19, 1976 through November 21, 1976, only on the area of the Gardner Division designated by signs as open to hunting. The open area, comprising 4,831 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of white-tailed deer with shotgun subject to the following conditions:

(1) A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. One hundred and fifty (150) permits will be issued following a May 17, 1976 drawing.

(2) Successful hunters will be required to check their deer through the Adams County Check Station near the Division.

(3) Hunting will be from 6:30 a.m. to 3:00 p.m. (CST).

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 21, 1976.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge.

AUGUST 9, 1976.

[FR Doc.76-23985 Filed 8-16-76;8:45 am]

PART 32—HUNTING

Mark Twain National Wildlife Refuge—Iowa

The following special regulation is issued and is effective August 17, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

IOWA

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Mark Twain National Wildlife Refuge, Iowa, is permitted only on the areas known as the Big Timber Division and the Turkey Island area designated by signs as open to hunting. These open areas, comprising 1,760 acres, are delineated on a map available at the refuge headquarters and from the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge Quincy, Ill.

JULY 23, 1976.

[FR Doc.76-23987 Filed 8-16-76;8:45 am]

PART 32—HUNTING

Mark Twain National Wildlife Refuge—Iowa

The following special regulation is issued and is effective August 17, 1976.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

IOWA

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Mark Twain National Wildlife Refuge, Iowa, is permitted only on the areas known as Big Timber Division and Turkey Island area designated by signs as open to hunting. These open areas, comprising 1,760 acres, are delineated on a map available at the refuge headquarters and from the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of upland game.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1977.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge, Quincy, Illinois.

JULY 23, 1976.

[FR Doc.76-23986 Filed 8-16-76;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Processed Raisins

On pages 26021 through 26026 of the FEDERAL REGISTER of June 24, 1976 (41 FR 26021), there was published a notice of proposed rulemaking to revise the United States Standards for Grades of Processed Raisins.

STATEMENT OF CONSIDERATIONS

The proposed revision incorporated the United States Standards for Grades of Dried Currants into the United States Standards for Grades of Processed Raisins as a separate type of raisin in an effort to reduce the misunderstanding and confusion about the product customarily called, and marketed in the United States as, dried currants. Domestic dried currants are raisins processed from either the White Corinth or the Black Corinth grape—both of which are vinifera variety grapes. Their method of drying and preparation is the same as for other, more popular vinifera varieties such as the Thompson Seedless, Muscat of Alexandria, Muscatel Gordo Blanco, and Sultana. Editorial changes such as eliminating text in favor of using graphic tables to reduce misunderstanding; simplifying grade nomenclature by eliminating the alternative quality terms "U.S. Fancy," "U.S. Choice," and "U.S. Standard"; and relocating text to bring sections of like information together were also proposed.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

The proposal also considered changing the method of determining some defect categories from a "by count" to a "by weight" basis; and combining two similar development characteristics into a single scoring category.

Interested persons were given until July 26, 1976, to submit data, views, or arguments regarding the proposed revision.

One objection was received taking exception to the allowance for mold in all types of raisins.

The allowance provided in the Standards is a reasonable and workable allowance. It is the level (for this type of defect) that has been allowed in the standards for several years.

The response from the (California) Raisin Administrative Committee reflecting the views of some 4,000 raisin growers, handlers, and producers support the proposed revision and request its adoption.

The proposed revision to the United States Standards for Grades of Processed Raisins is adopted with minor editorial changes as set forth below.

Effective date. The revised United States Standards for Grades of Processed Raisins shall become effective on September 1, 1976.

§§ 52.981–52.985 [Reserved]

1. In 7 CFR Part 52—§ 52.981 through 52.985 are revoked and reserved effective September 1, 1976.

2. Sections 52.1841 through 52.1858 are revised to read as follows:

52.1841 Product description.
52.1842 Product description for Layer (or Cluster) Raisins with Seeds.
52.1843 Summary of types (varieties) of processed raisins.
52.1844 Definition of terms.

TYPE I—SEEDLESS RAISINS

52.1845 Sizes of seedless raisins.
52.1846 Grades of seedless raisins.

TYPE II—GOLDEN SEEDLESS RAISINS

52.1847 Colors of golden seedless raisins.
52.1848 Sizes of golden seedless raisins.
52.1849 Grades of golden seedless raisins.

TYPE III—RAISINS WITH SEEDS

52.1850 Sizes of raisins with seeds—except layer or cluster.
52.1851 Sizes of raisins with seeds—layer or cluster.
52.1852 Grades of raisins with seeds—except layer or cluster.
52.1853 Grades of raisins with seeds—layer or cluster.

TYPE IV—SULTANA RAISINS

52.1854 Sizes of sultana raisins.
52.1855 Grades of sultana raisins.

TYPE V—ZANTE CURRANT RAISINS

52.1856 Sizes of zanta currant raisins.
52.1857 Grades of zante currant raisins.

TYPE VI—MIXED TYPE OF RAISINS

52.1858 Grades of mixed types or varieties of raisins.

AUTHORITY: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended 1090, as amended; (7 U.S.C. 1622, 1624).

§ 52.1841 Product description.

Processed Raisins are dried grapes of the Vinifera varieties, such as Thompson Seedless (Sultanina), Muscat of Alexandria, Muscatel Gordo Blanco, Sultana, Black Corinth or White Corinth. The processed raisins are prepared from clean, sound, dried grapes; are properly stemmed and capstemmed except for cluster or uncapstemmed raisins; are properly seeded in seeded styles; are sorted or cleaned, or both; and except

V41160 AUG 17 76 UMI

for cluster or uncapstemmed raisins, are washed in water to assure a wholesome product.

§ 52.1842 Product description of layer or cluster raisins with seeds.

Raisins with Seeds that are referred to as "Layer or Cluster raisins" means that the raisins have not been detached from the main bunch.

§ 52.1843 Summary of types (varieties) of processed raisins.

(a) Type I—Seedless Raisins
(1) Natural.
(2) Dipped, Vine-dried, or similarly processed raisins.
(b) Type II—Golden Seedless Raisins
(c) Type III—Raisins with Seeds
(1) Natural.
(i) Seeded (seeds removed).
(ii) Unseeded-capstemmed (loose).
(iii) Unseeded-uncapstemmed (loose).
(iv) Layer (or Cluster).
(2) Dipped, Vine-dried, or other similarly processed raisins.
(i) Seeded (seeds removed).
(ii) Unseeded-capstemmed (loose).
(iii) Unseeded-uncapstemmed (loose).
(d) Type IV—Sultana Raisins.
(e) Type V—Zante Currant Raisins.
(i) Unseeded.
(ii) Seeded.
(f) Type VI—Mixed Types or Varieties of Raisins. A mixture of two or more different types (varieties) of raisins including sub-types outlined in this section but other than: (1) mixtures containing Layer or Cluster Raisins with seeds;
(2) mixtures containing Unseeded-capstemmed and Unseeded-uncapstemmed Raisins with Seeds; and (3) mixture of Seeded and Unseeded Raisins with Seeds.

§ 52.1844 Definition of terms.

(a) "Capstems" means small woody stems exceeding ⅛-inch in length which attach the raisins to the branches of the bunch.
(b) A "piece of stem" means a portion of the branch or main stem.
(c) "Seeds" refers to whole, fully developed seeds which have not been removed during the processing of seeded Raisins with seeds.
(d) "Damaged raisins" means raisins affected by sunburn, scars, insect injury, mechanical injury, or other similar means which seriously affect the appearance, edibility, keeping quality, or shipping quality of the raisins. In seeded Raisins with Seeds, mechanical injury resulting from normal seeding operations is not considered damage.
(e) "Sugared" means either external or internal sugar crystals are present and the accumulation of such crystallized fruit sugars in the flesh or on the surface of the raisins is readily apparent.
(f) "Grit, sand, or silt" means any particle or earthy material.
(g) "Moisture" means the percentage by weight of the processed raisins, exclusive of branch and heavy stem material, that is moisture when determined by the "Dried Fruit Moisture Tester Method" or in accordance with other methods that give equivalent results.
(h) "Slightly discolored" means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that is less than the area of a circle ⅛-inch in diameter.
(i) "Discolored" means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that equals or exceeds the area of a circle ⅛-inch in diameter; Provided, That the overall appearance, keeping quality, and edibility of the product are not seriously affected.
(j) "Well-matured" means raisins that are full-fleshed, may have fine wrinkles and are rounded in appearance.
(k) "Reasonably well-matured" means raisins that are reasonably full-fleshed and may have shallow wrinkles with thick edged ridges.
(l) "Fairly well-matured" means raisins that are thin-fleshed and angular in appearance.
(m) "Substandard development" means raisins that are practically lacking in flesh.
(n) "Undeveloped" refers to extremely light berries that are lacking in sugary tissue indicating incomplete development; are reddish in color; are completely shriveled; have fine wrinkles on smaller units and moderately deep wrinkles on slightly larger units; and are commonly referred to as "worthless."

TYPE I—SEEDLESS RAISINS

§ 52.1845 Sizes of seedless raisins.

The size designations and measurement requirements for the respective sizes are:
(a) "Select" size raisins means that no more than 60 percent, by weight, of all the raisins will pass through round perforations $^{33}/_{64}$-inch in diameter, but not more than 10 percent, by weight, of all the raisins may pass through round perforations $^{29}/_{64}$-inch in diameter.
(b) "Small" or "midget" size raisins means that 95 percent, by weight, of all the raisins will pass through round perforations $^{21}/_{64}$-inch in diameter, and not less than 70 percent, by weight, of all raisins will pass through round perforations $^{29}/_{64}$-inch in diameter.
(c) "Mixed" size raisins means a mixture which does not meet either the requirements for "select" size or for "small" or "midget" size.

§ 52.1846 Grades of seedless raisins.

(a) "U.S. Grade A" is the quality of Seedless Raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.
(b) "U.S. Grade B" is the quality of Seedless Raisins that have similar varietal characteristics; that have a reasonably good typical color; that have a good characteristics flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.
(c) "U.S. Grade C" is the quality of Seedless Raisins that have similar varietal characteristics; that have a fairly good typical color; that have a fairly good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes with not less than 55 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.
(d) "Substandard" is the quality of Seedless Raisins that fail to meet the requirements of U.S. Grade C.

TABLE I -- ALLOWANCES FOR DEFECTS IN TYPE I, SEEDLESS RAISINS AND TYPE II, GOLDEN SEEDLESS RAISINS

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
	Maximum count (per 96 ounces)		
Pieces of stem	1	2	4
	Maximum count (per 16 ounces)		
Capstems	15	25	35
	Maximum (percent by weight)		
Sugared	5	10	15
Discolored, damaged or moldy raisins	4	6	9
Provided these limits are not exceeded:			
Damaged	2	3	5
Moldy	2	3	4
Substandard Development and Undeveloped	Total	Total	Total
Select size	1	1-1/2	2
Mixed size	1	2	3
Small (Midget) size	2	3	5
	Appearance or edibility of product:		
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected	May not be more than slightly affected	May not be materially affected
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

TYPE II—GOLDEN SEEDLESS RAISINS

§ 52.1847 Colors of golden seedless raisins.

The color of Golden Seedless Raisins is not a factor of quality for the purpose of these grades. The color requirements applicable to the respective color designations are as follows:
(a) "Well colored" means that the raisins are practically uniform in color and may range from yellow or golden to light amber color with a predominating yellow or golden color and that not more than ½ of 1 percent, by weight, of all the raisins may be definitely dark berries.
(b) "Reasonably well colored" means that the raisins are reasonably uniform in color and may range from yellow or golden or greenish yellow to light amber wherein the predominating color may be greenish yellow or light amber and that not more than 3 percent, by weight, of all the raisins may be definitely dark berries.
(c) "Fairly well colored" means that the raisins are fairly uniform in color and may range from yellow or greenish yellow to amber or light greenish amber and that not more than 6 percent, by weight, of all the raisins may be definitely dark berries.
(d) "Colored" means that the raisins may be variable in color and may range from yellowish green to dark amber or dark greenish amber; that not more than 20 percent, by weight, of all the raisins may be definitely dark berries.
(e) "Definitely dark berries" means raisins which are definitely darker than dark amber and characteristic of naturally "raisined" grapes.

§ 52.1848 Sizes of golden seedless raisins.

The size designations and measurement requirements for the respective sizes of Golden Seedless Raisins are the same as for Seedless Raisins (See § 52.1845).

§ 52.1849 Grades of golden seedless raisins.

Except for color, the grades of Golden Seedless Raisins are the same as for Seedless Raisins (See § 52.1846 and Table I).

TYPE III—RAISINS WITH SEEDS

§ 52.1850 Sizes of raisins with seeds—except layer or cluster.

The sizes of Raisins with Seeds—except for Layer or Cluster Raisins with Seeds, are not incorporated in the grades of the finished product since size, as such, is not a factor of quality for the purposes of these grades. The common size designations and measurement requirements applicable thereto include, but are not limited to, the following:
(a) *Seeded.* (1) "Select" size raisins means that not more than 70 percent, by weight, of the raisons will pass through round perforations $^{34}/_{64}$-inch in diameter; and not more than 5 percent, by weight, of the raisins will pass through round perforations $^{29}/_{64}$-inch in diameter.
(2) "Small" or "midget" size raisins means that all of the raisins will pass through round perforations $^{34}/_{64}$-inch in diameter and not less than 90 percent, by weight, of all the raisins will pass through round performances $^{29}/_{64}$-inch in diameter.
(3) "Mixed" size raisins means a mixture which does not meet either the requirements for "select" size or for "small" (or "midget") size.
(b) *Unseeded.* (1) "4 Crown" means raisins that will not pass through round perforations $^{42}/_{64}$-inch in diameter.
(2) "3 Crown" means raisins that will pass through round perforations $^{42}/_{64}$-inch in diameter but will not pass through round perforations $^{34}/_{64}$-inch in diameter.
(3) "2 Crown" means raisins that will pass thorugh round perforations $^{34}/_{64}$-inch in diameter but will not pass through round perforations $^{24}/_{64}$-inch in diameter.
(4) "1 Crown" means raisins that will pass through round perforations $^{24}/_{64}$-inch in diameter.

§ 52.1851 Sizes of raisins with seeds—layer or cluster.

The size of Layer or Cluster Raisins with Seeds is incorporated in the grades of the finished product. The size designation and measurement as applicable to layer or cluster raisins with seeds are:
(a) *3 Crown Size or Larger.* "3 Crown size or larger" in Layer or Cluster Raisins

V 41 160 AUG 17 76 UMI

with Seeds means that the raisins, exclusive of stems and branches, are such a size that they will not pass through round perforations $^{3}/_{64}$-inhc in diameter.

§ 52.1852 Grades of raisins with seeds—except layer or cluster.

(a) "U.S. Grade A" is the quality of Raisins with Seeds that have similar varietal characteristics; that have a good typical color with not more than 10 percent, by weight, that may be dark reddish-brown berries; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture, except that any seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart.

(b) "U.S. Grade B" is the quality of Raisins with Seeds that have similar varietal characteristics; that have a reasonably good typical color with not more than 15 percent, by weight, that may be dark reddish-brown berries; that have a good characteristic flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes; with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well matured; that contain not more than 18 percent, by weight, of moisture, except that any seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart.

(c) "U.S. Grade C" is the quality of Raisins with Seeds that have similar varietal characteristics; that have a fairly good typical color with not more than 20 percent, by weight, that may be dark reddish-brown berries; that have a fairly good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes; that contain not more than 18 percent, by weight, of moisture, except that any seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart .

(d) "Substandard" is the quality of Raisins with Seeds that fail to meet the requirements of U.S. Grade C.

TABLE II - ALLOWANCES FOR DEFECTS IN RAISINS WITH SEEDS - EXCEPT LAYER OR CLUSTER

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
	Maximum count (per 32 ounces)		
Pieces of stem	1	2	3
	Maximum count (per 16 ounces)		
Capstems in other than uncapstemmed types	10	15	20
Seeds in seeded types	12	15	20
Loose capstems in uncapstemmed types	20	20	20
	Maximum (percent by weight)		
Sugared	5	10	15
Discolored, damaged, or moldy	5	7	9
Provided these limits are not exceeded:			
Damaged	3	4	5
Moldy	2	3	4
Substandard Development and Undeveloped	2	5	8
	Appearance or edibility of product		
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected.	May not be more than slightly affected.	May not be more than materially affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

§ 52.1853 Grades of raisins with seeds—layer or cluster.

(a) "U.S. Grade A" is the quality of Layer or Cluster Raisins with Seeds that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that are uniformly cured and show development characteristics of raisins prepared from well-matured grapes; that contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of the raisins, exclusive of stems and branches, are 3-Crown size or larger; and that meet the additional requirements as outlined in Table III of this subpart.

(b) "U.S. Grade B" is the quality of Layer or Cluster Raisins with Seeds that have similar varietal characteristics that have a reasonably good typical color; that have a good characteristic flavor; that are uniformly cured and show development characteristics of raisins prepared from reasonably well-matured grapes; that contain not more than 23 percent, by weight, of the moisture, that not less than 30 percent, by weight, of the raisins exclusive of stems and branches, are 3-Crown size or larger; and that meet the additional requirements outlined in Table III of this subpart.

(c) "Substandard" is the quality of Layer or Cluster Raisins with Seeds that fail to meet the requirements of U.S. Grade B.

TABLE III - ALLOWANCES FOR DEFECTS IN LAYER OR CLUSTER RAISINS WITH SEEDS

Defects	U.S. Grade A	U.S. Grade B
	Maximum (percent by weight)	
Sugared	5	10
Discolored, damaged, or moldy	5	7
Provided these limits are not exceeded:		
Damaged	3	4
Moldy	2	3
Substandard Development and Undeveloped	2	5
Shattered (or loose) individual berries and small clusters of 2 or 3 berries each	Practically free	Reasonably free
	Appearance or edibility of product	
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected.	May not be more than slightly affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.	

TYPE IV—SULTANA RAISINS

§ 52.1854 Sizes of Sultant raisins.

Size designations are not applicable to Sultana Raisins.

§ 52.1855 Grades of Sultana raisins.

(a) "U.S. Grade A" is the quality of Sultana Raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; and that contain not more than 18 percent, by weight, of moisture, and that meet the additional requirements outlined in Table IV of this subpart.

(b) "U.S. Grade B" is the quality of Sultana Raisins that have similar varietal characteristics; that have a reasonably good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes; with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well-matured; and that contain not more than 18 percent, by weight, of moisture, and that meet the additional requirements as outlined in Table IV of this subpart.

(c) "U.S. Grade C" is the quality of Sultana Raisins that have similar varietal characteristics; that have a fairly good typical color; that have a fairly

V 41 160 AUG 17 76 UMI

good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes; that contain not more than 18 percent, by weight, of moisture; and that meet the additional requirements as outlined in Table IV of this subpart.

(d) "Substandard" is the quality of Sultana Raisins that fail to meet the requirements of U.S. Grade C.

TABLE IV - ALLOWANCES FOR DEFECTS IN SULTANA RAISINS

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
	Maximum count (per 32 ounces)		
Pieces of stem	1	2	3
	Maximum count (per 16 ounces)		
Capstems	25	45	65
	Maximum (percent by weight)		
Sugared	5	10	15
Discolored, damaged, or moldy	4	6	9
Provided these limits are not exceeded:			
Damaged	2	3	5
Moldy	2	3	4
Substandard Development and Undeveloped	2	5	8
	Appearance or edibility of product:		
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected.	May not be more than slightly affected.	May not be more than materially affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

TYPE V—ZANTE CURRANT RAISINS

§ 52.1856 Sizes of zante currant raisins.

Size designations are not applicable to Zante Currant Raisins.

§ 52.1857 Grades of zante currant raisins.

(a) "U.S. Grade A" is the quality of Zante Currant Raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; that have not less than 75 percent, by weight, of raisins that are well-matured or reasonably well matured; that contain not more than 20 percent, by weight, of moisture; and meet the additional requirements as outlined in Table V of this subpart.

(b) "U.S. Grade B" is the quality of Zante Currant Raisins that have similar varietal characteristics; that have a reasonably good typical color; that have a good characteristic flavor; that have development characteristics of raisins prepared from reasonably well-matured and/or fairly well matured grapes; that contain not more than 20 percent, by weight, of moisture; and meet the additional requirements as outlined in Table V of this subpart.

(c) "Substandard" is the quality of Zante Currant Raisins that fail to meet the requirements of U.S. Grade B.

TABLE V - ALLOWANCES FOR DEFECTS IN ZANTE CURRANT RAISINS

Defects	U.S. Grade A	U.S. Grade B
	Maximum count	
Pieces of stem	1 per 24 ounces	1 per 16 ounces
Seeds (in Seeded style)	12 per 16 ounces	15 per 16 ounces
	Maximum (percent by weight)	
Capstems - Zantes with capstems and loose capstems (include one Zante with each loose capstem)	1-1/2	2
Sugared	5	10
Discolored, damaged, or moldy	5	7
Provided these limits are not exceeded:		
Damaged	2	3
Moldy	3	4
Substandard Development and Undeveloped	2	5
	Appearance or edibility of product:	
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected.	May not be more than slightly affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.	

TYPE VI—MIXED TYPES OF RAISINS

§ 52.1858 Grades of mixed types or varieties of raisins.

The grade of a lot of mixed types of processed raisins shall be the lower (or lowest) grade of any varietal type in the mixture based on the respective requirements for each type, except for moisture, in accordance with this subpart. Mixed types of processed raisins of U.S. Grade A, U.S. Grade B, or U.S. Grade C may contain not more than 18 percent, by weight, of moisture. Mixed types of processed raisins that as a mixture exceed 18 percent, by weight, of moisture are "Substandard."

Dated: August 11, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.76-23942 Filed 8-16-76;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 25]

PART 220—SCHOOL BREAKFAST PROGRAM

Child Nutrition Programs

On February 17, 1976, there was published in the FEDERAL REGISTER (41 F.R. 7138) a proposed amendment to the regulations governing the School Breakfast Program. The purpose of the proposed amendment was the implementation of Public Law 94-105, and to make other administrative changes.

Inasmuch as the proposed Breakfast regulations paralleled the changes in the National School Lunch Program resulting from Public Law 94-105, only fourteen respondents commented on the Breakfast regulations. All of the comments received have been carefully considered. The most substantive comments and recommendations affecting portions of the proposed regulations, together with the resulting changes in the proposal or reasons for not accepting the suggestions, are discussed below.

Five of the fourteen respondents opposed the limitation of Federal reimbursement to one breakfast per child per day. However, inasmuch as this regulation reflects the philosophy of the Department in school nutrition programs and the proposed concept as presented in the lunch program regulations was found to be objectionable to a considerable number of respondents, the Department is issuing regulations which are consistent with its philosophy limiting Federal reimbursement to one breakfast per child per day, but which also will reflect a practical approach to situations in which breakfasts have been prepared in excess of one breakfast per child. This approach will acknowledge fluctuations in participation brought about by sickness, absenteeism, and other factors. The regulations will require that School Food Authorities plan and prepare breakfasts in accordance with participation trends, with the objective of providing one breakfast per child per day. School Food Authorities must maintain records which will demonstrate positive action toward this objective. However, in order to allow some latitude where excessive breakfasts are prepared, yet remain consistent with the Department's philosophy and the intent of Congress to reduce food waste, reimbursement will be allowed for more than one breakfast per child where it can be demonstrated by School Food Authorities that breakfasts were planned on the basis of one breakfast per child per day. However, reimbursement cannot be claimed for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals.

Resultant of comments received from the general public, changes to the infant breakfast pattern were made which increase flexibility and strengthen nutritional integrity.

Some respondents suggested that all milk should be fortified with vitamins A and D. The Department has decided to encourage the fortification of milk with vitamins A and D, according to the Food and Drug Administration's Standards of Identity and consistent with State and local standards for such milk.

Three respondents objected to not allowing milk as a substitute for iron-fortified formula for children less than eight months of age. The Department is not authorizing this substitution because milk contains insufficient iron to provide the levels recommended by the National Research Council, National Academy of Sciences.

Eight respondents submitted comments regarding the nutritional integrity of the meal requirements for children over one year of age. The Department, recognizing this necessity, has initiated a thorough review of the Breakfast Program. Any revised meal patterns which meet minimum nutritional requirements based on tested nutritional research will be published as proposed regulations consistent with the public rule making process.

Several nonsubstantive changes have been made for the purpose of clarification and consistent treatment of similar provisions.

Accordingly, this part is amended as set forth below:

1. The title of Part 220 is revised to read "School Breakfast Program". The Nonfood Assistance Program and State Administrative Expenses regulations are being reissued as Parts 230 and 235, respectively.

2. § 220.11a is redesignated as § 220.12, § 220.24 through § 220.26a are redesignated as § 220.13 through § 220.16, and § 220.27 and § 220.28 are redesignated as § 220.17 and § 220.18 respectively, a new

V 41 160 AUG 17 76 UMI

§ 220.19 and § 220.20 are added, and § 220.29 is designated as § 220.21.

3. The Table of Contents is revised to read as follows:

Sec.
220.1 General purpose and scope.
220.2 Definitions.
220.3 Administration.
220.4 Payment of funds to States and FNSROs.
220.5 Method of payment to States.
220.6 Use of funds by State agencies.
220.7 Requirements for school participation.
220.8 Requirements for breakfast.
220.9 Reimbursement payments.
220.10 Effective date for reimbursement.
220.11 Reimbursement procedure.
220.12 Competitive food services.
220.13 Special responsibilities of State agencies.
220.14 Claims against School Food Authorities.
220.15 Management evaluations and audits.
220.16 Procurement standards.
220.17 Prohibitions.
220.18 Other provisions.
220.19 Free and reduced price breakfasts.
220.20 Grant closeout procedures.
220.21 Program information.

AUTHORITY: Secs. 4 and 10, 80 Stat. 866, 889 (42 U.S.C. 1773, 1779).

4. § 220.1 is revised to read as follows:

§ 220.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 4 of the Child Nutrition Act of 1966, as amended, which authorizes payments to the States to assist them to initiate, maintain, or expand nonprofit breakfast programs in schools.

5. § 220.2 is revised to read as follows:

§ 220.2 Definitions.

For the purpose of this part the term:

(a) "Act" means the Child Nutrition Act of 1966, as amended.

(b) "Breakfast" means a meal served to a school child at the beginning of the child's day at the school, which meets the nutritional requirements set out in this part.

(c) "Child" means a person under 21 chronological years of age in schools as defined in § 220.2(u) (2) and (3) or a student of high school grade or under as determined by the State educational agency in schools as defined in § 220.2 (u) (1).

(d) "CND" means the Child Nutrition Division of the Food and Nutrition Service of the Department.

(e) "Department" means the U.S. Department of Agriculture.

(f) "Distributing agency" means a State, Federal, or private agency which enters into an agreement with the Department for the distribution of commodities pursuant to Part 250 of this chapter.

(g) "Fiscal year" means the period of 15 calendar months beginning July 1, 1976, and ending September 30, 1977; and the period of 12 calendar months beginning October 1, 1977, and each October 1 of any calendar year thereafter and ending September 30 of the following calendar year.

(h) "FNS" means the Food and Nutrition Service of the Department.

(i) "FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department.

(j) "Free breakfast" means a breakfast for which neither the child nor any member of his family pays or is required to work in the school or in the school's food service.

(k) "Infant cereal" means any iron fortified dry cereal especially formulated and generally recognized as cereal for infants that is routinely mixed with formula or milk prior to consumption.

(l) "Infant formula" means any iron-fortified infant formula intended for dietary use solely as a food for normal healthy infants excluding those formulas specifically formulated for infants with inborn errors of metabolism or digestive or absorptive problems. Infant formula, as served, must be in liquid state at recommended dilution.

(m) "Long-term care facility" means any hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more.

(n) "Milk" means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (0 to 1 year of age) milk means unflavored types of whole fluid milk or an equivalent quantity of reconstituted evaporated milk which meet such standards. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

(o) "National School Lunch Program" means the Program authorized by the National School Lunch Act.

(p) "Nonprofit" means exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 as amended; or, in the Commonwealth of Puerto Rico, certified as nonprofit by its Governor.

(q) "OA" means the Office of Audit of the Department.

(q-1) "OI" means the Office of Investigation of the Department.

(r) "Program" means the School Breakfast Program.

(s) "Reduced price breakfast" means a breakfast which meets all of the following criteria: (1) The price shall be less than the full price of the breakfast, (2) the price shall be 10 cents or lower, and (3) neither the child nor any member of his family shall be required to supply an equivalent value in work for the school or the school's food service.

(t) "Reimbursement" means financial assistance paid or payable to participating schools for breakfasts meeting the requirements of § 220.8 served to eligible children at rates assigned by the State agency, or FNSRO where applicable. The term "reimbursement" also includes financial assistance made available through advances to School Food Authorities.

(u) "School" means (1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade. (2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. (3) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

(v) "School Breakfast Program" means the program authorized by section 4 of the Child Nutrition Act of 1966.

(w) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has legal authority to operate a breakfast program therein.

(x) "Secretary" means the Secretary of Agriculture.

(y) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(z) "State agency" means (1) the State educational agency or (2) such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in schools as defined in § 220.2(u)(2) of this section.

(z-1) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of education controlling the State department of education.

6. § 220.3 is revised to read as follows:

§ 220.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program covered by this Part. Within FNS, CND shall be responsible for administration of the Program.

(b) Within the States, responsibility for the administration of the Program in schools as defined in § 220.2 (u) (1) and (u) (3) shall be in the State educational agency, except that FNSRO shall administer the Program with respect to nonprofit private schools as defined in § 220.2(u)(1) of any State wherein the State educational agency is not permitted by law to disburse Federal funds paid to it under the Act to such schools.

(c) Within the States, responsibility for the administration of the Program in schools as defined in § 220.2(u)(2) shall be in the State educational agency, or if the State educational agency cannot administer the Program in such schools, such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in such schools: *Provided, however,* That FNSRO shall administer the Program in such schools if the State agency is not permitted by law to disburse Federal funds paid to it under the Act to such schools.

(d) References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program.

(e) Each State agency desiring to take part in any of the programs shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this Part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

7. § 220.5 is revised to read as follows:

§ 220.5 Method of payment to States.

Funds to be paid to any State for the School Breakfast Program shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall: (a) Obtain funds needed for reimbursement to School Food Authorities through presentation by designated State officials of a payment Voucher on Letter of Credit in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department; (b) submit requests for funds only at such times and in such amounts, as will permit prompt payment of claims or authorized advances; and (c) use the funds received from such requests without delay for the purpose for which drawn.

8. In § 220.7, paragraph (f) is deleted and the first sentence of paragraph (d) is revised to read as follows:

§ 220.7 Requirements for participation.

• • • • • •

(d) Any School Food Authority may employ a food service management company (or other nonprofit agency or nonprofit organization) in the conduct of its feeding operations, in one or more of its schools. • • •

• • • • • •

9. § 220.8 is revised to read as follows:

§ 220.8 Requirements for breakfast.

(a) (1) Except as otherwise provided in this section, and in any appendix to this part a breakfast eligible for Federal cash reimbursement shall contain, as a minimum, the following food components in the amounts indicated:

(i) One-half pint of fluid milk served as a beverage or on cereal or used in part for each purpose.

(ii) A one-half cup serving of fruit or full-strength fruit or vegetable juice.

(iii) One slice of whole-grain or enriched bread, or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour, or three-fourths cup (volume) or one ounce (weight), whichever is less of whole-grain cereal or enriched or fortified cereal, or an equivalent quantity of any combination of any of these foods.

(2) To improve the nutrition of the participating children over 1 year of age, breakfasts shall also include as often as practicable meat or meat alternates such as a one ounce serving (edible portion as served) of meat, poultry, or fish; or one ounce of cheese; or one egg; or two tablespoons of peanut butter; or an equivalent quantity of any combination of any of these foods.

(b) (1) This paragraph, in subdivision (2), sets forth the requirements for breakfasts eligible for Federal cash reimbursement which are designed to provide nutritious breakfasts for infants aged up to 1 year, and in subdivision (3) for children aged 1 to 6 years.

(2) When infants aged up to 1 year participate in the Program an infant breakfast shall be offered. Foods within the infant breakfast pattern shall be of texture and consistency appropriate for the particular age group being served. The amount of food in the breakfast may be offered to the infant during a span of time consistent with the infant's eating habits. The infant breakfast pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age groups:

(i) 0 to 4 months—four to six fluid ounces of infant formula; and zero to one tablespoon of infant cereal.

(ii) 4 to 8 months—six to eight fluid ounces of infant formula; and one to three tablespoons of infant cereal.

(iii) 8 months to 1 year—six to eight fluid ounces of infant formula, or six to eight fluid ounces of whole fluid milk and zero to three fluid ounces of full-strength fruit juice; and two to four tablespoons of infant cereal.

(3) When children aged 1 year to 6 years participate in the Program, a preschool breakfast shall be offered, which shall contain, as a minimum, each of the following food components in the amounts indicated for the appropriate age group

(i) 1 to 3 years—one-half cup of fluid milk served as a beverage or on cereal or used in part for each purpose; and a one-fourth cup serving of fruit or full-strength fruit or vegetable juice; and one-half slice of whole-grain or enriched bread, or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour, or one-quarter cup (volume) or one-third ounce (weight), whichever is less, of whole-grain cereal or enriched or fortified cereal or an equivalent quantity of any combination of any of these foods.

(ii) 3 to 6 years—three-fourths cup of fluid milk served as a beverage or on cereal or used in part for each purpose; and a one-half cup serving of fruit or full-strength fruit or vegetable juice; and one-half slice of whole-grain or enriched bread, or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour, or one-third cup (volume) or one-half ounce (weight) whichever is less, of whole-grain cereal or enriched or fortified cereal or an equivalent quantity of any combination of any of these foods.

(c) Additional foods may be served with breakfasts as desired to participating children over 1 year of age.

(d) If emergency conditions prevent a school normally having a supply of milk from temporarily obtaining delivery thereof, the State agency, or FNSRO where applicable, may approve reimbursement for breakfast served without milk during the emergency period.

(e) FNS may approve variations in the food components of the breakfast on an experimental or on a continuing basis in any school where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic or physical needs.

(f) Substitutions may be made in foods listed in paragraphs (a) and (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(g) The inability of a school to obtain a supply of milk on a continuing basis to meet the breakfast requirements in paragraphs (a) and (b) of this section shall not bar it from participation in the Program. In such cases the State agency, or FNSRO were applicable, may approve the service of breakfasts without milk: *Provided, however,* That an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of the breakfast patterns listed in (a) (1) and (b) (3) of this section.

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(h) For the period ending September 30, 1977, the Secretary, with the concurrence of officials of the Trust Territory of the Pacific Islands, shall establish a breakfast pattern or patterns which are consonant with local food consumption patterns and which, given available food supplies and food service equipment and facilities, provide optimum nutrition consistent with sound dietary habits for participating children, for use in the Trust Territory in lieu of the breakfast patterns listed in paragraphs (a) and (b) of this section. The requirements for such patterns shall be attached to and made a part of the written agreement required under § 220.3 of this part.

10. In § 220.9, paragraph (a) is revised to read as follows:

§ 220.9 Reimbursement payments.

(a) State agencies, or FNSROs where applicable, shall make reimbursement payments to schools only in connection with breakfasts meeting the requirements of § 220.8. School Food Authorities shall plan for and prepare breakfasts on the basis of participation trends, with the objective of providing one breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of breakfasts needed and to reduce the resultant waste, any excess breakfasts that are prepared may be served to eligible children and may be claimed for reimbursement unless the State agency, or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare breakfasts with the objective of providing one breakfast per child per day. In no event shall the School Food Authority claim reimbursement for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals.

* * * * *

§ 220.11 [Amended]

11. In § 220.11, paragraph (b), the words "§ 220.24(b)" and changed to read "§ 220.13(b)".

§ 220.14 [Amended]

12. In redesignated § 220.14, paragraph (h) is amended to delete the words "other than paragraph (a)(1) thereof" and to insert the words "(a)(1), (b)(2), and (b)(3)" in lieu thereof.

13. In redesignated § 220.15, paragraph (b), the words "§ 220.26(a)" are changed to read "§ 220.15(a)", and the first sentence of paragraph (f) is revised to read as follows:

§ 220.15 Management evaluations and audits.

* * * * *

(f) In making management evaluations or audits for any fiscal year, the State agency, FNS, or OA may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations, or procedure as a minimum amount for which claim will be made for State losses generally. * * *

14. In redesignated § 220.16, the words "or School Food Authority", "or School Food Authority's" and "or School Food Authorities" are deleted wherever they appear, and paragraph (a) is revised to read as follows:

§ 220.16 Procurement standards.

(a) *General purpose and scope.* This section provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, and other services with Program funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive Orders. State agencies may use their own procurement regulations which reflect applicable State and local law, rules, and regulations, provided that procurements made with Program funds adhere to the standards set forth in this section.

* * * * *

§ 220.17 [Amended]

15. In redesignated § 220.17, paragraph (a) is amended to delete the words "either program" and to insert the words "the Program" in lieu thereof.

§ 220.18 [Amended]

16. In redesignated § 220.18, paragraph (a) is amended to delete the words "either program" and the words "that program" and to insert the words "the Program" in lieu thereof; paragraph (b) is deleted; paragraph (c) is amended to delete the words "either program" and to insert the words "the program" in lieu thereof.

17. § 220.19 is added to read as follows:

§ 220.19 Free and reduced price breakfasts.

The determination of the children to whom free and reduced price breakfasts are to be served because of inability to pay the full price thereof, and the serving of the breakfasts to such children, shall be effected in accordance with Part 245 of this chapter.

18. § 220.20 is added to read as follows:

§ 220.20 Grant closeout procedures.

(a) Grant closeout procedures for the Program shall be in accordance with Attachment L of Federal Management Circular 74-7 (34 CFR Part 256).

(b) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency or FNSRO where applicable, shall terminate a school's participation in the Program by written notice whenever it is determined by FNS or the State agency that the school has failed to comply with the conditions of the Program. When participation in the Program has been terminated for cause, any payments made to the State agency or any recoveries by FNS from the State agency or a school shall be in accordance with the legal rights and liabilities of the parties.

(c) FNS or the State agency may terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination. A State agency, or FNSRO where applicable, may terminate a school's participation in accordance with these provisions.

§ 220.21 [Amended]

19. In redesignated § 220.21, the words "these programs" are deleted and the words "the Program" are inserted in lieu thereof.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This amendment shall become effective on July 1, 1976.

Dated: August 13, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-24227 Filed 8-16-76;8:45 am]

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 90]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Procedures for Exchange of Old Series Coupons and Eligibility and Certification of Supplemental Security Income Recipients

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011-2026), regulations governing the operation of the Food Stamp Program are hereby amended. The sections on procedures for the exchange of old series food coupons for new series coupons and the eligibility and certification of Supplemental Security Income recipients currently provide for their expiration on June 30, 1976. Also, as of July 1, 1976, SSI recipients in three States, previously ineligible for food stamps because they received the food stamp bonus in the form of increased State supplemental payments, resume food stamp eligibility as these States lose their "cash-out" status. This amendment revises these sections accordingly. Section 271.6(i) is amended to eliminate the June 30, 1976, expiration date, thereby extending indefinitely procedures for the exchange of the old series coupons to the new series coupons. When the new series coupons were introduced in March 1975, it was anticipated that all exchanges could be completed by June 30, 1976. However, requests for exchange are still being received.

Since old series coupons are obligations of the United States which may not have an expiration date, it is appropriate to remove the June 30 deadline and leave the exchange procedures in effect for as long as they are needed. In addition, this amendment gives the State agency the option of exchanging old series coupons at the local level or forwarding the coupons to FNS for exchange.

Section 271.10 is amended to extend through June 30, 1977, the provisions on the eligibility of SSI recipients, to redefine the States in which SSI recipients are ineligible due to having their food stamp bonus "cashed-out" by inclusion of that amount in their State supplemental payments, and to waive certain certification procedures in those States where SSI recipients will become eligible July 1, 1976.

Pub. L. 93-233 has been amended to extend the food stamp eligibility of all SSI recipients except those in "cash-out" States for one year o runtil such earlier date as Congress may make modifications relevant to the eligibility of SSI recipients. Therefore, § 271.10(a) is amended by revising the last sentence to extend the SSI eligibility provisions through June 30, 1977.

Sections 271.10(c) (1) and (2) are amended to reflect the determination by the Secretary of the Department of Health, Education, and Welfare that, as of July 1, 1976, only Massachusetts meets the qualification of Pub. L. 93-233 for a "cash-out" State. The previous "cash-out" status of Nevada was limited to the aged and blind. Thus, as of July 1, 1976, all categories of SSI recipients in New York and California, and aged and blind SSI recipients in Nevada are eligible for food stamp benefits. Handicapped SSI recipients in Nevada are not affected by the change in status and continue to be eligible. To assist affected SSI recipients in these States in making the transition to the Food Stamp Program, the State agency will, subject to FNS approval, be given the option of waiving the interview and the completion of the standard application form for certain households containing SSI recipients. The waivers will be permitted during the three months immediately following the approval by FNS of the State agency's request for waiver authority, when application processing will be the heaviest. An interview and standard application form will be required within the six month period immediately following the date of the FNS approval of the State agency's request for waiver authority. These options are provided for in § 271.10(c)(2)(iii).

It is the policy of the Department that the public be given the opportunity to comment on regulatory changes before issuance. However, because of the need for timely implementation of all aspects of this amendment, and since the amendment relating to SSI recipients reflects statutory obligations and a determination of the Secretary of Health, Education, and Welfare pursuant thereto, it is determined to be contrary to the public interest to give notice of proposed rulemaking with respect to these amendments.

Because the Department feels that the public should have an opportunity to comment on these amendments, comments are solicited through September16, 1976. Written comments, suggestions, or objections should be submitted to Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. Amendments to or revisions in this amendment will be made if, after due consideration of comments, suggestions or objections received, it is determined that such revisions or amendments are necessary or appropriate.

Accordingly, Part 271 of Chapter II, Title 7 of the Code of Federal Regulations is hereby amended as follows:

(1) In § 271.6, paragraph (i) is revised to read:

§ 271.6 Methods of distributing, issuing and accounting for coupons and receipts.

* * * * *

(i) Households were permitted to use old series 50-cent, 2-dollar, and 5-dollar coupons to purchase eligible food at authorized retail food stores and meal services until August 31, 1975. After August 31, 1975, households shall be entitled to a dollar for dollar exchange of old series coupons for new series coupons except that when only a 50-cent coupon is offered for exchange or the coupons offered include an odd number of 50-cent coupons, a new series 1-dollar coupon will be given for the odd 50-cent coupon. Households in possession of old series coupons shall submit the coupons and a request for exchange to the State agency. State agencies may make direct exchange to claimants or request FNS to make the exchange in accordance with instructions provided by FNS.

* * * * *

(2) In § 271.10, paragraphs (a) and (c)(1)(i) are revised; (c)(1)(ii) is deleted and (c)(1)(iii) is amended and relettered (c)(1)(ii); and a new paragraph (c)(2)(iii) is added. The amended and new paragraphs read as follows:

§ 271.10 Eligibility and certification of supplemental security income recipients.

(a) Notwithstanding any other provisions of this subchapter, recipients of supplemental security income (SSI) payments shall be treated according to the provisions of this section for purposes of determining eligibility for and certification in the program. The provisions of this section will expire June 30, 1977, unless earlier rescinded or modified.

* * * * *

(c) *Food stamp eligibility of SSI recipients*—(1) *Ineligible SSI recipients.* (i) No SSI recipient shall be considered a household member or an elderly person for food stamp program purposes if he resides in the State of Massachusetts. The Secretary of Health, Education, and Welfare has determined, pursuant to the provisions of Pub. L. 93-233, as amended, that Massachusetts provides State supplementary payments which have been specifically increased to include the value of bonus food coupons. (ii) In Massachusetts, the income and resources of an SSI recipient who resides with eligible household members or elderly persons shall not be considered available to the household members or elderly persons (except as provided in paragraph (c)(3)(ii) of this section), nor shall his presence be considered in determining the household coupon allotment and purchase requirement. In such instances any payment for deductible expense made on behalf of the household by the ineligible SSI recipient shall not be counted as income to the household nor shall the household be allowed a deduction for such expense. If deductible household expenses are shared among household members and an ineligible SSI recipient, the household shall be granted a deduction based on that proportion of the expense which is actually borne by the household.

(2) *Eligible SST recipients.* * * *

(iii) Effective July 1, 1976, California, Nevada (applies to aged and blind only), and New York will no longer be considered "cash-out" States. With prior approval from FNS, State agencies in such States, may, as provided in (A) and (B) of this subdivision, elect to waive the standard nonassistance application for and the interview requirement for certain households containing SSI recipients during the three month period immediately following the approval by FNS of the State agency's request for waiver authority. With respect to Nevada, this waiver authority applies only to the aged and the blind.

(A) The State agency may use an abbreviated application form approved by FNS for households consisting of SSI recipients, or SSI and non-SSI recipients, provided that verification of the income of SSI recipients is readily available from information supplied by the Social Security Administration. The form shall be used to determine if a group containing both SSI recipients and non-SSI recipients is a single household or qualifies as separate households. If such a group is a single household, and the non-SSI recipients are not already participating in the Food Stamp Program or receiving public or general assistance, a standard application and an interview shall be required. Households consisting solely of SSI recipients, essential persons or non-SSI recipients already receiving food stamps or public or general assistance may be certified with the abbreviated application form. The abbreviated applica-

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tion form shall also contain other nonfinancial food stamp eligibility criteria, deductions, and the attestation statement from the standard nonassistance application which the head of the household must sign. All households initially certified on the basis of an abbreviated application form must complete the standard nonassistance application or affidavit and interview process within the six month period immediately following the approval by FNS of the State agency's request for waiver authority.

(B) The State agency may waive the interview requirement under the same conditions listed in (A) of this subdivision for waiver of the standard application form. State agencies electing to waive the interview requirement and/or the standard application form may do so for all households eligible for the waiver or on an individual case basis. If the waiver is elected on an individual case basis, the following factors must be considered in determining if a household should be certified without an interview or a standard application form: (*1*) Accessibility of information on potential eligibles; (2) the accuracy and currentness of the information from existing case records within the local welfare office; (3) the difficulty in scheduling an interview with the household; and (*4*) the stability of the individual household's situation.

* * * * * *

(78 Stat. 703, as amended; (7 U.S.C. 2011–2026))

Effective date. This amendment shall become effective July 1, 1976.

(Catalog of Federal Domestic Assistance Programs No. 10,551 National Archives Reference Services)

Dated: August 9, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-24051 Filed 8-16-76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Pear Reg. 6, Amdt. 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Grade and Size Requirements

This amended regulation, issued under the amended marketing agreement and Order No. 917 (7 CFR Part 917), continues the currently effective grade and size requirements on the handling of California Bartlett, Max-Red Bartlett, and Red Bartlett variety pears through July 31, 1977. Unless amended, that regulation would expire on August 20, 1976. The regulation requires that such pears grade at least U.S. Combination, with not less than 80 percent grading at least U.S. No. 1 grade. It also requires that pears be not smaller than size 165 as verified by 12-pound random samples which must contain not more than 43 pears. Containers of all pears must be marked with the name of the variety or, if the variety is not known, the words "unknown variety." This regulation is necessary to assure the shipment of only those pears which will be of suitable quality and size in the interest of consumers and producers. The marketing agreement and Order No. 917, as amended (7 CFR Part 917; 41 FR 17529), are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice was published in the FEDERAL REGISTER issue of July 21, 1976 (41 FR 30027), that this Department was giving consideration to a proposal to amend § 917.440 (Pear Regulation 6; 41 FR 28287) effective under the marketing agreement and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528), which regulate the handling of fresh pears, plums, and peaches grown in California. Under that proposal the amended regulation would continue to be effective, without change, on all shipments of fresh California pears of the Bartlett, Max-Red Bartlett, and Red Bartlett varieties during the 1976 season. The notice invited interested persons to submit written data, views, or arguments, through Augut 6, 1976, for consideration relative to the proposed extension. No such material was submitted.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Pear Commodity Committee, established under the amended marketing agreement and order, and other available information, it is found that continuing through July 31, 1977, the currently effective grade and size requirements on the handling of such pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of pears are currently in progress and this amendment should be applicable to all such shipments occurring during the effective period specified herein in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; (4) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (5) this regulation, as amended, was unanimously recommended by the Pear Commodity Committee members in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Order. Paragraph (b) preceding subparagraph (1) thereof § 917.440 is amended to read as follows:

§ 917.440 Pear Regulation 6.

* * * * * *

(b) During the period July 12, 1976, through July 31, 1977, no handler shall ship: * * *

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 12, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-23943 Filed 8-16-76;8:45 am]

[Grapefruit Reg. 16—Amdt. 7]

PART 944—FRUITS; IMPORT REGULATIONS

Grade and Size Requirements for Imports of Grapefruit

This amendment increases grade and size requirements applicable to imported grapefruit during the period August 23 through September 26, 1976. The requirements are the same as those applicable to grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

Notice was published in the FEDERAL REGISTER on July 12, 1976 (41 FR 28528), that consideration was being given to a proposal to amend Grapefruit Import Regulation 16 (§ 944.112; 40 FR 42529, 49787, 41 FR 15829, 18674, 19965, 23186, 24577), pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by August 4, 1976. None were received.

This amendment is consistent with Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. This amendment fixes the same minimum grade and size requirements on imported grapefruit as are effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade and size requirements in effect pursuant to the said amended marketing agreement and order shall apply to grapefruit to be imported.

It is hereby further found that good cause exists for not postponing the effective time of the regulatory provisions of this amendment, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) the grade and size requirements of this import regulation are the same as those being made applicable to domestic shipments of grapefruit grown in Florida under Grapefruit Regulation 76 (§ 905.563); (c) notice that such action was being considered was published in the July 12, 1976, issue of the FEDERAL REGISTER (41 FR 28528), and no objection to this regulation was received; (d) except for the later effective date of August 23, 1976, the provisions of this import regulation are the same as those contained in said notice; and (e) notice hereof in excess of three days, the minimum prescribed by said section 8e, is given with respect to this import regulation by prescribing an effective date of August 23, 1976.

Order. In § 944.112 (Grapefruit Regulation 16; 40 FR 42529, 49787; 41 FR 15829, 18674, 19965, 23186, 24577) the provisions of paragraph (a) are amended to read as follows:

§ 944.112 Grapefruit Regulation 16.

(a) During the period August 23, 1976, through September 26, 1976, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3^{1}\frac{2}{16}$ inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than $3\frac{9}{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum size shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 11, 1976, to become effective August 23, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-23944 Filed 8-16-76;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 505]

[Army Reg. 340–21]

PRIVACY ACT OF 1974

Exemption Rules for Systems of Records

The Secretary of the Army proposes to amend § 505.9 of the adopted exemption rules for systems of records published in the FEDERAL REGISTER of November 28, 1975 (40 FR 55551) FR Doc 75–32158. Interested parties are invited to submit written comments, suggestions, or objections regarding the proposed amendments to The Adjutant General, Department of the Army, ATTN: DAAG–AMR–R, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20314 on or before September 16, 1976. All relevant material received will be considered. All written comments will be available for public inspection during normal business hours at the above address.

R. S. SEEBERG,
Lieutenant Colonel, U.S. Army, Acting Director, Admin Management.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 11, 1976.

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

§ 505.9 Exemption rules for Army systems of records. [Amended]

1. The following exemption rules are amended:

a. So much of exemption rule ID–AO224.05DAIG, SYSNAME - Inspector General Complaint Files (40 FR 55573) is amended to read ID–AO224.05aDAIG.

b. So much of exemption rule ID–AO225.01.1DAPE, SYSNAME—Military Police Management Information System (MPMIS): Vehicle Registration System (VRS) and Correctional Reporting System (CRS) portions only (40 FR 55573) is amended to read ID—AO225.01aDAIG, SYSNAME-Vehicle Registration System (VRS) and Correctional Reporting System (CRS).

c. So much of example rule ID–AO501.08USACIDC, SYSNAME-Informant Register (40 FR 55574) is amended to read ID–AO501.08e USACIDC.

d. So much of exemption rule ID–AO501.08bDAMI, SYSNAME-Interception of Wire and Oral Communications Quarterly Reports and Motions for Discovery (40 FR 55573) is amended to read as follows:

SYSNAME—Technical Surveillance Index.

Exemption—So much of the exemption as reads: "* * * (k) (1), (2) and (5)" is amended to read: "* * *(k) (1), (2) or (5)"; and adds "(c) (3)" before ",d(" and "(e) (1)" before the remainder of the sentence.

Reasons—Delete from the second sentence on beginning with: "Files will contain * * *" and substitute the following: "Disclosure of documents or the disclosure accounting record may compromise the effectiveness of the operation, and negate specialized techniques used to support intelligence or criminal investigative programs, or otherwise interfere with the orderly conduct of intelligence operations or criminal investigations."

The complete revised exemption rule, as amended now reads as follows:

EXEMPTED RECORD SYSTEM

(SPECIFICATION EXEMPTIONS)

ID–A0501.08bDAMI.
SYSNAME—Technical Surveillance Index.

Exemption—All portions of this system of records which fall within 5 U.S.C. 552(k) (1), (2) or (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (c) (3), (d), (e) (1), (e) (4) (G), (e) (4) (H), and (e) (4) (I).

Authority—5 U.S.C. 552a(k) (1), (2) or (5).

Reasons—The material contained in this record system contains data concerning sensitive sources and operational methods whose dissemination must be strictly controlled because of national security intelligence considerations. Disclosure of documents or the disclosure accounting record may compromise the effectiveness of the operation, and negate specialized techniques used to support intelligence or criminal investigative programs, or otherwise interfere with the orderly conduct of intelligence operations or criminal investigations.

e. So much of exemption rule ID–A0502.10DAMI, SYSNAME — United States Army Intelligence Agency (USAINTA) Investigative File System (40 FR 55575) is amended to read:

ID–A0502.10aDAMI, SYSNAME-USAINTA Investigative File System.

f. So much of exemption rule ID–A0503.06DAMI, SYSNAME-Counterintelligence Operations File (40 FR 55576) is amended to read: ID–A0503.06aDAMI.

g. So much of exemption rule ID–A0508.07USACIDC, SYSNAME-Criminal Investigation Accreditation Files (40 FR 55576) is amended to read: ID–A0508.07a USACIDC.

h. So much of exemption rule ID–A0508.11USACIDC, SYSNAME-Criminal Investigation Case Files, Crime Laboratory Reporting Files, and Indices Thereto (40 FR 55577) is amended to read: ID–A0508.11aUSACIDC, SYSNAME-Criminal Investigation and Crime Laboratory Files.

i. So much of exemption rule ID–A0508.24DAPE, SYSNAME-Serious Incident Reporting Files (40 FR 55577) is amended to read: ID–A0508.24aDAPE.

j. So much of exemption rule ID–A0509.09DAPE, SYSNAME-Traffic Law Enforcement Files (40 FR 55578) is amended to read: ID–A0509.09aDAPE.

k. So much of exemption rule ID–A0509.18DAPE, SYSNAME-Expelled or Barred Person Files (40 FR 55578) is amended to read: ID–A0509.18bDAPE.

1. So much of exemption rule ID–A0721.11DAPE, SYSNAME-Individual Correctional Treatment Files (40 55579) is amended to read: ID–A0721.11aDAPE.

2. The following exemption rules are added:

a. Insert before exemption rule ID–A0202.08DAAG, SYSNAME-Request for Information Files (40 FR 55572):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID–AO201.08cOSA.
SYSNAME—Central Files, Office Secretary of the Army (SAAA).

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a (k) (1) through (7) are exempted from the following provisions of Title 5 U.S.C. section 552a: (c) (3), (d), (e) (1), (e) (4) (G), (e) (4) (H), and (f).

Authority—5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7).

Reasons—This system contains documents pertaining to any function or subject which may require involvement of the Department of the Army. Documents in this file are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this file, and since the introduction of documents included there is largely unregulatable, the specific portions or documents in this system which may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosures under any of the provisions of subsection (k) (1) through (7), Title 5 U.S.C. 552a.

b. Insert before exemption rule ID–AO508.07USACIDC, SYSNAME—Criminal Investigation Accreditation Files (40 FR 55576):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID–AO506.01fDAMI.
SYSNAME—Security Clearance Information Files.

Exemption—All portion of this system which fall within 5 U.S.C. 552a(k) (1), (2) or (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d), (e) (4) (G), (e) (4) (H), (e) (4) (I), and (f).

Authority—5 U.S.C. 552a(k) (1), (2) and (5).

Reasons—Material contained in this record which is properly and currently classified under the Executive Order 11652 includes

data concerning sensitive source and operational methods whose dissemination must be strictly controlled because of its relationship to national security intelligence considerations. Additionally, in the conduct of operations which produce these records, at times the methods and arrangements with our Allies pertinent to the conduct of intelligence operations are relevant to this issue of national security interests and must be safeguarded. Further, the disclosure of unclassified data within this record system is exempt only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence. These assurances are essential to the purposes of these investigations. Confidence in the integrity of the Government's assurance must be maintained or the investigative process will be severely damaged. Exemption from access necessarily includes exemption from the other requirements.

c. Insert before exemption rule ID–A0508.16DAPE, SYSNAME—Absentee Case Files (40 FR 55577):

EXEMPTED RECORD SYSTEM

(GENERAL EXEMPTIONS)

ID–A0508.11bUSACIDC.
SYSNAME—Criminal Information Reports and Cross Index Card Files.

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a(j) (2) are exempt from the following provisions of 5 U.S.C. 552a: (c) (3), (c) (4), (d), (e) (1), (e) (2), (e) (3), (e) (4) (G), (e) (4) (H), (e) (5), (e) (8), (f), and (g). All portions of this system of records which fall within 5 U.S.C. 552a(k) (1) and (2) are exempt from the following provisions of 5 U.S.C. 552a: (c) (3), (d), (e) (4) (G), (e) (4) (H), and (f).

Authority—5 U.S.C. 552a(j) (2) and (k) (1) and (2).

Reasons—From subsection (c) (3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsection (c) (4), (d), (e) (4) (G), (e) (4) (H), (f), and (g) because access might compromise ongoing investigations, reveal investigatory techniques and the identity of confidential informants, and invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements, relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. In addition, subsections (d) (e) (4) (G), (e) (4) (H) and (f) are necessary to protect the security of information properly classified in the interest of national and foreign policy.

From subsection (e) (1) because the nature of the criminal investigative function creates unique problems in prescribing specific perimeters in a partimular case what information is relevant or necessary. Also, due to close liaison and working relationships with other federal, state, local and foreign national law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the CID and other agencies.

From subsection (e) (2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e) (3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individuals queried, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e) (5) because this requirement would undly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e) (5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e) (8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

d. Insert before exemption rule ID–A0508.25bUSACIDC, SYSNAME-Index to Case Files—Republic of Vietnam CY70–CY73 (see below):

EXEMPTED RECORD SYSTEM

(GENERAL EXEMPTIONS)

ID–A0508.25aUSACIDC.
SYSNAME—Index to Criminal Investigative Case Files.

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a(j) (2) are exempt from the following provisions of 5 U.S.C. 552a: (c) (3), (c) (4), (d), (e) (1), (e) (2), (e) (3), (e) (4) (G), (e) (4) (H), (e) (5), (e) (8), (f), and (g). All portions of this system of records which fall within 5 U.S.C. 552a (k) (1) and (2) are exempt from the following provisions of 5 U.S.C. 552a: (c) (3), (d), (e) (4) (G), (e) (4) (H), and (f).

Authority—5 U.S.C. 552a(j) (2) and (k) (1) and (2).

Reasons—From subsection (c) (3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsection (c) (4), (d), (e) (4) (G), (e) (4) (H), (f), and (g) because access might compromise ongoing investigations, reveal investigatory techniques and the identity of confidential informants, and invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements, relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. In addition, subsections (d) (e) (4) (G), (e) (4) (H) and (f) are necessary to protect the security of information properly classified in the interest of national and foreign policy.

From subsection (e) (1) because the nature of the criminal investigative function creates unique problems in prescribing specific perimeters in a particular case what information is relevant or necessary. Also, due to close liaison and working relationships with other federal, state, local and foreign national law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the CID and other agencies.

From subsection (e) (2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e) (3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individuals queried, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e) (5) because this requirement would undly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e) (5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e) (8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement of revealing investigative techniques, procedures, and the existence of confidential investigations.

e. Insert before exemption rule ID–A0509.08DAPE, SYSNAME — Registration and Permit Files (40 FR 55578):

EXEMPTED RECORD SYSTEM

(GENERAL EXEMPTIONS)

ID–A0508.25bUSACIDC.
SYSNAME—Index to Case Files—Republic of Vietnam CY70–CY73.

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a(j) (2) are exempt from the following provisions of 5 U.S.C. 552a: (c) (3), (c) (4), (d), (e) (1), (e) (2), (e) (3), (e) (4) (G), (e) (4) (H), (e)

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(5), (e)(8), (f), and (g). All portions of this system of records which fall within 5 U.S.C. 552a (k)(1) and (2) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

Authority—5 U.S.C. 552a(j)(2) and (k)(1) and (2).

Reasons—From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise ongoing investigations, reveal investigatory techniques and the identity of confidential informants, and invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to acess and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. In addition, subsections (d), (e)(4)(G), (e)(4)(H), and (f) are necessary to protect the security of information properly classified in the interest of national and foreign policy.

From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing specific perimeters in a particular case what information is relevant or necessary. Also, due to close liaison and working relationships with other federal, state, local and foreign national law enforcement agencies, information may be received which may relate to a case then under the investigtive jurisdiction of another government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the CID and other agencies.

From subsection (e)(2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individuals queried and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also in the collection of information for law enforcement purposes, it is imposible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative technique, procedures, and the existence of confidential investigations.

f. Insert before exemption rule ID-A0702.08aDASG, SYSNAME — Army Medical Procurement Applicant Files (see below):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A0702.03aUSAREC.

SYSNAME—Enlistment Eligibility Files.

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a (k)(5) are exempt from the provisions of Title 5 U.S.C. section 552a(d).

Authority—5 U.S.C. 552a(k)(5).

Reasons—It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

g. Insert before exemption rule ID-A0704.10bUSAREC, SYSNAME—Armed Services Vocational Aptitude Battery (ASVAB) System (see below):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A702.08aDASG

SYSNAME—Army Medical Procurement Applicant Files

Exemption—All portions of this system of records which fall within 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

Authority—5 U.S.C. 552a(k)(5).

Reasons—It is imperative that the confidential nature of evaluation and investigatory material on applicants furnished to the Army Medical Procurement Program under an express promise of confidentiality, be maintained to insure that candid presentation of information neecssary in determinations involving selection for AMEDD training programs and for suitability for commissioned service and future promotion.

h. Insert before exemption rule ID-AO709.01aDAPE, SYSNAME—United States Military Academy Candidate Files (40 FR 55579):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A0704.10bUSAREC.

SYSNAME—Armed Services Vocational Aptitude Battery (ASVAB) System.

Exemption—All portions of this system which fall within 5 U.S.C. 552a(k)(6) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

Authority—5 U.S.C. 552a(k)(6).

Reasons—Exemption is needed for the portion of records which pertain to individual item response on tests, to preclude compromise of scoring keys.

i. Insert before exemption rule ID-A0720.04aDAPE, SYSNAME—Individual Correctional Treatment Files (40 FR 55579):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A0709.03bDAPE.

SYSNAME—United States Corps of Cadets Personnel Records.

Exemption—All portions of this system which fall within 5 U.S.C. 5522a(k)(5) and (7) are exempt from the following provisions of Title 5 U.S.C. 552a: (d).

Authority—5 U.S.C. 552a(k)(5) and (7).

Reasons—It is imperative that cadet evaluation reports, rendered by other cadets under the promise of confidentiality, be maintained in a confidential nature to insure candid evaluations necessary in counseling cadets on their performance and in determining their suitability for commissioned service.

j. Insert before exemption rule ID-A1012.04aDAPE, SYSNAME—USMAPS Training Files (see below):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A1012.01bDAPE.

SYSNAME-USMAPS Admissions File.

Exemption—All portions of this system which fall within 5 U.S.C. 552a(k)(5) and (7) are exempt from the following provisions of Title 5 U.S.C. 552a: (d).

Authority—5 U.S.C. 552a(k)(5) and (7).

Reasons—It is imperative that the confidential nature of evaluation material on candidates, furnished to the United States Military Academy Preparatory School, under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations involving admission to the United States Military Academy Preparatory School and suitability for commissioned service.

k. Insert before exemption rule ID-A1015.06DAAG, SYSNAME—School Employee File (40 FR 55580):

EXEMPTED RECORD SYSTEM

(SPECIFIC EXEMPTIONS)

ID-A1012.04aDAPE.

SYSNAME-USMAPS Training Files.

Exemptions—All portions of this system which fall within 5 U.S.C. 552a(k)(5) and (7) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

Authority—5 U.S.C. 552a(k)(5) and (7).

Reasons—It is imperative that the confidential nature of evaluation material on candidates, furnished to the United States Military Academy Preparatory School, under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations involving retention at the United States Military Academy Preparatory School and admission to the United States Military Academy and suitability for commissioned service.

[FR Doc.76-24043 Filed 8-16-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 953]

IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Proposed Change in Fiscal Period

Consideration is being given to a proposal to change the fiscal period, currently April 1 through March 31, to June 1 through May 31. The proposal was recommended by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953). This program regulates the handling of potatoes grown in designated counties in North Carolina and Virginia and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Statement of consideration. The fiscal period presently begins on April 1 of each year. However, the committee does not customarily hold its organizational meeting to recommend regulations until early April, and final regulations are usually not published before late May. During this two-month period the committee may incur some financial obligations. Since shipments from the production area usually begin in early June, this change would result in the fiscal period more closely conforming to actual operations under the order, thus improving the functioning of the committee and the administration of the order.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same in duplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 953.122 Fiscal period.

The fiscal period, pursuant to § 953.9, which began on April 1, 1976, shall end on May 31, 1977. Thereafter, each fiscal period shall begin on June 1 of each year and end on May 31 of the following year, both dates inclusive.

Dated: August 11, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-23941 Filed 8-16-76;8:45 am]

Farmers Home Administration

[7 CFR Part 1823]

[FmHA Instruction 442.1]

ASSOCIATION LOANS AND GRANTS

Community Facilities, Development Conservation and Utilization

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendments of §§ 1823.2, 1823.3, 1823.4, 1823.5, 1823.6, 1823.7, 1823.9, 1823.11, 1823.13, 1823.14, 1823.25, 1823.28, 1823.29, 1823.42 and the deletion of § 1823.15 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 19026 as amended at 39 FR 12729; 39 FR 17971-17972; 39 FR 41829-41831; 40 FR 24517; 40 FR 29263; 40 FR 30930; 40 FR 6951; 40 FR 24517; 40 FR 29263; 44 FR 30930; 40 FR 54338; 41 FR 1490). As proposedfi the changes to incorporate certain substantive procedural and editorial changes read as follows:

1. Section 1823.2 is revised and restructured to clarify the section; to require the facilities to be located in rural areas; to require the applicat to be responsible for operating, maintaining and managing the facility; to require that nonprofit organizations have significant ties to the local community and to give consideration to projects needing improvements to comply with the Safe Drinking Water Act.

2. Section 1823.3 (b) and (c)(2), (9) and (11) are revised to clarify eligible loan purposes for industrial parks; to clarify the refinancing of debts; and to provide that utility-type projects may be located in either rural or nonrural areas in certain circumstances.

3. Section 1823.4 is revised to delete paragraph (c)(3) in reference to extensions to serve industrial areas; to add paragraph (e) to require nonpublic body borrowers to have cerain convenants in the articles of incorporation or loan agreement.

4. Section 1823.5 (b) is amended to require the term of the loan not exceed the useful life of the facility, or 40 years, whichever is less.

5. Section 1823.6(b)(1) (iv) and (v) are combined and revised to allow public bodies to pledge as security facility revenues and to give liens on real and personal property when legally permissible; paragraph (c) (1), (2) and (3) of this section are revised to take title clearance steps as necessary, or required by FmHA, to assign water rights as security when legally permissible, and to clarify membership authorization.

6. Section 1823.7 (a) (1) and (3), and (b) are revised to require the applicant to develop a user connection program prior to loan closing or the commencement of construction, whichever occurs first, and to allow for FmHA financing to the eligible applicant in certain developing areas; paragraph (c) is added to provide guidance and requirements for financial feasibility reports.

7. Section 1823.9 is amended to add a new paragraph (c) setting forth the provisions to require malpractice insurance for health care facilities; former paragraphs (c) through (f) are redesignated as (d) through (g) without change; a new paragraph (h) is added to outline requirements when the applicant is leasing a site.

8. Section 1823.11(a) is revised to add paragraph heading and to include appraisers in the group who may be necessary for their professional services; paragraphs (b) and (c) are amended to add paragraph headings.

9. Section 1823.13 is revised to include requirements regarding content of loan resolutions to be adopted by the applicant; provide for the use of multiple advances of loan funds in conjunction with interim commercial financing when needed; require the applicant to deposit applicant contribution funds prior to loan closing or start of construction, whichever occurs first; provide that supervised bank accounts which exceed the F.D.I.C. coverage be collateralized pursuant to Treasury Circular No. 176; provide that funds remaining after completion of the project be returned to FmHA as payment on the loan in a proportionate amount of the FmHA loan to the total project costs. The revision of this section involves new paragraphs, redesignation and revision of others. Where no change of text is involved only the redesignated paragraph and heading is shown.

10. Section 1823.14 is revised to provide more flexibility in the submission of management reports and audit reports.

11. Section 1823.15 is deleted.

12. In § 1823.24, the text and paragraph (a) are revised to extend the requirements for water purchase contracts so as to make these contract requirements applicable when other utility services are purchased.

13. In § 1823.28, the last sentence is amended to update the cross-reference.

14. In § 1823.29, the heading is revised and the following paragraphs are redesignated and revised as indicated:

(a) Former redesignated paragraph (c) (1) through (7) is now redesignated (b)(3) (i) through (vii) without change;

(b) Former redesignated paragraph (c)(8) (i) through (x) is now redesignated paragraph (b)(4) (i) through (x), with revisions in paragraphs (b)(4) and (b)(4)(ii), to update cross-references.

(c) New paragraph (b)(5) is added to set forth requirements for applicants awarding construction contracts prior to filing preapplications with FmHA.

(d) Former redesignated paragraph (d) (1) through (8) is now redesignated paragraph (c) (1) through (8) with revisions in paragraphs (c) (7) and (8), to expand requirements to comply with Section 114 of the Clean Air Act and section 308 of the Water Pollution Control Act; and to note supplemental general conditions in contracts in excess of $2,500 contained in FmHA Guide 18.

15. In § 1823.42, a new paragraph (k) is added to require a preliminary approving opinion of bond counsel when multiple advances are used and if a final unqualified opinion cannot be obtained; former paragraph (k) is redesignated as paragraph (l) without change.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 5316, South Building, Washington, DC 20250, on or before September 18, 1976.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Chief, Directives Management Branch, during regular business hours. (8:15 a.m.-4:45 p.m.)

As proposed, the various amendments and additions read as follows:

§ 1823.2 Applicant eligibility and priority.

Facilities financed by FmHA shall primarily serve rural residents, and be located in rural areas except as provided in § 1823.3(c)(11). The terms "rural" and "rural area" shall not include any area in any city or town having a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

V 41 160 AUG 17 76 UMI

(a) *Eligibility.* (1) Applicants eligible for loans include but are not limited to municipalities, counties, other political subdivisions of a State and other organizations operated on a not-for-profit basis such as:

(i) Districts.

(ii) Authorities.

(iii) Associations, cooperatives and corporations operated on a not-for-profit basis.

(iv) Indian tribes on Federal and State reservations and other Federally recognized Indian Tribes.

(v) Existing private corporations. Applicants organized under the general profit corporation laws may be eligible if they actually will be operated on a not-for-profit basis under their charter, bylaws, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval.

(2) Applicants must certify in writing and FmHA shall determine that the applicant is unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(3) Each applicant must have or will obtain the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining and managing the facility and for providing for its continued availability and use at reasonable rates and terms. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained or managed by a third party under contract, management agreement or written lease. Leases may be used when this is the only feasible way to provide the service and is the customary practice.

(4) FmHA shall require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(5) Preference for available loan funds will normally be given to public bodies. When this is not practicable:

(i) Loans for facilities providing a utility type service such as water and sewer systems, natural gas distribution systems, and cable TV may be made to other than public body type organizations, when operated on a not-for-profit basis. Security for such loans will be obtained in accordance with § 1823.6(a).

(ii) Loans for services and facilities basic to social, cultural, recreational needs, public health and safety, such as fire and rescue facilities, hospitals, and health clinics, community and other public buildings, and similar facilities may be made to other than public body-type organizations when (A) such facilities are fully available to the public, (B) it is not practicable for the public entity they serve to finance them, and (C) the proposal meets appropriate security requirements of section 1823.6.

(b) *Nonprofit organization eligibility.* A private nonprofit organization to be eligible for a community facility loan, must have significant ties with the local rural community. Such ties are necessary to insure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve the local rural residents. Such ties may be evidenced by such items as:

(1) Association with or control by a local public body or bodies, or broadly based ownership and control by members of the community;

(2) Substantial public funding through taxes, revenue bonds, or other local Government sources, and/or, substantial voluntary community funding such as would be obtained through a community-wide funding campaign.

(c) *Project priority.* In selecting projects, FmHA shall give due consideration to State development strategies, projects needing improvements to comply with the Safe Drinking Water Act, clearinghouse comments and priority recommendations and assign priorities in accordance with the following:

(1) Water and sewer system applications for any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other Federally recognized Indian tribal group) in a rural community having a population not in excess of 5,500 having an inadequate water or sewer system.

(2) Those projects which will enlarge, extend, or otherwise modify existing facilities to provide service to additonal rural residents.

(3) Those projects which involve the merging of ownership, management, and operation of smaller facilities thereby providing for more efficient management and economical service to more rural communities and residents and more orderly development of the rural area in which the facilities are located.

§ 1823.3 Eligible loan purposes.

Funds may be used:

* * * * *

(b) To construct, enlarge, extend, or otherwise improve community facilities providing essential service to rural residents. Such facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; traffic control; community, social, cultural, and recreational benefits; supplemental and supporting structures for rural electrification or telephone systems or facilities such as headquarters and office buildings, storage facilities, and maintenance shops only when they are not eligible for Rural Electrification Administration financing. Funds may be used for development of industrial park sites, consisting of land and land improvements (e.g. clearing, grading, drainage, etc.), necessary access ways and utility extensions to and throughout the site when the park is determined to be an integral part of community development. Funds may not be used in connection with industrial parks to finance on-site utility systems, or business and industrial buildings.

(c) * * *

(2) Paying interest installments in connection with loans to be repaid from facility revenue until such time as the facility is generating sufficient revenue to be self-supporting. Ordinarily, this will be limited to an amount sufficient to pay not more than 3 years interest after the estimated loan closing date. Funds may be included for interest installments for loans secured by general obligation bonds through the period when taxes are available for payment, ordinarily not to exceed 2 years.

* * * * *

(9) Refinancing debts incurred by or on behalf of a community when all of the following conditions exist.

(i) The debt being refinanced is only an incidental portion of the total loan.

(ii) The debts were incurred for the facility or part thereof or service to be installed or improved with the loan.

(iii) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a loan.

* * * * *

(11) FmHA loan funds may be used alone or in connection with funds provided by the applicant or from other sources. When the utility is to serve both rural and urban areas, FmHA loan funds may be used to finance that portion of a utility project serving rural residents regardless of location of the facility. Since "matching funds" are not a requirement for FmHA loans, shared revenues may be used with such loans for project construction. Applicants expecting funds from other Agencies for use in completing projects being partially financed with FmHA funds will present evidence that funds from such other Agencies will be available at the time needed for construction of the project before closing the FmHA loan or the commencement of construction, whichever occurs first.

§ 1823.4 Facilities for public use.

* * * * *

(c) * * *

(3) [Deleted].

* * * * *

(e) Before a loan is made to an applicant other than a public body, the articles of incorporation or loan agreement will include the following condition:

In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property and assets of the corporation shall go and be distributed to one or more nonprofit corporations or public bodies as may be selected by the board of directors of this corporation and approved by

at least 75% of users or members, to be used for, and devoted to, the purpose of a community facility project or other purpose to serve the public welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, directors, stockholders, or others having financial or managerial interest in the corporation either for the reimbursement of any sum subscribed, donated or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts.

§ 1823.5 Rates and terms.

* * * * *

(b) Loans will ordinarily be scheduled for repayment on terms similar to those used in the State for financing such facilities but in no case shall they exceed 40 years from the date of the note(s) or bond(s) or the useful life of the facility, whichever is less.

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§ 1823.6 Security.

* * * * *

(b) *Public Bodies.* * * *

(1) * * *

(iv) Pledges of facility revenue and when permitted by State law liens on real and personal property.

(v) [Deleted.]

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(c) *Public bodies and other than public bodies*—(1) *Title for right-of-way or easement.* When a lien will be taken on a site for structures such as a reservoir or pumping station, and the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortagges or other liens, defects, or encumbrances, if any. Consents, releases, or subordinations will be obtained from the holders of outstanding liens or mortgages as may be necessary to give FmHA the required security. The applicant wil take such title clearance steps as may be necessary or required by FmHA.

(2) *Water rights.* When legally permissible, an assignment will be taken on water rights owned or to be acquired by the applicant and the following will be furnished as applicable:

* * * * *

(3) *Membership authorization.* For organizations other than public bodies, the membership will authorize a utility-type project and its financing, except that the State Director may, with the concurrence of the Office of the General Counsel, accept the loan resolution without such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and:

§ 1823.7 Economic feasibility requirements.

(a) Applicants for loans for utility facilities dependent on user fees for debt payment shall base their income and expense forecast on realistic user estimates in accordance with the following:

(1) In estimating the number of users and establishing rates or fees on which the loan will be based for new systems and for extensions or improvements to existing systems, consideration should be given to the following:

* * * * *

(3) User connection program. In those cases where all or a part of the borrower's debt repayment ability revenues will come from user fees, applicants must provide a positive program to encourage connection by all users as soon as service is available for review and approval by FmHA before loan closing or the commencement of construction, whichever occurs first. Such a program shall include:

* * * * *

(b) *Facilities for new or developing communities or areas.* Developers are normally expected to provide essential community facilities in new or developing areas and such facilities shall be installed in compliance with appropriate State statutes and regulations. FmHA financing will be considered to an eligible applicant in such cases when failure to complete development would result in an adverse economic condition for the rural area (not the community being developed); the proposal is necessary to the success of an area development plan; and loan repayment can be assured by:

* * * * *

(3) Developers paying cash for the increased capital cost and any increased operating expenses until the developing area will support the increased costs; or

* * * * *

(c) *Financial feasibility reports.* Applicants will provide a financial feasibility report prepared by a qualified firm or individual. Projects for other than utility-type facilities, dependent on revenues from the facility to repay the loan and proposing modifications which will significantly affect the applicant's financial operations, will be prepared by a qualified firm or individual not having a direct interest in the management or construction of the facility. For other projects the financial feasibility report will normally be included as a part of the preliminary engineer/architectural report unless additional information is specifically requested by FmHA. Guides outlining the minimum content requirements of financial feasibility reports are available at local FmHA offices.

§ 1823.9 General requirements.

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(c) *Malpractice insurance.* The need for and requirements for malpractice insurance will be carefully and thoroughly considered in connection with each health care facility financed. The applicant will maintain such insurance as determined necessary by the governing body, with the advice of the applicant attorney and concurred in by FmHA.

* * * * *

(h) *Lease agreements.* Where the right of use or control of real property not owned by the applicant/borrower is essential to the successful operation of the facility during the life of the loan, such right will be evidenced by written agreements or contracts between the owner(s) of the property and the applicant/borrower. Lease agreements shall not contain provisions for restricted use of the site or facility, forfeiture or summary cancellation clauses, and shall provide for the right to transfer the lease without restriction. Lease agreements will ordinarily be written for a term at least equal to one and one-half times the term of the loan. Such lease contracts or agreements will be approved by the FmHA loan approving official with the advice and counsel of the Regional Attorney, Office of the General Counsel, as to the legal sufficiency of such documents. A copy of the lease contract or agreement will be included in the loan docket.

* * * * *

§ 1823.11 Professional services and contracts related to the facility.

(a) *Professional services.* Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Professional services of the following may be necessary: Engineer, architect, attorney, bond counsel, accountant, auditor as defined in § 1823.14(e)(3)(i), appraisers, and financial advisory or fiscal agent (if desired by the applicant). Contracts or other forms of agreement between the applicant and its professional and technical representatives are required and are subject to FmHA concurrence. Form FmHA 442-19, "Agreement for Engineering Services," may be used when appropriate. Guide 14 may be used in the preparation of the legal services agreement.

(b) *Contracts for other services.* * * *

(c) *Fees.* * * *

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§ 1823.13 Closing loans and fund delivery.

(a) *Loan resolutions.* Loan resolutions will be adopted by both public and other-than-public bodies using Forms FmHA 442-47, "Loan Resolutions (Public Bodies)," and FmHA 442-9, "Association Loan Resolution (Security Agreement)," respectively. These resolutions will supplement or add to provisions included elsewhere in this subpart. The association will agree:

(1) To indemnify the Government for any payments made or losses suffered by the Government on behalf of the association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

(2) To comply with applicable local, State and Federal laws, regulations and ordinances.

(3) To provide for the receipt of adequate revenues to meet the require-

V 41 160 AUG 17 76 UMI

ments of debt service, operation and maintenance, establishments of adequate reserves and to continually operate and maintain the facility in good condition. No free service or use of the facility will be permitted.

(4) To acquire and maintain such insurance coverage, including fidelity bonds, as may be required by the Government.

(5) To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the Government to provide the Government without its request, a copy of each such audit and to make and forward to the Government such additional information and reports as it may, from time to time, require.

(6) To provide the Government, at all reasonable times, access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the association is complying with the provisions hereof and instruments incident to the making or insuring of the loan.

(7) To serve any applicant within the service area who desires services and can be feasibly and legally served, and to obtain the concurrence of the FmHA prior to refusing services to such applicant. Upon the failure to provide such services which are feasible and legal, such applicant shall have a direct right of action against the association under this agreement.

(8) To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds or notes or other lien instruments containing such items and in such form as are required by State statutes and as are agreeable and acceptable to the Government.

(9) To refinance the unpaid balance, in whole or in part, of its bonds or notes upon the request of the government if at any time it should appear to the Government that the association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms.

(10) To provide for, execute, and comply with Form FmHA 400–4, "Nondiscrimination Agreement," and Form FmHA 400–1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in or attached as a rider to each construction contract and subcontract involving an amount in excess of $10,000.

(11) To place the proceeds of the loan on deposit in an account in a bank and in a manner approved by the Government.

(12) Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof or interest therein; not to permit others to do so, without the prior written consent of the Government.

(13) Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government, if such undertaking would involve the source of funds pledged to pay the bonds or notes.

(14) That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government, at its option, may:

(i) Declare the entire principal amount then outstanding and accrued interest, immediately due and payable;

(ii) For the account of the association (payable from the source of funds pledged to pay the bonds or notes or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; and/or

(iii) Take possession of the facility, repair, maintain and operate, rent or otherwise dispose of the facility. Default under the provisions of the resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the association, and default under any such instrument may be construed by the Government to constitute default hereunder.

(b) *Interim financing.* In all loans, exceeding $50,000, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the FmHA loan would normally be closed, that is immediately prior to the start of construction. When the interim financing funds have been expended, the FmHA loan will be closed. Multiple advances may be used in conjunction with interim commercial financing when the applicant is unable to obtain sufficient funds through interim commercial financing in an amount equal to the loan. The FmHA loan proceeds (including advances) will be used to retire the interim commercial indebtedness. Before the FmHA loan is closed, the applicant will be required to provide FmHA with statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts or other agreements and, in the case of the contractor, that he has paid his suppliers and subcontractors.

(c) *Multiple advances.* • • •

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(2) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FmHA 440–11, "Estimate of Funds needed," to show the amount of funds needed during the 30-day period. Form AD–627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FmHA 440–11 after the initial advance of funds is made.

(d) *Applicant contribution.* Applicants contributing funds toward the project cost shall deposit these funds in its construction account on or before loan closing or start of construction, whichever occurs first. Project costs, paid prior to the required deposit time, with applicant funds shall be appropriately accounted for.

(e) *Supervised bank account.* Loan funds and any funds furnished by the applicant may be deposited in a supervised bank account in a bank having Federal Deposit Insurance Corporation (FDIC) coverage. Funds placed in a supervised bank account are public monies under 12 U.S.C. 265, and therefore any amount which exceeds the FDIC coverage will require a collateral pledge pursuant to Treasury Circular No. 176. If a supervised bank account is not used, arrangements will be agreed upon for the prior approval by FmHA of the bills, or vouchers upon which warrants will be drawn, so that the necessary control of payments from loan funds can be maintained and FmHA records can be kept current. Periodic audits of nonsupervised accounts shall be made by FmHA at such times and in such manner as the FmHA State Director prescribes in the conditions of loan approval. Mandatory State Laws regulating the depositories to be used shall be complied with.

(f) *Payment for construction.* Payment for construction will be made in accordance with the construction contract in amounts approved on Form FmHA 424–18, "Partial Payment Estimate." Advances for contract retainage will not be made until such retainage is due and payable under the terms of the contract. Form AD–629, "Outlay Report and Request for Reimbursement for Construction Programs," will be used to account for funds expended in the last 30-day period. Each payment estimate must be approved by the governing body of the borrower. The review and acceptance of partial payment estimates by FmHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications. A final Form AD–627 will be submitted to FmHA to include the final advance and all other advances not later than 90 days after the final advance has been made.

(g) *Funds remaining after construction is completed.* Should loan funds remain available, including obligated funds not advanced, after all costs incident to the basic project have been paid or provided for, such funds may be used

for needed extensions, enlargements and improvements of the project with the prior permission of the FmHA State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. Remaining project funds not needed for authorized extensions, enlargements, or improvements shall be returned to FmHA as a repayment on the loan in a proportionate amount of the FmHA loan to the total planned project cost, unless other disposition is required by the bond ordinance or resolution or by State statutes.

(h) *Obtaining insurance and fidelity bonds.* • • •

(i) *Distribution of recorded documents.* • • •

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§ 1823.14 Borrower accounting methods, management reporting and audits.

(a) *Accounting methods and records*—(1) *Method of accounting.* The methods of accounting will be such that separate accounts are to be maintained on the individual project being financed by FmHA when it is a unit of a larger organization. Borrowers shall maintain their accounting records on the accrual basis unless State statutes or regulatory Agencies provide otherwise, or this requirement is waived by FmHA.

(i) *Waiver of accrual method.* The State Director may approve a basis of accounting other than accural when the resulting financial statements will present fairly the financial position and results of operations of the organization. For organizations who have audits by independent public accountants, whether or not required by paragraph (c) of this section, the basis of accounting other than accrual must have the written approval of the organization's auditor before granting a waiver so that the basis of accounting will not be a factor in keeping the auditor from rendering an unqualified opinion.

(2) *Records.* Each borrower shall retain all records, books, and supporting material for a period of 3 years after the issuance of the audit reports and financial statements in paragraphs (c) and (d) of this section. This material will be available upon request to FmHA, the Comptroller General, or to their representatives.

(3) *Approval requirements.* Prior to loan closing or commencing with construction, whichever shall occur first, each borrower shall provide and obtain approval from the FmHA State Director for its accounting and financial reporting system, including the agreement with its auditor, if an auditor is required as determined in paragraph (c)(1) of this section.

(b) *Management reports.* These reports will furnish the management with a means of evaluating prior decisions and serve as a basis for planning future operations and financial conditions. In those cases where revenues from multiple sources are pledged as security for an FmHA loan, two reports will be required; one for the project being financed by FmHA and one combining the entire operation of the borrower. In those cases where FmHA loans are secured by general obligation bonds or assessments and the borrower combines revenues from all sources, one management report combining all such revenues will suffice. The following management data will be submitted:

(1) *Financial Information.* Form FmHA 442–2, Schedule 1, "Statement of Budget, Income and Equity," and Schedule 2, "Projected Cash Flow."

(i) Prior to be beginning of each fiscal year, two copies, with data entered in column three only of page one, annual budget of schedule 1 and all of schedule 2, will be submitted to the County Supervisor. Twenty(20) days after the end of each of the first three quarters of each year, two copies with all information furnished will be submitted. More frequent submissions may be required by FmHA when necesary. For the fourth quarter of each year, submit together with the year-end financial requirements of paragraphs (c) and (d) of this section. The submission dates to the County Supervisor will be 90 days following year-end requirements for audited statements, and 60 days following year-end requirements for unaudited statements. The fourth quarter submission may serve the dual purpose of management report and year-end financial requirement for Statement of Income. Refer to paragraph (d) of this section and Form FmHA 442–2.

(2) *Additional Information.* (i) Together with the other year-end requirements, submit to the County Supervisor a letter listing the names and addresses of all members, partners, director, etc., as appropriate, also indicating the officers and their term of office.

(ii) Borrowers delinquent on their payment to FmHA or experiencing financial problems, will develop a positive action plan to resolve its financial problems. The plan will be reviewed with FmHA and updated at least quarterly. A guide for developing a positive action plan is available at the local FmHA office.

(3) *Waiver of management reports.* In those cases where FmHA loans are secured by the general obligation of the public body or tax assessments which total 100 percent of the debt service requirements, the State Director may authorize an annual audit to be substituted in lieu of management reports.

(c) *Audits and financial statements.*—(1) *Audit requirements.* Audits are required annually of borrowers as follows:

(i) Where gross annual income exceeds $50,000.

(ii) Others as the FmHA State Director may require.

(2) *Public body borrowers.* Audit reports prepared in accordance with State statutes or regulatory Agencies are acceptable, provided they contain the financial information necessary and are prepared on a frequency sufficient to furnish borrowers and FmHA the information for proper loan analysis. A copy of the audit will be submitted to the County Supervisor as soon as possible but in no case later than 90 days following the period covered by the audit. Public bodies should refer to the FmHA audit guide in paragraph (c)(3)(ii) of this section for certain required information.

(3) *Other borrowers.* Borrowers other than public bodies and public bodies where the State has no audit requirements are required to have their records audited by an independent public accountant on an annual basis. A copy of the audit will be submitted to the County Supervisor as soon as possible, but in no case later than ninety (90) days following the period covered by the audit.

(i) *Independent public accountant defined.* Audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(ii) *Audit guide.* Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." The handbook is available at all FmHA offices.

(d) *Borrowers not required to have audits.* Borrowers whose gross annual income for a full year of operation is less than $50,000, and who do not have an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FmHA with annual financial statements, consisting of a verification of the organization's balance sheet and statement of income and expense by an appropriate official of the organization. The "Statement of Budget, Income and Equity," Form FmHA 442–2, and the "Balance Sheet," Form FmHA 442–3, may be used. For borrowers using Form FmHA 442–2, the dual purpose of fourth-quarter management report, when required, and annual statement of income, will be met with this one submission.

§ 1823.15 [Deleted]

§ 1823.24 Utility purchase contracts.

Applicants proposing to purchase water or other utility service from private or public sources shall have written contracts for such supply, and all such contracts will be reviewed and approved by FmHA prior to their execution by the applicant. Form FmHA 422–30, "Water Purchase Contract," may be used. Such contracts will:

(a) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water or other service and provide that in case of shortages, all of the supplier's users will share the shortages proportionately. If it is impossible to obtain a firm commitment for a minimum supply at all times, a contract may be executed and approved, if adequate evidence is provided to enable FmHA to

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make a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the borrower if it should ever become necessary.

* * * * *

§ 1823.28 Performing construction.

Payments for construction will be handled in accordance with § 1823.13(f).

* * * * *

§ 1823.29 Procurement, bidding and contracting.

(b) * * *

(4) Procurement records or files for purchases not handled in accordance with paragraph (b) (3) (v) and (vi) of this section and those in excess of $50,000 shall provide at least the following pertinent information:

* * * * *

(ii) A written consent from the FmHA making an exception to the requirements contained in paragraph (b) (3) (i) and (vi) and paragraph (d) of this section in regards to formal competitive bidding and the architect/engineer-contractor relationship. Such consent shall not be given when FmHA financing includes a grant.

* * * * *

(5) Applicants awarding construction contracts prior to filing a preapplication with FmHA must comply with the following:

(i) Provide conclusive evidence that the contract was entered into without intent to circumvent the requirements of FmHA regulations. Such evidence will consist of at least the following:

(A) The lapse of a reasonable period of time between the date of contract award and the date of filing the preapplication which clearly indicates an irreconcilable failure of previous financial arrangements or,

(B) A written statement explaining initial plans for financing the project and reasons for failure to obtain the planned credit.

(ii) Modify the outstanding contract to conform with the provisions of this appendix. Where this is not possible, modifications will be made to the extent practicable and as a minimum the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the FmHA financing. Where all construction is complete and it is impractical to modify the contracts, the applicant must provide the certification required by paragraph (b) (5) (iv) of this section. Any exceptions to full compliance with this appendix must be approved by FmHA with the advise of the Office of the General Counsel.

(iii) Provide a certification by its engineer or architect certifying that any construction performed complies with the plans and specifications.

(iv) Provide a certification that the applicant and their contractor(s) complied with all statutory and executive order requirements relating to FmHA financing for construction already performed even though these requirements may not have been included in the contract documents.

(c) * * *

(7) If the contract exceeds $100,000, the contractor agrees to comply with all requirements of section 114 of the Clean Air Act (42 U.S.C. 1957-g) and section 308 of the Water Pollution Control Act (33 U.S.C. 1318) relating to inspection, monitoring entry, reports, and information, as well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975.

(i) The contract should contain provisions obligating the contractor as a condition for the award of the contract.

(A) To notify the owner of the receipt of any communication form the Environmental Protection Agency (EPA) indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

(B) To certify that any facility to be utilized in the performance of any nonexempt contractor subcontact is to be listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

(C) To include or cause to be included, the above criteria and requirements in every nonexempt subcontract, and, that he will take such action as the Government may direct as a means of enforcing such provisions.

(ii) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

(8) Each contract in excess of $2,500 shall contain FmHA supplemental general conditions. These conditions are contained in Guide FmHA 18 "Supplemental General Conditions," and may be obtained from the local FmHA office.

* * * * *

§ 1823.42 Bond transcript documents.

* * * * *

(k) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of bond counsel if a final unqualified opinion cannot be obtained. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(l) [Redesignated].

* * * * *

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: August 9, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-23945 Filed 8-16-76;8:45 am]

Office of the Secretary

[7 CFR Part 1260]

[Docket No. BRIA-1]

BEEF RESEARCH AND INFORMATION

Hearing on Proposed Order

Notice is hereby given of a public hearing on a proposed national research and information order for beef. Hearing sessions will be held at six locations beginning on the dates listed below:

1. September 14, 1976—Dallas, TX 75201, Baker Hotel, 1400 Commerce Street.
2. September 28, 1976—Pittsburgh, PA 16222, 1112 Federal Building, 1000 Liberty Avenue.
3. September 30, 1976—Atlanta, GA 30324, Holiday Inn, I 85 & Monroe Drive, 1944 Piedmont Circle.
4. October 5, 1976—Denver, CO 80225, Denver Federal Center, Bldg. 56, Entrance A, West 6th Avenue & Kipling Street.
5. October 7, 1976—San Francisco, CA 94111, Conference Room 503, U.S. Custom House, 555 Battery Street.
6. October 12, 1976—Des Moines, IA 50309, Federal Building, Room 113, 210 Walnut Street.

Each day's session of the hearing will commence at 9:30 a.m., local time, unless the judge otherwise specifies during the course of the hearing. Any of the sessions may be continued beyond 1 day if necessary. The hearing is called pursuant to the Beef Research and Information Act (90 Stat. 529–538, (7 U.S.C. 2901 et seq.)), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate an order (7 CFR Part 1260).

The public hearing is for the purpose of : (a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed order set forth herein and to any appropriate modifications thereof; (b) determining the extent of need for an order to implement a nationwide coordinated beef research and information program; and (c) determining whether provisions specified in the proposed order or some other provisions appropriate to the terms of the Beef Research and Information Act (90 Stat. 529–538, (7 U.S.C. 2901 et seq.)) will tend to effectuate the declared policy of the Act.

The proposed order, set forth below, has not received the approval of the Secretary of Agriculture.

The proposed order was submitted to the Secretary of Agriculture, with a request for a public hearing thereon, by the Beef Development Taskforce composed of representatives from national beef organizations and State cattlemen's associations. The Taskforce indicates that the proposed order is endorsed by a total of 81 State and national beef and dairy organizations.

The provisions of the proposed Beef Research and Information Order are:

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

DEFINITIONS

Sec.
1260.101 Secretary.
1260.102 Act.
1260.103 Person.
1260.104 Cattle.
1260.105 Beef.
1260.106 Beef products.
1260.107 Fiscal period.
1260.108 Beef Board or Board.
1260.109 Executive Committee.
1260.110 Producer.
1260.111 Producer-buyer.
1260.112 Producer-seller.
1260.113 Slaughterer.
1260.114 United States.
1260.115 Marketing.
1260.116 Commerce.
1260.117 Producer organization or eligible organization.
1260.118 Producer information.
1260.119 Consumer information.
1260.120 Promotion.
1260.121 Research.
1260.122 Transaction.
1260.123 Contracting party.
1260.124 Marketing year.
1260.125 Part and subpart.

BEEF BOARD

1260.136 Establishment and membership.
1260.137 Term of office.
1260.138 Nominations.
1260.139 Appointments.
1260.140 Acceptance.
1260.141 Vacancies.
1260.142 Alternate members.
1260.143 Procedure.
1260.144 Compensation and reimbursement.
1260.145 Powers of the Board.
1260.146 Duties of the Board.

RESEARCH, INFORMATION, EDUCATION, AND PROMOTION

1260.151 Research, information, education, and promotion.

STATE BEEF COUNCILS

Sec.
1260.156 Continuation.
1260.157 Qualifications.

EXPENSES AND ASSESSMENTS

1260.161 Expenses.
1260.162 Assessments.
1260.163 Producer refunds.
1260.164 Influencing governmental action.

REPORTS, BOOKS, AND RECORDS

1260.171 Reports.
1260.172 Books and records.
1260.173 Confidential treatment.

CERTIFICATION OF ORGANIZATIONS

1260.176 Certification of organizations.

MISCELLANEOUS

Sec.
1260.181 Suspension and termination.
1260.182 Proceedings after termination.
1260.183 Effect of termination or amendment.
1260.184 Amendments.
1260.185 Personal liability.
1260.186 Separability.

AUTHORITY: Beef Research and Information Act (7 U.S.C. 2901 et seq.).

DEFINITIONS

§ 1260.101 Secretary.

"Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

§ 1260.102 Act.

"Act" means the Beef Research and Information Act (7 U.S.C. 2901 et. seq.) and any amendments thereto.

§ 1260.103 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

§ 1260.104 Cattle.

"Cattle" means live domesticated bovine quadrapeds.

§ 1260.105 Beef.

"Beef" means the flesh of cattle.

§ 1260.106 Beef products.

"Beef products" means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

§ 1260.107 Fiscal period.

"Fiscal period" is the 12-month budgetary period and means the USDA's fiscal year unless the Beef Board, with the approval of the Secretary, selects some other 12-month budgetary period.

§ 1260.108 Beef Board or Board.

"Beef Board" or "Board" or other designatory term adopted by such Board, with the approval of the Secretary, means the administrative body established pursuant to § 1260.136.

§ 1260.109 Executive Committee.

"Executive committee" means the members of the Beef Board, from 7 to 11 in number, who are elected by the Board to handle administrative matters, to make policy recommendations to the Board, and to conduct routine business within the policies determined by the Board.

§ 1260.110 Producer.

"Producer" means any person who owns or acquires ownership of cattle other than one who acquires cattle solely from the purpose of slaughter: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

§ 1260.111 Producer-buyer.

"Producer-buyer" means a producer who buys cattle.

§ 1260.112 Producer-seller.

"Producer-seller" means a producer who sells cattle.

§ 1260.113 Slaughterer.

"Slaughterer" means any person who slaughters cattle, including cattle of his own production.

§ 1260.114 United States.

"United States" means the 50 States of the United States of America and the District of Columbia.

§ 1260.115 Marketing.

"Marketing" means the sale or other disposition of cattle, beef, or beef products in any channel of commerce.

§ 1260.116 Commerce.

"Commerce" means interstate, foreign, or intrastate commerce.

§ 1260.117 Producer organization or eligible organization.

"Producer organization" or "eligible organization" means any organization which has been certified by the Secretary pursuant to this order.

§ 1260.118 Producer information.

"Producer information" means facts, data, and other information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

§ 1260.119 Consumer information.

"Consumer information" means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

§ 1260.120 Promotion.

"Promotion" means any action to advance the image or desirability of beef and beef products.

§ 1260.121 Research.

"Research" means any type of research to advance the desirability, marketability, production, or quality of cattle, beef, and beef products, or the evaluation of such research.

§ 1260.122 Transaction.

"Transaction" means the transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

§ 1260.123 Contracting party.

"Contracting party" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity, public or private, with which the Beef Board may enter into a contract or agreement pursuant to § 1260.146(c).

§ 1260.124 Marketing year.

"Marketing year" means the calendar year ending on December 31 or any

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other consecutive 12-month period designated by the Board, with the approval of the Secretary.

§ 1260.125 Part and subpart.

"Part" means 7 CFR Part 1260, containing rules, regulations, orders, supplemental orders, and similar matters concerning the Beef Research and Information Act. "Subpart" refers to any portion or segment of this part.

BEEF BOARD

§ 1260.136 Establishment and membership.

There is hereby established a Beef Board composed of not more than 68 beef producers, each of whom shall have an alternate, appointed by the Secretary from nominations submitted by eligible producer organizations within geographic areas certified pursuant to § 1260.176 or by producers in a manner authorized by the Secretary pursuant to § 1260.138(a). Each geographic area as designated by the Secretary shall be represented by at least one member and his alternate.

§ 1260.137 Term of office.

The members of the Board and their alternates shall serve for terms of 3 years, except appointments to the initial Board shall be, proportionately, for terms of 1, 2, and 3 years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has accepted. No member shall serve more than 6 consecutive years: *Provided*, That those members appointed to the initial Board for 1 or 2 year terms are eligible to serve two additional consecutive terms.

§ 1260.138 Nominations.

All nominations to the Beef Board authorized under § 1260.136 shall be made in the following manner:

(a) Within 90 days of the announcement of approval of this order, unless a longer period of time is prescribed by the Secretary, nominations for each member and each alternate member to be appointed shall be submitted to the Secretary for each geographic area as specified in paragraph (d) of this section by eligible organizations, certified pursuant to §1260.176: *Provided*, That if there is no eligible organization certified for a geographic area, or if the Secretary determines that a substantial number of producers are not members or, if their interests are not represented by, any such eligible organization, then nominations shall be submitted in a manner authorized by the Secretary;

(b) After the establishment of the Board, the nominations for subsequent Board members and alternates shall be submitted to the Secretary not less than 60 days prior to the expiration of the terms of the members and alternates previously appointed to the Board;

(c) Where there is more than one eligible organization within a geographic area, they may caucus for the purpose of jointly nominating qualified persons for each member and for each alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held within a defined geographic area, each eligible organization may submit to the Secretary nominations for each appointment to be made;

(d) For purposes of nominating members and their alternates to the Board, the United States shall be divided into geographic areas so as to reflect the proportion of cattle in each geographic area: *Provided*, That such designated geographic area shall be entitled to at least one member on the Board and one alternate member. The Secretary shall redefine the geographic areas if he finds, upon recommendation of the Board or otherwise, that the existing geographic area designations interfere with proper effectuation of the Act and the subpart;

(e) The initial geographic areas and the number of members and alternates on the Beef Board from each area shall be: Alabama 1, Arizona 1, Arkansas 1, Colorado 2, Florida 1, Georgia 1, Idaho 1, Illinois 2, Indiana 1, Iowa 3, Kansas 3, Kentucky 2, Louisiana 1, Michigan 1, Minnesota 2, Mississippi 1, Missouri 3, Montana 2, Nebraska 3, Nevada 1, New Mexico 1, New York 1, North Carolina 1, North Dakota 1, Ohio 1, Oklahoma 3, Oregon 1, Pennsylvania 1, South Carolina 1, South Dakota 2, Tennessee 2, Texas 7, Utah 1, Virginia 1, West Virginia 1, Wisconsin 2, Wyoming 1. Additional geographic areas, comprised of combined States, shall be: California-Hawaii 2, Washington-Alaska 1, Maryland-Dalaware-New Jersey-District of Columbia 1, Maine-Vermont-New Hampshire-Massachusetts-Rhode Island-Connecticut 1. This distribution of membership was determined based on the definition of a geographic area as a State or combination of States with 500,000 head of cattle or more. Each geographic area was entitled to one member on the Beef Board, plus one additional member for each additional 2.5 million head of cattle; and

(f) After the establishment of the Board, the geographic areas provided for in paragraph (d) of this section, including, the area distribution of members of the Board and their alternates, shall be reviewed within 5 years and at any time not to exceed 5 years from the date of the last review by the Board or by a person or agency designated by the Board to perform such review to consider cash assessments, cash receipts for cattle, cattle numbers, and other factors, and the results shall be reported to the Secretary along with any recommendations by the Board regarding whether the delineation of the areas and the area distribution of the Board should continue without change, or whether changes should be made in either the areas or the number of board members to be appointed from each area: *Provided*, That each area shall be represented by at least one Board member and any action recommended shall be subject to the approval of the Secretary.

§ 1260.139 Appointments.

From the nominations made pursuant to §§ 1260.136 and 1260.138, the Secretary shall appoint the members of the Board and an alternate for each member, on the basis of the representation provided for in §§ 1260.136, 1260.137, and 1260.138.

§ 1260.140 Acceptance.

Any person appointed by the Secretary as a member, or as an alternate member, of the Board shall notify the Secretary of his acceptance in a manner prescribed by the Secretary.

§ 1260.141 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and appointed in a manner specified in §§ 1260.136, 1260.137, 1260.138 (b), and 1260.140, except that replacement of a Board member or alternate with an unexpired term of less than six months is not necessary.

§ 1260.142 Alternate members.

An alternate member of the Board, during the absence of the member for whom he is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed.

§ 1260.143 Procedure.

(a) A majority of the members of the Board, including alternates acting for members of the Board, shall constitute a quorum, and any action of the Board shall require the concurring votes of at least a majority of those present and voting. At assembled meetings all votes shall be cast in person.

(b) For matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may also take action upon the concurring votes of a majority of its members by mail, telegraph, or telephone, but any such telephone vote shall be confirmed promptly in writing.

§ 1260.144 Compensation and reimbursement.

The members of the Board, and alternates when acting for members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart.

§ 1260.145 Powers of the Board.

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this order;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart;

(d) To appoint from its members an Executive Committee, consisting of not less than 7 or more than 11 members, with authority to employ a staff and conduct routine business within the policies determined by the Beef Board. The membership of the Executive Committee shall be broadly representative of the cattle industry and shall reflect, to the extent practicable, approximately the same proportion of cattle production by geographic location as the membership of the Beef Board itself; and

(e) To recommend to the Secretary amendments to this subpart.

§ 1260.146 Duties of the Board.

The Board shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Board members, to adopt such rules for the conduct of its business as it may deem advisable, and it may establish advisory committees of persons other than Board members;

(b) To prepare and submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of research, information, advertising, promotion, and developmental projects, with the Board's recommendations with respect thereto. The Board shall also submit informational copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry;

(c) To enter into contracts or agreements, with the approval of the Secretary, with appropriate contracting parties for the development and carrying out of the activities of the Board as authorized by § 1260.151, and for the payment of the costs thereof with funds collected pursuant to § 1260.162. Any such contract or agreement shall provide that such contracting parties shall develop and submit to the Board a plan or project, together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project, and that any such plan or project shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting parties shall keep accurate records of all of their activities with respect to the contract or agreement, and make periodic reports to the Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary or Board may require;

(d) To set aside up to 10% of net assessments from each State for use in the next fiscal year by the qualifying State beef council, beef board, or other beef promotion entity. The amount of net assessments from each State shall be computed by the Beef Board to reflect total assessments in such State less a deduction for refunds to producers in such State. Any request for funds shall be made by a State beef promotion entity which meets qualifications specified in § 1260.157, and shall be accompanied by budgets, plans, and specifications for research, information, education, and/or promotion programs for which such funds will be used, as well as a plan for reporting on how the funds were used. Approval of the request shall be based upon the apparent ability of the programs to further the purposes of the Act and this order and complement the natural research, information, education, and/or promotion efforts: *Provided*, That nothing herein shall prevent the Beef Board from entering into further contracts or agreements with any State beef promotion entity according to paragraph (c) of this section;

(e) To develop and submit to the Secretary plans or projects, together with the Board's recommendations with respect to the approval thereof by the Secretary;

(f) To maintain such books and records and prepare and submit such reports from time to time to the Secretary as he may prescribe and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) To prepare and make public, at least each fiscal period, a report of activities carried out and an accounting for funds received and expended;

(h) To cause its books to be audited by a public accountant at least once each fiscal period and at such other times as the Secretary may request and to submit a copy of each such audit to the Secretary;

(i) To give the Secretary the same notice of meetings of the Board as is given to members in order that he or his representative may attend such meetings; and

(j) To submit to the Secretary such information pursuant to this subpart as he may request.

RESEARCH, INFORMATION, EDUCATION, AND PROMOTION

§ 1260.151 Research, information, education, and promotion.

(a) The Beef Board shall in the manner prescribed in § 1260.146 establish or provide for:

(1) The establishment, issuance, effectuation, and administration of plans or projects for advertising, promotion, education, producer information, and consumer information with respect to the use of cattle, beef, and beef products and for the disbursement of necessary funds for such purposes;

(2) The establishment and carrying on of research, market development projects, and studies with respect to the production, growing, sale, processing, distribution, marketing, or utilization of cattle, beef, and beef products and the creation of new products thereof, in accordance with section 7(b) of the Act, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more efficient and/or acceptable and the data collected by such activities may be disseminated, and the disbursement of necessary funds for such purposes; and

(3) The development and expansion of foreign markets and uses for cattle, beef, or beef products.

(b) Each program or project authorized under paragraph (a) of this section shall be periodically reviewed or evaluated by the Board to insure that each such plan or project contributes to a coordinated program of research, information, education, and promotion. If it is found by the Board that any such program or project does not further the purposes of the Act, then the Board shall terminate such program or project.

(c) No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

STATE BEEF COUNCILS

§ 1260.156 Continuation.

Nothing in the Act or this order shall be construed to preempt, eliminate, or interfere with any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States.

§ 1260.157 Qualifications.

To qualify for the receipt of funds, pursuant to § 1260.146(d), a State beef board, beef council, or other beef promotion entity shall (a) be organized pursuant to legislative authority within the State or be organized by State charter, with goals and purposes complementary to the goals and purposes of this Act and order, and (b) demonstrate ability to provide research, information, education, or promotion consistent with this Act and order. In no event shall more than one such entity qualify within a State. If more than one entity applied for qualification within a State, the Beef Board, with approval of the Secretary, shall choose the one most qualified to fulfill the purposes of this Act and order.

EXPENSES AND ASSESSMENTS

§ 1260.161 Expenses.

(a) The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. The funds to cover such expenses shall be paid from assessments received pursuant to § 1260.162.

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(b) The Board shall reimburse the Secretary, from producer assessments, for all the expenses and expenditures, excluding salaries, which the Secretary determines were incurred by the Government in the preparation of an original order and the conduct of the referendum considering its approval.

(c) The Board shall reimburse the Secretary, from producer assessments, for administrative costs, including salaries, incurred by the Government with respect to this subpart after the order becomes effective.

§ 1260.162 Assessments.

Each cattle producer-seller, upon sale or transfer of ownership of any cattle, except as provided below, shall pay to the producer-buyer or slaughterer thereof, pursuant to regulations issued by the Board, and such producer-buyer or slaughter shall colect from the producer-seller an assessment based on the value of the cattle involved in the transaction as follows:

(a) The Beef Board, with the approval of the Secretary, may set the amount of assessment, not to exceed five-tenths (5/10) of one percent of the sale price;

(b) The assessment rate for the first three years shall not exceed three-tenths (3/10) of one percent of the sale price;

(c) In the event that no sales transaction occurs at the point of slaughter or other transfer, a fair market value shall be attributed to the cattle for the purpose of determining the assessment;

(d) Cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessments provided in the Act and this order;

(e) The Beef Board may exempt or adjust the assessment value on transactions of breeding animals or classes of breeding animals until time of slaughter so as not to exceed commercial market values;

(f) Each slaughterer shall remit assessment(s) collected to the Beef Board at such times and in such manner as prescribed by regulations issued by the Board, including any assessment(s) due at time of slaughter on cattle of his own production;

(g) Failure of the slaughterer to collect the assessment(s) on each animal shall not relieve the slaughterer of his obligation to remit the assessment(s) to the Beef Board as required in this subpart;

(h) The Beef Board may collect directly from any producer any assessment(s) that he collected under the provisions of the Act and this order or otherwise due which are not passed along in the usual manner due to the loss in value of the cattle or due to the export of the cattle or due to other reasons; and

(i) The Beef Board may accumulate a reasonable reserve of approximately the average yearly collections to maintain continuity of programs and fulfill other obligations and expenses.

§ 1260.163 Producer refund.

Any producer-seller against whose cattle any assessment is made and collected from him under the authority of the Act shall have the right to demand and receive from the Beef Board a refund of such assessment upon submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought. Any such demand shall be made by such producer-seller in accordance with regulations and on a form prescribed by the Board and approved by the Secretary. Such demands shall be made within 60 days after the end of the month in which the transaction occurred upon which said refund is based. Refund shall be made within 60 days after the submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought: *Provided*, That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers.

§ 1260.164 Influencing governmental action.

No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action except as provided in this subpart.

REPORTS, BOOKS, AND RECORDS

§ 1260.171 Reports.

Each slaughterer subject to this subpart shall be required to report to the Beef Board periodically such information as may be required by regulations established by the Board, which information may include but is not limited to the following:

(a) Number of cattle slaughtered;

(b) Total value of cattle on which assessments were collected;

(c) Number and value of cattle in each transaction on which an assessment was collected;

(d) Name and address of person(s) from whom he has collected assessment(s);

(e) Date collection was made on each transaction;

(f) Number and value of cattle slaughtered of his own production; and

(g) Number, value, and ownership of cattle slaughtered on a custom basis.

§ 1260.172 Books and records.

Each slaughterer shall maintain and make available for inspection by the Beef Board and the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 1260.173 Confidential treatment.

All information obtained from such books, records, or reports required to be maintained under §§ 1260.171 and 1260.172 shall be kept confidential by all officers and employees of the Beef Board and of the Department of Agriculture, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party, and involving this subpart: *Provided, however*, That nothing in this subpart shall be deemed to prohibit (a) the issuance of general statements based upon the reports of the number of persons subject to an order or satistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (c) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

CERTIFICATION OF ORGANIZATIONS

§ 1260.176 Certification of organizations.

(a) Any cattle producer organization within a designated geographic area may request the Secretary for certification of eligibility to represent cattle producers to participate in nominating members and alternate members to represent such geographic area on the Beef Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including but not limited to the following:

(1) Geographic area covered by the organization's active membership;

(2) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State or applicable geographic area(s);

(3) The extent to which the cattle producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle in the geographic area subject to the provisions of this subpart. The Secretary shall certify any organization which he finds to be eligible

under this section and his determination as to eligibility shall be final.

MISCELLANEOUS

§ 1260.181 Suspension and termination.

(a) The Secretary shall, whenever he finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cattle producers voting in the referendum approving this subpart, to determine whether cattle producers favor the termination or suspension of this subpart, and the Secretary shall suspend or terminate such subpart 6 months after he determines that its suspension or termination is approved or favored by a majority of the producers of cattle voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle and who produced more than 50 percent of the volume of the cattle produced by the cattle producers voting in the referendum.

§ 1260.182 Proceedings after termination.

(a) Upon the termination of this subpart, the Beef Board shall recommend not more than five of its members to the Secretary to serve as trustees, for the purpose of liquidating the affairs of the Beef Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Beef Board under any contracts or agreements entered into by it pursuant to § 1260.146(c); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and (4) upon the direction of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Beef Board and upon the trustees.

(d) Any residual funds or property not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be utilized, to the extent practicable, in the interest of continuing one or more of the beef research or information programs hitherto authorized.

§ 1260.183 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; and

(c) Affect or impair any right or remedies of the United States, or of any person, with respect to any such violation.

§ 1260.184 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by an organization certified pursuant to Section 15 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1260.185 Personal liability.

No member or alternate member of the Beef Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member or alternate, except for acts of dishonesty or willful misconduct.

§ 1260.186 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Copies of this notice may be obtained from the Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Signed at Washington, D.C., on August 11, 1976.

RICHARD L. FELTER,
Assistant Secretary.

[FR Doc.76 24052 Filed 8-16-76;8:45 am]

[7 CFR Part 16]

LIMITATION ON IMPORTS OF MEAT

Regulations With Respect To Meat Processed in Foreign-Trade Zones

Public Law 88-482, approved August 22, 1964, 19 U.S.C. 1202 note (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles prescribed by Section 2(a) of the Act.

Quantitive limitations on the importation of meat classified under items 106.10 and 106.20 of the Tariff Schedules of the United States (TSUS) have not been imposed to date in calendar year 1976 because the estimates of imports of meat required to be made under the Act have not exceeded 1,233.0 million pounds, 110 per centum of the adjusted base quantity determined by the Secretary pursuant to the Act. In making such estimates for the first, second, and third quarters of 1976 the Secretary relied upon the fact that trade agreements ensuring that meat imports would not exceed 110 per centum of the adjusted base quantity would remain in effect during 1976. These agreements limit the quantity of meat classifiable under TSUS 106.10 and 106.20 which may be imported into the United States. However, information available to the United States Department of Agriculture shows that in circumvention of the Act boned frozen meat shipped from countries signatory to the trade agreements is being processed in Foreign-Trade Zones of the United States to change its form. Thus at the time of its entry into the customs territory of the United States it is no longer the type of meat described in TSUS item 106.10 despite the fact that it has merely been ground, shredded, flaked or chunked and repackaged in 60 pound bags before being entered.

This meat processing operation permits greater quantities of fresh, chilled or frozen beef and veal to enter the commerce of the United States than was intended by the Meat Import Law and the trade agreements. Through July 31 approximately 21.3 million pounds of foreign beef have entered warehouses for processing in the Foreign-Trade Zone at Mayaguez, Puerto Rico. Reports from trade sources indicate another 10 million pounds is in the processing stages at Mayaguez and that 26 million pounds of meat has been contracted for delivery at Mayaguez through the end of September. Including current contracts the total quantity of boneless beef estimated to be imported through the one existing processing plant in the Foreign-Trade Zone in Mayaguez in 1976 will be about 60 million pounds. A second plant is expected to become operational within the next few weeks. As a result, imports of meat this year through the Foreign-Trade Zone at Mayaguez could reach at least 70 million pounds.

Such meat is being delivered into the Foreign-Trade Zone at prices as much as one-third less than prices for comparable manufacturing type meat entering the customs territory of the United States directly from supplying countries. Moreover, application has been made to the Foreign-Trade Zones Board to estab-

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lish two special zone sites for processing meat in Metairie, Louisiana, and New Orleans, Louisiana. The application states the plants intend to process some 32 to 35 million pounds of such meat per year.

The Secretary of Agriculture is authorized under section 2(e) of the Act to issue such regulations as he determines to be necessary to prevent circumvention of the purposes of the Act. Notice is hereby given that the Secretary of Agriculture is considering the issuance of a regulation pursuant to this authority in order to prevent circumvention of the purposes of the Act through the processing of meat in the Foreign-Trade Zones. Under this regulation, in the administration of the Act and the trade agreements, any meat which is processed in a Foreign-Trade Zone from foreign meat which, if it were entered into the customs territory of the United States in the form in which it was brought into the Foreign-Trade Zone, would be classifiable as TSUS item 106.10, shall be treated for the purposes of the Act and the trade agreements as being classifiable under TSUS item 106.10 when entered, or withdrawn from warehouse, into the customs territory of the United States.

It is proposed that, if this regulation is placed in effect, the provisions thereof will be made applicable to any meat brought into a Foreign-Trade Zone subsequent to September 17, 1976.

All persons who desire to submit written data, views or arguments for consideration in connection with this proposal should file the same in duplicate, not later than September 16, 1976, with the Administrator, Foreign Agricultural Service, USDA, Room 5073, South Agriculture Building, 14th and Independence, Washington, D.C. 20250. All material received will be available for public inspection in Room 6621, South Agriculture Building, 14th and Independence, Washington, D.C., during the official hours of business 8:30 a.m. to 5:00 p.m., Monday through Friday. All material received on or before September 16, 1975 will be considered.

It is proposed that 7 CFR, Subtitle A-Office of the Secretary of Agriculture, Part 16, be amended by adding a new Subpart "Meat Import Law Regulations," as follows:

Subpart—Meat Import Law Regulations

§ 16.20 Meat processed in Foreign-Trade Zones.

Any meat which is processed in a Foreign-Trade Zone from foreign meat, which if it were entered into the customs territory of the United States in the form in which it was brought into the Foreign-Trade Zone would be classifiable as TSUS item 106.10, shall be treated for the purposes of Meat Import Law, P.L. 88-482 (19 U.S.C. 1202 note), and the trade agreements entered into by the United States with the supplying countries of such meat pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), as being classifiable under TSUS item 106.10 when entered, or withdrawn from warehouse, into the customs territory of the United States. The section shall be applicable to any foreign meat brought into a Foreign-Trade Zone subsequent to September 17, 1976).

(Sec. 2, Pub. L. 88-482 (19 U.S.C. 1202 note).)

Issued at Washington, D.C this 14th date of August, 1976.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.76-24261 Filed 8-16-76;9:30 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[10 CFR Part 705]

PROTECTION OF HUMAN SUBJECTS

Proposed Regulations

This notice offers interested parties an opportunity to comment on a proposed regulation relating to the protection of human subjects in research, development, and related activities supported by Energy Research and Development Administration (ERDA) agreements including, but not limited to, grants and contracts.

The policies and procedures provided by the proposed regulation are substantially the same as those adopted by the Department of Health, Education, and Welfare for the protection of human subjects (40 FR 11854, March 13, 1975). The proposed regulation provides that safeguarding the rights and welfare of human subjects in research activities supported by ERDA agreements, including grants and contracts, is primarily the responsibility of the institution which receives, or is accountable to ERDA for, the funds awarded for support of the activity. In general, the adequate discharge of this institutional responsibility requires that no activity within the United States and its territories that will be supported by ERDA funds and that will involve human subjects at risk shall be undertaken unless an Institutional Review Board has reviewed and approved such activity, and the institution has submitted to ERDA a certification of such review and approval.

Interested parties should submit their written comments concerning this proposed regulation to the Director, Division of Biomedical and Environmental Research, U.S. Energy Research and Development Administration, Washington, D.C. 20545, on or before October 18, 1976.

Dated at Washington, D.C., this 10th day of August, 1976.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

The proposed regulationi s as follows:

PART 705—PROTECTION OF HUMAN SUBJECTS

Sec.
705.1 Applicability.
705.2 Policy.
705.3 Definitions.
705.4 Submission of assurances.
705.5 Types of assurances.
705.6 Minimum requirements for general assurances.
705.7 Minimum requirements for special assurances.
705.8 Evaluation and disposition of assurances.
705.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.
705.10 Documentation of informed consent.
705.11 Submission and certification of applications and proposals—general assurances.
705.12 Submission and certification of applications and proposals—special assurances.
705.13 Applications and proposals lacking definite plans for involvement of human subjects.
705.14 Applications and proposals submitted with the intent of not involving human subjects.
705.15 Evaluation and disposition of applicatfons and proposals.
705.16 Cooperative activities.
705.17 Investigation new drug 30-day delay requirement.
705.18 Institution's executive responsibility.
705.19 Institution's records; confidentiality.
705.20 Reports.
705.21 Early termination of awards; evaluation of subsequent applications proposals.
705.22 Conditions.

AUTHORITY: Sec. 105(a) Energy Reorganization Act of 1974, Public Law 93-438.

§ 705.1 Applicability.

(a) The regulations in this part are applicable to all Energy Research and Development Administration (ERDA) agreements including, but not limited to, grants and contracts supporting research, development, and related aetivities within the United States and its territories in which human subjects are involved.

(b) For agreements supporting activities outside the United States and its territories in which human subjects are involved, the requirements of this part shall apply to the maximum extent practicable as determined by the Administrator on a case-by-case basis, taking into account the relevant laws and practices of the foreign nation in which the activity will be conducted.

(c) The Administrator may, from time to time, determine in advance whether specific programs, methods, or procedures to which this part is applicable place subjects at risk, as defined in § 705.3(b). Such determinations will be published as notices in the FEDERAL REGISTER and will be included in an appendix to this part.

§ 705.2 Policy.

(a) Safeguarding the rights and welfare of subjects at risk in activities supported under ERDA agreements is primarily the responsibility of the institution which receives, or is accountable to ERDA for, the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of ERDA that no activity involving human subjects within the United States and its territories to be supported by ERDA agreements shall be undertaken unless an Institutional Review Board has reviewed and approved such activity, and the institution has submitted to ERDA a certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether these subjects will be placed at risk, and, if risk is involved, whether:

(1) the risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) the rights and welfare of any such subjects will be adequately protected;

(3) legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part; and

(4) the conduct of the activity will be reviewed at timely intervals.

(c) No agreement involving human subjects at risk shall be awarded to an individual unless he is affiliated with or sponsored by an institution which can and does assume responsibility for the subjects involved.

§ 705.3 Definitions.

(a) "Institution" means any public or private institution or agency (including Federal, State, and local government agencies).

(b) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service.

(c) "Informed consent" means the knowing consent of an individual or his legally authorized representative so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary to such consent include:

(1) A fair explanation of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;

(2) a description of any attendant discomforts and risks reasonably to be pected;

(3) a description of any benefits reasonably to be expected;

(4) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) an offer to answer any inquiries concerning the procedures; and

(6) an instruction that the person is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject.

(d) "ERDA" means the Energy Research and Development Administration.

(e) "Administrator" means the Administrator of ERDA or any other officer or employee of ERDA to whom authority has been delegated.

(f) "Agreement" means a grant, contract, cooperative agreement, or any other instrument under which ERDA provides funds or other resources for projects or efforts involving human subjects.

(g) "Approved assurance" means a document that fulfills the requirements of this part and is approved by the Administrator.

(h) "Certification" means the official institutional notification to ERDA in accordance with the requirements of this part that a project or activity involving human subjects at risk has been reviewed and approved by the institution in accordance with the "approved assurance" on file at ERDA.

(i) "Legally authorized representative" means an individual or judicial, or other body authorized under applicable law to consent on behalf of a prospective subject to such subject's participation in the particular activity or procedure.

§ 705.4 Submission of assurances.

(a) Recipients or prospective recipients of ERDA support under any agreement involving subjects at risk shall provide written assurance acceptable to ERDA that they will comply with ERDA policy as set forth in this part. Each assurance shall embody (1) A statement of compliance with ERDA requirements for initial and continuing Institutional Review Board review of the supported activities; and (2) A set of implementing guidelines, including identification of the Board and a description of its review procedures; or, in the case of special assurance concerned with single activities or projects, a report of initial findings of the Board and of its proposed continuing review procedures.

(b) Such assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this part, and shall be filed in such form and manner as the Administrator may require.

§ 705.5 Types of assurances.

(a) *General assurances.* A general assurance describes the review and implementation procedures applicable to all ERDA-supported activities conducted by an institution, regardless of the number, location, or types of its components or field activities. General assurances will be required from institutions having a significant number of concurrent ERDA-supported projects or activities involving human subjects.

(b) *Special assurances.* A special assurance will, as a rule, describe those review and implementation procedures applicable to a single activity or project. A special assurance will not be solicited or accepted from an institution which has on file with ERDA an approved general assurance.

§ 705.6 Minimum requirements for general assurances.

General assurances shall be submitted in such form and manner as the Administrator may require. The institution must include, as part of its general assurance, implementing guidelines that specifically provide for:

(a) A statement of principles which will govern the institution in the discharge of its repsonsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the institution itself. It is to be understood that no such principles supersede ERDA policy or applicable law.

(b) An Institutional Review Board or Board structure which will conduct initial and continuing reviews in accordance with the policy outlined in § 705.2. Such a Board or Board structure shall meet the following requirements:

(1) The Board must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and diversity of its membership, to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must, therefore, include persons whose conerns are in these areas.

(2) The Board members shall be identified to ERDA by name; earned degrees, if any; position or occupation; representative capacity; and by other pertinent indications of experience, such as board certification, licenses, etc., sufficient to describe each member's chief anticipated contributions to Board deliberations. Any employment or other relationship between each member and the institution shall be identified, i.e., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant. Changes in Board membership shall be reported to ERDA in such form and at such times as the Administrator may require.

(3) No member of a Board shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest, except to provide information requested by the Board.

(4) No Board shall consist of a majority of persons who are officers, employees, or agents of, or are otherwise associated with, the institution; apart from their membership on the Board.

(5) No Board shall consist entirely of members of a single professional group.

(6) The quorum of the Board shall be defined, but may in no event be less than a majority of the total membership duly convened to carry out the Board's re-

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sponsibilities under the terms of the assurance.

(c) Procedures which the institution will follow in its initial and continuing review of applications, proposals, and activities.

(d) Procedures which the Board will follow: (1) To provide advice and counsel to activity directors and investigators with regard to the Board's actions, (2) To insure prompt reporting to the Board of proposed changes in an activity, and of unanticipated problems involving risk to subjects or others, and (3) To insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to ERDA.

(e) Procedures which the institution will follow to maintain an active and effective Board and to implement its recommendations.

§ 705.7 Minimum requirements for special assurances.

Special assurances shall be submitted in such form and manner as the Administrator may require. An acceptable special assurance shall:

(a) Identify the specific agreement involved by its full title and by the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity.

(b) Include a statement, executed by an appropriate institutional official, indicating that the institution has established an Institutional Review Board satisfying the requirements of § 705.6(b).

(c) Describe the makeup of the Board and the training, experience, and background of its members as required by § 705.6(b)(2).

(d) Describe, in general terms, the risks to subjects that the Board recognizes as inherent in the activity, and justify its decision that these risks are so outweighed by the sum of the benefit to the subject, and the importance of the knowledge to be gained, as to warrant the Board's decision to permit the subject to accept these risks.

(e) Describe the informed consent procedures to be used, and attach documentation as required by § 705.10.

(f) Describe procedures which the Board will follow to insure prompt reporting to the Board of proposed changes in the activity, and of any unanticipated problems involving risks to subjects or others, to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to ERDA.

(g) Indicate at what time intervals the Board will meet to provide for continuing review. Such review must occur no less than annually.

(h) Be signed by the individual members of the Board and be endorsed by an appropriate institutional official.

§ 705.8 Evaluation and disposition of assurances.

(a) All assurances submitted in accordance with §§ 705.6 and 705.7 shall be evaluated by the Administrator through such officers and employees of ERDA as he determines to be appropriate. The Administrator's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed Institutional Review Board in light of the anticipated scope of the applicant institution's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the institution.

(b) On the basis of his evaluation of an assurance, pursuant to paragraph (a) of this section, the Administrator shall (1) Approve, (2) Enter into negotiations to develop a more satisfactory assurance, or (3) Disapprove. With respect to approved assurances, the Administrator may determine the period during which any particular assurance or class of assurances shall remain effective or otherwise condition or restrict his approval. With respect to negotiations, the Administrator may, pending completion of negotiations for a general assurance, require an institution, otherwise eligible for such an assurance, to submit special assurances.

§ 705.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.

Any institution proposing to place any subject at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, including any release of the institution or its agents from liability for negligence.

§ 705.10 Documentation of informed consent.

The actual procedure utilized in obtaining legally effective informed consent and the basis for Institutional Review Board determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will employ one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This may be read to the subject or to his legally authorized representative, but in any event he or his legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his legally authorized representative. Sample copies of the consent form, as approved by the Board, are to be retained in its records.

(b) Provision of a "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his legally authorized representative. Written summaries of what is to be said to the patient are to be approved by the Board. The short form is to be signed by the subject or his legally authorized representative and by an auditor witness to the oral presentation and to the subject's signature. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the auditor witness. Sample copies of the consent form and of the summaries as approved by the Board are to be retained in its records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the Board and the institution to establish: (1) That the risk to any subject is minimal, (2) That use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and (3) That any reasonable alternative means for attaining these objectives would be less advantageous to the subjects. The Board's reasons for permitting the use of modified procedures must be individually and specifically documented in the minutes and in reports and Board actions to the files of the institution. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

§ 705.11 Submission and certification of applications and proposals—general assurances.

(a) *Timely review.* Any institution having an approved general assurance shall indicate in each application or proposal for support of activities covered by this part (or in a separate document submitted with such application or proposal) that it has on file with ERDA such an assurance. In addition, unless the Administrator otherwise provides, each such application or proposal must be given review and, when found to involve subjects at risk, approval, prior to submission to ERDA. In the event the Administrator provides for the performance of institutional review of an application or proposal after its submission to ERDA, processing of such application or proposal by ERDA will under no circumstances be completed until such institutional review and approval has been certified. Except where the institution determines that human subjects are not involved, the application or proposal should be appropriately certified in the spaces provided on forms, or one of the following certifications, as appropriate, should be typed on the lower or right-hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the institution.

Human Subjects: Reviewed, Not at Risk

(Date)

Human Subjects: Reviewed, at Risk, Approved.

(Date)

(b) *Applications and proposals not certified.* Applications and proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the institution concerned.

§ 705.12 Submission and certification of applications and proposals, special assurances.

(a) Except as provided in paragraph (b) of this section, institutions not having an approved general assurance shall submit in or with each application or proposal for support of activities covered by this part a separate special assurance and certification of its review and approval.

(b) If the Administrator so provides, the assurance which must be submitted in or with the application or proposal under paragraph (a) of this section need satisfy only the requirements of § 705.7(a) and (b) of this Part. Under such circumstances, processing of such application or proposal by ERDA will not be completed until a further assurance satisfying the remaining requirements of § 705.7 has been submitted to ERDA.

(c) An assurance and certification prepared in accordance with this part and approved by ERDA shall be considered to have met the requirement for certification for the initial agreement period concerned. If the terms of the agreement recommend additional support periods, each application or proposal for continuation or renewal of support must satisfy the requirements of this section or 705.11, whichever is applicable at the time of its submission.

§ 705.13 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications or proposals are submitted with the knowledge that subjects are to be involved within the support period; but definite plans for this involvement would not normally be set forth in the application or proposal. These include such activities as (a) Institutional-type grants where selection of projects is the responsibility of the institution, (b) Training grants where training projects remain to be selected, and (c) Research, pilot, or developmental studies in which involvement depends upon such things as the completion of instruments, or of prior animal studies, or upon the purification of compounds. Such applications or proposals shall be reviewed and certified in the same manner as more definitive applications or proposals. The initial certification indicates institutional approval of the applications or proposals as submitted and commits the institution to later review of the plans when completed. Such later review and certification to ERDA should be completed prior to the beginning of the budget period during which actual involvement of human subjects is to begin. Review and certification to ERDA must in any event be completed prior to involvement of human subjects.

§ 705.14 Applications and proposals submitted with the intent of not involving human subjects.

If an application or proposal does not anticipate involving or intend to involve human subjects, no certification should be included with the initial submission of the application or proposal. In those instances, however, when later it becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved in accordance with the assurance of the institution prior to the involvement of subjects. In addition, no such activity shall be undertaken until the institution has submitted to ERDA: (a) A certification that the activity has been reviewed and approved in accordance with this part, and (b) A detailed description of the proposed activity (including any protocol, revised statement of work or similar document). Also, where support is provided by project grants or contracts, subjects shall not be involved prior to certification and institutional receipt of ERDA approval and, in the case of contracts, prior to negotiation and formal amendment of the contract statement of work.

§ 705.15 Evaluation and disposition of applications and proposals.

(a) Notwithstanding any prior review, approval, and certification by the institution, all applications or proposals submitted to ERDA involving human subjects at risk shall be evaluated by the Administrator for compliance with this part through such officers and employees of ERDA as he determines to be appropriate. This evaluation may take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others, and the importance of the knowledge to be gained.

(b) Disposition. On the basis of his evaluation of an application or proposal, pursuant to paragraph (a) of this section, and subject to such approval or recommendation by or consultation with appropriate councils, committees, or other bodies as may be required by law, the Administrator shall (1) Approve, (2) Defer for further evaluation, or (3) Disapprove support of the proposed activity in whole or in part. With respect to any grant or contract award or other agreement, the Administrator may impose conditions, including restrictions on the use of certain procedures or certain subject groups, or requiring use of specified safeguards or informed consent procedures when in his judgment such conditions are necessary for the protection of human subjects.

§ 705.16 Cooperative activities.

Cooperative activities are those which involve institutions in addition to the institution having an agreement with ERDA (herein referred to as, though not limited to, a grantee or prime contractor). Examples of cooperative activities are those of a contractor under a grantee or of a subcontractor under a prime contractor. If, in such instances, the grantee or prime contractor obtains access to all or some of the subjects involved through one or more cooperating institutions, the basic ERDA policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Institutions with approved general assurances.* Initial and continuing review by the institution may be carried out by one or a combination of procedures:

(1) *Cooperating institution with approved general assurance.* When the cooperating institution has on file with ERDA an approved general assurance, the grantee or prime contractor may, in addition to its own review, request the grantee or prime contractor may, in independent review, and to report its recommendations on those aspects of the activity that concern individuals for whom the cooperating institution has responsibility under its own assurance to the grantee's or prime contractor's Institutional Review Board. The grantee or prime contractor may, at its discertion, concur with or further restrict the recommendations of the cooperating institution. It is the responsibility of the grantee or prime contractor to maintain communication with the Boards of the cooperating institution. However, the cooperating institution shall promptly notify the grantee or contracting institution whenever the cooperating institution finds the conduct of the project or activity within its purview to be unsatisfactory.

(2) *Cooperating institution with no approved general assurance.* When the cooperating institution does not have an approved general asusrance on file with ERDA, ERDA may require the submission of a general or special assurance which, if approved, will permit the grantee or prime contractor to follow the procedure outlined in the preceding subparagraph.

(3) *Interinstitutional joint review.* The grantee or prime contracting institution may wish to develop an agreement with cooperating institutions to provide for an Institutional Review Board with representatives from cooperating institutions. Representatives of cooperating institutions may be appointed as ad hoc members of the grantee or contracting institution's existing Institutional Review Board or, if cooperating is on a frequent or continuing basis, as between a medical school and a group of affiliated hospitals, appointments for extended periods may be made. All such cooperative arrangements must be approved by ERDA as part of a general assurance, or as an amendment to a general assurance.

(b) *Institutions with special assurances.* While responsibility for initial and continuing review necessarily lies with the grantee or prime contracting insti-

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tution, ERDA may also require approved assurance from those cooperating institutions having immediate responsibility for subjects. If the cooperating institution has on file with ERDA an approved general assurance, the grantee or prime contractor shall request the cooperating institution to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has responsibility. Such a request shall be in writing and should provide for direct notification of the grantee's or pmime contractor's Institutional Review Board in the event that the cooperating institution's Board finds the conduct of the activity to be unsatisfactory. If the cooperating institution does not have an approved general assurance on file with ERDA, it must submit to ERDA a general or special assurance which is determined by ERDA to comply with the provisions of this part.

§ 705.17 Investigational new drug 30-day delay requirement.

Where an institution is required to prepare or to submit a certification under §§ 705.11, 705.12, 705.13, or 705.14, and the application or proposal involves an investigational new drug within the meaning of The Food, Drug, and Cosmetic Act, the drug shall be identified in the certification, together with a statement that the 30-day delay required by 21 CFR 312.1(a) (2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects; or that the Food and Drug Administration has waived the 30-day delay requirement; provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to ERDA upon such expiration, or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 705.18 Institution's executive responsibility.

Specific executive functions to be conducted by the institution include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the Board's functions. Implementation of the Board's recommendations through appropriate administrative action and follow-up is a condition of ERDA approval of an assurance. Board approvals, favorable actions, and recommendations are subject to review and to disapproval or further restriction by the institution officials. Board disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of a Board described in the assurance approved by ERDA.

§ 705.19 Institution's records; confidentiality.

(a) Copies of all documents presented, or required for initial and continuing review by the Institutional Review Board, and documents such as Board minutes, records of subject's consent, transmittals on actions, instructions, and conditions resulting from Board deliberations addressed to the activity director, are to be retained by the institution permanently unless permission is obtained from the Administrator to destroy specific records. Upon termination of the life of the Institution, the foregoing documents will be transferred to ERDA for further retention.

(b) Except as otherwise provided by law, information in the records or possession of an institution acquired in connection with an activity covered by this part, which information refers to or can be identified with a particular subject, may not be disclosed except:

(1) with the consent of the subject or his legally authorized representative; or

(2) as may be necessary for the Administrator to carry out his responsibilities under this part.

§ 705.20 Reports.

Each institution with an approved assurance shall provide the Administrator with such reports and other information as the Administrator may, from time to time, prescribe.

§ 705.21 Early termination of awards; evaluation of subsequent applications and proposals.

(a) If, in the judgment of the Administrator, an institution has failed materially to comply with the terms of this policy with respect to a particular ERDA agreement, he may require that said agreement be terminated or suspended in the manner prescribed in applicable regulations.

(b) In evaluating applications or proposals for support of activities covered by this part, the Administrator may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) Whether the applicant or offeror has been subject to a termination or suspension under paragraph (a) of this section, (2) Whether the applicant, offeror, or the person who would direct the scientific and technical aspects of an activity has, in the judgment of the Administrator, failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not ERDA funds were involved, and (3) Whether, where past deficiencies have existed in discharging such responsibility, adequate steps have, in the judgment of the Administrator, been taken to eliminate these deficiencies.

§ 705.22 Conditions.

The Administrator may, with respect to any agreement or any class of agreements, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

[FR Doc.76-23919 Filed 8-16-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 600-2]

STATE OF CALIFORNIA

Approval and Promulgation of Implementation Plans; Revision to Great Basin Unified Air Pollution Control District Rules and Regulations

On April 21, 1976, the State of California submitted to the Regional Administrator, Region IX, a revision of the Great Basin Unified Air Pollution Control District Regulation II—Permits. As revised, Great Basin Unified Air Pollution Control District Regulation II, Rules 200-216, will provide a procedure by which persons who wish to construct, modify or operate any article, machine, equipment, or other contrivance that may cause the issuance of air contaminants may be granted a permit to do so. A permit shall not be granted, however, if it is determined that such construction, modification, or operation would interfere with the attainment or maintenance of a National Ambient Air Quality Standard.

The State of California has submitted proof that this revision to its State Implementation Plan was adopted after a public hearing was held on March 10, 1976, in Bishop, California, after notice conforming to 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans, was given.

The decision of the Administrator to approve or disapprove the proposed revision to the State Implementation Plan will be based on whether or not it meets the requirements of Clean Air Act section 110(a)(2)(A)-(H), the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans, and particularly 40 CFR 51.18.

This notice is to advise the public of receipt of this proposal and to request public comments. Copies of the proposed revision are available for public inspection during regular business hours at:

Environmental Protection Agency Region IX, Enforcement Division, 100 California Street, San Francisco, CA 94111.

State of California, Air Resources Board, 1709 11th Street, Sacramento, CA 95814.

Great Basin Unified Air Pollution Control District, 192C East Line Street, Bishop, CA 93514.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Interested persons may participate in the rulemaking process by submitting written comments to Regional Administrator, attention: Enforcement Division, EPA, Region IX, 100 California Street, San Francisco, California 94111. Relevant comments received on or before September 16, 1976, will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and at the EPA Public Information Reference Unit.

This notice is issued under the authority of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: August 6, 1976.

L. RUSSELL FREEMAN,
Acting Regional Administrator, Region IX, EPA.

[FR Doc.76-24087 Filed 8-16-76;8:45 am]

FEDERAL ENERGY OFFICE

[10 CFR Part 205]

CIVIL AND CRIMINAL PENALTY REGULATIONS

Proposed Definition of "Notice of Noncompliance"; Public Hearing and Request for Public Comments

The Energy Policy and Conservation Act ("EPCA"), which was enacted into law on December 22, 1975, among other things amended Section 5 of the Emergency Petroleum Allocation Act of 1973 ("EPAA") so as to increase substantially the penalties applicable to violations of the Federal Energy Office's mandatory price and allocation regulations. Included within those new penalty provisions was a provision, now contained in section 5(a)(4) of the EPAA which makes individual directors, officers or agents of corporations subject to the same penalties as the corporation if they have "knowingly and willfully" authorized, ordered or performed any act or practice that constitutes a violation. However, section 5(a)(4) limits a corporate official's liability for imprisonment to those cases where he also has knowledge, or reasonably should have known, of "notice of noncompliance" received by the corporation from the FEO. There is nothing in the legislative history of the EPCA that elucidates congressional intent regarding precisely what constitutes "notice of noncompliance."

On January 15, 1976, the Federal Energy Administration issued a notice of proposed rulemaking that proposed amending FEA's existing civil and criminal penalty regulations to conform them to the provisions of section 5(a). (41 FR 2249, January 15, 1976.) In that Notice, FEA proposed to define "notice of noncompliance" as "any written notice that the FEA believes the corporation to be acting in violation of the provisions of this chapter * * * or any order issued pursuant thereto, and shall include, but not be limited to a notice of probable violation * * *, a remedial order * * * or a consent order * * *."

Many comments received in response to the notice of proposed rulemaking disagreed with the FEA definition of "notice of noncompliance." The disagreement focused on FEA's inclusion of notices of probable violation ("NOPVs") or other pre-remedial order written notices as "notices of noncompliance" sufficient to trigger a corporate director's, officer's or agent's liability for imprisonment. FEA carefully evaluated the merits of the points raised by the commentators, but concluded that the comments "reflect a misunderstanding of the notice requirement" incorporated in the statute and adopted the notice definition contained in the Notice of Proposed Rulemaking.

This definition continues to be controversial, however. The principal objection raised is that the present regulations in effect require corporate officials to alter their corporation's operations to conform them to the interpretation given in an NOPV, even though the agency itself has not yet made any official determination that the NOPV correctly interprets FEO regulations, and that, if the agency does later determine that the NOPV was correct, any failure to make such alterations at the NOPV stage will subject the official to possible imprisonment for willfully violating FEO regulations. Notwithstanding the fact that the preamble to the notice adopting the final rule made it clear that the FEO does not intend to refer to the Department of Justice for criminal prosecution those cases where the official involved believes in good faith that the NOPV was erroneously issued and makes every reasonable effort to challenge it, the critics of the regulation have continued to object to the fact that this approach seems to leave the decision to prosecute entirely to the discretion of federal prosecutors, who may or may not in a particular case follow what is apparently non-binding language of the preamble.

There is some question as to whether and the extent to which FEO's civil and criminal penalty regulations themselves have any binding effect, since the statutory language is obviously controlling over the regulation language in the event there is any conflict between them. This is particularly so here, where the statute would be effective standing alone and does necessarily require the promulgation of regulations to give it meaning or effectiveness. Moreover, the ultimate decision as to whether to prosecute a particular criminal case is the Department of Justice's, not the FEO's, and it is doubtful that FEO regulations embellishing upon the terms of the statute have any binding effect on that agency, which ordinarily possesses great discreation in determining whether to prosecute actions technically constituting violations of a criminal statute. The FEO has had civil and criminal penalty regulations in effect since the beginning of the mandatory allocation and price control program, however, because of its view that such regulations would give some useful guidance to the public as to how the FEO, at least, interprets and intends to apply the statutory penalty provisions.

With this limited function of FEO regulations in this area in mind, the FEO has decided to reopen the recent rulemaking on civil and criminal penalties and propose three alternative courses of action. The first option, and the only one for which it is necessary to propose express regulatory language, would revise the current regulations to make it clear in the regulations themselves the FEO's policy that it will not recommend to the Department of Justice that it seek the imprisonment of an individual corporate officer, director or agent in any case in which that officer, director or agent has failed to conform his company's conduct to FEO regulations as interpreted in an NOPV or other pre-remedial order notice which he believes to have been erroneously issued and makes a good faith effort to challenge it. The proposed modification provides explicitly that a pre-remedial order notice will be used as the basis for referring a corporate official for prosecution leading to possible incarceration only where there is compelling evidence that the official had knowingly caused or authorized the continuation of an unlawful act after receipt of such notice and knew or had reason to know that the activity in question was a violation of a regulation whose meaning was clearly established. Moreover, in order to trigger the liability of individual corporate officials to imprisonment, the pre-remedial order notice will be required to state expressly that FEO believes the meaning of the regulation alleged to be violated has been clearly established, the basis for that belief, and the fact that continuation of the violation after receipt of the notice could subject corporate officials responsible for continuation of the violation to imprisonment, as well as to the other applicable civil and criminal penalties.

The second alternative upon which comments are solicited is to leave the regulations as they now are, thus giving the FEO the maximum amount of flexibility available under the statute to assure that potential imprisonment of corporate officials is an effective deterrent to willful violations of FEA regulations. If the FEO adopts this course, it would also reconfirm the expressions of policy made by it in preambles to the rulemaking in which the current regulation was adopted.

The third alternative is to amend the current regulations to provide that imprisonment of corporate officials will not be considered by FEO, for purposes of making referrals to the Department of Justice, to be triggered under section 5(a)(4) by any written notice other than a remedial order or consent order. The amendment would be accomplished merely by defining "notice of noncompliance" as a consent order or remedial order.

The fact that the FEO is proposing specific regulatory language for only the first of the three alternatives is because it is believed to be the only one of the three options concerning which the language itself might be controversial, and should not be viewed as an indication that the FEO has a tentative preference for that option.

Interested persons are invited to submit written data, views, or arguments with respect to these amendments to Executive Communications, Room 3309, Federal Energy Office, Box IG, the Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy

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Office with the designation "Notice of Noncompliance." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., August 27, 1976, will be considered by the Federal Energy Office in evaluating the revisions and amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEO reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

A public hearing will be held at 9:30 a.m. on September 1, 1976, and will be continued, if necessary, on September 2, 1976, in Room 2105, 2000 M Street, NW., Washington, D.C.

Any person who has an interest in the subject matter of the hearing, or who is a representative of a group or class of persons that has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEO, and must be received before 4:30 p.m., August 25, 1976.

Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through August 31, 1976. Each person selected to be heard will be so notified by FEO before 4:30 p.m., e.d.t., August 27, 1976, and must submit 100 copies of his or her statement to the Assistant General Counsel for Compliance, FEO, Room 5308, 2000 M Street, NW., Washington, D.C. before 4:30 p.m., e.d.t., on August 31, 1976

FEO reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEO official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEO, before 4:30 p.m., e.d.t., August 31, 1976. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officers. FEO or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by FEO and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

It has been determined by FEO that since the regulation proposed herein would not, if adopted, affect the quality of the environment, it is not necessary that it be submitted to the Administrator of the Environmental Protection Agency for his comments pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275.

This proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular No. A–107 and has been determined not to require evaluation of its inflationary impact as provided therein.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133 and Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; Energy Policy and Conservation Act, Pub. L. 94–163; EO 11790, 39 FR 23195; EO 11930.)

In consideration of the foregoing, it is proposed that Part 205 of Chapter II of Title 10 of the Code of Federal Regulations be amended as set forth below.

Issued in Washington, D.C., August 12, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Office.

Sections 205.202 (e)(1) and (e)(2)(B) are revised to read as follows:

§ 205.202 Sanctions.

* * * * *

(e) *Corporate personnel.* (1) Any individual director, officer or agent of a corporation who knowingly and willfully authorizes, orders or performs any of the acts or practices constituting in whole or in part a violation of any provision of the regulation issued under authority of the Emergency Petroleum Allocation Act of 1973, as amended, or any order issued pursuant thereto, shall be subject to the penalties specified in paragraphs (b) and (c) of this section with regard to any penalties to which that corporation may be subject under paragraphs (b) and (c) of this section, except that no such individual director, officer or agent shall be subject to imprisonment under paragraph (c) of this section unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the FEO. The FEO will not seek or recommend to the Department of Justice that it seek the imprisonment of any individual director, officer or agent of a corporation under this paragraph for knowingly and willfully authorizing, ordering or performing any act or practice occuring prior to the issuance to the corporation of a remedial order or consent order pertaining to such act or practice unless it has reason to believe that such act or practice was known, or should have been known, by such individual at the time it was commited to have been in violation of such regulation or order issued pursuant thereto.

(2) For purposes of this paragraph (e):

* * * * *

(B) "notice of noncompliance" shall include any written notice that the FEO believes the corporation to be acting in violation of the provisions of this chapter issued under authority of the Emergency Petroleum Allocation Act of 1973, as amended, or any order issued pursuant thereto, and shall include, but not be limited to, a notice of probable violation issued under § 205.191, a remedial order issued under §§ 205.192 or 205.193 or a consent order issued under § 205.197: *Provided,* That any such notice other than a remedial order or a consent order shall state (*1*) that the FEO has reason to believe that the meaning of the regulation alleged to have been violated is clearly established, (2) the precedent, if any upon which such belief is based, and (3) that continuation of the alleged violation after receipt by the corporation of the notice could subject the individual officers, directors, or agents of the corporation who have knowingly and willfully authorized, ordered or performed any of the acts or practices constituting in whole or in part the alleged violation may be subject to imprisonment of up to one year in addition to the other civil and criminal penalties applicable to such violation.

[FR Doc.76–24084 Filed 8–12–76;4:39 pm]

[10 CFR Parts 210, 211 and 212]

EXEMPTION OF NAPHTHA JET FUEL FROM THE MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATIONS

Notice of Proposed Rulemaking and Public Hearing

The Federal Energy Office ("FEO") hereby gives notice that, following a preliminary analysis of the impact of regulation of naphtha type aviation fuel (has defined in 10 CFR 211.142 and 212.31 and hereinafter referred to as naphtha jet fuel) pursuant to the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), it has tentatively concluded that this product should be exempted from its Mandatory Petroleum Allocation and Price Regulations. Therefore, by this notice of proposed rulemaking, FEO is proposing an amendment to be submitted to the Congress in accordance with the provisions of section 12 of the EPAA, to exempt naphtha jet fuel from the application of the Mandatory Petroleum Allocation and Price Regulations (10 CFR Parts 210, 211 and 212) thereby converting the EPAA to standby authority with respect to the pricing and the allocation thereof. This amendment has been issued concurrently with FEO's Preliminary Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations (the "Preliminary Findings").

FEO also gives notice that it will hold a public hearing and receive written comments with respect to this proposed exemption of naphtha jet fuel and the Preliminary Findings. If, after all comments received during the public comment period are fully considered, FEO concludes that its preliminary findings and views are correct, an amendment to exempt naphtha jet fuel from regulation will be submitted to the Congress.

Because supplies of crude oil and refined petroleum products have generally been sufficient since the end of the 1973 oil embargo, and FEO's domestic crude oil allocation (entitlements) program equalizes refiners' crude costs to a competitive range, it has been apparent for some time that the complex regulatory program created for the embargo shortage period may no longer be necessary to assure that the original objectives of the regulatory program are achieved with regard to some or all products.

On December 22, 1975, the President signed into law the Energy Policy and Conservation Act ("EPCA") which, among other things, extended the EPAA, eliminated the cumbersome exemption procedures of section 4(g)(2) and provided new and more flexible exemption procedures in section 455, which added section 12 to the EPAA. In the Conference Report to accompany S. 622, the conferees stated with respect to section 455 of the EPCA:

> The United States still faces a critical energy problem. However, the dimensions of that problem are far different from those which existed in 1973 and were addressed by the EPAA. There is no longer a general shortage of either crude oil or refined petroleum products, with the possible exemption of propanes. In many ways, the supply side of the market has returned to near the pre-embargo conditions which prevailed in 1972.
>
> In view of these changed conditions, a comprehensive regulatory structure * * * may no longer be necessary.
>
> Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petroleum markets from a closely regulated state to a large unregulated status subject to standby pricing and allocation authority. [Conference Report to Accompany S. 622, Report No. 94–516, p. 203–204, December 8, 1975.]

In February 1976, the Federal Energy Administration (FEA), whose functions were assumed by FEO, held public hearings and received written comments on the reevaluation of FEA regulations as required by § 456 of the EPCA. The overwhelming majority of comments in that proceeding advocated the exemption of all refined petroleum products from FEA regulations.

FEA has accordingly proceeded with proposals to exempt refined products from price and allocation regulations. On June 1, 1976, the exemption of residual fuel oil became effective, and on July 1 middle distillates were so exempted. In addition, the Congressional review period for FEA's proposal to exempt naphtha, gas oil, greases, lubricants, certain petrochemical feedstocks and other specialty products from regulations recently expired without disapproval of the proposal by either House of Congress and such exemption will become effective September 1, 1976.

FEO is continuing the examination of its regulations in light of the comments received in the reevaluation proceeding and other available information with a view toward the further exemption of refined petroleum products still under controls where the regulations issued pursuant to section 4(a) of the EPAA are no longer necessary to achieve the objectives of that legislation.

Section 455 of the EPCA has provided somewhat more flexibility in the exemption of products than was the case under the EPAA prior to enactment of the EPCA. Certain products or category of products may be exempted in the same proceeding, for example, and an exemption is no longer limited to 90 days in length. FEO may proposed to exempt an oil or product from the regulation prescribed under section 4(a) of the EPAA if it determines that the exemption is consistent with the attainment of the public policy objectives specified in section 4(b)(1) of the EPAA and that the regulation with the exemption provides for the attainment of those objectives, to the maximum extent practicable. An amendment exempting crude oil, residual fuel oil, or a refined petroleum product with respect to a class of persons or transactions with respect to any market level, must be submitted to the Congress before it takes effect. An exemption amendment may take effect if not disapproved by either House of Congress within 15 days under expedited Congressional review procedures.

The EPCA further provides that any amendment submitted to Congress which proposes to exempt crude oil (if permissible under and consistent with the requirements and limitations of section 8 of the EPAA), residual fuel oil, or any refined petroleum product from the allocation regulations must be accompanied by a finding that the oil or product is no longer in short supply and that the exemption would not have an adverse impact on the supply of any other oil or product. Any proposed exemption with respect to price must be accompanied by findings that competition and market forces would provide adequate protection for the consumer, and that such amendment would not result in inequitable prices for any class of user. Any exemption amendment submitted to the Congress must also be accompanied by an analysis of and FEO's views on the potential economic impact of such amendment.

Any oil or refined petroleum product which is exempted from the regulation under section 4(a) of the EPAA is subject to the reimposition of controls if FEO determines that reimposition is necessary for and consistent with the objectives specified in section 4(b)(1). Subsequent reexemption of that oil or refined petroleum product would not be subject to Congressional review.

In this notice of proposed rulemaking, FEO is considering the exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations at this time because recent surplus supplies and market conditions appear to justify an end to controls. For purposes of this proposed exemption, naphtha jet fuel means all fuels in the heavy naphtha boiling range with an average gravity of 52.8° API and 10% to 90% distillation temperatures of 210° F. to 420° F., including JP–4 and other fuels meeting military specifications MIL–F–5624 and MIL–T–5624G, used for turbojet and turboprop aircraft engines, primarily by the military (§ 212.31), and also Type B (naphtha-base) refined petroleum fuel whose basic specification is ASTM D–1655 and is designed to operate aircraft turbine engines (§ 211.142).

Naphtha jet fuel, as defined above, constitutes only about 1.4% of total domestic refinery yield and is almost exclusively used by the Department of Defense for military purposes. This proposed exemption does not apply to kerosene jet fuel which is the principal fuel for commercial airlines.

Section 12(b)(2) of the EPAA requires that an exemption amendment apply to only one refined petroleum product or one refined product category, and specifies that all or any portion of the group of refined petroleum products (other than motor gasoline, No. 2 oils and propane) constitutes a single product category. FEO is proposing the exemption of naphtha jet fuel as a single product category in this notice of proposed rulemaking. Upon conclusion of this rulemaking, FEO will determine whether an exemption of this product category should be adopted and will, as required by Section 12 of the EPAA, submit any exemption amendment for this product category to the Congress for review of FEO's findings and views supporting such exemption.

FEO has concluded in its Preliminary Findings on the basis of currently available data that this exemption would be consistent with the attainment of the objectives set forth in secion 4(b)(1) of the EPAA, as amended by section 451 of the EPCA. Those objectives are as follows:

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(A) Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

(B) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independet marketers;

(E) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

(I) Fuels, and

(II) Minerals essential to the requirements of the United States, and for required transportation related thereto;

(H) Economic efficiency; and

(I) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

FEO's preliminary conclusions, based on information currently available to FEO, are that since an adequate supply is anticipated, the continuation of allocation and price controls for naphtha jet fuel is not necessary to protect the public health, safety and welfare (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations (section 4(b)(1)(C)); or the maintenance of exploration for and production or extraction of fuels and minerals (section 4(b)(1)(G)). Adequate supply and the positive effects of increased competition should insure that the proposed exemption is consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil and refined petroleum products (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). The proposed exemption should have no adverse effect on the allocation of suitable crude oil to domestic refineries (section 4(b)(1)(E)). FEO emphasizes that these conclusions are preliminary and invites specific data, views and arguments with respect to the relationship between the objectives of the EPAA and the exemption contemplated by this proposal. Any further information received with respect to the compatibility of the exemption proposed herein with these objectives will be considered by FEO in formulating its final conclusions.

FEO's specific preliminary findings and views on the exemption proposed hereby and the data and information in support thereof are set forth in its Preliminary Findings. Interested persons may obtain copies of the Preliminary Findings by writing FEO, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will also be available at the FEO Press Room, Room 2134, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Tentative conclusions as set forth in the Preliminary Findings include:

(1) Sufficient domestic refining capacity exists to adequately satisfy projected U.S. demand.

(2) Exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations would not have an adverse impact on the supply of any other oil or refined product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers, following such an exemption from regulation.

(4) Such an exemption from regulation will not result in inequitable prices for any class of user of naphtha jet fuel or other products.

The Preliminary Findings also indicate FEO's tentative views concerning the potential economic impacts of exempting naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any adverse state or regional impacts resulting from the proposed exemption. In addition, FEO anticipates no adverse economic impacts on the availability of consumer goods or services, the gross national product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEO believes that the proposed exemption may have a positive effect on competition. The proposed exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEO's analysis concludes that there will be no effect of the proposed exemption on the rate of unemployment in the United States, on the Consumer Price Index or on the implicit price deflator for the gross national product.

Comments are requested on whether the refiners' price rules should be amended in this proceeding to limit, between now and the effective date of the exemption proposed herein, the reallocation of increased product costs and increased non-product costs (including any unrecovered increased costs which have been banked for future recovery) which is currently permitted with respect to the products proposed to be exempted.

FEO also requests comments on the method by which a limitation would be most effectively implemented, including the manner of determining which portion of the aviation jet fuel bank is properly attributable to naphtha jet fuel. Further conforming amendments to the Mandatory Petroleum Price Regulations, beyond the simple exemption proposed herein, may be necessary so that the price rules fully reflect the exemption of products pursuant to this proceeding.

Public hearings in this proceeding will be held beginning at 9:30 a.m. on Friday, September 3, 1976, in Room 2105, 2000 M Street, NW., Washington, D.C., in order to receive comments from interested persons.

Any person who has an interest in the proposed amendment, or who is a representative of a group or class of persons that has an interest in the proposed amendment, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEO, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and must be received before 4:30 p.m., August 25, 1976. Such a request may be delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should describe briefly the interest concerned; if appropriate, state he or she is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through Friday, August 27, 1976. Each person selected to be heard will be so notified by the FEO before 4:30 p.m., EST, August 27, 1976, and must submit 100 copies of his or her statement to Regulations Management, FEO, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., EST., on September 2, 1976.

The FEO reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEO official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings and there will be no cross-examination of persons presenting statements. Any decision made by the FEO with respect to the subject matter of the hearings will be based on all information available to the FEO. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEO, Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. before 4:30 p.m., EST, September 1, 1976. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEO or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and weather time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of hearings, including the transcript, will be retained by the FEO and made available for inspection at the Freedom of Information Office of the FEO, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Interested persons are also invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations set forth in this notice to Executive Communications, Room 3309, Federal Energy Office, Box IH, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to the FEO, Executive Communications, with the designation "Exemption of Naphtha Jet Fuel." Fifteen copies should be submitted. All comments received by September 1, 1976, and all relevant information will be considered by the FEO before final action is taken on the proposed regulations.

The inflationary impact of this proposal has been considered by the FEO, consistent with Executive Order 11821, issued November 27, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact.

A copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In addition, based on an environmental assessment of the proposed action, the Federal Energy Office (FEO) has determined that the exemption of naphtha jet fuel will not be a "major Federal action significantly affecting the quality of the human environment" (Section 102(2)(C), National Environmental Policy Act (42 U.S.C. 4332(2)(C))).

Copies of the environmental assessment will be available upon request from the FEO Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the document will also be available for public review in the FEO Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of this proposed exemption and the environmental assessment to Executive Communications, Box IJ, Room 3309, Federal Energy Office, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEO Executive Communications with the designation, "Environmental Assessment—Naphtha Jet Fuel Decontrol." Fifteen copies should be submitted. All comments should be received by FEO by September 3, 1976, in order to receive full consideration.

Any information or data submitted pursuant to the above procedures and considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEO reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 94-163; E.O. 11930, (41 FR 32399, August 3, 1976))

In consideration of the foregoing, it is proposed to amend Parts 210, 211, and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

PART 210—GENERAL ALLOCATION AND PRICE RULES

1. Section 210.35 is amended by adding paragraph (g) to read as follows:

§ 210.35 Exempted products.

* * * * * * *

(g)(1) Aviation turbine fuel (naphtha base) as defined in § 211.142 of this chapter is exempt from the provisions of Part 211 of this chapter.

(2) Aviation fuel (naphtha-type) as defined in § 212.31 of this chapter is exempt from the provisions of Part 212 of this chapter.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

2. Section 211.1 is amended in paragraph (b) by adding new subparagraph (9) to read as follows:

§ 211.1 Scope.

* * * * * * *

(b) *Exclusions.*

* * * * * * *

(9) Notwithstanding the provisions of Subpart H of this part, aviation turbine fuel (naphtha base) is excluded from this part.

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

3. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 Definitions.

* * * * * * *

"Covered products" means aviation fuels (other than aviation fuel (naphtha-type)), butane, crude oil, gasoline, natural gas liquids, natural gasoline, and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * * * *

[FR Doc.76-24133 Filed 8-13-76;10:41 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20890]

FM BROADCAST STATIONS IN GRANGER-HUNTER, UTAH

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (Granger-Hunter, Utah), Docket No. 20890, RM-2641.

1. Petitioner, Proposal, and Comments:

(a) Petition for rule making, filed January 5, 1976, by Albert E. Guthrie, proposed to assign Class C FM Channel 274 to Granger-Hunter, Utah [1] as its first aural service.

(b) This channel may be assigned without affecting any existing FM assignments.

(c) No opposition to this petition for rulemaking has been filed.

2. Demographic Data:

(a) *Location.* Granger-Hunter is located approximately 12 miles southwest of Salt Lake City, Utah.

(b) *Population.* (1970 U.S. Census)—Granger-Hunter, 9,029; Salt Lake County, 458,607. Petitioner alleges, however, that the present population of Granger-Hunter is 25,000.

(c) *Local Radio Service.* Granger-Hunter has no local aural service but receives radio service from Salt Lake City's eleven AM stations and seven FM stations.

(d) *Economic Considerations.* Petitioners alleges that Granger-Hunter has a strong need for the assignment of Channel 274 because it is a growing community. Moreover, petitioner contends that issues which are of interest only to the residents of Granger-Hunter are not presently reported by the Salt Lake City stations but would be covered by a Granger-Hunter station.

3. *Preclusions.* If Channel 274 is assigned to Granger-Hunter, then preclu-

[1] Although the petitioner refers to the community as Granger, Utah, we shall use the name Granger-Hunter because this is the name used in the 1970 U.S. Census. See discussion of the community issue in paragraph 4, infra.

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sion would occur on Channels 272A, 273, 274, and 275. The most significant preclusion would occur on Channel 274 which would be precluded from use at the following Utah communities each having populations over 10,000: Roy, Layton, Clearfield, and Bountiful-Centerville. The petitioner indicates that these communities could be served by Channel 258. However, a study by the Commission's engineering staff reveals that these communities would be precluded from using Channel 258 due to the assignment of Channel 258 to Rock Springs, Wyoming. We also note that the only present aural service to any of these communities is daytime-only AM Station KBBC in Centerville and that Springville, Utah (pop. 8,790) is in the precluded area and does not have local aural service. Consequently, petitioner should submit a more precise preclusion study showing all areas that would be precluded from use of the proposed channel and the six pertinent adjacent channels, and with regard to the above named precluded communities, indicate whether any other channels are available for assignment. See "Policy to Govern Requests for Additional FM Assignments," 8 F.C.C. 2d 79 (1967).

4. *The Community Issue.* We note that the 1970 U.S. Census lists Granger-Hunter as an "unincorporated place." However, section 307(b) of the Communications Act of 1934, as amended, and §§ 73.202(a), 73.203(a), and 73.206 of the Commission's rules require that we assign FM channels to "communities." A "community" within the meaning of our rules is more than a mere geographical location. "Notice of Proposed Rule Making in Yorktown, Virginia," 38 FR 6695 (released March 12, 1973) and Sierra-Pacific Radio Corp. (KOSO), 7 F.C.C. 2d 61 (1967). Rather, we are looking to see whether there is a community of interest associated with an identifiable population grouping. The showing that petitioner must make is that "the residents function as and conceive of themselves as residents of a community around which their interests coalesce." Yorktown, Virginia, supra, at paragraph 4. However, we would like to point out that a valid showing of the existence of a community can be made even though the community is unincorporated[2] and has no concrete boundaries which can be delineated.[3] In this regard, we also request that petitioner indicate whether Granger-Hunter is one community or whether Granger and Hunter are separate communities. See footnote 1, supra.

5. *Class A vs. Class C Channel.* The Commission's rules, as well as policy, provide that Class A channels are assigned to serve relatively small communities, and the surrounding rural area, and that Class B and C channels are designed to serve urban centers. Section 73.206(a)(2) and(b)(4) of the Commission's rules: Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758–59, paragraph 25 (1963). Since the petitioner requests the assignment of a Class C channel to a community having a population of less than 10,000 persons, petitioner should indicate in its comments whether any Class A channels are available for assignment to Granger-Hunter. In the past, the Commission has assigned Class C channels to small communities when the assignment would result in a large first or second FM service, e.g., Lyons, Kansas, 42 F.C.C. 2d 215, 216 (1973), and Lexington, Missouri, 53 F.C.C. 2d 893 (1975), when the assignment of a Class C channel would enable a large rural area to be served, e.g., Clinton, Oklahoma, 7 F.C.C. 2d 836, 839 (1967), or when there was no other place that the Class C channel might be used due to the Commission's mileage separation rules, e.g., Pensacola, Florida, 44 F.C.C. 2d 1056, 1061 (1974).

6. The Suburban Issue. In view of the fact that a Class C channel at Granger-Hunter, operating with minimum facilities, would most likely place a city grade signal over all of Salt Lake City, the petitioner, and any other party interested in operating a Class C channel at Granger-Hunter, must show that it intends to serve primarily Granger-Hunter rather than Salt Lake City. For a discussion of this suburban question, see Berwick Broadcasting Co., 12 F.C.C. 2d 8 (1968), and P.A.L. Broadcasting Co., 40 F.C.C. 2d 546, 556 (1973). To compare how the suburban issue is handled in applications for AM stations, see Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities 2 F.C.C. 2d 190 (1965), modified by Report and Order, Docket No. 20265, 54 F.C.C. 2d, 1, 10–11, 21–22 (1975).

7. Roanoke Rapids Report. Because petitioner is requesting a Class C channel in a place where a Class A channel would normally be assigned, petitioner should include a Roanoke Rapids report showing the number of people who would receive a first or second FM service from a Class C station in Granger-Hunter. Roanoke Rapids-Goldsboro, North Carolina, 9 F.C.C. 2d 672 (1967).

8. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, with regard to Granger-Hunter, Utah, as follows:

	Channel No.	
	Present	Proposed
City: Granger-Hunter, Utah		274

We wish to point out that this proposal is made for the purpose of eliciting comments on the above discussed issues. We emphasize that Channel 274 cannot be assigned to Granger-Hunter unless we know that Granger-Hunter is a "community" within the meaning of our rules, that a Class C assignment is justified, and that a Class C channel would be used to serve Granger-Hunter rather than Salt Lake City.

9. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

10. Interested parties may file comments on or before September 23, 1976, and reply comments on or before October 13, 1976.

Adopted: August 9, 1976.

Released: August 13, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76–24028 Filed 8–16–76;8:45 am]

[Docket No. 20888]

[47 CFR Part 73]

FM BROADCAST STATIONS IN RIDGECREST AND INYOKERN, CALIF.

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ridgecrest and Inyokern, California), Docket No. 20888, RM–2677.

1. *Petitioner, Proposal and Comments:*

(a) Notice of proposed rule making is hereby issued concerning the amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with regard to the communities of Ridgecrest and Inyokern, California.

(b) The petition for rulemaking, of which Public Notice was given (Report No. 977), April 12, 1976, was filed on behalf of Kitchen Productions (petitioner), proposing the assignment of Channel 244A or Channel 285A to the Ridgecrest-Inyokern, California area as a second Class A assignment.

(c) Either channel could be assigned to Ridgecrest or Inyokern in complete conformity with all mileage separation requirements.

2. *Demographic Data:*

(a) *Location.* Ridgecrest is located approximately 120 miles northeast of Los Angeles and 75 miles east of Bakersfield. Inyokern is located about 6 miles from Ridgecrest.

(b) *Population.* (1970 U.S. Census)—Ridgecrest, 7,629; Inyokern, 800; Kern County, 329.162.

(c) *Present aural services.* KZIQ(AM) daytime-only, KLOA (Class IV); Channel 224A on which application is pending (BPH–9569) filed by licensee of daytime-only Station KZIQ.

(d) *Economic considerations.* Petitioner states that the 1970 U.S. Census greatly understates the Ridgecrest area population because the area has grown and an outflux of population from the Navy property has occurred, partially due to rent increases and to availability of new homes in Ridgecrest and surrounding areas. Petitioner also adds that, according to the Ridgecrest Chamber of Commerce figures for 1975, Ridgecrest's population is now estimated at 13,500.

3. *Preclusion studies:*

Channel 244A. Preclusion would occur on the co-channel and all six adjacent channels with the exception of Channel 246B. The Commission's preclusion study indicates that six communities (China Lake, 11,105; Trona, 1,500; Edwards, 10,331; Mojave, 2,573; Boron, 1,999; and California City, 1,309), would be precluded as a result of the assignment of Channel 244A to Ridgecrest.

Channel 285A. Preclusion would occur on the co-channel and all adjacent channels except Channel 287. Only three communities (China Lake, 11,105; Trona, 1,500; and Tehachapi, 4,311), would be precluded as a result of the assignment of Channel 285A to Ridgecrest.

At least two other Class A or Class B channels are available for assignment to these communities.

4. *Additional Considerations.* An opposition to the proposed assignment was filed by Space/Time Broadcasting Company (Space/Time), the applicant for Channel 224A at Ridgecrest. Space/Time states that Ridgecrest at the present time is supporting one newspaper, two radio stations and one cable television company, all of them soliciting business in this very limited market. It contends that assignment of frequencies in Inyokern, the Rand District or the Trona/Argus area means only that stations in these areas will be competing in the Ridgecrest market since these areas are incapable of sustaining radio stations or anything else. It adds that the Commission has already caused hardship of this kind by granting an AM station (KINC) to Independence, California, and an AM frequency to the Lake Isabella area. Space/Time states that it was apparent from the beginning that KINC would have to be sustained by the Ridgecrest and Bishop markets. Space/Time also contends that, since it could not maintain its station with business from the Ridgecrest area only, it managed to obtain some accounts from the Isabella area. Now, it adds, when the new AM station becomes operational in the Isabella area this business will be lost to it. It contends that spreading this market any thinner would cause both the existing stations undue hardship and could result in the demise of one or both.

5. Space/Time's objection is that the assignment of a second FM channel to Ridgecrest would cause severe economic harm to the existing AM stations at Ridgecrest. It has been long established Commission policy to make ultimate decisions with respect to Carroll issues concerning the economic questions at the time of an application for a specific station rather than in rulemaking proceedings.[1]

6. A review of the petition reveals that discussion of the economic, sociological and governmental activity in Ridgecrest is lacking in petitioner's presentation. Normally, in allocation proceedings, there is a detailed discussion of the commercial and business life and structure, the sociological life and the governmental activity, in a community so as to demonstrate the importance of the community and the need of the community for the additional local radio broadcast service. Too, oftentimes, presentations are made as to how a newly proposed station will better be able to meet the needs of its principal community and area. Petitioner should have an opportunity to cure the above described deficiency in its comments to the notice of proposed rulemaking herein.

7. We are proposing the assignment of Channel 285A to Ridgecrest rather than to Inyokern since Ridgecrest has a population of 7,629 compared to that of 800 in Inyokern. However, the channel may also be used at Inyokern under the 10-mile rule (§ 73.203(b)) since the two communities are located about six miles apart. Further, Channel 285A is preferred because the Commission's preclusion study indicates that the preclusion areas would be slightly less on Channel 285A than on Channel 244A.

8. Petitioner has stated that, if a channel is granted to the Ridgecrest-Inyokern area, it will apply for the facility and, if authorized, construct an FM station.

9. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), as follows with regard to the community listed:

	Channel No.	
	Present	Proposed
City: Ridgecrest, Calif.	224A	224A, 285A

10. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures, and filing requirements are contained below and are incorporated herein.

11. Interested parties may file comments on or before September 20, 1976, and reply comments on or before October 12, 1976.

Adopted: August 6, 1976.

Released: August 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules. It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in

[2] Mercer Broadcasting Co., 22 F.C.C. 1009, 1023–25 (1957); Musical Heights, Inc., 29 F.C.C. 1, 3–4 (1960); Seven Locks Broadcasting Co., 37 F.C.C. 82 (1964); Holston Broadcasting Corp., 45 F.C.C. 1290, 1291–92; and Holiday, Florida, 41 Fed. Reg. 20036 (released May 20, 1976), paragraph 7.

[3] Seven Locks, supra, and Hymen Lake, 46 F.C.C. 2d 560, 562–63 (1974).

[1] Adrian, Michigan, Docket No. 19512, 37 F.C.C. 2d 1021 (1972).

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the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76-24029 Filed 8-16-76;8:45 am]

[47 CFR Parts 81, 83]

[Docket No. 20886; FCC 76-755]

VESSELS ON THE GREAT LAKES

Proposed Operation of a Very High Frequency Automated, Multi-Station Radiocommunications System

In the matter of amendment of Parts 81 and 83 of the rules to permit the operation of a communications system on the Great Lakes to provide very high frequency (VHF) regional, and other, public correspondence radiocommunication service to vessels, Docket No. 20886, RM-2472, RM-2476.

1. Notice of proposed rulemaking in this proceeding is hereby given.

2. On October 30, and November 7, 1974, Lorain Electronics, Inc., filed petitions for rule changes to provide for the licensing and operation of a very high frequency (VHF) automated, multi-station radiocommunications system, to serve vessels on the Great Lakes. On April 7, 1976, Lorain amended its petition with respect to the channels to be used and the specific location of the stations it intends to operate in the system. Lorain has operated shore stations providing maritime radiocommunications service to ships on the Great Lakes since 1934.

3. The Lorain petitions were placed on public notice and comments were filed by the American Telephone and Telegraph Company (AT&T) and by Waterway Communications Systems, Inc. (Watercom). Watercom now has applications pending for six public coast stations on the Mississippi River, with requests for necessary rule changes or waivers, to permit the operation of a VHF radiocommunications system on that waterway also to serve vessels. The Watercom applications and proposal have been placed on public notice and are available for public inspection in the Commission's Aviation and Marine Division licensng room at the Commission's office located at 2025 M St., NW., Washington, D.C.

4. By Memorandum Opinion and Orders released January 15, 1974, and February 14, and December 24, 1975, we have authorized Lorain to operate its proposed system on a prototype basis for three years until January 1, 1977. On March 10, 1976, Lorain furnished us a detailed report on its prototype system and stated that the system is operating successfully. The Lorain proposal for regular operation of the system, essentially, calls for the use of some existing public coast stations and some new stations. All stations would operate on Channel 86 (161.925 MHz), and on either Channel 84 (161.825 MHz) or on Channel 87 (161.975 MHz) at the following locations:

Duluth, Minn.
Ontonagan, Mich.
Copper Harbor, Mich.
Grand Marais, Mich.
Pickford, Mich.
Sturgeon Bay, Wis.
Port Washington, Ill.
Benton Harbor, Mich.
Alpena, Mich.
Harbor Beach, Mich.
Algonac, Mich.
Oregon, Ohio
Cleveland, Ohio
Westfield, N.Y.
Olcott, N.Y.
Oswego, N.Y.

5. The Lorain system stations are to meet what Lorain terms "the unique operating requirements' for radiotelephone communication on the Great Lakes. Lorain's proposed system would provide automated and manual communication as well as other new radio[1] services, and would cover the entire navigational area of the Great Lakes in the United States, and much of the navigational areas of Canada. Lorain states it intends to use channel 86 at all its system stations primarily for radiotelegraph signals and also either channel 84 or 87 at each of its system stations as a primary radiotelephony working channel.

6. In general, the advantages of the Lorain system, as explained in its petition and as we analyze it, are as follows:

a. New automated calling, weather, and position reports will be offered;

b. Expanded, if not complete, coverage of the U.S. navigated waters of the Great Lakes than that now existing, would be achieved;

c. All VHF stations in the Lorain system would be integrated and interconnected and controlled from one station; and

d. Facsimile and teleprinter service would be available.

7. The Lorain system differs from existing VHF public coast station service, mainly, in the following particulars. At present, coast stations providing VHF public correspondence ordinarily operate as separated and independent units. They are not linked together into any kind of an integrated or centrally controlled system, either by land wirelines or by radio frequencies. Communications are exchanged with vessel stations only when a vessel is within a geographical area in which the propagated radio signals of the coast and ship stations can be heard by each station. Calls are usually initiated on the distress, safety and calling frequency 156.8 MHz (Channel 16) by the coast station since vessels do not often maintain listening watches on the working frequencies of the public coast stations. Vessels, however, can usually contact the coast station by monitoring the coast station channel and calling when the channel is unused. Only radiotelephony (voice) messages are exchanged since neither coast nor ship stations are equipped with radiotelegraphy facilities.

8. Lorain's proposed system would consist of about 16 coast stations spread throughout the Greak Lakes area, linked together by a land wireline and all using a "common" channel for teleprinter and facsimile operations. Most of the stations would be unmanned and would be controlled from a central location in Lorain, Ohio. In addition to the "common" frequency, each station would be assigned either channel 84 or 87 on an alternating arrangement so that no destructive electrical interference would occur. A vessel desiring to initiate an exchange of voice communications could do so by calling, by voice or by automated means, the nearest coast station

[1] In is petition Lorain uses the term "non-voice" in reference to certain services other than radiotelephony; e.g. dial calling, radioteleprinter and facsimile emissions.

in the system on the working channel assigned to that station, or the call could be made on channel 16 by voice and then, when instructed by the coast station, the communications could be switched to the working channel. Calls from land phones through a coast station could be made automatically to suitably equipped vessels on a working channel, thus freeing the calling and distress channel for more urgent uses. Messages to or from vessels not specially equipped for automatic calling could continue to be initiated as in the present manner by voice calling on a working channel or on channel 16. An interchange of data such as weather reporting or ship position information would be conducted on channel 86. Facsimile weather broadcasts by a coast station, such as weather, wind or ice information, would also be conducted on channel 86. An interchange of facsimile information, however, between a ship station and a point on shore through a coast station could also be effected on a main working channel; i.e. channel 84 or 87. The Lorain system would also provide the means for better determining the location of vessels since a vessel could be called from any of the stations in the system.

9. The system proposed by Lorain would be inconsistent with our existing rules concerning the operation of coast stations in the Maritime Mobile Services, and would therefore require modification of the rules, in the following respects:

a. The rule provisions concerning limitations on coverage area overlap by public coast stations must be relaxed for a system as proposed by Lorain. At present, § 81.303 provides, essentially, that the coverage areas of stations of this class shall not overlap by more than 20%. Our objectives, generally, have been to establish stations about 30 miles apart so that there would not be an excessive overlap of coverage areas and so that a vessel could usually contact by VHF radio at least one, and preferably two, coast stations. Lorain's proposal would require that these limitations be disregarded and that greater overlap be permitted for stations operating in or near a system of interconnected public coast stations.

b. The permissible emission provisions in §§ 81.132, and 83.132 would require amendment to provide for and allow the transmission by system stations, and ship stations communicating with other ship stations, of F2 (teleprinter) and F4 (facsimile), as well as F3 telephony emissions on one channel to be used as a "common" channel and F4 on the prime working channel.

c. Certain changes will be needed in our conditions of use criteria in Parts 81 and 83, for the frequencies involved and to allow the assignment of a second channel for radiotelegraphy communications without the traffic showing required by § 81.304(b)(22).

d. Some minor changes will be needed in § 81.106 concerning station equipment required for automatic operations, and in § 81.314 concerning station log entries when made automatically.

10. AT&T commented on behalf of Bell System Telephone Companies now operating VHF public coast stations on the Great Lakes. In its comment, it asserted that it would be unwise and potentially damaging to the interests of existing coast stations and vessels on the Great Lakes to assign four frequencies[2] to a system as proposed by Lorain. AT&T argues that this would preclude the future assignment of additional frequencies to existing stations to handle increased traffic as the service grows. AT&T also asserts that an unrestricted overlap in coverage areas could cause a severe economic burden to existing stations. In this regard, AT&T reminds us that in a cited 1972 Report and Order, we said the public interest requires the growth of this service "provided the establishment of additional stations does not have unreasonable adverse economic impact on existing stations". AT&T states, inferentially, that any adverse economic impact on existing stations on the Great Lakes by the establishment of new stations and the advent of new service as proposed by Lorain herein, would be unreasonable.

11. In its comment, Watercom generally supports the Lorain proposal but disagrees that the radiocommunication requirements for the Great Lakes are unique. Watercom asserts that the same general principles and requirements for a new class of VHF service consisting of a system of VHF stations should be extended to include the inland waterways.

12. We believe the establishment of new VHF radiotelephone services through a system of interconnected public coast stations as proposed by Lorain herein, may be in the public interest and advantageous to the maritime community. Lorain has selected channel 86 as the "common" channel to be available for assignment to all its system stations for radiotelegraphy as well as radiotelephony communications. In proposing the use of Channel 86 for other than radio-telephony communications in the manner desired by Lorain, we do not want it assumed that the channel can be used indefinitely in that way. The channel is one of the limited number of public correspondence channels in the maritime mobile VHF band available for radio telephony public correspondence purposes and the need for the channel for that use is expected to grow. We believe, however, that the temporary use of the channel for radiotelegraphy use during an interim period until another solution can be found, will not significantly conflict with the public interest. We are, therefore, proposing the changes in the rules requested by Lorain, as set forth in the attached Appendix. We will further consider the comments of AT&T and Watercom, together with any other comments received in response to our notice of these proposed rule changes, before we reach a final decision in this matter.

13. The proposed amendments to the Commission's rules as set forth below are issued pursuant to authority contained in section 4(i) and 303(a), (b), (c), (d), (e), (f), (g), (h) and (r) of the Communications Act of 1934, as amended.

14. Pursuant to application procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before September 20, 1976, and reply comments on or before September 30, 1976. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

15. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs or comments shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: August 5, 1976.

Released: August 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[3]

VINCENT J. MULLINS,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.106, paragraph (e)(2) is amended by adding a sentence to read as follows:

§ 81.106 Operating controls.

* * * * * * *

(e) * * *

(2) Discontinuing all emission within 5 seconds after emission is no longer required or after the necessity arises for emission to cease. The equipment of an unattended station in an automated multi-station system, as defined in Section 81.303(d), at which restoration to standby is automatic on conclusion of a call, shall be designed so that all emission will be discontinued within 3 seconds of the disconnect signal or, if disconnect signal is not received, within 20 seconds following reception of the final carrier transmission from a ship station.

* * * * * * *

2. Section 81.132(a)(2)(iii) is amended as follows:

[2] Lorain reduced their total channel requirements to three, subsequent to AT&T's comments.

[3] Commissioner Wiley concurring in the result; Commissioner Quello absent.

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§ 81.132 Authorized classes of emission.

(a) • • •

(2) • • •

(iii) For frequencies in the band 156 to 162 MHz:

161.925 MHz___	F3, and when assigned to stations in an automated multi-station system, F2 and F4. The authorized bandwidth for F2 and F4 emissions will be the same as for F3 as specified in § 81.133.
161.825, 161.975	F3, and when assigned to stations in an automated multi - station system, F4. The authorized bandwidth for F4 emissions will be the same as for F3 as specified in § 81.133.
All other frequencies.	F3.

• • • • • •

30. In § 81.303 a new paragraph (d) is added as follows:

§ 81.303 Duplication of service.

• • • • • •

(d) The restrictions concerning impermissible overlap of coverage areas contained in paragraph (b) of this section, do not apply to stations operated as part of an automated multi-station Great Lakes System. The term automated multi-station system, as used in this part, refers to a system of contiguous-service-area, automated, coast stations, manually or automatically operated, capable of directly-dialed connection between ship station and land telephones, the operations of which are coordinated to provide the same services and service procedures to ships throughout the entire service area of the system's component stations, with assistance or other functions requiring human action provided by operators at a central location.

4. In § 81.304(a) a new condition of use designator 62 is added for the frequency 161.975 MHz, and in paragraph (b) a new subparagraph (62) is added as follows:

§ 81.304 Frequencies available.

• • • • • •

(b) • • •

• • • • • •

(62) When this frequency is assigned to stations in an automated multi-station system, the emissions F2 and F4 may be used as provided in § 81.132(a)(2)(iii). The provisions of paragraph (22) of this paragraph concerning a showing of channel occupancy do not apply for the assignment of a second channel to be used primarily for F2 and F4 emissions.

5. In § 81.314 a new paragraph (a)(14) is added to read as follows:

§ 81.314 Station records.

(a) • • •

• • • • • •

(14) The required entries in the logs of an unattended public coast station in an automated multi-station system, as defined in § 81.303(d), may be made automatically, or manually by an operator at a central control point, in addition to or in lieu of entries recorded in the manner herein prescribed: *Provided*, The entries are readily available for inspection upon reasonable request by Commission representatives.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Section 83.132(a)(2)(iii) is amended to read as follows:

§ 83.132 Authorized classes of emission.

(a) • • •

• • • • • •

(2) • • •

(iii) For the frequencies in the band 156 to 162 MHz:

157.325 MHz___	F3, and when exchanging communications with coast stations in an automated multi-station system operating on 161.925 MHz for other than voice communications, F2 and F4. The authorized bandwidth for F2 and F4 emissions will be the same as for F3 emissions as specified in § 83.133.
157.225, 157.375 MHz.	F3, and when exchanging communications with coast stations in an automated multi-station system operating on 161.825 or 161.975 MHz for other than voice communications, F4. The authorized bandwidth for F4 emissions will be the same as for F3 emissions as specified in § 83.133.
All other frequencies.	F3.

• • • • • •

[FR Doc.76-24030 Filed 8-16-76;8:45 am]

POSTAL RATE COMMISSION

[39 CFR Part 3003]

[Docket No. RM76-7]

PRIVACY ACT RULES

Notice of Proposed Rulemaking

AUGUST 11, 1976.

Notice is hereby given that the Postal Rate Commission has under consideration rulemaking action to amend 39 CFR Part 3003 in order to improve its implementation of the Privacy Act of 1974 (5 U.S.C. 552a).

The proposed amendments would: (1) Modify the requirements for identification of individuals who make written requests concerning their individual records under 39 CFR § 3003.3; and (2) clarify 39 CFR § 3003.14, which relates to specific exemptions from the disclosure provisions of §§ 3003.3, 3003.4, 3003.5, 3003.6, 3003.7, 3003.8, 3003.9, and 3003.11. The Office of Management and Budget has recommended that the Commission consider the adoption of such changes in our rules.

The first change would be accomplished by replacing the current requirement of § 3003.4(b) that the individual making the request include his or her Social Security number as proof of identity with a more general requirement that the individual include suitable proof of identity, such as a facsimile of the sort of identifying document which the individual would be required to present under § 3003.4(a)(2) should he or she make the request in person. The specific exemption provisions of § 3003.14 would be amended to state that the Commission has not established any systems of records to be exempted.

The proposed amendments to Part 3003 are set forth in full at the conclusion of this notice. The Commission will entertain comments with respect to these proposed changes which are received on or before September 16, 1976. Comments should be filed with the Commission's Secretary, at the offices of the Postal Rate Commission, 2000 L Street, N.W., Washington, D.C. 20268.

Authority for the proposed rulemaking is contained in 39 U.S.C. 3603 and 5 U.S.C. § 552a.

Section 3003.4(b) is proposed to read as follows:

(b) An individual who files a request through the mails pursuant to paragraph (c) of § 3003.3 of this Part shall include his or her date of birth and other suitable proof of identity, such as facsimile of a driver's license, employee identification card, or Medicare card.

Section 3003.14 is proposed to read as follows:

§ 3003.14 Specific exemptions.

The Postal Rate Commission has not established any system of records to be exempted from the provisions of §§ 3003.3, 3003.4, 3003.5, 3003.6, 3003.7, 3003.8, 3003.9, and 3003.11 of this Part.

By the Commission.

[SEAL] JAMES R. LINDSAY, *Secretary.*

[FR Doc.76-24038 Filed 8-16-76;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 725]

BLACK LUNG DISEASE

Claims for Disability or Death Benefits

Pursuant to authority contained in Title IV of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 742, 30 U.S.C. 901 et seq., as amended by Pub. L. 92-303, 86 Stat. 156, entitled the Black Lung Benefits Act of 1972 (hereinafter the Act), notice is hereby given that it is proposed to amend Part 725 of Chapter VI of Title 20, Code of Federal Regulations, as set forth below.

20 CFR Part 725 contains the rules of the Department of Labor governing the filing, processing and adjudication of claims for black lung benefits under Part C of Title IV of the Act. Primarily, these amendments are intended to clarify certain interpretations and procedural rules applicable in respect of claims. Special attention is appropriately given to the following proposed amendments:

1. Under current procedures a coal mine operator notified of his potential liability for the payment of benefits to a miner who alleges total disability due to pneumoconiosis may have that miner examined by one or more physicians selected by such operator (38 FR 26048, 26049). This privilege is afforded on the basis of language contained in sections 7 (e) and (f) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, (LHWCA) 33 U.S.C. 907 (e), (f), as made applicable by section 422(a) of the Act. Sections 7 (e) and (f) of the LHWCA do not afford an employer the unqualified right to have a claimant examined by a physician selected by such employer, and in fact, extends such right to an employer under specified circumstances. It is, therefore, proposed to amend 20 CFR 725.153 to bring that section more in keeping with the meaning and intent of the statutory provision from which it was derived. It is not the intention of those proposed rules to eliminate the employer's right to a medical examination entirely, or to adopt the language of section 7 of the LHWCA verbatim. It is the intention of this proposed rule to more specifically describe the nature and extent of an employer's right to have a claimant examined by a physician selected by such employer.

2. Section 422(i), of the Act, 30 U.S.C. 932(i) provides that a coal mine operator who purchases a mine or substantially all the assets thereof subsequent to December 30, 1969, may be found liable for the payment of black lung benefits in respect of a claim arising out of employment with the seller of the mine or mine assets. 20 CFR 725.304 of the Secretary's regulations simply repeats the language of section 422(i) of the Act. It is, therefore, proposed to amend that section to describe more fully the operation of section 422(i).

3. 20 CFR 725.311 entitled "criteria for identifying a responsible operator" provides generally that the coal mine operator with whom the miner on whose total disability or death a claim is predicated, had the most recent cumulative periods of employment of not less than one year, shall, if such miner is found entitled to benefits pursuant to the Act, be responsible for the payment of those benefits. It is the intent of hese proposed rules to clarify the meaning of the term "one year." The definition of "one year" for the purposes of this part is derived from data provided by the Department of Interior which establishes the average number of days worked by a coal miner in any given year from 1920 to 1973.

4. In addition to the foregoing, these proposed amendments to Part 725 contain other technical and clarifying provisions.

Except as is otherwise provided, these proposed amendments shall be applicable in respect of all claims filed or processed after December 31, 1973. Interested persons are invited to submit written data, views, and comments concerning these proposed rules to the Office of Workers' Compensation Programs, United States Department of Labor, Washington, D.C. 20210, on or before August 30, 1976.

PART 725—CLAIMS FOR BLACK LUNG BENEFITS PAYABLE UNDER PART C OF TITLE IV OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT, AS AMENDED

1. It is proposed to revoke paragraphs (c) and (d) of § 725.132 as follows:

§ 725.132 Development of evidence—general.

• • • • • •

(c) [Revoked]

(d) [Revoked]

• • • • • •

2. It is proposed to revise § 725.133 as follows:

§ 725.133 Initial medical examination—miner.

(a) Upon the receipt of the appropriate claims forms, the OWCP, in appropriate cases, will arrange for each miner-claimant to be examined and tested by a physician or medical testing facility approved and authorized by the OWCP to conduct examinations in connection with the black lung benefits program.

(b) A miner who does not wish to be examined by a physician selected for him by the OWCP may, upon request, be afforded the opportunity to select a physician of his own choosing to conduct such examination.

(c) The OWCP shall arrange for a medical examination to be conducted, at a time and place convenient to both the miner and the approved physician or facility, and as soon as is practicable.

(d) The designated physician or facility will complete an examination of the miner to determine the nature and extent of the miner's impairment, enter his findings on the appropriate form pursuant to the instructions contained in such form, and transmit the form together with a bill for medical services rendered to the OWCP within 20 days from the date of the examination (see § 725.130(a)).

(e) The deputy commissioner responsible for initially adjudicating the claim shall have the power, in his discretion, to charge the cost of medical examinations conducted under this section to a notified operator, or to an operator's insurance carrier, or if there is no responsible operator, to the OWCP.

(f) Proceedings and all evidentiary development shall be suspended and no benefits shall be payable for any period during which a claimant-miner may unreasonably refuse to submit to a medical examination under this section. In the event of a suspension pursuant to this paragraph the procedures pertaining to the abandonment of a claim (see § 725.425) shall be followed by the OWCP.

(g) Paragraphs (b), (c), and (d) of § 725.134 shall apply with respect to examinations conducted pursuant to the provisions of this section, as is appropriate.

3. It is proposed to revise paragraph (c) of § 725.137 as follows:

§ 725.137 Action to be taken by the Office—miner's claim.

• • • • • •

(c) In cases where the evidence received by the Office in respect to any claim does not support a claim for benefits, the claimant will be advised of the deficiency in his claim and directed by the Office to obtain such additional evidence as is necessary. Medical evidence obtained at the direction of the Office shall be paid for by the Office or notified operator, as appropriate.

• • • • • •

4. It is proposed to revise § 725.153 as follows:

§ 725.153 Operator's medical evidence.

(a) Any operator or carrier who is dissatisfied with the evaluation of medical tests submitted to the Office in support of a claim shall, upon written request made to the appropriate deputy commissioner, be permitted to submit the mechanically recorded results of such tests to one or more physicians selected by such operator or carrier, for re-evaluation. Such request shall contain the name and mailing address of the physician selected by the operator or carrier. Upon receipt of a request made pursuant to this paragraph, the deputy commissioner shall promptly forward such x-ray films, ventilatory test tracings, EKG results, and/or blood gas test results, if any, and/or any other mechanically recorded medical test results as are in his possession, directly to the physician designated by the operator or carrier to re-evaluate the results of such tests. Upon completion of any re-evaluation of test results submitted to a physician selected by an operator or carrier, such test results shall be promptly returned to the deputy commissioner.

(b) Any operator or carrier shall be entitled to have a miner who has filed a claim for benefits under the Act personally examined by one or more physicians selected by such operator or carrier: *Provided*, That:

(1) Such operator or carrier has been notified pursuant to this part or Part 720 of this chapter of its potential liability for the payment of benefits to such miner; and

(2) The miner is not required to travel more than 100 miles from his place of residence to submit to such examination unless the miner consents to travel a greater distance or unless a trip of a greater distance is warranted and will not be injurious to the health of the miner; and

(3) The miner shall, if he so chooses, be permitted to bring any person with him to the examination. Any person accompanying the miner to an examination conducted pursuant to this paragraph shall be permitted to observe the examination and testing of the miner conducted by the physician selected by an operator or carrier; and

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(4) Any examination conducted pursuant to this paragraph shall not entail surgical procedures, or any testing or procedures which may be injurious to the health of the miner; and

(5) The physician selected to conduct an examination pursuant to this paragraph shall not be a regular employee of the operator or carrier unless the miner consents to be examined by such physician; and

(6) In the event that two or more operators and/or carriers request that the miner submit to examination(s) pursuant to this section, such examination(s) shall if practicable be conducted at approximately the same time and place. No miner shall be required to submit to multiple examinations at the request of two or more operators and/or carriers unless so ordered for good cause shown.

(c) The findings of any physician selected by an operator or carrier pursuant to paragraphs (a) and (b) of this section shall, unless circumstances justify a different procedure, be mailed to the appropriate adjudication officer and the claimant's duly authorized representative within twenty days after the date of the examination of the miner or review of previously submitted medical evidence. A copy of such findings may be sent to the claimant upon request unless the physician making such findings indicates that such disclosure may adversely affect the claimant.

(d) The findings of any physician selected by an operator or carrier pursuant to paragraphs (a) and (b) of this section, which are predicated upon the results of a roentgenographic examination or re-reading of an x-ray film previously taken, shall be made on Department of Labor Form CM–933 or shall be made pursuant to:

(1) The ILO–U/C International Classification of Radiographs of Pneumoconioses, 1971; or

(2) The International Classification of Radiographs of the Pneumoconioses of the International Labor Office, Extended Classification (1968); or

(3) The Classification of the Pneumoconioses of the Union International Contra Cancer/Cincinnati (1968).

A roentgenographic interpretation not made in accordance with the requirements of this paragraph shall not constitute evidence of the presence or absence of pneumoconiosis.

(e) All reasonable expenses including travel expenses incurred in connection with an examination or review of medical test results conducted pursuant to this section shall be paid by the operator or carrier requesting such review or examination. Reasonable travel expenses and fees, if appropriate, incurred or charged by a person selected by a miner to accompany him or her to such examination pursuant to paragraph (b)(3) of this section, shall be paid by the operator or carrier requesting such examination.

(f) If the miner unreasonably refuses to submit to an examination by a physician selected by the operator, the appropriate adjudication officer may, by order suspend the payment of benefits and further development of the claim during such time as such refusal continues.

5. It is proposed to revise § 725.302 as follows:

§ 725.302 Operator defined.

Section 3(d) of the Act defines "operator" for purposes of the Act to mean "any owner, lessee, or other person who operates, controls, or supervises a coal mine." In keeping with the congressional mandate that operators assume liability for pneumoconiosis benefits to the fullest extent possible the above cited definition of operator shall be liberally construed. In each case an effort shall be made to attribute liability to that individual or business entity most directly responsible for the operation and control of any particular coal mine. However, in appropriate cases where, for instance, the individual or business entity most directly connected with the mine site has not obtained insurance or been authorized to self-insure and is insolvent or is no longer in existence, or does not have sufficient assets to guarantee the payment of future benefits and such individual or business entity is a subsidiary corporation, or a part of a joint venture or partnership, or is or was substantially controlled or owned by another business entity, such other corporation, partnership, joint venture or other business entity, regardless of the primary or diverse nature of its business activity, may be considered an "operator for purposes of sections 415, 422, and 423 of Title IV of the Act. In addition, any other business entity, whose employees may be considered miners as defined in section 402(d) of Title IV of the Act by virtue of the fact that such employees are employed in a coal mine as defined in section 3(h) of the Act, may be considered an operator for purposes of sections 415, 422, and 423 of Title IV of the Act with respect to such employees. Standard workers' compensation tests may be applied to determine the real identity of the employer of any particular employee.

6. It is proposed to amend § 725.304 as follows:

§ 725.304 Prior operator, successor operator.

(a) Section 422(i)(1) of the Act provides that any coal mine operator who on or after December 30, 1969, acquired his mine or substantially all the assets of his mine from a prior operator who was an operator of that mine on or after December 30, 1969, shall be liable for and shall, in accordance with section 423 of the Act and Part 726 of this subchapter, secure the payment of all benefits which would have been payable by the prior operator with respect to miners previously employed in that mine if the acquisition had not occurred and the prior operator had continued to operate the mine.

(b) Section 422(i)(2) of the Act further provides that nothing contained in section 422(i)(1) shall relieve any prior operator of any liability which such prior operator may have incurred under the Act. The stated congressional objective supporting the enactment of section 422(i) is to prevent a coal operator from circumventing the coal operator liability provisions of Part C of the Title IV of the Act by entering into corporate or other business transactions which make the assessment of liability against such coal operator a financial or legal impossibility. Accordingly, a coal operator (prior operator) who sells a mine or mines or substantially all the assets thereof shall remain primarily liable for the payment of benefits under this part predicated upon employment in such mine or mines unless such prior operator either (1) was not a coal mine operator as defined in this chapter after June 30, 1973 or (2) is not financially responsible (see § 725.321). The sale of a mine or mines or the assets of such mine or mines by an ongoing coal mine operator whose coal mining or preparation business continues beyond the date of such sale or transfer shall not be sufficient grounds in and of itself upon which to invoke the exception contained in section 422(i) of the Act. However, if an operator after December 30, 1969, has sold one or all of such operator's mines or substantially all the assets thereof to a successor operator and such prior operator is no longer in existence, or no longer in the coal business, and was never required to secure insurance or qualify as a self-insurer with respect to potential liability under this part, or is not otherwise financially responsible (see § 725.321), such successor operator shall, if appropriate, be responsible for the payment of benefits as required by this part with respect to liability arising out of employment with such prior operator in the mine or mines sold to such successor operator.

(c) Nothing in the section shall be construed to preclude the assessment of liability against a coal mine operator under circumstances not addressed in this section.

7. It is proposed to amend paragraphs (a) and (c)(2) of § 725.311 as follows:

§ 725.311 Criteria for identifying a responsible operator.

* * * * * *

(a) *Periods of employment.*—(1) *Cumulative employment.* From the evidence presented of the miner's employment history, the identity of the coal mine operator or operators with whom the miner had the most recent periods of cumulative employment of not less than one year and the beginning and ending dates of such periods shall be ascertained. However, no period of employment terminating more than 15 years prior to the miner's last date of coal mine employment shall be accumulated for the purposes of establishing the one year period described in this paragraph. Continuous periods of employment shall not be split for the purposes of this paragraph. If a miner was regularly and continuously employed by an operator both before and after a date 15 years prior to such miner's last date of coal mine employment, such miner's entire period of employment with such operator may be accumulated for the purpose of establishing the one year period described in this paragraph.

(2) *One cumulative year defined.* For the purposes of this section, there shall be a rebuttal presumption that a miner has worked for a particular coal operator for a period of one cumulative year if such miner was employed by such operator for a cumulative total of four calendar quarters. This presumption may be rebutted if evidence demonstrates that such miner was not employed for a cumulative period of at least 200 working days during the four or more calendar quarters upon which the determination that a miner was employed by a particular operator for one cumulative year is based.

(3) *Working day defined.* For the purpose of this section the term "working day" shall mean any day or any part of a day during which a miner performed services for pay in the furtherance of the business of the coal mine operator identified as the responsible operator pursuant to the provisions of this section. Periods of excused absence from work such as sick or vacation days, whether with or without pay, shall be considered working days for the purposes of this part.

* * * * * *

(c) *Determination of responsible operator.* (1) * * *

(2) If the operator described in paragraph (c)(1) of this section is a prior operator as described in § 725.304 who, on or after December 30, 1969, transferred his coal mining business or substantially all the assets thereof to a successor operator, or if such business or assets was subsequently transferred to a successor to such successor operator as described in § 725.304, such successor operator who has most recently acquired the coal mining operations in question or substantially all of the assets thereof shall if financially responsible be deemed the responsible operator. If such successor operator is not financially responsible any prior operator or any operator in the chain of succession, beginning with the most recent operator, who acquired the coal mining business in question or substantially all of the assets thereof on or after December 30, 1969, and who is financially responsible may be determined to be the responsible operator. Any successor operator may be determined to be the responsible operator with respect to a claim whether or not the miner on whose total disability or death the claim is predicated was employed by such successor operator for any period of time.

* * * * * *

8. It is proposed to revise § 725.461 as follows:

§ 725.461 Evidence.

In making an investigation or inquiry or conducting a hearing the administrative law judge shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by 5 U.S.C. 554 and this part. He may conduct such investigation or inquiry as to best ascertain the rights of the parties.

§ 725.472 [Reserved]

9. It is proposed to revoke § 725.472.

Signed at Washington, D.C., this 11th day of August 1976.

JOHN C. READ,
Assistant Secretary for Employment Standards.

[FR Doc.76-24080 Filed 8-16-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.79]

AID REPRESENTATIVE, BRAZILIA, BRAZIL

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, Brazilia, Brazil, the authority to sign or approve:

1. U.S. Government contracts, and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitations.

3. Grants (other than grants to foreign governments or agencies thereof), and amendments thereto, for technical assistance, provided that the aggregate amount of each individual grant does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing in whole or in part, by said AID Representative at his discretion to the person or persons designated by the AID Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer for AID programs, or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated to the AID Representative may be exercised by duly authorized persons who are performing the functions of the AID Representative in an acting capacity.

Redelegations of Authority 99.1.36 (38 FR 29498), dated September 28, 1973, as amended (41 FR 12720), dated March 9, 1976, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by actions of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority shall be effective immediately.

Date: August 9, 1976.

RUSSELL DILTS,
Acting Director,
Office of Contract Management.

[FR Doc.76-23994 Filed 8-16-76;8:45 am]

[No. 99.1.71]

GLENWOOD P. ROANE

Cancellation of Redelegation of Authority

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 (38 FR 12836), dated May 1, 1973, from the Assistant Administrator for Program and Management Services, I hereby revoke Redelegation of Authority No. 99.1-71 to Glenwood P. Roane (40 FR 21744). This revocation is effective immediately.

Dated: August 2, 1976.

HUGH L. DWELLEY,
Director Office of
Contract Management.

[FR Doc.76-23993 Filed 8-16-76;8:45 am]

Agency for International Development

RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on October 12 and 13, 1976, at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room "C", to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of food and nutrition, and health and population. The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Erven J. Long, 21st and Virginia Avenue, N.W., Washington, D.C., 20523, or call area code 202-632-3800.

Dated: August 10, 1976.

ERVEN J. LONG,
A.I.D. Representative,
Research Advisory Committee.

[FR Doc.76-24036 Filed 8-16-76;8:45 am]

Office of the Secretary

[Public Notice 494]

PRESIDIO COUNTY, TEXAS

International Bridge Permits

Notice is hereby given that on July 2, 1976, the Deputy Secretary of State determined that issuance of a permit authorizing Presidio County, Texas, to construct, operate and maintain an international bridge in the vicinity of Presidio County, Texas, would serve the national interest. The Deputy Secretary accordingly signed a permit authorizing Presidio County to do so, subject to stated conditions, in accordance with the International Bridge Act of 1972 and Executive Order 11423.

Thereafter, as required by section 1(f) of E.O. 11423, the Department of State gave written notice to concerned agencies of the Deputy Secretary's determination and of the proposed issuance of the permit. No agency has requested that the matter be referred to the President for decision in accordance with section 1(f) of E.O. 11423.

The fifteen day notification period under section 1(f) of E.O. 11423 having expired, the Department of State has issued and transmitted to Presidio County, Texas, a permit authorizing the County to construct, operate and maintain an international bridge in the vicinity of Presidio, Texas.

For the Secretary of State.

Dated: August 4, 1976.

GERALD A. ROSEN,
Acting, Assistant Legal Adviser
for Economic and Business
Affairs.

[FR Doc.76-23917 Filed 8-16-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

McGHEE-TYSON AIRPORT, TENNESSEE

Environmental Determination Regarding Transfer of KC-135 Tankers

AUGUST 3, 1976.

On April 9, 1976 the Department of the Air Force announced in the FEDERAL REGISTER (page 15036) its intent to prepare Environmental Impact Statements on certain proposed management actions announced by Secretary of the Air Force Thomas C. Reed on March 11, 1976.

Among the actions for which an Environmental Impact Statement was to be prepared was the transfer of KC-135 tankers to the Air Reserve Forces unit at McGhee-Tyson Airport, Tennessee.

After careful review of a thorough and complete Environmental Impact Assessment it has been concluded on July 30, 1976 that the proposed replacement of the KC-97L aircraft, now at McGhee-Tyson Airport, with the KC-135 aircraft does not constitute a major Federal action significantly affecting the quality of the human environment nor is it likely to be highly controversial with regard to its environmental impacts. This conclusion was based on the following:

(a) The primary environmental impact would be an increase in the ambient noise levels. This would result in an increase in the area delineated by the Day-Night Average Sound Level system in which it is recommended that certain activities be restricted. Programmed installations of sound suppressors on the engine test cell, maximum feasible scheduling of ground runups for periods when they will be less noticed (usually daylight hours) and a variety of operational procedures will minimize the impact from the increased noise levels.

(b) The changes in air pollutants emissions will be a very slight increase in the emissions of particulates, sulfur oxides and nitrogen oxides and a decrease in the carbon monoxide and hydrocarbon emissions. Air quality at McGhee Tyson Airport is now excellent and would continue to be so if this proposal is implemented. When operating with water thrust augmentation, the KC-135 emits a visible plume which is mostly water vapor, dissipates rapidly and contributes virtually nothing in the way of real pollutants.

(c) The proposed action has been widely publicized in the local area. There is substantial local support for the proposed conversion and no known significant controversy.

For the reasons outlined above, the United States Air Force has decided not to file a Draft Environmental Statement with the Council on Environmental Quality but has prepared an Environmental Determination.

Copies of the Environmental Determination and the supporting documentation are available upon request to HQ USAF/PREV, Pentagon, Washington, D.C. 20330.

JAMES L. ELMER, Major,
USAF, Executive
Directorate of Administration.

[FR Doc.76-23903 Filed 8-16-76;8:45 am]

Department of the Navy

UNDERWATER SOUND ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Underwater Sound Advisory Committee (USAC) will meet on September 20, 1976, at the Navy Underwater Systems Center, New London Laboratory, New London, Connecticut. The meeting will commence at 1:00 p.m. The purpose of the meeting is to discuss the following topics: status of 31st Biannual Symposium on Underwater Acoustics; recent approval of USAC as a formally recognized Navy advisory committee; proposed joint sponsorship of USAC by Chief of Naval Research and Chief of Naval Development; recently completed USAC report on 6.1 (budget appropriations for research) sponsored research in acoustics; future mini-symposia/workshops; USAC sub-committees; towed array symposium; and scheduling of next USAC meeting.

Dated: August 10, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-24032 Filed 8-16-7;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 28415, 28418 and 28419]

NEW MEXICO

Applications

AUGUST 4, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has apllied for three 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 9 W.,
Sec. 9, S½NW¼;
Sec. 15, SW¼SE¼;
Sec. 27, NW¼NW¼.

These pipelines will convey natural gas across .257 of a mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.76-24034 Filed 8-16-76;8:45 am]

[S-524]

CALIFORNIA

Designation of Negit Island Natural Area; Correction

AUGUST 10, 1976.

In FR Doc. 72-15242, appearing on pages 18224 and 18225 of the issue of Friday, September 8, 1972, the following correction should be made:

T. 2 N., R. 26 E.,
Secs. 13 and 14 should be
T. 2 N., R. 26 E.,
Secs. 13 and 24.

ED HASTEY,
State Director.

[FR Doc.76 24033 Filed 8-16-76;8:45 am]

BURNS DISTRICT ADVISORY BOARD

Meeting

Notice is hereby given that the Burns District Advisory Board will meet on September 16 and 17, 1976, commencing at 8:30 a.m. on September 16 in the Burns District Office at 74 S. Alvord St., Burns, Oregon. The agenda will include a tour of the Drewsev Resource Area on September 16 and on September 17 a discussion of the Drewsey Environmental Statement and a slide presentation of wilderness proposals will be held in the district office and a tour of the horse holding facility will be held in the afternoon.

The meetings will be open to the public. Transportation on the tour of Drewsey Area will be furnished for board members only, the public will be required to provide their own transportation and meals. In addition to discussion of agenda topics by board members, there will be time for brief statements by nonmembers. Persons wishing to make oral statements should so advise the chairman or co-chairman prior to the meeting, to aid in scheduling the time available. Any interested person may file a written statement for consideration by the board by sending it to the chairman, in care of the co-chairman: Burns District Manager, 74 S. Alvord, Burns, Oregon, 97720.

JEROME M. HEINZ,
Acting District Manager.

AUGUST 6, 1976.

[FR Doc.76-23905 Filed 8-16-76;8:45 am]

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MONTROSE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

AUGUST 10, 1976.

Notice is hereby given that the Montrose District, Bureau of Land Management Multiple Use Advisory Board will meet September 28 & 29, 1976.

The meeting will begin at 8 a.m., September 28, 1976, in the Montrose District Office, Highway 550 South, Montrose, Colorado.

The agenda for the meeting will include a field trip to view mineral development and associated activities in the Montrose District on the first day. The second day's agenda will include a review of progress and plans for completion of the Uncompahgre Basin Livestock Grazing Environmental Statement and coal development plans in the North Fork of the Gunnison region for the purpose of receiving Advisory Board recommendations.

The meeting is open to the public. Interested persons may make brief oral presentations to the Board on September 29, 1976, at the Montrose District Office, or present written statements. Persons who wish to make oral statements should notify the Montrose District Manager, P.O. Box 1269, Montrose, Colorado 81401 (Phone No. 403/249-7791) prior to the meeting.

AUGUST 10, 1976.

MARLYN V. JONES,
District Manager.

[FR Doc.76-24035 Filed 8-16-76;8:45 am]

PRINEVILLE DISTRICT ADVISORY BOARD

Meeting

Notice is hereby given that the Prineville District, Bureau of Land Management Multiple Use Advisory Board will meet September 30, 1976, at 9:00 AM in the conference room of the Prineville District office at 185 E. Fourth Street, Prineville, Oregon 97754.

Subjects to be discussed at the meeting include: the district's oil and gas leasing program, the geothermal leasing program, allotment management plans and the high desert grazing Environmental Impact Statement, management framework planning for the Prineville and vicinity planning unit, the Bear Creek watershed program, proposed regulations for grazing and off-road vehicle use, the fiscal year 1977 annual work plan, and formulation of an agenda for the next meeting.

The meeting is open to the public; any person or group wishing to make a presentation will be limited to a 15 minute presentation and must notify the District Manager prior to September 25.

Further information concerning the meeting may be obtained from Paul Arrasmith, District Manager of the Prineville District, phone number 503-447-4115.

REINARD B. OKESON,
Acting District Manager.

AUGUST 9, 1976.

[FR Doc.76-23907 Filed 8-16-76;8:45 am]

SALT LAKE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given in accordance with P.L. 92-463 that a meeting of the Salt Lake District Multiple Use Advisory Board will be held September 15 and 16, 1976, commencing at 8:00 a.m. at the Salt Lake District Office at 2370 South 2300 West in Salt Lake City, Utah. The subject Advisory Board was established to advise the District Manager on matters pertaining to multiple use management in the Salt Lake District.

The first day will consist of a field trip of the Randolph Planning Unit including the Crawford Mountain phosphate mining area, the Big Creek fisheries and enclosure, the Woodruff Pastures Allotment and the on-going oil and gas activity.

The second day will commence with a formal meeting at the Ramada Inn at Evanston, Wyoming at 8:00 a.m. The meeting will continue until approximately 12:00 noon and will consist of brief presentations and discussion on the following topics:

1. Discussion and feed-back from the previous Advisory Board meeting, May 25, 26 and 27, 1976.
2. Phosphate mining program and prospecting permits in Rich County.
3. The range management program in Rich County.
4. Randolph Planning efforts.
5. Oil and gas activity in Rich County.

The second day will continue with the tour from 1:00 p.m. until arrival back in Salt Lake at approximately 6:00 p.m.

The meeting is open to the public. Members of the public must provide their own transportation, meals and accommodations. Time will be made available at 11:00 a.m. for oral statements from the public; however, requests for oral presentations before this Board should be made to the official listed below at least two days prior to the meeting. Topics must be those included in the agenda. The Chairman or Authorized Federal Official may limit public attendance to the extent that available facilities and time require limitation.

Further information concerning this meeting may be obtained from Rulon McRae, Acting District Manager, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119, telephone number (801) 524-5348. Minutes of the meeting will be available for public inspection and copy thirty days after the meeting at the Salt Lake District Office.

Dated: August 9, 1976.

RULON G. MCRAE,
Acting District Manager.

[FR Doc.76-23988 Filed 8-16-76;8:45 am]

[Serial Number A 9613]

ARIZONA

Proposed Withdrawal and Reservation of Lands

The Department of the Army, United States Army Engineer District, Los Angeles, Post Office Box 2711, Los Angeles, California 90053, has filed an application Serial Number A 9613, for the withdrawal of public lands and mineral estates from entry and appropriation under the public land laws and the general mining laws, including the mineral leasing laws, subject to valid existing rights.

It is proposed to withdraw the following described lands from all forms of appropriation under the public land laws and from location and entry under the general mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 N., R. 3 E.,
Sec. 3, lots 3 and 4, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 4, lots 1, 2, 5, 6, 7, 8, 9, and 10, S½SE¼ and E½SW¼.

The areas described aggregate 534.19 acres in Maricopa County.

The surface of the following described lands has been transferred out of Federal ownership with minerals reserved to the United States; it is proposed to withdraw the mineral estate from location and entry under the mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 N., R. 3 E.,
Sec. 3, N½SE¼NE¼.
T. 5 N., R. 3 E.,
Sec. 27, S½S½NW¼;
Sec. 33, lots 1, 2, 3, and 4, NE¼, W½SE¼, SE¼SE¼NW¼, and NE¼SW¼;
Sec. 34, lot 1, N½, NE¼SW¼, and S½SW¼.

The areas described aggregate 884.97 acres in Maricopa County.

The lands are needed for the construction, operation, and maintenance of a congressionally authorized flood control project and proposed recreational development. The lands are required either for the location of the dam and appurtenances or are within the reservoir area. Recreational development is proposed as a concurrent use. The intended using agency is the Flood Control District of Maricopa County, a political subdivision of the State of Arizona, 3325 West Durango Street, Phoenix, Arizona 85009.

On or before September 16, 1976, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

Dated: August 6, 1976.

GLENDON E. COLLINS,
Acting State Director.

[FR Doc.76-23906 Filed 8-16-76;8:45 am]

National Park Service

[Order No. 1, Amdt. 3]

SUPERINTENDENTS, ET AL., ROCKY MOUNTAIN REGION

Delegation of Authority

Order No. 1, approved February 27, 1974, and published in the FEDERAL REGISTER of April 5, 1974 (39 FR 12369); Amendment No. 1, approved January 29, 1975, and published in the FEDERAL REGISTER of March 31, 1975 (40 FR 14346); and Amendment No. 2, approved April 12, 1976, and published in the FEDERAL REGISTER of May 14, 1976 (41 FR 19994), set forth in Section 2 the limitations on delegations of authority. Section 2, paragraphs (e) and (g) are hereby amended to read as follows:

SEC. 2, *Delegation.* * * * (e) *Regional Purchasing Agents.* The Regional Purchasing Agents may execute and approve purchase orders not in excess of $10,000 for equipment, supplies, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be executed by the Regional Purchasing Agents in behalf of any office or area for which the Rocky Mountain Regional Office serves as the field finance office.

(g) *Field Land Acquisition Officers.* The Field Land Acquisition Officers, Glacier National Park, Grand Teton National Park and Utah Lands Office are authorized to execute their land acquisition program including contracting for acquisition of lands and related property and acceptance of offers to sell to or exchange with the United States, land or interest in lands, and to execute all necessary agreements and conveyances incidental thereto when the amount does not exceed $150,000. Said authority will be exercised in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) as amended)

Dated: June 1, 1976.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

[FR Doc.76-24027 Filed 8-16-76;8:45 am]

CAPE LOOKOUT NATIONAL SEASHORE, NORTH CAROLINA; STATEMENT FOR MANAGEMENT

Public Meetings

The National Park Service of the Department of the Interior will hold two pre-planning public meetings in North Carolina during September 1976. The purpose of these meetings is to obtain the public's suggestions and information on suggested alternatives for management protection and development of Cape Lookout National Seashore.

The meetings will be held September 14, 1976, at 7 p.m. at Jane S. McKimmon Extension Education Center, North Carolina State University, P.O. Box 5125, Raleigh, North Carolina 27607, located off Western Boulevard and Gorman Street; and September 16, 1976, at 7 p.m. at North Carolina Marine Resources Center/Bogue Banks, Route 1, Bridge Road, Pine Knoll Shores, Morehead City, North Carolina 28557, located 6 miles west of Atlantic Beach off Salter Path Road in Pine Knoll Shores. Comments and suggestions for incorporation in an Environmental Assessment will be received until October 18, 1976.

Anyone needing more information on the public meetings, National Park Service Planning Process, or wishing to submit comments or suggestions on Cape Lookout National Seashore may write to the Superintendent, Cape Lookout National Seashore, P.O. Box 690, Beaufort, North Carolina 28516.

Dated: July 30, 1976.

DAVID G. WRIGHT,
Acting Regional Director,
Southeast Region.

[FR Doc.76-24023 Filed 8-16-76;8:45 am]

ROCKY MOUNTAIN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Rocky Mountain Regional Advisory Committee will be held on September 22-23, 1976, at Grand Teton National Park, Moose, Wyoming; September 23-24, 1976, at Yellowstone National Park, Wyoming; and on September 25, 1976, at Bighorn Canyon National Recreation Area, Lovell, Wyoming.

The purpose of the Rocky Mountain Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Rocky Mountain Region of the National Park Service.

The members of the Advisory Committee are as follows:

Dr. John D. Hunt, Logan, Utah (Chairman); Mr. Ralph M. Clark, Denver, Colorado; Mr. Hoadley Dean, Rapid City, South Dakota; Mr. William W. Robinson, Denver, Colorado; Mrs. Alice Fryslie, Bozeman, Montana; Mr. Sanmuel J. Taylor, Moab, Utah; Mr. D. C. "Del" Shipman, Watford City, North Dakota; and Mr. Vince R. Lee, Wilson, Wyoming.

The meetings and onsite inspections will be conducted in different locations as follows:

September 22—
9 a.m.: Tour Grand Teton National Park.
1 p.m.: Public meeting at the Brinkerhoff House, Grand Teton National Park to discuss the following topics: (1) Grand Teton National Park Boundary Study; (2) Regional Transportation Study; (3) Proposed 115 kV transmission line from Jackson to Grand Teton National Park.

September 23—
9 a.m.: Additional onsite tours.
1 p.m.: Depart via bus for Yellowstone National Park.

September 24—
9 a.m.: Tour Yellowstone National Park.
1 p.m.: Public meeting at Old Faithful Inn, Yellowstone National Park to discuss the following topics: (1) Concessions management including Grant Village; (2) Fire Management; (3) Bear management; (4) The Yellowstone Institute.
8 p.m.: Depart for Lovell, Wyoming.

September 25—
11 a.m.: Dedication of Lovell Visitor Center, Bighorn Canyon National Recreation Area, Lovell, Wyoming.

Persons wishing information concerning this meeting or who wish to submit written statements may contact the Superintendents of Grand Teton and Yellowstone National Parks or Committee Manager Forrest Benson, Rocky Mountain Regional Office, National Park Service, Denver, Colorado 80225. Telephone: (303) 234-4943.

Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at the Rocky Mountain Regional Office, 655 Parfet Street, Denver, Colorado.

Dated: August 6, 1976.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

[FR Doc.76-24025 Filed 8-16-76;8:45 am]

V41160 AUG 17 76 UMI

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 6, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 27, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Lee County

Opelika, *U.S. Post Office*, 701 Avenue A.

ALASKA

Anchorage Division

Anchorage, *Bieri, Sam, House*, 136 W. 7th Ave.

Kuskokwim Division

Shageluk vicinity, *Iditarod, SE of Shageluk.*

ARIZONA

Maricopa County

Phoenix, *Evans House*, 1108 W. Washington St.

CALIFORNIA

Los Angeles County

Walnut, *Rowland, W. R. Ranch House*, 130 Avenida Alipaz.

Santa Clara County

San Jose, *Roberto-Sunol Abode*, 770 Lincoln Ave.

Yolo County

Davis, *Dresbach-Hunt-Boyer House*, 604 2nd St.

DELAWARE

New Castle County

Newark vicinity, *Eastburn-Jeanes Lime Kilns Historic District*, N of Newark on Limestone Rd. (DE 72).

New Castle County

Wilmington, *Friends Meetinghouse*, 4th and West Sts.
Wilmington, *Old Asbury Methodist Church*, Walnut and 3rd Sts.

GEORGIA

Fulton County

Atlanta, *Peachtree Southern Railway Station*, 1688 Peachtree St., NW.

KENTUCKY

Jefferson County

Louisville, *Louisville City Hall Complex*, 601, 603, 617 W. Jefferson St.

MAINE

Androscoggin County

Auburn, *Foss, Horatio G., House*, 19 Elm St.
Cumberland County

Brunswick, *Lincoln Street Historic District*, Lincoln St. between Main and Union Sts.
Falmouth, *Falmouth House*, 340 Gray Rd.
North Falmouth vicinity, *Falmouth House*, 340 Gray Rd.

Hancock County

Sunset vicinity, *Olmsted, Frederick Law, Summer Home*, SSW of Sunset on Deer Isle.

Kennebec County

Waterville, *First Baptist Church*, Park and Elm Sts.

Lincoln County

Walpole vicinity, *Walpole Meetinghouse*, N of Walpole on Meeting House Rd.

Penobscot County

Dixmont, *Bussey, Louis I., School*, U.S. 202.
North Brewer vicinity, *Penobscot Salmon Club and Pool*, N. Main St.

Piscataquis County

Dover-Foxcroft, *Wiley, James Sullivan, House*, Main St.

Waldo County

Belfast, *First Church of Belfast*, Church St.

Washington County

Machias, *The Lion* (locomotive), University of Maine at Machias.
Machias, *Washington County Courthouse*, Court St.

York County

Saco, *Thacher-Goodale House*, 121 North St.
York Corner vicinity, *Barrell Homestead*, W of York Corner on Beech Ridge Rd.

MARYLAND

Somerset County

Princess Anne, *Manokin Presbyterian Church*, N. Somerset Ave.

MASSACHUSETTS

Berkshire County

Lee, *Hyde House*, 114 W. Park St.

Bristol County

Fall River, *U.S.S. Joseph P. Kennedy Jr. Battleship Cove.*
Fall River, *U.S.S. Lionfish*, Battleship Cove.
Fall River, *U.S.S. Massachusetts*, Battleship Cove.

Worcester County

Royalston, *Royalston Common Historic District*, Main St., Frye Hill Rd., and Athol Rd.

MONTANA

Cascade County

Great Falls, *Great Falls Central High School*, 1400 1st Ave. N.

Missoula County

Missoula, *Missoula County Courthouse*, 220 W. Broadway.

Silver Bow County

Butte, *Clark, Charles W., Mansion*, 108 N. Washington St.

NEW JERSEY

Passaic County

North Haledon vicinity, *Van Duyne House*, NW of North Haledon on Berdan Ave.

NEW YORK

Delaware County

Delhi vicinity, *Frisbee, Judge Gideon, House*, NE of Delhi on NY 10.

Nassau County

Lawrence, *Rock Hall*, 199 Broadway.

Oyster Bay, *First Presbyterian Church of Oyster Bay*, E. Main St.
Westbury vicinity, *Phipps, John S., Estate*, 71 Old Westbury Rd.

Otsego County

Oneonta, *Oneonta State Normal School*, State St.

OHIO

Columbiana County

East Liverpool, *East Liverpool Post Office*, 5th and Broadway Sts.

Crawford County

Galion, *Central Hotel, Hackedorn and Zimmerman, Buildings*, Harding Way E. and Market St.

Cuyahoga County

Cleveland, *Rockefeller Park Bridges*, Rockefeller Park.
Lakewood, *Honam, John, House*, 14710 Lake Ave.

Fairfield County

Amanda vicinity, *Allen, Lyman, House*, NW of Amanda on OH 188.

Franklin County

Columbus, *Trinity Episcopal Church*, 125 E. Broad St.

Hamilton County

Cincinnati, *Mecklenburg's Garden*, 302 E. University Ave.
Sharonville, *Twelve Mile House*, 11006 Reading Rd.

Knox County

Mt. Vernon, *East Gambier Street District*, 100–519 E. Gambier St.

Lucas County

Toledo, *Toledo Yacht Club*, Bay View Park.

Miami County

Casstown vicinity, *Saunders, Elizabeth Sheets, Farm*, 4525 McCandless Rd.

Montgomery County

Dayton, *Reynolds, John R., House*, 24 Klee St.

Tuscarawas County

Dennison, *Pennsylvania Railroad Depot and Baggage Room*, Center St.

OKLAHOMA

Bryan County

Durant, *Oklahoma Presbyterian College*, 601 N. 16th St.

Comanche County

Lawton vicinity, *Meers Mining Camp*, about 20 mi. NW of Lawton.

Delaware County

Jay vicinity, *Polson Cemetery*, NE of Jay.

LeFlore County

Cameron vicinity, *Reynolds, James E., House*, E of Cameron off OK 112.

Oklahoma County

Oklahoma City, *Central High School*, 700 N. Robinson.
Oklahoma City, *Goldbug Building*, NW 25th and Florida Sts.
Oklahoma City, *Oklahoma City Discovery Well*, SE 57th St. and ITIO Blvd.
Oklahoma City, *St. Paul's Cathedral*, 127 NW 7th St.

PENNSYLVANIA

Centre County

Bellefonte, *Centre County Courthouse*, High St.

Bellefonte, *Miles-Humes House*, 203 N. Allegheny St.
Bellefonte, *Thomas Homestead*, 266 N. Thomas St.
Rebersburg vicinity, *Centre Mills*, SW of Rebersburg off PA 445.

Montgomery County

For Washington, *Quaker Manor House*, 1165 Pinetown Rd.
Montgomeryville vicinity, *Knapp Farm*, S of Montgomeryville off PA 309.

Philadelphia County

Philadelphia, *Eyre, Wilson, House*, 1003 Spruce St.
Philadelphia, *Roberts-Quay House*, 1035–1037 Spruce St.
Philadelphia, *St. James Hotel*, 1226–1232 Walnut St.

RHODE ISLAND

Bristol County

Barrington, *Barrington Civic Center*, County Rd. (RI 103/114).

TENNESSEE

Hardin County

Savannah, *Cherry Mansion*, 101 Main St.

VIRGINIA

Accomack County

Accomac, *Debtors' Prison*, VA 764.

Albemarle County

Charlottesville vicinity, *Shack Mountain*, 2 mi. NNW of Charlottesville off jct. of VA 657 and 743.
Covesville vicinity, *Sunny Bank*, NE of Covesville, 1.3 mi. W of jct. of VA 712 and 631.

Chesterfield County

Chester, *Chester Presbyterian Church*, Osborne Rd. and VA 10.
Chesterfield, *Castlewood (Poindexter House)*, VA 10.

Hanover County

Studley vicinity, *Totomoi*, W of Studley on VA 643.

Middlesex County

Urbanna, *Middlesex County Courthouse*, off VA 602.

Waynesboro (independent city)

Coiner-Quesenbery House, 332 W. Main St.

[FR Doc.76-23672 Filed 8-16-76;8:45 am]

POTOMAC RIVER WITHIN ORIGINAL BOUNDARIES OF THE DISTRICT OF COLUMBIA

Permit Requirement

Notice is hereby given that the Secretary of the Interior, acting through the Director, National Park Service, requires that any persons undertaking activities which may impact on the proprietary interests of the United States in the existing bed of the Potomac River within the original boundaries of the District of Columbia (except for that portion of the bed lying within the pierhead line on the District of Columbia side of the river) must have a permit from the National Park Service authorizing such activities. Such permit requirement is in addition to requirements of other governmental agencies, including the United States Army Corps of Engineers, and will be administered according to the following policies and procedures.

1. TYPE OF ACTIVITY REQUIRING PERMIT

Dredging, trenching, boring, tunneling, laying of pipes, cables or utility lines, installation of piling, posts, piers, or mooring structures, construction of footings, foundations or permanent anchors or holding tanks, the setting of fencing, walls or riprap, filling, or other activities which may impact on the proprietary interests of the United States in the bed of the Potomac.

2. APPLICATION FOR PERMIT

Applications for permit to undertake such activities and the submission of required supporting documentation shall be submitted to:

Director, National Capital Parks, 1100 Ohio Drive, SW., Washington, D.C. 20242.

3. SUPPORTING DOCUMENTATION

The following materials, and other information if deemed necessary by the National Park Service, are to be submitted with permit applications:

(i) Construction plans (if any);
(ii) Narrative description of the proposed activity, including;
(a) Nature of the activity;
(a) Description of physical area involved;
(c) Anticipated impact on the natural environment and the bed of the river;
(d) Projected duration of the activity.
(iii) Letters or permit or approval from other jurisdictions concerned with the activity.

4. STANDARDS AND CONDITIONS

Permits will be issued in the discretion of the Secretary where the proposed activity is consistent with the protection of the United States' interests in the bed of the river, including environmental, health and safety considerations.

NATHANIEL P. REED,
Assistant Secretary, Fish, Wildlife and Parks.

AUGUST 3, 1976.

[FR Doc.76-24026 Filed 8-16-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-370]

BETHLEHEM MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bethlehem Mines Corporation has filed a petition to modify the application of 30 CFR 77.803 to its No. 111 Mine, Kayford-Boone Division.

30 CFR 77.803 provides:

On and after September 30, 1971, all high-voltage, resistance grounded systems shall include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

The substance of Petitioner's statement is as follows:

1. On April 21, 1975, a letter was sent from Mr. J. M. Krese, District Manager, to District 4 personnel. This letter set forth requirements relative to § 77.803. Those additional requirements set forth in the letter are as follows:

1. A grounding circuit, in compliance with § 77.701–3, shall originate at the grounded side of the grounding resistor and shall extend along with the power conductors and shall serve as a grounding conductor for the frames of all equipment receiving power from that circuit.

2. A secondary grounding circuit shall connect the frames of the stationary equipment to a low resistance ground field located near the utilization location.

3. The ohmic value of the grounding resistor and the impedance of the low resistance ground field shall be maintained in such manner that not more than 100 volts will appear between the equipment frame and earth under fault conditions in the event that the grounding conductor shall be severed.

2. On view of the language contained in § 77.803 and as a result of the language contained in Item No. 3 of a letter, dated April 21, 1975, sent from Mr. J. M. Krese, District Manager, to District 4 personnel, local MESA representatives have recently advised Kayford-Boone Division supervisors that certain pole-mounted load transformers supplying power to high-voltage surface installations must be grounded in such a manner that no more than 100 volts difference in potential can exist between the equipment and earth at these locations in the event of a ground fault in the circuit.

3. The Kayford maintenance personnel are presently taking steps to install secondary ground fields at each of the 10 high-voltage stationary pole mounted installations in service. At all but two of these installations the grounded frames of the high voltage equipment are either elevated 18 feet from the ground or fenced by a grounded fence 6 feet high. The remaining two installations will be elevated 18 feet in the near future.

After the aforementioned measures have been completed, the Mine No. 111 ground circuit will afford no less than the same measure of protection afforded the miners by the provisions of § 77.803.

A. For example, the existing ground connection from the pole-mounted load transformer is attached to a triad of rods embedded in the earth. This system has been tested repeatedly and has performed effectively under ground fault conditions. The system conducted sufficient ground fault current during the tests to trip the circuit breaker located at the source transformer.

B. Even though the voltage in the connection between the pole-mounted load transformer and the triad of ground rods under fault conditions might exceed the

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maximum amount specified in Item No. 3 of Mr. Krese's letter, the fact remains that the connection wire itself is well insulated and protected. However, Kayford-Boone Division supervision is currently taking additional steps to assure the safety of the system under fault conditions. The connection wire to the triad of rods which itself is already well insulated and protected will be encased in compartments to supplement the protection already afforded by the insulation.

C. The vertical clearance between the pole-mounted load transformer and the ground meets the requirements of the National Electrical Safety Code, and the vertical clearance is similar to that commonly utilized by major utility companies. This clearance itself offers protection to the miners even under ground fault conditions. Even if the vertical clearance is diminished or eliminated entirely by an employee's climbing the pole to perform certain maintenance work, established safety procedures require that the power to the pole-mounted load transformers be turned off before such maintenance is instituted.

4. Petitioner submits that the strict application of the terms of Item No. 3 of Mr. Krese's letter will actually result in a diminution of safety to the miners. It is virtually impossible to meet the voltage limit described in Item No. 3 of Mr. Krese's letter, but even if that limit were achieved, it would create additional parallel electrical paths which would tend to interfere with the primary function of the ground check system between the source transformer and the circuit breaker located at the mine entrance.

Wherefore, Petitioner requests that the existing ground check circuit at Mine No. 111 be approved because it guarantees no less than the same measure of protection afforded the miners by the provisions of section 77.803, and also because the strict application of the terms of Item No. 3 of Mr. Krese's letter will actually tend to result in a diminution of safety to the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 16, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 6, 1976.

[FR Doc.76-23912 Filed 8-16-76;8:45 am]

[Docket No. M 76-866]

L AND M COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), L and M Coal Company, Inc. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine located at Pennington Gap, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. The equipment being used is not designed for canopies and until such time as the corporation can acquire new equipment, installation of canopies on present equipment is impracticable.

(a) *Scoop.* If a canopy is installed on the scoop, the operator would be forced into a reclining position and his body would protrude over the side of the scoop, creating more hazard than if used in its present state.

(b) *Roof Bolting Machine.* This is an older Wilcox bolting machine and is not big enough to allow for installation of a canopy.

(c) *Continuous Miner.* The coal seam is 48 inches and the height of the miner is 41 inches. Installation of a canopy on this machine would obstruct the view of the operator, creating a hazard.

2. The roof is being supported by roof bolts as per roof control plans at the mine and, to date, no roof falls have occurred in any area of the mine where bolts have been installed. By applying the present roof control plan, whether solid roof or fragile roof, the plan covers any roof condition Petitioner may encounter.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 16, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

AUGUST 6, 1976.

[FR Doc.76-23913 Filed 8-16-76;8:45 am]

Office of the Secretary

REDWOOD NATIONAL PARK

Boundary Modification

Notice is hereby given that the boundaries of Redwood National Park are modified pursuant to the authority contained in Section 2 of the Redwood National Park Act, P.L. 90–545, 82 Stat. 931 (16 U.S.C. 79b(a)), which provides in pertinent part:

The Secretary of the Interior (hereinafter referred to as the "Secretary") may from time to time, with a view to carrying out the purpose of this Act and with particular attention to minimizing siltation of the streams, damage to the timber, and assuring the preservation of the scenery within the boundaries of the national park as depicted on said maps, modify said boundaries, giving notice of any change involved therein by publication of a revised drawing or boundary description in the FEDERAL REGISTER and by filing said revision with the officers with whom the original maps were filed, but the acreage within said park shall at no time exceed fifty-eight thousand acres, exclusive of submerged lands.

The preservation of the scenery and enjoyability of the park, and the purpose of the Act will be better carried out by the inclusion within the park boundaries of the parcel described below. The parcel is adjacent to the present boundary as shown by plats of survey, notice of filing of which was published in the FEDERAL REGISTER October 7, 1971 (36 F.R. 19618). This addition of approximately thirty-three acres does not cause the acreage limitation to be exceeded.

In compliance with the National Environmental Policy Act the National Park Service has prepared an environmental assessment covering this boundary adjustment. The assessment process did not indicate a significant environmental impact from the proposed action and a negative statement is on file in the Western Region, National Park Service, which summarizes the planning considerations of the proposed boundary change.

Effective upon the publication of this notice, the boundary of Redwood National Park is extended to embrace a Portion of Section 35, Township 16 North, Range 1 West, Humboldt Meridian, described as follows: Parcel "1" and "2" as shown on the Parcel Map filed August 10, 1973 in Book 1 of Parcel Maps, page 104, Del Norte County Records and all that portion of Section 35, Township 16 North, Range 1 West, Humboldt Meridian, situated in Del Norte County, California, bounded and described as follows: Beginning at a point in the north line of Section 2, Township 15 North, Range 1 West, Humboldt Meridian, 20 feet east of the quarter corner in said north line of Section 2; thence North 80 feet; thence East 480 feet; thence South 80 feet; thence West 480 feet to the point of beginning.

This boundary modification will be reflected in a revised plat to be filed with the Bureau of Land Management, State Land Office, Sacramento, California, and with the Del Norte County, California Recorder's Office. In addition, copies of the plats of survey will be made available for inspection in the offices of the National Park Service, Department of the Interior.

Done at Washington, D.C., this 10th day of August 1976.

THOMAS S KLEPPE,
Secretary of the Interior.

[FR Doc.76-23989 Filed 8-16-76;8:45 am]

SOUTHWESTERN POWER ADMINISTRATION

Legal Review of Procurement Actions

Pursuant to Department of the Interior Procurement Regulations, 41 CFR 14–1.352, the Southwestern Power Administration has issued procedures regarding the legal review of procurement actions.

In each instance involving the procurement of supplies, services, or construction estimated to cost in excess of $10,000, and in other instances when the Contracting Officer considers review desirable, each Contracting Officer shall request, not less than five working days before proposed procurement action, that the Office of the Regional Solicitor, Tulsa, review for legal sufficiency procurement documents prior to taking the following actions:

1. Issuance of solicitations (Invitations for Bids and Requests for Proposals);

2. Award or modification of contracts;

3. Acceptance of pre-contract documents such as bids, proposals, or bonds;

4. Acceptance of a novation, change of name agreement, notice of assignment, assignment, or release of assignment, pursuant to the Assignment of Claims Act of 1940, as amended;

5. Release of any Contracting Officer's report of communication relative to a protest, alleged mistake in bid, determination of bidder nonresponsibility or determination of bid nonresponsiveness;

6. Execution of findings of fact and final decisions made pursuant to the Disputes Clause, notices of termination, cure notices, show cause letters, suspension orders, and other documents which may have legal effect.

The procedures described herein may be modified by written agreement between the Administrator and the Regional Solicitor, Tulsa.

Any communications regarding this notice should be addressed to the Chief, Branch of General Services, Southwestern Power Administration, Tulsa, Oklahoma 74101.

WILLIAM L. FISHER,
Assistant Secretary of the Interior.

Dated: August 10, 1976.

[FR Doc.76-23989 Filed 8-16-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Agricultural Stabilization and Conservation Service, Department of Agriculture, has prepared a draft environmental statement on the Agricultural Conservation Program (ACP) USDA–ASCS–ES (Leg.) 76–2.

The draft statement reflects proposed changes in the ACP as contained in S. 3299, a bill to amend the Soil Conservation and Domestic Allotment Act published in the Congressional Record on April 13, 1976.

The proposed bill will update the national direction relating to the condition under which the Federal government will provide financial assistance to agricultural producers for needed soil, water, woodland and wildlife conservation on agricultural lands. The principal purpose of the proposed amendment to the Soil Conservation and Domestic Allotment Act is to direct the ACP towards an emphasis on enduring conservation and environmental enhancement practices which otherwise might not be undertaken by farmers without cost-share assistance from the Federal government.

The impact of this program on the environment will generally be beneficial. Major adverse environmental effects are not anticipated in implementing this program. Some minor impacts may occur principally during the implementation of some of the practices such as noise, dust and fumes from machinery operation, soil open for potential erosion, some wildlife habitat disturbed, etc.

This draft statement was filed with the Council on Environmental Quality on July 8, 1976. Copies of the statement have been forwarded to all State clearinghouses, various conservation and environmental organizations and Federal agencies as outlined in the CEQ guidelines. To assist in implementing this program, we wish to receive any comments on the draft statement by September 20, 1976.

Copies of the statement are available for inspection during regular working hours at USDA, Agricultural Stabilization and Conservation Service, Room 4702 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and at all State offices for the Agricultural Stabilization and Conservation Service. A limited number of single copies are available upon request at the Washington, D.C. office.

Comments concerning the draft statement should be addressed to the Director, Environmental Quality and Land Use Division, Agricultural Stabilization and Conservation Service, Room 4091 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

All comments must be received on or before September 20, 1976, in order to be sure of consideration in the preparation of the final environmental impact statement.

Signed at Washington, D.C., on August 11, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-23946 Filed 8-16-76;8:45 am]

Forest Service

CALIFORNIA ADVISORY COMMITTEE TO THE U.S. FOREST SERVICE

Meeting

The California Advisory Committee to the U.S. Forest Service will hold a meeting at 1:30 p.m., September 20, 1976, at Bishop, California and a joint meeting with the California Bureau of Land Management Advisory Committee, September 21 and 22 at Bishop, California and various field locations on the Inyo National Forest. The groups will convene initially at the Forest headquarters, 873 North Main Street, Bishop, California.

The agenda for the Forest Service Advisory Committee will include reports on Regional atttainments in the tree improvement program, wetland projects, land-use planning and wilderness studies, FIRESCOPE and the Resources Planning Act.

The joint committee meeting agenda will include reports and discussions on mining and geo-thermal proposals and land-use planning and management activities where Public Lands and National Forest lands are intermingled.

Public participation is invited, and written statements are welcome, before or after the meeting, by contacting the Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111—Telephone (415) 556–4310. Oral statements can be made by making arrangements with the chairman in advance.

DOUGLAS R. LEISZ,
Regional Forester.

AUGUST 9, 1976.

[FR Doc.76-23902 Filed 8-16-76;8:45 am]

Rural Electrification Administration

BRAZOS ELECTRIC POWER COOPERATIVE, INC. AND SOUTH TEXAS ELECTRIC COOPERATIVE, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has pre-

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pared a Final Environmental Impact Statement in accordance with section 102 (2)(C) of the National Envirnomental Policy Act of 1969, in connection with proposed loan applications from Brazos Electric Power Cooperative, Inc., P.O. Box 6296, Waco, Texas 76706, and South Texas Electric Cooperative, Inc., P.O. Box 2485, Victoria, Texas 77901. These proposed loan applications, together with funds from other sources, include financing for a 447 MW (gross) lignite generating plant, associated mine, approximately 254 miles of 345 kV transmission line and related substation facilities, 195 miles of 138 kV transmission line and related substation facilities, and 25 miles of 69 kV transmission line and related substation facilities.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4322, or at Brazos Electric Power Cooperative, Inc., P.O. Box 6296, Waco, Texas 76706 and South Texas Electric Cooperative, Inc., P.O. Box 2485, Victoria, Texas 77901.

Final REA action may be taken with respect to this matter after thirty (30) days.

Any loan which may be made pursuant to these applications will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final REA action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 11th day of August 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-23948 Filed 8-16-76;8:45 am]

CHUGACH ELECTRIC ASSOCIATION, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102 (2)(C) of the National Environmental Policy Act of 1969, in connection with a request for insured loan commitments from the Rural Electricfication Administration for Chugach Electric Association, Inc. of Anchorage, Alaska. These requests for insured loan funds will provide this organization financing to construct and operate approximately 20 miles of 230 kV transmission line from the existing Teeland Substation to the Reed Substation of the Alaska Power Administration. Included in the proposed project will be minor expansions to the existing Teeland and Reed Substations.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the Office of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 4053, or at the borrowers address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 11th day of August 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-23947 Filed 8-16-76;8:45 am]

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from Tri-State Generation and Transmission Association, Inc., 10520 Melody Drive, Northglenn, Colorado (Mailing Address: P.O. Box 29198, Denver, Colorado 80229). The Statement covers two 50 MW combustion turbine generating units to be installed at a 43 acre site in Kit Carson County, Colorado and accessory facilities which include bus work for interconnection with the Burlington Substation presently under construction, fuel supply and fuel storage facilities, water storage reservoir, evaporative cooler blowdown storage reservoir and site peripheral irrigation system with associated pumps, and an office and parts warehouse building.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310, or at Tri-State's address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before October 18, 1976 to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 10th day of August 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-23825 Filed 8-16-76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

ROUND STAINLESS STEEL WIRE INDUSTRY

Study of Producing Firms

SUMMARY

The Department of Commerce has conducted a study of the firms producing round stainless steel wire in accordance with Section 264 of the Trade Act of 1974. Such a study by the Department is required whenever the U.S. International Trade Commission ("USITC") makes an import relief investigation under Section 201 of the Trade Act.

In its report to the President on June 14, 1976, the USITC determined by a four to one vote (one abstention) that round stainless steel wire is *not* being imported into the U.S. in such increased quantities as to be a substantial cause of serious injury, or the threat therof, to the domestic industry producing an article like or directly competitive with the imported article.

Stainless steel wire is used in a wide range of products such as nails and other fasteners, springs, rope, welding wire, and woven or knitted products. Stainless steel wire is also produced as flat wire, but round wire is by the far the principal type of stainless steel wire produced.

Domestic output of stainless steel wire rose from 130 million pounds in 1968 to 199 million pounds in 1974 and then fell to 100 million pounds in 1975. Employment of production workers engaged in producing stainless steel wire increased from an average of 2,212 in 1971 to 2,819 in 1974, and then declined to 1,619 in 1975. Imports of stainless steel wire increased at an average annual rate of nine percent during the 1968–1975 period, from 23 million pounds in 1968 to a peak of 54 million pounds in 1974 and then declined to 37 million pounds in 1975. The principal foreign supplying countries are Japan, Sweden and France.

To be certified eligible to apply for trade adjustment assistance, a firm must demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and separation, or threat of separation, of the firm's workers. Following certification, a firm may apply for technical and financial assistance to aid its economic recovery.

It is possible for a petitioning firm to be certified eligible for Trade Act benefits even though the industry of which it is a member receives a negative determination on a Section 201 investigation by the USITC. In determining whether imports "contributed importantly" among possible causes for worker separation and decreases in sales or production for a petitioning firm, the influence of imports as a cause would be considered by the Department on the basis of the totality and inter-relationship of all possible causes affecting the operations of the individual firm. The "contributed importantly" criterion which must be met for the firm to be certified is somewhat less stringent than the "substantial cause" criterion which is required for a positive determination in a USITC industry investigation.

As of the date of this report, the Department of Commerce has not accepted a petition for certification of eligibility to apply for trade adjustment assistance from any firm in the wire industry. The USITC identified 58 U.S. firms producing stainless steel wire, including 9 integrated steel mills, 30 wire end-product producers and 19 independent wire drawers. It is possible that a few of the independent were drawers could meet the qualifying criteria for certification, depending on a number of unknown factors which could vary considerably in individual cases. The Department of Commerce is unable to determine with any degree of accuracy the number of firms in the domestic industry which might petition and be qualified for certification, but probably not more than half a dozen firms are likely to submit certifiable petitions.

Under the porgram of trade adjustment assistance for firms authorized by the Trade Act, financial assistance to certified firms may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Firms may also benefit indirectly from financial assistance available to trade-impacted communities under provisions of the Trade Act in a manner similar to the public works, business development and Title IX programs administered by the Department's Economic Development Administration ("EDA") pursuant to the Public Works and Economic Development Act of 1965, as amended. These other programs of EDA provide business development loans to assist firms in certain designated places identified on the basis of economic distress such as unemployment; loans and grants to states, redevelopment areas and other nonprofit local entities for public works projects and development facilities and for a comprehensive program of adjustment to an actual or threatened economic dislocation or adjustment problem.

Another Federal program which might be of some interest is the program administered by the Farmers Home Administration, Department of Agriculture, of direct and guaranteed loans to firms which may be located in areas other than cities having a population of more than 50,000 persons.

The Small Business Administration ("SBA") administers three programs of potential assistance to small producers: a management assistance program for small business; a loan program for local development companies; and a business loan program of direct, participating, and guaranteed loans. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 1,000 average employment. The amount of the guaranteed loan, however, cannot exceed $350,000, and participating and direct loans have even lower limits.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-23980 Filed 8-16-76;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of New General Routine Use and Additional System of Records

On June 10, 1976, the Department of Commerce gave notice (41 FR 23446) that it proposed to adopt a new use No. 12 to the Prefatory Statement of General Routine Uses for the Systems of Records of the Department (40 FR 45635, October 2, 1975). Interested persons were invited to submit written data, views, or arguments on or before July 12, 1976.

On June 18, 1976, the Department of Commerce gave notice (41 FR 24744–45) that it proposed to adopt an additional System of Records, entitled COMMERCE/DIBA–8, Foreign Service Officer Evaluations, to the previously noticed Systems of Records (40 FR 45634–74, October 2, 1975 and 40 FR 52074, November 7, 1975). Interested persons were invited to submit written data, views, or arguments on or before July 19, 1976.

No comments were received in response to either notice.

Therefore, the Department hereby adopts General Routine Use No. 12 and the System of Records entitled COMMERCIAL/DIBA–8, Foreign Service Officer Evaluations.

Inasmuch as the texts of the new general routine use and the additional System of Records were published in their entirety as described above, and they are adopted without change, there is no need to republish at this time.

Dated: August 8, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-24039 Filed 8-16-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION'S WORK GROUP ON EVALUATION AND CONTRIBUTIONS

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), that a meeting of the Advisory Council on Environmental Education will be held on Tuesday, August 31, from 9:00 a.m. to 5:00 p.m., at the U.S. Office of Education, Room 2004, 400 Maryland Avenue, S.W., Federal Office Building No. 6, Washington, D.C. 20202.

The Advisory Council on Environmental Education is established under (20 U.S.C. 1532) Environmental Education Act, P.L. 91–516, Section 3 (84 Stat. 1312), as amended by P.O. 93–278 (88 Stat. 121).

The Council shall:

(A) advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) make recommendations to the Office with respect to the allocation of funds appropriated pursuant to Section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) develop criteria for the review of applications and their disposition; and

(D) evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public.

The proposed agenda shall consist of preparing a working paper for presentation to the Council.

Records shall be kept of all Council proceedings and shall be available for

V41N160 AUG 17 76 UMI

public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C.

Signed at Washington, D.C., on August 13, 1976.

WALTER J. BOGAN, JR.,
Director,
Office of Environmental Education.

[FR Doc.76-24206 Filed 8-16-76;8:45 am]

Food and Drug Administration

[Docket No. 76N-0154]

ORAL RESERPINE DOSAGE FORMS OF GREATER THAN 1 MILLIGRAM STRENGTH

Opportunity for Hearing on Proposal To Withdraw Approval of Pertinent Parts of New Drug Applications

This notice proposes to withdraw approval of the oral reserpine drug products listed below. All of them contain more than 1 milligram of reserpine per dosage unit. Reserpine is used primarily in the treatment of high blood pressure. Persons wishing to request a hearing may do so on or before September 16, 1976.

In the FEDERAL REGISTER of April 28, 1971 (36 FR 7984) (DESI 8867) reserpine in conventional oral dosage form was classified as effective for use in hypertension and for psychiatric disorders. The recommended dosage for use in hypertension had a range of from 0.1 milligram to 0.5 milligram, and the dosage for psychiatric disorders had a range of from 0.1 milligram to 1 milligram. The notice of April 28, 1971 did not discuss dosage form potencies. Clinical experience has shown that when oral doses of more than 1 milligram of reserpine are administered, there is greater frequency and severity of adverse effects, without compensating therapeutic benefits, than occur with doses of 1 milligram or less. The following references support this concept:

1. Nickerson, M., "Antihypertensive Agents and the Drug Therapy of Hypertension," The Phamacological Basis of Therapeutics, 4th Ed., Edited by Goodman, L. S. and A. Gilman, Macmillan, New York, 1970, p. 739.

2. Jarvik, M. E., "Drugs Used in the Treatment of Psychiatric Disorders," ibid. pp. 172–173.

3. Silber, E. N. and L. N. Katz, "The Treatment of Hypertensive Diseases," Heart Disease, Macmillan, New York, 1975, p. 1270.

4. Vidt, D. G., "Choice of Antihypertensive Drugs for the Treatment of Hypertension, Including Hypertensive Emergencies," Cardiovascular Drug Therapy, Edited by Melmon, K. L., F. A. Davis Co., Philadelphia, 1974, p. 207.

5. Orgain, E. S. and J. C. Gunnells, "Treatment of Systemic Hypertension," The Heart, Edited by Hurst, J. W., McGraw-Hill, New York, 1974, p. 1234.

In view of this, and the availability of reserpine products in potencies of 0.1 milligram to 1 milligram as well as other products used for the same indications and which have a wider margin of safety, the Director of the Bureau of Drugs concludes that the benefit-to-risk considerations associated with oral dosage forms containing more than 1 milligram of reserpine do not justify their continued marketing.

NDA No.	Name of drug	Potency	Applicant's name and address
9-115	Serpasil tablets	2 and 4 mg	Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, N.J. 07901.
9-347	Reserpoid tablets	4 mg	The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49002.
9-357	Ran-Sed tablets	2 and 4 mg	E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, N.J. 08540.
9-376	Sandril tablets	5 mg	Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206.
9-391	Serpanray tablets	2, 3, 4, and 5 mg	Panray, Division of Ormont Drugs & Chemicals, Inc., P.O. Box 150, Englewood, N.J. 07631.
9-572	Reserpine tablets	2, 3, 4 mg	Keith-Victor Pharmacal Co., 2563 S. Hanley Rd., St. Louis, Mo. 63114.
9-573	do	2, 3, 4, and 5 mg	U.S.V. Pharmaceutical Corp., 1 Searsdale Rd., Tuckahoe, N.Y. 10707.
9-591	Reserpine tablets, Reserpine capsules.	2, 3, 4, and 5 mg	Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 E. 42d St., New York, N.Y. 10017.
9-596	Raulen tablets	2 and 4 mg	Lemmon Pharmacal Co., Sellersville, Pa. 18960.
9-623	Reserpine tablets	4 mg	American Pharmaceutical Co., P.O. Box 448, Passaic, N.J. 07055.
9-627	do	2, 3, 4, and 5 mg	Richlyn Laboratories, 3725 Castor Ave., Philadelphia, Pa. 19124.
9-629	do	3, 4, and 5 mg	Kenum Laboratories, Inc., 26 Edison St., Amityville, N.Y. 11701.
9-771	Reserpine Alkaloid tablets.	2 mg	Invenex Pharmaceuticals, 2303 Schuetz Rd., St. Louis, Mo. 63141.
9-826	Anquil tablets	4 and 5 mg	Dumas-Wilson Co., Division Mallinckrodt Inc., 2d and Mallinckrodt Sts., St. Louis, Mo. 63147.
9-882	R-E-S tablets	2 mg	Cole Pharmacal Co., Inc., P.O. Box 14404, St. Louis, Mo. 63178.
10-045	Vio-Serpine tablets	2 and 4 mg	Rowell Laboratories, Inc., Baudette, Minn. 56623.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (2 U.S.C. 55(e)), withdrawing approval of those parts of the new drug applications providing for the drug products listed above and all amendments and supplements thereto on the ground that new evidence of clinical experience, not contained in the applications or not available to him until after the applications were approved, evaluated together with the evidence available when the applications were approved, reveals that the drug products are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling, Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 16, 1976, a written notice of appearance and request for hearing, and (2) on or before October 18, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: August 9, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-23781 Filed 8-16-76;8:45 am]

Office of the Secretary

OFFICE OF HUMAN DEVELOPMENT, REHABILITATION SERVICES ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended by revising Subchapter 1R94, as amended, Rehabilitation Services Administration (RSA), Office of Human Development, by the reorganization of activities in RSA to fully attain the purposes mandated by the Rehabilitation Act Amendments of 1974 and, the deletion of program activities from RSA concerning Developmental Disabilities which is now newly established in OHD as a separate office, the Developmental Disabilities Office. Therefore, the statement published in the FEDERAL REGISTER on February 7, 1975, at 40 FR 5807, is hereby deleted in its entirety and a new statement is added to read as follows:

1R94.00 *Mission.* Provides leadership in the planning, development, administration and coordination of RSA/OHD programs which provide services for the handicapped and severely handicapped, including disabled social security applicants and beneficiaries, the blind, and welfare recipients who are handicapped or disabled. Establishes program goals and objectives, develops standards, program policies, criteria, guidelines, and professional direction and consultation to RSA staff in the administration of RSA programs. Directs RSA regional office staff in their responsibilities to provide guidance and leadership to State, local, and voluntary organizations; conducts research and demonstration and related activities for the purpose of developing methods, procedures, and devices which could promote and advance employment for handicapped individuals; directs and promotes a training program to improve the national manpower capability to work with handicapped or severely disabled individuals; maintains relationships with Federal, State, and local organizations which serve or have an impact upon the handicapped; evaluates progress in meeting the needs of the handicapped and takes affirmative action to promote improvement. Reviews and prepares legislative proposals to enhance overall program operations, develops and directs implementation of administrative and management actions affecting agency programs and services, and coordinates its activities and programs with other OHD organizations and operating components.

1R94.10 *Organization.* The Rehabilitation Services Administration is under the direction of a Commissioner who reports to the Assistant Secretary for Human Development. RSA consists of the following organizational components which report to the Commissioner:

A. Executive Office of the Commissioner
B. Office of the Assistant Commissioner for Planning, Budget, and Information Systems
C. Office of the Assistant Commissioner for the Blind and Visually Handicapped
D. Office of the Assistant Commissioner for Research and Evaluation
E. Office of the Assistant Commissioner for Training and Facility Improvement
F. Office of the Assistant Commissioner for Special and Cooperative Programs
G. Office of the Assistant Commissioner for State Programs.

A. *Executive Office of the Commissioner (EOC).* The EOC is under the supervision and direction of The Executive Assistant Commissioner (EAC) of RSA who reports to the RSA Commissioner. Supervises and directs the staffs responsible for the following activities: Regional office operations; public affairs; administrative services; executive correspondence; programs for the deaf and communicatively disabled populations; medical consultation support services; and, committee management.

The EOC serves as the principal staff arm to the Commissioner in exercising leadership and direction for the Commissioner on matters relating to the overall administration and management of RSA. Resolves critical issues and problems concerning executive management cross-cutting RSA programs. Coordinates the activities of appropriate RSA offices in all areas of responsibility. When necessary, coordinates these responsibilities with the Office of Human Development, the Department and other organizations inside and outside Government. Provides consultation and assistance to the RSA regional offices in those areas of responsibility affecting regional office operations, which are of interest to the regions, or which require their involvement or participation.

B. *Office of Assistant Commissioner for Planning, Budget, and Information Systems (PBIS).* Provides leadership and direction, under the Commissioner, in overall program and operational planning, programs and administrative budgeting and financial services, provision of information needs, data analysis, project grants and contracts policy and technical assistance, legislation and policy development, and coordination of these activities as they interlock with other offices. Provides consultation and technical assistance to the RSA regional office staff as it relates to these activities. The Office consists of: Division of Planning and Budgeting, Division of Information Systems and Data Analysis, Legislation and Policy Development Staff, and Grants and Contracts Policy and Technical Assistance Staff.

1. *Division of Planning and Budgeting.* This Division is composed of two branches, one for planning and one for budgeting. In the area of planning, the Division provides direction and guidance to RSA in the development of plans and operational objectives to implement plans and programs for the handicapped and to be responsive to DHEW and OHD goals. Provides leadership and direction in the establishment of priority forward and short-range objectives and determines staff and other resources and responsibilities for their achievement. Works closely with Research and Evaluation, other program offices and Regional Offices to develop measurable goals and to recommend alternative plans as conditions change or goals are readjusted. Identifies trends and problems in planning and program redirection. Recommends program improvement, technical assistance and strategies to evolve new methodologies and approaches to improve the administrative management of programs for handicapped individuals. In terms of S&E and program budget matters, the Division serves as principal support arm to the Commissioner in the area of budgetary services and assistance, and maintains formal liaison with the OHD Budget Office. With technical

V41N160 AUG 17 76 UMI

assistance and guidance from OHD, formulates, justifies, and monitors the RSA administrative and program budgets. Reviews budget submissions prepared by RSA components to assure conformity with legislatively mandated formulae. Provides technical assistance to RSA operating units in the implementation of budgetary directives and the preparation of financial reports and summaries. Aids in the identification and execution of improved internal financial analysis procedures and methods. Provides guidance to other program units in the formulation of short- and long-term financial planning methods.

2. *Division of Information Systems and Data Analysis.* Provides coordination, direction and control for all activities and functions of RSA related to statistical analysis, systems analysis, systems design, data reporting and reporting requirements, and the development, design, implementation and continued use of management information systems. Provides advice, consultation and assistance to the States on data automation, systems analysis, information systems, statistical analysis and the utilization of these tools for more effective management. Supports RSA program planning and evaluation activities by developing and analyzing statistical measures of the impact of the RSA program; of needs for and gaps in service provided by the programs; of the effectiveness of State agency programs and operations. Determines the statistical needs of RSA; upgrades and improves the RSA data base and information systems; develops the necessary information systems in conformance with emerging priorities. Collects and compiles all statistical data reported to RSA. Publishes statistical data. Provides coordination, direction, and advice for all statistical activities of RSA. Monitors and evaluates State methods of information, collection and utilization through the Director, Office of Rehabilitation Services, Regions I–X.

C. *Office of the Assistant Commissioner for the Blind and Visually Handicapped.* Administers the national program for the rehabilitation of the blind and severely visually handicapped mandated by the Randolph-Sheppard and Rehabilitation Acts, as amended. Expands and develops employment opportunities and new careers for the blind and severely visually impaired through consultation and guidance to State agencies. In cooperation with the Office of State Programs, provides technical assistance and consultation to States to obtain maximum benefits from SSDI and SSI funds spent under special provisions for the blind. In collaboration with the RSA regions, provides leadership and consultation in the initiation and development of special projects, including the older blind. Provides technical assistance to the Office of Research and Evaluation regarding the development and evaluation of special research projects for the blind and severely visually impaired, including international projects. Provides technical guidance in the development of course materials designed to improve the skill and increase the number of persons specialized in the provision of services for the blind and severely visually handicapped. Provides consultation and technical assistance to the National Center for Deaf-Blind Youth and Adults in the administration of their service, training and research programs. This Office consists of: Division for the Administration of the Randolph-Sheppard Act and the Division of Rehabilitation Services for the Blind and Visually Handicapped.

1. *Division for the Administration of the Randolph-Sheppard Act.* Provides technical assistance to State agencies, instrumentalities of the Federal Government and blind licensees regarding operations of the national Vending Stand Program with particular emphasis on developing guidelines for the operations of the program by State licensing agencies and on stronger administrative and oversight functions by the RSA. Ensures the uniformity of treatment of blind-venders by all Federal instrumentalities, ensures that blind vendors are given priority for vending facilities on Federal property, and establishes administrative and judicial procedures under which fair treatment of blind vendors is assured. Provides direct technical assistance to State agencies concerning critical issues with respect to vending stand operations based on studies and program review. Prepares and issues regulations to assure that affirmative action is taken to employ and advance in employment qualified blind individuals. In collaboration with RSA program units, compiles and disseminates all pertinent data regarding the Randolph-Sheppard program, including evaluative material required by Congress.

2. *Division of Rehabilitation Services to the Blind and Visually Handicapped.* Provides leadership and consultation to public and private agencies serving the blind and visually handicapped with particular emphasis on carrying out the vocational goals of the Rehabilitation Act. In conjunction with the Office of State Programs and regional staff, conducts program reviews of State agencies serving the blind and visually handicapped. At the national level, expands and develops employment opportunities and new careers for blind and the severely visually impaired. Prepares guidelines and provides technical assistance to States regarding the administration of the SSDI and SSI programs for the blind. In collaboration with the regions, provides leadership and technical assistance in the initiation and development of special projects, including projects for the older blind. Provides technical assistance to the Office of Research and Evaluation regarding special research projects for the blind and severely visually impaired, including international projects. Works with consumer groups at the national level to improve the delivery of RSA services to the blind. Provides consultation and collaborates with the National Eye Institute, Office of Education, Administration on Aging, the National Institute of Neurological Diseases and Stroke, and other public agencies serving the blind.

D. *Office of the Assistant Commissioner for Research and Evaluation.* Directs and manages the overall research and evaluation program of the Rehabilitation Services Administration based on stated goals, objectives, and strategies of programs and emerging needs of the handicapped population. Administers research grants or contracts awarded for the purpose of planning and conducting research and related activities which bear directly on the development of new methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques. Conduct studies and evaluations of industrial, vocational, social psychological, economic, and other factors affecting rehabilitation of handicapped individuals; analyzes special problems of homebound and institutionalized handicapped individuals; conducts studies of the programmatic impact of architectural and engineering design adapted to meet the special needs of the handicapped; examines related activities concerning the handicapped which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with severe handicaps. Responsible for activities of research and demonstration components of RSA in the development of the RSA forward plan. Measures and evaluates the impact of RSA programs in order to determine their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for the delivery of services for the handicapped. Develops and publishes general standards for evaluation of RSA programs and project effectiveness in achieving the objectives of the Rehabilitation Act. In carrying out these evaluations, considers the views of persons participating in and served by the program. Provides technical assistance to the regional offices and through them the State agencies on the effectiveness and efficiency of State agency operations.

Conducts a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals and sharing this knowledge among the community of nations. Major components of this Office are the Division of Research and the Division of Evaluation and Program Support. Special activities are handled by technical staff in staff-level offices reporting directly to the Assistant Commissioner.

1. *Division of Research.* Directs and manages the overall domestic research and demonstration program, in the areas of medical, psychosocial and vocational rehabilitation which bear directly on the development of scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it and restorative techniques. Conducts studies in cooperation with rehabilitation staffs and concerned organizations to identify program needs and establish priorities, and develops strategies to met the special needs of handicapped individuals and persons with the most severe handicaps. Prepares and implements a forward plan for domestic rehabilitation research consistent with policy and priority guidelines established by the Commissioner and the ASHD. Directs and manages the overall Research and Training Centers program in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research and client services personnel. Collaborates with other units of RTC to develop research strategy to insure that RTC research programs are integrated in the RSA research goals and objectives. Interfaces with other RSA units to monitor Special Centers Programs.

Directs and manages a comprehensive research and demonstration program to develop devices and service delivery programs and innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research designed to produce new knowledge, equipment and devices suitable for solving problems in the rehabilitation of handicapped individuals. In cooperation with the Facility Improvement Staff, supports and stimulates the development and utilization, including production and distribution of new and existing devices, having direct applicability to the rehabilitation of handicapped individuals and manage training activities related to Rehabilitation Engineering. Cooperates with domestic and international organizations to develop systems of information exchange and promotes the prompt dissemination and utilization of engineering and other scientific research information to assist in solving problems in the rehabilitation of handicapped individuals.

2. *Division of Evaluation and Program Support.* Directs and impliments RSA responsibilities related to studies and evaluation of State-Federal agency programs in vocational rehabilitation and develops and implements an evaluation strategy and evaluation standards consistent with policy and priority guidelines set by the Commissioner and the ASHD. Provides technical assistance to Regional staff and State agencies in carrying out the provisions of evaluation functions of the Rehabilitation Act. In cooperation with RSA units, OHD and other agencies, recommends to the Commissioner appropriate and necessary areas for evaluation, and provides the evaluation focal point for all of RSA. Directs the exchange of information to promote the prompt utilization of engineering and scientific research to assist in solving problems in the rehabilitation of handicapped individuals. Manages research information systems and monitors research information system projects. Works with planning, evaluation, and legislative staffs to promote cross utilization of results of research into new program initiatives. Coordinates and prepares mandated reports and special studies. Supports the Office for Handicapped Individuals in its clearinghouse functions. Provides technical assistance to regional staff on research utilization techniques.

E. *Office of the Assistant Commissioner for Training and Facility Improvement.* Ensures that special RSA-negotiated training and technical assistance support resources available from Federal, public and private sectors except research are focused on strengthening and improving the vocational rehabilitation delivery system. Has related responsibility for assuring that all project grants, particularly those serving the most severe disabilities, are directed to improve the delivery of services to the disabled and are fully supportive of RSA's short and long-range objectives. Provides means by which promising new approaches are integrated into the on-going vocational rehabilitation system. Provides programmatic assistance related to the expansion of manpower and the improvement of rehabilitation facilities for the effective implementation of the vocational rehabilitation delivery system. Coordinates the development and production of project guidelines, instructions and other training materials. Assures that effective linkages are established and maintained with voluntary organizations and associations representing professional rehabilitation workers and consumers in the fields of rehabilitation facilities and training. Provides the focal point in RSA for assuring that requests for technical consultation in these areas are appropriately met. Coordinates the activities of regional offices and central office facility improvement staff relating to rehabilitation facilities, manpower development, training, projects with industry, innovation, and expansion. Provides for the utilization and direction of appropriate resources for the support of rehabilitation objectives. This Office consists of: The Division of Training and Manpower Development and the Division of Facility Improvement.

1. *Division of Training and Manpower Development.* Provides and expands training opportunities and materials for professional, technical, and subprofessional persons to meet the manpower requirements of State and other agencies responsible for providing rehabilitation services. Reviews project grant applications, develops evaluative criteria, and provides guidance on the review of grant applications in the regional offices. Provides guidance for the achievement of agency goals in accordance with guidance from the Commissioner. Develops guidelines and analytic procedures to measure the need for, progress and achievement of all manpower training programs financed under agency appropriations. Works with State agencies to assess requirements and develop plans and programs for training professional and paraprofessional staff to meet manpower needs in agency supported programs. Promotes and encourages grant applications from institutions of higher education and other organizations. Prepares and disseminates guidance materials for volunteers to serve in agency sponsored programs. Encourages the development of innovative instructional materials and methods. Plans and conducts short-term training courses for the purpose of generating new knowledge in program areas of high priority to the Department and the agency. Works with the Office of State Programs in the analysis of State agency manpower training needs and in the processing of grant applications and the awarding of grants. Consults with other RSA units in the development of strategies for the training of personnel to service special disability groups in the review of applications for training grant support. Participates with the Office of Planning, Budget and Information Systems and based on guidance issued by the Commissioner and the Assistant Secretary for Human Development, in the development of forward and short-range plans for rehabilitation manpower development and training.

2. *Division of Facility Improvement.* Develops and supports the introduction of techniques and methods leading to the establishment and improvement of rehabilitation facilities which are responsive to agency client needs. Reviews project grant application as assigned to the Division, in accordance with OHD guidelines, appropriate evaluative criteria, and central-regional office responsibilities. Assumes leadership for the achievement of agency missions assigned by the Commissioner on the basis of the Division's particular expertise. Develops agency programs and models. Prepares manual chapters and standards to improve client services and to coordinate public and private programs. Assists in developing a program of technical consultation and assistance to other Federal and State agencies and other grantees to accomplish the Division mission. Collaborates in development of demonstration programs to test concepts in community facilities and special purpose centers. Provides programmatic assistance in the achitectural aspects and design of public and nonprofit facilities provided for the diagnosis, treatment, education, vocational training care, and provision of maintenance services for the disabled. Within assigned areas of responsibility, collaborates in the development of guidelines, manual issuances and other directives for existing and new programs for the support of rehabilitation facilities. Collaborates with voluntary organizations and associations representing rehabilitation facilities, sheltered workshops, and professional groups in areas of specialized rehabilitation practice. Cooperates with State agencies to assess requirements and develops plans and

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programs for the establishment and utilization of rehabilitation facilities by State agencies. Coordinates program activities relating to the improvement of rehabilitation facilities with regional offices. Provides leadership under the legislative mandate for the development of jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful employment in the competitive labor market through training. Initiates discussion and dialogue between labor, industry and rehabilitation at the local and community level. Provides the liaison for utilizing the Governmental resources that have been identified through interagency agreements by the Office of Special and Cooperative Program.

F. *Office of the Assistant Commissioner for Special and Cooperative Programs.* Directs the development of a wide range of cooperative agreements with Federal, public and private agencies and organizations having nationwide responsibilities for services related to the rehabilitation of handicapped individuals. Develops agreements, plans, policies and procedures for effective operational relationships between RSA and these agencies and organizations. Monitors the implementation of all such cooperative agreements and keeps the Commissioner advised on issues related to RSA performance in carrying out the agreements. Provides national leadership in the development of vocational rehabilitation programs for special disability populations, and for other groups of disabled individuals offering special programs in their rehabilitation, including the aging. Within assigned area of responsibility, collaborates with other appropriate agency staff in the development of guidelines, manual issuances and other directives for existing programs serving various disability groups and for those programs mandated by legislation, including disabled veterans. Coordinates activities related to these special projects and cooperative programs with other appropriate organizational elements of RSA and with the Office of Human Development to effectively utilize inter-agency linkages for the achievement of program goals and objectives. This office consists of: Division of Special Projects and the Division of Cooperative Programs.

1. *Division of Special Projects.* Provides national leadership in the development of vocational rehabilitation programs for severely handicapped persons, except for the aurally and visually impaired; provides developmental technical assistance, and collaborates in the administration and monitoring of special projects, except for research and training activities, including special projects for the severely handicapped and migratory worker projects; collaborates in the dissemination of special project findings including those of research-demonstration projects, to rehabilitation resources in order to improve and expand services for the severely handicapped; and collaborates in the formulation of agency policy, legislative proposals, planning and budgetary activities in those specialized program areas for which the Division is responsible. Provides staff functions in special population areas and stimulates changes related to research efforts. Maintains continuing coordination and liaison with other RSA units, including the regional staffs, and with other public and voluntary agencies, in order to: Stimulate and develop special projects for the severely handicapped; publicize the favorable outcomes of such projects, and foster their integration within the rehabilitation system; and provide technical consultation in vocational rehabilitation of the special populations within the Division's area of concern.

2. *Division of Cooperative Programs.* In collaboration with other RSA units, plans and develops nationwide cooperative agreements with public and private agencies and organizations as provided by Titles I, IV, and V of the Rehabilitation Act, as amended, including Federal agencies providing services for the rehabilitation of handicapped individuals. Develops policies, standards and procedures for effective operational relationships involving these agencies and organizations, including regional staff, and the State vocational rehabilitation agencies. Monitors and evaluates the implementation of these agreements, recommending as indicated any revision or modification to the existing agreement or arrangement. Coordinates with all other appropriate elments of RSA and OHD in maintaining effective inter-agency cooperative activities to assure achievement of program goals and objectives. Maintains continuous liaison activities with these agencies and organizations, the State vocational rehabilitation agencies, and RSA regional offices either directly or through close collaboration with other appropriate elements of RSA.

G. *Office of the Assistant Commissioner for State Programs.* Provides leadership, coordination, and policy direction for the development and review of the annual State plans for vocational rehabilitation programs and financial plans. Directs the planning, development, and coordination of social security related programs involving vocational rehabilitation services for social security disability insurance beneficiaries and for the severely disabled and the blind under Titles II and XVI of the Social Security Act, as amended. Coordinates State programs and financial matters with appropriate offices of RSA and, when necessary with OHD, the Department and other government agencies. Directs the provision of consultation and technical assistance to RSA Federal staff and to State agencies. This Office consists of: Division of State Plans and Program Administration, Division of State Program Financial Operations, and Division of Social Security Rehabilitation Programs.

1. *Division of State Program Financial Operations.* Provides financial management services for RSA formula grant programs in accordance with established policies and regulations of the Department. Develops and interprets administrative and fiscal policies and procedures governing the use of formula grant funds. Prepares standards, policies, and procedures for formula grants and fiscal management. Develops and coordinates formula grants and procedures with OHD, the Department, other Federal instrumentalities and State agencies. Provides guidance and technical assistance to regional office staff on financial provisions of the Rehabilitation Act and for the Disability Insurance and Supplemental Security Income Programs as they relate to the formula grant program; participates in studies related to overall management and performance of State agencies with particular emphasis on financial accountability, cost-effectiveness, and cost benefit analysis; participates with regional offices in performing follow-ups and special analyses to determine priority of action taken by States on findings and recommendations covered in national studies and State program reviews. Analyzes and coordinates audit findings relating to formula grant programs; negotiates audit exceptions for RSA and serves as focal point on all audits on State Plan programs. Develops basic guidelines and assumptions for use by the States in developing their short and long range goals and resource requirements with technical assistance from OHD, develops tables and narrative statements for use by the Division of Budget in the formulation and justification of the RSA budget. Applies statutory formulae for allotment of funds for the State plan programs and develops plans for the issuance and accountability of all funds. Formulates programs, policies, and procedures to provide for the accounting requirements of the agency for all formula grant funds. Develops and issues financial reports on formula grants for RSA. Develops and conducts financial management workshop conferences for regional and State agency staff.

2. *Division of State Plans and Program Administration.* Provides instructions and guidelines concerning the preparation and submission of the State plan. Acts as the focal point in RSA for the Commissioner and assists the Director, Office of Rehabilitation Services, Regions I–X to identify, negotiate, and otherwise resolve conformity/compliance issues regarding the State plan and operations under such plans; interprets State plan requirements; and based on these requirements, develops guidelines, standards and procedures for the effective and efficient administration of the program, e.g., eligibility, ineligibility, confidentiality, administrative review and fair hearing, and provision of services. Initiates and participates with Director, Office of Rehabilitation Services, Regions I–X in the planning and directing of special or periodic reviews of State agency administration of the State plan to assure: Conformity with the Rehabilitation Act, regulations and State plan and to assure quality services under the State plan.

Provides central RSA leadership in effecting the development of program materials, technical assistance, and short-term training in the solution of critical management problems or improvement in State programs and to achieve State program utilization of selected research and special project results. Initiates policy statements on issues concerning State plans and practices, proposes legislation or regulation changes. Provides program input in the development of data requirements and appropriate RSA reports dealing with VR clients and their progress to successful closure. Provides program input in evaluation, research, statistics, long-range planning, budget, and OPS.

3. *Division of Social Security Rehabilitation Programs.* Collaborates and coordinates with the Social Security Administration (SSA) in developing nationwide policies, standards and procedures for the guidance of State vocational rehabilitation agencies in providing services to severely disabled applicants for disability insurance benefits (DIB) and supplemental security income (SSI). Translates policy statements, legislation and directives into regulations, guidelines and manuals. Provides technical consultation, interpretation of policy matters and advice to State agency and regional staff. Participates in planning, organizing, and conducting lines and manuals. Provides technical consultation, interpretation of policy matters and advice to State agency and regional staff. Participates in planning, organizing and conducting orientation and in-service training programs for State agency and regional office professional staff. In conjunction with RSA units and SSA, develops reporting systems essential to effective administration and monitoring of the trust fund programs. Similarly participates in developing research and evaluation studies for improving methodology, procedural systems, management techniques and other aspects to the end of furthering services to disabled clients. Analyzes research findings and incorporates results into standards, regulations and manuals for use by State VR agencies. Maintains continuous liaison activities with SSA, RSA regional staff, Council of State Administrators of Vocational Rehabilitation (CSAVR) and State VR agencies with respect to program objectives and the conduct of the program.

MARJORIE LYNCH,
Acting Secretary.

AUGUST 4, 1976.

[FR Doc.76-24041 Filed 8-16-76;8:45 am]

Office of the Secretary

REGULATORY POLICIES

The Secretary of Health, Education, and Welfare isued the following memorandum on July 25, 1976. In keeping with his expressed desire to provide more opportunity for public involvement in the operation of the Department, the Secretary has directed that the above-referenced document be published in the FEDERAL REGISTER. Comments may be directed to the Director, Office of Regulatory Review, Room 310 G, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201; Telephone: 202 245–3161.

Dated: August 11, 1976.

JOHN R. OTTINA,
Assistant Secretary for Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

To: The Under Secretary
Assistant Secretaries
Principal Operating Components
OS Staff Offices

From: The Secretary

Subject: Regulatory Policies

July 25, 1976.

On the basis of recommendations from the Regulations Advisory Group (RAG), comments on thosee recommendations by the various units of the Department, advice from a discussion of the RAG recommendations at a Departmental meeting and further comments on my "preliminary rulings" memorandum, a comprehensive body of new policies and procedures for the issuance of regulations has been developed. These policies, together with certain additional directions to the staff of the Department and the outline of my future plans in this area are set forth in this memorandum.

These policies and procedures apply to the development and issuance of regulations, whether of Department-wide effect or limited to a particular program administered by a single component within the Department, except where authority to issue a category of regulations has been specifically delegated by the Secretary.

Although existing delegations remain in effect, such delegations will continue only to the extent that it is demonstrated that policy review and direction by the Secretary's Office is unnecessary.

Even in those cases where authority is delegated, the policy set forth in this memorandum should be followed to the extent feasible by officials to whom the delegations have been made.

The procedures set forth in this memorandum will not be applied to regulaitions for which a Notice of Proposed Rule Making (NPRM) was transmitted to the Office of the Secretary prior to the date of this memorandum.

1. DEPARTMENTAL REGULATIONS POLICY

a. The development of specific program regulations is the responsibility of the Assistant Secretary or Principal Operating Component (POC) head who is responsible for the administration of that program. The development of crosscutting or Department-wide regulations will be the responsibility of the appropriate Departmental officials.

b. Except where authority to issue regulations without prior approval of the Secretary has been specifically delegated, no Notices of Intent (NOIs), NPRMs or final rules may be issued or published without the signed approval of the Secretary.

c. Any proposed regulation which the appropriate Assistant Secretary, POC head or the Secretary has determined to be of major program significance may not be executed or published even as an NOI or NPRM until a regulation implementation plan has been submitted to the Secretary by the appropriate Assistant Secretary or POC head and the plan has been approved by the Secretary or the Under Secretary.

The regulation implementation plan instructions concerning form and content will also provide for the use of a modified or abbreviated plan for regulations not having a major program significance.

In approving a regulation implementation plan, the Secretary or the Under Secretary may authorize the Assistant Secretary or the POC head to proceed with the development and issuance of an NOI, NPRM or a final rule without obtaining further specific authorization from the Secretary for that regulation or set thereof.

d. An NOI should be published, and the implementation plan should so provide, whenever the Department's consideration of important policy issues will be aided by public comment prior to publication of an NPRM. The NOI mechanism should be liberally used to permit interested outside groups and other members of the public to have an impact on the decisionmaking process at an early stage. Therefore, implementation plans that fail to provide for an NOI will be critically reviewed.

e. In addition to publication in the FEDERAL REGISTER, other channels of communication with the public will be liberally used in order to reach as many interested individuals and organizations as possible.

f. Public hearings to permit the Department to receive information and views on proposed regulations should be held either before or after the publication of NPRMs if it appears that such hearings will aid the Department in developing its position on any of the issues involved. Advance notice of any such hearings will be published either as part of an NOI or separately.

g. Each NOI and NPRM shall set forth the major issues to be addressed in the development of the regulation and the major alternatives that the Department is considering to resolve those issues. If there is more than one Assistant Secretary or POC head having a direct jurisdictional interest in a particular regulation and if any of them have submitted to the Secretary different views concerning the major issues, these views should be stated in the NOI or NPRM along with the source of the views.

h. In the spirit of openness, a draft regulation may be disclosed upon request prior to its publication in proposed form. If, however, the availability of the draft has not already been stated in a public notice, such a notice will be published before the disclosure is made. In addition to publication, steps should be taken to make copies of the draft directly available to interested groups and individuals, including the appropriate committees and Members of Congress.

i. Each NOI and NPRM will give the name, position, address and telephone number of a contact person within the Department who will be available to answer inquiries and receive information concerning the proposed regulation.

j. Except as otherwise authorized or required by the Administrative Procedure Act and the rules and regulations of the Department, the comment period provided for in NPRMs will be at least 45 days unless the regulation implementation plan has justified the lesser period of 30 days and the plan has been approved by the Secretary or the Under Secretary.[1]

k. Each NOI and the preamble to each NPRM and final regulation will be written

[1] The comment period for the NPRM also applies to the NOI.

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in common everyday English understandable to the general public.

l. Whenever, as a result of public comment or for any other reason, it appears to the appropriate Assistant Secretary or POC head that a major provision in a proposed regulation should be significantly changed before being published as a final rule, the regulation should be carefully reviewed to determine whether the NPRM fairly permitted public comment on the issue embodied in the change. If it further appears that the public did not have a fair opportunity to comment on the matter which is the subject of the change, a new NPRM should be published inviting such comment.

2. INTERNAL PROCEDURES FOR THE REGULATION PROCESS

a. The Secretary's Office will develop requirements for the form and content of regulation implementation plans. These requirements will be distributed to the Assistant Secretaries and POC heads for their use in preparing such plans. At a minimum, each plan will be required to include a concise but complete statement of significant issues relating to the proposed regulation and the particular steps and timetable that will be followed.

b. All documents routed to the Secretary on any proposed regulation (including regulation implementation plans, NOIs, NPRMs and final regulations) should be sent through the Executive Secretariat (ES). ES will track the processing of each proposed regulation from the transmittal to the Secretary's Office of a proposed implementation plan until the publication of the final regulation. Each Assistant Secretary and POC head will be responsible for providing current information to ES of each step in the development and processing of the proposed regulation. Further instructions in this regard will be developed and provided by the Secretary's Office.

c. Each Assistant Secretary and POC head should develop a pool of professionally competent and trained regulation draftsmen who will be assigned responsibility to draft NOIs, NPRMs and final regulations on the basis of specifications developed by program staff.

The pool should have sufficient members to meet the regulation drafting needs of the component in an expeditious manner. The membership of the pool should not be restricted to those of any particular professional discipline.

Training and evaluation programs for regulation draftsmen will be developed and implemented by both the Department and the POCs. Training will emphasize writing skills, including clarity of language and organization.

d. In transmitting an NOI, NPRM or final regulation to ES, the Assistant Secretary or POC head making the transmittal should include under separate cover the name of each draftsman who participated in the preparation of the document.

e. Each final regulation sent to the Secretary for approval should be accompanied by a separate written plan for monitoring and reviewing the effect of the regulation after its publication. This plan should state the dates by which the results of the regulation will be reviewed. If the Assistant Secretary or POC head believes that this plan should be made available to the public, by publication in the FEDERAL REGISTER or otherwise, it should be so recomended.

f. Internal clearance procedures will be developed by the Secretary's Office to minimize clearance disputes and to elimiante any redundant processes. Deadlines will be established by which nonconcurrence disputes will be resolved.

g. In those instances where the Secretary or Under Secretary relies upon an informal group of staff members for a briefing on an NOI, NPRM or final regulation that has been submitted for Secretarial approval, the appropriate Assistant Secretaries or POC heads should be included.

h. A long-range plan for reviewing regulations will be developed by P in consultation with RAG. The plan should include:

Categories or criteria for selecting regulations for reconsideration.

Means for comparing results with intent.

Plans for an automatic review system for regulations.

i. A small group of regulations will be selected by the Secretary's Office for review as a pilot project. These regulations will then be assigned to the appropriate Assistant Secretary or POC head for review and, as appropriate, rewrite by specified due dates.

j. If there is inadequate qualified staff within the Office of any Assistant Secretary or POC to accomplish the necessary review of regulations published by that Office, an appropriate detail of personnel from other parts of the Department, or the hiring of, or contracting for, the services of qualified consultants will be arranged.

As indicated in this statement, the development and review of regulations are the primary responsibility of the Assistant Secretaries and POC heads. It is not intended that a central agency be estbalished to add another layer of control on top of an already complicated process. However, both the Secretary and the Under Secretary, in order to discharge their duties described in this document, need staff assistance which will be provided through a Special Assistant to the Secretary for Regulatory Reform. The Special Assistant will also be the presiding officer of the Regulatory Advisory Group.

A review of these policies and procedures is planned within the next year. At that time changes will be made if desirable.

[FR Doc.76-24042 Filed 8-16-76;8:45 am]

CIVIL AERONAUTICS BOARD

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Application for Amendment

AUGUST 11, 1976.

Notice is hereby given that the Civil Aeronautics Board on August 11, 1976, received an application, Docket 29632, from Frontier Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 73 to authorize nonstop service between Albuquerque, New Mexico and Phoenix, Arizona.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR 302).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24050 Filed 8-16-76;8:45 am]

CIVIL RIGHTS COMMISSION

CONNECTICUT ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) to this Commission will convene at 7:00 p.m. and end at 10:00 p.m. on September 27, 1976, at 5 Long Lane, Middleton, Connecticut 06457.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York.

The purpose of this open meeting is to discuss SAC projects for the coming year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 10, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23932 Filed 8-16-76;8:45 am]

DELAWARE ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) to this Commission will convene at 12:00 noon and end at 2:00 p.m. on September 8, 1976, at the YMCA, 11th and Washington Sts., Wilmington, Delaware.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of the meeting is to plan projects for remainder of year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 10, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23933 Filed 8-16-76;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) to this Commission will convene at 2:00 p.m. and end at 9:00 p.m. on September 9, 1976, at the Martin Luther King Memorial Library, 901 G Street, NW., Washington, D.C.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C.

The purpose of this open meeting is to hear presentations made to the Advisory Committee by group representatives and knowledgeable individuals on civil rights issues as input into the Advisory Committee's program planning process.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23981 Filed 8-16-76;8:45 am]

GEORGIA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Georgia Advisory Committee (SAC) to this Commission will convene at 11:00 a.m. and end at 5:30 p.m. on September 10, 1976, at the Executive House Augusta, 640 Broad Street, Apple Room, Augusta, Georgia.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this open meeting is to review proposal and plan for a study on the post effect of school desegregation on minority students and teachers and the impact of the private school on the educational process in selected urban and rural areas in the state of Georgia.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 10, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23934 Filed 8-16-76;8:45 am]

IOWA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Iowa Advisory Committee (SAC) to this Commission will convene at 9:30 a.m. and end at 4:00 p.m. on September 8, 1976, at Fort Des Moines Hotel, 10th & Walnut Streets, Des Moines Iowa.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this conference is the Migrant Farm Labor Study followup. This conference will also include Committee assignments, organization feed back and migrant advocacy.

This conference will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23935 Filed 8-16-76;8:45 am]

MONTANA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana Advisory Committee (SAC) to this Commission will convene at 1:00 p.m. and end at 3:00 p.m. on September 25, 1976, at the Federal Building, 316 N. 26th, Room 3033, Billings, Montana.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss followup to media project and form subcommittees on relevant civil rights concerns in the State.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 10, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23936 Filed 8-16-76;8:45 am]

NEW JERSEY ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11:00 p.m. on September 12, 1976, at the Ramada Inn, New Brunswick, New Jersey.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York.

The purpose of this meeting is to discuss programs and receive reports on subcommittees.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 10, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-23937 Filed 8-16-76;8:45 am]

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CIVIL SERVICE COMMISSION

DEPARTMENT OF THE TREASURY

Title Change in Noncareer Executive Assignment

By notice of April 12, 1973, FR Doc. 73-7079 the Civil Service Commission authorized the Department of Treasury to fill by noncareer executive assignment the position of Deputy Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations), Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24040 Filed 8-16-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 601-2]

STATE OF CALIFORNIA

Approval of State Implementation Plans; Time Extension

This notice revises the Governor's 60-day time period for submitting a letter of intent to the Regional Administrator identifying the various steps which the State will take to develop the plan revisions in accordance with the requirements set forth in the notices published July 12, 1976 (41 FR 28603) for various Air Quality Control Regions in the State of California.

This time extension is hereby given since the technical support documents referenced in the July 12, 1976, FEDERAL REGISTER were not available at the time of publication. The 60-day period will commence on or before October 18, 1976.

Dated: August 9, 1976.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.76-24090 Filed 8-16-76;8:45 am]

[FRL 601-1; OPP-42028]

STATE OF DELAWARE

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2), of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Sherman W. Tribbitt, Governor of the State of Delaware, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending enactment of all necessary legislation and the promulgation of implementing regulations pursuant thereunder.

Notice is hereby given of the intention of the Regional Administrator, EPA Region III, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attached appendices, may be examined during normal business hours at the following locations:

Room 3323, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Pesticides Branch, U.S. Environmental Protection Agency, Region III, Phone: 215/597-9869.

Delaware Department of Agriculture, Division of Production and Promotion, Room 115, Agriculture Building, Dover, Delaware 19901. Phone: 302/678-4815.

Room 401, East Tower, Waterside Mall, 401 "M" Street, SW., Office of Pesticide Programs, EPA, Federal Register Section, Washington, D.C. 20460. Phone: 202/755-4854.

SUMMARY OF DELAWARE STATE PLAN

The Delaware Department of Agriculture (DDA) has been designated as the State Lead Agency solely responsible for the administration and enforcement of the pesticide applicator certification program.

The Delaware Cooperative Extension Service (CES) will cooperate with the lead agency by being the primary organization for training leading to certification. Also, the Delaware Department of Agriculture will receive support from its Pesticide Advisory Committee.

Legal authority for the program will exist upon enactment of the Delaware Pesticide Act of 1975 by the General Assembly of the State of Delaware and upon promulgation of implementing regulations. The proposed pesticide act is exhibited in the plan.

The plan indicates that the lead agency and cooperating agency will have sufficient qualified personnel and funds necessary to carry out the proposed program. Amendments to section 2 of the Delaware code allows $25,230 for fiscal year 1977 for the purpose of establishing an administrative staff to carry out the provisions of the proposed Act. Furthermore, the plan indicates that additional funds will be requested for FY 1978 if required.

The State estimates that 400 commercial applicators and 1300 private applicators will need to be certified.

Both certified commercial and private applicators will be issued a document indicating the category or limitation of their certification. Pocket size identification cards will also be issued for use in purchasing pesticides classified for restricted use.

The State lead agency will submit an annual report to EPA on the first day of each year. Other reports shall also be submitted to EPA from time to time to meet specific needs.

The commercial applicator categories proposed in the plan are those which are listed in 40 CFR 171.3. No new categories are presented. A subcategory for fumigation is provided, however, under Category 7 "Industrial, Institutional, Structural and Health Related Pest Control."

Commercial applicators who wish to become certified will be required to achieve a passing score of 70% on each of two written examinations. One exam will cover the general standards while the other exam will cover the specific standards for the categories in which certification is desired. The standards are outlined in the plan and are the same as those Federal standards presented in 40 CFR 171.4 (b) and (c) and 171.6.

Training for both commercial and private applicators will be based on training manuals approved and developed by EPA. Training sessions will be conducted and exams administered by qualified personnel from the Delaware CES and/or DDA. Times and locations of such training and examinations, for each of the 3 Delaware counties, will be announced.

Types of certifications available to the private applicator (agricultural commodity producers) are optional. The plan provides for:

(1) General Certification.
(2) Pesticide Class Certification.
(3) Commodity/Crop/Site Certification.
(4) Single Product Certification.
(5) Single Product/Single Use Authorization. (This option is only available as an emergency provision.)

Methods to determine private applicator competency are also optional to the applicator. Options include: A written examination, oral examination, or in the case of Single Product/Single Use Authorization, the applicant may participate in a fact finding interview. Individuals with reading difficulties will be certified after satisfactorily completing an oral and/or demonstration procedure administered by Department of Agriculture personnel. Certification will be limited to the use and handling of those pesticides for which the individual has demonstrated competence.

Regardless of which method or type of certification the private applicator may elect, competency standards for the private applicator will be based on 40 CFR 171.5 and 171.6. These standards are listed in the plan. Sample examination questions are attached to the plan as provided for by 40 CFR 171.7(e)(1)(i)(D) and (ii)(C).

The State plan provides that within 60 days of the approval of the Government Agency Plan (GAP) by EPA, Delaware will submit a statement in accordance with 40 CFR 17.17(e)(4)(i).

At the proper time, Delaware will give favorable consideration to the development of reciprocal agreements with other states. Also, the lead agency will forward copies of reciprocal agreements entered into with other states to EPA for inclusion in its State plan. Other regulatory activities listed in the plan which will supplement Delaware's certification program provide for the stop sale and removal of non-registered pesticides, routine surveillance activities conducted by regulatory field inspectors and the label review of pesticide products to protect against misbranding.

Pesticide field agents assigned full time to pesticide use and application activities will provide adequate assurance that certified applicators comply with standards.

The Delaware State Plan mentions that various short courses, seminars, special training sessions, etc., will be provided by the Delaware CES and by various trade association groups. Assurances are provided in the proposed pesticide law that certified applicators continue to meet requirements of changing technology.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed plan for the State of Delaware to the Chief, Pesticides Branch, Region III, Environmental Protection Agency, 6th and Walnut Streets, Room 3323, Philadelphia, Pennsylvania 19106. The comments must be received on or before September 19, 1976, and should bear the identifying notation OPP-42028. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locatons from 8:30 to 3:30 p.m. Monday thru Friday.

Dated: July 19, 1976.

DANIEL J. SNYDER, III,
Regional Administrator,
Region III.

[FR Doc.76-24088 Filed 8-16-76;8:45 am]

[FRL 600-8; OPP-42019A]

NEVADA

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each state desiring to certify applicators to submit a plan for its certification program. Any state certification program under this section shall be maintained in accordance with the state plan approved under this section.

On May 12, 1976, a notice was published in the FEDERAL REGISTER (41 FR 19374-19375) of the intent of the Regional Administrator, EPA, Region IX, to approve, on a contingency basis, the Nevada Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Nevada State Plan). Contingency approval was requested by the State of Nevada pending promulgation of additional regulations implementing the legislation. Complete copies of the Nevada plan were made available for public inspection at the Nevada Department of Agriculture, Reno, Nevada; EPA, Region IX Office, San Francisco, California; and the Office of Pesticide Programs, EPA, Washington, D.C.

No comments were received; therefore, the plan as it appeared in the FEDERAL REGISTER, May 12, 1976, will go unchanged.

It has been determined that the Nevada plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171, if the regulations described in the plan are promulgated by the Nevada Department of Agriculture. Accordingly, the Nevada plan is approved contingent upon this.

This contingency approval shall expire 12 months from its effective date, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied and the approval status of the Nevada plan as a result thereof.

Effective date. Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the 12 months contingency approval granted herein to the Nevada plan shall be effective immediately. Neither the Nevada plan itself nor this Agency's contingency approval of the plan creates any direct or immediate obligations on pesticide applicators or other persons in the State of Nevada. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingency approval shall become effective immediately.

Dated: July 22, 1976.

PAUL DEFALCO, Jr.,
Regional Administrator,
EPA Region IX.

[FR Doc.76-24089 Filed 8-16-76;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PRIVACY ACT OF 1974

Additional Routine Use

Notice is hereby given that, pursuant to 5 U.S.C. §§ 301 and 552a and 42 U.S.C. 2000e-12(a), the Equal Employment Opportunity Commission hereby adopts a new routine use for all of its Privacy Act systems of records except EEOC-3, Charge of Discrimination Case Files.

At 41 FR 27112 (July 1, 1976), the Commission published notice that it proposed to adopt the following routine use:

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

In that notice, the Commission stated that comments on it received no later than July 31, 1976, would be considered. The Commission received no comments on said routine use and therefore adopts said use for systems EEOC-1, -2, and 4-13.

Also at 41 FR 27112, the Commission notice a proposed routine use for system EEOC-3, Charge of Discrimination Case Files. The proposed routine use for that system read as follows:

The Commission has established in Section 83 of its Compliance Manual (Vol. 1), policies with respect to the disclosure to charging parties of information contained in this system of records. Disclosure which is consistent with these policies may be made to a Congressional office from the charge of discrimination case file of a charging party in response to an inquiry from the Congressional office made at the request of that charging party.

As a result of comments received thereon, the Commission is considering an amendment to that proposed routine use. Therefore, the Commission is not at this time adopting said routine use.

Signed at Washington, D.C. this 11th day of August, 1976.

ETHEL BENT WALSH,
Vice-Chairman.

[FR Doc.76-23921 Filed 8-16-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCASTING

Applications Ready and Available for Processing

Notice is hereby given, pursuant to section 1.573(d) of the Commission's rules, that on October 4, 1976, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 1, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 1, 1976. The attention of prospective applicants is directed to the fact that **some contemplated proposals** may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to section 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any **pending FM broadcast applications**, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: Aug. 10, 1976.

Released: Aug. 17, 1976.

Federal Communications Commission.
VINCENT J. MULLINS,
Secretary.

Attachment.

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APPENDIX

BPH-9720 New, Patterson, N.Y.
Patterson Broadcasting Corp.
Req: 105.5 mHz; Channel No. 288A, ERP: 1.11 kW; HAAT: 460 ft.

BPH-9841 New, Bozeman, Mont.
Northern Sun Corp.
Req: 93.7 mHz; Channel No. 229C, ERP: 100 kW; HAAT: 221 ft.

BPH-9862 WQWK, State College, Pa.
State College Communications Corp. Has: 96.7 mHz; Channel No. 244A, ERP: 3 kW; HAAT: 78 Ft. (Lic).
Req: 96.7 mHz; Channel No. 244A, ERP: .225 kW; HAAT: 919 Ft.

BPH-9900 New, Deming, N. Mex.
Luna County B/cting Co.
Req: 94.3 mHz; Channel No. 232A, ERP: 3 kW; HAAT: 195 Ft.

BPH-9902 New, Hilo, Hawaii.
Christian Broadcasting Association.
Req: 97.1 mHz; Channel No. 246C, ERP: 100 kW; HAAT: —98 Ft.

BPH-9903 New, Palm Springs, Calif.
Gray-Schwartz Broadcasting.
Req: 100.9 mHz; Channel No. 265A, ERP: .575 kW; HAAT: 619 Ft.

BPH-9904 New, Pana, Ill.
Pana Broadcasting Corp.
Req: 100.9 mHz; Channel No. 265A, ERP: 3 kW; HAAT: 292 Ft.

BPH-9907 New, Gilmer, Tex.
Daniels Broadcasting, Inc.
Req: 95.3 mHz; Channel No. 237A, ERP: 1.4 kW; HAAT: 420 Ft.

BPH-9908 WIVY-FM Jacksonville, Fla.
Jacksonville Broadcasting Corp.
Has: 102.9 mHz; Channel No. 275C, ERP: 29 kW; HAAT: 205 Ft. (LIC).
Req: 102.9 mHz; Channel No. 275C ERP: 60 kW; HAAT: 572 Ft.

BPH-9909 New, Eunice, La.
Tri-Parish B/cting Co., Inc.
Req: 105.5 mHz; Channel No. 288A, ERP: .2 kW; HAAT: 105.6 Ft.

BPH-9910 New, Berryville, Va.
Berryville Media Group.
Req: 105.5 mHz; Channel No. 288A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9913 New, Columbia, S.C.
Oasis Media Limited.
Req: 103.1 mHz; Channel No. 276A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9914 New, Jeffersontown, Ky.
Publicast Communications, Inc.
Req: 101.7 mHz; Channel No. 269A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9915 New, Lewisburg, W. Va.
Lewisburg FM Broadcasters.
Req: 105.5 mHz; Channel No. 289A, ERP: 3 kW; HAAT: 300 Ft. (Allocated to Ronceverte, W. Va.)

BPH-9917 New, Frankfort, Mich.
Benzie County Communications, Inc.
Req: 99.3 mHz; Channel No. 275A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9918 New, Lake Village, Ark.
Jack A. Carpenter.
Req: 95.9 mHz; Channel No. 240A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9920 KBRE-FM, Cedar City, Utah.
New Era Broadcasting Co.
Has: 94.9 mHz; Channel No. 235C, Erp: 25.5 kW; Haat: —160 Ft. (LIC).
Req: 94.9 mHz; Channel No. 235C, Erp: 25.3 kW; Haat: 1681 Ft.

BPH-9921 New, Bethlehem, W. Va.
Radio Wheeling, Inc.
Req: 1055 mHz; Channel No. 288A, Erp: 3 kW; Haat: 300 Ft. (Allocated to Moundsville, W. Va.)

BPH-9923 New, Ashland, Oreg.
Faith Tabernacle, Inc.
Req: 101.7 mHz; Channel No. 269A, Erp: 3 kW; Haat: —1298 Ft.

BPH-9924 New, Prentiss, Miss.
Jeff Davis Broadcasting Service.
Req: 98.3 mHz; Channel No. 252A, Erp: 1 kW; Haat: 94 Ft.

BPH-9926 New, Mariposa, Calif.
Mariposa Broadcasting, Inc.
Req: 96.3 mHz; Channel No. 242B, Erp: 1.1 kW; Haat: 2079 Ft.

BPH-9928 WTWE, Manning, S.C.
Clarendon County Broadcasting Co.
Has: 92.1 mHz; Channel No. 221B, Erp: 3 kW; Haat: 160 Ft. (Lic)
Req: 92.1 mHz; Channel No. 221A, Erp: 3 kW; Haat: 300 Ft.

BPH-9929 KDES-FM, Palm Springs, Calif.
Tourtelot Broadcasting Company.
Has: 104.7 mHz; Channel No. 284B, Erp: 20 kW Haat: —600 Ft. (LIC)
Req: 104.7 mHz; Channel No. 284B, Erp: 41.5 kW; Haat: 543 Ft.

BPH-9930 WKPT-FM, Kingsport, Tenn.
Holston Valley Broadcasting Corp.
Has: 98.5 mHz; channel No. 253C, ERP: 45 kW; HAAT: 980 Ft. (LIC)
Req: 98.5 mHz; Channel No. 253C, ERP: 100 kW; HAAT: 1260 Ft.

BPH-9931 New, Price, Utah.
Eastern Utah Broadcasting Co.
Req: 98.3 mHz; Channel No. 252A, Erp: 3 kW; HAAT: —144 Ft.

BPH-9932 New, Livingston, Mont.
Yellowstone B/cting Services, Inc.
Req: 97.7 mHz; Channel No. 249A, ERP: 3 kW; HAAT: —245 Ft.

BPH-9934 New, Lake Arrowhead, Calif.
Arrowhead Broadcasting Corp.
Req: 103.9 mHz; Channel No. 280A, ERP: .067 kW; HAAT: 1486 Ft.

BPH-9937 New, High Springs, Fla.
Country Broadcasting Co.
Req: 104.9 mHz; Channel No. 285A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9938 KDUX-FM, Aberdeen, Wash.
Aberdeen Broadcasting Co.
Has: 104.7 mHz; Channel No. 284C, ERP: 48 kW; HAAT: 155 Ft. (LIC) (Ocean Shores, Wash.)
Req: 104.7 mHz; Channel No. 284C, ERP: 31.3 kW; HAAT: 361 Ft. (Aberdeen, Wash.)

BPH-9948 New, Gaylord, Mich.
Maumee Valley Broadcasting Association.
Req: 95.3 mHz; Channel No. 237A, ERP: 1.8 kW; HAAT: 371 Ft.

BPH-9949 New, St. Ignace, Mich.
Maumee Valley Broadcasting Association.
Req: 102.3 mHz; Channel No. 272A, ERP: 3 kW; HAAT: 300 Ft.

BPH-9952 WDAS-FM, Philadelphia, Pa.
Max M. Leon, Inc.
Has: 105.3 mHz; Channel No. 287B, ERP: 50 kw; HAAT: 185 Ft. (LIC).
Req: 105.3 mHz; Channel No. 287B, ERP: 3.31 kw; HAAT: 872 Ft.

BPH-9954 New, Bastrop, La. Hagan Broadcasting, Inc.
Req: 100.1 mHz; Channel No. 261A, ERP: 3 kw; HAAT: 182 Ft.

BPH-9955 New, Plymouth, N.C.
Ralph D. Epperson.
Req: 95.9 mHz; Channel No. 240A, ERP: 2.6 kw; HAAT: 326 Ft.

BPH-9956 New, Slaton, Tex.
Faith Broadcasting Service.
Req: 92.7 mHz; Channel No. 224A, ERP: 3 kw; HAAT: 300 Ft.

BPH-9957 KWHO-FM, Salt Lake City, Utah.
Radio Station KWHO.
Has: 93.3 mHz; Channel No. 227C, ERP: 37 kw; HAAT: —93 Ft. (LIC).
Req: 93.3 mHz; Channel No. 227C, ERP: 13 kw; HAAT: 3650 Ft.

BPH-9965 New, Mineola, Texas.
A-C Corp.
Req: 96.7 mHz; Channel No. 244A, ERP: 3 kw; HAAT: 300 Ft.

BPH-9967 New, Aztec, New Mex.
Basin Broadcasting Co.
Req: 94.9 mHz; Channel No. 235C, ERP: 30 kw; HAAT: 429 Ft.

BPH-9971 KSND, Springfield-Eugene, Ore.
Sterling Recreation Organization Co.
Has: 93.1 mHz; Channel No. 226C, ERP: 2.6 kw; HAAT: 81 Ft. (LIC).
Req: 93.1 mHz; Channel No. 226C, ERP: 26.7 kw; HAAT: 814 Ft.

BPH-9972 KSOM-FM, Ontario, Calif.
Media Management Co., Inc.
Has: 93.5 mHz; Channel No. 228A, ERP: 3 kw; HAAT: —400 ft. (LIC).
Req: 93.5 mHz; Channel No. 228A, ERP: 3 kw; HAAT: 89 ft.

BPH-9974 KTYL, Tyler, Tex.
Oil Center Broadcasting Co.
Has: 93.1 mHz; Channel No. 226C, ERP: 4.8 kw; HAAT: 380 Ft. (LIC).
Req: 93.1 mHz; Channel No. 226C, ERP: 100 kw; HAAT: 468.2 Ft.

BPH-9977 New, Alliance, Nebr.
Quiven Q. Fortner and Robert V. Hill.
Req: 92.1 mHz; Channel No. 221A, ERP: 3 kw; HAAT: 300 Ft.

BPH-9980 New, Bethany, Mo.
Jerrell A. Shepherd.
Req: 95.9 mHz; Channel No. 240A, ERP: 3 kw; HAAT: 300 Ft.

BPH-9981 New, Hermiston, Oreg.
Hermiston Broadcasting Co.
Req: 99.3 mHz; Channel No. 257A, ERP: 3 kw; HAAT: 78 Ft.

BPH-9996 KLSN, Brownwood, Tex.
G.B.E., Inc.
Has: 99.3 mHz; Channel No. 257A, ERP: 0.7 kw; HAAT: 115 Ft. (LIC).
Req: 104.1 mHz; Channel No. 281C, ERP: 25 kw; HAAT: 206 Ft.

BPH-10111 New, Healdsburg, Calif.
Carroll E. Brock.
Req: 92.9 mHz; Channel No. 225B, ERP: 18 kw; HAAT: 730 Ft.

BMPH-14866 WBJH, Trenton, N.J.
WBUD, INC.
Has: 101.5 mHz; Channel No. 268B, ERP: 20 kw; HAAT: 130 Ft. (LIC).
Has: 101.5 mHz; Channel No. 268B, ERP: 20 kw; HAAT: 120 Ft. (CP).
Req: 101.5 mHz; Channel No. 268B, ERP: 50 kw; HAAT: 120 Ft.

BMPH-14875 KRKE-FM, Albuquerque, N. Mex.
Gaylord Broadcasting Co., Inc.
Has: 94.1 mHz; Channel No. 231C, ERP: 1.6 kw; HAAT: —150 Ft. (LIC).
Has: 94.1 mHz; Channel No. 231C, ERP: 3.5 kw; HAAT: —155 Ft. (CP).
Req: 94.1 mHz; Channel No. 231C, ERP: 3.14 kw; HAAT: 4104 Ft.

BMPH-14876 KNCY-FM, Nebraska City, Nebr.
The KNCY Radio Corp.
Has: 97.7 mHz; Channel No. 249A, ERP: 3 kw; HAAT: 125 Ft. (CP).
Req: 97.7 mHz; Channel No. 249A, ERP: 3 kw; HAAT: 300 Ft.

BPED-2146 New, Chester, Pa.
Widener College.
Req: 89.5 mHz; Channel No. 208D, TPO: .01 kw.

BPED-2210 New, Bainbridge, Ohio.
Kenston Local School District.
Req: 88.3 mHz; Channel No. 202D, TPO: .01 kw.

BPED-2215 New, Richmond, Va.
University of Richmond.
Req: 90.1 mHz; Channel No. 211D, TPO: .01 kw.

BPED-2239 New, Prairie View, Tex.
Prairie View A & M University.
Req: 88.3 mHz; Channel No. 202C, ERP: 50 kw; HAAT: 402 Ft.

BPED-2245 New, Carolina, Puerto Rico.
Christian Broadcasting Corp.
Req: 90.5 mHz; Channel No. 213B, ERP: 25 kW; HAAT: 1861 Ft.

BPED-2246 New, Elkton, Md.
Maranatha Bible Institute, Inc.
Req: 88.3 mHz; Channel No. 202A, ERP: 3 kW; HAAT: 260.6 Ft.

BPED-2248 New, Elon College, N.C.
Elon College.
Req: 89.3 mHz; Channel No. 207D, TPO: .01 kW.

BPED-2252 WVXU-FM, Cincinnati, Ohio.
Xavier University.
Has: 91.7 mHz; Channel No. 219D, ERP: .065 kW HAAT: 650 Ft. (LIC).
Req: 91.7 mHz; Channel No. 219B, ERP: 6.39 kW; HAAT: 683 Ft.

BPED-2254 New, New Orleans, La.
New Orleans Baptist Theological Sem.
Req: 90.7 mHz; Channel No. 214D, TPO: .01 kW.

BPED-2259 KVTT, Dallas, Tex.
Research Educational Foundation, Inc.
Has: 91.7 mHz; Channel No. 219C, ERP: .78 kW; HAAT: 69 Ft. (LIC).
Req: 91.7 mHz; Channel No. 219C, ERP: 100 kW; HAAT: 786 Ft.

BPED-2260 New, Monroe, Mich.
Monroe Public Schools.
Req: 89.5 mHz; Channel No. 208D, TPO: .01 kW.

BPED-2261 New, Utica, N.Y.
Syracuse Univ. Utica College Branch.
Req: 90.7 mHz; Channel No. 214D, TPO: .01 kW.

BPED-2264 New, Boxford, Mass.
Masconomet Regional School System.
Req: 88.3 mHz; Channel No. 202A, ERP: .710 kW; HAAT: 19 Ft.

BPED-2265 New, Lake Havasu City, Ariz.
Royal Ranger Trailblazer Outpost No. 67.
Req: 88.3 mHz; Channel No. 202D, TPO: .01 kW.

BPED-2267 WKTL, Struthers, Ohio.
Bd. of Educ., Struthers City Sch. Dist.
Has: 90.7 mHz; Channel No. 214A, ERP: .91 kW; HAAT: 26 Ft. (LIC).
Req: 90.7 mHz; Channel No. 214A, ERP: 14.9 kW; HAAT: 23 Ft.

BPED-2272 New, Sodus, N.Y.
Sodus Central School.
Req: 89.5 mHz; Channel No. 208D, TPO: .01 kW.

BPED-2276 New, Lancaster, Pa.
Lancaster Bible College.
Req: 90.3 mHz; Channel No. 212A, ERP: 1.06 kW; HAAT: 87.5 Ft.

BPED-2281 KAVS, Thief River Falls, Minn.
Area Vocational Technical Institute.
Req: 90.1 mHz; Channel No. 211A, ERP: 1.8 kW; HAAT: 82 Ft.

BPED-2359 KDVS, Davis, Calif.
University of California.
Has: 91.5 mHz; Channel No. 218D, TPO: .01 kW. (LIC).
Req: 90.3 mHz; Channel No. 212B, ERP: 5 kW; HAAT: 149 Ft.

BMPED-1291 WEVL, Memphis, Tenn.
Southern Communication Volunteers.
Has: 90.3 mHz; Channel No. 212D, TPO: .01 kW. (CP).
Req: 89.9 mHz; Channel No. 210C, ERP: 6.3 kW; HAAT: 279 Ft.

[FR Doc.76-24081 Filed 8-16-76;8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Forwarding Services, Inc., 6127 Valkeith Street, Houston, Texas 77096. Officers: John M. Revolinski, Secretary/Treasurer; Pauline Rosales, President; Rose G. Bennett, Vice President.

Aspen Forwarders & Custom House Brokers, Inc., 39 Broadway, Suite 3009, New York, NY 10006. Officers: Ralph W. Launer, President; Norman I. Isacoff, Vice President; Edward B. Fitzgerald, Treasurer; Norman C. Schwartz, Secretary.

Panda Freight Forwarders, Inc., P.O. Box 340066, Coral Gables, FL 33134. Officers: Miguel A. Lopez, President/Director; Alberto F. Perdomo, Vice Pres./Director; Concepcion Martinez, Secretary/Treas.

Dated: August 12, 1976.

By the Federal Maritime Commission

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24045 Filed 8-16-76;8:45 am]

FAR EAST CONFERENCE, ET AL.

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 6, 1976. Any person desiring a hearing on the proposed agree-

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ment shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Edward D. Ransom, Esq.,
Lillick McHose & Charles,
Two Embarcadero Center, 26th Floor,
San Francisco, California 94111.

Agreement No. 10135 is a policy level discussion agreement between the member lines of the Far East Conference (Agreement No. 17) and the Pacific Westbound Conference (Agreement No. 57) which permits the member lines of each to discuss various, enumerated, matters of mutual concern in the trades served by each with the object of drafting appropriate recommendations for referral to either or both Conferences for consideration and, if acceptable, for implementation. This arrangement is scheduled to expire on October 8, 1976 "• • • or sixty (60) days following Commission decision in Docket 74-41 should decision result in disapproval of Agreement 8200 [a rate-making agreement, essentially, between the Far East and Pacific Westbound Conferences] • • • whichever shall occur earlier." No decision in Docket 74-41 has been reached by the Commission.

The effect of Agreement No. 10135-2, here, is to accord the basic agreement an unlimited approval or "• • • until the sixtieth (60th) day after a notice of termination subscribed by three or more parties shall have been mailed to each of the other parties • • •" and to the Commission.

Dated: August 12, 1976.

By Order of the Federal Maritime Commission.

FRANCIS HURNEY,
Secretary.

[FR Doc.76-24044 Filed 8-16-76;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND STRACHAN SHIPPING CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Company, Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10257 between Lykes Bros. Steamship Company, Inc. (Lykes) and Strachan Shipping Company (Strachan) is an agency agreement whereby Lykes appoints Strachan as its agent in the ports of Port Canaveral, Port of Palm Beach, and Key West, Florida, on the terms and conditions and to the extent set forth therein.

By Order of the Federal Maritime Commission.

Dated: August 12, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24047 Filed 8-16-76;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND UNITED STATES LINES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnah, Pricing Analyst, Lykes Bros. Steamship Company, Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10258 between Lykes Bros. Steamship Company, Inc. (Lykes) and United States Lines, Inc. (USL) is an agency agreement whereby Lykes appoints USL as its husbanding agent for its vessels at the ports of New York, New York; Baltimore, Maryland; and Norfolk, Virginia, on the terms and conditions and to the extent set forth therein.

By Order of the Federal Maritime Commission.

Dated: Aug 12, 1976

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24046 Filed 8-16-8;8:45 am]

SOUTH AND EAST AFRICA/U.S.A. CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

William L. Hamm, Chairman, South and East Africa/U.S.A. Conference, 25 Broadway, New York, New York 10004.

Agreement No. 8054-13, among the member lines of the South and East Africa Conference, (1) deletes Paragraph 2 of Article 3(h) in its entirety, whereby conference membership automatically ceases when a party fails to have a sailing for six consecutive months for reasons other than war, strikes, boycotts or other force majeure and (2) adds three new paragraphs to Article 3(h) to require a positive unanimous action by the other members to expell a member whereby in the event said carrier truly abandoned the trade but neglected to send a notice of withdrawal, some action could be taken to remove the carriers' name from the agreement.

By Order of the Federal Maritime Commission.

Dated: August 11, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24048 Filed 8-16-76;8:45 am]

UNITED STATES/SOUTH AND EAST AFRICA CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

William L. Hamm, Chairman, United States/South and East Africa Conference, 25 Broadway, New York, New York 10004.

Agreement No. 9502-8, among the member lines of the United States/South and East Africa Conference, (1) deletes Article 11 in its entirety, whereby conference membership automatically ceases when a party fails to have a sailing for six consecutive months for reasons other than war, strikes, boycotts or other force majeure and (2) adds a new Article 11 to require a positive unanimous action by the other members to expel a member whereby in the event said carrier truly abandoned the trade but neglected to send a notice of withdrawal some action could be taken to remove the carrier's name from the agreement.

By Order of the Federal Maritime Commission.

Dated: August 11, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24049 Filed 8-16-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9563]

BONNEVILLE POWER ADMINISTRATION

Filing of Transmission Rate Schedules and Provisions

AUGUST 11, 1976.

Take notice that on July 30, 1976, the Secretary of the Interior, upon behalf of Bonneville Power Administration (BPA), pursuant to Section 9 of the Federal Columbia River Transmission System Act (93 Stat. 454) filed with the Federal Power Commission a request for confirmation and approval of proposed transmission rate schedules and General Transmission Rate Schedule Provisions for the transmission (wheeling) of power by BPA.

The BPA submittal, which comprises three rate schedules, includes:

1. *Schedule FPT-1.* Available for the firm transmission of electric power and energy for another entity over Federal electric transmission system facilities. The rate is designed for transmitting power from non-Federal hydro and existing thermal plants to load centers over Federal facilities where the specific facilities used may not be readily determined.

2. *Schedule UFT-1.* Available for the transmission of electric power and energy for another entity over specified Federal transmission system facilities. The basic monthly charge shall be one-twelfth of the sum of the products of the annual cost of each element of the specific facilities per kilowatt of capacity rating and the transmission demand.

3. *Schedule ET-1.* This schedule is available for the incidental transmission of electric energy for another entity using excess capacity of the Federal transmission system.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24022 Filed 8-16-76;8:45 am]

[Docket No. ER76-832]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Rate Filing

AUGUST 10, 1976.

Take notice the Central Hudson Gas & Electric Corporation (Central Hudson), on August 2, 1976, tendered for filing as a rate schedule an executed agreement dated May 17, 1976 between Central Hudson and New York State Electric & Gas Corporation (NYSEG). The proposed rate schedule provides for the sale of firm capability and associated energy by Central Hudson.

The rate schedule provides for a capability charge of $100 per megawatt per day of operating capability made available by Central Hudson and an energy charge equal to Central Hudson's average system steam electric generation costs, which includes fuel and operation and maintenance costs, plus $.0005 per kilowatt-hour.

Central Hudson requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective on May 18, 1976 in accordance with the terms thereof. Central Hudson states that it will be uncompensated for costs already incurred pursuant to the terms of the proposed rate schedule, if the waiver is not granted.

Central Hudson states that a copy of its filing was served on NYSEG.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

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filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24013 Filed 8-16-76;8:45 am]

[Project No. 2284]

CENTRAL MAINE POWER CO.

Application for Easement Over Project Lands

AUGUST 10, 1976.

Public notice is hereby given that an application was filed on July 6, 1976, under the Federal Power Act (16 U.S.C. 791a–825r) by the Central Maine Power Company (correspondence to: Mr. Jon S. Readnour, Counsel, Central Maine Power Company, 9 Green Street, Augusta, Maine 04330) for approval of an easement over lands of Brunswick-Topsham Project No. 2284, located on the Androscoggin River, in Cumberland and Sagadahoc Counties, Maine.

The Company requests Commission approval for the granting of a 25-foot wide permanent easement approximately 640 feet long to the Topsham Sewer District (District), which would accommodate a 10-inch interceptor pipe as part of the District's proposed interceptor sewer system. The pipe would not discharge into project waters.

The District received a Corps of Engineers Permit (ME–BATH–73–290) for a river crossing not on project lands but part of the total sewer project. Also, approvals were received from the Environmental Protection Agency (EPA), Southern Mid Coast Regional Planning Commission, State of Maine—State Planning Office, Maine Department of Transportation and the Maine Department of Environmental Protection.

Public notices have been published in connection with applications for approval with EPA, Maine Department of Environmental Protection, and the Town of Topsham Shoreland Zoning Commission. After public notice and hearings, all approvals were granted by the appropriate agencies.

The Company has requested the earliest possible Commission action and the use of the shortened procedures pursuant to Section 1.32(b) of the Commission Rules.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 27, 1976, file with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. §§ 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for the Company to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24014 Filed 8-16-76;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS & ELECTRIC CO.

Order Denying Requested Relief

AUGUST 3, 1976.

On July 2, 1976, the Village of Georgetown, Ohio, intervenor herein, filed a motion requesting that the Commission order The Cincinnati Gas & Electric Company (CG&E) to commence billing Georgetown on CG&E's presently effective FPC Rate Schedule No. 36. For the reasons hereinafter stated, we shall deny Georgetown's motion.

Docket No. ER76–709 was initiated by CG&E's filing on May 25, 1976, of a proposed rate increase to Georgetown and The Union Light, Heat and Power Company (Union Light), a wholly-owned subsidiary of CG&E. One of the stated purposes of the proposed rate change was to place Georgetown and Union Light under the same rate schedule. By order issued June 23, 1976, the Commission accepted for filing and suspended for two months the proposed tariff changes, established hearing procedures, and granted the petitions of Georgetown and Union Light to intervene.

In the instant pleading, Georgetown contends that pursuant to a settlement agreement dated May 14, 1975, in Docket Nos. E–8885 and E–8546 and approved by Commission order issued September 5, 1975, CG&E granted Georgetown's request for the same rate as Union Light and agreed to file a rate schedule which would be applicable to both Georgetown and Union Light. Georgetown states that to date, it has received no benefit from the lower rate within Rate Schedule No. 36 that is presently applicable to only Union Light, which rate will be superseded on August 25, 1976, by the increased rate filed in Docket No. ER76–709. Georgetown requests that CG&E be ordered to bill Georgetown under Rate Schedule No. 36 so that Georgetown may receive the prospective advantages of such lower rate prior to its August 25 cancellation.

On July 14, 1976, CG&E filed an answer to Georgetown's motion contending that (1) the motion seeks interlocutory relief that cannot be granted, and (2) the terms of the settlement agreement do not entitle Georgetown to the relief requested.

Upon review of the May 14, 1975 settlement agreement we find no support for the relief requested by Georgetown. Article 8 of the settlement agreement provides in pertinent part:

> 8. Since Georgetown requests the same rate as the Union Light, Heat and Power Company, CG&E shall file, pursuant to § 205(d) of the Federal Power Act, at some time subsequent to termination of these consolidated cases a notice of revised rate schedule for wholesale electric service to both Georgetown and The Union Light, Heat and Power Company. Such revised rate schedule shall be designed to contain a single demand step and a single energy step. Such filing will contain two cost of service studies. One will utilize twelve month average coincidental peak for allocation purposes and the other will be premised upon a single annual coincidental peak for such allocation, with testimony in support of the latter allocation approach.

The above language clearly indicates that CG&E would file a rate change applicable to both Georgetown and Union Light so as to place them on the same rate. We find no basis for granting Georgetown's request to be placed on the present rate applicable to Union Light (Rate Schedule No. 36).

The Commission finds: Good cause does not exist to grant the relief requested by Georgetown in its July 2, 1976 motion.

The Commission orders: (A) The relief requested by Georgetown in its July 2, 1976 motion is hereby denied.

(B) The Secretary shall cause the prompt publication of this order in the Federal Register.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24003 Filed 8-16-76;8:45 am]

[Docket No. CP76-454]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Application

AUGUST 3, 1976.

Take notice that on July 22, 1976, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP76–454 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Columbia Gas to construct and operate certain facilities and to transport up to 2,500 Mcf of natural gas per day for the City of Somerset, Kentucky (Somerset), and authorizing a new delivery point from Columbia Gulf to Columbia Gas and the construction and operation of certain natural gas facilities related thereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gas proposes to construct and operate a measuring and regulating facility and approximately 0.1 mile of 6-inch pipeline to connect said facility to Columbia Gas' existing Line KA–1, which services the City of Manchester, Clay County, Kentucky. It is said that these facilities are required to receive volumes of gas to be transported for Somerset and would also be used to receive volumes of gas purchased by Columbia Gas from Somerset and Patrick Petroleum Corporation (Patrick). The application shows the estimated cost of Columbia Gas' proposed facilities is $45,600, which cost would be generated from internal sources.

Columbia Gulf proposes to establish an additional point of delivery to Columbia Gas and construct and operate a measuring and regulating facility related thereto. It is said that the proposed point of delivery and related facilities would be used to deliver volumes of gas to Somerset for the account of Columbia Gas and would be located on existing and intersecting rights-of-way of Columbia Gulf and Somerset in Casey County, Kentucky. The application shows the estimated cost of these facilities to be $41,200, which cost would be reimbursed to Columbia Gulf by Somerset.

The application indicates that the transportation and redelivery of gas is pursuant to an effort by Somerset to supplement its supply of natural gas for the benefit of all of the industrial customers of Somerset Gas Service, which is Somerset's gas utility business. It is further incidated that Somerset is in the process of constructing an 8-inch gas pipeline from Hyden, Leslie County, Kentucky, to Manchester to move production volumes from the Hyden field to market and that not less than 50 percent of the volumes dedicated to Somerset would be sold by Somerset to Columbia Gas. It is asserted that Somerset's remaining 50 percent, nôt to exceed 2,500 Mcf per day, is to be transported under the requested authorization, for which transportation service Somerset would pay Columbia Gas 20.0 cents per Mcf. It is further asserted that all capacity in the Hyden to Manchester 8-inch line above 5,000 Mcf per day is dedicated and reserved for Columbia Gas' exclusive use without charge for transportation and that Columbia Gas would pay Somerset $300,000 as a contribution in aid of construction after the completion of and the placing in service of the Hyden-to-Manchester line.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter find that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24004 Filed 8-16-76;8:45 am]

[Docket Nos. E-8769, E-8770, E-9119, ER76-218 and ER76-219]

FLORIDA POWER AND LIGHT CO.

Further Extension of Time

AUGUST 11, 1976.

On July 26, 1976, the Commisison Staff Counsel filed a motion to extend the procedural dates fixed by order issued July 3, 1975, as most recently modified by notice issued July 16, 1976, in the above-designated proceeding. The motion states that Florida Power and Light Company supports the proposed schedule.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Testimony, October 15, 1976.
Service of Staff Testimony, October 29, 1976.
Service of Intervenor Testimony, November 12, 1976.
Service of Company Rebuttal, November 29, 1976.
Hearing, December 14, 1976.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24021 Filed 8-16-76;8:45 am]

[Docket No. ER76-837]

ILLINOIS POWER CO.

Filing Amendment No. 8 to Interconnection Agreement

AUGUST 10, 1976.

Take notice that Illinois Power Company (Illinois Power) on August 2, 1976, tendered for filing Amendment No. 8 to the Interconnection Agreement dated March 1, 1964 between Commonwealth Edison Company (Commonwealth Edison) and Illinois Power. The Commission has previously designated the March 1, 1964 Agreement as Illinois Power Rate Schedule FPC No. 11 and Commonwealth Edison Rate Schedule FPC No. 5.

The parties state that Amendment No. 8 to the Agreement provides for an increase in the minimum energy charges for Emergency Service from 17.5 mills to 30 mills per kilowatthour, proposed to become effective September 1, 1976. The parties also state that since the use of Emergency Service under the proposed minimum charge cannot be accurately determined or estimated, it is impossible to determine or estimate the increase in revenues resulting from Amendment No. 8.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNEETH F. PLUMB,
Secretary.

[FR Doc.76-24015 Filed 8-16-76;8:45 am]

[Docket No. ER76-823]

IOWA SOUTHERN UTILITIES CO.

Proposed Rate Change

AUGUST 10, 1976.

On July 30, 1976, Iowa Southern Utilities Company, ("Iowa Southern" or "Company") submitted for filing proposed changes in its rates under which wholesale electric service for retail is provided to Albia Light and Railway and to the following Iowa cities: Seymour, Afton, Eldon, Orient, Danville, and New London. Presently effective rate schedules 91 and 96 would be withdrawn and a single Rate 92 would be applicable to service to all seven customers. The proposed change set forth in that filing would increase revenues from jurisdictional sales by $202,720, based on the twelve months ended December 31, 1975.

Iowa Southern states that the cost of service study for the test year 1975 as submitted in the filing demonstrates the need for the increase in revenue to provide a reasonable return on the investment dedicated to providing electrical service to these wholesale customers.

Iowa Southern requests that the Commission waive the notice requirements of Section 35.13(b)(4)(i) and 35.13(b)(5)(i) of the regulations and accept the

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proposed rate schedule for filing with an effective date of August 31, 1976, or, in lieu thereof, order a suspension period of not more than one day.

Copies of this filing have been served by personal delivery to Albia Light and Railway and to the cities of Seymour, Afton, Eldon, Orient, Danville, and New London. A copy of the filing has also been mailed to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24016 Filed 8-16-76;8:45 am]

[Docket No. ER76-838]

MISSOURI PUBLIC SERVICE CO.

Filing of Notice of Cancellation

AUGUST 10, 1976.

Take notice that on July 14, 1976, Missouri Public Service Company (MPS) filed a Notice of Cancellation of Service Schedule E, Supplement No. 1 to its FPC Rate Schedule No. 18. MPS states that Service Schedule E terminated by its own terms on May 31, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24018 Filed 8-16-76;8:45 am]

[Docket No. E-9473]

MISSOURI UTILITIES CO.

Tender of Tariff Sheets

AUGUST 9, 1976.

Take notice that on July 20, 1976, Missouri Utilities Company (MU) tendered for filing the following tariff sheets as part of its FPC Electric Tariff, Original Volume No. 1:

1st Revised Sheet No. 3, superseding Interim, 1st Revised Sheet No. 3.
1st Revised Sheet No. 4, superseding Interim, 1st Revised Sheet No. 4.
1st Revised Sheet No. 5, superseding Interim, 1st Revised Sheet No. 5.
Original Sheet No. 5A, superseding Interim, Original Sheet No. 5A.

MU states that the tariff sheets are tendered pursuant to the Commission's order issued December 5, 1975, in Docket No. E-9473 and represent MU's proposed final settlement of that docket. MU states that the tendered SFR-1 rate schedule reduces the per kW billing demand charge to reflect the settlement in Union Electric Company, Docket No. E-9496. MU states that there are no refunds due to the City of Kennett in Docket No. E-9473 since it incurred no billing demand responsibility, but that it is necessary to lower the per kW billing demand charge in case billing demand responsibility is incurred in the future.

MU requests waiver of the 30-day notice requirement to permit an effective date of August 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-23995 Filed 8-16-76;8:45 am]

[Docket No. ER76-801]

MISSOURI UTILITIES CO.

Tariff Sheet Correction

AUGUST 10, 1976.

Take notice that on July 16, 1976, Missouri Utilities Company (MU) tendered for filing tariff sheet, Interim Original Sheet No. 5A, superseding Interim Original Sheet No. 6 in its FPC Electric Tariff, Original Volume No. 1. MU states that Interim Original Sheet No. 6 was accepted by Commission order dated December 5, 1975, to become effective November 17, 1975, in Docket No. E-9473, but that the designation was improper because an Original Sheet No. 6 had previously been filed. MU states that the tender herein corrects the tariff sheet numbering. MU requests waiver of the 30 day notice requirement to permit an effective date of July 31, 1976, for the tendered tariff sheet.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24017 Filed 8-16-76;8:45 am]

[Docket No. ER76-831]

MONONGAHELA POWER CO. AND WEST PENN POWER CO.

Changes in Rates and Charges

AUGUST 10, 1976.

Take notice that Allegheny Power Service Corporation (APSC) on July 30, 1976 tendered for filing on behalf of Monongahela Power Company (Monongahela) and West Penn Power Company (West Penn), two of the electric utilities which make up the integrated Allegheny Power System, Amendment No. 4 dated July 21, 1976 to the Interchange Agreement dated October 17, 1968 between Monongahela, West Penn and the Ohio Edison Company and Pennsylvania Power Company (Ohio Edison) designated Monongahela Rate Schedule FPC No. 29 and West Penn Rate Schedule FPC No. 27.

APSC states that Amendment No. 4 provides for an increase in the demand charge for short-term power from $0.45 to $0.50 per kilowatt week to become effective September 1, 1976. Applicants state that since short-term power transactions are scheduled from time to time as load capacity conditions on the systems of the parties dictate, it is impossible to estimate the increase in revenues which would result from Amendment No. 4.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24019 Filed 8-16-76;8:45 am]

[Docket Nos. RI76-132; RI76-133; RI76-135]

NORTHERN MICHIGAN EXPLORATION CO. ET AL.

Order Consolidating Proceedings and Granting Intervention

AUGUST 4, 1976.

On June 14, 24, and 29, 1976, Northern Michigan Exploration Company (NOMECO) Clark Oil Producing Co. (Clark), and Diamond Shamrock Corporation (Diamond Shamrock), respectively, filed petitions for special relief pursuant to Sections 1.7 and 2.56(a)(g)(2) from the rate established in Section 2.56(a)(1) of the Commission's General Policy and Interpretations.[1] On July 8, 1976, the Michigan Public Service Commission filed a Notice of Intervention and on July 15, 1976, Consumers Power Company filed a petition to intervene both in Docket No. RI76-132.

NOMECO requests a base rate of $1.-7456 per Mcf with annual escalations of 4 percent per annum for the sale of natural gas from its 12.5 percent working interest in production from West Cameron Block 639, Offshore Louisiana, to Trunkline Gas Company (Trunkline) and Consumers Power Company (Consumers). NOMECO is currently making emergency deliveries to Trunkline from West Cameron Block 639 pursuant to Section 157.29 of the Commission's Rules of Practice and Procedure. However, on July 9, 1976, the Commission approved NOMECO's application for a limited term sale of this gas in Docket No. CI76-524 pending the issuance of a permanent certificate in Michigan Gas Storage Company, Docket No. CP74-322. In the latter proceeding, NOMECO proposes to sell gas to its parent, Consumers Power Company. The July 9 order made clear that any rate relief would apply only to its proposed permanent sales to Consumer and not to the limited term sale.

Additionally, NOMECO requests that, pursuant to Section 1.32(b) of the Commission's Rules, the intermediate decision procedure be omitted inasmuch as NOMECO will begin to incur losses if it does not receive the requested relief of July 6, 1976. Further, NOMECO requests, pursuant to Section 1.20(b) of the Rules of Practice and Procedure, that its petition be consolidated with those petitions for special relief of Sun Oil Company (Sun) and Anadarko Production Company (Anadarko) contained in Docket Nos. RI76-117 and RI76-119 insofar as its petition presents issues of law and fact common to those of Sun and Anadarko.

Clark requests a base rate of $2.0418 per Mcf with annual escalations of 4 percent per annum for the sale of natural gas from its 15 percent working interest in production from West Cameron Block 639, Offshore Louisiana, to Trunkline. Clark is currently making deliveries pursuant to its small producer certificate issued in Docket No. CS71-447.

Diamond Shamrock requests a base rate of $1.8272 per Mcf with annual escalations of 4 percent per annum for the sale of natural gas from its 13.34 percent working interest in production from West Cameron Block 639, Offshore Louisiana, to Trunkline. Diamond Shamrock curently receives 52.5 cents per Mcf plus BTU adjustment for gas deliveries pursuant to FPC Gas Rate Schedule No. 67 excepting 10 percent of its 13.34 percent working interest in such reserves. On April 29, 1976, Diamond Shamrock and Trunkline amended their existing agreement to include the 10 percent portion previously reserved for its own use and to provide for an increased base rate of $1.8272 per Mcf with annual escalations of 4 percent per annum, authority for which in the form of special relief is to be considered herein.[2]

Petitioners together with Sun and Anadarko are owners of 100 percent of the working interest in West Cameron Block 639, Offshore Louisiana. As do Sun and Anadarko, petitioners asert that the total costs associated with West Cameron Block 63. exceed the rate established in Section 2.56a(a)(1) and petition for special relief pursuant to Section 2.56a(g)(2) which refers to relief available in cases where wells are located in water depths greater than 250 feet. As do Sun and Anadarko, petitioners state that these sales will be made from wells located in water depth of 365 feet.

The Commission finds: (1) The public convenience warrants the consolidation of Docket Nos. RI76-132, RI76-133, and RI76-135 with previously consolidated Docket Nos. RI76-117 and RI76-119.

(2) No good cause exists for granting the request for waiver and omission of the intermediate decision.

(3) Good cause exists to grant the petition to intervene of Consumers Power Company.

The Commission orders: (A) The petitions for special relief filed herein in Docket Nos. RI76-132, RI76-133, and RI 76-135 are hereby consolidated with Docket Nos. RI76-117 (Sun) and RI76-119 (Anadarko) which were set for hearing with pre-hearing conference by our order dated July 9, 1976.

(B) Accordingly, pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 16 thereof, the Commission's Rules of Practice and Procedure and the Regulations under the Natural Gas Act (18 CFR Chapter 1), a public hearing shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to determine the lawfulness of Petitioners' proposed rate increases.

(C) Petitioners and any intervenor supporting the foregoing shall file their direct testimony and evidence on or before August 17, 1976, in conformance with our July 9 order. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on September 9, 1976, at 9:30 A.M. EDT, in a hearing room at the address noted in Ordering Paragraph (B).

(E) The Secretary shall cause prompt publication of this order to made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24010 Filed 8-16-76;8:45 am]

[Docket No. CP76-456]

NORTHERN NATURAL GAS CO.

Application

AUGUST 3, 1976.

Take notice that on July 26, 1976, Northern Natural Gas Company, operating as Peoples Natural Gas Division (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP 76-456 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of facilities and the exchange with and sale to Colorado Interstate Gas Company (CIG) of natural gas in interstate commerce, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant and CIG have executed an agreement dated April 20, 1976, for the sale and exchange of natural gas under control of Applicant in the Kendall Field area of Kearny and Hamilton Counties, Kansas. It is stated in the agreement that it supersedes the agreement between Applicant and CIG dated June 1, 1972, pursuant to which the application states service is authorized in Docket Nos. CP 72-275 and CP72-291. Applicant states that several new wells have been drilled in the Kendall area which are dedicated to Applicant; and, as a result, Applicant is again experiencing underage of its production takes which it cannot make up by utilizing existing facilities or by means of the currently authorized exchange. Accordingly, Applicant proposes to exchange and sell gas under the agreement of April 20, 1976.

Under the agreement of April 20, 1976, Applicant would deliver gas to CIG at

[1] Notice of NOMECO's petition was issued on June 22, 1976, and appeared in the FEDERAL REGISTER on July 28, 1976, at 41 FR 26613. Notices of Clark's and Diamond Shamrock's petitions were issued on July 9, 1976.

[2] Concurrently Diamond Shamrock filed on June 29, 1976, an application to amend its certificate in Docket No. CI75-13 with a copy of the amendatory agreement to be filed as a supplement to its FPC Gas Rate Schedule No. 67 so as to include 10 percent of its 13.34 working interest ownership previously reserved for its own use at a rate of $1.8272 per Mcf with annual escalations of 4 percent as requested in this petition for special relief.

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two points of interconnection on CIG's gathering system in Kearny County, Kansas, at aggregate delivery rates of not less than 3,000 Mcf on an average day and not more than 7,500 Mcf on any day. CIG would have a continuing option to purchase 25 percent of the gas delivered by Applicant which might be in excess of 37,500 Mcf per month. Applicant would charge CIG for the sale gas the average price Applicant pays for gas it purchases in the area from wells contracted for and connected on or after January 1, 1973, which rate is said initially to be 63.75 cents per Mcf subject to Btu adjustment. In addition Applicant would charge an amount for gathering and transporting such gas, which rate is said initially to be 6.32 cents per Mcf. The application states that minimum sales would be 161,250 Mcf annually.

CIG would redeliver to Applicant, from April 1 through October 15, thermally equivalent volumes of gas, less volumes purchased from Applicant. For all gas deliveries by Applicant to CIG which would be in excess of 37,500 Mcf per month and not purchased by CIG, Applicant would pay CIG an initial rate of 4.5 cents per Mcf for compression and transportation. Redeliveries would be made at one point in Moore County, Texas, at one point in Bent County, Colorado, and at three points in Baca County, Colorado.

Applicant states that in order to effect delivery of gas to CIG in Section 31, T. 24 S., R. 34 W., Kearny County, Kansas, it requests authorization to operate an existing measuring station located in proximity of the point of interconnection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24005 Filed 8-16-76;8:45 am]

[Docket No. CP76-457]

NORTHERN NATURAL GAS CO.

Application

AUGUST 3, 1976.

Take notice that on July 26, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-457 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Iowa Electric Light and Power Company (Iowa Electric) and the construction and operation of facilities for the delivery of gas to Iowa Electric, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to deliver from March 27 through October 26 of each year (summer season) up to 2,000 Mcf of summer maximum daily volume of gas to Iowa Power and Light Company (Iowa Power) at Iowa Power's Des Moines Town Border Station No. 1 in Polk County, Iowa, for the account of Iowa Electric for liquefaction. On days not within the summer season gas might be delivered under the same circumstances, the application states.

The application states that each day during the summer season Iowa Electric would designate by individual billing group the specific volume it wishes Applicant to deliver to Iowa Power and that the volume designated for any billing group would not exceed the summer maximum daily volume then currently in effect for such billing group as set forth below. It is stated further that the gas delivered on any day would be that which could otherwise be delivered to Iowa Electric within its authorized entitlement for such day. The proposed summer maximum daily volumes are as follows:

Billing group	Rate zone	Volume (in thousand cubic feet)
B	2	8
	3	409
Total group B		417
C	2	673
	3	430
Total group C		1,103
D	3	428
	B	52
Total group D		480
Total summer		2,000

The gas delivered during the summer season would be considered as sold to Iowa Electric within the billing group from which the gas was diverted and would be billed to such billing group under Rate Schedule CD-1. The deliveries under the instant proposal would be considered to be the first volumes delivered to each designated billing group.

Applicant also proposes to transport by displacement to the various billing groups as designated by Iowa Electric volumes of vaporized LNG at a daily rate of up to 9,000 Mcf from October 27 through March 26 (winter season). It is stated that all volumes would be designated by individual billing group and would not exceed the winter maximum daily volume then in effect for such billing group as set forth below. The proposed winter maximum daily volumes[1] are as follows:

Billing group	Rate zone	Volume (in thousand cubic feet)
B	2	39
	3	1,840
Total group B		1,879
C	2	3,029
	3	1,939
Total group C		4,968
D	3	1,922
	B	231
Total group D		2,153
Total winter		9,000

The application states that the total daily volumes designated for transportation by Iowa Electric would be made available by Applicant's concurrent reduction of authorized deliveries to Iowa Power at Des Moines under Rate Schedule CD-1. Further, it is stated all gas transported for Iowa Electric under the instant proposal would be resold only to firm and small volume consumers.

For the proposed service Applicant would charge seasonal demand charges of $2.465 times the summer maximum daily volume and $5.239 times the winter maximum daily volume. In addition, there would be a commodity charge in the summer season for deliveries to Iowa Power of 0.16 cent per Mcf for Billing Group C and none for Billing Groups B and D. There would be commodity charges in the winter season for deliveries from Iowa Power of 4.204 cents per Mcf for Billing Group B, 0.841 cent per Mcf for Billing Group C, and 3.149 cents per Mcf for Billing Group D.

Applicant states that it has reviewed the capacity of each town border station through which Applicant effects delivery and sale of natural gas on a firm basis to Iowa Electric for distribution and resale in Iowa and that certain of the meter facilities of the town border stations have been found deficient with regard to measuring the respective firm gas volumes. Accordingly, Applicant proposes to changeout the measuring equipment at the following town border stations in order to assure accurate measurement:

Town Border Station	*Location on*
Central City No. 1	Linn County, Iowa
Delmar No. 1	Clinton County, Iowa
Huxley No. 1	Story County, Iowa
Kanawha No. 1	Hancock County, Iowa

The facilities are estimated to cost $9,330 which would be financed with cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1976 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24006 Filed 8-16-76;8:45 am]

[Project No. 108]

NORTHERN STATES POWER CO.

Issuance of Annual License(s)

AUGUST 9, 1976.

On February 24, 1970, Northern States Power Company, Licensee for Chippewa Reservoir Project No. 108, located in Sawyer County, Wisconsin, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 108 was issued effective August 8, 1921, for a period ending August 7, 1971. Since the original date of expiration, the project has been maintained and operated under annual licenses, the most recent of which will expire August 7, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Northern States Power Company.

Take notice that an annual license is issued to Northern States Power Company under the Federal Power Act for the period August 8, 1976, to August 7, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Project No. 108, subject to the terms and conditions of its present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 7, 1977, a new annual license will be issued each year thereafter, effective August 8 of each year, until such time as a new license is issued, or Federal takeover takes place, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-23996 Filed 8-16-76;8:45 am]

[Docket No. CP76-247]

NORTHERN NATURAL GAS CO. AND PANHANDLE EASTERN PIPE LINE CO.

Amendment to Application

AUGUST 9, 1976.

Take notice that on July 26, 1976, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP76-247 an amendment to their application filed in said docket pursuant to Section 7(c) of the Natural Gas Act requesting authorization to add certain wells to the gas exchange between Applicants proposed in said docket, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that their application in the instant docket requests, among other things, authority to receive and deliver gas on a volume-for-volume basis, all in accordance with two Gas Exchange Agreements between Applicants both dated August 11, 1957. Applicants further state that subsequent to the filing of the application in this docket, they entered into an Amended Exhibit "A", dated June 17, 1976, and an Amended Exhibit "B", dated July 7, 1976, to the Gas Exchange Agreement Deep Gas providing for the addition of four deep gas wells as follows:

Well name, county, state	Producer	Docket No.	Interest committed to or owned by—
Lauck-Massey No. 1, Edwards, Kans.	D. R. Lauck	C871-166	Northern.
Elliott E., No. 1, Stevens, Kans.	Mobil Oil Corp.	G-7642	Do.
Ebell, G. W., No. 1, Stevens, Kans.	do.	G-7642	Do.
Calhoon No. 1 (Lower Morrow), Beaver, Okla.	Decalta International Corp.	C874-8	Panhandle.

It is indicated that Applicants have contracted for the purchase of gas from the wells set forth above and desire that such wells be included in the exchange between them. Applicants state that they have been depleting their dedicated reserves during the past several years at a rate faster than either has been able to acquire new reserves, thereby reducing the total reserves available to their respective systems. It is asserted that as a result, neither Applicant is able to supply the full requirements of its customers and that the addition of the wells to the gas exchange as herein proposed would assist in maintaining adequate and reliable service to Applicants' customers.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-23997 Filed 8-16-76;8:45 am]

[Project No. 175]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Annual License(s)

AUGUST 9, 1976.

On June 29, 1970, Pacific Gas and Electric Company, Licensee for Balch Project No. 175, located in Fresno County, near the city of Fresno in Sequoia and Sierra National Forests, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 175 was issued effective July 28, 1922, for a period ending July 27, 1972. Since the original date of expiration, the project has been

[1] The agreement among Applicant, Iowa Electric, and Iowa Power specifies delivery points within each rate zone.

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maintained and operated under annual licenses, the most recent of which will expire on July 27, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Company.

Take notice that an annual license is issued to Pacific Gas and Electric Company under the Federal Power Act for the period July 28, 1976, to July 27, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Balch Project No. 175, subject to the terms and conditions of its present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before July 27, 1977, a new annual license will be issued each year thereafter, effective July 28 of each year, until such time as Federal takeover or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-23998 Filed 8-16-76;8:45 am]

[Docket No. ER76-820]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Tariff Change

AUGUST 10, 1976.

Take notice that the Public Service Company of Oklahoma (the "Company"), on July 30, 1976, tendered for filing proposed changes in its FPC Electrict Service Tariff No. 162. The proposed changes would increase revenues from sales and service to the Grand River Dam Authority ("GRDA") by $9,055,158 based on the 12 month period ending December 31, 1976. The filing is made as a complaint under Section 206(a) of the Federal Power Act.

The Company states that it is filing these proposed changes as a result of the large deficit it is incurring on operations related to serving GRDA. The Company alleges that there is a resulting adverse effect on the public interest in that, in the absence of a rate increase, the existing rate is confiscatory, the Company's ability to provide reliable and safe electric service to its retail and wholesale customers is jeopardized, the cost of financing the Company's construction program is increased such as to threaten the continuation of service to its customers at fair and reasonable rates, GRDA is the recipient of an unduly discriminatory and preferential rate, and waste of energy resources, principally natural gas, is encouraged.

The Company further states that copies of the filing were served upon the following parties:

The Grand River Dam Authority, P.O. Drawer 112, Vinita, Oklahoma 74301.
The Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Oklahoma 73102.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24020 Filed 8-16-76;8:45 am]

[Opinion No. 742-B; Docket No. R-393]

SMALL PRODUCER REGULATION

Opinion and Order Clarifying Opinion No. 742-A

AUGUST 2, 1976.

On July 27, 1976, the Commission issued Opinion No. 742-A, denying rehearing and reconsideration of Opinion No. 742. In its discussion in Opinion No. 742-A, the Commission, at mimeo p. 17, stated that small producers would receive the same rate as large producers for sales that qualified under Opinion No. 770, Opinion And Order Prescribing Uniform National Rate For Sales Of Natural Gas Dedicated To Interstate Commerce On Or After January 1, 1973, For The Period January 1, 1975 To December 31, 1976, Docket No. RM75-14, issued July 27, 1976.

Some confusion has arisen because of this statement in that the Commission in Opinion No. 770 set one rate for the period January 1, 1973 to December 31, 1974, and another for January 1, 1975 to December 31, 1976. The prior period is the same as that used by the Commission in its first nationwide new gas rate proceeding, Opinion Nos. 699, et seq., aff'd sub nom, National Rate Cases For New Gas (*Shell Oil Co.* v. *F.P.C.*, 520 F. 2d 1061 (5th Cir. 1975), cert. denied sub nom, *The California Co.* v. *F.P.C.*, ---- U.S. ----, ---- U.S.L.W. ---- (Docket No. 75-1289, June 14, 1976), and the action in Opinion No. 770 represented a re-evaluation of the just and reasonable rate authorized for the January 1, 1973 to December 31, 1974 sales.

The Commission does want to clarify that small producers are entitled to a differential for sales that meet the Opinion No. 699 criteria, as modified by Opinion No. 770. In Opinion No. 770, supra, pp. 104-108, the Commission adjusted the Opinion No. 699-H rate of 52¢ per Mcf to reflect changing factors, and found 101¢ to be a just and reasonable rate for the 1973-1974 vintage gas. Applying the 20% rate of return, adjusted to reflect incomes taxes, to the cost components for the 1973-74 vintage gas (Opinion No. 770, supra, Exhibit 24), yields a rate at or slightly in excess of 101¢ rate as modified by a 30% differential. Therefore, qualified small producers may charge 130% of the just and reasonable base rate of $1.01 per Mcf (at 14.73 psia) set forth in Opinion No. 70 for sales covered by that ceiling. Small producers may not charge the 130% differential for sales covered by the Opinion No. 770 base rate of $1.42 per Mcf (at 14.73 psia).

On July 28, 1976, the United States Court of Appeals for the District of Columbia Circuit stayed the effectiveness of Opinion No. 770 ". . . in order to afford [the] Court an opportunity more fully to consider the matter and responses thereto." Until Opinion No. 770 is permitted to become effective, small producers may not charge 130% of the ceiling rate of $1.01 per Mcf for the 1973-74 vintage, nor may small producers charge the Opinion No. 770 base rate of $1.42 per Mcf for the 1975-76 biennium.

The Commission orders: (A) Opinion No. 742-A is clarified consistent with this order.

(B) Ordering Paragraph (B) of Opinion No. 742-A is amended to add a new subsection (3), to read as follows:

All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate of $1.01 per Mcf set in Opinion No. 770 shall be made at a maximum rate of 130% of that ceiling rate.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24011 Filed 8-16-76;8:45 am]

[Docket No. CP71-264]

SOUTHERN ENERGY CO.

Petition To Amend

AUGUST 2, 1976.

Take notice that on July 26, 1976, Southern Energy Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP71-264 a petition to amend the Commission's Opinion No. 622 and order issued June 28, 1972, in said docket (47 FPC 1624), as modified on rehearing by Opinion No. 622-A and order (48 FPC 732), pursuant to Section 7(c) of the Natural Gas Act by permitting Petitioner to include in its tariff a 14 percent allowance on equity, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that Opinion No. 622, as modified, authorized it to construct and operate facilities on Elba Island in the Savannah River, Chatham County, Georgia, for the receipt of liquefied natural gas (LNG) from the cryogenic tankers, for the storage of such LNG, for the regasification of such LNG, and for the sale of such regasified LNG. Applicant further states that the tariff approved by Opinion Nos. 622 and 622-A provides for an 11 percent allowance on equity but that since the time of filing of its application in the instant docket costs of capital have increased dramatically. Accordingly, Petitioner requests that it be permitted to include in its tariff a 14 percent allowance on equity.

Petitioner asserts that it is nearing completion of its facilities and must permanently finance the same in the near future. Petitioner submits that the equity allowance authorized to be included in Petitioner's tariff should accurately reflect the cost of equity capital to Petitioner and Petitioner further submits that the cost of its equity capital is at least 14 percent.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 25, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24001 Filed 8-16-76;8:45 am]

[Docket Nos. RP76-67-2; CP70-7; RP76-67-5]

SOUTHERN NATURAL GAS CO. ETC.

Order Consolidating Proceedings Denying Temporary Extraordinary Relief Providing for Hearing and Granting Interventions

AUGUST 3, 1976.

On Aril 12, 1976, South Carolina Electric and Gas Company (SCE&G) filed a petition in Docket No. RP76-67-2 for extraordinary relief. SCE&G requests that the Commission order Southern Natural Gas Company (Southern Natural) to deliver to SCE&G quantities of natural gas in Priority No. 2 which will be used for injection into SCE&G's LNG plant commencing June 1, 1976. The proposed volume is 6,200 Mcf. per day. SCE&G states that Southern Natural is presently serving gas to various customers in Priority No. 2 for LNG processing. SCE&G further states that to deny it the same classification for LNG processing would violate Section 4(b) of the Natural Gas Act which prohibits undue discrimination. In its petition for extraordinary relief, SCE&G states that the gas to be produced by this peak shaving facility will be for high priority uses as contemplated by Order No. 467-B and Opinion No. 747.

After due notice by publication in the FEDERAL REGISTER on May 11, 1976 (41 FR 20187), timely petitions to intervene were filed by the Alabama Municipal Distributors Group, (Municipal) Carolina Pipeline Company (Carolina), The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia (Dalton), Atlanta Gas Light Company (Atlanta), Alabama Gas Corporation (Alagasco) and the Georgia Industrial Group (Georgia). Carolina, Dalton and Georgia have requested a formal hearing. Carolina states that SCE&G continues to burn large volumes of natural gas for steam electric generation boiler fuel use while it seeks additional volumes of gas for its new LNG plant. Dalton states that to grant relief to SCE&G would require the consequent curtailment across Southern Natural's entire system. Georgia requests that SCE&G provide evidence indicating whether existing or new high priority requirements would be served pursuant to its request for relief.

On September 17, 1975, Southern Natural Gas Company filed in Docket No. CP70-7, pursuant to Section 7(c) of the Natural Gas Act, a petition to amend the Commission's Order issued October 29, 1969, in the instant docket. In its filing, Southern Natural requests authorization to reallocate deliveries of the contract demand of natural gas between the City of Trussville, Alabama (Trussville) delivery points, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

The Commission's October 29, 1969 order authorized Southern, interalia, to sell and deliver natural gas to Trussville under a service agreement providing for a total contract demand of 16,000 Mcf per day divided between the Huffman Delivery Point (13,600 Mcf per day) and the Trussville Delivery Point (2,400 Mcf per day).

Southern requests herein that said October 29, 1969, order be amended so as to reallocate the contract demand between Trussville's delivery points so that 6,000 Mcf per day will be delivered to the Huffman Delivery Point, and 10,000 Mcf to the Trussville Delivery Point. Southern states that the change is necessary because Trussville is installing a gas liquefaction, storage, and regasification complex LNG facility) which will utilize gas received at the Trussville area Delivery Point. Southern supports the proposed reallocation and states that only minor additional metering facilities will be required to effect the change. An effective date of April 1, 1976 was proposed for the revised exhibit A which sets forth the reallocation.

After due notice by publication in the FEDERAL REGISTER on October 9, 1975 (40 FR 47587) Alabama Gas Corporation (Alagasco) filed a timely petition to intervene. In support of its petition Alagasco states, inter alia, that Southern Natural is presently curtailing deliveries of natural gas to its customers and that the instant application fails to indicate where the LNG output is intended to be sold or what effect, if any, the grant of the instant petition to amend would have on allocations of gas to Southern's other customers, including Alagasco. Accordingly, Alagasco requests that a formal hearing be held as to the latter matter.

On July 12, 1976, Trussville filed in Docket No. RP76-67-5, a petition for permanent extraordinary relief which requests the Commission to direct or allow Southern to deliver to Trussville 5,000 Mcf per day of natural gas in Priority 2 for use in its LNG facility.

We believe that common issues of law and fact exist between Trussville's requests to reallocate delivery points and increase its Priority 2 requirements for the purpose of supplying an LNG facility and SCE&G's request for extraordinary relief to increase its Priority 2 requirements to inject volumes in its LNG facility. Furthermore, we believe that it is necessary to grant the requests for formal hearing requested by interveners in Docket Nos. RP76-67-2 and CP70-7. The consolidated proceeding should be docketed as RP76-67-2 et al. Although SCE-G and Trussville have not explicitly requested temporary relief, we can imply such a request. We do not believe that the facts warrant temporary relief.

We believe that the following issues, inter alia, should be developed by the parties to this proceeding:

(1) Southern should present evidence as to the level of curtailment during the 1975-76 heating season and the projected level of curtailment during the 1976-77 heating season, absent a grant of the relief requested.

(2) Southern should present evidence as to the effect of the relief on the projected level of curtailment during the 1976-77 heating season.

(3) Southern should state its position on the question of increasing Priority 2 to serve LNG injection requirements.

(4) Trussville and SCE&G should present specific evidence as to the end use proposed to be served by the LNG facilities. Trussville and SCE&G should state whether the respective LNG facilities will be used to serve new customers.

(5) Trussville and SCE&G should present their level of curtailment during the 1975-76 heating season and their projected level of curtailment during the 1976-77 heating season, absent the relief requested. In particular, Trussville and SCE&G should discuss their ability to serve existing high priority loads without the relief requested.

The Commission finds: (1) It is desirable and in the public interest to allow the above-named petitioners to intervene in the instant proceeding.

(2) The petition to amend filed by Southern Natural in Docket No. CP70-7 and the petitions for extraordinary relief filed by South Carolina Electric and Gas Company in Docket No. RP76-67-2 and the Utilities Board of the Town of Trussville, Alabama in Docket No. RP76-67-5 contain common issues of law and fact.

(3) It is necessary and proper that the filing by Southern Natural in Docket No. CP70-7 and the petitions for extraordinary relief filed by South Carolina

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Electric and Gas Company in Docket No. RP76–67–2 and the Utilities Board of the Town of Trussville, Alabama in Docket No. RP76–67–5 be set for formal hearing.

(4) It is not in the public interest to grant temporary relief to South Carolina Gas and Electric and Trussville.

The Commission orders: (A) The above-mentioned interveners are permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission; *Provided, however*, that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further*, that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

(B) Based on § 1.20(a) of the Commission's Rules of Practice and Procedure, the filing by Southern Natural in Docket No. CP70–7 (City of Trussville) and the petitions for extraordinary relief filed by South Carolina Electric and Gas Company in Docket No. RP76–67–2 and the Utilities Board of the Town of Trussville, Alabama in Docket No. RP76–67–5 are herein consolidated as Docket No. RP76–67–2 et al.

(D) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, as implemented by the Commission's Rules of Practice and Procedure and the Regulations thereunder, a public hearing shall be held commencing on August 31, 1976, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the matters involved in and the issues presented by the instant filings.

(E) The direct cases of Southern Natural, Trussville, and South Carolina Electric and Gas shall be filed and served on all parties, the Presiding Administrative Judge, and Commission Staff on or before August 13, 1976.

(F) The request for temporary relief are denied.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76–24007 Filed 8–16–76;8:45 am]

[Docket No. E–6943]

SOUTHWESTERN POWER ADMINISTRATION

Order Confirming and Approving Rates

AUGUST 3, 1976.

Pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 890), the Secretary of the Interior (Interior), acting on behalf of the Southwestern Power Administration (SWPA), filed a request on December 9, 1975, seeking Commission confirmation and approval of a new rate schedule for the sale of the entire electrical output of the Corps of Engineers' Narrows Dam Project (Project) to Tex-La Electric Power Cooperative, Inc. (Tex-La). Interior's filing proposes that the rate for the sale of power and energy from the Project be increased from $465,000 to $556,000 annually. Confirmation and approval of the new rate is sought for the period from September 30, 1975, through June 30, 1980.

PREVIOUS RATE ACTIONS

The power output from the Project, located on the Little Missouri River in Arkansas, has been marketed by SWPA as an isolated project. Generation at the Project began in May 1950 when two 8,500-kilowatt generating units began test operations. The hydroelectric energy generated from the initial operation of the Project until February 1951 was sold as dump energy to a predecessor of Southwestern Electric Power Company (SWEPCO) for an annual payment of $137,000. A contract (Ispa 396) between SWPA and SWEPCO became effective in February 1951 in which the total output of the two generating units was sold to SWEPCO for an annual payment of $207,000. Provisions in the contract allowed SWPA to withdraw 5,000 kilowatts and accompanying energy to serve preference customers beginning in January 1952.

The Commission, by order issued February 4, 1951, approved the rate prescribed in Contract Ispa 396 for the period ending February 13, 1953. In its order the Commission recognized that SWPA had used a 100-year period of amortization for the project but indicated that the test of the adequacy of rates should be consistently applied on the basis of a 50-year amortization period. Approval of the annual rate of $207,000 specified in Contract Ispa 396 was extended periodically to September 30, 1960.

A new contract (14–02–0001–921) was entered into on May 11, 1960, under which SWPA sold the entire output of the Project to Tex-La. The new contract became effective on September 30, 1960, and extends for a 25-year period. During the initial period of the contract Tex-La would pay SWPA $300,000 annually for the entire output of the two 8,500-kilowatt units. With completion of the third 8,500-kilowatt unit in October 1969, the annual payment would be increased to $367,992. In a separate contract between Tex-La and SWEPCO, Tex-La agreed to sell SWEPCO the entire output of the Project for the same price that it paid SWPA. Under this latter contract Tex-La also purchases wholesale load center firm power service from SWEPCO for its member cooperatives, delivered to their facilities.

By order issued September 23, 1960, the Commission approved the rates for the sale of the output of the Project to Tex-La under Contract 14–02–0001–921 for the period through June 30, 1965. By order issued August 26, 1965, the Commission approved the same rates for the period through June 30, 1970.

The Commission by order issued January 22, 1971, approved an increase in the rate for the sale of the output of the Project to Tex-La through June 30, 1975. The annual payment was increased from $367,992 to $465,000.

Following Commission approval of the new rate, Tex-La filed a petition for rehearing of the order confirming the rate. In its petition Tex-La maintained that the increase in rates proposed by Interior was in violation of law and in excess of statutory authority, and that the Commission's action in approving the proposed rate was unlawful. On April 29, 1971, the Commission issued an order denying rehearing, finding that the questions and contentions raised in the petition did not require any modification of the order approving the rate.

Beginning in June 1975, Interior has requested a series of extensions of the rate approved by the Commission order of January 22, 1971, to allow SWPA additional time to hold a hearing on a proposed new rate and complete a new rate and repayment study. The latest extension, through December 29, 1975, was approved by the Commission's order issued December 4, 1975. On December 30, 1975, Interior requested a further extension of the approved rates for a period not to exceed 90 days from December 31, 1975.

To support the proposed rate increase, Interior submitted an Average Rate and Repayment Study for Narrows Dam, dated May 1975. On July 24, and 25, 1975 SWPA conducted an on-the-record meeting with Tex-La to discuss the proposed rate increase for the sale of Project power and energy. Included with Interior's filing was a transcript of the meeting along with Exhibits 1 through 53 of the meeting record and a document prepared by SWPA entitled "Evaluation of Statements and Proposal by Interested Parties Resulting from Rate Hearing on Proposed Rate For Sale of Narrows Dam Power and Energy held July 24–25, 1975" (Evaluation).

ANALYSIS OF PRESENT RATE FILING

The proposed rate increase from $465,000 to $556,000 annually is $91,000, or 19.6%. This is equivalent to an annual rate of increase of about 3⅝% over the five-year period. The need for the increase is brought about mainly because the operation and maintenance expense of the Corps of Engineers has escalated rapidly in recent years. The estimated annual operating expense used for the 1975 repayment study, including SWPA's administration expense, is $77,000 greater than the similar figure used in the 1970 repayment study, an increase of 46%.

The increase in operating expense at the Project is not out of line with that experienced at other Corps' projects or with the trend of such expenses over the past five years. The remaining $14,000 of the increase is due to additional interest expense.

The 1975 repayment study continues the criterion used in the 1970 repayment study of repaying the original investment in the entire Project 50 years after the third unit became operational. In effect this means that the investment in the first two units is not fully recovered until 70 years after those units began operation. The Commission stated in its Order on Rehearing, issued April 29, 1971:

> In our January 22, 1971 order we determined that the currently scheduled amortization of the capital investment allocated to electric power at the Project over an 83 year period running from the date of installation of the Project's third generating unit, or 100 years from the date on which the Project commenced commercial operation, failed to comply with the Act's requirement of "a reasonable period of years" for such amortization. We determined further in our order of January 22, 1971 that the proposed amortization of the investment in electric facilities at the Project within 50 years after its third generating unit commenced commercial operation met the statutory payout test.

Consideration was given to the possible effect of now requiring that repayment of the investment in the first two units be accomplished within 50 years after those units began operation. If SWPA were required to recover the investment in the first two units within 50 years, the total annual revenue would have to be increased to about $630,000 based on a calculation by Commission Staff. Because of factors peculiar to the Project, the Commission's January 22, 1971 order extended the repayment period of the first two units until 50 years after the installation of the third unit. For the first 20 years of operation, the Project operated at a deficit. This can be attributed primarily to two factors: (1) With the full costs of the dam and reservoir included in the costs of the first two units the Project was marginally economic; and (2) because of isolation, the power generated at the Project had limited marketability. In light of these circumstances, a reasonable period to recover the full costs of the Project is 50 years after the installation of the third unit.

The Commission Staff noted some variations in the repayment procedure used by SWPA in 1975 from that used in 1970 or from those generally used by other Interior marketing agencies. These relate to (1) the way interest on replacements was handled, and (2) the effect of inflation on estimated replacement costs.

1. Interest on Replacements:

a. SWPA applied the net revenue each year of the projected payout period, first to pay off the existing deficit (unpaid interest) as of 1975 of $663,475; next to pay off by the year 2012 practically all of unamortized investment in the first two units (interest rate—2½%); then to pay off the accumulated investment in replacements made during the period 1975–2016 (interest rate—6⅛%) some of which accumulation includes the carrying of unamortized investments in replacements for periods exceeding their service lives; and then finally to pay off the investment in the third unit (interest rate—2⅞%) and the remainder of the investment in the first two units. In 1970, and for most other repayment studies, Interior's general practice has been to pay off the highest interest bearing investment first to the extent possible while still paying off each investment within 50 years, or within the service life for replacements. The procedure used by SWPA in 1975 resulted in an increase of about $8,500 in the proposed annual revenue.

b. In the 1975 repayment study, replacements made late in the repayment period were prorated so that only that portion of any replacement applicable to the remaining years of the repayment period was charged against the Project repayment. In so doing, SWPA failed to recognize that interest on the portion to be repaid subsequent to the end of the repayment period would still accrue and be due each year of the repayment period. This oversight of interest resulted in a decrease of about $6,000 in the proposed annual revenue.

The effects on the repayment study of points 1a. and 1b. substantially offset each other.

2. Escalation of estimated replacement costs:

In estimating costs for future replacements, SWPA used the original cost of the item; that is, for replacement items for units 1 and 2, the estimated cost of each item was that prevailing in 1951; for replacement items for unit 3, the estimated cost of each item was that prevailing in 1970. To bring these estimates up to 1975 prices, the costs of replacements for units 1 and 2 should be multiplied by a factor of approximately 3; those for unit 3 should be multiplied by a factor of about 1½. Using the original uninflated estimated replacement costs resulted in a decrease of about $25,000 in the proposed annual revenue.

It is noted with regard to item 2 above that although some replacements are scheduled for every 15 years and some every 20 years, there have not yet been any recorded expenditures for replacements during the first 25 years of the Project's life. It appears that, with improvements in technology and with the active and prudent maintenance program pursued by the Corps, the expected service lives now used may be underestimated. The problem of estimating and accounting for the costs of replacements is common to all Corps' projects and affects the repayment studies of many other projects or systems for which Interior's marketing agencies are responsible. This problem should be addressed by representatives from Interior, the Commission, the General Accounting Office, and the Corps of Engineers. However, if the need for replacements is not as great or as frequent as presently anticipated, this fact would tend to offset the effect of inflation on the replacement costs.

PUBLIC NOTICE

Public notice of Interior's filing of December 9, 1975, was issued on December 17, 1975, and published in the Federal Register on January 6, 1976. Comments or suggestions relative to the filing were requested to be submitted in writing on or before January 9, 1976.

TEX-LA'S PROTEST

On January 9, 1976, Tex-La filed "A Petition To Intervene" and a "Protest." Tex-La's enumerated 11 objections to SWPA's proposed rate increase. The following section lists Tex-La's objections and the Commission's response thereto.

1. Tex-La: SWPA's rate filing totally ignores the first two standards of Section 5 of the Flood Control Act of 1944, namely, (1) encouraging the most widespread use of the power, and (2) at the lowest possible rates consistent with sound business principles.

Commission response: The Commission is reasonably assured that the proposed rate is the lowest possible consistent with the sound business principles. In our appraisal, the requirements of Section 5 of the Flood Control Act of 1944 have been satisfied.

2. Tex-La: The rate filing improperly includes among the costs to be recovered from Tex-La an SWPA deficit of $753,671, plus interest thereon totalling $2,645,243.

Commisison response: The loss incurred during the early years of the Project's operation occurred because the power and energy apparently was not marketable at a price that would support the power investment. The Commission, in its order issued February 14, 1951, approving the rates for sale of Project power stated:

> It would appear that the Southwestern Gas and Electric Company is the only presently available outlet for the power produced at the Narrows Project, that the rates and charges contained in the contract are the most the Company is willing to pay under the circumstances, and the revenues represent more than SWPA is presently receiving under the month-to-month contract.

With the addition of the third unit and with increasing energy costs from alternate sources in later years, the rates charged could be increased to a level that would support the present Federal investment and still remain competitive with other electric power and energy sources. The deficit incurred with the Project's earlier operations are legitimate start-up expenses which should be capitalized and paid for along with the other Project investment. Deficits incurred under these circumstances should be recovered during the subsequent repayment period.

3. Tex-La: The rate filing is designed to recover Corps of Engineers' O&M costs which have not been verified by SWPA.

Commission response: Although SWPA informally reviews power costs and investments submitted by the Corps of Engineers it is not responsible for the audit of each individual cost assignment. The General Accounting Office periodically audits the financial records of the Southwestern Federal Power System which includes those of the Corps of Engineers and SWPA.

4. Tex-La: The proposed rate increase is designed to recover Corps' O&M costs which are not part of the "cost of producing the electric energy."

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Commission response: From 1965 to 1973, the Corps of Engineers' Vicksburg District Office erroneously charged a percentage of project joint-use costs to recreation and fish and wildlife. In a 1972 audit, the General Accounting Office discovered this error and notified the Corps' Office of the Chief of Engineers (OCE). OCE then instructed its Vicksburg District Office to make the appropriate corrections. In the 1973 Form 1 report to the FPC, the Vicksburg District Office made an adjustment for prior years to power in the amount of $98,041.53. It also adjusted the 1973 accounts to include $41,773.58 of additional O&M costs to be allocated to power. The total of these amounts, $139,815.11, was then mistakenly characterized as recreation O&M costs which had been charged to power. In fact, that amount is a legitimate charge to power.

5. Tex-La: The rate filing is designed to recover SWPA overhead and administrative costs (O&A) which are estimated in an entirely arbitrary manner.

Commission response: SWPA has allocated its O&A costs to the Project on an investment ratio basis. This has been the method utilized by SWPA for all projects for which it markets power for several years. It results in percentages that approximate those obtained by using other methods but is easier to apply.

6. Tex-La: The rate filing is designed to recover purchased power costs and service charges incurred by SWPA in transactions not related to the Project.

Commission response: Pursuant to the terms of a contract between SWPA and SWEPO (Ispa-396), SWPA sold the entire output of the Project to SWEPCO. The contract was terminated in 1960 except for service to three cooperatives which continued through 1962. It allowed SWPA to withdraw up to 5,000 kilowatts with accompanying energy as required to serve the three cooperatives. SWEPCO charged SWPA for the withdrawn power and for the use of SWEPCO facilities in wheeling power and energy to the preference customers. SWPA billed the preference customers for power delivered under rates equivalent to standard system rates. For the years 1951 through 1962, the total purchased power and service charges from these sales exceeded the revenue received by SWPA by approximately $4,900. The sales to the preference customers not only failed to contribute to the amortization of the Project investment but also added to the $750,000 deficit on the books at the time Tex-La became the sole customer for the Project power.

7. Tex-La: The rate filing would recover $619,600 in unidentified future replacements.

Commission reseponse: The question of estimated replacement costs and how they are recovered is previously discussed at pp. 5–6 under "Analysis of Present Rate Filing."

8. Tex-La: The proposed rate improperly includes interest on projected replacement costs.

Commission response: As previously discussed under "Analysis of Present Rate Filing," the annual effects of possible adjustments on the interest charges are substantially offsetting.

9. Tex-La: The proposed rate is discriminatory.

Commission response: The rates charged for power and energy from the Project reflect the actual expeneses incurred in production. The Project is a separate element of SWPA's marketing responsibility. SWPA's system rates are based on the costs of the integrated system of projects. Those rates may be higher or lower than the Project rates which are based on Project costs.

10. Tex-La: The 50-year payout period on which the proposed rate is based violates both the Flood Control Act of 1944 and the SWPA/Tex-La contract of May 11, 1960.

Commission response: The amortization of the capital investment allocated to electric power at the Project over a period of 100 years is not a "reasonable period of years" within the meaning of the Flood Control Act of 1944 In our Order on Rehearing, issued on April 29, 1971 in this docket we said:

> We recognize that there may be circumstances clearly indicating that an amortization period in excess of 50 years would be necessary or appropriate for a certain period to correct or prevent various inequities. In those circumstances we would have no difficulty in finding such a period to be "reasonable" under the Act.

We find today, as we did in our order confirming the present rate, that a reasonable period of years to amortize the investment in electric facilities at the Project is 50 years after its third generating unit commenced commercial operation.

11. Tex-La: The rate-making procedures used by SWPA in the preparation of the proposed rate violates the Administrative Procedure Act.

Commission response: In its Evaluation, SWPA asserts that Tex-La has ignored the fact that the SWPA/Tex-La contract, in Article I, Section 4, provides for rate review and redetermination and the procedure to be followed. It additionally maintains that it followed this procedure explicitly.

If we assume *arguendo* that Tex-La's objection is meritorious, we do not have the authority to fashion a remedy. The Commission is not empowered to oversee SWAP's contractual relationships nor force its compliance with the Administrative Procedure Act. We exercise a special review function with respect to SWPA's filing under the Flood Control Act of 1944, which

> [c]an neither be analogized to an independent rate investigation or to the appellate function of the United States Courts of Appeals over Commission decisions under the Federal Power Act. It evolves from a unique relationship between the Department of the Interior, a part of the Executive Branch, with managerial and ratemaking expertise over its projects, and, the Federal Power Commission, and independent agency of the Congress with special expertise in ratemaking. In establishing this relationship Congress did not limit us to the function of assuring that the Secretary had complied with the bare legal requirements of the statute. It expected us to apply our independent expertise in evaluating the rates set by the Secretary . . . [and] confirm and approve . . . if we conclude, on the basis of our independent judgment, that it comports with the dual statutory standard of providing consumers with the benefits of power at the lowest possible price consistent with good business practices as well as protecting the interest of the United States in amortizing its investment in the projects within a reasonable period.[1]

The Commission has reviewed SWPA's filing and the materials submitted therewith in support of the proposed rate increase. We find that they are generally sound and consistent with the provisions of the Flood Control Act of 1944. There are some areas which SWPA should devote greater attention to with respect to future rate filings. For instance, in the present filing we have noted some problems with the manner in which interest on replacements was calculated and with the estimation of costs for future replacements. For reasons discussed previously under "Analysis of Present Rate Filing," these problems do not have an appreciable effect on the rate increase.

We have also given careful consideration to the issues raised by Tex-La in its Protest. We find that they do not provide sufficient justification for the Commission to withhold its approval of the proposed rate increase.

The Commission finds: The confirmation and approval of an annual rate of $556,000 for the sale of power and energy generated at Narrows Dam to Tex-La Power Cooperative, Inc. as hereinafter provided, will not be inconsistent with the provisions of the Flood Control Act of 1944.

The Commission orders: The confirmation and approval of an annual rate of $556,000 for the sale of power and energy generated at Narrows Dam to Tex-La Power Cooperative, Inc. for the period commencing with the issuance of this order and ending not later than June 30, 1980.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24009 Filed 8-16-76;8:45 am]

[Docket No. RM76-1]

SPECIFIED REASONABLE RATE OF RETURN AS PROVIDED IN HYDROELECTRIC PROJECT LICENSES

Order Denying Rehearing

AUGUST 3, 1976.

On July 26, 1976, an application for rehearing of Order No. 550,[2] issued June 24, 1976, was filed by The Electric Utility Company Group (Group). The Group complains that the use of the 10-year Government bond series plus four percentage points does not allow a high enough return for the common equity component. The Group also requests that the new specified reasonable rate of return be applied retroactively to January 1, 1970.

As to the first contention, the primary objection of the Group was that by our selection as the rate of return on common equity of the interest rate on 10-year Treasury bond series plus four percentage points, we improperly freeze large amounts of earnings on licensed projects that are clearly not in excess of a fair return. We do not agree that we acted improperly in selecting a rate that approximates but does not exceed the lower level of the recognized zone of reasonableness for a return upon common equity, nor do we anticipate that large amounts of earnings on licensed projects in excess of a fair return will be required to be set aside. By determining a reasonable specified rate of return in the manner that we did, we recognized that it will not necessarily produce a "fair rate of return" for each licensee, nor do we believe that it should. Congress did not provide that the earnings in excess of a "fair rate of return" should be the basis of the computation, but rather, earnings in excess of a "specified reasonable rate of return", which was required to be set forth in the license. Niagara Falls Power Co., 9 F.P.C. 228, 249 (1950).

Simply stated, it is better for the Commission, when setting uniform requirements for the unique purposes of amortization reserves, to err on the low side for most licensees than to err on the high side for some licensees. Ultimately a "fair return" test will be made in takeover proceedings, and if the recorded amounts in the amortization reserve account are found to be in excess of the need for net investment purposes, such excess reserves will be freed from the amortization reserve requirement. However, if we are overly generous when determining a specified reasonable rate of return, we may find upon takeover that there are insufficient amounts in the amortization reserves for net investment purposes if the licensee has had earnings in excess of a fair rate of return during the period of the license. Additionally, we have not been as niggardly with our specified reasonable rate of return requirements as the Group implies, since, consistent with past practices, we will require that only one half of the project's surplus earnings, if any, be set aside in a project amortization reserve.

In its second contention, the Group requests that the effective date of the new specified reasonable rate of return be January 1, 1970, as opposed to the provisions contained on page 4 of Order No. 550.[3] The Group states that the objectives of the Federal Power Act (Act) would be better served if the earlier date were adopted. The Group stated in its application for rehearing that the objective was to encourage the comprehensive development of our water resources. This objective is accomplished in Section 10(d) of the Act in that a licensee is allowed twenty years in the initial license before the amortization reserves are set up. The objective the Group expounds would not be affected by the retroactive application of the new specified reasonable rate of return, because licensees of the newly licensed unconstructed or proposed projects would have the new rate if they so desire when the amortization reserve period begins in the future. The Group's request would only affect those licensees that are past their 20th year of operation and, therefore, would not further the objective.

The Group claims that those licensees that have applied for rehearing are receiving retroactive treatment, while those applying for license amendment would not. In the case of the rehearings, the licensees did not accept the amortization reserve article, providing the six percent per annum, as required by Section 6 of the Act. In order that the license be complete for the entire term, the "new" amortization reserve article would have to have the same effective date as contained in the license. See, Pacific Gas and Electric Co., 45 FPC 28, 30 (1971). Therefore, we do not have, necessarily, retroactive application. As to those applying for an amendment of license, each licensee has an amortization reserve article that has been accepted and is in effect. There is, therefore, no void that has to be covered by the new article. We find no compelling reason in the application for rehearing to alter the effective dates of the new specified reasonable rate of return.

The Commission finds: The application for rehearing filed on July 26, 1976, by the Electric Utility Company Group presents no facts or legal principles which would warrant any change in or modification of Order No. 550.

The Commission orders: The application for rehearing of Order No. 550 is hereby denied.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24012 Filed 8-16-76;8:45 am]

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[1] Opinion No. 482, United States Department of the Interior, Bonneville Power Administration, Docket Nos. E-6611, E-6905 and E-7242, issued December 14, 1965, 34 FPC 1465; see also Opinion No. 741, United States Department of the Interior, Bonneville Power Administration, Docket No. E-8978, issued August 21, 1975.

[2] Order No. 550 adopted a new specified reasonable rate of return for computing amortization reserves in hydroelectric project licenses.

[3] Order No. 550 provides that those licensees with applications for amendment of license pending would be issued an amendment to be effective as of the date of issuance of Order No. 550. The licenses with rehearings pending will have the new specified reasonable rate of return with the effective date that is contained in each license. As to those licensees seeking to amend their licenses, the amendment would be effective as of the date of receipt of their request.

[Docket No. RP76-17]

TEXAS GAS TRANSMISSION CORP.

Proposed Stipulation and Agreement

AUGUST 2, 1976.

Take notice that on July 23, 1976 Texas Gas Transmission Corporation (Texas Gas) tendered for filing a proposed stipulation and agreement in the referenced docket. Texas Gas states that the proposed Stipulation and Agreement resolves all problems and disputes with respect to its total cost of service, except for the item of book depreciation and the inclusion of amounts associated with the acquisition and retention of coal reserves to be used for gasification purposes. These two items are being litigated in Docket No. RP74-25. Texas Gas states that certain other matters are being resolved in Docket No. RP75-19 and the decision therein would govern the instant proceedings.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 3, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24002 Filed 8-16-76;8:45 am]

[Docket No. CP76-455]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND FLORIDA GAS TRANSMISSION CO.

Application

AUGUST 3, 1976.

Take notice that on July 23, 1976, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP76-455 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation as equal co-owners of a pepeline and appurtenant facilities from Vermilion Area Block 22, offshore Lousiana, to a point of connection with Transco' existing Central Lousiana Gathering System onshore in the Pecan Island Area, Vermilion Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the proposed facilities, which would be constructed and operated by Transco, consist of approximately 13.84 miles of 24-inch pipeline, a purchase meter and regulator station and onshore separation facilities. The appli-

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cation shows the estimated cost of these facilities to be $12,084,000, which cost would be financed initially through revolving credit agreements, short-term loans, and available cash.

Applicants state that they have executed precedent agreements with attached gas purchase contracts with Shell Oil Company, a principal owner of reserves in Block 22, covering the percentages of that producer's interest to which Applicants are entitled in the block, and are currently executing similar precedent agreements with the remaining owners. It is indicated that overall Applicants are presently entitled to one-third of the total working interest reserves in Block 22. Applicants assert that the proposed facilities can be utilized to transport onshore the balance of the Block 22 gas as well as Applicants' gas and, in addition, gas which is expected to be developed in nearby blocks under lease.

Applicants state that it is imperative that they promptly attain, in the most economical manner possible, the Block 22 gas supplies to help alleviate the critical gas supply shortage on their systems and fulfill commitments to their customers. They assert that the proposed joint project would benefit them and their customers by the higher load factor utilization of Applicants' existing onshore pipeline systems and by avoiding the necessity of constructing costly duplicate facilities to attach the common source of supply in Vermilion Block 22.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-24008 Filed 8-16-76;8:45 am]

[Project No. 298]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Annual License(s)

AUGUST 9, 1976.

On May 2, 1975, Southern California Edison Company, Licensee for Kaweah Project No. 298, located on the Kaweah River in Sequoia National Park and Sequoia National Forest, Tulare County, California, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 298 was issued effective August 7, 1924 for a period ending August 8, 1974. Since the original date of expiration, the project has been maintained and operated under annual licenses, the most recent of which will expire on August 7, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on licensee's application, it is appropriate and in the public interest to issue an annual license to Minnesota Power and Light Company.

Take notice that an annual license is issued to Southern California Edison Company under the Federal Power Act for the period August 8, 1976, to August 7, 1977, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Kaweah Project No. 298, subject to the terms and conditions of the present license. Take further notice that if issuance of a new license does not take place on or before August 7, 1977, a new annual license will be issued each year thereafter, effective August 8 of each year, until a new license is issued without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-23999 Filed 8-16-76;8:45 am]

FEDERAL RESERVE SYSTEM

INTERNATIONAL BANCORPORATION

Order Approving Formation of Bank Holding Company

International Bancorporation, St. Paul, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of all of the voting shares (less directors' qualifying shares) of The First National Bank of International Falls, International Falls, Minnesota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank (deposits of $17.8 million) is the largest of three banks operating in the relevant banking market[1] and controls approximately 46 percent of the total deposits in commercial banks in the market.[2] The second largest bank in the relevant market controls approximately 44 percent of total deposits therein. Upon acquisition of Bank, Applicant would control the 82nd largest banking organization in Minnesota, holding .12 percent of the total commercial bank deposits in the State. Inasmuch as the proposed transaction involves a transfer of control of Bank from its principal to a corporation controlled by the same individual, and since Applicant and its principal control no other bank, consummation of the proposal would not eliminate existing or potential competition, nor have any adverse effects on other banks in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank, are considered to be satisfactory. Although Applicant will assume a $2 million debt as a result of this proopsal, it appears that the income to be derived from Bank, by way of dividends, should provide Applicant with sufficient revenue to service the debt adequately without impairing the financial condition of Bank. Accordingly, considerations relating to the banking factors are consistent with approval of the application. Consummation of the transaction would have no immediate effect on the area's banking convenience and needs; however, considerations relating to the convenience and needs of the community to be served are regarded as being consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

In connection with the Board's consideration of this application, a question arose concerning the existence of a possible control relationship between Applicant, Bank, and another bank holding company. In order to alleviate this concern, Applicant's principal has agreed and committed to eliminate interlocking director relationships between Applicant and Bank, on the one hand, and the other bank holding company on the other. In concluding that the instant proposal is in the public interest, the Board has relied upon the aforementioned commitments and the Board's approval of this application is conditioned upon the fulfillment of those commitments.

[1] The relevant banking market is approximated by the northwestern half of Koochiching County.

[2] All banking data are as of December 31, 1975.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[3] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, and Partee. Present and abstaining: Governor Lilly. Absent and not voting: Governor Gardner.

[FR Doc.76-24037 Filed 8-16-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-68]

DR. JAMES KING, JR.

Certification

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), having found that Dr. James King, Jr., formerly Special Assistant for Stratospheric Research Program, Office of Associate Administrator for Space Science, Office of Space Science, National Aeronautics and Space Administration (NASA), and presently an employee of the California Institute of Technology at the Jet Propulsion Laboratory, possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. James King, Jr. acting as agent for or appearing personally before NASA on behalf of the California Institute of Technology in connection with performance of work under the Institute's Contract No. NAS 7-100 with NASA for the operation of the Labortory, on matters in which he participated personally and substantially as an employee of NASA or which were under his official responsibility as a NASA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: August 9, 1976.

JAMES C. FLETCHER,
Administrator.

[FR Doc.76-23982 Filed 8-16-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 9, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Hanging Planters—Purchasers' Questionnaire, single-time purchasers, Laverne V. Collins, 395-5867.

Hanging Planters—Producers' Questionnaire, Single-time producers. Laverne V. Collins, 395-5867.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Regulations—Part 1421, on occasion, individual, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census, Survey of County Government Finances, F-28A, single-time, local governments-city and county officials, Elett, C. A. 395-5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: application for participation—national school lunch, school breakfast and special milk programs, FNS66, on occasion, school food authorities, Warren Topelius, 395-5872.

Animal and Plant Health Inspection Service: Processing operations at official establishments, MP-404, weekly, Federally inspected meat processing plants, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census, Import Questionnaire, export Questionnaire: Survey of Domestic and international Transportation of U.S., Foreign Trade: 1976, TS-501, TS-502, quarterly, survey of sample of importer and exporters, Laverne V. Collins, 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service: Permanent Quarantine Record (zoo animals), vs 17-65C, on occasion, U.S.D.A. approved zoos, Warren Topelius, 395-5872.

Zoological Park Inspection Report, vs 17-65A, annually, U.S.D.A. approved zoos, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-24207 Filed 8-16-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE PUBLIC PROGRAMS PANEL

Meeting

AUGUST 9, 1976.

Pursuant to the provsions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C., on September 9 and 10, 1976, commencing at 9:00 a.m., at 806 15th Street, N.W.

The purpose of the meeting is to review Humanities Museums and Historical Organizations grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-23901 Filed 8-16-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

NSF-SPONSORED DEEP SEA DRILLING PROJECT RESULTS

Availability

As a result of research sponsored by the National Science Foundation under its Deep Sea Drilling Project at the Scripps Institution of Oceanography, La Jolla, California, the preliminary result of organic geochemical studies of ocean core sediments are available. Leg 44 of the Deep Sea Drilling Project included drilling at 5 sites in the western North Atlantic Ocean. Some of the sediments recovered may be of special interest because of the organic geochemical clues they contain regarding potential petroleum sources off the shore of the eastern United States. It is believed that making this preliminary data available to all interested parties will assist in determining the degree of exploration and exploitation of off-shore deposits in this area.

Persons interested in obtaining the "Preliminary Organic Geochemistry Report—Deep Sea Drilling Project, Leg 44", consisting of 90 pages, containing 9 locations in the western North Atlantic

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Ocean, may inspect the preliminary report or request it by mail from: Science Services, Deep Sea Drilling Project, Scripps Institution of Oceanography, La Jolla, California 92093.

KURT G. SANDVED,
Deputy Assistant Director for Operations.

[FR Doc.76-23914 Filed 8-16-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License Application No. 01/01-5281]

CHINESE AMERICAN INVESTMENT CORP.

Application for License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Chinese American Investment Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1976).

The officers, directors, and stockholders of the applicant are as follows:

Yu-Sing Jung, Chairman of the Board, 8 percent stockholder. 21 Benvenue Street, Wellesley, Massachusetts 02181.

Thomas K. Liu, Vice Chairman of the Board, 8 percent stockholder. 16 Audubon Road, Lexington, Massachusetts, 02173.

George S. Pan, President, Treasurer, Director, 52 percent stockholder. 30 Indian Hill Road, Medfield, Massachusetts 02052.

Raymond T. Lee, Vice President, Controller, Director, 8 percent stockholder. 4 Ivy Circle, Winchester, Massachusetts 01890.

Jeffrey T. Pan, Vice President—Marketing, Director, 8 percent stockholder. 1734 Cy Court, Vienna, Virginia 22180.

Frank F. Chin, Vice President—Finance, Director, 8 percent stockholder. 26 Lexington Road, Wellesley, Massachusetts 02181.

Jeffrey C. Tang, Vice President—Planning, Director, 8 percent stockholder. 14 Olympic Street, Framingham, Massachusetts 01701.

Barry C. Abelson, Secretary, 48 Wheeler Circle, Stoughton, Massachusetts 02072.

The applicant, a Massachusetts corporation, with its principal business located at 45 Diatuo Drive, Randolph, Massachusetts 02368, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 5,000 shares of common stock. The applicant will initially conduct its operations in the Greater Boston Metropolitan area and the New England area.

The applicant intends to invest only in concerns whose activities are related to businesses in which the applicant has the managerial and technical know-how at the time of commitment. However, applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBAs consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Randolph, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: August 10, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-23915 Filed 8-16-76;8:45 am]

[License No. 06/10-0015]

FIRST BUSINESS INVESTMENT CORP.

Small Business Investment Company; Approval of Transfer of Control

On June 16, 1976, a notice was published in the FEDERAL REGISTER (41 F.R. 24469) stating that First Business Investment Corporation, Suite 301 Zidell Building, 7007 Preston Road, Dallas, Texas 75205, had filed an application with the Small Business Administration (SBA), pursuant to Section 107.701 of the Rules and Regulations governing small business investment companies (13 C.F.R. Section 107.701 (1976)), for the transfer of control of this company to Mr. Albert J. Prevot.

Interested parties were given to the close of business July 1, 1976, to submit their written comments to SBA.

There has been an amendment to the original proposal. Mrs. Millicent McCoy and Mr. Walter M. Collie at the present time are officers and directors of the corporation but they will resign these positions. The only changes in the structure of management will be Mr. Prevot replacing Mr. John M. McCoy as president and Mr. John M. McCoy becoming secretary-treasurer of the corporation and remain a director. SBA has no objections to these changes.

Notice is hereby given that, having considered the application and all other pertinent information, SBA approved this application for transfer of control effective August 6, 1976.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 10, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-23992 Filed 8-16-76;8:45 am]

[Declaration of Disaster Loan Area 1267; Amdt. No. 1]

NEW YORK

Declaration of Disaster Area

The above numbered declaration (41 FR 32815) is amended by adding Herkimer and Washington Counties and adjacent counties within the State of New York, and by extending the time for filing applications to September 27, 1976, for physical damage and April 27, 1977, for economic injury.

Dated: July 30, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-23916 Filed 8-16-76;8:45 am]

CHARLOTTE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Charlotte District Advisory Council will hold a public meeting at 9:00 a.m., Friday, September 17, 1976 at the Howard Johnson's Motor Lodge, I-85 at Brentwood Street, High Point, North Carolina to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call George W. Marschall, U.S. Small Business Administration, 230 South Tryon Street, Suite 700, Charlotte, North Carolina 28202, (704) 672-7448.

Dated: August 6, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-23991 Filed 8-16-76;8:45 am]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Meetings

The Veterans Administration gives notice pursuant to Public Law 92-463 of meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Gastroenterology	Sept. 17, 1976	8:30 a.m. to 4:30 p.m.	Room A35, VACO.[1]
Respiration	Sept. 22, 1976	do	Room 817, VACO.
Cardiovascular studies	Oct. 1, 1976	do	Room 139, VACO.
Endocrinology	do	do	Room A35, VACO.
Hematology	do	do	Room 815B, VACO.
Immunology	Oct. 5, 1976	7 p.m. to 11 p.m.	Parlor B, Burlington Hotel.[2]
Do	Oct. 6, 1976	8:30 a.m. to 4:30 p.m.	Room 817, VACO.
Alcoholism and drug dependence (clinical pharmacology).	Oct. 8, 1976	do	Room A35, VACO.
Nephrology	Oct. 13, 1976	do	Room 817, VACO.
Surgery	Oct. 14, 1976	8:30 a.m. to 10 p.m.	Ivy Room, Blackstone Hotel.[3]
Oncology	Oct. 15, 1976	8:30 a.m. to 4:30 p.m.	Room 139, VACO.
Neurobiology	Oct. 18, 1976	7 p.m. to 11 p.m.	Conference room, Holiday Inn.[4]
Do	Oct. 19, 1976	8:30 a.m. to 4:30 p.m.	Room 817, VACO.
Behavioral sciences	Oct. 21, 1976	7 p.m. to 11 p.m.	Presidential Room, Holiday Inn.
Do	Oct. 22, 1976	8:30 a.m. to 4:30 p.m.	Room 139, VACO.
Infectious diseases	Oct. 26, 1976	do	Lake Erie Room, Conrad Hilton.[5]
Basic sciences	Oct. 28, 1976	7 p.m. to 11 p.m.	Parlor 511, Statler Hilton.[6]
Do	Oct. 29, 1976	8:30 a.m. to 4:30 p.m.	Room 139, VACO.

[1] Veterans Administration Central Office, 810 Vermont Ave. NW., Washington, D.C. 20420.
[2] Burlington Hotel, 1120 Vermont Ave. NW., Washington, D.C. 20005.
[3] Blackstone Hotel, 636 South Michigan Ave., Chicago, Ill. 60605.
[4] Holiday Inn, 1501 Rhode Island Ave. NW., Washington, D.C. 20005.
[5] Conrad Hilton, 720 South Michigan Ave., Chicago, Ill. 60605.
[6] Statler Hilton, 16th and K Sts. NW., Washington, D.C. 20036.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552(b)(5), title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under the interagency memoranda exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Howard M. Berman, Acting Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: August 10, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-23838 Filed 8-16-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

Submission of Preapplication for Federal Assistance for Fiscal Year 1977

Correction

In FR Doc. 76-23405, appearing at page 33591 in the issue of Tuesday, August 10, 1976, the first line should read as follows:

"Pursuant to 29 CFR 97.211, the Em- . . ."

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

IOWA STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 20, 1973, notice was published in the Federal Register (38 FR 19368) of the approval of the Iowa plan and the adoption of Subpart J to Part 1952 containing the decision.

The Iowa plan provides for the adoption of Federal Standards as State standards (by reference after comments and public hearing). Section 1952.163 of Subpart J sets forth the State's schedule for the adoption of Federal standards. By letter dated July 2, 1976 from Jerry L. Addy, Commissioner of Labor to Vernon A. Strahm, Regional Administrator for Occupational Safety & Health Administration and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1928.57 (41 FR 10195, March 9, 1976); 1928.57 (41 FR 11022, March 16, 1976); 1910.1001(l)(1) (41 FR 11504, March 19, 1976); 1910.184 (f)(6)(41 FR 13352, March 30, 1976). These standards, which are contained in Chapter 88 of the Code of Iowa (1975), were promulgated after public comment requested on May 1, 1976, hearings held on June 1, 1976 and resolution adopted by the Iowa Bureau of Labor on June 21, 1976 pursuant to Chapter 17a of the Code. The standards will be effective on August 20, 1976 and notice of their adoption was published by the State on June 14, 1976.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, OSHA, Room N3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Technical Data Center, OSHA, Room N3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, OSHA, Room 3000 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Iowa Bureau of Labor, East Seventh and Court Avenue, Fourth Floor, Des Moines, Iowa 50319.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 17, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Kansas City, Missouri this 14th of July 1976.

VERNON A. STRAHM,
Regional Administrator.

[FR Doc.76-24059 Filed 8-16-76;8:45 am]

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WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated February 26, 1976 from John E. Hillier, Assistant Director, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart F, Powered Platforms, Manlifts and Vehicle-mounted Work Platforms. These standards, which are contained in WAC 296–24–870, WAC 296–24–885, and WAC 296–24–900 of the General Safety and Health Standards, were promulgated by the State following hearings held in Olympia, Washington, February 19, 1976 pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW.

This subpart as proposed in the original State plan submission was initially approved as part of the Washington State Plan and a notice of approval appeared in the FEDERAL REGISTER (38 FR 2421) of January 26, 1973. Subsequently, changes were introduced during the State's adoption process which resulted in a less effective standard. The State has now amended the standard and thereby corrected the deficiencies. The State has also adopted standards corresponding to 29 CFR 1910.67, Vehicle-mounted Elevating and Rotating Work Platforms promulgated by OSHA in the FEDERAL REGISTER Vol. 40, No. 59, dated March 26, 1975.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. It is noted that § 1910.67(b)(4) requires specified clearances between aerial lifts and power lines. However, 1910.67(b)(4)(i)(c)(1) provides an exemption for this requirement in the case of insulated aerial lifts. The State chooses not to avail itself of this exemption and the State standard is therefore more effective.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administrative Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 17, 1976.

(Sec. 18. Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 28th day of May, 1976.

JAMES W. LAKE,
Regional Administrator, OSHA.

[FR Doc.76–24060 Filed 8–16–76;8:45 am]

WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated February 26, 1976 from John E. Hillier, Assistant Director, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Parts 1915, 1916, and 1917. These standards, which are contained in chapter 296–304 WAC, Ship Repairing, Shipbuilding, and Shipbreaking, were promulgated after due notice and a public hearing held at Olympia, Washington on April 26, 1974 pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The Region's review and evaluation indicates that the State standards are more effective than the Federal standards in that the State has combined the requirements of 29 CFR Parts 1915, 1916, and 1917 under one scope statement, thereby covering similar hazards wherever they occur in shipbuilding, shipbreaking, and ship repair.

3. Location of *supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administrative Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 17, 1976.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Seattle, Washington this 28th day of May, 1976.

JAMES W. LAKE,
Regional Administrator, OSHA.

[FR Doc.76–24061 Filed 8–16–76;8:45 am]

WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective standards. By letter dated February 26, 1976 from John Hillier, Assistant Director, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subparts G and Z. These standards, which are contained in Chapter 296–62 WAC, General Occupational Health Standards, were promulgated after due notice and public hearings held at Olympia, Washington on August 24, 1973, May 2, 1974 and February 19, 1976 pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, Chapter 42.30 RCW.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administrative Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 17, 1976.

(Sec. 18. Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 28th day of May, 1976.

JAMES W. LAKE,
Regional Administrator, OSHA.

[FR Doc.76–24062 Filed 8–16–76;8:45 am]

Office of the Secretary

[TA–W–1,013]

A. JACOBS AND SONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 6, 1976 the Department of Labor received a petition dated July 28, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of A. Jacobs and Sons, Inc., Lynn, Massachusetts (TA–W–1,013).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with athletic shoes produced by A. Jacobs and Sons, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76–24063 Filed 8–16–76;8:45 am]

[TA–W–800]

ADVANCE MANUFACTURING CORP., CLEVELAND, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–800: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 16, 1976 in response to a worker petition received on April 16, 1976 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing tools, dies, jigs and fixtures at the Advance Manufacturing Corporation, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20040). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Advance Manufacturing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

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(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all the criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Advance Manufacturing Corporation declined 37 percent in 1975 compared to 1974 and declined 22 percent in the first quarter of 1976 compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of tools, dies, jigs, and fixtures at Advance Manufacturing declined 16 percent in 1975 compared to 1974 and declined 42 percent in the first quarter of 1976 compared to the same period in 1975.

INCREASED IMPORTS

When compared with each preceding year imports of tools, dies, jigs and fixtures increased in terms of value in 1972, 1973 and 1974 and decreased in 1975. The ratios of imports to domestic production increased from 1.18 percent in 1974 to 1.69 percent in 1975, surpassing the 1971–1974 average of .81 percent.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that customers of Advance Manufacturing Corporation, Cleveland, Ohio have shifted their purchases of tools, dies, jigs and fixtures from Advance to off-shore manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with tools, dies, jigs and fixtures produced by Advance Manufacturing Corporation, Cleveland, Ohio contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provision of the Act, I make the following certification:

All workers engaged in employment at the Cleveland, Ohio plant of Advance Manufacturing Corporation who became totally or partially separated from employment on or after April 7, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24064 Filed 8-16-76;8:45 am]

[TA-W-731]

CHICOPEE COAT CO., CHICOPEE, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-731: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on March 26, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing women's outerwear at Chicopee Coat Company, Chicopee, Massachusetts, a wholly-owned subsidiary of Davis Sportswear, Lawrence, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Chicopee Coat Company, Davis Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that although the first two criteria have been met, the third and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at Chicopee Coat increased 1.1 percent from 1973 to 1974 and then declined 14.6 percent from 1974 to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data for Chicopee Coat were not available. All sales were made by Davis Sportswear which maintains sales data on a consolidated basis for all subsidiaries.

Production at Chicopee declined 2.5 percent from 1973 to 1974 and then declined 12 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of women's coats declined 18.8 percent in absolute terms from 1974 to 1975. The ratios of imports to domestic production and consumption declined from 7.8 percent and 7.2 percent, respectively, in 1974 to 5.4 percent and 5.1 percent, respectively, in 1975. In the first four months of 1976, imports increased 32.6 percent in absolute terms when compared to the same period in 1975. The ratios of imports to domestic production and consumption increased from 6.9 percent and 6.5 percent, respectively, in the first four months of 1975 to 7.3 percent and 6.8 percent, respectively, in the first four months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Davis Sportswear which sells all women's coats produced by Chicopee Coat did not switch to imports. A representative sample of all customers reduced purchases of women's coats from Davis Sportswear from 1974 to 1975 and shifted purchases to other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced at the Chicopee, Massachusetts plant of Chicopee Coat Company did not contribute importantly to the total or partial separation of the workers at such plant.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24065 Filed 8-16-76;8:45 am]

[TA-W-1,014]

ELECTRO-MECHANICAL PRODUCTS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 6, 1976 the Department of Labor received a petition dated July 27, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Oglesby, Ill. plant of the Indiana General Division of Electro-Mechanical Products, a division of Electronic Memories & Magnetics Corp., Los Angeles, Calif. (TA-W-1,014). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with office and technical services provided by Electro-Mechanical Products or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90–13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24066 Filed 8-16-76;8:45 am]

[TA-W-732]

LAWRENCE GARMENT CO., LAWRENCE, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-732: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on March 26, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing women's outerwear at Lawrence Garment Company, Lawrence, Massachusetts, a wholly-owned subsidiary of Davis Sportswear, Lawrence, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976, (41 FR 15490). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lawrence Garment Company, Davis Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, the third and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at Lawrence Garment Co. remained unchanged from 1973 to 1974 and then declined 10.6 percent from 1974 to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data for Lawrence Garment were not available. All sales were made by Davis Sportswear which maintains sales data on a consolidated basis for all subsidiaries.

Production at Lawrence Garment declined 6.7 percent from 1973 to 1974 and declined 8.3 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of women's coats declined 18.8 percent in absolute terms from 1974 to 1975. The ratios of imports to domestic production and consumption declined from 7.8 percent and 7.2 percent, respectively, in 1974 to 5.4 percent and 5.1 percent, respectively, in 1975. In the first four months of 1976, imports increased 32.6 percent in absolute terms when compared to the same period in 1975. The ratios of imports to domestic production and consumption increased from 6.9 percent and 6.5 percent, respectively, in the first four months of 1975 to 7.3 percent and 6.8 percent respectively, in the first four months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Davis Sportswear which sells all women's coats produced by Lawrence Garment did not switch to imports. A representative sample of all customers reduced purchases of women's coats from Davis Sportswear from 1974 to 1975 and shifted purchases to other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced at the Lawrence, Massachusetts plant of Lawrence Garment Company did not contribute importantly to the total or partial separation of the workers at such plant.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24067 Filed 8-16-76;8:45 am]

[TA-W-1,011]

MARLBORO FOOTWEAR CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 6, 1976 the Department of Labor received a petition dated June 11, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Marlboro Footwear Corporation, Marlboro, Massachusetts (TA-W-1,011). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with footwear for women produced by Marlboro Footwear Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Sec-

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tion 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24068 Filed 8-16-76;8:45 am]

[TA-W-851]

MASSILLON SPRING AND RIVET CORP., MASSILLON, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-851; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received April 30, 1976 which was filed by the United Steelworkers of America AFL-CIO on behalf of workers and former workers producing specialty U bolts at the Massillon, Ohio plant of Massillon Spring and Rivet Corporation, Massillon, Ohio.

The notice of investigation was published in the Federal Register (41 FR 20954) on May 21, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Massillon Spring and Rivet Corporation, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether or not the other criteria have been met, the third criterion has not been met.

Since its founding approximately forty years ago, Massillon Spring and Rivet Company has made a wide variety of products. Since 1971, the only product of the company has been U bolts. The firm operates one plant in Massillon, Ohio which is equipped with cutting machines, heat treating furnaces, and machines for producing both cut threads and rolled threads. All of the U bolts produced at Massillon Spring and Rivet Company are built to the customer's specifications.

There are no separately identifiable import statistics on U-bolts in the Tariff Schedules of the United States (TSUSA). Such products produced by Massillon are commonly classified as specialty fasteners. However, specially fasteners also are not identifiable in the import statistics under the TSUSA classification system. The evidence developed by the Department in the course of the investigation reveals that almost all firms producing specially fasteners, including U-bolts, do not believe their business is subject to any import influence. Foreign trade in specialty fasteners is inhibited by user requirements of on-site quality control, speed of delivery and order scheduling flexibility. Further inhibiting foreign trade in specialty fasteners is the limited market for a single specialized product such as U-bolts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with specialty U-bolts produced at Massillon, Ohio plant of Massillon Spring and Rivet Corporation did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24069 Filed 8-16-76;8:45 am]

[TA-W-744]

SAN-TORO MANUFACTURING CO., FALL RIVER, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-744: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on March 26, 1976 which was filed by the Amalgamated Clothing Workers Union on behalf of workers and former workers producing men's suits and sportcoats at the Fall River, Massachusetts plant of San-Toro Manufacturing Company.

The notice of investigation was published in the FEDERAL REGISTER on April 16, 1976 (41 FR 16235). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the San-Toro Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria one, two and three have been met, criterion four has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Employment at the Fall River, Massachusetts plant of San-Toro Manufacturing increased 6.2 percent from 1973 to 1974 and then decreased 3.4 percent from 1974 to 1975. In the first three quarters of 1975, employment declined 7 percent from the same quarters of the previous year. The average number of hours worked decreased 4.9 percent from 1973 to 1974 and 16.5 percent from 1974 to 1975. In the first three quarters of 1975, average hours worked declined 21 percent from the same period of the previous year. Labor turnover data for San Toro indicated that layoffs occurred in the first and second quarters of 1975.

SALES OR PRODUCTION OR BOTH

Sales of sportcoats, suitcoats and leisure jackets by San-Toro Manufacturing decreased 2.6 percent from 1973 to 1974 and 31.8 percent from 1974 to 1975. Sales decreased in each quarter of 1975 compared to the same quarter of the previous year.

Since production at San-Toro is based upon orders received, production is equivalent to sales.

INCREASED IMPORTS

Imports of men's and boys' tailored dress coats and sportcoats increased both absolutely and relatively in each year from 1971 to 1973 and then increased relatively from 1973 to 1974. Imports of men's and boys' tailored dress coats and sportcoats increased both absolutely and relatively from 1974 to 1975. The ratio of imports to domestic production and consumption increased from 21.2 percent and 17.5 percent, respectively, in 1974 to 28.2 percent and 22.0 percent, respectively, in 1975.

Imports of men's and boys' tailored suits increased absolutely and relatively from 1971 through 1975. Imports increased 26.9 percent from 1974 to 1975. Domestic production of men's and boys' suits declined 9.3 percent during the same period. The ratio of imports to domestic production and consumption increased from 12.2 percent and 10.9 percent, respectively, in 1974 to 17.2 percent and 14.6 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation indicated that customers of San-Toro did not switch to imports. Customers which reduced purchases did so because of decreased consumer demand resulting from the recession.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sportcoats, suitcoats and leisure jackets produced at the Fall River, Massachusetts plant of San-Toro Manufacturing did not contribute importantly to the total or partial separations of the workers at the plant.

Signed at Washington, D.C. this 6th day of August 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-24070 Filed 8-16-76;8:45 am]

[TA-W-730]

STAFFORD CLOTHING MANUFACTURING CO., FALL RIVER, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-730: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976, in response to a worker petition received on March 26, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing women's outerwear at Stafford Clothing Manufacting Company, Fall River, Massachusetts, a wholly-owned subsidiary of Davis Sportswear, Lawrence, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15493). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stafford Clothing Manufacturing Company, Davis Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivisions have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, the third and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at Stafford Clothing increased 32.5 percent in 1974 compared to 1973 and then declined 7.5 percent from 1974 to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data for Stafford Clothing were not available. All sales were made by Davis Sportswear which maintains sales data on a consolidated basis for all subsidiaries.

Production at Stafford Clothing increased 18.3 percent in 1974 compared to 1973 and then declined 21.1 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of women's coats declined 18.8 percent in absolute terms from 1974 to 1975. The ratios of imports to domestic production and consumption declined from 7.8 percent and 7.2 percent, respectively, in 1974 to 5.4 percent and 5.1 percent, respectively, in 1975. In the first four months of 1976, imports increased 32.6 percent in absolute terms when compared to the same period in 1975. The ratios of imports to domestic production and consumption increased from 6.9 percent and 6.5 percent, respectively, in the first four months of 1975 to 7.3 percent and 6.8 percent, respectively, in the first four months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Davis Sportswear which sells all women's coats produced by Stafford Clothing did not switch to imports. A representative sample of all customers reduced purchases of women's coats from Davis Sportswear from 1974 to 1975 and shifted purchases to other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced at the Fall River, Massachusetts plant of Stafford Clothing Manufacturing Company did not contribute importantly to the total or partial separation of the workers at such plant.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24071 Filed 8-16-76;8:45 am]

[TA-W-717]

STYLECRAFT CLOTHING CO., WEST ORANGE, N.J.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-717: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker

V41160 AUG 17 76 UMI

petition received on March 26, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's leisure suits, for Stylecraft Clothing Co., in West Orange, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15494). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stylecraft Clothing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales, production or both, of the firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all the above criteria have been met for men's leisure suits, but that the second, third and fourth criteria have not been met for military uniforms.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment was not separately identifiable as to hourly and salaried workers. The average number of weekly workers at Stylecraft declined 26 percent from 1973 to 1974, and declined 15 percent from 1974 to 1975. Beginning in the second quarter of 1975 and continuing through the first quarter of 1976, employment declined in each quarter compared to the same quarter of the previous year. Labor turnover data was not available.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production at Stylecraft are the same, since the clothing is produced to order on a contract basis. Men's leisure suits comprised 91 percent of total sales in 1974 and 84 percent of total sales in 1975. Sales of men's leisure suits declined 41 percent in value from 1973 to 1974, and declined 21 percent in value from 1974 to 1975. Sales declined 20 percent in value in the first quarter of 1976 compared to the first quarter of 1975. Sales of leisure suits ceased in the beginning of April, 1976, when Stylecraft's manufacturer terminated the contract.

Sales of military uniforms comprised 9 percent of total sales in 1975. Sales of military uniforms increased 58 percent in value from 1973 to 1974 and increased 53 percent from 1974 to 1975. Sales increased 245 percent in the first quarter of 1976 from the first quarter of 1975.

INCREASED IMPORTS

Imports of men's and boys' tailored suits increased absolutely and relatively in each year from 1971 to 1975. The ratios of imports of men's and boys' tailored suits to domestic production and consumption increased from 12.2 percent and 10.9 percent, respectively, in 1974 to 17.2 percent and 14.6 percent, respectively, in 1975.

Military and security type uniforms are not imported due to the "Buy American Act," which requires that in the procurement of supplies and services, only domestic sources and products shall be used and acquired for public use. Another consideration is the time factor involved in delivery and the customized tailoring-to-individual size specfications.

CONTRIBUTED IMPORTANTLY

The evidence developed by the Department's investigation indicated that retail customers of the manufacturer for whom Stylecraft produced leisure suits reduced domestic purchases of leisure suits from 1974 to 1975 and increased purchases of imports in the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's leisure suits produced at Stylecraft Clothing Company, West Orange, New Jersey contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provision of the Act, I make the following certification:

All workers at Stylecraft Clothing Company, West Orange, New Jersey who became totally or partially separated from employment related to the production of men's leisure suits on or after March 22, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers related to the production of military uniforms are denied certification.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24072 Filed 8-16-76;8:45 am]

[TA-W-661]

TARRA HALL CLOTHES, INC., NEW YORK, N.Y.

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-661; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 12, 1976 in response to a worker petition received on March 12, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits at Tarra Hall Clothes, Inc., New York, New York. The Department's investigation revealed that Tarra Hall was made up of three divisions: Tarra Hall, Arreta Hall and American Sportswear. An investigation regarding eligibility to apply for adjustment assistance for workers of American Sportswear was terminated on May 21, 1976 (41 FR 20972).

The notice of investigation was published in the FEDERAL REGISTER on March 26, 1976 (41 FR 12754). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tarra Hall Clothes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met for the Tarra Hall division. However for the Arreta Hall Division Criterion two has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Tarra Hall Division declined 14.0 percent from 1973 to 1974 and 32.4 percent from 1974 to 1975. Employment declined in the first three quarters of 1975 compared to the same quarter of 1974.

The average number of production workers at Arreta Hall increased 15.2 percent from 1974 to 1975. No employment figures were available for 1973.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Tarra Hall Division declined 13.1 percent in 1974 compared to 1973 and 15.1 percent in 1975 compared to 1974. Production declined in each quarter of 1975 compared to the corresponding quarters in 1974.

Production at Arreta Hall decreased 20.7 percent in 1974 compared to 1973 and increased 63.5 percent in 1975 compared to 1974. Production increased in each quarter of 1975 compared to the corresponding quarter in 1974.

INCREASED IMPORTS

Imports of men's and boys' suits increased absolutely and relative to domestic production in each year from 1971 through 1975. Absolute imports increased 26.9 percent from 1974 to 1975. The ratios of imports to domestic production and consumption increased from 12.2 percent and 10.9 percent, respectively in 1974 to 17.2 percent and 14.6 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Tarra Hall Clothes, Inc. decreased their purchases of men's suits from Tarra Hall relative to purchases of lower priced imported men's suits. This had a direct impact on the production and employment at the Tarra Hall Division.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits produced at the New York, New York plant of the Tarra Hall Division of Tarra Hall Clothes, Inc., have contributed importantly to the total or partial separation of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's suits at the New York, New York plant of the Tarra Hall Division of Tarra Hall Clothes, Inc., who became totally or partially separated from employment on or after March 12, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that neither sales nor production has decreased absolutely at Arreta Hall. Therefore workers at the Arreta Hall Division of Tarra Hall Clothes, Inc., are denied certification.

Signed at Washington, D.C. this 6th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24073 Filed 8-16-76;8:45 am]

[TA-W-880]

TELEDYNE PITTSBURGH TOOL STEEL, MONACA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-880: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tool steel at the Monaca, Pennsylvania plant of Teledyne Pittsburgh Tool Steel.

The notice of investigation was published in the Federal Register on June 11, 1976 (41 FR 23821). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne Pittsburgh Tool Steel, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 9.2 percent in 1975 compared to 1974 and 11.9 percent in the second quarter of 1975 compared to the like quarter in 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant sales, in quantity, declined 26.9 percent in 1975 compared to 1974 and 39.6 percent in the sceond quarter of 1975 compared to the like quarter in 1974. Plant production, in quantity, declined 25.2 percent in 1975 compared to 1974 and 38.1 percent in the second quarter of 1975 compared to the like quarter in 1974.

INCREASED IMPORTS

Imports of alloy tool steel increased in each year from 12,700 net tons in 1971 to 21,700 net tons in 1973 before declining to 13,700 net tons in 1974. Imports then increased to 19,100 net tons in 1975. The ratios of imports of alloy tool steel to domestic shipments and consumption increased from 12.1 percent and 11.6 percent, respectively, in 1974 to 27.7 percent and 23.4 percent, respectively in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that the major customers of tool produced at the Monaca, Pennsylvania plant of Teledyne Pittsburgh Tool Steel are increasing their purchases of tool steel from foreign sources due to price competition.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the tool steel produced at the Monaca, Pennsylvania plant of Teledyne Pittsburgh Tool Steel contributed importantly to the total or partial separation of the workers at the Monaca, Pennsylvania plant. In accordance with the provisions of the Act, I make the following certification:

"All employees of Teledyne Pittsburgh Tool Steel, Monaca, Pennsylvania who become totally or partially separated from employment on or after April 15, 1975 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 6th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary

[FR Doc.76-24074 Filed 8-16-76;8:45 am]

[TA-W-887]

WASHBURN WIRE CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-887: investigation regarding certification of eligibility to apply for worker adjustment assistance prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing quality spring steel at the Washburn Wire Company, New York, New York.

The notice of investigation was published in the Federal Register on June 15, 1976 (41 FR 24236). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Washburn Wire Company, its customers, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

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sistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 33.8 percent in 1975 compared to 1974 and declined 40.9 percent in the second quarter of 1975 compared to the second quarter of 1974.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant sales declined 44.8 percent in quantity in 1975 compared to 1974 and declined 65.7 percent in the second quarter of 1975 compared to the like 1974 quarter.

INCREASED IMPORTS

The ratio of imports of stainless steel wire and wire products to domestic shipments and consumption increased in quantity in each year from 26.3 percent and 21.1 percent, respectively, in 1973 to 43.9 percent and 31.7 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation indicates that imports of quality spring steel have increased in recent years.

Customers of the Washington Wire Company have increased purchases of imported quality spring steel and have reduced purchases from the Washburn Wire Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of quality spring steel have contributed importantly to the total or partial separation of workers at the Washburn Wire Company, New York, New York. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All employees at the Washburn Wire Company, Inc., New York, New York who became totally or partially separated from employment on or after April 30, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974

Signed at Washington, D.C. this 4th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24075 Filed 8-16-76;8:45 am]

[TA-W-879]

WESCO INDUSTRIES CORP., PLAINVIEW, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-879: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing stop motion devices for circular knitting machines at WESCO Industries Corporation, Plainview, New York.

The notice of investigation was published in the Federal Register on June 11, 1976 (41 FR 23822). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of WESCO Industries Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

WESCO Industries Corporation was established in 1907 and became a subsidiary of the Ingersoll Rand Company in 1972. The firm produces stop motion devices which are filament sensing devices and cloth sensing devices for circular knitting machines.

The evidence developed in the Department's investigation reveals that there are no separately identifiable imports of stop motion devices. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that there are no imports of this item.

Imports of circular knitting machines which incorporate stop motion devices of the same origin are not like or directly competitive with stop motion devices produced by WESCO Industries.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by WESCO Industries Corporation are not being imported in increasing quantities, either actual or relative to domestic production, as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24076 Filed 8-16-76;8:45 am]

[TA-W-788]

WHITE PINE COPPER CO., WHITE PINE, MICH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-788; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initated on April 9, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing refined copper at the White Pine Copper Company, White Pine, Michigan, a subsidiary of the Copper Range Company.

The notice of investigation was published in the Federal Register on April 23, 1976 (41 FR 17036). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from the White Pine Copper Company, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Total employment of hourly and salaried workers at White Pine decreased four percent from 1974 to 1975 and dropped 44 percent in January-April 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Dollar sales of refined copper by White Pine decreased 25 percent from 1974 to 1975 and dropped 41 percent in January-April 1976 compared to the like period in 1975. Sales of copper in pounds increased nine percent from 1974 to 1975 and declined 44 percent in January-April 1976 compared to the like period in 1975.

INCREASED IMPORTS

Imports of refined copper increased absolutely and relatively in each year from 1971 through 1974. Copper imports decreased from 314 thousand short tons in 1974 to 147 thousand short tons in 1975. Imports rose from 33 thousand short tons in January-April 1975 to 130 thousand short tons in January-April 1976. The ratio of imports to domestic production declined from 14.6 percent in 1974 to 8.2 percent in 1975 and increased from 5.1 percent in January-April 1975 to 21.3 percent in the same period of 1976.

CONTRIBUTED IMPORTANTLY

In May 1974, when U.S. Government price controls expired on refined copper, White Pine adopted a new pricing policy under which all its domestic copper sales would be based on prevailing COMEX (New York Commodity Exchange) prices. Using the COMEX price quotes also allowed White Pine to expand its market for refined copper beyond its regular customers.

From 1974 to 1975, when both domestic production and imports were declining, White Pine's unit production and unit sales increased. COMEX prices dropped sharply throughout 1975 from 1974 levels, reflecting the transition in the world copper market from a period of shortage to a recessionary period of low demand and excess copper supply.

Although the company was able to sell all the copper it could produce because COMEX prices in 1975 were substantially below U.S. producer prices, White Pine also realized COMEX prices were below production costs. Faced with continued losses and uncertain prospects for price recovery, White Pine decided on January 5, 1976, to cut costs by curtailing its mining operations by about 76 percent and by laying off approximately 70 percent of its hourly and salaried workers. The depressed state of COMEX prices throughout the second half of 1975 was a reflection of increased world copper stocks. In February 1976, White Pine decided to set copper prices at the U.S. producer price to avoid the volatile fluctuations in the speculative COMEX and LME markets.

Sales and production declined 41 percent and 44 percent, respectively, in January-April 1976 compared to the same period in 1975. The decline is attributable to furnace repair and cost reduction policies undertaken by White Pine and to the loss of COMEX sales.

Customers of White Pine reported a relative increase in purchases of imported refined copper in the first half of 1976 compared to the like period in 1975.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the refined copper produced at the White Pine Copper Company, White Pine, Michigan contributed importantly to the total or partial separations of the workers at such plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the White Pine Copper Company, White Pine, Michigan who became totally or partially separated from employment on or after January 1, 1976 are certified eligible to apply for worker adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of August 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-24077 Filed 8-16-76;8:45 am]

[TA-W-1,012]

WILLIAMS MANUFACTURING CO.

Investigetion Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 6, 1976 the Department of Labor received a petition dated July 31, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers' Union on behalf of the workers and former workers of Williams Manufacturinfl Company, Portsmouth, Ohio (TA-W-1,012).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's and children's shoes produced by Williams Manufacturing Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24078 Filed 8-16-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 119]

ASSIGNMENT OF HEARINGS

AUGUST 12, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

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MC-C-7570, Federal Highway Administration V. Cross Transportation, Inc., now assigned September 8, 1976 at Washington, D.C., has been postponed indefinitely.

MC 119792 (Sub-No. 52), Chicago Southern Transportation Co., Inc., now assigned November 15, 1976, at Miami, Fla. is canceled and application dismissed.

MC 124692 (Sub-No. 164), Sammons Trucking, now assigned September 14, 1976, at Denver, Colo. is canceled and application dismissed.

MC 136595 (Sub-No. 5, Eastside Enterprises, Inc., d/b/a Eastside Mobile Home Transporting, Inc., now being assigned November 30, 1976 (4 days) at Portland, Oregon, in a hearing room to be later designated.

MC-C-8932, Garrett Freightlines, Inc., Et Al, v. ABC Truck Lines, Inc., Et Al, now being assigned December 6, 1976 (2 days), at Reno, Nevada; in a hearing room to be later designated.

MC 97526 (Sub-No. 2), Nevada Freight Lines, Inc., now being assigned December 8, 1976 (8 days), at Reno, Nevada; in a hearing room to be later designated.

MC 139468 (Sub-No. 15), International Contract Carriers, Inc., now assigned September 16, 1976, at Denver Colo., is canceled and application dismissed.

MC-C-8778, Hilt Truck Line, Inc.—Investigation and Revocation of Certificates now being assigned September 27, 1976 at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

MC 124211 (Sub 273), Hilt Truck Line, Inc. now assigned September 29, 1976 at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

MC 129387 (Sub 23), Bill Payne, dba Bill Payne Trucking Company now assigned October 7, 1976 at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

MC 134477 (Sub 109), Scanno Transportation, Inc. now assigned October 7, 1976 at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

MC-C-9002, Crouse Cartage Company—Investigation and Revocation of Certificates now assigned October 8, 1976 at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

AB 1 (Sub 51), Chicago and Northwestern Transportation Company Abandonment Between Burt and Halfa in Kossuth, Palo Alto and Emmet Counties, Iowa now assigned October 4, 1976 at Algona, Iowa and will be held at the Security State Bank, One East State Street.

MC 59856 (Sub 67), Salt Creek Freightways, A Corp., now being assigned November 8, 1976 (1 Week), at Helena, Montana, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24056 Filed 8-16-76;8:45 am]

[Notice No. 11]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76668 filed July 22, 1976. Transferee: DON H. FREYMILLER, RALPH HUNTINGTON, and THOMAS F. McARDLE, a partnership, doing business as F. H. & M. TRUCKING CO., INC., P.O. Box 98, Shullsburg, Wisconsin, 53586. Transferor: A & W Trucking Co., Inc., P.O. Box 129, Mosinee, Wisconsin, 54455. Applicants' representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa, 52001. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-113535 (Sub-No. 8); MC-113535 (Sub-No. 15); MC-113535 (Sub-No. 18); MC-113535 (Sub-No. 19); and MC-113535 (Sub-No. 23) issued June 23, 1969, March 4, 1971, October 26, 1971, April 17, 1972, and May 8, 1973, as follows: Sub-8—*Feed*, from Chicago and Forest Park, Ill., to Colesburg, Iowa, and points in Iowa within 12 miles of Colesburg; *Horses*, from points in Delaware and Clayton Counties, Iowa, to points in Wisconsin; *Farm machinery and parts, tractors and parts, and agricultural implements and parts*, from Chicago, Sandwich, Rock Falls, Canton Rock Island, Moline, and East Moline, Ill., to points in Perry, Ox Creek, Volga, Jefferson, Cass, Lodomillo, Elk, Mallory, Millville, and Buena Vista Townships, Clayton County, Iowa, and points in that part of Delaware County, Iowa, on and north of U.S. Highway 20; *Livestock*, From New Vienna, Iowa, and points within 20 miles of New Vienna, to Chicago, Ill.; *Washing machines*, From Newton, Iowa, to points in Columbia, Crawford, Dane, Grant, Green, Iowa, Lafayette, Richland, Rock, Sauk and Vernon Counties, Wis.; *Cocoa, chocolate, and paper boxes* From Milwaukee, Wis., to Dubuque, Iowa; *Canned goods*, From Cassville and Prairie du Chien, Wis., to points in that part of Iowa (except Dubuque) on and east of U.S. Highway 69, and points in that part of Illinois on and North of U.S. Highway 36.

From points in that part of Wisconsin (except points in a described part of Wisconsin) on and south of U.S. Highway 10, to Dubuque, Iowa; *Machinery and machinery parts*, From Rock Island, Rock Falls, Canton, Moline, Dixon, and Rochelle, Ill., and Waterloo, Davenport, Newton, Charles City, Mason City, and Cedar Rapids, Iowa, to Bloomington, Cassville, Potosi, and Prairie du Chien, Wis.; *Paper and paper products*, From Mosinee, Green Bay, Nekoosa, Port Edwards, Appleton, and Menasha, Wis., to Dubuque, Iowa; *Plumbing and heating supplies*, From Kohler, Wis., to Dubuque, Iowa; *Such merchandise as is dealt in by retail grocery and food business houses*, From Dubuque, Iowa, to points in that part of Wisconsin (except points in a described part of Wisconsin) south and west of a line beginning at La Crosse, Wis., and extending along Wisconsin Highway 33 to Portage, Wis., thence along U.S. Highway 51 to Madison, Wis., and thence along Wisconsin Highway 69 to the Wisconsin-Illinois State Line, including points on the indicated portions of the highways specified; *Butter and cheese*, From points in the towns of Millville, Woodman, Marion, Watterstown, Hickory Grove, Castle Rock, Wingville, Clifton, and Lima, Grant County, Wis., points in the towns of Clyde, Eden, Mifflin, Pulaski, and Wyoming, Iowa County, Wis., and points in the towns of Benton, Kendall, Seymour, Shullsburg, White Oak Springs, and Willow Springs, Lafayett County, Wis., to Dubuque, Iowa; and *empty butter tubs*, and *empty cheese boxes*, From Dubuque, Iowa, to point of origin in the Wisconsin towns specified immediately above; *Cheese*, From Dubuque, Iowa, to Dixon, Ill., and Plymouth, Wis.; and *empty cheese boxes*, from Dixon, Ill., and Plymouth, Wis., to Dubuque, Iowa; *Butter, and butter tubs and containers*, Between Dubuque, Iowa, on the one hand, and, on the other, points in a described portion of the State of Wisconsin; *Malt beverages*, and *carbonated beverages*, From Chicago, Ill., to McGregor, Iowa; and *Empty containers* for malt and carbonated beverages, From McGregor, Iowa, to Chicago, Ill.; *Beer, empty beer containers*, and *brewery supplies*, Between Cassville, and Potosi, Wis., on the one hand, and, on the other, Sioux City and Council Bluffs, Iowa, Preston, Austin, Spring Valley, and Winona, Minn., points in that part of Iowa (except Dubuque) on and East of U.S. Highway 69, and points in that part of Illinois on and North of U.S. Highway 36.

Sub-15—*Meats, meat products and meat by-products*, and *articles, distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and pieces thereof), From Dubuque, Iowa, to Milwaukee, Wis.; Sub-18—*Meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From Dubuque, Iowa, to points in Wisconsin (except Milwaukee, Wis., and points in the Milwaukee, Wis., Commercial Zone as defined by the Commission). Restriction: The authority is restricted to the transportation of traffic originating at *by-products*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates;* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the plant sites and storage facilities of Dubuque Packing Company, at or near Dubuque, Iowa, to points in Indiana and Illinois, Restriction: The authority is restricted to the transportation of shipments originating at the above-named origins and destined to the named destinations; Sub-23—*Meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers* in the conduct of their business when destined to and for use by meat packers as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), Between the plant and warehouse facilities of the Dubuque Packing Company at or near Dubuque, Iowa, and Duluth, Minn., restricted to the transportation of shipments originating at or destined to the above origin and destination points; From points in Wisconsin to Dubuque, Iowa, restricted to the transportation of shipments destined to Dubuque, Iowa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76669 filed July 20, 1976. Transferee: SANTO CONTINO and JAMES GUARIGLIA, a partnership, 433 Murray Hill Parkway, East Rutherford, New Jersey, 07073. Transferor: Daleo Trucking Co., Inc., 71 Warren Street, Paterson, New Jersey, 07524. Applicants' Representative: John M. Zachara, P.O. Box Z, Paterson, New Jersey 07509. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-129737, issued December 16, 1970, as follows: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, Between New York, N.Y., on the one hand, and, on the other, Paterson and Passaic, N.J.

Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24057 Filed 8-16-76;8:45 am]

[Notice No. 10]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 17, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 30, 1976.

Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75836. By order of July 1, 1976, the Commission, Division 3, acting as an Appellate Division, approved the transfer to C & E Trucking Co., Inc., Paramount, Calif., of that portion of Certificate No. MC-108398 Sub-33 issued by the Commission, March 15, 1965, to Ringsby-Pacific Ltd., Littleton, Colo., authorizing the transportation of machinery, materials, supplies, and equipment incidental to, or used in, mining, milling, building construction, and highway building and maintenance, requiring special equipment, between points in California south of a specified line on the one hand, and, on the other, north of said line; machinery, materials, supplies, and equipment incidental to, or used in, mining, milling, building construction, and highway building and maintenance, between points in a described area in California on the one hand, and, on the other, points in California outside said area; between points in California on the one hand, and, on the other, points in Nevada, and between points in Nevada; and structural steel, between San Francisco, Calif., and points within 20 miles of San Francisco on the one hand, and, on the other, points in Nevada; and all of the above-described authority is subject to specified restrictions.

Jerry Solomon Berger, Esquire, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212.

No. MC-FC-76121. By order of July 11, 1976, the Motor Carrier Board approved the transfer of Mosaic Trucking Company, Inc., Avanel, N.J., of the operating rights in Certificate No. MC-134962 issued January 8, 1971, to Fred Tamasco, doing business as Fred's Delivery Service, Irvington, N.J., authorizing the transportation of general commodities, with exceptions, between points is Essex County, N.J., on the one hand, and, on the other, New York, N.Y.

Edward L. Nehez, 744 Broad St., Newark, N.J., 07102, representative for transferee.

Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, representative for transferor.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24053 Filed 8-16-76;8:45 am]

[Ex Parte No. MC-43]

RINGBY-PACIFIC LTD.

Lease and Interchange of Vehicles by Motor Carriers

AUGUST 12, 1976.

At a Session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 29th day of July, 1976.

It appearing, That a petition has been filed by Ringsby-Pacific Ltd. (MC 108398 and various subs), and Arizona-Pacific Tank Line (MC 109584 and numerous subs), under common control, for waiver of paragraph (c) of Section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners maintain a jointly supervised program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That the Department offers no objection to granting the petition;

It is ordered, That waiver of paragraph (c) of Section 1057.4, be, and, it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Members Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-2405 Filed 8-16-76;8:45 am]

[AB 122]

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

Abandonment of Operation

AUGUST 4, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed abandonment by the Terminal Railroad Association of St. Louis of St.

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Louis Union Station in St. Louis, Mo., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the proposed abandonment, coupled with relocation of Amtrak passenger service to an alternate facility still to be constructed, will have a negligible impact on the environment since there will be no diversion to less efficient transport modes and the number of rail miles traveled will remain essentially unchanged.

Although Union Station, a site listed on the National Register of Historic Places, will be converted into a multifunctional commercial complex, current plans contemplate retention of the station's exterior essentially without change and renovation of the building's interior in a manner conforming with the original design. In light of these plans, there should not be an adverse effect on the station's historical attributes.

Commercial development of the station property is expected to have a beneficial impact on community development because it will encourage tourism and create new jobs.

This conclusion is continued in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 15, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24058 Filed 8–16–76;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycyling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence September 16, 1976, subject to its tariff publication effective date.

P–5–76 (Special Certificate—Waste Products), filed August 8, 1976. Applicant: DANNY HERMAN TRUCKING, INC., 15626 Old Valley Blvd., City of Industry, Calif. 91744. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse*, between points in the United States (including Alaska, but excluding Hawaii), in furtherance of a recognized pollution control program sponsored by Industrial Silver Company of Fontana, Calif., for the purpose of recovery of waste products containing silver for recycling.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24055 Filed 8–16–76;8:45 am]

federal register

TUESDAY, AUGUST 17, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NEW ANIMAL DRUG APPLICATIONS

Proposals, Withdrawal of Proposals and Opportunities for Hearings

V41I160 AUG 17 76 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 510, 526, 540, 556 and 558]

[Docket Nos. 76N—0173, 0228, 0229, 0230]

FURAZOLIDONE, NIHYDRAZONE, FURALTADONE, NITROFURAZONE

Withdrawal of Proposals and Notice of Proposed Rule Making

Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing notices of opportunity for hearing on proposals to withdraw approval of new animal drug applications (NADA's) Nos. 12–738 and 14–283 (formerly FDC–D–283; now Doc. No. 76N–0229), and NADA No. 65–059 for the use of furaltadone (NF–260); NADA Nos. 13–195 and 13–200 (formerly FDC–D–282; now Doc. No. 76N–0228) for the use of nihydrazone (NF–64); and NADA Nos. 6–395, 6–475, 6–649, 7–801, 8–129, 8–142, 8–324, 8–410, 8–529, 8–784, 9–013, 9–415, 10–741 and 11–154 (formerly FDC–D–280; now Doc. No. 76N–0230), for the use of nitrofurazone (NF–7) in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 306b(e)(1)(B)) on the grounds that new evidence not available to him when the applications were approved, evaluated together with the evidence available to him at the time of the approval, shows that those drugs are not shown to be safe for use under either the approved or currently labeled conditions of use. These notices, in addition to that published in the FEDERAL REGISTER of May 13, 1976 (41 FR 19907), regarding furazolidone, constitute due notice that furazolidone, furaltadone, nihydrazone and nitrofurazone are new animal drugs pursuant to section 201(w)(1) of the act (21 U.S.C. 321(w)(1)).

Consistent with this action, the Director is hereby withdrawing the proposal on furaltadone published in the FEDERAL REGISTER of August 4, 1971 (36 FR 14335), and those covering nihydrazone and nitrofurazone published in the FEDERAL REGISTER of March 31, 1971 (36 FR 5918) and is reproposing to revoke the regulations on which these drugs rely as a condition of their approval. Interested persons may submit comments on or before September 16, 1976.

The Director has reviewed the potential environmental impact of the proposal to withdraw approval of NADA's for furaltadone (NF–260); for nitrofurazone (NF–7) and nihydrazone (NF–64) which are subjects of companion notices published elsewhere in this issue of the FEDERAL REGISTER; and for furazolidone (NF–180) which was the subject of notices published in the FEDERAL REGISTER of May 13, 1976 (41 FR 19906 and 19907). He has concluded that the proposed action against these four drugs would not significantly affect the quality of the human environment. An environmental impact analysis report and assessment is on file at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

The Director has carefully considered the inflation impact of the proposed action against the four nitrofuran drugs. Since furazolidone (NF–180) accounts for approximately 97 percent of the usage of nitrofuran compounds in food-producing animals, his review of the inflation impact focused only on the uses of furazolidone. A major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A–107, and the Guidelines issued by the Department of Health, Education, and Welfare. Copies of the inflation impact statement on nitrofurans are on file with the Hearing Clerk, Food and Drug Administration. The major conclusions found in the inflation impact statement are summarized in the May 13, 1976 FEDERAL REGISTER notice concerning furazolidone (NF–180) (41 FR 19906).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Director proposes that Parts 510, 526, 540, 556, and 558 of Chapter I of Title 21 of the Code of Federal Regulations be amended, taking into consideration the specific revocations related to furazolidone referred to in the FEDERAL REGISTER of May 13, 1976 (41 FR 19906; formerly FDC–D–281, now Doc. No. 76N–0173), in addition to those relating to furaltadone, nihydrazone, and nitrofurazone, as follows:

§ 510.515 [Amended]

1. Section 510.515 *Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act* is amended:

a. By revoking paragraphs (a) (4) and (5):

b. By revoking and reserving paragraph (b) (11) and (15); by redesignating paragraph (b) (17) (i) as (b) (17) and by revoking paragraph (b) (17) (ii);

c. By revoking and reserving in the table in paragraph (c), items 8, 9, and 10.

§ 526.1014 [Revoked]

2. By revoking § 526.1014 *Furaltadone.*

3. By revising § 540.274c(a) (1) and (4), to delete references to furaltadone, as follows:

§ 540.274c Procaine penicillin G in oil.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* It is exempt from the potency requirement in § 440.274a(a)(1) of this chapter. It is not required to be sterile if it is packaged and labeled solely for udder instillations of cattle. If it is packaged and labeled solely for udder instillations of cattle, the penicillin used is exempt from the requirements of § 40.74a(a)(1) (ii), (iii), and (iv) of this chapter.

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(4) *Requests for certification; samples.* If the batch of procaine penicillin in oil is intended solely for udder instillations of cattle, test results for toxicity, sterility, and pyrogen are not required.

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§ 540.380a [Amended]

4. By deleting from paragraph (a)(1) of § 540.380a *Penicillin ointment* the second sentence, "If it is intended solely for topical veterinary use and not for udder instillation in dairy animals and is conspicuously so labeled, it may contain nitrofurazone."

§ 540.874g [Revoked]

5. By revoking § 540.874g *Procaine penicillin G—furaltadone.*

§ 556.280 [Revoked]

6. By revoking § 556.280 *Furaltadone.*

§ 556.290 [Revoked]

7. By revoking § 556.290 *Furazolidone.*

§ 556.450 [Revoked]

8. By revoking § 556.450 *Nihydrazone.*

9. By amending § 558.15 by deleting references to nitrofuran in the section heading, in paragraph (a), in the introductory text of paragraph (b), and in (b) (1) and (3); by deleting from the table in paragraph (g)(1) the entries for Norwich Pharmacal, and for Hess & Clark and Norwich Pharmacal Co., and by deleting from the table in paragraph (g)(2) the entries for Norwich Pharmacal Co.; as amended § 558.15 (a), (b) introductory text), (b) (1) and (3), and the tables in (g) (1) and (2) read as follows:

§ 558.15 Antibiotic and sulfonamide drugs in the feed of animals.

(a) The Commissioner of Food and Drugs will propose to revoke currently approved subtherapeutic (increased rate of gain, disease prevention, etc.) uses in animal feed of antibiotic and sulfonamide drugs whether granted by approval of new animal drug applications, master files and/or antibiotic or food additive regulations, by no later than April 20, 1975, unless data are submitted which resolve conclusively the issues concerning their safety to man and animals and their effectiveness under specific criteria established by the Food and Drug Administration based on the guidelines included in the report of the FDA task force on the use of antibiotics in animal feeds. All persons or firms previously marketing identical, related, or similar products not the subject of an approved new animal drug application must submit a new animal drug application by July 19, 1973, if marketing is to continue during the interim. New animal drug entities with antibacterial activity not previously marketed, now pending approval or submitted for approval prior to, on, or following the effective date of this publication, shall satisfy such criteria prior to approval.

(b) Any person interested in developing data which will support retaining approval for such uses of such antibiotic and sulfonamide drugs pursant to section 512(l) of the Federal Food, Drug, and Cosmetic Act shall submit to the Commissioner the following:

(1) By July 19, 1973, records and reports of completed, ongoing, or planned studies, including protocols, on the tetracyclines, streptomycin, dihydrostreptomycin, pencillin, and the sulfonamides; for all other antibiotics by October 17, 1973. The Food and Drug Administration encourages sponsors to consult with the Bureau of Veterinary Medicine on protocol design and plans for future studies.

(2) By April 20, 1975, data satisfying all other specified criteria for safety and effectiveness, including the effect on the salmonella reservoir for any antibiotic or sulfonamide drugs approved for subtherapeutic use in animal feeds. Drug efficacy data shall be submitted for any feed-use combination product containing such drug and any feed-use single ingredient antibiotic or sulfonamide not reviewed by the National Academy of Sciences—National Research Council, Drug Efficacy Study covering drugs marketed between 1938 and 1962.

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(g) * * *

(2) * * *

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Commercial Solvents Corp., Thompson-Hayward Chemical Co.	Zinc bacitracin	Chickens, turkeys, swine, pheasants, and quail.	Sec. 558.78	Sec. 558.78.
Do	do	Cattle	Sec. 558.78	Sec. 558.78.
S. B. Penick & Co., Diamond Shamrock Chemical Co.	Bacitracin methylene disalicylate	Chickens, turkeys, and swine.	Sec. 558.76	Sec. 558.76.
Do	do	Cattle	Sec. 558.76	Sec. 558.76.
Do	do	do	Sec. 558.76	Sec. 558.76.
Elanco Products Co	Hygromycin B	Chickens and swine.	Sec. 558.274	Sec. 558.274.
Do	Tylosin	Chickens, swine, and beef cattle.	Sec. 558.625	Sec. 558.625.
Abbott Laboratories	Erythromycin	Chickens, turkeys, and swine.	Sec. 558.248	Sec. 558.248.
The Upjohn Co	Lincomycin	Chickens	Sec. 558.325	Sec. 558.325.
Pfizer, Inc	Oleandomycin	Chickens, turkeys, and swine.	Sec. 558.435	Sec. 558.435.
Hoechst Pharmaceuticals.	Bambermycins	Chickens	Sec. 558.95	Sec. 558.95.
Elanco Products Co	Tylosin	Swine	Sec. 558.630	Sec. 558.630.
Do	Sulfamethazine	do	Sec. 558.630	Sec. 558.630.
American Cyanamid Co., Diamond-Shamrock Chemical Co., Hess & Clark, Rachelle Labs, Inc., and Vitamin Premixers of Omaha.	Chlortetracycline	Chickens, turkeys, swine and cattle.	Sec. 558.128	Sec. 558.128.
Merck Sharp & Dohme Research Labs.	Procaine penicillin.	Chickens, turkeys, swine, pheasant, and quail.	Sec. 558.460	Sec. 558.460.
E. R. Squibb & Sons, Inc.	do	do	Sec. 558.460	Sec. 558.460.
Merck Sharp & Dohme Research Labs.	Sulfaquinoxaline	Chickens	Continuously, 0.0125 to 0.025 pct.	Aid in prevention of coccidiosis due to *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. maxima.*
Do	do	Turkeys	Continuously, 0.0175 pct.	Aid in the prevention of coccidiosis due to *Eimeria meleagridis, E. meleagrimitis* and *E. adenoides.*
Do	do	Rabbits	Continuously, 0.025 pct.	Aid in prevention of coccidiosis due to *Eimeria stiedae, E. perforans.*
Pfizer, Inc., and Vitamin Premixers of Omaha.	Oxytetracycline	Chickens and turkeys.	Sec. 558.450	Sec. 558.450.
Do	do	Swine (10 to 30 lb).	25 to 50 g/ton	To increase rate of gain and improve feed efficiency.
Do	do	Swine (30 to 200 lb).	7½ to 10 g/ton	Do.
Do	do	Swine	50 g/ton	As an aid in the prevention of bacterial enteritis, also known as scours, baby pig diarrhea, vibrio dysentery, bloody dysentery, and salmonellosis (necro or necrotic enteritis).
Do	do	do	100 g/ton	As an aid in the treatment of bacterial enteritis, also known as scours, baby pig diarrhea, vibrio dysentery, bloody dysentery, and salmonellosis (necro or necrotic enteritis).

V 41 160 AUG 17 76 UMI

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Do	do	do	50 to 150 g/ton	As an idain the maintenance of weight gains and feed consumption in presence of atrophic rhinitis.
Do	do	do	500 g/ton	In presence of porcine leptospirosis reduces instances of abortion, gives higher survival rate, heavier and healthier newborn pigs, reduces urinary shedding of leptospirae and aids in maintenance of normal weight gains and feed consumption. Feed 7 to 14 d, approximately 1 mo before farrowing.
Do	do	Calves	0.05 to 0.1 mg/lb of body weight daily or 25 to 75 mg per head daily.	To increase rate of gain and improve feed efficiency.
Do	do	do	0.5 mg/lb of body weight daily or in complete feed at 50 g/ton.	As an aid in the prevention of bacterial diarrhea.
Do	do	do	0.5 to 5.0 mg/lb of body weight daily or complete feed at 50 g/ton.	As an aid in the treatment of bacterial diarrhea.
Do	do	Cattle	75 to 80 mg per head daily.	As an aid in reducing incidence and severity of bloat. As an aid in reducing incidence and severity of liver abscesses (for cattle weighing over 400 lb). To increase rate of gain and improve feed efficiency. As an aid in increasing milk production in lactating dairy cows.
Do	do	do	0.1 to 0.5 mg/lb of body weight daily.	As an aid in the prevention of bacterial diarrhea.
Do	do	do	0.5 to 5.0 mg/lb of body weight daily.	As an aid in the treatment of bacterial diarrhea, also known as scours.
Do	do	do	0.5 to 2.0 g per head daily.	For the prevention and treatment of the early stages of shipping fever complex. Oxytetracycline is effective prophylaxis when fed 3 to 5 d preceding shipment and/or 3 to 5 d following arrival in feedlots. For treatment of shipping fever, these levels should be fed at onset of the disease symptoms until symptoms disappear.
Do	do	Sheep	10 to 20 g/ton	To increase rate of gain and improve feed efficiency during finishing period.
Do	do	do	50 g/ton	As an aid in the prevention of bacterial diarrhea, also known as scours, lamb dysentery, and white scours of lambs.
Do	do	do	100 g/ton	As an aid in the treatment of bacterial diarrhea, also known as scours, lamb dysentery, and shite scours of lambs.
Do	do	do	25 mg per head daily.	As an aid in reduction of losses due to enterotoxemia, also known as overeating disease.
Pfizer, Inc	Penicillin	Chickens, turkeys, and swine.	Secs. 558.460, and 510.515 of this chapter.	Secs. 558.460 and 510.515 of this chapter.
Do	Penicillin and streptomycin.	do	do	Do.
American Cyanamid Co.	Chlortetracycline	Cattle	Sec. 558.128	Sec. 558.128.
Do	Sulfamethazine	do	Sec. 558.128	Sec. 558.128.
Merck Sharp & Dohme Research Labs.	Procaine penicillin and streptomycin sulfate.	Sec. 558.460	Sec. 558.460	Sec. 558.460.
Abbott Laboratories	Erthromycin	Cattle	37 mg per head per day.	Sec. 558.248.
Hoffman-La Roche, Inc.	Sulfadimethoxine and ormetoprim.	Chickens and turkeys.	Sec. 558.575	Sec. 558.575.
Pfizer, Inc	Oxytetracycline and neomycin.	Chickens, turkeys, swine, and calves.	As provided in paragraph (g)(2) of this section.	As provided in paragraph (g)(2) of this section.
American Cyanamid Co. and Rachelle Labs, Inc.	Chlortetracycline, sulfamethazine, and penicillin.	Swine	do	Do.
Diamond Shamrock Chemical Co.	Chlortetracycline, sulfathiazole, and penicillin.	do	do	Do.

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Do	Chlortetracycline	do	10 to 50 g/ton	Enhancement of growth and feed efficiency.
Do	Arsanilic acid	do	0.005 to 0.01 pct	Do.
American Cyanamid Co.	Chlortetracycline and sulfamethazine.	Cattle	Sec. 558.128	Sec. 558.128.
Pfizer, Inc., and Vitamin Premixers of Omaha.	Oxytetracycline	Chickens	50 g/ton	Prevention of diseases from oxytetracycline susceptible organisms during periods of stress. As aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	Chickens (first 2 weeks).	50 to 100 g/ton	Prevention of early chick mortality due to oxytetracycline-susceptible organism. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	Chickens	50 to 100 g/ton	To extend period of high egg production, to improve feed efficiency, to improve egg production and feed efficiency in presence of disease and at time of stress: As an aid in maintaining and improving hatchability where birds are suffering stress from moving, vaccinations, culling, extreme temperature changes, and worming; to improve livability of progeny when losses are due to oxytetracycline-susceptible organisms, to improve egg shell quality, prevention of blue comb (mud fever or nonspecific enteritis). As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	do	100 to 200 g/ton	Prevention of complicated chronic respiratory disease (air-sac infection) and control of complicated chronic respiratory disease by lowering mortality and severity during outbreaks. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Pfizer, Inc	Oxytetracycline	Turkeys	50 g/ton	As an aid in the prevention of disease from oxytetracycline-susceptible organisms during periods of stress. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	do	50 to 100 g/ton	To extend period of high egg production, to improve egg production, to improve feed efficiency, to improve fertility, to improve egg production and feed efficiency in presence of disease and time of stress; as an aid in maintaining and improving hatchability where birds are suffering from stress, exposure moving, vaccination, culling, extreme losses due to oxytetracycline-susceptible organisms, and to improve egg shell quality prevention of hexamitiasis. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).

V 41 160 AUG 17 76 UMI

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	Turkeys (first 4 weeks).	50 to 100 g/ton	As an aid in the prevention of early poult mortality due to oxytetracycline - susceptible organisms. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	do	100 to 150 g/ton	As an aid in reducing mortality in birds which have suffered an attack of airsacculitis (it is recommended, wherever possible, to feed from time of attack to marketing).
Do	Neomycin base	do	35 to 100 g/ton	Do.
Do	Oxytetracycline	Turkeys	100 to 150 g/ton	As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 100 g/ton	Do.
Do	Oxytetracycline	do	100 to 200 g/ton	Control of blue comb (mud fever or nonspecific enteritis), infectious sinusitis and hexamitiasis, prevention of infectious synovitis. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	do	200 g/ton	Control of infectious synovitis. For the treatment of bacterial enteritis and blue comb (mud fever or nonspecific enteritis).
Do	Neomycin base	do	70 to 140 g/ton	Do.
Pfizer, and Vitamin Premixers of Omaha.	Oxytetracycline	Swine	50 g/ton	As an aid in the prevention of bacterial enteritis (scours), baby pig diarrhea (in baby pigs only), vibrionic dysentery, bloody dysentery and salmonellosis (necro or necrotic enteritis).
Do	Neomycin base	do	35 to 110 g/ton	Do.
Do	Oxytetracycline	do	50 to 150 g/ton	As an aid in the maintenance of weight gains and feed consumption in the presence of atrophic rhinitis. As an aid in the treatment of bacterial enteritis.
Do	Neomycin base	do	70 to 140 g/ton	Do.
Pfizer, Inc	Oxytetracycline	Calves	50 g/ton	As an aid in the prevention of bacterial enteritis (scours).
Do	Neomycin base	do	35 to 140 g/ton	Do.
Do	Oxytetracycline	do	100 g/ton	As an aid in the treatment of bacterial enteritis (scours).
Do	Neomycin base	do	70 to 140 g/ton	Do.
Do	Oxytetracycline	do	8 to 100 mg/gal reconstituted milk replacer.	As an aid in the prevention of bacterial diarrhea (scours).
Do	Neomycin base	do	100 to 200 mg/gal reconstituted milk replacer.	Do.
Do	Oxytetracycline	do	40 to 200 mg/gal reconstituted milk replacer.	Do.
Do	Neomycin base	do	200 to 400 mg/gal reconstituted milk replacer.	Do.
The Upjohn Co	Lincomycin, amprolium, and ethopabate.	Chickens	Secs. 558.58 and 558.325.	Secs. 558.58 and 558.325.
Do	Lincomycin and zoalene.	do	Secs. 558.325 and 558.680.	Secs. 558.325 and 558.680.
Do	Lincomycin, amprolium, ethopabate, and 3-nitro-4-hydroxyphenylarsenic acid.	do	Secs. 558.58 and 558.325 and 558.530.	Secs. 558.58 and 558.325 and 558.530.
Do	Lincomycin, monensin, and 3-nitro-4-hydroxyphenylarsonic acid.	do	Secs. 558.325 and 558.355 and 558.530.	Secs. 558.325 and 558.355 and 558.530.
Merck Sharp & Dohme Research Labs. and Pfizer, Inc.	Procaine penicillin.	Chickens and turkeys.	2.4 to 7.5 g/ton	Sec. 558.460.
Do	Streptomycin	do	12.0 to 37.5 g/ton	Sec. 558.460.
Do	Procaine penicillin.	Chickens	3.75 to 7.5 g/ton	Sec. 558.460.
Do	Streptomycin	do	18.75 to 37.5 g/ton	Sec. 558.460.
Do	Procaine penicillin.	do	3.75 to 30 g/ton	Sec. 558.460.
Do	Streptomycin	do	18.75 to 150 g/ton	Sec. 558.460.
Do	Procaine penicillin.	Turkeys	15 to 30 g/ton	Sec. 558.460.
Do	Streptomycin	do	75 to 150 g/ton	Sec. 558.460.
Do	Procaine penicillin.	Chickens	2.4 to 25 g/ton	Sec. 510.515 of this chapter.

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Do	Streptomycin	do	15 to 75 g/ton	Do.
Do	Procaine penicillin.	Swine	1.5 to 7.5 g/ton	Sec. 558.460.
Do	Streptomycin	do	7.5 to 37.5 g/ton	Sec. 558.460.
Do	Procaine penicillin.	do	7.5 to 45 g/ton	Sec. 558.460.
Do	Streptomycin	do	37.5 to 225 g/ton	Sec. 558.460.
Do	Procaine penicillin.	do	5 to 25 g/ton	Sec. 510.515 of this chapter.
Do	Streptomycin	do	15 to 75 g/ton	Do.
Merck Sharp & Dohme Research Labs.	Procaine penicillin.	do	1.5 to 7.5 g/ton	Do.
Do	Streptomycin	do	7.5 to 37.5 g/ton	Do.
Do	Arsanilic acid	do	45 to 90 g/ton	Do.
Do	Nicarbazin	Chickens	0.01 to 0.02 pct	Do.
Do	Procaine penicillin.	do	2.4 to 50 g/ton	Do.
Do	Nicarbazin	do	0.01 to 0.02 pct	Do.
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Do.
Do	Nicarbazin	do	0.01 to 0.02 pct	Do.
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Do.
Do	3-nitro-4-hydroxyphenylarsonic acid.	do	0.0025 to 0.005 pct	Do.
Do	Nicarbazin	do	0.01 to 0.02 pct	Do.
Do	Procaine penicillin.	do	2.4 to 50 g/ton	Do.
Do	3-nitro-4-hydroxyphenylarsonic acid.	do	0.0025 to 0.025 pct	Do.
Do	Amprolium	Chickens and turkeys.	0.0125 to 0.025 pct	Sec. 558.55
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.55.
Do	Amprolium	Chickens	0.0125 to 0.025 pct	Sec. 558.55.
Do	Ethopabate	do	0.0004 pct	Sec. 558.55.
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.55.
Do	Amprolium	do	0.0125 to 0.025 pct	Secs. 558.55 and 558.530.
Do	Ethopabate	do	0.0004 pct	Do.
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Do.
Do	3-nitro-4-hydroxyphenylarsonic acid.	do	0.0025 to 0.005 pct	Do.
Do	Amprolium	Chickens and turkeys.	0.004 to 0.025 pct	Sec. 558.55.
Do	Procaine penicillin	do	2.4 to 50 g/ton	Do.
Do	Amprolium	Chickens	0.004 to 0.025 pct	Secs. 558.55 and 558.530.
Do	Procaine penicillin.	do	2.4 to 50 g/ton	Do.
Do	3-nitro-4-hydroxyphenylarsonic acid.	do	0.0025 to 0.005 pct	Do.
Do	Amprolium	do	0.0125 to 0.025 pct	Sec. 558.55.
Do	Ethopabate	do	0.0004 pct	Sec. 558.55.
Do	Procaine penicillin.	do	2.4 to 50 g/ton	Sec. 558.55.
Do	Erythromycin	do	4.6 to 18.5 g/ton	Sec. 558.55.
Do	Amprolium	do	0.0125 to 0.025 pct	Sec. 558.55.
Do	Erythromycin	do	4.6 to 18.5 g/ton	Sec. 558.55.
Do	Amprolium	do	0.0125 to 0.025 pct	Sec. 558.55.
Do	Ethopabate	do	0.0004 pct	Sec. 558.55.
Do	Amprolium	do	0.012 to 0.025 pct	Sec. 558.55.
Do	Arsanilic acid	do	0.01 pct	Sec. 558.55.
Do	Erythromycin	do	4.6 to 18.5 g/ton	Sec. 558.55.
Do	Amprolium	do	0.0125 to 0.025 pct	Sec. 558.55.
Do	Arsanilic acid	do	0.01 pct	Sec. 558.55.
Do	Ethopabate	do	0.0004 pct	Sec. 558.55.
Do	Amprolium	do	0.0125 pct	Sec. 558.55.
Do	Ethopabate	do	0.004 pct	Sec. 558.55.
Do	Bacitracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.55.
Do	Amprolium	do	0.0125 pct	Sec. 558.55.
Do	Ethopabate	do	0.004 pct	Sec. 558.55.
Do	Bacitracin methylene disalicylate.	do	5 to 35 g/ton	Sec. 558.55.
Do	3-nitro-4-hydroxyphenylarsonic acid.	do	0.00375 pct	Sec. 558.55.
Commercial Solvents Corp.	Zinc bacitracin	do	4 to 50 g/ton	Prevention of coccidiosis. Growth promotion and feed efficiency. Sec. 558.78.
Do	Amprolium	do	0.0125 to 0.025 pct	Do.
Do	Ethopabate	do	0.004 pct	Do.

V 41 160 AUG 17 76 UMI

Drug sponsor	Drug premix	Species	Use levels	Indications for use
Do	Zinc baeltracin	do	4 to 50 g/ton	Prevention of coccidiosis. Growth promotion and feed efficiency. Improving pigmentation. Sec. 558.78.
Do	Amprolium	do	0.0125 to 0.025 pct	Do.
Do	Ethopabate	do	0.0004 pct	Do.
Do	3-nitro-4-hydroxy-phenylarsonic acid.	do	0.0025 to 0.005 pct	Do.
Do	Zinc baeltracin	Swine	10 to 50 g/ton	Increased rate of weight gain and improved feed efficiency.
Do	Arsanilic acid	do	0.005 to 0.01 pct	Do.
Merck Sharp & Dohme Research Labs.	Amprolium	do	0.0125 to 0.025 pct	Secs. 558.55 and 558.530.
Do	Ethopabate	do	0.0004 pct	Do.
Do	Procaine penicillin.	do	2.4 to 50 g/ton	Do.
Do	3-nitro-4-hydroxy-phenylarsonic acid.	do	0.0025 to 0.005 pct	Do.
Pfizer, Inc	Penicillin	Chickens and turkeys.	2.4 to 25 g/ton	Sec. 510.515 of this chapter.
Do	Streptomycin	do	15 to 75 g/ton	Do.
Do	Penicillin	Swine	5 to 25 g/ton	Do.
Do	Streptomycin	do	15 to 75 g/ton	Do.
Dow Chemical Co	Zoalene	Chickens	0.0125 pct	Sec. 558.680.
Do	Baeltracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	3-nitro-4-hydroxy-phenylarsonic acid.	do	0.005 pct	Sec. 558.680.
Do	Baeltracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	Zinc baeltracin	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	3-nitro-4-hydroxy-phenylarsonic acid.	do	0.0005 pct	Sec. 558.680.
Do	Zinc baeltracin	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	Penicillin	do	2.4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	3-nitro-4-hydroxy-phenylarsonic acid.	do	0.005 pct	Sec. 558.680.
Do	Penicillin	do	2.4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	Arsanilic acid	do	0.01 pct	Sec. 558.680.
Do	Baeltracin methylene disalicylate or zinc baeltracin.	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0125 pct	Sec. 558.680.
Do	Arsanilic acid	do	0.01 pct	Sec. 558.680.
Do	Penicillin	do	2.4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.0004 to 0.0125 pct	Sec. 558.680.
Do	Baeltracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.680.
Do	Zoalene	do	0.001 to 0.0125 pct	Sec. 558.680.
Do	3-nitro-4-hyrdoxy-phenylarsonic acid.	do	0.005 pct	Sec. 558.680.
Do	Baeltracin methylene disalicylate.	do	4 to 50 g/ton	Sec. 558.680.
Whitmoyer Labs, Inc	Carbarsone and baeltracin.	Turkeys	Sec. 121.310 of this chapter.	Sec. 558.120.

§ 558.262 [Revoked]

10. By revoking § 558.262 *Furazolidone.*

§ 558.368 [Revoked]

11. By revoking § 558.368 *Nihydrazone.*

§ 558.370 [Revoked]

12. By revoking § 558.370. *Nitrofurazone.*

Interested persons may, on or before September 16, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the appropriate Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal, except that comments pertaining to issues which are the subject of the related notice of opportunity for hearing published elsewhere in this issue of the FEDERAL REGISTER shall be filed in accordance with that notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday. Comments that have been received in response to th enotice published in the FEDERAL REGISTER of May 13, 1976, regarding furazolidone, will be included with those comments received in response to this notice.

Dated: August 9, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-23620 Filed 8-10-76;11:19 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N–0172]

HESS AND CLARK ET AL.

Furazolidone (NF–180); Opportunity for Hearing on Proposal To Withdraw Approval of Certain New Animal Drug Applications; Corrections

In FR Doc. 76–13969 appearing on page 19907 in the FEDERAL REGISTER of Thursday, May 13, 1976, the following corrections are made:

1. On page 19907 in the second column, the fourth full paragraph is corrected by deleting the last sentence which reads, "Copies of these studies have been placed on file with the Hearing Clerk, Food and Drug Administration." The studies referred to in this sentence are part of a new animal drug application and are therefore confidential under § 514.111 (21 CFR 514.111).

2. On page 19909 in the first column, in paragraph (4), the words "Project No. 375.09E" are corrected to read, "Project No. 475.09E."

3. On page 19920 in the second column, in paragraph 3., "Vol. 16" is corrected to read, "Vol. 13."

4. On page 19918 in the second column, in the second full paragraph, "May 16, 1972" is corrected to read, "May 26, 1972."

Dated: August 9, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76–23619 Filed 8–10–76;11:19 am]

[Docket No. 72N–0231]

HESS & CLARK, ET AL.

Furaltadone (NF–260); Opportunity for Hearing on Proposal To Withdraw Approval of Certain New Animal Drug Applications

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of approved new animal drug applications (NADA's) Nos. 12–738, 14–283 and 65–059 for the use of furaltadone (NF–260) in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (e)(1)(B)) (hereinafter, "the act") on the grounds that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that furaltadone is not shown to be safe for use under either the approved or currently labeled conditions of use. Holders of approved NADA's have until September 16, 1976 to submit requests for a hearing in accordance with § 514.200 (21 CFR 514.200).

In FR Doc. 76–23620 appearing elsewhere in this issue of the FEDERAL REGISTER, the Director is issuing a notice of proposed rule making to revoke the appropriate provisions of sections affected by the proposed withdrawal.

Furaltadone (NF–260) is a member of a class of chemicals called "nitrofurans," which have prophylactic and therapeutic uses in food-producing animals as antibacterial and antiprotozoan agents. In addition to furaltadone (NF–260), which is the subject of this notice, there are three other nitrofurans that are used in food-producing animals and are or have been subject to agency action: Nitrofurazone (NF–7) and nihydrazone (NF–64), which are subjects of companion notices in this issue of the FEDERAL REGISTER; and furazolidone (NF–180), which was the subject of notices in the FEDERAL REGISTER of May 13, 1976 (41 FR 19906, 19907). A fifth nitrofuran, furamazone (NF–84), is not at this time the subject of contemplated agency action for withdrawal. Another proposed agency action concern-furaltadone (NF–260) was published in the FEDERAL REGISTER of August 30, 1974 (39 FR 31678).

Furaltadone (NF–260) was approved in 1962 for treating mastitis in dairy cows via infusion into the mammary gland. It is used in products that are marketed in single-dose units containing 500 milligrams of furaltadone and as a combination drug with each single-dose unit containing 50 milligrams of furaltadone and 100,000 units of procaine penicillin G. The approved treatment in lactating cows is the infusion of one squeeze jet in each infected quarter (an individual mammary gland, including the teat) immediately after milking. Medication remains in the quarter until the next milking. Treatment is repeated after each milking up to a limit of three infusions. For dry cows with a history of mastitis, one squeeze jet is infused into each quarter at the end of the last normal lactation. A second infusion may be given after 5 days.

The NADA's for furaltadone alone are approved with a 36-hour withdrawal for milk, which involves discarding the milk for three milkings. The sponsors, Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., and Hess & Clark, currently a Division of Rhodia, Inc., voluntarily revised the labels in January 1971, to require a 48-hour withdrawal for milk, which involves discarding the milk from four milkings. The furaltadone combination with penicillin carries a 96-hour withdrawal or eight-milkings discard.

The Food and Drug Administration issued a notice of opportunity for hearing, published in the FEDERAL REGISTER of August 4, 1971 (36 FR 14343), proposing to withdraw approval of NADA's for furaltadone (NF–260) on grounds that:

> Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

Similar notices were published for furazolidone in the FEDERAL REGISTER of August 4, 1971 (36 FR 14343) and for nitrofurazone (NF–7) and nihydrazone (NF–64) on March 31, 1971 (36 FR 5926 and 5927). The history leading to the publication of the 1971 notices is discussed in the May 13, 1976 notice for furazolidone (NF–180).

Norwich and Hess & Clark responded to the August 4, 1971 notice concerning furaltadone (NF–260) by filing requests for a hearing. Norwich assured FDA that it had adequate methods of analysis to determine residues and adequate data to show that under the currently labeled conditions of use, the drugs were safe. In addition, Norwich set forth a hypothesis that nitrofurans were not primary tumorigens but stimulated spontaneous tumor growth by disrupting the normal hormone balance.

Norwich has continued to submit data pertaining to the use of furaltadone (NF–260) in food-producing animals. The Food and Drug Administration has determined that new evidence, evaluated together with the evidence available when the approvals were granted, fails to demonstrate that either the approved or currently labeled uses of furaltadone are shown to be safe. The Director is withdrawing the August 4, 1971 notice of opportunity for hearing concerning furaltadone (NF–260), and is issuing this new notice, which presents in detail all of the evidence now available to him and the basis on which he proposes to withdraw approval of all uses of furaltadone in food-producing animals in accordance with section 512(e)(1)(B) of the act.

Section 512(e)(1)(B) of the act requires that FDA withdraw approval of an NADA when "new evidence * * * evaluated together with the evidence available * * * when the application was approved, shows that such drug is not shown to be safe * * *." Under this provision, the new evidence and the evidence submitted at the time the application was approved must be evaluated to determine whether all of the requirements for safety contained in section 512 of the act continue to be fulfilled.

THE DETERMINATION OF "SAFETY" IN SECTION 512

Section 512 of the act requires that the use(s) of a new drug in food-producing animals must be supported by adequate data supplied by the sponsor in applications that include, among other things, demonstration that the drug use will not result in unsafe residues in human food.

Under section 512(b) of the act, whenever a drug use may result in residues of the drug in food, an application must include not only full reports of investigations to show that the use of the drug is safe, but also a description of practicable methods for monitoring food to assure there are no unsafe residues in human food attributable to the drug use, and demonstration that the conditions of use are adequate to assure there are no unsafe residues.

Under section 512(d)(2) of the act, FDA is required, in the evaluation of the supporting safety data, to consider, among other things:

V 41 160 AUG 17 76 UMI

1. The probable consumption of such drug and of any substance formed in or on food because of the use of such drug, i.e., probable human consumption of residues including the parent drug and metabolites.

2. The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substance, i.e., toxicological effects of the compounds comprising the residues.

3. Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data, i.e., establishing "safe" levels of residues using appropriate safety factors to extrapolate animal data on cumulative effects to humans.

Under section 512(d)(1)(H) of the act, additional requirements must be met if the drug is a carcinogen.

The determination of safety within the meaning of section 512 of the act for a drug whose use may result in residues in the edible products of the treated animal, whether or not the drug is a carcinogen, requires a multistep process. These steps form an orderly procedure by which information is derived to satisfy each of the three considerations stated above.

Step 1. Assessment of the total residues in edible products and the depletion of those residues with time following cessation of drug treatment in order to determine probable human consumption (section 512(b)(1) and (d)(2)(A) of the act).

Step 2. Assessment of information about the residues to determine the appropriate testing in laboratory animals required to estimate the cumulative effects of human exposure to the residues (section 512 (b)(1) and (d)(2)(A) of the Act).

Step 3. Acquisition of dose-response data in test animals to determine the cumulative effects of dietary exposure to the residue compounds from which the maximum acceptable concentration of residues in food can be established using appropriate safety factors to assure that human exposure to residues in the total diet does not exceed a level deemed safe (section 512 (b)(1) and (d)(2) (B) and (C) of the act). In the case of a carcinogenic drug, a conservative statistical extrapolation of the tumor data is used to estimate a level of residue exposure that could be considered insignificant and poses essentially no risk of cancer and operationally defines "no residue" for purposes of computing the residue assay requirements under section 512(d)(1)(H) of the act.

Step 4. Acquisition of information about the residues to (a) determine the tissue (called the target tissue) from which residues require the longest time to deplete to safe levels, and which, therefore, must be monitored by the regulatory assay, and (b) determine the compound (called the marker) that is to be measured in the regulatory assay (step 5) so that by its measurement there is assurance that no unsafe residues occur from the use of the drug (section 512 (b)(7) of the act).

Step 5. Development of a practicable method of analysis that can measure the marker in the target tissue at a concentration which assures that total residues in the daily diet of humans do not exceed the level established in step 3 as safe (section 512(b)(7) of the act).

Step 6. Demonstration that practical conditions of use can be prescribed on the label of the product to assure there will be no unsafe residues in the food products from treated animals (section 512 (b)(8) and (d)(2)(D) of the act).

Each of the steps involves principles that are essential for a determination of food safety and compliance with the requirements of the act to assure there are no unsafe residues in human food from the animal drug use. Each step builds upon the preceding step. Therefore, failure to accomplish any one of the six steps in whole or in part for any drug ordinarily will preclude a sponsor's fulfilling its obligation under the act to determine probable consumption of residues and cumulative effects of exposure, and to establish safe conditions of use with appropriate regulatory methods of analysis to control residues when deemed necessary.

New evidence concerning furaltadone (NF–260) not available when the applications were approved includes, among other things, a demonstration that furaltadone induces mammary adenocarcinomas in female rats and may be a more potent carcinogen than furazolidone (NF–180). The Director has evaluated all of the data now available, including the new data received since 1962 when NADA's for furaltadone (NF–260) were first approved and the data available to FDA at the time of approval, and has concluded that the approval of NADA's for furaltadone (NF–260) must be withdrawn under section 512(e)(1)(B) of the act because:

1. Adequate investigations have not been provided to show that the uses of furaltadone are safe, as required by section 512(b)(1) of the act. Adequate information has not been provided on the probable consumption of residues, and the cumulative effects of exposure have not been determined by appropriate tests, as required by section 512(d)(2)(A) and (B) of the act. Therefore, "safe" levels of residue cannot be determined using appropriate safety factors, as required by section 512(d)(2) (C) of the act.

2. Adequate, reliable, and practicable methods of analysis are not available for monitoring food to assure there are no unsafe residues in edible tissues and milk that are attributable to the use of furaltadone, as required by section 512 (b)(7) of the act.

3. Practical conditions of use cannot be specified in the labeling to assure there are no unsafe residues attributable to the use of furaltadone, as required by section 512(b)(8) and (d)(2)(D) of the act.

The data on which these conclusions are based are presented in the succeeding sections of this notice. The Director first describes all the relevant new evidence bearing on the determination of safety for the uses of furaltadone. Then he evaluates all the evidence before him using the six-step procedure necessary to satisfy a human safety determination for the use of furaltadone (NF–260) and to meet the considerations required in section 512 of the act.

I. New Evidence

In October 1966 and January 1967, Norwich submitted reports of the effect in rats of feeding diets containing nitrofurans for 45 weeks. These studies included tests on furaltadone (NF–260) and furazolidone (NF–180). In these studies it was shown that both furaltadone (NF–260) and furazolidone (NF–180) induced mammary tumors in female rats; that furaltadone (NF–260) caused an increase in the number of mammary adenocarcinomas (cancers) which developed in female rats compared with control rats maintained on drug-free diets; and that furaltadone (NF–260) may be a more potent tumor-inducer than furazolidone (NF–180).

Subsequently, more extensive, longer term testing of furazolidone (NF–180) was conducted, but further testing of the carcinogenic potential of furaltadone (NF–260) has not been undertaken. The more extensive testing of furazolidone (NF–180), as described in the May 13, 1976 Federal Register, shows that the drug induces cancer in both rats and mice and that the tumors and cancers were not limited to the mammary gland or the endocrine tissues of female rats.

The Director is including in this notice information available on the toxitological propertes of furazolidone (NF–180) as well as furaltadone (NF–260) because of the structural similarities of the drugs and their similar biological properties, which have been observed in the limited comparative data available. The new evidence showing that furazolidone (NF–180) is a carcinogen has a significant bearing on the Director's conclusions that the uses of furaltadone (NF–260) are not shown to be safe.

Although it is appropriate to consider data on furazolidone (NF–180) to judge the adequacy of existing data to support the safe use of furaltadone (NF–260) in food-producing animals, these data are not a substitute for the data on furaltadone (NF–260) that are required by the statute. Basic data are required for each drug, recognizing that slight differences in chemical structure can result in significant differences in metabolism, residues, and toxicity. Although comparative data on the biochemical and toxicological properties of related drugs may be useful and appropriate in making decisions about the degree of testing required for each drug to show there is no probable hazard, these data cannot be used as a substitute for the basic information necessary on each drug to determine the probable exposure to residues and cumulative effects of exposure.

A. *Carcinogenic Potential of Furaltadone.* Norwich submitted data in October 1966 and January 1967 on the cumulative effects in rats of feeding diets containing furaltadone (NF–260) for 45 weeks ("Effects of Long Term Feeding of Various Nitrofurans," October 13, 1966 and January 4, 1967, Project No. 440.07, submitted to FDA as part of a June 2, 1967, Drug Experience Report). These studies included testing in female Sprague-Dawley (Holtzman strain) rats and testing in both male and female Carworth Farms (CFE strain) rats.

1. The Sprague-Dawley female rat study: Thirty-five female Sprague-Dawley (Holtzman strain) rats were fed furaltadone at a level of about 0.15 percent (85 milligrams per kilogram (mg/kg) body weight) in their diet for 45 weeks, followed by maintenance on an unmedicated diet for an additional 8 weeks before sacrifice. A comparable control group of female rats was maintained on a furaltadone-free diet for 53 weeks. At termination of the study the animals were autopsied, and tissues were examined for histopathological lesions.

The most prominent drug-related effect was the induction of tumors in the mammary glands of the female rats. Although rats develop mammary tumors spontaneously as they age, the incidence of spontaneous mammary tumors in rats just over 1 year old, depending upon the strain of rat used, can be quite low. The furaltadone-treated female rats had an increased number of mammary tumors, particularly the number of fibroadenomas, as compared with the control rats. Even more impotrant, the furaltadone-treated female rats had an increased number of mammary adenocarcinomas compared with the control rats.

Norwich reported that no mammory tumors of any type were observed in the 33 control rats examined. It reported a total of 77 mammary tumors in 25 of the 33 furaltadone-treated rats examined for histopathology. Three of the mammary tumors were reported by Norwich as adenocarcinomas. The report did not indicate which rats had multiple tumors or whether the three adenocarcinomas were in three different rats or included any multiple malignancies.

An Ad Hoc Committee was established to review the pathology data on all the nitrofurans tested in the Sprague-Dawley rat study and the Carworth Farms rat study. One member of the Ad Hoc Committee was the director of the Eppley Institute for Research in Cancer, University of Nebraska. He and his associate pathologists reviewed the pathology slides of the mammary tissues from 33 of the furaltadone-treated rats provided by Norwich and submitted a detailed report to FDA. They did not review all of the mammary gland slides from the control rats. Each of the reviewed slides had a rat identification number, and there were several slides for each rat. However, there was no information on the number of tumors in each rat. Therefore, it was not possible, in many cases, for the pathologists to determine which slides represented different tumors in the same rat and which were different sections of a single tumor.

The Eppley pathologists diagnosed mammary adenocarcinoma in 10 of the furaltadone-treated female rats, and found apparent multiple tumors, predominantly fibroadenomas, in 25 of the treated rats. However, because the Norwich report did not indicate which 25 rats had tumors, it is not possible from the data available to determine if the tumors reported by the Eppley pathologists were from the same 25 rats in which Norwich had reported tumors. The Eppley pathologists did report a considerably higher number of rats with mammary adenocarcinoma than was reported by Norwich. However, because the Eppley pathologists did not review all of the mammary gland slides from the control rats, a comparative incidence of mammary cancer cannot be determined from the reports.

A pathologist from the Bureau of Foods of FDA, not a member of the Ad Hoc Committee, later reviewed the pathology slides of the mammary tumors from the 25 furaltadone-treated rats in which the Eppley pathologists had reported mammary tumors. From his examination of the histopathological preparations provided, he reported 4 slides of mammary fibroma from 3 rats, 70 slides of mammary fibroadenoma from 23 rats, and 14 slides of mammary adenocarcinoma from 10 rats. The mammary adenocarcinomas were diagnosed in the same 10 rats in which the Eppley pathologists had diagnosed adenocarcinoma.

The Bureau of Foods pathologist also did not have information indicating which slides were multiple sections of single tumors or which represented different tumors. He did have information on the rat identification number for each set of slides. Because the Bureau of Foods pathologist did not review all of the slides in the study, tumor incidence and the comparison of incidence with the control rats cannot be determined from his report. However, his report supports the Eppley pathologists' findings that mammary tumors were found in at least 25 of the furaltadone-treated rats, and mammary adenocarcinoma was found in at least 10 of the furaltadone-treated rats.

2. The Carworth Farms rat study: Furaltadone (NF–260) was fed to 20 male and 20 female Carworth Farms "(CFE strain) rats at about 0.15 percent in the diet (67 to 84 mg/kg body weight) daily for 45 weeks, followed by maintenance on an unmedicated diet for an additional 7 weeks before sacrifice. A comparable control group of rats was maintained on a furaltadone-free diet for 52 weeks. At termination of the study the animals were autopsied, and the tissues were examined for histopathological lesions.

As in the previous Sprague-Dawley rat study, the most prominent drug-related effect seen was the induction of tumors in the mammary glands of the female rats. This included an increase in the number of mammary fibroadenomas and an increase in the number of mammary adenocarcinomas.

No mammary tumors were found by Norwich in the 15 female control and 18 male control rats examined. Norwich reported that 14 out of the 17 furaltadone-treated female rats examined had a total of 49 mammary tumors. Norwich also reported that five mammary adenocarcinomas were found in the furaltadone-treated female rats but did not report whether these adenocarcinomas were seen in five different rats or whether some of these were multiple tumors in the same rat.

The Eppley pathologists reviewed the slides of the mammary tissues from 17 furaltadone-treated rats provided by Norwich. They concluded that 5 of the furaltadone-treated female rats had adenocarcinoma of the mammary gland and that mammary tumors, primarily fibroadenomas, were present in 14 of the furaltadone-treated rats. Slides of the mammary tumors reported by the Eppley pathologists were later reviewed by the Bureau of Foods pathologist. He reported mammary tumors in each of the 14 rats. From his examination of the histopathological preparations provided, he reported 4 slides of fibroma from 4 rats, 38 slides of fibroadenoma from 8 rats, and 11 slides of adenocarcinoma from the same 5 rats in which the Eppley pathologists had reported adenocarcinoma.

Because Norwich did not report the number of rats in which mammary adenocarcinoma was found, and because the Eppley and Bureau of Foods reviewing pathologists did not review mammary tissue slides from control rats, and because the Bureau of Foods pathologist did not examine all the slides from the treated rats, the incidence of mammary cancer cannot be determined from the available reports. However, the Eppley and Bureau of Foods reviewing pathologists did concur in the finding of mammary adenocarcinoma in at least five furaltadone-treated female rats from the study.

Food and Drug Administration scientists recognize that there are uncertainties and limitations in the examination of tumors to determine if they have malignant potential. For example, in the early stages of a mammary tumor growth, the mass may be chiefly adenomatous. As the growth continues, the supporting white fibrous connective tissue may also begin to proliferate, resulting in a fibroadenoma. Later the adenomatous part of the neoplastic mass may entirely disappear, leaving a fibroma. Finally, a part of the adenoma or fibroadenoma may develop malignant tendencies and that portion may then become an adenocarcinoma. All four tumor types, i.e., adenoma, fibroadenoma, fibroma, and adenocarcinoma may be present in the same tumor mass. A small focus of adenocarcinoma in the early stage of a malignant tumor may be overlooked in the tumor growth unless adequate multiple sections of the tumor are made.

Also, unless great care is exercised in the evaluation of the spread of an adenocarcinoma of the mammary gland, the metastasis along the lymphatic routes passing through, under or near other

V 41 160
AUG 17 76
UMI

mammary glands may be considered to be separate primary adenocarcinomas rather than a single primary growth with multiple metastases.

The reports from Norwich indicate that furaltadone caused an increase of mammary tumors in female rats just over 1 year old and caused an increase in the number of mammary adenocarcinomas compared with control rats.

Food and Drug Administration scientists conclude that both studies show that furaltadone is tumorigenic in rats, and that the data raise questions about the carcinogenic potential and potency of furaltadone. They conclude that neither of the studies is adequate to assess the cumulative effects of exposure to furaltadone and its carcinogenic potential and potency because the studies were not of sufficient duration and the number of animals used was not sufficient. In the Sprague-Dawley rat study only female animals were used, so it is not possible to determine whether furaltadone might have produced effects in the male rats. In the Carworth Farms rat study, the number of males was too small to determine with any confidence that furaltadone did not have an adverse effect. In both studies drug treatment was for only 45 weeks and included only one dose-level. In spite of the weaknesses in the reports available, it is evident that a 45-week treatment was sufficient to induce tumors in female rats, and that some of these tumors were mammary cancers. The dose level, frequency, and duration of exposure to a compound are related not only to whether or not cancer is induced but also to the latency period before the expression of cancer. Therefore, the 45-week treatment with furaltadone is not considered a sufficient period of exposure to determine adequately the cancer potential or potency.

The Director concludes that the available data provide sufficient cause for concern that furaltadone may be a carcinogen and that adequate lifetime testing in appropriate animal species is required to evaluate its carcinogenic in potential and potency. The Director concludes that because furaltadone is a tumorigen, dose-response data in lifetime studies, using several dose levels, are necessary to develop the information required to assess the cumulative affects of exposure and to establish conditions of safe use. Although the demonstration of cancer induction may be made on the basis of testing at only one dose level and it may be possible from the results of this testing to conclude that a drug requires regulation under the provisions of section 512(d)(1)(H) of the act, dose-response data are necessary to provide information from which FDA can establish the operational definition of "no residue" for purposes of determining the required conditions for the regulatory assay for residues of a carcinogenic drug. Regardless of whether adequate testing were to show that furaltadone induced cancer or induced only benign tumors, dose-response information would be required to establish the conditions of safe use.

The Norwich data from these two studies were available at the time FDA issued the August 1971 FEDERAL REGISTER notice of opportunity for hearing on the proposed withdrawal of approvals for furaltadone (NF–260). In response to the August 1971 notice, Norwich stated that all four nitrofurans (NF–260, NF–7, NF–64, and NF–180) caused an early development of mammary tumors that were of the type normally found in aging rats, and it postulated that the nitrofurans caused these tumors only at high levels of exposure in the female rats because of disruption in the hormonal system. Norwich presented data purporting to show that the hormonal disruption resulting in the tumors involved a process not applicable to humans and that the proposed methods of analysis for control of residues were more than adequate to assure that levels of residues were below any level which might adversely affect humans.

The Norwich hormonal hypothesis is described in detail in the May 13, 1976 FEDERAL REGISTER notice on furazolidone (NF–180). The supporting information provided by Norwich for the hypothesis was primarily limited to data on furazolidone (NF–180) and some very limited comparative data on nitrofurazone (NF–7). No data were presented on furaltadone (NF–260) related to a hormonal mechanism of action.

B. *Comparative Data on Furaltadone and Furazolidone.* Norwich has provided data on furazolidone (NF–180) from the Sprague-Dawley female rat study and the Carworth Farms rat study. It has also supplied data on testing of furazolidone (NF–180) in three chronic rat studies and one mouse study; the tests are described in the May 13, 1976 FEDERAL REGISTER notice. The data have a bearing on the Director's proposed action in this notice for furaltadone (NF–260) and his decision to reject the Norwich hormonal hypothesis for furaltadone (NF–260) and furazolidone (NF–180). They also have a bearing on his decision to reject the sponsors' claims that adequate studies have been provided for furaltadone (NF–260) to support a determination that the drug uses are shown to be safe.

In the Sprague-Dawley female rat study and Carworth Farms study, furazolidone (NF–180) was also tested in the protocols using a dietary level of about 0.1 percent as compared to the furaltadone (NF–260) dietary level, which was about 0.15 percent.

In the first study, Norwich reported that 14 of the furazolidone-treated Sprague-Dawley female rats out of 32 rats examined had mammary tumors. The total number of tumors reported by Norwich was roughly half the number of tumors reported for the furaltadone-treated rats. Norwich reported 5 adenocarcinomas in the mammary glands of the furazolidone-treated rats but did not specify in which rats these were found or whether any were multiple malignancies.

The Eppley pathologists reviewed the mammary tissue slides from 32 furazolidone-treated female rats and reported tumors in 14 of the rats. The Bureau of Foods pathologist later reviewed slides of the mammary tumors from the 14 rats and reported tumors in all of these rats. Both the Eppley and Bureau of Foods pathologists reported only one mammary adenocarcinoma and one mammary squamous cell carcinoma, each in a different rat, from the slides of the furazolidone-treated rates they had examined. In contrast to these furazolidone-treated rats, the Eppley and Bureau of Foods pathologists had reported mammary adenocarcinomas in slides from 10 rats treated with furaltadone, indicating a significant increase in the number of mammary adenocarcinomas from the furaltadone-treated rats compared to the furazolidone-treated rats.

In the Carworth Farms rat study, 15 of the furazolidone-treated female rats out of 17 examined were reported by Norwich as having mammary tumors. In comparison, Norwich had reported that 14 of the female rats treated with furaltadone (NF–260) had mammary tumors. The total number of mammary tumors in the furazolidone-treated female rats was greater than the total number of mammary tumors in the furaltadone-treated female rats, but the number of mammary adenocarcinomas and the incidence of rats with adenocarcinomas was greater for the furaltadone-treated female rats compared to the furazolidone-treated female rats. Norwich reported only two mammary adenocarcinomas in the furazolidone-treated female rats, but did not designate whether these were in one or two rats. The Eppley pathologists diagnosed mammary adenocarcinomas in two furazolidone-treated female rats. The Burau of Foods pathologist also reported adenocarcinoma in the same two rats. He further diagnosed tumors from two additional rats as also showing low-grade mammary adenocarcinoma. Tumors from these two additional rats had been diagnosed as fibroadenomas by the Eppley pathologists. In contrast Norwich had reported five adenocarcinomas in the furaltadone-treated rats and the Eppley and Bureau of Foods pathologists diagnosed mammary adenocarcinomas in five of the furaltadone-treated rats, indicating an increase in the number of adenocarcinomas for furaltadone-treated rats compared to furazolidone-treated rats.

Based on these comparative data, the Director concludes that furazolidone (NF–180) and furaltadone (NF–260) qualitatively exhibit very similar tumorigenic effects in female rats. Because the dose levels of the two drugs were not the same (furaltadone (NF–260) at about 0.15 percent in the diet and furazolidone (NF–180) at about 0.1 percent in the diet) and because the studies are not adequate to assess the cumulative effects of exposure and carcinogenic potential and potency, the data are not sufficient for a precise comparison of the tumorigenic potencies. However, based on the limited comparative data available, furaltadone (NF–260) may have a greater carcinogenic potential than furazolidone (NF–180).

More definitive studies of the carcinogenic potential of furazolidone (NF–180) in male and female rats and mice provided by Norwich are described in the May 13, 1976 FEDERAL REGISTER notice. A summary of the findings from the three chronic rat studies and the mouse study include the following:

1. Furazolidone induced malignancies in both rats and mice.

2. Furazolidone also induced nonmalignant tumors.

3. In most cases, the induced malignant and nonmalignant tumors were found at the same sites.

4. There is some evidence that the induction of benign tumors is related to the induction of, or progression to, malignancies as a function of dose.

5. There are marked sex differences in the tumor responses in the rats. There are also some commonalities in the tumor sites for the male and female rats.

6. Mammary tumors were the predominant effect in the female rats.

7. Nonmammary tumors were induced in the Sprague-Dawley male rats, with no one type singularly significant. In the Fischer rats, however, several specific nonmammary tumors were induced in both male and female rats.

8. The major target tumor site in the mouse was the lung. There was no evidence of a significant difference between male and female mice in tumor response, and there were no tumorigenic effects in the endocrine tissues.

9. The induction of tumors involved not only increased incidence of animals with tumors but also an increased number of tumors per animal.

The Director has rejected the data supplied by Norwich to support the hormonal hypothesis for furazolidone (NF–180). A discussion of these data and his basis for rejection are also presented in the May 13, 1976 FEDERAL REGISTER notice. The Director also rejects the Norwich reply to the 1971 FEDERAL REGISTER notice on furaltadone (NF–260) attempting to explain the tumorigenic effects of furaltadone primarily on the basis of the furazolidone (NF–180) data relative to the hormonal hypothesis. The Director finds that the new evidence provided by the more extensive chronic testing data for furazolidone (NF–180), which shows that tumors were induced in both male and female rats and mice and were not limited to tumors of the mammary gland or the endocrine tissues, is inconsistent with the hormonal hypothesis.

Therefore, the Director concludes that the comparative data available on furazolidone (NF–180) and furaltadone (NF–260) in the Sprague-Dawley female rat study and the Carworth Farms rat study, together with the data on the four chronic studies of furazolidone (NF–180) in rats and mice, indicate that adequate testing of furaltadone (NF–260) has not been provided to assess the cumulative effects of exposure necessary for a determination of safety.

II. USES OF FURALTADONE ARE NOT SHOWN TO BE SAFE

To assess the safety of residues using criteria described in section 512(b) of the act and elaborated on in section 512(d)(2) of the act requires a multistep process that must take into account consideration of the metabolism of the drug, determination of the resulting residues, including parent drug and the metabolites, the depletion of those residues with time after drug treatment, and the cumulative effect of human ingestion of the residues. The six basic steps involved in this evaluation process have been previously described in this notice.

A. *The Amount of Total Residue in the Edible Products and the Depletion of Residues with Time Has Not Been Determined (Step 1).* When a drug is administered to an animal, the drug may be altered by the animal into a variety of compounds called metabolites. The process of alteration may be such that little residue of the parent drug remains in the animal tissue, but the amount of metabolites may be substantial. Therefore, the total residue with which FDA is concerned includes both the parent drug and the metabolites.

The nature and amount of each of the residues depend in part upon the metabolism in a particular species. Because there are species differences in metabolism, it is necessary to determine metabolism and residues in each of the species for which the drug is used. Therefore, § 514.1(b)(7)(i) (21 CFR 514.1(b)(7)(i)) includes metabolism and residue depletion studies among those kinds of studies that are used to determine residues.

Exposure to furaltadone in the diet induced mammary tumors and adenocarcinomas in female rats. It is not known whether the parent drug was the active agent or whether the responses were due to one or more active metabolites produced as a result of ingestion of the parent drug by the rats. Such lack of knowledge is not unique to furaltadone; it is typical of many tumorigenic and carcinogenic agents that the mechanism of the induction of tumors or the identification of the active agent is not known. Therefore, when considering the safety of food from furaltadone-treated animals, all drug-related residues to which humans may be exposed must be assumed to be potentially carcinogenic unless convincing evidence is presented to the contrary. Such evidence consists of not only the identification of the residues that are claimed to be safe, but also adequate toxicological studies showing that the levels of each of the identified claimed to be safe are in fact safe. All residues not identified or not shown to be safe must be considered potentially carcinogenic and must be required to be below a level of measurement that can be considered insignificant and to pose essentially no risk of cancer in humans.

The use of chemical assays to determine initially the total residues would require knowledge about what residues occur (parent drug and metabolites) and would require the availability of adequate methods of analysis to measure each one of the residues at the level of interest in the edible tissues. Therefore, this chemical approach is usually not feasible. Instead, a radiolabeled parent drug is used to provide a practical and adequate approach to the initial measurement of total residues in the edible tissues. In this approach, the drug is synthesized with a radioisotope so that when the drug is administered to the animal according to label directions, all resulting residues of potential interest can be measured in the edible products. This is accomplished by counting the radioactivity in the tissues and converting these measurements to an estimation of the amount of residue expressed as parent drug equivalents.

No data have been provided by the sponsors to measure total residues in milk or in edible tissues from furaltadone-treated animals. Similarly no data have been provided to characterize the residues occurring in the edible products. It has been shown that furaltadone is found as a residue in milk following drug treatment, as will be described in paragraph F. (step 6) below in this section, but it has not been shown what proportion of the total residue is the parent drug.

In FDA experience with the use of drugs injected into the mammary gland for treatment of mastitis, it has been shown that such drug use may result in systemic absorption leading to residues in the edible tissues as well as in the milk. No data have been supplied by the sponsors of furaltadone to show whether or not the use of furaltadone results in residues in the edible tissues.

Although no data of any type have been supplied on the metabolism of furaltadone in cows, very limited information in the following references has been provided regarding rats and dogs.

1. Paul, M. F., et al., "Studies on Distribution and Excretion of Certain Nitrofurans," Antibiotics and Chemotherapy, 10:287–302, 1960.

2. Bugard, J. A. and J. D. Conklin, "Distribution of Furaltadone in the Rat," Antibiotics and Chemotherapy, 11:89–96, 1961.

Data from these studies show that in the rat, furaltadone is absorbed from the small intestine and colon, and that in the excreta less than 5 percent of the administered dose is eliminated as the intact parent drug. The in vivo data are limited to the examination of blood and excreta and do not include any structural characterization of metabolites or the examination of tissue storage and distribution. The references also provide the results of some in vitro studies using liver, kidney, and intestinal homogenates prepared from rats and dogs. Furaltadone was added to the homogenates, and it was shown under these conditions that the biological half-life of the parent drug was about 35 minutes in the rat and 37 minutes in the dog. Both rats and dogs appear to rapidly metabolize furaltadone. These data reinforce the Director's conclusion that consideration must be given to metabolism in the animal of the intended drug use to assess the residues and their significance as contaminants in food.

V 41 160 AUG 17 76 UMI

The Director concludes that adequate information on metabolism of furaltadone in the cow and the determination of total drug residues and their depletion in both edible tissues and milk has not been provided. Therefore, the first step necessary to estimate probable consumption of residues, which is a required consideration of section 512(d)(2)(A) of the act, has not been fulfilled.

B. *Sufficient Information Has Not Been Provided about the Residues to Determine the Appropriate Testing Required in Laboratory Animals to Estimate the Cumulative Effects of Human Exposure to the Residues (Step 2).* The composition of a drug's residue may vary from the extremes of less than 1 percent parent drug and more than 99 percent metabolites to less than 1 percent metabolites and more than 99 percent parent drug, though the latter case would be rare. The Food and Drug Administration must assess the toxicity of the total residue because this is what man will be exposed to in food. Ideally, this assessment would be based on the identification of each of the metabolites in the residue, their synthesis, and subsequent testing of the parent drug and all of the metabolites for the cumulative effects of exposure. However, this approach is usually impractical.

Various approaches are available to limit the number of residue compounds for which toxicity testing is required to provide a sufficiently conservative estimate of the toxicity of the total residue. However, Norwich has not presented any quantitative or qualitative information about the total residues of furaltadone in edible tissues or milk.

Therefore, the Director concludes that not only is the toxicological testing provided for furaltadone inadequate, but he is unable to determine whether testing of metabolites in addition to the parent drug is required to determine the safe level of human exposure to residues in food. Step 2 has not been fulfilled; therefore the requirements for step 3 cannot be fully determined.

C. *Adequate Dose-Response Data in Test Animals to Determine the Cumulative Effects of Dietary Exposure to the Residue Compounds Have Not Been Provided; Therefore, the Maximum Acceptable Concentration of Residues in Food Cannot be Established Using Appropriate Safety Factors to Assure that Human Exposure to Residues in the Total Diet Does Not Exceed a Level Deemed Safe (Step 3).* As discussed under section I of this notice, the Director has concluded that adequate testing of the parent drug furaltadone has not been provided. Also, under paragraphs A and B (steps 1 and 2) of this section, the Director concluded that adequate information has not been provided about the residues to determine if toxicity testing of residue compounds in addition to the parent drug is required to estimate conservatively the cumulative effects of exposure to the residues.

The Director concludes that without such essential information about the residues and adequate toxicity testing data, he cannot, in light of the new evidence, determine if furaltadone requires regulation as a carcinogenic animal drug nor can he reasonably estimate a maximum acceptable level of residue in food that can be deemed safe. Therefore, he concludes that adequate information has not been provided to assess the cumulative effects of exposure and to determine the appropriate safety factors required in section 512(d)(2)(B) and (C) of the act.

D. *Sufficient Information about the Residues Has Not Been Provided to Establish the Conditions Necessary for the Analytical Method Used to Control Residues (Step 4).* The evaluation of an analytical method for residues first requires a determination of the tissues to be analyzed, the compound to be measured, and the lower limit of measurement that must be achieved to control total residues adequately. Only then, after selection of these parameters, is it meaningful to consider whether the method proposed by the sponsor meets other characteristics necessary for a practicable reliable method.

1. Determination of the target tissue: A probability exists that residues of furaltadone occur not only in milk, which must be monitored, but may also occur in edible carcases tissues. The most practical approach to monitoring and controlling residues in the field is dependent on the selection of that edible tissue in which residues require the longest time to deplete to a "safe" concentration." Therefore, by monitoring this tissue to assure that residues are below a "safe concentration," it can be assured that all residues in the carcass are below "safe concentrations." In lieu of this determination (identification of the target tissue), all edible tissues, including milk where applicable, must be monitored. This would place an additional burden on public funds for monitoring.

The target tissue is readily identified if the requirements of step 1 of the evaluation process are met: either by showing that there is no systemic absorption of the drug from the udder that causes residues in tissues at any time after drug treatment, or by showing that if tissue residues occur, from what edible tissues the total residues require the longest time to deplete. Norwich has failed to meet these requirements. Therefore, it cannot be determined if analytical methods are required for tissues in addition to methods of analysis for milk.

2. Determination of the compound (marker) which can be measured by the analytical method to assure control of total residues: Because the radiolabeled drug approach used initially to estimate total residues is not applicable to regulatory use, an alternative approach must be developed to assure control of total residues after drug approval. This is achieved by selecting an appropriate residue compound, which may be the parent drug or one or more metabolites, in such a way that its measurement serves as a valid indicator that when the marker compound is below a certain level in the target tissue, all residues in edible tissues are at safe levels. This step is essential to determine if the method of analysis for regulatory use is adequate. To determine a valid marker, adequate information (e.g., information derived from conducting an adequate metabolism study) is required that relates the proportionate amount of each of the residues to the total residue and their change in quantitative relationships with time. The marker must be a known proportion of the total residue when the total residue depletes to the "safe concentration" in the target tissue. It also must be structurally identified so that an adequate and specific method of analysis can be developed for its determination.

This information must be provided for milk. It would also be required for edible carcass tissues if systemic absorption occurs. Because the resulting residues in milk may be different from the residues in edible carcass tissue, it is possible that a marker compound for milk may be different from a marker compound in edible carcass tissue. Norwich has not provided the necessary information from which a valid marker can be selected to monitor total residues in either milk or edible carcass tissues. The regulatory method proposed by Norwich to control residues in milk uses furaltadone as the marker. Norwich has not substantiated that the measurement of furaltadone is adequate to control total residues of potential concern in milk or alternatively to show that all other residues are safe and do not need to be controlled.

3. Determination of the lower limit of measurement required for the analytical method: Establishment of the lower limit of measurement required for the assay begins with the availability of adequate toxicological testing to determine the cumulative effects of exposure. As described in section I and in steps 2 and 3 of this section, the sponsors have not provided adequate testing. Therefore, an estimate of the acceptable level of exposure to total residues in food cannot be determined.

If it were shown by adequate testing that furaltadone (NF–260) and furazolidone (NF–180) were of comparable carcinogenic potencies, and if it were shown that the estimate of the carcinogenic potency for the total residue could be based on the testing results of the parent drug without the need for further testing of metabolites, then the estimate of the maximum human exposure in the daily diet that could be deemed insignificant for purposes of establishing the minimum assay requirements would be about 0.5 part per billion (ppb). The derivation of this estimate is described in detail in the May 13, 1976 FEDERAL REGISTER notice for furazolidone (NF–180).

Milk may comprise essentially the entire diet of infants. For this reason, no additional adjustments to this amount of daily consumption would be permitted and, under the same assumptions, 0.5 ppb would be the maximum allowed concentration of total residues from furaltadone treatment in milk.

No information has been provided on the composition of residues in milk or any measurement of total residues in milk. Therefore, the essential information required to determine a marker for measuring total residues in milk, as described above, is not available. Without this information, even if it were assumed that 0.5 ppb of total residues is "safe," it is not possible to determine the concentration of the marker at the time when total residues in milk would be below 0.5 ppb.

Norwich has proposed that the measurement of furaltadone is adequate to assure control of residues, but it has not provided any information to show if furaltadone may be, for example, 80 percent of the total residue or 10 percent of the total residue. Therefore, it is not possible to determine at what concentration the marker must be measured to assure that total residues are at a "safe concentration."

After making the adjustment for the percent of total residue that the marker represents, one further adjustment is necessary to determine the lower limit of measurement required for the assay. This last adjustment takes into account the degree to which the method of analysis recovers the residue from the sample. Minimum standards for recovery for the acceptance of the method take into account that 100 percent recovery is rarely achieved and that a combined evaluation of the precision and accuracy for measurement of the marker must be considered.

Even if very liberal assumptions were made to accept that furaltadone (NF–260) would not be a more potent carcinogen than furazolidone (NF–180) and would be the most potent of the residue compounds that required testing, and if it was determined that furaltadone was a valid marker and was a major constituent of the total residue, and that an analytical method would achieve good recovery of furaltadone, even then it is likely that a method that can measure 0.2 ppb of furaltadone would be required as a minimum to assure safe use.

Under similar assumptions, even if they could be made, methods of analysis in tissue would be required to measure residues at 1 ppb or less in lieu of data demonstrating that no systemic absorption occurred from the udder.

Norwich is aware of the principles just described for the selection of a target tissue, marker compound, and the adjustments required to establish conditions for the assay; this is evidenced by Norwich's citation of a paper prepared by two FDA scientists in a submission for furazolidone (NF–180) to FDA on November 11, 1975. The cited paper by M. K. Perez and N. E. Weber, entitled "Requirements for Metabolic Studies—Impact on Food Safety Regulation" was presented at the Gordon Research Conference on Drug Metabolism, June 23–27, 1975.

The Director concludes that he cannot make an assessment of the toxicity, including the carcinogenic potency, of furaltadone without adequate testing data; he cannot conclude that furaltadone serves as a valid marker for control of total residues of toxicological interest; and therefore he cannot without adequate supporting data determine the conditions necessary for the analytical method used to control residues. The requirements of step 4 have not been fulfilled. He concludes that the new evidence on furaltadone (NF–260) and furazolidone (NF–180) leads to a determination that the methods of analysis for residues for furaltadone (NF–260) are not shown to be adequate.

E. *Practicable Methods of Analysis are Not Available to Assure that Total Residues in the Daily Diet of Humans Do Not Exceed a Level Deemed Safe (Step 5).* Section 514.1(b)(7) (21 CFR 514.1(b)(7)) requires the sponsor of a new animal drug application to provide a practicable method of analysis to be used for the control of residues of its product. A "practicable" method is defined by FDA as one that reliably measures the compound throughout all residue levels of interest, and also is sufficiently rapid and reasonable in terms of the expertise and equipment required to be applicable for use in the surveillance and control of residues. "Reliability" is a combination of accuracy, precision, and specificity. Accuracy and precision are quantitative terms. "Accuracy" is the measure of deviation from the true value, and "precision" refers to the variability of measurement in replications, either by one analyst or within a laboratory or between laboratories. A method may provide reliable measurement if the measurements are not too variable, even though it measures less than or more than 100 percent of the true value. Therefore, accuracy and precision must be considered together.

"Specificity" is a qualitative term. The measurements obtained by the method must reflect only the compound of interest. Because the method will be used on samples from animals for which exposure history is unknown, the techniques used in the method must be adequate to assure not only the integrity of the measurements, but also the identity of the residue to the exclusion of other interfering substances. Therefore, when the quantitative measurements are made by techniques that are not inherently specific, a confirmatory test is required as part of the official method to assure the identity of the residue.

The submitted methodology for furaltadone is based on chromatographic separation and fluorometric determination, which are both nonspecific techniques.

Before receiving reports that furaltadone induced tumors in female rats, FDA had accepted a colorimetric method of analysis for furaltadone, which could detect furaltadone in milk as low as 10 ppb. This method was accepted based on a desk review of recovery data provided by Norwich on the analysis of milk samples to which known amounts of the drug were added (spiked samples). At that time FDA did not require validation trials of methods before acceptance and also did not require evidence that the method satisfactorily recovered the residues when they were naturally incurred through drug treatment (dosed samples).

After FDA received reports of the tumorigenic effects of furaltadone, the drug sponsors were advised in 1969 that their method for determining residues in milk was no longer adequate and that a method capable of determining 0.2 ppb of the drug in milk was required. At a meeting with FDA on January 4, 1971, Norwich representatives stated that they had developed an analytical method for furaltadone (NF–260) in milk capable of detecting 0.2 ppb and had analytical methods for furazolidone (NF–180) in tissue capable of detecting to 2 ppb, which they felt could be adapted to provide acceptable methods for the other nitrofurans.

Both methods were submitted to FDA for evaluation on January 31, 1971. In 1971, the current practice of subjecting potential regulatory methods to validation trials in U.S. Department of Agriculture (USDA) and/or FDA laboratories was in effect.

A discussion of the results on the evaluation of the furazolidone (NF–180) method for tissue analysis is presented in the May 13, 1976 FEDERAL REGISTER notice for furazolidone. In that notice the Director concluded that the methods for edible tissue were not shown to be adequate. No data have been supplied to show that methods of analysis for furazolidone (NF–180) in tissue are adaptable for furaltadone (NF–260). No methods for furaltadone (NF–260) in edible tissues have been provided, except for a method with a claimed lower limit of measurement of 0.1 part per million (ppm), which FDA does not consider to be adequately sensitive.

The method presented by the sponsors for milk in 1971 was a thin layer chromatography (TLC) ultraviolet-based method which the sponsors claimed was capable of detecting 0.2 ppb of furaltadone (NF–260). This method was found deficient in a desk review based on the supporting data supplied by Norwich. Subsequently, a revised procedure using TLC–fluorometry for the determination of furaltadone in milk was submitted to FDA and was accepted for laboratory validation trials on May 26, 1972.

The method presented was not quantitative. Norwich and FDA agreed that any positive reading where a peak was observed at the same R_f value as the furaltadone standard would be taken as indicative of a violative residue. (R_f is defined as the ratio of the distance traveled by the solute to the distance traveled by the mobile phase.)

Two FDA laboratories participated in evaluation of the revised TLC-fluorometric analytical method for furaltadone residues in milk. A total of five replicate analyses were performed in the two laboratories on samples of milk from unmedicated cows before and after fortification by the analyst with 0.2 ppb

V41160 AUG 17 76 UMI

of furaltadone. Before fortification, four control milk samples produced a zero response (one control sample was lost). Recoveries from milk fortified at the 0.2 ppb level were found to be highly variable, ranging from 10 percent to 55 percent. It was concluded, on the basis of these results, that the method was capable of detecting, but not quantitating, the presence of furaltadone in milk at 0.2 ppb.

Norwich was informed of the results of the validation trial in conferences and of the FDA rejection of the assay method for furazolidone (NF–180) in tissue. Norwich was informed that methods for furaltadone (NF–260) in tissue were required and that a confirmatory method was required for both milk and tissue to provide adequate identification of the residue. The inherent lack of specificity of the TLC-fluorometric method of analysis for furaltadone (NF–260) and the increased probability of unpredictable interference from impurities in solvents, reagents, etc., when measuring residues at extremely low levels, combine to make the need for confirmatory tests for furaltadone in milk and tissues especially acute.

In 1974, as part of its annual Drug Experience Report to the Bureau of Veterinary Medicine, Norwich submitted results of a residue depletion study of furaltadone (NF–260) in milk conducted using a modification of the previously submitted analytical method. The modification consisted of the use of a new technique called programmed multiple development (PMD), which should, in theory, improve the results obtained by thin layer chromatography as it is used in the analysis of furaltadone. However, Norwich reported that it had to discontinue use of the PMD technique in this experiment because of the presence of an extraneous blue fluorescing band that overlapped the critical zones and interfered with the measurement of the drug.

The Director concludes that practicable methods of analysis for milk and tissue residues of furaltadone are not available. No adequate methods have been provided for the analysis of tissue, nor have data been submitted to show cause for exemption from the need for control of residues in edible carcass tissues. Appropriate data have not been provided to determine if furaltadone can be used as a marker to control total residues in milk, nor to determine the lower limit of measurement required for a method to assure that total residues do not exceed safe levels. The Director concludes that the method provided by Norwich for the determination of furaltadone in milk at 0.2 ppb is not quantitative and is not specific and, therefore, is not a quantitatively or qualitatively reliable practicable method for regulatory use, even if it were established that measurement of furaltadone at 0.2 ppb was adequate to control total residues. Therefore, step 5 and the requirements of section 512(b)(7) of the act have not been met.

F. *Practical Conditions of Use Cannot be Prescribed on the Label of Products to Assure Safe Use (Step 6).* Section 512(b)(8) of the act requires that conditions of use assure there are no unsafe residues, and section 512(d)(2)(D) of the act adds a further requirement that these conditions be such that they are "reasonably certain to be followed in practice."

Norwich has provided data that demonstrate that furaltadone is present in milk after use of the drug, and the milk must be discarded for a period of time because of the presence of residues. No data have been provided to show if residues occur in tissues or if a withdrawal period following drug use is required for residues in edible tissues to deplete to safe levels.

A withdrawal period is the time following drug treatment when because of residues, a treated animal cannot be slaughtered for food and its milk must be discarded. A withdrawal period must be sufficiently long to assure adequate residue depletion, but it cannot be so long that it is impractical and would not likely be followed in practice. The maximum withdrawal period considered practical for milk is 96 hours or the discard of eight successive milkings.

It is required by FDA that residue depletion studies be conducted for each drug use under simulated field use conditions to develop data for establishing the withdrawal period. An adequate analytical method for residues, preferably the same method that will be approved for regulatory use, must be used to measure the residues in the depletion studies.

For mastitis products, the residue depletion studies in milk should be conducted with normal lactating cows (disease-free) and mastitic cows to determine if the disease state produces a different rate of residue depletion. The drug treatment in the study must be at the maximum dose for the drug use.

A total of 11 studies of the depletion of furaltadone in milk, using a chemical method of analysis for furaltadone, has been presented to FDA.

Three of these studies used methodology with a lower limit of measurement of furaltadone in milk of 1.0 ppm. Several milk samples collected at 32 hours following medication were shown in these studies to contain levels of furaltadone in excess of 1.0 ppm.

Three more studies used chemical methods with a lower limit of measurement of furaltadone in milk of 10 ppb. On the basis of the results from these experiments, FDA required a 36-hour or three-milking discard period for milk from animals medicated with furaltadone as a condition of approval of the NADA's in 1962.

The following five studies were submitted since the approval of the NADA's. In these studies the chemical methods of analysis used are those described in the preceding section, which Norwich claimed were capable of detecting furaltadone as low as 0.2 ppb.

1. NADA 12–738, Vol. 5, Letter from Norwich dated March 15, 1971.

A single lactating cow with mastitis was treated at the label-recommended dose with furaltadone. Milk collected at 24, 36, 48, and 60 hours after medication was reported to contain furaltadone at 11 ppb, 3 ppb, 1 ppb and less than 0.2 ppb at the respective withdrawal periods. The method of analysis used was presumably the TLC ultraviolet-based method that was judged to be inadequate, on the basis of erratic recovery data, in a desk review by FDA. No supporting raw data were presented. No explanation was given of the significantly lower levels of furaltadone observed in 24- and 36-hour milkings from this cow compared to those found in previously reported studies using less sensitive methodology.

2. NADA 12–738, Vol. 5, Project No. 469–02, dated June 22, 1971.

Five healthy lactating cows were treated with Altapen, a product containing procaine penicillin G in addition to furaltadone. The furaltadone dose was identical to that recommended for formulations containing only furaltadone, and the penicillin was shown not to interfere with the analysis of furaltadone. Milk was collected every 12 hours from each cow, and samples were analyzed for furaltadone using the TLC ultraviolet-based method of analysis that was judged to be inadequate, on the basis of erratic recovery data, in a desk review by FDA. Levels of furaltadone in milk were reported by Norwich to fall from a range of 180 ppb to 3,500 ppb in the five 12-hour post-medication samples, to a range of 1.4 ppb to less than 0.2 ppb in the 48-hour samples. Furaltadone in milk was reported by Norwich to be below 0.2 ppb in all five 60-hour milk samples.

3. Project No. 469.02 and 469.11, Special Report, dated October 25, 1971. Hearing Clerk Docket No. FDC–D–283.

Five dry cows were given two injections of Altapen, 5 days apart, into each udder segment. Cows were not milked until they calved—between 1 and 2 months after the second injection. No furaltadone was found in the first (24-hour) post-parturition sample of colostral milk. The method of analysis was the same TLC ultraviolet-based method discussed under study 2 above.

4. Project No. 469.02 and 469.11. Special Report, dated October 29, 1971. Hearing Clerk Docket No. FDC–D–283.

Five lactating cows (disease state unknown) were treated with a preparation containing only furaltadone according to label-recommended directions. Milk samples were collected every 12 hours, beginning 24 hours after the last injection. Three of the five cows produced 48-hour milk samples reported to contain 0.26 to 0.4 ppb of furaltadone. The method of analysis was the TLC ultraviolet-based method discussed under study 2 above.

5. NADA 12–738–34A, Drug Experience Report submitted to FDA November 1975.

This report contains the results of three residue studies of furaltadone in milk following medication of five mastitic cows in each study with a pathogen-free formulation of the product. (The drug is marketed as a sterile formulation.) Norwich used the PMD modification of the TLC fluorometric method of analysis discussed under paragraph E (step 5) of this section.

In the first study, furaltadone at levels ranging from 0.2 ppb to more than 24 ppb was found in the five 108-hour post-medication milk samples. Norwich blamed probable contamination of the collection equipment for these results.

In the second study, the milk samples at 72- or 84-hour withdrawal from all five treated cows were reported to contain less than 0.2 ppb of furaltadone. However, later milkings from three of the five animals were reported to contain 0.4 to 1.6 ppb of furaltadone. Norwich blamed these unusual results on improper sampling techniques.

In the third study the PMD modification of the method subjected to validation in 1971 was used initially, but it was discontinued because of the presence of an extraneous blue fluorescence band that overlapped the critical zones and interfered with the measurement of furaltadone. The study was completed using the TLC fluorometric method that was previously determined by FDA in method trials to be capable of detecting, but not quantitating, furaltadone at 0.2 ppb. Furaltadone was found in one of five 84-hour post-medication milk samples. Furaltadone was not found in the milk collected at 96, 108, and 120 hours following drug treatment.

The Director concludes that all the depletion studies submitted on milk are inadequate for the establishment of a milk discard time that will assure no unsafe residues. His reasons are as follows:

a. Adequate information is not available to determine if measurement of furaltadone can be used to assure adequate depletion of total residues.

b. Adequate information is not available to determine the level of residues that can be deemed safe for human consumption.

c. Data obtained in the various studies on the amount of furaltadone in milk are not consistent. For this reason, FDA cannot rely on results of any one of these experiments to predict the levels of furaltadone that may be present in milk from furaltadone-treated cows.

d. The methods of analysis that are claimed by Norwich to be capable of detecting 0.2 ppb of furaltadone are not quantitative at this level. Results at the limit of detection are of necessity extremely variable by definition. The agency can agree only that any positive reading would indicate the possible presence of furaltadone in a milk sample, but it cannot agree that a reading equivalent to less than 0.2 ppb (or a reading below the average reading obtained with samples fortified at 0.2 ppb) as used by Norwich denotes the absence of furaltadone.

The Director concludes that withdrawal periods are required for the safe use of furaltadone; that for products containing only furaltadone, as the active drug, the officially approved withdrawal period for milk of 36 hours or three-milkings discard is not shown to be adequate; that the currently labeled withdrawal period for milk voluntarily used by the sponsors, i.e., 48 hours or four-milkings discard, has not been shown to be adequate; and that for products containing furaltadone and penicillin, the withdrawal period for milk of 96 hours or eight-milkings discard has not been shown to be adequate in light of new evidence presented since the uses of furaltadone were approved. The Director further concludes that withdrawal periods may be required for dairy cows culled from the herd to assure adequate residue depletion from edible tissues before slaughter. He concludes that adequate information has not been provided to show what withdrawals are required for milk discard or slaughter to assure safe conditions of use for furaltadone, as required by section 512(b)(8) and (d)(2)(D) of the act. The requirements of step 6 have not been fulfilled.

Therefore, the Director is hereby withdrawing the notice of opportunity for hearing issued August 4, 1971, proposing to withdraw approval of NADA's providing for the use of furaltadone in food-producing animals. Under section 512(e)(1)(B) of the act (21 U.S.C. 360b(e)(1)(B), the Director proposes to withdraw approval of certain existing NADA's providing for the use of furaltadone in food-producing animals on the grounds that such use violates section 512 of the act in that such use has not been shown to be safe.

This notice applies to all outstanding NADA's for the use of furaltadone in food-producing animals. All such applications known to FDA are listed below by NADA number and by each applicant's name and last known address in FDA records. Copies of this notice are being forwarded by registered or certified mail to each of the known applicants. Notice to other applicants or holders of NADA's whose identity is not known to FDA is given by this publication.

12–738, 65–059, Eaton Laboratories, Division of Morton-Norwich Products, Inc., P.O. Box 181, Norwich, NY 13815.

14–283, Hess and Clark, Division of Rhodia, Inc., 7th and Orange St., Ashland, OH 44805.

Any holder of an approved application that elects to avail itself of an opportunity for hearing pursuant to section 512(e)(1) of the act and § 514.200 of Chapter I of Title 21 of the Code of Federal Regulations must file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, a written appearance requesting such hearing by September 16, 1976, giving the reasons why approval of the application should not be withdrawn, and providing a well-organized and full-factual analysis of the scientific and other investigational data such holder is prepared to prove in support of its opposition to the Director's proposal. A request for hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is one or more genuine and substantial issue(s) of fact requiring a hearing. Responses to this notice and copies of published literature cited in this notice may be seen in the office of the Hearing Clerk, Food and Drug Administration, during regular business hours, Monday through Friday.

If a hearing is requested and is justified by any holder's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the withdrawal of approval of the foregoing NADA's will be open to the public. If, however, the Director finds that portions of the applications that serve as a basis for such a hearing contain information concerning a method or process that is entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 16, 1976 (41 FR 24262)).

A discussion of the economic and environmental impact of this action is set forth in the notice of proposed rule making on furaltadone published elsewhere in this issue of the FEDERAL REGISTER.

It is hereby certified that the economic and inflation effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

Dated: August 6, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-23621 Filed 8-10-76;11:19 am]

[Docket No. 76N–0232]

HESS & CLARK, ET AL.

Nitrofurazone (NF–73); Opportunity for Hearing on Proposal To Withdraw Approval of Certain New Animal Drug Applications

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of approved new animal drug applications (NADA's) Nos. 6–395, 6–475, 6–649, 7–801, 8–129, 8–142, 8–324, 8–410, 8–529, 8–784, 9–013, 9–415, 10–741, and 11–154 for the use of nitrofurazone (NF–7) in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) (hereinafter, "the act") on the grounds that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that nitro-

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furazone is not shown to be safe for use under either the approved or currently labeled conditions of use. Holders of approved NADA's have until September 16, 1976 to submit requests for a hearing in accordance with § 514.200 (21 CFR 514.-200).

In FR Doc. 76-23620 appearing elsewhere in this issue of the FEDERAL REGISTER, the Director is issuing a notice of proposed rulemaking to revoke the appropriate provisions of sections affected by the proposed withdrawal.

Nitrofurazone (NF-7) is a member of a class of chemicals called "nitrofurans," which are used at low levels in animal feed as antibacterial and antiprotozoan agents to increase resistance to disease, thereby assisting growth. Nitrofurans also have prescribed therapeutic uses. In addition to nitrofurazone (NF-7), which is the subject of this notice, there are three other nitrofurans that are used in food-producing animals and are or have been subject to agency action: nihydrazone (NF-64) and furaltadone (NF-260), which are subjects of companion notices in this issue of the FEDERAL REGISTER; and furazolidone (NF-180), which was the subject of notices in the FEDERAL REGISTER of May 13, 1976 (41 FR 19906, 19907). A fifth nitrofuran, furamazone (NF-84), is not at this time the subject of contemplated agency action for withdrawal.

Nitrofurazone (NF-7), approved in 1948, was the first nitrofuran approved by FDA for use in food-producing animals. It is currently approved for use in mastitis products for dairy cattle (dry cow treatment only); for the treatment of genital tract infections in large female animals; for prevention and treatment of surface bacterial infections (all animals); as a medication in feed for swine for the treatment of infectious necrotic enteritis caused by *Salmonella choleraesuis;* for chickens and turkeys for the prevention and control of cecal and intestinal coccidiosis; and for chickens for the prevention of pullorum.

The original applications were approved without a requirement that the drug treatment be discontinued for a specified period of time before the slaughter of the animals. However, two of the sponsors, Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., and Hess & Clark, currently a Division of Rhodia, Inc., voluntarily revised the labels in 1971 to require that swine, turkeys, and chickens be withdrawn from nitrofurazone (NF-7) 5 days before slaughter.

The Food and Drug Administration issued a notice of opportunity for hearing, published in the FEDERAL REGISTER of March 31, 1971 (36 FR 5927), proposing to withdraw approval of NADA's for nitrofurazone (NF-7) on grounds that:

Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

Similar notices were published for nihydrazone (NF-64) in the FEDERAL REGISTER of March 31, 1971 (36 FR 5926) and for a hearing. Norwich assured FDA that done (NF-260) on August 4, 1971 (36 FR 14343). The history leading to the publication of these 1971 notices is discussed in the May 13, 1976 notice for furazolidone (NF-180).

Norwich and Hess & Clark responded to the March 31, 1971 notice concerning nitrofurazone (NF-7) by filing requests for a hearing. Norwich assured FDA that it had adequate methods of analysis to determine residues and adequate data to show that under the currently labeled conditions of use, the drugs were safe. In addition, Norwich set forth a hypothesis that nitrofurans were not primary tumorigens but stimulated spontaneous tumor growth by disrupting the normal hormone balance.

In response to the March 31, 1971 notice, Pharm-House, Inc. submitted a method for the determination of nitrofurazone (NF-7) in milk, which it indicated could detect nitrofurazone at levels down to 2 parts per billion (ppb).

Norwich has continued to submit data pertaining to the use of nitrofurazone (NF-7) in food-producing animals. The Food and Drug Administration has determined that new evidence, evaluated together with the evidence available when the approvals were granted, fails to demonstrate that either the approved or currently labeled uses of nitrofurazone are shown to be safe. The Director is withdrawing the March 31, 1971 notice of opportunity for hearing concerning nitrofurazone (NF-7), and is issuing this new notice, which presents in detail all of the evidence now available to him and the basis on which he proposes to withdraw approval of all uses of nitrofurazone in food-producing animals in accordance with section 512(e)(1)(B) of the act.

Section 512(e)(1)(B) of the act requires that FDA withdraw approval of an NADA when "new evidence • • • evaluated together with the evidence available • • • when the application was approved, shows that such drug is not shown to be safe • • •." Under this provision, the new evidence and the evidence submitted at the time the application was approved must be evaluated to determine whether all of the requirements for safety contained in section 512 of the act continue to be fulfilled.

THE DETERMINATION OF "SAFETY" IN SECTION 512

Section 512 of the act requires that the use(s) of a new drug in food-producing animals must be supported by adequate data supplied by the sponsor in applications that include, among other things, demonstration that the drug use will not result in unsafe residues in human food.

Under section 512(b) of the act, whenever a drug use may result in residues of the drug in food, an application must include not only full reports of investigations to show that the use of the drug is safe, but also a description of practicable methods for monitoring food to assure there are no unsafe residues in human food attributable to the drug use, and demonstration that the conditions of use are adequate to assure there are no unsafe residues.

Under section 512(d)(2) of the act, FDA is required, in the evaluation of the supporting safety data, to consider, among other things:

1. The probable consumption of such drug and of any substance formed in or on food because of the use of such drug (i.e., probable human consumption of residues, including the parent drug and metabolites).

2. The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substance, i.e, toxicological effects of the compounds comprising the residues.

3. Safety factors that, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data (i.e., establishing "safe" levels of residues using appropriate safety factors to extrapolate animal data on cumulative effects to humans).

Under section 512(d)(1)(H) of the act, additional requirements must be met if the drug is a carcinogen.

The determination of safety within the meaning of section 512 of the act for a drug whose use may result in residues in the edible products of the treated animal, whether or not the drug is a carcinogen, requires a multistep process. These steps form an orderly procedure by which information is derived to satisfy each of the three considerations stated above.

Step 1. Assessment of the total residues in edible products and the depletion of those residues with time following cessation of drug treatment in order to determine probable human consumption (section 512(b)(1) and (d)(2)(A) of the act).

Step 2. Assessment of information about the residues to determine the appropriate testing in laboratory animals required to estimate the cumulative effects of human exposure to the residues (section 512(b)(1) and (d)(2)(A) of the act).

Step 3. Acquisition of dose-response data in test animals to determine the cumulative effects of dietary exposure to the residue compounds from which the maximum acceptable concentration of residues in food can be established using appropriate safety factors to assure that human exposure to residues in the total diet does not exceed a level deemed safe (section 512(b)(1), and (d)(2)(B) and (C) of the act). In the case of a carcinogenic drug, a conservative statistical extrapolation of the tumor data is used to estimate a level of residue exposure that could be considered insignificant and poses essentially no risk of cancer and operationally defines "no residue" for purposes of computing the residue assay requirements under section 512(d)(1)(H) of the act.

Step 4. Acquisition of information about the residues to (1) determine the tissue (called the target tissue) from which residues require the longest time to deplete to safe levels and which, therefore, must be monitored by the regulatory assay (step 5), and (2) determine the compound (called the marker) that is to be measured in the regulatory assay so that by its measurement there is assurance that no unsafe residues occur from the use of the drug (section 512(b)(7) of the act).

Step 5. Development of a practicable method of analysis that can measure the marker in the target tissue at a concentration that assures that total residues in the daily diet of humans do not exceed the level established in step 3 as safe (section 512(b)(7) of the act).

Step 6. Demonstration that practical conditions of use can be prescribed on the label of the product to assure there will be no unsafe residues in the food products from treated animals (section 512(b)(8) and (d)(2)(D) of the act).

Each of the steps involves principles that are essential for a determination of food safety and compliance with the requirements of the act to assure there are no unsafe residues in human food from the animal drug use. Each step builds upon the preceding step. Therefore, failure to accomplish any one of the six steps in whole or in part for any drug will ordinarily preclude a sponsor's fulfilling its obligation under the act to determine probable consumption of residues and cumulative effects of exposure, and to establish safe conditions of use with appropriate regulatory methods of analysis to control residues when deemed necessary.

New evidence concerning nitrofurazone (NF-7) not available when the applications were approved includes, among other things, a demonstration that nitrofurazone induces mammary tumors in female rats. The Director has evaluated all the data now available, including the new data received since 1948 when the uses for nitrofurazone (NF-7) were first approved, and the data available to FDA at the time of approval, and has concluded that the approval of NADA's for nitrofurazone (NF-7) must be withdrawn under section 512(e)(1)(B) of the act because:

1. Adequate investigations have not been provided to show that the uses of nitrofurazone are safe, as required by section 512(b)(1) of the act. Adequate information has not been provided on the probable consumption of residues, and the cumulative effects of exposure have not been determined by appropriate tests, as required by section 512(d)(2)(A) and (B) of the act. Therefore, "safe" levels of residue cannot be determined using appropriate safety factors, as required by section 512(d)(2)(C) of the act.

2. Adequate, reliable, and practicable methods of analysis are not available for monitoring food to assure there are no unsafe residues in edible tissues and milk that are attributable to the use of nitrofurazone, as required by section 512(b)(7) of the act.

3. Practical conditions of use cannot be specified in the labeling to assure there are no unsafe residues attributable to the use of nitrofurazone, as required by section 512(b)(8) and (d)(2)(D) of the act.

The data on which these conclusions are based are presented in the succeeding sections of this notice. The Director first describes all the relevant new evidence bearing on the determination of safety for the uses of nitrofurazone. Then he evaluates all the evidence before him using the six-step procedure necessary to satisfy a human safety determination for the use of nitrofurazone (NF-7) and to meet the considerations required in section 512 of the act.

I. NEW EVIDENCE

In In October 1966 and in January 1967, Norwich submitted reports of the effect in rats of feeding diets containing nitrofurans for 45 weeks. These studies included tests on nitrofurazone (NF-7) and furazolidone (NF-180). In these studies it was shown that both nitrofurazone (NF-7) and furazolidone (NF-180) induced mammary tumors of similar type in female rats.

Subsequently, more extensive, longer term testing of furazolidone (NF-180) was conducted, but further testing of the carcinogenic potential of nitrofurazone (NF-7) has not been undertaken. The more extensive testing of furazolidone (NF-180), as described in the May 13, 1976 FEDERAL REGISTER, shows that the drug induces cancer in both rats and mice and that the tumors and cancers were not limited to the mammary gland or the endocrine tissues of female rats.

The Director is including in this notice information available on the toxicological properties of furazolidone (NF-180) as well as introfurazone (NF-7) because of the structural similarities of the drugs and their similar biological properties, which have been observed in the limited comparative data available. The new evidence showing that furazolidone (NF-180) is a carcinogen has a significant bearing on the Director's conclusions that the uses of nitrofurazone (NF-7) are not shown to be safe.

Although it is appropriate to consider data on furazolidone (NF-180) to judge the adequacy of existing data to support the safe use of nitrofurazone (NF-7) in food-producing animals, these data are not a substitute for data on nitrofurazone (NF-7) that are required by the statute. Basic data are required for each drug, recognizing that slight differences in chemical structure can result in significant differences in metabolism, residues, and toxicity. Although comparative data or the biochemical and toxicological properties of related drugs may be useful and appropriate in making decisions about the degree of testing required for each drug to show there is no probable hazard, these data cannot be used as a substitute for the basic information necessary on each drug to determine the probable exposure to residues and cumulative effects of exposure.

A. *Carcinogenic Potential of Nitrofurazone.* Norwich submitted data in October 1966 and January 1967 on the cumulative effects in rats of feeding diets containing nitrofurazone (NF-7) for 45 weeks ("Effects of Long Term Feeding of Various Nitrofurans," October 13, 1966 and January 4, 1967, Project No. 440.07, submitted to FDA as part of a June 2, 1967 Drug Experience Report). These studies include testing in female Sprague-Dawley (Holtzman strain) rats and testing in both male and female Carworth Farms (CFE strain) rats.

1. The Sprague-Dawley Female Rat Study: Seventy female Sprague-Dawley rats (Holtzman strain) were equally divided into two groups that were fed nitrofurazone at about 0.1 percent (55 milligrams per kilogram (mg/kg) body weight per day) and about 0.05 percent (28 mg/kg body weight per day) respectively in their diet for 45 weeks, followed by maintenance on an unmedicated diet for an additional 8 weeks before sacrifice. A comparable control group of female rats was maintained on a nitrofurazone-free diet for 53 weeks. At termination of the study the animals were autopsied, and tissues were examined for histopathological lesions.

The most prominent drug-related effect was the induction of tumors in the mammary glands of the female rats. Although rats develop mammary tumors spontaneously as they age, the incidence of spontaneous mammary tumors in rats just over 1 year old, depending upon the strain of rat used, can be quite low. The nitrofurazone-treated female rats had an increased number of mammary tumors, particularly the number of fibroadenomas, as compared with the control rats. The development of tumors included the finding of some mammary adenocarcinoma (cancer).

Norwich reported that no mammary tumors of any type were observed in the 33 control rats examined. It reported from hispopathological examination that a total of 19 mammary tumors were observed in 13 of the 30 rats examined that were fed nitrofurazone at 0.1 percent in the diet. In the 0.05 percent dose group a total of 18 mammary tumors were found by Norwich in 12 of the 33 rats examined for histopathology. Norwich did not report any of adenocarcinoma in either the 0.1 percent or 0.05 percent dose groups.

An Ad Hoc Committee was established to review the pathology data on all the nitrofurans tested in the Sprague-Dawley rat study and the Carworth Farms rat study. One member of the Ad Hoc Committee was the director of the Eppley Institute for Research in Cancer, University of Nebraska. He and his associate pathologists reviewed the pathology slides of the mammary tissues from the nitrofurazone-treated rats provided by Norwich and submitted a detailed report to FDA. They did not review all the mammary gland slides from the control rats.

V41160 AUG 17 76 UMI

Each of the reviewed slides had a rat identification number, and there were several slides for each rat. However, there was no information on the number of tumors in each rat. Therefore, it was not possible, in many cases, for the pathologists to determine which slides represented different tumors in the same rat and which were different sections of a single tumor.

The Eppley pathologists concluded from their review of the 0.1 percent dose group rats that 14 of the 30 nitrofurazone-treated female rats examined had mammary tumors that were predominantly fibroadenomas and that 4 of these rats had mammary adenocarcinoma.

From their examination of the 0.05 percent nitrofurazone dose group, they found mammary tumors in 12 out of the 33 rats examined. This included the finding of mammary adenocarcinoma in one rat. The remainder of the tumors in this dose group were fibroadenomas.

Because the Norwich report did not indicate which rats had tumors, it is not possible from the data available to determine if the tumors reported by the Eppley pathologists were from the same rats in which Norwich had reported tumors. The Eppley pathologists reported mammary adenocarcinoma in the nitrofurazone-treated rats, whereas the Norwich report shows no nitrofurazone-treated rats had mammary adenocarcinoma. However, because the Eppley pathologists did not review all the mammary gland slides from the control rats, a comparative incidence of mammary cancer cannot be determined from the reports.

A pathologist from the Bureau of Foods of FDA, who was not a member of the Ad Hoc Committee, later reviewed the pathology slides of the mammary tumors from the nitrofurazone-treated rats in which the Eppley pathologists had reported mammary tumors. From his examination of the histopathological preparations provided, he reported for the 0.1 percent dose group, 15 slides of mammary fibroadenoma from 10 rats and 4 slides of mammary adenocarcinoma from 3 rats. The mammary adenocarcinomas were diagnosed in the same three rats in which the Eppley pathologists had diagnosed mammary adenocarcinoma. The Bureau of Foods pathologist did not have any slides from the fourth rat in which the Eppley pathologist had found adenocarcinoma. In the 0.05 percent dose group, the Bureau of Foods pathologist reported histopathological preparations of mammary tumors from 12 rats. These included 5 slides of adenoma, 13 slides of fibroadenoma, and 1 slide of adenocarcinoma. The mammary adenocarcinoma was in the same rat in which the Eppley pathologists had diagnosed mammary adenocarcinoma.

The Bureau of Foods pathologist also did not have information indicating which slides were multiple sections of single tumors or which represented different tumors. He did have information on the rat identification number for each set of slides. Because the Bureau of Foods pathologist did not review all the slides in the study, tumor incidence and the comparison of incidence with the control rats cannot be determined from his report. However, his report supports the Eppley pathologists' findings that mammary tumors were found in at least 13 of the rats in the 0.1 percent nitrofurazone-treated group and in at least 12 of the rats in the 0.05 percent nitrofurazone-treated group. It also confirms that mammary adenocarcinoma was found in at least three rats in the 0.1 percent nitrofurazone-treated group and in one rat in the 0.05 percent nitrofurazone-treated group.

2. The Carworth Farms Rat Study: Nitrofurazone (NF–7) was fed to 20 male and 20 female Carworth Farms (CFE strain) rats at about 0.1 percent in the diet (50 mg/kg body weight per day) for 45 weeks, followed by maintenance on an unmedicated diet for an additional 7 weeks before sacrifice. A comparable control group of rats was maintained on a nitrofurazone-free diet for 52 weeks. At termination of the study the animals were autopsied, and the tissues were examined for the histopathological lesions.

As in the previous Sprague-Dawley rat study, the most prominent drug-related effect seen was the induction of tumors in the mammary glands of the female rats. This included an increase in the number of mammary fibroadenomas and the finding of some adenocarcinomas.

Norwich reported that no tumors were observed in the 15 female control and 18 male control rats examined. Norwich reported from histopathological examination that 11 out of 19 nitrofurazone-treated female rats examined had a total of 28 mammary tumors. No mammary tumors were reported in the male rats treated with nitrofurazone. Norwich reported 3 mammary adenocarcinomas among the 28 mammary tumors found in the nitrofurazone-treated female rats but did not specify whether these adenocarcinomas were seen in 3 different rats or whether some of these were multiple tumors in the same rat.

The Eppley pathologists reviewed the slides of the mammary tissues from the 19 nitrofurazone-treated rats provided by Norwich. They also concluded that 11 of the nitrofurazone-treated female rats had mammary tumors. However, from the slides reviewed they found only one rat with mammary adenocarcinomas. It is not known if the Eppley pathologists had all the slides that Norwich had diagnosed as mammary adenocarcinoma.

Slides of the mammary tumors reported by the Eppley pathologists were later reviewed by the Bureau of Foods pathologist. He reported mammary tumors in each of the 11 female rats. From his examination of the histopathological preparations provided, he reported 9 slides of mammary adenoma, 1 slide of mammary fibroma, 19 slides of mammary fibroadenoma, and 1 slide of mammary adenocarcinoma. The adenocarcinoma was in the same rat in which the Eppley pathologist had reported a mammary adenocarcinoma.

Because Norwich did not report the number of rats in which mammary adenocarcinoma was found, and because the Eppley and Bureau of Foods reviewing pathologists did not receive mammary tissue slides from control rats, and because the Bureau of Foods pathologist did not review slides from all of the treated rats, and because there is some question about whether the Eppley pathologists received all the mammary tissue slides of the treated rats, the incidence of mammary cancer cannot be determined from the available reports. However, the Eppley and Bureau of Foods reviewing pathologists did concur in the finding of mammary tumors in 11 rats and mammary adenocarcinoma in at least 1 nitrofurazone-treated female rat from the study.

Food and Drug Administration scientists recognize that there are uncertainties and limitations in the examination of tumors to determine if they have malignant potential. For example, in the early stages of a mammary tumor growth, the mass may be chiefly adenomatous. As the growth continues, the supporting white fibrous connective may also begin to proliferate, resulting in a fibroadenoma. Later the adenomatous part of the neoplastic mass may entirely disappear, leaving a fibroma. Finally, a part of the adenoma or fibroadenoma may develop malignant tendencies and that portion may then become an adenocarcinoma. All four tumor types, i.e., adenoma, fibroadenoma, fibroma, and adenocarcinoma may be present in the same tumor mass. A small focus of adenocarcinoma in the early stage of a malignant tumor may be overlooked in the tumor growth unless adequate multiple sections of the tumor are made.

Also, unless great care is exercised in the evaluation of the spread of an adenocarcinoma of the mammary gland, the metastasis along the lymphatic routes passing through, under, or near other mammary glands may be considered to be separate primary adenocaricinomas rather than a single primary growth with multiple metastases.

The reports from Norwich indicate that nitrofurazone (NF–7) caused an induction of mammary tumors in female rats just over 1 year old and that there is an indication of an increase in the number of mammary adenocarcinomas compared with control rats.

Erturk et al. (*Cancer Research*, 30:1409–1412, 1970) transplanted mammary fibroadenomas from female Holtzman rats orally treated with nitrofurazone into male and female newborn Holtzman rats. They reported increased anaplasia pleomorphism and mitotic activity in the rats into which the tumors had been transplanted. One of the tumors developed into an adenocarcinoma. The transplantability of rat mammary fibroadenomas and their conversion to malignant tumors has been considered by some eminent pathologists as one criterion of cancer (H. L. Stewart et al., "Atlas of Tumor Pathology," Sec. XII, Fascicle 40, pp. 249–297, Washington, DC, Armed Forces Institute of Pathology, 1959).

Food and Drug Administration scientists conclude that the above studies show that nitrofurazone is tumorigenic in rats and that the data raise questions about the carcinogenic potential and potency of nitrofurazone. They conclude that none of the studies is adequate to assess the cumulative effects of exposure to nitrofurazone and its carcinogenic potential and potency because the studies were not of sufficient duration, and the number of animals used was not sufficient. In the Sprague-Dawley rat study only female animals were used; so it is not possible to determine whether nitrofurazone might have produced effects in the male rats. In the Carworth Farms rat study, the number of males was too small to determine with any confidence that nitrofurazone did not have an adverse effect. In both studies, drug treatment was for only 45 weeks. In spite of the weaknesses in the reports available, it is evident that a 45-week treatment was sufficient to induce tumors in female rats, and that some of these tumors were mammary cancers. The dose level, frequency, and duration of exposure to a compound are related not only to whether or not cancer is induced, but also to the latency period before the expression of cancer. Therefore, the 45-week treatment with nitrofurazone is not considered a sufficient period of exposure to determine adequately the cancer potential or potency.

The Director concludes that the available data provide sufficient cause for concern that nitrofurazone may be a carcinogen and that adequate lifetime testing in appropriate animal species is required to evaluate its carcinogenic potential and potency. The Director concludes that because nitrofurazone is a tumorigen, dose-response data in lifetime studies, using several dose levels, are necessary to determine the information required to assess the cumulative effects of exposure and to establish conditions of safe use. Although the demonstration of cancer induction may be made on the basis of testing at only one dose level, and it may be possible from the results of this testing to conclude that a drug requires regulation under the provisions of section 512(d)(1)(H) of the act, dose-response data are necessary to provide information from which FDA can establish the operational definition of "no residue" for purposes of determining the required conditions for the regulatory assay for residues of a carcinogenic drug. Regardless of whether adequate testing were to show that nitrofurazone induced cancer or induced only benign tumors, dose-response information would be required to establish the condition of safe use.

The Norwich data from these studies were available at the time FDA issued the March 31, 1971 FEDERAL REGISTER notice of opportunity for hearing on the proposed withdrawal of approvals for nitrofurazone (NF–7). In response to the March 31, 1971 notice, Norwich stated that all four nitrofurans (NF–7, NF–64, NF–180, and NF–260) cause an early development of mammary tumors that were of the type normally found in aging rats, and it postulated that the nitrofurans caused these tumors only at high levels of exposure in the female rats because of disruption in the hormonal system. Norwich presented data purporting to show that the hormonal disruption resulting in the tumors involved a process not applicable to humans, and that the proposed methods of analysis for control of residues were more than adequate to assure that levels of residues were below any level that might adversely affect humans.

The Norwich hormonal hypothesis is described in detail in the May 13, 1976 FEDERAL REGISTER notice on a furazolidone (NF–180). The supporting information provided by Norwich for the hypothesis was primarily limited to data on furazolidone (NF–180) and some very limited comparative data on nitrofurazone (NF–7).

B. *Comparative Data on Nitrofurazone and Furazolidone.* Norwich has provided data on furazolidone (NF–180) from the Sprague-Dawley female rat study and the Carworth Farms rat study. It has also supplied data on testing on furazolidone (NF–180) in three chronic rat studies and one mouse study; the tests are described in the May 13, 1976 FEDERAL REGISTER notice. The data have a bearing on the Director's proposed action in this notice for nitrofurazone (NF–7) and his decision to reject the Norwich hormonal hypothesis for nitrofurazone (NF–7) and furazolidone (NF–180). They also have a bearing on his decision to reject the sponsors' claims that adequate studies have been provided for nitrofurazone (NF–7) to support a determination that the drug uses are shown to be safe.

In the Sprague-Dawley female rat study and Carworth Farms rat study, furazolidone (NF–180) was also tested in the protocols using a dietary level of about 0.1 percent.

In the first study, Norwich reported that 14 of the furazolidone-treated Sprague-Dawley female rats out of 32 rats examined had mammary tumors. Norwich reported a total of 37 mammary tumors, including 5 mammary adenocarcinomas, but did not designate in how many rats or in which rats the adenocarcinomas were found. The Eppley pathologists reviewed the mammary tissue slides from the 32 furazolidone (NF–180)-treated female rats and reported mammary tumors in 14 of the rats. The Bureau of Foods pathologist, who later examined only the slides from the 14 rats reported to have mammary tumors by the Eppley pathologists, confirmed the presence of mammary tumors in the 14 rats. Both the Eppley and Bureau of Foods pathologists reported only one mammary adenocarcinoma and one mammary squamous cell carcinoma, each in a different rat, from the slides they had examined of the furazolidone (NF–180)-treated rats. From these results it appears that both furazolidone (NF–180) and nitrofurazone (NF–7) at 0.1 percent in the diet had about the same effect on the incidence of rats that developed mammary tumors. However, Norwich reported that furazolidone (NF–180) caused a greater increase in the number of multiple mammary tumors that developed. From the reviewing pathologists' reports it appears that there were slightly more female rats treated with nitrofurazone (NF–7) that developed mammary adenocarcinomas that were found in the rats treated with furazolidone (NF–180). The results reported by Norwich contradict this finding on malignancies.

In the Carworth Farms rat study, 15 of the furazolidone (NF–180)-treated female rats out of 17 examined were reported by Norwich as having mammary tumors. In comparison, Norwich had reported that 11 of the nitrofurazone (NF–7)-treated female rats out of 19 examined had mammary tumors. In the furazolidone (NF–180) study the total number of tumors reported by Norwich in the furazolidone (NF–180)-treated female rats was greater than twice the number found for the nitrofurazone (NF–7)-treated female rats. Norwich reported finding two mammary adenocarcinomas in the furazolidone (NF–180)-treated female rats, but it did not specify whether these were in one or two rats. The Eppley pathologists also reported finding two mammary adenocarcinomas in two rats, and these same findings were made by the Bureau of Foods pathologist who reviewed only the slides from rats in which tumors were reported by the Eppley pathologists. In addition, the Bureau of Foods pathologist reported mammary adenocarcinoma of low-grade malignancy in two additional rats. Tumors from these two additional rats had been diagnosed as fibroadenoma by the Eppley pathologists. The numer of mammary malignancies reported for rats treated with nitrofurazone (NF–7) and furazolidone (NF–180) are comparatively small in both cases, and no meaningful conclusions can be drawn about the relative carcinogenic potentials of the two drugs. It is evident from the reviewing pathologists' reports that the predominant number of tumors found in the furazolidone (NF–180)-treated female rats were fibroadenomas, as was also seen in the nitrofurazone (NF–7)-treated rats.

Based on these comparative data, the Director concludes that furazolidone (NF–180) and nitrofurazone (NF–7) qualitatively exhibit similar tumorigenic effects in female rats. Because the studies are not adequate to assess the cumulative effects of exposure and carcinogenic potential and potency, the data are not sufficient for a precise comparison of the tumorigenic potencies. The Director, therefore, concludes that although the limited data give some indication that nitrofurazone (NF–7) may be a less potent tumorigen than furazolidone (NF–180), adequate testing of nitrofurazone (NF–7) in lifetime studies in appropriate animal species with the development of dose-response data from the administration of nitrofurazone at

V41160 AUG 17 76 UMI

several dose levels would be required to determine adequately the carcinogenic potential of nitrofurazone (NF–7).

More definitive studies of the carcinogenic potential of furazolidone (NF–180) in male and female rats and mice provided by Norwich are described in the May 13, 1976 FEDERAL REGISTER notice. A summary of the findings from the three chronic rat studies and the mouse study include the following:

1. Furazolidone induced malignancies in both rats and mice.

2. Furazolidone also induced nonmalignant tumors.

3. In most cases, the induced malignant and nonmalignant tumors were found at the same sites.

4. There is some evidence that the induction of benign tumors is related to the induction of, or progression to, malignancies as a function of dose.

5. There are marked sex differences in the tumor responses in the rats. There are also some commonalities in the tumor sites of the male and female rats.

6. Mammary tumors were the predominant effect in the female rats.

7. Nonmammary tumors were induced in the Sprague-Dawley male rats, with no one type singularly significant. In the Fisher rats, however, several specific nonmammary tumors were induced in both male and female rats.

8. The major target site for tumors in the mouse was the lung. There was no evidence of a significant difference between male and female mice in tumor response, and there were no tumorigenic effects in the endocrine tissues.

9. The induction of tumors involved not only increased incidence of animals with tumors but also an increased number of tumors per animal.

The Director has rejected the data supplied by Norwich to support the hormonal hypothesis for furazolidone (NF–180). A discussion of these data and his basis for rejection are also presented in the May 13, 1976 FEDERAL REGISTER notice. The Director also rejects the Norwich reply to the 1971 FEDERAL REGISTER notice on nitrofurazone (NF–7) attempting to explain the tumorigenic effects of nitrofurazone primarily on the basis of the furazolidone (NF–180) data relative to the hormonal hypothesis. The Director finds that the new evidence provided by the more extensive chronic testing data for furazolidone (NF–180), which shows that tumors were induced in both male and female rats and mice and were not limited to tumors of the mammary gland or the endocrine tissues, is inconsistent with the hormonal hypothesis.

Therefore, the Director concludes that the comparative data available on furazolidone (NF–180) and nitrofurazone (NF–7) in the Sprague-Dawley female rat study and the Carworth Farms rat study, together with the data on the four chronic studies of furazolidone (NF–180) in rats and mice, indicate that adequate testing of nitrofurazone (NF–7) has not been provided to assess the cumulative effects of exposure necessary for a determination of safety.

II. USES OF NITROFURAZONE ARE NOT SHOWN TO BE SAFE

To assess the safety of residues using criteria described in section 512(b) of the act and elaborated on in section 512(d)(2) of the act requires a multistep process that must take into account consideration of the metabolism of the drug, determination of the resulting residues, including parent drug and the metabolites, depletion of those residues with time after drug treatment, and the cumulative effect of human ingestion of the residues. The six basic steps involved in this evaluation process have been described previously in this notice.

A. *The Amount of Total Residue in the Edible Products and the Depletion of Residues with Time Has Not Been Determined (Step 1).* When a drug is administered to an animal, the drug may be altered by the animal into a variety of compounds called metabolites. The process of alteration may be such that little residue of the parent drug remains in the animal tissue, but the amount of metabolites may be substantial. Therefore, the total residue with which FDA is concerned includes both the parent drug and the metabolites.

The nature and amount of each of the residues depend in part upon the metabolism in a particular species. Because there are species differences in metabolism, it is necessary to determine metabolism and residues in each of the species for which the drug is used. Therefore, § 514.1(b)(7)(i) (21 CFR 514.1(b)(7)(i)) includes metabolism and residue depletion studies among those kinds of studies that are used to determine residues.

Exposure to nitrofurazone in the diet induced mammary tumors in female rats. It is not known whether the parent drug was the active agent or whether the responses were due to one or more active metabolites produced as a result of ingestion of the parent drug by the rats. Such lack of knowledge is not unique to nitrofurazone; it is typical of many tumorigenic and carcinogenic agents that the mechanism of the induction of tumors or the identification of the active agent is not known. Therefore, when considering the safety of food from nitrofurazone-treated animals, all drug-related residues to which humans may be exposed must be assumed to be potentially carcinogenic unless convincing evidence is presented to the contrary. Such evidence consists of not only the identification of the residues that are claimed to be safe, but also adequate toxicological studies showing that the levels of each of the residues claimed to be safe are in fact safe. All residues not identified or not shown to be safe must be considered potentially carcinogenic and must be required to be below a level of measurement that can be considered insignificant and to pose essentially no risk of cancer in humans.

The use of chemical assays to determine initially the total residues would require knowledge about what residues occur (parent drug and metabolites) and would require the availability of adequate methods of analysis to measure each one of the residues at the level of interest in the edible tissues. Therefore, this chemical approach is usually not feasible. Instead, a radiolabeled parent drug is used to provide a practical and adequate approach to the initial measurement of total residues in the edible tissues. In this approach, the drug is synthesized with a radioisotope so that when the drug is administered to the test animal according to label directions, all resulting residues of potential interest can be measured in the edible products. This is accomplished by counting the radioactivity in the tissues and converting these measurements to an estimation of the amount of residue expressed as parent drug equivalents.

No data have been provided by the sponsors to measure total residues in edible tissues and in milk from nitrofurazone-treated animals. Similarly no data have been provided to characterize the residues occurring in the edible products. It has been shown that nitrofurazone is found as a residue in edible tissues after drug treatment, as will be described below in step 6 (paragraph F. of this section), but it has not been shown what proportion of the total residue is the parent drug.

Although no data of any type have been supplied on the metabolism of nitrofurazone in any of the animals of intended use, some limited information has been provided on nitrofurazone in published studies of the absorption, distribution, and metabolism of nitrofurazone, primarily in rats:

1. Paul, M. F. et al., "Studies on Distribution and Excretion of Certain Nitrofurans," Antibiotics and Chemotherapy, 10:287–302, 1960. The authors reported that only 4.6 percent of an administered dose of nitrofurazone was recovered as unchanged nitrofurazone in rat urine, and 0.5 percent in feces. From the report it is evident that nitrofurazone is absorbed and rapidly metabolized before elimination.

2. Paul, H. E. et al., "Metabolic Degradation of Nitrofurans," Journal of Medicinal and Pharmaceutical Chemistry, 2:563, 1960. The report described in vitro studies where nitrofurazone was added to rat tissue homogenates. After a period of incubation, extracts were analyzed by ultraviolet (uv) spectroscopy. The resulting UV spectra were compared with (1) spectra from nitrofurazone that had been subjected to chemical reduction of the nitro-group to an amine, and (2) nitrofurazone that had been subjected to action by certain reductive enzyme systems. The authors report that the three uv spectra were similar, indicating that nitrofurazone metabolism in the rat appears to include a reductive pathway.

Data from these two studies reinforce the Director's conclusion that consideration must be given to metabolism in the animal of intended drug use to assess the residues and their significance as contaminants in food.

Data on the metabolism of another nitrofuran, nihydrazone (NF–64), in chickens have been submitted by Norwich. However, these data cannot be accepted as a substitute for metabolism data on nitrofurazone in chickens or the other animals for which the drug is approved because the metabolism of each compound may differ in each of the animal species.

Because no relevant data have been submitted on the metabolism and total residue depletion of nitrofurazone, the Director concludes that he cannot determine the amount of total residue and its depletion with time in the edible products for any of the approved uses of nitrofurazone. Therefore, the first step necessary to estimate probable consumption of residues, which is a required consideration of section 512(d)(2)(A) of the act, has not been fulfilled.

B. *Sufficient Information Has Not Been Provided about the Residues to Determine the Appropriate Testing Required in Laboratory Animals to Estimate the Cumulative Effects of Human Exposure to the Residues (Step 2).* The composition of a drug's residue may vary from the extremes of less than 1 percent parent drug and more than 99 percent metabolites to less than 1 percent metabolites and more than 99 percent parent drug, though the latter case would be rare. The Food and Drug Administration must assess the toxicity of the total residue because this is what man will be exposed to in food. This assessment would be based ideally on the identification of each of the metabolites in the residue, their synthesis, and subsequent testing of the parent drug and all the metabolites for the cumulative effects of exposure. However, this approach is usually impractical.

Various approaches are available to limit the number of residue compounds for which toxicity testing is required to provide a sufficiently conservative estimate of the toxicity of the total residue. However, Norwich has not presented any quantitative or qualitative information about the total residues of nitrofurazone in the edible tissues or milk.

Therefore, the Director concludes that not only is the toxicological testing provided for nitrofurazone inadequate, but he is unable to determine whether testing of metabolites in addition to the parent drug is required to determine the safe level of human exposure to residues in food. Step 2 has not been fulfilled; therefore, the requirements for step 3 cannot be fully determined.

C. *Adequate Dose-Response Data in Test Animals to Determine the Cumulative Effects of Dietary Exposure to the Residue Compounds Has Not Been Provided; Therefore, the Maximum Acceptable Concentration of Residues in Food Cannot Be Established Using Appropriate Safety Factors to Assure that Human Exposure to Residues in the Total Diet Does Not Exceed a Level Deemed Safe (Step 3).* As discussed under section I of this notice, the Director has concluded that adequate testing of the parent drug, nitrofurazone, has not been provided. Also, under steps 1 and 2 (paragraphs A and B of this section), the Director concluded that adequate information has not been provided about the residues to determine if toxicity testing of residue compounds in addition to the parent drug is required to estimate conservatively the cumulative effects of exposure to the residues.

The Director concludes that without such essential information about the residues and adequate toxicity testing data, he cannot, in light of the new evidence, determine if nitrofurazone requires regulation as a carcinogenic animal drug or, alternatively, to reasonably estimate a maximum acceptable level of residue in food that can be deemed safe. Therefore, he concludes that adequate information has not been provided to assess the cumulative effects of exposure and to determine the appropriate safety factors required in section 512(d)(2)(B) and (C) of the act.

D. *Sufficient Information about the Residues Has Not Been Provided to Establish the Conditions Necessary for the Analytical Method Used to Control Residues (Step 4).* The evaluation of an analytical method for residues first requires a determination of the tissues to be analyzed, the compound to be measured, and the lower limit of measurement that must be achieved to control total residues adequately. Only then, after selection of these parameters, is it meaningful to consider whether the method proposed by the sponsor meets other characteristic necessary for a practical reliable method.

1. Determination of the target tissue: The most practical approach to monitoring and controlling residues in the field is dependent on the selection of that edible tissue in which residues require the longest time to deplete to a "safe concentration." Therefore, by monitoring this tissue to assure that residues are below a "safe concentration," it can be assured that all residues in the carcass are below "safe concentrations." In lieu of this determination (identification of the target tissue), all edible tissues, including milk where applicable, must be monitored. This would place an additional burden on public funds for monitoring.

The target tissue is readily identified if the requirements of step 1 of the evaluation process are met. Norwich has failed to meet these requirements for any of the approved uses of nitrofurazone.

2. Determination of the compound (marker) which can be measured by the analytical method to assure control of total residues: Because the radiolabeled drug approach used initially to estimate total residues is not applicable to regulatory use, an alternative approach must be developed to assure control of total residues after drug approval. This is achieved by selecting an appropriate residue compound, which may be the parent drug or one or more metabolites, in such a way that its measurement serves as a valid indicator that when the marker compound is below a certain level in the target tissue, all residues in edible tissues are at safe levels. This step is esential to determine if the method of analysis for regulatory use is adequate. To determine a valid marker, adequate information, e.g., information derived from conducting an adequate metabolism study, is required that relates the proportionate amount of each of the residues to the total residue and their change in quantitative relationships with time. The marker must be a known proportion of the total residue when the total residue depletes to the "safe concentration" in the target tissue. It also must be structurally identified so that an adequate and specific method of analysis can be developed for its determination.

The regulatory method proposed by Norwich to control residues uses the parent drug, nitrofurazone, as a marker in each of the major edible tissues. Norwich has failed to submit substantiating evidence to show that the measurement of nitrofurazone is adequate to control total residues of potential concern or, alternatively, to show that all other residues are safe and do not need to be controlled.

3. Determination of the lower limit of measurement required for the analytical method: Establishment of the lower limit of measurement required for the assay begins with the availability of adequate toxicological testing to determine the cumulative effects of exposure. As described in section I of this notice and in steps 2 and 3 of this section, the sponsors have not provided adequate testing. Therefore, an estimate of the acceptable level of exposure to total residues in food cannot be determined.

Even if adequate testing data were available to estimate the acceptable level of exposure to total residues in food, Norwich has not provided adequate information about a marker compound to determine the lower limit of measurement required for the assay.

As previously stated, Norwich has proposed that the measurement of nitrofurazone is adequate to assure control of residues, but it has not provided any information to show whether nitrofurazone may be, for example, 80 percent of the total residue or 10 percent of the total residue. Therefore, it is not possible to determine at what concentration the marker must be measured to assure that total residues are at a "safe concentration."

After making the adjustment for the percent of total residue that the marker represents, one further adjustment is necessary to determine the lower limit of measurement required for the assay. This last adjustment takes into account the degree to which the method of analysis recovers the residue from the sample. Minimum standards for recovery for the acceptance of the method take into account that 100 percent recovery is rarely achieved and that a combined evaluation of the precision and accuracy for measurement of the marker must be considered.

Norwich is aware of the principles just described for the selection of a target tissue, marker compound, and the adjustments required to establish condi-

V41160 AUG 17 76 UMI

tions for the assay; this is evidenced by Norwich's citation of a paper prepared by two FDA scientists in Norwich's submission for furazolidone (NF–180) to FDA on November 11, 1975. The cited paper by M. K. Perez and N. E. Weber, entitled "Requirements for Metabolic Studies—Impact on Food Safety Regulation" was presented at the Gordon Research Conference on Drug Metabolism, June 23–27, 1975.

The Director concludes that he cannot make an assessment of the toxicity, including the carcinogenic potential and potency, of nitrofurazone without adequate testing data; he cannot conclude that nitrofurazone serves as a valid marker for control of total residues of toxicological interest; and therefore he cannot without adequate supporting data determine the conditions necessary for the analytical method used to control residues. The requirements of step 4 have not been fulfilled. He concludes that the new evidence on nitrofurazone (NF–7) and furazolidone (NF–180) leads to a determination that the methods of analysis for residues of nitrofurazone (NF–7) are not shown to be adequate.

E. *Practicable Methods of Analysis are Not Available to Assure that Total Residues in the Daily Diet of Humans Do Not Exceed a Level Deemed Safe (Step 5).* Section 514.1(b)(7) (21 CFR 514.1 (b)(7)) requires the sponsor of a new animal drug application to provide a practicable method of analysis to be used for the control of residues of its product. A "practicable" method is defined by FDA as one that reliably measures the compound throughout all residue levels of interest, and also is sufficiently rapidly and reasonable in terms of the expertise and equipment required to be applicable for use in the surveillance and control of residues. "Reliability" is a combination of accuracy, precision, and specificity. Accuracy and precision are quantitative terms. "Accuracy" is the measure of deviation from the true value, and "precision" refers to the variability of measurement in replications either by one analyst or within a laboratory or between laboratories. A method may provide reliable measurement if the measurements are not too variable even though it measures less than or more than 100 percent of the true value. Therefore, accuracy and precision must be considered together.

"Specificity" is a qualitative term. The measurements obtained by the method must reflect only the compound of interest. Because the method will be used on samples from animals for which exposure history is unknown, the techniques used in the method must be adequate to assure not only the integrity of the measurements, but also the identity of the residue to the exclusion of other interfering substances. Therefore, when the quantitative measurements are made by techniques that are not inherently specific, a confirmatory test is required as part of the official method to assure the identity of the residue.

The submitted methodology for nitrofurazone is based on chromatographic separation and fluorometric determination; both are nonspecific techniques. The uses of nitrofurazone were approved before that time when regulatory methods of analysis for residues were required. In 1960, a method of analysis for tissues capable of measuring nitrofurazone as low as 1 part per million (ppm) was published in Analytical Chemistry, 32(12):1676–1678. In 1962, FDA was provided with a method of analysis for nitrofurazone in milk; the method was claimed to be capable of measuring nitrofurazone as low as 0.01 ppm. This method was subsequently published in the Journal of Agricultural and Food Chemistry, 12:121, 1964. About the same time, revised methodology for tissue residues was also submitted to FDA; the revised methodology was claimed to be capable of measuring nitrofurazone as low as 0.1 ppm in tissue.

None of these methods have been subjected to validation trials by FDA. The data submitted in support of these methods only include studies of the recovery of nitrofurazone from samples to which known amounts of the drug have been added, i.e., spiked samples. No evidence has been submitted to show that the methods will satisfactorily recover nitrofurazone when the residue is naturally incurred through drug treatment, i.e., dosed samples.

After FDA received reports that nitrofurans had induced tumors in female rats, the drug sponsors were advised in 1969 and officially informed in a conference held January 4, 1971, that the residue methods were no longer deemed adequate. They were told that methods capable of measuring at least 2 ppb of the drug in edible tissues and at least 0.2 ppb of the drug in milk were required. In response to the notices of opportunity for hearing, Norwich and other sponsors submitted newly developed methods of analysis.

For the measurement of tissue residues, Norwich concentrated primarily on the method for furazolidone (NF–180) in the belief that this method could be readily adopted for the measurement of tissue residues for the other nitrofurans.

A discussion of the results on the evaluation of the furazolidone (NF–180) method for tissue analysis (including swine liver, kidney, muscle and fat and poultry liver, kidney, muscle and skin with adhering fat) is presented in the May 13, 1976 FEDERAL REGISTER notice for furazolidone. In that notice the Director concluded that the methods for edible tissue were not shown to be adequate.

Although the drug sponsors have submitted far more information to support the adequacy of the methods of analysis for furazolidone (NF–180) than they have submitted on methods of analysis for nitrofurazone, the sponsors have in the intervening years submitted some progress reports on the development of analytical methods for nitrofurazone.

In 1971, three different progress reports were submitted on the analysis of nitrofurazone in chicken tissues.

1. Project No. 475–17 Interim Report, "Chemical Method for Determination of Concentrations of Nitrofurazone in Chicken Liver at 2 ppb." Submitted to FDA with cover letter dated April 29, 1971.

The method presented was based on an ultraviolet densitometric measurement similar to the original method submitted for furazolidone (NF–180), which was rejected by FDA after a desk review of the supporting data. In the nitrofurazone submission, no recovery data were submitted. The results of analysis of five control chicken liver samples were submitted and compared to results obtained on three samples, each fortified with 2 ppb and 4 ppb of nitrofurazone. The measured responses for the samples fortified at the same level were quite variable, though it appeared that the method could perhaps distinguish between fortified and nonfortified samples. In a conference on May 4, 1971, Norwich was advised that the data were too meager for reasonable evaluation.

2. By letter dated May 17, 1971, Norwich provided data on the recovery of nitrofurazone from chicken liver, muscle, and skin-with-fat samples. The same ultraviolet densitometric method described in study 1 above was used. Norwich reported the following recoveries and standard deviations from tissues fortified with 2 ppb of nitrofurazone: liver (49±15%, muscle (47±14%), and skin-with-fat (39±5%). These recoveries were presumably based on the use of an internal standard where corrections were made for aliquot losses and losses in partitioning between solvents; so, they appear higher than the actual recoveries. The firm submitted data for samples fortified with nitrofurazone at 2 ppb, 4 ppb, and 6 ppb. These comparative data showed that the method could not reliably distinguish between the presence of 2 ppb and 4 ppb of nitrofurazone in liver tissue. Also, the single skin-with-fat sample fortified with 6 ppb nitrofurazone produced a lower reading than the one sample fortified with 4 ppb of nitrofurazone.

3. On September 17, 1971, Norwich submitted data on the analysis of chicken kidney for nitrofurazone using the same ultraviolet densitometric method used in studies 1 and 2 described above. Data were provided on peak areas, but sufficient data were not provided to calculate recoveries. The analytical response for the control tissues was as high as 66 percent of the response obtained with tissues fortified with 2 ppb of nitrofurazone.

After 1971, Norwich apparently abandoned the ultraviolet densitometric approach and concentrated on the method of analysis for furazolidone (NF–180) that was subjected to a method trial by FDA and USDA in 1972. They also explored the use of new instrumentation (programmed multiple development thin layer chromatography (PMD–TLC)) and mechanization of spotting thin layer chromatography plates.

By letter dated September 6, 1974, Norwich submitted a status report to FDA on the analysis of nitrofurazone in chicken and swine tissue using the PMD–TLC method. This report included the results of analyses of samples of chicken muscle, kidney, and skin-with-fat and swine muscle, fat, liver, and kidney fortified at 2 ppb, 4 ppb, and 6 ppb with nitrofurazone. No data were presented on the analysis of chicken liver. Recoveries for the samples fortified with 2 ppb of nitrofurazone were calculated by FDA as follows: chicken muscle (112–141%), chicken kidney (84–103%), chicken skin-with-fat (46–76% with the exclusion of one of the four samples where there was an interfering fluorescent band), swine liver (108–142%), swine muscle (82–127%), swine kidney (81–117%), and swine fat (67–116% with the exclusion of one of four samples as an outlier).

Due to the within-laboratory variability in the results, FDA chemists rejected the data as not adequate to warrant interlaboratory validation of the method. It appeared unlikely that the method, if subjected to validation trials, would prove reliable for measurement of nitrofurazone at 2 ppb. Also, as stated previously, until adequate data are presented as described in steps 1 through 4 of the safety evaluation process, the conditions required of a regulatory assay cannot be determined and, therefore, a validation trial is of no value at this stage.

No supporting data have been presented on a method of analysis for edible carcass tissue of food animals other than chickens and swine for which nitrofurazone is approved.

In response to the March 31, 1971 notice of opportunity for hearing on nitrofurazone, Pharm-House Inc. submitted a method of analysis for nitrofurazone in milk; it claimed the method could detect nitrofurazone as low as 2 ppb. The method was based on colorimetric determination of a phenylhydrazone derivative of nitrofuzazone. This method was based on essentially the same derivatization technique and measurement as the method submitted by Norwich in 1962, but the Pharm-House method used a different chromatographic cleanup of the extract and concentration of the colored analyte before the colorimetric determination of the nitrofurazone derivative. No recovery data were submitted and a satisfactory standard curve was not presented. Control milk samples showed a response 50 percent of that measured for samples fortified with 2 ppb of nitrofurazone. Only two samples at each fortification level were reported; that is an insufficient number. From the data submitted it is doubtful that the method could provide reliable measurement of nitrofurazone at 2 ppb even if this level were found adequate.

None of the submitted methods of analysis for nitrofurazone in edible carcass tissue or milk are inherently specific, and no confirmatory tests have been provided by the sponsors that could be used to confirm the identity of any residue found by the proposed assay methods.

The Director concludes that the sponsors have not shown that adequate practicable methods of analysis for residues of nitrofurazone in edible carcass tissue and milk are available. Appropriate data have not been provided to determine if nitrofurazone can be used as a marker to control total residues in edible products, nor to determine the lower limit of measurement required for a method to assure that total residues do not exceed safe levels. The Director concludes that the methods proposed by the sponsors for the determination of nitrofurazone are not quantitative and are not adequately specific at the levels of measurement that are likely to be necessary based on the tumorigenic property of the drug. Therefore, the methods proposed are not quantitatively or qualitatively reliable practicable methods for regulatory use, even if it were established that measurement of nitrofurazone was adequate to control total residues. Therefore, step 5 and the requirements of section 512 (b)(7) of the act have not been met.

F. *Practical Conditions of Use Cannot be Prescribed on the Label of Products to Assure Safe Use (Step 6).* Section 512 (b)(8) of the act requires that conditions of use assure that there are no unsafe residues, and section 512(d)(2)(D) of the act adds a further requirement that these conditions be such that they are "reasonably certain to be followed in practice."

It is required by FDA that residue depletion studies be conducted for each drug use under simulated field use conditions to develop data for establishing the withdrawal period. A withdrawal period is the time following drug treatment when, because of residues, a treated animal cannot be slaughtered for food and its milk must be discarded. A withdrawal period must be sufficiently long to assure adequate residue depletion, but it cannot be so long that it is impractical and unlikely to be followed in practice. An adequate analytical method for residues, preferably the same method that will be approved for regulatory use, must be used to measure the residues in the depletion studies.

Only two reports have been submitted by the sponsors of nitrofurazone on residue depletion, and both studies measured only the presence of the parent drug nitrofurazone:

1. Final Report Problem 466.03.23, Phase II and 466.27.23, "Tissue Residues in Swine from Furacin Water Mix," April 19, 1967, NADA 9–415, Vol. 3. From cover letter to FDA, dated January 8, 1971.

Swine were administered nitrofurazone at 0.011 percent in drinking water for 14 days. No nitrofurazone was detected in the edible tissues (liver, kidney, fat, or muscle) at zero day's withdrawal by a chemical method of analysis that Norwich claimed was capable of detecting nitrofurazone as low as 0.1 ppb.

2. Dr. J. L. Mertz's Memorandum to Dr. J. P. Heotis, "Tissue Residue Withdrawal Studies for Nitrofurazone (Amifur) in Chickens Fed Nitrofurazone at 150 Grams Per Ton of Feed for 14 Days," November 8, 1971, NADA 9–415, Vol. 3.

Chickens were fed nitrofurazone at 150 grams per ton in feed for 14 days. Animals were slaughtered at 3, 4, and 5 days after withdrawal from medication. Edible tissues were examined using the TLC-ultraviolet based methodology, which the sponsor claimed could detect nitrofurazone as low as 2 ppb. However, FDA had not accepted this method because of the variability in the recovery data submitted. Only kidney samples were analyzed after 3 days' withdrawal. Samples of kidney, liver, muscle, and skin with fat were analyzed at 4 and 5 days' withdrawal. One of four kidney samples was reported to contain 2 ppb of nitrofurazone at 3 days' withdrawal. One of two kidney samples was reported to contain nitrofurazone above 2 ppb after 5 days' withdrawal. All other samples analyzed at the various withdrawal times were reported to contain no detectable nitrofurazone.

No residue depletion data have been provided for the other food-producing animals for which the use of nitrofurazone is approved, i.e., poultry other than chickens and large animals other than swine.

Nitrofurazone was originally approved for the treatment of mastitis in 1949, including both lactating and dry cow treatment. However, in 1963, the sponsor revised the labeling to limit its use to dry cow treatment only. No residue depletion studies have been submitted to demonstrate whether this dry cow treatment results in residues in milk after the treated animals freshen or whether the treatment would result in residues in the edible carcass tissues that would be of concern in the event the animal was culled from the dairy herd for slaughter.

The Director concludes that withdrawal periods are likely to be necessary for the safe use of nitrofurazone. The currently labeled withdrawal period for chickens, turkeys, and swine voluntarily used now by the sponsors is 5 days. The Director concludes that data to support this withdrawal period or any practical withdrawal period for any of the uses have not been provided because:

a. No data for any of the uses have been submitted on the amount of total residue (parent drug and metabolites) after drug treatment and the depletion with time of total residues of concern.

b. No data have been provided to show that only the parent drug compound is of concern in evaluating the safety of the residue.

c. No data have been provided to show whether the measurement of nitrofurazone in edible products can be used to control total residues and, if so, at what level its measurement is required to assure that all residues are below concentrations deemed safe.

d. The residue depletion studies submitted for chickens and swine are not shown to be adequate even if nitrofurazone could be shown to be an adequate marker for total residues. In the swine study the method of analysis would not be sufficiently sensitive based on the known tumorigenic properties of the drug. Similarly, the method use in the chicken study, even if it could be shown that nitrofurazone measurement at 2 ppb was adequately sensitive, is not acceptable because the supporting data on the

V 41 160
AUG 17 76
UMI

method are not adequate to assure the reliability of results.

e. No depletion data have been submitted for uses of nitrofurazone in poultry other than chickens and in large animals other than swine, or for safe use of nitrofurazone as a dry cow treatment for mastitis.

The requirements of step 6 and section 512(b)(8) and (d)(2)(D) of the act have not been fulfilled.

Therefore, the Director is hereby withdrawing the notice of opportunity for hearing issued March 31, 1971, proposing to withdraw approval of NADA's providing for the use of nitrofurazone (NF–7) in food-producing animals. Under section 512(e)(1)(B) of the act (21 U.S.C. 360b(e)(1)(B)), the Director proposes to withdraw approval of certain existing NADA's providing for the use of nitrofurazone in food-producing animals on the grounds that such use violates section 512 of the act in that such use has not been shown to be safe.

This notice applies to all outstanding NADA's for the use of nitrofurazone in food-producing animals. All such applications known to FDA are listed below by NADA number and by each applicant's name and last known address in FDA records. Copies of this notice are being forwarded by registered or certified mail to each of the known applicants. Notice to other applicants or holders of NADA's whose identity is not known to FDA is given by this publication.

6–395, 7–801, 8–324, 8–410, 8–529, 8–784, 10–741, Hess & Clark, Division of Rhodia, Inc., 7th and Orange St., Ashland, OH 44805.
6–475, 8–129, 9–415, Eaton Laboratories, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815.
6–649, E. F. Drew & Co., Farm Feed Division, Boonton, NH 07005.
9–013, Nopco Chemical Co., 60 Park Place, Newark, NJ 07102.

Any holder of an approved application that elects to request an opportunity for hearing pursuant to section 512(e)(1) of the act and § 514.200 of Chapter I of Title 21 of the Code of Federal Regulations must file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, a written appearance requesting such hearing by September 16, 1976, giving the reasons why approval of the application should not be withdrawn, and providing a well-organized and full-factual analysis of the scientific and other investigational data such holder is prepared to prove in suppport of its opposition to the Director's proposal. A request for hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is one or more genuine and substantial issue(s) of fact requiring a hearing. Responses to this notice and copies of published literature cited in this notice may be seen at the office of the Hearing Clerk, Food and Drug Administration, during regular business hours, Monday through Friday.

If a hearing is requested and is justified by any holder's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on withdrawal of approval of the foregoing NADA's will be open to the public. If, however, the Director finds that portions of the applications that serve as a basis for such a hearing contain information concerning a method or process that is entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 16, 1976 (41 FR 24262)).

A discussion of the economic and environmental impact of this action is set forth in the notice of proposed rule making on nitrofurazone published elsewhere in this issue of the FEDERAL REGISTER.

It is hereby certified that the economic and inflation effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

Dated: August 6, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76 23622 Filed 8-10-76;11:19 am]

[Docket No. 76N-0233]

HESS & CLARK, ET AL.

Nihydrazone (NF–64); Opportunity for Hearing on Proposal To Withdraw Approval of Certain New Animal Drug Applications

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of approved new animal drug applications (NADA's) Nos. 13–195 and 13–200 for the use of nihydrazone (NF–64) in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) (hereinafter, "the act") on the grounds that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that nihydrazone is not shown to be safe for use under either the approved or currently labeled conditions of use. Holders of approved NADA's have until September 16, 1976 to submit requests for a hearing in accordance with § 514.200 (21 CFR 514.200).

In FR Doc. 76–23620, appearing elsewhere in this issue of the FEDERAL REGISTER, the Director is issuing a notice of proposed rule making to revoke the appropriate provisions of sections affected by the proposed withdrawal.

Nihydrazone (NF–64) is a member of a class of chemicals called "nitrofurans," which are used at low levels in animal feed as antibacterial and antiprotozoan agents to increase resistance to disease, thereby assisting growth. Nitrofurans also have prescribed therapeutic uses. In addition to nihydrazone (NF–64), which is the subject of this notice, there are three other nitrofurans that are used in food-producing animals and are or have been subject to agency action: nitrofurazone (NF–7) and furaltadone (NF–260), which are subjects of companion notice in this issue of the FEDERAL REGISTER; and furazolidone (NF–180), which was the subject of notices in the FEDERAL REGISTER of May 13, 1976 (41 FR 19906–19907). A fifth nitrofuran, furamazone (NF–84), is not at this time the subject of contemplated agency action for withdrawal.

Nihydrazone (NF–64) was first approved in 1963. It is currently approved for use in medicated broiler and replacement chicken feeds for the prevention of chronic respiratory disease (air sac infection), pullorum disease, fowl typhoid, paratyphoid (salmonellosis), histomoniasis (blackhead) and coccidiosis caused by *Eimeria tenella, E. necatrix, E. maxima,* and *E. brunetti.*

The original applications were approved without a requirement that the drug treatment be discontinued for a specified period of time before slaughter of the animals. However the sponsors, Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., and Hess & Clark, currently a Division of Rhodia, Inc., voluntarily revised the labels in January 1971 to require that chickens be withdrawn from nihydrazone (NF–64) 4 days before slaughter.

The Food and Drug Administration issued a notice of opportunity for hearing published in the FEDERAL REGISTER of March 31, 1971 (36 FR 5927) proposing to withdraw approval of NADA's for nihydrazone (NF–64) on grounds that:

Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

Similar notices were published for nitrofurazone (NF–7) in the FEDERAL REGISTER of March 31, 1971 (36 FR 5926) and for furazolidone (NF–180) and furaltadone (NF–260) on August 4, 1971 (36 FR 14343). The history leading to the publication of these 1971 notices is discussed in the May 13, 1976 notice for furazolidone (NF–180).

Norwich and Hess & Clark responded to the March 31, 1971 notice concerning nihydrazone (NF–64) by filing requests for a hearing. Norwich assured FDA that it had adequate methods of analysis to determine residues and adequate data to show that under the currently labeled conditions of use the drugs were safe. In addition, Norwich set forth a hypothesis that nitrofurans were not primary

tumorgens but stimulated spontaneous tumor growth by disrupting the normal hormone balance.

Norwich has continued to submit data pertaining to the use of nihydrazone (NF–64) in food-producing animals. The Food and Drug Administration has determined that the new evidence, evaluated together with the evidence available when the approvals were granted, fails to demonstrate that either the approved or currently labeled uses of nihydrazone are shown to be safe. The Director is withdrawing the March 31, 1971 notice of opportunity for hearing concerning nihydrazone (NF–64), and is issuing this new notice, which presents in detail all the evidence now available to him, and the basis on which he proposes to withdraw approval of all uses of nihydrazone (NF–64) in food-producing animals in accordance with section 512(e)(1)(B) of the act.

Section 512(e)(1)(B) of the act requires that FDA withdraw approval of an NADA when "new evidence • • • evaluated together with the evidence available • • • when the application was approved, shows that such drug is not shown to be safe • • •." Under this provision, the new evidence and the evidence submitted at the time the application was approved must be evaluated to determine whether all of the requirements for safety contained in section 512 of the act continue to be fulfilled.

THE DETERMINATION OF "SAFETY" IN SECTION 512

Section 512 of the act requires that the use(s) of a new drug in food-producing animals must be supported by adequate data supplied by the sponsor in applications that include, among other things, demonstration that the drug's use will not result in unsafe residues in human food.

Under section 512(b) of the act, whenever a drug's use may result in residues of the drug in food, an application must include not only full reports of investigations to show that the use of the drug is safe, but also a description of practicable methods for monitoring food to assure there are no unsafe residues in human food attributable to the drug's use, and demonstration that the conditions of use are adequate to assure there are no unsafe residues.

Under section 512(d)(2) of the act, FDA is required, in the evaluation of the supporting safety data, to consider, among other things, the following:

1. The probable consumption of such drug and of any substance formed in or on food because of the use of such drug (i.e., probable human consumption of residues, including the parent drug and metabolites).

2. The cumulative effect of such drug on man or animals, taking into account any chemically or pharmacologically related substance (i.e., toxicological effects of the compounds comprising the residues).

3. Safety factors that, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data (i.e., establishing "safe" levels of residues using appropriate safety factors to extrapolate animal data on cumulative effects to humans).

Under section 512(d)(1)(H) of the act, additional requirements must be met if the drug is a carcinogen.

The determination of safety within the meaning of section 512 of the act for a drug whose use may result in residues in the edible products of the treated animal, whether or not the drug is a carcinogen, requires a multistep process. These steps form an orderly procedure by which information is derived to satisfy each of the three considerations stated above.

Step 1. Assessment of the total residues in edible products and the depletion of those residues with time following cessation of drug treatment in order to determine probable human consumption (section 512(b)(1) and (d)(2)(A) of the act).

Step 2. Assessment of information about the residues to determine the appropriate testing in laboratory animals required to estimate the cumulative effects of human exposure to the residues (section 512(b)(1) and (d)(2)(A) of the act).

Step 3. Acquisition of dose-response data in test animals to determine the cumulative effects of dietary exposure to the residue compounds from which the maximum acceptable concentration of residues in food can be established using appropriate safety factors to assure that human exposure to residues in the total diet does not exceed a level deemed safe (section 512(b)(1) and (d)(2)(B) and (C) of the act.) In the case of a carcinogenic drug, a conservative statistical extrapolation of the tumor data is used to estimate a level of residue exposure that could be considered insignificant and poses essentially no risk of cancer and operationally defines "no residue" for purposes of computing the residue assay requirements under section 512(d)(1)(H) of the act.

Step 4. Acquisition of information about the residues to (1) determine the tissue (called the target tissue) from which residues require the longest time to deplete to safe levels and which, therefore, must be monitored by the regulatory assay (step 5), and (2) determine the compound (called marker) that is to be measured in the regulatory assay so that by its measurement there is assurance that no unsafe resides occur from the use of the drug (section 512(b)(7) of the act).

Step 5. Development of a practicable method of analysis that can measure the marker in the target tissue at a concentration that assures that total residues in the daily diet of humans do not exceed the level established in step 3 as safe (section 512(b)(7) of the act).

Step 6. Demonstration that practical conditions of use can be prescribed on the label of the product to assure there will be no unsafe residues in the food products from treated animals (section 512(b)(8) and (d)(2)(D) of the act).

Each of the steps involves principles that are essential for a determination of food safety and compliance with the requirements of the act to assure there are no unsafe residues in human food from the animal drug use. Each step builds upon the preceding step. Therefore, failure to accomplishment any one of the six steps in whole or in part for any drug ordinarily will preclude a sponsor's fulfilling its obligation under the act to determine probable consumption of residues and cumulative effects of exposure, and to establish safe conditions of use with appropriate regulatory methods of analysis to control residues when deemed necessary.

New evidence concerning nihydrazone (NF–64) not available when the applications were approved includes, among other things, a demonstration that nihydrazone induces mammary tumors in female rats. The Director has evaluated all the data now available, including the new data received since 1963 when uses for nihydrazone were first approved and the data available to FDA at the time of approval, and has concluded that the approval of NADA's for nihydrazone must be withdrawn under section 512(e)(1)(B) of the act because:

1. Adequate investigations have not been provided to show that the uses of nihydrazone are safe, as required by section 512(b)(1) of the act. Adequate information has not been provided on the probable consumption of residues, and the cumulative effects of exposure have not been determined by appropriate tests, as required by section 512(d)(2)(A) and (B) of the act. Therefore, "safe" levels of residue cannot be determined using appropriate safety factors, as required by section 512(d)(2)(C) of the act.

2. Adequate, reliable, and practicable methods of analysis are not available for monitoring food to assure there are no unsafe residues in edible tissues that are attributable to the use of nihydrazone, as required by section 512(b)(7) of the act.

3. Practical conditions of use cannot be specified in the labeling to assure there are no unsafe residues attributable to the use of nihydrazone, as required by section 512(b)(8) and (d)(2)(D) of the act.

The data on which these conclusions are based are presented in the succeeding sections of this notice. The Director first describes all the relevant new evidence bearing on the determination of safety for the uses of nihydrazone. Then he evaluates all the evidence before him using the six-step procedure necessary to satisfy a human safety determination for the use of nihydrazone (NF–64) and to meet the considerations required in section 512 of the act.

I. NEW EVIDENCE

In October 1966 and in January 1967, Norwich submitted reports of the effect in rats of feeding diets containing nitrofurans for 45 weeks. These studies included tests on nihydrazone (NF–64) and furazolidone (NF–180). In these studies it was shown that both nihydrazone (NF–64) and furazolidone (NF–180) in-

V 41 160
AUG 17 76
UMI

duced mammary tumors of similar type in female rats.

Subsequently, more extensive, longer term testing of furazolidone (NF–180) was conducted, but further testing of the carcinogenic potential of nihydrazone (NF–64) has not been undertaken. The more extensive testing of furazolidone (NF–180), as described in the May 13, 1976 FEDERAL REGISTER, shows that the drug induces cancer in both rats and mice and that the tumors and cancers were not limited to the mammary gland or the endocrine tissues of female rats.

The Director is including in this notice information available on the toxicological properties of furazolidone (NF–180) as well as nihydrazone (NF–64) because of the structural similarities of the drugs and their similar biological properties, which have been observed in the limited comparative data available. The new evidence showing that furazolidone (NF–180) is a carcinogen has a significant bearing on the Director's conclusions that the uses of nihydrazone (NF–64) are not shown to be safe.

Although it is appropriate to consider data on furazolidone (NF–180) to judge the adequacy of existing data to support the safe use of nihydrazone (NF–64) in food-producing animals, these data are not a substitute for data on nihydrazone (NF–64) that are required by the statute. Basic data are required for each drug, recognizing that slight differences in chemical structure can result in significant differences in metabolism, residues, and toxicity. Although comparative data on the biochemical and toxicological properties of related drugs may be useful and appropriate in making decisions about the degree of testing required for each drug to show there is no probable hazard, these data cannot be used as a substitute for the basic information necessary on each drug to determine the probable exposure to residues and cumulative effects of exposure.

A. *Carcinogenic Potential of Nihydrazone.* Norwich submitted data in October 1966 and January 1967 on the cumulative effects in rats of feeding diets containing nihydrazone (NF–64) for 45 weeks ("Effects of Long Term Feeding of Various Nitrofurans, October 13, 1966 and January 4, 1967, Project No. 440.07, submitted to FDA as part of a June 2, 1967 drug experience report). These studies include data on testing in female Sprague-Dawley (Holtzman strain) rats and testing in both male and female Carworth Farms (CFE strain) rats.

1. The Sprague-Dawley Female Rat Study: Thirty-five female Sprague-Dawley rats (Holtzman strain) were fed nihydrazone at about 0.06 percent (34 milligrams per kilogram (mg/kg) body weight per day) in their diet for 45 weeks, followed by maintenance on an unmedicated diet for an additional 8 weeks before sacrifice. A comparable control group of female rats was maintained on a nihydrazone-free diet for 53 weeks. At termination of the study the animals were autopsied, and tissues were examined for histopathological lesions.

The most prominent drug-related effect was the induction of tumors in the mammary glands of the female rats. Although rats develop mammary tumors spontaneously as they age, the incidence of spontaneous mammary tumors in rats just over 1 year old, depending upon the strain of rat used, can be quite loww. The nihydrazone-treated female rats had an increased number of mammary tumors, particularly the number of fibroadenomas, as compared with the control rats. The development of tumors included the finding of some mammary adenocarcinoma (cancer).

Norwich reported that no mammary tumors of any type were observed in the 33 control rats examined. It reported from histopathological examination that a total of 11 mammary tumors were found in 9 of the 32 nihydrazone-treated female rats examined. Two of the mammary tumors were reported by Norwich as adenocarcinomas. Norwich did not designate whether these cancers were found in one or two rats.

An Ad Hoc Committee was established to review the pathology data on all the nitrofurans tested in the Sprague-Dawley rat study and the Carworth Farms rat study. One member of the Ad Hoc Committee was the director of the Eppley Institute for Research in Cancer, University of Nebraska. He and his associate pathologists reviewed the pathology slides of the mammary tissues from 32 of the nihydrazone-treated rats provided by Norwich; they submitted a detailed report to FDA. They did not review all the mammry gland slides from the control rats.

Each of the reviewed slides had a rat identification number, and there were several slides for each rat. However, there was no information on the number of tumors in each rat. Therefore, it was not possible, in many cases, for the pathologists to determine which slides represented different tumors in the same rat and which were different sections of a single tumor.

The Eppley pathologists concluded from their review of the nihydrazone-treated female rats that nine of the rats had mammary tumors that were predominantly fibroadenomas and that three of these rats had mammary adenocarcinoma.

Because the Norwich report did not indicate which rats had tumors, it is not possible from the data available to determine if the tumors reported by the Eppley pathologists were from the same rats in which Norwich had reported tumors. The Eppley pathologists reported mammary adenocarcinoma in three of the nihydrazone-treated rats, whereas the Norwich report only indicates the finding of two mammary adenocarcinomas and does not indicate the number of rats with cancer. However, because the Epply pathologists did not review all the mammary gland slides from the control rats, a comparative incidence of mammary cancer cannot be determined from the reports.

A pathologist from the Bureau of Foods of FDA, who was not a member of the Ad Hoc Committee, later reviewed the pathology slides of the mammary tumors from the nihydrazone-treated rats in which the Eppley pathologists had reported mammary tumors. From his examination of the histopathological preparations provided, he reported nine slides of mammary fibroadenoma from nine rats and three slides of mammary adenocarcinoma from two rats. The mammary adenocarcinomas were diagnosed in the same two rats in which the Eppley pathologists had diagnosed mammary adenocarcinoma. However, the Bureau of Foods pathologist diagnosed a fibroadenoma in the third rat, which has been reported by the Eppley pathologsts to have an adenocarcinoma.

The Bureau of Foods pathologist also did not have information indicating which slides were multiple sections of single tumors or which represented different tumors. He did have information on the rat identification number for each set of slides. Because the Bureau of Foods pathologist did not review all the slides in the study, tumor incidence and the comparison of incidence with the control rats cannot be determined from his report. However, his report supports the Eppley pathologists' findings that mammary tumors were found in at least nine of the rats treated with nihydrazone and confirms that mammary adenocarcinoma was found in at least two of the nihydrazone-treated rats.

2. The Carworth Farms Rat Study: Nihydrazone (NF–64) was fed to 20 male and 20 female Carworth Farms (CFE strain) rats at about 0.06 percent in the diet (27 to 32mg/kg body weight per day) for 45 weeks, followed by maintenance on an unmedicated diet for an additional 7 weeks before sacrifice. A comparable control group of rats was maintained on a nihydrazone-free diet for 52 weeks. At termination of the study the animals were autopsied, and the tissues were examined for histopathological lesions.

As in the previous Sprague-Dawley rat study, the most prominent drug-related effect seen was the induction of tumors in the mammary glands of female rats. This included an increase in the number of mammary fibroadenomas and the finding of one rat with mammary adenocarcinoma.

Norwich reported that no tumors were observed in the 15 female control and 18 male control rats examined. Norwich reported from histopathological examination that 7 out of 20 nihydrazone-treated female rats examined had a total of 9 mammary tumors. It reported 1 male rat out of 18 nihydrazone-treated male rats as having a tumor mass. However, it is not known what diagnosis was made from the histopathology for this male rat. Norwich also reported that no mammary adenocarcinomas were found in the nihydrazone-treated female rats.

The Eppley pathologists reviewed the slides of the mammary tissues from the 20 nihydrazone-treated female rats provided by Norwich. They also concluded that seven of the treated female rats had mammary tumors, and they reported that

one of these tumors was a mammary adenocarcinoma.

Slides of the mammary tumors in the nihydrazone-treated female rats reported by the Eppley pathologists were later reviewed by the Bureau of Foods pathologist. He reported mammary tumors in each of the seven female rats. From his examination of the histopathological preparations provided, he reported eight slides of mammary fibroadenoma and one slide of mammary adenocarcinoma. The adenocarcinoma was in the same rat in which the Eppley pathologists had reported a mammary adenocarcinoma.

Food and Drug Administration scientists recognize the there are uncertainties and limitations in the examination of tumors to determine if they have potential for malignancy. For example, in the early stages of a mammary tumor growth, the mass may be chiefly adenomatous. As the growth continues, the supporting white fibrous connective tissue may also begin to proliferate, resulting in a fibroadenoma. Later, the adenomatous part of the neoplastic mass may entirely disappear, leaving a fibroma. Finally, a part of the adenoma of fibroadenoma may develop malignant tendencies, and that portion may then become an adenocarcinoma. All four tumor types, i.e., adenoma, fibroadenoma, fibroma, and adenocarcinoma may be present in the same tumor mass. A small focus of adenocarcinoma in the early stage of a malignant tumor may be overlooked in the tumor growth unless adequate multiple sections of the tumor are made.

Also, unless great care is exercised in the evaluation of the spread of an adenocarcinoma of the mammary gland, the metastasis along the lymphatic routes passing through, under, or near other mammary glands may be considered to be separate primary adenocarcinomas rather than a single primary growth with multiple metastases.

The reports from Norwich indicate that nihydrazone (NF–64) caused an induction of mammary tumors in female rats just over 1 year old and that there is an indication of an increase in the number of mammary adenocarcinomas compared with control rats.

Food and Drug Administration scientists conclude that both studies show that nihydrazone is tumorigenic in rats and that the data rose questions about the carcinogenic potential and poency of nihydrazone. They conclude that neither of the studies is adequate to assess the cumulative effects of exposure to nihydrazone and its carcinogenic potential and potency because the studies were not of sufficient duration and the number of animals used was not sufficient. In the Sprague-Dawley rat study only female animals were used; so it is not possible to determine whether nihydrazone might have produced effects in the male rats. In the Carworth Farms rat study, the number of males was too small to determine with any confidence that nihydrazone did not have an adverse effect. In both studies, drug-treatment was for only 45 weeks and included only one dose level. In spite of the weaknesses in the reports available, it is evident that a 45-week treatment was sufficient to induce tumors in female rates, and that some of these tumors were mammary cancers. The dose level, frequency, and duration of exposure to a compound are related not only to whether or not cancer is induced but also to the latency period before the expression of cancer. Therefore, the 45-week treatment with nihydrazone is not considered a sufficient period of exposure to determine adequately the cancer potential or potency.

The Director concludes that the available data provide sufficient cause for concern that nihydrazone may be a carcinogen and that adequate life-time testing in appropriate animal species is required to evaluate its carcinogenic potential and potency. The Director concludes that because nihydrazone is a tumorigen, dose-response data in lifetime studies, using several dose levels, are necessary to develop the information required to assess the cumulative effects of exposure and to establish conditions of safe use. Although the demonstration of cancer induction may be made on the basis of testing at only one dose level, it may be possible from the results of this testing to conclude that a drug requires regulation under the provisions of section 512(d)(1)(H) of the act, dose-response data are necessary to provide information from which FDA can establish the operational definition of "no residue" for purposes of determining the required conditions for the regulatory assay for residues of a carcinogenic drug. Regardless of whetheer adequate testing were to show that nihydrazone induced cancer or induced only benign tumors, dose-response information would be required to establish the conditions of safe use.

The Norwich data from these two studies were available at the time FDA issued the March 31, 1971 FEDERAL REGISTER notice of opportunity for hearing on the proposed withdrawal of approvals for nihydrazone (NF–64). In response to the March 1971 notice, Norwich stated that all four nitrofurans (NF–64, NF–7, NF–180, and NF–260) caused an early development of mammary tumors that were of the type normally found in aging rats, and it postulated that the nitrofurans caused these tumors only at high levels of exposure in the female rats because of disruption in the hormonal system. Norwich presented data purporting to show that the hormonal disruption that produced the tumors involved a process not applicable to humans, and that the proposed methods of analysis for control of residues were more than adequate to assure that levels of residues were below any level which might adversely affect humans.

The Norwich hormonal hypothesis is described in detail in the May 13, 1976, FEDERAL REGISTER notice on furazolidone (NF–180). The supporting information provided by Norwich for the hypothesis was primarily limited to data on furazolidone (NF–180) and some very limited comparatative data on nitrofurazone (NF–5). No data were presented on nihydrazone related to a hormonal mechanism of action.

B. *Comparative Data on Nihydrazone and Furazolidone.* Norwich has provided data on furazolidone (NF–180) from the Sprague-Dawley female rat study and the Carworth Farms rat study. It has also supplied data on testing of furazolidone (NF–180) in three chronic rat studies and one mouse study; the tests are described in the May 13, 1976 FEDERAL REGISTER notice. The data have a bearing on the Director's proposed action in this notice for nihydrazone (NF–64) and his decision to reject the Norwich hormonal hypothesis for nihydrazone (NF–64) and furazolidone (NF–180). They also have a bearing on his decision to reject the sponsor's claims that adequate studies have been provided for nihydrazone (NF–64) to support a determination that the drug uses are shown to be safe.

In the Sprague-Dawley female rat study and Carworth Farms rat study, furazolidone (NF–180) was also tested in the protocols; it was tested using a dietary level of about 0.1 percent as compared to the nihydrazone (NF–64) dietary level, which was about 0.06 percent.

In the first study, Norwich reported that 14 of the furazolidone-treated female Sprague-Dawley rats out of 32 rats examined had mammary tumors. The total number of rats with tumors reported by Norwich was roughly twiee the number of female rats with tumors reported for the nihydrazone-treated rats. However, the tumor multiplicities reflected in the total number of tumors for the furazolidone (NF–180)-treated female rats were better than three times the number of total tumors found in the nihydrazone-treated rates. Norwich reported five adenocarcinomas in the mammary glands of the furazolidone-treated rats and did not specify in how many rats or in which rats these were found. The Eppley pathologists reviewed the mammary tissue slides from 32 furazolidone-treated female rats and reported tumors in 14 of the rats. The Bureau of Foods pathologist later reviewed slides of the mammary tumors from the 14 rats and reported tumors in all of these rats. Both the Eppley and Bureau of Foods pathologists reported only one mammary adenocarcinoma and one mammary squamous cell carcinoma, each in a different rat, from the slides of the furazolidone-treated rats they had examined. In comparison with these furazolidone-treated rats, the Eppley pathologist found mammary adenocarcinoma in three nihydrazone-treated rats, and the Bureau of Foods pathologist confirmed the cancer diagnosis of the Eppley pathologist in two of the three rats.

In the Carworth Farms rat study, 15 of the furazolidone-treated female rats out of 17 examined were reported by Norwich as having mammary tumors. In com-

V41160
AUG 17 76
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parison, Norwich had reported that 7 of the nihydrazone (NF–64)-treated female rats out of 20 examined had mammary tumors. The total number of mammary tumors reported by Norwich in the furazolidone (NF–180)-treated female rats was seven times the total number of mammary tumors that it had reported for the nihydrazone (NF–64)-treated female rats.

Based on these comparative data, the Director concludes that furazolidone (NF–180) and nihydrazone (NF–64) qualitatively exhibit similar tumorigenic effects in female rats. Because the dose levels of the two drugs were not the same (nihydrazone at about 0.06 percent in the diet and furazolidone at about 0.1 percent in the diet), and because the studies are not adequate to assess the cumulative effects of exposure and carcinogenic potential and potency, the data are not sufficient for a precise comparison of the tumorigenic potencies. The Director therefore concludes that although the limited data give some indication that nihydrazone may be a less potent tumorigen than furazolidone, adequate testing of nihydrazone in lifetime studies in appropriate animal species with the development of dose-response data from the administration of nihydrazone at several dose levels is required to determine adequately the carcinogenic potential and potency of nihydrazone.

More definitive studies of the carcinogenic potential of furazolidone (NF–180) in male and female rats and mice provided by Norwich are described in the May 13, 1976 FEDERAL REGISTER notice. A summary of the findings from the three chronic rat studies and the mouse study include the following:

1. Furazolidone induced malignanices in both rats and mice.

2. Furazolidone also induced nonmalignant tumors.

3. In most cases, the induced malignant and nonmalignant tumors were found at the same sites.

4. There is some evidence that the induction of benign tumors is related to the induction of, or progression to, malignancies as a function of dose.

5. There are marked sex differences in the tumor responses in the rats. There are also some commonalities in the tumor sites of the male and female rats.

6. Mammary tumors were the predominant effect in the female rats.

7. Nonmammary tumors were induced in the Sprague-Dawley male rats, with no one type singularly significant. In the Fisher rats, however, several specific nonmammary tumors were induced in both male and female rats.

8. The major target site for tumors in the mouse was the lung. There was no evidence of a significant difference between male and female mice in tumor response, and there were no tumorigenic effects in the endocrine tissues.

9. The induction of tumors involved not only increased incidence of animals with tumors but also an increased number of tumors per animal.

The Director has rejected the data supplied by Norwich to support the hormonal hypothesis for furazolidone (NF–180). A discussion of these data and his basis for rejection are also presented in the May 13, 1976 FEDERAL REGISTER notice. The Director also rejects the Norwich reply to the 1971 FEDERAL REGISTER notice on nihydrazone (NF–64), which attempted to explain the tumorigenic effects of nihydrazone primarily on the basis of the furazolidone (NF–180) data relative to the hormonal hypothesis. The Director finds that the new evidence provided by the more extensive chronic testing data for furazolidone (NF–180), which shows that tumors were induced in both male and female rats and mice and were not limited to tumors of the mammary gland or endocrine tissues, is inconsistent with the hormonal hypothesis.

Therefore, the Director concludes that the comparative data available on furazolidone (NF–180) and nihydrazone (NF–64) in the Sprague-Dawley female rat study and the Carworth Farms rat study, together with the data on the four chronic studies of furazolidone (NF–180) in rats and mice, indicate that adequate testing of nihydrazone (NF–64) has not been provided to assess the cumulative effects of exposure necessary for a determination of safety.

II. USES OF NIHYDRAZONE ARE NOT SHOWN TO BE SAFE

To assess the safety of residues using criteria described in section 512(b) of the act and elaborated on in section 512(d)(2) of the act requires a multistep process that must take into account consideration of the metabolism of the drug, determination of the resulting residues, including parent drug and the metabolites, the depletion of those residues with time after drug treatment, and the cumulative effect of human ingestion of the residues. The six basic steps involved in this evaluation process have been previously described above.

A: *The Amount of Total Residue in the Edible Products and the Depletion of Residues with Time must be Determined (Step 1).* When a drug is administered to an animal, the drug may be altered by the animal into a variety of compounds called metabolites. The process of alteration may be such that little residue of the parent drug remains in the animal tissue, but the amount of metabolites may be substantial. Therefore, the total residue with which FDA is concerned includes both the parent drug and the metabolites.

The nature and amount of each of the residues depend in part upon the metabolism in a particular species. Because there are species differences in metabolism, it is necessary to determine metabolism and residues in each of the species for which the drug is used. Therefore, § 514.1(b)(7)(i) (21 CFR 514.1(b)(7)(i)) includes metabolism and residue depletion studies among those kinds of studies that are used to determine residues.

Exposure to nihydrazone in the diet-induced mammary tumors in female rats. It is not known whether the parent drug was the active agent or whether the responses were due to one or more active metabolites produced as a result of ingestion of the parent drug by the rats. Such lack of knowledge is not unique to nihydrazone; it is typical of many tumorigenic and carcinogenic agents that the mechanism of the induction of tumors or the identification of the active agent is not known. Therefore, when considering the safety of food from nihydrazone-treated animals, all drug-related residues to which humans may be exposed must be assumed to be potentially carcinogenic unless convincing evidence is presented to the contrary. Such evidence consists of not only the identification of the residues that are claimed to be safe but also adequate toxicological studies showing that the levels of each of the residues claimed to be safe are in fact safe. All residues not identified or not shown to be safe must be considered potentially carcinogenic and must be required to be below a level of measurement that can be considered insignificant and to pose essentially no risk of cancer in humans.

The use of chemical assays to determine initially the total residues would require knowledge about what residues occur (parent drug and metabolites) and would require the availability of adequate methods of analysis to measure at the level of interest each one of the residues in the edible tissues. Therefore, this chemical approach is usually not feasible. Instead, a radiolabeled parent drug is used to provide a practical and adequate approach to the initial measurement of total residues in the edible tissues. In this approach, the drug is synthesized with a radioisotope, so that when the drug is administered to the test animal according to label directions, all resulting residues of potential interest can be measured in the edible products. This is accomplished by counting the radioactivity in the tissues and converting these measurements to an estimation of the amount of residue expressed as parent drug equivalents.

By using radiolabeled nihydrazone administered to chickens, Norwich has measured total radioactivity in the tissues. Norwich has provided these data, which include the study of residue deposition in edible tissues as a function of the length of time of drug administration and the depletion of residues with time after cessation of drug treatment. Comparative data were presented with a carbon-14 label ("C) on the first carbon in the side chain at the 2-position of the furan ring (formyl label) and a "C label on the carbonyl carbon of the side chain (acetyl label). Both the nitrofuran part and the hydrazine part of the molecule are of toxicological interest. These studies show that under the approved conditions of use for nihydrazone, residues in edible tissues of chickens, as reflected by measurement of the radioactivity expressed as nihydrazone equivalents, are in the parts per million (ppm) range. Evidence is provided to show that the parent drug, nihydrazone, appears to be only a small fraction of the total radioactivity in the tissue. Other data are presented

to further define the metabolic pathways of nihydrazone.

First, the studies on tissue residues in chickens are discussed. These also include balance studies to account for the percent of administered dose eliminated and that retained in the tissues. Second, the studies relating to the metabolic pathways are discussed. These include studies of urinary metabolites in chickens, rats, and rabbits, as well as synthetic studies, bearing on the questions. The discussion in this second part is organized to present, in turn, evidence for (1) a reductive pathway, (2) a hydrolytic pathway, (3) a pathway involving formation of "415" metabolite, and (4) a discussion of possible ring cleavage.

1. *"C-Nihydrazone studies in chickens.* a. Food and Drug Research Laboratories (FDRL), under contract to Norwich, presented a report dated November 27, 1959, which was submitted in NADA 13–200, Vol. 3. In these studies, white Leghorn cockerels from the hatchery were maintained on niyhdrazone-medicated feed to a weight of 200 grams (20 to 22 days on medication). "C-nihydrazone (formyl label) was then administered twice daily to three of the cockerels at a daily dose of 4 mg/day. The birds were sacrificed after 2, 4, and 9 days on treatment with the radiolabeled drug.

Norwich stated that the result of the balance study, to account for the percent of administered dose eliminated versus that retained, showed the chick attained body equilibrium with respect to the drug after 2 days and before the fourth day of dosing, and further showed no evidence of residue accumulation in any specific tissue. Food and Drug Administration scientists conclude that with only one bird examined after each feeding period, animal variation in tissue residue levels cannot be determined. Therefore, definitive evidence is not presented to determine if residues are accumulating after 4 days of repeated dosing. However, in the following two examples, it appears that there is an indication of accumulation. The residue levels in the leg muscle for the three birds after 2, 4, and 9 days' dosing, reported as nihydrazone equivalents, were 3.92, 5.79, and 7.01 ppm, respectively. Corresponding values for liver were 9.68, 10.61, and 13.42 ppm. Residues in blood, head, leg muscle, fat, and residual carcass after 9 days on radioactive drug treatment were reported at about 7 ppm and were all greater than the 4-day values. In the reported balance study, recovery of the radioactivity as percent of total dose administered for treatment periods of 2, 4, and 9 days, respectively were: expired carbon dioxide ("CO_2) (11.5, 4.3, and 10.9 percent); urine and feces not separated (80.6, 71.5, and 85.0 percent), and tissues (12.1, 6.0, and 5.9 percent). These data will be compared with a later study also utilizing the formyl label (section II.A.1.d. of this notice) and a study utilizing the acetyl label (section II.A.1.b.).

b. Nuclear Science and Engineering Corp. (NSEC), also conducted a study for Norwich, titled "Chicken Residue of "C-nihydrazone", NSEC No. 50–11–9098, December 4, 1959, submitted in NADA 13–200, Vol. 3. In the NSEC study, 1-day-old white Leghorn chicks were maintained on nihydrazone-medicated feed for 4 weeks before the administration of radiolabeled drug. "C-nihydrazone (acetyl label) was given twice daily at a dose of 4 mg/day to three birds. The birds were treated with the radiolabeled drug for either 2, 4, or 8 days, and then were withdrawn from medication for 1 day before sacrifice. Recoveries of radioactivity as percent of total dose for the treatment periods of 2, 4, and 8 days, were as follows: expired "CO_2 (46.8, 57.4, and 60.9 percent); urine and feces not separated (33.6, 37.9, and 47.6 percent); and tissue (11.78, 7.92, and 10.2 percent). It is apparent from the results on expired "CO_2 in the NSEC study that the radioactive carbon derived from the acetyl label is removed from molecular species of toxicological interest and that the radioactivity in the tissue will include incorporation of "C into endogenous substances that are not of toxicological interest. For this reason, the NSEC study does not answer the questions about the total drug-related residues in tissues of interest and their depletion with time. The results from the formyl label studies discussed in the preceding paragraph also indicate some expired "CO_2, but to a lesser extent (4.3 percent to 11.5 percent).

c. Further studies were conducted by J. A. Buzzard et al. and were submitted by Norwich (Special Report Problem No. 360.3, September 1, 1961, NADA 13–200, Vol. 3). In these studies, male and female chicks were administered nihydrazone ad libitum in the feed at 0.0138 percent for 3 weeks. One group was then given "C-nihydrazone, labeled in the formyl position, and another group was given "C-nihydrazone labeled in the acetyl position. Radiolabeled drug was given for 4 days; Norwich claimed that previous studies showed that 4 days was the time required for tissue saturation and equilibration. One male and one female chick from each group were sacrified for analysis after radiolabeled drug treatment for 1, 3, or 4 days; there was no withdrawal from treatment before sacrifice.

In the formyl-labeled studies, the maximum levels of radioactive residue after dosing from 1 to 4 days, expressed as nihydrazone equivalents, were approximately 2 to 3 ppm in thigh, breast, and leg muscle; and about 8 ppm in liver and kidney. Fat was only analyzed on day 1 and was 1.35 ppm nihydrazone equivalent. With the acetyl label, the maximum level of radioactive residue after dosing for 1 to 4 days was much higher. For example, maximum values of 6.8 ppm in thigh muscle, 35 ppm in kidney, 15.6 ppm in liver, and 91.3 ppm in fat, expressed as nihydrazone equivalents, were reported. Data were also presented on the depletion of residues after 3 weeks' treatment with 0.0138 percent nihydrazone in feed followed by 4 days of radiolabeled drug treatment and subsequent withdrawal from medication. The formyl-label-treated chicks were analyzed after sequential sacrifices up to 5 days postmedication, and the acetyl-label-treated chicks were analyzed after sequential sacrifices up to 16 days postmedication. One male and one female chick were analyzed from each group at each withdrawal time up to 5 days withdrawal. After 5 days withdrawal, the formyl-label-treated chick had the following residue levels, expressed as nihydrazone equivalents: 0.79 ppm and 0.96 ppm in muscle tissues, 0.70 ppm and 0.86 ppm in fat, 1.27 ppm and 1.64 ppm in kidney, and 1.36 ppm and 1.64 ppm in liver. Liver and kidney showed biphasic disappearance curves indicating a pool of rapidly disappearing metabolites with a biological half-life, calculated by Norwich to be about 0.7 day. The pool of slower-depleting components in the various tissues was reported to have a biological half-life ranging from 3.2 days in liver to 4.9 days in breast muscle. Fat was not examined. Results demonstrating a biphasic nature for the depletion of residues from use of the acetyl label were also presented. A biological half-life for the rapidly depleting pool is reported at about 0.8 to 1.6 days. The biological half-life of the slower-depleting pool was reported as 4.1 days for fat, about 5 days in kidney and liver, and 7.2 to 11.7 days for muscle tissues. Norwich did not explain how it derived the biological half-lives for the rapidly depleting pools.

With the acetyl label, initial residues were much higher than with the formyl label. After 16 days withdrawal, the level of radioactivity in tissues was in the same range as that seen after only 5 days withdrawal with the formyl label.

Further studies were presented in this report to show the effect of longer-term administration of radiolabeled drug on the residues measured. Norwich claimed from the previous studies that dosing with the labeled drug for 4 days was sufficient to assure saturation of tissues with radiolabeled drug residues after pretreatment with unlabeled drug. Three 21-day-old male Leghorn birds, not pretreated with nihydrazone, were given the formyl label drug in feed for 8, 16, or 32 days, after which each bird was withdrawn from treatment for 4 days before sacrifice and measurement of residues. The data combined with the 4-day treatment data from the previous study show that the amount of residue in liver, kidney, fat and thigh, breast, and muscle tissue, expressed as nihydrazone equivalents, continued to increase with increasing length of treament. For example, muscle residues were reported as 0.79, 1.35, 1.78, and 2.17 ppm for the 4-, 8-, 16-, and 32-day treatment, respectively, each followed by a 4-day withdrawal from medication. A similar study with the acetyl label, where drug treatment was given for 8, 16, 24, or 32 days followed by 4 days withdrawal, also indicated an increase in residues with prolonged treatment. However, the pattern seen in the tissues in this study deviates for the kidney and fat tissue in particular. Food and Drug Administration scientists agree in part with Norwich that this deviation probably results from loss of labeled acetate from nihydrazone. This would result in the

V41160 AUG 17 76 UMI

incorporation of ^{14}C derived from acetate into endogenous substances. This is consistent with the showing of a much higher $^{14}CO_2$ expiration with the acetyl label compared to the formyl label as previously discussed. It is also consistent with the higher level of radioactivity, especially in fat, for the acetyl versus the formyl-label-treated birds. Acetate is a biochemical precursor of fatty acids, and therefore a higher incorporation of radiolabel into endogenous fatty acids would be expected. Norwich references work by Weinhouse et al. (Journal of Biological Chemistry, 166: 691, 1946) and Elliott et al. (Journal of Biological Chemistry, 186: 477, 1950) to support that kidney in general is a high acetate metabolizing organ, and therefore, as with fat, the high apparent residue levels in kidney may result from the incorporation of radiolabeled acetate into endogenous substances.

Food and Drug Administration scientists agree that kidney is a high acetate metabolizing organ; however, liver also has strong acetate metabolizing capability, and in comparison to kidney, liver has a much more versatile anabolic (synthetic) capability. Therefore, the argument of Norwich that the disproportionate amount of kidney residues results from the labeled acetate is not supported in view of the data for liver and common knowledge of liver metabolism.

d. Norwich has provided an additional report using the formyl label to study residues in chickens. Buzzard et al., in Special Report Problem, No. 370.3, September 1, 1961, reported a radioactivity recovery study in the chicken. One chicken was fed a diet containing nihydrazone at 0.0138 percent for 5 weeks before the administration of ^{14}C-nihydrazone (formyl label) for 8 days. The bird was then withdrawn from medication for 4 days before sacrifice. Recovery of radioactivity as percent of the total dose administered was reported as follows: expired $^{14}CO_2$ (2.52 percent), urine and feces (100.45 percent), and tissues (2.17 percent). Residues in the tissues, expressed as nihydrazone equivalents, ranged from a low of 0.5 ppm in the crop and its contents, to 1 to 2 ppm in muscle tissues, 4.0 ppm is liver, and 4.2 ppm in kidney. The results of this experiment show a lower level of expired $^{14}CO_2$ compared to the results of the FDRL study with the formyl label previously described, where about 11 percent of the total dose was accounted for as $^{14}CO_2$ for two of the three birds examined. In the Food and Drug Research Laboratories study (cited previously in this notice, under section II.A.1.a.), some high values during the early collection period were questioned; investigators felt they might possibly be due to fermentation of droppings during collection.

The report continues with data that Norwich claims demonstrate that the ^{14}C-nihydrazone (formyl label) results in the incorporation of carbon-14 into serum proteins, glucose from liver glycogen, glutathione from erythrocytes, glutamic acid isolated from erythrocyte glutathione, and glutamic acid, serine, tyrosine, aspartic acid, and phenylalanine from blood hydrolysates. These results are based on presumptive identification. After acid hydrolysis of the tissues, ion exchange column chromatography was used to separate the amino acids, and identification was based on column retention time compared to standards. From the evidence of expired $^{14}CO_2$ (although only a small percentage of the total dose), it may be expected that the formyl label also would result in a small amount of incorporation of ^{14}C into endogenous substances. The data presented by Norwich do not provide any estimate of the proportion of the total radioactive residues that result from such incorporation. Therefore, the total drug residues of toxicological concern cannot be determined. As one example, Norwich reported that erythrocytes contained 74 percent of the radioactivity in the blood. The extraction of 1 milliliter of erythrocytes yielded 1.4 milligrams of glutathione with a radioactive count of 10,466 disintegration per minute per milligram (dpm/mg). After hydrolysis and chromatography to separate glycine, cystine, and glutamic acid, it was reported that the radioactivity was associated with glutamic acid representing a radioactive count of 560 dpm, which is only a minor part of the total radioactivity in the isolated glutathione fraction (about 14,600 dpm). Bar graphs were presented for the various amino acid fractions from hydrolyzed blood protein with which radioactivity was associated. The largest component was not identified with the endogenous substances examined.

Food and Drug Administration scientists cannot use such data to determine what amount of radioactive residue has to be subtracted from the total residue in edible tissue to yield that portion that is of remaining toxicological interest. Furthermore, although much of the radioactivity appeared to chromatograph with retention times similar to the amino acid standards, many substances, even including some of the standards, co-chromatograph. Therefore, to presume identification of an endogenous substance solely by column retention time is not considered reliable because it is possible that drug-related metabolites may also chromatograph in the system described. Furthermore, it is possible that some of the nihydrazone metabolite residues may be "bound" in some manner with macromolecular structures and at least in part may be contributing to some of the results seen in the data of this study.

The Director concludes from the studies with the acetyl label that this label does not provide any meaningful answers to the question of drug-related residues of toxicological concern. It appears that the acetyl label may not remain associated with the hydrazine part of the molecule that is of toxicological interest, and would likewise not provide an adequate label for following the fate of the nitrofuran part. The Director concludes that the formyl label more reasonably provides an estimate of the total drug-related residues of interest. Studies, which will be discussed later, indicate that one pathway for nihydrazone metabolism includes breaking the carbon nitrogen double bond in the side chain giving rise to furan derivatives as well as hydrazine derivatives. The latter would not be followed with the formyl label. However, this hydrolytic pathway appears to be significant in the rat and rabbit but is apparently not operant in the chicken, possibly due to different gastrointestinal tract acidity.

The Director further concludes that substantial levels of radioactive residue are shown in the edible tissues of chickens. The Director acknowledges that the formyl label data also indicate that some ^{14}C incorporation into endogenous substances may occur, based on the small amount of expired $^{14}CO_2$. The Director concludes that Norwich's data on this point are presumptive qualitative information without quantitative accountability. Therefore, the Director concludes that even if he agreed that the evidence supports the presence of labeled ^{14}C in the endogenous substances, he is not able to determine what amount of residue may be subtracted from the total residue as demonstrated to be safe; therefore, he cannot estimate the amount of total drug-related residues of interest from the data presented. Because of the evidence suggesting a carcinogenic potential for the drug, even low levels of nihydrazone-related metabolites are significant.

As will be discussed in the second part of section II.A of this notice, there is reason to believe that major portions of the residue are likely to be drug-related metabolites of toxicological concern.

e. Norwich has presented some data on the amount of parent drug residue, i.e., nihydrazone residue, that occurs in chicken tissue. These data are described in detail in section II. F. of this notice. In one study, broiler chickens were treated for 5 days with nihydrazone in their ration at 100 grams/ton. A ^{14}C-nihydrazone (formyl label) was used, and the levels of nihydrazone, parent drug only, were measured by using a reverse isotope dilution technique following the 5-day treatment and for 5 subsequent days of withdrawal. The maximum concentration of nihydrazone at 0-day withdrawal was in skin with adhering fat at a level of 37 parts per billion (ppb), which depleted to a level of 2 ppb after 3 days withdrawal.

Subsequently, other studies in chickens were conducted using chemical assays to measure residues that Norwich claimed were specific for nihydrazone and could detect residues as low as 2 ppb. The method of analysis used was similar to the one subjected to validation trials for furazolidone (NF–180); the method was not shown to be reliable. Data from these studies, which involved longer periods of treatment of the birds with nihydrazone, indicated that the levels of parent drug, nihydrazone, in edible tissues are in the parts-per-billion range. It is therefore apparent that nihydrazone represents only a very small fraction of the total residue in the tissues when compared to the findings from the radiolabeled drug studies.

The Director concludes that Norwich has not provided adequate identification of the residues in edible tissue to provide convincing evidence that the substantial levels of residues reflected by the radioactivity measurements are safe. However, Norwich has provided other data on the metabolism of nitrofurans. From studies of the nature of metabolites in rabbit, rat, and chicken urine and from synthetic studies, Norwich has shown that several pathways may be operant. These data are germane to the Director's conclusion that adequate information has not been provided about the residues in edible tissues of treated animals to conclude that such residues are safe.

2. *Metabolic pathways.* Norwich has provided some data on the chromatographic analysis of urine from chickens dose with ^{14}C-nihydrazone that indicates that several metabolic pathways are involved. They present evidence to show that in the urine, about 5 percent of the administered dose is excreted as nihydrazone, a similar amount as 5-acetamido-2-furaldehyde acetylhydrazone, about 16 to 17 percent as a compound designated as "415" because the ultraviolet (uv) spectra shows an absorption maximum at 415 nanometers and several other unidentified compounds that had been chromatographically separated. These data will be discussed along with other relevant studies in the following paragraphs.

a. *The reductive pathway.* Norwich has provided several references of work by others that show evidence of the reduction of a number of nitrofurans by various body tissues and bacteria. Beckett and Robinson (Journal of Medical and Pharmaceutical Chemistry, 1:155, 1959) postulated that hydrazone derivatives of nitrofurans of the B Type (—CH=N—N)(R)COR) are unstable and that furan ring cleavage occurs upon reduction because they cannot be stablized by hydrogen bonding. These same authors (Ibid. p. 135) demonstrated the stability of Type A hydrazone derivatives of nitrofurans(—CH=N—N(H)COR) upon reduction to their amino analogs. They suggest that the NH group alpha to the Schiff's base may be essential for stability of these amino compounds. Beckett and Robinson used bacterial systems, as well as alcohol solutions (highly protonic) for the reductions. Elbetino et al. ("Reduction of Nitrofurans I. Aminofuran," Eaton Laboratories, report submitted in NADA 13–200, Vol. 3) reported on the catalytic reduction of a number of 2-substituted 5-nitrofurans to the corresponding aminofurans, including the reduction of nihydrazone. They avoided the use of exclusively protonic solutions for the reduction. Based on their findings, these authors found that the reduction did not necessarily result in ring cleavage, particularly for the Type B nitrofurans. They found that the 5-nitrofuran compounds could be catalytically reduced and that the amino analogs were easily acetylated. The acetylated amino derivatives were more stable in aqueous solution than the corresponding amino compounds.

They reported the catalytic reduction of nihydrazone to 5-amio-2-furaldehyde acethylhydrazone, which, after reaction with acetic anhydride in the presence of pyridine, produced 5-acetamino-2-furaldehyde acetylhydrazone. This compound had infrared and uv spectra and a paper chromatography retardation factor (R_f) value identical to that of a nihydrazone metabolite found in rabbit urine by Olivard et al. of Eaton Laboratories (discussed below), which was subsequently confirmed as to identity. Elbetino et al. reported that the 5-amiofuran derivative of nihydrazone and other Type A nitrofurans produced through the catalytic reduction were relatively unstable compared to the Type B nitrofurans studies. In contrast to Beckett and Robinson, they postulated a hydrogen-bonded form that might be more susceptible to furan ring cleavage.

Olivard et al. ("Metabolism of 5-nitro-2-furaldehyde acetylhydrazone," NADA 13–200, Vol. 3) reported the presence if 5-acetamido-2-furaldehyde acetylhydrazone and evidence for 5-amino-2-furaldehyde acetylhydrazone in the urine of rabbits that had been given nihydrazone by stomach tube at a dose of 100 mg/kg body weight/day for 5 days.

The 2,4-dinitrophenylhydrazone derivative of 5-acetamido-2-furaldehyde was isolated from the urine of the nihydrazone-treated rabbits after the addition to the urine of 2,4-dinitrophenylhydrazine in hydrochloric acid, and subsequent extraction with ethyl acetate followed by chromatography on alumina. The isolated derivative was identical with an authentic sample by melting point, absorption maxima in neutral and alkaline solutions, infrared-spectra, and R_f values on paper chromatograms. Elemental analysis supported the empirical formula. Additional evidence for the existence of the 5-acetamido-2-furaldehyde acetylhydrazone in urine was shown by the demonstration of ^{14}C in the R_f area corresponding to the authentic sample when ^{14}C nihydrazone (acetyl label) was administered. Thus it was demonstrated that the carbon-nitrogen double bond in the side chain remains intact, at least in part, in the rabbit. Although neither the 5-acetamido nor 5-diacetamido compounds, synthetically produced or isolated from the urine, could be recrystallized to satisfactory purity for elemental analysis, evidence of the identity of the isolated products from the urine is reasonably assured by the spectral data and paper chromatography R_f values. The "diacetyl" derivative was actually a triacetyl compound when including the acetyl group attached to hydrazine. The infrared spectra, however, did not distinguish whether the diacetamido occurs in association with the hydrazine part or the 5-amino part of the molecule. Fresh rabbit urine indicated only traces of nihydrazone and the 5-amino analog; however, the urine of chickens that had been dosed orally with 100 mg/kg body weight/day of nihydrazone showed essentially equal quantities of nihydrazone, 5-acetamido and the 5-amino metabolites.

In a series of studies, Buzzard et al. reported on the chromatographic study of urine from rats dosed with ^{14}C-nihydrazone as well as urine from chickens dosed with ^{14}C-nihydrazone (Problem No. 370.3, September 1, 1960, June 15, 1961, and September 1, 1961, NADA 13–200, Vol. 3).

The studies all show paper chromatographic evidence for the presence of the acetamido nihydrazone derivative in urine. The paper chromatographic profiles of urine are discussed here and will be referred to in succeeding discussions of the different metabolic pathways and species differences and are relevant to the Director's conclusions in section II.B. of this notice.

In this first study, one rat was dosed with 20 milligrams of ^{14}C-nihydrazone (formyl label) and one rat was dosed with 20 milligrams of ^{14}C-nihydrazone (acetyl label). The urine was first analyzed by paper chromatography using *n*-butanol: 95 percent ethanol: 0.5 *N* ammonium hydroxide in a 4:1:1: system (butanol system). Both labels yielded qualitatively similar chromatographs. From one label, presumably the formyl label, the authors found that 14 percent of the urine radioactivity was 5-acetamido-2-furaldehyde acetylhydrazone, 35 to 40 percent was the "415" metabolite that will be discussed later, 6 to 8 percent was an unknown acidic compound (R_f 0.3) and 30 to 40 percent remained at the origin.

Further paper chromatography of the urine samples was carried out in an SDA (specially denatured alcohol) 30: tris buffer system (SDA 30: 0.5M tris-(hydroxymethyl)-aminomethane in a 4:1 ratio). This system provided improved separation of the more polar materials that remained at the origin in the butanol system.

Comparative data for the rats given the acetyl-labeled nihydrazone indicated that only 6 percent of the urine radioactivity was the 5-acetamido-2-furaldehyde acetylhydrazone, 20 percent was the "415" metabolite, and there was no evidence for the unknown acidic compound at R_f 0.3 in the butanol system. Only a trace of nihydrazone was found. After chromatography in the SDA 30: tris buffer system, 14 percent of the activity was attributed to R_f 0.33 compounds, 10 percent to R_f 0.45 compounds, and 21 percent to R_f 0.70 compounds. Two other minor peaks represented about 12 percent of the urine radioactivity. No explanation is given for the apparent differences in results when the formyl label was used. Deficiencies in the use of the acetyl label, which have been previously discussed, would be expected to confound the relative proporitions of residues separated in the chromatographic systems.

Subsequent data were reported using the same chromatographic systems for the urine from a fasted 200-gram chicken given a 28.6-milligram dose of ^{14}C-nihydrazone (formyl label). Fifteen urine samples separated from feces were collected over a 31-hour period. The maxi-

V41160 AUG 17 76 UMI

mum excretion of radioactivity occurred between 2 to 5 hours after dosing. After 31 hours, 40 percent of the administered dose had been recovered in either urine or expired $^{14}CO_2$.

Sufficient raw data were not presented to show what percent of total excreted radioactivity may be assigned to each component chromatographically separated. However, from the data presented for two early collections of urine, it appeared that the nihydrazone and the 5-acetamido derivative were each about 4 to 6 percent of the total radioactivity, and the "415" compounds were about 16 to 17 percent of the total radioactivity in the respective samples. About 60 percent of the radioactivity remained at the origin in the butanol system previously described (1.25 to 2-hour collection sample), and about 10 percent of the radioactivity at R_f 0.35 in the butanol system was designated as an unknown acidic compound. By using the SDA 30: tris buffer system, the origin activity in the butanol system was separated into at least three major metabolites with R_f 0.33 (8.7 percent), R_f 0.45 (10.7 percent), and R_f 0.70 (34.2 percent). The 3 to 4.25-hour collection sample was analyzed for these data. The R_f 0.70 zone in this system also contained the unknown acidic compound with R_f 0.35 in the butanol system. The unidentified compound at R_f 0.35 in the butanol system was not acetylhydrazine, 5-nitrofuric acid, nor the endogenous substance, α-ketoglutaric acid.

The Director concludes that these data conclusively demonstrate a reductive pathway in chickens, rats, and rabbits as shown by the presence of the acetamido derivative of nihydrazone. Hence, the reduced compounds are not necessarily subject to hydrolysis of the carbon nitrogen double bond of the side chain or to ring cleavage, as will be discussed later. The reduced compounds are shown to be partially eliminated as the reduced intact drug. The Director concludes that the potential presence of reduced nihydrazone analogs and derivatives in edible chicken tissues may well be of major toxicological significance because there is reason to believe such compounds may be biologically active when ingested.

b. *Hydrolytic pathway.* A review of the literature on hydrazine derivatives indicates two usual pathways of metabolism in mammalian species. One is *N*-acetylation and the other is a hydrolytic pathway breaking the carbon-nitrogen double bond of hydrazones. By the hydrolytic pathway, nihydrazone would be metabolized to 5-nitro-2-furaldehyde and acetylhydrazide. These pathways influence toxicity. The *N*-acetylation appears to be a detoxification pathway. Monacetyl hydrazide appears consistently to have toxic properties that may approach those of hydrazine. However, 1,2-diacetylhydrazide produces fewer or diminished toxic reactions. Conversely, for the hydrazone derivatives, the toxicity is generally greater in those species where a hydrolytic cleavage of the carbon-nitrogen double bond occurs.

Free hydrazine and various hydrazine derivatives have been reported as carcinogenic in mice, rats, or hamsters (*Biancifiori Tumori* 60:429, 1974 and *Cancer Research*, 35:3693, 1975). The monoacetyl and diacetyl metabolites of hydrazine have not been tested for their carcinogenic potential.

Norwich presented work by McKennis et al. (Journal of Pharmacology and Experimental Therapeutics, 126:109–116, 1959) that included a discussion of previous work by others on the metabolism of certain hydrazines. McKennis et al. have shown that hydrazine and monoacetyl hydrazide on interperitoneal injection to rabbits are both metabolized to 1,2 diacetylhydrazide.

Olivard et al., in a previously referenced work on the metabolism of nihydrazone in the rabbit, reported that following oral administration of nihydrazone, the urine collected contained 5-nitrofuroic acid based on the paper chromatographic R_f value and spectral data, and also contained 1,2-diacetylhydrazide. The 1,2-diacetylhydrazide was identified by R_f value and Ehrlich reagent with subsequent column purification, crystallization, and demonstration of the identity by infrared spectra, R_f value, melting point, and mixed melting point (no depression) with authentic standard. The authors stated that no 1,2-diacetylhydrazide, acetylhydrazide, or 5-nitrofuroic acid was found in urine by paper chromatography if the rabbits were given nihydrazone interperitoneally. Similarly, they found no evidence by paper chromatography of 1,2-diacetylhydrazide, acetylhydrazide, or 5-nitrofuroic acid in the urine from a chicken given nihydrazone orally. The authors suggest that the hydrolysis of the carbon-nitrogen-double-bond linkage of the side chain is related to the liability of nihydrazone under conditions of acidity comparable to those in the mammalian stomach, and that it is unlikely to occur under the weakly acidic conditions of the gastrointestinal tract of the chicken.

It was shown by studies with chickens using the ^{14}C-nihydrazone (acetyl label) discussed in the first part of section II.A. of this notice, that a large amount of $^{14}CO_2$ was recovered in expired air as opposed to a much smaller amount of $^{14}CO_2$ recovered when the formyl label was used. Therefore, it would appear from this evidence and considering the evidence presented in the above studies by Olivard et al. that another type of hydrolysis may occur in the chicken. It appears that in the chicken, deacetylation might be a major hydrolytic pathway that was not discussed in the data presented by Norwich. Some compounds are known to be *N*-deacetylated in poultry, as evidenced by reports by S. A. Peoples and G. L. Westberg, Federation Proceeding, 34:227, 1975, and R. H. Nimmo-Smith, Biochemical Journal, 75: 284, 1960. The formation of deacetylated nihydrazone or its corresponding reduced analogs or derivatives in the chicken may result in tissue residues. Such residues might then be subject to hydroylsis in the gastrointestinal tract of man, involving breaking the carbon-nitrogen double bond, giving rise to hydrazine as well as potentially toxic nitrofuran metabolites.

The data presented by Norwich on nihydrazone show that a hydrolysis, breaking the carbon-nitrogen double bond of the side chain, is operant in the mammalian systems but does not appear to be operant in the chicken.

The Director concludes that hydrolytic pathways of two types may occur. The first type, deacetylation, has been indicated in the chicken by the large amount of expired $^{14}CO_2$ when the ^{14}C-nihydrazone (acetyl label) was orally administered compared to use of the formyl label. Although N-acetylation is generally the usual pathway for hydrazine metabolism is mammalian species, there is evidence for deacetylation of some drugs in poultry. The second type of hydrolysis, involving breaking the carbon-nitrogen double bond, has been shown in the rabbit. However, this hydrolysis does not appear to be operant in the chicken; this observation is based on the lack of evidence for 5-nitrofuroic acid, and mono- or diacetyl hydrazide as urinary metabolites. The Director concludes that deacetylated nihydrazone, and its reduced analogs or derivatives are of concern as potential tissue residues in chickens. Studies have not been presented by the sponsors of nihydrazone to show that the substantial levels of radioactive residues in chicken tissues are not due to the presence of such compounds. The Director further concludes that deacetylated nihydrazone derivates, if present in chicken tissues, upon ingestion by man would likely be subject to hydrolysis, breaking the carbon-nitrogen double bond, as indicated by the evidence for this pathway in mammalian species. This probability presents serious questions about man's potential exposure to free hydrazine, which is a demonstrated carcinogen, in addition to exposure to other potentially toxic derivatives of the 5-nitrofuran part of nihydrazone.

c. *Pathway involving formation of "415" metabolites.* A metabolite yielding a uv absorption maximum of 415 nanometers was found in rat, rabbit, dog, monkey, and chicken urine after dosing with nihydrazone according to the report by Olivard et al., previously referenced. The "415" metabolite did not appear to result from either the simple hydrolysis of the carbon-nitrogen double bond or from the reductive pathway, yet both a nitro group and a carbon-nitrogen double bond are apparently necessary for the formation of the "415" metabolite. Administration of "415" metabolite to the rat did not yield reduced nitrofurans nor did dosing with the reduced nitrofurans yield "415." The infrared spectra of "415" metabolite indicated a carboxyl anion, two carbonyl groups, a carbon double bond with no furan, nitro or aromatic group. The spectroscopist indicated there was a probability for the presence of OH and NH, but not much CH.

The compound with mild acid treatment instantly was converted to one with an R_f of 0.5 in the butanol paper chromatographic system previously described and had an absorption maximum of 400 nanometers. It is in turn gradually destroyed by 2.3N hydrochloric acid at 70° C. Chromatographs of the hydrolyzate showed no ninhydrin positive zones, as would be expected for amino acids. Preparation of the 2,4-dinitrophenylhydrazine derivative of "415," as indicated by the infrared spectra, gave a compound showing only one absorption peak in the carbonyl region in contrast to the 2 carbonyl peaks seen in the infrared spectrum of "415." The "415" metabolite can apparently be made photochemically from 5-nitro-2-furaldehyde diacetate and coupling with acetone acetylhydrazone. It is believed that the "415" compound retains the carbon-nitrogen double bond of the side chain and thus would include the hydrazine part of the molecule. Buzzerd and Olivard proposed that the "415" compound may be related to the Stenhouse dyes formed from aniline and furfural. However, all attempts by the sponsors to identify the "415" metabolite, which appears to be the major residue component in the urine of animals dosed with nihydrazone, have been unsuccessful.

The Director concludes that a pathway involving formation of "415" metabolite is operant in chickens and mammalian species, and the evidence indicates this metabolite is drug related and not an endogenous substance. Its potential presence as a tissue residue and a part of the total radioactive residue seen in chicken tissue has not been resolved.

d. *Furan ring cleavage.* Buzzard, Hoctis and Klein (Problem No. 370.3, October 1, 1961, NADA 13–200, Vol. 3) showed that by alkali-catalyzed hydrolysis of ethyl-5-amino-2-furoate, followed by acid hydrolysis of the products of the ring opening reaction, α-ketoglutaric acid was formed, identified as the 2,4-dinitrophenyl hydrazone derivative) as well as β-formyl propionic acid. A mechanism for the reaction was proposed. Since attempts to prepare 5-amino-2-furoic acid were not successful, it could not be shown whether nihydrazone would react similarly. Based on the observed chemical activity of the model furan studied, Norwich hypothesized that the slower depleting pool of residues in chickens dosed with nihydrazone arose from a similar degradation of nihydrazone through formation of α-ketoglutaric acid. The work of Buzzard et al., discussed in section II.A.1.d. of this notice, which presents presumptive evidence for the incorporation of ^{14}C into endogenous substances in chicken tissues, in the opinion of Norwich, adds further support to the hypothesis.

There is no evidence to show that the chemical reaction of the model furan giving rise to α-ketoglutaric acid is a reaction that would occur in the chicken. Investigation of the "415" metabolite in urine also gave some evidence that ring cleavage may be involved. However, as previously discussed, "415" is not an endogenous substance.

Even if α-ketoglutaric acid were one of the products of nihydrazone metabolism, there is question about what part of the radioactive residues in chicken tissues would be attributable to this hypothetical pathway. As discussed in section II.A.1.d. of this notice, the evidence provided by Buzzard et al. for the identification of the radioactive residues in chicken tissues as endogenous substances is presumptive and does not provide quantitative accountability.

Therefore, the Director does not accept the evidence provided by Norwich as sufficient to show that the residues persisting in chicken tissues after a short withdrawal period are the result of nihydrazone metabolism to endogenous substances through ring cleavage and formation of α-ketoglutaric acid. Norwich has provided evidence in animals that ring cleavage of nihydrazone may occur in the formation of "415" metabolite that is not an endogenous substance. Norwich has not provided conclusive evidence that ring cleavage of nihydrazone occurs in chickens to produce the formation of α-ketoglutaric acid. Even if this pathway did occur, no quantitative accountability of residues identified as endogenous substances has been provided. Furthermore, a pathway by which nihydrazone would be degraded to α-ketogolutaric acid would require hydrolysis of the carbon-nitrogen double bond. Therefore, the fate of the hydrazine part of the molecule would also have to be accounted for. Studies provided by Norwich indicate that this hydrolysis is not prevalent in the chicken. Therefore, the Director concludes that a pathway involving furan ring cleavage does not necessarily lead to metabolities that may be presumed safe without supporting evidence.

In summary, the Director concludes that each of the studies presented in this part adds to knowledge of the metabolism of nihydrazone, but the studies do not satisfactorily answer the significant questions about the safety of the residues. There is a demonstration of a reductive pathway leading to the formation of compounds of toxicological concern. There is also evidence of a possible deacetylation pathway in the chicken that leads to the potential for compounds which, as residues, if ingested by mammalian species may result in exposure to free hydrazine, which is a carcinogen, and other potentially toxic nitrofuran analogs and derivatives. There is further demonstration of a major pathway involving formation of "415" metabolite; it appears to result from ring cleavage but with the hydrazine part of nihydrazone intact. From all of these factors and the lack of information on tissue residues arising from these proposed pathways of metabolism, the Director concludes that the substantial levels of radioactive residues in chicken tissue even after a 4- or 5-day withdrawal period are not shown to be safe. There is no conclusive evidence that nihydrazone is degraded to α-ketoglutaric acid in the chicken. Nor is there concurrent accountabiilty for the hydrazine part of nihydrazone in this proposed pathway. Even if the identification of some radioactive residues in chickens as endogenous substances, based on column chromatography, were accepted, quantitative accountability for these residues is lacking. Therefore, the Norwich contention that nihydrazone residues in chicken tissue, following the currently labeled conditions of use, are endogenous substances and therefore safe, cannot be accepted by the Director.

B. *Sufficient Information Has Not Been Provided about the Residues to Determine the Appropriate Testing Required in Laboratory Animals to Estimate the Cumulative Effects of Human Exposure to the Residues (Step 2).* Norwich has demonstrated that very little of the residue in edible tissues is nihydrazone and most of the residues are metabolites.

The Food and Drug Administration must assess the toxicity of the total residue because this is what man will be exposed to in food. This assessment would be based ideally on the identification of each of the metabolites in the residue, their synthesis, and subsequent testing of the parent drug and all the metabolites for the cumulative effects of exposure. However, this approach is usually impractical.

Recognizing this, FDA makes judgmental assessments from certain types of data about the residue and metabolism. A determination is made about assumptions that can be accepted from the toxicity testing of the parent drug. Because the test animal metabolizes the drug, the resulting dose-response effects represent to some degree the cumulative effects of exposure to each of the biologically active substances produced by the test animal.

Norwich has provided some comparative metabolic data in the rat and chicken through chromatographic analysis of the urine collected after treatment with labeled drug. These data show certain qualitative similarities between the two species. Both the chicken and rat appear to excrete "415" metabolites and 5-acetamido-2-furaldehyde acetylhydrazone; this indicates that both the reductive pathway and the pathway leading to formation of the "415" metabolite are involved in both species. The proportion of the total radioactivity in urine for each of the compounds appears to be somewhat higher for the rat than for the chicken. Only trace quantities of nihydrazone are reported in rat urine, whereas nihydrazone was about 5 percent of the total radioactivity in early collection samples of chicken urine, roughly equal to the amount of 5-acetamido-2-furaldehyde acetylhydrazone excreted in urine. It was also reported that an acidic compound with an R_f at about 0.3 in the butanol chromatographic system represented about 10 percent of the radioactivity in chicken urine. This compound was also reported in the urine of the rat treated with the formyl label, but the compound was not seen with the acetyl label. Substantial quantities of unknown compounds were seen in both rat and chicken urine which remained at the

V41160 AUG 17 76 UMI

origin in the butanol system and were further separated in the SDA 30: tris buffer system, indicating that these materials represented more polar metabolites.

One major difference is apparent in the chicken versus mammalian species. This involves the hydrolytic pathways previously discussed. Deacetylation is an apparent major pathway in the chicken, and there is no evidence for a hydrolytic pathway in the chicken that involves breaking the carbon-nitrogen double bond. Conversely, there is evidence that a hydrolytic pathway with breaking of the carbon-nitrogen double bond is operant in the mammalian species, and that the resulting hydrazide is acetylated. The scientific literature suggests that deacetylation in mammalian species is not a significant pathway.

Although the sponsors have not provided information characterizing the tissue residues, it may be assumed that at least some of the metabolites found in chicken urine may also be present as tissue residues. The "415" metabolite and at least some of the reduced nitrofurans appear as urinary metabolites in the chicken as well as in mammalian species. Therefore, in testing nihydrazone in the rat, some exposure of the rat to these metabolites would have occurred. However, chicken tissue may contain deacetylated metabolites of nihydrazone. Testing of nihydrazone in the rat is unlikely to have provided exposure to deacetylated nihydrazone or deacetylated derivatives of nihydrazone formed through other pathways operant in the chicken. Both the nitrofuran part of nihydrazone as well as the hydrazide part of nihydrazone may be involved with tumorigenesis. In general, acetylation appears to be a detoxification pathway for hydrazines. Therefore, there is some reason to believe that deacetylated nihydrazone metabolites may be more toxic than nihydrazone when ingested by mammalian species.

In order to make an adequate assessment of the extent to which testing of nihydrazone can be used to evaluate the safety of residues, sufficient information about the residues in chickens is required in addition to comparative metabolic data in the test species. Because the nature of the residues in chicken tissues is not known, there are unanswered questions about potential residues, including those residues that may give rise to exposure to free hydrazine when ingested. Therefore, the Director concludes that not only is the toxicological testing provided for nihydrazone inadequate, but he is unable to determine whether testing of metabolites in addition to the parent drug is required to determine the safe level of human exposure to residues in food. Step 2 has not been fulfilled; therefore, the requirements for step 3 cannot be fully determined.

C. *Adequate Dose-Response Data in Test Animals to Determine the Cumulative Effects of Dietary Exposure to the Residue Compounds Has Not Been Provided; Therefore, the Maximum Acceptable Concentration of Residues in Food Cannot be Established Using Appropriate Safety Factors to Assure That Human Exposure to Residues in the Total Diet Does Not Exceed a Level Deemed Safe (Step 3).* As discussed under section I of this notice, the Director has concluded that adequate testing of the parent drug, nihydrazone, has not been provided. Also, under steps 1 and 2, discussed in section II. A. and B. of this section, the Director concluded that adequate information has not been provided about the residues to determine if toxicity testing of residue compounds in addition to the parent drug is required to estimate conservatively the cumulative effects of exposure to the residues.

The Director concludes that without such essential information about the residues and adequate toxicity testing data, he cannot, in light of the new evidence, determine if nihydrazone requires regulation as a carcinogenic animal drug or, alternatively, to reasonably estimate a maximum acceptable level of residue in food that can be deemed safe. Therefore, he concludes that adequate information has not been provided to assess the cumulative effects of exposure and to determine the appropriate safety factors required under section 512(d)(2)(B) and (C) of the act.

D. *Sufficient Information about the Residues Has Not Been Provided to Establish the Conditions Necessary for the Analytical Method Used to Control Residues (Step 4).* The evaluation of an analytical method for residues first requires a determination of the tissues to be analyzed, the compound to be measured, and the lower limit of mesurement that must be achieved to control total residues adequately. Only then, after selection of these parameters, is it meaningful to consider whether the method proposed by the sponsor meets other characteristics necessary for a practicable reliable method.

1. Determination of the target issue: The most practical approach to monitoring and controlling residues in the field is dependent on the selection of that edible tissue in which residues require the longest time to deplete to a "safe concentration." Therefore, by monitoring this tissue to assure that residues are below a "safe concentration," it can be assured that all residues in the carcass are below "safe concentrations." In lieu of this determination (identification of the target tissue), all edible tissues, including milk where applicable, must be monitored. This would place an additional burden on public funds for monitoring.

The target tissue is readily identified if the requirements of step 1 of the evaluation process are met. Although Norwich has presented data on the total residues, as measured by radioactivity and expressed as nihydrazone equivalents, these data show substantial amounts of residues and do not show depletion to levels that might be presumed safe, considering that nihydrazone is a tumorigen and may be a carcinogen. From the radiotracer studies it would appear that liver or kidney may be the target tissue. On the other hand, data on the measurement of parent drug, nihydrazone, indicate that skin with adhering fat shows residues at the highest level for the longest time for this residue component. Because adequate data have not been provided to determine when total drug residues of toxicological interest are reduced to levels that can be presumed safe, and depletion characteristics of the component residues are not provided relative to the total residues down to an established safe level, it is not possible to make an assignment of the target tissue.

2. Determination of the compound (marker) that can be measured by the analytical method to assure control of total residues: Because the radiolabeled drug approach used initially to estimate total residues is not applicable to regulatory use, an alternative approach must be developed to assure control of total residues after drug approval. This is achieved by selecting an appropriate residue compound, which may be the parent drug or one or more metabolites, in such a way that its measurement serves as a valid indicator that when the marker compound is below a certain level in the target tissue, all residues in edible tissues are at safe levels. This step is essential to determine if the method of analysis for regulatory use is adequate. To determine a valid marker, adequate information, e.g., information derived from conducting an adequate metabolism study, is required to relate the proportionate amount of each of the residues to the total residue and their change in quantitative relationships with time. The marker must be a known proportion of the total residue when the total residue depletes to the "safe concentration" in the target tissue. It also must be structurally identified so that an adequate and specific method of analysis can be developed for its determination.

The regulatory method proposed by Norwich to control residues uses the parent drug, nihydrazone, as a marker in each of the major edible tissues. Norwich has failed to submit substantiating evidence to show that the measurement of nihydrazone is adequate to control total residues of potential concern or, alternatively, to show that all other residues are safe and do not need to be controlled.

3. Determination of the lower limit of measurement required for the analytical method: Establishment of the lower limit of measurement required for the assay begins with the availability of adequate toxicological testing to determine the cumulative effects of exposure. As described in section I of this notice, the sponsors have not provided adequate toxicological testing of nihydrazone. Also, as described in steps 1 and 2 in section II.A. and B. of this notice, the sponsors have not provided adequate information about the substantial levels of residue shown by radiotracer studies to show if portions of the residue can be removed from toxicological concern, and to adequately define the residues of interest to determine if testing of any of

the metabolites in addition to the parent drug, nihydrazone, is required for a determination of safety. Therefore, lacking this essential information, the Director concludes that he is unable to make an appropriate estimate of the acceptable level of exposure to total residues of interest in food.

Even if adequate testing were available to estimate the acceptable level of exposure to total residues in food, Norwich has not provided adequate information about a marker compound to determine the lower limit of measurement required for the assay.

As previously stated, Norwich has proposed that the measurement of nihydrazone is adequate to assure control of residues. The proportional relationship of the amount of nihydrazone to the amount of total residues indicates that nihydrazone is even less than 1 percent of the total residue during the early periods of withdrawal. It is therefore unlikely that nihydrazone can be used as a suitable marker unless it were shown that the major portion of the residue, reflected by the radioactivity measurements, can be qualitatively and quantitatively defined to show that these residues are of no toxicological interest. And if the residues cannot be shown to be of no toxicological interest, the lower limit of measurement that would have to be placed on nihydrazone to assure no significant residues from the use of this tumorigenic and potentially carcinogenic drug would probably be beyond technological achievement.

When a "safe concentration is assigned for the total residue of interest, and a suitable marker is selected and its proportional relationship to the total residue at the "safe concentration" is known, one further adjustment is necessary to determine the lower limit of measurement required for the assay. This last adjustment takes into account the degree to which the method of analysis recovers the residue from the sample. Minimum standards for recovery for the acceptance of the method take into account that 100 percent recovery is rarely achieved and that a combined evaluation of the precision and accuracy for measurement of the marker must be considered.

Norwich is aware of the principles just described for the selection of a target tissue, marker compound, and the adjustments required to establish conditions for the assay; this is evidence by Norwich's citation of a paper prepared by two FDA scientists in a submission for furazolidone (NF–180) to FDA on November 11, 1975. The cited paper by M. K. Perez and N. E. Weber, entitled "Requirements for Metabolic Studies—Impact on Food Safety Regulation" was presented at the Gordon Research Conference on Drug Metabolism, June 23–27, 1975.

The Director concludes that he cannot make an assessment of the toxicity, including the carcinogenic potential and potency, of nihydrazone without adequate testing data; he cannot conclude that nihydrazone serves as a valid marker for control of total residues of toxicological interest; and therefore he cannot without adequate supporting data determine the conditions necessary for the analytical method used to control residues. The requirements of step 4 have not been fulfilled. He concludes that the new evidence on nihydrazone (F–64) and furazolidone (NF–180) leads to a determination that the methods of analysis for residues of nihydrazone (NF–64) are not shown to be adequate.

E. *Practicable Methods of Analysis are Not Available to Assure that Total Residues in the Daily Diet of Humans Do Not Exceed a Level Deemed Safe (Step 5).* Section 514.1(b)(7) (21 CFR 514.1(b)(7)) requires the sponsor of a new animal drug application to provide a practicable method of analysis to be used for the control of residues of its product. A "practicable" method is defined by FDA as one that reliably measures the compound throughout all residue levels of interest, and also is sufficiently rapid and reasonable in terms of the expertise and equipment required to be applicable for use in the surveillance and control of residues. "Reliability" is a combination of accuracy, precision, and specificity. Accuracy and precision are quantitative terms. "Accuracy" is the measure of deviation from the true value, and "precision refers to the variability of measurement in replications either by one analyst or within a laboratory or between laboratories. A method may provide reliable measurement if the measurements are not too variable even though it measures less than or more than 100 percent of the true value. Therefore, accuracy and precision must be considered together.

"Specificity is a qualitative term. The measurements obtained by the method must reflect only the compound of interest. Because the method will be used on samples from animals for which exposure history is unknown, the techniques used in the method must be adequate to assure not only the integrity of the measurements, but also the identity of the residue to the exclusion of other itnerfering substances. Therefore, when the quantitative measurements are made by techniques that are not inherently specific, a confirmatory test is required as part of the official method to assure the identity of the residue. The most recently submitted methodology for nihydrazone is based on chromatographic separation and fluorometric determination, which are both nonspecific techniques.

The uses of nihydrazone were approved prior to that time when regulatory methods of analysis for residues were required. In 1962, a method of analysis for tissues capable of measuring nihydrazone as low as 0.1 ppm was submitted in Food Additive Petition No. 665. The method is based on acid hydrolysis to break the carbon-nitrogen double bond, generating 5-nitro-2-furaldehyde and reaction with phenylhydrazone to form the 5-nitro-2-furfural phenylhydrazone derivative, which is measured colorimetrically.

This method was not subjected to validation trials by FDA because it predated this current FDA preclearance requirement. The data submitted in support of this method only included studies of the recovery of nihydrazone from samples to which known amounts of the drug had been added (spiked samples). Recoveries of about 50 percent were estimated by FDA for samples fortified at 0.1 ppm. No evidence has been submitted to show that the method will satisfactorily recover nihydrazone when the residue is naturally incurred through drug treatment (dosed samples) at a level of 0.1 ppm. Furthermore, the method is not specific.

After FDA received reports that nitrofurans had induced tumors in female rats, the drug sponsors were advised in 1969 and officially informed in a conference held January 4, 1971, that the residue methods were no longer deemed adequate. They were told that methods capable of measuring at least 2 ppb of the drug in edible tissues were required. In response to the notices of opportunity for hearing, Norwich submitted newly developed methods of analysis.

For the measurement of tissue residues, Norwich concentrated primarily on the method for furazolidone (NF–180) in the belief that this method could be readily adapted for the measurement of tissue residues for the other nitrofurans.

A discussion of the results on the evaluation of the furazolidone (NF–180) method for tissue analysis (including swine liver, kidney, muscle, and fat and poultry liver, kidney, muscle, and skin with adhering fat) is presented in the May 13, 1976 FEDERAL REGISTER notice for furazolidone. In that notice, the Director concluded that the methods for edible tissues were not shown to be adequate.

Although the drug sponsors have submitted far more information to support the adequacy of the methods of analysis for furazolidone (NF–180) than they have submitted on methods of analysis for nihydrazone, the sponsors have in the intervening years submitted some progress reports on the development of analytical methods for nihydrazone.

In 1971, three different progress reports were submitted on the analysis of nihydrazone in chicken tissues:

1. Project No. 476.17 Interim Report, "Chemical Method for the Determination of Concentrations of Nihydrazone in Chicken Liver at 2 ppb," submitted to FDA by cover letter dated June 30, 1971.

The method presented was based on a fluorometric-densitometry measurement similar to the method submitted for furazolidone (NF–180); the method was not shown to be reliable in the validation trial in 1973. Farrand integrator counts were provided for five control chicken liver samples and for chicken liver samples fortified with 2 ppb of nihydrazone. Norwich reported an approximate recovery of 40 percent using an external standard curve and making corrections for aliquot losses. Food and Drug Administration chemists estimated the actual recovery from these data to be about 28 percent. Individual recoveries for each

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AUG 17 76
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sample were not provided by Norwich. The sponsor was notified that these data were not acceptable.

2. By letter dated May 17, 1971, Norwich provided data on the recovery of nihydrazone from chicken liver, kidney, and mucle samples. The same fluorometric-densitometry method was used. Norwich reported the following recoveries and standard deviations from tissues fortified with 2 ppb of nihydrazone: liver (78±31 percent), with a range of 35 to 102 percent; kidney (85±26 percent), with range of 43 to 121 percent; and muscle (77±18 percent), with a range of 30 to 96 percent. These recoveries were corrected for aliquot losses and losses in partitioning between solvents. Therefore, they appear higher than the actual recoveries. The Food and Drug Administration has concluded that the results are too erratic and too low for an acceptable method of analysis.

3. On June 30, 1971, in a letter to the FDA hearing clerk, Norwich submitted an interim report on Project No. 476.17, June 29, 1971, "Chemical Method for the Determination of Nihydrazone in Chicken Skin with Fat at 2 ppb." This project used the same fluorometric-densitometry method used for the other two submissions. Data were presented for 7 control samples of skin with adhering fat and for 21 samples fortified with 2, 4, or 6 ppb of nihydrazone. No recovery data were provided and none could be calculated in the absence of a standard curve. The integrator counts were variable, and the result for one of the 4-ppb-fortified samples was below several of those reported for the 2-ppb-fortified samples. A similar overlap of values for the 4- and 6-ppb-fortified samples was observed. These data were rejected as inadequate. No further data have been supplied by the drug sponsors on methods of analysis for nihydrazone.

None of the submitted methods of analysis for nihydrazone, i.e., the colorimetric or fluorometric-densitometry methods, are inherently specific. No confirmatory tests have been provided by the sponsors that can be used to confirm the identity of any residue found by the proposed assay methods.

The Director concludes that the sponsors have not shown that adequate practicable methods of analysis for residues of nihydrazone in edible chicken tissue are available. Appropriate data have not been provided to determine if nihydrazone can be used as a marker to control total residues in edible products, nor to determine the lower limit of measurement required for a method to assure that total residues do not exceed safe levels. The Director concludes that the methods proposed by the sponsors for the determination of nihydrazone are not quantitative and are not adequately specific at the levels of measurement that are likely to be necessary, based on the tumorigenic property of the drug. Therefore, the methods proposed are not quantitatively or qualitatively reliable and practicable methods for regulatory use, even if it were established that measurement of nihydrazone at 2 ppb was adequate to control total residues of toxicological interest. Therefore, step 5 and the requirements of section 512(b)(7) of the act have not been met.

F. *Practical Conditions of Use Cannot be Prescribed on the Label of Products to Assure Safe Use (Step 6).* Section 512(b)(8) of the act requires that conditions of use assure there are no unsafe residues, and section 512(d)(2)(D) of the act adds a further requirement that these conditions be such that they are "reasonably certain to be followed in practice."

It is required by FDA that residue depletion studies be conducted for each drug use under simulated field use conditions to develop data for establishing the withdrawal period. A withdrawal period is the time following drug treatment when, because of residues, a treated animal cannot be slaughtered for food. A withdrawal period must be sufficiently long to assure adequate residue depletion, but it cannot be so long that it is impractical and unlikely to be followed in practice. An adequate analytical method for residues, preferably the same method that will be approved for regulatory use, must be used to measure the residues in the depletion studies.

Because Norwich has not provided adequate data to determine the requirements necessary for an analytical method to control total residues of toxicological concern, depletion studies under those conditions currently required by FDA for the establishment of an adequate withdrawal period cannot be designed. Norwich, through its radiotracer studies, has shown that substantial levels of residue, expressed as nihydrazone equivalents, are present in edible tissues following drug treatment and persisting through the longest periods of withdrawal (5 days with the formyl-labeled nihydrazone). Although radiolabeled studies may be used initially to estimate drug depletion, it is usually not practical to follow this approach for the final determination of the withdrawal period. The establishment of a withdrawal period requires consideration of animal-to-animal variability, thus requiring that larger numbers of animals be used for the determination of residues. Likewise, it is important to have data using the chemical method proposed for control of residues and to compare these results with the results from the radiotracer metabolism studies to evaluate the capability of the method satisfactorily to recover the residue when naturally incurred.

Norwich has failed to show through the radiotracer studies that a safe and practical withdrawal period can be established for the uses of nihydrazone. Radioactive residues, expressed as nihydrazone equivalents, are shown in the few animals examined to be at levels of 1 to 13 ppm in tissues after treatment with the ^{14}C-formyl-labeled nihydrazone. They are shown to persist in muscle tissue at levels just below 1 ppm and in other major edible tissues at levels from 1 to 2 ppm following treatment of birds on the approved level of drug for 3 weeks and subsequent dosing with the radiolabeled drug for 4 days and observation of a 5-day withdrawal period.

Norwich has provided data in 3 reports on the depletion of parent drug, nihydrazone, from edible tissues:

1. Problem No. 476.03, Final Report "NF-64 and Metabolite Residues," September 24, 1969, NADA 13-200V, Vol. 5. ^{14}C-Nihydrazone (formyl label) was given to broiler chickens in their ration at 100 grams per ton for 5 days. The birds were then maintained on unmedicated feed, and four birds were sacrificed each day thereafter, up to 5 days after withdrawal from medication. A reverse isotope dilution technique was used to determine parent drug, nihydrazone, in muscle, liver, kidney, and skin-with-fat tissues. Norwich claimed the reverse isotope procedure was capable of measuring nihydrazone as low as 2 ppb. At 0-day withdrawal the levels of nihydrazone were reported as follows: muscle (less than 2 ppb to 9 ppb), kidney (4 ppb to 23 ppb), skin with fat (3 ppb to 37 ppb), and liver (less than 2 ppb and 3 ppb). Norwich reported that no nihydrazone was detected at the other withdrawal times, except for skin with fat. One skin-with-fat sample out of four examined after 3 days withdrawal indicated 2 ppb of nihydrazone.

2. Research Report No. JMS 63:1, "Nihydrazone Residue Analysis of Tissues of Chickens Receiving Rations Containing 100 g Nihydrazone per Ton of Feed for Eight Months," August 27, 1963, NADA 13-200, Vol. 5, from letter of submission to FDA January 8, 1971. Edible tissues from five birds given nihydrazone in the feed at 100 grams per ton for 3 months were analyzed using a colorimetric procedure. Norwich claimed the colorimetric procedure could detect nihydrazone at levels as low as 0.1 ppm. Norwich reported that all tissues contained less than 0.1 ppm of nihydrazone at 0-day withdrawal. Positive values for one liver and one kidney sample were reported but were dismissed by Norwich as false positives because of the lack of the characteristic pink or red color generally observed for the 5-nitro-2-furfural phenylhydrazone derivative during column chromatography.

3. "Tissue Residue Withdrawal Studies for Nihydrazone (Sonifur) in Chickens Fed Nihydrazone at 100 Grams Per Ton of Feed for Eight Weeks," from a Memorandum from Dr. Mertz to Dr. Heotis, November 9, 1971, submitted to FDA by cover letter of November 10, 1971, NADA 13-200V, Vol. 5.

Edible tissues from chickens fed a ration containing nihydrazone at 100 grams per ton for 8 weeks were analyzed by the fluorometric-densitometry method described in section II.E. of this notice. Norwich claimed the fluorometric-densitometry method could measure nihydrazone as low as 2 ppb. Samples of liver, muscle, kidney, and skin with fat from birds sacrificed at 4 and 5 days after withdrawal from medication were examined. One out of eight liver samples after 5 days withdrawal was reported to contain nihydrazone at 2 ppb. One out of seven skin-with-fat samples examined after 5 days withdrawal from medication was reported to contain nihydrazone above 2 ppb, and an additional sample was reported questionable.

The Director concludes that withdrawal periods are necessary for the safe use of nihydrazone. The currently labeled withdrawal period for chickens now voluntarily used by the sponsors is 4 days. The Director concludes that data to support this withdrawal period or any practical withdrawal period has not been provided because of the following reasons:

a. The data show that the levels of total residue, from the limited radiotracer studies available, are substantial and not shown to be safe.

b. The data on depletion of nihydrazone where larger numbers of birds were used are not adequate because no data have been provided to show whether the measurement of nihydrazone in edible products can be used to control total residues of toxicological concern and, if so, at what level its measurement is required to assure that all residues are below concentrations deemed safe.

c. The chemical methods used to determine the depletion of nihydrazone in chicken tissues are not shown to be adequate, even if nihydrazone could be shown to be an adequate marker for total residues. In the second study the method of analysis would not be sufficiently sensitive, based on the known tumorigenic properties of the drug. In the third study the method used, even if it could be shown that nihydrazone measurement at 2 ppb was adequately sensitive, is not aceptable because the supporting data on the method are not adequate to assure the reliability of results. Likewise, in the first study the results are so variable that a withdrawal period for the depletion of parent drug, nihydrazone, if nihydrazone were accepted as a marker at 2 ppb, could not be established with reasonable certainty, based on the numbers of animals used in view of data presented. The requirements of step 6 and section 512(b)(8) and (d)(2)(D) of the act have not been fulfilled.

Therefore, the Director is hereby withdrawing the notice of opportunity for hearing issued March 31, 1971, proposing to withdraw approval of NADA's providing for the use of nihydrazone (NF-64) in food-producing animals. Under section 512(e)(1)(B) of the act (21 U.S.C. 360b(e)(1)(B), the Director proposes to withdraw approval of certain existing NADA's providing for the use of nihydrazone in food-producing animals on the grounds that such use violates section 512 of the act in that such use has not been shown to be safe.

This notice applies to all outstanding NADA's for the use of nihydrazone in food-producing animals. All such applications known to FDA are listed below by NADA number and by each applicant's name and last known address in FDA records. Copies of this notice are being forwarded by registered or certified mail to each of the known applicants. Notice to other applicants or holders of NADA's whose identity is not known to FDA is given by this publication.

13-195, Hess and Clark, Division of Rhodia, Inc., 7th and Orange St., Ashland, OH 44805.

13-200, Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., 13-27 Eaton Ave., Norwich, NY 13815.

Any holder of an approved application that elects to avail itself of an opportunity for hearing pursuant to section 512(e)(1) of the act and § 514.200 of Chapter I of Title 21 of the Code of Federal Regulations must file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, a written appearance requesting such hearing by September 16, 1976, giving the reasons why approval of the application should not be withdrawn, and providing a well-organized and full-factual analysis of the scientific and other investigational data such holder is prepared to prove in support of its opposition to the Director's proposal. A request for hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is one or more genuine and substantial issue(s) of fact requiring a hearing. Responses to this notice and copies of published literature cited in this notice may be seen in the office of the Hearing Clerk, Food and Drug Administration, during regular business hours, Monday through Friday.

If a hearing is requested and is justified by any holder's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the withdrawal of approval of the foregoing NADA's will be open to the public. If, however, the Director finds that portions of the applications that serve as a basis for such a hearing contain information concerning a method or process that is entitled to protection as a trade secret, that part of the hearing will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-361 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

A discussion of the economic and environmental impact of this action is set forth in the notice of proposed rulemaking on nihydrazone, which is published elsewhere in this issue of the FEDERAL REGISTER.

It is hereby certified that the economic and inflation effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

Dated: August 6, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-23618 Filed 8-10-76;11:19 am]

V 41 160 AUG 17 76 UMI

federal register

TUESDAY, AUGUST 17, 1976



PART III:

DEPARTMENT OF DEFENSE

Department of the Army

ENVIRONMENTAL QUALITY

Facilities Engineering, Pest Control Services

V41 1 160 AUG 17 76 UMI

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 657]

ENVIRONMENTAL QUALITY

Facilities Engineering, Pest Control Services (AR 420–76)

Notice is hereby given that the Secretary of the Army, acting through the Chief of Engineers, is proposing a regulation to prescribe the policies, responsibilities and procedures for conducting pest control services on all Army installations and activities. The regulation implements Department of Defense Directive 4150.7 and the policies and procedures of 32 CFR 650, "Environmental Protection and Enhancement," and 40 CFR 165—"Regulations for the Acceptance of Certain Pesticides and Recommended Procedures for the Disposal and Storage of Pesticides and Pesticides Containers." The proposed regulation is being published pursuant to the following authorities: Executive Order 11870, Environmental Safeguards on Activities for Animal Damage Control on Federal Lands; Executive Order 11752, Prevention, Control and Abatement of Environmental Pollution at Federal Facilities; Pub. L. 92–516, Federal Environmental Pesticide Control Act of October 21, 1972; Pub. L. 93–205, Endangered Species Act of 1973. This regulation applies to: Installations and activities in use by the Regular Army, those held in inactive or standby condition for future active use by the Regular Army, and those in excess category; Federally operated installations and activities, or portions thereof, which are in full-time or intermittent use by the National Guard, or which are being held by the Department of the Army for use by the National Guard; Installations and activities, or portions thereof, which are in full-time or intermittent use by Army Reserve or ROTC. This regulation does not apply to: Installations and activities, or portions thereof, which have been licensed or transferred to the States, to the Commonwealth of Puerto Rico or to the Territory of the Virgin Islands for use by the National Guard; Civil Works functions of the Corps of Engineers; Facilities occupied by Army activities as tenants when responsibility for support is vested in another Government agency.

The proponent agency of this regulation is the Office of the Chief of Engineers. Prior to the adoption of this proposed regulation, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Chief of Engineers, Forrestal Building, Washington, DC 20314, ATTEN: DAEN–FEB–N on or before September 16, 1976.

Dated: August 4, 1976.

W. O. BACHUS,
Brigadier General, USA,
Director of Facilities Engineering.

This regulation provides general Department of the Army policy, and guidance in pest control services. Local limited supplementation of this regulation is permitted but not required. If supplements are issued, Army staff agencies and major Army commands will furnish one copy each to HQDA (DAEN–FEB) WASH DC 20314; other commands will furnish one copy each to the next higher headquarters. A Department of the Army pamphlet supplementing this regulation will be published that will provide detailed guidance to pest controllers on operational, procedural, reporting and record keeping requirements.

This regulation supersedes AR 420–76, 24 November 1971.

PART 657—FACILITIES ENGINEERING, PEST CONTROL SERVICES (AR 420–76)

Subpart A—General

Sec.
657.1 Purpose.
657.2 Applicability.
657.3 Explanation of terms.
657.4 Objective.

Subpart B—Policies

657.11 General.
657.12 Supervision.
657.13 Operations.
657.14 Materials and equipment.
657.15 Training and certification.
657.16 Environmental quality.
657.17 Nonappropriated fund activities.
657.18 Property leased to the Government.
657.19 Cooperation with other agencies.
567.20 Quarantine.
657.21 Aerial application of pesticides.
657.22 Outleased property.
657.23 Contractual services for pest control.

Subpart C—Responsibilities

657.31 MACOM entomologist.
657.32 Facilities engineer.
657.33 Installation commanders.
657.34 Surgeon general.
657.35 Building occupants.

Subpart D—Procedures

657.41 Handling.
657.42 Contract operations.
657.43 Record keeping and reporting requirements.

Subpart A—General

§ 657.1 Purpose.

This regulation provides policies, responsibilities and certain procedures for pest control activities at U.S. Army installations.

§ 657.2 Applicability.

The regulation applies to all Department of the Army installations and activities owned and/or controlled by the Department of the Army, including those in full-time or intermittent use by the ARNG and USAR.

§ 657.3 Explanation of terms.

The terms used herein are explained as follows:

(a) *Pests.* Those organisms which adversely affect the health of man and animals (except those living on or in man or animals); which attack military facilities, stored supplies or equipment; or which are otherwise undesirable by their presence.

(b) *Pesticides.* Substances or combinations of substances intended for preventing, destroying, repelling or mitigating pests.

(c) *Pest control services.* All actions taken to prevent or mitigate pest problems including surveillance, determining proper application procedures, and operational implementation of chemical, physical and biological control techniques.

(d) *Pesticide classification.* A categorization of pesticides, based on toxicity and use patterns, for general or restricted use by the U.S. Environmental Protection Agency (EPA).

(e) *Certification.* Recognition by the MACOM and/or a State certification agency that a pest control supervisor or operator has been trained and is qualified to use pesticides.

(f) *MACOM entomologist.* A professional entomologist serving on the headquarters engineer staff of the MACOMs or a subordinate command, as appropriate.

(g) *Operating personnel.* Trained pest control services personnel who are employed in the facilities engineering organization that have a valid Certificate of Competency, DD Form 1826.

(h) *Standard pesticides and equipment.* Only those pesticides and equipment listed in the Department of Defense (DOD) section of the Federal Supply Catalog (ref para 4c(1)) will normally be used in pest control operations.

(i) *Nonstandard pesticides and equipment.* All pesticides and equipment that are not listed as standard items in the DOD section of the Federal Supply Catalog.

§ 657.4 Objective.

Preventive measures will be continuously applied with the objective of:

(a) Maintaining an effective pest control program at each Army facility.

(b) Minimizing service calls on common household and nuisance pests.

Subpart B—Policies

§ 657.11 General.

Pest control operations will be developed and applied consistent with the policies stated below.

§ 657.12 Supervision.

Except as specifically exempted (see Section 657.22 below—Outleased property), pest control operations will be performed by trained and certified personnel or under the direct and continuing supervision of these personnel.

§ 657.13 Operations.

Surveillance and control operations will be conducted on a scheduled basis to:

(a) Determine effectiveness of preventive and corrective measures.

(b) Prevent development of excessive pest populations.

§ 657.14 Materials and equipment.

(a) Pesticides and equipment listed in the DOD section of the Federal Supply Catalogs and registered with EPA will be used in pest control operations. Microfiches of catalogs C6800IL and 3740/50IL are available from the Adjutant General, USA Publications Directorate, Supply Operations Branch, ATTN: DAAG–PAS–T, Washington, DC 20314. Use of a pesticide other than those registered by EPA and approved for specific application in accordance with labeling is not authorized. Pesticides that have been suspended or finally canceled by EPA will not be used.

(b) MACOM entomologists will review and approve proposed projects prior to acquisition or application of:

(1) Nonstandard pesticides and pest control equipment.

(2) Standard pesticides with restricted use patterns as classified by EPA.

(c) Justification for the use of standard pesticides with restricted use patterns and nonstandard pesticides or equipment will be approved only when one or more of the following criteria are met:

(1) An emergency exists which requires local purchase.

(2) Comparable standard pesticides with general use patterns are not available.

(3) Resistance to standard pesticides has been verified by competent authority.

(d) Contract items. Alternate pesticides (standard or nonstandard) which do not meet applicable contract specifications will not be authorized without approval of the MACOM entomologist.

(e) Requisitions. (1) Requisitions for pesticides requiring entomological approval will be forwarded to the MACOM for review and written approval. Agencies or commands not having access to engineer entomological support may obtain requisition review service from HQDA (DAEN–FEB) WASH DC 20314. Pesticide requisitions must be accompanied by data indicating the target pest, description of the area to be treated, extent of the area to be treated; the rate of application, name and certification number of the applicator and the justification as outlined in § 657.14(c) above.

(2) The Cdr DARCOM, CINCUSAREUR, Cdr USARJ, and Cds USAEIGHT may delegate to subordinate commanders (excluding installation commanders) served by MACOM entomologists as much of their approval authority as they may desire.

(3) CONUS (includes Alaska and Hawaii). Upon written approval of the requisition by the MACOM entomologist, nonstandard pesticides may be purchased locally.

(4) Overseas. When written approval of the requisition is received, it will be submitted through the appropriate supply agency for CONUS procurement. The DA entomologist, DAEN–FEB will be available to furnish technical guidance to CONUS supply agencies regarding procurement of nonstandard pesticides and equipment.

(f) Equipment listings are contained in TM 5–632. Procurement criteria are listed in AR 420–17. Information concerning new developments in equipment is available from MACOM entomologists.

§ 657.15 Training and certification.

(a) All personnel responsible for determining the need for, the effectiveness of, or selection and application of pest control measures on Army real property must receive periodic training and examination. Training information (initial and refresher) is available from:

(1) U.S. Army Health Services Command, ATTN: HSA–INS, Ft. Sam Houston, TX 78234, for the use of insecticides and rodenticides.

(2) The Pesticide Applicator Training Coordinator located at the respective land grant agricultural colleges. All States must meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act by submitting their pesticide programs to EPA, including training and certification, for the approval of EPA by October 1977. The target date for EPA approval of all state plans is October 1977.

(b) A Certificate of Competency (DD Form 1826) will be issued to personnel who successfully meet the required competency levels and as recommended by the MACOM entomologist. Refresher training and re-certification will be required at 3-year intervals.

(c) On-the-job training of new hires and interns will be accomplished by supervisors and certified applicators. MACOM entomologists may assist in the training during technical visits.

§ 657.16 Environmental quality.

Pest control operations will be planned and conducted to minimize and/or eliminate adverse environmental effects. When environmental impact or assessments statements are required, draft documents and final environmental impact statements will be prepared and processed in a timely manner in accordance with AR 200–1.

§ 657.17 Nonappropriated fund activities.

The application of pesticides at nonappropriated fund activities shall be made only by or under the direct supervision of trained and certified personnel. Contracts for pest control at nonappropriated fund activities shall be governed by provisions of this regulation.

§ 657.18 Property leased to the Government.

(a) CONUS and overseas. (1) Lease instruments will be negotiated to delineate specifically the responsibilities of the Lessor and of the Lessee (Government) for accomplishing pest control operations. In foreign countries, these responsibilities will be predicated upon custom, condition, and practices of the country concerned as applicable. In CONUS responsibilities must be in accordance with applicable laws and regulations.

(2) Occupants will maintain the leased premises in a clean and sanitary condition in conformance with normal standards of good housekeeping.

(b) CONUS (includes Alaska and Hawaii). Where feasible, the lessor will:

(1) Furnish the leased housing in pest-infestation-free condition to the lessee and maintain the premises free of pest infestation (AR 420–71).

(2) Employ control measures and pesticides which conform to local health department regulations.

§ 657.19 Cooperation with other agencies.

(a) *General.* Specialists of other Federal agencies provide consultation service and assistance on problems of medical, agricultural, and environmental importance (e.g., disease and pest control, quarantine control, customs inspection, fish and wildlife protection, water protection) as requested. Requests for services of these specialists will be made by the installation commander to the appropriate MACOM commander. The agencies include the United States Department of Health, Education, and Welfare (Public Health Service); the United States Department of Agriculture (Plant Protection Division, Plant Quarantine Division, and Animal Health Division of the Agricultural Research Service); the United States Department of the Interior (Fish and Wildlife Service); the United States Treasury Department (Bureau of Customs); and the Environmental Protection Agency.

(b) *Coordination.* Installations will coordinate environmental assessments of outdoor applications of pesticides with appropriate departments and agencies in section § 657.19(a). This coordination will be requested through the MACOM to the appropriate agency. Requirements for Environmental Impact Assessments or Statements (EIA/EIS) for certain application of pesticides are provided in AR 200–1.

(c) *Notification.* Installations will notify MACOM commanders, or their designees, of proposed visits or surveys by representatives of the departments and agencies identified in section 657.19(a) when these visits or surveys relate to quarantine or to past or proposed pesticide applications.

§ 657.20 Quarantine.

(a) General. In accordance with AR 40–12, all echelons of command will give full cooperation to officials of governmental agencies responsible for quarantines of agricultural and public health significance.

(b) MACOM commanders, or their designees, will insure that areas to receive pesticide treatment are liimted to the minimum necessary to meet quarantine requirements.

(c) Installations will procure pesticides, equipment, and other materials necessary to comply with quarantine requirements.

§ 657.21 Aerial application of pesticides.

Will be accomplished in accordance with AR 40–574.

§ 657.22 Outleased property.

Outgrant holders must comply with all applicable pesticide and animal damage control laws, ordinances, specifications and rules set forth in the land use regulations referred to and part of the outgrant document. Prior to commencing any program for compliance which de-

V 41 160 AUG 17 76 UMI

viates from the land use regulation specifications, review and approval of details of said program must be obtained from the MACOM. Where possible, supplemental agreement to existing outgrants so renewed or amended, for any reason, shall make provision for compliance hereof.

§ 657.23 Contractual services for pest control.

(a) Determinations made on methods of performance (in-house versus contract) must adhere to the requirements of AR 235–5.

(b) Installations located in states that conduct pesticide training, regulation and certification programs approved by EPA will determine contract/in-house triennial review as outlined in para 3–3 AR 235–5.

(c) Installations located in states that do not have EPA approved programs may justify in-house performance under Exemption Code C (Table B–2, App. B, AR 235–5).

(d) MACOMS will approve the technical provisions of all proposed contracts. CINCUSAREUR, USARJ and Eighth Army may delegate this approval.

Subpart C—Responsibilities

§ 657.31 MACOM entomologist.

The entomologist serving on the engineer staff will provide direction, focus and technical supervision for pest control services on all real property within the MACOM jurisdiction. Included are:

(a) Advising on all aspects of pest control operations to include manpower requirements, operational needs, minimizing pesticidal environmental impact, training and certification of pest control personnel, and procedural requirements necessary to assure efficient pest control programs.

(b) Coordinating with other agencies to assure implementation of environmentally safe and efficient pest control programs.

(c) Coordinating with Army medical authorities in implementing their responsibilities as given in AR 40–5.

(d) Reviewing and providing written approval for the use of standard pesticides with restricted use patterns and all nonstandard pesticides prior to procurement.

(e) Conducting reviews of installation pest control programs and recommending to the facilities engineer those changes which would result in safer, more economical, and more efficient operations.

(f) Maintaining professional proficiency by attending professional meetings and keeping abreast of new developments reported in professional publications.

(g) Providing on-the-job training for installation pest control personnel in the selection, use, and maintenance of pest control equipment; in the selection, preparation, and application of pesticides; and in accurate reporting of usage of these materials.

(h) Maintaining surveillance and record of training and certification status of pesticide applicators.

(i) Recommending certification of those pest control personnel who have been found competent in accordance with FIFRA standards.

§ 657.32 Facilities engineers.

Installation facilities engineers will:

(a) Plan, supervise and manage pest control operations.

(b) Conduct preventive maintenance and surveillance inspections at timely intervals.

(c) Assure that pest control services personnel receive adequate training to achieve essential certification.

(d) Provide on-the-job training of pest control services personnel.

(e) Obtain and maintain adequate supplies of materials and equipment.

(f) Assure all pest control operations are accomplished safely.

(g) Determine the phases of pest control to be accomplished by contract based on existing policies. Included are:

(1) Preparation of necessary specifications and technical provisions of the contract document.

(2) Arranging for the purchasing and contracting (P&C) officer to obtain contractural services.

(3) Assuring that the contract operations are conducted in accordance with the specifications through direct and continuous inspection by a certified pest controller.

(h) Perform all recordkeeping and reporting requirements of this regulation.

(i) Inform heads of nonappropriated fund activities that applications of pesticides at these activities shall be made by certified personnel and where certification training is given.

(j) Assure that pest control services are conducted so as to minimize any adverse effects on the environment.

(k) Cooperate with the installation medical authority by:

(1) Furnishing and maintaining mosquito light traps.

(2) Performing essential pest control operations indicated by results of surveillance of medical and quarantine pests.

(3) Providing all essential requirements to meet health safety requirements criteria, including shops, equipment, and protective gear.

(l) Maintain records of operations (e.g., investigations, inspections; utilization of manpower, funds, and pesticides) to be used for analyzing efficiency and economy, and evaluating accomplishment, of pest control.

§ 657.33 Installation commanders.

Will be responsible for:

(a) Determining an installation's position and responsibilities in community-wide pest control activities regarding quarantines and epidemics.

(b) Maintaining liaison with MACOM's concerning pest surveys, and investigations proposed by other agencies.

(c) Establishing lessee responsibility for using pesticides on outgrants of military real property.

(d) Initiating requests for aerial spraying of pesticides as prescribed in AR 40–574.

§ 657.34 Surgeon General.

The medical authority (State Adjutant General for the National Guard Bureau) serving the installation is responsible for:

(a) Conducting surveillance of populations of pests involved in the health of the command and those involved in U.S. Department of Agriculture quarantine regulations, and furnishing the facilities engineer results of the surveillance activities.

(b) Conducting the installation pesticide monitoring program.

(c) Obtaining identification and susceptibility status of pests to pesticides as necessary and furnishing this information to facilities engineers to be incorporated into pest control operations.

(d) Establishing health and personnel safety criteria associated with pesticide operations.

§ 657.35 Building occupants.

Occupants of buildings, including Army family housing will:

(a) Apply good sanitation practices to prevent pest infestations.

(b) Apply only those pesticides approved for use by building occupants.

(c) Cooperate fully with installation pest control personnel in scheduling major pest control operations, to include preparation of areas to be treated.

Subpart D—Procedures

§ 657.41 Handling.

(a) Pesticides will be stored and mixed in an adequately ventilated and heated shop. Showers will be readily accessible to mixing facilities.

(b) Usable standard pesticides (in unopened containers) no longer needed will be reported as excess to the property disposal office.

(c) Pesticides in deteriorated containers will be transferred to lined containers that preclude chemical reactions. Labels will be properly affixed.

(d) Appropriate action will be taken to deactivate areas contaminated by pesticide spills.

(e) Vehicles with lockable storage suitable for safe transportation of pesticides, personnel and supplies will be assigned for control operations and will not be used for other purposes.

(f) Pesticides will not be transported in cabs of military vehicles or anywhere in privately owned vehicles.

(g) Pesticide contaminated clothing will not be home laundered.

(h) Inspection and inventory of stored pesticides will be made at appropriate intervals. Certified personnel, safety and fire protection officers will perform and record inspections in accordance with their criteria.

§ 657.42 Contract operations.

(a) Contracts for pest control services will be executed, when required, according to existing procurement regulations and the following guidelines:

(1) The services are economically beneficial to the Government, or the annual operating cost of the service is less than $50,000 and certified contractors are available.

(2) Application by trained and certified facilities engineering personnel is not feasible because of remote location, project size, and/or manpower-time-equipment limitations.

(3) Single applications of fumigants for entire building or other large inclosure are required.

(4) Aerial or special equipment applications over large areas such as mosquito breeding areas are necessary.

(5) Extensive wood treatment projects such as groundline treatment of utility poles are proposed.

(6) Extensive termite control operations are required which facilities engineering personnel cannot accomplish with in-house resources.

(b) Technical requirements for all pest management contracts will be prepared by the facilities engineering office in cooperation with the installation medical authority. Project plans and specifications will be forwarded to the appropriate MACOM for approval before a request is submitted for procurement of the service from commercial sources. Information should be included on the status of the Environmental Protection Agency's approval of State Plans for training and certification of commercial applicators and/or Department of the Army criteria established pending EPA approval of State Plans.

(c) Technical provisions will specify only the pesticides approved by HQDA DAEN–FEB WASH DC and registered by EPA. The items provided for use by the contractor must be identified qualitatively and quantitatively.

(d) The contractor must submit proof that the supervisory personnel to be employed on the contract will:

(1) Meet the State certification standards that have been established in response to EPA's implementation of FIFRA, or competency requirements established by HQDA (DAEN–FEB) WASH DC for the pesticide(s) to be used in the contract for those states that do not meet FIFRA certification requirements.

(2) Be capable of providing safe working conditions for his personnel and installation occupants.

(e) Inspection of the contract will be performed by a representative of the contracting officer who has a current DA Certificate of Competency (DD Form 1826) in pesticide selection and application. Inspection will include but not be limited to:

(1) Onsite inspection, by the contracting officer of unopened pesticide containers to verify that the chemicals listed on the label meet contract specifications and can be applied in accordance with the registered use.

(2) Observation of the mixing and equipment operations, rate of application (volume versus area), recognition of environmental hazards, and safety precautions in order to verify competence equal to DA standards for pesticide applicators.

§ 657.43 Record and reporting requirements.

(a) Adequate records must be maintained of all pest control operations. The records will serve as reference for continuous monitoring and management of pest control operations and for the reporting, inspection and manpower requirements.

(b) DD Form 1532. The Pest Control Summary Report (Report Control Symbol DD–HL (AR 1080)) will be prepared on DD Form 1532 dated 1 July 1974. Each installation will submit the reports monthly to the appropriate MACOM; the US Army Environmental Hygiene Agency (USAEHA), Aberdeen Proving Ground, MD 21010; and to the appropriate medical entomologist at USAEHA Regional Divisions, within 15 days after the report period. This regulation does not change any other instructions or standard terminology previously furnished.

(c) Annual Pesticide Usage Report (RCS DD–H&E (A) 1124). This report must be submitted by 31 December each year for annual review by the Federal Working Group on Pest Management. The routine programmed uses of pesticides reported in the past are to be excluded from future reports. MACOM entomologists will review all programs submitted and forward only those involving use of new programs, procedures, methods, materials or any control measures of a controversial nature. Negative reports will be submitted by installations if programs are routine as described above.

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V 41 160 AUG 17 76 UMI

federal register

TUESDAY, AUGUST 17, 1976



PART IV:

FEDERAL COMMUNICATIONS COMMISSION

Nondiscrimination in the Employment Policies and Practices of Cable Television Applicants and Certificate Holders and Licensees of Cable Television Relay Stations

Notice of Proposed Rulemaking

V41-160 AUG 17 76 UMI

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20829; FCC 76-749]

[47 CFR Part 76]

CABLE TELEVISION APPLICANTS

Nondiscrimination in Employment Policies and Practices

In the matter of nondiscrimination in the employment policies and practices of cable television applicants and certificate holders and licensees of cable television relay stations.

1. Notice of proposed rule making is hereby given in the above-captioned matter, relating to the Commission's policies concerning nondiscrimination in the employment policies and practices of cable television applicants and certificate holders and Cable Television Relay Station (CARS) licensees subject to the provisions of Parts 76 and 78 of the Commission's Rules.

2. The Commission has conducted a thorough examination of its rules, policies and compliance review procedures as they relate to nondiscrimination in the employment policies and practices of cable television applicants and operators. Additionally, we have conducted a study of the FCC Form 395's (Annual Employment Reports) filed by cable systems in 1974, in an attempt to ascertain present employment levels of minorities and women in the cable industry. Our findings indicate that although our nondiscrimination rules are fairly comprehensive, there is a further need to describe and exemplify the measures which cable operators should undertake to promote the full realization of equal opportunity in employment for minorities and women. Our purposes in initiating this proceeding are, therefore, threefold:

First, to emphasize to cable and CARS operators and the public that equal employment opportunity (EEO) is an important aspect of our regulatory scheme for cable operations in the public interest;

Second, to clarify our policy that equal employment programs must be active and affirmative, not merely passive or nondiscriminatory; and

Third, to propose changes in our rules and procedures which will make enforcement more effective without unnecessarily increasing the record keeping and reporting burdens on cable certificate of compliance holders.

Background

3. In March 1972, we adopted rules prohibiting discriminatory employment practices by cable television operators and cable television relay station licensees analogous to those already adopted for broadcast and common carrier licensees.[1] These cable rules require submission of affirmative action programs, annual employment reports (FCC Form 395), and annual complaint reports. Discriminatory Employment Practices, FCC 72-275, 34 FCC 2d 186 (1972).

4. When cable EEO rules were first proposed, we stated that "the same considerations of public policy that apply to broadcast . . . facilities are applicable to community antenna television systems and community antenna relay stations . . . [and] . . . that the national policy against discrimination is applicable to all CATV systems and CAR stations, whether or not they are subject to the specific provisions of the Civil Rights Act." Notice of Proposed Rule Making in Docket 19246, FCC 71-455, 29 FCC 71-455, 29 FCC 2d 18, 19 (1971). See also *United States* v. *Southwestern Cable Company*, 392 U.S. 157 (1968); *United States* v. *Midwest Video*, 406 U.S. 649 (1972). And we reaffirmed that conclusion in Discriminatory Employment Practices, supra. In addition to recognizing the fact that the national policy of nondiscrimination in employment necessitated the development of EEO rules for cable television, we also noted the unique position of cable television as a potential outlet for minority expression. In paragraph 9 of Discriminatory Employment Practices, supra. at 190, we stated.

> Cable, by virtue of its multi-channel capacity, is uniquely capable of serving the special programming, and other communications needs of discriminated-against minority groups. But a company which is not an equal opportunity employer is less likely than it otherwise would be, to recognize and respond to those needs. In light of this fact, among others, it would certainly be improper for the Commission to countenance discriminatory practices by cable systems at the same time as it forbids such practices by broadcast . . . facilities.[2]

Therefore, in view of the potential of cable as an outlet for minority expression, and in light of the Supreme Court's decision in *United States* v. *Southwestern Cable Co.*, supra. which indicated that the Communications Act confers on the Commission that jurisdiction over cable television "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting", id. at 178,[3] we determined that discriminatory employment practices on the part of cable operators call into question their continued ability to serve the public interest.

5. The FCC Form 395's recently analyzed contained information on full-time cable system employees for any one payroll period in January, February or March, 1974. Approximately 90 percent of all cable television employment units (with five or more employees) submitted reports. The analysis separated job categories into high salary and low salary positions, and according to managerial and technical functions of employees, e.g., officials and managers through laborers and unskilled workers. Additionally, persons were classified according to race, sex, and national origin. Our statistics showed that minority and female employment levels in the cable television industry were very low in relation to their numbers in society, and that minorities and females were disproportionately represented in the lower skilled and lower paying jobs. These statistics also suggest that, on the whole, existing equal employment opportunity programs are not sufficiently active and affirmative. Practices and procedures neutral on their face "cannot be maintained if they operate to freeze the status quo or perpetuate prior discriminatory employment practices." *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

6. The foregoing considerations shape our present intent to seek comment as to whether cable applicants and operators should be required to develop updated affirmative action employment programs consistent with the new proposals to be set forth hercin. The objective to be achieved is to insure that all cable applicants and operators are identifying and eliminating artifical barriers having discriminatory effects in their employment systems, and that, in time, minority groups and women will participate in each cable television work force in a reasonable relationship to their availability in the labor recruitment area generally.

The Commission's Authority

7. We note that a recent case involving the Federal Power Commission raises issues regarding the authority of federal agencies to promulgate EEO rules for their respective regulated industries. It has been previously recognized that the "public interest" mandate of a federal regulatory agency is not a broad license to promote the general welfare, and that such a mandate takes on specific content and meaning only when one carefully examines the purposes for which the agency was established. In keeping with this principle, the Supreme Court recently held that a general grant of authority to regulate an industry in the "public interest" does not authorize the regulation of employment discrimination per se, and that discriminatory practices may be considered only to the extent that such conduct is directly related to the agency's particular statutory responsibilities. *NAACP* v. *Federal Power Commission*, 44 U.S.L.W. 4659 (May 19, 1976). The court went on to note, however, that our regulations, including a specific reference to cable television regulations, can be justified insofar as they are "necessary to enable the FCC to satisfy its obligation under the Communications Act . . . to ensure that its licensees' programming fairly reflects the tastes and viewpoints of minority groups." Id. at 4662, note 7. The Supreme Court affirmed the decision of the Court of Appeals, which held that the FPC has the "power to take into account, in the performance of its regulatory functions, including licensing and rate review, evidence that the regulatee is a demonstrated discriminator in its employment relations." 520 F. 2d at 435 (D.C. Circuit, 1975). As the Court of Appeals noted:

> A regulatee's performance in the area of equal employment oportunity may also be relevant to that company's efforts to secure a license renewal or other Commission authorization. It is concelvable that an applicant's record could be so riddled with discrimination—related legal difficulties, and its future so lacking in any promise of improvement on that score, that the Commission could validly conclude that for this reason it should not be permitted to be the recipient of franchise grants. 520 F. 2d at 444.

8. In light of the Supreme Court's opinion, we seek comment as to whether our proposed actions are within the Commission's "statutory authority to consider the consequences of employment discrimination in performing its mandated regulatory functions." *NAACP* v. *FPC, supra*, note 2.

Policy Clarification

9. As noted above, the Commission's rules embody two concepts: Nondiscrimination and affirmative action. Nondiscrimination applies to all persons. Thus, no person may be denied employment or related benefits on grounds of race, color, religion, national origin or sex. Affirmative action, however, requires more than mere employment neutrality. It calls upon cable operators and applicants to make additional efforts—to engage in a positive, continuing program of specific practices—to assure equal employment opportunity with regard to recruiting, hiring, training, promotion and other personnel actions.

10. In its simplest terms, therefore, an affirmative action plan is a set of specific and result oriented procedures in which cable operators and applicants undertake good faith efforts to assure that minorities and women are given equal and full consideration for job opportunities. The essential elements of such a program are embodied in Section 76.311 of our Rules. Section 76.311(a) provides, in substance, that each cable operator shall provide equal opportunity in employment to all qualified individuals, and that no person shall be discriminated against in employment because of race, color, religion, national origin or sex. A basic element, and the starting point for developing an effective employment program, therefore, is a reaffirmation of each cable operator's equal employment opportunity policy with respect to recruitment, evaluation, selection, promotion, compensation, training and termination. Therefore, each cable operator's program should set forth at the outset its policy and commitment with respect to the national goal of eliminating discrimination and fostering equal employment opportunity.

11. In developing a positive, continuing program of specific practices to assure equal opportunity in employment, Section 76.311(b)(2)(i) requires each cable television system to "[d]efine the responsibility of each level of management to insure a positive application and vigorous enforcement of . . . [its] policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance." Accordingly, the second element in developing an equal opportunity program consistent with our rules is identification of the individual(s) responsible for administration and implementation of the cable system's policy. Whether employment decisions are made by one individual or by several persons, the cable operator must develop a procedure to insure that these decisions are consistent and are not based on discriminatory factors, no matter how inadvertent.

12. Section 76.311(b)(2)(iii) provides that each cable system should make reasonable efforts to "[c]ommunicate the system's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin or sex, and solicit their recruitment assistance on a continuing basis." Accordingly, an objective of any equal employment opportunity policy and program should be to assure that employees and prospective employees are aware that the cable system is an equal opportunity employer and does not discriminate against any individual because of his or her race, color, religion, or national origin. Each operator's program should, therefore, in some manner, describe its efforts to communicate its policy to employees and prospective employees.[4] In addition to other outreach techniques described herein, this requires the posting of notices advising employees and applicants of the operator's policy and of their employment rights if they believe they have been the victims of discrimination.

13. Section 76.311(b)(2)(iv) of the Rules provides that each cable system should "[c]onduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color, religion, national origin or sex, from the system's personnel policies and practices and working conditions." The system's total employment system and each major element of the personnel process must be analyzed to assure that none of the policies and procedures relating thereto, regardless of how neutral they appear, have an unreasonably adverse effect on minorities and women. In this regard, each cable operator's equal employment program should set forth the outreach techniques it uses to solicit for consideration minority and women applicants. An applicant should also examine the effectiveness of its recruitment sources to determine whether sufficient qualified minority and female applicants are being referred. Those sources which are not providing the needed service should be eliminated and new sources developed. In this regard, there are numerous outreach techniques which can be used to increase minority and female applicants.[5]

14. In addition to the major objective of broadening a system's pool of applicants so that qualified minorities and women have an equal chance to be considered for employment, a cable operator's equal employment program must be designed to assure that such persons are placed and promoted in a nondiscriminatory manner. To assure that minorities and women are given due consideration for promotional opportunities, the operator's porgram must also contain a description of any efforts being undertaken to foster the advancement of minorities and women in the organizational structure. Closely connected with this aspect of the cable operator's policy are the training efforts—both internal and external—which are or will be undertaken to qualify minorities and women for upgraded positions or to train applicants who demonstrate sufficient potential. This does not mean a formal training program is required. A cable system's equal employment opportunity program should, however, also contain a description of any training it has undertaken to upgrade the skills of minorities and women. Furthermore, the operator's program should assure that such items as compensation, fringe benefits, and opportunity to perform overtime work are allocated in a nondiscriminatory fashion. Comments are invited on this and other aspects of the foregoing policy clarification.

Analysis of EEO Program

15. Having clarified some of the necessary elements of an effective affirmative action program, we now turn to a consideration of how both the cable operator and the Commission can evaluate the implementation of such a program, apart from analysis of FCC Form 395's. Section 76.311(b)(2)(v) of the Rules requires each cable television system to:

> Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to assure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility in the system.

16. One analytical tool for evaluating an effective affirmative action program is a determination of the percentages of minority groups and women in the local labor pool area from which employees are

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[1] Section 76.311 of the Commission's Rules applies to operators of cable television systems, both in that capacity and as licensees and permittees of CARS stations. See also Section 78.75.

[2] Although cable operators, unlike broadcasters, are under no affirmative duty to program in the public interest, the availability of multiple channels allows cable a great potential to offer diverse programming and community access. The Commission no longer requires any cable television operator to engage in origination cablecasting. FCC 74-1279, 49 FCC 2d 1090 (1974).

[3] In *United States* v. *Midwest Video Corp.*, *supra*, the Supreme Court affirmed the Commission's decision to go beyond mere protective measures aud also regulate cable with a view to "promote the objectives for which the Commission had been assigned jurisdiction over broadcasting." 406 U.S. 649, 665. Among those objectives recognized by the Court are increasing the number of outlets for local self-expression and augmentnig the diversity of programs and types of services available to the public.

[4] See Section III, sample affirmative action plan (Appendix 2). See also present Section 76.311(c)(2)(i).

[5] In addition to the outreach techniques suggested for broadcasters at 54 FCC 2d 359, the following might prove useful: (1) Assist secondary schools and colleges in programs designed to enable minority and women graduates of these institutions to compete in the open employment market on an equitable basis; (2) Continue to actively recruit minority and femal high school students for part-time work as needed.

V 41 160
AUG 17 76
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drawn or reasonably could be drawn—referred to herein as an availability survey. We recognize, in this regard, that there is no single definition of "local labor pool area." It follows, therefore, that each applicant should develop his own definition of what is "local" and supply corresponding data.[6]

17. In evaluating utilization of minorities and women, the information set forth in the availability survey will be compared to the applicant or operator's current workforce, a breakdown by job category of which appears on the most recently filed FCC Form 395. Specifically, underutilization may be defined as either employing minorities and women in jobs that do not make adequate use of their skills, or having fewer such persons on the applicant or operator's work force than could reasonably be expected by their availability. If there is a substantial incongruity in the proportion of minorities and/or women in the applicant or operator's work force and the availability in the local labor pool area, then specific remedial steps may be required to correct the deficiencies, unless there is a satisfactory explanation for the incongruity. (See paras. 22–24, infra.)

18. Because the written affirmative action program proposed herein seeks to assess progress and because the courts have recognized that such programs are evolving and dynamic,[7] we are proposing that updated statements, including current statistical data and availability surveys, together with any changes or amendments to existing programs, be filed on or before a fixed date to be established and each third, or perhaps each fifth, year thereafter. We believe that three to five years is an appropriate time period to provide reasonably current data and yet allow for trends to develop.

19. We seek comment on the appropriate threshold for the filing of written EEO programs. It would appear that the imposition of such requirements may be unnecessarily burdensome on cable systems with less than five (or perhaps 10) full-time employees, and that reliable statistical analysis is more difficult for smaller employment units. Requiring programs to be filed by all cable units with five or more full-time employees would cover about 19,000 employees, or approximately 75% of all cable industry employees. Alternatively, raising the cable threshold to 10 would cover about 14,000 employees, representing approximately 55% of the cable industry positions. Regardless of the threshold ultimately adopted, all operators and applicants will continue to be required to comply with other applicable portions of Section 76.311, and to file an annual report of complaints.[8] If a review of Annual Employment reports or other information indicates that closer Commission scrutiny and follow-up is warranted, we may reqire additional reports, data, or other appropriate remedial steps from any operator or applicant, regardless of the number of full-time employees.[9] Such additional remedial steps are expected to be ordered in only very limited circumstances.

20. Comments are specifically requested on all of the matters raised in paragraphs 15–19 above. We also invite comment on the proposed amendment which would exempt from coverage in a given plan any minority group insignificantly represented in the cable system's labor pool area,[10] including the question of what population proportion might define "significant."[11] In addition, attached is a sample affirmative action program which includes the elements which we feel are necessary to develop and carry out an effective equal employment opportunity program in accordance with Section 76.311 of the Rules, as clarified herein. Comments are invited on thisp rogram and whether it should be adopted as a guideline in conjunction with our proposed amendments to Section 76.311(c), or whether such a program should be adopted as an official Commission form.

ENFORCEMENT AND MONITORING

21. Generally speaking, we recognize that the development of an equal employment opportunity program containing the foregoing elements manifests an intent to comply with our rules. The adequacy of such programs will, of course, be subject to review by the Commission to determine whether each operator and applicant is following personnel policies and practices designed to promote the full realization of equal opportunity in employment for minorities and women. Both the Commission and the courts have recognized that non-proportionate minority and female employment—standing alone—does not necessarily evidence discrimination requiring administrative action. Thus, in *Stone v. F.C.C.*, 466 F. 2d 316, rehearing denied, 466 F. 2d 331 (1971), the court noted that disproportionate minority employment was in a "zone of reasonableness" in light of the licensee's affirmative recruitment practices. Conversely, ". . . a disparity that is reasonable in light of a recruitment policy might not be reasonable in its absence." *Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C.*, 492 F. 2d 656 (D.C. Cir. 1974). In this regard, it should be noted that such a "zone" is not static and that continued operation of an affirmative action plan should result in additional employment opportunities for minorities and women.

22. Where it appears that any cable system's EEO program is not achieving the desired results or that certain elements of its employment procedures are questionable, we may—as a preliminary remedial step—request more specific data by race and sex on such areas as applicant flow, hires, promotions and terminations.[12]

In those cases where it appears that a more comprehensive analysis of a particular operator's employment practices is warranted, the Commission may consider the use of on-site investigations. In such instances, the on-site visit may consist of a complete analysis of the system's equal employment practices in an attempt to resolve existing differences. As a remedy for employers whose performance suggests significantly deficient EEO programs, the Commission may require establishment of specific goals and timetables. A "goal" is a numerical employment objective—a target—which should be fixed realistically in terms of the number of job opportunities expected and the number of qualified minorities and women in the local labor market. A "timetable," on the other hand, is a period during which employment goals should be obtained. Where required, goals and timetables should be set forth to numerically demonstrate the operator's good faith intention to increase minority and female utilization. A numerical projection will also enable the Commission to periodically assess the progress of the employer's corrective action program. We are guided in this course of action by statutory and case law which views goals and timetables as methods of eliminating the effects of past discrimination and guaranteeing against discrimination in the immediate future.

23. Absent discrimination, one would expect that in time minorities and women will be employed in some reasonable relationship to their numbers in the area. It has been recognized that factors other than discrimination may account for disparities between an employer's minority and female work force and their availability.[13] If, however, an extremely low rate of minority and female employment persists in a cable system's work

[6] Generally speaking, where a system is located in a Standard Metropolitan Statistical Area, we proposed to consider the S.M.S.A. as the labor pool area. In this situation, the necessary data may be obtained from state employment agencies "Manpower Information for Affirmative Action Programs" which is available in most localities. The specific figures generally shown in Tables I and II in those releases can be used in the analysis of population, unemployment and work force availability. Where a cable system is not in an S.M.S.A., city or county figures will suffice. The publications "General Population Characteristics" and "General Social and Economic Characteristics" should provide the required information. They are in the PC(1)–B and PC(1)–C series of State Reports of the U.S. Bureau of Census' U.S. Census of Population: 1970, obtainable from any Department of Commerce Field Office.

[7] Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C., 492 F. 2d 656 (D.C. Circuit 1974).

[8] We are proposing an amendment to Section 76.311(d) to clarify that such annual complaint reports are required of all cable systems.

[9] See para. 22, infra.

[10] See note 6, supra.

[11] Of course, women ostensibly are significantly represented virtually everywhere, and thus would be covered in most every plan.

[12] See 54 FCC 2d at 357, note 1, for examples of such additional reporting requirements which have been applied to broadcast licensees.

[13] For example, availability of particular skills among women or minority groups, the employer's capacity for special job training or recruiting, etc. Also, the rate of turnover and anticipated expansion will have a bearing on the length of time it will take to correct any significant disparity.

force, or if it is apparent that a system's affirmative action program is not having practical effects, such systems may be required to establish employment goals and timetables to increase minority and female participation on their work force." When such a corrective action program is ordered, the fixing of the goals and timetables would initially be left to the operator. This is a virtual necessity for a realistic framework of goals and timetables. However, it is our belief that projected hiring and promotion goals should be the maximum that can be realistically achieved during each year of the adopted timetable. The success of a corrective action program depends, in large measure, on setting realstic goals in terms of the number of minorities and women that can actually be hired, trained or promoted over a given period of time and on taking positive, continuing steps to achieve those goals. Our assessment, in this respect, will be based on whether the operator has established meaningful goals and made substantial efforts to achieve those goals.

24. Where there is a disparity in minority and female employment that is reasonable in light of the cable system's equal employment opportunity program, further administrative action by way of show cause hearing or otherwise would appear unwarranted. However, since a substantial incongruity in minority or female employment calls into question whether a cable system is being operated in the public interest, where it appears that a cable operator has followed discriminatory employment practices, we retain the option to order a hearing to resolve any substantial and material questions of fact relating to the system's employment policies and practices. We trust that most cases will not proceed to such extremes. Comment is invited on the proposals for EEO monitoring and enforcement outlined above.

COMPLAINTS

25. Under our proposed procedures, we shall continue to refer complaints of discrimination against cable applicants and operators to appropriate state, local and Federal agencies. This is consistent with our view that it is not our responsibility to remedy employment discrimination per se, but rather to assure that the public interest continues to be served by our certificating or licensing. We urge complainants alleging discrimination because of race, color, religion, sex or national origin to initially file their grievances with the appropriate state, local [15] or federal agency given primary jurisdiction in such matters because we lack the resources and the expertise to give them the same evaluation as those agencies whose primary function lies in the area of discrimination complaints. Where no state or local ageney with primary jurisdiction exists, complaints are referred to the U.S. Equal Employment Opportunity Commission (EEOC), which possesses jurisdiction over employers of 15 or more individuals. Age discrimination charges are referred to the Wage and Hour Division of the U.S. Department of Labor's Employment Standards Administration. Where complaints are referred to other agencies, the Commission requests notification of that agency's final determination so the Commission may decide what further action is warranted.[16] In the event that no federal, state or local agency has jurisdiction over an individual employment discrimination complaint concerning a cable system, we invite complainants to address to the Commission their specific allegations indicating violations of our EEO rules for our determination of the appropriate action in the matter.

26. The receipt of such a complaint may result in an internal audit of the applicant or operator's Form 395 and EEO program to determine if the applicant or operator appears to be discriminating against women or minorities. Where we make such a determination, we will notify the local franchising authority or other governmental entity asserting jurisdiction to franchise, license, certify, or otherwise regulate cable television at the State or local level of the determination and of any remedial action which we may direct the applicant or operator to take to correct the situation. Where any Federal, State or local agency or court of competent jurisdiction makes a final determination that the employment practices of any applicant or operator are discriminatory, we shall consider such findings and orders as is appropriate in light of the facts supporting them. For the reasons set out at Paras. 7 and 21, supra, a finding by another agency will not necessarily present a substantial question or a basis for further inquiry under our own Act and rules. Comments are invited on the foregoing proposed complaint procedure.

CONCLUSION

27. In this Notice, we have outlined the development of our EEO rules as they relate to cable television and CARS operators, licensees, and applicants. We have also discussed the ingredients of an acceptable affirmative action program, and our compliance review and complaint procedures. In this respect, we have stressed the remedial rather than the punitive aspects of our rules and policies. However, we have also endeavored to erase any doubts about the seriousness with which we view the obligation of our applicants and operators to provide equal employment opportunity to all persons.

28. Authority for the rule making proposed herein is contained in Section 4 (i) and (j), 303, 307 and 403 of the Communications Act of 1934, as amended.

29. All interested persons are invited to file written comments on or before November 10, 1976, and reply comments on or before December 10, 1976. It is hoped that comments, either formal or informal, will be submitted by all segments of the public, the communications bar, national and state cable associations, and individual cable television operators and applicants. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching a decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

30. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 11 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. However, in an effort to obtain the widest possible response in this proceeding from cable operators and members of the public, informal comments (without extra copies)* will be accepted. Copies of all responses will be availabl efor public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its Headquarters in Washington, D.C. (1919 "M" Street NW.).

Adopted: July 30, 1976.

Released: August 13, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[17]
VINCENT J. MULLINS,
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Section 76.311(c) and paragraph (d) (1) are revised to read as follows:

§ 76.11 Equal employment opportunities.

* * * * *

(c) *Equal employment programs to be filed with the Commission.* (1) The operator of each cable television system having 5 (or 10) or more full-time employees, or [within the meaning of paragraph (b)(3)] together with other cable television systems constituting a single employment unit with a total of 5 (or 10) or more full-time employees, shall

[14] In establishing goals there is no requirement that employees be displaced or that unneeded persons be hired. Further, as noted above, many localized factors may distort the resemblance between minority/female employment percentages and minority/female labor market percentages, even in the absence of discriminatory employment barriers. These factors must be considered if the goals established are to be realistic and attainable. Accordingly, the operator would be required to develop realistic goals and apply every good faith effort to meet those goals. Our rules prohibit preferential treatment on the basis of race, color, religion, sex or national origin.

[15] Local agencies could include franchising authorities, especially where EEO matters are covered in the franchise.

[16] Section 76.411 of the rules requires each cable television system to file an annual report of complaints, which, pursuant to Section 76.311(d)(1), must recite the respective disposition or current status of each complaint. An editorial change in 76.411 (Appendix One) seeks to make clear that the obligation to report EEO complaints falls on all cable systems, regardless of number of employees.

[17] Statement of Commissioner Hooks filed as part of original document.

V 41 160 AUG 17 76 UMI

file a statement of its equal employment opportunity program, indicating specific practices to be followed in order to assure equal employment opportunities for females, Negroes, Oriental, American Indians, and Spanish-surnamed Americans in such aspects of employment practices as a recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination. [Guidelines for the preparation of such statements are set out at ____ FCC 2d_____.] [1]

(2) If, pursuant to paragraph (c)(1) of this section or § 76.13(a)(8), a cable operator has been exempted from the requirement that it file an equal employment opportunity program statement, but has failed to satisfy the conditions of that exemption at any time during the first three months of a calendar year, it shall file the statement on or before May 31 of that year.

(3)(i) Where, pursuant to paragraph (b)(3) of this section a program is jointly established by two or more cable systems with an aggregate total of 5 (or 10) or more full-time employees, a multiple cable operator shall file a combined statement.

(ii) A multiple cable operator shall file a separate equal employment opportunity statement for each headquarters office if that office has five (or ten) or more full-time employees, and its work is primarily related to the operation of more than one cable television system under common ownership or control.

(4) The program need not include any minority group which is represented in insignificant numbers in the labor recruitment or population area, in which case a statement of explanation must be filed.

(5) Updated program statements, including current statistical data and availability surveys, together with any changes or amendments to existing programs, shall be filed on or before _____, and each third (or fifth) year thereafter.

(d) • • •

(1) All operators of cable television systems, regardless of their number of full-time employees, shall submit an annual report to the Commission no later than May 31 of each year indicating whether any complaints regarding violations by the operator of equal employment provisions of Federal, State, territorial, or local law have been filed during the preceding calendar year before any body having competent jurisdiction.

• • • • • •

SAMPLE EEO PROGRAM (CABLE TV)

PREFACE

The following *sample* affirmative action program is provided to assist cable television operators and applicants in the development and presentation of their own plans. By no means is the sample intended as an all-inclusive document. It is a guide that may be adapted to the uniqueness of each employment situation. Indeed, operators are encouraged to supplement these suggestions with any special features of their EEO plans not covered herein. Similarly, we expect them to omit from their plans the sample elements which are not warranted or feasible in their particular circumstances, so long as all major aspects of the pertinent EEO rules are covered. For example, an availability survey is essential for meaningful analysis of the effectiveness of any EEO program, hence some form of Sections IX and X must be included. Section VI, on the other hand, might be deleted if the operator has no internal or external training programs. We realize that workforce availability data is not readily obtainable for all localities; however, we urge applicants to assemble as much information as possible concerning the population from which employees are drawn. We suggest the following sources as reference points: Office of Department of Commerce (U.S. Census of Population Reports), Bureau of Labor Statistics, National Technical Information Service, State Employment Office, Chamber of Commerce, local employer's associations, and community organizations.

I. POLICY STATEMENT

It is the policy of _____ to pro-
(Name of organization)
vide equal employment opportunity to all individuals without regard to race, color, religion, sex, or national origin in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

To ensure implementation of this policy and to ensure conformance with the requirements set forth in Title VII of the Civil Rights Act of 1964 and FCC Rules and Regulations, _____ has developed a posi-
(Name of organization)
tive, continuing result-oriented Affirmative Action Plan, and is committed to apply good faith efforts toward the attainment of these objectives.

II. RESPONSIBILITY FOR IMPLEMENTATION

All company officials and managers are responsible for implementation of affirmative action and for seeing that stated objectives are effectively accomplished. _____,
(Name)
_____, is responsible for the administra-
(Title)
tion of the system's policy and plan and will keep senior management informed of progress on a regular basis.

III. POLICY DISSEMINATION

( ) Where a significant percentage of employees, employment applicants, or residents of the community of a cable television system are Spanish-surnamed Americans, all notices, applications and other equal employment opportunity information is posted or distributed in both Spanish and English. Similar use is made of other languages where appropriate.

( ) We seek the cooperation of the unions represented in our employment units to help develop and implement our EEO program and all new or re-negotiated union agreements contain an effective nondiscrimination clause.

Internal Communications: To assure that all members of the staff are cognizant of our equal employment oportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts are made:

( ) Appropriate notices are posted informing applicants and employees that the system is an Equal Opportunity Employer and of their right to notify an appropriate local, state, or federal Communications Commission, if they believe they have been the victims of discrimination.

( ) Other (specify)

_____

_____

External Communications: In order to assure that all prospective applicants and the general public are aware of our EEO policy, the following specific communications efforts are made:

( ) The system's employment application form contains a notice in bold type informing prospective employees that discrimination because of race, color, religion; national origin or sex is prohibited and that they may notify the appropriate local, state, or federal agency, including the Federal Communications Commission, if they believe they have been the victim of discrimination.

( ) Other (specify)

_____

_____

IV. RECRUITING AND SELECTION

_____ actively seeks and en-
(Name of organization)
courages minorities and women to apply for existing and future available job openings. In so doing, contact was made with the following organizations in the past (three) year(s):

_____

Organization and Address

_____

Number of Referrals

( ) Selection techniques or tests (If used) are designed to avoid discriminatory effects.

( ) Present employees are encouraged to refer minority or female applicants.

V. JOB HIRES

During the period _____
(month-day-year)
through _____, we receive a
(month-day-year)
total of (_____) applications for employment. Of these applicants (_____) were
(month-day-year)
hired.

Analysis of our recruiting performance and new hires reveals that:

( ) Sufficient minorities and women are applying for available positions.

( ) An insufficient number of qualified minorities and/or women are applying for positions. Therefore, we are expanding our recruitment sources to include:

_____

Organization

_____

Address

VI. TRAINING

( ) We provide on-the-job training to upgrade the skills of employees. Tangible benefits of such training to minority and women employees during the past (three) year(s) may be briefly described as follows:

_____

_____

( ) We utilize the following other sources to assist in training potential employees or qualifying current employees for higher-level positions:

_____

_____

( ) There are no specific internal or external programs for upgrading the skills of employees.

VII. PROMOTION AND TRANSFER

It is our policy to provide promotions on a nondiscriminatory basis. Further, to assure that minorities and women are given due consideration for promotional opportunities, special effort is taken to encourage minorities and women to qualify and apply for advancement. During the past twelve months our policy has had the following results:

( ) Those of the system's staff who make decisions on hiring placement and promotion are personally instructed that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

( ) Minority groups and female employees are given equal opportunity for positions which lead to higher positions. We inquire as to the interests and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counselling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

( ) Seniority practices are reviewed periodically to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

VIII. COMPENSATION

( ) Rates of pay and fringe benefits for present employees with equivalent duties have been examined within the last (three) year(s) and any inquiries found have been adjusted.

( ) Opportunity to perform overtime work is provided on a basis that does not discriminate against qualified minority groups or female employees.

[1] Assuming the sample program is not adopted as an official form.

IX. AVAILABILITY SURVEY

The following analysis has been prepared to determine the extent to which minorities and/or women are represented in the cable system's labor or population area. In determining the available minority and female work force, we have used information obtained from:

( ) Office of Department of Commerce
( ) "General Population Characteristics"
( ) "General Social and Economic Characteristics"
( ) Bureau of Labor Statistics
( ) National Technical Information Service
( ) "Manpower Information for Affirmative Action Programs"
( ) State Employment Office
( ) Chamber of Commerce
( ) Local employer's association
( ) Community organizations (specify)
( ) Other (specify)

	Women	Negro	Oriental	American Indian	Spanish surnamed American
Percentage of women and each minority group in the work force					
Percentage of women and each minority group in the population (to be used only if work force data is unavailable)					

The above information is relative to: ( ) S.M.S.A. ( ) City ( ) County ( ) Other (specify)

Based on the data, the following groups are not significantly represented in the cable system's area _____ (attach statement of explanation).

X. EFFECTIVENESS OF AFFIRMATIVE ACTION PLAN

This section should contain a brief narrative discussion of the effectiveness of the operator's efforts to ensure Equal Employment Opportunity. For example, the operator should review the current workforce breakdown, which data appears on the most recently filed FCC Form 395. This data should be compared to the Availability Survey appearing in Section IX to determine whether there is a substantial incongruity in the proportion of women and/or any significantly represented minority group in the system's workforce to their availability in the local labor pool area. If a substantial incongruity is determined to exist, any changes instituted to overcome the deficiency should be set forth. The operator may wish to explain why any discrepancies which may exist are not unreasonable. Any rifficulties experienced in implementing the affirmative action plan might also be described, together with any steps proposed to surmount these difficulties in the future.

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V 41 160 AUG 17 76 UMI

V41160
AUG 17 76
UMI

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V 41 1 60
AUG 17 76
UMI

161

Vol.51–No.161
8–18–76
PAGES
34937–35051

federal register

WEDNESDAY, AUGUST 18, 1976

highlights

DISCRIMINATION

CAB withdraws proceeding considering proposed regulation of employment practices by regulated airlines..... 34979

LAND DEVELOPMENT MORTGAGE INSURANCE

HUD proposal revising computation ratio for determining maximum amount available and amending application and commitment procedures; comments by 9–16–76.. .. 34977

CABLE TELEVISION

FCC removes requirements that franchising authorities specify or approve regular subscriber rates; effective 9–23–76 34963

MILITARY PERSONNEL

DOD/AF establishes policies and procedures for management of desertion and unauthorized absenteeism..... 34952

CONTRACT OVERRUNS

DOD/AF sets policy, procedure, and criteria for funding excess costs..... 34962

ESCROW RECEIPTS

FRS allows use for option transactions effected in special cash accounts..... 34938

ENDANGERED SPECIES

Commerce/NOAA allows holders of pre-Act products to obtain exemption certificates permitting commercial sale for limited time; effective 8–18–76; comments by 9–20–76 34970

PUBLIC LAND DAMAGE LIABILITY

Interior/BLM proposes revised conditions under which States and other government agencies shall indemnify the United States; comments by 9–18–76..... 34977

CIVIL AIR PATROL

DOD/AF adds regulations governing cadet programs..... 34951
DOD/AF proposal describing purposes, activities, and organization; comments by 9–20–76..... 34976

CRIMINAL JUSTICE

Justice publishes commentary on selected regulations on criminal history record information systems..... 34949

ANIMAL DRUGS

HEW/FDA approves safe use of tylosin and sulfamethazine premix in manufacturing swine feed; effective 8–18–76 34943

CONTINUED INSIDE

V41161
AUG 18 76
UMI

ANTIDUMPING

Treasury/CS rules on tapered roller bearings and certain components from Japan 34974

MEETINGS—

Commerce: Science Court creation proposal, 9–19, 9–20, and 9–21–76 35008
DIBA: Electronic Instrumentation Technical Advisory Committee, 9–28–76 35006
FCC: National Association of Regulatory Utility Commissioners, et al., 9–7–76 35024
Foreign Trade Zones Board: Committee of Alternatives, 8–24–76 35047
HEW/NIH: Recombinant DNA Molecule Program Advisory Committee; Working Group on Safer Hosts and Vectors, 9–12–76 35010
National Foundation on the Arts and the Humanities: Music Advisory Panel (Folk/Ethnic), 9–8 through 9–11–76 35034
VA: Station Committee on Educational Allowances, 9–23–76 35035
USDA: Combined Forest Pest R&D Program Board, 9–15–76 35006

CORRECTED MEETING—

CRC: Michigan State Advisory Committee, 8–20–76 35018
DOD: Defense Advisory Committee on Women in the Services, 9–10 and 9–11–76 34991

PART II:

EFFECTIVE HAZARDOUS WASTE MANAGEMENT

EPA issues position statement concerning various technical and policy issues 35049

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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contents

AGRICULTURAL MARKETING SERVICE
Rules
Avocados grown in Fla 34973
Filberts grown in Ore. and Wash 34974

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Federal Crop Insurance Corporation.
Proposed Rules
Limitation on meat imports; regulations regarding processing in foreign-trade zones; correction 34977
Notices
Advisory committees, renewals: National Arboretum Advisory Council 35006
Meetings:
Combined Forest Pest R&D Program Board 35006

AIR FORCE DEPARTMENT
Rules
Desertion and unauthorized absenteeism 34952
Employment of Civil Air Patrol 34951
Funding contract overruns 34962
Policy for drug company representatives 34962
Proposed Rules
Civil Air Patrol; organization and function 34976
Notices
Environmental impact statements; availability, etc.:
Seibu Leisure Inc 34990

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Meetings:
Music Advisory Panel (Folk/Ethnic) 35034

CIVIL AERONAUTICS BOARD
Proposed Rules
Airline employment; discrimination 34979
Notices
Baggage allowances; tariff rules in overseas and foreign transportation 35015
Hearings, etc.:
Allegheny Airlines, Inc 35015
Hawaiian Airlines, Inc 35016
International Air Transport Association (3 documents) 35017, 35018

CIVIL RIGHTS COMMISSION
Notices
Meetings, State Advisory Committees:
Michigan; correction 35018

COMMERCE DEPARTMENT
See also Domestic and International Business Administration; Economic Development Administration; Maritime Administration; National Oceanic and Atmospheric Administration.
Rules
Employee responsibility and conduct 34938
Notices
Meetings:
Creation of a "Science Court" 35008

COMPTROLLER OF THE CURRENCY
Notices
Securities, over-the-counter trading suspension:
Mercantile National Bank 34982

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Hearings, etc.:
Northwick Mills, Inc 35019

CUSTOMS SERVICE
Rules
Antidumping:
Tapered roller bearings and certain components thereof from Japan 34974

DEFENSE DEPARTMENT
See also Air Force Department.
Notices
Meetings:
Executive Committee of the Defense Advisory Committee on Women in the Services 34991

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Electronic Instrumentation Technical Advisory Committee 35006

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Honey industry; study of producers 35006

EDUCATION OFFICE
Rules
Upward Bound Program; extension of comment period 34962
Notices
Technical assistance coordination; closing date for receipt of applications 35010

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Notices
Heavy water sales; temporary suspension 35020

ENVIRONMENTAL PROTECTION AGENCY
Notices
Waste, solid; treatment, management, etc.:
Effective hazardous waste management, position statement 35049

FEDERAL COMMUNICATIONS COMMISSION
Rules
Cable television:
Regular subscriber rates 34963
Proposed Rules
FM table of assignments:
Louisiana 34980
Notices
Broadcast stations; entertainment and format changes; development of policy; correction 35020
Hearings, etc.:
Bartell Broadcasting of Florida, Inc 35020
FM 103, Inc. and Radio, Inc 35020
Mobile Home Communities, Inc 35022
Vogel-Hendrix Corp 35023
Meetings:
State Regulatory Commissions 35024

FEDERAL CROP INSURANCE CORPORATION
Rules
Crop insurance; various commodities:
Citrus, deletion (2 documents) 34973

FEDERAL ENERGY OFFICE
Proposed Rules
International voluntary agreements; administrative procedures; cancellation of hearing 34981
Notices
Refiners buy-sell list; crude oil allocations 35025

FEDERAL HIGHWAY ADMINISTRATION
Rules
Motor carrier safety regulations:
Photographic copies of records or documents 34968

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood insurance program; National:
Areas eligible for sale of insurance; status of participating communities 34943
Flood Insurance Program, National; flood elevation determinations, etc.:
Ohio (2 documents) 34948
Pennsylvania (5 documents) 34944–34947

V 41 161 AUG 18 76 UMI

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Amoco Production Co., et al 35029
- Arkansas Louisiana Gas Co 35026
- Central Maine Power Co. (2 documents) 35030
- Cities Service Gas Co 35026
- Columbia Gulf Transmission Co 35027
- Columbia LNG Corp 35030
- Connecticut Light and Power Co 35031
- Consumers Power Co 35031
- Kansas City Power & Light Co 35027
- Kentucky West Virginia Gas Co 35028
- National Fuel Gas Supply Corp 35028
- Tennessee Gas Pipeline Co 35031
- Texas Gas Transmission Corp 35028
- Transcontinental Gas Pipe Line Corp 35032
- United Gas Pipe Line Co 35032
- Utah Power & Light Co 35029
- Virginia Electric and Power Co 35029

FEDERAL RESERVE SYSTEM

Rules

Credit by brokers and dealers 34938

Notices

Bank holding companies; review of "grandfather privileges" 35032

Applications, etc.:
- Bancorporation of Montana 35032
- Citi Bancorp 35033
- First Security Corp 35033
- Quivira Banc Shares, Inc 35034

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
- National Commission on Egg Nutrition et al 34939
- Nikko Electric Corp. of America 34939
- Northerlin Co., Inc 34941

FISH AND WILDLIFE SERVICE

Rules

Hunting:
- Arrowwood National Wildlife Refuge, N.D 34969
- Big Stone National Wildlife Refuge, Minn. (2 documents) 34969, 34970
- Kirwin National Wildlife Refuge, Kans 34969

Notices

Endangered species permits; applications (2 documents) 34992–34994

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs:
- Tylosin and sulfamethazine premix 34943

Food additives:
- Components of paper and paperboard in contact with aqueous and fatty foods 34942

Notices

Vitamin K; use in animal feeds; food additive status 35009

FOREIGN-TRADE ZONES BOARD

Notices

Committee of Alternatives; procedures, investigative hearing 35047

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; National Institutes of Health.

Notices

License, exclusive patent:
- Asahi Medical Co. Ltd 35010

HEARINGS AND APPEALS OFFICE

Notices

Applications, etc.:
- Dean Jones Coal Co., Inc 34994
- Dyna-Carb Coal Co 34995
- Eas Coal Co 34996
- Eastern Coal Corp. (2 documents 34996, 34997
- G&A Coal Co 34997
- Harman Mining Corp 34998
- Hi Jacker Coal Co 34999
- Jim-K Mining, Inc 34999
- K and S Coal Co 35000
- Kentland-Elkhorn Coal Corp 35000
- McCoy Elkhorn Coal Corp 35001
- National Mines Corp 35001
- New River Co 35001
- Norma A Coal Corp 35002
- Pike Buchanan Coal Co 35003
- Ray Coal Co. (2 documents) 35003, 35004
- Roadside Coal Co., Inc 35004
- Victory Deep Mine, Inc 35005

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration; Interstate Land Sales Registration Office.

Proposed Rules

Land development; mortgage insurance 34977

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Immigration regulations:
- Statement of organization, powers and duties of service officers availability of service records, and residence; physical presence and absence 34937

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau.

INTERSTATE COMMERCE COMMISSION

Notices

Agreements under sections 5a and b, applications for approval, etc.:
- Southern Ports Foreign Freight 35035
- Southern Railroads 35035
- Car service rules, mandatory; exemptions (2 documents) 35046

Environmental statements, availability, etc.:
- Radioactive materials, Missouri-Kansas-Texas Railroad Co 35047

Hearings assignments 35035

Motor carriers:
- Irregular route property carriers; gateway elimination 35043
- Temporary authority applications (2 documents) 35036, 35039
- Transfer proceedings 35036

Special certificates; transportation of waste products for reuse or recycling 35046

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspensions, etc.:
- Battle Creek and Mountain View 35010
- Beaches of Nosara 35011
- Bunker Hill Heights 35011
- California Sierra Highlands 35011
- Greene Acres 35012
- Holiday Hill 35012
- Lake Front Royal, et al 35012
- Natural Lakes 35013
- Northumberland Plantation 35013
- Potomac Heights and Potomac Hills 35014
- River Hills 35013
- Round Head Mountain 35015
- Shenandoah Forest 35014
- Shenandoah River Forest, etc 35014

JUSTICE DEPARTMENT

See also Immigration and Naturalization Service.

Rules

Criminal justice information systems; commentary on selected sections of the regulations on criminal history record information systems 34949

LAND MANAGEMENT BUREAU

Rules

Public land orders:
- Nevada 34962

Proposed Rules

Liability for damage; rights-of-way issued to State or other government 34977

Notices

Applications, etc.:
- Colorado 34991

Withdrawal and reservation of lands, proposed, etc.:
- Oregon 34991

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests (2 documents) 35034, 35035

MARITIME ADMINISTRATION

Notices

Capital Construction Fund Agreement applications; public availability 35007

Federal Ship Financing Program; vessels; certification and inspection by Coast Guard 35008

NATIONAL INSTITUTES OF HEALTH

Notices

National Heart and Lung Institute report; correction 35009

Meetings:
- Recombinant DNA Molecule Program Advisory Committee, Working Group on Safer Hosts and Vectors 35010

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Endangered fish or wildlife, interim regulations 34970

Notices

Marine mammal permit applications, etc.:
- Norris, Kenneth S., University of California 35008

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Man-made textiles:
- China, Republic of 35018

TRANSPORTATION DEPARTMENT

See Federal Highway Administration.

TREASURY DEPARTMENT

See also Comptroller of the Currency; Customs Service.

Notices

Antidumping; automobiles:
- Belgium 34982
- Canada 34983
- France 34984
- Italy 34985
- Japan 34986
- Sweden 34987
- United Kingdom 34988
- West Germany 34989

Antidumping:
- Industrial vehicle tires from Canada 34990

VETERANS ADMINISTRATION

Notices

Meetings:
- Station Committee on Educational Allowances 35035

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
- 409 (2 documents) 34973
- 915 34973
- 982 34974

PROPOSED RULES:
- 16 34977

8 CFR
- 100 34937
- 103 34937
- 316a 34938

10 CFR

PROPOSED RULES:
- 205 34981

12 CFR
- 220 34938

14 CFR

PROPOSED RULES:
- Ch. II 34979

15 CFR
- 0 34938

16 CFR
- 13 (3 documents) 34939–34941

19 CFR
- 153 34974

21 CFR
- 121 34942
- 558 34943

24 CFR
- 1914 34943
- 1917 (7 documents) 34944–34948

PROPOSED RULES:
- 205 34977

28 CFR
- 20 34949

32 CFR
- 832 34951
- 889 34952
- 968 34962
- 1008 34962

PROPOSED RULES:
- 832 34976

43 CFR

PUBLIC LAND ORDERS:
- 5593 34962

PROPOSED RULES:
- 2800 34977

45 CFR
- 155 34962

47 CFR
- 76 34963

PROPOSED RULES:
- 73 34980

49 CFR
- 390 34968

50 CFR
- 32 (4 documents) 34968–34969
- 217 34969
- 222 34969

V 41 161
AUG 18 76
UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 ... 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) ... 32399

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ... 34035
October 19, 1911 (Revoked in part by PLO 5598) ... 34035
April 16, 1912 (Revoked in part by PLO 5598) ... 34035
October 27, 1914 (Revoked in part by PLO 5598) ... 34035
6276 (Revoked in part by PLO 5596) ... 33267
11652 (See EO 11932) ... 32691
11790 (See EO 11930) ... 32399
11814 (See EO 11930) ... 32399
11912 (See EO 11930) ... 32399
11930 ... 32399
11931 ... 32689
11932 ... 32691

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ... 32693
July 30, 1976 ... 32693

MEMORANDUMS:
July 19, 1976 ... 32403

5 CFR

213 ... 32892, 33545, 43246, 34731
591 ... 32892

7 CFR

35 ... 32877
52 ... 32222, 34751
103 ... 34005
105 ... 34005
106 ... 34005
108 ... 34006
111 ... 34006
220 ... 32405, 34757
235 ... 32405
271 ... 34760
331 ... 32229, 32409
409 ... 34973
722 ... 32878
790 ... 34247
791 ... 34247
905 ... 34248
908 ... 32229, 32695, 34006
910 ... 32878, 34248
915 ... 34973
916 ... 32410
917 ... 32410–32411, 34762
926 ... 34007
944 ... 34762
947 ... 32230, 32695
982 ... 34974
989 ... 32412
1012 ... 32417
1099 ... 32575
1124 ... 32418
1421 ... 32879
1430 ... 32881
1472 ... 34248

7 CFR—Continued

1701 ... 33546
1806 ... 34571
1821 ... 32575
1822 ... 34577, 34578
1831 ... 32575, 32697
1861 ... 32576
1871 ... 32576
1872 ... 32577, 32578
1890c ... 32578
1901 ... 34583
1955 ... 32697

PROPOSED RULES:
16 ... 34777, 34977
47 ... 32231
51 ... 32896
909 ... 32234
910 ... 33922
911 ... 34049
919 ... 32234
926 ... 34647
927 ... 34050
930 ... 32606
931 ... 32757
946 ... 32758
953 ... 34766
981 ... 34647
991 ... 34648
993 ... 33275
1004 ... 34282
1007 ... 33275
1011 ... 33275, 34444
1030 ... 33275
1032 ... 33275
1033 ... 34444
1046 ... 33275
1049 ... 33275
1050 ... 33275
1062 ... 33275
1063 ... 33275
1064 ... 33275
1065 ... 33275
1068 ... 33275
1070 ... 33275
1071 ... 33275
1073 ... 33275
1076 ... 33275
1078 ... 33275
1079 ... 33275
1090 ... 33275, 34444
1094 ... 33275
1096 ... 33275
1097 ... 33275
1098 ... 33275
1099 ... 33275
1101 ... 33275, 34444
1102 ... 33275
1104 ... 33275
1106 ... 33275
1108 ... 33275
1120 ... 33275
1124 ... 34286
1126 ... 33275
1131 ... 33275
1132 ... 33275
1138 ... 33275
1207 ... 32606
1260 ... 34772
1430 ... 32899
1701 ... 32419
1801 ... 33561
1813 ... 33922

7 CFR—Continued

PROPOSED RULES—Continued
1823 ... 34767
1861 ... 33561
1980 ... 33561

8 CFR

100 ... 32419, 34937
103 ... 34937
316a ... 34938

9 CFR

73 ... 32882, 34731
76 ... 32882
83 ... 32432
113 ... 32882
201 ... 34007

PROPOSED RULES:
327 ... 34293

10 CFR

35 ... 34635
211 ... 33881
212 ... 34008
700 ... 34731
735 ... 34731

PROPOSED RULES:
205 ... 34783, 34981
210 ... 34784
211 ... 34784
212 ... 33282, 34080, 34784
705 ... 34778

12 CFR

217 ... 32578
220 ... 34938
561 ... 32419
563 ... 32419
611 ... 33546
615 ... 33547
618 ... 33547

PROPOSED RULES:
16 ... 32864
225 ... 33306
584 ... 33566

13 CFR

105 ... 33547
120 ... 33245
122 ... 33549

PROPOSED RULES:
120 ... 33567

14 CFR

13 ... 32205
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579

14 CFR—Continued

PROPOSED RULES:
39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650
73 ... 34077, 34650
75 ... 34077
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941
15 ... 34594
433 ... 34594

PROPOSED RULES:
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

200 ... 32736
210 ... 32737

PROPOSED RULES:
239 ... 32540
240 ... 32856, 33004
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:
1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR

142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:
1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549

PROPOSED RULES:
404 ... 34060
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597

21 CFR—Continued

11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942
193 ... 32888
310 ... 32580
436 ... 34742
510 ... 32213, 34743
520 ... 32889
522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
701 ... 32583

PROPOSED RULES:
1 ... 34051
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
1301 ... 32756

22 CFR

102 ... 34743
606 ... 33550

PROPOSED RULES:
130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:
658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608
300 ... 34611
886 ... 32686
1914 ... 32216, 32738, 33551, 34943
1915 ... 33911
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ... 33256–33260, 34022–34025, 34944–34948
1920 ... 33260–33262, 34611–34618
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:
201 ... 32564
205 ... 34977
570 ... 34301
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR

41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:
41 ... 32756
221 ... 32757

26 CFR

1 ... 33262, 34025, 34619
20 ... 34627
25 ... 34628
141 ... 32889, 32890
301 ... 34025

PROPOSED RULES:
1 ... 33285
31 ... 32231
54 ... 32895

28 CFR

16 ... 32423
20 ... 34949

29 CFR

699 ... 34744
1601 ... 34745
1602 ... 33557
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741

PROPOSED RULES:
1601 ... 33924
1910 ... 32911, 32912
1952 ... 32912, 34298
2200 ... 34657

30 CFR

55 ... 33263
56 ... 33263
57 ... 33263

31 CFR

PROPOSED RULES:
210 ... 32605

32 CFR

581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:
505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR

117 ... 32217, 34034
127 ... 32742
207 ... 34034

PROPOSED RULES:
110 ... 34649
117 ... 32238
161 ... 32758

34 CFR

PROPOSED RULES:
Ch. I ... 34324

35 CFR

PROPOSED RULES:
133 ... 33307

36 CFR

7 ... 33263
50 ... 34749

V 41 1 61
AUG 18 76
UMI

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

3002 32742

PROPOSED RULES:

3003 34792

40 CFR

52 ..... 32743, 32890, 34259, 34749
60 ..... 33264, 34628
61 ..... 33264, 34629
87 34722
180 ..... 32426, 33265, 34629
402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34422, 34782
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
8–1 32219
8–3 32219
28–1 32426
101–20 34629
101–26 34630
101–32 34634

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891

43 CFR—Continued

PUBLIC LAND ORDERS:

5592 32589
5593 34962
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

115 34962
121d 33558
177 33268
190 33868
801 33559
1069 33268

PROPOSED RULES:

73b 32235
146 34052
190 33962

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560
74 ..... 32429, 32593
76 ..... 32429, 34963
78 32429
83 32220
89 ..... 32680, 33902
91 ..... 32680, 33889, 33903
93 ..... 32682, 33907
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563

47 CFR—Continued

PROPOSED RULES—Continued

73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242

49 CFR

81 32593
192 34598
195 34035
390 34968
571 32221
575 34607
613 33443
1033 ..... 32221, 32429, 32430, 34607
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 34260

PROPOSED RULES:

266 33354
571 33280
801 34082
1067 33307
1109 32434
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969
33 ..... 32222, 32431, 32603, 32755
217 34969
222 34969
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	33881–34003	11
32399–32574	3	34005–34238	12
32575–32688	4	32239–34570	13
32689–32875	5	34571–34730	16
32877–33244	6	34731–34935	17
33245–33543	9	34937–35051	18
33545–33880	10		

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Cable television services 32429; 8–3–76

Treasury/CS—Vessel manifest information; Public access 29666; 7–19–76

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Food and Nutrition Service—
National School Lunch Program; reimbursement payments; comments 8–23–76 ..... 30347; 7–23–76

Office of the Secretary—
Formal adjudicatory proceedings; proposed uniform rules of practice; comments by 8–16–76. 24385; 6–16–76

Rural Electrification Administration—
Rural telephone program; PE 39 for filled telephone cables; specification; comments by 8–23–76. 30348; 7–23–76

Rural telephone program; specification for 600 volt neutral-supported secondary and service drop cables; comments by 8–23–76 ..... 30349; 7–23–76

Rural telephone program; supporting postloan engineering estimates; comments by 8–23–76 ..... 30348; 7–23–76

CIVIL AERONAUTICS BOARD

Contract bulk inclusive tours; reply comment period extended to 8–26–76. 29709; 7–19–76

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Hawaiian monk seal; endangered status; comments by 9–27–76. 33923; 8–11–76

COMMODITY FUTURES TRADING COMMISSION

Large trader reporting system; comments by 8–27–76 ..... 30350; 7–23–76

Future commission merchants, foreign brokers, Non-FCM clearing members and reporting traders; reporting requirements; comments by 8–27–76. 30351; 7–23–76

DEFENSE DEPARTMENT

Office of the Secretary—
Privacy Act of 1974; additions to record systems; comments by 8–25–76 ..... 30808, 31011; 7–26–76

ENVIRONMENTAL PROTECTION AGENCY

Heavy duty engine regulations for 1979 and later model years; comments by 8–23–76 ..... 21292; 5–24–76

Effluent guidelines; carbon black manufacturing point source category, comment period extended to 8–25–76. 30645, 30657; 7–26–76

Effluent guidelines; hospital point source category; comment period extended to 8–25–76 ..... 30645, 30657; 7–26–76

Ocean dumping criteria; comments by 8–27–76 ..... 26648; 6–28–76

Standards of performance for new stationary sources; amendments to reference methods; extension of comment period; comments by 8–23–76. 30029; 7–21–76

FEDERAL COMMUNICATIONS COMMISSION

Base/Mobile frequencies; reply comments by 8–27–76 ..... 22096; 6–1–76

FM broadcast stations table of assignments; California noncommercial educational channel; comments by 8–27–76 ..... 30353; 7–23–76

FM Stations; table of assignments; Ala.; reply comments by 8–26–76. 27390; 7–2–76

Radiotelegraphy use in maritime services; Frequencies, operating procedures, technical standards; reply comment period extended to 8–23–76. 32434; 8–3–76

Restricted radiation devices; extension of time; comments by 8–23–76. 23723; 6–11–76

Stations in the maritime services; reduction in operator requirements; reply comments by 8–24–76 ..... 28800; 7–13–76

Television stations; circular or eliptical polarization; comments by 8–24–76. 27389; 7–2–76

TV broadcast receiver antennas; comments by 8–23–76 ..... 25032; 6–22–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
Animal drugs, hexachlorophene; comments by 8–23–76 ..... 25911; 6–23–76

Histamine test; clarification of repeat testing procedures; comments by 8–24–76 ..... 26228; 6–25–76

Social Security Administration—
Appeals Council review; time limitations; comments by 8–26–76. 31230; 7–27–76

Records and information, disclosure under Title XVIII, XIX and CHAMPUS; comments by 8–26–76. 31228; 7–27–76

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Migratory birds; areas in which steel shot will be required for waterfowl hunting in seasons commencing 1976; comments by 8–23–76. 31395; 7–28–76

INTERSTATE COMMERCE COMMISSION

Capital Investment; rate incentives; comments by 8–23–76 ..... 32434; 8–3–76

Tank car allowance system; investigation; comments by 8–24–76. 29712; 7–19–76

TRANSPORTATION DEPARTMENT

Coast Guard—
Anchorage ground; establishment; Hampton Roads, Va. and adjacent waters; comments by 8–23–76. 27974; 7–8–76

Boats; capacity and safe loading requirements for low and non-powered boats; comments by 8–24–76 ..... 26027; 6–24–76

Cadets of the Coast Guard; proposal regarding appointment; comments by 8–27–76 ..... 28631; 7–12–76

Five Mile River, Norwalk and Darien, Connecticut; proposed special anchorage area; comments by 8–27–76 ..... 28532; 7–12–76

Naval anchorage grounds; Waimea, Hawaii; comments by 8–23–76. 27975; 7–8–76

Federal Aviation Administration—
Airworthiness directives; McDonnell Douglas; comments by 8–24–76. 29714; 7–19–76

Airworthiness directives; Piper Aircraft; comments by 8–25–76. 30656; 7–26–76

Control zone; Fullerton, Calif.; comments by 8–25–76 ..... 20656; 7–26–76

Transition area; Bellesville, Kans.; comments by 8–27–76 ..... 31567; 7–29–76

Transition area; Big Sandy, Tex.; comments by 8–23–76 ..... 30137; 7–22–76

Transition area; Waverly, Tenn.; comments by 8–23–76 ..... 30138; 7–22–76

Restricted areas; Dugway Proving Ground, Utah; comments by 8–23–76 ..... 30138; 7–22–76

TREASURY DEPARTMENT

Customs Service—
Energy-using consumer products; importation; comments by 8–26–76. 31223; 7–27–76

Internal Revenue Service—
Earned Income; tax credit; comments by 8–26–76 ..... 28523; 7–12–76

Income and Employment Taxes; Treatment of original issue discount realized by nonresident alien individuals or foreign corporations; comments by 8–26–76 ... 28517; 7–12–76

VOL 41 NO 161 AUG 18 1976 UMI

Next Week's Meetings

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Flue-Cured Tobacco Advisory Committee, Raleigh, NC (open), 8–26–76..... 31921; 7–30–76
Commodity Credit Corporation—
Advisory Board, Washington, D.C. (open), 8–24–76..... 31922; 7–30–76

CIVIL RIGHTS COMMISSION
North Carolina Advisory Committee, Soul City, N.C. (open), 8–27–76. 33321; 8–9–76
Virginia Advisory Committee, Richmond, Va. (open), 8–26–76..... 33321; 8–9–76

COMMERCE DEPARTMENT
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee, Wash. D.C. (partially open), 8–25, 1976.... 32623; 8–4–76
Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (open with restrictions), 8–24–76. 30699; 7–26–76
Computer Systems Technical Advisory Committee, Technology Transfer Subcommittee, Washington, D.C. (open with restrictions), 8–24–76..... 30699; 7–26–76
National Bureau of Standards—
Federal Information Processing Standards Coordinating and Advisory Committee, Gaithersburg, Md. (open), 8–26–76.... 27856; 7–7–76
National Oceanic and Atmospheric Administration—
Coastal Zone Management Advisory Committee, Juneau, Alaska (open); 8–23 thru 8–27–76..... 31584; 7–29–76

CONSUMER PRODUCT SAFETY COMMISSION
Contact adhesives; Washington, D.C. (open), 8–23 and 8–24–76.... 31612; 7–29–76

DEFENSE DEPARTMENT
Air Force Department—
USAF Scientific Advisory Board, Offutt Air Force Base, Nebraska (closed), 8–24 and 8–25–76..... .... 32249; 8–2–76
USAF Scientific Advisory Board, Wright-Patterson Air Force Base, Ohio (closed), 8–24 and 8–25–76. 32249; 8–2–76
Army Department—
Army Ballistic Research Laboratories Scientific Advisory Committee, Aberdeen, Md. (closed), 8–24–76. 31923; 7–30–76
Office of the Secretary—
Defense Science Board Task Force on Theater Nuclear Forces R & D Requirements, Washington, D.C. (closed), 8–24 and 8–25–76. 29436; 7–16–76
Defense Intelligence Agency Scientific Advisory Committee, Rosslyn, Va. (closed), 8–26–76 ..... 30051; 7–21–76
Defense Advisory Committee on Women in Services, Wash., D.C. (open), 8–22 and 8–23–76. 31409; 7–28–76
Defense Wage Committee, Pentagon, Washington, D.C. (closed), 8–24–76..... 27747; 7–6–76

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Task Force on Demonstration Projects as a Commercialization Incentive, Chicago, Ill. (closed), 8–27–76. 32777; 8–5–76

ENVIRONMENTAL PROTECTION AGENCY
National Drinking Water Advisory Council, Wash., D.C. (open), 8–25 and 8–26–76..... 32782; 8–5–76
Science Advisory Board Executive Committee,Washington, D.C. (open), 8–24 and 8–25–76..... 32947; 8–6–76

FEDERAL POWER COMMISSION
National Gas Survey—Supply-Technical Advisory Task Force—Regulatory Aspects of Substitute Gas (Drafting Committee), Washington, D.C. (open), 8–23–76..... 32667; 8–4–76
National Gas Survey—Supply-Technical Advisory Task Force—Regulatory Aspects of Substitute Gas, Washington, D.C. (open), 8–24–76..... 32668; 8–4–76

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Meeting, Washington, D.C. (closed), 8–26–76..... 30214; 7–22–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
National Advisory Council on the Education of Disadvantaged Children, Washington, D.C. (open with restrictions), 8–27 and 8–28–76 ... 33316; 8–9–76
Food and Drug Administration—
Panel on Review of Miscellaneous External Drug Products, Rockville, Md. (closed), 8–22 and 8–23–76. 29465; 7–16–76
Panel on Review of Contraceptives and other Vaginal Drug Products, Rockville, Md. (open), 8–24 and 8–25–76..... 29466; 7–16–76
Panel on Review of General Hospital and Personal Use Devices, Washington, D.C. (open), 8–23 and 8–24–76..... 29465; 7–16–76
Panel on Review of Dentifrices and Dental Care Agents, Rockville, Md. (open), 8–25 and 8–26–76. 29466; 7–16–76
Panel on Review of Vitamin, Mineral, and Hematinic Drug Products, Wash., D.C. (open and closed), 8–25 to 8–27–76..... 32770; 8–5–76
Oncologic Drugs Advisory Committee, Rockville, Md. (open), 8–26 and 8–27–76..... 29466; 7–16–76
Panel on Review of Antiperspirant Drug Products, Rockville, Md. (open), 8–26 and 8–27–76. 29427; 7–16–76
Panel on Review of Physical Medicine (Physiatry) Devices, Washington, D.C. (open), 8–27–76..... 29467; 7–16–76
Panel on Review of Antimicrobial Agents, Rockville, Md. (open), 8–20 through 8–22–76..... 29465; 7–16–76
National Institutes of Health—
Cancer Control Community Activities Review Committee, Bethesda, Md. (partially open), 8–23 and 8–24–76..... 27857; 7–7–76
National Large Bowel Cancer Project Working Cadre, Houston, Tex. (partially open), 8–26 thru 8–28–76. 27860; 7–7–76
National Pancreatic Cancer Project Working Cadre, New Orleans, La. (partially open), 8–23–76. 27860; 7–7–76
Office of the Secretary—
President's Committee on Mental Retardation, Wash., D.C. (open), 8–23 and 8–24–76..... 31250; 7–27–76

INTERIOR DEPARTMENT
Bureau of Land Management—
Salt Lake District Multiple Use Advisory Board, Salt Lake City, Utah (open), 8–25 and 8–26–76. 29192; 7–15–76
Outer Continental Shelf Environmental Studies Advisory Committee, Washington, D.C. (open), 8–26 and 8–27–76..... 29891; 7–20–76
National Park Service—
Canaveral National Seashore proposed General Management Plan discussion, Titusville, Fla. (open), 8–24 and 8–25–76 ..... 31921; 7–30–76
Office of the Secretary—
Federal Metal and Nonmetal Mine Safety Advisory Committee, Reno, Nevada (open), 8–23 and 8–24–76. 30142; 7–22–76
Coordinating Subcommittee of the Committee on Enhanced Recovery Techniques for Oil and Gas in the United States; National Petroleum Council, Colorado Springs, Colo. (open), 8–24 and 8–25–76. 31582; 7–29–76

JUSTICE DEPARTMENT
Law Enforcement Assistance Administration—
Juvenile Justice and Delinquency Prevention, National Advisory Committee, Durham, New Hampshire (open), 8–25, 8–26 and 8–27–76. 33568; 8–10–76
Private Security Advisory Council, Washington, D.C. (open), 8–23–76. 31924; 7–30–76

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
Advisory Committee Fellowships Panel, Washington, D.C. (closed), 8–24 and 8–25–76..... 29042; 7–14–76
Advisory Committee Fellowships Panel, Washington, D.C. (closed), 8–23 and and 8–27–76..... 29762; 7–19–76

NATIONAL SCIENCE FOUNDATION
International Decade of Ocean Exploration Proposal Review Panel Ad Hoc Subpanel for International Southern Ocean Studies Project, Boulder, Colo. (closed), 8–26 and 8–27–76. 32673; 8–4–76

NUCLEAR REGULATORY COMMISSION
Advisory Committee on Reactor Safeguards Environmental Subcommittee, Washington, D.C. (partially open with restrictions), 8–24 and 8–25–76. 33341; 8–9–76
Advisory Committee on Reactor Safeguards Subcommittee on the Montague Nuclear Power Station, Units 1 and 2, Turner Falls, Mass. (open and closed), 8–26 and 8–27–76. 33343; 8–9–76

SMALL BUSINESS ADMINISTRATION
Detroit District Advisory Council, Traverse City, Mich., 8–27–76.... 30226; 7–22–76

STATE DEPARTMENT
Office of the Secretary—
U.S. Advisory Commission on International Educational and Cultural Affairs, Washington, D.C. (open), 8–25–76..... 27979; 7–8–76

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
Radio Technical Commission for Aeronautics (RTCA) Special Committee 125—"MLS Implementation", Washington, D.C. (open with restrictions), 8–25 and 8–26–76. 30200; 7–22–76
National Highway Traffic Safety Administration—
Youth Highway Safety Advisory Committee, Washington, D.C. (open), 8–27 and 8–28–76..... 32772; 8–5–76

TREASURY DEPARTMENT
Comptroller of the Currency—
Regional Advisory Committee on Banking Policies and Practices for the Thirteenth National Bank Region, Whitefish, Mont. (open), 8–27 and 8–28–76.. 30355; 7–23–76

VETERANS ADMINISTRATION
Veterans Administration Wage Committee, Washington, D.C. (open with restrictions), 8–26–76..... 21532; 5–26–76
Station Committee on Educational Allowances, Togus, Maine (open), 8–24–76..... 30226; 7–22–76

Next Week's Public Hearings

FEDERAL ENERGY ADMINISTRATION
Refiners; increased non-product costs, Washington, D.C. (open), 8–24–76. 31863; 7–30–76

INTERIOR DEPARTMENT
National Park Service—
Grand Canyon National Park, Ariz., St. George, Utah (open), 8–24–76. 30358; 7–23–76

INTERNATIONAL TRADE COMMISSION
Plant Hangers investigation, Los Angeles, Calif., 8–24–76..... 32670; 8–4–76

LABOR DEPARTMENT
Occupational Safety and Health Administration—
Proposed standard for exposure to inorganic arsenic, Washington, D.C., 8–24–76..... 26029; 6–24–76 26229; 6–25–76

PANAMA CANAL COMPANY
Tolls for use of Panama Canal, New York, N.Y., 8–23–76.. 27978; 7–8–76

TRANSPORTATION DEPARTMENT
Coast Guard—
Proposed highway bridges; Monroe County, Fla., 8–26–76..... 30705; 7–26–76

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 1526..... Public Law 94–384
To make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes (Aug. 13, 1976; 90 Stat. 1123)

V 41 161 AUG 18 76 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Organization and Functions

Pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1, miscellaneous amendments, as set forth herein, are prescribed to Parts 100, 103 and 316a of Chapter I of Title 8 of the Code of Federal Regulations.

Effective September 1, 1976, the suboffice of the Immigration and Naturalization Service located at San Diego will be redesignated a district office under the jurisdiction of the Western Region. This district is being established in order to divide the workload presently carried by the Los Angeles District Office (District No. 16) and to provide for more effective management and supervision over Service activities in southern California. Accordingly, § 100.4 will be amended to set forth the jurisdiction of this district and also to reflect the placement of the State of North Carolina under the jurisdiction of the Atlanta District. The following changes are made in § 100.4:

In paragraph (a), *Regional Offices*, the fourth sentence is amended by adding District No. 39 to the list of district offices under the jurisdiction of the Western Region. In paragraph (b), *District offices*, District No. 16, Los Angeles, California, is amended by deleting Imperial and San Diego counties from the jurisdiction thereof and by adding District No. 39, San Diego, California, having jurisdiction over Imperial and San Diego counties and placing the San Diego District in the proper numerical sequence. In paragraph (c)(2), *Ports of entry for aliens arriving by vessel or by land transportation*, District No. 16—Los Angeles, Calif., is amended by deleting Andrade, Calif.; Calexico, Calif.; San Diego, Calif.; San Diego Border Station, Calif.; and Tecate, Calif.; from the list of Class A ports under the jurisdiction of that office and by adding District No. 39—San Diego, Calif., to have jurisdiction over the above indicated Class A ports with the exception of San Diego Border Station, Calif., which will be redesignated the San Diego, Calif., suboffice. Also, District No .25—Washington, D.C., is amended by deleting Morehead City, N.C., and Wilmington, N.C., from the Class A ports under the jurisdiction of that district and District No. 26—Atlanta, Ga., is amended by adding Morehead City, N.C., and Wilmington, N.C., to the list of Class A ports under the jurisdiction of the Atlanta District. Paragraph (c)(3), *Ports of entry for aliens arriving by aircraft*, is amended by deleting District No. 16—Los Angeles, Calif., and by adding District No. 39—San Diego, Calif., and by placing that district in the proper numerical sequence. District No. 39 will have jurisdiction over Calexico International Airport, Calexico, Calif., and San Diego Munical Airport (Lindbergh Field), San Diego, Calif. Paragraph (e) is amended to indicate that Special Inquiry Officers will be stationed at District No. 39, San Diego, Calif.

Also, § 103.10(a) is amended by deleting San Diego, Calif., from the list of offices set forth therein because that office is being reestablished as a district office. Records requested under the Freedom of Information Act will be available from the San Diego district office beginning September 1, 1976.

Section 103.7(d) is being amended to include the Assistant Commissioner, Information Services as a certifying official in connection with the furnishing of information from Service records, and to provide for alternative authority to certify records where appropriate.

Section 316a.2 is amended by adding the Harvard Institute for International Development to the list of American Institutions of Research recognized by the Attorney General.

The above-described amendments as set forth below, are hereby prescribed:

PART 100—STATEMENT OF ORGANIZATION

In § 100.4, paragraphs (a), (b), (c)(2), (c)(3), and (e) are amended as follows:

§ 100.4 Field Service.

The territory within which officials of the Immigration and Naturalization Service are located is divided into regions, districts, suboffices, and Border Patrol sectors as follows:

(a) *Regional offices.* • • • The Western Regional Office, located at San Pedro, California, has jurisdiction over districts 13, 16, 17, 18, and 39 and Border Patrol sectors 10, 11, 12, 13, and 14.

(b) *District offices.* The following districts, which are designated by numbers, have fixed headquarters and are divided as follows:

• • • • • •

16. *Los Angeles, California.* The district office in Los Angeles, California, has jurisdiction over the following counties in the State of California: Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.

• • • • • •

39. *San Diego, California.* The district office in San Diego, California, has jurisdiction over the following counties in the State of California: Imperial and San Diego.

(c) *Suboffices.* • • •

(2) *Ports of entry for aliens arriving by vessel or by land transportation.* • • •

DISTRICT NO. 16—LOS ANGELES, CALIF

CLASS A

Los Angeles, Calif. (the port of Los Angeles includes, among others, the port facilities at San Pedro, Long Beach, Port Hueneme, and Ventura, Calif.)
*San Luis Obispo, Calif. (the port of San Luis Obispo includes, among others, the port facilities at Avila, Estero Bay, El Capitan, Elwood, Gaviota, Morro Bay, and Santa Barbara, Calif.)

• • • • • •

DISTRICT NO. 25—WASHINGTON, D.C.

CLASS A

*Norfolk, Va. (includes the port facilities at Newport News and Fort Monroe, Va.)
Washington, D.C. (includes the port facilities at Alexandria, Va.)

DISTRICT NO. 26—ATLANTA, GA

CLASS A

*Mobile, Ala.
Brunswick, Ga.
*Savannah, Ga.
Morehead City, N.C.
*Wilmington, N.C.
*Charleston, S.C.
Georgetown, S.C.

• • • • • •

DISTRICT NO. 39—SAN DIEGO, CALIF.

CLASS A

*Andrade, Calif.
*Calexico, Calif.
*San Diego, Calif.
*Tecate, Calif.

(3) *Port of entry for aliens arriving by aircraft.* • • •

• • • • • •

DISTRICT NO. 39—SAN DIEGO, CALIF.

Calexico, Calif., Calexico International Airport, San Diego, Calif., San Diego Municipal Airport, (Lindbergh Field)

• • • • • •

(e) *Special inquiry officers.* Special inquiry officers are stationed at the following district headquarters: Districts 2, 3, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 21, 25, 38, and 39.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

In § 103.7, paragraph (d) is revised to read as follows:

§ 103.7 Fees.

• • • • • •

(d) *Authority to certify records.* Whenever authorized under 5 U.S.C. 552 or any other law to furnish information from records to persons entitled thereto, the following officials, or their designees au-

V 41 161 AUG 18 76 UMI

thorized in writing as specified below, have authority to make certification, as follows:

(1) The Associate Commissioner, Management, or the Assistant Commissioner, Information Services, or the designee of either, authorized in writing to make certification in his absence—copies of files, documents, and records in the custody of the Central Office.

(2) A regional commissioner, or district director, or the designee of either, authorized in writing to make certification in his absence—copies of files, documents, and records in the custody of his office.

(3) The Assistant Commissioner, Information Services, or the Chief, Records Administration and Information Branch, Central Office, or the designee of either, authorized in writing to make certification in his absence—the non-existence of an official record in the records of the Service.

In § 103.10, paragraph (a)(1) is revised as follows:

§ 103.10 Requests for records under the Freedom of Information Act.

(a) *Place and manner of requesting records.*—(1) *Place.* Records shall be made available in the Central Office, each regional office, any district office, and the following offices: Agana, Guam; Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Las Vegas, Nev.; Memphis, Tenn.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R.I.; Reno, Nev.; St. Louis, Mo.; Salt Lake City, Utah; Spokane, Wash.; additionally, in particular cases a district director may designate any other Service office. Active alien records are maintained in the district or suboffice listed above where the subject of the record resides. For locations of regional and district offices, see 8 CFR 100.4.

• • • • •

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

In § 316a.2 *American institutions of research*, the listing of research institutions is amended by adding thereto in alphabetical sequence the following institution: "Harvard Institute for International Development."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103.)

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments to §§ 100.4 (a), (b), (c)(2), (c)(3), (e); 103.7(d)(1), (2), (3) and 103.10(a) relate to agency organization and management and the amendment to § 316a.2 adds an institution of research to the listing.

Effective date. The effective date of the amendments prescribed in connection with the establishment of the District Office at San Diego in §§ 100.4 (a), (b), (c)(2), (c)(3), (e) and 103.10(a) will be September 1, 1976. The amendments pertaining to Districts 25 and 26 in § 100.4 (c)(2); the amendment to §§ 103.7(d)(1), (2), (3); and the amendment to § 316a.2 are effective August 18, 1976.

Dated: August 12, 1976.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.76-24091 Filed 8-17-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. T]

PART 220—CREDIT BY BROKERS AND DEALERS

Use of Escrow Receipts for Option Transactions Effected in Special Cash Account

The Board of Governors has interpreted § 220.4(c) of Regulation T as allowing the use of escrow receipts for option transactions effected in a special cash account if the customer represents that the covering securities or funds are held by a bank and the broker independently verifies that the appropriate escrow receipt will be delivered no later than three business days after the option is written.

§ 220.130 Escrow receipts for option transactions.

(a) The Board has been asked whether or not it is permissible under the provisions of § 220.4(c) of Regulation T (12 CFR 220.4(3)) relating to the special cash account, to allow customers to write put and call securities options which are "covered" by the escrow receipt of a bank when the escrow receipt, because of the mechanics of the trade, cannot be delivered to the broker on the day the option is written. When exchange-traded securities options were first introduced in 1973 the Board expressed the view that certain option transactions were permitted in the cash account (1973 Bulletin 525; 12 CFR 220.126) under circumstances which indicated their nature as bona fide cash transactions. Basically, that interpretation indicates that the special cash account can be used if the underlying securities, or the funds necessary to pay for the securities, are held in the account on the day the option is written. (This is commonly referred to as a "covered" transaction.) The use of "escrow receipts" for option transactions to be effected in a special cash account was not considered by the Board at the time of the 1973 interpretation.

(b) An escrow receipt is an agreement under which a bank represents and warrants that it holds for the account of a customer the securities which are the subject of a call, or the cash to purchase the securities which are the subject of a put, and will continue to hold the same until the option is either exercised or expires. If the option is exercised, the bank will deliver or accept delivery of the appropriate securities against payment, as the circumstances require.

(c) It has been represented to the Board that customers who wish to write covered options in a cash account using escrow receipts are hampered because of procedural delays in transmitting the escrow receipt from the bank to the broker. Up to three business days may elapse before the receipt can be in the physical possession of the broker because, for example, some banks will not issue the receipt until the premium for writing the option is delivered.

(d) The Board is of the view that a broker may effect an option transaction in a special cash account where the customer represents that the required securities or cash are then held for that customer at a bank and the broker independently verifies that the appropriate escrow receipt will be delivered to the broker by the bank as soon as possible but, in no event, later than three business days after the option is written. (The term "bank" as defined in section 3(a)(6) of the Securities Exchange Act of 1934 includes banks, trust companies and those branches of foreign banks which are located in the United States and are supervised and examined by State banking authorities.) Any delay in delivery of the escrow receipt resulting from factors within the customer's control would, of course, cast doubt on the eligibility of the transaction as a *bona fide* cash transaction.

By order of the Board of Governors, August 13, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-24252 Filed 8-13-76;4:55 pm]

Title 15—Commerce & Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 0—EMPLOYEE RESPONSIBILITY & CONDUCT

Financial Interests

The purpose of this amendment is to include a secretarial determination which (1) exempts certain types of financial interests of Department of Commerce officers and employees from the provisions of section 208(a) of Title 18, United States Code, prohibiting their participating in matters in which they have a financial interest; and (2) provides that these financial interests need not be reported on their statement of employment and financial interests. It has been determined, pursuant to the authority of 18 U.S.C. 208(b)(2), that these financial interests are too remote or too inconsequential to affect the integrity of the officer's or employee's services in any matter covered by 18 U.S.C. 208(a).

Since this amendment is a matter relating to agency management and personnel, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

In consideration of the above, effective August 18, 1976, 15 CFR Part 0 is

amended by adding a new § 0.735-13(d) to read as follows:

§ 0.735-13 Financial interests.

• • • • •

(d) The financial (or economic) interests described below are too remote or too inconsequential to affect the integrity of an employee's services in any matter involving them, and are thereby exempted from the prohibitions of 18 U.S.C. 208(a), and do not exclude such employee's participation in the transaction of any official business involving such financial or economic interests:

Deposits in a bank, savings and loan association, building association, credit union or similar financial institution; policies held with an insurance company; constructive interests in companies and other entities owned or held by a mutual fund or other diversified investment company in which the employee has an interest.

These exempted financial (or economic) interests need not be reported by employees in their statements of employment and financial interests referred to in section 0.735-21.

(18 U.S.C. 208(b); 5 CFR 735.404a.)

Dated: August 12, 1976.

ELLIOT RICHARDSON,
Secretary of Commerce.

[FR Doc.76-24236 Filed 8-17-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8987-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

National Commission on Egg Nutrition, et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; 13.170-52 Medicinal, therapeutic, healthful, etc.; § 13.205 Scientific or other relevant facts. Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart—Using misleading name—Vendor: § 13.2410 Individual or private business being educational, religious or research institution or organization.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

In the Matter of National Commission on Egg Nutrition, a corporation, and Richard Weiner, Inc., a corporation.

Order requiring a Park Ridge, Ill., egg industry trade association and a New York City public relations firm, among other things to cease misrepresenting the physiological effects of consuming dietary cholesterol or eggs and to cease using a misleading trade name.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

I

It Is Ordered, That respondents National Commission on Egg Nutrition and Richard Weiner, Inc., corporations, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of eggs for human consumption do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents that there is no scientific evidence that eating eggs increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

2. Represents that there is scientific evidence that dietary cholesterol, including that in eggs, decreases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

3. Represents that there is scientific evidence that avoiding dietary cholesterol, including that in eggs, increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

4. Represents that eating eggs does not increase the blood cholesterol level in a normal person;

5. Represents that the blood cholesterol level is prevented from being raised or lowered by dietary cholesterol intake;

6. Represents that the human body increases its manufacture of cholesterol in an amount equal to a decrease in dietary cholesterol intake;

7. Represents that the average human body eliminates the same amount of cholesterol as that eaten;

8. Represents that dietary cholesterol, including that in eggs, is needed by the body for building sex hormones, for transmitting nerve impulses and for maintaining life in cells; or

9. Utilizes the name "National Commission on Egg Nutrition" unless it is clearly and conspicuously disclosed in immediate conjunction with the name that the National Commission on Egg Nutrition is composed of egg producers and other individuals and organizations of, or relating to, the egg industry.

B. Disseminating, or causing the dissemination of any advertisement by means of the United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act which directly or indirectly

1. Represents that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or represents that there exists, or describes scientific evidence which supports the theory that consumption of dietary cholesterol, including that in eggs, does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or

2. Makes any representation concerning the relationship of dietary cholesterol, including that in eggs, to heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition unless it is clearly and conspicuously disclosed in immediate conjunction therewith that many medical experts believe that existing evidence indicates that increased consumption of dietary cholesterol, including that in eggs, may increase the risk of heart disease.

C. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents as insignificant the available scientific evidence that the consumption of dietary cholesterol, including that in eggs, may increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition, or represents that there is overwhelming scientific evidence or otherwise misrepresents the amount of scientific evidence that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition.

2. Misrepresents in any manner the physiological effects of consuming dietary cholesterol or eggs.

II

It Is Further Ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions, and to all current and future members of respondent National Commission on Egg Nutrition.

It Is Further Ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It Is Further Ordered, That each respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

The Final Order was issued by the Commission, July 20, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24191 Filed 8-17-76;8:45 am]

[1] Copies of the Complaint, Initial Decision, Opinion, Appendix and Final Order, filed with the original document.

[Docket C-2829]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Nikko Electric Corporation of America

Subpart—Coercing and intimidating: § 13.358 Distributors; § 13.370 Suppliers and sellers. Subpart—Combining or conspiring: § 13.405 To discriminate unfairly or restrictively in general; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to ter-

V 41 161 AUG 18 76 UMI

minate contracts, dealings, franchises, etc. Subpart — Controlling, unfairly, seller-suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records; 13.533–45(k) Records, in general; 13.533–65 Renegotiation and/or amendment of contracts. Subpart—Cutting off access to customers or market: § 13.560 Interfering with distributive outlets. Subpart—Cutting off supplies or service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records. Subpart—Maintaining resale prices: § 13.1145 Discrimination; 13.1145–5 Against price cutters; 13.1145–45 In favor of price maintainers; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165–80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the Matter of Nikko Electric Corporation of America, a corporation.

Consent order requiring a Van Nuys, California, manufacturer, importer and distributor of high fidelity audio components, among other things to cease maintaining resale prices and engaging in restrictive trade practices. The order further requires respondent to maintain records; reinstate dealers terminated for non-conformance with previously required pricing schedules and to take appropriate action against those distributors found to be in violation of the provisions of the order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

It is Ordered, That respondent Nikko Electric Corporation of America, a corporation, its successors and assigns and respondent's employees, agents, representatives, including sales representatives, or other independent contractors, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, importation, distribution, offering for sale and sale of high fidelity audio components and other products in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Establishing, continuing or enforcing any contracts, agreements, understandings or arrangements with distributors or retail dealers of respondent's products (hereinafter distributors and retail dealers are referred to in this Order as "dealers") which have the purpose or effect of fixing, establishing, maintaining, or enforcing the prices at which respondent's products are to be resold.

2. Fixing, establishing, controlling or maintaining the prices at which dealer may advertise, promote, offer for sale or sell respondent's products.

3. Publishing, disseminating, circulating or providing by any other means, any suggested resale prices; *provided however*, that subsequent to two (2) years after the date on which this Order becomes final, respondent may suggest resale prices if it is clearly and conspicuously stated on each page of any price list, book, tag, advertising or promotional material or other document that the price is suggested.

4. Requiring any dealer to enter into written or oral agreements or understandings that such dealer will adhere to established or suggested prices for respondent's products as a condition to receiving or retaining its dealership.

5. Refusing to sell or threatening to refuse to sell to any dealer who desires to engage in the sale of respondent's products for the reason that such dealer will not enter into an understanding or agreement with respondent to advertise or sell said products at respondent's established or suggested resale price.

6. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer because said dealer advertises respondent's products at retail prices other than that which respondent deems appropriate or has approved.

7. Disseminating or circulating any warranty registration form or any other document which requires or requests that the retail price paid by the ultimate consumer for respondent's products be stated and reported to respondent.

8. Securing or attempting to secure any promises or assurances from dealers or prospective dealers regarding the prices at which such dealers will advertise or sell respondent's products or requesting or requiring any dealer or prospective dealer to obtain approval from respondent for prices offered by said dealers in advertisements for respondent's products.

9. Requiring, soliciting or encouraging any dealer, person or firm either directly or indirectly to report the identity of any dealer, person or firm who does not adhere to any resale or retail price for any of respondent's products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer, person or firm so reported.

10. Terminating, threatening, intimidating, coercing, delaying shipments, or taking any other action to prevent the sale of respondent's products by a dealer because said dealer has advertised or sold, is advertising or selling, or is suspected of advertising or selling such products at other than prices that respondent may deem to be appropriate or has approved.

11. Establishing, continuing or enforcing, by refusal to sell, termination or threat thereof, delay in shipment or threat thereof, or in any other manner, any contract, agreement, understanding, or arrangement or method of doing business which has the purpose or effect of restricting or limiting in any manner the customers or classes of customers to whom dealers may sell respondent's products.

12. Convening or participating in any meeting for the purpose of undertaking or engaging in any of the acts or practices prohibited by this Order.

13. Guaranteeing, promising, through agreements or advertising or by any other means the profit margins of its dealers, selective franchising, or limited distribution of its products.

In connection with the foregoing provisions under Part I of this Order, it is further provided that after the expiration of five (5) years from the date this Order becomes final, nothing contained in this Order shall prohibit respondent from lawfully exercising such rights, if any, as it may have to distribute and establish resale prices for its products under fair trade laws then in effect.

II

It Is Further Ordered, That respondent shall:

1. Forthwith upon this Order becoming final, mail or deliver, and obtain signed receipts therefor, copies of this Order to every present dealer, to ever dealer terminated by respondent since January 1, 1972 and to every new dealer for a period of three (3) years.

2. Forthwith distribute a copy of this Order to each of its operating divisions and subsidiaries and to all officers, sales personnel, sales agents, sales representatives and advertising agencies and secure from each such entity or person a signed statement acknowledging receipt of said Order.

3. Within thirty (30) days from the date on which this Order becomes final, mail or deliver, and obtain a signed receipt therefor, written notice to all of respondent's sales personnel, sales agents and sales representatives and advertising agencies informing such persons that their violation of any provision of this Order may result in the termination of said employment or business relationship. Respondent shall obtain prior approval from the New York Regional Office of the Federal Trade Commission of said written notification.

4. Forthwith terminate the employment or business relationship with any person or firm willfully violating any provision of this Order and take appropriate disciplinary and corrective action, which may include termination, for nonwillful violation.

5. Within sixty (60) days from the date on which this Order becomes final, mail or deliver, and obtain a signed receipt therefor, a written offer of reinstatement upon the same terms and conditions available to respondent's other dealers, to any distributor or dealer located in an area where resale prices were not or could not be lawfully controlled who was terminated by respondent from January 1, 1972 to the effective date of this order unless respondent can establish that the dealer terminated does not or did not at the time of termination have good credit or that the dealer does not have reasonably adequate facilities for selling respondent's products, and forthwith reinstate any such distributor or dealer who within thirty (30) days thereafter requests, in writing, reinstatement.

III

It Is Further Ordered, That respondent:

1. Notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the Order.

2. For a period of three (3) years from the date this Order becomes final, establish and maintain a file of all records referring or relating to respondent's refusal during such period to sell its products to any dealer, which file shall contain a record of a communication to each such dealer explaining respondent's refusal to sell, and which file will be made available for Commission inspection on reasonable notice; and, annually, for a period of three (3) years from the date hereof, submit a report to the Commission's New York Regional Office listing the names and addresses of all dealers with whom respondent has refused to deal during the preceding year, a description of the reason for the refusal and the date of the refusal.

IV

It Is Further Ordered, That in the event the Commission hereafter issues any Order which is less restrictive than the provisions of Paragraphs I, II, or III, Sections 1 through 12, of this Order, in any proceeding involving alleged resale price maintenance of a manufacturer or supplier of audio components subject to investigation by the Commission pursuant to File No. 741 0042, then the Commission shall, upon the application of Nikko Electric Corporation of America reconsider this Order and may reopen this proceeding in order to make whatever revisions, if any, are necessary to bring the foregoing paragraphs into conformity with the less stringent restrictions imposed upon respondent's competitors.

The Decision and Order was issued by the Commission July 12, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24193 Filed 8-17-76;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original document.

[Docket C-2830]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Northerlin Co., Inc. t/a Vulcan Basement Waterproofing Co.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; 13.15–205 Offices in principal cities; 13.15–220 Patent or other rights; 13.15–265 Services; 13.15–270 Size and extent; § 13.70 Fictitious or misleading guarantees; § 13.135 Nature of product or service; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–30 Durability or permanence; 13.170–50 Leakproof or leakproofing; 13.170–70 Preventive or protective; 13.170–90 Termite-repellent; 13.170–96 Waterproof, waterproofing, water-repellent; § 13.185 Refunds, repairs, and replacements; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.225 Services. Subpart—Contracting for sale in any form binding on buyer prior to specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–45(a) Advertising substantiation; 13.533–45(k) Records, in general. Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records; 13.1051–20 Adequate. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting oneself and goods—Business status, advantages or connection: §13.1475 Location; §13.1555 Size, extent, or equipment.—Goods: § 13.1647 Guarantees; § 13.1685 Nature; § 13.1710 Qualities or properties; § 13.1725 Refunds; §13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; 13.1760–50 Sales Contract.—Promotional sales plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1855 Identity; § 13.1863 Limitation of product; § 13.1870 Nature; § 13.1885 Qualities or properties; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–50 Sales contract. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1980 Guarantee, in general; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the Matter of Northerlin Co., Inc., a corporation doing business as Vulcan Basement Waterproofing Company.

Consent order requiring a Flushing, N.Y., franchisor of residential basement waterproofing products, among other things to cease misrepresenting the nature and effectiveness of its products or services; failing to respond to requests for service or maintenance; failing to maintain adequate records; failing to disclose relevant facts concerning its two forms of waterproofing services; misrepresenting guarantees; misrepresenting the size of its business; using misleading sales plans and furnishing means and instrumentalities of misrepresentation or deception.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

I

It is ordered that respondent Northerlin Co., Inc., a corporation, doing business as Vulcan Basement Waterproofing Company or any other trade name or names, its successors and assigns, and its officers, (hereinafter sometimes referred to as "respondent"), and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division, franchisee, licensee or other device, in connection with the advertising, offering for sale, sale or distribution of basement waterproofing and termite control products or services, or other products or services, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondent employs an exclusive patented process.

2. Representing, directly or by implication, that such products or services will seal all types of basement walls, floors and foundations against water leakage.

3. Using the words, "permanently," "completely," "perpetually," "once and for all," or other words or phrases of similar import, to describe such products or services; or misrepresenting, in any manner, the nature and effectiveness of such products or services.

4. Misrepresenting the efficacy of the protection against termites and other insects afforded by such products or services; or misrepresenting, in any manner, the degree of protection from termites or other insects provided by such products or services.

5. Using the words "24-Hour," "year-round" or other words or phrases of similar import to describe the availability of respondent's installation, repair and maintenance service to customers.

6. (a) Failing to maintain a customer relations department to which purchasers of such products or services may refer complaints and/or requests for maintenance or replacement of faulty products or services promised under the terms of respondent's contract and guarantee; or failing to furnish to each customer at the time of purchase of such products or services the name, address and telephone number of such customer relations office to which requests for service and/or maintenance may be directed by such customers.

(b) Failing to respond to requests for service or maintenance within seven (7) days from the date of receipt thereof, by customers who previously purchased such products or services.

(c) Failing to maintain for a period of three (3) years, records of customers' service and maintenance requests and related documents in connection with the implementation of Paragraph 6 (a) and (b) above.

7. Failing to disclose in writing on the face of every contract for the pressure pumping process, in bold print, on an easily detachable form which shall be executed by the customer and retained by the seller and orally, prior to the signing of any contract, and in ten point bold face type in all advertisements, promotional materials and similar documents, the following notice:

Vulcan provides two kinds of waterproofing services: channeling water away from the basement and pressure pumping a Bentonite mixture against walls and footings. The bentonite material used in the pressure pumping process will not prevent leaks in your basement under certain types of soil and water table conditions. If you have not had engineering tests conducted on your property by a qualified engineer, you cannot be sure the process you have contracted for will work on your home.

7a. Failing to disclose in radio and other electronic media advertisements the following notice:

The Bentonite material used in the pressure pumping process will not prevent leaks in your basement under certain types of soil and water table conditions. If you have not had engineering tests conducted on your property by a qualified engineer, you cannot be sure this process will work.

8. Making any representations, orally or in writing or in any other manner, relating to the efficacy, effectiveness or performance of

[1] Copies of the Complaint, Decision and Order filed with the original document.

V 41 161 AUG 18 76 UMI

such products or services unless, at the time such representations are made, respondent has a reasonable basis for such representations which shall consist of competent engineering or other similar objective material.

9. Failing to maintain accurate records which may be inspected and copies by Commission staff members upon reasonable notice:

(a) Which consist of documentation to support any and all claims made after the effective date of this order in advertising or sales promotion material concerning the efficacy and performance characteristics of any such products or services marketed by the respondent.

(b) Which provided the basis upon which respondent relied as of the time those claims were made; and

(c) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotion material was last disseminated.

10. Representing, directly or by implication, orally or in writing, that any of respondent's products or services are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; and unless respondent promptly and fully performs all of its obligations and requirements, directly or impliedly represented under the terms of each said guarantee.

11. Representing, directly or by implication, that an office is maintained by respondent in any city or town other than that in which a fully staffed sales, service and installation office or place of business is, in fact, maintained, occupied and used by respondent; or misrepresenting in any manner the size of respondent's business.

12. Representing, directly or by implication, that respondent will apply such products or services to waterproof basements without digging, or without the necessity of having waterproofing work done inside the basement.

13. Using in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made, directly or by implication, in order to obtain leads or prospects for the sale of, or induce purchases of goods or services.

14. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in the manner, or by the acts and practices prohibited by this order.

15. Failing to maintain and produce for inspection and copying, for a period of three years, copies of all advertisements, brochures, sales contracts, salesmen's manuals and sales bulletins, and all other promotional materials utilized in the advertising, promotion and sale of such products or services.

16. Contracting for any sale of such products or services in the form of a sales contract or other agreement which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution of the contract or other agreement.

17. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

18. Failing to furnish each buyer, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten point bold face type the following information and statements.

NOTICE OF CANCELLATION

(Enter Date of Transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to ----------, at
(Name of Seller)

(Address of Seller's Place of Business)
not later than midnight of ----------
(Date)

I hereby cancel this transaction.

(Date)

(Buyer's Signature)

19. Failing to inform each buyer orally, at the time he signs the contract or purchase the goods or services, of his right to cancel.

20. Failing or refusing to honor any valid notice of cancellation by a buyer and within 3 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale.

II

1. It is Further Ordered that:

(a) Respondent herein deliver, by registered mail, a copy of this Decision and Order to each of its present and future franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors or to any other person who advertises, promotes, offers for sale, sells or distributes such products or services offered by respondent.

(b) Respondent herein provide each person so described in paragraph (a) above with a form returnable to the respondent clearly stating his intention to be bound by and to conform his business practices to the requirements of this Order; retain said statement during the period said person is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request;

(c) Respondent herein inform each person so described in paragraph (a) above that the respondent will not use or engage or will terminate the use or engagement of any such party, unless such party agrees to and does file notice with the respondent that he will be bound by the provisions contained in this Order;

(d) If such party as described in paragraph (a) above will not agree to so file the notice set forth in paragraph (b) above with the respondent and be bound by the provisions of the Order, the respondent shall not use or engage or continue the use or engagement of, such party to promote, offer for sale, sell or distribute such products or services included in this Order;

(e) Respondent herein inform the persons described in paragraph (a) above that the respondent is obligated by this Order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the deceptive acts or practices prohibited by this Order;

(f) Respondent herein institute a program of continuing surveillance adequate to reveal whether the business practices of each said person described in paragraph (a) above conform to the requirements of this Order;

(g) Respondent herein discontinue dealing with or terminate the use or engagement of any person described in paragraph (a) above, as revealed by the aforesaid program of surveillance, who continues on his own any act or practice prohibited by this Order.

2. It is further ordered that respondent Northerlin Co., Inc., shall forthwith distribute a copy of this Order to each of its operating divisions.

3. It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

4. It is further ordered that in the event that the corporate respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, said respondent shall require such successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; provided that if said respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

5. It is further ordered that the respondent herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

The Decision and Order was issued by the Commission July 12, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24194 Filed 8-17-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0010]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Food and Drug Administration is amending the food additive regulations to provide for the use of an additional

copolymer; effective August 18, 1976; objections by September 17, 1976.

Notice was given in the FEDERAL REGISTER of June 3, 1975 (40 FR 23919) that a food additive petition (FAP 5B3072) had been filed by the Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 121.2526 (21 CFR 121.2526) be amended to provide for the safe use of oxazolidinylethylmethacrylate copolymer with ethyl acrylate and methyl methacrylate as a component of paper and paperboard for food-contact use.

The Commissioner of Food and Drugs, having evaluated the data in the food additive petition and other relevant material, concludes that § 121.2526 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2526 (b)(2) is amended by adding alphabetically a new item to the list of substances as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * * *

(b) * * *

(2) * * *

List of substances

* * * * * * *

Oxazolidinylethylmethacrylate (CAS Registry No. 46236-15-1) copolymer with ethyl acrylate and methyl methacrylate, and containing not more than 6 percent by weight of oxazolidinylethylmethacrylate. Maximum nitrogen content shall be 0.5 percent and number average molecular weight of that portion of the copolymer soluble in tetrahydrofuran shall be not less than 50,000.

Limitations

* * * * * * *

For use only as a binder for pigment coatings as a binder level not to exceed 4.0 percent by weight of dry paper or paperboard.

* * * * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 17, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This regulation shall become effective August 18, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc. 76-24146 Filed 8-17-76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin and Sulfamethazine

The Food and Drug Administration approves new animal drug application (100-127V) filed by V.P.O., Inc., 4444 S. 76th St., Omaha, NE 68127, proposing safe and effective use of a tylosin and sulfamethazine premix used in the manufacture of swine feeds. The approval is effective August 18, 1976.

The Commissioner of Food and Drugs is amending § 558.630 (21 CFR 558.630) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 558.630 is amended by revising paragraph (b)(3) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * * *

(b) * * *

(3) To 011490, 016968, 017255, 025796, 034500, 035955, 043743: 10 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * * *

Effective date. This amendment shall be effective August 18, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 11, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-24148 Filed 8-17-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2250]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 40 F.R. 57210-212 and 41 F.R. 1062). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

V 41 161 AUG 18 76 UMI

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Kansas	Ellsworth	Wilson, city of	Aug. 9, 1976, emergency	Aug. 8, 1975	200560
North Carolina	Edgecombe	Princeville, town of	do	July 25, 1975	370318
Ohio	Champaign	Christiansburg, village of	do	Aug. 9, 1974	390056A
Do	Lake	Wickliffe, city of	do	July 25, 1975	390321
•	•	•	•	•	•
Idaho	Franklin	Weston, city of	Aug. 10, 1976, emergency	July 18, 1975	160156
Iowa	Marion	Knoxville, city of	do	Aug. 29, 1975	190603
Michigan	Oceana	Greenwood, township of	do		260483
New York	Westchester	Dobbs Ferry, village of	do	May 17, 1974 June 11, 1976	360908A
Do	Tioga	Richford, town of	do	Dec. 20, 1974	361216
•	•	•	•	•	•
Illinois	St. Clair	Millstadt, village of	Aug. 11, 1976, emergency	Mar. 28, 1975	170838
Do	do	Summerfield, village of	do	May 3, 1974	170636A
Kansas	Phillips	Logan, city of	do	July 19, 1974 Oct. 17, 1975	200265A
Maine	Somerset	Embden, town of	do	Feb. 21, 1975	230359
Do	Androscoggin	Livermore, town of	do	Nov. 8, 1974	230173
Do	Penobscot	Newport, town of	do		230398
New York	Oneida	Bridgewater, village of	do	May 17, 1974 June 11, 1976	360422A
Do	Broome	Triangle, town of	do	Apr. 5, 1974 Nov. 21, 1975	360055A
Pennsylvania	Beaver	Center, township of	do	Jan. 17, 1975	422310
Texas	Montague	Saint Jo, city of	do	June 27, 1975	480040
•	•	•	•	•	•
Iowa	Adair and Guthrie	Adair, city of	Aug. 12, 1976, emergency.	Aug. 22, 1975	190537
New Jersey	Bergen	Teterboro, borough of	do	Nov. 1, 1974	340537
Ohio	Lawrence	Athalia, village of	do	Aug. 1, 1975	390698
•	•	•	•	•	•
Colorado	Eagle	Vail, town of	Aug. 13, 1976, emergency.		080054
Idaho	Valley	Cascade, city of	do	Sept. 19, 1975	160161
Missouri	Dade	do	do	Apr. 18, 1975	290589
Do	Jackson	Oak Grove, city of	do	July 11, 1975	290694
Nebraska	Morrill	Bayard, city of	do	Aug. 8, 1975	310347
Do	Boone	Petersburg, village of	do	July 25, 1975	310308
Pennsylvania	Westmoreland.	Bolivar, borough of	do	June 14, 1974 Apr. 30, 1976	420873A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended 39 F.R. 2787, Jan. 24, 1974.)

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23950 Filed 8–17–76;8:45 am]

[Docket No. FI–895]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Bellefonte, Centre County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Bellefonte, Centre County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Council Room, Borough Hall, Bellefonte.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Spring Creek	At Northern corporate limits	730	135	55
	North of Lamb St	736	100	80
	North of High St	742	365	0
Logan Branch	North of Spring St	749	20	220
	South of Spring St	(1)	0	150
Spring Creek	At Southwest corporate limits	751	200	60

[1] Approximate study.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23955 Filed 8–17–76;8:45 am]

[Docket No. FI–896]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Castanea, Clinton County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Castanea, Clinton County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1971, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Meeting Hall, Municipal Building, Nittany Road, Castanea.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream			
			Left		Right	
West Branch Susquehanna River.	Eastern corporate limit	563	(1)		(2)	
	L.R. 18042	563.5	(2)		(3)	
	U.S. 220	564	(1)		(4)	
Bald Eagle Creek	Eastern corporate limit	563	(4)			140
	Penn Central RR	563	(5)			90
	Appalachian Throughway	563	(3)			80
	Casteaea Bridge	563		700		60
	Appalachian Throughway	563		120		440
	Penn Central RR	564.5		20	(1)	

[1] Outside corporate limit.
[2] Overlaps with Bald Eagle Creek.
[3] 60 to corporate limit.
[4] 40 to corporate limit.
[5] Overlaps with West Branch Susquehanna.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23964 Filed 8–17–76;8:45 am]

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[Docket No. FI-909]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Collingdale, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Collingdale, Delaware County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the counter of the Main office, Borough Hall, Collingdale.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Darby Creek (flooding source entirely in adjacent community of Darby).	Upstream from 9th St	27	[1] 310	240
Darby Creek	Upstream from MacDade Blvd	28	[1] 590	[2] 270
Pusey Run, studied by approximate methods.	Upstream from Eden Cemetery Rd		140	135
	Upstream from Andrews Rd. (extended)		150	90
Hermsprota Rnn, studied by approximate methods.	Upstream from B. & O. RR		60	40
	MacDade Blvd		60	50

[1] Left bank and area inundated by 100-yr flood is entirely within adjacent community of Darby.
[2] Left bank and approximately ½ of the area inundated by 100-yr flood is within the adjacent community of Darby

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23953 Filed 8-17-76;8:45 am]

[Docket No. FI-897]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Eddystone, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Eddystone, Delaware County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Secretary's office, Borough Hall, Eddystone.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Ridley Creek	4th Street Bridge	10	85	(1)
	Penn Central Railroad Bridge	10	3	(1)
	9th Street Bridge	11	4	(1)
	12th St. (extended)	12	14	(1)
	North corporate limit	13	20	(1)
Crum Creek	Pennsylvania Route 291	10	(1)	21
	Boeing County Bridge (Culvert)	12	(1)	8
	United Engineers & Constructors Co. Bridge.	14	(1)	6
	Penn Central Railroad Bridge	15	(1)	8
	Dam No. 1	18	(1)	26
	North corporate limit	19	(1)	38
Delaware River	Eddystone Ave. (extended)	10	(1)	125
	300 ft from southwest corporate limits	10	(1)	128
	125 ft from west corporate limits	10	(1)	75

[1] Corporate limits.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended by 39 F.R. 2787, Jan. 24, 1974.)

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23952 Filed 8-17-76;8:45 am]

[Docket No. FI-900]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Milesburg, Centre County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Milesburg, Centre County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in floodprone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Hall, Milesburg, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Bald Eagle	Catherine St. (extended)	693	(1)	580
	Grove St. (extended)	700	700	(1)
Spring Creek	Commercial St.	698	1,200	30
	Smith St. (extended)	700	1,060	700

[1] Corporate limit.

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(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended by 39 F.R. 2787, Jan. 24, 1974.)

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc. 76-23951 Filed 8-17-76;8:45 am]

[Docket No. FI-912]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Painesville, Lake County, Ohio

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Painesville, Lake County, Ohio under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the City Manager's office, City Hall, 7 Richmond Street, Painesville.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Tiber Creek	Jackson St.		40	60
	Newell St.	646	270	455
	Hayer Dr.	643	(1)	240
	Chicago St.	641	(1)	410
Grand River	St. Clair St.	581	65	(1)
	At corporate limits north of St. Clair St.	583	205	10
	At corporate limits north of State Route 2.	592	25	(1)
	State Route 2.	594	310	(1)
	Penn Central R.R.	596	25	(1)
	Recreation Park	600–601	(2)	(2)
	East Main St.	603	60	80
	Grand River Ave. (extended)	607	30	320
	New York, Chicago & St. Louis R.R.	616	10	360
	Walnut Ave.	613	90	240
West Branch of Tiber Creek.	New York, Chicago & St. Louis R.R.		110	125
	South corporate limits parallel to Lucille Ave.		260	270
Tributary 1	Elm St.		30	25

[1] Outside corporate limits.
[2] All of park.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended by 39 F.R. 2787, Jan. 24, 1974.)

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23957 Filed 8-17-76;8:45 am]

[Docket No. FI-900]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Wooster, Wayne County, Ohio

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Wooster, Wayne County, Ohio under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Mayor's office, 538 North Market Street, Wooster.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Tributary 1	Corporate limits east of Route 76		20	11
Tributary 2	Long Rd.		5	5
Tributary 3	Geyers Chapel Rd.		10	2
Tributary 2 of Little Apple Creek.	Woodcrest Dr.		20	42
	Highland Park Dr.		85	21
Tributary 3 of Little Apple Creek.	50 ft west of Route 76		20	3
Tributary 4 of Little Apple Creek.	Cedar Lane		15	30
	Highland Park Dr.		30	20
Tributary 5 of Little Apple Creek.	50 ft west of Cleveland Rd.		10	40
	Along west side of Route 76		20	25
Tributary 6 of Little Apple Creek.	Northern corporate limits		45	45
	South of Milltown Rd. on Melrose Rd.		20	65
Tributary 6A of Little Apple Creek.	East of Melrose Rd.		95	100
Little Apple Creek	Corporate limits east of intersection of Routes 85, 76, and 3.		65	45
	West of Hickory Lane		35	40
	Portage Rd.		25	40
	East of Wayne Ave. (extended) and east side of Route 76.		75	160
	Turnoff from Route 76 onto Bowman St.		35	20
	South of Bowman St.		35	40
	Southern corporate limits		60	420
Unnamed tributary for Little Apple Creek.	Wayne Avenue Culvert		40	50
Cedar Creek	Northwestern corporate limits above Old Mansfield Rd.		275	30
Snyders Ditch	Brickyard Rd.		25	35
	South of Old Mansfield Rd.	871	60	30
	Bransetter St.	868	360	40
	Lincoln Way	860	920	230
Christmas Run	South of Highland Ave.		25	20
	Miller Blvd.		200	10
		(3)	65	60
	Oakley Rd.		300	50
	North of Wayne Ave.		20	25
	Park Blvd.		300	160
	North Bowman St.		20	10
	Saybolt Ave.	863	60	450
	Larwill St.	873	20	300
	Liberty St.	866	600	(4)
	County Rd.	862	50	20
	U.S. 250 and 30	858	115	120
	Southern corporate limits	857	2,035	
Rillbuck Creek	Lincoln Way	862	470	
	Old Mansfield Rd.	862		120
Apple Creek	Rebecca St. and Baner Rd.	882		820
	North of Pittsburg Ave. on Bauer Rd.	881		90
	U.S. Route 250 and 30	865		40
	Beaver St.	863	40	40
	Penn Central R.R.	859	(4)	70
	Spruce St.	858	50	
	Southern corporate limits (between mouth and railroad).	857		(4)

[1] Along road.
[2] Along entire road to Lincoln Way.
[3] To corporate limits.
[4] Up to U.S. Route 250 and 30.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended by 39 F.R. 2787, Jan. 24, 1974.)

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23956 Filed 8-17-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 662-76]

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

Appendix—Commentary on Selected Sections of the Regulations on Criminal History Record Information Systems

CRIMINAL HISTORY RECORD INFORMATION SYSTEMS; COMMENTARY

This order provides for permanent publication in the Code of Federal Regulations of the commentary accompanying the Justice Department regulations on criminal justice information systems (28 CFR Part 20). The commentary to Subparts A and B is identical to that published in the FEDERAL REGISTER on March 19, 1976 (41 FR 11717). The commentary to Subpart C is the same as that published in the May 20, 1975, FEDERAL REGISTER (40 FR 22119), except that with respect to the commentary on § 20.36 (relating to requirements for participation in the Computerized Criminal History Program), the requirement that equipment utilized for the handling of criminal justice data be dedicated to the criminal justice function is eliminated.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 534, and Pub. L. 92–544, 86 Stat. 1115, and (5 U.S.C. 301), Chapter I of Title 28, Code of Federal Regulations, is amended by adding an Appendix to Part 20 immediately after Part 20, as set forth below.

EDWARD H. LEVI,
Attorney General.

Dated: August 7, 1976.

APPENDIX—COMMENTARY ON SELECTED SECTIONS OF THE REGULATIONS ON CRIMINAL HISTORY RECORD INFORMATION SYSTEMS

Subpart A—§ 20.3(b). The definition of criminal history record information is intended to include the basic offender-based transaction statistics/computerized criminal history (OBTS/CCH) data elements. If notations of an arrest, disposition, or other formal criminal justice transactions occur in records other than the traditional "rap sheet" such as arrest reports, any criminal history record information contained in such reports comes under the definition of this subsection.

The definition, however, does not extend to other information contained in criminal justice agency reports. Intelligence or investigative information (e.g., suspected criminal activity, associates, hangouts, financial information, ownership of property and vehicles) is not included in the definition of criminal history information.

§ 20.3(c). The definitions of criminal justice agency and administration of criminal justice of 20.3(c) must be considered together. Included as criminal justice agencies would be traditional police, courts, and corrections agencies as well as subunits of noncriminal justice agencies performing a function of the administration of criminal justice pursuant to Federal or State statute or executive order. The above subunits of noncriminal justice agencies would include for example, the Office of Investigation of the U.S. Department of Agriculture which has as its principal function the collection of evidence for criminal prosecutions of fraud. Also

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included under the definition of criminal justice agency are umbrella-type administrative agencies supplying criminal history information services such as New York's Division of Criminal Justice Services.

§ 20.3(e). Disposition is a key concept in section 524(b) of the Act and in 20.21(a)(1) and 20.21(b). It, therefore is defined in some detail. The specific dispositions listed in this subsection are examples only and are not to be construed as excluding other unspecified transactions concluding criminal proceedings within a particular agency.

§ 20.3(k). The different kinds of acquittals and dismissals as delineated in 20.3(e) are all considered examples of nonconviction data.

Subpart B—§ 20.20(a). These regulations apply to criminal justice agencies receiving funds under the Omnibus Crime Control and Safe Streets Act for manual or automated systems subsequent to July 1, 1973. In the hearings on the regulations, a number of those testifying challenged LEAA's authority to promulgate regulations for manual systems by contending that section 524(b) of the Act governs criminal history information contained in automated systems.

The intent of section 524(b), however, would be subverted by only regulating automated systems. Any agency that wished to circumvent the regulations would be able to create duplicate manual files for purposes contrary to the letter and spirit of the regulations.

Regulation of manual systems, therefore, is authorized by section 524(b) when coupled with section 501 of the Act which authorizes the Administration to establish rules and regulations "necessary to the exercise of its functions * * *."

The Act clearly applies to all criminal history record information collected, stored, or disseminated with LEAA support subsequent to July 1, 1973.

Limitations as contained in Subpart C also apply to information obtained from the FBI Identification Division or the FBI/NCIC System.

§ 20.20 (b) and (c). Section 20.20 (b) and (c) exempts from regulations certain types of records vital to the apprehension of fugitives, freedom of the press, and the public's right to know. Court records of public judicial proceedings are also exempt from the provisions of the regulations.

Section 20.20(b)(2) attempts to deal with the problem of computerized police blotters. In some local jurisdictions, it is apparently possible for private individuals and/or newsmen upon submission of a specific name to obtain through a computer search of the blotter a history of a person's arrests. Such files create a partial criminal history data bank potentially damaging to individual privacy, especially since they do not contain final dispositions. By requiring that such records be accessed solely on a chronological basis, the regulations limit inquiries to specific time periods and discourage general fishing expeditions into a person's private life.

Subsection 20.20(c) recognizes that announcements of ongoing developments in the criminal justice process should not be precluded from public disclosure. Thus, announcements of arrest, convictions, new developments in the course of an investigation may be made. It is also permissible for a criminal justice agency to confirm certain matters of public record information upon specific inquiry. Thus, if a question is raised: "Was X arrested by your agency on January 3, 1975" and this can be confirmed or denied by looking at one of the records enumerated in subsection (b) above, then the criminal justice agency may respond to the inquiry. Conviction data as stated in 20.21(b) may be disseminated without limitation.

§ 20.21. The regulations deliberately refrain from specifying who within a State should be responsible for preparing the plan. This specific determination should be made by the Governor. The State has 90 days from the publication of these revised regulations to submit the portion of the plan covering 20.21(b) and 20.21(f).

§ 20.21(a)(1). Section 524(b) of the Act requires that LEAA insure criminal history information be current and that, to the maximum extent feasible, it contain disposition as well as current data.

It is, however, economically and administratively impractical to maintain complete criminal histories at the local level. Arrangements for local police departments to keep track of dispositions by agencies outside of the local jurisdictions generally do not exist. It would, moreover, be bad public policy to encourage such arrangements since it would result in an expensive duplication of files.

The alternatives to locally kept criminal histories are records maintained by a central State repository. A central State repository is a State agency having the function pursuant to a statute or executive order of maintaining comprehensive statewide criminal history record information files. Ultimately, through automatic data processing the State level will have the capability to handle all requests for in-State criminal history information.

Section 20.20(a)(1) is written with a centralized State criminal history repository in mind. The first sentence of the subsection states that complete records should be retained at a central State repository. The word "should" is permissive; it suggests but does not mandate a central State repository.

The regulations do require that States establish procedures for State and local criminal justice agencies to query central State repositories wherever they exist. Such procedures are intended to insure that the most current criminal justice information is used.

As a minimum, criminal justice agencies subject to these regulations must make inquiries of central State repositories whenever the repository is capable of meeting the user's request within a reasonable time. Presently, comprehensive records of an individual's transactions within a State are maintained in manual files at the State level, if at all. It is probably unrealistic to expect manual systems to be able immediately to meet many rapid-access needs of police and prosecutors. On the other hand, queries of the State central repository for most noncriminal justice purposes probably can and should be made prior to dissemination of criminal history record information.

§ 20.21(b). The limitations on dissemination in this subsection are essential to fulfill the mandate of section 524(b) of the Act which requires the Administration to assure that the "privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes." The categories for dissemination established in this section reflect suggestions by hearing witnesses and respondents submitting written commentary.

The regulations distinguish between conviction and nonconviction information insofar as dissemination is concerned. Conviction information is currently made available without limitation in many jurisdictions. Under these regulations, conviction data and pending charges could continue to be disseminated routinely. No statute, ordinance, executive order, or court rule is necessary in order to authorize dissemination of conviction data. However, nothing in the regulations shall be construed to negate a State law limiting such dissemination.

After December 31, 1977, dissemination of nonconviction data would be allowed, if authorized by a statute, ordinance, executive order, or court rule, decision, or order. The December 31, 1977, deadline allows the States time to review and determine the kinds of dissemination for non-criminal justice purposes to be authorized. When a State enacts comprehensive legislation in this area, such legislation will govern dissemination by local jurisdictions within the State. It is possible for a public record law which has been construed by the State to authorize access to the public of all State records, including criminal history record information, to be considered as statutory authority under this subsection. Federal legislation and executive orders can also authorize dissemination and would be relevant authority.

For example, Civil Service suitability investigations are conducted under Executive Order 10450. This is the authority for most investigations conducted by the Commission. Section 3(a) of 10450 prescribes the minimum scope of investigation and requires a check of FBI fingerprint files and written inquiries to appropriate law enforcement agencies.

§ 20.21(b)(3). This subsection would permit private agencies such as the Vera Institute to receive criminal histories where they perform a necessary administration of justice function such as pretrial release. Private consulting firms which commonly assist criminal justice agencies in information systems development would also be included here.

§ 20.21(b)(4). Under this subsection, any good faith researchers including private individuals would be permitted to use criminal history record information for research purposes. As with the agencies designated in § 20.21(b)(3) researchers would be bound by an agreement with the disseminating criminal justice agency and would, of course, be subject to the sanctions of the Act.

The drafters of the regulations expressly rejected a suggestion which would have limited access for research purposes to certified research organizations. Specifically "certification" criteria would have been extremely difficult to draft and would have inevitably led to unnecessary restrictions on legitimate research.

Section 524(a) of the Act which forms part of the requirements of this section states:

"Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action suit, or other judicial or administrative proceedings."

LEAA anticipates issuing regulations, pursuant to Section 524(a) as soon as possible.

§ 20.21(c)(2). Presently some employers are circumventing State and local dissemination restrictions by requesting applicants to obtain an official certification of no criminal record. An employer's request under the above circumstances gives the applicant the unenviable choice of invasion of his privacy or loss of possible job opportunities. Under this subsection routine certifications of no record would no longer be permitted. In extraordinary circumstances, however, an individual could obtain a court order permitting such a certification.

§ 20.21(c)(3). The language of this subsection leaves to the States the question of who among the agencies and individuals listed in § 20.21(b) shall actually receive criminal records. Under these regulations a State could place a total ban on dissemination if it so wished. The State could, on the other hand, enact laws authorizing any member of the private sector to have access to non-conviction data.

§ 20.21(d). Non-criminal justice agencies will not be able to receive records of juveniles unless the language of a statute or court order, rule, or court decision specifies that juvenile records shall be available for dissemination. Perhaps the most controversial part of this subsection is that it denies access to records of juveniles by Federal agencies conducting background investigations for eligibility to classified information under existing legal authority.

§ 20.21(e). Since it would be too costly to audit each criminal justice agency in most States (Wisconsin, for example, has 1075 criminal justice agencies) random audits of a "representative sample" of agencies are the next best alternative. The term "representative sample" is used to insure that audits do not simply focus on certain types of agencies. Although this subsection requires that there be records kept with the names of all persons or agencies to whom information is disseminated, criminal justice agencies are not required to maintain dissemination logs for "no record" responses.

§ 20.21(f). Requirements are set forth which the States must meet in order to assure that criminal history record information is adequately protected. Automated systems may operate in shared environments and the regulations require certain minimum assurances.

§ 20.21(g)(1). A "challenge" under this section is an oral or written contention by an individual that his record is inaccurate or incomplete; it would require him to give a correct version of his record and explain why he believes his version to be correct. While an individual should have access to his record for review, a copy of the record should ordinarily only be given when it is clearly established that it is necessary for the purpose of challenge.

The drafters of the subsection expressly rejected a suggestion that would have called for a satisfactory verification of identity by fingerprint comparison. It was felt that States ought to be free to determine other means of identity verification.

§ 20.21(g)(5). Not every agency will have done this in the past, but henceforth adequate records including those required under 20.21(e) must be kept so that notification can be made.

§ 20.21(g)(6).—This section emphasizes that the right to access and review extends only to criminal history record information and does not include other information such as intelligence or treatment data.

§ 20.22(a). The purpose for the certification requirement is to indicate the extent of compliance with these regulations. The term "maximum extent feasible" acknowledges that there are some areas such as the completeness requirement which create complex legislative and financial problems.

NOTE: In preparing the plans required by these regulations, States should look for guidance to the following documents: National Advisory Commission on Criminal Justice Standards and Goals, Report on the Criminal Justice System; Project SEARCH: Security and Privacy Considerations in Criminal History Information Systems, Technical Reports No. 2 and No. 13; Project SEARCH: A Model State Act for Criminal Offender Record Information, Technical Memorandum No. 3; and Project SEARCH: Model Administrative Regulations for Criminal Offender Record Information, Technical Memorandum No. 4.

Subpart C—§ 20.31. Defines the criminal history record information system operated by the Federal Bureau of Investigation. Each state having a record in the Computerized Criminal History (CCH) file must have a fingerprint card on file in the FBI Identification Division to support the CCH record concerning the individual.

Paragraph b is not intended to limit the identification services presently performed by the FBI for Federal, state and local agencies.

§ 2032. The grandfather clause contained in the third paragraph of this Section is designed, from a practical standpoint, to eliminate the necessity of deleting from the FBI's massive files the non-includable offenses which were stored prior to February, 1973.

In the event a person is charged in court with a serious or significant offense arising out of an arrest involving a non-includable offense, the non-includable offense will appear in the arrest segment of the CCH record.

§ 2033. Incorporates the provisions of a regulation issued by the FBI on June 26, 1974, limiting dissemination of arrest information not accompanied by disposition information outside the Federal government for non-criminal justice purposes. This regulation is cited in 28 CFR 50.12.

§ 20.34. The procedures by which an individual may obtain a copy of his manual identification record are particularized in 28 CFR 16.30–34.

The procedures by which an individual may obtain a copy of his Computerized Criminal History record are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable state and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure. 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C., by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI, or, possibly, in the State's central identification agency.

4. The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

§ 20.36. This section refers to the requirements for obtaining direct access to the CCH file.

§ 20.37. The 120-day requirement in this section allows 30 days more than the similar provision in Subpart B in order to allow for processing time which may be needed by the states before forwarding the disposition to the FBI.

[FR Doc.76-24126 Filed 8-17-76;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 832—EMPLOYMENT OF CIVIL AIR PATROL

Cadet Program

Part 832 of Subchapter C, Title 32 CFR, is revised by designating the existing part as Subpart A—General Information (Sections 1 through 6) and adding Subpart B—Cadet Program (Sections 10 through 16), to read as follows:

Subpart B—Cadet Program

Sec.
832.10 Cadet program.
832.11 Eligibility requirements.
832.12 Recognition of achievement.
832.13 Encampments and conferences.
832.14 Cadet special activities and programs.
832.15 Orientation visits.
832.16 Air Force support.

AUTHORITY: Sec. 8012, 9441, 70A Stat. 488, 572; 10 U.S.C. 8012, 9441.

Subpart B—Cadet Program

§ 832.10 Cadet program.

The CAP is responsible for providing aerospace education and training to its cadet members. The cadet program is designed to give each cadet:

(a) An aerospace education, including:

(1) The social, political, economic, scientific, vocational, educational, and international facets of aerospace.

(2) An introduction to a variety of aerospace matters (such as meteorology, theory of flight, navigation, aircraft power plants, rockets, and missiles) as necessary to develop an informed and aerospace-minded citizenry.

(b) Training in citizenship, character development, leadership, customs and courtesies of the Service, and exercise of command through self-government in the cadet organization.

§ 832.11 Eligibility requirements.

Any boy or girl 13 years of age (or enrolled in the seventh grade) through 17 years of age, who meets such prerequisites as the CAP corporation may from time to time establish, is eligible for cadet membership. Cadets may retain their cadet status until age 21. Eligibility for special activities or training may vary according to the type of activity or training being conducted.

§ 832.12 Recognition of achievement.

(a) Under the provisions of Part 888, this chapter, any cadet who successfully completes all the requirements and is awarded the CAP General Billy Mitchell Award can enlist in the Air Force, Air Force Reserve, or Air National Guard as

V 41 161 AUG 18 76 UMI

an airman, pay grade E–2, provided he meets all other Air Force requirements.

(b) A cadet who receives the CAP General Mitchell Award or higher achievements can be afforded training credit when applying for enlistment in the ROTC program as provided for in Part 870 of this chapter.

§ 832.13 Encampments and conferences.

(a) Type A encampments are conducted under supervision of CAP personnel with Air Force advice, assistance, and cooperation. They are conducted annually at selected Air Force bases and do not last more than 14 days. They enable cadets to live in the environment of an active Air Force installation; to acquire firsthand knowledge of Air Force activities; and to learn of career opportunities in the Air Force.

(1) The encampment commander (a CAP officer) prescribes the uniforms the CAP members wear during the encampment. He is responsible for the conduct of CAP personnel, and for compliance with the directives issued by the commander of the host base.

(2) The National Commander, CAP, establishes the encampment attendance quota for each CAP wing.

(b) Type B encampments are conducted under the same type of supervision as Type A encampments, and their staff composition is the same. However, these encampments are conducted at community, state, or Federal facilities (including other Department of Defense Installations). They are scheduled for a series of weekends, or during a continuous encampment period. The program may include training in emergency services, moral leadership, general leadership, and briefings at nearby aerospace facilities.

(c) CAP regional conferences are held annually in each of the eight CAP regions, at a location within each region. These conferences are conducted to assess progress during the current year, to establish goals for the coming year, and to present briefings by Air Force representatives on programs or activities which relate to CAP's role as an auxiliary of the Air Force. Selected cadets participate in these conferences to advise on the cadet program, and to gain further understanding of the overall CAP program in preparation for leadership positions within their unit or wing.

§ 832.14 Cadet special activities and programs.

(a) *International Air Cadet Exchange.* Originated in 1948, this annual exchange fosters international understanding, goodwill, and friendship among the youth of the participating countries through a common interest in aerospace. The CAP exchanges cadets with similar organizations in Canada, Central and South America, Europe, and the Middle and Far East.

(b) *Cadet Officer's School.* This school is designed to increase the effectiveness of cadet officers. The curriculum includes psychology of leadership, problem-solving techniques, public speaking, physical fitness, and orientation trips. Instruction is divided between seminars, lectures, and field exercises.

(c) *Air Force Academy Survival Course.* This course is planned and conducted by Air Force personnel at the Air Force Academy. Its purpose is to acquaint the cadets with techniques and methods of survival.

(d) *Communications and Electronics Course.* This course is designed for outstanding cadets who have demonstrated an interest in the field of electronics. The course is planned and conducted by Air Force personnel at selected Air Force bases. The curriculum includes communications principles, radio operating training, tours, and practical laboratory exercises.

(e) *Federal Aviation Administration (FAA) Cadet Orientation Program.* This program is conducted at the FAA Academy. The course is designed to acquaint cadets with the history and organization of FAA, and to develop an understanding of FAA functions and responsibilities.

(f) *Space Flight Orientation Course.* This course is held annually at an outer-space-oriented facility. It is designed to further the aerospace education of cadets, and to motivate them toward careers in aerospace and allied sciences. The course includes history, philosophy, and objectives of space guidance, navigation instrumentation, and communication and system engineering.

(g) *Air Training Command (ATC) Familiarization Course.* This familiarization program for cadets is conducted at selected ATC undergraduate pilot and navigator training bases. It is designed to stimulate interest in an Air Force career. Each cadet receives training in the flight simulator, attends physiological training, and is briefed on the overall operation of the Air Force pilot training program.

(h) *Air Force Logistics Command (AFLC) Orientation Course.* This course is held annually at an AFLC Air Logistics Center. It is designed to further the aerospace education of cadets through an understanding of the Air Force logistics system. The curriculum may include acquisition, storage, distribution, maintenance repair and modification, data processing support, instrumentation, communications, and practical application of the logistics system.

(i) *Medical Services Orientation Program.* This program is planned and supervised by Air Force medical personnel, and is designed to acquaint cadets with the various fields of medical services available in the Air Force and civilian life.

(j) *Cadet Competitions.* Regional and national competitions, including drill and other aerospace-oriented competitive events, may be held annually at selected Air Force installations. Each region selects a team as its representative at the national competition.

(1) The National Commander, CAP, designates the location at which the national competition will be conducted.

(2) Air Force commanders provide suitable facilities and competent judges, if available, when requested by the Commander, CAP–USAF.

(k) *Chaplain Sponsored Conferences.* These annual conferences, (Christian Encounter Conferences) sponsored by the USAF Chief of Chaplains, are designed to stimulate the moral and spiritual development of the CAP cadet. Personnel and career counseling and spiritual guidance are provided by prominent clergymen, laymen, and national leaders who discuss problems of youth, marriage, home life, and other topics of interest. Cadets also participate in a well-rounded program of social and recreational activities.

(l) *Cadet Flying Programs.* The CAP corporation provides funding annually to help defray costs for cadet flight training and flight orientation programs. Flight training may be to solo level in glider or powered aircraft. Orientation flights are to motivate cadets through exposure to flying operations.

§ 832.15 Orientation visits.

Selected groups of cadets may participate in orientation visits to enhance or supplement the cadet training program. Examples are visits to Air Force installations, the Air Force Academy, the Air Force Museum, and FAA Air Traffic Control facilities. These visits are intended to serve as motivational activities, as well as to provide educational exposure to supplement academic instruction within the cadet training program.

§ 832.16 Air Force support.

The authority for Air Force support to CAP is outlined in AFR 46–4, Civil Air Patrol, Auxiliary of the Air Force. The Air Force is authorized to provide services and facilities to the CAP which include, but are not limited to; available billeting, messing, emergency medical care, limited exchange privileges, and transportation. DOD and Air Force directives provide guidance as to the scope of such services and facilities that are authorized for CAP. Air Force installation commanders should contact the appropriate USAF–CAP wing or region liaison officer for assistance on CAP programs or activities conducted on their installation.

JAMES L. ELMER,
Major USAF Executive,
Directorate of Administration.

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SUBCHAPTER I—MILITARY PERSONNEL

PART 889—DESERTION AND UNAUTHORIZED ABSENTEEISM

Part 889, Subchapter I of Chapter VII of Title 32, Code of Federal Regulations, is revised to read as follows:

Sec.
889.1 Purpose.
889.2 Terms explained.
889.3 Criteria for administrative classification of deserters.
889.4 Apprehension of absentees and deserters.
889.5 Authority to apprehend.
889.6 Return to military control.
889.7 Rewards and reimbursements.
889.8 Cooperation of armed forces and civil law enforcement agencies.
889.9 Deserter information system.
889.10 Responsibilities.
889.11 Specific responsibilities when a member is absent.
889.12 Required actions following absence or desertion of member.
889.13 Actions required when a member is absent.
889.14 Amplification of actions required.
889.15 Actions required when member fails to report to Personnel Support agency.
889.16 Action required in special cases.
889.17 Actions required to return member to duty.
889.18 Transfer from civilian to military jurisdiction.
889.19 Return to military control by other than unit of assignment.
889.20 Disposition when authorized absence has been terminated.
889.21 Enlisted personnel authorized absences, RCS:HAF–DPM(Q) 7137.
889.22 List of armed forces police detachments.
889.23 List of Army areas.
889.24 Sample format message (confirmation of deserter status).
889.25 Sample format message (notification of return of absentee or deserter to military control).

AUTHORITY: The provisions of this Part 889 issued under 10 U.S.C. 8012.

§ 889.1 Purpose.

(a) This part establishes uniform policies and standard procedures for the management of desertion and unauthorized absenteeism to: (1) Minimize the occurrence of desertion and unauthorized absenteeism, (2) foster the development of effective deterrent programs, (3) enhance apprehension efforts, and (4) provide for accurate and timely reporting of cases of desertion and unauthorized absenteeism. This part applies to all military personnel serving on or ordered to report to active duty in the U.S. Air Force and members of the Reserve components serving on active duty or active duty for training.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 889.2 Terms explained.

(a) Absentee—Absent Without Leave (AWOL). Any member of the Air Force not classified administratively as a deserter who is absent without authority from the unit, organization, or other place of duty at which member is required to be. This does not include members in confinement.

(b) Action Unit. The unit which will administer the member's unauthorized absence.

(c) Deserter. A member of the Air Force who has been administratively classified a deserter in accordance with the criteria in § 889.3.

(d) Deserter Information Point (DIP). A HQ USAF focal point to provide for the control, accounting, and dissemination of information concerning Air Force members administratively classified as absentees or deserters. For the purpose of this part, all correspondence and communications will be with AFMPC/DPMAKE, Randolph AFB TX 78148.

(e) Detaining Unit. The unit to which a member turns himself or herself in; the unit which apprehends the absentee; or the first Air Force unit to accept custody of the absentee.

(f) Dropped From Rolls (DFR) of the Organization. An administrative procedure which drops a member from the strength accountability of the organization to which assigned, but does not terminate the member's military status.

(g) Effective Date of Termination of Absence.

(1) Date an absentee or deserter returns to military control, as explained in (l) below, or

(2) Date when information is received that he or she reentered the same or entered another branch of the United States Armed Forces.

(h) Effective Date of Unauthorized Absence or Desertion. The actual date and hour commencing the unauthorized absence. For administrative purposes, the effective date of desertion is the actual date the member is administratively classified as a deserter in accordance with the criteria of § 889.3.

(i) Gaining Unit. The unit to which an absentee while en route in permanent change of station (PCS) or temporary duty (TDY) status) was originally scheduled to report.

(j) Losing Unit. The unit from which a member is absent. When an unauthorized absence occurs during a PCS or TDY, the unit from which the member departed is the losing unit.

(k) Major Command (MAJCOM). Refers to all major commands and separate operating agencies (AFM 26–2).

(l) Return to Military Control. The change of an absentee's or deserter's status when the member:

(1) Voluntarily surrenders to, is delivered to, or is apprehended by, military authorities;

(2) Apprehended by civil authorities at the request of military authorities; or

(3) Is in the hands of civil authorities for other reasons and these authorities make him or her available for return to military control (absence terminates when military authorities are advised of availability); or

(4) Comes under the control of military authorities who have knowledge of the true status; or

(5) Is determined by AFMPC/DPMAKE.

§ 889.3 Criteria for administrative classification of deserters.

For administrative purposes, an absentee will be classified as a deserter and a DD Form 553, Absentee Wanted by the Armed Forces, will be prepared and a message (includes MINIMIZE) dispatched in accordance with § 889.24 when a member:

(a) Is absent without authority regardless of the length of absence, and the facts and circumstances include:

(1) Duty or travel restrictions which have been imposed under the provisions of AFR 205–32; or,

(2) Access within the past 12 months to Top Secret information or to Secret or Confidential information for which special access authority and procedures have been established. (See § 889.16)

(b) Has been absent without leave for 30 consecutive days. (For administrative purposes, date of departure is first day of AWOL and AWOL status continues through 2400 hours on 30th day of continued absence. Desertion starts at 0001 hours on the 31st day of continued absence.)

(c) Has been absent without authority without regard to length of absence and has gone to, or remains in, any foreign country and while in such foreign country has requested or applied for, or accepted any type of, asiyum or residence permit from such country or any governmental agency thereof. (See § 889.16).

(d) Becomes absent without leave or escapes from custody before appropriate action is taken as a result of previous unauthorized absence.

(e) Who is a prisoner escapes.

(f) Who as a result of preliminary inquiry has been charged in accordance with the UCMJ for a serious offense in addition to being AWOL.

§ 889.4 Apprehension of absentees and deserters.

Every practicable effort will be made to apprehend absentees and deserters as expeditiously as possible. To achieve this end, vigorous efforts will be made at the unit level and other appropriate levels to investigate the facts and circumstances surrounding absences, to initiate apprehension actions, and to expedite appropriate notification procedures.

§ 889.5 Authority to apprehend.

Apprehension of absentees and deserters may be accomplished by the following personnel as specified below:

(a) Members of Armed Forces. Absentees and deserters may be apprehended by members of the Armed Forces under the circumstances prescribed by Article 7(b) of the Uniform Code of Military Justice (UCMJ) and paragraph 19 of Manual for Courts-Martial, 1969 (Revised Edition).

(b) Civil Officers. Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or Possession, or the District of Columbia may summarily apprehend and deliver a deserter into the custody of the Air Force.

(c) United States Authorities. United States authorities may apprehend absentees and deserters in foreign countries only when authorized by an international agreement with the country concerned or by agreement with appropriate local authorities when such an agreement is within the purview of an existing international agreement. In these cases, careful consideration must be given to possible international implications and adverse foreign reaction. Where apprehension cannot be accom-

V 41 161 AUG 18 76 UMI

plished under these circumstances, or in any case where doubt exists, as to apprehension authority, a report of the facts will be made to AFMPC/DPMAKE, with an information copy to the major command, for submission through channels to the Assistant Secretary of Defense (M&RA) for resolution.

§ 889.6 Return to military control.

This return may be effected as follows:

(a) Within the Jurisdiction of the United States. Absentees and deserters will be received at any military installation which is manned by active duty personnel. Immediate action will be taken to transfer an individual to the nearest installation of his or her branch of service having facilities to process absentees and deserters.

(b) Outside the Jurisdiction of the United States. Military attaches or mission chiefs in foreign countries will not accept the offer of a deserter or absentee to return to military control unless the United States is directly responsible for the presence of the individual in the country where assistance is requested.

(1) Normally, such deserters and absentees will be advised and assisted to report, at their own expense, to an appropriate US military installation within the United States or overseas.

(2) Unless they are citizens of the country in which assistance is requested, absentees and deserters will be reported to the appropriate authorities of such foreign country with a view toward deportation.

(3) If the individual departs the foreign country or is deported, the military attache or mission chief will make arrangements, if possible, when such departure is known, to have the individual taken into custody upon arrival within a territory where US military officers have authority to apprehend.

§ 889.7 Rewards and reimbursements.

(a) Any authorized communication, oral or written, from a military or federal law enforcement official or agency, requesting active cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Air Force, will constitute the basis for a reward. Subsequent to such communication, persons or agencies apprehending, detaining, or delivering absentees, deserters, or escaped military prisoners to military control will be rewarded or reimbursed (but not both) as follows:

(1) Payment of a reward of $15 for the apprehension and detention of absentees, deserters, or escaped military prisoners until the military authorities take them under control.

(2) Payment of a reward of $25 for the apprehension and delivery to military control of absentees, deserters, or escaped military prisoners.

(3) Under circumstances where persons or agencies who apprehend or return absentees and deserters to military control may not be paid a reward, reimbursement for reasonable and actual expenses may be made not to exceed $25 for any one case.

(b) Payments authorized by (a) above and cost of travel of guards assigned to the absentees or deserters will be charged to the military personnel appropriation of the Air Force. These costs will not be reimbursed by the absentee or deserter. Costs associated with an absentee's or deserter's own transportation for return to military control will be charged to the pay accounts of the individual member as prescribed in the Joint Travel Regulation, volume I, chapter 5.

§ 889.8 Cooperation of armed forces and civil law enforcement agencies.

(a) Notices about members wanted for unauthorized absence or desertion from a command located in the jurisdiction of the United States will be given expeditious selective circulation among Armed Forces and civil law enforcement agencies deemed most useful in apprehending a particular absentee. Notification to the Federal Bureau of Investigation and the Selective Service System or any branch thereof, and Department of State (in the case of noncitizen deserters) will be made only by AFMPC/DPMAKE. The standard format of this notice will be the DD Form 553.

(b) Major commands located outside the jurisdiction of the United States will take initial actions such as the local situation may warrant, within the primacy of international agreements, to secure cooperation in apprehension of members absent without leave.

(c) In the absence of other specific prearrangements among Military Service Commands, when one of the military services makes a pickup of absentees or deserters from civil authorities anywhere in the Continental United States, all such individuals—regardless of the military service to which they belong—will be picked up when practicable, at the same time and delivered to the nearest military installation having facilities to process absentees or deserters. When such pickup is not accomplished, the apprehending authorities will notify the military service(s) of the individuals remaining in civilian custody preferably prior to these authorities' departure from the civilian confinement facility.

(d) Apprehension of Absentees Who Seek Sanctuary in a Church or Other Public Building:

(1) When AFMPC/DPMAKE has furnished the Federal Bureau of Investigation (FBI) with a request to locate a deserter (DD Form 553), for return to military control, the FBI will assume responsibility and apprehend a deserter.

(2) When a number of airmen are involved, some of whom are absent without leave and some in a deserter status, responsibility will remain with the US Air Force since it has the authority to apprehend both categories of personnel.

(3) In all other situations, the US Air Force will assume responsibility for apprehending its absentees.

(4) Maximum cooperation will be solicited from local civil authorities in the apprehension of absentees not falling under FBI jurisdiction. If civil authorities decline to apprehend a US Air Force absentee seeking sanctuary in a church or public building, all facts will be reported to HQ USAF/IGS, via OPREP 3 Report, in accordance with JCSPUB 6, volume V, before military apprehension is attempted.

NOTE: This does not preclude the US Air Force from continuing to exercise its responsibility in "nonsanctuary" situations. For example, it does not preclude Air Force personnel from entering a building to apprehend an absentee in a "hot pursuit" situation or in other instances in which an absentee happens to be in a church or public building but is making no claim of sanctuary.

§ 889.9 Deserter information system.

(a) AFMPC/DPMAKE is the central focal point to provide for the control, accounting, and dissemination of information concerning Air Force members administratively classified as deserters and as warranted for those absent without leave for less than 30 days.

(b) The National Crime Information Center (NCIC) is a computerized information system established by the FBI as a service to law enforcement agencies. It operates through the use of computers, data transmission over communication lines, and terminal devices. To provide the means for making timely and complete deserter information available to civil law enforcement agencies, the Air Force has access to a terminal for direct entry to the computer. Every deserter must be listed with the NCIC no later than 7 days after being administratively declared a deserter. Minimizing this time interval and increasing the reliability and utilization of this information source will be a primary consideration.

(c) The primary source of information to the NCIC will be from the DD Form 553, and DD Form 616, Report of Return of Absentee Wanted by the Armed Forces. Upon initial receipt of deserter information, AFMPC/DPMAKE will make, as soon as possible, the requisite entries to the NCIC. Subsequently, AFMPC/DPMAKE will make the necessary adjustments to update and purify NCIC records of deserter information. On the 60th day of continuous absence, AFMPC/DPMAKE will forward a copy of DD Form 553 to the FBI. (Distribution to the FBI will not be made by any other Air Force agency.)

(d) Notification of returned AWOL or DFR members must be furnished to AFMPC/DPMAKE at the very earliest possible date in order to clear the NCIC files of the wanted notice. This is necessary to preclude apprehension of member after discharge has been effected. In the event a member is apprehended after discharge has been effected, such an incident could result in extreme embarrassment to the Air Force and other agencies concerned.

§ 889.10 Responsibilities.

It is the responsibility of all members to fully support the mission of the Air Force by being present for duty at the time and place prescribed. Positive action must be taken by supervisors and commanders at all echelons to insure that this responsibility is understood and assumed by all personnel and that prompt

action is taken when a member is not present for duty as required.

§ 889.11 Specific responsibilities when a member is absent.

(a) Immediate Supervisor. When a member is not present for duty as required and cannot otherwise be officially accounted for, the immediate supervisor will immediately notify the unit commander or squadron section commander. Any information which may be helpful in determining the reason for the absence and possible whereabouts of the member will be furnished also.

(b) Unit Commander (or Squadron Section Commander). The commander's interest in the welfare of assigned personnel dictates that the highest priority be assigned to locating an absent member, determining the cause of the absence, and effecting an early return to duty. This responsibility is in no way abridged by the actions required or assistance provided by others. The commander must:

(1) Promptly notify concerned agencies of member's duty status in accordance with this regulation; and

(2) Periodically prepare reports to all echelons advising them of member's current status (§ 889.14(e)) and

(3) Determine whether court-martial charges should be preferred against the member for unauthorized absence, desertion, or another offense in violation of the UCMJ. If charges should be preferred, the command must initiate action immediately since the preferring of charges precludes the running of the statute of limitations in bar of trial.

NOTE: When considering preferring of charges, the commander should consult with the Staff Judge Advocate for advice as to the propriety of such action and whether the statute of limitations bars the proposed action. The commander will also consult with the Staff Judge Advocate to insure that DD Form 458, Charge Sheet, is properly prepared and to insure that the officer who exercises summary court-martial jurisdiction over the absentee receives, and acknowledges receipt of, the charges. The charge sheet will be filed with the Unit Personnel Records Group. Statements of known witnesses, summaries of expected testimony, available evidence, or notations indicating where evidence is held should be attached to the change sheet.

(c) Consolidated Base Personnel Office (CBPO). CBPOs are responsible for prompt notification to the unit of assignment when a member has not reported in by the time specified from PCS, TDY travel, or is a member of the Air Reserve Forces (USAFR or ANGUS) ordered to active duty (this does not include Reservists ordered to perform their annual active duty tour for training). Necessary personnel information will be provided the member's commander as required to assist in his responsibilities. The CBPO acts as coordination agency and monitors actions required of the unit commander to insure promptness. Upon absentee's return to the detaining unit, the CBPO will coordinate as to the disposition of the member. (Detailed CBPO instructions and responsibilities are contained in AFM 30-130, volume I.)

(d) Security Police. The local Security Police unit is responsible for assisting the unit commander in returning an absent member to duty and will assist the CBPO in determining distribution of DD Form 553, when requested.

(e) Personnel Support Agency. These agencies at aerial ports are responsible for notifying the gaining and losing units of assignment whenever a member fails to report at the time prescribed for onward movement. Notification will be accomplished as prescribed in § 889.15.

(f) Accounting and Finance Office (AFO). This office is responsible for suspensing and taking prompt pay actions on receipt of AF Form 2098, Duty Status Change.

(g) Base Commanders and Higher Echelon Commanders. Commanders at all echelons will insure that continuing emphasis is placed upon the Air Force position regarding unauthorized absenteeism and desertion. Development of management practices and programs to deter and minimize absenteeism and desertion should be encouraged. MAJCOM will insure that CBPOs and units comply with this part.

§ 889.12 Required actions following absence or desertion of member.

Section 889.13 outlines the principal actions which must be accomplished by responsible personnel of the action unit following the absence of a member. Losing unit remains the action unit during PCS movement until the member physically reports in at the gaining unit, except for reservists ordered to active duty (see § 889.11(c)). In the case of reservists ordered to active duty, the gaining unit and gaining CBPO are responsible for all actions. When the member fails to report by the report-not-later-than date (RNLTD), action will be taken in accordance with AFM 30-130, Volume I. It is imperative that the required actions be accomplished, even if it is suspected that the absence might later be excused Upon notification of member's return to duty or military control, further accomplishment will cease and actions will immediately be taken to retract previous actions, as appropriate. Generally, this will require notification of all persons previously notified of the absence and appropriate record corrections to reflect the revised duty status of member.

NOTE: At any time when the circumstances of a member's absence indicate that the criteria of § 889.3 are met, he or she will immediately be classified as an administrative deserter and all applicable actions of § 889.13 accomplished immediately without regard to time sequence—except that he or she will not be dropped from rolls until the 180th day.

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§ 889.13 Actions required when a member is absent.

Item	A	B	C	D
	Time following absence	Responsibilities (see AFM 30-130, vol. I, for CBPO actions)		
		Immediate supervisor will—	Unit commander will—	Servicing security police will—
1	Immediately	Notify unit commander of member's absence; make inquiries among associates and other subordinates as to whereabouts and habits of absent member; and attempt to contact the member at his or her local residence.	Interview all personnel who may have information relative to member's absence; utilize all available resources in attempting to locate and return member to the military control; accomplish special processing when necessary as required by par. 14; and notify security police and request assistance (see notes 1 and 2).	Assist unit commander in attempting to locate member and return to military control.
2	24 hr	Recheck member's residence, associates, and other sources for possible contact with absent member.	Prepare AF form 2098 reflecting member's duty status from time and date of absence, and forward to servicing CBPO; if GSU, take action IAW AFM 30-130, vol. II; and continue maximum efforts to locate and return members, using own resources.	Follow up on any new leads developed by commander or supervisor.
3	Within 72 hr	Assist the commander in preparing the inquiry.	Prepare the inquiry and forward copies to the security police and to CBPO for dissemination.	Follow up on any new leads developed by the commander's inquiry.
4	On 10th d		Notify security police and CBPO of member's continued absence; assist CBPO in determining the distribution of DD form 553; and prepare and forward letter to next of kin (see note to par. 12b(2)(b)).	Assist CBPO and commander in determining proper distribution of DD form 553.
5	On 15th d			Contact security police, Armed Forces police detachments or civil authorities, as applicable, in the local area of addresses shown in items 31, 32, 34, and 37 of DD form 553, and ask assistance in locating and apprehending member; and assist CBPO in documenting authority to apprehend absent member.
6	On 31st d		Notify security police and CBPO of member's continued absence; (see par. 12e); and retrieve dependent ID cards as required by AFR 30-20.	Notify all agencies contacted after 15th d and confirm deserter status; and report actions taken to CBPO.
7	On 60th d		See par. 12e	Review case file, contact police agencies near member's home of record, and recheck any local leads; and forward final notices of actions taken to unit comdr and CBPO.
8	On 180th d (airmen) and as directed by SAF (officers).		Notify security police of status change; and IAW par. 12e indicate that these actions have been accomplished.	

NOTES.—(1) For TDY personnel, notify member's unit of assignment and servicing CBPO of member's absence. (2) A member will not be reported to the servicing security police until it is clear that the member has absented himself or herself from his or her unit, as opposed to a member simply failing to repair or being late for duty. Immediate notification of the security police is not required in cases where the absence is the result of failure on the part of the member to report in from PCS or TDY, unless there is reason to believe that the member is in the local area.

§ 889.14 Amplification of actions required.

The actions in § 889.13 which require possible further amplification are explained below. Where a specific guidance is contained in another directive, only a reference is provided.

(a) **Preparation of AF Form 2098.** Refer to AFM 30–130, volumes I and II, and AFR 35–40.

(b) Notification to Next of Kin or Payees of Allotments.

(1) A letter, signed by the unit commander or the squadron section commander, must be forwarded without delay at the time required to the absentee's next of kin (including those who are aliens residing in a foreign country) under the following circumstances, whichever occurs first:

(i) When substantial information exists which shows that the member had planned or announced intent to absent himself or herself without authorization, or

(ii) When the member has been in an unauthorized absence status for 10 consecutive days, or

(iii) When the member is administratively declared a deserter.

(2) The letter will state that:

(i) The member is considered in an administrative status of an unauthorized absentee (or deserter, if appropriate), as his or her whereabouts is unknown to military authorities.

(ii) Continued absence may result in conviction of desertion; loss of pay, allowances, and Government insurance; reduction in grade; bad conduct or dishonorable discharge (dismissal, if he or she is a commissioned officer); and confinement at hard labor.

NOTE: At the time the commander notifies next of kin, the dependent (or his fiduciary or custodian), of the member's unauthorized absence, the dependent, on behalf of whom BAQ may be claimed, will be advised of the right to apply for payment of BAQ, of the conditions under which payment may be made, and to whom to apply. If the member is in pay grade E–4 (4 years or less service) and below, the dependent will be advised that temporary financial relief can be provided if required, when the sponsor remains absent for more than 29 consecutive days. Such assistance is limited to the amount of BAQ to which the sponsor would be entitled as a member with dependents, for maximum of two consecutive 30-day periods, providing the sponsor remains absent during the entire period. Advise the dependent to contact the Accounting and Finance Officer (AFO) which services the sponsor. Application must be made within three months after the commencement of the member's absence (P.L. 93–64, 9 July 73).

(iii) They should urge the absentee to return to military control.

(iv) They should notify the nearest military installation if they have knowledge of the whereabouts.

(v) Dependents will become ineligible for medical care and other benefits and privileges when the sponsor's status changes to desertion.

(vi) The payee of allotments must be notified that continued absence will result in benefits being discontinued.

(3) A copy of the letter to the next of kin will be furnished the CBPO records unit.

(c) Unit Commander's Inquiry. The losing unit commander (or first sergeant) will prepare the inquiry, based on the actions which have been taken, and will include information as to whether member was pending administrative discharge or court-martial action prior to AWOL. Include duty status prior to AWOL. If leave, furnish leave address, or if reassigned, furnish gaining unit and delay en route leave address. If member has previously been AWOL or DFR, include dates and what disposition action was taken in each offense. The inquiry (original and copies) will be submitted to Security Police and CBPO for distribution.

(d) Preparation and distribution of DD Form 553. In remarks section of DD Form 553 show leave address or gaining unit (§ 889.14c). In block 4, following name, type in "SEX" and annotate: "male" or "female." This form will be prepared and distributed (all copies will reflect the complete distribution) to:

(1) AFMPC/DPMAKE—An original, suitable for reproduction, and three legible copies.

(2) MAJCOM of absent member, MAJCOM of CBPO.

(3) Base commander.

(4) Commander of the Army Area where unit of assignment is located (§ 889.23).

(5) Security Police of base near member's hometown and/or city where member is likely to go.

(6) Law enforcement agencies for addresses listed on DD Form 553, items 31 and 33, and to the place where absentee is likely to go.

(7) Air Force and Army finance and base exchange officers in the unit area and area where absentee is likely to go.

(8) Armed Forces Police Detachment, if such agency is located in geographical area where absentee is likely to go (§ 889.22).

(9) Law enforcement agencies of foreign countries only where apprehension can be effected when absence occurs within the oversea command, and limited to countries within the area as determined by the oversea commander.

(10) Field Record Group of absentee.

(11) AFAFC/MPSB 3800 York St., Denver CO 80205.

NOTE: When the Field Record Group is not available, information required to complete DD Form 553 must be requested by message from AFMPC/DPMDR, Randolph AFB TX, with information copy to AFMPC/DPMAKE.

(e) Status. On the 31st, 60th, 90th, 120th, 150th, and 180th day of continued absence, unit commander will confirm status to AFMPC/DPMAKE, MAJCOM, and servicing CBPO. (include any new information received relative to member's absence and actions taken toward his location and return to military control). On the 31st and 60th day include input from the security police. Additional DD Forms 553 should be dispatched if information from the inquiry warrants.

(f) Consolidation of Absentee's Field Record Group. Member's Field Record Group will be withdrawn from active files and a charge or reference sheet placed in the file to indicate where the record is filed and the date it was relocated. The record will be held and controlled by the servicing CBPO of unit of assignment and filed in a separate and safe location to preclude loss and permit filing action until the 180th day of continued absence (airmen) or as directed by the Secretary of the Air Force (officers). AF Forms 2098, correspondence relating to absence, and other applicable documents will be placed in the member's record pending disposition upon return to duty status or as directed by higher headquarters.

§ 889.15 Actions required when member fails to report to Personnel Support Agency.

When a member has failed to report to the Personnel Support Agency of the appropriate aerial port within 72 hours of the time prescribed, both gaining and losing CBPO of assignment will be notified and requested to provide information regarding the status of member. (Gaining and losing MAJCOMs will be information addresses. If information received indicates that the member is in absentee or desertion status, the losing CBPO will be advised and requested to take actions required by this directive. (The gaining CBPO; MAJCOM; AFMPC/DPMAKE, Randolph AFB TX 78148; and AFAFC/MPSB, Denver CO 80205, will be information addressees.) Necessary administrative actions will be accomplished by coordination between gaining and losing units to regain member to strength of losing unit. Required additional actions will be accomplished as outlined in § 889.12.

NOTE: Members reporting to the Personnel Support Agency within 30 days of the time prescribed will be continued to gaining unit of assignment for disposition regarding late reporting. Members reporting after 30 days following the time prescribed will be detained and action taken in accordance with § 889.19.

§ 889.16 Action required in special cases.

When an unauthorized absence occurs and the individual falls within the criteria of § 889.3(a) or (c), the following action must be taken:

(a) The commander must refer the matter for investigation to the Office of Special Investigation (OSI) unit servicing the base of assignment. This referral will be made when the individual has been absent without authority for a 48-hour period. The commander must also immediately conduct an inventory of all classified material to which the absentee had access. At the earliest opportunity, the commander will furnish OSI an assessment of the degree of damage to national security which would result from an unauthorized disclosure of information to which the absentee had access.

(b) The servicing CBPO will prepare and distribute DD Form 553 based on information as outlined in c below.

(c) The commander will immediately notify CSAF/IN; AFOSI/IVG, Washington DC; Servicing CBPO; and AFMPC/DPMAKE, Randolph AFB TX, with information copy to MAJCOM of absent member, by message (includes MINIMIZE) which must include the following:

(1) All available information as required on DD Form 553.

(2) Type of classified information to which the absentee had access (COM SEC, CRYPTO, SIOP, SSIR, Space Programs, etc.).

(3) Any indication that the absentee has defected or possibly compromised classified information.

(4) Other significant information the commander deems appropriate.

(d) The commander will insure that follow-on procedures are taken as outlined in § 889.13.

(e) When AFMPC/DPMAKE receives initial notification of absenteeism falling within these criteria, it will immediately prepare and forward DD Form 553 to the FBI.

(f) AFOSI will coordinate with the FBI to expedite an investigation to locate and apprehend absentees.

§ 889.17 Actions required to return member to duty.

Air Force policy dictates that every possible effort be expended to effect the earliest return of an absent member to duty. Return to military control is a necessary first step in this process, but frequently additional actions will be necessary and must be accomplished with equal tenacity. Upon return of absentee or deserter to unit of assignment or notification that member has been returned to military control or in civil confinement, the unit commander will submit AF Form 2098 reflecting member's changed duty status from time of return to military control or inception date of confinement and will assist CBPO and security police in completing required forms and record corrections. On day of notification of return to military control or confinement status, the servicing CBPO of the unit to which he or she was assigned prior to this unauthorized absence will dispatch message as outlined in § 889.25, provided DD Form 553 has been submitted, and distribute DD Form 616 to all agencies which were provided DD Form 553 in accordance with paragraph 12d. Distribution of DD Form 616 will not be delayed pending receipt of AF Form 2098 from unit commander. Furnish original DD Form 616, suitable for reproduction, and 3 legible copies to AFMPC/DPMAKE. Request Field Record Group from AFMPC/DPMDRR3 when airman has been dropped from the rolls. The CBPO will post the records in accordance with AFR 35–44, update the PDS, and return the Field Record Group to the appropriate file.

§ 889.18 Transfer from civilian to military jurisdiction.

(a) Absentees and deserters being detained temporarily in the hands of civil

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authorities will be returned to military control as soon as possible after responsible military officials are informed of their whereabouts and the civil authorities are ready to release them. After receiving notification of the absentee or deserter's whereabouts, military authorities must make every reasonable effort to accomplish return to military control within 48 hours. Apprehension and detention of absent members by civil authorities are accomplished as a service to the military departments. Continuation of this essential support from civil authorities requires mutual cooperation.

(b) The commander of the unit to which the individual was assigned prior to his unauthorized absence is responsible for completing the required action when report of arrest is received. Actions as outlined in AFM 39–12, paragraph 2–23, apply when an absentee is serving a sentence to confinement imposed by a civil court. Actions as described in AFM 39–12, paragraph 2–32, apply when an absentee is reported to be in civil confinement and is not available for immediate return to military control. The commander is also responsible for lodging a detainer with civil authorities, and preparing AF Form 2098 to reflect the changed status. If member is under suspended sentence to punitive discharge which has been affirmed, General Court-Martial (GCM) authority should make a determination to:

(1) Vacate the suspension and execute the discharge; or

(2) Have member returned to military control for disposition of AWOL or DFR, or any other pending charges (see AFM 39–12, chap 2).

§ 889.19 Return to military control by other than unit of assignment.

(a) When a member's return to military control is effected by other than the unit of assignment, the CBPO servicing the unit detaining the member will:

(1) Ascertain from absentee or deserter the last unit of assignment at time absence began. If this information cannot be obtained from member, immediately contact AFMPC/DPMAKE for the necessary information.

(2) Contact CBPO servicing last unit of assignment by message (includes MINIMIZE) in accordance with § 889.25, with information copy to addressees indicated, requesting disposition instructions. (If unit has been deactivated, all further coordination will be with and actions accomplished by a responsible unit designated by the MAJCOM of unit prior to deactivation.) AFOSI will not be an addressee for AWOL returnees.

(3) Take immediate action to effect disposition in accordance with instructions provided in accordance with (b) or (c) below. If a member in PCS status is being returned to the losing unit, notify the losing CBPO to insure that PCS orders are amended or rescinded in accordance with AFR 10–7.

(b) The last unit of assignment must determine appropriate disposition of returned member. Any action which will not require member's return to unit from which absent will be accomplished only with the concurrence of the MAJCOM of assignment from which absent and the MAJCOM of the detaining unit. The following guidelines may be used as normal disposition for the circumstances that follow:

(1) Absent While in PCS Travel status—Returned to Military Control in CONUS:

(i) Reassignment is from CONUS to CONUS base: return to losing unit unless member's return is by voluntary reporting to gaining unit.

(ii) Reassignment is from CONUS to overseas: continue to gaining unit if member's absence has been less than 30 days and member voluntarily returns to military control at the post of embarkation.

(iii) Reassignment is from overseas to CONUS base: continue to gaining unit.

(iv) Reassignment is from overseas to oversea base: continue to gaining unit.

(2) Absent While in PCS Travel Status—Returned to Military Control Overseas:

(i) Reassignment is from CONUS to overseas: continue to gaining unit.

(ii) Reassignment is from oversea base to oversea base: continue to gaining unit.

(iii) Reassignment is from oversea base to CONUS: continue to gaining base unless member returns to losing base.

(3) Absent With PCS Travel Not Involved:

(i) Assignment CONUS—detained CONUS: return to base of assignment.

(ii) Assigned overseas — detained overseas: return to base of assignment.

(iii) Assigned overseas — detained CONUS or oversea area different from unit of assignment: return to unit of assignment if member had 90 days or more of oversea tour remaining as of inception day of AWOL. If less than 90 days remain, member should be reassigned in accordance with any previous assignment instruction or accepted by detaining unit as an unprojected gain.

(4) Members of the Air Reserve Forces ordered to active duty who fail to report to initial base of assignment and are detained by other than the base specified in active duty order: CBPO of detaining unit will immediately request disposition instructions by message (includes MINIMIZE) to AFMPC/DPMAKE with information to ARPC/DPRP, Denver CO 80205, and base of assignment. The following information will be furnished:

(i) Member's name, grade, SSAN, and AFSC.

(ii) Active duty special order number and date.

(iii) Unit of assignment specified in active duty order.

(iv) Date of inception of AWOL.

(v) Date of return to military control.

(vi) How returned to military control (voluntary) (involuntary).

(vii) Name, grade, office symbol, and telephone number of contact at detaining unit.

(viii) Authorization does or does not exist at detaining base for airman's AFSC.

(ix) Any other information that should be considered in determining disposition of individual.

(c) Circumstances may indicate that normal disposition is not appropriate. For example, if at time of the unauthorized absence the member was on administrative hold or there was a pending investigation or judicial action against the member by host country authorities, assignment disposition should be made by the losing or last unit of assignment irrespective of DEROS. In this case, the losing or last unit of assignment will, by the most expeditious means, notify AFMPC/DPMAKE, Randolph AFB TX, of the circumstances and provide information necessary for reassignment selection:

(d) The unit of assignment will determine whether escorts are required. The responsible commander will be guided by the following considerations:

(1) If the member is an escaped prisoner or has been charged with other serious offense(s), the use of escorts will normally be appropriate.

(2) If it is indicated that the member is a repeated offender and has involuntarily been returned to military control and confinement is anticipated upon return to his unit, escorts will normally be appropriate.

(3) If the member is a first time offender and has voluntarily returned to military control and confinement is not indicated, escorts will not normally be appropriate.

(4) Consideration will be given to using unescorted travel when nonstop transportation can be utilized between the unit of detention and the gaining unit and proper coordination for delivery and pickup from carrier can be arranged.

NOTE.—To insure expeditious return of the absentee for disposition, members serving as escorts will not be permitted to take leave or a delay en route in connection with performance of escort duty.

(e) The unit commander of returned absentee or deserter must determine proper disposition of absence in accordance with § 889.20.

§ 889.20 Disposition when unauthorized absence has been terminated.

Upon termination of unauthorized absence, disposition may be taken as follows:

(a) The immediate commander will make an administrative determination as to whether the absence was avoidable or unavoidable. In making this determination, commanders will be guided by the instructions in DOD Pay Manual, table 1–3–3, and AFMs 30–130 and 177–373. Absences that are determined to have been unavoidable will be excused. In these cases the previously reported absence will be revoked by AF Form 2098 and the absence charged as leave unless otherwise authorized.

(b) Absences are not chargeable to leave when caused by the member's mental incapacity, or when the member is detained, tried, and acquitted by civil authorities and the absences are later excused as unavoidable.

(c) When a member dies during a period of unauthorized absence, the commander of member's unit of assignment will make a new administrative determination, based on the facts which have become available, as to whether the member was in absence without leave, absence over leave, desertion, or duty status (DODPM, para 10212 and 40505c).

(d) When an absence is excused as unavoidable, it will not be counted as time lost. Appropriate entries on AF Form 1226 must be made, as provided in AFR 35–44.

(e) When it is determined that a person has been erroneously reported as an unauthorized absentee or deserter, the servicing CBPO will void all record entries pertaining to the alleged absence and will forward a DD Form 616 to all addressees of the original DD Form 553 and will include a full explanation of the erroneous report in the Remarks section. If a letter has been forwarded previously to the next of kin or allotment payee in regard to the member's absence, another letter will be forwarded immediately to all previous addressees explaining the erroneous report in full.

(f) Upon a determination that an absence was avoidable, the immediate commander must consider the appropriateness of disciplinary action.

§ 889.21 Enlisted personnel unauthorized absences, RCS: HAF–DPM (Q)7137.

(a) The following unclassified report is necessary to provide statistical data to DOD and Air Force Staff offices and to evaluate the effectiveness of the Absentee and Deserter Program.

(b) Servicing CBPOs will prepare and forward, within 15 days after the end of each quarter, separate reports to their MAJCOM and other MAJCOM of each organization serviced. Members whose absence was caused solely as a result of confinement will not be included in this report. Negative reports are required. Content of the reports will be as follows:

(1) Number of unauthorized absences commenced this period, by month.

(2) Number of absentees (not deserters) at large at end of last quarter.

(3) Number of absentees (not deserters) returned to military control:

Duration of absence	Number and method of return	
	Voluntary	Involuntary
(a) Less than 3 d		
(b) 3 through 9 d		
(c) 10 through 19 d		
(d) 20 through 30 d		
Total		

(4) Duty status at time of AWOL:

Present for duty	Delay en route	Ordinary leave	Other

(5) Number of absentees departing during this period who are repeat offenders regardless of time of previous AWOL.

(i) Times and number:

2d time	3rd time	4th time	5th time	6th time or more

(ii) Total number who departed AWOL for the second or more times and were awaiting disposition of charges for previous AWOL or deserter incident at time of departure.

(6) Number of absentees administratively declared deserters.

(7) Total number of man-days lost during current quarter due to unauthorized absences and desertion. (Do not count days after member is dropped from unit rolls or include escorts' time.)

(8) Required utilization of escorts:

(i) Total number of instances where escorts were utilized.

(ii) Total number of man-days utilized for escort duty.

(9) CBPOs will forward reports to parent MAJCOM. The MAJCOM will furnish consolidated report to AFMPC/DPMAKE, Randolph AFB TX 78148, no later than 21 days after the termination of the reporting period. Report submitted for quarter 1 April through 30 June each year will also include the following, based upon experience encountered during the Fiscal Year ending with this quarter:

(i) Causes of absenteeism and desertion.

(ii) Description or profiles of the "typical deserter" and "absentee."

(iii) Steps taken and planned to eliminate causes of absenteeism and desertion.

(iv) Programs aimed at motivating personnel to refrain from absenting themselves without authority.

§ 889.22 List of armed forces police detachments.

Commanding Officer, Long Beach Shore Patrol HQ, Magnolia Street Landing, Long Beach CA 90802
Armed Forces Police Det/AHG–AP, 243 Flushing Ave, Brooklyn Naval Stn, Brooklyn NY 11251
526 Mil Police Det, Federal Bldg, 1000 Liberty Ave, Pittsburg PA 15222
Armed Forces Police Det, PO Box 81223, Houston TX 77061
Armed Forces Police Det, 501 N. Rampart St, New Orleans LA 70112
Armed Forces Police Det, NSA, Seattle WA 98119
204 Mil Police Det (Chicago Element-ALSPM-G), 1819 W. Pershing Rd, Chicago IL 60609
Armed Forces Police Det, Washington Navy Yards, Bldg 166, Wash DC 20390 (includes Virginia and West Virginia)
HQ AFPD, US Nav Stn, Bldg 107, Treasure Island, San Francisco CA 94301
Commanding Officer, Shore Patrol, San Diego Naval Stn, San Diego CA 92136
Armed Forces Police Det, AWOL Section, 214 W. Nueva St, San Antonio TX 78207
USA Mil Police Det, 2800 South 20th St, Philadelphia PA 19101
State of Connecticut only: Connecticut Shore Patrol HQ, 111 Union St, New London CT 06320
79 MP Det, 4828 W. Silver Springs Drive, Milwaukee WI 53218
Commanding Officer, Jacksonville Area Shore Patrol, 350 E. State St, Jacksonville FL 33250
Dallas Mil Police Det/NCOIC, AWOL Apprehension Team, 912 S. Erway St, Dallas TX 75201
Armed Forces Police Det, 9730 NE Hancock Drive, Portland OR 97220
984 Mil Police Co, Denver Det, Room 182, New Customs House, 19th & Stout St, Denver CO 80202
Mil Police Liaison Det, 105 Soldiers Circle, Ft Douglas UT 84113 (includes Montana and Idaho)

NOTE.—Furnish appropriate detachment a copy of DD Form 553.

§ 889.23 List of Army areas.

(a) *First United States Army:*

(1) Area: States of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Kentucky (less counties of Trigg, Christian, Todd, and Logan), West Virginia, Delaware, Maryland, and Virginia, less certain areas in the latter two states which are included in the Military District of Washington.

(2) Headquarters: Fort George G. Meade, Maryland 20755.

(b) *Third United States Army:*

(1) Area: States of Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida, and the counties of Trigg, Christian, Todd, and Logan in Kentucky.

(2) Headquarters: Fort McPherson, Georgia 30330.

(c) *Fifth United States Army:*

(1) Area: States of Arkansas, Indiana, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wisconsin, and Wyoming.

(2) Headquarters: Fort Sam Houston, Texas 78234.

(d) *Sixth United States Army:*

(1) Area: States of Montana, Idaho, Washington, Oregon, California, Nevada, Utah, and Arizona.

(2) Headquarters: Presidio of San Francisco, California 94129.

(e) *Military District of Washington:*

(1) Area: District of Columbia, counties of Arlington, Fairfax (less Fort Belvoir), King George, Prince William, Stafford, and Westmoreland and city of Alexandria in the State of Virginia; and counties of Calvert, Charles, Montgomery, Prince Georges, and Saint Marys in the State of Maryland.

(2) Headquarters: (Attn: Provost Marshal), Washington, District of Columbia 20315.

V 41 161 AUG 18 76 UMI

§ 889.24 Sample format message (confirmation of deserter status).

JOINT MESSAGEFORM — SECURITY CLASSIFICATION

PAGE OF PAGES	DTG FILED OR RELEASED TIME	PRECEDENCE ACT	PRECEDENCE INFO	LMF	CLASS	C/C	FOR MESSAGE CENTER/COMMUNICATIONS CENTER ONLY: DATE-TIME	MONTH	YR

BOOK — MESSAGE HANDLING INSTRUCTIONS

FROM: (ORGN LOCATION/OFFICE SYMBOL)
TO: AFMPC RANDOLPH AFB TEX/DPMAKF
AFOSI WASH DC/IVG
AFAFC DENVER COLO/MPSB
INFO: (MAJCOM LOCATION/DPA)

UNCLAS

SUBJ: FOLLOWING USAF MEMBER IS CONFIRMED AS A DESERTER:

A. NAME, GRADE, SSAN
B. DATE OF ABSENCE
C. DATE DROPPED AS A DESERTER
D. DATE AND PLACE OF BIRTH
E. CITIZENSHIP
F. RACE, COLOR EYES, HEIGHT, WEIGHT, COLOR OF HAIR
G. MARITAL STATUS
H. OTHER IDENTIFYING FEATURES (SCARS, TATTOOS, ETC)
I. REMARKS: (CAR LICENSE OR ANY OTHER PERTINENT INFORMATION WHICH COULD AID IN APPREHENSION)
J. CIVILIAN OCCUPATION
K. MILITARY OCCUPATION

DISTR:

DRAFTER'S TYPED NAME, TITLE, OFFICE SYMBOL, PHONE & DATE	SPECIAL INSTRUCTIONS
RELEASER: TYPED NAME, TITLE, OFFICE SYMBOL AND PHONE	
RELEASER: SIGNATURE	SECURITY CLASSIFICATION

DD FORM 1 JAN 68 173 — REPLACES PREVIOUS EDITION WHICH WILL BE USED. — GPO 1972 O-499-338

§ 889.25 Sample format message (notification of return of absentee or deserter to military control).

JOINT MESSAGEFORM — SECURITY CLASSIFICATION

PAGE OF PAGES	DTG FILED OR RELEASED TIME	PRECEDENCE ACT	PRECEDENCE INFO	LMF	CLASS	C/C	FOR MESSAGE CENTER/COMMUNICATIONS CENTER ONLY: DATE-TIME	MONTH	YR

BOOK — MESSAGE HANDLING INSTRUCTIONS

FROM: (ORGN LOCATION/OFFICE SYMBOL)
TO: (CBPO OF ABSENT MEMBER)
INFO: AFMPC RANDOLPH AFB TEX/DPMAKE
AFOSI WASH DC/IVG (see note)
(MAJCOM LOCATION/DPA)
AFAFC DENVER COLO/MPSB

UNCLAS

SUBJ: RETURN OF MEMBER TO MILITARY CONTROL.

A. GRADE
B. NAME
C. SSAN
D. DATE OF AWOL, IF KNOWN
E. DATE AND HOUR OF RETURN
F. PLACE OF RETURN
G. RETURNED (VOLUNTARILY) (INVOLUNTARILY)
H. IF APPREHENDED, MODE OF APPREHENSION
I. REQUEST DISPOSITION INSTRUCTIONS BE FURNISHED UPON RECEIPT OF THIS MSG

DISTR:

DRAFTER'S TYPED NAME, TITLE, OFFICE SYMBOL, PHONE & DATE	SPECIAL INSTRUCTIONS
RELEASER: TYPED NAME, TITLE, OFFICE SYMBOL AND PHONE	
RELEASER: SIGNATURE	SECURITY CLASSIFICATION

DD FORM 1 JAN 68 173 — REPLACES PREVIOUS EDITION WHICH WILL BE USED. — GPO 1972 O-499-338

*NOTE: AFOSI will not be addressee for AWOL returnees. When member returns to military control at base of assignment, message will be addressed to AFMPC Randolph AFB TEX/DPMAKE, with info addresses included and Item I will be omitted.

See: AFR 35-73, May 15, 1975.

FRANKIE S. ESTEP,
Air Force Federal Register
Liaison Officer, Directorate of Administration.

[FR Doc.76-24095 Filed 8-17-76;8:45 am]

V 41 161 AUG 18 76 UMI

SUBCHAPTER Q—MEDICAL SERVICE

PART 968—POLICY FOR DRUG COMPANY REPRESENTATIVES

A new Subchapter Q—Medical Service, is added to Title 32 CFR, and a new part under that Subchapter, consisting of §§ 968.1–968.2, is added as follows:

Sec.
968.1 Purpose.
968.2 Responsibilities.

AUTHORITY: Sec. 8012, 70A Stat. 448; 10 U.S.C. 8012.

§ 968.1 Purpose.

This part establishes policies and procedures that will accomplish the mutual objectives of the Medical Center Staff and the Drug Company Representatives.

§ 968.2 Responsibilities.

(a) Pharmacy Department.

(1) Furnish information and liaison between the staff and the Drug Company Representatives.

(2) Inform the representatives of any change in Medical Center policies that affect them.

(3) Accept and relay messages from the staff to the drug company representatives.

(4) Schedule pharmaceutical displays and inform the representatives of display procedures. Displays will only be conducted in the Officer's Dining Room, Wilford Hall USAF Medical Center, or in the library at Building 6612.

(5) Be the custodian of drug samples that are dispensed on prescription.

(b) Service Chiefs.

(1) Inform the Pharmacy Department of any policy or procedure that the representatives must follow while visiting their service.

(2) Inform the Pharmacy of policy or procedural infractions that the salesmen might commit.

(3) Must complete a "Drug Sample Control" letter listing the doctors that are authorized to use from his supply of samples.

(c) Drug Company Representatives.

(1) Register with the Chief, Modular Medical Clinic Pharmacy, Room 37A, Building 3, Modular Medical Clinic.

(2) Receive medical staff communication and policy change information.

(3) Check out with the Chief, Modular Medical Clinic Pharmacy when leaving the Medical Center. This may be accomplished by telephone (Extension 7209).

(4) Have limited access by appointment to the Base Dispensary.

(5) Will contact the Chief, Modular Medical Clinic Pharmacy to schedule displays.

(6) Will refrain from distributing controlled substance medications. This practice of sampling controlled substance medications in this Medical Center is prohibited.

SEE: Wilford Hall Medical Center Regulation 160–16, 24 January 1974.

JAMES L. ELMER,
Major, USAF Executive,
Directorate of Administration.

[FR Doc.76–24096 Filed 8–17–76;8:45 am]

SUBCHAPTER W—AIR FORCE PROCUREMENT

PART 1008—FUNDING CONTRACT OVERRUNS

A new Part is added to Subchapter W, Chapter VII, Title 32, CFR, consisting of Sections 1 through 5, as follows:

PART 1008—FUNDING CONTRACT OVERRUNS

Sec.
1008.1 Purpose.
1008.2 Overrun criteria.
1008.3 Funding contract cost overruns.
1008.4 Office of primary responsibility (OPR)
1008.5 Disposition of documentation.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

§ 1008.1 Purpose.

This Part establishes the policy and procedures for funding contract overruns resulting from Air Force Wright Aeronautical Laboratories funded contracts and is applicable to all staff agencies and assigned Laboratories.

§ 1008.2 Overrun criteria.

Overruns are defined as any increase in contract funding requirements on cost type contracts which result from technical, schedule, estimating errors, or direct/indirect actions taken by government agencies or persons. Determination of which contract financing requirements are to be considered overruns is the responsibility of the procuring contracting officer based on the recommendations of the administrative contracting officer.

§ 1008.3 Funding contract cost overruns.

(a) Contract overruns should be funded with appropriations of the same type and year as those originally cited on the contract involved. Contract overruns on contracts citing program control years (current and first prior) appropriations will use locally available funds when available. All requests for funds for contract overrruns will be documented with a 12 point letter to Assistant for Operations, Air Force Wright Aeronautical Laboratories, from the Laboratory programming office.

(1) Program element, project, task.

(2) Total contract funding and distribution by year and appropriation.

(3) Total amount of overrun and distribution by year and appropriation.

(4) Contractor and location.

(5) Contract number.

(6) Date of original contract.

(7) Date of change applying last fiscal year funds.

(8) Date funds required.

(9) Forecast obligation date.

(10) Statement of funds available and source (reprogramming or expired appropriations.)

(11) Auditors report on Contract Funds Status Report.

(12) Reason for overrun, background, impact, steps taken to avoid or correct situations, etc.

(b) For overruns larger than $50,000 or overruns which exceed locally available funds, the letter described in § 1008.3(a) above must be forwarded to Air Force Systems Command, Programs and Budget, Andrews Air Force Base, Washington, D.C. 20331.

(c) All requests for overrun funding and associated documentation/justification will be reviewed and coordinated by Assistant for Operations, Air Force Wright Aeronautical Laboratories before funding or review by Air Force Systems Command, Programs and Budget.

§ 1008.4 Office of primary responsibility (OPR).

Assistant for Operations, Air Force Wright Aeronautical Laboratories is designated the OPR for managing the funding of contract overruns.

§ 1008.5 Disposition of documentation.

(a) Correspondence and related information maintained by Asssitant for Operations, Air Force Wright Aeronautical Laboratories pertaining to the funding of contract overruns will be incorporated with other supporting data and will be destroyed after final payment or when purpose has been served, but no later than one year after final payment. (Authority: Air Force Manual 12–50, Disposition of Air Force Documentation, Table 70–1, Rule 7.)

(b) Correspondence and related information applicable to contract cost overruns forwarded to the appropriate program manager will be incorporated into the official Research and Development case file and retired with the contract to which it relates. (See: Air Force Manual 12–50, Table 80–2, Rule 1.)

JAMES L. ELMER,
Major, USAF Executive,
Directorate of Administration.

[FR Doc.76–24097 Filed 8–17–76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5593, NEV–047407, et al.]

NEVADA

Partial and Total Revocation of Stock Driveways

Correction

In FR Doc. 76–20268 appearing on page 28954 in the issue for Wednesday, July 14, 1976 make the following correction:

In the middle column of page 28955, in the 4th line under the heading "Stock Driveway No. 112 (Partial)" the numbers now reading "Secs. 1, 11, 12, 14, 15, 12, 22, 28, 33." Should have read "Secs. 1, 11, 12, 14, 15, 21, 22, 28, 33."

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 155—UPWARD BOUND

Interim Program Regulations: Extension of Comment Period

In the FEDERAL REGISTER of May 14, 1976 (41 FR 20076–20086) the Office of Education published Interim Regulations for the Upward Bound Program. Interested parties were given 30 days in which to comment on these Interim Regulations. However, it has come to the attention of the Office of Education that several parties interested in commenting on these regulations did not have sufficient time to do so and, therefore, notice is hereby given that the comment period for the Upward Bound Interim Regulations is being extended until September 17, 1976.

(Catalog of Federal Domestic Assistance No. 13.492, Upward Bound)

Dated: August 11, 1976.

ROBERT R. WHEELER,
Acting U.S. Commissioner
of Education.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

[FR Doc.76–24299 Filed 8–17–76;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20681; FCC 76–747]

PART 76—CABLE TELEVISION SERVICE

Cable Television System Regular Subscriber Rates

Report and order—Proceeding terminated. In the matter of: amendment of Subpart C of Part 76 of the Commission's rules and regulations regarding the regulation of Cable Television System regular subscriber rates, Docket No. 20681.

INTRODUCTION

1. On December 22, 1975, the Commission adopted a notice of proposed rulemaking in the above-captioned proceeding, FCC 75–1422, 41 FR 1606, 57 FCC 2d 368 (1975), wherein comment was elicited on the proposed modification or deletion of § 76.31(a)(4) of the Commission's cable television rules. § 76.31(a)(4) of the rules provides as follows:

Section 76.31 Franchise standards. (a) In order to obtain a certificate of compliance, a proposed or existing cable television system shall have a franchise or other appropriate authorization that contains recitations and provisions consistent with the following requirements:

• • • • •

(4) The franchising authority has specified or approved the initial rates that the franchisee charges subscribers for installation of equipment and regular subscriber services. No increases in rates charged to subscribers shall be made except as authorized by the franchising authority after an appropriate public proceeding affording due process;

• • • • •

2. In adopting the rules in 1972 the Commission recognized that some aspects of cable television service were properly matters of primary federal concern while others were best regulated by local authorities. The Commission reasoned that, because the individual cable system is a local operation making use of streets and ways, local authorities were inescapably involved in the regulatory process and could, moreover, bring a special expertise to regulation of certain matters. One of these matters was determined to be the regulation of basic subscriber rates, which the Commission felt could best be reviewed by the local franchising authority.[1] The Commission further found it appropriate to assure that the public be given notice and an opportunity to be heard where rate increases are proposed. "Cable Television Report and Order", FCC 72–108, 36 FCC 2d 143, 209 (1972); "Notice of Inquiry into the Manner in Which Cable Television Regular Subscriber Rates are Established," (Docket No. 20767, FCC 76–314, 58 FCC 2d —— (1976).

3. In the four years following the issuance of the Report and Order, supra, several unintended but significant problems became apparent in requiring local authorities to regulate basic subscriber rates and mandating that they hold full public proceedings prior to approving rate increases. We alluded to several of these in the Notice in the instant proceeding, supra at 369. It was noted that the mandatory aspect of the rule posed problems for those local authorities not having the jurisdiction to grant cable television franchises or regulate rates. Similarly, the rule also caused difficulties for those franchising authorities that found subscriber rate regulation to be either onerous or unnecessary. The prerequisite of due process in a public proceeding was perceived to be unnecessary because some states already have procedural safeguards for public decisionmaking, and its advisability was questioned because it effectively precluded experimentation in other methods of rate regulation such as arbitration, automatic rate escalator clauses, and so forth. To correct these problems and to allow greater flexibility at the nonfederal level, we proposed either (a) to modify § 76.31(a)(4) to specify its applicability only to those entities having the jurisdiction and desire to regulate regular subscriber rates—and simply to require public notice and an opportunity to be heard in rate increase deliberations—or (b) to delete the section in its entirety.

SUMMARY OF COMMENTS AND PROPOSALS

4. A majority of those commenting favor deletion of § 76.31(a)(4). These parties, which are cable operators and cable industry associations, concur with the Commission's assessment of the problems arising from the rule and recommend its deletion as the preferable means of solving them. A number of the proponents argue strongly that deletion of the rule, however, immediately advisable, is but the first step in addressing the critical problems involved in subscriber rate regulation. Several commenters prefer making subscriber rate regulation optional, but do not indicate which rule amendment they prefer. Still others oppose any amendment to § 76.31(a)(4).

COMMENTS OPPOSING RULE AMENDMENT

5. A minority of those commenting oppose amending § 76.31(a)(4). The American Broadcasting Company maintains that the rule is part of the comprehensive regulatory program for cable television adopted in the Report and Order and explicated in the Clarification, both supra, and ABC opposes piecemeal abandonment of the 1972 Rules absent compelling evidence of the need for rule amendment. ABC argues that the need for amending § 76.31(a)(4) has not been shown. To substantiate this argument ABC cites the Commission's response to a request made pursuant to the Freedom of Information Act[2] by the firm of McKenna, Wilkinson and Kittner, wherein disclosure of documents substantiating the need for rulemaking as stated in the Notice, supra, was requested. ABC maintains that the Commission's response citing, inter alia, conversations by Commission staff members with local officials, general research on the laws applicable to cable television franchising and regulation, and accumulated experience gained from the certificating process, is insufficient because no documents or other factual or empirical data could be produced indicating the extent to which nonfederal authorities indicated they support the views of the Commission. ABC therefore recommends that the Commission retain § 76.31(a)(4) and proceed on an ad hoc basis to grant waivers in those instances where franchising authorities cannot regulate rates. Alternatively, ABC suggests that rate regulation on the state level be encouraged. Twenty other television station licensees, filing jointly, generally concur with ABC's observations. The National Citizens Committee for Broadcasting (NCCB) agrees with the licensees that the Commission's response demonstrates an inadequate basis for rulemaking, and states that the public interest requires retention of the due process safeguards of the rule. Thus, NCCB urges either

[1] The subscriber rates whose regulation is at issue in this proceeding are rates charged for services regularly provided to all cable subscribers: that is, charges for installation, disconnection and reconnection as well as charges for broadcast signal carriage and all required access channels, including origination programming. It does not include subscriber rates for specialized programming for which a per-program or per-channel charge is made. The Commission has preempted jurisdiction of subscriber rates for such specialized programming and has determined that rates for these services should not be regulated by any governmental entity. Clarification of rules and notice of proposed rulemaking, FCC 74–384, 46 FCC 2d 175, 199–200, 202 (1974); Notice, supra at para. 10. Nonfederal regulation of two-way, point-to-point, intrastate nonvideo cable transmissions is not preempted. National Association of Regulatory Utility Commissioners v. Federal Communications Commission, 525 F.2d 630 (D.C. Cir., 1976). See also Report and Order in Docket No. 20508, FCC 76–313, 59 FCC 2d —— (1976).

[2] 5 U.S.C. 552, and § 0.441 of the Commission's rules. The request was filed on January 23, 1976.

VOL 41 NO 161 AUG 18 1976 UM

that the proceeding be terminated or that § 76.31(a)(4) be modified to require those local authorities having the necessary jurisdiction to regulate rates and to require public notice and a public proceeding affording due process.

6. Other commenters object to deleting the Rule's provision requiring public proceedings or to making subscriber rate regulation optional. Citizens for Cable Awareness in Pennsylvania (CCAP) and the Legislative Committee of the Philadelphia Community Cable Coalition vigorously oppose any amendment to the Rule which would eliminate the public proceeding requirement. Instead, CCAP urges that the Commission establish the elements of an appropriate public proceeding. CCAP has submitted copies of newspaper articles to show that rate increase proceedings serve as a useful vehicle for disclosing and correcting service deficiencies. CCAP maintains that in many cases rate increase proceedings afford the only opportunity for review and improvement of the franchisee's service during the term of the franchise. To aid local officials in discharging their rate regulation responsibilities, CCAP urges the Commission to adopt uniform accounting procedures and require this information to be provided to the regulatory authority. CCAP also recommends that the Commission adopt rules governing situations where the system operator and the franchising authority cannot agree on a rate increase. Ms. Brigitte L. Kenney shares the concern of CCAP over deletion of the public proceeding requirement of the rules.[3] Ms. Kenney views the public hearings on proposed rate increases as both productive and informative. Harry First, Esq., opposes amending the Rule to make regulation of basic subscriber rates optional.[4] Mr. First cites his studies of subscriber rate regulation in Bowling Green and Toledo, Ohio, as indicating that lack of local interest and expertise in rate regulation, coupled with good local over-the-air television service, have resulted in no rate regulation in either community. Mr. First states that if local authorities are given a choice on regulating rates they will choose not to regulate, and therefore urges the Commission to examine the benefits of local rate regulation before conferring that option on local authorities.

COMMENTS SUPPORTING RULE AMENDMENT

7. Several of the proponents of rule amendment, such as the cities of Eugene, Oregon and San Diego, California, and the Arizona Cable Television Association, favor modification of § 76.31(a)(4) to make subscriber rate regulation optional, but do not specify which of the alternatives proposed in the Notice is preferred.[5] The City of San Diego catalogues the myriad problems involved in rate regulation and observes that in many instances these result in rates being set too high rather than too low. To offset this possibility, the City notes that many franchising authorities set maximum rates and permit the system operator to charges less, if necessary, to attract subscribers. For these reasons the City concludes that subscriber rate regulation, at least in the urban cable markets, is unnecessary and that rates can be set effectively in the marketplace.

8. The majority of those seeking some change specifically recommend deletion of § 76.31(a)(4) in its entirety. Their reasons for doing so are varied. The New York State Commission on Cable Television maintains that subscriber rate regulation is properly a matter of state and local, rather than federal, concern. The New Jersey Cable Television Association notes that the state Public Utilities Commission has issued a Notice of Inquiry on the subject of subscriber rate regulation and that the Association has proposed a plan for rate setting based on classifying systems by market, construction, and service characteristics. Maximum allowable rates would be specified for each class, with full public hearings required only where the rate levels applied to each class are changed. Because the Association's plan would be inconsistent with either the present Rule or the proposed amendment, the Association maintains that only by deleting the Rule in its entirety can the Commission assure that federal policymaking will not impair experimentation in finding the method of subscriber rate regulation that best serves the public interest. The Community Antenna Television Association (CATA) concurs, and asserts that the Commission lacks the necessary jurisdiction to impose any standard for non-federal subscriber rate regulation. The Pennsylvania Cable Television Association maintains that certain Pennsylvania municipalities lack jurisdiction to regulate subscriber rates but nevertheless do so under color of § 76.31(a)(4), and advocates deletion of the Rule to remedy this situation. Several sets of problems identified by commenters, together with proposed solutions, are set out below.

SUBSCRIBER RATE REGULATION UNNECESSARY

9. Many of the parties favor deletion of § 76.31(a)(4) because they believe the marketplace is in most cases an adequate determinant of subscriber rates, thus making rate regulation unnecessary. Verto Corporation, Universal Television Cable System, National Cable Communications Corporation, the California Community Television Association and Tele-Cable, among others, argue that although cable television may constitute a natural monopoly in a given community with respect to other cable systems, it is neither a necessity like a public utility nor, in the vast majority of cases, a true monopoly for whose product there is no substitute. Cable television, they maintain, is a medium of entertainment that competes with over-the-air television, movie theatres, sporting events, concerts, plays, books, and numerous other diversions for the discretionary entertainment dollars of its potential subscribers. Only in a small number of rural communities, they contend, can the cable system arguably be said to constitute a true monopoly.

10. A number of commenters recommend either deletion or more substantial amendment of § 76.31(a)(4) than that proposed in the Notice because they perceive serious problems in the manner in which local authorities regulate subscriber rates. Specifically, it is argued that local rate regulation is inherently and unavoidably a political rather than an economic exercise performed for the most part by persons lacking any background or expertise in rate matters. The result, it is charged, is arbitrary and capricious action by local officials against which the Commission's rules contain no safeguard. For these reasons, several of the commenters, including Warner Cable Company, Cablecom-General, Inc., and the National Cable Television Association (NCTA), term non-federal regulation of basic subscriber rates the foremost regulatory problem facing the industry today.

PROBLEMS INHERENT IN SUBSCRIBER RATE REGULATION

11. *Lack of Expertise.* Many of the commenters emphasize that local authorities lack the expertise, personnel, and background necessary to evaluate the complex financial data submitted to substantiate the need for a rate increase. In a comment filed jointly with several other cable system operators, Cox Cable Communications urges the Commission to recognize the fact that many local officials simply do not understand the economics of cable operations. The joint commenters declare that it is not uncommon for local officials to demand that discriminatory rate schedules be established for certain classes of subscribers, or to forbid charging for initial installation, or to apply unprecedented accounting procedures to system operations. Liberty Communications states that local franchising officials have expressed to Liberty personnel their inability to understand, or cope with, subscriber rate making. CATA observes that in the smaller communities served by CATA members local authorities simply do not have the time or expertise to decide complex rate questions, and Eastern Telecom adds that in such small communities

[3] Ms. Kenney is Associate Professor of Library and Information Science at Drexel University and co-editor of the newspaper Cable Libraries.

[4] Mr. First is Assistant Professor of Law at the University of Toledo College of Law.

[5] We note that in a short statement the City of Seattle Board of Public Works Office of Cable Communications, commenting for itself and as agent of King County, Washington, favors retention of subscriber rate regulation authority by local governments. Whether amendment of § 76.31(a)(4) along the lines proposed is recommended is not specified.

there is often no inclination to seek out expert advice. Although not specially recommending deletion of § 76.31(a)(4) the City of San Diego also notes the complexity of subscriber rate regulation, citing especially the lack of a uniform accounting system. It maintains that, although most city council members try to do a conscientious job, "a city council is a terrible place to try a complicated rate matter," because of the lack of council expertise. The City further avers that the average council member, burdened as he is with other matters of equal or greater importance, lacks time for the patient finding of fact and application of rate-making theory and law necessary for the proper setting of rates.

12. *Political nature of rate proceedings.* Although the absence of training, time and expert advice is a problem, many of the commenters present the politicization of rate regulation as the crucial difficulty in local regulation of basic subscriber rates. It is argued that rate regulation at the local level is bound up inextricably with politics and that rate increase requests often become a political football, with arbitrary and unfortunate results. Most of the officials regulating rates are popularly elected, or are political appointees, with the result that they are acutely sensitive to voter reaction to proposed subscriber rate increases. Eastern Telecom notes that cable rate increase requests are often caught between regular tax increases, which local officials must approve, and increases in utility rates over which they may or may not have any control. To placate constituents, local officials attempt to draw the line when subscriber rate increase requests are presented, no matter how meritorious they may otherwise be. Cablecom-General points out that franchising authorities resort to such practices as postponing rate increases indefinitely, summarily refusing to consider any action, delaying consideration of rate increases by raising unassociated matters and requiring their resolution, and denying any rate increase at all or granting one far less than that requested without evaluating the financial data presented. Some local authorities even hint at retaliatory action, such as refusing to renew the franchise, when presented with a rate increase request. Warner and Liberty echo these concerns and state that they have had the same experiences. Liberty emphasizes the frequency with which delaying tactics are employed, stating that this has caused it to spend substantial sums to satisfy endless requests for studies, reports, and surveys. In one instance Liberty notes it was forced to spend over $25,000 to secure a monthly rate increase of fifty-six cents on one of its conglomerate systems. The City of San Diego notes that, from its experience, ratemaking is likely to be an attenuated process due in part to attempts by local officials "to prolong the issue of higher rates with the hope that the political problem it creates will soon go away."

13. The comments of the various parties are replete with specific examples of how lack of local expertise and the politicization of rate increase requests can lead to arbitrary and unfair results. Community Tele-Communications, Inc. offers what is said to be a typical situation. CTCI states that one of its systems has experienced a negative cash flow and rate of return since the system was energized. Investment in the system totals $3,000,000 and the system is 97 percent constructed. The franchise requires wiring of the entire franchise area. For two years the system and the franchising authority have been at an impasse over a requested rate increase. CTCI insists that the increase is needed to make the system viable and enable it to extend service to the remaining three percent of the franchise area; nevertheless, the franchising authority refuses to grant any increase until the remaining three percent of the franchise area is served. Several of the parties note that such situations are exacerbated where the system operator is attempting to secure rate increases in several communities served by a conglomerate system. Mr. Lawrence Flinn, President of National Cable Communications Corp., avers that he built up a conglomerate system that served seventeen communities in New York State. Attempts to get rate increases from some of these communities proved so frustrating that Mr. Flinn states he finally sold the systems. The Pennsylvania Cable Television Association (PCTA) notes that this problem is also acute in Pennsylvania, where there are many small communities and consequently numerous conglomerate systems. Eastern Telecom has submitted documentation of its efforts to secure uniform rate increases throughout all portions of its Pennsylvania conglomerate systems. In one instance, Eastern Telecom readily secured a requested rate increase from one of the two communities served by one of its systems. The other community, however, which included 85 percent of the systems' total subscribers, refused to grant the increase until a certain signal was added to the systems' signal complement. Upon being informed by the Commission that carriage of the desired signal would be inconsistent with the rules, the franchising authority denied the requested rate increase. Although a renewed request was made and extensive financial data showing continuing and growing losses were submitted, no action had been taken by February 1976, over a year after the first community had granted the requested rate increase.

14. *No safeguards against arbitrary disposition of rate increased requests.* Several of the commenters make the point that, although the Commission's Rules impose rate regulation responsibilities on local authorities who are inexperienced and reluctant to grant increases, the Rules contain no safeguard against arbitrary and unfair decisions. The only redress is costly and time-consuming judicial action. PCTA states that in Pennsylvania there are at least six instances in which legal proceedings are being contemplated or are presently pending, and Warner Cable notes that it has been forced to litigation in several cases to secure proper rate increases. CTCI notes that it had to bring suit to obtain a rate increase needed to save a system in California from bankruptcy, and CATA notes that one large multiple system owner was forced to bring suit against two California cities—one of which refused to act on a rate increase request for sixteen months while the other arbitrarily denied the full increase requested.

15. *Effects of problems in non-federal rate regulation.* The commenters offer statisitcs and examples to show the effects of local regulation of subscriber rates. NCTA states that the results of a survey it conducted on the general topic of subscriber rate regulation disclosed that final action on subscriber rate increases occurs between six and eighteen months after the initial request, with an average interval of approximately one year. The average cost to the system operator of obtaining a rate increase is approximately $2900, but NCTA avers that this figure is misleading because many systems do not properly allocate the costs normally attributable to such proceedings. The California Cable Television Association estimates that the time consumed in obtaining a rate increase varies between nine and twenty months with costs of $10,000 to $100,000. Cablecom states that the costs generated by prolonged and contentious rate regulation are passed along to subscribers. The commenters emphasize, however, that the adverse effects of such local rate regulation are not felt by subscribers alone. The ability of the cable industry to attract necessary venture capital depends on the rates the system operator can charge subscribers for service. Warner Cable emphasizes that it is absolutely essential for the cable industry's rates, like those of any other industry, to reflect changes in the cost of living and in annual costs of obtaining capital needed to maintain proper service. When an industry cannot recover its operating or capital costs, its financial viability and growth potential are seriously threatened. Allen's TV Cable Service, in a comment jointly filed with 68 other cable systems, agrees that the inability of many system operators to obtain necessary rate increases has made compliance with the Commission's technical and channel capacity Rules difficult at times, and occasionally has delayed implementation of service that could add to the diversity of programming available to subscribers either because microwave transmission cannot be afforded to import distant signals or because origination equipment for locally-produced programming cannot be bought. Moreover, an insufficient rate base may make it impossible to expand cable service into new areas. Thus, ill-advised local rate regulation redounds to the detriment of the industry as a whole, the individual system and the programming and services it can provide, and potential as well as current subscribers.

V41161 AUG 18 76 UMI

PROPOSED SOLUTIONS

16. *Substantial Amendment of § 76.31 (a) (4).* As noted at Paragraph 10 above, several of the proponents of change recommend that § 76.31(a) (4) be substantially amended to correct the perceived deficiencies in local subscriber rate regulation. These commenters focus on the absence of standards governing the procedure to be followed in making rate decisions as the crucial problem, and suggest the adoption of standards to cure the defect. Based on the difficulties it has experienced in securing rate increases, Eastern Telecom recommends that § 76.31(a) (4) be amended to incorporate a specific procedure providing for the system's submission of a rate increase request to a local commission, which would thereupon give the public an opportunity to comment in writing as well as in a public hearing. The commission would then issue its findings, and the franchising authority would act upon them. A time limit would be set for accomplishment of each step in this procedure, and disputes would be submitted to arbitration. Mr. Robert A. Brooks[6] faults the Commission not only for having failed to adopt procedural safeguards against unfair rate setting but also for failure to provide for an appellate or arbitration board to facilitate resolution of rate increase disputes Thus, in addition to proposing adoption of a described rate review procedure that includes guidelines to be followed by the parties in requesting and evaluating rate increases, Mr. Brooks suggests that the Commission create an appellate or arbitration board to decide rate increase disputes.

17. *Deletion of §76.31(a) (4).* The majority of the commenters remarking upon the inherent problems in local subscriber rate regulation favor deleting § 76.31 (a) (4). Several of these commenters further suggest adoption of standards to be followed by those local authorities continuing to regulate basic subscriber rates. To offset the problem of politically-motivated delays in rate increase decisions, Warner Cable advocates adoption of a rule providing that proposed rate increases would become effective within 30 days after service of notice on the franchising authority. The latter would retain the right to review and, if necessary, roll back the increase. The California Community Television Association would require the setting of a rate that is just and reasonable, as defined in "D.C. Transit System v. Washington Metro Area Transportation Commission," 350 F.2d 753 (D.C. Cir., 1965),[7] and adequate to insure revenues sufficient to comply with the Commission's rules, and would have rates declared null and void if they fail to meet these standards. Procedurally, CCTA's suggested amendment would provide that requested rate increases would become effective 90 days after notification of the franchising authority. If the latter failed to act within that time and notified the system operator that it wished to review the proposed increase, it would be required to reach a decision within 180 days of the initial proposal to increase the rate. Finally, while Cablecom-General favors deletion of the Rule, it urges the Commission to extensively investigate and gather information on the entire area of local ratemaking procedures. Cablecom-General believes this advisable because it doubts that regulation of basic subscriber rates at any level of government is needed and because there is presently no repository of organized and documented experience on ratemaking policies and practice upon which a sound regulatory policy can be based. Allen's TV Cable et al. favors deletion of the rule but fears that the political pressure to regulate rates would render most local authorities unwilling to abandon rate regulation; therefore, these commenters urge the Commission to impose a moratorium on non-federal rate regulation. A provision for waiver would be incorporated which would enable a community to regulate rates upon a showing of good cause therefor; however, any rate regulation would be conditioned upon the implementation of procedures assuring due process and timely action on rate increase requests. The Pacific Northwest Cable Communications Association also favors deletion of § 76.31(a) (4) coupled with imposition of a moratorium on non-federal subscriber rate regulation to determine whether subscriber rate regulation by any level of government is necessary.

18. A number of the commenters urge the Commission to recognize that the problems arising from the manner in which local authorities regulate basic subscriber rates are much more crucial than whether or not such regulation is mandatory. Therefore, these commenters regard deletion of § 76.31(a) (4) as only a first step in addressing the problems of local subscriber rate regulation and perhaps not even a major step because, as NCTA states, political pressures will make it unlikely that even disinclined franchising authorities will forego subscriber rate regulation. Accordingly, Verto Corporation and Universal Television Cable System Inc., conclude there is a need for the Commission to preempt the field, as it has done in the area of auxiliary services (e.g. pay-cable) rate regulation for non-basic subscriber services and preclude rate regulation at any level of government. American Television and Communications Corporation and NCTA agree in this assessment. Cox Cable et al. and the Florida CATV Association favor deletion of the Rule and, if necessary, declaration of a moratorium on local or state rate regulation pending the formulation of preemptive federal regulations. Conversely, Viacom International, the New England Cable Television Association, and CTCI favor preemption but do not recommend deletion of § 76.31(a) (4) as an intermediate step. As an interim measure CTCI recommends modifying the rule in a fashion similar to the proposal contained in the Notice but would amplify the Rule by providing that proposed rate increases would become effective automatically within 60 days of service of notice of the increase on the franchisor unless within that period the franchisor determines to the contrary. Viacom and the New England Cable Television Association apparently regard either revision or deletion of § 76.31(a) (4), even as interim measures, to be inadequate. NCTA's preemption proposal would preclude non-federal rate regulation and allow the marketplace to control in competitive markets in which over-the-air television reception is good; CTCI, Cox Cable et al. and the Florida CATV Assocation would allow local rate regulation in communities served by two or fewer Grade B signals, but would allow rates to become automatically effective within a stated number of days following service of notice of the proposed increase on the franchising authority. As an alternative to deletion of the Rule and preemption, Liberty recommends that a rule be adopted requiring franchising authorities to set a fair rate which, if conditioned upon provision of extra services, is sufficient to cover their cost plus a reasonable profit. Liberty would require arbitration where rates cannot be agreed upon and preclude rate regulation in small communities served by a portion of a larger conglomerate system.

DISCUSSION

19. When we adopted the "Cable Television Report and Order" in 1972 we expressed our belief that it was important for cable television subscriber rates to be set in a manner that would assure they were both fair to the system and to the subscribing public. Although we did not then believe it either appropriate or practical to displace state and local authorities from the role they had traditionally played in this area, we did believe that the matter of subscriber rates was an appropriate area of federal concern. Rate levels and the perceived fairness and efficiency of the process whereby they are set are likely to have a direct bearing on the growth of the cable television industry and the types and diversity of services it provides. Rates inappropriately high may limit the availability of service to members of the public. Rates too low may limit investment in the industry and its growth on a

[6] Mr. Brooks is senior vice president of Telecom Engineering, Inc., and President of the Board of Aldermen of the City of Manchester, Missouri.

[7] "A just and reasonable rate is one that assures that all the enterprise's legitimate expenses will be met, and enables it to cover interest on its debt, pay dividends sufficient to attract investors, and retain sufficient surplus to permit it to finance downpayments on new equipment and generally to provide both the form and substance of financial strength and stability." 350 F.2d at 778.

nationwide basis. Rates too low could also impede cable operators in their ability to comply with the requirements of the Commission's rules. Accordingly, § 76.31(a) (4) of the rules was adopted to require, as a condition for obtaining a Certificate of Compliance from the Commission, that each cable system have a franchise or other appropriate local authorization providing for the regulatory supervision of subscriber rates.

20. Because it appeared that some local authorities did not have the authority to comply with this standard, in order to facilitate experimentation with differing types of rate control procedures, and because it appeared that there were areas where such rate control was not necessary in light of market forces restraining rate increases even in the absence of governmental control, we proposed in this proceeding to amend our rules so as to make rate regulation at the local level optional and subject to decision at the local level. Some commenting parties have suggested that we take an additional step and act to preclude regulation of rates at the local level. These parties regard the local rate regulation process as both burdensome and unnecessary. We stated in our recently issued Notice of Inquiry in Docket 20767, *supra*, paragraph 4 that "the Commission contemplates no federal preemption of the local regulation of subscriber rates and no regulation of subscriber rates by the federal government." Nothing in the comments submitted herein has persuaded us to alter this view. Moreover, even were we so persuaded, the scope of this proceeding is not sufficiently broad to admit of that outcome.

21. Our review of the comments filed and our further consideration of the issues raised has convinced us that deletion of § 76.31(a) (4) would be advisable.[8] This will enable local authorities to decide whether subscriber rates should be regulated, and will best facilitate experimentation in the types of rate controls exercised. It now appears to us that there are areas or circumstances in which the regulation of regular subscriber rates may be neither desirable nor necessary and that local authorities should be permitted to decide for themselves whether they will undertake such regulation. Several types of situations may be involved. First, there are those mentioned in the Notice where there appears to be no local authority to control rates. Second, there are those situations where competitive alternatives to cable television service alone or when combined with particularly risky or expensive installations appear to render the rate regulatory process superfluous. In view of the other forces acting to keep rates at an appropriate level, rates allowable after careful consideration of the facts involved in these situations could easily exceed those which the market situation would allow to be charged. There are many areas of the country where cable television now appears to be a marginal investment for a prudent businessman. It would be perfectly sensible for a franchise authority in such an area to seek to reduce the risks involved and so attract franchise applicants by offering potential operators independent control over service charges. Other reasons may also exist for foregoing rate controls: Minor subdivisions served by large systems from adjoining communities may wish to defer to their larger neighbors on the rate question, small municipalities may find, given their level of expertise on questions of this type, that any formal rate proceeding is more expensive to the community as a whole than increased cable rates. In view of these considerations, we now no longer believe it appropriate to mandate through our rules that rate regulation be undertaken in every community where there is a cable television system. Moreover, it appears logical to us, having left to local authorities the decision as to what level of rates should be charged where they are regulated, to also leave to them the decision as to whether this process is desirable at all.

22. As the comments of the New Jersey Cable Television Association demonstrate, deletion of the Rule in its entirety, rather than adoption of the alternative amendment proposed in the Notice, will also permit nonfederal authorities the widest range of flexibility with which to establish procedures for handling rate increases. By not requiring public proceedings prior to implementation of rate increases, we not only will enable local authorities to implement certain acceptable forms of rate regulation such as arbitration, automatic escalator clauses, maximum rate setting, which the public proceeding requirement might otherwise preclude, but also will facilitate the implementation of procedures that are tailored to the extent of the perceived need for rate regulation in the individual cable community.

23. We note the concern of several of the commenters that elimination of the rule or of the public proceeding requirement would deprive the public of all due process safeguards in rate regulation, but we find this unlikely to occur. Any particular mode of rate regulation established will be stipulated in the franchise granted the system operator. Section 76.31(a) (1) of our rules further specifies that a cable television franchise shall be granted only after an evaluation of the proposed cable operation has been made in the context of a full public proceeding affording due process. Many states and localities also have statutes and ordinances requiring that the public be given notice and an opportunity to be heard in the granting of franchises. Therefore, the provisions of state and local law and of our rules will assure that the public has participated in any consented ab initio to the adoption of any procedural mechanism whereby subscriber rates are determined.

24. We note also the argument of several of the public interest commenters that public proceedings to evaluate rate increase requests serve as a useful forum for identifying and resolving service complaints and even for obtaining desired new services from the system operator. There is concern that, were we to delete this existing requirement, there would be no mechanism for the public or the franchising authority to redress service complaints or otherwise review and require changes in existing service. In this respect we should observe that, although rate increase hearings may offer an opportune time to address these problems, they do not provide the only opportunity to do so. The franchising authority can include in the franchise provisions for periodic public review of the franchisee's performance, along with specified penalties or remedies in the event the franchisee fails to comply. Introducing numerous tangential service complaints and requests into what would ordinarily be an economic and financial inquiry can needlessly prolong and obscure the rate proceeding. Moreover, withholding a requested rate increase until the system operator supplies desired services may, depending on the exigency for the requested increase and the extent of service required, seriously injure the system economically either because of the delay or because the increase, once granted, may be insufficient to cover the cost of a service not anticipated when the initial request was made. In such instances the interests of the parties involved—the system operator, subscribing public, and franchising authority—may be adversely, rather than beneficially, affected.

25. Consistent with these findings, we shall amend our Rules to delete § 76.31 (a) (4) in its entirety. In so doing, however, we note the virtual unanimity of the cable parties in asserting that there have been instances wherein local rate regulation has not been performed in a consistent and dispassionate manner. We agree that, where the franchising authority retains the prerogative of prior approval of rate increases but does not discharge its duty responsibly, every party having an interest in a reasonable decision is an ultimate loser. The system operator is obviously and immediately affected because his ability to expand, or even to continue, service may be imperiled. As a result, current subscribers suffer by being precluded from receiving new services that might otherwise be offered and in some exacerbated situations may sustain a diminution of service previously provided. Potential subscribers can also be affected because unjustifiably limited revenues may make it impossible to extend cable service to successive areas

[8] We do not concur with the comments of ABC, the television licensees, and NCCB that this proceeding should be terminated because there was insufficient hard data available to the Commission to suggest that it should have been commenced. That a rule making proceeding may appropriately be commenced based on data gathered informally by the staff and as a result of our own expertise, views, and opinions, as well as on information more formally gathered, is not, we think, open to question. See, e.g. Flying Tiger Line, Inc. v. Boyd, 244 F. Supp. 889 (D.D.C., 1965)

V41161 AUG 18 76 UMI

that the operator might otherwise wish to serve. To the extent that any or all of these results occur, the franchising authority may have caused a harmful effect far outweighing the intended beneficence of its action.

26. As a cure or partial cure for problems in this area it has been suggested that we preempt regulation in this area. As indicated in paragraph 20 above, we are not persuaded that this would be either feasible or appropriate. Moreover, it would be most difficult at this time to follow the suggestions of the NCTA and of Cox Cable et al., paragraph 18 above, and frame a rule of general application defining those situations wherein an exception to the general preemption should apply and rate regulation be permissible or even mandatory. Differences in size of community, age and technical sophistication of the system, services offered, and so forth, when added to the variations in degree and type of off-the-air television service and available entertainment alternatives, make it most difficult to predict on the basis of the information before us which systems should, and which should not, be rate-regulated. Nor do we agree that a general preemption on rate regulation for a moratorium period is necessary to identify those instances wherein rate regulation is presumptively not needed. As a result of the action we will take today, a number of communities may decide not to regulate rates and the experience of a cross-section of these may well supply a modicum of the information needed on this point.

27. With respect to those communities that continue subscriber rate regulation, we believe that several measures now pending or soon to be submitted to the Commission may be of some aid in solving some of the problems alleged to exist in local rate regulation. We anticipate issuing for comment in the near future a proposed uniform reporting and accounting system for cable television systems which, hopefully, will clarify and unify accounting practices throughout the industry. This should be of help to local authorities needing a systematized and comprehensive set of financial data with which to evaluate rate increase requests, and should eliminate the necessity for repeated solicitations of relevant financial data from the system operator. This, we trust, will remedy one of the causes of delay in granting needed rate increases. For those local authorities still unsure of how to regulate subscriber rates, the body of information submitted in response to the Notice of Inquiry in Docket 20767, supra, will hopefully enable the Commission to prepare a report which will aid in answering some questions about subscriber rate regulation and supply further guidance to those local authorities requesting it.

28. Cable television performs a unique and important function in the national communications network. We are assuming that local authorities who exercise the option to set basic subscriber rates will act responsibly in discharging their duties. We urge them to avoid needlessly prolonging decisions on rate changes, demanding that the system operator fulfill unrealistic conditions as a quid pro quo, or otherwise disposing of rate change requests in an arbitrary and capricious manner. We strongly encourage franchising authorities and prospective franchisees to fully consider all aspects of the rate making procedure and, where possible, anticipate the problems that may arise and provide the means of resolving them in the franchise itself. If the franchising authority elects to regulate rates, we encourage the parties to the franchise to not only stipulate any mechanism for rate setting but also to specify what documentation will be deemed relevant and reasonably capable of being produced, which of the parties will bear the cost of providing it, a period of time within which the franchising authority will reach its decision, procedures to be used to resolve any disputes arising in the course of this process, and so forth. This will enhance the effect of our action today, by assuring that most, if not all, subscriber rate problems may be effectively settled through local processes.

29. Authority for the rule change adopted today is contained in sections 2, 3, 4(i) and (j), 301, 303, 307, 308, 309, 315 and 317 of the Communications Act of 1934, as amended.

30. *Accordingly, it is ordered,* That Part 76 of the Commission's rules and regulations, is amended, effective September 23, 1976, as set forth below.

31. *It is further ordered,* That this proceeding is terminated.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 315, 317).)

Adopted: July 29, 1976.

Released: August 13, 1976.

FEDERAL COMMUNICATIONS COMMISSION,*
VINCENT J. MULLINS,
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 76.31 [Amended.]

1. In § 76.31, paragraph (a)(4) is deleted.

[FR. Doc.76-24178 Filed 8-17-76;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-71; Notice No. 76-18]

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS: GENERAL

Photographic Copies of Records or Documents

• Purpose. This document amends the Federal Motor Carrier Safety Regulations (FMCSR) to allow safety-related records and documents that are required to be maintained by motor carriers to be suitably reproduced on microfilm in lieu of the original record for the required retention period. •

Section 390.45 of the FMCSR is being added to permit the use of microfilm in lieu of the original record for the required retention period.

Several requests had been made for permission to microfilm records in order to reduce costly filing and storage space. In order to be consistent with current practices and help minimize the paperwork burden upon businesses who provide information to the Federal Government, a notice of proposed rulemaking was issued inviting interested persons to give their data, views and comments pertaining to the revision under consideration.

Three comments were received. Two comments were totally in favor of this rule and felt each stipulation would be acceptable.

The American Trucking Associations, Inc., commented that, in general, they felt the proposal was satisfactory and would afford motor carriers a worthwhile alternative to storage of records as now prescribed. But, they did have several comments on a few limitations.

First, they feel a full variety of maintenance record systems should be determined since many motor carriers rely on data processing techniques in the conduct of their daily operations. One such system is the Vehicle Maintenance Reporting System (VMRS) developed by the Management Systems Department of the American Trucking Associations, Inc. They do not want this § 390.45 to rule out the present system, or inhibit the development of new data storage systems that could meet the regulatory recordkeeping requirements equally as well. We are not advocating, in this rule, that any particular system be used, or ruled out, just that if the carrier feels that microfilming would benefit his operation it may now be used.

They objected to the requirement that each roll of film include a microfilm of a certificate stating that photographs are direct and facsimile reproductions of the original, and, further objected that it would not be feasible for the person doing the microfilming to have thorough knowledge of all of the contents of the records that he films.

We do not feel it unreasonable to ask that each roll of film include this certificate. In regard to the comment that the person doing the microfilming needs to have thorough knowledge of the contents, this requirement was not intended to mean that any person who does the copying would need to have in-depth knowledge of the information being filmed. The person making the microfilm would not necessarily have to be the person executing the certificate. The intention is that the person who normally handles the records should execute the certificate stating that the photographs are direct and facsimile reproductions of the original record.

Several comments were received regarding the provision of the proposed regulation which would have required any person who takes advantage of the microfilming provisions to waive all right to demand the production of the original document. This provision has been deleted from the final regulation because the provision was intended to apply in a very limited number of cases and it is believed that other means could be used to prevent abuses in such situations.

Accordingly, 49 CFR Part 390 (Part 390 of the Federal Motor Carrier Safety Regulations) is amended by adding § 390.45 to read as follows:

§ 390.45 Photographic copies of records or documents.

All records and documents required to be maintained under Subchapter B, Chapter III of this Title must be preserved in their original form for the periods specified, unless the records and documents are suitably photographed and the microfilm is retained in lieu of the original record for the required retention period, subject to the limitations indicated below:

(a) All records and documents required to be maintained under Subchapter B, Chapter III of this Title may be destroyed after they have been suitably photographed for preservation.

(b) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be and suitable means or facilities shall be available to locate, identify, read and reproduce such photographic copies.

(2) Any significant characteristic, feature or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film include a microfilm of a certificate or certificates stating that the photographs are direct and facsimile reproductions of the original records. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the material covered thereby.

(Sec. 204, Interstate Commerce Act (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655); and the delegations of authority at 49 CFR 1.48 and 389.4, respectively)

Effective date: October 1, 1976.

Issued on July 28, 1976.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-24127 Filed 8-17-76;8:45 am]

Title 50—Wildlife

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

National Wildlife Refuges, North Dakota

The following special regulations are issued and are effective on August 18, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Arrowwood National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 15,900 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Hunting with guns is not permitted.

(2) Bows only may be used and must conform to state regulations.

(3) The open season for hunting deer on the refuge is from 12:00 noon to sunset August 27, 1976, and from ½ hour before sunrise to sunset thereafter thru October 1, 1976. Bow hunting will be permitted again on November 23, 1976 and remain open until December 12, 1976.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

CHASE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of deer on Chase Lake National Wildlife Refuge, North Dakota; is closed for the 1976 season.

JAMES W. MATTHEWS,
Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, North Dakota 58476.

AUGUST 10, 1976.

[FR Doc.76-24190 Filed 8-17-76;8:45 am]

PART 32—HUNTING

Kirwin National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on August 18, 1976. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Public hunting of teal ducks on the Kirwin National Wildlife Refuge, Kansas, is permitted from September 11 through September 19, 1976, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,700 acres, is delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kansas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

Hunting shall be in accordance with applicable State and Federal regulations covering the hunting of teal ducks subject to the following special condition:

(1) Blinds—Temporary blinds constructed above ground from natural vegetation are permitted. Digging of holes or pits to serve as blinds is prohibited.

The Provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 19, 1976.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas.

JULY 30, 1976.

[FR Doc.76-24101 Filed 8-17-76;8:45 am]

PART 32—HUNTING

Big Stone National Wildlife Refuge, Minnesota

The following special regulations are issued and are effective on August 18, 1976.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MINNESOTA

BIG STONE NATIONAL WILDLIFE REFUGE

The public hunting of pheasants, Hungarian partridge, cottontail rabbits, and grey and fox squirrels on the Big Stone National Wildlife Refuge, Minnesota is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,300 acres, is delineated on maps available at refuge headquarters; 25 NW 2nd Street, Ortonville, Minnesota and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of pheasants, Hungarian partridge, cottontail rabbits, and grey and fox squirrels subject to the following special conditions:

(1) The open season for hunting cottontail rabbits, and grey and fox squirrels

• Commissioner Hooks dissenting.

V41161 AUG 18 76 UMI

extends from September 18, 1976 to November 30, 1976 inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1976.

CHARLES W. GIBBONS,
Refuge Manager, Big Stone National Wildlife Refuge, Ortonville, Minnesota.

AUGUST 10, 1976.

[FR Doc.76-24100 Filed 8-17-76;8:45 am]

PART 32—HUNTING

Big Stone National Wildlife Refuge, Minnesota

The following special regulations are issued and are effective on August 18, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MINNESOTA

BIG STONE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Big Stone National Wildlife Refuge, Minnesota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,300 acres, is delineated on maps available at refuge headquarters, 25 NW 2nd Street, Ortonville, Minnesota or from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of deer subject to the following special conditions:

(1) Construction of permanent hunting blinds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1976.

CHARLES W. GIBBONS,
Refuge Manager, Big Stone National Wildlife Refuge, Ortonville, Minnesota.

AUGUST 10, 1976.

[FR Doc.76-24102 Filed 8-17-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 217—GENERAL PROVISIONS

PART 222—ENDANGERED FISH OR WILDLIFE

Certificates of Exemption for Pre-Act Endangered Species Parts and Products Held in United States on December 28, 1973, in Course of Commercial Activity; Interim Regulations

The purpose of these regulations is to implement the Endangered Species Act Amendments of 1976 (Pub. L. 94-359) by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The Secretary of Commerce delegated his responsibility to implement the Endangered Species Act to the Administrator of the National Oceanic and Atmospheric Administration (NOAA). The Administrator of NOAA redelegated his responsibility to the Director of the National Marine Fisheries Service (NMFS).

More specifically, the amendments make a number of changes to clarify certain ambiguities, avoid lapses of coverage, eliminate unnecessary administrative burdens, and create greater consistency with other similar conservation legislation (i.e. Marine Mammal Protection Act of 1972 as amended (Pub. L. 92-522, 16 U.S.C. 1361 et seq.)).

In 1973 Congress passed the Endangered Species Act of 1973 which strengthened its 1969 predecessor by prohibiting not only the importation but also the sale of endangered species and their parts and products in interstate and foreign commerce. The Endangered Species Act, however, contained no exemptions for the interstate sale of parts of endangered marine mammals which were held for commercial purposes. Under the Marine Mammal Protection Act of 1972, a limited exemption was provided for parts and products held for commercial purposes. As a result of this inconsistency between the two laws, an economic hardship was inflicted upon those individuals who were engaged in commercial activities and who were holding inventories of sperm whale oil and scrimshaw prior to the passage of the Endangered Species Act. In order to alleviate the economic hardship caused by the inconsistency, the amendments allow holders of pre-Act, legally-obtained sperm whale oil and scrimshaw to apply to the Director, NMFS, for a certificate of exemption that will allow them to dispose of these pre-Act endangered species parts commercially for a limited period of time.

The NMFS is publishing herewith interim regulations implementing the Endangered Species Act Amendments of 1976. Comments are invited through September 20, 1976. Comments should be addressed to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235. Following the close of this comment period, these interim regulations at the discretion of the Director will be amended so as to reflect any such comments. The Director shall then publish final regulations in the FEDERAL REGISTER.

As authorized by 5 U.S.C. 533(d)(3), these interim regulations are effective on August 18, 1976, in order to afford immediate relief from the severe economic hardship caused by the legislative inconsistencies referred to above.

These regulations are effective August 18, 1976.

Signed in Washington, D.C., on August 13, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

50 CFR Parts 217 and 222 are hereby amended as follows:

Amend 50 CFR Part 217, Subpart B—Definitions, § 217.12 as follows:

§ 217.12 [Amended]

1. Insert the following definition before the definition of "commercial activity":

"Act" means the Endangered Species Act of 1973, as amended, (Pub. L. 93-205).

2. Insert the following definition before the definition of "country of exportation":

"Commercial Activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however,* That it does not include the exhibition of commodities by museums or similar cultural or historical organizations.

3. Delete the definition of "permit" and substitute in lieu thereof the following definition:

"Permit" or "Certificate of Exemption" means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service.

4. Insert the following definition after the definition of "possession":

"Pre-Act Endangered Species Part" means any sperm whale oil, including derivatives and products thereof, which was lawfully held within the United States on December 28, 1973 in the course of a commercial activity; or any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

5. Insert the following definition after the definition of Pre-Act Endangered Species Part:

"Scrimshaw Product" means any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea."

Amend 50 CFR Part 222, Subpart C, § 222.24 by adding a new § 222.24(e), to read as follows:

§ 222.24 Procedures for issuance of permits.

* * * * *

(e) The Director may waive the thirty-day period in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Director in the FEDERAL REGISTER within ten days following the issuance of the certificate of exemption or permit. The requirements of this section pertain solely to the permits issued pursuant to § 222.23.

Amend 50 CFR Part 222 by incorporating a new Subpart B as follows:

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

Sec.

222.11-1 General certificate of exemption requirements.
222.11-2 Application procedure.
222.11-3 Application requirements.
222.11-4 Procedures for issuance of certificates of exemption.
222.11-5 Application for modification of certificate of exemption by holder.
222.11-6 Amendment of certificates of exemption.
222.11-7 Procedures for suspension or revocation of certificates of exemption.
222.11-8 Subsequent purchaser provisions.
222.11-9 Duration of certificate of exemption.
222.12 Locations covered by certificate of exemption.
222.12-1 Certificate of exemption not transferable; exception.
222.12-2 Change of address.
222.12-3 Certain continuances of business.
222.12-4 Change in trade name.
222.12-5 State or other law.
222.12-6 Right of entry and examination.
222.12-7 Records.
222.12-8 Record of receipt and disposition.
222.12-9 Importation.
222.13 Exportation.
222.13-1 Procedure by exporter.
222.13-2 [Reserved]
222.13-3 Transportation to effect exportation.
222.13-4 Contracts with the General Services Administrator.
222.13-5 Documentation requirements for applicants for certificates of exemption.
222.13-6 Burden of proof; presumption.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

§ 222.11-1 General certificate of exemption requirements.

(a) The Director, pursuant to the provisions of the Endangered Species Act, and pursuant to the provisions of this subsection, except for importation, may exempt any pre-Act endangered species part from one or more of the following:

(1) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(2) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship to interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(3) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate of foreign commerce any such species part.

(b) No person shall engage in any of the above activities involving any pre-Act endangered species part without a valid certificate of exemption, or evidence of a right thereunder, issued pursuant to this Subpart B.

§ 222.11-2 Application procedure.

(a) Any person desiring to obtain such a certificate of exemption may make application therefor to the Director. The sufficiency of the application shall be determined by the Director in accordance with the requirements of this part and, in that connection, he may waive any requirement for information, or require any elaboration for further information deemed necessary.

(b) An original and one copy of the completed application shall be submitted to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, Washington, D.C. 20235.

(c) The outside of the envelope should be marked "Certificate of Exemption Request." Assistance may be obtained by writing the Director, or calling the Law Enforcement Division, NMFS, in Washington, D.C. (AC202 634-7521). At least 45 days should be allowed for processing. An application for a certificate of exemption shall provide the information contained in § 222.11-3 (when the information requested is not applicable, put "N.A.") and such other information that the Director may require.

(d) All applications for certificates of exemption must be received by the Director before August 18, 1977.

§ 222.11-3 Application requirements.

(a) The following information will be used as the basis for determining whether an application for a certificate of exemption is complete:

(1) Title: Application for Certificate of Exemption Under Pub. L. 94-359.

(2) The date of application.

(3) The identity of the applicant including complete name, address, and telephone number. If the applicant is a corporation, partnership, or association set forth the details.

(4) The period of time for which a certificate of exemption is requested; however, no certificate of exemption, or right claimed thereunder, shall be effective after the close of the three-year period beginning on the date of the original issuance of the certificate of exemption.

(5) The prohibitions in section 9(a) of the Act for which an exemption is requested.

(6) A complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption.

(7) Documentation to prove that any endangered species part claimed by the applicant to be a pre-Act endangered species part is in fact such a part. The documentation requirements are set forth in § 222.13-5 of this Subpart B.

(8) A certification in the following language:

I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a certificate of exemption under the Endangered Species Act of 1973 Amendments (Pub. L. 94-359, 90 Stat. 911) and regulations issued thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties under the Endangered Species Act of 1973.

(9) Signature of the applicant.

(b) Upon receipt of an incomplete or improperly executed application, the applicant shall be notified by Certified Mail of the deficiency in the application. If the application is not corrected and received by the Director within 30 days following the date of receipt of notification, the application shall be considered as having been abandoned.

§ 222.11-4 Procedures for issuance of certificates of exemption.

(a) Whenever application for a certificate of exemption is received by the Director which the Director deems sufficient, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. All information received by the Director as a part of the application shall be available to the public as a matter of public record at every stage of the proceeding. An interested party may within 30 days after the date of publication of such notice, submit to the Director his written data, views, or arguments with respect to the action proposed in the application.

(b) As soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section, the Director shall issue or deny issuance of the certificate of exemption. Notice of the decision of the Director shall be published in the FEDERAL REGISTER within 10 days after the date of the issuance or denial and indicate where copies of the certificate of exemption, if issued, may be examined.

§ 222.11-5 Application for modification of certificate of exemption by holder.

Where circumstances have changed so that an applicant or certificate of exemption holder desires to have any material term or condition of his application or certificate modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part. Such applications for modification are subject to the same issuance criteria as are original applications, as provided in § 222.11-3.

§ 222.11-6 Amendment of certificates of exemption.

All certificates are issued subject to the condition that the Director reserves the right to amend the provisions of a certificate of exemption for just cause at any time. Such amendments take effect on the date of notification, unless otherwise specified.

§ 222.11-7 Procedures for suspension or revocation of certificates of exemption.

(a) Any violation of the applicable provisions of Parts 217-222 of this chapter, or of the Act, or of a condition of the certificate of exemption may subject the certificate holder to the following penalties:

(1) The penalties provided in the Act; and

(2) Temporary suspension of the certificate of exemption for a specified period; and/or

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(3) Revocation of the certificate of exemption. When revoked, the certificate must be surrendered to the Director on demand.

(b) Except in cases of willfulness or those in which the public health, safety, or interest requires, prior to any suspension or revocation of a certificate of exemption, the certificate of exemption holder shall be given:

(1) Notice by the National Marine Fisheries Service in writing of the facts or conduct which may warrant the suspension or revocation; and

(2) Opportunity to demonstrate or achieve compliance with all certificate of exemption requirements.

§ 222.11–8 Subsequent purchaser provisions.

(a) Any person granted an exemption pursuant to this subpart, upon an interstate sale of any exempted pre-Act endangered species part, shall supply a copy of the certificate of exemption as well as a signed written certification to each purchaser that such part may lawfully be sold, transported, or exported pursuant to the terms of an exemption granted under the Act and the regulations promulgated thereunder.

(b) Any subsequent purchaser, unless an ultimate user, shall upon an interstate sale supply a copy of the certificate of exemption as well as a signed written certification to each purchaser of such part that such part may lawfully be sold, transported, or exported pursuant to the terms of a certificate of exemption granted under the Act and the regulations promulgated thereunder. An ultimate user, for the purposes of this subsection, shall mean any person who has acquired such endangered species part for his own consumption.

(c) Any interstate purchaser or pre-Act endangered species parts shall, within 90 days after the receipt of such parts, submit to the Director a report specifying the quantity of such parts or products received, the name and address of the seller, a copy of the certification supplied pursuant to paragraph (a) of this section, the date on which such parts were received, and the intended use of such parts by the purchaser.

§ 222.11–9 Duration of certificate of exemption.

A certificate of exemption shall not be issued for a period exceeding three years from the date of issuance. The certificate of exemption shall entitle any person having a right thereunder to engage in the business or activity specified in the certificate of exemption, within the limitations of the Act and the regulations contained in this subpart, for the period stated in the certificate of exemption, unless sooner terminated.

§ 222.12 Locations covered by certificate of exemption.

The certificate of exemption covers the business or activity specified in the certificate of exemption at the address described therein. Accordingly, any change in business address must be reported to the Director. Upon such notification, the Director will record the change of address on the certificate of exemption. No certificate of exemption is required to cover a separate warehouse or similar facility used by the certificate of exemption holder solely for storage of pre-Act endangered species parts, if the records required by this subpart are maintained at the address specified in the certificate of exemption and which is served by such warehouse or storage facility.

§ 222.12–1 Certificate of exemption not transferable; exception.

Certificates of exemption issued under this subpart are not transferable; *Provided*, That in the event of the lease, sale or other transfer of the operations or activity authorized by the certificate of exemption the successor is not required by this subpart to obtain a new certificate of exemption prior to commencing such operations or activity. In such case, the successor will be treated as a subsequent purchaser and must comply with the record and reporting requirements set forth in § 222.11–8.

§ 222.12–2 Change of address.

A certificate of exemption holder may during the term of the certificate of exemption move his business or activity to a new location at which he intends regularly to carry on such business or activity, without obtaining a new certificate of exemption. However, in every case, notification of the new location of the business or activity must be given not less than 10 days prior to such move to the Director. In each instance, the certificate of exemption must be submitted for endorsement to the Director. After endorsement of the certificate of exemption the Director will return same to the person to whom issued.

§ 222.12–3 Certain continuance of business.

A certificate of exemption holder who furnishes his certificate of exemption to the Director for corrections or endorsement in compliance with the provisions contained in this subpart, may continue his operations while awaiting its return.

§ 222.12–4 Change in trade name.

A certificate holder continuing to conduct business at the location shown on his certificate of exemption is not required to obtain a new certificate of exemption by reason of a change in trade name under which he conducts his business: *Provided*, That such certificate of exemption holder furnishes his certificate of exemption for endorsement of such change of name to the Director within 30 days from the date the certificate of exemption holder begins his business under the new name.

§ 222.12–5 State or other law.

A certificate of exemption issued under this subpart confers no right or privilege to conduct a business or an activity contrary to State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under any Federal laws or regulations of any other Federal Agency.

§ 222.12–6 Right of entry and examination.

Any person authorized to enforce the Act may enter during business hours the premises, including places of storage, of any holder of a certificate of exemption or of any subsequent purchaser for the purpose of inspecting or examining any records or documents required to be kept by such certificate of exemption holder or successor under this subpart, and any endangered species parts at such premises or location.

§ 222.12–7 Records.

The records pertaining to pre-Act endangered species parts prescribed by this subpart shall be in permanent form, and shall be retained at the address shown on the certificate of exemption, or at the principal address of a subsequent purchaser in the manner prescribed by this subpart.

§ 222.12–8 Record of receipt and disposition.

(a) Each holder of a certificate of exemption shall maintain records of all pre-Act endangered species parts he receives, sells, transfers, distributes or disposes of otherwise. Each subsequent purchaser of the pre-Act endangered species parts shall similarly maintain records of all such parts or products he receives or distributes for the purpose of sale, distribution or industrial use.

(b) Such records as referred to in paragraph (a) of this section may consist of invoices or other commercial records which shall be filed in an orderly manner separate from other commercial records maintained, and be readily available for inspection. Such records shall (1) show the name of the seller or other transferor, (2) show the type, quantity, and identity of the part or product, (3) show the date of such acquisition, and (4) be retained, in accordance with the requirements of this subpart, for a period of not less than three years following the date of the acquisiton, or transfer.

(c) Each certificate of exemption holder and each subsequent purchaser shall, when required by letter issued by the Director, submit for the periods and times specified in the letter, all record information required by this subpart, or such other record information as the Director may specify in this letter.

(d) The Director may authorize the record information to be submitted in a manner other than that prescribed in paragraph (b) of this section when it is shown by the record holder that an alternate method of reporting is reasonably necessary and will not hinder the effective administration or enforcement of this subpart.

§ 222.12–9 Importation.

No pre-Act endangered species part shall be imported into the United States, and a certificate of exemption issued in accordance with the provisions of this subpart confers no right or privilege to import into the United States any such part.

§ 222.13 Exportation.

(a) Any person desiring to export from the United States any pre-Act endangered species part or scrimshaw product, must file with the Director an application for a certificate of exemption in accordance with the provisions of this subpart.

(b) In addition to other information required by this subpart, such application shall show the name and address of the foreign consignee, the intended port of exportation, and a complete description of the parts to be exported. When this information is unknown at the time application is made for a certificate of exemption, a certificate of exemption may be issued by the Director which shall require the submission of such information not less than 10 days prior to shipment.

§ 222.13–1 Procedure by exporter.

Shipment may not be made until the requirements of § 222.13 are met by the exporter. A copy of the certificate of exemption, and any endorsements thereto, must be sent by the exporter to the District Director of Customs at the port of exportation, and must precede or accompany the shipment in order to permit appropriate inspection prior to lading.

§ 222.13–2 [Reserved].

§ 222.13–3 Transportation to effect exportation.

Notwithstanding any provision of this subpart, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of pre-Act endangered species parts to effect an exportation of such parts authorized under the provisions of this subpart.

§ 222.13–4 Contracts with the General Services Administrator.

Any person who has entered into a valid contract with the Administrator of the United States General Services Administration, prior to January 9, 1973, for the sale of government-owned pre-Act endangered species parts shall not be required to obtain a certificate of exemption prescribed by this subpart: *Provided*, That the purchaser is able to claim a right under a certificate of exemption issued to the Administrator of the General Services Administration: *Provided further*, That if such pre-Act endangered species parts are commingled, amalgamated, or otherwise combined with such person's current inventory or stockpile, so as to preclude a reasonable determination of one stock from the other, it may not be further sold or transferred without a certificate of exemption first having been granted therefor.

§ 222.13–5 Documentation requirements for applicants for certificates of exemption.

Any person desiring to obtain a certificate of exemption in accordance with the provisions of this subpart, shall in addition to other requirements of this subpart, submit the following documentation and information together with each application for a certificate of exemption:

(a) Any invoice, contract, bill of sale, or other document, relating to the applicant's purchase or other acquisition of any pre-Act endangered species part and which shows quantities obtained, from whom obtained and when obtained; or

(b) Any shipping record, including bills of lading, way-bills, transit lists, cargo manifests, or other document of whatever kind relating to shipment showing from whom shipped, quantity and dates of shipment; or

(c) Any other record or document which would reasonably tend to prove that any endangered species part claimed by the applicant to be a pre-Act endangered species part is in fact such a part.

§ 222.13–6 Burden of proof; presumption.

Any person claiming the benefit of any exemption or certificate of exemption under the Act or regulations, shall have the burden of proving that the exemption or certificate is applicable, has been granted, and was valid, and in force at the time of the alleged violation.

[FR Doc.76–24204 Filed 8–17–76;8:45 am]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 409—ARIZONA DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1974 and Succeeding Crop Years

APPENDIX—DISCONTINUANCE OF INSURANCE IN COUNTIES PREVIOUSLY DESIGNATED FOR ARIZONA DESERT VALLEY CITRUS CROP INSURANCE

The counties listed below are hereby deleted from the list of counties published in the FEDERAL REGISTER on November 11, 1975 (40 FR 52592), which were designated for citrus crop insurance for the 1976 crop year pursuant to the authority contained in § 409.30 of the above-identified regulations.

CALIFORNIA

IMPERIAL, RIVERSIDE

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

WARREN E. DIRKS,
Manager.

[FR Doc.76–24234 Filed 8–17–76;8:45 am]

PART 409—ARIZONA DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1974 and Succeeding Crop Years

APPENDIX—DISCONTINUANCE OF INSURANCE IN COUNTIES PREVIOUSLY DESIGNATED FOR ARIZONA DESERT VALLEY CITRUS CROP INSURANCE

The county listed below is hereby deleted from the list of counties published in the FEDERAL REGISTER on November 11, 1975 (40 F.R. 52592), which were designated for citrus crop insurance for the 1976 crop year pursuant to the authority contained in § 409.30 of the above-identified regulations.

ARIZONA

YUMA

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

WARREN E. DIRKS,
Manager.

[FR Doc.76–24233 Filed 8–17–76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Avocado Reg. 18, Amdt. 1]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Maturity Requirements

This amendment revises the maturity requirements for the Ruehle and Biondo varieties of avocados. Ruehle avocados can be shipped two weeks earlier on August 16 at a lower minimum weight or smaller diameter. Biondo avocados can be shipped on August 16 at a lower minimum weight. Currently, Biondo avocados must meet the specified higher minimum weight until December 27. Recently completed maturity studies on both varieties indicate they will be mature at the hereinafter specified dates, minimum weights, or diameters. Weight or diameter and picking dates are indices used at harvest to assure that avocados are mature and will ripen satisfactorily after picking.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the maturity requirements for the handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for the amendment stems from the current avocado crop maturity situation. Maturity studies on the specified varieties completed recently indicate that avocados of such varieties will be mature at the hereinafter specified dates, minimum weights, or diameters.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the

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time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of specified varieties of avocados.

§ 915.318 [Amended]

Order. (1) The provisions of paragraph (a) (2) of § 915.318 (Avocado Regulation 18; 41 FR 21336) are amended by revising in Table I the dates and minimum weights applicable to the Biondo variety and by deleting therefrom the variety Ruehle and the dates and minimum weights or diameters specified for such variety so that after such revision the portion of Table I relating to Biondo avocados reads as follows:

(a) (1) • • •

Variety	Date	Minimum weight or diameter (ounces)	Date	Minimum weight or diameter (ounces)	Date	Minimum weight or diameter (ounces)	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Biondo	Aug. 2, 1976	15	Aug. 16, 1976	12	Oct. 4, 1976		

• • • • •

(2) Paragraph (a) (6) of § 915.318 is redesignated as subparagraph (6) (ii) and a new subparagraph (6) (i) to read as follows is inserted after subparagraph (5) in such section:

(a) (1) • • •

(6) (i) No handler shall handle (*a*) prior to July 19, 1976, any Ruehle variety, avocados, (*b*) during the period July 19, 1976, through July 25, 1976, any Ruehle variety avocados unless the individual fruit in each lot of such avocados weighs at least 18 ounces, or is at least 3 11/16 inches in diameter, or (*c*) during the period July 26, 1976, through August 1, 1976, any Ruehle variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 9/16 inches in diameter, or (*d*) during the period August 2, 1976, through August 15, 1976, any Ruehle variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 7/16 inches in diameter, or (*e*) during the period August 16, 1976, through August 30, 1976, any Ruehle variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or at is at least 3 5/16 inches in diameter.

(6) (ii) • • •

• • • • •

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated, August 13, 1976, to become effective August 16, 1976.

DAVID A. PATTON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24235 Filed 8–17–76;8:45 am]

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Identification of Certified Mechantable Filberts

Notice was published in the July 16, 1976, issue of the FEDERAL REGISTER (41 FR 29411), on a proposal recommended by the Filbert Control Board to permit an alternate means of identifying merchantable filberts that have been inspected and certified. The proposal is in accordance with the provisions of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982; 40 FR 53226, 55829), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Interested persons were afforded an opportunity to submit written data, views, or arguments on the proposal. None were received.

Section 982.46(a) of the order requires each handler, at his own expense, to cause filberts to be inspected and certified by the Federal-State Inspection Service as meeting the then effective grade and size regulations before or upon handling such filberts, or before they may be credited in satisfaction of a restricted obligation. Section 982.46(b) requires all filberts so inspected and certified to be identified by seals, stamps, tags or other identification prescribed by the Filbert Control Board. Identification of certified merchantable filberts is necessary to enable the Board to administer the order, including the identification of certified merchantable filberts which are to be sold in normal market channels as inshell filberts, and certified merchantable filberts withheld as restricted filberts.

This action establishes an alternative means of identifying certified merchantable filberts which are to be handled as inshell filberts, commonly referred to in the industry as "free filberts" and restricted filberts. Currently, the identification requirements for certified merchantable filberts are set forth in § 982.446 of Subpart—Administrative Rules and Regulations (7 CFR 982.432–982.471).

The alternate identification consists of an outline of the combined States of Oregon and Washington with the words "This Product Inspected and Certified Per Federal Marketing Order No. 982" appearing within the outline. This identification may be imprinted directly on the bag or cartons (25 pounds, or more, capacity) used to package merchantable filberts that have been inspected and certified as such. When this imprint is used on these containers it must be placed in the upper right quarter of the printed side of the bag or the upper right quarter of any one side panel of the carton. The Board is to exercise control against unauthorized use of this alternative means of identification by approval of handler application for this method.

This action also establishes a new paragraph—§ 982.446(d)—defining the term "free filberts" to mean merchantable filberts which have been inspected and certified and will be handled. The term is used in the newly established paragraph (c) but currently has not been defined in the order or the administrative rules and regulations. The term "restricted filberts" is already defined in § 982.14.

After consideration of all relevant material presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board and othe ravailable information, it is found that identification of inspected and certified merchantable filberts is authorized by § 982.46(b) and that the alternate means provided for in this action should be established to accomplish the purposes of the act and the efficient administration of the order.

Therefore, § 982.446 of Subpart—Administrative Rules and Regulations (7 CFR 982.432–982.471) is amended by adding new paragraphs (c) and (d) reading as follows:

§ 982.446 **Inspection documentation.**

• • • • •

(c) In lieu of the identification requirements prescribed in paragraph (b) of this section for free and restricted filberts, any handler may, upon application to and approval by the Board, use the following identification on bags (25 pounds, or larger, capacity) and cartons:

(1) The words "This Product Inspected and Certified Per Federal Marketing Order No. 982" shall be contained within an outline of the combined States of Oregon and Washington; and

(2) This identification shall be printed on the upper right quarter of the printed side of a bag; or

(3) This identification shall be printed on the upper right quarter of one of the side panels of a carton.

(d) As used in this section, the term "free filberts" means merchantable filberts which have been inspected and certified and will be handled.

Dated August 12, 1976, to become effective September 20, 1976.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.76–24149 Filed 8–17–76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76–227]

PART 153—ANTIDUMPING

Tapered Roller Bearings and Certain Components From Japan

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that tapered roller bearings, and certain components thereof from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of September 6, 1974 (39 FR 32337)).

In a clarification of the determination of sales at less than fair value, the Secretary stated that the term "tapered roller bearings" includes inner race or cone assemblies and outer races or cups, either sold as a unit or separately. (Published in the FEDERAL REGISTER of October 29, 1974 (39 FR 38116)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on January 23, 1975, it notified the Secretary of the Treasury that an industry in the United States is likely to be injured by reason of the importation of tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately, from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (Published in the FEDERAL REGISTER of January 29, 1975 (40 F.R. 4366)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately, from Japan. Publications of this finding was delayed pending the completion of certain litigation (*The Timken Co. v. William E. Simon, et al.*, C.A.D.C., No. 75–1127, decided July 9, 1976) which affected the scope of the finding.

§ 153.46 [Amended]

Section 153.46 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately.	Japan	76–227

(Secs. 201, 407, 32 Stat. 11, as amended, 18; (19 U.S.C. 160, 173).)

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.76–24195 Filed 8–17–76;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 832]

EMPLOYMENT OF CIVIL AIR PATROL

Function and Organization

The existing part is designated as Subpart A—General Information, of Part 832, Sections 1 through 6. A new Subpart B—Cadet Program, was proposed in 41 FR 23971, June 14, 1976, consisting of Sections 10 through 16. The Department of the Air Force proposes to add a new Subpart C—Function and Organization, consisting of §§ 832.20–832.29.

This new Subpart describes the purposes, activities and organization of Civil Air Patrol (CAP), and sets forth Air Force policy in regard to it.

Interested persons are invited to comment on the proposed rulemaking on or before September 20, 1976. Written data, views, arguments concerning the proposal must be submitted in writing to Headquarters, USAF/REV, Washington, D.C. 20330. Comments and suggestions submitted will be available for public inspection and copying at the above address.

The proposed Subpart will read as follows:

Subpart C—Function and Organization

Sec.

832.20 Background information.
832.21 Purpose of CAP.
832.22 Membership categories.
832.23 Military status.
832.24 Uniform and grade structure of CAP, senior and cadet.
832.25 Organization.
832.26 CAP governing body.
832.27 Air Force liaison function.
832.28 Air Force policy.
832.29 Communications between Air Force commanders and Air Force liaison personnel.

Subpart C—Function and Organization

§ 832.20 Background information.

CAP was formed in December 1941 under the office of Civilian Defense to enlist and train civilian volunteers to aid in the national defense. In May 1943, CAP was transferred to the War Department for the remainder of World War II. CAP civilian volunteers, using light aircraft, flew numerous support and emergency missions throughout the war. In recognition of its wartime contributions and in realization of its future potential, CAP was established as a nonprofit, civilian corporation in 1946 (Pub. L. 79–476: 36 U.S.C. 201, et seq). Two years later it was made an auxiliary of the Air Force (Pub. L. 80–557: 10 U.S.C. 9441).

§ 832.21 Purpose of CAP.

(a) Congress stipulated that the purposes of CAP are:

(1) To provide an organization to encourage and aid American citizens in the contribution of their efforts, services and resources in the development of aviation and in the maintenance of air supremacy, and to encourage and develop by example, the voluntary contribution of private citizens to the public welfare;

(2) To provide aviation education and training especially to its senior and cadet members; to encourage and foster civil aviation in local communities and to provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

(b) To accomplish the purposes for which it was chartered, CAP:

(1) Conducts a continuous nationwide internal and external program of aerospace education, including the coordination of workshops conducted at colleges and universities.

(2) Conducts a comprehensive cadet program, including an International Air Cadet Exchange, special activities, and supervision of encampments at Air Force installations as described in Subpart B of this part.

(3) Maintains an emergency service capability to meet the requests of the Air Force for search and rescue, disaster relief, and other noncombat missions as described in Subpart A of this part.

(4) Conducts a comprehensive Senior Training Program to provide qualified personnel at all levels of CAP.

(5) Assists local, state, and other Federal agencies in emergency operations or activities.

(6) Conducts a flight management program for assigned aircrew members and a maintenance management program for corporate possessed aircraft.

(7) Maintains a nationwide communications capability to support emergency services operations and to conduct official CAP business.

(8) Assists the Air Force recruiting program.

§ 832.22 Membership categories.

CAP members are private citizens who volunteer without compensation, their time, services, and resources to accomplish CAP objectives and purposes. There are several categories of CAP membership; however, the majority of the members fall into one of the following:

(a) Cadets. Boys and girls 13 years of age (or having satisfactorily completed the sixth grade) through 17 years of age who met such prerequisites as the CAP corporation may establish from time to time. Cadet status may be retained until age 21.

(b) Seniors. Adults 18 years of age (there is no maximum age) who meet such prerequisites as the CAP corporation may establish from time to time.

§ 832.23 Military status.

CAP is not a military service. CAP members are not entitled to armed service veterans' benefits. Neither CAP membership nor grade confer upon the individual any of the rights, privileges or prerogatives, or benefits of military personnel, active, reserve or retired.

§ 832.24 Uniform and grade structure of CAP, senior and cadet.

Members wear a uniform and employ a grade structure similar to that of the Air Force; however, distinctive emblems, buttons, insignia and badges are employed to clearly identify the wearer as a member of CAP. Any changes to the currently approved uniforms, badges, insignia, or grade structure, must be approved by HQ USAF/DP before being tested or implemented by CAP.

§ 832.25 Organization.

The organizational structure of CAP is similar to that of the Air Force:

(a) National Headquarters. CAP National Headquarters is located at Maxwell AFB, Alabama.

(b) Regions. The United States is geographically divided into eight CAP regions. The composite boundaries of the eight regions include all of the 52 wings of CAP. Each region is supervised by a regional commander.

(c) Wings. Each of the eight regions is subdivided into wings, one for each of the 50 states, the District of Columbia and the Commonwealth of Puerto Rico. Each wing is supervised by a wing commander.

(d) Groups. If the geographical composition of its area and the number of its members so warrant, each wing may be subdivided into groups.

(e) Squadrons. Each wing, or each group, if a wing is subdivided into groups, is subdivided into squadrons.

(f) Flights. A unit is designated as a flight if the membership is insufficient to constitute a squadron.

§ 832.26 CAP governing body.

(a) National Board. CAP is governed by a National Board. The National Board consists of the National Commander who is the principal corporate officer, the National Vice Commander, Executive Director, National Finance Officer, National Legal Officer, all regional commanders, and all wing commanders. The Board meets annually to set corporate policy. When the Board is not in session, the National Executive Committee determines corporate policy.

(b) National Executive Committee. The National Executive Committee consists of the same members as the National Board, except that the Wing Commanders are not included. The committee meets quarterly, or as directed by the National Commander.

(c) National Commander. The National Commander is elected by the National Board and in addition to serving as Chairman of the National Board and NEC, functions as commander of CAP.

(d) Executive Director. The Executive Director generally administers the day-to-day activities of CAP. The Commander of the Air Force liaison function (CAP-USAF) assigned to CAP, serves as the Executive Director under authority provided in the corporate by-laws.

(1) As the Executive Director, this officer acts in his private capacity and not as an officer of the United States.

(2) In his military capacity, he commands all Air Force personnel assigned to duty with CAP.

§ 832.27 Air Force liaison function.

(a) Air Force personnel are assigned to liaison duty at the national, regional, and state (wing) levels of CAP. The liaison function is assigned under the major command responsibility of Air University.

(1) CAP–USAF. The headquarters of the liaison function is designated CAP–USAF. It is collocated with National Headquarters, CAP on Maxwell AFB, Alabama and the Commander is the senior Air Force officer assigned to liaison duty with CAP.

(2) Liaison Offices. Liaison offices at the region and wing levels are designated USAF–CAP–RLO and USAF–CAP–LO respectively.

(3) The purpose of the liaison function is:

(i) To advise and assist CAP in the fulfillment of its statutory objectives.

(ii) To provide liaison between CAP, the Air Force and other Department of Defense departments or agencies.

§ 832.28 Air Force policy.

(a) Air Force policy regarding CAP is derived from 10 U.S.C. 9441, which defines the status, support and employment of CAP with respect to the Air Force. The objectives and purposes of CAP are essential to the Air Force and the public welfare, and are to receive the maximum support possible, consistent with law and Air Force capability.

(b) Commanders of Air Force organizations and installations should be fully aware of the CAP program and the support that may be made available for the activities of this program. Personnel at all levels of the Air Force should be familiar with the purposes of CAP and its relationship to the Air Force. In this regard, Air Force liaison personnel assigned to duty with CAP should be contacted for information and assistance relative to CAP activities and the support authorized for these activities. To assist liaison personnel, a field grade officer should be designated at each Air Force installation to effect coordination of CAP activities. The name, rank, office symbol and telephone number of the designee will be provided to CAP–USAF/CV, Maxwell AFB, Alabama 36112.

(c) Commanders should establish contact with nearby CAP units as a matter of further communication and understanding of CAP activities as well as providing authorized support and assistance for their program. CAP provides an effective medium for contact with the public. Commanders may coordinate public affairs activities with nearby CAP units and will inform the public about CAP and its relationship to the Air Force.

§ 832.29 Communications between Air Force commanders and Air Force liaison personnel.

Communication between Air Force commanders and liaison personnel is authorized and encouraged on a direct basis, to coordinate matters relating to the function of the CAP.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc.76–24098 Filed 8–17–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2800]

RIGHTS-OF-WAY

Principles and Procedures Terms and Conditions

This proposal revises 43 CFR 2801.2–5(f). It is designed to resolve the problem of the assumption of liability for the use of a right-of-way issued to a State or other government agency with statutorily limited indemnification authority. The amendment provides that State or local governments, whose power to assume liability by agreement is limited by law, shall indemnify the United States to the extent they may legally do so.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

In accordance with the Department's policy on public participation in rulemaking (36 FR 8336) interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until September 18, 1976.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Legislation and Regulatory Management, Bureau of Land Management, Room 5555, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.—4:15 p.m.).

It is therefore proposed to revise 43 CFR Part 2800 in the manner set forth below.

Paragraph (f) of § 2801.1–5 is revised to read as follows:

§ 2801.1–5 Terms and conditions.

* * * * * *

(f) To pay to the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under the right-of-way; except that where a right-of-way is granted hereunder to a state or other governmental agency whose power to assume liability by agreement is limited by law, such agency shall indemnify the United States as provided above to the extent that it may legally do so.

AUGUST 11, 1976.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.76–24125 Filed 8–17–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 16]

LIMITATION ON IMPORTS OF MEAT

Regulations With Respect to Meat Processed in Foreign Trade Zones

Correction

In FR Doc. 76–24261 appearing on page 34777 in the issue of Tuesday, August 17, 1976 make the following changes:

1. On page 34778, column 1, the date in the last line of the second complete paragraph should read: "August 17, 1976."

2. Also on page 34778, column 2, the date in the last line of § 16.20 should read: "August 17, 1976."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing

[24 CFR Part 205]

[Docket No. R–76–413]

MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

Computation of Maximum Mortgage Amount Application and Commitment Procedures

Notice is hereby given that the Department proposes to amend Part 205 of Title 24 of the Code of Federal Regulations (1) to change the loan-to-value ratio used in determining the maximum mortgage which will be available to developers applying for Title X land development mortgage insurance; (2) to change the application and commitment processing procedures for the Title X land development program so that they will more closely parallel the processing procedures in the multifamily mortgage insurance programs; and (3) to change the surety bonding requirements in order to

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permit 50 percent performance and 50 percent payment bonds instead of 100 percent bonds which are presently required. The rationale behind the first change is that it is undesirable, from an underwriting standpoint, for the Department's insurance risk to be based on a land value which includes a profit to the developer resulting from an increase in value subsequent to acquisition. For that reason, the proposed regulation limits the land value included in the mortgage amount to the lesser of (1) 80 percent of the Commissioner's estimate of the value of the land before development, or (2) the acquisition cost of the land or the outstanding indebtedness against the land, whichever is greater, provided, that, any indebtedness incurred within two years prior to the date of the application for a Site Appraisal and Market Analysis (SAMA) letter shall not be treated as an indebtedness.

The second change establishes an application fee for issuance of a SAMA letter of $1 per thousand dollars of the requested mortgage amount. The effect and terms of the SAMA letter and conditional commtiment are specified.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views and suggestions. Communications should identify the subject matter by title and docket number and should be filed with the Rules Docket Clerk, Office of the Secretary Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All relevant material received on or before September 16, 1976, will be considered before adoption of the final rule. Copies of comments received will be available for examination during business hours at the above address.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding of Inapplicability, in accordance with HUD's environmental procedures handbook (HUD Handbook 1390.1), is available for inspection at the Office of the Rules Docket Clerk, at the above address.

Accordingly, the Secretary proposes to amend Part 205 of Title 24 of the Code of Federal Regulations to read as follows:

1. Subpart A of the Table of Contents to Part 205 is amended by changing the second centered heading and the section headings thereunder, by adding a new § 205.9 and heading, and by deleting § 205.12 and the heading, as follows:

APPLICATIONS, SAMA LETTER AND COMMITMENTS

205.5 Applications.
205.7 Effect and terms of SAMA Letter.
205.9 Effect and terms of commitments.
• • • • •
205.12 [Deleted].
• • • • •

2. The centered heading, "Preliminary Examination and Application," and § 205.5 are amended to read as follows:

APPLICATIONS, SAMA LETTER AND COMMITMENTS

§ 205.5 Applications.

(a) An application for the issuance of a site appraisal and market analysis (SAMA) letter must be submitted by the project sponsor. An application for a conditional or firm commitment for insurance of a mortgage shall be submitted by the project sponsor and an approved mortgagee. An applicant may initially elect to submit an application to the local HUD office for a SAMA letter, conditional pending upon the completeness of the drawings, specifications and other required exhibits. An applicant also may elect to proceed directly to the firm commitment processing stage after issuance of a SAMA letter.

(b) All applications shall be submitted to the local HUD field office on HUD approved forms. No application shall be considered unless the information, documents and exhibits required in connection with the application form are submitted with it.

3. Section 205.7 is amended to read as follows:

§ 205.7 Effect and term of SAMA letter.

(a) *Effect of SAMA letter.* The issuance of a SAMA letter indicates that HUD has completed the site appraisal and market analysis stage of processing to determine initial acceptability of the site and recognition of a specific market need. The SAMA letter is not a commitment to insure a mortgage for the proposed land development and does not bind HUD to issue either a conditional or a firm commitment to insure. The SAMA letter precedes the later submission of acceptable plans, specifications and other data for the proposed land development and is limited to advising the applicant as to the following determinations of the Commissioner which shall not be changed to the detriment of an applicant if the application for a conditional or firm commitment is received before expiration of the SAMA letter:

(1) The "as-is" value of the land;

(2) The value of typical lots (in the first stage, if a staged land development project) after development;

(3) The acceptability of the type of project proposed; and

(4) The acceptability of any community improvements proposed or required (in the first stage, if a staged land development project);

(5) The completion of an environmental assessment and clearance (including Environmental Impact Statement, if necessary) pursuant to Departmental instructions and regulations.

Where the application is not acceptable as submitted, but can be made acceptable by a change in the size or nature of the development, the SAMA letter may establish an acceptable alternative plan based on such changed land development project.

(b) *Term of SAMA letter.* A SAMA letter shall be effective for whatever term is specified in the letter.

4. A new section numbered 205.9 is added as follows:

§ 205.9 Effect and terms of commitments.

(a) *Effect of conditional commitment.* The issuance of a conditional commitment indicates completion of technical processing involving:

(1) The market for the proposed land development project and the estimated absorption period;

(2) The acquisition cost of the land;

(3) The acreage, number of lots and community improvements;

(4) The estimated development cost of the project and the estimated construction period;

(5) The financial requirements and the mortgage amount;

(6) The financial and credit capacity of the sponsorship; and

(7) The Development Report for the proposed project, which is prepared by the field offices, and which incorporates the construction schedule, the building program, land uses, and all required development improvements that are to be installed in the project.

(b) *Effect of firm commitment.* The issuance of a firm commitment indicates HUD's approval of the application for insurance and sets forth the terms and conditions upon which the mortgage will be insured.

(c) *Rejection of an application.* A significant deviation in an application from the terms or findings arrived at in an earlier stage, as evidenced by the SAMA letter or conditional commitment, shall be grounds for rejection of an application for conditional or firm commitment, respectively. The fees paid to such date shall be considered as having been earned notwithstanding such rejection.

(d) *Types of firm commitment.* The firm commitment may provide for the insurance of advances of mortgage money made during construction or may provide for the insurance of the mortgage after completion of the improvements.

(e) *Terms of commitments.* (1) A conditional commitment shall be effective for whatever term is specified in the text of the commitment.

(2) A firm commitment to insure advances shall be effective for a period of not more than 180 days from the date of issuance.

(3) A firm commitment to insure upon completion shall be effective for a designated term within which the mortgagor is required to begin construction, and, if construction is begun as required, the commitment shall be effective for such additional period, estimated by HUD, as will allow for completion of construction.

(4) The term of either a conditional or firm commitment may be extended in such a manner as HUD may prescribe.

(f) *Reopening of expired commitments.* An expired conditional or firm commitment may be reopened if a request for reopening is received by HUD within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by HUD within the required 90-day period, a new application, accompanied by the required application and commitment fees must be submitted.

5. Section 205.10 is amended to read as follows:

§ 205.10 Application and commitment fees.

(a) *Application fee—SAMA letter.* An application fee of $1 per thousand dollars of the requested mortgage amount to be insured shall accompany the application for a SAMA letter.

(b) *Application fee—conditional commitment.* An application fee of $1 per thousand dollars of the requested mortgage amount to be insured shall accompany the application for conditional commitment in cases in which the application fee for an unexpired SAMA letter has been collected. A fee of $2 per thousand dollars of the requested mortgage amount to be insured shall accompany the application for conditional commitment in cases in which the SAMA application fee has been paid but the SAMA letter has expired or in cases in which a SAMA application fee has not been paid.

(c) *Application fee—firm commitment.* An application for firm commitment shall be accompanied by an application fee which, when added to prior fees received in connection with applications for the SAMA letter and the conditional commitment, will aggregate $4.50 per thousand dollars of the requested mortgage amount to be insured.

§ 205.12 [Deleted]

6. Section 205.12 is hereby deleted.

7. Section 205.55 is revised to read as follows:

§ 205.55 Maximum mortgage amount—loan-to-value limitation.

A mortgage shall involve a principal obligation not in excess of the lesser of the following:

(a) 90 percent of the Commissioner's estimate of the development cost plus 80 percent of the Commissioner's estimate of the value of the land before development; or

(b) 100 percent of the Commissioner's estimate of the development cost plus the greater of the acquisition cost or outstanding indebtedness against the land; *Provided, however,* That any indebtedness incurred within two years prior to the date of the SAMA application shall not be treated as an indebtedness for the purpose of this section.

8. Section 205.82(a)(1) is revised to read as follows:

§ 205.82 Assurance of completion.

(a) • • •

(1) Performance and payment bonds issued by a surety company satisfactory to the Commissioner on forms approved by the Commissioner. Such bonds shall be in the amount of 50 percent of the cost of improvements as estimated by the Commissioner.

• • • • • •

(Sec. 7(d), Department of Housing and Urban Development Act; (42 U.S.C. 3535 (d)))

NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-1-07.

Issued at Washington, D.C, August 9, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing.

[FR Doc.76-24161 Filed 8-17-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[SPDR-30A; Docket No. 24636; Dated August 13, 1976]

DISCRIMINATION OF AIRLINE EMPLOYMENT

Notice Terminating Proceeding

By advance notice of proposed rulemaking SPDR-30, dated July 27, 1972,[1] the Board gave notice that it was considering whether it should issue a notice of proposed rulemaking concerning racial, sexual, religious, and ethnic discrimination in airline employment practices. The Board invited comment on the question of whether it had constitutional or statutory responsibility or jurisdiction to adopt rules prohibiting discrimination in airline employment, or to consider air carriers' employment practices as an element of the public interest when passing upon various types of applications. In addition, the Board sought suggestions as to how it should exercise such discretion as it might have to act in these areas.

Comments in response to the Advance Notice were filed by the Air Line Pilots Association, International (ALPA); the Air Transport Association of America, on behalf of certain of its members;[2] American Airlines, Inc.; jointly by the American Civil Liberties Union, Center for Community Change, National Urban League, Inc., and Women's Equity Action League;[3] the American Jewish Congress; the Aviation Consumer Action Project; the Equal Employment Opportunity Commission (EEOC); the Department of Justice; jointly by the Office of Communication of the United Church of Christ, Barbara W. McCall, and the National Organization of Women;[4] the Office of Federal Contract Compliance of the Department of Labor (OFCC); the Mexican-American Legal Defense and Educational Fund; Southern Air Transport, Inc.; the U.S. Civil Rights Commission; the Department of Transportation; and World Airways, Inc.

In general, the carriers and ALPA contended that the Board may not, and in any event should not, adopt regulations with regard to employment discrimination by air carriers.[5] The other comments argued generally that the Board has the authority, and even an affirmative obligation, to take action against discrimination in airline employment, and that it should do so.

Further action in this proceeding was duly deferred pending the final outcome of judicial proceedings which had been instituted by the National Association for the Advancement of Colored People (NAACP) against the Federal Power Commission (FPC) seeking determination of the same legal issue which is here involved, viz., whether a Federal regulatory agency has the authority or duty to adopt rules prohibiting employment discrimination practices of those businesses over which it has economic regulatory jurisdiction. That issue has now been finally resolved by the Supreme Court, in *NAACP* v. *FPC*, U.S. 44 Law Week 4659 (1976), in a decision which seems clearly applicable to this proceeding. Specifically, the Court held that the FPC has no authority to prohibit discriminatory employment practices, since the broad references to the "public interest" in its enabling statute only relate to its mission of promoting orderly development of power sources at reasonable rates, and are "not a directive to the Commission to seek to eradicate discrimination." (44 Law Week 4662). On the other hand, the Court concluded that the FPC could "consider the consequences of employment discrimination in performing its mandated regulatory functions." (44 Law Week 4659, 4660, n. 2.)

Upon consideration of the comments, in light of the Supreme Court's decision in *NAACP* v. *FPC*, supra, the Board has concluded that, for the reasons hereinafter set forth, no regulations should be adopted in this proceeding.

The statutory mandate of the Civil Aeronautics Board, under the Federal Aviation Act of 1958, as amended, can-

[1] 37 F.R. 15518, August 3, 1972.

[2] Alaska Airlines, Inc., Allegheny Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

[3] The Women's Equity Action League also filed a separate comment.

[4] The Task Force on Women of the United Presbyterian Church in the U.S.A., and the United Church of Christ Task Force on Women in Church and Society, filed documents expressing concurrence in the comments of Office of Communication, et al.

[5] American said that the Board may have the power to regulate air carriers' employment practices, but cautioned that any such regulation should be designed to avoid duplication of the efforts of other agencies.

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not be significantly distinguished from the FPC's enabling statutes, as discussed and analyzed by the Supreme Court in *NAACP v. FPC*, insofar as it was there held that such legislative authority does not empower a regulatory agency to adopt rules prohibiting its regulatees from engaging in discriminatory employment practices. Consequently, there is no doubt that the Board should not proceed to consider adoption of rules specifically intended to eliminate such practices by its regulatees. Similarly, there is no doubt that our enabling legislation is sufficiently similar to that of the FPC so as to make applicable to the Board the Supreme Court's further holding that costs attributable to a carrier's discriminatory employment practices must be disallowed for ratemaking purposes (44 Law Week 4659, 4661).

However, it should be noted that we do not understand the Supreme Court's decision in *NAACP v. FPC* to preclude the Board from considering, as a relevant factor in appropriate proceedings, the consequence of a carrier's or other applicant's noncompliance with laws that are not within our primary regulatory jurisdiction, including those barring discrimination in employment. Thus, for example, in Order 73-10-2, there was an express finding as to the compliance of South African Airways with Title VII of the Civil Rights Act of 1964, prohibiting discrimination in employment; and we shall continue to regard evidence of unlawful employment discrimination (and other kinds of unlawful conduct) as relevant in such matters as applications for operating authority or approval of mergers,[6] as well as in considering the manner in which an applicant's past violations of such laws reflect on its fitness to properly perform its obligation under the Federal Aviation Act and our rules.[7]

There is narrow language in *NAACP v. FPC* casting some doubt on whether the FPC must, or may, consider a regulatee's discriminatory employment practices for any purpose other than as a factor having direct ratemaking consequences.[8] However, we believe that, in context, the Supreme Court did not intend to express disagreement with the Court of Appeals' broader statement, which it quoted (44 Law Week 4659, 4660), to the effect that: "the Commission does have 'power to take into account, in the performance of its regulatory functions, *including licensing and rate review*, evidence that the regulatee is a demonstrated discriminator in its employment relations.'" (Emphasis added)

In the absence of unambiguous judicial disapproval, we are loath to conclude that the Supreme Court's opinion in *NAACP v. FPC* must be read as compelling the Board to abandon its willingness to receive evidence relevant to weighing the consequences of unlawful employment practices—like any other unlawful conduct violative of major national policies—in appropriate proceedings.

Although, as stated above, discriminatory employment practices of our regulatees are relevant for some Board purposes, there appears to be no need for any new rule to be promulgated at this time with respect to their appropriate consideration, since our existing procedures[9] have not been shown to be inadequate.

In reaching this conclusion, the Board notes that while the Board itself has not been authorized to regulate airline employment, the Federal Government has nevertheless provided ample other means for requiring and monitoring affirmative action equal opportunity programs to eradicate discrimination in airline employment. The carriers are subject to the antidiscrimination provision of Title VII of the Civil Rights Act and are under the civil enforcement cognizance of the Equal Employment Opportunity Commission for their employment practices in regard to discrimination. In addition, they are liable to suit by the Department of Justice to compel compliance with Title VII of the Civil Rights Act where a pattern or practice of discrimination is found. As contractors with the Federal Government, they are also subject to the affirmative action requirements of Executive Order 11246, and their activities in this regard are guided by policies of the Office of Federal Contract Compliance and regularly monitored for compliance specifically by the Federal Aviation Administration.

Accordingly, the Board hereby terminates the rulemaking proceeding in Docket 24636.[10]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24225 Filed 8-17-76;8:45 am]

[6] See *Palisades Citizens Association, Inc. v. C.A.B.*, 420 F.2d 188 (D.C. Cir., 1969), holding that the Board, in awarding a route, was bound to consider the environmental impact of the award as an element of the public interest. This was so even though the Board had no explicit environmental responsibility at the time the case was decided, and other governmental departments did have specific authority with respect to environmental matters. *Cf. Denver Rio Grande, Western Railroad Co. v. U.S.*, 387 U.S. 458 (1967).

[7] See *Great Lakes Airlines, Inc. v. C.A.B.*, 294 F.2d 217 (D.C. Cir., 1961) cert. den. 366 U.S. 965 (1961).

[8] *E.g.*, the majority opinion concluded with the statement that the FPC "is authorized to consider the consequences of discriminatory employment practices on the part of its regulatees *only insofar as such consequences are directly related* to • • • the establishment of just and reasonable rates in the public interest." (44 Law Week 4659, 4662) (Emphasis added)

[9] See 14 CFR Part 302, and particularly §§ 302.14 and 302.15.

[10] In view of our action herein, the petition for rulemaking filed by Future Lawyers Investigating Transportation Employment, in Docket 22928, is also hereby denied.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20889]

FM BROADCAST STATIONS IN MARKSVILLE, LA.

Table of Assignments

In the matter of Amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Marksville, Louisiana), Docket No. 20889, RM-2683.

1. *Petitioner, Proposal and Comments.*—(a) Notice of proposed rulemaking is hereby issued concerning the amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with regard to Marksville, Louisiana.

(b) A petition for rule making was filed by Clifton Mayeux (petitioner) proposing the assignment of Channel 221A to Marksville, Louisiana. No opposition responses to the filing have been received.

2. *Community Data.*—(a) *Location.* Marksville, the seat of Avoyelles Parish, is located approximately 62 miles north of Lafayette, Louisiana.

(b) *Population.* Marksville, 4,519; Avoyelles Parish, 37,751.[1]

(c) *Local Broadcast Service.* Marksville is served by an AM-FM combination—KAPB and KAPB-FM (Channel 249A), Marksville, licensed to Avoyelles Broadcasting Corp.

3. *Economic Data.*—Petitioner describes the Marksville area as the "Shangri-La of the South" which attracts sportsmen and campers from all over the United States. He states that some of the materials produced in the area are pulp, soybeans, cotton, cottonseed oil, potatoes, and many other food products. Petitioner also submitted information with respect to education, recreation, medical and religious facilities, transportation, and public organizations.

4. Preclusion Studies.—Preclusion on commercial channels is limited to Channel 221A. Seven communities (Ville Platte, Oakdale, Glenmora, Mamou; Basile, Bunkie, and Oberlin), with populations greater than 1,000 would be precluded as a result of the proposed assignment of Channel 221A to Marksville. Two of these communities (Ville Platte and Oakdale) each has an AM daytime-only station and a Class A FM station. The remaining five have no local aural broadcast service. A study indicates that Channel 292A is available for assignment to the latter five communities. Channel 292A could not be assigned to Marksville because of separation considerations. Although preclusion would also occur on Channels 218, 219 and 220, Marksville and Avoyelles Parish are sufficiently removed from the service areas of Channel 6 television stations at New Orleans, Louisiana, and Beaumont, Texas, that the assignment of Channel 221A to Marksville would not preclude assignment of FM stations on the lower end of the educational band if need should arise.

5. Petitioner states that, in view of the population of the community and surrounding areas, another Class A station is needed at Marksville. He adds that another FM station would stimulate the economy and better serve the people. Since, under our population criteria, one or two assignments could be assigned to Marksville, we believe consideration of the above proposal in a rulemaking proceeding is warranted.

6. In view of the foregoing, we propose the following revision in the FM Table of Assignments (§ 73.202(b) of the rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Marksville, La.	249A	221A, 249A

7. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

8. Interested parties may file comments on or before September 20, 1976, and reply comments on or before October 12, 1976.

Adopted: August 6, 1976.

Released: August 12, 1976.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, 73.202(b) of the Commission's rules and regulations, as set forth above.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth above. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76-24180 Filed 8-17-76;8:45 am]

[1] All population figures cited are from the 1970 U.S. Census.

FEDERAL ENERGY OFFICE

[10 CFR Part 205]

INTERNATIONAL VOLUNTARY AGREEMENTS

Administrative Procedures; Cancellation of Hearings

On July 1, 1976, the Federal Energy Administration (now the Federal Energy Office, FEO) issued a notice of proposed rulemaking concerning administrative procedures applicable to international voluntary agreements (41 FR 27976, July 8, 1976). The public hearing on the proposal was scheduled for August 18, 1976, it is hereby cancelled. In all other respects, the notice remains the same.

Issued in Washington, D.C. August 12, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Office.

[FR Doc.76-24159 Filed 8-13-76;11:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MERCANTILE NATIONAL BANK

Suspension of Trading

It appearing that an extension of the Order, issued August 2, 1976, suspending trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is required in the public interest and for the protection of investors;

Therefore, pursuant to Sections 12(i) and 12(k) of the Securities Exchange Act of 1934, the suspension of trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is hereby extended for the ten-day period commencing at midnight (EDT) on August 12, 1976, and terminating at midnight (EDT) on August 22, 1976.

Dated: August 12, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-24188 Filed 8-17-76;8:45 am]

Office of the Secretary

AUTOMOBILES FROM BELGIUM

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from Belgium were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33755).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from Belgium. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3490).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20188). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from Belgium The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to section 153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from Belgium were manufactured and exported by General Motors Continental, N.V., Saab Europe, N.V., and Volvo Europe, N.V. Therefore, the investigation was limited to these three manufacturers.

b. *Bases of Comparison.* For purposes of this discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicates that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from Belgium during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs and freight, as appropriate.

d. *Home market price.* Home market price was calculated on the basis of the price from an independent distributor to related and unrelated dealers for Saab, on the basis of Volvo Europe, N.V. price to unrelated dealers for Volvo, and on the basis of General Motors Corporation price to independent franchised dealers for General Motors Continental. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

e. *Results of comparisons.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation and has indicated that during the period of investigation sales to the United States were made at prices below those of comparable models sold in the Belgian home market. This investigation is being discontinued due to the receipts of certain specialized commitments from the automobile exporters in Belgium who had sales to the United States at prices lower than comparable Belgian home market prices.

The particular commitments were devised in accordance with the data collected from the Belgian automobile manufacturers and reflect the steps, as appropriate, which have been taken by said manufacturers since the initiation of the investigation to reduce or eliminate the extent to which prices to the United States were lower than Belgian home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created by factors beyond the control of the Belgian automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in the United States, but not required on automobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to this situation, especially in view of the recessionary nature of the U.S. auto market during the period of the investigation as the result of general economic conditions.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Belgium is discontinued in accordance with section 201(b)(1)(C), of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976

[FR Doc.76-24197 Filed 8-17-76;8:45 am]

AUTOMOBILES FROM CANADA

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). The information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33755).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from Canada. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3488).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20189). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from Canada. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from Canada were manufactured and sold by American Motors (Canada) Ltd., Chrysler Canada, Ltd., Ford Motors Canada Ltd., General Motors of Canada, Ltd., and Volvo Canada, Ltd.

b. *Basis of comparison.* For purposes of this discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicates that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from Canada during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duties, ocean freight, wharfage, marine insurance, handling costs, U.S. federal excise tax, and freight, as appropriate. Additions have been made for drawback of Canadian import duties, and Canadian federal sales tax, as applicable.

d. *Home market price.* Home market price was calculated on the basis of the billing price or wholesale price to unrelated dealers, as appropriate. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

e. *Results of comparisons.* Information collected in the Customs investigation indicates that sales to the United States were made at prices below those of comparable models sold in the Canadian home market. (The margins of sales at less than fair value for American Motors, however, were minimal.) However, this investigation is being discontinued due to the receipt of certain specialized commitments from the automobile manufacturers and exporters in Canada which had sales to the United States at prices below Canadian home market prices. These commitments reflect the integrated North American automobile industry which has developed under the auspices of the United States—Canadian Automobile Agreement.

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The agreement, implemented by Congress in the Automotive Products Trade Act of 1965, fostered the integration of the United States and Canadian automobile industries through various mechanisms, most importantly, the duty-free treatment of automobiles imported from Canada, with similar treatment given to certain United States automotive products imported into Canada. In 1965, due to inefficiencies in the respective industries and the marketing situation prior to the Agreement, price differentials between the United States and Canadian models ranged from 21 percent to 45 percent. Since that time, however, there has been a constant and significant reduction in wholesale price differentials. There is good reason to believe that this trend will continue, and that a discontinuance of this investigation will promote that trend. It is anticipated that the United States and Canadian governments and automobile manufacturers will continue to cooperate in achieving this objective.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Canada is discontinued in accordance with section 201(b)(1)(C), of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

AUGUST 13, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-24198 Filed 8-17-76;8:45 am]

AUTOMOBILES FROM FRANCE

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from France were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33756).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from France. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3488).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20193). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from France. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from France were manufactured and exported by Automobiles Peugeot and Regie Nationale des Usines Renault. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of comparison.* For purposes of this tentative discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicates that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from France during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs and freight, as appropriate.

d. *Home market price.* Home market price was calculated on the basis of the appropriate price to dealers for Peugeot and Renault. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

e. *Results of comparisons.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation in the Customs investigation and has indicated that during the period of investigation sales to the United States were made at prices below those of comparable models sold in the French home market. This investigation is being discontinued due to the receipt of certain specialized commitments from the automobile exporters in France who had sales to the United States at prices lower than comparable French home market prices.

The particular commitments were devised in accordance with the data collected from the French automobile manufacturers and reflect the steps, as appropriate, which have been taken by said manufacturers since the initiation of the investigation to reduce or eliminate the extent to which prices to the United States were lower than French home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created artifically by factors beyond the control of the French automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in the United States, but not required on automobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to this situation, especially in view of the recessionary nature of the U.S. auto market during the period of the investigation as the result of general economic conditions.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Franch is discontinued in accordance with section 201(b)(1)(C), of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.76-24199 Filed 8-17-76;8:45 am]

AUTOMOBILES FROM ITALY

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from Italy were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33756).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from Italy. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secertary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3489).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20192). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation.

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from Italy. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 153.33(d), Customs Regulations (19 C.F.R. 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from Italy were manufactured and exported by Fiat, S.p.A., and Alfa Romeo, S.p.A. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of comparisons.* For purposes of this discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicated that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from Italy during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, brokerage, ocean freight, marine insurance, handling costs and freight, as appropriate. An addition was made for the rebate of taxes upon export.

d. *Home market price.* Home market price was calculated on the basis of the retail price, with appropriate wholesale discounts, for both manufacturers. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise, in packing, and in level of trade, as appropriate.

e. *Results of comparisons.* Information was collected on more than 80 percent of the automobiles sold to the United States during the period of investigation and has indicated that during the period of investigation sales to the United States were made at prices below those of comparable models sold in the Italian home market. However, this investigation is being discontinued due to the receipt of certain specialized commitments from the automobile exporters in Italy who had sales to the United States at prices lower than comparable Italian home market prices.

The particular commitments were devised in accordance with the data collected from the Italian automobile manufacturers and reflect the steps, as appropriate, which have been taken by said manufacturers since the initiation of the investigation to reduce or eliminate the extent to which prices to the United States were lower than Italian home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created by factors beyond the control of the Italian automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in the United States, but not required on automobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to

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this situation, especially in view of the recessionary nature of the U.S. auto market during the period of the investigation as the result of general economic conditions.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Italy is discontinued in accordance with section 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and § 153–33(d), Customs Regulations (19 CFR 153.33(d)).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

AUGUST 13, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76–24220 Filed 8–17–76;8:45 a.m.]

AUTOMOBILES FROM JAPAN

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq., (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33756).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, or reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from Japan. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3489).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20193). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from Japan, other than those manufactured and sold by Honda Motor Co., Ltd., Nissan Motor Co., Ltd., and Toyota Motor Co., Ltd. For the reasons stated below, Honda, Nissan, and Toyota are excluded from the investigation and were not required to submit the commitments described hereinafter. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from Japan were manufactured and exported by Fuji Heavy Industries, Ltd., Honda Motor Co., Ltd., Mitsubishi Motors, Ltd., Nisson Motor Co., Ltd., Toyo Kogyo Co., Ltd., and Toyota Motor Co., Ltd. Therefore the investigation was limited to these six manufacturers.

b. *Bases of comparison.* For purposes of this discontinuance, the proper basis of comparison is between either the purchase price or exporter's sales price as appropriate, and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used where export sales appeared to be made to nonrelated prices in the United States. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used where the information gathered indicated that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 C.F.R. 153.31(b)), pricing information was obtained concerning imports of automobiles from Japan during the period January 1, 1975 through August 31, 1975, and appropriate home market sales.

c. *Purchase price.* Purchase price was calculated on the basis of the f.o.b. Japanese port packed price of the exporting firm to unrelated distributors in the United States. Deductions were made for inland freight and insurance, f.o.b. charges, royalty payments, ocean freight, marine insurance, and handling charges, as appropriate. An addition was made for Japanese commodity taxes.

d. *Exporters' sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs and freight, as appropriate. An addition was made for Japanese commodity taxes.

e. *Home market price.* Home market price was calculated on the basis of the adjusted ex-factory prices to related and unrelated dealers, as appropriate. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

f. *Results of comparison.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation and has indicated that during the period of investigation some sales to the United States were made at prices below those of comparable models sold in the Japanese home market. Less than fair value margins for Fuji and Mitsubishi were determined to be minimal during the period of investigation. This investigation is being discontinued as to Fuji, Mitsubishi and Toyo Kogyo due to the receipt of certain specialized commitments from the three automobile exporters in Japan who had sales to the United States at prices lower than comparable home market prices.

The particular commitments were devised in accordance with the data collected from the Japanese automobile manufacturers and reflect the steps, as appropriate, which have been taken by said manufacturers since the initiation of the investigation to eliminate the extent to which prices to the United States were lower than Japanese home market prices.

The discontinuance, as to Toyo Kogyo, has been determined to be the appropriate procedure because of the unique circumstances found to exist in the auto industry during the period of investigation. In particular, extensive end of model year discounts, necessitated by extremely depressed conditions in the industry were given consideration as the Secretary deemed appropriate.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Japan is discontinued in accordance with section 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 C.F.R. 153.33(d)).

Insofar as automobiles manufactured and sold by Honda Motor Co., Ltd., Nissan Motor Co., Ltd., and Toyota Motor Co., Ltd., are concerned, virtually all export sales to the United States by these three companies during the representative period were examined and, but for an insignificant number of sales with de minimus margins, no sales at less than fair value were found on sales to the United States by Honda, Nissan, and Toyota. Accordingly, these three companies were not requested to submit commitments, nor will imports from these companies be subject to monitoring by the Treasury Department.

This notice is published pursuant to § 153.33(d), Customs Regulations (19 C.F.R. 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.76–24200 Filed 8–17–76;8:45 am]

AUTOMOBILES FROM SWEDEN

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from Sweden were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 FR 33757).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from Sweden. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Procedure Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3490).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20194). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from Sweden. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 253.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from Sweden were manufactured and exported by Saab Scania, A.B., and A.B. Volvo. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of comparison.* For purposes of this discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicates that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from Sweden during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs and freight, as appropriate.

d. *Home market price.* Home market price was calculated on the basis of the price from a wholly owned distributor to related and unrelated dealers for Saab and on the basis of Volvo prices to unrelated dealers for Volvo. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

e. *Results of comparisons.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation and has indicated that during the period of investigation sales to the United States were made at prices below those of comparable models sold in the Swedish home market. This investigation is being discontinued due to the receipt of certain specialized commitments from the automobile exporters in Sweden who had sales to the United States at prices lower than comparable Swedish home market prices.

The particular commitments were devised in accordance with the data collected from the Swedish automobile manufacturers and reflect the steps, as appropriate, which have been taken by said manufacturers since the initiation of the investigation to reduce or eliminate the extent to which prices to the United States were lower than Swedish home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created by factors beyond the control of the Swedish automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in

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the United States, but not required on automobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to this situation, especially in view of the recessionary nature of the U.S. auto market during the period of the investigation as the result of general economic conditions.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from Sweden is discontinued in accordance with section 201(b)(1)(C), of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 C.F.R. 153.33(d)).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 C.F.R. 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury,

AUGUST 13, 1976.

[FR Doc.76-24201 Filed 8-17-76;8:45 am]

AUTOMOBILES FROM THE UNITED KINGDOM

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from the United Kingdom were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 F.R. 33757-58).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from the United Kingdom. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3488).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20195). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from the United Kingdom, other than those manufactured and sold by Rolls Royce Motors, Limited. For the reasons stated below Rolls Royce is excluded from the investigation and was not required to submit the commitments described hereinafter. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to §153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from the United Kingdom were manufactured and exported either by British Leyland, Limited, and its subsidiaries, or by Rolls Royce Motors, Limited, and its subsidiaries. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of comparison.* For purposes of this tentative discontinuance, the proper basis of comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since the information gathered indicates that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exporter. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of automobiles from the United Kingdom during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, federal excise tax, brokerage, ocean freight, insurance, handling costs and freight, as appropriate. Addition was made for U.K. duty remission, as appropriate.

d. *Home market price.* Home market price was calculated on the basis of the price from British Leyland, Limited, to both unrelated and independent distributors and on the basis of Rolls Royce, Limited, price to unrelated dealers for Rolls Royce. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

e. *Results of comparisons.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation and has indicated that during the period of investigation sales to the United States by British Leyland were made at prices below those of comparable models sold in the United Kingdom home market. However, this investigation is being discontinued due to the receipt of certain specialized commitments from British Leyland.

The particular commitment was devised in accordance with the data collected from British Leyland, Ltd., and reflects the steps, as appropriate, which have been taken by said manufacturer since the initiation of the investigation to eliminate the extent to which prices to the United States were lower than United Kingdom home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created artificially by factors beyond the control of the United Kingdom automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in the United States, but not required on autobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to this situation, especially in view of the recessionary nature of the U.S. auto market during the period of the investigation as the result of general economic considerations.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from the United Kingdom is discontinued in accordance with 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

Insofar as automobiles manufactured and sold by Rolls Royce Motors, Limited, are concerned, all export sales to the United States by this company during the representative period were examined and no sales at less than fair value were found on sales to the United States by Rolls Royce. Accordingly, this company was not requested to submit commitments, nor will imports from Rolls Royce be subject to monitoring by the Treasury Department.

This notice is published pursuant to 153.33(d), Customs Regulations (19 CFR 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.76-24203 Filed 8-17-76;8:45 a.m.]

AUTOMOBILES FROM WEST GERMANY

Discontinuance of Antidumping Investigation

On July 8, 1975, information was received in proper form alleging that automobiles from West Germany were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 11, 1975 (40 F.R. 33758).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. However, the evidence on record, as set forth in the proceeding notice, was such that the Secretary of the Treasury concluded that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

On September 8, 1975, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automobiles from West Germany. Accordingly, the Customs investigation in this proceeding was not terminated.

During the course of the investigation, the Secretary determined that a tentative determination could not reasonably be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended to no more than 9 months from the date of publication of the "Antidumping Proceeding Notice" and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of January 23, 1976 (41 FR 3489).

A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER of May 17, 1976 (41 FR 20196). The tentative discontinuance was made in accordance with the provisions of § 153.33(a)(3), Customs Regulations (19 CFR 153.33(a)(3)), which provide that a discontinuance may be published "whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation."

FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby announce a discontinuance of the antidumping investigation concerning automobiles from West Germany, other than those manufactured by Porsche, A.G. For the reasons stated below, Porsche is excluded from the investigation and was not required to submit the commitments described hereinafter. The special considerations set forth below reflect the unique circumstances found to exist in the automobile industry, during the investigative period, and are indicative of why it has been determined that the usual procedures would be modified in this investigation. In accordance with these special considerations, this "Notice of Discontinuance of Antidumping Investigation" is issued pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

STATEMENT OF CONDITIONS ON WHICH THIS DISCONTINUANCE IS BASED

The conditions and bases for the above discontinuance are as follows:

a. *Scope of the investigation.* The Customs investigation indicates that virtually all imports of the subject merchandise from West Germany were manufactured and exported by Audi NSU Autounion A.G., Bayerische Motoren Werke, A.G., Daimler Benz, A.G., Ford-Werke, A.G., Porsche, A.G., and Volkswagen Werk, A.G. Therefore, the investigation was limited to these six manufacturers.

b. *Basis of comparison.* For purposes of this discontinuance, the proper basis of comparison is between either the purchase price or exporter's sales price, as appropriate, and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used where export sales appeared to be made to non-related parties in the United States. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used where the information gathered indicated that all of the subject merchandise was sold or agreed to be sold in the United States before or after the time of importation, by or for the account of the exported. Home market price, as defined in § 153.2, Customs Regulations (19 C.F.R. 153.2), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 C.F.R. 153.31(b)), pricing information was obtained concerning imports of automobiles from West Germany during the period January 1, 1975, through August 31, 1975, and appropriate home market sales.

c. *Purchase price.* Purchase price was calculated on the basis of the ex-factory price, or the price from the unrelated purchaser in West Germany, as appropriate, to an unrelated importer in the United States. Adjustments were made for differences in merchandise, and inland freight, as appropriate.

d. *Exporter's sales price.* Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs and freight, as appropriate.

e. *Home market price.* Home market price was calculated on the basis of the adjusted home market price to related and unrelated dealers, or retail purchasers, as appropriate. Adjustments were made for credit terms, advertising, discounts, rebates, warranty, selling expenses, inland freight, differences in merchandise and differences in packing, as appropriate.

f. *Results of comparisons.* Information was collected on virtually 100 percent of the automobiles sold to the United States during the period of investigation in the Customs investigation and has indicated that during the period of investigation some sales to the United States were made at prices below those of comparable models sold in the West German home market. This investigation is being discontinued due to the receipt of certain specialized commitments from the automobile exporters in West Germany who had sales to the United States at prices lower than comparable West German home market prices.

The particular commitments were revised in accordance with the data collected from the West German automobile manufacturers and reflect the steps, as appropriate, which have been taken by

V 41 161 AUG 18 76 UMI

said manufacturers since the initiation of the investigation to reduce or eliminate the extent to which prices to the United States were lower than West German home market prices.

The described procedures are intended to make this discontinuance responsive to certain unique circumstances found to exist in this investigation which must be taken into account. In the system of floating exchange rates and rapid currency fluctuations which existed during the period of investigation, it was recognized that the automobile industry could not constantly change prices to reflect short term variations in currency. Therefore an average of the fluctuating exchange rates over a longer period was utilized to reflect the actual long-term effects on setting prices. This conversion method eliminates margins created by factors beyond the control of the West German automobile manufacturers and reflects more realistically, for fair value purposes, the commercial environment in which prices are determined.

A second element concerns the costs of pollution and safety equipment required to be put on automobiles sold in the United States, but not required on automobiles sold in the home market. Since the foreign manufacturers have shorter production runs over which to allocate the costs of such equipment, special consideration has been given to this situation, especially in view of the recessionary nature of the U.S. automarket during the period of the investigation as the result of general economic conditions.

After consideration of all views and arguments and for the reasons stated above, the antidumping investigation of automobiles from West Germany is discontinued in accordance with section 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

Insofar as automobiles manufactured and sold by Porsche are concerned, no sales at less than fair value were found on sales to the United States by Porsche. Accordingly, this company was not requested to submit commitments, nor will imports from this company be subject to monitoring by the Treasury Department.

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.76-24202 Filed 8-17-76;8:45 am]

INDUSTRIAL VEHICLE TIRES FROM CANADA

Antidumping; Determination of Sales at Not Less Than Fair Value

Information was received on November 13, 1975, from counsel acting on behalf of the Bearcat Tire Company of Chicago, Illinois, alleging that industrial vehicle tires from Canada were being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

On the basis of this information and subsequent investigation by the Custom Service, a "Notice of Tentative Negative Determination" was published in the FEDERAL REGISTER of May 27, 1976 (41 F.R. 21654).

A statement of reasons was published in the above-mentioned notice, and interested persons were afforded an opportunity to make written submissions and present oral views.

For purposes of this notice, the term "industrial vehicle tires" means press-on, solid, rubber tires, cured or bonded to steel base bands, used on off-the-highway work vehicles, whether or not self-propelled.

DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, industrial vehicle tires from Canada are not being, nor are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS OF WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* It appears that all, or virtually all, imports of the subject merchandise from Canada were manufactured by Industrial Tires, Limited, of Mississauga, Ontario. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales during the period of investigation were made to unrelated purchasers in the United States. Home market price as defined in § 153.2 of the Customs Regulations (19 CFR 153.2) was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

c. *Purchase price.* For the purpose of this final determination of sales at not less than fair value, adjustments have been made on the following bases. In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of industrial vehicle tires from Canada during the period July 1 through December 31, 1975.

In the import transactions, all of the merchandise was purchased, prior to the time of exportation, by the person by whom or for whose account it was imported, within the meaning of section 203 of the Act. Purchase price has been calculated on the basis of the f.o.b. delivered, packed price to a private brand account purchaser in the United States, with deductions for U.S. Customs duty, brokerage and transportation expenses. An addition has been made for remission of Canadian import duties, as appropriate.

d. *Home market price.* For purposes of this final determination of sales at not less than fair value, adjustments have been made on the following bases. The home market price was calculated on the basis of the weighted average, f.o.b. factory, packed price to original equipment manufacturers. Adjustments were made for warranty expenses, differences in packing expenses, and differences in merchandise, as appropriate. Differences in costs of the merchandise were in relation to rubber components, base bands, tooling assists, and the process of manufacture.

Counsel for petitioner has claimed that allowance for differences in the costs of rubber components, base bands and the process of manufacture are in error. Documentation having been received to adequately support the existence and amount of such differences in merchandise, adjustment therefor has been made.

Counsel for petitioner has claimed that sales to Canadian dealers should be the basis for home market price. Contract sales terms and quantities involved in sales to home market original equipment manufacturers were essentially identical to those involved in sales to a private brand account purchaser in the United States. The terms and quantities involved in sales to Canadian dealers were not found to be comparable to those involved in above-mentioned sales to the United States. It has thus been determined that home market original equipment manufacturers constitute the appropriate level of trade for comparison purposes.

e. *Results of fair value comparisons.* Using the above criteria, purchase price was found to be not less than the home market price of such or similar merchandise on all comparisons made. Comparisons were made on approximately 75 percent of all industrial vehicle tires sold to the United States during the period of investigation.

This determination and statement of reasons therefor are published to § 153.34(c) of the Customs Regulations (19 C.F.R. 153.34(c)).

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

AUGUST 13, 1976.

[FR Doc.24196 Filed 8-17-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

SEIBU LEISURE, INC.

Draft Environmental Statement

AUGUST 10, 1976.

The availability of the Draft Environmental Statement (DES) examining the impact of granting of an access easement to Seibu Leisure (Guam) Inc. across U.S. Government lands in association with the proposed development of lot 10080 was announced in the May 28, 1976 FEDERAL REGISTER. The minimum 45 day comment period for a DES expired on July 12, 1976.

At the request of the Guam Environment Protection Agency, based on late receipt of the Draft Environmental Statement (DES), the comment period has been extended to August 16, 1976.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-24093 Filed 8-17-76;8:45 am]

Office of the Secretary

EXECUTIVE COMMITTEE OF THE DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Meeting; Change of Date

The notification of meeting was published in FEDERAL REGISTER, Volume 41, No. 146, Wednesday, July 28, 1976, page 31409. Pursuant to Public Law 92-463, notice is hereby given that the date for the Executive Comimttee of the Defense Advisory Committee on Women in the Service (DACOWITS) has been changed from August 22, 23, 1976 to September 10, 11, 1976. The meeting will be held at the Pentagon on September 10, 1976 from 8:30 a.m. to 4:00 p.m. and if necessary continued on Saturday, September 11, 1976 at the Hotel Washington, 15th and Pennsylvania Ave from 8:30 a.m. to 10:00 a.m. The session will be open to the public.

The purpose of this meeting is to plan the program for the semi-annual meeting of the full Committee and for the 25th Anniversary celebration of the Committee on November 14-18, 1976. Composed of 25 civilian women, DACOWITS provides the Department of Defense with assistance and advice on matters relating to women in the Armed Forces.

Interested persons desiring to make oral presentations, submit written statements for consideration, attend the meeting or receive additional information must contact Lucille B. Dion, Consultant to DACOWITS Secretariat, OASD (Manpower and Reserve Affairs), Room 2B257, The Pentagon, Washington, D.C. 20301, telephone (202) 695-5153 no later than September 1, 1976.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

AUGUST 17, 1976.

[FR Doc.76-24386 Filed 8-17-76;11:06 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO 24128

Pipeline Application Northwest Pipeline Corporation

AUGUST 11, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way C-24128 for a 6⅝-inch pipeline and a 4½-inch pipeline in the following location in Rio Blanco County, Colorado:

T. 2 S., R. 101 W., 6th P.M.S
Sec. 4: SW¼SE¼, SE¼SE¼S
Sec. 3: SW¼SW¼, SE¼SW¼, SW¼SE¼, NW¼SE¼, SE¼NE¼, NW¼SW¼, NE¼SE¼S
Sec. 2: SW¼NW¼S

The facilities will be an addition to the applicant's existing gathering systems.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas gathering pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Land Operations, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ALAN D. CAMPBELL,
Acting Chief, Branch of Land Operations.

[FR Doc.76-24192 Filed 8-17-76;8:45 am]

AUGUST 11, 1976.

[OR 11517]

OREGON

Proposed Withdrawal and Reservation of Lands

The Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, has filed application, OR 11517, for withdrawal of the lands described below, from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2) but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land as an addition to the Oregon Islands National Wildlife Refuge.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than September 16, 1976, to the undersigned officer of the Bureau of Land Management, Department of the Interior (729 N.E. Oregon Street), P.O. Box 2965, Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the ap-

V 41 161 AUG 18 76 UMI

plicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination by the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are islands, rocks, and reefs above the line of mean high tide off the Oregon Coast as shown on maps labeled "Exhibit B" submitted by the Bureau of Sport Fisheries and Wildlife with the withdrawal application and on file in this office. The maps are based upon U.S.G.S. 15-minute series topographical maps. The islands are unsurveyed and are described as follows:

WILLAMETTE MERIDIAN, OREGON

(Legal descriptions appearing in parentheses indicate unsurveyed lands and are tentative. The numbers appearing to the left of the names are for identification purposes only.)

Number	Name	Acres	Description
1	Unnamed rocks	5	(T. 5 N., R. 11 W., Sec. 12) 45°56'07" to 45°56'20" N., 123°59'11" to 123°59'28" W.
2	The Needles	3	(T. 5 N., R. 10 W., Sec. 30) 45°52'56" N., 123°58'06" W.
3	Unnamed rock (off Silver Point, north of Jockey Cap).	1	(T. 4 N., R. 11 W., Sec. 1) 45°51'27" N., 123°57'52" W.
4	Jockey Cap	2	(T. 4 N., R. 11 W., Sec. 12) 45°51'17" N., 123°57'58" W.
5	Lion Rock	1	(T. 4 N., R. 10 W., Sec. 7) 45°50'51" N., 123°57'45" W.
6	Gull Rock	2	(T. 4 N., R. 11 W., Sec. 36) 45°47'36" N., 123°58'15" W.
7	Falcon Rock	1	(T. 3 N., R. 11 W., Sec. 11) 45°45'51" N., 123°59'44" W.
8	Twin Rocks (2 rocks ½ mile off the town of Twin Rocks).	2	(T. 1 N., R. 10 W., Sec. 6) 45°35'51" N., 123°57'30" W.
9	Unnamed Rock	3	(T. 3 S., R. 11 W., Sec. 2) 45°20'45" N., 123°59'20" W.
10	Proposal Rock	5	(T. 5 S., R. 11 W., Sec. 35) 45°06'02" N., 123°59'11" W.
11	Three Rocks	3	(T. 6 S., R. 11 W., Secs. 15 and 22) 45°02'37" to 45°02'45" N., 124°00'49" W.
12	Otter Rock	3	(T. 10 S., R. 11 W., Sec. 6) 44°43'58" N., 124°04'10" W.
13	Whaleback Rock	2	(T. 10 S., R. 11 W., Sec. 8) 44°43'24" N., 124°04'06" W.
14	Seal Rocks, excepting Castle, Tourist, and Elephant Rocks in Seal Rock State Park.	5	(T. 12 S., R. 12 W., Secs. 24, 25 and 36) 44°28'53" to 44°30'31" N., 124°01'55" to 124°05'38" W.
15	Parrot Rock	1	(T. 16 S., R. 12 W., Sec. 33) 44°08'07" N., 124°07'38" W
16	Unnamed rocks	20	(T. 26 S., R. 14 W., Secs. 5, 8, 17, 18, and 19) 43°18'00" to 43°20'54" N., 124°22'31" to 124°24'27" W.
17	Fivemile Point Rocks	8	(T. 27 S., R. 14 W., Sec. 19) 43°13'00" to 43°13'16" N., 124°23'45" to 124°24'05" W.
18	Rock 105	4	(T. 29 S., R. 15 W., Sec. 2) 43°05'11" N., 124°26'14" W.
19	Klooqueh Rock	2	(T. 33 S., R. 15 W., Sec. 6) 42°44'31" N., 124°31'16" W.
20	Tichenor Rock	3	(T. 33 S., R. 15 W., Sec. 8) 42°43'50" N., 124°30'36" W.
21	South Sister Rock of Sisters Rock	5	(T. 34 S., R. 14 W., Sec. 31) 42°35'26" N., 124°24'26" W.
22	Arch Rock (2 rocks off Deer Point)	3	(T. 39 S., R. 14 W., Sec. 16) 42°11'57" to 42°12'08" N., 124°22'32" W.
23	Barnacle Rock	1	(T. 40 S., R. 14 W., Sec. 16) 42°06'39" N., 124°21'53" W.
24	House Rock	1	(T. 40 S., R. 14 W., Sec. 16) 42°06'32" N., 124°21'57" W.
25	Unnamed rock	1	(T. 40 S., R. 14 W., Sec. 26) 42°05'07" N., 124°20 09 ' W.
26	White Rock	1	(T. 40 S., R. 14 W., Sec. 26) 42°04'43" N., 124°20'15" W.
27	Blanco Reef, all named and unnamed rocks off Cape Blanco including Black Rock and Pyramid Rock.	7	(T. 31 S., R. 16 W., Secs. 34 and 35, T. 32 S., R. 16 W., Secs. 2, 3, and 10) 42°49'24" to 42°50'39" N., 124°33'07" to 124°35'07" W.
28	Rogue River Reef, all named and unnamed rocks northwest off the mouth of the Rogue River, including Northwest Rock, Double Rock, Needle Rock, and Pyramid Rock.	20	(T. 36 S., R. 15 W., Secs. 16, 17, 20, 21, 22, 27, and 28) 42°26'04" to 42°27'48" N., 124°27'43" to 124°30'00" W.

NOTE.—The area described aggregates approximately 113 acres, in Clatsop, Tillamook, Lincoln, Lane, Coos, and Curry Counties, Oreg.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-24099 Filed 8-17-76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMITS

Official Action

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications received under section 10 of the Endangered Species Act of 1973, 16 U.S.C. 1539. Each permit was issued only after it was determined that it was applied for in good faith; that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973.

Notice of Application Published in FEDERAL REGISTER March 8, 1976 (41 FR 9899–9900).

Applicant: Bombay Hook National Wildlife Refuge, R.D. 1, Box 147, Smyrna, Delaware 19977. Donald R. Perkuchin, Refuge Manager.

Official Action: Issued permit July 2, 1976: "Authorized to collect abandoned Southern Bald Eagle (*Haliaeetus leucocephalus*) Eggs, as specified in Block 10 (at Bombay Hook National Wildlife Refuge), for the purpose of scientific research."

Notice of Application Published in FEDERAL REGISTER May 13, 1976 (41 FR 19663).

Applicant: Walter B. Sturgeon, Jr., R.F.D. #1, James Farm, Durham, New Hampshire 03824.

Official Action: Issued permit July 2, 1976: Authorized to receive interstate, in the course of a commercial activity, one (1) male, and one (1) female Nene—Hawaiian Goose (*Branta sandvicensis*), as specified in Block 10 (from Long Island, New York, to Durham, New Hampshire), for the purpose of propagation, from Mr. Winston Guest, Oyster Bay, Long Island, New York.

Notice of Application Published in FEDERAL REGISTER March 16, 1976 (41 FR 11043–44).

Applicant: Mr. Lee A. Hedge, Route 1, Compton, Illinois 61318.

Official Action: Issued permit July 2, 1976: Authorized to receive interstate, in the course of a commercial activity, as specified in Block 10 (from Wisconsin to Illinois), the following numbers and species of endangered pheasants, from the following sources:

Mr. Elmer Heft, Green Lake, Wisconsin:
- 1.2 Brown-Eared Pheasants (*Crossoptilon mantchuricum*).
- 1.2 Edward's Pheasants (*Lophura edwardsi*).
- 1.2 Swinhoe's Pheasants (*Lophura swinhoii*).
- 1.2 Bar-Tailed Pheasants (*Syrmaticus humiae*).

and—Mr. Poppel, Wenega, Wisconsin:
- 1.2 Mikado Pheasants (*Syrmaticus mikado*).

Notice of Application Published in FEDERAL REGISTER April 12, 1976 (41 FR 15353).

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Mo. 63110. Richard D. Schultz, Director.

Official Action: Issued permit July 6, 1976: Authorized to import, as specified in Block 10 (from France—to St. Louis, through a port of entry specified in 50 CFR 14.12),

three (3) male, and three (3) female Mayottensis LEMURS (*Lemur fulvus*), for the purposes of scientific research and propagation.

Notice of Application Published in FEDERAL REGISTER April 30, 1976 (41 FR 18113).

Applicant: Nick and Gerda Ramstetter, 3216 East Road (Route 1), Clifton, Colo. 81520.

Official Action: Issued July 14, 1976: "Authorized to receive interstate, in the course of a commercial activity, as specified in Block 10 (Texas to Colorado), the following numbers and species of endangered pheasants from the following source, for the purpose of propagation,

- 1.1 Brown-Eared Pheasants (*Crossoptilon mantchuricum*).
- 1.1 Edward's Pheasants (*Lophura edwardsi*).
- 1.1 Mikado Pheasants (*Symaticus mikado*).

From—Bob Riley, Windy Hills Bird Farm, Route 4, Box 160, Robstown, Tex. 78380."

Notice of Application Published in FEDERAL REGISTER June 2, 1976 (41 FR 22284).

Applicant: Environmental Management Office, Directorate of Facilities Engineering, Fort Benning, Georgia 31905. Gary W. Robinson.

Official Action: Issued permit July 16, 1976: Authorized to conduct activities as specified in Block 10 (at Fort Benning, Georgia), with Red-Cockaded Woodpeckers (*Dendrocopus borealis*), for the purpose of scientific research.

Notice of Application Published in FEDERAL REGISTER May 19, 1976 (41 FR 20598).

Applicant: Division of Life Sciences, University of Alaska, Fairbanks, Alaska 99701. Alan M. Springer.

Official Action: Issued permit July 16, 1976: Authorized to conduct activities, as specified in Block 10 (at Porcupine and lower Yukon Rivers, Alaska), with Peregrine Falcons (*Falco peregrinus anatum*), for the purpose of scientific research.

Notice of Application Published in FEDERAL REGISTER May 13, 1976 (41 FR 19680–81).

Applicant: Colonel Charles K. Darling, 141 Fox Run, San Antonio, Texas 78233.

Official Action: Issued permit July 19, 1976: "Authorized to receive interstate, in the course of a commercial activity, two (2) male, and two (2) female Palawan Peacock Pheasants (*Polyplectron emphanum*), as specified in Block 10 (from New York to Texas), for the purpose of propagation, from the following source, Joseph Kulina, Carmel, New York."

Notice of Application Published in FEDERAL REGISTER May 10, 1976 (41 FR 19143).

Applicant: Wildlife Ecology Laboratory, School of Forest Resources and Conservation, University of Florida, Gainesville, Fla. 32611. Dr. David H. Hirth.

Official Action: Issued permit July 20, 1976: Authorized to conduct activities with Southern Bald Eagles (*Haliaeetus leucocephalus leucocephalus*), as specified in Block 10 (Lake Marion, Putnam and Alachua Counties of Florida), for the purpose of scientific research.

Notice of Application published in FEDERAL REGISTER April 30, 1976 (41 FR 18111).

Applicant: International Crane Foundation, City View Road, Baraboo, Wisconsin 53913. Ronald T. Sauey, President.

Official Action: Issued permit July 20, 1976: "Authorized to import, as specified in Block 10 (from the Soviet Union to Baraboo, Wisconsin, through a Customs port of entry, as specified in 50 CFR 14.12), not to exceed eight (8) Japanese Crane eggs (*Grus japonensis*),—and not to exceed eight (8) Siberian Crane eggs (*Grus leucogeranus*), for the purpose of propagation."

Notice of Application Published in FEDERAL REGISTER March 26, 1976 (41 FR 12723–24–25).

Applicant: Northwest Fisheries Research, Inc., 3361 G Road, Clifton, Colo. 81520. Mr. George T. Kidd.

Official Action: Issued permit July 20, 1976: Authorized to conduct activities with Colorado River Squawfish (*Ptychochelius lucius*), and Humpback Chub (*Gila cypha*), as specified in Block 10 (Upper Colorado Basin), for the purpose of scientific research.

Notice of Application Published in FEDERAL REGISTER May 20, 1976 (41 FR 20723–24).

Applicant: San Antonio Zoological Gardens, 3903 North St. Mary's Street, San Antonio, Tex. 78212. Louis R. DiSabato, Director.

Official Action: Issued permit July 22, 1976: "Authorized to import, as specified in Block 10 (from Sao Paula, Brazil, to San Antonio, Texas, through a U.S. Customs port of entry, as specified in 50 CFR 14.12), one (1) male Maned Wolf (*Chrysocyon brachyurus*), for the purpose of propagation."

Notice of Application Published in FEDERAL REGISTER May 27, 1976 (41 FR 21657).

Applicant: College of Physicians and Surgeons, Ophthalmology Research, Columbia University, New York, N.Y. 10032. Dr. Joseph C. Besharse.

Official Action: Issued permit July 22, 1976: "Authorized to receive interstate as specified in Block 10 (from Texas to New York), two (2) Texas Blind Salamanders (*Typhlomolge rathbuni*), from the following endangered species permit holder, for the purpose of scientific research, Glenn Longley, Southeast Texas State University, San Marcos, Texas."

Notice of Application Published in FEDERAL REGISTER April 30, 1976 (41 FR 18113).

Applicant: Steven R. Lorenz, 2710 Stevens Street, La Crescenta, California 91214.

Official Action: Issued permit July 26, 1976, "Authorized to import, as specified in Block 10 (from Holland to La Crescenta, California, through a U.S. Customs Port of Entry, as specified in 50 CFR 14.12), one male/one female Brown-Eared Pheasant (*Crossoptilon mantchuricum*), for the purpose of propagation."

Notice of Receipt of Request for Amendment Published in FEDERAL REGISTER, April 15, 1976 (41 FR 15879).

Applicant: Director, Texas Parks and Wildlife Department, John H. Reagan Building, Austin, Tex. 78701. Clayton T. Garrison, Executive Director.

Official Action: Issued permit July 17, 1975. The permit and Amendments Nos. 1 and 2 are superseded by Amendment No. 3—issued July 16, 1976, as follows:

Authorized to conduct activities in the State of Texas for purposes of scientific research (and/or banding) and enhancement of survival of the affected species:

- Peregrine Falcon (*Falco peregrinus anatum*)—and (*Falco peregrinus tundrius*).
- Red-Cockaded Woodpecker (*Dendrocopos borealis*).
- Southern Bald Eagle (*Haliaeetus leucocephalus leucocephalus*).
- Black-Footed Ferret (*Mustela nigripes*).
- American Alligator (*Alligator mississippiensis*).
- Houston Toad (*Bufo houstonensis*).
- Red Wolf (*Canis rufus*).
- Attwater's Prairie Chicken—and eggs (*Tympanuchus cupido attwateri*).
- Pecos Gambusia (*Gambusia nobolis*).

NOTICE OF RECEIPT OF REQUEST FOR AMENDMENT PUBLISHED IN FEDERAL REGISTER JUNE 18, 1976 (41 FR 24739).

Applicant: Mississippi Game and Fish Commission, Post Office Box 451, Jackson,

V 41 161 AUG 18 76 UMI

Mississippi 39205. Mr. **Avery Wood, Director of** Conservation.

Official Action: **Issued permit May 6, 1975: Activities authorized by this permit have** been completed.

Amendment No. 1—**issued July 20, 1976,** supersedes all conditions of the original permit. Permittee is authorized to capture in Louisiana and transport to **Mississippi, for** release into the wild, an additional five hundred (500) American Alligators (*Alligator mississippiensis*), for the purposes of scientific research and propagation.

Each permit is available for public inspection during normal business hours at the U.S. Fish and Wildlife Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: August 12, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-24150 Filed 8-17-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110. Richard D. Schultz, Director.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To export one (1) male Black Lemur, Lemur macaco macaco endangered species, born 18 March, 1974 in St. Louis Zoological Park to "Les Cypris", Cap Martin France.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900 .

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
City and county owned public zoo, USDA licensed, engaged in conservation and propagation of wildlife, education, exhibits, research and recreation.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Richard D. Schultz, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(*If yes, list license or permit number(s)*)
ES-14, ES-311, ES-156, ES-331, 6-SP-77, PRI-7-172-P-2 (K.C.) 6-SC-78

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
N.A.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N/A

10. DESIRED EFFECTIVE DATE:

11. DURATION NEEDED: Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(a)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
50 CFR, Section 17.22 - Permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In Ink*): Charles H Hoessle for D Schultz — DATE: July 6 1976

3-200
8/74

July 6, 1976.

Mr. Lynn A. Greenwalt, Director,
U.S. Fish & Wildlife Service,
Law Enforcement Division,
U.S. Department of the Interior,
Washington, D.C.

Dear Mr. Greenwalt: The St. Louis Zoological Park hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. We submit the following information pursuant to Sections 13.12 of Volume 39, No. 3 and 17.22 of Volume 40, No. 188 of the Federal Register.

1. The request is for permit to export one (1) male Black Lemur *Lemur macaco macaco* for breeding purposes.

2. (iii) The permit is for a male Black Lemur born 18 March 1974 at the St. Louis Zoological Park.

3. Not applicable.

4. Born at St. Louis Zoological Park, St. Louis, Missouri, U.S.A.

5. "Les Cypris" 06190 Roque Brune—Cap Martin, France, Tel: Menton 3580 6I.

6. (i) "Les Cypris" is a well known European breeding facility. Please refer to our previous permit entered as FR Doc. 76-10432 filed 4/9/76.

(ii) Same as above.

(iii) Same as above.

(iv) The lemur will be shipped in a crate exceeding the minimum standards of the I.A.T.A. Live Animal Regulations (see enclosure).

(v) Same as (i), (ii), (iii).

7. See enclosed letters.

8. Same as 6(i).

A completed form 3-200 as well as other documents regarding this request are enclosed. We sincerely hope that we can receive your consideration on our request at your earliest convenience.

Sincerely yours,

CHARLES H. HOESSLE,
General Curator, Deputy Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-287-07; please refer to this number when submitting comments. All relevant comments on or before September 17, 1976.

Dated: August 12, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-24151 Filed 8-17-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-528]

DEAN JONES COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Dean Jones Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 5, Lee County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines have mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the foregoing standard as it applies to all electric and self-propelled electric face equipment presently in its Mine No. 5 and any of the same purchased in the future for use in this underground mine. The Mine No. 5 is a bituminous coal mine with an average coal height of 30 inches.

2. Petitioner states that installation of canopies would confine the equipment operator and impair his mobility, thus creating a safety hazard in the mine.

3. Petitioner states that due to the low coal height, a canopy or cab would prevent the miner operator from having the necessary peripheral vision of equipment and surroundings to permit safe operation.

4. Petitioner states that it has a roof control plan, approved by the Virginia Division of Mines and by the Mining Enforcement and Safety Administration, which is adequate for roof support in this mine.

5. Petitioner states that its accident record for roof falls is clean. No fatalities or injuries by roof falls have occurred in any of its underground mines since their opening in 1967.

6. Petitioner employ a Wilcox Continuous Miner which has a height of 26 inches. Its coalbed has some dips and nonuniform slopes. The continuous miner operator feels that it would be impossible to operate the continuous miner safely with a canopy or cab installed, as it would diminish peripheral vision and limit operator movement to the point of creating a safety hazard.

7. It is Petitioner's position that canopies or cabs installed on its electric face equipment would be a far greater hindrance than a help in its continuous miner operation due to its coal height, the impaired peripheral vision created by said installation, and the confinement of miner operator movement. Petitioner maintains that this required safety standard presents more of a safety hazard, if complied with, than would the lack of canopies or cabs in the circumstance of its mining operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 10, 1976.

[FR Doc.76-24105 Filed 8-17-76;8:45 am]

[Docket No. M 76-481]

DYNA-CARB COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Dyna-Carb Coal Co. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, Hurley, Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches.• • •

The substance of Petitioner's statement is as follows:

1. In its mine Petitioner operates the following equipment:

Name	Type	Height	Length	Width
		Inches	*Feet*	*Feet*
Epling	Spinner	25	16	5
Royal	Cutting machine.	25	16	5
Paul Elswick	Roof bolter	28	8	4½
Mescher	Tractor	29	9	5

2. Petitioner employs eight men to mine coal in the Blair seam which is 30 to 32 inches thick. The top and the floor of the mine are in fair condition.

3. Petitioner feels there are two reasons why cabs or canopies should not be installed on its equipment. The canopies limit the vision of the equipment operators by half because the canopies have to be built too close to the machine body. The canopies also limit the mobility of the equipment operators making it more difficult for them to handle the machine. Also, the canopy striking the top in places could damage the roof bolts or half-headers holding the top. The impact of the canopy striking the top could injure the operator.

4. Petitioner proposes an alternative consisting of additional and supplemental training on proper inspections of roof support, periodic inspections of safety devices on equipment, utilization of the equipments' safety devices by remaining on the equipment in case of a rock fall, and regular drills in handling equipment. Petitioner also proposes to roof bolt the haulageway up to within 10 feet of the face.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015

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Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24106 Filed 8-17-76;8:45 am]

[Docket No. M 76-520]

EAS COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Eas Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, Perry County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the application of the mandatory safety standard 30 CFR 75.1710–1(a) for the reason that the application of such standard will result in diminution of safety to the miners in its Mine No. 1.

2. The average height of the seam of coal in the Mine No. 1 ranges between 35 inches to 50 inches.

3. The face equipment currently in use at the Mine No. 1 includes two Joy shuttle cars (21SC), one Joy cutter (16RB), one Joy loader (14BU10), one Galis coal drill (450) and two Galis roof bolters (300). Petitioner states that this equipment was not designed for the use of canopies.

4. Petitioner states that due to the close confinement of the canopy, the operator's head must extend beyond the protection of the canopy in order to observe in front of, or behind each piece of machinery, resulting in the danger of being crushed between the canopy and rib.

5. Petitioner states that ingress to and egress from the cab is so limited that the operator might be held captive, preventing escape when such action is clearly warranted. The operator, according to Petitioner, could also be held captive for indefinite periods in case of machine malfunction or power failure.

6. Petitioner states that installation of canopies and/or cabs on the currently used mining equipment, under present mining conditions, would create hazards to the miners in its Mine No. 1.

REQUEST FOR HEARING OF COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 9, 1976.

[FR. Doc. 76-24107 Filed 8-17-76; 8:45 am]

[Docket No. M 76X639]

EASTERN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Eastern Coal Corporation has filed a petition to modify the application of 30 CFR 75.1403–9 to its Stone No. 7 Mine, Stone County, Kentucky.

30 CFR 75.1403–9 provides:

(a) Shelter holes should be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by the Coal Mine Safety District Manager(s).

(b) Shelter holes should be readily accessible and should be at least 5 feet in depth, not more than 4 feet in width (except crosscuts used as shelter holes) and at least the height of the coal seam where the coal seam is less than 6 feet high and at least 6 feet in height where the coal seam is 6 feet or more in height.

(c) Shelter holes should be kept free of refuse and other obstructions. Crosscuts used as shelter holes should be kept free of refuse or other materials to a depth of at least 15 feet.

(d) Shelter holes should be provided at all manually operated doors and at switch throws except: (1) At room switches, or (2) at switches where more than 6 feet of side clearance is provided. The Coal Mine Safety District Managers(s) may permit exemption of this requirement if such shelter holes create a hazardous roof condition.

(e) At each underground slope landing where men pass and cars are handled, a shelter hole at least 10 feet in depth, 4 feet in width, and 6 feet in height should be provided.

The substance of Petitioner's statement is as follows:

1. Petitioner states that it is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1403–9.

2. Petitioner states that because the mining life of this mine is less than 5 years and the age of this mine varies from 11 to 64 years in the affected areas and for the reasons set forth below, the above standard requiring shelter holes at a specific distance and of certain size cannot be applied without resulting in a diminution of safety.

3. Petitioner states that the major parts of both the haulway and mainline were driven very narrow (16 to 18 feet), and solid barrier pillars were left on one side or another for roof support. Petitioner further states that the mainline and haulway are well-supported; but that many crosscuts are caved tight and additional roof support has been provided in these areas. Of necessity, this additional roof support must be removed to clean the crosscuts, which will create exposure to hazardous roof, and, according to Petitioner, likely cause additional roof problems which in turn may weaken ventilation brattices.

4. Petitioner maintains that the only possible shelter hole is on the trolley wire side in many locations. Many locations in the haulway and mainline have been shot out to raise the track to a level position to eliminate dips in the track. In these areas, shelter holes would have to be shot out of the sandstone ribs instead of the coalbed. This could greatly affect the general ground conditions in these areas. Even if the shelter holes are cut into the coalbed, disturbing top or pillars that have stood for many years would, Petitioner contends, be an unwise mining technique .

5. Petitioner states that since the primary purpose of shelter holes is to protect personnel working or traveling along the haulage track from haulage equipment, the exposure of personnel to this potential hazard is most important. Almost all maintenance of the track, avers Petitioner, is done on a non-producing shift, so the exposure to haulage equipment is minimal; and when emergency repairs and other work, such as work on telephone cables, pumps, or firebossing is done, individual transportation is used because over 6 miles of haulage track is involved. This equipment must be moved to a side track before haulage units may pass. The location of all equipment and personnel along the mainline or haulway is closely monitored by the Dispatcher who directs the speed, travel and movement of all equipment and personnel in these areas. This control allows the Dispatcher to notify all concerned to safety position themselves when haulage equipment is passing.

6. Petitioner states that a thorough review of its past injury data indicates that no recorded injuries which may have been prevented by shelter holes, as described in the Federal Regulations, have occurred.

7. Petitioner requests, since the standard involved herein will result in a diminution of safety at its mine, that the standard be modified to not require Petitioner to provide shelter holes.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 9, 1976.

[FR Doc.76-24108 Filed 8-17-76;8:45 am]

[Docket No. M 76X640]

EASTERN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Eastern Coal Corporation has filed a petition to modify the application of 30 CFR 75.1403–8 to its Stone No. 7 Mine, Stone County, Kentucky.

30 CFR 75.1403–8 provides:

(a) The speed at which haulage equipment is operated should be determined by the condition of the roadbed, rails, rail joints, switches, frogs, and other elements of the track and the type and condition of the haulage equipment.

(b) Track haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic. Where it is necessary to change the side on which clearance is provided, 24 inches of clearance should be provided on both sides for a distance of not less than 100 feet and warning signs should be posted at such locations.

(c) Track haulage roads developed after March 30, 1970, should have clearance on the "tight" side of at least 12 inches from the farthest projection of normal traffic. A minimum clearance of 6 inches should be maintained on the "tight" side of all track haulage roads developed prior to March 30, 1970.

(d) The clearance space on all track haulage roads should be kept free of loose rock, supplies, and other loose materials.

(e) Positive stopblocks or derails should be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines.

The substance of Petitioner's statement is as follows:

1. Petitioner is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1403–8.

2. Petitioner states that because the mining life of its Stone No. 7 Mine is less than 5 years and the age of this mine varies from 11 to 64 years old in the affected areas, and for the reasons set forth below, the above standard requiring track clearance of at least 24 inches from the farthest projection of normal traffic cannot be applied without resulting in a diminution of safety.

3. Petitioner states that the major parts of both the haulway and mainline were driven very narrow (16 to 18 feet) in order to utilize the large barrier pillars for roof support, and that providing clearance on the trolley wire side would expose workers to an unnecessary hazard.

4. In several locations, states Petitioner, the track has been raised to provide for a level track. In these instances, the non-trolley wire side is provided with a water drainage ditch which minimizes the possibility of providing proper track clearance. In numerous other locations, according to Petitioner, cribbing and similar suplemental roof support restricts the ability to provide the proper track clearance.

5. Petitioner maintains that since one of the primary purposes of providing track clearances is to allow safe passage of a unit of haulage equipment where an individual may be working, the exposure of personnel to this potential hazard is most important.

6. Petitioner states that almost all maintenance of the track is done on a non-producing shift, so that the exposure to haulage equipment is minimal; and when emergency repairs and other work, such as work on telephone cables, pumps, or fire-bossing is done, individual transportation is used because over 6 miles of haulage track is involved. According to Petitioner, such equipment must be moved to a side track before haulage units may pass.

7. Petitioner states that the location of all equipment and personnel along the mainline or haulway is closely monitored by the Dispatcher who directs the speed, travel and movement of all equipment and personnel in these areas. This control allows the Dispatcher to notify all concerned to safety position themselves when haulage equipment is passing. A thorough review of its past injury data, Petitioner avers, indicates that no recorded injuries, which may have been prevented by track clearance of 24 inches as described in the Federal Regulations, have occurred.

8. Petitioner requests, since the standard involved herein will result in a diminution of safety at its mine, that the standard be modified to not require Petitioner to obtain full clearance at the aforementioned locations.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 9, 1976.

[FR Doc.76-24109 Filed 8-17-76;8:45 am]

[Docket No. M 76-523]

G & A COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), G & A Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Deep Mine, Wyoming County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

VOL 41 NO 161 AUG 18 76 UM

The substances of Petitioner's statement is as follows:

1. Petitioner states that by memorandum to all District Managers dated September 20, 1973, the Mining Enforcement and Safety Administration's Acting Assistant Administrator further interpreted these actions to mean that the mining heights listed in 30 CFR 75.1710–1 were "the distance from the floor to the finished roof *less 12 inches*." (Emphasis added.)

2. The coalbed height in Petitioner's No. 1 Deep Mine varies between 47 and 48 inches.

3. Petitioner states that the design characteristics of the electrical face equipment presently in use at the subject mine will not permit the installation of cabs or canopies which consistently will clear the top in areas where the equipment must operate in this mine. The wedging of electrical face equipment against the top, moreover, would result in damage to overhanging cables and in weakened roof support.

4. According to Petitioner, the design characteristics of the electrical equipment presently in use at the subject mine will not permit the installation of cabs or canopies which will allow the operator proper visibility for safe operation of the equipment while remaining under the cab or canopy. Impaired visibility would interfere with mining operations, Petitioner states, making strict compliance with the roof control plan more difficult and thereby increasing the danger of roof falls. Impaired visibility, moreover, would endanger all personnel working in the vicinity of the electrical face equipment. To avoid these situations, Petitioner maintains, the operator may attempt to run the equipment while leaning out of the cab, thereby exposing himself to the danger of being crushed between the equipment and ribs.

5. The design characteristics of the electrical face equipment presently in use at the subject mine, according to Petitioner, will not permit the installation of cabs or canopies which will allow the operator to work under comfortable conditions. A cramped or unnatural position not only hampers an operator's effective control of the equipment but also induces fatigue, and therefore carelessness on his part.

6. Petitioner states that the design characteristics of the electrical face equipment presently in use at the subject mine will not permit the installation of cabs or canopies which will allow the operator to escape rapidly from the confines of such cabs or canopies in the event of an emergency.

7. Petitioner is a small operator who leases its No. 1 Deep Mine, a one-section mine with five entries, employing 12 miners. After reasonable investigation of available technology, Petitioner has concluded that no cab or canopy, either prefabricated or of experimental design, compatible with its presently existing equipment, would alleviate the dangers set forth herein.

8. Petitioner contends, therefore, that application of 30 CFR 75.1710 and 75.1710–1 to its present electrical face equipment, operating in the coalbed height shown above, will result in a diminution of safety to the miners at its No. 1 Deep Mine.

9. Petitioner proposes the following alternative method in lieu of compliance with 30 CFR 75.1710 and 75.1710–1:

(a) Petitioner's present electrical face equipment will be replaced, as that equipment wears out, with smaller equipment with cabs or canopies installed to the extent that the cabs or canopies on such smaller equipment may satisfy the human and physical engineering problems identified herein;

(b) Petitioner will retrofit its present electrical face equipment with any cab or canopy, later developed, which will satisfy the human physical engineering problems identified herein; and

(c) In addition to complying with the roof control plan in effect at the subject mine, Petitioner will reinstruct all face workers and section supervisory and inspection personnel in roof and rib fall recognition and prevention techniques as well as safe equipment operation.

10. Petitioner requests that its petition for modification be granted until such time as it is able to acquire cabs or canopies configured for safe operation in the coalbed height at the No. 1 Deep Mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 9, 1976.

[FR Doc.76–24110 Filed 8–17–76;8:45 am]

[Docket No. M 76–506]

HARMAN MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), Harman Mining Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its No. 5–A Mine (1st left area), Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner Harman Mining Corporation has not applied to the Assistant Administrator—Technical Support for approval of devices to be used in lieu of cabs or canopies as permitted by 30 CFR 75.1710–1 since the Petitioner is without knowledge of any alternate devices which would be safe and otherwise suitable for use in its mine.

2. The Petitioner submits, however, that both canopies and cabs are incompatible with the present operations in the 1st left area of its No. 5–A Mine (primarily because of the size of the equipment in relation to the seam height) and that installation of canopies, cabs or any similar device would result in such a serious diminution of safety that the mine would not be able to continue to operate.

3. Petitioner's mine is located in Jesse Fork, Buchanan County, Virginia. The coal seam being mined is the Eagle seam.

4. The mine operates two production shifts per day utilizing conventional mining methods. Approximately 800 tons of coal are produced each day.

5. On the basis of present projections it is estimated that there is enough coal for this area of the mine to continue operating for no more than 36 months.

6. The height of the coal seam in this area of the mine averages 42 inches and varies from 39 to 48 inches.

7. For purposes of the regulation at 30 CFR 75.1710–1, the present mining height in this area of the mine (as measured in accordance with official instructions set forth in Exhibit A[1]) is 27 inches.

8. The regulatory requirement for installation of canopies or cabs became applicable to this mine on January 1, 1976.

9. The electric face equipment for which modification of the regulations is hereby sought consists of the following:

1—14 BU10—11AE Joy loader
1—16 R. B.—3A.E. Joy cutter
1—300 Galis roof bolting machine
1—460 Galis coal drill
1—16 S.C.—6P.E.—12 Joy shuttle car
1—18 S.C.—6P.X.E. 12 M.S. 2 Joy shuttle car
1—AR4 Elkhorn scoop
1—F 145–128 Kersey scoop
1—BM 120 S & S battery tractor

10. This equipment operates in entries which are 19 feet wide; there are no adverse rib conditions and there is no history of roof falls in any of the face areas.

11. A full roof bolting plan is used employing 30-inch roof bolts on 48-inch centers in all working areas, and elsewhere as required.

12. The Petitioner has attempted various methods of installing canopies or cabs, without encountering a single method which would be safe at this mine.

13. There are 25 underground employees in the 1st left area of Petitioner's mine; these employees are members of the United Mine Workers of America.

14. Each of the employees at the mine has been consulted regarding his ideas and feelings concerning operation of equipment in this particular area of the mine with canopies or cabs installed and each of these employees has expressed strenuous objections for reasons of safety.

15. The safety record of the employees in this area of the mine is excellent and not one lost time accident has occurred in this area of the mine in the 2 years that the mine has been in existence.

16. The Petitioner does not have an alternate method for achieving the safety results intended by 30 CFR 75.1710–1, but Petitioner maintains that application of 30 CFR 75.1710–1 to Petitioner's mine will result in a diminution of safety to the miners in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 10, 1976.

[FR Doc.76–24111 Filed 8–17–76;8:45 am]

[1] Exhibit A is available for inspection at the address contained in the last paragraph of the notice.

[Docket No. M 76–524]

HI JACKER COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Hi Jacker Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, Grundy County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, be employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the application of the foregoing mandatory safety standard to haulage equipment and two roof bolting machines in its No. 2 Mine.

2. Petitioner's haulage equipment consists of one (1) Elkhorn Scoop (AR–4), one (1) Mescher Motor; and the other equipment involved is one (1) Paul's Repair Shop Bolter and one (1) Wilcox Bolter.

3. Petitioner states that the installation of canopies on this equipment is creating a hazard to the equipment operators.

4. Petitioners' No. 2 Mine is in the Clintwood seam and ranges from 35 to 45 inches in height. The coal seam has consistent ascending and descending grades, creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from hitting against the roof and possibly destroying roof support. This allows only a 25-inch vertical operating compartment, thus limiting the visibility of the equipment operator and creating a hazard to them as well as to the other employees in the mine.

5. Petitioner maintains that since the equipment operator's visibility is limited in the position required in order to be seated in the operating decks, that the installation of canopies could be a contributing factor in accidents which may arise in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 10, 1976.

[FR Doc.76–24112 Filed 8–17–76;8:45 am]

[Docket No. M 76–525]

JIM-K MINING, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 816(c) (1970), Jim-K Mining, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Jim-K No. 3 Mine, Clintwood County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed

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canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner contends that installation of canopies on face equipment in its Jim-K No. 3 Mine, would result in unsafe working conditions.

2. Petitioner states that the height of the coal seam at the Jim-K No. 3 Mine varies from 40 to 66 inches. The equipment is, on the average, about 36 inches in height. The top at this mine is irregular, and the miners are working in rolls. It is often necessary to cut bottom in order to let the machines pass.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comment on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 10, 1976.

[FR Doc.76-24113 Filed 8-17-76;8:45 am]

[Docket No. M 76X632]

KENTLAND-ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Kentland-Elkhorn Coal Corporation has filed a petition to modify the application of 30 CFR 75.1403-8 to its Kentland No. 2 Mine, Mouthcard County, Kentucky.

30 CFR 75.1403-8 provides:

(a) The speed at which haulage equipment is operated should be determined by the condition of the roadbed, rails, rail joints, switches, frogs, and other elements of the track and the type and condition of the haulage equipment.

(b) Track haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic. Where it is necessary to change the side on which clearance is provided, 24 inches of clearance should be provided on both sides for a distance of not less than 100 feet and warning signs should be posted at such locations.

(c) Track haulage roads developed after March 30, 1970, should have clearance on the "tight" side of at least 12 inches from the farthest projection of normal traffic. A minimum clearance of 6 inches should be maintained on the "tight" side of all track haulage roads developed prior to March 30, 1970.

(d) The clearance space on all track haulage roads should be kept free of loose rock, supplies, and other loose materials.

(e) Positive stopblocks or derails should be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines.

The substance of Petitioner's statement is as follows:

1. Petitioner states that it is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1403-8.

2. Petitioner states that the location of the areas with inadequate clearance are as follows:

(a) Kentland No. 2 East Mine at No. 4 belt drive 1 break inby spad No. 414 (16-inch clearance); and

(b) Kentland No. 2 East Mine at No. 5 belt drive 1 break inby spad No. 314 (16-inch clearance).

3. Petitioner maintains that to obtain the proper clearance at the aforementioned locations it would be necessary to slab the left rib which would make an excessively wide place and that this creates a danger of a roof fall in an area of already unstable roof conditions.

4. Petitioner states that the standard involved herein will result in a diminution of safety at its mines, and requests that the standard be modified to not require Petitioner to obtain full clearance at the aforementioned locations.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 9, 1976.

[FR Doc.76-24114 Filed 8-17-76;8:45 am]

[Docket No. M 76-237]

K AND S COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), K and S Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 9-C Underground Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on the equipment will create a hazard to the equipment operators.

2. Petitioner's equipment consists of two Epling battery-powered haulage motors and one Epling loader ranging in height from 24 to 30 inches. This equipment was manufactured in 1974, is permissible, U.S. Bureau of Mines approved, and was not designed to have canopies installed.

3. The above mine is in the Clintwood seam of coal, ranging from 32 to 48 inches in height. In this seam Petitioner is constantly running into ascending and descending grades resulting in dips in the coalbed. Installing canopies on the equipment would limit the vision of the operators and also cause them to work in a cramped, inflexible position thereby creating a hazard to them as well as to other employees in the mine. Petitioner feels that the installation of these canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24115 Filed 8-17-76;8:45 am]

[Docket No. M 76-506]

McCOY ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, (30 U.S.C. § 861(c) (1970)), McCoy Elkhorn Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 4, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which is pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. McCoy Elkhorn Mine No. 4 is in the lower Pond Creek seam and its thickness ranges from 38 to 52 inches in height. The coal seam lies in consistently ascending and descending grades creating dips and hills in the coalbed over which the equipment must travel. As a result of these conditions, the canopies, as installed, strike the roof knocking out roof bolts and creating hazardous conditions. Furthermore, the vertical operating compartment is so limited as to seriously affect the vision of the equipment operators thereby creating a hazard to them as well as other employees in and around the equipment.

2. Canopies have been installed in this mine on 1 6RB Cutter, 1410 Joy Loader, 2 Joy 21SC Shuttle Cars, 2 Galis 300 Pinners, 2 S&S Scoops, 2 Elkhorn Scoops, and a Galis Coal Drill.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24116 Filed 8-17-76;8:45 am]

[Docket No. M 76X619]

NATIONAL MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), National Mines Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its National Pocahontas Mine, Wyoming County, West Virginia.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

The substance of Petitioner's statement is as follows:

1. Petitioner states that its track haulage equipment was purchased prior to March 30, 1970.

2. Petitioner states that the modification of the subject track haulage equipment to an automatic coupler would result in a major overhaul of said equipment.

3. According to Petitioner, based upon results of studies conducted by ACF Industries Engineering Department and the National Casting Company, it was advised of the possibility of accidental automatic coupling disengagement as the haulage equipment is hoisted over the vertical curve on its slope track.

4. Petitioner states that its alternate method will allow couplings to be made without the necessity of persons going between the ends of such equipment and that said method consists of the following:

(a) A lever attached to the coupling pin that will enable miners to raise and/or lower the coupling pin without going between the equipment;

(b) Locking devices that will lock the coupling pin in a raised position so that miners will not be near the ends of the equipment upon impact during the coupling process;

(c) Slotted pipe for the travel of the chain links and the coupling pin in order to maintain proper alignment; and

(d) Hand link aligner that will enable miners to align the chain and coupling links without going between the equipment.[1]

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 9, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24117 Filed 8-17-76;8:45 am]

[Docket No. M 76-517]

NEW RIVER CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), The New River Company has filed a petition to modify the application of 30 CFR 75.1710 to its Siltix Mine, Fayette County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners

[1] A drawing, showing Petitioner's alternate method, is attached to its petition, and is available for inspection and copying at the Hearings Division address provided herein.

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operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. The New River Company requests that Section 317(j) of the Act and specifically Section 75.1710–1, subparagraph (4) be modified until further technology is developed for its equipment mining in seams of 36 inches to 48 inches, as the installation of canopies in their height creates a diminution of safety to the employees at its Siltix Mine.

2. Petition states that the Siltix Mine is a three-section coal mine producing coal on two 8-hour shifts per day, with one 8-hour shift being used for supply and maintenance of equipment. Mining is accomplished by Lee-Norse CM32 continuous mining machines, Joy 21SC shuttle cars, Jeffrey MT66 shuttle cars and Galis 300 roof bolting machines. S & S Machinery Company UAT74 and UAT86 Un-a-tracs are used to supply and clean up the sections. Coal is mined in the Sewell Seam which coal is loaded into shuttle cars, transported to and dumped into a belt feeder which dumps onto a belt conveyor, and transported to the surface by a series of belt conveyors.

3. Petitioner states that the Sewell Seam of coal at the Siltix Mine is a difficult seam to mine due not only to the undulating seam conditions, but also to the variable height of the coal seam, the weak shale top and water from the mine roof. The water, according to Petitioner, makes the mine floor very slick at times, especially when adverse grades are encountered.

4. Petitioner states that canopies have been installed on all of the self-propelled electric face equipment in the Siltix Mine with its best good faith efforts to comply, but that it is not able to obtain satisfactory compliance with this requirement. Stationary canopies have been installed that may be manually raised or lowered; hydraulically operated canopies have been tried on some of the equipment; canopies purchased from the equipment manufacturers have been installed; and canopies designed and manufactured by Petitioner have been installed. With all of these, Petitioner avers, it is not able to comply with the requirement.

5. Petitioner states that Mr. Donald Rice, a member of the United Mine Workers of America Local No. 1353, was off from work from January 2, 1976 to March 3, 1976, due to pulling a muscle in his back by trying to get into the deck of a Lee-Norse CM32 continuous miner as the deck area was restricted due to the canopy that had been installed. According to Petitioner, the canopy must be lowered in order to get under 4-inch by 8-inch headers, and in so doing, the visibility of the operator is restricted, causing the operator to have to lean out in order to see, thereby creating a diminution of safety to the continuous miner operator.

6. Petitioner states that the canopy on the continuous mining machine knocks installed roof bolts which loosens them, thereby creating another diminution of safety for all of the employees on the section.

7. Petitioner states that Mr. Paul Garrett, a member of the United iMne Workers of America Local No. 1353, was the operator of an S & S Machinery UAT86 Un-A-trac on February 23, 1976, in which Mr. Garrett went to pick up supplies. Because of the restricted visibility caused by the canopy on his equipment, he slid against the rib and knocked the breaker on the equipment by hitting the panic bar which deenergized the Un-a-trac. Mr. Garrett was unable to get out of the Un-a-trac, due to restricted area, in order to reset the breaker to energize the equipment. He was found in this position some two and a half hours later. After a conference with the Mining Enforcement and Safety Administration on February 25, 1976, the canopy was removed.

8. According to Petitioner, the canopies on both the Jeffrey MT66 shuttle car and Joy 21SC shuttle car result in a diminution of safety to the employees in trying to comply with the requirement. Petitioner states that it has been able to provide 27 inches between the seat of the shuttle car and the canopy for the operator; but that this does not give the operator of the opposite standard shuttle car enough visibility to get under the boom of the continuous miner to be loaded. He must get out of the deck and out from the protection of the canopy in order to operate the controls of the shuttle car. It becomes necessary, Petitioner maintains, for the operators of both the opposite standard and standard shuttle cars to stick their heads out from under the canopy in order to steer the cars because of the limited visibility.

9. Petitioner states that the operators of the roof bolting machines are experiencing the same difficulty with canopies as the operators of other equipment in trying to met the requirement.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 9, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc. 76-24118 Filed 8-17-76; 8:45 am]

[Docket No. M 76-526]

NORMA A COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Norma A Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Norma A No. 1 Mine, Clintwood County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner states that installation of canopies on face equipment would result in unsafe working conditions.

2. Petitioner states that the height of the coal seam at its Norma A No. 1 Mine varies from 34 to 42 inches. The equipment is, on the average, about 30 inches in height, and the bottom of the mine is untrue.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24119 Filed 8-17-76;8:45 am]

[Docket No. M 76-299]

PIKE BUCHANAN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Pike Buchanan Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on this equipment is creating a hazard to the equipment operator.

2. The haulage equipment consists of two Mescher Tractors AR20 and Wise Push-out cars. The roof bolting machine is a Lee-Norse TD–2 and also included is one Lee-Norse Continuous Miner. The No. 3 Mine is in the lower Elkhorn seam and ranges from 38 to 44 inches in height. This coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from coming into contact with the roof and possibly destroying roof support. The canopies allow only a 23-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as the other employees in the mine.

3. We feel that since the equipment operators' vision is limited and the position required in order to be seated in the decks is cramped, that the installation of canopies could be contributing factors in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24120 Filed 8-17-76;8:45 am]

[Docket No. M 76-521]

RAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Ray Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, Perry County, Kentucky.

30 CFR 75.1710 provides:

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the application of the mandatory safety standard 30 CFR 75.1710(a) for the reason that the application of such standard will result in a diminution of safety to the miners in its Mine No. 1.

2. The average height of the seam of coal in the Mine No. 1 ranges between 35 to 55 inches. The average coal height is 45 inches.

3. The face equipment currently in use at the Mine No. 1 includes one 14 CM Joy Miner (265), two Joy Shuttle Cars (21SC), one Lee-Norse Twin Roof Bolter, one Galis Roof Bolter (300), and one Joy Loader (14 BU10). Petitioner states that this equipment was not designed for the use of canopies.

4. Petitioner states that due to the close confinement of the canopy, the operator's head must extend beyond the protection of the canopy in order to observe in front of, or behind each piece of machinery, resulting in the danger of being crushed between the canopy and rib.

5. Petitioner states that ingress to and egress from the cab is so limited that the operator might be held captive, preventing escape when such action is warranted. The operator, according to Petitioner, could also be held captive for indefinite periods in case of machine malfunction or power failure.

6. Petitioner states that installation of canopies and/or cabs on the currently used mining equipment, under present mining conditions, would create hazards to the miners in its Mine No. 1.

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REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 9, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc. 76-24121, Filed 8-17-76; 8:45 am]

[Docket No. M 76-522]

RAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Ray Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 20 Mine, Perry County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of les than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the application of the mandatory safety standard 30 CFR 75.1710–1 for the reason that the application of such standard will result in diminution of safety to the miners in its No. 20 Mine.

2. The average height of the seam of coal in the No. 20 Mine ranges between 17 inches to 45 inches.

3. The face equipment currently in use at the mine includes two Joy Shuttle cars (21 SC), one Galis coal drill (460), one Joy cutting machine (16RB), one Joy loader (14 BU 10), and two roof bolters (Galis) (300).

4. According to Petitioner the following hazards are created by installation of canopies:

(a) Due to the close confinement of the canopy, the operator's head must extend beyond the protection of the canopy in order to observe in front of or behind each piece of machinery, resulting in the danger of being crushed between the canopy and rib; and

(b) Ingress to and egress from the cab is so limited that the operator might be held captive preventing escape when such action is clearly warranted. The operator could also be held captive for indefinite periods in case of machine malfunction or power failure.

5. For the foregoing reasons, Petitioner feels that installation of canopies and/or cabs on the currently used mining equipment, under present mining conditions, would create a hazard to the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24122 Filed 8-17-76;8:45 am]

[Docket No. M 76-541]

ROADSIDE COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Roadside Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, Burnwell, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner is the operator of bituminous coal mine No. 1 that is subject to the Mandatory Safety Standards for Underground Mines, and in particular 30 CFR 75.1710–1.

2. Petitioner states that operations are proceeding in said mine in seam heights which, when mined, do not permit clearance between the top of operated equipment and the roof sufficient to allow installation of canopies for protection of operators without the creation of additional hazards.

3. Petitioner states that its Mine No. 1 seam height varies significantly within all entries. Therefore, hazards from roof contract exist at areas where low seams or rolls, dips and other seam variations drop to the vicinity of equipment height.

4. Petitioner states that its primary problem in extending the use of canopies has been operator acceptance, and that it has been able to gain no significant experience with prototype canopies at the mine because of the refusal of miners to operate equipment so equipped. This reaction, according to Petitioner, is difficult to deal with because of the provisions of Article III, Section (i) of the National Bituminous Coal Wage Agreement of 1974, which allows an individual miner to withdraw by following certain procedures from conditions which he believes to be abnormal and dangerous.

5. Petitioner states that its No. 1 Mine operates one working section in seam heights of 44 to 54 inches, using conventional equipment with heights ranging from 32 to 42 inches.

6. Petitioner asserts that to apply the mandatory standard set forth in 30 CFR 75.1710–1 to its No. 1 Mine would result in a diminution of safety to its employees as follows:

(a) Petitioner is constantly encountering undulations in the height of its coal seam, as a result of which the likelihood of jamming the Canopy against the roof its increased, increasing the hazards of damaging cross beams or equipment. Moreover, safe clearance from the room is not assured in that roof bolts have been and will continue to be sheared or dislodged, thereby creating a greater risk of roof fall and injury to employees than would exist otherwise;

(b) Technology in the industry is not available to design and install canopies on existing equipment which will protect the operators in the conditions described herein, and insure visibility and safe operability. Crammed and awkward operator positions cause operators to leave cabs more frequently, and in situations which expose them to hazards of mining equipment. Poor visability causes operators to put their heads outside of the equipment, which exposes them to hazards of moving equipment.

7. In an effort to solve problems of equipment modification, Petitioner states that it knows of consultations with the Mining Enforcement and Safety Administration Technical Support Center, which it believes to be considering the type of problems described herein. Petitioner does not know the results of such consultations. In addition, Petitioner, as is common in the industry, states that it is in repeated and frequent consultation with vendors on equipment problems, and knows that vendors with whom it has consulted are unable to solve the problems described herein.

8. Petitioner states that the existence of the cab itself becomes a hazard in seams, or in portions of seams, in which the Petitioner operates, because present equipment known to the Petitioner limits the paths of escape to an operator forced by a roof or rib fall into a confined space.

9. Much of the equipment used in the No. 1 Mine, Petitioner states, was not manufactured or designed for the installation of canopies, and Petitioner has been unable to construct or purchase suitable canopies without encountering all of the problems identified herein.

10. Petitioner states that the mandatory standard prescribes time limits for the use of canopies based upon maximum height within a mine. If the standard becomes immediately applicable throughout the mine, Petitioner shall be forced to install canopies in the lower reaches of coal before other coal mine operators in like situations. If the different time limits are to apply to the separate mining sections or other areas in the mines, according to Petitioner, then it is faced with a vague situation as mining uncovers new conditions and it is forced to comply within a short period of time. Further, where compliance is impossible, Petitioner states that its mine may be rendered worthless.

11. Petitioner states that the standard involved herein will result in a diminution of safety at its No. 1 Mine and that technology is not available at the present time to satisfactorily accomplish the desired result of increased safety.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 2203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc. 76-24123 Filed 8-17-76; 8:45 am]

[Docket No. M 76-502]

VICTORY DEEP MINE, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Vitcory Deep Mine, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Underground Mine located in McDowell County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner conducts a mining operation in a coal seam which ranges from 28 inches to 34 inches in height.

2. Petitioner conducts its coal mining operations through the use of a Wilcox Mark 20 P.J. Continuous Miner and a Bridge Conveyor, a Wilcox Model W.R.D.A.–J6 roof bolter and a battery Kersey supply motor.

3. The coal seam which Petitioner is presently mining is subject to extensive rolls and undulations which cause the equipment to become jammed between the roof and the floor of the active workings of the coal mine. The use of protective devices on Petitioner's mining equipment further reduces the safety of the operation of said equipment by unduly confining them and diminishing their ability to escape rapidly from the equipment in the event of an emergency.

4. Petitioner has contacted its equipment suppliers to determine if any forms of cabs or canopies are available for installation on the electric face equipment operated in its mine, which will not produce the safety hazards above-mentioned. Petitioner has been advised that such devices do not exist at the present time for use on said equipment. Furthermore, Petitioner is unable to develop an adequate design for a cab and canopy for said equipment which will alleviate these problems.

5. It is Petitioner's position that the application of Section 75.1710 and 75.1710–1 to the electric face equipment used at the mine in the coal seam heights above-mentioned will in fact result in a diminution of safety in said mine.

6. Petitioner submits as an alternate method to provide for the safety of its miners the following program for use in connection with its electric face equipment presently in operation in the subject mine.

a. Petitioner will undertake steps through its equipment suppliers to purchase a suitable form of cabs and canopies for use in connection with its electric face equipment in said mine.

b. Petitioner will conduct classes for the employees working on said equipment concerning the various aspects of the roof and rib control plan approved by MESA at its mine. Furthermore, Petitioner will regularly instruct its personnel in the safe use and operation of the electric face equipment used by the Petitioner in said mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 17, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Depart-

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ment of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 10, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-24124 Filed 8-17-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

COMBINED FOREST PEST R&D PROGRAM BOARD

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Combined Forest Pest R&D Program Board will be held Wednesday, September 15, 1976, beginning at 1 p.m. in Room 218-A, Administration Building, U.S. Department of Agriculture.

The purpose of this Program Board is to advise and make recommendations to the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture, regarding activities pertaining to the Combined Forest Pest R&D Program concerning the gypsy moth, Douglas fir tussock moth, and southern pine beetle. Subjects to be discussed include the Plan of Work and Budget for October 1, 1976 to September 30, 1977, program progress and accomplishments, adjustments or changes in program direction, plans for phasedown of the gypsy moth and tussock moth programs, and other matters related thereto.

This meeting is open to the public, but space and facilities are limited. Comments of interested persons may be filed with the Program Board before or after the meeting.

Information pertaining to the meeting may be obtained from Keith R. Shea, Room 307-A, Administration Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. Telephone area code (202) 447-6827.

KEITH R. SHEA,
Executive Secretary.

AUGUST 13, 1976.

[FR Doc.76-24232 Filed 8-17-76;8:45 am]

NATIONAL ARBORETUM ADVISORY COUNCIL

Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the National Arboretum Advisory Council. The purpose of the Council is to provide the Secretary of Agriculture with an independent over-view of the work of the Arboretum by a body of qualified individuals who represent national organizations. The National Arboretum was created by Act of Congress (Pub. L. 799-69th Congress 20 U.S.C. 191-194) on March 4, 1927, for purposes of research and education concerning tree and plant life.

The Council meets annually at the National Arboretum, Washington, D.C., to receive reports from the Arboretum staff on research progress with trees and environmental plants, educational activities, site development, and long-range goals. The Council's findings are reported in writing to the Secretary of Agriculture.

This notice is given in compliance with Public Law 92-463.

Done at Washington, D.C., this 13th day of August 1976.

J. PAUL BOLDUC,
Assistant Secretary For Administration.

[FR Doc.76-24231 Filed 8-17-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, September 28, 1976, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman, Mr. Donald B. Bruck.

(2) Presentation of papers or comments by the public.

(3) Technical discussion of analog to digital and digital to analog converters.

(4) General discussion on the question of programability.

(5) Discussion of microprocessors.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 15, 1975 (40 FR 58162).

Dated: August 12, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24130 Filed 8-17-76;8:45 am]

Economic Development Administration

HONEY INDUSTRY

Study of Producers and Processors

SUMMARY

The Department of Commerce has conducted a study of the producers and processors of honey pursuant to section 264 of the Trade Act of 1974. Such a study is to be made and its results reported to the President whenever the International Trade Commission makes an import relief investigation of an industry under section 201 of the Act.

In its report to the President of June 29, 1976, the Commission determined (by a 3 to 2 vote, with one abstention) that honey is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic honey industry. The Commission's finding applies to the commercial beekeepers producing honey and, therefore, excludes beekeeping hobbyists, part-time beekeepers, and honey processors who are not also producers. The Commission found that a tariff rate quota system was the remedy necessary to prevent the threatened injury.

A familiar liquid sweetener with a distinctive flavor, honey is produced by bees from the nectar of flowers. Most honey in the United States goes for table use, although a small proportion is used industrially, principally by bakers.

Three principal groups of producers are recognized in the domestic honey industry: (1) About 1,600 large commercial beekeepers with 300 or more colonies (hives) each, which collectively account for the bulk of the honey entering U.S. commercial markets; (2) some 10,000 part-time beekeepers, with from 25 to 299 colonies apiece, whose honey may enter commercial markets but who generally do not depend on honey as their sole source of income; and (3) as many as 200,000 hobbyists maintaining fewer than 25 colonies apiece, producing honey for their own use or for friends and relatives, and selling it directly to consumers or to small retail outlets. Hobbyists and part-time beekeepers have about half the 4.2 million colonies of bees in the United States and account for about 40 percent of domestic production.

Many companies process domestic and imported honey, but the fifteen largest firms handle 80 to 95 percent of the honey sold to wholesalers; the remainder is sold by fewer than 50 firms. In addition, unknown numbers of firms process mostly their own production which never enters the wholesale or industrial market. Rarely does a processor handle anything except honey.

Since 1970, annual production levels in this country have fluctuated widely. Annual honey imports have also varied considerably in recent years, and the United States has been both a net exporter and a net importer of honey. Most imported honey consists of bulk shipments which, since 1972, have shifted from dark industrial grades to the lighter table grades. The leading foreign suppliers of honey in 1975 were Mexico, Argentina, Canada, Australia and Brazil.

To be certified eligible to apply for trade adjustment assistance, a firm must demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and separation, or threat of separation, of the firm's workers. Following certification, a firm may apply for technical and financial assistance to aid its economic recovery. For firms in the honey industry that are considering petitioning the Department of Commerce for certification, the first requirement of the qualifying criteria has been met, since U.S. imports of honey increased steadily from 1973 through 1975. A trade-impacted producing firm may petition the Department at any time regardless of the results of a Commission finding.

As of the date of this report, no petitions have been submitted by firms in the honey industry seeking certification to apply for trade adjustment assistance. Probably very few, if any, of the hobbyists and part-time beekeepers could be considered as "firms" for the purpose of petitioning for certification, and not many would be able to demonstrate decreasing employment if beekeeping is an individual's hobby or only a spare-time occupation. Even many of the commercial honey producers may be too marginal as employers to be capable of meeting the statutory criteria for certification.

The small processing firms that produce and process their own honey for direct retail sale might find it difficult to attribute any sales or production declines to increasing imports. Other types of processors include the cooperative marketing organizations that receive member producers' crops and either bottle and distribute them, or pool and market honey in bulk containers; and the large, well-organized firm purchasing honey from various domestic and foreign sources, processing and packaging it with automated equipment and selling advertised brands.

The Department is unable to determine with any reasonable degree of accuracy the number of petitions likely to be submitted by producing or processing firms in the honey industry, but probably not more than ten firms would consider submitting petitions and be able to qualify for certification.

Under the program of trade adjustment assistance for firms authorized by the Trade Act, financial assistance to a certified firm may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Firms may also benefit indirectly from financial assistance available to trade-impacted communities under provisions of the Trade Act in a manner similar to the public works, business development and Title IX programs administered by the Department's Economic Development Administration ("EDA") pursuant to the Public Works and Economic Development Act of 1965, as amended. These other programs of EDA provide business development loans to assist firms in certain designated places identified on the basis of economic distress such as unemployment; loans and grants to states, redevelopment areas and other nonprofit local entities for public works projects and development facilities and for a comprehensive program of adjustment to an actual or threatened economic dislocation or adjustment problem.

The Small Business Administration ("SBA") administers three programs of potential assistance to small producers: a business loan program of direct, participating, and guaranteed loans; a loan program for local development companies; and a management assistance program for small business. Eligibility for SBA business loans is limited to independently owned and operated firms that are not dominant in their field and do not have over 250 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has programs of both farm ownership loans and farm operating loans that could benefit beekeepers which operate family farms. Honey processors may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term overcapacity. FmHA also can make grants and loans to public bodies, such as local governments and development organizations, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions and access roads, that would benefit industry.

Additional information about the adjustment assistance program and copies of the report, "Prospects for Adjustment Assistance for Producers and Processors of Honey," are available from the Office of Public Affairs, Economic Developemnt Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/377-5113).

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-24205 Filed 8-17-76;8:45 am]

Maritime Administration

PERMANENT CAPITAL CONSTRUCTION FUND AGREEMENT APPLICATIONS

Possible Public Availability Under Freedom of Information Act

In Doc. 76-22489 appearing in the FEDERAL REGISTER on August 3, 1976 (41 FR 32460) notice was given that in the course of administering the Capital Construction Fund (CCF) program under section 607, Merchant Marine Act, 1936,

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as amended (46 USC 1177), the Maritime Administration had determined that applications for permanent CCF Agreements would be subject to disclosure upon request under the Freedom of Information Act (FOIA) (5 USC 552), unless such applications (or specific parts thereof) can be shown to come within one of the enumerated exemptions under the FOIA (5 USC 552).

All applicants, both past and future, for either interim or permanent CCF Agreements, were requested to submit justification for claimed exemptions and/or comments as appropriate by September 7, 1976.

On the basis of requests received from interested parties, good cause having been shown, the time for submission of responses is hereby extended to close of business on October 13, 1976.

Authority by Order of the Assistant Secretary for Maritime Affairs.

Dated: August 13, 1976.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

[FR Doc.76-24250 Filed 8-17-76;8:45 am]

REQUIREMENT THAT CERTAIN VESSELS FINANCED UNDER THE FEDERAL SHIP FINANCING PROGRAM BE INSPECTED AND CERTIFICATED BY THE U.S. COAST GUARD

Policy

Notice is hereby given that the Maritime Administration is confirming that all vessels which carry freight and/or passengers (including tugs, tug/supply and supply vessels and crew boats) in order to qualify to be financed under the Federal Ship Financing Program shall be deemed to be carrying such freight and/or passengers for hire and shall be inspected and certificated in accordance with the applicable rules and regulations issued by the United States Coast Guard. In addition, pursuant to Section 298.4(g) of Title 46 of the Code of Federal Regulations (General Order 29) all vessels financed under the Federal Ship Financing Program are required to meet (1) all requirements to entitle the vessel to the highest classification and rating of the American Bureau of Shipping for vessels of the same age and type except in those cases where such requirements are not applicable to the type of vessel involved, and (2) all requirements of applicable laws, treaties and conventions, and the rules and regulations issued thereunder, including, without limitation thereto, the International Convention for Safety of Life at Sea, and all laws, rules and regulations administered by the United States Coast Guard, the Bureau of Customs, Treasury Department, the Federal Communications Commission, the Public Health Service, Department of Health, Education, and Welfare, or their successors.

The notice amends the notice published June 24, 1976 (41 FR 26055).

Authority: Sections 204(b) and 1109, Merchant Marine Act, 1936, as amended (46 USC 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by P.L. 91-469 (84 Stat. 1036), and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

By order of the Assistant Secretary for Maritime Affairs.

Dated: August 13, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-24251 Filed 8-17-76;8:45 am]

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Receipt of Application for a Scientific Research Permit: Clarification

On July 12, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 28566) that Kenneth S. Norris, University of California, Santa Cruz, California, had applied for a permit to take by radio tagging up to 30 spotted dolphins (*Stenella attenuata*), 30 spinner dolphins (*Stenella longirostris*), 30 whitebelly dolphins (*Delphinus delphis*); and to take up to 500 animals of these species by tagging with dorsal fin roto tags, to conduct research on the behavior of porpoises in the yellowfin purse seine fishery; and to collect specimen materials from dead animals.

The Applicant has requested to clarify the application in the following manner:

In the course of the behavioral research it is planned to conduct 20 experimental seine net sets which may result in the inadvertent killing of up to 340 animals.

With the above clarification, the application remains as described in the July 22, 1976, Notice of Receipt of Application.

Documents submited in connection with this application are available in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is informing the Marine Mammal Commission and its Committee of Scientific Advisors of this clarification.

Written views or data or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before September 17, 1976. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: August 13, 1976.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-24187 Filed 8-17-76;8:45 am]

Office of the Secretary

PROPOSED CREATION OF "SCIENCE COURT"

Colloquium

A Colloquium on a proposal made to the Commerce Technical Advisory Board for creation of a "Science Court" will be held at the Xerox International Center for Training and Management Development on Route 7, near Leesburg, Virginia, about 35 miles northwest of Washington, D.C. Registration will begin at 5:00 p.m., Sunday, September 19, 1976, and the Colloquium will commence at 9:00 a.m. Monday, September 20, and conclude at 5:00 p.m. on Tuesday, September 21, 1976.

The Colloquium is sponsored jointly by the Commerce Technical Advisory Board of the U.S. Department of Commerce, the National Science Foundation, and the American Association for the Advancement of Science. The sponsoring organizations take no position on the merits of the proposal.

The Science Court, as proposed, would pass judgment on the state of scientific and technical knowledge in cases where controversy exists at a time when the best factual basis is needed for decisionmaking on important, controversial public policy issues. The Court's fact finding procedure would be consistent with society's techniques for resolving controversies and would utilize experience of both the legal and the scientific communities.

The purpose of the Colloquium is to expose the concept of the Court to an organized forum in order to offer proponents and others the opportunity to generate enough understanding to decide whether further consideration for implementation of the concept is justified.

Agenda is as follows:

AGENDA

SEPTEMBER 19

5:00 to 10:00 p.m. Registration—Xerox Center, Leesburg, Virginia.

6:00 p.m. Informal Mixer.

7:00 to 8:00 p.m. Buffet Dinner.

SEPTEMBER 20

8:00 a.m. Registration continues.

9:00 a.m. to 5:00 p.m. Sessions.

Introduction

Betsy Ancker-Johnson, Assistant Secretary for Science and Technology, U.S. Department of Commerce

Session I

The Science Court—Its Potentialities and Its Problems

Chairman: Arthur Kantrowitz, Chairman of Avco Everett Research Laboratory

Speakers: Richard O. Simpson, former chairman of U.S. Consumer Product Safety Commission; Margaret Mead, American Museum of Natural History

Luncheon

Chairman: Philip H. Abelson, Editor, Science.

Speaker: Russell E. Train, Administrator, Environmental Protection Agency

Session II

The Science Court—Its Potentialities and Its Problems (Continued).

Chairman: Donald B. Straus, president of research institute, American Arbitration Association

Speakers: Alan Mazur, professor of sociology, Syracuse University; Alan McGowan, President of Scientists Institute for Public Information; John Noble Wilford, N.Y. Times, Robert Cowan, Christian Science Monitor, Phillip Boffey, Science

6:00 p.m. Informal Mixer

7:00 p.m. Dinner

Chairman: Frederick Seitz, president, The Rockefeller University

Speaker: H. Guyford Stever, Science Advisor to the President

SEPTEMBER 21

9:00 a.m. to 5:00 p.m. Sessions

Session III

Science Court Procedures

Chairman: Gerald Piel, Publisher, Scientific American

"The Food Additive Controversy": Howard Bauman, vice president, science technology, Pillsbury Co.; James S. Turner, attorney, Swankin & Turner

"The Nuclear Power Controversy": Hans Bethe, Professor Emeritus, Cornell University; John Holdren, University of California, Berkeley

Luncheon

Chairman: Betsy Ancker-Johnson

Speaker: The Honorable Elliot L. Richardson, Secretary of Commerce

Session IV

Summary Discussion

Chairman: Arthur Kantrowitz

5:00 p.m. Adjournment

Public attendance is invited, but prior registration and payment of a $95 fee is necessary. The fee includes: two night's accommodations (single room, shared bath with one other registrant), two breakfasts (Monday and Tuesday), two lunches (Monday and Tuesday), and two dinners (Sunday and Monday). Each registrant will be provided with a copy of the proceedings when published. Applications for attendance and additional information may be obtained from Mr. Frank Cacciapaglia, Jr., or Mrs. Florence Feinberg, Office of Assistant Secretary for Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-5065.

Dated: August 12, 1976.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.76-24129 Filed 8-17-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N-0248]

VITAMIN K ACTIVE SUBSTANCES IN ANIMAL FEEDS

Food Additive Status

The Food and Drug Administration has received a request from Heterochemical Corporation to review and clarify the legal status of several vitamin K substances currently being used as supplements in animal feed. In order to acquire the information necessary to determine whether these products are generally recognized as safe (GRAS) or food additives, the Commissioner is considering whether to propose under the provisions of § 121.41(b) (21 CFR 121.41(b)) to determine that menadione, menadione sodium bisulfite, and menadione sodium bisulfite complex are not GRAS and are food additives subject to section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348). Before making this determination, he is soliciting comments to be received by October 18, 1976.

Vitamin K was discovered and named by Dam[1] of Copenhagen in 1935, when he observed in newly hatched chicks a fatal hemorrhagic diathesis, which could be cured or prevented by administering a nonsaponifiable nonsterol fraction of hog liver or alfalfa. Later it was observed that the delayed clotting time of the blood was due to low prothrombin content. Physical and chemical differences in the vitamins thus isolated led to the designation of K_1 for the vitamin from green leaves and K_2 for that formed by bacteria. Later, several analogues of vitamin K were synthesized; these have generally been found to be more stable and suitable for use as feed ingredients. Menadione, menadione sodium bisulfite and menadione bisulfite complex have been designated as being in the K_3 series.

By the mid-1950's, FDA had stated on a number of occasions that these Vitamin K active substances were permissible for use in poultry feeds, based upon a recognized need for such supplementation under certain conditions. No such need had been recognized and documented in other animal species. In addition to the various informal opinions thus expressed in early correspondence, an order concerning menadione for human use, published in the FEDERAL REGISTER of July 16, 1963 (28 FR 7262), determined that menadione in animal feed is not a food additive as defined in section 201(s) of the act (21 U.S.C. 321(c)).

However, the history of use of Vitamin K active substances in the possession of FDA does not provide an adequate basis upon which to conclude that such substances for animal use are GRAS under the criteria set forth in § 121.3(b)(2)(iv) (21 CFR 121.3(b)(2)(iv)). The data and information presently available to the Commissioner are on public display and available for public examination at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. A period of 60 days is provided within which interested persons may review the data and information and/or file additional data and comments with the Hearing Clerk, Food and Drug Administration. Copies of all comments and data will be made available for examination in the Hearing Clerk's office.

The Commissioner will evaluate all comments received. If it is concluded that there is convincing evidence that the vitamin K active substances are GRAS, a regulation will be published affirming the substances as GRAS. If there is a lack of convincing evidence that the substances are GRAS, a notice will be published that such substances are food additives as defined in section 201(s) of the act.

If he determines that the substances are food additives, the Commissioner may: (1) Promulgate a food additive regulation governing use of the additive; or (2) promulgate an interim food additive regulation governing use of the additive; or (3) require discontinuation of the additive; or (4) adopt any combination of the above approaches.

Interested persons may, on or before October 18, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this matter. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 11, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24147 Filed 8-17-76;8:45 am]

National Institutes of Health

[DHEW Publication No. (NIH) 76-970]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Third Report of the Director; Correction

The Director, National Heart, Lung, and Blood Institute wishes to acknowledge an erroneous statement on page 50 of the report indicated above.

The erroneous statement reads as follows:

Establishment of an Interagency Coordinating Committee with the Office of the Assistant Secretary for Health (ASH) for the implementation of National Blood Policy and operation of the American Blood Commission (ABC).

The statement should read:

Implementation of the National Blood Policy involves a multi-agency effort, both within and outside of the Department of Health, Education, and Welfare. The Office of the Assistant Secretary for Health has been assigned the lead responsibility for coordinating the implementation of the Policy.

[1] Dam, Biochem. Z., 215: 474, 1929; 220: 158, 1930; Biochemical Journal, 29: 1273, 1935.

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The original letter transmitting the report to the Congress appeared in the May 17 issue of the Congressional Record, at page S7311.

Dated: August 10, 1976.

R. W. LAMONT-HAVERS,
Acting Director,
National Institutes of Health.

[FR Doc.76-24152 Filed 8-17-76;8:45 am]

WORKING GROUP ON SAFER HOSTS AND VECTORS RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of a Working Group on Safer Hosts and Vectors of the Recombinant DNA Molecule Program Advisory Committee on September 12, 1976, 12 Noon, at the National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland.

The entire meeting will be open to the public to evaluate putative safer hosts and vectors for research involving recombinant DNA molecules. Attendance by the public will be limited to space available.

Dr. William J. Gartland, Executive Secretary, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20014, telephone (301) 496-2323, will provide summaries of the meeting, rosters of committee members and substantive program information.

Dated: August 11, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-24153 Filed 8-17-76;8:45 am]

Office of the Assistant Secretary for Health

ASAHI MEDICAL CO., LTD., TOKYO, JAPAN

Intent To Grant Foreign Exclusive Patent License

Pursuant to § 6.3, 45 CFR Part 6, notice is hereby given of intent to grant to Asahi Medical Co., Ltd., Tokyo, Japan, a limited-term, revocable, exclusive patent license in West Germany, Great Britain, France, and Japan for the foreign counterparts of U.S. Patent No. 3,819,772 entitled "Method of Making Thin Defect-Free Silicone Rubber Films and Membranes," an invention developed by Theodor Kolobow and assigned to the Department of Health, Education, and Welfare.

Any objection thereto, together with request for opportunity to be heard, if desired should be directed to the Assistant Secretary for Health, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201 on or before September 17, 1976. Interested parties may obtain a copy of the above U.S. patent upon request in writing to the party hereinabove named.

(45 CFR 6.3.)

Dated: August 11, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

[FR Doc.76-24154 Filed 8-17-76;8:45 am]

Office of Education

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Contracts for Coordination of Technical Assistance by State Educational Agencies for Programs

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880-13), notice is hereby given that applications for contracts for the coordination of Technical Assistance are being accepted from State Educational Agencies in the States where programs of bilingual education assisted under the Bilingual Education Act were operated during the fiscal year preceding the fiscal year for which assistance is sought.

Funds made available pursuant to this notice shall be used for the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act and operated by local educational agencies in the State of the applicant.

The amount paid to any State educational agency pursuant to this notice shall not exceed 5 percent of the aggregate of the amounts paid under Part A of the Act to local educational agencies in the State of such agency in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Applications must be received by the U.S. Office of Education Application Control Center on or before September 10, 1976.

A. APPLICATIONS SENT BY MAIL

An application sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.-403. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than September 6, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Services; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. HAND DELIVERED APPLICATIONS

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. PROGRAM INFORMATION AND FORMS

Information and application forms may be obtained from the Office of Bilingual Education, Office of Education, 400 Maryland Avenue, SW. (Reporter's Building, Room 421), Washington, D.C. 20202.

D. APPLICABLE REGULATIONS

Grant awards made pursuant to the notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, and 100c. In preparing applications, applicants should be guided by the regulations published in the FEDERAL REGISTER on June 11, 1976. Applicants' attention is directed in particular to Subpart F—§ 123.51-123.60 relating to Coordination of Technical Assistance by State Educational Agencies.

(20 U.S.C. 880b-880b-13)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education)

Dated: August 13, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76-24321 Filed 8-17-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-605]

BATTLE CREEK AND MOUNTAIN VIEW

Hearing

In the matter of: Battle Creek and Mountain View, Martin Price, President, and First American Land Corporation, 76-168-IS, OILSR No. 0-1244-54-51 Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Battle Creek and Mountain View, Martin Price, President, and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Battle Creek and Mountain View subdivisions located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20210 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45 (b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24170 Filed 8-17-76;8:45 am]

[Docket No. N-76-602]

BEACHES OF NOSARA

Hearing

In the matter of: Beaches of Nosara, Alan D. Hutchison, Inversiones Nicoya, S. A., Y-1103-Is, OILSR NO. 0-0478-60-15.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Beaches of Nosara, Alan D. Hutchison, Inversiones Nicoya, S.A., authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 17.10, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Beaches of Nosara located in Province of Guanacaste, Costa Rica, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 3, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 24, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 3, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 11, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24173 Filed 8-17-76;8:45 am]

[Docket No. N-76-611]

BUNKER HILL HEIGHTS

Hearing

In the matter of: Bunker Hill Heights, Martin Price, President and First American Land Corporation, 76-165-IS, OILSR No. 0-1883-57-11, Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160 (b).

Notice is hereby given that: 1. Bunker Hill Heights, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Bunker Hill Heights located in Berkley County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunities for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24165 Filed 8-17-76;8:45 am]

[Docket No. N-76-601]

CALIFORNIA SIERRA HIGHLANDS

Hearing

In the matter of: California Sierra Highlands #1 Tract 2272, Bob C. Gaston, President and Land Dynamics, OILSR No. 0-1657-04-324, 76-199-IS: Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. California Sierra Highlands #1 Tract 2272, Bob C. Gaston, President and Land Dynamics, authorized agent and officers,

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hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–488) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for California Sierra Highlands #1 Tract 2272, located in Fresno County, Fresno, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 30, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 29, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 8, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45 (b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 11, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24174 Filed 8-17-76;8:45 am]

[Docket No. N-76-606]

GREENE ACRES

Hearing

In the matter of: Greene Acres, Martin Price, President and First American Land Corporation, 76–167–IS OILSR No. 0–0990–54–32; Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Greene Acres, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Greene Acres Subdivision located in Greene County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160 ((d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24160 Filed 8-17-76;8:45 am]

[Docket No. N-76-604]

HOLIDAY HILL, ET AL.

Hearing

In the matter of: Holiday Hill, Mosby's Raiders, Hideout and Helms Mountain, Martin Price, President and First American Land Corporation, 76–170–IS, OILSR No. 0–1840–54–91; Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Holiday Hill, Mosby's Raiders, Hideout and Helms Mountain, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and property Report for Holiday Hill, Mosby's Raiders and Helms Mountain located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24171 Filed 8-17-76;8:45 am]

[Docket No. N-76-610]

LAKE FRONT ROYAL, ET AL.

Motion for Consolidation

In the matter of: Lake Front Royal, OILSR No. 0–1243–54–50, Docket No. 76–127–IS; River Hills, OILSR No. 0–1580–54—67, Docket No. 76–162–IS; Shenandoah River Forest, Shenandoah Ridge, Shenandoah River Bend, OILSR No. 0–1534–54–65 and (A), Docket No. 76–164–IS; Bunker Hill Heights, OILSR No. 0–1883–57–11, Docket No. 76–165–IS; Round Head Mountain, OILSR No. 0–1081–54–39 and (A), Docket No. 76–166–IS; Greene Acres, OILSR No. 0–0990–54–32, Docket No. 76–167–IS; Battle Creek Mountain View, OILSR No. 0–1244–54–51, Docket No. 76–168–IS; Shenandoah Forest, OILSR No. 0–1581–54–68, Docket No. 76–169–IS; Holiday Hill, Mosby's Raiders Hideout, Helms Mountain, OILSR No. 0–1840–54–91, Docket No. 76–170–IS; Potomac Heights, Potomac Hills, OILSR No. 0–1009–57–2, Docket No. 171–IS.

ORDER

On July 26, 1976, the Department filed a Motion for Consolidation in the above captioned cases. No opposition to this Motion was filed. Accrdingly, the Motion for Consolidation is hereby granted.

Issued at Washington, D.C. on August 6, 1976.

JAMES W. MAST,

[FR Doc.76-24104 Filed 8-17-76;8:45 am]

[Docket No. N-76-600]

NATURAL LAKES

Hearing

In the matter of: Natural Lakes, Thomas A. Thiel, President, OILSR No. 0–3219–58–66, 76–195–IS; Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Natural Lakes, Thomas A. Thiel, President, authorized agent and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Natural Lakes, located in Vilas County, Wisconsin, contain untrue statements of material facts or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 29, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on October 28, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 7, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 11, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc 76-24175 Filed 8-17-76;8:45 am]

[Docket No. N-76-608]

NORTHUMBERLAND PLANTATION

Hearing

In the matter of: Northumberland Plantation, James C. Brincefield, General Partner, Northumberland Development Company, Limited Partnership, OILSR NO. 0–0875–54–29, 76–156, Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Northumberland Plantation, James C. Brincefield, General Partner Northumberland Development Company, Limited Partnership, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Northumberland Plantation, located in Ophelia, Northumberland County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opporunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 3, 1976 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 13, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 10, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24167 Filed 8-17-76;8:45 am]

[Docket No. N-76-609]

RIVER HILLS

Hearing

In the matter of: River Hills, Martin Price, President and First American Land Corporation, 76–162–IS OILSR NO. 0–1580–54–67, Pursuant to 15 U.S.C. 1706 (d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. River Hills, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for River Hills located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 1, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportu-

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nity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 10, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24166 Filed 8-17-76;8:45 am]

[Docket No. N-76-603]

SHENANDOAH FOREST

Hearing

In the matter of: Shenandoah Forest, Martin Price, President and First American Land Corporation, 76-169-IS OILSR No. 0-1581-54-68, Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Shenandoah Forest, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Shenandoah Forest located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160 (d), *it is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 12, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.74-24168 Filed 8-17-76;8:45 am]

[Docket No. N-76-607]

SHENANDOAH RIVER FOREST, ET AL.

Hearing

In the matter of: Shenandoah River Forest, Shenandoah Ridge and Shenandoah River Bend, Martin Price, President and First American Land Corporation, 76-164-ISOILSR No. 0-1534-54-65 and (A), Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that: 1. Shenandoah River Forest, Shenandoah Ridge and Shenandoah River Bend, Martin Price, President, and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Shenandoah River Forest, Shenandoah Ridge and Shenandoah River Bend located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24172 Filed 8-17-76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-76-612]

POTOMAC HEIGHTS AND POTOMAC HILLS

Hearing

In the matter of: POTOMAC HEIGHTS AND POTOMAC HILLS, Martin Price, President and First American Land Corporation, OILSR No. 0-1009-57-2, 76-171-IS. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b). Notice is hereby given that:

1. Potomac Heights and Potomac Hills, Martin Price, President and First American and Corporation, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Potomac Heights and Potomac Hills Subdivisions, located in Berkley County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge,

[FR Doc. 76-24163. Filed 8-17-76; 8:45 a.m.]

[Docket No. N-76-613]

ROUND HEAD MOUNTAIN

Hearing

In the matter of: Round Head Mountain, Martin Price, President and First American Land Corporation, 76-166-IS OILSR No. O-1081-54-39 and (A). Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b). Notice is hereby given that:

1. Round Head Mountain, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Round Head Mountain Subdivision located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on September 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 31, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24162 Filed 8-17-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76-8-59; Docket 29580]

ALLEGHENY AIRLINES, INC.

Order Staying Further Procedural Steps in Accordance With Expedited Procedure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of August, 1976.

On July 28, 1976, Allegheny Airlines, Inc. (Allegheny) filed an application pursuant to Subpart M of Part 302 of the Board's Procedural Regulations requesting an amendment of its certificate of public convenience and necessity for Route 97 to permit nonstop service, without subsidy eligibility, between Cincinnati and Cleveland. Both points are on segment 1.

Upon consideration of the foregoing and pursuant to section 302.1305(a) of the Board's Procedural Regulations, we have decided to stay further procedural steps with respect to the application pending further order of the Board.

Accordingly, *it is ordered:* 1. That further procedural steps with respect to the application of Allegheny Airlines, Inc., in Docket 29580, be and they hereby are stayed pending further order of the Board; and

2. That this order shall be served upon all parties served by Allegheny in its application.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24221 Filed 8-17-76;8:45 am]

[Docket No. 24869; Order 76-8-67]

BAGGAGE ALLOWANCE TARIFF RULES IN OVERSEAS & FOREIGN AIR TRANSPORTATION

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of August 1976.

By Order 76-3-81, decided February 25, 1976 and effective March 13, 1976, the Board issued its final opinion in Baggage Allowance Tariff Rules In Overseas & Foreign Air Transportation, Docket 24869, which among other things ordered cancellation of all tariffs for excess-baggage charges in overseas and in foreign air transportation within 90 days (June 10, 1976). The Board, upon request of the Department of State, granted a 30-day deferral of the previously ordered tariff cancellation (Order 76-6-73 June 9, 1976).

By Order 76-7-32, July 8, 1976, the Board denied a further request to delay the cancellation date of various tariffs establishing excess-baggage charges in overseas and foreign air transportation. Accordingly, the excess-baggage rates of one percent of the applicable one-way first-class fare per kiloram were ordered canceled prior to July 11, 1976. On July 16, Lufthansa German Airlines (Lufthansa) filed a petition for reconsideration of Order 76-7-32.

In support of its petition, Lufthansa asks the Board to reconsider its decision on the basis of information which was unavailable to the Board prior to the issuance of its order. Lufthansa notes that the Board's investigation of the baggage rates extended over 3 years, with many conflicting positions being presented. Since the Board's investigation took such a long time, Lufthansa argues that the Board's insistence that carriers resolve the issue within 120 days is unrealistic and unsettling. Further, Lufthansa suggests that the Board had not read, prior to its decision, a communication submitted by the Federal Republic of Germany to the State Department, which urgently requested further delay to resolve the complex issue. Finally, Lufthansa argues that the Board's action places Lufthansa in a position where it will be in violation of either United States or German law, due to conflicting excess-baggage tariff rules.

Donald L. Pevsner, Esq., in an answer in opposition to Lufthansa's petition, asserts that the key arguments presented by Lufthansa are not new, and should not alter the Board's decision. Mr. Pevsner argues that the threat of fines on Lufthansa by the German Government

[1] Minetti and West, members, filed the dissent. Filed as part of the original document.

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should be depreciated as the airline is largely owned by the government, making the fines merely "paper transfers."

Upon full consideration of Lufthansa's petition, Mr. Pevsner's reply, and other relevant matters, the Board has decided to deny Lufthansa's petition. Lufthansa has presented no new issues that the Board has not considered previously.

The excess-baggage issue is not new. The Board has stated its objections to the antiquated international excess-baggage rates nearly every year since 1964, and IATA has been discussing the matter for over ten years. All interested persons, including foreign air carriers, who were all made parties, were welcome to participate in the Board's excess-baggage investigation, which as Lufthansa admits was extensive and detailed. There were many other forums and ample time to resolve this issue, e.g., in IATA conferences, but no action has been taken in U.S. foreign air transportation even though optional "piece" systems for the free allowance were introduced in the Caribbean and within-Europe areas. Under these circumstances, we see no new or compelling reasons which would cause us to alter our decision in Order 76–7–32; therefore the petition for reconsideration of Lufthansa will be denied.

Accordingly, it is ordered, that:

The petition of Lufthansa German Airlines for reconsideration of Order 76–7–32 be and hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–24223 Filed 8–17–76;8:45 am]

[Docket No. 29871; Order 76–8–75]

HAWAIIAN AIRLINES, INC.

Order Regarding Increased Air Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of August 1976.

By tariff revisions[1] issued May 10 and marked to become effective June 24, 1976, Hawaiian Airlines, Inc. (HAL) proposed to increase general and specific commodity rates and charges, except minimum charges, by an average of 1.3 cents per pound for a 22.7 percent increase in revenue.

By Order 76–6–157, dated June 23, 1976, the Board suspended and instituted an investigation of HAL's proposal in order to afford it an adequate period of time within which to evaluate the proposal. This order is the result of that evaluation.

A joint complaint requesting suspension and investigation of the proposal had been filed by the State of Hawaii, the County of Hawaii, and the County of Maui (the State).[2] The complaint alleges inter alia, that the State of Hawaii is vitally dependent upon air freight and must rely upon air service to an unusual degree; that increases of the proposed magnitude present a serious threat to the farmers, growers, and consumers of Hawaii; that the proposed increase, when coupled with previous increases since May 1974, amounts to an 85 percent increase in two years; that HAL should not compare its rates with those on the Mainland since it has greater density of freight per mile flown than do other local service carriers; that, with the additional freight per scheduled departure, HAL should have substantially lower noncapacity expense per pound than many Mainland local service carriers; that, if the usual elasticity of demand follows the proposed increase, the carrier will have about the same revenue that will occur with the present rate of growth without the increase; and that the computation of revenues and expenses requires investigation and further information with regard to the allocation of expenses to air freight, especially future cost escalations and productivity gains.

The State also alleges, among other things, that since 1968, the carrier's overall rate of return has improved from 7 percent to 15.3 percent in 1974; although costs are up, freight yields have increased an even greater amount; average forecast load factor should be about 56 percent and not 48.8 percent and, consequently, aircraft operating expenses per ton-mile will be reduced; revenue ton-miles for the first quarter 1976 are up significantly; HAL's answer relies upon irrelevant comparisons such as postal rate increases, dollar amount increases in Mainland-Hawaii rates for other carriers, and an allegation that the higher budgets of certain Hawaiian families increase the level of rates the traffic will bear; HAL's freight service is not comparable to that on the Mainland local service carriers since most local service carriers offer no all-cargo service; and, as indicated, since HAL's return in 1974 exceeded the Board's standard of 12.35 percent found for local service carriers, it should not be granted a further increase of 24 percent.

In support of its proposal and in an answer to the complaint HAL asserts, inter alia, that losses in freight operations for 1975 totaled $1.1 million, and, based upon 1975 traffic and revenues, had this proposed increase been in effect during 1975, losses would not have been eliminated but reduced to about $112,000; carrier costs of operation have risen substantially during this period; HAL's low level of rates is demonstrated by comparison with Mainland carriers serving markets of similar distance; and, even after the proposed increases are applied, the rates charged by HAL will continue to be lower than those now in effect in such markets in nearly all instances.

In view of all relevant factors, the Board concludes that the complaint does not set forth facts sufficient to warrant investigation, and consequently, the investigation instituted in Order 76–6–157, supra, will be terminated and the suspension ordered therein vacated.

The rates proposed would reduce but not eliminate HAL's cargo operation losses and are considerably below rates in comparable Mainland markets. The State contends that HAL should have lower noncapacity unit costs than Mainland carriers because of the greater productivity of its ground employees and facilities. As evidence of such productivity, complainant presents data showing that HAL has "greater density" because it generates more freight ton-miles per aircraft-mile flown and per departure and more tons per departure than carriers on the Mainland.[3] However, no demonstration is made as to how "greater density" (as defined in the complaint) translates into lower non-capacity unit costs, since such costs typically vary directly with the volume of traffic handled.

While it is true, as complainant states, that rates have risen substantially in the past two years, these increases represent the total of all requests by Hawaiian for increases in its freight rate level that have become effective since 1968. Thus, spreading the increase over the past eight years amounts to about 8 percent annually, which is not out of line with cost-based rate increases on the Mainland during this period. In general, the rates proposed are significantly below rates in Mainland markets. Furthermore, although complainant refers to the high percentage increases in rates, no evidence is presented as to any actual deleterious effect upon shippers, consumers, and the economy at large.

Although, as the State asserts, freight yields have outstripped cost increases since 1973, freight yield per ton-mile for 1973 was abnormally low, only 82 percent of that for 1968. Since 1968, at a matter of fact, unit operating costs covering HAL's overall operations have increased significantly. Furthermore, costs in 1975 increased substantially (about 15 percent) over the previous year. Between 1968 and 1975, we find that yields have risen about 20 percent while overall unit costs have increased by about 37 percent.

The proposed rates will not result in excess profits for HAL; rather they will help reduce losses. While the complainant alleges that HAL's return on investment (ROI) in recent years has been sufficient and even above the 12.35 percent standard set by the Board for local service carriers, the 15.27 percent quoted for 1974 was based upon a "corporate rate of return" method.

The appropriate measure of the company's profits for the purpose of determining its proper rate level is its regulatory rate of return on investment used by the Board in formal proceedings. HAL's system ROI (covering both passenger and cargo services) for the year ended September 1975, adjusted to reflect a year's effect of the passenger-fare increase effective February 1, 1976, was 6.9 percent,[4] while the ROI for freight-only operations for the year ended December 1975, was −23.79 percent. Reconstructed to reflect a year's effect of the currently proposed freight rate increase, the ROI is estimated to have been −0.15 percent. Furthermore, the complainants' use of 1974 ROI to indicate extreme profitability of the carrier fails to take into account that 1974 apparently was a peak year. During the past eight years the corporate ROI, except for 1974, ranged from 11.34 percent to a low of 2.06 percent. Further, HAL's corporate ROI for the period ended December 1975 was 0.7 percent and for the year ended March 1976 was 4.3 percent, significantly below that reported in 1974. The above data effectively moot the allegations of the complainant which go to the validity of the carrier's forecast, since our evaluation and conclusion is based solely upon the carrier's latest reported experience.

The State also criticizes the carrier for using escalation factors of 14.7 percent (excluding fuel) and 20.6 percent (including fuel) applied to its 1975 costs to develop forecast profit data. The State asserts that HAL, in support of a passenger-fare increase proposal earlier this year, used lower escalation rates, ranging between 10.2 to 10.9 percent for costs excluding fuel expenses and from 8.6 to 9.3 percent including fuel, utilizing the year ended September 30, 1975, as a base. As indicated above, however, in reaching its conclusion that the rate proposal should be permitted to become effective, the Board relied not upon any forecast of cost increases, but upon experienced 1975 costs. The complaint is thus, also to this extent, mooted.

While the State faults HAL's cost justification on the ground that it lacks sufficient detail and backup information to permit proper analysis, it appears to us that the cost data presented are sufficiently detailed as justification of a tariff proposal. The carrier has indicated in considerable detail the allocation factors used for various expense items and our analysis indicates these are, in general, consistent with accepted costing methodology.

Furthermore, the carrier and the State contest the appropriate load factor to be employed in forecasting profitability, particularly in light of a significant increase in traffic volume in the first quarter of 1976. The carrier's use of its 48.8 percent load factor experienced in 1975 does not appear unreasonably low, in view of its actual experience during the past 6 years (which showed load factors as low as 36.5 percent), the fact that the rate of traffic growth for April and May 1976 declined significantly,[5] and the 1975 average Mainland cargo aircraft load factor for combination passenger-cargo carriers of 49.5 percent.[6]

The State also argues that the carrier can obtain the desired increase in revenues from normal traffic growth alone without any increase in rates. This argument, however, ignores the fact that normal traffic growth results in added expenses as well as added revenues.

Finally, as indicated above, although the current proposal would result in an average rate increase of 24 percent, the increase would amount only to 1.3 cents per pound of freight. Thus, the moderate increase per pound appears comparatively high only because of the low level of rates currently in effect.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. The investigation instituted in Order 76–6–157 be terminated and the suspension ordered therein vacated;

2. The complaint of the State and County of Hawaii and the County of Maui, in Docket 29371, is dismissed;

3. The motion of the State and County of Hawaii and the County of Maui to file an otherwise unauthorized reply to the answer to the complaint is granted;

4. The motion of Hawaiian Airlines, Inc., to file an otherwise unauthorized amendment to its answer to the complaint is granted; and

5. Copies of this order be filed with the tariff and served upon the State and County of Hawaii, the County of Maui, and Hawaiian Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 76–24224. Filed 8–17–76; 8:45 am]

[Docket No. 27573; Order 76–8–64]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority August 12, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement was adopted at the 37th Meeting of the TC2 Specific Commodity Rates Board in Geneva held July 5–9, 1976.

The agreement would establish several new specific commodity descriptions and change the area of application on several descriptions as well as change the descriptions as shown in the Attachment and establish specific commodity rates for several items to apply between various world markets outside of air transportation (Europe/Africa/Middle East). We will approve the descriptions as shown in the Attachment which have general application within air transportation as defined by the Act but will disclaim jurisdiction with respect to the rates which involve points solely outside of air transportation.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the specific commodity descriptions incorporated in Agreement C.A.B. 26036, which have general application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act.

2. It is not found that the specific commodity rates incorporated in Agreement C.A.B. 26036 which involve transportation solely between foreign points affect air transportation within the meaning of the Act.

Accordingly, it is ordered, That:

1. Those portions of Agreement C.A.B. 26036 set forth in the Attachment which have general application in air transportation as defined by the Act, be and hereby are approved:

2. Jurisdiction be and hereby is disclaimed with respect to that portion of Agreement C.A.B. 26036 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

ATTACHMENT

AGREEMENT C.A.B. 26036

Item No:	Description
0300----	Fish and Seafood [1]
0300----	Fish and Seafood—Excluding Fish, Live, Inedible [24]
0301----	Fish and Seafood—Excluding Caviar [14]
0301----	Fish and Seafood—Excluding Caviar and/or Fish, Live, Inedible [24]
0302----	Fish and Seafood—Excluding Caviar, Salmon, Shellfish and/or Fish, Live, Inedible [8]

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[1] Revisions to Tariff C.A.B. No. 4 issued by Hawaiian Airlines, Inc.

[2] The State, on June 28, filed a reply to HAL's answer to the complaint, which was accompanied by a motion for leave to file an unauthorized document. On July 8, HAL filed an amendment to its answer accompanied by a motion to file an unauthorized document in order to reply to the State. In view of the Board's delayed action, both motions are granted.

[3] In its answer, HAL challenges the data used in the State's density analysis.

[4] See Order 76–116, January 30, 1976.

[5] The rates of growth in freight ton-miles for various periods in 1976 over comparable periods of 1975 were as follows: first quarter of 1976, 23.9 percent; April, 10.7 percent; and May, 0.1 percent.

[6] Even if the State's assumption of an appropriate cargo load factor of 56 percent is accepted, arguendo, HAL's return on investment for 1975, after adding the revenue from the rate increase proposed, would have been only 1.5 percent.

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Item No:	Description
0350	Lobster and/or Salmon [1 3]
0560	Ready Made Meals [3]
0643	Hare Meat [1 4]
2204	Yarn, Thread, Fibres, Textiles, Textile Manufactures, Clothing, Footwear, Outerwear, Undergarments [1 4]
2205	Cotton Trousers and/or Skirts [1 3]
2292	Blouses, Jackets, Jeans, Skirts, Trousers, Waistcoats—Made of Cotton [3]
2421	Clogs [1 3]
2944	Cotton Stockinette Bags [3]
4219	Aluminium Cylinder Heads for Engines [3]
4305	Portable Electronic Calculators [1]
4315	Magnetic Tapes for Data Storage [1]
4447	Electron Gun Which is component of TV Receiving Tube Mount [1]
4453	Electrical Heating Elements [1 3]
4561	Electrical Power Amplifiers and Motors [1 3]
4739	Earth Drilling and/or Woodworking Machinery [1 3]
5650	Additive to Improve the Viscosity of Lubricating Oils [1 3]
6006	Chemicals, Drugs, Pharmaceuticals, Medicines, Surgical Gauze, Bandages, Paints and Varnishes [1]
6016	Insecticides, Airfresheners, Sprays in Aerosol Cans Excluding Perfumes [3]
6828	Plastic Spare Parts intended Solely for Manufacturing Telephone, Teletype and Telegraph Apparatus [1 3]
6851	Printed Cards/Advertising Displays—Made of Plastic [3]
7048	Paper for Photocopying Machines [1 3]
8841	Electronic Weighing Machines [3]
8981	Ticket Time Recorders and Parking Meters [3]
9210	Table Tennis Tables [1 3]
9564	Household Appliances, Namely: Heaters, Washing Machines, Sewing Machines, Kitchenware, Laundry Irons [1 3]
9970	Builders and Engineering Construction Material [1]

[FR Doc.76-24222 Filed 8-17-76;8:45 am]

[Docket No. 27573; Order 76-7-58]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Correction

In FR Doc. 76-21219 appearing at page 30206 in the issue for Thursday, July 22, 1976, make the following corrections:

On page 30207, in the third table, the following "Agreement CAB" numbers were omitted:

"25809" for "R-2 ---- 501 ---- Minimum charges for Cargo (amending) ---- 3"
"25813" for "R-3 ---- 501 ---- Minimum charges for Cargo (amending) ---- 2/3; 1/2/3"

[1] Area of application changed.
[3] New description.
[3] Description changed.
[4] Effective October 1, 1976.

[Docket Nos. 28672, 28778; Order 76-7-56]

MEMBERS OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION AND INTERNATIONAL AIR FREIGHT AGENTS ASSOCIATION

Order Instituting Investigation of Air Freight Commission Rates and Practices

Correction

In FR Doc. 76-21220 appearing on page 30207 in the issue for Thursday, July 22, 1976, the headings should have read as set forth above. This corrects the Docket Numbers.

COMMISSION ON CIVIL RIGHTS

MICHIGAN ADVISORY COMMITTEE

Meeting: Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the meeting of the Michigan Advisory Committee (SAC) of the Commission published in the FEDERAL REGISTER on Monday, August 9, 1976, on page 33321 (FR Doc. 76-23106) is hereby amended to show change of meeting time. The time is 9 am. until 5:30 pm. on August 20, 1976. The meeting place will remain the same.

Dated at Washington, D.C., August 13, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-24155 Filed 8-17-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA

Amending Import Level

AUGUST 13, 1976.

On December 24, 1975, there was pubished in the FEDERAL REGISTER (40 FR 59475) a letter dated December 19, 1975 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, which establish specific export limitations on certain cotton and man-made fiber textile products, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period which began on January 1, 1976. A correction of certain of the levels of restraint in the letter of December 19, 1975 was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 814).

As set forth in the letter of December 19, 1975, the levels of restraint are subject to adjustment pursuant to paragraph 8(a) (ii) of the bilateral agreement which provides that specific levels of restraint may exceed current-year limits by up to 6 percent, with that same amount being deducted from the applicable levels of the succeeding agreement year.

Accordingly, at the request of the Government of the Republic of China and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of August 13, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the level of restraint applicable to man-made fiber textile products in Category 221 for the twelve-month period which began on January 1, 1976.

August 13, 1976.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On December 19, 1975, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning January 1, 1976 and extending through December 31, 1976 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of China, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 8(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 16, 1976, the level of restraint established for Category 221 to 4,069,382 dozen.[2]

2. The actions taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems.

[2] The level has not been adjusted to reflect any entries made after December 31, 1975.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76-24237 Filed 8-17-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

NORTHWICK MILLS, INC., ENDURO MILLS, AND FRED W. ROSEN

[CPSC 76-6]

Commencement of Enforcement Proceeding and Notice of Prehearing Conference

AUGUST 13, 1976.

On June 7, 1976, by direction of the Commission, the Secretary issued a Notice of Enforcement prepared by the Bureau of Compliance and directed to Northwick Mills, Inc., a corporation doing business as Enduro Mills and Fred W. Rosen, individually and as an officer thereof (Respondents) declaring in substance that Staff believes that the Respondents have violated the provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) (FTCA), the Flammable Fabrics Act (FFA) (15 U.S.C. 1191 et seq.), the rules and regulations promulgated thereunder (16 CFR part 302), and the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70, 35 FR 6211, April 16, 1970) (the Standard). Commission jurisdiction over this matter is based on the transfer of functions under the foregoing Acts contained in Section 30 of the Consumer Product Safety Act (15 U.S.C. 2051, 2079) (CPSA).

The Staff states its charges as follows:

1. Respondent Northwick Mills, Inc., is a corporation organized and doing business as Enduro Mills under the laws of the State of Georgia. Respondent Fred W. Rosen is an officer of the corporation. He formulates, directs, and controls the acts, practices and policies of the corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs with their office and principal place of business located at Rosen Drive, PO Box 949, Dalton, Georgia 30720.

2. Respondents are now and have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the FFA. These products fail to conform to the requirements of an applicable standard as required by section 3(a) of the FFA (15 U.S.C. 1192).

Among such products mentioned above was carpeting designed as style "9562" which was not manufactured in conformance with all of the requirements of the Standard.

3. Attached to the Notice of Enforcement are copies of the principal items of written evidence, marked Exhibits 1-12 which the Staff considers to constitute a prima facie case. Briefly described, the exhibits are test reports and invoices relating to samples of carpet manufactured by Respondents which failed the flammability tests contained in the Standard.

4. The aforesaid acts and practices of Respondents were and are in violation of the FFA, as amended, and the rules and regulations promulgated thereunder; and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the FTCA.

The identification of the exhibits which Enforcement Counsel considers as constituting a prima facie case will not preclude the introduction of further evidence relevant and material to the subject matter.

On June 25, 1976, Counsel for Respondents filed an answer constituting, in effect, a general denial of the substantive allegations in the Notice of Enforcement, and in addition, has included several affirmative defenses alleging as follows:

1. That the procedures utilized by the Commission in concluding that carpet samples failed to meet the requirements of the FFA were improper as not being in accord with permissible procedures promulgated by the Federal Trade Commission or this Commission.

2. That said procedures are neither accurate nor reliable and that the failure of isolated carpet samples to meet the acceptance criteria of the Flammable Fabrics Standard does not constitute a violation of the FFA.

3. That the Commission improperly rejected the results of intervening flammability tests which show compliance with said Standard.

4. That the Commission has misapplied the provisions of section 3(a) of the FFA and the Standards thereunder.

5. That a substantial number of the samples of the carpet tested were not "in commerce" as that term is used in the FFA.

6. That the Respondents have already recalled from commerce unsold rolls of Style 9562 and, therefore, no additional benefits will inure to the public as a result of this proceeding.

7. That this proceeding is unnecessary and should have been terminated by execution of voluntary assurance under Federal Trade Commission rules.

8. That Respondent corporation has previously executed a consent order agreement conforming with the Commission's decision in "Congoleum Industries, Inc." (CPSC Docket No. 75-3), a case involving essentially identical facts and law, with the result that the imposition of a markedly different form of order, would violate Respondents' constitutional rights.

9. That no substantial hazard exists, and that the remedies contained in the proposed Order are unnecessary to adequately protect the public.

10. That the extent of Respondents' failure to comply with the FFA or the Standard, if any was deminimus.

11. That the Respondent company exercised good faith in the production of the carpet in question by utilizing the latest flame retardant materials and by conducting extensive testing to insure continued compliance with the law.

12. That the proposed Order seeks to impose remedies based upon section 15 (c) and (d) of the Consumer Product Safety Act, when in fact, section 30(d) of said Act requires Respondents' conduct to be judged pursuant to the Federal Trade Commission Act and the FFA.

13. That the proposed Order is too broad in that it extends to all products subject to the FFA, although the instant complaint deals only with carpet.

14. That Fred W. Rosen is improperly joined as an individual although he engaged in no acts whatsoever that gave rise to this complaint.

15. That the proposed Order is ambiguous and extends the jurisdiction of the Commission beyond its statutory authority.

16. That the Notice of Enforcement is ambiguous in that it purports to apply only to style 9562. Carpet produced between January 1 and April 30, 1974 while the proposed Order extends to all style 9562 without regard to production dates.

17. That the proposed Order is invalid insofar as it attempts to preclude the export of noncomplying products in contravention of Respondents' rights under 15 U.S.C. section 1202(a).

18. That the proposed Order is invalid as to Respondent Fred W. Rosen, in that it would expose him to public ignominy and could seriously interfere with his ability to earn a livelihood—all in excess of the Commission's authority.

19. That the proposed Order is invalid in that it seeks to impose obligations in violation of regulation which are tantamount to compulsory self-incrimination.

On the basis of the foregoing, Respondents request dismissal of the Notice of Enforcement.

Appearances have been entered as follows:

Enforcement Counsel—Enid Rubenstein, Esquire, Ted Hoppock, Esquire, Jere Glover, Esquire, Legal Division, Bureau of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 492-6632.

For the Respondents—Richard H. Gimer, Esquire, Berliner, Mahoney, Gimer & Muir, Suite 420, 1100 Connecticut Ave., Washington, D.C. 20036 (304) 293-1414.

Issue having been joined, it is deemed necessary in order to organize the preparation for, and conduct of, the forthcoming hearings, that a prehearing conference be held at 2:00 P.M., e.d.s.t., Tuesday, August 31, 1976, in the Commission's 6th Floor hearing room, 1750 K St., NW., Washington, D.C. 20207.

Counsel are requested to exchange and file with this office by close of business Monday August 30, 1976, memoranda setting forth (1) a definition of the issues to be heard, (2) requests for discovery, if any, (3) disclosure of the number of witnesses and the approximate length of

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time each presentation will entail, and (4) a proposal for the time, date and place of the hearing.

This proceeding is governed by the Commission's Interim Rules of Practice, 16 CFR 1025. The docket in this matter is available in the Office of the Secretary of the Commission. Any person, other than the Respondents, who desires to become a party to the proceedings, or to testify at the hearing, may request to do so by contacting the Presiding Officer, Paul N. Pfeiffer, Administrative Law Judge, Consumer Product Safety Commission, Room 825–L, Washington, D.C. 20207, telephone number (202) 634–7171 and giving notice to both parties.

Dated: August 13, 1976.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.76–24092 Filed 8–17–76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

HEAVY WATER SALES

Temporary Suspension

AUGUST 16, 1976.

Notice is hereby given that, pursuant to the authority of the Atomic Energy Act of 1954, as amended, effective on August 18, 1976 and until further notice, the United States Energy Research and Development Administration (ERDA) is rescinding its sales price of $55.00 per pound for heavy water and temporarily discontinuing all sales of heavy water.

The ERDA has found this action necessary to permit the completion of its consideration of the operating mode and production level of the heavy water plant which will have an effect on the price to be established and quantities of heavy water available for sale. A new price will be established and sales resumed in the near future.

EDMUND F. O'CONNOR,
Acting Assistant Administrator for Nuclear Energy.

[FR Doc.76–24335 Filed 8–17–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20826; File No. BRH–651; FCC 76–732]

BARTELL BROADCASTING OF FLORIDA, INC. WMJX(FM), FORMERLY WMYQ(FM)

Order Designating Application for Hearing on Stated Issues

1. The Commission has before it for consideration: (a) The above-captioned license renewal application, and (b) its inquiry into the operation of Station WMJX(FM), Miami, Florida.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain licensee of WJMX. In view of these questions, the Commission is unable to find that a grant of the application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That the captioned application is designated for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent order, upon the following issues:

(a) To determine all the facts and circumstances surrounding the broadcast on WMJX(FM) in April 1975 of announcements and newscasts concerning a "Devil's Triangle Trip" by a WMJX(FM) disc jockey and a subsequent "Find Greg Austin Contest";

(b) To determine whether the licensee, in connection with its "Devil's Triangle Trip" and "Find Greg Austin Contest," broadcast false and/or misleading announcements;

(c) To determine whether the licensee distorted and/or falsified newscasts in conjunction with its "Devil's Triangle Trip" and "Find Greg Austin Contest" broadcasts;

(d) To determine all the facts and circumstances surrounding preparation and implementation, if any, of representations contained in a letter dated January 20, 1975, and submitted to the Commission by the licensee.

(e) To determine whether the licensee failed to abide by representations made to the Commission in the letter of January 20, 1975, regarding the broadcast of false, misleading or deceptive matter;

(f) To determine whether and, if so, the extent to which the licensee violated § 73.1205 of the Commission's rules and regulations by failing to exercise reasonable diligence to see that its agents and employees did not issue invoices charging advertisers for commercial announcements not broadcast as purported.

(g) To determine, in light of the evidence adduced under the preceding issues, whether the licensee has the requisite qualifications to be or ot remain a licensee of the Commission and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the Chief of the Broadcast Bureau is directed to serve upon the captioned applicant within thirty (30) days of the release of this order, a Bill of Particulars with respect to issues (a) through (f), inclusive.

5. *It is further ordered,* That the burden of proceeding with the introduction of evidence shall be on the Broadcast Bureau with respect to issues (a) through (f), inclusive, and the applicant shall have the burden of proceeding with respect to issue (g) and the burden of proof with respect to all of the issues herein shall be upon Bartell Broadcasting of Florida, Inc.

6. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

8. *It is further ordered,* That the Secretary of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to Bartell Broadcasting of Florida, Inc., licensee of Station WMJX(FM), Miami, Florida.

Adopted: July 27, 1976.

Released: August 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–24182 Filed 8–17–76;8:45 am]

[FCC 76–744; Docket No. 20682]

CHANGES IN THE ENTERTAINMENT FORMATS OF BROADCAST STATIONS

Development of Policy; Correction

In the Memorandum Opinion and Order in the above-entitled proceeding, FCC 76–744, Mimeo No. 41942; released July 30, 1976 and published at 41 FR 32950, Friday, August 6, 1976 in the third column on page 32953 add the following language at the end of paragraph 22:

It is further ordered, That, this proceeding is terminated.

Released: August 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–24181 Filed 8–17–76;8:45 am]

[Docket Nos. 20882, 20883; File Nos. BPH–9413, BPH–9500; FCC 76–727]

FM 103, INC. AND RADIO, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of FM 103, Inc., Honea Path, South Carolina, Docket No. 20882, File No. BPH–9413, Requests: 103.1 MHz, Channel No. 276A; 3 kW (H&V); 300 feet; Radio, Inc., Honea Path, South Carolina, Docket No. 20883, File No. BPH–9500, Requests: 103.1 MHz, Channel No. 276A; 3 kW (H&V); 300 feet; for construction permits.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

1. The Commission has before it: (i) The above-captioned applications, as amended, for a new FM broadcast station in Honea Path, South Carolina; (ii) a petition to deny the application of Radio, Inc., filed by the competing applicant, FM 103, Inc.; and (iii) pleadings in opposition and reply thereto.

2. In its petition to deny, FM 103, Inc. seeks the addition of a misrepresentation of fact issue concerning Radio, Inc.'s efforts to ascertain the needs and problems of Honea Path, the addition of an issue to determine the efforts made by Radio, Inc. to ascertain the community problems of the area it proposes to serve and the means by which the applicant proposes to meet those problems, and in light thereof, the addition of an issue to determine whether Radio, Inc. is qualified to be a broadcast licensee. In support of these requests, FM 103, Inc. alleges that Radio, Inc.'s application indicates that Mr. Brissey, President of Radio, Inc. made in-person contacts with community leaders in early 1975, and with the assistance of others, made telephone contacts with the general public.[1] However, FM 103, Inc. submitted affidavits from four[2] community leaders listed in Radio, Inc.'s application as being consulted, stating that they "never had been contacted by Mr. Brissey or anyone else on behalf of Radio, Inc., an applicant planning to construct a new FM station at Honea Path, South Carolina, regarding their views on community needs."[3] Further, FM 103, Inc. submitted an affidavit from William K. Williams, the present Mayor of Honea Path, who stated that Tom Tolly's term as mayor ended on January 8, 1974, as did Councilman Carl Ally's and Councilman Grady Kay, Jr.'s. In a second affidavit, William K. Williams stated that Sonny Ashley has not been employed as an officer of the Honea Path Police Department since November 1, 1973, and that Officer E. D. Cooley died on November 6, 1973. Since these individuals are listed in Radio, Inc.'s application as being contacted, FM 103, Inc. maintains that these consultations could not have taken place later than December 1973. In addition, an affidavit from Tommy Leverette was submitted, in which Mr. Leverette stated that he has "never been contacted by a Mr. Bill Brissey or anyone else on behalf of Radio, Inc. * * * regarding my views on community needs." Mrs. Betty Smith, Treasurer of Anderson County, stated in a signed affidavit that she has never been contacted by Mr. Brissey, but she did receive a telephone call from a man who identified himself as "Ken" and questioned her regarding community problems. FM 103, Inc. therefore concludes that at least five people[4] listed as having been contacted were not in fact so contacted, that at least five other people listed as having been contacted "in the winter-spring of 1975" either were not contacted during that time or did not hold leadership positions represented in the application when contacted, and at least one of the leaders listed in the application as having been personally contacted by a named principal of the applicant, was in fact contacted via telephone by someone else.

3. In its opposition, Radio, Inc. acknowledges in an affidavit of Mr. Brissey that some of the individuals listed in its application as being consulted in the "winter-spring 1974–1975" were actually contacted in 1973, by Mr. Ray Ward, the prospective station manager. These 1973 contacts were inadvertently included with the 1974–75 contacts, and Mr. Brissey failed to recognize these when he "glanced" through the application, which was prepared by Washington counsel, before signing it. Radio, Inc. also maintains that the application does not state nor was it intended to state that Mr. Brissey made all the contacts of community leaders personally. In fact, some of the contacts were made by employees of either the Abbeville or Belton stations[5] who were prospective managerial employees in Honea Path. Radio, Inc. submitted 1973 contact reports[6] which indicate the following people were contacted by Ray Ward: E. D. Cooley, Dr. Larry Talbert, Harold McAlister, J. L. Parham, Grady Kay, Jr., Carl Alley, Sonny Ashley, and Rev. Law M. Mobley. Additional 1973 contact reports indicate that Tommy Leverette was contacted by Liland Cox, that Mayor Tom Tolly was contacted by Mr. Brissey and that Betty Smith was contacted by Ken Allison. Also submitted were 1974–1975 contact reports which indicate that Mr. Brissey did contact Carl Alley, J. L. Parham, and Tom Tolly. In addition to the contact reports, Radio, Inc. has submitted affidavits from the following people: Raymond Ward, J. L. Parham and Larry Tallant. In his affidavit, Mr. Ward states that he was to be considered for the manager's position of the proposed station, that he personally contacted J. L. Parham, Harold McAlister and Larry Tallant, and that he contacted by telephone Law M. Mobley. Mr. Parham indicates that he did speak to Mr. Ward regarding his views on community needs, while Mr. Tallant indicates that he "could have talked with Mr. Raymond Ward" but is not sure.

4. In reply, FM 103, Inc. asserts that Radio, Inc.'s description of its ascertainment process in its opposition is entirely different from that described in its application in that it appears that Mr. Brissey conducted less than 10 of the 71 leaders listed in the application, rather than "in excess of 60." In addition, FM 103, Inc. submitted a certified certificate of death indicating that Alfred McClain died on October 8, 1965, concluding that it was impossible for Radio, Inc. to have contacted McClain in 1974–75.

5. It appears that there are significant questions concerning Radio, Inc.'s ascertainment efforts as presented in its application. It appears that some of the individuals were contacted in 1973, as opposed to the winter-spring of 1974–75. It is also clear that Mr. Brissey did not perform the consultations as the application indicates. Further, at least two individuals have stated in valid affidavits that they were not contacted by anyone connected with Radio, Inc. It also appears that at least three individuals listed did not hold positions of leadership during the winter-spring of 1974–75, as one would have been led to believe from a reading of the application. There are also two individuals who were deceased at the time of the alleged consultations. In view of the above, a misrepresentation issue will be specified. "Itawamba County Broadcasting Co., Inc.," 46 FCC 2d 60, 29 RR 2d 1154 (1974).

6. In addition to the allegations presented by FM 103, Inc., Radio, Inc. has failed to comply with the requirements of the "Primer on the Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1507 (1971), in other significant aspects. It appears that Radio, Inc. has failed to survey leaders of significant groups as set forth in its demographic study. "Voice of Dixie, Inc.," 45 FCC 2d 1027, 29 RR 2d 1127 (1974), recon. den., 47 FCC 2d 526, 30 RR 2d 851 (1974). Thus, while Radio, Inc. indicates that 12.8 percent of the families in Anderson County have incomes below the poverty level, it has not interviewed anyone representing or concerned with the poor or unemployed. "A. V. Bamford," 48 FCC 2d 1155. Further, it appears that a significant number of people in Anderson County are employed in agriculture, however, there are

[1] Exhibits 7 and 8 to the Radio, Inc. application set forth the efforts the applicant made to ascertain the community problems of the area it proposes to serve:

Contacts were made by Mr. Brissey throughout the winter-spring of 1975. In addition to community leader contacts, Mr. Brissey made random telephone contacts of over 100 members of the general public utilizing the local telephone directory.

In these random telephone contacts, Mr. Brissey was assisted by several prospective employees who operated under his supervision and direction * * *

Mr. Brissey conducted in excess of 60 personal contacts with community leaders in Honea Path alone * * * Exhibit 7, page 1.

As a result of the applicant's ascertainment of the community structure, the following community leaders were contacted by Mr. Brissey. Exhibit 8, page 1.

[2] The persons submitting affidavits are: J.L. Parham, Harold McAlister, Larry Tallant, and Law M. Mobley.

[3] FM 103, Inc. has filed a pleading "Errata to Opposition to Petition to Deny" in which it indicates that three of these affidavits (Parham, McAlister, and Tallant) were not actually signed before (in the presence of the notary), but were signed first and then notarized in accordance with the affiant's instructions to the notary via the telephone, but outside the affiant's presence. Therefore, these affidavits will not be considered in the foregoing discussion and determination of this issue. Rosemore Broadcasting Co., Inc., 46 FCC 2d 1182, 30 RR 2d 360 (1974).

[4] Footnote 2, supra.

[5] WPHP and WABV are owned by four of the six principals of Radio, Inc.

[6] These contact reports indicate the name and community of organization, name and title of individual representatives or organizations contacted, name of individual(s) making the contact, method of contact, date(s) of contact, needs (problems) of area revealed by contact, and program(s) or announcement(s) proposed by applicant to fulfill discussed need. The reports are not signed by either the community leader or the interviewer.

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no consultations indicated with representatives of agricultural interests.[7] Radio, Inc. submitted in its amendment the names of 13 students, however, they were interviewed in 1973, and there is no indication that any of the individuals qualify as leaders of this significant group. Therefore a "Suburban" issue will be specified.[8]

7. The Commission is presently unable to find Radio, Inc., financially qualified. Analysis of the applicant's financial data shows that $90,700 will be required to construct and operate the station for one year. To meet this cost, applicant primarily relies upon a bank loan from The Citizens and Southern National Bank of South Carolina for $110,000. However, the letter from the bank is not a firm commitment; "This letter will serve to confirm our conversation that our bank will *give favorable consideration* * * *" (emphasis added). Further, the letter does not contain the terms of repayment or the interest to be charged, and therefore, does not comply with FCC Form 301, section III, page 3, paragraph 4(e). Therefore, a financial issue will be specified.

8. FM 103, Inc., has also failed to comply with the requirements of the "Primer," supra, in that it appears that the applicant has failed to survey leaders of significant groups set forth in its demographic data. "Voice of Dixie," supra. The applicant has failed to interview leaders of cultural and agricultural interests. Therefore, an ascertainment issue will also be specified as to FM 103, Inc.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether the purported bank loan is available to Radio, Inc. and, in light of that determination, whether the applicant is fiancially qualified to construct and operate as proposed.

2. To determine the efforts made by Radio Inc. to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

3. To determine with respect to the application of Radio Inc.:

(a) whether the application contains misrepresentations of fact concerning its efforts to ascertain the needs and problems of Honea Path, South Carolina;

(b) the effect of the facts adduced pursuant to (a) above upon the applicant's requisite and/or comparative qualifications to be a Commission licensee.

4. To determine the efforts made by FM 103, Inc., to ascertain the needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

12. *It is further ordered,* That the petition to deny the application of Radio, Inc., filed by FM 103, Inc., is granted to the extent indicated and is denied in all other respects.

13. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

14. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 27, 1976.

Released: August 18, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24183 Filed 8-17-76;8:45 am]

[Docket No. 20884; FCC 76-720]

MOBILE HOME COMMUNITIES, INC. AND WINDMILL VILLAGE MOBILE HOME PARK

Order To Show Cause Regarding Cease and Desist Order

1. On December 10, 1975, the Chief, Cable Television Bureau, received an inquiry from Storer Broadcasting Company requesting a ruling as to whether the type of cable facility operated by Windmill Village Mobile Home Park in Sarasota County, Florida, was subject to the Commission's Cable Television Rules.

2. The Bureau directed an inquiry dated January 16, 1976, to Windmill Village Mobile Home Park to ascertain the nature and scope of any cable television operations at the Park. Mr. Paul L. Baker, Area Manager, Southeast Region, Mobile Home Communities, Inc., responded via letter dated February 13, 1976, indicating that Mobile Home Communities, Inc. has management responsibility for Windmill and that the residents of Windmill Village are provided with television service through a single headend master antenna system. He further stated that the 457 residents pay an installation charge of $25.00 but no other direct or indirect charges. He also asserted that the facility is a master antenna system (MATV) and as such is not subject to Commission regulation.[1] He stated:

> It is a service provided to the residents falling into the same category as the swimming and theraputic pools, village bus, shuffleboard courts, garbage pickup, water and sewer service and lawn mowing. Our rents remain constant throughout the year whether the residents wish to avail themselves of the service provided to them or not and in no way results in a reduction in rents. Just as we do not charge the residents to ride the bus or swim in the pool, we do not place a specific charge on the use of the MATV system.

The facility presently carries the signals of seven television broadcast stations.[2] The system began operation in 1969.

3. Commission staff personnel subsequently contacted Mr. Baker, both by letter and telephone, in an effort to clarify the applicability of the Commission's regulations to the cable operations at Windmill Village. The Commission has provided copies of its relevant decisions and has afforded opportunities for Mobile Home Communities, Inc. to bring its operation into compliance voluntarily. The letters also cautioned against operation in violation of the Commission's rules. Moreover, Commission staff provided ample opportunity for Mobile to request special temporary authority. Yet Mobile continues to maintain that its operation at Windmill Village is not a cable television system.

4. If the purported cable television system at Windmill Village Mobile Home Park falls within our definition of a cable television system,[3] its continued operation would be in violation of § 76.11 of the rules because it was not lawfully carrying television broadcast signals prior to March 31, 1972, and has not obtained a certificate of compliance. At a minimum, former § 74.1105 of the rules—which was deleted with the adoption of the 1972 Cable Television Report and Order—required the operator of a proposed cable television system to notify the licensees of local television stations that cable service would be undertaken. And, of course, no such notifications were ever served. Although our definition excludes master antenna systems serving apartment dwellings, we have not considered cable television facilities to be exempt from our Rules merely because they are located totally within a private mobile home park and because they provide service exclusively to the residents of such a community. "See Pacific Western Mobile Estates, Inc." (San Jose, California), FCC 74-1058, 49 FCC 2d 269 (1974); "Bayhead Mobile Home Park" (Leon County, Florida), FCC 74-589, 47 FCC 2d 763 (1974).[4] Mobile Home Communities also contends, however, that its facility does not have "subscribers who pay for such service," an element of a "cable television system" as defined by § 76.5(a) of our rules. Yet Mobile does admit to the imposition of an installation charge for connection to the system. While Mobile contends that the residents of Windmill Village make neither direct nor indirect payment for the service provided, we have previously held that payment could consist of an unspecified element of a dwelling rental charge. Memorandum Opinion and Order in Docket 18397, FCC 71-258, 28 FCC 2d 13 (1971), at 15. We recently had occasion to restate that interpretation: "For definitional purposes, it does not matter whether the payment is separate or combined with a general service, recreational or rental fee, whether payment is made directly or through some intermediary such as a homeowners association, whether the payment is in the form of a capital contribution or service fee, or whether the bulk payment is made for a number of subscribers rather than an individual payment for each subscriber." *See* paragraph 12, notice of proposed rule making in Docket 20561, FCC 75-896, 54 FCC 2d 824 (1975). It appears that the cost of operating the cable facility at Windmill Village Mobile Home Park is paid for from fees received from occupants of the spaces rented by the mobile home park. Moreover, in "Mobile Park Properties, Inc" (Venice, Florida), FCC 75-1320, 56 FCC 2d 1037 (1975), in facts similar to those in the instant case, we held that "indirect" payment of the kind present here coupled with the admitted imposition of an installation charge for connection to the master antenna was a sufficient indication of "payment" to warrant further exploration of a possible violation of Part 76 of the rules at a hearing.

Accordingly, it is ordered, That pursuant to section 312 (b) and (c) of the Communications Act of 1934, as amended, 47 U.S.C. 312(b) and (c), Mobile Home Communities, Inc., is directed to show cause why it should not be ordered to cease and desist from further violation of Part 76 of the Commission's rules and regulations for its cable television system at Windmill Village Mobile Home Park, Sarasota, Florida.

It is further ordered, That Mobile Home Communities, Inc., is directed to appear and give evidence with respect to the matters described above at a hearing to be held at a time and place to be specified by subsequent order before an Administrative Law Judge, unless the hearing is waived in which event a written statement may be submitted.

It is further ordered, That the Secretary of the Federal Communications Commission shall send copies of this order by certified mail to Mobile Home Communities, Inc.

Adopted: July 27, 1976.

Released: August 16, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24184 Filed 8-17-76;8:45 am]

[7] Radio, Inc. indicates that it intends to serve 60 percent of Anderson County.

[8] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

[1] Section 76.5 defines a cable television system to exclude, in effect, a facility which serves only an apartment house.

[2] Signals of the following television broadcast stations have been carried since 1969, with the exception of Station WXLT-TV which was added in 1971:

WTOG, (Ind., Channel 44) St. Petersburg, Florida
WXLT-TV, (ABC, Channel 40) Sarasota, Florida
WEDU, (Educ., Channel 3) Tampa, Florida
WFLA-TV, (NBC, Channel 8) Tampa, Florida
WLCY-TV, (ABC, Channel 10) Tampa, Florida
WINK-TV, (CBS, Channel 11) Fort Myers, Florida
WTVT, (CBS, Channel 13) Tampa, Florida

[3] Section 76.5(a) of the Commission's rules defines a cable system as: Any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service, but such term shall not include (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management, and commercial establishments located on the premises of such an apartment house.

NOTE.—In general, each separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and single, discrete unincorporated areas) served by cable television facilities constitutes a separate cable television system, even if there is a single headend and identical ownership of facilities extending into several communities. See e.g., Telerama, Inc., 3 FCC 2d 585 (1966); Mission Cable TV, Inc., 4 FCC 2d 238 (1966).

[4] In paragraph 3 of Bayhead, the Commission stated: We find that Bayhead's proposed facility is a "cable television system" as defined by § 76.5(a) and that Bayhead is consequentially subject to our cable television regulations. We cannot agree that mobile homes can be considered "apartment dwellings." There is a real and effectual difference between a single structure that has been wired to provide antenna services to its component residences, and an externally wired community of individual mobile homes. Moreover, in this particular case Bayhead admits that the individual mobile homes will be owned by the subscribers themselves, and that only the land upon which these residences will rest will be owned by Bayhead. This circumstance must weigh heavily against any attempt to equate these mobile homes with "apartment dwellings" or to show true "common ownership, control, or management."

[Docket No. 20722; File No. BR-1444; FCC 76R-227]

VOGEL-HENDRIX CORP.

Memorandum Opinion and Order Enlarging Issues

1. By Memorandum Opinion and Order, FCC 76-172, 58 FCC 2d 495, released March 8, 1976, the Commission designated for hearing the application of Vogel-Hendrix Corporation (WAMA) for renewal of license for standard broadcast Station WAMA, Selma, Alabama. Now before the Review Board are two petitions to enlarge issues, filed March 30, 1976,[1] and May 26, 1976,[2] by the Broadcast Bureau, requesting the addition of issues to determine whether WAMA has repeatedly or willfully violated § 73.52(a) of the Commission's rules by exceeding the authorized power of Station WAMA,[3] whether WAMA has exercised proper control and supervision over its employees, and whether in light of the foregoing, a grant of WAMA's renewal application would serve the public interest, convenience and necessity.

2. In support of its requested § 73.52 (a) issue, the Broadcast Bureau submits an engineering analysis of WAMA's transmitter logs indicating operation at excessive power on 40 days within a period extending from September 12, 1974 to January 9, 1976. On numerous occasions, the Bureau points out, the applicant's nighttime power reached values far in excess of that permitted by the rules. These repeated violations, the Bureal contends, raise a substantial question as to whether WAMA can carry out its responsibilities as a licensee, and as such, should be explored in this hearing, rather than by instituting a separate forfeiture proceeding.

3. In opposition, WAMA argues that although the transmitter logs in question indicate operation with excessive power, those logs were incorrectly completed by the station engineer due to defective equipment and an incorrect antenna resistance value.[4] Furthermore, WAMA's

[1] Also before the Board are the following related pleadings: (a) Opposition, filed April 28, 1976, by WAMA; (b) reply, filed May 7, 1976, by the Broadcast Bureau; and, (c) erratum to (b), filed May 13, 1976, by the Broadcast Bureau.

[2] Also before the Board are the following related pleadings: (a) Opposition, filed June 23, 1976, by WAMA; (b) reply, filed July 2, 1976, by the Brodcast Bureau; and (c) petition for leave to file supplement and supplement to (a), filed July 9, 1976, by WAMA. While this second petition by the Bureau is untimely filed, it raises substantial public interest questions warranting consideration of the merits. The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (Rev. Bd. 1966). WAMA's petition for leave to file supplement will also be granted.

[3] Rule 73.52(a) provides, in pertinent part: The actual antenna input power of each station shall be maintained as near as is practicable to the authorized antenna input power and shall not be less than 90 percent nor greater than 105 percent of the authorized power * * *.

[4] In this regard, the applicant has filed with the Commission FCC Form 302 requesting a change in antenna resistance from 37.5 ohms to 41.5 ohms.

V 41 161 AUG 18 76 UMI

consulting engineer asserts that, after the proper repairs and replacements were made,[6] he determined that the transmitter was incapable of producing more than 103.75 percent of its authorized power during the daytime mode and 103.6 percent of its authorized power during the nighttime mode.[8] Thus, he concludes that the station must have been operating within the limitations of § 73.52(a) of the rules. Moreover, WAMA submits that a renewal hearing is not the proper forum for inquiring into alleged operating violations, asserting that a Notice of Apparent Violation should have been issued instead. In reply, the Broadcast Bureau takes exception to the WAMA consulting engineer's conclusion that the transmitter could not have operated in violation of § 73.52(a). Specifically, the Bureau questions whether there is adequate support for establishing 5 amperes as the maximum possible antenna current. The Bureau also argues that even by correcting for the alleged discrepancy found in the antenna base current meter,[7] there would still be 16 log entries of antenna current indicating operation in excess of 105 percent of Station WAMA's authorized power.

4. The Bureau further asserts in its second petition to enlarge issues that WAMA's opposition pleading raises a substantial question regarding the extent to which the applicant has exercised control of its station's operation. Specifically, the Bureau contends that WAMA's concession in its earlier opposition pleading that its transmitter logs indicated operation of excessive power over a continuing period of time warrants addition of an appropriate issue in this proceeding to determine whether WAMA exercised the proper control and supervision over its employees as required by § 73.93 of the rules.[9] In opposition, WAMA states that the two general managers of its station during the period in question both "* * * instituted procedures to be certain that the Station was operating consistent with the FCC's rules and regulations governing good engineering practices."[10] WAMA contends that it would be too severe a sanction to set a licensee for hearing as a result of the inadvertence, negligence, or other failure by its employees to carry out given instructions. Again it is urged that a more appropriate sanction would be the issuance of a Notice of Apparent Liability. In reply, the Bureau, maintaining that WAMA has failed to show that it exercised proper control and supervision by instituting procedures to insure compliance with Commission requirements during the relevant time period, contends that the affidavits of the two general managers do not obviate the need for the requested issue.

5. The Bureau's request for a § 73.52 (a) issue will be granted.[10] As a general matter, absent clear evidence to the contrary, a licensee's log entries are regarded as an accurate reflection of the meter readings taken at the time they are made, and will be considered as such when they are subsequently reviewed by the Commission. Cf. Kalamazoo Broadcasting Co., Inc., 24 FCC 2d 441, 19 RR 2d 805 (1970). Therefore, it is clear that the Bureau's allegations raise a substantial question as to whether WAMA has exceeded its authorized transmitter power. Furthermore, given the dispute between WAMA and the Bureau as to the actual power the licensee employed, any determination with respect to WAMA's compliance with § 73.52(a) requirements, in our view, must be made after an evidentiary hearing, during which time a complete record can be developed.[11] Moreover, we agree with the Bureau that a separate question has been raised concerning WAMA's failure to adequately fulfill the supervisory and control requirements of Rule 73.93 over the extended period of time during which the alleged violations had occurred.[12] Thus, once excessive antenna base current is observed, a station operator is required to take immediate steps to see whether the station was, in fact, exceeding its authorized power, and, if so, to correct the situation. See Pacific Western Broadcasters, Inc., 45 FCC 2d 507, 29 RR 2d 862 (1974); Kalamazoo Broadcasting Co., Inc., *supra*. And, since the Commission has consistently held that its licensees are responsible for the acts or omissions of their employees,[13] inquiry into this matter is also necessary. Accordingly, a second issue will be added in this proceeding so as to determine whether, in light of its operating logs, WAMA has exercised the adequate control and supervision over the operation of Station WAMA, required by § 73.93 of the rules.[14]

6. *Accordingly, it is ordered,* That the petition for leave to file supplemental pleading, filed July 9, 1976, by Vogel-Hendrix Corporation, is granted; and that the supplement is accepted; and

7. *It is further ordered,* That the petition to enlarge issues, filed March 30, 1976, by the Broadcast Bureau, is granted to the extent indicated herein, and is denied in all other respects; and

8. *It is further ordered,* That the petition to enlarge issues, filed May 26, 1976, by the Broadcast Bureau, is granted to the extent indicated herein, and is denied in all other respects; and

9. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issues:

(1) To determine whether Vogel-Hendrix Corporation has violated § 73.52 (a) of the Commission's rules.

(2) To determine whether Vogel-Hendrix Corporation has exercised the adequate control and supervision over the operation of Station WAMA, as required by § 73.93 of the Commission's rules.

10. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the foregoing issues shall be on the Broadcast Bureau, and the burden of proof shall be on Vogel-Hendrix Corporation.

Adopted: August 3, 1976.

Released: August 10, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[15]
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24185 Filed 8-17-76;8:45 am]

CABLE TELEVISION POLE ATTACHMENT ISSUES

Meeting Scheduled With State Regulatory Commissions

The Federal Communications Commission will meet with the National Association of Regulatory Utility Commissioners, State cable commissioners, and other interested municipal officials, to discuss issues pertaining to the leasing of space on telephone and other utility poles to cable television systems. The meeting will take place on September 7, 1976 from 2:00 to 5:00 PM at the FCC (Room 856, 1919 M Street, NW. Washington, D.C. 20554). In keeping with the Commission's desire to serve as an information clearinghouse on the problem, it is hoped that this discussion will bring interested parties into contact with each other to exchange ideas and information concerning pole attachments.

This meeting will provide a forum on a wide range of issues pertaining to the regulatory authority over utility pole rental charges, and will assist the Commission's staff in its preparation of a forthcoming study on pole attachments. Members of the general public are also invited to attend and observe the discussions.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24385 Filed 8-17-76;10:57 am]

[6] In the attached engineering report submitted with WAMA's opposition, its consulting engineer states that repairs were made to the transmitter, as well as the plate voltage, plate and screen current, and driver plate meters. The remote antenna current meter was also recalibrated to the replaced base current meter and corrected antenna resistance value.

[8] These figures are based on a maximum antenna current value of 5 amperes, obtained when the transmitter was adjusted for maximum power at the 1 kW setting, along with the revised antenna resistance value of 41.5 ohms.

[7] This discrepancy of 8.65 percent was calculated from the reported reduction in the base current meter reading when the defective meter was replaced by WAMA's consulting engineer.

[9] The pertinent sections of § 73.93 deal with a station's operator requirements and the related supervisory responsibilities of its licensee.

[9] In this regard, WAMA submits the affidavits of Harry Bolen (general manager from October, 1971 to January, 1975) and Donnie Harden (general manager from January, 1975 to present.

[10] We note that WAMA's contention that a renewal hearing is an inappropriate forum for inquiring into alleged operating violations must be rejected; thus, in Glenn West, 27 RR 2d 1262 (1973), the Commission stated: * * * that in considering initial and renewal applications, * * * it is * * * the duty of the Commission to examine past misdeeds to determine the nature of the applicant's probable future performance as a licensee and the likelihood that the applicant will operate its broadcast station in the public interest. (27 RR 2d 1262 at 1266).

[11] The Board notes that, based upon its examination of at least 15 of those days in question, it appears that WAMA failed to properly switch its operating mode from either nighttime to daytime, or vice versa, at the times specified on its license. These apparent instances of operating at excessive power as a result of the failure to switch operating modes, rather than the failure to properly adjust the transmitter, would also violate § 73.52(a), and may be explored under the issue being added herein.

[12] In light of the extended time period, we cannot accept, absent evidentiary inquiry, the adequacy of its supervisory procedures.

[13] See e.g. Radio Station KGVL, Inc., 42 FCC 2d 258, 28 RR 2d 24 (1973).

[14] We note that an issue inquiring into whether the public interest, convenience and necessity will be served by a grant of this application has already been designated in this proceeding.

[15] Board Member Emerson absent.

FEDERAL ENERGY OFFICE

REFINER'S BUY-SELL PROGRAM

Crude Oil Allocation

The notice specified in 10 CFR 211.65 (e) for the refiners' crude oil allocation program is hereby published for the allocation quarter of September 1, 1976 through November 30, 1976.

The buy/sell list for refiners is set forth as an appendix to this notice. The provisions of 10 CFR 211.65 apply to all transactions made under the buy/sell list. Included as part of the list, as required by § 211.65(e), are: the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller, and the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers, with a specification as to the portions thereof that constitute the primary and secondary sales obligations for each refiner-seller, in accordance with 10 CFR 211.65(d).

The allocations shown on the buy/sell list for refiner-buyers that own and operate second priority refineries (as defined in Part 214 of 10 CFR) reflect two types of adjustments resulting from reductions in Canadian crude oil exports to the United States. Adjustments have been made for the September-November 1976 allocation quarter based on FEO's estimate of Canadian crude oil exports during that allocation quarter. In addition, a further adjustment has been made for certain refiner-buyers that operate second priority refineries and that purchased their entire allocation for the June-August 1976 allocation quarter. This adjustment reflects the difference between FEO's estimates of Canadian crude oil available for July and August, which were used to adjust allocations during the June–August allocation quarter, and the actual export level subsequently announced by the Canadian government.

Adjustments have also been made pursuant to 10 CFR 211.65(a)(4) for refiner-buyers that have recently experienced losses of federal royalty oil. FEO anticipates making corresponding adjustments to refiner-buyers that have gained royalty oil in the buy/sell list for the December 1976–February 1977 allocation quarter.

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to § 211.65(d), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation quarter a quantity of crude oil equal to that refiner-seller's primary sales obligation plus any portion of that refiner-seller's secondary sales obligation as to which the FEO directs a sale pursuant to 10 CFR 211.65(h). No refiner-seller shall be required to offer for sale to refiner-buyers, whether by directed sale or otherwise, any portion of its secondary sales obligation until each other refiner-seller (except refiner-sellers with minimal primary sales obligations) has sold at least 80% of its primary sales obligation.

The procedures of 10 CFR 211.65(h) provide that if a sale is not agreed upon on or before September 2, 1976, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request FEO to direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must be made within 30 days of the publication of this notice. Upon such request, FEO may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by FEO, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation quarter, providing that the refiner-seller in question have fully complied with the provisions of 10 CFR 211.65. Refiner-buyers making such request must provide the FEO with the following information:

1. Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy-sell list transactions.

2. Names and locations of the refineries for which crude oil is sought, the amount of crude oil sought for each refinery, and the technical specification range of crude oil that can be processed in each refinery.

3. Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly as to manner or time of deliveries.

4. Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell list and the volume and specification of the crude oil sought from each.

5. The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

6. Such other pertinent information as FEO may request.

Each refiner-buyer and refiner-seller will report the details of each transaction under the buy/sell list to FEO on Form FEO P–118–Q–1 within 15 days of the completion of arrangements for the transaction. Each refiner-buyer and refiner-seller is requested to report as promptly as practicable every such transaction to which it is a party.

Refiner-buyers wishing to receive an allocation in the allocation quarter commencing December 1, 1976, with respect to future refining capacity (as defined in 10 CFR 211.62) that is not presently taken into account in determining their respective purchase opportunities, must apply to the FEO for certification of that capacity and provide all necessary information required to enable FEO to evaluate the factors set forth in 10 CFR 211.65(b)(1) no later than October 4, 1976.

All reports and applications made under this notice should be addressed to:

Manager, Crude Oil Allocation Programs, Crude Oil Buy/Sell Program, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

Issued in Washington, D.C. August 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period September 1, 1976 through November 30, 1976 is as follows. The list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller and the volumes of crude oil (reflecting all adjustments required under § 211.65) that each such refiner-seller is obligated to offer for sale (with a specification as to primary and secondary sales obligations) or that each such refiner-buyer is eligible to purchase, as the case may be.

Federal Energy Office crude oil allocation program for the period September 1976 through November 1976—sales

	Share	Barrels	
		Primary obligation	Secondary obligation
Amoco Oil Co	0.099	3,795,280	6,463,027
Atlantic Richfield	.072	2,989,744	4,746,104
Cities Service Oil	.023	1,144,490	1,617,768
Continental Oil Co	.034	0	1,764,642
Exxon Corp	.112	3,124,237	7,810,482
Getty/Skelly	.020	661,510	1,309,049
Gulf Oil Corp	.086	3,693,724	5,621,991
Marathon Oil Co	.022	1,172,497	1,410,264
Mobil Oil Corp	.089	2,424,558	5,805,358
Phillips Petroleum	.039	942,764	2,552,970
Shell Oil Co	.107	4,394,115	7,010,702
Socal/Chevron	.096	3,034,411	6,267,017
Sun Oil Co	.052	1,591,975	3,424,412
Texaco Inc	.107	3,501,804	7,016,402
Union Oil Company of California	.043	2,588,873	2,820,462
Total		35,000,000	65,037,650
Total allocation obligation			100,037,650

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Purchases:	Barrels
Allied Materials Co	123,502
Amerada Hess Corp	10,085,883
American Petrofina	1,097,278
Apco Oil Corp	336,113
Arizona Fuels Corp	0
Asamera Oil, Inc	351,147
Ashland Oil, Inc	7,711,024
Axel Johnson	130,486
Bayou State Oil Corp	0
Beacon Oil Co	39,625
Calumet Industries	0
Canal Refining Co	0
Caribou Four Corners	0
CFP	0
Champlin Petroleum	0
Charter Oil Company	0
Claiborne Gas Co	0
Clark Oil & Refining	2,320,020
Coastal Independent	0
Coastal States Gas	6,633,586
Commonwealth Oil Ref	2,497,250
CRA-Farmland Ind. Inc	2,424,678
Cross Oil & Ref-Ark	95,091
Crown Central Petro	2,073,190
Crystal Oil Co	0
Crystal Refining Corp	159,870
Delta Refining Co	1,473,990
Diamond Shamrock Corp	164,262
Dorchester Gas	0
Dow/Refinery	1,004,180
Ecol	0
Eddy Refining Co	813
Edgington Oil Co	0
Edgington Oxnard Ref	0
Evangeline Refining	0
Farmers Union Central Exchange	1,219,597
Fletcher Oil and Ref	192,658
Flint Chemical Corp	0
Gary Western Co	202,500
Giant Industries	416,882
Glacier Park	0
Gladieux Refining	406,964
Golden Eagle Ref. Co	276,250
Good Hope Refineries	1,042,849
Guam Oil & Refining	7,375
Gulf States	218,722
HIRI	226,750
Howell Corp	931,701
Hunt Oil Co	453,175
Husky Oil Co	1,096,528
Indiana Farm Bureau	672,043
J&W Refining Inc	568,156
Kentucky Oil Ref Co	0
Kern County Ref., Inc	0
Kerr McGee Co	4,115,753
Koch Refining Co	406,492
La Gloria Oil-Gas Co	499,880
Lakeside Refining Co	144,419
Laketon Asphalt Ref	199,625
Little America Ref	723,074
Lou. Land & Exploration Co	447,838
MacMillan RF Oil Co	428,546
Marion Corp	256,981
Mid-America Refining	3,750
Mid-Tex Refinery	233,197
Midland Coop. Inc	915,892
Mohawk Petroleum Co	470,295
Monsanto Co	1,852,900
Morrison Petroleum	0
Mountaineer Refinery	15,096
Murphy Oil Corp	1,089,968
National Coop. Ref	1,669,822
Navajo Refining Co	46,613
Newhall Refining Co	209,375
North American Petroleum	0
Northland Oil & Ref	285,250
Oil Shale Corp	2,165,441
OKC Corp	515,380
Pasco Inc	272,868
Pennzoil Co	327,306
Pioneer Refining	550
Placid Refining	2,518,859
Plateau Inc	104,978
Powerine Oil Co	1,201,500
Pride Refining Inc	1,130,238
Quaker State Oil Refining Co	0
Road Oil Sales, Inc	5,750
Rock Island Refining	142,750
Saber Refining Co	520,604
Sabre Refining Inc. (Dingman)	55,159
Sage Creek Refining Co	55,250
San Joaquin Refining	0
Seminole Asphalt Ref	187,500
Sigmor Corp	0
Somerset Refinery	0
Sound Refining, Inc	170,625
South Hampton	1,257,415
Southern Union (Famariss)	1,228,076
Southland Oil Co	263,774
Southwestern Refining Co	0
Standard Oil of Ohio	16,070,198
Sunland Refining Co	375,779
Tenneco Oil Co	907,125
Tesoro Petroleum Co	308,791
Texas Asphalt & Refining	58,924
Texas City Refining	3,521,750
Thagard Oil	0
Thriftway Oil Co	77,983
Thunderbird Resources	32,123
Tonkawa Refining Co	49,822
Total Leonard, Inc	1,048,250
Union Texas Petroleum	0
United Independent Oil Co	10,171
United Refining Co	2,008,275
U.S. Oil & Refining Co	379,323
USA Petrochem	0
V-1 Oil Co	2,787
Vickers Petroleum Co	1,135,835
Vulcan Asphalt Ref	0
Warrior Asphalt Corp	73,035
West Coast Oil	0
Western Refining Co	557,750
Winston Refining Co	82,991
Wireback Oil Co	8,095
Witco Chemical Corp	522,375
Yetter Oil Co	1,000
Young Refining Corp	210,550
Total	100,037,659

[FR Doc.76-24160 Filed 8-13-76;11:44 am]

FEDERAL POWER COMMISSION

[Docket No. RP76-10; PGA76-1]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

AUGUST 11, 1976.

Take notice that on July 22, 1976, Arkansas Louisiana Gas Company tendered for filing in Docket RP76-10 (PGA76-1) Second Substitute Third Revised Sheet No. 185 in its Rate Schedule X-26, FPC Gas Tariff Original Volume No. 3. This revised tariff sheet is to become *effective as of November 2, 1975.*

The proposed tariff sheet is being filed to reflect the change agreed to in the settlement conference between Arkla and the FPC Staff on July 13, 1976, concerning the base cost of gas in Docket No. RP76-10 (PGA76-1) effective November 2, 1975.

The company states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24211 Filed 8-17-76;8:45 am]

[Docket No. RP68-16]

CITIES SERVICE GAS CO.

Filing of Report

AUGUST 11, 1976.

Take notice that on November 8, 1973, Cities Service Gas Company (Cities), tendered for filing a report required by Paragraph (E) of the Commission's order issued on January 30, 1969, in this docket.

The report consists of (1) a letter of explanation to the customers, (2) a computation showing the amount of refund to jurisdictional customers and (3) a tabulation of sales to customer companies and the refund applicable to such sales. Cities states that this report shows that Cities refunded to its jurisdictional customers entitled to refunds a total of $8,865,951.32.

Cities states that copies of the report were mailed to each of the customers receiving a refund together with a refund check. Cities also states that copies of the report were mailed to appropriate state regulatory commissions.

Cities also filed on November 8, 1973, copies of releases received from each of 52 of Cities customers with respect to the refunds mentioned above. Cities states that releases which have not been received from 23 customers will be filed with the Commission upon receipt.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24212 Filed 8-17-76;8:45 am]

[Docket No. RP76-138]

COLUMBIA GULF TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff

AUGUST 12, 1976.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on July 30, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Original Volume Number 2. The proposed changes consist of an increase in transportation rates through the offshore Blue Water System. Columbia Gulf states that its rate schedules are filed in order to: (1) update; (2) bring about consistency; and (3) result in a harmonious relationship with pending Docket No. RP76-94 and that these transportation agreements were therefore prepared using the same applied-for cost of service components as reflected in Docket No. RP76-94 filed April 29, 1976. The proposed effective date is September 1, 1976.

Columbia Gulf further states that copies of the filing were served upon Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, Texas Gas Transmission Corporation and Transcontinental Gas Pipe Line Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24218 Filed 8-17-76;8:45 am]

[Docket Nos. ER76-552 and ER76-131]

KANSAS CITY POWER & LIGHT CO.

Order Accepting for Filing and Suspending, Establishing Procedures, Granting Motion To Consolidate, and Granting Intervention

Electric rates: Suspension. Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt. Issued August 11, 1976.

On March 3, 1976, as completed on July 12, 1976, the Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Participation Agreement dated December 19, 1975, between KCPL and the City of Garnett, Kansas (Garnett).[1] KCPL requests an effective date thirty (30) days after filing. The Agreement terminates the Municipal Interconnection Contract, dated December 22, 1969, KCPL Rate Schedule FPC No. 65, and provides for rates and charges for certain wholesale service by KCPL to Garnett. KCPL states that the proposed rates are KCPL's rates and charges for similar service under various schedules previously filed by KCPL with the Federal Power Commission, including those filed in Docket No. ER76-131 for transfer and transmission service to the City of Osawatomie, Kansas (Osawatomie), as well as those filed in Docket No. ER76-184 for general wholesale firm power service. For the reasons hereinafter stated, the Commission shall accept the proposed Agreement for filing, suspend its use for one day, and consolidate the proceedings to determine the lawfulness of the rates and terms and conditions proposed therein for reserve capacity, standby energy, transfer service, and transmission service with those established in Docket No. ER76-131 for purposes of hearing and decision. The Commission shall further make the proposed rates contained in the Agreement for firm power service subject to the outcome of the proceedings in Docket No. ER76-184.

Public notice of KCPL's filing was issued on March 16, 1975, with protests and petitions to intervene due on or before April 1, 1976. On March 31, 1976, Garnett filed a protest and petition to intervene and a motion for consolidation of any proceedings in the instant filing with those established in Docket No. ER76-131.

Garnett's protest and petition to intervene of March 31, 1976, renewed on June 28, 1976, requested a suspension of one day, consolidation of the proceedings with those in Docket No. ER76-131, and that the Commission condition the firm power rates and charges upon those determined to be just and reasonable in Docket No. ER76-184. Garnett alleges that: (1) although the firm power rates included in the proposed agreement are identical to those proposed in Docket No. ER76-184, there is no provision in the instant submittal that would make such rates subject to the outcome of the proceeding in Docket No. ER76-184; (2) KCPL's rate for transmission service, particularly the 55¢/kW/month component of the charge for transmission over KCPL's 34.5 kV Paola-Centerville West Tie Line, is excessive; (3) the 15% minimum reserve power requirement should be eliminated, and (4) the transmission service is not of a general enough nature to allow Garnett to make arrangements for additional types of service from the Kansas City Board of Public Utilities and Southwestern Power Administration.

On July 13, 1976, KCPL filed an objection to Garnett's renewed motion for consolidation. KCPL states that the issues raised in Garnett's petition to intervene far transcend the issues involving Osawatomie in Docket No. ER76-131, as limited by agreement of KCPL and Osawatomie during a conference before the Presiding Administrative Law Judge in that docket. KCPL further argues that although the burden of proof in the instant Section 205 proceeding is upon KCPL, the burden of proof in Docket No. ER76-131, a Section 206 proceeding, is upon Osawatomie. Consolidation of the two dockets, KCPL alleges, would therefore create evidentiary confusion. KCPL apparently has no objection to Garnett's suggested conditioning of KCPL's proposed firm power service rate upon the outcome of Docket No. ER76-184.

The Commision's review indicates that the proposed rates, charges, terms, and conditions of service of the proposed Agreement have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed Agreement for filing and suspend its effectiveness for one day, until August 13, 1976, subject to refund, and shall consolidate the proceedings to determine the lawfulness of the rates and terms and conditions proposed therein for reserve capacity, standby energy, transfer service, and transmission service with those established in Docket No. ER76-131 for the purposes of hearing and decision. We shall further make the proposed rates for firm power service subject to the outcome of the proceedings in Docket No. ER76-154. With respect to KCPL's objection, the fact that the issues in Docket No. ER76-131 have been limited by agreement of the parties does not in and of itself constitute a bar to consolidation, when, as here, many of the remaining issues are similar in law and fact to those raised in the instant docket. Furthermore, the Commission does not share KCPL's concern over the potential for evidentiary confusion. KCPL's objection is therefore rejected.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, terms and conditions of service contained in KCPL's proposed Agreement, and that such Agreement should be accepted for filing and suspended for one day.

(2) Good cause exists to consolidate the investigation herein ordered with the proceedings in Docket No. ER76-131.

(3) Those firm power service charges associated with the proposed Agreement should be subject to the outcome of the proceedings in Docket No. ER76-184.

(4) The intervention of Garnett may be in the public interest and should be granted.

The Commission orders: (A) Pending a hearing and a decision thereon, KCPL's proposed Municipal Participation Agreement tendered on March 3, 1976 and completed on July 12, 1976, is accepted for filing, suspended for one day, the use thereof deferred until August 13, 1976, subject to refund.

[1] See Attachment A for designations.

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(B) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, and the Commission's Rules and Regulations, an investigation concerning the lawfulness and reasonableness of the rates and terms and conditions proposed in the Agreement for reserve capacity, standby energy, transfer service, and transmission service is hereby initiated.

(C) The proceedings instituted herein shall be consolidated for purposes of investigation, hearing and decision with those established by order issued June 7, 1976, in Docket No. ER76-131, with the procedural schedule as established in that order to govern.

(D) Those firm power service charges proposed by KCPL shall be made subject to the outcome of the proceedings now pending in Docket No. ER76-184.

(E) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however*, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) KCPL shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates to be filed herein, as required by Section 35.19a of the Commission Regulations, 18 CFR Section 35.19a.

(G) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

ATTACHMENT A

Rate Schedule Designations—Kansas City Power and Light Company, Docket No. ER76-552

Designation	Description
Rate Schedule FPC No. 78 (supersedes FPC No. 65 as supplemented).	Municipal Participation Agreement.
Supplement No. 1 to Rate Schedule FPC No. 78	Reserve Capacity Deficiency Energy.
Supplement No. 2 to Rate Schedule FPC No. 78	Standby Service.
Supplement No. 3 to Rate Schedule FPC No. 78	Firm Power Service.
Supplement No. 4 to Rate Schedule FPC No. 78	Economy Energy Service.
Supplement No. 5 to Rate Schedule FPC No. 78	Transfer Service.
Supplement No. 6 to Rate Schedule FPC No. 78	Transmission Service.

[FR Doc.76-24213 Filed 8-17-76;8:45 am]

[Docket No. RP73-97; PGA76-3]

KENTUCKY WEST VIRGINIA GAS CO.

Proposed PGA Rate Increase

AUGUST 11, 1976.

Take notice that on July 14, 1976, Kentucky West Virginia Gas Company (KWG) filed in the above docket a proposed PGA rate increase to be effective September 1, 1976. In its letter of transmittal to the Commission, KWG states as follows:

In support of the Purchase Gas Adjustment proposed herewith, there are also enclosed six copies of Exhibit "A" and Exhibit "B".

Exhibit "A" contains data supporting the unrecovered purchase gas costs recorded by Kentucky West Virginia Gas Company for the six months ended May 31, 1976. The total deviation of purchased gas cost from the base purchased gas cost effective during such period amounts to $145,505.65. From this amount is deducted $7,992.68 reflecting the over amortization of Purchased Gas Costs for the amortization period September 1, 1975 through February 29, 1976. As indicated on Exhibit "A", the deferred cost adjustment required to amortize the net deviation of $137,513.97 during the next six months is a debit of 1.20¢ per MCF.

Exhibit "B" contains data supporting the computation of the projected unit cost of purchased gas for the six months ended February 28, 1977, based upon twelve months ending May 31, 1976, as adjusted. As indicated on Exhibit "B", such projected unit of purchased gas is 6.56¢ per MCF which, compared to the base purchased gas cost of 2.20¢ per MCF, results in an increase in the projected unit cost of gas of 4.36¢ per MCF.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. KWG's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-24214 Filed 8-17-76;8:45 am]

[Docket Nos. RP74-100 and RP76-4; PGA 76-10]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

AUGUST 12, 1976.

Take notice that on August 2, 1976, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Tariff, Original Volume No. 1, Fourth Substitute Seventh Revised Sheet No. 4, proposed to be effective September 1, 1976.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of .27¢ per Mcf on Fourth Substitute Seventh Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-24219 Filed 8-17-76;8:45 am]

[Docket No. CP76-461]

TEXAS GAS TRANSMISSION CORP.

Application

AUGUST 11, 1976.

Take notice that on August 2, 1976, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP76-461 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing a transportation service for a two-year term for National Steel Corporation and Southwire Company (National-Southwire), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement, dated July 22, 1976, whereby Applicant has agreed to transport up to 3,317 Mcf of gas per day on an interruptible basis for National-Southwire for Priority 2 end uses at the latter's manufacturing complex in Hawesville, Kentucky. It is indicated that the natural gas would be delivered to Applicant at a meter station to be constructed and installed on Applicant's Sharon-Carthage 20-inch pipeline in Claiborne Parish, Louisiana, and Applicant would simultaneously redeliver volumes of gas up to 3,317 Mcf per day to National-Southwire at a meter station to be constructed and installed in Hancock County, Kentucky. The cost of the facilities to be constructed in Claiborne Parish and Hancock County is estimated to be $57,800 and it is stated that National-Southwire would reimburse Applicant for said cost.

It is indicated that because of curtailments by its intrastate supplier, National-Southwire has contracted to purchase from McGoldrick Joint Venture No. 1-73 (McGoldrick) natural gas to be produced from certain leasehold interests presently owned or controlled by McGoldrick in Leatherman Creek Field, Claiborne Parish, Louisiana. The application shows that National-Southwire would pay McGoldrick $1.43 per Mcf for the first year of a two-year period and $1.46 per Mcf for the second year.

Applicant states that it would not retain any volumes hereunder for its own system supply, but would retain 10 percent of the volumes received for transportation as makeup for compressor fuel and line loss.

The application shows the following information submitted by Applicant:

1. Applicant proposes to transport up to 3,317 Mcf on both a peak day and average day and annual volumes of up to 1,210,705 Mcf.

2. There exists sufficient pipeline capacity to perform the service on a peak day, average day and annual basis.

3. The proposed transportation service would have no impact on Applicant's ability to provide systemwide deliveries for Priority 1 markets.

4. The initial rate for the transportation service would be 17.22 cents per Mcf.

5. Applicant made an offer to purchase the subject gas from McGoldrick at a price of 83.5 cents per Mcf but that the offer was rejected by McGoldrick because, the latter stated, it had been offered a considerably higher price for its gas. As a result, Applicant states that it was unable to secure the gas as part of its system gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-24215 Filed 8-17-76;8:45 am]

[Docket No. ES76-64]

UTAH POWER AND LIGHT CO.

Application

AUGUST 11, 1976.

Take notice that on July 30, 1976, Utah Power & Light Company (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance and sale of not more than $40,000,000 in principal amount of its First Mortgage Bonds and 1,000,000 additional shares of Common Stock.

The New Bonds and the New Stock are proposed to be offered pursuant to competitive bidding procedures on or about September 22, 1976.

The proceeds from the sale of the New Bonds and the New Stock will be applied to Applicant's construction program and the repayment of short-term indebtedness incurred for construction purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-24216 Filed 8-17-76;8:45 am]

[Docket No. E-9147]

VIRGINIA ELECTRIC AND POWER CO.

Compliance Filing

AUGUST 11, 1976.

Take notice that on July 26, 1976, Virginia Electric and Power Company (VEPCO) tendered for filing a compliance report to ordering paragraph (D) of the Commission's order issued April 12, 1976 in the above-captioned docket requiring a report to be made 15 days after refunds have been made. VEPCO states that refunds were made on June 25, 1976, and that a 15 day extension was granted by the Secretary by letter dated July 13, 1976, making the reports due on or before July 26, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-24217 Filed 8-17-76;8:45 am]

[Rate Schedule Nos. 136, et al.]

AMOCO PRODUCTION CO., ET AL.

Rate Change Filings

AUGUST 11, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before August 25, 1976 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

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Filing date	Producer	Rate schedule No.	Buyer	Area
July 14, 1976	Amoco Production Co., 500 Jefferson Bldg., P.O. Box 3092, Houston, Tex. 77001.	136	El Paso Natural Gas Co.	Permian Basin.
July 17, 1976	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	17	United Gas Pipe Line Co.	Other Southwest.
July 19, 1976	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	17	Natural Gas Pipeline Company of America.[1]	Hugoton-Anadarko.
July 20, 1976	CRA, Inc., P.O. Box 7305, Kansas City, Mo. 64116.		Northern Natural Gas Co.	Permian Basin.
July 22, 1976	Kerr-McGee Corp., Kerr-McGee Center, Oklahoma City, Okla. 73102.	97	Texas Eastern Transmission Corp.	Other Southwest.
Do	Belco Petroleum Corp., One Dag Hammarskjold Plaza, New York, N.Y. 10017.	99	do	Do.
Do	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	1	Northwest Pipeline Corp.	Rocky Mountain.
Do	Texaco Inc., P.O. Box 3109, Midland, Tex. 79701.	2	do	Do.
		3	do	Do.
		265	Natural Gas Pipeline Company of America.	Hugoton-Anadarko.
		9	Northern Natural Gas Co.	Do.

[1] Consolidates Anadarko's R.S. Nos. 17, 29, and 96.

[FR Doc.76-24137 Filed 8-17-76;8:45 am]

[Docket No. ER76-839]

CENTRAL MAINE POWER CO.

Cancellation of Rate Schedule

AUGUST 11, 1976.

Take notice that on July 12, 1976, Central Maine Power Company (Central Maine) tendered for filing with the Commission a notice of cancellation of Central Maine's FPC Rate Schedule No. 34 Contract between Central Maine and Rangeley Power Company.

Central Maine states that this cancellation was brought about by the acquisition by Central Maine of the utility properties of Rangeley Power Company, pursuant to Federal Power Commission Order issued May 25, 1976, in Docket No. E-9547, and Maine Public Utilities Commission Order issued February 18, 1976. Central Maine requests waiver of the thirty day notice provision to allow the cancellation to become effective on June 30, 1976, which is the date on which Central Maine acquired the Rangeley Power Company properties and is the date after which FPC Rate Schedule No. 34 is no longer effective.

Central Maine states that notice of the proposed cancellation has been served upon Richard N. Berry, Portland, Maine, and upon the State of Maine Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24142 Filed 8-17-76;8:45 a.m.]

[Docket No. ER76-840]

CENTRAL MAINE POWER CO.

Cancellation of Rate Schedule

AUGUST 11, 1976.

Take notice that on July 12, 1976, Central Maine Power Company (Central Maine) tendered for filing a notice of cancellation of Central Maine's FPC Rate Schedule No. 48—Contract between Central Maine and Squirrel Island Village Corporation.

Central Maine states that this cancellation was brought about by the acquisition by Central Maine of the utility properties of Squirrel Island Village Corporation, pursuant to a Maine Public Utilities Commission Order issued May 6, 1976. Central Maine requests waiver of the thirty day notice provision to allow the cancellation to become effective May 18, 1976, which is the date on which Central Maine acquired the Squirrel Island Village Corporation property and is the date after which FPC Rate Schedule No. 48 is no longer effective.

Central Maine states that notice of the proposed cancellation has been served upon Squirrel Island Village Corporation and State of Maine Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24141 Filed 8-17-76;8:45 am]

[Docket No. CP71-68]

COLUMBIA LNG CORP.

Application To Amend

AUGUST 10, 1976.

Take notice that on July 26, 1976,[1] Columbia LNG Corporation (Applicant), 20 Montchanin Road, Wilmington, Delaware 19807, filed in Docket No. CP71-68 an application to amend the Commission's Opinion No. 622 and order issued June 28, 1972, in said docket (47 FPC 1624), as modified on rehearing by Opinion No. 622-A and order (48 FPC 723), pursuant to Section 3 of the Natural Gas Act by removing the price limitation for liquefied natural gas (LNG) contained in the last sentence of Paragraph (5) of Opinion No. 622-A or, alternatively, by increasing the import price limitation contained in such Paragraph (5) from 77.0 cents per million Btu's of LNG to no less than 124.0 cents per million Btu's delivered by El Paso Algeria Corporation (El Paso) to Applicant at Cove Point, Maryland, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

It is stated that Opinion No. 622, as modified, authorizes Applicant to import LNG from Algeria to proposed facilities in the United States located at Cove Point, Maryland, under a contract with a pricing formula which permits changes in the LNG price. It is indicated that said contract pricing formula was approved but that the import authorization granted Applicant limits the price in the first year of delivery to 77.0 cents per million Btu's at Cove Point. It is further indicated that Opinion No. 622-A provides that the limitation on the price for LNG can be revised when necessary upon a showing that actual costs, reasonably and prudently incurred, exceed the then present estimates.

Applicant asserts that 95 percent of El Paso's costs are now known and that the evidence establishes that based on costs incurred by El Paso to date and estimated costs of completing the LNG tankers and related El Paso facilities plus the cost of LNG purchased under the contract between Sonatrach and El Paso, the delivered price of the LNG in the first year of full deliveries is estimated to be 123.41 cents per million Btu's delivered at Cove Point. Applicant further asserts that in order that all parties may recover the actual costs incurred in connection with deliveries of LNG to Cove Point, it must be authorized to pay at least 124.0 cents per million Btu's delivered.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before August 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a

[1] The application was tendered for filing July 26, 1976; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 3, 1976. Thus, filing was not completed until the latter date.

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24138 Filed 8-17-76;8:45 am]

[Docket No. ER76-833]

CONNECTICUT LIGHT & POWER CO.

Purchase Agreement

AUGUST 11, 1976.

Take notice that on August 2, 1976, The Connecticut Light & Power Co. CL&P tendered for filing a proposed rate schedule pertaining to a Purchase Agreement between CL&P, The Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Light Co. (WMECO and together with CL&P and HELCO, the NU Cos.) and Boston Edison Co. (Edison) dated as of May 14, 1976.

CL&P states that the Purchase agreement provides for a sale to Edison of varying percentages of capacity and energy from the NU Companies' entitlements of Vermont Yankee (the VELCO Contract) and Merrimack Unit No. 2 of the Public Service Company of New Hampshire (the Merrimack Contract) during weekend and holiday periods from May 14, 1976 to October 31, 1976.

CL&P further states that although the Purchase Agreement was agreed upon in principle prior to the contract date, the detailed language of the rate schedule delayed completion of the Purchase Agreement until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date. CL&P, therefore, requests that in order to permit Edison to receive the capacity and energy pursuant to the Purchase Agreement, and to allow the NU Companies to receive payment for such capacity and energy, the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule to become effective as of May 14, 1976.

CL&P states that the amount of capacity to be purchased during each weekend or holiday period is determined on a weekly basis by mutual agreement of the parties, therefore, the revenues to be received for energy and capacity cannot be accurately estimated for the Term of the Purchase Agreement.

CL&P also states that the rate to be charged under the Purchase Agreement for capacity and energy to be made available to Edison by the NU Companies is based upon the actual charge to the NU Companies as specified in the VELCO Contract and the total cost incurred or expected to be incurred by the NU Companies under the Merrimack Contract.

CL&P states that a copy of the rate schedule has been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and Edison, New York, New York.

CL&P states that HELCO and WMECO have filed certificates of concurrenee in this docket.

CL&P states that no facilities are to be installed or modified in order to supply the service to be furnished under the Purchase Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24142 Filed 8-17-76;8:45 am]

[Docket No. ER76-835]

CONSUMERS POWER CO.

Filing of Service Agreement

AUGUST 11, 1976.

Take notice that Consumers Power Company ("Consumers Power") on August 2, 1976, tendered for filing a Service Agreement for wholesale for resale electric service between Consumers Power and Edison Sault Electric Company ("Edison Sault"). On its proposed effective date, November 6, 1975, the agreement supplanted a prior contract for electric service between the two parties, dated November 21, 1974. Consumers Power states that the Service Agreement incorporates the rates permitted by the Commission to become effective, subject to refund, on September 30, 1975, in Docket No. ER76-45, by order issued August 29, 1975.

Consumers Power further states that Service Agreement was concluded with Edison Sault pursuant to the commitment of Consumers Power to place its wholesale or resale customers on a Schedule of Rates Governing Wholesale for Resale Electric Service and consistent with the Order of the Federal Power Commission in Docket No. ER76-45 dated August 29, 1975. The execution of the Service Agreement is prompted by Consumers Power's desire to have one standard rate schedule for wholesale service.

Consumers Power states that copies of the filing were served on Edison Sault and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24144 Filed 8-7-76;8:45 am]

[Docket No. RP76-137]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Filing of Proposed Changes in Rates

AUGUST 10, 1976.

Take notice that on July 30, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing proposed changes in its FPC Gas Tariff to be effective September 1, consisting of the following revised tariff sheets:

Ninth Revised Volume No. 1: Thirteenth Revised Sheet Nos. 12A and 12B.

Sixth Revised Volume No. 2: First Revised Sheet Nos. 246D, 247D, 248D, 249H, and 249I; Second Revised Sheet No. 245D; Third Revised Sheet Nos. 76 and 215; Fourth Revised Sheet Nos. 53, 54, 77 and 141; Seventh Revised Sheet Nos. 11 and 12.

The proposed changes would increase revenues from jurisdictional sales and services by $121,160,266 based on the test period consisting of the twelve months ended April 30, 1976, adjusted for known changes through January 31, 1977.

Tennessee states that the increased rates are required to reflect an increase in rate of return to 11.33 percent and related income taxes, increased plant and related expenses, increased advance payments, increases in the cost of materials, supplies, wages, and taxes, and declining sales due to gas supply curtailment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Porcedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commis-

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sion and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24139 Filed 8-17-76;8:45 am]

[Docket No. RP76-136]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Proposed Changes in FPC Tariff

AUGUST 10, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), on July 30, 1976, tendered for filing Second Revised Volume No. 1 and certain revised tariff sheets to Original Volume No. 2 of its FPC Gas Tariff. The proposed changes would increase revenues from jurisdictional sales, transportation and storage services by approximately $81.3 million based upon the 12-month period ending April 30, 1976, as adjusted.

Transco states that the principal reasons for the rate increase filing are (1) increase in unit cost of operation of Transco's pipeline system due to the decline in the gas supply and the consequent reduction in annual sales volumes, (2) increased advance payment amounts incurred and to be incurred during the test period and, (3) increased return and related taxes.

Transco has also included in this filing (1) a change in measurement pressure base from 14.7 psia to 14.73 psia, (2) conversion for billing and operating purposes from a volumetric (mcf) basis to an energy basis expressed in dekatherms (dt), and (3) incorporation of miscellaneous changes in Volume No. 1 of its Tariff, as more fully explained in the filing.

In its filing, Transco states that the proposed effective date for the enclosed tariff sheets is September 1, 1976; however, since the Settlement Agreement in Transco's latest rate proceeding in Docket No. RP75-75 provides that a general rate increase shall not be placed into effect prior to October 1, 1976 and because of the Commission's current practice with respect to pipeline rate increase filings, it is anticipated that the Commission will suspend filing for the full 5-month statutory period, or, until February 1, 1977. Transco further states that, at least 30 days prior to January 1, 1977, Transco will make a separate filing to place into effect on that date the changes in form of tariff heretofore enumerated. Having such changes made effective on the first of a calendar year will provide substantial convenience and savings in cost to Transco, and, it is believed, its customers.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24140 Filed 8-17-76;8:45 am]

[Docket No. RP72-133 (PGA76-3a)]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheets

AUGUST 11, 1976.

Take notice that on July 20, 1976, United Gas Pipe Line Company (United tendered for filing Thirty-First Revised Sheet No. 4, proposed to become effective July 1, 1976, for one day, and Thirty-Second Revised Sheet No. 4 to become effective July 2, 1976, to its FPC Gas Tariff, First Revised Volume No. 1.)

This filing is being made to reflect (1) the elimination of New Entity Cost from United's base tariff rates, (2) eliminate from the purchased gas cost underlying the rates on Thirty-Second Revised Sheet No. 4 (a) noncertificated producer rate increases which did not become effective by July 1, 1976, (b) proposed purchase from Trans-Ocean Oil, Inc. which did not materialize by July 1, 1976, and (3) a reduction in Sea Robin Pipeline Company's commodity rate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24145 Filed 8-17-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANCORPORATION OF MONTANA

Acquisition of Bank

Bancorporation of Montana, Great Falls, Montana, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Bank of Montana, Helena, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Bancorporation of Montana is also engaged in the following nonbank activities: engaging in lines of casualty business and administering various insurance programs for all affiliates. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. § 1843).

The application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 13, 1976.

Board of Governors of the Federal Reserve System, August 12, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24209 Filed 8-17-76;8:45 am]

BANK HOLDING COMPANIES

Review of Grandfather Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. § 1843) provides certain privileges ("grandfather privileges") with respect to the nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date). However, section 4(a)(2) of the Act requires the Board of Governors of the Federal Reserve System to determine whether such grandfather privileges should be terminated with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

In exercising its authority under section 4(a)(2), the Board by order after opportunity for hearing, may terminate the authority granted by said section if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

On the basis of the information of record, it appears that the companies listed below are not entitled to grandfather privileges with respect to any activity by virtue of the fact that on June 30, 1968, none of the companies was engaged directly in any activity other than owning stock of their respective banks and none had any subsidiary other than their respective subsidiary banks. Furthermore, it appears that at the present time, none of the companies listed below is engaged, either directly or through a subsidiary, in any non-banking activities.

Bank holding company and subsidiary bank:

Metropolitan Investments Company, Chicago, Ill., Metropolitan Bank and Trust Company, Chicago, Ill.

Selin Corporation, Chicago, Ill., First National Bank of Niles, Niles, Ill.

The Hibshman Trust for the Euphrata National Bank Stock, Euphrata, Pa. Euphrata National Bank, Euphrata, Pa.

To aid the Board in making its determinations with respect to the aforementioned bank holding companies, interested persons are hereby afforded an opportunity to submit relevant data, views, and arguments bearing on the proposed determinations by the Board that the above-mentioned companies are not entitled to grandfather privileges. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 13, 1976. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Board of Governors of the Federal Reserve System, August 12, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-2408 Filed 8-17-76;8:45 am]

CITI BANCORP

Order Approving Formation of Bank Holding Company

Citi Bancorp, Lincoln, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 97.8 per cent of the voting shares of Citibank and Trust Co. of Lincoln, Lincoln, Nebraska ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a non-operating company organized for the purpose of becoming a bank holding company through acquisition of Bank (deposits of $16 million).[1] Upon acquisition of Bank, Applicant would control the 80th largest bank in Nebraska, holding .27 per cent of total deposits in commercial banks in the State. Bank is the seventh largest of eighteen banks in the Lincoln banking market, which is approximated by Lancaster County, and controls 2.5 per cent of the total commercial bank deposits therein. Two of Applicant's principals are also principals in two existing bank holding companies located in Nebraska. The subsidiary of one of these holding companies is located in the relevant market and holds approximately 2.9 per cent of deposits in the market; the subsidiary bank of the other affiliated holding company is located in Geneva, Nebraska, approximately 70 miles from Bank. Inasmuch as the subject proposal represents a restructuring of Bank's ownership, and based upon other facts of record, the acquisition of Bank by Applicant would not eliminate any significant existing or potential competition, nor have an adverse effect on other area banks. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and prospects of Applicant are primarily dependent on those of Bank. In this regard, Applicant proposes to service the debt that it will assume as a part of this proposal over a twelve-year period through dividends from Bank and the tax benefits derived from filing consolidated tax returns. The projected earnings of Bank appear sufficient to provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements while maintaining Bank's capital at an acceptable level. Moreover, it appears that the financial and managerial considerations with respect to the other holding companies with which Applicant's principals are involved are generally satisfactory. Therefore, considerations relating to banking factors are regarded as being consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served are also regarded as consistent with approval of the application to acquire Bank. It has been determined that the proposal to form a bank holding company would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective August 11, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24253 Filed 8-17-76;8:45 am]

[1] All banking data are as of June 30, 1975.

FIRST SECURITY CORP.

Order Approving Acquisition of Bank

First Security Corporation, Salt Lake City, Utah, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First Security Bank of Orem, National Association, Orem, Utah ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the largest banking organization in Utah, controls eight banks in Utah with aggregate deposits of approximately $968.2 million, representing 28.7 per cent of the total deposits in commercial banks in the State.[1] In addition, Applicant controls one bank in Idaho and one bank in Wyoming, each of which was acquired by Applicant prior to the enactment of the Bank Holding Company Act of 1956.[2] Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State nor increase the concentration of banking resources in Utah.

Bank is to be located in the town of Orem, 35 miles south of Salt Lake City. The relevant banking market, which is approximated by the Provo, Utah RMA,[3] is presently served by eleven banking organizations. Applicant has two subsidiary banks operating in the market and controls 29 per cent of the market's total deposits.[4] However, given the fact that Bank is a proposed new bank and will be located in the same office previously occupied by a branch of one of Applicant's banks already in the market, approval of Applicant's acquisition of Bank would produce no adverse effects on existing competition in the market.[5] With respect to potential competition, there are a number of other banking alternatives in the relevant market and the record indicates that two additional banks have recently received permission to enter the market. It does not appear that Applicant's acquisition of Bank

[1] Unless otherwise indicated, all banking data are as of December 31, 1975, and reflect bank holding company formations and acquisitions approved through June 30, 1976.

[2] These two banks and their total deposits are as follows: First Security Bank of Idaho, National Association, Boise, Idaho (deposits of $709.3 million) and First Security Bank of Rock Springs, Rock Springs, Wyoming (deposits of $21.4 million).

[3] Ranally Metro Area.

[4] As of June 30, 1975.

[5] Applicant is prevented by Utah's home-office protection laws from establishing new branches of its existing banking subsidiaries in Orem.

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would preclude other banking organizations from entering this growing market, which increased in population from 25,000 in 1970 to 36,000 in 1975. Thus, in view of the above considerations as well as Utah's restrictive branching laws, it appears that the proposed transaction would have no adverse effects on potential competition. Accordingly, competitive considerations are regarded by the Board as being consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as satisfactory. Therefore, considerations relating to banking factors are consistent with approval of the application. The addition of a new banking alternative to the town of Orem should provide greater banking convenience for the residents of the area. Accordingly, considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) First Security Bank of Orem, National Association, Orem, Utah, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,* effective August 11, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24254 Filed 8-17-76;8:45 am]

QUIVIRA BANC SHARES, INC.

Formation of Bank Holding Company

Quivira Banc Shares, Inc., Hutchinson, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 13, 1976.

Board of Governors of the Federal Reserve System, August 12, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24209 Filed 8-17-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSIC ADVISORY PANEL (FOLK/ETHNIC)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Folk/Ethnic) to the National Endowment for the Arts will be held on September 8, 9, 10, and 11, 1976 from 9:30 a.m. to 6 p.m. in the 14th floor conference room of the Columbia Plaza office building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on September 9 from 2 p.m. to 4 p.m. on a space available basis. Accommodations are limited. The agenda for this portion will be a discussion of Guidelines.

The remaining sessions of this meeting on September 8, 10 and 11 from 9:30 a.m. to 6 p.m. and on September 9 from 9:30 a.m. to 1 p.m. and from 4 p.m. to 6 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 643-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-24189 Filed 8-17-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 11, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Evaluation of VA Day Treatment Center Program, 10-2193 A, B, C, single-time, patients in 52 VA day treatment centers, C. Louis Kincannon, 395-3211.

National Commission on Electronic Fund Transfer, Questionnaire on Vendor-related EFT issues, single-time, vendors, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, (A) utilization review committee chairman and (B) hospital administrators questionnaire, SSA-3347, single-time, administrators and utilization review chairmen of general hospitals, Richard Eisinger, 395-6140.

REVISIONS

DEPARTMENT OF THE TREASURY

Departmental and other application for appointment to annual assay commission on occasion, individuals interested in serving on the assay commission, Lowry, R. L., 395-3772.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Incident Investigation Report, EPA8550-4, on occasion, state and federal agencies involved in pesticide episode review, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of East-West Trade, relationship between U.S. export license applicant and U.S. recipient of orders from foreign purchasers, EAR372.6(C), on occasion, commercial exporters, Warren Topelius, 395-5872.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service, arrival-departure record, I-94, on occasion, aliens arriving in U.S., Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-24281 Filed 8-17-76;8:45 am]

*Voting for this action: Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Jackson.

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 12, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

REVISIONS

VETERANS ADMINISTRATION

Veterans Application for Work-Study Allowance, 20-8691, on occasion, veteran, Lowry, R. L., 395-3772.

Outline for Obtaining Information as to Suitability of Home Other Than Patients Own, 10-2408, on occasion, households in 50 States and Puerto Rico, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census, School Enrollment Supplement—October 1976 CPS, CPS-1, annually, 55,000 households in CPS sample, Kathy Wallman, 395-6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, Development of Power Requirements Studies, REA 4, REA 4A, REA 5, REA 156, REA 341-345, REA 733A, REA 736, REA 802A, other (see SF-83), REA electric borrowers, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Management Plan Requirements Questionnaire for Sponsor; Questionnaire for Managing Agent, HUD 9405, on occasion, owners and management agents of HUD-assisted projects, Housing, Veterans, and Labor Division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-24282 Filed 8-17-76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 23, 1976, at 10 a.m., the Montgomery, Alabama Station Committee on Educational Allowances shall at 474 South Court Street, Montgomery, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Lawson State Community College, 3060 Wilson Road, Birmingham, Alabama, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: August 9, 1976.

WILEY H. PARKMAN,
Director.

[FR Doc.76-24128 Filed 8-17-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 120]

ASSIGNMENT OF HEARINGS

AUGUST 13, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141081, Trailer Car Corp., now assigned September 15, 1976 at New York, N.Y., is canceled and application dismissed.

MC 129387 (Sub-No. 21), Bill Payne, dba Bill Payne Trucking Company, now assigned November 3, 1976, at Washington, D.C., is canceled and application dismissed.

MC-C 8995, Dugan Truck Line, Inc.—Investigation and Revocation of Certificates and Certificates of Registration, now being November 9, 1976 (1 day), at Topeka, Kansas, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24243 Filed 8-17-76;8:45 am]

[Section 5b Application No. 4]

SOUTHERN PORTS FOREIGN FREIGHT AGREEMENT

AUGUST 9, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed May 28, 1976 by:

John J. Dolan, Chairman, Southern Ports Foreign Freight Commitee, Room 1100, 222 South Riverside Plaza, Chicago, IL 60606, (Attorney-in-Fact).

F. R. Birkholz, L. A. Harris, 176 E. Fifth Street, St. Paul, MN 55101, (of counsel).

Agreement involves: Organization and procedure between and among rail common carrier members of the Southern Ports Foreign Freight Committee for the joint consideration, initiation, or establishment of rates, classifications, divisions, allowances, charges, and rules and regulations pertaining thereto, applicable to the transportation of export and import freight traffic, subject to specified commodity exceptions, between Southern ports (Morehead City, N.C., south and west to and including Corpus Christi, Tex.), on the one hand, and, on the other, designated points in Central and Western Territory.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 17, 1976. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion may proceed to investigate and determine the matters involved in such application without further or formal hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24241 Filed 8-17-76;8:45 am]

[Section 5b Application No. 6]

SOUTHERN RAILROADS AGREEMENT

AUGUST 9, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed May 28, 1976 by:

Bates B. Bowers, Chairman, Southern Freight Association, 151 Ellis Street, N.E., Atlanta, GA 30303, (Attorney-in-Fact).

F. R. Birkholz, 908 West Broadway, Louisville, KY 40201, (Attorney for Applicants).

Agreement involves: Organization, practices and procedures between and among rail common carrier members of the Southern Freight Association for the consideration, initiation, or establishment of rates, classifications, charges, divisions, and rules, regulations or practices thereto, governing the transportation of property in interstate or foreign commerce within the Southern Territory.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 17, 1976. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their in-

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terest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24242 Filed 8-17-76;8:45 am]

[Notice No. 12]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 18, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 7, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76402 By order of August 12, 1976 the Motor Carrier Board approved the transfer to Mike Falcone, Jr. & Sons, Inc., Silver Spring, Maryland of Certificates No. MC 117762 and MC 117762 (Sub-No. 2) issued November 28, 1960 and September 29, 1970, respectively to Mike Falcone, Jr., and Robert Falcone, A Partnership, doing business as Mike Falcone Jr. & Son, Silver Spring, Maryland, authorizing the transportation of Bananas, and fresh fruits, berries, and vegetables, in mixed loads with bananas, from Baltimore, Md., and Philadelphia, Pa., to Washington, D.C., and (1) Bananas, and (2) agricultural commodities exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Wilmington, Del., to Carlstadt, N.J., Mount Kisco and Waterfore, N.Y., and the District of Columbia. Chester A. Zyblut, 1030 Fifteenth Street, Suite 366, Washington, D.C., 20005, Attorney for Applicants.

No. MC-FC-76433. By order of August 6, 1976 the Motor Carrier Board approved the transfer to Boat Transit, Inc., a California Corporation, Newport Beach, California, of Certificate No. MC 40915, issued March 12, 1968, to Boat Transit, Inc., Newport Beach, California, authorizing the transportation of boats and boat parts, supplies, and equipment, between points in Michigan, Ohio, Illinois, Indiana, New York, Pennsylvania, Delaware, New Jersey, West Virginia, Wisconsin, Kentucky, Virginia and the District of Columbia; between points in Alabama, Arkansas, Connecticut, Florida, Georgia, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee and Vermont; between the points in the specified states on the one hand, and on the other, points in Michigan, Ohio, Illinois, Indiana, New York, Pennsylvania, Delaware, New Jersey, West Virginia, Wisconsin, Kentucky, Virginia, and the District of Columbia; and between points in Arizona, California, Colorado, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and between said point on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado. Representative of applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24244 Filed 8-17-76;8:45 am]

[Notice No. 105]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 13, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50307 (Sub-No. 78TA), filed August 6, 1976. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th St., New York, N.Y. 10001. Applicant's representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* in boxes or cartons and on hangers; *and materials, supplies and equipment* used in the manufacture of wearing apparel, between Blairstown, N.J., points in Pennsylvania, New Jersey and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Martino Manufacturing Co., Inc., Box 206, Route 94, Blairstown, N.J. Flesseler Embroidery Works, Inc., R.D. 2, Box 269, Blairstown, N.J. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 61403 (Sub-No. 241TA), filed August 6, 1976. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: James P. Ray (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421), to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Michigan, Ohio, North Carolina, Texas and Wisconsin; and (2) *Contaminated liquid chemicals*, in bulk, in tank vehicles, from the destination states in part (1) above, to points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421), for 180 days. Supporting shipper: Inland Chemical Corporation, 1810 Magnavox Way, Ft. Wayne, Ind. Send protests to: Joe J. Tate, District Supervisor, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 69107 (Sub-No. 12TA), filed August 4, 1976. Applicant: ALL STATES ASPHALT, INC., Amherst Road, Route 116, P.O. Box 91, Sunderland, Mass. 01375. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating oils*, in bulk, from Springfield and Holyoke, Mass., to points in Vermont (except points in Windham County), and New Hampshire, for 180 days. Supporting shipper: Wyatt Massachusetts Terminal, Inc., 1053 Page Byvd., Springfield, Mass. 01104. Send protests to: J. D. Perry, Jr., District Supervisor, 436 Dwight St., Room 338, Springfield, Mass. 01103.

No. MC 76032 (Sub-No. 319TA), filed August 3, 1976. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouse* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Farmland Industries, Inc., at Garden City, Kans., to points in Connecticut, Delaware, Maine, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia and the District of Columbia, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 957, Garden City, Kans. 67846. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs Bldg., Denver, Colo. 80202.

No. MC 113666 (Sub-No. 107TA), filed August 4, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides* (except in bulk), (1) from Muskegon, Mich., to Ayden, N.C.; Jacksonville, Fla.; Des Moines and Fort Dodge, Iowa; Frankfort, Ind.; Rockford, Ill.; Freeport and York, Pa.; Troy, Ala., and Napoleon, Ohio; and (2) from the warehouse and terminal facilities of Freeport Transport, Inc., located in Frankfort, Ind., and Freeport, Pa., to Albert Lea, Minn.; Ayden, N.C.; Des Moines and Fort Dodge, Iowa; Fremont, Nebr.; Greeley, Colo.; Jacksonville, Fla.; Mendota, Ill.; Omaha, Nebr.; Randolph, Wis.; Rockford, Ill., St. Joseph and St. Louis, Mo.; York, Pa.; Troy, Ala., and Napoleon, Ohio; and (3) from Muskegon, Mich., and the warehouse and terminal facilities of Freeport Transport, Inc., located in Frankfort, Ind., to the ports of entry on the International Boundary between the United States and Canada located in Michigan, Minnesota, North Dakota and Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cyanamid Company, Agricultural Division, P.O. Box 400, Princeton, N.J. 08540. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 114569 (Sub-No. 143TA), filed August 5, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery and seed and nut snack food products*, moving in vehicles equipped with mechanical temperature control, from St. Louis, Mo., and its commercial zone to Pittsburgh, Temple and Philadelphia, Pa.; Jersey City, Carlstadt and Pensauken, N.J.; Norwood, Readville, Sommerville and Boston, Mass.; Landover, Md., and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Sunmark Companies, 10795 Watson Road, St. Louis, Mo. 63127. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114569 (Sub-No. 144TA), filed August 3, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, products produced by packing houses* moving in vehicles with mechanical temperature control devices (except commodities in bulk, hides, animal feed and animal feed ingredients), from the plantsite of Farmland Foods, Inc., at or near Garden City, Kans., to points in Kentucky, Tennessee, Ohio, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New York, Vermont, New Hampshire, New York, Vermont and Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Foods, Inc., P.O. Box 957, Garden City, Kans. 67846. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115331 (Sub-No. 416TA), filed August 3, 1976. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit, dried or evaporated NOI*, from the facilities of Crest Foods, in Ashton, Ill., to the facilities of the Drackett Co., in Urbana, Ohio, and E. Stroudsburg, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Drackett Products Company, 5020 Spring Grove Ave., Cincinnati, Ohio 45232. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 117940 (Sub-No. 183TA), filed August 4, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by, or used in the operation of retail department stores, from the New York, N.Y. Commercial Zone, to the facilities of Bon Marche in Tukwila, Wash., and Bon Marche Stores in Bellingham, Kennewick, Everett, Longview, Spokane, Tacoma, Walla Walla, Yakima, Redwood and Seattle, Wash., and Eugene, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Stores Corporation, 1114 Avenue of the Americas, New York, N.Y. 10036. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118535 (Sub-No. 86TA), filed July 30, 1976. Applicant: TIONA TRUCK LINES, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Minerals, mineral mixtures, feed and fertilizer materials and compounds and ingredients thereof*, from Galena, Kans., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas and Wisconsin, for 180 days. Supporting shipper: Chemical & Fibers Division, Eagle-Picher Industries, Inc., P.O. Box 1328, Joplin, Mo. 64801. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119880 (Sub-No. 85TA), filed August 4, 1976. Applicant: DRUM TRANSPORT, INC., 617 Chicago St., P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Vicksburg, Miss., to St. Louis, Mo., and Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of oper-

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ating authority. Supporting shipper: Paul A. Lux, President, David Sherman Corp., 5050 Kemper Ave., St. Louis, Mo. 63139. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 124230 (Sub-No. 27TA) filed August 6, 1976. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, Colo. 81321. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel grinding balls*, from the plantsites and storage facilities of Capital Castings Division, Midland-Ross Corporation, located in Maricopa County, Ariz., to mine and mill sites, located in Lake and Grand Counties, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Capital Castings Division, Midland-Ross Corporation, P.O. Box 750, Phoenix, Ariz. 85001. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 721 19th St., Denver, Colo. 80202.

No. MC 126276 (Sub-No. 155TA) filed August 4, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container components and ends, container closures and materials, equipment and supplies* used in the manufacture and distribution of containers, ends and closures, from Worthington, Ohio, to LeRoy, Albany, Syracuse, Cicero, Buffalo and Rochester, N.Y., under a continuing contract with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard Dwyer, Regional Manager, Traffic & Distribution, The Continental Group, Inc., 150 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 127090 (Sub-No. 4TA) filed August 5, 1976. Applicant: PACIFIC STORAGE, INC., 440 East 19th St., Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A and B explosives, commodities in bulk and those injurious or contaminous to other lading), between points in the City of Tacoma, Wash., and the commercial zone thereof, restricted to shipments having a prior or subsequent movement by water. Applicant intends to interline at Tacoma, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Port of Tacoma, P.O. Box 1837, Tacoma, Wash. 98401. Totem Ocaen Trailer Express, Inc., 1002 Port of Tacoma Road, Tacoma, Wash. 98421. Send Protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 133566 (Sub-No. 56TA) filed August 4, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, 1224 Seventeenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, fresh or frozen, meat products, and products produced by packinghouses*, from the plantsite of Farmland Foods, at or near Garden City, Kans., to points in Connecticut, Delaware, the District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennesssee, Vermont, Virginia and West Virginia, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 957, Garden City, Kans. 67846. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 134735 (Sub-No. 4TA) filed August 4, 1976. Applicant: ROLPH TRUCKING, INC., doing business as GUILEY TRUCKING, 8615 Pecan Ave., Gontana, Calif., 92335. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, including articles requiring special handling or special racks, between the plantsites of Verco Manufacturing, Inc., at Phoenix, Ariz., Fontana, Calif., and Everett, Wash.; (2) *Coiled sheet steel* from the harbor at Seattle, Wash., to the plantsite of Verco Manufacturing, Inc., at Everett, Wash.; (3) *Iron or steel roofing or decking*, from the plantsite of Verco Manufacturing, Inc., at Everett, Wash., to points in Oregon, Idaho and Montana; and (4) *Iron or steel roofing*, from the plantsite of Verco Manufacturing, Inc., at Everett, Wash. to the harbor at Seattle, Wash., restricted to shipments in interstate commerce, for 180 days. Supporting shipper: Verco Manufacturing, Inc., 4340 North 42nd Ave., Phoenix, Ariz. 85019. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Les Angeles, Calif. 90012.

No. MC 135779 (Sub-No. 2TA) filed August 3, 1976. Applicant: BALDWIN TRUCKING, INC., 1740 Timothy Drive, San Leandro, Calif. 94577. Applicant's representative: E. H. Griffiths, 1182 Market St., Suite 207, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palletized empty tin cans*, in specialized can vans, equipped with attached rollers for gravity loading and unloading of utilized loads of cans and return shipments of empty pallets; fibre and separators used in preparing cans for shipment, between the plantsites of Del Monte Corporation, located at Sacramento and Oakland, Calif.; Medford and Salem, Oreg.; and Vancouver, Toppenish and Yakima, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Corporation, 1 Market Plaza, Room 316, P.O. Box 3575, San Francisco, Calif. 94119. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, F Calif. 94102.

No. MC 141485 (Sub-No. 2TA) filed August 5, 1976. Applicant: CLIFFORD RAY RUTLAND, doing business as CLIFF RUTLAND TRUCKING, Rural Route No. 1, Independence, Kans. 67301. Applicant's representative: Laurel D. McClellan, P.O. Box 478, Fredonia, Kans. 66736. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Animal feeds and feed ingredients*, from Republic Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Nebraska, New Mexico, North Carolina, New York, Oklahoma, Tennessee, Texas, Utah and Wyoming; (b) *Feed ingredients*, from Hutchinson and Pittsburg, Kans., Danville, Springfield and Decatur, Ill., and Stuttgart, Ark., to Republic, Mo., and (c) *Feed bags*, from Memphis, Tenn., to Republic, Mo., under a continuing contract or contracts with American Agri Products, Inc., of Republic, Mo.; and (2) (a) *Animal feeds* from Ava and Republic, Mo., Parsons, Kans., Washington, Okla., and Denver, Colo., to points in Alabama, Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Nebraska, New Mexico, North Carolina, New York, Oklahoma, Tennessee, Texas, Utah and Wyoming; (b) Feed ingredients, from Hutchinson and Pittsburg, Kans., Danville, Springfield and Decatur, Ill., and Stuttgart, Ark. to Republic, Mo.; and (c) Feed bags, from Memphis, Tenn., to Ava and Republic, Mo., and from Ava and Republic, Mo., to Washington, Okla., Denver, Colo., Wills Point, Tex., Parsons and Bonner Springs, Kans., Hubbard, Iowa, Beemer, Nebr., and St. George, Utah, under a continuing contract or contracts with Super Sup Equine Products, Inc., of Springfield, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: American Agri Products, Inc., 112 South Main, Republic, Mo. 65738. Super Sup Equine Products, Inc., 817 West Walnut Lawn, Springfield, Mo. 65807. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 142289 (Sub-No. 1TA) filed August 6, 1976. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Rita Tripodi (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Uncrated: *Glass formica panels, prefab woodwork, architectural trim, plastic and wooden trim, prefab shutters, plastic shutters, prehung doors and prehung windows, hardware, and materials and supplies* used in connection therewith, uncrated, returned, and rejected material, from Lakewood, N.J., to warehouse site of Level Line, Inc., at or near Allentown, Pa., and returned and rejected material to Lakewood, N.J., under a continuing contract with The Level Line, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Level Line, Inc., James St., Lakewood, N.J. 08701. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 142318 (Sub-No. 1TA) filed August 3, 1976. Applicant: RICK MINNIS, doing business as RICK MINNIS TRUCKING, 1125 North Main St., Milpitas, Calif. 95035. Applicant's representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Pozolan*, in bulk, in tank trailers equipped with pneumatic unloading equipment, from the facilities of Lassenite Industries, Inc., on U.S. Highway 395, six miles north of Halleluhah Junction, Calif., to American Falls Dam, at or near American Falls, Idaho, under a continuing contract with Lassenite Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lassenite Industries, Inc., 450 Coney Island Drive South, Sparks, Nev. 89431. Send protests to: Claud W. Reeves, District Supervisor, Suite 500, 211 Main, San Francisco, Calif. 94105.

No. MC 142332TA filed August 5, 1976. Applicant: MEAT HANDLERS' EXPRESS, INC., 5403 42nd Ave., West, Seattle, Wash. 98119. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Bldg., 607 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat, fresh or frozen*, in vehicles equipped with mechanical refrigeration, from Stanwood and Chehalis, Wash., to Chicago, Ill.; Palestine, Tex., and the United States-Canadian International Boundary line located at or near Detroit, Mich., shipments to Canada are destined to Toronto, Ontario and Montreal, Quebec, Canada, including further movement beyond by air, under a continuing contract with Florence Meat Sales, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Florence Meat Sales, Inc., 24711 Florence Road, Stanwood, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 14233TA filed August 6, 1976. Applicant: APOLLO TRANSPORTS, INC., P.O. Box 912, Austin, Tex. 78767. Applicant's representative: William D. Lynch, 1003 West 6th St., Austin, Tex. 78703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips and sawdust*, from Carthage, Panola County, Tex., to Springhill, Webster County, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana-Pacific Corporation, P.O. Drawer AA, New Waverly, Tex. 77358. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango, San Antonio, Tex. 78206.

Water Carrier Applications

No. W-1275 (Sub-No. 1TA). Carrier: HOVERTRANSPORT, INC., Bridgeport, Ct. Carrier's representative: Thomas W. Murrett, Esq., 342 North Main Street, West Hartford, Ct. 06117. An order of the Commission, Motor Carrier Board, dated July 2, 1976, granted temporary authority, conditioned upon full compliance with all applicable statutory and Commission requirements concerning tariff publications, and designation of agents upon whom process may be served, to engage in the business of transportation by water vessel, in interstate or foreign commerce, as a common carrier, by water, transporting: Passengers and their baggage and parcels weighing 50 pounds or less, in regular and charter operations, between Bridgeport, Conn. and Huntington Long Island, N.Y., via Long Island Sound for 90 days commencing July 2, 1976. Send protest to: Diane Seavey, Transportation Specialist, 324 U.S. Post Office, 135 High Street, Hartford, Conn. 06101.

No. W-1310TA filed August 11, 1976. Applicant: RIVER EXCURSIONS, INC., 704 South 3rd Street, Stillwater, Minnesota 55082. Applicant's representative: Andrew R. Clark, 1000 1st National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by water, in the transportation of: *Passengers and their baggage*, over inland waterways in special and charter operations, (1) between St. Paul, Minn. and Winona, Minn., (2) beginning and ending at Redwing, Minn., and extending to Prescott, Wis., (3) beginning and ending at Winona, Minn., and extending to points on the Mississippi river within 25 miles of Winona, Minn., for 180 days. All service will be conducted on the Mississippi and St. Croix rivers in parts 1, 2, and 3 above. Supporting shippers: Barron County Senior Citizens, Barron, Wis., Statemen's Club, Minneapolis, Minn., and Consolidated Tours, Inc., St. Paul, Minn. Send protests to: Marion Cheney, Transportation Assistant, Interstate Commerce Commission, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401. The requirement to publish notice of the application prior to action thereon was waived, based on assurances of a lack of competitive interest, and of an alleged need for immediate service.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-24247 Filed 8-17-76; 8:45 am]

[Notice No. 104]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 12, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 86247 (Sub-No. 7TA) filed August 4, 1976. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 1333 College Ave., Windsor, Ontario, Canada. Applicant's representative: Martin J.

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Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel articles*, from the international boundary between the United States and Canada at Niagara Falls, Lewiston and Buffalo, N.Y., to Niagara Falles and Buffalo, N.Y., restricted to shipments originating at the facilities of the Lake Ontario Steel Company, Ltd., at Whitby, Ontario, Canada. Applicant intends to interline with other carriers at Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lake Ontario Steel Co., Ltd., Traffic Supervisor, Robert Carl Sheridan, Hopkins St., Whitby, Ontario, Canada. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 99427 (Sub-No. 32TA) filed August 3, 1976. Applicant: ARIZONA TANK LINES, INC., 666 Grand Ave., P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Graphite, liquid base*, in bulk, in tank vehicles, from Buckeye, Ariz., to points in Utah and Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wagner-Insul Company, 11899 8th St., Cucamonga, Calif. 91730. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1039 TA) filed August 4, 1976. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, in pneumatic tank vehicles, from Lawrence, Kans., to Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: FMC Corporation, 2000 Market St., Philadelphia, Pa. 19103. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 108449 (Sub-No. 395 TA) filed August 6, 1976. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Mylenbeck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Barnesville and Benson, Minn., to points in Minnesota, Montana, North Dakota, South Dakota and Wisconsin, for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, Mo. 64116. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 109397 (Sub-No. 335 TA) filed August 6, 1976. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113 (Business I–44), Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enriched uranium hexafluode (UF6)*, from Sargents, Ohio, to Apollo, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nuclear Materials Division, Babcock & Wilcox, 609 Warren Ave., Appollo, Pa. 15613. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 109583 (Sub-No. 3 TA) filed August 6, 1976. Applicant: H. J. FIKES, doing business as FIKES TRUCK LINE, 1904 West 5th, Pine Bluff, Ark. 71601. Applicant's representative: Horace Fikes, Jr., 414 National Bldg., Pine Bluff, Ark. 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing supplies and roofing materials*, from the plantside facilities of Masonite Corporation, Pulaski County, Ark., to points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corporation, P.O. Box 1300, Little Rock, Ark. 72203. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111170 (Sub-No. 232 TA) filed August 5, 1976. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt emulsions*, in bulk, in tank vehicles, from Springdale, Ark., to points in Kansas, Oklahoma and Missouri, for 180 days. Supporting shipper: Bitucote Products Co., 1824 Knox Ave., St. Louis, Mo. 63139. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 672 TA) filed August 6, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical supplies, medical equipment and sundries*, restricted against the transportation of commodities in bulk, from Little Rock, Ark., to Memphis, Tenn., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. T. Stover Co., Inc., 7511 Scott Hamilton Drive, Little Rock, Ark. 72205. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114004 (Sub-No. 155 TA) filed August 6, 1976. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston G. Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements and buildings, in sections mounted on wheeled undercarriages, from the plantsite of Magnolia Homes, Inc., Division of Guerdon Industries, at or near Vicksburg, Miss., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, Illinois, Louisiana, Missouri, Oklahoma, South Carolina, Tennessee, Texas and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authoritiy. Supporting shipper: Guerdon Industries, Inc., Magnolia Homes Division, P. O. Box 230 (Highway 61 south), Vicksburg, Miss. 39180. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 115092 (Sub-No. 45 TA) filed August 2, 1976. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box "O", Vernal, Utah 84078. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar shakes and shingles*, from points in Washington, to points in Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dier Lumber Company, Inc., 291 Roymar, Oceanside, Calif. 92054. Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 117068 (Sub–No. 64 TA) filed August 6, 1976. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418-N. Highway 63, Rochester, Minn. 55901. Applicant's representative: Richard C. McGinnis, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Newcastle, Wyo., to points in Illinois, Indiana, Michigan, Minnesota and Wisconsin, for 180 days. Supporting shipper: Cambria Forest Industries, P.O. Box 490, Newcastle, Wyo. 82701. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119908 (Sub–No. 27 TA) filed August 4, 1976. Applicant: WESTERN LINES, INC., P.O. Box 1145, Houston, Tex. 77001. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated poles, treated pilings, treated fence posts and treated lumber*, from the plantsite and facilities of American Creosote Works, at or near Winnfield, La., to points in Arkansas, Missouri, New Mexico, Oklahoma, Texas, Illinois, Kansas and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Creosote Works, Inc., P.O. Box 4008, New Orleans, La. 70178.

No. MC 123061 (Sub-No. 82 TA) filed August 3, 1976. Applicant: LEATHAM BROTHERS, INC., 46 Orange St., Salt Lake City, Utah 84104. Applicant's representative: Harry D. Pugsley, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool*, from Pueblo, Colo., to Laurel, Mont., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho 83707. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 124813 (Sub-No. 153 TA) filed August 4, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden livestock feeders*, from the plant site of Dodge Feeder Systems, at or near Dodge Center, Minn., to points in Alabama, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Washington, Wisconsin and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gilbertson, Inc., dba Dodge Feeder Systems, Highway 14 East, Dodge Center, Minn. 55927. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 126049 (Sub-No. 16 TA) filed August 3, 1976. Applicant: DODEN TRUCKING COMPANY, INC., Woden, Iowa 50484. Applicant's representative: Clayton L. Wornson, 824 Brick & Tile Bldg., Mason City, Iowa 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice milk, and sherbet; and ice milk, sherbet, and fruit flavored novelty items*, between Milwaukee, Wis., on the one hand, and, on the other, Dubuque and Cedar Rapids, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden, Inc., 115 1st St., SW., Mason City, Iowa 50401. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 127651 (Sub-No. 37 TA) filed August 5, 1976. Applicant: EVERETT G. ROEHL, INC., P.O. Box 7, East 29th St., Marshfield, Wis. 54449. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite of the Weyerhaeuser Company, located at or near Marshfield, Wis., to points in Illinois, Indiana, Iowa, Minnesota and South Dakota, restricted to traffic originating at and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Company, 100 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 133708 (Sub-No. 24 TA) filed August 3, 1976. Applicant: FIKSE BROS., INC., 12647 East South St., Artesia, Calif. 90701. Applicant's representative: Carl H. Fritze, 1545 Wilshire Bldg., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the rail siding of The Atchison, Topeka & Santa Fe Railway Company, located at or near Gallup, N. Mex., to the job site of the Bureau of Reclamation Project, Gravity and Main Tunnel #5, located approximately 10 miles southwest of Farmington, N. Mex. (San Juan County), restricted to the transportation of shipments having an immediate prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Cement & Gypsum Corporation, 600 South Commonwealth Ave., Los Angeles, Calif. 90005. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133796 (Sub-No. 33 TA), filed August 5, 1976. Applicant: GEORGE APPEL, 249 Carverton Road, Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane resin liquid*, in 55 gal. drums, in vehicles equipped with mechanical refrigeration, from Los Angeles, Calif., to Roseburg, Medford, Gold Beach and Eugene, Oreg., from Los Angeles, Calif., and Roseburg, Medford, Gold Beach and Eugene, Oreg., to Bonner and Columbia Falls, Mont.; the International Boundary line between the United States and Canada, near Blaine, Wash.; New Waverly, Tex.; Alexandria, Holden and Urania, La.; and Crosseti, Ark., for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Willamette Valley Co., 660 McKinley St., Eugene, Oreg. 97402. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 134404 (Sub-No. 29 TA) filed August 3, 1976. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 499, South Bound Brook, N.J. 08880. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products, nutritional foods and related articles, toilet preparations, and materials, supplies and equipment* used in the manufacture, distribution or sale of the above commodities (except commodities in bulk), from Urbana, Ohio and Franklin, Ky., to Charlotte, N.C., under a continuing contract with The Drackett Products Co., a division of Bristol Meyers of Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Drackett Products Company, 5020 Spring Grove Ave., Cincinnati, Ohio 45232. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 135283 (Sub-No. 18 TA) filed August 5, 1976. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Box 1665, E. Highway 30, Grand Island, Nebr. 68801. Applicant's representative: Cailyn L. Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* distributed by meat packinghouses (except hides and commodities in bulk), from the plantsite and storage facilities of Minden Beef Company, at or near Minden, Nebr., to points in New York and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Michael Smith, Office Manager, Minden Beef Co., P.O. Box 70, Minden, Nebr. 68959. Send protests to: Carroll Russell,

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District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 139254 (Sub-No. 3TA) filed August 6, 1976. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter St., Solon, Ohio 44139. Applicant's representative: J. T. Fittipaldi, Suite 1159, 1329 E St., NW, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances and housewares; parts, materials, supplies* (except commodities in bulk), *and equipment* used in the manufacture of household appliances and housewares; and advertising materials and matter, from North Canton, Ohio, to Atlanta and Forest Park, Ga.; Baltimore, Md.; Boston and Dedham, Mass.; Dallas, Tex.; Denver, Colo.; Kansas City, Mo.; Minneapolis, Minn.; New York, N.Y.; and Jersey City, N.J., under a continuing contract with The Hoover Company, for 180 days. Supporting shipper: The Hoover Company, 101 East Maple, North Canton, Ohio 44721. Send protests to: James Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181—Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 139446 (Sub-No. 2TA) filed August 3, 1976. Applicant: MURRAY'S TRANSFER & STORAGE, INC., 1011 Floral Lane, Davenport, Iowa 52802. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Davenport, Iowa, and Peoria, Ill., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Company, Box 800, Austin, Minn. 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139923 (Sub-No. 18TA), filed August 4, 1976. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass articles*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Tennessee and Texas, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 139999 (Sub-No. 11TA), filed August 5, 1976. Applicant: FEATHER FAST FREIGHT, INC., 2606 North 11th St., Omaha, Nebr. 68110. Applicant's representative: Donald L. Stern, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* produced and distributed by meat packinghouses, from the plantsite of Farmland Foods, Inc., at or near Garden City, Kans., to points in Kentucky, Tennessee, Ohio, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New York, Vermont, New Hampshire, Maine, New Jersey and the District of Columbia, for 180 days. Supporting shipper: Robert E. Chipley, Traffic Manager, Farmland Foods, Inc., P.O. Box 957, Garden City, Kans. 67846. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 140421 (Sub-No. 7TA), filed August 3, 1976. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, 8303 Old Gentilly Road, New Orleans, La. 70189. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, La. 70130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from New Orleans, La., and Metropolitan area to Memphis, Tenn., and Metropolitan area including Memphis delivery zone, under a continuing contract with Continental Can Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Can Company, Inc., P.O. Box 1557, Houston, Tex. 77027. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 142162 (Sub-No. 1TA) filed August 2, 1976. Applicant: BRALEN TRUCKING CO., INC., 1700 1st Ave., P.O. Box 1286, Greeley, Colo. 80631. Applicant's representative: John P. Donley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, from Anniston, Ala.; Jacksonville, Ark.; Kansas City, Mo.; and Linden, N.J., to Billings, Mont.; Greeley, Colo.; and Hereford and Weslaco, Tex., under a continuing contract with Balcom Chemicals, Inc., for 180 days. Supporting shipper: Balcom Chemicals, Inc., P.O. Box 1286, Greeley, Colo. 80631. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 142326TA, filed August 5, 1976. Applicant: AN–MAR ENTERPRISES, INC., 7200 S. Mason Ave., Bedford Park, Ill. 60638. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, groceries, goods and merchandise* usually handled by retail grocery stores, between the warehouse facilities of An-Mar Enterprises, Inc., in Cook County, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for the account of Independent Grocers' Alliance Distributing Co., under a continuing contract with Independent Grocer's Alliance Distributing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. W. Brunner, Director Physical Distribution, Independent Grocer's Alliance Distributing Co., O'Hare Plaza, 5725 E. River Road, Chicago, Ill. 60631. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142327TA, filed August 6, 1976. Applicant: THE McCARTY COMPANIES, INC., 900 Plaza West Bldg., Little Rock, Ark. 72205. Applicant's representative: Dick Wyatt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Latimer County, Okla., to points in Little River County, Ark., under a continuing contract with Arkansas Cement Corporation, for 180 days. Supporting shipper: Arkansas Cement Corporation, Box 1734, Shreveport, La. 71151. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

PASSENGER APPLICATIONS

No. MC 46879 (Sub-No. 8TA), filed August 6, 1976. Applicant: WALTERS TRANSIT CORP., 525 11th Ave., New York, N.Y. 10018. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, Ariz. 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, beginning and ending at New York, N.Y., and extending to the Bridgeport Jai-Alai Fronton at Bridgeport, Conn., in round-trip special operations, during Jai-Alai Season of each year, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bridgeport Jai-Alai, Inc., 255 Kossuth St., Bridgeport, Conn. 06608. Myrna Catapano, 58–32, 190th St., Fresh Meadows, N.Y. Anthony Cassese, 86–20, 104th St., Richmond Hill, N.Y. Gary Hugh Hare, 1881 Morris Ave., Bronx, N.Y. 10453. and Joe Zambito, 255 E. 207th St., Bronx, N.Y. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142328TA, filed August 6, 1976. Applicant: THOMAS PARRAN, JR., doing business as TOWN AND COUNTRY COACHES, St. Leonard, Md. 20685. Applicant's representatives: Edward N. Button, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip charter operations, beginning and ending at Washington, D.C., and its commercial zone and extending to Baltimore, Md., and its commercial zone, for the account of Arundel Arena, Inc., under a continuing contract with Arundel Arena, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phillip Klemkowski, General Manager, Arundel Arena, Inc., 4901 Belle Grove Road, Baltimore, Md. 21225. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24248 Filed 8-17-76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

AUGUST 13, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 28, 1976. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 22675 (Sub-No. E43), filed June 4, 1974. Applicant: ALLSTATE VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on, east and south of a line beginning at the United States-Canadian border and extending along New York Highway 374 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 73, thence along New York Highway 73 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 30, thence along New York Highway 30 to junction Thomas Dewey Thruway, thence along the Thomas Dewey Thruway to the New York-New Jersey State line at Suffern, N.Y., on the one hand, and, on the other, points in Maryland.

The purpose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 22675 (Sub-No. E47), filed June 4, 1974. Applicant: ALLSTATES VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on, east and south of a line beginning at Buffalo, N.Y. and extending along New York Highway 16 to junction U.S. Highway Alternate 20, thence along U.S. Highway Alternate 20 to junction New York Highway 36, thence along New York Highway 36 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in South Carolina on and south of a line beginning at Charleston, S.C. and extending along U.S. Highway 17 to the South Carolina-Georgia State line near Savannah, Ga.

The purpose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 22675 (Sub-No. E52), filed June 4, 1974. Applicant: ALLSTATES VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on, east and south of a line beginning at Buffalo, N.Y., and extending along New York Highway 16 to junction U.S. Alternative 20, thence along U.S. Highway Alternative 20 to junction New York Highway 36, thence along New York Highway 36 to the New York-Pennsylvania State line, on the one hand, and, on the other, Elizabeth City, N.C. The purpose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 22675 (Sub-No. E55) filed June 4, 1974. Applicant: ALLSTATES VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on, east, and south of a line beginning at Buffalo, N.Y., and extending along New York Highway 16 to junction U.S. Alternative 20, thence along U.S. Highway Alternative 20 to junction New York Highway 36, thence along New York Highway 36 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Georgia on, south, and east of a line beginning at the Georgia-Florida State line and extending along Georgia Highway 91 to junction Georgia Highway 37, thence along Georgia Highway 37 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction Georgia Highway 35, thence along Georgia Highway 35 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 80, thence along U.S. Highway 80 to Savannah, Ga. The purpose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 22675 (Sub-No. E57), filed June 4, 1974. Applicant: ALLSTATES VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on, east, and south of a line beginning at Buffalo, N.Y., and extending along New York Highway 16 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 19, thence along New York Highway 19 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Florida on and east of a line beginning at the Florida-Georgia State line and extending along Florida Highway 65 to junction U.S. Highway 98/319 near Eastpoint, Fla. The purpose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 22675 (Sub-No. E66), filed June 4, 1974. Applicant: ALLSTATES VAN LINES, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware on and south of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 299 to junction Delaware Highway 9 near Odessa, Del., thence along Delaware Highway 9 to Port Penn, Del., and points in Delaware on and north of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 8 to Deep Water Pt., Del., on the one hand, and, on the other, points in Indiana on and west of a line beginning at Gary, Ind. and extending along Interstate Highway 65 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line. The pur-

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pose of this filing is to eliminate the gateway of Essex County, N.J.

No. MC 71855 (Sub-No. E2), filed June 4, 1974. Applicant: ESSEX VAN & STORAGE, INC., 1500 Eastern Avenue, Baltimore, Md. 21221. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Dorchester, Wicomico, and Somerset Counties, Md., on the one hand, and, on the other, points in Elkhart and St. Joseph Counties, Ind. The purpose of this filing is to eliminate the gateways of Williamsport, Montoursville, Muncy, Northumberland, Sunbury, and Harrisburg, Pa.

No. MC 71855 (Sub-No. E3), filed June 4, 1974. Applicant: ESSEX VAN & STORAGE, INC., 1500 Eastern Avenue, Baltimore, Md. 21221. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Baltimore, Md., on the one hand, and, on the other, Elkhart, St. Joseph, Kosciusko, Lagrange, LaPorte, Marshall, Noble, Porter and Starke Counties, Ind. The purpose of this filing is to eliminate the gateway of Glassport, Pa. and points within 10 miles thereof.

No. MC 92983 (Sub-No. E75) (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER June 23, 1976, and republished, as corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Molasses*, in bulk, in tank vehicles: (1) from points in Idaho to points in Illinois; (2) from points in Idaho except Ada, Canyon, and Payette Counties to points in Wisconsin located in and south and east of Buffalo, Eau Claire, Clark, Taylor, and Lincoln and points on and east of a line extending from the northern border of Lincoln County along U.S. Highway 8 to the junction of Michigan Highway 17, including the Rhinelander Commercial Zone, thence along Michigan Highway 17 to the junction of U.S. Highway 45, thence along U.S. Highway 45 to the Wisconsin-Michigan State line;

The purpose of this filing is to eliminate the gateways of: (A)(1) Muscatine, Iowa; (A)(2) Dubuque, Iowa; The purpose of this correction is to correct the origin points in Part (A)(1) and (A)(2). The remainder of the letter-notice remains as previously published.

No. MC 92983 (Sub-No. E76), (correction), filed June 4, 1974, published in the FEDERAL REGISTER June 23, 1976, and republished, as corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (M) *Such fats and grease* as are embraced within chemicals in bulk, in tank vehicles; (2) from points in Montana located in and west of Hill, Chouteau, Fergus, Petroleum, Rosebud, Custer, and Carter Counties to points in Maine except those located in Aroostook, Piscataquis, Penobscot, Hancock, and Washington Counties to points in Massachusetts, New Hampshire, and Vermont;

No. MC 92983 (Sub-No. E77), (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER June 23, 1976, and republished, as corrected, in this issue. Applicant: AMERICAN BULK TRANSPORT CO., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (N) *Lard and animal oils, fats, grease and tallows*, in bulk, in tank vehicles: (1) from points in Montana to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois (except Chicago, Chicago Heights, Decatur, East St. Louis and Rockford), Indiana, Kentucky, Massachusetts, Maryland, Mississippi, Maine, New Hampshire, New Jersey, New York (except New York City and Port Ivory), North Carolina, Ohio (except Cincinnati and Ivorydale), Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia. The purpose of this filing is to eliminate the gateways of: (N) Nebraska and Dubuque, Iowa; The purpose of this correction is to correct the territorial description. The remainder of the letter-notice remains as previously published.

No. MC 112070 (Sub-No. E22), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Wisconsin, on the one hand, and, on the other, points in Arkansas, Oklahoma and Kentucky. The purpose of this filing is to eliminate the gateways of Iowa and Missouri.

No. MC 112070 (Sub-No. E23), filed June 4, 1974. Applicant: GRAY MOVING AND STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Wyoming, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Iowa and Illinois.

No. MC 112070 (Sub-No. E24), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Texas on, west and south of a line beginning at the Oklahoma-Texas State line and extending along Texas Highway 283 to junction U.S. Highway 277, thence along U.S. Highway to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of Missouri and Colorado.

No. MC 112070 (Sub-No. E25), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, on the one hand, and, on the other, points in Ohio to Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 87 to junction Texas Highway 349, thence along Texas Highway 349 to junction U.S. Highway 80, thence along U.S. Highway 80 to the International Boundary Line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of Illinois, Missouri and Colorado.

No. MC 112070 (Sub-No. E27), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Kentucky, on, east and north of a line beginning at the Ohio-Kentucky State line and extending along Interstate Highway 75 to junction Interstate Highway 64, and extending along Interstate Highway 64 to the Kentucky-West Virginia State line, on the one hand, and, on the other, points in that part of Texas west and south of a line beginning at the Oklahoma-Texas 83, to junction Interstate Highway 20, to junction Interstate Highway 10, to El Paso County, Tex.; (b) between points in Kentucky, on the one hand, and, on the other, points in Dallam, Sherman, El Paso and Hudspeth Counties, Tex. The purpose of this filing is to eliminate the gateway of Missouri and Colorado.

No. MC 112070 (Sub-No. E30), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Household goods, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Cimmaron, Texas and Beaver Counties, Okla.

The purpose of this filing is to eliminate the gateway of Missouri, and between points in that part of Colorado on, east, and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colorado, thence along U.S. Highway 36 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and Oklahoma.

No. MC 112070 (Sub-No. E31), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 83 to junction Interstate Highway 80, extending along Interstate Highway 80 to the Nebraska-Colorado State line, on the one hand, and, on the other, points in Cimmarron County, Okla.

The purpose of this filing is to eliminate the gateway between points in that part of Colorado on, east, and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colorado, thence along U.S. Highway 36 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and Oklahoma.

No. MC 112070 (Sub-No. E32), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line, and extending along the Missouri River to the South Dakota-Nebraska State line, on the one hand, and, on the other, points in Cimmaron and Texas Counties, Okla.

The purpose of this filing is to eliminate the gateway between points in that part of Colorado on, east, and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colorado, thence along U.S. Highway 36 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and Oklahoma.

No. MC 112070 (Sub-No. E34), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission between points in Colorado on, north and west of a line beginning at the Colorado-Utah State line and extending along Interstate Highway 70, to junction Interstate Highway 25, to the Colorado-Wyoming State line, on the one hand, and, on the other, points in Oklahoma.

The purpose of this filing is to eliminate the gateway between points in that part of Colorado, on, east, and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colorado, thence along U.S. Highway 36 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and Oklahoma.

No. MC 112070 (Sub-No. E35), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Wyoming, on the one hand, and, on the other, points in Oklahoma.

The purpose of this filing is to eliminate the gateway between points in that part of Colorado on, east, and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colorado, thence along U.S. Highway 36 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and Oklahoma.

No. MC 114552 (Sub-No. E184), (correction), filed September 18, 1975, published in the FEDERAL REGISTER July 21, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories* used in the manufacture and installation of composition boards (except commodities in bulk), from points in Colorado, to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 501 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 20, thence along Virginia Highway 20 to junction Virginia Highway 3, thence along Virginia Highway 3 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the origin description.

No. MC 119774 (Sub-No. E308), (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of February 11, 1976, and republished, as corrected, this issue. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, equipment, materials, and supplies*, used in, or connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling, of drilling machinery and equipment, (b) the connection of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between Memphis, Tenn. (except those points in the Memphis Commercial Zones located in Mississippi and Arkansas), on the one hand, and, on the other, points in Indiana, Illinois and Kentucky.

The purpose of this filing is to eliminate the gateway of West Memphis, Ark.

NOTE.—The purpose of this correction is to indicate that the above letter-notice is No. MC 119774 (Sub-No. E308) which was previously published without a sub-number and to indicate the correct destination states.

VOL 41 NO 161 AUG 18 1976 UM

No. MC 119774 (Sub-No. E310), (correction), filed June 4, 1974, published, in the FEDERAL REGISTER issue of February 11, 1976, and republished, as corrected, this issue. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between Counce, Tenn., on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction Illinois Highway 78, thence along Illinois Highway 78 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 116, thence along Illinois Highway 116 to junction U.S. Highway 66, thence along U.S. Highway 66 to Gardner, thence along Illinois Highway 53 to junction U.S. Highway 66, thence along U.S. Highway 66 to Chicago, and points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 30 to junction Indiana Highway 2, thence along Indiana Highway 2 to South Bend, thence along U.S. Highway 20 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of West Memphis, Ark.

NOTE.—The purpose of this correction is to state that the above letter-notice is No. MC 119774 (Sub-No. E310) which was previously published under the incorrect sub-number E119.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-24249. Filed 8-17-76; 8:45 am]

[Rule 19, Ex Parte No. 241, Third Revised Exemption No. 125; Amdt. 1]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

To: All Railroads:

Upon further consideration of Third Revised Exemption No. 125 issued July 13, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Third Revised Exemption No. 125 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire September 15, 1976.

This amendment shall become effective August 15, 1976.

Issued at Washington, D.C., August 9, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-24239 Filed 8-17-76;8:45 am]

[Rule 19, Ex Parte 241; Twenty-fourth Revised Exemption No. 10]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 399 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44 ft. 6 in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company Reporting Marks: ATSF
Atlanta and Saint Andrews Bay Railway Company Reporting Marks: ASAB
The Baltimore and Ohio Railroad Company Reporting Marks: BO
Bangor and Aroostook Railroad Company Reporting Marks: BAR
Bessemer and Lake Erie Railroad Company Reporting Marks: BLE
The Chesapeake and Ohio Railway Company Reporting Marks: CO-PM
Chicago, Rock Island and Pacific Railroad Company Reporting Marks: RI-ROCK
Chicago, West Pullman & Southern Railroad Company Reporting Marks: CWP
The Denver and Rio Grande Western Railroad Company Reporting Marks: DRGW
Detroit and Mackinac Railway Company Reporting Marks: D&M-DM
Elgin, Joliet and Eastern Railway Company Reporting Marks: EJE
Illinois Terminal Railroad Company Reporting Marks: ITC
Louisville and Nashville Railroad Company Reporting Marks: CIL-L&N-MON-NC
Louisville, New Albany & Corydon Railroad Company Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company Reporting Marks: MKT
Missouri Pacific Railroad Company Reporting Marks: CEI-MI-MP-TP
[1] New Jersey, Indiana & Illinois Railroad Company Reporting Marks: NJII
Norfolk and Western Railway Company Reporting Marks: N&W-NKP-P&WV-VGN-WAB
Southern Railway Company Reporting Marks: CG-NS-SA-SOU
St. Louis-San Francisco Railway Company Reporting Marks: SLSF
Union Pacific Railroad Company Reporting Marks: UP
Western Maryland Railway Company Reporting Marks: WM

Effective 12:01 a.m., July 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 9, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-24240 Filed 8-17-76;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will *not* operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before September 17, 1976 subject to its tariff publication effective date.

P-6-76 (Special certificate—waste products), filed August 11, 1976. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, Calif. 91733. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse*, between points in the United States (except Alaska and Hawaii), in

[1] Addition.

furtherance of a recognized pollution control program sponsored by Century Enterprises, Denver, Colo.; Century Metal Recyclers, Denver, Colo.; and Prime Metal Trading, Denver Colo., for the purpose of recovery of scrap metal for recycling.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24246 Filed 8-17-76;8:49 am]

[Docket Nos. 36307, 36312, 36313, 36330, 36335, 36336, 36326]

RADIOACTIVE MATERIALS, SPECIAL TRAINS SERVICE, NATIONWIDE

AUGUST 10, 1976.

Radioactiye materials, Missouri-Kansas-Texas Railroad Company; U.S. Energy Research and Development Administration v. the Akron, Canton & Youngstown Railroad Company, et al.; Allied-General Nuclear Services, et al. v. the Akron, Canton & Youngstown Railroad Company, et al.; GPU Service Corporation, et al. v. the Akron, Canton, & Youngstown Railroad Company et al.; Commonwealth Edison Company, et al. v. the Akron, Canton & Youngstown Railroad Company, et al.; General Electric Company v. the Akron, Canton & Youngstown Railroad Company, et al.; Docket No. 36325.

The Interstate Commerce Commission hereby gives notice that the time by which comments on the staff-prepared draft environmental impact statement in the above-entitled proceedings are due is extended to August 30, 1976.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24245 Filed 8-17-76;8:45 am]

FOREIGN-TRADE ZONES BOARD

COMMITTEE OF ALTERNATES

Procedures, Investigative Hearing

The procedures to be followed at the August 24, 1976 investigative hearing of the Committee of Alternates (the Committee) Foreign-Trade Zones Board (the Board) concerning the processing of foreign meat covered by TSUS 106.10 within Foreign Trade Zone No. 7 at Mayaguez, Puerto Rico are set forth below. In considering whether particular "goods or process of treatment is detrimental to the public interest, health, or safety," the Board is empowered to "cause such investigation as it may deem necessary." 15 CFR 400.807. Accordingly, by FEDERAL REGISTER notice published July 29, 1976 (See 41 FR 31618), the Board announced that it had ordered an investigation and that, upon request of a directly interested party, a hearing would be held. Timely requests for a hearing were filed by counsel for Bunker Hill Packing Corporation and Commonwealth Processing Corporation, Puerto Rico Industrial Development Corporation, and El Ganader, Inc.

This is the first occasion that the Board has determined, pursuant to its authority under 19 U.S.C. 81c(c) and 15 CFR 400.807, that such an investigative hearing, on request of an interested party, would be appropriate. To the extent that the Board determines in future cases that a similar type of hearing is the appropriate type of investigation, the procedures set forth below shall apply to all such investigative hearings.

The hearing in the above-referenced matter shall take place at 10:00 A.M., August 24, 1976 in Room 4833 of the Main Commerce Department, 14th Street and Constitution Avenue, NW., Washington, D.C. Inquiries may be directed to Mr. John J. Da Ponte, Jr., Executive Secretary of the Foreign-Trade Zone Board, Room 6886B, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2862.

Committee—The hearing shall be conducted before the Committee, as defined in 15 CFR 400.1302, or their designees.

Participants.—Those parties deemed by the Committee to have a direct and immediate interest in the investigation shall be afforded an opportunity to participate in the hearing and to make oral and written presentations before the Committee, as set forth below. Such parties shall include the person or entity filing the initial complaint or report, if any. Other persons having an interest in the investigative hearing shall be afforded the opportunity to file written submissions, as described below.

Written Submissions.—Any person having an interest in the investigation may file a written submission with the Committee for its consideration. Such submission may contain statements, memoranda, correspondence, data, affidavits, or other documents relevant to whether the goods or process of treatment at issues is detrimental to the public interest, health, or safety. Such submissions shall be made a part of the record and will be available for public inspection and copying. Written submissions must be filed with the Committee no later than 5 P.M. the day before the day of the Committee's hearing, except for rebuttal submissions, which may be filed in response to written submissions or oral presentations before the Committee and which must be filed within five (5) calendar days of the conclusion of the Committee's hearing, unless the Committee determines that a longer period is appropriate. Submissions must be filed with the Executive Secretary of the Board.

Oral Presentations.—Oral presentations on behalf of participants may be made by counsel or other representatives. The party that filed the initial complaint or report shall make the first oral presentation to the Committee. The order of presentation of the remaining participants shall be as determined by the Committee. Questions of procedure shall be ruled on by the Committee or the legal officer advising the Committee, if any. The amount of time allotted each participant for oral presentation shall be within the discretion of the Committee, except that each participant shall be allowed no less than thirty (30) minutes for its oral presentation and except that time used for examining and cross-examining witnesses shall not be counted against such thirty (30) minutes.

Witnesses.—Any participant may present its own witnesses before the Committee for the purpose of furnishing testimony. All testimony given shall be given under oath. No later than three (3) days prior to the date of the hearing, participants must notify the Committee in writing of the names of the individuals it intends to call as witnesses and a bref description of the substance of their testimony. Such notification shall be a matter of record available to all participants. Witnesses shall be subject to questioning by the Committee and its legal advisor, if any. Every witness shall also be subject to cross-examination by other participants as to any matter relevant to the proceeding, without regard to the scope of the testimony on direct examination.

Evidence.—Formal rules of evidence shall not apply to the proceedings. The Committee may exclude any evidence, or restrict cross-examination, which it deems irrelevant or unduly repetitious but hearsay evidence shall not be inadmissible as such.

Record.—All written submissions made to the Committee, all correspondence with the Committee, and a transcript of the proceedings of the investigative hearing shall be made a part of the record. The record shall be kept open for a period of five (5) calendar days subsequent to the conclusion of the Committee hearing to allow interested persons to file rebuttal submissions, which shall also be made a part of the record.

The record shall be available for public inspection and copying.

Dated: August 17, 1976.

HAROLD E. STRAUSBAUGH,
Acting Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.76-24387 Filed 8-17-76;11:10 am]

V 41 161 AUG 18 76 UM

federal register

WEDNESDAY, AUGUST 18, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

EFFECTIVE HAZARDOUS WASTE MANAGEMENT (NON-RADIOACTIVE)

Position Statement

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 600-7]

EFFECTIVE HAZARDOUS WASTE MANAGEMENT (NON-RADIOACTIVE)

Position Statement

BACKGROUND

In December 1975, the U.S. Environmental Protection Agency Office of Solid Waste Management Programs (OSWMP) conducted a series of four public meetings on hazardous waste management throughout the country. Over 70 speakers offered statements at those meetings with many additional written statements submitted for the record; the record of the meeting is now available for purchase.[1]

From the record of the meetings, it is clear that Federal guidance and technical advice on this topic is desired even in the absence of any regulatory requirements in existing Federal waste management legislation. Such guidance will be especially useful to the several States which are developing programs to control such wastes and are currently seeking technical and management counsel.

As a result, the Agency has decided to utilize the existing Solid Waste Disposal Act, as amended (42 U.S.C. 3251. et seq) as a means to make known to the waste management community (including States, local governments, industry, and Federal agencies) its position on various technical and policy issues which deserve widespread consideration.

Pursuant to section 204(b)(1) of the Solid Waste Disposal Act, as amended, the Administrator may issue advisory guidance and recommendations related to the disposal of waste materials. This issuance is one of a series to be published by the Agency. These guides represent the best technical and policy counsel of the Agency at the present time, and are based on work conducted over the past four years by the Agency. They will be brought up to date as significant new technological and policy developments occur. These guidance documents do not have regulatory or standard-setting status for anyone, including Federal agencies.

PURPOSE

The purpose of this position statement is to describe a preferred waste management strategy or set of priority pathways for hazardous waste control that adequately protects the public health and environment. The priority pathways are equally appropriate for routine (non-hazardous) waste management.

Responsibility for the controls over radioactive wastes covered by the Atomic Energy Act of 1954, as amended, has been assigned to the Environmental Protection Agency (EPA), Nuclear Regulatory Commission (NRC), and U.S. Energy Research and Development Administration (ERDA), by Reorganization Plan No. 3 of 1970, and the Energy Reorganization Act of 1974. Activities of the three agencies in this effort are being coordinated by an Interagency Task Force chaired by the Office of Management and Budget. Environmental criteria for the management of these wastes will be issued by EPA as Federal Guidance under authority of the former Federal Radiation Council. The NRC is responsible for issuing necessary licensing.

This position statement contains fundamental concepts which the Agency believes should govern the management of non-radioactive hazardous waste and should form the basic foundation for effective State programs addressing this subject. Although State and local government officials and Federal agencies are the primary audience for this position statement, it should be of interest to hazardous waste generators, the waste treatment and disposal industry and concerned citizens as well. Many of the principles contained in this statement may well be applicable to a comprehensive strategy at the State level to plan for and assure environmentally sound management of all wastes.

DEFINITIONS

Although several statements at the December public meetings urged specific definition of hazardous wastes for regulatory purposes, it is the Agency's view that, for purposes of this advisory position statement, a precise definition is not necessary. Hazardous wastes are those which may cause or contribute to adverse acute or chronic effects on human health or the environment when such wastes are not properly controlled. These wastes primarily consist of the by-products of industrial production, conversion, and extraction activities, and may be in the form of solids, sludges, slurries, liquids, or powders. They are not otherwise directly regulated under current EPA authority. Thus, hazardous waste may include residues from pollution control devices (e.g., electrostatic precipitator dusts) as well as production rejects, excess, or obsolete chemicals and substance (e.g., DDT). For purposes of this position statement only, radioactive wastes are excluded.

Wastes containing toxic chemicals, pesticides, acids, caustics, flammables, and explosives are often classified as hazardous wastes, although their properties may vary widely. Consequently the specific properties of each waste must be considered in determining needed control procedures. Although hospital and veterinary wastes are not the major focus of this position statement, they may contain pathological wastes which can be considered hazardous, and many of the same principles are applicable and desirable.

The Agency intends to address the question of a detailed definition more specifically later in this series of guides. In addition to the waste constituents and characteristics cited above, the definition of hazardous wastes will probably address longevity, biodegradation after disposal, compatibility, and leachate problems.

POSITION STATEMENT ON HAZARDOUS WASTE MANAGEMENT

Due to their high potential for public health and environmental damage, some hazardous wastes require special control procedures. Management of these wastes means awareness and control over them from the time of generation through their transportation, temporary storage, treatment, and disposal. The Agency believes that this comprehensive management of hazardous wastes should be conducted or coordinated at the State level so that wastes may reach environmentally sound treatment and disposal facilities. Several States have adopted waste transportation control systems involving manifests or "trip-tickets" to monitor the waste flows. Such systems in the opinion of the Agency are the most effective methods to assure proper handling and tracking of wastes from generation to ultimate disposal. Effective identification and labeling of wastes by the generators are essential to the effective operation of any manifest-based system.

In addition, management of hazardous wastes means more than careful disposal. It implies consideration of alternate methods and schemes, both institutional and technical, to reduce the amount of the wastes as well as their inherent hazards. Most States, when they do regulate, only specifically control waste transport, treatment and disposal. While it is likely that legislatures will continue to restrict regulation to these phases of waste management, opportunities to control hazardous waste at the point of generation should also be explored. This position statment offers a hierarchical structure of waste management options based primarily on environmental concerns, recognizing that, in the absence of regulatory authority, economics will play a major role in the waste generator's decision process.

The Agency believes that reuse, energy recovery and material recovery as well as treatment are desirable *prior* to ultimate disposal, especially land disposal. Thus, the desired waste management options are (in order of priority):

Waste Reduction
Waste Separation and Concentration
Waste Exchange
Energy/Material Recovery
Waste Incineration/Treatment
Secure Ultimate Disposal

Waste reduction. Reducing the amount of hazardous waste at the source, through process changes, is desirable. Restriction of hazardous chemicals used in operations, substitution of less hazardous materials, and better quality control to reduce production spoilage are all examples of possible actions which reduce the amount of hazardous waste requiring disposal. Also, the less hazardous waste which must be disposed, the less the risk of environmental damage. Material recovery, such as solvent reclaiming, is another alternative which reduces wastes within the industrial facility.

[1] In press, Record of Public Meetings on Hazardous Waste Management, U.S. Government Printing Office.

Waste separation and concentration. Even with the minimum amount of waste, opportunities exist to isolate the more hazardous or toxic waste streams from the mixtures in which they occur. Waste separation early in process stream flows as well as simple isolation of similar wastes into separate disposal containers can reduce waste handling and disposal costs.

Moreover, isolation of such hazardous wastes in separate storage areas would permit operating personnel to focus their attention on careful management of those wastes.

Concentration of wastes by de-watering (with appropriate air pollution controls) will reduce the amount of wastes that require treatment or disposal. This process not only reduces the costs of ultimate disposal but, more significantly, minimizes transportation costs, which are frequently the major variable in total waste management costs. A savings in transportation costs could well counter any added cost of de-watering and might even reflect true savings to the waste generator.

Waste exchange. The Agency approves of waste clearinghouses where pretreated or untreated hazardous wastes are transferred. These clearinghouses utilize the concept that one man's waste can be another man's feedstock. At least six waste exchanges in Europe and two formally organized waste exchanges in the United States testify to the feasibility of this concept under a variety of institutional arrangements. Such clearinghouses are desirable but may only be feasible at a State or multi-State level. An EPA report on this subject will be available this fall.

Energy/material recovery. Recovery of potentially useful substances, energy or materials from hazardous wastes is desirable. Many wastes contain valuable basic materials, some of which are in short supply, making material recovery logical from both resource conservation and environmental viewpoints. Extraction of materials from concentrated waste may require less energy, and generate far less air and water pollution, than the mining and processing operations required to produce the material from virgin resources. As materials shortages become more widespread, material recovery from hazardous waste will become more attractive.

Likewise, the combustion of such wastes to recover energy or heat value for other purposes is endorsed by the Agency. Such operations usually require special high temperature equipment with emission control systems and effluent monitors.

Other limitations are imposed by the "quality control" aspects of waste utilization for energy. The user facility must have an adequate supply of fuel with consistent heat-value on a regular or full-time basis. Also, some provisions for standby or emergency operations are necessary. These limitations must be carefully considered and integrated into the planning for any system using industrial wastes for fuel.

Incineration/treatment. Incineration even without energy recovery is desirable, in its proper order of priority, mainly to destroy organic wastes. Other non-burnable wastes should be detoxified and neutralized to the extent possible through physical, chemical, and biological treatment. Careful attention to environmental emissions with control equipment and monitoring devices is still required regardless of the process employed. Additional information on incinerators may be found in EPA publication, Incineration in Hazardous Waste Management (EPA/530/SW-141).[2]

Secure land disposal. For those hazardous wastes not amenable to recovery, treatment or destruction, volume reduction (to minimize land use requirements) prior to secure land disposal is endorsed. Secure land disposal either through encapsulation of small quantities of waste or the use, on a larger scale, of a chemical waste landfill is recommended.

In general terms, a chemical waste landfill provides complete long-term protection for the quality of the surface and subsurface waters from hazardous waste deposited therein, and prevents hazards to public health and the environment. Such sites should be located or engineered to avoid direct hydraulic continuity with surface and subsurface waters. Generated leachates should be contained, and surface and subsurface flow into and out of the disposal area eliminated. Monitoring wells should be established, and a sampling and analysis program conducted. Air emissions should be controlled and monitored, as well. Additional characteristics of a chemical waste landfill are described in EPA publication, Landfill Disposal of Hazardous Waste: A review of Literature and Known Approaches (EPA/530/SW-165).[3]

IMPLEMENTATION

The implementation of the concepts outlined above either in total or in part requires extensive policy and technical discussions prior to decisionmaking. The Agency through its Regional Offices (Appendix I) as well as through the Office of Solid Waste Management Programs, Hazardous Waste Management Division (AW-465), 401 M Street, SW., Washington, D.C. 20460 is prepared to provide technical assistance to interested parties.

Dated: August 10, 1976.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[2] Available from Solid Waste Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268.

[3] Available from Solid Waste Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268

Region	Solid waste management contact	Branch chief	Division director	Regional administrator and address
I	Dennis Huebner, chief, solid waste program, (617) 223-5775.	Byron Keene, chief, radiation, noise and solid waste branch, (617) 223-5708.	Merrill S. Hohman, director, air and hazardous materials division, (617) 223-5186.	John A. S. McGlennon, Administrator, EPA region I, John F. Kennedy Bldg., Boston, Mass. 02203, (617) 223-7210.
II	Michael F. DeBonis, chief, solid waste management branch, (212) 264-0503/4/5.	Michael F. DeBonis, chief, solid waste management branch, (212) 264-0503/4/5.	Conrad Simon, director, environmental programs division, (212) 264-2701.	Gerald M. Hansler, Administrator, EPA region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-2525.
III	Charles Howard and William Schremp, solid waste management representatives, (215) 597-8114.	Robert L. Allen, chief, hazardous materials branch, (215) 597-0680.	Gordon Rapler, director, air and hazardous materials division, (215) 597-8131.	Daniel J. Snyder, Administrator, EPA region III, 6th and Walnut Sts., Philadelphia, Pa. 19106, (215) 597-9814.
IV	James Scarbrough, head, solid waste management section, (404) 285-3016.	James Scarbrough, chief, residuals management branch, (404) 285-3016.	Asa B. Foster, Jr., director, air and hazardous materials division, (404) 285-3454.	Jack E. Ravan, Administrator, EPA region IV, 1421 Peachtree St., NE., Atlanta, Ga. 30309, (404) 280-5727.
V	Karl J. Klepitsch, Jr., chief, solid waste branch, (312) 353-6560.	Karl J. Klepitsch, Jr., chief, solid waste branch, (312) 353-6560.	Robert Duprey, director, air and hazardous materials division, (312) 353-5248.	——, Administrator, EPA region V, 230 South Dearborn St., Chicago, Ill. 60604, (312) 353-5250.
VI	Herbert Crowe, solid waste management representative, (214) 749-1121.	Norman Dyer, chief, pesticide and hazardous waste management branch, (214) 749-1121.	Ray Lozano, director, air and hazardous materials division, (214) 749-1121.	John C. White, Administrator, EPA region VI, 1600 Patterson St., Dallas, Tex. 75201, (214) 749-1962.
VII	Morris G. Tucker, chief, waste management section, (816) 758-3307.	Gerald Jacobson, chief, hazardous materials branch, (816) 758-3307.	Robert Markey, director, air and hazardous materials division, (816) 758-3307.	Jerome H. Svore, Administrator, EPA region VII, 1735 Baltimore Ave., Kansas City, Mo. 64108, (816) 758-5493.
VIII	Lawrence P. Gazda, chief, waste management branch, (303) 327-2221.	Lawrence P. Gazda, chief, waste management branch, (303) 327-2221.	David Wagoner, director, air and hazardous materials division, (303) 327-2407.	John Green, Administrator, EPA region VIII, 1860 Lincoln St., Denver, Colo. 80203, (303) 327-3895.
IX	Charles Bourns, chief, solid waste management program, (415) 556-4606.	James K. Channell, chief, hazardous materials branch, (415) 556-4606.	Frank Covington, director, air and hazardous materials division, (415) 556-0217.	Paul DeFalco, Jr., Administrator, EPA region IX, 100 California St., San Francisco, Calif. 94111, (415) 556-2320.
X	Tobias A. Hegdahl, chief, solid waste program, (206) 399-1260.	----------	Douglas Hansen, director, air and hazardous materials division, (206) 399-1236.	Clifford V. Smith, Administrator, EPA region X, 1200 6th Ave., Seattle, Wash. 98108, (206) 399-1220.

[FR Doc.76-24083 Filed 8-17-76;8:45 am]

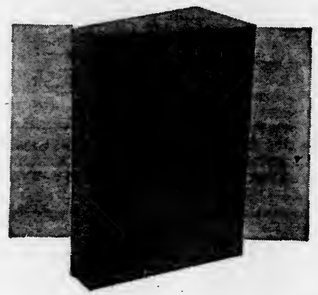
V 41 161 AUG 18 76 UM

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V 41 161 AUG 18 76 UMI

162

Vol.41–No.162
8–19–76
PAGES
35053–35153

federal register

THURSDAY, AUGUST 19, 1976

highlights

PART I:

AIRCRAFT NOISE STANDARDS

DOT/FAA amends measurement and evaluating procedures; effective 9–20–76..... 35053

PRIVACY ACT

NRC proposes exemption from certain requirements; comments by 9–20–76..... 35073

WHEAT

CFTC fixes position and trading limits; effective 8–20–76.. 35060

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

RRB issues determination of quarterly rate of excise tax.. 35107

SECO BROKER DEALERS

SEC proposes to amend bonding rule; comments by 9–3–76 35073

SMALL PASSENGER VESSELS

DOT/CG proposes minimum requirements on carriage of first aid kits; comments by 10–5–76..... 35072

ACCIDENT REPORTS

NTSB announces availability and receipt of aircraft and pipeline briefs, safety recommendations, and responses.. 35088

BUMPER STANDARD

DOT/NHTSA announces delayed response to petitions for reconsideration..... 35068

BLOOD PRODUCTS

HEW/FDA amends labeling requirements regarding syphilis and hepatitis tests; effective 8–19–76..... 35062

ANTIBIOTICS

HEW/FDA specifies submission requirements for certification of susceptibility discs; effective 8–19–76..... 35061

PESTICIDE

EPA issues temporary tolerance extension for chemical paraquat 35096

AGRICULTURAL AIRCRAFT

DOT/FAA amends operator certificate requirements; effective 9–20–76..... 35059

CONTINUED INSIDE

V41 162 AUG 19 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Airworthiness directive; Bell, 29091; 7–15–76

Control zones and transition areas; MD. 31524; 7–29–76

Standard instrument approach procedures; Baltimore, MD, Easton, MD, Bedford, MA, Salisbury, NC.... 28511; 7–12–76

Standard instrument approach procedures; Detroit, MI.. 28511; 7–12–76

Standard instrument approach procedures; Ft. Madison, IA..... 28512; 7–12–76

Standard instrument approach procedures; Ft. Madison, IA, Baltimore, MD, Gulfport, MS.... 28511; 7–12–76

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 12169..... Pub. Law 94–385
"Energy Conservation and Production Act".
(Aug. 14, 1976; 90 Stat. 1125)

H.R. 13121..... Pub. Law 94–386
To direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.
(Aug. 14, 1976; 90 Stat. 1170)

H.R. 14234..... Pub. Law 94–387
"Department of Transportation and Related Agencies Appropriation Act, 1977."
(Aug. 14, 1976; 90 Stat. 1171)

S. 1689..... Pub. Law 94–388
To amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578), as amended.
(Aug. 14, 1976; 90 Stat. 1188)

H.J. Res. 738..... Pub. Law 94–389
Providing for Federal participation in preserving the Tule elk population in California.
(Aug. 14, 1976; 90 Stat. 1189)

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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COTTON, WOOL, MAN-MADE FIBER TEXTILES

CITA announces visa requirement for apparel products imported from Hong Kong; effective 9–6–76..... 35092

CONTROLLED SUBSTANCES

Justice/DEA proposes 1976 revised aggregate production quota for dihydrocodeine; comments by 9–20–76.... 35080

TARIFF FILINGS

FCC issues temporary procedures 35098

MEETINGS—

Commerce/TS: Travel Advisory Board, 9–21–76..... 35087
Interior/BLM: California State Multiple-Use Advisory Board, 9–20 thru 9–22–76..... 35080
Socorro District Multiple-Use Advisory Board, 9–21–76 35081
Las Cruces District Multiple-Use Advisory Board, 9–14 and 9–15–76..... 35080
USDA/FS: Humboldt National Forest Livestock Advisory Board, 10–4–76 35083
Manti Division Grazing Advisory Board, 9–13–76.... 35084
Federal Prevailing Rate Advisory Committee, 9–2, 9–9, and 9–30–76..... 35099
National Foundation on the Arts and the Humanities: Education Panel, 9–28 and 9–29–76..... 35101
Summer Seminars for College Teachers Panel (2 documents), 9–10, 9–11, 9–13, 9–15, 9–17, 9–18, 9–20, 9–24, and 9–25–76..... 35101
Public Programs Panel, 9–14–76..... 35102
State/AID: Advisory Committee on Voluntary Foreign Aid, 9–14–76..... 35067
DOD/Navy: Commandant's Advisory Committee on Marine Corps History, 9–7 thru 9–10–76..... 35079
Interior: Oil Shale Environmental Advisory Panel, 9–9–76 35083
SBA: Madison District Advisory Council, 9–17–76..... 35106
San Diego District Advisory Council, 9–16–76..... 35106
FEA: Government Policies and Regulations Subcommittee of the LP-Gas Industry Advisory Committee, 9–15–76..... 35099
Construction Advisory Committee, 9–8–76 35098
Distribution and Transportation Subcommittee of the Food Industry Advisory Committee, 9–10–76.. 35099
HEW/HRA: National Advisory Council on Nurse Training, 9–27 thru 9–29–76..... 35088
OE: National Advisory Council on Vocational Education, 9–8 thru 9–10–76..... 35088
Commerce/NOAA: Preliminary Management/Environmental Assessment, 9–2–76..... 35087
DOT/NHTSA: National Highway Safety Advisory Committee, 9–8 through 9–10–76..... 35091

CHANGED MEETING—

National Commission on Electronic Fund Transfers, 8–25 through 8–27–76..... 35100

PART II:

HOME HEALTH SERVICES

HEW/PHS issues interim grant regulations 35139

PART III:

FERTILIZERS

Commerce/DIBA issues export monitoring report for March 1976..... 35145

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Rules

Procurement:
Cost reimbursement contracts with educational institutions; correction 35067

Notices

Meetings:
Advisory Committee on Voluntary Foreign Aid..... 35078

AGRICULTURAL MARKETING SERVICE

Rules

Oranges (Valencia) grown in Ariz. and Calif..... 35053

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Farmers Home Administration; Forest Service.

Proposed Rules

Limitation on meat imports; regulations regarding processing in foreign-trade zones; correction.. 35072

ARMY DEPARTMENT

See Engineers Corps.

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Education Panel..... 35101
Public Programs Panel..... 35102
Summer Seminars for College Teachers Panel (2 documents) 35101

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Eastern Air Lines, Inc.—Piedmont Aviation, Inc..... 35106

COAST GUARD

Rules

Security zone:
Maine 35066

Proposed Rules

Small passenger vessels:
First aid kit requirement..... 35072

COMMERCE DEPARTMENT

See Domestic and International Business Administration; National Oceanic and Atmospheric Administration; Travel Service.

Notices

Telecommunications Service Center; cessation of activities..... 35087

COMMODITY FUTURES TRADING COMMISSION

Rules

Wheat; position and trading limits 35060

COMPTROLLER OF CURRENCY

Notices

Suspension of trading; First National Bank of Jefferson Parish, Gretna, Louisiana..... 35078

CUSTOMS SERVICE

Rules

Organization and functions; field organization; ports of entry, etc.:
Battle Creek, Mich..... 35061

DEFENSE DEPARTMENT

See Engineers Corps; Navy Department.

V 41 I 162 AUG 19 76 UMI

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Fertilizers; export monitoring reports:
March 1976 ... 35145
Scientific articles; duty free entry:
Loyola University Stritch School of Medicine ... 35084
Rensselaer Polytechnic ... 35085
Salk Institute ... 35085
University of Pennsylvania ... 35086
University of Wisconsin, Oshkosh ... 35086
U.S. Geological Survey ... 35084
V.A. Center, Dayton, Ohio (2 documents) ... 35086, 35087

DRUG ENFORCEMENT ADMINISTRATION

Notices

Schedules of controlled substances:
Dihydrocodeine ... 35080

EDUCATION OFFICE

Notices

Meetings:
National Advisory Council on Vocational Education ... 35088

ELECTRONIC FUND TRANSFERS, NATIONAL COMMISSION

Notices

Meetings:
Providers, Regulators, and Users Committees, change of place ... 35100

ENGINEERS CORPS

Notices

Right-of-way application:
Illinois ... 35079

ENVIRONMENTAL PROTECTION AGENCY

Notices

Air quality implementation plans; various States, etc.:
New Jersey ... 35095
Pesticide applicator certification; State plans:
Virgin Islands ... 35097
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Paraquat ... 35096
Pesticide registration:
Applications (2 documents) ... 35096, 35097
Pesticides; specific exemptions and experimental use permits:
Clemson University; DDT on tobacco ... 35096

FARMERS HOME ADMINISTRATION

Notices

Emergency areas:
North Carolina ... 35083

FEDERAL AVIATION ADMINISTRATION

Rules

Agricultural aircraft operations:
Certificates ... 35059
Aircraft type and airworthiness certification:
Noise type certification and acoustical change approvals ... 35053
Airworthiness directives:
Beech ... 35059
VOR Federal Airways ... 35059
Ground proximity warning; glide slope deviation alerting system ... 35070

Proposed Rules

Airways and reporting points ... 35072
Nellis AFB special air traffic rule ... 35073
VOR Federal Airways ... 35073

FEDERAL COMMUNICATIONS COMMISSION

Rules

Cable television services:
New definition for "specialty stations" and "specialty format" and amendment of appropriate signal carriage rules; correction ... 35068
Industrial radio services:
Citizens radio service; revision of operating rules for Class D stations; correction ... 35068
Radio broadcast services:
Broadcasts by legally qualified candidates for public office; correction ... 35068
Remote broadcast stations; correction ... 35068

Notices

Tariff filings; temporary procedures ... 35098

FEDERAL ENERGY ADMINISTRATION

Notices

Energy supply and environmental coordination; prohibition order; intent to modify ... 35099
Environmental statements; availability, etc.:
Coal conversion at Schiller Generating Station; extension of comment period ... 35098
Meetings:
Construction Advisory Committee ... 35098
Distribution and Transportation Subcommittee of the Food Industry Advisory Committee ... 35099
Government Policies & Regulations Subcommittee of the LP-Gas Industry Advisory Committee ... 35099

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood insurance program, National; flood elevation determinations, etc.:
Michigan ... 35062
Minnesota ... 35063
Missouri ... 35064
New Jersey ... 35064
North Carolina (2 documents) ... 35065, 35066
Ohio; correction ... 35066
Pennsylvania; correction ... 35066

FEDERAL POWER COMMISSION

Notices

Hearings
Distrigas Corp ... 35100

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Notices

Meetings ... 35099

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Dakota Bancorporation ... 35091
M & D Holding Co ... 35092
Tennessee National Bancshares, Inc ... 35092

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Mingo National Wildlife Refuge, Missouri ... 35069
National Wildlife Refuges in certain States ... 35069

Notices

Endangered species permits; applications ... 35081

FOOD AND DRUG ADMINISTRATION

Rules

Biological products:
Syphillis and hepatitis B surface antigen; labeling requirements regarding testing ... 35062
Human drugs:
Susceptibility discs ... 35061

Notices

Committees; establishment, renewals, etc.:
Diagnostic Products Advisory Committee ... 35088

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Bonner County, Lakeview Planning Unit, Idaho ... 35083
Toiyabe National Forest, Alpine Planning Unit, Nevada ... 35083
Meetings:
Humboldt National Forest Livestock Advisory Board ... 35083
Manti Division Grazing Advisory Board ... 35084

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (3 documents) ... 35100

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Food and Drug Administration; Health Resources Administration; Public Health Service.

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:
National Advisory Council on Nurse Training ... 35088

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Serivce; Land Mangement Bureau; National Park Service.

Notices

Meetings:
Oil Shale Environmental Advisory Panel ... 35083

INTERSTATE COMMERCE COMMISSION

Rules

Car service orders:
Freight cars distribution ... 35068

Notices

Agreements under sections 5 a and b, applications for approval, etc.:
Eastern Railroads ... 35108
Fourth section applications for relief ... 35108
Hearing assignments (2 documents) ... 35108
Motor carriers:
Transfer proceedings (2 documents) ... 35108, 35109
Operating rights applications, etc ... 35109
Petitions filing:
Permanent authority applications and petitions; correction ... 35109

JUSTICE DEPARTMENT

See Drug Enforcement Administration.

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Wyoming (2 documents) ... 35067

Notices

Administrative District Office boundaries and jurisdictions modification; correction ... 35081
Applications, etc.:
Utah (2 documents) ... 35081
Classification of lands:
California; correction ... 35080
Meetings:
California State Advisory Board ... 35080
Las Cruces District Multiple Use Advisory Board ... 35080
Socorro District Multiple-Use Advisory Board ... 35081

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Bumper standard ... 35068

Notices

Meetings:
Advisory Committee ... 35091

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Meetings:
Preliminary Management Plans/Environmental Assessment ... 35087

NATIONAL PARK SERVICE

Notices

Concession permits, etc.:
Oglala Sioux Cedar Pass Concession Enterprise ... 35082
Overton Beach Resort, Inc ... 35082

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses ... 35088

NAVY DEPARTMENT

Notices

Meetings:
Commandant's Advisory Committee on Marine Corps History ... 35079

NUCLEAR REGULATORY COMMISSION

Proposed Rules

Privacy Act:
Exemptions ... 35073

Notices

Regulatory guides; issuance and availability (2 documents) ... 35105
Applications, etc.:
Commonwealth Edison Co. (2 documents) ... 35102
Commonwealth Edison Co., et al ... 35102
Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co ... 35103
Florida Power and Light Co. (2 documents) ... 35103
Long Island Lighting Co ... 35104
Metropolitan Edison Co., et al ... 35104
Northeast Nuclear Energy Co., et al ... 35104
Tennessee Valley Authority ... 35105

PUBLIC HEALTH SERVICE

Rules

Grants:
Home health services; interim regulations ... 35139

RAILROAD RETIREMENT BOARD

Notices

Railroad retirement supplemental annuity program; determination of quarterly rate of excise tax ... 35107

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Securities Act:
Brokers-dealers; bonding rule ... 35073

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Market Capital Corp ... 35106
Disaster areas:
Pennsylvania ... 35106
Vermont ... 35107
Meetings:
Madison District Advisory Council ... 35106
San Diego District Advisory Council ... 35106

STATE DEPARTMENT

See Agency for International Development.

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Man-made textiles:
Hong Kong ... 35092

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Proposed duty increase on certain brandy, hearing ... 35107

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

TRAVEL SERVICE

Notices

Meeting:
Travel Advisory Board ... 35087

TREASURY DEPARTMENT

See also Comptroller of Currency; Customs Service.

Notices

Notes, Treasury:
Series 21–76 ... 35078

V 41 162 AUG 19 76 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

908 35053

PROPOSED RULES:

16 35072

10 CFR

PROPOSED RULES:

9 35073

14 CFR

36 35053
37 35070
39 35059
71 35059
121 35070
137 35059

PROPOSED RULES:

71 (2 documents) 35072, 35073
93 35073

17 CFR

150 35060

PROPOSED RULES:

240 35073

19 CFR

1 35061

21 CFR

460 35061
640 35062

24 CFR

1917 (8 documents) 35062–35066

33 CFR

127 35066

41 CFR

7–7 35067

42 CFR

51e 35140

43 CFR

PUBLIC LAND ORDERS:

5600 35067
5601 35067

46 CFR

PROPOSED RULES:

180 35072

47 CFR

73 35068
74 35068
76 35068
91 35068

49 CFR

581 35068
1033 35068

50 CFR

32 (2 documents) 35069

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:

18 32861

3 CFR

PROCLAMATIONS:

3279 (See EO 11930) 32399

EXECUTIVE ORDERS:

October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32399
11931 32689
11932 32691

DIRECTIVES:

May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693

MEMORANDUMS:

July 19, 1976 32403

5 CFR

213 ..... 32892, 33545, 43246, 34731
591 32892

7 CFR

35 32877
52 ..... 32222, 34751
103 34005
105 34005
106 34005
108 34006
111 34006
220 ..... 32405, 34757
235 32405
271 34760
331 ..... 32229, 32409
409 34973
722 32878
790 34247
791 34247
905 34248
908 ..... 32229, 32695, 34006, 35053
910 ..... 32878, 34248
915 34973
916 32410
917 ..... 32410–32411, 34762
926 34007
944 34762
947 ..... 32230, 32695
982 34974
989 32412
1012 32417
1099 32575
1124 32418
1421 32879
1430 32881
1472 34248
1701 33546

7 CFR—Continued

1806 34571
1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697

PROPOSED RULES:

16 ..... 34777, 34977, 35072
47 32231
51 32896
909 32234
910 33922
911 34049
919 32234
926 34647
927 34050
930 32606
931 32757
946 32758
953 34766
981 34647
991 34648
993 33275
1004 34282
1007 33275
1011 ..... 33275, 34444
1030 33275
1032 33275
1033 34444
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275
1099 33275
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34288
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1260 34772
1430 32899
1701 32419
1801 33561
1813 33922
1823 34767

7 CFR—Continued

PROPOSED RULES—Continued

1861 33561
1980 33561

8 CFR

100 ..... 32419, 34937
103 34937
316a 34938

9 CFR

73 ..... 32882, 34731
76 32882
83 32432
113 32882
201 34007

PROPOSED RULES:

327 34293

10 CFR

35 34635
211 33881
212 34008
700 34731
735 34731

PROPOSED RULES:

9 35073
205 ..... 34783, 34981
210 34784
211 34784
212 ..... 33282, 34080, 34784
705 34778

12 CFR

217 32578
220 34938
561 32419
563 32419
611 33546
615 33547
618 33547

PROPOSED RULES:

16 32864
225 33306
584 33566

13 CFR

105 33547
120 33245
122 33549

PROPOSED RULES:

120 33567

14 CFR

13 32205
36 35053
37 35070
39 ..... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 34009
49 34009
71 ..... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059
73 ..... 34011, 34587
95 34011
97 ..... 32735, 34016
121 35070
137 35059
253 34249
300 34587

V 41 162
AUG 19 76
UMI

14 CFR—Continued

300 34587
310 32579

PROPOSED RULES:

39 ..... 32238, 32239, 34076, 34649
45 34076
71 ..... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073
73 ..... 34077, 34650
75 34077
93 35073
Ch. II 34979
300 34650

15 CFR

0 34938
905 34017

16 CFR

13 ..... 32420, 34019, 34249, 34742, 34939–34941
15 34594
433 34594

PROPOSED RULES:

456 33925
700 34654
704 32911
1145 33636
1150 33636
1500 33639

17 CFR

150 35060
200 32736
210 32737

PROPOSED RULES:

239 32540
240 ..... 32856, 33004, 35073
270 32760

18 CFR

2 ..... 32883, 33364
154 33364
157 ..... 32212, 32883,

PROPOSED RULES:

1 34324
2 32910
35 32911
154 32911
260 ..... 33642, 33780

19 CFR

1 35061
142 33248
153 ..... 32421, 32893, 34597, 34974
159 ..... 32230, 34250
158 33248

PROPOSED RULES:

1 ..... 34049, 34261
18 34271
101 34261
123 34271
144 34271
201 34081

20 CFR

404 32885
410 33549

PROPOSED RULES:

404 34060
701 34294
702 34294
725 34972

21 CFR

2 ..... 32738, 32886
5 ..... 33248, 34597
11 33249
27 32886
121 ..... 32580, 34598, 34742, 34942
193 32888
310 32580
436 34742
460 35061
510 ..... 32213, 34743
520 32889
522 ..... 32583, 32889, 33882
555 ..... 32583, 33882
558 34943
640 35062
701 32583

PROPOSED RULES:

1 34051
500 ..... 32434, 34052
510 34884
526 34884
540 34884
556 34884
558 34884
1301 32756

22 CFR

102 34743
606 33550

PROPOSED RULES:

130 33446

23 CFR

230 34239
420 33440
630 33253

PROPOSED RULES:

658 32240
661 33280
1204 33280

24 CFR

10 33909
203 32216
207 32216
220 32216
260 34608
300 34611
886 32686
1914 ..... 32216, 32738, 33551, 34943
1915 33911
1916 ..... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ..... 33255–33260, 34022–34025, 34944–34948, 35062–35066
1920 ..... 33260–33262, 34611–34618
1930 34618
1931 34618
2205 32359

PROPOSED RULES:

201 32564
205 34977
570 34301
868 32370
1710 34648
1917 ..... 34063–34075, 34305–34322
2205 32237

25 CFR

41 33556
43h 32421
221 34743

25 CFR—Continued

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619
20 34627
25 34628
141 ..... 32889, 32890
301 34025

PROPOSED RULES:

1 33285
31 32231
54 32895

28 CFR

16 32423
20 34949

29 CFR

699 34744
1601 34745
1602 33557
1952 ..... 32424, 34251, 34252
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

1601 33924
1910 ..... 32911, 32912
1952 ..... 32912, 34298
2200 34657

30 CFR

55 33263
56 33263
57 33263

31 CFR

PROPOSED RULES:

210 32605

32 CFR

581 34253
722 34745
725 32742
832 34951
889 34952
968 34962
1008 34962

PROPOSED RULES:

505 34764
642 32346
657 34924
832 34976
1286 32231

33 CFR

117 ..... 32217, 34034
127 ..... 32742, 35066
207 34034

PROPOSED RULES:

110 34649
117 32238
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263
50 34748

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

3002 32742

PROPOSED RULES:

3003 34792

40 CFR

52 ..... 32743, 32890, 34259, 34749
60 ..... 33264, 34628
61 ..... 33264, 34629
87 34722
180 ..... 32426, 33265, 34629
402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34422, 34782
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
7–7 35067
8–1 32219
8–3 32219
28–1 32426
101–20 34629
101–26 34630
101–32 34634

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

51e 35140
101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891

43 CFR—Continued

PUBLIC LAND ORDERS:

5592 32589
5593 34962
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749
5600 35067
5601 35067

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

115 34962
121d 33558
177 33268
190 33868
801 33559
1069 33268

PROPOSED RULES:

73b 32235
146 34052
190 33962

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
180 35072
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902
91 ..... 32680, 33889, 33903, 35068
93 ..... 32682, 33907
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280

47 CFR—Continued

PROPOSED RULES—Continued

64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242

49 CFR

81 32593
192 34598
195 34035
390 34968
571 32221
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 34260

PROPOSED RULES:

266 33354
571 33280
801 34082
1067 33307
1109 32434
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069
33 ..... 32222, 32431, 32603, 32755
217 34969
222 34969
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	33881–34003	11
32399–32574	3	34005–34238	12
32575–32688	4	32239–34570	13
32689–32875	5	34571–34730	16
32877–33244	6	34731–34935	17
33245–33543	9	34937–35051	18
33545–33880	10	35053–35153	19

V 41 162 AUG 19 76 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 541]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 20–26, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.841 Valencia Orange Regulation 541.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues slow. Prices f.o.b. for the week ending August 12 were $3.45 a carton on 593 cars as compared with $3.50 per carton on 727 cars during the prior week. Track and rolling supplies at 315 cars were down 51 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 17, 1976.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 20, 1976, through August 26, 1976, are hereby fixed as follows:

(i) District 1: 292,000 cartons;

(ii) District 2: 358,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 18, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24583 Filed 8–18–76;11:48 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11412; Amdt. 36–5]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Type Certification and Acoustical Change Approvals

● The purpose of this amendment to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is to amend the procedures for measuring and evaluating the noise of subsonic transport category and turbojet engine powered airplanes. This amendment governs new type certificates and acoustical change approvals for which application is made after September 17, 1971, and is not approved by the Administrator before the effective date of this amendment. The primary basis of this amendment is § 611 of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92–574). ●

This amendment is based on Notice 71–26 which was published in the FEDERAL REGISTER (36 FR 18584) on September 17, 1971. Three of the proposals contained in that notice (i.e. proposals concerning reduction in power or thrust during the takeoff and sideline noise tests, the use of the quietest airworthiness approved configuration during those tests, and the test airspeed that must be used during those tests) were previously adopted in Amendment 36–3 (39 FR 43830; December 19, 1974), with an effective date of January 20, 1975. That amendment was limited to acoustical change requirements for airplanes that are unable to comply with the noise limits of Appendix C of Part 36. As the preamble to that amendment stated, Notice

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71–26 also contained "other proposals that are still under consideration by the FAA and that may result in additional rule making." This amendment disposes of the remaining proposals contained in that Notice 71–26 and adds requirements affecting all acoustical change demonstrations as well as those conducted for new type certificates.

Pursuant to § 611(b)(1) of the Federal Aviation Act of 1958, as amended, the Federal Aviation Administration has consulted with the Secretary of Transportation prior to the adoption of this amendment. Also, pursuant to that provision, as well as § 309 of the Clean Air Act, as amended (42 U.S.C. § 1857h–7), and § 1500.9(b) of the guidelines of the Council on Environmental Quality, contained in 40 CFR Part 1500, the FAA has consulted with the Environmental Protection Agency, and has submitted this amendment to that agency for review and comment, prior to adoption of this amendment.

Notice 71–26 proposed to add a new Subpart H to Part 36 containing all of the proposed modifications of Appendices A, B, and C of that Part, and other changes, that would apply after the date of publication of that notice (September 17, 1971). This amendment departs from that format, by adding each rule change directly to the portion of Part 36 that it modifies, rather than issuing a new subpart. For example, the amendments based on proposed § 36.1603 are added to Appendix A, the amendment based on proposed § 36.1605 is added to Appendix B, and the amendments based on proposed § 36.1607 are added to Appendix C. This change in format is editorial only.

Twenty comments in response to Notice 71–26 were received from citizens' groups, local governments, aviation trade associations, and foreign and domestic aircraft manufacturers. These comments addressed or affected the following proposals:

1. *Interference with sound field by obstructions.* The notice proposed to add a new § 36.1603(b) that would have required the applicant (instead of complying with the second sentence of § A36.1(b)(2)) to show that no obstructions that significantly influence the sound field from the aircraft exist (1) for takeoff and landing, within a conical space above the measuring position, defined by an axis normal to the ground and by half-angle 75 degrees from this axis, and (2) for sideline, above the line of sight between the measurement position and the aircraft. In response to public comments, and consistent with other provisions of this amendment limiting the testing and evaluation requirements to the 10 dB–down points, the FAA concludes that it is not necessary to require that noninterference with the sound field be shown beyond the 10 dB-down points. Accordingly, new § A36.7(b) (which contains the provisions in proposed § 36.1603(b)) provides that the required freedom from interference with the sound field must be shown "within the 10 dB-down points described in § B36.5."

During the FAA consultation with the U.S. Environmental Protection Agency (EPA), under § 611 of the Federal Aviation Act of 1958, as amended, the EPA recommended changes in the rule to conform with suggested text from the International Civil Aviation Organization (ICAO) Committee on Aircraft Noise. The FAA agrees that such conformity is desirable and has added a definition of "measuring point" to § A36.7(b)(1). The EPA also recommended expanding from 75 degrees to 80 degrees the half-angle of the conical space in which no obstruction may exist which significantly influences the sound field from the aircraft. However, since Notice 71–26 did not propose to increase the conical space required to be free from obstruction interference, such an amendment is beyond the scope of the notice. Thus, a proposal to expand the half-angle to 80 degrees will be included in a future notice of proposed rule making. In addition, the EPA recommended a clarifying change to specify the applicability of the conical space restriction to sideline noise measurement stations, as well as those for takeoff and landing. The FAA agrees, since it did not intend to narrow the scope of the current rule which prescribes the "conical space" restriction for all noise measurement stations. Thus, the rule adopted is revised to more clearly specify the continuation of that restriction, with the additional "line of sight" restriction as proposed in § A36.1603(b)(2) for sideline measurements only.

2. *Altitude/temperature accountability and weight limitations.* Notice 71–26 proposed requiring an applicant for type certification to demonstrate compliance for the entire range of takeoff and landing temperature and altitude conditions for which approval is requested. Under the proposal, rather than following the current procedure for correcting the test data to the standard test-reference day (i.e. sea level, 77 degrees F, 70 percent relative humidity and zero wind), the test data would be corrected to demonstrate noise level compliance across the wider range of temperatures and altitudes at which the aircraft would be permitted to operate. Further, in demonstrating compliance with Appendix C noise levels, the highest structural weight for which the airplane is approved would be required to be used. The test reference weight would be the highest weights (takeoff and landing) for each altitude and temperature condition for which approval is sought. Under the proposal, the reference weights would become limitations for each approved altitude and temperature condition.

The intent of these proposals was (1) to eliminate anomalous deviation in the certification test results by more closely approximating the conditions actually existing during flight operations, and (2) to discourage the development and application of specialized engines or nacelle designs that would provide significant noise reduction only at or near the standard test-reference day condition. However, after examination of the issues and technologies involved and of the comments submitted to the docket, the FAA has concluded that such specialized designs are not realistic possibilities and that the relatively simple corrective calculation procedure, which the FAA contemplated when it issued the proposal, has proved to be impractical. This is largely due to a lack of precise acoustic data and of an adequate means of employing it. The alternative means of implementing these proposals—actual flight testing under the variety of altitude/temperature combinations was not specifically addressed in Notice 71–26 because it would result in assessing economic penalties to certification applicants which would far outweigh the noise reduction that could be achieved. The FAA concludes that the proposed test correction requirements would significantly increase the testing burden and that they have not been shown to be economically reasonable and offer little, if any, demonstrable benefit in noise reduction. Therefore, the rule adopted does not include the testing requirements for altitude/temperature accountability proposed in the NPRM. Further, since the altitude/temperature accountability has been deleted, the test reference and structural weight considerations, together with airplane flight manual listings, based on the altitude/temperature proposal have no basis for retention and have also been deleted in the final rule.

One comment favored adoption of the altitude and temperature accountability proposal because of the importance of protecting the public from unnecessary aircraft noise in all communities and during all weather conditions. While sharing the objectives expressed by the commenter, the FAA concludes it cannot achieve these objectives unless it provides a rule which prescribes the means for assuring (1) that the calculations of noise with the variations of aircraft noise characteristics can be shown to provide noise values that are consistent with the basic laws and technology of acoustic physics; and, (2) that no anomalous characteristics are developed as a result of applying technology designed to satisfy the FAR 36 standard test-reference day. As many commenters pointed out, both the noise source data and the standard atmospheric attenuation data, which constitute the bases for the present test data correction procedures, have limited ranges of application and extrapolation. The FAA agrees with the commenters who suggested that it would be unlikely that sea level noise source corrections can be applied at all operational altitudes and temperatures without validation by additional testing at high altitude airfields. Extrapolative errors from currently available data to the higher altitudes and extremes of temperatures are simply too great to permit accurate correction by analytical methods alone. However, despite the deletion of the altitude/temperature accountability requirements, the FAA does not intend that the standard reference day for noise certification (sea level, 77 degrees F, and 70 percent relative humidity) should become a unique operating point, either aerodynamically or acoustically.

Several commenters complained that, while under the present test procedure, one can expect to produce corresponding reductions in overall noise exposure at any given airport condition, the result of the application of the proposed altitude and temperature accountability procedure represents an effective lowering of the permissible noise levels. Although, the FAA did not intend to lower the noise limits by proposing altitude/temperature accountability, it agrees with the first part of the commentor's statement and concludes that further altitude/temperature accountability is unnecessary.

Another commenter reasoned that, if altitude/temperature accountability is an attempt to define noise characteristics for all operating conditions, then the takeoff and approach test conditions should be changed to include those noise abatement operating techniques not currently specified in FAR 36. The use of operational rules to lower noise impact has merit and may be the subject of additional rule-making action. However, since the Notice 71–26 did not propose adoption of operating rules to achieve noise control or abatement, such action would be beyond the scope of the notice. The proposals in the NPRM were not intended to effect a lowering of existing noise level standards but to provide a means for avoiding anomalous deviations from established levels when flight conditions are other than those of the standard test-reference day.

One comment suggested that the testing rule should permit the use of not only the standard test procedure defined in FAR 36

but also any procedure authorized by the "navigability regulations." The FAA believes that a very important aspect of noise certification is the ability to compare test results among aircraft types. The change recommended by this commenter would make such comparisons extremely difficult and of questionable reliability. Further, the costs incident to the additional testing that would be needed make this suggestion economically unreasonable to implement at this time.

The lack of specific formulas or means of calculating the proposed altitude/temperature correction was objectionable according to several comments. They cited deficiencies in the proposal in the presentation of the appropriate correction factors and procedures. Several commentors noted that relative humidity as a consideration in establishing sound absorption parameters was not addressed, and that the FAA should provide "comprehensive, realistic influence coefficients for the atmospheric absorption of sound." It should be emphasized that the altitude/temperature accountability proposal did not prescribe a specific performance requirement as the means of compliance but only required applicants for certification to demonstrate by means of a test data correction that prescribed noise levels would be made within the "entire range of takeoff and landing altitude and temperature conditions for which approval is requested." In proposing such accountability, the FAA believed the necessary data and computational means were or would be available to show compliance. Since it has been found that this information does not exist with sufficient accuracy to justify adoption of the altitude/temperature accountability part of the proposed rule, that portion of the proposal is being withdrawn.

One commenter correctly observed that "[the] requirement that compliance be shown at the highest weight (takeoff and landing) for which the aircraft is certified is also necessary since this is the condition that creates the most noise." However, the FAA concludes that current paragraph 36.1581(c) is adequate to achieve this purpose.

As previously noted, Notice 71–26 proposed requirements regarding test reference and aircraft structural weights in the altitude/temperature accountability procedure to assure greater consistency between testing and operating conditions and to prevent artificial manipulation of the weight factors in certification testing and compliance levels comparisons. Many commenters who suggested deletion of the altitude/temperature accountability portions of the proposal also recommended not adopting the related weight factors and limitations used to establish test noise levels and to demonstrate compliance. The FAA agrees with those commenters who believed that using the highest structural weight of the aircraft in obtaining Appendix C levels could result in unreliable results due to the lack of precision in calculating the altitude/temperature correction. These potential problems are eliminated, however, by the deletion of the altitude/temperature accountability requirement. The needed protection is provided by the newly adopted provisions of FAR 36.1581(c). These considerations prompt withdrawing the weight consideration portions of the proposal.

3. *Flight manual listings.* The notice proposed to add new paragraphs 36.1609 (a) and (b) to require specific information in the airplane flight manual regarding the noise levels at each approved takeoff and landing altitude and temperature, how they were achieved, and the applicable Appendix C noise level standards. New paragraph 36.1609 (d) proposed to require that the highest takeoff and landing weight at which compliance is shown, for each altitude and temperature approved, must be furnished (in the airplane flight manual) as a takeoff or landing operating limitation for that altitude and temperature condition.

As indicated in the discussion above, the provisions of the proposed rule regarding altitude and temperature accountability are not being adopted for the reasons stated. Since the proposed flight manual listings were an integral part of the concept of altitude and temperature accountability, they are also being withdrawn from the rule making.

Several comments objected to the proposed flight manual listings, either as part of their objection to altitude/temperature accountability or for separate reasons. The FAA concurs with the reasons based upon the relationship to the altitude/temperature accountability.

4. *Flight path, performance, and noise source correction.* This amendment adopts the text of the rule proposed in paragraphs 36.1603(d) and (h) of Notice 71–26 with the deletion of the proposed requirement for altitude/temperature accountability. Rather than adding the proposed new paragraphs, these amendments are effected by adding a new § A36.7(d), which provides a description of the corrections required for aircraft flight path and performance and of the required relationship between the aircraft and sound (signal) and background noise levels within the 10 dB-down points. Under the amendment, instead of complying with the first two sentences of § A36.3(d)(2), the new provisions apply.

New paragraph A36.7(d)(1) clarifies the required correction between the applicant's predicted flight paths for type certification reference conditions and the measured flight paths at the test conditions. The new wording corrects the ambiguous requirement of the present provision.

New paragraph A36.7(d)(2) simply adopts and restates the language of the second sentence of present paragraph A36.3(d)(2) without substantive change or effect on the test correction procedure. The final rule does not retain the altitude/temperature accountability proposed in Notice 71–26.

Commentera to the flight path and performance corrections supported their adoption if the proposed altitude/temperature accountability were deleted. Since that accountability requirement is omitted in the final rule, the recommendation has been accepted.

New § A36.7(d)(3) prescribes the requirement that the source noise must be corrected from approved data for any differences between the measured and corrected engine conditions, together with appropriate allowances for sound attenuation with distance.

One commenter, while agreeing that there is a "very real need for source noise corrections," suggested that guidance as to the method of determination is required. An accurate and reliable method for the attenuation of sound with distance is considered essential by the commenter.

The FAA agrees that the method of demonstrating compliance must be accurate and reliable and that the language of proposed paragraph 36.1603(h)(3) can more clearly specify the required procedure for making the correction. Under the proposal, it was contemplated that whenever corrections for distance is appropriate, it would necessarily be accomplished under the sound attenuation procedures presented in § A36.5(a), which incorporates by reference SAE standard ARP 866: "Standard Values of Atmospheric Absorption as a Function of Temperature and Humidity for Use in Evaluating Aircraft Flying Noise." New § A36.7(d)(3), therefore, refers specifically to the applicability of § A36.5(a) for sound attenuation corrections.

Another comment argued that the proposed test data corrections were excessive and, in general, would inevitably lead to serious difficulties for international flights under the rule since it would be less stringent than that prescribed in ICAO Annex 16. As noted by the commenter, noise certification does not ensure that a certificated airplane will, when in operation, reproduce exactly the noise impact on the ground perceived at the time of its certification testing. Even the most precise, operationally oriented test procedures contain some uncontrollable factors which affect the data produced and which must be accounted for in developing the test results. Correction for sound attenuation for distance, like corrections for standard day, flight path deviation, duration, and thrust, is necessary to eliminate the distortion caused by inadvertent factors in performing the test procedure. The FAA concludes that the allowance for corrections of test data adopted by the rule is not excessive. Since ICAO has adopted sound attenuation for distance provisions similar to those adopted in this final rule, Part 36 is not less stringent than ICAO Annex 16.

Similarly, one commenter recommended not adopting the provision for allowing correction of sound attenuation for distance because the distance factor in sound attenuation is already adequately accounted for in the measured data. It should be noted that sound attenuation for distance is only one element of the required source noise correction based upon approved data prescribed in § A36.7 that accounts for differences between measured and corrected engine conditions. As such, the provision for sound attenuation for distance was included to assure that it is properly considered during each certification action whether or not it changes the test results. Noise source corrections are an appropriate part of the type certification and acoustical change test procedures.

5. *Cold day/hot day effects and aircraft weight corrections.* Present § A36.6(a) permits the takeoff test flight path to be higher or lower than the test reference altitude to account for meteorological effects of cold day or hot day conditions on aerodynamic performance characteristics; approach test flight path may be either higher or lower than the reference altitude without regard to meteorological conditions. These provisions were included in the original FAR Part 36 in an effort to account for the effects which cause a test aircraft to fly above or below the test reference flight path and to require appropriate corrections to be made. Proposed § 36.1603(k)(1) (which is adopted as § A36.7(f)(1)) provided for the elimination of that correction procedure. Certification test experience has demonstrated that this particular correction procedure is unclear and imprecise and that, in light of procedures for the correction of test flight path, it is unnecessary. However, the public comments received in the Rules Docket did not speak to this specific proposal.

Further, the FAA has found that "Figure A8," "Figure A9," and "Figure A10" in § A36.6 do not have current application or value in the prescription of correction procedures. As proposed in § 36.1603(k)(4), these illustrations are deleted from the test correction procedures by the terms of new § A36.7(f)(3). No public comment specifically addressed this proposal.

6. *Noise floor definitions.* In § A36.7(e)(1), the final rule adopts the noise floor defini-

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tion proposed in the NPRM text of § 36.1603 (i). This amendment augments the present procedure stated in § A36.3(d)(3) by prescribing that the signal to noise ratio within the 10 dB-down points may not be less than 6 dB without approved special test or correction procedures.

This additional provision more clearly states the signal-to-noise limitation that must be applied to acoustic data generated in the testing environment. Correct delineation of the 10 dB-down points is essential to computation of the duration correction factor. The 6 dB signal-to-noise ratio limitation ensures the integrity of the test data. However, to avoid imposing unwarranted penalties upon an applicant when the 6 dB signal-to-noise ratio limitation cannot be satisfied (such as could be the case with an unusually quiet aircraft), the rule provides for the approval of special test or correction procedures to bring the test data within the required limits.

7. *Duration correction.* In Notice 71–26, the FAA proposed to adopt a new FAR paragraph 36.1605(b) to modify the procedure in § B36.5 for determining the duration correction factor in the EPNL equation for special circumstances. As approved, this amendment of the last unnumbered paragraph of § B36.5 modifies that procedure by eliminating the 90 EPNdB floor in computing duration.

The 90 EPNdB floor was originally adopted to limit the possible development of an unrealistically large positive duration correction under test conditions where the 10 dB-down points are obscured by exceptionally high levels of background noise at the test site. However, in proposing the amendment contained in Notice 71–26, the FAA believed that the rule needed reexamination of its ability to properly avoid the potential penalty that might result from ambient noise levels obscuring the 10 dB-down points. The FAA believed that because it was a somewhat artificial solution, erroneous results could accrue from its application. Therefore, the FAA proposed in the NPRM to limit the permissible correction factors, positive or negative, to not more than the value of 5. Upon careful consideration of the proposal and comments received on the issue, the FAA concludes that the proposed limitation is itself inadequate as the sole correction factor limitation for all cases. Under this amendment, the 90 EPNdB floor concept is eliminated for applications made after September 17, 1971, and the durational value must, therefore, include the 10 dB-down points in the flyover noise/time record. In those cases where high ambient noise levels obscure the 10 dB-down points, making them impossible to fix, the applicant may elect to change test sites or seek approval for relocating test measuring-recording points (within correctible margins) to achieve the necessary reduction in ambient noise and establish the 10 dB-down points in the test data.

Most of the comments received supported the elimination of the 90 EPNdB floor but objected to imposing an "arbitrary" limitation of the proposed correction factor to ±5. There was general agreement among the comments that there is no basis or justification for the proposed limitation. Several comments recommended that, if from a psychoacoustic basis the duration correction concept is valid, the test result, whatever it is, should be used as the starting point for the correction; however, if it is not valid, the calculation procedure should be changed rather than limiting the range of the incorrect result. One commenter argued that the replacement of the 90 EPNdB floor with the ±5 value range of duration correction "appears to be improper since there is no engineering basis for the limitation. Valid correction factors capable of being applied in a meaningful manner should be provided by the FAA." Similar statements were made in several other comments. In general, the FAA concurs. However, the 90 EPNdB floor was originally introduced into Part 36 to avoid a resultant penalty which the FAA believed might be caused by mathematically developing unrealistically large positive duration corrections in those cases where test conditions were such that the 10 dB-down points were difficult to determine. Based on type certification experience since the adoption of Part 36, the FAA does not believe that the elimination of the 90 EPNdB floor, together with the withdrawal of the proposed ±5 EPNdB correction limitation, will result in positive correction values greater than those that are obtained under the current regulation. In addition, with the experience of certification tests, the FAA has found no reliable calculation procedure covering the range of variations which properly and meaningfully reflects the 10 dB-down points when they are obscured by ambient noise levels. As a result, the FAA has determined that the aircraft testing procedures prescribed in § A36.1(c) should be adjusted by amending § B36.5 to make explicit that the required test data include the 10 dB-down points in the flyover noise/time record. The need to show the 10 dB-down points also results from the redefinition of the noise floor adopted in § A36.3 (d)(iii), as proposed in the NPRM and discussed above. The reason for this amendment is to provide uniformity in the method of data processing at all amplitudes while simplifying the correction procedure.

Several commenters, who observed that the proposed ±5 EPNdB correction limitation had no technological basis, believed that the negative component of the duration correction procedure prescribed in § B36.5 (when the 90 EPNdB floor is not invoked) should be retained. These commenters pointed out that the permissible negative correction factor provides a real incentive to strive for further beneficial subjective reductions in noise arising from aircraft characteristics such as airframe shielding, approach speed, etc. While the compliance test data corrections are not generally intended by themselves to prescribe penalties or confer benefits, the FAA recognizes that they may tend to have that effect in some cases. The duration correction factor does reflect the FAA's concern for achieving subjective psychoacoustic benefits and as such may provide an inducement to design aircraft with reduced noise duration characteristics. By eliminating the 90 EPNdB floor and not adopting the proposed ±5 EPNdB correction limitation, the final rule provides the potential for an unlimited negative correction factor for noise duration and, therefore, an increased incentive to develop reduced noise duration characteristics for airplanes. The commenters' suggestion is, therefore, accepted as an additional basis for eliminating the limitation on the duration correction factor entirely.

One commenter observed that some psychoacoustic studies suggest that the beneficial effects of short duration flyovers tend to increase to a rate of 6 dB for a halving of the duration time rather than the 3 dB value presently used. The commenter believes that incorporation of this feature would result in a better definition of the time dependent acoustic rate factor. However, the FAA does not consider the increased rate factor sufficiently technologically substantiated at this time to warrant its inclusion in the rule. Further, Notice 71–26 did not discuss or propose a change in the rate factor and it is, therefore, beyond the scope of the notice.

Arguing that to "arbitrarily limit the correction factor D to +5 and −5 has no justification whenever," two commenters recommended the maximum negative value of 10 dB for those cases when the 90 EPNdB floor is involved. While the FAA agrees that it now finds the proposed values of ±5 to be unfounded, there is equally no support for adopting a negative value of 10 dB. The FAA concludes that § B36.5 should be amended to require inclusion of the 10 dB-down PNLT values in testing data, if necessary, by modifying testing conditions in the limited number of cases where the problem arises.

Another comment requested that the FAA reexamine the proposed rule with respect to the duration correction so that it may be made identical to the one specified in ICAO Annex 16. The FAA recognizes the desirability of having consistency between FAR 36 and Annex 16. However, since this comment was received, ICAO has undertaken consideration of a duration correction factor amendment of Annex 16 similar to that proposed in Notice 71–26 and recommends its adoption. Whether or not ICAO subsequently adopts this change in the duration correction factor, FAA's statutory responsibility under § 611(d) of the Federal Aviation Act, as amended, requires that it consider whether proposed noise certification standards that are "economically reasonable, technologically practicable, and appropriate for the particular type of aircraft" to which it applies. This amendment is adopted pursuant to that requirement.

8. *Approach test airspeed; and takeoff and approach test airspeed tolerance.* In Notice 71–26, the FAA proposed to adopt a new paragraph 36.1607(f) which would amend the approach test airspeed requirements, contained in § C36.9(d), when applied to applications made after September 17, 1971, by prescribing the use of $1.3V_{s0}$ (the stalling speed or the minimum steady flight speed in landing configuration) +10 knots ±3 knots rather than the currently required 1.3 V_s (the stalling speed or the minimum steady flight speed at which the airplane is controllable) +10 knots without any specified airspeed tolerance. [Through a typographical error, the proposed airspeed factor was published as "1.33 V_{50}" rather than "1.3 V_{50}" as specified in the original FAA document.]

While no public comment discussed the proposed substitution of V_{ss} for V_s, after reconsidering the issues involved in the selection of the approach test airspeed, the FAA has determined that this portion of the proposal should not be adopted. Since V_{ss} is not currently required as part of the airworthiness certification of turbine powered aircraft, to require applicants to determine V_{ss} solely for noise certification purposes would result in an additional test burden in certificating turbine powered aircraft. Further, the FAA proposed in Notice 75–10 to amend FAR 25.75 to substitute V_s for the V_{ss} currently required in airworthiness test approach airspeed for reciprocating-engine-powered airplanes. In light of this proposal and the concern for basic consistency between airworthiness and noise certification test procedures, the FAA believes that V_s as the basis for the approach test airspeed in the noise certification procedure should be retained. This action will have the additional benefit of preserving the comparability of newly produced test data with that of the data compiled during the past 6 years under FAR Part 36. Since the FAA has experienced no problem arising from the use of V_s in approach test airspeed under Part 36, and since no comments addressed the proposal, that part of the approach test airspeed proposal is withdrawn.

In order to ensure a valid comparative testing procedure, Notice 71–26 also proposed in new paragraphs 36.1607 (d) and (f) to prescribe takeoff and approach test airspeed tolerances for the test conditions prescribed in Appendix C. These proposals are adopted without change in substance by amending paragraph C36.7(d) and adding a new paragraph C36.7(f). [Amendment 36–3 adopted the takeoff test airspeed proposed in Notice 71–26 applicable to acoustic change approvals.]

As amended, paragraph 36.7(d) refers to paragraph 36.7(f), which prescribes a takeoff speed of V_2 +10 knots ±3 knots rather than the minimum takeoff speed of V_2+10 knots with no upper limit. For the approach testing procedure, paragraph 36.7(f) prescribes a steady approach speed of either $1.3V_s$+10 knots or the speed used to establish the approved landing distance, whichever is greater, within a ±3 knot tolerance. These tolerances provide an appropriate means for controlling the inevitable variations from the prescribed basic airspeeds that occur during certification testing of noise characteristics.

A tolerance of ±3 knots was supported by commenters who recognized that such strict tolerances are appropriate and necessary in a noise testing procedure and do not constitute operational requirements. No operational limitations were intended on this subject by Notice 71–26.

Opposition to the proposed takeoff and approach test airspeed tolerances was frequently based upon beliefs that the noise test procedures were intended to be, or should be, procedures that are used operationally. The FAA disagrees. Noise certification tests do not necessarily coincide with any operational requirements but are prescribed to provide demonstrations that uniformly and fairly represent the noise characteristics of all aircraft subject to the test. Test factor tolerances, like data correction limitations, provide assurances that uncontrollable variations in executing the procedure will not introduce unacceptable errors in test data or results.

One commenter suggested that the "inevitable variations from these speeds during tests should be controlled only by a limitation on the dB corrections to which they give rise." The FAA concludes that, in this case, placing the limitation on the flight of the aircraft during the test will result in fewer factors, that require complex corrections, being introduced into the measured data. The test procedure being adopted is, therefore, preferable to that suggested by the commenter.

According to another comment, the fixing of noise certification test speeds (takeoff and approach) "is restrictive on the aircraft design and the development of improved noise abatement techniques." The FAA does not believe that requiring aircraft to be flown at the prescribed airspeeds during noise certification testing is itself restrictive on aircraft design or development of other noise abatement techniques. The test airspeed requirements, together with the ±3 knot tolerance, ensures a basis of noise comparisons by preventing manipulation of the speed factors that mask the actual noise emissions. It should be noted that the V_2+10 knot with the ±3 knot tolerance is identical to that adopted for acoustical changes in Amendment 36–3 (39 FR 43830; December 19, 1974). As stated in the preamble to that amendment, this change is "intended to ensure a valid comparative test by prohibiting the modified airplane from overflying the measurement point at [an] air speed markedly different from that of the unmodified airplane (since flyover time can affect recorded noise levels)." Although this amendment extends the test airspeed adopted in Amendment 36–3 to new type certificates, the FAA believes that comparability of noise test results among airplanes of the same category is equally beneficial in the entire noise certification program. The amendment assures the desirable uniformity of test procedures and comparability of noise emission test data.

While one commenter stated that any tolerance more restrictive than ±10 knots is overly restrictive and would result in the need for repeating tests or in the unnecessary omission of data, another commenter agreed that a test tolerance of ±3 knots is "most representative" and "appropriate." The FAA believes that a tolerance of more than ±3 knots may permit unnecessary correction errors to be introduced and that a larger tolerance has not been shown to be needed.

Some commenters to Notice 71–26 specifically questioned the flight safety of the proposed test airspeeds and tolerance limits. As stated in the preamble to Amendment 36–3, the FAA has concluded that the use of the required test airspeeds does not create problems of flight safety when conducted as prescribed. Since the issues raised by these comments were adequately addressed in the preamble to Amendment 36–3, they are not repeated here.

Several commenters objected to setting of airspeed restrictions beyond those prescribed by airworthiness requirements as being detrimental to the certification concept. These amendments deliberately adopt airspeeds based on airworthiness values to assure that they do not conflict with or override the airworthiness considerations. However, since the airworthiness procedure permits a wide range of airspeeds, the need for producing comparability in the noise data among tested airplanes requires the selection of specific airworthiness designated speeds for takeoff and approach noise testing. The FAA believes the final rule is conceptually consistent with those objectives.

Another comment argued that it would be "wrong to demand the use of an arbitrary approach speed of $1.3V_{ss}$+10 knots if this conflicts with the airworthiness regulations," or if "a manufacturer has designed his aircraft to meet airworthiness regulations with an approach speed lower than $1.3V_{ss}$+10 knots." The FAA does not believe that the prescribed airspeeds and tolerances are arbitrary or in conflict with airworthiness rules because they are representative of identified characteristics of the category of aircraft affected and they are based upon airworthiness considerations and the need for comparability of test data produced.

The FAA agrees with the comment suggestion that the way should be left open to allow and encourage research and development of favorable noise abatement flight techniques such as "decelerated approaches, steeper approach paths, and programmed flap movements." The FAA does not believe that the amendment of test procedures or data correction factors adopted by this rule making affects the development of improved operational techniques.

9. *Negative runway gradient.* New paragraph (f)(2) of § C36.7 adopts without substantive change, the text of proposed § 36.1607(e) to require the correction of performance and acoustic data to account for a negative runway gradient in the direction of takeoff.

While commenters generally agreed with the adoption of the proposal, one commenter stated that the "intent of this paragraph would be better expressed by specifying a level runway as one of the reference conditions." The FAA does not agree. The addition of another prescribed test-reference condition would serve no practical purpose since the correction procedure adopted in this amendment adequately accounts for a negative runway gradient. Therefore, this suggestion is not adopted.

10. *Effective date.* As noted by many commenters, the FAA proposed to make the regulations applicable to applications for new type certificates and acoustic change approvals received by the FAA on or after September 17, 1971 (the date the NPRM was published in the FEDERAL REGISTER). This proposal is adopted without substantive change in the final rule.

Notice 71–26 stated that the FAA was concerned with the timing of the effective date of the proposed rules because of the significant and enduring impact upon the noise abatement benefits the rules were intended to achieve. Thus, the FAA proposed to apply these proposals to applications received on or after the publication date of the NPRM. By adopting that proposal, the FAA avoids the possibility of a significant number of applications being submitted before the effective date of the final rule but for which FAA approval could not be given before the rule becomes effective. As stated in the NPRM, nothing in the proposal would affect applications for which approvals are issued prior to the effective date of the final rule or any approval issued on the basis of an application received before September 17, 1971. In effect, the NPRM announced the FAA's intention to apply the amended rules (when they become effective) to approvals even though the application was received during the period between the publication date of the NPRM and the effective date of the amended rules.

This proposal was commended by those commenters who share FAA's environmental concern. One commenter stated, in support of the timing of the regulations, that "We • • • fear that if the regulations were applied only to applications received after the effective date of the final rule, many applications would be filed before such effective dates and would thereby significantly retard public benefit which you intend."

However, another commenter feared that the proposal "would make it impossible for manufacturers to fix designs, start production and make final commitment until the certification requirements are finally established." The FAA agrees that absent a compelling justification, type certification rules should be made to apply only to applications received after the effective date of such rules. However, as previously stated, the FAA believes that sufficient reason exists in this case, since the effectiveness of the proposals could be compromised for many years into the future. Deferring the environmental benefits which will be achieved would not be in the public interest or consistent with FAA's responsibility under the Noise Control Act of 1972 to prescribe appropriate aircraft noise abatement regulations.

One commenter questioned whether compliance to the terms of the NPRM was appropriate since that may require showing compliance with a proposal that may be changed as a result of comments. The same commenter stated that "a possible strict interpretation of the NPRM would suggest that even though the NPRM has been published, comments from interested persons will not in fact be considered." It should be apparent from the modifications of the proposals in the final rule, that the public participate in this rule making has not been rendered ineffectual. However, it is not contrary to meaningful public proceedings to announce that the final rule, when adopted, will apply to applications received before the effective date of the rule, since as stated in the notice, the applicable rules are those in effect on the date of approval, not the date of application. This is consistent with sound rule-making practice.

11. *General comments.* Several comments were received which did not address specific issues or the substance of the proposed rules. These included one commenter who suggested that "the FAA should go further in requiring quiet engine retrofit and operational standards for airports." The merits of these recommendations are under consideration by the FAA in other regulatory proceedings but are outside the scope of the notice of Notice 71–26.

V 41 162 AUG 19 76 UMI

AUTHORITY: (Sections 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574) (49 U.S.C. 1354(a), 1421, 1423, and 1431); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); Executive Order 11514, March 5, 1970).

In consideration of the foregoing, Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective September 20, 1976, as follows:

§ 36.2 [Amended]

I. Paragraph (a) of § 36.2 is amended by adding the following sentence at the end of that paragraph immediately after the words "of this Part": "In addition, for applications for new type certificates made after September 17, 1971, compliance must be shown with the applicable provisions of this Part."

II. Paragraphs (a)(1) and (a)(2)(ii) of § 36.7 are amended to read as follows:

§ 36.7 Acoustical change.

(a) • • •

(1) If the airplane can achieve the noise limits prescribed in Appendix C of this Part, or lower noise levels, prior to the change in type design, it may not exceed the noise limits prescribed in Appendix C after the change in type design. For applications made after September 17, 1971, compliance with the applicable noise limits must be shown in accordance with §§ C36.7(f) and C36.9(f) of Appendix C.

(2) • • •

(i) • • •

(ii) For the noise levels measured and evaluated before and after the change in type design, compliance with §§ C36.7(f) and C36.9(f) must be shown.

III. Appendix A of Part 36 is amended as follows:

A. Paragraph (a) of § A36.1 is amended to read as follows:

Section A36.1 *Noise certification test and measurement conditions.*—(a) *General.* This section prescribes the conditions under which noise type certification tests must be conducted and the measurement procedures that must be used to measure the noise made by the aircraft for which the test is conducted. For applications made after September 17, 1971, compliance with § A36.7 of this Appendix must be shown in addition to the applicable provisions of this section.

B. Paragraph (a) of § A36.3 is amended to read as follows:

Section A36.3 *Reporting and correcting measured data.*—(a) *General.* Data representing physical measurements or corrections to measured data must be recorded in permanent form and appended to the record except that corrections to measurements for normal equipment response deviations need not be reported. All other corrections must be approved. Estimates must be made of the individual errors inherent in each of the operations employed in obtaining the final data. For applications made after September 17, 1971, compliance with § A36.7 of this Appendix must be shown in addition to the applicable provisions of this section.

C. Paragraph (a) of § A36.6 is amended by adding the following sentence at the beginning of the paragraph:

For applications made after September 17, 1971, compliance with § A36.7 of this Appendix must be shown in addition to the applicable provisions of this section.

D. A new § A36.7 is added to read as follows:

Section A36.7 *Applications made after September 17, 1971.*—(a) For applications made after September 17, 1971, compliance with this section must be shown in addition to the applicable provisions of §§ A36.1 through A36.6 of this Appendix.

(b) Instead of complying with the second sentence of § A36.1(b)(2), it must be shown that, during the period when the flight-time record indicates the noise measurement is within 10 dB of PNLTM, no obstruction that significantly influences the sound field from the aircraft may exist—

(1) For a takeoff, approach, or sideline noise measurement station, within a conical space above the measuring position (the point on the ground vertically below the microphone), the cone being defined by an axis normal to the ground and by a half-angle 75 degrees from this axis; and

(2) For a sideline noise measurement station, above a line of sight between the microphone and the aircraft.

(c) Instead of complying with § A36.1(d)(2), it must be shown that position and performance data are corrected as prescribed in § A36.3(d) as modified by paragraphs (d) and (e) of this section.

(d) Instead of complying with the first two sentences of § A36.3(d)(2), the following apply:

(1) The measured flight paths must be corrected by an amount equal to the difference between the applicant's predicted flight paths for the type certification reference conditions and the measured flight paths at the test conditions.

(2) Necessary corrections relating to the aircraft flight path or performance may be derived from approved data other than certification test data.

(3) The source noise must be corrected, from approved data, for the difference between measured and corrected engine conditions, together with appropriate allowances for sound attenuation with distance, as prescribed in § A36.5(a).

(e) Instead of complying with § A36.3(d)(3), compliance must be shown with the following:

(1) If the aircraft sound pressure levels do not exceed the background sound pressure levels by at least 10 dB in any one-third octave band within the 10 dB-down points described in § B36.5, approved corrections for the contribution of background sound pressure levels to observed sound pressure levels must be applied.

(2) The signal to noise ratio within the 10 dB-down points may not be less than 6 dB without approved special test or correction procedures.

(f) The following apply with respect to showing compliance with § A36.6:

(1) The provisions of the first two sentences in the first undesignated paragraph of § A36.6(a) permitting flight paths above and below the reference flight path because of "cold day" effect and "hot day" effect do not apply.

(2) The correction procedures in § A36.6(a) are not limited to one or more "of five" possible values, but require all values necessary to insure adequate correction procedures.

(3) The provisions of §§ A36.6 (f) and (g), including Figures A8, A9, A10, do not apply.

IV. Appendix B of Part 36 is amended by amending the last undesignated paragraph of § B36.5 to read as follows:

Section B36.5 *Duration correction.*

• • • • • •

If the value of PNLT(k) at the 10 dB-down points is 90 PNdB or less, the value of d may be taken as the time interval between the initial and the final times for which PNLT(k) equals 90 PBdB, except that, for applications made after September 17, 1971, the aircraft testing procedures must include the 10 dB-down points in the flyover noise/time record.

V. Appendix C of Part 36 is amended as follows:

A. § C36.7 is amended by amending paragraph (d), and adding a new paragraph (f), to read as follows:

Section C36.7 *Takeoff test conditions.*

• • • • • •

(d) Except as provided in paragraph (f) of this section, a speed of at least V_2+10 knots must be attained as soon as practicable after liftoff, and must be maintained throughout the takeoff noise test.

• • • • • •

(f) For applications made after September 17, 1971, the following apply:

(1) The test day speeds and the acoustic day reference speed must be the minimum approved value of V_2+10 knots, or the all-engines-operating speed at 35 feet (for turbine engine powered airplanes) or 50 feet (for reciprocating engine powered airplanes), whichever speed is greater as determined under the regulations constituting the type certification basis of the airplane. These tests must be conducted at the test day speeds ±3 knots. Noise values measured at the test day speeds must be corrected to the acoustic day reference speed.

(2) If a negative runway gradient exists in the direction of takeoff, performance and acoustic data must be corrected to the zero slope condition.

B. § C36.9 is amended by amending paragraph (d), and adding a new paragraph (f), to read as follows:

Section C36.9 *Approach test conditions.*

• • • • • •

(d) Except as provided in paragraph (f) of this section, a steady approach speed of not less than $1.30\ V_s+10$ knots must be established and maintained over the approach measuring point.

• • • • • •

(f) For applications made after September 17, 1971, the following apply:

(1) A steady approach speed, that is either $1.30\ V_s+10$ knots or the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, whichever speed is greatest, must be established and maintained over the approach measuring point.

(2) A tolerance of ±3 knots may be used throughout the approach noise testing.

Issued in Washington, D.C. on August 10, 1976.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-23929 Filed 8-18-76;8:45 am]

[Docket No. 76-CE-24-AD; Amdt. 39-2697]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 58P and 58PA Airplanes

There have been reports of cabin windows cracking on Beech Model 58P airplanes. The window in question is located just forward of the cabin entrance door on the left side of the airplane. The cracking is caused by concentrated load paths created by the rigid structure around the door. This condition results in cabin decompression and could lead to an emergency situation. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued, applicable to Beech Models 58P and 58PA airplanes, requiring inspection of the subject cabin window for cracks, and if not already accomplished the installation of a window frame reinforcement and thereafter repetitive inspections of the window for cracks. The AD will also provide that airplanes with the subject window cracked can be operated in this condition unpressurized until the window is replaced.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models 58P and 58PA (Serial Numbers TJ-2 and up) airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent cracking of the cabin window located just forward of the cabin entrance door on the left side of the airplane, with resultant loss of cabin pressurization, accomplish the following:

A. On Models 58P and 58PA (Serial Numbers TJ-2 thru TJ-19, TJ-21 thru TJ-45, TJ-47 thru TJ-54, TJ-56 thru TJ-58) airplanes that do not have the window frame reinforcement installed, as defined in Beechcraft Service Instruction 0828-110 or later approved revisions, accomplish the following in accordance with said service instruction:

1. Within 25 hours' time in service after the effective date of this AD and at the two next 50 hour time in service intervals thereafter, visually inspect the cabin window just forward of the cabin door on the left side of the airplane for cracks and if cracks are found during any inspection required herein, prior to any flight during which the cabin is pressurized, replace the window and install the window frame reinforcement.

2. If no cracks have been found during any inspection required in Paragraph A.1., within 100 hours' time in service after the initial inspection required by Paragraph A.1. install the window frame reinforcement and thereafter comply with the inspection and, if necessary, the replacement requirements required by Paragraph B.

B. On Models 58P and 58PA (Serial Numbers TJ-2 and up) airplanes that have the window frame reinforcement installed, as defined in Beechcraft Service Instruction 0828-110 or later approved revisions, accomplish the following in accordance with said service instruction:

Within 100 hours' time in service after the effective date of this AD, or within 100 hours' time in service after the installation of the window frame reinforcement specified in Paragraph A and at each 100 hours' time in service thereafter, visually inspect the cabin window just forward of the cabin door on the left side of the airplane for cracks and if cracks are found during any inspection required herein, replace the cracked window prior to any flight in which the cabin is pressurized.

C. On Models 58P and 58PA airplanes that are flown unpressurized following discovery of a window found cracked during any inspection required by Paragraphs A and B:

1. Fabricate a placard worded as follows "Do Not Pressurize In Flight" and

2. Install said placard near the cabin pressurization control switch, and

3. Operate the aircraft in accordance with the placard until the cracked window is replaced.

D. The inspection intervals set forth in Paragraph B of this AD may be extended 10 hours up to a maximum of 110 hours' time in service to allow compliance with Paragraph B in conjunction with regular scheduled maintenance or inspections.

E. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective August 24, 1976.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Kansas City, Missouri, on August 10, 1976.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.76-24135 Filed 8-18-76;8:45 am]

[Airspace Docket No. 76-RM-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Extension of VOR Airway

On June 17, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 24608) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign and extend V-26 from Cherokee, Wyo., to Grand Junction, Colo., via Meeker, Colo., and eliminate that portion of V-26 presently established between Celia INT, Colo., and Hayden, Colo.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

§ 71.123 (41 FR 307) is amended as follows:

In V-26 "From Hayden, Colo., via INT Hayden 310° and Cherokee, Wyo., 191° radials; Cherokee; 37 miles, 52 miles, 111 MSL," is deleted and "Cherokee, Wyo.; Meeker, Colo.; Grand Junction, Colo.;" is substituted therefor.

This amendment is made under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 11, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23926 Filed 8-18-76;8:45 am]

[Docket No. 13235; Amdt. No. 137-6]

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

Agricultural Aircraft Operator Certificates

● The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to permit the holder of a Part 133 rotorcraft external-load operator certificate to conduct an agricultural aircraft operation involving only the dispensing of water on forest fires by rotorcraft external-load means, without compliance with, among other things, the Part 137 operator certificate requirements. ●

This amendment is based on a Notice of Proposed Rule Making (Notice No. 75-7) issued on February 21, 1975, and published in the FEDERAL REGISTER (40 F.R. 8831) on March 3, 1975.

Interested persons were afforded an opportunity to participate in the making of this amendment and due consideration was given to all matters presented. Four comments were received in response to the notice. One commentator concurred with the notice; and two commentators generally agreed with the notice but objected to the exclusion of the operational use of fire retardant substances other than plain water as proposed.

The FAA does not agree that the dispensing of fire retardant chemicals other than water should be included in the amendment. The FAA is of the opinion that the dispensing of fire retardant chemicals requires a knowledge of the handling and dispensing of chemicals similar to that required of the holder of a Part 137 certificate. It would not, therefore, be in the public interest to permit rotorcraft external-load fire suppression operations dispensing fire retardant chemicals to be conducted without compliance with the requirements of Part 137.

However, the FAA is of the opinion that the holder of a Part 133 certificate is qualified to safely conduct rotorcraft external-load fire suppression operations, involving only the dispensing of water, by virtue of having met the Part 133

V 41 162 AUG 19 76 UMI

operating certificate requirement. Therefore, Part 137 is amended to permit the holder of a Part 133 rotorcraft external-load operator certificate to conduct an agricultural aircraft operation, involving only the dispensing of water on forest fires by rotorcraft external-load means, without compliance with the operator certificate requirements, among others, of Part 137. Specifically, this amendment excepts a Part 133 certificate holder from the requirement to obtain a Part 137 certificate, from compliance with the operating rules of Part 137 contained in §§ 137.31 through 137.35, 137.39, 137.41, and 137.51 through 137.59 and from compliance with the recordkeeping and reporting requirements contained in Subpart D. Under this amendment, a Part 133 certificate holder has to conduct operations in accordance with all of the rules of Part 133 governing rotorcraft external-load operations, and in compliance with the operating rules of Part 137 contained in §§ 137.29, 137.37, and 137.43 through 137.49.

This amendment is made under the authority of sections 313(a), 601, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 (a), 1421, and 1427) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 137 of the Federal Aviation Regulations is amended, effective September 20, 1976, as follows:

1. By amending § 137.11 by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 137.11 Certificate required.

(a) Except as provided in paragraphs (c) and (d) of this section, no person may conduct agricultural aircraft operations without, or in violation of, an agricultural aircraft operator certificate issued under this part.

* * * * *

(d) The holder of a rotorcraft external-load operator certificate under Part 133 of this chapter conducting an agricultural aircraft operation, involving only the dispensing of water on forest fires by rotorcraft external-load means, need not comply with this subpart.

2. By amending § 137.29 by revising paragraph (a), by redesignating paragraph (b) as parargaph (d), and reserving paragraph (b), and by adding a new paragraph (e) to read as follows:

§ 137.29 General.

(a) Except as provided in paragraphs (d) and (e) of this section, this subpart prescribes rules that apply to persons and aircraft used in agricultural aircraft operations conducted under this part.

(b) [Reserved]

* * * * *

(d) Sections 137.31 through 137.35, 137.41, and 137.53 through 137.59 do not apply to persons and aircraft used in agricultural aircraft operations conducted with public aircraft.

(e) Sections 137.31 through 137.35, 137.39, 137.41, 137.51 through 137.59, and Subpart D do not apply to persons and rotorcraft used in agricultural aircraft operations conducted by a person holding a certificate under Part 133 of this chapter and involving only the dispensing of water on forest fires by rotorcraft external-load means. However, the operation shall be conducted in accordance with—

(i) The rules of Part 133 of this chapter governing rotorcraft external-load operations; and

(ii) The operating rules of this subpart contained in §§ 137.29, 137.37, and 137.43 through 137.49.

Issued in Washington, D.C., on August 10, 1976.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-23930 Filed 8-18-76;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 150—LIMITS ON POSITIONS AND TRADING

Wheat

The Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1 et seq., provides that for the purpose of diminishing, eliminating or preventing excessive speculation the Commodity Futures Trading Commission ("Commission") may fix limits for an individual's positions and daily trading in any contract market. Positions and trading classified as bona fide hedging are exempt from such limits.

On June 3, 1976, a notice was published in the FEDERAL REGISTER[1] that the Commission was considering amendments to Part 150 of the regulations under the Act which would raise the speculative position and trading limits in wheat from two million bushels to three million bushels. The Commission proposed to adopt a separate section in Part 150 governing wheat position and trading limits and to delete wheat from the definition of those grains covered by the two million bushel limitation in § 150.1 of the regulations.

STATEMENT OF CONSIDERATION

Approximately 675 reprints of the Commission's notice were sent to interested persons in the futures market industry. Interested persons were given until July 5, 1976, to submit data, views or recommendations concerning the proposed revisions. Five written comments were received in response to the notice and all were considered. Four of the commentors supported the change while one opposed it.[2] The principal points raised by those supporting the change were that (1) the current wheat limits set by the Commodity Exchange Commission, which formerly established such limits, are outdated and arbitrary because of growth in the wheat marketing system, (2) outdated speculative position and trading limits may impair liquidity of the futures markets, and (3) speculative position and trading limits may not be particularly effective regulatory devices.

The Commission also considered conclusions reached by its Advisory Committee on the Economic Role of Contract Markets which was considering the role of speculation and hedging in futures markets. The Advisory Committee recommended that, in the long run, speculative limits should be de-emphasized and replaced by more flexible and effective regulatory measures. In the short run, the Committee recommended raising speculative position limits and relaxing the current restrictions on intra-day speculative trading. Concerning the current trading limits, the Committee's report notes that "the present flat numerical limit on the number of contracts a speculator may trade during the day actually cuts back participation of speculators at the very time when they are needed—on active trading days—reducing liquidity during the later hours of daily trading. These daily trading limits are probably more binding on market performance than the speculative position limits."

In view of the above, the Commission has determined to adopt its proposal to fix all trading and position limits for wheat at the level of three million bushels. The exchanges which are currently designated as contract markets in wheat are the Chicago Board of Trade, the Board of Trade of Kansas City, Missouri, the MidAmerica Commodity Exchange, and the Minneapolis Grain Exchange.

Therefore, pursuant to its authority under sections 4a(1) and 8a(5) of the Act, 7 U.S.C. 6a(1) and 12a(5), the Commission amends Part 150 in Chapter 1 of Title 17 of the Code of Federal Regulations by adopting a new § 150.12 of the regulations and by amending § 150.1(e) of the regulations as follows:

1. Section 150.1(e) is amended to read as follows:

§ 150.1 Limits on position and daily trading in grain for future delivery.

* * * * *

(e) *Definitions.* As used in this part the word "grain" includes oats, barley, and flaxseed, and the word "person" imports the plural or singular and includes individuals, associations, partnerships, corporations and trusts.

2. Section 150.12 is adopted to read as follows:

§ 150.12 Limits on position and daily trading in wheat for future delivery.

The following limits on the amount of trading under contracts of sale of wheat for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after August 20, 1976.

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in wheat on or subject to the rules of any one contract market is three million bushels in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount which any person may buy, and on the maximum amount which any person may sell, of wheat, on or subject to the rules of any one contract market during any one business day is 3 million bushels in any one future or in all futures combined.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions or positions, as provided in regulations issued pursuant to section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)) and section 404 of Pub. L. 93-463.

(d) *Manipulations; corners; responsibility of contract market.* Nothing contained in this section shall be construed to affect any provisions of the Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5(d) of the Act (7 U.S.C. 7(d)) to prevent manipulation and corners.

(e) *Definition.* As used in this part, the word "person" imports the plural or singular and includes individuals, associations, partnerships, corporations, and trusts.

(f) *Application of limits.* The foregoing limits upon positions and upon daily trading shall be construed to apply, respectively, to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single individual.

Section 4a of the Act requires that the effective date for Commission action setting trading and position limits shall be within a reasonable time, not to exceed ten days. The Commission therefore finds that compliance with the public procedures specified in 5 U.S.C. 553(d) would be contrary to the mandate of the Act and contrary to public interest. Accordingly, the Commission has adopted the foregoing rule, which applies to positions and trading for future delivery in wheat on or after August 20, 1976, pursuant to the authority contained in sections 4a and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 6a and 12a(5).

Issued in Washington, D.C., on August 13, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-24264 Filed 8-18-76;8:45 am]

[1] See 41 FR 22547 (June 3, 1976).

[2] The one commentor opposing the change felt that the change was not ". . . in the public interest, but in the interest of a few trade boards." This commentor did not provide reasons or an explanation supporting his opposition.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-233]

PART 1—GENERAL PROVISIONS

Ports of Entry

On June 25, 1976, there was published in the FEDERAL REGISTER (41 FR 26225) a notice of a proposal to establish a Customs port of entry at Battle Creek, Michigan, in the Detroit, Michigan, Customs district (Region IX). No comments were received in response to this proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 11 (41 FR 20198), Battle Creek, Michigan, is hereby designated as a Customs port of entry in the Detroit, Michigan, Customs district (Region IX).

The geographical limits of the Battle Creek, Michigan, port of entry shall include the Metropolitan Area of the City of Battle Creek, Michigan, comprising the Townships of Bedford, Battle Creek, Pennfield, and Emmett, and the Cities of Battle Creek and Springfield, all in Calhoun County, Michigan.

§ 1.2 [Amended]

To reflect this change, the table in section 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by inserting "Battle Creek, Michigan (T.D. 76-233)" directly below "Detroit" in the column headed "Ports of entry" in the Detroit, Michigan, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2).)

Effective date: This amendment shall become effective September 20, 1976.

Dated: August 13, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-24333 Filed 8-18-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0058]

PART 460—ANTIBIOTIC DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

Susceptibility Discs

The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to specify the requirements for submitting samples of antibiotic susceptibility discs for certification; effective August 19, 1976.

Regulations published in the FEDERAL REGISTER of September 30, 1972 (37 FR 20525) amended the antibiotic drug regulations in 21 CFR Part 147 (now 21 CFR Part 460 pursuant to recodification published in the FEDERAL REGISTER of May 30, 1974 (39 FR 18992)) by providing for revised labeling and standardized testing procedures for antibiotic susceptibility discs and by deleting and adding provisions for certain antibiotic discs. The amendments revised § 147.2 (now § 460.1), but paragraph (d), which concerned samples for certification and which was not intended to be affected by the amendments, was inadvertently omitted when the text of the section was published in the FEDERAL REGISTER. It has therefore not appeared in issues of the Code of Federal Regulations published since 1972.

Because objections and requests for hearing that were filed in response to the September 30, 1972 amendments have not yet been ruled on, the regulations as amended have not been considered a requirement by FDA. Although a number of firms have adopted the provisions of the amendments, other firms are abiding by the regulations in effect before the amendments. Notwithstanding the procedures followed, it is necessary that manufacturers know what samples and test results are to be submitted with a request for certification. Therefore, the Commissioner of Food and Drugs concludes that paragraph (d) should be restored to § 460.1; also, the section heading, as issued below, reflects minor editorial corrections.

The Commissioner further concludes that good cause exists for publishing this amendment without a period for public comment pursuant to 5 U.S.C. 553 (b) and (d) and for making the amendment effective immediately because it merely corrects an error of omission in text and does not change existing practice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 460 is amended in § 460.1 by revising the section heading and adding paragraph (d) to read as follows:

§ 460.1 Certification procedures for antibiotic susceptibility discs.

* * * * *

(d) *Requests for certification; samples.* (1) In addition to complying with the requirements of § 431.1 of this chapter, a person who requests certification of a batch of antibiotic susceptibility discs shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, and, unless it was previously submitted, the date on which the latest assay of the antibiotic used in making such

V 41 162 AUG 19 76 UMI

batch was completed, the potency of each disc, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(2) Such person shall submit in connection with his request results of the tests and assays made by him on an accurately representative sample of the batch for potency.

(3) Such person shall submit in connection with his request an accurately representative sample of the batch consisting of one disc for each 5,000 discs in the batch, but in no case less than 36 discs collected by taking single discs at intervals throughout the entire time of packaging the batch so that the quantities packaged during the intervals are approximately equal.

Effective date: This amendment is effective August 19, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: August 12, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24278 Filed 8-18-76;8:45 am]

[Docket No. 76N-0277]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Labeling Requirements Regarding Testing for Syphilis and Hepatitis B Surface Antigen

The Food and Drug Administration (FDA) is amending certain labeling requirements for statements on testing for syphilis and hepatitis, effective August 19, 1976.

Specifically, FDA is amending the labeling requirements for human blood and blood products by permitting the use of the label statements "Nonreactive for syphilis by STS" and "Nonreactive for HB_sAg by FDA required test", as alternatives to label statements specifying the particular test method for syphilis and hepatitis B surface antigen (HB_sAg).

The biologics regulations in §§ 640.7 (b), 640.18(a) (by reference to § 640.7 (b)), 640.26(g) and (h), 640.51(c)(7), and 640.70(a)(8), 21 CFR 640.7(b) 640.18 (a), 640.26(g) and (h), 640.51(c)(7), and 640.70(a)(8)) require that blood labeling identify the method used for the serological test for syphilis (STS and/or the test for hepatitis B surface antigen (HB_sAg), and the results.

The Commissioner of Food and Drugs received a request from the American Blood Commission's Committee for Commonality in Blood Banking Automation to permit the labeling of the container of blood and blood products with general statements, i.e., "Nonreactive for syphilis by STS" and "Nonreactive for HB_sAg by FDA required test" in place of method-specific labeling. The Commissioner has also received a similar request from the American National Red Cross. Both organizations stated that the general statements would permit use of a standard label. This would result in greater safety by eliminating a source of labeling mix-ups. A standard label will also eliminate the need for multiple labels for different test methods and thus promote economy and efficiency. The American Blood Commission noted that their proposed standard label can be read by machine and will permit automation to be used in label applications.

The Commissioner has considered these requests and advises that § 610.40 *Test for hepatitis B surface antigen* (21 CFR 610.40) requires that each donation of blood, plasma, or serum for use in a biological product shall be tested for HB_sAg by a method of sufficient sensitivity to detect all the specified sera in the Reference Hepatitis B Surface Antigen Panel, which is distributed by the Bureau of Biologics. Label identification of the specific hepatitis test method used is unnecessary since the sensitivity of the test methods that will detect the specified sera in the Reference Hepatitis B Surface Antigen Panel are comparable and must meet FDA requirements. Similarly, the sensitivity of serologic test methods used in blood banks for screening purposes for syphilis are also comparable. Therefore, the Commissioner concludes that permitting the use of these general statements regarding hepatitis and syphilis will adequately describe the testing of the product and will not meaningfully reduce the information provided to the users of blood and blood products.

Therefore, under the Public Health Service Act (secs. 351 and 361, 58 Stat. 702 and 703 as amended (42 U.S.C. 262 and 264)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 640 of Subchapter F of Title 21 of the Code of Federal Regulations is amended by permitting the use of the above-described label statements, as follows:

1. In § 640.7, by revising paragraph (b) to read as follows:

§ 640.7 Labeling.

* * * * *

(b) *Serological test and test for hepatitis B surface antigen.* Indication of the method used for serological test for syphilis and the test for hepatitis B surface antigen, and the results or the statements "Nonreactive for syphilis by STS" and "Nonreactive for HB_sAg by FDA required test", respectively.

* * * * *

2. In § 640.26 by revising paragraph (g) and (h) to read as follows:

§ 640.26 Labeling.

* * * * *

(g) Type of serologic test for syphilis used and the results, or the statement "Nonreactive for syphilis by STS".

(h) Type of test for hepatitis B surface antigen used and the results, or the statement "Nonreactive for HB_sAg by FDA required test".

* * * * *

3. In § 640.51, by revising paragraph (c)(7) to read as follows:

§ 640.51 General requirements.

* * * * *

(c) * * *

(7) Indication of test method for hepatitis B surface antigen used and the results, or the statement "Nonreactive for HB_sAg by FDA required test".

4. In § 640.70, by revising paragraph (a)(8) to read as follows:

§ 640.70 Labeling.

* * * * *

(a) * * *

(8) The test for hepatitis B surface antigen used and the results, or the statement "Nonreactive for HB_sAg by FDA required test".

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for these amendments because they do not impose an additional duty or burden on any person, but rather they relieve unnecessary restrictions and permit alternative labeling.

Effective date: This regulation shall become effective August 19, 1976.

(Secs. 351 and 361, 58 Stat. 702 and 703 as amended (42 U.S.C. 262 and 264).)

Dated: August 12, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24279 Filed 8-18-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-910]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Charter Township of Meridian, Mich.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Charter Township of Meridian, Michigan under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Charter Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 5100 Marsh Road, Meridian, Michigan 48864.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Red Cedar River	Grand River Ave	852.7	40	[1] 100
	Van Atta Rd	850.8	800	410
	Dobie Rd	848.1	600	40
	Okemos Rd	844.0	750	30
	Nakoma Rd	842.8	700	1300
	G. T. W. RR	841.7	180	240
	Hagadorn Rd	839.7	[1] 100	720
Herron Creek	Bennett Rd	848.0	500	200
	C. & O. RR	842.6	160	200
	Mount Hope Rd	842.5	190	210
	Sequois Trail	842.5	350	300
Smith Drain	Bennett Rd	863.7	50	50
	Okemos Rd	860.0	200	200
	C. & O. RR. (north side)	850.9	100	120
Pine Lake Outlet	Marsh Rd	853.1	40	40
	Lake Lansing Rd	848.5	40	60
	Haslett Rd	848.5	20	100
	G. T. W. RR	845.5	180	1880
	Okemos Rd	842.5	500	280
	Grand River Ave	842.5	60	80
Mud Lake/Foster	Van Atta Rd	863.4	40	90
	Cornell Rd	853.5	190	580
	Tihart Rd. (east)	846.8	860	600
	Tihard Rd. (west)	846.0	270	600
	Marsh Rd	844.0	80	180

[1] Approximate distance in feet from bank of stream to township limits.

AUTHORITY: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23963 Filed 8-18-76;8:45 am]

[Docket No. FI-899]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Cook, Minn.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Cook, Minnesota under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Cook, Minnesota 55723.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

V 41 162 AUG 19 76 UMI

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Little Fork River	Range St	1,308	250	60
	River St	1,308	200	60
	Duluth, Winnipeg, and Pacific RR	1,308	40	20
	Minnesota Highway 1	1,309	330	130

Authority: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968; effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23962 Filed 8-18-76;8:45 am]

[Docket No. FI-913]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Cedar City, Mo.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Cedar City, Missouri under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Cedar City, Missouri 65022.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Missouri River	City east of Highway 54–63	555	(1)	(1)
	City west of Highway 54–63	556	(1)	(1)

[1] Entire city inundated.

Authority: National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23961 Filed 8-18-76;8:45 am]

[Docket No. FI-901]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Garwood, N.J.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Borough of Garwood, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Borough Hall, Center Street, Garwood, New Jersey 07027.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Garwood Brook	Maple St	92	50	550
	West St	87	270	550
	Center St	85	530	170
	East	80	810	270
	Oak	78	440	470
	Willow	78	280	(1)
	South	77	(1)	770
Unnamed stream (10-28)	Oak	83	310	(1)

[1] Extends to corporate limits.

AUTHORITY: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.

Issued: July 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23960 Filed 8-18-76;8:45 am]

[Docket No. FI-902]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Washington, N.C.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Washington, North Carolina under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Washington, North Carolina 27889.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

V 41 162 AUG 19 76 UMI

Source of flooding	Location	Elevation in feet above mean sea level
Pamlico River	Hackney Ave.:	
	From shoreline to 50 ft west of West 2d St.	10
	From 80 ft east of West 3d St. to 80 ft west of Taylor St.	10
	From Harrington St. to 200 ft west of Carolina Ave.	10
	Wilson St.:	
	From 120 ft east of West 3d St. to 140 ft east of West 4th St.	10
	Pierce St.:	
	From shore to 80 ft west of West Main St.	10
	From 160 ft east of West 2d St. to West 7th St.	10
	From 180 ft west of West 12th St. to 330 ft east of West 13th St.	10
	Respess St.:	
	From shore to 110 ft east of West 7th St.	10
	From 310 ft west of West 9th St. to 510 ft east of West 9th St.	10
	From 210 ft west of West 13th St. to West 15th St.	10
	Boner St.:	
	From shore to East Main St.	10
	From 130 ft east of East 2d St. to 150 ft west of East 5th St.	10
	From 130 ft east of East 5th St. to 90 ft east of East 7th St.	10
	From 120 ft east of East 7th St. to 200 ft east of East 14th St.	10
	Hudnell St.:	
	From shore to 120 ft west of East 6th St.	10
	From 60 ft east of East 7th St. to 130 ft east of Pennsylvania Ave.	10

Authority: National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, as amended by 39 F.R. 2787, Jan. 24, 1974.

Issued: July 26, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23958 Filed 8-18-76;8:45 am]

[Docket No. FI-901]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Canton, N.C.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Canton, North Carolina under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, Canton, North Carolina 28716.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank o stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Pigeon River	West Park St.	2,589	800	60
	Main St.	2,590	110	190
	Pigeon St.	2,593	410	210

Authority: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.

Issued: July 26, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23959 Filed 8-18-76;8:45 am]

[Docket No. FI-869]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Village of Mayfield, Cuyahoga County, Ohio; Correction

The notice published on February 13, 1976, at 41 FR 6747, for the Village of Mayfield, Cuyahoga County, Ohio, showing a width of the 100-year flood boundary on Tributary 1 as 90 feet on the left and 45 feet on the right of the stream at an elevation of 907 feet (msl) at the location of 1.78 miles south of S.O.M. Center Road, should be corrected to read 0.15 miles south of S.O.M. Center Road.

The location of Ridgeburt Road on Tributary 5D should be corrected to read Ridgebury Road.

AUTHORITY: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.

Issued: August 4, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23965 Filed 8-18-76;8:45 am]

[Docket No. FI-872]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Borough of Shickshinny, Luzerne County, Pa.; Correction

The notice published on February 13, 1976, at 41 FR 6745, for the Borough of Shickshinny, Luzerne County, Pennsylvania listing the availability of the information for review at the lobby of the Borough Hall, 39 North Second Street, St. Clair, should be corrected to be available for review at the Municipal Building, West Union Street, Shickshinny.

Authority: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23964 Filed 8-18-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 1-76-8R]

PART 127—SECURITY ZONES

Crowninshield Point, Seal Harbor, Maine

This amendment to the Coast Guard's Security Zone Regulations, establishes the waters adjacent to Vice President Nelson Rockefeller's summer home on Crowninshield Point, Seal Harbor, Maine as a security zone. This security zone is established to maintain waterside security of the area contiguous to the estate of the Vice President of the United States.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because good cause exists and public procedures on this amendment are impracticable because of minimal prior notification of the Vice President's itinerary.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.109, to read as follows:

§ 127.109 Seal Harbor, Maine.

The waters within the following boundary is a security zone: a line beginning at 44°17'18" N. latitude, 68°14'58.5" W. longitude; thence to 44°17'07" N. latitude, 68°14'45" W. longitude, (CG Mooring Buoy); thence to 44°17'16.8" N. latitude, 68°14'22.5" W. longitude, (Crowninshield Point Buoy Number One); thence to 44°17'22.5" N. latitude, 68°14'31" W. longitude, (Right tangent of Island off Crowninshield Point); thence to 44°17'23.5" N. latitude, 68°14'42" W. longitude, (A point on the mainland); thence to the beginning point.

(40 Stat. 220, as amended, Sec. 6(b), 80 Stat. 937; 50 U.S.C. 191, 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR 1949–1953 Comp. 356, 778, 873, 3 CFR 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date: This amendment is effective from 0800 e.d.s.t. on Monday, 2 August 1976 to 2400 e.d.s.t. on Monday, 6 September 1976.

Dated: July 29, 1976.

J. B. EKMAN,
Commander, United States Coast Guard, Captain of the Port, Portland, Maine.

[FR Doc.76-24323 Filed 8-18-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AIDPR Notice 77-2]

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts With Educational Institutions; Correction

This Notice reinstates a clause that was erroneously deleted by AIDPR Notice 76-1 (41 CFR 4918) and deletes the correct clause.

§ 7-7.5502-13 [Reserved]

1. Section 7-7.5502-13 is revoked and reserved.

2. New Section 7-7.5502-16 is added as follows:

§ 7-7.5502-16 Title to and care of property.

In lieu of the clause required by AIDPR 7-7.5501-18, insert the clause set forth in AIDPR 7-13.706.

This AIDPR Notice No. 77-2 is an interim procurement instruction and is issued pursuant to 41 CFR 7-1.104-4.

Effective date: This notice is effective on July 1, 1976.

Dated: August 11, 1976.

JOHN F. OWENS,
Deputy Assistant Administrator for Program and Management Services.

[FR Doc.76-24295 Filed 8-18-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5600; WY-49110]

WYOMING

Withdrawal of National Forest Land From Mineral Entry

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

BIGHORN NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

T. 51 N., R. 84 W.,
Sec. 12, NE¼, E½NW¼, NE¼SE¼.
T. 52 N., R. 84 W.,
Sec. 23, S½NE¼, E½SW¼, SE¼;
Sec. 26, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼.
T. 53 N., R. 84 W.,
Sec. 14;
Sec. 15, NE¼NE¼;
Sec. 23, E½;
Sec. 26, NE¼.

The areas described aggregate 2,080 acres in Johnson and Sheridan Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
Assistant Secretary of the Interior.

AUGUST 11, 1976.

[FR Doc.76-24289 Filed 8-18-76;8:45 am]

[Public Land Order 5601; WY-15395]

WYOMING

Withdrawal for National Forest Historical Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

BRIDGER NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Lander Cut-Off of the Oregon Trail Historical Area

A strip of land 100 feet on each side of the centerline of the Lander Cut-Off of the Oregon Trail through the following subdivisions:

T 29 N., R 115 W.,
Sec. 19, lots 3 and 4, E½SW¼, and part of the W½SE¼ lying outside the Middle Fork South Piney Roadside Zone withdrawal, PLO 2684.
T. 29 N., R. 116 W.,
Sec. 6, lot 4;
Sec. 7, lot 2, W½NE¼, SE¼NE¼, N½SE¼;
Sec. 8, W½SW¼, and part of the SE¼SW¼ lying outside the Greys River-LaBarge Creek Roadside Zone withdrawal, PLO 3020;
Sec. 16, part of W½NW¼, N½SW¼, lying outside the Greys River-LaBarge Creek Roadside Zone withdrawal, PLO 3020;
Sec. 17, part of E½NE¼, lying outside the Greys River-LaBarge Creek Roadside Zone withdrawal, PLO 3020;
Sec. 24, SE¼SW¼, SE¼;
Sec. 25, W½NE¼, E½NW¼, and part of the NE¼SW¼ and the NW¼SE¼ lying outside the Greys River-LaBarge Creek Roadside Zone withdrawal, PLO 3020.
T. 29 N., R. 117 W. (unsurveyed),
Sec. 1, NE¼SW¼, S½S½;
Sec. 10, SE¼SE¼;
Sec. 11, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼, E½SE¼;
Sec. 12, W½;
Sec. 13, NW¼NW¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½NE¼, NE¼NW¼, S½NW¼;
Sec. 16, SE¼NE¼, SW¼, N½SE¼;
Sec. 17, S½S½;
Sec. 18, SE¼SE¼;
Sec. 19, NE¼, NE¼SW¼, S½SW¼, W½SE¼.
T. 29 N., R. 118 W. (unsurveyed),
Sec. 4, W½E½, E½NW¼, NE¼SW¼;
Sec. 9, W½E½, SE¼NW¼, NE¼SW¼;
Sec. 14, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 15, NW¼, N½SW¼, SE¼SW¼, S½SE¼, NE¼SE¼;
Sec. 16, NE¼;
Sec. 23, NE¼, N½SE¼, SE¼SE¼;
Sec. 24, that part of the S½SW¼ lying outside the Smiths Fork Administrative Site withdrawal, PLO 2765.

The areas described aggregate approximately 442 acres in Lincoln and Sublette Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
Assistant Secretary of the Interior.

AUGUST 11, 1976.

[FR Doc.76-24290 Filed 8-18-76;8:45 am]

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Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20779]

PART 73—RADIO BROADCAST SERVICES

Broadcasts by Legally Qualified Candidates for Public Office; Correction

In the Report and Order in the above-entitled proceeding, FCC 76-698, 41 FR 32219, published August 2, 1976, paragraph 6 should be added to read as follows:

6. *It is further ordered,* That this proceeding is terminated.

Released: August 13, 1976.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24329 Filed 8-18-76;8:45 am]

[Docket No. 20189; RM-1735]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Remote Pickup Broadcast Stations; Correction

In the Report and Order in the above-entitled proceeding, FCC 76-624, Mimeo No. 41243, released July 12, 1976, 41 FR 29681, July 19, 1976, lines 3 and 5 in the table of authorized bandwidth and emissions as shown in paragraph (b) of the amended § 74.462 should read as follows:

152.87 to 153.35 [4]	30/60	5/10	A3, F3, F9.
161.64 to 161.76	30	5	A1, A2, A3, F1, F2, F3 F9.

Line 4 of paragraph (c)3 of § 74.462, should read as follows: least 43 plus 10 $\log_{10}$ (Mean output power,

Released: August 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24331 Filed 8-18-76;8:45 am]

[Docket No. 20553]

PART 76—CABLE TELEVISION SERVICES

Specialty Stations and Specialty Format Programming, Carriage; Correction

In the Memorandum Opinion and Order in the above-entitled matter, FCC 76-623, adopted June 29, 1976, released July 21, 1976, and published in the FEDERAL REGISTER at 41 FR 30334, July 23, 1976, television broadcast stations KMUV-TV (Channel 31), licensed to Sacramento, California, and KVOF-TV (Channel 38), licensed to San Francisco, California, are added to the list of specialty stations in Appendix B.

Released: August 13, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24330 Filed 8-18-76;8:45 am]

[Docket No. 20120; RM-1508, et al]

PART 91—INDUSTRIAL RADIO SERVICES

Revision of Operating Rules for Class D Stations in the Citizens Radio Service; ERRATA

Docket 20120; RM-1508, 1592, 1733, 1751, 1905, 1991, 2053, 2084, 2132, 2300, 2317, 2318, 1841. Released: August 12, 1976.

The Appendix to the Commission's Second Report and Order, FCC 76-707 (41 FR 32678), released on July 29, 1976, is corrected as follows:

9. In § 91.554, the frequency table in paragraph (a) is amended to delete limitation 5 from Frequencies 27.43-27.53.

§ 91.554 Frequencies available.

(a) • • •

Frequency or band	Class of station(s)	General reference	Limitations
•	•	•	•
Megahertz			
27.235	Base, mobile, or fixed	ISM general use	2, 5, 8
27.245	do	do	2, 5, 8
27.255	do	do	2, 5, 8
27.265	do	do	2, 5, 8
27.275	do	do	2, 5, 8
27.39	Base or mobile	General use	5
27.41	do	do	5
27.43	do	Permanent use	10, 11
27.45	do	do	10, 11
27.47	do	do	10, 11
27.49	do	Itinerant use	10, 12
27.51	Mobile	Low power general use	13
27.53	do	do	13
•	•	•	•

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24179 Filed 8-18-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-11, Notice 15; Docket No. 73-19; Notice 12]

PART 581—BUMPER STANDARD

Delayed Response to Petitions for Reconsideration

This notice delays by approximately one month the date by which the National Highway Traffic Safety Administration will respond to petitions for reconsideration of the Part 581 Bumper Standard (49 CFR Part 581) published March 4, 1976 (41 FR 9346).

It is the policy of the National Highway Traffic Safety Administration to respond to petitions for reconsideration within 120 days of the publication of a final rule, unless it is found to be impracticable to take action within that time (49 CFR Part 553, Appendix). Since the Part 581 Bumper Standard was published on March 4, 1976, response to petitions should, under agency policy, have been issued by July 2, 1976. The agency, however, found it impracticable to respond to the petitions by that date.

On July 6, 1976, the NHTSA published a notice stating that response to petitions for reconsideration of Part 581 would be delayed until August 1, 1976 (41 FR 27728). The agency now finds that a response to petitions by early August is impracticable and delays until September 15, 1976, the date by which it expects to take appropriate action on petitions for reconsideration of Part 581.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912) delegation of authority at 49 CFR 1.51 and 501.8.)

Issued: August 16, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76-24353 Filed 8-17-76;9:09 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Fourth Revised S.O. No. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of August 1976.

It appearing, that there is an acute shortage of freight cars for transporting shipments of fertilizer,[1] fish meal, grain, grain products, and soybeans; that certain tariff provisions require the use of cars of specified cubic or weight carrying capacities; that the carriers are unable to furnish sufficient such cars to transport shipments of such weights; that cars of lesser capacity are available; that such cars cannot be used because of certain tariff provisions; that there is immediate need to use every available car for transportation of fertilizer and grain; that the inability of the carriers to furnish sufficient fertilizer and grain cars results in great economic loss; and that present regulations and practices with respect to the use, supply, control, movement, and distribution of fertilizer and grain cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1234 Distribution of freight cars.

(a) Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of fertilizer,[1] fish meal, grain, grain products or soybeans regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See paragraphs (b) of (c) of this section.)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of ( ) cu. ft. and of ( ) lbs. or greater capacity ordered. Smaller cars furnished authority Fourth Revised ICC Service Order No. 1234.

(f) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 12:01 a.m., August 16, 1976.

(k) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24344 Filed 8-18-76;8:45 am]

[1] Fish meal added to commodity list.

Title 50—Wildlife

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Puxico, Missouri

The following special regulations is issued and is effective on August 19, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Mingo National Wildlife Refuge, Puxico, Missouri, is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,000 acres, is delineated on maps available at refuge headquarters located in Puxico, Missouri, and from the Office of the Area Manager, Fish and Wildlife Service, 601 East 12th Street, Kansas City, Mo. 64106. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions during the period of October 1, through December 31, 1976.

(1) Hunting with bows and arrows only is permitted.

(2) Minimum bow strength shall be 35 pounds.

(3) Hunters must register when entering and leaving the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

GERALD L. CLAWSON,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Missouri.

AUGUST 5, 1976.

[FR Doc.76-24270 Filed 8-18-76;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on September 4, 1976.

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

ALABAMA

EUFAULA NATIONAL WILDLIFE REFUGE

Public hunting of mourning doves on the Eufaula National Wildlife Refuge, Alabama, is permitted only on those areas designated by signs as open to hunting. These open areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of mourning doves, subject to the following conditions:

(1) Hunting shall be permitted from 12 noon until sunset (central time) on the following dates:

(a) Houston Tract Unit—October 2, 9, and 16, 1976.

(b) Molner Tract Unit—October 23 and 30, 1976.

(2) Each hunter must have on his person a validated refuge hunting permit.

(3) No hunters will be permitted within hunting areas before 11:45 a.m. each day.

(4) All firearms must be encased and/or unloaded when outside the designated hunting area.

(5) Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.

(6) Retrievers used by hunters shall be under the control of the owner at all times.

(7) All hunters must check in and out of the refuge at the designated checking station.

(8) Wounded or dead doves falling outside the hunting area may be recovered, but firearms must be left inside hunting area.

(9) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(10) Vehicle parking will be limited to areas designated by refuge personnel.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 30, 1976.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of mourning doves on the Holla Bend National Wildlife Refuge, Arkansas, is permitted only on the area delineated by public hunting signs. This open area, comprising approximately 500 acres, is delineated on a map available at refuge headquarters, Russellville, Arkansas 72801, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves, subject to the following special conditions:

(1) Hunting dates: September 4 and 11, 1976.

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(2) A special refuge permit is required.
(3) No alcoholic beverages will be allowed in the hunting area.
(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.
(5) All firearms must be cased and/or unloaded when outside designated hunting areas.
(6) Dogs used as retrievers must comply with State dog licensing requirements.
(7) Hunting shall be from 12 noon until sunset each day of the hunt.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 11, 1976.

WAPANOCCA NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1976–77 season.

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1976–77 season.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rails on the Cape Romain National Wildlife Refuge, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 12,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of rails, and shall be subject to the following special conditions:

(1) Open season: September 18 through October 30, 1976, except Sundays.
(2) Guns must be unloaded and encased or otherwise rendered incapable of firing except when in the designated hunting area.
(3) The use of dogs is permitted.
(4) A special permit is required.
(5) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 30, 1976.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1976–77 season as part of the on-going Carolina Sandhills Mourning Dove Research Project.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1976–77 season.

KENNETH E. BLACK,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 12, 1976.

[FR Doc.76-24271 Filed 8-18-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16027; Amdt. Nos. 37-40 and 121-129]

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Ground Proximity Warning-Glide Slope Deviation Alerting System

● The purpose of this amendment to Parts 37 and 121 of the Federal Aviation Regulations (FARs) is to revise § 37.201 to provide a new Technical Standard Order (TSO), applicable to ground proximity warning-glide slope deviation alerting equipment, TSO–C92b, and to revise § 121.360 to permit the use of equipment that meets either the current standards of TSO–C92a or the new standards of TSO–C92b in airplanes required to have such equipment under the operating rules. ●

Section 37.201 of the FARs contains performance, environmental, marking, and data requirements that must be met in order to obtain a TSO-authorization for the manufacture of ground proximity warning-glide slope deviation alerting equipment under TSO–C92a. The performance standards of TSO–C92a are based on the Radio Technical Commission for Aeronautics (RTCA) Document No. DO–161, titled "Minimum Performance Standards, Airborne Ground Proximity Warning System" dated February 7, 1975, including Change Number 2, dated June 13, 1975, which are incorporated by reference in the TSO. Also included in the performance standard are certain exceptions to Document No. DO–161 as well as a number of additional requirements. As is pertinent here, § 121.360(f) prohibits the operation of certain large turbine-powered airplanes unless they are equipped with ground proximity warning-glide slope deviation alerting systems that meet the performance and environmental standards contained in TSO–C92a or incorporate TSO-approved equipment.

After the adoption of TSO–C92a and § 121.360(f) (Amdt. 37–38 and 121–122; 40 FR 42183, September 11, 1975), the FAA began to receive reports of numerous false and nuisance warnings being made by the required ground proximity warning-glide slope deviation alerting systems. These false and nuisance warnings, if allowed to continue, would have resulted in an erosion in pilot confidence in the system and the loss of system effectiveness. Based on further information received from certain air carriers and the Air Transport Association on this subject, the FAA concluded that a major reason for the number of undesired warnings related to the across-the-board application of certain of the standards contained in RTCA Document No. DO–161. Subsequently, the FAA requested that the RTCA Committee responsible for the development of Document No. DO–161, Special Committee 128, reconvene to reevaluate and refine the document.

Recently, the RTCA adopted a revised RTCA minimum performance standard (MPS) in Document No. DO–161A, dated May 27, 1976, for ground proximity warning-glide slope deviation alerting equipment. This MPS, in part, includes new optional warning envelopes (Envelope 3) for Modes 1 and 4 (Excessive Rates of Descent and Flight Into Terrain When Not in Landing Configuration) directed at reducing the number of undesired warnings. In addition, the revised MPS provides for the discontinuation of a warning enunciation cycle following the termination of an envelope penetration. Based on a review of the information currently available, the FAA believes that these changes will result in a greater degree of pilot confidence and more effective pilot utilization of the ground proximity warning-glide slope deviation alerting system. Therefore, § 37.201 is being amended to incorporate RTCA Document No. DO–161A. In this connection, it should be noted that equipment approved under TSO–C92a can be modified and approved under the new standard, TSO–C92b, without additional flight tests if the filtering and time delays in the equipment remain unchanged. In addition, § 121.360(f) is being amended to permit an operator to use equipment meeting either the current standard, TSO–C92a, or the new standard, TSO–C92b, to comply with the Part 121 requirements.

Current § 37.201(a)(2) contains a number of exceptions to RTCA Document No. DO–161. The exception in § 37.201(a)(2)(v) is not necessary under the new standard (TSO-C92b) since the exception has been incorporated into RTCA Document No. DO–161A.

Furthermore, based on data and information available to the FAA, the exceptions contained in current § 37.201(a)(2)(i) through (iv), that prohibit the use of two warning envelopes contained in RTCA Document No. DO–161, are not necessary if the equipment that incorporates these warning envelopes is used only on turbopropeller powered airplanes. Therefore, the exceptions contained in current § 37.201(a)(2) are being deleted and are not contained in TSO–C92b. However, a new § 121.360(i) is being added to limit the use of the pertinent warning envelopes (Envelope 2 of Modes 1 and 4 of RTCA Document No. DO–161A) to turbopropeller powered airplanes.

It should also be noted that § 37.201, as amended, (TSO–C92b) does not contain the current mean time between failure (MTBF) standard specified in § 37.201(c)(1) but does contain a new Mode 4 flap warning inhibition control provision. While the FAA continues to believe that a reliability requirement is desirable, the current MTBF standard has been difficult to administer. The FAA will continue to work for the development of an acceptable standard.

With respect to Mode 4 warnings based on flap position, numerous airplanes have more than one flap setting approved for landing. Only one of these settings need be set for Mode 4 of the system. However, when landings take place using other approved flap settings, undesired warnings will occur. In order to permit the pilot to eliminate these undesired warnings without deactivating the entire system, § 37.201(c), as amended, (TSO–C92b) allows a Mode 4 flap warning inhibition control and a provision is being added to § 121.360 to require the incorporation of procedures in the Airplane Flight Manual for the inhibition of Mode 4 flap warnings for those airplanes having a Mode 4 flap warning inhibition control.

As an interim measure, after the FAA began receiving reports of undesired warnings, §§ 121.303(d) and 121.360(d) were amended (Amdt. 121–126; 40 FR 55313, November 28, 1975) to permit, until September 1, 1976, pilots to deactivate ground proximity warning systems when those systems emit false or nuisance warnings. After September 1, 1976, the deactivation of these systems will be limited to abnormal and emergency conditions as specified in the Airplane Flight Manual. The FAA believes that false warnings are no longer a problem and that an extension of the September 1, 1976, date would further delay the benefits to be derived from the system and would not be in the interest of safety. Equipment can continue to be approved and manufactured under TSO–C92a and used by those operators who have found that equipment compatible with their aircraft and operating environment. In addition, this amendment provides a necessary alternate means of compliance for other operators by establishing a second set of standards for TSO approval of equipment. In view of the imminence of the September 1, 1976, date and the need for this equipment to be activated and used in operations without further delay, and since this amendment imposes no additional burden on any person, I find that notice and public procedure hereon are impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than 30 days.

This amendment is made under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 37 and 121 of the Federal Aviation Regulations are amended as follows, effective August 19, 1976:

1. By revising the title of § 37.201 and by revising §§ 37.201 (a), (c), (g), and (h) to read as follows:

§ 37.201 Ground proximity warning-glide slope deviation alerting equipment TSO–C92b.

(a) *Applicability—Minimum performance standards.* This Technical Standard Order prescribes the minimum performance standards that ground proximity warning-glide slope deviation alerting equipment must meet in order to be identified with the applicable TSO marking. Equipment to be so identified must meet the minimum performance standards prescribed in Radio Technical Commission for Aeronautics (RTCA) Document No. DO–161A, titled "Minimum Performance Standards, Airborne Ground Proximity Warning System" (DO–161A), revised May 27, 1976, with the exception specified in paragraph (c)(4) of this section, and the additional standards contained in paragraphs (c)(1) through (c)(3) of this section.

• • • • • •

(c) *Additional standards and exception.* (1) *Fire protection.* Except for small parts (such as knobs, fasteners, seals, grommets, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, all materials used must be self-extinguishing when tested in accordance with the requirements of § 25.853 and § 25.1359(d), as applicable, and Appendix F to Part 25 of this chapter, effective May 1, 1972, except that the materials may be of a size and be mounted for the test in accordance with paragraph (b) of Appendix F or may be of a size and be mounted as used in the aircraft.

(2) *Aural and visual warnings.* The required aural and visual warnings must initiate simultaneously.

(3) *Deactivation control.* If the equipment incorporates a deactivation control other than a circuit breaker, the control must be a switch with a protective cover. The cover must be safety wired so that the wire must be broken in order to gain access to the switch.

(4) *Mode 4 flap warning inhibition.* A separate guarded control may be provided to inhibit Mode 4 warnings based on flaps being in other than the landing configuration.

• • • • • •

(g) *Availability of referenced documents.* RTCA Document Nos. DO–138, dated June 27, 1968, including Change Number 2, dated October 29, 1969, DO–160, dated February 28, 1975, and DO–161A, revised May 27, 1976, are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 and are available as indicated in § 37.23. Additionally, RTCA Document Nos. DO–138, DO–160, and DO–161A may be examined at any FAA Regional Office of the Chief, Engineering and Manufacturing Branch (or, in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street, N.W., Washington, D.C. 20006 at a cost of $16.00 per copy for Document No. DO–138, $20.00 per copy for Document No. DO–160, and $16.00 per copy for Document No. DO–161A.

(h) *TSO–C92a equipment.* TSO-authorizations for the manufacture of ground proximity warning-glide slope deviation alerting equipment may continue to be obtained under TSO–C92a and equipment approved under TSO–C92a may continue to be manufactured under its original approval.

2. By deleting the word "and" from the end of § 121.360(c)(1)(iii); by inserting a comma and the words "or TSO–C92b" between the words "in TSO–C92a" and "or" in § 121.360(f); and by adding new §§ 121.360(c)(1)(iv) and 121.360(i) to read as follows:

§ 121.360 Ground proximity warning-glide slope deviation alerting system.

• • • • • •

(c) • • •

(1) • • •

(iv) Inhibition of Mode 4 warnings based on flaps being in other than the landing configuration if the system incorporates a Mode 4 flap warning inhibition control; and

• • • • • •

(i) No person may operate a turbojet powered airplane equipped with a system required by paragraph (f) of this section, that incorporates equipment that meets the performance and environmental standards of TSO–C92b or is approved under that TSO, using other than Warning Envelopes 1 or 3 for Warning Modes 1 and 4.

Issued in Washington, D.C., on August 13, 1976.

The incorporation by reference in this document was approved by the Director of the Federal Register on April 16, 1969.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-24581 Filed 8-18-76;11:28 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 16]

LIMITATION ON IMPORTS OF MEAT

Regulations With Respect to Meat Processed in Foreign-Trade Zones

Correction

In FR Doc. 76-24261 appearing in the FEDERAL REGISTER of August 17, 1976 on page 34778, the date in the second full paragraph and in the last sentence of § 16.20 should be corrected to read: August 17, 1976.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 180]

[CGD 75-042]

SMALL PASSENGER VESSELS

First Aid Kit

The Coast Guard is considering amending the regulations for small passenger vessels to require that a first aid kit be carried on board these vessels for use in an emergency. This proposal would require carriage of either a first aid kit that is approved by the Coast Guard under 46 CFR 160.041 of the Coast Guard lifesaving equipment specifications or a first aid kit that contains at a minimum the first aid items listed in 46 CFR 160.041.

The Coast Guard has determined that carriage of first aid equipment on board small passenger vessels is necessary to provide for the safety of crew and passengers. Minor accidents continually occur on these vessels in which first aid treatment if provided could prevent the injuries from becoming more serious in nature. The master or operator of each small passenger vessel has been previously tested in his knowledge of first aid as a condition to obtaining his license; and, therefore, he should have the necessary knowledge to provide first aid using the proposed first aid kit.

Certain small passenger vessels are required by section 666 of Title 46, U.S. Code, to carry a medicine chest on board. These vessels will be in compliance with the regulations contained in this proposal if the medicine chest contains the first aid items prescribed in the Coast Guard lifesaving equipment specifications.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Coast Guard (G-CMC/81), 400 Seventh Street, SW., Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify the notice (CGD 75-042), and give reasons in support of his comment. Comments received before October 5, 1976 will be considered before final action is taken on the proposal. Copies of all written comments received will be available in room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. The proposal may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Part 180 of Title 46, Code of Federal Regulations, as follows:

1. By adding to the list in § 180.05-1 (b) the following:

§ 180.05-1 Equipment of an approved type.

* * * * * * *

(b) * * *

(11) First Aid Kits ---------- 160.041.

2. By adding a new Subpart 180.45 to read as follows:

Subpart 180.45—First Aid Kits

§ 180.45-1 Carriage.

Each vessel must have at least one first aid kit that is approved under Subpart 160.041 of this chapter or a first aid kit that contains at least the same items listed in § 160.041-4 of this chapter.

§ 180.45-5 Stowage.

(a) The first aid kit required by this subpart must be stowed in a place that is readily accessible to persons on board the vessel.

(b) If a first aid kit is stowed inside an enclosure, the enclosure must be marked "FIRST AID KIT" in letters at least one inch high.

(46 U.S.C. 375, 390(b), 416, 481; 49 U.S.C. 1655(b); 49 CFR 1.46.)

Dated: August 4, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-24322 Filed 8-18-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-WA-7]

ALTERATION OF AIRWAYS AND REPORTING POINTS

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would redesignate HAZZY and ZANDA reporting points and airways associated with the relocation of the Petersburg, Alaska, NDB.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 20, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, SW., Washington, D.C. 20591.

The proposed amendment to § 71.211 would redescribe the present position of the HAZZY and ZANDA reporting points as follows:

a. HAZZY: Lat. 56°19'14.3" N., Long. 134°17'19.2" W. (INT Sitka, Alaska, NDB 127°, Petersburg, Alaska, NDB 238° bearings).

b. ZANDA: Lat. 56°09'09.6" N., Long. 134°44'51.9" W. (INT Sitka, Alaska, NDB 148°, Petersburg, Alaska, NDB 238° bearings).

The Petersburg NDB is scheduled to be relocated to Lat. 56°48'04" N., Long. 132°55'37" W., on November 4, 1976. This action will move Amber 15 and Blue 37 airways westward approximately 9 NM. No amendment to § 71.105 and § 71.109 will be required since these airways will continue to be described as direct between NDBs. The HAZZY and ZANDA reporting points require redescription to remain near their present position.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 10, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23927 Filed 8-18-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-36]

ALTERATION OF VOR AIRWAY

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the airway width of V-13W in the vicinity of Harlingen, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76010. All communications received on or before September 20, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue SW., Washington, D.C. 20591.

The proposed amendment would reduce the airway width of the east side of V-13W to three miles, beginning at Harlingen, Tex., to a point 23 miles north on V-13W.

The current four mile airway width precludes simultaneous operations on the airway and the Harlingen ILS. Reduction of the airway width as proposed, would permit simultaneous operations and also enhance airspace utilization in this area.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 11, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23928 Filed 8-18-76;8:45 am]

[14 CFR Part 93]

[Docket No. 13817; Notice No. 76-5]

NELLIS AFB SPECIAL AIR TRAFFIC RULE

Reopening of Comment Period

On March 4, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 9372) stating the Federal Aviation Administration (FAA) was considering an amendment to Part 93 of the Federal Aviation Regulations that would establish special air traffic rules for proposed operating areas adjacent to Nellis Air Force Base (AFB) and Energy Research and Development Administration (ERDA) restricted areas located generally north of Las Vegas, Nevada. In accordance with the terms of the notice, the time for public comment expired on June 4, 1976.

Because of a correction to the proposal published in the FEDERAL REGISTER May 10, 1976, (41 FR 19127), and the interest apparent in the public comments received, it is felt that the public was not given adequate time to comment on the corrected proposal prior to the comment period closing date. For this reason, the comment period is hereby reopened until October 1, 1976. All comments received on or before that date will be considered before final action is taken on the proposal.

AUTHORITY: Sections 307 and 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1354(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 6, 1976.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.70-23925 Filed 8-18-70;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 9]

PRIVACY ACT REGULATIONS

Notice of Proposed Exemptions

Notice is hereby given that the Nuclear Regulatory Commission is proposing exemptions as provided under the Privacy Act of 1974 (5 U.S.C. 552a(k)). These proposed exemptions are in addition to the exemptions presently set forth in 10 CFR 9.95.

The proposed amendment of § 9.95 of 10 CFR Part 9 would exempt from certain requirements of the Privacy Act portions of the NRC systems of records NRC-1, "Appointment and Promotion Certificate Records—NRC." The proposed exemptions are intended to protect investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under a promise of confidentiality, as provided by 5 U.S.C. 552a(k)(5).

An appropriate exemption, pursuant to 5 U.S.C. 552a(k)(5), of the NRC System of Records NRC-1 to conform with this amendment of 10 CFR 9.95 will be published when final action is taken on the proposed amendment of 10 CFR 9.5 set forth below.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a and 553 of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 9 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by September 20, 1976. Copies of comments received will be available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

1. Section 9.95 of 10 CFR Part 9 is amended by adding a new paragraph (m) to read as follows:

§ 9.95 Specific exemptions.

Pursuant to 5 U.S.C. 552a(k), portions of the following NRC systems of records are exempted from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H) and (I) and (f) and are subject to the provisions of § 9.61 of this part:

* * * * * *

(m) Appointment and Promotion Certificate Records

AUTHORITY: Sec. 161, Pub. L, 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841); 5 U.S.C. 552a.

Dated at Bethesda, Maryland this 14th day of July 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76-24186 Filed 8-18-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-12693; File No. S7-650]

SECO BONDING RULE

Minimum Fidelity Bonding Requirements

The Securities and Exchange Commission today announced proposals to amend § 240.15b10-11 (the "SECO Bonding Rule"), which contains minimum fidelity bonding requirements for registered brokers and dealers which are not members of the National Association of Securities Dealers, Inc. ("NASD"). The proposed amendments would exempt, among others, certain exchange members which would otherwise become subject to the Rule upon registering with the Commission pursuant to section 15 of the Act, as recently amended. In addition, the proposed amendments would specifically require a broker or dealer subject to the SECO Bonding Rule to review and adjust its bonding coverage initially upon issuance of a replacement bond and thereafter annually as of the anniversary date of the bond's issuance. Moreover, the proposed amendments

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would require qualified "SECO" broker-dealers electing to use the Alternative Net Capital Requirement set forth in paragraph (f) of § 240.15c3–1, as recently amended, as the basis for determining the amount of minimum bonding coverage required by the Rule.

THE PROPOSED AMENDMENTS

1. *Proposed exemption for exchange-only members.* The Commission recently adopted amendments to certain of its SECO requirements (§ 240.15b8–1 through 240.15b10–7) to exempt from these requirements members of exchanges, such as specialists, floor traders, floor brokers, etc., ("exchange-only members"), which effect transactions primarily on registered securities exchanges.[1] As a result of the Securities Acts Amendments of 1975, such broker-dealers are now required to register with the Commission, and, if they did not become NASD members, they would thereby have become subject to the SECO requirements.[2] Specifically, the Commission has revised; among others, § 240.15b8–1, which relates to qualification standards, §§ 240.-15b9–1 and 240.-15b9–2, which relate to fees, and § 240.-15b10–7 (which provides an exemption from §§ 240.15b10–1 through 240.15b10–6).[3] Similar revisions were not made in the SECO Bonding Rule because of special circumstances applicable to that rule.[4]

Sections 240.15b8–1, 240.15b9–2, and 240.15b10–7 previously contained provisions which exempt broker-dealers who carry no accounts of customers and derive no more than $1,000 annual gross income from transactions otherwise than on a national securities exchange. The Commission has amended these provisions by substituting the phrase "otherwise than on a national securities exchange of which he is a member" for the phrase "otherwise than on a national securities exchange." Therefore, this amendment, which has been made to conform the scope of the SECO requirements to the Commission's broadened authority under new §§ 15(b)(8), 15(b)(9) and 15(b)(10) of the Act, subjects broker-dealers who effect transactions on exchanges other than those of which they are members to the SECO requirements. However, the Commission also has amended the existing SECO exemptions to exclude, from the limitation on gross income derived by a broker-dealer from transactions otherwise than on the exchange of which he is a member, income derived from transactions for the broker-dealer's own account which are effected with or through another registered broker-dealer. A similar exemption has been added to § 240.15b9–1.

The SECO Bonding Rule presently exempts, among others, those broker-dealers which are "members in good standing *and subject to*" (emphasis added) the fidelity bonding requirements of the seven national securities exchanges listed in paragraph (a) thereof (the "paragraph (a) exchanges").[5] Thus, a SECO broker-dealer who is a "member in good standing" of any one of these exchanges and who is "subject to" the bonding requirements of that exchange (i.e., not exempt from those requirements) would qualify for an exemption from the SECO Bonding Rule. The theory underlying the exemption is that these SECO broker-dealers are already subject to exchange fidelity bonding requirements which are at least comparable to the requirements of the SECO Bonding Rule. However, because exchange-only members of the paragraph (a) exchanges which are now required to register with the Commission for the first time are generally exempt from the fidelity bonding rules of those exchanges,[6] they will, arguably, be subject to the SECO Bonding Rule—a result not strictly intended when the Commission adopted the SECO Bonding Rule in its present form (prior to the 1975 Amendments).

In addition, the major purpose underlying the adoption of the SECO Bonding Rule as well as the NASD's Bonding Rule[7] was to limit potential exposure of SIPC funds[8] to firm losses resulting from employee theft and dishonesty, particularly losses of "catastrophic" proportions. Similarly, while the bonding rules of the paragraph (a) exchanges for the most part were adopted prior to the enactment of the Securities Investor Protection Act of 1970, it may be said that these rules were adopted with the same concerns in mind, i.e., to prevent impairment of firm capital through substantial losses of this kind and to protect firm creditors, including customers, against such losses. Thus, since the kind of exposure intended to be covered by fidelity bonds for brokers and dealers generally arises only where a firm has contact with members of the public (i.e., handles customer funds and/or securities) a broker-dealer which deals only with other professionals on the floor of the exchange of which he is a member and does not otherwise engage in a public business is exempt from the existing exchange fidelity bonding requirements.[9] Accordingly, the Commission proposes specifically to exempt those exchange members from the SECO Bonding Rule. The Commission proposes to accomplish this by substituting the phrase "members in good standing of * * *" for the phrase "members in good standing and subject to * * *" in paragraph (a) of the SECO Bonding Rule.[10]

The Commission notes that, unlike the recent revisions to the other SECO requirements, its proposed amendment to the SECO Bonding Rule would exempt from its provisions exchange-only members which also engage in transactions on exchanges of which they are not members as well as over-the-counter. Those members would thus be subject only to the applicable exchange bonding requirements. Since the imposition of the SECO Bonding Rule on exchange-only members engaging in such activities could result in unnecessary duplication in the area of fidelity bonding, the Commission has detemined to defer to exchange bonding requirements in this respect and the proposed amendments to paragraph (a) would have this effect. While permitting these exchanges to apply their bonding requirements in this way may have an indirect impact on some of their members' activities in other markets, the Commission believes that any such impact would be insubstantial and would not have an anti-competitive effect.

2. *Proposal to Require Review of Coverage Upon Issuance of a Replacement Bond.* The Commission has assumed that when a SECO broker-dealer acquires a replacement bond the SECO Bonding Rule requires that the firm review and adjust, if necessary, its minimum bonding coverage once upon the new bond's issuance and thereafter annually, as of the anniversary date of the new bond's issuance. The Commission is of the opinion that this is the proper interpretation of present paragraph (c)(5) in this situation. However, the Commission believes that the SECO Bonding Rule should be amended to clarify its provisions in this respect.

A registered broker-dealer subject to the SECO Bonding Rule may acquire a replacement bond, for the most part, in two situations: (1) where the insurance carrier cancels the previous bond, or (2) where the firm decides to terminate its existing bond in order to obtain a replacement bond through another insurance carrier at less cost. In either case, the previous bond is normally cancelled or terminated as of the renewal date, which usually occurs at one-year intervals from the date of issuance of a bond. Thus, the date of issuance of a replacement bond is likely to coincide with the annual anniversary date of the previous bond's issuance. However, in the event that such action does occur prior to the next annual review date, a question has arisen as to the applicability of the term "anniversary date of the issuance of the bond" in present paragraph (c)(5) to the replacement bond situation; that is will the next review date be determined by reference to the date of the original (or previous) bond's issuance or to the date of the replacement bond's issuance? It is possible that a SECO broker-dealer may acquire a replacement bond that is equivalent to his minimum required coverage as determined as of the former date and feel justified in deferring his next review until the first annual anniversary date of the replacement bond's issuance. This could result in delaying its review of adequacy of coverage for longer than the one year period presently required by paragraph (c)(5) of the SECO Bonding Rule. This interpretation is inconsistent with the purpose of the Rule.

Accordingly, the Commission proposes to amend the Rule so as to provide expressly that SECO broker-dealers subject to its provisions which obtain a replacement bond for any reason must redetermine their bonding coverage once upon issuance of the replacement bond and thereafter at least once annually, as of the anniversary date of the replacement bond's issuance. Proposed new paragraph (c)(7) would set forth this requirement.[11]

3. *Proposal to Require Use of the Alternative Net Capital Requirement as the Basis for Determining Minimum Bonding Coverage.* The Commission recently adopted amendments to Section 240.15c3–1, the Uniform Net Capital Rule, including an alternative net capital requirement ("Alternative Requirement") for certain broker-dealers which is set forth in new paragraph (f) of Section 240.15c3–1.[12] This Alternative Requirement (if elected) eliminates the traditional standard of limiting obligations of broker-dealers (i.e., the ratio of aggregate indebtedness to net capital) and substitutes the aggregate dollar amount of firm assets which have as their source transactions with customers (i.e., items includible in the Formula for Determination of Reserve Requirements for Brokers and Dealers set forth in § 240.15c3–3) as the basis for determining the maximum permissible level of the broker-dealer's customer-related business. The general purpose of the Alternative Requirement is to ensure the continued protection of customers as well as to enhance the ability of broker-dealers to meet the needs of corporate issuers to raise capital in the evolving central market.

The present minimum bonding coverage prescribed by the SECO Bonding Rule is based on a broker-dealer's minimum required net capital as computed pursuant to Section 240.15c3–1.[13] Thus, if a SECO broker-dealer's minimum required net capital is adjusted, as through utilization of the Alternative Method, then his minimum required bonding coverage should be adjusted accordingly. The Commission's Uniform Net Capital Rule and the SECO Bonding Rule are financial responsibility rules whose primary concern is protecting customer funds and securities in the custody of broker-dealers. In view of this similarity of purpose, therefore, the Commission believes that the policy underlying the implementation of the Alternative Requirement warrants a corresponding flexibility in fidelity bonding requirements for those SECO broker-dealers operating under it.

Accordingly, the Commission also proposes to amend the SECO Bonding Rule so as expressly to provide that, subject to the conditions discussed below, a broker-dealer which is subject to the Rule and operates under the Alternative Requirement must use this computation in determining its minimum bonding requirements pursuant to the Rule. The Commission proposes to accomplish this by including proposed new paragraph (c)(6) in the SECO Bonding Rule.[14]

The Commission notes that under the proposed paragraph it has specified that broker-dealers availing themselves of the Alternative Requirement would still be required to determine their minimum required bonding coverage in the manner provided in present paragraph (c)(5), i.e., by reference to the highest required net capital, but only for those months during which they have operated under the Alternative Requirement. However, the new paragraph would provide that an affected broker-dealer which has operated in the past under the traditional method of computing net capital and effects a transition to the Alternative Requirement must calculate its minimum net capital under the Alternative Requirement for at least three consecutive months before it can redetermine its minimum bonding coverage based on these computations.[15] The Commission believes that any shorter period would not afford a proper basis for determining a broker-dealer's minimum bonding needs consistent with the intent and purpose of the SECO Bonding Rule.

Proposed paragraph (c)(6) would require a broker or dealer to redetermine and adjust its bonding requirements once it has operated under the Alternative Requirement for at least three months even though such adjustment may take place in advance of the issuance its bond.[16] However, on the next

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[1] See Securities Exchange Act Release No. 12160 (March 3, 1976).

[2] Ibid. at pp. 2–3.

[3] Ibid. at p. 3, et seq.

[4] However, in its release announcing adoption of the revisions to the exemptive provisions to the other SECO requirements, the Commission stated that it was considering further revision of the SECO Bonding Rule and might amend the exemptive provisions of that rule sometime in the future. See note 4, Securities Exchange Act Release No. 12160 (March 3, 1976).

[5] The seven exchanges are: the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("ASE"), the Midwest Stock Exchange, Inc., the Boston Stock Exchange, the Philadelphia Stock Exchange, Inc. (formerly the PBW Stock Exchange, Inc. ("PBW")), the Pacific Stock Exchange, Inc. ("PSE"), and the Chicago Board Options Exchange, Inc. ("CBOE"). The Commission has made a technical adjustment to paragraph (a) of the SECO Bonding Rule so as to reflect the new title of the successor organization to the PBW. See text of the proposed amendments to paragraph (a) of the SECO Bonding Rule, infra.

[6] One exception is the PSE. The PSE's fidelity bonding requirements apply to every member and member organization. See Rule IX, Sections 7 and 8 of the PSE Rules (CCH PSE Manual, Paragraph 4775 and Paragraph 4780).

[7] The NASD's fidelity bonding requirements for its members are set forth in Article III, Section 32 (and Appendix "C" thereto) of the NASD Rules of Fair Practice (CCH NASD Manual, Paragraph 2182).

[8] The Securities Investor Protection Act of 1970, which is designed to provide certain financial protections for the accounts of customers of broker-dealers, created the Securities Investor Protection Corporation ("SIPC"), a non-profit membership corporation, to administer the protective provisions of the Act. The Act authorizes SIPC to maintain a fund to protect customers against losses of their funds and securities (up to certain statutory amounts) in the event of financial failure of a member firm.

[9] It should be noted that many of these exchange-only members would be exempt from the bonding requirements of the paragraph (a) exchanges on another basis as well. For example, since many of them are sole proprietorships or one-man business entities they would not be able to acquire a fidelity bond in any exent because of insurance industry practice; and therefore the paragraph (a) exchanges have exempted members in this category by administrative interpretation. For the same reason, both the SECO Bonding Rule and the NASD Bonding Rule exempt one-man business entities having no employees. (See paragraph (a) of the SECO Bonding Rule and paragraph (a) of the NASD's Bonding Rule).

[10] See the text of the proposed amendments to paragraph (a) of the SECO Bonding Rule, infra.

[11] See the text of proposed paragraph (c)(7), infra. In addition, the Commission understands that within the insurance industry the term "anniversary date" relates only to the date of issuance of a bond or any other insurance contract. Thus, in order to be consistent with insurance practice in this regard, the annual review dates should be tolled from either the date of issuance of the original (or previous) bond or from the date of issuance of a replacement bond. Proposed paragraph (c)(7) would make this clear.

Furthermore, the Commission does not believe that this requirement will impose an undue or unnecessary burden on affected SECO broker-dealers. As noted above, a broker-dealer is likely to have its coverage cancelled, or to terminate its coverage and acquire a replacement bond, as of the previous bond renewal date which normally coincides with the annual anniversary review date specified in paragraph (c)(5) of the SECO Bonding Rule. Moreover, even if the cancellation or tremination occurs prior to the next review date an affected broker or dealer will have a burden of reviewing its coverage "prematurely" on that one occasion but thereafter it will be required to conduct its review only once annually, consistent with the review periods presently specified in the Rule for all SECO broker-dealers subject to the bonding requirement.

[12] See Securities Exchange Act Release No. 11497, dated June 26, 1975. These amendments became effective September 1, 1975. The Alternative Reqirement is applicable only to broker-dealers which have not elected to operate pursuant to an exemption from Section 240.15c3–3 through either paragraphs (k)(1) or (k)(2)(i). Broker-dealers which meet the criteria specified in paragraph (k)(2)(ii) of Section 240.15c3–3 and introduce all customer transactions on a fully disclosed basis are also eligible to operate under the Alternative Requirement, if they maintain minimum net capital of at least $100,000.

[13] See paragraph (c) of the SECO Bonding Rule, infra.

[14] See the text of proposed paragraph (c)(6), infra.

[15] As noted above, the SECO Bonding Rule presently allows review and adjustment, if necessary, of a broker-dealer's existing bonding coverage only once annually, as of the anniversary date of the bond's issuance.

This new requirement, however, is not intended to apply to a new registrant which utilizes the Alternative Method since it is required to have a bond that complies with the Rule once it commences business. The Commission also proposes technical revisions to paragraphs (c)(1) and (c)(5) of the SECO Bonding Rule to clarify this matter. See the text of the proposed amendments to paragraphs (c)(1) and (c)(5), infra.

[16] This minimum three month period, of course, would commence with that first month when a broker-dealer begins to calculate its capital requirements in accordance with the Alternative Requirement.

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annual anniversary date the broker-dealer must review and further adjust, if necessary, his bonding coverage again based on the net capital computations made during those months when it was operating under the Alternative Requirement. Thereafter, of course, the firm would be permitted to review and adjust its coverage only once annually as provided in present paragraph (c)(5) of the SECO Bonding Rule. Proposed new paragraph (c)(6) would incorporate all these considerations.

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq. (as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975)), and particularly Sections 15(c) and 23(a) thereof, hereby proposes certain amendments to Section 240.15b10-11, as stated below.

ATTENTION

The texts of the following proposed amendments are using ►◄ arrows to indicate additions and [ ] brackets to indicate deletions.

TEXT OF THE RULE AS PROPOSED TO BE AMENDED

Section 240.15b10-11 would be revised to read as follows:

§ 240.15b10-11 Fidelity bonds.

(a) Every non-member broker or dealer which is a member of the Securities Investor Protection Corporation and has employees shall carry a blanket fidelity bond covering officers and employees of such broker or dealer in the form, amount and type of coverage hereinafter prescribed. The provisions of this rule shall not apply to any member in good standing [and subject to the fidelity bonding requirements] of the American Stock Exchange, Inc., the Boston Stock Exchange, the Midwest Stock Exchange, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., the [PBW] ►Philadelphia◄ Stock Exchange, Inc., or the Chicago Board Options Exchange, Inc.: *Provided, however*, That the exemption as to the members of any exchange may be suspended or withdrawn by the Commission at any time, by sending ten (10) days written notice to such exchange, if it appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do.

(b) Every non-member broker or dealer subject to the rule must carry either the Stockbroker's Blanket Bond, Standard Form No. 14 of the Surety Association of America with such riders as may be required by this rule, as revised to the effective date of this rule, or an equivalent bond, covering the officers and employees of such broker or dealer, which provides against loss and has insuring agreements covering at least the following:

(1) Fidelity;
(2) On Premises;
(3) In Transit;
(4) Misplacement;
(5) Forgery and Alteration (including check forgery);
(6) Securities Loss (including securities forgery); and
(7) Fraudulent Trading (by employees).

(c)(1) Minimum monetary coverage for each of the Fidelity, On Premises, In Transit, Misplacement, and Forgery and Alteration insuring agreements shall be the greater of $25,000 or such other amount as shall be determined by reference to minimum required net capital ►for such broker or dealer◄ computed under Rule 15c3-1 under the Act as follows:

(i) Each non-member broker or dealer whose required net capital does not exceed $600,000 must maintain minimum coverage of not less than 120% of such requirement.

(ii) Each non-member broker or dealer whose required net capital exceeds $600,000 must maintain minimum coverage as indicated in the following table:

Net capital requirements under rule 15c3-1:	*Minimum coverage*
Over $600,000, up to $1,000,000	$7,000,000
Over $1,000,000, up to $2,000,000	1,000,000
Over $2,000,000, up to $3,000,000	1,500,000
Over $3,000,000, up to $4,000,000	2,000,000
Over $4,000,000, up to $6,000,000	3,000,000
Over $6,000,000, up to $12,000,000	4,000,000
Over $12,000,000	5,000,000

(2) Minimum monetary coverage for the Fraudulent Trading insuring agreement shall not be less than $25,000 or 50% of the coverage required in paragraph (c)(1) of this section, whichever is greater.

(3) Minimum monetary coverage for the Securities Forgery insuring agreement shall not be less than $25,000 or 25% of the coverage required in paragraph (c)(1) of this section, whichever is greater.

(4) Every non-member broker or dealer subject to this rule may have a deductible provision included in his bond of up to $5,000 or 10% of the minimum insurance requirement established hereby, whichever is geater, for any individual loss.

(5) ►Except as provided in (c) paragraph (6) of this section◄, the minimum required coverages prescribed hereinabove shall be determined ►by such non-member broker-dealer◄ initially on issuance of the bond by reference to [the] ►its◄ highest required net capital computed [under] ►pursuant to◄ Rule 15c3-1 under the Act for the 12-month period immediately preceding such issuance or, if the non-member broker or dealer was subject to Rule 15c3-1 for less than 12 months, for such lesser period immediately preceding such issuance as such broker or dealer was subject to that rule. Thereafter, such coverage shall be redetermined annually, as of the anniversary date of the issuance of the bond, by reference to the highest required net capital for the immediately preceding 12-month period, which amount shall be used to determine the minimum required coverage for the succeeding 12-month period. Any necessary adjustments shall be made within 30 days after the anniversary of the bond.

►(6) A non-member broker or dealer which becomes eligible to elect and does elect to compute its minimum required net capital under the alternative net capital requirement set forth in paragraph (f) of Rule 15c3-1 instead of under the requirement set forth in paragraph (a) thereof, and has operated under such alternative requirement for at least three consecutive months, shall, prior to the next anniversary date of the issuance of its bond, redetermine and adjust (if necessary) the amount of its coverage based on such alternative requirement for the period during which it has so operated; *provided, however*, That such non-member broker or dealer shall redetermine and further adjust (if necessary) the amount of its coverage in this manner on the next anniversary date of the issuance of its bond and thereafter annually, in accordance with the provisions of paragraph (c)(5) of this section. Any necessary adjustments shall be made within 30 days after such redetermination.◄

►(7) A non-member broker or dealer subject to this rule which acquires a replacement bond shall redetermine and adjust (if necessary) its minimum required bond coverage upon issuance of such bond by reference to the highest required net capital for those months since such broker or dealer last determined its required coverage in accordance with paragraphs (c)(5) and (c)(6) of this section, which amount shall be used to determine the minimum required coverage for the succeeding twelve month period. Thereafter, such coverage shall be redetermined annually, as of the anniversary date of the issuance of the replacement bond. Any necessary adjustments shall be made within 30 days of such redetermination.◄

[6] ►(8)◄ The bond shall provide that it shall not be cancelled, terminated, or substantially modified except after written notice given by the acting party to the affected party and to the Commission not less than sixty days prior to the effective date of such cancellation, termination or modification; ►*provided,*◄ *however*, That in the event the non-member broker or dealer elects to cancel, terminate or modify the provisions of the bond upon notice of less than sixty days such non-member broker or dealer may do so on the condition that such non-member broker or dealer shall so notify the Commission not less than ten days prior to the effective date of such notice by providing the Commission with either a copy of the replacement insurance contract or a copy of the binder for such contract. Any bond issued pursuant to this rule shall include a cancellation rider providing that the insurance carrier will use its best efforts to comply with the applicable reporting requirements of this paragraph.

(d) Definitions—For the purpose of this rule:

(1) The term "non-member broker or dealer" shall mean any broker or dealer registered under Section 15 of the Act which is not a member of a national securities association registered with the Commission under Section 15A of the Act.

(2) The term "substantial modification" or "substantially modified" shall mean any change in the type or amount of fidelity bonding coverage, or in the exclusions to which the bond is subject or any other change in the bond such that it no longer complies with the requirements of this rule.

Interested persons are invited to submit in writing their views and comments on the proposed amendments to the SECO Bonding Rule before September 3, 1976. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-650, and will be available for public inspection in the Commission's Public Reference Room, 1100 "L" Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 6, 1976

[FR Doc.76-24356 Filed 8-18-76;8:45 am]

FEDERAL REGISTER, VOL. 41, NO. 162—THURSDAY, AUGUST 19, 1976

V 41 162 AUG 19 76 UMI

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on September 14, 1976, from 9:30 a.m. to 12:30 p.m., in Room 1107, New State Building, 21st and Virginia Avenue, N.W.

The purpose of the meeting is to consider and finalize recommendations regarding foreign disaster response cooperation and coordination and to consider such other matters related to the foreign assistance advisory concerns of the Committee as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Dr. Fred O. Pinkham will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from Mr. Robert S. McClusky, Telephone: AC 202-632-1892. Persons desiring to attend the meeting should enter the New State Building through the Diplomatic Entrance, 22nd and C Streets.

Dated: August 13, 1976.

FRED O. PINKHAM,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.76-24302 Filed 8-18-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FIRST NATIONAL BANK OF JEFFERSON PARISH, GRETNA, LOUISIANA

Suspension of Trading

It appearing that the summary suspension of trading in the common stock of the First National Bank of Jefferson Parish, Gretna, Louisiana, on the over-the-counter market is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 12(1) and 12(k) of the Securities Exchange Act of 1934, trading in the common stock of the First National Bank of Jefferson Parish, Gretna, Louisiana, on the over-the-counter market is hereby suspended for the three-day period commencing at midnight (EDT) on August 15, 1976, and terminating at midnight (EDT) on August 18, 1976.

Dated: August 13, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-24317 Filed 8-18-76;8:45 am]

Office of the Secretary

[Public Debt Series—No. 21-76]

TREASURY NOTES OF SERIES Q-1978

Department Circular

AUGUST 13, 1976.

Dated and bearing interest from August 31, 1976. Due August 31, 1978.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,500,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series Q-1978 (CUSIP No. 912827 FX 5). The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves in exchange for maturing Treasury securities held by them and as agents of foreign and international monetary authorities for new cash only. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Thursday, August 19, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 5¾ percent Treasury Notes of Series L-1976, maturing August 31, 1976, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. DESCRIPTION OF NOTES

The notes will be dated August 31, 1976, and will bear interest from that date, payable semiannually on February 28, 1977, August 31, 1977, February 28, 1978, and August 31, 1978. They will mature August 31, 1978, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000 Book-entry not will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Thursday, August 19, 1976. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivision or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or 5⅞% Treasury Notes of Series L-1976, which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above 99.500. That rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each succesful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,500,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price [1] (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before Tuesday, August 31, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, 5⅞% Treasury Notes of Series L-1976 (interest coupons dated August 31, 1976, should be detached), in other funds immediately available to the Treasury by August 31, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it. which must be received at such Bank or at the Treasury no later than: (1) Thursday, August 26, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in case of the Treasury, or (2) Tuesday, August 24, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount of notes submitted and the amount payable on the notes allotted.

V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new notes are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for Treasury Notes of Series Q-1978 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series Q-1978 to be delivered to _____." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

GEORGE H. DIXON,
Acting Secretary of the Treasury.

[FR Doc.76-24265 Filed 8-16-76;10:14 am]

[1] Average price may be at, or more or less than 100.000.

DEPARTMENT OF DEFENSE

Corps of Engineers

ILLINOIS

Application

AUGUST 6, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 USC 185), Northern Illinois Gas Company has applied for a fuel-carrying pipeline right-of-way in, through, and across the following U.S. Government-owned lands, said lands being a part of USAR Joliet Outdoor Training Area, Illinois:

WILL COUNTY, ILLINOIS

T 34 N., R 9 E.,
Sec. 23 and 14

The pipeline, in its entirety, will convey propane from the Mobil Refinery located at the junction of Interstate 55 and the Illinois River to Matteson, Illinois.

The purpose of this notice is to inform the public that the Corps of Engineers will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Those persons who desire to make comments or objections should state their views in detail and send them to the District Engineer, Omaha District, Corps of Engineers, 6014 U.S. Post Office & Courthouse, Omaha, Nebraska 68102, within 30 days of the date of publication of this notice.

JAMES W. RAY,
Colonel, Corps of Engineers, District Engineer.

[FR Doc.76-24285 Filed 8-18-76;8:45 am]

Department of the Navy

COMMANDANT'S ADVISORY COMMITTEE ON MARINE CORPS HISTORY

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Commandant's Advisory Committee on Marine Corps History will meet on September 7-10, 1976, in Room 1110, Navy Annex (Federal Office Building No. 2), Columbia Pike, Arlington, Virginia. Sessions of the meeting will commence at 9:00 a.m. and terminate at 4:30 p.m.

The agenda will consist of the following topics: development of priorities for major historical projects; actions to encourage the study of Marine Corps history; and revision of the scope and content of current programs. Any person desiring further information about this meeting or the Committee may write to the Commandant of the Marine Corps (Code HD), Headquarters, U.S. Marine Corps, Washington, DC 20380.

Dated: August 11, 1976.

JOHN S. JENKINS,
Assistant Judge Advocate General (Civil Law).

[FR Doc.76-24286 Filed 8-18-76;8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Proposed 1976 Revised Aggregate Production Quota Dihydrocodeine

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On July 8, 1976, a notice of the final aggregate production quota for Dihydrocodeine was published in the FEDERAL REGISTER (41 FR 27980). This notice established the quota for 1976 for this substance at 460,000 grams (expressed in terms of anhydrous base).

The Drug Enforcement Administration continually monitors the manufacture and distribution of each of the substances for which quotas are established in relationship to the medical needs of the United States. This review of data has caused the Drug Enforcement Administration to conclude that the previously finalized aggregate production quota for Dihydrocodeine for 1976 is insufficient to meet the legitimate medical, research, export and inventory needs of the United States for 1976.

Therefore, the Administrator of the Drug Enforcement Administration under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following change of the aggregate production quota for 1976 for Dihydrocodeine, expressed in grams in terms of anhydrous base:

Basic class	Previously finalized 1976 aggregate production quota	Proposed revised 1976 aggregate production quota	Net change
Dihydrocodeine	460,000	593,000	+133,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by September 20, 1976. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief. In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing (which shall not be less than 30 days after the date of publication).

Dated: August 12, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc.76-24301 Filed 8-18-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(S-2701A)

CALIFORNIA

Classification of Public Lands for Multiple-Use Management; Correction

In F.R. Doc. 70-15888, appearing on page 18128 of the issue for Thursday, November 26, 1970, the following correction should be made :

In column 2 under Block A-T. 2 N., R. 5 E., Sections 5, 7, 17 and 18 are deleted from this classification.

MELVIN D. CLAUSEN,
District Manager.

[FR Doc.76-24267 Filed 8-18-76;8:45 am]

CALIFORNIA STATE ADVISORY BOARD

Meeting

The California State Multiple-Use Advisory Board to the U.S. Bureau of Land Management will hold a meeting in Bishop, California, September 20, 1976, and a joint meeting with the California Advisory Committee to the U.S. Forest Service, September 21 and 22 at Bishop and at various field locations on National Forest Lands and National Resource Lands in the adjacent area.

The Bureau of Land Management Advisory Board will make a field review of the Eureka Sand Dunes management plan and environmental analysis record on Monday morning, departing from the Bishop Westerner Motel at 8 a.m. The Board will hold a public meeting at the Bank of America Conference Room, 536 N. Main, Bishop, beginning at 1 p.m. Agenda items will include a report by the State Director on Bureau response to Board recommendations during the past year and status of Bureau programs including proposed rulemaking on grazing administration and off-road vehicles; a detailed report on operation of the Bureau planning system; and final reports of the Board's ad hoc committees on geothermal energy and off-road vehicles. The federal representative will be Ed Hastey, California State Director of the Bureau of Land Management, or his authorized representative.

The joint meeting agenda includes reports and discussions of mineral and geothermal energy programs involving the Bureau of Land Management and the Forest Service, land use planning and management in areas where National Resource Lands and National Forest Lands are intermingled, and such interagency efforts as the Lone Pine Visitor Center. The joint field review will include the Long Valley geothermal area and Mammoth Visitor Center. The joint meeting will be at 1 p.m., September 21, at the Mammoth Visitor Center, U.S. Forest Service, Mammoth Lakes, California.

Field reviews covering wildlife, recreation and range management programs in the Owens Valley will conclude the meeting September 22. Members of the public may participate in the field reviews but must provide their own transportation.

The meetings will be open to the public, and participation is invited. Time will be made available at the BLM Advisory Board meeting for brief statements relating to subjects on the agenda. Such statements may not exceed five minutes in length and should be reduced to writing. Persons wishing to make oral statements should contact State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825, by the close of business September 15, 1976.

Dated: August 11, 1976.

ED HASTEY,
State Director.

[FR Doc.76-24266 Filed 8-18-76;8:45 am]

LAS CRUCES DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Las Cruces District Multiple Use Advisory Board will be held on September 14 and 15, 1976 beginning at 8:00 a.m. at the Holiday Inn, 1401 S. White Sands Blvd., Alamogordo, New Mexico.

The Advisory Board was established to advise the District Manager on matters relating to the use, management, protection and disposition of lands and resources administered within the Las Cruces District.

The purpose of this meeting is to inform the Board of the status of the Gila Unit Resource Analysis and Management Framework Plan, and on proposed changes in agreements with Department of The Army (Ft. Bliss) for management agreements on McGregor Range, and a discussion of the proposed grazing regulations as published in the July 28th FEDERAL REGISTER. In addition, the meeting will include a field tour of the Godfrey Hills (east of Three Rivers, New Mexico) and a discussion of management problems and alternatives associated with wild burros now using the area. The Board may make a recommendation on this subject.

The meeting and tour will be open to the public; however, the public must provide their own transportation on the tour. Anyone wishing to make a presentation to the Board or submit a written statement should contact the official

listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the District Manager, Bureau of Land Management, Las Cruces, New Mexico 88001, (505-523-5571). Minutes of the meeting will be available for public inspection and copying by December 1, 1976 at the District Office in Las Cruces.

JOHN E. PROVINE,
Acting District Manager.

AUGUST 9, 1976.

[FR Doc.76-24287 Filed 8-18-76;8:45 am]

MONTANA, NORTH DAKOTA, SOUTH DAKOTA

Modification of Administrative District Office Boundaries and Jurisdictions; Correction

In FR Doc. 76-19625 appearing at pages 27980 and 27981 in the FEDERAL REGISTER of Wednesday, July 7, 1976, the following changes should be made:

1. On page 27980, the last sentence in paragraph title *1. Lewistown District* is corrected to read as follows:

"The Lewistown District consists of the following counties: Blaine, Carbon, Chouteau, Daniels, Fergus, Glacier, Golden Valley, Hill, Judith Basin, Liberty, Musselshell, Petroleum, Phillips, Roosevelt, Sheridan, Stillwater, Sweetgrass, Toole, Valley, Wheatland, Yellowstone, and all of Big Horn County except that portion which lies southeast of the Northern Cheyenne and Crow Indian Reservations."

2. On page 27981, the third sentence of paragraph title *3. Mile City* is corrected to read as follows:

"The Miles City District consists of the following counties in Montana: Carter, Custer, Dawson, Fallon, Garfield, McCone, Powder River, Prairie, Richland, Rosebud, Treasure, Wibaux, and that portion of Big Horn County which lies southeast of the Northern Cheyenne and Crow Indian Reservations, and all of the counties in North and South Dakota.

Dated: July 29, 1976.

EDWIN ZAIDLICZ,
State Director.

Approved: August 10, 1976.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.76-24269 Filed 8-18-76;8:45 am]

SOCORRO DISTRICT MULTIPLE-USE ADVISORY BOARD

Meeting

Notice is hereby given that the Socorro District Multiple-Use Advisory Board of the Bureau of Land Management will meet in the Zimmerman Building at the Socorro County Fairgrounds one (1) mile south of Socorro, New Mexico, on September 21, 1976, at 9:00 A.M.

The agenda for the meeting will include a discussion and making recommendations on the proposed revised grazing regulations, amendments to off-road vehicle regulations, District Advisory Board charter and memberships, and a summary of the District's on-going program.

The meeting will be open to the public. Time will be made available for public statements starting at 3:00 P.M. Statements should be limited to the items set forth in the agenda. Those wishing to make an oral statement should inform the District Manager prior to the meeting. Written statements may be filed for the Board's consideration by submitting them at the meeting or mailing, in advance, to the Bureau of Land Management at the address listed below. Further information concerning the meeting may be obtained from Arlen P. Kennedy, District Manager, Socorro District Office, 200 Neel Avenue, N.W., Socorro, New Mexico 87801. Telephone (505) 835-0412.

Minutes of the meeting will be available at the Socorro District Office for public inspection and copying thirty days after the meeting.

ARLEN P. KENNEDY,
District Manager.

AUGUST 12, 1976.

[U-34082]

UTAH

Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 19 S., R. 23 E.,
Sec. 29, NW¼SE¼, NE¼SE¼, SE¼NE¼;
Sec. 28, SW¼NW¼.
T.20 S., R. 23 E.,
Sec. 5, lot 3.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

WILLIAM G. LEAVELL,
Associate State Director.

AUGUST 11, 1976.

[FR Doc.76-24288 Filed 8-18-76;8:45 am]

[U-34081]

UTAH

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 19 S., R. 23 E.,
Sec. 28, SW¼SW¼;
Sec. 33, NW¼NW¼.
T. 20 S., R. 23 E.,
Sec. 5, lots 3 and 4, SW¼NW¼, NW¼SW¼

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

WILLIAM G. LEAVELL,
Associate State Director.

AUGUST 11, 1976.

[FR Doc.76-24316 Filed 8-18-76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: University of California, Department of Biology, Los Angeles, California 90024. James G. Miller, Sr.

V 41 162 AUG 19 76 UMI

OMB No. 42-R1579

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

* APPLICATION FOR (do * only one)

[ ] IMPORT OR EXPORT LICENSE [x] PERMIT

APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

James G. Miller
Senior Museum Scientist
Department of Biology
University of California
Los Angeles, Ca., 90024 (213) 825-1282

BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

To pick up and preserve naturally-shed wild Condor feathers, (not in the sanctuary), for study and research.

Samplings from successive years will be most useful to document any significant changes.

California Condor
Gymnogyps californianus (Shaw)

IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING

[ ] MR. [ ] MRS. [ ] MISS [ ] MS.

HEIGHT	WEIGHT
5'6"	150#

DATE OF BIRTH	COLOR HAIR	COLOR EYES
Jan. 14, 1913	Brown	Blue

PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER
(213) 825-7969	573-28-6566

OCCUPATION
Museum Scientist

IF BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
University of California
Department of Biology .

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

Collect feathers on cattle grazing grounds in California, with permission of owners.

Possess and store at University of California.

Research and study at University of California.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number(s))

1-SC-717

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document)

Application to California, 3-3-76, has been referred to you by them. Would be contingent on your permit.

CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: Soon as possible

11. DURATION NEEDED: Indefinite. At least 5 years.

ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT PROPOSED [illegible] ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR [illegible] WHICH [illegible] PROVIDED.

Study of the fine structure of the feathers.
Provide feather bank of this species for future research.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Sign in ink) James G. Miller

DATE 8-2-76

FWS Form 3-200-1 (Feb 1974)

December 3, 1975.

B. E. FAIST,
Chief, Wildlife Protection Branch, Department of Fish and Game, Sacramento, Calif.

DEAR SIR: Thank you for the "Permit to Possess Specimens of Wild Life," issued to the Chairman of our Department of Biology.

This permit specifies that a separate permit is required for each specimen of a rare or endangered species or fully protected species. For this reason I wish to know if it is possible for you to arrange a permit so that a cooperator with us may pick up condor feathers shed on his property.

The cooperator I would propose has a large cattle ranch and condors come there every year during calving season to clean up the stillborn and afterbirths. While there, they have been observed to sit on trees and preen, sometimes shedding feathers.

We would be pleased to receive these feathers for researchers who may wish to study the fine structure of the feathers, the mercury and heavy metal content, and future questions they may answer.

We have adequate facilities to portect and store such specimens.

If you can make such a permit possible, I would be glad to receive it before the next calving season the coming summer.

Yours very truly,

JAMES G. MILLER,
Senior Museum Scientist, University of California, Collections of Birds and Mammals.

Documents and other information submitted in connection with this application are available for public inspection during normal busness hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-209-07; please refer to this number when submitting comments. All relevant comments received on or before September 20, 1976 will be considered.

Dated: August 13, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement U.S. Fish and Wildlife Service.

[FR Doc.76-24324 Filed 8-18-76;8:45 am]

National Park Service

OGLALA SIOUX CEDAR PASS CONCESSION ENTERPRISE

Intention To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 20, 1976, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with Oglala Sioux Cedar Pass Concession Enterprise, authorizing it to continue to provide concession facilities and services for the public at Badlands National Monument for a period of two (2) years from January 1, 1976, through December 31, 1977.

As assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, P.O. Box 72, Interior, South Dakota 57750.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1975, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 20, 1976.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract extension.

Dated: August 12, 1976.

JOHN E. COOK,
Associate Director, National Park Service.

[FR Doc.76-24312 Filed 8-18-76;8:45 am]

OVERTON BEACH RESORT, INC.

Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 20, 1976, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with Overton Beach Resort, Inc., authorizing it to continue to provide concession facilities and services for the public at Overton Beach, Lake Mead National Recreation Area, for a period of one (1) year and ten (10) months from January 1, 1977, through October 31, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1976, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the extension of the contract. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 20, 1976.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C., 20240, for information as to the requirements of the proposed contract extension.

Date August 11, 1976.

JOHN E. COOK,
Acting Director, National Park Service.

[FR Doc.76-24313 Filed 8-18-76;8:45 am]

Office of the Secretary

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on September 9, 1976, at the Denver Downtown Holiday Inn, 15th Street and Glenarm Place, in Denver, Colorado. The meeting will begin at 8:30 a.m. on Thursday, September 9, in the Silver Heels and Cripple Creek rooms and conclude at 5:00 p.m. that afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is to adopt summary panel advice on the Detailed Development Plan for Utah least tracts U-a and U-b, review seventh quarterly summary data reports for lease tracts C-a, C-b, and U-a and U-b (combined), to receive reports from Interior officials, and to consider any other matters which have come before the panel.

The meeting is open to the public. It is expected that space will permit at least 150 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. William L. Rogers, Chairman, Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225.

Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone No. (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

AUGUST 16, 1976.

[FR Doc. 76-24300 Filed 8-18-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A361]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Bladen County, North Carolina, as a result of a hard freeze April 10, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Revelopment Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James E. Holshouser Jr., that such designation be made.

Applications for emergency loans must be received by this Department no later than October 5, 1976, for physical losses and May 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 12th day of August 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76-24298 Filed 8-18-76;8:45 am]

Forest Service

ALPINE PLANNING UNIT

Availability of Draft Environmental Statement

The review period for the draft environmental statement and land use plan on the Alpine Planning Unit, Toiyabe National Forest, Nevada, has been extended. The new extension date is October 9, 1976; rather than August 9, 1976, as originally reported.

The Forest Service report number for these documents is USDA-FS-DES (Adm) R4-76-17.

Dated: August 12, 1976.

D. A. SCHULTZ,
Acting Director, Regional Planning and Budget.

[FR Doc.76-24314 Filed 8-18-76;8:45 am]

HUMBOLDT NATIONAL FOREST LIVESTOCK ADVISORY BOARD

Meeting

The Humboldt National Forest Livestock Advisory Board will meet at 10:00 A.M., P.d.t. at the Van Norman Ranch near Tuscarora, Nevada, on October 4, 1976. The Board will then tour the Schmidt Creek Allotment. The meeting is open to the public. The public is requested to furnish their own lunch and 4-wheel drive transportation.

The purpose of this meeting is to:

1. Review and discuss intensive grazing systems.

2. Discuss grazing problems and complaints.

3. Discuss Sorensen land exchange proposals.

Dated: August 11, 1976.

JOE L. FRAZIER,
Acting Forest Supervisor.

[FR Doc.76-24262 Filed 8-18-76;8:45 am]

LAKEVIEW PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Lakeview Planning Unit, Forest Service Report Number USDA-FS-FES (Adm) R1-76-10.

The environmental statement concerns the proposed implemenation of a revised land use plan for the Lakeview Planning Unit, Bonner County, Idaho. Approximately 63,060 acres are included in the planning unit of which 57,120 acres are National Forest land. The management plan allocates resources and specifies land use prescriptions for National Forest land only. Resource information for lands in other ownership also is included for owners to use as they wish.

V 41 162 AUG 19 76 UMI

With the exception of private holdings generally located along the lake face and several streams, most of the National Forest ownership in this planning unit is continuous. On most of the planning unit the selected plan emphasizes management for the high scenic quality of the lake face along Lake Pend Oreille, fisheries, domestic water, recreation, and wildlife uses. Timber and domestic livestock forage would be provided to the extent to which they would not degrade or detract from these emphasized uses

This final environmental statement was transmitted to CEQ on _____.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d'Alene, ID 83814.
USDA Forest Service, Sandpoint Ranger District, P.O. Box 490, Sandpoint, ID 83864.

A limited number of single copies are available upon request to Forest Supervisor Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d'Alene, ID 83814.

Copies of this final environmental impact statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

RALPH D. KIZER,
Forest Supervisor.

AUGUST 12, 1976.

[FR Doc.76-24284 Filed 8-18-76;8:45 am]

MANTI DIVISION GRAZING ADVISORY BOARD

Meeting

AUGUST 13, 1976.

The Manti Division Grazing Advisory Board will hold a summer tour on Monday, September 13, 1976. The tour will begin at the junction of U.S. 50 and 89 and Diamond Fork Canyon at 10:00 a.m.

The Advisory Board will tour the Diamond Fork Cattle Allotment.

After lunch, a short formal meeting will be held to discuss the following topics:

1. Work impact from accelerated Comprehensive Land Use Planning on Ferron and Price Districts to provide input to coal mining Environmental Impact Statement.
2. Central Utah Coal Mining Environmental Impact Statement.
3. Controls and need for State license for use of pesticides on National Forest land.
4. Requirements for use of M-44 device to control animal damage (coyotes) on National Forest administered land.

The tour and meeting will be open to the public. Written statements concerning specific topics of discussion may be filed with the committee before or after the meeting. Public comments and discussion concerning agenda topics will be permitted to the extent time permits.

Persons wishing to attend the tour and meeting should furnish their own lunch. Mr. Vail Neilson, Advisory Board Chairman, Ephraim, Utah, telephone 801-283-4398, may be contacted for further information.

Dated: August 9, 1976.

REED C. CHRISTENSEN,
Forest Supervisor.

[FR Doc.76-24263 Filed 8-18-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

GEOLOGICAL SURVEY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00309. Applicant: U.S. Geological Survey, Hawaiian Volcano Observatory, Hawaii National Park, Hawaii 96718. Article: VLF Electromagnetic Unit EM16, and (Attachment) Direct Reading Ground Resistivity Meter EM16R. Manufacturer: Geonics Ltd., Canada. Intended use of article: The article is intended to be used for monitoring of molten rock movement in order to predict pending eruptions of volcanoes. Experiments to be conducted will include: (a) Location and delineation of ponded molten lava bodies to be used as possible sources of thermal energy for generating electrical power.

(b) Detection of the subterranean flow path of molten lava in order to assess the possible threat of lava breakouts in populated areas.

(c) Detection of hidden pools or tubes of lava within recent lava flows where they have covered existing roads prior to any attempt to reopen road.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of using no ground contact in making measurements, short readout time (10-40 seconds), and one man portability. The National Bureau of Standards advises in its memorandum dated July 19, 1976 that (1) the capability described above is pertinent to the applicant's intended purposes (2) it knows of no practical way to accomplish the applicant's intended purpose by the use of a combination of domestic instruments and (3) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24307 Filed 8-18-76;8:45 am]

LOYOLA U. STRITCH SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00381. Applicant: Loyola University Stritch School of Medicine, Physiology Dept., 2160 South First Avenue, Maywood, Illinois 60153. Article: Veterinary equipment, consisting of stainless steel rods, clamps, pelvis clamps, spinal cord holders, electrode holders and positioners. Manufacturer: Elektro-Mechanik-Rockenberg, West Germany. Intended use of article: When assembled the articles is a frame used to hold a cat in a rigid position for the introduction of electrodes in the spinal column to study the mechanisms of neurological control of respiration in cats.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a unique assembly of stainless steel rods, and clamps, as well as, specially designed pelvis clamps, spinal cord holders, electrode holders and positioners designed to accurately position and hold both cats and electrodes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 16, 1976 that the characteristics of the article described above are pertinent to the applicant's intended use in neurophysiological studies of respiration in cats. HEW further advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24304 Filed 8-18-76;8:45 am]

RENSSELAER POLYTECHNIC

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00164-65-46040. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electron Microscope, Model JEM 100C. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research concerned with the investigation of the austenite variables of composition, defect structure, stacking fault energy, process history, and properties as coupled phenomena, and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. Other studies to be carried out include: (1) The effects of localized strain fields on the mechanical behavior of two phase alloys, and (2) grain boundary precipitation studies. The article will also be used for demonstration to students taking course in which electron microscopy is an important instrumentation technique as it provides significant data for the course content.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with a eucentric side entry goniometer stage with ±60° tilt, 360° rotation holder and a guaranteed resolution of 5 Angström (point-to-point). The most closely comparable domestic instrument is the Model EMU-4C electron microscope supplied by the Adam David Company. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 15, 1976 that the characteristics of the article described above are pertinent to the applicant's intended purposes. NBS further advised that domestic instruments do not provide an equivalent eucentric goniometer stage. We, therefore, find that the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24305 Filed 8-18-76;8:45 am]

SALK INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00228-33-77040. Applicant: The Salk Institute for U.S. Govt. Contract # (AID/csd-2785), PO Box 1809, San Diego, California 92112. Article: Mass Spectrometer System, Model CH-5. Manufacturer: Varian, West Germany. Intended use of article: The article is intended to be used for research in population control. Intended application of the article will mainly be structural studies of peptides, particularly those derived from the hypothalamus. These studies can be grouped into four major areas:

I. Direct Sequence Determination of Peptides.
II. Precision Mass Determination.
III. GC-MS Analysis of the PTH Derivatives of Amino Acids.
IV. Direct Evaporation Analysis of the PTH Derivatives.

Comments: Comments dated January 21, 1974 have been received from E. I. DuPont De Nemours and Company (DuPont) which state *inter alia* the Mass Spectrometer DuPont Type 21-492, in combination with Data Acquisition/Processing System (DuPont Catalogue Number 21-094) are of equivalent scientific value to the foreign article. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay within the meaning of § 301.11(c) of the regulations at the time the foreign article was ordered (May 12, 1970). Reasons: This application is a resubmission of Docket Numbers 71-00060-33-77040, 72-00050-33-77040, and 73-00337-33-77040 which were denied without prejudice to resubmission on April 26, 1971, October 18, 1972, and June 19, 1973, respectively, for informational deficiencies. Excessive delivery time is described in § 301.11(c) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference between the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excesive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The applicant sent a request for quotation to several domestic firms. One firm, Bell and Howell, a Division of CEC/Analytical Instruments, now doing business as E. I. DuPont De Nemours & Company (DuPont), submitted a quotation on March 20, 1970 for a Bell and Howell/CEC Data Acquisition and Processing System (Model 21-492 Mass Spectrometer and accessories) as meeting the applicant's specifications, with a total delivery time of nine months if ordered by April 15, 1970. On March 18, 1970, the foreign manufacturer submitted an oral quotation for the article (a complete system) with a delivery time of 60 days (2 months). The article was actually delivered on July 24, 1970 two months and 10 days after the order was placed and approximately two days prior to the specified delivery date. The applicant states that the planned research would require prompt delivery of the foreign article because a delay of approximately 7 months would seriously impair the accomplishment of all the intended purposes. The Department of Health, Education, and Welfare advises in its memorandum dated February 12, 1976 that timely delivery of an instrument was a prerequisite for timely performance of

V 41 162 AUG 19 76 UMI

the applicant's studies under its contract.

Accordingly, we find that the difference between the delivery time of the article and that of the equivalent domestic instrument to be "excessive" within the meaning of § 301.11(c) as it would seriously impair the accomplishment of the applicant's purposes at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24306 Filed 8-18-76;8:45 am]

UNIVERSITY OF PENNSYLVANIA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00315. Applicant: University of Pennsylvania Department of Physiology, School of Medicine, 37th & Hamilton Walk (A303 Richards G4) Philadelphia, Pennsylvania 19174. Article: Coherent NMR Spectrometer, Model CPS-2 & Probe Head. Manufacturer: Spin-Lock Electronics Ltd., Canada. Intended use of article: The article is intended to be used to measure T_1, T_2, $T_{1\rho}$ for 39K within a variety of cells, including those from human lymphocytes, the urinary bladder of the toad, frog striated muscle and rat lymphocytes. The relationship of the NMR properties of potassium to physiologically significant changes in tissue activity will be studied.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 76-00089-33-77030 which was denied without prejudice to resubmission on December 19, 1975 for informational deficiencies. The foreign article provides the capability for measurement of all three nuclear magnetic resonance relaxation times T_1, T_2 and T_{1rho}. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 2, 1976 that the capability described above is pertinent to the applicant's intended purposes. HEW also advises that it knows of no domestic instrument that provides the pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24308 Filed 8-18-76;8:45 am]

UNIVERSITY OF WISCONSIN—OSHKOSH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00413. Applicant: University of Wisconsin-Oshkosh, Dept. of Physics and Astronomy, Oshkosh WI 54901. Article: Spectrometer, Nuclear Magnetic Resonance Pulsed-including power supplies, Model CPS-2. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article is intended to be used for the study of slow molecular motion in tissues, protein water systems, liquid crystals and hydrogen-bonded and other nonmetallic solids by employing pulsed nuclear magnetic resonance techniques. Depending on the material under study, some or all of the following nuclear relaxation times will be measured:

(a) T_1, the spin-lattice relaxation time in the laboratory frame.

(b) T_2, the spin-spin relaxation time, using either Carr-Purcell or Gill-Meiboom techniques.

(c) T_{1D}, the spin-lattice relaxation time in the rotating frame.

(d) T_{1D}, the dipolar spin-lattice relaxation time, using the three-pulse Jeener Broekhart technique.

The article will also be used in the following physics courses to introduce students to current research techniques in physics as well as for student research investigations:

82-391	Intermediate Laboratory II.
82-519	Graduate Laboratory.
82-401	and 405 Independent Study.
82-792	Research Techniques in Physics.
82-795	Thesis.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a coherent nuclear magnetic resonance spectrometer which provides pulsed sequences for relaxation times, such as, T_{1rho} and Carr-Purcell. The National Bureau of Standards (NBS) advises in its memorandum dated July 22, 1976 that specification described above is pertinent to the applicant's intended purposes.

NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24309 Filed 8-18-76;8:45 am]

V.A. CENTER, DAYTON, OHIO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00352. Applicant: Veterans Administration Center, 4100 West Third Street, Dayton, Ohio 45428. Article: Electron Microscope, Model EM 400. Manufacturer: Philips Electronics Instruments NVD, The Netherlands Intended use of article: The article is intended to be used for studies of the effects of virus infections on sensitive tissue culture cell lines. These studies will encompass the use of sophisticated techniques at the electron microscope level such as autoradiography, immunocytochemistry and histochemistry. The effects of toxic pharmaceuticals on neural tissues particularly on glial cells of the central nervous system will be studies and entail the use of the same techniques. In addition, the articles will be used to teach medical and graduate students as well as residents in various programs in fine structural techniques.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for scanning transmission electron micrographs in a high resolution transmission electron microscope. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 15, 1976 that the capability described above is pertinent to the applicant's research studies.

The most closely comparable domestic instrument is the Model EMU-4C electron microscope produced by the Adam David Company. HEW further advises that the EMU-4C does not provide the pertinent scanning capability. We, therefore, find the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24310 Filed 8-18-76;8:45 am]

V.A. CENTER, DAYTON, OHIO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00353. Applicant: Veterans Administration Center, 4100 West Third Street, Dayton, Ohio 45428. Article: Scanning Electron Microscope, Model PSEM 500 and accessory, Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the general areas of surgical pathology, particularly in the diagnosis of tumors of uncertain histogenesis. In the diagnostic viral laboratory, the article will be used for viewing and diagnosing diseases of bacterial and viral origin. Projects in the areas of cancer will also be conducted in which tissue culture cells will be infected with oncogenic viruses. Other studies will involve the effects of toxic pharmaceuticals on neutral tissues particularly on the glial cells of the central nervous system. Another planned use of the article is in the training and teaching of resident physicians.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a motor driven fully-eucentric goniometer stage with a stage position reproducibility of 0.2 micron. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 15, 1976 that the stage position reproducibility described above is pertinent to the applicant's intended use. HEW further advises that domestic instruments do not provide, equivalent specimen position reproducibility.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-24311 Filed 8-18-76;8:45 am]

National Oceanic and Atmospheric Administration

PRELIMINARY MANAGEMENT PLANS/ ENVIRONMENTAL ASSESSMENT

Public Meeting

The Fishery Conservation and Management Act of 1976 (P.L. 94-265, 16 U.S.C. § 1801; "the Act") requires the Secretary of Commerce to prepare a preliminary fishery management plan if an application is submitted by a foreign government to fish in a fishery for which no fishery management plan had been prepared by a Regional Council established by the Act. Any preliminary fishery management plan prepared by the Secretary of Commerce would apply only to foreign fishermen.

The National Marine Fisheries Service (NMFS) is presently working in a number of areas so that it may be prepared to act expeditiously should such a request be received. Among these, NMFS is studying billfishes and sharks in the Atlantic, Caribbean, and Gulf of Mexico areas.

In order to allow officials of interested States to orally comment on NMFS' efforts in regard to billfishes and sharks in the Atlantic, Caribbean, and Gulf of Mexico areas, and to provide sufficient information for the public to later submit written comments, the following public meeting will be held:

Date: September 2, 1976
Place: Holiday Inn—Airport, Atlanta, Georgia
Time: 9 a.m. to 12 p.m.; 2 p.m. to 5 p.m.

PROPOSED AGENDA

9 to 12: Discussion of Fishery Management Plan Preparations by NMFS personnel/environmental assessments

2 to 5: Comments from State officials

This meeting will be open to the public. Because of the Act's requirements for State-Federal cooperation, State officials responsible for the management of marine fisheries in the areas under consideration, including Puerto Rico and the Virgin Islands, will be given an opportunity to comment orally during the afternoon session. Comments of other interested persons should be submitted in writing to: Regional Director, National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702. Additional information concerning this meeting may be secured by writing to that address or by calling: 813-893-3141.

Dated: August, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-24447 Filed 8-18-76;8:45 am]

Office of Telecommunications

TELECOMMUNICATIONS SERVICE CENTER

Cessation of Activities

Notice is hereby given that all activities of the Telecommunications Service Center will cease after September 30, 1976. The activities to be discontinued include ionospheric telecommunications forecasts and warnings distributed by announcements over radio station WWV, and by telephone, teletype and weekly mailings.

It is our understanding that ionospheric predictions are available to private parties, including radio amateurs, from a commercial source.

As other areas of radio communication technology become increasingly important, they require more of the Office's attention and resources. As a result, budgetary, personnel, administrative and technical considerations compel the termination of the above services.

DOUGLASS D. CROMBIE,
Associate Director for Telecommunication Sciences.

[FR Doc.76-24328 Filed 8-18-76;8:45 am]

Travel Service

TRAVEL ADVISORY BOARD

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on September 21, 1976, at 9:30 a.m., in Room 4830, of the Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce to serve two year terms.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended. A detailed agenda for the meeting will be published in the

V 41 162 AUG 19 76 UMI

FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements will be allowed.

Melinda Carr, Acting Director of Media Services Division, of the United States Travel Service, Room 1519, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202–377–4987) will respond to public requests for information about the meeting.

CREIGHTON HOLDEN,
Assistant Secretary for Tourism,
U.S. Department of Commerce.

[FR Doc.76–24482 Filed 8–18–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DIAGNOSTIC PRODUCTS ADVISORY COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Diagnostic Products Advisory Committee by the Secretary, Department of Health, Education, and Welfare for an additional period of 2 years beyond August 9, 1976.

Authority for this committee will expire August 9, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: August 12, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76–24280 Filed 8–18–76;8:45 am]

Health Resouces Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1976:

Name: National Advisory Council on Nurse Training.

Date and Time: September 27–29, 1976, 10:30 a.m.

Place: Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

Open 10:30 a.m. to 12:15 p.m.
Closed remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1971. The Council also performs final review of grant applications for Federal Assistance for capitation, construction and special projects for the improvement of nurse training, and research grants and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meetings; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be closed to the public for the review of grant applications for Federal assistance in accordance with the provisions set forth in section 552(b)(5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Room 6008, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496–6985.

Agenda items are subject to change as priorities dictate.

Dated: August 16, 1976.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.76–24343 Filed 8–18–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Public Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the next meeting of the National Advisory Council on Vocational Education will be held on September 8, 1976 from 4 p.m. to 5:30 p.m., local time and on September 9, 1976 from 9 a.m. to 5 p.m., local time and on September 10, 1976 from 9 a.m. to 12 Noon, local time at the Hyatt Regency Hotel, 400 New Jersey Avenue, NW., Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the Administration of preparation of general regulations for, and operation of, vocational educational programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public. The proposed agenda includes:

SEPTEMBER 8, 1976

4 p.m. to 5:30 p.m.—Welcome and Introduction of New Council Members; Chairman's Report.

7 p.m. to 9:30 p.m.—Review Program of Work.

SEPTEMBER 9, 1976

9 a.m. to 12 Noon—Report from the U.S. Office of Education. Legislative Report. Report on OE Management Evaluation Review Teams. Status report on National Bicentennial Conference on Vocational Education.

1:30 p.m. to 5 p.m.—Presentation by Members of National Advisory Council on Adult Education. Discussion of NACVE Work Plans. Appointment of Task Force.

SEPTEMBER 10, 1976

9 a.m. to 12 Noon—Task Force organizational meetings.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425–13th Street, NW., Washington, D.C. 20004.

Signed at Washington, D.C. on August 16, 1976.

REGINALD PETTY,
Executive Director.

[FR Doc.76–24340 Filed 8–18–76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 76–34]

ACCIDENT REPORTS; AIRCRAFT ACCIDENT BRIEFS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aircraft Accident Report.—According to the National Transportation Safety Board, the loss of directional control during taxi as a result of ice on the taxiway and strong, direct crosswinds probably caused a Japan Air Lines Boeing 747, Flight 422, to skid off the taxiway and slide backward down a snow-covered embankment. The accident occurred last December 16 at Anchorage International Airport in Alaska. As noted in the report, No. NTSB–AAR–76–12, contributing to the accident were (1) the captain's decision to take off from runway 6R after receiving reports that taxiing conditions were deteriorating, and (2) failure of airport management to anticipate predictable unsafe icing conditions on the airport. This failure to anticipate these conditions resulted in delayed and insufficient preventive action. The report was released August 12.

Although the evacuation of Flight 422 was successful, some of the problems identified in the Safety Board's special study, "Safety Aspects of Emergency Evacuations from Air Carrier Aircraft" (No. NTSB–AAS–74–3, released January 5, 1975), were present in this accident. Under slightly different circumstances of a greater passenger load and a postcrash fire, lives may been lost. Accordingly, recommendations A–74–105 through A–74–114 from that study and the Federal Aviation Administration's response of May 9, 1975, with updated information as of April 1, 1976, merited repeating in the Anchorage accident report.

Pipeline Accident Report.—A report of the investigation of the May 12, 1975, rupture of an 8-inch pipeline near Devers, Texas, was released by the Safety Board on August 5. The report, No. NTSB–PAR–76–5, indicates that natural gas liquids at 1,425-psig pressure erupted from a fracture near the top of the pipe; the liquids vaporized, mixed with air, and formed a cloud which drifted to the southwest over U.S. Highway 90. An automobile entered the vapor cloud and ignited the ethane-propane vapors. The resulting explosion and fire killed the four persons in the automobile, melted telephone and electric power lines, warped railroad tracks, burned and scorched adjacent woodlands, and interrupted rail and highway traffic. The Safety Board determined that the probable cause of the accident was the rupturing of the pipe where it had been gouged by a backhoe during installation of the pipeline's valve assemblies. The 70-inch-long rupture was caused by a combination of reduction in wall thickness, residual bending and tensile stresses, and fatigue due to the cyclic loading of the pipe, the Board held.

As a result of its investigation of the explosion, the Safety Board by letter of August 5 recommended that Dow Chemical U.S.A., owner of the pipeline, (1) initiate necessary equipment changes to provide data necessary for safe operation of the pipeline continuously to the dispatch centers (recommendation P–76–39); (2) review periodically with local fire departments and other interested agencies the pipeline location, basic pipeline operations, materials transported, hazards encountered, and procedures to follow during leaks (P–76–40); and (3) use the total system concept to review day-to-day operations, new projects, and maintenance operations in order to assist in recognizing and controlling potentially hazardous conditions (P–76–41). The recommendations are designated Class II, for priority followup.

Also on August 5, the Safety Board by separate recommendation letter asked the American Petroleum Institute to implement on a priority followup basis a 1972 recommendation to develop system safety guidelines for liquid pipeline operators; the recommendation, No. P–72–21, was directed to the Institute in the Board's special study, "A Systematic Approach to Pipeline Safety," report No. NTSB–PSS–72–1. In noting that the Devers explosion was the type of accident which the 1972 recommendation was intended to prevent, the Board stated that utilization of the techniques of system safety would have pointed out the problems which led to this accident. The request for implementation was made by recommendation P–76–42.

Aircrafts Accident Briefs.—Issue No. 5, "Aircraft Accident Reports, Brief Format, U.S. Civil Aviation—1975," was released August 6. This volume, report No. NTSB–BA–76–4, contains the synoptic, computer-printed reports of the findings and probable cause(s) of 509 general aviation accidents and 15 air carrier accidents which occurred in the United States last year. In press release No. SB 76–61 announcing the availability of this publication, the Board indicates that encounters with vortex turbulence generated by preceding aircraft, particularly large multi-engine prop or jet types, can cause involuntary loss of control in smaller and lighter following aircraft. The Safety Board, the Federal Aviation Administration, and the industry have issued repeated warnings to pilots, particularly general aviation pilots, on the potential dangers inherent in such situations, the press release noted.

The brief reports in this publication contain essential information concerning the accidents reported; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 23¢ per page for printed matter, $1.25 per page for black and white photographs, and $4.00 per page for color photographs, plus postage. Minimum reproduction charge is $2.00; an additional $4.00 user-service charge will be made for each order. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester must provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

The 1975 Issue No. 5 volume may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Aviation Safety Recommendations.—Last March 28, near Pullman, Washington, a Piper PA23–250–C struck the ground in a high-speed spiral. During its investigation of the crash, the Safety Board discovered that a major structural alteration had been approved and accomplished without proper engineering evaluation. The major alteration was an extension of the fuselage nose by installing P/N 32958–00—section assembly-fuselage nose. In the belief that Federal Aviation Administration inspectors should thoroughly investigate the extent of an alteration so that approval is based on approved technical data, the Safety Board by letter issued August 10 recommended that FAA (1) review fuselage nose alteration approvals on all PA 23 aircraft and determine that the modifications are based on approved technical data (A–76–116); (2) review applicability of AD 72–21–07 for PA 23 models other than the –250 and extend the applicability as necessary (A–76–117); (3) alert GADO inspectors and holders of Inspection Authorizations to the interrelationship between configuration modifications, possible associated stability problems, and weight and balance changes which can require control system changes—Ref. 8310.4A, Paragraph 68, e (A–76–118); and (4) remind the holders of Inspection Authorizations of FAR Part 43.5(a)(4) which requires recording of weight and balance changes resulting from aircraft alterations (A–76–119). Recommendations A–76–116 and A–76–117 are Class I, asking urgent followup; A–76–118 and A–76–119 are Class II, for priority followup.

A Class I recommendation, A–76–120, was issued to the FAA by letter of August 13, after the Safety Board learned that the provisions of 14 CFR 121.318, which require an operational public address system aboard airplanes with a seating capacity of more than 19 passengers, are being negated by modifications to aircraft master minimum equipment lists. The Safety Board urges that the master minimum equipment lists of passenger-carrying airplanes be standardized to require that the public address system be operable from the cockpit and from at least one flight attendant station at all times.

Pipeline Safety Recommendations.—Four recommendations—two, Nos. P–76–43 and P–76–44, to Lehigh Utilities, Inc., of Lehigh Acres, Florida, and two, Nos. P–76–45 and P–76–46, to the U.S. Department of Transportation—were issued on August 11 by the Safety Board following investigation of the rupture of a 1,000-gallon liquefied petroleum gas (LPG) tank owned by Lehigh Utilities. The accident occurred last March 23 in a residential neighborhood of Lehigh Acres. The Safety Board's investigation disclosed that a truck had backed over the buried LPG tank and had struck the tank's manhole, which extended 12 to 14 inches above ground level. The impact ruptured the tank's fill pipe, its relief valve, and its liquid-level gauge. The escaping liquid vaporized, formed a white, fog-like cloud near the ground, and ignited. The ensuing fire and explosion killed one person, destroyed one truck, and damaged another. The Safety Board's recommendations are that Lehigh Utilities, on an "urgent followup basis," (1) mark the location of all buried LPG tanks, which may be damaged by vehicles, to alert drivers that they are driving near a buried tank (P–76–43), and (2) protect the manhole of and piping connections to all LPG tanks which may be damaged by vehicles (P–76–44).

In the letter to the Secretary of Transportation, the Safety Board noted that the Department's Office of Pipeline Safety Operations (OPSO) has not determined whether OPSO has jurisdiction over LPG tanks which are connected to pipeline systems. This jurisdictional problem might be detrimental to the safety of persons who live adjacent to these systems since operators of the systems may be unsure whether 49 CFR 192 applies to their systems. The Board stated that the impact of this problem is great since there are hundreds of such systems in Florida and thousands in the Nation. Accordingly, the Board recommended that OPSO (1) clarify its jurisdiction with respect to LPG tanks which are connected to a pipeline system that transports LPG vapor (P–76–45), and (2) modify the exemption from 49 CFR 192 for pipelines with less than 10 customers to include systems that have pipeline facilities which expose a substantial

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part of a community or neighborhood to a potential hazard. (P–76–46). Priority followup is asked for both recommendations.

Letters in Response to Safety Board Recommendations.—Addressees of earlier Board recommendation letters in the aviation, marine, highway, and railroad transportation modes have recently supplied responses as follows:

Federal Aviation Administration letter of August 2 is in response to recommendations A–76–20 through A–76–28 concerning chemically generated, passenger emergency supplemental oxygen systems. (See 41 FR 18730, May 6, 1976.) FAA does not concur with recommendation A–76–20 which asked that supplemental oxygen systems have readily discernable means to indicate that oxygen is flowing. FAA states that a flow detector to be recognizable to passengers would need to be very sensitive and reliable to indicate the extremely low oxygen flow rate of the lower cabin altitudes. Regardless of flow indicators, according to FAA, at low cabin altitudes, lay passenger may not be aware that they are receiving a normal flow of oxygen, and the current reservoir bag will give a good flow indication as the cabin altitude is increased to the higher levels where the need for supplemental oxygen is greatest. FAA suggests that as an alternative, means may have to be developed to acquaint passengers regarding oxygen flow by way of cabin crew briefing/or briefing cards/or placards.

Concerning A–76–21 and A–76–22, FAA does not concur that the absence of headband adjustment tabs is a hazardous condition. The FAA does feel that the proposal to "AD" all masks with adjustable tabs, now in service and in stock, is essential to safety in view of the fact that the proper procedure for mask use is to first, handhold the mask over the nose and mouth; then, for comfort, place the headband over one's head and adjust. FAA is working with the Society of Automotive Engineers in the revision of TSO–C64, and will consider inclusion of adjustable tabs on those masks where applicable.

Concerning A–76–23, FAA notes that service life and periodic inspection requirements for oxygen mask reservoir bans are now being met. FAA indicates that action is being taken to determine what inspection procedures are being used by the airline for the total fleet, since the plastic reservoir bag is common to other aircraft as well as the DC–10 and L–1011. FAA concurs in recommendations A–76–24 through A–76–26, noting that an Air Carrier Operations Bulletin will be issued and incorporate guidance material relative to: Crewmember training in the operational characteristics of chemically generated passenger supplemental oxygen systems on DC–10 and L–1011 aircraft; improved passenger briefings and printed instructions on the use of the subject system; and review and evaluation of oral briefings and passenger safety information cards to assure the incorporation of clear, factual data on the use of the subject system. FAA plans to issue an operations bulletin covering these recommendations.

Specific to A–76–27, FAA indicates that it is not clear as to what the Safety Board expects as an end product in recommending development of standards for using "accepted human factors engineering principles and system design concepts in the design of passenger supplemental oxygen systems." FAA states, "Human factors are the prime consideration in the design of systems such as oxygen systems. We cannot see that these considerations were neglected in the DC–10 or L–1011 systems." Regarding A–76–28—to develop standards for type certification demonstration tests—FAA does not believe that there is a need for any additional demonstration since this is covered at the time of aircraft certification under provisions of 25.1301(d). "If a system is new and novel, then we will consider whatever additional tests may be required in the form of special conditions," FAA stated.

FAA letter of August 3 relates to recommendations A–76–71 and A–76–72 concerning surveillance of certificated repair stations. (See 41 FR 22427, June 3, 1976.) FAA states, re A–76–71, that it is currently revising the procedures used for certification and surveillance of certificated repair stations, and that review of the random sampling findings in the program now being conducted indicates need for improvement of surveillance techniques and inspection procedures used by certificated repair stations. According to FAA, a complete revision of its order, used by field inspectors during certification and surveillance of repair stations, is in progress. Regulatory changes are also being considered to improve repair station inspection systems. Re A–76–72, calling for FAA review of policies relative to users' compliance with manufacturers' service bulletins which may have safety of flight implications and issuance of AD's soon after service difficulties are discovered, FAA states that it continually monitors and evaluates service difficulties. According to FAA, as soon as it has been determined that an unsafe condition exists in a particular product and if this condition is likely to exist or develop in another product of the same type, it is current FAA practice to implement corrective action through the issuance of an airworthiness directive.

United States Coast Guard letter of August 6 provides an update on recommendation 71–M–20 which was issued as a result of the Safety Board's special study, "Effectiveness of Investigation of Recreational Boating Accidents" (NTSB–MSS–71–7, released August 24, 1971). The letter indicates that Coast Guard and State officials investigating boating accidents are according high priority to developing information which will be useful in formulating preventive measures. Such information includes: Detailed description of the boat and its equipment; weather and sea conditions, including wave length and height, forecasted weather, if weather forecast was known or sought, and methods of dissemination of weather forecast; and the operator's experience in boating and boating safety courses completed by the operator, swimming ability of persons involved, the reason for the boating trip, physical condition of occupants, and maintenance of an adequate lookout. The Coast Guard's Boating Accident Investigator's Manual (CG–472) has been completed and was distributed for use on June 25, 1976.

Coast Guard letter of August 6 addresses recommendation 72–M–20 which was issued as a result of the Board's special study "Analysis of the Safety of Transportation of Hazardous Materials on the Navigable Waters of the United States" (NTSB–MSS–72–2, released May 22, 1972). The recommendation asked for revision of regulations concerning qualifications of tankerman and licensed officers who handle extremely hazardous materials to require special qualifications and endorsements for these specific materials. Coast Guard indicates that the notice of proposed rulemaking spoken to in its response of last November 24 (40 FR 57726, December 11, 1975) is in its final drafing stages, publication expected by the end of this year.

National Highway Traffic Safety Administration letter of August 6 concerns recommendations H–76–25 and H–76–26 resulting from the Board's special investigation of the Metropolitan Coach Corporation charter bus accident last October 12 in Bethesda, Maryland. (See 41 FR 30215, July 22, 1976.) NHTSA concurs with recommendation H–76–25, stating that its programmed research effort for FY 77 includes the initiation of traction evaluation of commercial type tires, and that its FY 78 research budget indicates that traction has the highest priority within NHTSA's tire research program. NHTSA states, "The elimination of poor traction and safety-related subsystem parameters that may cause or contribute to motor vehicle accidents is the ultimate objective of this research effort." But, NHTSA adds, "Unfortunately, the current state-of-the-art of traction testing for vehicle tires other than passenger car types has not progressed as well as passenger care tire methodology." NHTSA also concurs with recommendation H–76–26, calling for a Federal Motor Vehicle Safety Standard to require a minimum frictional coefficient for all commercial motor vehicle tires. The letter indicates that amendment of NHTSA's Federal Motor Vehicle Safety Standard 119, "New Pneumatic Tires for Vehicles Other than Passenger Cars," will be the first major upgrading since the effective date of March 1975. The research program will be the pacing item for the promulgation of minimum traction requirements, according to NHTSA.

Massachusetts Bay Transportation Authority (MBTA), letter of August 5, and *Port Authority Trans-Hudson Corporation* (PATH), letter of July 30, concern automatic train control—recommendations R–76–42 through R–76–44. (See 41 FR 34125, August 12, 1976.) MBTA said that, although it has an automatic train operation-automatic train control (ATO–ATC) operation on its South Shore extension, the operation is strictly "manual block operation," and it is not necessary to remove trains from service with ATO–ATC or cab signal failures en route, as the manual block operation provides adequate protection. MBTA presently has an adequate radio communication system for operational control and all rapid transit trains are equipped with two-way radio communication. MBTA states that procedures for radio communications have been developed and employees are periodically instructed in these procedures.

PATH's letter states that as its trains are not operated with automatic train control or cab signals, the recommendations are not applicable to the Corporation.

Safety Board Letters in Reply to Recommendation Responses.—

To Coast Guard, Board letter of August 11 is in reply to Coast Guard's letter of July 20, and indicates that recommendations M–74–7 and M–74–8 will be continued in open status until Coast Guard advises the Board of publication of standards and "A Guide to Safety in Towing." (See 41 FR 32796, August 5, 1976.)

To Materials Transportation Bureau, Board letter of August 10 is in reply to MTB's letter of July 19, and indicates that recommendations P–75–7 and P–75–8 which related to the June 9, 1974, pipeline accident near Bealeton, Virginia, will be held in open status by the Board pending MTB's evaluation.

The accident reports, the safety recommendation letters, and the press release herein referred to are available to the general public; single copies may be obtained without charge. Copies of the letters responding to recommendations, and Safety Board replies thereto, may be obtained at a cost of $4.00 for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 16, 1976.

[FR Doc.76–24351 Filed 8–18–76;8:45 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held on September 8, 9 and 10, 1976, at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

The agenda for this meeting is as follows:

On September 8, 1976, at 8:30 a.m., in room 2230, there will be a briefing for new members on the organization and structure of the Department and the highway safety programs and standards, followed at 9:40 a.m., with a general session for the full Advisory Committee with the following agenda:

Briefings on the proposed National Data Center
Briefing on Highway Safety Standards Revision
Briefing on Evaluation of Standards under Section 402, Title 23

Also on September 8, 1976, from 10:45 a.m. until 12:30 p.m., and from 1:30 p.m. until 2:30 p.m., in room 6200, there will be a meeting of the Adjudication and Alcohol Subcommittee, with the following agenda:

Status of April 1 Adjudication Task Force Report
Report of July 16 Meeting with Deputy Secretary John Barnum on April 1 Task Force Report
Alcohol Safety Adjudication and Referral Plan
Subcommittee's Long-Range Plans
New Business—Old Business

Further, on September 8, 1976, from 2:30 p.m. until 5:00 p.m., in room 2230, there will be a meeting of the Driver Subcommittee, with the following agenda:

Report on Pedalcyclist Standard
Briefing on Driver Behavior Research
Review of April Subcommittee Resolutions
New Business—Old Business

On September 9, 1976, from 8:30 a.m. until 12:30 p.m., in room 2230, there will be a meeting of the Highway Environment Subcommittee, with the following agenda:

Briefing on Rail-Highway Grade Crossing Problem
Discussion of Plans for Site Visit to Division Safety Coordinators
Long-Term Safety Issues—Subcommittee Positions
New Business—Old Business

Also on September 9, 1976, from 1:30 p.m. until 5:00 p.m., in room 6200, there will be a meeting of the Vehicle Subcommittee, with the following agenda:

Update on Proposed Standard on Motorized Bicycles
Discussion of International Laws on Motorized Bicycles
Discussion of 55 MPH Speed Limit—Committee Contribution to Achieving Compliance
Status of Standards Revision—Specifically PMVI and Motor Vehicle Registration
Presentation on Severity of Heavy Truck Accidents (1971–75 Data)
New Business—Old Business

On September 10, 1976, beginning at 9:00 a.m. and adjourning at noon, in room 2230, the full Committee will meet with the following agenda:

Swearing in of New Members
Report of Adjudication and Alcohol Subcommittee
Report of Driver Subcommittee
Report of Highway Environment Subcommittee
Report of Vehicle Subcommittee
New Business—Old Business

The meeting is subject to the approval of the Secretary of Transportation. Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–2872.

Any member of the public may present a written statement to the Committee at any time.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized (1) to review research projects or programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety programs. Issued in Washington, D.C. on August 13, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76–24177 Filed 8–18–76;8:45 am]

FEDERAL RESERVE SYSTEM

DAKOTA BANCORPORATION

Acquisition of Bank

Dakota Bancorporation, Rapid City, South Dakota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank of Crosby, Crosby, North Dakota, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Dakota Bancorporation is also engaged in the following nonbank activities: general insurance agency activities. In addition to the factors considered in section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

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The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 7, 1976.

Board of Governors of the Federal Reserve System, August 13, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24326 Filed 8-18-76;8:45 am]

M & D HOLDING CO.

Formation of Bank Holding Company

M & D Holding Company, Spring Lake Park, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 92 percent or more of the voting shares of First State Bank of Spring Lake Park, Spring Lake Park, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 13, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24327 Filed 8-18-76;8:45 am]

TENNESSEE NATIONAL BANCSHARES, INC.

Order Approving Acquisition of Banks

Tennessee National Bancshares, Inc., Maryville, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, has applied in two separate applications for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Citizens State Bank, McMinnville, Tennessee ("McMinnville Bank") and Bank of Cannon County, Woodbury, Tennessee ("Woodbury Bank").[1]

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourteenth largest banking organization in Tennessee, controls two banks with aggregate deposits of $77.7 million, representing 0.6 percent of the total deposits in commercial banks in the State.[2] Acquisition of McMinnville Bank (deposits of $9.0 million) and Woodbury Bank (deposits of $4.3 million) would not result in a significant increase in the concentration of banking resources in the State.

Woodbury Bank is the second largest of four banks located in the Cannon County banking market, and controls 14 percent of market deposits. McMinnville Bank is the third largest of four banks located in the Warren County banking market, which is southeast of Cannon County, and controls 9 percent of market deposits. Applicant's nearest subsidiary is in Maryville, 130 miles from Woodbury Bank and 155 miles from McMinnville Bank. Although Woodbury Bank and McMinnville Bank are 21 miles apart and operate in contiguous markets, neither derives a significant amount of loans or deposits from the service area of the other. In view of the substantial distances involved and the number of other banks in the relevant markets, it is the Board's judgment that approval of these applications would not have any significant adverse effects on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, Woodbury Bank and McMinnville Bank are regarded as satisfactory, particularly in view of Applicant's commitment to provide additional capital to McMinnville Bank and to strengthen the managements of each of the banks. Therefore, banking factors are regarded as being consistent with approval. As a result of affiliation with Applicant, Banks will be able to expand and improve the services offered to the public. Therefore, factors relating to the convenience and needs of the community to be served lend weight for approval. It is the Board's judgment that the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 13, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24325 Filed 8-18-76;8:45 am]

[1] Banks were subsidiaries of Hamilton Bancshares, Inc., Chattanooga, Tennessee, which is now in bankruptcy.

[2] Unless otherwise indicated, all banking data are as of December 31, 1975.

[3] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governor Gardner.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON, WOOL AND MAN-MADE FIBER APPAREL FROM HONG KONG

Export Visa Requirement

AUGUST 16, 1976.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 25, 1974, as amended, between the Governments of the United States and Hong Kong, the Government of Hong Kong has undertaken to limit the export of cotton, wool and man-made fiber textile products to the United States to certain designated levels. Pursuant to Paragraph 13 of this agreement, the Governments of the United States and Hong Kong have established an administrative mechanism intended to preclude circumvention of the licensing system for exports to the United States of cotton, wool and man-made fiber apparel, produced or manufactured in Hong Kong. The purpose of this notice is to announce the implementation of the administrative mechanism.

Effective on September 6, 1976, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton, wool and/or man-made fiber apparel in Categories 39–63, 111–125, and 214–240, produced or manufactured in Hong Kong and exported from Hong Kong on and after that date, for which Hong Kong has not issued a visa, will be prohibited. Shipments of cotton, wool and/or man-made fiber apparel in Categories 39–63, 111–125, and 214–240 which have been exported from Hong Kong before September 6, 1976 will not be denied entry until December 6, 1976.

The export visa requirement will not apply to shipments that are valued at $250 or less.

The visa will be a signed copy of the Hong Kong Export License (Textiles), Forms 4 or 5, stamped on the front side, "Approved for Export to the U.S.A." Facsimiles of both forms accompany this notice.

Interested parties are advised to take all necessary steps to insure that cotton, wool and man-made fiber apparel, produced or manufactured in Hong Kong, which is to be entered into the United States for consumption or withdrawn from warehouse for consumption, will meet the stated requirement.

There is published below a letter of August 16, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs implementing the administrative mechanism.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COPY

EXPORT LICENCE (TEXTILES) FORM 4

Exporter (Name & Address)

HONG KONG GOVERNMENT
Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations

B.R. No. | Tel. No. | *Licence No. and Date of Issue.* | *Export No. and Date of Receipt.*

Consignee

Issue of this licence is approved.

for Director of Commerce & Industry

Name and Address of Hong Kong Manufacturer or Country of Manufacture (if not Hong Kong)

C.O./C.P.C. Number

Tel. No. .....

Carrier | Date of Departure | Country of Destination

FOR CONDITIONS OF ISSUE PLEASE SEE OVERLEAF

WARNING:—All alterations must be carried out by authorized officers. Heavy penalties are payable for false declarations and information furnished or alterations made contrary to the Ordinance.

Marks and Number(s)	No. of packages	Full Description of Goods (State Country of Origin of raw materials)	No. of Units	Value f.o.b. HK$	c.i.f. Value in currency of payment

SPECIMEN

Approved for export to the USA

for Director of Commerce and Industry, Hong Kong.

Item No.	Commodity Item Code No.		Total Amount	Total Amount

EXPORTER'S DECLARATION

I, ..., principal official of

(Name and Address of Exporter's Co.)

.....

hereby declare that I am the exporter of the ..... packages of goods in respect of which this application is made and that the particulars given herein are true.

Date .....

Signature and Chop.

C.S.I. 383 (REV. 1971)

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EXPORT LICENCE (TEXTILES) FORM 5

Audit No. B 033729

HONG KONG GOVERNMENT
Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations

Exporter (Name & Address)

I.R. No. Tel. No.

Licence No. and Date of Issue. *Receipt No. and Date of Receipt.*

Consignee

Issue of this licence is approved.

for Director of Commerce & Industry.

MANUFACTURER'S DECLARATION

I, ...

principal official of .....
(Name and Address of Manufacturer's Co.)

..... hereby declare that I am the manufacturer of the goods in respect of which this application is made, ** and that I agree to supply the goods as stated below.

** Delete if not applicable.

C.O./C.P.C. Number

Tel. No. .....

Date ..... *Signature and Chop.*

Carrier | Date of Departure | Country of Destination

FOR CONDITIONS OF ISSUE PLEASE SEE OVERLEAF

WARNING — [illegible]

Mark(s) and Number(s)	No. of packages	Full Description of Goods (State Country of Origin of raw materials)	No. of Units	Value f.o.b. HK$	c.i.f. value in currency of payment

SPECIMEN

Approved for export to the USA

for Director of Commerce & Industry, Hong Kong

Item No.	Category/Sub-Category or Commodity Item Code No.	Name of Quota/Export Authorization/Permit Holder	Quota Reference (see * below)	Quantity Shipped in Quota Units	Total Amount	Total Amount

EXPORTER'S DECLARATION

I, ...

principal official of .....
(Name and Address of Exporter's Co.)

..... hereby declare that I am the exporter of the ..... packages of goods in respect of which this application is made and that the particulars given herein are true.

* Insert here:—Type of Quota: Export Authorization Number; Swing Transfer or A—Type Transfer Number or Quota Permit Number as appropriate.

Date ..... *Signature and Chop.*

C.61. 883A (REV. 1971)

CROWN COPYRIGHT RESERVED

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS
August 16, 1976.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 25, 1974, as amended, between the Governments of the United States and Hong Kong, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on September 6, 1976 and until further notice, entry into the United States for consumption of cotton textile products in Categories 39–63; wool textile products in Categories 111–125; and man-made fiber textile products in Categories 214–240, produced or manufactured in Hong Kong and exported to the United States on and after that date for which Hong Kong has not issued an appropriate visa. Cotton, wool and/or man-made fiber textile products in the categories specified, produced or manufactured in Hong Kong and exported to the United States before that date, shall not be denied entry until December 6, 1976.

The export visa requirement will not apply to shipments that are valued at $250 or less.

The visa will be a signed copy of a Hong Kong Export License (Textiles), stamped on the front side, "Approved for Export to the U.S.A."

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool and man-made fiber textile products, produced or manufactured in Hong Kong and exported to the United States, notwithstanding the designated shipment or shipments do not meet the aforementioned visa requirements, whenver requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Hong Kong and with respect to imports of cotton, wool and man-made fiber textile products from Hong Kong have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-24303 Filed 8-18-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 602-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision of the New Jersey State Implementation Plan

On June 8, 1976 New Jersey submitted to EPA a proposed revision to the New Jersey State Implementation Plan. The revision request was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51 and consists of:

1. Amendments to State regulation, N.J.A.C. 7:27–8 "Permits and Certificates," and

2. A Public Hearing Report which evaluates testimony submitted by interested parties at the State public hearings held on August 11 and 12, 1975.

The amendments to N.J.A.C. 7:27–8 accomplish the following:

1. They clarify by modification the definition of two terms contained in Subsection 8.1, "Definitions." The existing and proposed definitions of these terms are as follows:

Existing Definition	*Proposed Definition*
"Particles" means any material, except uncombined water; which exists in finely divided form as liquid particles or solid particles at standard conditions.	"Particles" means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.
"Stack or chimney" means a flue, conduit or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.	"Stack or chimney" means a flue, conduit or opening designed constructed, and/or utilized for the purpose of emitting air contaminants into the outdoor air.

2. They add to Subsection 8.1 definitions for three new terms as follows:

"Alteration" means any change made to equipment or control apparatus or the use thereof, or in a process; including but not limited to any physical change, change in material being processed or a change in the rate of production except where such a production rate change does not increase the quantity of air contaminant emitted or does not change the quality or nature of the air contaminant emitted.

"Equivalent stack diameter" means the diameter of a circular cross section having the same area as the non-circular cross sections at the point of emission discharge.

"Stack diameter" means the internal diameter of a circular stack at the point of emission discharge.

3. They clarify by modification the wording found at subparagraph (a)(5)(ii) of Subsection 8.2, "Permits and Certificates Required." The existing and proposed wording is as follows:

Existing Wording	*Proposed Wording*
Solid particles in finely divided or powdered form including, but not limited to, binders, fillers, foodstuffs, detergents, fluxes, catalysts, mineral wools, resins, plastics, pigments, construction materials and solid fuels; and having a capacity in excess of 2,000 cubic feet.	Solid particles including, but not limited to, binders, fillers, foodstuffs, detergents, fluxes, catalysts, mineral wools, resins, plastics, pigments, construction materials and solid fuels; and having a capacity in excess of 2,000 cubic feet.

4. They modify the wording found at subparagraph (e) of Subsection 8.3, "General Provisions." The existing and proposed wording is as follows:

Existing Wording	*Proposed Wording*
(e) No person shall use or cause to be used any equipment or control apparatus unless all components connected or attached to, or serving the equipment and/or control apparatus are functioning properly and are in use in accordance with the "Permit to Construct, Install or Alter Control Apparatus or Equipment" and "Certificate to Operate Control Apparatus or Equipment."	(e) No person shall use or cause to be used any equipment or control apparatus unless: 1. all conditions and provisions of the "Permit to Construct, Install or Alter Control Apparatus or Equipment" and "Certificate to Operate Control Apparatus or Equipment" are fulfilled, and 2. all components connected or attached to, or serving the equipment and/or control apparatus are functioning properly and are in use in accordance with the "Permit to Construct, Install or Alter Control Apparatus or Equipment" and Certificate to Operate Control Apparatus or Equipment."

The Region II Office of EPA has reviewed the State's rationale for this proposed revision, as presented in the Public Hearing Report, and has made the preliminary determination that it should be included as part of the New Jersey State Implementation Plan.

This notice is issued, as required by section 110 of the Clean Air Act, to advise the public that comments may be submitted on or before September 20, 1976 as to whether the proposed revision of N.J.A.C. 7:27–8 should be approved or disapproved. Only comments received during the 30-day public comment period hereby established will be considered. The Administrator's decision to approve or disapprove the proposed plan revision will be based on whether the revision meets the requirements of section 110 (a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51,

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Copies of the proposed plan revision are available for public inspection during normal business hours at the Air Branch, EPA, Region II, 26 Federal Plaza, New York, New York 10007, and at the New Jersey State Department of Environmental Protection, Bureau of Air Pollution Control, John Fitch Plaza, Trenton, New Jersey 08625. Additional copies are available for inspection at the Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Dated: August 9, 1976.

ERIC B. OUTWATER,
Acting Regional Administrator,
Environmental Protection Agency.

[FR Doc.76-24341 Filed 8-18-76;8:45 am]

[FRL 601-5; PP5G1627/T76]

PESTICIDE PROGRAMS

Extension of a Temporary Tolerance for the Pesticide Chemical Paraquet

On September 3, 1975, the Environmental Protection Agency (EPA) announced (40 FR 40574) that in response to a pesticide petition (PP 5G1627) submitted by Chevron Chemical Co., 940 Hensley St., Richmond CA 94804, a temporary tolerance was established for residues of the desiccant, defoliant, and herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium) derived from application of either the dichloride or the bis(methyl sulfate) salt, calculated in both cases as the cation, in or on the raw agricultural commodity dry beans at 05 part per million (ppm). This temporary tolerance is scheduled to expire August 28, 1976.

Chevron Chemical Co. has requested a nine-week extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

The scientific data reported and all other relevant material having been evaluated, it has been determined that an extension of the temporary tolerance will protect the public health, and it is concluded, therefore, that the temporary tolerance be extended on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires October 31, 1976. Residues not in excess of 0.5 ppm remaining in or on dry beans after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

Statutory Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: August 10, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-24256 Filed 8-18-76;8:45 am]

[FRL 601-8; OPP-50055A]

PERMIT TO CLEMSON UNIVERSITY

Issuance of Experimental Use

On January 28, 1976, the Environmental Protection Agency (EPA) announced in the FEDERAL REGISTER (41 FR 4063) the receipt of an application from Clemson University, South Carolina, for an experimental use permit allowing the use of a DDT formulation to evaluate the effectiveness of the formulation in controlling the cotton bollworm and the tobacco budworm (*Heliothis* spp.). Since the Administrator, EPA, determined that issuance of the permit might be of regional or national significance, interested parties were invited to submit written comments regarding the application. Approximately 30 comments were received; it was determined that no public hearing was necessary (40 CFR Part 172.11 (b)).

The comments were received from farmers, industrial organizations, State agencies, one Federal agency, non-profit organizations, and others. A concern common to all commenters was that sound scientific information must be developed to support sound pest management concepts. It was the consensus that the proposed program would generate data which might be useful; in fact, such data may provide both favorable and unfavorable comparisons regarding the use of the DDT/toxaphene/methyl parathion formulation. Since the cancellation of the use of DDT, there has been essentially no new information generated comparing DDT with insecticide formulations in current use.

A number of commenters objected to the proposed program on the grounds that it did not protect either man or the environment; the program has been modified to satisfy these objections, subsequently minimizing adverse effects. In addition, the program will allow only certified applicators in the State of South Carolina to apply the formulation.

Based on the comments received and other available information, and pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Clemson University, Clemson, South Carolina 29631. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 38158-EUP-1) allows the use of DDT formulated in a mixture with toxaphene and methyl parathion (2:4:1). The quantity of material authorized is as follows: 95 pounds DDT; 190 pounds toxaphene; and 47.5 pounds methyl parathion. A total of 4 acres is involved; the program is authorized only in the State of South Carolina. The experimental use permit is effective from May 28, 1976, to May 28, 1977. Permanent tolerances for residues of the active ingredients in or on cottonseed have been established (40 CFR 180.121; 180.138; and 180.147). This permit is being issued solely for the purpose of using the subject insecticide formulation as a base line against which to evaluate the effectiveness of alternative pesticides for the control of the cotton bollworm and the tobacco budworm.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W. Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 12, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24259 Filed 8-18-76;8:45 am]

[FRL 601-7; OPP-30119]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Ottawa Chemical Div., Ferro Corp., 100 N. Wheeling St., Toledo OH 43605, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product OTTAFORM 204 (EPA File Symbol 4026-A), containing 33.4% of the new active ingredient 1,3-di(hydroxyethyl)-5-(3-methoxypropyl)- s-hexahydrotriazine 1-(hydroxyethyl)-3,5-di (3-methoxypropyl)-s-hexahydrotriazine, and 23.5% of the new active ingredient 1,3,5-tris (3-methoxypropyl)-s-hexahydrotriazine which have not been included in any previously registered pesticide products. The application received from Ottawa Chem. Div., Ferro Corp. proposes that the product be classified for general use as a cutting oil preservative PM34

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of Section 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division. (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before September 20, 1976, and should bear a notation indicating the EPA File Symbol "4026-A." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Dvsiiion (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202/426-9490.

Notice of approval or denial of this application to register OTTAFORM 204 will be announced in the FEDERAL REGISTER. The label furnished by Ottawa Chemical Div., Ferro Corp., as well as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: August 12, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24258 Filed 8-18-76;8:45 am]

[FRL 601-6, OPP-31008]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern

Thompson-Hayward Chemical Co., P.O. Box 2383, Kansas City KS 66110, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product DIMILIN W-25 FOR SOYBEANS (EPA File Symbol 148-REAE), which contains 25.0% of the active ingredient N-[[(4-chlorophenyl) amino]-carbonyl]-2,6 - difluorobenzamide. The application received from Thompson-Hayward Chemical Co. proposes that the use pattern of this pesticide be changed from forest control of gypsy moth larvae to agricultural use to include control of velvetbean caterpillar, green clovermoth, and Mexican bean beetle larvae on soybeans. The application also proposes that the product be classified for general use. PM17

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 136 et seq.) and the regulations thereunder. Notice of receipt of this application is given in accordance with the provisions of section 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by this Agency on the application.

Any Federal Agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before September 20, 1976, and should bear a notation indicating the EPA File Symbol "148-REAE." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202/426-9425.

Notice of approval or denial of this application to register DIMILIN W-25 FOR SOYBEANS will be announced in the FEDERAL REGISTER. The labeling furnished by Thompson-Hayward Chemical Co. as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 12, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-24257 Filed 8-18-76;8:45 am]

[FRL 602-8; OPP-42022A]

VIRGIN ISLANDS

Approval of Territorial Plan for Certification of Pesticide Applicators

Section 4(a) (2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b) and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On June 3, 1976, notice was published in the FEDERAL REGISTER (41 FR 22414) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region II, to approve, on a contingency basis, the Virgin Islands Territorial Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Virginia Islands Territorial Plan). Contingency approval was requested by the Virgin Islands pending approval of implementing regulations Complete copies of the Virgin Islands Territorial Plan were made available for public inspection at the Bureau of Pesticides, Division of Natural Resources Management, Department of Conservation and Cultural Affairs, St. Thomas, U.S. Virgin Islands; Pesticides Branch, Environmental Programs Division, EPA Region II, New York, New York and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

There were no comments received concerning the State Plan during the thirty (30) day public comment period.

The Virgin Islands Territorial Plan will remain available for public inspection at the Bureau of Pesticides, Division of Natural Resources Management, Department of Conservation and Cultural Affairs, Building 129, Subbase, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

It has been determined that the Virgin Islands Territorial Plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171 if necessary implementing regulations are promulgated by the Department of Conservation and Cultural Affairs in accordance with and as prescribed in the Virgin Islands Territorial Plan. Accordingly, the Virgin Islands Territorial Plan is approved contingent upon approval of implementing regulations.

This contingency approval shall expire one (1) year from its effective date if these terms an dconsidtions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the Federal Register concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Virgin Islands Territorial Plan as a result thereof.

Effective date, Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the one year contingency approval granted herein to the Virgin Islands Territorial Plan shall be effective immediately. Neither the Virgin Islands Territorial Plan itself nor this Agency's contingency approval creates any direct or immediate obligations on pesticide applicators or other persons in the Virgin Islands. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contin-

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gent approval shall become effective immediately.

Dated: August 12, 1976.

GERALD M. HANSLER,
Regional Administrator, U.S. Environmental Protection Agency, Region II.

[FR Doc.76-24342 Filed 8-18-76;8:45 am]

[FCC 76-774]

FEDERAL COMMUNICATIONS COMMISSION

TARIFF FILINGS

Temporary Procedures

AUGUST 13, 1976.

On August 4, 1976, the President signed Pub. L. 94-376. This legislation, sponsored by the Commission, amends sections 203 and 204 of the Communications Act which involve the regulation of communications common carriers. In general the new legislation: 1) Establishes a 90 day period for public notice of proposed tariff changes: 2) extends the period for suspension of new or revised tariff provisions from three to five months; 3) authorizes the Commission to allow part of a tariff filing to go into effect; and 4) gives the Commission authority to allow tariff filings to go into effect temporarily pending a further order.

Although this legislation became effective upon the President's signature, it would be appropriate to allow the carriers a short period of time in which to adjust to this increase in the period for public notice of proposed tariff changes. Substantial confusion could result from the failure to allow for such a period of adjustment. Thus, in order to ensure the orderly transaction of the Commission's business, the carriers are hereby authorized to continue the use of the periods for public notice specified in Part 61 of the Commission's rules through August 31, 1976. Tariff filings made on or before this date will not be rejected as unlawful for failure to provide for 90 days public notice. However, the Commission reserves the right, through the Chief, Common Carrier Bureau, to require the extension, in individual cases, of the effective date of tariff filings made during this interim period so as to allow 90 days public notice. All tariff changes filed after August 31, 1976 are to provide for 90 days public notice until the Commission has an opportunity to revise its Rules to specify appropriate periods of public notice for various types of tariff filings. During this period Special Permissions will continue to be granted, as provided in Part 61 of the Commission's rules, to allow the carriers to file tariff changes on less than the full statutory notice for good cause shown. In all other respects, the Commission will begin to exercise immediately the new authority granted to it by this legislation.

Our action in this regard is consistent with section 203(b)(2) of the Communications Act, as amended by Pub. L. 94-376 which states that

[t]he Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than ninety days.

Action by the Commission August 13, 1976. Commissioners Wiley (Chairman), Lee, Hooks and Washburn.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24332 Filed 8-18-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONSTRUCTION ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Construction Advisory Committee will meet Wednesday, September 8, 1976, at 10 a.m., Room 5041B, FEA Headquarters, 12th and Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to advise the Administrator, FEA, with respect to the interests and problems of the construction industry as they relate to the policy and implementation of programs to meet the current and continuing national energy shortage.

The agenda for the meeting is as follows:

1. FEA EPCA Programs
   a. Materials Allocation
   b. Conservation Programs
   c. Energy Supply & Environmental Coordination Act
2. Impact of Clean Air Act Amendments
3. NSF/ERDA/FEA Model of Projected Construction Resources
4. Solar Heating and Cooling
5. Socio-Economic Impact Financing
6. Reports by Subcommittees
   a. Energy Conservation
   b. Oil and Gas Regulation
   c. Construction Labor Availability
   d. Construction Material Availability
   e. Central Clearinghouse for Construction Projects

Subcommittees may meet informally in Washington, D.C. the preceding evening, at the discretion of the Subcommittee Chairmen; the meetings will be open to the public. For further information on Subcommittee activities, call Lois G. Weeks, Director, Advisory Committee Management, at (202) 961-7022.

The Committee meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform the Director, Advisory Committee Management, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C., on August 16, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-24337 Filed 8-16-76;3:53 pm]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period Concerning Draft Environmental Impact Statement on Coal Conversion at Schiller Generating Station

The Federal Energy Administration (FEA) announced by notice in the FEDERAL REGISTER of July 1, 1976 (41 F.R. 27127), the availability to the public of a draft environmental impact statement concerning the issuance of a Notice of Effectiveness to powerplants number 4 and 5 of the Schiller Generating Station, owned by the Public Service Company of New Hampshire and located in Portsmouth, New Hampshire. The Notice of Effectiveness would make effective a prohibition order issued to the powerplants on June 30, 1975, under the authority of Section 2 of the Energy Supply and Environmental Coordination Act of 1974. The order would prohibit the burning of petroleum products or natural gas by the powerplants as their primary energy source.

The notice invited the submission of written data, views, or arguments concerning the draft impact statement, but stipulated that they should be received by FEA by August 15, 1976, in order to receive full consideration. The FEA hereby extends the period of comment to August 31, 1976; all comments received by that date will receive full consideration in the drafting of the final environmental impact statement.

Persons desiring to submit comments with respect to the draft statement should direct them to Executive Communications, Room 3309, Federal Energy Administration, Box HT, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Draft EIS—Schiller Generating Station." Fifteen copies should be submitted.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 16, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-24283 Filed 8-16-76;11:44 am]

DISTRIBUTION AND TRANSPORTATION SUBCOMMITTEE OF THE FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Distribution and Transportation Subcommittee of the Food Industry Advisory Committee will meet Friday, September 10, 1976, 1:30 p.m., Room 5041B, FEA Headquarters, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The objectives of this Subcommittee are to make recommendations to the parent Committee with respect to matters concerning food industry aspects of FEA policies and programs falling within the interests of this Subcommittee.

The agenda for the meeting is as follows:

1. Discussion of cost justified backhaul issue
2. Review of ICC Mitre Study, "Preliminary Assessment of Empty Miles Traveled by Selected Regulated Motor Carriers," January 1976
   a. Relationship to section 382(a)(3) of EPCA
   b. General outline and time schedule
3. Progress report on ICC "Motor Carrier Empty/Loaded Survey"
4. Proposed recommendations to FEA
5. General discussion—public comment

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 961-7022, at least 5 days prior to the meeting and reasonable provisions will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C. on August 16, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-24338 Filed 8-16-76;3:45 pm]

[Docket OFU-047, Edge Moor Powerplant No. 4]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

Issuance of Order Modifying Prohibition Order

On June 1, 1976, the Federal Energy Administration (FEA) published in the FEDERAL REGISTER (41 F.R. 22132) a notice of its intention to modify the prohibition order issued to powerplant No. 4 at the Edge Moor Generating Station, which is owned and operated by the Delmarva Power and Light Company, located in Wilmington, Delaware. The notice invited interested persons to submit written data, views and arguments regarding the proposed order of modification.

After evaluating the comments received, the FEA has determined to issue the order of modification substantially as proposed, and such order was issued on August 16, 1976. The modification will permit the burning of petroleum products by powerplant No. 4 to the extent necessary to permit the undertaking of a solid waste energy and materials recovery project, known as the Delaware Reclamation Project, designed to demonstrate the feasibility of co-firing processed solid waste with fuel oil in existing steam-electric boilers.

Issued at Washington, D.C., August 16, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-24339 Filed 8-16-76;3:53 pm]

GOVERNMENT POLICIES & REGULATIONS SUBCOMMITTEE OF THE LP-GAS INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Government Policies and Regulations Subcommittee of the LP-Gas Industry Advisory Committee will meet Wednesday, September 15, 1976, at 9 a.m., in the Founders Room, Mayo Hotel, 115 West 5th Street, Tulsa, Oklahoma.

The Subcommittee was established to make recommendations to the parent Committee with respect to policy and implementation of programs that affect the LP-Gas industry.

The agenda for the meeting is as follows:

1. Organizational Structure of Government Policies and Regulations Subcommittee of the LP-Gas Industry Advisory Committee
2. Review of Current Allocation and Pricing Regulations on Propane, Butane, and Natural Gas Liquids and Recommended Changes—Administrative and Legislative
3. Selective Exemption of Controlled Products in Item 2 Above From Pricing and/or Allocation Regulations

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 961-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C., on August 16, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-24336 Filed 8-16-76;3:53 p.m.]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

NOTICE OF COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, September 2, 1976, Thursday, September 9, 1976, Thursday, September 30, 1076.

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Public Law 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Public Law 92-463) and 5 U.S.C., section 552(b)(2), that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings

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may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 1338 1900 E Street, NW., Washington, D.C. 20415.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

AUGUST 16, 1976.

[FR Doc.76-24273 Filed 8-18-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP70-196; CP73-135, et al.]

DISTRIGAS CORP. AND DISTRIGAS OF MASSACHUSETTS

Hearing

In accordance with the Commission's Order in the above captioned proceeding issued August 12, 1976, a hearing session is hereby scheduled to commence at 9:30 a.m. on September 3, 1976 at the U.S. Tax Court, U.S. Customs House, 2 India Street, Boston, Mass. 02109.

This session will cover submittals • • • "concerning the LNG tanks proposed to be constructed in Docket No. CP74-137, and related activities proposed in Docket Nos. CP70-196, CP73-135, and CP74-227 • • •"

Interested parties may make submittals in the form of unsworn statements of position or opinion which may be read or copied into the record in order to reflect the concerns of local citizens with the safety and environmental impacts of the project. However, the unsworn statements will be considered as opinions, but not as evidence in the proceeding, unless the submittals are made under oath and an opportunity is accorded all parties for cross-examination thereon. Sworn submittals, if any, should be mailed to the parties in the Distrigas case by August 27, 1976.

This notice is to be published in the FEDERAL REGISTER.

Dated this 13th day of August 1976 at Washington, D.C.

NAHUM LITT,
Presiding Administrative Law Judge.

[FR Doc.76-24417 Filed 8-18-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 23, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

FEA requests emergency clearance of a new form FEA-P112-M-1: No. 2 Heating Oil Supply/Price Monitoring Report. This report is in response to a commitment made to Congress by the FEA to monitor price movements of No. 2 heating oil in the event decontrol of middle distillates was effected by Congress. Decontrol became effective July 1, 1976.

This report will be mailed to and required to be filled by a scientifically selected sample of 600 firms chosen from a universe consisting of refiners, retailers, resellers and reseller/retailers of No. 2 heating oil. The average response time is expected to be six hours per monthly report.

A detailed cover letter and the FEA-P112-M-1 form and instructions will be mailed to every selected firm. June data, which will establish the base month, will initially be reported telephonically to FEA. This data includes certain items from the cover page and Schedule A-1. During July, August and September the selected firms will report to FEA by telephone the estimated unit price for sales to residential customers and rack sales to other than ultimate consumers from Schedule A-1. During the same months and for June these firms will file the completed FEA-P112-M-1 according to the instructions. Beginning on approximately September 15, 1976, and ending April 1, 1977, FEA will conduct weekly telephonic surveys of the selected firms to determine the change in price of No. 2 heating oil during the winter heating season.

This information is collected under the authority vested in the Federal Energy Administration by Public Laws 93-159, 93-225, 93-319, and 94-163.

GAO accepted and reviewed FEA's emergency request and found no unnecessary duplication or excessive burden. Clearance was provided on August 5, 1976, under number B-181254 (RO388). The clearance expires June 30, 1979.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.76-24320 Filed 8-18-76;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were received by the Regultory Reports Review Staff, GAO, on August 10, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 7, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

INTERSTATE COMMERCE COMMISSION

ICC requests clearance of a new confidential annual report supplement to the railroad annual report in accordance with the order of the Interstate Commerce Commission in Docket No. 36216 approved April 9, 1976. The disclosure of Federal income tax information will be filed by the following carriers:

Railroads (class I)
Electric railways
Express companies
Pipeline carriers
Refrigerated car lines
Motor carriers of property (class I)
Motor cariers of passengers (class I)
Inland and coastal waterways carriers (class A and B)
Maritime carriers
Freight forwarders (class A)

The annual report supplement will be filed by all carriers with annual operating revenues of $10 million, or more, subject to sections 20, 220, 313 and 412 of the Interstate Commerce Act. The supplemental report will enable the Commission to effectively evaluate and interpret the financial condition of the responding carriers. The tax information requested is readily available from tax returns and supporting information, therefore, any additional burden incurred will be insignificant. Reports are mandatory and shall be of a confidential nature and not available for public inspection. ICC estimates there are approximately 517 respondents and that the burden is four hours annually for each respondent.

ICC requests clearance of a revision of Railway Tax Accruals, railroad annual report Form R-1. ICC Order in Docket No. 36126 approved April 9, 1976, provides for the reinstatement of Schedule 350(c), Railway Tax accruals, Analysis of Federal Income Taxes. The additional information includes the distribution of tax expense and the method elected by carriers as provided in the Revenue Act of 1971, to account for the investment tax credit. The information will be available for public inspection in the annual report. ICC estimates there are 105 respondents and that the burden on the reinstated Schedule 350(c) will be 5 minutes per response.

NORMAN F. HEYL,
Regulatory Reports Review Staff.

[FR Doc.76-24318 Filed 8-18-76;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 27, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

Request for clearance on an emergency basis for a new form, P128-S-O, Reporting Form on Passthrough of Nonproduct Costs. The form will gather information to determine the extent to which deviations for the period January 1, 1975, through January 31, 1976, have occurred from the sequential recovery of non-product costs specified in the refiners passthrough rules contained in §§ 212.83(c), 212.87(b) and 212.83(d) of Title 10, Code of Federal Regulations of the EPCA (Pub. L. 94-163). The data collected will determine the cost consequences to purchasers of a proposed FEA class exception which would authorize the proportional cost recovery approach for refiners not constrained by FEA's profit margin limitation rule. The FEA estimated that there would be 141 respondents and the burden would average 2 hours per response.

According to FEA an emergency clearance of the form was necessary in order to prevent apparent serious adverse effects on the refinery and inventory levels of petroleum products. If refiners must continue to wonder if reductions in "banked costs" (or price rollbacks) will occur, they will be assuming tremendous risk if they now set prices based on thoses "banked costs." If a refiner is unwilling to assume the risk of using the "bank," its only alternative would be to cut back production, thus possibly causing shortages of gasoline during this peak demand period or increasing gasoline imports which is directly contrary to national policy.

GAO accepted FEA's emergency request and found no unnecessary duplication or excessive burden. Clearance was provided on August 3, 1976, under number B-181254 (S76032). The clearance expires September 30, 1976.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.76-24319 Filed 8-18-76;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

PROVIDERS, REGULATORS AND USERS COMMITTEES

Change of Meeting Place

The Providers Committee, the Regulators Committee and the Users Committee of the National Commission on Electronic Fund Transfers, which were previously scheduled to meet in Philadelphia on August 25, 26 and 27, 1976, respectively, will meet instead at the Hunt Valley Inn, Shawan Road, Cockeysville, Maryland, which is near Baltimore. The dates of the meetings are unchanged. Each meeting begins at 9:30 a.m.

The Providers Committee will examine issues concerning access, use, ownership, and control of automated clearing house and point-of-sale switches. The Regulators Committee will begin an examination of the legal, technological, and operational questions that surround the issue of the potential competitive impact of electronic terminal devices in the delivery of financial services. The Users Committee will examine the major types of concerns that individual consumers may have regarding EFT systems and services.

Each meeting will be open to public attendance on a first-call basis to the extent that limited space permits. Any person interested in attending should first call Ms. Janet Miller at 202/254-7400 to check on the availability of space.

Dated: August 17, 1976.

HENRY POLMER,
Acting Advisory Committee Management Officer.

[FR Doc.76-24448 Filed 8-18-76;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

ADVISORY COMMITTEE EDUCATION PANEL

Meeting

AUGUST 11, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Education Panel will meet in Room 1025, 806 15th Street, N.W., Washington, D.C. at 9 A.M. to 5 P.M., on September 28 and 9 A.M. to 1 P.M., on September 29, 1976.

The purpose of the meeting is to review Institutional Grant applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code (202) 382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-24275 Filed 8-18-76;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

AUGUST 11, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that meetings of the Summer Seminars for College Teachers Panel will be held at 806 15th Street, N.W., room 314, Washington, D.C. on September 10, 11, 13, 15, 17, 18, 20, 24, and 25, 1976.

The purpose of the meetings is to examine dossiers of individuals recommended to the Endowment as possible seminar directors in the Summer Seminar program.

Because the proposed meetings will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-24276 Filed 8-18-76;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

AUGUST 11, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that meetings of the Summer Seminars for College Teachers Panel will be held at 806 15th Street, N.W., room 1025, Washington, D.C. on September 10 and 24, 1976.

The purpose of the meetings is to examine dossiers of individuals recommended to the Endowment as possible seminar directors in the Summer Seminar program.

Because the proposed meetings will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-24277 Filed 8-18-76;8:45 am]

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ADVISORY COMMITTEE PUBLIC PROGRAMS PANEL

Meeting

AUGUST 16, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on September 14, 1976, commencing at 9:30 a.m., in Room 1200, at 806 15th Street NW., Washington, D.C.

The purpose of the meeting is to review Humanities Program Development Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-24274 Filed 8-18-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Dresden Nuclear Power Station (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

This amendment consists of changes to the Technical Specifications regarding the requirements for primary containment integrity.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 11, 1976, (2) Amendment No. 17 to License No. DPR-2, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23979 Filed 8-18-76;8:45 am]

[Docket Nos. 50-237 and 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 23 and 20 to Facility Operating License Nos. DPR-19 and DPR-25, respectively, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Dresden Nuclear Power Station Units 2 and 3 (the facilities), located in Grundy County, Illinois. The amendments are effective as of their date of issuance.

These amendments revised the Technical Specifications to change the operating environment temperature limit for main steam isolation valve pilot valves from 150° F to 170° F.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for the amendments dated April 22, 1976, (2) Amendment No. 23 to License No. DPR-19, (3) Amendment No. 20 to License No. DPR-25, and (4) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this ninth day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No 2, Division of Operating Reactors.

[FR Doc.76-23977 Filed 8-18-76;8:45 am]

[Docket Nos. 50-254 and 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS & ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 29 and 28 to Facility Operating License Nos. DPR-29 and DPR-30, respectively, issued to the Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company) which revised Technical Specifications for operation of the Quad Cities Nuclear Power Station Unit Nos. 1 and 2 (the facilities), located in Rock Island County, Illinois. The amendments are effective as of their date of issuance.

These amendments revised the Technical Specifications to change the operating environment temperature limit for main steam isolation valve pilot valves from 150° F to 170° F.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for the amendments dated April 22, 1976, (2) Amendment No. 29 to License No. DPR-29, (3) Amendment No. 28 to License No. DPR-30, and (4) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Moline Public Library, 504 17th Street, Moline, Illinois 60265. A single copy of items (2) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this ninth day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23978 Filed 8-18-76;8:45 am]

[Docket Nos. 50-254 and 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 26 and 27 to Facility Operating License Nos. DPR-29 and DPR-30, respectively, issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised Technical Specifications for operation of the Quad Cities Station Unit Nos. 1 and 2 (the facilities) located in Rock Island County, Illinois. The amendments are effective as of their date of issuance.

The amendments changed the surveillance frequency of the core and containment cooling system logic system functional tests from once each six months to once per each refueling outage.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for the amendments dated January 9, 1976, (2) Amendment Nos. 26 and 27 to License Nos. DPR-29 and DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Moline Public Library, 504 17th Street, Moline, Illinois 60625. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this ninth day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23978 Filed 8-18-76;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Enclosure 1 of the license for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment permits removal of the shutdown cooling system from operation for periods up to 4 hours in duration for inspections within the reactor vessel while the reactor is in the refueling mode. The authority is granted only through August 31, 1976, and is restricted by provisions of the amendment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 30, 1976, and supplement dated August 3, 1976, (2) Amendment No. 7 to License No. DPR-67, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23973 Filed 8-18-76;8:45 am]

[Docket No. 50-250]

FLORIDA POWER AND LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-31 issued to Florida Power and Light Company (the licensee) for operation of the Turkey Point Nuclear Generating Unit No. 3, located near Dade County, Florida.

In accordance with the licensee's application for license amendment dated July 30, 1976, the proposed amendment would allow the installation of temporary fuel storage racks within the Turkey Point Nuclear Genreating Unit No. 3 spent fuel storage pool. The installation of these racks would increase the spent fuel storage pool capacity from 217 to 235 fuel assemblies. The temporary racks are expected to be needed for a period of less than one year.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 20, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the

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proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Jack R. Newman, Esquire, Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 30, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of August 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-24388 Filed 8-18-76;8:45 am]

[Docket Nos. 50-516, 50-517]

LONG ISLAND LIGHTING CO. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Order Relating to the Evidentiary Hearing

Before the Atomic Safety and Licensing Board.

The evidentiary hearing will begin on August 24, 1976 at 9:30 a.m. in the Holiday Inn of Riverhead, Exit 72, Long Island Expressway, Riverhead Long Island, New York, to receive evidence regarding the application of the Long Island Lighting Company for a license to construct the proposed Jamesport Nuclear Power Station, Units 1 and 2. The hearing will proceed on successive week days, and will resume on August 31 and on September 7. No hearing will be held during the week of September 13th, but will be resumed, if necessary, on September 21st and on such other subsequent dates as may be ordered by the Atomic Safety and Licensing Board.

The public is invited to attend. Limited appearance statements will be accepted after opening statements by the parties have been concluded. Oral statements will be limited to ten (10) minutes each but written statements may be submitted without limitation on length.

Dated at Bethesda, Maryland, this 3d day of August 1976.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc.76-24131 Filed 8-18-76;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, Pennsylvania. The amendment is effective as of its date or issuance.

This amendment authorizes miscellaneous changes to the Environmental Technical Specifications. These changes involve (a) correction of typographical errors; (b) wording changes for clarification of intent; (c) administrative changes and titles; (d) location of radiological monitoring stations; (e) monitoring conditions; and (f) sensitivity of radiological analyses.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment submitted by letters dated January 31, July 31, August 21, September 4, and October 29, 1975, and (2) Amendment No. 18 to License No. DPR-50. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the State Library of Pennsylvania, Government Publications Section, Education Building, Harrisburg, Pennsylvania.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-23972 Filed 8-18-76;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Provisional Operating License No. DPR-21 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1, located in Waterford, Connecticut. The Amendment is effective as of its date of issuance.

The amendment will (1) delete the "Extended Maintenance" provision from the Technical Specifications and (2) revise the Limiting Conditions for Operation and License Restriction for the Isolation Condenser.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated April 6, 1976 and June 9, 1976, (2) Amendment No. 29 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-24132 Filed 8-18-76;8:45 am]

[Dockets Nos. 50-259 and 50-260]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-33 and Amendment No. 23 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee) which revised the Technical Specifications of the Browns Ferry Nuclear Plant, Units Nos. 1 and 2, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow the withdrawal of one control rod at a time to perform functional testing of the control rod drive or control rod drive maintenance. The NCR staff has been authorized to issue these amendments by the August 4, 1976 Order of the Atomic Safety and Licensing Board presiding in the ongoing Browns Ferry, Units Nos. 1 and 2 proceeding.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 23, 1976, and (2) Amendment No. 26 to License No. DPR-33 and Amendment No. 23 to License No. DPR-52. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-23974 Filed 8-18-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.108, "Periodic Testing of Diesel Generators Used as On-site Electric Power Systems at Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to periodic inspection and testing of diesel electric power units to ensure that the diesel electric power systems will meet their availability requirements.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.108 will, however, be particularly useful in evaluating the need for an early revision if received by October 18, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 10th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-23975 Filed 8-18-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.3, "Guide for the Preparation of Applications for Special Nuclear Material Licenses of Less than Critical Mass Quantities," describes the type of information needed by the NRC staff to evaluate an application for a specific license for receipt, possession, use and transfer of special nuclear material of less than critical mass quantities.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 10.3 will, however, be particularly useful in evaluating the need for an early revision if received by October 15, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 10th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-23975 Filed 8-18-76;8:45 am]

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Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 11th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-24134 Filed 8-18-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 28194]

EASTERN AIR LINES, INC.-PIEDMONT AVIATION, INC.

Hearing Regarding Route Exchange Agreement

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on September 14, 1976, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 13, 1976.

ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc.76-24334 Filed 8-18-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

MADISON DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Madison District Advisory Council will hold a public meeting at 10:00 a.m., Friday, September 17, 1976, in the Boardroom at the Greater LaCrosse Area Chamber of Commerce, 710 Main Street, Lacrosse Wisconsin, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Lucian G. Schlimgen, Jr., District Director, Small Business Administration, 122 West Washington Avenue, Room 700, Madison, Wisconsin 53703, 608/252-5267.

Dated: August 10, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-24291 Filed 8-18-76;8:45 am]

[License No. 04/05-0086]

MARKET CAPITAL CORPORATION

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Market Capital Corporation (MCC), 1102 N. 28th Street, P.O. Box 22667, Tampa, Florida 33622, a Federal Licensee under the Small Business Investment Act of 1958, as amended, (Act), has filed an application with the Small Business Administration (SBA) pursuant to Section 312 of the Act and covered by Section 107.1004 of the SBA Rules and Regulations, governing Small Business Investment Companies (13 CFR 107.1004 (1976)) for approval of the Conflict of Interest Transaction falling within the scope of the above Section of the Act and Regulations.

Subject to such approval, MCC proposes to invest $100,000 in Supermarket Development, Inc. (Supermarket), which was incorporated in the State of Florida in 1975. The purpose of the corporation was to acquire leases on retail grocery locations abandoned by A&P, purchase the existing equipment in the locations from A&P, stock the stores with fresh inventory, and operate the stores as independent retail grocery supermarkets. The small business concern operates three (3) retail grocery supermarkets within the State of Florida. The addresses of the stores are:

1. Inverness Foodway, 104 South Pine Street, Inverness, Florida 32650.
2. Punta Gorda Foodway, 915 Taylor Street, Punta Gorda, Florida 33950.
3. Monticello Foodway, 575 South Jefferson Street, Monticello, Florida 32344.

The proposed financing is brought within the purview of Section 107.1004 of the SBA Regulations since, seven of the stockholders in Supermarket are members of the Board of Directors of Affiliated of Florida, Inc. (Affiliated). The Officers and Directors of Affiliated have been determined by SBA to be "Associates" of MCC since, when MCC finances a small firm the funds are frequently passed through Affiliated to various wholesalers to purcahse store equipment and groceries in order to obtain discounts from suppliers. Also, Mr. Burton Polk, a member of the Board of Directors of MCC, is the sole owner of Whiting & Polk, Inc. a corporation which presently owns 10 percent of Supermarket. Therefore, eight of the nine owners of Supermarket are "Associates" of MCC as defined by SBA.

The following is a list of the present stockholders of Supermarket:

	Percent
James A. Sapp	13.33
Robert Hitchcock, Jr.	13.33
Loy L. Carroll	6.66
Edward Lawhon	6.66
Arnold Stanaland	10.00
J. A. Alge	13.33
Whiting & Polk, Inc.	10.00
Lee M. Shackleford	13.33
Joe L. Davis	13.33

The following is a list of members of the Board of Directors of Affiliated:

Robert Hitchcock, Jr.	President
J. A. Alge	Vice President
James A. Sapp	Secretary
Lee M. Shackleford	Assistant Secretary
Loy L. Carroll	
Edward Lawhon	
Arnold Stanaland	

Notice is hereby given that any interested person may, not later than ten days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 11, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-24272 Filed 8-18-76;8:45 am]

[Declaration of Disaster Loan Area 1262; Amdt. 1]

PENNSYLVANIA

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 F.R. 29233) is hereby amended to include Wayne County and adjacent counties, within the State of Pennsylvania, and to extend the filing date for physical damge until the close of business on October 4, 1976, and for economic injury until the close of business on May 5, 1977.

Dated: August 11, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-24294 Filed 8-18-76;8:45 am]

SAN DIEGO DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration San Diego District Advisory Council will hold a public meeting at 4:00 p.m., Thursday, September 16, 1976 in the conference room of the Federal Building, 880 Front Street, Suite 33, 4th Floor, San Diego, California to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Fred D. Sergent, District Director, Small Business Administration, 880 Front Street, Suite 33, 4th Floor, San Diego, California 92188, 714/895-5430.

Dated: August 10, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-24292 Filed 8-18-76;8:45 am]

[Declaration of Disaster Loan Area No. 1270]

VERMONT

Declaration of Disaster Loan Area

As a result of the President's declaration I find that Bennington, Orange, Rutland and Windsor Counties, and adjacent counties within the State of Vermont, constitute a disaster area because of damage resulting from severe storms, high winds and flooding beginning on July 11, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 4, 1976, and for economic injury until the close of business on May 5, 1977, at:

Small Business Administration, District Office, 87 State Street, Montpelier, Vermont 05602.

or other locally announced locations.

Dated: August 11, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-24293 Filed 8-18-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 76-2]

TRADE POLICY STAFF COMMITTEE

Notice of Hearing on Proposed Duty Increase on Certain Brandy

By FEDERAL REGISTER notice of Monday, August 2, 1976 (41 FR Page 32298) notice was given of a proposed action increasing the duties on certain brandy and giving an opportunity for requests for a public hearing. That notice tentatively set the date of the proposed hearing for September 1, 1976. In response to requests for a public hearing on the proposed duty increase on certain brandy, and after taking into consideration the views of various interested parties, the public hearing date has been changed. The public hearing will now be held at 10:00 a.m. on September 21, 1976 in Room 730, Office of the Special Representative for Trade Negotiations, 1800 G Street N.W., Washington, D.C., 20506.

This action is proposed pursuant to section 125 of the Trade Act of 1974 (19 U.S.C. 2135), to restore the balance of benefits of trade agreement concessions.

By Proclamation No. 3564 of December 4, 1963 the United States suspended the application of certain trade agreement concessions on certain brandy valued over $9 per gallon (TSUS items 168.20 and 168.22). The action resulted in the placing of an additional duty on such brandy, raising the tariff from $1.25 and $1.00 per gallon, respectively, to $5.00 per gallon. This action was one of a group of actions taken in response to unreasonable restrictions maintained by the European Community (EC) on imports of poultry from the United States.

On July 16, 1974, in order to encourage the resolution of trade disputes between the European Community and the United States, and to obtain the removal of unreasonable import restrictions maintained by the EC on poultry imported from the United States, the United States provisionally restored prior trade agreement concession rates of duty on imports of brandy valued at over $9 but not more than $17 per gallon (Proclamation No. 4304 of July 16, 1974). It was the intention of the United States to provide a temporary adjustment for a limited period of time during which a satisfactory solution to the problem of EC poultry import restrictions could be found.

No solution having been reached on this problem in the intervening period, it is proposed that the $17/gallon price-break (above which the $5/gallon duty has applied) be changed to $9, the level set when the concessions were suspended in 1963. It is proposed that the tariff on brandy (provided for in TSUS items 168.28 and 168.32) valued at over $9, per gallon be increased to not less than $5.00 per gallon.

PROCEDURES FOR TESTIMONY AND SUBMISSION OF WRITTEN BRIEFS

A request by an interested party to present oral testimony at the public hearing on September 21 must be submitted in writing before the close of business September 13, 1976 and shall state briefly the interest of the applicant and the position to be taken by the applicant. Written briefs accompanying oral testimony shall state clearly the position taken and shall describe with particularity the evidence supporting such position. Written briefs accompanying oral testimony must be submitted in 20 copies which should be legibly typed, printed or duplicated to the Chairman, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Room 729, Washington, D.C. 20506 before the close of business Monday, September 13, 1976.

Written briefs may also be submitted in addition to or in lieu of testimony. To be fully considered by the Committee written briefs not accompanying oral testimony should be received by September 17, 1976. Written briefs should be addressed to Chairman, Trade Policy Staff Committee, 1800 G Street, NW., Room 729, Washington, D.C., 20506.

In order to assure each party an opportunity to contest the information provided by other interested parties in the written briefs and in the public testimony, the Committee will entertain rebuttal briefs filed by any party. To be fully considered by the Committee rebuttal briefs must be received in the Office of the Special Representative for Trade Negotiations on or before the close of business on Monday, September 27. Rebuttal briefs should be addressed to the Chairman, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Room 729, Washington, D.C., 20506.

After receipt and consideration of a request to present oral testimony at the public hearing on September 21, the Secretary of the Committee shall notify the applicant whether the request conforms to the requirements of the regulations of the Office of the Special Representative for Trade Negotiations and if so, the time and amount of time allotted for his oral testimony and, if not, the reasons why the request does not conform to the requirements.

In presenting testimony the interested party should supplement the information contained in the written brief and should be prepared to answer questions relating to such information.

The rules and regulations for hearings held by the Trade Policy Staff Committee are included in full in the FEDERAL REGISTER of Monday, April 28, 1975 (40 FR 18421).

RICHARD HEIMLICH,
Acting Chairman,
Trade Policy Staff Committee.

[FR Doc.76-24443 Filed 8-18-76;8:45 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1976, shall be at the rate of twelve cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1976, 12.8 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 87.2 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 12, 1976.

By Authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.76-24296 Filed 8-18-76;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice No. 121]

ASSIGNMENT OF HEARINGS

AUGUST 16, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S 9132, Wheat, Kansas and Oklahoma to Texas Gulf ports now being assigned October 13, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M 29115, Motor Classification ratings on candy or confectionery, now being assigned September 21, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M 29129, Joint routings and pickup or delivery within commercial zones, now being assigned September 29, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 59135 Sub 32, Red Star Express Lines of Auburn, Inc., dba Red Star Express Lines, now assigned September 13, 1976, at Montpelier, Vt., will be held in Courtroom, 3rd floor, Federal Bldg., U.S. Post Office and Courthouse, 87 State Street.

MC 730 Sub 373, Pacific Intermountain Express, Co., now being assigned November 8, 1976, (2 weeks), at Des Moines, Iowa, in a hearing room to be later designated.

MC 59120 (Sub-No. 38), Eazor Express, Inc., now assigned September 20, 1976, at Pittsburgh, Pa., is canceled and application dismissed.

MC 126899 (Sub-No. 98), Usher Transport, Inc., transferred to Modified Procedure.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24349 Filed 8-18-76;8:45 am]

[Notice No. 122]

ASSIGNMENT OF HEARINGS

AUGUST 16, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction: [1]

MC-C-9006, J. & P Properties, Inc., investigation and revocation of certificates, and MC 136363 Sub 7, J & P Properties, Inc., now being assigned November 9, 1976 (1 Day), at Miami, Fla., in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24350 Filed 8-18-76;8:45 am]

[Sec. 5b Application No. 3]

EASTERN RAILROADS
Agreement

AUGUST 9, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed, as Amended, June 20, 1976, by: Charles L. Smith, Chairman, Traffic Executive Association, Eastern Railroads, Suite 500, Two Pennsylvania Plaza, New York, NY 10001 (Attorney-in-Fact).
Andrew C. Armstrong, 171 Main Street, Hyannis, MA 02601 (of Counsel).

Agreement involves: Organization, practices and procedures between and among rail common carrier members of the Presidents Traffic Conference—Eastern Railroads and the Traffic Executive Association—Eastern Railroads for the joint consideration, initiation, or establishment of rates, classifications, divisions, allowances, or charges, or rules and regulations, pertaining thereto, applicable to the transportation of property in interstate or foreign commerce, from, to, and between points in Eastern Territory.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24345 Filed 8-18-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 16, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 3, 1976.

FSA No. 43214—*Joint Water-Rail Container Rates—Barber Blue Sea Line.* Filed by Barber Blue Sea Line, (No. 2), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Gulf Seaboard, to ports in The Federation of Malaysia and the Republic of Singapore. Grounds for relief—Water competition.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24348 Filed 8-18-76;8:45 am]

[Notice No. 13]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 20, 1976. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76561, filed July 15, 1976. Transferee: TACKNEY'S EXPRESS, INC., 274 Great Road, Action, Mass. 01720. Transferor: Robert J. Daigle, doing business as Tackney's Express, 274 Great Road, Action, Mass. 01720. Applicants' Representative: Dean E. Nicholson, P.O. Box 433, 19 Muzzey St., Lexington, Mass. 02173. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 75654 (Sub-No. 2), issued January 10, 1964, to Robert J. Daigle, doing business as Tackney's Express, Action, Massachusetts, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Irregular Route Common Carrier Certificate No. 1056, dated January 28, 1958, issued by the Massachusetts Department of Public Utilities; and Certificate No. MC 75654 issued November 4, 1958, authorizing the transportation of general commodities between Boston, Mass., and Maynard, Mass., serving all intermediate points.

Transferee presently holds no authority from this Commission. Application has not been filed for temporray authority under Section 210a(b).

No. MC-FC-76605, filed July 23, 1976. Transferee: M. L. HATCHER PICK UP AND DELIVERY SERVICES, INC., P.O. Box 7362, 3818 Patterson Street, Greensboro, N.C. 27407. Transferor: F & B Truck Line, Inc., P.O. Box 4258, High Point N.C. 27263. Applicants' Representative: Ralph McDonald, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 98817 (Sub-No. 1), issued September 7, 1967, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Common Carrier Certificate No. C-415 dated July 12, 1951, transferred and reissued May 2, 1966, by the North Carolina Utilities Commission authorizing the transportation of *general commodities*, except those requiring special equipment and except leaf tobacco, between all points and places within a radius of 75 miles of Spray; and between Leaksville, Spray and Draper on the one hand and Charlotte on the other; and *bagging*, from Leaksville, Spray and Draper to Henderson. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 126574. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76629, filed June 13, 1976. Transferee: STEINWAY VAN & STORAGE CORP., 42-45 12th Street, Long Island City, N.Y. 11101. Transferor: Columbia Moving & Storage, Inc., 6 Chivalry Lane, Nesconset, N.Y. 11767. Applicant's representative: Arthur J. Piken, Esq., Piken & Robbins, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 118945, issued July 12, 1973, as follows: Household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, and the District of Columbia. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 19878. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76663, filed July 14, 1976. Transferee: TRANSPORT EXPRESS, INC., 211 Yacht Club Way, No. 153, Redondo Beach, Calif. Transferor: Dockside Transportation, 4311 Wilshire Blvd. No. 300, Long Beach, Calif. 90813. Applicants' representative: Milton W. Flack, 4311 Wilshire Blvd., No. 300, Los Angeles, Calif. 90010. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-138790, issued April 12, 1974, as follows: *General commodities* with the usual exceptions between Los Angeles, Calif., on the one hand, and, on the other, Los Angeles Harbor and Long Beach, Calif.; *Non-alcoholic beverages and waste paper materials*, from Vernon, Calif., to Los Angeles Harbor and Long Beach, Calif.; and *Fibre boxes*, from South Gate, Calif., to Los Angeles Harbor and Long Beach, Calif. Transferee presently holds no authority from this Commission. Applicant has not filed for temporary authority under Section 210a(b).

No. MC-FC-76674, filed July 26, 1976. Transferee: LOUISIANA - PACIFIC TRUCKING COMPANY (a corporation), P.O. Drawer AB, New Waverly, Tex. 77358. Transferor: Louisiana-Pacific Trucking Company, Southern Division, a division of Louisiana Pacific Corporation, P.O. Drawer AA, New Waverly, Tex. 77358. Applicant's Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, Louisiana 70130. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 136749 (Sub-No. 1), issued March 6, 1975, as follows: *Lumber*, from the plant site of Boise Southern Company near DeQuincy, La., to points in Texas, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24346 Filed 8-18-76;8:45 am]

[Notice No. 14]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 19, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76694. By application filed August 11, 1976, SPEED MOTOR EXPRESS OF WESTERN NEW YORK, INC., 11 Botsford Place, Buffalo, N.Y. 14216, seeks temporary authority to lease the operating rights of Kendall's Express, Inc., 99 John Street, Arkon, N.Y. 14001, under section 210a(b). The transfer to Speed Motor Express of Western New York, Inc., of the operating rights of Kendall's Express, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24347 Filed 8-18-76;8:45 am]

[Volume No. 43]

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

Correction

In FR Doc. 76-24307, appearing at page 34142 of the issue for Thursday, August 12, 1976:

At the top of the middle column on page 34145, the MC Number for Freeman Truck Line, Inc., now reading "MC 222179 (Sub-No. 19)", should read "MC 22179 (Sub-No. 19)"; and

In the left column on page 34156, the MC Number for Juergens Produce & Feed Company, now reading "MC 142261", should read "MC 142216".

[Volume No. 44]

TABLE OF CONTENTS LISTING

Notices

AUGUST 13, 1976.

Permanent authority petitions and applications; finance matters (including temporary authorities); railroad abandonments; alternate route deviation letter-notices; and intrastate applications concurrently seeking authority on interstate or foreign commerce.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's

[1] This notice corrects the hearing date. November 9, 1976 instead of September 9, 1976.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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representative, or petitioner in no representative is named.

No. MC 15155 (Notice of filing of petition for modification of territorial description), filed July 6, 1976. Petitioner: H. & W. MOTOR LINES, INC., P.O. Box 138, New Rochelle, N.Y. 10805. Petitioner's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Petitioner holds a motor *common carrier* Certificate in No. MC 15155, issued January 27, 1954, authorizing transportation over irregular routes, of *alcoholic beverages and such commodities* as are dealt in by wholesale, retail, and chain liquor business houses, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, between points in Hampden County, Mass., on the one hand, and, on the other, New York, N.Y., and points in New York and New Jersey within 15 miles of New York, N.Y.

By the instant petition, petitioner seeks to broaden the territorial scope of the radial area of its Certificate to include South Volney, N.Y.

No. MC 42487 (Sub-No. 783), (notice of filing of petition to change base radial point), filed July 23, 1976. Petitioner: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Petitioner's representative: William L. Phillips, Suite 1100, 1660 L St., N.W., Washington, D.C. 20036. Petitioner holds a motor common carrier 783), issued September 25, 1972, authorizing transportation over irregular routes, of (1) *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the terminal site of Consolidated Freightways Corporation of Delaware, in Stroud Township, (Monroe County), Pa., on the one hand, and, on the other, Ackermanville, Bangor, Bath, Bartonville, Belfast, Cresco, Delaware Water Gap, East Stroudsburg, Mountainhome, Mt. Bethel, Mt. Pocono, Nazareth, Pen Argyl, Portland, Roseto, Saylorsburg, Sciota, Slateford, Snydersville, Stockertown, Stroudsburg, Swiftwater, Tatamy, and Wind Gap, Pa.; and (2) *general commodities*, (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the terminal site of Consolidated Freightways Corporation of Delaware, in Stroud Township (Monroe County), Pa., on the one hand and on the other, points in New Jersey and Pennsylvania within 25 miles of Allentown.

By the instant petition, petitioner seeks to modify its Certificate by substituting Tobyhanna Township (Monroe County), Pa. as the terminal site in lieu of Stroud Township (Monroe County), Pa.

No. MC 52781 and (Sub-No. 2) (notice of filing of petition to modify commodity description), filed July 27, 1976. Petitioner: OVERCASH TRANSFER, INC., P.O. Box 3117, C.R.S. Rock Hill, S.C. 29730. Petitioner's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Petitioner holds motor *contract carrier* Permits in No. 52781 and (Sub-No. 2), issued May 1, 1963 and December 6, 1973, respectively, authorizing transportation (1) in 52781, over irregular routes, of *pipe, pipe fittings, and such materials, supplies and equipment* as are used in the installation and maintenance of srinkler, heating, and power piping systems, and also *such tools and equipment* as are used for installing and maintaining the aforementioned installations, (a) between Charlotte, N.C., on the one hand, and, on the other, points in North Carolina and South Carolina within 150 miles of Charlotte, N.C.; and (b) between Charlotte, N.C., on the one hand, and, on the other, points in South Carolina (except those within 150 miles of Charlotte, N.C.), and points in Virginia, under special and individual contracts or agreements with persons (as defined in Section 203(a) of the Interstate Commerce Act) who are engaged in the installation and maintenance of sprinkler, heating, and power piping systems, for the transportation of the commodities indicated and in the manner specified; and (2) in MC 52781 (Sub-No. 2) as pertinent, over irregular routes, of *pipe, pipe fittings, and materials, supplies, and equiment* used in the installation and maintenance of sprinkler, heating, and power piping systems, between points in North Carolina, South Carolina, Virginia, Georgia (except Catham County), Alabama (except (a) between points on the Tennessee River and Ragland, Ala., on the one hand, and, on the other, points in Georgia and Tennessee, and (b) from points in Talladega County, Ala.), and Tennessee (except (a) from points in Roane County, and (b) between points on the Mississippi and Tennessee Rivers, on the one hand, and, on the other, points in Alabama and Georgia), under a continuing contract, or contracts, with the following shippers: ITT Grinnell Corporation, of Providence, R.I.; ITT Grinnell Industrial Piping, Inc.; Grinnell Fire Protection Systems Company, Inc.; General Supply & Equipment Corp., of Charlotte, N.C.; and Monarch Sprinkler Co., of Charlotte, N.C.

By the instant petition, petitioner seeks to modify the commodity description in both Permits to read as follows: "*Pipe, tubing and conduit*, fabricated or not fabricated, *pipe, tubing and conduit fittings*, and *articles, materials, tools, equipment, supplies and accessories* used in the construction, installation, maintenance, operation, and repair of sprinkler systems, fire prevention systems, heating systems, piping systems, irrigation systems, plumbing systems, water systems, sewage systems and drainage systems."

No. MC 52781 (Sub-No. 2) (notice of filing of petition to add additional shippers), filed July 29, 1976. Petitioner: OVERCASH TRANSFER, INC., P.O. Box 3117, C.R.S. Rock Hill, S.C. 29730. Petitioner's representative: Archie B. Culbreth, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Petitioner holds a motor *contract carrier* Permit in No. MC 52781 (Sub-No. 2), issued December 6, 1973, authorizing transportation, as pertinent, over irregular routes, of *lumber* (except plywood and veneer), from points in North Carolina, under a continuing contract, or contracts, with Forest Lumber Company, Inc., of Charlotte, N.C.

By the instant petition, petitioner seeks to add Holly Hill Lumber Company, Holly Hill, S.C.; McCoy Lumber Industries, Greensboro, N.C.; and Southern Forest Products Company, Paw Creek, N.C. as additional shippers to the above authority.

No. MC 109538 (notice of filing of petition to remove restriction), filed August 3, 1976. Petitioner: CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem St., P.O. Box 269, Eau Claire, Wis. 54701. Petitioner's representative: James L. Nelson, Suite 500, 325 Cedar St., St. Paul, Minn. 55101. Petitioner holds a motor *common carrier* Certificate in No. MC 109538, issued January 11, 1968, authorizing transportation, as pertinent, over regular routes, of *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all intermediate points, and the off-route points of Arland, Broadman, Burkhardt, Canton, Cylon, Huntington, Jewett, Ubet, and Wanderoos, Wis., in connection with the regular-routes authorized below: Between Eau Claire, Wis., and Mondovi, Wis.: from Eau Claire over Wisconsin Highway 37 to Mondovi, and return over the same route; Between Eau Claire, Wis., and Eleva, Wis.: from Eau Claire over Wisconsin Highway 93 to Eleva, and return over the same route; Between Eau Claire, Wis., and Black River Falls, Wis.: from Eau Claire over U.S. Highway 53 to junction U.S. Highway 10, thence over U.S. Highway 10 to junction Wisconsin Highway 27, thence over Wisconsin Highway 27 to Black River Falls, and return over the same route; Between Mondovi, Wis., and Fairchild, Wis.: from Mondovi over U.S. Highway 10 to Fairchild, and return over the same route; Between Hixton, Wis., and Neillsville, Wis.: from Hixton over Wisconsin Highway 95 to Neillsville, and return over the same route; Between Hudson, Wis., and Frederic, Wis.: from Hudson over Wisconsin Highway 35 to Frederic, and return over the same route; Between Roberts, Wis., and junction Wisconsin Highways 46 and 35 near Milltown, Wis.: From Roberts over U.S. Highway 12 to junction Wisconsin Highway 65, thence over Wisconsin Highway 65 to junction U.S. Highway 8, thence over U.S. Highway 8 to junction Wisconsin Highway 46, thence over Wisconsin Highway 46 to junction Wisconsin Highway 35 near Milltown, and return over the same route; Between Somerset, Wis., and junction Wisconsin Highway 64 and County Highway M near Sand Creek, Wis.:

From Somerset over Wisconsin Highway 64 to junction County Highway M, and return over the same route; Between Star Prairie, Wis., and Osceola, Wis.: from Star Prairie over County Highway M to Osceola, and return over the same route; Between St. Croix Falls, Wis., and Hawkins, Wis.: from St. Croix Falls over U.S. Highway 8 to Hawkins, and return over the same route; Between Baldwin, Wis., and Spooner Wis.: from Baldwin over U.S. Highway 63 to Spooner, and return over the same route; Between junction Wisconsin Highways 64 and 46, and junction Wisconsin Highway 46 and U.S. Highway 8: from junction Wisconsin Highways 64 and 46 over Wisconsin Highway 46 to junction U.S. Highway 8, and return over the same route; Between Luck, Wis., and Rice Lake, Wis.: from Luck over Wisconsin Highway 48 to Rice Lake, and return over the same route; Between Cameron Wis., and Spooner, Wis.: from Cameron over U.S. Highway 53 to Spooner, and return over the same route; Between Menomonie, Wis., and junction Wisconsin Highways 48 and 25 (near Rice Lake, Wis.): from Menomonie over Wisconsin Highway 25 to junction Wisconsin Highway 48, and return over the same route; Between Colfax, Wis., and Glenwood City, Wis.: from Colfax over Wisconsin Highway 170 to Glenwood City, and return over the same route; Between Connorsville, Wis., and Turtle Lake, Wis.: from Connorsville over County Highway K to Turtle Lake, and return over the same route; Between Woodville, Wis., and junction County Highway D and Wisconsin Highway 64: from Woodville over County Highway D to junction Wisconsin Highway 64, and return over the same route; Between junction Wisconsin Highway 46 and County Highway F (near Amery, Wis.), and junction County Highway F and Wisconsin Highway 65: from junction Wisconsin Highway 46 and County Highway F over County Highway F to junction Wisconsin Highway 65, and return over the same route; Between Deronda, Wis., and junction County Highway C and Wisconsin Highway 65: fom Deronda over County Highway P to junction County Highway C, thence over County Highway C to junction Wisconsin Highway 65, and return over the same route; Between Clayton, Wis., and Range, Wis.:

From Clayton over County Highway D to Range, and return over the same route; Between Chetek, Wis., and Prairie Farm, Wis.: from Chetek over County Highway 1 to junction County Highway A, thence over County Highway A to Prairie Farm, and return over the same route; Between Connorsville, Wis., and Menomine, Wis.: from Connorsville over Wisconsin Highway 79 to junction U.S. Highway 12, thence over U.S. Highway 12 to Mononomie, and return over the same route; Between junction U.S. Highway 12 and Wisconsin Highway 128 (near Hersey, Wis.), and junction Wisconsin Highways 128 and 64: from junction U.S. Highway 12 and Wisconsin Highway 128 over Wisconsin Highway 128 to junction Wisconsin Highway 64, and return over the same route; Between junction U.S. Highway 8 and County Highway F near Poskin, Wis., and junction County Highway F and Wisconsin Highway 64: from junction U.S. Highway 8 and County Highway F over County Highway F to junction Wisconsin Highway 64, and return over the same route; Between Dallas, Wis., and Holcombe, Wis.: from Dallas over County Highway U to Sand Creek, Wis., thence over County Highway M to Holcombe, and return over the same route; Between Chippewa Falls, Wis., and junction Wisconsin Highway 29 and U.S. Highway 12: from Chippewa Falls over Wisconsin Highway 29 to junction U.S. Highway 12, and return over the same route; Between junction Wisconsin Highways 64 and 40, and Bruce, Wis.: from junction Wisconsin Highways 64 and 40 over Wisconsin Highway 40 to Bruce and return over the same route; Between junction Wisconsin Highways 64 and 27, and Gilman, Wis.: from junction Wisconsin Highways 64 and 27 over Wisconsin Highway 64 to Gilman, and return over the same route, restricted to the transportation of (a) traffic moving from, to, or through Eau Claire, Wis., or (b) traffic originating in or destined to points in Wisconsin within 60 miles of Cameron, Wis., and moving from or to Cameron or through Cameron and all intermediate points on U.S. Highway 53 between Cameron and the northern-most junction of said highway with Wisconsin Highway 64.

By the instant petition, petitioner seeks to delete from its authority the above restriction.

No. MC 124472 (Sub-No. 3) (notice of filing of petition to modify commodity description and contract shippers), filed June 21, 1976. Petitioner: HARDING TRANSPORTATION, INC., 6875 East Evans, Denver, Colo. 80224. Petitioner's representative: Clayton C. Koster (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 124472 (Sub-No. 3), issued July 5, 1968, authorizing transportation over irregular routes, of (1) *polished plate glass*, from Crystal City, Mo., Toledo, Ohio, and Nashville and Greenland, Tenn., to Fort Smith and Fayetteville, Ark., Colorado Springs, Denver, Pueblo. Longmont, Boulder, Greeley, and Grand Junction, Colo., Sioux City, Iowa, Garden City, Manhattan, Topeka, Salina, and Hays, Kans., Kansas City, Joplin, St. Louis, and Springfield, Mo., Kearney, Lincoln, Norfolk, Omaha, and Gering, Nebr., Farmington, N. Mex., and Tulsa, Okla.; (2) *paint* (except in bulk), from Pueblo, Colo., to Fort Smith and Fayetteville, Ark., Alton, Ill., Sioux City, Iowa, Garden City, Manhattan, Topeka, Salina, and Hays, Kans., Kansas City, Springfield, Joplin, and St. Louis, Mo., Kearney, Lincoln, Norfolk, Omaha, and Gering, Nebr., Farmington, N. Mex., and Tulsa, Okla.; (3) *putties and caulking compounds*, from Denver, Colo., to Fort Smith and Fayetteville, Ark., Alton, Ill., Sioux City, Iowa, Garden City, Manhattan, Topeka, Salina, and Hays, Kans., Kansas City, Springfield, Joplin, and St. Louis, Mo., Kearney, Lincoln, Norfolk, Omaha, and Gering, Nebr., Farmington, N. Mex., and Tulsa, Okla.; and (4) *rolled glass, polished wire glass*, and *glazing units*, from Kingsport, Tenn., St. Louis, Mo., and Toledo, Ohio, to Fayetteville and Fort Smith, Ark., Colorado Springs, Denver, Pueblo, Longmont, Boulder, Greeley and Grand Junction, Colo, Sioux City, Iowa, Garden City, Manhattan, Topeka, Salina, and Hays, Kans., Joplin, Kansas City, St. Louis and Springfield, Mo., Kearney, Lincoln, Norfolk, Omaha, and Gering, Nebr., Farmington, N. Mex., and Tulsa, Okla., under a continuing contract, or contracts, with the following shippers: Harding Glass of Missouri; Harding Glass of Kansas; Harding Glass of Colorado; Interstate Glass Co.; and Thermoglas, Inc. By the instant petition, petitioner seeks (a) to modify the commodity description in parts (1) and (4) above to read: "*Glass and glass products.*"; and (b) to reflect the correct name of the contract shipper through merger as Harding Glass Industries, Inc. in lieu of the (5) companies listed above.

No. MC 139193 (Sub-No. 21) (Notice of filing of petition for modification of permit), filed August 5, 1976, Petitioner: ROBERTS & OAKE, INC., 208 South LaSalle St., Chicago, Ill. 60604. Petitioner's representative: Terrence D. Jones, 2033 K St., NW., Washington, D.C. 20006. Petitioner holds a motor *contract carrier* Permit in No. MC 139193 (Sub-No. 21), issued June 8, 1976, authorizing transportation over irregular routes, of (1) *meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from the plantsite and storage facilities of John Morrell & Company, located at Arkansas City, Kan., to points in Iowa, Maryland, Minnesota, Nebraska, Illinois, Kansas. Massachusetts, Missouri, New Jersey, New York, Ohio, Tennessee (except Memphis), and Sioux Falls, S. Dak.; and (2) *such commodities* (except commodities in bulk), as are used by meat packers in the conduct of their business, from Elmhurst, Ill.; East St. Louis, Ill.; Estherville, Iowa; Sioux City, Iowa; Humboldt, Iowa, and Sioux Falls, S. Dak., to Arkansas City, Kan., under a continuing contract, or contracts, with John Morrell & Company. By the instant petition, petitioner seeks (a) to add the storage facilities utilized by John Morrell & Company located in Wichita, Kan. as an additional origin point with respect to part (1) of the above authority; and (b) to add Chicago, Ill. as an additional origin point and Wichita, Ka. as an additional destination point with respect to part (2) of the above authority.

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No. MC 141192 (notice of filing of petition to add an additional contracting shipper, filed August 3, 1976. Petitioner: DI CENSO TRANSPORT, INC., 35 Lyncrest Avenue, New York City, N.Y. 10956. Petitioner's representative: Ronald I. Shapss, 450 Seventh Ave., New York, N.Y. 10001. Petitioner holds a motor *contract carrier* Permit in No. MC 141192, issued April 14, 1976, authorizing transportation over irregular routes, of *horticultural commodities and such other commodities as are sold or used by nurseries, plant centers, and greenhouses* (except commodities in bulk), between Park Ridge, N.J., Pearl River, N.Y., and points in that part of the New York, N.Y. Commercial Zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), on the one hand and, on the other, points in Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Michigan, Wisconsin, Illinois, Indiana, Ohio, Maryland, Delaware, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, and the District of Columbia, under a continuing contract, or contracts, with the Langeveld Bulb Co., Inc. located at Park Ridge, N.J. By the instant petition, petitioner seeks to add Continental Pottery, Inc. as an additional contract shipper to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of the operating rights authorities are republished by Order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 27500 (Sub-No. 11) (Republication), filed July 7, 1975, and published in the FEDERAL REGISTER issue of August 7, 1976, and republished this issue. Applicant: MISHAK TRUCK LINE, INC., 320 7th Avenue North, Clear Lake, Iowa 50428. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. An Order of the Commission, Review Board Number 3, dated July 15, 1976 and served August 4, 1976, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) (a) *trailers, recreational and commercial, and structures* designed for attachment to motor vehicles, (b) *parts and attachments* for the commodities in (a) above; and (c) *parts and attachments for motor* homes; (2) *equipment, materials, and supplies*, used in the manufacture or distribution of the above-mentioned products (except commodities in bulk); and (3) *aluminum extrusions*, between points in Winnebago County, Iowa, on the one hand, and, on the other, points in Nebraska, Wisconsin, Illinois (except points in Grundy County, East St. Louis and points in its Commercial Zone, and Alton, Ill.), Indiana, Michigan, and points in Ohio on and west of a line commencing at Toledo, Ohio, thence south over U.S. Highway 23 to Columbus, Ohio, and thence southwest over Interstate Highway 71, to Cincinnati, Ohio, restricted to the transportation of traffic originating at or destined to, the facilities of Winnebago Industries, Inc. located in Winnebago County, Iowa; that applicant is fit, willing, and able, properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is (1) to indicate applicant's broadened commodity description; and (2) to indicate applicant's use of Interstate Highway 71 as a boundary of the radial area of Ohio in lieu of Interstate Highway 70.

No. MC 48501 (Sub-No. 18) (Republication), filed March 17, 1975, and published in the FEDERAL REGISTER issue of April 17, 1975 and republished this issue. Applicant: INDIANA MOTOR BUS COMPANY, a Corporation, 715 South Michigan St., South Bend, Ind. 46624. Applicant's representative: Harry J. Harman, 8130 South Meridan St., Indianapolis, Ind. 46217. An order of the Commission, Division 1, Acting as an Appellate Division, dated July 14, 1976 and served July 21, 1976, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle over irregular routes in the transportation of *passengers and their baggage* in the same vehicle with passengers, in special operations, in round trip, sightseeing and pleasure tours, beginning and ending at points in St. Joseph, Marshall, Fulton, Cass, Miami, Howard, Tipton, Hamilton, Marion, Boone, Clinton, Tippecanoe, Carroll, White, Jasper, Pulaski, Starke, La Porte, Porter, Elkhart, Kosciusko, Whitley, Huntington, Wabash, Grant, Delaware, and Allen Counties, Ind., and points in Berrien, Cass, St. Joseph, Kalamazoo, and Van Buren Counties, Mich. and extending to points in the United States, including Alaska, but excluding Hawaii; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's grant of authority to include service beginning and ending at points in Pulaski County, Ind.

No. MC 72442 (Sub-No. 44) (republication), filed June 4, 1974, published in the FEDERAL REGISTER issue of March 20, 1975, and republished this issue. Applicant: AKERS MOTOR LINES, INCORPORATED, P.O. Box 10303, Charlotte, N.C. 28237. Applicant's representative: Leonard A. Jaskiewcz, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. An Order of the Commission, Review Board Number 1, dated June 28, 1976, and served July 6, 1976, finds that applicant's regular route authority in MC 72442 (Sub-No. 32) between specified termini, located at Georgia, North Carolina and South Carolina, restricted (A) such that service at authorized points in South Carolina (other than those in Anderson, Oconee, Pickens, Greenville, Spartanburg, Cherokee, Laurens, Union, York, Greenwood, and Abbeville Counties) is restricted to traffic moving to or from points north of the North Carolina-Virginia State line; (B) such that service at authorized points in Georgia (except for the pickup of cotton piece goods) is restricted to traffic moving (a) from, to, or through points in the 11 South Carolina Counties named above, or (b) from, to, or through Gastonia, N.C. and points in North Carolina within 25 miles of Gastonia, or (c) points north of the North Carolina-Virginia State line; and (C) such that shipments moving between points in Georgia, on the one hand, and, on the other, points in North Carolina on and west of U.S. Highway 29 are restricted to movements through Gastonia, N.C., or points within 25 miles thereof, in the transportation of, *General commodities* (except those of unusual value, Classes A and B explosives, tobacco, liquor, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), to be modified as follows:

(1) Points in Chesterfield, Marlboro, Dillon, Marion, Florence, Darlington, Lee, and Kershaw Counties, S.C., are to be added to applicant's present off-route point authority. (2) The first and third restrictions (designated above as restrictions (A) and (C)) now appearing are to be deleted. (3) The words "the 11 South Carolina Counties named above" are to be deleted from the second restriction (designated above as restriction (B)) and in lieu thereof the words "Anderson, Oconee, Pickens, Greenville, Spartanburg, Cherokee, Laurens, Union, York, Greenwood, and Abbeville Counties, S.C.," are to be inserted. (4) The following restriction is to be added: "The authority granted herein shall not be severable by sale or otherwise from the authority held by applicant in Certificates Nos. MC-72442 (Sub-No. 7) and MC-72442 (Sub-No. 12). Conditions: The authority granted herein is subject (1) to prior publication in the Federal Register of the authority actually granted, and (2) to insertion in Certificates Nos. MC-72442 (Sub-No. 7) and MC-72442 (Sub-No. 12), at applicant's written request, of a restriction providing that applicant shall not, pursuant to the irregular-route authority contained in each certificate, serve any two points authorized in Certificate No. MC-72442 (Sub-No. 32) to be served by it in regular-route operations, that applicant is fit, willing, and able, properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations, thereunder. The purpose of this republication, is to indicate applicant's grant of off-route points in (1) above.

No. MC 115322 (Sub-No. 111) (Republication), filed October 29, 1974, and published in the FEDERAL REGISTER issue of November 21, 1974 and republished this issue. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. On Order of the Commission, Review Board Number 1, dated July 27, 1976, and served August 2, 1976, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *foodstuffs* (except frozen or in bulk), from Egypt, Fairport, Lyons, Newark, Red Creek, Rushville, Syracuse, and Waterloo, N.Y., to points in Alabama, Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Tennesse, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the plantsite or storage facilities of Comstock Foods, Borden, Inc., Foods Division, located at the named origins and destined to the indicated destinations; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is (1) to indicate applicant's commodity exception; (2) to indicate Newark, N.Y. as an additional origin point; (3) to indicate the District of Columbia as an additional destination point; and (4) to indicate applicant's restriction.

No. MC 128146 (Sub-No. 6), filed December 22, 1975. Applicant: TED W. BETLEY, INC., P.O. Box 196, Amberg, Wis. 54102. Applicant's representative: Ted W. Betley (same address as applicant). By Order of the Commission, Review Board Number 2, dated June 24, 1976, and served July 21, 1976, the Commission finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *repair parts, accessories, tools and equipment*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, between Chicago, Ill., Minneapolis, Minn. and Green Bay and Milwaukee, Wis., on the one hand, and, on the other points in Minnesota, Wisconsin, and the Upper Peninsula of Michigan; (2) *film, photographic materials*, and *film dealer supplies*, between Green Bay and Milwaukee, Wis., on the one hand, and, on the other, points in the Upper Peninsula of Michigan; (3) *audit media and business records*, between Minneapolis, Minn., on the one hand, and, on the other, points in Eau Claire County, Wis.; and (4) *audit media and business records*, between Green Bay, Wis., on the one hand, and, on the other, Chicago, Ill. Inasmuch as this matter has not previously been noticed in the FEDERAL REGISTER, any proper party may file an initial protest against the granting of any segment of this authority within 30 days after the date of this notice in the FEDERAL REGISTER.

No. MC 133485 (Sub-No. 16) (Republication), filed May 14, 1975, and published in the FEDERAL REGISTER issue of June 12, 1975, and republished this issue. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster Street, Providence, R.I. 02909. Applicant's representative: Morris J. Levin, 1620 Eye Street, NW., Washington, D.C. 20006. An Order of the Commission, Review Board Number 1, dated July 29, 1976 and served August 4, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *precious metals* (except new coins), *precious stones, jewelry, and rare and valuable objects*, in armored motor vehicles escorted by armed guards, (a) between points in Delaware, on the one hand, and, on the other, points in New York and New Jersey and those in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., (b) between points in New York, on the one hand, and, on the other, points in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and (c) between points in Delaware, on the one hand, and, on the other, points in Rhode Island; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the modification in commodity description and the service between Delaware and Rhode Island.

No. MC 141113 (Republication), filed July 3, 1975, published in the FEDERAL REGISTER issue of September 25, 1975, and republished this issue. Applicant: MONSEY TRANSPORTATION CORP., 94 Washington Avenue, New Square, Spring Valley, N.Y. 10977. Applicant's representative: Harvey L. Sterlzin, 253 Broadway, New York, N.Y. 10007. A Stay Decision and Order of the Commission, Review Board Number 3, dated June 22, 1976, and served July 20, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of, *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at Monsey, N.Y., and extending to points in New York and Kings Counties, N.Y., that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's grant of common carrier authority in lieu of contract carrier authority as originally sought.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearings, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof,

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and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 6607 (Sub-No. 17) filed July 13, 1976. Applicant: J. J. MINNEHAN, INC., Rockingham Road, P.O. Box 369, Bellows Falls, Vt. 05101. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Products* derived from corn and blends containing products derived from corn, in bulk, in tank vehicles, from the Clinton Corn Processing Company plant site located at Montezuma, N.Y., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the above described facilities, under a continuing contract, or contracts, with Clinton Corn Processing Company.

NOTE.—Applicant holds common carrier authority in MC 139624 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with several similar applications at Washington, D.C.

No. MC 14107 (Sub-No. 3), filed July 2, 1976. Applicant: W. M. GIRVAN, INC., 65 Railroad Ave., Albany, N.Y. 12205. Applicant's representative: Neil D. Breslin, 99 Washington Ave., Suite 1111, Albany, N.Y., 12210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, *equipment, materials and supplies* used in the conduct of such business, between East Hartford, Conn., on the one hand, and, on the other, points in Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, Washington and Sullivan Counties, N.Y.; Berkshire and Franklin Counties, Mass.; and Bennington, Rutland, Addison, Chittendon, Franklin, Orleans, Lamoille, Washington, Orange, Windsor, Windham and Caldonia Counties, Vt., under a continuing contract, or contract with Great Atlantic & Pacific Tea Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany, N.Y., or Boston, Mass.

No. MC 35807 (Sub-No. 60), filed July 13, 1976. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency and coin*, between Birmingham, Ala., on the one hand, and, on the other, Jay, Fla., under a continuing contract, or contracts with Federal Reserve Bank of Atlanta, Birmingham Branch.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 43038 (Sub-No. 457), filed July 12, 1976. Applicant: Commercial Carriers, Inc., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in initial movements, from the plantsites of General Motors Corporation located at Los Angeles and South Gate, Calif., to points in Arizona and points in Coos, Curry, Douglas, Jackson, Josephine, Klamath and Lane Counties, Oreg.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles or San Francisco, Calif. or Washington, D.C.

No. MC 43038 (Sub-No. 459), filed July 13, 1976. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in initial movements, from the General Motors assembly plant located at or near Fremont, Calif., to points in Arizona, Nevada and Coos, Curry, Douglas, Jackson, Josephine, Klamath and Lane Counties, Oreg.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles or San Francisco, Calif. or Washington, D.C.

NO. MC 47583 (Sub-No. 30), filed July 6, 1976. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper or scrap paper*, from points in Iowa and Nebraska to the plant sites and storage facilities of GAF Corporation, Packaging Corporation of America and U.S. Gypsum Co., all located within the Kansas City, Mo.-Kans. Commercial Zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Kans.

No. MC 47583 (Sub-No. 31), filed July 2, 1976. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vermiculite*, from the plantsite and storage facilities of Diversified Insulation, located at or near Wellsville, Kans., to points in Arkansas, Colorado, Illinois, Iowa, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas and Wyoming; and (2) *materials, equipment and supplies*, used in the manufacturing and distribution of cellulose and vermiculite products (except commodities in bulk), from the destination points named in (1) above to the plantsite and storage facilities of Diversified Insulation, located at or near Wellsville, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Kans.

No. MC 52579 (Sub-No. 156), filed July 6, 1976. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, from Burkesville, Ky., to points in Atlanta, Ga.; Dallas, Tex.; Los Angeles, Calif., and points in the New York, N.Y., Commercial Zone, as defined by the Commission.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Newark, N.J.

No. MC 59150 (Sub-No. 95), filed July 14, 1976. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials, and materials, equipment and supplies*, used in the manufacture, packaging, distribution, or installation thereof (except commodities in bulk), between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 61231 (Sub-No. 93), filed July 14, 1976. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plantsites of Northwestern Steel and Wire Company, located at Rock Falls and Sterling, Ill., to points in Arizona, Colorado, Montana, New Mexico, Oklahoma, Texas and Wyoming; and (2) *materials and supplies*

used in the manufacture and distribution of iron and steel articles, from the above named destination points to the plantsites of Northwestern Steel and Wire Company, located at Rock Falls and Sterling, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 391), filed July 15, 1976. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, R.R. No. 3, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, mowers, tractor cultivators, agricultural implements, trailers, and attachments, accessories and parts* for use with tractors and snow removal equipment, from Waukesha, Wis., to points in the United States, including Alaska but excluding Hawaii; and (2) *equipment, materials and supplies* used in the manufacture of the above commodities (except commodities in bulk, in tank vehicles), from points in the United States, including Alaska but excluding Hawaii, to Waukesha, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 67450 (Sub-No. 58), filed July 15, 1976. Applicant: PETERLIN CARTAGE CO., 9651 South Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such goods, wares, merchandise, and equipment* that are utilized or sold by General Mills, Inc., between Cedar Rapids, Iowa, on the one hand, and, on the other, points in Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin, restricted to traffic originating at or destined to the plantsite or warehouse facilities utilized by General Mills, Inc. located at Cedar Rapids, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 69397 (Sub-No. 22), filed July 14, 1976. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Somerset County, Md., to points in Maine, New Hampshire, and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 72140 (Sub-No. 68), filed July 20, 1976. Applicant: SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, Ind. 46619. Applicant's representative: Richard L. Andrysiak, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Butler, Ind., as an off-route point in connection with applicant's presently authorized regular-route operations at Fort Wayne, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Wayne, Ind. or Toledo, Ohio.

No. MC 83217 (Sub-No. 72), filed July 12, 1976. Applicant: DAKOTA EXPRESS, INC., 550 E. 5th St., South, South St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and advertising materials and supplies* (except in bulk), from the Minneapolis, Minn., LaCrosse, Wis., and Milwaukee, Wis. Commercial Zones to points in South Dakota; and (2) *empty used malt beverage containers*, from points in South Dakota to the Minneapolis, Minn., LaCrosse, and Milwaukee, Wis. Commercial Zones.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 94201 (Sub-No. 142), filed July 6, 1976. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite, warehouse and storage facilities of Union Camp Corporation, located at or near Franklin, Va., to points in the District of Columbia; points on U.S. Highway 1 between the District of Columbia and New York; points in New York within 35 miles of Columbus Circle, N.Y.; and points in Connecticut, Massachusetts, New Jersey and Rhode Island.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 188), filed July 15, 1976. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, pipe fittings, valves, fire hydrants, couplings, connections and materials, supplies and accessories* used in the installation of said commodities, from the plantsite and storage facilities of Clow Corporation, located at or near Coshocton, Ohio, to points in California, Colorado, Idaho, Iowa, the Upper Peninsula of Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Minneapolis, Minn.

No. MC 98852 (Sub-No. 4) filed June 28, 1976. Applicant: FARRAGUT BAGGAGE AND TRANSFER CO. INC., 945 E. 17th St., Tucson, Ariz. 85719. Applicant's representative: Wellwood W. Blough (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those in bulk, in tank vehicles), from Tucson, Ariz., to Sells, Ariz.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tucson or Sells, Ariz.

No. MC 102567 (Sub-No. 193) filed July 15, 1976. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston 1st Savings Bldg., 711 Fannin, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the plantsite of Pearl River Chemical Company, at or near Pearl River, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 104123 (Sub-No. 77), filed July 14, 1976. Applicant: JOHN SCHUTT, JR., INC., 655 River Road, North Tonawanda, N.Y. 14120. Applicant's representative: Richard H. Streeter, 704 Southern Bldg., 15th & H St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride*, dry, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located in Michigan and New York, to points in Louisiana, Maryland and Texas, restricted to movements originating at the plantsite and facilities of Welland Chemical located at Sarnia, Ontario.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y. or Washington, D.C.

No. MC 106674 (Sub-No. 200), filed July 14, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from White

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Plains, Ky., to points in Alabama, Arkansas, Illinois, Indiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107012 (Sub-No. 228) filed July 15, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational and physical fitness equipment, and games and toys*, from Newark, N.Y., and Compton, Calif., to points in the United States(except Alaska and Hawaii).

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Chicago, Ill.

No. MC 107403 (Sub-No. 981) filed July 12, 1976. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, (1) from Louisville, Ky., to Sullivan, Mo.; and (2) from Nesquehoning, Pa., to points in Delaware, Florida, Maine, Massachusetts, New Hampshire, New Jersey and South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107934 (Sub-No. 27), filed July 14, 1976. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 787, Lexington, N.C. 27292. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Lawrenceville, Ga., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee and Wisconsin; and (2) *returned furniture*, from the destinations named in (1) above, to Lawrenceville, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 108223 (Sub-No. 21) filed July 9, 1976. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., 2160 Mustang Drive, P.O. Box 3050, St. Paul, Minn. 55112. Applicant's representative: Warren K. Wahoske (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Milwaukee, Wis., and Duluth, Minn., for operating convenience only, serving no intermediate points: From Milwaukee, Wis., over Interstate Highway 94 to junction U.S. Highway 53, thence over U.S. Highway 53 to Duluth, Minn., and return over the same route; and (2) Between Chicago, Ill., and Duluth, Minn., for operating convenience only, serving no intermediate points: From Chicago, Ill., over Interstate Highway 90 to junction Interstate Highway 94 thence over Interstate Highway 94 to junction U.S. Highway 53, thence over U.S. Highway 53 to Duluth, Minn. and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 109478 (Sub-No. 146) filed July 12, 1976. Applicant: WORSTER MOTOR LINES, INC., R.D. No. 1, Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. Mackrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products* derived from corn and *blends* containing products derived from corn, in bulk, in tank vehicles, from Clinton Corn Processing Company plantsite located at Montezuma, N.Y., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the above described facilities.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109689 (Sub-No. 298) filed July 2, 1976. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, from Thompson, Utah, to Uravan, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 110563 (Sub-No. 184) filed July 8, 1976. Applicant: COLDWAY EXPRESS, INC., P.O. Box 747, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients* in mechanically refrigerated equipment (except in bulk), from the plant and warehouse facilities owned and operated by Archer Daniels Midland Company, located in Decatur, Ill; also, shipping products for Wilsey Foods, Inc., and others to points located in Colorado, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or St. Louis, Mo.

No. MC 113666 (Sub-No. 105) filed June 29, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16220. Applicant's representative: William H. Shawn, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lead, nickel and zinc* (except in bulk), from ports of entry on the International Boundary line between the United States and Canada located at Maine, Michigan, Minnesota, New Hampshire, New York and Vermont, to points in Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Masachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, West Virginia and Wisconsin; and (2) *copper scrap* (except in bulk), from Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Tennessee, Texas, Virginia, West Virginia and Wisconsin, to ports of entry on the International Boundary line between the United State sand Canada located at Maine, Michigan, Minnesota, New Hampshire, New York and Vermont, restricted in (1) and (2) above to traffic originating at or destined to points in Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y. or Pittsburgh, Pa.

No. MC 113666 (Sub-No. 106) filed July 15, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16220. Applicant's representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural pesticides* (except commodities in bulk), from Frankfort, Ind.; Muskegon, Mich.; and Freeport, Pa.; to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Wisconsin and Texas; (2) *agricultural pesticides* (except commodities in bulk), from Mendota, Ill.; Des Moines, Iowa; Albert Lea, Minn.; St. Joseph, Mo.; Fremont, Nebr.; and Randolph, Wis.; to Illinois, Indiana, Michigan, New York, Ohio and Pennsylvania; (3) *agricultural pesticides* (except commodities in bulk), from Greeley, Colo., to points in Iowa, Kansas and Nebraska; (4) *agricultural pesticides* (except commodities in bulk), from Newell, W. Va., to points in Maryland, Michigan, Minnesota, Montana, New Jersey, New York and North Dakota; (5) *aluminum oxide catalyst*, from Michigan City, Ind., to U.S.-Canadian Border Crossings located on the Detroit and St. Clair Rivers; and (6) *dry animal and poultry feed ingredients*, from Willow Island, W. Va., to points in Minnesota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Philadelphia, Pa.

No. MC 114045 (Sub-No. 444), filed July 14, 1976. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soaps, shampoos, and aerosols* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Morristown, N.J., to Springfield, Mo., and points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 114211 (Sub-No. 277) filed July 14, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Waterloo, Iowa, 50701. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnesium metal ingots*, from Snyder, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held in consolidation with C & H Transportation Company Inc., at either Dallas or Houston, Tex.

No. MC 114273 (Sub-No. 252) filed July 13, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Bldg., 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Joliet, Ill., to points in Colorado, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114552 (Sub-No. 119) filed July 15, 1976. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, valves, fittings, hydrants, parts thereof*, and *accessories therefor* (except in bulk), from the facilities of American Cast Iron Pipe Company, located at Birmingham, Ala., to points in North Carolina and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.

No. MC 116254 (Sub-No. 162) filed June 17, 1976. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Birmingham, Ala., to Henderson, Nev., and Fontana and Pittsburg, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.; Atlanta, Ga.; or Nashville, Tenn.

No. MC 117503 (Sub-No. 9) (Correction), filed March 26, 1976, published in the FEDERAL REGISTER issues of April 29, May 25 and July 8, 1976 and republished as corrected this issue. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, Calif. 95814. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, class A explosives, household goods as defined by the Commission, and those of unusual value), between the Seattle-Tacoma International Airport near Seattle, Wash.; Portland International Airport near Portland, Oreg.; Sacramento Metropolitan Airport near Sacramento, Calif.; San Francisco International Airport near San Francisco, Calif.; and the Los Angeles International Airport near Los Angeles, Calif., and the facilities of direct and indirect air carriers located within twenty-five (25) miles of the airport mentioned above, restricted to the transportation of traffic having a prior or subsequent movement by air, to movements in trailers equipped with rollerized floors; and further restricted against service between the Seattle-Tacoma International Airport, on the one hand, and, on the other, the Portland International Airport, and against service between the San Francisco International Airport, on the one hand, and, on the other, the Los Angeles International Airport.

NOTE.—The purpose of this republication is to correct the territorial description. If a hearing is deemed necessary, the applicant requests it be held at either Sacramento, Calif. or San Francisco, Calif.

No. MC 117765 (Sub-No. 207), filed July 12, 1976. Applicant: HAHN TRUCK LINE, INC., 5315 N.W. 5th St., P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral fibre and mineral fibre products, and insulating materials*, from the plantsite of the United States Gypsum Company, at Corsicana, Tex., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Oklahoma.

No. MC 117765 (Sub-No. 208), filed June 29, 1976. Applicant: HAHN TRUCK LINE, INC., 3515 N.W. 5th St., P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* used in the manufacture, distribution and installation of building materials, gypsum and gypsum products (except liquid commodities in bulk), from points in Illinois, Iowa, Kansas, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin, to the plantsite of the United States Gypsum Company, located in Martin County, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Oklahoma.

No. MC 117940 (Sub-No. 179) (Amendment), filed June 28, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, republished as amended this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by discount, variety and clothing stores (except commodities in bulk) and foodstuffs in mixed loads with such commodities as are dealt in by discount, variety and clothing stores from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia from New York, N.Y. and Jersey City, N.J., to points in Illinois, Michigan, and Ohio, and Highland, Ind., restricted to shipments originating at and destined to facilities utilized by Robert Hall Clothes at the named destinations.

NOTE.—The purpose of this republication is to amend the requested authority in this proceeding. Applicant holds contract carrier authority in No. MC 114789 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 118846 (Sub-No. 13), filed July 19, 1976. Applicant: DALE JESSUP, R.R. No. 1, Box 252, Camby, Ind. 46113. Applicant's representative: Walter F.

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Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Component parts for campers, house trailers and recreational vehicles*, from points in Elkhart County, Ind., to the plantsite of Traveltime, Inc., at Springville, Utah, under contract with Traveltime, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 118866 (Sub-No. 9), (correction) filed July 13, 1976, published in the FEDERAL REGISTER issue of August 5, 1976 as MC 118861, Sub-No. 9, republished as corrected this issue. Applicant: PAUL L. ZAMBERLAN & SONS, INC., Box 15, Lewis Run, Pa. 16738. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated steel culvert pipe*, from Olean, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; and (2) *returned shipments*, from points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, to Olean, N.Y., restricted to traffic originating at, or returned to, the facilities of Wheeling Corrugating Company, a Division of Wheeling-Pittsburgh Steel Corp., at Olean, N.Y.

NOTE.—The purpose of this republication is to correct the docket number MC 118866, Sub-No. 9 in lieu of MC 118861 which was previously published in error. Applicant holds contract carrier authority in MC 45500, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Pittsburgh, Pa.

No. MC 118989 (Sub-No. 140), filed July 15, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, (1) from the plantsite and warehouse facilities of National Can Corporation, located at Piscataway, N.J., to Milwaukee, Wis., Peoria, Ill. and Frankenmuth, Mich.; (2) from the plantside and warehouse facilities of National Can Corporation, located at Danbury, Conn., to Sharonville, Ohio, La Crosse and Milwaukee, Wis., and Frankenmuth, Mich.; and (3) from the plantsite and warehouse facilities of National Can Corporation, located at Millis, Mass., to St. Paul, Minn., La Crosse, Wis., and Frankenmuth, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or New York, N.Y.

No. MC 119094 (Sub-No. 4), filed July 15, 1976. Applicant: CLARENCE S. WINTERSTEEN, doing business as C. S. WINTERSTEEN COMPANY, 1st St. & Park Avenue, Bemidji, Minn. 56601. Applicant's representative: Sheldon D. McRae, Sr., 204 5th St., P.O. Box 684, Bemidji, Minn. 56601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *advertising materials*, from La Crosse, Wis., to Bemidji, Minn., under a continuing contract, or contracts, with Bemidji Distributing Company, Inc. located at Bemidji, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Bemidji, Minn. or Fargo, N. Dak.

No. MC 119641 (Sub-No. 134), filed June 23, 1976. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, P.O. Box 2278, Colee Station, Ft. Lauderdale, Fla. 33303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, posts, and wood products*, from points in South Carolina, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, Missouri, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant did not specify a location.

No. MC 123255 (Sub-No. 77), filed July 12, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee Jr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the plantsite and warehouse facilities of Morgan Packing Co. located at or near Austin, Ind., to points in New York.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123389 (Sub-No. 28), filed July 6, 1976. Applicant CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the construction of concrete silos and contractor's outfits (except commodities in bulk), between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 123476 (Sub-No. 25), filed July 15, 1976. Applicant: CURTIS TRANSPORT, INC., 3616 Jeffco Blvd., P.O. Box 388, Arnold, Mo. 63010. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products, expanded plastic products, molded paper pulp products and paper products*, from Bridgeview, Ill., Hammond and Griffith, Ind. and St. Louis, Mo., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 123872 (Sub-No. 51), filed July 19, 1976. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, and *furniture parts*, from Brookneal, Va., to points in Arizona, California, Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin and Wyoming, restricted to traffic originating at the facilities of Thomasville Furniture Industries, Inc., at or near Brookneal, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, Winston-Salem, or Hickory, N.C.

No. MC 124027 (Sub-No. 15), filed July 14, 1976. Applicant: MIDWEST BULK, INCORPORATED, 901 Lyndale Ave., P.O. Box 726, Neenah, Wis. 54956. Applicant's representative: Frank W. Coyne, 25 West Main St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap battery lead*, in bulk, in dump vehicles, from Davenport, Iowa, to East Chicago, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Madison, Wis. or Chicago, Ill.

No. MC 124078 (Sub-No. 695), filed July 1, 1976. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, detergents, emulsions, floor finishes, liquid cleaners and latex*, in bulk, in tank vehicles, from Merton, Wis., to points in Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, Texas and Wisconsin; and (2) *crude tall oil, fatty acids and other by-products* of the paper industry, from Panama City, Fla., and De Ridder and Springhill, La., to Merton, Wis.

NOTE.—Applicant holds contract carrier authority in MC 113832 (Sub-No. 68), therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 124078 (Sub-No. 699), filed July 15, 1976. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt*, in bulk, in tank vehicles, from Irondale, Ala., to points in Michigan.

NOTE.—Applicant holds contract carrier authority in No. MC 113832 (Sub-No. 68), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.

No. MC 124117 (Sub-No. 20), filed July 12, 1976. Applicant: EARL FREEMAN, an Individual doing business as: MID-TENN EXPRESS, P.O. Box 101, Eagleville, Tenn. 37060. Applicant's representative: Roland M. Lowell, Suite 618, United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Milwaukee, Wis.; Fort Wayne, Ind.; Detroit, Mich.; Latrobe, Pa.; Baltimore, Md.; Belleville, Ill.; and Houston County, Ga., to Knoxville and Johnson City, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn. or Washington, D.C.

No. MC 124251 (Sub-No. 38), filed July 13, 1976. Applicant: JACK JORDAN, INC., Highway 41 South, P.O. Box 689, Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrated and calcined alumina*, in bags, from Murray and Whitfield Counties, Ga., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 124328 (Sub-No. 97) (correction) filed March 30, 1976, published in the FEDERAL REGISTER issue of May 6, 1976, republished as corrected this issue. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago, Ill. 60616. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, business records, securities, audit media, cash letters, data processing records, reports, forms or media on paper, cards, tape or film*, as are used in the business of banks, banking and other financial institutions, between Pittsburgh, Pa., on the one hand, and, on the other, points in Ashland, Ashtabula, Athens, Belmont, Carroll, Champaign, Clark, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Fairfield, Fayette, Franklin, Geauge, Gallia, Guernsey, Hancock, Hardin, Harrison, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Knox, Lake, Lawrence, Licking, Logan, Lorain, Lucaus, Madison, Mahoning, Marion, Medina, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Pickaway, Perry, Pike, Portage, Richland, Ross, Sandusky, Sciota, Seneca, Stark, Summit, Trumbull, Tuscarawas, Union, Vinton, Washington, Wayne, Wyandot, and Wood Counties, Ohio, those points in Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hancock, Hampshire, Harrison, Hardy, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, Mineral, Monongalia, Monroe, Morgan, Necholas Ohio, Pendleton, Pleasants, Pochahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster and Wetzel Counties W. Va., and those points in Allegany, Anne Arundel, Baltimore, Carroll, Charles, Frederick, Garrett, Harford, Howard, Montgomery, Prince Georges and Washington Counties, Md., under a continuing contract or contracts with banks, banking and other financial institutions.

NOTE.—The purpose of this republication is to indicate that this proceeding is under contracts with banks, banking and other financial institutions in lieu of the previously named banks. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa. or Washington, D.C.

No. MC 125114 (Sub-No. 7), filed July 12, 1976. Applicant: COMMERCIAL TRANSPORT, INC., 2413 Lakeside Drive, P.O. Box 2295, Lynchburg, Va. 24501. Applicant's representative: Edwin C. Reminger, 731 Leader Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Special containers or casks* used to transport radioactive material and *special containers or casks* containing radioactive material, between Campbell County, Va., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio or Washington, D.C.

No. MC 127804 (Sub-No. 6), filed July 19, 1976. Applicant: WILLIAM R. WEINRICH, doing business as WEINRICH TRUCK LINES, Box 1037, Hinton, Iowa 51024. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean mill runs and hulls*, from the facilities of Cargill, Incorporated, at Sioux City, Iowa, to points in Colorado, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or St. Paul, Minn.

No. MC 128224 (Sub-No. 2), filed July 6, 1976. Applicant: GEORGE F. JOHNSON, RD No. 1, New Stanton, Pa. 15672. Applicant's representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Semi-finished steel* used in the manufacture of steel molds for the casting of plastics, between Youngwood (Westmoreland County), Pa., on the one hand, and, on the other, Phoenix, Ariz.; Ft. Lauderdale, Fla.; Atlanta, Ga.; Indianapolis, Ind.; Leominster, Mass.; Grand Rapids and Wyoming, Mich.; Minneapolis, Minn.; St. Louis, Mo.; Syracuse, N.Y.; Dayton, Ohio; and Dallas, Ft. Worth and Houston, Tex.; and (2) *materials, equipment, supplies and parts*, used in the production, manufacture, distribution, handling and storage of the commodities in (1) above, between Madison Heights, Mich., on the one hand, and, on the other, Cleveland, Ohio and points in California, (1) and (2) above are under a continuing contract or contracts with D-M-E Company, a Division on VSI Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128490 (Sub-No. 12), filed June 29, 1976. Applicant: ROBERT J. ERICKSON, doing business as BOB ERICKSON TRUCKING, Rush City, Minn. 55069. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fire protection sprinkler systems and materials, equipment and supplies* used in the installation or manufacture of fire protection sprinkler systems, between Rush City, Minn., on the one hand, and, on the other, points in Arizona. Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Indiana, Kentucky, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Utah, Vermont, Washington, Wyoming and the District of Columbia, under a continuing contract, or contracts, with United Sprinkler Division of Waycrosse, Inc.

NOTE.—Applicant holds common carrier authority in MC 138475; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 128988 (Sub-No. 83), filed July 6, 1976. Applicant: JO/KEL, INC., 159 South Seventh Avenue, PO Box 1249,

VOL 41 NO 162 AUG 19 1976 UM

City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, PO Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric controllers* (except commodities in bulk, and those which require the use of special equipment because of size or weight), from the facilities of Westinghouse Electric Corporation, located at or near Cincinnati, Ohio, to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, under a continuing contract, or contracts, with Westinghouse Electric Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 129282 (Sub-No. 32), filed June 18, 1976. Applicant: BERRY TRANSPORTATION, INC., PO Box 2147, Longview, Tex. 75601. Applicant's representative: Fred S. Berry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and materials and supplies* used in the manufacture and distribution thereof, (1) from San Antonio, Tex., to points in Alabama, Tennessee and Chickasha, Oklahoma City and Tulsa, Okla.; and (2) from points in Alabama, Tennessee and Muskogee, Sand Springs, Salpulpa, Chickasha, Oklahoma City, and Tulsa, Okla., to San Antonio, Tex.

NOTE.—Applicant states that it intends to tack the requested authority above with its existing irregular route authority at San Antonio, Tex., to transport malt beverages from Laredo, Tex. to Chickasha, Oklahoma City and Tulsa, Okla. and points in Alabama and Tennessee. If a hearing is deemed necessary, the applicant requests it be held at San Antonio, Tex.

No. MC 133095 (Sub-No. 101), filed July 6, 1976. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and wines* in packages, and *distillery bottling supplies*, from New York, N.Y., and points in its commercial zone; Woodside (Long Island), N.Y.; Schenley, Pa.; Louisville and Frankfort, Ky.; Lawrenceburg, Ind.; and Tullahoma, Tenn., to points in California.

NOTE.—Applicant holds contract carrier authority in No. MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C.

No. MC 133095 (Sub-No. 102), filed July 16, 1976. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by retail stores (except foodstuffs); and (2) *foodstuffs*, in mixed shipments with the commodities named in (1) above, from the facilities of Target Stores, Inc., at Minneapolis, Minn., to points in Colorado, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Minneapolis, Minn.

No. MC 133095 (Sub-No. 103), filed July 19, 1976. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as defined by the Commission, from San Angelo, Tex., to points in Kentucky and Michigan.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 134564 (Sub-No. 6), filed July 6, 1976. Applicant: GLOVER TRUCKING CORP., P.O. Box 7206, Holland Station, Suffolk, Va. 23437. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultual pesticides and emulsifiers*, used in connection therewith (except in bulk, in tank vehicles), (1) from Miami and Orlando, Fla.; Atlanta and Bainbridge, Ga.; Wyoming, Ill.; Opelousas, La.; Cockeysville, Md.; Greenville, Miss.; Dayton and Edison, N.J.; Ayden, Goldsboro, and Greensboro, N.C.; Columbus, Ohio; and Bamberg and Charleston, S.C., to Richmond, Va.; points in Rockingham, Augusta, Page, Nelson, Green, Albemarle, Madison, Spotsylvania, Caroline, Essex and Richmond Counties, Va.; points in that part of Virginia in, east and south of Brunswick, Dinwiddie, Chesterfield, Henrico, New Kent, James City and York Counties, Va., and points in that part of North Carolina in, east and north of Northampton, Halifax, Nash, Wilson, Wayne, Lenoir, Craven, and Carteret Counties; and (2) from Holland Station and Suffolk, Va., to points in that part of North Carolina in, east and north of Northampton, Halifax, Nash, Wilson, Wayne, Lenoir, Craven, and Carteret Counties, restricted to a transportation service to be performed under a continuing contract, or contracts, with Glover Fertilizer & Grain Corp.

NOTE.—Applicant holds common carrier authority in MC 2788, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Richmond, Va.

No. MC 134599 (Sub-No. 145) (Amendment), filed June 4, 1976, published in the FEDERAL REGISTER issue of July 8, 1976, republished, as amended this issue. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Games, toys, and plastic articles;* and (2) *materials, parts, and supplies* used in the manufacture of items in part (1) above (except commodities in bulk and those which because of size or weight require special handling or equipment), from Edison, and South Plainfield, N.J. to points in Florida, Iowa and Mississippi, under a continuing contract or contracts with Mattel, Inc.

NOTE.—The purpose of this republication is to include South Plainfield, N.J. as being a origin point. Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 134755 (Sub-No. 77), filed July 15, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Industries, Inc., located at or near Garden City, Kans., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 138308 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Wichita, Kans. or Kansas City, Mo.

No. MC 134821 (Sub-No. 6), filed July 8, 1976. Applicant: DONALD L. DROSTE, doing business as DON DROSTE TRUCKING, 1004 West Carroll St., Portage, Wis. 53901. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Capsule slurry*, in bulk, from the plantsite of NCR-Appleton Papers Division, located at or near Portage, Wis., to Roaring Spring, Pa., under a continuing contract, or contracts with NCR-Appleton Papers Division, located at or near Portage, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Madison or Milwaukee, Wis. or Chicago, Ill.

No. MC 134922 (Sub-No. 182), filed July 13, 1976. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pneumatic rubber tires and tubes*, from Marion, Shelby and Mansfield, Ohio, to points in Colorado and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Little Rock, Ark.

No. MC 135170 (Sub-No. 14), filed July 2, 1976. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and accessories, materials, equipment and supplies* used in the manufacture, sale and distribution of containers (except in bulk), (1) from points in New Jersey to points in Delaware, North Carolina, Pennsylvania, Virginia and West Virginia; and (2) from points in Pennsylvania, to points in Delaware, New Jersey, North Carolina, Virginia and West Virginia, under a continuing contract, or contracts, in (1) and (2), with The Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135283 (Sub-No. 16), filed July 16, 1976. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 317 North Oak Street, P.O. Box 2122, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Minden Beef Co., located at or near Minden, Nebr., to points in Connecticut and New York, restricted to traffic originating at the named origin point and destined to the named destination states.

NOTE.—Common control may be involved. If a hearing is deemed neecessary, the applicant requests it be held at either Lincoln or Grand Island, Nebr.

No. MC 135425 (Sub-No. 20), filed July 15, 1976. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by manufacturers of surgical and medical supplies, and *materials, supplies and equipment* used in the conduct of such business (except in bulk), between East Greenwood, S.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Parke, Davis and Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135518 (Sub-No. 4), (Amendment), filed October 20, 1975, published in the FEDERAL REGISTER issue of November 28, 1975, republished as amended this issue. Applicant: EVERETT TRUCKING, INC., 1718 Tease Road, Burlington, Wash. 98273. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and perishable food*, when moving in vehicles equipped with mechanical refrigeration, from points in California, within and north of the southern boundaries of Monterey, Kings, Tulare, and Inyo Counties, Calif. to points in Oregon and Washington.

NOTE.—The purpose of this republication is to clarify the territorial description in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 135639 (Sub-No. 6), filed June 30, 1976. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, 2207 Old Gettysburg Road, Box 626, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Forty Fort, Pa., as an off-route point in connection with applicant's presently authorized regular route operation between Rochester, N.Y., and New York, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 135874 (Sub-No. 57), filed July 13, 1976. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles (except in bulk), from Kansas City, Mo., and Kansas City, Kans., to points in the upper peninsula of Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 135884 (Sub-No. 11), filed July 13, 1976. Applicant: STEVE CALDWELL, an Individual Route 1, Box 36, Adams, Oreg. 97810. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, from points in Umatilla and Deschutes Counties, Oreg., to points in California, Georgia, Iowa, New Jersey, Oregon, Pennsylvania, Texas and Washington, under a continuing contract, or contracts with Kerns RTF, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 136343 (Sub-No. 89), filed July 21, 1976. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from St. Regis plantsite at Rhinelander, Wis., to points in Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 138413 (Sub-No. 6), filed July 15, 1976. Applicant: JOHN TOWNROW, doing business as JOHN TOWNROW TRUCKING, 4290 Elton Street, Baldwin Park, Calif. 91706. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, accessories therefor, and advertising materials*, from Clark and Avenel, N.J., to points in California, Colorado and Nevada, under contract with Cosmair, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., or Los Angeles, Calif.

No. MC 138468 (Sub-No. 1), filed July 13, 1976. Applicant: BI-COUNTY TRUCKING, INC., Route 1, Box 210, Warden, Wash. 98857. Applicant's representative: Charles E. Flower, Suite 2, 303 East "D" Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock feed and feed ingredients*, between points in eastern Washington, and points

VOL 41 NO 162 AUG 19 1976 UM

in Oregon; and (2) *anhydrous ammonia, and its derivative liquid fertilizers*, from points in Benton and Grant Counties, Wash., to points in Guillim, Malhuer, Morrow and Umatilla Counties, Oreg.; and points in Benewah, Latah and Lewis Counties, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Yakima, Wash.; Portland, Oreg.; or Seattle, Wash.

No. MC 138762 (Sub-No. 1), filed July 13, 1976. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk* (except grain and cement), in tank vehicles, between ports of entry on the International Boundary line between the United States and Canada located in Michigan, Minnesota and New York on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii, restricted to traffic originating at or destined to Canada and moving from, to or through the Province of Ontario.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y. or Detroit, Mich.

No. MC 139059 (Sub-No. 4), filed June 29, 1976. Applicant: EAST COAST TRANSPORTATION COMPANY, INC., 3675 N.W. 71st St., Miami, Fla. 33147. Applicant's representative: Bernard C. Pestcoe, 511 Biscayne Bldg., 19 West Flagler St., Miami, Fla. 33130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between the terminal facilities of Universal Carloading & Distributing Co., Inc., located in Broward, Dade and Palm Beach Counties, Fla., on the one hand, and, on the other, points in Broward, Dade and Palm Beach Counties, Fla.; and (2) between the terminal facilities of Universal Carloading & Distributing Co., Inc., located in in Hillsboro County, Fla., on the one hand, and, on the other, points in Charlotte, Hillsboro, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties, Fla., restricted in (1) and (2) above to shipments moving on bills of lading issued by the above named freight forwarder.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Miami, Fla.

No. MC 139182 (Sub-No. 3), filed July 15, 1976. Applicant: ATLAS DELIVERY CO., INC., 340 Cole Avenue, Dallas, Tex. 75207. Applicant's representative: E. Larry Wells, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances and ventilating hoods*, from Nashville, Tenn., to points in Arkansas, Arizona, California, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, under a continuing contract, or contracts, with Tappan Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Nashville, Tenn.

No. MC 139193 (Sub-No. 40), filed July 13, 1976. Applicant: ROBERTS & OAKE, INC., 208 South LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 2033 "K" Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverage bases; flavoring syrups; concentrated syrups; canned and preserved fruits; dry, liquid and paste sauces and toppings for ice cream and desserts, including marshmello cream; nuts preserved in syrups; flavoring extracts; bottlers' flavoring compounds; salad dressings; table sauces; glassware; promotional materials; and articles* distributed in connection with the above products for storing, displaying and dispensing those products, from the plantsite and facilities of J. Hungerford Smith Co., Inc., located at Humboldt, Tenn., to points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas; and (2) *cocoa, frozen fruit, starches, sugar, carmel coloring, condensed milk, powdered milk, cannde and preserved fruit, salad dressing, essential oils used for flavoring, extracts and flavoring compounds, corn syrup, empty cans and lids, glass jars and jugs, plastic pails and covers, plastic jugs, labels and such other commodities* as are used in the preparation, packaging and distribution of the commodities specified in (1) above from points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, to the plantsite and facilities of J. Hungerford Smith Co., Inc., located at Humboldt, Tenn.; and (3) *the commodities* specified in both (1) and (2) above between the plantsites and facilities of J. Hungerford Smith Co., Inc., located at Modesto, Calif. and at Humboldt, Tenn., restricted in (1), (2) and (3) above to traffic transported under contracts for J. Hungerford Smith Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 139495 (Sub-No. 153), filed July 13, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Personal care products and chewing gum*, from the plantsite and storage facilities of Warner Lambert Company, located at or near Anaheim, Calif., to the plantsites and storage facilities of Warner Lambert Company, located at or near Milford and West Haven, Conn.; Rockford, Ill.; Long Island City, N.Y.; Milwaukie, Oreg.; and Lititz and Philadelphia, Pa.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder; therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139884 (Sub-No. 5), filed July 15, 1976. Applicant: KLIMA, INC., 10650 S.W. Wilsonville Road, Wilsonville, Oreg. 97070. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. Avenue, Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Oregon and Washington, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under contract with Dana-Deck, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 140037 (Sub-No. 1), filed July 13, 1976. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, Nebr. 68467. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from Spencer, Iowa, to New York, N.Y., restricted to a transportation service to be performed under a continuing contract or contracts with Sunflower Beef Packers, Inc., at York, Nebr.; and (b) from the facilities of Moore Brothers Wholesale Meats, Inc., at or near Brooklyn, N.Y., to points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed under a continuing contract or contracts with Moore Brothers Wholesale Meats, Inc., and further restricted in both parts (a) and (b) to the transportation of Kosher beef.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln or Omaha, Nebr.

No. MC 140051 (Sub-No. 2), filed July 13, 1976. Applicant: DANIEL C. NEASE, doing business as LANCER ENTERPRISES, 9327 Sherborn Drive, Cincinnati, Ohio 45231. Applicant's representative: Timothy T. Slater, 2900 DuBois Tower, 511 Walnut Street, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor

vehicle, over irregular routes, transporting: *Carpet, linoleum, tile and sundry items*, necessary for installation thereof; and *the return of such commodities*, that originally were accepted by consignees, from the facilities of Carson, Pirie, Scott & Co., at Cincinnati, Ohio, to points in Kentucky, under contract with Carson Pirie, Scott & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio; Northern Kentucky, or elsewhere in Ohio.

No. MC 140176 (Sub-No. 6), filed June 25, 1976. Applicant: RILEY WAYNE POWELL, an Individual, doing business as POWELL TRUCKING COMPANY, Route 3, Sumrall, Miss. 39482. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles and pilings*, from the facilities of Fernwood Industries, Inc., located at Fernwood, Miss., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming, under a continuing contract, or contracts with Fernwood Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Hattiesburg, or Gulfport, Miss.

No. MC 140330 (Sub-No. 1), (amendment), filed February 24, 1976, published in the FEDERAL REGISTER issue of April 1, 1976 and republished as amended this issue. Applicant: R. C. VAN LINES, INC., 1044 Northside Drive, N.W., Atlanta, Ga. 30318. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic resin, phenol, formaldehyde, caustic soda, urea resin, ethylene glycol, and materials* used in the manufacture thereof, in bulk, in tank vehicles between the plantsite of Chembond Corporation, located in Covington County, Ala., on the one hand, and, on the other points in Alabama, Arkansas, Florida, Georgia, Mississippi, Louisiana, and South Carolina, under a continuing contract with Chembond Corporation.

NOTE.—The purpose of this republication is to amend to the requested authority and change the name of applicant's representative. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 140523 (Sub-No. 1), filed July 6, 1976. Applicant: DELCHER MOVING OF SOUTH FLORIDA, INC., 451 Redland Road, Homestead, Fla. 33030. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Florida, restricted to the transportation of traffic having a prior or subsequent movement in interstate commerce, in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla.

No. MC 140829 (Sub-No. 14), filed June 29, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities utilized by Sioux City Cold Storage located at or near Sioux City, Iowa to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; (2) from the facilities utilized by Sioux City Cold Storage located at or near Sioux City, Iowa, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and (3) from the facilities utilized by Sioux City Cold Storage loacted at or near Sioux City, Iowa, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Ketnucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141097 (Sub-No. 5), filed July 14, 1976. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. 92626. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic carpet backing, bagging material, screen cloth, and yarn*, from Hazlehurst, Bainbridge, and Nashville, Ga., to points in California, Oklahoma and Texas, under a continuing contract, or contracts, with Patchogue Plymouth Division Amoco Fabrics Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 141379 (Sub-No. 3), filed June 25, 1976. Applicant: CALVIN C. HARTSFIELD, doing business as SOUTHSIDE AUTO PARTS AND SALVAGE, and doing business as, SOUTHSIDE AUTO SALES, Highway 25 South, P.O. Box 161, Route 1, Malden, Mo. 63863. Applicant's representative: Joseph E. Rebman, 314 North Broadway, Suite 1230, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, damaged and used automobiles* (in truck-away service), (1) from Russellville and Little Rock, Ark., to Rockford, Ill.; (2) from points in Wayne County, Mich., and in Cook and Will Counties, Ill., to points in Ramsey and Washington Counties, Minn., Adams and Sangamon Counties, Ill.; Howell County, Mo., and Caraway, Ark.; (3) between points in Cook and Will Counties, Ill., on the one hand, and, on the other, points in Davidson County, Tenn.; and (4) between Kennett, Mo. and Sacramento, Calif.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 141424 (Sub-No. 1), filed May 17, 1976. Applicant: P–Y TRANSPORT, INC., 2767 Lewisberry Road, York, Pa. 17404. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *lime, plaster, gypsum, plaster and gypsum articles, plaster retarder, plastic accelerator, plasterboard joint system, and nails, clips, wedges, wire fasteners, and channels*, used in the installation of lime, plaster and gypsum, and of plaster and gypsum articles, from Akron, N.Y., to points in Delaware, and (b) returned materials as above described from points in Delaware, to Akron, N.Y. (2) *insulating materials*, when moving in the same vehicle and at the same time with roofing materials and supplies, from York, Pa., to Martinsburg, W. Va., and points in Ohio, New York (except points in Nassau, Orange, Rockland, Suffolk, and Westchester Counties, and the New York, N.Y., commercial zone, as defined by the Commission), and that part of New Jersey south of New Jersey Highway 33, and the District of Columbia. (3) *insulating materials*, when moving in the same vehicle and at the same time with plaster, plasterboard, gypsum lath, and gypsum sheathing, from Akron, N.Y., to points in Delaware, and that part of Pennsylvania on east of U.S. Highway 219 (except points in Cameron, Elk, McKean and Potter Counties, Pa.). (4) *roofing and building materials and materials and supplies* used in or incidental to the production and distribution of roofing and building materials, between York, Pa., on the one hand, and, on the other, Wilmington, Del., and points in Maryland and that part of New Jersey south of New Jersey Highway 33, and the District of Columbia.

(5) *Roofing and building materials* used in the installation and application

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of such commodities (except iron and steel and commodities in bulk), between the plant site or Certain-Teed Products Corporation located at Avery, Ohio, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia. (6) *Building materials and wire,* between York, Pa., and points in Pennsylvania within 25 miles of York, on the one hand, and, on the other, points in Maryland, Pennsylvania, and that part of New Jersey south of New Jersey Highway 33. (7) *roofing materials and supplies,* from York, Pa., to points in North Carolina, Virginia, and the District of Columbia, from points in New Jersey south of New Jersey Highway 33, to York, Pa., and Curtis Bay and Westminister, Md. (8) *lime, plaster, and gypsum, plaster and gypsum articles, and plaster retarder, plaster accelerator, plasterboard joint system, nails, clips, wedges, wire fasteners, and channels* used in the installation of lime, plaster gypsum, and plaster and gypsum articles, from Wheatland, N.Y., to points in Maryland, New Jersey, Virginia, and the District of Columbia, and that part of Pennsylvania on and east of U.S. Highway 219. (9) *plaster, plasterboard, gypsum lath, and gypsum sheathing,* from Akron, N.Y., points within 2 miles thereof, to points in Pennsylvania on and east of U.S. Highway 219 (except those in Cameron, Elk, McKean and Potter Counties, Pa.). (10) (a) *plaster, plasterboard, gypsum lath, gypsum sheathing, and gypsum block, plank, slab or tile,* from Oakfield, N.Y., to points in Pennsylvania on and east of U.S. Highway 219 (except Harrisburg and Lancaster, Pa., and points in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.); and (b) *veneer, brick and clay products, roofing materials and supplies, building paper, wallpaper,* and *manufactured paper products,* from York, Pa. to Martinsburg, W. Va., and points in Delaware, Maryland, Ohio, New York (except points in Nassau and Suffolk Counties and the New York, N.Y., Commercial Zone, as defined by the Commission), and that part of New Jersey south of New Jersey Highway 33, restricted from performing any service under the above authority for the transportation of.

(a) Shipments to or from the facilities of Arctic Roofing, Inc., at or near Wilmington, Del., (b) brick and clay products from Summerville, Pa., and the Summerville, Pa., commercial zone as defined by the Commission, and from Porter Township (Clarion County), Pa., (c) concrete, cinder and slag products from Baltimore, Md., and York, Pa., and (d) brick from the facilities of Glen Gary Corporation, at or near York, Pa.

NOTE.—Applicant states that the requested authority may be tacked at Wilmington, Del.; York, Pa. and points in Pennsylvania within 25 miles of York, Pa. The authority sought in this application duplicates that authority sought in MC-FC-74949, P-Y Transport Inc.-Purchase-Miller's Motor Freight, Inc. which is pending before division 3 on a Petition for Reconsideration. If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 141954 (Sub-No. 1), filed July 1, 1976. Applicant: RAYFORD N. BOHANNON AND ROBERT E. RAGON, doing business as, R & R TRUCKING CO., Box 492, Greenup, Ill. 62428. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Waste oil sludges,* in bulk, from points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Missouri, Tennessee and Wisconsin to Calhoun, Crossville, Greenup and Olney, Ill.; and (2) *reprocessed process oil,* in bulk, from Calhoun, Crossville, Greenup and Olney, Ill., to points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Missouri, Tennessee and Wisconsin, (1) and (2) above are under a continuing contract with A & F Materials Company, a Division of Cumberland Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 141989 (Sub-No. 1), filed July 15, 1976. Applicant: CHRISTIANSON LIME SPREADING SERVICE INC., Route No. 2, P.O. Box 202, Almond, Wis. 54909. Applicant's representative: Richard C. Alexander, 710 North Plankinston Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Taconite mine tailings,* from the facilities of Jackson County Iron Co., located at or near Black River Falls, Wis., to the facilities of Dunn Blacktop Plant, located at or near Winona, Minn., under a continuing contract, or contracts, with Mathy Construction Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Minneapolis or St. Paul, Minn.

No. MC 142114 (Sub-No. 1), filed July 2, 1976. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, Mass. 01824. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, from the facilities of King's Department Stores, located in Chelmsford, Mass., to the facilities of King's Department Stores, located at points in Connecticut, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Vermont and Virginia, under a continuing contract, or contracts, with King's Department Stores, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass. or Washington, D.C.

No. MC 142132 (Sub-No. 2), filed July 14, 1976. Applicant: T. J. KERVIN, an Individual, P.O. Box 48, Winnfield, La. 71483. Applicant's representative: T. J. Kervin (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wood sawdust, chips and shavings* (wood residuals), from Winnfield, La., to Corrigan, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either Monroe, Shreveport, Baton Rouge or New Orleans, La.

No. MC 142182 (Sub-No. 1), filed June 24, 1976. Applicant: B & S TRUCKING, INC., 117 Ramsey Lane, Ballwin (St. Louis), Mo. 63011. Applicant's representative: Joseph E. Rebman, 314 N. Broadway, Suite 1230, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Household appliances, television sets, radios, refrigerators, freezers, stereos and stereo speakers, tape recorders, calculators, ovens and ranges* (including microwave ovens and ranges), *washers, dryers, disposals, dishwashers, air conditioners, carpets, padding, floor tile, sheet vinyl, CB radios* (for automobile installation or otherwise), between the warehouses and shipping facilities of Brightman Distributing Co., Inc., located at or near St. Louis and Springfield, Mo., on the one hand, and, on the other, points in Adams, Alexander, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Fulton, Gallatin, Green, Hamilton, Hancock, Hardin, Henderson, Henry, Jackson, Jasper, Jefferson, Jersey, Johnson, Knox, Lawrence, Logan, McDonough, McLean, Macon, Macoupin, Madison, Marion, Mason, Massac, Menard, Mercer, Monroe, Montgomery, Morgan, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Starke, Sullivan, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White and Williamson Counties, Ill., under a continuing contract, or contracts, with Brightman Distributing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 142189 (Sub-No. 1), filed June 28, 1976. Applicant: C. M. BURNS, an Individual, doing business as WESTERN TRUCKING, 521 Lincoln, Banker, Mont. 59313. Applicant's representative: C. M. Burns (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and wood products,* from Flathead, Lake and Lincoln Counties, Mont., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kalispell, Mont. or Missoula, Mont.

No. MC 142246 filed July 8, 1976. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, Iowa 51201. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities, materials and supplies* used in the agricultural, bakery, food processing, wholesale and retail grocery, water treatment and institutional supply industries, (a) from Minneapolis and St. Paul, Minn., to points in Iowa located on and north of Interstate Highway 80 and on and west of Interstate Highway 35, points in Minnesota located on and south of U.S. Highway 12, and points in South Dakota located on and east of U.S. Highway 281; and (b) between points in Iowa located on and north of Interstate Highway 80 and on and west of Interstate Highway 35, points in Minnesota located on and south of U.S. Highway 12, and points in South Dakota located on and east of U.S. Highway 281; and (2) *Salt and salt products, and materials and supplies* used in the agricultural, water treatment, food processing, wholesale and retail grocery and institutional supply industries, in mixed loads with salt and salt products, from points in Box Elder, Davis, Salt Lake, Tooele and Weber Counties, Utah, to points in Iowa located on and north of Interstate Highway 80 and on and west of Interstate Highway 35, points in Minnesota located on and south of U.S. Highway 12, and points in South Dakota located on and east of U.S. Highway 281, restricted in (1) and (2) above to a transportation service performed under a continuing contract, or contracts, with Henning Distributing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sioux City, Iowa or Omaha, Nebr.

No. MC 142246 (Sub-No. 1), filed July 8, 1976. Applicant: VAN WYK, INC., C Street, P.O. Box 433, Sheldon, Iowa 51201. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Boyden, Iowa, to points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin, restricted to a transportation service performed under a continuing contract, or contracts, with Smit & Son Packing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sioux City, Iowa or Omaha, Nebr.

No. MC 142250, filed July 13, 1976. Applicant: BAXTER TRUCKING CORP., 9 Vestry Street, New York, N.Y. 10013. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Pieces goods, and containers* in which piece goods have been or are to be loaded, between Freeport, N.Y., on the one hand, and, on the other, points in that part of the New York, N.Y. Commercial Zone as defined in the Fifth supplemental report in *Commercial Zone and Terminal Areas,* 53 M.C.C. 451, within which local operations may be conducted under the exemption provision of section 203(b)(8) of the Act (the "exempt zone"), restricted to shipments having a prior or subsequent movement by water, under a continuing contract, or contracts, with Dakota International Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142254 filed June 18, 1976. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 West Whitewater Street, Whitewater, Wis. 53190. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Castings, foundry products, and fasteners,* from Palmyra and Whitewater, Wis., to points in the United States in and east of Colorado, Montar , New Mexico, and Wyoming; and (2) *materials, equipment and supplies,* used or useful in the manufacture, sale, installation or distribution of the commodities named in part (1) above, from points in the United States in and east of Colorado, Montana, New Mexico and Wyoming, to Palmyra and Whitewater, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 142263, filed June 28, 1976. Applicant: METEGHAN TRUCKING, LTD., P.O. Box 152, Meteghan, Nova Scotia, Canada. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Sea foods,* from Portland, Maine, and ports of entry on the International Boundary line between the United States and Canada, at or near Calais and Houlton, Maine, to points in the United States (except Alaska and Hawaii), and (2) *salvage rags,* from points in Connecticut, Maine and Massachusetts, to Portland, Maine, and ports of entry on the International Boundary line between the United States and Canada, at or near Calais and Houlton, Maine, restricted to shipments moving in foreign commerce from or to points in the Province of Nova Scotia, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass. or Portland, Maine.

No. MC 142265, filed July 7, 1976. Applicant: CHARLES W. MERTENS, Jr., 106 Flanders Road, Niantic, Conn. 06357. Applicant's representative: Robert N. Shea, P.O. Drawer 660, Niantic, Conn. 06357. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Disabled, wrecker, repossessed and stolen vehicles,* between points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania and Rhode Island.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Niantic, New London, Norwich or Hartford, Conn.

No. MC 142291, filed July 14, 1976. Applicant: MDI, INC., 609 6th St. Northeast, Long Prairie, Minn. 56347. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors and wines,* from points in California, Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Virginia, Washington, Wisconsin and the District of Columbia, to Long Prairie, Minn.; and (2) *containers, glass or porcelain* for use in bottling commodities named in (1) above, from Joliet and Streator, Ill., Los Angeles and San Francisco, Calif., and Seattle, Wash., to Long Prairie, Minn., under a continuing contract, or contracts in (1) and (2) above, with Minnesota Distiller, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 142293 filed July 20, 1976. Applicant: J. C. UPCHURCH, doing business as, J. C. UPCHURCH TRUCKING, 202 West Fourth Street, DeQuincy, La. 70633. Applicant's representative: Tommy C. Rutledge, 207 North Pine Street, P.O. Box 876, Dequincy, La. 70633. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and plywood,* from Boise Southern Sawmill, DeQuincy, La., and Boise Southern Plywood Plant, located at Dequincy, La. to points in Louisiana and Texas, under a continuing contract or contracts with Boise Southern.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La. or Fort Worth, Tex.

PASSENGER APPLICATIONS

No. MC 142120, filed July 2, 1976. Applicant: LENZNER COACH LINES, INC., doing business as NORTH BOROUGHS CAB, Mt. Nebo Road, R.D. #2, Sewickley, Pa. 15143. Applicant's representative: William A. Gray, 2310 Grant Building, Fittsburgh, Pa. 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip, charter and special operations, beginning and ending at points in Hanover, Independence, Hopewell, Potter, Raccoon, Center and Greene Townships and Shippingport South Heights, Georgetown, Hookstown, Ambridge, Frankfort Springs, Monaca, Baden, Aliquippa and Beaver County, Pa., and extending to

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points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 142206. Filed July 12, 1976. Applicant: EASY TRAVEL TOURS, INC., 4147 Norman Road, Stone Mountain, Ga. 30083. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter and special operations, beginning and ending at Atlanta, Clarkston, Decatur, East Point, Marietta, Riverdale, Roswell, Stone Mountain, Tucker and Winder, Ga. and extending to points in Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

BROKER APPLICATION

No. MC 130389, filed May 19, 1976. Applicant: QUALITY TRAVEL SERVICE OF BOWLING GREEN, INC., 814 State Street, Bowling Green, Ky. 42101. Applicant's representative: James C. Jackson (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Bowling Green, Ky., to sell or offer to sell the transportation of: *Passengers and their baggage*, by motorcoach in charter operations, beginning and ending in the counties of Warren, Logan, Simpson, Allen, Barren, Hart, Edmonson and Butler, Ky., and extending to points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, Tenn., or Louisville, Ky.

No. MC 130396, filed July 30, 1976. Applicant: SEA & SKI STUDENT TRAVEL SERVICES, INC., 7308 Durbin Terrace, Bethesda, Md. 20034. Applicant's representative: Andrew J. Gessow (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Bethesda, Md. to sell or offer to sell the transportation of *groups of passengers and their baggage*, restricted to high school and college students, in round-trip charter operations, by motor common carriers, beginning and ending at points in the District of Columbia and its commercial zone, and extending to points in Florida and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

FREIGHT FORWARDER APPLICATIONS

No. FF-346 (Sub-No. 2) filed July 13, 1976. Applicant: INTERNATIONAL EXPORT PACKERS, INC., 4600 Eisenhower Avenue, Alexandria, Va. 22304. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as *freight forwarder*, through use of the facilities of common carriers by railroad, motor vehicle, water and express, in the transportation of (a) *used household goods and unaccompanied baggage;* and (b) *used automobiles*, between points in the United States, including Alaska and Hawaii, restricted in (b) above to the transportation of export and import traffic.

NOTE.—The purpose of this application is to add Alaska to applicant's present authority. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. FF-371 (Sub-No. 1), filed July 15, 1976. Applicant: HIGA FAST PAC, INC., 2115 Nimitz Highway, Honolulu, Hawaii 96810. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water and express, in the transportation of (1) *Used household goods and unaccompanied baggage;* and (2) *used automobiles*, between points in the United States, including Hawaii and Alaska, restricted in (2) above to the transportation of export and import traffic.

NOTE.—Applicant states that the purpose of this application is to add Alaska to its present authority. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. FF-484, filed July 8, 1976. Applicant: GEORGE INTERNATIONAL CORPORATION, PO Box 500, Parkton, Md. 21120. Applicant's representative: John Guandolo, 1000 Sixteenth Street, NW., Washington, D.C. 20036. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by express, motor vehicle and railroad, in the transportation of *building and contractors' equipment, materials and supplies; machinery and machine parts; pipeline and plant construction materials and supplies; iron and steel articles; and heavy and bulky articles* generally requiring rigging, special equipment, or specialized handling, restricted against commodities in bulk and further restricted to the transportation of export traffic only, from Wayne County, Ind.; Boone, Campbell and Kenton Counties, Ky.; and Auglaize, Butler, Clark, Clermont, Darke, Greene, Hamilton, Mercer, Miami, Montgomery, Preble, Shelby, and Warren Counties, Ohio, to Wilmington, Del.; Baltimore, Md.; Elizabeth and Newark, N.J.; New York, N.Y.; Wilmington, N.C.; Philadelphia, Pa.; and Newport News and Norfolk, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cincinnati or Columbus, Ohio or Washington, D.C.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240 (c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

No. MC-F-12898. Authority sought for purchase by GORSKI BULK TRANSPORT, INC., a Canadian Corporation (non-carrier) Box 700, Harrow, Ontario, Canada, of the operating rights of (B) Thaddeus A. Gorski, an individual, dba Gorski Bulk Transport, also of Harrow, Ontario, Canada, and (BB) Continental Transport, Inc., a Michigan Corporation, 16290 East Eight Mile Road, Detroit, MI, 48205, and for acquisition by Thaddeus A. Gorski, of Harrow, Ontario, Canada, of control of such rights through the purchase. Applicants attorney: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI., 48040. Operating rights sought to be transferred: (B) *Crude ammonia liquor*, in bulk, in tank vehicles, as a *contract carrier* over irregular routes from the plant site of the Semet-Solvay Division of the Allied Chemical and Dye Corporation, at or near Buffalo (Harriet), N.Y., to the port of entry on the United States-Canada Boundary line, at or near Buffalo, N.Y., from Cleveland, Ohio, to the port of entry on the United States-Canada Boundary line, at or near Detroit, Mich.; *alcoholic beverages* (except wines), in bulk, in tank vehicles, between the port of entry on the United States-Canada Boundary line located at or near Detroit, Mich., and Peoria, Ill.; *Empty bottles and barrels*, between Hillsboro and Peoria, Ill., on the one hand, and, on the other the port of entry on the United States-Canada Boundary line located at or near Detroit, Mich.; *sodium bichromate*, in containers, from the plant site of Allied Chemical Corporation, at Baltimore, Md., to the port of entry on the United States-Canada Boundary line at Detroit, Mich.; and *sodium bi-sulphate waste, in drums, and scrubber liquor*, in bulk, in tank vehicles, from the port of entry on the United States-Canada Boundary line at Detroit, Mich., to the plantsite of Allied Chemical Corporation, at Baltimore, Md.;

Ammonium sulfide solution, in bulk, in tank vehicles, from Phillipsburg, N.J., to the port of entry on the United States-Canada Boundary line at Detroit, Mich.; *methylene diphenyl diisocyanate*, in bulk, in tank vehicles, from Elizabethport, N.J., and Geismar, La., to ports of entry on the United States-Canada

Boundary line located on the Detroit, St. Clair, Niagara, and St. Lawrence Rivers and at Champlain, Rouses Point, and Trout River, N.Y., and Derby line and Newport, Vt.; *synthetic rubber*, from Buffalo, N.Y., and Geismar, La., to ports of entry on the United States-Canada Boundary line located on the Detroit, St. Clair, Niagara, and St. Lawrence Rivers and at Champlain, Rouses Point, and Trout River, N.Y., and Derby Line and Newport, Vt.; *synethetic latex*, in bulk, in tank vehicles, from Naugatuck, Conn., to ports of entry on the United States-Canada Boundary line located on the Detroit, St. Clair, Niagara, and St. Lawrence River and at Champlain, Rouses Point, and Trout River, N.Y., and Derby Line and Newport, Vt.; *plastic resins*, in bulk, from Detroit, Mich., to ports of entry on the United States-Canada Boundary line located on the Detroit and St. Clair Rivers; plastic resins, from Baton Rouge, La., to ports of entry on the United States-Canada Boundary line located on the Detroit, St. Clair, Niagara, and St. Lawrence Rivers and at Champlain, Rouses Point, and Trout River, N.Y., and Derby Line and Newport, Vt.; *chemicals*, from Painesville, Ohio, to ports of entry on the United States-Canada Boundary line located on the Detroit, St. Clair, Niagara, and St. Lawrence Rivers and at Champlain, Rouses Point, and Trout River, N.Y., and Derby Line and Newport, Vt.; *plastic resins*, except in bulk, from Washington, W. Va., and Ottawa, Ill., to ports of entry on the United States-Canada Boundary line at or near (1) Rouses Point and Champlain, N.Y., and Derby Line and Newport, Vt., and (2) points located on the St. Clair, Detroit, Niagara, and St. Lawrence Rivers; *chemicals*, except in bulk, from points on the United States-Canada Boundary Line at or near the Niagara, Detroit, and St. Clair Rivers, to points in that part of the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, (except to Detroit, Mich., and points in its commercial zone as defined by the Commission, and points in Wayne, Oakland, and Macomb Counties, Mich., within 8 miles of Detroit, Mich.); *neutral grain* spirits, in bulk, in tank vehicles, from Clinton and Muscatine, Iowa, and Atchison, Kans., to Allen Park, Mich., with restrictions. (BB) *General commodities*, with exceptions as a common carrier, over irregular routes between points in Wayne, Oakland, and Macomb Counties, Mich., within 8 miles of Detroit, Mich., including Detroit, with restrictions. Gorski Bulk Transport, Inc., a Canadian Corporation, holds no authority from this Commission. However, it is owned and operated by Thaddeua A. Gorski who is also the owner of Continental Transport Inc., a party to this proceeding, and he is himself a party to this proceeding. Applicant herein seeks to be subsituted for Bulk Transport, Inc., a Michigan Corporation in Docket No. MC-140743 and subs thereunder.

NOTE.—MC-142268 (Sub-No. 1) is a directly related matter.

No. MC-F-12908. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA. 94025, (A) BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT. 84104, (B) GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID. 83201, (C) MILNE TRUCK LINES, INC., 2200 South 400 West, Salt Lake City, UT. 84115, (D) PBI FREIGHT SERVICE (A Utah Corporation), 960 North 1200 West, Orem, UT. 84057, and (E) WHOLESALE SERVICE INC., DBA R & R TRANSPORTATION COMPANY, 2190 Yuma Street, Reno, NV. 89502, seeks to enter into an agreement for the pooling of traffic consisting of (A) general commodities moving in interstate commerce between points located on U.S. Highway 30 (Interstate Highway 80) between Boise, Idaho and Wendell, Idaho excluding Boise and including Wendell; points located on U.S. Highway 95 between New Meadows, Idaho and Weiser, Idaho, including the points of New Meadows and Weiser; points located on Idaho State Highway 55 between New Meadows, Idaho and Gardena, Idaho including New Meadows and Gardena; points located on U.S. Highway 30 between Rupert, Idaho and Pocatello, Idaho excluding Rupert and Pocatello; points located on U.S. Highway 30S (Interstate Highway 80N) between Burley, Idaho and the Idaho-Utah State Line, excluding Burley; the off route point of Mountain Home Air Force Base; (B) household goods as defined by the Commission, and general commodities moving in interstate commerce between points located on U.S. Highway 191 between Sugar City, Idaho and West Yellowstone, Montana, including service at Sugar City and West Yellowstone; points located on U.S. Highway 91 between Idaho Falls, Idaho and the Idaho-Montana State Line, excluding service at Idaho Falls; off route points in Ririe, Malad City, Preston, and Franklin, Idaho.

(C) general commodities moving in interstate commerce between points located on Interstate Highway 80N between Uintah, Utah and Echo, Utah, not including Uintah; points located on Interstate Highway 80 (U.S. Highway 30 and 30S) between Echo, Utah and Rock Springs, Wyoming, including Echo and Rock Springs; Jim Bridger Power Plant located approximately 6 miles north of point of Rocks, Wyoming, with restrictions: points located on U.S. Highway 91 (Interstate Highway 15) between Fillmore, Utah and the Arizona-Utah State Line, not including Fillmore; off-route points of Leeds, Harrisburg, Washington, St. George, La Verkin, Hurricane, and Springdale, Utah, Littlefield, Lake Havasu City, Bunkerville, and Mesquite, Nevada, Needles, California, Ajo, Arizona: (D) general commodities moving in interstate commerce between Payson, Utah and Fillmore, Utah serving all intermediate points on U.S. Highway 91, including service at Payson and Fillmore; between Thisle, Utah and the Utah-Arizona State Line serving all intermediate points on U.S. Highway 89, including service at Thisle; points on Utah Highway 11 between and including Nephi and Moroni, Utah; points on Utah Highway 116 between and including Moroni and Mount Pleasant, Utah; and points on Utah Highway 28 between and including Levan and Gunnison, Utah; the points of Hinckley, Delta, and Monroe, Utah, Fredonia, Glen Canyon Dam Site, and Page, Arizona: (E) general commodities moving in interstate commerce between Fernley, Nevada and Wells, Nevada serving all intermediate points located on U.S. Highway 40 (Interstate Highway 80), including the points of Fernley and Wells, Nevada. Consolidated Freightways Corporation of Delaware, is authorized to operate as a common carrier in all the States in the United States (except Hawaii). Applicants' representatives: G. T. West, Vice-President-Traffic, 175 Linfield Drive, Menlo Park, CA. 94025 and Robert M. Bowden, Commerce Supervisor, P.O. Box 3062, Portland, OR. 97028.

No. MC-F-12914. Authority sought for purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla., 32203, of a portion of the operating rights of ASSOCIATED Transport, Inc., Thomas J. Cahill, trustee in bankruptcy, c/o Arthur S. Olick, 39th Floor, 630 Fifth Avenue, New York, N.Y., 10020, and for acquisition by IU Transportation Services, INC., 1105 N. Market St., Wilm., Del., 19801, The Wilmington Tower, which is in turn controlled by IU International Corporation, The Wilmington Tower, 1105 N. Market St., Wilm., Del., 19801, of control of such rights through the purchase. Applicants' attorneys: H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA., 19102, Roland Rice, Suite 501, Perpetual Bldg., Washington, D.C., 20004, and Fritz R. Kahn, 1660 L Street, N.W., Washington, D.C., 10036. Operating rights sought to be transferred: *Classes A and B explosives*, as a *common carrier* over regular routes between Atlanta, Ga., and Salisbury, N.C., service is authorized to and from all intermediate points; between Lawrenceville, Ga., and Bristol, Va., service to authorized to and from all intermediate points; between Knoxville, Tenn., and Burlington, N.C., service is authorized to and from all intermediate points; between Knoxville, Tenn., and Dillsboro, N.C., service is authorized to and from all intermediate points; between points in North Carolina as follows: from Franklin over U.S. Highway 23 to Asheville, thence over U.S. Highway 74 to Kings Mountain, from Marshall over North Carolina Highway 213 to junction U.S. Highway 23, from Marion over U.S. Highway 221 to Rutherfordton, thence over North Carolina Highway 108 to Tyron, service is authorized to and from all intermediate points; between junction U.S. Highway 221 and North Carolina Highway 26, South of Marion, N.C., and and Gaffney, S.C., service is authorized to and from all intermediate points.

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Between Conover, N.C., and Great Falls, S.C., no exceptions are specified to the general commodity description for that segment of the route between Gastonia and York, including authorized points of service, service is authorized to and from all intermediate points; between Chester, S.C., and Statesville, N.C., service is authorized to and from all intermediate points; between Rock Hill, S.C., and Blacksburg, S.C., between York, S.C., and Burlington, N.C., service is authorized to and from all intermediate points; between points in North Carolina as follows: from Dallas over North Carolina Highway 275 to Stanley, thence over North Carolina Highway 27 to Charlotte, from Moresville over North Carolina Highway 150 to junction North Carolina Highway 152, thence over North Carolina Highway 152 to China Grove, from Mooresville over North Carolina Highway 150 to Salisbury, thence over U.S. Highway 601 to Mocksville, from Mooresville over North Carolina Highway 801 to junction U.S. Highway 601, from Winston-Salem over U.S. Highway 52 to Lexington, from Winston-Salem over North Carolina Highway 109 to Thomasville, from Winston-Salem over U.S. Highway 311 to High Point, from Kernersville over North Carolina Highway 150 to junction U.S. Highway 311, service is authorized to and from all intermediate points; between junction U.S. Highway 74 and North Carolina Highway 120, and Laurens, S.C., service is authorized to and from all intermediate points; between Whitmire, S.C., and Hendersonville, N.C., service is authorized to and from the intermediate points of Union, S.C., and those between Union and Hendersonville, no exceptions are specified to the general commodity description for that segment of the route between Whitmore and Union; between points in South Carolina as follows:

From Landrum over South Carolina Highway 14 to Greer, thence over unnumbered highway to Travelers Rest, from Greenville over U.S. Highway 25 to Ware Shoals, from Greenville over U.S. Highway 276 to Laurens, thence over U.S. Highway 76 to Clinton, and thence over South Carolina Highway 72 to Whitmire, from Mauldin over unnumbered highway to Woodruff, from Clemson College over U.S. Highway 76 to Anderson, service is authorized to and from all intermediate points; between Gainesville, Ga., and Athens, Ga., no service is authorized to or from intermediate points; between Decatur, Ga., and junction U.S. Highway 29 and 78, no service is authorized to or from intermediate points, service is authorized to and from the off-route points of Bryson City, Ela, Hartland, Hudson and Lenoir, N.C., Belton, Honea Path, Iva, Lockhart and Slater, S.C., those within ten miles of Atlanta, and those within ten miles of Knoxville, and those in Georgia, North Carolina, and South Carolina within ten miles of the above-specified routes, except routes 28 and 29, that portion of route 22 at which intermediate points shall not be served, and that portion of route 9 which is between York, S.C., and Gastonia, N.C.; between Atlanta, Ga., and junction U.S. Highway 23 and Georgia Highway 20 at or near Buford, Ga., no service is authorized to or from intermediate points; between Rome, Ga., and New York, N.Y.; between Lawrenceville, Ga., and Philadelphia, Pa.; between Baltimore, Md., and New Brunswick, N.J.; between Wilmington, Del., and Penns Grove, N.J.; between Chester, Pa., and Bridgeport, N.J.; between Philadelphia, Pa., and Easton, Pa.; between Baltimore, Md., and Scranton, Pa.; between Amity Hall, Pa., and Selinsgrove, Pa.; between Kingston, Pa., and Hazleton, Pa.; between Danville, Va., and South Hill, Va.; between Danville, Va., and Richmond, Va.; between Danville, Va., and Cumberland, Md.;

Between Slater, S.C., and Whitmire, S.C.; between Statesville, N.C., and Great Falls, S.C.; between Danville, Va., and Asheboro, N.C.; between Salisbury, N.C., and Marion, N.C.; between Salisbury, N.C., and Shelby, N.C.; between Conover, N.C., and Marion, N.C.; between Winston-Salem, N.C., and Fayetteville, N.C.; between Sanford, N.C., and Fayetteville, N.C.; between Winston-Salem, N.C., and Lexington, N.C.; between Winston-Salem, N.C., and junction U.S. Highways 311 and 220; between Greensboro, N.C., and Carthage, N.C.; between Ramseur, N.C., and junction North Carolina Highways 22 and 27; between Reidsville, N.C., and Pittsboro, N.C.; between Greensboro, N.C., and Raleigh, N.C.; between Henderson, N.C., and Carthage, N.C.; between Franklinton, N.C., and Lillington, N.C.; between junction U.S. Highway 64 and North Carolina Highway 55 and junction North Carolina Highway 55 and U.S. Highway 501 (formerly alternate U.S. Highway 15); between Sanford, N.C., and Raleigh, N.C.; between Nelson, N.C., and junction North Carolina Highways 49 and 62, serving the following intermediate and off-route points in connection with all of the above described routes; between Atlanta, Ga., and junction U.S. Highways 29 and 78, serving no intermediate points; between Atlanta, Ga., and junction U.S. Highway 23 and Georgia Highway 20, at McDonough, Ga., serving no intermediate points; between Washington, D.C., and junction U.S. Highway 15 and Pennsylvania Highway 94 at York Springs, Pa., serving no intermediate points, and with no service to or from York Springs, Pa.; between Baltimore, Md., and Cumberland, Md., serving no intermediate points; between Pittsburgh, Pa., and Cumberland, Md., serving intermediate and off-route points within 15 miles of Pittsburgh.

Between the Bedford Toll Gate and junction Pennsylvania Turnpike and U.S. Highway 30 at Irwin, Pa., for operating convenience only, serving no intermediate points, and with no service to or from the termin, with restriction: between Winchester, Va., and Hancock, Md., serving no intermediate points, and with no service at Hancock, Md., the authority granted herein, to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right; between Buffalo, N.Y., and points in New York; between Jamestown, N.Y., and Olean, N.Y.; between Buffalo, N.Y., and Erie, Pa.; between Buffalo, N.Y. and Jamestown, N.Y.; between Buffalo, N.Y., and Warren, Pa.; between Buffalo, N.Y., and points in New York; between Buffalo, N.Y., and points in New York; between Rochester, N.Y., and Syracuse, N.Y.; between Buffalo, N.Y., and Binghamton and Utica, N.Y.; between Rochester, N.Y., and Utica, N.Y.; between Buffalo, N.Y., and Albany, N.Y.; between Rochester, N.Y., and Syracuse, N.Y.; between Buffalo, N.Y., and Erie, Pa.; between Erie, Pa., and Jameston, N.Y., and Cleveland, Ohio; between Erie, Pa., and Jamestown, N.Y., and Cleveland, Ohio; between Jamestown, N.Y., and Buffalo, N.Y., and Clarendon, Pa.; between Olean, N.Y., and points in New York and Pennsylvania; between Olean, N.Y., and points in New York and Pennsylvania; between Rochester, N.Y., and points in New York; between Rochester, N.Y., and points in New York; between Syracuse, N.Y., and points in New York; between Utica, N.Y., and points in New York; between Utica, N.Y., and Rome and Herkimer, N.Y., service is authorized to and from all intermediate points on the above-specified routes, and off route points within 15 miles of said routes; between Utica, N.Y., and New York, N.Y., serving the intermediate point of Albany, N.Y., and those between Albany and Utica; between Elmira, N.Y., and Binghamton, N.Y., serving all intermediate points.

Between Elmira, N.Y., and Syracuse, N.Y., serving all intermediate points; between Elmira, N.Y., and Dresden, N.Y., serving all intermediate points; between Elmira, N.Y., and New York, N.Y., serving the intermediate point of Binghamton, N.Y., and those between Elmira and Binghamton; between Elmira, N.Y., and New York, N.Y., serving all intermediate points; between Elmira, N.Y., and Stokesdale, Pa., serving all intermediate points; between Elmira, N.Y., and Athens, Pa., serving all intermediate points; between Binghamton, N.Y., and Philadelphia, Pa., serving all intermediate points; between Binghamton, N.Y., and Syracuse, N.Y., serving all intermediate points; between Binghamton, N.Y., and Ithaca, N.Y., serving all intermediate points; between Binghamton, N.Y., and Albany, N.Y., serving all intermediate points; between Philadelphia, Pa., and Binghamton, N.Y., serving all intermediate points; between Albany, N.Y., and Binghamton, N.Y., serving all intermediate points; between Albany, N.Y., and Plattsburgh, N.Y., serving no intermediate points; between Albany, N.Y., and Malone, N.Y., serving no intermediate points; between Albany, N.Y., and Mooers, N.Y., serving no intermediate points; between Albany, N.Y., and Plattsburgh, N.Y., serving no intermediate points; between Albany, N.Y., and Oneonta, N.Y., serving all intermediate points; between Albany, N.Y., and Waterford, N.Y., serving all intermediate points; between Albany, N.Y., and North Hoosick, N.Y., serving all intermediate points; between Albany, N.Y., and Hoosick Falls, N.Y., serving all intermediate points; between Albany, N.Y., and Stephentown, N.Y., serving all intermediate points; between Albany, N.Y., and Hudson, N.Y., serving all intermediate points; between Albany, N.Y., and Selkirk, N.Y., serving all intermediate points.

Between Albany, N.Y., and Schenectady, N.Y., serving all intermediate points; between Albany, N.Y., and Mayfield, N.Y., serving all intermediate points; between Albany, N.Y., and Johnstown, N.Y., serving all intermediate points; between Albany, N.Y., and Caroga Lake, N.Y., serving all intermediate points; between Buffalo, N.Y., and Towanda, Pa., serving all intermediate points; between Buffalo, N.Y., and Williamsport, Pa., serving all intermediate points; between Buffalo, N.Y., and Pottsville, Pa., serving all intermediate points; between Buffalo, N.Y., and Selinsgrove, Pa., serving all intermediate points; between Syracuse, N.Y., and Oswego, N.Y., serving all intermediate points; between Syracuse, N.Y., and Massena, N.Y., serving all intermediate points; between Syracuse, N.Y., and Camden, N.Y., serving all intermediate points; between Utica, N.Y., and Massena, N.Y., serving all intermediate points; between Syracuse, N.Y., and Greene, N.Y., serving all intermediate points; between Syracuse, N.Y., and Cortland, N.Y., serving all intermediate points; between Syracuse, N.Y., and Groton, N.Y., serving all intermediate points; between Syracuse, N.Y., and Canandaigua, N.Y., serving all intermediate points; between Syracuse, N.Y., and Palmyra, N.Y., serving all intermediate points; between Syracuse, N.Y., and Shortsville, N.Y., serving all intermediate points; between Syracuse, N.Y., and Watkins Glen, N.Y., serving all intermediate points; between Syracuse, N.Y., and Penn Yan, N.Y., serving all intermediate points; between Syracuse, N.Y., and Newport, N.Y., serving all intermediate points; between Buffalo, N.Y., and Cleveland, Ohio, serving all intermediate points; between Buffalo, N.Y., and McAdoo, Pa., serving all intermediate points, service is authorized to and from off-route points within 15 miles of the above-specified routes; between Sunbury, Pa., and Philadelphia, Pa., serving no intermediate points;

Between junction U.S. Highway 23 and North Carolina Highway 36 and junction U.S. Highway 23 and Tennessee Highway 81, service is not authorized to or from intermediate points; between Decatur, Ga., and junction U.S. Highway 29 and 78, service is not authorized to or from intermediate points; between Madisonville, Tenn., and Ducktown, Tenn., service is authorized to and from all intermediate points; between Myrtle Beach, S.C., and Hartsville, S.C., service is authorized to and from all intermediate points, and the off-route points in a territory in North Carolina, and South Carolina bounded by a line beginning at Myrtle Beach, S.C., and extending along U.S. Highway 501 via Marion, S.C., to Rowland, N.C., thence along U.S. Highway 301 to Lumberton, N.C., thence along North Carolina Highway 211 to Bolton, N.C., and thence along U.S. Highway 76 to Wrightsville Beach, N.C., including points on the designated highways between Marion and Wrightsville Beach; between Kingsport, Tenn., and Lynchburg, Va., serving no intermediate points: small arms ammunition, between Cincinnati, Ohio, and Cleveland, Ohio, serving the intermediate points of Xenia, Ohio, and those between Xenia and Cincinnati: classes A and B explosives as a *common carrier* over irregular routes, between points in New York, on the one hand, and, on the other, points in that part of Pennsylvania north of a line beginning at the Ohio-Pennsylvania State line and extending through Oil City, DuBois, Williamsport, and Scranton, Pa., to the Pennsylvania-New York State line, the authority granted herein, to the extent that it duplicates any authority heretofore granted to or now held by carrier, shall not be construed as conferring more than one operating right.

Vendee is authorized to operate as a *common carrier* in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a (b).

No. MC-F-12915. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio, 44309, of a portion of the operating rights of Associated Transport, Inc., Thomas J. Cahill, Trustee in Bankruptcy, and for acquisition by Roush Voting Trust, also of Akron, OH., 44309, of control of such rights through the purchase. Applicants' attorneys: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014, and Fritz R. Kahn, Suite 1100, 1660 L St., N.W., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes between Buffalo, N.Y., and Albany, N.Y., serving all intermediate points, and serving the off-route points of Akron, Honeoye Falls, Holcomb, Minoa, Oneida, Clinton, Dolgeville, Johnstown, and Gloversville, N.Y.; between Albany, N.Y., and Waterford, N.Y., serving the intermediate and off-route points of Troy, Rensselaer, Watervliet, Latham, and Cohoes, N.Y.; between Albany, N.Y., and New York, N.Y., serving the intermediate and off-route points of Hudson, N.Y., and those in the New York, N.Y., Commercial Zone, as defined by the Commission; between Utica, N.Y., and Schenectady, N.Y., serving all intermediate points between Utica and Canajoharie, including Canajoharie; between Wampsville, N.Y., and Utica, N.Y., serving the intermediate and off-route points of Oneida, Rome, Stacy Basin, Marcy, Whitesboro, Yorkville, and New York Mills, N.Y.; between Rome, N.Y., and Binghamton, N.Y., serving no intermediate points; between Utica, N.Y. and Clayville, N.Y., serving all intermediate points; between Utica, N.Y., and Solsville, N.Y., serving the intermediate and off-route points of Capron, New York Mills, South Utica, Whitesboro, Yorkville, Clinton, and Oriskany Falls, N.Y.; between Syracuse, N.Y., and Oswega, N.Y., serving all intermediate points, and serving the off-route point of Minetto, N.Y.; between Red Creek, N.Y., and Syracuse, N.Y., serving all intermediate points; between Syracuse, N.Y., and Jordan, N.Y., serving no intermediate points; between Syracuse, N.Y., and Cazenovia, N.Y., serving all intermediate points; between Skaneateles, N.Y., and Syracuse, N.Y., serving no intermediate points; between Skaneateles, N.Y., and Syracuse, N.Y., serving all intermediate points on New York Highways 174 and 5; between Syracuse, N.Y., and Watertown, N.Y., serving all intermediate points, and serving the off-route points of Parish and Richland, N.Y.; between Geneva, N.Y., and Oswego, N.Y., serving all intermediate points, and serving the off-route points of Williamson, Sodus, and Mexico, N.Y.

Between Cortland, N.Y., and Ithaca, N.Y., serving all intermediate points, and serving the off-route point of McLean, N.Y.; between Binghamton, N.Y., and Owego, N.Y., serving all intermediate points; between Buffalo, N.Y., and Rochester, N.Y., serving the intermediate and off-route points of Depew, Corfu, Akron, Charlotte, Irondequoit, Blasdell, and Lackawanna, N.Y.; between Rochester, N.Y., and Geneva, N.Y., serving no intermediate points; between Trumansburg, N.Y., and Watkins Glen, N.Y., serving no intermediate points; between Rochester, N.Y., and Syracuse, N.Y., serving all intermediate points, and serving the off-route points of Marion, N.Y.; between Elmira, N.Y., and Ithaca, N.Y., serving no intermediate points; between Rochester, N.Y., and Buffalo, N.Y., serving all intermediate points; between Binghamton, N.Y., and Utica, N.Y., serving all intermediate points, and serving the off-route points of Westmoreland, Clarks Mills, Deansboro, and Franklin Springs, N.Y.; between Binghamton, N.Y., and Syracuse, N.Y., serving all intermediate points; and the off-route point of McGraw, N.Y.; between Utica, N.Y., and Palatine Bridge, N.Y., serving all intermediate points; between Palatine Bridge, N.Y., and Schenectady, N.Y., serving all intermediate points on New York Highways 5 and 10; between Utica, N.Y., and Schenectady, N.Y., serving all intermediate points; between Rochester, N.Y., and Geneva, N.Y., serving all intermediate points; and the off-route points of East Rochester, Scottsville, Rush, Shortsville, and Oak Corner, N.Y.; between Geneva, N.Y., and points in New York as follows, serving all intermediate points and serving the off-route points of MacDougall, Odessa, Painted Post, Bellona, and Milo Center, N.Y.; be-

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tween Auburn, N.Y., and Cortland, N.Y., serving all intermediate points, and serving the off-route points of McGraw and New Hope, N.Y.; between Auburn, N.Y., and Syracuse, N.Y., serving all intermediate points; between Skaneateles, N.Y., and Cazenovia, N.Y., serving all intermediate points on New York Highway 92 between Cazenovia and Syracuse, including Syracuse, and serving the off-route point of South Onondaga, N.Y.; between Geneva, N.Y., and Savona, N.Y., serving all intermediate points, and serving the off-route points of Campbell, Milo Center, and Branchport, N.Y.; between Geneva, N.Y., and Corning, N.Y., serving all intermediate points, and serving the off-route points of Campbell, Milo Center, and Branchport, N.Y.; between Binghamton, N.Y., and Easton, Pa., serving the intermediate point of Wind Gap, Pa.; between Newark, N.J., and Amsterdam, N.Y., serving all intermediate points; between Easton, Pa., and Rochester, N.Y., serving all intermediate points between Binghamton and Rochester, including Binghamton; between Utica, N.Y., and Rochester, N.Y., serving all intermediate points; from Scranton, Pa., to Buffalo, N.Y., in truckload, serving all intermediate points in New York.

Between Buffalo, N.Y., and points in New York; between Jamestown, N.Y., and Olean, N.Y.; between Fredonio, N.Y., and Jamestown, N.Y.; between Buffalo, N.Y., and Erie, Pa.; between Buffalo, N.Y., and Warren, Pa.; between Rochester, N.Y., and Syracuse, N.Y.; between Buffalo, N.Y., and Binghamton and Utica, N.Y.; between Rochester, N.Y., and Utica, N.Y.; between Buffalo, N.Y., and Albany, N.Y.; between Rochester, N.Y., and Syracuse, N.Y.; between Erie, Pa., Westfield, N.Y., and Jamestown, N.Y.; between Erie, Pa., and Jamestown, N.Y.; between Jamestown, N.Y., and Buffalo, N.Y., and Clarendon, Pa.; between Olean, N.Y., and points in New York and Pennsylvania; between Olean, N.Y., and points in New York and Pennsylvania; between Rochester, N.Y., and points in New York; between Syracuse, N.Y., and points in New York; between Utica, N.Y., and points in New York; between Utica, N.Y., and Rome and Herkimer, N.Y., as follows: from Utica over New York Highway 5 to junction New York Highway 233, thence over New York Highway 233 to Rome, and return over the same route, from Utica over New York Highway 8 to junction New York Highway 28, thence over New York Highway 28 to Herkimer, and return over the same route, service is authorized to and from all intermediate points on the above-specified routes, and off-route points within 15 miles of said routes; between Utica, N.Y., and New York, N.Y., serving the intermediate point of Albany, N.Y., and those between Albany and Utica; between Elmira, N.Y., and Binghamton, N.Y., serving all intermediate points; between Elmira, N.Y., and Syracuse, N.Y., serving all intermediate points; between Elmira, N.Y., and Dresden, N.Y., serving all intermediate points; between Elmira, N.Y., and New York, N.Y., serving the intermediate point of Binghamton, N.Y., and those between Elmira and Binghamton; between Elmira, N.Y., and New York, N.Y., serving all intermediate points; between Elmira, N.Y., and Stokesdale, Pa., serving all intermediate points; between Elmira, N.Y., and Athens, Pa., serving all intermediate points; between Binghamton, N.Y., and Easton, Pa., serving all intermediate points; between Binghamton, N.Y., and Syracuse, N.Y., serving all intermediate points; between Binghamton, N.Y., and Ithica, N.Y., serving all intermediate points; between Binghamton, N.Y., and Albany, N.Y., serving all intermediate points; between Easton, Pa., and Binghamton, N.Y., serving all intermediate points; between Albany, N.Y., and Binghamton, N.Y., serving all intermediate points; between Albany, N.Y., and Plattsburg, N.Y., serving no intermediate points; between Albany, N.Y., and Malone, N.Y., serving no intermediate points.

Between Albany, N.Y., and Mooers, N.Y., serving no intermediate points; between Albany, N.Y., and Plattsburgh, N.Y., serving no intermediate points; between Albany, N.Y., and Oneonta, N.Y., serving all intermediate points; between Albany, N.Y., and Waterford, N.Y., serving all intermediate points; between Albany, N.Y., and North Hoosick, N.Y., serving all intermediate points; between Albany, N.Y., and Hoosick Falls, N.Y., serving all intermediate points; between Albany, N.Y., and Stephentown, N.Y., serving all intermediate points; between Albany, N.Y., and Hudson, N.Y., serving no intermediate points; between Albany, N.Y., and Selkirk, N.Y., serving all intermediate points; between Albany, N.Y., and Schenectady, N.Y., serving all intermediate points; between Albany, N.Y., and Mayfield, N.Y., serving all intermediate points; between Albany, N.Y., and Johnstown, N.Y., serving all intermediate points; between Albany, N.Y., and Caroga Lake, N.Y., serving no intermediate points; between Buffalo, N.Y., and Towanda, Pa., serving all intermediate points; between Buffalo, N.Y., and Williamsport, Pa., serving all intermediate points; between Buffalo, N.Y., and Pottsville, Pa., serving all intermediate points; between Buffalo, N.Y., and Selinsgrove, Pa., serving all intermediate points; between Syracuse, N.Y., and Oswego, N.Y., serving all intermediate points; between Syracuse, N.Y., and Massena, N.Y., serving all intermediate points; between Syracuse, N.Y., and Camden, N.Y. serving all intermediate points; between Utica, N.Y., and Massena, N.Y., serving all intermediate points; between Syracuse, N.Y., and Greene, N.Y., serving all intermediate points; between Syracuse, N.Y., and Cortland, N.Y., serving all intermediate points; between Syracuse, N.Y., and Groton, N.Y., serving all intermediate points; between Syracuse, N.Y., and Canandaigua, N.Y., serving all intermediate points; between Syracuse, N.Y., and Palmyra, N.Y., serving all intermediate points; between Syracuse, N.Y., and Shortsville, N.Y., serving all intermediate points; between Syracuse, N.Y., and Watkins Glen, N.Y., serving all intermediate points; between Syracuse, N.Y., and Penn Yan, N.Y., serving all intermediate points; between Syracuse, N.Y., and Newport, N.Y., serving all intermediate points; between Buffalo, N.Y., and Mcadoo, Pa., serving all intermediate points, service is authorized to and from off-route points within 15 miles of the above-specified routes.

Between Albany, N.Y., and Waterford, N.Y., service is authorized to and from all intermediate points; between junction U.S. Highway 6 and New York Highway 17, near Harriman, N.Y., and Scranton, Pa., as an alternate route for operating convenience only, in connection with carrier's regular route operations between Harriman, N.Y., and Scranton, Pa., serving no intermediate points; serving the plant site of PPG Industries, Inc., at or near Kebert Park, Greenwood Township, Crawford County, Pa., as an off-route point in connection with its presently authorized regular routes operations to and from Erie and Pittsburgh, Pa.; *general commodities* with exceptions as a *common carrier* over irregular routes between points in New York, on the one hand, and, on the other, points in that part of Pennsylvania north of a line beginning at the Ohio-Pennsylvania State line and extending through Oil City, DuBois, Williamsport, and Scranton, Pa., to the Pennsylvania-New York State line. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12916, Authority sought for control and merger by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Florida 32203, of the operating rights and property of Oklahoma Border Express, Inc., 903 "Y" Street, Fort Smith, Arkansas 72901 and for acquisition by IV Transporation Services, Inc., The Wilmington Tower, 1105 North Market Street, Wilmington, Delaware 19801, which in turn is controlled by IV International Corporation, The Wilmington Tower, 1105 North Market Street, Wilmington, Delaware 19801, which in turn is controlled by IV International Corporation, The Wilmington Tower, 1105 North Market Street, Wilmington, Delaware 19801 of control of such rights and property through the transaction. Applicants' attorneys: Roland Rice, Esq., 501 Perpetual Building, 1111 "E" Street NW., Washington, D.C. 20004, H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, Pa. 19102, Don A. Smith, Esq., 510 North Greenwood, Fort Smith, Arkansas 72901. Operating rights sought to be controlled and merged: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a common carrier over regular routes. Between Sallisaw, Oklahoma, and Fort Smith, Arkansas, serving all intermediate points and the offroute point of Hanson, Oklahoma. From Sallisaw over U.S. Highway 64 to Fort Smith, and return over same route, between Sallisaw, Oklahoma, and Vian, Oklahoma, serving all intermediate points, from Sallisaw over U.S. Highway 64 to Vian and return over the same route. Between Vian, Oklahoma, and Eufaula, Oklahoma, serving the intermediate points of Gore, Warner, and Checotah, Oklahoma, and the off-route points of Webbers Falls, Oklahoma, from Vian over U.S. Highway 64 to Warner, Oklahoma, thence over U.S. Highway 266 to Checotah, Oklahoma, thence over U.S. Highway 69 to Eufaula, and return over the same route.

Serving the sites of Robert S. Kerr Lock and Dam and Webbers Falls Lock and Dam as off-route points in Connection with carrier's regular route operations authorized above, between Fort Smith, Arkansas and Eufaula, Oklahoma. Between Checotah, Oklahoma, and Progue, Oklahoma, serving all intermediate points: From Checotah over U.S. Highway 266 to Henryetta, Oklahoma, thence over U.S. Highway 62 to Progue, and return over the same route. Between Eufaula, Oklahoma, and junction U.S. Highways 62 and 75 at or near Henryetta, Oklahoma, serving all intermediate points. From Eufaula over Oklahoma Highwy 9 to Wetumka, Oklahoma, thence over U.S. Highway 75 to junction U.S. Highway 62, and return over the same route. Between Fort Smith, Arkansas, and Marble City, Oklahoma, serving the intermediate point of Roland, Gans, Short Mountain Dam Site and Sadie, Oklahoma. From Fort Smith over U.S. Highway 64 to junction Oklahoma Highway 141, thence over Oklahoma Highway 141 to junction U.S. Highway 59, thence over Highway 59 to junction unnumbered County road (known as old 17), thence over unnumbered county road to Marble City, and return over the same route (also return over unnumbered county road to junction U.S. Highway 64, thence over U.S. Highway 64 to Fort Smith). *General commodities,* except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

Between Oklahoma City, Oklahoma, and Progue, Oklahoma, serving all intermediate points, but restricted against the transportation of traffic (1) Originating at Oklahoma City, Oklahoma, and (2) destined to Henryetta, Oklahoma, and points in the commercial zone as defined by the Commission, Weleetka and Wetumpka, Oklahoma, and intermediate points on the said route, or originating at the points on the said route, or originating at the points specified in (2) and destined to Oklahoma City, Oklahoma. From Oklahoma City over U.S. Highway 62 to Progue, and return over the same route. *General Commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Oklahoma City, Oklahoma, and Altus, Oklahoma, serving the intermediate points of Cache, Indiahoma, Snyder, Headrick, and Altus Air Base, Oklahoma. From Oklahoma over the H. E. Bailey Turnpike to Lawton, Oklahoma, thence over U.S. Highway 62 to Altus, and return over the same route. Flat glass, as a *common carrier* over irregular routes, from the facilities of P.P.G. Industries at or near Wichita Falls, Texas, to Lawton, Oklahoma, serving Lawton, Oklahoma, for purposes of joinder only with carrier's authorized regular-route operations between Oklahoma City and Altus, Oklahoma with no transportation for compensation on return except as otherwise authorized, with restriction. Vendee is authorized to operate as a common carrier in all of the States in the United States, (except Alaska and Hawaii). Application has been filed for temporary authority under Section 210a (b).

No. MC–F–12917. Authority sought for purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL., 32203, of a portion of the operating rights of Associated Transport, Inc., Thomas J. Cahill, trustee in bankruptcy, c/o Arthur S. Olick, 39th Floor, 630 Fifth Avenue, New York, N.Y., 10020, and for acquisition by IU Transportation Service, Inc., 1105 N. Market Street, The Wilmington Tower, Wilmington, DE., 19801, which is in turn controlled by IU International Corporation, The Wilmington Tower, 1105 N. Market Street, Wilmington, DE., 19801, of control of such rights through the purchase. Applicants' attorneys: H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA., 19102, Roland Rice, Suite 501, Perpetual Building, Washington, D.C., 20004 and Fritz R. Kahn, 1660 L. Street, N.W., Washington, D.C., 20036. Operating rights sought to be transferred: *General commodities,* with exceptions, as a *common carrier* over regular routes between Knoxville, Tennessee, and Roanoke, Virginia, serving all intermediate points, and points within 10 miles of Knoxville. Vendee is authorized to operate as a *common carrier* in all the States of the United States, (except Alaska and Hawaii) excluding the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12918. Authority sought for purchase by C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI., 54494, of a portion of the operating rights of Associated Transport, Inc., Thomas J. Cahill, trustee in bankruptcy, c/o Arthur S. Olick, 39th Floor, 630 Fifth Avenue, New York, N.Y., 10020, of control of such rights through the purchase. Applicants' attorneys: Jack Goodman, 39 So. LaSalle Street, C Chicago, IL., 60603, and Fritz R. Kahn, 1660 L St., N.W., Washington, D.C., 20036. Operating rights sought to be transferred: *General commodities,* with exceptions as a *common carrier* over regular routes between Atlanta, Ga., and Greenville, S.C., service is authorized to and from all intermediate points, points within 10 miles of Atlanta, and Off-route points within 10 miles; between Decatur, Ga., and junction U.S. Highways 29 and 78, no service is authorized to or from intermediate points; between Atlanta, Ga., and junction U.S. Highways 29 and 78, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, West Virginia, Wisconsin, Iowa, Pennsylvania, New York, New Jersey, Louisiana, Delaware, Nebraska, Kansas, North Dakota, South Dakota, Tennessee, Arkansas, Maryland, Mississippi, North Carolina, South Carolina, Georgia, Virginia, Alabama, Florida, Oklahoma, Texas, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12919. Authority sought for purchase by BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, OH., 44139, of the operating rights of Cheyenne Express, Inc., 135 Lemuel Street, P.O. Box 8295, Nashville, TN. 32707, and for acquisition by Bobbie Brooks, Inc., 3830 Kelley Avenue, Cleveland, OH. 44114, of control of such rights through the purchase. Applicants' attorney: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, OH. 43215. Operating rights sought to be transferred: *Water heaters* and *water heater accessories,* as a common carrier over irregular routes from the plant site of A. O. Smith Corp. at Kankakee, Ill., to points in Delaware and Maryland, from the plant site of the Republic Water Heater Division of Panacon Corporation, at Erie, Pa., to points in Delaware, Illinois, Indiana, Iowa, Maryland, New Jersey, Ohio, Tennessee, Virginia, and West Virginia, with restrictions; *water heaters, boilers* and *water storage tanks,* from the plant sites and warehouse facilities of A. O. Smith Corporation, at or near Kankakee, Ill., to points Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas; *new furniture,* crated, from the plant sites of the Athens Bed Company and the Athena Table Company at Athena, Tenn., to points in Alabama, Arkansas, Illinois, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Texas, and Wisconsin, from the plant site of the Gaines Manufacturing Company at McKenzie, Tenn., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Texas, and Wisconsin, from Nashville, Tenn., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Texas, and Wisconsin, from Hen-

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derson, Tex., to points in Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota.

Water heaters, from the plant site of Republic Water Heating Company, Inc., at Dallas, Tex., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Mississippi, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Alabama, Michigan, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia; and *materials and supplies* (except commodities in bulk), used in the manufacture of water heaters, from points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Mississippi, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Alabama, Michigan, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, to the plant site of Republic Water Heating Company, Inc., at Dallas, Tex; *water heaters* and *storage tanks* (except those requiring special equipment or handling), from Ashland City, Tenn., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, New Mexico, and Texas. Vendee is authorized to operate as a *contract carrier* in all the States in the United States (except South Dakota, Wyoming, Alaska, and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–12920. Authority sought for purchase by GORDONS TRANSPORTS, 185 West McLemore, Memphis, Tenn. 38101, of a portion of the operating rights of Associated Transport, Inc., c/o Arthur S. Olick, 39 Floor, 630 Fifth Avenue, New York, N.Y. 10020, and for acquisition by M. M. Gordon, A. W. Gordon, Jr., John K. Gordon, Ester G. Luntz, and Mary G. Jordan all of 185 W. McLemore Ave., Memphis, Tenn. 38101, of control of such rights through the purchase. Applicants' attorneys: Phineas Stevens, P.O. Box 22567, Jackson, Miss. 39205, and Fritz R. Kahn, Suite 1100, 1660 L Street N.W., Washington, D.C. 20036. Operating rights sought to be transferred: General Commodities with exceptions as a *common carrier* over regular routes between Columbus, Ohio, and Delaware, Ohio serving no intermediate points. Between Toledo, Ohio and Evansville, Ind., serving all intermediate points. Between Toledo, Ohio, and Bloomington, Ind., serving all intermediate points. Between Indianapolis, Ind., and Columbus, Ohio, serving all intermediate points. Between Lima, Ohio, and Fort Wayne, Ind., serving all intermediate points. Between Toledo, Ohio, and Columbus, Ohio, serving all intermediate points. Between Huntington, Ind., and junction Indiana Highway 9 and Indiana Highway 67, serving all intermediate points, and the off-route points of Jonesboro, Gas City, and Elwood, Ind. Between Albany, Ind., and Dunkirk, Ind., serving all intermediate points. Between Marion, Ind., and Van Wert, Ohio, serving all intermediate points.

Between Dayton, Ohio, and Wapakoneta, Ohio, serving all intermediate points. Between Dunreith, Ind., and junction Indiana Highway 3 and Indiana Highway 18, serving all intermediate points. Between Noblesville, Ind., and junction Indiana Highway 38 and U.S. Highway 36, serving all intermediate points. Serving the off-route points in Franklin County, Ohio, Allen and Marion Counties, Ind., and those in Wood County, Ohio, on and north of U.S. Highway 26, those within five miles of Dayton, Ohio, and in connection with carrier's regular route operations described above. Between points in Indiana, as alternate routes, for operating convenience only in connection with carrier's regular routes operations authorized herein above, serving no intermediate points. Between St. Louis, Mo., and Vincennes, Ind., serving all intermediate points and the off-route points of Centralia and Louisville, Ill. Between Terre Haute, Ind., and East St. Louis, Ill., as an alternate route for operating convenience only in connection with carrier's regular route operations authorized herein above, serving no intermediate points. Between points in Ohio, as alternate routes for operating convenience only in connection with carrier's regular route operations authorized herein above, serving no intermediate points. Alternate routes for operating convenience only: Between Junction U.S. Highway 31 and Indiana Highway 26 and junction Indiana Highways 37 and 26, in connection with carrier's regular route operations authorized hereinabove, serving no intermediate points, and serving no intermediate points, and serving junction Indiana Highways 37 and 26 for purpose of joinder only.

Between junction Indiana Highways 37 and 26, and junction Indiana Highways 9 and 26, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving the termini for purpose of joinder only. Between junction Indiana Highways 9 and 26, and junction U.S. Highway 35 and Indiana Highway 26, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving the termini for purpose of joinder only. Between junction U.S. Highway 35 and Indiana Highway 26 and junction Indiana Highways 3 and 26, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving the termini for purpose of joinder only. Between junction Indiana Highways 3 and 26, and junction Indiana Highways 26 and 67 (near Portland, Ind.), in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving junction Indiana Highways 3 and 26 for the purpose of joinder only. Between junction U.S. Highway 31 and Indiana Highway 28, and the site of the new terminal of the above-named carrier approximately nine-tenths of a mile west of junction Indiana Highways 9 and 28, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points.

Between the site of the above-named carrier's new terminal approximately nine-tenths of a mile west of junction Indiana Highways 9 and 28, and junction Indiana Highways 3 and 28, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving junction Indiana Highways 3 and 28 for the purpose of joinder only. Between junction Indiana Highways 3 and 28, and junction Indiana Highways 28 and 67, in connection with carrier's regular-route operations authorized hereinabove serving no intermediate points, and serving junction Indiana Highways and 28 for purpose of joinder only. Between junction Indiana Highways 28 and 13, and junction Indiana Highways 13 and 26, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving the termini for purpose of joinder only. Between junction Indiana Highways 26 and 13, and junction U.S. Highway 35 and Indiana Highway 13, in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving no intermediate points, and serving the termini for purpose of joinder only. Between junction Indiana Highways 18 and 3 and Fort Wayne, Ind., in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points. Serving the facilities of the General Tire & Rubber Company near Mt. Vernon, Ill., as an off-route point in connection with carrier's existing regular-route authority.

Serving the plant site of Signal Products Operations, Energy Systems Operations Division, Olin Corporation, near Peru, Ind., as an off-route point in connection with carrier's regular-route operations to and from Peru, Ind. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12928. Authority sought for purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville FL 32203, of a portion of the operating rights and property of Transamerican Freight Lines, Inc., Represented by Harold O. Love, receiver, 5650 Foremost Drive S.E., Grand Rapids MI 49506, and for acquisiiton by IU Transportation Services, Inc., The Wilmington Tower, 1105 N. Market St., Wilmington, DE 19801, which in turn, is controlled by IU International Corporation, also of Wilmington, DE 19801, of control of such rights and property through the purchase. Applicants attorneys: Roland Rice, 501 Perpetual Bldg., Washington, D.C. 20004, H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA 19102, and Charles F. Rodgers, 744 Broad Street, Newark, NJ 07102. Operating rights and property sought to be purchased: *General commodities*, with exceptions as a *common carrier* over regular routes between Chicago, Ill., and Grand Rapids, Mich., serving all intermediate points as more specifically described in MC–10761. Vehicular equipment is to be purchased at $54,000. Vendee is authorized to operate as a *common carrier* in all of the States in the United States except Alaska and Hawaii. Application has been filed for temporary authority under section 210a(b).

ACQUISITION INVOLVING BOTH WATER AND MOTOR CARRIERS

No. MC–F–12925. Authority sought for purchase by SEAWHEELS, INC. (formerly Penbrook Hauling Company, Inc.), 401 Richardson Street (Post Office Box 4213), Harrisburg, Pa. 17111, of a portion of the operating rights and property of Daily Express, Inc., 1076 Harrisburg Pike (Post Office Box 39), Carlisle, Pa., 17013, and for acquisition by Daily Industries, Inc., 1076 Harrisburg Pike (Post Office Box 39), Carlisle, Pa. 17013, and D. E. Lutz, 330 Washington Lane, Carlisle, Pa. 17013, of control of such rights and property through the purchase. Applicants' attorneys: James W. Hagar, 100 Pine Street (Post Office Box 1166), Harrisburg, Pa. 17108 and William A. Chesnutt, 1776 F Street NW., Washington, D.C. 20006. Operating rights and property sought to be transferred: *General commodities* with exceptions, in containers or in by water, in *foreign commerce* only, as a common carrier over irregular routes between points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Delaware, Maryland, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, California, Oregon, and Washington, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); *empty used containers, used trailers*, and *used Trailer chassis*, in interstate or foreign commerce, between points in the United States (except Alaska and Hawaii). Vendee is authorized to operate as a *common carrier* in all the States in the United States including the District of Columbia (excluding Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATIONS DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights applications are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with pending transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 80 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its applications.

No. MC 2202 (Sub-No. 517) filed July 26, 1976. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Elizabeth, Ga., and the Georgia-Tennessee State line, serving all intermediate points and the off-route points of Whitestone, and Marble Hill, Ga.: From Elizabeth over Georgia Highway 5 to the Georgia-Tennessee State line, and return over the same route.

NOTE.—The purpose of this filing is to convert vendor's Certificate of Registration to a Certificate of Public Convenience. Common control may be involved. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–12906, published in the FEDERAL REGISTER issue of August 12, 1976. If a hearing is deemed necessary, the applicant requests it be held in consolidation with the finance proceeding in Atlanta, Ga.

No. MC 13123 (Sub-No. 85), filed July 21, 1976. Applicant: WILSON FREIGHT COMPANY, 3636 Follett Avenue, Cincinnati, Ohio 45223. Applicant's representative: Milton H. Bortz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives and those requiring special equipment), (1) Between Albany, N.Y. and Utica, N.Y.: From Albany, N.Y., over New York Highway 5, thence over New York Highway 5 to junction New York Highway 5S, thence over New York Highway 5S to Utica, serving the intermediate and off-route points of Gloversville, Johnstown, Rensselaer and Troy, N.Y., and (2) Between Albany, N.Y. and Schenectady, N.Y.: From Albany, N.Y. over New York Highway 32, thence over New York Highway 32 to junction New York Highway 7, thence over New York 7 to Schenectady, N.Y., serving the intermediate and off-route points of Gloversville, Johnstown, Rensselaer and Troy, N.Y.

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certification of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–12739, published in the FEDERAL REGISTER issues of January 28, 1976 and February 25, 1976. If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio.

No. MC 14215 (Sub-No. 8), filed July 13, 1976. Applicant: SMITH TRUCK SERVICE, INC., Stoney Hollow Blvd., P.O. Box 1329, Steubenville, Ohio 43952. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, from points in Ohio, Pennsylvania and West Virginia, within 75 miles of Steubenville, Ohio, including Steubenville, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania and West Virginia. The purpose of this filing is to eliminate the gateway of the plantsite of Ohio Ferro-Alloys Company, located on Ohio Highway 7 approximately 3 miles south of Powhatan, Ohio.

NOTE.—This is a matter direcly related to a Section 5(2) finance proceeding in MC–F–12892 published in the FEDERAL REGISTER issue of August 5, 1976. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 47171 (Sub-No. 90) filed July 29, 1976. Applicant: COOPER MOTOR LINES, INC., 301 Hammett Street, Greenville, S.C. 29608. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and those which require the use of special equipment), from points in Connecticut west of the Connecticut River, to Charlotte, Rocky Mount, Fayetteville, Durham, Roanoke Rapids, Kinston, Marion, Morganton, Fuquay Springs, Rockingham, Snow Hill, Greenville, Smithfield, Rich Square, Warsaw, Clinton, Kannapolis, Gastonia, Greensboro, Lillington, Dunn, Salisbury and Concord, N.C.

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NOTE.—The purpose of this filing is to eliminate the gateway at points in Westchester County, N.Y., within 25 miles of New York. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–12750, published in the FEDERAL REGISTER issue of February 4, 1976. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 52022 (Sub-No. 10), filed July 19, 1976. Applicant: SANTINI BROS., INC. doing business as THE SEVEN BROTHERS AND THE SEVEN SANTINI BROTHERS, 1405 Jerome Avenue, Bronx, N.Y. 10452. Applicant's representative: Robert J. Gallagher, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, North Carolina, and the District of Columbia.

NOTE.—The purpose of this filing is to eliminate the gateways of Northern Indiana; Perry, Fla., and points within 10 miles thereof; points in Illinois, and points within 10 miles of Chicago, Ill. This matter is directly related to a Section 5(2) finance proceeding in MC–F–12797, published in the FEDERAL REGISTER issue of April 1, 1976. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 97275 (Sub-No. 28), filed June 29, 1976. Applicant: ESTES EXPRESS LINES, 1405 Gordon Avenue, Richmond, Va. 23224. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment), between points in that part of North Carolina on and within a line beginning at the North Carolina-South Carolina State line, over U.S. Highway 601 to Monroe, N.C., thence over North Carolina Highway 200 to Locust, thence over North Carolina Highway 24 to Albermarle, thence along U.S. Highway 52 to the junction of North Carolina Highway 8, thence along North Carolina Highway 8 to junction North Carolina Highway 49, thence along North Carolina Highway 49 to Asheboro, thence along North Carolina Highway 42 to Sanford, thence along North Carolina Highway 87 to Fayetteville, and thence along U.S. Highway 301 (also along Interstate Highway 95), to Lumberton, thence along North Carolina Highway 4 to the North Carolina-South Carolina State line, on the one hand, and on the other, points in South Carolina.

NOTE.—The purpose of this filing is to request the tacking of applicant's existing irregular-route authority in South Carolina with portions of the irregular route authority in South Carolina sought to be acquired from Bestway, and to eliminate the gateways of Darlington and Florence Counties, S.C. This is a matter directly related to Section 5(2) finance proceeding in MC–F–12874, published in the FR issue of July 22, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Richmond, Va.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abondonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this Federal Register publication unless the instructions set forth in the notices are followed:

[Docket No. AB–2 (Sub-No. 7)]

LOUISVILLE & NASHVILLE RAILROAD COMPANY ABANDONMENT BETWEEN HARTSVILLE JUNCTION, TENNESSEE, AND SCOTTSVILLE, KENTUCKY, IN TROUSDALE COUNTY, TENNESSEE, AND SUMNER AND ALLEN COUNTIES, KENTUCKY

NOTICE OF FINDING

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 1, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment of a branch line of railroad (Scottsville Branch) extending from milepost 168, near Hartsville Junction, Tenn., to milepost 194.1 near Scottsville, Ky., a distance of approximately 26.1 miles. A certificate of abandonment will be issued to the Louisville & Nashville Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–6 (Sub-No. 35)]

BURLINGTON NORTHERN, INC. ABANDONMENT BETWEEN BLANCHARD AND MAYVILLE IN TRAILL COUNTY, NORTH DAKOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 21, 1976, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Burlington Northern, Inc. of its line of railroad extending from milepost 85.92 near Blanchard, North Dakota, and milepost 96.0 near Mayville, North Dakota, a distance of 10.08 miles, located in Traill County, North Dakota. A certificate of abandonment will be issued to the Burlington Northern, Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line, together with a reasonable return providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–52 (Sub-No. 2)]

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ABANDONMENT FROM WEST OF ARDMORE TO RINGLING, ALSO BETWEEN COBALT JUNCTION AND HEALDTON, IN CARTER AND JEFFERSON COUNTIES, OKLAHOMA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 14, 1976, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment of a branch line of railroad extending from milepost 5 located about 5 miles west of Ardmore, Carter County, Okla., to milepost 29 plus 5,180 feet at Ringling, Jefferson County, Okla., a distance of approximately 25 miles, and from milepost 0 at Cobalt Junction, Carter County, Okla., to milepost 5 plus 5,147 feet at Healdton, Carter County, Okla., a distance of approximately 6 miles, and an overall total of approximately 31 miles in length, all in Oklahoma. A certificate of abandonment will be issued to the Atchison, Topeka and Sante Fe Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(A) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commissions so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–118]

ALBANY PASSENGER TERMINAL COMPANY—ENTIRE LINE ABANDONMENT—IN THE CITY OF ALBANY, DOUGHERTY COUNTY, GEORGIA

[Finance Docket No. 28038]

CENTRAL OF GEORGIA RAILROAD COMPANY—ACQUIRE AND OPERATE—ALBANY PASSENGER TERMINAL COMPANY IN THE CITY OF ALBANY, DOUGHERTY, GEORGIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 21, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Albany Passenger Terminal Company of its entire line of railroad, consisting of eight passenger station tracks, having a combined length of approximately 2.6 miles located in Albany, Georgia. A certificate of abandonment will be issued to the Albany Passenger Terminal Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–7 (Sub-No. 19)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN FAIRMONT AND WELCOME, IN MARTIN COUNTY, MINNESOTA

[Finance Docket No. 27754]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY — TRACKAGE RIGHTS—OVER A LINE OF THE CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY BETWEEN FAIRMONT AND WELCOME, MARTIN COUNTY, MINNESOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 30, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Chicago, Milwaukee, St Paul and Pacific Railroad Company of its line of railroad extending from milepost 186, near Fair-

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mont, in a westerly direction to milepost 190.27, near Welcome, a total distance of approximately 4.27 miles, all in Martin County, Minnesota. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 4)]

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY ABANDONMENT BETWEEN PARSENS AND DENNIS, IN LABETTE COUNTY, KANSAS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 23, 1976, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the St. Louis-San Francisco Railway Company in Labette County, Kansas, between railroad milepost 172.5 at Parsons, Kansas, to railroad milepost 179.2 at Dennis, Kansas, a distance of 6.7 miles. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Passengers (49 CFR § 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 108359 (Deviation No. 2), WESTERN NEW YORK MOTOR LINES, INC., Terminal Bldg., 45 Center St., Batavia, N.Y. 14020, filed July 22, 1976. Carrier's representative: Lawrence Lindeman, Suite 1032, Pennsylvania Bldg., Pennsylvania Ave. & 13th Street, NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction New York Highway 36 and Interstate Highway 390 northwest of Dansville, N.Y., over Interstate Highway 390 to junction New York Highway 21, south of Wayland, N.Y., thence over New York Highway 21 to Wayland, N.Y., (2) From Wayland, N.Y., over New York Highway 21 to junction Interstate Highway 390, thence over Interstate Highway 390 to junction New York Highway 415 near Cohocton, N.Y., thence over New York Highway 415 to Cohocton, N.Y., (3) From Cohocton, N.Y., over New York Highway 415 to junction Interstate Highway 390, thence over Interstate Highway 390 to New York Highway 15, thence over New York Highway 15 to Avoca, N.Y., (4) From Avoca, N.Y., over New York Highway 15 to junction Interstate Highway 390, thence over Interstate Highway 390 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 415, thence over New York Highway 415 to Bath, N.Y., and (5) From Bath, N.Y., over New York Highway 415 to junction New York Highway 17, thence over New York Highway 17 to Painted Post, N.Y., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From junction New York Highway 36 and Interstate Highway 390 over New York Highway 36 to Dansville, N.Y., thence over New York Highway 63 to Wayland, N.Y., thence over New York Highways 15 and 415 to Painted Post, N.Y., and return over the same route.

No. MC 1515 (Deviation No. 708), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 2, 1976. Carrier proposed to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Binghamton, N.Y., over Interstate Highway 88 to Oneonta, N.Y., with the following access routes: (1) From Port Crane, N.Y., over unnumbered highway to junction Interstate Highway 88, (2) From Harpursville, N.Y., over unnumbered highway to junction Interstate Highway 88, (3) From Bainbridge, N.Y., over New York Highway 206 to junction Interstate Highway 88, (4) From Unadilla, N.Y., over unnumbered highway to junction Interstate Highway 88, and (5) From Unadilla, N.Y., over New York Highway 357 to junction Interstate Highway 88 and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Binghamton, N.Y., over New York Highway 7 to Oneonta, N.Y., and return over the same route.

No. MC 1515 (Deviation No. 709), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Interchange No. 68 of the Connecticut Turnpike near Old Saybrook, Conn., over the Connecticut Turnpike to Interchange No. 33 at the New Haven County, Conn. County line, with the following access route: From junction U.S. Highway 1 and unnumbered highway over unnumbered highway to junction Connecticut Highway 154, thence over Connecticut Highway 154 to junction Interchange No. 67 of the Connecticut Turnpike and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From junction U.S. Highway 1 and Connecticut Turnpike at Interchange No. 68 over U.S. Highway 1 to junction Connecticut Turnpike at Interchange No. 33 and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Property (49 CFR § 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 42487 (Deviation No. 110), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed July 29, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pittsburgh, Pa., over Interstate Highway 376 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction U.S. Highway 119 (Exit 8), thence over U.S. Highway 119 to junction Pennsylvania Highway 119, thence over Pennsylvania Highway 119 to Uniontown, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Pittsburgh, Pa., over U.S. Highway 19 to Washington, Pa., thence over U.S. Highway 40 to Uniontown, Pa., and return over the same route.

No. MC 48958 (Deviation No. 74), ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 16404, 510 E. 51st Ave., Denver, Colo. 80216, filed August 6, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Amarillo, Tex., over U.S. Highway 287 to junction U.S. Highway 54 (near Stratford, Tex.), thence over U.S. Highway 54 to junction Interstate Highway 35 (near Wichita, Kans.), thence over Interstate Highway 35 to Topeka, Kans., thence over U.S. Highway 75 to junction U.S. Highway 34 (near Union, Nebr.), thence over U.S. Highway 34 to junction Illinois Highway 116 (near Biggsville, Ill.), thence over Illinois Highway 116 to Peoria, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Amarillo, Tex., over U.S. Highway 66 to San Jon, N. Mex., thence over New Mexico Highway 39 to junction New Mexico Highway 58, thence over New Mexico Highway 58 to junction U.S. Highway 85, thence over U.S. Highway 85 to Denver, Colo., thence over U.S. Highway 6 to Sterling, Colo., thence over U.S. Highway 138 to junction U.S. Highway 30, thence over U.S. Highway 30 to Grand Island, Nebr., thence over U.S. Highway 281 to junction U.S. Highway 34, thence over U.S. Highway 34 to junction Illinois Highway 116, thence over Illinois Highway 116 to Peoria, Ill., and return over the same route.

No. MC 85850 (Sub-No. 7) (Deviation No. 2), NEYLON FREIGHT LINES, INC., % Jones Truck Lines, Inc., 610 E. Emma Ave., Springdale, Ark. 72764, filed August 6, 1976. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 29 to Omaha, Nebr., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 73 to Hiawatha, Kans., thence over U.S. Highway 36 to junction Kansas Highway 15E, thence east over U.S. Highway 36 to Marysville, Kans., thence over U.S. Highway 77 to Lincoln, Nebr., thence over U.S. Highway 6 to Omaha, Nebr., and return over the same routes.

MOTOR CARRIER INTRASTATE APPLICATIONS

NOTICE

The following application for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR § 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 56627 filed July 20, 1976. Applicant: TERESI TRUCKING, INC., P.O. Box 819, Lodi, Calif. 95240. Applicant's representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Forest products, lumber, lumber products, wood fiberboard, and wood particleboard*, between the following points, serving all intermediate points on the said routes and all off-route points within thirty (30) miles thereof: (1) Red Bluff and Chester on State Highway 36. (2) Red Bluff and the San Diego Territory (as described in Note 1 hereto) on Interstate Highway 5. (3) Red Bluff and Wheeler Ridge on State Highway 99. (4) Chester and East Nicolaus on State Highway 89 and State Highway 70. (5) The San Francisco Territory (as described in Note 2 hereto) and Auburn on Interstate Highway 80. (6) Sacramento and Plexerville on U.S. Highway 50. (7) The San Francisco Territory (as described in Note 2 hereto) and Stockton on U.S. Highway 80 and State Highway 4. (8) The San Francisco Territory (as described in Note 2 hereto) and Stockton on Interstate Highway 580, Interstate Highway 205 and Interstate Highway 5, (9) The Los Angeles Basin Territory (as described in Note 3 hereto) and the San Diego Territory (as described in Note 1 hereto on Interstate Highway 15; and (10) All points in the following territories: (a) The San Diego Territory (as described in Note 1 hereto); (b) The

V 41 162 AUG 19 76 UMI

San Francisco Territory (as described in Note 2 hereto); and (c) The Los Angeles Basin Territory (as described in Note 3 hereto). In performing the service herein described, the routes and points listed above may be joined and combined, and use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

NOTE 1.—The San Diego Territory: Following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamu); thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

NOTE 2.—The San Francisco Territory: Includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said county line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road.

Northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capital Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Highway 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

NOTE 3.—The Los Angeles Basin Territory: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue;

Southerly along Iowa Avenue to U.S. Highway 60; southwesterly along U.S. Highway 60 and U.S. Highway 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway 74; westerly along State Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right-of-way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula, southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to points of beginning. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-24238 Filed 8-18-76;8:45 am]

federal register

THURSDAY, AUGUST 19, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

GRANTS FOR HOME HEALTH SERVICES

Interim Regulations

V 41 162 AUG 19 76 UMI

Title 42—Public Health

CHAPTER 1—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 51e—GRANTS FOR HOME HEALTH SERVICES

Interim Regulations

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby adds a new part 51e, entitled "Grants for Home Health Services," to Title 42, Code of Federal Regulations. For the reasons set out below, the Secretary has determined that public participation in rulemaking prior to issuance of these regulations and delay in their effective date would be impractical and contrary to the public interest, and, accordingly, that good cause exists for making these regulations effective August 19, 1976.

Title VI of Public Law 94–63, which became effective on July 29, 1975, created a new authority for making grants to meet the initial costs of establishing home health agencies, and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing home health agencies. The Secretary has determined that he could not properly make grants under this new authority in the absence of regulations. Issuance of the regulations set forth below is necessary in order to allow grants to be made prior to the expiration of the fiscal year 1976 funds appropriated for that purpose.

The regulations set forth below establish requirements for all grants under Section 602(a) of Public Law 94–63. Attention is called to the following features of the new regulations:

1. Section 51e.106(a)(7) describes the schedule of fees and discounts which an applicant must implement. This section provides that full discounts are to be given to individuals with annual incomes at or below the "CSA Income Poverty Guidelines" and that no discounts are to be given to individuals with incomes greater than twice those set forth in the Guidelines. In between such limits, projects are to establish a schedule of discounts based on ability to pay, so that charges will not be a barrier to service. The provision for full discounts to individuals with incomes at or below the poverty guidelines was adopted because it was felt that, in general, such individuals could be presumed to be unable to pay for health care. The provision for no discount to individuals with annual incomes above twice the poverty guidelines was adopted because it is administratively practical, reflects current practice in a number of ambulatory health care projects funded under the Public Health Service Act, and is considered to be reasonable in light of the goals of the program. Specifically, the ceiling on discounts of 200 percent of poverty guidelines provides considerable leeway above the poverty guidelines for utilizing discounts and is higher than the average income of lower budget families, as determined by the Bureau of Labor Statistics of the Department of Labor.

2. Sections 51e.106(b)(3) and 51e.106(c)(2)(ii) require that an applicant receive certification from the appropriate State agency before providing home health services with grant funds. This requirement reflects an administrative judgment that grant funds should not be used for the provision of services unless there is some assurance that the services provided will be of reasonably high quality. Requiring State agency certification further assures that the services provided will be in compliance with the requirements of the Social Security Act definition of home health services, 42 U.S.C. 1395x(m). In addition, use of State agency certification as a minimum standard is an administratively practical rule which may be satisfied on the basis of objective criteria.

3. Section 51e.107(a)(1) implements the statutory requirement that the Secretary take into consideration the relative need of the States in making grants under section 602(a). Relative need for home health services will be determined by comparing the proportionate number of people in preference areas within each State who are elderly, medically indigent, or both. Grant funds will then be allocated to each region of the Department of Health, Education, and Welfare based on the relative need of the States within each region, except that each region will receive a minimum of $100,000 so that any grants made to projects in States in less needy regions will be of sufficient size to afford viability. If the Secretary determines that an insufficient number of approvable applications has been received in a region to utilize the grant funds allocated to it, the excess grant funds may be reallocated to other regions.

4. Section 51e.107(a)(2) implements the requirement of Section 602(a)(2) of Public Law 94–63 that preference be given to areas within a State in which a high percentage of the population to be served is elderly, medically indigent, or both.

5. Section 51e.108 describes alternative methods for determining whether a particular area should be given preference under section 602(a)(2). In order to determine funding preferences, it was necessary to determine what would constitute a "high" percentage of each of these population characteristics. In establishing such percentages it was important to base a procedure on the most valid nationally available data. Therefore, the 1970 census data was used because it provides a data base, on a county level, for individuals aged 65 years old or older, individuals whose annual incomes are below the poverty level, and individuals aged 65 years old or older whose annual incomes are below the poverty level. It is believed that more current data on these three specific population characteristics, if available, would indicate that the relative relationship among counties would not have significantly changed.

Thus, for the purpose of this part, "elderly" is defined as an individual aged 65 years old or older, and "medically indigent" is defined as an individual whose annual income is below the poverty level. It is recognized that "medical indigence" and "poverty" are not synonomous. The poverty level is used merely as a reasonable proxy for "medical indigence", and these data were used only as part of the procedure for determining preference areas and relative need in accordance with section 602(a)(2). Applicants may use other more current data, appropriate extrapolations from 1970 data, or other reasonable means to determine whether their proposed catchment area is entitled to preference.

The method of identifying an area as a preference or a nonpreference area was established in the following manner. Three population characteristics were used: (1) percentage of individuals aged 65 years old or older; (2) percentage of individuals with annual incomes below the poverty level; and (3) percentage of individuals aged 65 years old or older who are living in poverty. Every county in the United States was ranked by its percentages of each population characteristic, and the low boundary of the top quartile was selected as the cutoff point. The resulting percentage of each characteristic was designated the "minimum percentage mark" a county or area must reach in order to be designated a preference area. A county or area may be designated a preference area by meeting the minimum percentage mark for one or more of the three population characteristics.

It should be noted that, under section 51e.108(b)(2), the figures to be used for computing the percentages for an applicant's catchment area must exclude those individuals who are inmates of institutions and those in military barracks and college dormitories. Institutionalized persons were not included because individuals in particular institutions generally tend not to be from that particular area and generally would not reside there except for such institutionalization. Therefore, a county or other area with a large institutional population could receive a disproportionate weighting. However, such institutionalized persons can be counted if it can be demonstrated that such individuals would otherwise reside in such area.

Information concerning applications for grants under Section 602(a) of Public Law 94–63 may be obtained by writing the Regional Administrators of the Regional Offices of the Department of Health, Education, and Welfare at the addresses set forth at 45 CFR 5.31(b).

Interested persons are invited to submit written comments, suggestions, or objections concerning the new Part 51e to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6–17, 5600 Fishers Lane, Rockville, Maryland 20852, on or before October 18, 1976. All comments received in timely response will be considered, and will be available for public inspection at the above address during regular business hours. Following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 60 days following the close of the comment period. The regulations, as set forth below, will be applicable and effective on August 19, 1976. Revisions thereto, although applicable to grants awarded under the regulations promulgated herein, will be applicable only with respect to activities conducted under those grants on and after the date the revisions become effective.

A new Part 51e of Title 42, Code of Federal Regulations set forth below, is adopted effective on August 19, 1976.

Dated: July 15, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary.

1. A new 42 CFR Part 51e is adopted, to read as follows:

Sec.
51e.101 Applicability.
51e.102 Definitions.
51e.103 Eligibility.
51e.104 Applications.
51e.105 Fiscal management.
51e.106 Project elements.
51e.107 Grant evaluation and award.
51e.108 Determination of preference.
51e.109 Use of project funds.
51e.110 Grant payments.
51e.111 Civil rights.
51e.112 Confidentiality of information.
51e.113 Publications and copyright.
51e.114 Grantee accountability.
51e.115 Performance report.
51e.116 Applicability of 45 CFR Part 74.
51e.117 Additional conditions.

AUTHORITY: Sec. 215, Public Health Service Act (42 U.S.C. 216), sec. 602(a), Pub. L. 94–63 (42 U.S.C. 1395x note).

§ 51e.101 Applicability.

The regulations of this part are applicable to grants authorized by Section 602(a) of Public Law 94–63 (42 U.S.C. 1395x note, 89 Stat. 304) to meet the initial costs of establishing and operating home health agencies and expanding the services available through existing home health agencies, and to meet the costs of compensating professional and paraprofessional personnel during such initial establishment and operation or expansion.

§ 51e.102 Definitions.

As used in this subpart:

(a) "Act" means Public Law 94–63 (89 Stat. 304).

(b) "Applicant" means a public or nonprofit private entity which applies for a grant.

(c) "Catchment area" means the area served by a home health agency.

(d) "Conditions of participation" means those conditions of participation for a home health agency for reimbursement under Title XVIII of the Social Security Act which are set forth in Subpart L of 20 CFR Part 405.

(e) "Home health agency" means an entity which has a provider agreement with the Secretary pursuant to 20 CFR Part 405, Subpart F.

(f) "Home health services" are those items and services listed in Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) provided by a home health agency.

(g) "Home health organization" means an agency or organization which intends to become a home health agency but which does not, at the time of application for a grant under this part, have a provider agreement with the Secretary.

(h) "Nonprofit" as applied to a private entity means an entity exempt from Federal income taxation under Section 501 of the Internal Revenue Code of 1954.

(i) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(j) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(k) "State agency" means the agency of a State which has an agreement with the Secretary under Section 1864(a) of the Social Security Act to certify agencies as home health agencies as defined in section 1861(o) of that Act.

§ 51e.103 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private entity is eligible to apply for a grant under this subpart.

(b) *Eligible projects.* Grants to eligible applicants may be made by the Secretary for projects to meet the initial costs, including costs of compensating professional and paraprofessional personnel, of:

(1) Establishing and operating a home health agency which will provide home health services; or

(2) Expanding the home health services available through a home health agency by:

(i) Adding new home health services not previously provided by such agency; and/or

(ii) Enlarging the catchment area of the agency; and/or

(iii) Increasing the number of persons served within the present catchment area of the agency.

§ 51e.104 Applications.

(a) *All applications.* An approvable application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe and shall contain the following:

(1) A full and adequate description of the intended project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart;

(2) A budget and justification of the amount of grant funds requested;

(3) A description of the applicant's organizational structure, ongoing activities, and any home health and/or other health services currently being delivered, including a statement indicating any accreditation or certification for such services;

(4) The following information with respect to the current and/or proposed catchment area of the applicant:

(i) The precise boundaries of the catchment area, and the average travel time from the applicant entity or its satellites to the furthermost point within the catchment area;

(ii) Demographic data relating to the catchment area, including the total population of the area, the number and percentage of persons aged 65 years old and older, and number and percentage of recipients under Title XIX of the Social Security Act; and

(iii) A description of the health care resources of the catchment area in ratio to the population, and the accessibility in terms of size and geographic factors, including the number of:

(A) Home health agencies, the range of their services, and the number of persons presently served by such agencies,

(B) Hospitals (size, location, and type),

(C) Skilled nursing and intermediate care facilities,

(D) Outpatient rehabilitation facilities,

(E) Physicians (both doctors of medicine and doctors of osteopathy), by specialty,

(F) Homemaker service agencies and number of persons presently served thereby, and

(G) Day care centers for the elderly;

(5) A report of utilization patterns of health care resources in the catchment area (or proposed catchment area, if applicable). Such report shall include:

(i) Bed occupancy rates and average length of stays in hospitals, skilled nursing and intermediate care facilities,

(ii) Hospital bed days used per thousand population,

(iii) Hospital bed days used per thousand population aged 65 years old and older, and

(iv) Number of persons served (including the average number of visits per patient) by existing home health agencies in the area (for each of the 3 calendar years preceding the calendar year in which the application is submitted or such lesser period as such home health agencies have been in operation);

(6) Based on the accumulated data required by paragraphs (a)(4) and (5) of this section, a projection of the number of persons who will use the home health services to be provided by the applicant, including quarterly projections of users who are aged 65 years old and older, and users who are medically indigent, as determined under § 51e.108;

(7) Evidence (such as copies of letters or minutes of meetings) that health care providers, local or county medical societies, and other community organizations in the proposed catchment area (such as senior citizens organizations) will actively participate in the promotion

V 41 162 AUG 19 76 UMI

and utilization of the home health services to be offered by the applicant;

(8) A description of the referral mechanisms which are in place, or are planned, for referral of patients to the applicant from hospitals, skilled nursing and intermediate care facilities, and other appropriate institutional or ambulatory health care providers in its existing and/or proposed catchment area, as applicable;

(9) A description of the applicant's plan to market the home health services to be offered, including such information as plans to acquaint physicians, hospital and skilled nursing home administrators, other health care providers, and potential users with the services to be offered, and copies of any informational or promotional material in use or proposed to be used;

(10) A description of the proposed staffing pattern, based upon the projection of the number of users developed under subparagraph (6) of this paragraph, which the applicant will employ to carry out the project, and a time-phased plan for hiring staff to meet the requirements of this subpart;

(11) A plan providing for the continuation of home health services after financial assistance under this subpart is no longer available;

(12) A statement indicating how and the extent to which the project plans to meet each of the applicable requirements in § 51e.106, including a description of the methodology which the applicant will use to compile the data required under § 51e.106(a)(6);

(13) Evidence that the requirements of Part I of Office of Management and Budget Circular No. A-95 have been satisfied; and

(14) The signature of the individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the applicable regulations of this part, and any additional conditions of the grant award.

(b) *Applications submitted by home health organizations.* In addition to the requirements of paragraph (a) of this section, an application for a grant for a project described in § 51e.103(b)(1) shall contain the following:

(1) A copy of the S.S.A. Form #1515 (which may be obtained from the Bureau of Health Insurance, Social Security Administration) which the applicant has submitted to the appropriate State agency as evidence of its intent to become certified, and

(2) A detailed plan indicating how the applicant entity plans to meet the conditions of participation necessary to obtain certification by such State agency in accordance with 20 CFR Part 405, Subpart S.

(c) *Applications submitted by home health agencies.* In addition to the requirements of paragraph (a) of this section, an application for a grant for a project described in § 51e.103(b)(2) shall contain the following:

(1) A description of the home health services currently being provided by the applicant agency and the manner in which they are provided;

(2) The number of the current provider agreement between the agency and the Secretary;

(3) The number of referrals to the agency from each of the types of referral sources set forth in paragraph (a)(8) of this section for the three calendar years preceding the calendar year in which the application is submitted (or such lesser period as the agency has been in operation);

(4) In the case of a home health agency which plans to expand its array of services or to open a subunit,

(i) A copy of the S.S.A. Form #1515 (which may be obtained from the Bureau of Health Insurance) which it has submitted to the applicable State agency as evidence of its intent to become certified; and

(ii) A detailed plan indicating how the applicant agency plans to meet the conditions of participation necessary to obtain certification by the State agency for the new service(s) and/or subunit; and

(5) In the case of a home health agency which plans to enlarge its catchment area or open a new branch office, the information requested in paragraph (a)(4) of this section for both its current catchment area and its proposed new catchment area or new branch office.

§ 51e.105 Fiscal management.

The Health Services Funding Regulations, 42 CFR Part 50, Subpart A, apply to all grants under this subpart, consistent with the provisions of § 51e.106(a)(7).

§ 51e.106 Project elements.

(a) *All projects.* A project funded under this subpart must:

(1) Provide its services directly and make such services available to all residents of its catchment area;

(2) Recruit personnel necessary to meet the requirements of this subpart in accordance with the plan submitted pursuant to § 51e.104(a)(10);

(3) Assure that staff professionals and paraprofessionals meet all applicable licensure, certification, or other legal requirements for the practice of their professions;

(4) Establish and maintain referral procedures (such as forms designed for referrals, or the designation of a hospital staff member to coordinate and follow-up referrals) to handle patients referred to the project from hospitals, skilled nursing and intermediate care facilities, and other appropriate institutional and ambulatory health care providers;

(5) Carry out the marketing plan provided pursuant to § 51e.104(a)(9) of this subpart and approved by the Secretary in the Notice of Grant Award;

(6) Establish basic statistical data, cost accounting, management information, and reporting systems which shall enable the project to provide such statistics and other information as the Secretary may reasonably require relating to its costs of operation, patterns of utilization of services, and the availability, accessibility and acceptability of its services, and to make such reports to the Secretary in a timely manner with such frequency as the Secretary may reasonably require;

(7) Have prepared, and make every reasonable effort to obtain payment for services in accordance with, a schedule of fees and payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts adjusted on the basis of patients' ability to pay. *Provided*, that such schedule of discounts shall provide for a full discount to individuals and families with annual incomes at or below those set forth in the most recent "CSA Income Poverty Guidelines" (45 CFR § 1060.2) and for no discount to individuals and families with annual incomes greater than twice those set forth in such Guidelines; and

(8) Carry out the plan provided pursuant to § 51e.104(a)(11) and approved by the Secretary in the Notice of Grant Award to secure sufficient funding sources to continue providing home health services after Federal financial assistance under this subpart is no longer available.

(b) *Home health organizations.* In addition to the requirements of paragraph (a) of this section, a project described in § 51e.103(b)(1) must:

(1) Implement the plan provided pursuant to § 51e.104(b)(2);

(2) Obtain certification from the State agency in accordance with 20 CFR Part 405, Subpart S, within 60 days from the date of grant award, unless the applicant demonstrates to the Secretary's satisfaction that failure to obtain such certification within such time period is due to circumstances beyond the applicant's control, in which case the project will obtain certification within the revised time limit imposed by the Secretary;

(3) Be certified by the State agency before utilizing grant funds under this subpart for providing any home health services; and

(4) Provide skilled nursing care and such other home health services as are specified in the Notice of Grant Award following certification by the State agency to the residents of its catchment area.

(c) *Home health agencies.*

(1) In addition to the requirements of paragraph (a) of this section, a project described in § 51e.103(b)(2) must do the following, as applicable:

(i) In the case of a project as described in § 51e.103(b)(2)(i), make available one or more home health services, not previously provided by the agency, for which there is a need in the catchment area, as determined by the Secretary and as specified in the Notice of Grant Award.

(ii) In the case of a project described in § 51e.103(b)(2)(ii), expand its catchment area, and provide home health services therein, sufficient to increase the number of persons served by the agency in the calendar year of the grant by a percentage equal to the ratio of the amount of the grant under this part to the agency's total operating budget for the calendar year preceding the grant; *Provided, however*, that where the Secretary determines the project will expand its catchment area so as to serve a substantially less densely populated area, he may approve a lower percentage.

(iii) In the case of a project described in § 51e.103(b)(2)(iii), provide services to an additional number of residents of the agency's catchment area sufficient to increase the number of persons served by the agency in the calendar year of the grant by a percentage equal to the ratio of the amount of the grant under this part to the agency's total operating budget for the calendar year preceding the grant.

(2) In the case of an agency which plans to expand its services in such a way as to require a new or amended provider agreement, the project must:

(i) Obtain State agency certification pursuant to 20 CFR Part 405, Subpart S, within 30 days of the grant award, unless the applicant can demonstrate to the Secretary's satisfaction that failure to obtain such certification within such time period was due to circumstances beyond the applicant's control, in which case the project will obtain certification within a revised time limit imposed by the Secretary; and

(ii) Be certified by the State agency before providing any of the expanded services.

§ 51e.107 Grant evaluation and award.

(a) Within the limits of funds available for such purposes, the Secretary will evaluate applications submitted under this part and will award grants to applicants which submit approvable applications for projects to provide home health services in areas where such services are not otherwise available, as determined under subparagraph (4) of this paragraph, in accordance with the following procedures:

(1) The funds appropriated to carry out section 602(a) of the Act will be allocated among the regions of the Department of Health, Education, and Welfare, as set forth in § 1.30(A), 35 Fed. Reg. 14334 (1970), on the basis of the relative needs of the State within each such region. Such relative need shall be determined by comparing the number of individuals within each State who are elderly, medically indigent, or both, as determined for purposes of § 51e.108 of this part in areas determined in accordance with § 51e.108 to have a high percentage of such individuals; *Provided*, that a minimum of $100,000 will be allocated to each region for the States within such region; and *Provided further*, that where the Secretary determines that there will not be enough approvable applications within a region to utilize the grant funds allocated to it, he may reallocate such excess funds to regions which he determines will have approvable applications which would otherwise not be funded.

(2) In awarding grants under this subpart, the Secretary will give preference to approvable applications for projects which will serve catchment areas in which a high percentage of the population is composed of individuals who are elderly, medically indigent, or both, as determined under § 51e.108 of this part.

(3) Where the funds allocated to a region are insufficient to fund all approvable applications for projects which will serve catchment areas in which a high percentage of the population is composed of individuals who are elderly, medically indigent, or both, or, in considering approvable applications for projects which will not serve catchment areas in which a high percentage of the population is composed of individuals who are elderly, medically indigent, or both, the Secretary may award grants under this subpart to:

(i) The projected number of users who are elderly and/or medically indigent,

(ii) The extent to which the project will meet the requirements set forth in § 51e.105 and § 51e.106.

(iii) The degree to which the applicant intends to integrate services (such as combining services with other public or nonprofit private agencies receiving other grants for the delivery of health services), and

(iv) The extent to which community resources will be utilized in the project, and the extent to which such community resources will continue to support home health services after funds under this subpart are no longer available.

(4) For purposes of this section, home health services will be considered to be not otherwise available in a catchment area where:

(i) There are no home health agencies in the area; or

(ii) There is a home health agency providing the services but the services are unavailable to a significant portion of the population; or,

(iii) There is a home health agency in the area, but it does not provide at least one of the home health services which the applicant proposes to provide.

(b) The amount of any award under this subpart will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs; *Provided, however*, that no grant shall be made for an amount in excess of the total cost as found necessary by the Secretary for the carrying out of the project.

(1) In determining the percentage of project costs to be borne by the grantee, the Secretary will take into consideration the following factors:

(i) The ability of the grantee to finance its share of project costs from non-Federal sources; and

(ii) The need of the area served by the project for the services to be provided.

(2) At any time after approval of an application under this subpart, the Secretary may retroactively agree to a lower percentage of project costs to be borne by the grantee than that determined pursuant to paragraph (b)(1) of this section where he finds that changed circumstances justify a smaller contribution.

(3) In determining the grantee's share of project costs, if any, costs borne by Federal grant funds or costs used to match other Federal grants may not be included except as otherwise provided by law or regulations.

• (c) Grants under this part may be made for a period up to 17 months if necessary to provide sufficient time for the applicant to achieve an operational level which will support the continued provision of home health services in the area.

(d) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is recommended.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, or other award with respect to any approved project or portion thereof.

§ 51e.108 Determination of preference.

(a) For purposes of § 51e.107 of this part, a catchment area will be considered to have a high percentage of individuals who are elderly, medically indigent, or both if any one of the following is present.

(1) More than 13.7 percent of its population consists of noninstitutionalized individuals who are 65 years old or older;

(2) More than 26.9 percent of its population consists of persons with annual family incomes below the poverty level, as defined by the Social Security Administration in 1964, modified by a Federal Interagency Committee in 1969, and used in the 1970 United States Census; or

(3) More than 5.6 percent of its population consists of individuals who are both 65 years old or older and whose annual family income is below the poverty level, as specified in subparagraph (2) above.

(b)(1) An applicant may demonstrate that its catchment area has a high percentage of individuals who are elderly, medically indigent, or both by using data from:

(i) The United States Census Bureau, United States Census of the Population: 1970, General Social and Economic Characteristics, PC(1)-C, Tables 119 and 120, or 124; or

(ii) The United States Census Bureau, United States Census of the Population: 1970, General Population Characteristics, PC(1)-B, Table 37; or

(iii) More current data appropriate to the proposed catchment area, if such data is shown, to the Secretary's satisfaction, to be more appropriate and valid for the purposes of such calculation. Data such as that compiled most recently by the Administration on Aging, the most current data on Medicare enrollees or recipients of other categorical assistance programs, as appropriate (e.g. Old Age Assistance), may be submitted and used to update the 1970 data.

(2) In computing the percentage of the population of its catchment area which is elderly, medically indigent, or both, an applicant must exclude individuals who are inmates of institutions, and those in

V 41 162 AUG 19 76 UMI

military barracks and college dormitories as set forth in the tables referred to in subparagraph (b) (1) above, unless it can be reasonably demonstrated that a portion or all of the individuals in such institutions would otherwise reside in the catchment area.

§ 51e.109 Use of project funds.

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in performance of the approved project, may be expended solely for carrying out the approved project in accordance with section 602(a) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(b) Project funds awarded under this part to establish, expand, or operate a home health agency may be used for, but need not be limited to, the following:

(1) The costs of obtaining technical assistance to develop the project, to improve its management capability, to establish an adequate data collection system, and to develop methodology for evaluation; and

(2) The cost of delivering home health services to individuals and families with annual incomes lower than those set forth in the most recent "CSA Income Poverty Guidelines" (45 CFR 1060.2) established by the Community Services Administration, and the uncompensated portion of the cost of services provided to individuals and families with annual incomes greater than, but not over twice, those set forth in such Guidelines.

(c) Grant funds shall not be used to pay the salaries of project staff members whose qualifications do not meet applicable requirements under the conditions of participation.

(d) Prior approval by the Secretary of revisions of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

§ 51e.110 Grant payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred in the performance of the project, to the extent he determines such payments necessary to promote project initiation and advancement of the approved project.

§ 51e.111 Civil rights.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d *et seq.*) and in particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which applies to grants made under this part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). In addition, no person shall be denied employment in or by such program or activity on the grounds of age, sex, creed, or marital status.

(b) Attention is called to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 51e.112 Confidentiality of information.

All information as to personal facts and circumstances obtained by the project staff in connection with the provision of services under the project shall be treated as privileged communication, shall be held confidential, and shall not be divulged without the individual's consent except as may be otherwise required by applicable law (including this part) or necessary to provide services to the individual. Such information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

§ 51e.113 Publications and copyright.

Except as may be provided under the terms and conditions of the award, the Department of Health, Education, and Welfare copyright requirement, set forth in 45 CFR 74.140, shall apply to any book or otherwise copyrightable material developed or resulting from the activity supported by a grant under this subpart.

§ 51e.114 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence, satisfactory to the Secretary, for expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* that when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct cost incurred.

(b) *Copyright royalties.* Copyright royalties shall be accounted for as provided in 45 CFR 74.44.

(c) *Grant closeout.*

(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section; and

(ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 51e.115 Performance report.

A grantee shall submit a performance report meeting the requirements of 45 CFR 74.82(c), and a financial status report at the end of the assigned project period.

§ 51e.116 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
- A General.
- B Cash depositories.
- C Bonding and insurance.
- D Retention and custodial requirements for records.
- F Grant-related income.
- G Matching and cost sharing.
- K Grant payment requirements.
- L Budget revision procedures.
- M Grant closeout, suspension, and termination.
- O Property.
- Q Cost principles.

§ 51e.117 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of the award when, in his judgment, such conditions are necessary to assure or protect advancement of the approved project, the interest of public health, or the conservation of grant funds.

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federal register

THURSDAY, AUGUST 19, 1976



PART III:

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORT MONITORING REPORT FOR FERTILIZERS

March, 1976

V 41 162 AUG 19 76 UMI

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORT MONITORING REPORT FOR FERTILIZERS

March 1976

U.S. exports of phosphatic fertilizers for the first quarter of 1976 rose to 506,000 content tons as compared with 459,000 content tons in the same quarter of last year. The rise in exports during the quarter reflects the increased level of exports during March 1976 to 187,623 content tons compared with exports of 124,511 content tons in March 1975. However, exports of nitrogenous fertilizers of 298,543 content tons during the first quarter 1976, were nearly 10 percent below their January-March 1975 level. For the month of March 1976, exports were 101,950 content tons versus 105,637 content tons in March 1975.

According to data collected by the Office of Export Administration, contracts for export of phosphatic fertilizers during the second quarter 1976 totaled nearly 205,000 content tons at the end of March. While this figure is less than half the 438,000 content tons actually exported during the second quarter of 1975, the high incidence of spot export sales of phosphatic fertilizers evidenced in the first quarter 1976 is expected to continue during the second quarter, so that actual exports of phosphatic fertilizers in the first six months of 1976 will probably equal or exceed the total volume exported in the first half of 1975.

Contracts for the export of nitrogenous fertilizers during the second quarter of 1976, as reported at the end of March, totaled 115,213 content tons, as compared with actual exports of 272,000 content tons during the same period last year. Since spot sales of nitrogenous fertilizers are not as common as in the case of phosphatic fertilizers, these anticipated actual second quarter export figures will probably not increase substantially from this anticipated level, and actual exports of nitrogenous fertilizers during the first half of 1976 are expected to fall short of the 602,000 content tons exported during the first half of 1975. Imports of nitrogenous fertilizers are running about 8 percent higher in the first quarter of 1975, having reached 324,257 content tons in the first quarter of 1976. The U.S. continues to be a net importer of nitrogenous fertilizers for the third consecutive year.

Ammonium phosphates, a compound material containing both nitrogen and phosphates, show the highest volume of exports of any of the individual fertilizer materials. Exports of this compound material represent about 57 percent of the phosphate fertilizers exported and about 38 percent of the nitrogenous fertilizers exported from the U.S., on a content ton basis.

Bureau of the Census data on fertilizer production, indicates that production of anhydrous ammonia in the month of February was 3.6 percent higher than in the same month of 1975, while phosphoric acid production was up about 2.7 percent.

Inventories of fertilizer materials in 1976 continue at levels considerably above those for the same period a year ago. A major factor contributing to this higher level of inventories has been the reduced volume of shipments of fertilizer materials to the farmer, as reported to the U.S. Department of Agriculture through March of this year.

Producer prices of fertilizer materials are being heavily discounted. Discounts of 20 to 25 percent below the list prices, as quoted in the trade press, are not uncommon.

Tables on exports, imports, production, inventories, and domestic[1] and export prices follow.

DONALD E. JOHNSON,
Deputy Assistant Secretary for Domestic and International Business.

[1] World supply and demand data are not available on a monthly basis. The most recent data on world supply and demand will be included in the next Semi-Annual Report to the Congress on operations under the Export Administration Act.

U.S. Trade in Nitrogen and Phosphate Fertilizers, Table 1
Export Contracts for April 1975-March 1976
In Content Tons

Commodity	Jan-June 1975	July-Dec 1975	Jan-Mar 1975	Jan-Mar 1976	Contracts: Contracts: Apr-June 1976	Contracts: July-Sept. 1976	Contracts: Oct-Dec 1976	Contracts: Jan-Mar 1977
Imports								
N and P_2O_5 Content Tons 1/								
Nitrogen Fertilizer	709,546	540,412	303,630	324,257	108,555	118,183		
Phosphate Fertilizer	145,653	303,901	55,950	41,766	31,242	25,532		
Exports								
N and P_2O_5 Content Tons								
Nitrogen Fertilizer	601,858	595,605	330,253	298,543	105,637	101,950	115,213	66,072	18,943	8,010
Phosphate Fertilizer 2/	837,120	1,165,992	459,074	506,047	124,511	137,623	203,207	229,332	132,721	137,924

Table 2

Fertilizer Exports, January 1975 - March 1976
Export Contracts for April 1975 - March 1977
(Short Tons; Export as Noted)

Commodity	Jan-June 1975	July-Dec 1975	Jan-Mar 1975	Jan-Mar 1976	Contracts: Contracts: Apr-June 1976	Contracts: July-Sept. 1976	Contracts: Oct-Dec 1976	Contracts Jan-Mar 1977
Nitrogenous:								
Anhydrous Ammonia 3/	205,936	99,432	122,165	79,971	24,179	2,870	22,000	16,500	-	-
Urea	272,457	284,653	157,331	148,745	78,120	50,394	56,095	61,982	-	-
Ammonium Nitrate	14,189	31,847	8,602	1,395	2,314	522	3,823	1,223	-	-
Ammonium Sulfate	288,242	436,806	98,329	193,952	53,489	54,401	142,663	115,901	46,600	-
Phosphatic:								
Phosphoric Acid 4/	141,158	171,383	67,430	20,829	17,500	28,466	42,723	101,202	68,018	78,019
Phosphate Rock (000) (Fla. only)	5,615	5,710	3,092	2,502	924	925	842	2,767	2,218	1,398
Concentrated Superphosphate	416,340	696,895	203,184	248,332	61,078	83,892	135,433	122,707	92,000	86,500
Ammonium Phosphate	2,167,979	1,519,389	589,785	647,286	170,505	236,622	225,156	138,259	49,000	45,000
Mixed Fertilizer	295,055	79,257	106,898	67,120	15,595	27,209	185	5,100	2,775	-

1/ Includes fertilizer and other grades of anhydrous ammonia.
2/ Include phosphoric acid, fertilizer grade and N.E.C. (100% APA)
3/ N and P_2O_5 content tons includes items not listed in accompanying tables.
4/ Does not include phosphate rock.

Source: Bureau of Census and Office of Export Administration

V41162 AUG 19 76 UMI

Table 3

Fertilizer Imports, January 1975 - March 1976
Short Tons

Commodity	Jan-June 1975	July-Dec 1975	Jan-Mar 1975	Jan-Mar 1976	Mar 1975	Mar 1976
Nitrogenous:						
Anhydrous Ammonia	415,936	391,003	160,305	210,951	69,868	80,575
Urea	434,525	219,677	221,855	142,097	47,340	25,998
Ammonium Nitrate	140,960	103,912	70,998	64,538	24,622	35,053
Ammonium Sulfate	139,903	78,679	91,387	132,305	39,873	64,632
Ammonium Nitrate Limestone	55,858	9,890	1,241	100	-	-
Phosphatic:						
Phosphoric Acid	65,947	39,329	36,991	15,754	22,237	15,510
Concentrated Superphosphate	32,669	8,974	17,916	4,647	7,192	2,442
Ammonium Phosphate	141,200	161,860	25,867	60,164	25,743	28,305

Table 4

Fertilizer Production, July 1973 - February 1976
(1000 Short Tons)

Commodity	July-June 1973-1974	July-June 1974-1975	% Change 75/74	Feb. 1975	Feb. 1976	% Change 76/75	July-Feb 1974-1975	July-Feb 1975-1976	% Change 76/75
Nitrogenous:									
Anhydrous Ammonia	15,705	15,674	-0.2	1,202	1,245	3.6	10,200	10,484	2.8
Urea	3,543	3,690	4.1	284	319	12.3	2,406	2,387	-0.8
Ammonium Nitrate	7,329	7,401	1.0	593	542	-8.6	5,004	4,455	-11.0
Ammonium Sulfate 1/	2,805	2,415	-13.9	205	N.A.	N.A.	1,628	N.A.	N.A.
Phosphatic:									
Phosphoric Acid 2/	6,950	7,339	5.6	595	611	2.7	4,906	4,798	-2.2
Concentrated Superphosphate 2/	1,705	1,728	1.3	147	138	-6.1	1,105	1,030	-6.8
Ammonium Phosphate 3/	6,745	6,965	3.3	562	744	32.4	4,464	5,541	24.1

N.A. - Not available
1/ Includes coke oven byproduct
2/ 100% APA
3/ Gross weight
Source: Bureau of Census

Table 5

Producers Inventories of Fertilizer Materials
(In Short Tons)

Commodity	June 1973	June 1974	June 1975	January 1976	February 1975	February 1976
Anhydrous Ammonia	622,318	615,376	1,131,500	2,365,861	1,555,315	2,516,176
Urea	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Ammonium Nitrate	90,811	90,491	214,326	391,409	214,051	363,639
Ammonium Sulfate	101,503	153,496	229,753	406,511	211,515	N.A.
Phosphoric Acid	88,150	133,212	211,579	195,004	168,867	211,293
Concentrated Superphosphate	103,960	95,016	254,029	181,259	171,222	208,629
Ammonium Phosphate	135,048	95,773	263,300	327,948	137,276	327,701

Table 6

Producers Prices of Fertilizer Materials
($ Per Ton)

Commodity	October 24,1973	October 21, 1974	October 27, 1975	May 10, 1976 (low)	May 10, 1976 (high)	Change Oct.73-May 76 (low)	Change Oct.73-May 76 (high)
Anhydrous Ammonia	65	160	190	180	190	177	192
Urea	72	175	175	160	175	47	86
Ammonium Nitrate	62	115	115	91	115	122	143
Phosphoric Acid (52-54%)	78	157	173	173	-	122	-
Phosphate Rock: (66-68%)	7	25	31	31	-	343	-
Concentrated Superphosphate	55	140	140	127	140	131	155
Ammonium Phosphate	75	165	135	135	135	80	80

N.A. - Not available

Source: Price column 1 -- Cost of Living Council
Columns 2, 3, and 4 -- Chemical Marketing Reporter
(low and high quote)

Table 7

Export Prices of Selected Fertilizer Products
March 1976

Commodity	Low	High	Weighted Average
Phosphate Rock			
Shipments	16	37	30
Remaining Contracts	21	37	31
Ammonia			
Shipments	-	-	-
Remaining Contracts	54	54	54
Urea			
Shipments	80	120	83
Remaining Contracts	80	83	82
Triple Superphosphate			
Shipments	83	145	89
Remaining Contracts	77	115	108
Diammonium Phosphate			
Shipments	85	218	110
Remaining Contracts	109	228	171

Source: Office of Export Administration, U.S. Department of Commerce

Exports and Anticipated Exports
March 1976

Unit of Measure and Commodity Area of Destination 1/	Actual July-Mar 1975-1976	Unfilled Contracts Apr-June 1976	July-Sept 1976	Oct-Dec 1976	Jan-Mar 1977
In Content Tons					
Nitrogen (N)					
Western Hemisphere	423,121	57,314	41,827	12,179	1,958
Western Europe	208,398	17,306	19,906	6,764	6,052
Asia	235,079	40,526	4,339	-	-
Australis and Oceania	5,404	-	-	-	-
Africa	22,144	67	-	-	-
Phosphate (P_2O_5)					
Western Hemisphere	665,137	57,456	124,418	53,475	60,466
Western Europe	477,310	22,807	29,659	23,886	22,098
Communist Areas in Europe	53,703	11,125	30,360	30,360	30,360
Asia	424,018	113,821	35,897	25,000	25,000
Australia and Oceania	7,486	-	-	-	-
Africa	44,356	-	-	-	-
In Short Tons					
Ammonia 2/					
Western Hemisphere	102,395	5,500	-	-	-
Western Europe	74,256	16,500	16,500	-	-
Asia	829	-	-	-	-
Australis and Oceania	20	-	-	-	-
Africa	891	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	50.4%				
Urea					
Western Hemisphere	192,464	25,523	6,082	-	-
Western Europe	5,545	-	-	-	-
Asia	231,089	30,572	-	-	-
Australis and Oceania	1,679	-	-	-	-
Africa	3,621	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	97.2%				
Ammonium Nitrate					
Western Hemisphere	32,768	3,623	-	-	-
Asia	190	-	-	-	-
Australia and Oceania	38	-	-	-	-
Africa	252	200	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	95.7%				

V 41 162 AUG 19 76 UMI

Exports and Anticipated Exports (Cont.

Unit of Measure and Commodity Area of Destination	Actual July-Mar 1975-1976	Unfilled Contracts Apr-June 1976	July-Sept 1976	Oct-Dec 1976	Jan-Mar 1977
Ammonium Sulfate					
Western Hemisphere	559,519	142,663	115,801	46,600	-
Western Europe	9,979	-	-	-	-
Asia	28,881	-	-	-	-
Australis and Oceania	6,826	-	-	-	-
Africa	5,547	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	93.3%				
Phosphoric Acid 3/					
Western Hemisphere	186,935	29,165	76,203	43,018	53,019
Western Europe	19,177	-	-	-	-
Asia	55,390	13,159	25,000	25,000	25,000
Australia and Oceania	306	-	-	-	-
Africa	403	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	84.9%				
Phosphate Rock (000)					
Western Hemisphere	2,791	304	1,313	956	677
Western Europe	2,597	209	501	543	373
Communist Areas in Europe	507	-/	153	110	110
Asia	2,316	329	801	599	339
Exported to Developing Countries July 1975-Mar. 1976	33.7%				
Triple Superphosphate					
Western Hemisphere	428,971	7,606	26,945	11,000	5,500
Western Europe	219,269	29,060	29,762	15,000	15,000
Communist Areas in Europe	116,745	24,184	66,000	66,000	66,000
Asia	140,340	74,383	-	-	-
Africa	-	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	70.8%				
Diammonium Phosphate and Other Ammonium Phosphate					
Western Hemisphere	583,482	55,413	78,159	11,000	11,000
Western Europe	796,975	21,116	35,722	38,000	34,000
Asia	676,597	148,627	24,378	-	-
Australia and Oceania	14,687	-	-	-	-
Africa	93,935	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	56.4%				

Exports and Anticipated Exports (Cont.)

Unit of Measure and Commodity Area of Destination	Actual July-Mar 1975-1976	Unfilled Contracts Apr-June 1976	July-Sept 1976	Oct-Dec 1976	Jan-Mar 1977
Mixed Fertilizer					
Western Hemisphere	116,144	128	5,100	2,775	-
Western Europe	5,902	-	-	-	-
Asia	9,434	57	-	-	-
Australia and Oceania	3,552	-	-	-	-
Africa	11,345	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	58.0%				

1/ The data in this table with respect to "Unfilled Contracts" is based on information obtained from exporters by the Office of Export Administration subject to the confidentiality provisions of the Export Administration Act of 1969, as amended. In a number of instances only one exporter is involved in exports of a stated commodity to a particular country. Therefore, the publication of the data by country of destination could effectively reveal information required to be held confidential. Accordingly, in order to maintain the confidentiality of the information supplied by exporters, this data is published by the area of destination.

2/ Includes fertilizer and other grades of anhydrous ammonia.

3/ Includes fertilizer and other grades of phosphoric acid (100% APA)

Sources:
Actual Exports: Bureau of the Census, U.S. Department of Commerce.

Unfilled Contracts: Office of Export Administration, U.S. Department of Commerce.

[FR Doc.76-24260 Filed 8-18-76;8:45 am]

V 41 162 AUG 19 76 UMI

Exports and Anticipated Exports (Cont.

Unit of Measure and Commodity Area of Destination	Actual July-Mar 1975-1976	Unfilled Contracts Apr-June 1976	July-Sept 1976	Oct-Dec 1976	Jan-Mar 1977
Ammonium Sulfate					
Western Hemisphere	559,519	142,663	115,801	46,600	-
Western Europe	9,979	-	-	-	-
Asia	28,881	-	-	-	-
Australis and Oceania	6,826	-	-	-	-
Africa	5,547	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	93.3%				
Phosphoric Acid 3/					
Western Hemisphere	186,935	29,165	76,203	43,018	53,018
Western Europe	19,177	-	-	-	-
Asia	55,390	13,159	25,000	25,000	25,000
Australia and Oceania	306	-	-	-	-
Africa	403	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	84.9%				
Phosphate Rock (000)					
Western Hemisphere	2,791	304	1,313	956	677
Western Europe	2,597	209	501	543	373
Communist Areas in Europe	507	-	153	110	110
Asia	2,316	329	801	599	359
Exported to Developing Countries July 1975-Mar. 1976	33.7%				
Triple Superphosphate					
Western Hemisphere	428,971	7,606	26,945	11,000	5,500
Western Europe	219,269	29,060	29,762	15,000	15,000
Communist Areas in Europe	116,745	24,184	66,000	66,000	66,000
Asia	140,340	74,383	-	-	-
Africa	-	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	70.8%				
Diammonium Phosphate and Other Ammonium Phosphate					
Western Hemisphere	583,482	55,413	78,159	11,000	11,000
Western Europe	796,973	21,116	35,722	38,000	34,000
Asia	670,297	148,627	24,378	-	-
Australia and Oceania	14,687	-	-	-	-
Africa	93,935	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	56.4%				

Exports and Anticipated Exports (Cont.)

Unit of Measure and Commodity Area of Destination	Actual July-Mar 1975-1976	Unfilled Contracts Apr-June 1976	July-Sept 1976	Oct-Dec 1976	Jan-Mar 1977
Mixed Fertilizer					
Western Hemisphere	116,144	128	5,100	2,775	-
Western Europe	5,902	-	-	-	-
Asia	9,434	57	-	-	-
Australia and Oceania	3,552	-	-	-	-
Africa	11,345	-	-	-	-
Exported to Developing Countries July 1975-Mar. 1976	58.0%				

1/ The data in this table with respect to "Unfilled Contracts" is based on information obtained from exporters by the Office of Export Administration subject to the confidentiality provisions of the Export Administration Act of 1969, as amended. In a number of instances only one exporter is involved in exports of a stated commodity to a particular country. Therefore, the publication of the data by country of destination could effectively reveal information required to be held confidential. Accordingly, in order to maintain the confidentiality of the information supplied by exporters, this data is published by the area of destination.

2/ Includes fertilizer and other grades of anhydrous ammonia.

3/ Includes fertilizer and other grades of phosphoric acid (100% APA)

Sources:
Actual Exports: Bureau of the Census, U.S. Department of Commerce.
Unfilled Contracts: Office of Export Administration, U.S. Department of Commerce.

[FR Doc.76-24260 Filed 8-18-76;8:45 am]

V 41 162 AUG 19 76 UM

Advance Orders are now being Accepted
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_____	Title 32—National Defense (Part 1600–end)	022–003–93241–1	1.95	_____
_____	Title 32—National Defense (Part 400–589)	022–003–93235–6	5.20	_____
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163

Vol.41–No.163
8–20–76

PAGES
35155–35475

federal register

FRIDAY, AUGUST 20, 1976

highlights

PART I:

MEDICARE

HEW/SSA proposal relating to reimbursement to providers for depreciation based on asset costs; comments by 10–4–76 35197

EMPLOYMENT TAXES

Treasury/IRS issues regulations relating to discharge of liens and tax liability of third parties paying or providing for wages 35174

COMPREHENSIVE EMPLOYMENT AND TRAINING

Labor/ETA issues guidelines for review of Title I grant applications for FY '77 35245

AUDIOVISUAL PRODUCTION SERVICES

OMB issues description of proposed procurement system; comments by 10–25–76 35237

AIR CARRIERS

CAB amends passenger list filing procedures for One-stop-Inclusive Tour charters, Travel Group Charters, and issues technical amendments (4 documents); effective 9–20–76 ..... 35158, 35160

CAB expands definition of "immediate family" for overseas military personnel charters; effective 9–20–76 35157

EMISSIONS MONITORING

EPA revises rule to allow manufacturers to apply for approval of alternative procedures or requirements; effective 8–20–76 35185

FOOD ADDITIVES

HEW/FDA provides for safe use of certain chemicals as component of food-packaging adhesives and as optical brighteners in certain articles intended to contact food (2 documents); effective 8–20–76 35170

RADIOACTIVE NEW DRUGS AND BIOLOGICS

HEW/FDA extends time for continued commercial distribution pending final approval; effective 8–20–76 35171

FELLOWSHIP GRANTS

NFAH/NEA issues guidelines and deadline dates under the Literature Program 35233

FINANCIAL REPORTING

SEC publishes Staff Accounting Bulletin No. 10 35163

BROKER-DEALERS (SECO)

SEC adopts fee and assessment schedule for FY 1976 35167

CONTINUED INSIDE

V41 1 63 AUG 20 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FRS—Securities credit by persons other than banks, brokers and dealers; registration, termination of registration, and reporting requirements..... .... 30007; 7–21–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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TEMPORARY FOREIGN AGRICULTURAL LABOR

Labor/ETA revises regulations applicable to importation of aliens and sets wage rates; effective 9–20–76..... 35169

PRIVACY ACT OF 1974

The following agencies issue documents on implementation:
- Commerce Department..... 35205
- Railroad Retirement Board..... 35235

MEETINGS—
- Citizens' Advisory Committee on Environmental Quality, 9–24–76..... 35209
- CRC: Advisory Committees:
  - Kansas, 9–25–76..... 35209
  - Massachusetts, 9–23–76..... 35209
  - Montana, 9–25–76..... 35209
  - New York, 9–17 and 9–18–76..... 35210
  - Oklahoma, 9–11–76..... 35210
- DOD/AF: Tactical Electronic Warfare Committee, Scientific Advisory Board, 9–15 and 9–16–76 35201
- Army: Armed Forces Institute of Pathology, Scientific Advisory Board, 9–16 and 9–17–76..... 35201
- Chief of Engineers Environmental Advisory Board, 9–9–76 35201
- Economic Opportunity National Advisory Council, 9–17–76 35233
- Education of Disadvantaged Children National Advisory Council, 9–10 and 9–11–76..... 35233
- HEW: Education Statistics Advisory Council, 9–14–76.. 35208
- NIH: Allergy and Immunology Subcommittee of the National Advisory Allergy and Infectious Diseases Council, 9–29–76..... 35206
- Blood Diseases and Resources Advisory Committee, 11–8 and 11–9–76..... 35208
- Dental Research National Advisory Council, 10–4 and 10–5–76..... 35206
- General Medical Sciences National Advisory Council, 10–6 and 10–7–76..... 35207
- National Arthritis, Metabolism, and Digestive Diseases Advisory Council, 9–15 through 9–17–76 35206
- National Heart, Lung, and Blood Institute Board of Scientific Counselors, 11–5 and 11–6–76.... 35207
- Neurological Disorders Program-Project Review A and B Committee, 10–14 through 10–16–76 35207
- SEC: Report Coordinating Group (Advisory), 9–16–76.. 35239
- Wage and Price Stability Council and National Center for Productivity and Quality of Working Life, 9–8–76 35213

CANCELLED MEETING—
- CRC: Michigan Advisory Committee, 8–20–76..... 35209

PART II:

MEDICAL DEVICES

HEW/FDA proposes procedures and conditions for exemptions to permit investigational studies concerning safety and effectiveness (2 documents); comments by 10–19–76 35281

PART III:

MINIMUM WAGES

Labor/ESA general wage determinations for Federal and federally assisted construction..... 35315

contents

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Calif. and Ariz.. 35156

Proposed Rules

Lemons grown in Calif. and Ariz.. 35187
Milk marketing orders:
- Ohio Valley area..... 35194
- Upper Florida, Tampa Bay and Southeastern Florida area... 35187

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service; Rural Electrification Administration.

AIR FORCE DEPARTMENT

Notices

Meetings:
- USAF Scientific Advisory Board.. 35201

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Livestock and poultry quarantine:
- Hog cholera..... 35156

ARMY DEPARTMENT

Notices

Meetings:
- Armed Forces Institute of Pathology's Scientific Advisory Board 35201
- Chief of Engineers Environmental Advisory Board..... 35201

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Grants, guidelines for:
- Literature Program..... 35233

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list 1976; additions and deletions (2 documents)... 35210

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Notices

Meeting 35209

CIVIL AERONAUTICS BOARD

Rules

Charters:
- Inclusive tour..... 35160
- One-stop inclusive tour; passenger list filing procedures..... 35160
- Overseas military personnel; expansion of definition of "immediate family"..... 35157
- Study group by direct air carriers and study group charterers 35160
- Travel group; passenger list filing procedures..... 35158

Notices

Hearings, etc.:
- Garuda Indonesian Airways... 35209

CIVIL RIGHTS COMMISSION

Notices

Meetings, State Advisory Committees:
- Kansas 35209
- Massachussetts 35209
- Michigan, cancellation..... 35209
- Montana 35209
- New York..... 35210
- Oklahoma 35210

V41163 AUG 20 76 UMI

V 41 163

CONTENTS

CIVIL SERVICE COMMISSION

Rules

Excepted service:
- Defense Department ... 35155
- Health, Education, and Welfare Department ... 35155
- State Department ... 35155
- Transportation Department ... 35155

Notices

Noncareer executive assignments:
- Agriculture Department (3 documents) ... 35210

COMMERCE DEPARTMENT

See also Domestic and International Business Administration.

Notices

Privacy Act; consolidated system of records ... 35205

DEFENSE DEPARTMENT

See Air Force Department; Army Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry;
- Cornell University ... 35204
- Stanford University ... 35204

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

Notices

Meeting ... 35233

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL

Notices

Meeting ... 35233

EMPLOYEE BENEFITS SECURITY OFFICE

Notices

Employee benefit plans; proposed alternative method of compliance ... 35243

EMPLOYMENT AND TRAINING ADMINISTRATION

Rules

Temporary foreign agricultural labor; wage rates ... 35169

Notices

CETA Title I grant application review guidelines ... 35245

Employment transfer and business competition determinations; financial assistance applications ... 35254

Unemployment compensation, emergency:
- Federal supplemental benefits; ending periods:
  - Minnesota ... 35255
  - Utah ... 35255

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions ... 35316

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollution; standards of performance for new stationary sources:
- Emission monitoring requirements; revision ... 35185

Air quality implementation plans:
- Georgia ... 35184

Notices

Food additive petitions:
- Monsanto Agricultural Products Co. (2 documents) ... 35216

Pesticide applicator certification; State plans:
- New Mexico ... 35214

Pesticide chemicals, etc.; petitions:
- Nalco Chemical Co ... 35216

Pesticides; specific exemptions and experimental use permits:
- Corps of Engineers; 2,4-D on alligatorweed ... 35215

Water pollution control; effluent standards for toxic pollutants; availability of reports ... 35217

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc. (2 documents) ... 35211, 35213

FARMERS HOME ADMINISTRATION

Notices

Disaster areas:
- Wisconsin ... 35203

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules

Procedure and rules of practice:
- Reconsideration of denied applications, petitions, or requests ... 35157

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood insurance program, National:
- Special hazard areas; map correction (14 documents) ... 35171–35174

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
- Knopf Shipping Co., Inc ... 35217

FEDERAL POWER COMMISSION

Notices

Natural gas companies:
- Jurisdictional sales, rates ... 35229

Hearings, etc.:
- Cities Service Gas Co ... 35217
- Distrigas Corp. and Distrigas of Massachusetts ... 35217
- Duke Power Co ... 35218
- Equitable Gas Co ... 35218
- Essex Co., et al ... 35219
- Hatch, Edwin I ... 35218
- Illinois Municipal Utilities Association, et al ... 35221
- Kansas City Power & Light Co ... 35222
- Kansas Gas and Electric Co ... 35230
- Kansas-Nebraska Natural Gas Co., Inc ... 35222
- Kentucky Utilities Co ... 35223
- Lawrenceburg Gas Transmission Corp ... 35230
- Louisiana-Nevada Transit Co ... 35231
- Michigan Power Co ... 35223
- Michigan Wisconsin Pipe Line Co. ... 35225
- Mississippi River Transmission Corp. ... 35224
- Minnesota Power and Light Co. (2 documents) ... 35225
- Monongahela Power Co ... 35225
- Natural Gas Pipeline Co ... 35231
- Natural Gas Pipeline Company of America ... 35226
- Pennsylvania Power & Light Co ... 35227
- Southern Indiana Gas and Electric Co ... 35227
- Southern Natural Gas Co., et al ... 35228
- Southwest Gas Corp ... 35228
- Tennessee Gas Pipeline Co ... 35228
- Texas Eastern Transmission Corp. ... 35231
- Transcontinental Gas Pipe Line Corp. ... 35228
- United Gas Pipe Line Co ... 35229
- Utah Gas Service Co ... 35229

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
- Bank Land Co ... 35231
- Texarkana National Bancshares, Inc ... 35232

FOOD AND DRUG ADMINISTRATION

Rules

Food additives:
- Adhesives ... 35170
- Olefin polymers ... 35170

New drugs:
- Radioactive drugs and radioactive biologics; extension of time for continued commercial distribution ... 35171

Proposed Rules

Medical devices; proposed investigational device exemptions (2 documents) ... 35282

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- West Kootenai Planning Unit, Mont ... 35203

GENERAL ACCOUNTING OFFICE

Rules

General procedures:
- Recognition of attorneys and other representatives ... 35155

Notices

Regulatory reports review; proposals, approvals, etc ... 35232

GENERAL SERVICES ADMINISTRATION

Notices

Edward A. Garmatz Federal Building; sculpture ... 35232

Maryland Public Service Commission and Potomac Electric Power Co.; electric rate increase ... 35232

CONTENTS

GEOLOGICAL SURVEY

Notices

Geothermal resources areas; operations, etc.:
- California ... 35202

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; National Institutes of Health; Social Security Administration.

Notices

Meetings:
- Education Statistics Advisory Council ... 35208

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration; Interstate Land Sales Registration Office.

INTERIOR DEPARTMENT

See Geological Survey; Land Management Bureau; National Park Service.

INTERNAL REVENUE SERVICE

Rules

Employment taxes:
- Discharge of liens; liability of third parties paying or providing for wages ... 35174

INTERSTATE COMMERCE COMMISSION

Notices

Abandonment of railroad services, etc.:
- Kansas City Southern Railway Co. ... 35261

Hearing assignments ... 35261

Motor carriers:
- Temporary authority applications ... 35261

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
- Willow Valley (Mobile Home) Estates ... 35208
- Woodhaven Lakes ... 35208

JUSTICE DEPARTMENT

Rules

Organization and functions:
- Parole Commission ... 35183

LABOR DEPARTMENT

See also Employee Benefits Security Office; Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Rules

Procurement:
- Board of Contract Appeals; composition of ... 35186

Notices

Honey; adjustment assistance determination ... 35257

Adjustment assistance:
- Bethelehem Steel Corp ... 35256
- Modulus Corp ... 35257
- Nyanza, Inc ... 35257
- Richmond Screw Anchor Co ... 35258
- Titanium Pigments Division, N.L. Industries, Inc ... 35258
- Torrington Co ... 35259
- United Tool & Die, Inc ... 35260
- Wilkinson and Son, Inc ... 35260

LAND MANAGEMENT BUREAU

Notices

Authority delegations:
- Montana State Director ... 35201

MANAGEMENT AND BUDGET OFFICE

Notices

Audiovisual production services; procurement ... 35237

Socio-economic programs; recommendations ... 35237

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
- Allergy and Infectious Diseases Council ... 35206
- Arthritis, Metabolism, and Digestive Diseases Advisory Council ... 35206
- Blood Diseases and Resources Advisory Council ... 35208
- Cancer Institutional Fellowship Temporary Review Committee ... 35206
- Dental Research National Advisory Council ... 35206
- General Medical Sciences Advisory Council ... 35207
- Neurological Disorders Program—Project Review Committees A and B (2 documents) ... 35207
- Scientific Counselors Board ... 35207

NATIONAL PARK SERVICE

Notices

Authority delegations:
- Denver Service Center, Manager ... 35202
- Harpers Ferry Center, Manager ... 35202
- National Capital Parks, Director ... 35202
- Regional Directors ... 35203

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety standards:
- Carcinogens and exposure to 4,4' methylene bis (2 - chloroaniline) ... 35184

Proposed Rules

Environmental statements; availability, etc.:
- Coke oven emissions, exposure ... 35200

PRODUCTIVITY AND QUALITY OF WORKING LIFE, NATIONAL CENTER

Notices

Cross reference ... 35233

RAILROAD RETIREMENT BOARD

Notices

Privacy Act of 1974; routine uses ... 35238

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Environmental statements; availability, etc.:
- Sunflower Electric Cooperative, Inc
- Tri-County Electric Association, Inc. ... 35204

Loan guarantees proposed:
- Tri-State Generation and Transmission Association, Inc ... 35203

SECURITIES AND EXCHANGE COMMISSION

Rules

Interpretative releases:
- Staff accounting bulletins No. 10 ... 35163

Securities Act:
- SECO fees and assessments; modification of ... 35167

Notices

Meetings
- Report Coordinating Group ... 35239

Hearings, etc.:
- Chicago Board Options Exchange, Inc ... 35239
- Consolidated Natural Gas Co ... 35239
- Equitable Variable Life Insurance Co., et al ... 35240
- Middle South Utilities, Inc. and Arkansas Power and Light Co ... 35241
- Midwest Stock Exchange, Inc. (3 documents) ... 35241, 35242
- Philadelphia Stock Exchange, Inc ... 35242
- Trinwall Cash Reserves, Inc ... 35242

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Aged and disabled, health insurance for:
- Reimbursement for provider costs; depreciation; allowance based on asset costs ... 35197

TREASURY DEPARTMENT

See Internal Revenue Service.

WAGE AND PRICE STABILITY COUNCIL

Notices

Meetings:
- Study of Federal Regulation of Steel Industry ... 35213

AUG 20 76 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

4 CFR
1 ---- 35155

5 CFR
213 (4 documents) ---- 35155

7 CFR
910 ---- 35156
PROPOSED RULES:
910 ---- 35187
1006 ---- 35187
1012 ---- 35187
1013 ---- 35187
1033 ---- 35194

9 CFR
76 ---- 35156

12 CFR
303 ---- 35156

14 CFR
372 ---- 35157
372a ---- 35158
373 ---- 35160
378 ---- 35160
378a ---- 35160

17 CFR
211 ---- 35163
240 ---- 35167
249 ---- 35167

20 CFR
602 ---- 35169
PROPOSED RULES:
405 ---- 35197

21 CFR
121 (2 documents) ---- 35170
310 ---- 35171
PROPOSED RULES:
4 ---- 35282
6 ---- 35282
801 ---- 35282
812 ---- 35282

24 CFR
1920 (14 documents) ---- 35171–35174

26 CFR
31 ---- 35174
301 ---- 35174

28 CFR
0 ---- 35183

29 CFR
1910 ---- 35185
PROPOSED RULES:
1910 ---- 35200

40 CFR
52 ---- 35184
60 ---- 35184

41 CFR
29–60 ---- 35186

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(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR
PROPOSED RULES:
18 ---- 32861

3 CFR
PROCLAMATIONS:
3279 (See EO 11930) ---- 32399
EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ---- 34035
October 19, 1911 (Revoked in part by PLO 5598) ---- 34035
April 16, 1912 (Revoked in part by PLO 5598) ---- 34035
October 27, 1914 (Revoked in part by PLO 5598) ---- 34035
6276 (Revoked in part by PLO 5596) ---- 33267
11652 (See EO 11932) ---- 32691
11790 (See EO 11930) ---- 32399
11814 (See EO 11930) ---- 32399
11912 (See EO 11930) ---- 32399
11930 ---- 32399
11931 ---- 32689
11932 ---- 32691
DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ---- 32693
July 30, 1976 ---- 32693
MEMORANDUMS:
July 19, 1976 ---- 32403

4 CFR
1 ---- 35155

5 CFR
213 ---- 32892, 33545, 34246, 34731, 35155
591 ---- 32892

7 CFR
35 ---- 32877
52 ---- 32222, 34751
108 ---- 34005
105 ---- 34005
106 ---- 34005
108 ---- 34006
111 ---- 34006
220 ---- 32405, 34757
235 ---- 32405
271 ---- 34760
331 ---- 32229, 32409
409 ---- 34973
722 ---- 32878
790 ---- 34247
791 ---- 34247
905 ---- 34248
908 ---- 32229, 32695, 34006, 35053
910 ---- 32878, 34248, 35156
915 ---- 34973
916 ---- 32410
917 ---- 32410–32411, 34762
926 ---- 34007
944 ---- 34762
947 ---- 32230, 32695
982 ---- 34974
989 ---- 32412
1012 ---- 32417

7 CFR—Continued
1099 ---- 32575
1124 ---- 32418
1421 ---- 32879
1430 ---- 32881
1472 ---- 34248
1701 ---- 33546
1806 ---- 34571
1821 ---- 32575
1822 ---- 34577, 34578
1831 ---- 32575, 32697
1861 ---- 32576
1871 ---- 32576
1872 ---- 32577, 32578
1890c ---- 32578
1901 ---- 34583
1955 ---- 32697
PROPOSED RULES:
16 ---- 34777, 34977, 35072
47 ---- 32231
51 ---- 32896
909 ---- 32234
910 ---- 33922, 35187
911 ---- 34049
919 ---- 32234
926 ---- 34647
927 ---- 34050
930 ---- 32606
931 ---- 32757
946 ---- 32758
953 ---- 34766
981 ---- 34647
991 ---- 34648
993 ---- 33275
1004 ---- 34282
1006 ---- 35187
1007 ---- 33275
1011 ---- 33275, 34444
1012 ---- 35187
1013 ---- 35187
1030 ---- 33275
1032 ---- 33275
1033 ---- 34444, 35194
1046 ---- 33275
1049 ---- 33275
1050 ---- 33275
1062 ---- 33275
1063 ---- 33275
1064 ---- 33275
1065 ---- 33275
1068 ---- 33275
1070 ---- 33275
1071 ---- 33275
1073 ---- 33275
1076 ---- 33275
1078 ---- 33275
1079 ---- 33275
1090 ---- 33275, 34444
1094 ---- 33275
1096 ---- 33275
1097 ---- 33275
1098 ---- 33275
1099 ---- 33275
1101 ---- 33275, 34444
1102 ---- 33275
1104 ---- 33275
1106 ---- 33275
1108 ---- 33275
1120 ---- 33275
1124 ---- 34286
1126 ---- 33275

7 CFR—Continued
PROPOSED RULES—Continued
1131 ---- 33275
1132 ---- 33275
1138 ---- 33275
1207 ---- 32606
1260 ---- 34772
1430 ---- 32899
1701 ---- 22419
1801 ---- 33561
1813 ---- 33922
1823 ---- 34767
1861 ---- 33561
1980 ---- 33561

8 CFR
100 ---- 32419, 34937
103 ---- 34937
316a ---- 34938

9 CFR
73 ---- 32882, 34731
76 ---- 32882, 35156
83 ---- 32432
113 ---- 32882
201 ---- 34007
PROPOSED RULES:
327 ---- 34293

10 CFR
35 ---- 34635
211 ---- 33881
212 ---- 34008
700 ---- 34731
735 ---- 34731
PROPOSED RULES:
9 ---- 35073
205 ---- 34783, 34981
210 ---- 34784
211 ---- 34784
212 ---- 33282, 34060, 34784
705 ---- 34778

12 CFR
217 ---- 32578
220 ---- 34938
303 ---- 35156
561 ---- 32419
563 ---- 32419
611 ---- 33546
615 ---- 33547
618 ---- 33547
PROPOSED RULES:
16 ---- 32864
225 ---- 33306
584 ---- 33566

13 CFR
105 ---- 33547
120 ---- 33245
122 ---- 33549
PROPOSED RULES:
120 ---- 33567

14 CFR
13 ---- 32205
36 ---- 35053
37 ---- 35070

V 41 I 163 AUG 20 76 UMI

14 CFR—Continued

39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160

PROPOSED RULES:

39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073
73 ... 34077, 34650
75 ... 34077
93 ... 35073
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941
15 ... 34594
433 ... 34594

PROPOSED RULES:

456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060
200 ... 32736
210 ... 32737
211 ... 35163
240 ... 35167
249 ... 35167

PROPOSED RULES:

239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:

1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:

1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
602 ... 35169

PROPOSED RULES:

404 ... 34060
405 ... 35197
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743
520 ... 32889
522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
640 ... 35062
701 ... 32583

PROPOSED RULES:

1 ... 34051
4 ... 35282
6 ... 35282
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

102 ... 34743
606 ... 33550

PROPOSED RULES:

130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:

658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608
300 ... 34611
886 ... 32686
1914 ... 32216, 32738, 33551, 34943
1915 ... 33911
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066
1920 ... 33260–33262, 34611–34618, 35171–35174
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:

201 ... 32564
205 ... 34977
570 ... 34301
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR

41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:

41 ... 32756
221 ... 32757

26 CFR

1 ... 33262, 34025, 34619
20 ... 34627
25 ... 34628
31 ... 35174
141 ... 32889, 32890
301 ... 34025, 35174

PROPOSED RULES:

1 ... 33285
31 ... 32231
54 ... 32895

28 CFR

0 ... 35183
16 ... 32423
20 ... 34949

29 CFR

699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741

PROPOSED RULES:

1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298
2200 ... 34657

30 CFR

55 ... 33263
56 ... 33263
57 ... 33263

31 CFR

PROPOSED RULES:

210 ... 32605

32 CFR

581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:

505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR

117 ... 32217, 34034
127 ... 32742, 35066
207 ... 34034

PROPOSED RULES:

110 ... 34649
117 ... 32238
161 ... 32758

34 CFR

PROPOSED RULES:

Ch. I ... 34324

35 CFR

PROPOSED RULES:

133 ... 33307

36 CFR

7 ... 33263
50 ... 34748

38 CFR

4 ... 34256
21 ... 32217
36 ... 32218

PROPOSED RULES:

1 ... 32247

39 CFR

3002 ... 32742

PROPOSED RULES:

3003 ... 34792

40 CFR

52 ... 32743, 32890, 34259, 34749, 35184
60 ... 33264, 34628, 35184
61 ... 33264, 34629
87 ... 34722
180 ... 32426, 33265, 34629
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440

PROPOSED RULES:

52 ... 32241, 34422, 34782
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613

40 CFR—Continued

PROPOSED RULES—Continued

420 ... 32242
434 ... 34441

41 CFR

1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
28–1 ... 32428
29–60 ... 35186
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634

PROPOSED RULES:

3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR

51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR

419 ... 32427
2650 ... 33267
3302 ... 32891

PUBLIC LAND ORDERS:

5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267
5597 ... 33267
5598 ... 34035
5599 ... 34749
5600 ... 35067
5601 ... 35067

PROPOSED RULES:

232 ... 34299
302 ... 34298
2800 ... 34977

45 CFR

115 ... 34962
121d ... 33558
177 ... 33268
190 ... 33868
801 ... 33559
1069 ... 33268

PROPOSED RULES:

73b ... 32235
146 ... 34052
190 ... 33962

46 CFR

91 ... 32744
252 ... 32589
536 ... 32590

PROPOSED RULES:

93 ... 32237
180 ... 35072
531 ... 32899

47 CFR

0 ... 33272
1 ... 33885, 33895, 34259
2 ... 32680, 33885
15 ... 32590
19 ... 32891
21 ... 33269, 33885, 33895
73 ... 32219, 32220, 32891, 33270, 33559, 33560, 35068
74 ... 32429, 32593, 35068
76 ... 32429, 34963, 35068
78 ... 32429
83 ... 32220
89 ... 32680, 33902
91 ... 32680, 33889, 33903, 35068
93 ... 32682, 33907
95 ... 32682

PROPOSED RULES:

0 ... 33563
2 ... 32434
13 ... 32434
15 ... 34323
63 ... 33280
64 ... 33563
73 ... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980
76 ... 32381, 34930
81 ... 32434, 33281, 34790
83 ... 32434, 33281, 34790
87 ... 32242

49 CFR

81 ... 32593
192 ... 34598
195 ... 34035
390 ... 34968
571 ... 32221
575 ... 34607
581 ... 35068
613 ... 33443
1033 ... 32221, 32429, 32430, 34607, 35068
1038 ... 32594
1109 ... 32744
1124 ... 34260
1127 ... 32546
1201 ... 32595
1202 ... 32596
1203 ... 32596
1204 ... 32597
1205 ... 32597
1206 ... 32598
1207 ... 32599
1208 ... 32601
1209 ... 32601
1210 ... 32602
1307 ... 34260

PROPOSED RULES:

266 ... 33354
571 ... 33280
801 ... 34082
1067 ... 33307
1109 ... 32434
1201 ... 33016
1241 ... 33016
1243 ... 33016

V 41 1 163
AUG 20 76
UMI

50 CFR

20	34041
28	32602
32	32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069
33	32222, 32431, 32603, 32755
217	34969
222	34969
240	34047
285	32603

PROPOSED RULES:

17	32896, 33922
20	34273
26	32433
32	34049
222	33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	34005–34233	12
32399–32574	3	32239–34570	13
32575–32688	4	34571–34730	16
32689–32875	5	34731–34935	17
32877–33244	6	34937–35051	18
33245–33543	9	35053–35153	19
33545–33880	10	35155–35475	20
33881–34003	11		

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER A—GENERAL PROCEDURES

PART 1—RECOGNITION OF ATTORNEYS AND OTHER REPRESENTATIVES

The regulations governing the recognition of persons representing others before the General Accounting Office are being revised to eliminate the registration committee and the complaint proceedings. Specific procedures are prescribed for revocation of representations.

Part 1 is revised to read as follows:

Sec.
1.1 Right to representation before the General Accounting Office.
1.2 Practice by attorneys.
1.3 Authority to represent in payment cases.
1.4 Authority to represent in other cases.
1.5 Revocation of authority to represent.

AUTHORITY: Sec. 311, 42 Stat. 25, as amended; (31 U.S.C. 52)

§ 1.1 Right to representation before the General Accounting Office.

Each person having a claim or other rights assertable in the General Accounting Office may pursue such claim or right individually or through an attorney or other representative.

§ 1.2 Practice by attorneys.

Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State, territory, or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the General Accounting Office.

§ 1.3 Authority to represent in payment cases.

In the prosecution of claims involving payments to be made by the United States, a proper power of attorney is required before an attorney or other representative may be recognized. A power of attorney from the principal may also be requested in other cases.

§ 1.4 Authority to represent in other cases.

When an attorney acting in a representative capacity appears in person or signs a document submitted to the General Accounting Office in connection with a matter other than one involving a payment to be made by the United States, his personal appearance or signature shall constitute a representation that he is authorized and qualified to represent the particular party in whose behalf he acts. In the case of representatives other than attorneys, a simple written declaration from the principal will be accepted as evidence of the authority of the representative to act on behalf of the principal.

§ 1.5 Revocation of authority to represent.

Prior to the conclusion of action by the General Accounting Office on a matter in which a principal is represented by another person whose authority to act is established under either § 1.3 or § 1.4, the principal may revoke the authority of his representative. Such revocation is not effective unless it is in writing and signed by the principal and until the written revocation is received by the General Accounting Office. Upon notification of the death of the principal during the pendency of any matter involving representation of the principal by an attorney or other party, the General Accounting Office will consider the representative's authority to have been automatically revoked.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.76-24455 Filed 8-19-76;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to reflect a title change from one Confidential Assistant to the Special Assistant to the Secretary, to one Staff Assistant to the Special Assistant to the Secretary.

Effective on August 20, 1976, § 213.3306 (a) (69) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(69) One Staff Assistant to the Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24458 Filed 8-19-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Assistant to the Secretary is excepted under Schedule C.

Effective on August 20, 1976, § 213.3316 (a) (13) is amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* • • •

(13) Five Assistants to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24456 Filed 8-19-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Secretary (Stenography) to the Chief of Protocol is excepted under Schedule C.

Effective on August 20, 1976, § 213.3304 (a) (23) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(23) One Secretary (Stenography) to the Chief of Protocol.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24457 Filed 8-19-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Private Secretary to the Chief Counsel is excepted under Schedule C.

Effective on August 20, 1976, § 213.3394 (h) (4) is added as set out below:

§ 213.3394 Department of Transportation.

• • • • • •

(h) *Federal Aviation Administration.*

• • •

(4) One Private Secretary to the Chief Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24459 Filed 8-19-76;8:45 am]

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Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 53]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 22–28, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.353 Lemon Regulation 53.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is good for first grade fruit but continues to ease for the lower grade lemons. Average f.o.b. price was $6.51 per carton the week ended August 14, 1976 compared to $6.40 per carton the previous week. Track and rolling supplies at 145 cars were down 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 17, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 22, 1976, through August 28, 1976, is hereby fixed at 250,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated:

????????

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76– Filed –76;]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

• *Purpose.* The purpose of this amendment is to exclude Monmouth, Middlesex, Union, Hudson, Essex, Bergen, Passaic, Morris, Somerset, Hunterdon, Warren, and Sussex Counties in New Jersey from the areas quarantined because of hog cholera. •

This amendment excludes Monmouth, Middlesex, Union, Hudson, Essex, Bergen, Passaic, Morris, Somerset, Hunterdon, Warren, and Sussex Counties in New Jersey from the areas quarantined by the regulations in 9 CFR Part 76, as amended, because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases is hereby amended in the following respect:

In § 76.2, paragraph (e) (4) relating to the State of New Jersey is amended to read:

§ 76.2 Notice relating to existence of the contagion or vectors of hog cholera and other swine diseases; prohibition of movement of any hog cholera virus, exceptions; spread of disease through raw garbage; regulations; quarantines.

• • • • • •

(e) • • •

(4) *New Jersey.* All of Mercer, Ocean, Burlington, Atlantic, Camden, Gloucester, Salem, Cumberland, and Cape May Counties.

• • • • • •

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendment shall become effective August 13, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of August 1976.

J. M. HEJL,
Deputy Administrator, Veterinary Services.

[FR Doc.76–24297 Filed 8–19–76;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Procedures for the Reconsideration of Denied Applications, Petitions, or Requests

Part 303 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR Part 303) prescribes the Corporation's procedures for processing applications, petitions, and requests made to it. Although that part of the rules and regulations prescribes no formal procedures for the reconsideration of applications, petitions, or requests which have been denied, the Corporation's Board of Directors has customarily allowed an applicant to request reconsideration of such an application, petition, or request and, in connection therewith, to request an opportunity to amend such application, petition, or request or to submit information in rebuttal of the denial, either in writing or in the form of an oral presentation before one or more representatives of the Corporation designated for that purpose.

The Board of Directors has now decided that Part 303 of the Corporation's rules and regulations should be amended so as to prescribe a formal procedure whereby all applicants, rather than merely those requesting it, may petition for the reconsideration of an application, petition, or request which has been denied by the Board of Directors. Accordingly, § 303.10 of the Corporation's rules and regulations is hereby amended by adding a new paragraph (e) thereto to read as follows:

§ 303.10 Procedure on applications.

• • • • • •

(e) *Opportunity to petition for reconsideration of a denied application, petition, or request.* Within 15 days of its receipt of notice that its application, petition, or other request has been denied, any applicant may petition the Board of Directors for reconsideration of such application, petition, or request (except an application, petition, or request already previously denied upon reconsideration) and, in connection therewith, may request an opportunity to amend its application, petition, or request or to submit information in rebuttal of the denial, either in writing or in the form of an oral presentation before one or more representatives of the Corporation designated for that purpose. Upon the filing of such petition for reconsideration, the applicant shall be given 60 days in which to amend its application, petition, or request or to make its presentation to the Corporation. If the applicant requests an opportunity to make an oral presentation, it shall be advised of the date, time, place, and person or persons before whom such presentation shall be made.

Since the amendment relates to the internal practice and procedures of the Corporation and expands rather than restricts the existing rights of applicants, the provisions of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection therewith.

Effective date: This amendment is effective August 20, 1976.

By order of the Board of Directors, August 17, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Assistant Executive Secretary.

[FR Doc.76–24449 Filed 8–19–76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR–109, Amdt. 6]

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

Expansion of Definition of "Immediate Family"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 16, 1976.

In SPDR–43 (41 FR 12904, March 29, 1976), the Board issued a notice of proposed rulemaking to amend Part 372 of its Special Regulations (14 CFR Part 372) so as to broaden the definition of the "immediate family" of military and Department of Defense personnel eligible for participation in Overseas Military Personnel Charters (OMPC). Specifically, the proposed rule would include in the "immediate family" the parents-in-law of the eligible member and the minor children of both the parents and parents-in-law, and it would define "minor children" as children under 18.

Thirteen formal comments were filed[1] and more than 200 individuals participated by filing letter comments in this docket. Most of the individual comments favored the adoption of the proposal as did formal comments by American Express Company, Capitol International Airways, Inc., the CAB Office of the Consumer Advocate, the Department of Defense, the Fleet Reserve Association, the Non Commissioned Officers Association of the United States of America, Overseas National Airways, Inc., Pathfinder Corporation, Shoftour, Inc., and United Air Lines, Inc. Several letter comments and formal comments filed by Davis Agency, Inc., Lufthansa German Airlines, and Pan American World Airways, Inc. proposed modifications. A few letter comments opposing the rule were received.

Upon consideration, the Board has decided to adopt the rule as proposed, but with one modification and an editorial revision to avoid unnecessary repetition. The tentative findings and conclusions set forth in SPDR–43 are made final, and except to the extent granted herein, all requests contained in the comments are denied.

The majority of comments received urged that the Board liberalize the eligibility criteria for OMPC's, stating that while the number of people affected by the proposed change would be small, the benefits to morale, particularly the morale of service and DOD wives, would be great. Two letter comments questioned the need for any age or dependency test for siblings and siblings-in-law, stating that the purposes of morale and family reunions are better served when siblings and siblings-in-law can participate in OMPC's without restriction.

Three formal comments and several letter comments urged some narrowing of the Board's proposed eligibility criteria. Pan American proposed that all immediate family members be actual dependents and that thorough documentation of eligibility, such as Department of Defense Form No. 1580, be required. Davis Agency supported the inclusion of parents-in-law, but urged that the eligibility for siblings be stated as "dependent" rather than "minor" children. Lufthansa, while supporting the expansion of OMPC availability to parents-in-law, opposed the inclusion of siblings and siblings-in-law on the basis that these persons are not really part of military or DOD "immediate families," and that inclusion of these groups would exacerbate enforcement problems and threaten scheduled service. Additionally, Lufthansa stated that German Federal Ministry of Transport regulations preclude eligibility for siblings and siblings-in-law.

Upon consideration, the Board has decided to allow in unrestricted form the eligibility of parents-in-law and to delete the reference to "minor" children of parents and parents-in-law, thus allowing participation by all siblings and siblings-in-law regardless of age or dependency.

In establishing OMPC's and the eligibility criteria for participants and their families (SPR–54, 37 FR 11159, June 3, 1972), the Board has considered the morale and other needs of military and DOD personnel, the distinction between charter and individually ticketed services, the question of unjust discrimination against those persons who continue to be ineligible for OMPC's, and any possible enforcement problems of charter participants whose names and addresses differ from the person upon whom eligibility is based.

In this context, the benefits of allowing unrestricted participation by parents-in-law, siblings, and siblings-in-law outweigh countervailing considerations. Pan American's proposed limitation to dependent-in-fact "immediate family"

[1] Comments on SPDR–43 were due on April 28, 1976. On May 5, 1976 United Air Lines, Inc., pursuant to Rule 4(f) of the Board's rules of practice (14 CFR Part 302), submitted a motion for leave to file its comments past the due date. United certified that it had served copies of its comments on all those persons filing comments in this docket. No objections have been received. We have determined that acceptance of United's comments will not prejudice any party to this proceeding and in these circumstances hereby grant United's motion for leave to file an otherwise unauthorized document.

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members, and Lufthansa's suggestion that siblings and siblings-in-law should not be considered part of the immediate family, are inconsistent with the morale-building purpose of OMPC's. No sufficient justification has been presented for distinguishing between "minor" and "dependent" siblings or siblings-in-law for purposes of this regulation. It is found that the benefits to morale of family reunions without arbitrary cutoffs of a family member's participation at age 18 are substantial, and justify broadening the class of eligible participants.

Lufthansa's contention that the increase in the number of individuals eligible for OMPC's will cause enforcement problems is not substantiated by the information presently available. As pointed out in the proposal, current problems resulting from different last names seem to be minimal, and in any event would not be significantly increased by allowing siblings and siblings-in-law to participate. Also, the information available to the Board does not support Lufthansa's concern that OMPC's have had a substantial effect on scheduled service. Lufthansa's third contention regarding German Federal Republic charter regulations is also not persuasive. A prospective conflict between Board regulations and those of another country does not compel rejection of a proposed amendment. While there is substantial OMPC traffic to West Germany, OMPC's are not restricted to that country, and it is possible that this amendment might lead to a similar amendment in German Federal Republic regulations.

A few letter comments opposed the rule on the grounds that current regulations are not enforced, or on the basis that military retirees are more appropriate beneficiaries of OMPC's than parents-in-law. The Board is not aware of widespread evasions of the OMPC regulations, and does not intend to allow violations to take place without enforcement action. Any person with knowledge of apparent violations of current regulations is invited to file complaints with the Board. With respect to the argument for retirees' eligibility for OMPC's, such eligibility is conditioned on a currently existing relationship to active military service or DOD employment. It is intended to augment the morale of military and DOD employees, and not as an auxiliary benefit resulting from a past affiliation. The interests of military and DOD retirees in low-cost air transportation are met both by the charters available to the general public (e.g., TGC's and OTC's) and by affinity charters offered by charter-worthy organizations of retired persons.

In consideration of the foregoing, the Board hereby amends Part 372 of its Special Regulations (14 CFR Part 372), effective September 20, 1976, as follows:

Amend § 372.2 by revising the definition of "immediate family" to read:

§ 372.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

"Immediate family" means only the following persons: the spouse, children, parents, parents of the spouse, children of the parents, and children of the parents of the spouse of (1) military personnel on active duty with the United States Armed Forces (including Coast Guard) stationed outside the contiguous states of the United States and the District of Columbia, and (2) civilian employees of the Department of Defense who are citizens of the United States and are stationed in a foreign country, or in a U.S. territory or possession, where U.S. military personnel are stationed.

* * * * *

(Secs. 101, 204, 401, 407, 416, Federal Aviation Act of 1958, 72 Stat. 737, 743, 754, 766, 771, (49 U.S.C. 1301, 1324, 1371, 1377, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24474 Filed 8-19-76;8:45 am]

[Reg. SPR-106, Amdt. 14]

PART 372a—TRAVEL GROUP CHARTERS

Passenger List Filing Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 16, 1976.

For the reasons set forth in SPR-105, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 372a of its Special Regulations (14 CFR Part 372a) as set forth below.

Because these amendments create no significant additional burden for any member of the public, and because public benefit will be derived from putting them into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary.

In light of the foregoing, the Civil Aeronautics Board hereby amends Part 372a of its Special Regulations (14 CFR Part 372a), effective September 20, 1976, as follows:

§ 372a.2 [Amended]

1. Section 372a.2, Definitions, is amended as follows:

a. A new definition, "citizen of the United States," is added in proper alphabetical sequence, to read:

* * * * *

"Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

* * * * *

b. In the definition of "foreign charter organizer" the phrase "as defined in section 101(13) of the Act" is deleted so that the definition reads:

* * * * *

"Foreign charter organizer" means any person not a citizen of the United States (other than a direct foreign air carrier), who is (a) engaged in the formation of travel groups for transportation on travel group charters which originate in a foreign country and over whom the Board has declined to exercise its jurisdiction, or (b) engaged in the formation of travel groups for transportation on travel group charters which originate in the United States who holds a permit issued pursuant to section 402 of the Act authorizing such transportation.

* * * * *

c. In the definition of "travel group charter organizer" the phrase "as defined in section 101(13) of the Act" is deleted so that the definition reads:

* * * * *

"Travel group charter organizer" means (1) any citizen of the United States (other than a direct air carrier), who is authorized hereunder to engage in the formation of travel groups in accordance with the provisions of this Part; or (2) a foreign charter organizer.

* * * * *

2. Section 372a.22, Operating authorization of charter organizer, is amended by revising paragraphs (b) and (d) and adding a new paragraph (f), to read as follows:

§ 372a.22 Operating authorization of charter organizer.

* * * * *

(b) Not earlier than 90 days, and not later than 60 days, prior to the scheduled date of departure, the charter organizer shall simultaneously:

(1) Transmit to the direct air carrier(s): (i) A statement of the charter organizer affirming that each listed original participant has entered into a contract with the organizer as provided in this part, has paid the initial 25 percent deposit, and has been furnished, no later than the time when he entered into such contract with the organizer, with an explanatory statement, in the form set forth in Appendix A; (ii) a statement of the depository bank, if any, affirming the amount which it has on deposit, which amount shall be equal to no less than 25 percent of the minimum pro rata charter price multiplied by the number of listed original participants; and (iii) two copies of the certified passenger list as required by paragraph (f) of this section; and

(2) File with the Board (Investigation and Audit Division, Bureau of Enforcement): (i) A charter contract executed by original participants whose number is equal to at least 90 percent of the seats specified in the contract for charter participants, and (ii) an original copy of CAB Form 372a, which appears as Appendix D to this part, setting forth the name of each participant in alphabetical order and his or her address and telephone number. The information required to be filed with the Board under this section shall be deemed filed on the U.S. Postal Service postmark date imprinted on the envelope.

* * * * *

(d) A charter organizer may correct typographical or spelling errors on filed passenger lists by filing a list of corrections with the Investigation and Audit Division, Bureau of Enforcement. A tour operator may make no other changes except corrections of clerical errors on filed passenger lists, in accordance with the following conditions:

(1) The number of names on the corrected passenger list does not exceed the total number of seats chartered by the organizer; and

(2) The charter organizer files the following documents with the Investigation and Audit Division, Bureau of Enforcement: (i) A list of corrections, (ii) a statement certifying that any name to be listed by means of correcting a filed passenger manifest would have appeared on the original manifest but for a clerical error in preparing the list, and (iii) a photostatic copy of the passenger's canceled check, or if there be none, a copy of a receipt or other kind of written evidence showing payment of the full downpayment price prior to the filing of the passenger list.

* * * * *

(f) A tour operator filing a passenger list on CAB Form 372a, or corrections thereto, under paragraph (b) or (d), respectively, of this section, shall attach to those documents the following certification,[1] and shall simultaneously transmit to the direct air carrier(s) two photostatic copies (not carbons) of the certified list and corrections, if any, to be used in identifying enplaning passengers:

I, the undersigned _____ of
(Title)
_____, certify
(Name of organizer)
that two photostatic copies of the attached document(s) and of this certification, were sent to _____ on this _____.
(Direct air carrier) (Date)

_____
(Signature)

3. Section 372a.41, Direct air carriers to identify enplanements, is amended to read as follows:

§ 372a.41 Direct air carriers to identify enplanements.

(a) A direct air carrier shall retain a true copy of each document which it has received from the charter organizer pursuant to § 372a.22(d), and shall make reasonable efforts to verify the identity of all enplaning passengers (and tour conductors) by use of a document bearing an identifying number, in order to ensure that enplanements are limited to persons whose names appear on its copy of the passenger list. For international flights, the identity of each enplaning passenger (and tour conductor) shall be verified by means of a passport, or if there be none, by means of any other travel identity document. For domestic flights a passport or other travel identity document should be used, if available, to identify enplaning passengers (and tour conductors) but if no such document is available, then any other numbered document such as a social security card may be used.

(b) The direct air carrier shall, at the time of enplanement, enter, on its copy of the passenger list, the documentary source of the identification required by paragraph (a) of this section, including the number appearing on the document, together with the name of any enplaning passenger whose name does not already appear on said passenger list: *Provided, however,* That the total number of names on the passenger list shall not be greater than the number of names which already appeared on said passenger list (and tour conductors) and that the number of passengers (other than tour conductors) whose names are newly entered by the carrier upon enplanement shall not be greater than 15 percent of those whose names had already appeared on said list.

4. Section 372a.50, Reporting requirements, is amended by revising paragraph (a) to read as follows:

§ 372a.50 Reporting requirements.

(a) A direct air carrier shall retain the information transmitted to it pursuant to § 372a.22, including its annotated copies of the passenger list, at its principal office within the United States for a period of two years: *Provided, however,* That if the direct air carrier does not maintain an office in the United States, it shall return the documents transmitted to it pursuant to § 372a.22 to the Bureau of Enforcement within 7 days of performing the flight to which those documents pertain.

* * * * *

5. The instructions for properly completing and filing CAB Form 372a, set forth in Appendix D to Part 372a, are amended to reflect the new filing procedures, to read in part as follows:

INSTRUCTIONS

INTRODUCTION

Form 372a[1] is to be used in filing the travel group charter passenger name list (TGCPNL). The list must be filed with the Board by the travel group charter organizer (CO) no earlier than 90 days and no later than 60 days before the scheduled date of departure, pursuant to § 372a.22(b) (Filing); and two photostatic or similarly reproduced copies of this form, filed as required by § 372a.22(d), must be used as the enplanement list required to be prepared by the direct air carrier (DAC), and retained after the departure or return flight is performed, pursuant to § 372a.50(a). The information required by all items on Form 372a shall be typewritten; however, items 12 (Passenger Status), 15 (Enplanement Identification), and 18 (Prepared By) may be handwritten in pen.

PROCEDURES FOR FILING

The CO will prepare Form 372a according to the instructions set forth below and shall file an original copy with the Board's Investigation and Audit Division, Bureau of Enforcement. The CO will simultaneously file two photostatic or similarly reproduced copies (no carbons) with the DAC, one copy of which shall be used for the TGC departure flight, the other for the TGC return flight.

PREPARATION OF FORM 372a

Each page provides for twenty (20) TGC names. Items 1, 2, and 6 through 15 will be completed on each page on which original participants (OP's) are listed, and items 16 through 18 will be prepared only on the first page, by the CO or DAC, as the case may be.

NOTE.—The CO shall submit to the DAC, at the time of each enplanement, a separate list of assignees, completed in accordance with these instructions.

* * * * *

Item 11, Pasenger Sequential Number.—Two or more pages will be required to list the names of original participants and any tour conductors or assignees. Each original participant is to receive a sequential number beginning with "1," so that the last sequential number shown on the TGCPNL of filing should equal the number of original participants. At enplanement, the DAC shall enter in item 11 the name of each assignee.[2]

Item 12, Passenger Status.—These four (4) columns are to be marked with an x as appropriate to show that the passenger named on this line is an OP, an assignee (ASNE), departing enplaned passenger (DEP), or returning enplaned passenger (RET). The TGCPNL at Filing will contain x's only in the (OP) column. The total number of x's in the OP column for all pages must be equal to at least 90% of the number of seats contracted for. The DAC performing the departure flight will mark an x in the departure column and the DAC performing the return flight will mark an x in the return column. Each DAC will complete items 12 through 15 for each assignee.

* * * * *

Item 16, Column Totals.—Boxes shown are to be used for recording the total x's shown on all the pages of this TGCPNL in the particular column. These entries must appear only on page 1 of the TGCPNL. The box under the column head OP (titled A-OP) should contain the total number of original participants and the box under the column headed ASNE (titled B-ASNE) should contain the total number of assignees. The box under the column headed DEP

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[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18 U.S.C. 1001.

[1] Copies are obtainable from the Board's Publications Services Section.

[2] Where the number of seats contracted for includes one or more seats for tour conductors, pursuant to § 372a.14(d), then: (1) Following the last sequential number for original participants there shall be entered, in item 13, either the name of each conductor, if known at the time of Filing, or the letters "TC"; and (2) at the time of enplanement the DAC shall complete the information required by item 15, as to tour conductors named in item 13, and if item 13 contains only the initials "TC," then the DAC shall also enter the tour conductor's name in item 13.

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(titled C–DEP) should contain the total number of departure flight passengers and the box under the column headed RET (titled D–RET) should contain the total number of return flight passengers. The A–OP figure will be shown on the TGCPNL submitted in the Filing. The B–ASNE, C–DEP, and D–RET figures will be shown on the TGCPNL used by the departing DAC and returning DAC, respectively.

• • • • •

(Secs. 204, 401, 402, 407, 416, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended), 757, 766, 771, 788; (49 U.S.C. 1324, 1371, 1372, 1377, 1386, 1481).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–24471 Filed 8–19–76;8:45 am]

[Reg. SPR–107, Amdt. 10]

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

Definitions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 16, 1976.

For the reasons set forth in SPR–105, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 373 of its Special Regulations (14 CFR Part 373), as set forth below.

Because these amendments create no significant additional burden for any member of the public, and because public benefit will be derived from putting them into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary.

In light of the foregoing, the Civil Aeronautics Board hereby amends Part 373 of its Special Regulations (14 CFR Part 373), effective September 20, 1976, as follows:

§ 373.2 [Amended]

Section 373.2, Definitions, is amended as follows:

a. A new definition, "citizen of the United States," is added in proper alphabetical sequence, to read:

• • • • •

"Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

• • • • •

b. In the definition of "study group charterer" the phrase "as defined in section 101(13) of the Federal Aviation Act; 49 U.S.C. 1301(13)" is deleted, so that it reads:

• • • • •

"Study group charterer" means any citizen of the United States (other than a direct air carrier), authorized hereunder to engage in the formation of study groups for transportation on study group charters.

• • • • •

(Secs. 101, 204, 401, and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, (49 U.S.C. 1301, 1324, 1371, 1372).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–24472 Filed 8–19–76;8:45 am]

[Reg. SPR–108, Amdt. 15]

PART 378—INCLUSIVE TOUR CHARTERS

Definitions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 16, 1976.

For the reasons set forth in SPR–105, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 378 of its Special Regulations (14 CFR Part 378) as set forth below.

Because these amendments create no significant additional burden for any member of the public, and because public benefit will be derived from putting them into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary.

In light of the foregoing, the Civil Aeronautics Board hereby amends Part 378 of its Special Regulations (14 CFR Part 378), effective September 20, 1976, as follows:

§ 378.2 [Amended]

Section 378.2, Definitions, is amended as follows:

a. A new definition (j), "citizen of the United States," is added, to read:

• • • • •

(j) "Citizen of the United States" means (1) an individual who is a citizen of the United States or of one of its possessions, or (2) a partnership of which each member is such an individual, or (3) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

b. Definition (d), "Tour operator," is amended by deleting the phrase, "as defined in section 101(13) of the Federal Aviation Act, as amended, 49 U.S.C. 1301 (13)," so that it reads:

• • • • •

(d) "Tour operator" means any citizen of the United States (other than a direct U.S. air carrier), authorized hereunder to engage in the formation of groups for transportation on inclusive tours.

• • • • •

(Secs. 101(3), 204(a), 401, 402, 407, 416(a), Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921, 88 Stat. 409, 419), 743, 754, 757, 766, 771; (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–24473 Filed 8–19–76;8:45 am]

[Reg. SPR–105, Amdt. 6]

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Passenger List Filing Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 16, 1976.

By this rule the Civil Aeronautics Board is amending the passenger list filing requirements for One-stop-inclusive Tour Charters (parallel changes are being made in other charter rules by separate notices), to have two copies sent directly to the direct air carrier, to have the postmark date considered the filing date, and to allow a tour operator to correct errors without filing a waiver request. It is also eliminating the requirement for filing monthly summaries of tour charters under contract.

During recent years the Board has expanded the availability of low-cost bulk air transportation by authorizing and encouraging the marketing of new charter forms. Two of these charter forms, Travel Group Charters (TGC's) (14 CFR Part 372a) and One-stop-inclusive Tour Charters (OTC's) (14 CFR Part 378a), include an advance-purchase requirement as one of the characteristics that serves to maintain the legally required distinction between those charter forms and regularly scheduled service. The Board ensured compliance with these advance-purchase provisions by requiring any indirect air carrier who markets one of these charter types to file three copies of the passenger list, a statement that each participant has entered into a contract with the operator and has made the appropriate payment, and a statement of a depository bank affirming that it has received a deposit of the total charter price, not later than the last day on which a participant could legally become a member of the charter group. The Supplementary Services Division, Bureau of Operating Rights, was to review the documents, and, if they were in order, to send two stamped copies of the passenger list to the direct air carrier or to the charter operator who, in turn, would forward them to the direct air carrier. The direct air carrier would then use those copies to verify the identity of the enplaning passengers, thereby ensuring that they were bona fide members of the charter group. Within 7 days after performing each leg of the flight the direct air carrier was required to mail a stamped copy of the passenger list to the Board's Bureau of Enforcement where the list was to be examined once again to discover any illegal additions or substitutions.

The theory underlying those procedures was that close scrutiny and prior review of the subject documents, in addition to post-flight review by the Bureau of Enforcement, was the best method of ensuring compliance with the advance-purchase requirements. Prior to 1975 the TGC was the only charter form with an advance-purchase requirement, which was 60 days. On August 7, 1975, the Board adopted the OTC rule with an advance-purchase period of only 15 days for North American OTC's and 30 days for all others. The increase in the number of charter filings, combined with the reduced time for predeparture review, has made it impracticable for the Bureau of Operating Rights to continue to perform such a detailed review of every passenger list. Moreover, the post-flight reviews performed by the Bureau of Enforcement under the existing method have indicated that the largest single type of violation disclosed by such review is tardiness in the filing of passenger lists, rather than discrepancies in the lists themselves. Analyses of post-flight lists have shown that the lists with substantive problems total 7 percent or less, with the discrepancies being one or more added OTC passengers, TGC lists filed at less than 90 percent of capacity contracted for, or TGC substitution in excess of 15 percent, in that order of magnitude. When examined further, a great many of the discrepancies appear to be attributable to technical or clerical errors, such as listing the names of nonparticipants (e.g., pass riders), or including on a single list all of the substitutes on a multiple-list flight. In short, the present system has resulted in too much staff time being excessively devoted to technical violations with less time thus available to deal with deliberate substantive violations.

The Board has decided, therefore, to change its passenger list filing requirements. Also, if the Board adopts its proposed Advance Booking Charter rule, EDR–294, February 10, 1976, 41 FR 7417, or its proposed Contract Bulk Inclusive Tour rule, EDR–300, June 16, 1976, 41 FR 24903, the new passenger list filing requirements and technical amendments issued by this notice will be incorporated into those rules without further notice. The new procedures will operate as follows: The charter operator will file an original copy of the passenger list with the Bureau of Enforcement, along with a certification that two photosatitic copies of the list have been transmitted that day to the carrier (or carriers) for use in identifying passengers at enplanement of originating and returning flights. The operator will also transmit to the direct air carrier, along with the passenger list copies, the required statements concerning participant contracts and depository bank receipts. The direct air carrier, after using the copies of the passenger list to identify enplaning passengers, will retain these documents at its principal office; but those carriers that do not maintain offices in the United States will be required to mail the passenger lists to the Bureau of Enforcement within 7 days of performing the subject flight. By allowing the carrier to retain the documents in this manner, the Board hereby grants, in part, the petition of United Air Lines in Docket 29285. The remainder of the petition is still under consideration.

Although the new procedures will lessen the administrative burden upon both the Board and the carriers, such changes will not impair the Board's ability to enforce the advance listing requirements. In effect the only change in enforcement technique is that the Bureau of Enforcement will now review the passenger lists in the carriers' offices rather than at the Bureau's office. Those post-flight reviews will be performed pursuant to a systematic enforcement inspection program reflective of the volume of traffic carried. In addition, the Bureau of Enforcement will institute more intensive inspections whenever it appears as a result of its analysis of traffic, tour operators, direct air carriers, markets, and general investigatory information that such inspections are necessary to ensure that the law is being observed. Moreover, in the event further enforcement review is required on an individual basis to preserve the integrity of the advance-sales limitation, personnel of the Bureau of Enforcement will conduct plane-side boarding inspections.

Another change in the filing procedures is that every passenger list will be deemed filed on the U.S. Postal Service postmark date imprinted on the envelope. Thus, the Board hereby grants the rulemaking petition of Charter Travel Corporation in Docket 28468. Answers supporting the petition were filed by Pan American World Airways, Inc.; Hamilton, Miller, Hudson & Fayne Travel Corporation; National Air Carrier Association; Globus-Gateway Tours, Ltd.; Carefree Travel, Inc.; Unitours, Inc.; American Leadership Study Groups, Inc.; Tour Travel Enterprises; and Travel Enterprises. This will alleviate an aspect of the former procedures whereby charter operators who were not located near the Board were forced either to terminate sales several days before the filing deadline or to incur the expense of having the passenger list hand-delivered by special messenger in order to ensure that it was physically present at the Board on the appropriate date. Under the new procedures all charter operators, no matter where they are located, will have an equal opportunity to market their charters up to the filing deadline, and to file the passenger list by mailing it.

In addition, the new procedures will authorize tour operators to correct typographical or other clerical errors in filed passenger lists without the necessity of filing a waiver request. Thus, the Board is eliminating another prior-review procedure. A tour operator will be permitted to correct typographical errors by mailing a list of those corrections to the direct air carrier and to the Bureau of Enforcement. The operator will be authorized to correct other clerical errors by mailing the following documents to the Bureau of Enforcement: a list of the corrections, a statement certifying that any name to be listed by means of correcting a filed passenger manifest would have appeared on the original manifest but for a clerical error, and a photostatic copy of the passenger's canceled check, or if there be none, a copy of a receipt or other kind of written evidence showing full payment of the tour price prior to the filing of the passenger list. Thus the Board hereby grants the petition of South American Tours, Ltd. filed in Docket 28839, which was supported in an answer filed by the National Air Carrier Association.

The Board also by this action revokes § 378a.51, Reporting of OTC service under contract. It has been found that there is no need to have the information supplied pursuant to that section on a continual basis. Should the need for such information arise in any specific case, the Board can readily obtain it.

Finally, the definition of "citizen of the United States" as set forth in section 101(13) of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is being included in § 378a.2, Definitions, in order to eliminate the necessity for persons reading the rule to refer to the Act to ascertain the definition of that basic term.

Because these amendments create no significant additional burden for any member of the public, and because public benefit will be derived from putting them into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary.

In light of the foregoing, the Civil Aeronautics Board hereby amends Part 378a of its Special Regulations (14 CFR Part 378a), effective September 20, 1976, as follows:

1. The table of contents is amended by adding a reference to § 378a.45, and by deleting the reference to § 378a.51, to read as follows:

• • • • •

Subpart D—Requirements Applicable to Direct Air Carriers

• • • • •

Sec. 378a.44 • • •
Sec. 378a.45 Record retention.

Subpart E—Charter Trip Reporting Requirements

Sec. 378a.50 • • •

Subpart F—Requirements Applicable to Special Event Charters

• • • • •

§ 378a.2 [Amended]

2. Section 378a.2, Definitions, is amended as follows:

a. A new definition, "citizen of the United States," is added in proper alphabetical sequence, to read:

• • • • •

"Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or pos-

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session of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

b. In the definition of "foreign tour operator," the phrase "as defined in Section 101(13) of the Act" is deleted, so that the definition reads:

* * * * *

"Foreign tour operator" means any person not a citizen of the United States (other than a direct foreign air carrier), who is (1) engaged in the formation of groups for transportation on one-stop-inclusive tour charters which originate in a foreign country and over whom the Board has declined to exercise its jurisdiction, or (2) engaged in the formation of groups for transportation on one-stop-inclusive tour charters which originate in the United States and who holds a permit issued pursuant to section 402 of the Act authorizing such transportation: *Provided*, That with respect to §§ 378a.21, 378a.24, 378a.25(a) (1) and (2), 378a.26–.33, 378a.50, 378a.105, and 378a.107(c) (2), (3), and (4) the definition of "Foreign tour operator" is confined to the definition set forth in subparagraph (2) of this definition.

* * * * *

c. In the definition of "one-stop-inclusive tour operator" the phrase "as defined in Section 101(13) of the Act" is deleted, so that the definition reads:

* * * * *

"One-stop-inclusive tour operator" (or "OTC operator") means (1) any citizen of the United States (other than a direct air carrier), who is authorized hereunder to engage in the formation of groups for transportation on OTC's in accordance with the provisions of this part; or (2) a foreign tour operator.

* * * * *

3. Section 378a.25, *Operating authorization of tour operators*, is amended by revising paragraphs (b) and (c) and by adding a new paragraph (d), so that the section would read:

§ 378a.25 Operating authorization of tour operators.

* * * * *

(b) Not later than 15 days prior to the scheduled date of departure, in the case of North American OTC's, and not later than 30 days prior to the scheduled date of departure for all others, the tour operator shall simultaneously:

(1) Transmit to the direct air carrier(s): (i) A statement of the tour operator affirming that each participant has entered into a contract with the operator as provided in this Part, and has made full payment of the total price of the charter tour; (ii) a statement of the depository bank, if any, affirming that it has received a deposit of the total charter price payable to the direct air carrier(s); and (iii) two copies of the certified passenger list, as required by paragraph (d) of ths section; and

(2) File with the Board (Investigation and Audit Division, Bureau of Enforcement) an original copy of CAB Form 378a–1, which appears as Appendix B to this Part, setting forth the name of each passenger in alphabetical order, his or her address and telephone number, and the name, address, and telephone number of the travel agent (if any) who sold the tour to the passenger: *Provided*, That for North American OTC's where the outbound leg is scheduled to depart on or after October 1, 1978, the information required by this paragraph (b) shall be filed not later than 7 days prior to the scheduled date of departure. The information required to be filed with the Board, under this section, shall be deemed filed on the U.S. Postal Service postmark date imprinted on the envelope.

(c) A tour operator may correct typographical or spelling errors on filed passenger lists by filing a list of corrections with the Investigation and Audit Division, Bureau of Enforcement. A tour operator may make no other changes except corrections of clerical errors on filed passenger lists, in accordance with the following conditions:

(1) The number of names on the corrected passenger list does not exceed the total number of seats chartered for the tour; and

(2) The tour operator files the following documents with the Investigation and Audit Division, Bureau of Enforcement: (i) A list of corrections, (ii) a statement certifying that any name to be listed by means of correcting a filed passenger manifest would have appeared on the original manifest but for a clerical error in preparing the list, and (iii) a photostatic copy of the passenger's canceled check, or if there be none, a copy of a receipt or other kind of written evidence showing full payment of the tour price prior to the filing of the passenger list.

(d) A tour operator filing a passenger list on CAB Form 378a–1, or corrections thereto, under paragraph (b) or (c), respectively, of this section, shall attach to those documents the following certification,[1] and shall simultaneously transmit to the direct air carrier(s) two photostatic copies (not carbons) of the certified list and corrections, if any, to be used in identifying enplaning passengers:

I, the undersigned, _____ of
(Title)
_____, certify that two photo-
(Name of Operator)
static copies of the attached document(s), and of this certification, were sent to _____ on this _____.
(Direct air carrier) (Date)

_____
(Signature)

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18 U.S.C. 1001.

4. Section 378a.40, Charter not to be performed unless compliance with part, is amended by deleting the reference to § 378a.51, to read as follows:

§ 378a.40 Charter not to be performed unless compliance with part.

A direct air carrier shall not perform air transportation in connection with an OTC unless it has made a reasonable effort to verify that all provisions of this Part have been complied with, and that the tour operator's authority under this Part has not been suspended by the Board: *Provided, however*, That where an OTC is organized by a foreign tour operator over whom the Board has declined to exercise its jurisdiction pursuant to § 378a.23, no direct air carrier may perform air transportation in connection with such OTC unless the tour is formed and implemented in accordance with the general conditions and limitations set forth in Subpart B or Subpart F of this part, and the tour operator performs all acts and duties which this part requires to be performed by tour operators within the Board's jurisdiction, other than the provisions set forth in §§ 378a.25(a) (1) and (2), 378a.28, 378a.30–.33, 378a.50, 378a.105, and 378a.107(c) (2), (3), and (4).

5. Section 378a.41, Direct air carrier to identify enplanements, is amended to read as follows:

§ 378a.41 Direct air carrier to identify enplanements.

(a) A direct air carrier shall retain a true copy of each document which it has received from the charter operator pursuant to § 378a.25, and shall make reasonable efforts to verify the identity of all enplaning passengers by use of a document bearing an identifying number, in order to ensure that enplanements are limited to persons whose names appear on its copy of the passenger list. For international flights, the identity of each enplaning passenger shall be verified by means of a passport, or if there be none, by means of any other travel identity document. For domestic flights a passport or other travel identity document should be used, if available, to identify enplaning passengers, but if no such document is available, then any other numbered document such as a Social Security card may be used.

(b) The direct air carrier shall, at the time of enplanement, enter, on its copy of the passenger list, the documentary source of the identification required by paragraph (a) of this section, including the number appearing on the document.

6. A new § 378a.45, Record retention, is added, to read as follows:

§ 378a.45 Record retention.

A direct air carrier shall retain the information transmitted to it pursuant to § 378a.25, including its annotated copies of the passenger list, at its principal office within the United States for a period of two years: *Provided, however*, That if the direct air carrier does not maintain an office in the United States, it shall return the documents transmitted to it pursuant to § 378a.25 to the Bureau of Enforcement within 7 days of performing the flight to which those documents pertain.

7. Section 378a.50, Charter trip reporting, is amended by revoking and reserving paragraph (a), so that the section reads as follows:

§ 378a.50 Charter trip reporting.

(a) [Reserved]

(b) The direct air carrier shall * * *

* * * * *

(c) Within 30 days after termination of a tour or series of tours * * *

* * * * *

§ 378a.51 [Revoked]

8. Section 378a.51, Reporting of OTC service under contract, is revoked.

9. The instructions for properly completing and filing CAB Form 378a–1, set forth in Appendix B to Part 372a, are amended to reflect the new filing procedures, to read in part as follows:

INSTRUCTIONS

Introduction. Form 378a–1[1] is to be used in filing the one-stop-inclusive tour charter passenger name list (OTCPNL). This list must be filed by the tour operator (TO) no later than 15 days before the scheduled date of departure in the case of North American OTC's, and no later than 30 days before the scheduled date of departure for all others, pursuant to section 378a.25 (the filing); and two photostatic or similarly reproduced copies of this form, submitted as required by § 378a.25(c), must be used as the enplanement list required to be prepared by the direct air carrier (DAC) and retained after the departure or return flight is performed, pursuant to section 378a.45. The information required by all items on Form 378a–1 shall be typewritten except items 12 (Passenger Status), 15 (Enplanement Identification), and 18 (Prepared By), which may be handwritten in pen.

Procedures for filing. The TO will prepare Form 378a–1 according ot the instructions set forth below and shall file an original copy with the Board's Investigation and Audit Division, Bureau of Enforcement. The TO will simultaneously file two photostatic or similarly reproduced copies (no carbons) with the DAC, one copy of which will be used for the OTC departure flight, the other for the OTC return flight.

* * * * *

(Sec. 101(3), 204(a), 401, 402, 407, 416(a), 101, Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, 788; (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, 1481).)

By the Civil Aeronautics Board.

PHYLLIS T. TAYLOR,
Secretary.

[FR Doc.76–24470 Filed 8–19–76;8:45 am]

[1] Copies are obtainable from the Board's Publications Services Section.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release SAB–10]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Publication of Staff Accounting Bulletin No. 10

The Division of Corporation Finance and the Office of the Chief Accountant today announced the publication of Staff Accounting Bulletin No. 10. The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division and the Chief Accountant in administering the disclosure requirements of the federal securities laws.

Staff Accounting Bulletin No. 10 provides interpretations of Accounting Series Release No. 190 [41 FR 13596]. This release (the adoption of Rule 3–17[1] of Regulation S–X [17 CFR 210.3–17]) requires the disclosure of replacement cost data by certain registrants effective for years ending on or after December 25, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 27, 1976.

CHANGES TO STAFF ACCOUNTING BULLETIN No. 9

In SAB No. 9 [41 FR 26083] (which also interpreted ASR No. 190) a revision to the definition of "mineral resource assets" appearing in SAB No. 7 [41 FR 13600] was made. Since the issuance of SAB No. 9, further suggestions have been made to this definition as it relates to the mining industry. The definition of mineral resource assets in SAB No. 9 read as follows:

10. APPLICABILITY OF § 210.3–17

A. EXEMPTIONS

Facts:

Section 210.3–17 permits delayed application for mineral resource assets and certain foreign assets.

Question 1. What are "mineral resource assets"?

Interpretive Response:

Mineral resource assets are defined as those costs shown on the balance sheet representing assets which are directly associated with and which derive value from mineral reserves.

For the oil and gas industry these costs include the following:

1. Intangible drilling and development costs.
2. Capitalized nonproductive costs, delay rentals, overhead and similar costs.
3. Producing and nonproducing leasehold costs.
4. Down-hole equipment.
5. Well-head equipment.
6. Lease production facilities—tanks, flowlines, separaters, above-ground pumps, compressors, etc.
7. Gas cycling plants.
8. Processing facilities located in a field in which the company owns interests in producing leases.
9. Support facilities—power plants, field living quarters, etc.
10. Gathering systems to the point of market in the field.
11. Offshore platforms.

All costs which involve processing, transportation, refining, distribution, and marketing are not classified as mineral resource assets. Examples include the following:

1. Refineries.
2. Transportation equipment and facilities beyond the point of market in the field—including pipelines, barges, trucking equipment.
3. Drilling equipment an related facilities used in drilling operations.

For extractive industries othef than oil and gas, mineral resource assets are those which represent depletable mineral property, i.e., capitalized costs related to acquisition, exploration, and development of ore bodies. Mills, rolling stock, and other mining equipment are not considered mineral resource assets.

The last paragraph of the Interpretive Response is replaced with the following:

For the mining industry these costs include the following:

1. Capitalized costs related to—
   a. Acquisition of mineral rights, leases or properties;
   b. Exploration;
   c. Development of ore bodies.
2. All assets employed in the extraction and conversion process which are necessary to produce mineral product or products which are commercially marketable.
3. Processing assets, located at or dedicated solely to a mine or mines in which the company has an economic interest, which are designed with specific regard to the particular physical or chemical characteristics of the ores being mined or the scale of operation, and which, by their nature, would have only nominal economic value in the absence of the ores they were designed to treat.
4. Supportive facilities such as power generating and distribution facilities, mine transportation facilities, townsites, other infrastructure, etc., which derive value solely because of the existence of the ore body.

All costs which involve processing, manufacturing and fabricating facilities which are not directly associated with, nor derive value from, a particular mineral deposit in which

[1] The term "rule" has been replaced by the appropriate section number of the Code of Federal Regulations. Accordingly, Rule 3–17 is referred to as § 210.3–17.

[2] "And" incorrectly appeared as "of" in SAB No. 9.

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the company has an economic interest, e.g., smelters and refineries which obtain their feed from outside shippers, are not mineral resource assets.

• • • • •

In SAB No. 9 the following was stated regarding financing leases:

6. REPLACEMENT COST OF PRODUCTIVE CAPACITY

D. FINANCING LEASES

Facts:

Section 210.3-17(c) states: "For purposes of this rule, assets held under financing leases as defined in § 210.3-16(g) shall be included in productive capacity."

Section 210.3-16(g) does not require separate disclosure of noncapitalized financing leases unless the present value of the minimum lease payments is greater than 5 percent of the sum of long-term debt, stockholders' equity and the present value of the minimum lease commitments.

Question:

If noncapitalized leases are not required to be separately disclosed in the historical cost financial statement footnotes, may replacement cost data related to such leases be excluded from the determination of the replacement cost of productive capacity?

Interpretive Response:

Yes, except in unusual factual circumstances where the replacement cost of such leased assets may have increased so significantly compared to other assets that such assets on a replacement cost basis would constitute a significant part of productive capacity computed on that basis.

Correction:

The references to § 210.3-16(g) in "Facts" are changed to § 210.3-16(q).

• • • • •

In SAB No. 9 the following was stated with respect to the North American continent:

10. APPLICABILITY OF § 210.3-17

C. DELAYED EFFECTIVENESS FOR MINERAL RESOURCE ASSETS AND CERTAIN FOREIGN ASSETS

Facts:

Section 210.3-17 requires that replacement cost data related to assets located within the North American Continent and the countries of the European Economic Community be disclosed for fiscal years ending on or after December 25, 1976.

Question 1. Does the staff consider Mexico, Latin American countries (including Puerto Rico) and Hawaii to be part of the North American continent?

Interpretive Response:

Yes.

Corrections:

Question 1 is changed to read as follows:

Question 1. Does the staff consider Mexico, other countries north of the Panama Canal (including Puerto Rico) and the Hawaiian Islands to be part of the North American continent?

• • • • •

NEW INTERPRETATIONS

Topic 6: Interpretations of Accounting Series Releases

I. Accounting Series Release No. 190—Amendments to Regulation S-X Requiring Disclosure of Replacement Cost Data (§ 210.-3-17).

1. DEFINITIONS AND CONCEPTS

B. PRODUCTIVE CAPACITY

Question 6. Is construction work in progress part of productive capacity?

Interpretive Response:

For the purposes of § 210.3-17 construction work in progress is not considered to be part of productive capacity.

Question 7. For purposes of § 210.3-17, are rights-of-way and extractive rights considered to be intangible (and thus not required to be included in the disclosure of replacement cost data)?

Interpretive Response:

Rights-of-way are usually considered intangibles or land costs and are thus excluded from § 210.3-17. Extractive rights are generally mineral resource assets.

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D. FUTURE TECHNOLOGY AND ENVIRONMENTAL CONSIDERATIONS

Facts:

Replacement cost differs from reproduction cost in that the former considers technological change whereas the latter does not. In addition, costs associated with environmental protection devices not embodied in existing assets should be considered in the determination of replacement cost.

Question:

In determining the replacement cost of productive capacity, should the computations be based upon technology and environmental considerations existing as of the determination date or should an attempt be made to forecast such technology and environmental considerations (and the related costs) that are expected to be existing at the date replacement is expected to occur?

Interpretive Response:

The computations should be based upon technology and environmental conditions existing as of the determination date. To do otherwise would not necessarily result in providing the reader with information on the "current economics of the business" which is the principal objective of ASR No. 190. With respect to environmental conditions, consideration will be required for regulations adopted and not presently in effect but which will be in effect prior to actual replacement or with which management expects to comply if replacement will occur prior to the regulation becoming effective.

2. GENERAL

E. FURNISHING SUMMAAIZED FINANCIAL DATA OF INVESTEES

Facts:

Registrants frequently present summarized financial data of investees which are accounted for on the equity method. Such presentations often display (on a historical cost basis) inventories, gross and net property, plant and equipment, cost of sales and depreciation expense.

Question:

Is replacement cost information required to be included with the summarized financial data?

Interpretive Response:

No.

• • • • •

F. USE OF INDICES

Facts:

Many companies plan to use indices and other publicly available data in the determination of the replacement cost of productive capacity.

Question:

Is the use of indices an acceptable approach to the determination of replacement cost?

Interpretive Response:

If the use of the indices results in a reasonable approximation of replacement cost computed on an item-by-item basis (or other appropriate method), the use of such indices will be acceptable. It is important to note, however, that in many instances the use of indices will result in reproduction cost which may not be a reasonable approximation of replacement cost.

3. REPLACEMENT COST OF INVENTORIES

E. VERTICALLY INTEGRATED OPERATIONS

Facts:

Company A and Company B are part of a vertically integrated conglomerate with a common parent and are included in the consolidated financial statements of the parent. In addition, Company A and Company B each file separately with the SEC. All of Company A's sales are to Company B.

Question:

When Company B computes replacement cost of inventory and cost of sales in its separate financial statements, should it consider Company A's replacement cost data in making the computation or is it acceptable to use the invoiced cost of goods purchased from Company A?

Interpretive Response:

Company B generally should use the current invoiced cost of goods as its basis for computing replacement cost. The fact that two companies are related should not affect the method of calculation. Company B should treat its purchases from Company A in the same manner as it treats purchases from other suppliers.

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5. LIMITED USE ASSETS

B. CONSTRUCTION CONTRACTS

Facts:

Company A is a custom engineering company. Its services encompass design and/or fabrication and/or erection of structures specifically engineered to meet the particular individual contract requirements of each customer. The majority of the contracts are long-term and the contract price may be either fixed or variable.

Question:

Are the replacement cost disclosures specified in § 210.3-17 (a) and (b) required for such contracts?

Interpretive Response:

Inventories and productive capacity acquired solely for use on specific long-term construction or engineering contracts are considered by the staff to generally not be subject to § 210.3-17. This exclusion recognizes the direct relationship between historical costs and contractual revenues in such cases.

6. REPLACEMENT COST OF PRODUCTIVE CAPACITY

E. FINANCING LEASES

Facts:

Under existing generally accepted accounting principles set forth in Opinion No. 5 of the Accounting Principles Board, only leases which are clearly in substance installment purchases of property are capitalized. For purposes of § 210.3-17, productive capacity includes assets held under financing leases as defined in § 210.3-16(q). Section 210.3-16(q) requires certain disclosures related to noncapitalized financing leases, including the

impact upon net income of capitalizing the lease obligations.

Question 1. Should the current replacement cost of facilities held under capitalized financing leases be based on (1) the terms of a new lease based on current economic conditions or (2) the current replacement cost of the underlying leased facility?

Interpretive Response:

Replacement cost disclosures for capitalized leases should be based on the current replacement cost of the underlying assets.

Question 2. Should the current replacement cost of productive capacity represented by assets held under noncapitalized financing leases be based on (1) the terms of a new lease that would be entered into under current economic conditions or (2) the current replacement cost of the underlying lease facility?

Interpretive Response:

Generally, the replacement cost disclosures should be based on the current replacement cost of the underlying leased facility, since § 210.3-17 pertains only to replacement of inventories and productive capacity and not to related financing.

Because financing leases, as defined in § 210.3-16(q), may not be capitalized in the historical cost financial statements, disclosure of the effect of such capitalization on inventories, cost of sales, productive capacity, and depreciation, depletion and amortization may be necessary if the historical cost accounting for leases significantly distorts comparisons of the replacement cost data with that included in the financial statements.

For instance, the present value of the lease commitments for noncapitalized financing leases (as determined in response to § 210.3-16(q)(4)) may have to be added to the historical cost of productive capacity for comparison with the replacement cost of productive capacity when the latter includes significant amounts for assets currently leased. Also, rental expense on noncapitalized financing leases may have to be deducted from historical cost of sales; and the amortization of the present value of lease commitments added to historical depreciation, depletion and amortization and cost of sales, as applicable, to enable comparison with depreciation, depletion and amortization on a replacement cost basis when the replacement cost data includes assets currently leased. If significant distortions result from land being included in a financing lease, disclosure of the effects would be necessary.

F. USED EQUIPMENT AND FACILITIES

Facts:

Some companies commonly acquire used facilities and equipment in replacing their productive capacity.

Question:

What should be the basis for determining replacement cost in these circumstances?

Interpretive Response:

The replacement cost disclosures should not be made on the basis of the current selling value of the company's assets in the used market. However, the objectives of § 210-3.17 could be achieved in certain situations by assuming replacement with used equipment and facilities.

This approach could be justified by a managerial policy of replacing productive capacity with used items considering current economic circumstances. The following conditions would appear to be necessary for basing replacement cost on the current prices of used items:

1. Used facilities and equipment are available and, in management's judgment, will continue to be available during the remaining life of its existing productive capacity.

2. Under current economic conditions, management would replace its productive capacity with used facilities and equipment.

The cost of the used facilities and equipment would become the gross replacement cost for purposes of § 210.3-17. Disclosure should be made if used facilities and equipment provide the basis for replacement of a significant portion of productive capacity.

G. ADDITIONAL LAND REQUIRED TO REPLACE PRODUCTIVE CAPACITY

Facts:

Occasionally, significant amounts of land, in addition to that already owned, must be acquired to replace productive capacity. For instance, textile manufacturing companies are replacing old multi-level facilities with single-level facilities, which are more efficient using modern techniques but which require larger plant sites.

Question:

Should the cost of the additional land be included in the replacement cost disclosures?

Interpretive Response:

In general, § 210.3-17(c) does not require disclosure of the replacement cost of land. If the cost of the additional land to be acquired is estimated to be significant, supplemental disclosure may be required by § 210.3-17(f).

H. ASSETS NOT TO BE REPLACED

Facts:

Section 210.3-17(c) states: "In the case of any major business segments which the company does not intend to maintain beyond the economic lives of existing assets, the disclosures set forth in subsections (c) and (d) of this section are not required provided full disclosure of the facts, amounts and circumstances is made."

Question:

In demonstrating "intent," is it necessary to have a formal plan of disposal (see paragraph 14 of APB Opinion No. 30)?

Interpretive Response:

The disclosure by management of its intent to reduce productive capacity is not likely to be made without careful consideration. For this reason, it presently does not seem necessary to require the existence of a formal plan.

I. PRODUCTIVE CAPACITY OF RETAILERS

Facts:

Because of construction, design and fixturing changes in recent years, retailers have been able to reduce the number of square feet in newly constructed and leased stores while at the same time maintaining the same volume and merchandise capacity, as well as physical appeal and other characteristics of larger stores.

Question:

In computing the replacement cost of existing productive capacity, should such computations be based upon the cost of replacing the larger number of retailing square feet or is it more appropriate to use the cost based upon the reduced footage?

Interpretive Response:

It would seem that a reasonable basis for expressing the productive capacity of a retailer would be potential sales volume. For example, a store of current design employing vertical fixturing and with 100,000 square feet may have the same potential sales capacity as an existing store employing horizontal fixturing and with 120,000 square feet. Inasmuch as recent technological change has resulted in greater volume per square foot and replacement cost is defined as "the lowest amount that would have to be paid in the normal course of business to obtain a new asset of equivalent operating or productive capacity," it is the staff's view that it would be appropriate to use the reduced footage as the basis for the replacement cost computations.

J. UNDERUTILIZATION OF PRESENT FACILITIES

Facts:

A registrant is currently operating major facilities at 70 percent of total physical capacity.

Question:

Is productive capacity for the purpose of computing replacement cost total physical capacity or the present utilization of physical capacity (in this instance, 70 percent of the physical capacity)?

Interpretive Response:

The determination of productive capacity will necessarily require analysis of the facts pertaining to each situation. In making such analysis, it may be useful to distinguish between idle capacity (temporary or normal underutilization without long-run consequence) and excess capacity (a permanent decline in utilization).

Rarely are productive facilities operated near 100% capacity. Recession, seasonal variation, capacity additions planned to satisfy future growth and increasing marginal costs as actual production approaches theoretical capacity all contribute to normal conditions of varying underutilization. Normal instances of underutilization (idle capacity) are a fact of business life that would not require adjustment in replacement costing.

On the other hand, there may be unusual instances in which capacity is far in excess of foreseeable requirements, caused by relatively permanent changes in the business having long-run consequence (e.g., declining market or permanent shortage in raw materials supply). Excess capacity would be analogous to a segment of capacity that management would not replace; and, therefore, replacement cost data related to the excess capacity would be irrelevant and not reported. One indication of permanent excess capacity would be underutilized facilities for which a write down of historical book value would be appropriate; however, analysis of excess capacity should not be restricted solely to such instances, because, for example, excess capacity may occur in older plants where historical book value is not significant enough to warrant adjustment.

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8. DISCLOSURE OF METHODS AND OTHER INFORMATION

D. SCHEDULE OF HISTORICAL COST FINANCIAL STATEMENT ITEMS INCLUDED IN AND EXCLUDED FROM THE REPLACEMENT COST DISCLOSURES

Facts:

Section 210.3-17 requires certain amounts to be included in the replacement cost data which are not part of the historical cost data (e.g., noncapitalized financing leases) and permits the exclusion of certain other amounts from the replacement cost requirement which are included within the historical cost data (e.g., land, and, for one year, mineral resource assets and assets located outside the North American continent and the countries of the European Economic Community). When material amounts are involved, it would seem appropriate to provide a schedule to enable the reader to

V 41 163 AUG 20 76 UMI

make a comparison between the historical cost data and the replacement cost data.

Question:

Does the staff have any suggestions or preferences for the format of such a schedule of items included in and excluded from the replacement cost disclosures?

Interpretive Response:

A schedule is usually helpful to enable comparisons with the historical cost data, when differences occur between the items included in or excluded from the replacement cost data, as described above.

The staff has no preferences for the format of such a schedule. A major public accounting firm has suggested the following as a possible format for inventories and productive capacity which appears acceptable:

	Inventories (thousands)	Property, plant, and equipment
Amounts for which replacement cost data are provided	$421,300	$1,215,112
Present value of future rentals for noncapitalized financing leases as determined at inception of the leases (deduction)	.....	(104,912)
Obsolete and discontinued inventory items—at net realizable value	17,900	.....
Land—at cost	.....	25,600
Assets outside the North American continent and the European Economic Community and mineral resource assets—at cost	11,800	44,900
Total as shown on the accompanying consolidated balance sheet	451,000	1,180,600

B. REPLACEMENT COST DEPRECIATION IN OTHER REPLACEMENT COST DATA

Facts:

The following language is contained in § 210.3–17(e): "If depreciation, depletion or amortization expense is a component of inventory costs or cost of sales, indicate that fact and cross-reference the answer for this subsection in subsection (b) [replacement cost of sales] in order to avoid potential duplication in the use of these data."

Question:

Is the intent of the above to require that replacement cost depreciation be included in the amounts disclosed for replacement cost of inventories and cost of sales?

Interpretive Response:

The purpose of the above language is to avoid double-counting depreciation expense.

Many companies allocate depreciation expense to cost of sales, selling, general and administrative expense and other accounts, while other companies report depreciation expense as a single-line item in their income statements. Companies reporting in the former format might inadvertently "double-count" the element of depreciation expense allocated to cost of sales, first when reporting cost of sales (which would include an allocation of depreciation expense) and second when reporting total depreciation. To avoid such double-counting, § 210.3–17(e) requires a cross-reference.

For example, the following would be appropriate methods of providing this cross-reference for cost of sales:

	Historical cost	Replacement cost
Method 1:		
Cost of sales (including $300,000 historical cost depreciation and $500,000 replacement cost depreciation)	$7,000,000	$10,000,000
Depreciation expense (exclusive of amounts allocated to cost of sales)	500,000	750,000
Method 2:		
Cost of sales (exclusive of depreciation expense)	6,700,000	9,500,000
Depreciation expense (including $300,000 historical cost and $500,000 replacement cost depreciation applicable to cost of sales)	800,000	1,250,000

F. FURTHER DETAILS OF REPLACEMENT COST DATA

Facts:

Section 210.3–17 requires disclosure of inventories and gross and net productive capacity (frequently equivalent to gross and net property, plant and equipment). Regulation S–X requires details of historical cost amounts of inventories (raw materials, work-in-process, finished goods, etc.) and property, plant and equipment (land, buildings, machinery and equipment, etc.).

Question:

Are equivalent details required for replacement cost data?

Interpretive Response:

Section 210.3–17 does not require such details; however, the staff believes they will frequently be useful to readers of financial statements and encourages registrants to provide them.

9. MISCELLANEOUS

B. LAND HELD FOR INVESTMENT

Facts:

Company A (not a real estate development company) owns lands which is held for investment (probable bulk sale anticipated rather than development into housing, commercial or industrial projects).

Question 1. Is such land includible in property, plant and equipment for the purpose of determining whether Company A has inventory and gross property, plant and inventory in excess of $100 million?

Interpretive Response:

No.

Question 2. Assuming Company A has inventories and gross property, plant and equipment in excess of $100 million, must replacement cost data be provided for the land held for investment?

Interpretive Response:

No.

10. APPLICABILITY OF § 210.3–17

A. EXEMPTIONS

Facts:

Section 210.3–17 permits delayed application for mineral resource assets and certain foreign assets.

Question 2. What assets are subject to the one year exemption for mineral resource assets for those industries (such as steel and portland cement) in which companies own mineral resources, all or some of which are used in their manufacturing operations?

Interpretive Response:

Mineral resource assets are defined as "those costs shown on the balance sheet representing assets which are directly associated with and which derive value from mineral reserves." For industries such as the steel and portland cement industries, mineral resource assets would be limited to those assets representing costs of acquiring and developing mineral reserves and would not include any costs of their manufacturing operations.

C. DELAYED EFFECTIVENESS FOR MINERAL RESOURCE ASSETS AND CERTAIN FOREIGN ASSETS

Facts:

Section 210.3–17 requires that replacement cost data related to assets located within the North American continent and the countries of the European Economic Community be disclosed for fiscal years ending on or after December 25, 1976.

Question 4. What should be the basis for determining whether or not assets such as ships engaged in international trade and drilling rigs are subject to the one-year exemption?

Interpretive Response:

Generally, the country of registry should be the basis for such determination. Replacement costs for such assets may be more susceptible to determination than for certain other types of foreign assets; and, while not required prior to December 25, 1977, the staff encourages earlier compliance, if practicable.

Question 5. When a contract is let by one company of a controlled group (which may include companies and involve a customer located outside the North American continent and the countries of the European Economic Community) and when that company in turn subcontracts all or part of the work to other companies in the group, should the origin of the costs, location of the materials, or location of the customer govern for purposes of § 210.3–17?

Interpretive Response:

The staff will not object if either origin of cost or location of the materials is used as the basis for determining that replacement cost data need not be provided for fiscal years ending prior to December 25, 1977. The staff does not believe that location of the customer should govern.

D. SIZE TEST

Question 2. In determining whether a registrant has inventories and gross property, plant and equipment in excess of $100 million, should inventories and property, plant and equipment of unconsolidated subsidiaries and companies accounted for on the equity method be added to the inventories and gross property, plant and equipment of the registrant and its consolidated subsidiaries?.

Interpretive Response:

No.

E. COMPARATIVE DATA IN FIRST YEAR OF APPLICABILITY

Facts:

Company A is exempt from the requirements of ASR No. 190 for 1976. However, at the beginning of 1977 the total of inventory and gross property, plant and equipment exceeds $100 million and 10% of total assets. Consequently, replacement cost information is required to be presented with its 1977 financial statements.

Question:

Is Company A required to present replacement cost information for both 1976 and 1977 or only for 1977?

Interpretive Response:

Section 210.3–17 provides that replacement cost information for both 1976 and 1977 must be presented. However, if the preparation of such data for 1976 would cause an undue burden, the registrant should request a waiver of this provision and the staff will generally be responsive to such a request.

F. USERS OF FORM 12–K

Facts:

Certain registrants satisfy their Securities Exchange Act of 1934 annual financial information reporting requirements by filing Form 12–K. This form may be used by the issuers specified below for annual reports pursuant to Section 13 or 15(d) of the 1934 Act:

(1) Any issuer which files annual reports with the Federal Power Commission on that agency's Form No. 1 or Form No. 2 and whose annual report to stockholders for its last fiscal year contains financial statements (other than schedules) prepared and certified substantially in accordance with Regulation S–X;

(2) Any issuer which files annual reports with the Interstate Commerce Commission pursuant to Section 20, 220, or 313 of the Interstate Commerce Act; or

(3) Any issuer which files annual reports with the Federal Communications Commission pursuant to Section 219 of the Communications Act of 1934.

The latter two issuer groups, (2) and (3) above, are not required to comply with Regulation S–X; issuers in group (1) are required to comply with Regulation S–X.

Question:

Are companies that use Form 12–K and that are not required to comply with Regulation S–X required to supplement such form with replacement cost information?

Interpretative Response:

No, although the staff strongly recommends such disclosure. Registrants using Form 12–K should be aware that the staff is giving serious consideration to recommending to the Commission that Form 12–K be eliminated; in which case, those registrants presently using this form would be required to use Form 10–K for years commencing after December 31, 1976.

[FR Doc.76–24354 Filed 8–19–76;8:45 am]

[Release No. 34–12700]

PART 240—GENERAL RULES AND REGULATIONS SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Modification of SECO Fees and Assessments

The Securities and Exchange Commission announced today that it has adopted modifications to its fee schedule and to the list of annual assessments for fiscal year 1976 payable to the Commission by registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("non-member" or "SECO" broker-dealers). The Commission also has adopted amendments to Rule 15b9–2 (17 CFR 240.15b9–2) to conform the SECO fiscal year to the new federal fiscal year, October 1–September 30.[1] Accordingly, SECO charges for fiscal year 1976 will be based upon the fifteen month period from July 1, 1975, to September 30, 1976. As a result of this change, the last date for filing Form SECO–4–76 is September 1, 1976.[2]

Sections 15(b)(7) and 15(b)(8) (15 U.S.C. 78o(b)(7) and (b)(8)) of the Securities Exchange Act of 1934 (the "Act"), as recently amended,[3] authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to nonmember broker-dealers and their associated persons.[4] Pursuant to these sections, the Commission's Rule 15b9–1 (17 CFR § 240.15b9–11) establishes initial entry fees and Rule 15b9–2 provides for annual assessments. Under the amendments adopted today, the special instructions to Form U–4 (formerly Form SECO–2) under Rule 15b9–1, which sets initial fees paid by SECO broker-dealers on behalf of new associated persons, are revised and a new Form SECO–4–76 under Rule 15b9–2, which establishes the levels for annual nonmember assessments for the current fiscal year, is adopted.

The Commission has this year determined to modify the annual SECO assessment schedule to include a gross income levy, in order to mitigate possible inequities in the current assessment structure. Up to the present time, there has been no SECO levy directly related to the volume of business done by SECO firms; the main source of SECO revenue has been the fees and assessments related primarily to the number of securities personnel employed by each firm. The Commission believes that a gross income assessment based upon securities revenue will produce a more equitable method of assessment and can be administered without undue burden on SECO firms or the Commission.

As a result of the introduction of the new gross income levy, certain other charges will be reduced, as indicated below.

INITIAL FEES FOR NONMEMBER BROKER-DEALERS

Rule 15b9–1 provides that every broker or dealer who becomes registered with the Commission and who does not make a bona fide application for membership to a registered securities association within 45 days of such registration must file with the Commission a Form U–4 on behalf of each associated person and pay to the Commission the fee prescribed by the form. This form also must be filed and an initial fee paid each time an individual becomes associated with a SECO-broker. The fee for fiscal year 1975 was $50; the reduced fee, to be set forth on the revised special instructions to Form U–4, is $35.[5] The text of the special instructions to Form U–4, as adopted, is as follows:

SPECIAL INSTRUCTIONS FOR COMPLETING FORM U–4 UNIFORM APPLICATION FOR SECURITIES AND COMMODITIES INDUSTRY REPRESENTATIVE AND/OR AGENT

NON-MEMBER ("SECO") BROKER-DEALERS

1. Rule 15b8–1 under the Securities Exchange Act of 1934 ("Act") provides that this Form must be filed by every broker or dealer registered under Sections 15 or 15B of the Act who is not a member of a registered securities association (*e.g.*, the National Association of Securities Dealers, Inc.) for every associated person engaged directly or indirectly in securities activities for or on behalf of such nonmember broker or dealer, before such person engages in any activities on behalf of such broker or dealer unless such broker-dealer is qualified for an exemption from compliance with this Rule.

2. A filing fee of $35 must accompany this Form. A check should be made payable to the Securities and Exchange Commission and mailed with one (1) copy of this Form to the Office of the Comptroller.

3. Under Sections 15(b), 17(a) and 23(a) of the Act and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this Form from associated persons of non-member (SECO) broker-dealers. Although it is not required that social security numbers be disclosed, such voluntary disclosure will assist the Commission in identifying applicants and in promptly processing the Forms. Information supplied on this Form shall be non-public but will be available to any person to whom the Commission authorizes disclosure in the public interest. Routine uses of Form U–4 are described on the reveres side of these Special Instructions.

4. A Form which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this Form, however, shall not constitute any finding that the information submitted is true, current, or complete. Intentional misstatements or omissions of fact may constitute federal criminal violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff (a)).

[1] These amendments were published for comment in Securities Exchange Act Release No. 12490 (May 28, 1976); 41 FR 23423 (June 10, 1976). Those comments received by the Commission have been given due consideration.

[2] Because of the changes to Form SECO–4–76 and to give respondents adequate time to file, the last date for filing and payment, for this year only, is extended to September 10, 1976.

[3] The numbering of these sections was changed by the 1975 Amendments to the Securities Exchange Act of 1934 (Pub. L. 94–29 (June 4, 1975)); they were formerly sections 15(b)(8) and 15(b)(9), respectively.

[4] SECO fees and assessments are in addition to any charges levied by the Municipal Securities Rulemaking Board.

[5] This fee is in addition to the fee required by the Commission pursuant to Rule 15b8–1 to defray the costs of administering qualifications examination and other expenses. This fee is presently $30.

V 41 163 AUG 20 76 UMI

5. Applicants should note the provisions of Sections 15(b)(7), (8) and (9) of the Securities Exchange Act of 1934 and the Rules thereunder. Form SECO–5, setting an initial fee of $500 for new SECO broker-dealers, remains unchanged.

ANNUAL ASSESSMENTS FOR FISCAL YEAR 1976

The annual assessment for each fiscal year is set forth on Form SECO–4 for that year. As indicated above, the Commission has amended the annual SECO assessment structure to provide for a .375 percent annual assessment, based upon the nonmember's gross annual over-the-counter securities income as shown on the firm's most recent Form X–17A–10 required to be on file with the Commission under the Act. Because of the change in the Commission fiscal year from July 1 to October 1, the Commission must, for this year only, recover regulatory expenses for a 15-month period from July 1, 1975 to September 30, 1976. The basic membership assessment of $250 is retained; however, the annual personnel assessment paid by each firm for each associated person is reduced from $15 to $5.

The revised special instructions to Form SECO–4–76 for computing and reporting gross income for assessment purposes are as follows:

FORM SECO–4–76 INSTRUCTIONS

1. Rule 15b9–2 under the Securities Exchange Act of 1934 (the "Act") provides that brokers or dealers registered with the Commission as of August 15, 1976 who were nonmember brokers or dealers for at least 45 days immediately prior to that date or who were nonmember brokers or dealers for at least 90 days during the period beginning July 1, 1975 and ending August 15, 1976 shall, on or before September 1, 1976, file Form SECO–4–76 and pay to the Commission a fee pursuant to Section 15(b)(8) of the Act to defray certain costs of regulation for the fiscal year ending September 30, 1976. The term "nonmember broker or dealer" is defined in paragraph (f)(2) of Rule 15b9–2.

2. Rule 15b9–2 provides that brokers or dealers who were nonmember brokers or dealers for less than 180 days during the period beginning July 1, 1975 and ending August 15, 1976 shall pay one-half the fees otherwise payable pursuant to Section 15(b)(8) for the fiscal year 1976.

3. Checks should be made payable to the "Securities and Exchange Commission" and mailed to the Office of the Comptroller, Securities and Exchange Commission, Washington, D.C. 20549.

4. If the space provided for any answer is insufficient, the complete answer should be prepared on a separate sheet which should be attached to the form and identified as "Answer to Item ------."

5. Failure to include or file information required to be reported or the making of any false statements may result in the institution of administrative or civil proceedings. Moreover, intentional misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001 and Section 32(a) of the Act.)

6. Willful nonpayment of fees prescribed by the Commission pursuant to its authority under Section 15(b)(8) may result in the institution of disciplinary proceedings under Sections 15(b)(4) and 15(b)(5) of the Act.

7. Each SECO broker-dealer subject to Rule 15b9–2 is to report gross income from over-the-counter transactions in corporate, state, municipal and other securities for the preceding calendar year. Please refer to Table A or your firm's Form X–17A–10 filed for calendar year 1975 for assistance in computing such gross income. Gross income includes profits, commissions, surcharges, concessions, fees, allowances, discounts and reimbursements for expenses before the deduction of any expenses other than any commissions, concessions or other allowances paid to another member in connection with the execution or clearance of any transactions. Gross income does not include interest and dividends, transaction fees, commissions derived from transactions executed on a national securities exchange or a foreign securities exchange and fees received solely for investment advisory services. Also excluded are profits and losses derived from (1) transactions in which both the purchase and sale are executed outside the territorial limits of the United States, (2) transactions in exempted securities as defined in Section 3(a)(12) of the Act, (3) transactions in commercial bank time certificates of deposit and commercial paper, which is defined to include drafts, bills of exchange, and bankers acceptances having maturities at the time of issuance of not exceeding one year, and (4) transactions in securities which are clearly identified by the firm to be held specifically for investment purposes as described in Section 1236 of the Internal Revenue Code.

NOTICE OF DUE DATE FOR FILING FORM SECO–4–76 AND ANNUAL ASSESSMENTS

Broker-dealers filing Form SECO–4–76 and annual assessments should note that, because of the amendments to the SECO assessment schedule and to Rule 15b9–2, the due date for SECO assessments is September 1, 1976.

AMENDMENTS TO RULE 15b9–2

The Commission believes it is appropriate to conform the SECO fiscal year, which is presently July 1–June 30, to the new federal fiscal year, October 1–September 30. Accordingly, the Commission has adopted amendments to Rule 15b9–2 to reflect changes in the filing, payment and applicability dates resulting from the proposed new SECO fiscal year. The Commission also has adopted various technical amendments to the rule including clarifications of the usage of the terms "fee" (generally a non-periodic charge based upon the occurrence of a specific event) and "assessment" (a regular, annual levy) and deletions of several sections of the rule which are no longer applicable.

STATUTORY BASIS FOR COMPETITIVE CONSIDERATIONS

These modifications of fees and fiscal year 1976 assessments for nonmember (SECO) broker-dealers and amendments to Rule 15b9–2 are adopted pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(b)(8), 15(b)(9), 17(a) and 23(a) thereof. The Commission finds that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly to implement the Commission's continuing mandate under Section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to nonmember broker-dealers.

TEXT OF RULE 15b9–2

Securities Exchange Act Rule 19b9–2 (Section 240.15b9–2) is amended to read as follows:

§ 240.15b9–2 Annual assessment for registered brokers and dealers not members of a registered securities association.

(a) *Applicability.* This rule shall apply to every nonmember broker or dealer who, on August 15 of any particular year, has been a nonmember broker or dealer for a period of at least 45 days immediately prior to such date, and any other broker or dealer registered with the Commission on August 15 of any particular year who has been a nonmember broker or dealer for a period of at least 90 days after October 1 of the previous year.

(b) *Assessments.* On or before September 1 of each year, every broker or dealer to whom this rule applies shall file the Form SECO–4 provided for the particular fiscal year and pay the total assessments prescribed by the form. Such assessments shall include: (1) A base assessment applicable to all brokers or dealers, and (2) An assessment for each associated person engaged, directly or indirectly, in securities activities for or on behalf of the broker or dealer prior to August 15 during the fiscal year, at any time in which the broker or dealer was a nonmember broker or dealer: *Provided, however,* That the assessment shall not be paid for any person who confines his securities activities to areas outside the United States, its territories and possessions, and who does not deal with or act for any U.S. resident or national wherever located.

(c) *Reductions.* Brokers or dealers who were nonmember brokers or dealers for less than 180 days shall pay one-half the assessments required by this rule.

(d) *Penalties.* Every broker or dealer who fails to pay assessments as and when required by this rule shall pay an additional amount of $100 to defray the administrative costs incurred as a result of such failure.

(e) *Exemptions.* A broker or dealer shall not be required to pay the assessments required by this rule if:

(1) He has made a bona fide application for membership to a registered securities association within 45 days of his becoming registered with the Commission as a broker or dealer and such application for membership is still pending on August 15 of the particular year in which the assessments are due; or

(2)(i) His application for membership in a registered securities association has been denied or withdrawn, or his membership has been denied or withdrawn, or his membership has been terminated for any reason; (ii) he has immediately discontinued all securities activities; and (iii) he has filed Form BDW (Notice of Withdrawal From Registration) within 45 days after such denial, withdrawal, or termination; or

(3)(i) He is a member of a national securities exchange; (ii) he carries no accounts for customers; and (iii) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is an amount no greater than $1,000, *Provided however,* That gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

(f) *Definitions.* For the purpose of this rule: (1) The term "associated person" shall mean any partner, officer, director, or branch manager of a broker or dealer (or any person occupying a similar status or performing similar functions), or any natural person directly or indirectly controlling or controlled by such broker or dealer (other than one whose functions are solely clerical or ministerial), and any broker or dealer conducting business as a sole proprietor.

(2) The term "nonmember broker or dealer" shall mean any broker or dealer, including a sole proprietor, registered under Section 15 or 15B* of the Act, who is not a member of a registered securities association.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 11, 1976.

[FR Doc.76–24357 Filed 8–19–76;8:45 am]

Title 20—Employee Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 602—COOPERATION OF THE UNITED STATES EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Wage Rates for Temporary Foreign Agricultural Labor

On June 22, 1976, the Employment and Training Administration of the Department of Labor published a notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 25017) proposing to revise the regulations at 20 CFR 602.10, 602.10a and 602.10b which are applicable to the importation of aliens for certain temporary agricultural work. Interested persons were given 15 days in which to file written statements, data, views or arguments regarding the proposed amendments. Substantive comments have been received concerning the proposed amendments.

Several comments were received from employer associations as follows:

Comments regarding the proposal to amend § 602.10(b) to allow the Department of Labor 60 days to determine the availability of domestic workers suggested that such a period is too long for the grower to know his employment needs for the harvest.

Comments regarding the proposed change in meal rates at § 602.10a(f) suggested that the proposed $4.00 maximum rate was too low, and that the amount allowed without special authority from the Department of Labor be raised from the present $2.55 to $3.15.

Comments regarding the proposed wage rates at § 602.10b(a)(1) questioned the differences in rates between contiguous States. There was also a suggestion that harvest area rates be used and that the fluctuation in wage rates be minimized by the Department. Comments were also received regarding the constituent parts of the formula. One comment suggested that piece-rate data from the United States Department of Agriculture be used rather than Field and Livestock Workers data. Another suggestion was to use the quarterly wage rate applicable to a harvest activity rather than the annual figure. Another comment suggested that since there have been changes in labor conditions since 1968, when the present formula was originally established, the formula should be changed.

Several comments were also received from farmworker groups regarding the proposed changes as follows:

Some comments regarding the proposal to amend § 602.10(b), which expands from 30 days to 60 days the period in which the Department of Labor has to determine the availability of domestic workers, argued that this period was too short. A comment was also received to make the 60-day requirement mandatory, and not discretionary with the Department.

Comments regarding the proposed change in meal rates at § 602.10a(f) were that it decreases worker earnings.

Comments regarding the proposed wage rates at § 602.10b(a)(1) were that they were too low and should be set high enough to attract domestic workers. It was suggested that the rate should discourage the need for foreign workers by recognizing the "wage inflation" that would result absent the availability of foreign workers. It was suggested that the rate should prevent the displacement of "any" domestic workers and should not yield below what is available as unemployment insurance benefits. Comments also questioned the formula for determining wage rates.

The comments received went to matters which were considered by the Department and were discussed in the preamble of the proposal. The issue of attractive wages was the subject of litigation in *Williams* v. *Usery*, 531 F.2d 305 (5th Cir. 1976) wherein the court found "no legal basis for imposing an obligation on the Secretary to set an 'attractive' wage." We have considered all comments received and the matters they address and do not deem it desirable to change the provisions as set forth in the proposal.

Comments were also received from both groups that the time to submit comments was too short. The Department believes that the time for comments was sufficient in light of the fact that these revisions are an annual process, the comments received adequately covered all positions, and the Department did review comments received late although no new issues were raised.

After all the submissions were weighed, the proposed changes were deemed to be appropriate for protecting the public interest as defined by the statute and regulations.

At section 602.10b of the proposed amendment, § 602.10b(f) should have been designated as § 602.10a(f). The error was minor, since the complete paragraph, with change, was reproduced, in its entirety, and incorporated a complete substantive provision of the regulation. There is no indication that there was any confusion because of this error.

Accordingly, the proposed amendments to 20 CFR §§ 602.10, 602.10a and 602.10b are hereby adopted and the regulations as set forth herein shall become effective September 20, 1976.

1. As amended, 20 CFR 602.10(b) reads as follows:

§ 602.10 The certification process.

* * * * *

(b) Agricultural or logging employers including association employers anticipating a labor shortage may request a certification for temporary foreign labor, provided that the employer or the association and those of its members for whom the services of foreign workers are requested, prior to making such a request, have filed at the local office of the State employment service an offer of employment for U.S. workers to fill such employment needs in accordance with the provisions of this section and §§ 602.10a and 602.10b. Such offers of employment, as well as any request for certification for temporary foreign workers, should be filed at the local office in sufficient time to allow the ETA 60 days to determine the availability of domestic workers, in addition to the time necessary for the employer to secure foreign workers by the date of need if the certification is approved.

* * * * *

2. As amended, 20 CFR 602.10a(f) reads as follows:

§ 602.10a Job offers and contracts.

* * * * *

(f) Permit no charge by the employer in excess of $2.55 per worker for furnish-

*This change became effective on July 5, 1976. See Securities Exchange Act Release No. 12468, 41 FR 22820 (June 7, 1976).

V 41 163 AUG 20 76 UMI

ing 3 meals per day except where the Administrator, when evidence submitted to him of average actual cost for a representative pay period supports a greater charge, has approved a charge not to exceed $4.00 per worker for furnishing three meals per day. Evidence submitted to support meal charges of more than $2.55 per day should include the costs of goods and services directly related to the preparation and serving of meals. Cost of the following items may be included: Food; kitchen supplies other than food, such as lunch bags and soap; labor costs which have a direct relation to food service operations, such as wages of cooks and restaurant supervisors; fuel, water, electricity, and other utilities used for the food service operations; other costs directly related to the food service operation. Receipts and other cost records for the representative pay period should be available for inspection for a period of 1 year.

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3. As amended, 20 CFR 602.10b(a)(1) reads as follows:

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section, the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	Rate
Connecticut	$2.61
Florida (sugar cane only)	3.04
Maine	2.69
Maryland	2.27
Massachusetts	2.56
New Hampshire	2.82
New York	2.48
Vermont	2.78
Virginia	2.44
West Virginia	2.74

• • • • • •

(8 U.S.C. 1184; 8 CFR 214.2(h).)

Signed at Washington, D.C., this 18th day of August 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-24604 Filed 8-19-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76F-0040]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Food and Drug Administration is amending the food additive regulations to provide for the safe use of 4-(diiodomethylsulfonyl) toluene as a component of food-packaging adhesives; effective August 20, 1976; objections by September 20, 1976.

Notice was given by publication in the FEDERAL REGISTER of March 10, 1976 (41 FR 10236) that a food additive petition (FAP 6B3140) had been filed by Abbott Laboratories, North Chicago, IL 60064, proposing that § 121.2520 (21 CFR 121.2520) be amended to provide for the safe use of diiodomethyl p-tolyl sulfone as a component of food-packaging adhesives. The International Union of Pure and Applied Chemistry name for the compound is 4-(diiodomethylsulfonyl) toluene.

The Commissioner, having evaluated data in the petition and other relevant material, is amending the regulation as set forth below to provide for use of 4-(diiodomethylsulfonyl) toluene as an anti-fungal preservative in adhesives used as components of articles intended to contact food.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2520 (c)(5) is amended by alphabetically inserting a new item in the list of substances under "Components of Adhesives" as follows:

§ 121.2520 Adhesives.

• • • • • •

(c) • • •

(5) • • •

COMPONENTS OF ADHESIVES

Substances	*Limitations*
• • •	• • •
4-(Diiodomethylsulfonyl) toluene CA Registry No.: 20018-09-01.	For use as an anti-fungal preservative only.
• • •	• • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 20, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This regulation shall become effective August 20, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 13, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24407 Filed 8-19-76;8:45 am]

[Docket No. 75F-0156]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

OLEFIN POLYMERS

The Food and Drug Administration is amending the food additive regulation for olefin polymers to provide for the safe use of 7-(2*H*-naphtho[1,2-*d*]triazol-2-yl)-3-phenylcoumarin as an optical brightener in polyolefin articles intended to contact food; effective August 20, 1976; objections by September 20, 1976.

Notice was given by publication in the FEDERAL REGISTER of August 27, 1975 (40 FR 38184) that a petition (FAP 3R2851) had been filed by Sandoz Colors & Chemicals, Inc., East Hanover, NJ 07936, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of the chemical, as noted above.

The Commissioner of Food and Drugs, having evaluated data on the petition and other relevant material, concludes that Part 121 (21 CFR Part 121) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2501 is amended by revising paragraph (b) to read as follows:

§ 121.2501 Olefin polymers.

• • • • • •

(b) The basic olefin polymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic olefin polymers. The optional adjuvant substances required in the production of the basic olefin polymers or finished food-contact articles may include substances permitted for such use by applicable regulations in this Part 121, substances generally recognized as safe in food and food packaging, substances used in accordance with a prior sanction or approval, and the following:

Substance	*Limitations*
7-(2*H*-Naphtho[1,2-*d*] triazol-2-yl)-3-phenylcoumarin [Chemical Abstracts Service Registry No. 3333-62-8] having a melting point of 250 to 251° C and a nitrogen content of 10.7 to 11.2 percent.	For use as an optical brightener only at levels not to exceed 20 parts per million by weight of olefin polymers having a thickness of 0.025 inch or less and complying with the specifications for items 1.1, 2.1, 3.1, 3.3, and 4 of paragraph (c) of this section; and under the conditions described in § 121.2526(c), table 2 under conditions of use E through G.

• • • • • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 20, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This regulation shall be effective August 20, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 13, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner, for Compliance.

[FR Doc.76-24364 Filed 8-19-76;8:45 am]

[Docket No. 75N-0067]

PART 310—NEW DRUGS

Radioactive New Drugs and Radioactive Biologics; Extension of Time for Continued Commercial Distribution

The Food and Drug Administration (FDA) is extending the time during which commercial distribution of certain radioactive drugs, including certain radioactive biological products, will be permitted pending final approval of a new drug application; effective August 20, 1976.

In the FEDERAL REGISTER of February 20, 1976 (41 FR 7747), the Commissioner of Food and Drugs extended the time for continued commercial distribution of drug products containing those radionuclides listed in § 310.503 (c) and (f) (21 CFR 310.503 (c) and (f)) until FDA issued a nonapprovable notice for a new drug application or application for a biological product license, or terminated a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or until the stated deadline of August 20, 1976, whichever occurred first. The action was taken to prevent any interruption in the availability of these already-marketed radioactive drugs and to allow FDA sufficient time to review all the applications submitted to the agency in accordance with § 310.503.

The Commissioner has determined that, if an approvable notice is issued on or before August 20, 1976 for a new drug application (NDA) submitted under § 310.503, a further extension of time is warranted for the continued commercial distribution of the drug product subject to the application. The Food and Drug Administration issues an approvable notice only if the agency's review of the application determines that the basic issues regarding the drug product's safety and effectiveness have been resolved affirmatively. The approvable notice notifies the applicant that FDA is prepared to approve the application after submission of additional information, such as the final printed labeling. Thus an extension of time allowing the continued commercial distribution of a radioactive new drug subject to a new drug application submitted under § 310.503 will not, in the Commissioner's judgment, subject the public to unsafe or ineffective drug products if FDA has determined that the NDA is approvable. Rather, the Commissioner believes that forced removal from the market of these radioactive drug products while the applicant submits this information would interrupt the supply of these medically important drug products (many of which have been generally available under an IND) and thus would not be in the interests of the public health. Therefore, if an applicant has submitted an NDA in accordance with § 310.503 and is notified in writing by FDA on or before August 20, 1976 that the application is approvable, the manufacturer may continue to market the radioactive new drug without an approved NDA until either the issuance of a nonapprovable letter by the agency or until November 20, 1976, whichever occurs first. After August 20, 1976, no radioactive new drug, including a radioactive biological product, may be commercially marketed without an approved NDA or an approvable new drug application as provided for by this notice. An IND will not permit continued commercial distribution of such a drug after August 20, 1976.

The Commissioner has concluded that this extended date imposes no additional burden on the medical community or on marketers of these important radioactive drugs. In addition, the extended date imposes no lesser degree of protection of the public health. Therefore, the Commissioner finds, for good cause, that notice and public procedure are not required for promulgation of this amendment and that it shall be made effective on August 20, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701 (a), 52 Stat. 1052-1053, as amended, 1055 (21 U.S.C. 355, 371(a))), the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 310 in § 310.503 by revising paragraphs (d) (3) and (f)(5) to read as follows:

§ 310.503 Requirements regarding certain radioactive drugs.

• • • • • •

(d) • • •

(3) The exemption referred to in paragraph (a) of this section, as applied to any drug or biologic containing any of the isotopes listed in paragraph (c) of this section, in the "chemical form" and intended for the uses stated, for which drug a new drug application or a "Notice of Claimed Investigational Exemption for a New Drug" was submitted prior to March 3, 1972, or for which biologic an application for product license or "Notice of Claimed Investigational Exemption for a New Drug" was submitted prior to March 3, 1972, is terminated on August 20, 1976, unless an approvable notice was issued on or before August 20, 1976, in which case the exemption is terminated either upon the subsequent issuance of a nonapprovable notice for the new drug application or on November 20, 1976, whichever occurs first.

• • • • • •

(f) • • •

(5) The exemption referred to in paragraph (a) of this section, as applied to any drug or biologic containing any of the isotopes listed in paragraph (f)(1) of this section in the "chemical form" and intended for the uses stated, for which drug a new drug application or a "Notice of Claimed Investigational Exemption for a New Drug" was submitted to the Bureau of Drugs on or before August 25, 1975 or for which biologic an application for product license or "Notice of Claimed Investigational Exemption for a New Drug" was submitted to the Bureau of Biologics on or before August 25, 1975 is terminated on August 20, 1976, unless an approvable notice was issued on or before August 20, 1976, in which case the exemption is terminated either upon the subsequent issuance of a nonapprovable notice for the new drug application or on November 20, 1976, whichever occurs first.

• • • • • •

Effective date: This regulation shall become effective August 20, 1976.

(Secs. 505, 701(a), 52 Stat. 1052-1053, as amended, 1055 (21 U.S.C. 355, 371(a)); (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)).)

Dated: August 17, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24452 Filed 8-19-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-308]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of East Peoria, Illinois

On July 5, 1974, in 39 FR 24640, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of

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East Peoria, Illinois. Map No. H 170649A 04 indicates that two parcels of land located in East Peoria, Illinois, are in their entirety within the Special Flood Hazard Area. A portion of the parcel of land which is located at the intersection of Interstate Route 74 and Farm Creek Spillway, recorded as Document No. 561649 in the office of the Recorder of Deeds of Tazewell County, Illinois, is not located within the Special Flood Hazard Area. This portion can be further described as follows:

Being a part of the parcel recorded as Document No. 561649 by the County of Tazewell, Illinois; commencing at the Southwest Corner of the Southwest Quarter of Section 28; thence S. 89°46' E. along the South line of the Southwest Quarter of Section 28 a distance of 1759.80 feet to the point of beginning of the tract to be described; thence S. 0°36' E. a distance of 27.35 feet; thence S. 52°34' W. a distance of 593.59 feet; thence S. 56°13' W. a distance of 246.25 feet to a point in the Easterly right-of-way line of Federal Aid Interstate Highway 74; thence N. 30°48' W. along said right-of-way line 360.34 feet; thence N. 31°19' W. along said right-of-way line 796.40 feet to a non-tangent curve, concave to the Northeast, having a radius of 11,329.16 feet, which curve also subtends an 811.51 foot chord bearing N. 27°27'55" W.; thence Northwesterly along said curve which is also a continuation of said Interstate 74 Easterly right-of-way line, 811.60 feet to a point in a non-tangent line, which is the Easterly line of the Relocated Channel of Farm Creek Spillway; thence N. 22°05' E., 189.60 feet to a point; thence N. 11°05' E., 315 feet to a point; thence N. 88°08' E., 677 feet to a point; thence N. 23°49' E., 250 feet to a point; thence S. 77°30' E., 258 feet to a point; thence N. 60°30' E., 235 feet; thence S. 65°11' E., 100 feet to a point; thence S. 14°00' E. a distance of 431.94 feet; thence S. 11°40' E. a distance of 300.00 feet; thence S. 0°36' E. a distance of 190.00 feet; thence S. 60°00' E. a distance of 70.00 feet; thence S. 0°36' E. a distance of 98.00 feet; thence S. 64°58'17" W. a distance of 66.18 feet; thence S. 0°36' E. a distance of 810.50 feet to the point of beginning, situate, lying and being in the County of Tazewell, State of Illinois.

Accordingly, Map No. H 170649A 04 is hereby corrected to reflect that the above properties are not within the Special Flood Hazard Area identified on June 21, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24515 Filed 8-19-76;8:45 am]

[Docket No. FI-2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Goshen, Indiana

On July 20, 1976, in 41 FR 2982, the Federal Insurance Administrator published a list of communities with special hazard areas which included Goshen, Indiana. Map No. H 180058 Panel 05 indicates that Lot 14 of Elkhart River Dells Addition, Goshen, Elkhart County, Indiana, as recorded in Platbook 3, page 32, in the office of the Recorder of Elkhart County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area identified on June 4, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administor 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24516 Filed 8-19-76;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Grandview, Missouri

On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A 04 indicates that Lots 16 and 17, Block 3, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above mentioned property are not within the Special Flood Hazard Area. Accordingly, Map No. H 290171A 04 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24517 Filed 8-19-76;8:45 am]

[Docket No. FI-288]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Auburn, Maine

On June 13, 1974, in 39 FR 20689, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Auburn, Maine. Map No. H 230001 11 indicates that the Auburn Urban Renewal Disposition Parcel Number Four as recorded in Book 27, Page 115 of the Androscoggin County Registry of Deeds, Androscoggin County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area identified on May 31, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24518 Filed 8-19-76;8:45 am]

[Docket No. FI-314]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Stoughton, Massachusetts

On August 6, 1974, in 39 FR 28236, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Stoughton, Massachusetts. Map No. H 250253 05 indicates that land in Stoughton, Massachusetts, as recorded on Plan 25363 C–6, Sheets 1 and 2, Book C5, in the Norfolk County Registry of Deeds, Dedham, Massachusetts, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above mentioned property are not within the Special Flood Hazard Area. Accordingly, Map No. H 250253 05 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24519 Filed 8-19-76;8:45 am]

[Docket No. FI-347]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Bedford, Michigan

On August 29, 1974, in 39 FR 31523, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Township of Bedford, Michigan. Map No. H 260052 Panel 07 indicates that Lot 45, River Bend Plat, Bedford Township, Michigan, as recorded in Liber 16 of Plat Books, Page 30, in the office of the Register of Deeds, Calhoun County, Michigan, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 260052 Panel 07 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 16, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24520 Filed 8-19-76;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Grandview, Missouri

On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A 04 indicates that Lot 18, Block 3, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 290171A 04 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24521 Filed 8-19-76;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, New Jersey

On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 03 indicates that the property at 229 South Irving Street, Ridgewood, New Jersey, as recorded in Book 4529, Page 401, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340067 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24522 Filed 8-19-76;8:45 am]

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Upper Saddle River, New Jersey

On January 16, 1974, in 39 FR 1986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Borough of Upper Saddle River, New Jersey. Map No. H 340077 02 indicates that Lot 1, of a subdivision of Lot 14, Block 15, Upper Saddle River, New Jersey, as recorded on Map No. 4235, on file in the Requisition Room of the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340077 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Food Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24523 Filed 8-19-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Wayne, New Jersey

On June 25, 1976, in 41 FR 26412, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Township of Wayne, New Jersey. Map No. H 345327 10 indicates that property in the Township of Wayne, New Jersey, as recorded in Book N 98, Page 608, in the Registry of Deeds of Passaic County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 345327 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 20, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance

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Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24524 Filed 8-19-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Hollis, Oklahoma

On August 6, 1974, in 39 FR 28266, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Hollis, Oklahoma. Map No. H 400068A Panel 01 indicates that Lot 3, Block 20, College Heights Addition to the Town of Hollis, Oklahoma, and Lot 11, Block 19, Hollis Townsite Addition to Hollis, Oklahoma, as recorded in Book 1 of Plats, Page 2, and Book 1 of Plats, Page 15, respectively, in the office of the Harmon County Clerk, Oklahoma, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 400068A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24525 Filed 8-19-76;8:45 am]

[Docket No. FI-257]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Plano, Texas

On May 6, 1974, in 39 FR 15874, the Federal Insurance Administrator published a list of communities with special hazard areas which included Plano, Texas. Map Nos. H 480140 05 & 06 indicate that Lot 25, Block B and Lot 44, Block E of Park Boulevard Estates West No. 2-B Subdivision, Plano, Texas, as recorded in Volume 8, Page 1 of the Map Plat Records of Collin County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map Nos. H 480140 05 & 06 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 10, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24526 Filed 8-19-76;8:45 am]

[Docket No. FI-239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of San Antonio, Texas

On April 11, 1974, in 39 FR 13152, the Federal Insurance Administrator published a list of communities with special hazard areas which included San Antonio, Texas. Map No. H 480045 21 indicates that Lot 35, Block 2, New City Block 206 being Vista Verde Project, Texas, R-109, Subdivision Unit 1 as recorded in Book Volume 7700, Page 224 in the office of the Clerk of Bexar County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480045 21 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 5, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24527 Filed 8-19-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Mequon, Wisconsin

On June 25, 1976, in 41 FR 26419, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Mequon, Wisconsin. Map No. H&I 555564B 07 indicates that Highland Colony Estates, Mequon, Wisconsin, as recorded in Certified Survey Map Volume 2, Pages 37 through 39, in the office of the Register of Deeds of Ozaukee County, Wisconsin, are within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that structures 1 through 3, and Units 12908, 12910, 12912, 12914, 12916, 12918 of structure 4 as shown on the Topographical Survey Maps of Land in the City of Mequon, Ozaukee County, Wisconsin, prepared by William H. Schmitt and Associates, June 26, 1975, are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the Community. Accordingly, Map No. H&I 555564B 07 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on November 7, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24528 Filed 8-19-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7430]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—REGULATIONS ON PROCEDURE AND ADMINISTRATION

Discharge of Liens; Employment Tax Liability of Third Parties Paying or Providing for Wages

Preamble. On May 20, 1975, a notice of proposed rulemaking to conform the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 3505 (relating to the employment tax liability of third parties paying or providing for wages) and 7425 (relating to discharge of liens) to changes made by sections 105 (80 Stat. 1138) and 109 (80 Stat. 1141) of the Federal Tax Lien Act of 1966 was published in the FEDERAL REGISTER (40 FR 21965).

Section 3505 generally relates to the liability of third parties paying or providing for wages. Section 31.3505-1 of the proposed regulations provided rules relating to the liability for withholding taxes imposed upon third persons who finance employers' payrolls. Generally, those provisions of the proposed regulations applied to a lender, surety, or other person who directly pays wages to the employees of another person or who supplies funds to an employer for the specific purpose of paying wages of the employees of that employer with actual notice or knowledge that the employer does not intend, or will not be able, to pay the withholding taxes.

Section 31.3505-1(b)(2) of the proposed regulations has been revised by deleting example (3). In this example, a lender advanced funds to an employer for the purpose of paying net wages of that employer with actual notice of knowledge that the employer would not be able to make timely payment of the withholding taxes. The example concluded that, for purposes of imposing liability upon the lender under section 3505, it was immaterial that after the advances the lender learned that the employer had other funds with which the taxes could have been paid. Upon reconsideration, it was concluded that, because liability under section 3505 depends upon actual notice or knowledge at the time the advance is made, example (3) was unnecessary.

Section 7425 generally relates to discharge of liens and redemption of real property by the United States. Section 301.7425-4 of the proposed regulations contained provisions relating to the redemption by the United States of real property that is sold in a nonjudicial foreclosure sale to satisfy a lien prior to a Federal tax lien on such property. Section 301.7425-4(a)(3) of the proposed regulations has been revised. The proposed regulations had provided that in a case in which the United States is not entitled to a notice of sale under section 7425(b) and 301.7425-3 (e.g., where a notice of tax lien has not been filed more than 30 days before the date of sale), no right of redemption exists under section 7425(d); however, the United States would have the same right of redemption afforded any secured creditor under the applicable local law. In response to a comment, § 301.7425-4(a)(3) of the final regulations has been revised to provide that, under the circumstances stated above, the United States is afforded the same right of redemption afforded similar creditors under the applicable local law.

Section 301.7425-4(b)(1) of the proposed regulations has also been revised. Section 7425(d)(2) of the Code provides that where the United States redeems real property sold at a nonjudicial sale to satisfy a lien prior to that of the United States, the district director shall pay the amount specified in 28 United States Code section 2410. Section 7425-4(b)-1 of the proposed regulations has been revised to make clear that such section determines the amount to be paid only when the United States exercises its right of redemption under section 7425.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On May 20, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 21965) in order to conform the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) under section 3505 and 7425 of the Internal Revenue Code of 1954 to sections 105 and 109 of the Federal Tax Lien Act of 1966 (80 Stat. 1138 and 1141). Section 301.7425 and §§ 301.7425-1 through 301.7425-4 (inclusive) of the regulations hereby adopted supersede §§ 400.4, 400.4-1, 400.5 and 400.5-1 of this chapter, relating to section 109 of the Federal Tax Lien Act of 1966, which were prescribed by T.D. 6944, approved January 17, 1968 (33 FR 732). After taking into consideration all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b)(2) of § 31.3505-1, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is amended by deleting example (3) therefrom.

PAR. 2. Section 301.7425-3(d)(2), as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

PAR. 3. Paragraph (a)(3) of § 301.7425-4, as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by revising the last sentence thereof. This revised provision reads as set forth below.

PAR. 4. Paragraph (b)(1) of § 301.7425-4, as set forth in paragraph 3 of the appendix to the notice of proposed rulemaking, is amended by revising so much thereof as precedes subdivision (i) to read as set forth below.

PAR. 5. Section 301.7425-4(b)(1)(iv), as set forth in paragraph 3 of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

PAR. 6. Section 301.7425-4(b)(4)(i), as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: August 16, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

In order to provide regulations under section 3505 of the Internal Revenue Code of 1954, as added by section 105 (a) of the Federal Tax Lien Act of 1966 (Public Law 89-719, 80 Stat. 1138) and under section 7425 of such Code, as added by section 109 of such Act (80 Stat. 1141), the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) are amended as follows: Section 301.7425 and §§ 301.7425-1 through 301.7425-4 (inclusive) of the regulations hereby adopted supersede §§ 400.4, 400.4-1, 400.5, and 400.5-1 of this chapter (Temporary Regulations under the Federal Tax Lien Act of 1966) which were prescribed by T.D. 6944, approved January 17, 1969 (33 FR 732).

PARAGRAPH 1. There are added immediately after § 31.3504-1 the following new §§ 31.3505 and 31.3505-1.

§ 31.3505 Statutory provisions; liability of third parties paying or providing for wages.

SEC. 3505. *Liability of third parties paying or providing for wages*—(a) *Direct payment by third parties.* For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) *Personal liability where funds are supplied.* If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(i)(1) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) *Effect of payment.* Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

(Sec. 3505 as added by sec. 105(a), Federal Tax Lien Act 1966 (80 Stat. 1138))

§ 31.3505-1 Liability of third parties paying or providing for wages.

(a) *Personal liability in case of direct payment of wages*—(1) *In general.* A lender, surety, or other person—

(i) Who is not an employer for purposes of section 3102 (relating to deduction of tax from wages under the Federal Insurance Contributions Act), section 3202 (relating to deduction of tax from compensation under the Railroad Retirement Tax Act), or section 3402 (relating to deduction of income tax from wages) with respect to an employee or group of employees, and

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(ii) Who pays wages on or after January 1, 1967, directly to such employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees,

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes required to be deducted and withheld from those wages by the employer under subtitle C of the Code and interest from the due date of the employer's return relating to such taxes for the period in which the wages are paid.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Pursuant to a wage claim of $200, A, a surety company, paid a net amount of $158 to B, an employee of the X Construction Company. This was done in accordance with A's payment bond covering a private construction job on which B was an employee. If X Construction Company fails to make timely payment or deposit of $42.00, the amount of tax required by subtitle C of the Code to be deducted and withheld from a $200 wage payment to B, A becomes personally liable for $42.00 (*i.e.*, an amount equal to the unpaid taxes), plus interest upon this amount from the due date of X's return.

(b) *Personal liability where funds are supplied*—(1) *In general.* A lender, surety, or other person who—

(i) Advances funds to or for the account of an employer for the specific purpose of paying wages of the employees of that employer, and

(ii) At the time the funds are advanced, has actual notice or knowledge (within the meaning of section 6323(i)(1)) that the employer does not intend to, or will not be able to, make timely payment or deposit of the amounts of tax required by subtitle C of the Code to be deducted and withheld by the employer from those wages,

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes which are required by subtitle C of the Code to be deducted and withheld from wages paid on or after January 1, 1967, and which are not paid over to the United States by the employer, and interest from the due date of the employer's return relating to such taxes. However, the liability of the lender, surety, or other person for such taxes shall not exceed 25 percent of the amount supplied by him for the payment of wages. The preceding sentence and the second sentence of section 3505(b) limit the liability of a lender, surety, or other person arising solely by reason of section 3505, and they do not limit the liability which the lender, surety or other person may incur to the United States as a third-party beneficiary of an agreement between the lender, surety, or other person and the employer. The liability of a lender, surety, or other person does not include penalties imposed on the taxpayer.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). D, a savings and loan association, advances $10,000 to Y for the specific purpose of paying the net wages of Y's employees. D advances those funds with knowledge that Y will not be able to make timely payment of the taxes required to be deducted and withheld from these wages by subtitle C of the Code. Y uses the $10,000 to pay the net wages of his employees but fails to remit withholding taxes under subtitle C in the amount of $2,600. D's liability, under this section, is limited to $2,500, 25 percent of the amount supplied for the payment of wages to Y's employees, plus interest thereon.

Example (2). E, a loan company, advances $15,000 to F, a contractor, for the specific purpose of paying $20,000 of net wages due to F's employees. E advances those funds with knowledge that F will not be able to make timely payment of the taxes required to be deducted and withheld from these wages by subtitle C of the Code. F applies $5,000 of its own funds toward payment of these wages. The amount of tax required to be deducted and withheld from the gross wages is $4,500. The limitation applicable to E's liability for withholding taxes is $3,750 (25 percent of $15,000). However, because E furnished only a portion of the total net wages, E is liable for $3,375 of the taxes required to be deducted and withheld ($4,500×$15,000/$20,000) plus interest thereon.

(3) *Ordinary working capital loan.* The provisions of section 3505(b) do not apply in the case of an ordinary working capital loan made to an employer, even though the person supplying the funds knows that part of the funds advanced may be used to make wage payments in the ordinary course of business. Generally, an ordinary working capital loan is a loan which is made to enable the borrower to meet current obligations as they arise. The person supplying the funds is not obligated to determine the specific use of an ordinary working capital loan or the ability of the employer to pay the amounts of tax required by subtitle C of the Code to be deducted and withheld. However, section 3505(b) is applicable where the person supplying the funds has actual notice or knowledge (within the meaning of section 6323(i)(1)) at the time of the advance that the funds, or a portion thereof, are to be used specifically to pay net wages, whether or not the written agreement under which the funds are advanced states a different purpose. Whether or not a lender has actual notice or knowledge that the funds are to be used to pay net wages, or merely that the funds may be so used, depends upon the facts and circumstances of each case. For example, a lender, who has actual notice or knowledge that the withheld taxes will not be paid, will be deemed to have actual notice or knowledge that the funds are to be used specifically to pay net wages where substantially all of the employer's ordinary operating expenses consist of salaries and wages even though funds for other incidental operating expenses may be supplied pursuant to an agreement described as a working capital loan agreement.

(c) *Definition of other person*—(1) *In general.* As used in this section, the term "other person" means any person who directly pays the wages or supplies funds for the specific purpose of paying the wages of an employee or group of employees of another employer. It does not include a person acting only as agent of the employer or as agent of the employees.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Pursuant to an agreement between L, a labor union, and M, an employer, M makes monthly vacation payments (of a sum equal to a certain percentage of the remuneration paid to each union member employed by M during the previous month) to a union administered pool plan under which each employee's rights are fully vested and nonforfeitable from the time the money is paid by M. Vacation allowances are accumulated by the plan and distributed to eligible employees during their vacations. L, acting merely as a conduit with respect to these payments, would incur no liability under section 3505.

Example (2). N, a construction company, maintains a payroll account with the O Bank in which N deposits its own funds. Pursuant to an automated payroll service agreement between N and O, O prepares payroll checks and earnings statements for each of N's employees reflecting the net pay due each such employee. These checks are delivered to N for signature. After the checks are signed, O distributes them directly to N's employees on the regularly scheduled pay day. O, acting only in the capacity of a disbursing agent of N's funds, would incur no liability under section 3505 with respect to these payroll distributions. However, O may incur liability under section 3505 in the capacity of a lender if it supplies the funds for the payment of wages.

(d) *Payment of taxes and interest*—(1) *Procedure for payment.* A lender, surety, or other person may satisfy the personal liability imposed upon him by section 3505 by executing Form 4219 and filing it, accompanied by payment of the amount of tax and interest due the United States, in accordance with the instructions for the form. In the event the lender, surety, or other person does not satisfy the liability imposed by section 3505, the United States may collect the liability by appropriate civil proceeding commenced within 6 years after assessment of the tax against the employer.

(2) *Effect of payment*—(i) *In general.* A person paying the amounts of tax required to be deducted and withheld by subtitle C of the Code as a result of section 3505 and this section is not required to pay the employer's portion of the payroll taxes upon those wages, or file an employer's tax return with respect to those wages, or furnish annual wage and tax statements to the employees.

(ii) *Amounts paid by a lender, surety, or other person.* Any amounts paid by the lender, surety, or other person to the United States pursuant to this section shall be credited against the liability of the employer on whose behalf those payments are made and shall also reduce the total liability imposed upon the lender,

surety, or other person under section 3505 and this section.

(iii) *Amounts paid by the employer.* Any amounts paid to the United States by an employer and applied to his liability under subtitle C of the Code shall reduce the total liability imposed upon that employer by subtitle C. Such payments will also reduce the liability imposed upon a lender, surety, or other person under section 3505 except that such liability shall not be reduced by any portion of an employer's payment applied against the employer's liability under subtitle C which is in excess of the total liability imposed upon the lender, surety, or other person under section 3505. For example, if a lender supplies $1,000 to an employer for the payment of net wages, upon which $300 withholding tax liability is imposed, a part-payment of $25 by the employer which is applied to this liability would reduce the employer's total liability under subtitle C of the Code by that amount, but the liability imposed upon the lender by section 3505(b) in an amount equal to the withholding tax liability of the employer, which is limited to 25 percent of the amount supplied by him, would remain $250. However, if the employer makes another payment of $200 which is applied to his liability for the withholding taxes, the lender's liability under section 3505 attributable to the withholding taxes is reduced by $175 ($225 less $50 (the amount by which the employer's liability exceeds the lender's liability after application of the limitation)). Thus, after the second payment by the employer, the lender's liability under section 3505(b) is $75 ($250 less $175) plus interest due on the underpayment for the period of underpayment.

(e) *Returns required by employers and statements for employees.* This section does not relieve the employer of the responsibilities imposed upon him to file the returns and supply the receipts and statements required under subchapter A, Chapter 61 of the Code (relating to returns and records).

(f) *Time when liability arises.* The liability under section 3505 and this section of a lender, surety, or other person paying or supplying funds for the payment of wages is incurred on the last day prescribed for the filing of the employer's Federal employment tax return (determined without regard to any extension of time) in respect of such wages.

PAR. 2. Section 301.7425 is amended by renumbering such section as § 301.7427, by renumbering section 7425 of such section as Sec. 7427, and by adding a historical note. These renumbered and added provisions read as follows:

§ 301.7427 Statutory provisions; cross references.

Sec. 7427. *Cross references.* • • •

• • • • •

[Sec. 7427 as renumbered by sec. 109, Federal Tax Lien Act 1966 (80 Stat. 1141)]

PAR. 3. There are added immediately after § 301.7424–1 the following new §§ 301.7425 through 301.7425–4.

§ 301.7425 Statutory provisions; discharge of liens.

(a) Section 7425 of the Internal Revenue Code of 1954, as added by section 109 of the Federal Tax Lien Act of 1966:

Sec. 7425. *Discharge of liens*—(a) *Judicial proceedings.* If the United States is not joined as a party, a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code, or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title—

(1) Shall be made subject to and without disturbing the lien of the United States, if notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced; or

(2) Shall have the same effect with respect to the discharge or divestment of such lien of the United States as may be provided with respect to such matters by the local law of the place where such property is situated, if no notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced or if the law makes no provision for such filing.

If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of this title, the United States may claim, with the same priority as its lien had against the property sold, the proceeds (exclusive of costs) of such sale at any time before the distribution of such proceeds is ordered.

(b) *Other sales.* Notwithstanding subsection (a) a sale of property on which the United States has or claims a lien, or a title derived from enforcement of a lien, under the provisions of this title, made pursuant to an instrument creating a lien on such property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on such property—

(1) Shall, except as otherwise provided, be made subject to and without disturbing such lien or title, if notice of such lien was filed or such title recorded in the place provided by law for such filing or recording more than 30 days before such sale and the United States is not given notice of such sale in the manner prescribed in subsection (c)(1); or

(2) Shall have the same effect with respect to the discharge or divestment of such lien or such title of the United States, as may be provided with respect to such matters by the local law of the place where such property is situated, if—

(A) Notice of such lien or such title was not filed or recorded in the place provided by law for such filing more than 30 days before such sale,

(B) The law makes no provision for such filing, or

(C) Notice of such sale is given in the manner prescribed in subsection (c)(1).

(c) *Special Rules*—(1) *Notice of sale.* Notice of a sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary or his delegate.

(2) *Consent to sale.* Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property shall discharge or divest such property of the lien or title of the United States if the United States consents to the sale of such property free of such lien or title.

(3) *Sale of perishable goods.* Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property liable to perish or become greatly reduced in price or value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of such sale is given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, to the Secretary or his delegate before such sale. The proceeds (exclusive of costs) of such sale shall be held as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the property sold, for not less than 30 days after the date of such sale.

(d) *Redemption by United States*—(1) *Right to redeem.* In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary or his delegate may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.

(2) *Amount to be paid.* In any case in which the United States redeems real property pursuant to paragraph (1), the amount to be paid for such property shall be the amount prescribed by subsection (d) of section 2410 of title 28 of the United States Code.

(3) *Certificate of redemption*—(A) *In general.* In any case in which real property is redeemed by the United States pursuant to this subsection, the Secretary or his delegate shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to such property in the name of the United States. If no such officer is designated by local law or if such officer fails to issue such documents, the Secretary or his delegate shall execute a certificate of redemption therefor.

(B) *Filing.* The Secretary or his delegate shall, without delay, cause such documents or certificate to be duly recorded in the proper registry of deeds. If the State in which the real property redeemed by the United States is situated has not by law designated an office in which such certificate may be recorded, the Secretary or his delegate shall file such certificate in the office of the clerk of the United States district court for the judicial district in which such property is situated.

(C) *Effect.* A certificate of redemption executed by the Secretary or his delegate shall constitute prima facie evidence of the regularity of such redemption and shall, when recorded, transfer to the United States all the rights, title, and interest in and to such property acquired by the person from whom the United States redeems such property by virtue of the sale of such property.

[Sec. 7425 as added by sec. 109, Federal Tax Lien Act of 1966 (80 Stat. 1141)]

(b) Section 2410 of title 28 of the United States Code, as amended by section 201 of the Federal Tax Lien Act of 1966:

Sec. 2410. Actions affecting property on which United States has lien. • • •

(d) In any case in which the United States redeems real property under • • • section 7425 of the Internal Revenue Code of 1954, the amount to be paid for such property shall be the sum of—

(1) The actual amount paid by the purchaser at such sale (which, in the case of

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a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent satisfied by reason of such sale),

(2) Interest on the amount paid (as determined under paragraph (1)) at 6 percent per annum from the date of such sale, and

(3) The amount (if any) equal to the excess of (A) the expenses necessarily incurred in connection with such property, over (B) the income from such property plus (to the extent such property is used by the purchaser) a reasonable rental value of such property.

[Sec. 2410 (d) as amended by sec. 201, Federal Tax Lien Act 1966 (80 Stat. 1147)]

§ 301.7425–1 Discharge of liens; scope and application; judicial proceedings.

(a) *In general.* A tax lien of the United States, or a title derived from the enforcement of a tax lien of the United States, may be discharged or divested under local law only in the manner prescribed in section 2410 of Title 28 of the United States Code or in the manner prescribed in section 7425 of the Internal Revenue Code. Section 7425 (a) contains provisions relating to the discharge of a lien when the United States is not joined as a party in the judicial proceedings described in subsection (a) of section 2410 of Title 28 of the United States Code. These judicial proceedings are plenary in nature and proceed on formal pleadings. Section 7425(b) contains provisions relating to the discharge of a lien or a title derived from the enforcement of a lien in the event of a nonjudicial sale with respect to the property involved. Section 7425 (c) contains special rules relating to the notice of sale requirements contained in section 7425(b). Section 301.7425–2 contains rules with respect to the nonjudicial sales described in section 7425 (b). Paragraph (a) of § 301.7425–3 contains rules with respect to the notice of sale provisions of section 7425(c)(1). Paragraph (b) of § 301.7425–3 contains rules relating to the consent to sale provisions of section 7425(c)(2). Paragraph (c) of § 301.7425–3 contains rules relating to the sale of perishable goods provisions of section 7425(c)(3). Paragraph (d) of § 301.7425–3 contains the requirements with respect to the contents of a notice of sale. Section 301.7425–4 prescribes rules with respect to the redemption of real property by the United States.

(b) *Effective date.* The provisions of section 7425, as added by the Federal Tax Lien Act of 1966, are effective with respect to sales described in section 7425 occurring after November 2, 1966. The notice of sale provisions of section 7425 (c) (1) or (3) do not apply to sales occurring after November 2, 1966, if the seller of the property performed an act before November 3, 1966, which act at the time of performance was required and effective under local law with respect to the sale. An example of such an act is publication of a notice of the sale in a local newspaper before November 3, 1966, if local law requires such publication before a sale and the publication is effective under local law. Accordingly, in such a case, it is not necessary to notify the Internal Revenue Service pursuant to the provisions of section 7425 (c) (1) or (3). With respect to a notice of sale required under section 7425 (c) (1) or (3)—

(1) Any notice of sale given to an office of the Internal Revenue Service or the Treasury Department during the period November 3, 1966, through December 21, 1966, shall be considered as adequate;

(2) Any notice of sale given during the period December 22, 1966, through January 31, 1968, which complies with the provisions of either—

(i) Revenue Procedure 67–25, 1967–1 C.B. 628 (based on Technical Information Release 873, dated December 22, 1966), or

(ii) Section 301.7425–3, shall be considered as adequate; and

(3) Any notice of sale given after January 31, 1968, which complies with the provisions of § 301.7425–3 shall be considered as adequate.

(c) *Judicial proceedings.*—(1) *In general.* Section 7425 (a) provides rules, where the United States is not joined as a party, to determine the effect of a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code (relating to joinder of the United States in certain proceedings), or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title. If the United States is improperly named as a party to a judicial proceeding, the effect is the same as if the United States were not joined.

(2) *Notice of lien filed when the proceeding is commenced.* Where the United States is not properly joined as a party in the court proceeding and a notice of lien has been filed in accordance with section 6323 (f) or (g) in the place provided by law for such filing at the time the action or suit is commenced, a judgment or judicial sale pursuant to such a judgment shall be made subject to and without disturbing the lien of the United States.

(3) *Notice of lien not filed when the proceeding is commenced.*—(i) *General rule.* Where the United States is not joined as a party in the court proceeding and either a notice of lien has not been filed in accordance with section 6323 (f) or (g) in the place provided by law for such filing at the time the action or suit is commenced, or the law makes no provision for that filing, a judgment or judicial sale pursuant to such a judgment shall have the same effect with respect to the discharge or divestment of the lien of the United States as may be provided with respect to these matters by the local law of the place where the property is situated.

(ii) *Examples.* The provisions of subparagraph (3) may be illustrated by the following examples:

Example (1). A, the first mortgagee of an apartment building located in State Y, commenced a foreclosure action on the mortgage prior to the time that a notice of a Federal tax lien, on that building, had been filed. Under the law of Y, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. Therefore, the Federal tax lien on the building will be discharged by the judicial sale. This result is the same whether the tax lien arose before or after the date of commencement of the foreclosure action and whether notice of the tax lien was filed at any time after commencement of the foreclosure action.

Example (2). On January 10, 1969, B dies testate and devises Blackacre to C. At B's death, Blackacre is subject to a first mortgage held by D. Realty is subject to administration as part of a decedent's estate under the laws of State X. However, C takes possession of Blackacre with the assent of E, the executor of B's estate. On January 5, 1970, D commences a foreclosure action on the mortgage. Under the law of X, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. After commencement of the proceedings, an assessment for estate taxes is made and, thereafter, a notice of lien is filed in accordance with section 6323. The special lien on Blackacre, arising at the date of B's death, for estate taxes under section 6324(a) will be discharged by the judicial sale because there are no provisions for filing a notice thereof under law and junior liens are discharged by the sale under local law. The lien is discharged even though the executor failed to obtain a discharge of his personal liability under section 2204. Furthermore, the general lien on Blackacre under section 6321 will be discharged by the judicial sale because the foreclosure action was commenced prior to the time that a notice of lien was filed.

(4) *Proceeds of a judicial sale.* If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of the Internal Revenue Code of 1954, the United States may claim the proceeds of the sale (exclusive of costs) prior to the time that distribution of the proceeds is ordered. The claim of the United States in such a case is treated as having the same priority with respect to the proceeds as the lien had with respect to the property which was discharged from the lien by the judicial sale.

§ 301.7425–2 Discharge of liens; nonjudicial sales.

(a) *In general.* Section 7425(b) contains provisions with respect to the effect on the interest of the United States in property in which the United States has or claims a lien, or a title derived from the enforcement of a lien, of a sale made pursuant to—

(1) An instrument creating a lien on the property sold,

(2) A confession of judgment on the obligation secured by an instrument creating a lien on the property sold, or

(3) A statutory lien on the property sold.

For purposes of this section, such a sale is referred to as a "nonjudicial sale." The term "nonjudicial sale" includes, but is not limited to, the divestment of the taxpayer's interest in property which occurs by operation of law, by public or private sale, by forfeiture, or by termination under provisions contained in a contract for a deed or a conditional sales contract. Under section 7425(b)(1), if a notice of lien is filed in accordance with section 6323 (f) or (g), or the title derived from the enforcement of a lien is recorded as provided by local law, more than 30 days before the date of sale, and the appropriate district director is not given notice of the sale (in the manner prescribed in § 301.7425–3), the sale shall be made subject to and without disturbing the lien or title of the United States. Under section 7425(b)(2)(C), in any case in which notice of the sale is given to the district director not less than 25 days prior to the date of sale (in the manner prescribed in section 7425(c)(1)), the sale shall have the same effect with respect to the discharge or divestment of the lien or title as may be provided by local law with respect to other junior liens or other titles derived from the enforcement of junior liens. A nonjudicial sale pursuant to a lien which is junior to a tax lien does not divest the tax lien, even though notice of the nonjudicial sale is given to the appropriate district director. However, under the provisions of section 6325(b) and § 301.6325–1, a district director may discharge the property from a tax lien, including a tax lien which is senior to another lien upon the property.

(b) *Date of sale.* In the case of a nonjudicial sale subject to the provisions of section 7425(b), in order to compute any period of time determined with reference to the date of sale, the date of sale shall be determined in accordance with the following rules:

(1) In the case of divestment of junior liens on property resulting directly from a public sale, the date of sale is deemed to be the date the public sale is held, regardless of the date under local law on which junior liens on the property are divested or the title to the property is transferred,

(2) In the case of divestment of junior liens on property resulting directly from a private sale, the date of sale is deemed to be the date title to the property is transferred, regardless of the date junior liens on the property are divested under local law, and

(3) In the case of divestment of junior liens on property not resulting directly from a public or private sale, the date of sale is deemed to be the date on which junior liens on the property are divested under local law.

For provisions relating to the right of redemption of the United States, see section 7425(d) and § 301.7425–4.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). (i) Under the law of State M, upon entry of judgment, the judgment creditor obtains a statutory lien upon the real property of the judgment debtor, and certain procedures are provided by which the judgment creditor may execute by public sale upon such real property. These procedures provide, among other things, for notification by personal service or registered or certified mail to other lien creditors, if any, and publication of a notice of the sale in a local newspaper. After the expiration of a prescribed period of time after such notification and publication, the sheriff of the county where the real property is located may sell the property at public sale. After payment of the amount bid at the public sale, the sheriff issues to the purchaser a deed to the real property, and the interests of junior lienors in the property are divested.

(ii) For purposes of this section, such an execution sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held because junior liens on the real property are divested directly as a result of the public sale. This result obtains even though the junior liens are legally divested on a later date when the sheriff issues the deed.

Example (2). (i) Under the law of State N, mortgages on real property may contain a power of sale which authorizes the mortgagee, upon breach by the mortgagor of one of the conditions of the mortgage, to have the mortgaged property sold at public sale. This public sale must be preceded by notice by advertisement in a local newspaper, and the time, place, description of the property, and other terms of the sale must be specified. The purchaser at such a public sale obtains a title to the real property which is not subject to a right of redemption by the mortgagor and which divests the interests of the junior lienors in the property.

(ii) For purposes of this section, a sale pursuant to such a power of sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to the mortgage instrument which created a lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale.

Example (3). Assume the same facts as in example (2) except that the purchaser at the public sale obtains a title which is defeasible by the exercise of a right of redemption in the mortgagor. The purchaser's title divests the interests of junior lienors in the property as of the time of public sale. The interests of junior lienors in the property revive if the mortgagor exercises his right of redemption. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale although such junior liens may be revived by a subsequent redemption by the mortgagor.

Example (4). (i) Under the law of State O, upon breach by a mortgagor of real property of one of the conditions of the mortgage, the mortgagee may foreclose the mortgage by securing possession of the property by one of several procedures provided by statute. These procedures are generally referred to as "strict foreclosure." In order for a foreclosure to be effective under these procedures, a certificate attesting the fact of entry must be recorded with the proper registrar of deeds within 30 days after the mortgagee enters the property. During the one-year period following the date on which the certificate of entry is recorded, the mortgagor or a junior lienor may redeem the property by paying the mortgagee the amount of the mortgage obligation. If, during such one-year period the property is not redeemed and the mortgagee's possession is continued, the interests of the mortgagor and the junior lienors in the property are divested as of the date such one-year period expires.

(ii) For purposes of this section, such a foreclosure procedure is a nonjudicial sale described in section 7425(b) because it results in the divestment of the mortgagor's interest in the property by operation of law pursuant to the mortgage which created a lien on the property. In addition, because there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the one-year period following the recording of the certificate of entry expires.

Example (5). The law of State P contains a procedure which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. First, a notice of a public auction with respect to the tax assessment on the real property is published in a local newspaper. At the public auction, the purchaser, upon payment of the delinquent taxes and interest, obtains from the county tax collector a tax certificate with respect to the real property. Because the obtaining of this tax certificate does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the public auction is not a nonjudicial sale described in section 7425(b). At any time before a tax deed with respect to the property is issued by the clerk of the county court, the owner or any holder of a lien or other interest with respect to the property may obtain the tax certificate by paying the holder of the tax certificate the amount of the taxes, interest, and costs. After a date which is two years after the date on which the tax assessment became delinquent, the holder of the tax certificate may request the clerk of the county court to have the property advertised for sale. After advertisement of the sale, the clerk of the county court conducts a public sale of the real property and the purchaser obtains a tax deed. The interests of all junior lienors in the property are divested and the property is not subject to a right of redemption under the law of State P. For purposes of this section, this public sale is considered to be a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held at which the purchaser obtains a tax deed as this sale directly results in the divestment of junior liens on the property.

Example (6). The law of State Q contains a provision which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. After public notice is given, a "tax sale" of the real property is conducted. Upon payment of the delinquent taxes and interest, a purchaser obtains a tax certificate with respect to the real property. If there is no purchaser at the tax sale, the property is deemed to be bid in by the State. Because the obtaining of this tax certificate by a purchaser or State Q does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the tax sale is not a nonjudicial sale described in section 7425(b). Following the tax sale, there is a three year period during which any person having an interest in the property may redeem the property by paying the holder of the tax certificate the amount of taxes, interest, and costs. Unless, redeemed, the holder of the tax certificate may obtain an absolute title at the expiration of the period of redemption provided he serves a notice of the expiration of the redemption period upon the owner at least 60 days prior to the date of expiration. Be-

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cause there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the holder of the tax certificate obtains absolute title.

§ 301.7425–3 Discharge of liens; special rules.

(a) *Notice of sale requirements*—(1) *In general.* Except in the case of the sale of perishable goods described in paragraph (c) of this section, a notice (as described in paragraph (d) of this section) of a nonjudicial sale shall be given, in writing by registered or certified mail or by personal service, not less than 25 days prior to the date of sale (determined under the provisions of paragraph (b) of § 301.7425–2), to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or legal holiday) apply in the case of notices required to be made under this paragraph.

(2) *Postponement of scheduled sale*—(i) *Where notice of sale is given.* In the event that notice of a sale is given in accordance with subparagraph (1) of this paragraph with respect to a scheduled sale which is postponed to a later time or date, the seller of the property is required to give notice of the postponement to the district director in the same manner as is required under local law with respect to other secured creditors. For example, assume that in State M local law requires that in the event of a postponement of a scheduled foreclosure sale of real property, an oral announcement of the postponement at the place and time of the scheduled sale constitutes sufficient notice to secured creditors of the postponement. Accordingly, if at the place and time of a scheduled sale in State M an oral announcement of the postponement is made, the Internal Revenue Service is considered to have notice of the postponement for the purpose of this subparagraph.

(ii) *Where notice of sale is not given.* In the event that—

(A) Notice of a nonjudicial sale would not be required under subparagraph (1) of this paragraph if the sale were held on the originally scheduled date,

(B) Because of a postponement of the scheduled sale, more than 30 days elapse between the originally scheduled date of the sale and the date of the sale, and

(C) A notice of lien with respect to the property to be sold is filed more than 30 days before the date of the sale, notice of the sale is required to be given to the district director in accordance with the provisions of paragraph (a) (1) of this section. In any case in which notice of sale is required to be given with respect to a scheduled sale, and notice of the sale is not given, any postponement of the scheduled sale does not affect the rights of the United States under section 7425 (b).

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph may be illustrated by the following examples:

Example (1). A nonjudicial sale of Blackacre, belonging to A, a delinquent taxpayer, is scheduled for December 2, 1968. As no notice of lien is filed applicable to Blackacre more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Blackacre is postponed until January 15, 1969. A notice of lien with respect to Blackacre is properly filed on January 2, 1969. The sale of Blackacre is held on January 15, 1969. Even though more than 30 days elapsed between the originally scheduled date of the sale (December 2, 1968) and the date of the sale (January 15, 1969), no notice of sale is required to be given to the district director because the notice of lien was not filed more than 30 days before the date of the sale.

Example (2). Assume the same facts as in example (1) except that a notice of lien is filed on November 29, 1968 in accordance with section 6323. Because more than 30 days elapsed between the originally scheduled date of the sale and the date of the sale, and the notice of lien is filed (on November 29, 1968) more than 30 days before the date of the sale (January 15, 1969), notice of the sale, in accordance with the provisions of subparagraph (1) of this paragraph, is required to be given to the district director.

Example (3). A nonjudicial sale of Whiteacre, belonging to B, a delinquent taxpayer, is scheduled for December 2, 1968. A notice of lien applicable to Whiteacre is filed on November 12, 1968 in accordance with section 6323. As the notice of lien was not filed more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Whiteacre is postponed until December 20, 1968. The sale of Whiteacre is held on December 20, 1968. Even though more than 30 days elapsed between the date notice of lien was filed (November 12, 1968) and the date of the sale (December 20, 1968), no notice of sale is required to be given to the district director because not more than 30 days elapsed between the date of the originally scheduled sale (December 2, 1968) and the date the sale was actually held (December 20, 1968).

(b) *Consent to sale*—(1) *In general.* Notwithstanding the notice of sale provisions of paragraph (a) of this section, a nonjudicial sale of property shall discharge or divest the property of the lien or title of the United States if the district director for the internal revenue district in which the sale occurs consents to the sale of the property free of the lien or title. Pursuant to section 7425 (c) (2), where adequate protection is afforded the lien or title of the United States, a district director may, in his discretion, consent with respect to the sale of property in appropriate cases. Such consent shall be effective only if given in writing and shall be subject to such limitations and conditions as the district director may require. However, a district director may not consent to a sale of property under this section after the date of sale, as determined under paragraph (b) of § 301.7425–2. For provisions relating to the authority of the district director to release a lien or discharge property subject to a tax lien, see section 6325 and the regulations thereunder.

(2) *Application for consent.* Any person desiring a district director's consent to sell property free of a tax lien or a title derived from the enforcement of a tax lien of the United States in the property shall submit to the district director for the internal revenue district in which the sale is to occur a written application, in triplicate, declaring that it is made under penalties of perjury, and requesting that such consent be given. The application shall contain the information required in the case of a notice of sale, as set forth in paragraph (d) (1) of this section, and, in addition, shall contain a statement of the reasons why the consent is desired.

(c) *Sale of perishable goods*—(1) *In general.* A notice (as described in paragraph (d) of this section) of a nonjudicial sale of perishable goods (as defined in subparagraph (2) of this paragraph) shall be given in writing, by registered or certified mail or delivered by personal service, at any time before the sale, to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. If a notice of a nonjudicial sale is timely given in the manner described in this paragraph, the nonjudicial sale shall discharge or divest the tax lien, or a title derived from the enforcement of a tax lien, of the United States in the property. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of notices required to be made under this paragraph. The seller of the perishable goods shall hold the proceeds (exclusive of costs) of the sale as a fund, for not less than 30 days after the date of the sale, subject to the liens and claims of the United States, in the same manner and with the same priority as the liens and claims of the United States had with respect to the property sold. If the seller fails to hold the proceeds of the sale in accordance with the provisions of this paragraph and if the district director asserts a claim to the proceeds within 30 days after the date of sale, the seller shall be personally liable to the United States for an amount equal to the value of the interest of the United States in the fund. However, even if the proceeds of the sale are not so held by the seller, but all the other provisions of this paragraph are satisfied, the buyer of the property at the sale takes the property free of the liens and claims of the United States. In the event of a postponement of the scheduled sale of perishable goods, the seller is not required to notify the district director of the postponement. For provisions relating to the authority of the district director to release a lien or discharge property subject to a tax lien, see section 6325 and the regulations thereunder.

(2) *Definition of perishable goods.* For the purpose of this paragraph, the term "perishable goods" means any tangible personal property which, in the reasonable view of the person selling the property, is liable to perish or become greatly reduced in price or value by keeping, or cannot be kept without great expense.

(d) *Content of notice of sale*—(1) *In general.* With respect to a notice of sale described in paragraph (a) or (c) of this section, the notice will be considered adequate if it contains the information described in paragraph (d) (1) (i), (ii), (iii), and (iv) of this section.

(i) The name and address of the person submitting the notice of sale;

(ii) A copy of each Notice of Federal Tax Lien (Form 668) affecting the property to be sold, or the following information as shown on each such Notice of Federal Tax Lien—

(A) The internal revenue district named thereon,

(B) The name and address of the taxpayer, and

(C) The date and place of filing of the notice;

(iii) With respect to the property to be sold, the following information—

(A) A detailed description, including location, of the property affected by the notice (in the case of real property, the street address, city, and State and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title),

(B) The date, time, place, and terms of the proposed sale of the property, and

(C) In the case of a sale of perishable property described in paragraph (c) of this section, a statement of the reasons why the property is believed to be perishable; and

(iv) The approximate amount of the principal obligation, including interest, secured by the lien sought to be enforced and a description of the other expenses (such as legal expenses, selling costs, etc.) which may be charged against the sale proceeds.

(2) *Inadequate notice.* Except as otherwise provided in this subparagraph, a notice of sale described in paragraph (a) of this section which does not contain the information described in paragraph (d) (1) of this paragraph shall be considered inadequate by a district director. If a district director determines that the notice is inadequate, he will give written notification of the items of information which are inadequate to the person who submitted the notice. A notice of sale which does not contain the name and address of the person submitting such notice shall be considered to be inadequate for all purposes without notification of any specific inadequacy. In any case where a notice of sale, given after December 31, 1976 does not contain the information required under paragraph (d) (1) (ii) of this section with respect to a Notice of Federal Tax Lien, the district director may give written notification of such omission without specification of any other inadequacy and such notice of sale shall be considered inadequate for all purposes. In the event the district director gives notification that the notice of sale is inadequate, a notice complying with the provisions of this section (including the requirement that the notice be given not less than 25 days prior to the sale in the case of a notice described in paragraph (a) of this section) must be given. However, in accordance with the provisions of paragraph (b) (1) of this section, in such a case the district director may, in his discretion, consent to the sale of the property free of the lien or title of the United States even though notice of the sale is given less than 25 days prior to the sale. In any case where the person who submitted a timely notice which indicates his name and address does not receive, more than 5 days prior to the date of the sale, written notification from the district director that the notice is inadequate, the notice shall be considered adequate for purposes of this section.

(3) *Acknowledgment of notice.* If a notice of sale described in paragraph (a) or (c) of this section is submitted in duplicate to the district director with a written request that receipt of the notice be acknowledged and returned to the person giving the notice, this request will be honored by the district director. The acknowledgement by the district director will indicate the date and time of the receipt of the notice.

(4) *Disclosure of adequacy of notice.* The district director for the internal revenue district in which the sale was held or is to be held is authorized to disclose, to any person who has a proper interest, whether an adequate notice of sale was given under paragraph (d) (1) of this section. Any person desiring this information should submit to the district director a written request which clearly describes the property sold or to be sold, identifies the applicable notice of lien, gives the reasons for requesting the information, and states the name and address of the person making the request.

§ 301.7425–4 Discharge of liens; redemption by United States.

(a) *Right to redeem*—(1) *In general.* In the case of a nonjudicial sale of real property to satisfy a lien prior to the tax lien or a title derived from the enforcement of a tax lien, the district director may redeem the property within the redemption period (as described in paragraph (a) (2) of this section). The right of redemption of the United States exists under section 7425 (d) even though the district director has consented to the sale under section 7425 (c) (2) and § 301.7425–3 (b). For purposes of this section, the term "nonjudicial sale" shall have the same meaning as used in paragraph (a) of § 301.7425–2.

(2) *Redemption period.* For purposes of this section, the redemption period shall be—

(i) The period beginning with the date of the sale (as determined under paragraph (b) of § 301.7425–2) and ending with the 120th day after such date, or

(ii) The period for redemption of real property allowable, with respect to other secured creditors, under the local law of the place where the real property is located, whichever expires later. Whichever period is applicable, section 7425 and this section shall govern the amount to be paid and the procedure to be followed.

(3) *Limitations.* In the event a sale does not ultimately discharge the property from the tax lien (whether by reason of local law or the provisions of section 7425 (b)), the provisions of this section do not apply because the tax lien will continue to attach to the property after the sale. In a case in which the Internal Revenue Service is not entitled to a notice of sale under section 7425 (b) and § 301.7425–3, the United States does not have a right of redemption under section 7425 (d). However, in such a case, if a tax lien has attached to the property at the time of sale, the United States has the same right of redemption, if any, which is afforded similar creditors under the local law of the place in which the property is situated.

(b) *Amount to be paid*—(1) *In general.* In any case in which a district director exercises the right to redeem real property under section 7425 (d), the amount to be paid is the sum of the following amounts—

(i) The actual amount paid for the property (as determined under paragraph (b) (2) of this section) being redeemed (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale);

(ii) Interest on the amount paid (described in paragraph (b) (1) (i) of this section) at the sale by the purchaser of the real property computed at the rate of 6 percent per annum for the period from the date of the sale (as determined under paragraph (b) of § 301.7425–2) to the date of redemption;

(iii) The amount, if any, equal to the excess of (A) the expenses necessarily incurred to maintain such property (as determined under paragraph (b) (3) of this section) by the purchaser (and his successor in interest, if any) over (B) the income from such property realized by the purchaser (and his successor in interest, if any) plus a reasonable rental value of such property (to the extent the property is used by or with the consent of the purchaser or his successor in interest or is rented at less than its reasonable rental value); and

(iv) With respect to a redemption made after December 31, 1976, the amount, if any, of a payment made by the purchaser or his successor in interest after the foreclosure sale to a holder of a senior lien (to the extent provided under paragraph (b) (4) of this section).

(2) *Actual amount paid.* (i) The actual amount paid for property by a purchaser, other than the holder of the lien

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being foreclosed, is the amount paid by him at the sale. For purposes of this subdivision, the amount paid by the purchaser at the sale includes deferred payments upon the bid price. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount bid and paid for the property. For example, the actual amount paid does not normally include the expenses of the purchaser such as title searches, professional fees, or interest on debt incurred to obtain funds to purchase the property.

(ii) In the case of a purchaser who is the holder of the lien being foreclosed, the actual amount paid is the sum of (A) the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale and (B) any additional amount bid and paid at the sale. For purposes of this section, a purchaser who acquires title as a result of a nonjudicial foreclosure sale is treated as the holder of the lien being foreclosed if a lien (or any interest reserved, created, or conveyed as security for the payment of a debt or fulfillment of other obligation) held by him is partially or fully satisfied by reason of the foreclosure sale. For example, a person whose title is derived from a tax deed issued under local law shall be treated as a purchaser who is the holder of the lien foreclosed in a case where a tax certificate, evidencing a lien on the property arising from the payment of property taxes, ripens into title. The amount paid by a purchaser at the sale includes deferred payments upon any portion of the bid price which is in excess of the amount of the lien being foreclosed. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount of the lien being foreclosed which is legally satisfied by reason of the sale or in the amount bid and paid at the sale. Where the lien being foreclosed attaches to other property not subject to the foreclosure sale, the amount legally satisfied by reason of the sale does not include the amount of such lien that attaches to the other property. However, for purposes of the preceding sentence, the amount of the lien that attaches to the other property shall be considered to be equal to the amount by which the value of the other property exceeds the amount of any other senior lien on that property. Where, after the sale, the holder of the lien being foreclosed has the right to the unpaid balance of the amount due him, the amount legally satisfied by reason of the sale does not include the amount of such lien to the extent a deficiency judgment may be obtained therefor. However, for purposes of the preceding sentence, an amount, with respect to which the holder of the lien being foreclosed would otherwise have a right to a deficiency judgment, shall be considered to be legally satisfied by reason of the foreclosure sale to the extent that the holder has waived his right to a deficiency judgment prior to the foreclosure sale. For this purpose, the waiver must be in writing and legally binding upon the foreclosing lienholder as of the time the sale is concluded. If, prior to the foreclosure, payments have been made by the foreclosing lienholder to a holder of a superior lien, the payments are included in the actual amount paid to the extent they give rise to an interest which is legally satisfied by reason of the foreclosure sale.

(3) *Excess expenses incurred by purchaser.* (i) Expenses necessarily incurred in connection with the property after the foreclosure sale and before redemption by the United States are taken into account in determining if there are excess expenses payable under paragraph (b)(1)(iii) of this section. Expenses incurred by the purchaser prior to the foreclosure sale are not considered under this subparagraph. (See paragraph (b)(2)(ii) of this section for circumstances under which such expenses may be included in the amount to be paid.) Expenses necessarily incurred in connection with the property include, for example, rental agent commissions, repair and maintenance expenses, utilities expenses, legal fees incurred after the foreclosure sale and prior to redemption in defending the title acquired through the foreclosure sale, and a proportionate amount of casualty insurance premiums and ad valorem taxes. Improvements made to the property are not considered as an expense unless the amounts incurred for such improvements are necessarily incurred to maintain the property.

(ii) At any time prior to the expiration of the redemption period applicable under paragraph (a)(2) of this section, the district director may, by certified or registered mail or hand delivery, request a written itemized statement of the amount claimed by the purchaser or his successor in interest to be payable under paragraph (b)(1)(iii) of this section. Unless the purchaser or his successor in interest furnishes the written itemized statement within 15 days after the request is made by the district director, it shall be presumed that no amount is payable for expenses in excess of income and the Internal Revenue Service shall tender only the amount otherwise payable under paragraph (b)(1) of this section. If a purchaser or his successor in interest has failed to furnish the written itemized statement within 15 days after the request therefor is made by the district director, or there is a disagreement as to the amount properly payable under paragraph (b)(1)(iii) of this section, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser or his successor in interest or the resolution of the disagreement as to the amount properly payable for excess expenses.

(4) *Payments made by purchaser or his successor in interest to a senior lienor.* (i) The amount to be paid upon a redemption by the United States made after December 31, 1976, shall include the amount of a payment made by the purchaser or his successor in interest to a holder of a senior lien to the extent a request for the reimbursement thereof (made in accordance with paragraph (b)(4)(ii) of this section) is approved as provided under paragraph (b)(4)(iii) of this section. This paragraph applies only to a payment made after the foreclosure sale and before the redemption to a holder of a lien that was, immediately prior to the foreclosure sale, superior to the lien foreclosed. A payment of principal or interest to a senior lienor shall be taken into account. Generally, the portion, if any, of a payment which is to be held in escrow for the payment of an expense, such as hazard insurance or real property taxes, is not considered under this paragraph. However, a payment by the escrow agent of a real property tax or special assessment lien, which was senior to the lien foreclosed, shall be considered to be a payment made by the purchaser or his successor in interest for purposes of this paragraph. With respect to real property taxes assessed after the foreclosure sale, see paragraph (b)(3)(i) of this section, relating to excess expenses incurred by the purchaser.

(ii) Before the expiration of the redemption period applicable under paragraph (a)(2) of this section, the district director shall, in any case where a redemption is contemplated, send notice to the purchaser (or his successor in interest of record) by certified or registered mail or hand delivery of his right under this subparagraph to request reimbursement (payable in the event the right to redeem under section 7425(d) is exercised) for a payment made to a senior lienor. No later than 15 days after the notice from the district director is sent, the request for reimbursement shall be mailed or delivered to the office specified in such notice and shall consist of—

(A) A written itemized statement, signed by the claimant, of the amount claimed with respect to a payment made to a senior lienor, together with the supporting evidence requested in the notice from the district director, and

(B) A waiver or other document that will be effective upon redemption by the United States to discharge the property from, or transfer to the United States, any interest in or lien on the property that may arise under local law with respect to the payment made to a senior lienor.

Upon a showing of reasonable cause, a district director may, in his discretion and at any time before the expiration of the applicable period for redemption, grant an extension for a reasonable period of time to submit, amend, or supplement a request for reimbursement. Unless a request for reimbursement is timely submitted (determined with regard to any extension of time granted), no amount shall be payable to the purchaser or his successor in interest on account of a payment made to a senior lienor if the right to redeem under section 7425(d) is exercised. A waiver or other document submitted pursuant to this subdivision shall be treated as effective only to the extent of the amount included in the redemption price under this paragraph. If the right to redeem is not exercised or a request for reimbursement is withdrawn, the district director shall, by certified or registered mail or hand delivery, return to the purchaser or his successor any waiver or other document submitted pursuant to this subdivision as soon as is practicable.

(iii) A request for reimbursement submitted in accordance with paragraph (b)(4)(ii) of this section shall be considered to be approved for the total amount claimed by the purchaser, and payable in the event the right to redeem is exercised, unless the district director sends notice to the claimant, by certified or registered mail or hand delivery, of the denial of the amount claimed within 30 days after receipt of the request or 15 days before expiration of the applicable period for redemption, whichever is later. The notification of denial shall state the grounds for denial. If such notice of denial is given, the request for reimbursement for a payment made to a senior lienor shall be treated as having been withdrawn by the purchaser or his successor and the Internal Revenue Service shall tender only the amount otherwise payable under paragraph (b)(1) of this section. If a request for reimbursement is treated as having been withdrawn under the preceding sentence, payment for amounts described in this subparagraph may, in the discretion of the district director, be made after the redemption upon the resolution of the disagreement as to the amount properly payable under paragraph (b)(1)(iv) of this section.

(5) *Examples.* The provisions of paragraph (b)(1)(i) of this section may be illustrated by the following examples:

Example (1). A, a delinquent taxpayer, owns Blackacre located in State X upon which B holds a mortgage. After the mortgage is properly recorded, a notice of tax lien is filed under section 6323(f) which is applicable to Blackacre. Subsequently, A defaults on the mortgage and B forecloses on the mortgage which has an outstanding obligation in the amount of $100,000. At the foreclosure sale, B bids $50,000 and obtains title to Blackacre as a result of the sale. At the time of the foreclosure sale, Blackacre has a fair market value of $75,000. Under the laws of State X, the mortgage obligation is fully satisfied by operation of the foreclosure sale per se and the mortgagee cannot obtain a deficiency judgment. Under paragraph (b)(1)(i) of this section, the district director must pay $100,000 in order to redeem Blackacre.

Example (2). Assume the same facts as in example (1) except that under the laws of State X, the amount bid is the amount of the obligation legally satisfied as a result of the foreclosure sale, and in the case in which the amount of the obligation exceeds the amount bid, the mortgagee has the right to a judgment for the deficiency computed as the difference between the amount of the obligation and the amount bid. B does not waive, prior to the foreclosure sale, his right to a deficiency judgment. In such a case, the district director must, under paragraph (b)(1)(i) of this section, pay $50,000 in order to redeem Blackacre, whether or not B seeks a judgment for the deficiency.

Example (3). C, a delinquent taxpayer, owns Greenacre located in State Y upon which D holds a first mortgage and E holds a second mortgage. After the mortgages are properly recorded, a notice of tax lien is filed under section 6323(f) which is applicable to Greenacre. Subsequently, C defaults on both mortgages and E pays $5,000 to D, which is the portion of D's obligation which is in default. The second mortgage held by E is an outstanding obligation in the amount of $100,000. Under the laws of State Y, E may treat the amount paid to D as an addition to his second mortgage upon foreclosure by him. E forecloses upon the security interest held by him. At the foreclosure sale, E bids $50,000 and obtains title to Greenacre subject to D's mortgage as a result of the foreclosure sale. Under the laws of State Y, the mortgage obligation legally satisfied is the amount bid and E has the right to a judgment for a deficiency in the amount of $55,000 ($100,000 plus $5,000 less $50,000). In such a case, the district director must, under paragraph (b)(1)(i) of this section, pay $50,000 in order to redeem Greenacre, whether or not E seeks a judgment for the deficiency.

Example (4). The law of State Z contains a procedure which permits a county to collect a delinquent tax assessment with respect to real property by the means of a "tax sale" of the property. Pursuant to this procedure, a public auction is conducted on January 15, 1970, to collect the delinquent property taxes assessed against Whiteacre, which is owned by F. At the auction, a bid of $1,000 (representing the tax, costs, and interest due at the time of the auction) is made by G. Subsequently, G pays the amount bid to the county and obtains a tax certificate with respect to Whiteacre. Under this tax sale procedure, the obtaining of the tax certificate does not directly result in the divestment of either F's title or any junior liens on Whiteacre. On January 15, 1973, the period under this tax sale procedure during which F could have redeemed Whiteacre expires. Further, more than 30 days before January 15, 1973, a notice of tax lien affecting Whiteacre is filed under section 6323(f) with respect to F's delinquent Federal income taxes. Under the state tax sale procedure, the amount which would be required to be paid by F to G on January 15, 1973, to redeem Whiteacre is $1,350 (the $1,000 amount bid, interest of $300, and costs of $50). However, Whiteacre is not redeemed by F under the state procedure and, on January 16, 1973, G obtains a tax deed to Whiteacre. Under the law of State Z, the issuance of the tax deed results in the divestment of F's title and junior liens on Whiteacre. Thus, under § 301.7425-2(b), the date of sale is January 16, 1973, for purposes of section 7425(b). The amount legally satisfied by reason of the sale is the amount G is entitled to receive, immediately prior to the expiration of the period for redemption under the law of State Z, if Whiteacre were redeemed at such time. Thus, the district director must, under paragraph (b)(1)(i) of this section, pay $1,350 in order to redeem Whiteacre.

(c) *Certificate of redemption—(1) In general.* If a district director exercises the right of redemption of the United States described in paragraph (a) of this section, he shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States. If no such officer has been designated by local law or if the officer designated by local law fails to issue the necessary documents, the district director is authorized to issue a certificate of redemption for the property redeemed by the United States.

(2) *Filing.* The district director shall, without delay, cause either the documents issued by the local officer or the certificate of redemption executed by the district director to be filed with the local office where certificates of redemption are generally filed. If a certificate of redemption is issued by the district director and if the State in which the real property redeemed by the United States is situated has no office with which certificates of redemption may be filed, the district director shall file the certificate of redemption in the office of the clerk of the United States district court for the judicial district in which the redeemed property is situated.

(3) *Effect of certificate of redemption.* A certificate of redemption executed pursuant to paragraph (c)(1) of this section shall constitute prima facie evidence of the regularity of the redemption. When a certificate of redemption is recorded, it shall transfer to the United States all the rights, title, and interest in and to the redeemed property acquired by the person, from whom the district director redeemed the property, by virtue of the sale of the property. Therefore, if under local law the purchaser takes title free of liens junior to the lien of the foreclosing lienholder, the United States takes title free of such junior liens upon redemption of the property. If a certificate of redemption has been erroneously prepared and filed because the redemption was not effective, the district director shall issue a document revoking such certificate of redemption and such document shall be conclusively binding upon the United States against a purchaser of the property or a holder of a lien upon the property.

(4) *Application for release of right of redemption.* Upon application of a party with a proper interest in the real property sold in a nonjudicial sale described in section 7425(b) and § 301.7425-2 which real property is subject to the right of redemption of the United States described in this section, the district director may, in his discretion, release the right of redemption with respect to the property. The application for the release shall be submitted in writing to a district director and shall contain such information as the district director may require. If the district director determines that the right of redemption of the United States is without value, no amount shall be required to be paid with respect to the release of the right of redemption.

[FR Doc.76-24537 Filed 8-19-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 663-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

United States Parole Commission

The Parole Commission and Reorganization Act (Pub. L. 94-233; 18 U.S.C. 4201 et seq.) established the United States Parole Commission as an inde-

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pendent agency in the Department of Justice, replacing the United States Board of Parole. The Commission is authorized to grant and revoke paroles of Federal prisoners, and its functions are set forth in the Act. This order replaces the regulations relating to the U.S. Board of Parole with regulations concerning the new Commission.

The Commission is comprised of nine members, one of whom is designated as Chairman. The Chairman of the Commission is authorized to designate three Commissioners to serve on the National Appeals Board and to designate one region, subject to the concurrence of the President or his designee. (18 U.S.C. 4204 (a)(5)). By Executive Order No. 11919 of June 9, 1976, the President directed that the Attorney General serve as his designee. This order would authorize the Chairman to make a temporary assignment to any of those positions, in case of absence or vacancy in the position, without the Attorney General's concurrence.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, and Executive Order No. 11919 of June 9, 1976, and consistent with the provisions of the Parole Commission and Reorganization Act (18 U.S.C. 4201 et seq.), Subpart V of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Subpart V—United States Parole Commission

0.125 Chairman of U.S. Parole Commission.
0.126 Administrative support.
0.127 Indigent prisoners.

AUTHORITY: 28 USC 509 and 510; 5 USC 301; E.O. 11919, June 9, 1976; 18 USC 4201 et seq.

Subpart V—United States Parole Commission

CROSS REFERENCE: For regulations pertaining to the United States Parole Commission, see Parts 2 and 4 of this chapter.

§ 0.125 Chairman of U.S. Parole Commission.

The Chairman of the United States Parole Commission shall make any temporary assignment of a Commissioner to act as Vice Chairman, National Appeals Board member, or Regional Commissioner, in the case of an absence or vacancy in the position, without the concurrence of the Attorney General.

§ 0.126 Administrative support.

The Department of Justice shall furnish administrative support to the Commission.

§ 0.127 Indigent prisoners.

The United States Parole Commission is authorized to exercise the authority vested in the Attorney General by section 3569 of Title 18, United States Code, to make a finding that a parolee is unable to pay a fine in whole or in part and to direct release of such parolee based on such finding.

Dated: August 12, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-24360 Filed 8-19-76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Carcinogens: Deletion of Vacated Laboratory Provisions; Deletion of Vacated Standard for Occupational Exposure to 4,4' Methylene bis (2-Chloroaniline)

On January 29, 1974, OSHA promulgated standards for occupational exposure to fourteen carcinogens, as 29 CFR 1910.93c through 1910.93p, pursuant to section 6 (b) and (c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655). These standards were originally published at 39 FR 3756. Within the 60-day period provided by section 6(f) of the Act, petitions for judicial review were filed in the United States Court of Appeals for the Third Circuit by the Synthetic Organic Chemical Manufacturers Association, et al., challenging the validity of these standards. On December 17, 1974, that Court, in the case of "Synthetic Organic Chemical Manufacturers Association v. Brennan," 506 F. 2d 385, cert. denied, 423 U.S. 830, vacated the entire standard for 4,4' Methylene bis (2-chloroaniline), promulgated as § 1910.93e, and vacated the laboratory provisions of all the carcinogen standards (paragraph (c)(6) of §§ 1910.93c through 1910.93p). On January 7, 1975, OSHA Field Information Memorandum No. 75-2, containing this information, was distributed.

In the subsequent recodification of Title 29 of the Code of Federal Regulations, §§1910.93c through 1910.93p were recodified as §§ 1910.1003 through 1910.1016, respectively. Inadvertently, the vacated laboratory provisions were carried forward as paragraph (c)(6) of §§ 1910.1003 through 1910.1016, respectively, and the vacated standard for 4,4' Methylene bis (2-chloroaniline) was carried forward as § 1910.1005. To correct that error, and in accordance with the decision of the Court, § 1910.1005, in its entirety, and paragraph (c)(6) of §§ 1910.1003 through 1910.1016, respectively, are hereby deleted.

I find that the reasons stated above constitute good cause for making this change effective immediately. This amendment, therefore, is effective August 20, 1976.

§ 1910.1005 [Deleted]

§§ 1910.1003–1910.1004 and 1910.1006–1910.1016 [Amended]

Accordingly, pursuant to sections 6 and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by deleting § 1910.1005 in its entirety and by deleting paragraph (c)(6) from §§ 1910.1003 through 1910.1016.

(Secs. 6, 8(g), Pub. L. 91-596, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911)

Signed at Washington, D.C. this 13th day of August, 1976.

B. M. CONCKLIN,
Deputy Assistant Secretary of Labor.

[FR Doc.76-24542 Filed 8-19-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 598-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Georgia: Approval of Plan Revisions

On June 21, 1976 (41 FR 24913), the Agency announced as proposed rulemaking a number of implementation plan changes which the State of Georgia had adopted and submitted for EPA's approval after notice and public hearing. Copies of the materials submitted by Georgia were made available for public inspection, and written comments on the proposed plan revisions were solicited. No comments were received, however. The purpose of the present notice is to announce the Administrator's approval of these revisions. An evaluation of them may be obtained by consulting personnel of the Agency's Region IV Air Programs Branch, 1421 Peachtree Street, NE., Atlanta, Georgia 30309, telephone 404/526-3043. The revisions are now described.

New definitions are added and some existing definitions are revised. The definition of "modification" is amended by specifying that the term will have the sense given to it by sections 111 and 112 of the Clean Air Act when meeting requirements established by EPA under those sections of that Act.

Section 391-3-1.02(1), Registration, is replaced by a section titled "General Requirement", which forbids sources to operate in violation of requirements established by EPA pursuant to sections 111 and 112 of the Clean Air Act.

In subsection 391-3-1.02(2), General Provision, a third paragraph is added; this provides that requirements more stringent than those set forth elsewhere may be imposed on a facility in order to meet any Federal law or regulation or to safeguard the public health and welfare.

The language of subsection 391-3-1.02 (2)(e), Particulate Emissions from Manufacturing Processes, is amended to allow the Director of the Environmental Protection Division to set, as a permit condition, emission limits which differ from those required by the application of the process weight rate tables, or by other sections of the regulations. The Administrator approves this change only for cases where it provides for the establishment as permit conditions of emission limits more stringent than those contained in the currently approved Georgia control strategy. Any application of this regulation which would result in permit provisions less stringent than those otherwise required by the State's regulations must be formally submitted to EPA for prior approval as a plan revision pursuant to section 110(a) of the Clean Air Act.

The limit on particulate emissions from kaolin and fullers earth processes given at 391-3-1.02(2)(p)(1)(ii) is corrected to apply to sources with process weight input rate in excess of 30 tons/hour.

Modifications and rewording changes were made in the rules for conical burners, normal superphosphate manufacturing facilities, open burning sources and incinerators. Minor changes are made in the language dealing with permits and enforcement.

The sulfur dioxide rules of subsection 391-3-1.02(2)(g)(1) are revised to remove reference to urban and rural areas. Subsection 391-3-1.02(2)(g), Sulfur Dioxide, continues to require that no source be exempted from the emission limits defined in revised paragraph (g)(1), and further explicitly states that sources subject to this regulation must also meet the sulfur-in-fuel limitation of paragraph (g)(3), which remains unchanged, in addition to the provisions of paragraphs (g)(1) and (g)(2). Paragraph (g)(4) also remains unchanged and allows the sulfur-in-fuel limit to be exceeded provided that sulfur oxide removal technology is used to reduce sulfur oxide emissions to that level which would be achieved by burning fuel specified in paragraph (g)(3) without sulfur oxide removal. (It should be noted that the EPA's regional office in Atlanta has determined that the sulfur-in-fuel limitation of paragraph (g)(3), with one exception, is sufficient standing alone to assure attainment and maintenance of the national ambient air quality standards for SO_2. For this exception, the State has issued to this source, and EPA has approved, a Permit to Operate which is conditioned in such a way as to effect emission limitations more stringent than those prescribed in the Georgia regulations and sufficiently stringent to assure attainment and maintenance of the national ambient air quality standards (40 FR 45818, October 3, 1975). Also, the application to any source of revised paragraph (g)(1) must be in accordance with EPA's recently issued policy on tall stacks, entitled "Legal Interpretation and Guideline to Implementation of Recent Court Decisions on the Subject of Stack Height Increase as a Means of Meeting Federal Ambient Air Quality Standards", 41 FR 7450, February 18, 1976.)

In the section on ambient air quality standards, the 8-hour standard for carbon monoxide is revised to 10 milligrams per cubic meter, and the measuring procedure for photochemical oxidants and nitrogen dioxide is designated as the chemiluminescent method or its equivalent.

Section 391-3-1.08, Confidentiality of Information, is revised to read as follows:

Information relating to secret processes, devices or methods of manufacture or production obtained by the Division shall be kept confidential. *Provided, however,* Reports on the nature and amounts of stationary source emissions obtained by the Division shall be available for public inspections from the Division.

LEGAL AUTHORITY: Georgia Laws 1967, page 581 et seq., as amended; Georgia Laws 1975, page 1522.

The Georgia plan's provisions for the public availability of emissions data were disapproved on September 26, 1974 (39 FR 34533) at 40 CFR 52.577 and 52.578. On the basis of the foregoing corrective revision, these disapproval actions are hereby revoked.

In support of these changes, the State of Georgia provided no revision in its approved control strategies. EPA's Region IV Office has, for its part, determined that no revision to the control strategy portion of the plan is required since there is no change in the allowable emission limits upon which the Administrator's original approval of the plan was based. Accordingly, the Administrator approves, with the single qualification relative to 391-3-1.02(2)(e), the present changes in the Georgia plan.

These actions are effective immediately since they serve only to notify implementation plan changes already in effect under Georgia law, and impose no additional burden on anyone.

Copies of the information submitted by Georgia and the Georgia plan itself may be examined by the public during normal hours at the following locations:

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309.
Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20450.
Air Protection Branch, Environmental Protection Division, Department of Natural Resources, Room 816, 270 Washington Street, S.W., Atlanta, Georgia 30334.

(Sec. 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)).)

Dated: August 9, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Georgia

1. In § 52.570, paragraph (c) is amended by adding a subparagraph (16) as follows:

§ 52.570 Identification of plan.

• • • • • •

(c) • • •

(16) Miscellaneous plan revisions, submitted on December 16, 1975, by the Georgia Department of Natural Resources.

§§ 52.577 and 52.578 [Revoked]

2. Sections 52.577 and 52.578 are revoked.

3. Section 52.583 is hereby added:

§ 52.583 Additional rules and regulations.

Section 391-3-1.02(2)(e), Particulate Emissions from Manufacturing Processes, is hereby approved only to the extent that it provides for the establishment, as permit conditions, of emission limits more stringent than those otherwise applicable under the currently approved Georgia regulations. Any application of this regulation which would result in permit provisions less stringent than those otherwise required by the State's regulations must be formally submitted to EPA for prior approval as a plan revision pursuant to section 110(a) of the Clean Air Act.

[FR Doc.76-24085 Filed 8-19-76;8:45 am]

[FRL 598-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Revision to Emission Monitoring Requirements

On October 6, 1975 (40 FR 46250), under section 111 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) promulgated emission monitoring requirements and revisions to the performance testing methods in 40 CFR Part 60. The provisions of § 60.13(i) allow the Administrator to approve alternatives to monitoring procedures or requirements only upon written application by an owner or operator of an affected facility; monitoring equipment manufacturers would not be allowed to apply for approval of alternative monitoring equipment. Since EPA did not intend to prevent monitoring equipment manufacturers from applying for approval of alternative monitoring equipment, § 60.13(i) is being revised. As revised, any person will be allowed to make application to the Administrator for approval of alternative monitoring procedures or requirements.

This revision does not add new requirements, rather it provides greater flexibility for approval of alternative equipment and procedures. This revision is effective (date of publication).

(Sections 111, 114, and 301(a) of the Clean Air Act, as amended by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1678 and by sec. 15(c)(2) of Pub. L. 91-604, 84 Stat. 1713 (42 U.S.C. 1857c-6, 1857c-9, and 1857g(a)).)

Dated: August 13, 1976.

RUSSELL E. TRAIN,
Administrator.

In 40 CFR Part 60, Subpart A is amended as follows:

1. Section 60.13 is amended by revising paragraph (i) as follows:

§ 60.13 Monitoring requirements.

• • • • • •

(i) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring procedures or requirements of this part including, but not limited to the following:

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[FR Doc.76-24558 Filed 8-19-76;8:45 am]

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Title 41—Public Contracts and Property Management

CHAPTER 29—DEPARTMENT OF LABOR

PART 29–60—PROCEDURES FOR SETTLING CONTRACT DISPUTE APPEALS

Composition of the Board of Contract Appeals

Pursuant to 5 U.S.C. 301 and Reorganization Plan No. 6 of 1950 (15 FR 3174, 64 Stat. 1263), the Department of Labor is amending 41 CFR 29–60.101 Organization and location of the Board.

The present regulation for administrative adjudication of appeals from decisions of contracting officers under disputes clauses of Department of Labor contracts provides for adjudication of such appeals before a permanent Department of Labor Board of Contract Appeals composed of the Department of Labor Chief Administrative Law Judge who also serves as permanent chairman of the Board and eight Administrative Law Judges (whose titles were "Hearing Examiners" at the time the present regulation was promulgated) appointed for a term of four years. As it appears that greater flexibility and efficiency of operation can be promoted by permitting all Department of Labor Administrative Law Judges to be utilized as members of the Board, the procedural regulation at 41 CFR 29–60.101 is amended as set forth below.

As this regulation change concerns only matters of procedure, notice of proposed rulemaking, public participation therein and delay in effective date are not required (5 U.S.C. 553). Accordingly, on August 20, 1976, 41 CFR 29–60.101 is amended to read as follows:

§ 29–60.101 Organization and location of the Board.

(a) The Board is located in Washington, D.C.

(b) The Board consists of the Chief Administrative Law Judge and all other Administrative Law Judges employed by the U.S. Department of Labor as provided in 5 U.S.C. 5108 and qualified to preside at hearings pursuant to 5 U.S.C. 556. The Chief Administrative Law Judge shall be the Chairman of the Board. The appeals are assigned to a panel of at least three members of the Board by the Chairman who shall designate one panel member as Chairman of the panel. The decision of a majority of the panel constitutes the decision of the Board.

(c) In the event the Chief Administrative Law Judge is temporarily unavailable to serve as Chairman of the Board he shall designate one associate member to serve for the duration of his absence.

(5 U.S.C. 301; 15 FR 3174, 64 Stat. 1263.)

Signed at Washington, D.C., this 16th day of August 1976.

WILLIAM J. KILBERG,
Acting Secretary of Labor.

[FR Doc.76-24639 Filed 8-19-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Amendment of Rules and Regulations

This document gives notice and invites written comments, not later than September 6, 1976, with respect to a proposed amendment to the rules and regulations under Marketing Order No. 910, regulating the handling of lemons grown in California and Arizona. The order provides for computation of each handlers prorate base by averaging the weekly quantity of lemons picked and delivered to his packinghouse in a specified base period. A handler receives allotment to ship lemons on the basis of the relationship his prorate base bears to the prorate bases of all handlers. The proposed amendment would change the number of weeks in the prorate base periods for Districts 1 and 2 to allow for a more equitable distribution of allotment by districts.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than September 6, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100–910.180) are effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in Arizona and designated part of California, hereinafter referred to as the "order." This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal to amended said rules and regulations was unanimously recommended by the Lemon Administrative Committee established under the order as the agency to administer its terms and provisions. Under § 910.53 of the order the prorate base of each handler is computed on the basis of the average weekly quantity of lemons picked and delivered to his packinghouse in a specified base period. A handler receives allotment to ship lemons proportional to the relationship his prorate base bears to the total of the prorate bases of all handlers. In recognition of the differences in production and marketing conditions between the three prorate districts it is provided that the number of weeks in a prorate base period shall be specified by district. The aforesaid section also provides that the committee with the approval of the Secretary, may change the number of weeks in the prorate base period for each district.

As proposed to be amended, the rules and regulations would specify a change in the prorate base period for District 1 from 8 to 6 weeks and District 2 from 16 to 12 weeks. District 3 would remain at the present 4 weeks. A change from 16 weeks to 12 weeks in the maximum duration of a different prorate base period than generally prevailing in a district that a handler may apply for is also proposed. The aforesaid changes would also necessitate deleting "16" and inserting "12" in § 910.153(e)(2)(ii). In addition, a previous error in a reference to a subsection number would be corrected by the amendment.

The committee reports that shortening the weekly base period for Districts 1 and 2 as indicated would more accurately reflect the maximum time periods that picked lemons are stored before shipment. Decreasing the number of weeks in the prorate base period for Districts 1 and 2 would result in District 3 receiving a higher percentage of the industry prorate base early in the season when the quality of its lemons is highest. Likewise, District 3's share of the industry prorate base would be reduced seasonally earlier when more of that district's lemons are of lower quality.

The proposed amendments are as follows:

1. Two new paragraphs (g) and (h) are proposed to be added in § 910.153 to read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(g) *Change in prorate base periods.* Pursuant to § 910.53(h) the number of weeks in the prorate base periods for the several districts as specified in § 910.53 (e) shall be: District 1, 6 weeks; District 2, 12 weeks; and District 3, 4 weeks.

(h) *Change in the duration of a different prorate base period that any handler may apply for to the committee.* Pursuant to § 910.53(h) the number of weeks specified in § 910.53(g) shall be in no event less than 4 weeks nor more than 12 weeks.

* * * * *

§ 910.153 [Amended]

2. In § 910.153(e)(2)(ii) change "16" to "12".

3. In § 910.153(a)(6) correct "other than off-bloom lemons covered by § 916.-61a" to read "other than off-bloom lemons covered by § 910.61(a).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

(It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.)

Dated: August 16, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-24395 Filed 8-19-76;8:45 am]

[7 CFR Parts 1006, 1012, and 1013]

[Docket Nos. AO–356–A14, AO–347–A18, and AO–286–A26]

MILK IN UPPER FLORIDA, TAMPA BAY AND SOUTHEASTERN FLORIDA MARKETING AREAS

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay and Southeastern Florida marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before August 30, 1976. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

In the interest of expediting amendatory action in this proceeding, less than 15 days is being provided for the filing of exceptions. Proponents urged at the hearing that their proposed amendments be implemented as soon as possible. There was no opposition to the proposals or to taking prompt action.

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

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PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Orlando, Florida, on June 22, 1976, pursuant to notices thereof which were issued on May 19, 1976 (41 F.R. 21206) and June 11, 1976 (41 F.R. 24382).

The material issues on the record of the hearing relate to:

1. Changing the present classification of cream and cream products from Class I to Class II; and

2. Permitting producer milk to be diverted from pool plants to plants regulated under other Federal orders for requested Class II use.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Classification of cream and cream products.* All cream and cream products should be classified as Class II products under each of the Florida orders.

The Florida orders now include sweet cream and sweet cream mixtures such as half and half in Class I. Other cream products, such as sour cream, sour cream dips, aerated cream and aerated cream products, are presently treated as Class II products.

The lower classification for cream products now defined as "fluid milk products" was proposed by the operator of a partially regulated distributing plant located at Jacksonville, Florida. The plant operator processes a number of cream products (both Class I and Class II) for sale throughout the southeastern part of the United States. Among such products are heavy (whipping) cream, light coffee) cream, and half and half. These three products, which shall be referred to herein as fluid cream products, are Class I products under each of the Florida orders. Proponent distributes fluid cream products on routes within each marketing area and also is a principal supplier of such products to handlers fully regulated under the Florida orders. He indicated that about one-third of his total sales are made in the three Florida markets.

The proponent handler pointed out that a number of processors in other states distribute various fluid cream products in Florida. He contended that such processors are procuring their raw ingredients at prices comparable to the Class II prices under the Florida orders. Proponent claimed that he is thus competitively disadvantaged in the Florida markets with respect to his sales of Class I fluid cream products. He indicated that fluid cream sales in Florida by out-of-state processors have been increasing while his cream sales in Florida have been declining. Proponent urged that fluid cream products be classified under the Florida orders in a manner comparable to the classification of such products now prevailing under most other Federal orders.

The proposal was not opposed by interested parties.

It is in the interest of orderly marketing that fluid cream products be classified as Class II products under each of the Florida orders. Such classification will place Florida handlers on a comparable basis with handlers in other regulated markets as to their cost under the orders for skim milk and butterfat disposed of as fluid cream products.

Handlers fully regulated under the Florida orders are required to pay the applicable order's Class I price for all producer milk disposed of in the form of fluid cream products. Several payment options are available to the operator of a partially regulated distributing plant (a distributing plant with route sales in the marketing area but which does not qualify as a pool plant). Under such options, however, a partially regulated handler incurs a cost essentially equal to the Class I price on his in-area sales of Class I products.

The proponent handler processes his cream products from heavy cream and nonfat dry milk, using the latter product in reconstituted form to standardize the heavy cream to the desired butterfat content. He purchases his raw cream from both Florida handlers and processors outside the state. To the extent that his cream purchases have been classified and priced as Class I milk under any Federal order, proponent has no order obligation on his packaged fluid cream sales in the Florida markets. Route sales in a Florida market that cannot be offset in this manner, however, are subject to a payment to the pool at the difference between the order's Class I and blend prices. To the extent that the cream product contains reconstituted nonfat dry milk, proponent incurs a pool obligation on the reconstituted portion equal to the difference between the order's Class I and Class II prices.

In addition to his route sales, proponent also supplies packaged fluid cream products to Florida pool plants. These transfers are treated under the orders as a receipt from an unregulated supply plant. Unless such transfers represent the equivalent of Class I purchases from Federal order sources, the receiving pool handler must pay to the pool the difference between the order's Class I and blend prices with respect to the fluid cream products transferred. In this case, also, an obligation equal to the difference between the order's Class I and Class II prices applies to the extent of the reconstituted portion of the cream product.

Such pricing of fluid cream products is placing the proponent handler at a competitive disadvantage relative to other cream processors not subject to the pricing provisions of the Florida orders. Several processors throughout the eastern half of the United States are distributing fluid cream products in the Florida markets, and thus in competition with proponent. Such processors are located at Charleston, West Virginia (Order 33 area), Washington Court House, Ohio (Order 33 area), Newburgh, New York (Order 2 area), Lebanon, Missouri (Order 62 area), and in the Chicago Regional market (Order 30 area). Handlers operating in these regulated markets are required to pay no more than a Class II price for milk used in fluid cream products, and no additional obligation is imposed under the Florida orders when such products are sold in the Florida markets. In most cases, the applicable Class II price in the other markets is the Minnesota-Wisconsin price plus 10 cents. By comparison, in 1975 the minimum Class I prices in Florida averaged $2.39 higher under the Upper Florida order, $2.49 higher under the Tampa Bay order, and $2.69 higher under the Southeastern Florida order.

Outside Florida, only nine Federal order markets now include fluid cream products in Class I. These markets are Puget Sound, Inland Empire, Great Basin, Eastern Colorado, Western Colorado, Black Hills, Michigan Upper Peninsula, Appalachian and Knoxville. The latter two markets have been proposed to be merged with the Chattanooga order. The proposed merged order, as set forth in the Department's final decision, would include fluid cream products in Class II.[1] The other markets listed are located substantial distances from Florida and do not represent from a practical standpoint sources of intermarket competition for Florida handlers.

The uniform classification of fluid cream products throughout much of the country was brought about in large part through the simultaneous adoption of uniform classification provisions in 39 orders.[2] Such provisions became effective on August 1, 1974. The Florida orders were not a part of the applicable proceedings.

Fluid cream sales in Florida represent less than two percent of the total Class I sales of regulated handlers. Classifying cream products in Class II, rather than in Class I, thus will have a very limited impact on returns to producers in the Florida markets.

A number of changes in each of the Florida orders are required to implement the new classification of fluid cream products. Such changes are patterned after the uniform classification provisions noted earlier that are applicable under the majority of orders. The use of such provisions will tend to minimize regulatory differences among competing handlers.

Under the amendments adopted herein, the accounting for fluid cream products would continue to be on a "disposed of" basis. This accounting method now applies to all products, including heavy

[1] Official notice is taken of the Assistant Secretary's decision on the Appalachian, Chattanooga and Knoxville orders issued on August 10, 1976.

[2] Official notice is taken of the Assistant Secretary's decisions on 39 Federal orders issued on February 19, 1974 (39 FR 8202, 8452, 8712, and 9012).

and light cream and half and half, that are included in the present fluid milk product definition. Other cream products now in Class II, such as sour cream and aerated cream, are accounted for on a "used to produce" basis. Although fluid cream products also would be in Class II, the "disposed of" accounting basis still remains appropriate for these types of products.

In connection with the classification changes, it is desirable to define a new term—"fluid cream product." "Fluid cream product" would mean sweet cream or a mixture of sweet cream and milk or skim milk containing 9 percent or more butterfat. The term would not include aerated cream and aerated cream products, which are Class II products now accounted for on a "used to produce" basis. Although the minimum butterfat content of half and half under State regulations is 10.5 percent, the minimum butterfat level of cream mixtures is set herein at 9 percent to coincide with the level established under the 39 orders referred to earlier.

Certain changes are also made in the other source milk definition of each order. At present, fluid milk products received at a pool plant from any source other than producers, other pool plants and the plant's inventory at the beginning of the month are considered as other source milk. Under the classification changes, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, it is desirable, nevertheless, that fluid cream products in bulk form continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Receipts of packaged fluid cream products, on the other hand, would be considered in all cases as a receipt of other source milk. This would be so irrespective of whether the products are received from other pool plants, other Federal order plants or unregulated plants. No handler obligation would apply to these receipts of packaged Class II products. Such receipts would be allocated directly to the handler's Class II utilization.

Fluid cream products disposed of from a pool plant in packaged form would be classified as Class II products, irrespective of whether such products are distributed on routes or transferred to another plant. The disposition of such products in packaged form indicates that this is the final form of the product. The classification of fluid cream products in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant continue to be classified in the same manner as now provided under the orders.

Fluid cream products on hand in packaged form at the end of the month would be included in Class II, the class of expected ultimate use. The ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in such following month directly to the handler's Class II utilization. No change would be made in the present treatment of bulk cream in ending inventory.

For the first month that the new classification changes are effective, certain transitional provisions relating to inventories of fluid cream products should apply. Such provisions are necessary to assure that all handlers under the Florida orders will be subject to comparable pricing for milk used in packaged fluid cream products irrespective of whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk. Under the present orders, ending inventories of packaged fluid cream products are classified as Class I milk. Thus, in the first month of the new amendments, the beginning inventories of packaged fluid cream products will have been priced at the preceding month's Class I price. A handler should receive a credit on such beginning inventories equal to the difference between the preceding month's Class I and Class II prices so that such inventories will be competitive with Class II products made during the first month from current receipts of producer milk.

2. *Diversion of producer milk.* Each of the Florida orders should be amended to permit the diversion of producer milk to a pool plant regulated under another Federal order for requested Class II use.

The present provisions of each order provide that within certain limits producer milk may be diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. Even though not physically received at a pool plant, such diverted milk remains pooled under the order. Milk that is moved directly from farms to an other order plant is not considered as producer milk under the Florida orders and is not pooled or priced under such orders. In the case of producer-handler plants, the orders do not permit producer-handlers to receive milk directly from farms of other dairy farmers.

The fluid markets in Florida customarily have a reserve supply of milk to cover fluctuations in consumer demand and peak bottling schedules. Also, excess supplies normally develop during the months of seasonally high production. When these available supplies are not needed by distributing plants for fluid use, the milk must be moved to manufacturing plants for processing since the distributing plants are not equipped to handle such milk.

Diversion provisions are intended to facilitate the efficient handling of this surplus milk by permitting the movement of such milk directly from farms to manufacturing plants. Normally, milk is associated with a Federal order market only through its delivery to a plant fully regulated under the order. Without diversion provisions, milk not needed at the plant would still have to be received at the pool plant and then transferred to a manufacturing plant in order for the milk to remain pooled under the order. It is generally more economical, however, to move the surplus milk directly from the farm to the manufacturing plant, since this eliminates reloading the milk at the distributing plant and usually considerable hauling. The diversion provisions thus permit the continued association of a producer's milk with the fluid market while facilitating the efficient disposition of the market's reserve supply.

Facilities within the State of Florida for processing the reserve supplies of milk are limited essentially to a cottage cheese operation and an ice cream plant. Most of the surplus milk associated with each of the Florida orders thus has to be moved to out-of-state plants for processing. The following table shows the quantities of producer milk that were diverted to out-of-state plants for Class II use during 1974 and 1975.

Producer milk diverted to plants outside Florida for class II use

[Million pounds]

Federal order	1974	1975
Upper Florida	16.4	16.4
Tampa Bay	2.0	3.2
Southeastern Florida	2.1	16.7

A manufacturing plant at Franklinton, Louisiana, has customarily been used to process much of the Florida reserve supply. On April 1, 1976, the Franklinton plant became regulated under the newly expanded New Orleans-Mississippi Federal order. Because of its regulated status, the Franklinton plant no longer could be used as an outlet for surplus milk if the milk was to retain its producer status under the Florida orders. Because of the need for Florida producers to rely on this plant, cooperatives requested that the Department suspend those provisions that precluded diversions to other order plants. This action was taken for the months of May, June and July 1976. At the same time, this matter was publicly noticed as an issue to be considered at the hearing on which this decision is based. These provisions were later suspended for the months of August and September 1976.

In order to facilitate the disposition of surplus milk, the three Florida orders should be amended to permit diversions to other Federal order plants for Class II uses. Such plants in other markets are available surplus outlets for the milk in Florida that is not needed locally for fluid use. The Florida orders should permit the diversion of milk to these plants should the cooperatives find a need for utilizing such manufacturing facilities.

In the absence of such amendments, cooperatives in Florida still could dispose of unneeded milk supplies to a manufacturing plant regulated by another order. In most cases, such milk would be pooled under the other order. This, however, would have the effect of passing to the other Federal order market the

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burden of the excess milk supplies of the Florida markets. The result would be an unwarranted decrease in the blend price payable to the producers regularly supplying the other market where the surplus milk became pooled. At the same time, the blend price for the Florida market from which the surplus milk emanated would be unjustifiably increased since such milk would not be included in the Florida order pool. This result would be contrary to the intent of the Act, which is to ensure stable and orderly marketing conditions for dairy farmers through the use of appropriate regulatory provisions.

It has been the policy under the Federal order program to facilitate the disposal of surplus milk on a Federal order market through manufacturing plants regulated under other orders. In this connection, Federal orders customarily provide that handlers may request a surplus classification for intermarket shipments of milk and that such milk will be allocated to the receiving handler's Class II/Class III utilization. In this way, returns to producers in the receiving market are not affected by the receipt of the surplus milk from the other market.

It is possible that milk may be diverted to another order plant with no agreement among the handlers as to its classification. In this case, the milk would be prorated under the other order (but with certain limitations) to the receiving handler's utilization in each class. A portion of such deliveries thus would be allocated to the receiving handler's Class I utilization. Since these deliveries to the handler would represent a portion of his Class I supply, such milk more appropriately should be pooled under the order regulating the plant where the milk was used in Class I. Accordingly, the Florida orders should provide that a "producer" should not include any person with respect to milk produced by him that is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I milk under the provisions of such other order.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

A brief and proposed findings and conclusions were filed on behalf of an interested party. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions is denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Upper Florida, Tampa Bay and Southeastern Florida marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.12 is revised to read as follows:

§ 1006.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1006.13 from a pool plant to a nonpool plant.

(b) The term "producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) The operator of an exempt distributing plant; or

(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I milk under the provisions of such other order.

2. In § 1006.13, the introductory text of paragraph (b) is revised to read as follows:

§ 1006.13 Producer milk.

* * * * *

(b) Diverted from a pool plant to a nonpool plant, other than a producer-handler plant, for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

* * * * *

3. In § 1006.14, paragraphs (a) and (b) are revised to read as follows:

§ 1006.14 Other source milk.

* * * * *

(a) Fluid milk products and fluid cream products from any source except:

(1) Producer milk;

(2) Such products from pool plants; and

(3) Such products in inventory at the beginning of the month;

(b) Products, other than fluid milk products and fluid cream products, from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

* * * * *

4. Section 1006.15 is revied to read as follows:

§ 1006.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, flavored milk drinks (including eggnog and milkshake mix), filled milk, and concentrated milk.

5. A new § 1006.16 is added to read as follows:

§ 1006.16 Fluid cream product.

"Fluid cream product" means sweet cream or a mixture of sweet cream and milk or skim milk containing 9 percent or more butterfat. The term "fluid cream product" shall not include aerated cream and aerated cream products.

6. In § 1006.30(a), subparagraphs (2) and (5) are revised to read as follows:

§ 1006.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(2) Fluid milk products and bulk fluid cream products received from pool plants of other handlers;

* * * * *

(5) Inventories of fluid milk products and fluid cream products at the beginning and end of the month;

* * * * *

7. In § 1006.40(b), a new subparagraph (1–a) is added and subparagraph (4) is revised to read as follows:

§ 1006.40 Classes of utilization.

* * * * *

(b) * * *

(1–a) Skim milk and butterfat disposed of in the form of a fluid cream product;

* * * * *

(4) Skim milk and butterfat in inventory of fluid cream products and bulk fluid milk products at the end of the month;

* * * * *

8. In § 1006.42, the introductory text of paragraphs (a), (b), and (c) and the language of paragraph (c) (3) and (5) are revised to read as follows:

§ 1006.42 Classification of transfers and diversions.

* * * * *

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler, subject to the following conditions:

* * * * *

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant, unless the requirements of paragraph (b) (1) and (2) of this section are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from paragraph (b) (3) of this section.

* * * * *

(c) As follows, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to an other order plant in excess of receipts of fluid milk products or bulk fluid cream products, respectively, from such plant in the same category as described in paragraph (c) (1), (2), or (3) of this section:

* * * * *

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II milk to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the other order:

* * * * *

(5) For purposes of this paragraph, if the other order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

* * * * *

9. In § 1006.44(a), new subparagraphs (2–b) and (2–c) are added and subparagraphs (3) (i), (6), and (10) are revised to read as follows:

§ 1006.44 Classification of producer milk.

* * * * *

(2–b) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were received in packaged form from other plants;

(2–c) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were in inventory at the beginning of the month in packaged form;

(3) * * *

(i) Other source milk, except that received in the form of a fluid milk product, that was not subtracted pursuant to paragraph (a) (2–b) of this section;

* * * * *

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products at the beginning of the month that were not subtracted pursuant to paragraph (a) (4) of this section;

* * * * *

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1006.42(a); and

* * * * *

10. In § 1006.45, paragraphs (b) and (c) are revised to read as follows:

§ 1006.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1006.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

* * * * *

1. In § 1006.60, paragraph (e) is revised and a new paragraph (g) is added to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat (excluding that contained in receipts of bulk fluid cream products from an other order plant) subtracted from Class I pursuant to § 1006.44 (a) (3) and the corresponding step of § 1006.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1006.44(a) (3) (v) and (vi) and the corresponding step of § 1006.44 (b) the Class I price shall be adjusted to the location of the transferor-plant (but not to be less than the Class II price);

* * * * *

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid cream product that was in the handler's inventory at the end of the preceding month and classified as Class I milk.

12. In § 1006.85, paragraph (b) is revised to read as follows:

§ 1006.85 Assessment for order administration.

* * * * *

(b) Any other source milk allocated to Class I milk pursuant to § 1006.44(a) (3) and (8) and the corresponding step of § 1006.44(b), except such other source milk excluded from pool obligations pursuant to § 1006.60 (e) and (f); and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.12 is revised to read as follows:

§ 1012.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1012.13 from a pool plant to a nonpool plant.

(b) The term "producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act; or

(2) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I milk under the provisions of such other order.

2. In § 1012.13, the introductory text of paragraph (b) is revised to read as follows:

§ 1012.13 Producer milk.

* * * * *

(b) Diverted from a pool plant to a nonpool plant, other than a producer-

V 41 163 AUG 20 76 UMI

handler plant, for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

• • • • • •

3. In § 1012.14, paragraphs (a) and (b) are revised to read as follows:

§ 1012.14 Other source milk.

• • • • • •

(a) Fluid milk products and fluid cream products from any source except:
(1) Producer milk;
(2) Such products from pool plants; and
(3) Such products in inventory at the beginning of the month;
(b) Products, other than fluid milk products and fluid cream products, from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

• • • • • •

4. Section 1012.15 is revised to read as follows:

§ 1012.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, flavored milk drinks (including eggnog and milkshake mix), filled milk, and concentrated milk.

5. A new § 1012.16 is added to read as follows:

§ 1012.16 Fluid cream product.

"Fluid cream product" means sweet cream or a mixture of sweet cream and milk or skim milk containing 9 percent or more butterfat. The term "fluid cream product" shall not include aerated cream and aerated cream products.

6. In § 1012.30(a), subparagraphs (2) and (5) are revised to read as follows:

§ 1012.30 Reports of receipts and utilization.

• • • • • •

(a) • • •
(2) Fluid milk products and bulk fluid cream products received from pool plants of other handlers;

• • • • • •

(5) Inventories of fluid milk products and fluid cream products at the beginning and end of the month;

• • • • • •

7. In § 1012.40(b), a new subparagraph (1–a) is added and subparagraph (4) is revised to read as follows:

§ 1012.40 Classes of utilization.

• • • • • •

(b) • • •
(1–a) Skim milk and butterfat disposed of in the form of a fluid cream product;

• • • • • •

(4) Skim milk and butterfat in inventory of fluid cream products and bulk fluid milk products at the end of the month;

• • • • • •

8. In § 1012.42, the introductory text of paragraphs (a), (b), and (c) and the language of paragraph (c) (3) and (5) are revised to read as follows:

§ 1012.42 Classification of transfers and diversions.

• • • • • •

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler, subject to the following conditions:

• • • • • •

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of paragraph (b) (1) and (2) of this section are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from paragraph (b) (3) of this section:

• • • • • •

(c) As follows, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to an other order plant in excess of receipts of fluid milk products or bulk fluid cream products, respectively, from such plant in the same category as described in paragraph (c) (1), (2), or (3) of this section:

• • • • • •

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II milk to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the other order:

• • • • • •

(5) For purposes of this paragraph, if the other order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

• • • • • •

9. In § 1012.44(a), new subparagraphs (2–b) and (2–c) are added and subparagraphs (3)(i), (6), and (10) are revised to read as follows:

§ 1012.44 Classification of producer milk.

• • • • • •

(2–b) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were received in packaged form from other plants;
(2–c) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were in inventory at the beginning of the month in packaged form;
(3) • • •
(i) Other source milk, except that received in the form of a fluid milk product, that was not subtracted pursuant to paragraph (a)(2–b) of this section;

• • • • • •

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products at the beginning of the month that were not subtracted pursuant to paragraph (a)(4) of this section;

• • • • • •

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1012.42(a); and

• • • • • •

10. In § 1012.45, paragraphs (b) and (c) are revised to read as follows:

§ 1012.45 Market administrator's reports and announcements concerning classification.

• • • • • •

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1012.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant to class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and as necessary, any changes in such allocation arising from the verification of such report.

• • • • • •

11. In § 1012.60, paragraph (e) is revised and a new paragraph (g) is added to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

• • • • • •

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat (excluding that contained in receipts of bulk fluid cream products from an other order plant) subtracted from Class I pursuant to § 1012.44(a)(3) and the corresponding step of § 1012.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1012.44(a)(3)(iv) and (v) and the corresponding step of § 1012.44(b) the Class I price shall be adjusted to the location of the transferor-plant (but not to be less than the Class II price);

• • • • • •

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid cream product that was in the handler's inventory at the end of the preceding month and classified as Class I milk.

12. In § 1012.85, paragraph (b) is revised to read as follows:

§ 1012.85 Assessment for order administration.

• • • • • •

(b) Any other source milk allocated to Class I milk pursuant to § 1012.44(a)(3) and (8) and the corresponding step of § 1012.44(b), except such other source milk excluded from pool obligations pursuant to § 1012.60(e) and (f); and

• • • • • •

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.12 is revised to read as follows:

§ 1013.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who producers milk (and who is responsible for the milk production enterprise on a continuing basis as to management and risk) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this part compliance with inspection requirements shall include production of milk acceptable to agencies of the U.S. Government located in the marketing area for fluid consumption).
(b) The term "producer" shall not include:
(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act; or
(2) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I milk under the provisions of such other order.

2. In § 1013.13, the introductory text of paragraph (b) is revised to read as follows:

§ 1013.13 Producer milk.

• • • • • •

(b) Diverted from a pool plant to a nonpool plant, other than a producer-handler plant, for the account of the pool plant operator or a cooperative association, subject to the following:

• • • • •

3. In § 1013.14, paragraphs (a) and (b) are revised to read as follows:

§ 1013.14 Other source milk.

• • • • • •

(a) Fluid milk products and fluid cream products from any source except:
(1) Producer milk;
(2) Such products from pool plants; and
(3) Such products in inventory at the beginning of the month;
(b) Products, other than fluid milk products and fluid cream products, from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

• • • • • •

4. Section 1013.15 is revised to read as follows:

§ 1013.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, flavored milk drinks (including eggnog and milkshake mix), filled milk, and concentrated milk.

5. A new § 1013.16 is added to read as follows:

§ 1013.16 Fluid cream product.

"Fluid cream product" means sweet cream or a mixture of sweet cream and milk or skim milk containing 9 percent or more butterfat. The term "fluid cream product" shall not include aerated cream and aerated cream products.

§ 1013.19 [Revoked]

6. Section 1013.19 is revoked.

7. In § 1013.30(a), subparagraphs (2) and (5) are revised to read as follows:

§ 1013.30 Reports of receipts and utilization.

• • • • • •

(a) • • •
(2) Fluid milk products and bulk fluid cream products received from pool plants;

• • • • • •

(5) Inventories of fluid milk products and fluid cream products at the beginning and end of the month or accounting period;

• • • • • •

8. In § 1013.40(b), a new subparagraph (1–a) is added and subparagraph (4) is revised to read as follows:

§ 1013.40 Classes of utilization.

• • • • • •

(b) • • •
(1–a) Skim milk and butterfat disposed of in the form of a fluid cream product;

• • • • • •

(4) Skim milk and butterfat in inventory of fluid cream products and bulk fluid milk products at the end of the month;

• • • • • •

9. In § 1013.42, the introductory text of paragraphs (a), (b), and (c) and the language of paragraph (c) (3) and (5) are revised to read as follows:

§ 1013.42 Classification of transfers and diversions.

• • • • • •

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler, subject to the following conditions:

• • • • • •

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of paragraph (b) (1) and (2) of this section are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from paragraph (b) (3) of this section:

• • • • • •

(c) As follows, if transferred or diverted in the form of a fluid milk product or a bulk fluid cream product to an other order plant in excess of receipts of fluid milk products or bulk fluid cream products, respectively, from such plant in the same category as described in paragraph (c) (1), (2), or (3) of this section:

• • • • • •

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II milk to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the other order:

• • • • • •

(5) For purposes of this paragraph, if the other order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

• • • • • •

10. In § 1013.44(a), new subparagraphs (2–b) and (2–c) are added and subparagraphs (3), (7), and (11) are revised to read as follows:

§ 1013.44 Classification of producer milk.

• • • • • •

(a) • • •
(2–b) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were received in packaged form from other plants;
(2–c) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products that were in inventory at the beginning of the month in packaged form;

V 41 163 AUG 20 76 UMI

(3) Subtract from the remaining pounds of skim milk in Class I and Class II, in series beginning with Class II, the pounds of skim milk in other source milk, except that received in the form of a fluid milk product, that was not subtracted pursuant to paragraph (a) (2–b) of this section;

• • • • • •

(7) Subtract from the pounds of skim milk remaining in Class I and Class II, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) of this section;

• • • • • •

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1013.42(a); and

• • • • • •

11. In § 1013.45, paragraphs (b) and (c) are revised to read as follows :

§ 1013.45 Market administrator's reports and announcements concerning classification.

• • • • • •

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1013.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

• • • • • •

12. In § 1013.60, paragraph (e) is revised and a new paragraph (g) is added to read as follows:

§ 1013.60 Handler's value of milk for computing uniform price.

• • • • • •

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat (excluding that contained in receipts of bulk fluid cream products from an other order plant) subtracted from Class I pursuant to § 1013.44(a) (3) and (4) and the corresponding step of § 1013.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1013.44(a) (4) (iii) and (iv) and the corresponding step of § 1013.44(b) the Class I price shall be adjusted to the location of the transferor-plant (but not to be less than the Class II price);

• • • • • •

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid cream product that was in the handler's inventory at the end of the preceding month and classified as Class I milk.

13. In § 1013.85, paragraph (a) (2) is revised to read as follows:

§ 1013.85 Assessment for order administration.

(a) • • •

(2) Any other source milk allocated to Class I milk pursuant to § 1013.44(a) (3), (4), and (9) and the corresponding steps of § 1013.44(b), except such other source milk excluded from pool obligations pursuant to § 1013.60 (e) and (f); and

• • • • • •

Signed at Washington, D.C., on August 17, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-24533 Filed 8-19-76;8:45 am]

[7 CFR Part 1033]

[Docket No. AO-166-A49]

MILK IN OHIO VALLEY MARKETING AREA

Decision (Partial) on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Ohio Valley marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Columbus, Ohio, on May 4, 1976, pursuant to notice thereof issued on March 30, 1976 (41 FR 14192).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator on July 20, 1976 (41 FR 30345) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

No testimony was presented on the hearing notice proposal (No. 9) to reduce the monthly route disposition requirement for pooling a distributing plant from 50 percent to 45 percent in September–February and from 45 percent to 40 percent in March–August of a plant's total receipts. Accordingly, no action is taken on the proposal.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the addition of three paragraphs immediately following the last paragraph in the findings and conclusions.

The material issues on the record relate to:

1. Payment procedures which would permit handlers to make payments to nonmember producers directly rather than through the market administrator.
2. Procedure for pooling a plant that qualified under the Ohio Valley order and another order in the same month.
3. Modification of the pooling procedure to consider as one plant the operation of two or more distributing plants for purposes of pool qualification.
4. Inclusion of interplant transfers of packaged fluid milk products as a route disposition from the transferee-plant for purposes of determining such plant's status as a pool plant.
5. Classifying in Class III the skim milk and butterfat in products containing less than 6.5 percent nonfat milk solids.
6. Classifying in Class III the skim milk and butterfat in products in hermetically sealed containers.
7. Conforming changes.

This decision deals only with Issue No. 2. The remaining issues will be handled in a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

2. *Pooling a plant that qualified under Ohio Valley and another order in the same month.* The provisions for determining the status of a plant that qualifies as a pool plant under this and another order in the same month should not be changed on the basis of this record. Under present terms of the order a fully regulated plant under another Federal order which also meets the pooling standards of this order and which makes greater distribution in the Ohio Valley marketing area is not regulated under this order until the second consecutive month in which it makes such greater distribution.

A federation of cooperatives, which represent a substantial majority of producers under the order, proposed that a regulated plant under another Federal order that also qualifies as a pool plant under this order continue to be pooled under such other order unless its route disposition in the Ohio Valley marketing area was more than in the marketing area of the other order in the current month as well as in the two immediately preceding months. In effect, such a plant would not be pooled under this order until it had more sales in the Ohio Valley marketing area for three consecutive months (rather than the two consecutive month requirement now provided in the order).

In addition to proponent's testimony, the Kroger Company, which operates a plant in Indianapolis that has been qualifying as a pool plant in the same month under both the Indiana and Ohio Valley orders, supported the proposal. Cooperatives supplying Kroger's Indianapolis plant, and which represent a substantial majority of producers under the Indiana order, also supported the proposal.

The proposal was made to implement the continued pooling of the Kroger plant in Indianapolis under the Indiana order where it has been pooled since inception of that order in 1961. In recent years, based on its route disposition in the marketing areas of the Indiana and Ohio Valley orders, it has qualified each month as a pool plant under both orders. In 1975, of the total route disposition from the plant, an average of 33.8 percent per month was made in the Indiana marketing area and 29.6 percent in the Ohio Valley marketing area. However, in some months (June 1975 and March and April 1976) its sales in the Ohio Valley marketing area were greater than in the Indiana marketing area. (Official notice is taken of the fact that a proposed suspension notice was issued on June 22, 1976, for the month of July 1976. Because of opposition the action was not consumated, however. Thus, it is reasonable to presume that the plant also had greater sales in the Ohio Valley market in the month of June 1976 and anticipated greater sales there in July 1976.)

In June 1975, despite its greater sales in the Ohio Valley marketing area, the Kroger plant remained pooled under the Indiana order. This resulted because the Ohio Valley order does not pool such a plant until the second consecutive month in which sales in its marketing area are more than in the marketing area of the other order.

When more sales were made in the Ohio Valley marketing area than in the Indiana marketing area for two successive months, March and April 1976, the Kroger plant was pooled under the Indiana order in April as a result of suspension action under the Ohio Valley order that action was taken by the Department at the request of cooperatives representing a substantial majority of the producers under both the Indiana and Ohio Valley orders.

The spokesman for Kroger stated that it watches closely the sales from the Kroger plant in both the Indiana and Ohio Valley marketing areas to insure the plant's continuing regulation under the Indiana order. He suggested that the greater sales in some months in the Ohio Valley marketing area were generally unexpected. The spokesman further stated that Kroger expected to monitor its sale more closely in the future to insure having more distribution each month from its Indianapolis plant into the Indiana marketing area than into the Ohio Valley marketing area. He urged however, that the Ohio Valley pooling provisions be modified to require that a plant have more sales in the Ohio Valley marketing area than in the marketing area of another order for three consecutive months before it becomes pooled under the Ohio Valley order. He held that this amendment was needed as an additional safeguard to insure the plant's continued pooling under the Indiana order.

The federation of cooperatives representing Ohio Valley producers and the cooperatives representing Indiana order producers contended that without such a requirement (three consecutive months of greater sales in the Ohio Valley marketing area for pooling a plant under the Ohio Valley order) the shifting back and forth between the two orders of the Kroger plant in Indianapolis would be disruptive to the maintenance of orderly marketing conditions.

Both the Ohio Valley and Indiana orders contain "Louisville plan" provisions with April–July the takeout months and September–December the payback months. If the Kroger plant were pooled under the Ohio Valley order in a single takeout month, the money thus withheld for producers supplying the Kroger plant in Indianapolis (and who are regularly associated with the Indiana market) would be included in the set aside under the Ohio Valley order. This, the cooperative claimed, would result in undue enhancement of the Louisville plan payback under the Ohio Valley order and, conversely, in an undue reduction of the payback under the Indiana order in the fall months. According to proponent cooperative, the aberration in producer prices in the takeout months under Louisville plans that would result under the Ohio Valley and Indiana orders would result in gross inequities to producers.

A Louisville plan is adopted to encourage a uniform milk supply throughout the year. In theory, it encourages increased production for the market in the months of seasonally low production and discourages production in the normal flush production months. This is accomplished by retaining specified amounts of pool proceeds during the flush production months for distribution to those producers delivering milk to the market during the short production months. No producer is required to associate with any designated plant or order in any specified month or months as a precondition for sharing in the takeout money for his deliveries under an order during the payback months. The fact that a producer (or group of producers) was associated with a particular market during some month(s) when a Louisville plan takeout was in effect and potentially would be associated with another market during the payback months is not an appropriate basis for predetermination of the order under which the plant to which he delivers his milk should be pooled.

Ideally, a plant should be pooled under that order regulating the market in which such plant had its greater sales during the month. In this way all handlers having their principal sales in a market are subject to the same prices and other regulatory provisions as their main competitors.

Notwithstanding, it must be recognized that as a result of an unanticipated loss or gain of a sales outlet during a month a plant having essentially equal sales in two regulated markets could unintentionally and unavoidably shift regulation from one order to another. It is for this reason that lock-in provisions have been adopted so that when the shift in sales volume was totally unexpected, the handler operating the plant would have opportunity to take prompt remedial action to insure continuing regulation in the plant's normal market.

The present provisions in the Ohio Valley order prescribing the pooling of a plant that is also qualified under another order only after the second consecutive month in which it has greater sales in the Ohio Valley marketing area is a reasonable and appropriate basis for meeting this problem. A handler reasonably should be able to monitor his distribution on a day-to-day basis in situations where substantial sales are made in two markets. Under any circumstances he must be fully aware of his exact distribution pattern by the time of filing monthly reports of receipts and utilization, which in the Indiana and Ohio Valley orders are the 8th day and the 6th day, respectively, after the end of the month. This provides reasonable time in the second month for a handler to adjust his business to protect against inadvertent pooling in other than his normal market. Except for the Kroger plant in Indianapolis, no plant qualified as a pool plant under the Ohio Valley order based on route disposition in the marketing area likewise qualifies in the same month as a pool plant under another order.

In addition to its Indianapolis plant, Kroger operates a plant at Springdale, Ohio, which has continuously been a fully regulated plant under the Ohio Valley order. It also operates fully regulated plants under the St. Louis-Ozarks, Southern Michigan and Texas orders. Milk from these plants is distributed over wide areas. It was gratuitously suggested at the hearing that the Indianapolis plant could be kept pooled under the Indiana order by transferring some route dispositon in the Ohio Valley marketing area to the Springdale plant, thereby reducing its sales in the Ohio Valley marketing area relative to its sales in the Indiana marketing area.

The record is quite clear that Kroger is fully aware that its Indianapolis plant has had, and without appropriate controls prospectively will continue to have, the greater proportion of its sales in Ohio Valley in many months. Nevertheless, it wishes the plant to continue to be pooled in Indiana and has indicated it will take any necessary action to insure this end. It urges the adoption of the three-month provision in Ohio Valley in lieu of the present two months to implement its operations in this regard. This is not the kind of situation that the lock-in provision was adopted to accommodate.

V 41 163 AUG 20 76 UMI

It is recognized that the shifting of the Kroger plant back and forth between the two orders could be disruptive. Nevertheless, the precarious position of the plant in this regard is clearly evident to the handler and he has had reasonable time (since April 1976) to implement the operational adjustments that appropriately must be made to keep the plant pooled under the Indiana order.

It is readily apparent that the plant's primary sales area is increasingly in Ohio. Permitting the plant to remain pooled under the Indiana order until it had greater sales in each of three successive months under the Ohio Valley order could only implement manipulation of the operation on every third month to the end that even though the plant's sales were greater in the Ohio Valley market eight months of each year it nevertheless would remain pooled under the Indiana order. It cannot be concluded on the basis of this record that this plant, which prospectively will have more sales in the Ohio Valley market, is more appropriately associated with and should be pooled under the Indiana order, where it prospectively will have the lesser sales. Amendment of the order in the manner requested to better accommodate the handler in implementation of continuing regulation in Indiana would tend to undermine the integrity of regulation.

If, as seems apparent, it is the belief of Kroger and cooperatives supplying the Indiana and Ohio Valley markets that the Indianapolis plant should be pooled under the Indiana order notwithstanding its greater sales in the Ohio Valley market, then it is evident that some more appropriate means be found to accomplish this end. This necessarily would need to be more fully explored under another proceeding. In the meantime, since Kroger has indicated that it will monitor the distribution from its Indianapolis plant to insure that it has greater monthly sales in the Indiana marketing area than in the Ohio Valley marketing area, it is likely that the plant can continue to pool under the Indiana order under the existing provisions of the respective orders. The present Ohio Valley order provision (whereby the Indianapolis plant would be pooled under the Ohio Valley order only when its sales in the Ohio Valley marketing area exceeded those in the Indiana marketing area for two consecutive months) provides the necessary flexibility for Kroger to avoid unintentional pooling under the Ohio Valley order and at the same time provides appropriate safeguards to protect the interests of producers and pool plant operators under both orders.

Notwithstanding the above conclusion, the order language prescribing the conditions for pooling a plant qualified as a pool plant under Ohio Valley and another order in a month when more sales were made in the Ohio Valley marketing area should be clarified. Such a plant is now pooled under the Ohio Valley order only if it had more sales in the Ohio Valley marketing area than in the marketing area of the other order in both the current month and the preceding month.

Under the order language, however, it could be construed that the greater sales referred to relates to the total combined sales for a two-month period rather than to sales in each month, respectively. The order language should be modified to make clear that the reference is to the greater fluid milk sales in each such month.

In the proponent's exceptions to the recommended decision it cited the three-month lock-in provision in the Indiana order as an appropriate lock-in provision and as a compelling reason for adopting the proponent's lock-in proposal for the Ohio Valley order. Under the Indiana order a plant that qualifies under that order and another order in the same month would be pooled under the Indiana order in the first month in which it has more sales in the Indiana marketing area than in the marketing area of the other order. If such a plant had more sales in the marketing area of the other order in the months immediately following, it would continue to be pooled under the Indiana order until the third consecutive month in which its sales were greater in the other marketing area.

Instead of pooling a plant that qualifies under Ohio Valley and another order in the first month it had more sales in the Ohio Valley marketing area (as under the Indian order) the proposal here considered would not pool the plant under Ohio Valley until the plant's sales were greater than in the marketing area of the other order for three consecutive months. Moreover, in any month such a plant had more sales in the Indiana marketing area, irrespective of the number of immediately preceding consecutive months it had greater sales in the Ohio Valley marketing area, it would be pooled under the Indiana order for that month.

The record evidence provides no basis for concluding that the existence of the Indiana order lock-in provision, which is deemed appropriate for that market, is a justifiable reason to adopt the completely different lock-in provisions proposed for the Ohio Valley order, as suggested by the exceptor.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Ohio Valley marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Aproval and Representative Period

June 1976 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Ohio Valley marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on August 17, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

Order[1] amending the order, regulating the handling of milk in the Ohio Valley marketing area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Ohio Valley marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 90).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Ohio Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator on July 20, 1976, and published in the FEDERAL REGISTER on July 23, 1976 (41 FR 30345) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

In § 1033.56, paragraph (a) is revised as follows:

§ 1033.56 Plants subject to other Federal orders.

(a) Except as specified in § 1033.31 and in paragraph (b) of this section, the provisions of this part shall not apply to a distributing plant or a supply plant during any month in which the milk at such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless the plant is qualified as a pool plant pursuant to § 1033.12 during the current month and the immediately preceding month and a greater volume of fluid milk products, except filled milk, is disposed of in each such month from such plant as route disposition in the Ohio Valley marketing area and to pool plants qualified on the basis of route disposition in the Ohio Valley marketing area than is disposed of from such plant as route disposition in the marketing area regulated pursuant to the other order and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

* * * * *

[FR Doc.76-24532 Filed 8-19-76;8:45 am]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Principles of Reimbursement for Provider Costs; Depreciation: Allowance for Depreciation Based on Asset Costs

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to Subpart D of Regulations No. 5 set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would clarify and expand existing policy for determining the useful lives of depreciable assets used in the provision of patient care services under Medicare. They also would provide for the proper determination and treatment of gains and losses on the disposal of assets. Paragraph (b) (7) would be added to § 405.415 to clearly delineate the proper procedures for determining the useful lives of depreciable assets and to provide the procedures to be followed when a change in the estimated useful life is necessary. Paragraph (c) of § 405.415 would be amended to delete the last sentence. That sentence would be incorporated in § 405.415(b) (7). Section 405.415(f) would be revised to clarify and expand the existing procedures for computing gains and losses on the disposal of assets. The revision would describe the various types of disposal recognized under the Medicare program, and would provide for the proper computation and treatment of gains and losses in determining reasonable costs. For example, the policy pertaining to losses resulting from the demolition or abandonment of depreciable assets would be revised to preclude the immediate payment of substantial losses flowing from the premature and voluntary disposal of depreciable assets. Under the proposed policy, such losses would be capitalized as a deferred charge and amortized over the useful life of the replacement asset. However, where the demolition or abandonment is approved by the State Health Planning and Development Agency, then, the loss would be capitalized as a deferred charge and amortized over the remaining life of the demolished or abandoned asset regardless of replacement. Under Pub. L. 93-641, section 1513(g) and section 1523 (a) (6) and (b) (3), the health system agency and the State health planning and development agency will periodically review and make recommendations and findings on the appropriateness of existing institutional health services. Such appropriateness review and findings may encourage facilities to close down or phase out certain operations, which may result in the demolition or abandonment of depreciable assets. Since the replacement of such assets may not be consistent with the health systems plan of the health service area, the proposed policy does not require replacement of the demolished or abandoned assets.

In accordance with section 1861(v) (1) of the Social Security Act, the Medicare program reimburses providers for the reasonable cost of all necessary and proper expenditures which are appropriate and helpful in developing and maintaining the operations of patient care facilities and activities. Consistent with this requirement, an appropriate allowance for depreciation is an allowable cost under the Medicare program based upon the depreciable basis and estimated useful life of the patient care asset. When a disposal of an asset occurs, no further depreciation may be taken on the asset, and the gains and losses provisions under § 405.415(f) are applied to assure that reimbursement is limited to actual cost associated with the utilization of that asset. Where depreciable assets are voluntarily and prematurely disposed of by means of demolition or abandonment, the ultimate salvage value is effectively reduced to near zero worth and could result in a sizable loss on disposal to be treated as a depreciation adjustment in computing al-

V 41 163 AUG 20 76 UM

lowable costs. When a provider intentionally destroys or abandons a productive and valuable asset, it would be inequitable for the Medicare program to immediately reimburse the provider for the unused value if such asset could have been utilized in the provision of patient care services. Accordingly, where a provider unilaterally decides to demolish or abandon its patient care assets, without the concurrence of its State health planning and development agency, it would be inconsistent with the reimbursement of reasonable cost to include the entire loss in the year of disposal where the loss is substantial, since that loss is not related to the cost of services rendered in that year. The full recognition of such losses in the year of disposal would also tend to encourage the demolition or abandonment of patient care assets at the expense of the Medicare program, and could encourage the cessation of the provider's participation in the program once the loss has been recovered. The book value remaining at the time of demolition or abandonment is not expended in the provision of patient care services, but has been lost due to the action taken by the provider. Such unilateral action should not be relatively free of cost to the provider. Since the provider made its decision from among the alternative uses available, without participation from health planning and development agencies, the undepreciated cost remaining at the time the asset is voluntarily and prematurely destroyed is actually a part of the provider's total investment in the delivery of future services. Therefore, such losses should only be recognized where the demolished or abandoned asset is replaced by another patient care asset and amortized over the useful life of the replacement asset.

In enacting the provisions of Pub. L. 93–641, Congress found that the massive infusion of Federal funds into the existing health care system has contributed to inflationary increases in the cost of health care and has failed to produce an adequate supply or distribution of health resources. In recognition of the magnitude of these problems and the urgency placed on their solution, it is the purpose of Pub. L. 93–641 to facilitate the development of recommendations for a national health planning policy, and to augment areawide and State planning for health services, manpower, and facilities. Since the functions of the health system agency and the State health planning and development agency include the restraint of increases in the cost of providing health services and the prevention of unnecessary duplication of health resources, such functions enhance the provision of patient care services and are consistent with the intent of provider reimbursement policy under the Medicare program. Accordingly, where the demolition or abandonment of patient care assets is approved by the State health planning and development agency, the Medicare program shall consider the disposal to be consistent with the health services requirements of the health service area with respect to planning and development. Since there would be a negative economic incentive for a provider to voluntarily comply with the recommendations of the health planning and development agency if the loss on the demolished or abandoned asset is amortized over the life of the replacemnt asset, the Medicare program will permit the loss to be recovered over the remaining life of the demolished or abandoned asset. If replacement of the asset is not in the best interest of sound health planning in the health service area, the Medicare program will also benefit through the reduction of cost associated with the nonreplacement of the asset.

Paragraph (e) of § 405.460 would be amended to conform to Subpart R of this part. Subpart R provides that, if the proper criteria in Subpart R are met, a provider shall make his request for a hearing to the Provider Reimbursement Review Board, rather than the intermediary, as presently provided by paragraph (e) of § 405.460. This provision unintentionally limited the submission of hearing requests to the intermediary only.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, and comments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before October 4, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Secs. 1102, 1814(b), 1815, 1861(v)(1), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 297, as amended, 79 Stat. 322, as amended, and 79 Stat. 331, 42 U.S.C. 1302, 1395f(b), 1395g, 1395x(v)(1), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: January 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 405 of chapter III of title 20 of the Code of Federal Regulations (Regulations No. 5 of the Social Security Administration); as amended, is further amended as set forth below:

1. In § 405.415, a new paragraph (b)(7) is added and paragraphs (c) and (f) are revised to read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(b) * * *

(7) *Useful life.* The estimated useful life of a depreciable asset is its normal operating or service life in terms of utility to the provider subject to the provisions in paragraph (b)(7)(i) of this section. Some factors to be considered in determining useful life include normal wear and tear, obsolescence due to normal economic and technological advances, climatic and other local conditions, and the provider's policy for repairs and replacement.

(i) *Initial selection of useful life.* In selecting a proper useful life for computing depreciation under the health insurance program, providers are expected to utilize the useful life guidelines published by the American Hospital Association or the Internal Revenue Service. A different useful life may be approved by the intermediary if the provider's request is based on convincing reasons and is properly supported with acceptable factors which affect the determination of useful life. However, such factors as an expected earlier sale, retirement, demolition, or abandonment of an asset may not enter into a determination of the expected useful life of an asset.

(ii) *Changing useful life.* A change in the estimated useful life may be necessary when clear and convincing evidence justifies a redetermination of the initial selection. Such a change must be approved by the intermediary in writing prior to its adoption, and the factors cited in paragraphs (b)(7) and (b)(7)(i) of this section are equally applicable in making such redeterminations of useful life. If the request is properly approved, the change is effective with the reporting year immediately following the year in which the request is approved.

* * * * *

(c) *Recording of depreciation.* Appropriate recording of depreciation includes the identification of the depreciable assets in use, the assets' historical costs, the method of depreciation, estimated useful lives, and the assets' accumulated depreciation.

* * * * *

(f) *Gains and losses on disposal of assets.* (1) *General.*—Depreciable assets may be disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty. When the disposal of a depreciable asset occurs, no further depreciation may be taken on the asset and a gain or loss on the disposition shall be determined. The determination of whether a gain or loss has occurred and the treatment of the gain or loss depend upon the manner of disposition of the asset.

(2) *Bona fide sale or scrapping.*—(i) Gains and losses realized from the bona fide sale or scrapping of depreciable assets used in the provision of patient care services are includable in the determination of allowable cost under the health insurance program. For purposes of this section, scrapping refers to the disposition of tangible personal properties which are no longer useful for their intended purpose, and are only salable for their scrap or junk value. The extent to which such gains and losses are includable in the determination of allowable cost is calculated on a prorated basis, recognizing the amount of depreciation charged under the health insurance program in relation to the amount of depreciation, if any, charged or incurred in a period prior to the provider's participation in the health insurance program.

(ii) Where the total amount of gains or losses prorated to years under the health insurance program does not exceed $5,000 within the cost-reporting period, or where the provider's cumulative utilization under title XVIII of the Act is less than 5 percent, the entire amount of gains or losses realized from the sale shall be allowed as a depreciation adjustment in the year of disposal. For purposes of this section, the provider's cumulative title XVIII utilization percentage is determined by comparing the cumulative total of title XVIII covered days for all reporting periods in which depreciation on the asset disposed of was claimed under the health insurance program to the cumulative total of inpatient days in the facility (certified only) for the same reporting periods.

(iii) Where the conditions discussed in paragraph (f)(2)(ii) of this section are not met, the total amount of gains or losses prorated to years under the health insurance program shall be allocated to each reporting period, based on the ratio of the total depreciation allowed on the disposed assets in each reporting period to the total depreciation applicable to such assets for all reporting periods under the health insurance program. The adjustment to reimbursable cost is then computed by applying the ratio of title XVIII reimbursable cost to total allowable cost for each period to the allowable portion of the gains or losses for that reporting period. The sum of the adjustments determined for each reporting period is treated as an adjustment to reimbursable cost in the year in which the asset is disposed of.

(iv) If a gain is realized on the disposal of a depreciable asset, recognition of the gain for purposes of determining allowable cost is limited to the amount of depreciation accumulated for the asset under the health insurance program. If a provider sells more than one asset for a lump-sum sales price, the allocation of the sales price among the various assets sold shall be prorated in accordance with the appraised fair market value of the assets as they were last used by the provider at the time of sale. The appraised fair market value of the assets shall generally be determined by a recognized independent appraiser, and such appraisal shall be furnished to the intermediary for review and approval. Where the transaction concerns the sale of a facility which is continuing in operation, the amount of goodwill or other intangibles purchased must be determined and deducted from the sales price prior to the allocation.

(3) *Sale within 1 year of termination.*—Gains and losses realized from a bona fide sale of depreciable assets within 1 year immediately following the date on which the provider terminates participation in the health insurance program are also includable in the determination of allowable cost. When the sale takes place within 1 year immediately following such termination, the procedure provided in paragraph (f)(2) of this section shall be used in determining the adjustment to reimbursable cost. However, the inclusion of such gains and losses is calculated on a prorated basis, recognizing the amount of depreciation charged under the health insurance program in relation to the amount charged or incurred in the periods before and after the provider's participation in the health insurance program. If a gain is realized on the disposal of a depreciable asset, recognition of the gain for purposes of determining allowable cost is limited to the amount of depreciation accumulated for that asset under the health insurance program. The recognition of gains and losses resulting from the disposal of depreciable assets within 1 year immediately following termination is limited to the sale of assets, and does not apply to other manners of disposal. Where several assets are sold for a lump-sum sales price, the procedure provided in paragraph (f)(2) of this section shall be used for prorating the sales price. However, the determination of fair market value shall be based on the appraised value of the assets as they were last used by the provider while under the health insurance program.

(4) *Exchange or trade-in.*—Gains or losses realized from the exchange or trade-in of depreciable assets are not recognized in the determination of allowable cost. When the disposition of an asset is by means of exchange or trade-in, the historical cost of the new asset is the sum of the undepreciated balance of the old asset and the additional cash or other assets transferred or to be transferred to acquire the replacement asset. However, where the old asset was acquired by the provider before its participation in the health insurance program, and the sum of the undepreciated balance and the cash or other assets transferred or to be transferred exceed the list price, then the historical cost of the new asset is limited to the list price of the new asset.

(5) *Demolition or abandonment.*—Losses resulting from the demolition or abandonment of depreciable assets are generally includable in the determination of allowable cost on a deferred basis only. However, where the allowable loss in any cost-reporting period does not exceed $5,000, the entire amount shall be included in allowable cost in the year in which the loss is incurred. To be recognized as an allowable cost where the amount of the loss exceeds $5,000, in the net loss realized must be capitalized as a deferred charge, and amortized over the estimated subsequent useful life of the replacement asset. This loss shall not be recognized if the provider fails to replace the asset. However, if the State health and planning development agency designated under section 1521 of the Public Health Service Act, as amended by Pub. L. 93–641 approves the demolition or abandonment of a depreciable asset as being consistent with the health systems plan of the health service area in which the provider is located, then any net loss realized must be capitalized as a deferred charge and amortized over the remaining life of the demolished or abandoned asset, regardless of replacement. Where replacement of the asset is required, and the replacement asset ceases to be used in the provision of patient care services, or the provided terminates its participation in the health insurance program, the unamortized deferred charge remaining at that time shall not be allowed in determining allowable cost under the health insurance program. For purposes of this section, the time of disposal is the date on which the assets cease to be used in the provision of patient care services.

(6) *Involuntary conversion.*—Gains and losses realized from the involuntary conversion of depreciable assets, such as condemnation, fire, theft, or other casualty, are generally includable in the determination of allowable cost on a deferred basis. However, losses resulting from a provider's imprudent management of its depreciable assets, such as the failure to obtain proper insurance coverage, are not includable in the determination of allowable cost. Where the provider maintains a prudent management program to safeguard its assets, and the net loss allowable in any cost-reporting period exceeds $5,000, the loss must be capitalized as a deferred charge and amortized over the useful life of the replacement or restored asset. If the provider fails to replace or restore the asset, then none of the loss is includable in determining allowable cost. If the replacement asset ceases to be used in the provision of patient care services, or the provider terminates its participation in the health insurance program, the unamortized deferred charge remaining at that time shall not be allowed in determining allowable cost under the health insurance program. Where the allowable loss in any cost-reporting period does not exceed $5,000, the entire amount shall be included in allowable cost in the year in which the loss is incurred. If a gain is realized from an involuntary conversion of depreciable assets, the net amount realized shall reduce the basis of the restored or replacement asset. Where the asset is not restored or replaced, the gain shall be treated in accordance with paragraph (f)(2) of this section.

(7) *Effect on equity capital.*—The unrecovered loss entered on the books of the provider as a deferred charge, in accordance with paragraphs (f)(5) and (f)(6) of this section, is not includable in the computation of equity capital under § 405.429.

V 41 163 AUG 20 76 UMI

(8) *Sale of replacement or restored assets.*—Where a subsequent sale of the replacement or restored asset occurs while the provider is participating in the health insurance program, or within 1 year immediately following the date on which the provider terminates its participation in the health insurance program, the unrecovered loss entered on the books of the provider as a deferred charge, in accordance with paragraphs (f)(5) and (6) of this section, may not be included in the gain or loss of determination. However, if the sale of such assets is made to a related organization, as defined in § 405.427, and the purchasing organization continues as a provider in the health insurance program, the remaining deferred charge representing the unrecovered depreciable basis of the destroyed asset shall continue to be amortized over the remaining expected useful life of the replacement or restored asset. Where the sale is made to an unrelated organization, further amortization of the deferred charge is no allowed.

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2. Paragraph (e) of § 405.460 is amended to read as follows:

§ 405.460 Limitations on coverage of costs.

• • • • •

(e) *Provider rights to review.* A request by a provider for review of the determination of an intermediary concerning classification for, exceptions to, or exemptions from the cost limits imposed under the provisions of this section shall be made under the provisions of Subpart R of this Part 405.

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[FR Doc.76-24467 Filed 8-19-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-017]

EXPOSURE TO COKE OVEN EMISSIONS

Availability of Environmental Impact Statement

The purpose of this notice is to announce that the final environmental impact statement (EIS) for a proposed standard on occupational exposure to coke oven emissions is available for public inspection and copying.

On September 9, 1975, (40 FR 41797) pursuant to 29 CFR 1999.3(d), the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, announced its intention to prepare an EIS assessing the impact of the proposed standard regulating exposure to coke oven emissions (40 FR 32268) in accordance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which requires the preparation of an EIS on major actions significantly affecting the quality of the human environment. In that notice, OSHA also invited the submission of data and information on the possible environmental impact of the proposed standard.

Pursuant to 29 CFR 1999.4 (a)-(d), a draft EIS was prepared and ten copies were forwarded to the Council on Environmental Quality (Council) on October 17, 1975. The Council announced the receipt and availability of the draft EIS on October 24, 1975 (40 FR 49818). In addition, the draft EIS was circulated for comment in accordance with 29 CFR 1999.4(e), (f). By accompanying letter dated October 23, 1975, OSHA solicited comment and information concerning the environmental impact.

An informal rulemaking hearing which began November 4, 1975 and which adjourned January 8, 1976, was held. At this hearing, environmental impact was an issue, as had been stated (40 FR 32277) in the July 31, 1975 publication of the proposed standard and announcement of the scheduling of the hearing. A second informal public hearing (notice of hearing 41 FR 10625 and 41 FR 12716) was held from May 4 through May 10, 1976 during which information on environmental impact was also elicited. The posthearing submission and comment periods closed on May 21 and June 21, 1976 respectively, and the record of the entire rulemaking proceeding was certified by the presiding Administrative Law Judge on July 28, 1976.

The final EIS has been prepared and is available for public inspection and copying at the following address:

Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3620, 3rd Street and Constitution Avenue, Washington, D.C. 20210, 202-523-8076.

Ten copies of the final EIS will be forwarded to the Council which will publish a notice thereof in the Federal Register. OSHA's announcement of availability of the final EIS is intended to provide notice to all interested parties additional to that given by the Council. Furthermore, copies of the final EIS will be sent to the appropriate parties in accordance with 29 CFR 1999.5(d)-(e).

Signed at Washington, D.C., this 16th day of August 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-24538 Filed 8-19-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 11, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Tactical Electronic Warfare will hold meetings on September 15–16, 1976 from 9:00 a.m. to 5:00 p.m.

The Committee will hold classified discussions and working sessions to discuss and complete a final draft report on the tactical electronic warfare study.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-24401 Filed 8-19-76;8:45 am]

Department of the Army

ARMED FORCES INSTITUTE OF PATHOLOGY, SCIENTIFIC ADVISORY BOARD

Meeting

In order to comply with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, September 16–17, 1976, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education, and research. The Executive Secretary from whom sustantive program information may be obtained is Colonel Alfred P. Urquia, Acting Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, telephone 576-2900.

Dated: August 10, 1976.

For the Director.

JOSEPH R. HENRY,
Captain, MSC, USA, Adjutant.

[FR Doc.76-24402 Filed 8-19-76;8:45 am]

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Meeting

In accordance with Pub. L. 92-463, notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held on 9 September 1976 at the Office of the Chief of Engineers, Forrestal Building, room 5A092, 10th and Independence Ave., Washington, D.C. 20314. All sessions of the meeting are open to the public. Time and subjects of each session follow:

9 SEPTEMBER

A.M. SESSION

9:00 Opening remarks.
9:30 Civil Works Update.
10:45 National Environmental Trends 1976–1986; Activities and Opportunities for the Corps of Engineers, 1976–1980.

P.M. SESSION

1:30 Discussion of EAB Report.
3:30 Adjourn.

Seating in the meeting room is limited to approximately 20 persons. Persons desiring further information should contact Lt. Col. John R. Hill, Jr., Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone (202) 693-7093.

The EAB, consisting of five members, will conduct a workshop session on 8 September, room 4A242, Forrestal Building, to prepare for their report to be delivered during the plenary session on 9 September. There will be no formal discussions or presentations during this workshop session. Interested members of the public will, however, be permitted to observe this workshop session. Interested persons should contact Lt. Col. Hill as cited above.

JOHN R. HILL, Jr.,
LTC, Corps of Engineers, Assistant Director of Civil Works, Environmental Programs.

[FR Doc.76-24609 Filed 8-19-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MONTANA STATE OFFICE

Redelegation of Authority by State Director

1. Pursuant to the authority contained in Part I section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, authority is hereby redelegated to the following employees to perform the functions listed below:

A. Chief, Division of Management Services, is authorized to take all actions under the following part:

Part I–Sec. 1.2(c), 1.2(g), 1.3(b), 1.3(c) and 1.4(a)(4).

B. Chief, Division of Technical Services, is authorized to take all actions under the following part:

Part I–Sec. 1.2(g), 1.2(j), 1.3(b) and 1.4(a) (1), (2) and (3).

The Chief, Division of Technical Services may in his discretion, personally exercise any authority hereby delegated to the Chief, Branch of Lands and Minerals Operations, and Chief, Branch of Cadastral Survey.

C. Within their respective areas of responsibility, the District Managers in the State of Montana are authorized to take all actions under the following parts:

Part I–Sec. 1.2(a), 1.2(d), 1.2(g), 1.2(h), and 1.2(l).

Part I–Sec. 1.2(j)—Take all actions for the protection from fire (prevention, presuppression, and suppression) of the public lands under the jurisdiction of the Bureau of Land Management, including authority to enter into contracts and cooperative agreements with Federal, State, county, municipal, and private fire control organizations.

Part I–Sec. 1.9(g)—to make sales of material other than forest products not exceeding $5,000 in value and issue free use permits for materials other than forest products not exceeding $5,000 in value.

The District Manager may designate, by written order, any qualified employee of the various staff offices to perform the functions of the Chief of a Division or Area Manager in case of the absence of the Division Chief, or Area Manager.

D. Within their respective areas of responsibility, District Office Chief, Division of Operations, are authorized to take all actions under the following parts:

Part I–Sec. 1.2(j)—To take all actions for the protection from fire (prevention, presuppression, and suppression) of the public lands under the jurisdiction of the Bureau of Land Management.

Part III–Sec. 3.2(b), 3.6(m) and 3.6(n).

E. Within their respective areas of responsibility, District Office Chiefs, Division of Administration, are authorized to take all actions under the following part:

Part III–Sec. 3.2(c), 3.3(a), 3.3(b) and 3.3(c).

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F. Within their respective areas of responsibility, Area Managers are authorized to take all actions under the following parts:

Part I–Sec. 1.2(i).

Part I–Sec. 1.2(j)—To take all actions for the protection from fire prevention, presuppression and suppression of the public lands under the jurisdiction of the Bureau of Land Management.

Part I–Sec. 1.9(g)—to make sales of material other than forest products not exceeding $1,000 in value and issue free use permits for materials other than forest products not exceeding $1,000 in value.

Part III–Sec. 3.2(b), 3.3(b), 3.6(m), 3.6(n), 3.7(b), 3.7(c), 3.7(d), 3.7(e), 3.7(f), 3.9(g), 3.9(o) and 3.9(z).

Part III–Sec. 3.3(d)—Determine liability for trespass on the public lands when actual damages do not exceed $1,000. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Part III–Sec. 3.7(a)(1), (2) and (3).

Part III–Sec. 3.8(a)—Disposition of forest products except sales of timber in excess of 1,000,000 feet board measure.

G. Within their respective areas of responsibility, Detached Resource Area Headquarters Area Managers, in addition to the authority given in paragraph F, are authorized to take all actions under the following part:

Part III–Sec. 3.2(c) and 3.3(a).

H. Chief, Branch of Lands and Minerals Operations, in the Division of Technical Services:

(1) is authorized to take actions on the matters listed in Part II–A.

(2) may redelegate that authority vested in him by this delegation to any qualified employee under his jurisdiction. Any order or redelegation must specify the extent of and limitations on the grant of authority, be approved by the State Director, and published in the FEDERAL REGISTER.

(3) may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

I. (1) Chief, Minerals Adjudication Section, in the Branch of Lands and Minerals Operations, is authorized to take all actions under the following part:

Part II–Sec. 2.2(b), 2.3(a), 2.6(a), 2.6(e), 2.6(f), 2.6(g), and 2.6(i).

(2) Chief, Lands Adjudication Section, in the Branch of Lands and Minerals Operations, is authorized to take all actions under the following part:

Part II–Sec. 2.2(b), 2.3(a), 2.9(a), 2.9(b), 2.9(c), 2.9(d), 2.9(e), 2.9(f), 2.9(h), 2.9(i), 2.9(j), 2.9(k), 2.9(l), 2.9(m), 2.9(n), 2.9(p), 2.9(q), 2.9(r), and 2.9(s).

(3) The stated Section Chiefs may, by written order, designate any qualified employee of his section to perform the functions of his position in an acting capacity in his absence. Such order must be approved by the Chief, Branch of Lands and Minerals Operations.

J. Chief, Branch of Cadastral Survey in the Division of Technical Services, is authorized to take all actions under the following part:

Part I–Sec. 1.4(a) (1) and (3).

K. Chief, Branch of Records and Data Management in the Division of Management Services is authorized to take all actions under the following part:

Part II–Sec. 2.2(c), 2.3(c) and 2.4(a)(4).

2. All previously published orders of redelegation pursuant to the authority of Bureau Order 701, as amended, which pertain to the positions of employees in Montana identified in paragraphs A, B, C, D, E, F, G, H, I, J, and K herein and which are inconsistent with this order are hereby cancelled and superseded.

Dated: August 11, 1976.

KANNON RICHARDS,
Acting State Director.

Approved: August 11, 1976.

GEORGE C. TURCOTT,
Associate Director.

[FR Doc.76-24359 Filed 8-19-76;8:45 am]

Geological Survey

KNOWN GEOTHERMAL RESOURCES AREA

Coso Hot Springs, California

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as an addition to the Coso Hot Springs known geothermal resources area effective February 1, 1974:

(5) CALIFORNIA

COSO HOT SPRINGS KNOWN GEOTHERMAL RESOURCES AREA, MT. DIABLO MERIDIAN, CALIFORNIA

T. 21 S., R. 37 E.,
Secs. 27, 34, 35, 36—All.
T. 22 S., R. 37 E.,
Secs. 1, 2, 3, 12—All.

The area described aggregate 5,120 acres, more or less.

Dated: June 2, 1976.

HILLARY A. ODEN,
Acting Conservation Manager, Western Region.

[FR Doc.76-24405 Filed 8-19-76;8:45 am]

National Park Service

[Order 78, Amdt. 2]

DIRECTOR, NATIONAL CAPITAL PARKS

Delegation of Authority

Order No. 78, approved April 13, 1973, and published in the Federal Register of April 27, 1973 (38 FR 10477), as amended, set forth in Section 1 the exceptions on delegations of authority and in Section 2 certain limitations on redelegation of authority.

Section 1 Delegation is hereby amended by deleting paragraph (15) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

Section 2. Redelegation is amended by adding paragraph (5) as follows:

Section 2. Redelegation. * * *

(5) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment may be redelegated only to the Associate Director, Administration in the National Capital Parks, and may not be redelegated.

(205 DM, as amended: 245DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: August 13, 1976.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.76-24475 Filed 8-19-76;8:45 am]

(Order 84, Amdt. 2)

MANAGER, DENVER SERVICE CENTER

Delegation of Authority

Order No. 84, approved April 8, 1974, and published in the Federal Register of April 18, 1974 (39 FR 13904), as amended, set forth in Section 1 the exceptions on delegations of authority and in Section 2 certain limitations on redelegation of authority.

Section 1. Delegation is hereby amended by deleting paragraph (17) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

Section 2. Redelegation is amended as follows:

Section 2. Redelegation. (1) * * *

(2) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment may not be redelegated.

(205 DM, as amended: 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: August 13, 1976.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.76-24477 Filed 8-19-76;8:45 am]

[Order 83, Amdt 2]

MANAGER, HARPERS FERRY CENTER

Delegation of Authority

Order No. 83, approved April 8, 1974, and published in the FEDERAL REGISTER of April 18, 1974 (39 FR 13905), as amended, set forth in Section 1 the exceptions on delegations of authority and in Section 2 certain limitations on redelegations of authority.

Section 1 Delegation is hereby amended by deleting paragraph (15) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

Section 2. Redelegation is amended by adding paragraph (5) as follows:

Section 2. Redelegation. (1) * * *

(2) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of eployment may be redelegated only to the Assistant Manager, Administration, Harpers Ferry Center, and may not be redelegated.

(205 DM, as amended: 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: August 13, 1976.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.76-24478 Filed 8-19-76;8:45 am]

[Order 77, Amdt. 7]

REGIONAL DIRECTORS

Delegation of Authority

Order No. 77, approved February 27, 1973, and published in the Federal Register of March 22, 1973 (38 FR 7478), as amended, set forth in Section 1 the exceptions on delegations of authority and in Section 2 certain limitations on redelegation of authority.

Section 1. Delegation is hereby amended by deleting paragraph (15) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

Section 2. Redelegation is amended by adding paragraph (5) as follows:

Section 2. Redelegation. * * *

(5) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment may be redelegated only to the Associate Regional Director, Administration, in the Regional Office, and may not be redelegated.

(205 DM, as amended: 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: August 13, 1976.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc. 76-24476 Filed 8-19-76; 8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A362]

WISCONSIN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Iron County, Wisconsin, as a result of drought, July 1, 1975, through September 1, 1975.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.-3(b) including the recommendation of Governor Patrick J. Lucey that such designation be made.

Applications for emergency loans must be received by this Department no later than October 5, 1976, for physical losses and May 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 13th day of August 1976.

JOSEPH R. HANSON,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-24396 Filed 8-19-76;8:45 am]

Forest Service

LAND USE PLAN WEST KOOTENAI PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Use Plan—West Kootenai Planning Unit, Forest Service Report Number USDA–FS–R1(14)–DES–Adm–76–6.

The environmental statement concerns the proposed implementation of a revised Land Use Plan for the West Kootenai Planning Unit, Rexford Ranger District, Kootenai National Forest. Lincoln County, Montana. About 68,976 acres of National Forest land are affected. The planning unit is divided into 9 subunits of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was transmitted to CEQ on August 12, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA, Forest Service, Kootenai National Forest, P.O. Box AS, Libby, MT 59923.
USDA, Forest Service, Eureka Ranger Station, Eureka, MT 59917.

A limited number of single copies are available upon request to:

USDA, Forest Service, Kootenai National Forest, P.O. Box AS, Libby, MT 59923.
USDA, Forest Service, Eureka Ranger Station, Eureka, MT 59917.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

DAVID R. HOWARD,
Acting Forest Supervisor, Kootenai National Forest, Northern Region, Forest Service.

[FR Doc.76-24358 Filed 8-19-76;8:45 am]

Rural Electrification Administration

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., DENVER, COLORADO

Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $16,731,000 to Tri-State Generation And Transmission Association, Inc., of Denver, Colorado. These loan funds will be used to finance a project consisting of two 50 MW gas turbines and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. William Mickey, General Manager, Tri-State Generation And Transmission Association, Inc., P.O. Box 29198, Denver, Colorado, 80229.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 11th day of August, 1976.

DAVID H. ASKEGAARD,
Acting Administrator.

[FR Doc.76-24229 Filed 8-19-76;8:45 am]

SUNFLOWER ELECTRIC COOPERATIVE, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has pre-

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pared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a loan guarantee from the Rural Electrification Administration for Sunflower Electric Cooperative, Inc., P.O. Box 980, 401 First National Bank Building, Hays, Kansas 67601, to finance a 50 megawatt combustion turbine at the Garden City Power Plant, Garden City, Kansas.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 23d day of July 1976.

DAVID H. ASKEGAARD,
Acting Administrator,
Rural Electrification Administration.

[FR Doc.76-24320 Filed 8-19-76;8:45 am]

TRI-COUNTY ELECTRIC ASSOCIATION, INC., SUNDANCE, WYOMING

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a proposed loan application from the Rural Electrification Administration for Tri-County Electric Association, Inc., Box 457, Sundance, Wyoming 82729, to finance approximately 59 miles of 230 kV transmission line from Wyodak to Antelope and the new Reno substation all in the State of Wyoming.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4310, or at the borrower's address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received within sixty (60) days of the date of publication of this notice to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 4th day of August 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-24397 Filed 8-19-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CORNELL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00419. Applicant: Cornell University, Bard Hall, Ithaca, New York, 14853. Article: Rotaflex 12 kW Rotating Anode X-ray Generator, RU-200. Manufacturer: Rigaku Ltd., Japan. Intended use of article: The article is intended to be used to perform X-ray diffraction studies of the structure of grain boundaries in thin gold bicrystals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a focused spot of minimal size (0.5 x 1 mm^2) and a rotating target for maximum x-ray beam intensity. The National Bureau of Standards (NBS) advises in its memorandum dated July 26, 1976 that the capabilities described above are pertinent to the purposes for which the article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-24399 Filed 8-19-76;8:45 am]

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00500-33-77030. Applicant: Stanford University, 820 Quarry Road, Palo Alto, California 94304. Article: NMR Spectrometer, Model HX360. Manufacturer: Spectrospin AG, Switzerland. Intended use of article: The article is intended to be used in NMR studies to decipher in detail the structural rearrangement in the repressor protein, which underlies the mechanism of depression of a gene and thereby gain further insight into (a) the molecular mechanism of genetic control and (b) the mechanisms of protein folding. The article will also be used for highly specialized training at the postdoctoral level only as it requires a very high degree of expert knowledge and skill.

Comments: Comments dated June 4, 1975 have been received from Varian Associates Instrument Division, Palo Alto, California (Varian). Varian alleges inter alia that the Model SC-360, which is being manufactured in the United States on a custom-made basis, is of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article was being manufactured in the United States at the time the foreign article was ordered (March 15, 1973).

Reasons: This application is a resubmission of Docket Number 74-00512-33-77030 which was denied without prejudice to resubmission on October 15, 1974 for informational deficiencies. The foreign article provides the highest possible magnetic field, i.e., 8.5 tesla (T), consistent with homogeneity suitable for nuclear magnetic resonance (NMR) experiments on a custom-made basis. At the time of order Varian offered the Model SC-360 on a custom-made basis. The 8.5 T field strength represents the highest value, compatible with other requirements of stability and resolution in the NMR, that could be achieved with the technology existing in 1972. The National Bureau of Standards (NBS) and the Department of Health, Education, and Welfare (HEW) advises in their memoranda dated January 30, 1976 and November 17, 1975, respectively, that (1) at the time of order several 8.5 T magnets suitable for NMR had been successfully built by Oxford Instruments and the foreign manufacturer had agreed to use the Oxford magnet in its own NMR system (HX-360) and (2) Varian had demonstrated nothing higher than 7.1 T and had not agreed to use a magnet other than one of its own manufacture.

In addition, HEW advises that (1) Varian introduced the first high resolution NMR superconducting magnet, the HR-220 (^1H resonance at 220 MHz), about 10 years ago and later sold a higher field version of the same instrument, the HR-300; (2) although some improvements were incorporated over the years, the basic technology used for the magnet (which defines its size, shape and certain critical operating parameters) remained virtually the same; (3) Oxford Instruments did indeed have a sound basis for guaranteeing performance and delivery of an 8.5 T magnet in the Fall of 1972, whereas Varian really had only the older technology magnets plus a hope of developing something better; (4) Oxford provided detailed specifications on August 11, 1972 and the foreign manufacturer followed up with detailed specifications and quotations for the entire spectrometer system (including an 8.5 T magnet from Oxford Instruments) on October 12, and 18, 1972 in contrast Varian at the same time (October 13, 1972) presented 18 different options stated to "provoke thought and argument" and stated not to represent a commitment by Varian, and (5) the preponderance of evidence is that Varian could not deliver a suitable magnet within a reasonable time (HEW also states "so far as we know, Varian has not yet actually delivered any 360 MHz spectrometers, and it is not clear whether such an instrument is currently being offered.") HEW and NBS both advise that the capability of providing a high magnetic field (8.5 T) NMR spectrometer is pertinent to the applicant's intended purposes and they know of no domestic instrument which provided the pertinent feature at the time the article was ordered.

For these reasons, we find that the custom-made Model SC-360 was not scientifically equivalent to the foreign article at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.76-24400 Filed 8-19-76;8:45 am]

Office of the Secretary

PRIVACY ACT

Consolidated System of Records and Proposed New Routine Use

The Department of Commerce hereby gives notice, in accordance with 5 U.S.C. 552a(e)(4) and (11), (the Privacy Act of 1974, section 3, Pub. L. 93-579, 88 Stat. 1897), that it proposes to consolidate two previously noticed Systems of Records into one System and to add a new routine use to that System.

The two Systems of Records to be consolidated are COMMERCE/NTIS-1 Customer Account Records and COMMERCE/NTIS-2 Individuals Interested in NTIS Publications, Shipped Order Addresses, and Subscribers Files, which were both noticed in the FEDERAL REGISTER on October 2, 1975, (40 FR 45669). This consolidation is being made solely for administrative convenience. No change has been made in the manner in which the records are organized or retrieved, or in the categories of records or individuals covered.

The proposed new routine use for the consolidated system, which is compatible with the purpose for which the system is maintained, is as follows:

Records maintained in the system are disclosed to NTIS sales agents; and to individuals, organizations, Federal agencies and State and local Governments contributing publications to NTIS for their market research and sales accounting purposes, through the mechanism of providing them the names and addresses of individuals (and others) who have purchased their publications.

Although the Act requires the opportunity for public comment only as to the proposed new "routine use," comments regarding any portion of this notice will be given due consideration before final publication. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026), U.S. Department of Commerce, 14th & E Street, NW., Washington, D.C. 20230, any time on or before September 20, 1976. The comments received will be available, as received, for public inspection at the above address between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday (except holidays).

The consolidated System of Records, including the proposed new routine use, is as follows:

Commerce/NTIS-1

System name: Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files.

System location: Automated Data Processing Division & Document Distribution and Reproduction Division, Rooms 1312 and 2027, Sills Building, Springfield, Virginia 22161.

Categories of individuals covered by the system: All individuals who order and/or purchase products and services from NTIS and all individuals who have requested that they be placed on the NTIS promotional mailing list.

Categories of records in the system: Name; address; items ordered; items sent; amount of purchases; date order received; date order mailed; NTIS deposit account number or customer code number; total charge to date; whether account collectible or not; categories of publications ordered by each purchaser; when subscription expires; amount on deposit.

Authority for maintenance of the system: 15 U.S.C. 1151-57; 41 U.S.C. 104, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and purposes of such uses: Records maintained in the system are disclosed to NTIS sales agents; and to individuals, organizations, Federal agencies, and State and local governments contributing publications to NTIS for their market research and sales accounting purposes, through the mechanism of providing them the names and addresses of individuals (and others) who have purchased their publications. Also see general routine uses No. 1 through 6 and No. 8 through 10 of Prefatory Statement noticed in the FEDERAL REGISTER on October 2, 1975, (40 FR 45635) and amended on Nov. 7, 1975 (40 FR 52074).

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Paper records in file folders, film files, magnetic tape and disc files.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal tape vault in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are updated regularly and maintained indefinitely.

Systems manager (S) and address: Chief, Automated Data Processing Division, NTIS, Room 2030 Sils Building, Springfield, Virginia 22161.

Notification procedures: Information may be obtained from Assistant Director, Administration, NTIS, Room 1006, Sills Building, Springfield, Virginia 22161.

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Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and NTIS transaction files.

Dated: August 8, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-24465 Filed 8-19-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

TEMPORARY CANCER INSTITUTIONAL FELLOWSHIP REVIEW COMMITTEE

Establishment

The Director, National Institutes of Health, announces the establishment on August 2, 1976, of the advisory committee indicated below by the Director, National Cancer Institute, under the authority of section 410A(a) of the Public Health Service Act (42 U.S.C. 286e). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act (Public Law 92-463) setting forth standards governing the establishment and use of advisory committees.

Name: Temporary Cancer Institutional Fellowship Review Committee.

Purpose: The Committee provides to the Director, NCI, advice on the technical merit of those National Research Service Institutional Fellowship applications submitted in Fiscal Year 1977. Authority for this committee will expire on June 30, 1977.

Dated: August 11, 1976.

R. W. LAMONT-HAVERS,
Acting Director,
National Institutes of Health.

[FR Doc.76-24366 Filed 8-19-76;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on September 15-17, 1976 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 10:00 a.m. on September 15 and from 9:00 a.m. to 11:00 a.m. on September 16 to discuss administrative reports. Attendance by the public will be limited to space available.

In addition, the below listed subcommittees of the above Council will have meetings from 10:30 a.m. to 5 p.m. on September 15, 1976: the Digestive Diseases Subcommittee will be held in Room 9A51, Building 31, NIH; the Arthritis, Bone, and Skin Diseases Subcommittee will be held in Room 9A52, Building 31, NIH; the Diabetes, Endocrine, and Metabolic Diseases Subcommittee will be held in Conference Room 10, Building 31, NIH; the Kidney, Urologic and Blood Diseases Subcommittee will be held in Room 7A24, Building 31, NIH.

In accordance with the provisions set forth in Section 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting of the Council and its subcommittees will be closed to the public on September 15, 1976, from 10:30 a.m. to 5 p.m., on September 16, 1976, from 11:00 a.m. to 5 p.m., and on September 17, 1976, from 8:30 a.m. to 12:30 p.m., for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will provide summaries of the meeting and rosters of the committee members.

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance Program No. 13-846 through 13.850, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-24367 Filed 8-19-76;8:45 am]

ALLERGY AND IMMUNOLOGY SUBCOMMITTEE OF THE NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Allergy and Immunology Subcommittee of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, September 29, 1976, in Building 31, Conference Room 7A24, Bethesda, Maryland. This meeting is being held in conjunction with the regular meeting of the Allergy Council on September 30, October 1-2, 1976. While the Subcommittee meeting is closed, persons interested may attend open portions of the Council meeting.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public from 7:00 p.m. until adjournment, for the review, discussion, and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of Council members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, Bethesda, Maryland, telephone (301) 496-5717, will furnish rosters of Council members, a summary of the meeting, and other information pertaining to the meeting.

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, 13.856, 13.857, and 13.858, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-24368 Filed 8-19-76;8:45 am]

NATIONAL ADVISORY DENTAL RESEARCH COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on October 4-5, 1976, in Building 31-C, Conference Room 8, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on October 5 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on October 4, from 9:00 a.m. to 5:00 p.m. for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Edith G. Sharpless, Committee Management Officer, National Institute of Dental Research, National Institutes of Health, Building 31-C, Room 2C-39, Bethesda, Maryland 20014 (telephone 301-496-3511), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-24369 Filed 8-19-76;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, October 6-7, 1976, Building 31C, Conference Room 6. This meeting will be open to the public on October 6 from 9:00 a.m. to 2:00 p.m., for opening remarks; report of the Director, NIGMS; a scientific discussion in a field of importance to the Institute; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 6 from 2:00 p.m. to 5:00 p.m., and on October 7 from 9:00 a.m. to adjournment for the review, discussion and evaluation of initial pending, supplemental, and renewal grant applications; and applications for the National Research Service Awards. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of proprietary or confidential nature, including detailed research protocols; designs and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 919, Bethesda, Maryland 20014, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of Council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, Building 31, Room 4A52, Telephone: 301, 496-5231, will furnish substantive program information.

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance Program Nos. 13-859, 13-860, 13-861, 13-862, 13-863, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-24370 Filed 8-19-76;8:45 am]

NEUROLOGICAL DISORDERS PROGRAM—PROJECT REVIEW A COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, October 14-16, 1976, in the Adams Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20014.

This meeting will be open to the public from 8:00 p.m. until 10:30 p.m. on October 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public on October 15th, from 8:30 a.m. to adjournment on October 16th, for the review, discussion and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on indilvual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, Bldg. 31, Room 8A03, Bethesda, MD 20014, (301) 496-5751, will provide summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Bldg., Rm. 9C14B, Bethesda, MD 20014, (301) 496-9223, will furnish substantive program information.

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

(Catalog of Federal Domestic Assistance Program 13.852, National Institutes of Health.)

[FR Doc.76-24371 Filed 8-19-76;8:45 am]

NEUROLOGICAL DISORDERS PROGRAM—PROJECT REVIEW B COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institute of Neurological and Communicative Disorders and Stroke, NIH, October 14-16, in the Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20015.

This meeting will be open to the public from 8:00 p.m. until 10:30 p.m. on October 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public on October 15th, from 8:30 a.m. to adjournment on October 16th, for the review, discussion and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, Bldg. 31, Room 8A03, Bethesda, MD 20014, (301) 496-5751, will provide summaries of the meeting and rosters of committee members.

Dr. John W. Diggs, Executive Secretary, Federal Bldg., Rm. 9C10B, Bethesda, MD 20014, (301) 496-9223, will furnish substantive program information.

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

(Catalog of Federal Domestic Assistance Program 13.852, National Institutes of Health.)

[FR Doc.76-24372 Filed 8-19-76;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 5 and 6, 1976, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 5 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(b)(6), Title 5, U.S. Code Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 9:00 a.m. to adjournment November 6 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquires and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A21, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Re-

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search, NHLBI, NIH Building 10, Room 7N214, phone (301) 496–2116.

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–24374 Filed 8–19–76;8:45 am]

BLOOD DISEASES AND RESOURCES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, November 8 and 9, 1976, Landow Building, Conference Room C418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9:00 AM–5:00 PM, November 8, and from 8:30 AM–4:30 PM, November 9, 1976, to discuss the status of the Blood Diseases and Resources program, needs and opportunities, policy and mechanisms of support. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone: (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 5A04, National Institutes of Health, Bethesda, Maryland 20014, phone: (301) 496–5913, will furnish substantive program information.

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–24375 Filed 8–19–76;8:45 am]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that a meeting of the Advisory Council on Education Statistics will be held on September 14, 1976, from 9 a.m. to 4:45 p.m., in the Education Division Conference Center, Room 3000 of the Federal Office Building Number 6 at 400 Maryland Avenue, SW., Washington, D.C. 20202. The meeting will be continued on September 15, from 9 a.m. to 4:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93–380 (20 U.S.C. 1221e–1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include the swearing in of two new Council members; a summary of NCES responses to previous Council discussions; a review of NCES publications policies and procedures; a discussion of the recent National Research Council report on "Setting Statistical Priorities;" and further review of proposed procedures for establishing Center standards.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than September 8, 1976, to:

Executive Director, Advisory Council on Education Statistics, Room 3033–D, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue, SW., Washington, D.C. 20202.

Signed at Washington, D.C. on August 11, 1976.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc.76–24352 Filed 8–19–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–615]

WILLOW VALLEY (MOBILE HOME) ESTATES

Notice of Hearing

In the matter of: Willow Valley (Mobile Homes) Estates 5, 11, 12, 16, 17 and 18, McKellips Land Corporation, OILSR Nos. 0–0132–02–23, (A) and (B), Docket No. ED–76–12.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that: 1. Willow Valley (Mobile Homes) Estates 5, 11, 12, 16, 17 and 18, McKellips Land Corporation, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Suspension dated July 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 C.F.R. 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of Record and Property Report for Willow Valley (Mobile Homes) Estates 5, 11, 12, 16, 17 and 18, located in Arizona, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an answer received August 9, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C. on August 25, 1976 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 23, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 13, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24416 Filed 8–19–76;8:45 am]

[Docket No. N–76–614]

WOODHAVEN LAKES

Notice of Hearing

In the matter of: Woodhaven Lakes, American Lakes Development Co. OILSR NO. 0–4003–13–49(B), Docket No. ED–76–11

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that: 1. Woodhaven Lakes, American Lakes Development Co., its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Suspension dated July 20, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 C.F.R. 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of Record and Property for Wodhaven Lakes, located in Illinois, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an answer received August 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on August 26, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 23, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 13, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24415 Filed 8–19–76;8:45 am]

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

MEETING

The Citizens' Advisory Committee on Environmental Quality will meet on September 24, 1976, at 10 A.M. in Room 500, 1700 Pennsylvania Avenue, NW., Washington, D.C.

The Committee advises the President and the Council on Environmental Quality on matters pertaining to environmental quality. The purpose of the meeting is to review pending Committee business and to consider Committee activities for the remainder of the year. The principal subject of the meeting will be a review of selected major environmental policies and programs, an analysis of priorities, and recommendations for future action. Issues to be discussed include land use; population and growth; energy conservation and alternatives; air and water pollution control; resource recovery, recycling and reuse; outdoor recreation; urban environment; international environment; environment and the economy; and organizational and procedural aspects.

The meeting will be open to the public. Persons planning to attend the meeting are requested to notify in writing or by telephone no later than September 21, 1976, Lawrence N. Stevens, Executive Director, Citizens' Advisory Committee on Environmental Quality, 1700 Pennsylvania Avenue, NW., Washington, D.C. 20006, telephone (202) 223–3040. Members of the public may file written statements with the Committee before or after the meeting. Persons wishing to speak at the meeting are requested to consult with the Executive Director no later than September 17, 1976.

Requests for information should be submitted to the Executive Director (address given above).

LAWRENCE N. STEVENS,
Executive Director, Citizens' Advisory Committee on Environmental Quality.

[FR Doc.76–24403 Filed 8–19–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 28721]

GARUDA INDONESIAN AIRWAYS

Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit

Notice is hereby given that a prehearing conference in this matter will be held on August 31, 1976, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects and shows reason for postponement on or before August 27, 1976.

Dated at Washington, D.C., August 17, 1976.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc. 76–24469; Filed 8–19–76; 8:45 am]

COMMISSION ON CIVIL RIGHTS

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 1 p.m. on September 25, 1976, at 2222 W. 6th Street, V.I.P. Room, Lawrence, Kansas.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to discuss followup of the Advisory Committee's report on the Kansas Department of Corrections.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76–24409 Filed 8–19–76;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) to this Commission will convene at 12:30 noon and end at 5 p.m. on September 23, 1976, at 27 School Street, Boston, Massachusetts 02103.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss followup programs on SAC's projects.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76–24410 Filed 8–19–76;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given, pursuant to the rules and regulations of the U.S. Commission on Civil Right s,that the meeting scheduled for August 20, 1976, of the Michigan Advisory Committee (SAC) to the Commission published in the FEDERAL REGISTER on Monday, August 9, 1976, on page 33321 (FR Doc. 76–23106) is hereby cancelled.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officre.

[FR Doc.76–24411 Filed 8–19–76;8:45 am]

MONTANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana Advisory Committee (SAC) to this Commission will convene at 1 p.m. and end at 3 p.m. on September 25, 1976,

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at the Ponderosa Inn, 2511 First Avenue, North, Billings, Montana.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss followup to media report and form subcommittees around relevant civil rights issues.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-24412 Filed 8-19-76;8:45 am]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 10 p.m. on September 17-18, 1976, at the Tappan Zee Inn, Mountainview Avenue, and Route 59, NYACK, New York.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York.

The purpose of this meeting is to discuss project planning and priorities for coming year.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-24413 Filed 8-19-76;8:45 am]

OKLAHOMA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma Advisory Committee (SAC) to this Commission will convene at 9 a.m. and end at 4 p.m. on September 11, 1976, at the Hilton Inn of Tulsa (Cortez Room), 5000 E. Skelly Drive, Tulsa, Oklahoma 74135.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is to discuss programming, including the public employment project and the Tulsa school desegregation report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 17, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-24414 Filed 8-19-76;8:45 am]

CIVIL SERVICE COMMISSION

NOTICE OF GRANT OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy for Congressional Affairs, Office of Congressional and Public Affairs, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24156 Filed 8-19-76;8:45 am]

NOTICE OF REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Director, Sugar Division, Office of the Director, Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES S. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24157 Filed 8-19-76;8:45 am]

NOTICE OF REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator (Farmer Programs), Office of Assistant Administrator (Farmer Programs), Office of Administrator, Farmers Home Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24158 Filed 8-19-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed additions of the following commodities to Procurement List 1976, November 25, 1975 (40 FR 54742).

CLASS 1560

Wire Bundles: 1560-00-826-7752 BF, 1560-00-974-5276 BF, 1560-00-974-5275 BF.

CLASS 8315

Sewing Kit, Army Class 1, 8315-00-889-3632.
Sewing Kit, Air Force 8315-00-816-5905.

Comments and views regarding the proposed additions may be filed with the Committee on or before September 20, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled on or before February 20, 1977.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-24460 Filed 8-19-76;8:45 am]

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 FR 54742) of the commodities listed below were published in the FEDERAL REGISTER on May 28, 1976 (41 FR 21855).

After consideration of all of the relevant data presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under Pub. L. 92-28, 85 Stat. 77. Accordingly, they are hereby added to the Procurement List.

CLASS 7105

Frame, Picture, Food (SH), 7105-00-053-0170, 7105-00-081-5834, 7105-00-052-8697, 7105-00-052-8695.

The above for GSA Supply Distribution facilities in Regions 1 thru 7 only.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-24461 Filed 8-19-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from August 9 through August 13, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 4, 1976)

The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Draft

Grande Ronde Planning Unit, several counties in Oregon, August 10: Proposed is the allocation of approximately 448,000 acres of Wallowa-Whitman and Umatilla National Forests near the headwaters of the Grande Ronde River to a pattern of land use. Management plans include allocation of lands for wood fiber and forage, big game winter range, roadless recreation management, and wilderness. Those adverse effects which are most noticeable will be caused by manipulation of vegetation (290 pages). (ELR Order No. 61158.)

Mt. Hood National Forest Timber Management Plan, several counties in Oregon, August 12: The proposed action is the implementation of a revised ten year Timber Mangement Plan for the Mt. Hood National Forest. Intensive forest management activities will allow each acre treated to more nearly achieve its productivity, enabling greater harvest during the plan period. Adverse impacts include degradation of air, erosion of the soil, and changes in the timber stand structure, the microclimate and the associated plant relationship (105 pages). (ELR Order No. 61178.)

Flaming Gorge National Recreation Area, Utah and Wyoming, August 11: Proposed is a management plan for the Flaming Gorge National Recreation Area (NRA), Ashley National Forest, in Daggett County, Utah and Sweetwater County, Wyoming. The NRA includes 185,645 net acres of National Forest land. The proposed mix of uses and land practices is directed toward encouraging and providing varied recreation opportunities. Most adverse effects are of short duration and will involve stability, esthetics, and vegetation (236 pages). (ELR Order No. 61174.)

Final

Santa Catalina Planning Unit, Colorado National Forest, Pima and Pinal Counties, Ariz., August 10: This statement presents a number of land-use alternatives for the Management of Santa Catalina Unit, Colorado National Forest. The alternatives include further development of recreation facilities to provide for the increasing population of the area as well as preservation of scenic quality (194 pages). Comments made by: USDA, DOI, EPA, State and local agencies and concerned citizens. (ELR Order No. 61157.)

Caney Unit Plan, Kisatchie National Forest, Claiborne and Webster Counties, La., August 10: The statement concerns the ten year management plan for the Caney Unit, Kisatchie National Forest. The plan includes timber harvesting and regeneration of 366 acres, management of wildlife habitat through coordination of timber-wildlife management activities, development of recreation facilities, construction or reconstruction of 9 miles of road, prescribed burning of 4,500 acres for wildlife, timber, and fire control activities, and the management of Middle Fork Bayou D'Arbonne as a Scenic River (108 pages). Comments made by: DOI, USDA, EPA, State and local agencies and concerned citizens. (ELR Order No. 61163.)

Ottawa National Forest Timber Management Plan, Gogebic County, Mich., August 10: This statement describes the economic, social, and ecological effects of managing the timber resources on the Ottawa National Forest for the period July 1, 1976 through June 30, 1983. These effects would result from harvesting an estimated 185 million cubic feet of sawtimber and roundwood, the planting of approximately 16,300 acres and natural regeneration on 125,000 acres, conducting timber stand improvement on about 102,000 acres, carrying out a tree improvement program and constructing and improving roads needed for harvesting operations (232 pages). Comments made by: EPA, DOI, USDA, State and local agencies and concerned citizens. (ELR Order No. 61162.)

Chauga Unit Plan, Sumter National Forest, Oconee County, S.C., August 11: The statement discusses the proposed management plan for Chauga Unit, Sumter National Forest, located in Oconee County, South Carolina. The unit contains 40,200 acres of National Forest land. Adverse impacts will be to wildlife, water quality, soils, vegetative cover, and aesthetics due to timber harvest, road and trail construction, recreational use, and motor vehicles (119 pages). Comments made by: USDA, DOI, EPA, State agencies, and concerned individuals. (ELR Order No. 61173.)

Quinault Unit Plan, Olympic National Forest, Grays Harbor and Jefferson Counties, Wash., August 11: Proposed is the implementation of a comprehensive land use plan for the 151,960 acre Quinault Planning Unit, Olympic National Forest. Included in the plan is the allocation of three additional new sites to developed recreation. Management of the timber resource is provided for on the productive commercial forest land of the Unit when not otherwise allocated (237 pages). Comments made by: DOI, COE, HUD, EPA, State and local agencies, and concerned citizens. (ELR Order No. 61171.)

SOIL CONSERVATION SERVICE

Final

Buckhorn-Mesa Watershed; Maricopa and Pinal Counties, Ariz., August 10: The watershed protection and flood prevention project consists of the construction of five floodwater retarding dams for the purpose of flood control and increased efficiency of irrigation water use. Construction activity will result in loss of 164 acres of desert riparian and 799 acres of desert upland vegetation. Installation of the structures will require the relocation of four families (209 pages). Comments made by: USDA, COE, DOC, HEW, HUD, DOI, DOT, EPA, AHP, State and local agencies, and concerned citizens. (ELR Order No. 61154.)

DEPARMENT OF DEFENSE

ARMY

Final

Army Electronics Research and Development Command, August 13: The action under consideration is the formation of a new command to integrate many of the common research activities of the U.S. Army Electronics Command and the Harry Diamond Laboratories. It will also consolidate related activities of the Electronics Command and the Army Security Agency. The action will reduce and consolidate physical location to varying degrees depending upon which of the ten alternatives is chosen. In addition, the action will result in a civilian employment reduction ranging from 366 to 614 jobs. Adverse effects of the action include sociological, economic, and transportation impacts at the 11 sites (3 vols.). Comments made by: DOT, USDA, USAF, DOD, DOI, DLAB, USN, EPA, State and local agencies, and concerned individuals. (ELR Order No. 61191.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Kanopolis Lake, Kansas, operation and maintenance Ellsworth, McPherson, and Saline Counties, Kans., August 13: Proposed is the continued operation and maintenance of Kanopolis Lake, located in Ellsworth, McPherson, and Saline Counties, Kansas. The plan includes water control operations, and operation and maintenance of project land and water resources. A major adverse effect is related to flood control operations. Shoreline erosion, disruption of recreation use and damage to project roads and recreation areas result from these fluctuations (Kansas City District) (100 pages). (ELR Order No. 61186.)

Tittabawassee River Flood Control (2), Midland County, Mich., August 12: This statement is a revision of a draft EIS filed with CEQ December 30, 1974. It refers to the proposed plan for alleviation of flooding on the Tittabawassee River at Midland, and consists of the permanent evacuation of residential and commercial structures in two areas designated as "A" and "B" respectively. A total of 115 structures would be purchased and removed from the two areas. Adverse effects are associated with the necessity for residents to give up familiar surroundings and a pattern and pace of life that may not be regained (Detroit District) (135 pages). (ELR Order No. 61184.)

Cazenovia Creek Watershed, Flood Management (2), New York, August 12: This revised draft proposes both structural and non-structural features for flood control and related purposes on Cazenovia Creek, New York. Non-structural measures include flood plain management and participation in the National Flood Insurance Program. The structural flood protection measure would incude an ice retention structure in West Seneca to reduce ice-affected flood stages in specified reaches. Adverse effects include clearing of 15 acres and damage caused by ice scour. The ice retention structure would have some probable impact upon streamlife and water quality. (Buffalo District) (125 pages). (ELR Order No. 61181.)

Chehalis River Flood Control (2), Grays Harbor County, Wash., August 12: This re-

V 41 163 AUG 20 76 UMI

vised draft presents potential effects of a proposed flood control project located at Cosmopolis and south Aberdeen, Washington. The proposed project consists of a levee system which would protect 1,318 acres of flood plain lands at the head of Grays Harbor. Temporary adverse effects would be associated with construction activities such as traffic disruption, noise, and unsightly stockpiles of materials (Seattle District) (107 pages). (ELR Order No. 61180.)

Final

John Martin Dam and Reservoir, Arkansas River, Bent County, Colo., August 11: This statement concerns the identification of those impacts resulting from the continuing operation and maintenance program at John Martin Dam and Reservoir and the anticipated effects resulting from implementation of the updated John Martin Master Plan (November 1974). Adverse effects have been the development of sterile sediment beds, erosion of the shoreline and barren sediment beds, and some inundation of vegetation (Albuquerque District) (152 pages). Comments made by: USDA, HEW DOT, EPA, FEA, FPC, AHP, and DOI. (ELR Order No. 61169.)

OG&E Generating Stations, Units 4 & 5 (Permit), Muskogee County, Okla., August 11: Oklahoma Gas and Electric Company has applied for USA permits for proposed construction of an addition of two 515,000 kilowatt net generating units and appurtenant structures to its existing generating station. The structures will be located on and in the Arkansas, Grand, and Verdigris Rivers near the town of Muskogee, Oklahoma. The proposed power plant would convert approximately 720 acres of agricultural land and wildlife habitat to industrial use. Chemically treated storm water runoff from the coal storage area, treated plant wastes, and heated cooling tower blowdown will be discharged (Tulsa District) (262 pages). Comments made by: EPA, HEW, USDA, DOI, AHP, DOT, State agencies, and local officials. (ELR Order No. 61168.)

Lock Haven Flood Protection Project, Pennsylvania, August 11: The project involves the construction of a wall and earth levee system along the West Branch of the Susquehanna River and Bald Eagle Creek to protect the City of Lock Haven, Pennsylvania. Adverse impacts include the loss of an unrestricted view of the river, visual change to the setting of the historic Water Street district, loss of some trees and the resultant reservations of the citizens concerning the project (Baltimore District) (269 pages). Comments made by: EPA, USDA, DOT, HEW, DOI, HUD, and State agencies. (ELR Order No. 61175.)

Oceana Local Flood Protection Project (2), Wyoming County, W. Va., August 11: The statement refers to a Local Protection Project at Oceana, West Virginia. Proposed is the widening of 25,000 feet of channel for the purpose of flood control at Oceana. Two sediment retention basins will also be built. The project will displace 13 homes and outbuildings and destroy some vegetation and associated wildlife habitat (Huntington District) (150 pages). Comments made by: DOI, EPA, DOT, USDA, and State agencies. (ELR Order No. 61170.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of Assistant Administrator, E-201, ERDA, Washington, D.C. 20545, 301-973-4241.

Final

Intense Neutron Source Facility, Los Alamos, Sandoval County, N. Mex., August 10: Proposed is the construction and operation of a deuterium-tritium gas target intense neutron source at the Los Alamos Scientific Laboratory in Los Alamos, New Mexico. The purpose of the proposed facility is to provide an experimental neutron radiation facility providing a neutronic environment similar to that anticipated in a fusion power reactor. The proposed project consists of the design and construction of the experimental facility and building, the connecting corridor and support facilities necessary to the project. Adverse effects include liquid waste discharges which consist primarily of cooling tower blowdown during operations, and construction disruption (230 pages). Comments made by: NRC, USDA, DOT, DOC, DOI, NSF, EPA, and State agencies. (ELR Order No. 61156.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0780 (stop 460).

Draft

Metro Denver Wastewater Sludge Management, Adams County, Colo., August 10: The Metropolitan Denver Sewage Disposal District No. 1 has proposed to construct the necessary facilities to transport sludge to a site in Adams County, Colorado, for air drying in earthen basins, stockpiling in above-ground windows, and distributing to the farming community to be reused on land for growing crops. Adverse effects of varying degree will result at the sludge drying and distribution center, at the sludge reuse areas, and at the Lowry Bombing Range sludge disposal area (Region VIII) (378 pages). (ELR Order No. 61161.)

Greeley Region Wastewater Management, Weld County, Colo., August 13: Proposed is the granting of funds to Greeley, Colorado for the construction of wastewater treatment facilities. The City of Greeley has recommended the building of a regional wastewater treatment facility in the Delta agricultural area east of the city near the confluence of the Cache La Poudre and South Platte Rivers. A total of eight alternative plans are being considered. Impact analysis focuses on odor, plant location, flooding, effluent/sludge disposal, and the potential for induced population growth (Region VIII) (210 pages). (ELR Order No. 61189.)

Jerome Wastewater Facilities Project, Jerome County, Idaho, August 11: Proposed is the provision of an adequate wastewater treatment and disposal program for the city of Jerome, Idaho. The plan would expand the service area from 1,170 acres to 5,030 acres to accommodate the projected increases in population from 5,625 to 12,000 residents by the year 1995. Negative impacts are subject to the alternative selected (135 pages). (ELR Order No. 61176.)

Final

Olentangy Treatment Plant, Interceptor System, Delaware County, Ohio, August 10: Proposed is the construction in South-Central Delaware County, between state route 315 and the Olentangy River of a sewage treatment plant of 1.5 MGD to be expanded to 3.0 MGD by the end of the 20 year planning period. The treatment process is a two-stage activated sludge facility, including phosphorus removal measures and tertiary rapid sand filters. The facility will discharge to the Olentangy River at Franklin County, Ohio, below the I-270 interchange in the vicinity of Longfello Ave. (415 pages). Comments made by: DOI, and COE, State and local agencies, and concerned citizens. (ELR Order No. 61153.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Los Rios Subdivision, Plano, Plano and Collins Counties, Tex., August 12: The proposed action is for HUD to accept for HUD-FHA mortgage insurance purposes, the 675 acre Los Rios Subdivision located in Plano, Texas. When completed, in approximately 6 years, the subdivision will contain 1,156 single family homes plus some attached single-family and multi-family housing and shopping and recreational facilities. Adverse effects would be the removal of agricultural land from production and an increased demand for fossil fuels through heavy dependence on automobiles for transportation (86 pages). (ELR Order No. 61185.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Final

Industrial Park, St. Johnsville, Montgomery County, N.Y., August 10: The Village of St. Johnsville plans to develop an industrial park of approximately 25 acres using $175,000 of HUD Community Development Block Grant Discretionary funds. The site, located in the southern sector of the Village, is bounded by the Penn Central Railroad on the north, the new Bridge Street bridge on the east, the New York State Barge Canal on the south, and Zimmerman Creek on the west. Adverse effects are expected to be minimal (108 pages). Comments made by: EPA, DOC, DOT, and State agencies. (ELR Order No. 61152.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard Chais, Supervisory Attorney Advisor for the Environmental Staff, Room 2370, 12th St. and Constitution Ave. NW., 202-343-2086.

Draft

Transportation of Recyclable Materials, Freight Rates, August 11: The Interstate Commerce Commission has instituted a comprehensive investigation of discriminatory rail freight rates for the transportation of recyclable or recycled materials. This EIS analyzes (1) whether the rate structure per se has a significant effect on the relative utilization of recyclable and competing virgin materials and (2) whether general rail freight rate increases granted by the Commission in response to requests from the nation's railroads have a significant effect on relative utilization (220 pages). (ELR Order No. 61172.)

DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Final

Coke Oven Emissions Standard, August 13: Proposed is the promulgation of an occupational health standard regulating the exposure of employees to coke oven emissions. Such a standard would include provision for a permissable level of exposure, employee exposure measurements, methods of compliance, respiratory protection, personal protective equipment, hygiene facilities and practices training, signs and labels, medical surveillance, regulated area, and recordkeeping. The statement indicates no significant effects on the environment external to the workplace (125 pages). Comments made by: EPA, HEW, USA, DOC, DLAB, ERDA, and DOI. (ELR Order No. 61190.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rersche, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, (301) 492-7373.

Draft

Phipps Bend Nuclear Plant, Units 1 and 2, Hawkins County, Tenn., August 11: Proposed is the issuance of construction permits to the Tennessee Valley Authority for the construction of the Phipps Bend Nuclear Plant units 1 and 2. The plant will employ two boiling water reactors to produce up to 3579 megawatts thermal (MWt) from each unit. Steam turbine generators will use this heat to provide 1233 MWe of electrical power capacity. The exhaust steam will be cooled by natural-draft cooling towers. Adverse effects include disturbance of 406 acres (225 pages). (ELR ORDER No. 61165.)

Koshkonong Nuclear Plant, Units 1 and 2, Jefferson County, Wis., August 13: Proposed is the issuance of construction permits to the Wisconsin Utilities Project for the construction of the Koshkonong Nuclear Plant, units 1 and 2. The plant will employ two pressurized water reactors to produce a nominal 2775 MWt from each unit. Steam turbine generators will use this heat to provide 999 MWe of electrical power capacity per unit. The exhaust steam will be cooled by natural-draft cooling towers. Adverse effects include the taking of a 1109 acre site which is predominantly cropland with some forest (215 pages). (ELR ORDER No. 61187.)

Final

Indian Point Unit No. 2, Westchester County, N.Y. August 12: The proposed action is the issuance of an amendment to the Facility Operating License held by Consolidated Edison Company of New York for Indian Point Unit No. 2. Under conditions of the operating license, the licensee is required to terminate once-through cooling at unit No. 2 by May 1, 1979 and to operate thereafter with a closed cycle cooling system. This statement considers the information developed by the staff in making its independent evaluation and analysis of alternative closed cycle cooling systems (355 pages).

Comments made by: EPA, FPC, HUD, DOI, DOC, USDA, USCG, NRC, state and local agencies, concerned citizens. (ELR ORDER No. 61179.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Chemung County Airport, Big Flats, Chemung County, N.Y., August 13: Proposed is a project for various improvements at the Chemung Country Airport near Elmira, N.Y. Project plants call for the following: (1) extension and strengthening of runway 6-24, (2) extension of parallel taxiway, (3) relocation of NAV-AIDS, (4) acquisition of 161 acres for clear zones, (5) relocation of a creek, (6) installation of new runway and taxiway lighting, and (7) the removal and replacement of approach lighting. Adverse effects include loss of approximately 21 acres of farmland, and the relocation of two families (110 pages). (ELR ORDER No. 61188.)

Erie International Airport Runway Extension, Erie County, Pa., August 11: Proposed is the construction of a 500 ft by 150 ft flexible pavement extension of runway 6-24 to the east, Erie International Airport, Pa. Plans also call for the installation of medium intensity runway lighting along the extension, the realignment of Powell Road, and the relocation of threshold lighting at the 24 end of the runway. Adverse effects include the dislocation of 12 families, and the conversion of approximately 3.6 acres of residential property to commercial airport use (229 pages). (ELR ORDER No. 61166.)

Ocean Shores Airport master plan, King County, Wash., August 11: The proposed action involves the acquisition of land (67 acres) and the construction of a new utility airport in Ocean Shores, Wash. The site is located on the east side of the Ocean Shores Peninsula, on the shore of the North Bay which is a northerly extension of Grays Harbor. Adverse effects include loss of wildlife habitat on the site itself, disturbance of some wildlife species adjacent to the site, and loss of that portion of the ecotional system which lies within the site boundaries (220 pages). (ELR Order No. 61167.)

Final

Loop 390, U.S. 80 to U.S. 59, Marshall, Harris County, Texas, August 12: The proposed action is the construction of grading, structures, base and surfacing on Loop 390 around Marshall, Texas. The project begins at U.S. 80 west of Marshall, crosses U.S. 59 north of Marshall, and terminates at I-20 southeast of Marshall. The 11.8 mile project is on new location. Adverse effects of the project are displacements of as many as 5 businesses and 64 families, and the commitment of some natural resources (123 pages).

Comments made by: DOT, HEW, COE, USDA, DOI, EPA, state agencies, and concerned individuals. (ELR Order No. 61183.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-94 Berrien Business Loop, Berrien County, Mich., August 11: The proposed action is the second phase of a two phase intermediate traffic solution project and the initial phase of a possible three phase long range plan for I-94 in Berrien County, Mich. The plan would further upgrade the business route from I-94 south of St. Joseph North to the St. Joseph River crossing and east to I94 northeast of Benton Harbor. Four possible alignments are considered as part of the project and adverse effects vary according to the alternative selected (569 pages). (ELR Order No. 61177.)

Sprain Brook Parkway, Westchester County, N.Y., August 10: The proposed project is the extension of the Sprain Brook Parkway from the Cross Westchester Expressway (CWE) (I-287) northerly to the Hawthorne Interchange, a distance of 2.7 miles. This project originates in the Village of Elmsford at the interchange with CWE and continues northerly until it passes under Grasslands Rd. about 600 ft. west of the Bradhurst Ave.-Knollwood Rd. intersection. The project terminates about 1,000 ft north of North Hospital Rd. after passing under it. The proposed section would be the third and final section, completing the Parkway. Subject to the alternate chosen, 8 to 46 residences will be displaced (Region 1) (158 pages). (ELR Order No. 61151.)

I-480 and S.R. 252, Ohio Turnpike to S.R. 176, Lorain and Cuyahoga Counties, Ohio, August 10: The proposed action involves construction of approximately 18 miles of I-480 located in Lorain and Cuyahoga Counties. Also to be included with the Interstate project is a relocation of State Route 252. The relocation is proposed from the south corporation limit of the City of North Olmstead where it crosses existing S.R. 252 northerly to I-480. Adverse effects include the taking of private and public lands for right-of-way use, noise level increases during construction, and existing water course disturbance (Region 5), (120 pages). (ELR Order No. 61164.)

Final

Hohokam Expressway, Ariz. Maricopa County, Ariz., August 12: Proposed is the construction of 2.48 miles of S.R. 143, locally known as Hohokam Freeway, or Hohokam Expressway, in the cities of Phoenix and Tempe, Ariz. The project will interchange with Interstate Highway 10 and will intersect at-grade with arterial streets. Adverse impacts include slight increases in air and noise pollution (467 pages).

Comments made by: DOT, EPA, DOC, DOI, HEW, HUD, State and local agencies, concerned individuals. (ELR Order No. 61182!)

Supplement

S.R. 44, from San Ysidro North (S-1), Sandoval County, N. Mex., August 10: This statement is a supplement to a Final Environmental Impact Statement on S.R. 44, filed with CEQ in May of 1974. The supplemental project FF-033-1(17) consists of upgrading a 2 lane section of State Road 44 from 2.6 miles south of San Ysidro North in Sandoval County, N. Mex. Environmental impacts include change in land use for about 50 acres of new right of way (10 pages). (ELR Order No. 61155.)

U.S. Route 7, Sunderland to Manchester (S-1), Mennington County, Vt., August 10: This supplement is the 4(f) section of a Final EIS filed with CEQ in February 1973. The project begins in Sunderland approximately 1.75 miles northeast of the Glastenburg-Sunderland town line and extends approximately 10 miles north on relocation to its junction with Vermont 11 east of Manchester Center. The 4(f statement concerns the environmental impacts to Lye Brook Wilderness Area (85 pages). (ELR Order No. 61160.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-24451 Filed 8-19-76;8:45 am]

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Correction

In FR Doc. 76-22879 appearing on page 32243 in the issue for Friday, August 6, 1976 the following correction should be made: On page 32945, in the middle column, the word "Final" should be inserted above the first full paragraph beginning "SR 53, Rome to Calhoun" to indicate that the listings following are not drafts.

COUNCIL ON WAGE AND PRICE STABILITY

STUDY OF FEDERAL REGULATION OF STEEL INDUSTRY

Meeting

The Council and the National Center are jointly sponsoring a study of the total impact of Federal regulations which apply directly to the steel manufacturing industry. This FEDERAL REGISTER notice is to announce a public meeting on September 8, 1976, to discuss the progress being made in this study and certain preliminary findings. An earlier FEDERAL REGISTER notice (41 FR 13982) described the scope of this study, and an initial public meeting was held on April 28, 1976.

Preliminary drafts of two parts of the study will be available for discussion at the meeting: a catalog of existing Federal

V 41 163 AUG 20 76 UM

regulations that have a direct impact on the steel industry, and a critical appraisal of existing studies of the costs and benefits (to steel producers, employees, consumers, and the general public) of these regulations. The specific agenda and draft documents for this meeting will be available about August 25.

The meeting will be held on September 8, 1975, at 9:00 a.m. in Room 2010 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506. Persons interested in attending this meeting, or receiving the agenda and draft documents mentioned above, should contact Mr. Morris Feibusch, at the Council on Wage and Price Stability, Room 4013, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506, telephone (202) 456-6757.

WILLIAM LILLEY III,
Acting Director, Council on Wage and Price Stability.

GEORGE KUPER,
Executive Director, National Center for Productivity and Quality of Working Life.

[FR Doc.76-24462 Filed 8-19-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-42029 (FRL 603-1)]

STATE OF NEW MEXICO

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (Oct. 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Jerry Apodaca, Governor of the State of New Mexico, has submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA).

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VI, to approve this plan.

A summary of the Plan follows. The entire plan, together with all attached appendices, except for sample examination questions, may be examined during normal business hours at the following locations:

New Mexico Department of Agriculture, Office of the Director, New Mexico Department of Agriculture Bldg., New Mexico State University, Room 114, 3189 Espina, Las Cruces, New Mexico 88003.

U.S. Environmental Protection Agency, Air & Hazardous Materials Division, Pesticides & Hazardous Materials Branch, 1600 Patterson, Room 1107, Dallas, Texas 75201, Phone: 214-749-1121.

U.S. Environmental Protection Agency, Federal Register Section, Technical Services, Division (WH-569), Office of Pesticide Programs, East Tower, Waterside Mall, Room 401, 401 M Street SW., Washington, D.C. 24060, Phone: 202-755-4854.

SUMMARY OF NEW MEXICO STATE PLAN

The New Mexico Department of Agriculture has been designated the State Lead Agency responsible for administering the plan throughout the State and is solely responsible for certifying all applicators of restricted use pesticides.

Cooperating agencies are the New Mexico State University Cooperatve Extension Service and the New Mexico Environmental Improvement Agency. The Cooperative Extension Service will assume the role of the training agency and will work with the New Mexico Department of Agriculture to coordinate training programs for commercial and private pesticide applicators. The New Mexico Environmental Improvement Agency will assist in training applicators in the category of Public Health Pest Control and will cooperate in investigation of pesticide accidents.

Legal Authority for the program is contained in the New Mexico Pesticide Control Act (Chapter 45, Article 25, Sections 1 through 39, New Mexico Statutes Annotated 1963 Compilation), and Regulatory Order No. 3 which are attached to the plan.

The Plan indicates that the State Lead Agency and cooperating agencies, together with grants from EPA, have sufficient funds and personnel necessary to carry out the program.

The New Mexico Department of Agriculture will provide an annual report to EPA on October 21, and other reports will be provided to EPA as requested.

The State of New Mexico has defined two classes of applicators who are commercial applicators under FIFRA and who will be subject to commercial applicator certification requirements: commercial pesticide applicator (an applicator who engages in the business of applying pesticides to land not owned or occupied by him); and public pest management consultant (a public employee who, in the course of his official duties, supervises the use of pesticides). Hereinafter, as used in this Notice, the term "commercial applicator" shall include and mean the above two classes of applicators.

The commercial applicator categories proposed are those listed in 40 CFR 171.3. Subcategories proposed are as follows:

1. Agricultural Pest Control
   - (i) Plant
     - (a) Agricultural Pests
     - (b) Agricultural Weeds
   - (ii) Animal
3. Ornamental and Turf Pest Control
   - (a) Insecticides and Fungicides
   - (b) Herbicides
7. Industrial, Institutional, Structural, and Health-Related Pest Control
   - (a) Structural Pest Control
   - (b) Vertebrate Animal Control
   - (e) Fumigation
10. Demonstration and Research Pest Control
    - (a) Demonstration Pest Control
    - (b) Research Pest Control

The State estimates that 1,220 commercial applicators and up to 10,000 private applicators will need to be certified. Wallet size credentials will be issued to all certified applicators to verify class and category certification as appropriate.

Commercial applicators will be certified by means of written examinations, one covering the general standards of competency (40 CFR 171.4(b) and 171.6), and one covering the specific standards of competency (40 CFR 171.4(c)) for each category or subcategory in which the applicator desires certification.

In accordance with 40 CFR 171.7(e)(3), the State of New Mexico has described its current licensing program for State-defined commercial applicators and public pest management consultants, and has described a pilot program conducted under the aegis of EPA by the California State Polytechnic University for applicators in the structural pest control subcategory of category 7 above.

However, the State has requested authority to certify without further demonstration of competency only those applicators who successfully completed the pilot program. Inasmuch as passage of a written examination covering the general standards and requisite specific standards of competency was required for successful completion of the pilot program, notice is hereby given of the intention of the Regional Administrator to approve the New Mexico request.

The standards of competency for private applicators will be those set forth in 40 CFR 171.5 and 171.6.

Private applicators will routinely be certified by one of three methods: completion of Extension Service-sponsored training which will include oral review questions and group discussion; self-study of EPA core manuals followed by a written examination administered at the County Extension agent's office and forwarded to the lead agency for grading; and self-study through an autotutorial video cassette system available at the County Extension agent's office followed by a written examination which is forwarded to the lead agency for grading.

In emergency situations, a previously uncertified private applicator may obtain single purchase/single use certification by completing a written questionnaire administered and reviewed by an examined and licensed pest management consultant. A copy of the questionnaire and user's permit issued by the pest management consultant will be submitted to the lead agency for record keeping and to enable the lead agency to inform the applicator of the need and opportunities for obtaining full certification.

An applicator who is unable to read may obtain product-specific certification by being tutored by a lead agency field inspector who will instruct the applicator in the safe and effective use of each product for which certification is desired.

Sample examination questions for commercial and private applicators are attached to the Plan. However, the State of New Mexico has requested that they not be made available for public inspection, in order to maintain their confidentiality. The Agency has acceded to this request and has removed the sample examination questions from the public inspection copies of the Plan.

Within 60 days after final acceptance of the Government Agency Plan (GAP) by EPA, a statement concerning the acceptance of GAP-qualified Federal employees will be forwarded for inclusion in the State Plan.

The New Mexico Department of Agriculture will enter into cooperative agreements with appropriate Indian Governing Bodies who choose to utilize the State certification program. Copies of any such agreements will be forwarded to EPA.

No reciprocal agreements with other States are presently being considered. However, as certification programs in neighboring States are established, consideration will be given to reciprocal agreements. As agreements are concluded, copies will be submitted to EPA.

Other regulatory activities conducted in the State of New Mexico which contribute to the control of pesticide use include: testing and licensing as operators the employees of commercial pesticide applicators who use general and/or restricted use pesticides (use of the latter being only under the direct supervision of the certified commercial pesticide applicator); testing and licensing of pest management consultants; licensing of restricted use pesticide dealers; testing and licensing of public operators who use general and/or restricted use pesticides (use of the latter being only under the direct supervision of a public pest management consultant); registration of pesticides; enforcement activities; pesticide sampling; pesticide equipment inspections; and review of pesticide use in New Mexico by the Pesticide Advisory Board.

To ensure that certified applicators comply with the standards for use of restricted use pesticides, field inspectors will make periodic checks on applicators, including as appropriate, inspection of records, sampling of pesticides being applied, and ensuring compliance with label and labeling directions.

Both commercial and private applicators will be recertified at five year intervals. Commercial applicators will be reexamined at the end of five years unless they have attended not less than six hours of formal training approved by the lead agency during that period. Likewise, private applicators must have attended three hours of Extension training programs during the five years or be examined to meet recertification requirements.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of New Mexico to the Chief, Pesticides Branch, Region VI, Environmental Protection Agency, 1600 Patterson, Room 1107, Dallas, Texas 75201. The comments must be received on or before September 20, 1976, and should bear the identifying notation OPP-42029. All written comments filed pursuent to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: June 29, 1976.

JOHN C. WHITE,
Regional Administrator, Region VI, Environmental Protection Agency.

[FR Doc. 76-24553. Filed 8-19-76; 8:45 am]

[OPP—180085 (FRL 602-4)]

U.S. ARMY CORPS OF ENGINEERS

Issuance of a Specific Exemption To Use 2,4-D To Control Alligatorweed in South Carolina

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the U.S. Army Corps of Engineers (hereafter referred to as the "Corps") to use 2,4-D to control infestations of alligatorweed in five (5) waterways in South Carolina. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E-315, Washington, D.C. 20460.

According to the corps, the uncontrolled growth of alligatorweed has adversely affected navigation, flood control, drainage, fishing, swimming, mosquito control, and the maintenance of water quality in infested waterways, specifically, portions of the North Fork Edisto River, the Little Pee Dee River, the Black River, the Black Mingo Creek, and the Congaree River. Alligatorweed (*Alternanthera philoxeroides* (Mart) Griesh) grows as a mat of vegetation interwoven with stems that have become prostrate. The nodes generally have two buds, each of which may sprout to produce a shoot. Reproduction is by vegetative means from the auxiliary buds. Roots may form at every node near or submerged in water or on moist soil. Equally profuse growth may be found when alligatorweed is completely free-floating, loosely attached and forming a mat, rooted emersed, or in a dry field. The greatest problems occur in streams and canals where dense floating mats of alligatorweed may block boat traffic and interfere with the flow of water.

The use of mechanical weed harvesting devices are effective in controlling alligatorweed and offer the advantage of removing entire weed mats instead of killing only the above-water parts of the weeds. However, mechanical control is much more expensive than chemical control and is also impractical over most of these bodies of water because of a combination of current, trees, logs, and shallow water. Biological control agents are being utilized to the limit of the capabilities of the three insect species which have been established in South Carolina for this purpose; they are *Agasicles hygrophila, Amynothrips andersoni,* and *Vogtia malloi.*

According to the Corps, there are other herbicides which will control alligatorweed, but none of them are comparable to 2,4-D in terms of economy, low toxicity to aquatic life, and non-persistence in the environment. Therefore, the Corps will use a total of 3,600 pounds (acid equivalent) of 2,4-D (2,4-Dichlorophenoxyacetic acid), DMA (dimethylamine salt) on approximately 900 acres spread over 166 river miles on portions of the five bodies of water previously mentioned. This use of 2,4-D is in conjunction with the Cooperative Aquatic Plant Control Program being implemented by the Charleston Distict of the Corps of Engineers.

Areas having significant infestations of alligatorweed will be sprayed with a 2,4-D formulation containing not less than four (4) pounds of 2,4-D acid equivalent per gallon. The herbicide will be in diluted water at a rate of fifty parts of water to one part of herbicide and applied at the rate of two to four pounds acid equivalent of 2,4-D per acre, which is adequate to control alligatorweed when used in conjunction with biological control agents. Spraying operations will be accomplished by a two-man crew; each of the two men will receive prior instructions as to the proper mixing and spraying techniques before the actual spraying operation begins. Dependent upon the severity of the alligatorweed infestations and weather conditions (rain, floods, etc.), the spray crew will treat from one to three river miles per day.

To date, there have been no significant adverse effects from the spraying of alligatorweed. The greatest potential adverse effect is the killing of non-target species of broadleaf plants. Precautions will be taken to minimize the killing of other plants. There is also the possibility of minor and temporary changes in water quality from the addition of 2,4-D to the water and the lowering of the dissolved oxygen level through the decay of dead alligatorweed; however, these effects are minimal. This herbicide treatment program should suppress the infestations of alligatorweed in the affected areas with-

V 41 163 AUG 20 76 UM

out causing any short- or long-term adverse environmental effects. There appears to be no possibility of contamination of domestic water supplies with 2,4-D, since the only potable water source located downstream of a treatment area is about fifty (50) miles away. It should also be noted that a 2,4-D DMA product was registered on January 7, 1976, for control of water hyacinth in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent or slow moving. A primary drinking water interim standard of 0.1 ppm has been established for 2,4-D.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of alligatorweed has occurred; (b) there is no pesticide presently registered and available for use to control the alligatorweed in South Carolina; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the alligatorweed is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Corps has been granted a specific exemption to use the pesticide noted above until December 31, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A dimethylamine salt formulation of 2,4-D containing four (4) pounds acid equivalent of 2,4-D per gallon will be applied from boats at the rate of two to four pounds acid equivalent of 2,4-D per acre;

2. The 2,4-D formulation will be diluted at a rate of one part 2,4-D formulation to fifty (50) parts of water;

3. Treated acreage is limited to 900 acres located within those areas mentioned and delineated on the map accompanying the specific exemption application;

4. A maximum of 3,600 pounds acid equivalent of 2,4-D may be applied, and;

5. Personnel of the U.S. Army Corps of Engineers will supervise all herbicide applications.

Dated: August 13, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-24554 Filed 8-19-76;8:45 am]

[OPP-30120 (FRL 602-5)]

PESTICIDE PROGRAMS

Receipt of Application to Register A Pesticide Product Containing A New Active Ingredient

Nalco Chemical Co., P.O. Box 87, Sugar Land TX 77487, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product VISCO 3990 oil and waterflood or saltwater disposal system bacteria control chemical and corrosion inhibition (EPA File Symbol 10349-RL), containing 5.0% of the active ingredient Hexachlorodimethylsulfone which has not been included in any previously registered pesticide products. The application receive from Nalco Chemical Co. proposes that the product be classified for general use for control of bacteria in oilfield waterflood or saltwater disposal system. PM31

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of Section 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before September 20, 1976 and should bear a notation indicating the EPA File Symbol "10349-RL." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202/426-2635.

Notice of approval or denial of this application to register VISCO 3990 oil and waterflood or saltwater disposal system bacteria control chemical and corrosion inhibitor will be announced in the FEDERAL REGISTER. The label furnished by Nalco Chemical Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 13, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24555 Filed 8-19-76;8:45 am]

[PFT13 (FRL 602-6)]

FOOD ADDITIVE PETITION

Notice of Filing

Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63116, has submitted a petition (FAP 6H5140) to the Environmental Protection Agency (EPA) which proposes to amend 21 CFR 561 and 193 by establishing food additive regulations permitting the use of the herbicide glyphosate [N-(phosphonomethyl) glycine] and its metabolite, aminomethylphosphonic acid in a proposed experimental program involving application of the herbicide to growing sugarcane with a tolerance limitation of 1.0 part per million for residues of the herbicide in sugarcane molasses.

Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5140." Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 12, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24556 Filed 8-19-76;8:45 am]

[PFT 14 (FRL 602-7)]

FOOD ADDITIVE PETITION

Notice of Filing

Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis Mo. 63116, has submitted a petition (FAP 6H5143) to the Environmental Protection Agency (EPA) which proposes to amend 21 CFR 561 by establishing a food additive regulation permitting the use of the herbicide butachlor [N-(butoxymethyl)-2-chloro-2', 6'-diethylacetanilide in a proposed experimental program involving application of the herbicide to growing rice with a tolerance limitation of 1 part per million (ppm) for residues of the herbicide in rice hulls and 0.5 ppm in rice bran.

Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5143." Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 12, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc. 76-24557 Filed 8-19-76; 8:45 am]

[FRL 603-3]

TOXIC POLLUTANT EFFLUENT STANDARDS

Availability of Reports

The Environmental Protection Agency has proposed Toxic Pollutant Effluent Standards for PCBs under the authorities in the Federal Water Pollution Control Act Amendments of 1972 (See 41 F.R. 30470). The Agency announced in that proposed rulemaking its intention to make available the criteria document, technology assessments and cited reports from the National Technical Information Service (NTIS), Springfield, Virginia 22151. The report subject matter, EPA number, NTIS number, and cost for these documents are listed below:

Subject	EPA No.	NTIS No.	Cost
Criteria document-PCB's	EPA 440/9-76-021	PB 255-367	$16.25
Assessment of wastewater management (final report, task II)	EPA 560/6-76-006	PB 255-396	9.25
PCB's water elimination/reduction technology (addendum to task II)	EPA 440/9-76-020	PB 255-395	4.00
National Conference on PCB's	EPA 560/6-75-004	PB 253-248	12.00
PCB's in the United States (task I)	EPA 560/6-76-005	PB 252-012	12.50

Dated: August 17, 1976.

GLEN SCHWEITZER,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 76-24559 Filed 8-19-76;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 390]

KNOPF SHIPPING COMPANY, INC.

Order of Revocation

By letter dated July 14, 1976, Mr. Jakob H. Knopf, Knopf Shipping Co., Inc., 233-239 W. 42nd St., New York, N.Y. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 390 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 11, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Knopf Shipping Co., Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 390 issued to Knopf Shipping Co., Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 390 be and is hereby revoked effective August 11, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Knopf Shipping Company, Inc.

LEROY F. FULLER,
Director Bureau of Certification and Licensing.

[FR Doc.76-24494 Filed 8-19-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP76-465]

CITIES SERVICE GAS CO.

Application

AUGUST 12, 1976.

Take notice that on August 2, 1976, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP76-465 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of various facilities and the sales of natural gas for resale in certain areas and communities presently being served by Applicant where the distribution systems have been acquired by new owners, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue to operate pipeline, measuring, regulating and appurtenant facilities and to sell gas to the following:

1. Aker Oil and Gas Company, formerly owned and operated by Crystal Gas Company, for resale and distribution in the communities of Hill 'n Dale and Keystone West, Pawnee County, Oklahoma.

2. Nelagoney Gas Co-op, Inc., formerly owned and operated by Home Owners Cooperative Gas Company, for resale and distribution in the community of Nelagoney, Osage County, Oklahoma.

3. Sekco Gas Company, Inc., formerly owned and operated by the Southeastern Kasas Gas Company, for resale and distribution in rural communities in southeastern Kansas; and

4. West Texas Gas, Inc., formerly owned and operated by Clajon Gas Company, for resale for irrigation and incidental farm purposes in Armstrong, Briscoe, Donley, Gray, and Hall Counties, Texas.

Applicant states that no new facilities or expenditures are required.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 5 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24418 Filed 8-19-76;8:45 am]

[Docket Nos. CP70-196, CP73-135, et al.]

DISTRIGAS CORP. AND DISTRIGAS OF MASSACHUSETTS

Order Granting Petition for Local Hearing, Granting Late Intervention and Prescribing Further Procedures

AUGUST 12, 1976.

On March 22, and July 1, 1976, respectively, Kevin H. White, Mayor of the City of Boston, Massachusetts, and Edward W. Brooke, Senator for the State of Massachusetts, petitioned the Commission to hold local hearings in the above-referenced dockets.[1]

It is the policy of the Commission to hold hearings on applications filed under

[1] The request is for local hearings regarding the proposed liquefied natural gas (LNG) storage tanks at Everett, Massachusetts.

V 41 N 163 AUG 20 76 UM

the provisions of the Natural Gas Act in Washington, D.C. This practice has been varied occasionally to provide for limited local hearings where substantial local interest has been demonstrated and good cause shown.

In view of the potential impact of our decision on the Boston and Everett, Massachusetts area, we believe that the public interest supports the convening of a local hearing in Boston, Massachusetts. The local hearing will afford an opportunity to participate to those individuals most affected by the proposed siting and operation of the LNG facility.

We wish to emphasize that the local hearing authorized herein should be limited to submittals concerning the LNG tanks proposed to be constructed in Docket No. CP74–137, and related activities proposed in Docket Nos. CP70–196, CP73–135, and CP74–227.[2] These submittals, which shall be limited to parties unable to participate through the proceedings being held in Washington, D.C., may be in the form of unsworn statements of position or opinion which may be read or copied into the record. However, these unsworn statements will not be considered as evidence in the proceeding unless the submittals are made under oath and an opportunity accorded all parties for cross-examination thereon. Procedures for these submittals will be established by order of the Presiding Administrative Law Judge in his notice announcing the location and time of the local hearing.

The Commission finds: (1) It is desirable and in the public interest that a portion of the hearings in Docket Nos. CP70–196 and CP73–135, et al., be conducted in Boston, Massachusetts, utilizing federal facilities.

(2) The filing by the City of Boston and Senator Brooke should be accepted as late petitions to intervene, and the relief therein sought should be granted.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, hearing time will be made available in federal facilities in Boston, Massachusetts.

(B) In order to provide for an expeditious local hearing procedure, to avoid repetitious cumulative testimony, and to establish procedures for service of prepared testimony the Administrative Law Judge shall, at least 15 days prior to convening the local hearing, issue a notice to be published in the FEDERAL REGISTER and served on all parties announcing the place and time of the local hearing and prescribing such procedures as the interest of justice and due process may require.

(C) Upon motion and showing that it would be a hardship for a witness to prepare and serve written testimony and good cause for receipt of such testimony, the Presiding Administrative Law Judge may permit a party to present sworn direct oral testimony subject to cross-examination.

(D) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent they are modified or supplemented herein.

(E) The above-named petitioners are permitted to intervene in these consolidated proceedings subject to the rules and regulations of the Commission: *Provided, however,* that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in these proceedings; and *provided, further,* that such intervenors shall accept the evidentiary record as it has been established in the proceedings to date.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24419 Filed 8-19-76;8:45 am]

[Docket No. ER76-845]

DUKE POWER CO.

Tendered Contract Supplement

AUGUST 13, 1976.

Take notice that on August 6, 1976, Duke Power Company tendered for filing a supplement to its electric power contract with the University of North Carolina, Chaptel Hill. The supplement provides for an increase in contract demand from 20,000 kw to 36,000 kw at Delivery Point No. 2 and for a new delivery point with a contract demand of 18,000 kw at Delivery Point No. 3. Duke Power states that the changes were made at the request of the customer.

Waiver of the Commission's 30-day notice requirement is requested so that the change at Delivery Point No. 2 can be made effective as of July 1, 1976 and for Delivery Point No. 3 as of July 21, 1976. Duke Power states that a copy of the filing has been mailed to the customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24435 Filed 8-19-76;8:45 am]

[Docket No. ID-1424]

EDWIN I. HATCH

Application

AUGUST 12, 1976.

Take notice that on July 28, 1976, Edwin I. Hatch filed a supplemental application under Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the board and chief executive officer.	Georgia Power Co. (Georgia Power)[1].	Public utility.
Director	City Investing Co. (City).	Banking, manufacturing, insurance.
Do	The Home Insurance Co. (Home)[2]	Insurance company.

[1] Subsidiary of The Southern Co., a public utility holding company.
[2] Subsidiary of City Investing Co.

Home Capital Services, Inc. is a subsidiary of Home and is engaged in the underwriting of municipal securities. The Securities and Exchange Commission has taken the position that the business of Home Capital Services, Inc. makes City and Home "investment bankers." S.E.C. Rule 70(c) requires that Commission to defer to the Federal Power Commission's decision as to whether or not an officer or director of a public utility holding company or its subsidiary should be authorized to serve as an officer or director of an "investment banker."

Any person desiring to be heard or to make any protest with reference to such application should, on or before September 2, 1976, file with the Federal Power Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[Docket No. CP76-464]

EQUITABLE GAS CO.

Notice of Application

AUGUST 12, 1976.

Take notice that on August 2, 1976, Equitable Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP76-464 an application pursuant to Section 7 of the Natural Gas Act for permission for and approval of the abandonment of natural gas pipelines in Monongalia County, West Virginia, and Greene and Washington Counties, Pennsylvania, and for a certificate of public convenience and necessity authorizing the construction and operation of pipelines to replace, in whole or in part, those pipelines proposed to be abandoned, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to replace all or part of the following pipelines with 20-inch pipeline:

Applicant's transmission Line No.	Present diameter (inches)	Approximate length (miles)	Location
H-102	16	3.1	Greene County, Pa.
H-106	16	0.4	Do.
HM-107	16	5.7	Do.
H-111	16, 20	16.2	Greene and Washington Counties, Pa.
HM-115	16	5.0	Green County, Pa.
H-117	16	4.6	Do.
H-520	16	.1	Monongalia County, W. Va.

Applicant proposes to abandon the following pipeline in whole or in part:

Applicant's transmission line No.	Present diameter (inches)	Approximate length (miles)	Location
H-103	16	3.9	Greene County, Pa.
H-104	16	0.5	Washington County, Pa.
H-105	16	8.7	Greene County, Pa.
HM-115	16	10.9	Do.
H-116	16	2.1	Do.
H-118	16	.3	Washington County, Pa.
HM-132	12	9.8	Do.
H-142	12	.2	Greene County, Pa.
H-521	16	.1	Monongalia County, W. Va.

Applicant states that it proposes to replace or abandon the pipelines to (1) provide more efficient transmission of the existing gas supply, (2) reduce maintenance costs by eliminating approximately 71.6 miles of older, mechanically joined pipeline, of which 35.1 miles would be replaced with modern welded pipe and the remainder would be abandoned, (3) maintain the same delivery capacity as is now available with Applicant's present facilities at the existing maximum operating pressures, and (4) improve the reliability and safety of Applicant's transmission system.

The new facilities are estimated to cost $8,797,000.

The application indicates that service from existing facilities would be terminated to 37 direct sale customers as a result of the instant proposal. Further, the application indicates that Applicant would compensate these customers in cash up to $400 in lieu of continued service or, in some instances, would compensate the customers, in part, for the cost of connecting to other of Applicant's pipelines.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petiton to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24421 Filed 8-19-76;8:45 am]

[Docket No. E-9099]

ESSEX CO., ET AL.

Order on Rehearing and Ruling on Motions

AUGUST 13, 1976.

Applications for rehearing were filed by the Merrimac Paper Company (Merrimac) and the Essex Company (Essex or Applicants) on July 16, 1976, concerning our order of June 17, 1976, in this proceeding. In our order of June 17, 1976, we required several named companies to file an application for license for the Essex Project located on the Merrimack River in Lawrence, Massachusetts.

The Applicants argue that the permits referred to in Sections 23 (a) and (b) of the Act are not limited to Federal permits, but could also include the type of state authorization that the Applicants have received from the Commonwealth of Massachusetts. After consideration of the cases cited by the Applicants and the applicable case law, we reaffirm our finding in our order of June 17, 1976, that a Federal permit or right-of-way is required to exempt a project from our licensing requirements.

Essex argues that certain statutes[1] provide adequate authorization for the Essex Project to occupy the Merrimack River. The statutes, however, adopt the state laws as to the right to use the water, but do not authorize the use of the waterway. We authorize the use of the waterways for power projects and related facilities, but each licensee must obtain state authorization for the use of the water. Furthermore, the purpose of the statutes was to promote industrial growth of the Western States by recognition of pre-existing rights secured by expenditures of time and money. *U.S.* v. *Hunter*, 236 F. Supp. 178 (1964) affirmed in part, modified in part on other grounds, 388 F. 2d 148. The courts have said further that the purpose of the statutes was recognition of the necessity for the use of water upon the land which existed in the sections of the country to which the provisions were intended to be applicable. *Bogline* v. *Giorgetta*, 78 p. 612 (1904). The Supreme Court in discussing the Act July 26, 1866 (R.S. § 2339), found that it did not apply to hydroelectric project works. *Utah Power & Light Co.* v. *U.S.*, 243 U.S. 389, 405–406 (1917). Also, Pacific Gas & Electric Co., 29 FPC 1265 (1963). The Supreme Court has stated in discussing state water rights in relation with the Act:

> Riparian water rights, like other real property rights, are determined by state law. Title to them is acquired in conformity with that law. The Federal Water Power Act merely imposed upon their owners the additional obligation of using them in compliance with that Act. *F.P.C.* v. *Niagara Mohawk Power Corp.* 347 U.S. 239, 252 (1954)

Therefore, we conclude that the statutes did not confer Federal recognition of state jurisdiction over use of navigable waterways in the manner in which Essex argued.

Essex also argues that Section 10 of the Rivers and Harbors Act of 1890 allows continued operation without an FPC license. Section 10 provides that any obstruction in navigable waters not affirmatively authorized is prohibited. Essex claims that the section contains an exemption as to state-authorized facilities. Essex relies on *U.S.* v. *Bellingham Bay Boom Co.*, 176 U.S. 211 (1900) to support its theory. Although the Court found the Nooksack River to be navigable, the authority of the state governing obstructions was upheld. The Court, however, appeared to limit its holding to those waters "that are entirely within the confines of a single state." (at 215) The Merrimack River does not qualify within the limitation, because it rises in New Hampshire, then flows southerly into

[1] Local hearings should be thus limited, and there will be no change in venue.

[1] R.S. § 2339, derived from Act July 26, 1866, c. 262, § 9.14 Stat. 253, unofficially codified as 30 U.S.C. § 51 and 43 U.S.C. § 661.

V 41 H 163 AUG 20 76 UM

Massachusetts, making it an interstate waterway. Therefore, the holding in *U.S. v. Bellingham Bay Boom Co.* does not apply to this proceeding. Furthermore, in Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1121, 1151), Congress clarified the definition of illegal obstructions to specify that those structures "not affirmatively authorized by Congress" were prohibited in our navigable waters.

The Applicants attempt to distinguish the cases that we cited in our order of June 17, 1976, as to the need for a Federal permit. For example, the Applicants state that there was an express assertion of jurisdiction over the Niagara River by Congress in *Niagara Falls Power Co. v. F.P.C.*, 137 F. 2d 787 (CA2–1943), *cert. denied*, 320 U.S. 792 (1943). For Congress to have jurisdiction over a river, the Congress need not so expressly state. The definition of navigable waters contained in Section 3(8) of the Act is ". . . parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce . . ." Congress has delegated its powers on the development of our Nation's water resources to the Federal Power Commission. *City of Tacoma v. Taxpayers of Tacoma et. al.*, 357 U.S. 320, 334 (1958). That delegation of authority includes the power to determine what waterways are within the jurisdiction of Congress. It has previously been determined that the Merrimack River is navigable and, therefore, under the jurisdiction of Congress. E.g., Concord Electric Company. 4 EPC 635 (1944). Therefore, we conclude that since we have determined that the Merrimack River is within the jurisdiction of Congress, there is no meaningful distinction from those instances where Congress itself had determined that a river is within its jurisdiction. The Applicants attempt to cloud the issue by stating that reconstruction of a project is a distinguishing characteristic in some of the cases. In *Northwest Paper Co. v. F.P.C.*, 344 F. 2d 47 (CA8–1965), the owner of the project had a Federal permit but reconstructed the project, invalidating the permit. The court held that because the owner no longer had a valid Federal permit, an FPC license was required. Thus, if an owner of a jurisdictional project does not hold a valid Federal permit issued prior to June 20, 1920, he is required to obtain an FPC license.

We believe that the language in the Act, "permit or valid existing right-of-way, granted prior to June 10, 1920," envisions a permit granted under Federal, not state, law. *Niagara Falls Power Co. v. F.P.C., supra; Wisconsin Public Service Corp. v. F.P.C.*, 147 F.2d 743 (CA7–1945). The Supreme Court has considered the relationship of state law and the Act considering navigable waters. The Court stated that the Act requires ". . . a federal license for every water power project in the navigable waters of the United States." *First Iowa Hydro-Electric Cooperative v. F.P.C.*, 328 U.S. 152, 172 (fn. 17) (1964).

Finally, Merrimac argues that we should reconsider the issue of requiring a Federal permit in light of a recent Supreme Court decision in *National League of Cities v. Usery*, No. 74–878, 44 U.S.L.W. 4974 (U.S. June 24, 1976). The Court found that the statute in question interfered with the right of state control in areas of traditional functions and that the statute was not within the authority granted to Congress by the Commerce Clause. The Supreme Court has stated many times that it is no longer an open question that the Federal Government has preeminent control over navigable waterways. *City of Tacoma v. Taxpayers of Tacoma, et al, supra; U.S. v. Appalachian Power Co.*, 311 U.S. 377, 424 (1940); *First Iowa Hydro-Electric Cooperative v. F.P.C.*, supra, at 173. We conclude that the decision in *National League of Cities v. Usery, supra*, contains no findings that would require us to re-examine our decision on Federal permits. Therefore, we find no basis in law for the argument that a state permit is sufficient for the continued operation and maintenance of the Essex Project.

The Applicants argue that the Supreme Court limited our jurisdiction to hydroelectric facilities[2] in *Chemehuevi Tribe of Indians et al. v. F.P.C. et al.*, 420 U.S. 395 (1975). The question before the Court was whether or not thermal-electric power plants were within our licensing jurisdiction. The question of hydromechanical power was not before the Court. It appears, however, from the Court's opinion that it was using the term "hydroelectric" to refer to those facilities that utilize the movement of water to produce power, be it electric or mechanical.[3] For example, in its application for rehearing, Merrimac states, "The Court also states 'the Commission has consistently maintained that its licensing authority extends only to hydroelectric projects.'" The Court actually stated, ". . . the Commission's consistent interpretation of that authority as not including jurisdiction over the construction and operation of thermal-electric power plants." (at page 408) When the Court concluded that we had licensing authority with respect to hydroelectric projects, the Court quoted from the FPC, 1st Annual Report 51–52 (1921):

> • • • the Commission is limited to the consideration of projects designed to produce water power. Structures or diversions having any other purpose, unless incidental to works constructed for power purposes or a necessay part of a comprehensive scheme of development, are not within the jurisdiction of the Commission.

Thus, it appears that when the Court made reference to "hydroelectric" it was referring to those projects "designed to produce water power". We, therefore, conclude that nothing in the Court's opinion deprives us of our jurisdiction over hydromechanical developments.

Essex argues that Section 23(b) of the Act limits our jurisdiction to those facilities that produce hydroelectric energy. It appears, however, that when the language ". . . for the purpose of developing electric power . . ." was added to the section, its purpose was to make clear that the licensing of dams and ditches for irrigation purposes would not be required. 79 Cong. Rec. 8945 (June 10, 1935). Thus, the language in Section 23(b) was intended to exempt those irrigation projects where there were no related power facilities, but not to exempt hydromechanical facilities.

Our action both past and present indicates a continuig practice of licensing a jurisdictional hydromechanical development and a continuing belief that it is in our authority to do so. In *Tomahawk Power Co.*, 22 FPC 1 (1959) the licensed project included three units that supplied mechanical energy directly to wood pulp grinders. Also, *e.g. Consolidated Water Power Co.*, 22 FPC 638 (1959); *Portland General Electric Co. et al.*, 23 FPC 831 (1960). Since the Court's decision in *Chemehuevi Tribe of Indians v. F.P.C.*, we have continued our practice of licensing hydromechanical facilities. Order Issuing License (Major) Project No. 2536, issued April 29, 1975, to Niagara of Wisconsin Paper Corp. We find no compelling reason to deviate from the practice of licensing hydromechanical facilities.

It was argued that the Essex dam should not be included in the licensing requirement, because there are no power facilities located at the dam. The dam, however, is hydraulically connected to the power facilities downstream. *See* Finding No. 5 of our order of June 17, 1976. These power facilities could not operate in the manner that they do but for the presence of the Essex dam and reservoir. We have previously licensed projects that are reservoirs only, but provide stream flow regulation or water power to downstream power facilities. For example, Project No. 2492 regulates the discharge of water for hydroelectric development some 25 miles downstream from the dam and for a hydroelectric and hydromechanical power plant about 37 miles downstream from the dam. *St. Croix Paper Co.*, 35 FPC 458 (1966) also, *Southern California Edison Co.*, 12 FPC 1267 (1953). Therefore, we conclude that the Essex dam should be included in a license application for the Essex Project.

The Applicants argue that we were in error in not consulting the Advisory Council on Historic Preservation prior to the issuance of our order, because various components of the project have been nominated to the National Register of Historic Places, and the North Canal is listed in the National Register. We are required to consult with the Advisory Council prior to the licensing of a project, not prior to requiring an application for license to be filed. See, 16 U.S.C. § 470f. Until a completed application for license is filed, there is nothing to transmit to the Advisory Council on which to comment. Before a license would be issued, we would consult with the Advisory Council, but at the current stage of the proceeding such consultation would be premature.

[2] It is noted that in Essex's application for rehearing, Essex admits that four of the developments are hydroelectric.

[3] This would include conventional hydro, pumped-storage and hydromechanical plants.

The Applicants argue that proper procedures have not been followed by this Commission, depriving the various parties of certain rights. The applicants claim that they were led to understand by certain Commission employees that an evidentiary hearing or a stipulation of facts would be presented before any Commission action would be taken in this proceeding. The applications for rehearing are the only written filings that requested an evidentiary hearing or some type of oral presentation. No employee of this Commission can speak for the Commission and we are not bound by any representations that may have been made to the Applicants. We cannot know of a party's desire to request an evidentiary hearing unless the party pleads such. Since it appeared that there were no factual disputes relating to jurisdiction, primarily because of our previous finding of navigability, an evidentiary hearing was not necessary.

The Applicants and the various other parties were given every opportunity to present their position in this proceeding. In a letter dated May 17, 1974, the Applicants among others were requested to file an application for license for the Essex Project. None responded to the letter. The parties were given another opportunity to present their views in responses to the Order to Show Cause issued November 8, 1974. Responses were filed which we considered and dealt with in our order of June 17, 1976. The Applicants filed applications for rehearing, providing another opportunity to be heard. In none of these instances has a factual issue[4] been raised concerning our jurisdiction over the Essex Project. We have provided several opportunities for the parties to be heard, and therefore, we find no reason to hold an evidentiary hearing in this proceeding.

The Applicants claim that we took official notice of facts not contained in the responses to the Order to Show Cause, and cite Section 1.26(d) of the Rules and Regulations [18 C.F.R. § 1.26(d)] as authority. It appears that the Applicants are concerned about the project description. The project description contained in the order of June 17, 1976, is not binding, but was included to in some way identify the project. The parties are required in their application for license to provide an accurate description of the project. The description is not binding until it has been approved as part of the license.

The Applicants state in their applications for rehearing that the Essex Development Associates is conducting a feasibility study to be completed December 31, 1976, concerning the installation of hydroelectric facilities at the Essex dam. On July 16, 1976, the Applicants filed motions to stay our order in this proceeding. Rowland Industries also filed on July 26, 1976, a motion to stay our order pending the results of the possible feasibility studies conducted by the Essex Development Associates. We believe that there might be unnecessary duplication of work if the various parties were to file their applications for license prior to completion of the feasibility studies. Therefore, we will require the filing on or before January 17, 1977, of a timetable setting forth when an application for license is expected to be filed and what portions of the Essex Project are to be included in the redevelopment. If it should be determined that the installation of hydroelectric facilities at the dam will not be forthcoming, then applications for license should be filed for the Essex Project on or before March 18, 1977. For those portions of the project that will not be included in the redevelopment, or those owners that would prefer to file an individual application for license, the applications for license should be filed on or before March 18, 1977. Since we have altered the date for the filing of the applications for license, we are denying the motions for stay.

The Commission finds: (1) Except as hereinafter provided, the applications for rehearing present no facts or legal arguments which require any change in our order of June 17, 1976, in this proceeding.

(2) It is appropriate and in the public interest that the applications for license for the Essex Project be filed by March 18, 1977, as discussed above.

(3) The motions for stay of the proceedings should be denied.

The Commission orders: (A) The applications for rehearing of the Essex Company and the Merrimac Paper Company are hereby denied.

(B) The motions for stay filed by the Essex Company, the Merrimac Paper Company, and Rowland Industries are hereby denied, except that applications for license for the Essex Project shall be filed by March 18, 1977.

(C) The Applicants shall file by January 17, 1977, a timetable as to the filing of an application for license for the redevelopment at the Essex Dam, or a statement that redevelopment at the Essex Dam is not forthcoming.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24436 Filed 8-19-76;8:45 am]

[4] In the applications for rehearing, points were raised that the reservoir supplies water to the City of Lawrence and that the owners might be required to install fish facilities at the dam, but these points do not relate to our jurisdiction.

[Docket No. E–7512]

ILLINOIS MUNICIPAL UTILITIES ASSOCIATION VS. ILLINOIS POWER COMPANY, CENTRAL ILLINOIS PUBLIC SERVICE COMPANY, AND UNION ELECTRIC COMPANY, ET AL.

Order Accepting Settlement Agreement

AUGUST 12, 1976.

On December 4, 1974, the Presiding Administrative Law Judge certified to the Commission several executed interconnection agreements[1] and an unexecuted interconnection agreement[2] which had been tendered as offers of settlement by Illinois Power Company (IP) and Central Illinois Public Service Company (CIPS) of certain issues pending Commission decision in Docket No. E–7514. On August 15, 1975, the Presiding Judge issued a "Supplemental Certification of Settlement Agreement," wherein an executed interconnection agreement between CIPS and the City of Bushnell, Illinois was certified as an offer of settlement between those parties. Notice of the certification of these settlement agreements was issued by the Commission on September 24, 1975.

The complaint in Docket No. E–7512 was filed by the Illinois Municipal Utilities Association (IMUA) to seek certain terms for the sale and exchange of electric energy on behalf of a number of municipalities, including those in Docket No. E–7514. The complaint in Docket No. E–7514 was filed by various municipal systems (Cities) in Illinois pursuant to Section 202(b) of the Federal Power Act, 16 U.S.C. 824a(b), to seek interconnections with IP and CIPS. These complaints were consolidated for purposes of a hearing and a decision. At a prehearing conference on July 13, 1971, the Presiding Administrative Law Judge phased these consolidated proceedings, and cross-examination in Docket No. E–7514 began on May 8, 1972, and was concluded on May 22, 1972. The second phase, the complaint in Docket No. E–7512, was held in abeyance pending determination of the appropriate terms and conditions of the proposed 202(b) interconnections, if found to be in the public interest by the Commission.

Of the original complaint Cities in Docket No. E–7514, only the Cities of Altamont and Red Bud, Illinois, do not now have valid and binding interconnection agreements with either IP or CIPS. The Commission has accepted IP's filed interconnection agreements with Breeze and Carlyle (ER76–372), Freeburg

[1] The Presiding Judge certified agreements between IP and Cities of Breese, Caryle, Highland, Mascoutah, Peru, Princeton, Waterloo, and the Village of Freeburg. Also certified was an interconnection agreement between CIPS and the City of Sullivan.

[2] Red Bud, Illinois did not execute the interconnection agreement tendered to it by IP.

VOL 41 NO 163 AUG 20 76 UM

(ER76–143), Highland (ER76–455), Mascautah (ER76–407), Peru (ER76–330), and Princeton, Illinois (ER76–298). IP has not filed its executed interconnection agreement with the City of Waterloo, Illinois. The City of Altamont has abandoned its generating plant and is currently a wholesale customer of CIPS. The City of Red Bud has not executed the interconnection agreement tendered to it by IP because of the uncertainty of its plans. However, the certification of the unexecuted agreement between IP and Red Bud will settle all pending issues between these parties in Docket No. E–7514 with the understanding that the tendered interconnection agreement will remain open as a continuing offer of service for a reasonable time.

The complaint in Docket No. E–7512 has not proceeded to hearing. IMUA filed its complaint in that Docket on behalf of a number of municipalities, including all of those covered in Docket No. E–7514, seeking certain terms for the sale and exchange of electric energy. The City of Springfield, Illinois was one of the municipalities represented by IMUA. Springfield is not a party to the Docket No. E–7514 proceeding. The Presiding Administrative Law Judge, in his Certification of Settlement Agreements in Docket No. E–7514 noted:

> A settlement in the later docket [Docket No. E–7514], would dispose of Docket No. E–7512, except insofar as the City of Springfield is involved. Certification, p. 2.

By letter dated April 11, 1975, IP submitted for filing with the Commission an executed interconnection agreement with the City of Springfield which was designated in FPC Docket No. E–9373. The Commission accepted the filing which became effective on May 12, 1975. On July 16, 1975, IMUA filed a "Petition to Withdraw Complaint" with the Commission. It stated in part:

> Because of the settlement that has been reached between the parties in the Docket E–7514 proceedings, and the agreement between Illinois Power Company and the City of Springfield, Illinois for an interconnection agreement, the complainant does not deem it necessary or desirable to prosecute the complaint in this proceeding . . .

The execution of these various interconnection agreements substantively moots all outstanding legal issues pending initial decision in the Docket No. E–7514 proceeding. We therefore terminate that proceeding with respect to all parties now governed by a binding and effective interconnection agreement. We also terminate that proceeding with respect to the controversy between the City of Red Bud, Illinois, and IP without prejudice. If IP fails to abide by its representation that the unexecuted interconnection agreement submitted in offer of settlement constitutes a continuing offer of service by IP to Red Bud for a reasonable time,[1] Red Bud may refile under Section 202(b) of the Federal Power Act.

[1] Subject to change in rates prior to acceptance.

We hereby order IP to file the executed interconnection agreement between itself and the City of Waterloo, Illinois. We also order CIPS to file the executed interconnection agreements between itself and the Cities of Bushnell and Sullivan, Illinois. These agreements should be filed as initial rates in accordance with the Commission's Rules governing the filing of initial rates, 18 CFR 35.0 et seq. If, after due notice in the FEDERAL REGISTER and examination by Commission staff, it appears that these agreements may not be consistent with the Federal Power Act, we will at that time order an investigation into the merits of these contracts. We emphasize that by our action today, we are not accepting these contracts for filing as effective initial rates. Such disposition must necessarily await full and complete compliance with the filing regulations of the Commission.

The Commission finds: (1) Good cause has been shown for the Commission to grant permission, pursuant to 18 C.F.R. 1.11(d), to complainant in Docket No. E–7512 to withdraw with prejudice its pleading therein.

(2) The execution of interconnection agreements between Illinois Power Company and the Cities of Breeze, Carlyle, Freeburg, Highland, Mascoutah, Peru, Princeton, and Waterloo, Illinois, settles on the merits and moots all issues pending decision in Docket No. E–7514 involving these parties.

(3) The submittal by Illinois Power Company of an unexecuted interconnection agreement for service to Red Bud, Illinois along with that company's record representation that such agreement subject to change in rates prior to acceptance, is a continuing offer to service upon stated terms for a reasonable time constitutes an adequate and reasonable resolution of all issues between these parties in Docket No. E–7514.

(4) The execution of interconnection agreements between Central Illinois Public Service Company and the Cities of Sullivan and Bushnell, Illinois settles on the merits and moots all issues pending decision in Docket No. E–7514 between these parties.

The Commission orders: (A) Complainant, Illinois Municipal Utilities Association, is granted permission to withdraw its pleadings with prejudice in Docket No. E–7512.

(B) Within 30 days of this order Illinois Power Company shall file the executed interconnection agreement between the City of Waterloo, Illinois and itself.

(C) Within 30 days of the issuance of this order, Central Illinois Public Service Company shall file the executed interconnection agreements between itself and the Cities of Bushnell and Sullivan, Illinois.

(D) Proceedings in Docket Nos. E–7512 and E–7514 are hereby terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24431 Filed 8–19–76;8:45 am]

[Docket No. ER76–184]

KANSAS CITY POWER & LIGHT CO.

Filing of Proposed Settlement Agreement

AUGUST 13, 1976.

Take notice that on August 2, 1976 Kansas City Power & Light Company (KCPL) tendered for filing a proposed Settlement Agreement dated July 19, 1976. KCPL states that the Settlement Agreement will resolve all issues in this proceeding except one which is specifically reserved for hearing and decision.

KCPL also filed, contemporaneously with the filing of the proposed Settlement Agreement, Reduced Schedules of Rates and Charges. KCPL requests that, upon the condition that the proposed Settlement Agreement be approved by the Commission, the Reduced Schedules be accepted and made effective as of March 2, 1976.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 27, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24437 Filed 8–19–76;8:45 am]

[Docket No. CP75–57]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

Amendment to Application

AUGUST 12, 1976.

Take notice that on July 27, 1976, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. CP75–57 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity requesting authorization to install, over a two-year period, the facilities required to gather gas from the Bowdoin field area of north central Montana and to deliver such gas to Montana-Dakota Utilities Company (MDU) pursuant to a Gas Sales, Transportation and Exchange Agreement, dated May 10, 1974, including gas presently being delivered under temporary certificates in this proceeding, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application in this proceeding sought authorization to expend not in excess of $18,000,000 over a three-year period for the construction and operation of a completed system to connect and gather natural gas as it became available from Midlands Gas Corporation (Midlands) and other producers in the Bowdoin area of Phillips and Valley Counties, Montana, and to sell, transport and exchange gas with MDU pursuant to the May 10, 1974, agreement. Applicant further states that in its application it was indicated that the facilities shown by Exhibit F and Exhibit G thereto were for illustrative purposes and that the facilities actually constructed were contingent upon the drilling activities of Midlands and other producers in the area of dedicated acreage. Applicant asserts that it now has sufficient location information, production data and test data on which it can base a factual design and, therefore, amends its application so as to reflect such information and data.

It is indicated that under temporary certificates in this proceeding, Applicant has constructed gathering facilities which connect 19 Midlands wells and 3 Miami Oil Producers, Inc., wells and has completed delivery facilities, including dehydration equipment necessary to deliver gas to MDU pursuant to the agreement of May 10, 1974.

Applicant asserts that the facilities proposed herein are designed to serve the additional wells and have adequate pipeline capacity to accommodate the future connection of commercial wells available to the dedicated acreage area. In order to connect the wells that are presently available, including those connected under temporary certificates, and to gather the gas available from such wells in an efficient and economical manner, Applicant proposes the construction and operation of two gathering facilities referred to as the North System and the South System. The facilities required in addition to those authorized under temporary certificates are stated to be as follows:

A. Installation of approximately:

1. 19.1 miles of 12-inch intermediate pressure gathering line.
2. 13.0 miles of 10-inch intermediate pressure gathering line.
3. 3.6 miles of 8-inch low pressure gathering lines.
4. 41.1 miles of 6-inch low pressure gathering lines.
5. 79.3 miles of 4-inch low pressure gathering lines.

B. Approximately 1,820 installed horsepower at nine field gathering stations.

C. Approximately 10 central point production meters and approximately 30 individual well meters complete with appurtenances and enclosed in a protective housing.

D. Delivery point facilities at 3 locations consisting of measuring, regulating, dehydration equipment, and other appurtenances enclosed in a protective housing.

The amendment indicates that the proposed additional facilities are estimated to cost $7,996,000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having filed before need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24422 Filed 8–19–76;8:45 am]

[Project No. 539]

KENTUCKY UTILITIES CO.

Issuance of Annual License(s)

AUGUST 12, 1976.

On July 16, 1973, the Kentucky Utilities Company, Licensee for Lock No. 7 Hydroelectric Project No. 539, located on the Kentucky River in Mercer County, Kentucky, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 539 was issued effective August 19, 1926, for a period ending August 18, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on licensee's application, it is appropriate and in the public interest to issue an annual license to the Kentucky Utilities Company.

Take notice that an annual license is issued to the Kentucky Utilities Company under the Federal Power Act for the period August 19, 1976, to August 18, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 539, subject to the terms and conditions of the present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 18, 1977, a new annual license will be issued each year thereafter, effective August 19 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24432 Filed 8–19–76;8:45 am]

[Docket No. ER76–781]

MICHIGAN POWER CO.

Order Accepting for Filing and Suspending Proposed Tariff Sheets, Denying Waiver, and Granting Interventions and Establishing Procedure

AUGUST 12, 1976.

On July 14, 1976 Michigan Power Company (MPCo) tendered for filing revised sheets[1] to its FPC Electric Tariff MRS, Original Volume No. 1. MPCo's tender proposed a two-step increase in rates for its wholesale for resale service to the City of Dowagiac and the Village of Paw Paw; a modification of its fuel clause to conform to Section 35.14 of the Commission's Regulations; and, an increase in the minimum monthly billing demand. For the reasons hereinafter stated, the Commission shall deny waiver of the notice requirement for the first step of MPCo's proposed increase, suspend the second step for two months and accept the proposed fuel clause, and grant intervention.

MPCo proposes a two-step increase in rates by this filing. First Revised Sheet No. 6, proposed to be effective on July 26, 1976, is designed to recover increased purchase power costs from Indiana and Michigan Electric Company which result from the Commission's order of June 25, 1976 in Docket No. ER76–714 et al. Second Revised Sheet No. 6, proposed to be effective August 13, 1976, is designed to recover increased costs of capital and increased costs of providing electric service in addition to increased purchased power costs.

MPCo requests waiver of the notice requirement, as provided by Section 35.11 of the Commission's Regulations, in order to allow First Revised Sheet No. 6 to become effective July 26, 1976. In support of its request, MPCo states that if not granted, it will be required to bear the total increased power costs from July 26, 1976 to the dates its proposed rates under Second Revised Sheet No. 6 become effective. MPCo states further that the volume of work required to prepare its cases before the Michigan Public Service Commission in relation to the size of its staff prevented the filing from being tendered sooner. Finally, MPCo claims that if waiver is not granted the City of Dowagiac and the Village of Paw Paw will not be paying their "fair share of MPCo's cost of electric energy services" for the period before the proposed rates become effective.

Public notice of MPCo's increase was issued on July 20, with comments, protests or petitions to intervene due on or before August 6, 1976. On August 5, 1976 a Protest, Petition to Intervene, Request For Hearing and Five Month Suspension and Request for Conditions was filed by the City of Dowagiac (Dowagiac). Dowagiac states that it will be directly and adversely affected by MPCo's proposed changes and that its interests cannot be represented adequately by other parties and, therefore, it requests to intervene in the proceeding. Dowagiac stated also that it competes directly with MPCo for retail customers and that it cannot pass through MPCo's rate increase until approved by the Michigan Public Service Commission. Dowagiac claims this "creates an immediate price squeeze which will severely damage the City's ability to retail its commercial and residential loads." Dowagiac requests a full five month suspension in view of this. Dowagiac requests that waiver of the 30-day notice requirement not be granted. It requests also that "the Commission

[1] First Revised Sheet No. 1; Second Revised Sheet No. 6; First Revised Sheet No. 7; First Revised Sheet No. 8.

VOL 41 NO 163 AUG 20 76 UM

investigate whether it should order direct service by I&M as an alternative to paying an unconscionable mark-up to MPC." Dowagiac challenges the rate of return, cost of service items included in MPCo's filing and the proposed fuel clause. Dowagiac requests finally that the Commission condition a determination of the just and reasonable level in this case with these provisions: "MPC shall (1) reduce its rate and charges to Dowagaic to reflect any reductions in its cost of purchased power from I&M and (2) flow-through to its wholesale customers their proper allocated share of any refunds ordered in this docket."

Many of the issues raised in Dowagaic's Protest are properly the subject for further development and consideration at hearing rather than at this stage of the proceeding. This order does deny waiver of the notice requirement for MPCo's proposed first step increase. The decision to suspend is discretionary and the Commission does not believe a full five month suspension is warranted in this case. The Commission does not agree that the explicit conditions suggested by Dowagaic need be applied here. As noted, MPCo's proposed increase includes purchased power costs from Indiana and Michigan; to the extent that such increased costs are not allowed to Indiana and Michigan, they could not be charged by MPCo, therefore, MPCo's rates would be reduced accordingly. To the extent that the wholesale customers are paying increased rates due to purchased power costs or for other proposed increases, any refunds, resulting from the final determination of the just and reasonable rate for MPCo will flow back to these wholesale customers.

A Petition to Intervene of the Village of Paw Paw was received on August 9, 1976.

Section 35.11 of the Commission's Regulations reads, in part: "for good cause shown, the Commission may, by order, provide that a rate schedule, or part thereof, shall be effective as of a date . . . prior to the date the rate schedule would become effective in accordance with these rules." MPCo requests waiver under this Section for First Revised Sheet No. 6 which would be effective only from July 26, 1976 to August 14, 1976 at which time Second Revised Sheet No. 6 becomes effective. First Revised Sheet No. 6 is designed to recover only the increased purchase power costs of Indiana & Michigan Electric Company. The Commission found that Indiana & Michigan's proposed rates in Docket No. ER76-714 had not been shown to be just and reasonable and, therefore, they are being collected subject to refund. MPCo's proposed rates under First Revised Sheet No. 6 have also not been shown to be just and reasonable. Thus MPCo is protected from overcollection by Indiana & Michigan by the refund provisions of the Commission's order. Furthermore, the period during which MPCo claims it is absorbing the increased costs is relatively short. Accordingly, because good cause has not been shown, the Commission shall not grant waiver under Section 35.11 in order to permit MPCo's filing to become effective prior to the end of the required notice period.

The Commission's review of Second Revised Sheet No. 6 indicates that it is designed to recover the increased purchase power costs and other increased costs which MPCo claims. MPCo proposes an effective date of August 13, 1976 for the Second Revised Sheet. MPCo's proposed rates under Second Revised Sheet No. 6 have not been shown to be just and reasonable and, therefore, they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the Second Revised Sheet No. 6 should be accepted for filing and suspended for two months.

MPCo tendered also First Revised Sheet No. 7 and First Revised Sheet No. 8 which are designed to change MPCo's fuel adjustment clause to conform to Section 35.14 of the Commission's Regulations. The Commission's review of MPCo's proposed fuel clause indicates that it does conform to Section 35.14. First Revised Sheet No. 7 and First Revised Sheet No. 8, therefore, should be accepted for filing.

The Commission finds: (1) Good cause does not exist for waiver of the notice requirements under Section 35.11 for MPCo's proposed First Revised Sheet No. 6.

(2) MPCo's Second Revised Sheet No. 6 should be accepted for filing and use thereof suspended for two months.

(3) MPCo's First Revised Sheet No. 7 and First Revised Sheet No. 8 should be accepted for filing and suspended use thereof for two months.

(4) Good cause exists to allow Dowagaic and Paw Paw to intervene in this proceeding.

The Commission orders: (A) MPCo's request for waiver of the notice requirement is hereby denied.

(B) Second Revised Sheet No. 6, First Revised Sheet No. 7 and First Revised Sheet No. 8 are hereby accepted for filing and the use thereof suspended for two months, or until October 13, 1976, at which time they may become effective, subject to refund, pending the outcome of the litigation thereon.

(C) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms, and conditions of service included in MPCo's FPC Electric Tariff MRS as proposed to be revised by the subject filings.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 26, 1977. (See Administrative Order No. 157.)

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) MPCo shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission Regulations, 18 CFR Section 35.19a.

(G) Dowagaic and Paw Paw are hereby permitted to intervene in this proceeding, *Provided, however*, that participation by them shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided, further*, that the admission of these parties shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof on the wholesale customers of Michigan Power Company.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24433 Filed 8-19-76;8:45 am]

[Docket No. RP72-149 PGA 76-12]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

AUGUST 13, 1976.

Take notice that Mississippi River Transmission Corporation (MRT) tendered for filing Forty-Fourth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1. MRT states this is being made pursuant to track a rate change filing of Natural Gas Pipeline Company of America made pursuant to the term of the PGA provisions of its tariff.

MRT proposes an effective date of September 1, 1976 for this filing. MRT states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Comission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24438 Filed 8-19-76;8:45 am]

[Docket No. CP76-467]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

AUGUST 12, 1976.

Take notice that on August 3, 1976, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP76-467 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the 12 month period commencing October 1, 1976, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any change in gas sales or transportation service presently rendered by Applicant. Applicant states that the proposed facilities would not exceed a total cost of $300,000, which would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-24423 Filed 8-19-76;8:45 am]

[Docket No. ER76-827]

MINNESOTA POWER & LIGHT CO.

Proposed Changes in Rates and Charges

AUGUST 12, 1976.

Take notice that Minnesota Power & Light Company (MP&L) on July 30, 1976, tendered for filing proposed changes in its rates and charges to seventeen municipal customers, one privately-owned electric system customer and two rural electric cooperative customers, as embodied in MP&L's proposed Rate Schedule No. 88, applicable to its full requirements municipal and privately-owned electric system customers, and proposed Rate Schedule No. 89, applicable to its electric cooperative customers. In addition, MP&L has filed for an increase to 4.30 mills per kilowatthour in the transmission service rates applicable to the City of Wadena, Minnesota. The proposed changes would increase revenues from jurisdictional sales and service by $1,939,505 based on the twelve-month period ending August 30, 1976.

During 1975, MP&L states that it earned a rate of return of 8.53% from service to its full requirements municipal customers, 7.99% from its rural electric cooperative customers, 8.32% from its privately-owned electric system customer, and 10.05% from its wheeling customers. Based on the data presented in the Company's filing relative to the 1976 test period, it is expected that these rates of return will be 8.03%, 7.52%, 7.47 and 9.51%, respectively, in 1976 in the absence of rate relief. The proposed rates are designed to enable MP&L to improve the rate of return earned from its service to these jurisdictional customers, which the Company believes is necessary if it is to attract the amounts of capital necessary to provide adequate service to these customers.

Copies of the applicable portions of the filing have been served upon MP&L's jurisdictional customers. Copies have also been mailed to the Minnesota Public Sevice Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commision's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24424 Filed 8-19-76;8:45 am]

[Project No. 346]

MINNESOTA POWER AND LIGHT CO.

Issuance of Annual License(s)

AUGUST 12, 1976.

On August 13, 1970, Minnesota Power and Light Company, Licensee for Blanchard Project No. 346, located on the Mississippi River below Pike Rapids in Morrison County, Minnesota, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 346 was issued effective August 25, 1923, for a period ending August 24, 1973. Since the original date of expiration, the project has been maintained and operated under annual licenses, the most recent of which will expire August 24, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on licensee's application, it is appropriate and in the public interest to issue an annual license to Minnesota Power and Light Company.

Take notice that an annual license is issued to Minnesota Power and Light Company under the Federal Power Act for the period August 25, 1976, to August 24, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Blanchard Project No. 346, subject to the terms and conditions of the present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 24, 1977, a new annual license will be issued each year thereafter, effective August 25 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24434 Filed 8-19-76;8:45 am]

[Docket No. ER76-785]

MONONGAHELA POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Establishing Procedures, and Granting Intervention

AUGUST 13, 1976.

On July 15, 1976, Monongahela Power Company (Monongahela) tendered for filing proposed changes in its FPC Elec-

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tric Tariff [1] for wholesale electric service.[2] For the reasons set forth below, the Commission shall accept the tendered tariff sheets for filing, suspend the proposed rates for one month to be collected thereafter subject to refund, and establish hearing procedures.

The proposed changes would increase revenues from jurisdictional sales and service by $284,328 (16.7%), based on the year ended June 30, 1977. The proposed effective date is August 14, 1976. Monongahela states in its filing that it requests the proposed rate increase because it is experiencing increases in the cost of capital, labor, materials and supplies.

Public notice of the filing was issued on July 28, 1976, with petitions or protests due on or before August 3, 1976.

On August 3, the Cities of New Martinsville and Philippi, West Virginia, and Harrison Rural Electrification Association, Inc. (Petitioners) filed a Protest, Petition to Intervene, Objection, and Request for Maximum Suspension Period.

Petitioners state that they are subject to regulation by the West Virginia Public Service Commission and may not increase their retail rates so as to pass through the proposed wholesale rate increase without an order of approval issued by that Commission following 30 days' public notice. Moreover, the state Commission will not act on Petitioners' request until after the Federal Power Commission issues its order allowing the wholesale rate increase to become effective. Petitioners argue that, since they provide about six-tenths of one percent of the total revenues of Monongahela, the suspension of the proposed rate for five months will have a *de minimis* effect on Monongahela.

Petitioners state that a "price squeeze" situation may exist, based on a preliminary comparison of the proposed wholesale rates with the equivalent retail rates charged by the Company in West Virginia. Petitioners therefore reserve their rights with respect to this issue until their analysis is complete.

Petitioners also raise a number of cost of service issues, which are summarized as follows: (1) The absence of testimony and exhibits in support of the Company's requested rate of return of 9.52%; (2) the Company's method of allocating distribution plant; (3) the demand and energy losses used by the Company in calculating the energy allocation factor; (4) the consolidated federal income tax return; (5) the effect on cost allocations of abnormal conditions in the test year; (6) the annualization of certain wage and salary increases; (7) the rate of capitalization for AFUDC (allowance for funds used during construction).

In addition, Petitioners allege that Monongahela has failed to provide a utility grade of reliable service to its customers. Petitioners cite problems of frequent outages, unreliable service, poor communications between Company and customer, and the Cooperative's failure to obtain Monongahela's permission to build a new delivery point which the Cooperative claims it needs to maintain proper service voltage.

The Commission's review indicates that the proposed rates filed herein by Monongahela have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall therefore suspend the proposed rates for one month and shall establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing Monongahela's proposed increased rates filed July 15, 1976, and to suspend those rates for one month until September 15, 1976, when they may be permitted to become effective, subject to refund, pending the outcome of a hearing and decision thereon.

(2) Participation by the Cities of New Martinsville and Philippi, West Virginia, and Harrison Rural Elcetrification Association, Inc., in this proceeding may be in the public interest.

The Commission orders: (A) Pending a hearing and decision thereon, Monongahela's proposed rate schedules are hereby accepted for filing and suspended from operation for one month, to become effective September 15, 1976, subject to refund.

(B) The Cities of New Martinsville and Philippi, West Virginia, and Harrison Rural Electrification Association, Inc., are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, and the Commission's Rules and Regulations, a hearing shall be held concerning the justness and reasonableness of the subject rate increase.

(D) The Commission Staff shall prepare and serve top sheets on all parties for purposes of settlement on or before February 14, 1977. (See Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) Monongahela shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR Section 35.19a.

(G) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.

MONONGAHELA POWER COMPANY
DOCKET NO. ER76-785

DESIGNATION

Second Revised Sheet No. 11, Cancels Sheet Nos. First Revised Sheet Nos. 11 and 12 and Original Sheet No. 13.

Second Revised Sheet No. 14, Supersedes Sheet No. First Revised Sheet No. 14.

Second Revised Sheet No. 15, Supersedes Sheet No. First Revised Sheet No. 15.

[FR Doc.76-24439 Filed 8-19-76;8:45 am]

[Docket No. CP76-460]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

AUGUST 12, 1976.

Take notice that on August 2, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-460 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing October 1, 1976, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,000,000, with no single on-shore project to exceed a cost of $1,500,000 and no single offshore project to exceed a cost of $2,500,000. These costs would be financed with funds on hand.

Applicant states that its existing budget-type authorization in Docket No. CP76-80 is effective during the calendar year 1976 and that Applicant desires to change the period of authorization so that it coincides with Applicant's fiscal construction budget which will commence on October 1, 1976. Accordingly, Applicant requests that the authorization requested in the instant application commence October 1, 1976, and states that on that date Applicant will terminate its use of the authorization issued in Docket No. CP76-80.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24425 Filed 8-19-76;8:45 am]

[Docket No. ER76-826]

PENNSYLVANIA POWER & LIGHT CO.

Proposed Rate Changes

AUGUST 12, 1976.

Take notice that Pennsylvania Power & Light Company (PP&L), on July 30, 1976, tendered for filing proposed changes in its Rate Schedule FPC Nos. 28, 32, 45, 50, 51, 54, 55, 56, 57, 58, 59, 60, 63, 65, and 61, applicable to the Boroughs of Watsontown, Duncannon, Blakely, Weatherly, Schuylkill Haven, Perkasie, Mifflinburg, St. Clair, Catawissa, Ephrata, Hatfield, Quakertown, Lehighton, Olyphant and to Citizens Electric Company of Lewisburg, respectively. The proposed changes would increase revenues from jurisdictional sales and service by $964,890, or 11.4%, based on the 12-month period ending December 31, 1975.

Copies of the filing were served upon PP&L's jurisdictional customers named above and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24426 Filed 8-19-76;8:45 am]

[Docket No. ER76-825]

SOUTHERN INDIANA GAS AND ELECTRIC CO.

Tariff Change

AUGUST 12, 1976.

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on July 30, 1976, tendered for filing in accordance with Section 35.13 of the Commission's Regulations, proposed changes in its FPC Electric Service Schedules:

(a) City of Tell City, Indiana-FPC Schedule No. 9 as supplemented;

(b) City of Huntingburg, Indiana-FPC Schedule No. 22, as supplemented;

(c) City of Boonville, Indiana-FPC Schedule No. 28, as supplemented;

(d) Town of Ferdinand, Indiana-FPC Schedule No. 20, as supplemented;

The proposed changes would increase revenues from jurisdictional sales and service by $878,881 based on the twelve (12) months period ending December 31, 1975.

Southern Indiana states that each of its wholesale customers has agreed to the proposed changes as evidenced by written contracts contained in supplements to said rate schedules and by certificates of concurrence filed by the wholesale customers as part of the filing. The contracts are cancelable only upon five (5) years notice and provide for a unilateral rate change application in the form authorized by FPC Order No. 541-A. Southern Indiana's existing wholesale electric service agreements provide for a unilateral change in rates.

The proposed schedules also contain a fuel adjustment clause, revised in accordance with FPC Order No. 517. Southern Indiana has previously filed such a revised clause with the Federal Power Commission on February 8, 1976.

The Company states that the proposed changes are necessary in order to meet the increased demands for jurisdictional and non-jurisdictional electric utility service and to permit it to enlarge and extend its generation and transmission facilities requiring the expenditure and investment of substantial sums of money in plant, properties and equipment.

Copies of Southern Indiana's filings have been served upon all of Southern Indiana's jurisdictional all requirements customers, to-wit:

1. City of Tell City, Indiana;
2. City of Huntingburg, Indiana.
3. City of Boonville, Indiana;
4. Town of Ferdinand, Indiana.

and upon the Public Service Commission of Indiana (Attn: Max W. Tucker, Secretary.

Any person desiring to be heard or to protest Southern Indiana's application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24427 Filed 8-19-76;8:45 am]

[1] See Attachment for designations.

[2] Wholesale customers under the Tariff are Harrison Rural Electrification Association, Inc., Potomac Edison Company, Town of Martinsville, West Virginia, and City of Philippi, West Virginia.

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SOUTHERN NATURAL GAS CO., ET AL.

[Docket Nos. RP76-67-2; CP70-7; RP76-67-5]

Extension of Time

AUGUST 13, 1976.

Southern Natural Gas Co. (South Carolina Electric and Gas Company) Southern Natural Gas Company Southern Natural Gas Company (The Utilities Board of the Town of Trussville, Alabama).

On August 9, 1976, The Utilities Board of the Town of Trussville, Alabama (Trussville), filed a request for an extension of time of the procedural schedule fixed by Order issued August 3, 1976, in which to file its direct case in the above-designated proceeding. South Carolina Electric and Gas Company, a party to this proceeding, filed an opposition to Trussville's request on August 12, 1976.

Upon consideration, notice is hereby given that the time to file direct cases in this proceeding is extended to and including August 20, 1976.

This extension does not affect the date for public hearing fixed by Order issued August 3, 1976, for August 31, 1976, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

LOIS D. CASHELL,
Secretary.

[FR Doc.76-24440 Filed 8-19-76;8:45 am]

[Docket No. CP76-399]

SOUTHWEST GAS CORP.

Extension of Time

AUGUST 13, 1976.

On August 9, 1976, Southwest Gas Corporation filed a motion to extend the time for filing answers to the motion filed by Northwest Pipeline Corporation in the above-designated proceeding on July 26, 1976.

Upon consideration, notice is hereby given that an extension of time for the filing of answers is granted to and including August 27, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-24441 Filed 8-19-76; 8:45 am]

[Docket No. CP70-185]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Petition To Amend

AUGUST 11, 1976.

Take notice that on August 2, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP70-185 a petition to amend further the order issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to construct and operate an additional point for the sale and deliver of natural gas to Lowell Gas Company (Lowell), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that pursuant to authorization in the instant docket it sells pursuant to Rate Schedule CD-6 to Lowell a contracted demand of 34,680 Mcf of natural gas per day for a delivery at a single point in Middlesex County, Massachusetts, the Tewksbury sales meter station. Petitioner proposes to establish an additional point of delivery of gas to Lowell in order to alleviate problems on Lowell's distribution system which may result in outages of service in the Wilmington area as the result of low pressures on the distribution system. Petitioner proposes to construct, at the expense of Lowell, and to operate facilities, to be owned by Lowell, to establish a new delivery point on Petitioner's main line to be known as the Wilmington sales meter station.

The petition to amend states that the Wilmington sales meter station would have a daily delivery capacity of 12,000 Mcf of gas. Petitioner proposes to deliver gas to Lowell at the Tewksbury sales meter station with a daily volume limit of 34,680 Mcf and at the Wilmington sales meter station with a daily volume limit of 12,000 Mcf. It is stated that Lowell would not receive in excess of its Rate Schedule CD-6 contracted demand volume of 34,680 Mcf and would stay within its curtailment period quantity entitlement.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 31, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24430 Filed 8-17-76;8:45 am]

[Docket No. CP76-458]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 12, 1976.

Take notice that on July 29, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-458 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations thereunder (18 CFR 157.7 (b)), for a certificate of public convenience and necessity authorizing the construction, during the one-year period commencing October 22, 1976, and operation of facilities to enable Applicant to take natural gas purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction of gas-purchase facilities to enable Applicant to take natural gas supplies from producers, or other similar sellers, authorized by the Commission to make a sale of gas to Applicant for resale in interstate commerce, and to permit the delivery of natural gas to implement authorized exchange and/or transportation arrangements with other natural gas companies.

Applicant states that the total cost of said facilities would not exceed $12,000,000 and the cost of any single onshore project would not exceed $1,500,000 and cost of any single offshore project would not exceed $2,500,000. It is indicated that these costs would be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24428 Filed 8-19-76;8:45 am]

Docket No. CP75-196

UNITED GAS PIPE LINE CO.

Amendment to Application

AUGUST 12, 1976.

Take notice that on July 29, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP75-196 an amendment to its application filed in said docket pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving abandonment of service to and abandonment and removal of certain facilities serving Atlas Processing Company, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it applied in Docket No. CP76-157 for, among other things, authorization to abandon and sell certain facilities in and around the cities of Shreveport and Bossier City, Louisiana, to Arkansas Louisiana Gas Company (Arkla) and that the facilities serving Atlas were included in such application. Further, it is stated that in order that the transaction that was the subject of Docket No. CP76-157 could proceed independently of Applicant's abandonment application in the instant proceeding, Arkla entered into an exchange-transportation agreement with Applicant to deliver gas to Atlas for Applicant's account pending approval of Applicant's abandonment application in the instant docket.

Applicant states that by order issued March 31, 1976, in Docket No. CP76-157, the exchange-transportation agreement and Applicant's abandonment and sale of the facilities in question were authorized. Accordingly, it is stated, the application in the instant docket requires amending to delete the proposal to abandon and remove the facilities serving Atlas since, under authorization in Docket No. CP76-157, such facilities have been sold and transferred to Arkla. Further, by the instant amendment Applicant deletes Exhibit Y from the subject application relating to such facilities and amends the title of such application. Applicant states that its application in the instant docket for permission and approval to abandon service to Atlas, in all other respects, remains unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants patries to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordanee with the Commission's Rules. Persons having filed before need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24429 Filed 8-19-76;8:45 am]

[Docket No. RP76-109]

UTAH GAS SERVICE CO.

Filing of Settlement Agreement

AUGUST 13, 1976.

Take notice that on August 5, 1976, Utah Gas Service Company (Utah Gas) submitted for filing a proposed Stipulation and Agreement proposed as a settlement of all issues in the captioned proceeding. On June 4, 1976 Utah Gas Service Company tendered for filing a Third Revised Sheet No. 18A superseding Second Revised Sheet No. 18A of its FPC Gas Tariff, Original Volume No. 1, Rate Schedule X-1. The change provided for was an increase in a transportation charge component of the base rate for gas sold by Utah Gas to Northwest Pipeline Corporation (Northwest).

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 26, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24442 Filed 8-19-76;8:45 am]

[Docket No. RM75-14]

JURISDICTIONAL SALES OF NATURAL GAS

Order Imposing Refund Obligation Pursuant to Order of the Court

AUGUST 13, 1976.

On July 27, 1976, the Commission issued its Opinion No. 770 and its order amending § 2.56a of the Statements of general policy and interpretations, Part 2, Subchapter A of the Chapter I of Title 18 of the Code of Federal Regulations. These provisions of the Regulations set forth a new national rate of $1.42 per Mcf, with a one cent per quarter escalator, for sales of natural gas from wells commenced on and after January 1, 1975, and new dedications of natural gas to interstate commerce on and after January 1, 1975. These provisions also set forth a new national rate of $1.01 per Mcf for sales of natural gas from wells commenced and new dedications of natural gas on or after January 1, 1973 and prior to January 1, 1975.

On July 28, 1976, a motion was filed with the Commission by the American Public Gas Association in conjunction with several organizations[1] (Petitioners) requesting the Commission to stay Opinion No. 770. Petitioners argued that irinter alia, there was no assurance by the Commission that there would be refunds ordered of any amounts collected under Opinion No. 770 if the rates therein were found to be excessive.

On August 2, 1976, the Commission issued an Order Denying Stay stating that no irreparable injury would occur since the power to order refunds exists whether or not it is expressly reserved in the Commission's Opinion. In that order the Commission further stated:

> As long as the Commission has this power there can, by definition, be no irreparable injury. Cf. *Atlanta Gas Light Co.* v. *F.P.C.*, 476 F. 2d 142 (5th Cir. 1973). The Commission has no policy denying refunds per se should such an issue arise here, the Commission would treat it on the merits based upon the then existing circumstances.

On July 28, 1976, Petitioners also filed with the United States Court of Appeals for the District of Columbia Circuit, a petition seeking an emergency stay of the effectiveness of Opinion No. 770, therein reciting the same arguments set forth in their Motion for Stay filed with the Commission.

On August 9, 1976, the Court issued an order in *APGA, et al.* v. *F.P.C.*, (CADC No. 76-1694) "* * * in the absence of a provision in the (Commission) order for refund of rates * * *", stating "* * * that producers will be permitted to file tariffs reflecting applications of the new rates for natural gas, provided that their tariffs incorporate an undertaking to refund to their pipeline customers any portions of the new rates subsequently held to be unlawful. * * *"

The Commission's order of July 27, 1976, is fully cost justified, and held significant promise of providing additional gas supplies to the interstate market for this winter's heating season.

The order also provides the best available method to provide additional long-term gas supplies for the Nation.

The Court's decision is erroneous, but more importantly, severely inhibits this initiative, both for the short and longer term.

As the Commission noted in its order denying stay, the authority to order re-

[1] Consumer Federation of America, New Jersey Board of Public Utility Commissioners, State of Minnesota, Minnesota Public Service Commission, United Steel Workers of America, United Automobile, Aerospace and Agricultural Implement Workers of America, International Association of Machinists & Aerospace Workers, National Rural Electric Cooperative Association, American Public Power Association, United States Conference of Mayors, National Farmers Union, National Farmers Organization, Energy Action Committee, Toward Utility Rate Normalization, Industrial Union Department, and AFL-CIO.

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funds always exists and the exercise of that authority is itself subject to judicial review. In these circumstances, no alleged injury is irreparable. It follows that there was no basis for the Court's exercise of its equity power to preempt the authority of the Commission initially to decide the issue of refunds.

However, the Court's order, by its own terms, applies only until the Commission issues a final order on rehearing. The Commission has been advised by the Solicitor General that because of the brief period of operation of the Court's order, and because the Supreme Court is not now in session, he would not recommend seeking a vacation of the Court's order.

A speedy resolution of the uncertainty over the national rate for new gas is desirable, and the Commission will support all efforts toward achieving that certainty.

In Opinion No. 770, the Commission prescribed a comprehensive rate structure designed to encourage the exploration and development of new natural gas supplies. Since we are confident that the Commission order will be upheld on any judicial review, the refund issue should be purely academic. We can fully understand, however, that a producer could be deterred from making new dedications by the Court's order; the choice it must make in exploring for or selling its gas now has quite different parameters. Instead of the assurance that the Commission would consider all factors and all arguments before making any order, should any portion of Opinion No. 770 be held invalid, it now faces a blanket court order specifically placing in jeopardy all monies collected from any gas sold during the period of operation of the Court's order. Thus, we do not now expect perceptible dedications of new gas while the Court's order is in effect.

Notwithstanding all of the above, the Commission is faced with the administration of Opinion No. 770, as well as the Natural Gas Act, pending final decision by the Commission on applications for rehearing. If each producer were to incorporate a different refund undertaking in its tariff, an administrative morass could develop which would ultimately lead to unending litigation.

Accordingly, no tariffs reflecting applications of the new rates for natural gas will be accepted unless they contain the express refund undertaking set forth in Ordering Paragrah (A), hereof.

In addition, the Court's August 9, 1976 order did not address the applicability of its refund requirements to small producers of natural gas, as defined in § 157.40 of the Commission's regulations. Those producers, holding small producer certificates under § 157.40(c), are not required to file new tariffs to be authorized to collect 130 percent of the rates prescribed in §§ 2.56(a) (3) and (4) of the Commission's regulations, as amended by Opinion No. 770.

In order to meet the problems occasioned by the Court's action, we have determined that a uniform refund structure must be effected pending final decision by the Commission on any applications for rehearing.

To carry out the intention of the Court order during the Commission's rehearing procedure, all small producers will be subject to the same refund obligations imposed upon large producers.

The entry of this order in conformity to the Court's order renders the present stay unnecessary. The General Counsel is therefore directed to file with the Court a copy of this order and to request that the Court vacate its stay of Opinion No. 770 and act upon the Commission's motion to dismiss the petition for review in the above-entitled proceeding.

The Commission finds: (1) The refund provision hereinafter set forth is necessary and appropriate for carrying out the provisions of the Court's order of August 9, 1976.

(2) The existence of the Court's order of August 9, 1976, constitutes good cause for the immediate publication of this rule.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, and 16 thereof, (52 Stat. 822, 823, 824, 825 and 830; 56 Stat. 83 and 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, and 7170) orders:

(A) No tariffs reflecting application of the new rates for natural gas provided for in Section 2.56a(a) of the Commission's Regulations shall be accepted unless they contain an express refund undertaking as follows:

Any amounts charged or collected pursuant to the rates permitted under Section 2.56a(a), (b), (c), (d) and (e) during the period prior to final decision by the Commission on any applications for rehearing under 15 U.S.C. § 717r(a) shall be refunded with interest, pursuant to Commission Regulations, to the purchaser of the natural gas hereunder, in the event that, and to the extent that, such rates may be subsequently held to be unlawful

(B) All small producers, as defined in § 157.40 of the Commission's regulations, will not be required to file the undertaking provided in Ordering Paragraph (A) but will be subject to the same refund condition imposed upon large producers, as set forth in Ordering Paragraph (A) above.

(C) The rates and charges provided for in Opinion Nos. 770 and 742–B with the express refund undertaking provided for in Paragraphs (A) and (B), above, shall be made effective upon the dates provided for in Opinion Nos. 770 and 742–B.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Commissioner Smith concurs in the issuance of the order, believing it to be made necessary by the U.S. Court of Appeals for the District of Columbia, but shares neither the confidence of the majority in Opinion No. 770's invulnerability, nor subscribes to its assertion that the refund issue is academic.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-54483 Filed 8-19-76; 8:45 am]

[Docket No. E-9485]

KANSAS GAS AND ELECTRIC CO.

Filing of Rate Schedule

AUGUST 13, 1976.

Take notice that on August 2, 1976 Kansas Gas and Electric Company (KG&E) tendered for filing amendments to the following rate schedules:

Customer:	*FPC Rate Schedule No.*
Augusta, Kans.	134
Burlington, Kans.	126
Chanute, Kans.	128
Coffeyville, Kans.	129
Fredonia, Kans.	87
Girard, Kans.	113
Iola, Kans.	89
Mulvane, Kans.	132
Neodesha, Kans.	131
Wellington, Kans.	98
Winfield, Kans.	110

KG&E states that the amendments are filed so as to comply with the Order Approving Settlement Agreement issued on July 21, 1976 in this docket and that the amendments reflect the settlement approved in that order.

KG&E also filed on August 2, 1976, appropriate fuel clause adjustment riders for each customer. The riders, according to KG&E, conform to the settlement agreement approved by the Commission in this docket. KG&E states that copies of the amendments and fuel clause riders will be furnished to the customers involved.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24489 Filed 8-19-76;8:45 am]

[Docket No. RP75-104]

LAWRENCEBURG GAS TRANSMISSION CORP.

Compliance Filing

AUGUST 11, 1976.

Take notice that on July 22, 1976, Lawrenceburg Gas Transmission Corporation tendered for filing a revised gas tariff sheet to its FPC Gas Tariff, First Revised Volume No. 1, which is dated as issued on July 22, 1976, to be effective on August 12, 1976.

Lawrenceburg states that the filing is made in compliance with ordering paragraph (B) of the Commission's order issued July 12, 1976 in the above-captioned docket. Lawrenceburg further states that the revised tariff sheet incorporates a base gas tariff rate set forth in its Stipulation and Agreement as accepted by the Commission in the July 12, 1976 order, and further adjusted to reflect a change in pressure base of measurement from 15.025 Psia to 14.73 Psia as effective on April 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24488 Filed 8-19-76;8:45 am]

[Docket No. RP76-31]

LOUISIANA-NEVADA TRANSIT CO.

Extension of Procedural Dates

AUGUST 16, 1976.

On August 10, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by Order issued November 28, 1975, as most recently modified by Order issued March 22, 1976, in the above-designated proceeding. In the motion, Staff states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above-designated proceeding are modified as follows:

Service of Staff Top Sheets, July 28, 1976.
Settlement Conference in Room 5200, Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., to commence at 10 a.m., September 22, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24492 Filed 8-19-76; 8:45 a.m.]

[Docket No. RP74-96]

NATURAL GAS PIPELINE CO.

Order Accepting Rates for Filing Subject To Refund and Establishing Procedures

AUGUST 13, 1976

On July 14, 1976 Natural Gas Pipeline Company (Natural) tendered for filing revised tariff sheets in the captioned docket to reflect a $18 million rate reduction in compliance with Opinion No. 762; tracking adjustments for advance payments and Stingray Pipeline Company's transportation charges; and, revisions to the purchased gas adjustment clause. For the reasons hereinafter stated, the Commission shall accept the proposed advance payment increases subject to refund and set the matter for hearing and shall accept, as proposed, the remainder of the settlement rates.

The Staff filed on August 10, 1976 a Protest to certain advance payments included in the proposed settlement rates. This Protest was made pursuant to Section 7 of Article IV of the Agreement which states:

Staff or any customer of Natural may protest such rate increase prior to the effective date thereof. In the event of a timely protest, the Commission may make the rate increase subject to refund.

Staff's protest states that the advance payments made to Mesa Petroleum Co. and to Mobil Oil Co. "may not properly be includable in Natural's rate base under the standards set forth in the Commission's recent Opinion No. 769, Tennessee Gas Pipeline Co., Docket No. RP 73-113, issued July 9, 1976."

The Commission's review of the proposed rates indicates that the new advance payments, related to Mesa Petroleum Company No. 2 dated December 19, 1973, and to Mobil Oil Corporation No. 2 dated April 25, 1973, have not been shown to be just and reasonable and, therefore, may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the proposed increases associated with these advance payments shall be accepted for filing on September 1, 1975, and collected subject to refund pending the outcome of a hearing concerning their lawfulness, in accordance with terms of Section 7 of Article IV.

The remaining adjustments proposed by Natural are in compliance with the provisions of Opinion No. 762 and should be approved.

The Commission finds: (1) With the exception noted in (2) infra, the proposed rates tendered by Natural should be accepted for filing in accordance with the provisions of the Settlement Agreement approved by Opinion No. 762.

(2) Certain proposed increases related to advance payments involving Mesa Petroleum Company and Mobil Oil Corporation should be accepted for filing and rates collected subject to refund as of September 1, 1975, in accordance with the Settlement Agreement.

The Commission orders: (A) With the exception noted in ordering paragraph (B), the proposed rates tendered by Natural on July 14, 1976, are hereby accepted for filing.

(B) Certain proposed increases related to advance payments involving Mesa Petroleum Company and Mobile Oil Corporation are permitted to become effective and to be collected subject to refund, as of September 1, 1975, in accordance with the terms of the Settlement Agreement.

(C) A pre-hearing conference shall be held on September 1, 1976 in a public hearing room of the Federal Power Commission, Washington, D.C. 20426, in order to establish such further procedural dates as may be necessary to determine the lawfulness of the advance payment increases at issue.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 76-24490 Filed 8-19-76; 8:45 am]

[Docket No. RP65-59]

TEXAS EASTERN TRANSMISSION CORP.

Tender of Statement for Escrow Agreement

AUGUST 13, 1976.

Take notice that on August 2, 1976, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing a copy of the statement for the Escrow Agreement dated January 25, 1967, between Texas Eastern and Southern National Bank, according to Texas Eastern. Texas Eastern states that this statement indicates cash and/or U.S. Government obligations in the fund as of June 30, 1976, and covers Texas Eastern's period of holding the funds since March 3, 1967.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24491 Filed 8-19-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANK LAND CO.

Acquisition of Bank

Bank Land Company, Denver, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act ("Act") (12 U.S.C. 1842(a)(3)) to acquire 16.9 per cent of the voting shares of Southwest State Bank, Denver, Colorado ("Bank") and to retain 8 per cent of the voting shares of Bank previously acquired without the prior approval of the Board as required by § 3 of the Act. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in

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writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 14, 1976.

Board of Governors of the Federal Reserve System, August 13, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24463 Filed 8-19-76;8:45 am]

TEXARKANA NATIONAL BANCSHARES, INC.

Acquisition of Bank

Texarkana National Bancshares, Inc., Texarkana, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Liberty Eylau State Bank, Texarkana, Texas, a newly chartered State bank that has not yet opened for business. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 14, 1976.

The Board of Governors of the Federal Reserve System, August 13, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24464 Filed 8-19-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 13, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC report are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before August 27, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

The short time to submit comments is caused by FCC's need to collect data in time for a congressional hearing and the fact that all affected respondents already have on hand a copy of the request for information. FCC's original request to file the information was deferred on August 13, 1976, to allow time for compliance with the Federal Reports Act, as amended.

Further information may be obtained from David R. Fisher of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL COMMUNICATIONS COMMISSION

FCC requests clearance of a new Quarterly Report of Expenses Incurred in Connection with Consumer Communications Reform Act. This report has been adopted by the Chief, Common Carrier Bureau, pursuant to § 0.291 of the Commission's rules with respect to delegations of authority to the Chief, Common Carrier Bureau. Sections 4(i) and 219 of the Communications Act of 1934, as amended, authorize the Commission to require the filing of periodic and/or special reports. The purpose of the report is to give the Commission an up-to-date accounting of the costs incurred in connection with current efforts to secure passage of the telephone industry's legislative proposals regarding competition in the terminal equipment and private line communications markets. This data will also be used to provide the Subcommittee on Oversight and Investigations and the Subcommittee on Communications information on expenditures by common carriers for lobbying in connection with the Consumer Communications Reform Act. FCC estimates the burden to average 50 hours for the initial response since it covers the year 1975 as well as the first quarter of 1976. All subsequent reports will be submitted quarterly and burden is estimated to average 10 hours per quarterly response. The FCC is collecting this report from 82 respondents.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-24450 Filed 8-19-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 7]

MARYLAND PUBLIC SERVICE COMMISSION, AND POTOMAC ELECTRIC POWER COMPANY

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Maryland Public Service Commission concerning an application by the Potomac Electric Power Company for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Potomac Electric Power Company has proposed a rate increase designed to increase its intrastate revenues by approximately $36.3 million annually. The Company states in its application that its proposed rates would result in an 11.8% increase in basic electric rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566-0750, within thirty (30 days of the publication of this notice in the FEDERAL REGISTER, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: August 13, 1976

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-24404 Filed 8-19-76;8:45 am]

Public Buildings Service

PLACEMENT OF SCULPTURE IN EDWARD A. GARMATZ FEDERAL BUILDING

Public Hearing

Notice is hereby given that the Commissioner of the Public Buildings Service, U.S. General Services Administration, will hold a public hearing on September 8, 1976, in the Fallon Building, Room G-30, 31 Hopkins Plaza from 10 a.m. to 12 noon, for the purpose of receiving views on the placement of a sculpture by George Sugarman in the plaza of the Edward A. Garmatz Federal Building and Courthouse in Baltimore, Md.

The Commissioner is encouraging interested persons or organizations to make 5-minute presentations or submit a written statement for consideration by the Commissioner at the hearing to ensure that various aspects of the subject are addressed and that representative viewpoints are heard. In view of the limited time, organizations wishing to express their views should appoint a single spokesperson to present their remarks. Written statements should be addressed to: Commissioner, PBS, ATTN: Ms Marilyn Slepicka, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405. The number of oral presentations will depend upon the number of requests received. Each person desiring to make an oral presentation must notify the Commissioner's office by September 1, 1976, either in writing to the above address, or by telephone, (202 566-0905. The number and order of presentations on the Agenda will be determined by the order in which the requests are received.

Written material will be accepted by the Commissioner at the time of the

meeting and for 3 days thereafter for inclusion in the record.

Dated: August 18, 1976.

NICHOLAS A. PANUZIO,
Commissioner, Public Buildings Service.

[FR Doc.76-24493 Filed 8-19-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

PRELIMINARY REPORTS FROM COMMITTEE ON AGENCY OPERATIONS AND COMMITTEE ON LEGISLATION

Proposed Meeting

AUGUST 4, 1976.

The National Advisory Council on Economic Opportunity authorized by section 605 of the Community Services Act of 1974, will hold a one day (possibly two day) Council meeting at its offices at 1725 K Street, N.W. (Room 405), Washington, D.C. The meeting will begin at 9 a.m. on Friday, September 17, 1976 (and possibly Saturday, September 18, 1976). The meeting is open to the public.

The purpose of the meeting will be to hear preliminary reports from the Committee on Agency Operations and the Committee on Legislation and to project future committee activity.

We are printing the above information in the FEDERAL REGISTER as required by section 9 of the Federal Advisory Committee Act of 1972.

DR. FERNANDO PENABAZ,
Chairman.

[FR Doc.76-24535 Filed 8-19-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

MEETING

Notice is hereby given, pursuant to P.L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, September 10 and on Saturday, September 11, 1976. The meeting will be held on September 10 from 9:00 a.m.-9:00 p.m.; and, on September 11, the meeting will start at 8:00 a.m. and end at 11:00 a.m. The two-day meeting will include site visits to Pierre, Rosebud, Eagle Butte, and Fort Yates, South Dakota. The regular Council meeting will be held in Rapid City, South Dakota.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The main purpose of the meeting is to observe Title I Indian Education Programs and other Federally funded education programs and to meet with state and local school officials. A designated group of Council members will be conducting site visits to North and South Dakota on September 8 and 9th. These sites will be in Flandreau, Wahpeton, South Dakota and Devil's Lake and Turtle Mountain, North Dakota. Reports on these sites will be presented to full Council on September 11, 1976.

Because of limited space, all persons wishing to attend should call for reservations by September 1, 1976, area code 202/382-6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, N.W., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on August 16, 1976.

GLORIA B. STRICKLAND,
Acting Executive Director.

[FR Doc.76-24361 Filed 8-19-76;8:45 am]

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

STUDY OF FEDERAL REGULATION OF STEEL INDUSTRY

Meeting

CROSS REFERENCE: For a document relating to the above-mentioned subject and issued jointly by the National Center for Productivity and Quality of Working Life and the Council of Wage and Price Stability, see FR Doc. 76-24462 appearing in the Notices Section of this issue.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

FISCAL YEAR 1977 FELLOWSHIPS FOR CREATIVE WRITERS FISCAL YEAR 1978

Application Guidelines

The following are guidelines for Fellowship Grants made under the Literature Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

The Literature Program Application Deadlines and Grant Calendar is included. Interested persons should contact Leonard Randolph, Director, Literature Program, National Endowment for the Arts, Mail Stop 607, Washington, D.C. 20506 (202) 634-6044, for further information and application forms.

Signed at Washington, D.C. on 12 August 1976.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

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Literature Program

Application Deadline and Grant Calendar

Category	Application Period Begins	Application Dead-Line	Announcement of Rejection or Grant	Project Not to Start Before	Application Form Type	Grant Amounts
Assistance to Small Presses FY 77 To encourage the publication and distribution of single volumes of fiction and poetry by individual writers.	10/1/76	3/1/77	about 6/1/77	6/15/77	Project Grant Application NEA-3 (Rev.)	$500 to $10,000 Matching
Readings & Residencies for Writers FY 77 To aid projects presenting published creative writers in public readings and residencies.	Anytime	None	Approx. 6 months after date of application	6 months after date of application	Project Grant Application NEA-3 (Rev.)	up to $5,000 Matching
Fellowships for Creative Writers FY 78 To enable published writers of exceptional talent to set aside time for writing, research, or travel, and generally to advance their careers.	9/1/76	2/15/77	November or December of 1977	1/15/78	Individual Grant Application NEA-2 (Rev.)	$7,500 Non-Matching Individual

Introduction

The Endowment's Literature Program provides assistance to creative writers and encourages greater audiences for their works. During the past several years, it has concentrated in these areas:

- aid to writers through individual fellowships; assistance indirectly through grants to the nation's small literary magazines and presses; and sponsors of readings and residencies by writers;
- aid to service organizations that provide information and technical guidance to writers; and
- placement of professional writers in elementary and secondary school classrooms.

The Literature Program will continue to explore the feasibility of pilot projects in translation and experimental media writing. No applications are being accepted. Programs will be announced well in advance of deadlines, if initiated.

Inquiries should be directed to:
Literature Program (Mail Stop 607)
National Endowment for the Arts
Washington, D.C. 20506
(202) 634-6044

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the 26 Presidentially-appointed members of the National Council on the Arts.

The Literature Program is one of twelve major Program areas. Information about the Endowment and its other Program areas is contained in the Endowment's "Guide to Programs" which is available from the Program Information Office (Mail Stop 550), National Endowment for the Arts, Washington, D.C. 20506.

July 1976

Categories of Funding

Assistance to Small Presses

The Literature Program will receive applications for grants to aid projects supporting publication and distribution of volumes of fiction and poetry by small presses. The purpose of these grants is to:

- produce a single volume or several volumes of fiction and poetry that otherwise would not be possible;
- encourage the publication and distribution of single volumes of fiction and poetry by individual writers;
- assist in publishing writers who have no selected works printed; and
- encourage publication of experimental works by writers who already have established access to print.

Eligibility
Applications may be made by small nonprofit, tax-exempt presses with record of publishing volumes of fiction or poetry, either by individual writers or in anthology form.

Applications will also be accepted from official state arts agencies on behalf of specific small presses in their states.

Matching fellowships will also be made to individual small press publishers with a record of publishing volumes of poetry or fiction.

Requests from university and college presses will not be considered under this program. Projects in translation are now eligible for support.

Amounts Available
Applications may be made for sums ranging from a minimum of $500 to a maximum of $10,000.

Grants must be matched, at least dollar-for-dollar, by the small press or the individual publisher. For the purposes of matching in-kind contributions of press staff, outside editorial assistance, use of facilities and contributions of materials are allowable. In addition to cash, State arts agencies may also provide non-federal funds for partial or full matching.

Special Condition of the Grants
It is a special condition of these grants that the author receive a minimum of 10% of the edition as, at least, partial payment of royalties.

Deadline
Applications will be accepted beginning October 1, 1976 and must be postmarked no later than March 1, 1977. Decisions on applications will be announced on or about June 1, 1977.

Review Process
Applications will be reviewed by the Literature Program staff and referred to the Literature Advisory Panel for recommendation to the National Council on the Arts and the Chairman.

Because of fund limitation, priority will be given to meritorious applications from presses that have not received previous funding.

Application Procedure
Applicant should complete and return three copies of the *Project Grant Application (NEA-3)* on page 15.

Please follow the instructions on pages 11-14.

Federal funds may be requested only for direct production costs such as paper, supplies, printing, binding, postage, distribution, etcetera. Federal funds may not be requested for administrative salaries, rent, equipment, travel or indirect costs (though these items may be used to match federal funds).

As examples of past work, three copies of two previous publications must be submitted with each application.

A description of the volume or volumes for which assistance is requested must be given on the application form.

Applications together with the examples of past work, should be mailed to:
Grants Office (Mail Stop 500)
National Endowment for the Arts
Washington, D.C. 20506

Readings and Residencies for Writers

The Literature Program will receive applications for grants to aid projects presenting published creative writers in public readings and residencies. Since the funds for this pilot program are limited, an effort will be made to assist a wide range of projects to enable the Literature Advisory Panel to assess the most effective models. The purpose of these grants is to:

- respond to an expressed need from the field for programs which will provide new audiences for contemporary published creative writers;
- assist writers, particularly those just achieving recognition, in establishing new sources of income; and
- provide communities in many areas of the country with exposure to contemporary published creative writers. Preference will be given to areas outside of large urban centers and to applicant organizations which are initiating programs of readings and residencies.

Eligibility
Applications may be made by non-profit, tax-exempt organizations such as state arts agencies, colleges, universities, libraries, museums, art centers, other public institutions (such as prisons or hospitals), and professional organizations of writers or teachers.

Amounts Available
Application may be made for sums up to $5,000. In most cases grants will be for less. Grants must be matched, at least dollar-for-dollar, by the sponsoring organization. Funds requested from the Arts Endowment must not exceed one-half of the fee of the writer and one-half of the writer's travel and per diem expenses. Fees for writers may not be less than $150.

Organizations may apply for a series of readings and residencies by individual writers or for group readings.

Deadlines and Scheduling
Grants will be made periodically throughout the fiscal year. Projects should be scheduled to begin no sooner than six months after the application is submitted.

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Fellowships for Creative Writers

Application Procedure
Applicant should complete and return three copies of the *Project Grant Application (NEA-3)* on page 15. Please follow the instructions on pages 11-14. A list of writers from which those who will read are to be chosen must be included in the project description, together with the anticipated locations of readings and potential local sponsors. A brief history of the sponsoring organization's past experience with scheduling and conducting readings and residencies by writers should also be included in the application. Lack of experience will not, by itself, exclude an organization from consideration.

Applications with additional materials mentioned above should be mailed to:
Grants Office (Mail Stop 500)
National Endowment for the Arts
Washington, D.C. 20506

The National Endowment for the Arts program of fellowships for published writers of exceptional talent offers assistance to writers to enable them to set aside time for writing, research, or travel, and generally to advance their careers.

Eligibility
You are eligible to apply if you have:
- published two or more short stories in two or more literary magazines, or
- published a volume of short fiction, or
- published a novel, or
- published ten or more poems in two or more literary magazines, or
- published a volume of poetry, or
- published two or more essays or critical articles related to literature or writers in two or more literary magazines, or
- published a volume of essays or criticism, or
- had produced, in any form, a play of any length by a professional company, or
- published a play of any length in a literary magazine, theatrical publication or book form, or
- a letter of recommendation in the case of a playwright, from a professional theatre person.

Grant Amount
Fellowships are for $7,500.

Deadline
Applications will be accepted between August 1, 1976 and February 15, 1977. Applications and manuscripts must be postmarked no later than February 15, 1977. Receipt of your application will be acknowledged. Announcement of acceptances and rejections will not be sent before November or December of 1977.

Application Procedure
You should complete and return three copies of the *Individual Grant Application NEA-2 (Rev.)* on page 5. Please follow the instructions on page 4 carefully.
Manuscript Material. In addition to completing three copies of the application form, you should enclose five clearly reproduced copies of one of the following manuscript samples:
Poetry—15 pages in typescript.
Fiction, Essays, Criticism or Biography—a minimum of 30 pages to a maximum of 40 pages or a minimum of 7,500 to a maximum of 10,000 words in typescript.
Playwrights—a play (one act or longer).
Please submit samples in one category. Sample copies cannot be returned.

Note to Applicants. The Literature Advisory Panel has asked that several things be brought to the attention of applicants: Because of the large number of manuscripts that Panel members must read in a limited amount of time, it would be most helpful if applicants would be sure that materials submitted are legible and clearly reproduced. Generally, it is not helpful to "cram" as much material as possible per manuscript page. Applicants using pen names should list their legal name first on the application. All transactions with the Endowment must be made in reference to the legal name.
Applications together with manuscript material should be mailed to:
Grants Office (Mail Stop 500)
National Endowment for the Arts
Washington, D.C. 20506

Important Information
The following is an attempt to answer the most commonly asked questions about Fellowships for Creative Writers:

1. You may only apply in one category, and submit one application. However, if you receive a fellowship you are not limited to the category of writing you submitted for evaluation.

2. Typescript does not necessarily have to be published material. It may be, for example, a work in progress. The manuscript should simply be what you feel is representative of your best work.

3. Applicants will be evaluated up to the maximum number of manuscript pages allowable in each category. Please do not send excessive manuscript, as it will be discarded.

4. Manuscripts, in addition to being legible and typewritten, must be collated. Photocopy and clear carbons are acceptable, but, please, no onion skin copies.

5. No grammatical, syntactic, spelling or artistic changes or additions will be accepted in the manuscript once it has been submitted.

6. Please do not send us as part of the manuscript copy the original of what you have sent us.

7. We strongly recommend that you send all of your enclosed materials under one cover by First Class Mail. We have found that Special Delivery or Special Handling takes longer for delivery. By completing the enclosed acknowledgement card, you will be assured that your materials reached us. You will hear from us in three weeks, usually less.

8. We cannot accept collaborative works or joint applications. The Fellowships for Creative Writers are individual grants.

Income Tax
Fellowship grants generally have certain Federal income tax advantages. States and Municipalities have their own policies on taxation. Specific questions should be directed to the Internal Revenue Service and other appropriate officials. An important element in determining taxability is that a fellowship grant is regarded as an educational benefit, and does not require the performance of service for the Endowment. No deductions are made from this fellowship grant for any purpose such as income tax, social security, etcetera. As a result, Internal Revenue Service W-2 Forms are not sent to Fellows; each must maintain his own income records for tax purposes. You may find Publication 520, "Tax Information for American Scholars in the U.S. and Abroad," a helpful guideline. This publication is available at your local IRS office.

Period of support requested is the span of time necessary to plan, execute and close out the proposed project. Generally the Endowment limits its financial participation in any project to a maximum of 12 months. A fellowship should not begin before January 15, 1978 and may generally not extend past January 15, 1979.

Description of proposed activity is not necessary for the Creative Writing Fellowships.

Basic Check List for Creative Writing Fellowships

1. Have you enclosed 3 copies of the NEA-2 application form?
2. Have you enclosed 5 uniform, legibly type-written copies of your manuscript?
3. Have you signed and dated all 3 copies of the NEA-2 application form?
4. Does your name appear on each of the 5 manuscripts?
5. If you are a playwright and have not previously published or produced, have you enclosed a letter of recommendation?
6. Have you self-addressed the acknowledgement card and enclosed it with the above materials so that we may return it to you upon receipt?

[FR Doc.76-24406 Filed 8-19-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

EXECUTIVE BRANCH POSITION ON COMMISSION ON GOVERNMENT PROCUREMENT

Recommendations A–43, A–44, and A–45, Socio-Economic Programs

Notice is given that the executive branch has accepted Commission on Government Procurement Recommendations A–43, A–44, and A–45.

The Commission on Government Procurement (COGP) observed that the magnitude of Government outlays for procurement and grants creates opportunities for implementing selected national policies. Federal Government expenditures on contracts of approximately $66 billion in fiscal year 1975 make the procurement process an attractive, if not inevitable, vehicle for advancing social and economic goals.

The COGP noted, on the other hand, that using the procurement process to implement national goals makes procurement "more costly and time-consuming with the addition of each new social and economic program." Further, "the cumulative effect of programs already imposed on the procurement process and the addition of those contemplated could overburden it to the point of threatening breakdown."

After listing some thirty-nine social and economic programs imposed on the procurement process, the Commission made three interrelated recommendations: (1) Establish a program for legislative and executive branch reexamination of the social and economic programs (A–43); (2) Raise to $10,000 the threshold at which the social and economic programs apply (A–44); and (3) Consider means of making more visible the costs to procurement of implementing the programs (A–45). Taken together, these recommendations urge a reexamination of the relationship between the social and economic programs and the procurement process and a reduction of the impact and burden of these programs where feasible.

The Office of Federal Procurement Policy has examined all of the social and economic programs that are implemented, in one manner or another, through the Federal procurement process. Discussions have been held with departments and agencies of Government and with members of Congress and committee staffs. Efforts have been made to find ways to minimize the impact of these programs while not detracting from the objectives that they were designed to fulfill. Some programs, we believe, should remain unchanged. The burdensome impact of others has been or can be changed by administrative or regulatory actions. Others should be eliminated or changed by legislative action. Efforts to achieve these changes are now in process.

In summary, COGP recommendations A–43, A–44, and A–45 represent a reasoned approach to the simplification of the procurement process. They are accepted, and the Office of Federal Procurement Policy will attempt to fulfill the objective of these recommendations to the extent possible.

HUGH E. WITT,
Administrator.

[FR Doc.76-24480 Filed 8-19-76;8:45 am]

Appendix

Instructions for Completing Individual Grant Application Form

AUDIOVISUAL PRODUCTION SERVICES

Proposed System for Procurement

In furtherance of the responsibilities assigned to the Federal Audiovisual Committee, the Department of Defense (DOD) was requested, in December 1975, to lead an interagency effort to develop a uniform procurement system for all Federal agencies to use in purchasing audiovisual productions from private commercial sources. The DOD's Directorate for Audiovisual Activities (DAVA) was designated to chair an interagency task group to carry out this assignment. That group has completed its task and has provided a description of the procurement system it has proposed.

The Office of Federal Procurement Policy (OFPP) is committed to ensure that all interested parties in the private sector as well as Federal agencies have adequate opportunity to participate in the development of an audiovisual production procurement system. Accordingly, the system proposed by the task group is described in the following attachment for the information of all interested parties. Comments regarding the proposed system or suggestions regarding alternative approaches are hereby solicited. Comments and suggestions should be submitted to William McCloy, Chairman, OFPP Audiovisual Contract Group, Directorate for Audiovisual Activities, Room 601, 1117 North 19th Street, Arlington, Virginia 22209.

Suggestions and comments submitted in response to this publication will be thoroughly considered by the task group and by the Federal Audiovisual Committee in the final development of a procurement system to be recommended to the Office of Federal Procurement Policy.

Interested parties have until October 25, 1976, to submit comments.

Dated: August 17, 1976.

HUGH E. WITT,
Administrator.

ATTACHMENT 1

DESCRIPTION OF PROPOSED AUDIOVISUAL PROCUREMENT SYSTEM

Background

Past management studies indicate widespread dissatisfaction with the Government's current audiovisual production contracting program. Commercial producers as well as many Government users are critical of the present program which permits each agency to use its own forms, procedures and policies in contracting for productions. Common problems with the current system as noted in the various studies include:

1. There is a lack of adequate information regarding bidding opportunities for audiovisual production work. There is no central point where a prospective contractor can obtain information on bidding opportunities and requirements.

2. Agencies, and sometimes single facilities, maintain independent bidders lists and solicit proposals only from firms listed on their individual lists. While most agencies publish synopses of their requirements in the Commerce Business Daily, many suppliers complain that by the time the notices are published there is not adequate time to submit proposals.

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3. The procedures and criteria used by separate agencies to evaluate proposals differ widely. The absence of suitable uniform evaluation criteria frequently results in nonuniform treatment of the bidding community and unacceptably high administrative costs.

4. Some agencies make unyielding interpretations of regulatory requirements for competition. One hundred (100) or more proposals have been received in response to a single solicitation. Suppliers not knowing that they are competing with 100 or more firms spend time, money and creativity in submitting proposals that they would not otherwise submit. Similarly, agencies must commit time and resources to evaluate unduly large numbers of proposals.

5. Many Government purchasing offices lack expertise in the audiovisual production field. Agency contracting personnel frequently have general procurement or supply backgrounds and are not familiar with the special considerations of audiovisual productions. Costly delays result and some final products are not suitable for their intended use.

6. Suppliers experience difficulty in establishing credentials and qualifications with the different requirements of each agency. Problems are also encountered in maintaining awareness of policy and procedural changes within agencies and of changing working relationships.

Definition

Within the context of the proposed system, audiovisual productions include contracts for motion picture, television and audio productions. A production, regardless of media involved is defined as the arrangement of audio and/or visual elements into a unified presentation to communicate a message to an audience.

Description of System

The proposed audiovisual procurement system envisions competitive negotiated procurements, using an ordering agreement to establish basic terms and conditions and a standard pricing form to be used by firms in responding to solicitations. A lead agency will be tasked with the responsibility of administering and maintaining the basic ordering agreements and will serve as a central source for information regarding the Government's audiovisual production contracting program. Agencies having requirements for audiovisual productions will contract directly with firms having basic ordering agreements.

Solicitations for basic ordering agreements will be offered to firms on the basis of unlimited competition for the areas of motion picture, television and audio productions. Present plans are to award 100 ordering agreements to firms submitting proposals in response to the first solicitation. Sixty (60) agreements are proposed in the motion picture area and 20 each in the television and audio areas. Solicitations for additional agreements will be issued if determined necessary based on volume of work.

The selection of firms to receive ordering agreements will be based on price, technical and management considerations. Analyses of competing firms' specimen productions, production records, and financial responsibility will be performed by a formal interagency evaluation board. The firms selected will not be categorized other than by medium, i.e., motion picture, television and audio.

The agreements to be awarded to selected firms will contain the standard terms and conditions appropriate to the audiovisual field, and will also contain "not to exceed" fixed prices for production line items. These line items will represent the majority of the individual services required to complete a production in the specific medium. In addition, the agreements will allow for the contracting of certain "unpriced" items, i.e., items which cannot be priced until they are specifically identified by the ordering agency.

In using the standing agreements, agencies will not need to repeat determinations of contractor competence or reissue standard contractual terms and conditions. Using agencies will solicit proposals for their specific requirements using a condensed request for proposals from no less than three firms (unless a sole source acquisition is justified) holding ordering agreements. These firms will respond to the request with a firm fixed price proposal supported by a cost breakdown based on their previously established "not to exceed" line item prices. In submitting a proposal based on line item breakdown, the firm is identifying its estimated level of effort for each phase of production. The line item breakdown enables the agency to evaluate the firm's understanding of the production and the proposed production method. The line item breakdown also serves to provide the firm and ordering agency with a basis of negotiation should changes be required in the production after it has begun.

Upon review of a firm's proposal for a specific production the ordering agency may elect to select the low offer or if the agency does not consider the low offer adequate, the agency may negotiate with all solicited offerors and select the best offer, price and other factors considered. Whether or not negotiated, the signed order will be for a firm fixed price. Payment to the contractor will be that price and will not be based upon effort actually expended for any individual line items. Progress payments may be made at the discretion of the ordering agency.

If an agency desires to purchase services in lieu of a full production based on individual priced line items in the ordering agreements, an agency may place an order against the one agreement that offers the lowest price for that line item or the lowest aggregate price for all line items without soliciting proposals from holders of other agreements. If a requirement for individual services contains any "unpriced" items, it will be competitively solicited from no less than three of those firms holding ordering agreements.

The holders of ordering agreements will not be permitted to exceed their quoted line item prices for the one year term of the initial agreements. These prices may be negotiated downward, however, in the pricing of individual orders. Other significant features of the system are:

Agencies will not be required to synopsize each request for proposals in the Commerce Business Daily.

Firms will be considered on a nationwide basis without restriction to geographic areas or zones. Firms will decide for themselves how far they want to travel to make a production.

Agencies will have flexibility in deciding whether to procure script and production as a single package or whether to separate script and production actions. Agencies will not, however, issue combined solicitations for creative proposals, scripting and productions.

Basic ordering agreements will remain in effect for one year, after which time the system will be evaluated and new solicitations issued as appropriate.

Listings of the firms possessing ordering agreements will be distributed to all Government using agencies and to interested persons requesting copies.

Agencies will be required to provide copies of their requests for proposals and copies of subsequent contracts to the lead agency.

Procurements made pursuant to grants and to Section 8(a) of the Small Business Act will be handled in accordance with existing regulations and will not use the proposed system.

Proposed Solicitation

Copies of the solicitations proposed for use in obtaining proposals for the basic ordering agreements may be obtained by contacting William McCloy, Chairman, OFPP Audiovisual Contract Group, Directorate for Audiovisual Activities, Room 601, 1117 North 19th Street, Arlington, Virginia 22209. In contacting Mr. McCloy, please specify whether you want the solicitation for motion picture, television or audio productions.

Schedule

Approximately 60 days are being permitted for the preparation and submission of comments on the proposed system. The evaluation, review and coordination of the comments received will require an additional 60 days. The earliest the proposed solicitations for the ordering agreements will be issued is the end of the current calendar year. The first awards and implementation of the system are tentatively scheduled for the spring of 1977.

[FR Doc.76-24481; Filed 8-19-76;8:45 am]

RAILROAD RETIREMENT BOARD

PRIVACY ACT OF 1974

New and Revised Routine Uses to Systems of Records

The U.S. Railroad Retirement Board hereby published a new routine use to be added to Record System 22, Railroad Retirement Survivor and Pensioner Benefit System (previously published for inspection in the FEDERAL REGISTER on August 19, 1975 and March 22, 1976). No Report on New Systems need be submitted because this new routine use does not create a new purpose for this record system and it is compatible with the purposes for which Record System RRB-22 is maintained. This new routine use for Record System RRB-22, Railroad Retirement Survivor and Pensioner Benefit System, will be designated as "bb" and will read as follows:

bb: Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

The following routine uses in their respective systems of records are being expanded to include information inadvertently omitted when previously published. No new routine uses are being established. All current additions are indicated by italics:

RRB-19 Payroll Record System

h. *A copy of the employee's Form W-2, Wage and Tax Statement, or other similar form containing the name, social security number, taxable earnings and amounts withheld, may be released to the State, city or other local jurisdiction which is authorized to tax the employee's compensation in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of the Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.*

RRB-22 Railroad Retirement, Survivor and Pensioner Benefit System

g. Beneficiary identifying information, entitlement data, benefit rate, *medical evidence and related evaluatory data* may be released to the Social Security Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, *including social security account number,* and supplemental annuity amounts may be released to the Internal Revenue Service, *State and local taxing authorities* for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement benefit rates, months paid, *medical evidence and related evaluatory data* may be released to the Veterans Administration to verify entitlement to benefits.

Members of the public are invited to send their comments on these routine uses for systems of records to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, on or before September 20, 1976.

Dated: August 6, 1976.

By Authority of the Board.

[SEAL] R. F. BUTLER,
Secretary.

[FR Doc.76-24398 Filed 8-19-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

SEC REPORT COORDINATING GROUP (ADVISORY)

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public committee meeting.

The Commission's Report Coordinating Group (Advisory) will hold a meeting on September 16, 1976 at 301 Pine Street, San Francisco, California. The meeting will commence at 10:00 a.m. local time and will be for the purpose of discussing the recently initiated FOCUS reporting system and recent developments in the areas of trading forms, assessment forms and registration forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is advising the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and implementing the FOCUS Report of financial and operational information. (Securities Exchange Act Release No. 10959; Securities Exchange Act Release No. 11140; Securities Exchange Act Release No. 11149; Securities Exchange Act Release No. 11748; Securities Exchange Act Release No. 11935).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J. Pilliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 11, 1976.

[FR Doc.76-24355 Filed 8-19-76;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1976.

The Chicago Board Options Exchange, Inc. ("CBOE") has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are registered with the Commission pursuant to Section 12 or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of Section 12 of the Act.

American Express Co., Common stock, $.60 par value, File No. 7-4848.

Anheuser-Busch, Inc., Common stock, $1.00 par value, File No. 7-4849.

Combined Insurance Company of America, Common stock, $1.00 par value, File No. 7-4850.

Connecticut General Insurance Corp., Common stock, $2.50 par value, File No. 7-4851.

NCNB Corp., Common stock, $2.50 par value, File No. 7-4852.

Pennzoil Offshore Gas Operators, Inc., Class B Stock[1], $1.00 par value, File No. 7-4853.

Tampax Inc., Common Stock, $.25 par value, File No. 7-4854.

In its application for unlisted trading privileges in the foregoing securities, the CBOE has stated that trading in these securities on the CBOE would be limited solely to transactions arising from the exercise of options contracts covering the securities. As such, the CBOE did not deem it necessary to submit information concerning public distribution and trading volume as required by Rule 12f-1.

Upon receipt of a request, on or before September 10, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Interested persons should state briefly the title of the security in which they are interested, the nature of their interest in making the request, and the position they propose to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no requests for a hearing with respect to the application are received, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24376 Filed 8-19-76;8:45 am]

[1] On November 1, 1976, the separate designations of the Class A and Class B will terminate and all such shares will thereafter be designated as common.

[Release No. 19644 (70-5883)]

CONSOLIDATED NATURAL GAS CO.

Proposed Issuance and Sale of $75,000,000 Principal Amount of Debentures at Competitive Bidding

AUGUST 10, 1976.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $75,000,000 principal amount of ____% Debentures Due September 1, 1996. The interest rate (which will be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, (which will not be less than 99% or more than 102% of the principal amount thereof) will be determined by competitive bidding. The debentures will be issued as a new series under a Sixth Supplemental Indenture, dated as of

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September 1, 1976, to the Indenture between Consolidated and Manufacturers Hanover Trust Company, New York, New York, as Trustee, dated as of May 1, 1971. The Indenture includes a prohibition until September 1, 1981, against redeeming the issue with or in anticipation of funds borrowed at a lower effective interest cost. The debentures will be subject to an annual sinking fund of $4,700,000 commencing September 1, 1981, which will leave $4,500,000 principal amount thereof to be redeemed at maturity. The proceeds of the sale of the debentures will be used to finance, in part, the 1976 capital expenditures of Consolidated's subsidiary companies, presently estimated at $191,700,000, of which about 80% will be applied to gas supply projects.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $149,000, including $25,000 service charges of the system service company at cost and accountants fees' and expenses of $13,500. The fees and expenses of counsel for the underwriters are to be paid by the successful bidders, and the amount thereof will be supplied by amendment.

It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 3, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24384 Filed 8-19-76;8:45 am]

[Rel. No. 9396 (812-3994)]

EQUITABLE VARIABLE LIFE INSURANCE CO., ET AL.

Notice of Application Pursuant to Section 6(c) of the Act for Exemption From Section 27(h)(3) of the Act

AUGUST 12, 1976.

Notice is hereby given that Equitable Variable Life Insurance Company ("EVLICO"), a stock life insurance company organized under the laws of the State of New York, Separate Account I of EVLICO (the "Account"), an open-end diversified investment company registered under the Investment Company Act of 1940 (the "Act"), and The Equitable Life Assurance Society of the United States ("Equitable") 1285 Avenue of the Americas, New York, New York 10019, a mutual life insurance company organized under the laws of the State of New York and the parent of EVLICO, (collectively referred to as "Applicants") filed an application on July 21, 1976 pursuant to Section 6(c) of the Act for an order of exemption from Section 27(h)(3) in connection with the sale of variable life insurance contracts covering insureds less than three years of age. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The Account is a separate investment account to which assets are allocated from time to time to support benefits payable under EVLICO's variable life insurance contracts. For purposes of the Act, the Account is an issuer of variable life insurance contracts which are periodic payment plan certificates under the Act. Equitable and EVLICO are the investment advisers and principal underwriters of the Account.

The Commission has granted to Applicants an exemption from Section 27(h)(1) so that, for the purposes of complying with Section 27, "sales load" may be calculated as the excess of the gross annual premium (exclusive of the $25 administrative contract fee) over the sum of (1) the amount of the cash value for the first year, and the amount of the increase in the cash value for each subsequent year, that is not attributable to investment earnings; (2) the cost of insurance based on the Commissioners 1958 Standard Ordinary Mortality Table; (3) an insurance risk charge of .4% of the premium to cover any insufficiency in the Account to provide for the guaranteed minimum death benefit; (4) 2% of the premium for state premium taxes; (5) any additional premium charged if the insured does not meet standard underwriting requirements; (6) any additional premium charged for any incidental benefits; and (7) deduction for first year administrative expenses of $4 per $1,000 of face amount for the Variable Whole Life Insurance contract and $5 per $1,000 of initial face amount for the Variable Increasing Protection Life Insurance contract. The exemption also permitted EVLICO to compute the sales load, for purposes of Section 27(h)(1), over a period of no longer than 20 years. Using this concept, the sales load with respect to each contract will not exceed (1) 20% of the premiums payable in the first year, (2) 16% of the total premiums payable in the first four years, and (3) 9% of the total premiums payable in the first 20 years and, consequently, will not exceed the maximum limits provided in Sections 27(h)(1) and (2).

EVLICO does not presently offer VLI contracts for issue ages less than 3, because of what Applicants state to be a peculiarity which arises when the foregoing sales load formula is applied to infant ages. The peculiarity arises from the fact that, although mortality rates generally increase with advancing age, such rates may decrease during the first three years of life because of a relatively high likelihood of death immediately following birth. As a result, the cost of insurance in the first year of a contract issued at age 0, 1 or 2, based on the Commissioners 1958 Standard Ordinary Mortality Table, may be higher in relation to the gross annual premium being charged than it is in the following contract year. When this high cost of insurance is deducted from the gross annual premium to derive the sales load under the formula described above, the formula may yield a sales load rate for the second through fourth contract years which exceeds that for the first contract year.

Section 27(h)(3) of the Act, in pertinent part, prohibits an issuer of periodic payment plan certificates, or any underwriter of such issuer, from selling any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments, the thirteenth through twenty-fourth monthly payments, the twenty-fifth through thirty-sixth monthly payments, or the thirty-seventh through forth-eight monthly payments, or their equivalents, respectively, exceeds proportionately the amount deducted from any other such payment. Applicants state that the Commission has administered Section 27(h)(3) so as to prohibit increasing rates of sales load on the grounds that the Section was designed to discourage unduly complicated sales load schedules which purchasers might have difficulty understanding and that schedules involving increasing sales load rates between payment periods might confuse purchasers. In addition, the Section protects purchasers against selling practices which might attract purchases into plans with a low initial sales load only to have a higher sales load assessed against subsequent payments. Accordingly, Applicants request an exemption in order to eliminate any question as to whether Section 27(h)(3) would prohibit the sales load structure described above which would occur when variable life insurance contracts are sold to infants.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the increase in sales load rates between contract years will not result in a sales load schedule which purchasers might have difficulty understanding. Applicants further point out that there would be no adverse effect on the amount annually allocated to the Account to support the contract reserves ("net annual premium"). The increase in sales load rates between contract years will be a function of the application of the formula described above and because the sales load is merely a balancing factor in that formula, will not result in a net annual premium for the current contract year which is less than the net annual premium for the prior contract year. EVLICO, just as it does with respect to any VLI contract, will draw upon its surplus to pay initial sales costs to the extent that premiums are insufficient. Accordingly, Applicants believe that the requested exemption will be consistent with the protection of purchasers and the purposes intended by the policy and provisions of the Act.

Applicants state that they will comply with any exemptive rule adopted by the Commission which affords broader, or more narrow, exemptions than contemplated in any Commission order issued in response to their application, or, in the case of more narrow exemptions, to terminate the offer and sale of variable life insurance contracts under the circumstances which give rise to the need for exemption.

Notice is further given, that any interested person may not later than September 6, 1976 at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated by the Act, an order disposing of the application will be issued as of course following September 6, 1976 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24377 Filed 8-19-76;8:45 am]

[Release No. 19646 (70-5888)]

MIDDLE SOUTH UTILITIES, INC. AND ARKANSAS POWER AND LIGHT CO.

Notice of Proposed Issuance and Sale of Common Stock by Subsidiary Company to Holding Company

AUGUST 11, 1976.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South") 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and Arkansas Power & Light Company ("Arkansas") First National Building, Little Rock, Arkansas 72203, a public-utility subsidiary company of Middle South, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell to Middle South (the holder of all of the issued and outstanding shares of Arkansas' common stock, $12.50 par value per share), and Middle South proposes to acquire, 1,200,000 additional shares of Arkansas' common stock for an aggregate purchase price of $15,000,000 in cash. Upon completion of the foregoing transaction, Arkansas will have issued and outstanding 28,236,773 shares of common stock, which will be stated in its capital common stock account at an aggregate of $352,960,000. Arkansas proposes to use the net proceeds from the sale of the additional common stock to reduce its short-term indebtedness which will have been incurred to finance its construction program. Arkansas' construction program is estimated at $195,700,000 for 1976.

It is stated that the Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the issuance and sale of the common stock by Arkansas and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that expenses anticipated in connection with the proposed transaction are estimated at $4,000, including legal fees of $2,000.

Notice is further given that any interested person may, not later than September 10, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is order will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24378 Filed 8-19-76;8:45 am]

MIDWEST STOCK EXCHANGE INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Archer-Daniels-Midland Co., Common Stock, no par value, File No. 7-4855.

Upon receipt of a request, on or before August 28, 1976, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24379 Filed 8-19-76;8:45 am]

MIDWEST STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Tuscon Gas & Electric Company, Common Stock, $2.50 par value, File No. 7-4856.

Upon receipt of a request, on or before August 28, 1976, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24380 Filed 8-19-76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

MGIC Investment Corporation (Wisconsin), Common Stock, $1.00 par value, File No. 7-4859.

Upon receipt of a request, on or before August 28, 1976, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24381 Filed 8-19-76;8:45 am]

PHILADELPHIA STOCK EXCHANGE INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1976.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Cerro-Marmon Corporation, $2.25 Series A Preferred Stock, $1 Par Value, File No. 7-4857.

Interco Inc., Common Stock, No Par Value, File No. 7-4858.

Upon receipt of a request, on or before August 28, 1976, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24382 Filed 8-19-76;8:45 am]

[Rel. No. 9393 (812-3968)]

TRINWALL CASH RESERVE, INC.

Filing of Application Pursuant to Section 6(c) of the Act for Exemption from Section 2(a)(19) of the Act

AUGUST 11, 1976.

Notice is hereby given that Trinwall Cash Reserve, Inc. ("Applicant"), 61 Broadway, New York, New York 10006, a diversified, open-end management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 1, 1976, for an order of the Commission pursuant to Section 6(c) of the Act declaring that John K. Lundberg ("Lundberg") shall not be deemed an "interested person" of Applicant within the meaning of Section 2(a)(19) of the Act by reason of being a director of a company which, through a wholly-owned subsidiary, has a wholly-owned broker-dealer subsidiary. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant states that Lundberg, a member of the Board of Directors of the Applicant, is also a director of Crum & Foster ("C&F"), an insurance holding company. C&F wholly owns a numerous subsidiaries including the Seucrance Corporation, Inc. ("Securance") which in turn has a wholly-owned subsidiary, Continental Estate Planning Associates, Inc. ("Continental"), a registered broker-dealer under the Securities Exchange Act of 1934 ("Exchange Act"). Applicant further states that Continental, pursuant to dealer contracts, offers for sale to the public shares of open-end investment companies of which none are affiliated with Applicant or its manager and distributor, F. Eberstadt & Co. ("Manager"). It states that Continental does not otherwise, directly or indirectly, act as a broker or dealer; but that solely because it sells shares of investment companies, Continental has registered as a broker-dealer and has become a member of the National Association of Securities Dealers, Inc. Applicant further states that neither C&F nor Securance nor Continental has ever engaged in

any securities transactions on behalf of Applicant or its Manager or participated in the distribution of Applicant's shares. Applicant further represents and warrants that, so long as Lundberg remains one of its directors and also a director of C&F, the Applicant will not knowingly purchase any securities from or through, or sell any securities to or through, C&F or any subsidiary of C&F and neither C&F nor any of its subsidiaries will be permitted to participate in the distribution of Applicant's shares.

Applicant states that as a director, Lundberg shares in the general responsibility for the management of C&F but in no way participates in the day to day operations of C&F. It further states that Lundberg is not an officer of C&F or a director or officer of Securance or Continental or in any other way a participant in the day to day operations of Securance or Continental.

Section 2(a)(19) of the Act, in part, defines an "interested person" of an investment company to include any broker or dealer registered under the Exchange Act, or any affiliated person of such broker or dealer, Section 2(a)(3) of the Act, in part, defines an affiliated person of another person to include any director of such other person.

Lundberg, as director of C&F, is an affiliated person of C&F and therefore may be considered an affiliate of its wholly owned subsidiary Continental, which is a broker-dealer registered under the Exchange Act. Thus, Lundberg may be considered an interested person of Applicant. Applicant contends that Mr. Lundberg is in fact an independent director of the Fund and that his relationship with it and the manager is in no way altered by his being a director of C&F. Applicant also notes that on February 12, 1976 the Commission, in Investment Company Act Release No. 9155, granted a similar request of Trinwall Bond Fund, Inc., which shares the same investment adviser as the Fund, by issuing an order that Mr. Lundberg was not to be considered an "interested person" of that fund solely by reason of his directorship with C&F.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act or from any rule or regulation under the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 3, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24383 Filed 8-19-76;8:45 am]

DEPARTMENT OF LABOR

Office of Employee Benefits Security

EMPLOYEE BENEFIT PLANS

Proposed Alternative Method of Compliance

(1) *Notice.* Notice is hereby given that an alternative method of compliance with certain reporting and disclosure requirements for certain employee pension benefit plans associated with Certified Plans, Inc. (CPI), and International Trust Corporation (ITC), of 180 Newport Center Drive, Newport Beach, California, is published herein in proposed form in response to a petition filed with the Secretary of Labor by CPI and ITC on October 29, 1975 (as amended on April 30, 1976), under section 110 of the Employee Retirement Income Security Act of 1974 (the Act).

Before an alternative method of compliance with the reporting and disclosure requirements may be prescribed under section 110 of the Act, the Secretary must determine that the use of such alternative method is consistent with the purposes of Title I of the Act, that it provides adequate disclosure to the participants of the plan and adequate reporting to the Secretary, that the application of the regular reporting and disclosure requirements would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, and that the application of the full reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.

In addition, if an alternative method is prescribed other than by regulation, pursuant to section 110 of the Act, the Secretary must provide notice and an opportunity for interested persons to present their views, and must publish in the FEDERAL REGISTER the provisions of such alternative method.

Therefore, in compliance with the above requirements of section 110 of the Act, all interested persons are invited to submit written comments on the proposed alternative method of compliance set forth herein. In order to receive consideration, such comments should be received by the Department of Labor on or before September 20, 1976. Such comments should be submitted by mail or in person to "CPI Alternative", Division of Regulatory Standards and Exceptions, Office of Employee Benefits Security, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. All comments received as well as the petition for the alternative method of compliance submitted by CPI and ITC, will be available for public inspection at the Public Document Room, Office of Employee Benefits Security, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

(2) *Petition.* Certified Plans, Inc. (CPI), and International Trust Corporation (ITC) (the Applicants), members of CPI Group, Inc., and located at 180 Newport Center Drive, P.O. Box 2090, Newport Beach, California, filed a petition with the Secretary of Labor on October 29, 1975, which was amended by a filing on April 30, 1976, requesting an alternative method of compliance with certain reporting and disclosure requirements of the Act. The Applicants are described as a "plan system administrator" (CPI) and a trust company (ITC), respectively, both chartered by the State of California. The Applicants assert that CPI serves as plan system administrator for numerous "small" Keogh ("H.R. 10") and "small" corporate pension plans that cover a total of more than 15,000 participants, and that ITC serves as trustee for the assets of these plans. With few exceptions, these CPI plans are characterized by the Applicants as "earmarked account" plans. Plans not so characterized are not within the scope of the petition or of the proposed alternative method of compliance.

The term "earmarked account" plan is defined in the petition as a defined contribution individual account employee pension benefit plan as developed and offered to employers by CPI. The term "individual account plan" or "defined contribution plan" is defined in section 3(34) of the Act as—

> A pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.

The Applicants assert that such plans meet the description of an individual account plan under section 404(c) of the Act, which states:

> Sec. 404. (c) In the case of a pension plan which provides for individual accounts and permits a participant or beneficiary to exercise control over assets in his account, if a participant or beneficiary exercises control

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over the assets in his account (as determined under regulations of the Secretary)—

(1) such participant or beneficiary shall not be deemed to be a fiduciary by reason of such exercise, and

(2) no person who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from such participant's or beneficiary's exercise of control.

Regulations concerning section 404(c) have not yet been issued.

The Applicants assert that the plan administrator of each such CPI "earmarked account" plan is the employer whose employees are participants in the plan (or such other person as may be designated in the CPI plan documents) and that, as plan administrator, the employer or such other person has the duty to complete and file the Annual Return/Report Form 5500–C for a small corporate pension plan or Form 5500–K for a Keogh Plan. The Applicants further assert that the plan administrator of such a CPI "earmarked account" plan lacks certain information necessary for completion of certain items on the appropriate Annual Return/Report Form relating to party-in-interest transactions; plan assets; compensation for services rendered to the plan; loans or leases in default; changes in trustees, accountants, insurance carriers, enrolled actuaries, administrators, investment managers, or custodians; and the information on Schedule A (Form 5500). The Applicants also assert that since one of the main purposes of the annual report is disclosure of information to plan participants, the completion of such questions would serve no useful purpose for a CPI "earmarked account" plan participant, since the participant, who manages the investment of his own fund, already has this information.

The Applicants assert that a participant who manages his own account under a CPI "earmarked account" plan has all the financial and transactional information pertaining to the management of his own account since he himself advises through investment directives to the Applicants how the account is to be managed and, furthermore, has no need to know how other participants manage their own individual "earmarked accounts" because such knowledge has no relevance to the status of his account and the level of his benefits. Applicants assert that if there are any fiduciaries or parties in interest involved in the management and investment of the participant's "earmarked account", the participant himself is already informed as to who such parties are because the participant alone has determined that such parties be hired. It is asserted that there is no need for identification of the fiduciaries and parties in interest involved in the management of other participants' accounts because nothing such other parties do with respect to these other accounts will have any effect on or relevance to the status of the particular participant's own "earmarked account" and the level of his benefits. Applicants also assert that, functionally, these "earmarked accounts" operate in the same manner as if each such account were a separate trust with a separate investment manager—in each such case the investment manager being the participant himself.

Accordingly, the Applicants request that the Secretary of Labor, pursuant to his authority under section 110 of the Act, prescribe an alternative method of compliance with certain of the reporting and disclosure requirements of section 103 of the Act and the regulations thereunder, whereby the plan administrator of these CPI "earmarked account" plans be relieved of the requirement of completing Items 11, 13 (Columns A & C), 15, 16, 19 (except as such charges relate to the plan as a whole), and Schedule A (Form 5500) of Form 5500–C for corporate plans with fewer than 100 participants; and Items 10, 13, 14, 17 (except as such charges relate to the plan as a whole), and Schedule A (Form 5500) of Form 5500–K for Keogh Plans with fewer than 100 participants.

(3) *Preliminary findings.* Based upon an examination of the representations made in the Applicants' petition (as amended on April 30, 1976) and the sample CPI plan documents submitted by the Applicants, the Secretary makes the following preliminary findings:

The Applicants' "earmarked account" plans as described and defined in part (2), Petition, above, consist of separate "earmarked accounts". Each such account consists of two parts: An employer contributions portion and an employee contributions portion. The first portion is subject to forfeiture and subsequent allocation among the other participants' "earmarked accounts" to the extent it is not vested, pursuant to the requirements of section 203 of the Act. The second portion, composed of mandatory and voluntary employee contributions, is nonforfeitable. The principal of the voluntary employee contributions may be withdrawn by the employee under certain conditions, but the principal of the mandatory employee contributions must remain in trust until plan termination or until distribution upon retirement or withdrawal of the participant.

Both the employer contributions portion and the employee contributions portion for each participant are combined into one account, the "earmarked account," and deposited with ITC, which serves as the trustee of such combined account.

The individual employee-participant has the option of exercising control over the management and investment of his "earmarked account" through directives to CPI (identified as the "plan system administrator" in the plan documents), which in turn directs ITC as trustee to invest the assets in securities, loans, or other properties in accordance with the participant's directives. In the absence of any affirmative participant directives, the assets of the "earmarked account" are deposited for the participant by ITC in an interest-bearing account in a bank chosen by CPI and ITC. Legal title to the assets and any investments and securities of such "earmarked account" always remains in the name of the trustee, ITC.

It should be noted that no findings are made or implied regarding the applicability of sections 404(c) and 412 of the Act to the "earmarked account" plans described in the petition. Sections 404(c) and 412 are outside the scope of this proposed alternative method of compliance, which relates exclusively to certain reporting and disclosure obligations of the Applicants' "earmarked account" plans.

The employer usually is designated as the plan administrator under the plan documents. However, CPI holds all the information regarding administration and management of the plan and its various "earmarked accounts", so that the plan administrator, in order to fulfill its reporting and disclosure duties under Part 1 of Title I of the Act and the regulations issued thereunder, would have to obtain such information from CPI.

CPI at present supplies each participant with statements detailing transactions made involving the participant's individual "earmarked account" shortly after such transactions are made (Daily Activity Statement), and also supplies each participant with a yearly statement detailing all activity of the individual account for the year (Annual Statement). The information contained in such transactional and yearly statements supplied to each participant is supplied to him alone and relates only to the activity of the participant's individual account, and no such information regarding the activity of other participants' accounts is provided to him.

On the basis of the foregoing preliminary findings, and pursuant to section 110 of the Act, the Secretary proposes to make the following determinations with respect to the alternative method of compliance with certain reporting and disclosure requirements for certain individual account pension plans in Part (4), below:

(1) The use of this alternative method of compliance is consistent with the purposes of Title I of the Act, and provides adequate reporting to the Secretary and adequate disclosure to the participants and beneficiaries in plans with respect to which it is available. The statutory reporting and disclosure that is not required by the alternative method set out below is superfluous or irrelevant.

(2) The application of the provisions of section 103 of the Act, requiring the plan administrators of Applicants' plans to report in the annual report listings of fiduciaries and parties in interest, as well as the assets, liabilities, income, loans, leases, and other transactions which involve and affect only the individual "earmarked accounts" in such plans, would (a) increase the costs to each plan for no reasonable purpose, and (b) impose unreasonable administrative burdens with respect to the operation of each plan by requiring the reporting of information concerning other participants which is not relevant to each individual participant.

(3) The application of the particular provisions of section 103 of the Act referred to above would be adverse to the interests of the Applicants' "earmarked account" plan participants in the aggregate, in that it would divert plan assets otherwise available for benefits to the payment of increased reporting and disclosure costs.

Therefore, in accordance with the authority provided under section 110 of the Act, the Secretary of Labor hereby proposes an alternative method of compliance with certain reporting requirements of section 103 of the Act for Applicants' "earmarked account" plans.

(4) *Proposed alternative method of compliance with certain reporting and disclosure requirements for certain individual account pension plans.*

SECTION 1—*Alternative method of compliance.* In accordance with the authority of section 110 of the Employee Retirement Income Security Act of 1974 (the Act), an alternative method of compliance with certain reporting and disclosure requirements of section 103 of the Act is hereby proposed by the Secretary of Labor for CPI "earmarked account" plans that meet the conditions set forth in section 2.

CPI "earmarked account" plans, for purposes of this alternative method of compliance, are defined contribution employee pension benefit plans with fewer than 100 participants on the first day of the plan year which provide for individual accounts, and as to which Certified Plans, Inc. (CPI), serves as plan system administrator and International Trust Corporation (ITC) serves as trustee.

Pursuant to this alternative method of compliance, the plan administrators of such plans that meet the conditions set forth in section 2 are not required to complete certain items on the Annual Return/Report Forms 5500–C and 5500–K relating to transactions with parties in interest; compensation for services rendered to and affecting solely each separate individual CPI "earmarked account"; loans or leases in default; the identification of, or the reporting of and disclosure of, changes in trustee, accountant, insurance carrier, enrolled actuary, administrator, investment manager, and custodian for each CPI "earmarked account"; and insurance information. Specifically, the plan administrators of such plans may omit completion of the following items on Annual/Report Forms filed with the Secretary:

(a) *Forms 5500–C.* Items 11, 13 (Columns A & C), 15, 16, 19, and Schedule A (Form 5500).

(b) *Form 5500–K.* Items 10, 13, 14, 17, and Schedule A (Form 5500).

SEC. 2—*Conditions.* The plans described in section 1 must meet the following conditions in order to utilize the alternative method of compliance set forth in section 1:

(a) Reporting on certain charges—All compensation, fees, commissions, and expenses charged to the plan by CPI or ITC are reported in the Annual Return/Report Form 5500–C or 5500–K, whichever is applicable;

(b) Disclosure—CPI provides to each participant in each CPI "earmarked account" plan full and prompt disclosure of financial information relating to the participant's individual "earmarked account", including (i) the Daily Activity Statement given by CPI to a participant each time there is a transaction in his account and the Annual Statement of each participant's account, and (ii) any additional information relating to the participant's individual "earmarked account" known to CPI that need not be included by the plan administrator in the Annual Report under the terms of section 1 of this alternative method of compliance;

(c) Notice to participants—As soon as possible and not later than 10 days after notice of this proposed alternative method of compliance with the reporting and disclosure requirements is published in the FEDERAL REGISTER, the plan administrator furnishes to each participant or posts continuously and prominently for a period of at least 30 days in locations where it will be seen by substantially all plan participants, a notice that a request has been made for an alternative method of compliance with the ERISA reporting and disclosure requirements. Such notice shall contain a copy of this proposed alternative method of compliance as it appears in the FEDERAL REGISTER, shall state where additional information is available, and shall include the following statement:

Any interested person, including any participant in the (name of plan) and any employee of (name of employer), may present his or her views on the proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 for the (name of plan) on or before September 20, 1976, by writing to "CPI Alternative", Division of Regulatory Standards and Exceptions, Office of Employee Benefits Security, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216.

SEC. 3—*Limitation.* This alternative method of compliance shall be effective only for the annual report required to be filed for the plan year which began during 1975.

Signed at Washington, D.C., this 17th day of August 1976.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76–24534 Filed 8–19–76;8:45 am]

Employment and Training Administration

[Field Memorandum No. 224–76]

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Title I Grant Application Review Guidelines

The Comprehensive Employment and Training Act (CETA) authorizes the Secretary of Labor to grant funds to State and local governments, and to other specified parties, to act as prime sponsors of programs to provide training and employment services to persons in need of such assistance. The Act requires that, prior to granting funds to a title I and title II prime sponsor, the Secretary shall require prime sponsors to submit a comprehensive manpower plan. In order to carry out this responsibility in an equitable and efficient manner, uniform criteria and standard procedures for the review of prime sponsors' grant applications for Fiscal Year 1977 have been developed.

The entire text of Field Memorandum No. 224–76 is published here to inform all interested parties of the Department's implementing procedures. While these procedures are effective immediately, comments are invited and should be submitted to Mr. Pierce Quinlan, Administrator, Office of Comprehensive Employment Development, Room 6000, 6th and D Streets, NW., Washington, D.C. 20213.

U.S. DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION

[Field Memorandum No. 224–76]

To: All Regional Administrators
From: Floyd E. Edwards, Administrator, Field Operations
Subject: CETA Title I Grant Application Review Guidelines

1. *Purpose.* To transmit guidelines for the review of CETA Title I grant applications for FY '77.

2. *Background.* A workgroup, composed primarily of regional representatives, was established to develop guidelines to assist regional offices in the review of FY '77 CETA Title I grant applications. An ancillary purpose was to assist prime sponsors in planning their programs. The chief motivating factor for the development of grant review guidelines was to provide a common framework against which regional offices and prime sponsors across the country could compare their FY '77 program plans and performance goals.

After a careful analysis of available data, the workgroup selected ten performance indicators around which to develop review guidelines. These are shown on Attachment I to this memorandum. Rather than establish absolute "standards" of performance, the workgroup developed ranges of planned performance to serve as "review guidelines." The use of such ranges provides for flexibility in application and allows for variations among regions and among prime sponsors.

3. *Data Base.* The review guidelines are anchored in historical performance data. Three separate arrays of data were used and analyzed: (1) Actual QPR data for FY '75 and the first half of FY '76; (2) mean and median performance for FY '75 and the first half of FY '76; and (3) frequency distributions of performance for, again, FY '75 and the first half of FY '76 (i.e., the largest percentage of prime sponsors falling within a range of performance). All the data arrays were compared to ascertain what, if any, pattern emerged in terms of historical performance and the strength of the pattern. An attempt was also made to detect trends in performance between FY '75 and FY '76. Although all data arrays were considered in arriving at the guidelines, heaviest reliance was placed on the frequency distribution data which is more indicative of major trends and patterns. The guidelines that have been established reflect not only the statistical analyses of available data, but also the judgments of experienced ETA staff on the reasonableness of expectation for each performance indicator.

The guidelines were then discussed with representatives from each of the regional offices and later presented to the senior staff. As a result of these sessions, additional correlations were run and an attempt was made to be responsive to all major comments. This approach resulted in the grouping of performance indicators into five primary (required) and five secondary (optional) indicators.

a. The five primary indicators are:
(1) Entered Employment Rate
(2) Indirect Placement Rate
(3) Cost per Indirect Placement
(4) Non-positive Termination Rate
(5) Unassigned Participant Rate

b. The five secondary indicators are:
(1) Cost per participant in:
(a) Classroom Training
(b) OJT
(c) Work Experience

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(2) Cost Per Individual Enrolled in Program Activities

(3) Turnover Rate

Complete formula descriptions and explanations for each indicator are found in Attachment I to this memorandum.

4. *Approach.* The primary focus in developing these guidelines is to provide a tool for the Federal Representative (FR) to utilize in working with the prime sponsor during the planning process. The FR is the critical link to the understanding and utilization of the guidelines. Therefore, it is incumbent upon each FR to become familiar with these guidelines and to assist his/her prime sponsor(s) in developing a quality plan which will be approvable when submitted to the regional office.

The use of the term guidelines throughout this document is intentional. These "guidelines" are not standards which must be imposed rigorously to each performance indicator in the grant application. Rather, these guidelines are intended to ensure that benchmarks for key performance indicators are built into the review of all FY '77 CETA grant applications. All grant reviewers are required to analyze carefully the five primary indicators. The optional indicators will be used at the discretion of the RA.

The guidelines should not be employed mechanically since they cannot substitute for the knowledge and judgment of Federal staff about the appropriateness of a prime sponsor's plan. The guidelines are provided to assist in determining whether prime sponsor plans are reasonable when compared to national experience. There may be valid reasons for prime sponsor deviation from the recommended ranges. Every attempt has been made throughout the document to emphasize that it is the job of the FR to work with the prime sponsor to ensure that the planned performance can be justified. In this connection, the FR should look also at past prime sponsor performance. There may be cases where prime sponsor performance has been so poor that it reasonably cannot be expected to plan goals that immediately meet the ranges in the proposed guidelines. It will be up to the FR to assist the prime sponsor to develop a plan which will reflect incremental improvements in performance that will bring it closer to the planning guidelines during FY '77.

5. *Use of the Guidelines.* As discussed above, the guidelines are provided as a point of departure for reviewing prime sponsor plans and program goals. Below are recommended procedures for the FR's use of the guidelines:

a. *Planned goal falls within the acceptable range as defined in the grant review package.* This is an indication that the planned performance is probably appropriate. However, FR's should be certain to determine (1) whether the prime sponsor could actually do better, (2) how appropriate the goal is in conjunction with other related goals, (3) it has been accurately and appropriately computed, (4) if it actually is realistic given the past experience of the prime sponsor, and (5) it is consistent with the "program character" described in the narrative and other relevant parts of the grant package.

b. *Planned goal deviates from acceptable range.* This is an indication to the reviewer that further analysis is needed to ensure the goal is appropriate. While variations from the ranges may indeed be acceptable, prior to approving the goal, the FR should (1) review the justification provided by the prime sponsor against the information for acceptable variations provided in Column 2 of the worksheet in Attachment I, (2) carefully review the calculations, (3) review past program performance to determine expectations for variation, (4) review local conditions which were purported to have a causal relationship to the variance, (5) carefully review this goal against other related goals, and (6) generally take every action necessary to ensure that the level is reflective of the best that can reasonably be expected from the prime sponsor given all the conditions above.

c. As indicated previously, the guidelines are for use by the FR in reviewing the reasonableness of each prime sponsor plan. They are not intended and should not be used arbitrarily to reject or accept a prime sponsor's plan but are intended to assist both prime sponsor and FR in determining the appropriateness of the prime sponsor's plans.

In addition to the procedures recommended above, FR's must review the plans for internal consistency to ensure that each part supports the other. The performance ranges set forth in the guidelines are quantitative measures of a prime sponsor's objectives. The narrative description, on the other hand, explains how the prime sponsor plans to accomplish these objectives. These two aspects of the plan also must be interrelated just as each part of the plan must relate to all other parts of the plan.

6. *Grant Narrative.* After much discussion, it was decided that detailed guidelines for the review of the grant narrative would not be developed this year. The regulations and the CETA Forms Preparation Handbook (ETA Handbook No. 311) provides sufficient detail in terms of what should be in each plan. Nonetheless, in reviewing FY '77 prime sponsor grant applications, FR's must review the narrative and other appropriate sections of the grant to ensuer that the prime sponsor will implement a FY '77 program which is consistent with the CETA policy emphasis outlined in Section 94.1(c)(2) of the June 25 regulations. Below, the program emphasis areas identified in the regulations have been grouped into four major categories. Under each of these categories are provided suggested items FR's should look at when reviewing the grant applications to ensure that prime sponsor plans do reflect an approach that will accomplish these objectives:

Program objectives and suggested indicators

Objective. Focus program performance for maximum impact on those most in need.

Suggested review items: (1) Look at planned participation rates for significant segments. Based on available data and personal knowledge do they appear to reflect community needs?

(2) Also, look at planned activities for workers who were displaced by foreign industry and thereafter became beneficiaries under title II of the Trade Act of 1974 to ensure that the needs of affected individuals are being addressed.

Objective. Eliminate duplication so that resources are effectively made available to local communities.

Suggested review items: (1) Is the State employment service represented on the advisory council? Is it a delivery agency? Is there appropriate justification in the grant if the answer is no to either of these questions?

(2) Are other program linkages of CETA funds with EDA, and HUD/CDA funds to further economic development described in the grant?

(3) Have linkages been established with national programs funded under titles III and IV of CETA and title IX of the Older Americans Act?

Objective. Coordinate the planning and operation of the local CETA program with employment opportunities identified in the private sector to ensure maximum potential for placement.

Suggested review items: (1) Are private employers represented on advisory councils?

(2) Do planned placement rates reflect maximized effort to place work experience and public service employment participants into unsubsidized private sector jobs?

(3) To what degree is the prime sponsor planning to use on-the-job training? Does this reflect an increase from previous years?

(4) Do planned placement and follow-up goals for participants who have completed classroom training programs reflect an increased emphasis in placing these individuals in permanent jobs?

(5) Look at the planned program mix. Do planned participation rates for OJT, Classroom Training, Work Experience, PSE and other activities reflect a redirection of title I from an exclusive emphasis on work experience and public service employment to a comprehensive employment and training program?

Objective. Coordinate youth programs and services funded by prime sponsors with the career aspirations of the youth to be served.

(1) Do planned worksites for youth to ensure that worksites will contribute to youth career goals.

7. *Training*—a. *Federal Staff.* In order to ensure that there is a uniform understanding of how the guidelines are to be applied in your region, it is recommended that regional staff be trained as early as possible. If assistance in such training is needed, an attempt will be made to conduct a train-the-trainer session, or arrange for members of the workgroup to come to the region. Special attention is called to the introduction to the performance indicators worksheets. The points made there are crucial to understanding the application and limitations of the review guidelines.

b. *Prime Sponsors.* At a minimum, the attachments should be provided to prime sponsors so that they are aware of the manner in which their plans will be reviewed. The important consideration is that they be aware of the fact that the guidelines will be used in reviewing their plan. Whether prime sponsors are called together for a general orientation to the guidelines or the FR's review the guidelines with them individually is up to the RA. Nevertheless, it is recommended that a personal contact be made with the prime sponsors rather than simply mailing the materials to them without a verbal explanation of how the materials are to be used and what is expected of the prime sponsors.

8. *Action required.* Regional Administrators should: a. Make distribution of the information contained in this field memorandum as soon as possible and inform prime sponsors that these guidelines will be published in the FEDERAL REGISTER.

b. Notify your desk officer if assistance in training is needed so appropriate arrangements can be made.

c. Ensure that the five primary guidelines are used by all reviewers. The optional guidelines will be used at the RA's discretion.

9. *Inquiries.* Questions on this directive should be directed to Marilyn Shea on 8-376-7409.

10. *Attachments.* (RAs only). 1. Introduction to Review Guidelines.

ATTACHMENT I

INTRODUCTION TO REVIEW GUIDELINES

The purpose of the attached worksheets is to guide Federal Representatives in their review of prime sponsor plans for FY 1977. The indicators selected for close analysis are those considered to be most important in assessing program outcomes. As a further guide, the indicators have been grouped into five primary (required) and five secondary (optional) review guidelines. It is hoped that the review guidelines in the worksheets will result in realistic and productive plans for FY 1977, with a minimum of surprises when prime sponsors are assessed during the fiscal year. These guidelines were not developed to provide a rationale for rejection of a plan but rather to provide both Federal Representatives and prime sponsors with a tool to use in establishing and justifying expected program outcomes.

The review guidelines were developed after analyzing categorical program performance data and CETA data through December 31, 1975. The resultant ranges are a synthesis of the experience data and a realistic appraisal of what "should be." In considering the ranges, however, several things should be kept in mind.

1. They are suggested ranges, based largely on nationwide experience factors. Deviations may be expected based on regional nuances and unique characteristics of individual prime sponsors. The ranges do, however, provide a good starting point from which to determine potential problems with program design and delivery, and to make policy decisions on same.

2. Each indicator should not be analyzed in and of itself but rather in terms of its relationship to the other indicators. For example, the cost per indirect placement must be analyzed together with the overall entered employment rate and the indirect placement rate. (These relationships will be discussed in more detail on the worksheets.)

3. Each indicator should also be analyzed in terms of the character of the prime sponsor's program (placement vs. nonplacement oriented, significant segments to be served, etc.). This, too, will be discussed in more detail on the worksheets.

4. A prime sponsor's position, in relationship to the range must be analyzed in terms of previous performance. The concept of incremental improvement is critical here. If a prime sponsor's plan falls well above or below the recommended range, but reasonable improvement over previous performance is planned, deviation from the range may be justified. Approval of a deviation based on this concept should be documented on the worksheets.

As discussed above, the guidelines are provided as a point of departure for reviewing prime sponsor plans and program goals. Below are recommended procedures for the FR's use of the guidelines:

a. *Planned goal falls within the acceptable range as defined in the grant review package.* This is an indication that the planned performance is probably appropriate. However, FR's should be certain to determine (1) whether the prime sponsor could actually do better, (2) how appropriate the goal is in conjunction with other related goals, (3) it has been accurately and appropriately computed, (4) if it actually is realistic given the past experience of the prime sponsor, and (5) it is consistent with the "program character" described in the grant narrative and other relevant parts of the grant package.

b. *Planned goal varies from acceptable range.* This is an indication to the reviewer that further analysis is needed to ensure that the prime sponsor's goal is appropriate. While variations from the ranges may indeed be acceptable, prior to approving the goal, the FR should (1) review the justification provided by the prime sponsor against the information for acceptable variations provided in Column 2 of the worksheet in Attachment I, (2) carefully review the calculations, (3) review past program performance to determine expectations for variation, (4) review local conditions which are purported to have a causal relationship to the variance, (5) carefully review this goal against other related goals, and (6) generally take every action necessary to ensure that the level is reflective of the best that can reasonably be expected from the prime sponsor given all the conditions above.

c. As indicated previously, the guidelines are for use by the FR in reviewing the reasonableness of each prime sponsor plan. They are not intended and should not be used arbitrarily to reject or accept a prime sponsor's plan but are intended to assist both prime sponsor and FR in determining the appropriateness of the prime sponsor's plans.

In addition to the procedures recommended above, FR's must review the plans for internal consistency to ensure that each part supports the other. The performance ranges set forth in the guidelines are quantitative measures of a prime sponsor's objectives. The narrative description, on the other hand, explains how the prime sponsor plans to accomplish these objectives. These two aspects of the plan also must be interrelated just as each part of the plan must relate to all other parts of the plan.

The format of the worksheets is as follows:

Column (1) *Performance Indicator*—Identifies the indicator to be analyzed.

Column (2) *Definition/Program Impact/Relationship to Other Indicators*—Defines the indicator and verbally describes the methodology for computation. It also describes the implications of the indicator in terms of program design and delivery, and alerts Federal Representatives (and prime sponsors) to potential problem areas. As indicated in #2. above, if there is any relationship between an indicator and others, it will be discussed in this column.

Column (3) *Formula*—Presents the formula for computing the indicator, referencing the appropriate sections of the Program Planning Summary (PPS) and Budget Information Summary (BIS), included as part of the grant application. The computations are to be made from the *4th Quarter* columns of the PPS and BIS.

Column (4) *"Results"*—The Federal Representative should enter the result of his/her computation in this column.

Column (5) *Review Guidelines*—Defines the suggested "ideal" range of performance. As stated above, this is based on an analysis of experience data and an assessment of what performance realistically "should be."

Column (6) *Deviation/Explanation*—This column should be used for entering any deviations from the review guidelines and explaining same. Column (2) provides likely reasons for deviation from the range and differentiations within the range. Other explanations, based on the Federal Representative's knowledge of the unique characteristics of the prime sponsor would also apply. In any event, the ultimate decision to accept a deviation from the suggested range belongs with the regional office and any such decision should be documented in this column.

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PERFORMANCE INDICATOR WORKSHEETS
PRIME SPONSOR
FEDERAL REPRESENTATIVE
DATE REVIEWED

PRIMARY (REQUIRED) INDICATORS

(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Entered Employment rate	The total entered employment rate represents the percentage of those individuals that terminate from CETA program who are placed into unsubsidized employment. It is computed by dividing the number of participants placed into unsubsidized employment (Entering Employment) by the total number terminated. A low such planned rate may be reflective of a poor economic situation in the area. It may also result from the program character-i.e., placement vs. non-placement orientation. A Federal Representative can determine this by noting the percentage of costs, slots assigned to classroom training and OJT compared to the rest of the program. Once making this determination, a decision should be made - based on individual knowledge of the area and other information in the grant - wither the program character is appropriate. The Federal Representative should also consider the following when a low planned placement rate appears: Inadequate labor market analysis and job development techniques on the part of the Prime Sponsor; poor coordination between program activity and job development/placement units; faulty procedures for selecting occupational training areas; OJT contracting techniques; initial assessment and establishment of employability development plans; and intentional underplanning so that performance will look good at assessment time. (Federal Representatives should also take note of plans which may be unrealistically high in response to criticism of previous placement performance.)	PPSI.B.1 PPSI.B.		40 - 49%	

(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Indirect Placement Rate	The indirect placement rate is the percentage of participants placed into unsubsidized employment who are placed after receiving CETA services other than assessment and referral. It is computed by dividing the indirect placements by the total entering employment. This has been isolated as a key indicator because it is essential to a determination and evaluation of the relationship between CETA employment/training/supportive services and placements. Most of the comments included in the section on entered employment rate apply here as well. A low planned rate might not only be indicative of difficulty in relating CETA services to a desired outcome but should also alert the Federal Representative to the possibility of duplication of efforts between the CETA Prime Sponsor and other placement-oriented agencies in the area, such as ES. Conversely, maximizing indirect placement rates might tend to maximize cost per placement, depending upon selection of program activities, deliverers of services and the characteristics of the participants to be served. All of these factors should be taken into account by the Federal Representative when analyzing this rate.	PPSI.B.1.b PPSI.B.1		60 - 69%	
Cost Per Indirect Placement	Cost per indirect placement seeks to relate expenditures to a key program outcome. It is computed by dividing the total projected expenditures by indirect placements. It will be influenced by program character (placement vs. non-placement oriented); The prevalent type of placement; the selection of program activities and deliverers; the target population to be served; local economic conditions. Program issues such as coordination between activity and placement units will also impact. Note: This is a good example of an indicator where the concept of incremental progress discussed in the introduction may be applied. More importantly, it is an area where the federal representative and prime sponsor can begin to make judgements on program designs which may or may not be consistent with CETA's mandate as an employability development training program.	DIS F.2 PPSI.B.1.b.		$5,000 - $8,000	

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(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Non-Positive Termination Rate	This indicator relates the number of individuals terminating from the CETA program for reason other than placement, enrollment in full-time academic or vocational schools, entering the armed forces, or enrollment in activities funded by another CETA Title or manpower activity not funded by CETA, to the total number of terminations. It is computed by dividing the number of non-positive terminations by the total terminations. A high planned rate should alert the Federal Representative to consider the following issues with Prime Sponsors: outreach, intake and assessment procedures; employability development planning and other techniques for relating service needs to participants; counseling and other methods of keeping individuals in the program; internal coordination and communication between program delivery units. The Federal Representative should also analyze this indicator in the context of the significant segments to be served and the types of services offered. Note: This is another good example of an indicator where the incremental progress concept can be applied.	PPSI. B. 3 / PPSI. B		15 - 19%	
Unassigned Participant Rate	This indicator represents the percentage of those CETA participants currently enrolled who are not enrolled in a specific activity. It is determined by subtracting the total "Currently Enrolled" in Classroom Training (PS), OJT, PSE, Work Experience, and Other Activities from the "Planned Enrollment, end of quarter" and dividing the result by "Planned Enrollment, end of quarter". An inordinately high such percentage should alert the Federal Representative to examine such areas as relating services to participants served, intake and activity scheduling, coordination among program activity units and between program activity and placement units, and employability plan development. Unassigned Participant Rate will impact on the placement indicators, including cost per entered employment, as well as on cost per individual enrolled in a program activity. (Note: In order to determine the extent to which Other Activities is used as a "Holding" mechanism, it is suggested that this indicator be computed both including and not including Other Activities.)	PPSI.C. - (PPS II. A. b. + II. C. b + II. D. b + II. E. b + II. F. b) / PPSI. C (Note: To compute without Other Activities, omit II.F.b from the computation.)		There should be a maximum Unassigned Participant Rate of 15%	

(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Cost per classroom training participant	This indicator is computed by dividing the projected expenditures for classroom training by the total enrollments for that component. This cost will vary according to the skills being taught, the length of training, class size, the amount of the allowance payments and the tuition and other instructional costs for the various courses. The degree to which supportive services are provided and included in the classroom training budget is another factor.	BIS F.2.a / PPS II.A.a		$900 - $1,200	
Cost Per OJT Participant	The cost per OJT participant is derived by dividing the total planned expenditures for OJT by the total planned OJT enrollments. While we have developed a cost range where Prime Sponsors may be expected to fall, it is more difficult to place a value on a low or high "cost per." For example, sponsors falling at the high end of the range or above it may not necessarily be planning underutilization or high staff costs, but rather be planning to fund higher pay, higher skill jobs with longer training periods. Conversely, while an extremely low cost per OJT participant may indicate high planned turnover or training in low skill, low paying jobs, it may also indicate that the sponsor is planning to use an OJT reimbursement formula of less than 50% of wages or that training periods will be shorter due to linkages with other training programs. In any case, the range should be used as a tool which leads the Federal Representative to ask the kinds of questions cited above.	BIS F.2.b / PPS II.C.a		$800 - $1,000	

(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Cost per work experience participant	The cost per work experience participant is computed by dividing the projected expenditures for this activity by its cumulative enrollments. Where (and whether) a sponsor falls within the range depends upon several factors, including: -- Whether a sponsor plans ancilliary services in conjunction with the work experience component -- Wages to be paid to participants -- Program emphasis (placement or income maintenance oriented). -- Amount of turnover planned -- Population to be served	BIS F.2.d. PPS II.E.a.		$500 - $800	

(1) PERFORMANCE INDICATOR	(2) DEFINITION/PROGRAM IMPACT/RELATIONSHIP TO OTHER INDICATORS	(3) FORMULA	(4) "RESULT"	(5) REVIEW GUIDELINE	(6) DEVIATION/EXPLANATION
Cost per participant enrolled in Program Activities.	This indicator relates to the unassigned participant rate. It is recommended in addition to the traditional "cost per participant served," because the latter may reflect an artificially high number of individuals (since it includes those who are enrolled but not receiving services) and therefore an artificially low "cost per." It is computed by dividing the total expenditures by the average quarterly total of individuals "currently enrolled" in a program activity (excluding Voc.Ed) at the end of a quarter. To preclude inordinately high costs, the following items are essential: -- There should be a specific plan for activity usage, including expenditures. -- There should be standards or formal procedures for the assignment of participants to activities. -- There should be a system for monitoring activity usage with "triggers" for replanning when appropriate. Any information in the plan regarding outreach, intake, and assessment should be analyzed carefully by the Federal Representative. NOTE: In order to determine the extent to which "Other Activities" is used as a "Holding" category, which impacts on the "cost per," it is suggested that this indicator be computed both including and excluding Other Activities.	BIS F.2 PPS II.A.b + II.C.b. + II.D.b. + II.E.b + II.F.b (average quarterly total for the 4 quarters) For computing without Other Activities, omit PPS II.F.b from the computation.		$2,800 - $4,000	
Turnover Rate	The turnover rate is computed by dividing the total terminations by the total enrollments. This rate is a measure of participant flow which is comprised of two factors: the degree of turnover which the numbers represent and the actual quality or type of turnover. A low rate may indicate that the sponsor is planning training and/or services of longer duration. However, it may also be indicative of a high planned unassigned participant rate. Conversely, a high rate may reflect an emphasis on short-term programs which provide service to a maximum number of people. A high rate should alert the Federal Representative to examine the types of terminations indicated on the PPS: entering employment, other positive terminations, non-positive terminations. This indicator is not a measure of quality by itself, but rather provides a clue which should lead to the analysis of other program factors.	PPS I.B. PPS I.A.		45% - 65%	

SUPPLEMENT TO THE CETA TITLE I GRANT APPLICATION REVIEW GUIDELINES

Some of the regional offices have been experimenting with performance indicators in an attempt to improve on what have become almost traditional techniques for measuring and evaluating program outcomes.

Presented below is a cost effectiveness index developed by the New York Regional Office. While the use of this index is not required, the index does provide an example of a type of performance measurement we may want to consider developing for future use. It, therefore, would be helpful to receive feedback on regional experiences in applying this index either as a guideline for reviewing CETA grant applications or as a tool for evaluating actual program performance.

In addition, the ETA national office would be most interested in obtaining information on other types of program measures which regions are presently using or developing.

Comments on the cost effectiveness index and information on other performance measures should be sent to Floyd Edwards, Attention: TGPA (Marilyn Shea) by December 31, 1976. Technical questions on the use of the cost effectiveness index should be directed to Steve Aaronson (8-662-5871).

COST EFFECTIVENESS PER ENTERED EMPLOYMENT INDEX

Cost effectiveness analysis is a method of evaluating results of program efforts in terms of the funds expended on them. The measure most commonly used is a ratio of effectiveness (results) over costs. For CETA, the "result" most often used in judging a prime sponsor's program is the Entered Employment Rate, both in terms of the rate itself and the "cost per." A simple cost-effectiveness formula takes the following form:

$$\frac{\textit{Entered Employment Rate} \times 10{,}000}{\text{Cost per Entered Employment}}$$

The quotient is multiplied by 10,000 to move the decimal point back and simplify interpretation.

At this point, the index is essentially experimental in nature and it is recommended that it be used to establish comparisons among prime sponsors, both regionally and nationally. The analysis of such comparisons offers the possibility to use the index as a tool for identifying characteristics of both successful and unsuccessful programs. Such a tool would be invaluable in evaluating a prime sponsor program character and identifying potential problems in program design in the planning stage before they become "actuals." For example, sponsors uniformly having lower indexes all might exhibit specific problems in coordinating between activity and placement units and job development techniques. Or, there may be a relationship between a high index and certain specific program designs. In any case, the index data for this year should be used as a basis from which to effect comparisons. Beyond the index for overall program performance lies the possibility of using an index to compare such things as major program categories, different target groups, different service sequences for training in an occupation, etc. Currently within prime sponsor capabilities is the application of a cost-effectiveness formula to one program component vs. another, or the deliverers of the same component. In this case the entered employment rate and "cost per" would apply to the component itself. For example:

$$\frac{\text{Cost Per OJT Entered Employment}}{\text{Entered Employment Rate for OJT}} \times 10{,}000$$

The formulas in terms of the PPS and BIS:

$$\text{Cost Effectiveness Per Entered Employment} = \left\{ \begin{matrix} PPS\ I.B.1. \\ PPS\ I.B. \\ BIS\ F.2. \\ PPS\ I.B.1. \end{matrix} \right\} \times 10{,}000$$

For OJT:

OJT Placements
PPS II.C.a.—PPS II.C.b.×10,000
BIS F.2.b.
OJT Placements

Below is an example of how the cost effectiveness index may be applied:

Prime sponsor A plans 1851 terminations for FY 1977. Of these terminations, it is projected that 978 will enter employment. The projected expenditures will be $7,500,000. The index for that sponsor is as follows:

$$\frac{\text{Ent. Empl. Rate} \times 10{,}000}{\text{Cost Per Ent. Empl.}} = \left\{ \begin{matrix} PPS\ I.B.1. \\ PPS\ I.B. \\ BIS\ F.2. \\ PPS\ I.B.1. \end{matrix} \right\} \times 10{,}000$$

$978/1851 \times 10{,}000 = 53/7669 \times 10{,}000$
$= .00691 \times 10{,}000 = 7{,}500{,}000/978$
69.1

Prime sponsor B plans 1300 terminations for FY 1977. Of these terminations, it is projected that 375 will enter employment. Projected expenditures are $5,132,000. The index for that sponsor is as follows:

$$\frac{\text{Ent. Empl. Rate} \times 10{,}000}{\text{Cost Per Ent. Empl.}} = \left\{ \begin{matrix} PPS\ I.B.1. \\ PPS\ I.B. \\ BIS\ F.2. \\ PPS\ I.B.1. \end{matrix} \right\} \times 10{,}000$$

$375/1300 \times 10{,}000 = 29/13685 \times 10{,}000$
$= .00211 \times 10{,}000 = 21.5{,}132{,}000/375$

As a general rule, higher indices reflect greater cost effectiveness. Thus, in this case prime sponsor A appears to be more cost effective than prime sponsor B in the area of participants entering employment. Once sufficient comparative data are accumulated, analyses of specific causal factors related to the indices can be made.

Signed at Washington, D.C., this 12th day of August 1976.

FLOYD E. EDWARDS,
Administrator, Field Operations.

[FR Doc.76-24079 Filed 8-19-76;8:45 am]

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924 (b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of August, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending August 13, 1976

Name of applicant	Location of enterprise	Principal product or activitiy
Water Street Partners for Restoration	Williamstown, Me.	Restaurant.
Roger N. Mounier	Claremont, N.H.	Production of footwear and sporting goods.
McConnell Manufacturing Co., Inc.	Prattsburg, N.Y.	Manufacture of farm machinery and steel buildings.
Young Pecan Shelling Co., Inc.	Florence, S.C.	Pecan processing.
Audine Dewey Buffington-Pinecrest Nursing.	Hazlehurst, Miss.	Skilled nursing care for the aged.
Plymouth Wood Treating Co., Inc.	Plymouth, N.C.	Treating wood products with copper, chromate, and arsenic.
Bortz Spring Lake Village, Inc.	Hobe Sound, Fla.	Skilled nursing care.
Tennelec, Inc.	Orangeburg, S.C.	Manufacture of citizen band transceivers and other communications equipment.
Herman Martin Hohelsel	Pierz, Minn.	Restaurant and cocktail bar.
Nova Tran Corp.	Clear Lake, Wis.	Manufacture of power control equipment and related products and plastic coating service.
Fleetwood Oil Co., Inc.	Mowequa, Ill.	Retail and wholesale sales of petroleum products.
Messick Equipment Co.	Memphis, Tex.	Sales and repair of farm machinery.
International Petroleum Services, Inc.	El Dorado, Kans.	Manufacture of oilfield drilling rigs and other types of rigs.
Bob's Home Improvement Center	Manchester, Iowa	Contract building service and retail lumber sales.
Campbell Boat Co., Inc.	Lake Havasu City, Ariz.	Production of fiberglass boats.

[FR Doc.76-24362 Filed 8-19-76;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Notice of Ending of Federal Supplemental Benefit Period in Minnesota

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Minnesota effective August 7, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Minnesota on February 8, 1976.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Minnesota has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on July 17, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Minnesota for the week ending on July 17, 1976, and that the Federal Supplemental Benefit Period in that State terminated on August 7, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Minnesota Department of Employment Services of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Minnesota should contact the nearest Local Office of the Minnesota Department of Employment Services in their locality.

Signed at Washington, D.C., on August 16, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-24541 Filed 8-19-76;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Notice of Ending of Federal Supplemental Benefit Period in Utah

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Utah effective August 7, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Utah on February 8, 1976.

The Act also provides that a Federal Supplemental Benefit Period in a State

V 41 163 AUG 20 76 UMI

will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Utah has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on July 17, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Utah for the week ending on July 17, 1976, and that the Federal Supplemental Benefit Period in that State terminated on August 7, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Utah Industrial Commission of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Utah should contact the nearest Employment Security Office of the Utah Industrial Commission in their locality.

Signed at Washington, D.C., on August 16, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76–24540 Filed 8–19–76;8:45 am]

Office of the Secretary

[TA–W–865]

BETHLEHEM STEEL CORPORATION'S LANMAN BOLT PLANT

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–865; investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners at the Bethlehem Steel Corporation's Lanman Bolt Plant, East Chicago, Indiana.

The Notice of Investigation was published in the FEDERAL REGISTER on May 25, 1976 (41 FR 21379). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Lanman Bolt Plant, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant total or partial separations. Employment of production workers at the Lanman Bolt Plant, East Chicago, Indiana of the Bethlehem Steel Corporation decreased 30.9 percent in 1975 from 1974 and declined 50.8 percent in the first quarter of 1976 compared to the first quarter of 1975.

Employment of salaried workers decreased 5.4 percent in 1975 from 1974 and decreased 2.8 percent in the first quarter of 1976 from the first quarter of 1975.

Sales or production, or both, have decreased absolutely. Sales of industrial ferrous fasteners declined 35.8 percent in 1975 from 1974 and decreased 56.3 percent in the first quarter of 1976 from the like period in 1975.

Production at the East Chicago, Indiana plant decreased 25.3 percent in 1975 from 1974 and declined 53.9 percent in the first quarter of 1976 from the first quarter of 1975.

Increased imports. Domestic manufacturers of standard ferrous fasteners have experienced a steady erosion of their market in recent years as a result of increased import competition. Imports of ferrous bolts and screws increased absolutely and relatively in each year from 1971 through 1974. Although imports declined absolutely in 1975 from 1974, the ratio of imports to domestic consumption continued to rise in 1975 over 1974 for both products. From 1974 to 1975, the import to consumption ratio increased from 17.1 percent to 17.9 percent for bolts and rose from 28.1 percent to 29.9 percent for screws.

Contributed importantly. The evidence developed in the Department's investigation indicates that in recent years customers had reduced their purchases of standard fasteners from the Lanman Bolt Plant and had increased their purchases of imported bolts and screws. Customers stated that there was a significant price differential between domestically produced and foreign produced fasteners.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with industrial fasteners produced at the Bethlehem Steel Corporation's Lanman Bolt Plant, East Chicago, Indiana, contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provision of the Trade Act of 1974, I make the following certification:

All workers at the Bethlehem Steel Corporation's Lanman Bolt Plant, East Chicago, Indiana, who became totally or partially separated from employment on or after April 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76–24546 Filed 8–19–76;8:45 am]

[TA–W–861]

MODULUS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–861: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing metal fasteners at Modulus Corporation, Mt. Pleasant, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20955). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Modulus Corporation, its customers, the Industrial Fastener Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant total or partial separations. Employment of production workers at the Mt. Pleasant plant of Modulus Corporation decreased 11 percent in 1975 from 1974 and decreased 27 percent in the first quarter of 1976 compared to the first quarter in 1975.

Sales or production, or both, have decreased absolutely. Production of metal fasteners declined 29 percent in 1975 from 1974 and declined 44 percent in the first quarter of 1976 compared to the same period in 1975. After comprising nearly 60 percent of total output by the Mt. Pleasant plant in 1974, production of standard fasteners declined to 54.5 percent of output in 1975 and 46.6 percent of output in May 1976.

Sales of metal fasteners declined 25 percent in 1975 from 1974 and declined 32 percent in the first quarter of 1976 compared to the same period in 1975.

Increased imports. Domestic manufacturers of standard ferrous fasteners have experienced a steady erosion of their market in recent years as a result of increased import competition. Imports of ferrous bolts and nuts increased absolutely and relatively in each year from 1971 through 1974. Although imports declined absolutely in 1975 from 1974, the ratio of imports to domestic consumption continued to rise in 1975 over 1974 for both products. From 1974 to 1975, the imports to consumption ratio increased from 17.1 percent to 17.9 percent for bolts and rose from 51.8 percent to 53.0 percent for nuts.

Contributed importantly. Customers indicated that they purchase fasteners from distributors who deal in imported standard fasteners. A significant price differential exists between those fasteners offered by the distributors and those offered by domestic manufacturers.

Conclusion. After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with metal fasteners produced by Modulus Corporation, Mt. Pleasant, Pennsylvania contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Modulus Corporation, Mt. Pleasant, Pennsylvania who became totally or partially separated from employment on or after April 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76–24551 Filed 8–19–76;8:45 am]

HONEY

Study Report

On June 29, 1976, the International Trade Commission determined that increased imports of honey are a substantial cause of the threat of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (41 FR 27786).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on honey. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has not received any petitions for certification of eligibility for adjustment assistance involving workers engaged in the production and/or processing of honey. Due to the high degree of seasonality in the commercial honey industry, the great majority of honey production workers who may be displaced may be effectively excluded from trade readjustment and relocation allowances by the requirement in the Act that all eligible workers must have been employed at least 26 of the 52 weeks immediately preceding their separations in adversely affected employment with a single firm.

2. The Labor Department survey of honey producers and processors did not reveal any concentrations of workers laid off by the industry.

3. Only one of the firms responding to the survey appears to have a potential for laying off a significant number of its workers over the next year. The firm, which is a processor located in California, could lay off as many as 15 workers. The prospects for their re-employment are fair.

4. The Comprehensive Employment and Training Act (CETA) programs in the areas where processing plants and apiaries are located appear to have sufficient funds to meet the needs of unemployed workers. However, many training programs have already exceeded expected enrollment levels. The Employment and Traning Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (phone 202–523–7665).

Signed at Washington, D.C. this 13th day of August 1976.

JOEL SEGALL,
Deputy Under Secretary International Affairs.

[FR Doc.76–24543 Filed 8–19–76;8:45 am]

[TA–W–858]

NYANZA, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein prsents the results of TA–W–858: investigation regarding certification of eligibility to apply for worker

V 41 163 AUG 20 76 UM

adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 16, 1976 in response to a worker petition received on February 16, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing dyes and intermediates at Nyanza, Incorporated, Ashland, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20956), as amended on August 3, 1976 by 41 FR 32492. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Nyanza, Inc., its customers, the United Steelworkers of America, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all the criteria have been met.

Significant total or partial separations. The average number of workers at the Ashland plant decreased 47.95 percent in 1974 compared to 1973 and decreased 52.36 percent in 1975 compared to 1974.

Sales or production, or both, have decreased absolutely. Production of dyes and intermediates at the Ashland plant decreased 73.00 percent in 1975 compared to 1974 and decreased 23.25 percent in the first quarter of 1976 compared to the same period of 1975.

Increased imports. When compared to each preceding year, U.S. imports of acid dyes, in terms of quantity, increased in 1972, decreased in 1973, increased in 1974 and remained the same at 3.4 million pounds in 1975. The ratios of imports to domestic production increased from 13.9 percent in 1974 to 15.9 percent in 1975.

When compared to each preceding year, U.S. imports of direct dyes, in terms of quantity, decreased in 1972, 1973, 1974 and remained the same at .7 million pounds in 1975. The ratios of imports to domestic production increased from 2.2 percent in 1974 to 2.4 percent in 1975.

Contributed importantly. The Department's investigation indicated that customers have increased purchases of imported dyes and have decreased purchases from Nyanza.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with dyes and intermediates produced by the Ashland, Massachusetts plant of Nyanza, Incorporated, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Ashland, Massachusetts plant of Nyanza, Incorporated who became totally or partially separated from employment on or after January 16, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24547 Filed 8-19-76;8:45 am]

[TA-W-915]

RICHMOND SCREW ANCHOR CO.

Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-915: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 28, 1976 in response to a worker petition received on May 28, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tying devices, anchorages, inserts, and accessories at the Tremont, Pennsylvania plant of Richmond Screw Anchor Company.

The notice of investigation was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26299). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Richmond Screw Anchor Company, its competitors, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criteria (3) has not been met.

The Richmond Screw Anchor Company, Tremont, Pennsylvania produces tying devices, anchorages, inserts and accessories. All of the products produced at the Tremont plant are used in various stages of concrete construction.

The evidence developed during the Department's investigation reveals that there are no identifiable import statistics in the Tariff Schedules of the United States on tying devices, anchorages, inserts, and accessories like or directly competitive with those produced at the Tremont, Pennsylvania plant of Richmond Screw Anchor Company. Furthermore, domestic firms producing tying devices, anchorages, inserts and accessories do not believe this business is subject to any import influence. The market for products similar to those manufactured by Richmond Screw Anchor Company is a specialized one and is not of sufficient size and concentration to warrant import competition.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tying devices, achorages, inserts, and accessories produced at the Tremont, Pennsylvania plant of Richmond Screw Anchor Company did not contribute importantly to the total or partial separations of the workers at such plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24552 Filed 8-19-76;8:45 am]

[TA-W-893]

TITANIUM PIGMENTS DIVISION, N. L. INDUSTRIES, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-893: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by the Chemical Workers Basic Union on behalf of workers and former workers producing titanium dioxide pigment at the St. Louis, Missouri plant of the Titanium Pigments Division of N. L. Industries, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on June 15, 1976 (41 FR 24234). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of N. L. Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria two (2) and four (4) have not been met.

U.S. imports of titanium dioxide pigment declined in each year from 1972 through 1975. U.S. imports of titanium dioxide pigment were 86,379 tons in 1972 declining to 60,419 tons and 34,996 tons, respectively, in 1973 and 1974. Imports declined to 26,506 tons in 1975. U.S. imports of titanium dioxide pigment increased from 4,057 tons in the first quarter of 1975 to 10,698 tons in the first quarter of 1976.

The ratio of imports of titanium dioxide pigment to domestic production declined from 12.0 percent in 1972 to 7.7 percent in 1973. The ratio of imports to domestic production declined to 4.4 percent in 1974 and remained at 4.4 percent in 1975. The ratio of imports to domestic production increased from 3.1 percent in the first quarter of 1975 to 5.7 percent in the same quarter of 1976.

The ratio of imports to titanium dioxide pigment to consumption was 10.9 percent in 1972. The ratio of imports to consumption declined to 7.4 percent and 4.4 percent, respectively in 1973 and 1974. The ratio of imports to consumption declined to 4.3 percent in 1975. The ratio of imports to consumption increased from 3.2 percent in the first quarter of 1975 to 5.6 percent in the same quarter in 1976.

Company sales and production increased 38.8 and 71.0 percent, respectively in the first quarter of 1976 compared to the preceding quarter. First quarter 1976 sales increased over first quarter 1975 sales by 71.7 percent.

Company employment of production workers increased 76.7 percent in the first quarter of 1976 compared to the preceding quarter.

A survey of customers purchasing titanium dioxide pigment produced at the St. Louis, Missouri plant indicated that none of these customers purchased titanium dioxide pigment in significant amounts from foreign sources.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports of titanium dioxide pigment have not contributed importantly to the total or partial separation of workers at Titanium Pigments Division, N.L. Industries, Inc. as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24548 Filed 8-19-76;8:45 am]

[TA-W-881]

THE TORRINGTON CO.

Notice of Negative Determination Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-881: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by three workers on behalf of workers and former workers producing antifriction roller bearings at the Broad Street plant of the The Torrington Company, Torrington, Connecticut. The Department's investigation revealed that production at the Broad Street plant consists of only the roller components utilized in the roller bearings produced by The Torrington Company.

The Notice of Investigation was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23821). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The Torrington Company and its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

Significant total or partial separations. The average number of production workers at the Broad Street plant increased 8.6 percent in 1974 compared to 1973, decreased 12.0 percent in 1975 compared with 1974 and has decreased 2.8 percent in the first quarter of 1976 compared with the first quarter of 1975.

Sales or production, or both, have decreased absolutely. Sales of anti-friction bearings in terms of value by The Torrington Company increased 11.3 percent in 1974 compared with 1973, decreased 10.1 percent in 1975 compared with 1974 and have increased 18.0 percent in the first quarter of 1976 compared with the first quarter of 1976.

Production of the anti-friction bearing roller components at the Broad Street plant increased 8.9 percent in terms of value in 1974 compared with 1973, decreased 10.7 percent in 1975 compared with 1974 and has increased 31.9 percent in the first quarter of 1976 compared with the first quarter of 1975.

Increased imports. Imports of antifriction roller bearings, other than tapered, in terms of value increased 58.5 percent in 1972 compared with 1971, increased 16.1 percent in 1973 compared with 1972, increased 72.3 percent in 1974 compared with 1973 and increased 20.5 percent in 1975 compared with 1974. The ratios of imports to domestic production and consumption increased from 8.6 percent and 8.7 percent, respectively, in 1974 to 9.9 percent and 9.9 percent, respectively, in 1975.

Contributed importantly. The Torrington Company imports no roller bearing rollers and Company roller bearing imports have averaged less than 1.5 percent of total sales since 1973.

V 41 163 AUG 20 76 UM

None of the customers surveyed have shifted purchases of roller bearings from Torrington to foreign sources. Reductions in purchases of roller bearings by automobile and automotive component parts manufacturers from Torrington and other domestic bearings manufacturers were in response to slumping automobile sales and production in 1975. Reductions in bearings purchases by non-automotive customers were made in response to adverse domestic business conditions. Imports were not a factor.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with anti-friction roller bearing rollers produced at the Broad Street plant of The Torrington Company located in Torrington, Connecticut did not contribute importantly to the total or partial separation of the workers at such plant.

Signed at Washington, D.C. this 11th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24545 Filed 8-19-76;8:45 am]

[TA-W-898]

UNITED TOOL & DIE, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-898: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 27, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing tools, dies, jigs, and fixtures at United Tool & Die, Inc., Salem, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24803). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Tool & Die, Inc., its customers, the Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

Significant total or partial separation. Employment at United Tool and Die declined 32 percent in 1975 compared to 1974, and by 52 percent in the first 5 months of 1976 compared to the same period of 1975. United Tool & Die closed on May 30, 1976.

Sales or production, or both, have decreased absolutely. Production of tools, dies, jigs and fixtures at United Tool & Die, Inc., decreased 30 percent in 1975 compared to 1974 and 53 percent in the first 5 months of 1976 compared to the same period of 1975, and ceased altogether with the closure of the plant in May 1976.

Increased imports. U.S. imports of tools, dies, jigs and fixtures increased both absolutely and relative to domestic production each year from 1971 to 1974. The value of imports of these items decreased from $30.1 million in 1974 to $29.8 million in 1975, and from $8.8 million in the first quarter of 1975 to $6.2 million in the first quarter of 1976. Relatively, imports increased from 1.18 percent of domestic production in 1974 to 1.69 percent in 1975.

The estimated value of imports of tools, dies, jigs and fixtures similar to the type manufactured by United Tool & Die, Inc., in no year from 1971 through 1975 represented more than 2 percent of domestic production and consumption.

Contributed importantly. Evidence developed in the Department's investigation revealed that customers of United Tool & Die, Inc., who decreased purchases did so primarily due to the adverse effects of the downturn in the economy in general, and the auto industry in particular, and the auto industry's increasing use of captive, in-house tool and die shops. Any decrease in purchases from United Tool & Die, Inc., in fiscal 1976 by customers who did shift to foreign sources represented only a minor amount of fiscal 1976 sales.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases in imports of tools, dies, jigs and fixtures like or directly competitive with those produced by United Tool & Die, Inc., Salem, Ohio did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 12th day of Augst 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24550 Filed 8-19-76;8:45 am]

[TA-W-910]

WILKINSON AND SON, INC.

Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-910: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 28, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers who fabricate and install marble for Wilkinson and Son, Incorporated, Somerville, New Jersey.

The noitce of investigation was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26298). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from company officials of Wilkinson and Son, Incorporated, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (1) and (4) have not been met.

The Department's investigation revealed that Wilkinson and Son, Incorporated, in Somerville, New Jersey, is a subcontractor engaged in procuring and installing stone materials for construction projects in the New York-New Jersey metropolitan area. Wilkinson handles ceramic tile, brick paving, exposed aggregate systems, terrazzo, marble, granite, lathing, plastering, and spray fireproofing services.

The only production facility operated by Wilkinson is a marble shop in Somerville, New Jersey. The shop is designed to handle small projects which do not require special machinery. The marble fabricated at the Somerville shop accounted for about two or three percent of Wilkinson's total volume of business in the last year.

Fabricated marble for large projects is purchased from larger marble shops in the U.S. or abroad. Company imports consist of rough marble, for fabrication at the Somerville shop, and of finished marble, for installation at the job site.

Wilkinson employs members of the Marble Workers Union either to fabricate marble at the Somerville shop or to install finished marble at job sites in the New York-New Jersey metropolitan area. In the last year there have been no layoffs due to lack of work at the marble shop, as required under Section 222(1) of the Act. Furthermore, evidence from past adjustment assistance cases involving marble firms in the New York City area indicates that since June 1975 marble installers have been allowed under a new union rule to install imported marble. Marble installers working for Wilkinson have not been adversely affected by increased imports of marble as required under Section 222(4) of the Act.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the marble fabricated at the Somerville plant of Wilkinson and Son, Incorporated, Somerville, New Jersey, did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 12th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24549 Filed 8-19-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 123]

ASSIGNMENT OF HEARINGS

AUGUST 17, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 97310 (Sub-No. 20), Sharron Motor Lines, Inc., now assigned September 13, 1976 at Montgomery, Alabama; will be held in Room 816 Aronov Building, 474 South Court Street.

MC-C-8733, Cango Corporation McNair Transport, Inc., Robertson Tank Lines, Inc., Chemical Leaman Tank Lines, Inc., Groendyke Transport Inc., and Western Commercial Transport Inc.—Investigation and Revocation of Certificates, now assigned September 21, 1976 at Dallas, Texas; will be held in Room 5A15–17 Federal Building, 1100 Commerce Street.

MC 19227 (Sub-No. 224), Leonard Bros. Trucking Co., Inc., now assigned September 24, 1976 at Dallas, Texas; will be held in Room 5A15–17 Federal Building, 1100 Commerce Street.

MC 111729 (Sub-No. 565), Purolator Courier Corp., now assigned September 27, 1976 at New Orleans, La.; will be held in East Courtroom, Room 223, U.S. Court of Appeals, 600 Camp Street.

MC 2860 (Sub-No. 150), National Freight, Inc., now assigned September 28, 1976, at Atlanta, Georgia; will be held in Room 305, 1252 W. Peachtree Street, N.W.

MC 119789 (Sub-No. 270), Caravan Refrigerated Cargo, Inc., now assigned September 30, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, N.W.

MC 106674 (Sub-No. 176), Schilli Motor Lines, Inc., now assigned October 1, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, N.W.

MC 107515 (Sub-No. 1002), Refrigerated Transport Co., Inc., now assigned October 4, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, N.W.

MC 29748 (Sub-No. 4), Direct Transport, Inc., now assigned September 28, 1976 at Raleigh, North Carolina; will be held in Room 209, Federal Building, 310 New Bern Avenue.

MC 123407 (Sub 298), Sawyer Transport, Inc., now being assigned September 27, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-24495; Filed 9-18-76; 8:45 am]

[AB 103 (Sub-No. 1)]

KANSAS CITY SOUTHERN RAILWAY COMPANY ABANDONMENT IN LAKES CHARLES, CALCASIEU PARISH, LOUISIANA

AUGUST 9, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed abandonment by the Kansas City Southern Railway Company (KCS) of its line of railroad in Lake Charles and West Lake, La., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that almost all of the traffic on the line is bridge traffic which would be rerouted over the nearby Southern Pacific line. Diversion of remaining traffic should result in only minimal increases in energy consumption, air pollution, and noise levels. Furthermore KCS has stated its intention to build connecting tracks to the SP so that the non-bridge traffic will continue to have direct rail access. There are no indications of developmental activities which relate to the line, and, therefore, the abandonment is not expected to have a serious adverse impact upon community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 17, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently comments, on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24496 Filed 8-19-76;8:45 am]

[Notice No. 106]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 16, 1976.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be

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no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 37327 (Sub-No. 7TA), filed August 9, 1976. Applicant: PENN EMPIRE TRANSPORT, INC., P.O. Box 517, Livongston Ave., Jamestown, N.Y. 14701. Applicant's representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Voting machines*, uncrated *and voting machine accessories*, between Jamestown, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, New York, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: AVM Corporation, 15 W. Second St., Jamestown, N.Y. 14701. Send protests to: George M. Parker, District Supervisor, Room 910, 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 47710 (Sub-No. 2TA), filed August 9, 1976. Applicant: G.J.R., INC., 7390 Harrison Pike, Cincinnati, Ohio 45247. Applicant's representative: Gordon J. Rahschulte (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel or crushed stone*, in bulk, in dump trucks, from the plant facilities of American Materials Corp., located at or near Harrison, Ohio, to Dearborn County Ready-Mix Plant at or near Greendale, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James L. Luegers, Assistant District Manager, American Materials Corp., P.O. Box 213, Harrison, Ohio. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 106398 (Sub-No. 748TA), filed August 9, 1976. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass reinforced plywood panels*, from Washington Court House, Ohio, to points in North Carolina and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cor-Tec, Inc., 2351 Kenskill Ave., Washington Court House, Ohio 43160. Send protests to: Joe Green, District Suprevisor, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 107478 (Sub-No. 24TA), filed August 9, 1976. Applicant: OLD DOMINION FREIGHT LINE, P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: J. T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and fruit or flavored drinks* (except in bulk, in tank vehicles), from Spartanburg, S.C., to points in North Carolina, Virginia, Maryland, South Carolina, Georgia, Florida, Alabama, and Tennessee. Applicant intends to tack its existing authority with MC 107478 and sub-numbers thereof, for 180 days. Supporting shipper: Colonial Stores Incorporated, P.O. Box 4358, Atlanta, Ga. 30302. Send protests to: Archie W. Andrews, District Supervisor, P.O. Box 26896, 624 Federal Bldg., 310 New Bern Ave., Raleigh, N.C. 27811.

No. MC 110191 (Sub-No. 29TA), filed August 10, 1976. Applicant: TURNER'S EXPRESS, INC., 1300 Shelton Ave., P.O. Box 1006, Norfolk, Va. 23502. Applicant's representative: D. L. Turner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, and Classes A and B explosives), in containers having a prior or subsequent movement by water, *and empty containers* having a prior or subsequent movement by water *and general commodities* (except in bulk and Classes A and B explosives), between Norfolk, Va., and points within 50 miles of Norfolk, Va., including Norfolk, Va., Accomac and Northampton Counties, Va. Applicant intends to tack its existing authority with MC 110191. Applicant also intends to interline at Norfolk, Va., for 180 days. Supporting shippers: There are approximately 7 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, 10–502 Federal Bldg., 400 N. 8th St., Richmond, Va.

No. MC 116004 (Sub-No. 39TA), filed August 9, 1976. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Irving, Tex. 75247. Applicant's representative: Doris Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Company, Inc., located at or near Henryetta, Okla., to points in Indiana, Iowa, Illinois, Ohio, Missouri, Kansas, and Texas, for 180 days. Supporting shipper: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 118159 (Sub-No. 181TA), filed August 9, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. Du Jardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Company, Inc., located at or near Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 124251 (Sub-No. 39TA), filed August 9, 1976. Applicant: JACK JORDAN, INC., Highway 41 South, P.O. Box 689, Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone*, in bulk, in tank vehicles, from Cumberland County, Tenn., to points in Whitefield and Gordon Counties, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Duvall Chemical, Inc., P.O. Box 3097, Dalton, Ga. 30721. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 125433 (Sub-No. 82TA), filed August 9, 1976. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Kenneth W. Barber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Panguitch, Utah, and Fredonia, Ariz., to points in Oklahoma, Texas, and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaibab Industries, P.O. Box 20506, Phoenix, Ariz. 85026. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 134022 (Sub-No. 21TA), filed August 9, 1976. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported malt beverages*, in packages or containers, from Port of Entry, Detroit and Port Huron, Mich., to Milwaukee, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: "Tiffany Distributing, Inc., 3516 W. Pierce St., Milwaukee, Wis. 53215. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 135384 (Sub-No. 21TA), filed August 9, 1976. Applicant: SPECIALIZED TRUCK SERVICE, INC., Highway 81 & I–75, Route 3, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, 3384 Peachtree Road, N.E., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising material and empty malt beverage containers*, from Fort Worth, Tex., to Panama City, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Panama Beverage Company, 927 Mulberry Ave., Panama City, Fla. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 136897 (Sub-No. 18TA), filed August 4, 1976. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, Suite 312, 4040 E. McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Composition and prepared roofing*, from points in Los Angeles County, Calif., to points in Arizona, under a continuing contract with A. & H. Supply Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. & H. Supply Company, Inc., 1702 E. Jackson, Phoenix, Ariz. 85034. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 138144 (Sub-No. 10TA), filed August 9, 1976 Applicant: FRED OLSON CO., INC., 6022 W. State St., Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 237 South La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*; and (2) *Materials and supplies* used in the manufacture and distribution of electric motors and generators, from Earlville, Ill., to Wausau, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shipper: Marathon Electric Manufacturing Corp., Randolph & Cherry Streets, Wausau, Wis. 54001. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 138933 (Sub-No. 6 TA), filed August 9, 1976. Applicant: DEUTZ & CROW CONCRETE CORP., 800 West College Drive, P.O. Box 589, Marshall, Minn. 56258. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk cement*, from Watertown, S. Dak., to Marshall, Canby and Madison, Minn., under a continuing contract with Deutz & Crow Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Deutz & Crow Co., Inc., Box 85, Marshall, Minn. 56258. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 138952 (Sub-No. 2TA), filed August 6, 1976. Applicant: CENTRAL CITY EXPRESS, INC., 1822 Rarkway Towers, P.O. Box 7402, Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk and those requiring special equipment), between Nashville, Tenn., and Central City, Ky., serving all intermediate points between Russellville, Ky., and Central Ctiy, Ky. (except Russellville), and serving Paradise, Ky., as an off-route point in connection with carrier's authorized regular route operations, from Nashville, Tenn., over U.S. Highway 431 to Central City, Ky., and return over the same route; from Nashville, Tenn., over U.S. Highway 41 to junction U.S. Highway 431, at Springfield, Tenn., and thence over U.S. Highway 431 to Central City, Ky., and return over the same route. Restriction: Restricted against the handling of traffic originating at or destined to Louisville, Ky., and points within its commercial zone, on the one hand, and, on the other, traffic originating at or destined to points in Davidson County, Tenn., Applicant intends to tack its existing authority with MC 138952. Applicant also intends to interline at points in Davidson County, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Nelson Company of Kentucky, Third St., Lewisburg, Ky. 42256. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 140019 (Sub-No. 2TA), filed August 9, 1976. Applicant: W. A. EMRICK TRUCKING, INC., R.D. No. 2, Box 131, Linden, Pa. 17744. Applicant's representative: Charles R. Chamberlain, 6615 Adrian St., New Carrollton, Md. 20784. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from English Center (Pine Township), Pa., to Dresden and Bainbridge, N.Y., under a continuing contract with Fisher Mining Company, for 180 days. Supporting shipper: Fisher Mining Company, % Charles Spoler, CPA, 901 Market St., Williamsport, Pa. 17701. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 140829 (Sub-No. 17 TA), filed August 9, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representatives: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corporation, at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia. Restriction: Restricted to the transportation of traffic originating at the named origin points and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. C. Besser, Manager Transportation Services, Kraftco Corp., 500 Peshtigo Ct., Chicago, Ill. 60690. Send Protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 141197 (Sub-No. 7 TA), filed August 3, 1976. Applicant: FLEMINGBABCOCK, INC., 3d & Branch Streets, P.O. Box 107, Platte City, Mo. 64079. Applicant's representative: Lucy Kennard Bell, 101 West Eleventh, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Nowata County and Rogers County, Okla., to Springfield, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Associated Producers Company, P.O. Box 60725, Oklahoma City, Okla. 73106. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 142330 (Sub-No. 1 TA), filed August 4, 1976. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, food stamps, data processing media, and microfilm;* between New Orelans, La., on the one hand, and, on the other points in Baldwin and Mobile Counties, Ala., and points in Issaquena, Sharkey, Yazoo, Madison, Leake, Neshoba and Kemper Counties, Miss., and points in Mississippi south of said counties, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 28 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW, Room 546, Atlanta, Ga. 30309.

No. MC 142330 (Sub-No. 2 TA), filed August 9, 1976. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit and accounting media, business records, cash letters, data processing media, food stamps and microfilm*, between Scottsbluff, Nebr., on the one hand, and, on the other, Torrington, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Omaha National Bank, 17th and Farnam, Omaha, Nebr. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 142330 (Sub-No. 3 TA), filed August 9, 1976. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, audit and data processing media and business records and materials*, between points in Henrico County, Va., on the one hand, and, on the other, Gaithersburg, Baltimore, Crofton and Annapolis, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D.S.C. Computer Company, Inc., P.O. Box 9626, Richmond, Va. 23228. Send Protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW, Room 546, Atlanta, Ga. 30309.

No. MC 142333 TA, filed August 4, 1976. Applicant: STEEL TRANSPORT, INC., 9950 Cherry Ave., Fontana, Calif. 92335. Applicant's representative: C. Gene Wolfinbarger (same address as applicant). Authority sought to operate as a *common carirer*, by motor vehicle, over irregular routes, transporting: *Montmorillonite*, from points in Mineral County, Nev., to points in the United States in and west of Montana, Wyoming, Colorado and New Mexico (except Nevada, Hawaii and Alaska), for 180 days. Supporting shipper: John C. & Anna R. Darrah, 12990 Branford St., Bldg., A, Arleta, Calif. 91331. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142336 TA, filed August 9, 1976. Applicant: D. TERRY CHAMNESS, doing business as TERRY'S ROAD TRUCK AND WRECKER SERVICE, 4331 South 12th St., Kalamazoo, Mich. 49009. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing, Bldg., Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed and replacement vehicles*, between points in Kalamazoo County, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Maryland, Ohio, Wisconsin and Minnesota, for 180 days. Supporting shippers: There are 14 statements of support attached to: C. R. Flemming, District Supervisor, ined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-24497 Filed 8-19-76; 8:45 am]

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federal register

FRIDAY, AUGUST 20, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Proposed Investigational Device Exemptions

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0324]

[21 CFR Parts 4, 6, and 801]

MEDICAL DEVICES

Proposed Investigational Device Exemptions; Cross-Reference Amendments

Elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration (FDA) proposes to prescribe procedures and conditions under which medical devices intended for human use may be exempted from certain requirements of the Federal Food, Drug, and Cosmetic Act to permit investigational studies concerning safety and effectiveness. The Commissioner of Food and Drugs is proposing in this document to make conforming changes in other FDA regulations; comments by October 19, 1976.

Because they contain references to sections affected by the proposed medical device regulations, the Commissioner proposes to amend Parts 4, 6, and 801 by inserting the applicable references to investigational devices as follows:

PART 4—PUBLIC INFORMATION

1. By amending § 4.100 by redesignating paragraph (c)(28) as paragraph (c)(29), and by adding new paragraph (c)(28). As revised, paragraph (c)(28) and (29) reads as follows:

§ 4.100 Applicability; cross-reference to other regulations.

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(c) • • •

(28) Investigational device applications, in § 812.38 of this chapter.

(29) Electronic product information, in §§ 1002.4 and 1002.42 of this chapter.

PART 6—ENVIRONMENTAL IMPACT CONSIDERATIONS

2. By amending § 6.1 by revising paragraph (d)(5) as follows:

§ 6.1 Applicability.

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(d) • • •

(5) Investigational new drug applications, investigational new animal drug applications, and investigational device applications, unless the agency notifies the applicant that one is required.

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PART 801—LABELING

3. By amending § 801.4 by adding the words "and Part 812" to the first sentence as follows:

§ 801.4 Meaning of "intended uses."

The words "intended uses" or words of similar import in §§ 801.5, 801.119, 801.122, and Part 812 refer to the objective intent of the persons legally responsible for the labeling of devices.

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4. By adding new § 801.124 as follows:

§ 801.124 Medical devices subject to investigational device exemptions.

A shipment of a device for investigational use is exempt from section 502(f)(1) of the act if it complies with the qualifications for an investigational device exemption prescribed in § 812.5 of this part.

Interested persons may, on or before October 19, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 12, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

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[Docket No. 76N-0324]

[21 CFR Part 812]

MEDICAL DEVICES

Proposed Investigational Device Exemptions

The Food and Drug Administration (FDA) proposes to prescribe procedures and conditions under which medical devices intended for human use may be exempted from certain reequirements of the Federal Food, Drug, and Cosmetic Act to permit investigational studies concerning safety and effectiveness. Comments on the proposal may be submitted on or before October 19, 1976.

The Commissioner of Food and Drugs is proposing to amend Title 21 of the Code of Federal Regulations by adding a new Part 812 to prescribe procedures and conditions to qualify for such exemptions, the procedure for submitting an application for an investigational device exemption to FDA, and the requirements applicable to sponsors of investigational studies, institutional review committees that supervise studies, and clinical investigators. The proposed regulations also require the written informed consent of human subjects involved in such studies. The Commissioner is proposing that the final regulations become effective 90 days after their publication.

The Medical Device Amendments of 1976 (Pub. L. 94-295), hereinafter referred to as "the Amendments," amending the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq. (21 U.S.C. 201 et seq.)), hereinafter referred to as "the act," became law on May 28, 1976. Section 520(g) of the act (21 U.S.C. 360j) requires the Secretary of Health, Education, and Welfare, within 120 days after the date of enactment of the Amendments, to prescribe by regulation, procedures and conditions for exempting devices for investigational use. As stated in an FDA notice published in the FEDERAL REGISTER of June 4, 1976 (41 FR 22620) concerning the implementation of the Amendments, authority under the act is delegated to the Commissioner under § 5.1 (21 CFR 5.1; recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)). The notice also stated that among the regulations to be published in the future in the FEDERAL REGISTER, would be proposed regulations concerning exemptions for investigational use of medical devices.

SUMMARY OF STATUTORY REQUIREMENTS

Requirements relating to investigational use of devices are found in section 520(g) of the act. Section 520(g) and the related provisions discussed below have two major purposes. One purpose is to encourage the discovery and development of useful devices for human use. A second purpose is to protect the public health by requiring safeguards for human subjects of investigations, maintenance of sound ethical standards, and procedures to assure development of reliable scientific data. The proposed regulations seek to achieve these two purposes.

Section 520(g) authorizes the exemption of devices from otherwise applicable provisions of the act relating to misbranding, registration, premarket notice, performance standards, premarket approval, banned devices, records and reporting requirements, restrictions on distribution of devices, good manufacturing practice requirements, and use of color additives in devices, to permit devices to be shipped for investigational studies to determine their safety and effectiveness.

Under section 520(g), regulations permitting exemptions for investigational use are to include requirements necessary for the protection of the public health and safety. One of the requirements is that persons seeking an exemption submit an application to FDA and maintain records of and make reports concerning the investigation. Also, in investigations involving human subjects, the person applying for the exemption (the sponsor) must comply with a number of requirements to assure that the rights and safety of these subjects are adequately protected; namely, investigations must be reviewed by a qualified institutional review committee (if one exists), each investigator must agree that any testing involving human subjects will be under his supervision, and written informed consent must be obtained from the subjects or their representatives, with very limited exceptions. Where a qualified institutional review committee exists, it shall bear significant responsibility for monitoring the study. To provide for flexibility in regulatory requirements, section 520(g) permits variations in the procedures and conditions governing investigational device exemptions depending on the nature, scope, and purpose of the study.

An application for an investigational device exemption that meets the requirements of FDA regulations is deemed approved 30 days after it is submitted to FDA, thus permitting testing to begin with little delay unless the applicant seeks an investigational exemption from a banned device regulation, in which case affirmative FDA approval of the exemption is required. The Commissioner may, however, disapprove an application for an investigational device exemption within the 30-day period if he finds that the application does not conform to procedures and conditions prescribed in the regulations. In addition, FDA may withdraw an exemption for failure to comply with any of the conditions for exemptions for investigational use of devices.

The Food and Drug Administration may enforce the investigational device provisions in section 520(g) of the act through several amendments to section 301 of the act (21 U.S.C. 331) enumerating prohibited acts that are enforceable by injunction or prosecution. Most importantly, new section 301(q)(1) makes it a prohibited act to fail or refuse to comply with any requirement prescribed under section 520(g) of the act. In addition, under new section 301(q)(2) of the act, it is a prohibited act to submit, with respect to any device, any report required by or under the act that is false or misleading in any material respect. The latter prohibition applies to all reporting requirements under the act concerning devices, including reporting under the investigational device regulations, and supplements the penalties provided by the False Reports to the Government Act, 18 U.S.C. 1001. In addition, section 301(l) of the act as amended makes it a prohibited act to represent or suggest in the labeling or advertising of any device that FDA has approved an application for an exemption under section 520(g).

Other enforcement provisions are found in amendments to section 501 of the act, defining conditions under which devices are considered adulterated and thus unlawful. New section 501(f) bars shipment of a device that is subject to a which does not have in effect either an application for premarket approval or an investigational device exemption. However, a temporary grace period from this provision is provided until 90 days after final issuance of the regulations being proposed in this notice for certain devices, intended solely for investigational use, that had not been marketed before enactment of the Amendments. Also, under new section 501(i), an investigational device is considered adulterated if either the person granted the exemption or an investigator using the device fails to comply with a requirement under section 520(g) of the act.

The amended act also includes provisions to protect trade secrets acquired by FDA under the investigational device regulations (section 301(j), as amended), to facilitate FDA inspection of required records (section 704, as amended), and to require investigational devices for export to be approved by the foreign government and by FDA (section 801(d), as amended).

RELATED REGULATIONS

The Department of Health, Education, and Welfare has promulgated regulations (45 CFR Part 46) to protect human subjects in research supported by Departmental grants and contracts. The requirements in these proposed regulations concerning institutional review committees and informed consent of human subjects are similar to the Departmental regulations in many respects. Differences are the result of special statutory requirements and guidance in legislative history or particular regulatory needs.

The Food and Drug Administration has regulated the investigational use of new drugs, biologics, and antibiotic drugs for a number of years, pursuant to sections 505(i) and 507(d)(3) of the act (21 U.S.C. 355(i) and 357(d)(3)) and § 310.102 and Part 312 (21 CFR 310.102 and Part 312). The proposed regulations governing investigational use of medical devices (hereinafter, "proposed investigational device regulations") are similar in substance to, although different in format from, existing regulations governing investigational use of new drugs (hereinafter, "IND regulations"). Many provisions of the proposed investigational device regulations redesignate or restate current requirements of the IND regulations, although sometimes more directly or clearly. For example, under the IND regulations, many regulatory requirements are stated only in forms to be completed by sponsors and investigators, while the proposed investigational device regulations state the duties of sponsors and investigators in the text.

Other provisions of the proposed investigational device regulations differ from current provisions of IND regulations. Some of the differences reflect specific requirements of new section 520(g) or specific guidance in the legislative history. Other differences reflect ideas being considered in new FDA policy that may eventually be proposed for all investigational products, whether new human drugs, biologics, or devices. However, any such differences should not be viewed as fixed agency policy, but rather proposals reflecting tentative agency thinking.

Currently, FDA has underway a number of efforts to improve, clarify, and strengthen its regulatory programs for control of investigational articles. The agency has long recognized the need to upgrade its programs in this area, and will receive special funding for this purpose for fiscal year 1977. The Commissioner is also considering proposals concerning this area, made by representatives of consumers and industry, members of Congress, and the General Accounting Office in a report on regulation on investigational new drugs dated July 15, 1976 (ref. 1). It is likely that the agency's comprehensive review of its control of investigational articles will result in changes in both the IND regulations and the investigational device regulations that are proposed in this notice. Furthermore, in the near future FDA intends to publish uniform, agency-wide regulations governing clinical investigations, to the extent possible considering the differences among regulated articles and applicable statutory authorities. At the time such uniform regulations are published, appropriate revisions will be made in the investigational device regulations. For example, the Commissioner will soon propose regulations to redesignate, clarify, and improve requirements applicable to all clinical investigators conducting studies regulated under the act, as well as requirements governing institutional review committees that monitor their studies and disqualifications of clinical investigators. When these regulations are published, FDA may merge certain portions of the proposed investigational device regulations with the uniform regulations.

The Commissioner had hoped to coordinate more closely the agency's efforts to improve its regulations governing investigational products with its implementation of the Medical Device Amendments of 1976. However, new section 520(g) imposes a very restrictive schedule for publication of final investigational device regulations. Because of the Commissioner's desire to meet this statutory schedule as nearly as possible, and because evaluation of needed revisions in investigational drug regulations is continuing, it was not possible to accomplish these objectives simultaneously. Publication of the proposed investigational device regulations in advance of the publication of proposed agency-wide regulations, including revisions of the IND regulations, affords interested persons an additional opportunity to provide comments on policy options available to the agency. Many of the persons interested in regulation of device investigations are also interested in regulation of drug investigations. The Food and Drug Administration's efforts to develop these agency-wide regulations, which will be continuing during the comment period and thereafter, may be aided by comments received on these proposed device regulations.

THE 120-DAY DEADLINE

Although section 520(g) of the act requires FDA to publish final investigational device regulations by 120 days after enactment of the Amendments, i.e., by September 27, 1976, FDA cannot now meet the statutory deadline because it has not been possible to publish this proposal at a sufficiently early date to accommodate both the 60 days required by the act for comment and the time needed to read, consider, and respond to comments received on the proposal and to make appropriate revisions in the final regulations. The delay has occurred because numerous and complex issues involved in the proposed investigational device regulations needed to be resolved at the same time that limited agency personnel involved in medical device regulatory activities have been attempting to implement other provisions of the Amendments.

Although the agency cannot meet the 120-day deadline, it will publish final

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regulations as quickly as possible after the period for comment closes. However, the Commissioner advises that additional delay may occur in publishing final regulations, depending on the comments received.

Although interested persons are given until October 19, 1976, to submit comments on the proposal, because of the statutory deadline FDA will begin evaluating the comments and preparing a final document on October 4, 1976.

INVESTIGATIONAL DEVICE EXEMPTIONS

The proposed regulations governing investigational device exemptions will be a new Part 812 of Title 21 of the Code of Federal Regulations.

GENERAL PROVISIONS

Subpart A of proposed Part 812 sets forth the general provisions relating to investigational device exemptions.

SCOPE

Proposed § 812.1(a) states that the purpose of Part 812 is to provide that a device may be exempted from certain requirements of the act that would otherwise be applicable, to permit investigational studies by experts who are qualified by scientific training and experience to investigate the safety and effectiveness of devices intended for human use.

Proposed § 812.1(b) describes the two objectives of Part 812: To encourage the discovery and development of useful devices and to protect the public health and particularly to assure the protection and preserve the rights of subjects of investigational studies.

Proposed § 812.1(c) enumerates the provisions of the act from which an investigational device may be exempted. In general, such a device shall be exempt from the provisions relating to misbranding, registration and premarket notification, performance standards, premarket approval, records and reports, restricted devices, good manufacturing practices, and color additives. However, a device is not exempt from a provision of the act if the sponsor indicates that an exemption is not requested as to that provision, or if the Commissioner indicates that a device is not exempt from that provision. Also, a device may be exempted from section 516 of the act authorizing banned device regulations, but only if the Commissioner has affirmatively approved an application for such an exemption.

APPLICABILITY

Proposed § 812.2 describes the circumstances in which a use of an investigational device is subject to the requirements of proposed Part 812.

Under proposed § 812.2(a), Part 812 would apply to any device intended for human use, including any in vitro diagnostic product for diagnosis of any human disease or condition, if such device would be subject to Part 812 according to the other criteria prescribed in the proposed section.

The Amendments included a provision revising the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)). Under the revised definition, the term "device" encompasses an article used in the healing arts which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes. An article that does achieve any of its principal intended purposes through such chemical action or is dependent upon being metabolized continues to be regulated as a drug. Under this new distinction between devices and drugs, it is clear that the term "device" now includes any in vitro diagnostic product, although many in vitro diagnostic products were regarded previously as drugs. Furthermore, another change in the definition of "device" clarifies that a device includes an article for use in the diagnosis of conditions other, e.g., pulse, than disease.

In the proposed regulations, the Commissioner has provided that in vitro diagnostic products shall be subject to proposed Part 812 to the same extent as other devices. However, the Commissioner recognizes that there may, in some cases, be good reasons to differentiate investigations involving in vitro diagnostic products from investigations involving other devices.

Some investigations of in vitro diagnostic products pose no safety risk to the subject. For example, a standard urine sample may be taken from a patient for purposes of determining pregnancy, and the test could be made both with an experimental in vitro pregnancy detection product as well as with an accepted in vitro product that is known to be effective, to see if the experimental product works as reliably as the accepted product. Such a test would pose no added safety risk to the patient. However, it may be desirable that the patient be told that she is taking part in an experiment, as would be required in proposed Subpart F. Furthermore, FDA would have an interest in assuring that records of the comparison of the experimental product with the accepted product are developed and maintained in such a way as to assure the reliability of the resultant data, particularly where the results of the test would be used in support of an application for premarket approval or in relation to a proposed performance standard for pregnancy detection kits.

Some investigations of in vitro diagnostic products may pose a safety risk to the subject. For example, if a hospital decided to test a new blood-typing device by taking samples of blood from all patients in the hospital, the patients would be exposed to some risk because of the withdrawal of blood, and informed consent requirements and other subject safeguards should be observed. The Commissioner would be particularly concerned about the rights and safety of subjects in situations where a subject does not stand personally to gain from the experiment, or is being subjected to a greater safety risk than that to which he would have been exposed, had he not been involved in the investigation. For example, a blood sample may be taken from the patient because it is necessary to monitor his condition, but if the sample taken is unusually large because of the investigation of the blood-typing device, the patient is being subjected to additional risk.

Some investigations of in vitro diagnostic products involve considerable safety risk. This would be true, for example, if a physician were to use an experimental product for detection of a serious condition without concomitant use of the accepted method, because the patient would be subjected to the risk that the disease would not be detected and, thus, deprived of an effective diagnosis. The Commissioner believes it possible that different requirements should apply to investigations in these various situations and requests specific comments on this issue.

It may be that an abbreviated consent form may be appropriate where there is not a safety risk and the chief concerns are that patients be informed that they are subjects in an experiment and that their dignity and privacy be protected. These are valid ethical considerations even in investigational studies of devices that do not involve safety risks to subjects. To protect the dignity of subjects, it may be appropriate to require informed consent in connection with investigations of devices on tissue, blood, or in any situation where the patient or any tissue from his body is involved in an experiment. Also, requiring informed consent even where there is no risk to the patient may be needed to protect privacy, such as informing a person who is being tested for venereal disease that an investigational product will be used and also assuring that, notwithstanding his involvement in the experiment, his identity will remain confidential.

Proposed § 812.2(a)(2) clarifies that proposed Part 812 does not apply to any device intended for veterinary use. Of course, if a product that is labeled for, or otherwise purported to be for, veterinary use is found to be used in an investigational study involving human subjects, such device will be regarded as intended for human use and therefore subject to the requirements of proposed Part 812.

Proposed § 812.2(a)(3) clarifies that proposed Part 812 is not limited to investigational studies undertaken to develop data to obtain approval for commercial distribution of a device, but also applies both to fundamental research on devices and to situations in which an investigational device is used by a practitioner to treat an individual human subject.

Under proposed § 812.2(a)(4), proposed Part 812 would not apply to a device that is being used in an experiment, but in a manner and for a purpose which is included in labeling prescribed by regulation or approved under the premarket approval provisions of the act.

Section 520(g) of the act permits devices to be exempted, for purposes of investigational use, from several provisions of the act that might otherwise bar their shipment. A device may be exempted not

only from the premarket approval requirements of section 515 of the act, but also from requirements relating to performance standards, misbranding, registration and premarket notification, and other matters. Thus, it is necessary for regulations to define circumstances in which shipment of a device for an investigational study requires an exemption to avoid violation of the other requirements. This is the primary objective of proposed § 812.2, and particularly paragraphs (b) and (c).

There is little difficulty defining the circumstances in which devices that were not in commercial distribution on May 28, 1976, the effective date of the Amendments, must comply with the requirements of this part. Such devices are automatically classified in class III (premarket approval) unless they are substantially equivalent to devices in commercial distribution on May 28, 1976 or have been reclassified in class I (general controls) or class III (performance standards).

The only way in which a manufacturer or other sponsor of a device that had not been in commercial distribution before May 28, 1976, can be sure that a device is substantially equivalent to one that was in commercial distribution before such date is where the sponsor has submitted a premarket notification under section 510(k) of the act and received from FDA a response that the postenactment device is substantially equivalent to a pre-enactment device. Without a response from FDA to a premarket notification, the postenactment device is presumptively in class III. Any postenactment device that remains in class III must have an approved application for premarket approval before it may be shipped for any use, or an exemption from the requirements of section 515 of the act (21 U.S.C. 360e) that permits shipment for investigational use. If such a device has neither an approved application nor an investigational exemption, it is subject to regulatory action under section 501(f)(1) of the act.

The Commissioner is proposing to treat any postenactment device that is determined to be substantially equivalent to devices in commercial distribution on May 28, 1976, in the same fashion as the devices to which it is substantially equivalent. He is proposing to treat any postenactment device that, though not substantially equivalent to any pre-enactment device, is reclassified in class I or class II in the same fashion as pre-enactment devices that are classified in these categories.

The principal difficulty has arisen in defining the applicability of these proposed regulations to devices that were in commercial distribution on the date of the enactment of the new Amendments which have not been finally classified, and for which the act provides transitional periods for the devices to achieve compliance with any requirements concerning performance standards or premarket approval that may ultimately apply. The Commissioner believes that appropriate safeguards must apply to clinical investigations conducted during any transitional period applicable to such devices that are classified, or are likely to be classified, into class III. Under the Amendments, at least 3 years will expire before any such device must have an approved application for premarket approval, because under section 501(f)(2)(B) of the act, a requirement for holding an approved application cannot be enforced until 30 months after the effective date of a final regulation classifying a device in class III. During this transitional period, manufacturers of such devices are likely to want to conduct clinical studies to assure that they will have sufficient safety and effectiveness information when the FDA publishes a regulation under section 515(b) of the act demanding the submission, within 90 days, of applications for premarket approval.

The Commissioner intends to assure that clinical investigations of any potential, or finally classified, class III device are conducted in accordance with the requirements of proposed Part 812 for protection of human subjects, particularly the requirements relating to informed consent and, where applicable, institutional committee review. The Food and Drug Administration also has an interest in assuring that clinical investigations are conducted in a way that assures the reliability of data, both because this will facilitate the agency's eventual review of any resulting application for premarket approval and because poorly conducted studies expose subjects to unnecessary risks.

Competing concerns argue against application of the full requirements of proposed Part 812 to investigations of devices subject to a transitional period. First, because many of these products have been in clinical use for several years, there already exists a fairly well developed body of data supporting their safety and effectiveness. In such cases, the restrictions on labeling claims that should ordinarily apply during investigational studies may not be appropriate, and other requirements of the regulations may also be excessive. Second, the Amendments contemplate that pre-enactment class III devices and substantially equivalent postenactment devices may continue to be distributed commercially during the transitional period. It is doubtful that Congress intended investigational device controls promulgated under section 520(g) of the act to apply to the routine use of already marketed devices. At the same time, members of Congress probably expected that such controls would apply in instances where clinical use would result in development of data to be submitted to the FDA in an application for premarket approval. Third, many of the products involved may be critical or life-sustaining, and imposition of investigational device controls should not prevent their use. Finally, the Commissioner believes that further testing of many devices that will ultimately be subject to premarket approval is desirable, and he is concerned that rigorous imposition of investigational device controls may discourage such studies.

In summary of the foregoing discussion, proposed § 812.2(b) defines the applicability of proposed Part 812 to devices currently subject to a premarket approval requirement. Under § 812.2(b), the proposed regulations would apply to any clinical use in humans of a device that falls in any of three categories:

1. Devices classified in class III (premarket approval) by section 513(f) of the act (21 U.S.C. 360c) (i.e., any device that was not in commercial distribution before May 28, 1976, and is not substantially equivalent to a device that was in commercial distribution before such date) that have not been reclassified in class I (general controls) or class II (performance standards) and for which no approved application for premarket approval under section 515 of the act is in effect.

2. Devices that were in commercial distribution before May 28, 1976, or are substantially equivalent to any device that was in commercial distribution before such date, and that have been classified in class III (premarket approval) by regulation promulgated under section 513(d) of the act, and for which after the applicable transitional period no approved application for premarket approval under section 515 of the act is in effect.

3. Devices that were regarded as new drugs or antibiotic drugs before May 28, 1976 are class III devices under section 520(l) of the act (special transitional procedures for products whose regulatory status has changed because of the revised definition of "device"), and for which no approved application for premarket approval under section 515 of the act is in effect; as well as devices that were the subject of a notice of claimed exemption for an investigational new drug (IND) under Part 312 (21 CFR Part 312).

The Food and Drug Administration's preliminary resolution of the applicability of investigational controls to devices not currently subject to the requirement of an approved application for premarket approval appears in proposed § 812.2(c). Because of the foregoing concerns, the Commissioner specifically requests comments on the approach proposed. In particular, the Commissioner invites comments on whether, or in what manner, investigations of devices not currently subject to a premarket approval requirement should be distinguished from those that are currently subject to such a requirement; whether it is appropriate to apply the same controls to pre-enactment devices that are applied to substantially equivalent postenactment devices; whether the controls applicable to investigational study of a device should vary with the device's classification; and whether there are any uses of devices not currently subject to a premarket approval requirement, other than studies collecting data on safety and effectiveness, that should and may be subject to investigational controls.

Proposed § 812.2(c) limits the applicability of investigational device controls

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before final classification regulations have been published to devices that are intended to be implanted in the human body, that are purported or represented to be for use in supporting or sustaining human life, or that pose an inherent significant hazard to patients or subjects. Thus, before final classification, there would be no circumstances in which investigational device controls would apply to a device that is not intended to be implanted, is not for a life-supporting or life-sustaining use, or does not impose a significant hazard. Once a final regulation has become effective classifying in class III a device not yet subject, because of a transitional period, to the requirements of an approved application for premarket approval, investigational controls would apply to any investigational study of the device, under proposed § 812.2(c)(2)(ii).

Additionally, when a final regulation has become effective classifying a device in class I (general controls) or class II (performance standards), investigational controls shall apply to clinical tests of the device, if the device requires an exemption from the requirements of any of the provisions of the act enumerated in section 520(g)(2)(A) of the act. However, the Director of the Bureau of Medical Devices and Diagnostic Products may, upon petition by a sponsor, waive the applicability of any specific requirement of the investigational controls for any study to which the controls would otherwise apply. In ruling upon a petition, the Director would consider, among other factors, the hazards that may be associated with the device in the investigational study proposed to be undertaken.

Proposed § 812.2(d) describes the relationship between the investigational device controls in proposed Part 812 and the product development protocol provisions in section 515(f) of the act. These provisions afford a means of obtaining FDA's permission to market a class III device by a procedure other than the conventional premarket approval procedures in section 515 (c) through (e) of the act, which are modeled largely on the procedures for premarket approval of new drugs in section 505 of the act. Where FDA allows a device to be developed pursuant to a product development protocol, the product is developed at the same time that data concerning safety and effectiveness are being collected, and it is expected that FDA and the advisory committees that serve as classification panels will provide substantial assistance to the sponsor concerning the testing and development of the product.

Proposed § 812.2(d)(1) provides that having in effect an approved notice of completion of a product development protocol shall be considered the equivalent of having in effect an approved application for premarket approval of a device, for purposes of determining the applicability of investigational device controls to a product.

Under proposed § 812.2(d)(2), Part 812 shall apply to any study of a device pursuant to a product development protocol. It may be appropriate for FDA to revise this provision when final regulations become effective prescribing procedures for developing a device pursuant to a product development protocol, if such regulations provide alternative provisions to achieve some or all of the objectives of proposed Part 812. Until such regulations are promulgated, however, it is important that "the requirements for proof of safety and effectiveness are no less stringent under the [product development protocol] procedures than they are under the procedure requiring an application for premarket approval" which customarily occurs after an investigational exemption (ref. 2, at 33).

Under proposed § 812.2(e), custom devices would be subject to investigational controls just as any other device, even though section 520(b) of the act exempts custom devices from requirements relating to performance standards and premarket approval. In enacting the custom device provisions in section 520(b), Congress recognized that devices must sometimes vary from requirements in standards or premarket approval provisions to meet individual needs of practitioners and patients. However, Congress did not exempt custom devices from otherwise applicable provisions of the act, including investigational device controls (ref. 2, at 45).

DEFINITIONS

Proposed § 812.3 defines a number of terms used in proposed Part 812. Among the terms defined are "sponsor," "investigator," and "sponsor-investigator." These definitions, which are suitable for eventual adoption in general FDA regulations governing investigational use of products, differentiate between the duties of sponsors and investigators. "Sponsor" is defined as a person who in initiates and supports, by financial or other means, an investigational study of a device but who does not actually conduct the study (i.e., does not actually administer the investigational device to, or use it involving, a subject) unless such person is a sponsor-investigator. "Investigator" means a person who actually conducts the investigational study of a device (i.e., actually administers the investigational device to, or uses it involving, a subject). "Sponsor-investigator" means a person who both initiates and conducts, alone or with others, an investigational study. A sponsor-investigator has the responsibilities both of sponsor under proposed Subparts B and C and of investigator under proposed Subparts E and F.

A proposed definition of "person" clarifies that sponsors may be individuals, partnerships, corporations, associations, scientific or academic establishments, government agencies, and other legal entities.

The proposed regulation does not include a definition of the term "commercial distribution." A definition for this term will be included in proposed regulations soon to be published in the FEDERAL REGISTER by FDA implementing the registration and premarket notification requirements for medical devices under section 510 of the act. This proposed definition will govern any use of the term "commercial distribution" with regard to proposed Part 812.

GENERAL QUALIFICATIONS FOR AN EXEMPTION

Proposed § 812.5 enumerates the conditions that must be met for an investigational device to be exempted from otherwise applicable requirements of the act.

Proposed § 812.5(a) requires the label of the device to bear the name and place of business of the manufacturer, packer, or distributor, the quantity of contents, and a cautionary statement that the device is limited to investigational use. If the investigational device is a diagnostic product, the label is permitted to refer to the article as a diagnostic product to reduce possible confusion among investigators and other handlers of the device. The requirements proposed under § 812.5(a) apply only when an investigational device is shipped and do not apply so long as the device remains in the laboratory where it is developed. Where shipped, these label statements are necessary to assure that the origin of the product can be identified and to deter diversion of the product into noninvestigational use.

Under proposed § 812.5(b), the labeling of an investigational device shall not be false or misleading in any particular. This requirement, which is also found in section 502(a) of the act, is necessary to assure that false or misleading statements are not included in labeling of investigational devices. However, this requirement is not intended to interfere with investigational studies conducted in accordance with proposed Part 812. Thus, the labeling of an investigational device would not be regarded as false or misleading if it complied with the proposed regulations although it failed to bear information expected in labeling of marketed devices. The Commissioner recognizes that one important purpose of investigational studies is to determine what information should go in the labeling of a device.

If a shipment of a device is for an investigational study involving human subjects, under proposed § 812.5(c) an exemption is subject to additional conditions:

1. An application for an investigational device exemption covering shipment must have been submitted by the sponsor under Subpart B.

2. The required 30-day period of time must have elapsed followed the date of receipt of the application by FDA that the investigational study may commence under the proposed regulations, or if the application seeks an exemption from the banned device provisions, the Commissioner must have approved the application.

3. The Commissioner must not have disapproved the application for an investigational device exemption or withdrawn the exemption.

4. Each shipment of the device must have been made in accordance with the commitments in the application and any conditions imposed in the Commissioner's approval of the application.

5. The sponsor, any institutional review committee, and each investigator must have complied with applicable procedures, conditions, and requirements of proposed Part 812.

If the device is to be shipped solely for tests in laboratory animals or for other tests that do not involve human subjects, under proposed § 812.5(d) a condition to an exemption is that the requirements of proposed Subpart H must have been met. Additionally, under § 812.5(e), if the shipment is to be imported into or exported from the United States, the requirements of proposed § 812.19 must have been met.

Proposed § 812.5 is similar to § 312.1 of the IND regulations, which prescribes the conditions of an exemption of a shipment or delivery of an investigational new drug under section 505 of the act. In proposed Part 812, a reference to a shipment of an investigational device is intended to include any form of delivery of such a device. After final promulgation of the proposed regulations, if any of the requirements of § 812.5 are not met, the device is subject to legal action under the provisions of the act that would apply to the device in the absence of the exemption.

PETITIONS FOR WAIVER OF REQUIREMENTS

Proposed § 812.10 would permit any person subject to a requirement under proposed Part 812 to petition the Commissioner for a waiver of such requirement. The petition shall be submitted in accordance with proposed § 2.7 (21 CFR 2.7) of the Food and Drug Administration's proposed regulations governing administrative practices and procedures, which were published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682). Also, proposed § 812.10 requires the petitioner to set forth both the basis for his belief that compliance with the requirement is not necessary to achieve the objectives of the investigational device regulations and, where appropriate, any alternative means to achieve the objective of the requirement from which the waiver is sought.

Although proposed § 812.10 is technically unnecessary since any citizen may petition the Commissioner under proposed § 2.7 concerning a requirement under the act, it is included as a convenience to persons subject to the investigational device regulations. For example, a sponsor might petition for waiver of the provision in proposed § 812.62(d), which prohibits any sponsor or investigator from participating in the selection of members for an institutional review committee that will review his investigational study. This may be appropriate where a medical faculty member was instrumental in establishing an institutional review committee and then, several years later, plans to serve as an investigator in an investigational study of a medical device that is subject to regulation under proposed Part 812. The Food and Drug Administration could decide to waive the provision of proposed § 812.62(d) concerning participation by investigators or sponsors in selecting members of institutional review committees if the agency finds that compliance with this provision is not necessary to achieve the objectives of proposed Part 812.

Under proposed § 812.10, the person who submits the petition continues to be subject to the requirement from which a waiver is sought unless and until the Commissioner grants the petition. The Commissioner has discretion whether to grant such a petition.

INFORMATION PREVIOUSLY SUBMITTED

Proposed § 812.12 provides that whenever proposed Part 812 requires the submission to FDA of information or data that previously had been submitted, the information or data need not be resubmitted but may be incorporated by reference. This provision is similar to a provision found in item 6.c. of the Form FD-1571 for sponsors of investigational studies of new drugs, appearing under § 312.1(a)(2) in the IND regulations. This item provides that in lieu of submitting information concerning components of an investigational new drug, a sponsor may incorporate by reference information previously submitted.

Of course, under proposed § 812.12, the information previously submitted must have met the requirements of the regulations.

REQUIREMENTS APPLICABLE TO IMPORTERS AND EXPORTERS OF INVESTIGATIONAL DEVICES

Proposed § 812.19(a) sets forth requirements applicable to persons who import or offer for importation into the United States an investigational device. These requirements are similar to the requirements for importing investigational new drugs under § 312.1(b) of the IND regulations.

Proposed § 812.19(b) set forth requirements applicable to persons who export from the United States to a foreign country devices that do not comply with the requirements of the act.

Proposed § 812.19(b)(1) concerns any exportation of a noncomplying device and requires that the device conform to the specifications of the foreign purchaser, comply with the laws of the country to which it is being exported, be labeled for export on the outside of the shipping package, and not be sold or offered for sale in domestic commerce. These provisions are based on the requirements of section 801(d) of the act, both before and after enactment of the Amendments.

Under proposed § 812.19(b)(2), additional requirements apply to the export of a device that does not comply with the requirements of section 514 of the act concerning performance standards, section 515 concerning premarket approval, section 516 authorizing banning of devices, and section 520(g) authorizing exemptions for investigational use of medical devices. Any person who exports from the United States a device, which is subject to but does not comply with section 514, 515, or 516 of the act, for an investigational study involving human subjects, must comply with a number of additional requirements beyond those enumerated in proposed § 812.19(b)(1). First, the exporter shall comply with, or shall assure that another person has complied with, the requirements applicable to sponsors. Second, the exporter or other person shall obtain the approval of the government of a foreign country to which the device is proposed to be shipped. Third, the exporter or other person shall submit to FDA a copy of this approval, a request for permission to export the device, and an explanation of why the proposed export of the device is not contrary to the public health and safety. Finally, there must have been a determination by the Commissioner that the export of the device to the foreign country is not contrary to the public health and a notice by FDA to the exporter or other person of this determination.

The additional requirements applicable to export of devices for investigational use that do not comply with sections 514, 515, or 516 of the act are based on new provisions of section 801(d) of the act as added by the Amendments. These provisions have required FDA to take a stricter approach to exportation for investigational use of devices than the agency has taken concerning export for investigational use of new drugs under § 312.1(a)(2) of the IND regulations. The Commissioner recognizes that the Amendments have the anomalous result of affording more protection to foreign subjects of investigational studies conducted by United States sponsors than are afforded to domestic subjects, since section 801(d) of the act, as amended, requires affirmative approval of the export while new section 520(g)(4) of the act provides that an investigational study is generally deemed approved 30 days after receipt of an application, unless disapproved by the Commissioner during this period. Although the Commissioner believes that this result is probably compelled by the Amendments, he invites suggestion of alternative approaches. The proposed regulations do not state criteria for the Commissioner's determination that an export of a device for investigational use is contrary to public health and safety. The Commissioner also invites suggestions as to appropriate criteria for this determination and, in particular, the extent to which the Commissioner should take into account the health and safety of subjects in foreign countries.

APPLICATIONS FOR EXEMPTION FOR INVESTIGATIONAL STUDIES INVOLVING HUMAN SUBJECTS

Proposed Subpart B states requirements for applications for exemption for investigational studies involving human subjects. Proposed Subpart B sets forth requirements applicable to sponsors of investigational studies, including sponsor investigators.

V 41 163 AUG 20 76 UM

APPLICATION

Proposed § 812.20 sets forth the required content of an application for an investigational device exemption. Proposed § 812.20(a) describes technical requirements for the application, i.e., that four copies shall be submitted, the address to which the application is to be mailed, and the statements to appear on the outside wrapper.

Proposed § 812.20(b) describes the substantive information to be included in an investigational device exemption, which shall be submitted on a form that will be made available by FDA before the effective date of the final regulations. For the most part, the information to be submitted in an application for an investigational device exemption is similar to the information to be submitted on Form FD–1571, "Notice of Claimed Exemption for an Investigational New Drug" under § 312.1(a)(2) of the IND regulations. However, the contents of the application are described in the proposed regulation rather than in the form used for requesting an exemption.

Before final issuance of the proposed regulations, FDA will make forms available for use by sponsors to apply for investigational device exemptions and to obtain signed statements from investigators. These forms may also be printed in the FEDERAL REGISTER as an apepndix to the final regulations.

Like the IND regulations, the proposed investigational device regulations require the application for an exemption to conduct an investigational study to include the following:

(1) The name of the article and how it is to be administered, (2) a statement of components of the article, (3) a statement of manufacturing methods, facilities, and controls, (4) information concerning any institutional review committee that is to review, approve, and monitor the investigational study, (5) information about the investigational plan, (6) a report of prior investigations and experience with the article including safety tests in animals, (7) all informational material, including the labeling, to be supplied to the investigator, (8) a description of the necessary qualifications for investigators, (9) the name and qualifications of the individual who is to monitor the progress of the study for the sponsor, (10) assurance that the sponsor will comply with applicable requirements, (11) justification for any sale of an investigational article, (12) reasons for any requested waiver of the requirement that an investigation not begin before the expiration of 30 days after FDA receives an application, and (13) when requested by FDA after receipt of an application, an environmental impact analysis report.

Under new section 520(g) of the act, the contents of an application for an investigational device exemption will vary depending upon whether the study will be reviewed, approved, and monitored by an institutional review committee. When there is a committee, the sponsor must provide that committee with the investigational plan and a report of prior investigations of the device. Although the sponsor's application to FDA for an investigational device exemption for a study to be monitored by a committee must include the complete report of prior investigations, it need include only a summary of the investigational plan for the study. When there is no committee, the application to FDA for an investigational exemption is to include a complete investigational plan as well as a complete report of the prior investigations of the device.

Accordingly, proposed § 812.20(b)(5) and (6) distinguish the situation in which there is an institutional review committee, in which case FDA receives only a summary of the investigational plan and information concerning the committee's review and approval, from the situation in which there is no committee, in which case FDA receives the complete investigational plan. In either case, FDA must receive reports of prior investigations of a device.

The proposed investigational device regulations differ from the IND regulations in that they require the committee to have approved an investigational study before an application for an investigational device exemption is submitted to FDA. The IND regulations require only that the sponsor assure FDA that the study will not begin until it is approved by the committee. Proposed § 812.20(b)(7) requires the application for an investigational device exemption to include a copy of all forms to be used to obtain informed consent of human subjects. This requirement is to enable FDA to monitor compliance with proposed Subpart F of proposed Part 812 concerning informed consent of human subjects. Although the IND regulations do not explicitly require submission of informed consent forms, often such information is submitted among the informational materials for investigators that the sponsor must submit to FDA under item 12. of Form FD–1571 for sponsors of investigational new drug studies.

Under proposed § 812.20(b)(10), the application must include a copy of the signed statements of investigators who will participate in the investigational study. Although the IND regulations, like proposed § 812.43(b), require that the sponsor obtain these signed statements from investigators, the IND regulations do not now require submission to FDA of a copy of these statements. Rather, the IND regulations require only a submission of a list of investigators, to be updated, with an assurance by the sponsor that signed forms will be obtained.

In proposed § 812.20(b)(12) there is another new requirement that the sponsor inform FDA in the application as to whether any institutional review committee has ever disapproved any investigational study of the device and the reasons for such disapproval. This information will aid FDA in determining whether the agency should approve an investigational study. Although a study may have been disapproved on grounds other than those for FDA disapproval under proposed § 812.30, the Commissioner believes that FDA's review of an application for investigational device exemption will be assisted by information concerning any disapproval of an investigation of the device by an institutional review committee.

Under proposed § 812.20(b)(14), the sponsor who intends to be compensated for an investigational device shall submit a full explanation of why, considering manufacturing and other costs, the proposed compensation is necessary and the amount of the proposed compensation is reasonable, along with a statement that the sponsor understands that any failure by FDA to disapprove such compensation is not to be regarded as permitting the commercialization of an investigational device, which is prohibited by proposed § 812.50. The policy expressed in proposed § 812.20(b)(14) has prevailed under the IND regulations for a number of years. The Commissioner recognizes that it has often been customary for sponsor to charge subjects or investigators for investigational devices and, accordingly, invites specific comment as to whether the policy that has applied to drug investigations should, as proposed, be included in the investigational device regulations. In addition, the Commissioner invites suggestions concerning a definition of "commercialization," a term also appearing (and also undefined) in the IND regulations and generally understood to consist of any of the practices involving promotion and sale of investigational products, which are prohibited by the IND regulations and would be prohibited by proposed § 812.50.

As provided under the IND regulations, sponsors do not ordinarily have to submit environmental impact analysis reports with applications for investigational device exemptions. Such a report shall only be submitted upon request by FDA after the agency receives an application and, if requested, the report shall meet the requirements of Part 6 (21 CFR Part 6), the agency's regulations concerning environmental impact analysis.

INVESTIGATIONAL PLAN

Proposed § 812.25 states the requirements for an investigational plan for the investigational study of a device. The proposed requirements are in the nature of umbrella regulations setting forth general rules concerning investigational studies of devices. Proposed § 812.25 will, if appropriate, be supplemented by specific regulations or guidelines concerning investigational studies of particular devices or a class of devices.

Proposed § 812.25(a) is similar in several respects to the IND regulations, e.g., items 10. a. and b. of Form FD–1571 for sponsors of investigational new drug studies and items 4. and 5. of Form FD–1572 and item 3. of Form FD–1573 for investigators in drug studies.

As provided in new section 520(g) of the act, under proposed § 812.25(b) the procedures and conditions in the investigational plan may vary depending on (1) the scope and duration of the investigational study, (2) the number of human subjects who are to be involved in the study, (3) the need to permit changes to be made in the device during the study, and (4) the purpose of the study, e.g., whether the study is designed for the purpose of developing data to obtain approval for the commercial distribution of the device.

Proposed § 812.25(c) contains a requirement similar to that in item 10.c. of Form FD–1571 for sponsors of investigational new drug studies that an investigational plan will not ordinarily be regarded as reasonable unless it provides for more than one independent competent investigator to maintain adequate case histories of an adequate number of subjects (as described in proposed § 812.111). However, under the proposed investigational device regulations, this requirement is limited to an investigational study that is for the purpose of developing data to obtain approval for the commercial distribution of the device.

Under proposed § 812.25(d), as in the IND regulations, animal tests may continue during studies involving human subjects. This policy is among those being reviewed by FDA in its efforts to improve standards for clinical investigations.

The proposed regulations do not prescribe the contents of the summary of the investigational plan that is to be submitted to FDA under proposed § 812.20(b)(5) where there is an institutional review committee to review the complete investigational plan. This should include a summary of each of the items required to be included in an investigational plan under § 812.25. If, from comments received, it appears to be desirable to prescribe the contents of a summary of an investigational plan, the Commissioner will do so in the final regulations.

REPORT OF PRIOR INVESTIGATIONS OF A DEVICE

Proposed § 812.27 sets forth the requirements for reports of prior investigations of a device, to be submitted to an institutional review committee, if any, and to FDA. Such a report shall include information concerning prior investigations of a device adequate to justify the proposed investigational study as described in the investigational plan. Proposed § 812.27 is similar in many respects to the IND regulations. (See, e.g., item 6. of Form FD–1571 for sponsors of investigational new drug studies.)

Proposed § 812.27(d) would establish a general rule that animal tests be a prerequisite to tests of devices in human subjects to establish the safety of the device, except where tests on animals would be inappropriate, such as where there have been adequate in vitro tests or there is ample literature concerning prior clinical investigations or clinical experience. This topic is among those currently being reviewed by FDA in its efforts to improve regulations regarding clinical investigations.

Although the IND regulations require submission of a summary of information about investigations and experience with active components, proposed § 812.27(e) requires submission of such a summary only where the information about a component is needed to justify the investigational use of the device, since such information is not always needed to evaluate an investigational study of a device.

FDA REVIEW OF, AND ACTION ON, AN APPLICATION

Proposed § 812.30 describes the procedure for FDA's review of applications for investigational device exemptions and for acting on such applications.

Under proposed § 812.30(a), FDA will notify the sponsor of the date of receipt of an application for an investigational device exemption submitted in accordance with proposed Subpart B. The notice of receipt will inform the sponsor that the investigational study may not be commenced for 30 days from the date of receipt of the application, unless the agency has decided to waive the 30-day time requirement and so informs the sponsor, or in the case of an application for an exemption from the banned device provisions, until FDA approves the application.

Under proposed § 812.30(b), the Commissioner may return an application during the 30-day period if he finds that the application does not meet the requirements of proposed Subpart B. A procedure is provided for correcting deficient applications. However, if rejected as deficient after submitted a second time, the application will be regarded as disapproved.

Under proposed § 812.30(c)(1), an application for an investigational device exemption is deemed approved on the 30th day after receipt by FDA, unless the Commissioner disapproves the application on or before that day or notifies the sponsor that the application does not meet the requirements of proposed Subpart B. This provision is based on new section 520(g)(4) of the act and is similar to the IND regulations. However, under the act and proposed § 812.30(c)(2), an application for an exemption from a banned device regulation shall not be considered approved unless the Commissioner affirmatively approves the application and so notifies the sponsor. The 30-day time limit does not apply to consideration of an application for exemption from a banned device regulation.

Proposed § 812.30(d) sets forth the grounds for disapproval of an application for an investigational device exemption, which are similar to the grounds for disapproval of an IND. Proposed § 812.30(e) sets forth as an additional ground for disapproval of an application the determination by the Commissioner that the proposed investigational study subjects human subjects to undue risks; the regulation enumerates factors to be considered in such a determination. This provision is based on criteria for disapproval of an investigational study by an institutional review committee in the Department regulations under 45 CFR 46.2.

Under proposed § 812.30(f), the Commissioner may approve conditionally an application for an exemption under Subpart B. For example, as a condition of an approval, the Commissioner could require that the sponsor report to the agency semiannually rather than annually, or an application could be approved on the condition that a category of proposed subjects, e.g., children, be excluded from the study.

Finally, proposed § 812.30(g) sets forth the procedure for the Commissioner's approval of an application for an exemption from a banned device regulation and for disapproval or conditional approval of any application. No procedure is necessary for FDA approval of applications except where the sponsor seeks an exemption from a banned-device regulation, since an application is generally deemed approved 30 days after FDA receives the application, unless the agency acts to reject or disapprove the application. A sponsor who has received a notification of disapproval or conditional approval is afforded an opportunity for a regulatory hearing pursuant to Subpart F of Part 2 of FDA proposed regulations concerning administrative practices and procedures, published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682). New section 520(g) of the act requires that FDA afford an opportunity for an informal hearing (the functional equivalent of FDA's regulatory hearing under Subpart F of Part 2) where an application for an investigational device exemption is disapproved.

Under the proposed regulations, sponsors may petition for waiver of the usual requirement that investigational studies not commence until 30 days after receipt by FDA of an application for an investigational device exemption. This provision for waiver is based on the IND regulations and, although such waiver is not expressly provided for in new section 520(g) of the act, the Commissioner believes it desirable to provide for such waiver in appropriate cases in investigational studies of devices. The proposed regulations do not state the criteria for a decision by the Commissioner to waive the 30-day delay. However, comments are invited on appropriate criteria for such waiver.

There is no provision in proposed § 812.30 for review of applications for investigational device exemptions by the classification panels that make recommendations to FDA on classification of devices pursuant to section 513 of the act and on applications for premarket approval under section 515 of the act. Section 520(g) of the act does not provide for referral of applications for investigational device exemptions to the classification panels and, indeed, such referral would be difficult, if not impossible, to accomplish in view of the obligation that FDA review such applications within 30 days. However, FDA intends to seek the advice of its classification panels concerning applications for investigational device exemptions on a case-by-case basis, where a panel's expertise is needed and can be provided in a sufficiently timely manner, such as for post-approval review and monitoring.

V 41 163 AUG 20 76 UM

WITHDRAWAL OF AN INVESTIGATIONAL DEVICE EXEMPTION

Proposed § 812.35 prescribes the criteria and procedures for withdrawal of an exemption for the investigational use of a device granted under proposed Part 812.

The grounds for withdrawal of an investigational device exemption under proposed § 812.35(a) are similar to the grounds for terminating an IND under § 312.1(d). In addition, under proposed § 812.35(b), an exemption shall be withdrawn if the Commissioner determines that the investigational study subjects human subjects to undue risks. This provision is based upon the Department regulations under 45 CFR 46.2 concerning review of clinical investigations by institutional review committees.

Proposed § 812.35(c) requires an order withdrawing an exemption to include a complete statement of the reasons for the Commissioner's action. Such order shall be issued only after the sponsor has been afforded an opportunity for a regulatory hearing under Subpart F of Part 2 (the proposed FDA regulations discussed earlier), except that an order of withdrawal may be issued before providing an opportunity for such a hearing if the Commissioner determines that continuation of testing under the exemption will result in an unreasonable risk to the public health or safety. The Commissioner intends that a discovery that crucial data submitted in support of an investigational study were false could result in immediate withdrawal of the exemption because, under the circumstances, continuation of testing could result in an unreasonable risk to the public health and safety.

Because of specific provisions in new section 520(g) of the act, the procedure for withdrawing an investigational device exemption differs somewhat from the current procedures for terminating an IND. First, no provision is included for a prehearing conference concerning a proposed withdrawal of an exemption, although such a conference could occur absent a provision in the regulation. Second, the IND regulations include a more stringent standard for FDA orders terminating testing prior to affording the sponsor an opportunity for a hearing: an IND may be terminated prior to opportunity for such a hearing only if continuation of the investigation presents an imminent hazard to the public health. Proposed § 812.35(c) follows the procedures in the Amendments rather than the IND regulations in these two respects.

Proposed § 812.35(d) permits an exemption for investigational use of a device that was withdrawn to be reinstated if the sponsor satisfies the Commissioner that the grounds for withdrawal of the exemption no longer apply. This provision parallels § 312.1(d) of the IND regulations.

CONFIDENTIALITY OF DATA AND INFORMATION IN AN APPLICATION

Proposed § 812.38 prescribes the rules governing confidentiality of data and information in an application for an investigational device exemption. This section is similar to § 312.5 of the IND regulations. The preamble of the final regulation promulgating § 312.5, published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602), includes useful guidance concerning the interpretation of this section.

SUPPLEMENTAL APPLICATIONS AND SUBMISSIONS CONCERNING APPLICATION

Proposed § 812.39 describes the situations in which a supplemental application is required to update an application submitted under proposed § 812.20.

Under the general rule in proposed § 812.39(a), information contained in an application may be updated by a report to FDA under proposed § 812.55. Usually it will be sufficient for changes in the application to be described in a sponsor's report that is submitted annually, or at another appropriate interval, under proposed § 812.55.

There three exceptions to the general rule that an application may be updated by means of the sponsor's regular reports. First, under proposed § 812.39(b), sponsors must obtain FDA's review and prior approval of proposed changes in, or deviations from, the investigational plan which may affect the validity of the study or the rights or safety of human subjects, except where the change or deviation is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject participating in the study, in which case notice shall be submitted as soon as possible after the change or deviation has occurred. Second, under proposed § 812.39(c), sponsors must submit any additional signed statements of investigators to FDA before such investigators may begin participation in an investigational study unless FDA approves addition of the investigators by rapid communication techniques before submission of signed statements of life-threatening situations. Third, under proposed § 812.39(d), sponsors shall submit to FDA at the time they are provided to investigators any additional forms, or revisions in forms, to be used by investigators to obtain informed consent of human subjects, as well as any additional or revised informational materials supplied to investigators which had not been submitted in the application or in any subsequent submissions.

An important element of the proper scientific approach to research is to prepare a plan or protocol defining the research objective or hypothesis and outlining how it is to be attained or tested, such as the investigational plan required under § 812.25. The Food and Drug Administration traditionally has viewed these plans and protocols as an essential prerequisite to a study but recognized that research on living things, especially human beings, requires greater flexibility than a pure mechanical science: on the one hand, modifications may be necessary to take into account new information indicating avoidable safety risks; on the other hand, a thesis may be established earlier than anticipated, e.g., overwhelming evidence of effectiveness or lack of effectiveness in initial trials. Therefore, the agency has permitted modification of a plan or protocol by the investigator without prior approval of the sponsor based on information gained during the study. See, e.g., the IND regulations, item 5. of Form FD–1572 for investigators.

Experience has indicated, however, that other significant changes have been made in a plan or protocol without notice to, or approval by, a sponsor. These changes have in some cases undermined the validity of the study and have in others exposed subjects to different risks or inappropriately affected their rights. The Commissioner reasserts the agency's commitment to encouraging research and to providing wide latitude to clinical investigators. The Commissioner is proposing, however, that the approval of FDA and the institutional review committee must be obtained when certain types of changes are considered, unless, of course, a change is necessary to eliminate or reduce an apparent immediate hazard to the safety of human subjects, in which case immediate action is justified. Proposed § 812.39(b)(3) illustrates situations in which the prior approval requirement applies.

SPONSOR RESPONSIBILITIES IN INVESTIGATIONAL STUDIES INVOLVING HUMAN SUBJECTS

Proposed Subpart C enumerates the responsibilities of sponsors, including sponsor-investigators, in investigational studies involving human subjects.

GENERAL

Proposed § 812.40 explains that the requirements of proposed Subpart C are conditions to any exemptions for investigational studies under proposed Part 812 and are in addition to any other requirements applicable to sponsors under the act or under Chapter I of 21 CFR. For example, sponsors are also subject to requirements under Subpart B of proposed Part 812 concerning applications for investigational device exemption and may be subject to requirements to be prescribed in future regulations concerning applications for premarket approval under section 515 of the act.

REVIEW OF THE INVESTIGATIONAL STUDY BY FDA AND THE INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.42(a) requires the sponsor to submit for review and approval by FDA an application for an investigational device exemption, in accordance with Subpart B of proposed Part 812, before any human subjects are allowed to participate in the investigational study. The sponsor must also meet the other requirements, which are conditions for an investigational device exemption under proposed § 812.5, and assure that FDA is provided both the information concerning the proposed investigational study and the device needed for FDA review, approval, and monitoring of the study.

Proposed § 812.42(b) prohibits a sponsor from allowing human subjects to participate in a proposed investigational study until such time as the study has been reviewed by, and an investigational device exemption has been obtained from, FDA pursuant to Subpart B of proposed Part 812.

Proposed § 812.42(c) sets forth additional requirements applicable to sponsors where the proposed investigational study is subject to an institutional review requirement under Subpart D of proposed Part 812. The proposed requirements would enable the committee effectively to review, approve, and monitor an investigational study.

The requirements applicable to sponsors of investigational studies of devices under proposed § 812.42 have counterpart requirements, or implied requirements, under the IND regulations, e.g., items 10.c. and 14. of Form FD–1571 for sponsors of IND's and item 3. in Form FD–1572 and item 2.a. in form FD–1573 for investigators.

SELECTION OF INVESTIGATORS

Proposed § 812.43(a) requires a sponsor to select as investigators only individuals, who, because of their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the device and who have the ability and commitment to comply with the investigational plan and the procedures, conditions, and requirements applicable to investigators under proposed Part 812. Proposed § 812.43(b) requires the sponsor to obtain from each investigator who will participate in the investigational study a signed statement for submission to FDA that includes (1) information concerning the investigator's qualifications, (2) an agreement to comply with the investigational plan, the regulations, and any conditions of approval of an application, (3) an agreement that any use of the device involving human subjects will be under the investigator's supervision, (4) a statement as to whether any investigational study or other research by the investigator has been discontinued, and (5) the name and qualifications of any other investigator under the supervision of the investigator signing the statement who will participate in the investigational study.

Under the IND regulations, sponsors have an implied duty in item 8. of Form FD–1571 to select only competent individuals as investigators. This duty is being expressed directly in proposed § 812.63(a). Section 312.1(a) (12) and (13) of the IND regulations require sponsors to obtain from investigators signed statements setting forth the investigators' qualifications to participate in a study and a number of commitments by the investigators relevant to the conduct of the study. As discussed earlier, the IND regulations do not now require that the investigators' signed statements be submitted to FDA, although item 9. of Form FD–1571 for IND sponsors requires that FDA be provided a list of the names of investigators, to be updated, along with the sponsor's assurance that the required signed statements will be obtained.

CONTROL OVER THE INVESTIGATIONAL DEVICE

Proposed § 812.45 requires sponsors to permit the investigational device to be shipped only to investigators who have signed the required statements; to recall any unused supply of an investigational device when a study is completed or discontinued, or the exemption is withdrawn; to maintain adequate and accurate records showing the shipment, receipt, or other disposition of devices; and to assure that the methods, facilities, and controls for manufacture, processing, storage, and installation of the device adequately assure the safety and effectiveness of the device. The investigators would be subject to similar requirements relating to control over investigational devices, under proposed § 812.107, discussed in detail below in this preamble.

The IND regulations include requirements, or implied requirements, which are counterparts to the proposed requirements for sponsors concerning control over investigational devices in § 812.45. An investigational new drug may only be shipped to investigators who have signed the required statements. Under § 312.1(d) of the IND regulations, the sponsor must recall unused supplies of investigational new drugs upon termination of an IND. Shipment records on investigational new drugs are required under § 312.1(a)(4). Sponsors have implied obligations concerning the methods, facilities, and controls used for the manufacturing, processing, and packing of investigational new drugs under item 5. of Form FD–1571 for sponsors of investigational studies of new drugs.

MONITORING THE INVESTIGATIONAL STUDY

Proposed § 812.46(a) requires sponsors to monitor the investigational study continuously to assure that the requirements of proposed Part 812 are met and to evaluate data regarding device safety and effectiveness upon receipt of such data from investigators.

Proposed § 812.46(b) requires the sponsor to designate an appropriately trained individual to monitor the study and evaluate the data received from investigators. Proposed § 812.46(c) requires that the sponsor assure that participating investigators conduct the investigational study in accordance with the investigational plan, the requirements of proposed Part 812, and any conditions of approval of an application for an investigational device exemption imposed under § 812.30(f). Proposed § 812.46(d) requires a sponsor to discontinue shipments of an investigational device to any investigator who has failed to comply with the investigational plan, proposed Part 812, and any conditions of approval. Proposed § 812.46(e) requires the sponsor to have and to comply with an adequate plan for monitoring the investigational study.

Proposed § 812.46(f) requires the sponsor to undertake a special investigation whenever he learns of any adverse effect which may reasonably be regarded as caused by, or probably caused by, the investigational device and it was not previously anticipated in any material submitted to FDA. (The sponsor is also expected to monitor and investigate anticipated adverse effects of a device as a part of the sponsor's general duty to monitor the study under proposed § 812.46(a) and to describe findings of such investigation in reports to FDA under proposed § 812.55). The sponsor must also undertake a special investigation of any known deaths of subjects and any life-threatening medical problems that have occurred in the study. All investigators participating in a study must be informed of any adverse effect, death, or medical problem reported by any other investigator of the device as soon as possible, but not later than 5 days after the sponsor learns of the adverse effect, death, or medical problem. Investigators have a similar responsibility to report to sponsors concerning any such adverse effect, death, or medical problem, under proposed § 812.112(c). Where the sponsor or FDA regards as serious any adverse effect, death, or medical problem, the sponsor shall suspend the investigation and shall not resume the investigation until it determines, subject to the concurrence of FDA, that the investigation can safely be resumed. Where there is substantial doubt that the study can safely be resumed, the sponsor shall discontinue the investigational study.

Proposed § 812.46(g) prohibits a sponsor from unduly prolonging an investigational study beyond the period that is suitable for the development of data to obtain approval of an application for premarket approval of a device. The sponsor is required to submit an application for premarket approval with reasonable promptness after it finds that the results of the investigational study may establish the safety and effectiveness of the device and within 60 days after receipt of a written request for such an application from the Commissioner. If the sponsor does not submit an application after such a request, it shall give adequate reasons for not doing so or shall discontinue the investigation.

The IND regulations include a number of provisions which are similar to those proposed in § 812.46. These requirements are found in § 312.1(a)(5) through (9).

SUBMITTING INFORMATION TO INVESTIGATORS

Proposed § 812.47 requires the sponsor to provide all investigators with copies of the investigational plan, the report of prior investigations of the device, and labeling (including labels) for the device which describes all relevant hazards, contraindications, adverse effects, interfering substances or devices, and needed precautions. The labeling shall not represent that the safety or effectiveness of the device has been established for the purposes to be evaluated. Proposed § 812.47(b) requires the sponsor to notify each investigator of any adverse effect, death, or medical problem that is subject to the requirement of a special investigation under proposed § 812.45(f). Proposed § 812.47(c) requires the sponsor to notify each investigator of the comple-

VOL 41 NO 163 AUG 20 76 UM

tion or discontinuance of an investigational study or the withdrawal of an exemption.

Proposed § 812.47(d) requires the sponsor to notify each investigator if an application for premarket approval of the device is approved.

The IND regulations include requirements similar to those proposed in § 812.47. These are found in § 312.1(a)(7) of the IND regulations, items 7. and 12. of Form FD–1571 for sponsors, item 6.a. of Form FD–1572, and item 4.a. of Form FD–1573 for investigators.

PROMOTION AND SALE OF AN INVESTIGATIONAL DEVICE

Proposed § 812.50(a) prohibits a sponsor and any person acting for or on behalf of the sponsor from disseminating any promotional material representing that the device being investigated is safe or effective for the purposes for which it is under investigation.

Proposed § 812.50(b) provides that a sponsor shall not commercially distribute, test market, or otherwise commercialize an investigational device until the device has been approved for marketing for the purpose for which it is being investigated. However, this restriction does not apply with respect to commercial distribution permitted during the transitional period for a class III device that was in commercial distribution before May 28, 1976, the enactment date of the Amendments, or that is substantially equivalent to a device that was in commercial distribution before such date, or to a device classified in class I or II.

Proposed § 812.50(c) prohibits a sponsor from charging subjects or investigators for an investigational device if FDA finds the compensation to be unreasonable considering the manufacturing or other costs of the device, and has notified the sponsor of this finding.

The rules proposed in § 812.50 are based upon § 312.1(a)(10) and (11) of the IND regulations and items 7. and 13. of Form FD–1571 for sponsors. However, the Commissioner recognizes that devices that are subject to a transitional period can be commercially distributed at the same time that they are being investigated. The Commissioner invites suggestions on how commercial distribution of a device can best be distinguished from distribution of a device for investigational use, so that the agency can provide better guidance to the research community and industry on this issue. Comments and suggestions should consider the policy objectives behind the rules in the IND regulations and the proposals that restrict promotion and sale of investigational articles; To assure that claims for articles are not made prematurely, to assure that the device is not distributed too widely in investigational studies, and to prevent an investigational exemption from serving as a subterfuge for unapproved commercial marketing.

REPORTING TO FDA, MAINTAINING RECORDS, AND PERMITTING INSPECTION

Proposed § 812.55(a) requires a sponsor to make accurate and adequate records for reporting to FDA on the progress of the investigational study. Reports shall be made at appropriate intervals not exceeding 1 year. Proposed § 812.55(b) requires the sponsor to notify FDA of the completion or discontinuance of the investigational studies within 30 days and to make an accurate and adequate final report to the agency within 6 months following such action or the withdrawal of the exemption. Proposed § 812.55(c) requires the sponsor to report to FDA any adverse effect, death, or medical problem that is subject to the requirement of a special investigation under § 812.46(f), promptly and in no event later than 5 working days after the sponsor learns of the adverse effect, death, or medical problem. Proposed § 812.55(d) requires a sponsor to submit to FDA a copy of a report of a determination by an investigator that informed consent cannot be obtained, promptly and in no event later than 5 working days after the report is received from the investigator. Proposed § 812.55(e) requires a sponsor to retain a copy of any application, report, or correspondence that he submits to FDA under proposed Part 812. Proposed § 812.55(f) describes the period of time for which a sponsor shall maintain required records. Proposed § 812.55(g) enables a sponsor to withdraw from the responsibility for maintaining records for the required period of time by transferring custody to another person. Proposed § 812.55(h) requires a sponsor to permit an authorized FDA employee, at reasonable times and in a reasonable manner, to inspect any facilities where the investigational device is manufactured, processed, held, or used, and to inspect and copy any records concerning the investigational study, including any required reference. In addition, a sponsor must permit a representative of an institutional review committee to inspect and copy records of the sponsor relevant to the committee's responsibility concerning the investigational study. Proposed § 812.55(i) enables FDA to require a sponsor to submit any records concerning the investigational study, including any records required to be kept.

Most of the requirements in proposed § 812.55, other than paragraph (d), have counterpart requirements in the IND regulations, particularly § 312.1(a)(4) through (6) and item 11 of Form FD–1571 for sponsors. Similar requirements will apply to investigators under proposed Subpart E of Part 812. Proposed § 812.55(d), which requires a sponsor to submit to FDA a copy of a report of a determination by an investigator that informed consent cannot be obtained from a subject or his representative, is new and is based upon guidance on the legislative history of the Amendments (ref. 2, at 44).

INSTITUTIONAL REVIEW COMMITTEE

Proposed D establishes requirements prescribing when institutional review and monitoring of investigational studies are required, how institutional review committees are to be created, and the function and duties of such committees. Section 520(g) of the act clearly contemplates continuation of the purposes of institutional review that are by now well-established in the research community: to evaluate proposed studies for ethical and moral acceptability as well as scientific justification to ensure the health and safety of human subjects; to approve or reject an investigational study as part of the independent decision of the institution to participate in the experiment; and to provide a local mechanism for day-to-day monitoring of the study to ensure the safety of the subjects and to ensure that the study is adhering to any conditions imposed upon the sponsor and investigators.

On May 30, 1974, the Department of Health, Education, and Welfare issued initial regulations governing institutional review of research funded or supported by the Department (39 FR 18914; amended at 40 FR 11854, March 13, 1975; codified in 45 CFR Part 46). The proposed regulations are quite similar, in terms of composition of the peer review group and its operations, to the Department's regulations, as well as to the agency-wide regulations currently being formulated which rely heavily on statements found in item 10.c. of Form FD–1571, item 3. of the Form FD–1572, and item 2.a. of Form FD–1573 of the IND regulations. However, certain differences do eixst between the Department regulations and the proposed investigational device regulations.

The Commissioner advises that the term "institutional review committee" appearing in section 520(g) of the act, is intended to correspond with the term "institutional review board" as used in the National Research Act (Pub. L. 93–348; sec. 212(a), which enacted 42 U.S.C. 474(a)) and the Department's regulations ("Technical Amendments," published in the FEDERAL REGISTER of March 13, 1975 (40 FR 11854)).

CIRCUMSTANCES IN WHICH AN INSTITUTIONAL REVIEW COMMITTEE IS REQUIRED

Proposed § 812.60 described the situations in which an institutional review committee is required and provides for situations in which review or monitoring by a committee does not meet the requirements of Subpart D.

Proposed § 812.60(a) requires that an institutional review committee be established by an institution to review and monitor an investigational study of a device when the study is to utilize subjects who are institutionalized, when the study is to be conducted by an individual affiliated with an institution that agrees to assume responsibility for the study, or when the study is to be conducted by an institution that has a committee that meets the requirements of Subpart D.

Proposed § 812.60(b) provides that when a committee does not meet the requirements of Subpart D, FDA will disregard the review or monitoring of any investigational study by that committee and require the sponsor of a study that would be reviewed by the committee to submit a complete investigational plan for the study.

MEMBERSHIP OF AN INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.62 establishes general requirements for the composition of institutional review committees. An institutional review committee must be composed of at least 5 persons with varying backgrounds. To assure sufficient diversity to evaluate a study in terms of science, law, professional ethics, and community attitudes, no institutional review committee may be composed entirely of members of a single professional group, or of officials or employees of the institution. To protect objectivity, no member of the institutional review committee who is involved in the study itself may participate in the institutional review committee's deliberations, except to respond to requests for information, and no investigator or sponsor may participate in the selection of members for an institutional review committee to review his study.

PROCEDURES FOR REVIEW AND MONITORING OF INVESTIGATIONAL STUDIES BY AN INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.65 imposes general procedures to be followed by institutional review committees in monitoring and reviewing investigational studies. A major purpose of this section is to provide maximum flexibility to the committee in performing its functions. Thus, an institutional review committee may adopt its own procedures for conducting reviews and for reporting actions to the parent institution. The only mandatory requirements are: (a) In the composition of a quorum; and in the definition of a minimum number of persons for a quorum, not less than a majority or three persons, whichever is greater; (b) in minimum frequency for monitoring of studies, 1 year; and (c) in the obligation of the committee to put its procedures in writing. The requirements respecting a quorum and written procedures are new to FDA regulations but represent only modest extensions beyond existing FDA and HEW rules.

PROCEDURES AND CRITERIA FOR REVIEW OF INVESTIGATIONAL STUDIES BY AN INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.66 establishes specific procedures and criteria to be followed by an institutional review committee in reviewing an application for approval of an investigational study.

Proposed § 812.66 (a), (b), and (c) establish general procedural requirements for submission of applications, notification of the sponsor, requests for additional information by the committee, and time requirements for action by the committee upon an application. Proposed § 812.66(c) also provides for conditional approval of an application. The Commissioner contemplates that a committee may consider any of the four factors listed in section 520(g)(2)(C) of the act, among other, in issuing such a conditional approval.

The Commissioner recognizes that special situations may arise where factors that would be of great concern to a committee might be insufficient for action by FDA, e.g., where the study is at odds with local ethical and moral standards or where the committee's responsibility extends beyond questions of safety and scientific validity and into such areas as allocating funds within an institution. To build flexibility into the committee's decisionmaking process as it functions in these and other situations, proposed § 812.66(d) provides that a committee may disapprove a study or withdraw approval of a study for any reason it considers appropriate.

Proposed § 812.66 (e) and (f) prescribe six specific criteria for disapproving an application for failure to satisfy the statutory standard of adequacy to justify proposed clinical testing. The first four grounds for disapproval in proposed § 812.66(e) are drawn basically from the existing IND regulations in § 312.41. The fifth, pertaining to failure to conform to procedures, conditions, or requirements prescribed in this part is obvious. The sixth in proposed § 812.66(f) is drawn from the Department's regulations in 45 CFR 46.2.

Proposed § 812.66(g) merely provides requirements for notification of the committee's decision on the application.

REVIEW BY INSTITUTION

Proposed § 812.70 affirms the respective powers of the institutional review committee and the institution in approving or rejecting proposed studies.

RECORDS OF AN INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.75 imposes upon an institutional review committee general requirements as to preparation and maintenance of records of its activities regarding individual studies.

The regulation would provide that records be kept for whichever of three alternative periods is applicable: (1) 2 years following approval of marketing of the device for the purposes that were the subject of the study; (2) 5 years following the date on which the results of the study were submitted to FDA in support of marketing of the device for purposes that were the subject of the study; or (3) in other situations, 2 years following the date on which the entire investigational study is completed or discontinued, or the exemption granted by FDA is withdrawn. This will afford the agency ample opportunity to verify the study if it desires, while providing an investigator a finite period of responsibility.

INSPECTION OF INSTITUTIONAL REVIEW COMMITTEES

Proposed § 812.77 affirms FDA's authority to inspect institutional review committees. The agency intends to inspect committees on both a continued random basis and "for cause" in response to particular problems. The number of committees inspected and the depth to which any is studied will remain a function of available FDA resources.

DISQUALIFICATION OF AN INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.79 institutes disqualification procedures applicable to institutional review committees which closely parallel the procedures governing disqualification of investigators in Subpart E, discussed fully below. One way in which this proposed section differs from that regarding disqualification of investigators is the listing of grounds, under proposed § 812.79(a), for disqualification of such a committee. These grounds consist merely of failure to undertake or comply with a duty imposed upon such committee by other sections of Subpart D.

The Commissioner recognizes that this proposal represents a departure from past policy and solicits comments on the need for such procedures and suggestions regarding those procedures proposed. The Commissioner also recognizes that there may be some question as to what enforcement action may be taken by FDA against a committee that is not in compliance. Possible sanctions that could be imposed include disqualification under this section and the proposals in § 812.60(b), discussed above.

INVESTIGATOR RESPONSIBILITIES IN INVESTIGATIONAL STUDIES INVOLVING HUMAN SUBJECTS

Proposed Subpart E defines the responsibilities applicable to investigators in investigational studies involving human subjects. In many instances, provisions and requirements under Subpart E will parallel provisions relating to sponsors under Subpart C of proposed Part 812. In addition, Subpart E will be similar to, or be integrated with, the corresponding subpart of the agency-wide regulations currently being formulated concerning responsibilities of investigators in clinical investigations. In these proposed regulations, the Commissioner has decided at this time not to propose major departures from the existing standards set forth in Forms FD–1572 and FD–1573 of the IND regulations for investigators in studies of new drugs.

REVIEW OF INVESTIGATIONAL STUDY BY THE FOOD AND DRUG ADMINISTRATION

Proposed § 812.101 sets forth in more detail, and makes explicit, requirements imposed by section 520(g) of the act. Proposed § 812.101 prohibits an investigator from allowing human subjects to participate, or requesting their consent to participate, in an investigational study until such time as the sponsor has submitted an application to FDA for review and approval and has received an exemption from the agency.

REVIEW OF INVESTIGATIONAL STUDY BY INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.103 establishes general requirements for submissions that must be made by the investigator to permit oversight of an investigator's activities by the institutional review committee.

Proposed § 812.103(a) prohibits an investigator from allowing human subjects to participate, or requesting their consent

V 41 H 163 AUG 20 76 UM

to participate, in a study until there has been approval by the committee of the study. Proposed § 812.103(b) prohibits an investigator from implementing a change in, or deviating from, the investigational plan until he has complied with § 812.105 as discussed below. Proposed § 812.103(c) imposes upon the investigator reporting requirements: The investigator must make accurate reports as soon as possible, but in no event later than 5 working days, after the investigator discovers adverse effects that can reasonably be regarded as caused, or probably caused, by an investigational device and were not preivously anticipated; the investigator must report any known deaths of subjects or any life-threatening problems occurring in the study. Proposed § 812.103(d) requires an investigator to report to the committee within 3 months after completion or discontinuance of, or the withdrawal of the exemption for, the entire investigational study or his portion of the study, whichever occurs first. This will assure that the institutional review committee is aware of the cessation of the study. Proposed § 812.103(e) requires an investigator to provide adequate information regarding an investigational study to the committee in response to its request, and proposed § 812.103(f) requires an investigator to maintain records of all submissions to, and all actions by, the committee regarding the study.

CONFORMITY TO INVESTIGATIONAL PLAN

Section 812.105 provides for those situations where the sponsor or an investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan, which change or deviation may affect the validity of the study or the rights or safety of human subjects. This provision, which is related to proposed § 812.39, requires that the committee, if any, and FDA review and approve the change or deviation before it is implemented except in emergency situations.

CONTROL OVER THE INVESTIGATIONAL DEVICE

Proposed § 812.107 imposes control over investigational devices based on experience in the drug area. The thalidomide disaster of the early 1960's shaped many of the policies of FDA regarding drug research. The looseness of control over the supply of thalidomide precluded any effective protection of research subjects both before and after the risk of phocomelia (birth deformities of the extremities) was discovered. To prevent repetition of this problem, it was necessary to require that investigational articles be distributed only to qualified and carefully selected investigators who were kept informed of all developments regarding the article. Thus, Congress sought in the 1962 drug amendments to assure that subjects to whom an investigational drug was administered were under the personal supervision of a designated investigator or under the supervision of investigators responsible to him. As part of this, section 505(i) of the act, and IND forms implementing it, seek to bar an investigator from supplying an investigational drug to any investigator not responsible to him for administration to human beings. The Commissioner now proposes to restate this requirement as to devices in proposed § 812.107(a).

A second element of control over the investigational device is the ability to remove it from use by subjects and investigators in the event that its continued availability is undesirable. FDA has had rare experiences where a drug study has been terminated for safety reasons, but a recall of the experimental drug has not been successful because of noncooperation of certain investigators. Thus, the Commissioner proposes in § 812.107(b) to restate the obligation of an investigator to return all unused stocks to the sponsor. He is, however, broadening the current language in two ways. First he is allowing for alternative disposition of investigational devices where the sponsor directs; this might permit onsite destruction or permit use in animal or in vitro experiments. Second, the Commissioner proposes that a recall be authorized whenever the sponsor deems it proper, even though the study itself is not completed or discontinued, or the exemption withdrawn.

In addition to observing restrictions on the distribution of investigational devices it is necessary that investigators maintain adequate and accurate records of all receipts and uses of such devices. These records help to prevent unauthorized distributions and to verify case histories. Such records also provide a record of lot numbers to detect possible lot-to-lot variations in the device. In addition in the event a recall of unused stocks of a device is necessary to minimize health risks to subjects these records can provide the most readily usable mechanism to identify which subjects have recently received the device and the quantities they may still have. Proposed § 812107(c) contains these requirements.

RECORDS REGARDING SUBJECTS

Proposed § 812.111 would impose upon an investigator recordkeeping requirements regarding subjects of an investigational study. The completeness and accuracy of the data regarding subjects are critical aspects of any research project. Inadequate, incomplete, or inaccurate records will render a scientific study valueless, thereby vitiating any justification for exposing human subjects to risk. Insufficient or erroneous documentation of important health indicators can increase hazards to subjects by reducing the ability of the investigator to detect changes in those indicators. Therefore, the Commissioner is adopting the current commitment, under the IND regulations, of an investigator that he will prepare and maintain "adequate and accurate case histories designed to record all observations and other data pertinent" to the investigation (item 6.b. of Form FD–1572 and item 4.c. of Form FD–1573).

Proposed § 812.111(a) identifies the requisite records regarding subjects of investigational studies. First, it confirms that a medical history of the subject prior to the study must be included if relevant to the subject's suitability to participate in the investigation.

Second, proposed § 812.111(b) confirms that the documentation of consent should be filed in the case history. Third, the records regarding administration or dispensing of investigational devices, as well as any control device, shall be maintained in this case history as well as in the records required for control of the device in proposed § 812.111(d). This requirement would allow for a cross check on the distribution of investigational devices and enable an investigator to contact selected subjects, e.g., those receiving the investigational device in the last month. Lastly, the proposed regulation emphasizes that the scope of observations made during the study includes the appearance of factors which might alter the effects of the experimental device, even though such factors are not considered to be caused by, or associated with, the device under study.

REPORTS TO SPONSORS

Proposed § 812.112 imposes requirements upon investigators regarding reports on the investigation that must be made to the sponsor. Periodic reports to the sponsor on the progress of an investigation enable the sponsor to collate and review data to obtain an overall view of the study and report useful information to the investigator, as well as to FDA. Frequently, for example, subtle but significant trends not easily detectable at the individual investigator level become apparent when a larger sample is analyzed. For this reason, in § 312.1(c)(5) of the IND regulations, FDA has required annual progress reports to be submitted by sponsors of drug investigations to the agency, referred to in item 6.d. of Form FD–1572 and item 4.d. of Form FD–1573 for investigators. The Commissioner proposes that investigators be obliged to report annually to sponsors of investigational studies of devices in proposed § 812.112(a).

In § 812.112(b), the Commissioner proposes to require a final report from an investigator within 3 months of the completion or discontinuance of, or withdrawal of an exemption for, the entire investigational study or of his portion of the study, whichever occurs first.

Special reports of adverse reactions warn other investigators of possible hazards and may require a reassessment of the benefit-to-risk ratio justifying the study. The current IND regulations require timely reports. (See, e.g., the last sentence of item 6.d. of Form FD–1572 and the penultimate sentence in item 4.d. of Form FD–1573 and compare § 312.1(a)(6).) Proposed § 812.112(c) requires a special report of any previously unanticipated adverse effect, that is, any effect not described in the written information on possible hazards, contraindications, side effects, and precautions given the investigator by the sponsor. This would not require repeated reporting of routine and minor side effects after these are inserted in the sponsor's informational materials for investigators but would require reports of unusual reactions, including unusually severe reactions and reactions with an unusually high incidence.

In addition, the Commissioner proposes to require the investigator to notify the sponsor of any deaths, regardless of cause. Special reports also are warranted if life-threatening medical problems arise; this could include, for example, problems in conducting certain diagnostic tests. The proposed regulations differ from the IND regulations with respect to special reporting obligations by substituting for the current IND reporting deadlines, which require that reporting be done "promptly" in some instances and "immediately" in others, the requirement that reporting is to be done as soon as possible but in no event later than 5 working days after discovery.

Proposed § 812.112(d) requires the investigator to submit to the sponsor a copy of any report of determinations that the investigator must make when seeking an exception from the informed consent requirements pursuant to § 812.123.

RETENTION OF RECORDS

Proposed § 812.114 imposes upon an investigator requirements as to the period of time he is to retain records required to be maintained under Subparts E and F. The regulation provides that records be kept for whichever of three alternative periods is applicable: (1) 2 years following approval of marketing of the device for the purposes that were the subject of the study; (2) 5 years following the date on which the results of the study were submitted to FDA in support of marketing of the device for purposes that were the subject of the study; or (3) in other situations, 2 years following the date on which the entire investigational study is completed or discontinued, or the exemption granted by FDA is withdrawn. This will afford the agency ample opportunity to verify the study, if it desires, while providing an investigator a finite period of responsibility.

The proposed regulations also provide a mechanism for an investigator to transfer his records to another party, should he decide to move, retire, or otherwise withdraw from his obligations. The current IND regulations do not provide for such a transfer.

INSPECTION OF FACILITIES, RECORDS, AND REPORTS AND REQUESTS FOR RECORDS AND REPORTS

Proposed § 812.115 imposes certain requirements upon investigators governing inspection of their facilities, records, and reports and requests for their records and reports. The sponsor is responsible for the investigational study because he has sought and received an exemption to study the investigational device. The Food and Drug Administration therefore has required under the IND regulations that the sponsor monitor the conduct of its investigations, detect safety problems, and assure that investigators fulfill their commitments upon receiving the investigational device. (See, e.g., § 312.1(a)(5), (6), (7), and (8) of the IND regulations.) Current IND regulations neither discuss the obligations of investigators to permit a sponsor to inspect their facilities and records nor limit the rearch of the sponsor's inspection. These matters generally have been resolved between investigators, or their institutions, and sponsors. In light of the responsibilities of sponsors and the heightened concern over the confidentiality of records containing subjects' names, the Commissioner believes it appropriate to propose certain rules at this time. He recognizes that the National Commission on the Protection of Human Subjects in Biomedical and Behavioral Research may offer recommendations in this area, and he further contemplates proposing more detailed, general FDA regulations to protect the confidentiality of human subjects in clinical investigations.

Until this can be done, however, the Commissioner proposes that (a) an investigator permit the sponsor or FDA to inspect and copy records that do not identify the human subject and (b) an investigator permit authorized employees of FDA to inspect and copy records that do identify a human subject by name upon notice that the FDA has reason to believe that the consent of human subjects was not obtained, that the reports submitted by the investigator to the sponsor or to the institutional review committee do not represent actual cases, actual results obtained, or that the submitted case reports or other records appear to be otherwise false or misleading. Proposed § 812.115 also provides that inspections shall be conducted at reasonable times and in a reasonable manner; this follows the requirement set forth in the current IND forms.

DISQUALIFICATION OF INVESTIGATORS

Proposed § 812.119 proposes requirements pertaining to disqualification of investigators.

Since the beginning of FDA's supervision of the conduct of research under the act, the agency has largely relied upon administrative sanctions to achieve compliance with the investigational requirements of the act. Because of the seriousness of criminal prosecution, the amount of resources necessary to prepare and conduct a civil or criminal proceeding, and the varieties of noncompliance that did not reflect criminal intent or bad faith, only occasionally has FDA recommended judicial proceedings against investigators. Instead, the agency sought to introduce flexibility into its regulatory scheme by developing administrative procedures to respond to noncompliance by an individual investigator. This has been termed the "disqualification" process, and is currently codified in § 312.1(c) of the IND regulations.

Disqualification under the IND regulations simply means that an investigator is no longer eligible to receive investigational drugs under his own or someone else's IND. It imposes no fine; it attaches no financial liability, except to the extent that an investigator may be unable to fulfill a research contract; it does not revoke a medical license or institutional privileges. Occasionally, an investigator who is subject to disqualification is also subject to malpractice liability, licensure revocation, privilege suspension, or other disciplinary proceedings for the same acts; in such situations, the decision of FDA may influence the outside groups, but the agency does not believe that its decisions should be determinative. The disqualification of an investigator is intended to achieve one objective: to preclude a disqualified investigator from access to any investigational article subject to FDA regulation until he can demonstrate his ability and willingness to conform to the standards for conducting clinical studies essential to assure scientifically sound and ethical research.

Disqualification has not been used with great frequency by FDA. In 13 years, 23 investigators have been disqualified: 21 by the Bureau of Drugs and 2 by the Bureau of Biologics and its predecessor, the Division of Biologics Standards. The Commissioner believes, however, that a reaffirmation of the reasons for FDA's rules, together with a more precise statement of these rules, will improve compliance. Several reasons justify revising the procedures for disqualification of investigators, and FDA is therefore preparing proposed revisions of existing regulations. These revised procedures, which will be proposed for comment in the near future, are similar to the procedures that are being proposed with respect to investigational devices.

Proposed § 812.119 will clarify the standards for disqualification, provide the Director of the Bureau of Medical Devices and Diagnostic Products with the final authority to act on a proposed disqualification, provide for a separation of functions within the Bureau in disqualification proceedings, assign authority to commence disqualification proceedings, set forth all of the actions or sanctions which FDA might take or invoke as a consequence of disqualification.

Proposed § 812.119(a) sets forth with particularity the grounds upon which an investigator may be ruled ineligible to participate in further regulated studies. The detailed articulation of obligations of investigators in Subpart E in this proposal should not be interpreted as requiring perfection. The Food and Drug Administration is well aware of the exigencies of clinical investigations and does not intend to invoke several sanctions for technical deviations and minor human error. While a high standard of care is to be expected of those whose research place human subjects at risk, the agency will exercise its discretion reasonably in administering these regulations, as it has with the current procedures. The guiding principle distinguishing "technical" violations from those that warrant regulatory action is whether acts or omissions of the investigator caused or might well have caused a significant adverse effect on the safety or rights of the subject involved or on the validity of the study itself. The primary function of FDA's regulation of research is to assure that the

VOL 41 NO 163 AUG 20 76 UM

risks such research poses to subjects are both minimized and justified by the benefits sought for the subjects, or for scientific knowledge, or both. When those regulations are violated in such a way as to increase the real risks unnecessarily, the impetus for disqualification is obvious. Less apparent, but equally compelling, is the need for a regulatory response when the validity of the study is impaired without a direct increase in the risk to subjects as, for example, when records are inadequate or inaccurate. The effect here is on the expected benefits that originally justified the study. If no useful results are obtained, the investigation is valueless, and the subjects were exposed to unwarranted risks, regardless of how small those risks actually may have been.

Translating this principle into the form of regulations, proposed § 812.119 (a) sets forth 11 specific grounds for disqualification:

1. An investigator may be disqualified if he commences a study without the prior approval of the FDA and any institutional review committee. The failure to utilize this mechanism is presumed to affect adversely the rights of the subjects, if not always their safety.

2. The Commissioner proposes that the unauthorized changing of, or deviating from, an investigational plan may justify disqualification if the change or deviation adversely affects the rights or safety of the subjects or the validity of the study.

3. The violation of the rights of human subjects regarding informed consent is a serious matter warranting regulatory action, even though the violations may not affect the safety of the subjects or the validity of the results. Such violations include the failure to provide the essential information regarding the study and the individual's rights as a subject, the failure to obtain the consent of the subject, the use of a consent form that has not been approved by an institutional review committee, and the use of a consent form that contained exculpatory language.

4. An investigator may be disqualified if he permits the investigational device to be administered to subjects who were not under his general supervision. An investigator must not give up his ultimate authority over the selection of subjects, the circumstances of the use of the investigational device, and the monitoring of subjects participating in the investigation.

5. An investigator may be disqualified if he supplies the investigational device to someone who is not under his supervision or that of the sponsor. The investigator may believe that no subjects will be exposed, but the very loss of his and the sponsor's control over the device creates the possibility that such exposure may occur.

6. If an investigator fails or refuses to return or dispose of unused stocks of an investigational device upon the request of the sponsor, he may be disqualified. The continued availability of these supplies creates numerous risks.

7. Deficiencies in recordkeeping will trigger disqualification if they are so serious as to have a significant adverse effect on the validity of the study or on the rights or safety of the subjects, or if they are so serious as to prevent an adequate audit of the study.

8. An investigator may be disqualified if he fails to make a required report within the time allotted. Reports on potential health problems must be made in a prompt manner to disseminate data on these problems as rapidly as possible; delays may affect the safety of subjects. Progress and final reports assure the timely review of results, thereby reinforcing the worth of the study.

9. The refusal of an investigator to permit an authorized inspection may lead to disqualification. In a sense, both the validity of the study and the safety of the subjects rest upon the credibility of the investigator. This reliance is tested and justified by the availability of the records during inspections. The Commissioner notes that a refusal to permit any part of an inspection would justify disqualification, even if the remainder of the inspection were unhampered.

10. Similarly, refusal of an investigtor to permit copying of records identifying the names of human subjects under the special circumstances described in § 812.-115(b) would be a basis for disqualification.

11. Finally, the falsification or withholding of any required record or report is an obvious ground for disqualification.

Under the disqualification procedure in proposed § 812.119(b) through (d), disqualification would be proposed by the officer in the Bureau who has direct responsibility at the office level or division level for monitoring the conduct of investigational studies (now the Director of the Division of Classification and Scientific Review); notice of the proposed action would be provided to the investigator; there would be an opportunity for a regulatory hearing before the Director of the Bureau or a person designated by him; the final action on the proposed disqualification would be taken by the Bureau Director.

Because the disqualification of an investigator is in the nature of an adjudicatory proceeding, the proposed FDA regulations prescribing administrative practices and procedures eliminate any view of prejudgment by separating the person who presides at the disqualification hearing from the persons and office proposing the disqualification. See proposed § 2.505 in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682). In order that the Director of the Bureau may have authority to preside at the regulatory hearing, it is necessary that another officer within the Bureau be given authority to commence the disqualification process. Under proposed § 812.119(b), wherever the officer in the Bureau who has direct responsibility for monitoring the conduct of investigational studies has information indicating that grounds exist under § 812.119(a) to justify disqualification of an investigator, he may issue to the investigator a written notice proposing that the Bureau Director disqualify him from receiving investigational devices.

The written notice provided to the investigator upon commencement of a disqualification proceeding shall contain the following items of information, in accordance with proposed § 2.510(a):

(1) The notice shall specify the facts and set forth the specific violations of § 812.119(a) that are believed to justify disqualification; (2) the notice shall state that the investigator has an opportunity for a regulatory hearing on the proposed disqualification before the Bureau Director, or a person designated by him, and that such hearing will be conducted in accordance with the provisions of Subpart F of Part 2 of the proposed procedural regulations; (3) the notice shall state the time within which a hearing may be requested, which shall be not less than 3 working days from the receipt of the notice; (4) the notice shall contain the name, address, and telephone number of the official of the Bureau who is designated as presiding officer for the regulatory hearing and to whom any request for a hearing shall be addressed, and it shall also state that a request may be filed by registered mail, telegram, telex, personal delivery, or any other mode of written communication. In the past the Bureau of Drugs has provided an "informal" conference with the officer who issued the notice before the "formal" disqualification hearing in accordance with § 312.1(c)(1) of the IND regulations. The Commissioner believes that it is unnecessary to provide for such an informal conference in the proposed investigational device regulations.

Proposed § 812.119(d) provides that, if, after the regulatory hearing or after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, upon reviewing the administrative record, that the investigator is responsible for any of the acts or omissions specified in the notice proposing disqualification and has not adequately explained his conduct, he shall prepare and issue a final order disqualifying the investigator from receiving investigational devices. The final order shall include a statement of the basis for the decision to disqualify the investigator. Once a final order has been issued, the Director of the Bureau shall so notify the investigator and the sponsor of, and the committees responsible for review and monitoring of, each investigational study in which that disqualified investigator is participating that is subject to regulation by the Bureau. The Director, however, may reinstate the investigator to allow him to complete an ongoing study if, following the procedures of proposed § 812.119(f), the investigator can assure the acts or omissions which led to his disqualification will not recur.

If, after the regulatory hearing, or if, after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, upon reviewing the administrative record, that the investigator is not responsible for the acts or omissions specified in the notice proposing disqualification, or that the investigator is responsible but has adequately explained his conduct, he shall issue a final order terminating the disqualification proceeding and shall include a statement of the basis for his decision to terminate the proceeding. After such a final order has been issued, the Director of the Bureau shall so notify the investigator and the officer who proposed disqualification. In addition, if that officer notified any sponsor of an investigational study involving the investigator about the proposal to disqualify the investigator, as permitted under proposed § 812.119(g)(2), the Director of the Bureau also shall notify the sponsor that the disqualification proceeding has been terminated and shall include a statement of the reasons therefor.

The Commissioner proposes in § 812.-119(e) to authorize the Director of the Bureau to notify any persons or organizations known by him to have professional relations with the investigator that the investigator has been disqualified from receiving investigational devices regulated by FDA when the Director believes that such disclosure would further the public interest or would promote compliance with the law. This determination is within the discretion of the Director and may be made after consideration of the circumstances justifying the disqualification, the mitigating conditions, and the degree to which other institutions or persons have an involvement in the ongoing activities of the investigator. Because notification of disqualification, without more information, might unduly prejudice the investigator, the Director shall provide a copy of the final order issued under proposed § 812.-119(d) and shall state that the disqualification constitutes a determination by FDA that the investigator is not eligible to participate in an FDA-regulated investigation, that the notice is being given because the action may affect the interests of the person notified, and that FDA is not advising or recommending that the person take any action upon the matter. A copy of each notification issued to other persons or organizations shall be given to the investigator.

Once an investigator has been disqualified, proposed § 812.119(e)(2) provides that each exemption for investigational use of a device, application for premarket approval of a medical device, and medical device product development protocol, whether approved or not, which contains or relies upon data prepared by the investigator, may be examined to determine whether the data were essential to FDA's decision to allow the research or marketing. If it is determined that, absent such data, the exemption would not have been granted or that the application for premarket approval or protocol would not have been approved, FDA will then determine whether the data are reliable. This may include requiring the sponsor or applicant to submit validating information. If FDA determines that the data are essential and are not reliable, such data will be eliminated from consideration in support of the exemption, application, or protocol. Elimination of such data will serve as "new information" justifying withdrawal of approval of the exemption, application, or product development protocol.

A determination that an investigator has been disqualified and the administrative record regarding such determination are disclosable to the public under the Freedom of Information Act (5 U.S.C. 552) and under FDA public information regulations (21 CFR Part 4) as records relating to the administrative enforcement action that has been completed.

Proposed § 812.119(f) authorizes the Director of the Bureau to reinstate the investigator if he determines that the investigator can provide adequate assurances that he will conduct the study in compliance with the requirements of the act and regulations thereunder. An investigator who wishes to be reinstated shall explain to the Director why he believes he should be reinstated, as well as the kind of corrective actions he has taken or intends to take to assure that the acts or omissions which led to his disqualification will not recur. The Commissioner believes that the Directors of all bureaus of FDA that regulate research should be consulted prior to reinstatement and that, in fairness to the investigator, all persons or organizations notified under proposed § 812.119 (d) and (e)(1) of the investigator's previous disqualification must be notified if that investigator is later reinstated.

A determination that an investigator has been reinstated is disclosable to the public under the Freedom of Information Act (5 U.S.C. 552) and under Part 4 of FDA regulations as records relating to completed administrative enforcement actions.

Since disqualification of an investigator may be neither a sufficient nor an appropriate remedy in every case, the Commissioner believes that disqualification under this Subpart E must be independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. Proposed § 812.119 (g) makes clear, therefore, that FDA may, at any time, recommend institution against an investigator of any appropriate judicial proceedings, civil or criminal, or other appropriate regulatory action, in addition to or in lieu of disqualification, and these proceedings or other action may occur before, simultaneously with, or after disqualification.

The Commissioner also believes that it may, in certain cases, be both appropriate and advisable for the sponsor of an investigation to be made aware that the conduct of one of its investigators may subject him to disqualification and that such information ought not necessarily to be withheld from the sponsor until after FDA has disqualified the investigator. Therefore, proposed § 812.119(g)(2) authorizes the officer who may, under proposed § 812.119(b), propose disqualification to notify the sponsor of a study under which that investigator is participating when the officer has reason to believe that the investigator may be subject to disqualification. Such notification will be made simultaneously with a proposal to disqualify the investigator unless overriding safety considerations warrant earlier notification of a sponsor.

Because the Commissioner believes it is important that the sponsor of an investigation be able to remove an investigator at any time from further participation in any investigation he is conducting for the sponsor, proposed § 812.119(h) makes clear that the sponsor has such authority and may remove an investigator, whether or not FDA has commenced any action to disqualify that investigator. Further, in removing an investigator, the sponsor is not required to rely on the grounds or follow the procedures for disqualification that are set forth in this proposed regulation. The sponsor is required, however, to advise FDA of this action, supplying reasons therefor, within 5 working days. This principle follows the decision of the Federal district court in *Froning v. Travenol Laboratories, Inc.*, (N.D. Calif., Civil Action C75-0767, 1975) and the existing requirement set forth in § 312.1 (a)(8), which creates a legal obligation on a sponsor to discontinue shipments to an investigator who has failed to fulfill his obligations undertaken in the Forms FD-1572 or FD-1573.

INFORMED CONSENT OF HUMAN SUBJECTS

Proposed Subpart F establishes procedures and requirements governing informed consent of human subjects who participate in investigational studies of devices.

The Commissioner shares the increasing public concern about the protection of human subjects involved in clinical investigations. An essential aspect of providing this protection is to ensure that informed consent is properly obtained from subjects before the investigational article is administered or used. The National Commission on the Protection of Human Subjects of Biomedical and Behavioral Research currently is studying the adequacy of informed consent, particularly as the concept relates to more vulnerable members of society, such as prisoners, the mentally disabled, and children, in view of changing social policy and advancing biomedical technology. It is anticipated that the Commission will make its recommendations by early 1977.

Section 520(g) of the act requires that the person applying for an investigational device exemption must "assure that informed consent will be obtained from each human subject (or his representative) of proposed clinical testing involving such device," unless exceptional circumstances exist. However, the legislation that emerged from the Conference Committee did not include numerous provisions setting forth requirements relating to informed consent that were contained in the Senate bill but had no counterparts in the House version.

One of the specific provisions included in the Senate bill defined informed consent as the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of force, fraud, deceit, duress, or other forms of constraint or coercion. Another provision

V 41 163 AUG 20 76 UM

required informed consent to be evidenced by a written agreement signed by such person or representative, which included (1) an explanation of procedures to be followed, including an identification of any which are experimental, (2) a description of discomforts and risks, (3) an explanation of likely results should the procedure fail, (4) a description of any benefits to be expected, (5) a disclosure of appropriate alternative procedures, (6) an offer to answer inquires, and (7) an instruction that the subject is free to decline entrance into a project or discontinue participation. In addition, the agreement was to include no exculpatory language which required a subject to waive any legal rights or release an institution or its agents from liability for negligence. The Senate bill also required any organization that initiated, directed, or engaged in programs which require informed consent to keep a record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

The report of the conference committee on the Amendments (ref. 3) explains that the specific provisions of the Senate bill relating to informed consent were not adopted by the conferees in deference to the ongoing study of the subject by the Commission. But the conferees emphasized that this omission was not to be construed as indicating that they did not intend the detailed requirements of the Senate bill to be applicable to investigations of medical devices. The conferees stated clearly that they " * * * would expect that the Secretary would use the requirements of the Senate bill as the basis for regulations implementing the Conference Report's provisions with respect to informed consent until such time as the Secretary has taken action in response to the recommendations of the Commission * * *. These requirements are therefore proposed in § 812.-120.

In addition to these instructions from Congress, the Commissioner recognizes several other sources of guidance that should at least be considered in formulating proposed regulations. In these proposed regulations, the Commisioner has attempted to reconcile any differences between these sources of guidance on informed consent.

First, the Department regulations set forth specific requirements for protection of human subjects appearing in 45 CFR Part 46 (39 FR 18914, May 30, 1974; 40 FR 11854, March 13, 1975). Part 46 is applicable to all HEW grants and contracts supporting research, development and related activities in which human subjects are involved. The Commissioner believes that the proposed investigational device regulations should not be inconsistent with 45 CFR Part 46 because some investigations of medical devices will be conducted under HEW grants and contracts.

The Commissioner also believes that the proposed regulations should, so far as possible, be consistent with the existing regulations governing consent for use of investigational new drugs (IND's) on humans, which appear at § 310.102.

Furthermore, the Commissioner believes that in promulgating these proposed regulations the agency should consider the recommendations in the General Accounting Office (GAO) report (ref. 1).

As indicated above, the Commissioner has concluded that it is desirable to revise the IND regulations governing clinical investigations involving drugs and biological products to clarify requirements applicable to all participants in, and phases of, such investigations and that, to the extent possible the agency's requirements concerning clinical investigations of any regulated products should be prescribed in uniform agency regulations. When final regulations are published revising the IND regulations and, where appropriate, establishing uniform agency-wide regulations, appropriate revisions will be made in the investigational device regulations to assure maximum consistency and to take into account the recommendations of the Commission.

The Commissioner believes that these proposed procedures and requirements relating to informed consent fully protect the rights and safety of human subjects involved in investigational studies without encumbering the efforts of investigators and sponsors to discover and develop useful devices. The Commissioner recognizes, however, that somewhat more detailed procedures or requirements, such as those pertaining to documentation of informed consent set forth in the Department regulations under 45 CFR 45.10, could be prescribed, and he solicits comments on the adequacy of the proposed procedures and requirements to protect the health and safety of human subjects and whether the investigational device regulations should include precisely the same requirements as those found in the Department regulations.

General Requirements of Informed Consent

Proposed § 812.120 imposes certain general requirements upon investigators in obtaining informed consent from human subjects. An investigator must inform each human subject that an investigational device is being used for research purposes, must provide each subject an adequate explanation of pertinent information concerning the device, and must obtain and document legally effective informed consent of the subject, unless exceptional circumstances, as provided for in § 812.123, exist.

The subject's consent also must be obtained while he or she is so situated as to be able to exercise freedom of choice. Such consent shall be evidenced by a written agreement, signed by the subject.

The Commissioner recognizes that an individual who is seriously ill may not have true freedom of choice when confronted with the possibility of improvement in his condition represented by new therapy in the form of an investigational device. The purpose of this proposal is to prevent externally imposed duress, not duress inherent in a subject's medical condition.

Exception from Requirement

Proposed § 812.123 provides for exceptions from the general requirement of informed consent established by proposed § 812.120 in certain life-threatening situations where the investigator complies with specific procedures. The investigator must determine in writing that a life-threatening situation involving the subject exists which necessitates use of the investigational device, that it is not feasible to obtain informed consent from the subject, and that there is not sufficient time to obtain such consent from the subject's legal representative. Such determination must be concurred in by a licensed physician not involved in the testing of the device, unless the investigator determines, and documents this determination, that immediate use of the device is necessary to save the life of the subject and there is not sufficient time to obtain such concurrence and that there is available no alternative method of therapy that is generally approved or recognized that may save the life of the subject.

All except the last of those determinations required of the investigator under proposed § 812.123(a) are drawn verbatim from section 520(g)(3)(D) of the act. The purpose of the requirement, that a determination be made as to lack of availability of any alternative method of therapy that may save the life of the subject, is to prevent routine reliance on the exception. Authority for this requirement is derived from section 520(g)(1) of the act, which mandates that the investigational use of a device be consistent with protection of the public health and safety. Documentation of these determinations may occur after use of the device in those emergency situations.

Proposed § 812.123(b) imposes upon the investigator the requirement to report these determinations as soon as possible, but in no event later than 5 working days after using the device, to the sponsor and the committee for submission by the sponsor to FDA, as mandated by the House Report (ref. 2, at 44).

Elements of Informed Consent in Agreement

Proposed § 812.130 makes explicit and defines in greater detail the general requirements for informed consent that appear in § 812.120.

Proposed § 812.130(a) requires that the investigator have the subject sign an agreement that includes an explanation of pertinent information sufficient to enable the subject to make an informed and intelligent decision concerning his or her participation in the investigational study. While the proposed § 812.130(a) lists specific items of information drawn from the Department regulations, the IND regulations, and the Conference Report (which restates provisions that appeared in the Senate bill) that must be included in the agreement, this list could not possibly cover all investigational studies and represents only the minimum required. The investigator always must tailor the information he provides to the subject to the requirement of sufficiency to enable the subject to make an informed and intelligent decision regarding participation; this means that an investigator may have to provide information in addition to that expressly required in the list.

Proposed §812.130(b) prohibits inclusion of exculpatory language in the agreement. Proposed § 812.130(c) requires the investigator to provide to the sponsor and to the institutional review committee sample copies of written materials given or read to each subject regarding the information required by proposed § 812.130(a) as well as copies of any forms used to document consent, which must be approved by the committee. Such materials must also be submitted to FDA under Subpart B.

Proposed Subpart G of Part 812 is reserved.

Investigational Studies That Do Not Involve Human Subjects

Proposed Subpart H states the requirements applicable to investigational studies of devices intended for use in humans, presently or eventually, where such studies do not involve human subjects. Subpart H applies to studies of a device in laboratory animals, or for in vitro or mechanical testing or other testing not involving use of human subjects.

Conditions of Exemption

Proposed § 812.160(a) describes the conditions for an exemption for investigational studies that do not involve human subjects. The conditions require adequate labeling of the device, exercise of diligence to assure that the device is sent only to persons conducting tests that do not involve human subjects, and compliance with requirements concerning recordkeeping and records inspection.

Proposed § 812.160 is similar to § 312.9 (a) of the IND regulations.

Termination of Exemption

Proposed § 812.170 describes the grounds and procedures for terminating an exemption for an investigational study of a device that does not involve human subjects. This section is similar to § 312.9(c) of the IND regulations.

References

Background data and information on which the Commissioner relies in proposing this regulation have been placed on file for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. The following is a list of these documents:

1. "Federal Control of New Drug Testing is Not Adequately Protecting Human Test Subjects and the General Public," General Accounting Office, July 15, 1976.

2. House Report No. 94–853, Medical Device Amendments, February 29, 1976 (Committee on Interstate and Foreign Commerce).

3. House Report No. 94–1090, Medical Device Amendments, May 6, 1976 (Committee of Conference).

Proposed Effective Date

To provide interested parties with an opportunity to begin clinical investigations prior to the effective date of the proposed regulation, FDA will accept applications for review and approve conditions necessary to obtain a medical device exemption providing the applicant complies with the requirements set forth in the proposed regulation.

The final regulations will be published in the FEDERAL REGISTER after consideration of all comments submitted pursuant to this notice of proposed rule making. The Commissioner proposes that the regulations become effective 90 days after the date of publication in the FEDERAL REGISTER of the final regulations.

The Commissioner has carefully considered the environmental effects of the proposed regulations and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

The Commissioner also has considered carefully the inflation impact of the proposed regulations as required by Executive Order 11821, OMB Circular A–107, and the Guidelines issued by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520 (e), (g), 701(a), 704, 801(d), 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 1057 as amended, 90 Stat. 567, 569–571, 578 (21 U.S.C. 331, 351, 352, 360j (e), (g), 371(a), 374, 381(d))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes that new Part 812 be established to read as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

Subpart A—General Provisions

Sec.
812.1 Scope.
812.2 Applicability.
812.3 Definitions.
812.5 General qualifications for an exemption.
812.10 Petitions for waiver of requirements.
812.12 Information previously submitted.
812.19 Requirements applicable to importers and exporters of investigational devices.

Subpart B—Applications for Exemption for Investigational Studies Involving Human Subjects

812.20 Application.
812.25 Investigational plan.
812.27 Report of prior investigations of a device.
812.30 FDA review of and action on an application.
812.35 Withdrawal of an investigational device exemption.
812.38 Confidentiality of data and information in an application.
812.39 Supplemental applications and submissions concerning applications.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

812.40 General.
812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.
812.43 Selection of investigators.
812.45 Control over the investigational device.
812.46 Monitoring the investigational study.
812.47 Submitting information to investigators.
812.50 Promotion and sale of an investigational device.
812.55 Reporting to the Food and Drug Administration, maintaining records, and permitting inspection.

Subpart D—Institutional Review Committee

812.60 Circumstances in which an institutional review committee is required.
812.62 Membership of an institutional review committee.
812.65 Procedures for review and monitoring of investigational studies by an institutional review committee.
812.66 Procedures and criteria for review of investigational studies by an institutional review committee.
812.70 Review by institution.
812.75 Records of an institutional review committee.
812.77 Inspection of institutional review committees.
812.79 Disqualification of an institutional review committee.

Subpart E—Investigator Responsibilities in Investigational Studies Involving Human Subjects

812.101 Review of investigational study by the Food and Drug Administration.
812.103 Review of investigational study by institutional review committee.
812.105 Conformity to investigational plan.
812.107 Control over the investigational device.
812.111 Records regarding subjects.
812.112 Reports to sponsor.
812.114 Retention of records.
812.115 Inspection of facilities, records, and reports and requests for records and reports.
812.119 Disqualification of investigators.

Subpart F—Informed Consent of Human Subjects

812.120 General requirements of informed consent.
812.123 Exception from requirement.
812.130 Elements of informed consent in agreement.

Subpart G—[Reserved]

Subpart H—Investigational Studies That Do Not Involve Human Subjects

812.160 Conditions of exemption.
812.170 Termination of exemption.

AUTHORITY: Secs. 301(1), (q), 501, 502, 520 (e), (g), 701(a), 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 90 Stat. 567, 569–571, 576–578 (21 U.S.C. 331 (1), (q), 351, 352, 360j (e), (g), 371(a))

VOL 41 NO 163 AUG 20 76 UM

Subpart A—General Provisions

§ 812.1 Scope.

(a) This part provides that a device may be exempted from any of the requirements of the act enumerated in paragraph (c) of this section that would otherwise be applicable to the device, to permit investigational studies of the device by experts who are qualified by scientific training and experience to investigate the safety and effectiveness of devices intended for human use. This part implements section 520(g) of the act.

(b) This part has two objectives:

(1) To encourage the discovery and development of useful devices, by applying special requirements to investigational studies of devices in lieu of those otherwise applicable requirements that may impede such discovery and development.

(2) To protect the public health and safety by assuring adequate safeguards for human subjects in investigational studies, by requiring studies to be conducted in conformity with ethical standards, and by fostering the development of reliable data concerning the safety and effectiveness of devices.

(c) (1) In general, a device is exempted from provisions of the following sections of the act and regulations thereunder: Misbranding under 502, registration and premarket notification under 510, performance standards under 514, premarket approval under 515, records and reports under 519, restricted devices undre 520(e), good manufacturing practices under 520(f), and color additives under 706.

(2) A device shall not be exempted from a provision of the act listed in paragraph (c)(1) of this section where:

(i) The sponsor indicates that an exemption as to that provision is not requested, in an application submitted under § 812.20; or

(ii) The Commissioner indicates that a device is not exempt from such a provision in an order of disapproval or conditional approval under § 812.30.

(3) A shipment of a device may be exempted from a banned-device regulation under section 516 of the act, but only if the Commissioner has approved an application for such an exemption under § 812.30(c)(2).

§ 812.2 Applicability.

(a) *General.* (1) This part applies to any investigational device intended for human use, including any in vitro diagnostic product for diagnosis of any human disease or condition, according to the other rules prescribed in this section.

(2) This part does not apply to any device intended for veterinary use.

(3) Except as otherwise provided in this section, this part applies to any investigational study, whether it is undertaken to develop data to obtain approval for commercial distribution of a device, e.g., by approval under section 515 of the act, to conduct fundamental research for such scientific purposes as expanding medical knowledge but not for the purpose of obtaining approval for commercial distribution, or to aid diagnosis and treatment by means of use of an investigational device involving a human subject.

(4) This part does not apply to a device which is being used in the course of an experiment but in a manner and for a purpose which is included in labeling specifically prescribed for such device by regulation under the act, or labeling approved under section 515 of the act.

(b) *Applicability to devices currently subject to premarket approval requirement.* (1) This part applies to any clinical use of any device intended for human use that (i) is classified in class III, premarket approval, by section 513(f) of the act, i.e., any device that was not in commercial distribution before May 28, 1976, and is not substantially equivalent to a device that was in commercial distribution before such date; (ii) has not been reclassified into class I, general controls, or class II, performance standards; and (iii) does not have in effect an approved application for premarket approval under section 515 of the act.

(2) This part applies to any clinical use of a device intended for human use that (i) was in commercial distribution before May 28, 1976, or was not in commercial distribution before such date but is substantially equivalent to a device that was in commercial distribution before such date; and (ii) has been classified in class III, premarket approval, by regulation promulgated under section 513(d) of the act if such clinical use occurs after the transitional period for the device, as defined in § 812.3(k) and the device is not the subject of an approved application for premarket approval under section 515 of the act.

(3) This part applies to any clinical use of a device intended for human use that (i) was regarded as a new drug or antibiotic drug before May 28, 1976; (ii) is a class III device under section 520(l) of the act; and (iii) is not the subject of an approved application for premarket approval (or deemed to be the subject of such an approved application) under section 515 of the act. This part also applies to any device that, before the effective date of this part, was the subject of a "Notice of Claimed Exemption for an Investigational New Drug" under Part 312 of this chapter.

(c) *Applicability to investigational devices not currently subject to premarket approval requirement.* (1) This part applies to any investigational study involving human subjects of a device that is not subject to this part in accordance with paragraph (b) of this section but that would, unless exempted under this part, be in violation of one or more of the following sections of the act if shipped for use in the investigational study: Misbranding under 502; registration under 510; performance standards under 514; banned devices under 516; records and reports under 519; restricted devices under 520(e); good manufacturing practices under 520(f); or color additives under 706.

(2) The extent to which full compliance with all of the requirements will be required for investigational studies of a device that is not subject to this part in accordance with paragraph (b) of this section but that would, unless exempted under this part, be in violation of one of the sections of the act enumerated in paragraph (c)(1) of this section, will depend upon the degree of potential hazard associated with the device, whether the device has been classified, and the class in which a device has been, or is likely to be, classified.

(i) Where such a device has not been classified, this part shall apply to an investigational study only if the device is intended to be implanted in the human body, is purported or represented to be for a use in supporting or sustaining human life, or that poses an inherent high degree of hazard.

(ii) This part shall apply to any investigational study of such a device for which a final regulation has become effective classifying the device in class III, premarket approval.

(iii) This part shall apply to an investigational study of such a device for which a final regulation has become effective classifying the device in class I, general controls, or class II, performance standards. For investigational studies of such a device, specific requirements of this part may be waived by the Director of the Bureau, upon petition submitted by a sponsor under § 812.10. In considering whether to allow such a waiver, the Director will consider, among other factors, the hazards that may be associated with the device in the investigational study.

(d) *Relation to product development protocol provisions of the act.* (1) Any condition under this section that a device have an approved application for premarket approval under section 515 of the act is satisfied if there is in effect an approved notice of completion of a product development protocol under section 515(f) of the act.

(2) This part shall apply to an investigational study of a device pursuant to a product development protocol under section 515(f) of the act.

(e) *Applicability to custom devices.* Subject to paragraphs (a) through (d) of this section, this part applies to any custom device whether or not section 520(b) of the act exempts such device from a performance standard under section 514 or premarket approval under section 515 of the act.

§ 812.3 Definitions.

(a) "Investigational device" means a device intended for human use that is used in an investigational study that is subject to this part.

(b) "Investigational plan" means a plan or protocol for an investigational study that meets the requirements of § 812.25.

(c) "Investigational study" means any experiment involving an investigational device that is subject to regulation under this part.

(d) "Investigator" means a person who actually conducts the investigational study of a device, (i.e., actually administers the investigational device to, or uses it involving, a subject).

(e) "Sponsor" means a person who initiates and supports, by financial or other resources, an investigational study of a device but who does not actually conduct the study (i.e., does not actually administer the investigational device to, or use it involving, a subject) unless such person is a sponsor-investigator.

(f) "Sponsor-investigator" means a person who both initiates and actually conducts, alone or with others, an investigational study. Such a person has the responsibilities both of a sponsor under Subparts B and C of this part and of an investigator under Subparts E and F of this part.

(g) "Institution" means a person (other than an individual) who engages in the conduct of research on human subjects, or in the delivery of medical services to human subjects as a primary activity or as an adjunct to providing residential or custodial care to human beings. The term includes a hospital, retirement home, prison, university, or device manufacturer. "Facility" as used in section 520(g) of the act is deemed to be synonomous with the term "institution" for purposes of this part.

(h) "Subject" means an individual who is or becomes a participant in an investigational study, either as a recipient of the investigational device or as a control. A subject may be either a nonpatient volunteer or a patient on whom the investigational device might have a therapeutic effect or provide diagnostic information.

(i) "Institutionalized subject" means:

(1) A human subject who is confined, whether by voluntary admission or involuntary commitment, for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., a hospital in-patient or a resident in a retirement home), whether or not that institution is a sponsor of, or an investigator in, the investigational study; or

(2) A human subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison), including a human subject sentenced to such an institution under a criminal or civil statute, a human subject detained in such an institution awaiting arraignment, commitment, trial or sentencing under such statutes, and a human subject detained in another institution (e.g., a hospital) by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal facility.

(j) "Person" includes an individual, partnership, corporation, association, scientific or academic establishment, government agency, and any other legal entity.

(k) "Transitional period" applies only to a device that was in commercial distribution before May 28, 1976, or that is of the same type as and substantially equivalent to a device that was in commercial distribution before such date, but does not apply to any article that was regarded as a new drug or antibiotic drug before such date and that is subject to section 520(l) of the act. The transitional period is the period beginning on May 28, 1976, and ending on one of the following dates applicable to the device:

(1) The date the device is classified in class I.

(2) After the device has been classified in class II, the date that a performance standard for the device becomes effective.

(3) After the device has been classified in class III, the date that the device may be the subject of regulatory action under section 501(f)(1) of the act if an application for a premarket approval of the device was not submitted under section 515 of the act, or if such an application was submitted but approval was denied or withdrawn, i.e., the last day of the 30th calendar month beginning after the month in which the classification of the device in class III became effective under section 513 of the act, or on the 90th day after the date of the promulgation of a regulation requiring the submission of an application under section 515(b) of the act, whichever occurs later.

§ 812.5 General qualifications for an exemption.

A shipment of an investigational device is exempt from any or all of the otherwise applicable requirements of the act enumerated in § 812.1(c) if all of the following conditions are met:

(a) The label of the device bears the name and place of business of the manufacturer, packer, or distributor in accordance with § 801.1 of this chapter, the quantity of contents, and the statement "Caution—Investigational device (or, where appropriate, Investigational diagnostic product) Limited by Federal (or United States) law to investigational use."

(b) The labeling of the device is not false or misleading in any particular.

(c) If the shipment is for an investigational study involving human subjects:

(1) An "Application for an Investigational Device Exemption" covering that shipment was submitted by the sponsor under Subpart B of this part.

(2) The requisite time has elapsed following the date of receipt of the application by the Food and Drug Administration to permit the investigational study to begin under § 812.30(c)(1), or the Commissioner has approved the application where required by § 812.30(c)(2).

(3) The Commissioner has not disapproved the application or withdrawn the exemption.

(4) Each shipment of the device is made in accordance with the commitments in the application and any conditions imposed in the Commissioner's approval of the application pursuant to § 812.30(f).

(5) The sponsor has complied with the requirements of Subparts B and C of this part, any institutional review committee that is to review and approve the investigational study for which shipment is made has complied with the requirements of Subpart D of this part, and the investigator(s) to which the shipment is to be made has complied with the requirements of Subparts E and F of this part.

(d) If the shipment is intended solely for tests in laboratory animals, or for other tests that do not involve human subjects, the requirements of Subpart H of this part have been met.

(e) If the shipment is to be imported into or exported from the United States, the requirements of § 812.19 have been met.

§ 812.10 Petitions for waiver of requirements.

(a) Any person subject to any requirement under this part may petition the Commissioner for a waiver of such requirement. Such a petition shall be submitted in accordance with § 2.7 of this chapter and shall set forth the basis for the petitioner's belief that compliance with the requirement is not necessary to achieve the objectives of this part and, where appropriate, any alternative means to achieve the objective of the requirement from which the waiver is sought.

(b) The Commissioner may, at his discretion, grant a petition for a waiver submitted under this section if he finds that compliance with the requirement from which the waiver is sought is not necessary to achieve the objectives of this part and, where appropriate, that the proposed alternative means will achieve the objective of the requirement from which the waiver is sought.

(c) The person who submits a petition under this section continues to be subject to the requirement from which the waiver is sought unless and until the Commissioner grants the petition.

§ 812.12 Information previously submitted.

Wherever this part requires the submission to the Food and Drug Administration of information or data that previously had been submitted in accordance with this part or other parts of this chapter, the information or data need not be resubmitted but may be incorporated by reference.

§ 812.19 Requirements applicable to importers and exporters of investigational devices.

(a) Any person who imports or offers for importation into the United States an investigational device shall assure that all of the following requirements are met:

(1) The labeling of such device complies with § 812.5 (a) and (b);

(2) If the device is for an investigational study involving human subjects:

(i) The importer of such shipment is an agent in the United States of the foreign exporter or is the ultimate consignee, and the foreign exporter or the ultimate consignee has, prior to such shipment, completed and submitted to the Food and Drug Administration an

V 41 163 AUG 20 76 UM

"Application for an Investigational Device Exemption" in accordance with § 812.20 and acts as the sponsor of the investigational study to assure compliance with the procedures, conditions and requirements of this part.

(ii) The requisite time has elapsed following the date of receipt of the application by the Food and Drug Administration to permit the investigational study to begin under § 812.30(c)(1), or the Commissioner has approved the application, where required by § 812.30(c)(2).

(iii) The Commissioner has not disapproved the application or withdrawn the exemption.

(b)(1) Any person who exports from the United States to a foreign country a device that does not comply with requirements of the act shall comply with all of the following requirements:

(i) The device conforms to the specifications of the foreign purchaser.

(ii) The device complies with the laws of the country to which it is being exported.

(iii) The label on the outside of the shipping package indicates that the device is intended for export.

(iv) The device is not sold or offered for sale in domestic commerce.

(v) Where required, the device complies with the additional requirements of paragraph (b)(2) of this section.

(2) Any person who exports from the United States for an investigational study involving human subjects a device that is subject to a performance standard in effect under section 514 of the act and does not comply with such standard; or that is required to have in effect an approved application for premarket approval under section 515 of the act, and that is not currently subject to a transitional period, and that does not have in effect an approved application; or that is subject to a banned device regulation under section 516 of the act shall comply with all of the following requirements in addition to the requirements of paragraph (b)(1) of this section:

(i) The exporter has, or assures that another person has, complied with the requirements of Subparts B and C of this part applicable to sponsors.

(ii) The exporter or such other person obtains the approval of the government of the foreign country to which the device is proposed to be shipped and such approval states that such government has adequate information about the device and is satisfied that the device may be used lawfully by the intended consignees in that country.

(iii) The exporter or other person submits to the Food and Drug Administration a copy of this approval, a request for permission to export the device, and an explanation of why the proposed export of the device is not contrary to the public health and safety.

(iv) The Commissioner has determined that the export of the device to the foreign country is not contrary to the public health and safety and has notified the exporter or other person of this determination.

(3) The Commissioner may by order issued in accordance with the procedures of § 812.30(g) disapprove the export of the device under paragraph (b)(2) of this section if he determines that such export is contrary to the public health and safety.

Subpart B—Applications for Exemption for Investigational Studies Involving Human Subjects

§ 812.20 Application.

(a) The sponsor of an investigational study shall file with the Food and Drug Administration a completed "Application for an Investigational Device Exemption" that has been signed by the sponsor. Four copies of the application and any material required to accompany the application, bound and contained in volumes of reasonable size, shall be submitted by registered mail to the Bureau of Medical Devices and Diagnostic Products, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910. Any subsequent reports, any correspondence concerning an application, and any supplemental application submitted under § 812.39 also shall be submitted in quadruplicate by registered mail to this address. The outside wrapper of any application or supplemental application should include the statement "Application for Investigational Device Exemption," and the outside wrapper of any reports or correspondence should include the statement "Regarding an Investigational Device Exemption."

(b) An application for an investigational device exemption shall be submitted on Form FD- -- and shall include the following information:

(1) The best available descriptive name of the device, and a brief statement of its intended use(s) and of how it is to be administered.

(2) A complete statement of the components, ingredients, properties and principle(s) of operation of the device, including reasonable variations in the components, ingredients, properties and principle(s) of operation that may be expected during the investigational study.

(3) A complete statement of all of the methods, facilities, and controls used for the manufacture, processing, packing, storage, and where appropriate, installation of the device to the extent that such methods, facilities, and controls may affect the safety and effectiveness of the device.

(4) A statement of the requirements of the act enumerated in § 812.1(c) from which the sponsor seeks an exemption and a reference to any standards promulgated under section 514 of the act from which the sponsor seeks an exemption.

(5) If there is an institutional review committee that is to review, approve, and monitor the investigational study in accordance with Subpart D of this part:

(i) A statement that an investigational plan that meets the requirements of § 812.25 and a report of prior investigations of the device that meets the requirements of § 812.27 have been submitted to and approved by the institutional review committee;

(ii) A statement from the committee, signed by all members who participated in the decision, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the device, that the committee will review and monitor the study until it is completed or discontinued, or the exemption is withdrawn, and that during the study the committee will supervise the study to assure conformity with the investigational plan and with the requirements applicable to investigators under Subparts E and F of this part.

(iii) A summary of the investigational plan.

(iv) A copy of the report of prior investigations of the device that meets the requirements of § 812.27 and that was submitted to the committee.

(6) If there is no institutional review committee that is to review, approve, and monitor the investigational study:

(i) An investigational plan that meets the requirements of § 812.25.

(ii) A report of prior investigations of the device that meets the requirements of § 812.27.

(7) A copy of all form(s) to be used to obtain informed consent of human subjects as required by Subpart F of this part (which may be appended to the investigational plan or the summary of the investigational plan).

(8) A copy of all informational material, including labels and other labeling, which is to be supplied to investigators as required by § 812.47(a).

(9) A description of the scientific training and experience that the sponsor considers appropriate to qualify individuals as suitable experts to investigate the safety and effectiveness of the device, bearing in mind the investigational plan, the report of prior investigations of the device, and what is known about the device.

(10) A copy of the signed statements of investigators (Form FD———) who will be taking part in the investigational study required under § 812.43(b).

(11) The name and a summary of the training and experience of the individual who is to monitor the progress of the study for the sponsor and evaluate the data regarding the safety and effectiveness of the device, as required by § 812.46(b).

(12) A statement as to whether any institutional review committee has ever disapproved any investigational study of the device and the reasons for such disapproval.

(13) A statement that the sponsor will comply with each of the requirements of Subparts B and C of this part.

(14) If the sponsor intends to be compensated for an investigational device by subjects and/or investigators:

(i) A full explanation of why, considering manufacturing and other costs, the proposed compensation is necessary and the amount of proposed compensation is reasonable.

(ii) A statement that the sponsor understands that the failure of the Food and Drug Administration to disapprove such compensation is not to be regarded as permitting the commercialization of an investigational device prohibited by § 812.50.

(15) If the sponsor is requesting waiver of the requirement of § 812.30(c)(1) that a study shall not begin before the expiration of 30 days after the Food and Drug Administration has received an application meeting the requirements of this subpart, a statement of reasons for requesting such waiver.

(16) When requested by the Food and Drug Administration after receipt of an application under this section, an environmental impact analysis report meeting the requirements of Part 6 of this chapter.

(17) Any other information required by the Food and Drug Administration to be submitted.

§ 812.25 Investigational plan.

(a) The investigational plan for the investigational study of a device shall include the following:

(1) A statement of the intended uses of the device;

(2) A general outline of the plan and any possible changes or variations in the plan that may be made based on experience gained in the study;

(3) A description of what results are expected from the investigational study;

(4) A justification for commencing the study taking into account the report of prior investigations of the device;

(5) The expected duration of the investigational study;

(6) Identification of the investigator or investigators, the facilities where the study will occur, and any institutional review committees that will supervise the study;

(7) The patient population in which the device will be used (in terms of age, sex, and condition) and the size of such population;

(8) A justification for using such patient population and of the size of such population;

(9) The sponsor's plan for monitoring the study in accordance with § 812.46;

(10) A description of records to be maintained, and the reports to be made, by the investigator(s) and the sponsor to assure compliance with the plan and enable the progress of the investigation to be reviewed by the sponsor, any institutional review committee, and the Food and Drug Administration, and the safety and effectiveness of the device to be evaluated; and

(11) The plan for obtaining informed consent from subjects, including copies of all forms to be used in obtaining such consent.

(b) The procedures and conditions in the investigational plan may vary depending on (1) the scope and duration of the investigational study, (2) the number of human subjects who are to be involved in the study, (3) the need to permit changes to be made in the device during the study conducted in accordance with the plan, and (4) the purpose of the study, e.g., whether the study is designed for the purpose of developing data to obtain approval for the commercial distribution of the device.

(c) Where an investigational study is for the purpose of developing data to obtain approval for the commercial distribution of the device, an investigational plan will not ordinarily be regarded as reasonable unless it provides for more than one independent competent investigator to maintain adequate case histories of an adequate number of subjects, including controls, in accordance with § 812.111.

(d) The investigational plan may provide for additional animal tests to be made during the investigational study.

§ 812.27 Report of prior investigations of a device.

(a) The report of prior investigations of a device, to be submited to an institutional review commitee and to the Food and Drug Administration, shall include information concerning prior investigations of a device that is adequate to justify the investigational study involving human subjects as proposed in the investigational plan under § 812.25.

(b) The report of prior investigations of a device shall include:

(1) Complete information available to the sponsor about preclinical investigations of the device, including tests in animals and tests in vitro, and prior clinical investigations of the device or clinical experience with the device from commercial marketing, whether in the United States or in foreign countries.

(2) A complete bibliography of any publications about the device.

(c) Prior investigations of a device shall not be considered adequate to justify an investigational study involving human subjects unless the conditions of the preclinical investigations of the device are relevent to the conditions of the proposed investigational study.

(d) Except where tests on laboratory animals would be inappropriate, e.g., where in the judgment of the institutional review committee and the Food and Drug Administration, there have been adequate in vitro tests or there is ample literature concerning prior clinical investigations or clinical experience, prior investigations of a device will be considered adequate to justify the investigational use of the device in human subjects only if:

(1) The device has been tested in laboratory animals and these tests show that it is reasonably safe to begin an investigational study involving human subjects; and

(2) The report of prior investigations of the device (i) identifies and describes the qualifications of the persons who conducted such tests and the persons who evaluated the results and who concluded that it is reasonably safe to begin an investigational study involving human subjects, (ii) states where such tests were conducted, (iii) states whether records concerning such tests are available and, if so, where, and (iv) provides sufficient details concerning such tests to permit scientific review.

(e) Where the device consists of several components or ingredients and information concerning any such components or ingredients is needed to justify the investigational use of the device in human subjects, the report of prior investigations of a device shall include a summary of information about prior clinical investigations of significant components or ingredients of the device, or clinical experience with such components from commercial marketing, and a complete bibliography of publications about the components or ingredients. Such summary shall include all reports available to the sponsor suggesting side effects, contraindications, or ineffectiveness of such components or ingredients and a statement of the expected results of combining the components or ingredients.

§ 812.30 Food and Drug Administration review of and action on an application.

(a) Upon receipt of an application for an investigational device exemption submitted in accordance with this subpart, the Food and Drug Administration will notify the sponsor of the date of such receipt and inform the sponsor that the investigational study may not be commenced:

(1) For 30 days from the date of receipt of the application of the Food and Drug Administration, unless the agency has decided to waive the 30-day time requirement and so informs the sponsor, or

(2) In the case of an application for an exemption from the banned device provisions of section 516 of the act until the Food and Drug Administration approves the application.

(b) If, during the 30-day period following receipt of the application, the Commissioner finds that the application does not meet the requirements of this subpart, he shall return the application to the sponsor with a statement of reasons for rejecting the application, and, except where the deficiencies are minor and can be corrected promptly by submission of additional information, shall instruct the sponsor that the investigational study shall continue to be postponed until the requirements of this subpart are met. A deficient application may be corrected and resubmitted at any time and reviewed in accordance with paragraph (a) of this section. If the Commissioner again rejects the resubmitted application, such rejection shall be regarded as a disapproval for purposes of this section.

(c)(1) Except as provided in paragraph (c)(2) of this section, an application for an investigational device exemption shall be deemed to be approved on the 30th day after receipt of the application by the Food and Drug Administration, unless on or before such day the Commissioner by order disapproves the application or notifies the sponsor that the application does not meet the requirements of this subpart pursuant to paragraph (b) of this section.

(2) An application for an exemption from the banned device provisions of section 516 of the act shall not be considered approved unless the Commissioner notifies the sponsor of such approval.

V 41 163 AUG 20 76 UM

(d) The Commissioner shall by order disapprove an application if he makes any of the following findings:

(1) The application contains an untrue statement of a material fact or omits material information required by § 812.20.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to begin the proposed investigational study.

(3) There is reason to believe that the investigational device may be unsafe or ineffective when used for the purpose or in the manner for which it is to be investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the investigational device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the investigational device do not assure adequately the safety and effectiveness of the investigational device.

(6) There is reason to believe that the investigational study will not be conducted in accordance with the investigational plan submitted to the Food and Drug Administration.

(7) The sponsor's proposed use of the investigational device is not intended solely for an investigational study, since it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part.

(8) The proposed investigational study with respect to which the application is submitted does not conform to procedures, conditions, or requirements prescribed in this part.

(e) The Commissioner shall disapprove an application if he determines that the proposed investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, whether:

(1) The risks to the subject are so outweighed by the sum of the benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks.

(2) The rights and welfare of any such subjects will be adequately protected.

(3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part.

(4) The conduct of the activity will be reviewed at timely intervals.

(f) The Commissioner may approve conditionally an application for an exemption under this subpart.

(g) The Commissioner shall notify the sponsor of an approval of an application under paragraph (c)(2) of this section or of disapproval or conditional approval of an application. The notification shall contain the order of the approval, disapproval, or conditional approval, a complete statement of any conditions to an approval, and a complete statement of the reasons for the order. A notification of disapproval or conditional approval shall advise the sponsor of the opportunity for a regulatory hearing pursuant to Subpart F of Part 2 of this chapter, on the order.

§ 812.35 Withdrawal of an investigational device exemption.

(a) The Commissioner shall by order withdraw an exemption granted under this part if he makes any of the following findings:

(1) The application for such exemption or any subsequent reports contains an untrue statement of a material fact or omits material information required by §§ 812.20, 812.39, or § 812.55.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to continue the investigational study involving human subjects.

(3) There is reason to believe that the investigational device may be unsafe or ineffective when used for the purposes or in the manner for which is is investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the investigaitonal device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the investigational device do not adequately assure the safety and effectiveness of the investigational device.

(6) The investigational study is not being conducted in accordance with the investigational plan submitted to the Food and Drug Administration or any investigational review committee; or any change in, or deviation from, the investigational plan was not approved as required by §§ 812.39 and 812.105.

(7) The sponsor's use of the investigational device is not solely for an investigational study since it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part.

(8) The sponsor has failed to submit an application for premarket approval of the device when requested by the Food and Drug Administration to do so under § 812.46(g).

(9) The investigational study does not conform to procedures, conditions, or requirements prescribed under this part.

(b) The Commissioner shall by order withdraw an exemption granted under this part if he determines that the investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, whether:

(1) The risks to the subject are so outweighed by the sum of the benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks.

(2) The rights and welfare of any such subjects have been adequately protected.

(3) Legally effective informed consent has been obtained by adequate and appropriate methods in accordance with the provisions of this part.

(4) The conduct of the activity has been reviewed at timely intervals.

(c) An order under this section shall include a complete statement of the reasons for the Commissioner's action. Such order shall be issued only after the sponsor has been afforded an opportunity for a regulatory hearing pursuant to Subpart F of Part 2 of this chapter, except that the order may be issued before providing an opportunity for such hearing if the Commissioner determines that the continuation of testing under the exemption with respect to which the order is to be issued will result in an unreasonable risk to the public health or safety.

(d) An exemption that has been withdrawn under this section may be reinstated if the sponsor satisfies the Commissioner that the grounds for withdrawal no longer apply.

§ 812.38 Confidentiality of data and information in an application.

(a) The existence of an application for investigational device exemption will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in the Food and Drug Administration file concerning the application shall be handled in accordance with the provisions established in § 314.14 of this chapter for the confidentiality of data and information in new drug applications.

(c) Notwithstanding the provisions of § 314.14 of this chapter, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational device has been used a copy of any adverse reaction report relating to such use.

§ 812.39 Supplemental applications and submissions concerning applications.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, information contained in an application submitted under § 812.20 may be updated by means of a report to the Food and Drug Administration under § 812.55.

(b)(1) Whenever the sponsor or any investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan submitted to the Food and Drug Administration under § 812.20 or described in a summary that was submitted, which change or deviation may affect the validity of the study or the rights or safety of the human subjects under the criteria in paragraph (b)(3) of this section, the sponsor shall submit to the Food and Drug Administration a supplemental application describing the proposed change or deviation and the justification therefor. Except as provided in paragraph (b)(2) of this section, the sponsor shall submit the supplemental application before the change or deviation is implemented, shall obtain the prior review and approval of any institutional review committee pursuant to §§ 812.42(c)(2)(v) and 812.105, shall attach to such supplemental application a copy of the approval of such change or deviation by such committee, and shall not permit the change or deviation to be implemented unless and until the supplemental application is approved or deemed approved under § 812.30(c).

(2) When a change or deviation is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the sponsor is not required to comply with the prior approval requirements of paragraph (b)(1) of this section. The sponsor shall instead notify the Food and Drug Administration of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after such change or deviation is implemented.

(3) The following changes in, or deviations from, an investigational plan illustrate some of the situations in which prior review and approval are required under paragraph (a) of this section:

(i) A significant change in the administration of, or where appropriate, in the dosage or frequency of, or a change in the method of, administration or use of the investigational device.

(ii) A significant change in the number of subjects participating in the study at one time or cumulatively.

(iii) The utilization of subjects with medical conditions unrelated to, but possibly affecting, the scope or validity of the study, e.g., use of terminally ill patients in an investigation unrelated to the terminal illnesses.

(iv) The utilization of human subjects who require special consideration or protection and who are not listed specifically in the plan, e.g., children, pregnant women, mentally disabled individuals, or prisoners.

(v) The administration of concomitant or concurrent therapy.

(c) The sponsor shall submit to the Food and Drug Administration the signed statements required under §§ 812.43(b) and 812.42(c)(2)(iii) for any additional investigators or institutional review committees who are added to an investigational study after submission of an application for an investigational device exemption under § 812.20(b). Any such additional statement shall be submitted before an investigator may begin participation in the investigational study except that the sponsor may request the Food and Drug Administration approval to add additional investigators to the study by rapid communication techniques before submitting the signed statements when there exists a life-threatening situation that necessitates the use of the investigational device. Such requests should be directed to the Director, Bureau of Medical Devices and Diagnostic Products, Food and Drug Administration.

(d) The sponsor shall submit to the Food and Drug Administration any additional forms, or revisions in forms, to be used by investigators to obtain informed consent of human subjects and any additional informational materials, or revision in such informational materials, supplied to investigators, which had not been submitted in an application under § 812.20(b)(7) and (8) or any subsequent reports to the Food and Drug Administration. The sponsor shall submit such forms or materials to the Food and Drug Administration at the same time that they are provided to investigators.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

§ 812.40 General.

The requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators, where such studies involve human subjects. These requirements are conditions to any exemptions for such studies under this part and are in addition to any other requirements applicable to sponsors under the act or under this chapter, e.g., the requirements under Subpart B of this part or the requirements for applications for premarket approval of devices under section 515 of the act.

§ 812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.

(a) The sponsor shall submit for review and approval by the Food and Drug Administration an application for an investigational device exemption in accordance with Subpart B of this part before any human subjects are allowed to participate in, or are requested to consent to participate in, the investigational study; and the sponsor shall assure that it has met the other requirements of § 812.5, which state the conditions for an exemption of an investigational device. The sponsor shall also assure that the Food and Drug Administration is provided all the information concerning the proposed investigational study and the device that the agency will need for its review, approval, and monitoring of the study.

(b) The sponsor shall not allow human subjects to participate in, or be requested to consent to participate in, a proposed investigational study until such time as the study has been reviewed by, and an investigational device exemption has been obtained from, the Food and Drug Administration pursuant to Subpart B of this part.

(c)(1) The sponsor shall determine whether the proposed investigational study is subject to an institutional review requirement under Subpart D of this part.

(2) If the study is subject to an institutional review requirement:

(i) The sponsor shall submit, or assure that an investigator submits, for review and approval by the committee the proposed investigational study (including an investigational plan that meets the requirements of § 812.25 and a report of prior investigations of the device that meets the requirements of § 812.27) before any human subjects are allowed to participate in, or are requested to consent to participate in, the study.

(ii) The sponsor shall assure that the institutional review committee is provided all the information on the proposed investigational study and the device that it will need for its review, approval, and monitoring of the study.

(iii) The sponsor shall obtain from the committee a statement, signed by all members who participated in the decision, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the device, that the committee will monitor the investigation until it is completed, discontinued, or terminated, and that during the investigation the committee will supervise the study to assure conformity with the investigational plan and that the investigator complies with the requirements applicable to investigators under Subparts E and F of this part. The sponsor shall submit the committee's statement to the Food and Drug Administration, as required by §§812.20(b)(5) and 812.38(c).

(iv) The sponsor shall assure that the institutional review committee complies with the requirements of Subpart D of this part.

(v) The sponsor shall not implement a change, or deviate from the investigational plan, or permit a change or deviation to be implemented, unless there has been compliance with the requirements of §§ 812.39 and 812.105.

(vi) The sponsor shall report, or assure that an investigator reports, to the committee any adverse effect that may reasonably be regarded as caused, or probably caused, by the investigational device and that was not previously anticipated (in nature, severity, or degree of incidence) in any written information regardig the device submitted to the committee. The sponsor also shall report, or assure that an investigator reports, to the committee any known deaths of subjects and any life-threatening medical problems occurring in the study. Such reports shall be accurate and adequate in content and shall be made as soon as possible, but in no event later than 5 working days, after the sponsor discovers the adverse effect, death, or medical problem, e.g., from an investigator in another institution or from an animal study.

(vii) The sponsor shall notify, or assure that an investigator notifies the committee within 3 months after completion or discontinuance of, or the withdrawal of the exemption for, the entire investigational study or of the investigator's portion of the study, whichever is sooner.

(viii) The sponsor shall provide accurate and adequate information regarding the investigational study to the committee in response to its request.

(ix) The sponsor shall maintain, or assure that an investigator maintains, records of all submissions to, and all actions by, the committee regarding the study.

§ 812.43 Selection of investigators.

(a) The sponsor shall select as investigators only individuals who, because of

VA 41 H63 AUG 20 76 UM

their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the device bearing in mind the investigational plan, the report of prior investigations of the device as described in an applicaton for an investigational device exemption under § 812.20 and what is known about the device, and who have the ability and commitment to comply with the investigational plan and the procedures, conditions, and requirements of Subparts E and F of this part.

(b) The sponsor shall obtain from each investigator who will participate in the investigational study a signed statement on Form FD—— for submission to the Food and Drug Administration under §§ 812.20(b)(10) or 812.39(c) that includes the following information:

(1) A statement of the investigator's education and experience in sufficient detail to allow determination of the investigator's qualifications for investigating the device. Such statement shall include:

(i) Colleges, universities, and medical or other professional schools attended, dates of attendance, degrees, and dates on which degrees were awarded.

(ii) Postgraduate medical or other professional training with dates, names of institutions, and nature of training.

(iii) Teaching or research experience with dates, names of institutions and a brief description of the experience.

(iv) Experience in medical practice or other professional experience giving dates, institutional affiliations, and nature of practice or other professional experience.

(v) A representative list of pertinent medical or other scientific publications of the investigator giving titles of articles, names of publications and volume, number, page, and date.

(2) An agreement to comply with the investigational plan, the requirements of Subparts E and F of this part, and any conditions for approval of an application for an investigational device exemption imposed under § 812.30(f).

(3) An agreement that any use of the device involving human subjects will be under the investigator's supervision.

(4) A statement as to whether any investigational study or other research by such investigator has been discontinued on the order of a sponsor, an institutional review committee, or the Food and Drug Administration.

(5) The name of any other investigator who will participate in the investigational study, who is under the investigator's supervision, and who is responsible to him, with a statement of such other investigator's education and experience in accordance with paragraph (b)(1) of this section.

§ 812.45 Control over the investigational device.

(a) The sponsor shall permit the investigational device to be shipped only to investigators who have signed statements that the sponsor has submitted to the Food and Drug Administration under § 812.20(b)(10) or § 812.39(c) and shall assure that each such investigator only permits an investigational device for administration to, or use involving, subjects who are under his personal supervision, or under the supervision of another investigator who is responsible to him and who is named by the investigator in his signed statement under § 812.43(b). The sponsor shall assure that an investigator does not supply the investigational device to any other person for administration to, or use involving, subjects or for any other purpose.

(b) When a study is completed or discontinued, or the exemption is withdrawn, the sponsor shall recall from investigators or shall otherwise assure the disposition of any unused supply of the investigational device and assure that all investigators discontinue use of the device. The sponsor shall assure that the investigators return any unused supply of the investigational device, or otherwise dispose of the device as directed by the sponsor, upon request of the sponsor or upon suspension, withdrawal of the exemption, or discontinuance of the investigational study.

(c) The sponsor shall maintain adequate and accurate records showing the shipment, receipt, or other disposition of all supplies of all investigational devices shipped to him by others and shipped by him to investigators, including the dates, the quantity and the serial, batch, lot or other identification number of the units received; identification by name of the investigator who received each unit of the device; and identification of each unit otherwise disposed of (including identification of the person who disposed of it, the person, if any, who received it, and the purpose or reason for its disposal, e.g., because of contamination or to return to the sponsor). The records required in this paragraph are separate from, and in addition to, the records required under § 812.55.

(d) The sponsor shall assure that the methods, facilities, and controls used for the manufacture, processing, storage, and, where appropriate, installation of the device adequately assure the safety and effectiveness of the investigational device.

§ 812.46 Monitoring the investigational study.

(a) The sponsor shall monitor the investigational study continuously to assure that the requirements of this part are met and shall evaluate the data regarding the safety and effectiveness of the device upon receipt of such data from investigators.

(b) The sponsor shall designate an appropriately trained and qualified individual to monitor the progress of the investigational study and evaluate the data on behalf of the sponsor as required by paragraph (a) of this section, and shall assure that such monitoring and evaluation occur.

(c) The sponsor shall assure that all investigators who participate in the investigational study conduct the investigational study in accordance with the investigational plan, the requirements of this part, and any conditions of approval of an application for an investigational device exemption imposed under § 812.30(f).

(d) The sponsor shall discontinue shipments of the investigational device to any investigator who has failed to conduct the investigation in accordance with the investigational plan, the requirements of this part, and any conditions of approval of an application for an investigational device exemption imposed under § 812.30(f).

(e) The sponsor shall have and shall comply with an adequate plan for monitoring the investigational study, which shall be included in the investigational plan under § 812.25. Such plan shall include provisions for periodic visits at specific intervals to all facilities involved in the investigational study by appropriately trained and qualified representatives of the sponsor to determine whether the investigations are being conducted in accordance with the plan, the requirements of this part, and any conditions of approval of an application for an investigational device exemption imposed under § 812.30(f).

(f)(1) The sponsor shall undertake a special investigation whenever he learns of any adverse effect that may reasonably be regarded as caused by, or probably caused, by the investigational device and that was not previously anticipated (in nature, severity, or degree of incidence) in any material submitted to the Food and Drug Administration. The sponsor also shall undertake a special investigation of any known deaths of subjects and any life-threatening medical problems that have occurred in the study. The sponsor shall notify all investigators of any such adverse effect, death, or medical problem as soon as possible, but in no event later than 5 days after the sponsor learns of the adverse effect, death, or medical problem, as required by § 812.47(b).

(2) Where the sponsor regards any adverse effect, death, or medical problem discussed in paragraph (f)(1) of this section as serious, the sponsor shall upon its own initiative suspend the study as soon as possible but in no event later than 5 days after learning of the adverse effect, death, or medical problem. Where the sponsor has not suspended the study but the Food and Drug Administration regards such an adverse effect, death, or medical problem as serious and so informs the sponsor, the sponsor shall suspend the study as soon as possible but in no event later than 5 days after such request. The sponsor shall not resume the study until it determines, subject to the concurrence of the Food and Drug Administration, that the study can safely be resumed. Where there is substantial doubt that the study can safely be resumed, the sponsor shall discontinue the study.

(g) A sponsor shall not unduly prolong an investigational study. Where the study is suitable for the development of data to obtain approval of an application for premarket approval of the device pursuant to section 515 of the act, the sponsor shall submit such an application under either of the following conditions:

(1) With reasonable promptness after the sponsor finds that the results of the study may establish the safety and effectiveness of the device.

(2) Within 60 days after receipt of a written request for such an application from the Commissioner. If the sponsor does not submit an application after such request, the sponsor shall give adequate reasons for not submitting an application for premarket approval or shall discontinue the study.

§ 812.47 Submitting information to investigators.

(a) The sponsor shall supply all investigators with copies of the investigational plan required under § 812.25, the report of prior investigations of the device required under § 812.27, and labeling (including labels) for the device which describes all relevant hazards, contraindications, adverse effects, interfering substances or devices, and precautions suggested by prior investigations and experience with the investigational device or any related devices. The labeling shall not represent that the safety or effectiveness of the device has been established for the purposes to be investigated.

(b) The sponsor shall notify each investigator participating in the study of any adverse effect, death, or medical problem that is subject to the requirement of a special investigation under § 812.45(f) as soon as possible but in no event later than 5 days after the sponsor learns of the adverse effect, death, or medical problem.

(c) The sponsor shall notify each investigator of the completion or discontinuance of the investigational study or the withdrawal of the exemption as soon so possible but in no event later than 5 days after such action.

(d) The sponsor shall notify each investigator if an application for premarket approval of the device under section 515 of the act is approved.

§ 812.50 Promotion and sale of an investigational device.

(a) Neither the sponsor nor any person acting for or on behalf of the sponsor shall disseminate any promotional material representing that the device being investigated is safe or effective for the purposes for which it is under investigation. This requirement does not restrict the full exchange of scientific information concerning the device, including dissemination of scientific findings in the media, but prohibits promotional claims by the sponsor that the device is safe or effective while the device is being investigated to establish its safety or effectiveness. During the transitional period, this requirement may be waived by the Food and Drug Administration for a device that either was in commercial distribution before May 28, 1976 or is substantially equivalent to a device that was in commercial distribution before such date.

(b)(1) Except as provided in paragraph (b)(2) of this section, the sponsor shall not commercially distribute or test market an investigational device, or otherwise commercialize an investigational device, until the device has been approved for marketing for the purpose for which it is being investigated.

(2) During the transitional period for a device that was in commercial distribution before May 28, 1976 or that is substantially equivalent to a device that was in commercial distribution before such date, the sponsor of the device may commercially distribute or test market the device so long as the device may be commercially distributed lawfully without having in effect an approved application for premarket approval under section 515 of the act.

(c) The sponsor shall not charge subjects or investigators for an investigational device if the Food and Drug Administration finds the compensation to be unreasonable considering the manufacturing and other costs of the device, and has so notified the sponsor of this finding.

§ 812.55 Reporting to the Food and Drug Administration, maintaining records, and permitting inspection.

(a) A sponsor shall make accurate and adequate records for reporting to the Food and Drug Administration on the progress of the investigational study. These reports shall be made at appropriate intervals not exceeding 1 year. Such reports shall include any significant findings of the investigational study and any amendments to the application or previous reports that are necessary to keep them accurate and timely and that had not been submitted to the agency previously.

(b) The sponsor shall notify the Food and Drug Administration of the completion or discontinuance of the investigational study within 30 days and shall make an accurate and adequate final report to the agency on the study within 6 months after the study is completed or discontinued, or an exemption is withdrawn.

(c) The sponsor shall report to the Food and Drug Administration any adverse effect, death, or medical problem that is subject to the requirement of a special investigation under § 812.46(f). Such reports shall be accurate and adequate in content and shall be made as soon as possible, but in no event later than 5 working days, after the sponsor learns of the adverse effect, death, or medical problem.

(d) The sponsor shall submit to the Food and Drug Administration a copy of a report of a determination by an investigator under § 812.123 that informed consent cannot be obtained from a subject or his representative. Such report shall be submitted as soon as possible, but in no event later than 5 days, after such report is received from the investigator.

(e) A sponsor shall retain a copy of any application, report, or correspondence that he submits to the Food and Drug Administration under this part.

(f) A sponsor shall maintain the records required under this part for whichever of the following periods applies:

(1) A period of 2 years following the date on which the Food and Drug Administration approves the marketing of the device for the purposes which were the subject of the study.

(2) A period of 5 years following the date on which the results of the study are submitted to the Food and Drug Administration in support of the marketing of the device for the purposes which were the subject of the study.

(3) In other situations, e.g., where the investigational study does not result in the submission of an application for marketing the device for the purposes which were the subject of the study, a period of 2 years following the date on which the investigational study (not merely an investigator's portion of a study) is completed or discontinued, or the exemption is withdrawn.

(g) A sponsor may withdraw from the responsibility for maintaining records for the period of time required in paragraph (f) of this section by transferring custody to any other person who will accept responsibility for the records, e.g., a manufacturer who has acquired the rights to the device. Notice of such transfer shall be given to the Food and Drug Administration.

(h) A sponsor shall permit an authorized employee of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect any facilities where the investigational device is manufactured, processed, held, or used, and to inspect and copy any records of the sponsor concerning the investigational study, including any records required to be kept under § 812.45(c) and under paragraph (e) of this section. A sponsor shall permit a representative of an institutional review committee that is supervising an investigational study of the sponsor, at reasonable times and in a reasonable manner, to inspect and copy any records of the sponsor relevant to the responsibilities of the committee concerning the investigational study. The requirements of § 812.115 shall apply to the copying of names and other information which might identify the human subjects.

(i) The Food and Drug Administration may require a sponsor to submit any records concerning the investigational study, including any records required to be kept under § 812.45(c) and paragraph (e) of this section.

Subpart D—Institutional Review Committee

§ 812.60 Circumstances in which an institutional review committee is required.

(a) An institutional review committee shall review and monitor investigational studies in any of the following situations:

(1) When the investigational study is to utilize human subjects who are institutionalized.

(2) When the investigational study is to be conducted by an individual affiliated with an institution that agrees to assume responsibility for the study.

(3) When the investigational study is to be conducted in an institution that

V 41 163 AUG 20 76 UMI

has a committee that meets the requirements of this subpart.

(b) When a committee does not meet the requirements of this subpart, the Food and Drug Administration shall disregard the review or monitoring of any investigational study by that committee and shall require any sponsor of a study that would be reviewed by that committee to submit a complete investigational plan pursuant to § 812.20(b)(6).

§ 812.62 Membership of an institutional review committee.

(a) An institutional review committee shall be composed of not less than five individuals with varying backgrounds to assure complete and adequate review of the investigational study. Such committee shall be sufficiently qualified through the maturity, experience, and expertise of its members and diversity of its membership to ensure respect for its advice and counsel for safeguarding the rights and safety of human subjects and for assuring that a proposed investigational study has scientific validity. In addition to possessing the professional competence necessary to review scientific activities, such committee must be capable of ascertaining the acceptability of an investigational study in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. Such committee shall include, in addition to persons possessing the professional competence necessary to review scientific activities, persons whose primary concerns are in nonscientific areas, e.g., lawyers, clergymen, ethicists, social scientists, or other lay persons. No such committee shall consist entirely of members of a single professional group.

(b) The records of a committee shall identify each member by name, earned degrees, positions or occupation, representative capacity, and other pertinent indications of experience, such as board certification or licenses, sufficient to describe each member's chief anticipated contributions to such committee's deliberations.

(c) No committee shall consist entirely of persons who are officers, employees, or agents of, or are otherwise associated with, the institution, apart from their membership on the committee. The employment or other relationship between each member and the institution, e.g., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant, shall be described in the records of the committee.

(d) No member of a committee shall participate in the committee's review or monitoring of an investigational study in which he has a conflicting interest or of any study involving an investigator or sponsor who participated in his selection for the committee, except to provide information requested by such committee. No investigator or sponsor shall participate in the selection of members for a committee that will review his investigational study. The employment or other relationship between each member and any investigator or sponsor of any investigational study reviewed and monitored by the committee, e.g., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant, shall be described in the records of the committee with a statement as to the extent to which the member participated in the review or monitoring of the study.

§ 812.65 Procedures for review and monitoring of investigational studies by an institutional review committee.

(a) An institutional review committee shall adopt and follow written procedures for conducting its review and monitoring of investigational studies and for reporting its findings to the institution, the sponsor, and the investigator.

(b) A committee shall conduct business by a quorum, which shall be defined by written procedures of the committee. In no event shall a quorum be less than either a majority of the members of the committee or 3 members, whichever is greater. In addition, no quorum shall be constituted, regardless of the number of members present, unless persons of at least two diverse backgrounds are present, e.g., at least one scientist and one nonscientist.

(c) A committee shall monitor an investigational study that it has approved until the investigation is completed or discontinued, or an exemption is withdrawn. Such monitoring shall be undertaken at intervals appropriate to the degree of risk, but not exceeding 1 year, to assure that the investigational study is being conducted in compliance with the requirements, understandings, and recommendations of the committee and with the requirements of this part.

§ 812.66 Procedures and criteria for review of investigational studies by an institutional review committee.

(a) Upon receipt of the proposed investigational study, including an investigational plan and a report of prior investigations of the device from the sponsor or investigator, the committee will notify the sponsor or investigator of the date of such receipt and inform the sponsor or investigator that the study may not begin until such time as the committee notifies the sponsor or investigator that the study has been approved.

(b) If the committee has any question regarding the proposed investigational study, the committee may request the investigator or sponsor to submit additional information concerning the proposed study.

(c) The committee shall review and approve, conditionally approve, or disapprove a proposed study as soon as possible after receipt thereof.

(d) The committee may disapprove, or withdraw approval of, a proposed institutional study for any reason it considers appropriate.

(e) The committee shall disapprove a proposed study if it finds that:

(1) The information submitted to the committee concerning the study contains an untrue statement of a material fact or omits material information required by this part; or

(2) The report of prior investigations of the investigational device is inadequate to support a conclusion that it is reasonably safe to begin the proposed investigational study; or

(3) There is reason to believe that the investigational device may be unsafe or ineffective when used for the purpose, or in the manner, for which it is to be investigated; or

(4) The investigational plan is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the investigational device is safe or effective; or

(5) The proposed investigational study does not conform to procedures, conditions, or requirements prescribed in this part.

(f) The committee shall disapprove a proposed study as being inadequate to justify commencement of clinical testing if it determines that the proposed investigational study subjects human subjects to undue risks. In assessing risks, the committee shall consider, among other things, whether:

(1) The risks to the subject are so outweighed by the sum of the benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) The rights and welfare of any such subjects will be adequately protected;

(3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part; and

(4) The conduct of the activity will be reviewed at timely intervals.

(g) The committee shall notify the sponsor or investigator who submitted the proposal of its decision on the proposed study. Notification of conditional approval shall contain a complete statement of the reasons for the committee's conditional approval.

§ 812.70 Review by institution.

Approval, including conditional approval, by an institutional review committee may be subject to further appropriate review and approval or rejection by institutional officials, but disapproval by the committee may not be overruled by such officials.

§ 812.75 Records of an institutional review committee.

(a) An institutional review committee shall prepare and maintain adequate documentation of its activities regarding each investigational study, including records of information submitted to the committee by an investigator or by a sponsor, information compiled on committee members pursuant to § 812.62, minutes of committee meetings on substantive issues and their resolution, committee decisions on studies, and dated reports of successive reviews as they are performed.

(b) A committee shall retain the records required by this part for an investigational study for whichever of the following periods is applicable:

(1) A period of 2 years following the date on which the Food and Drug Administration approves the marketing of the device for the purposes which were the subject of the study;

(2) A period of 5 years following the date on which the results of the study are submitted to the Food and Drug Administration in support of the marketing of the device for the purposes which were the subject of the study; or

(3) In other situations, e.g., where the investigational study does not result in the submission of the results of the study in support of the marketing of the device, a period of 2 years following the date on which the entire investigational study, not merely an investigator's portion of a study, is completed or discontinued or the exemption is withdrawn under § 812.35.

§ 812.77 Inspection of institutional review committees.

An institutional review committee shall permit an unauthorized employee of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect and copy records required to be maintained by the committee pursuant to § 812.75.

§ 812.79 Disqualification of an institutional review committee.

(a) The Director of the Bureau may determine that the process of review undertaken by an institutional review committee is inadequate if he finds that:

(1) The membership of a committee was composed in violation of the requirements of § 812.62.

(2) A member of the committee participated in the committee's review or monitoring of an investigational study in which he had a conflicting interest, or of any study involving an investigator or sponsor who participated in his selection for the committee, in violation of the requirements of § 812.62.

(3) The committee failed to adopt written procedures for conducting business or for conducting its review and monitoring of investigational studies and for reporting its findings to the institution, the sponsor, and the investigator or failed to follow such procedures, once adopted, in violation of the requirements of § 812.65.

(4) The committee failed to monitor until completion or discontinuance of, or withdrawal of an exemption for, an investigational study which it had approved, in violation of the requirements of § 812.65.

(5) The committee approved a proposed investigational study, in violation of the requirements of § 812.66.

(6) The committee failed either deliberately or through negligence to maintain adequately or accurately, or to retain, any of the records required to be maintained or retained by this part with the result that the validity of the investigational study and/or the rights or safety of human subjects were affected adversely to a significant extent or that the study could not be audited adequately.

(7) The committee refused to permit an inspection of records, in violation of the requirements of § 812.77.

(b) Whenever the officer in the Bureau, other than the Bureau Director, who has direct responsibility for monitoring the conduct of investigational studies has information indicating that grounds exist under paragraph (a) of this section which in his opinion justify disqualification of a committee, he shall issue to the committee a written notice (including a statement of the information indicating that grounds exist which in his opinion justify disqualification) proposing that the committee be disqualified by the Director of the Bureau from reviewing or monitoring investigational studies.

(c) A hearing on the disqualification of a committee shall be conducted in accordance with the requirements for a regulatory hearing set forth in Subpart F of Part 2 of this chapter.

(d) If, after the regulatory hearing or after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, after evaluating the administrative record, that the committee is responsible for any of the acts or omissions specified in the notice issued pursuant to paragraph (b) of this section and has failed to furnish an adequate explanation for such acts or omissions, he shall issue a final order disqualifying the committee from reviewing or monitoring any investigational study. Such order shall include a statement of the basis for that determination. Upon issuing a final order disqualifying the committee, the Director of the Bureau shall notify, with a copy of the order, the institution that established the committee, the investigator and the sponsor of each investigational study which the disqualified committee is reviewing or monitoring. If, after a regulatory hearing or after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, after evaluating the administrative record of the disqualification proceeeding, that the committee is not responsible for any of the acts or omissions specified in the notice issued pursuant to paragraph (a) of this section, or is so responsible but has furnished an adequate explanation for such acts or omissions, he shall issue a final order terminating the disqualification proceeding. Such order shall include a statement of the basis for that determination. Upon issuing a final order terminating the proceeding, the Director of the Bureau shall notify, with a copy of the order, the committee and the officer in the Bureau who proposed disqualification.

(e) Once a committee has been disqualified, each investigational study under the review or monitoring of the committee shall be suspended until reviewed and approved by the Food and Drug Administration or by another institutional review committee that meets the requirements of this subpart. A determination that a committee has been disqualified and the administrative record regarding such determination are disclosable to the public under Part 4 of this chapter.

(f) A committee which has been disqualified may be reinstated as eligible to review and monitor investigational studies if the Director of the Bureau finds that the committee can adequately assure that it will conduct such review and monitoring in compliance with the conditions set forth in this subpart. A disqualified committee which wishes to be so reinstated shall present in writing to the Director of the Bureau reasons why it believes it should be reinstated and the corrective actions it has taken or intends to take to assure that the acts or omissions which led to its disqualification will not recur. If a committee is reinstated, the Director of the Bureau shall so notify the committee, the institution that established the committee, the investigator and the sponsor of each investigational study which the committee was reviewing or monitoring at the time of its disqualification. A determination that a committee has been reinstated is disclosable to the public under Part 4 of this chapter.

(g) Disqualification of a committee under this section is independent of, and neither in lieu of nor a precondition to, othe proceedings or actions authorized by the act. The Food and Drug Administration may also refer pertinent matters to another Federal, state, or local law enforcement or regulatory agency for such action as that agency deems appropriate.

Subpart E—Investigator Responsibilities in Investigational Studies Involving Human Subjects

§ 812.101 Review of investigational study by the Food and Drug Administration.

(a) An investigator shall ascertain that the sponsor has submitted for review and approval by the Food and Drug Administration the application required in § 812.20 before any human subjects are allowed to participate, or requested to consent to participation, in the investigational study.

(b) An investigator shall not allow human subjects to participate, or request their consent to participation, in an investigational study until such time as an investigational device exemption has been obtained from the Food and Drug Administration pursuant to Subpart B of this part.

§ 812.103 Review of investigational study by institutional review committee.

For any investigational study that is subject to an institutional review requirement under § 812.60:

(a) An investigator shall not allow human subjects to participate, or request their consent to participate, in an investigational study until the committee has approved the study.

(b) An investigator shall not implement a change in, or deviate from, the investigational plan until he has complied with the requirements of § 812.105.

V 41 N 163 AUG 20 76 UM

(c) An investigator shall notify the committee of any adverse effect that may reasonably be regarded as caused, or probably caused, by the investigational device and that was not previously anticipated (in nature, severity, or degree of incidence) in the written information regarding the device submitted to the investigator by the sponsor. An investigator also shall report to the committee any known deaths of subjects and any life-threatening medical problems occurring in the study. Such reports shall be accurate and adequate in content and shall be made as soon as possible, but in no event later than 5 working days, after the investigator discovers the adverse effect, death, or medical problem, or is notified of them by the sponsor, e.g., when uncovered by another investigator or in an animal study.

(d) An investigator shall notify the committee within 3 months after completion or discontinuance of, or the withdrawal of the exemption for, the entire investigational study or of his portion of the study, whichever occurs first.

(e) An investigator shall provide accurate and adequate information regarding the investigational study to the committee in response to its request.

(f) An investigator shall maintain records of all submissions to, and all actions by, the committee regarding the study.

§ 812.105 Conformity to investigational plan.

(a) Whenever the sponsor or any investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan submitted to any investigational review committee or the Food and Drug Administration, which change or deviation may affect the validity of the study or the rights or safety of the human subjects under the criteria in § 812.39(b)(3), the investigator shall submit or assure that the sponsor submits the proposed change or deviation to such committee for review and written approval and shall submit or assure that the sponsor submits a supplemental application to the Food and Drug Administration in accordance with § 812.39(b). Except as provided in paragraph (b) of this section, the committee's review and approval shall be obtained and the application submitted to the Food and Drug Administration before the change or deviation is implemented, and the investigator shall not permit the change or deviation to be implemented unless and until the change or deviation is approved by the committee and the supplemental application is approved or deemed approved by the Food and Drug Administration under § 812.30(c).

(b) When a change in or deviation from the investigational plan is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the sponsor or investigator is not required to comply with the prior approval requirements of paragraph (a) of this section. The investigator shall instead notify the sponsor who shall notify the Food and Drug Administration of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after such change or deviation is implemented.

§ 812.107 Control over the investigational device.

(a) An investigator shall only permit an investigational device to be used for administration to, or use involving, subjects who are under his personal supervision or under the supervision of another investigator who is responsible to him and who is named by the investigator in his signed statement undertaking the obligations of an investigator or sponsor-investigator. An investigator shall not supply the investigational device to any other person for administration to, or use involving, subjects or for any other purpose, without the prior authorization of the sponsor.

(b) An investigator shall return to the sponsor any unused supply of the investigational device, or otherwise dispose of the device as directed by the Sponsor, upon request of the sponsor, e.g., upon completion or discontinuance of, or withdrawal of the exemption for, the investigational study.

(c) An investigator shall maintain adequate and accurate records showing the receipt and disposition of all supplies of all investigational devices shipped to him by the sponsor, including the dates, the quantity and the serial, batch, lot or other identification number of the units received, each unit administered or used, including identification by name of the person who administered or used the device and the identification by code of the subject who received it or upon whom it was used, and each unit otherwise disposed of (including identification of the person who disposed of it, the person, if any, who received it, and the purpose or reason for its disposal, e.g., contamination or return to the sponsor). The records required in this paragraph are separate from, and in addition to, the records required for individual subjects in § 812.111.

§ 812.111 Records regarding subjects.

An investigator shall maintain an adequate and accurate case report on each subject, which shall include the following:

(a) All relevant observations, information, and data on the condition of the subject at the time the subject enters into the study, including information regarding any relevant previous medical history and the results of all diagnostic tests performed to determine that the subject is appropriate for entry into the study.

(b) Any documentation regarding the consent of the human subject required under Subpart F of this part.

(c) A record of the exposure of the subject to the investigational device and to any concomitantly or concurrently administered therapy, including the date (and time, if relevant) of each administration, or use, of the device and any other therapy and the quantity or dose administered, if relevant.

(d) All relevant observations and data on the condition of the subject throughout the duration of his participation in the study, including the results of all laboratory tests performed and the appearance of factors which might alter the effects of the investigational device, e.g., development of a clearly unrelated illness.

§ 812.112 Reports to sponsor.

(a) An investigator shall make accurate and adequate reports to the sponsor on the progress of the investigational study at appropriate intervals not exceeding 1 year.

(b) An investigator shall make an accurate and adequate final report to the sponsor within 3 months after the completion or discontinuance of, or withdrawal of the exemption for, the investigational study or of his portion of the study, whichever occurs first. This report shall include all reports not provided to the sponsor in reports submitted pursuant to paragraphs (a) or (c) of this section.

(c) An investigator shall report to the sponsor any adverse effect that may reasonably be regarded as caused, or probably caused, by the investigational device and that was not previously anticipated (in nature, severity, or degree of incidence) in written information regarding the device submitted to the investigator by the sponsor. An investigator also shall report to the sponsor any known deaths of subjects and any life-threatening medical problems occurring in the study. Such reports shall be accurate and adequate in content and shall be made as soon as possible, but in no event later than 5 working days, after the investigator discovers the adverse effect, death, or medical problem.

(d) An investigator shall retain a copy of each report he submits to the sponsor under this section.

§ 812.114 Retention of records.

(a) An investigator shall maintain the records required in this subpart and Subpart F for whichever of the following periods applies:

(1) A period of 2 years following the date on which the Food and Drug Administration approves the marketing of the device for the purposes which were the subject of the study;

(2) A period of 5 years following the date on which the results of the study are submitted to the Food and Drug Administration in support of the marketing of the device for the purposes which were the subject of the study; or

(3) In other situations, e.g., where the investigational study does not result in the submission of the results of the study in support of the marketing of the device, a period of 2 years following the date on which the entire investigational study (not merely an investigator's portion of a study) is completed or discontinued or the exemption is withdrawn under § 812.35.

(b) In the event the investigator retires, relocates, or for any other reason

chooses to withdraw from the responsibility for maintaining records for the period of time required by paragraph (a) of this section, he may transfer custody to any other person who will accept responsibility for the records, e.g., the sponsor, the institution, the committee, or another investigator. Notice of such transfer shall be given in writing to the sponsor and the committee.

§ 812.115 Inspection of facilities, records, and reports and requests for records and reports.

(a) An investigator shall permit an authorized employee of the Food and Drug Administration or of the sponsor, or a representative of the committee, at reasonable times and in a reasonable manner, to inspect the facilities used by the investigator for the study, and to inspect and copy (after deletion of the name and other information which might identify the human subject) records and reports made by the investigator during the study.

(b) An investigator shall permit an authorized employee of the Food and Drug Administration to copy records which identify the names of human subjects, upon notice that the Food and Drug Administration has reason to believe that the consent of human subjects was not obtained, that the reports submitted by the investigator to the sponsor, or to the institutional review commitee, do not represent actual cases or actual results obtained, or that such reports or other required records appear to be otherwise false or misleading.

§ 812.119 Disqualification of investigators.

(a) The Director of the Bureau may disqualify an investigator from receiving any investigational device if he makes any of the following findings:

(1) The investigator allowed human subjects to participate in the investigational study and/or requested their consent to so participate before an investigational device exemption was obtained from the Food and Drug Administration, as required in § 812.101, or the investigational study had been reviewed and approved by any institutional review committee, as required in § 812.103(a).

(2) The investigator implemented a change in, or deviation from, the investigational plan, which adversely affected the validity of the investigational study and/or the rights or safety of the human subjects, without complying with § 812.10.5.

(3) The investigator violated the rights of human subjects in obtaining their consent to participate in the investigational study, when such consent is required under Subpart F in any of the following ways:

(i) The investigator failed to obtain the written consent of the human subject or the subject's representative as required in § 812.120 or, where such written consent is not required under § 812.123, the investigator failed to comply with the requirements of § 812.123.

(ii) The investigator failed to provide information regarding the investigational study as required in § 812.130(a).

(iii) The investigator used a form to document consent which contained exculpatory langauge prohibited by § 812.130(b).

(iv) The investigator used a form to document consent which was not approved by the institutional review committee, as required in § 812.130(c).

(4) The investigator permitted the investigational device to be administered to, or used involving, subjects who were not under his personal supervision or under the supervision of another investigator who was responsible to him and who was named by the investigator in his signed statement undertaking the obligations of an investigator, as prohibited in § 812.107(a).

(5) The investigator supplied the investigational device to a person other than a subject or another investigator responsible to him, for admininstration to, or use involving, subjects or for any other purpose without the prior authorization of the sponsor, as prohibited in § 812.107(a).

(6) The investigator failed to return to the sponsor or dispose of the unused supply of the investigational device as requested to do so by the sponsor, as required in § 812.107(b).

(7) The investigator failed either deliberately or through negligence to maintain adequately or accurately, or to retain, any of the following records with the result that the validity of the investigational study and/or the rights or safety of the human subjects were affected adversely to a significant extent, or that the study could not be audited adequately:

(i) Records showing the receipt and disposition of all supplies of the investigational device, as required in § 812.107(c);

(ii) Records of all submissions to, and all actions by, the institutional review committee, as required in § 812.103(f); or

(iii) Records regarding subjects, including case reports, as required in § 812.111.

(8) The investigator failed either deliberately or through negligence to make any of the following reports to the sponsor or the Committee within the time limit allowed:

(i) An accurate and adequate response to a request for information from the institutional review committee, as required in § 812.103(e);

(ii) An accurate and adequate report on the progress of the investigational study within 1 year of the last previous report, as required in § 812.112(a);

(iii) An accurate and adequate final report within 3 months after the completion or discontinuance of, or withdrawal of an exemption for, the investigational study, as required in §§ 812.103(d) and 812.112(b);

(iv) An accurate and adequate report of an adverse effect that was reasonably regarded as caused, or probably caused, by the investigational device and was not previously anticipated (in nature, severity, or degree of incidence) in the written information regarding the device submitted to the investigator, as required in §§ 812.103(c) and 812.112(c);

(v) An accurate and adequate report of any known death of a subject or of any life-threatening medical problem occurring in the study, as required in §§ 812.103(c) and 812.112(c);

(9) The investigator refused to permit an inspection of facilities used in the investigational study or an inspection and copying of records and reports made during the study, by an authorized representative of the Food and Drug Administration, the sponsor or the committee, as required in § 812.115(a).

(10) The investigator refused to permit the copying of records identifying the names of human subjects by an authorized employee of the Food and Drug Administration, as required in § 812.115(b).

(11) The investigator falsified any record or report, or deliberately withheld any report, required in this subpart.

(b) Whenever the officer in the Bureau, other than the Bureau Director, who has responsibility for monitoring the conduct of investigational studies has information indicating that grounds exist under paragraph (a) of this section, which in his opinion justify disqualification of an investigator, he shall issue to the investigator a written notice proposing that the investigator be disqualified by the Director of the Bureau from receiving investigational devices.

(c) A hearing on the disqualification of an investigator shall be conducted in accordance with the requirements for a regulatory hearing set forth in Subpart F of Part 2 of this chapter.

(d) If, after the regulatory hearing or after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, after evaluating the administrative record of the disqualification proceeding, that the investigator is responsible for any of the acts or omissions specified in the notice issued pursuant to paragraph (b) of this section and has failed to furnish an adequate explanation for such acts or omissions, he shall issue a final order disqualifying the investigator from receiving any investigational device. Such order shall include a statement of the basis for that determination. Upon issuing a final order disqualifying the investigator from receiving investigational devices, the Director of the Bureau shall notify (with a copy of the order) the investigator and the sponsor(s) of, and the committees responsible for review and monitoring of, each investigational study in which the disqualified investigator is participating. If, after a regulatory hearing or after the time for requesting a hearing expires without a request being made, the Director of the Bureau determines, after evaluating the administrative record of the disqualification proceeding, that the investigator is not responsible for any of the acts or omissions specified in the notice issued pursuant to paragraph (b) of this section, or is so responsible but has furnished an adequate explanation for such acts or omissions, he shall issue a final order

VOL 41 NO 163 AUG 20 76 UM

terminating the disqualification proceeding. Such order shall include a statement of the basis for that determination. Upon issuing a final order terminating the proceeding, the Director of the Bureau shall notify (with a copy of the order) the investigator and the officer in the Bureau who proposed disqualification. In addition, if the officer had notified the sponsor of any investigational study in which the investigator was participating of the proposed disqualification (as provided in paragraph (g) (2) of this section), the Director of the Bureau also shall notify (with a copy of the order) that sponsor of the termination of the disqualification proceeding.

(e) (1) Upon issuance of a final order disqualifying an investigator under paragraph (d) of this section, the Director of the Bureau may notify any other person known by the Director to have professional relations with the investigator, e.g., other Federal Government departments or agencies that support research possibly involving the investigator, State and local medical licensing boards and societies where the investigator practices or is licensed, and administrators and institutional or peer review committees in universities, hospitals, and other institutions in which the investigator teaches or practices, that the investigator has been disqualified from receiving investigational devices regulated by the Food and Drug Administration. Such notice may be given in the discretion of the Director of the Bureau whenever he believes that such disclosure would further the public interest or would promote compliance with the law. Such notice, if given, shall include a copy of the final order issued under paragraph (d) of this section and shall state that the disqualification constitutes a determination by the Food and Drug Administration that the investigator is not eligible to receive investigational devices, that notice of this ineligibility is given because of the professional relations between the investigator and the person notified, and that the Food and Drug Administration is not advising or recommending that any action be taken by the person notified.

(2) Once an investigator has been disqualified, each exemption for investigational use of a medical device, application for premarket approval of a medical device, or product development protocol for a medical device, whether approved or not, containing or relying upon data reported by the investigator, may be examined to determine whether the data were essential to the decision to approve the application or protocol or authorize the exemption. If it is determined that the data were essential, the Food and Drug Administration shall also determine whether the data are reliable; this may include requiring the person relying upon the data to submit validating information. If the data are determined to be unreliable, such data will be eliminated from consideration in support of the application, protocol, or exemption, and such elimination may serve as new information justifying the withdrawal of approval of the exemption, application or protocol.

(3) A determination that an investigator has been disqualified and the administrative record regarding such determination are disclosable to the public under Part 4 of this chapter.

(f) An investigator who has been disqualified may be reinstated as eligible to receive investigational devices in conjunction with a specific investigational study if the Director of the Bureau determines that participation of the investigator is important to the study and that the investigator can adequately assure that he will conduct such study in compliance with the obligations of investigators set forth in this subpart. A disqualified investigator who wishes to be so reinstated shall present in writing to the Director of the Bureau reasons why he believes he should be reinstated and the corrective actions he has taken or intends to take to assure that the acts or omissions which led to his disqualification will not recur. The Director of the Bureau shall consult with other Bureaus of the Food and Drug Administration which regulate research before deciding whether to reinstate the investigator. No disqualified investigator shall be reinstated outside of the context of a specific investigational study. If an investigator is reinstated, the Director of the Bureau shall so notify the investigator, and all persons who were notified (under paragraphs (d) and (e) (1) of this section) of the investigator's previous disqualification. A determination that an investigator has been reinstated is disclosable to the public under Part 4 of this chapter.

(g) (1) Disqualification of an investigator under this section is independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. The Food and Drug Administration may, at any time, institute against an investigator any appropriate judicial proceeding, civil or criminal, and any other appropriate regulatory action, in addition to or in lieu of, and prior to, simultaneously with, or subsequent to, disqualification. The Food and Drug Administration may also refer the matter to another Federal, state, or local law enforcement or regulatory agency for such action as that agency deems appropriate.

(2) When the officer of the Bureau, other than the Bureau Director, who has direct responsibility for monitoring the conduct of investigational studies has reason to believe that an investigator may be subject to disqualification, he may, in his discretion, so notify the sponsor of any study in which that investigator is participating, simultaneously with, or after, proposing disqualification of the investigator under this section, unless there are overriding safety considerations which warrant earlier notification of the sponsor.

(h) The sponsor of a study may at any time remove an investigator from further participation in any investigation he is conducting for the sponsor, whether or not the Food and Drug Administration has commenced any action to disqualify the investigator. The sponsor need not utilize either the grounds or the procedures for disqualification set forth in this section. If a sponsor removes an investigator from an investigational study, he shall notify the Food and Drug Administration in writing of the reasons for such removal as soon as possible, but in no event later than 5 working days after such removal.

Subpart F—Informed Consent of Human Subjects

§ 812.120 General requirements of informed consent.

(a) Except as provided in § 812.123, an investigator shall (1) inform each human subject, or the subject's legal representative where the subject lacks legal capacity, that the investigational device is being used for research purposes, (2) provide each human subject, or his legal representative, an adequate explanation of pertinent information concerning the investigational device including the information required in § 812.130, and (3) shall obtain and document legally effective informed consent of such subject, or his legal representative.

(b) Informed consent shall be obtained while the subject, or his legal representative, is so situated as to be able to exercise free power of choice without undue inducement or the intervention of any element of force, fraud, deceit, duress or other forms of constraint or coercion.

(c) Informed consent shall be evidenced by a written agreement, signed by the subject, or his legal representative, which meets the requirements of § 812.130.

§ 812.123 Exception from requirement.

(a) The requirements of § 812.120 shall not apply when:

(1) The investigator determines in writing (i) that there exists a life-threatening situation involving the subject which necessitates the use of the investigational device, (ii) that it is not feasible to obtain informed consent from the subject, and (iii) that there is not sufficient time to obtain such consent from the subject's legal representative; and

(2) Such determination is concurred in by a licensed physician not involved in the testing of the device, unless the investigator determines (and documents this determination) that immediate use of the device is necessary to save the life of the subject and there is not sufficient time to obtain such concurrence and that there is available no alternative method of therapy that is approved or generally recognized which may save the life of the subject.

(b) If the investigator does not obtain informed consent and uses the investigational device in accordance with the requirements of paragraph (a) of this section, he shall report as soon as possible, but in no event later than 5 working days after using the device, the determinations required by paragraph (a) (1) and (2) of this section to the sponsor, for

submission by the sponsor to the Food and Drug Administration in accordance with § 812.55, and to the committee.

§ 812.130 Elements of informed consent in agreement.

(a) The investigator shall assure that the subject, or his legal representative, signs an agreement that includes a complete explanation of pertinent information concerning the investigational device adequate to enable him to make a decision on his willingness to participate, or permit the subject to participate, in the investigation and which includes:

(1) A full and fair explanation of procedures to be followed, including an identification of any which are experimental.

(2) A full explanation of the nature, expected duration and purpose of the administration of the investigational device.

(3) A description of any attendant discomforts and risks reasonably to be expected.

(4) An explanation of likely results should the procedure fail.

(5) A description of any benefits reasonably to be expected.

(6) A disclosure of any appropriate alternative procedures that might be advantageous for the subject.

(7) A description of the scope of the investigation, including number of patients involved in the investigational study.

(8) An offer to answer any inquiries concerning the investigational study.

(9) An instruction that the subject, or his legal representative, is free to decline entrance into the investigational study or to withdraw his consent and to discontinue participation in the study at any time without prejudice to the subject.

(10) A statement that the investigational device is being used for research purposes.

(b) The agreement entered into by such person or his legal representative shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights or to release the institution or its agents, or the sponsor, or the investigator from liability for negligence.

(c) An investigator shall provide to the sponsor and to the institutional review committee a sample copy of any written materials given or read to the subject, or his legal representative, regarding the information required to be given by paragraph (a) of this section and a sample copy of any form used to document the consent of such subject, or his legal representative, which form shall have been approved by the committee.

Subpart G—[Reserved]

Subpart H—Investigational Studies That Do Not Involve Human Subjects

§ 812.160 Conditions of exemption.

(a) Where an investigational device is intended for use in humans, a shipment of the device that is intended solely for tests in animals used only for laboratory research purposes, or for in vitro or mechanical tests or similar tests that do not involve use of human subjects, shall be exempt from any of the otherwise applicable provisions of the act listed in § 812.1(c) if:

(1) The labeling of the device complies with the requirements of § 812.5 (a) and (b) and bears the following additional statement:

Caution—Device (or Diagnostic product) for investigational use only in laboratory animals or other tests that do not involve human subjects.

(2) The person who ships the device under this subpart uses due diligence to assure that the consignee is regularly engaged in conducting tests in animals used only for labortory research, or for in vitro or other mechanical tests or similar tests that do not involve use of human subjects and that the shipment of the investigational device will actually be used only in such tests.

(3) The person who ships the device under this subpart maintains adequate records showing the name and address of the consignee to whom the device is shipped, date, quantity, and batch or code mark of each shipment for a period of 2 years after such shipment and, upon the request of a properly authorized employee of the Department at reasonable times, makes such records available for inspection and copying or submits such records to the Food and Drug Administration.

(b) This subpart does not apply to any use of an investigational device that involves use of human subjects.

§ 812.170 Termination of exemption.

(a) The Commissioner shall terminate an exemption under this subpart if he makes either of the following findings:

(1) The person shipping an investigational device under this subpart has failed to comply with any of the conditions for the exemption under this subpart.

(2) Any of the grounds for withdrawal of an investigational device exemption under § 812.35 apply.

(b) The Commissioner shall notify the sponsor of the termination of an exemption under this subpart with a full statement of the reasons for such termination and shall afford an opportunity for a regulatory hearing under Subpart F of Part 2 of this chapter. The person whose exemption is terminated shall recall or otherwise assure the destruction of any unused devices.

Interested persons may, on or before October 19, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

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V 41 163 AUG 20 76 UM

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FRIDAY, AUGUST 20, 1976



PART III:

DEPARTMENT OF LABOR

Employment Standards Administration

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MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

V41 I163 AUG 20 76
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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secertary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Baeon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

North Carolina:
NC76–1085.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware:		
DE76–3212		July 30, 1976.
Florida:		
FL76–1048		Apr. 16, 1976.
Idaho:		
ID76–5066		July 23, 1976.
Indiana:		
IN76–2082;	IN76–2083;	July 2, 1976.
IN76–2084.		
Kentucky:		
KY76–1038		Mar. 12, 1976.
KY76–1077		July 23, 1976.
Nevada:		
NV76–5065		July 2, 1976.
NV76–5069		July 30, 1976.
NV76–5074		Aug. 8, 1976.
New Mexico:		
NM76–4142		Aug. 6, 1976.
New York:		
NY76–3203		July 23, 1976.
Oklahoma:		
OK76–4016;	OK76–4017;	Feb. 6, 1976.
OK76–4020.		
OK76–4135;	OK76–4136;	July 30, 1976.
OK76–4137;	OK76–4138.	
South Dakota:		
SD76–5055		June 11, 1976.
Texas:		
TX76–4033		Feb. 13, 1976.
TX76–4085;	TX76–4086;	May 21, 1976.
TX76–4090.		
TX76–4125;	TX76–4128	July 23, 1976.
Utah:		
UT76–5052		June 25, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

Arizona:		
AZ76–5007	(AZ76–5075);	Jan. 23, 1976.
AZ76–5008	(AZ76–5076);	
AZ76–5009	(AZ76–5077).	
Louisiana:		
LA76–4131	(LA76–4143)	July 23, 1976.
Massachusetts:		
MA75–2123	(MA76–2101)	Nov. 7, 1975.
MA75–2125	(MA76–2103)	Nov. 14, 1975.
MA75–2030	(MA76–2105)	Nov. 21, 1976.
Michigan:		
AM–400	(MI76–2107)	Aug. 18, 1971.
Mississippi:		
MS75–1106	(MS76–1084)	Oct. 31, 1975.
Nevada:		
NV76–5073	(NV76–5080)	Aug. 6, 1976.
New York:		
NY76–3189	(NY76–3239);	June 25, 1976.
NY76–3190	(NY76–3241);	
NY76–3191	(NY76–3237);	
NY76–3192	(NY76–3229);	
NY76–3193	(NY76–3230);	
NY76–3194	(NY76–3242);	
NY76–3195	(NY76–3240);	
NY76–3196	(NY76–3224);	
NY76–3199	(NY76–3235);	
NY76–3201	(NY76–3231).	
NY76–3198	(NY76–3232);	July 2, 1976.
NY76–3202	(NY76–3234);	
NY76–3209	(NY76–3243).	
Washington:		
WA76–5056	(WA76–5079)	June 25, 1976.

Signed at Washington, D.C., this 13th day of August 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: North Carolina
DECISION NUMBER: NC76-1085
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTIES: Durham, Orange, & Wake
DATE: Date of Publication

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	5.25				
Bricklayers	6.50				
Carpenters	4.41				
Carpet layers	5.00				
Cement masons	4.34				
Drywall finisher	5.00				
Drywall hanger	5.00				
Electricians	4.75				
Form setter	5.00				
Ironworkers	5.20				
Insulation installer	3.49				
Laborers:					
Laborers	3.15				
Asphalt raker	3.48				
Pipelayers	3.30				
Painters	3.50				
Plumbers & pipefitters	5.50				
Roofers	4.31				
Sheet metal workers	4.00				
Tile setters	5.15				
Truck Drivers	3.15				
Welders	4.25				
POWER EQUIPMENT OPERATORS					
Backhoe	5.00				
Bulldozer	4.08				
Crane operator	5.18				
Fork lift operator	4.00				
Loader	3.55				
Motor grader	4.72				
Paving machine	4.20				
Roller	3.80				
Screed	4.15				

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MODIFICATIONS P. 1

DECISION #DE76-3212 - Mod. #1 (41 FR 32122 - July 30, 1976) State of Delaware	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers - Building Construction:					
New Castle County -					
Group 1	$ 7.80	.60	.40		
Group 2	8.05	.60	.40		
Group 3	8.30	.60	.40		
Group 4	9.05	.60	.40		
Painters:					
Base rate	8.17	.85	.55		.01
Structural steel, skates, rolling and suspended scaffolding (swing, chair and window belts)	8.345	.85	.55		.01
Machine taping	8.42	.85	.55		.01
Bridges (if surface to be painted is 50' or more above ground or water) and/or cabled scaffolding	8.67	.85	.55		.01
Tanks (if exposed to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sandblasting, and sprey	8.67	.85	.55		.01
Height pay - work 75' to 150' from surface an additional 50¢ shall be paid above the applicable rate. For each additional 75' or fraction thereof an additional 50¢ shall be paid.					

MODIFICATIONS P. 2

DECISION # FL76-1048 - Mod. # 2 (41 FR-16360 - April 16, 1976) Counties: Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center, Patrick Air Force Base, & Melabar Radar Site only), Florida.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS:					
Group I	8.90	.50	.35		.05
Group II	8.30	.50	.35		.05
Group III	7.80	.50	.35		.05
Group IV	7.40	.50	.35		.05
Group V	6.70	.50	.35		.05
*Crane, hydraulic crane, or derrick on structural or reinforcing iron: .25 per hour above base rate.					
Laborers:					
Laborers	5.20	.45	.30		
Hod carriers; kettlemen (excl. roofing & water proofing); motar mixers; pipelayers; plasterers tenders; well point dewatering; air tool operator; powderman; paving curb & gutter, & sidewalk form setters; concrete workers	5.35	.45	.30		
Nozzlemen	6.02	.45	.30		
Bricklayers:					
Bricklayers; blocklayers; tile & terrazzo setters; plasterers	6.96	.40	.25		
Masonary cutting or grinding machine operators	7.11	.40	.25		
Cement masons	6.81	.40	.25		

MODIFICATIONS P. 3

DECISION #ID76-3066 - Mod. #3 (41 FR 30515 - July 23, 1976) Statewide, Idaho	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	$11.75	.44	$1.02		
Elevator Constructors:					
Remaining Counties, except Adams, Lemhi, Valley, Washington Counties:					
Elevator Constructors	10.03	.545	.35	3% + a	.02
Elevator Constructors' Helpers	7.02	.545	.35	3% + a	.02
Elevator Constructors' Helpers (Prob.)	5.015				

MODIFICATIONS P. 4

DECISION NO. IN76-2082 - Mod. #2 (41 FR 27367 - July 2,1976) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Bartholomew, & Monroe Cos.: Bricklayers; Marble setters Stonemasons; Terrazzo workers; & Tile setters	$9.15	.40	.30		.02
Delaware Co.: Bricklayers; Marble setters & Stonemasons	9.30	.45	.35		.01
Tile setters	9.05	.45	.35		.01
Carpenters:					
Allen Co.: Carpenters; & Soft floor layers	9.13	6%a			.05
Millwrights; & Piledrivermen	9.46	6%a			.05
Painters:					
Allen & Grant Cos.: Brush; Paperhangers; Roller & Tapers	8.25	.37	.35		.10
Sandblasters; Spray	9.25	.37	.35		.10
Plumbers; Steamfitters:					
Bartholomew (Excluding Camp Atterbury) County	10.90	.50	.30		.05
Monroe Co.	10.95	.50	.75		.15
Power equipment operators:					
Bartholomew, Dearborn, & Vanderburgh Cos.:					
Group A	10.38	.35	.35		.05
Group B	9.49	.35	.35		.05
Group C	8.75	.35	.35		.05

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DECISION NO. IN76-2083 - Mod. #2
(41 FR 27577 - July 2, 1976)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
St. Joseph Co.:					
Bricklayers; Stonemasons	$10.24	.70	.65		.05
Marble setters	9.30	.40	.35	a	.01
Electricians:					
Lake County	11.40	5%	6.3%	4%	.7%
Laborers (Heavy & Highway Construction):					
Lake County:					
Group 1	7.40	.50	.40		.08
Group 2	7.55	.50	.40		.08
Group 3	7.60	.50	.40		.08
Group 4	7.70	.50	.40		.08
Group 5	8.25	.50	.40		.08
Remaining Counties:					
Group 1	6.70	.50	.40		.08
Group 2	6.85	.50	.40		.08
Group 3	6.90	.50	.40		.08
Group 4	7.00	.50	.40		.08
Group 5	7.55	.50	.40		.08
Omit:					
Power equipment operators: Building, Sewer & Tunnel construction for St. Joseph County					
Add:					
Laborers: Sewer & Tunnel construction for St. Joseph County					
Power equipment operators: Building, Sewer & Tunnel construction for St. Joseph County					

DECISION NO. IN76-2083 Cont'd

LABORERS (Sewer, Tunnel, & water Construction) St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$7.24	.50	.40		.08
GROUP 2	7.39	.50	.40		.08
GROUP 3	7.44	.50	.40		.08
GROUP 4	7.54	.50	.40		.08
GROUP 5	7.64	.50	.40		.08
GROUP 6:					
A.	7.44	.50	.40		.08
B.	7.59	.50	.40		.08
C.	8.04	.50	.40		.08
D.	7.54	.50	.40		.08

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, rediff & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Laser beam aligner; Manual operated Welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

DECISION NO. IN76-2083 Cont'd

POWER EQUIPMENT OPERATORS (Building, Sewer, & Tunnel Construction) St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$9.77	.65	.85	.40	.05
GROUP II	8.41	.65	.85	.40	.05
GROUP III	7.73	.65	.85	.40	.05
GROUP IV	7.10	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV: Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

DECISION NO. IN76-2084 - Mod. #2
(41 FR 27585 - July 2, 1976)
Statewide, except Lake, LaPorte, Porter and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Adams, Allen, DeKalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (Northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	$8.25	.37	.35		.10
Sandblasters; Spray	9.25	.37	.35		.10
Laborers (Heavy & Highway Construction):					
Group 1	6.70	.50	.40		.08
Group 2	6.85	.50	.40		.08
Group 3	6.90	.50	.40		.08
Group 4	7.00	.50	.40		.08
Group 5	7.55	.50	.40		.08
Power equipment operators:					
Tunnel & Sewer construction: Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties:					
Group I	9.50	.40	.40		.05
Group II	8.65	.40	.40		.05
Group III	8.15	.40	.40		.05
Group IV	7.50	.40	.40		.05
Omit:					
Laborers: Sewer, Tunnel, & Water Construction					
Add:					
Laborers: Sewer, Tunnel, & Water Construction					

DECISION NO. IN76-2084 Cont'd

LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION

	ZONE 2	ZONE 2A	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP 1	$7.24	$6.95	$6.75	$6.50	$6.90
GROUP 2	7.39	7.10	6.90	6.65	7.05
GROUP 3	7.44	7.15	6.95	6.70	7.10
GROUP 4	7.54	7.25	7.05	6.80	7.20
GROUP 5	7.64	7.35	7.15	6.90	7.30
GROUP 6:					
A.	7.44	7.15	6.95	6.70	7.10
B.	7.59	7.30	7.10	6.85	7.25
C.	8.04	7.75	7.55	7.30	7.70
D.	7.54	7.25	7.05	6.80	7.20

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appr. Tr.
$.50	.40		.08

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)

ZONE 2: Elkhart & St. Joseph Counties

ZONE 2A: Kosciusko, LaGrange, & Marshall Counties

ZONE 3: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Madison, Miami, Montgomery, Noble, Pulaski, Randolph, Rush, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties

ZONE 4: Marion & Shelby Counties

ZONE 5: Bartholomew, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, DuBois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties

LABORERS

GROUP 1: Chairman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (morter, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like materials; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, rediff & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # KY76-1038 - MOD. # 5 (41 FR-10828 - March 12, 1976) Hardin, Jefferson, and Meade Counties, Kentucky					
Changes:					
Elevator constructors	11.00	.545	.35	1½+a+b	.02
Elevator constructors' helpers	7.70	.545	.35	1½+a+b	.02
Elevator constructors' helpers (prob.)	5.50				
Piledrivermen	9.65	.30	.30		
Add:					
Marble, tile, and terrazzo workers' helpers	8.30				
Footnotes:					
a. Six paid holidays: A through F					
b. Employer contributes 1½ of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.					
DECISION # KY76-1077 - Mod. # 1 (41 FR-30525 - July 23, 1976) Warren County, Kentucky					
Changes:					
Cement masons	8.25		.20		.01
Piledrivermen	9.30	.30	.30		
Plasterers	8.25		.20		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV76-5065 - Mod. #3 (41 FR 27628 - July 2, 1976) Washoe County, Nevada					
Changes:					
Drywall Installers:					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:	$9.60	.65	$1.01	$1.00	.04
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:	10.20	.65	1.01	1.00	.04
Zone 3: Area over 20 and not more than 40 road miles from the above communities:	10.40	.65	1.01	1.00	.04
Zone 4: Area over 40 road miles from the above communities:	11.10	.65	1.01	1.00	.04
Laborers:					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City,					

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MODIFICATIONS P. 13

DECISION #NV76-5065 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 1 (Cont'd): Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	$7.75	.50	.90		.10
Group 2	7.85	.50	.90		.10
Group 3	8.00	.50	.90		.10
Group 4	8.25	.50	.90		.10
Group 5	8.55	.50	.90		.10
Group 6-A	8.55	.50	.90		.10
Group 6-B	8.25	.50	.90		.10
Group 6-C	7.90	.50	.90		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8.35	.50	.90		.10
Group 2	8.45	.50	.90		.10
Group 3	8.60	.50	.90		.10
Group 4	8.85	.50	.90		.10
Group 5	9.15	.50	.90		.10
Group 6-A	9.15	.50	.90		.10
Group 6-B	8.85	.50	.90		.10
Group 6-C	8.50	.50	.90		.10
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Group 1	8.55	.50	.90		.10
Group 2	8.65	.50	.90		.10
Group 3	8.80	.50	.90		.10
Group 4	9.05	.50	.90		.10

MODIFICATIONS P. 14

DECISION #NV76-5065 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 3 (Cont'd):					
Group 5	$9.35	.50	.90		.10
Group 6-A	9.35	.50	.90		.10
Group 6-B	9.05	.50	.90		.10
Group 6-C	8.70	.50	.90		.10
Zone 4: Area over 40 road miles from the above communities:					
Group 1	9.25	.50	.90		.10
Group 2	9.35	.50	.90		.10
Group 3	9.50	.50	.90		.10
Group 4	9.75	.50	.90		.10
Group 5	10.05	.50	.90		.10
Group 6-A	10.05	.50	.90		.10
Group 6-B	9.75	.50	.90		.10
Group 6-C	9.40	.50	.90		.10
Power Equipment Operators: (Except Piledriving and Steel Erection):	AREA 1	AREA 2			
Group 1	$8.75	$9.90	$1.12	$2.23	.92 .20
Group 2	9.12	10.27	1.12	2.23	.92 .20
Group 3	9.32	10.47	1.12	2.23	.92 .20
Group 4	9.84	10.99	1.12	2.23	.92 .20
Group 5	10.03	11.20	1.12	2.23	.92 .20
Group 6	10.17	11.32	1.12	2.23	.92 .20
Group 7	10.34	11.49	1.12	2.23	.92 .20
Group 8	10.72	11.87	1.12	2.23	.92 .20
Group 9	10.94	12.09	1.12	2.23	.92 .20
Group 10	11.17	12.32	1.12	2.23	.92 .20
Group 10-A	11.29	12.44	1.12	2.23	.92 .20
Group 11	11.46	12.61	1.12	2.23	.92 .20
Group 11-A	12.54	13.69	1.12	2.23	.92 .20

MODIFICATIONS P. 15

DECISION #NV76-5069 - Mod. #2
(41 FR 32150 - July 30, 1976)
Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Changes:					
Carpenters:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the North by the Nellis spur track and on the West by the train line of the Union Pacific Railroad:					
Carpenters	$10.46	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	10.61	.55	.90	1.00	.10
Piledrivermen	10.66	.55	.90	1.00	.10
Millwrights	11.06	.55	.90	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 miles from the communities described above:					
Carpenters	10.96	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.11	.55	.90	1.00	.10
Piledrivermen	11.16	.55	.90	1.00	.10
Millwrights	11.56	.55	.90	1.00	.10

MODIFICATIONS P. 16

DECISION #NV76-5069 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Carpenters (Cont'd):					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):					
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	$11.21	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.36	.55	.90	1.00	.10
Piledrivermen	11.41	.55	.90	1.00	.10
Millwrights	11.81	.55	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	12.71	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	12.86	.55	.90	1.00	.10
Piledrivermen	12.91	.55	.90	1.00	.10
Millwrights	13.31	.55	.90	1.00	.10
Cement Masons:					
Remaining Counties:					
Zone 1: Area within a 15 mile radius of the Main Post Office, Reno, Nevada, or within a 15 mile radius of the employee's permanent residence in the State of Nevada; also area within a 7 mile radius of the Main Post Office, Carson City, Nevada:					
Cement Masons	8.90	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	9.15	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	9.40	.55	.60	1.00	.03

MODIFICATIONS P. 17

DECISION #NV76-5069 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Cement Masons (Cont'd):					
Remaining Counties (Cont'd):					
Zone 2-Highway Construction:					
Area outside of Zone 1:					
Cement Masons	$9.15	.55	.60	$1.00	.03
Mastic, Magnesite and all Composition Masons	9.40	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	9.65	.55	.60	1.00	.03
Zone 2-Nonhighway Constructions:					
2-A: Area over 15 but not over 30 miles to the center of the jobsite:					
Cement Masons	9.65	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	9.90	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.15	.55	.60	1.00	.03
2-B: Area over 30 miles to the center of the jobsite:					
Cement Masons	10.90	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	11.15	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	11.40	.55	.60	1.00	.03
Laborers:					
Remaining Counties:					
Zone 3: Area over 20 and not more than 40 road miles from the above communities (See Zone 1 - Mod. #1):					
Group 1	8.55	.50	.90		.10
Group 2	8.65	.50	.90		.10
Group 3	8.80	.50	.90		.10

MODIFICATIONS P. 18

DECISION #NV76-5069 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 3 (Cont'd):					
Group 4	$9.05	.50	.90		.10
Group 5	9.35	.50	.90		.10
Group 6-A	9.35	.50	.90		.10
Group 6-B	9.05	.50	.90		.10
Group 6-C	8.70	.50	.90		.10
Soft Floor Layers:					
Clerk, Esmeralda, Lincoln, Nye Counties	12.12	.40			.15

NOTICES

FEDERAL REGISTER, VOL. 41, NO. 163—FRIDAY, AUGUST 20, 1976

MODIFICATIONS P. 19

DECISION #NV76-5074 - Mod. #1 (41 FR 33162 - August 8, 1976) Clark County (excluding the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Changes:					
Carpenters:					
Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the North by the Nellis spur track and on the West by the train line of the Union Pacific Railroad:					
Carpenters	$10.46	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operator	10.61	.55	.90	1.00	.10
Piledrivermen	10.66	.55	.90	1.00	.10
Millwrights	11.06	.55	.90	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 miles from the communities described above:					
Carpenters	10.96	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operator	11.11	.55	.90	1.00	.10
Piledrivermen	11.16	.55	.90	1.00	.10
Millwrights	11.56	.55	.90	1.00	.10
Zone 3: Area over 20 and not more than 40 miles from the communities described above:					
Carpenters	11.21	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operator	11.36	.55	.90	1.00	.10
Piledrivermen	11.41	.55	.90	1.00	.10
Millwrights	11.81	.55	.90	1.00	.10

MODIFICATIONS P. 20

DECISION #NV76-5074 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Carpenters (Cont'd):					
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	$12.71	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operator	12.86	.55	.90	1.00	.10
Piledrivermen	12.91	.55	.90	1.00	.10
Millwrights	13.31	.55	.90	1.00	.10
Cement Masons:					
Cement Masons	8.90	1.00	.40	2.00	.08
Cement Floor Finishing Machines; Color Work	9.15	1.00	.40	2.00	.08
Plasterers	9.98	1.00	.40	1.20	.08
Sheet Metal Workers	10.23	.83	1.60	1.00	.05 + .02

NOTICES

FEDERAL REGISTER, VOL. 41, NO. 163—FRIDAY, AUGUST 20, 1976

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NM76-4142 - Mod. #1 (41 FR 33168 - August 6, 1976) Statewide, New Mexico					
CHANGE:					
SPRINKLER FITTERS	$11.01	.60	.90		.08
DECISION #76-NY-3203 - Mod. #1 (41 FR 30553 - July 23, 1976) Bronx, Kings, Queens, Richmond and New York Counties					
Changes:					
Cement Masons	$ 9.50	1.36	1.13	1.75	.01
Laborers:					
Cement Concrete Workers	7.70	.8025	1.3525	1.20	
Marble Setters:					
Carvers	7.95	.63	1.41	h	
Sawyers, Rubbers and Polishers	7.57	.63	1.41	h	
Crane operators and Derrickmen	7.33	.63	1.41	h	
Painters:					
Brush	8.85	8¼%	5%+g	3%	
Spray, spray gun, Scaffold work	10.74	8¼%	5%+g	3%	
Sheet Metal Workers	11.77	1.715	1.045	.405	.02
Sprinkler Fitters & Steamfitters	10.07	2.65	1.12	.86	.07
Truck Drivers, Building:					
Ready-mix Concrete, Sand, Gravel, and Asphalt	8.77	.9675	1.9525	k+1	
Euclids and Turnapull Operators	8.825	.9675	1.9525	k+1	
4 Wheel Trucks, Hi lo lift operator	7.525	.9675	1.9525	k+1	
Helpers & Yardmen	7.275	.9675	1.9525	k+1	
Plumbers: Richmond County	10.15	.85+n	1.93	1.05	.30
FOOTNOTES:					
g. $4.50 per day contribution to Annuity Fund					
i. Paid Holidays: A through F provided the employee works a full half day preceding the holiday.					
ADD:					
Footnote:					
n. Employer contributes $3.56 per day to an additional Security Benefit Fund					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. #OK76-4016 - Mod. #2 (41 FR 5546 - February 6, 1976) Wagoner County, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION NO. #OK76-4017 - Mod. #2 (41 FR 5548 - February 6, 1976 Pittsburg County, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION NO. OK76-4020 - Mod. #5 (41 FR 5555 - February 6, 1976) Garfield County, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION NO. #OK76-4135 - Mod. #1 (41 FR 32175 - July 30, 1976) Tulsa & Creek Counties, Oklahoma					
CHANGE:					
Ironworkers	$9.35	.45	.50		.10
Plumbers	10.57	.45	.55		.08
Roofers	8.40	.45	.25		.04
DECISION NO. OK76-4136 - Mod. #1 (41 FR 32177 - July 30, 1976) Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Pottawatomie and Seminole					
CHANGE:					
Roofers	$8.40	.45	.25		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK76-4137 - Mod. #1 (41 FR 32180 - July 30, 1976) McIntosh County, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION NO. OK76-4138 - Mod. #1 (41 FR 32182 - July 30, 1976) Comanche County, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION NO. OK76-4139 - Mod. #1 (41 FR 32184 - July 30, 1976) Muskogee, Adair & Cherokee Counties, Oklahoma					
CHANGE:					
Roofers	$8.40	.45	.25		.04
DECISION #SD76-5055 - Mod. #2 (41 FR 23926 - June 11, 1976) Meade and Pennington Counties, South Dakota					
Changes:					
Electricians:					
Within 15 miles radius of Rapid City Post Office					
Electricians	$8.85	.30	1%	6%	1½%
Cable Splicers	9.40	.30	1%	6%	1½%
Outside of 15 mile radius of Rapid City Post Office					
Electricians	9.25	.30	1%	6%	1½%
Cable Splicers	9.80	.30	1%	6%	1½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4033 - Mod. #5 (41 FR 7019 - February 13, 1976) Bowie County, Texas					
Changes:					
Line Construction:					
Lineman	$ 9.30		1%		1/2%
Cable splicer	9.58		1%		1/2%
Hole digger or heavy equipment operators (or pole cat equivalent); powderman	8.46		1%		1/2%
Line truck driver (winch operator)	7.63		1%		1/2%
Jackhammer man	6.98		1%		1/2%
Groundman	6.23		1%		1/2%
Groundman, 1st year	4.65		1%		1/2%
Truck driver (flat bed, ton & half & under)	6.60		1%		1/2%
DECISION #TX76-4085 - Mod. #3 (41 FR 21144 - May 21, 1976) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas					
Changes:					
Marble setters' helpers: Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	7.40				
Tile setters: Zone 1	9.10		.30		
Tile setters' helpers: Collin, Dallas, Hunt, Kaufman & Rockwall Counties	7.40				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4086 - Mod. #5 (41 FR 21148 - May 21, 1976) Galveston & Harris Cos., Texas					
Change: Painters: Remainder of Harris County:					
Group 1	$ 9.295	.365	.35	.40	.04
Group 2	9.67	.365	.35	.40	.04
Group 3	9.42	.365	.35	.40	.04
Group 4	9.92	.365	.35	.40	.04
DECISION #TX76-4090 - Mod. #4 (41 FR 21157 - May 21, 1976) Travis County, Texas					
Change: Line construction:					
Linemen	9.90	.40	1%		1/2%
Groundmen	5.45	.40	1%		1/2%
Groundmen (1st year)	4.95	.40	1%		1/2%
DECISION #TX76-4125 - Mod. #1 (41 FR 30563 - July 23, 1976) Bee, Kleberg & Nueces Cos., Texas					
Change: Roofers: Roofers; Kettlemen; Waterproofers; Deckmen	6.325		.20		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4128 - Mod. #2 (41 FR 30566 - July 23, 1976) Wichita County, Texas					
Change: Laborers:					
Group 1	$ 4.65	.275	.20		
Group 2	4.775	.275	.20		
Group 3	4.90	.275	.20		
Group 4	5.15	.275	.20		
DECISION #UT76-5052 - Mod. #3 (41 FR 26537 - June 25, 1976) Statewide, Utah					
Change:					
Elevator Constructors	$10.03	.545	.35	3% + a	.02
Elevator Constructors' Helpers	7.02	.545	.35	3% + a	.02
Elevator Constructors' Helpers (Prob.)	5.015				

STATE: Arizona COUNTY: Statewide
DECISION NUMBER: AZ76-5075 DATE: Date of Publication
Supersedes Decision No. AZ76-5007 dated January 23, 1976, in 41 FR 3568
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.39	.50	$1.02		.02
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS: (Phoenix Area) Bricklayers; Manhole Builders; Stonemasons:					
Zone A (0-25 miles from the City Hall in Phoenix; Flagstaff and Yuma)	10.05	.65	.90		.06
Zone B (25-40 miles from the City Hall in Phoenix; and Williams AFB)	10.55	.65	.90		.06
Zone C (40-70 miles from the City Hall in Phoenix)	11.56	.65	.90		.06
Zone D (70-100 miles miles from City Hall in Phoenix)	12.06	.65	.90		.06
Zone E (100-200 miles from the City Hall in Phoenix)	12.56	.65	.90		.06
Zone F (200 miles and over from the City Hall in Phoenix)	13.07	.65	.90		.06
BRICKLAYERS: (Tucson Area) Bricklayers; Stonemasons:					
Zone A (0-15 miles from Tucson City limits)	9.965	.70	.75		.06
Zone B (Over 15 miles to 30 miles from Tucson City limits)	10.34	.70	.75		.06
Zone C (Over 30 miles to 40 miles from Tucson City limits)	10.715	.70	.75		.06
Zone D (Over 40 miles from Tucson City limits)	11.465	.70	.75		.06
Manhole Builders:					
Zone A (0-15 miles from Tucson City limits)	10.215	.70	.75		.06
Zone B (Over 15 miles to 30 miles from Tuscon City limits)	10.59	.70	.75		.06
Zone C (Over 30 miles to 40 miles from Tucson City limits)	10.965	.70	.75		.06

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (Tucson Area)(Cont'd) Manhole Builders: (Cont'd)					
Zone D (Over 40 miles from Tucson City limits)	$11.715	.70	.75		.06
CARPENTERS: (Central and Southern Areas):					
Carpenters; Drywall Applicator; Saw Filers; Shingler	9.085	.845	.955		.03
Floorlayers (finish); Pile-drivermen	9.37	.845	.955		.03
Millwrights	9.50	.845	.955		.03
(Northern Area)					
Carpenters; Drywall Applicator; Saw Filer; Shingler	10.96	.845	.955		.03
Floorlayers (finish); Pile-drivermen	11.245	.845	.955		.03
Millwrights	11.375	.845	.955		.03
CEMENT MASONS: (Apache, Coconino, Gila, Mohave, Navajo, Yavapai, Yuma and the Northern portions of Graham, Greenlee, Maricopa and Pinal Counties)					
(Central and Southern Areas)					
Cement Masons	9.01	.75	1.00		.03
Concrete troweling machine; Sawing and scoring machine;					
Curb and gutter machine	9.17	.75	1.00		.03
(Northern Area)					
Cement Masons	10.885	.75	1.00		.03
Concrete troweling machine; Sawing and scoring machine;					
Curb and gutter machine	11.045	.75	1.00		.03
(Cochise, Pima, Santa Cruz and the southern portions of Graham, Greenlee, Maricopa and Pinal Counties)					
(Central and Southern Areas)					
Cement Masons	9.32	.70	.75		.03
Concrete troweling machine; Sawing and scoring machine;					
Curb and gutter machine	9.485	.70	.75		.03

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL: (From Court House in Phoenix, Mesa, including Luke and Williams Air Force Bases)					
Tapers:					
Zone A (0-40 miles)	$9.71	.59	.50		.07
Zone B (41-60 miles)	11.21	.59	.50		.07
Zone C (61 miles and over)	11.96	.59	.50		.07
Texture Spreyment					
Zone A (0-40 miles)	9.81	.59	.50		.07
Zone B (41-60 miles)	11.31	.59	.50		.07
Zone C (61 miles and over)	12.06	.59	.50		.07
ELECTRICIANS: (Flagstaff Area)					
Zone A (In the City of Flagstaff, that area lying in a square extending 20 miles North-South, East and West of the Post Office) (Williams, Winslow and Sedona covering a square extending 5 miles North-South, East and West of the Post Office in each town)					
Electricians	12.35	.80	1%+.70		1/2%
Cable Splicers	12.55	.80	1%+.70		1/2%
Zone B (All territorial jurisdiction allotted outside of Zone A)					
Electricians	14.65	.80	1%+.70		1/2%
Cable Splicers	14.85	.80	1%+.70		1/2%
ELECTRICIANS: (Gallup Area-Northern Apache County)					
Electricians	11.04	.40	1%		1/2%
Cable Splicers	11.96	.40	1%		1/2%
ELECTRICIANS: (Globe-Miami Area)					
Zone A (The area within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing)					
Electricians	12.47	5%	8%		1/2%
Cable Splicers	12.72	5%	8%		1/2%

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Globe-Miami Area) (Cont'd)					
Zone B (16-28 miles)					
Electricians	$13.17	5%	8%		1/2%
Cable Splicers	13.42	5%	8%		1/2%
Zone C (28-46 miles)					
Electricians	13.77	5%	8%		1/2%
Cable Splicers	14.02	5%	8%		1/2%
Zone D (46 miles and over)					
Electricians	14.47	5%	8%		1/2%
Cable Splicers	14.72	5%	8%		1/2%
ELECTRICIANS: (Phoenix)					
Zone A (Beginning at the northeast corner, a line extending southward on Bush Highway to McKellips Road; a line extending east on McKellips Road to a point one mile east of the intersection of State Highway 88 and U.S. 60 & 70 near Apache Junction; Southward to Baseline Road; west on Baseline Road to the intersection of Baseline Road and Ellsworth Road; South on Ellsworth Road to Hunt Highway; west on Hunt Highway to Powers Road; a line extending south on Powers Road five miles, then extending straight west to a point five miles west of Interstate 10, then northwest on a line parallel with Interstate 10 to intersect with Pecos Road, west on Pecos Road to intersect with Cotton Lane, North on Cotton Lane to Beloat Road. West on Beloat Road to Airport Road. North on Airport Road in a straight line to intersect Waddell Road. East on Waddell Road to intersect with Cotton Lane, North on Cotton Lane to Deer Valley Drive and east on Deer Valley Drive to intersect with Bush Highway including Luke a Williams Air Force Bases.)					
Electricians	11.80	.80	1%+.70		1/2%
Cable Splicers	12.39	.80	1%+.70		1/2%

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone B (Area ourside of Zone A and bounded by a line formed by measuring sixteen (16) road miles from the outer boundaries of and area enclosed by the following boundaries: Powers Road on the east, from Hunt Highway on the south to one mile south of Pinnacle Peak Road on the north. One mile south of Pinnacle Peak Road to Cotton Lane on the west. Cotton Lane to Pecos Road on the South. Pecos Road to Price Road and from Price Road to Hunt Highway on the south. Hunt Highway to Powers Road on the east)					
Electricians	$13.87	.80	1%+.70		3/4%
Cable Splicers	14.56	.80	1%+.70		3/4%
Zone C (Outside edge of Zone B and extended to the outside limits of the union jurisdiction)					
Electricians	14.93	.80	1%+.70		3/4%
Cable Splicers	15.67	.80	1%+.70		3/4%
ELECTRICIANS: (Kingman)					
Zone A (The area within the 16th road mile from the City Hall)					
Electricians	11.80	.80	1%+.70		1/2%
Cable Splicers	12.39	.80	1%+.70		1/2%
Zone B (From the 16th road mile and extend up to and including the 32nd road mile)					
Electricians	13.87	.80	1%+.70		1/2%
Cable Splicers	14.56	.80	1%+.70		1/2%
Zone C (From the 32nd road mile and extend up to the outside limits of the union's jurisdiction)					
Electricians	14.93	.80	1%+.70		1/2%
Cable Splicers	15.67	.80	1%+.70		1/2%

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Prescott):					
Zone A (The area within 20 road miles from the City Hall)					
Electricians	$11.80	.80	1%+.70		1/2%
Cable Splicers	12.39	.80	1%+.70		1/2%
Zone B (From the 20th road mile and extend up to and including the 32nd road mile)					
Electricians	13.87	.80	1%+.70		1/2%
Cable Splicers	14.56	.80	1%+.70		1/2%
Zone C (From the 32nd road mile and extend to the outside limits of the Union's jurisdiction)					
Electricians	14.93	.80	1%+.70		1/2%
Cable Splicers	15.67	.80	1%+.70		1/2%
ELECTRICIANS: (Tucson Area)					
Zone A (Area within 16 road miles from the City Hall in Tuscon and Douglas. Nogales and Sierra Vista shall be limited to 16 road miles from the center of the respective towns)					
Electricains	12.47	5%	8%		1/2%
Cable Splicers	12.72	5%	8%		1/2%
Zone B (Area from the outer limits of the 16 mile radius and extend up to and including 12 road miles)					
Electricians	13.17	5%	8%		1/2%
Cable Splicers	13.42	5%	8%		1/2%
Zone C (Area from 12 road miles up to and including 30 road miles)					
Electricians	13.77	5%	8%		1/2%
Cable Splicers	14.02	5%	8%		1/2%
Zone D (Area from 30 road miles and extend to the outside limits of the units jurisdiction)					
Electricians	14.47	5%	8%		1/2%
Cable Splicers	14.72	5%	8%		1/2%

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Yuma Area)					
Zone A (Yuma North to Colorado River, East of County Avenue 5E, South to County 16th Street, and West to County Avenue E; Cities of Somerton and Parker)					
Electricians	$11.88	.45	7%		1%
Cable Splicers	12.13	.45	7%		1%
Zone B (1-16 miles from Zone A)					
Electricians	12.38	.45	7%		1%
Cable Splicers	12.63	.45	7%		1%
Zone C (16-42 miles from Zone A)					
Electricians	13.18	.45	7%		1%
Cable Splicers	13.43	.45	7%		1%
Zone D (42 miles from Zone A and out)					
Electricians	13.88	.45	7%		1%
Cable Splicers	14.13	.45	7%		1%
ELEVATOR CONSTRUCTORS	11.55	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS: (Statewide except the Northern and Central parts of Apache, Coconino, Mohave and Navajo and the Northern half of Yavapai County)	9.42	.70	.30		.01
IRONWORKERS:					
(Central and Southern Area)	10.54	1.03	1.65		.08
(Northern Area)	12.54	1.03	1.65		.08
PAINTERS: (Flagstaff Area)					
Zone A (From Flagstaff Court House to 20 miles)					
Brush; Glaziers; Soft Floor Layers	9.38	.70	.50	.50	.17
Brush, steel and bridge	9.88	.70	.50	.50	.17
Spray	9.83	.70	.50	.50	.17
Spray, steel and bridge	10.38	.70	.50	.50	.17
Zone B (20-35 miles from Court House in Flagstaff)					
Brush; Glaziers; Soft Floor Layers	10.13	.70	.50	.50	.17
Brush, steel and bridge	10.63	.70	.50	.50	.17
Spray	10.58	.70	.50	.50	.17
Spray, steel and bridge	11.13	.70	.50	.50	.17

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Zone C (35-80 miles from Court House in Flagstaff)					
Brush; Glaziers; Soft Floor Layers	$11.13	.70	.50	.50	.17
Brush, steel and bridge	11.63	.70	.50	.50	.17
Spray	11.58	.70	.50	.50	.17
Spray, steel and bridge	12.13	.70	.50	.50	.17
Zone D (80 miles and over from Court House in Flagstaff)					
Brush; Glaziers; Soft Floor Layers	11.38	.70	.50	.50	.17
Brush, steel and bridge	11.88	.70	.50	.50	.17
Spray	11.83	.70	.50	.50	.17
Spray, steel and bridge	12.38	.70	.50	.50	.17
PAINTERS: (Phoenix Area)					
Zone A (0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases):					
Brush	9.09	.59	.38		.03
Spray	9.34	.59	.38		.03
Steel and bridge, brush	9.44	.59	.38		.03
Steel and bridge, spray	9.64	.59	.38		.03
Zone B (41-60 miles from Court House in Phoenix)					
Brush	10.09	.59	.38		.03
Spray	10.34	.59	.38		.03
Steel and bridge, brush	10.44	.59	.38		.03
Steel and bridge, spray	10.64	.59	.38		.03
Zone C (60 miles and over from Court House in Phoenix)					
Brush	11.09	.59	.38		.03
Spray	11.34	.59	.38		.03
Steel and bridge, brush	11.44	.59	.38		.03
Steel and bridge, spray	11.64	.59	.38		.03
PAINTERS: (Tucson and Yuma Areas)					
Zone A (0-30 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma)					
Brush	8.43	.67	.35		.04
Spray	8.93	.67	.35		.04
Steel and bridge, brush	9.43	.67	.35		.04
Steel and bridge, spray	9.93	.67	.35		.04

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Zone B (31-40 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma)					
Brush	$9.18	.67	.35		.04
Spray	9.68	.67	.35		.04
Steel and bridge, brush	10.18	.67	.35		.04
Steel and bridge, spray	10.68	.67	.35		.04
Zone C (41-50 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma)					
Brush	9.68	.67	.35		.04
Spray	10.18	.67	.35		.04
Steel and bridge, brush	10.68	.67	.35		.04
Steel and bridge, spray	11.18	.67	.35		.04
Zone D (51 miles and over from Stone and Congress in Tucson and from the County Courthouse in Yuma)					
Brush	10.43	.67	.35		.04
Spray	10.93	.67	.35		.04
Steel and bridge, brush	11.43	.67	.35		.04
Steel and bridge, spray	11.93	.67	.35		.04
PLASTERERS (Phoenix Area):					
Zone A (0-35 miles from Phoenix)	9.045	.60	.85		.035
Zone B (35-60 miles from Phoenix)	9.795	.60	.85		.035
Zone C (60 miles and over from Phoenix)	10.67	.60	.85		.035
PLASTERERS (Tucson Area):					
Zone A (0-30 miles from Tucson)	8.57	.35	.60		
Zone B (30-40 miles from Tucson)	9.07	.35	.60		
Zone C (40-50 miles from Tucson)	9.32	.35	.60		
Zone D (Over 50 miles from Tucson)	10.07	.36	.60		

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
FREE ZONE 0-15 miles					
The "Free Zone" (Zone I) shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the city limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these Zones will be determined from the Phoenix and Tucson basing points.					
Zone I (0-15 miles)	$11.14	.75	$1.35		.10
Zone II (15-30 miles)	11.49	.75	1.35		.10
Zone III (30-40 miles)	11.91	.75	1.35		.10
Zone IV (40 miles and over)	13.21	.75	1.35		.10
ROOFERS (Tucson Area):					
Asbestos; Shinglers; Tile and Waterproofing:					
Zone A (0-44 miles from Tucson)	7.47	.65	.20		.03
Zone B (Over 44 miles from Tucson)	9.22	.65	.20		.03
ROOFERS (Phoenix Area)					
Roofers and Waterproofers	8.91	.845	.20		.02
SHEET METAL WORKERS:					
Zones Bases - from the Administration Building or City Hall in Flagstaff, Kingman, Phoenix, Prescott and Yuma):					
Zone I (0-25 miles)	10.13	3%+.60	1.00		.07
Zone II (25-50 miles)	10.78	3%+.60	1.00		.07
Zone II (50 miles and over)	12.63	3%+.60	1.00		.07
SHEET METAL WORKERS:					
Zone Bases - from the Administration Building or City Hall in Douglas and Tucson:					
Zone A (1-17 miles)	9.17	3%+.83	1.60		.01

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
Zone B (18-28 miles)	$9.67	3%+.83	$1.60		.01
Zone C (29-40 miles)	10.67	3%+.83	1.60		.01
Zone D (41 miles and over)	11.67	3%+.83	1.60		.01
SOFT FLOOR LAYERS (Pheonix Area):					
Zone A (0-40 miles from Court House in Phoenix and Flagstaff including Luke and Williams Air Force Bases)	8.81	.49	.12		.12
Zone B (41-60 miles from Court House in Phoenix and Flagstaff)	9.81	.49	.12		.12
Zone C (61 miles and over from Court House in Phoenix and Flagstaff)	10.81	.49	.12		.12
SOFT FLOOR LAYERS (Tucson Area):	7.25	.38			
SPRINKLER FITTERS	12.04	.60	.90		.08
TERRAZZO WORKERS; Tile Setters; Marble Mason (Tucson Area)	9.42	.70	.75		
TERRAZZO, TILE and MARBLE SETTERS' HELPERS (Tucson Area)	6.51	.70			
LINE CONSTRUCTION:					
Zone I (Phoenix and Tucson 30 mile radius from center of town):					
Groundmen	8.79	8%	8%		1/2%
Equipment Operators; Powdermen; Mechanics	10.15	8%	8%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welder	11.45	8%	8%		1/2%
Cable Splicers	11.82	8%	8%		1/2%
Zone I-A (Douglas, Flagstaff, Globe, Kingman, Prescott and Yuma 10 mile radius from center of town):					
Groundmen	9.55	8%	8%		1/2%
Equipment Operators; Powdermen; Mechanics	10.85	8%	8%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welder	12.20	8%	8%		1/2%
Cable Splicers	12.64	8%	8%		1/2%

DECISION NO. AZ76-5075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Zone II (Other Areas):					
Groundmen	$10.26	8%	8%		1/2%
Equipment Operators; Powdermen; Mechanics	11.57	8%	8%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welder	12.93	8%	8%		1/2%
Cable Splicers	13.32	8%	8%		1/2%

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. AZ76-5075

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. ...
	C&S AREAS	N AREA				
Group 1:	$7.13	$8.775	.70	.75		.08
Group 2:	7.26	8.885	.70	.75		.08
Group 3:	7.40	9.025	.70	.75		.08
Group 4:	7.51	9.135	.70	.75		.08
Group 5:	7.68	9.305	.70	.75		.08
Group 6:	8.055	9.68	.70	.75		.08
Group 7:	8.685	10.31	.70	.75		.08
Group 8:	7.875		.70	.75		.08
Group 8A:	8.28		.70	.75		.08
LABORERS (Tunnel and Shaft Work)						
Group 1:	7.375	9.00	.70	.75		.08
Group 2:	7.54	9.165	.70	.75		.08
Group 3:	7.67	9.295	.70	.75		.08
Group 4:	7.80	9.425	.70	.75		.08
Group 4A:	8.03	9.655	.70	.75		.08
Group 5:	8.205	9.83	.70	.75		.08
Group 5A:	8.455	10.08	.70	.75		.08
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)						
Group 1:	7.77	9.395	.75	.80		.04
Group 2:	8.14	9.765	.75	.80		.04
Group 3:	8.60	10.225	.75	.80		.04
Group 4:	9.13	10.755	.75	.80		.04
Group 5:	9.66	11.285	.75	.80		.04
Group	9.97	11.595	.75	.80		.04
Group 6:	10.30	11.925	.75	.80		.04
Group 7:	10.90	12.525	.75	.80		.04
TRUCK DRIVERS						
Group 1:	7.31	8.935	.70	.75		.04
Group 2:	7.44	9.065	.70	.75		.04
Group 3:	7.66	9.285	.70	.75		.04
Group 4:	8.01	9.635	.70	.75		.04
Group 5:	8.17	9.797	.70	.75		.04
Group 5A:	8.35	9.975	.70	.75		.04
Group 6:	8.49	10.115	.70	.75		.04
Group 7:	8.90	10.525	.70	.75		.04
Group 8:	9.415	11.04	.70	.75		.04
Group 8A:	10.07	11.695	.70	.75		.04
Group 8B:	7.87	9.495	.70	.75		.04
Group 8C:	9.76	11.385	.70	.75		.04

LABORERS

Group 1: All Helpers Not Herein Separately Classified; Gesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder highway; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer

Group 2: Cement Finisher Tender; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator

Group 3: Bander; Chucktender (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers

Group 4: Cement Dumpers (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/Signalman (pipeline)

Group 5: Air and Water Wash-Out Nozzleman; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipelayers (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns chair or safety belt); Tampers (mechanical-all types); Precast manhole erector

Group 6: Concrete Cutting Torch; Concrete saw (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunite); Sandblaster (nozzleman)

Group 7: Concrete Road Form Setter; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powderman; Scaler (drillers); Welders and/or pipelayers installing process piping

Group 8: Mason Tenders

Group 8A: Plaster Tenders

LABORERS (Cont'd)
(TUNNEL and SHAFT WORKERS)

Group 1: Bull Gang, Muckers, Trackman; Dumpmen; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work)

Group 2: Nipper; Chucktender, Cabletender, Vibratorman, Jackhammer, Pneumatic tools (except driller)

Group 3: Grout Gunman

Group 4: Timberman, Retimberman - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher

Group 4A: Miners - Tunnel (hand or machine)

Group 5: Diamond Drill

Group 5A: Shaft and Raise Miner Welder

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air compressor operator; Field equipment servicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator

Group 2: Conveyor operator; Generator operator - portable; Power grizzly operator; Self-propelled chip spreading machine - conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power

Group 3: Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-moto paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment

Group 4: A-Frame boom truck or winch truck operator; Asphalt plant firemen; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types - except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator; Tugger operator

Group 5: Aggregate plant operator (including crushing, screening and sand plants, etc.); Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Drilling machine, including water wells; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar, w/belt width 48" or over; Locomotive engineer (incl. Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road Oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator - single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator

Group 5-A: Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment); Tractor operator (Pusher,

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator

Group 6: Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (Truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grade operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Pile-driver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment over 45 cu. yds., MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds., but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman & similar types); Specialized power digger cperator- attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper (400 net horsepower and over; Tugger operator (two or more); Universal equipment operator-Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 7: Crane operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - Shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS

Group 1: Teamsters; Pickups; Station Wagons; Manhaul driver

Group 2: Dump or flatrack (2 or 3 axle); Water truck (under 2500 gals.); Buggymobile (1 c. y. or less); Tireman; Bus drivers, ambulance driver, self-propelled street sweeper; Warehouseman

Group 3: Dump or flatrack (4 axle); Dumptor or dumpster (less than 7 c. y.); Water truck (2500 gals. but less than 4000 gals.)

Group 4: Dumptor or dumpster (7 c. y. but less than 16 c. y.); Dump or flatrack (5 axle); Water truck (4000 gals. and over); Slurry type equipment or leverman; Flaherty spreader or similar type equipment or leverman; Transit mix (8 c. y. or less)

Group 5: Dump or flatrack (6 axle); Transit mix (over 8 c. y. but less than 10.5 c. y.); Rock truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 c. y.))

Group 5A: Oil tanker or spreader and/or bootman, retortman or leverman

Group 6: Transit mix (over 10.5 c. y. but less than 14 c. y.); Ross Carrier fork lift or lift truck; Hydro lift, Swedish Crane Iowa 300 and similar types, Concrete pump (when integral part of transit mix truck); Dump or flatrack (7 axle)

Group 7: Dump or Flatrack (8 axles)

Group 8: Off-Highway Equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e., Cat DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling water tanks, fuel tanks or other applications under Teamster Classifications; Rock trucks (Dart, Euclid, or other similar end dump types) 16 c. y. and over; Ejectalls; Dumptor or dumpster (16 c. y. and over); Dump or flatrack (9 axles)

Group 8A: Heavy duty mechanic/welder; Body and fender man

Group 8B: Field Equipment serviceman or fuel truck driver

Group 8C: Heavy duty mechanic/welder helper

UMI 67 ON GCA 3611-14V

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Maricopa
DECISION NUMBER: AZ76-5076 DATE: Date of Publication
Supersedes Decision No. AZ76-5008 dated January 23, 1976, in 41 FR 3577
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.39	.50	$1.02		.02
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Zone A (0-25 miles from City Hall of Phoenix; Flagstaff & Yuma)	10.05	.65	.90		.06
Zone B (25-40 miles from City Hall of Phoenix; and Williams AFB)	10.55	.65	.90		.06
Zone C (40-70 miles from City Hall of Phoenix)	11.56	.65	.90		.06
Zone D (70-100 miles from City Hall of Phoenix)	12.06	.65	.90		.06
Zone E (100-200 miles from City Hall of Phoenix)	12.56	.65	.90		.06
Zone F (200 miles and over from City Hall of Phoenix)	13.07	.65	.90		.06
CARPENTERS:					
Carpenters; Drywall Applicator Piledrivermen; Floorlayers (finish)	9.085	.845	.955		.05
Millwrights	9.37	.845	.955		.05
CEMENT MASONS:	9.50	.845	.955		.05
(Northern portion)	9.01	.75	1.00		.05
(Southern portion)	9.32	.70	.75		.05
DRYWALL:					
(From Courthouse in Phoenix, Mesa, including Williams AFB and Luke AFB):					
Zone A (0-40 miles)	9.71	.59	.50		.07
Zone B (41-60 miles)	11.21	.59	.50		.07
Zone c (61 miles and over)	11.96	.59	.50		.07
Texture Spraymen:					
Zone A (0-40 miles)	9.81	.59	.50		.07
Zone B (41-60 miles)	11.31	.59	.50		.07
Zone C (51 miles and over)	12.06	.59	.50		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone A (Beginning at the northeast corner, a line extending southward on Bush Highway to McKellips Road; a line extending east on McKellips Road to a point one mile east of the intersection of State Highway 88 and U. S. 60 and 70 near Apache Junction; southward to Baseline Road; West on Baseline Road to the intersection of Baseline Road and Ellsworth Road; South on Ellsworth Road to Hunt Highway; West on Hunt Highway to Powers Road; a line extending south on Powers Road five miles, then extending straight west to a point five miles west of Interstate 10, then northwest on a line parallel with Interstate 10 to intersect with Pecos Road; West on Pecos Road to intersect with Cotton Lane. North on Cotton Lane to Beloat Road. West on Beloat Road to Airport Road. North on Airport Road in a straight line to intersect Waddell Road. East on Waddell Road to intersect with Cotton Lane. North on Cotton Lane to Deer Valley Drive and east on Deer Valley Drive to intersection with Bush Highway and including Luke and Williams Air Force Bases.)					
Electricians	$11.80	.80	1%+.70		1/2%
Cable Splicera	12.39	.80	1%+.70		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone B (Area outside of Zone A and bounded by a line formed by measuring sixteen (16) road miles from the outer boundaries of an area enclosed by the following boundaries; Power Road on the east from Hunt Highway on the south to one mile south of Pinnacle Peak Road on the north. One mile south of Pinnacle Peak Road to Cotton Lane on the west. Cotton Lane to Pecos Road on the on the south. Pecos Road to Price Road and from Price Road to Hunt Highway on the south. Hunt Highway to Powers Road on the east.)					
Electricians	$13.87	.80	1%+.70		3/4%
Cable Splicers	14.56	.80	1%+.70		3/4%
Zone C(Outside edge of Zone B and extend to the outside limits of the Union's jurisdiction)					
Electricians	$14.93	.80	1%+.70		3/4%
Cable Splicers	15.67	.80	1%+.70		3/4%
ELEVATOR CONSTRUCTORS	11.55	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	50%JR				
GLAZIERS	9.42	.70	.30		.01
IRONWORKERS	10.54	1.03	1.65		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Zone A (0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases):					
Brush; Tapers	$9.09	.59	.38		.05
Spray; Paperhangers	9.34	.59	.38		.05
Zone B (41-60 miles from Court House in Phoenix)					
Brush;Tapers	10.09	.59	.38		.05
Spray; Paperhangers	10.34	.59	.38		.05
Zone C (61 miles and over from Court House in Phoenix)					
Brush; Tapers	11.09	.59	.38		.05
Spray; Paperhangers	11.34	.59	.38		.05
PLASTERERS (Northern 3/4 of Co.):					
Zone A (0-35 miles from Phoenix)	9.045	.60	.85		.035
Zone B (35-60 miles from Phoenix)	9.795	.60	.85		.035
Zone C (60 miles & over from Phoenix)	10.67	.60	.85		.035
PLASTERERS (Southern 1/4 of Co.):					
Zone A (0-30 miles from Tucson)	8.57	.35	.60		
Zone B (30-40 miles from Tucson)	9.07	.35	.60		
Zone C (40-50 miles from Tucson)	9.32	.35	.60		
Zone D (50 miles & over from Tucson)	10.07	.35	.60		
PLUMBERS; Steamfitters:					
FREE ZONE 0-15 miles					
The "Free Zone" (Zone 1 shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 mile radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these Zones will be determined from the Phoenix and Tucson basing points:					
Plumbers; Steamfitters	11.14	.75	1.35		.10

UMI

DECISION NO. AZ76-5076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (Cont'd)					
Zone II (15-30 miles)	$11.49	.75	$1.35		.10
Zone III (30-40 miles)	11.91	.75	1.35		.10
Zone IV (40 miles and over)	13.21	.75	1.35		.10
ROOFERS	8.91	.845	.20		.02
SHEET METAL WORKERS:					
Zone I (0-25 miles excluding Luke and Williams AFB)	10.31	3%+.60	1.00		.07
Zone II (25-50 miles including Luke and Williams AFB)	10.78	3%+.60	1.00		.07
Zone III (50 miles and over)	12.63	3%+.60	1.00		.07
SOFT FLOOR LAYERS:					
Zone A:(0-40 miles from Court House in Phoenix and including Luke and Williams Air Force Bases)	8.81	.49	.12		.12
Zone B (41-60 miles from Court House in Phoenix)	9.81	.49	.12		.12
Zone C (61-miles and over)	10.81	.49	.12		.12
SPRINKLER FITTERS	12.04	.60	.90		.08

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1:	$7.13	.70	.75		.08
Group 2:	7.26	.70	.75		.08
Group 3:	7.40	.70	.75		.08
Group 4:	7.51	.70	.75		.08
Group 5:	7.68	.70	.75		.08
Group 6:	8.055	.70	.75		.08
Group 7:	8.685	.70	.75		.08
Group 8:	7.875	.70	.75		.08
Group 8-A:	8.28	.70	.75		.08
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)					
Group 1:	7.77	.75	.80		.04
Group 2:	8.14	.75	.80		.04
Group 3:	8.60	.75	.80		.04
Group 4:	9.13	.75	.80		.04
Group 5:	9.66	.75	.80		.04
Group 5-A:	9.97	.75	.80		.04
Group 6:	10.30	.75	.80		.04
Group 7:	10.90	.75	.80		.04
TRUCK DRIVERS					
Group 1:	7.31	.70	.75		.04
Group 2:	7.44	.70	.75		.04
Group 3:	7.66	.70	.75		.04
Group 4:	8.01	.70	.75		.04
Group 5:	8.17	.70	.75		.04
Group 5-A:	8.35	.70	.75		.04
Group 6:	8.49	.70	.75		.04
Group 7:	8.90	.70	.75		.04
Group 8:	9.415	.70	.75		.04
Group 8-A:	10.07	.70	.75		.04
Group 8-B:	7.87	.70	.75		.04
Group 8-C:	9.76	.70	.75		.04

LABORERS

Group 1: All Helpers Not Herein Separately Classified; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump man; Nozzle, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder highway; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer

Group 2: Cement Finisher Tender; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator

Group 3: Bander; Chucktender (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers

Group 4: Cement Dumpers (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/Signalman (pipeline)

Group 5: Air and Water Wash-Out Nozzleman; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipelayers (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns chair or safety belt); Tampers (mechanical-all types); Precast manhole erector

Group 6: Concrete Cutting Torch; Concrete saw (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunite); Sandblaster (nozzleman)

Group 7: Concrete Road Form Setter; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powderman; Scaler (drillers); Welders and/or pipelayers installing process piping

Group 8: Mason Tenders

Group 8A: Plaster Tenders

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air compressor operator; Field equipment servicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator

Group 2: Conveyor operator; Generator operator - portable; Power grizzly operator; Self-propelled chip spreading machine - conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power

Group 3: Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-moto paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment

Group 4: A-Frame boom truck or winch truck operator; Asphalt plant firemen; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types - except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator: Tugger operator

Group 5: Aggregate plant operator (including crushing, screening and sand plants, etc.); Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Drilling machine, including water wells; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar, w/belt width 48" or over; Locomotive engineer (incl. Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road Oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator - single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator

Group 5-A: Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment); Tractor operator (Pusher,

UMI 197 ON GCA 3611-14V

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator

Group 6: Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (Truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grade operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Pile-driver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment over 45 cu. yds., MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds., but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman & similar types); Specialized power digger operator- attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper (400 net horsepower and over; Tugger operator (two or more); Universal equipment operator-Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 7: Crane operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - Shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS

Group 1: Teamsters; Pickups; Station Wagons; Manhaul driver

Group 2: Dump or flatrack (2 or 3 axle); Water truck (under 2500 gals.); Buggymobile (1 c. y. or less); Tireman; Bus drivers, ambulance driver, self-propelled street sweeper; Warehouseman

Group 3: Dump or flatrack (4 axle); Dumptor or dumpster (less than 7 c. y.); Water truck (2500 gals. but less than 4000 gals.)

Group 4: Dumptor or dumpster (7 c. y. but less than 16 c. y.); Dump or flatrack (5 axle); Water truck (4000 gals. and over); Slurry type equipment or leverman; Flaherty spreader or similar type equipment or leverman; Transit mix (8 c. y. or less)

Group 5: Dump or flatrack (6 axle); Transit mix (over 8 c. y. but less than 10.5 c. y.); Rock truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 c. y.))

Group 5A: Oil tanker or spreader and/or bootman, retortman or leverman

Group 6: Transit mix (over 10.5 c. y. but less than 14 c. y.); Ross Carrier fork lift or lift truck; Hydro lift, Swedish Crane Iowa 300 and similar types; Concrete pump (when integral part of transit mix truck); Dump or flatrack (7 axle)

Group 7: Dump or Flatrack (8 axles)

Group 8: Off-Highway Equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e., Cat DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling water tanks, fuel tanks or other applications under Teamster Classifications; Rock trucks (Dart, Euclid, or other similar end dump types) 16 c. y. and over; Ejectalls; Dumptor or dumpster (16 c. y. and over); Dump or flatrack (9 axles)

Group 8A: Heavy duty mechanic/welder; Body and fender man

Group 8B: Field Equipment serviceman or fuel truck driver

Group 8C: Heavy duty mechanic/welder helper

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Pima
DECISION NUMBER AZ76-5077 DATE: Date of Publication
Supersedes Decision No. AZ76-5009 dated January 23, 1976, in 41 FR 3583
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.39	.50	$1.02		.02
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Zone A (0-15 miles from Tucson)	9.965	.70	.75		.06
Zone B (15-30 miles from Tucson)	10.34	.70	.75		.06
Zone C (30-40 miles from Tucson)	10.715	.70	.75		.06
Zone D (40 miles & over from Tucson)	11.465	.70	.75		.06
CARPENTERS:					
Carpenters; Drywall Applicator Piledrivermen; Floor Layers (finish)	9.085	.845	.955		.025
Millwrights	9.37	.845	.955		.025
CEMENT MASONS	9.50	.845	.955		.025
ELECTRICIANS:	9.32	.70	.75		.05
Zone A (0-16 miles from City Hall in Tucson)	9.23	6.7%	1%		1/2%
Zone B (16-32 miles from City Hall in Tucson)	9.73	6.7%	1%		1/2%
Zone C (32-48 miles from City Hall in Tucson)	10.23	6.7%	1%		1/2%
Zone D(48 miles & over from City Hall in Tucson)	10.73	6.7%	1%		1/2%
ELEVATOR CONSTRUCTORS	11.55	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.42	.70	.30		.01
IRONWORKERS	10.54	1.03	1.65		.08
MARBLE SETTERS; Terrazzo Workers; Tile Setters	9.42	.70	.75		
MARBLE, Terrazzo Workers; Tile Setters' Helpers	6.51	.70			
PAINTERS, Brush:					
Zone A (0-30 miles from Tucson P. O.)	8.43	.67	.35		.04
Zone B (31-40 miles from Tucson P. O.)	9.18	.67	.35		.04
Zone C (41-50 miles from Tucson P. O.)	9.68	.67	.35		.04
Zone D (51 miles & over from Tucson P. O.)	10.43	.67	.35		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS, Structural steel, brush:					
Zone A (0-30 miles from Tucson P. O.)	$ 9.43	.67	.35		.04
Zone B (31-40 miles from Tucson P. O.)	10.18	.67	.35		.04
Zone C (41-50 miles from Tucson P. O.)	10.68	.67	.35		.04
Zone D (51 miles and over from Tucson P. O.)	11.43	.67	.35		.04
PLASTERERS:					
Zone A (0-30 miles from Tucson P. O.)	8.57	.35	.60		
Zone B (30-40 miles from Tucson P. O.)	9.07	.35	.60		
Zone C (40-50 miles from Tucson P. O.)	9.32	.35	.60		
Zone D (50 miles & over from Tucson P. O.)	10.07	.35	.60		
PLUMBERS; Steamfitters:					
FREE ZONE 0-15 miles					
The "Free Zone" (Zone I shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones). Any work contracted from outside of these zones will be determined from the Phoenix and Tucson basing points.	$11.14	.75	1.35		.10
Zone II(15-30 miles)	11.49	.75	1.35		.10
Zone III(30-40 miles)	11.91	.75	1.35		.10
Zone IV(40 miles and over)	13.21	.75	1.35		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Zone A (0-44 miles from Tucson)	$7.47	.65	.20		.03
Zone B (Over 44 miles from Tucson)	9.22	.65	.20		.03
SHEET METAL WORKERS:					
Zone A (1-17 miles from Tucson)	9.17	3%+.83	1.60		.01
Zone B (18-28 miles from Tucson)	9.67	3%+.83	1.60		.01
Zone C(29-40 miles from Tucson)	10.67	3%+.83	1.60		.01
Zone D(41 miles & over from Tucson)	11.67	3%+.83	1.60		.01
SOFT FLOOR LAYERS	7.25	.38			
SPRINKLER FITTERS	12.04	.60	.90		.08

FOOTNOTE:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Fund. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1:	$7.13	.70	.75		.08
Group 2:	7.26	.70	.75		.08
Group 3:	7.40	.70	.75		.08
Group 4:	7.51	.70	.75		.08
Group 5:	7.68	.70	.75		.08
Group 6:	8.055	.70	.75		.08
Group 7:	8.685	.70	.75		.08
Group 8:	7.875	.70	.75		.08
Group 8-A:	8.28	.70	.75		.08
POWER EQUIPMENT OPERATORS (Except Piledriving & Steel Erection)					
Group 1:	7.77	.75	.80		.04
Group 2:	8.14	.75	.80		.04
Group 3:	8.60	.75	.80		.04
Group 4:	9.13	.75	.80		.04
Group 5:	9.66	.75	.80		.04
Group 5-A:	9.97	.75	.80		.04
Group 6:	10.30	.75	.80		.04
Group 7:	10.90	.75	.80		.04
TRUCK DRIVERS					
Group 1:	7.31	.70	.75		.04
Group 2:	7.44	.70	.75		.04
Group 3:	7.66	.70	.75		.04
Group 4:	8.01	.70	.75		.04
Group 5:	8.17	.70	.75		.04
Group 5-A:	8.35	.70	.75		.04
Group 6:	8.49	.70	.75		.04
Group 7:	8.90	.70	.75		.04
Group 8:	9.415	.70	.75		.04
Group 8-A:	10.07	.70	.75		.04
Group 8-B:	7.87	.70	.75		.04
Group 8-C:	9.76	.70	.75		.04

LABORERS

Group 1: All Helpers Not Herein Separately Classified; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder highway; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer

Group 2: Cement Finisher Tender; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator

Group 3: Bander; Chucktender (except tunnel); Creosote fireman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers

Group 4: Cement Dumpers (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/Signalman (pipeline)

Group 5: Air and Water Wash-Out Nozzleman; Asphalt rakers and troners; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipelayers (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns chair or safety belt); Tampers (mechanical-all types); Precast manhole erector

Group 6: Concrete Cutting Torch; Concrete saw (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunite); Sandblaster (nozzleman)

Group 7: Concrete Road Form Setter; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powderman; Scaler (drillers); Welders and/or pipelayers installing process piping

Group 8: Mason Tenders

Group 8A: Plaster Tenders

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air compressor operator; Field equipment servicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator

Group 2: Conveyor operator; Generator operator - portable; Power grizzly operator; Self-propelled chip spreading machine - conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power

Group 3: Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-moto paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Roos carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment

Group 4: A-Frama boom truck or winch truck operator; Asphalt plant firemen; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types - except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator: Tugger operator

Group 5: Aggregate plant operator (including crushing, screening and sand plants, etc.); Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Drilling machine, including water wells; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar, w/belt width 48" or over; Locomotive engineer (incl. Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road Oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator - single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator

Group 5-A: Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment); Tractor operator (Pusher,

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POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator

Group 6: Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (Truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grade operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment over 45 cu. yds., MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds., but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman & similar types); Specialized power digger operator- attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper (400 net horsepower and over; Tugger operator (two or more); Universal equipment operator-Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 7: Crane operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - Shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS

Group 1: Teamsters; Pickups; Station Wagons; Manhaul driver

Group 2: Dump or flatrack (2 or 3 axle); Water truck (under 2500 gals.); Buggymobile (1 c. y. or less); Fireman; Bus drivers, ambulance driver, self-propelled street sweeper; Warehouseman

Group 3: Dump or flatrack (4 axle); Dumptor or dumpster (less than 7 c. y.); Water truck (2500 gals. but less than 4000 gals.)

Group 4: Dumptor or dumpster (7 c. y. but less than 16 c. y.); Dump or flatrack (5 axle); Water truck (4000 gals. and over); Slurry type equipment or leverman; Flaherty spreader or similar type equipment or leverman; Transit mix (8 c. y. or less)

Group 5: Dump or flatrack (6 axle); Transit mix (over 8 c. y. but less than 10.5 c. y.); Rock truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 c. y.))

Group 5A: Oil tanker or spreader and/or bootman, retortman or leverman

Group 6: Transit mix (over 10.5 c. y. but less than 14 c. y.); Ross Carrier fork lift or lift truck; Hydro lift, Swedish Crane Iowa 300 and similar types; Concrete pump (when integral part of transit mix truck); Dump or flatrack (7 axle)

Group 7: Dump or Flatrack (8 axles)

Group 8: Off-Highway Equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e., Cat DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling water tanks, fuel tanks or other applications under Teamster Classifications; Rock trucks (Dart, Euclid, or other similar end dump types) 16 c. y. and over; Ejectalls; Dumptor or dumpster (16 c. y. and over); Dump or flatrack (9 axles)

Group 8A: Heavy duty mechanic/welder; Body and fender man

Group 8B: Field Equipment serviceman or fuel truck driver

Group 8C: Heavy duty mechanic/welder helper

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA76-4143 DATE: Date of Publication
Supersedes Decision No. LA76-4131, dated July 23, 1976, in 41 FR 30533.
DESCRIPTION OF WORK: Building Construction in all Parishes, Residential Construction in Bossier, Caddo & Calcasieu Parishes and Construction of Highways, Roads, Streets and Parking Areas in all Parishes except St. Mary (except those let with a building contract).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$ 9.595	.425	.70		.04
ZONE 2	9.38	.325	.685		.025
ZONE 3	8.40	.45	1.00		.05
ZONE 4	7.78	.30			

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Rienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$ 9.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	8.24	.30	.25		.06
ZONE 2	8.15	.53			
ZONE 3	9.45	.48	.30		.02
ZONE 4	9.84	.25	.20		.035
ZONE 5	8.25				
ZONE 6	8.15	.53			
ZONE 7	8.55	.40	.45		
ZONE 8	8.25		.30		
ZONE 9	8.45		.25		
ZONE 10	9.20				

DECISION NO. LA76-4143

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Evangeline, Pointe Coupee & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 4 - Jefferson, Lafourcha, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish Line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek and on a line due east from Talisheek to the Mississipoi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 7 - Rienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Natchitoches & Sabine Parishes
ZONE 9 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Iberia, Lafayette, St. Martin & St. Mary Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1	$ 8.04	.30			
ZONE 2	8.395	.35	.28		.05
ZONE 3	8.10	.35	.30		
ZONE 4	8.80	.20	.30		.04
ZONE 5	9.37	.35	.30		.04
ZONE 6	9.205	.35	.30		.04
ZONE 7	7.85				
ZONE 8	8.30	.35	.25		.04
ZONE 9	7.85				
ZONE 10	7.65	.35	.20		.05

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

UMI

DECISION NO. LA76-4143

AREA COVERED BY CARPENTERS ZONES (CONT'D)

ZONE 4 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 5 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 6 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 3) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION)					
ZONE 1	$ 7.76				
ZONE 2	8.20				
ZONE 3	7.75	.30	.50		.05
ZONE 4	9.065	.35	.30		.04
ZONE 5	7.35				
ZONE 6	6.00				
ZONE 7	7.65	.30			
ZONE 8	7.17		.25		
ZONE 9	6.50		.30		

AREA COVERED BY CEMENT MASONS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (the lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 7.25				
On concrete lined ditches	8.195				
ZONE 2	6.45				
ZONE 3	7.10	.30			
ZONE 4	7.40				
ZONE 5	6.30				
On concrete lined ditches	7.75	.30	.50		.05
ZONE 6	6.30				
ZONE 7	5.72				

AREA COVERED BY CEMENT MASONS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Highway 61 in East Feliciana & West Feliciana Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu & Cameron Parishes
ZONE 5 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
ZONE 6 - Allen, Assumption, Avoyelles, Beauregard, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Highway 61), Evangeline, Iberville, Jefferson Davis, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 7 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Electricians					
ZONE 1	$ 9.90	.35	1%+.40		3/10%
ZONE 2	10.00		1%		
ZONE 3	11.25	.35	1%+.20		1/10%
ZONE 4	10.05	.35	1%		
ZONE 5	10.30	.30	1%+.30		.03
ZONE 6	9.05	.45	1%		1/2%
ZONE 7	9.40	.60	1%		1%
ZONE 8	9.25		1%	.30	1/2%

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cable splicers					
ZONE 1	$10.15	.35	1%+.40		3/10%
ZONE 2	10.50		1%		
ZONE 3	11.50	.35	1%+.20		1/10%
ZONE 4	10.30	.35	1%		
ZONE 5	10.30	.30	1%+.30		.03
ZONE 6	9.55	.45	1%		1/2%
ZONE 7	9.90	.60	1%		1%
ZONE 8	9.50		1%	.30	1/2%

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1					
Elevator constructors	$ 9.285	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
ZONE 2					
Elevator constructors	8.795	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				

DECISION NO. LA76-4143

FOOTNOTES
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays - A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA COVERED BY ELEVATOR CONSTRUCTORS ZONES

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	$ 7.55				
ZONE 2	7.10				.01
ZONE 3	8.875	.17	.30		.01
ZONE 4	7.43				
ZONE 5	7.00		.20		
ZONE 6	6.40				

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, Tangipahoa (west of Highway 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany, Tangipahoa (east of Highway 51), Terrebonne & Washington Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes
ZONE 5 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to the city of Natchitoches), Red River & Webster Parishes
ZONE 6 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$ 9.76	.30	.35		.04
ZONE 2	9.64	.45	.35		.04
ZONE 3	9.45	.35	.35		.04
ZONE 4	9.25	.35	.50		.04
ZONE 5	8.15	.30	.35		.04
ZONE 6	9.05	.35	.50		.025

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, east of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (east of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southwest along the western city limits of Abbeville, Louisiana, to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, west of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico); Parts of Catahoula, Concordia, LaSalle & Rapides Parishes (south of a line drawn from Natchez, Mississippi southwesterly to the city of Kolin, from there northwesterly through the city of Boyce to the Natchitoches Parish boundary)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (west of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Cloutierville); Part of Sabine Parish (north of a line drawn from the Natchitoches Parish boundary west through the city of Peason to the Texas-Louisiana border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (east of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia-Cloutierville); Parts of Madison Parish (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia, LaSalle & Rapides Parishes (north of a line drawn from Natchez, Mississippi southwesterly to the city of Kolin, from there northwesterly through the city of Boyce to the Natchitoches Parish boundary)
ZONE 5 - That part of Madison Parish (including the cities of Mound, Delta & adjacent areas)

DECISION NO. LA76-4143

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES (CONT'D)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, Rapides, St. Landry & Vermilion Parishes (west of a line drawn from the city of Kolin, southwest along the western city limits of Abbeville, Louisiana to the Gulf of Mexico and southwest of a line drawn from Kolin through Boyce to the Natchitoches-Rapides Parish boundary); Parts of Sabine Parish (south of a line drawn from the Natchitoches Parish boundary west through the city of Peason to the Texas-Louisiana border)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 8.72				
ZONE 2	8.48				
ZONE 3	8.70				
ZONE 4	8.30				
ZONE 5	8.16				
ZONE 6	6.99				
ZONE 7	6.45				
ZONE 8	5.84				

AREA COVERED BY IRONWORKERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson & Orleans Parishes
ZONE 2 - Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Bossier & Caddo Parishes
ZONE 6 - Lafayette, Ouachita & Rapides Parishes
ZONE 7 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 8 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	$ 3.90	.10			
GROUP 2	4.05	.10			
GROUP 3	4.15	.10			
ZONE 2					
GROUP 1	5.22	.15	.10		.05
GROUP 2	5.42	.15	.10		.05
ZONE 3					
GROUP 1	6.53	.15	.10		.05
GROUP 2	6.63	.15	.10		.05
GROUP 3	6.68	.15	.10		.05
GROUP 4	7.49	.15	.10		.05
GROUP 5	7.05	.15	.10		.05
GROUP 6	6.79	.15	.10		.05
GROUP 7	6.58	.15	.10		.05
ZONE 4					
GROUP 1	6.13	.15	.20		.05
GROUP 2	6.23	.15	.20		.05
GROUP 3	6.28	.15	.20		.05
ZONE 5					
GROUP 1	5.73	.15	.20		.05
GROUP 2	5.83	.15	.20		.05
GROUP 3	5.88	.15	.20		.05
ZONE 6					
GROUP 1	6.74	.15	.20		.05
GROUP 2	6.84	.15	.20		.05
GROUP 3	6.99	.15	.20		.05
GROUP 4	6.89	.15	.20		.05
GROUP 5	6.99	.15	.20		.05

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
GROUP 1	$ 6.425	.15	.20		.05
GROUP 2	6.575	.15	.20		.05
GROUP 3	6.625	.15	.20		.05
ZONE 8					
GROUP 1	4.80	.15	.10		.05
GROUP 2	5.00	.15	.10		.05
GROUP 3	5.05	.15	.10		.05
GROUP 4	5.10	.15	.10		.05
GROUP 5	5.45	.15	.10		.05
ZONE 9					
GROUP 1	5.40	.15	.10		.05
GROUP 2	5.50	.15	.10		.05
GROUP 3	5.55	.15	.10		.05
GROUP 4	5.60	.15	.10		.05
ZONE 10					
GROUP 1	5.17	.15	.10		.05
GROUP 2	5.27	.15	.10		.05
GROUP 3	5.42	.15	.10		.05

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewerman (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet or over); tender of all crafts; sandblaster (nozzlemen); Sandblaster (pot tender); laying non-metallic pipe over 4 feet deep, including sewer pipe, drain pipe, and underground tile; septic tank diggers and installers, over 4 feet deep; gas & oil pipeline laborers and wrappers
GROUP 3 - Gunite tool operators

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen
GROUP 2 - Mason mixer; plaster mixer; mechanical tool operator; sandblaster; laying concrete pipe, clay pipe, plastic pipe, asbestos cement pipe, casing pipe and corrugated metal pipe, as sewer pipe, drain pipe, and underground tile (caulkers, joint wrappers, hot pot and pipe layers); gas and oil pipeline laborers, wrappers and dopers

LABORERS - ZONE 3

GROUP 1 - Building and general laborer; tenders (carpenter, plaster, cement finisher, mason); tank and vessel cleaners
GROUP 2 - Air tool operator (except jackhammer); Interior of closed tanks and vessels power equipment
GROUP 3 - Mortar mixers and jackhammer operators
GROUP 4 - Plasterers
GROUP 5 - Plaster helpers; concrete cutters behind paving machine and puddlers; form setters and lines asphalt worker
GROUP 6 - Wiping joints, laying pipe and tile from pumpcrete
GROUP 7 - Interior of closed tanks and vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool operators (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw operators, etc.); pipelayers (non-metallic
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet and over), sand blaster (nozzlemen and pot tender), laying non-metallic pipe over 4 feet deep, septic diggers and installers over 4 feet deep, gas and oil pipeline laborers and wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers' tenders; stone mason helpers; concrete workers; scaffold builders
GROUP 2 - Air tool operators (jackhammer, vibrator, and tamper), sewer pipe joiners and setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy operator; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother and shovelers; sewer pipe layers; blaster helpers
GROUP 5 - Powdermen

LABORERS - ZONE 9

GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plasterer tenders; Asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (bricknasons, stonemasons, cement masons, carpenter, plasterers); Stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool operator (air, electric, motor, engine, etc.); Sewer pipe layers; mortar mixers (hand or machine); gunite operator
GROUP 3 - Pipe dopers & burners

AREA COVERED BY LABORERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - St. Tammany (as far south as Bayou Lacombe and east to the Mississippi State Line at Pearlington), Tangipahoa (except that portion south of a line running due east from the western boundary of Tangipahoa Parish which follows the northern city limits of Independence, Louisiana to 20 miles east of U.S. Highway 51, than running south paralleling Highway 51 at a 27 mile distance to Lake Pontchartrain) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the Baptist Parishes (north of a line drawn from the southern limits of the town of St. James in St. James Parish to the northern limits of the town of Napoleonville, in Assumption Parish & then directly west to the Parish line, all of St. James Parish except that part which is east of a line drawn from Lutcher, Louisiana to U.S. Highway 61 (Airline Highway) then west on U.S. 61 to Blind River and on a direct line to Manchac, Louisiana)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western parish line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Mississippi River and the portion of St. John the Baptist on the east bank of the Mississippi River as far as the Sycamore Inn at Lutcher and north to Blind River and Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Mississippi State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank and including the town of Vacherie) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.10	.15	.10		.05
ZONE 2	4.80	.15	.10		.05
ZONE 3	4.15	.15	.10		.05
ZONE 4	5.25	.15	.20		.05
ZONE 5	4.10	.15	.10		.05
ZONE 6	3.85	.15	.10		.05
ZONE 7	3.75	.15	.10		.05
GROUP 2					
ZONE 1	5.20	.15	.10		.05
ZONE 2	4.90	.15	.10		.05
ZONE 3	4.25	.15	.10		.05
ZONE 4	5.35	.15	.20		.05
ZONE 5	4.20	.15	.10		.05
ZONE 6	3.95	.15	.10		.05
ZONE 7	3.85	.15	.10		.05
GROUP 3					
ZONE 1	5.65	.15	.10		.05
ZONE 2	5.35	.15	.10		.05
ZONE 3	4.70	.15	.10		.05
ZONE 4	5.80	.15	.20		.05
ZONE 5	4.65	.15	.10		.05
ZONE 6	4.40	.15	.10		.05
ZONE 7	4.30	.15	.10		.05
GROUP 4					
ZONE 1	5.90	.15	.10		.05
ZONE 2	5.60	.15	.10		.05
ZONE 3	4.95	.15	.10		.05
ZONE 4	6.05	.15	.20		.05
ZONE 5	4.85	.15	.10		.05
ZONE 6	4.60	.15	.10		.05
ZONE 7	4.50	.15	.10		.05

CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman, foundation driller, and demolishing and dismantling man
GROUP 2 - Raker, concrete spreader, carpenters helpers, distributor man, finishers helpers, formsetters helpers, jackhammer operator, jetting laborer, painters helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone masons helper, stoker, asphalt raker, concrete shovelers, power tool operator and motorized buggy operator
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman

AREA COVERED BY LABORERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.30				.01
ZONE 2	8.58	.20	.20		.05
ZONE 3	9.385	.30			.01
ZONE 4	9.70				
ZONE 5	7.55				.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Parishes (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes; Parts of Assumption & St. James Parishes (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Parish (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish

UMI 197 ON SCA 35354 35355

DECISION NO. LA76-4143

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Linemen	$10.30	.30	1%+.30		.03
Operator hole digging equipment; operator, traxtor with winch & derrick; operator line truck with winch & derrick working hot lines	75%JR	.30	1%+.30		.03
Operator using hole truck & trailer, or pole hauling & setting truck (not in energized lines)	65%JR	.30	1%+.30		.03
Operator using truck without winch; Groundmen (starting rate to 1½ years service)	45%JR	.30	1%+.30		.03
Groundmen (1½ years service or over)	50%JR	.30	1%+.30		.03
ZONE 2					
Linemen, line equipment & line truck operators	9.90	.35	1%+.40		3/10%
Cable splicers	10.15	.35	1%+.40		3/10%
ZONE 3					
Linemen, equipment operators	11.25	.35	1%+.20		1/10%
Cable splicers	11.50	.35	1%+.20		1/10%
Groundmen	9.25	.35	1%+.20		1/10%
ZONE 4					
Linemen & equipment operators	10.05	.35	1%		
Cable splicers	10.30	.35	1%		
Groundmen	50%JR	.35	1%		
ZONE 5					
Linemen & equipment operators	9.25		1%	.30	1/2%
Cable splicers	9.50		1%	.30	1/2%
Groundmen	60%JR		1%	.30	1/2%
ZONE 6					
Linemen & equipment operators	8.45	.30	1%		1/2%
Cable splicers	8.95	.30	1%		1/2%
Groundmen, 1st 6 months	2.85	.30	1%		1/2%
Groundmen, 2nd 6 months	3.44	.30	1%		1/2%
Groundmen, after 1 year	3.73	.30	1%		1/2%

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
Linemen; Operators	$ 9.40	.60	1%		1%
Cable splicers	9.90	.60	1%		1%
Groundmen	7.40	.60	1%		1%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

MARBLE SETTERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$ 9.84	.25	.20		.035
ZONE 2	9.45	.48	.30		.02
ZONE 3	9.20				
ZONE 4	7.42		.25		
ZONE 5	7.55	.30			
ZONE 6	9.10				

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U. S. Highway 190 through the lower limits of Covington, along State Highway 58 through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin & St. Mary Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

DECISION NO. LA76-4143

MARBLE SETTERS' HELPERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$ 6.55	.25			
ZONE 2	5.27	.15	.10		.05
ZONE 3	3.00				

AREA COVERED BY MARBLE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line), Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

MILLWRIGHTS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$ 9.895				.05
ZONE 2	9.71	.35	.30		.04
ZONE 3	10.765				.06
ZONE 4	8.765	.30			
ZONE 5	8.60				
ZONE 6	8.90	.35	.25		.04
ZONE 7	8.60				
ZONE 8	8.55	.35	.20		.05
ZONE 9	9.75	.35	.30		

AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 9) & Terrebonne Parishes
ZONE 3 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 4 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes

DECISION NO. LA76-4143

AREA COVERED BY MILLWRIGHTS ZONES (CONT'D)
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

PAINTERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP 1 - Brush, wood or wall, rollers	$ 8.96				
GROUP 2 - Brush on steel, buffer on wood or wall	9.085				
GROUP 3 - Paperhanging, taping & floating	9.16				
GROUP 4 - Spray, wood & wall	9.305				
GROUP 5 - Steeplejack, sandblasting, spider operator, rubberizing & pyroflexing, steam jennies, spray on steel	9.445				
ZONE 2					
GROUP 1 - Brush; taping; floating & texture	6.45		.10		
GROUP 2 - Industrial & steel	7.12		.10		
GROUP 3 - All spray painting; roller operator & using of mitts; All power tools for cleaning & preparing surfaces for painting; All work on stacks, steeples, flag poles & all towers & tanks over 50 feet; All work off swing stage, bosun chair and spiders, all work with creosote material or any similar material as service cement paint	6.70		.10		

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DECISION NO. IA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters	$ 7.755	.275	.30		.05
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 feet: tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painters	8.13	.275	.30		.05
GROUP 3 - Industrial	9.005	.275	.30		.05
ZONE 4					
GROUP 1 - Brush	7.10				
GROUP 2 - Industrial & steel	7.47				
GROUP 3 - Hand tools or automatic tools to finish gypsum board; spray; sandblasting - 25c per hour above rate for brush					
GROUP 4 - All power tools; All stacks, steeples, flag poles, swing stages & window jacks; All towers, tanks & structural steel over 50 ft. high - 25c per hour above journeyman rate					
ZONE 5					
GROUP 1 - Commercial brush; Sheetrock finishers	6.50				
GROUP 2 - Industrial brush hands	7.10				
GROUP 3 - All spray painting, waterblasting, sandblasting	8.05				
GROUP 4 - All paperhangers	7.50				
GROUP 5 - All power operated tools, buffers, etc.; all roller operators - 25c per hour above scale					
ZONE 6					
GROUP 1 - Painters, paperhangers, tapers, floaters; Commercial steel, such as churches or any commercial building with closed roof deck or walls	7.10				
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work	7.60				
GROUP 3 - All industrial work including sandblasting or power tools of any kind	8.10				

DECISION NO. IA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel	$ 8.25		.30		.025
GROUP 2 - Stage, window jacks & structural steel over 30 ft.	8.50		.30		.025
GROUP 3 - Stage, window jacks & structural steel over 75 ft.	8.75		.30		.025
GROUP 4 - Sandblasting, spray	8.85		.30		.025
ZONE 8					
GROUP 1 - Painters, paperhangers, tapers, floaters	6.80				
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack work	7.80				
GROUP 3 - Structural steel, brush	7.30				

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, Tangipahoa (west of Highway 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Lafourche, Livingston (east & south of Highway 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes
ZONE 5 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes
ZONE 6 - Allen (northeast corner), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (south half), Rapides, Sabine, St. Landry (north half) & Winn (south half) Parishes
ZONE 7 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River & Webster Parishes
ZONE 8 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

DECISION NO. IA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN					
ZONE 1	$ 8.40	.35	.30		
ZONE 2	8.80	.20	.30		.04
ZONE 3	9.47	.35	.30		.04
ZONE 4	8.395	.35	.28		.05
ZONE 5	8.35				
ZONE 6	8.55	.35	.25		.04
ZONE 7	8.35				
ZONE 8	8.15	.35	.20		.05
ZONE 9	8.445	.30			

AREA COVERED BY PILEDRIVERMEN ZONES

ZONE 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 2 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 1) & Terrebonne Parishes
ZONE 4 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes

DECISION NO. IA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS					
ZONE 1	$ 7.70				
ZONE 2	7.15				.01
ZONE 3	8.77				
ZONE 4	8.03				.01
ZONE 5	7.05	.30	.20		.03
ZONE 6	6.00				.01
ZONE 7	9.70				
ZONE 8	8.45		.25		
ZONE 9	8.25		.30		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (parish line on the west along U.S. Highway 190 through the lower limits of Covington and Abita Springs along State Highway 435 to Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

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DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS					
ZONE 1	$10.30	.45	.75		.06
ZONE 2	9.60	.54	.725		.06
ZONE 3	9.50	.45	.55		.10
ZONE 4	8.29	.35	.55		.02
ZONE 5	8.54	.40	.30	.55	.09
ZONE 6	9.88	.42	.47		.08

AREA COVERED BY PLUMBERS & PIPEFITTERS ZONES

ZONE 1 - Jefferson, Lafourche (except small portion of western part of Parish), Livingston (northeast corner), Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Parish), St. John the Baptist, St. Tammany, Tangipahoa (southern 1/2 of Parish), Terrebonne (eastern 1/3 of Parish) & Washington Parishes

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Parish), Iberville, Lafourche (small portion of western part of Parish), Livingston (except northeast corner), Pointe Coupee (except northwest corner), St. Helena, St. James (western 1/3 of Parish), St. Landry (eastern 2/3 of Parish), St. Martin (southern part of eastern 1/2 of Parish), St. Mary (except western tip), Tangipahoa (northern 1/2 of Parish), Terrebonne (western 2/3 of Parish), West Baton Rouge & West Feliciana Parishes

ZONE 3 - Allen (northeast corner), Avoyelles, Evangeline (except southwest corner), Grant, Natchitoches (south of Highway 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Highway 10) & Winn Parishes (south of a line drawn from Natchitoches through Winnfield to Standard); Parts of Catahoula, Concordia & LaSalle Parishes (south of a line drawn from Standard southeast through Harrisonburg to the junctions of U.S. 84 & State Route 15 and west of a line drawn from that junction to the meeting place of the Concordia-West Feliciana Parish line)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes; Parts of Catahoula, Concordia & LaSalle Parishes (north of a line drawn from Standard southeast through Harrisonburg to the junctions of U.S. 84 & State Route 15 & east of a line drawn south from that junction to the meeting place of the Concordia-West Feliciana Parish Line); Part of Winn Parish (east of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson & north of a line drawn east from Winnfield to Standard)

ZONE 5 - All of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Highway 111 between Anacoco & Haddens); Part of Winn Parish (west of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson)

ZONE 6 - Acadia, Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Evangeline (southwest corner), Iberia (western 1/2 of Parish), Jefferson Davis, Lafayette, Pointe Coupee (northwest corner), St. Landry (western 1/3 of Parish), St. Martin (west of Highway 31), St. Mary (western tip), Vermilion & Vernon (south of Highway 111 & southwest of Highway 10) Parishes

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)					
ZONE 1 (Excluding Residential Construction in Caddo & Bossier Parishes					
GROUP 1	$ 6.49	.25	.48		.05
GROUP 2	6.79	.25	.48		.05
GROUP 3	7.09	.25	.48		.05
GROUP 4	7.15	.25	.48		.05
GROUP 5	7.44	.25	.48		.05
GROUP 6	8.72	.25	.48		.05
ZONES 2, 3 & 4					
GROUP 1	6.57	.25	.48		.05
GROUP 2	6.87	.25	.48		.05
GROUP 3	7.18	.25	.48		.05
GROUP 4	7.23	.25	.48		.05
GROUP 5	7.53	.25	.48		.05
GROUP 6	8.82	.25	.48		.05
ZONE 5					
GROUP 1	6.82	.25	.48		.05
GROUP 2	6.54	.25	.48		.05
GROUP 3	6.36	.25	.48		.05
GROUP 4	7.07	.25	.48		.05
GROUP 5	9.145	.25	.48		.05
GROUP 6	7.43	.25	.48		.05
GROUP 7	8.02	.25	.48		.05

NOTICES

35360

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6					
GROUP 1	$ 6.91	.25	.48		.05
GROUP 2	6.41	.25	.48		.05
GROUP 3	6.23	.25	.48		.05
GROUP 4	6.66	.25	.48		.05
GROUP 5	7.28	.25	.48		.05
GROUP 6	8.25	.25	.48		.05
GROUP 7	9.17	.25	.48		.05
GROUP 8	9.42	.25	.48		.05
GROUP 9	9.67	.25	.48		.05
GROUP 10	9.92	.25	.48		.05
ZONE 7					
GROUP 1	9.61	.25	.48		.05
GROUP 2	9.86	.25	.48		.05
GROUP 3	7.02	.25	.48		.05
GROUP 4	7.40	.25	.48		.05
GROUP 5	7.99	.25	.48		.05
GROUP 6	9.36	.25	.48		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreader; Finishing Machines; Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Dowell Bar Machine; Farm-Type Tractor (with all attachments except backhoe); Fireman; Fork Lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum Buff Machine; Pull Cats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Buggies; Sweepers on streets & roads (Motorized); Winch Truck, A-Frame (other than handling steel or pipe)

GROUP 6 - Asphalt Spreader; Backhoe, Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Cranes; Derricks; Ditching or Trenching Machines; Dragglines; Fork Lifts (setting steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grease Serviceman; Hoist, 1 drum, 4 stories or more or 40 feet (on structures other than buildings); Hoist, 2 drums and over; Hydrolifts; Heavy Duty Mechanic; Motor Patrols; Piledrivers; Pump, concrete (6" & over); Road Pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom Cats; Shovels; Tractorvators; Welder, journeyman; Well Point System; Winch Cats (hoisting); Winch Truck, A-Frame (handling steel or pipe)

DECISION NO. LA76-4143

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator

GROUP 2 - Pumps under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoes (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 feet on structures other than buildings); Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator

GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass-cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps

GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch Cat; Pumps, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Batch Plant Operator

GROUP 5 - Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surfsce); Finishing Machine (Concrete, Paving); Hoist - 1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street & Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated Bush Hog and similar grass or bush cutting equipment

GROUP 6 - A-Frame Truck; Crew Boat Operator; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile and similar front-end loading equipment with Scoop or Bucket under 1 cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist - 1 drum, 4 stories or over

GROUP 7 - Backhoe; Cable Way; Concrete Mixer, 16S and up; Derrick; Crane; Dragline; Dredge; Equipment Maintenance Mechanic; Hoist - 2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom Cat; Bulldozer; Motor Patrol; Scraper; Hydrolift Crane, Hydro-lift Truck, Yard Crane, Cherry Picker, etc.; Foundation, Boring and Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cubic yard or more capacity; Tug Boat Operator; Turnapull, Euclid, DW-10 & other similar self-loading earth moving equipment; Concrete Pump (not Pump Crete)

NOTICES

35361

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POWER EQUIPMENT OPERATORS - ZONE 6 (CONT'D)

GROUP 8 - Crane Operator, 60 tons & over; Crane Operator, Boom 100 feet & over; Piledriver Operator, Leads 100 feet & over

GROUP 9 - Crane Operator, 100 tons & over; Crane Operator, Boom 150 feet & over; Piledriver Operator, Leads 150 feet & over

GROUP 10 - Crane Operator, Boom 250 feet & over; Piledriver Operator, Leads over 250 feet

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant Master Mechanic

GROUP 2 - Master Mechanic

GROUP 3 - Oilers

GROUP 4 - Batch Plant Operators; Mechanic Helpers; Oilers (Drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air Compressor; Asphalt Plant Engineers; Asphalt Finisher, Screed Men; Blade Graders; Boat Operator; Bullfloats; Concrete Joining Machines; Concrete Mixers, 16s and under; Concrete Spreader; Crusher Operator; Deck Winch Operator (1); Distributors, asphalt "Ditch Witch" and similar equipment; Electric Elevators (inside); Finishing Machine; Fireman; Form Graders; Fork Lifts; Hoist, 1 drum, under 4 stories; Power Subgrader; Pug Mill Operators; Pull Tractors; Pump, Pump Crete; Rollers, except on brick and asphalt; Rubber tired Front End Loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale Operator; Scoopmobile; Snatch Cats; Spray Machines; Stabilizers, less than 3 drums; Straddle-Buggy; Track Machines and equivalent Machines; Tractors or Bulldozers smaller than D-6

GROUP 6 - A-Frame Truck, when working with ironworkers and pipefitters; Bulldozers D-6 and larger; Cable Ways; Concrete Mixers, over 16-s paving machines; Cranes, Derricks; Draglines and Clam Shells; Deck Winches (2); Gradealla; Hi-Ho and similar type equipment; Hoist, 1 drum, 4 stories and over; Hoists, 2 drums or more; Hydro cranes; Mechanic; Motor Patrols; Piledrivers; Rollers on brick and asphalt; Rubber Tired Front End Loader, with or without attachments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom Cats; Stabilizers, 3 drums or more; Traxcavators; Trenching Machines; Unit Operator; Welder, journeymen; Well Point Systems (gas, diesel, electric, etc.); Concrete Pump/Boom Combinations

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the junction of the Iberville-St. Landry Parishes border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Parishes (east and west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the Louisiana-Mississippi border)

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES (CONT'D)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi and the Mississippi Sound, on the south by the Gulf of Mexico and on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Parish, Louisiana, due north of the town of Hackley, Louisiana, thence southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay and in a line due south to the Gulf of Mexico)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 8.45	.25	.39		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	8.08	.25	.39		.05
ZONE 4	8.53	.25	.48		.05
ZONE 5	6.69	.25	.30		.05
ZONE 6	6.14	.25	.30		.05
ZONE 7	5.53	.25	.30		.05
GROUP 2					
ZONE 1	8.70	.25	.39		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	8.33	.25	.39		.05
ZONE 4	8.78	.25	.48		.05
ZONE 5	6.94	.25	.30		.05
ZONE 6	6.39	.25	.30		.05
ZONE 7	5.78	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3					
ZONE 1	$ 8.20	.25	.39		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	7.83	.25	.39		.05
ZONE 4	8.28	.25	.48		.05
ZONE 5	6.44	.25	.30		.05
ZONE 6	5.89	.25	.30		.05
ZONE 7	5.28	.25	.30		.05
GROUP 4					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	6.90	.25	.39		.05
ZONE 4	7.15	.25	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 5					
ZONE 1	6.88	.25	.39		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	6.39	.25	.39		.05
ZONE 4	6.59	.25	.48		.05
ZONE 5	5.02	.25	.30		.05
ZONE 6	4.48	.25	.30		.05
ZONE 7	3.97	.25	.30		.05
GROUP 6					
ZONE 1	6.27	.25	.39		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	5.75	.25	.39		.05
ZONE 4	5.94	.25	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 7					
ZONE 1	$ 5.99	.25	.39		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	5.46	.25	.39		.05
ZONE 4	5.53	.25	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 8					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	6.90	.25	.39		.05
ZONE 4	7.15	.25	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 9					
ZONE 1	7.45	.25	.39		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	7.15	.25	.39		.05
ZONE 4	7.40	.25	.48		.05
ZONE 5	5.83	.25	.30		.05
ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05
GROUP 10					
ZONE 1	6.24	.25	.39		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	5.71	.25	.39		.05
ZONE 4	5.78	.25	.48		.05
ZONE 5	5.11	.25	.30		.05
ZONE 6	4.56	.25	.30		.05
ZONE 7	4.06	.25	.30		.05

CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; Crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Heavy Duty Operators-Crane all types; deck winches (2); Hi-Ho and similar type equipment; three drum (or more) stabilizers; pull all types; concrete mixer one yard and over; all pavers; ditching or trenching machines (track type); mechanics and equipment welders; well-point systems; hoist, two drums or more; hoist, one drum, forty vertical feet or more; scrapers; bull-dozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, one cubic yard or over; shovels and backhoes, all types, and equivalent equipment; piledriver operator; sideboom cats; A-frame trucks when handling steel or pipe; work boats requiring licensed operators; tugboats; fork lifts over ten ton capacity; and foundation drilling machines
GROUP 4 - Medium Duty Operators-Two drums stabilizers; front end loaders under 1 cubic yard; A-Frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); one drum hoist under 40 vertical feet; fireman; concrete spreader; pugmill operator; bituminous distributor on surface treatment and equivalent; bull floats and equivalent; job grease man on "Highway Construction"; unit operator (all Highway Zones); work boats not requiring licensed operators; inboard motored crew boats
GROUP 5 - Light Duty Operators-Single drum stabilizer; concrete mixer under one yard; spray curing machines; rollers on subgrade; one air compressor over 125 cubic feet; form graders; asphalt finisher screed man; pump over 4 inches; scale operators; crusher operators; concrete jointing machines; concrete saw; tack machines and equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except backhoes; Kolum buff and similar equipment; fork lifts, ten ton capacity and under; out-board motored crew boats
GROUP 6 - Mechanic Helper; Batch Plant Operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman Operator Steam Valve
GROUP 10 - Oiler on Crane Using Air to Drive Piles

AREA COVERED BY POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
ZONE 3 - Bossier, Caddo & Red River Parishes
ZONE 4 - Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1					
Roofers	$ 8.48		.10		
Roofers' helpers	6.73		.10		
ZONE 2					
Roofers	7.96	.60	.45	.20	.25
ZONE 3					
Roofers	7.66	.35	.45		.04
Roofers' helpers	5.14	.35	.45		.04
ZONE 4					
Roofers, steep	7.00				
Roofers, flat	6.75				
Roofers, kettlemen	6.50				
Roofers' helpers	5.45				
ZONE 5					
Roofers	7.60		.20		.02
Kettlemen	5.27		.20		.02
Roofers' helpers	4.65		.20		.02

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Camuron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1	$ 9.67	.40	.27		.10
ZONE 2	9.01	3%+.45	.70		.14
ZONE 3	8.25	.20	.50		.12
ZONE 4	8.95	3%+.40	.25		.07

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS					
ZONE 1	$ 8.395	.35	.28		.05
ZONE 2	9.37	.35	.30		.04
ZONE 3	9.205	.35	.30		.04
ZONE 4	8.10	.35	.30		
ZONE 5	7.85				
ZONE 6	8.30	.35	.25		.04
ZONE 7	7.85				
ZONE 8	7.65	.35	.20		.05

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 3 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$10.10	.60	.90		.08
TERRAZZO WORKERS					
ZONE 1	8.80	.25			
ZONE 2	9.45	.48	.30		.02
ZONE 3	7.25				
ZONE 4	7.42		.25		
ZONE 5	7.55	.30			
ZONE 6	9.10				

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin & St. Mary Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' HELPERS					
ZONE 1	$ 6.55	.25			
ZONE 2	5.27	.15	.10		.05
ZONE 3	3.30				

AREA COVERED BY TERRAZZO WORKERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, West St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS					
ZONE 1	$ 8.80	.25			
ZONE 2	7.35	.43	.25		.02
ZONE 3	8.25				
ZONE 4	7.42		.25		
ZONE 5	7.55	.30			
ZONE 6	9.10				

AREA COVERED BY TILE SETTERS' ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS' HELPERS					
ZONE 1	$ 6.55	.25			
ZONE 2	5.27	.15	.10		.05
ZONE 3	3.00				

AREA COVERED BY TILE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	$ 4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.55				
GROUP 6	5.45				
GROUP 7	5.55				
GROUP 8	5.37				
GROUP 9	5.76				
ZONE 2					
GROUP 1	5.20				
GROUP 2	5.46				
GROUP 3	6.00				
GROUP 4	5.86				
GROUP 5	6.31				
GROUP 6	6.39				
GROUP 7	6.68				
GROUP 8	6.86				

DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1	$ 5.47				
GROUP 2	5.55				
GROUP 3	5.60				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - ZONE 1

GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.
GROUP 4 - Mixers on trucks up to and including 3 yds.
GROUP 5 - Mixers on trucks over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to and including 8 yds.)
GROUP 8 - Trucks - dump
GROUP 9 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.

TRUCK DRIVERS - ZONE 2

GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Truck & trailer; Dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters, tandem and similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Mississippi wagons, Koehring dumpsters, tandem and similar dirt moving equipment, over 8 yds.

TRUCK DRIVERS - ZONE 3

GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock; Truck helpers
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch and water trucks over 3 tons, pickups with trailer
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors and wobble wheels
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring-dumps, five axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

DECISION NO. LA76-4143

AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.49				
ZONE 2	5.49				
ZONE 3	5.26				
ZONE 4	5.90				
ZONE 5	4.45				
ZONE 6	4.35				
ZONE 7	4.25				
GROUP 2					
ZONE 1	5.61				
ZONE 2	5.61				
ZONE 3	5.35				
ZONE 4	6.02				
ZONE 5	4.56				
ZONE 6	4.46				
ZONE 7	4.36				
GROUP 3					
ZONE 1	5.66				
ZONE 2	5.66				
ZONE 3	5.55				
ZONE 4	6.07				
ZONE 5	4.61				
ZONE 6	4.51				
ZONE 7	4.41				

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DECISION NO. LA76-4143

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 4					
ZONE 1	$ 5.73				
ZONE 2	5.73				
ZONE 3	5.73				
ZONE 4	6.14				
ZONE 5	4.67				
ZONE 6	4.57				
ZONE 7	4.47				
GROUP 5					
ZONE 1	5.89				
ZONE 2	5.89				
ZONE 3	6.09				
ZONE 4	6.31				
ZONE 5	4.83				
ZONE 6	4.73				
ZONE 7	4.63				

CLASSIFICATION DEFINITIONS

GROUP 1 - One ton and under; Warehouseman, material checker, receiving clerk, spotter and dumper
GROUP 2 - One and one-half (1½) tons to and including two (2) tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump and tandem axle water trucks, winch lift, transit mix, floats, pole trailers, four axle trailers and truck mechanic
GROUP 5 - Special equipment, euclids and five axle moving equipment

AREA COVERED BY TRUCK DRIVERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampshire
DECISION NO.: MA76-2101 DATE: Date of Publication
Supersedes Decision No. MA75-2123, dated November 7, 1975 in 40 FR 52268
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

DECISION NO MA76-2101

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.85	.79	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, Plasterers, Cement masons, stone masons, marble, tile & terrazzo workers, caulker cleaner, pointers	9.55	.55	.80		.03
CARPENTERS	9.15	.45	.65		.02
ELECTRICIANS:					
Belchertown, Ware	8.29	.48	1%+.15	.43	a
Middlefield, Cummington & Plainfield	9.54	.45	1%+.49		.02
Remainder of County	9.76	.45	1%+.49		.01
ELEVATOR CONSTRUCTORS	9.71	.445	.29	2%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	2%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	2%+b+c	.02
GLAZIERS	9.45	.47	.45		
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	9.60	.70	1.50		.09
LABORERS: (BUILDING):					
Laborers, wrecking laborers, carpenter & cement finisher tenders	7.50	.50	.45		.10
Asphalt rakers, Carbide core driller ops., chain saw oprs., pipelayers, jackhammer & paving breaker op., barco-type jumping tampers, laser beams ops., concrete pumps ops. & wagon drill ops., mason tenders, mortar mixers & ridge on motorized buggy ops.	7.75	.50	.45		.10
Air track ops., block pavers, rammers & curb setters	8.00	.50	.45		.10
Powdermen and blasterers	8.25	.50	.45		.10
Open air caisson, underpinning work and boring crew: (entire county)					
Bottom man	8.25	.50	.45		.10
Top man	7.50	.50	.45		.10
Test boring:					
Driller	8.37	.50	.45		.10
Helper	7.62	.50	.45		.10
LATHERS	$ 9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION					
Linemen	10.16	.40	1%	d	3/8of1%
Equipment Operator	9.48	.40	1%	d	3/8of1%
Driver Groundman	7.32	.40	1%	d	3/8of1%
MARBLE & TILE SETTERS HELPERS & TERRAZZO WORKERS' HELPERS	8.00				
MILLWRIGHTS	10.28	.60	.65		.07
PAINTERS:					
Brush & Roller	8.82	.50	.35		.03
Spray	11.76	.6667	.4667		.04
Swing stage under 40' and steel	9.09	.50	.35		.03
Swing stage over 40' and steel	9.32	.50	.35		.03
PILEDRIVERMEN	9.50	.50	.50		
PLUMBERS & STEAMFITTERS: Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware					
Plumbers	9.68	.68	.85	e	.05
Steamfitters	9.98	.57	.70	f	.02
Remainder of County:					
Plumbers and Steamfitters	9.95	.60	.60		.02
ROOFERS:					
Composition, damp, waterproof	9.165	.82	.76		
Slate, tile, precast concrete	9.82	.82	.76		
SHEET METAL WORKERS	9.41	.85	1.16		.03
SPRINKLER FITTERS	11.38	.60	.90		.08
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO MA76-2101

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. $.30 per man per week

b. Employer contributes 4% of basic hourly rate for 5 months or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

c. Holidays: A through F.

d. Paid Holidays: A through F, Washington's Birthday and Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled working day preceding and following the holiday.

e. July 4th and Labor Day provided worker employed 7 days before holiday

f. July 4th and Labor Day - $08 per hour employer contribution to make two paid holidays.

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HEAVY & HIGHWAY CONSTRUCTION

LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class I	$7.50	.60	.70		.10
Class II	7.75	.60	.70		.10
Class III	8.00	.60	.70		.10
Class IV	8.25	.60	.70		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

2-PEO-1

BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.45	.85	.75	a	.05
CLASS II	9.25	.85	.75	a	.05
CLASS III	9.05	.85	.75	a	.05
CLASS IV	8.68	.85	.75	a	.05
CLASS V	8.00	.85	.75	a	.05
CLASS VI	7.55	.85	.75	a	.05
CLASS VII	6.82	.85	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Mahicnes, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumporete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.

CLASS IV Asphalt Roller-under 10 ton

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet.

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total dispharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day.

HEAVY & HIGHWAY CONSTRUCTION
POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.45	.85	.75	a	.05
CLASS II	9.25	.85	.75	a	.05
CLASS III	9.05	.85	.75	a	.05
CLASS IV	8.68	.85	.75	a	.05
CLASS V	8.00	.85	.75	a	.05
CLASS VI	7.55	.85	.75	a	.05
CLASS VII	6.82	.85	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over., Sonic Hammer Console.

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumporete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.

FOOTNOTES:
a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day.

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TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.89	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Norfolk
DECISION NO.: MA76-2103 DATE: Date of Publication
Supersedes Decision No. MA75-2125, dated November 14 in 40 FR 53184.
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Bellingham, Franklin, Plainville & Wrentham	$ 9.92	.76	.93		
Remainder of County	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement Masons; Plasterers, & Stonemasons: Dover, Needham & Wellesley	9.85	.60	.90		.05
Medfield, Medway & Mills	9.65	1.00	.70		.05
Avon, Holbrook, Randolph & Stoughton	9.85	.85	1.15		.06
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham	9.95	1.10	.80		.06
Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth, & Weymouth	10.15	.85	.85		.06
BRICKLAYERS: Stone masons: Brookline & Milton	9.90	.85	1.10		.05
CARPENTERS: Soft Floor layers: Quincy, Brookline, Dedham, & Milton	10.00	.60	.65		.07
Avon, Holbrook, Randolph & Stoughton	9.30	.50	.65		.02
Bellingham, Franklin, Medfield, Medway & Mills	9.99	.60	.65		.07
Remainder of County	10.00	.60	.65		.07
CEMENT MASONS: Brookline & Milton	10.20	.75	.45		.07
ELECTRICIANS: Avon, Holbrook, Randolph & Stoughton					
Elec. contracts under $20,000	9.15	4%	5%		.5%
Elec. contracts $20,000 or over	11.05	4%	5%		.5%
Residential	6.60	.50	5%		.5%
Plainville	8.80	.38	1%+.50		.02
Residential	5.75	.37	1%		.02
Remainder of County	10.75	.50	1%+.55		.05
Residential	5.25	.35	1%+.95		.05
ELEVATOR CONSTRUCTORS	10.105	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	3%+a+b	.02

DECISION NO MA76-2103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS: S. Bellingham	$ 8.68	.52	.89		.01
Remainder of County	9.80	.52	.59		.03
IRONWORKERS: Plainville & Cape Cod	9.43	.70	1.50		.05
Remainder of County	9.99	1.00	1.50		.06
LABORERS (BUILDING) Laborers, carpenter tenders, cement finisher tender, wrecking laborers	7.50	.50	.45		.10
Jackhammer op., pavement breaker wagon drills, asphalt rakers, carbide core drilling mach., chain saw op., pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy	7.75	.50	.45		.10
Air track, block paver, rammer, curb setter	8.00	.50	.45		.10
Blasters, powdermen	8.25	.50	.45		.10
Open air caisson, cylindrical work & boring crew: Laborer, top man	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LAHTERS	9.25	.45	.55		
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION: Linemen	11.54	.45	1%	d	3/8of1%
Equipment Operator	10.85	.45	1%	d	3/8of1%
Driver Groundman	8.68	.45	1%	d	3/8of1%
Groundman	7.38	.45	1%	d	3/8of1%
MARBLE SETTERS, Terrazzo workers	8.60	.85	.80		
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.28	.60	.65		.07
PAINTERS: Bellingham: Brush	8.65	.55	.55		
Steel & Steam cleaning	8.90	.55	.55		
Spray & Potter	9.65	.55	.55		

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DECISION NO MA76-2103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Dover, Medfield, Medway, Mills Needham, & Wellesley					
Brush	$ 7.85	.35	.35		
Steel	8.10	.35	.35		
Spray	8.80	.35	.35		
Remainder of County:					
New Construction					
Brush, Taper	9.46	.72	.85		.04
Steel	11.58	.72	.85		.04
Spray	10.46	.72	.85		.04
Repaint, Alternations & Residential					
Brush	8.61	.72	.85		.04
Steel	11.58	.72	.85		.04
Spray	9.61	.72	.85		.04
PILEDRIVERMEN	9.50	.50	.50		
PLASTERERS: Brookline & Milton	8.55	.45	1.25		.02
PLASTERERS' TENDERS:					
Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, S. Bellingham, Stoughton, Walpole, Wellisley, Westwood, Waymouth, & Wrentham	7.25	.50	.45		.10
PLUMBERS & STEAMFITTERS:					
Avon, Holbrook, Randolph, & Stoughton	9.50	.45	.70		.05
Dover, Medfield, Medway, Wellesley	10.67	.68	.65		.05
PLUMBERS & GASFITTERS:					
Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Wymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham	10.25	.70	.60		.03

DECISION NO MA76-2103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 9.75	.70	1.20		.05
Reroofing and repair	9.20	.70	1.20		.05
Pitch work	10.75	.70	1.20		.05
SHEET METAL WORKERS	9.93	.91	1.05		.06
SPRINKLER FITTERS	11.38	.60	.90		.08
STEAMFITTERS:					
Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood & Wrentham	10.76	.94	1.00		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS	9.60	.85	.80		
TILE SETTERS' HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOONOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months or 5 years of service as Vacation Pay credit.

b. 6 Paid holidays: A through F.

c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.

d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate

MA76-2103

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HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Class I	$7.50	.60	.70		.10
Class II	7.75	.60	.70		.10
Class III	8.00	.60	.70		.10
Class IV	8.25	.60	.70		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

MA76-2103

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BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators:					
CLASS I	$10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumperete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tamppers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackeon type tampers, single disphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

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HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$10.61	1.10	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.49	1.10	.80	a	.02
Group 3	8.86	1.10	.80	a	.02
Group 4	9.67	1.10	.80	a	.02
Group 5	7.84	1.10	.80	a	.02
Group 6	8.32	1.10	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labo Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts. Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Port Hole Diggers, Asphalt Plant on Job Sute, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groupd), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

MASS - 1 - TD - 1-2-3 D

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehouseman, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.89	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Suffolk
DECISION NO.: MA76-2105 DATE: Date of Publication
Supersedes Decision No. MA75-2030, -ated November 21, 1975 in 40 FR 34408
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction, marine construction

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; STONEMASONS	9.90	.85	1.10		.09
CARPENTERS: SOFT FLOOR LAYERS	10.00	.60	.65		.07
CEMENT MASONS	10.20	.75	.45		.07
ELECTRICIANS	10.75	.50	1%+$1.35		.05
ELEVATOR CONSTRUCTORS	10.665	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.495	.32	4%+a+b	.02
GLAZIERS	9.80	.52	.59		.03
IRONWORKERS: Ornamental, Reinforcing and Structural	9.99	1.00	1.50		.06
LABORERS (BUILDING): Laborers, Carpenter tenders, Cement finisher tenders, Wrecking laborers	7.50	.50	.45		.10
Jackhammer op., Pavement breakers Wagon drills, Asphalt rakers, Carbide core drilling machine, Chain saw op., Pipelayer, Barco type jumping tampers; Laser beam, Concrete pump, Mason tenders, Motorized mixers, Ride-on motorized buggy	7.75	.50	.45		.10
Air track, Block pavers, Rammers Curb setters	8.00	.50	.45		.10
Blasters, Powdermen	8.25	.50	.45		.10
Open air caisson, Cylindrical work & boring crew:					
Laborer; Top man	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom men	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LATHERS	9.25	.45	.55		
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.54	.30	1%	d	3/8of1%
Equipment Operators	10.85	.30	1%	d	3/8of1%
Driver Groundman	8.68	.30	1%	d	3/8of1%
Groundman	7.38	.30	1%	d	3/8of1%

PAGE 2

DECISION NO MA76-2105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS, TERRAZZO WORKERS	$ 9.75	.70	.80		
MARBLE SETTERS HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.28	.60	.65		.07
PAINTERS:					
Brush, New Construction	9.46	.72	.85		.04
Structural Steel	11.58	.72	.85		.04
Spray	10.46	.72	.85		.04
Repaint, alternations					
Residential					
Brush	8.61	.72	.85		.04
Structural Steel	11.58	.72	.85		.04
Spray	9.61	.72	.85		.04
PILEDRIVERMEN	9.50	.50	.50		
PLASTERERS	8.55	.45	1.25		.02
PLASTERERS' TENDERS	7.25	.50	.45		.10
PLUMBERS	10.25	.70	.60		.03
ROOFERS: Journeyman mechanic	9.75	.70	.80		.05
Reroofing & repair	9.20	.70	.80		.05
Pitch work	10.75	.70	.80		.05
SHEET METAL WORKERS	9.93	.91	1.05		.06
SPRINKLER FITTERS	10.73	.50	.70		.02
STEAMFITTERS	10.76	.94	1.00		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		
TILE SETTERS	9.60	.89	.80		
TILE SETTERS HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOONOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. 6 paid holidays: A through F
c. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Crhistmas Eve provided employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
d. 7 paid holidays: A through F, Bunker Hill Day, provided the employee has been employed 10 working days prior to any one of the listed holidays.

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TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.89	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

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BUILDING CONSTRUCTION Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tamppers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PEO-2-3 F

HEAVY & HIGHWAY CONSTRUCTION: POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$10.61	1.10	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.49	1.10	.80	a	.02
Group 3	8.86	1.10	.80	a	.02
Group 4	9.67	1.10	.80	a	.02
Group 5	7.84	1.10	.80	a	.02
Group 6	8.32	1.10	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumperete Machines, Use Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts. Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Asphalt Plant on Job Suts, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groupd), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

37-MASS-4-P 1 of 1

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP VI	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.80	a	.02

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derrocks boats, trenching, mechanice hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers: Booms over 150' including jib - additional $.45 per hour- Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines,rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, conpressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI Assistant engineers (firemen)

GROUP VII - Oilers and epprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day

MASS-1 - 2-3 L

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr.
LABORERS:					
Class I	$7.50	.60	.70		.10
Class II	7.75	.60	.70		.10
Class III	8.00	.60	.70		.10
Class IV	8.25	.60	.70		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

SUPERSEDEAS DECISION

STATE: Michigan — COUNTY: Calhoun
DECISION NUMBER: MI76-2107 — DATE: Date of Publication
Supersedes Decision Number AM-400 dated August 18, 1971 in 36 FR 15892
DESCRIPTION OF WORK: Residential Construction consisting of Single Family Homes and Garden Type Apartments up to and including 4 Stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.67				
CARPENTERS	5.14				
CEMENT MASONS	8.08				
ELECTRICIANS	6.36				
LABORERS - COMMON	4.815				
PLUMBERS & PIPEFITTERS	8.00				
SHEET METAL WORKERS	5.17				
SOFT FLOOR LAYERS	7.13				
TRUCK DRIVERS	6.35				
POWER EQUIPMENT OPERATORS:					
BULLDOZER	8.81				
CRANE OPERATOR	8.50				

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Hinds
DECISION NUMBER: MS76-1084 DATE: Date of Publication
Supersedes Decision No.: MS75-1106 dated October 31, 1975 in 40 FR-50914
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	7.78	.30			
Boilermakers	8.80	.60	1.00		.02
Bricklayers:					
Bricklayers	7.85	.15	.10		.03
Stone, block, & marble masons	7.85	.15	.10		.03
Caulkers, pointers, & cleaners	7.85	.15	.10		.03
Tile & Terrazzo setters	7.75	.15	.10		.03
Carpenters:					
Carpenters	7.50	.30	.20		.05
Drywall application	7.50	.30	.20		.05
Soft floor layers	7.50	.30	.20		.05
Power saw operator (1 hp. or over)	7.75	.30	.20		.05
Skill saw operator	7.625	.30	.20		.05
Pneumatic nailer operator	7.625	.30	.20		.05
Fiber glass insulation application	7.65	.30	.20		.05
Millwrights	7.85	.30	.20		.05
Piledrivermen	7.85	.30	.20		.05
Cement masons:					
Cement masons	6.45	.25	.30	a	.05
Float machine operator	6.65	.25	.30	a	.05
Electricians:					
Electricians	8.95	.35	1%+.50		.04
Cable splicers	9.20	.35	1%+.50		.04
Elevator Constructors:					
Elevator constructors	7.83	.495	.32	1/2%+a+b	.02
Elevator constructors' helpers	5.48	.495	.32	1/2%+a+b	.02
Probationary helper	3.915				
Glaziers	5.90				
Ironworkers	8.15	.30	.35		.04
Laborers:					
Laborers	4.70	.15	.15		
Mason tenders	4.85	.15	.15		
Pipelayers	4.85	.15	.15		
Plasterers tenders	4.85	.15	.15		
Mechanical tool operators	4.95	.15	.15		
Mortar mixers	4.95	.15	.15		
Lathers	8.05				.01
Line Construction:					
Linemen	8.38		1%	c	
Cable splicer	8.69		1%	c	
Groundman (over 1yr.)	5.08		1%	c	
Groundman (over 1yr.)	4.71		1%	c	

MS76-1084 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush; roller	5.95	.15			
Drywall taper	5.95	.15			
Spray (except structural steel)	6.45	.15			
Structural steel (brush)	6.20	.15			
Swing stage; bosun chair	6.20	.15			
Structural steel (spray)	6.70	.15			
Plasterers	7.40	.25	.30		.05
Plumbers; pipefitters; steamfitters	9.02	.55	1.00		
Roofers:					
Roffers	7.25		.15		
Kettlemen	5.75		.15		
Paper rollers	5.75		.15		
Helpers	5.15		.15		
Sheet metal workers	8.20	.30	.45		
Sprinkler fitters	9.35	.50	.80		.08
Truck drivers:					
1½ to 5 tons	4.25				
Over 5 tons	4.90				

FOOTNOTES:
a. Paid holidays: New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 2% for employees with less than 5 years.

c. One week paid vacation after after one year's service.

MS76-1084 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	$7.75	.25	.25		
GROUP II	6.80	.25	.25		
GROUP III	6.55	.25	.25		
GROUP IV	6.10	.25	.25		
GROUP V	5.40	.25	.25		

GROUP I: Engineer, operating under air pressure.

GROUP II: Mechanic

GROUP III: Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick, derrick car, derrick boat, dragline, dredge, elevating grader, excavator (power belt), fork lift (5 tons & over), hoists (2 drum in active use), locomotive engineer, marine engineer (chief), master pilot, mixermobile, motor patrol and similar equipment, paver (21 c. f. or larger), pile driver, recharger, scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DW-10 and similar pull type scrapers), Traxcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps.

GROUP IV: Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), marine engineer's assistant, mixer payloader and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, well driller (1st helper), winch truck and tractor, small rubber tired with backhoe attachment.

GROUP V:
Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader, locomotive hostler, mechanic helper, motorboat (in or outboard), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine.

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SUPERSEDEAS DECISION

STATE: Nevada
DECISION NUMBER: NV76-5080

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada

Supersedes Decision No. NV76-5073 dated August 6, 1976, in 41 FR 33159.
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.17	.78	.87	$1.00	
BRICKLAYERS	10.87	.45	.50		.06
BRICK TENDERS	7.77	.36	1.25	1.00	
CARPENTERS:					
Carpenters	10.43	.55	.90	.80	.03
Floor layers	10.455	.55	.90	.80	.03
Millwrights	10.93	.55	.90	.80	.03
CEMENT MASONS:					
Cement Masons	8.25	1.00	.40	2.00	.08
Floor Finishing Machine	8.60	1.00	.40	2.00	.08
ELECTRICIANS:					
Electricians; Equipment Operators; Linemen	13.07	.73	1%+ .40		.05
Cable Splicers	13.40	.73	1%+ .40		.05
Groundman	80%JR	.73	1%+ .40		.05
IRONWORKERS:					
Reinforcing; Ornamental; Structural	11.03	1.09	1.83	1.15	.04
PAINTERS:					
Brush; Roller	9.22	.75	.35	1.50	.05
Paperhangers; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	9.57	.75	.35	1.50	.05
PLUMBERS; Steamfitters	11.05	1.05	1.90	1.85	.08
ROOFERS	11.68	.65			
SHEET METAL WORKERS	10.98	.83	1.60	1.00	.03 + .02
SPRINKLER FITTERS	14.80	.60	.90		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$7.58	.51	$1.25	$1.00	
Group 2	7.63	.51	1.25	1.00	
Group 3	7.66	.51	1.25	1.00	
Group 4	7.68	.51	1.25	1.00	
Group 5	7.70	.51	1.25	1.00	
Group 6	7.71	.51	1.25	1.00	
Group 7	7.73	.51	1.25	1.00	
Group 8	7.76	.51	1.25	1.00	
Group 9	7.77	.51	1.25	1.00	
Group 10	7.79	.51	1.25	1.00	
Group 11	7.84	.51	1.25	1.00	
Group 12	7.87	.51	1.25	1.00	
Group 13	7.89	.51	1.25	1.00	
Group 14	7.92	.51	1.25	1.00	
Group 15	7.94	.51	1.25	1.00	
Group 16	8.005	.51	1.25	1.00	
Group 17	8.03	.51	1.25	1.00	
Group 18	8.10	.51	1.25	1.00	
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):					
Group 1	9.13	.95	2.00	.30	.04
Group 2	9.37	.95	2.00	.30	.04
Group 3	9.61	.95	2.00	.30	.04
Group 4	9.72	.95	2.00	.30	.04
Group 5	9.91	.95	2.00	.30	.04
Group 6	10.01	.95	2.00	.30	.04
Group 7	8.96	.75	2.00	.30	
Group 7-A	8.67	.75	2.00	.30	
Group 7-B	8.56	.75	2.00	.30	
Group 7-C	8.32	.75	2.00	.30	
TRUCK DRIVERS:					
Group 1	9.37	.39	.70		
Group 2	9.48	.39	.70		
Group 3	9.53	.39	.70		
Group 4	9.69	.39	.70		
Group 5	9.87	.39	.70		

NOTICES

LABORERS

Group 1: Laborers - General or Construction; Demolition (cleaning of brick, lumber, etc.); Dry packing of concrete and filling of formbolt holes; Gas and Oil Pipeline; Laborer - temporary water lines (portable type); Window Cleaner

Group 2: Cutting Torch Operator (demolition); Tarman and Mortar Man; Kettleman; Potman and man applying asphalt, Lay-kold Creosote, Lime, and similar type materials

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape Gardener and Nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including Caisson Bellowers

Group 7: Chucktender (except tunnels); Scaler; Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete Curer-impervious Membrane and Oiler of all materials; Riprap Stonepaver; Sandblaster (pot tender); Making and Caulking of all non-metallic Pipe Joints

Group 10: Operators and Tenders of Pneumatic and Electric Tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench Multi-plate and similar mechanical tools not separately classified herein; Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on one yard or larger mixers and handling bulk cement); Concrete Saw Man excluding Tractor type, cutting, scoring old or new concrete; Concrete Core Cutter; Gas and Oil Pipeline Wrapper-pot Tender and Form Man; Operator of Cement Grinding Machine; Roto-scraper; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type brush shredders

Group 11: Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or Power Tools)

Group 12: Driller and/or Pavement Breaker

Group 13: Oversize Concrete Vibrator Operator, 70 lbs. and over; Laying of all non-metallic pipe, including sewer pipe, drain pipe and underground tile

Group 14: Gas and Oil Pipeline Wrapper - 6 inch pipe and over

LABORERS (Cont'd)

Group 15: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Powerman-blaster - all work of loading holes, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing

Group 16: Steel Headboardman

Group 17: Sandblaster (Nozzleman); Driller (Core, Diamond, or Wagon, Joy Driller Model TW-M-2A, Gardner-Denver Model DH 163 and similar type drills)

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor, Pump or Generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Helper; Switchman or Brakeman

Group 2: Concrete Mixer, Skip type; Conveyor and Beltman; Fireman; Generator, Pump or Compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, Pump or Compressor Plant; Rotary Drill Helper (oilfield type); Skiploader, Wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (w/o dragtype attachments); Temporary Heating Plant; Truck Crane Oiler; Hydrostatic Pump

Group 3: A-Frame or Winch Truck; Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Rodman and Chainman; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Derrickman (oilfield type); Drilling Machine (including water wells); Highline Cableway Signalman; Instrumentman; Locomotive Engineer; Power Sweeper; Roller, compacting; Screed; Trenching Machine (up to 6 feet depth)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), Soil, Cement, Asphalt - Finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Heavy Duty Welder; Machine Tool; Pavement Breaker; Pneumatic Heading Shield - Tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LePlant-Choate, or similar type equipment with any type attachments); Skiploader, Wheeltype, over 3/4 yards, up to and including 1½ yds.; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tractor drag type shovel, Bulldozer, Tamper, Scraper and Push Tractor

NOTICES

DECISION NO. NV76-5080

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 6: Combination Heavy Duty Repairman and Welder; Concrete Mixer - Paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Elevating Grader; Heavy Duty Repairman; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader-Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple Engine-earth moving machinery; Party Chief; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Rotary Drill, excluding Caisson type; Skiploader, Wheeltype, over 1½ yards; Surface Heater and Planer; Tractor Loader - crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 feet depth); Universal equipment (Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane, Piledriver and Mucking Machine); Forklift, over 5 tons

Group 7: Driller Operator; Fishing Tool Engineer

Group 7-A: Derrickman

Group 7-B: Motorman

Group 7-C: Drillers Helpers

TRUCK DRIVERS

Group 1: Light Duty Driver; Warehouseman

Group 2: Bootman; Truck Greaser; Light Vehicle Dispatcher

Group 3: Tireman; Warehouse Clerk

Group 4: Heavy Duty Driver; Forklift Driver; Equipment Parts; Stockroom Clerk

Group 5: Extra Heavy Duty Driver

SUPERSEDEAS DECISION

STATE: New York COUNTY: Nassau & Suffolk
DECISION NO.: NY76-3224 DATE: Date of Publication
Supersedes Decision Nos. NY76-3196, dated June 25, 1976 in 41 FR 26492

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	10.45	1.43	.94	1.25	
Boilermakers	10.57	5%	15%	7%	.02
Bricklayers: Suffolk County Center Moriches on the south shore and following Chichester Avenue, north of Welding River and areas east thereof including the off shore islands: Bricklayers, cement masons, and plasterers	9.40	.40	3.00	.30	
Remainder of County:					
Bricklayers	10.99	1.13	3.38		.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	8.70	1.00	.20	1.30	.01
Bricklayers: Nassau County					
Bricklayers	10.99	1.13	3.38		.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	8.70	1.00	.20	1.30	.01
Carpenters, Building, Nassau Co.:					
Carpenters, soft floorleyers, dock builders, and piledrivermen	10.92	1.25	1.73	.65	.02
Remainder of County:					
Carpenters, soft floor layers and piledrivermen	9.15	1.30	1.24		.11
Carpenters, Heavy:					
Carpenters, dock and wharf carpenters, piledrivermen	10.92	1.25	1.73	.65	.02
Carpenters: Suffolk County:					
Fishers Island; Building carpenters & soft floor layers	9.26	.70	.40		
Remainder of County: Building carpenters, soft floor layers, piledrivermen, timbermen, wherf & dock builders	10.10	1.08	1.46	.90	.06
Carpenters, Heavy:					
Carpenters, dock and wharf carpenters, piledrivermen	10.10	1.08	1.46	.90	.06

DECISION NO. NY76-3224

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians & Linemen	$11.75	7%+.35	9%+.045	5%	5/8%
Elevator Constructors	10.12	.495	.32+a	b+c	.02
Elevator Constructors Helpers	7.59	.495	.32+a	b+c	.02
Elevator Constructors Helpers (prob.)	5.06				
Elevator Constructors Repair	8.50	.495	.32+a	b+c	.02
Elevator Constructors Repair Helpers	6.38	.495	.32+a	b+c	.02
Elevator Constructors Modernization	9.35	.495	.32+a	b+c	.02
Elevator Constructors Modernization Helpers	7.01	.075	.32+a	b+c	.02
Glaziers	10.30	.66	1.66	.47	.01
Ironworkers, Structural	11.65	1.20	2.70	1.55+h	.06
Ironworkers, Ornamental Finisher	10.24	.86	2.35	.78	.04
Ironworkers, Reinforcing	9.10	.785	1.765	.75	.01
Laborers, Building:					
Laborers, Mason Tenders, and Mortar Mixers	8.35	.99	1.03	.84	
Plasterers Helpers	9.45	1.40		1.00	
Lathers, Metal	10.10	.945	1.985	.75	.01
Lead Burners	10.50	.40	.25	e	.01
Marble Carvers	7.95	.78	.94	i	
Marble Cutters & Setters	7.80	.78	.94	i	
Marble Savers, Rubbers, and Polishers	7.57	.76	.87	i	
Marble Helpers, Crane Operators & Derrickmen	7.33	.74	.88	i	
Millwrights	10.39	1.10	1.68	.60	.02
Painters, Suffolk County:					
Brush	7.65	2.25	.60	.50	.10
Structural Steel & Spray	10.59	2.25	.60	.50	.10

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DECISION NO. NY76-3224

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Painters, Nassau County: Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lindo Beach, Point Lookout, Gibson and part of Valley Stream:					
Painter	$ 8.50	.63	.55+	.25	
Spray & Scaffold	10.32	.63	.55+	.25	
Fire Escape	9.71	.63	.55+	.25	
West of Port Washington Blvd. and north of Powerhouse Road on the shore and west of Long Beach Road and South of Sunrise Highway on the South Shore:					
Structural Steel	7.50	8%	11%		
Structural Steel, Spray	8.50	8%	11%		
Remainder of County: Painters	8.66	.97	1.50	.50	.03
Plumbers, Nassau County:	10.55	.75	1.03	1.03	.20
Plumbers, Suffolk County:	10.00	1.37	1.45	1.30	.21
Lathers Nail-on, Suffolk County:	11.35	.94	.20		
Riggers, Nassau County:	11.16	.98	.77		.01
Roofers: Composition, Damp, and Waterproofing	9.25	.76	2.08	1.40	.01
Slate and Tile	10.82	.55	1.20	1.75	
Slate and Tile Helpers	5.13	.50	1.40	1.40	
Sheet Metal Workers: Fishers Island, Suffolk County	9.30	.50	.51		.05
Remainder of Suffolk County and all of Nassau County	10.45	.56	1.67	1.06	.08
Steamfitters and Sprinkler Fitters	10.07	2.65	1.12	.86	.07
Stone Derrickmen and Riggers	11.16	.98	.77		.01

DECISION NO. NY76-3224

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Stonemasons	$10.25	.50	1.00		
Terrazzo Workers	9.10	1.09	1.95		
Tile Setters	8.50	.80	2.10		
Tile Setters' Helpers	7.90	.50	1.27		
Truck Drivers: Ready-mix concrete, sand gravel & asphalt, bulk cement	8.77	.9675	1.9525	f+g	
Euclid and Tournapulls Operators	8.825	.9675	1.9525	f+g	
Tuck Pointers: Tuckpointers & waterproofers	8.72	.70	1.44	.50	.015
Steam Cleaners	8.97	.70	1.44	.50	.015
Sandblasters	9.72	.70	1.44	.50	.015

DECISION NO. NY76-3224
BUILDING, HEAVY & HIGHWAY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $7.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday; Columbus Day; Armistice Day & Election Day.

c. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F; Washington's Birthday, Xmas Eve and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Employer contributes $3.50 per day to Annuity Fund.

f. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veteran's Day, (providing employee works two days in the calendar week in which the holiday falls and each remaining workday during such calendar week.)

g. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of theree weeks per year.

h. Paid Holiday: New Year's Day & Xmas Day providing the employee works the preceding and following the holiday.

i. Paid Holiday: St. Patricks Day.

DECISION NO. NY76-3224

10-LAB-2-3

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	App. Tr.
LABORERS: Concrete and curb form setters, Asphalt rakers	$7.70	10%	13%	.75+a	
Asphalt workers and roller boys, Asphalt top shovelers and smoothers, Asphalt tampers	7.50	10%	13%	.75+a	
Jackhammers, and drill men, Hoppermen, Carpenters' tenders, Pipe jointers and setters, Concrete laborers (structures), Stone spreading laborers, Trackmen, Grading and excavating laborers, Yard laborers, Puddlers on concrete pavement, Laborers (other than above) on concrete pavement, Landscape laborers, Asphalt plant (batcher and hopper men)	7.10	10%	13%	.75+a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the schedule day after the holiday.

DECISION NO. NY76-3224 N.Y.-5-PEO-1- A 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$10.63	6%	1.05	a+b	.15
Backhoe, dragline, gradall, piledriver, shovel	10.905	6%	1.05	a+b	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	10.805	6%	1.05	a+b	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	9.455	6%	1.05	a+b	.15
Boiler, bulldozer, compressor (on crane) compressor (pilework), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action disphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	10.455	6%	1.05	a+b	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	10.655	6%	1.05	a+b	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	10.205	6%	1.05	a+b	.15
Crane and boom truck (setting structural or stone)	11.03	6%	1.05	a+b	.15
Bulldozer (used for excavation), fireman, loading machine, powerboom, scoop (carry-all scrapper), vac-all	10.08	6%	1.05	a+b	.15
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor	11.005	6%	1.05	a+b	.15
Compressor (structural steel)	10.605	6%	1.05	a+b	.15
Concrete saw or cutter, mixer (with skip) mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpiller or wheel	9.705	6%	1.05	a+b	.15

DECISION NO. NY76-3224 N.Y.-5-PEO-1 - A 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Crane with clam shell bucket	$10.905	6%	1.05	a+b	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	11.155	6%	1.05	a+b	.15
Boom lengths of 150' (including jib) but less than 250'	11.405	6%	1.05	a+b	.15
Boom lengths of 250' (including jib) but less than 350'	11.655	6%	1.05	a+b	.15
Boom lengths of 350'	12.155	6%	1.05	a+b	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	10.40	6%	1.05	a+b	.15
Dredge	10.70	6%	1.05	a+b	.15
Elevator, forklift, hoist (1 drum)	10.83	6%	1.05	a+b	.15
Forklift (walk-behind, power operated)	10.62	6%	1.05	a+b	.15
Crader	10.23	6%	1.05	a+b	.15
Hoist (2 and drum)	10.97	6%	1.05	a+b	.15
Hoist (multiple platform)	13.50	6%	1.05	a+b	.15
Mechanical compactors (hand operated), trench machine (hand)	9.08	6%	1.05	a+b	.15
Hoist tandem platform	11.88	6%	1.05	a+b	.15
Hydra-hammer, ridge cutter	9.62	6%	1.05	a+b	.15
Lead engineer	12.105	6%	1.05	a+b	.15
Loading machine (with capacity of 10 yds or over	10.33	6%	1.05	a+b	.15
Oiler, stump chipper	9.105	6%	1.05	a+b	.15
Power buggies	9.33	6%	1.05	a+b	.15
Roller, trench machine	10.705	6%	1.05	a+b	.15
Scoop, carry-all, scraper in tandem	11.08	6%	1.0	a+b	.15
Sideboom tractor (used in tank work)	11.165	6%	1.0	a+b	.15
Striping machine	10.13	6%	1.0	a+b	.15
Tank work	10.93	6%	1.0	a+b	.15
Tower crane (engineer)	11.46	6%	1.05	a+b	.15
Tower crane (oiler)	8.955	6%	1.05	a+b	.15
Welding machine, structural steel	10.68	6%	1.05	a+b	.15

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holdays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.
b. Basic hourly rate includes $1.00 Vacation fund.

DECISION NO. NY76-3224 NY-6-PEO-2-3- A 1 of 2

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	$11.48	8%+.05	1.40	a	.15	
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	11.85	8%+.05	1.40	a	.15	
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	11.705	8%+.05	1.40	a	.15	
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	9.23	8%+.05	1.40	a	.15	
Boiler	10.98	8%+.05	1.40	a	.15	
Boring machine (post holes)	11.42	8%+.05	1.40	a	.15	
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotiva, fireman, forklift, hoist (1 drum), loading machine, maintenence engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet) pump (submersible), pump (well point), roller (5 ton and over), scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding and burning	10.67	8%+.05	1.40	a	.15	
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	11.205	8%+.05	1.40	a	.15	
Compressor (2 or more in battery)	10.90	8%+.05	1.40	a	.15	
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	11.365	8%+.05	1.40	a	.15	
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	10.295	8%+.05	1.40	a	.15	
Loading machine, with bucket capacity of 10 yards or over	10.92	8%+.05	1.40	a	.15	

DECISION NO. NY76-3224 NY-6-PEO-2-3 2 of 2

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (Cont'd.):						
Concrete breaker; concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip) mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	$ 9.58	8%+.05	1.40	a	.15	
Dredge	11.315	8%+.05	1.40	a	.15	
Generator	10.59	8%+.05	1.40	a	.15	
Generator (small)	9.265	8%+.05	1.40	a	.15	
Grader	10.885	8%+.05	1.40	a	.15	
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	11.695	8%+.05	1.40	a	.15	
Lead engineer	13.58	8%+.05	1.40	a	.15	
Mechanic	9.285	8%+.05	1.40	a	.15	
Mechanic helper	8.945	8%+.05	1.40	a	.15	
Mechanical compactors (machine drawn), roller (over 5 tons)	11.02	8%+.05	1.40	a	.15	
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	9.25	8%+.05	1.40	a	.15	
Portable heaters	10.845	8%+.05	1.40	a	.15	
Powerbroom	9.725	8%+.05	1.40	a	.15	
Pump (concrete)	10.94	8%+.05	1.40	a	.15	
Scoop (carry-all, scraper in tandem), tower crane (engineer)	12.105	8%+.05	1.40	a	.15	
Tractor (caterpilla or wheel)	9.055	8%+.05	1.40	a	.15	

FOOTNOTES:
a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day. Provided employee is employed the day before and after the holiday.

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SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO. NY76-3229 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3192 dated June 25, 1976 in 41 FR 26472
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

33-New York-1-2-3 X

BUILDING, HVY. & HWY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.61	.70	.35		.02
Boilermakers	10.68	.75	10%		.01
Bricklayers, cement masons, plasterers and stone masons, building	9.30	.50	.90		
Cement masons, Heavy & Highway	8.90	.30	.50		
Carpenters, building:					
Carpenters & soft floor layers	8.75	.40	.40	f	.03
Piledrivermen & millwrights	9.00	.40	.40	f	.03
Carpenters, heavy and highway	9.52	.40	.40	f	.025
Electricians:					
Verona & Vienna twps. west of State Highway 13	11.15	.57	1%+.85		.05
Remainder of County	10.65	.50	1%+.35		.07
Elevator constructors	10.64	.495	.32	3%%+a+b	.02
Elevator constructors' helper	7.45	.495	.32	3%%+a+b	.02
Elevator constructors' helpers (prob)	5.32				
Ironworkers:					
Structural, ornamental & reinforcing	9.71	.52	.82		.04
Laborers, building:					
Twps. of Forestport, Remsen, Trention, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Harrie, Sangerfield and Bridgewater:					
Laborers	6.50	.65	1.05		
Pipelayers, asphalt rakers, mortar mixers (hand or machine), motor buggy op., (walk behind), power high lift, mason tender and power tool operator	6.65	.65	1.05		
Blasters, form setters, motor buggy rider type	7.00	.65	1.05		

33-New York-1-2-3-X

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, building Cont'd;					
Wagon drill operator, acetylene torch, chainsaw op., & wagon drill operator	$ 6.90	.65	1.05		
Remainder of County:					
Laborers	6.675	.35	.50		
Jackhammermen & excavation 8' or more in depth	6.575	.35	.50		
Lead Burners	10.50	.40	.25	c	.01
Linemen:					
Linemen, cable splicer helpers & material man	11.10	.65	1%+.60	d	4%
Cable splicers	12.21	.65	1%+.60	d	4%
Groundman digging machine operator	9.99	.65	1%+.60	d	4%
Groundman mobile equipment operator	8.88	.65	1%+.60	d	4%
Groundman truck driver & mechanic	8.325	.65	1%+.60	d	4%
Groundman dynamite man	8.88	.65	1%+.60	d	4%
Marble setters, terrazzo workers & tile setters	8.02	.50	.90		
Painters:					
Twps. of Vienna, Western, Rome, Westmoreland, Steuben, Augusta, Annsville, Ava, Lee, Verona, Vernon, Floyd and Boonsville:					
Brush	6.90	.30	.35		
Roller	6.90	.30	.35		
Steel and sandblasting	7.40	.30	.35		
Spray	7.30	.30	.35		
Remainder of County:					
Brush	8.20	.175	.30		
Structural steel and roller	8.45	.175	.30		
Spray	8.80	.175	.30		
Sandblasting	9.20	.175	.30		

33-New York-1-2-3 X

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers and Steamfitters	$10.08	.90	1.35		.01
Roofers:					
Roofers	9.15	.60	.75		
Helpers: 1st 30 days	7.28	.35	.45		
Next 60 days	7.40	.35	.45		
Sheet metal workers	10.655	.60	.80		.07
Sprinkler fitters	11.61	.60	.90		.08
Truck drivers, building:					
Straight, winch, transit-mix on site, road oilers, dumpers, pick-up panel, water & fuel on site	4.55			a	
Lowboy or lowboy trailer	4.70			a	
Euclid	4.80			a	
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

33-NY-1-2-3 X

BUILDING, HVY. & HWY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F; Washington's Birthday and Good Friday, X-Mas Eve, providing employee has worked 30 full days the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York State (provided employee works the day before and the day after the holiday).

e. One week vacation after one year's work.

f. Labor Day and Memorial Day paid holidays, provided employee is on the payroll the week before and the week after the holiday.

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Typs. of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Vernon, Augusta, Verona

7 LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 7.84	.65	.60	a	
CLASS B	8.04	.65	.60	a	
CLASS C	8.24	.65	.60	a	
CLASS D	8.44	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

REMAINDER OF COUNTY

23 LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 6.89	1.30	.90	a	
CLASS B	7.09	1.30	.90	a	
CLASS C	7.29	1.30	.90	a	
CLASS D	7.49	1.30	.90	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

7 of 4

POWER EQUIPMENT OPERATORS Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	$10.03	.95	.60	a	.05
Class 2	9.53	.95	.60	a	.05
Class 3	8.51	.95	.60	a	.05

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BawKnox) Blacktop plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane; Crusher-cock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled to towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine Hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier); Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

8 of 4

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer; (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder post hole digger (truck or tractor mounted); Post driver (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widner (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch-cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories

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4-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
GROUP I	$9.59	.55	.60+a	b	.10
GROUP II	9.27	.55	.60+a	b	.10
GROUP III	8.59	.55	.60+a	b	.10
GROUP IV	7.80	.55	.60+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.40 per hour to an Supplemental Unemployment Benefi Fund.

b. Paid Holidays A through F; providing the employee works the working day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (5" or over crane, cranes & derricks (steel erection), dragline, dredge, dual drom paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Koiman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

1-TD-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
CLASS 1	$7.69	.65	.60	a	
CLASS 2	7.74	.65	.60	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.60	a	
CLASS 5	8.09	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

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SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONONDAGA
DECISION NO.: NY76-3230 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3193 dated June 25, 1976 in 41 FR 26478
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.61	.70	.35		.02
Boilermakers	10.68	.75	10%		.02
Bricklayers and stone masons	9.10	.61	.70		.03
Carpenters, (Building)	9.47	.65	.75		.05
Carpenters and piledrivermen, heavy and highway	8.67	.55	.60		.025
Cement masons, building	*9.00	.60	.60		
Cement masons, heavy and highway	9.00	.70	.80	e	
Electricians:					
Elebridge and Skaneateles Twps.	11.45	.55	1%+.45		.10
Remainder of County	11.15	.57	1%+.85		.05
Elevator constructors	10.57	.495	.32	3%+a+b	.02
Elevator constructors' helper	7.40	.495	.32	3%+a+b	.02
Elevator constructors' helpers (prob.)	5.285				
Glaziers	10.00	.50			.01
Ironworkers, structural, ornamental and reinforcing	9.91	.52	.82		.10
Laborers, Building:					
Laborers -	7.90	.55	.55		
Air tool op., (jackhammermen, vib.) plasterers' helpers, gas buggies, mortar mixers (hand & machine), chipping hammer, automatic tampers	8.00	.55	.55		
Lathers	9.535	.325	.40		.01
Lead burners	10.50	.40	.25	c	.01
Linemen:					
Linemen	11.10	.65	1%+.60	d	4%
Groundman digging machine operator	9.99	.65	1%+.60	d	4%
Groundman mobile equipment operator	8.88	.65	1%+.60	d	4%
Groundman truck driver	8.325	.65	1%+.60	d	4%
Cable splicer	12.21	.65	1%+.60	d	4%
Groundman dynamite man and Mechanic	8.88	.65	1%+.60	d	4%
Marble setters	8.765	.65	.76		
Millwrights	9.675	.65	.75		.05

DECISION NO. NY76-3230

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush	$ 9.00	.60	.68		
Structural steel	9.60	.60	.68		
Spray	9.50	.60	.68		
Plumbers	10.40	.80	.72		.15
Roofers:					
Roofers	9.15	.60	.75		
Helpers: 1st 30 days	7.28	.35	.45		
Helpers: next 60 days	7.40	.35	.45		
Sheet metal workers	10.655	.60	.80		.07
Soft floor layers	9.47	.65	.75		.05
Sprinkler fitters	11.61	.60	.90		.08
Steamfitters	10.795	.50	.50		.05
Terrazzo workers	8.765	.65	.76		
Tile setters	8.765	.65	.76		
Truck Drivers: (Building)					
Truck Drivers	8.00	.40	.50		
Mechanics	8.20	.40	.50		
Euclids	8.25	.40	.50		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NY76-3220

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

PAID HOLIDAYS:
a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, X-Mas Eve; and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (providing employee works the day before and the day after the holiday).

e. Holidays: A through F provided employee works the day before and the day after the holiday.

DECISION NO. NY76-3220

8 LAB -2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr.
CLASS A	7.44	.70	.95	a	
CLASS B	7.64	.70	.95	a	
CLASS C	7.84	.70	.95	a	
CLASS D	8.04	.70	.95	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

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DECISION NO. NY76-3220

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POWER EQUIPMENT OPERATORS Building Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class 1	$10.03	.95	.60	a	.10
Class 2	9.53	.95	.60	a	.10
Class 3	8.51	.95	.60	a	.10

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BawKnox) Blacktop plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane; Crusher-cock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled to towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

DECISION NO. NY76-3220

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete pavor (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer; (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base -- self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder post hole digger (truck or tractor mounted); Post driver (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widner (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories

Decision No. NY76-3220

4-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	.60+a	b	.10
GROUP II	9.27	.55	.60+a	b	.10
GROUP III	8.59	.55	.60+a	b	.10
GROUP IV	7.80	.55	.60+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.40 per hour to an Supplemental Unemployment Benefit Fund.

b. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (5" or over crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 5 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

DECISION NO. NY76-3220

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), poxer broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

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DECISION NO. NY76-3220

7-TO-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.79	.55	.60	a	
CLASS 2	7.84	.55	.60	a	
CLASS 3	7.89	.55	.60	a	
CLASS 4	8.04	.55	.60	a	
CLASS 5	8.19	.55	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: WAYNE
DECISION NO.: NY76-3231
DATE: Date of Publication
Supersedes Decision No. NY76-3201 dated June 25, 1976 in 41 FR 26514
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.07	.83	.40		.03
Boilermakers	10.60	.70	1.00		.02
Bricklayers:					
Twps. of Ontario, Williams, Sodus (including Sodus Point), Walworth, Marion, Macedon, and Palmyra:					
Bricklayers, plasterers, stone masons, tuck pointers	11.115	.30	.58		.02
Cement masons, building	10.915	.30	.58		.02
Cement masons, heavy and highway	8.82	.30	.58		
Marble setters, terrazzo workers and tile setters	11.66				
Remainder of County:					
Bricklayers, cement masons (building), marble setters, and stone masons, plasterers	9.00	1.50	.65	a	.02
Cement masons, heavy and highway	8.60	.50	.60		
Carpenters, Building	10.30	.75	.99		.03
Carpenters (Heavy and Highway)	8.67	.45	.70		.025
Electricians:					
Twps. of Sodus, Williamson, Ontario, Walworth, Marion, Palmyra and Macedon	10.85	.70	1%+1.35		¼ of 1%
Twps. of Lyons, Galen & Arcadia Savannah twp.	11.45	.55	1%+.45		.10
Twps. of Huron, Walcott, Rose & Butler	10.45	.60	1%+.35		¼ of 1%

NY76-3231 p.2

59-NY-1-2-3-H 2 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
Glaziers	$9.40	.82	.56		.05
Ironworkers:					
Walcott, Butler, Savannah and Clyde					
Structural, ornamental & reinforcing	9.91	.52	.82		.10
Remainder of County:					
Structural, ornamental & reinforcing	10.29	.74	.82		.10
Sheeter	10.54	.74	.82		.10
Sheeter, tucker-up	10.415	.74	.82		.10
Laborers, Building:					
Twps. of Macedon, Marion, Ontario, Palmyra, Sodus, Walworth & Williamson:					
Laborers	8.25	1.40	.89		
Blasters	9.62	1.40	.89		
Air track, wagon drill op., asphalt rakers	8.65	1.40	.89		
Jackhammers, mortar mixer, concrete cutters for wrecking and demolition	8.55	1.40	.89		
Power monkey	9.12	1.40	.89		
Chuck tender, all work on hanging or swing scaffold	8.45	1.40	.89		
Remainder of County:					
Laborers	8.15	.95	.90		
Lathers	10.78		.50		.01
Leadburners	10.50	.40	.25	b	.01
Line Construction:					
Lineman	11.10	.65	1%+.60	c	4%
Groundman digging machine operator	9.99	.65	1%+.60	c	4%
Groundman mobile equipment operator	8.88	.65	1%+.60	c	4%
Groundman truck driver	8.325	.65	1%+.60	c	4%
Groundman dynamite man & Mechanic	8.88	.65	1%+.60	c	4%
Cable splicer	12.21	.65	1%+.60	c	4%
Painters:					
Twps. of Macedon, Palmyra, Marion, Williamson, Sodus, Ontario & Walworth:					
Brush, roller	8.95	.60	.87		.04
Structural steel & iron-up to 40'	9.45	.60	.87		.04
Over 40'	9.65	.60	.87		.04

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59-NY-1-2-3-H 3 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Swing scaffold & window brackets	9.45	.60	.87		.04
Bridge	9.95	.60	.87		.04
Sandblaster	9.70	.60	.87		.04
Spray	9.55	.60	.87		.04
Remainder of County:					
Painters	9.38		.55		.06
Spray, swing scaffold, structural steel above 40'	9.98		.55		.06
Piledrivermen & millwrights, Bldg.	10.62	.55	.89		.005
Piledrivermen, Heavy & Highway	8.67	.45	.70		.025
Plumbers & steamfitters:					
Twps. of Butler & Savannah:					
Contracts over $50,000	9.67	.40	.23		
Contracts under $50,000	8.87	.40	.23		
Twps. of Walcott	10.23	.35	.40		
Remainder of County	10.49	2.265	.62	.55+d	.16
Roofers	10.67	.43	.43		
Roofers helpers:					
1st year - 1st 6 months	4.73	.43	.43		
1st year - 2nd 6 months	6.71	.43	.43		
3rd year	9.19	.43	.43		
Sheet metal workers	10.61	.70	.90		.045
Sprinkler Fitters	11.61	.60	.90		.08
Soft floor layers	9.42	.75	.66		.005
Truck drivers, Building:					
Twps. of Ontario, Walworth & Macedon	8.59	.40	.40		
Remainder of County:					
Dumps, straight, trailer, pick-up, transit-mix, water and fuel	7.05		.35	e+ f	
Road oilers, low-boy trailers, winch trucks and A-frames	7.20		.35	e+ f	
Euclid, linn drivers	7.40		.35	e+ f	

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: Labor Day provided the employee has worked the day before the holiday.

b. Holidays: A through F, Washington's Brithday, Good Friday, & Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceding & following the holiday.

c. Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided employee works day before and day after the holiday.

d. Holidays: C, D, E, & F.

e. 1 week vacation after 1 year's work.

f. Holidays: A through D, providing regular employee is available for work the day before and the day after the holiday.

Twps of Macedon and Palmyra 5 LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 6.80	1.40	.89	a	
CLASS B	7.00	1.40	.89	a	
CLASS C	7.20	1.40	.89	a	
CLASS D	7.40	1.40	.89	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type) acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

Remainder of County 24 LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 7.24	.95	.90	a	
CLASS B	7.44	.95	.90	a	
CLASS C	7.64	.95	.90	a	
CLASS D	7.84	.95	.90	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS :

GROUP I - Cranes (cable and hydraulic, climbing and tower)
- I - A 121 ft. and under
- I - B 121 ft. and 151 ft.
- I - C 151 ft. and 201 ft.
- I - D 201 ft. and 251 ft.
- I - E 251 ft. and 301 ft.
- I - F 301 ft. and 351 ft.
- I - G 351 ft. and 401 ft.
- I - H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, ross carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machines, bituminous spreading machine, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm combined capacity 3 or less with more than 1200 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), tournapull and similar types, dinky locomotives (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler, Exception: single electric pumps up to and including 4 inches not be manned.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned.

GROUP V - Truck crane oilers

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I:					
I-A	$10.21	.50	.50+.30	a	.10
I-B	10.46	.50	.50+.30	a	.10
I-C	10.71	.50	.50+.30	a	.10
I-D	10.96	.50	.50+.30	a	.10
I-E	11.46	.50	.50+.30	a	.10
I-F	11.96	.50	.50+.30	a	.10
I-G	12.46	.50	.50+.30	a	.10
I-H	12.96	.50	.50+.30	a	.10
GROUP II	10.61	.50	.50+.30	a	.10
GROUP III	10.03	.50	.50+.30	a	.10
GROUP IV	8.935	.50	.50+.30	a	.10
GROUP V	7.80	.50	.50+.30	a	.10

FOOTNOTES:
PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

24 PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$10.97	.50	1.00	a	.15
CLASS II	10.74	.50	1.00	a	.15
CLASS III	10.36	.50	1.00	a	.15
CLASS IV	9.63	.50	1.00	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays, A through F, provided employee works the working day before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS I: Asphalt roller (except rubber tire), Automatic fine grade machine, backhoe (except tractor mounted, rubber tired), belt placer, black top plant (automated) blast or rotary drill, (truck or cat mounted), cableway, caisson auger, central mix plant (automated), cherry picker - over 5 tons capacity, crane, derrick, dragline, dredge, dual drum paver, elevating grader (self-propelled or towed), excavator (all purpose - hydraulically operated), front end loader (4 c.y. and over), gradall, grader, head tower, hoist, 2 or 3 drum, locomotive (irrespective of size or power), maintenance engineer, mine hoist, mucking machine, overhead crane, pelns crane or similar type, pile driver, quarry master or equivalent, shovel, skimmer, slip form paver, tractor drawn belt-type loader, truck crane, tunnel shovel

CLASS II: Asphalt roller (rubber tired), asphalt spreader, automatic fine grade machine, backhoe (tractor mounted, rubber tired), back filling machine, bending machine (pipe), bituminous spreader and mixer, blacktop plant (non-automated), boom truck, boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker 5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, dozer or push cat, drill rigs, tractor mounted, elevator, front end loader (under 4 c.y.) hi-pressure boiler, (15 lbs. and over), hoist, one drum, hydraulic pipe jack machine or similar type machine, jersey spreader, kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance grease man, mixer for stabilized base self-propelled, monorail machine, plant engineer, pump crete, ready mix concrete plant, road widener, rock bit sharpener (all types), roller (all above subgrade, scraper, side boom, slip form paver, snorkel, stump chipping machine, trenchor, tube finisher, winch, winch truck with A-frame

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

CLASS III: Asphalt curb and gutter machines, blower for burning bruch, chipping machine and chip spreader, compressors: 4 not exceed 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressor, (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete pavement spreaders and finishers, concrete curb and gutter machine, concrete curing machines, conveyor drill core, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories, fine grade machine, hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point

CLASS IV: Aggregate plant, boiler, (used in conjunction with production), C.M.I. and similar type concrete spreaders, cement bin operator, compressors: 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors: (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power broom, power heaterman, revinius widener, steam cleaner, tractor

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DECISION NO. NY76-3125 (Cont'd) 1-TD-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.69	.65	.60	a	
CLASS 2	7.74	.65	.60	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.60	a	
CLASS 5	8.09	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ORANGE
DECISION NO: NY76-3232 DATE: Date of Publication
Supersedes Decision No. NY76-3198 dated July 2, 1976 in 41 FR 27633
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

36-NY-1-2-3- D

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$12.94	5%	10%	7%	.02
Boilermakers	10.57	5%	5%+10%		
Bricklayers, cement masons plasterers and stone masons:					
Twps., of Newburg, New Windsor, Blooming Grove, Cornwall, Highlands, Woodbury and Monroe; and Arden and Southfield	8.70	.97	.98	1.25	
Cement finishers, Hvy. & Hwy.	8.70	.97	.98	1.25	
Cement finishers, Bridge & overpass work.	7.70	.97	.98	1.25	
Greenwood Lake, Warwick, Monroe and Tuxedo to Hudson River and areas east thereof to County line	8.90	.69	1.69	1.00+g	.03
Remainder of County	8.75	.83	.78	1.00	
Cement masons, Hvy. & Hwy.	8.05	8%	8%	.50	
Carpenters:					
Tuxedo, Woodbury, Monroe, part of Cornwall, Chester, Blooming Grove and Highlands:					
Carpenters, soft floor layers, bridge dock and wharf carpenters, building, heavy and highway	9.67	.85	.75	1.15	.15
Remainder of County:					
Carpenters, building:					
Carpenters & soft floor layers	9.70	.45	.65	.40	.05
Piledrivermen, dock builders building	9.70	.45	.65	.40	.05
Carpenters, highway:	9.70	.45	.65	.40	.05
Piledrivermen, dock builders, highway	9.70	.45	.65	.40	.05
Electricians:					
Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfields, Tuxedo Lake and Tuxedo Twp.	10.00	8%	17%	10%	1%

Page 2

DECISION NO. NY76-3232	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of County	$ 9.90	.65	1%+.69	.60	4%
Remainder of County:					
For the repair, renovation, alteration, and new installations of Electrical systems in light commercial and industrial property, herein defined to include stores, gas station, motels & hotels	6.35	.75	1%	.30	
Elevator Constructors	10.12	.495	.32+f	b+c	.02
Elevator Constructors' helpers	7.59	.495	.32+f	b+c	.02
Elevator Constructors' helpers (prob.)	5.06				
Elevator Constructors Modernization	9.35	.495	.32+f	b+c	.02
Elevator Constructors Modern. Helpers	7.01	.495	.32+f	b+c	.02
Elevator Constructor repair	8.50	.495	.32+f	b+c	.02
Elevator Constructor repair helper	6.38	.495	.32+f	b+c	.02
Glaziers	10.30	.66	1.66	.47	.01
Ironworkers, structural, ornamental and reinforcing	9.75	1.10	1.10+.82	1.35	
Laborers: (Building)					
Common Laborers, mason tenders, mortar mixers, hod carriers, scaffold builder, concrete men, vibrator men, poured gypsum roof work, wrecking, walking power buggy men, landscaper and chipping hammer (air or electric 1" or under)	8.30	.90	.90	a	
Asphalt men, pipe layers, air or electric jackhammer, powermen, gunnite, sandblasting, barmen, chain saw, riding power buggy, vibro barco, joy tamper, or similar walk behind roller	8.55	.90	.90	a	
Lathers	9.02	.90	.55	.75	.01
Leadburners	10.50	.40	.25	d	.01

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Page 3

DECISION NO. NY76-3232	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Linemen cable splicer helper & material man	$11.10	.65	1%+.60	e	5%
Groundman digging machine operator	9.99	.65	1%+.60	e	5%
Groundman mobile equipment operator	8.88	.65	1%+.60	e	5%
Groundman truck driver and mechanic	8.325	.65	1%+.60	e	5%
Groundman dynamite man	8.88	.65	1%+.60	e	5%
Cable splicer	12.21	.65	1%+.60	e	5%
Marble setters, terrazzo workers and tile setters:					
West Newburgh, Little Britain, Rock tavern, Lagrange, New Hampton, Ridgeburg & Johnson to County Line and all areas inclusive south thereof County lines:					
Marble setters, cutters	7.80	.78	.94		
Marble setters' helpers	8.50	1.05		1.15	
Terrazzo workers	8.40	1.11	.63		
Terrazzo workers' helpers	7.43	.475	.475		
Terrazzo machine operator	7.68	.475	.475		
Tile setters	8.50	.80	2.10		
Tile setters' helpers	7.90	.50	1.27		
Millwrights	10.39	1.10	1.68	.60	.02
Painters:					
Commercial & industrial	8.00	10%	.50		
Spray & sandblasting	9.00	10%	.50		
Steel, smoke stacks, bridges, towers, etc.	8.90	10%	.50		

Page 4

DECISION NO: NY76-3232	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters:					
Twps., of Villages & Hamlets and/or portions thereof: Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Parks, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	9.10	11%	12%	12%	.10
Remainder of County	10.36	14.4%	7%	6%	.10
Roofers:					
Pitch, pitch built up	10.65	1.00	1.51		
Asphalt Shingle	7.65	1.00	1.51		
Asbestos, slate and tile, slab	10.15	1.00	1.51		
Asphalt builtup	10.15	1.00	1.51		
Sheet metal workers	10.00	9.3%	16%	9%	.02
Sprinkler fitters	11.61	.60	.90		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Page 5

DECISION NO. NY76-3232

FOOTNOTES:

a. Holidays: A through F

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Armistice Day, Columbus Day and Election Day.

c. Employer contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F; Washington's Birthday; X-Mas Eve; and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

f. Employer contributes $7.00 per day to Annuity Fund.

g. Employee shall receive 2 hours time off with pay on Election Days.

h. Holiday A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veterans' Day, providing employee works one day in the calendar week in which the holiday falls; and further providing that the holiday falls on a regular work day.

i. Employer contributes $.60 per hour to a trust fund and $.15 per hour to an annuity fund.

j. Employer contributes $.20 per hour to an annuity fund.

Page 6

DECISION NO. NY76-3232

FOOTNOTES: (CONT'D)

k. Employer contributes $.73 per hour to a Security benefit fund.

l. Employer contributes $1.08 per hour to a combined health, welfare and pension fund.

m. Employer contributes $.45 per hour to an annuity fund.

n. Paid Holiday, St. Patricks Day.

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HEAVY AND HIGHWAY CONSTRUCTION:

GROUP I: Laborer, pitman, flagmen, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control

GROUP II: Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, cool passers and other machine op., sprayer and nozzle men on mulching and s seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind selfpropelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and shoring coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man

GROUP III: Concrete finisher on highways, form setter, granite stone layer, ingersoll rand heavy duty crawler - master type HCMZ or equivalent or any drill using a 4" or larger bit

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 8.30	.90	.90	a	
GROUP II	8.55	.90	.90	a	
GROUP III	8.95	.90	.90	a	

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS: BUILDING AND HEAVY CONSTRUCTION HIGHWAY, ROAD, STREET & SEWER	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.52	7%	15%	a	3%
GROUP 2	11.92	7%	15%	a	3%
GROUP 3	11.14	7%	15%	a	3%
GROUP 4	11.04	7%	15%	a	3%
GROUP 5	10.84	7%	15%	a	3%
GROUP 6	10.40	7%	15%	a	3%
GROUP 7	10.15	7%	15%	a	3%
GROUP 8	10.00	7%	15%	a	3%
GROUP 9	9.95	7%	15%	a	3%
GROUP 10	9.85	7%	15%	a	3%
GROUP 11	9.80	7%	15%	a	3%
GROUP 12	9.60	7%	15%	a	3%
GROUP 13	9.24	7%	15%	a	3%
GROUP 14	9.09	7%	15%	a	3%
GROUP 15	8.79	7%	15%	a	3%

50c per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75c per hour on machines where "Cat Head" or Sheave Point" is 140 feet, or over above ground level.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE
a. Holidays, A through F plus Washington's Birthday, Presidential Election and Veterans Day provided the employee works any of the three days in the five work days preceeding the holiday and the first work day after the recognized holiday.

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS - BUILDING AND HEAVY COSTUCTION HIGHWAY, ROAD, STREET & SEWER

GROUP 1 - Helicopters pilot/engineer.

GROUP 2 - Autograde-combination subgrader. base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only). drillmaster. quarry master (down the hole drill); draglines; elevator graders; engines. large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader. rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver. rasinous. Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines.

GROUP 3 - Pump, staging.

GROUP 4 - A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, chipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete. squeezecrete & similar types; conveyors. 125' & over; economobiles (hilo. lull. hyster similar type equipment); forklifts; front end loaders (2yds but less than 5yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans. LeTourneau. DW's. Ukes, pumpcrete-unit type; pumpcrete machines. squeezecrete & concrete pumping; scrapers-LeTourneau. DW's Ukes; side booms; squeezecrete; "straddle" carrier. Ross and similar types; winch trucks (hoisting).

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS - BUILDING AND HEAVY CONSTRUCTION HIGHWAY, ROAD STREET & SEWER

GROUP 5 - Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6 - Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop.

GROUP 7 - Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde curecrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or systems; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

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DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS - BUILDING AND HEAVY CONSTRUCTION HIGHWAY, ROAD STREET & SEWER

GROUP 8 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building & heavy construction rate only.

GROUP 9 - Brooms & sweepers; bulldozer, D5 and over; fireman; sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractors, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site).

GROUP 10 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11 - Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only.

GROUP 12 - Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13 - Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 of less than 4 inch suction including submersible pumps); pumps, diesel engine & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propape, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS - BUILDING AND HEAVY CONSTRUCTION HIGHWAY, ROAD STREET & SEWER

GROUP 14 - Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mucking equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only).

GROUP 15 - Assistant engineer/oiler; mechanics helper; tire repair and maintenance.

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS: STEEL ERECTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 1	$15.13	7%	15%	a	3%
GROUP 2	13.52	7%	15%	a	3%
GROUP 3	12.72	7%	15%	a	3%
GROUP 4	12.07	7%	15%	a	3%
GROUP 5	10.50	7%	15%	a	3%
GROUP 6	10.15	7%	15%	a	3%
GROUP 7	10.02	7%	15%	a	3%
GROUP 8	9.69	7%	15%	a	3%
GROUP 9	9.19	7%	15%	a	3%

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid holidays: A through F; Washington's Birthday; Veteran's Day and Presidential Election Day.

DECISION NO. NY76-3232

POWER EQUIPMENT OPERATORS - STEEL ERECTION

GROUP 1 - Helicopters pilot/engineer.

GROUP 2 - Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer.

GROUP 3 - Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground).

GROUP 4 - Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms.

GROUP 5 - Compressors (2 or 3 in battery); generators; welding machines (gas or electric convertors of any type 2 or 3 in battery multiple welders); welding system multiple (rectifier transformer type).

GROUP 6 - Maintenance engineer.

GROUP 7 - Fireman

GROUP 8 - Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single).

GROUP 9 - Assistant engineer/oiler; straddle carrier.

UMI

DECISION NO. NY76-3232

Page 15

BUILDING, HEAVY & HIGHWAY CONSTRUCTIO.. N.Y. 2-TD-1-2-3-5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	Appr. Tr.	Others
TRUCK DRIVERS:						
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon and simi lar equipment (except when hooked to scrapers), low beds, I-Beam, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	$ 9.50	.85	.85	a		
Equipment 25 yards and over up to and including 30 yard bodies, cable dump trailers, powder and dynamite trucks	9.40	.85	.85	a		
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks, batch trucks and all other tractor trailers	9.20	.85	.85	a		
Ten wheelers, grease trucks and tiller men	9.10	.85	.85	a		
Straight trucks	9.00	.85	.85	a		
Pick-up trucks used for hauling material parts escort man over the road	9.00	.85	.85	a		
Helpers	8.90	.85	.85	a		

Paid Holidays:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: DUTCHESS
DECISION NO.: NY76-3234 DATE: Date of Publication
Supersedes Decision No. NY76-3202 dated July 2, 1976 in 41 FR 27641
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	12.94	5%	10%		
Boilermakers	10.57	5%	15%	7%	.01
Bricklayers, cement masons, marble setters, plasterers, stone masons and tile setters	9.55	.85	1.65	g	
Carpenters, Building:					
Wappingers, Falls, New Hackensack, Pawling and Beacon, Carpenters, piledrivermen and soft floor layers	10.88	.98	.76	.85+1+m	.10
Remainder of County: Carpenters and soft floor layers	10.02	7½%	7½%	.80	.10
Carpenters, Heavy and Highway:					
Wappingers Falls, New Hackensack, Pawling, and Beacon: Carpenters	10.88	.98	.76	.85+1+m	.10
Remainder of County: Carpenters	10.02	7½%	7½%	.80	.10
Cement masons, bricklayers, stone masons (Heavy & Highway)	10.35	.85	1.65	h	
Electricians:					
Beacon and Fishkill	9.90	.65	1%+.69	.60	5%
Remainder of County	9.25	.75	1%+.85	5%+a+1	5%
Entire county: except Beacon and Fishkill: Repair, renovation, alteration and new installations of Electricial Systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	

Page 2

DECISION No. NY76-3234

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator constructors	$10.59	.495	.32	c+d	.02
Elevator constructors' helpers	7.41	.495	.32	c+d	.02
Elevator constructors' helpers (prob)	5.295				
Glaziers	10.30	.66	1.66	.47	.01
Ironworkers, structural, orna. & reinforcing	9.75	1.10	1.92	1.35	
Lathers	7.70	9%	.55		.01
Lead burners	10.50	.40	.25	e	.01
Line Construction:					
Lineman	11.10	.50	1%+.50	f	3/8%
Cable Splicer	12.21	.50	1%+.50	f	3/8%
Groundman digging machine operator	9.99	.50	1%+.50	f	3/8%
Groundman mobile equipment operator	8.88	.50	1%+.50	f	3/8%
Groundman truck driver	8.325	.50	1%+.50	f	3/8%
Groundman dynamite man & Mechanic	8.88	.50	1%+.50	f	3/8%
Marble setters helpers	8.50	1.05		1.15+b	
Painters:					
Brush	8.10	.52	i	k	
Bridges, towers, fire escapes, smoke stacks, flag poles, swing state, window jacks, boat-swain chair, safety belts, and spray structural steel	7.90	.42	i	k	
Piledrivermen, dock & wharf builders	10.92	1.25	1.73	.65	.02
Plumbers and steamfitters	10.00	1.50	.60	1.30	.05
Roofers, asphalt shingle	7.65	1.00	1.51		
Roofers, slate & tile, asbestos, slab, asphalt builtup	10.15	1.00	1.51		
Roofers, pitch, pitch builtup	10.65	1.00	1.51		

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DECISION No. NY76-3234

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet metal workers	$10.00	9.3%	16%	9%	.02
Sprinkler fitters	11.61	.60	.90		.08
Terrazzo workers' helpers	10.15			b	
Tile setters' helpers	10.15			b	
Welders - receive prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; (provided employee is on the payroll two weeks prior to the holiday).

b. Paid Holidays: A through F, Washington's Birthday, Lincoln's Birthday, Good Friday and Columbus Day provided the employee is employed 3 days before the holiday or any of the 3 days following the holiday.

c. Holidays: A through F.

d. Employer contributes 2% of the basic hourly rate for 6 month to 5 years of service or 4% of the basic hourly rate for 5 years or more of service as vacation pay credit.

e. Holidays: A through F; Washington's Birthday, Good Friday and Xmas Eve providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

DECISION NO. NY76-3234

14-New York-1-2-3-W 3 of 3

FOOTNOTES (CONT'D)

i. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

g. Holidays: A through F; and two hours off on Election Day for the purpoee of voting.

h. Holidays: A through F; Washington's Birthday; Good Friday; Columbus Day; Veteran's Day and Nov. Election Day.

i. Employer contributes $.55 per hour to an annuity fund.

k. Holiday C providing the employee works within the period of (June 20 to July 4th).

l. Employees receive two hours off on Election Day for purpose of voting.

m. Holidays A through F providing the employee works 7 days before and after the holiday.

N.Y. 14-LAB-1-I

DECISION No. NY76-3234

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
General laborers	$8.08	.86	1.35		
Hod carriers (plasters' helpers), scaffold builders (padlock & self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine & hand), concrete mixers (by machine under 21-E), vibrators, form setters, pipe layers, asphalt rakers, handling reinforcement rods, working labor foremen, drillers & jackhammer op., signalmen, gunniting, motor buggs, water pump 2" or under, Barco machines, wreckers, paving breakers, power saw operator, other machine operators	8.33	.86	1.35		
Blasters, laser beam op.	8.48	.86	1.35		

DECISION No. NY76-3234

Poughkeepsie and South thereof: N.Y.-7-PEO-1-J 1 of 2

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I: Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-Euclid loader or similar type, cherry picker (cableway), compressor (Steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsometer, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractore with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-½ yds., & under, lighting units (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone cursher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plaster roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cutting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI:

A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. Second engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 maintowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

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Poughkeepsie and South thereof:

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP VI (CONT'D):
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII: Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overhead crane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

POWER EQUIPMENT OPERATORS, BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$12.285	6%+.875	8⅛%	a	1⅛%
GROUP II	11.37	6%+.875	8⅛%	a	1⅛%
GROUP III	11.2275	6%+.875	8⅛%	a	1⅛%
GROUP IV	11.085	6%+.875	8⅛%	a	1⅛%
GROUP V	9.9425	6%+.875	8⅛%	a	1⅛%
GROUP VI					
A	13.655	6%+.875	8⅛%	a	1⅛%
B	12.7975	6%+.875	8⅛%	a	1⅛%
C	8.9975	6%+.875	8⅛%	a	1⅛%
D	11.7975	6%+.875	8⅛%	a	1⅛%
E	10.5125	6%+.875	8⅛%	a	1⅛%
F	11.37	6%+.875	8⅛%	a	1⅛%
G	16.5125	6%+.875	8⅛%	a	1⅛%
H	9.9425	6%+.875	8⅛%	a	1⅛%
I	16.2275	6%+.875	8⅛%	a	1⅛%
J	14.5125	6%+.875	8⅛%	a	1⅛%
K	15.5125	6%+.875	8⅛%	a	1⅛%
L	12.785	6%+.875	8⅛%	a	1⅛%
M	13.285	6%+.875	8⅛%	a	1⅛%
GROUP VII	12.5125	6%+.875	8⅛%	a	1⅛%

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$ 9.36	.45	.80	a	.10
GROUP 2	9.43	.45	.80	a	.10
GROUP 3	9.54	.45	.80	a	.10
GROUP 4	9.73	.45	.80	a	.10
GROUP 5	10.06	.45	.80	a	.10
GROUP 6	10.21	.45	.80	a	.10
GROUP 7	10.39	.45	.80	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

SEWER, ROAD, STREET AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Laborers:						
General laborers	$7.85	.86	1.40	a		
Concrete men, joint setter, signal man, mason tender, pipe layer, riprap and dry stone layers, asphalt workers, screed bar operator, steel tod carrier, jackhammerman, wagon driller, air-trac operator, nippers, powderman, high scalers, power buggy operator, vibratory operator, other compactor, wrecking laborers, gunite and sandblasting, coal passer	8.10	.86	1.40	a		
Concrete finisher on Highways, blaster, form setter, laser beam operator	8.45	.86	1.40	e		

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Holiday's: A through F and Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Veteran's Day and November Election Day provided the employee works (7) calendar days before or after the holiday.

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS:

GROUP I: Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, compressor (steel erection), concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, Crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1½ yds. and under, lighting unit (portable & generator), locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection-excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader, heater-all types, pump 4 inches and over, pump station (water & sewer), pump-gypsum, etc., pump-plaster, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steam jenny, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, Turbo jet burner or similar equipment, vibrator (1 to 5), fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck), stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4". roller motorized (walk behind), welder's helper

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Poughkeepsie and South thereof:
HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS (CONT'D):
GROUP VI: Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII: Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators:. Over 5 cu. yd. capacity $.50 per hour additional shovel operators: over 4 cu. yd. capacity $1.00 per hour additional

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.75	6%	8%+a	b	1½%
GROUP II	9.95	6%	8%+a	b	1½%
GROUP III	9.825	6%	8%+a	b	1½%
GROUP IV	9.70	6%	8%+a	b	1½%
GROUP V	8.70	6%	8%+a	b	1½%
GROUP VI	10.95	6%	8%+a	b	1½%
GROUP VII	10.325	6%	8%+a	b	1½%

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. $.66 per hour.

b. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday Columbus Day; November Election Day and Veteran's Day.

REMAINDER OF COUNTY 27-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Ap.
GROUP I	$9.69	.55	.60+a	b	.1
GROUP II	9.37	.55	.60+a	b	.1
GROUP III	8.69	.55	.60+a	b	.1
GROUP IV	7.90	.55	.60+a	b	.1

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.30per hour to an Supplemental Unemployment Ben Fund.

b. Paid Holidays A through F; providing the employee works the working d before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or o crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar, fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capaci concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Roman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concret or pavement grinder), power broom (towed), power heaterman, revinius widener shell winder, steam cleaner, tractor.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION N.Y. 2-TD-1-2-3-5

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Drivers on LeTourneau tractors, double barrel Euclids Athey wagon and similar equipment (except when hooked to scrapers), low beds. I-Bean, polo trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	$ 9.50	.85	.85	a		
Equipment 25 yards and over up to and including 30 yard bodies, cable dump trailers, powder and dynamite trucks	9.40	.85	.85	a		
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks, batch trucks and all other tractor trailers	9.20	.85	.85	a		
Ten wheelers, grease trucks and tiller men	9.10	.85	.85	a		
Straight trucks	9.00	.85	.85	a		
Pick-up trucks used for hauling material parts escort man over the road	9.00	.85	.85	a		
Helpers	8.90	.85	.85	a		

Paid Holidays:

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day

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SUPERSEDEAS DECISION

STATE: NEW YORK
DECISION NO. NY76-3235
Supersedes Decision No. NY76-3199 dated June 25, 1976 in 41 FR 26503
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

COUNTY: WESTCHESTER
DATE: DATE OF PUBLICATION

60-N.Y.-1-2-3-X 1 of 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.94	5%	10%		
Boilermakers	10.57	5%	15%	7%	.01
Bricklayers	9.00	1.00	2.25	1.25+f	.05
Carpenters and insulators	9.08	1.20	.95	1.07	.085
Cement masons	9.00	1.00	2.25	1.25+f	.05
Electricians	10.93	5%+h	7%	10%	4%
Elevator constructors	9.52	.445	.29+e	a+b	.02
Elevator constructors' helpers	7.14	.445	.29+e	a+b	.02
Elevator constructors' helpers (prob)	4.76				
Elevator constructor modernization	8.75	.445	.29+e	a+b	.02
Elevator constructor modern. helpers	6.56	.445	.29+e	a+b	.02
Elevator constructor repair	7.90	.445	.29+e	a+b	.02
Elevator constructor repair helper	5.92	.445	.29+e	a+b	.02
Glaziers	10.30	.66	1.66	.47	.01
Ironworkers, structural	10.90	1.20	2.70	1.55+g	.06
Ironworkers, ornamental finisher	9.59	.86	2.35	.78	.04
Ironworkers, reinforcing	9.10	.785	1.755	.75	.01
Laborers: (Building)					
Laborers, mason, plasterers, bricklayers, tenders, concrete laborers & pipelayers	7.40	.95	.85	.75	
Jackhammer, vibrators, power buggies, fork lifts, all pneumatic equipment	7.65	.95	.85	.75	
Lathers, nail-on	12.00				.01
Lathers, metal	9.10	.785	1.755	.75	.01
Lead burners	10.50	.40	.25	c	.01
Line Construction:					
Linemen	9.33	.56	1%+.61	.93	4%
Cable splicer	9.33	.56	1%+.61	.93	4%
Cable splicer helper	9.33	.56	1%+.61	.93	4%
Groundman	9.33	.56	1%+.61	.93	4%
Driver groundman	9.33	.56	1%+.61	.93	4%
Dynamite man	9.33	.56	1%+.61	.93	4%
Marble setters, marble cutters	8.00	.63	1.41	i	
Marble setters' helpers, crane op	7.33	.63	1.41	i	

NY76-3235 P.2

60-N.Y.-1-2-3 X 2 of 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble carvers	$ 7.95	.63	1.41	i	
Derrickmen	7.33	.63	1.41	i	
Marble sawers, rubbers, polishers	7.57	.63	1.41	i	
Millwrights	9.36	.90	1.53		
Painters:					
Brush	8.80	.50	.50+h	.40	
Structural steel, swing stage	10.05	.50	.50+h	.40	
Spray	9.80	.50	.50+h	.40	
Piledrivermen & dock builders	10.92	1.25	1.73	.65	.02
Plasterers	9.00	.75	1.75	1.00+f	.05
Plumbers	10.18	8%+d	8%%	11%	4%
Roofers:					
Composition, damp & water-proofing	9.25	1.59	2.45	.65	
Slate and tile	10.82	.55	1.20	1.75	
Slate and tile helpers	7.90	.50	.80	.80	
Sheet metal workers	10.00	9.3%	16%	9%	.02
Soft floor layers	9.08	1.20	.95	1.07	.085
Steamfitters	10.18	8%+d	8%%	11%	4%
Stone masons	9.00	1.00	2.25	1.25+f	.05
Terrazzo machine operator	8.99	1.21	1.50		
Terrazzo workers	9.10	.62	1.95		
Terrazzo workers' helpers	8.84	1.21	1.50		
Tile setters	8.50	.80	2.10		
Tile setters' helpers	7.90	.50	1.27		
Sprinkler Fitters	11.61	.60	.90		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Armistice Day and Election Day.

b. Employer contributes 6.4% of basic hourly rate for 5 years or more of service of 4% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

NY76-3235 P.3

60-N.Y.-1-2-3 x 3 of 3

BUILDING HEAVY AND HIGHWAY CONSTRUCTION

FOOTNOTES (CONT'D):
c. Holidays: A through F; Washington's Birthday, Good Friday, Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regularly schedule work days immediately preceding and following the holiday.

d. Employer contributes $7.60 per day to Security Benefit Fund, providing the employee works 3½ hours or more during the working day.

e. Employer contributes $8.00 per day to Annuity Fund.

f. Holidays: D, Armistice Day, Columbus Day, Presidential Election Day or Election Day for Governor of New York (Highway Construction only.)

g. Holidays: A through F, providing the employee works a full half day preceding the holiday.

h. Employer contributes $3.00 per day workman to Security Benefit Fund.

i. Paid Holidays: St. Patrick's Day

NY76-3235 P. 4

NY-17-IAB-2-3-I 1 of 2

EXCAVATION, HEAVY CONSTRUCTION AND ROAD CONSTRUCTION (Open Cut)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers: Blasters, blaster (quarry master)	$9.02	8%	8%	a + 82	
Joy drillers, wagon drillers, air track drillers, concrete form aligner, concrete form and curb form highway (steel), and deck winches on scows, jumbo driller	8.48	8%	8%	a + .82	
Asphalt curb machine operator, jeeper operator, pavement breaker operator, rock scalers, power saw operator, bit grinder or grinders, barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller railroad spike puller, pumps and their operation, and pneumatic tools and service of air power, gunniting	8.37	8%	8%	a + .82	
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and water-proofing	8.22	8%	8%	a + .82	
Joy driller's helper wagon driller helper, air track driller helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nursery men, and dump men	8.12	8%	8%	a + .82	

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EXCAVATION, HEAVY CONSTRUCTION AND ROAD CONSTRUCTION (Open Cut)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers: (CONT'D)					
Wrecking:					
Barmen, and burner	$8.62	8%	8%	a + .82	
Barmen helpers and laborers	8.47	8%	8%	a + .82	
Shaft and Tunnel in Free Air:					
Blasters	9.27	8%	8%	a + .82	
Concrete setters	9.47	8%	8%	a + .82	
Form setters	8.97	8%	8%	a + .82	
Miners, drill runners, air tuggers, chippers, pneumatic tools and source of air-power pumps and their operations, and vibrator operators	8.77	8%	8%	a + .82	
Puddlers	8.72	8%	8%	a + .82	
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe relinors	8.62	8%	8%	a + .82	
Laborers	8.37	8%	8%	a + .82	
Powder carriers, signalmen	8.32	8%	8%	a + .82	
Brakemen	8.27	8%	8%	a + .82	
Outside laborers	8.22	8%	8%	a + .82	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; November Election Day; Veteran's Day; and Good Friday, provided employee works (2) two or more days in the calendar week in which the holiday falls.

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I: Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-Euclid loader or similar type, cherry picker (cableway), compressor (Steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsemeter, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-¼ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone cursher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plaster roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cutting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI:
A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. Second engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 maintowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP VI (CONT'D):
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII: Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overhead crane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

POWER EQUIPMENT OPERATORS, BUILDING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$12.285	6%+.875	8½%	a	1½%
GROUP II	11.37	6%+.875	8½%	a	1½%
GROUP III	11.2275	6%+.875	8½%	a	1½%
GROUP IV	11.085	6%+.875	8½%	a	1½%
GROUP V	9.9425	6%+.875	8½%	a	1½%
GROUP VI					
A	13.655	6%+.875	8½%	a	1½%
B	12.7975	6%+.875	8½%	a	1½%
C	8.9975	6%+.875	8½%	a	1½%
D	11.7975	6%+.875	8½%	a	1½%
E	10.5125	6%+.875	8½%	a	1½%
F	11.37	6%+.875	8½%	a	1½%
G	16.5125	6%+.875	8½%	a	1½%
H	9.9425	6%+.875	8½%	a	1½%
I	16.2275	6%+.875	8½%	a	1½%
J	14.5125	6%+.875	8½%	a	1½%
K	15.5125	6%+.875	8½%	a	1½%
L	12.785	6%+.875	8½%	a	1½%
M	13.285	6%+.875	8½%	a	1½%
GROUP VII	12.5125	6%+.875	8½%	a	1½%

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS:

GROUP I: Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, compressor (steel erection), concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, Crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1½ yds. and under, lighting unit (portable & generator), locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection-excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breeker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader, heater-all types, pump 4 inches and over, pump station (water & sewer), pump-gypsum, etc., pump-plaster, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steam jenny, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, Turbo jet burner or similar equipment, vibrator (1 to 5), fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck), stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4". roller motorized (walk behind), welder's helper

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HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS (CONT'D): NY76-3235 P. 9
GROUP VI: Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII: Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: over 4 cu. yd. capacity $1.00 per hour additional

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$11.25	6%	8%+a	b	1%
GROUP II	10.45	6%	8%+a	b	1%
GROUP III	10.325	6%	8%+a	b	1%
GROUP IV	10.20	6%	8%+a	b	1%
GROUP V	9.20	6%	8%+a	b	1%
GROUP VI	11.45	6%	8%+a	b	1%
GROUP VII	10.825	6%	8%+a	b	1%

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. $.66 per hour.

b. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday Columbus Day; November Election Day and Veteran's Day.

NY76-3235 P. 10

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TRUCK DRIVERS, BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Straight jobs, A-Frame (inside cab), winch (inside cab), two, dynamite, seeding, mulching, agitator, water, welding on pipelines, post hole diggers, mortar mixing, suburbans, oil distributors, pick-up, hopper men & crusher op. concrete mixer, lift (in garage, yards and on job site)	$7.675	.40	.65	a+b		
Tractor trailers (all types), 3 axle trucks (physically load and unload), mixer men, high pressure boiler in asphalt and batch plants	7.80	.40	.65	a+b		
Tractor trailers (carrying equipment), weighmasters	7.925	.40	.65	a+b		
Euclid	8.05	.40	.65	a+b		
Euclids, Athey wagons, trailer wagons, belly dumps (under 40 tons)	8.425	.40	.65	a+b		
Athey wagons, trailer wagons, belly dumps (over 40 tons)	8.675	.40	.65	a+b		
Dual purpose greasc & fuel trucks, fuel trucks, tire trucks	8.125	.40	.65	a+b		
Welders, maintenance men, mechanics	7.90	.40	.65	a+b		
Helicopter operator	17.65	.40	.65	a+b		
Mechanic helpers, stock room men	7.55	.40	.65	a+b		
Yardmen and helpers	7.425	.40	.65	a+b		
Darts (up to 100 tons)	9.175	.40	.65	a+b		
RXS	9.55	.40	.65	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:
a. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Election Day, Veteran's Day (provided employee works one day of the work week in which the holiday occurs).

b. One week vacation after 90 days of employment in calendar year, plus one additional day for each additional 18 days of employment, not exceeding 10 days in any one calendar year; two weeks after 130 days of employment in a calendar year. However, an employee with 5 years of seniority service shall receive 2 weeks' paid vacation provided he works 90 days in a calendar year; three weeks and one day after 16 years of seniority service - plus 1 additional day for each year up to 19 years of seniority service; four weeks after 20 years of snetiority service.

NOTICES

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: JEFFERSON
DECISION NO.: NY76-3237
DATE: DATE OF PUBLICATION
Supersedeas Decision No. NY76-3191 dated June 25, 1976 in 40 FR 26467
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

23-N.Y.-1-2-3 W 1 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	10.61	.70	3%		.02
Boilermakers	10.68	.75	10%		.01
Bricklayers, cement masons, marble masons, plasterers, stone masons, terrazzo workers and tile setters	9.71	.55	.60	a	.02
Carpenters:					
Building:					
Carpenters & soft floor layers	9.05	.40	.40	d	.005
Millwrights	9.30	.40	.40	d	.005
Piledrivermen	9.20	.40	.40	d	.005
Heavy & Highway:					
Carpenters & Piledrivermen	8.92	.65	.75	f	.025
Cement masons, heavy & highway	8.90	.40	.40		
Electricians:					
Project $10,000 or over:					
Electricians	9.95	.45	1%+.45		.8 of 1%
Cable splicers	10.20	.45	1%+.45		.8 of 1%
Projects under $10,000					
Electricians	9.65	.45	1%+.45		.8 of 1%
Cable splicers	9.90	.45	1%+.45		.8 of 1%
Glaziers	7.61	.50	.50		.01
Ironworkers:					
Antwerp, Philadelphia, Leray, Wilna, Champion:					
Structural, ornamental, reinforcing	9.71	.52	.82		.04
Remainder of County:					
Structural, ornamental, reinforcing	9.91	.50	.82		.10
Laborers: (Building)					
Laborers	7.00	.50	.70	e	
Chain saw op,. jackhammer op., scaffold builders, mortar mixers, pipe layers, gas buggy op., wagon drill & wagon jack ops., vibrator ops., and all air or electric tools (electric tools used in place of air tools) used by laborers, hod carriers (for plasterers only)	7.20	.50	.70	e	

NY76-3237 p. 2

23-N.Y.-1-2-3- W 2 of 3

Laborers (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Sandblasterers on construction clean up where laborers are ordinarily employed, pot liners and acetylene torch ops., on demolition work only	$ 7.20	.50	.70	e	
Blasters	7.60	.50	.70	e	
Lead burners	10.50	.40	.25	b	.01
Line Construction:					
Linemen	11.10	.65	1%+.60	c	1%
Cable splicer	12.21	.65	1%+.60	c	1%
Groundman digging machine operator	9.99	.65	1%+.60	c	1%
Groundman mobile equipment operator	8.88	.65	1%+.60	c	1%
Groundman truck driver	8.325	.65	1%+.60	c	1%
Groundman dynamite man & Mechanic	8.88	.65	1%+.60	c	1%
Painters:					
Brush & Roller	7.60	.25	.45		
Swing staging & bosun chair	7.95	.25	.45		
Steel	7.95	.25	.45		
Plumbers and steamfitters	9.70	.52	.50		.05
Roofers:					
Roofers	9.15	.60	.75		
Sheet metal workers	10.655	.60	.80		.07
Sprinkler fitters	11.61	.60	.90		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: B,C,&D; (provided employee has been on the payroll five days prior to the holiday and he reports to work the day following the holiday).

b. Holidays: A through F; Washington's Birthday; X-Mas Eve and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

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FOOTNOTES (CONT'D):

c. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

d. Holiday: Labor Day, Memorial Day, Thanksgiving Day, providing the employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

e. Holidays: B,D and E provided employee works the working day before and the working day after the holiday.

f. Paid Holidays: Labor Day & Memorial Day.

POWER EQUIPMENT OPERATORS Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	$10.03	.95	.60	a	.10
Class 2	9.53	.95	.60	a	.10
Class 3	8.51	.95	.60	a	.10

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BawKnox) Blacktop plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane; Crusher-cock; Derrick; Diesel power unit; Drag-line; Dredge; Dual drum paver; Elevating grader (self-propelled to towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Nine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 ibs. and over); Hoist (one drum); Hydraulic breaking hammer; (Drop hammer); Kalman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder post hole digger (truck or tractor mounted); Post driver (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widner (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose comolned output exceeds 640,000 BTU per hour (manufacturer's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 7.44	.60	.85	a	
CLASS B	7.64	.60	.85	a	
CLASS C	7.84	.60	.85	a	
CLASS D	8.04	.60	.85	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

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POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	.60+a	b	.10
GROUP II	9.27	.55	.60+a	b	.10
GROUP III	8.59	.55	.60+a	b	.10
GROUP IV	7.80	.55	.60+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.40 per hour to an Supplemental Unemployment Benefit Fund.

b. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point syatem, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point syatem), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.69	.65	.60	a	
CLASS 2	7.74	.65	.60	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.60	a	
CLASS 5	8.09	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumperete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK — COUNTY: CHAUTAUQUA

DECISION NO.: NY76-3239 — DATE: DATE OF PUBLICATION

Supersedeas Decision No. NY76-3189 dated June 25, 1976 in 41 FR 26458.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

7-N.Y.-1-2-3 E — 1 of 3

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Asbestos workers	10.41	1.02	.55		.04
Boilermakers	10.60	.70	1.00		.02
Bricklayers, cement masons, plasterers, stone masons, marble, terrazzo workers & tile setters	9.75	.50	.80		
Cement masons, heavy & highway	8.50	.50	.70		
Carpenters & soft floor layers, bldg.	8.87	.50	.95	a	.05
Carpenters heavy & highway	8.87	.50	.95	h	.025
Electricians:					
Twps. of Mina, French Creek, Clymer, Sherman, Chautauqua, Ellery, Harmony, North Harmony, Busti, Gerry, Ellicott, Kiantone, Ellington, Poland & Carroll	11.07	.50	1¾+.50		⅛
Remainder of County	10.55	.45	1¾+.40		.15
Glaziers	9.74	1.40	.55		.10
Ironworkers, structural, ornamental & reinforcing:					
Twps. of Cherry Creek, Ellington Sheridan, Pomfret, Charlotte, Arkwright, Hanover, Villanova & Stockton	10.88	.98	1.23		
Remainder of County	10.00	1.11	1.01		.15
Laborers, building:					
Laborers & flagmen	7.00	.50	.60	a	
Blasterers, curb, form setters & pipelayers	7.85	.50	.60	a	
Work 40' & up	7.15	.50	.60	a	
Lathers	7.56	.40	.20		.01
Lead burners	10.50	.40	.25	b	.01
Line Construction:					
Linemen	11.10	.63	1¾+.60	c	⅛
Cable splicer	12.21	.65	1¾+.60	c	⅛
Groundman digging machine operator	9.99	.65	1¾+.60	c	⅛
Groundman mobile equipment operator	8.88	.65	1¾+.60	c	⅛
Groundman truck driver	8.325	.65	1¾+.60	c	⅛
Groundman dynamite man & Mechanic	8.88	.65	1¾+.60	c	⅛
Marble, tile & terrazzo workers' helpers	8.91	1.55	.40		.05
Millwrights	9.12	.50	.95		

NY76-3239 p. 2

7-N.Y.-1-2-3 E — 2 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Painters:					
Twps. of Dunkirk, Portland, Pomfret, Sheridan, Arkwright, Hanover & Villanova:					
Brush	$8.655	.525+.45	.30		.10
Steel tanks, towers, stacks, flag poles, radio TV towers	9.155	.525+.45	.30		.10
Sandblasting, swing stafe, spray, bosun chair	8.905	.525+.45	.30		.10
Bridges 35' high or above	10.32	.525+.45	.30		.10
Remainder of County:					
Painters	6.16	.52	.30		.01
Structural steel, bridge & stacks	6.46	.52	.30		.01
spray & sandblasting	6.81	.52	.30		.01
Roller	6.36	.52	.30		.01
Piledrivermen	9.12	.50	.95		.05
Plumbers:					
Twps. of Hanover, Sheridon, Dunkirk, Pomfret, Arkwright, Villanova, Portland, Stockton, Charlotte, Ripley, Westfield, Cherry creek and Fredonia					
Plumbers	11.53	.74	.85		.06
Steamfitters	11.92	.50	1.55		.08
Remainder of County					
Plumbers & steamfitters	10.22	.50	.45	2%	.01
Roofers	9.30	.50	.45	.15+g	
Sheet metal workers	9.50	.50	.50	d	.02
Sprinkler fitters	11.61	.60	.90		.08
Truck drivers, building	5.75	.44	.40	e+f	
Welders - craft rate					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Two hours paid time off on Election Day.

NOTICES

NY76-3239 p. 3

7-N.Y.-1-2-3 E — 3 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.

FOOTNOTES (cont'd):

b. Holidays: A through F, Washington's Birthday, Good Friday, Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceding and following the holidays.

c. Holidays: A through F, Washington's Birthday, Good Friday, Election Day for President of the United States and Election of Governor of New York State (providing employee works the day before and the day after the holiday).

d. Two weeks vacation

e. Holidays: A through F.

f. One week vacation after one year's work; two weeks vacation after 2 years work.

g. One to three months service, 10 hours paid vacation, three to six months service, 20 hours paid vacation, six to nine months service 30 hours paid vacation, nine to twelve months service, 40 hours paid vacation.

h. Paid Holiday: Labor Day & Memorial Day

NY76-3239 p.4

21 LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 7.9¼	.50	.65	a	
CLASS B	8.1¼	.50	.65	a	
CLASS C	8.3¼	.50	.65	a	
CLASS D	8.5¼	.50	.65	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, pederman.

CLASS D
Blasters, form setters, stone or granite curb setters.

NOTICES

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Crane with a main boom over 100 feet.

GROUP II: All boom type equipment, all pan and carryall operators, Archer hoist, back and pull hoe operator, blast or rotary drill, truck or cat mounted, boiler (when used for power), boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline operator, elevating grader (self-propelled), head tower operator, hot roller (finish course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist, (more than 1 drum in use), Peine crane, pile driving machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine

GROUP III: Back filling machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator

GROUP IV: Air hoist operator, cage hoist operator, conveyor operator, conveyor systems, (belt-crete or similar), hoisting engine op., house elevator, (when used for hoisting), industrial tractor, locomotive op., (irrespective of power), push button hoist op., Strato tower, tractors (when using winch power),

GROUP V: Concrete mixer op., (½ c.y. or over), gasoline driven boring machine, hydraulic system cranes, hydro hammer, finishing machine op., (asphalt spreader), finishing machine op., pump op., (4" or over), pump op., (2 or 3 in a battery)

GROUP VI: Air compressor operator, (under 160 cu. ft.), air compressor op., (over 160 cu. ft.), generator, grount machine operator, heating boiler operator, used for temporary heat), lubrication unit or truck, mechanical heaters, (when 3 are in a battery), mechanic or repairman, pneumatic mixer op., power plant (in excess of 10KW), welding machine operator, (to and including 3 machines)

GROUP VII: Bulldozer (over 50 h.p.), Monorail

GROUP VIII: Bulldozer & tractor, (50 h.p. drawbar or under), jeep trencher, mulchers, power brooms and rakes, seeders

GROUP IX: Fireman

GROUP X: Truck crane driver

GROUP XI: Aggregate bin op., apprentice engineer or oiler, cement bin op., concrete micer op., (under ½ c.y.), mechanical heaters, (when one or two are used), pump operators (one inch), pump op., (two inches), pump operators, (three inches), tractor machines

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	$10.485	.40	.90		.10
GROUP II	9.735	.40	.90		.10
GROUP III	9.58	.40	.90		.10
GROUP IV	9.54	.40	.90		.10
GROUP V	9.455	.40	.90		.10
GROUP VI	9.30	.40	.90		.10
GROUP VII	9.54	.40	.90		.10
GROUP VIII	9.145	.40	.90		.10
GROUP IX	8.985	.40	.90		.10
GROUP X	8.83	.40	.90		.10
GROUP XI	8.685	.40	.90		.10

24 PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$10.97	.50	1.00	a	.15
CLASS II	10.74	.50	1.00	a	.15
CLASS III	10.36	.50	1.00	a	.15
CLASS IV	9.63	.50	1.00	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays, A through F, provided employee works the working day before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS I: Asphalt roller (except rubber tire), Automatic fine grade machine, backhoe (except tractor mounted, rubber tired), belt placer, black top plant (automated) blast or rotary drill, (truck or cat mounted), cableway, caisson auger, central mix plant (automated), cherry picker - over 5 tons capacity, crane, derrick, dragline, dredge, dual drum paver, elevating grader (self-propelled or towed), excavator (all purpose - hydraulically operated), front end loader (4 c.y. and over), gradall, grader, head tower, hoist, 2 or 3 drum, locomotive (irrespective of size or power), maintenance engineer, mine hoist, mucking machine, overhead crane, peins crane or similar type, pile driver, quarry master or equivalent, shovel, skimmer, slip form paver, tractor drawn belt-type loader, truck crane, tunnel shovel

CLASS II: Asphalt roller (rubber tired), asphalt spreader, automatic fine grade machine, backhoe (tractor mounted, rubber tired), back filling machine, bonding machine (pipe), bituminous spreader and mixer, blacktop plant (non-automated), boom truck, boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker 5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, dozer or push cat, drill rigs, tractor mounted, elevator, front end loader (under 4 c.y.) hi-pressure boiler, (15 lbs. and over), hoist, one drum, hydraulic pipe jack machine or similar type machine, jersey spreader, kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance grease man, mixer for stabilized base self-propelled, monorail machine, plant engineer, pump crete, ready mix concrete plant, road widener, rock bit sharpener (all types), roller (all above subgrade, scraper, side boom, slip form paver, snorkel, stump chipping machine, trencher, tube finisher, winch, winch truck with A-frame

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

CLASS III: Asphalt curb and gutter machines, blower for burning brush, chipping machine and chip spreader, compressors: 4 not exceed 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compresser, (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete pavement spreaders and finishers, concrete curb and gutter machine, concrete curing machines, conveyor drill core, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories, fine grade machine, hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point

CLASS IV: Aggregate plant, boiler, (used in conjunction with production), C.M.I. and similar type concrete spreaders, cement bin operator, compressors: 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors: (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power broom, power heaterman, revinius widener, steam cleaner, tractor

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17-TO-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.79	.55	.60	a	
CLASS 2	7.84	.55	.60	a	
CLASS 3	7.89	.55	.60	a	
CLASS 4	8.04	.55	.60	a	
CLASS 5	8.19	.55	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: New York COUNTY: Broome
DECISION NO.: NY76-3240 DATE: Date of Publication
Supersedes Decision No. NY76-3195 dated June 25, 1976 in 41 FR 26488
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

4-N.Y.-1-2-3 W 1 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	10.61	.70	.35		.02
Boilermakers	10.68	.75	10%		.01
Bricklayers:					
Bricklayers, cement masons plasterers and stone mason	9.36	.45	.35		
Carpenters, Building:					
Carpenters and soft floor layers	8.61	.35	.50		
Millwrights and piledrivermen	8.86	.35	.50		
Carpenters & piledrivermen, Heavy & Highway	9.47	.35	.50	g	.025
Cement masons, Heavy and Highway	8.90	.45	.50		
Electricians	9.09	.58	7%+.37		.035
Elevator constructors	9.425	.495	.32	3%+a+b	.02
Elevator constructors' helpers	6.60	.495	.32	3%+a+b	.02
Elevator constructors' helpers (prob.)	4.71				
Glaziers	7.18	.35	.30		.01
Ironworkers, strucutral, ornamental and reinforcing	9.55	.41	.57		.07
Laborers: (Building)					
Laborers & wreckers	7.83	.60	.60		
Sewer pipelayers, tunnel laborers, rockmen & drillers, powdermen, pneumatic tool, electric tool, jackhammers and similar mechanical tools with 3/4" bits and over	8.11	.60	.60		
Hod carriers, mortar mixers hand or machine), asphalt rakers, asphalt levelers, vibrator operator	8.00	.60	.60		
Mason tenders, scaffold builders bootmen working in concrete	7.94	.60	.60		
Lathers	9.03	.325	.25		.05
Lead burners	10.50	.40	.25	c	.01
Line Construction:					
Linemen	11.10	.65	7%+.60	d	1%
Cable splicer	12.21	.65	7%+.60	d	2
Groundman digging machine operator	9.99	.65	7%+.60	d	1%
Groundman mobile equipment operator	8.88	.65	7%+.60	d	1%
Groundman truck driver	8.325	.65	7%+.60	d	1%
Groundman dynamite man & Mechanic	8.88	.65	7%+.60	d	1%

Page 2

DECISION NO. NY76-3240

4-N.Y.-1-2-3 W 2 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Marble setters, terrazzo workers and tile setters	9.36	.45	.35		
Painters:					
Painters	7.70	.35	.30		.03
Rollers over 10", sandblasting, swing scaffold, steam cleaning spray helper	8.20	.35	.30		.03
Structural steel, building, steeple jack and spray	8.70	.35	.30		.03
Plumbers:					
Plumbers	9.58	.60	.90		.21
Steamfitters	9.58	.60	.90		.21
Roofers	8.20	.84	1.00		
Sprinkler fitters	11.61	.60	.90		.08
Truck Drivers: (Building)					
Transit-mix, dump trucks and road oilers	5.10			e+f	
Euclids and fuel trucks	5.24			e+f	
Sheet metal workers	8.87	.46	.60		.07
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Labor Day & Memorial Day

FOOTNOTES:
a. **Holidays:** A through F.

b. Employer contributes 1% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, X-Mas Eve, and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

e. One week vacation after 7 months steady work, and 2 weeks vacation after 3 years steady work, 3 weeks after 10 years of steady work.

f. Holidays: A through F; providing employee works 3 days in the calendar week in which the holiday occurs and the scheduled work day before and after the holiday.

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DECISION NO. NY76-3240

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.75	.90	.50	a	.10
CLASS II	9.50	.90	.50	a	.10
CLASS III	9.25	.90	.50	a	.10
CLASS IV	9.00	.90	.50	a	.10
CLASS V	8.70	.90	.50	a	.10
CLASS VI	7.33	.90	.50	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; (provided an employee works the day before and the day after the holiday).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

Class I - Cranes with boom and jib, 175 feet and over.

Class II - Cranes with boom and jib, 130 feet and over.

Class III - Cranes with boom and jib 100 feet and over.

Class IV - Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle mobile type), cherry picker (hydralic crane) over 5 ton, compressor, pump, generator or welding machines (when used in a battery or not more than four (4), crane derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibra or sonic hammer controls (when not mounted by rig operator), tower crane.

Class V - "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scraper , cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole digger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibro tamp, well drill, well point system.

Class VI - Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine

DECISION NO NY76-3240

2-LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 7.89	.60	.60	a	
CLASS B	8.09	.60	.60	a	
CLASS C	8.29	.60	.60	a	
CLASS D	8.49	.60	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

DECISION NO. NY76-3240

23-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 9.59	.55	.60+a	b	.10
GROUP II	9.27	.55	.60+a	b	.10
GROUP III	8.59	.55	.60+a	b	.10
GROUP IV	7.80	.55	.60+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.40 per hour to an Supplemental Unemployment Benefit Fund.

b. Paid Holidays A through F; providing the employee works the working day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automatic concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), nine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

DECISION NO. NY76-3240

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

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DECISION NO NY76-3240

1-TD-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.69	.65	.60	a	
CLASS 2	7.74	.65	.60	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.60	a	
CLASS 5	8.09	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highwsy equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: NIAGRA
DECISION NO. NY76-3241
DATE: Date of Publication
Supersedes Decision No. NY76-3190 dated June 25, 1976 in 41 FR 26463
DESCRIPTION WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Worker	$10.41	1.02	.55		.04
Boilermakers	10.60	.70	1.00		.02
Bricklayers:					
North Tonawanda:					
Bricklayers & stone masons	11.49	.55	1.25		
Terrazzo workers & tile setters	11.205	.55	1.25		
Marble setters	11.11	.55	1.25		
Remainder of County:					
Bricklayers & stone masons	10.54	.72	.47		
Marble masons, terrazzo works & tile setters	10.29	.72	.47		
Carpenters: Building					
North Tonawanda:					
Carpenters and millwrights	10.43	1.25	1.40		
Soft floor layers	10.13	1.25	1.40		
Remainder of County:					
Carpenters & soft floor layers	9.14	.60	1.05		.02
Millwrights	9.25	.60	1.05		.02
Carpenters, Heavy & Highway					
North Tonawanda:					
Carpenters, piledrivermen	8.78	1.25	1.10		
Remainder of County:					
Carpenters & Piledrivermen	8.12	1.20	1.00	q	.025
Cement masons	10.55	.81	.25		
Electricians:					
Electricians	11.18	.45	1% + .80		½ of 1%
Cable splicers	11.68	.45	1% + .80		½ of 1%
Elevator constructors	11.625	.545	.35	4%+a+b	.02
Elevator constructors' helpers	8.28	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	5.91				
Glaziers	9.74	1.40	.55		.10
Ironworkers:					
Structural, ornamental & reinforcing	10.47	.51	.82		
Lathers	10.715		.20		
Lead burners	10.50	.40	.25	c	.01

NY76-3241 P. 2

32-NY-1-2-3-A 2 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen:					
Linemen	$11.10	.65	1%+.60	d	4%
Groundman digging machine operator	9.99	.65	1%+.60	d	4%
Groundman mobile equipment operator	8.88	.65	1%+.60	d	4%
Groundman truck driver	8.325	.65	1%+.60	d	4%
Mechanics and Groundman dynamite man	8.88	.65	1%+.60	d	4%
Cable splicer	12.21	.65	1%+.60	d	4%
Marble, tile and terrazzo workers helpers	8.91	1.55	.40		
Painters:					
Twps., of Somerset, Hartland, Royalton, New Fane, Lockport, Pendleton and the eastern half of Cambria and Wilson:					
Brush	10.255	.975	.30		.10
Cranes, steel, tanks, towers, stacks, bridges, flag poles, radio TV towers	10.755	.975	.30		.10
Sandblasting, swing stages, scaffold, epoxy, spray, bosun chair	10.505	.975	.30		.10
Bridges 35' high or in depth of 35' from road level	11.92	.975	.30		.10
Remainder of County:					
Brush	8.59	1.12	.35		.01
Spray, steel steeple jack, swing scaffold	9.24	1.12	.35		.01
Bridge-crossing the Niagara River	11.255	1.12	.35		.01
Piledrivermen:					
Piledrivermen, dock carpenters and drivers' tenders	10.43	1.25	1.10		
Drivers	16.87	1.25	1.10		
Plasterers	10.96				

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers and Steamfitters	$11.50	.865	.81		.025
Roofers:					
Composition, damp, waterproofers sprayers, asphalt mastic, wood block floor workers, steen roofers & siders	$ 9.74	.89	1.30		.02
Slate, tile asbestos & pre-cast tile	9.89	.89	1.30		.02
Sheet metal workers, commercial	11.48	1.00	.80		.08
Sprinkler fitters	11.69	.60	.90		.06
Truck Drivers:					
Building, heavy & highway:					
Contractor drivers	10.145	.60	.55	e + f	
Euclid	10.395	.60	.55	e + f	
Dump	8.80	.50	.55		
Ready-mix	9.39	.50	.55		
Welders - Craft Rate					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate after 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, Good Friday, and Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York State; provided employee works the day before and after the holiday.

e. After one year, one weeks vacation; 2 years, 6 days vacation; 3 years, 7 days vacation; up to 2 weeks maximum vacation after completion of the 5th year, full vacations are earned by a driver who works 1040 hours or more in the calendar year, vacation will be prorated for either 1 or 2 weeks of vacation on the basis of using the number of hours worked as the numerator and 1040 as the denominator.

f. Paid Holidays, A through F, Friday after Thanksgiving Day except where the employee is laid off 2 or more weeks prior to the holiday, however employees laid off less than 2 weeks prior to election Day will automatically be eligible for the subsequent Friday after Thanksgiving as a paid holiday even through laid off.

g. Paid Holidays: Labor Day, Memorial Day.

LABORERS: HEAVY, HIGHWAY AND AIRPORT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 7.76	.60	1.75		
GROUP II	8.26	.60	1.75		
GROUP III	7.96	.60	1.75		

LABORERS: HEAVY, HIGHWAY AND AIRPORT CONSTRUCTION:

GROUP I
Laborers

GROUP II
Form setter, wagon drill op., road finishers, blasters, gunnite nozzlemen, sandblasters, burning torch, concrete saw op.

GROUP III
Potman, pipelayers, pavement breakers or busters, jackhammer op., harco rammers, chain saw, powder monkey, black top rakers, scalers, drill helpers, mortar mixers, men working from swinging scaffold bosum chair, suspended cage or bucket, work in caissons below 8 feet, concrete motor buggy, all other operators of mechanical tools, including vibrators regardless of type of power.

LABORERS: ROCK TUNNEL FREE AIR CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 8.11	.60	1.75		
GROUP II	8.01	.60	1.75		
GROUP III	7.96	.60	1.75		
GROUP IV	8.26	.60	1.75		
GROUP V	8.36	.60	1.75		
GROUP VI	7.76	.60	1.75		

LABORERS: ROCK TUNNEL FREE AIR CONSTRUCTION

GROUP I
Driller, shaft driller

GROUP II
Chucker, mucking machine tender, shaft muckers

GROUP III
Nipper, car pusher (tramer), track gang, bull gang, cage man, concrete gang, powder monkey

GROUP IV
Blasters, burning torch on demolition work

GROUP V
Rodman

GROUP VI
Laborer & top man

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Road rollers (over 7 tons) when used on blacktop, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excauating machines, trenchers, backfillers, cableways, draglines, backhoes, piledriving rigs, post drivers (except truck mounted), concrete mixer one yard and over, tunnel mucking machines, all tractors used in connection with scoper wagons, snowloader, all repair work or maintenance work under the supervision of a master mechanics, lubriation engineers, winch tractors, bulldozers, graders, blacktop spreaders, air-hoist commonly known as air tuggers when hoisting materials provided an engineer operates both machines and also provided the compressor and tugger are not separated by more than one hundred feet, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm typed crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously and for any make portable concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, self propelled rollers if on blacktop, scraper, either double or single bowl, CMI grading machine, truck mounted concrete pump, self-propelled riding vibrators, hydraulic concrete joint jammer, Rolman loaders, concrete planers, mechanic, wilder, euclid type belt loaders, mechanical and hydraulic pipe pushing machine, scoop-mobiles, fortlifts and hoist which lift higher than 25 feet.

GROUP II: Elevators, material hoist, road rollers except as prescribed in group I, tractors, pavement busters, jeep trenches, pumps over 4 inches, concrete blowers, air compressors over 165 cubic ft., compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but atleast within a 100 foot radius, and if fuel is stored it will be stored within the same radius, gunite machines, locomotives, scoop-mobiles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over, stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turnatrailers, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, small trenchers which excavate to a depth of not more than 4 feet, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed ½ yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, pin puller, self propelled rollers not on blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP III: Oilers on (shovels, cranes, draglines, backhoes (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrcranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: A truck crane oiler will be provided on rubberized equipment, when there is a separate cab to the house

GROUP V: Steam Boiler Operator

Building, Heavy & Highway Construction Power Equipment Operators	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.06	.40	.40+.40	a	.10
GROUP II	9.46	.40	.40+.40	a	.10
GROUP III	8.66	.40	.40+.40	a	.10
GROUP IV	8.66	.40	.40+.40	a	.10
GROUP V	9.14	.40	.40+.40	a	.10

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; providing employee works the day before and the day after the holiday.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: STEUBEN

DECISION NO.: NY76-3242 DATE: DATE OF PUBLICATION

Supersedeas Decision No. NY76-3194 dated June 25, 1976 in 41 FR 26482

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

51-NY-1-2-3 Z 1 of 4

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$11.07	.83	.40		.03
Boilermakers	9.85	.50	.95	7	.02
Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, tile setters:					
Twps. of Wayne, Bradford, Campbill, Hornby, Erwin, Corning, Caton, Lindley, Tuscaroo, Thurston, Addison and the eastern portion of Bath Twps., Rathbone and Borden	9.65		.50		
Remainder of County	9.00		.95	a	
Carpenters: Building					
Village of Hammondsport, Village of Pulteney Pleasent-Valley to Reheims, Village of Prartsburg, Tryone to Watkins Glen:					
Carpenters	9.11	.50	1.55		.005
Millwrights and piledrivermen	9.21	.50	1.55		.005
Heavy and Highway:					
Carpenters and piledrivermen	8.27	.50	1.55		.025
Building:					
Twps. of Troupsburg, Hartsville, Fremont, Wayland, Jasper, Hornell, City of Hornell, Avoca, Cohocton, Canisteo, Dansville, Howard, Greenwood, W. Union:					
Carpenters, soft floor laycrs	8.87	.50	.95		.05
Millwrights, piledrivermen	9.12	.50	.95		.05
Heavy and Highway:					
Carpenters	8.92	.50	.95	g	.025
Building:					
Remainder of County:					
Carpenters and soft floor layers	8.81	.40	.95		.02
Millwrights and piledrivermen	9.06	.40	.95		.02
Heavy and Highway:					
Carpenters and piledrivermen	9.02	.40	.90	g	.025

51-NY-1-2-3- Z 2 of 4

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Cement Masons, heavy & highway:					
Twps. of Wayne, Bradford, Campbell, Hornby, Erwin, Corning, Caton, Lindley, Tuscarora, Thurston, Addition and eastern portion of Bath Twps., Rathbone and Borden	$9.40		.30		
Remainder of County	8.95	.25	.50		
Electricians	11.60	.50	1% + .50		.05
Glaziers	7.18	.35	.30		.01
Ironworkers, structural, ornamental and reinforcing:					
Twps. of Wayland, Chocton, Atlantic and S. Dansville	10.29	.74	.82		.10
Remainder of County	9.33	.45	.57		.03
Laborers, Building:					
Laborers	6.90	.40	.25		
Mortar mixer (hand or machine for 3 or more men), jackhammer, pavement breakers, pipelayers (over 6"), gin buggy, work on scaffold, chain saw op., and all other gas, electric and air tools	7.10	.40	.25		
Lathers	9.63		.20		.01
Lead burners	10.50	.40	.25	b	.01
Line Construction:					
Linemen	11.10	.65	1% + .60	c	
Cable splicer	12.21	.65	1% + .60	c	
Groundman digging machine op.	9.99	.65	1% + .60	c	
Groundmen mobile equipment op.	8.88	.65	1% + .60	c	
Groundmen truck drivers & machine	8.325	.65	1% + .60	c	
Groundmen dynamite man & Mechenic	8.88	.65	1% + .60	c	

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters:					
Twps. of Cameron, Bath, Thurston, Bradford, Campbell, Erwin, Lindley, Hornby, Corning City, Caton, Addison and Rathbone:					
Painters	$ 5.45	.25	.25		
Swing scaffold, boatswain chair, bridges, structural steel under 35'	5.80	.25	.25		
Structural steel over 35' and spray	6.15	.25	.25		
Remainder of County:					
Painters	8.655	.525	.75		.10
Swing stage, sandblasting, spray, scaffold work, bosun chair	8.905	.525	.75		.10
Steel, tanks, towers, stacks, flag poles and radio-TV-towers	9.515	.525	.75		.10
Bridges 35' high or in depth of 35' from road level	10.32	.525	.75		.10
Plumbers and Steamfitters:					
Twps. of Avoca, Canisto, Cohocton, Dansville, Fremont, West Union Greenwood, Hartsville, Hornellville, Howard, Wheeler, Jasper, Prattsburg, Pulteney, Troupsburg, Wayland, Woodhull, Cameron, Rathbone, and Tuscarora	10.49	2.265	.62	.55+h	.16
Remainder of County	10.00	.60	.80		.10
Roofers	8.89	.44	1.00		
Sheet metal workers	8.87	.46	.80		.07
Sprinkler fitters	11.61	.60	.90		.08
Truck drivers, Building:					
Twps. of Wayland	9.20	.45	.50		
Twps. of Addison, Corning, Bath, Hammondsport, Caton, Lindley, Tuscarora, Woodhull, Erwin, Rathbone, Cameron, Thurston, Campbell, Urbana, Hornley, Bradford and Wayne	5.40	e		f	
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays, A through F providing the employee works the day before and after the holiday.

b. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 30 full days during the 90 calendar day year prior to the holiday and the regular scheduled work days immediately preceding and following the holiday

c. Paid Holidays A through F, Washington's Birthday; Election Day for the President of the U. S. and Governor of New York State (provided the employee works the day before and after the holiday.

d. Employer shall work 4 hours and receive 8 hours pay on Christmas Eve

e. Employer contributes $2.40 per day to a combined Health, Welfare and Pension fund.

f. Paid Holidays A through F.

g. Paid Holidays: Labor Day, Memorial Day.

h. Paid Holidays; c, d, e & f

BUILDING CONSTRUCTION REMAINDER OF COUNTY:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Warehouse, yardmen, truck helper, pickups, panel trucks, flatboy, material trucks (straight jobs), single axel, dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic-helpers, parts chaser	$7.48	.45	.40	a		
Tandems and batch trucks, mechanics, dispatcher	7.53	.45	.40	a		
Semi-trailers, lowboy trucks, asphalt distributor trucks and agitator, mixer trucks, dumpcrete type vehicles, truck mechanic	7.58	.45	.40	a		
Specialized earth moving equipment-euclid type or similar off-highway equipment, where not self loaded, and strattle (ross) carrier	7.73	.45	.40	a		
Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self-loaded	7.92	.45	.40	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employee who have worked 150 days or more in the first contract year receive 2 weeks with pay at classification at which they worked the greatest number of days, second year of employment the employee is required to work 100 days in the contract year to receive 2 weeks vacation.

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS

GROUP I: Cranes:
A. 121 ft. & under
B. Between 121 - 151 ft.
C. Between 151 - 201 ft.
D. Between 201 - 251 ft.
E. Between 251 - 301 ft.
F. Between 301 - 351 ft.
G. Between 351 - 401 ft.
H. Between 401 - 451 ft.

GROUP II: ~~Air tugger, backhoe, clamshell, dragline, shovel and similar machines~~ over three eighths (3/8) cu. yd. capacity (factory rating), big generator plant, bridge crane (all types), cableway, caisson auger & similar type machine, climbing and/or tower crane (all kinds and all types), derrick, dredge, forklift (with factory rating of fifteen (15) ft. or more of lift) hoist (on steel erection), mucking machine, Ross Carrier (and similar types), three drum hoist (when all drums are in use.),

GROUP III: "A" Frame truck, back filling machine, Barber Green and similar type loader, belt crete and similar type machine, bituminous spreading machine, bulldozer, carry-all type scraper, compressors; four (4) not to exceed 2000 c.f.m. combined capacity, three (3) or less with more than 1200 c.f.m., but not to exceed 200 c.f.m., concrete mixer, concrete pump, core drill, crane-hoe-shovel (3/8 yd. capacity or less), (factory rating), dinky locomotive (all types), elevating type grader, elevator, fine grade machine (all kinds), front end loader, forklift (with factory rating of less than (15) fifteen ft. of lift.), high pressure boiler (over 15 pounds pressure), hoist (1 or 2 drums), Motor grader, maintenance engineer post hole digger, sheepsfoot roller, side boom, stone crusher, submersible Electric Pump, when used in lieu of well point system, tandem roller, Tournedozer and similar types, tournapull, tower mobile and similar kinds trenching machine, vibratory type roller and similar equipment of all kinds, welder, well drill, well point system.

GROUP IV: Any combination (not to exceed three (3) pieces of equipment) pumps, welding machines or mechanical conveyors, (over 12 ft. in length), belt crete generator, compressors - 3 or less not to exceed 1200 c.f.m. combined capacity, Fireman, longitudinal float, mechanical heater, roller (fill and grade), rubber tired tractor, oilers

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays A through F; providing employee works the working day immediately preceding the Holiday, or on the scheduled work day immediately following the holiday.

UMI 41 NO 163 FRIDAY AUGUST 20 1976

NEW YORK-25-PEO-1-A 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I					
A	$ 9.57	.40	.70	a	.10
B	9.85	.40	.70	a	.10
C	10.12	.40	.70	a	.10
D	10.40	.40	.70	a	.10
E	10.95	.40	.70	a	.10
F	11.51	.40	.70	a	.10
G	12.05	.40	.70	a	.10
H	12.61	.40	.70	a	.10
GROUP II	9.57	.40	.70	a	.10
GROUP III	9.38	.40	.70	a	.10
GROUP IV	8.245	.40	.70	a	.10

NEW YORK-13-LAB-2-A

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Laborers and driller helpers	$7.89	.50	.45	a	
Concrete aggregate-tin, mortar mixer, hand or machine vibrator (in body), mason tenders, concrete toothen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	8.09	.50	.45	a	
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	8.29	.50	.45	a	
Blasters, form setters, stone or granite curb setters	8.49	.50	.45	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

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POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	1.00	a	.10
GROUP II	9.27	.55	1.00	a	.10
GROUP III	8.59	.55	1.00	a	.10
GROUP IV	7.80	.55	1.00	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic line grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/fireman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 7000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro lamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

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TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.69	.65	.50	a	
CLASS 2	7.74	.65	.50	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.50	a	
CLASS 5	8.09	.65	.50	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: CHEMUNG
DECISION NO: 76NY-3243
DATE: DATE OF PUBLICATION
Supersedeas Decision No. NY76-3209 dated July 2, 1976 in 41 FR 27531
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.61	.70	.35		.02
BOILERMAKERS	10.60	.70	1.00		.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, AND TILE SETTERS	9.30	.35	.50		
CARPENTERS, BUILDING: TWPS. OF SOUTHPORT, BIG FLATS, AND CATLIN:					
CARPENTERS	8.81	.40	.95		.02
MILLWRIGHTS AND PILEDRIVERMEN	9.06	.40	.95		.02
REMAINDER OF COUNTY:					
CARPENTERS & SOFT FLOOR LAYERS	8.95	.35	.50		.04
MILLWRIGHTS AND PILEDRIVERMEN	9.20	.35	.50		.04
CARPENTERS, HEAVY & HIGHWAY TWPS. OF CHEMUNG, POST CREEK, BIG FLATS, SAGETOWN	8.92	.50	.95	a	.025
REMAINDER OF COUNTY	9.47	.35	.50	a	.025
CEMENT MASONS, HEAVY & HIGHWAY	8.05	.35	.50		
ELECTRICIANS	11.60	.50	1a+.50	f	.05
ELEVATOR CONSTRUCTORS	9.425	.495	.32	3%+b+c	.02
ELEVATOR CONSTRUCTOR HELPERS	6.60	.495	.32	3%+b+c	.02
ELEVATOR CONSTRUCTOR HELPERS PROBATIONARY	4.71				
GLAZIERS	7.18	.35	.30		.01
IRONWORKERS: STRUCTURAL, ORNAMENTAL, AND REINFORCING	9.33	.49	.57		.03
LABORERS: LABORERS MORTAR MIXER(HAND OR MACHINE FOR 3 OR MORE MEN), JACKHAMMER PAVEMENT BREAKERS, PIPELAYERS (OVER 6"), GIN BUGGY, WORK ON SCAFFOLD, CHAIN SAW OPERATOR, AND ALL OTHER TYPES OF GAS, ELECTRIC AND AIR TOOLS	6.90	.40	.25		
	7.10	.40	.25		
LATHERS	9.63		.20		.01
LEAD BURNERS	10.50	.40	.25	d	.01

DECISION NO. 76NY-3243

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
LINEMAN	$11.10	.65	1%+.60	e	4%
CABLE SPLICER	12.21	.65	1%+.60	e	4%
GROUNDMAN DIGGING MACHINE OP.	9.99	.65	1%+.60	e	4%
GROUNDMAN MOBILE EQUIPMENT OP.	8.88	.65	1%+.60	e	4%
GROUNDMAN TRUCK DRIVER	8.325	.65	1%+.60	e	4%
GROUNDMAN DYNAMITE MAN	8.88	.65	1%+.60	e	4%
PAINTERS:					
BRUSH	7.36	.35	.30		.05
STRUCTURAL STEEL, SWINGING SCAFFOLD, BOATSWAIN CHAIR, BRIDGES, VINYL WALLPAPER	7.71	.35	.30		.05
SPRAY, SANDBLASTING, HIGH STEEL OVER 35 FEET	7.41	.35	.30		.05
BRUSH-ROLL EPOXY	7.26	.35	.30		.05
SPRAY-EPOXY	7.96	.35	.30		.05
PLUMBERS AND STEAMFITTERS	10.00	.60	.80		.10
ROOFERS	8.89	.44	1.00		
SHEET METAL WORKERS	8.87	.46	.60		.07
SPRINKLER FITTERS	11.61	.60	.90		.08

HOLIDAYS:
A-NEW YEAR'S DAY; B-MEMORIAL DAY; C-INDEPENDENCE DAY; D-LABOR DAY; E- THANKSGIVING DAY; F-CHRISTMAS DAY

FOOTNOTES:
a. PAID HOLIDAYS: MEMORIAL DAY, LABOR DAY.
b. PAID HOLIDAYS: A THROUGH F.
c. EMPLOYER CONTRIBUTES 4% BASIC HOURLY RATE FOR 5 YEARS OR MORE OF SERVICE OR 2% BASIC HOURLY RATE FOR 6 MONTHS TO 5 YEARS OF SERVICE AS VACATION PAY CRED.
d. HOLIDAYS A THROUGH F; WASHINGTON'S BIRTHDAY, GOOD FRIDAY, X-MAS EVE, PROVIDI EMPLOYEE HAS WORKED 30 FULL DAYS DURING THE 90 CALANDER DAYS PRIOR TO THE HOLIDAYS, AND THE REGULAR SCHEDULED WORK DAY IMMEDIATELY PRECEDING AND FOLLOWING THE HOLIDAYS.
e. PAID HOLIDAYS: A THROUGH F; GOOD FRIDAY, WASHINGTON'S BIRTHDAY, ELECTION DAY FOR PRESIDENT OF THE UNITED STATES AND ELECTION OF GOVERNOR OF NEW YORK STATE, PROVIDED THE EMPLOYEE WORKS THE DAY BEFORE AND AFTER THE HOLIDAY.
f. EMPLOYEE SHALL WORK 4 HOURS AND RECEIVE 8 HOURS PAY ON CHRISTMAS EVE.

UMI

DECISION NO. 76NY-3243

PAGE 3

N.Y.-13-1-76-EO-1

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Laborers and driller helpers	$7.89	.50	.45	a	
Concrete aggregate-bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	8.09	.50	.45	a	
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	8.29	.50	.45	a	
Blasters, form setters, stone or granite curb setters	8.49	.50	.45	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

12-PEO-1-B
(1 of 2)

DECISION NO. 76NY-3243

PAGE 4

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I - Cranes (cable and hydraulic, climbing and tower)
I - A 121 ft. and under
I - B 121 ft. and 151 ft.
I - C 151 ft. and 201 ft.
I - D 201 ft. and 251 ft.
I - E 251 ft. and 301 ft.
I - F 301 ft. and 351 ft.
I - G 351 ft. and 401 ft.
I - H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, road carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machines, bituminous spreading machine, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm combined capacity 3 or less with more than 1200 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), tournapull and similar type, dinky locomotives (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler, Exception: single electric pumps up to and including 4 inches not be manned.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned.

GROUP V - Truck crane oilers

12-PEO-1-B
(2 of 2)

DECISION NO. 76NY-3243

PAGE 5

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I:					
I-A	$10.40	.50	.50+.30	a	.10
I-B	10.65	.50	.50+.30	a	.10
I-C	10.90	.50	.50+.30	a	.10
I-D	11.15	.50	.50+.30	a	.10
I-E	11.65	.50	.50+.30	a	.10
I-F	12.15	.50	.50+.30	a	.10
I-G	12.65	.50	.50+.30	a	.10
I-H	13.15	.50	.50+.30	a	.10
GROUP II	10.40	.50	.50+.30	a	.10
GROUP III	10.22	.50	.50+.30	a	.10
GROUP IV	9.13	.50	.50+.30	a	.10
GROUP V	8.58	.50	.50+.30	a	.10

FOOTNOTES:
a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

PAGE 6

DECISION NO. 76NY-3243

23-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	1.00	a	.10
GROUP II	9.27	.55	1.00	a	.10
GROUP III	8.59	.55	1.00	a	.10
GROUP IV	7.80	.55	1.00	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or over crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over) head tower (saucrman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 6"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kalman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

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DECISION NO. 76HY-3243

SMALL EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - Air-tract, compressors (6 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1700 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (6 of any type or combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, etc. pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, heaters (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjuction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, offer parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener shell winder, steam cleaner, tractor.

DECISION NO. 76HY-3243

1-TD-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
CLASS 1	$7.69	.65	.60	a	
CLASS 2	7.74	.65	.60	a	
CLASS 3	7.79	.65	.60	a	
CLASS 4	7.94	.65	.60	a	
CLASS 5	8.09	.65	.60	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumperete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: Washington
DECISION NUMBER: WA76-5079
Supersedes Decision No. WA76-5056 dated June 25, 1976, in 41 FR 26545
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments, up to and including 4 stories), heavy and highway construction and dredging.

COUNTIES: Statewide
DATE: Date of Publication

ASBESTOS WORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties	$11.76	.51	$1.10		.04
Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Counties	11.91	.56	.95		.12
Remaining Counties	11.75	.51	.95		
BOILERMAKERS	9.80	.65	1.00	.50	.02
BRICKLAYERS:					
Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties and Grand Coulee Dam area in Okanogan County	10.36	.55	.70		.04
Benton, Franklin and Walla Walla Counties	9.92	.55	.50		
Chelan, Douglas and Okanogan (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (South of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	10.52	.55	.65		.02
Clark, Cowlitz, Pacific (southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County	10.13	.55	.75		.08
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties	9.75	.50	.50		

Page 2

DECISION NO WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
BRICKLAYERS: (Cont'd)					
Grays Harbor, Lewis, Mason, Thurston and Northern portion of Pacific County	$9.20	.55	.30		
Pierce County	10.33	.55	.75		.02
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and North thereof), and Whatcom Counties	9.85	.55	.45		
CARPENTERS:					
All Counties and parts of Counties east of the 120th Meridian (except those parts of Kittitas, Klickitat and Yakima)					
Carpenters	9.74	.60	.55		.055
Piledriver; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator	9.89	.60	.55		.055
Shingler (wood or composition)	9.94	.60	.55		.055
Boom Men; Carpenters (Cresotoed material)	9.99	.60	.55		.055
Piledriver (creosoted material)	10.14	.60	.55		.055
Millwright and Machine Erector	10.24	.60	.55		.055
All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Counties					
Carpenters & drywall applicators	9.75	.50	.70		.02
Carpenters on Creosoted material	9.85	.50	.70		.02
Sawfilers; Stationary power saw; Floor Finisher; Floor Layer; Shingles; Floor Sander and other stationary power woodworking tools	9.88	.50	.70		.02
Millwrights and Machine Erectors	10.25	.50	.70		.02
Piledrivers; Bridge, dock and wharf builders	9.90	.50	.70		.02
Acoustical Workers	9.91	.50	.70		.02
Boommen	9.95	.50	.70		.02

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Counties					
Carpenters; Form Strippers; Manhole Builders; Acoustical Applicators, Drywall Applicators	$10.09	.55	.85	.35	.03
Piledrivermen, bridge, dock and wharf builders	10.19	.55	.85	.35	.03
Floor Layers; Floor Finishers; Stationary Power Saw Operator	10.24	.55	.85	.35	.03
Boomman	10.29	.55	.85	.35	.03
Millwrights; Machine Erectors	10.34	.55	.85	.35	.03
CEMENT MASONS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas (except for western portion lying one mile west of City of Easton), Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	9.64	.50	.75		.04
Clallam, Grays Harbor, Island, Jefferson, King, (except City of Auburn), Kitsap, Kittitas, (western portion lying one mile west of the City of Easton), Mason, Pacific (Northern portion), San Juan, Skagit, Snohomish and Whatcom Counties	9.97	.55	.90		.01
Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Counties					
Cement Masons	9.87	.65	.60	.60	.10
Composition materials and power machinery	10.02	.65	.60	.60	.10
Lewis, Pierce, Thurston and the City of Auburn in King County	9.80	.55	1.00		.02

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties					
Electricians	$11.60	.43	1%+.40		.02
Cable Splicers	12.00	.43	1%+.40		.02
Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla and Yakima Counties					
Electricians	11.47	.43	1%+.40		.02
Cable Splicers	12.62	.43	1%+.40		.02
Chelan, Douglas, Grant and Okanogan Counties					
Electricians	11.52	.43	1%+.40		.02
Cable Splicers	12.67	.43	1%+.40		.02
Clallam, Jefferson, King and Kitsap Counties					
Electricians	12.05	.35	1%+.40		.03
Cable Splicers	13.26	.35	1%+.40		.03
Clark, Klickitat and Skamania Counties					
Electricians	11.35	.65	1%+.70		.05
Cable Splicers	12.10	.65	1%+.70		.05
Cowlitz and Wahkiakum Counties					
Electricians	10.41	.65	1%	5%	.02
Cable Splicers	11.45	.65	1%	5%	.02
Grays Harbor, Lewis, Mason, Pierce, Pacific and Thurston Counties					
Electricians	10.91	.45	1%+.55	.87	.04
Cable Splicers	12.00	.45	1%+.55	.87	.04
Island, San Juan, Skagit, Snohomish and Whatcom Counties					
Electricians	10.90	.45	1%+.40		.01
Cable Splicers	11.99	.45	1%+.40		.01
ELEVATOR CONSTRUCTORS:					
Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties					
Elevator Constructors	10.51	.495	.32	3%+a	.02

DECISION NO WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ELEVATOR CONSTRUCTORS: (Cont'd)					
Elevator Constructors' Helpers	70%JR	.495	.32	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific, (northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties					
Elevator Constructors	$11.215	.495	.32	3%+a	.02
Elevator Constructors' Helpers	70%JR	.495	.32	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Clark, Cowlitz, Klickitat, Pacific, (southern portion), Skamania and Wahkiakum Counties					
Elevator Constructors	11.13	.495	.32	3%+a	.02
Elevator Constructors' Helpers	70%JR	.495	.32	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS::					
Adams, (northeastern portion), Lincoln (eastern half); Pend Oreille, Spokane and Stevens Counties	8.79	.35	.10	.40+b	
Adams (southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties	8.15	.40	.45	.53	
Adams (Southwestern corner), Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Counties	7.22	.40	.70	.52	
Asotin, Grafield and Whitman Counties	7.28	.31	.25	.28+b	
Clallam, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, (northern portion), Pierce, San Juan, Snohomish and Thurston Counties	9.59	.30	.65	b	

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS: (Cont'd)					
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	$7.20	.26	.30	6.5%	.01
IRONWORKERS:					
Statewide except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	11.00	.73	1.00	.25	.05
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Reinforcing; Structural; Fence Erectors; Ornamental; Riggers; Signalmen	11.00	.73	1.00	.25	.05
LATHERS:					
Adams, Asotin, Benton, Chelan, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties	10.35	.50			
Clallam, Island, Jefferson, King, Kitsap, Lewis, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish and Whatcom Counties	10.34	.55	.50		
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania, and Wahkiakum Counties	9.30	.50	.80		.01
MARBLE SETTERS:					
Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties, and Grand Coulee Dam Area in Okanogan County	10.36	.55	.70		

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DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS: (Cont'd)					
Benton, Franklin and Walla Walla Counties	$9.92	.55	.50		
Chelan, Douglas, and Okanogan Counties (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (South of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	10.52	.55	.65		.02
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and a ten mile strip hordering the Columbia River in Klickitat County	10.13	.55	.75		.08
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Grays Harbor, Lewis, Mason, Thurston and Northern half of Pacific Counties	9.20	.55	.30		
Pierce County	10.31	.55	.65		.02
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	9.85	.55	.45		
MARBLE, TILE & TERRAZZO WORKERS HELPERS:					
All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	8.77	.55			
MASON TENDERS:					
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties (including tenders to plasterers, bricklayers, tile setters, marble setters and terrazzo workers; topping for cement finishers and mortar mixers)	8.12	.65	.95		.10

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties					
Brush	$9.42	.40	.70		.02
Steel; Spray; Steam Cleaning; Roller over 9" or 10' handle; Drywall Taper	9.67	.40	.70		.02
Swing Stage work or high rate (over 30')	9.77	.40	.70		.02
Bitumastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples	9.82	.40	.70		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Brush	8.59	.35	.45	.30	.03
Spray; High Towers, ground to 100'	8.84	.35	.45	.30	.03
High work over 100'; High Towers, ground to 300'	9.09	.35	.45	.30	.03
High Towers, ground to over 300'	9.59	.35	.45	.30	.03
Drywall Finishers	10.24	.55	.40	.50	.06
Grays Harbor, Island, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (Northern portion) and Whatcom Counties					
Brush; Drywall Tapers	9.98	.44	.76		.02
Spray; Structural Steel; Bridge; Sandblasting; Stacks; Steam Cleaning; Steeples; Swing Stage; Tanks on legs; Tower; Toxic Material	10.23	.44	.76		.02
Clallam and Jefferson Counties					
Brush	7.50				
Spray, steel, sandblasting, and bitumastic	7.75				

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Kittitas (including the City of Ellensburg and south thereof); Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	$9.68	.50			
Chelan, Douglas, Kittitas (north of the City of Ellensburg), and Okanogan Counties	9.98	.50	.65		
Clallam, Island, Jefferson, King (except the City of Kent), Kitsap, Pacific (Northern portion), San Juan, Skagit and Snohomish Counties	9.90	.55	1.00		.04
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	10.50	.55	.80		.01
Grays Harbor, King (City of Kent), Lewis, Mason, Pierce and Thurston Counties	9.50	.50	.70		.04
PLASTERERS' TENDERS:					
All Counties and portions of Counties East of the 120th Meridian	8.00	.50	.70		.02
PLUMBERS:					
Chelan, Clallam, King, Kittitas (North of 47°15' N. Lat.), Douglas (west of the 119°30' W. Long.), Jefferson and Okanogan (except the area lying between 119°30' N. Lat.) Counties	11.26	.65	1.12	1.00	.07

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: (Cont'd)					
Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas (east of 119° 30' W. Long.), Ferry (west of a line drawn from Creston in Lincoln County northward to the Canadian Border), Kittitas (south of 47°15' N. Lat.), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan (east of 119°30" N. Lat.) Counties	$10.66	.65	1.10	1.00	.10
Adams (Area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman and Clark and Skamania (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line) Counties	11.60	.65	1.10	1.00	.11
Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line	12.00	1.12	1.55		.13

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DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens and Whitman Counties	$8.29	.55	.40		.01
Benton, Franklin, Kittitas, Klickitat and Yakima Counties					
Roofers; Kettlemen; Waterproofers; Shinglers; Spraying	9.65	.47	.30		
Clallam, Cowlitz, Grays Harbor, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Snohomish, Thurston and Wahkiakum Counties					
Roofers; Waterproofers	9.45	.60	.40		
Slate and Tile Roofers	9.70	.60	.40		
Island, San Juan, Skagit and Whatcom Counties					
Roofers and Waterproofers	7.95	.45	.30		
Slate and Tile Roofers	8.45	.45	.30		
Clark and Skamania Counties					
Roofers	9.85	.45	.75		
Handling of irritating material (coal, tar or epoxy) in unconfined area	10.35	.45	.75		
Handling of irritating material (coal, tar or epoxy) in confined area	10.60	.45	.75		
Roofers Helpers:					
Under 800 hours experience	70%JR				
800 - 1600 hours experience	75%JR				
Over 1600 hours experience	80%JR				
SHEET METAL WORKERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	12.10	3%+.57	.80		.05
Clallam, Jefferson, Kitsap and Mason Counties	9.28	3%+.37	.50	.60	.03
Clark and Skamania Counties	8.71	3%+.55	.51	1.00	.04
Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties	12.27	3%+.56	.86		.02

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
King County	$11.11	3%+.52	.84		.05
Island and Snohomish Counties	11.40	3%+.47	.60		.05
Whatcom, Skagit and San Juan Cos.	10.17	3%+.47	.60		.04
SOFT FLOOR LAYERS:					
Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman Counties	7.89	.25	.40	.31	
Benton, Franklin and Walla Walla Counties	7.29	.40	.40	1.21	
Clallam, Island, Jefferson, Lewis, San Juan, Skagit, Whatcom, King, Kitsap and Snohomish Counties	9.86	.46	.75		.05
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	8.935	.45	.85	c	.07
Grays Harbor, Mason, Pacific (Northern portion), Pierce and Thurston Counties	9.62	.46	.75		.05
Yakima and Kittitas Counties	7.43	.25	.25	.23	
SPRINKLER FITTERS:					
Skagit, Snohomish, King, Island, Kitsap, Pierce and Thurston Cos.	13.56	.60	.90		.09
Remaining Counties	11.40	.60	.90		.08
TERRAZZO WORKERS:					
Adams (except that portion incl. the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan Co.	10.20	.55	.40		
Benton, Franklin and Walla Walla Counties	9.25	.55	.50		
Chelan, Douglas, Okanogan (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Skagit, (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	10.27	.55	.65		
Grant County and that portion of Adams County indluding the City of Othello	10.50	.40			

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS: (Cont'd)					
Grays Harbor, Lewis, Mason and Thurston Counties	$9.20	.55	.30		
Pierce County	10.31	.55	.65		.02
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	9.85	.55	.45		
TILE SETTERS:					
Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County	10.20	.55	.40		
Benton, Franklin, and Walla Walla Counties	9.25	.55	.50		
Chelan, Douglas, Okanogan (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	10.27	.55	.65		.04
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum and a ten-mile strip bordering the Columbia River in Klickitat County	9.69	.50	.55		.10
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Grays Harbor, Lewis, Mason and Thurston Counties	9.20	.55	.30		
Pierce County	10.31	.55	.65		.02
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	9.85	.55	.45		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WA76-5079

* Where Pacific County is stated as "Northern portion" or "Southern portion" such areas are defined as follows:

Pacific (Northern portion) - North of Wahkiakum County Northern boundary extended due West to the Pacific Ocean

Pacific (Southern portion) - South of Wahkiakum County Northern boundary extended due West to the Pacific Ocean

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.
b. Two weeks' vacation with pay after 1 year of employment. Also seven Paid Holidays: A through F plus Washington's Birthday.
c. 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprenticeship
Cable Splicers; Leadman Pole Sprayer	$ 11.12	.35	1%	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	10.04	.35	1%	.10	1/2%
Tree Trimmer	9.06	.35	1%	.10	1/2%
Line Equipment Man	8.65	.35	1%	.10	1/2%
Head Groundman (chipper); Head Groundman; Powderman; Jackhammer man	7.56	.35	1%	.10	1/2%
Groundman; Tree Trimmer Helper	7.12	.35	1%	.10	1/2%

DECISION NO. WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
LABORERS (Area 1) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$8.10	.65	.70		.02
Group 2	8.25	.65	.70		.02
Group 3	8.35	.65	.70		.02
Group 4	8.40	.65	.70		.02
Group 5	8.45	.65	.70		.02
Group 6	8.50	.65	.70		.02
Group 7	8.55	.65	.70		.02
Group 8	8.75	.65	.70		.02
Group 9:					
Class A	8.15	.65	.70		.02
Class B	8.20	.65	.70		.02
Class C	8.60	.65	.70		.02
Class D	8.65	.65	.70		.02
LABORERS (Area 2) (All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County)					
Group 1	8.36	.85	.95		.06
Group 2	8.46	.85	.95		.06
Group 3	8.51	.85	.95		.06
Group 4	8.56	.85	.95		.06
Group 5	8.61	.85	.95		.06
Group 6	8.66	.85	.95		.06
Group 7	8.71	.85	.95		.06
Group 8	8.41	.85	.95		.06
Group 9	8.46	.85	.95		.06
Group 10	8.56	.85	.95		.06
Group 11	8.66	.85	.95		.06
Group 12	8.71	.85	.95		.06
Group 13	8.81	.85	.95		.06

LABORERS (Area 3)
(Clark, Cowlitz, Klickitat, Skamania, Wahklakum and the Southern portion of Pacific Cos.)

	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F
Group 1	$7.87	$8.27	$8.62	$8.87	$9.12	$9.37
Group 2	8.22	8.62	8.97	9.22	9.47	9.72
Group 3	8.52	8.92	9.27	9.52	9.77	10.02
Group 4	8.77	9.17	9.52	9.77	10.02	10.27

FRINGE BENEFITS:

Health and Welfare	$.85	Vacation	$.65
Pension	.95	Apprenticeship Training	.10

DECISION NO WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LABORERS (Area 4) (Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima Counties West of the 120th Meridian)					
Group 1	$8.11	.85	.95		.06
Group 2	8.21	.85	.95		.06
Group 3	8.26	.85	.95		.06
Group 4	8.31	.85	.95		.06
Group 5	8.36	.85	.95		.06
Group 6	8.41	.85	.95		.06
Group 7	8.46	.85	.95		.06
Group 8:					
Class A	8.16	.85	.95		.06
Class B	8.21	.85	.95		.06
Class C	8.31	.85	.95		.06
Class D	8.41	.85	.95		.06
Class E	8.46	.85	.95		.06
Class F	8.56	.85	.95		.06

POWER EQUIPMENT OPERATORS (AREA 1) (All Counties and portions of Counties East of the 120th Meridian)	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 3	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$8.70	$9.20	$9.65	.80	.90		.03
Group 2	9.00	9.50	9.95	.80	.90		.03
Group 3	9.55	10.05	10.50	.80	.90		.03
Group 4	9.70	10.20	10.65	.80	.90		.03
Group 5	9.85	10.35	10.80	.80	.90		.03
Group 6	10.10	10.60	11.05	.80	.90		.03
Group 7	10.35	10.85	11.30	.80	.90		.03

*ZONE 1: Within a 15 mile radius from the Center of the following Cities: Moses Lake, Pasco, Spokane and Walla Walla in Washington - and Coeur d' Alene and Lewiston in Idaho.

*ZONE 2: From a 15 to 45 mile radius from the center of the above named Cities, except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only

*ZONE 3: Over a 45 mile radius from the center of the above named Cities except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only.

DECISION NO WA76-5079

POWER EQUIPMENT OPERATORS (Area 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
Group 1	$10.12	.75	.90		.11
Group 2	10.22	.75	.90		.11
Group 3	10.33	.75	.90		.11
Group 4	10.38	.75	.90		.11
Group 5	10.40	.75	.90		.11
Group 6	10.45	.75	.90		.11
Group 7	10.46	.75	.90		.11
Group 8	10.50	.75	.90		.11
Group 9	10.52	.75	.90		.11
Group 10	10.65	.75	.90		.11
Group 11	10.68	.75	.90		.11
Group 12	10.71	.75	.90		.11
Group 13	10.76	.75	.90		.11
Group 14	10.78	.75	.90		.11
Group 15	10.80	.75	.90		.11
Group 16	10.83	.75	.90		.11
Group 17	10.86	.75	.90		.11
Group 18	10.90	.75	.90		.11
Group 19	10.97	.75	.90		.11
Group 20	10.98	.75	.90		.11
Group 21	11.03	.75	.90		.11
Group 22	11.08	.75	.90		.11
Group 23	11.30	.75	.90		.11
Group 24	11.34	.75	.90		.11
Group 25	11.39	.75	.90		.11
Group 26	11.47	.75	.90		.11
Group 27	11.69	.75	.90		.11
Group 28	11.89	.75	.90		.11
Group 29	12.00	.75	.90		.11
Group 30	12.02	.75	.90		.11
Group 31	12.30	.75	.90		.11

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahklakum, and Southern portion of Pacific, Counties

WAGE RATES:

Group No.	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F
1	$9.05	$9.45	$9.80	$10.05	$10.30	$10.55
2	9.19	9.59	9.94	10.19	10.44	10.69
3	9.29	9.69	10.04	10.29	10.54	10.79
4	9.45	9.85	10.20	10.45	10.70	10.95
5	9.47	9.87	10.22	10.47	10.72	10.97
6	9.55	9.95	10.30	10.55	10.80	11.05
7	9.61	10.01	10.36	10.61	10.86	11.11
8	9.71	10.11	10.46	10.71	10.96	11.21
9	9.77	10.17	10.52	10.77	11.02	11.27
10	9.83	10.23	10.57	10.83	11.08	11.33
11	9.85	10.25	10.60	10.85	11.10	11.35
12	9.91	10.31	10.66	10.91	11.16	11.41
13	9.99	10.39	10.74	10.99	11.24	11.49
14	10.15	10.55	10.90	11.15	11.40	11.65
15	10.31	10.71	11.06	11.31	11.56	11.81
16	10.49	10.89	11.24	11.49	11.74	11.99
17	10.63	11.03	11.38	11.63	11.88	12.13
18	10.81	11.21	11.56	11.81	12.06	12.31
19	10.95	11.35	11.70	11.95	12.20	12.45

FRINGE BENEFITS:

Health and Welfare	$1.00
Pension	1.00
Vacation	.50
Apprenticeship Tr.	.05

DECISION NO WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (AREA 1) (DREDGING) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$10.04	.75	.90		.11
Group 2	10.14	.75	.90		.11
Group 3	10.48	.75	.90		.11
Group 4	10.53	.75	.90		.11
Group 5	10.58	.75	.90		.11
Group 6	10.90	.75	.90		.11
Group 7:					
(a)	11.29	.75	.90		.11
(b)	11.84	.75	.90		.11
DREDGING (AREA 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County)					
Group 1	10.04	.60	.90		.11
Group 2	10.14	.60	.90		.11
Group 3	10.48	.60	.90		.11
Group 4	10.53	.60	.90		.11
Group 5	10.58	.60	.90		.11
Group 6	10.90	.60	.90		.11
Group 7:					
(a)	11.29	.60	.90		.11
(b)	11.84	.60	.90		.11
DREDGING (AREA 3) (Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties)					
Group 1	9.40	.75	1.00	.50	.05
Group 1A	10.06	.75	1.00	.50	.05
Group 2	9.04	.75	1.00	.50	.05
Group 3	8.80	.75	1.00	.50	.05
Group 4	8.54	.75	1.00	.50	.05

DECISION NO WA76-5079

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS (Area 1) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$8.88	.97	.70		
Group 2	8.93	.97	.70		
Group 3	8.98	.97	.70		
Group 4	9.08	.97	.70		
Group 5	9.28	.97	.70		
Group 6	9.33	.97	.70		
Group 7	9.38	.97	.70		
Group 8	9.43	.97	.70		
Group 9	9.53	.97	.70		
Group 10	9.58	.97	.70		
Group 11	9.88	.97	.70		
Group 12	10.03	.97	.70		
Group 13	10.18	.97	.70		
Group 14	10.33	.97	.70		
TRUCK DRIVERS (Area 2) (All Counties and portions of Cos. West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and all of Kittitas and Yakima Counties)					
Group 1	10.34	.80	.65		.09
Group 2	10.39	.80	.65		.09
Group 3	10.44	.80	.65		.09
Group 4	10.55	.80	.65		.09
Group 5	10.61	.80	.65		.09
Group 6	10.65	.80	.65		.09
Group 7	10.66	.80	.65		.09
Group 8	10.72	.80	.65		.09
Group 9	10.77	.80	.65		.09
Group 10	10.79	.80	.65		.09
Group 11	10.82	.80	.65		.09
Group 12	10.92	.80	.65		.09
Group 13	10.94	.80	.65		.09
Group 14	10.98	.80	.65		.09
Group 15	11.10	.80	.65		.09
Group 16	11.14	.80	.65		.09
Group 17	11.26	.80	.65		.09
Group 18	11.31	.80	.65		.09
Group 19	11.47	.80	.65		.09
Group 20	11.63	.80	.65		.09
Group 21	11.79	.80	.65		.09

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DECISION NO. WA76-5079

TRUCK DRIVERS (Area 3)
(Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific Counties)

	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
Group 1	$9.23	$9.63	$9.98	$10.23	$10.48	$10.73
Group 2	9.28	9.68	10.03	10.28	10.53	10.78
Group 3	9.33	9.73	10.08	10.33	10.58	10.83
Group 4	9.38	9.78	10.13	10.38	10.63	10.88
Group 5	9.43	9.83	10.18	10.43	10.68	10.93
Group 6	9.53	9.93	10.28	10.53	10.78	11.03
Group 7	9.63	10.03	10.38	10.63	10.88	11.13
Group 8	9.73	10.13	10.48	10.73	10.98	11.23
Group 9	9.83	10.23	10.58	10.83	11.08	11.33
Group 10	10.00	10.40	10.75	11.00	11.25	11.50
Group 11	10.10	10.50	10.85	11.10	11.35	11.60
Group 12	10.20	10.60	10.95	11.20	11.45	11.70
Group 13	10.30	10.70	11.05	11.30	11.55	11.80
Group 14	10.40	10.80	11.15	11.40	11.65	11.90

FRINGE BENEFITS:
Health and Welfare $.68
Pension .65
Vacation $.55
Apprenticeship Training .05

ZONE WAGE SCALE (Area 3)

LABORERS: Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS: Astoria, Goldendale, Hood River, Longview, the Dalles and Vancouver

TRUCK DRIVERS: Astoria, Goldendale, Longview, the Dalles and Vancouver

Zone A - All jobs or projects located within 10 miles of the respective City Hall
Zone B - More than 10 miles but less than 25 miles from the City Hall
Zone C - More than 25 miles but less than 35 miles from the respective City Hall
Zone D - More than 35 miles but less than 45 miles from the City Hall
Zone E - More than 45 miles but less than 75 miles from the respective City Hall
Zone F - More than 75 miles from the respective City Hall

DECISION NO. WA76-5079

LABORERS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, pumpcrete machine, handling the nozzle of squeezecrete or similar machine - 6" and smaller); Concrete Signalman; Crusher Feeder; Demolition (to include clean-up, burning, loading, wrecking and salvage of all material); Driller Helper; Dumpman; Fence Erector (to include guard rails, guide and reference posts, sign posts, posts and right-of-way markers); General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaleman; Stake Jumper; Structural Mover (to include spearating foundation preparation, cribbing, shoring, jacking and unloading of structure); Tailhoseman (water nozzle); Track Laborer (RR); Truck Loader; Timber, Bucker and Faller (by hand); Window Cleaner (prior to completion of construction)

Group 2: Cement Finisher Tender; Cement Handler; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine - Feeder, Stacker; Form setter, paving; Driller Helper (when required to move position machine); Nozzleman, water and air or steam; Pipe Layer, corrugated metal culvert; Pipewrapper; Pot Tender; Powderman Helper; Power Tool Operator, gas, electric, pneumatic; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power spiker or puller; Rodder and Spreader; Wheelbarrow, power driven; Well-point Man; Vibrator up to 4"

Group 3: Asphalt Raker; Asphalt Roller, walking; Chain Saw Operator with attachments; Concrete Saw Walking; Grade Checker, using level; Jackhammer Operator; Multi-section Pipe Layer; Nozzleman (to include squeeze and flocrete nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Barco, Essex and similar tamper and pavement breakers); Trencher, Shawnee; Water Pipe Liner; Wagon Drills

Group 4: Chain Saw (faller); Laser Beam Operator; Pipe Layer (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer and Lagger but not including laying corrugated metal culvert pipe)

Group 5: Concrete Stack; Mortar Mixer

Group 6: Caisson Worker, free air; High Scaler

UMI 197 ON GCA 3811-4V

DECISION NO. WA76-5079

LABORERS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 7: Brush Machine (to include horizontal construction joint clean-up brush machine, power propelled); Drills (to include down-the-hole drills with 3 inch piston or larger and out-of-the-hole drills with 4 inch piston or larger); Gunnite (to include operation of machine and nozzle); Hod Carrier; Monitor Operator, air track or similar mounting; Nozzleman (to include jet blasting nozzleman over 1200 pounds, jet blast machine power propelled, sand blast nozzle); Vibrator, 4 inches and over

Group 8: Air Track Drills with Dual Masts and Drills; Powderman

Group 9: Tunnel and Shaft, Free Air
Class A: Bull Gang, Pump Crete Crewman including distributing pipe, Assembling and dismantle and nipper
Class B: Brakeman, Dumpman
Class C: Miner and Nozzleman for concrete and laser beam operator on tunnels
Class D: Raise and Shaft Miner and Laser Beam Operator on raises and shafts

LABORERS (Area 2)
All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4)

Group 1: General Laborer; Nipper; Truck Spotter; Pitman; Brush Cutter; Choke Setter; Concrete and Monolithic Laborer; Pot Tender; Asphalt Laborer; Ditch Digger; Drierman; Concrete Form Stripper; Carpenter Helper; Track Laborer; Wellpoint; Header Laborer and Guardrail Erector

Group 2: Dumpman; Faller and Bucker; Hand; Powderman's Helper; Sloper (over 20'); Wagon Driller and Air Trac Helper

Group 3: Groutman (pressure) including post tension beam; Power Tools (light duty) Chippers, Grinders, Tampers, and similar electric and air operated tools; Swinging Scaffold or Boatswain Chair over water or over 25' in height; Topman

Group 4: Concrete Saw Operator; Pipe Pot Tender; Power Wheel Barrow or Buggy; Power Tools (heavy duty); Jackhammer, Pavement Breaker, Vibrator Tampers (multiple and self-propelled); Railroad spike puller; Rakers-asphalt

DECISION NO. WA76-5079

LABORERS (Area 2) (Cont'd)

All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4)

Group 5: Form Setter (steel forms); Grademan and Stake Hopper; Rodder; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sand blast, gunnite, shot-crete); Spreader (carrier grade with Rodder)

Group 6: Faller and Bucker;Chain Saw; High Scaler; Mortarman and Hod Carrier; Pipe Layer and Caulker; Pipe Wrapper; Timberman - Sewer; Wagon Driller and Air Track; Manhole Builder; Laser Beam Operator

Group 7: Cement Dumper - paving; Powderman

TUNNEL WORK

Group 8: Topman and Bull Gang

Group 9: Chuck Tender; Mucker and Laborer; Nipper; Brakeman

Group 10: Powderman's Helper

Group 11: Miner (including monolithis work); Spader; Re-timberman; Maintenance Man; Laser Beam Operator

Group 12: Miner, Shaft and Raise

Group 13: Powderman

LABORERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shak Man; Choke Setter; Clean Up Laborers; Concrete Laborers; Culvert, Hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Helpers; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Helper; Pittsburgh Chipper Operator or similar types Railroad Track Laborers; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipmen; Slopers Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weight Man - Crusher (aggregate when used)

DECISION NO. WA76-5079

LABORERS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 2: Applicator (including pot tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman-Greencutter (concrete, Rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and Wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air gas or electic; Vibrating Screed; Tampers, Ribbon Setter, head, Rip Rap Man (head), hand placed, Sand Blasting (wet), Stake Setter, Tunnel-Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar typed; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying) - Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumperete Nozzleman; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (Tunnel) - Tunnel Miners; Tunnel Powderman

LABORERS (Area 4)
Thos portions of Chelan, Douglas, Kittitas, Okanogan and Yakima Counties West of the 120th Meridian

Group 1: General Laborer; Carpenter Tender; Form Stripper; Track Laborer; Choker Setter; Fence Laborer

Group 2: Air Track and Wagon Drill Helper; Crusher Feeder; Dumpman; Powderman Helper; Sloper, over 20 feet, failer and bucker. hand

Group 3: Drill Chipper; Grinder, Tampers and similar light power tools; Grout Man (power); Top Man, Swinging Scaffold or Boatswain Chain over water or over 25' in height

Group 4: Asphalt Raker and Spreader; Cement Handler, Cask or bulk; Dope Pot Tender; House Wreckers; Jackhammer; Pavement Breaker; Vibrator; Track Spike Puller; Concrete Saw and similar Heavy Power Tools; Power Buggy Tampers (multiple and self-propelled)

DECISION NO. WA76-5079

LABORERS (Area 4) (Cont'd)
Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima Counties West of the 120th Meridian

Group 5: Form Setter, Steel Forms; Grademan, Stake Hopper; Spreader, Rodder, Nozzleman: Concrete Pumps, Gunnite, Sand Blast, Shot-crete, Green Cutter when using combination of high pressure air and water on concrete and rock

Group 6: Air Track and Wagon Drill Operator; High Scaler; Pipe Layer and Caulker; Pipe Wrapper; Timber Man; Mortar Man and Hod Carrier; Faller and Bucker; Chain Saw

Group 7: Cement Dumpers - Paving

Group 8: Tunnel Work:
Class A: Topman and Bull Gang
Class B: Chuck Tender; Mucker and Laborer; Nipper; Brakemen
Class C: Powderman Helper
Class D: Miner (including Monolithic Worker); Re-Timberman; Maintenance Man; Spader, Laser Beam Operator
Class E: Miner; Shaft and Raise
Class F: Powderman

POWER EQUIPMENT OPERATORS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Batch Plant and Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple Cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift of Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drums; Loader (bucker elevator and conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (hydra-hammer and similar); Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator, (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Jack Operator (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R.T with attachments except backhoe); Tugger Operator; Ditch Witch or similar

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump cutter (Wayne, Saginaw or similar); Canal Linning Machine (concrete); Chipper (without crane); Cleaning and Duping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pump-crete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dumor, Adams, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loader (overhead and front-end under 4 yards, R/T); Locomotive Engineer; Mixermobile; Mucking Machines; Paver or Curb Extruder (asphalt and concrete); Pump (grout or jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yards); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (crawler, including dozer, scraper, drills, booms, rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 feet depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

Group 4: Asphalt Plant Operator; Crusher, Grizzle and Screening Plant Operator; H.D. Mechine; H.D. Welder; Refrigeration Plant Engineer (under 1,000 ton); Rubber-tired Scraper, Multi-engine Power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

Group 5: Automatic Subgrader (ditches and trimmers) (Autograde, ABC, R. A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yards); Concrete Slip Form Paver; Cranes all (under 3 yards); Drilling Equipment (8" bit and over) (Robbins' reverse circulation and similar); Loader Operator (front end and overhead 4 yards to 8 yards); Piledriving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar), Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with tow scrapers; Shovels (under 3 yards); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 feet depth and over); Multiple Dozer units with single blade

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, all - 65 tons and over; Derricks and Stiffegs (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader (360 degrees revolving Kuehring Scooper or similar); Loaders (overhead and front-end over 8 to 12 yards); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Area 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 1: Mechanics' Helpers (heavy duty)

Group 2: Oilers, Grade Checkers and Stakemen and/or Brakemen

Group 3: Firemen; Firemen (dry and hot plant)

Group 4: Rollers, Tampers and Vibrators (other than plant, road mix or multi-lift materials); Tractor (farmall type, 60 h.p. and under); Compressor (excavating and general purposes)

Group 5: Oiler Driver on Truck Cranes (over 45 tons up to 100)

Group 6: Blower Distributors and Mulch Seeding Operator; Oil Distributors

Group 7: Locomotives (Dinkey-air, diesel, electric, gas, steam)

Group 8: Equipment Service Oiler; Oiler Driver on Trucks Cranes (100 tons and over)

Group 9: Pump (water); Tractors (Farmall type, over 60 h.p.)

Group 10: Post Hole Diggers (mechanical)

Group 11: Brooms (power, Wayne, Saginaw and similar types); Bulldozers (under D9 or similar); Loaders (Fork Lifts or Lumber Stacker - on construction job site - Drot Travel Lift); Rollers, Tampers and Vibrators (twin engine); Saw (concrete); Scrapers (carry-all type, single)

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 12: Batch Plant (batch and mixer, 200 yards per hour and under); Cranes ("A" Frame Trucks, single power drum); Conveyors; Crusher (rock); Washing and Screening Plants; Finishing Machine Operator, Concrete Paving; Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Deck Winches (power); Loaders (Elevating-Athey, Barber Greene and similar types, and overhead and front-end, under 2½ yards); Mixers (asphalt up to 4 tons per batch, and concrete mixer and batch - 200 yards per hour and under); Power Plant Operators; Pumps (Fuller Kenyon and Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on plant, road mix or multi-lifts materials); Screed man; Spreaders (Blaw Knox, Cedarapids, Jaeger, Flarrety or similar types); Trenching Machine (under 16 inches)

Group 13: Mechanics or Welder (heavy duty)

Group 14: Motor Patrol Graders (including Model 14 and similar); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment (25 yards and under)

Group 15: Compressor (steel erection including sandblasting, painting of the same); Hoists on steel erection, Air Tuggers and Towermobiles; Loaders (fork lifts with tower)

Group 16: Cement Hogs; Loaders (Elevating Grader type, Dumor and similar); Locomotive (geared or rod engine); Mixers (paving); Scraper (carryall type, double)

Group 17: Tractors (farmall type, used as Backhoes, Rubber-tired, Ford, Ferguson, Case and similar type 60 h.p. and under)

Group 18: Bull Dozer (D-9 or similar)

Group 19: Trenching Machines (16 inches and over)

Group 20: Bump Cutter (Concut, Christianson or similar types)

Group 21: Batch Plant (batch and mixer, over 200 yards per hour through 400 yards per hour); Conveyors (Beltcrete with power pack and similar types); Loaders (elevating belt type - Euclid and similar types); Mixer (asphalt, 4 tons and over, per batch, and concrete mixers and batch - Over 200 yards per hour through 400 yards per hour, and paving dual)

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 22: Bulldozer engaged in Yo Yo Operation (while clearing and scaling); Cableways (3 yards and under); Cranes ("A" Frame trucks, double power drum: and Crawler, truck type, floating, Locomotive, Whirley, either 3 yards and under, or 150' of boom including jibs and under, or 45 tons and under: and Hydralifts, Hyster Cat Cranes and attachments and Chipper, wood with boom attachment); Derricks, all; Drilling Machine (core, cable rotary and exploration); Loader (fork lift with power boom and swing attachment, and overhead and front end, 2½ yards and up to 4 yards); Mixers (mobile type with hoist combination); Motor Patrol Graders (over Model 14 and similar); Mucking Machines (mole, tunnel drill, and/or shield); Paydozer and Linker Pusher (Quad-9 and similar); Piledriver Engineer, (L.B. Foster Puller or similar, Paving Breaker); Shovels (Crawler and truck types, all attachments, 3 yards and under); Sub Grader (Gurries, CMI and similar types); Tractors (Farmall type, used as backhoes, rubber tired - Fnrd, Ferguson, Case and similar types - over 60 h.p.); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment - over 25 yards through 40 yards

Group 23: Loaders (overhead and front end, 4 yards up to 8 yards)

Group 24: Mixer (concrete mixers and batch over 400 yards per hour through 600 yards per hour)

Group 25: Tournapulls, Caterpillar, Euclid, Scrapers and similar type (over 40 yards through 55 yards)

Group 26: Cableways (over 3 yards); Crane (Crawler, truck type, floating, Locomotive, Whirley, either over 3 yards, or over 150' of boom including jibs or over 45 tons up to 100 tons: and, Tower Cranes, Pecco, Lorraine, Bucyrus and similar types); Helicopter Winch Operator; Remote Control Operator on Rubber-tired Earth Moving Equipment; Shovels (Crawler and truck type, all attachments, over 3 yards up to 6 yards); Slip Form Paver (Zimmerman, CMI and similar types)

Group 27: Tournapulls, Caterpillar, Euclid, Scrapers, and similar type equipment (over 55 yards through 70 yards)

Group 28: Loaders (overhead and front end 8 yards and over)

Group 29: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 70 yards through 85 yards)

Group 30: Cranes (Crawler, Truck type, Floating, Locomotive, Whirley, either 5 yards and over 200' of boom including jibs and over, or 100 tons and over); Shovel (Crawler and Truck type, all attachments, 6 yards and over)

Group 31: Tournapulls, Caterpillar, Euclid, Scrapers and similar types equipment (over 85 yards through 100 yards)

UMI

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 4)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Oiler, including plant, crane, crusher, guardrail equipment, and trenching machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-driver, 25 ton capacity or over; Crane Fireman, (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Drill Helper; Auger Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, Combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Helper; Welder's Helper; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with screed; Compressor Operator (any power), under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber-Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5(any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayn type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2-1/2 cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Cement Pump, Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2-1/2 cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loaders, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type Lifting Device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 2-1/2 cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC12 and similar); Cable plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic-Welder, when dispatched and/or when required to do both; Rubber-tired dozers and Pushers (Michigan, Cat, Hough type); Driller-Percussion, Diamond, Core, Cable, Rotary and similar type

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and Southern portion of Pacific, Counties

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledrver (not crane type); Rubber-tired Scraper, single and twin engine, Single Scraper, with push-pull attachments, self-loading, Paddle Wheel, Auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, Multi-engines; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Piledriver Operator; Floating Clamshell, etc. under 3 cu. yds.; Floating Crane (derrick barge), less than 30 ton; Elevating Grader, Operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc., 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, Auger type, Finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Auto-grader or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating Crane (derrick barge) 80 ton less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane 250 ton and over; Remote Controlled Earth Moving Equipment; Underwater Equipment, remote or otherwise

DECISION NO. WA76-5079

POWER EQUIPMENT OPERATORS (Areas 1 and 2)
(DREDGING)

Group Description for Areas 1 and 2

Group 1: Assistant Mate (deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen

Group 4: Engineer Welder; Craneman

Group 5: Assistant Engineer (Electric Generator Operator for primary pump, power barge or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

Group Description for Area 3

Group 1: Leverman, Hydraulic

Group 1A: Leverman, Dipper

Group 2: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate

Group 3: Tenderman (Boatman, Attending Dredge Plant); Fireman

Group 4: Assistant Mate (Deckhand); Oiler

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DECISION NO. WA76-5079

TRUCK DRIVERS (Area 1)

All Counties and portions of Counties East of the 120th Meridian (except those portions of Kittitas, Klickitat and Yakima Counties)

Group 1: Flat Bed Truck single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 pounds and under; Fuel Truck Driver (Steam Cleaner and Washer); Helper and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons.

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1; Warehouseperson

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yds.); Water Tank Truck (1,801 - 4,000 gallons)

Group 4: Auto Crane - 2,000 pounds capacity; Bulk Cement Spreader; Dumptor (6 yards and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 pounds); Oil Distributor Driver (road, bottperson, leverperson helper); Rubber-tired tunnel jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 - 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end, and bottom dump (over 6 yards to 12 yards)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 - 8,000 gallons)

Group 7: Dumptor (over 6 yards); Transit Mixers and Trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 - 10,000 gallons); Tractor with Steer Trailer

Group 9: Transit Mixers and Trucks hauling concrete, (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 yards); Water Tank Truck (10,001 - 12,000 gallons)

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, g llonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water Tank Truck (12,001 - 14,000 gallons)

DECISION NO. WA76-5079

TRUCK DRIVERS (Area 1) (Cont'd)

All Counties and portions of Counties East of the 120th Meridian (except those portions of Kittitas, Klickitat and Yakima Counties)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 50 yards)

Group 13: Truck, side, end and bottom dumps (over 50 yards to 100 yards)

Group 14: Helicopter Pilot hauling employees or material ; Trucks, side, end and bottom dump (over 100 yards)

TRUCK DRIVERS (Area 2)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at bunkers and batch plants; Pickup Truck, Escort or Pilot Car; Swampers; Warehouseman and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, warehousing; Dumpsters, and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, LeTourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks - side, end and botton dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Truck (up to 1,600 gallons); Winch Truck, single rear axle; Wrecker, tow truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Truck, 1,600 gallons to 3,000 gallons)

Group 6: Transit-mix, 0 to and including 4½ yds.

Group 7: Dumpsters, and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field mix) and similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

DECISION NO. WA76-5079

TRUCK DRIVERS (Area 2) (Cont'd)

All Counties and portion of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydrallft Trucks or similar equipment

Group 13: Dumpsters and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards, to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Traosit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

DECISION NO. WA76-5079

TRUCK DRIVERS (Area 3)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi-trucks and trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes used in loading, unloading and transporting material on job site); Loader and/or Leverman on concrete Dry Plant (manually operated); Pilot Car; Solo Flat Bed and misc.; Body Trucks, 0-10 tons; Truck Helper; Truck Mechanic Helper; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity - up to 1,600 gallons)

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man; Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof: over 6 cu. yds, and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and wet or dry mix trucks: 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity - 1,600 to 3,000 gallons)

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment of wet or dry materials; Lumber Carrier Driver - Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leberman; Water Wagons (rated capacity - 3,000 to 5,000 gallons)

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

[FR Doc.76-24176 Filed 8-19-76;8:45 am]

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164

Vol.41–No.164
8–23–76
PAGES
35477–35674

federal register

MONDAY, AUGUST 23, 1976

highlights

PART I:

DISTILLED SPIRITS

Treasury/AT&F proposes addition of State-by-State provision for conversion to metric standards of fill; comments by 9–22–76 35531

EDUCATIONAL PRIVACY RIGHTS

Privacy Protection Study Commission announces public hearings on 10–7 and 10–8–76 35583

NONPUBLIC SCHOOL PARTICIPATION IN FEDERAL PROGRAMS

HEW report on recipient and nonrecipient requirements .. 35553

MOTOR VEHICLE LIGHTING

DOT/NHTSA republishes safety standard on lamps, reflective devices and associated equipment 35522

TRUTH IN LENDING

FRS proposed interpretation on disclosure of amount of dealer participation; comments by 9–27–76 35536

FARMERS OPERATING LOANS

USDA/FmHA proposes to amend reamortizing and renewal requirements; comments by 9–22–76 35532

TAXES

IRS regulations regarding priority and release of lien or discharge of property and application of foundation excise taxes to certain nonexempt trusts (2 documents) 35490–35514

SAVINGS AND LOAN DIRECTORS

FTC statement of policy regarding interlocking relationships 35573

FINANCIAL REPORTING

SEC amends certain requirements; effective 8–23–76 35479

BIOLOGICS

HEW/FDA amends safety test regulations for products containing Pertussis Vaccine; effective 8–23–76 35480

BACTERIOLOGICAL ANALYTICAL MANUAL

HEW/FDA announces availability of fourth edition 35551

CONTINUED INSIDE

V41 I164 AUG 23 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOD/Army—Shipping safety fairways and anchorages; Gulf of Mexico..... 30329; 7–23–76
DOT/FAA—Foreign air carriers; aircraft security 30106; 7–22–76
HEW—Architect-Engineer services; procurement 27834; 7–7–76
Labor/ETA—Benefit payment standards. 30464; 7–23–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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MEETINGS—
Commerce: Commerce Technical Advisory Board, 9–22 and 9–23–76 35547
DIBA: Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee, 9–14–76 35546
DOD: Defense Intelligence Agency Scientific Advisory Committee, 9–27 and 9–28–76 35544
Army: Board of Visitors, United States Military Academy, 9–9–76 35543
Navy: Chief of Naval Operations Executive Panel Advisory Committee, 9–14 and 9–15–76 35544
DOT: Citizens' Advisory Committee on Transportation Quality, 9–13 and 9–14–76 35557
Coast Guard: Design and Equipment SOLAS Working Group, 9–17–76 35554
FAA: FAA Flight Information Advisory Committee (FIAC), 9–23–76 35554
FHLBB: Alternative Mortgage Instruments Research Study Advisory Committee, 9–10–76 35560
Federal Council on the Aging, 9–13 and 9–14–76 35548
HEW: National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 9–10, 9–11 and 9–12–76 35553
FDA: Advisory Committees for 9–26 thru 9–28; 9–30, and 10–1–76 35548
NIH: Study Sections for 10 and 11–76 35552
Interior/BLM: Lakeview District Advisory Board, 9–17–76 35544
Yuma District Multiple Use Advisory Board, 10–7–76 35544
NRC: Advisory Committee on Reactor Safeguards, 9–9 to 9–11–76 35576
State: Advisory Committee to the U.S. National Section of the Inter-American Tropical Tuna Commission, 9–23 to 9–25–76 35539
National Committee for the International Telegraph and Telephone Consultative Committee, 9–15–76 35539
Shipping Coordinating Committee, 9–14 thru 9–17, 9–21 thru 9–24–76 (7 documents) 35540

PART II:
LIGHT DUTY VEHICLES AND TRUCKS
EPA final evaporative emission regulations; effective 9–22–76 35625

PART III:
FEDERAL ADVISORY COMMITTEES
HEW implementation and management provisions; effective 8–23–76 35653

PART IV:
HOUSING ASSISTANCE
HUD procedures for application approvals and allocation of funds; effective 10–1–76 35659

PART V:
LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM
Commerce/EDA publishes implementation regulations; effective 8–23–76 35669

contents

AGRICULTURAL MARKETING SERVICE
Rules
Celery grown in Fla 35520
Lemons grown in Calif. and Ariz.; correction 35521
Oranges (Valencia) grown in Ariz. and Calif 35520

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Commodity Credit Corporation; Farmers Home Administration; Federal Crop Insurance Corporation; Forest Service
Notices
Foreign Animal Disease Advisory Committee; reestablishment 35545
Animal and Plant Health Inspection Service Consumer Advisory Committee; establishment 35545

ALCOHOL, TOBACCO, AND FIREARMS BUREAU
Proposed Rules
Distilled spirits, labeling and advertising:
Bottling; metric size standards 35531
Notices
Firearms; granting of relief 35542
Denatured alcohol and rum; regulation (2 documents) 35540, 35541
Distilled spirits; drawback 35541

ARMY DEPARTMENT
Notices
Meetings:
Board of Visitors, United States Military Academy 35543

COAST GUARD
Rules
Drawbridge operations:
Louisiana (2 documents) 35522
Mississippi 35521
Proposed Rules
Drawbridge operations:
California 35536
Michigan 35536
Notices
Meetings:
Design and Equipment SOLAS Working Group 35554

COMMERCE DEPARTMENT
See also Domestic and International Business Administration; Economic Development Administration; Maritime Administration
Notices
Authority delegations:
Assistant Secretary for Economic Development 35548
Meetings:
Commerce Technical Advisory Board 35547

COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Cotton; correction 35521

DEFENSE DEPARTMENT
See also Army Department; Navy Department.
Notices
Meetings:
Defense Intelligence Agency Scientific Advisory Committee 35544

V 41 164 AUG 23 76 UMI

DELAWARE RIVER BASIN COMMISSION

Notices

Hearing, etc.:
Public hearing 35557

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Export privilege denials:
Patrick Hughes et al 35545
Porn & Dunwoody, Ltd 35546
Meetings:
Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee 35546

ECONOMIC DEVELOPMENT ADMINISTRATION

Rules

Local Public Works Capital Development and Investment Act of 1976; implementation 35669

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollution control, new motor vehicles and engines:
Light duty vehicles and trucks; evaporative emission test procedures 35625

FARMERS HOME ADMINISTRATION

Proposed Rules

Account servicing:
Operating loans, reamortizing and renewing of; eligibility requirements 35532

FEDERAL AVIATION ADMINISTRATION

Rules

Control zones 35478
Standard instrument approach procedures 35478

Proposed Rules

Control zones 35535

Notices

Meetings:
FAA Flight Information Advisory Committee 35554

FEDERAL COMMUNICATIONS COMMISSION

Rules

Transmitter power, frequency, and modulation specifications, annual measurement, etc.; correction 35522

Proposed Rules

FM broadcast stations; table of assignments:
Missouri 35533
Wisconsin 35534

Notices

Common carrier services information 35557
Petitions for rule making filed 35560

FEDERAL COUNCIL ON THE AGING

Notices

Meeting 35548

FEDERAL CROP INSURANCE CORPORATION

Notices

Sugarcane from Louisiana; extension of closing date for filing applications for 1977 crop year 35545

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules

Securities of insured State nonmember banks; correction 35477

FEDERAL HOME LOAN BANK BOARD

Notices

Alternative Mortgage Instruments Research Study Advisory Committee, establishment 35560
Meetings:
Alternative Mortgage Instruments Research Study Advisory Committee 35561

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National; flood elevation determinations, etc.:
Delaware 35484
Florida 35487
Maryland 35486
New Jersey (5 documents) 35481, 35483, 35485, 35487, 35488
North Carolina (2 documents) 35485, 35489
Pennsylvania (3 documents) 35480, 35482, 35483

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc.:
City of Kodiak 35561
Conkey, John A 35561
Dart Containerline Co 35561
Iberian/U.S. North Atlantic Westbound Freight Conference 35562
Lykes Bros. Steamship Co., Inc 35562
Trans-Pacific Freight Conference, et al 35562

FEDERAL OPEN MARKET COMMITTEE

Notices

Domestic policy directive of July 19–20, 1976 35570

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Cabot Corp 35563
Cities Service Gas Co 35566
Devon Corp., et al. (2 documents) 35562, 35566
Eastern Shore Natural Gas Co 35567
Florida Power and Light Co 35568
Getty Oil Co., et al 35563
Inscol Petroleum Co 35565
Michigan Wisconsin Pipe Line Co 35568
Mississippi River Transmission Corp 35568
Northern States Power Co. (Wisconsin) 35568
Southwestern Power Administration 35568
Western Power Division, Central Telephone and Utilities Corp 35569

FEDERAL RESERVE SYSTEM

Rules

Credit by banks:
Margin stocks, purchasing or carrying; form revised; effective date postponed 35477

Proposed Rules

Truth-in-lending:
Dealer participation, amount, disclosure of 35536

Notices

Actions of Board; applications and reports received during the week ending July 31, 1976 35571
Applications, etc.:
First Midwest Bancorp., Inc 35573

FEDERAL TRADE COMMISSION

Notices

Interlocking directorates 35573

FOOD AND DRUG ADMINISTRATION

Rules

Biological products:
Pertussis vaccine; standards 35480

Proposed Rules

Nuts; almonds, peanuts, etc.; good manufacturing practice, extension of time 35532

Notices

Bacteriological Analytical Manual for Foods; availability 35551
Meetings:
Advisory Committees 35548

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Lone Peak Wilderness Study Area Uinta and Wasath and National Forests 35545

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Federal Council on the Aging; Food and Drug Administration; National Institutes of Health.

Rules

Committee management 35653

Notices

Meetings:
National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (2 documents) 35553
Nonpublic schools participating in Federal programs; report 35553

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Rules

Housing assistance; application review; allocation of funds 35659

INDIAN AFFAIRS BUREAU

Notices

Environmental statements; availability, etc.:
Crow Ceded Area Coal Lease Development (2 documents) 35544

INTERIOR DEPARTMENT

See Indian Affairs Bureau; Land Management Bureau.

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
Foundations; application of taxes to nonexempt trusts 35514
Income taxes:
Lien, Federal tax; validity and priority 35490

INTERNATIONAL TRADE COMMISSION

Notices

Chicory root: crude and prepared 35574

INTERSTATE COMMERCE COMMISSION

Notices

Abandonment of railroad services, etc.:
Western Maryland Railway Co 35599
Hearing assignments (2 documents) 35595
Fourth section applications for relief 35596
Motor carriers:
Temporary authority applications 35596
Transfer proceedings (2 documents) 35599

LAND MANAGEMENT BUREAU

Notices

Meetings:
Lakeview District Advisory Board 35544
Yuma District Multiple Use Advisory Board 35544

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; lists of requests 35581
Cost comparisons under Circular A-76 35581

MARITIME ADMINISTRATION

Notices

Applications, etc.:
American President Lines, Ltd 35547
Construction of certain natural gas vessels; recomputation of foreign cost 35547

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules

Conduct standards; indebtedness, financial statements, honorariums; correction 35479

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment 35522

Notices

Motor vehicle safety standards; temporary exemption petitions:
Daihatsu Motor Co. Ltd 35554
Wayne Corp 35555

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Study Sections for October and November 35552

NAVY DEPARTMENT

Notices

Meetings:
Chief of Naval Operations Executive Panel Advisory Committee 35544

NUCLEAR REGULATORY COMMISSION

Proposed Rules

Nuclear material; accounting reporting requirements 35537

Notices

Meetings:
Advisory Committee on Reactor Safeguards (2 documents) 35576, 35580
Advisory Committee on Reactor Safeguards, Subcommittee on the Diablo Canyon Nuclear Power Station Units 1 and 2 35577
Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Guides 35577
Applications, etc.:
Baltimore Gas and Electric Co 35578
Calvert Cliffs Nuclear Power Plant, Unit 2 35578
Carolina Power and Light Co 35575
Commonwealth Edison Co 35575
Consumers Power Co 35579
International Atomic Energy Agency Draft Safety Guide (2 documents) 35575, 35576
Northern States Power Co. (2 documents) 35576
Public Service Electric and Gas Co., et al 35579
Rochester Gas and Electric Corp 35579
Salem Nuclear Generating Station Unit No. 1 35579
Vermont Yankee Nuclear Power Corp 35580

PIPELINE SAFETY OPERATIONS OFFICE

Notices

Petition for waiver; pipeline:
Trans-Alaska Crude Oil Pipeline 35556

PRIVACY PROTECTION STUDY COMMISSION

Notices

Hearings 35583

REVENUE SHARING OFFICE

Notices

Indian tribe and Alaskan native village; treatment of adjusted taxes 35543

SECURITIES AND EXCHANGE COMMISSION

Rules

Financial statements:
Accounting practice changes 35479

Notices

Self-regulatory organizations; proposed rules changes:
Chicago Board Options Exchange, Inc. (2 documents) 35584, 35587
Depository Trust Co 35587
Options Clearing Corp 35588
Pacific Stock Exchange, Inc 35592
Hearings, etc.:
Allegheny Power Systems, Inc 35593
Fremont Corp 35594
Indiana and Michigan Co 35594
Middle South Energy, Inc 35594

SINAI SUPPORT MISSION

Notices

Authority delegations:
Sinai Field Mission Director 35595

STATE DEPARTMENT

Notices

Meetings:
Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commisison 35539
National Committee for the International Telegraph and Telephone Consultative Committee (CCITT) 35539
Shipping Coordinating Committee (2 documents) 35539
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea (5 documents) 35540

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Pipeline Safety Operations Office.

Notices

Meetings:
Citizens' Advisory Committee on Transportation Quality 35557

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service; Revenue Sharing Office.

UNITED STATES INFORMATION AGENCY

Rules

Freedom of information 35480

CONTENTS

V 41 164
AUG 23 76
UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
908 35520
910 35521
967 35520
1427 35521

PROPOSED RULES:
1867 35532

10 CFR

PROPOSED RULES:
70 35537

12 CFR
221 35477
335 35477

PROPOSED RULES:
226 35536

13 CFR
316 35670

14 CFR
71 35478
97 35478
1207 35479

PROPOSED RULES:
71 35535

17 CFR
210 35479

21 CFR
620 35480

PROPOSED RULES:
128f 35532

22 CFR
503 35480

24 CFR
891 35660
1917 (13 documents) 35480–35489

26 CFR
1 35490
20 35490
25 35490
53 35514
301 35490

27 CFR

PROPOSED RULES:
5 35531

33 CFR
117 (3 documents) 35521, 35522

PROPOSED RULES:
117 (2 documents) 35536

40 CFR
86 35626

45 CFR
11 35654

47 CFR
89 35522
91 35522
93 35522

PROPOSED RULES:
73 (2 documents) 35533, 35534

49 CFR
571 35522

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) 32399

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32399
11931 32689
11932 32691

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693

MEMORANDUMS:
July 19, 1976 32403

4 CFR
1 35155

5 CFR
213 ..... 32892, 33545, 34246, 34731, 35155
591 32892

7 CFR
35 32877
52 ..... 32222, 34751
103 34005
105 34005
106 34005
108 34006
111 34006
220 ..... 32405, 34757
235 32405
271 34760
331 ..... 32229, 32409
409 34973
722 32878
790 34247
791 34247
905 34248
908 ..... 32229, 32695, 34006, 35053, 35520
910 ..... 32827, 34248, 35156, 35521
915 34973
916 32410
917 ..... 32410–32411, 34762
926 34007
944 34762
947 ..... 32230, 32695
967 35520
982 34974
989 32412
1012 32417

7 CFR—Continued
1099 32575
1124 32418
1421 32879
1427 35521
1430 32881
1472 34248
1701 33546
1806 34571
1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697

PROPOSED RULES:
16 ..... 34777, 34977, 35072
47 32231
51 32896
909 32234
910 ..... 33922, 35187
911 34049
919 32234
926 34647
927 34050
930 32606
931 32757
946 32758
953 34766
981 34647
991 34648
993 33275
1004 34282
1006 35187
1007 33275
1011 ..... 33275, 34444
1012 35187
1013 35187
1030 33275
1032 33275
1033 ..... 34444, 35194
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275
1099 33275
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34286

7 CFR—Continued

PROPOSED RULES—Continued
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1260 34772
1430 32899
1701 32419
1801 33561
1813 33922
1823 34767
1861 33561
1867 35532
1980 33561

8 CFR
100 ..... 32419, 34937
103 34937
316a 34938

9 CFR
73 ..... 32882, 34731
76 ..... 32882, 35156
83 32432
113 32882
201 34007

PROPOSED RULES:
327 34293

10 CFR
35 34635
211 33881
212 34008
700 34731
735 34731

PROPOSED RULES:
9 35073
70 35537
205 ..... 34783, 34981
210 34784
211 34784
212 ..... 33282, 34080, 34784
705 34778

12 CFR
217 32578
220 34938
221 35477
303 35156
335 35477
561 32419
563 32419
611 33546
615 33547
618 33547

PROPOSED RULES:
16 32864
225 33306
226 35536
584 33566

13 CFR
105 33547
120 33245
122 33549
316 35670

V 41 164 AUG 23 76 UMI

13 CFR—Continued

PROPOSED RULES:
120 ... 33567

14 CFR
13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:
39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535
73 ... 34077, 34650
75 ... 34077
93 ... 35073
Ch. II ... 34979
300 ... 34650

15 CFR
0 ... 34938
905 ... 34017

16 CFR
13 ... 32420, 34019, 34249, 34742, 34939–34941
15 ... 34594
433 ... 34594

PROPOSED RULES:
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR
150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167
249 ... 35167

PROPOSED RULES:
239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR
2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:
1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR
1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:
1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR
404 ... 32885
410 ... 33549
602 ... 35169

PROPOSED RULES:
404 ... 34060
405 ... 35197
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR
2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743
520 ... 32889
522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:
1 ... 34051
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR
102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:
130 ... 33446

23 CFR
230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:
658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR
10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943
1915 ... 33911
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489
1920 ... 33260–33262, 34611–34618, 35171–35174
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:
201 ... 32564
205 ... 34977
570 ... 34301
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR
41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:
41 ... 32756
221 ... 32757

26 CFR
1 ... 33262, 34025, 34619, 35490
20 ... 34627, 35490
25 ... 34628, 35490
31 ... 35174
53 ... 35514
141 ... 32889, 32890
301 ... 34025, 35174, 35490

PROPOSED RULES:
1 ... 33285
31 ... 32231
54 ... 32895

27 CFR
PROPOSED RULES:
5 ... 35531

28 CFR
0 ... 35183
16 ... 32423
20 ... 34949

29 CFR
699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741

PROPOSED RULES:
1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298
2200 ... 34657

30 CFR
55 ... 33263
56 ... 33263
57 ... 33263

31 CFR
PROPOSED RULES:
210 ... 32605

32 CFR
581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:
505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR
117 ... 32217, 34034, 35521, 35522
127 ... 32742, 35066
207 ... 34034

PROPOSED RULES:
110 ... 34649
117 ... 32238, 35536
161 ... 32758

34 CFR
PROPOSED RULES:
Ch. I ... 34324

35 CFR
PROPOSED RULES:
133 ... 33307

36 CFR
7 ... 33263
50 ... 34748

38 CFR
4 ... 34256
21 ... 32217
36 ... 32218

38 CFR—Continued
PROPOSED RULES:
1 ... 32247

39 CFR
3002 ... 32742

PROPOSED RULES:
3003 ... 34792

40 CFR
52 ... 32743, 32890, 34259, 34749, 35184
60 ... 33264, 34628, 35184
61 ... 33264, 34629
86 ... 35626
87 ... 34722
180 ... 32426, 33265, 34629
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440

PROPOSED RULES:
52 ... 32241, 34422, 34782
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613
420 ... 32242
434 ... 34441

41 CFR
1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
28–1 ... 32426
29–60 ... 35186
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634

PROPOSED RULES:
3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR
51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR
419 ... 32427
2650 ... 33267
3302 ... 32891

PUBLIC LAND ORDERS:
5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267
5597 ... 33267
5598 ... 34035
5599 ... 34749
5600 ... 35067
5601 ... 35067

PROPOSED RULES:
232 ... 34299
302 ... 34298
2800 ... 34977

45 CFR
11 ... 35654
115 ... 34962
121d ... 33558
177 ... 33268
190 ... 33868
801 ... 33559
1069 ... 33268

PROPOSED RULES:
73b ... 32235
146 ... 34052
190 ... 33962

46 CFR
91 ... 32744
252 ... 32589
536 ... 32590

PROPOSED RULES:
93 ... 32237
180 ... 35072
531 ... 32899

47 CFR
0 ... 33272
1 ... 33885, 33895, 34259
2 ... 32680, 33885
15 ... 32590
19 ... 32891
21 ... 33269, 33885, 33895
73 ... 32219, 32220, 32891, 33270, 33559, 33560, 35068
74 ... 32429, 32593, 35068
76 ... 32429, 34963, 35068
78 ... 32429
83 ... 32220
89 ... 32680, 33902, 35522
91 ... 32680, 33889, 33903, 35068, 35522
93 ... 32682, 33907, 35522
95 ... 32682

PROPOSED RULES:
0 ... 33563
2 ... 32434
13 ... 32434
15 ... 34323
63 ... 33280
64 ... 33563
73 ... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534
76 ... 32381, 34930
81 ... 32434, 33281, 34790
83 ... 32434, 33281, 34790
87 ... 32242

49 CFR
81 ... 32593
192 ... 34598
195 ... 34035
390 ... 34968
571 ... 32221, 35522
575 ... 34607
581 ... 35068
613 ... 33443
1033 ... 32221, 32429, 32430, 34607, 35068
1038 ... 32594
1109 ... 32744
1124 ... 34260
1127 ... 32546
1201 ... 32595
1202 ... 32596
1203 ... 32596
1204 ... 32597

V 41 164 AUG 23 76 UMI

49 CFR—Continued

1205	32597
1206	32598
1207	32599
1208	32601
1209	32601
1210	32602
1307	34260

PROPOSED RULES:

266	33354
571	33280
801	34082
1067	33307
1109	32434
1201	33016
1241	33016
1243	33016

50 CFR

20	34041
28	32602
32	32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069
33	32222, 32431, 32603, 32755
217	34969
222	34969
240	34047
285	32603

PROPOSED RULES:

17	32896, 33922
20	34273
26	32433
32	34049
222	33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	34005–34238	12
32399–32574	3	32239–34570	13
32575–32688	4	34571–34730	16
32689–32875	5	34731–34935	17
32877–33244	6	34937–35051	18
33245–33543	9	35053–35153	19
33545–33880	10	35155–35475	20
33881–34003	11	35477–35674	23

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. U; Docket No. R–0026]

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Adoption of Revised Form; Postponement of Effective Date

Notice postponing effective date of adoption of revised Federal Reserve Form U–1, "Statement of Purpose of a Stock-Secured Extension of Credit by a Bank."

1. Pursuant to the authority of section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g), the Board of Governors, on June 11, 1976 (41 FR 23667) published notice of adoption of Federal Reserve Form U–1, "Statement of Purpose of a Stock-Secured Extension of Credit by a Bank," to be effective September 1, 1976.

2. Because some banks have indicated possible operational difficulties in complying with certain requirements of the revised Form U–1, the Board hereby postpones the effective date of such revision to November 1, 1976 in order that these questions may be reviewed.

By order of the Board of Governors, August 18, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76–24665 Filed 8–18–76;3:53 pm]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

Correction

In FR Docs. 76–18056 and 76–18057 appearing at pages 25887–25889 in the FEDERAL REGISTER of Wednesday, June 23, 1976, the following changes should be made:

1. Page 25888. The portion of the Form F–4 appearing on page 25888 is corrected to read as follows:

§ 335.44 Form for quarterly report of bank (Form F–4).

* * * * *

Stockholders' equity	Shares issued or outstanding	Amount
Preferred stock (list separately convertible and nonconvertible preferred stock)		$
Common stock		
Surplus		
Undivided profits: Balance at beginning of current fiscal year		
Prior period adjustments, if any (show credits (and charges) separately)		
Net income (caption 8 above)		
Dividends (state cash and stock dividends on common stock separately, indicating amount per share—dividends on preferred stocks may be shown in one amount)		
Other credits (charges) (explain nature and amounts)		
Balance at end of interim period		
Reserve for contingencies and other capital reserves		
Treasury stock (identify class of security, number of shares and basis at which stated)		
Total stockholders' equity		

INSTRUCTIONS

1. The form and content shall conform generally with that in the balance sheet and notes thereto appearing in the annual report filed with the corporation.

2. The number of shares of each class of securities reserved for conversion, warrants, options, and other rights shall be separately disclosed.

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this quarterly report to be signed on its behalf by the undersigned, thereunto duly authorized.

_____
(Name of bank)

Date _____ By _____
(Name and title of signing officer)

GENERAL INSTRUCTIONS

§ 335.71 [Amended]:

2. Page 25889. Item 18(f) following the "Balance Sheet" form set forth in § 335.71 is corrected by deleting the word "and" and inserting the word "any" in lieu thereof.

V 41 164 AUG 23 76 UMI

3. Page 25889. The captions of the "Statement of Changes In Capital Accounts" form set forth in § 335.71 are corrected to read as follows:

	Preferred stock $---- par	Common stock $---- par	Surplus	Undivided profits	Reserve for contingencies and other capital reserves
Increase					
(Decrease)					

Dated: August 10, 1976.

SHARON G. ROYAL,
Attorney.

[FR Doc.76-24572 Filed 8-20-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 76-NE-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Proposed Control Zone Revision

The Federal Aviation Administration is amending Section 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Fort Devens Control Zone.

This action is being taken as the result of a review of the airspace requirements for the Fort Devens, Massachusetts, area, which indicates that the existing Control Zone could be reduced in area without adversely affecting air safety.

Since this amendment restores airspace to the public use and relieves a restriction, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In view of the foregoing, the Federal Aviation Administration, having completed review of the airspace requirements in the Fort Devens, Massachusetts, area, hereby amends Part 71 of the Federal Aviation Regulations as hereinafter set forth:

§ 71.171 [Amended]

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Fort Devens, Massachusetts, Control Zone and inserting in lieu thereof the following description:

Within a 4-mile radius of the center of Devens AAF, Ft. Devens, Mass. (Lat. 42°34'-15" N, Long. 71°36'20" W) excluding that portion within 1-mile radius of the center of Shirley Airport, Shirley, Mass. (Lat. 42°-31'30" N, Long. 71°39'55" W). This control zone is effective from 0700 to 1900 hours, local time, daily.

This amendment becomes effective November 4, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Burlington, Massachusetts, on August 12, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-24568 Filed 8-20-76;8:45 am]

[Docket No. 16026; Amdt. No. 1034]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective September 30, 1976:

Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., VOR Rwy 26, Amdt. 10, cancelled.
Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., VOR Rwy 27L, Original.
Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., VOR Rwy 27R, Amdt. 2, cancelled.
Covington, GA—Covington Muni. Arpt., VOR/DME Rwy 9, Original.
Covington, GA—Covington Muni. Arpt., VOR/DME Rwy 27, Amdt. 1, cancelled.
Peachtree City, GA—Falcon Field, VOR/DME-A, Amdt. 1, cancelled.
Peachtree City, GA—Falcon Field, VOR/DME-B, Original.
Lihue, HI—Lihue Arpt., VOR-A(TAC), Amdt. 2.
Augusta, ME—Augusta State Arpt., VOR Rwy 17, Amdt. 11.
Augusta, ME—Augusta State Arpt., VOR/DME-A, Amdt. 6.
Augusta, ME—Augusta State Arpt., VOR/DME Rwy 8, Amdt. 6.
Lorain (Elyria), OH—Lorain County Regional Arpt., VOR Rwy 7, Amdt. 4.
New Castle, PA—New Castle Muni. Arpt., VOR Rwy 4, original, cancelled.
New Castle, PA—New Castle Muni. Arpt., VOR Rwy 22, Original, cancelled.
Elkins, WV—Elkins-Randolph County Arpt., VOR-A, Amdt. 5, cancelled.
Elkins, WV—Elkins-Randolph County-Jennings Randolph Field, VOR/DME-B, Orig.

• • • effective September 9, 1976:

Gallup, NM—Senator Clarke Field, VOR Rwy 6, Amdt. 4.

• • • effective August 26, 1976:

Lewiston, ID—Lewiston-Nez Perce County Arpt., VOR Rwy 26, Amdt. 10.
Olympia, WA—Olympia Arpt., VOR Rwy 17, Amdt. 7.

• • • effective August 11, 1976:

Bentonville, AR—Bentonville Muni. Arpt., VOR-A, Amdt. 2.
Decatur, AR—Crystal Lake Arpt., VORTAC Rwy 13, Amdt. 4.
Fayetteville, AR—Drake Field, VOR-A, Amdt. 16.
Rogers, AR—Rogers Muni.—Carter Field, VOR Rwy 1, Amdt. 6.
Rogers, AR—Rogers Muni.—Carter Field, VOR/DME Rwy 19, Amdt. 2.
Siloam Springs, AR—Smith Field, VOR/DME-A, Amdt. 2.
Springdale, AR—Springdale Muni. Arpt., VOR Rwy 18, Amdt. 6.

2. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective September 30, 1976:

Vidalia, GA—Vidalia Muni. Arpt., NDB Rwy 24, Amdt. 3.
Jacksonville, NC—Albert J. Ellis Arpt., NDB Rwy 5, Amdt. 1.
Wilkesboro, NC—Wilkes County Arpt., NDB-A, Amdt. 1, cancelled.
Wilkesboro, NC—Wilkes County Arpt., NDB Rwy 24, Original.
Elkins, WV—Elkins-Randolph County-Jennings Randolph Field, NDB-A, Amdt. 1.

• • • effective September 9, 1976:

Santa Barbara, CA—Santa Barbara Muni. Arpt., NDB-A, Amdt. 2.

• • • effective September 2, 1976:

Buffalo, NY—Greater Buffalo Int'l Arpt., NDB Rwy 23, Amdt. 12.

• • • effective August 6, 1976:

Summit, AK—Summit Arpt., NDB-A, Amdt. 8.

3. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective September 30, 1976:

Jacksonville, NC—Albert J. Ellis Arpt., ILS Rwy 5, Amdt. 1.

• • • effective September 2, 1976:

Buffalo, NY—Greater Buffalo Int'l Arpt., ILS Rwy 23, Amdt. 24.

• • • effective August 26, 1976:

Lewiston, ID—Lewiston-Nez Perce County Arpt., ILS Rwy 26, Amdt. 3.
Olympia, WA—Olympia Arpt., ILS Rwy 17, Amdt. 4.

4. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective September 30, 1976:

Pittsburgh, PA—Greater Pittsburgh Int'l Arpt., RADAR-1, Amdt. 17.

5. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective September 30, 1976:

Peachtree City, GA—Falcon Field, RNAV Rwy 31, Original.
Lorain (Elyria) OH—Lorain County Regional Arpt., RNAV Rwy 7, Original.

Correction: In Docket Number 15960, amendment number 1031, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated Thursday, July 29, 1976, on page 31525 under § 97.27 • • • change effective date of Petersburg, AK—Petersburg ARPT NDB-A Original and Petersburg, AK—Petersburg ARPT NDB-A AMDT 2 cancelled from September 9, 1976, to November 4, 1976.

In Docket Number 15967, Amendment number 1032, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated Thursday, August 5, 1976, on page 32735 under § 97.23, effective September 23, 1976 • • • change Walnut Ridge, AK to Walnut Ridge, AR in two places.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1854, 1421, 1510, and sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 13, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610), approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.76-24363 Filed 8-20-76;8:45 am]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1207—STANDARDS OF CONDUCT

Compensation, Honorariums, Travel Expenses; Correction

In FR Doc. 76-21900 appearing on 31526 of the FEDERAL REGISTER dated July 29, 1976, amendatory sentence (3) should have read as follows: "Paragraph (c) of § 1207.735-305 redesignated (b)(3) and revised as follows:"

ANGELA M. MURPHY,
Chief, Management Issuances and Information Branch.

[FR Doc.76-24573 Filed 8-20-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. Nos. 33-5732, 34-12694, 35-19642, AS-195]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Minor Amendments to Regulation S-X

The Commission announces herein the adoption of minor amendments to sections 210.2-02, 5-02 and 12-08 of Chapter II of Title 17 of the Code of Federal Regulations (Regulation S-X).

Section 210.2-02 is amended to remove a requirement for accountants to comment in their audit reports accompanying financial statements filed with the Commission on certain changes in accounting practices which affect comparability of financial statements but do not arise from changes in accounting principles. The types of changes affected by this amendment are accounting changes which result from altered conditions, e.g., changes in amounts of depreciation charges resulting from changes in estimates of remaining useful lives of fixed assets, rather than from a change in accounting principles.

Since these changes have long been required to be disclosed in a note to the financial statements under paragraph (a) of § 210.3-07 and more recently have been required to be disclosed in the section of financial reports devoted to management's discussion and analysis of operations, it no longer is considered necessary to require a specific comment on these changes by accountants in their audit reports. This requirement is eliminated by deletion from paragraph (c) of § 210.2-02 of the words "as required to be set forth in § 210.3-07(a)" which heretofore have linked the reporting requirement in paragraph (c) of § 210.2-02 to the changes in accounting practices specified in paragraph (a) of § 210.3-07.

Section 210.5-02 is amended to correct references in paragraph 32(a) thereunder to captions in paragraph 25 of the section to reflect revisions in those captions which were recently adopted in Accounting Series Release No. 184 [40 FR 59340].

Section 210.12-08 is amended to reinstate the last three sentences that were in Instruction 3 of that section prior to the adoption of Accounting Series Release No. 178 [40 FR 48359] wherein the sentences were inadvertently deleted.

Commission action: The Commission hereby revises paragraph (c) of § 210.2-02, paragraph 32(a) of § 210.5-02 and Instruction 3 of § 210.12-08, Chapter II of Title 17 of the Code of Federal Regulation, to read as set forth below:

§ 210.2-02 Accountants' reports.

• • • • • •

(c) *Opinion to be expressed.* The accountant's report shall state clearly: (1) The opinion of the accountant in respect of the financial statements covered by the report and the accounting principles and practices reflected therein; and (2) the opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements.

• • • • • •

§ 210.5-02 Balance sheets.

• • • • • •

32. *Other long-term debt.* (a) Include under this caption all amounts of long-term debt not provided for under captions 29(a) and 31 above. State separately amounts payable to (1) persons specified in captions 25(a) (1), (2), (3) and (6); and (2) others, specifying any material item. Indicate the extent that the debt is collateralized. Show here, or in a note referred to herein, the information required under caption 29.

• • • • • •

§ 210.12-08 Intangible assets, preoperating expenses and similar deferrals.[1, 2, 7]

• • • • • •

(Instruction) 3. Show by major classifications in each part, such as franchises, goodwill, etc. If such classification is not present or practicable, each part may be stated in one amount. The additions included in column C shall, however, be segregated in accordance with an appropriate classification. Items of minor importance may be included under a miscellaneous caption in each part.

• • • • • •

(Secs. 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s], Securities Act of 1933; Secs. 12, 13, 15(d) and 23(a) [15 U.S.C. 78l, 78m, 78o(d), 78w], Securities Exchange Act of 1934; Secs. 5(b), 14 and 20(a) [15 U.S.C. 79e, 79n, 79t], Public Utility Holding Company Act of 1935; and Secs. 8, 30, 31(c) and 38(a) [15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)], Investment Company Act of 1940.)

Inasmuch as the amendments reduce the requirements of section 210.2-02 and correct minor errors in other sections the Commission finds that, for good cause, the notice and procedures specified in the Administration Procedures Act of 1946 are unnecessary, and accordingly the foregoing amendments are adopted effective on August 23, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 6, 1976.

[FR Doc.76-24562 Filed 8-20-76;8:45 am]

FEDERAL REGISTER, VOL. 41, NO. 164—MONDAY, AUGUST 23, 1976

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0288]

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

Test for Safety of Pertussis Vaccine

The Food and Drug Administration is amending its biologics regulations concerning the safety test for products containing Pertussis Vaccine to require that the test dose in mice shall consist of no less than one-half of the recommended largest individual human dose; effective August 23, 1976.

The Commissioner of Food and Drugs issued an amendment to § 610.11 *General safety* (21 CFR 610.11), published in the FEDERAL REGISTER of March 15, 1976 (41 FR 10888); the general safety test is applicable to all biologics products. The Commissioner also amended § 620.6(a) (21 CFR 620.6(a)), which specifies the general safety test for products containing Pertussis Vaccine. It has come to the Commissioner's attention that the phrase used to identify the test dose, "recommended largest human dose," can be misinterpreted as requiring the recommended total human immunizing dose. The Commissioner advises that the subject phrase is intended to refer to the largest individual human dose rather than the total human dose because this vaccine is normally administered in a series. Accordingly, the Commissioner concludes that § 620.6(a) should be amended to clarify the regulation.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976) (41 FR 24262)), Part 620 is amended by revising § 620.6(a) to read as follows:

§ 620.6 General requirements.

(a) *Safety.* Each lot of product containing Pertussis Vaccine shall be tested for safety by the procedures prescribed in § 610.11 of this chapter except that the test shall consist of the intraperitoneal injection of no less than one-half of the recommended largest individual human dose into each of the mice, and either the intraperitoneal injection of no less than three times the recommended largest individual human dose, or the subcutaneous injection of 5.0 milliliters into each of the guinea pigs.

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 620.6 (a) because it does not impose an additional duty or burden on any person but rather clarifies the regulation. Nevertheless, interested persons have until September 22, 1976 to submit comments, and comments may justify further modification of these provisions.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).)

Effective date: This regulation shall be effective August 23, 1976.

Dated: August 17, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24575 Filed 8-20-76;8:45 am]

Title 22—Foreign Relations

CHAPTER V—UNITED STATES INFORMATION AGENCY

PART 503—AVAILABILITY OF RECORDS

Freedom of Information; Schedule of Standard Fees

22 CFR Chapter V Part 503 is amended by revising § 503.6(c)(1)(i) and (ii) to read as follows:

§ 503.6 Availability of Agency records.

* * * * *

(i) Making copies (Xerox or comparable) per page—$0.15. No fee will be charged for a particular request totalling 10 pages or less.

(ii) Searching for records, per hour—$5 for clerical personnel, $9 for supervisory personnel. No fees will be charged for searches of one hour or less.

* * * * *

(c)(1) * * *

AUTHORITY: 22 U.S.C. 2658; 31 U.S.C. 483a; 5 U.S.C. 301; 5 U.S.C. 552, as amended by Public Law 93-502, 88 Stat. 1561; E.O. 10477, as amended, 18 FR 4540, 3 CFR 1949-1953 Comp., page 958, at 22 U.S.C.A. 811a; E.O. 11652, 37 FR 5209, 3 CFR (1974), page 339.

Dated: August 11, 1976.

EUGENE P. KOPP,
Acting Director.

[FR Doc.76-24570 Filed 8-20-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-1000]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Mill Hall, Clinton County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Mill Hall, Clinton County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas.

In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Building, 20 Pennsylvania Avenue, Mill Hall, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Fishing Creek	Southern Corporate Limit	596	120	(1)
	Upstream of Main St. Bridge	586	20	540
	Upstream of Church St. Bridge	584	10	930
	Upstream of abandoned Penn Central R.R. Bridge.	579	520	1,300
	Upstream of Penn Central R.R. bridge	576	1,400	(1)
	Northern corporate limit	568	280	(1)

[1] To corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24508 Filed 8-20-76;8:45 am]

[Docket No. FI-946]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Mountainside, New Jersey

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Borough of Mountainside, New Jersey under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Borough Hall, Route 22, Mountainside, New Jersey 07092.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

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Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing down-stream) to 100-yr flood boundary (feet)	
			Right	Left
Branch 7, Nomahegan Brook.	Force Dr.	174.7	37.5	37.5
Branch 3, Nomahegan Brook.	Stoney Brook Lane	209.0	25.0	37.5
	Hickory Lane	190.0	37.5	35.0
	Indian Trail	179.5	50.0	50.0
	U.S. Route 22	127.1	235.0	125.0
Branch 2, Nomahegan Brook.	Central Ave	138.7	37.5	37.5
	Cedar Ave	128.0	25.0	20.0
	Poplar Ave	124.8	25.0	20.0
	U.S. Route 22	116.2	27.5	50.0
Branch 1, Nomahegan Brook.	Springfield	85.0	35.0	37.5
Nomahegan Brook	Lawrence Ave	177.6	(1)	(1)
	New Providence Rd	120.3	45.0	55.0
	Bridge in Echo Lake Park	100.1	(2)	400.0

[1] Less than 25 ft.
[2] Flood boundary outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24501 Filed 8-20-76;8:45 am]

[Docket No. FI-970]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of New Cumberland, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CRF Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of New Cumberland, Cumberland County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board, Town Hall Lobby, 7th and Reno Streets, New Cumberland, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	2d St. (extended)	313	(1)	1,000
	3d St. (extended)	313	(1)	430
	4th St. (extended)	313	(1)	20
	5th St. (extended)	313	(1)	220
	7th St. (extended)	313	(1)	40
	16th St. (extended)	314	(1)	60
	Northern corporate limits (extended)	315	(1)	20
Yellow Breeches Creek.	Penn Central RR	313	1,560	(1)
	Reno St. (extended)	313	490	(1)
	Weir	313	700	(1)
	Woodlawn Ave. (extended)	313	800	(1)
	Wayne St. (extended)	314	200	(1)
	Popular St		120	(1)

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24509 Filed 8-20-76;8:45 am]

[Docket No. FI-1009]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Oceanport, New Jersey

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.-10)), hereby gives notice of the final determinations of flood elevations for the Borough of Oceanport, New Jersey under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Borough Hall, Oceanport, New Jersey 07757.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Turtle Mill Brook	Myrtle Ave. extended	9	(1)	670
	Oceanport Ave	10	(1)	210
	Eatontown Blvd	11	(1)	700
	Monmouth Rd	13	(1)	50
South Shrewsbury River.	Myrtle Ave	9	2,820	(1)
Branchport Creek	Monmouth Blvd	9	(1)	80
	Branchport Ave	9	(1)	410

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24503 Filed 8-20-76;8:45 am]

[Docket No. FI-997]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of West Fairview, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.-10)), hereby gives notice of his final determinations of flood elevations for the Borough of West Fairview, Cumberland County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood

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elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board in the Meeting Room of the Town Hall, 41 Cherry Street, West Fairview, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	North corporate limits	322		90
	South St. extended	321		400
Conodoguinet Creek	West corporate limits	321	180	
	Penn Central RR	321	480	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24510 Filed 8-20-76;8:45 am]

[Docket No. FI-1032]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Delaware City, Delaware

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for City of Delaware City, Delaware under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 407 Clinton Street, Delaware City, Delaware 19706.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width—distance in feet NE. from 2d St.
Delaware River	Jefferson St	9.0	650
	Washington St	9.0	575
			Distance in feet NE. from 4th St.
Delaware River	Hamilton St	9.0	950
	5th St	9.0	(1)

[1] Approximate distance in feet from bank of Delaware City Branch Channel to boundary of 100-yr flood.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24498 Filed 8-20-76;8:45 am]

[Docket No. FI-1008]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Paterson, New Jersey

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Paterson, New Jersey under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 155 Market Street, Paterson, New Jersey 07505.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Passaic River	West Broadway St	49	95	40
	6th Ave	45	225	(1)
	Broadway St	37	150	(1)
	Bergen Passaic Expressway	34	140	(1)
Molly Ams Brook	Redwood Ave	135	25	50
	Preakness Ave	127	520	20
	Union Ave	125	35	20
Slippery Rock Brook	Danforth Ave	155	25	100
	Murray Ave	129	25	35

[1] To corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24504 Filed 8-20-76;8:45 am]

[Docket No. FI-1027]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Morehead City, North Carolina

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Morehead City, North Carolina under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individ-

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uals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, Morehead City, North Carolina 28557.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width—distance in feet north from Bridges St.
Newport River	5th St	7.0	240
	11th St	7.0	1,210
	23d St	7.0	1,400
	17th St	7.0	800
	Country Club Blvd	7.0	1,200
Bogue Sound	Arendel St. North	7.0	[1] 3,030
	6th St	7.0	480
	12th St	7.0	980
	18th St	7.0	1,260
	24th St	7.0	800

[1] Approximate distance in feet from Highway 70 bridge to boundary of 100-yr flood.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24506 Filed 8–20–76;8:45 am]

[Docket No. FI–1108]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Port Deposit, Cecil County, Maryland

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Port Deposit, Cecil County, Maryland under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Town Office, Town Hall, Port Deposit, Maryland.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	NW. corporate limit	15	16	(1)
	Granite Ave. (extended)	14	224	(1)
	River Dr	12	280	(1)
	SE. corporate limit	11	376	(1)
	Alley No. 5	11	312	(1)

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24500 Filed 8–20–76;8:45 am]

[Docket No. FI–1032]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Village of Sea Ranch Lakes, Florida

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Village of Sea Ranch Lakes, Florida under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the Community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Village Hall, 1 Gatehouse Road, Sea Ranch Lakes, Florida 33308.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Intercoastal Waterway	Seneca Rd	6	Entire road around lake except the stretch extending 400 ft north of eastern intersection with Gate House Rd.	
	Saranac Rd	6	Section extending 250 ft north of intersection with Minnetonka Rd.	
	Winona Lane	6	Section extending 130 ft from intersection with Cayuga Rd.	
Intercoastal Waterway	Minnetonka Rd	6	Section extending 140 ft south from eastern intersection with Cayuga Rd.	
	Chippewa Lane	6	Section extending 50 ft east from intersection with Cayuga Rd.	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24499 Filed 8–20–76;8:45 am]

[Docket No. FI–1028]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Neptune, New Jersey

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Township of Neptune, New Jersey under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain man-

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agement measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 25 Neptune Boulevard, Neptune, New Jersey 07753.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Jumping Brook	State Highway 66	72	100	100
	West Bangs Ave	53	175	50
	State Highway 33	39	100	150
	Corlies Ave	18	25	50
Wells Brook	Jumping Brook Rd	88	25	150
	State Highway 33	68	10	325
Betty Brook	Green Grove Rd	85	25	60
Shark River	Gully Rd	20	(1)	25
	Remsen Mill Rd	11	(1)	10
	Brighton Ave	10	(1)	300
Musquash Brook	Brighton Ave	33	25	(1)
Hollow Brook	Route 18	53	250	300
	Mall Dr	35	75	25
	State Highway 33	21	125	400

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24502 Filed 8-20-76;8:45 am]

[Docket No. FI-1007]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Wall, New Jersey

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Township of Wall, New Jersey under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at 2500 Municipal Court, Wall, New Jersey 07719.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Shark River	Route 33	57	40	(1)
	Garden State Parkway N.B	35	60	(1)
	Gully Rd	21	60	(1)
	Route 18	10	18	(1)
Shark River Tributary "D"	School House Rd	37	80	40
Shark River Tributary "E"	Route 34	71	90	240
Heroys Pond Creek	Old Mill Rd	33	80	90
Polly Pond Brook	Route 71	18	(1)	340
Wreck Pond Brook	Garden State Parkway N.B	65	120	100
	Allenwood	61	60	400
	Route 38	47	300	300
	18th and Route 30	36	240	100
	Route 35	17	20	30
	Route 38	58	300	220
Wreck Pond Brook, East Branch		60	60	80
Hannibrand Brook	Allaire Rd	24	40	20
	Rte. 35	26	70	200
Roberts Swamp Brook	Albonkin			

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24505 Filed 8-20-76;8:45 am]

[Docket No. FI-1004]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Yaupon Beach, North Carolina

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Yaupon Beach, North Carolina under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with Section 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 518 Yaupon Drive, Yaupon Beach, North Carolina 28461.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Atlantic Ocean	Corwell St	14.0	500	(1)
	Barbee Blvd	14.0	360	(1)
	Keziah St	14.0	410	(1)
	Norton St	14.0	155	(1)
	Sellers St	14.0	65	(2)
	McGlamery St	14.0	320	(1)
Elizabeth River Estuary	N.C. 133	13.0	140	
	McGlamery St	13.0	230	
	Keziah St	13.0	260	(3)

[1] Distance from intersection of Ocean Dr. to northern boundary of 100-yr flood.
[2] Distance from intersection of Ocean Dr. south, to boundary of 100-yr flood boundary.
[3] Distance from intersection with Elizabeth Dr. to boundary of 100-yr flood.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24507 Filed 8-20-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7429]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PART 301—PROCEDURE AND ADMINISTRATION

Priority of Lien; Release of Lien or Discharge of Property

PREAMBLE

On January 4, 1973, a notice of proposed rulemaking to conform the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 545, 6323, and 6325 of the Internal Revenue Code of 1954 (relating to priority of lien and release of lien or discharge of property) to changes made by section 236 of the Revenue Act of 1964 (78 Stat. 127), section 17(a) of Public Law 89–493 (80 Stat. 263), and sections 101 and 103 of the Federal Tax Lien Act of 1966 (80 Stat. 1125 and 1133) was published in the FEDERAL REGISTER (38 FR 776).

Section 6323 generally relates to the validity and priority of a Federal tax lien against certain persons. Section 301.6323 (b)–1 (d) of the proposed regulations provided that a previously filed notice of tax lien is not valid against a purchaser who buys (for less than $250 and not for resale) household goods, personal effects or certain other tangible personal property in a casual sale, provided the purchaser does not have actual notice or knowledge of (A) the existence of a tax lien, or (B) that the sale is one of a series of sales.

No definitive rule was developed in the proposed regulations to determine, under all circumstances, when a purchaser would be considered to have notice or knowledge that the sale was one of a series of sales. However, example (3) of proposed § 301.6323 (b)–1 (d) illustrated a situation where a purchaser would be considered to have such notice. In this example the seller advertised the sale of substantially all his household property. In response to the advertisement the buyer purchased the seller's dining room furniture for $200. The purchase occurred after a notice of tax lien was filed. The example concluded that because such an advertisement contemplated a series of sales to dispose of substantially all the seller's household articles, the purchaser had notice that the sale was one of a series of sales and, consequently, purchased the dining room furniture subject to the tax lien.

After reconsideration, it was concluded that whether a particular purchaser would be considered to have such actual notice or knowledge would depend upon that purchaser's background and experience. Consequently, example (3) of proposed § 301.6323 (b)–1 (d) is not contained in the final regulations.

Section 301.6323(c)–1 (b) and (d) of the proposed regulations have been revised. Section 301.6323(c)–1(b) contained a definition of the term "commercial transactions financing agreement" for purposes of the priority rules of section 6323(c). In addition to other requirements relating to such agreements, protection of a security interest in "qualified property" against a tax lien is provided only with respect to advances made under such an agreement before the 46th day after the date of tax lien filing or, if earlier, the time when the lender or purchaser has actual notice or knowledge of tax lien filing. Section 6323(c)(2)(B) provides that "qualified property" under a commercial transactions financing agreement includes only property acquired by the debtor-taxpayer before the 46th day after the date of tax lien filing. Thus, there are two 45-day rules relating to commercial transactions financing agreements, i.e., one relating to the period during which advances must be made by the creditor or purchaser and another relating to the period during which the property or collateral must be acquired by the debtor-taxpayer. The acquisition of notice or knowledge of the tax lien by the creditor shortens one of the periods (the one relating to advances) but not the other (the one relating to the acquisition of the collateral). Proposed § 301.6323(c)–1(b) had contained both the 45-day rules. In the interest of clarification, § 301.6323(c)–(1) (b) and (d) have been revised so that the 45-day rule relating to advances appears in § 301.6323(c)–1 (b) of the final regulations (relating to commercial transactions financing agreement) and the 45-day rule relating to the acquisition of the collateral appears in § 301.6323(c)–1(d) of the final regulations (relating to qualified property).

Sections 301.6323(c)–1(d) and 301.6323 (d)–1(a) of the proposed regulations have been revised to reflect a change of position with respect to the acquisition of contract rights.

The proposed regulations provided that contract rights are considered to be "acquired" when, and to the extent that, a right to payment is earned by performance. This position was taken in proposed § 301.6323(c)–1(d), relating to the specific protection provided a security interest in qualified property under a commerical transactions financing agreement, and § 301.6323(d)–1(a), relating to the general protection provided with respect to advances made after tax lien filing under an agreement entered into before such filing. However, after considering comments received from the public, the final regulations have been revised to provide that: for purposes of § 301.6323(c)–1(b), a contract right is acquired by the taxpayer when the contract is made; for purposes of § 301.6323(d)–1(a), a contract right is subject to the lien imposed by section 6321 if the contract has been made by the time of tax lien filing; and that, for purposes of § 301.6323(h)–1(a) (relating to the definition of a security interest) a contract right is in existence when the contract is made.

Section 301.6323 (c)–1 (d) of the proposed regulations has also been revised to reflect changes in local law. In the proposed regulations, § 301.6323 (c)–1 (d) provided that an account receivable is acquired by a taxpayer at the time, and to the extent, a right to payment is earned by performance. Because some jurisdictions have adopted a revised definition of an "account", the regulations have been revised to emphasize that the priority of a security interest over a Federal tax lien does not depehd upon local law definitions of the various types of property interests comprising commercial financing security.

Section 301.6323 (g)–1 (b) (2) (ii) of the proposed regulations have been revised to extend a transitional date for sending change of address notices to the Internal Revenue Service. Under the proposed regulations, a change of address notice sent to any office of the Service would be effective, provided such notice was received prior to July 1, 1973. Section 301.6323 (g)–1 (b) (2) (ii) of the final regulations provides that such a notice sent to any office of the Service will be effective, provided that it is received prior to the date this Treasury decision is published in the FEDERAL REGISTER.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On January 4, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 776) in order to conform the Income Tax Regulations, the Estate Tax Regulations, the Gift Tax Regulations and the Regulations on Procedure and Administration (26 CFR Parts 1, 20, 25, and 301) under sections 545, 6323, and 6325 of the Internal Revenue Code of 1954 to section 236 of the Revenue Act of 1964 (78 Stat. 127), section 17(a) of Public Law 89–493 (80 Stat. 263), and sections 101 and 103 of the Federal Tax Lien Act of 1966 (80 Stat. 1125 and 1133). Section 301.6323 (g)–1 of the regulations hereby adopted supersedes §§ 400.1 and 400.1–1 of this chapter, relating to section 101(a) of the Federal Tax Lien Act of 1966, which were

prescribed by T. D. 6932, approved October 13, 1967 (32 FR 14385). Section 301.6325–1 of the regulations hereby adopted supersedes §§ 400.2 and 400.2–1 of this chapter, relating to section 103 (a) of such Act, which were prescribed by T. D. 6944, approved January 17, 1968 (33 FR 732). After taking into consideration all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraph 1. Paragraph (b) of § 301.6323(a)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is revised by deleting the word "security" from the last sentence thereof.

Par. 2. Example (3) of § 301.6323(b)–1 (d) (3), as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is deleted and example (4) of such section is renumbered as example (3).

Par. 3. Paragraph (j) (1) of § 301.6323 (b)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is revised by deleting the reference to paragraph (i) (2) in the first sentence and by inserting a reference to subparagraph (2) in lieu thereof. The third sentence of such paragraph is revised by striking out the phrase "If a passbook loan is made" and inserting in lieu thereof "Even though an original passbook loan is made". As revised, § 301.6323(b)–1(j)(1) reads as follows:

§ 301.6323(b)–1 Protection for certain interests even though notice filed.

* * * * *

(j) *Passbook loans*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323 (f)–1, the lien is not valid against an institution described in section 581 or 591 to the extent of any loan made by the institution which is secured by a savings deposit, share, or other account evidenced by a passbook (as defined in subparagraph 2 of this paragraph) if the institution has been continuously in possession of the passbook from the time the loan is made. This paragraph applies only to a loan made without actual notice or knowledge (as defined in paragraph (a) of § 301.6323 (i)–1) of the existence of the lien. Even though an original passbook loan is made without actual notice or knowledge of the existence of the lien, this paragraph does not apply to any additional loan made after knowledge of the lien is acquired by the institution even if it continues to retain the passbook from the time the original passbook loan is made.

* * * * *

Par. 4. Section 301.6323 (c)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is amended by revising paragraphs (b), (c) and (d) of such section. As revised, paragraphs (b), (c) and (d) of § 301.6323 (c)–1 read as follows:

§ 301.6323(c)–1 Protection for commercial transactions financing agreements.

* * * * *

(b) *Commercial transactions financing agreement.* For purposes of this section, the term "commercial transactions financing agreement" means a written agreement entered into by a person in the course of his trade or business—

(1) To make loans to the taxpayer (whether or not at the option of the person agreeing to make such loans) to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(2) To purchase commercial financing security, other than inventory, acquired by the taxpayer in the ordinary course of his trade or business.

Such an agreement qualifies as a commercial transactions financing agreement only with respect to loans or purchases made under the agreement before (i) the 46th day after the date of tax lien filing or, (ii) the time when the lender or purchaser has actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)–1) of the tax lien filing, if earlier. For purposes of this paragraph, a loan or purchase is considered to have been made in the course of the lender's or purchaser's trade or business if such person is in the business of financing commercial transactions (such as a bank or commercial factor) or if the agreement is incidental to the conduct of such person's trade or business. For example, if a manufacturer finances the accounts receivable of one of his customers, he is considered to engage in such financing in the course of his trade or business. The extent of the priority of the lender or purchaser over the tax lien is the amount of his disbursements made before the 46th day after the date the notice of tax lien is filed, or made before the date (before such 46th day) on which the lender or purchaser has actual notice or knowledge of the filing of the notice of the tax lien.

(c) *Commercial financing security*—(1) *In general.* The term "commercial financing security" means—

(i) Paper of a kind ordinarily arising in commercial transactions,

(ii) Accounts receivable (as defined in subparagraph (2) of this paragraph),

(iii) Mortgages on real property, and

(iv) Inventory.

For purposes of this subparagraph, the term "paper of a kind ordinarily arising in commercial transactions" in general includes any written document customarily used in commercial transactions. For example, such written documents include paper giving contract rights (as defined in subparagraph (2) of this paragraph), chattel paper, documents of title to personal property, and negotiable instruments or securities. The term "commercial financing security" does not include general intangibles such as patents or copyrights. A mortgage on real estate (including a deed of trust, contract for sale, and similar instrument) may be commercial financing security if the taxpayer has an interest in the mortgage as a mortgagee or assignee. The term "commercial financing security" does not include a mortgage where the taxpayer is the mortgagor of realty owned by him. For purposes of this subparagraph, the term "inventory" includes raw materials and goods in process as well as property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(2) *Definitions.* For purposes of §§ 301.6323 (d)–1, 301.6323(h)–1 and this section—

(i) A contract right is any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper, and

(ii) An account receivable is any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper.

(d) *Qualified property.* For purposes of paragraph (a) of this section, qualified property consists solely of commercial financing security acquired by the taxpayer-debtor before the 46th day after the date of tax lien filing. Commercial financing security acquired before such day may be qualified property even though it is acquired by the taxpayer after the lender received actual notice or knowledge of the filing of the notice of the tax lien. For example, although the receipt of actual notice or knowledge of the filing of the notice of the tax lien has the effect of ending the period within which protected disbursements may be made to the taxpayer, property which is acquired by the taxpayer after the lender receives actual notice or knowledge of such filing and before such 46th day, which otherwise qualifies as commercial financing security, becomes commercial financing security to which the priority of the lender extends for loans made before he received the actual notice or knowledge. An account receivable (as defined in paragraph (c)(2)(ii) of this section) is acquired by a taxpayer at the time, and to the extent, a right to payment is earned by performance. Chattel paper, documents of title, negotiable instruments, securities, and mortgages on real estate are acquired by a taxpayer when he obtains rights in the paper or mortgage. Inventory is acquired by the taxpayer when title passes to him. A contract right (as defined in paragraph (c)(2)(i) of this section) is acquired by a taxpayer when the contract is made. Identifiable proceeds, which arise from the collection or disposition of qualified property by the taxpayer, are considered to be acquired at the time such qualified property is acquired if the secured party has a continuously perfected security interest in the proceeds under local law. The term "proceeds" includes whatever is received when collateral is sold, exchanged, or collected. For purposes of this paragraph, the term "identifiable proceeds" does not include money, checks and the like which have been commingled with other cash proceeds. Property acquired by the taxpayer after the 45th day following tax lien filing, by the expenditure of proceeds, is not qualified property.

* * * * *

Par. 5. Examples (2) and (3) of § 301.6323 (c)–2 (d), as set forth in paragraph 7 of the appendix to the notice of proposed rule making, are revised to provide appropriate cross references to other provisions of section 6323 and the regulations thereunder. As revised, examples (2) and (3) of § 301.6323 (c)–2 (d) read as follows:

§ 301.6323(c)–2 Protection for real property construction or improvement financing agreements.

* * * * *

(d) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

* * * * *

Example (2). (i) C is awarded a contract for the demolition of several buildings. On March 3, 1969, C enters into a written agreement with D which provides that D will make cash disbursements to finance the demolition and also provides that repayment of the disbursements is secured by any sums due C under the contract. On April 1, 1969, in accordance with § 301.6323 (f)–1, a notice of lien is filed with respect to C's delinquent tax liability. With actual notice of the tax lien, D makes cash disbursements to C on August 1, September 1, and October 1, 1969. Under local law D's security interest in the proceeds of the contract with respect to the disbursements is entitled to priority over a judgment lien arising on April 1, 1969 (the date of tax lien filing) out of an unsecured obligation.

V41I164 AUG 23 76 UMI

(ii) Because D's security interest arose by reason of disbursements made pursuant to a writen agreement, entered into before tax lien filing, to make cash disbursements to finance a contract to demolish real property, and because D's security interest is valid under local law against a judgment lien arising as of the time of tax lien filing out of an unsecured obligation, the tax lien is not valid with respect to D's security interest in the proceeds of the demolition contract.

Example (3). Asume the same facts as in example (2) and, in addition, assume that, as further security for the cash disbursements, the March 3, 1969 agreement also provides for a security interest in all of C's demolition equipment. Because the protection of the security interest arising from the disbursements made after tax lien filing under the agreement is limited under section 6323 (c) (3) to the proceeds of the demolition contract and because, under the circumstances, the security interest in the equipment is not otherwise protected under section 6323, the tax lien will have priority over D's security interest in the equipment.

• • • • •

Par. 6. Paragraph (a) of § 301.6323 (d)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is revised to read as follows:

§ 301.6323(d)–1 45-day period for making disbursements.

(a) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a security interest which comes into existence, after tax lien filing, by reason of disbursements made before the 46th day after the date of tax lien filing, or if earlier, before the person making the disbursements has actual notice or knowledge of the tax lien filing, but only if the security interest is—

(1) In property which is subject, at the time of tax lien filing, to the lien imposed by section 6321 and which is covered by the terms of a written agreement entered into before tax lien filing, and

(2) Protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

For purposes of subparagraph (1) of this paragraph, a contract right (as defined in paragraph (c)(2)(i) of § 301.6323 (c)–1) is subject, at the time of tax lien filing, to the lien imposed by section 6321 if the contract has been made by such time. An account receivable (as defined in paragraph (c)(2)(ii) of § 301.6323 (c)–1) is subject, at the time of tax lien filing, to the lien imposed by section 6321 if, and to the extent, a right to payment has been earned by performance at such time. For purposes of subparagraph (2) of this paragraph, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of § 301.6323 (h)–1. For purposes of this section, it is immaterial that the written agreement provides that the disbursements are to be made at the option of the person making the disbursements. See paragraphs (a) and (e) of § 301.6323 (h)–1 for definitions of the terms "security interest" and "tax lien filing", respectively. See paragraph (a) of § 301.6323 (i)–1 for certain circumstances under which a person is deemed to have actual notice or knowledge of a fact.

• • • • •

Par. 7. Section 301.6323 (f)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by revising so much of paragraph (a) as precedes subparagraph (1) to read as follows:

§ 301.6323(f)–1 Place for filing notice; form.

(a) *Place for filing.* The notice of lien referred to in § 301.6323 (a)–1 shall be filed as follows:

• • • • •

Par. 8. Subdivisions (i) and (ii) of § 301.6323 (g)–1 (b) (2), as set forth in paragraph 7 of the appendix to the notice of proposed rule making, are revised to read as follows:

§ 301.6323(g)–1 Refiling of notice of tax lien.

• • • • •

(b) *Place for refiling notice of lien* • • •

(2) *Notice of change of taxpayer's residence*—(i) *In general.* Except as provided in subdivision (ii) or (iii) of this subparagraph, for purposes of this section, a notice of change of a taxpayer's residence will be effective only if it (A) is received, in writing, from the taxpayer or his representative by the district director or the service center director having jurisdiction where the original notice of lien was filed, (B) relates to an unpaid tax liability of the taxpayer, and (C) states the taxpayer's name and the address of his new residence. Although it is not necessary that a written notice contain the taxpayer's identifying number authorized by section 6109, it is preferable that it include such number. For purposes of this subdivision, a notice of change of a taxpayer's residence shown on a return or an amended return (including a return of the same tax) will not be effective to notify the Internal Revenue Service.

(ii) *Notice received before August 23, 1976.* For purposes of this section, a notice of a change of a taxpayer's residence will also be effective if it (A) is received, in writing, by any office of the Internal Revenue Service before August 23, 1976, from the taxpayer or his representative, (B) relates to an unpaid tax liability of the taxpayer, and (C) states the taxpayer's name and the address of his new residence.

• • • • •

Par. 9. Paragraph (a)(1) of § 301.6323 (h)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is revised to read as follows:

§ 301.6323(h)–1 Definitions.

(a) *Security interests*—(1) *In general.* The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time—

(i) If, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien (as provided in subparagraph (2) of this paragraph) arising out of an unsecured obligation; and

(ii) To the extent that, at such time, the holder has parted with money or money's worth (as defined in subparagraph (3) of this paragraph).

For purposes of this subparagraph, a contract right (as defined in paragraph (c)(2)(i) of § 301.6323(c)–1) is in existence when the contract is made. An account receivable (as defined in paragraph (c)(2)(ii) of § 301.6323(c)–1) is in existence when, and to the extent, a right to payment is earned by performance. A security interest must be in existence, within the meaning of this paragraph, at the time as of which its priority against a tax lien is determined. For example, to be afforded priority under the provisions of paragraph (a) of § 301.6323 (a)–1 a security interest must be in existence within the meaning of this paragraph before a notice of lien is filed.

• • • • •

Par. 10. Paragraph (e) of § 301.6323 (h)–1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is revised to provide a cross reference. As revised, § 301.6323(h)–1 (e) reads as follows:

§ 301.6323(h)–1 Definitions.

• • • • •

(e) *Tax lien filing.* The term "tax lien filing" means the filing of notice of the lien imposed by section 6321 in accordance with § 301.6323(f)–1.

• • • • •

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954. (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: August 16, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations, the Estate Tax Regulations, the Gift Tax Regulations and the Regulations on Procedure and Administration (26 CFR Parts 1, 20, 25, and 301) under sections 545, 6323, and 6325 of the Internal Revenue Code of 1954 to section 236 of the Revenue Act of 1964 (78 Stat. 127), section 17(a) of Public Law 89–493 (80 Stat. 263), and sections 101 and 103 of the Federal Tax Lien Act of 1966 (80 Stat. 1125 and 1133), such regulations are amended as set forth hereinafter. Section 301.6323(g)–1 of the regulations hereby adopted supersedes those provisions of §§ 400.1 and 400.1–1 of this chapter relating to section 101(a) of the Federal Tax Lien Act of 1966 which were prescribed by T.D. 6932, approved October 13, 1967 (32 F.R. 14385). Section 301.6325–1 hereby adopted supersedes those provisions of §§ 400.2 and 400.2–1 of this chapter relating to section 103(a) of such Act which were prescribed by T.D. 6944, approved January 17, 1968 (33 F.R. 732).

A. Part 1, Income Tax Regulations, of 26 CFR Chapter I, is amended as follows:

PARAGRAPH 1. Paragraph (l)(1) of § 1.545–2 is amended to read as follows:

§ 1.545–2 Adjustments to taxable income.

• • • • •

(l) *Amount of a lien in favor of the United States.* (1) If notices of lien are filed in the manner provided in section 6323(f), the amount of the liability to the United States outstanding at the close of the taxable year, and secured by such liens which are in effect at that time, shall be allowed as a deduction in computing undistributed personal holding company income. However, the amount of such deduction which may be allowed for any taxable year shall not exceed the taxable income (as adjusted for purposes of determining the undistributed personal holding company income, but without regard to the deduction under section 545(b)(9)) for such year. The fact that the amount of, or any part of, the outstanding obligation to the United States was deducted for one taxable year does not prevent its deduction for a subsequent taxable year to the extent the obligation is still outstanding at the close of the subsequent taxable year and is secured by a lien, notice of which has been filed.

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B. Part 20, Estate Tax Regulations, of 26 CFR Chapter I, is amended as follows:

PAR. 2. Section 20.6323 is amended by revising sections (a) through (e), by adding subsections (f) through (i), and by revising the historical note. These revised and added provisions read as follows:

§ 20.6323 Statutory provisions; validity and priority against certain persons.

SEC. 6323. *Validity and priority against certain persons*—(a) *Purchases, holders of security interests, mechanics's lienors, and judgment lien creditors.* The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary or his delegate.

(b) *Protection for certain interests even though notice filed.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) *Securities.* With respect to a security (as defined in subsection (h)(4))—

(A) As against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) As against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) *Motor vehicles.* With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) At the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) Before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) *Personal property purchased at retail.* With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) *Personal property purchased in casual sale.* With respect to household goods, personal effects, or other tangible personal property described in section 6334(a) purchased (not for resale) in a casual sale for less than $250, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) *Personal property subject to possessory lien.* With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) *Real property tax and special assessment liens.* With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) A tax of general application levied by any taxing authority based upon the value of such property;

(B) A special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) Charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) *Residential property subject to a mechanic's lien for certain repairs and improvements.* With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than $1,000.

(8) *Attorneys' liens.* With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or contract enforcible against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) *Certain insurance contracts.* With respect to a life insurance, endowment, or annuity contract, as against the organization which is the insurer under such contract, at any time—

(A) Before such organization had actual notice or knowledge of the existence of such lien;

(B) After such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) After satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary or his delegate delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) *Passbook loans.* With respect to a savings deposit, share, or other account, evidenced by a passbook, with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account and if such institution has been continuously in possession of such passbook from the time the loan is made.

(c) *Protection for certain commercial transactions financing agreements, etc.*—(1) *In general.* To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) Is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

(i) A commercial transactions financing agreement,

(ii) A real property construction or improvement financing agreement, or

(iii) An obligatory disbursement agreement, and

(B) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) *Commercial transactions financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "commercial transactions financing agreement" means an agreement (entered into by a person in the course of his trade or business)—

(i) To make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(ii) To purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) *Commercial financing security defined.* The term "commercial financing security" means (i) paper of a kind ordinarily arising in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) *Purchaser treated as acquiring security interest.* A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security.

(3) *Real property construction or improvement financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "real property construction or improvement financing agreement" means an agreement to make cash disbursements to finance—

(i) The construction or improvement of real property,

(ii) A contract to construct or improve real property, or

(iii) The raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to a real property construction or improvement financing agreement, includes only—

(i) In the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,

(ii) In the case of subparagraph (A)(ii), the proceeds of the contract described therein, and

(iii) In the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and

V 41 164 AUG 23 76 UMI

the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) *Obligatory disbursement agreement.* For purposes of this subsection—

(A) *Definition.* The term "obligatory disbursement agreement" means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) *Special rules for surety agreements.* Where the obligatory disbursement agreement is an agreement insuring the performance of a contract between the taxpayer and another person—

(i) The term "qualified property" shall be treated as also including the proceeds of the contract the performance of which was insured, and

(ii) If the contract the performance of which was insured was a contract to construct or improve real property, to produce goods, or to furnish services, the term "qualified property" shall be treated as also including any tangible personal property used by the taxpayer in the performance of such insured contract.

(d) *45-day period for making disbursements.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

(1) Is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and

(2) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(e) *Priority of interest and expenses.* If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

(1) Any interest or carrying charges upon the obligation secured,

(2) The reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,

(3) The reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) The reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) The reasonable costs of insuring payment of the obligation secured, and

(6) Amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

(f) *Place for filing notice; form*—(1) *Place for filing.* The notice referred to in subsection (a) shall be filed—

(A) *Under State laws*—(i) *Real property.* In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; or

(B) *With clerk of district court.* In the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) *With recorder of deeds of the District of Columbia.* In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) *Situs of property subject to lien.* For purposes of paragraph (1), property shall be deemed to be situated—

(A) *Real property.* In the case of real property, at its physical location; or

(B) *Personal property.* In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) *Form.* The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary or his delegate. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(g) *Refiling of notice.* For purposes of this section—

(1) *General rule.* Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) *Place for filing.* A notice of lien refiled during the required refiling period shall be effective only—

(A) If such notice of lien is refiled in the office in which the prior notice of lien was filed; and

(B) In any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary or his delegate received written information (in the manner prescribed in regulations issued by the Secretary or his delegate) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) *Required refiling period.* In the case of any notice of lien, the term "required refiling period" means—

(A) The 1-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(B) The 1-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(4) *Transitional rule.* Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

(h) *Definitions.* For purposes of this section and section 6324—

(1) *Security interest.* The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) *Mechanic's lienor.* The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) *Motor vehicle.* The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country.

(4) *Security.* The term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(5) *Tax lien filing.* The term "tax lien filing" means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) *Purchaser.* The term "purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section, and for purposes of section 6324—

(A) A lease of property,

(B) A written executory contract to purchase or lease property,

(C) An option to purchase or lease property or any interest therein, or

(D) An option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

(i) *Special rules*—(1) *Actual notice or knowledge.* For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routine. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) *Subrogation.* Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed pursuant to subsection (f), the Secretary or his delegate is authorized to provide by regulations the extent to which, and the conditions under which, information as to the amount of the outstanding obligation secured by the lien may be disclosed.

[Sec. 6323 as amended by sec. 236 (a) and (c)(1), Rev. Act 1964 (78 Stat. 127); sec. 17(a), Act of July 5, 1966 (Public Law 89-493, 80 Stat. 263); sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

PAR. 3. Section 20.6323-1 is amended to read as follows:

§ 20.6323-1 Validity and priority against certain persons.

For regulations concerning the validity of the lien imposed by section 6321 against certain persons, see §§ 301.6323(a)-1 through 301.6323(i)-1 of this chapter (Regulations on Procedure and Administration).

PAR. 4. Section 20.6325 is amended by revising subsections (a) through (e), by adding subsections (f) through (h), and by revising the historical note. These revised and added provisions read as follows:

§ 20.6325 Statutory provisions; release of lien or discharge of property.

Sec. 6325. *Release of lien or discharge of property*—(a) *Release of lien.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of release of any lien imposed with respect to any internal revenue tax if—

(1) *Liability satisfied or unenforceable.* The Secretary or his delegate finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) *Bond accepted.* There is furnished to the Secretary or his delegate and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such regulations.

(b) *Discharge of property*—(1) *Property double the amount of the liability.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary or his delegate finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority over such lien.

(2) *Part payment; interest of United States valueless.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to the lien if—

(A) There is paid over to the Secretary or his delegate in partial satisfaction of the liability secured by the lien an amount determined by the Secretary or his delegate, which shall not be less than the value, as determined by the Secretary or his delegate, of the interest of the United States in the part to be so discharged, or

(B) The Secretary or his delegate determines at any time that the interest of the United States in the part to be so discharged has no value.

In determining the value of the interest of the United States in the part to be so discharged, the Secretary or his delegate shall give consideration to the value of such part and to such liens thereon as have priority over the lien of the United States.

(3) *Substitution of proceeds of sale.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to the lien if such part of the property is sold and, pursuant to an agreement with the Secretary or his delegate, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.

(c) *Estate or gift tax.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary or his delegate finds that the liability secured by such lien has been fully satisfied or provided for.

(d) *Subordination of lien.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of subordination of any lien imposed by this chapter upon any part of the property subject to such lien if—

(1) There is paid over to the Secretary or his delegate an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States, or

(2) The Secretary or his delegate believes that the amount realizable by the United States from the property to which the certificate relates, or from any other property subject to the lien, will ultimately be increased by reason of the issuance of such certificate and that the ultimate collection of the tax liability will be facilitated by such subordination.

(e) *Nonattachment of lien.* If the Secretary or his delegate determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed under section 6323 refers to such person, the Secretary or his delegate may issue a certificate that the lien does not attach to the property of such person.

(f) *Effect of certificate*—(1) *Conclusiveness.* Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary or his delegate and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:

(A) In the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished;

(B) In the case of a certificate of discharge, such certificate shall be conclusive that the property covered by such certificate is discharged from the lien;

(C) In the case of a certificate of subordination, such certificate shall be conclusive that the lien or interest to which the lien of the United States is subordinated is superior to the lien of the United States; and

(D) In the case of a certificate of nonattachment, such certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in such certificate.

(2) *Revocation of certificate of release or nonattachment.* If the Secretary or his delegate determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary or his delegate may revoke such certificate and reinstate the lien—

(A) By mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and

(B) By filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).

Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

(3) *Certificates void under certain conditions.* Notwithstanding any other provision of this subtitle, any lien imposed by this chapter shall attach to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires such property after such certificate has been issued.

(g) *Filing of certificates and notices.* If a certificate or notice issued pursuant to this section may not be filed in the office designated by State law in which the notice of lien imposed by section 6321 is filed, such certificate or notice shall be effective if filed in the office of the clerk of the United States district court for the judicial district in which such office is situated.

(h) *Cross reference.* For provisions relating to bonds, see chapter 73 (sec. 7101 and following).

[Sec. 6325 as amended by sec. 77, Technical Amendments Act 1958 (72 Stat. 1662); sec. 103, Federal Tax Lien Act 1966 (80 Stat. 1133)]

C. Part 25, Gift Tax Regulations, of 26 CFR Chapter I is amended as follows:

PAR. 5. Section 25.6323 is amended by revising subsections (a) through (e), by adding subsections (f) through (i), and by revising the historical note. These re-

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vised and amended provisions read as follows:

§ 25.6323 Statutory provisions; validity and priority against certain persons.

SEC. 6323. *Validity and priority against certain persons*—(a) *Purchases, holders of security interests, mechanic's lienors, and judgment lien creditors.* The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary or his delegate.

(b) *Protection for certain interests even though notice filed.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) *Securities.* With respect to a security (as defined in subsection (b)(4))—

(A) As against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) As against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) *Motor vehicles.* With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) At the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) Before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) *Personal property purchased at retail.* With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) *Personal property purchased in casual sale.* With respect to household goods, personal effects, or other tangible personal property described in section 6334(a) purchased (not for resale) in a casual sale for less than $250, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) *Personal property subject to possessory lien.* With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) *Real property tax and special assessment liens.* With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) A tax of general application levied by any taxing authority based upon the value of such property;

(B) A special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) Charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) *Residential property subject to a mechanic's lien for certain repairs and improvements.* With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than $1,000.

(8) *Attorneys' liens.* With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or a contract enforcible against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) *Certain insurance contracts.* With respect to a life insurance, endowment, or annuity contract, as against the organization which is the insurer under such contract, at any time—

(A) Before such organization had actual notice or knowledge of the existence of such lien;

(B) After such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) After satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary or his delegate delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) *Passbook loans.* With respect to a savings deposit, share, or other account, evidenced by a passbook, with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account and if such institution has been continuously in possession of such passbook from the time the loan is made.

(c) *Protection for certain commercial transactions financing agreements, etc.*—(1) *In general.* To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) Is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

(i) A commercial transactions financing agreement,

(ii) A real property construction or improvement financing agreement, or

(iii) An obligatory disbursement agreement, and

(B) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) *Commercial transactions financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "commercial transactions financing agreement" means an agreement (entered into by a person in the course of his trade or business)—

(i) To make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(ii) To purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) *Limitation on qualified property.* The term "qualified property," when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) *Commercial financing security defined.* The term "commercial financing security" means (i) paper of a kind ordinarily arising in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) *Purchaser treated as acquiring security interest.* A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security.

(3) *Real property construction or improvement financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "real property construction or improvement financing agreement" means an agreement to make cash disbursements to finance—

(i) The construction or improvement of real property,

(ii) A contract to construct or improve real property, or

(iii) The raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) *Limitation on qualified property.* The term "qualified property," when used with respect to a real property construction or improvement financing agreement, includes only—

(i) In the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,

(ii) In the case of subparagraph (A)(ii), the proceeds of the contract described therein, and

(iii) In the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) *Obligatory disbursement agreement.* For purposes of this subsection—

(A) *Definition.* The term "obligatory disbursement agreement" means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) *Limitation on qualified property.* The term "qualified property," when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition

is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) *Special rules for surety agreements.* Where the obligatory disbursement agreement is an agreement insuring the performance of a contract between the taxpayer and another person—

(i) The term "qualified property" shall be treated as also including the proceeds of the contract the performance of which was insured, and

(ii) If the contract the performance of which was insured was a contract to construct or improve real property, to produce goods, or to furnish services, the term "qualified property" shall be treated as also including any tangible personal property used by the taxpayer in the performance of such insured contract.

(d) *Forty-five-day period for making disbursements.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

(1) Is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and

(2) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(e) *Priority of interest and expenses.* If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

(1) Any interest or carrying charges upon the obligation secured,

(2) The reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,

(3) The reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) The reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) The reasonable costs of insuring payment of the obligations secured, and

(6) Amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

(f) *Place for filing notice; form*—(1) *Place for filing.* The notice referred to in subsection (a) shall be filed—

(A) *Under State laws*—(i) *Real property.* In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; or

(B) *With clerk of district court.* In the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) *With recorder of deeds of the District of Columbia.* In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) *Situs of property subject to lien.* For purposes of paragraph (1), property shall be deemed to be situated—

(A) *Real property.* In the case of real property, at its physical location; or

(B) *Personal property.* In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) *Form.* The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary or his delegate. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(g) *Refiling of notice.* For purposes of this section—

(1) *General rule.* Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) *Place for filing.* A notice of lien refiled during the required refiling period shall be effective only—

(A) If such notice of lien is refiled in the office in which the prior notice of lien was filed; and

(B) In any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary or his delegate received written information (in the manner prescribed in regulations issued by the Secretary or his delegate) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) *Required refiling period.* In the case of any notice of lien, the term "required refiling period" means—

(A) The 1-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(B) The 1-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(4) *Transitional rule.* Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

(h) *Definitions.* For purposes of this section and section 6324—

(1) *Security interest.* The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) *Mechanic's lienor.* The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) *Motor vehicle.* The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country.

(4) *Security.* The term "security" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(5) *Tax lien filing.* The term "tax lien filing" means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) *Purchaser.* The term "purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section, and for purposes of section 6324—

(A) A lease of property,

(B) A written executory contract to purchase or lease property,

(C) An option to purchase or lease property or any interest therein, or

(D) An option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

(i) *Special rules*—(1) *Actual notice or knowledge.* For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routine. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) *Subrogation.* Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed pursuant to subsection (f), the Secretary or his delegate is authorized to provide by regulations the extent to which, and the conditions under which, information as to the amount of the outstanding obligation secured by the lien may be disclosed.

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[Sec. 6323 as amended by sec. 236 (a) and (c)(1), Rev. Act 1964 (78 Stat. 127); sec. 17(a), Act of July 5, 1966 (Public Law 89-493, 80 Stat. 263); sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

PAR. 6. Section 25.6323-1 is amended to read as follows:

§ 25.6323-1 Validity and priority against certain persons.

For regulations concerning the validity of the lien imposed by section 6321 against certain persons, see §§ 301.6323(a)-1 through 301.6323(i)-1 of this chapter (Regulations on Procedure and Administration).

D. Part 301, Regulations on Procedure and Administration, of 26 CFR Chapter I is amended as follows:

PAR 7. Sections 301.6323 and 301.6323-1 are deleted, and immediately following § 301.6322, there are added the following new sections:

§ 301.6323(a) Statutory provisions; validity and priority against certain persons; purchasers, holders of security interests, mechanic's lienors, judgment lien creditors.

SEC. 6323. *Validity and priority against certain persons*—(a) *Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors.* The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary or his delegate.

[Sec. 6323(a) as amended by sec. 236(c)(1), Rev. Act 1964 (78 Stat. 127); sec. 17(a), Act of July 5, 1966 (Public Law 89-493, 80 Stat. 263); sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(a)-1 Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors.

(a) *Invalidity of lien without notice.* The lien imposed by section 6321 is not valid against any purchaser (as defined in paragraph (f) of § 301.6323(h)-1), holder of a security interest (as defined in paragraph (a) of § 301.6323(h)-1), mechanic's lienor (as defined in paragraph (b) of § 301.6323(h)-1), or judgment lien creditor (as defined in paragraph (g) of § 301.6323(h)-1) until a notice of lien is filed in accordance with § 301.6323(f)-1. Except as provided by section 6323, if a person becomes a purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor after a notice of lien is filed in accordance with § 301.6323(f)-1, the interest acquired by such person is subject to the lien imposed by section 6321.

(b) *Cross references.* For provisions relating to the protection afforded a security interest arising after tax lien filing, which interest is covered by a commercial transactions financing agreement, real property construction or improvement financing agreement, or an obligatory disbursement agreement, see §§ 301.6323(c)-1, 301.6323(c)-2, and 301.6323(c)-3, respectively. For provisions relating to the protection afforded to a security interest coming into existence by virtue of disbursements made before the 46th day after the date of tax lien filing, see § 301.6323(d)-1. For provisions relating to priority afforded to interest and certain other expenses with respect to a lien or security interest having priority over the lien imposed by section 6321, see § 301.6323(e)-1. For provisions relating to certain other interests arising after tax lien filing, see § 301.6323(b)-1.

§ 301.6323(b) Statutory provisions; validity and priority against certain persons; protection for certain interests even though notice filed.

SEC. 6323. *Validity and priority against certain persons.* • • •

(b) *Protection for certain interests even though notice filed.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) *Securities.* With respect to a security (as defined in subsection (h)(4))—

(A) As against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) As against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) *Motor vehicles.* With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) At the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) Before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) *Personal property purchased at retail.* With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) *Personal property purchased in casual sale.* With respect to household goods, personal effects, or other tangible personal property described in section 6384(a) purchased (not for resale) in a casual sale for less than $250, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) *Personal property subject to possessory lien.* With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) *Real property tax and special assessment liens.* With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) A tax of general application levied by any taxing authority based upon the value of such property;

(B) A special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) Charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) *Residential property subject to a mechanic's lien for certain repairs and improvements.* With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than $1,000.

(8) *Attorneys' liens.* With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or a contract enforcible against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) *Certain insurance contracts.* With respect to a life insurance, endowment, or annuity contract, as against the organization which is the insurer under such contract, at any time—

(A) Before such organization had actual notice or knowledge of the existence of such lien;

(B) After such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) After satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary or his delegate delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) *Passbook loans.* With respect to a savings deposit, share, or other account, evidenced by a passbook, with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account and if such institution has been continuously in possession of such passbook from the time the loan is made.

[Sec. 6323(b) as amended by sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(b)-1 Protection for certain interests even though notice filed.

(a) *Securities*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)-1, the lien is not valid with respect to a security (as defined in paragraph (d) of § 301.6323(h)-1) against—

(i) A purchaser (as defined in paragraph (f) of § 301.6323(h)-1) of the security who at the time of purchase did not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1) of the existence of the lien;

(ii) A holder of a security interest (as defined in paragraph (a) of § 301.6323(h)-1) in the security who did not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1) of the existence of the lien at the time the security interest came into existence or at the time such security interest was acquired from a previous holder for a consideration in money or money's worth; or

(iii) A transferee of an interest protected under subdivision (i) or (ii) of this subparagraph to the same extent the lien is invalid against his transferor.

For purposes of subdivision (iii) of this subparagraph, no person can improve his position with respect to the lien by reacquiring the interest from an intervening purchaser or holder of a security interest against whom the lien is invalid.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). On May 1, 1969, in accordance with § 301.6323(f)-1, a notice of lien is filed with respect to A's delinquent tax liability. On May 20, 1969, A sells 100 shares of common stock in X corporation to B, who, on the date of the sale, does not have actual notice or knowledge of the existence of the lien. Because B purchased the stock without actual notice or knowledge of the lien, under subdivision (i) of subparagraph (1) of this paragraph, the stock purchased by B is not subject to the lien.

Example (2). Assume the same facts as in example (1) except that on May 30, 1969, B sells the 100 shares of common stock in X corporation to C who on May 5, 1969, had actual notice of the existence of the tax lien against A. Because the X stock when purchased by B was not subject to the lien, under subdivision (iii) of subparagraph (1) of this paragraph, the stock purchased by C is not subject to the lien. C succeeds to B's rights, even though C had actual notice of the lien before B's purchase.

Example (3). On June 1, 1970, in accordance with § 301.6323(f)-1, a notice of lien is filed with respect to D's delinquent tax liability. D owns 20 $1,000 bonds issued by the Y company. On June 10, 1970, D obtains a loan from M bank for $5,000 using the Y company bonds as collateral. At the time the loan is made M bank does not have actual notice or knowledge of the existence of the tax lien. Because M bank did not have actual notice or knowledge of the lien when the security interest came into existence, under subdivision (ii) of subparagraph (1) of this paragraph, the tax lien is not valid against M bank to the extent of its security interest.

Example (4). Assume the same facts as in example (3) except that on June 19, 1970, M bank assigns the chose in action and its security interest to N, who had actual notice or knowledge of the existence of the lien on June 1, 1970. Because the security interest was not subject to the lien to the extent of M bank's security interest, the security interest held by N is to the same extent entitled to priority over the tax lien because N succeeds to M bank's rights. See subdivision (iii) of subparagraph (1) of this paragraph.

Example (5). On July 1, 1970, in accordance with § 301.6323(f)-1, a notice of lien is filed with respect to E's delinquent tax liability. E owns ten $1,000 bonds issued by the Y company. On July 5, 1970, E borrows $4,000 from F and delivers the bonds to F as collateral for the loan. At the time the loan is made, F has actual knowledge of the existence of the tax lien and, therefore, holds the security interest subject to the lien on the bonds. On July 10, 1970, F sells the security interest to G for $4,000 and delivers the Y company bonds pledged as collateral. G does not have actual notice or knowledge of the existence of the lien on July 10, 1970. Because G did not have actual notice or knowledge of the lien at the time he purchased the security interest, under subdivision (ii) of subparagraph (1) of this paragraph, the tax lien is not valid against G to the extent of his security interest.

Example (6). Assume the same facts as in example (5) except that, instead of purchasing the security interest from F on July 10, 1970, G lends $4,000 to F and takes a security interest in F's security interest in the bonds on that date. Because G became the holder of a security interest in a security interest after notice of lien was filed and does not directly have a security interest in a security, the security interest held by G is not entitled to a priority over the tax lien under the provisions of subparagraph (1) of this paragraph.

(b) *Motor vehicles*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)-1, the lien is not valid against a purchaser (as defined in paragraph (f) of § 301.6323(h)-1) of a motor vehicle (as defined in paragraph (c) of § 301.6323(h)-1) if—

(i) At the time of the purchase, the purchaser did not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1) of the existence of the lien, and

(ii) Before the purchaser obtains such notice or knowledge, he has acquired actual possession of the motor vehicle and has not thereafter relinquished actual possession to the seller or his agent.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A, a delinquent taxpayer against whom a notice of tax lien has been filed in accordance with § 301.6323(f)-1, sells his automobile (which qualifies as a motor vehicle under paragraph (c) of § 301.6323(h)-1) to B, an automobile dealer. B takes actual possession of the automobile and does not thereafter relinquish actual possession to the seller or his agent. Subsequent to his purchase, B learns of the existence of the tax lien against A. Even though notice of lien was filed before the purchase, the lien is not valid against B, because B did not know of the existence of the lien before the purchase and before acquiring actual possession of the vehicle.

Example (2). C is a wholesaler of used automobiles. A notice of lien has been filed with respect to C's delinquent tax liability in accordance with § 301.6323(f)-1. Subsequent to such filing, D, a used automobile dealer, purchases and takes actual possession of 20 automobiles (which qualify as motor vehicles under the provisions of paragraph (c) of § 301.6323(h)-1) from C at an auction and places them on his lot for sale. C does not reacquire possession of any of the automobiles. At the time of his purchase, D does not have actual notice or knowledge of the existence of the lien against C. Even though notice of lien was filed before D's purchase, the lien was not valid against D because D did not know of the existence of the lien before the purchase and before acquiring actual possession of the vehicles.

(3) *Cross reference.* For provisions relating to additional circumstances in which the lien imposed by section 6321 may not be valid against the purchaser of tangible personal property (including a motor vehicle) purchased at retail, see paragraph (c) of this section.

(c) *Personal property purchased at retail*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)-1, the lien is not valid against a purchaser (as defined in paragraph (f) of § 301.6323(h)-1) of tangible personal property purchased at a retail sale (as defined in subparagraph (2) of this paragraph) unless at the time of purchase the purchaser intends the purchase to (or knows that the purchase will) hinder, evade, or defeat the collection of any tax imposed by the Internal Revenue Code of 1954.

(2) *Definition of retail sale.* For purposes of this paragraph, the term "retail sale" means a sale, made in the ordinary course of the seller's trade or business, of tangible personal property of which the seller is the owner. Such term includes a sale in customary retail quantities by a seller who is going out of business, but does not include a bulk sale or an auction sale in which goods are offered in quantities substantially greater than are customary in the ordinary course of the seller's trade or business or an auction sale of goods the owner of which is not in the business of selling such goods.

(3) *Example.* The application of this paragraph may be illustrated by the following example:

Example. A purchases a refrigerator from the M company, a retail appliance dealer. Prior to such purchase, a notice of lien was filed with respect to M's delinquent tax liability in accordance with § 301.6323(f)-1. At the time of the purchase A knows of the existence of the lien. However, A does not intend the purchase to hinder, evade, or defeat the collection of any internal revenue tax, and A does not have any reason to believe that the purchase will affect the collection of any internal revenue tax. Even though notice of lien was filed before the purchase, the lien is not valid against A because A in good faith purchased the refrigerator at retail in the ordinary course of the M company's business.

(d) *Personal property purchased in casual sale*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)-1, the lien is not valid against a purchaser (as defined in § 301.6323(h)-1(f)) of household goods, personal effects, or other tangible personal property of a type described in § 301.6334-1 (which includes wearing apparel; school books; fuel, provisions, furniture, arms for personal use, livestock, and poultry (whether or not the seller is the head of a family); and books and tools of a trade, business, or profession (whether or not the trade, business, or profession of the seller)), purchased, other than for resale, in a casual sale for less than $250 (excluding interest and expenses described in § 301.6323(e)-1). For purposes of this paragraph, a casual sale is a sale not made in the ordinary course of the seller's trade or business.

(2) *Limitation.* This paragraph applies only if the purchaser does not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1)—

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(i) Of the existence of the tax lien, or
(ii) That the sale is one of a series of sales.

For purposes of subdivision (ii) of this subparagraph, a sale is one of a series of sales if the seller plans to dispose of, in separate transactions, substantially all of his household goods, personal effects, and other tangible personal property described in § 301.6334–1.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A, an attorney's widow, sells a set of law books for $200 to B, for B's own use. Prior to the sale a notice of lien was filed with respect to A's delinquent tax liability in accordance with § 301.6323(f)–1. B has no actual notice or knowledge of the tax lien. In addition, B does not know that the sale is one of a series of sales. Because the sale is a casual sale for less than $250 and involves books of a profession (tangible personal property of a type described in § 301.6334–1, irrespective of the fact that A has never engaged in the legal profession), the tax lien is not valid against B even though a notice of lien was filed prior to the time of B's purchase.

Example (2). Assume the same facts as in example (1) except that B purchases the books for resale in his second-hand bookstore. Because B purchased the books for resale, he purchased the books subject to the lien.

Example (3). In an advertisement appearing in a local newspaper, G indicates that he is offering for sale a lawn mower, a used television set, a desk, a refrigerator, and certain used dining room furniture. In response to the advertisement, H purchases the dining room furniture for $200. H does not receive any information which would impart notice of a lien, or that the sale is one of a series of sales, beyond the information contained in the advertisement. Prior to the sale a notice of lien was filed with respect to G's delinquent tax liability in accordance with § 301.6323(f)–1. Because H had no actual notice or knowledge that substantially all of G's household goods were being sold, or that the sale is one of a series of sales and because the sale is a casual sale for less than $250, H does not purchase the dining room furniture subject to the lien. The household goods are of a type described in § 301.6334–1(a)(2) irrespective of whether G is the head of a family or whether all such household goods offered for sale exceed $500 in value.

(e) *Personal property subject to possessory liens.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid against a holder of a lien on tangible personal property which under local law secures the reasonable price of the repair or improvement of the property if the property is, and has been, continuously in the possession of the holder of the lien from the time the possessory lien arose. For example, if local law gives an automobile repairman the right to retain possession of an automobile he has repaired as security for payment of the repair bill and the repairman retains continuous possession of the automobile until his lien is satisfied, a tax lien filed in accordance with § 301.6323(f)(1) which has attached to the automobile will not be valid to the extent of the reasonable price of the repairs. It is immaterial that the notice of tax lien was filed before the repairman undertook his work or that he knew of the lien before undertaking the work.

(f) *Real property tax and special assessment liens*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid against the holder of another lien upon the real property (regardless of when such other lien arises), if such other lien is entitled under local law to priority over security interests in real property which are prior in time and if such other lien on real property secures payment of—

(i) A tax of general application levied by any taxing authority based upon the value of the property;

(ii) A special assessment imposed directly upon the property by any taxing authority, if the assessment is imposed for the purpose of defraying the cost of any public improvement; or

(iii) Charges for utilities or public services furnished to the property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns Blackacre in the city of M. A notice of lien affecting Blackacre is filed in accordance with § 301.6323(f)–1. Subsequent to the filing of the notice of lien, the city of M acquires a lien against Blackacre to secure payment of real estate taxes. Such taxes are levied against all property in the city in proportion to the value of the property. Under local law, the holder of a lien for real property taxes is entitled to priority over a security interest in real property even though the security interest is prior in time. Because the real property tax lien held by the city of M secures payment of a tax of general application and is entitled to priority over security interests which are prior in time, the lien held by the city of M is entitled to priority over the Federal tax lien with respect to Blackacre.

Example (2). B owns Whiteacre in N county. A notice of lien affecting Whiteacre is filed in accordance with § 301.6323(f)–1. Subsequent to the filing of the notice of lien, N county constructs a sidewalk, paves the street, and installs water and sewer lines adjacent to Whiteacre. In order to defray the cost of these improvements, N county imposes upon Whiteacre a special assessment which under local law results in a lien upon Whiteacre that is entitled to priority over security interests that are prior in time. Because the special assessment lien is (i) entitled under local law to priority over security interests which are prior in time, and (ii) imposed directly upon real property to defray the cost of a public improvement, the special assessment lien has priority over the Federal tax lien with respect to Whiteacre.

Example (3). C owns Greenacre in town O. A notice of lien affecting Greenacre is filed in accordance with § 301.6323(f)–1. Town O furnishes water and electricity to Greenacre and periodically collects a fee for these services. Subsequent to the filing of the notice of lien, town O supplies water and electricity to Greenacre, and C fails to pay the charges for these services. Under local law, town O acquires a lien to secure charges for the services, and this lien has priority over security interests which are prior in time. Because the lien of town O (1) is for services furnished to the real property and (ii) has priority over earlier security interests, town O's lien has priority over the Federal tax lien with respect to Greenacre.

(g) *Residential property subject to a mechanic's lien for certain repairs and improvements*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid against a mechanic's lienor (as defined in § 301.6323(h)–1(b)) who holds a lien for the repair or improvement of a personal residence if—

(i) The residence is occupied by the owner and contains no more than four dwelling units, and

(ii) The contract price on the prime contract with the owner for the repair or improvement (excluding interest and expenses described in § 301.6323(e)–1) is not more than $1,000.

For purposes of subdivision (ii) of this subparagraph, the amounts of subcontracts under the prime contract with the owner are not to be taken into consideration for purposes of computing the $1,000 prime contract price. It is immaterial that the notice of tax lien was filed before the contractor undertakes his work or that he knew of the lien before undertaking the work.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns a building containing four apartments, one of which he occupies as his personal residence. A notice of lien which affects the building is filed in accordance with § 301.6323(f)–1. Thereafter, A enters into a contract with B in the amount of $800, which includes labor and materials, to repair the roof of the building. B purchases roofing shingles from C for $300. B completes the work and A fails to pay B the agreed amount. In turn, B fails to pay C for the shingles. Under local law, B and C acquire mechanic's liens on A's building. Because the contract price on the prime contract with A is not more than $1,000 and under local law B and C acquire mechanic's liens on A's building, the liens of B and C have priority over the Federal tax lien.

Example (2). Assume the same facts as in example (1), except that the amount of the prime contract between A and B is $1,100. Because the amount of the prime contract with the owner, A, is in excess of $1,000, the tax lien has priority over the entire amount of each of the mechanic's liens of B and C, even though the amount of the contract between B and C is $300.

Example (3). Assume the same facts as in example (1), except that A and B do not agree in advance upon the amount due under the prime contract but agree that B will perform the work for the cost of materials and labor plus 10 percent of such cost. When the work is completed, it is determined that the total amount due is $850. Because the prime contract price is not more than $1,000 and under local law B and C acquire mechanic's liens on A's residence, the liens of B and C have priority over the Federal tax lien.

(h) *Attorneys' liens*—(1) *In general.* Even though notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid against an attorney who, under local law, holds a lien upon, or a contract enforceable against, a judgment or other amount

in settlement of a claim or of a cause of action. The priority afforded an attorney's lien under this paragraph shall not exceed the amount of the attorney's reasonable compensation for obtaining the judgment or procuring the settlement. For purposes of this paragraph, reasonable compensation means the amount customarily allowed under local law for an attorney's services for litigating or settling a similar case or administrative claim. However, reasonable compensation shall be determined on the basis of the facts and circumstances of each individual case. It is immaterial that the notice of tax lien is filed before the attorney undertakes his work or that the attorney knows of the tax lien before undertaking his work. This paragraph does not apply to an attorney's lien which may arise from the defense of a claim or cause of action against a taxpayer except to the extent such lien is held upon a judgment or other amount arising from the adjudication or settlement of a counterclaim in favor of the taxpayer. In the case of suits against the taxpayer, see § 301.6325–1(d)(2) for rules relating to the subordination of the tax lien to facilitate tax collection.

(2) *Claim or cause of action against the United States.* Paragraph (h)(1) of this section does not apply to an attorney's lien with respect to—

(i) Any judgment or other fund resulting from the successful litigation or settlement of an administrative claim or cause of action against the United States to the extent that the United States, under any legal or equitable right, offsets its liability under the judgment or settlement against any liability of the taxpayer to the United States, or

(ii) Any amount credited against any liability of the taxpayer in accordance with section 6402.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A notice of lien is filed against A in accordance with § 301.6323(f)–1. Subsequently, A is struck by an automobile and retains B, an attorney to institute suit on A's behalf against the operator of the automobile. B knows of the tax lien before he begins his work. Under local law, B is entitled to a lien upon any recovery in order to secure payment of his fee. A is awarded damages of $10,000. B charges a fee of $3,000 which is the fee customarily allowed under local law in similar cases and which is found to be reasonable under the circumstances of this particular case. Because, under local law, B holds a lien for the amount of his reasonable compensation for obtaining the judgment, B's lien has priority over the Federal tax lien.

Example (2). Assume the same facts as in example (1), except that before suit is instituted A and the owner of the automobile settle out of court for $7,500. B charges a reasonable and customary fee of $1,800 for procuring the settlement and under local law holds a lien upon the settlement in order to secure payment of the fee. Because, under local law, B holds a lien for the amount of his reasonable compensation for obtaining the settlement, B has priority over the Federal tax lien.

Example (3). In accordance with § 301.6323(f)–1, a notice of lien in the amount of $8,000 is filed against C, a contractor. Subsequently C retains D, an attorney, to initiate legal proceedings to recover the amount allegedly due him for construction work he has performed for the United States. C and D enter into an agreement which provides that D will receive a reasonable and customary fee of $2,500 as compensation for his services. Under local law, the agreement will give rise to a lien which is enforceable by D against any amount recovered in the suit. C is successful in the suit and is awarded $10,000. D claims $2,500 of the proceeds as his fee. The United States, however, exercises its right of set-off and applies $8,000 of the $10,000 award to satisfy C's tax liability. Because the $10,000 award resulted from the successful litigation of a cause of action against the United States, B's contract for attorney's fees is not enforceable against the amount recovered to the extent the United States offsets its liability under the judgment against C's tax liability. It is immaterial that D had no notice or knowledge of the tax lien at the time he began work on the case.

(i) *Certain insurance contracts*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a life insurance, endowment, or annuity contract, against an organization which is the insurer under the contract, at any time—

(i) Before the insuring organization has actual notice or knowledge (as defined in paragraph (a) of § 301.6323(1)–1) of the existence of the tax lien,

(ii) After the insuring organization has actual notice or knowledge of the lien (as defined in paragraph (a) of § 301.6323(1)–1), with respect to advances (including contractual interest thereon as provided in paragraph (a) of § 301.6323(e)–1) required to be made automatically to maintain the contract in force under an agreement entered into before the insuring organization had such actual notice or knowledge, or

(iii) After the satisfaction of a levy pursuant to section 6332(b), unless and until the district director delivers to the insuring organization a notice (for example, another notice of levy, a letter, etc.), executed after the date of such satisfaction, that the lien exists.

Delivery of the notice described in subdivision (iii) of this subparagraph may be made by any means, including regular mail, and delivery of the notice shall be effective only from the time of actual receipt of the notification by the insuring organization. The provisions of this paragraph are applicable to matured as well as unmatured insurance contracts.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On May 1, 1964, the X insurance company issues a life insurance policy to A. On June 1, 1970, a tax assessment is made against A, and on June 2, 1970, a notice of lien with respect to the assessment is filed in accordance with § 301.6323(f)–1. On July 1, 1970, without actual notice or knowledge of the tax lien, the X company makes a "policy loan" to A. Under subparagraph (1)(i) of this paragraph, the loan, including interest (in accordance with the provisions of paragraph (a) of § 301.6323(e)–1), will have priority over the tax lien because X company did not have actual notice or knowledge of the tax lien at the time the policy loan was made.

Example (2). On May 1, 1964, B enters into a life insurance contract with the Y insurance company. Under one of the provisions of the contract, in the event a premium is not paid, Y is to advance out of the cash loan value of the policy the amount of an unpaid premium in order to maintain the contract in force. The contract also provides for interest on any advances so made. On June 1, 1971, a tax assessment is made against B, and on June 2, 1971, in accordance with section 6323(f)–1, a notice of lien is filed. On July 1, 1971, B fails to pay the premium due on that date, and Y makes an automatic premium loan to keep the policy in force. At the time the automatic premium loan is made, Y had actual knowledge of the tax lien. Under subparagraph (1)(ii) of this paragraph, the lien is not valid against Y with respect to the advance (and the contractual interest thereon), because the advance was required to be made automatically under an agreement entered into before Y had actual notice or knowledge of the tax lien.

Example (3). On May 1, 1964, C enters into a life insurance contract with the Z insurance company. On January 4, 1971, an assessment is made against C for $5,000 unpaid income taxes, and on January 11, 1971, in accordance with § 301.6323(f)–1, a notice of lien is filed. On January 29, 1971, a notice of levy with respect to C's delinquent tax is served on Z company. The amount which C could have had advanced to him from Z company under the contract on the 90th day after service of the notice of levy on Z company is $2,000. The Z company pays $2,000 pursuant to the notice of levy, thereby satisfying the levy upon the contract in accordance with section 6332(b). On February 1, 1973, Z company advances $500 to C, which is the increment in policy loan value since satisfaction of the levy of January 29, 1971. On February 5, 1973, a new notice of levy for the unpaid balance of the delinquent taxes, executed after the first levy was satisfied, is served upon Z company. Because the new notification was not received by Z company until after the policy loan was made, under paragraph (1)(iii) of this paragraph, the tax lien is not valid against Z company with respect to the policy loan (including interest thereon in accordance with paragraph (a) of § 301.6323(e)–1).

Example (4). On June 1, 1973, a tax assessment is made against D and on June 2, 1973, in accordance with § 301.6323(f)–1, a notice of lien with respect to the assessment is filed. On July 2, 1973, D executes an assignment of his rights, as the insured, under an insurance contract to M bank as security for a loan. M bank holds its security interest subject to the lien because it is not an insurer entitled to protection under section 6323(b)(9) and did not become a holder of the security interest prior to the filing of the notice of lien for purposes of section 6323(a). It is immaterial that a notice of levy had not been served upon the insurer before the assignment to M bank was made.

(j) *Passbook loans*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid against an institution described in section 581 or 591 to the extent of any loan made by the institution which is secured by a savings deposit, share, or other account evidenced by a passbook (as defined in subparagraph (2) of this para-

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graph) if the institution has been continuously in possession of the passbook from the time the loan is made. This paragraph applies only to a loan made without actual notice or knowledge (as defined in paragraph (a) of § 301.6323 (i)–1) of the existence of the lien. Even though an original passbook loan is made without actual notice or knowledge of the existence of the lien, this paragraph does not apply to any additional loan made after knowledge of the lien is acquired by the institution even if it continues to retain the passbook from the time the original passbook loan is made.

(2) *Definition of passbook.* For purposes of this paragraph, the term "passbook" includes—

(i) Any tangible evidence of a savings deposit, share, or other account which, when in the possession of the bank or other savings institution, will prevent a withdrawal from the account to the extent of the loan balance, and

(ii) Any procedure or system, such as an automatic data processing system, the use of which by the bank or other savings institution will prevent a withdrawal from the account to the extent of the loan balance.

(3) *Example.* On June 1, 1970, a tax assessment is made against A and on June 2, 1970, a notice of lien with respect to the assessment is filed in accordance with § 301.6323(f)–1. A owns a savings account at the M bank with a balance of $1,000. On June 10, 1970, A borrows $300 from the M bank using the savings account as security therefor. The M bank is continuously in possession of the passbook from the time the loan is made and does not have actual notice or knowledge of the lien at the time of the loan. The tax lien is not valid against M bank with respect to the passbook loan of $300 and accrued interest and expenses entitled to priority under § 301.6323(e)–1. Upon service of a notice of levy, the M bank must pay over the savings account balance in excess of the amount of its protected interest in the account as determined on the date of levy.

§ 301.6323(c) Statutory provisions; validity and priority against certain persons; protection for certain commercial transactions financing agreements, etc.

SEC. 6323. *Validity and priority against certain persons.* • • •

(c) *Protection for certain commercial transactions financing agreements, etc.*—(1) *In general.* To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) Is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

(i) A commercial transactions financing agreement,

(ii) A real property construction or improvement financing agreement, or

(iii) An obligatory disbursement agreement, and

(B) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) *Commercial transactions financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "commercial transactions financing agreement" means an agreement (entered into by a person in the course of his trade or business)—

(i) To make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(ii) To purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) *Commercial financing security defined.* The term "commercial financing security" means (i) paper of a kind ordinarily arising in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) *Purchaser treated as acquiring security interest.* A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security.

(3) *Real property construction or improvement financing agreement.* For purposes of this subsection—

(A) *Definition.* The term "real property construction or improvement financing agreement" means an agreement to make cash disbursements to finance—

(i) The construction or improvement of real property,

(ii) A contract to construct or improve real property, or

(iii) The raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to a real property construction or improvement financing agreement, includes only—

(i) In the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,

(ii) In the case of subparagraph (A)(ii), the proceeds of the contract described therein, and

(iii) In the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) *Obligatory disbursement agreement.* For purposes of this subsection—

(A) *Definition.* The term "obligatory disbursement agreement" means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) *Limitation on qualified property.* The term "qualified property", when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) *Special rules for surety agreements.* Where the obligatory disbursement agreement is an agreement insuring the performance of a contract between the taxpayer and another person—

(i) The term "qualified property" shall be treated as also including the proceeds of the contract the performance of which was insured, and

(ii) If the contract the performance of which was insured was a contract to construct or improve real property, to produce goods, or to furnish services, the term "qualified property" shall be treated as also including any tangible personal property used by the taxpayer in the performance of such insured contract.

[Sec. 6323(c) as amended by sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(c)–1 Protection for commercial transactions financing agreements.

(a) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a security interest which:

(1) Comes into existence after the tax lien filing,

(2) Is in qualified property covered by the terms of a commercial transactions financing agreement entered into before the tax lien filing, and

(3) Is protected under local law against a judgment lien arising, as of the time of the tax lien filing, out of an unsecured obligation.

See paragraphs (a) and (e) of § 301.6323 (h)–1 for definitions of the terms "security interest" and "tax lien filing," respectively. For purposes of this section, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of § 301.6323(h)–1.

(b) *Commercial transactions financing agreement.* For purposes of this section, the term "commercial transactions financing agreement" means a written agreement entered into by a person in the course of his trade or business—

(1) To make loans to the taxpayer (whether or not at the option of the person agreeing to make such loans) to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(2) To purchase commercial financing security, other than inventory, acquired by the taxpayer in the ordinary course of his trade or business.

Such an agreement qualifies as a commercial transactions financing agreement only with respect to loans or purchases made under the agreement before (i) the 46th day after the date of tax lien filing or, (ii) the time when the lender or purchaser has actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)–1) of the tax lien filing, if earlier. For purposes of this paragraph, a loan or purchase is considered to have been made in the course of the lender's or purchaser's trade or business if such person is in the business of financing commercial transactions (such as a bank or commercial factor) or if the agreement is incidental to the conduct of such person's trade or business. For example, if a manufacturer finances the accounts receivable of one of his customers, he is considered to engage in such financing in the course of his trade or business. The extent of the priority of the lender or purchaser over the tax lien is the amount of his disbursements made before the 46th day after the date the notice of tax lien is filed, or made before the day (before such 46th day) on which the lender or purchaser has actual notice or knowledge of the filing of the notice of the tax lien.

(c) *Commercial financing security.* (1) *In general.* The term "commercial financing security" means—

(i) Paper of a kind ordinarily arising in commercial transactions,

(ii) Accounts receivable (as defined in subparagraph (2) of this paragraph),

(iii) Mortgages on real property, and

(iv) Inventory.

For purposes of this subparagraph, the term "paper of a kind ordinarily arising in commercial transactions" in general includes any written document customarily used in commercial transactions. For example, such written documents include paper giving contract rights (as defined in subparagraph (2) of this paragraph), chattel paper, documents of title to personal property, and negotiable instruments or securities. The term "commercial financing security" does not include general intangibles such as patents or copyrights. A mortgage on real estate (including a deed of trust, contract for sale, and similar instrument) may be commercial financing security if the taxpayer has an interest in the mortgage as a mortgagee or assignee. The term "commercial financing security" does not include a mortgage where the taxpayer is the mortgagor of realty owned by him. For purposes of this subparagraph, the term "inventory" includes raw materials and goods in process as well as property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(2) *Definitions.* For purposes of §§ 301.6323(d)–1, 301.6323(h)–1 and this section—

(i) A contract right is any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper, and

(ii) An account receivable is any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper.

(d) *Qualified property.* For purposes of paragraph (a) of this section, qualified property consists solely of commercial financing security acquired by the taxpayer-debtor before the 46th day after the date of tax lien filing: Commercial financing security acquired before such day may be qualified property even though it is acquired by the taxpayer after the lender received actual notice or knowledge of the filing of the tax lien. For example, although the receipt of actual notice or knowledge of the filing of the notice of the tax lien has the effect of ending the period within which protected disbursements may be made to the taxpayer, property which is acquired by the taxpayer after the lender receives actual notice or knowledge of such filing and before such 46th day, which otherwise qualifies as commercial financing security, becomes commercial financing security to which the priority of the lender extends for loans made before he received the actual notice or knowledge. An account receivable (as defined in paragraph (c)(2)(ii) of this section) is acquired by a taxpayer at the time, and to the extent, a right to payment is earned by performance. Chattel paper, documents of title, negotiable instruments, securities, and mortgages on real estate are acquired by a taxpayer when he obtains rights in the paper or mortgage. Inventory is acquired by the taxpayer when title passes to him. A contract right (as defined in paragraph (c)(2)(i) of this section) is acquired by a taxpayer when the contract is made. Identifiable proceeds, which arise from the collection or disposition of qualified property by the taxpayer, are considered to be acquired at the time such qualified property is acquired if the secured party has a continuously perfected security interest in the proceeds under local law. The term "proceeds" includes whatever is received when collateral is sold, exchanged, or collected. For purposes of this paragraph, the term "identifiable proceeds" does not include money, checks and the like which have been commingled with other cash proceeds. Property acquired by the taxpayer after the 45th day following tax lien filing, by the expenditure of proceeds, is not qualified property.

(e) *Purchaser treated as acquiring security interest.* A person who purchases commercial financing security, other than inventory, pursuant to a commercial transactions financing agreement is treated, for purposes of this section, as having acquired a security interest in the commercial financing security. In the case of a bona fide purchase at a discount, a purchaser of commercial financing security who satisfies the requirements of this section has priority over the tax lien to the full extent of the security.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). (i) On June 1, 1970, a tax is assessed against M, a tool manufacturer, with respect to his delinquent tax liability. On June 15, 1970, M enters into a written financing agreement with X, a bank. The agreement provides that, in consideration of such sums as X may advance to M, X is to have a security interest in all of M's presently owned and subsequently acquired commercial paper, accounts receivable, and inventory (including inventory in the manufacturing stages and raw materials). On July 6, 1970, notice of the tax lien is filed in accordance with § 301.6323(f)–1. On August 3, 1970, without actual notice or knowledge of the tax lien filing, X advances $10,000 to M. On August 5, 1970, M acquires additional inventory through the purchase of raw materials. On August 20, 1970, M has accounts receivable, arising from the sale of tools, amounting to $5,000. Under local law, X's security interest arising by reason of the $10,000 advance on August 3, 1970, has priority, with respect to the raw materials and accounts receivable, over a judgment lien against M arising July 6, 1970 (the date of tax lien filing) out of an unsecured obligation.

(ii) Because the $10,000 advance was made before the 46th day after the tax lien filing, and the accounts receivable in the amount of $5,000 and the raw materials were acquired by M before such 46th day, X's $10,000 security interest in the accounts receivable and the inventory has priority over the tax lien. The priority of X's security interest also extends to the proceeds, received on or after the 46th day after the tax lien filing, from the liquidation of the accounts receivable and inventory held by M on August 20, 1970, if X has a continuously perfected security interest in identifiable proceeds under local law. However, the priority of X's security interest will not extend to other property acquired with such proceeds.

Example (2). Assume the same facts as in example (1) except that on July 15, 1970, X has actual knowledge of the tax lien filing. Because an agreement does not qualify as a commercial transactions financing agreement when a disbursement is made after tax lien filing with actual knowledge of the filing, X's security interest will not have priority over the tax lien with respect to the $10,000 advance made on August 3, 1970.

Example (3). Assume the same facts as in example (1) except that, instead of additional inventory, on August 5, 1970, M acquires an account receivable as the result of the sale of machinery which M no longer needs in his business. Even though the account receivable was acquired by taxpayer M before the 46th day after tax lien filing, the tax lien will have priority over X's security interest arising in the account receivable pursuant to the earlier written agreement because the account receivable was not acquired by the taxpayer in the ordinary course of his trade or business.

Example (4). Pursuant to a written agreement with the N Manufacturing Company entered into on January 4, 1971, Y, a commercial factor, purchases the accounts receivable arising out of N's regular sales to its customers. On November 1, 1971, in accordance with § 301.6323(f)–1, a notice of lien is filed with respect to N's delinquent tax liability. On December 6, 1971, Y, without actual notice or knowledge of the tax lien filing, purchases all of the accounts receivable resulting from N's November 1971 sales. Y has taken appropriate steps under local law so that the December 6, 1971, purchase is protected against a judgment lien arising November 1, 1971 (the date of tax lien filing) out of an unsecured obligation. Because the purchaser of commercial financing security, other than inventory, is treated as having acquired a security interest in commercial financing security, and because Y otherwise meets the requirements of this section, the tax lien is not valid with respect to Y's December 6, 1971, purchase of N's accounts receivable.

§ 301.6323(c)–2 Protection for real property construction or improvement financing agreements.

(a) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a security interest which:

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(1) Comes into existence after the tax lien filing,

(2) Is in qualified property covered by the terms of a real property construction or improvement financing agreement entered into before the tax lien filing, and

(3) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

For purposes of this section, it is immaterial that the holder of the security interest had actual notice or knowledge of the lien at the time disbursements are made pursuant to such an agreement. See paragraphs (a) and (e) of § 301.6323(h)–1 for general definitions of the terms "security interest" and "tax lien filing." For purposes of this section, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of § 301.6323(h)–1.

(b) *Real property construction or improvement financing agreement.* For purposes of this section, the term "real property construction or improvement financing agreement" means any written agreement to make cash disbursements (whether or not at the option of the party agreeing to make such disbursements):

(1) To finance the construction, improvement, or demolition of real property if the agreement provides for a security interest in the real property with respect to which the construction, improvement, or demolition has been or is to be made;

(2) To finance a contract to construct or improve, or demolish real property if the agreement provides for a security interest in the proceeds of the contract; or

(3) To finance the raising or harvesting of a farm crop or the raising of livestock or other animals if the agreement provides for a security interest in any property subject to the lien imposed by section 6321 at the time of tax lien filing, in the crop raised or harvested, or in the livestock or other animals raised.

For purposes of subparagraphs (1) and (2) of this paragraph, construction or improvement may include demolition. For purposes of any agreement described in subparagraph (3) of this paragraph, the furnishing of goods and services is treated as the disbursement of cash.

(c) *Qualified property.* For purposes of this section, the term "qualified property" includes only—

(1) In the case of an agreement described in paragraph (b)(1) of this section, the real property with respect to which the construction or improvement has been or is to be made;

(2) In the case of an agreement described in paragraph (b)(2) of this section, the proceeds of the contract to construct or improve real property; or

(3) In the case of an agreement described in paragraph (b)(3) of this section, property subject to the lien imposed by section 6321 at the time of tax lien filing, the farm crop raised or harvested, or the livestock or other animals raised.

(d) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, in order to finance the construction of a dwelling on a lot owned by him, mortgages the property to B. The mortgage, executed January 4, 1971, includes an agreement that B will make cash disbursements to A as the construction progresses. On February 1, 1971, in accordance with § 301.6323(f)–1, a notice of lien is filed with respect to A's delinquent tax liability. A continues the construction, and B makes cash disbursements on June 10, 1971, and December 10, 1971. Under local law B's security interest arising by virtue of the disbursements is protected against a judgment lien arising February 1, 1971 (the date of tax lien filing) out of an unsecured obligation. Because B is the holder of a security interest coming into existence by reason of cash disbursements made pursuant to a written agreement, entered into before tax lien filing, to make cash disbursements to finance the construction of real property, and because B's security interest is protected, under local law, against a judgment lien arising as of the time of tax lien filing out of an unsecured obligation, B's security interest has priority over the tax lien.

Example (2). (i) C is awarded a contract for the demolition of several buildings. On March 3, 1969, C enters into a written agreement with D which provides that D will make cash disbursements to finance the demolition and also provides that repayment of the disbursements is secured by any sums due C under the contract. On April 1, 1969, in accordance with § 301.6323(f)–1, a notice of lien is filed with respect to C's delinquent tax liability. With actual notice of the tax lien, D makes cash disbursements to C on August 1, September 1, and October 1, 1969. Under local law D's security interest in the proceeds of the contract with respect to the disbursements is entitled to priority over a judgment lien arising on April 1, 1969 (the date of tax lien filing) out of an unsecured obligation.

(ii) Because D's security interest arose by reason of disbursements made pursuant to a written agreement, entered into before tax lien filing, to make cash disbursements to finance a contract to demolish real property, and because D's security interest is valid under local law against a judgment lien arising as of the time of tax lien filing out of an unsecured obligation, the tax lien is not valid with respect to D's security interest in the proceeds of the demolition contract.

Example (3). Assume the same facts as in example (2) and, in addition, assume that, as further security for the cash disbursements, the March 3, 1969 agreement also provides for a security interest in all of C's demolition equipment. Because the protection of the security interest arising from the disbursements made after tax lien filing under the agreement is limited under section 6323(c)(3) to the proceeds of the demolition contract and because, under the circumstances, the security interest in the equipment is not otherwise protected under section 6323, the tax lien will have priority over D's security interest in the equipment.

Example (4). (i) On January 2, 1969, F and G enter into a written agreement, whereby F agrees to provide G with cash disbursements, seed, fertilizer, and insecticides as needed by G, in order to finance the raising and harvesting of a crop on a farm owned by G. Under the terms of the agreement F is to have a security interest in the crop, the farm, and all other property then owned or thereafer acquired by G. In accordance with § 301.6323(f)–1, on January 10, 1969, a notice of lien is filed with respect to G's delinquent tax liability. On March 3, 1969, with actual notice of the tax lien, F makes a cash disbursement of $5,000 to G and furnishes him seed, fertilizer, and insecticides having a value of $10,000. Under local law F's security interest, coming into existence by reason of the cash disbursement and the furnishing of goods, has priority over a judgment lien arising January 10, 1969 (the date of tax lien filing) out of an unsecured obligation.

(ii) Because F's security interest arose by reason of a disbursement (including the furnishing of goods) made under a written agreement which was entered into before tax lien filing and which constitutes an agreement to finance the raising or harvesting of a farm crop, and because F's security interest is valid under local law against a judgment lien arising as of the time of tax lien filing out of an unsecured obligation, the tax lien is not valid with respect to F's security interest in the crop even though a notice of lien was filed before the security interest arose. Furthermore, because the farm is property subject to the tax lien at the time of tax lien filing, F's security interest with respect to the farm also has priority over the tax lien.

Example (5). Assume the same facts as in example (4) and in addition that on October 1, 1969, G acquires several tractors to which F's security interest attaches under the terms of the agreement. Because the tractors are not property subject to the tax lien at the time of tax lien filing, the tax lien has priority over F's security interest in the tractors.

§ 301.6323(c)–3 Protection for obligatory disbursement agreements.

(a) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a security interest which:

(1) Comes into existence after the tax lien filing,

(2) Is in qualified property covered by the terms of an obligatory disbursement agreement entered into before the tax lien filing, and

(3) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

See paragraphs (a) and (e) of § 301.6323(h)–1 for definitions of the terms "security interest" and "tax lien filing." For purposes of this section, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of § 301.6323(h)–1.

(b) *Obligatory disbursement agreement.* For purposes of this section the term "obligatory disbursement agreement" means a written agreement, entered into by a person in the course of his trade or business, to make disbursements. An agreement is treated as an obligatory disbursement agreement only with respect to disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer. The obligation to pay must be conditioned upon an event beyond the control of the obligor. For example, the provisions of this section are applicable where an issuing bank obligates itself to honor drafts or other demands for payment on a letter of credit and a bank, in good faith, relies upon that letter of credit in making advances. The provisions of this section are also applicable, for example, where a bonding company obligates itself to make payments to indemnify against loss or liability and, under the terms of the bond, makes a payment with respect to a loss. The priority described in this section is not applicable, for example, in the case of an accommodation endorsement by an endorser who assumes his obligation other than in the course of his trade or business.

(c) *Qualified property.* Except as provided under paragraph (d) of this section, the term "qualified property," for purposes of this section, means property subject to the lien imposed by section 6321 at the time of tax lien filing and, to the extent that the acquisition is directly traceable to the obligatory disbursement, property acquired by the taxpayer after tax lien filing.

(d) *Special rule for surety agreements.* Where the obligatory disbursement agreement is an agreement insuring the performance of a contract of the taxpayer and another person, the term "qualified property" shall be treated as also including—

(1) The proceeds of the contract the performance of which was insured, and

(2) If the contract the performance of which was insured is a contract to construct or improve real property, to produce goods, or to furnish services, any tangible personal property used by the taxpayer in the performance of the insured contract.

For example, a surety company which holds a security interest, arising from cash disbursements made after tax lien filing under a payment or performance bond on a real estate construction project, has priority over the tax lien with respect to the proceeds of the construction contract and, in addition, with respect to any tangible personal property used by the taxpayer in the construction project if its security interest in the tangible personal property is protected under local law against a judgment lien arising, as of the time the tax lien was filed, out of an unsecured obligation.

(e) *Examples.* This section may be illustrated by the following examples:

Example (1). (i) On January 2, 1969, H, an appliance dealer, in order to finance the acquisition from O of a large inventory of appliances, enters into a written agreement with Z, a bank. Under the terms of the agreement, in return for a security interest in all of H's inventory, presently owned and subsequently acquired, Z issues an irrevocable letter of credit to allow H to make the purchase. On December 31, 1968 and January 10, 1969, in accordance with § 301.6323(f)–1, separate notices of lien are filed with respect to H's delinquent tax liabilities. On March 31, 1969, Z honors the letter of credit. Under local law, Z's security interest in both existing and after-acquired inventory is protected against a judgment lien arising on or after January 10, 1969, out of an unsecured obligation. Under local law, Z's security interest in the inventory purchased under the letter of credit qualifies as a purchase money security interest and is valid against persons acquiring security interests in or liens upon such inventory at any time.

(ii) Because Z's security interest in H's inventory did not arise under a written agreement entered into before the filing of notice of the first tax lien on December 31, 1968, that lien is superior to Z's security interest except to the extent of Z's purchase money security interest. Because Z's interest qualifies as a purchase money security interest with respect to the inventory purchased under the letter of credit, the tax liens attach under section 6321 only to the equity acquired by H, and the rights of Z in the inventory so purchased are superior even to the lien filed on December 31, 1968, without regard to this section.

(iii) Because Z's security interest arose by reason of disbursements made under a written agreement which was entered into before the filing of notice of the second tax lien on January 10, 1969, and which constitutes an agreement to make disbursements required to be made by reason of the intervention of the rights of O, a person other than the taxpayer, and because Z's security interest is valid under local law against a judgment lien arising as of the time of such tax lien filing on January 10, 1969, out of an unsecured obligation, the second tax lien is, under this section, not valid with respect to Z's security interest in inventory owned by H on January 10, 1969, as well as any after-acquired inventory directly traceable to Z's disbursements (apart from such greater protection as Z enjoys, with respect to the latter, under its purchase money security interest). No protection against the second tax lien is provided under this section with respect to a security interest in any other inventory acquired by H after January 10, 1969, because such other inventory is neither subject to the tax lien at the time of tax lien filing nor directly traceable to Z's disbursements.

Example (2). On June 1, 1971, K is awarded a contract to construct an office building. At the same time, S, a surety company, agrees in writing to insure the performance of the contract. The agreement provides that in the event S must complete the job as the result of a default by K, S will be entitled to the proceeds of the contract. In addition, the agreement provides that S is to have a security interest in all property belonging to K. On December 1, 1971, prior to the completion of the building, K defaults. On the same date, under § 301.6323(f)–1, a notice of lien is filed with respect to K's delinquent tax liability. S completes the building on June 1, 1972. Under local law S's security interest in the proceeds of the contract and S's security interest in the property of K are entitled to priority over a judgment lien arising December 1, 1971 (the date of tax lien filing) out of an unsecured obligation. Because, for purposes of an obligatory disbursement agreement which is a surety agreement, the security interest may be in the proceeds of the insured contract, S's security interest in the proceeds of the contract has priority over the tax lien even though a notice of lien was filed before S's security interest arose. Furthermore, because the insured contract was a contract to construct real property, S's security interest in any of K's tangible personal property used in the performance of the contract also has priority over the tax lien.

Example (3). (i) On February 2, 1970, L enters into an agreement with M, a contractor, to construct an apartment building on land owned by L. Under a separate agreement, N bank agrees to furnish funds on a short-term basis to L for the payment of amounts due to M during the course of construction. Simultaneously, X, a financial institution, makes a binding commitment to N bank and L to provide long-term financing for the project after its completion. Under its commitment, X is obligated to pay off the balance of the construction loan held by N bank upon the execution by L of a new promissory note secured by a mortgage deed of trust upon the improved property. On September 4, 1970, in accordance with § 301.6323(f)–1, notice of lien is properly filed with respect to L's delinquent tax liability. On September 8, 1970, X obtains actual notice of the tax lien filing. On September 14, 1970, the documents creating X's security interest are executed and recorded, N bank's lien for its construction loan is released, and X makes the required disbursements to N bank. Under local law, X's security interest is protected against a judgment lien arising on September 4, 1970 (the time of tax lien filing) out of an unsecured obligation.

(ii) Because X's security interest arose by reason of a disbursement made under a written agreement entered into before tax lien filing, which constitutes an agreement to make disbursements required to be made by reason of the intervention of the rights of N bank, a person other than the taxpayer, and because X's security interest is valid under local law against a judgment lien arising as of the time of the tax lien filing out of an unsecured obligation, the tax lien is not valid with respect to X's security interest to the extent of the disbursement to N bank. The obligatory disbursement is protected under section 6323(c)(4) even if X is not subrogated to N bank's rights or X's agreement is not itself a real property construction financing agreement.

§ 301.6323(d) Statutory provisions; validity and priority against certain persons; 45-day period for making disbursements.

SEC. 6323. *Validity and priority against certain persons.*

* * * * *

(d) *45-day period for making disbursements.* Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

(1) Is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and

(2) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

[Sec. 6323(d) as amended by sec. 236(a) Rev. Act 1964 (78 Stat. 127); sec. 101(a) Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(d)–1 45-day period for making disbursements.

(a) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)–1, the lien is not valid with respect to a security interest which comes into existence, after tax lien filing, by reason of disbursements made before the 46th day after the date of tax lien filing, or if earlier, before the person making the disbursements has actual notice or knowledge of the tax lien filing, but only if the security interest is—

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(1) In property which is subject, at the time of tax lien filing, to the lien imposed by section 6321 and which is covered by the terms of a written agreement entered into before tax lien filing, and

(2) Protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

For purposes of subparagraph (1) of this paragraph, a contract right (as defined in paragraph (c)(2)(i) of § 301.6323(c)–1) is subject, at the time of tax lien filing, to the lien imposed by section 6321 if the contract has been made by such time. An account receivable (as defined in paragraph (c)(2)(ii) of § 301.6323(c)–1) is subject, at the time of tax lien filing, to the lien imposed by section 6321, if, and to the extent, a right to payment has been earned by performance at such time. For purposes of subparagraph (2) of this paragraph, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of § 301.6323(h)–1. For purposes of this section, it is immaterial that the written agreement provides that the disbursements are to be made at the option of the person making the disbursements. See paragraphs (a) and (e) of § 301.6323(h)–1 for definitions of the terms "security interest" and "tax lien filing," respectively. See paragraph (a) of § 301.6323(1)–1 for certain circumstances under which a person is deemed to have actual notice of knowledge of a fact.

(b) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). On December 1, 1967, an assessment is made against A with respect to his delinquent tax liability. On January 2, 1968, A enters into a written agreement with B whereby B agrees to lend A $10,000 in return for a security interest in certain property owned by A. On January 10, 1968, in accordance with § 301.6323(f)–1 notice of the tax lien affecting the property is filed. On February 1, 1968, B, without actual notice or knowledge of the tax lien filing, disburses the loan to A. Under local law, the security interest arising by reason of the disbursement is entitled to priority over a judgment lien arising January 10, 1968 (the date of tax lien filing) out of an unsecured obligation. Because the disbursement was made before the 46th day after tax lien filing, because the disbursement was made pursuant to a written agreement entered into before tax lien filing, and because the resulting security interest is protected under local law against a judgment lien arising as of the date of tax lien filing out of an unsecured obligation, B's $10,000 security interest has priority over the tax lien.

Example (2). Assume the same facts as in example (1) except that when B disburses the $10,000 to A on February 10, 1968, B has actual knowledge of the tax lien filing. Because the disbursement was made with actual knowledge of tax lien filing, B's security interest does not have priority over the tax lien even though the disbursement was made before the 46th day after the tax lien filing. Furthermore, B is not protected under § 301.6323(a)–1(a) as a holder of a security interest because he had not parted with money or money's worth prior to the time the notice of tax lien was filed (Jan. 10, 1968) even though he had made a firm commitment to A before that time.

§ 301.6323(c) Statutory provisions; validity and priority against certain persons; priority of interest and expenses.

SEC. 6323. *Validity and priority against certain persons.* • • •

(c) *Priority of interest and expenses.* If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

(1) Any interest or carrying charges upon the obligation secured,

(2) The reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,

(3) The reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) The reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) The reasonable costs of insuring payment of the obligation secured, and

(6) Amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

[Sec. 6323(c) as amended by sec. 236(a) Rev. Act 1964 (78 Stat. 127); sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(c)–1 Priority of interest and expenses.

(a) *In general.* If the lien imposed by section 6321 is not valid as against another lien or security interest, the priority of the other lien or security interest also extends to each of the following items to the extent that under local law the item has the same priority as the lien or security interest to which it relates:

(1) Any interest or carrying charges (including finance, service, and similar charges) upon the obligation secured,

(2) The reasonable charges and expenses of an indenture trustee (including, for example, the trustee under a deed of trust) or agent holding the security interest for the benefit of the holder of the security interest,

(3) The reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) The reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) The reasonable costs of insuring payment of the obligation secured (including amounts paid by the holder of the security interest for mortgage insurance, such as that issued by the Federal Housing Administration), and

(6) Amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321.

(b) *Collection expenses.* The reasonable expenses described in paragraph (a)(3) of this section include expenditures incurred by the protected holder of the lien or security interest to establish the priority of his interest or to collect, by foreclosure or otherwise, the amount due him from the property subject to his lien. Accordingly, the amount of the encumbrance which is protected is increased by the amounts so expended by the holder of the security interest.

(c) *Costs of insuring, preserving, etc.* The reasonable costs of insuring, preserving, or repairing described in paragraph (a)(4) of this section include expenditures by the holder of a security interest for fire and casualty insurance on the property subject to the security interest and amounts paid by the holder of the lien or security interest to repair the property. Such reasonable costs also include the amounts paid by the holder of the lien or security interest in a leasehold to the lessor of the leasehold to preserve the leasehold subject to the lien or security interest. Accordingly, the amount of the lien or security interest which is protected is increased by the amounts so expended by the holder of the lien or security interest.

(d) *Satisfaction of liens.* The amounts described in paragraph (a)(6) of this section include expenditures incurred by the protected holder of a lien or security interest to discharge a statutory lien for State sales taxes on the property subject to his lien or security interest if both his lien or security interest and the sales tax lien have priority over a Federal tax lien. Accordingly, the amount of the lien or security interest is increased by the amounts so expended by the holder of the lien or security interest even though under local law the holder of the lien or security interest is not subrogated to the rights of the holder of the State sales tax lien. However, if the holder of the lien or security interest is subrogated, within the meaning of paragraph (b) of § 301.6323(1)–1, to the rights of the holder of the sales tax lien, he will also be entitled to any additional protection afforded by section 6323(1)(2).

§ 301.6323(f) Statutory provisions; validity and priority against certain persons; place for filing notice; form.

SEC. 6323. *Validity and priority against certain persons.* • • •

(f) *Place for filing notice; form*—(1) *Place for filing.* The notice referred to in subsection (a) shall be filed—

(A) *Under State laws*—(i) *Real property.* In the case of real property, in one office within the State (or the county, or other governmental subdivision) as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; or

(B) *With clerk of district court.* In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) *With recorder of deeds of the District of Columbia.* In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) *Situs of property subject to lien.* For purposes of paragraph (1), property shall be deemed to be situated—

(A) *Real property.* In the case of real property, at its physical location; or

(B) *Personal property.* In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) *Form.* The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary or his delegate. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

[Sec. 6323(f) as added by sec. 101(a) Federal Tax Lien Act of 1966 (80 Stat. 1125)]

§ 301.6323(f)–1 Place for filing notice; form.

(a) *Place for filing.* The notice of lien referred to in § 301.6323(a)–1 shall be filed as follows:

(1) *Under State laws*—(i) *Real property.* In the case of real property, notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(1) of this section.

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, the notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(2) of this section.

(2) *With the clerk of the U.S. district court.* Whenever a State has not by law designated one office which meets the requirements of subparagraph (1)(i) or (1)(ii) of this paragraph, the notice shall be filed in the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is deemed situated under the provisions of paragraph (b) of this section. For example, a State has not by law designated one office meeting the requirements of subparagraph (1)(i) of this paragraph if more than one office is designated within the State, county, or other governmental subdivision for filing notices with respect to all real property located in such State, county, or other governmental subdivision. A State has not by law designated one office meeting the requirements of subparagraph (1)(ii) of this paragraph if more than one office is designated in the State, county, or other governmental subdivision for filing notices with respect to all of the personal property of a particular taxpayer.

(3) *With the Recorder of Deeds of the District of Columbia.* If the property subject to the lien imposed by section 6321 is deemed situated, under the provisions of paragraph (b) of this section, in the District of Columbia, the notice shall be filed in the office of the Recorder of Deeds of the District of Columbia.

(b) *Situs of property subject to lien.* For purposes of paragraph (a) of this section, property is deemed situated as follows:

(1) *Real property.* Real property is deemed situated at its physical location.

(2) *Personal property.* Personal property, whether tangible or intangible, is deemed situated at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of subparagraph (2) of this paragraph the residence of a corporation or partnership is deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is not within the United States is deemed to be in the District of Columbia.

(c) *Form.* The notice referred to in § 301.6323(a)–1 shall be filed on Form 668, "Notice of Federal Tax Lien under Internal Revenue Laws". Such notice is valid notwithstanding any other provision of law regarding the form or content of a notice of lien. For example, omission from the notice of lien of a description of the property subject to the lien does not affect the validity thereof even though state law may require that the notice contain a description of the property subject to the lien.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). The law of State X provides that notices of Federal tax lien affecting personal property are to be filed in the Office of the Recorder of Deeds of the county where the taxpayer resides. The laws of State X also provide that notices of lien affecting real property are to be filed with the recorder of deeds of the county where the real property is located. On June 1, 1970, in accordance with § 301.6323(f)–1, a notice of lien is filed in county M with respect to the delinquent tax liability of A. At the time the notice is filed, A is a resident of county M and owns real property in that county. One year later A moves to county N and one year after that A moves to county O. Because the situs of personal property is deemed to be at the residence of the taxpayer at the time the notice of lien is filed, the notice continues to be effectively filed with respect to A's personal property even though A no longer resides in county M. Furthermore, because the situs of real property is deemed to be at its physical location, the notice of lien also continues to be effectively filed with respect to A's real property.

Example (2). B is a resident of Canada but owns personal property in the United States. On January 4, 1971, in accordance with § 301.6323(f)–1, a notice of lien is filed with the Office of the Recorder of Deeds of 1973, B changes his residence to State Y in the United States. Because the residence of the United States. Because the residence of a taxpayer who is not a resident of the United States is deemed to be in the District of Columbia and the situs of personal property is deemed to be at the residence of the taxpayer at the time of filing, the lien continues to be effectively filed with respect to the personal property of B located in the United States even though B has returned to the United States and taken up residence in State Y and even though B has at no time been in the District of Columbia.

Example (3). The law of State Z in effect before July 1, 1967, provides that notices of lien affecting real property are to be filed in the office of the recorder of deeds of the county in which the real property is located, but that if the real property is registered under the Torrens system of title registration the notice is to be filed with the registrar of titles rather than the recorder of deeds. The law of State Z in effect after June 30, 1967, provides that all notices of lien affecting real property are to be filed with the recorder of deeds of the county in which the real property is located. Accordingly, where the Torrens system is adopted by a county in State Z, there were before July 1, 1967, two offices designated for filing notices of Federal tax lien affecting real property in the county because one office was designated for Torrens real property and another office was designated for non-Torrens real property. Because State Z had not designated one office within the State, county, or other governmental subdivision for filing notices before July 1, 1967, with respect to all real property located in the State, county, or governmental subdivision, before July 1, 1967, the place for filing notices of lien under this section, affecting property located in counties adopting the Torrens system, was with the clerk of the U.S. district court for the judicial district in which the real property is located. However, after June 30, 1967, the place for filing notices of lien under this section, affecting both Torrens and non-Torrens real property in counties adopting the Torrens system is with the recorder of deeds for each such county. Notices of lien filed under this section with the clerk of the U.S. district court before July 1, 1967, remain validly filed whether or not refiled with the recorder of deeds after the change in State law or upon refiling during the required refiling period.

Example (4). The law of State W provides that notices of lien affecting personal property of corporations and partnerships are to be filed in the office of the Secretary of State. Notices of lien affecting personal property of any other person are to be filed in the office of the clerk of court for the county where the person resides. Because the State law designates only one filing office within State W with respect to personal property of any particular taxpayer, notices of lien filed under this section, affecting personal property, shall be filed in the office designated under State law.

§ 301.6323(g) Statutory provisions; validity and priority against certain persons; refiling of notice of tax lien.

SEC. 6323. *Validity and priority against certain persons.* • • •

(g) *Refiling of notice.*—For purposes of this section—

(1) *General rule.*—Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) *Place for filing.*—A notice of lien refiled during the required refiling period shall be effective only—

(A) If such notice of lien is refiled in the office in which the prior notice of lien was filed; and

(B) In any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary or his delegate received written information (in

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the manner prescribed in regulations issued by the Secretary or his delegate) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) *Required refiling period.*—In the case of any notice of lien, the term "required refiling period" means—

(A) The 1-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(B) The 1-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(4) *Transitional rule.*—Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

[Sec. 6323(g) as added by sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(g)-1 Refiling of notice of tax lien.

(a) *In general*—(1) *Requirement to refile.* In order to continue the effect of a notice of lien, the notice must be refiled in the place described in paragraph (b) of this section during the required refiling period (described in paragraph (c) of this section). In the event that two or more notices of lien are filed with respect to a particular tax assessment, the failure to comply with the provisions of paragraphs (b)(1)(i) and (c) of this section in respect of one of the notices of lien does not affect the effectiveness of the refiling of any other notice of lien. Except for the filing of a notice of lien required by paragraph (b)(1)(ii) of this section (relating to a change of residence) the validity of any refiling of a notice of lien is not affected by the refiling or nonrefiling of any other notice of lien.

(2) *Effect of refiling.* A timely refiled notice of lien is effective as of the date on which the notice of lien to which it relates was effective.

(3) *Effect of failure to refile.* If the district director fails to refile a notice of lien in the manner described in paragraphs (b) and (c) of this section, the notice of lien is not effective, after the expiration of the required refiling period, as against any person without regard to when the interest of the person in the property subject to the lien was acquired. However, the failure of the district director to refile a notice of lien during the required refiling period will not, following the expiration of the refiling period, affect the effectiveness of the notice with respect to:

(i) Property which is the subject matter of a suit, to which the United States is a party, commenced prior to the expiration of the required refiling period, or

(ii) Property which has been levied upon by the United States prior to the expiration of the refiling period.

However, if a suit or levy referred to in the preceding sentence is dismissed or released and the property is subject to the lien at such time, a notice of lien with respect to the property is not effective after the suit or levy is dismissed or released unless refiled during the required refiling period. Failure to refile a notice of lien does not affect the existence of the lien.

(4) *Filing of new notice.* If a notice of lien is not refiled, and if the lien remains in existence, the Internal Revenue Service may nevertheless file a new notice of lien either on the form prescribed for the filing of a notice of lien or on the form prescribed for refiling a notice of lien. This new filing must meet the requirements of section 6323(f) and § 301.6323(f)-1 and is effective from the date on which such filing is made.

(b) *Place for refiling notice of lien*—(1) *In general.* A notice of lien refiled during the required refiling period (described in paragraph (c) of this section) shall be effective only—

(i) If the notice of lien is refiled in the office in which the prior notice of lien (including a refiled notice) was filed under the provisions of section 6323; and

(ii) In any case in which 90 days or more prior to the date the refiling of the notice of lien under subdivision (i) is completed, the Internal Revenue Service receives written information (in the manner described in subparagraph (2) of this paragraph) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with section 6323(f)(1)(A)(ii) in the State in which such new residence is located (or, if such new residence is located without the United States, in the District of Columbia).

A notice of lien is considered as refiled in the office in which the prior notice or refiled notice was filed under the provisions of section 6323 if it is refiled in the office which, pursuant to a change in the applicable local law, assumed the functions of the office in which the prior notice or refiled notice was filed. If on or before the 90th day referred to in subdivision (ii) more than one written notice is received concerning a change in the taxpayer's residence, a notice of lien is required by this subdivision to be filed only with respect to the residence shown on the written notice received on the most recent date. Subdivision (ii) is applicable regardless of whether the taxpayer resides at the new residence on the date the refiling of notice of lien under subdivision (i) of this subparagraph is completed.

(2) *Notice of change of taxpayer's residence*—(i) *In general.* Except as provided in subdivision (ii) or (iii) of this subparagraph, for purposes of this section, a notice of change of a taxpayer's residence will be effective only if it (A) is received, in writing, from the taxpayer or his representative by the district director or the service center director having jurisdiction where the original notice of lien was filed, (B) relates to an unpaid tax liability of the taxpayer, and (C) states the taxpayer's name and the address of his new residence. Although it is not necessary that a written notice contain the taxpayer's identifying number authorized by section 6109, it is preferable that it include such number. For purposes of this subdivision, a notice of change of a taxpayer's residence shown on a return or an amended return (including a return of the same tax) will not be effective to notify the Internal Revenue Service.

(ii) *Notice received before August 23, 1976.* For purposes of this section, a notice of a change of a taxpayer's residence will also be effective if it (A) is received, in writing, by any office of the Internal Revenue Service before August 23, 1976, from the taxpayer or his representative, (B) relates to an unpaid tax liability of the taxpayer, and (C) states the taxpayer's name and the address of his new residence.

(iii) *By return or amended return.* For purposes of this section, in the case of a notice of lien which relates to an assessment of tax made after December 31, 1966, a notice of change of a taxpayer's residence will also be effective if it is contained in a return or amended return of the same type of tax filed with the Internal Revenue Service by the taxpayer or his representative which on its face indicates that there is a change in the taxpayer's address and correctly states the taxpayer's name, the address of his new residence, and his identifying number required by section 6109.

(iv) *Other rules applicable.* Except as provided in subdivisions (i), (ii), and (iii) of this subparagraph, no communication (either written or oral) to the Internal Revenue Service will be considered effective as notice of a change of a taxpayer's residence under this section, whether or not he Service has actual notice or knowledge of the taxpayer's new residence. For the purpose of determining the date on which a notice of change of a taxpayer's residence is received under this section, the notice shall be treated as received on the date it is actually received by the Internal Revenue Service without reference to the provisions of section 7502.

(3) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, a delinquent taxpayer, is a resident of State M and owns real property in State N. In accordance with § 301.6323(f)-1, notices of lien are filed in States M and N. In order to continue the effect of the notice of lien filed in M, the Internal Revenue Service must refile, during the required refiling period, the notice of lien with the appropriate office in M but is not required to refile the notice of lien with the appropriate office in N. Similarly, in order to continue the effect of the notice of lien filed in State N, the Internal Revenue Service must refile, during the required refiling period, the notice of lien with the appropriate office in N but is not required to refile the notice of lien with the appropriate office in M.

Example (2). B, a delinquent taxpayer, is a resident of State M. In accordance with § 301.6323(f)-1, notice of lien is properly filed in that State. One year before the beginning of the required refiling period, B establishes his residence in State N, and B immediately notifies the Internal Revenue Service of his change in residence in accordance with the provisions of paragraph (b)(2) of this section. In order to continue the effect of the notice of lien filed in M, the Internal Revenue Service must refile, during the required refiling period, notices of lien with (i) the appropriate office in M, and (ii) the appropriate office in N, because B properly notified the Internal Revenue Service of his change in residence to N more than 89 days prior to the date refiling of the notice of lien in M is completed. Even if the Internal Revenue Service had acquired actual notice or knowledge of B's change in residence by other means, if B had not properly notified the Internal Revenue Service of his change in residence, the effect of the notice of lien in State M could have been continued without any refiling in State N.

Example (3). C, a delinquent taxpayer, is a resident of State O. In accordance with § 301.6323(f)-1, notice of lien is properly filed in that State. Four years before the required refiling period, C establishes his residence in State P, and C immediately notifies the Internal Revenue Service of his change in residence in accordance with the provisions of paragraph (b)(2) of this section. Three years before the required refiling period, C establishes his residence in State R, and again C immediately notifies the Internal Revenue Service of his change in residence in accordance with the provisions of paragraph (2) of this section. In order to continue the effect of the notice of lien filed in O, the Internal Revenue Service must refile, during the required refiling period, notices of lien with (i) the appropriate office in O, and (ii) the appropriate office in R. Refiling in R is required because the notice received by the Service of C's change in residence to R was the most recent notice received more than 89 days prior to the date refiling in O is completed. The notice of lien is not required to be filed in P, even though C properly notified the Internal Revenue Service of his change in residence to P, because such notice is not the most recent one received.

Example (4). Assume the same facts as in example (3), except that C does not notify the Internal Revenue Service of his change in residence to R in accordance with the provisions of paragraph (b)(2) of this section. In order to continue the effect of the notice of lien filed in O, the Internal Revenue Service must refile, during the required refiling period, the notice of lien with (i) the appropriate office in O, and (ii) the appropriate office in P. Refiling in P is required because C properly notified the Internal Revenue Service of his change in residence to P, even though C is not a resident of P on the date refiling of the notice of lien in O is completed. The Internal Revenue Service is not required to file a notice of lien in R because C did not properly notify the Service of his change in residence to R.

Example (5). D, a delinquent taxpayer, is a resident of State M and owns real property in States N and O. In accordance with § 301.6323(f)-1, the Internal Revenue Service files notices of lien in M, N, and O States. Five years and 6 months after the date of the assessment shown on the notice of lien, D establishes his residence in P, and at that time the Internal Revenue Service received from D a notification of his change in residence in accordance with the provisions of paragraph (b)(2) of this section. On a date which is 5 years and 7 months after the date of the assessment shown on the notice of lien, the Internal Revenue Service properly refiles notices of lien in M, N, and O which refilings are sufficient to continue the effect of each of the notice of lien. The Internal Revenue Service is not required to file a notice of lien in P because D did not notify the Internal Revenue Service of his change of residence to P more than 89 days prior to the date each of the refilings in M, N, and O was completed.

Example (6). Assume the same facts as in example (5) except that the refiling of the notice of lien in O occurs 100 days after D notifies the Internal Revenue Service of his change in residence to P in accordance with the provisions of paragraph (b)(2) of this section. In order to continue the effect of the notice of lien filed in O, in addition to refiling the notice of lien in O, the Internal Revenue Service must also refile, during the required refiling period, a notice of lien in P because D properly notified the Internal Revenue Service of his change of residence to P more than 89 days prior to the date the refiling in O was completed. However, the Internal Revenue Service is not required to refile the notice of lien in P to maintain the effect of the notices of lien in M and N because D did not notify the Internal Revenue Service of his change in residence to P more than 89 days prior to the date the refilings in M and N were completed.

Example (7). E, a delinquent taxpayer, is a resident of State T. Because T has not designated one office in the case of personal property for filing notices of lien in accordance with the provisions of section 6323(f)(1)(A)(ii), the Internal Revenue Service properly files a notice of lien with the clerk of the appropriate United States district court. However, solely as a matter of convenience for those who may have occasion to search for notices of lien, and not as a matter of legal effectiveness, the Internal Revenue Service also files notice of lien with the recorder of deeds of the county in T where E resides. In addition, the Internal Revenue Service sends a copy of the notice of lien to the X life insurance company to give the company actual notice of the notice of lien. In order to continue the effect of the notice of lien, the Internal Revenue Service must refile the notice of lien with the clerk of the appropriate United States district court during the required refiling period. In order to continue the effect of the notice of the lien, it is not necessary to refile the notice of lien with the Recorder of Deeds of the county where E resides, because the refiling of the notice of lien with the recorder of deeds does not constitute a proper filing for the purposes of section 6323(f). In addition, to continue the effect of the notice of lien under this section it is not necessary to send a copy of the notice of lien to the X life insurance company, because the sending of a notice of lien to an insurance company does not constitute a proper filing for the purposes of section 6323(f).

(c) *Required refiling period*—(1) *In general.* For the purpose of this section, except as provided in subparagraph (2) of this paragraph, the term "required refiling period" means—

(i) The 1-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(ii) The 1-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(2) *Tax assessments made before January 1, 1962.* If the assessment of the tax is made before January 1, 1962, the first required refiling period shall be the calendar year 1967. Thus, to maintain the effectiveness of any notice of lien on file which relates to a lien which arose before January 1, 1962, the Internal Revenue Service will refile the notice of lien during the calendar year 1967.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On March 1, 1963, an assessment of tax is made against B, a delinquent taxpayer, and a lien for the amount of the assessment arises on that date. On July 1, 1963, in accordance with § 301.6323(f)-1, a notice of lien is filed. The notice of lien filed on July 1, 1963, is effective through March 31, 1969. The first required refiling period for the notice of lien begins on April 1, 1968, and ends on March 31, 1969. A refiling of the notice of lien during that period will extend the effectiveness of the notice of lien filed on July 1, 1963, through March 31, 1975. The second required refiling period for the notice of lien begins on April 1, 1974, and ends on March 31, 1975.

Example (2). Assume the same facts as in example (1), except that although the Internal Revenue Service fails to refile a notice of lien during the first required refiling period (April 1, 1968, through March 31, 1969), a notice of lien is filed on June 2, 1971, in accordance with § 301.6323(f)-1. Because of this filing, the notice of lien filed on June 2, 1971, is effective as of June 2, 1971. That notice must be refiled during the 1-year period ending on March 31, 1975, if it is to continue in effect after March 31, 1975.

Example (3). On April 1, 1960, an assessment of tax is made against B, a delinquent taxpayer, and a tax lien for the amount of the assessment arises on that date. On June 1, 1962, in accordance with § 301.6323(f)-1, a notice of lien is filed. Because the assessment of tax was made before January 1, 1962, the notice of lien filed on June 1, 1962, is effective through December 31, 1967. The first required refiling period for the notice of lien is the calendar year 1967. A refiling of the notice of lien during 1967 will extend the effectiveness of the notice of lien filed on June 1, 1962, through December 31, 1973.

§ 301.6323(h) Statutory provisions; validity and priority against certain persons; definitions.

SEC. 6323. *Validity and priority against certain persons.* • • •

(h) *Definitions.* For purposes of this section and section 6324—

(1) *Security interest.* The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) *Mechanic's lienor.* The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) *Motor vehicle.* The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country.

(4) *Security.* The term "security" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in

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registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument or money.

(5) *Tax lien filing.* The term "tax lien filing" means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) *Purchaser.* The term "purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section, and for purposes of section 6324—

(A) A lease of property,

(B) A written executory contract to purchase or lease property,

(C) An option to purchase or lease property or any interest therein, or

(D) An option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

[Sec. 6323(h) as added by sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(h)–0 Scope of definitions.

Except as otherwise provided by § 301.6323(h)–1, the definitions provided by § 301.6323(h)–1 apply for purposes of §§ 301.6323(a)–1 through 301.6324–1.

§ 301.6323(h)–1 Definitions.

(a) *Security interest*—(1) *In general.* The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time—

(i) If, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien (as provided in subparagraph (2) of this paragraph) arising out of an unsecured obligation; and

(ii) To the extent that, at such time, the holder has parted with money or money's worth (as defined in subparagraph (3) of this paragraph).

For purposes of this subparagraph, a contract right (as defined in paragraph (c)(2)(i) of § 301.6323(c)–1) is an existence when the contract is made. An account receivable (as defined in paragraph (c)(2)(ii) of § 301.6323(c)–1) is in existence when, and to the extent, a right to payment is earned by performance.

A security interest must be in existence, within the meaning of this paragraph, at the time as of which its priority against a tax lien is determined. For example, to be afforded priority under the provisions of paragraph (a) of § 301.6323(a)–1 a security interest must be in existence within the meaning of this paragraph before a notice of lien is filed.

(2) *Protection against a subsequent judgment lien.* (i) For purposes of this paragraph, a security interest is deemed to be protected against a subsequent judgment lien on—

(A) The date on which all actions required under local law to establish the priority of a security interest against a judgment lien have been taken, or

(B) If later, the date on which all required actions are deemed effective, under local law, to establish the priority of the security interest against a judgment lien.

For purposes of this subdivision, the dates described in (A) and (B) of this subdivision (i) shall be determined without regard to any rule or principle of local law which permits the relation back of any requisite action to a date earlier than the date on which the action is actually performed. For purposes of this paragraph, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of this section.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. (1) Under the law of State X, a security interest in negotiable instruments, stocks, bonds, or other securities may be perfected, and hence protected against a judgment lien, only by the secured party taking possession of the instruments or securities. However, a security interest in such intangible personal property is considered to be temporarily perfected for a period of 21 days from the time the security interest attaches, to the extent consideration other than past consideration is given under a written security agreement. Under the law of X, a security interest attaches to such collateral when there is an agreement between the creditor and debtor that the interest attaches, the debtor has rights in the property, and consideration is given by the creditor. Under the law of X, in the case of temporary perfection, the security interest in such property is protected during the 21-day period against a judgment lien arising, after the security interest attaches, out of an unsecured obligation. Upon expiration of the 21-day period, the holder of the security interest must take possession of the collateral to continue perfection.

(ii) Because the security interest is protected during the 21-day period against a subsequent judgment lien arising out of an unsecured obligation, and because the taking of possession before the conclusion of the period of temporary perfection is not considered, for purposes of subdivision (i) of this subparagraph, to be a requisite action which relates back to the beginning of such period, the requirements of this paragraph are satisfied. However, because taking possession is a condition precedent to continued perfection, possession of the collateral is a requisite action to establish such priority after expiration of the period of temporary perfection. If there is a lapse of perfection for failure to take possession, the determination of when the security interest exists (for purposes of protection against the tax lien) is made without regard to the period of temporary perfection.

(3) *Money or money's worth.* For purposes of this paragraph, the term "money or money's worth" includes money, a security (as defined in paragraph (d) of this section), tangible or intangible property, services, and other consideration reducible to a money value. Money or money's worth also includes any consideration which otherwise would constitute money or money's worth under the preceding sentence which was parted with before the security interest would otherwise exist if, under local law, past consideration is sufficient to support an agreement giving rise to a security interest. A relinquishing or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights is not a consideration in money or money's worth. Nor is love and affection, promise of marriage, or any other consideration not reducible to a money value a consideration in money or money's worth.

(4) *Holder of a security interest.* For purposes of this paragraph, the holder of a security interest is the person in whose favor there is a security interest. For provisions relating to the treatment of a purchaser of commercial financing security as a holder of a security interest, see § 301.6323(c)–1(e).

(b) *Mechanic's lienor*—(1) *In general.* The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement (including demolition) of the property. A mechanic's lienor is treated as having a lien on the later of—

(i) The date on which the mechanic's lien first becomes valid under local law against subsequent purchasers of the real property without actual notice, or

(ii) The date on which the mechanic's lienor begins to furnish the services, labor, or materials.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following example:

Example (1). On February 1, 1968, A lets a contract for the construction of an office building on property owned by him. On March 1, 1968, in accordance with § 301.6323(f)–1, a notice of lien for delinquent Federal taxes owed by A is filed. On April 1, 1968, B, a lumber dealer, delivers lumber to A's property. On May 1, 1968, B records a mechanic's lien against the property to secure payment of the price of the lumber. Under local law, B's mechanic's lien is valid against subsequent purchasers of real property without notice from February 1, 1968, which is the date the construction contract was entered into. Because the date on which B's mechanic's lien is valid under local law against subsequent purchasers is February 1, and the date on which B begins to furnish the materials is April 1, the date on which B becomes a mechanic's lienor within the meaning of this paragraph is April 1, the later of these two dates. Under paragraph (a) of § 301.6323(a)–1, B's mechanic's lien will not have priority over the Federal tax lien, even though under local law the mechanic's lien relates back to the date of the contract.

(c) *Motor vehicle.* (1) The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State, the District of Columbia, or a foreign country.

(2) A motor vehicle is "registered for highway use" at the time of a sale if immediately prior to the sale it is so registered under the laws of any State, the District of Columbia, or a foreign country. Where immediately prior to the sale of a motor vehicle by a dealer, the dealer is permitted under local law to operate it under a dealer's tag, license, or permit issued to him, the motor vehicle is considered to be registered for highway use in the name of the dealer at the time of the sale.

(d) *Security.* The term "security" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(e) *Tax lien filing.* The term "tax lien filing" means the filing of notice of the lien imposed by section 6321 in accordance with § 301.6323(f)–1.

(f) *Purchaser*—(1) *In general.* The term "purchaser" means a person who, for adequate and full consideration in money or money's worth (as defined in subparagraph (3) of this paragraph), acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice.

(2) *Interest in property.* For purposes of this paragraph, each of the following interests is treated as an interest in property, if it is not a lien or security interest:

(i) A lease of property,

(ii) A written executory contract to purchase or lease property,

(iii) An option to purchase or lease property and any interest therein, or

(iv) An option to renew or extend a lease of property.

(3) *Adequate and full consideration in money or money's worth.* For purposes of this paragraph, the term "adequate and full consideration in money or money's worth" means a consideration in money or money's worth having a reasonable relationship to the true value of the interest in property acquired. See paragraph (a)(3) of this section for definition of the term "money or money's worth." Adequate and full consideration in money or money's worth may include the consideration in a bona fide bargain purchase. The term also includes the consideration in a transaction in which the purchaser has not completed performance of his obligation, such as the consideration in an installment purchase contract, even though the purchaser has not completed the installment payments.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A enters into a contract for the purchase of a house and lot from B. Under the terms of the contract A makes a down payment and is to pay the balance of the purchase price in 120 monthly installments. After payment of the last installment, A is to receive a deed to the property. A enters into possession, which under local law protects his interest in the property against subsequent purchasers without actual notice. After A has paid five monthly installments, a notice of lien for Federal taxes is filed against B in accordance with § 301.6323(f)–1. Because the contract is an executory contract to purchase property and is valid under local law against subsequent purchasers without actual notice, A qualifies as a purchaser under this paragraph.

Example (2). C owns a residence which he leases to his son-in-law, D, for a period of 5 years commencing January 1, 1968. The lease provides for payment of $100 a year, although the fair rental value of the residence is $2,500 a year. The lease is recorded on December 31, 1967. On March 1, 1968, a notice of tax lien for unpaid Federal taxes of C is filed in accordance with § 301.6323(f)–1. Under local law, D's interest is protected against subsequent purchasers without actual notice. However, because the rental paid by D has no reasonable relationship to the value of the interest in property acquired, D does not qualify as a purchaser under this paragraph.

(g) *Judgment lien creditor.* The term "judgment lien creditor" means a person who has obtained a valid judgment, in a court of record and of competent jurisdiction, for the recovery of specifically designated property or for a certain sum of money. In the case of a judgment for the recovery of a certain sum of money, a judgment lien creditor is a person who has perfected a lien under the judgment on the property involved. A judgment lien is not perfected until the identity of the lienor, the property subject to the lien, and the amount of the lien are established. Accordingly, a judgment lien does not include an attachment or garnishment lien until the lien has ripened into judgment, even though under local law the lien of the judgment relates back to an earlier date. If recording or docketing is necessary under local law before a judgment becomes effective against third parties acquiring liens on real property, a judgment lien under such local law is not perfected with respect to real property until the time of such recordation or docketing. If under local law levy or seizure is necessary before a judgment lien becomes effective against third parties acquiring liens on personal property, then a judgment lien under such local law is not perfected until levy or seizure of the personal property involved. The term "judgment" does not include the determination of a quasi-judicial body or of an individual acting in a quasi-judicial capacity such as the action of State taxing authorities.

§ 301.6323(i) Statutory provisions; validity and priority against certain persons; special rules.

SEC. 6323. *Validity and priority against certain persons.* • • •

(i) *Special rules*—(1) *Actual notice or knowledge.* For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) *Subrogation.* Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed pursuant to subsection (f), the Secretary or his delegate is authorized to provide by regulations the extent to which, and the conditions under which, information as to the amount of the outstanding obligation secured by the lien may be disclosed.

[Sec. 6323(i) as added by sec. 101(a), Federal Tax Lien Act 1966 (80 Stat. 1125)]

§ 301.6323(i)–1 Special rules.

(a) *Actual notice or knowledge.* For purposes of subchapter C (section 6321 and following), chapter 64 of the Code, an organization is deemed, in any transaction, to have actual notice or knowledge of any fact from the time the fact is brought to the attention of the individual conducting the transaction, and in any event from the time the fact would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(b) *Subrogation*—(1) *In general.* Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324. Thus, if a tax lien imposed by section 6321 or 6324 is not valid with respect to a particular interest as against the holder of that interest, then the tax lien also is not valid with respect to that interest as against any person who, under local law, is a successor in interest to the holder of that interest.

(2) *Example.* The application of this paragraph may be illustrated by the following example:

Example. On February 1, 1968, an assessment is made and a tax lien arises with respect to A's delinquent tax liability. On February 25, 1968, in accordance with § 301.6323(f)–1, a notice of lien is properly filed. On March 1, 1968, A negotiates a loan from B, the security for which is a second mortgage on property owned by A. The first mortgage on the property is held by C and has priority

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over the tax lien. Upon default by A, C begins proceedings to foreclose upon the first mortgage. On September 1, 1968, B pays the amount of principal and interest in default to C in order to protect the second mortgage against the pending foreclosure of C's senior mortgage. Under local law, B is subrogated to C's rights to the extent of the payment to C. Therefore, the tax lien is invalid against B to the extent he became subrogated to C's rights even though the tax lien is valid against B's second mortgage on the property.

(c) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed (see § 301.6323(f)–1), the amount of the outstanding obligation secured by the lien is authorized to be disclosed as a matter of public record on Form 668 "Notice of Federal Tax Lien Under Internal Revenue Laws." The amount of the outstanding obligation secured by the lien remaining unpaid at the time of an inquiry is authorized to be disclosed to any person who has a proper interest in determining this amount. Any person who has a right in the property or intends to obtain a right in the property by purchase or otherwise will, upon presentation by him of satisfactory evidence, be considered to have a proper interest. Any person desiring this information may make his request to the office of the Internal Revenue Service named on the notice of lien with respect to which the request is made. The request should clearly describe the property subject to the lien, identify the applicable lien, and give the reasons for requesting the information.

PAR. 8. Section 301.6325 is amended to read as follows:

§ 301.6325 Statutory provisions; release of lien or discharge of property.

SEC. 6325. *Release of lien or discharge of property*—(a) *Release of lien.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of release of any lien imposed with respect to any internal revenue tax if—

(1) *Liability satisfied or unenforceable.* The Secretary or his delegate finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) *Bond accepted.* There is furnished to the Secretary or his delegate and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such regulations.

(b) *Discharge of property*—(1) *Property double the amount of the liability.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary or his delegate finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority over such lien.

(2) *Part payment; interest of United States valueless.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to any lien imposed by section 6324 if the Secretary or his delegate finds that the liability secured by such lien has been fully satisfied or provided for.

(d) *Subordination of lien.* Subject to such regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of subordination of any lien imposed by this chapter upon any part of the property subject to such lien if—

(1) There is paid over to the Secretary or his delegate an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States, or

(2) The Secretary or his delegate believes that the amount realizable by the United States from the property to which the certificate relates, or from any other property subject to the lien, will ultimately be increased by reason of the issuance of such certificate and that the ultimate collection of the tax liability will be facilitated by such subordination.

(e) *Nonattachment of lien.* If the Secretary or his delegate determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed under section 6323 refers to such person, the Secretary or his delegate may issue a certificate that the lien does not attach to the property of such person.

(f) *Effect of certificate*—(1) *Conclusiveness.* Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary or his delegate and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:

(A) In the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished;

(B) In the case of a certificate of discharge, such certificate shall be conclusive that the property covered by such certificate is discharged from the lien;

(C) In the case of a certificate of subordination, such certificate shall be conclusive that the lien or interest to which the lien of the United States is subordinated is superior to the lien of the United States; and

(D) In the case of a certificate of nonattachment, such certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in such certificate.

(2) *Revocation of certificate of release or nonattachment.* If the Secretary or his delegate determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary or his delegate may revoke such certificate and reinstate the lien—

(A) By mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and

(B) By filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).

Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

(3) *Certificates void under certain conditions.* Notwithstanding any other provision of this subtitle, any lien imposed by this chapter shall attach to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires such property after such certificate has been issued.

(g) *Filing of certificates and notices.* If a certificate or notice issued pursuant to this section may not be filed in the office designated by State law in which the notice of lien imposed by section 6321 is filed, such certificate or notice shall be effective if filed in the office of the clerk of the United States district court for the judicial district in which such office is situated.

(h) *Cross reference.* For provisions relating to bonds, see chapter 73 (sec. 7101 and following).

[Sec. 6325 as amended by sec. 77, Technical Amendments Act 1958 (72 Stat. 1662); sec. 103(a), Federal Tax Lien Act 1966 (80 Stat. 1133)]

PAR. 9. Section 301.6325–1 is amended by revising the heading, by revising subparagraphs (1)(i), (2), (3), and (4) of paragraph (b), by revising paragraph (d), and by adding new paragraphs (e), (f), and (g). These revised and added provisions read as follows:

§ 301.6325–1 Release of lien or discharge of property.

* * * * *

(b) *Discharge of specific property from the lien*—(1) *Property double the amount of the liability.* (i) The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to a lien imposed under chapter 64 of the Code if he determines that the fair market value of that part of the property remaining subject to the lien is at least double the sum of the amount of the unsatisfied liability secured by the lien and of the amount of all other liens upon the property which have priority over the lien. In general, fair market value is that amount which one ready and willing but not compelled to buy would pay to another ready and willing but not compelled to sell the property.

* * * * *

(2) *Part payment; interest of United States valueless*—(i) *Part payment.* The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to a lien imposed under chapter 64 of the Code if there is paid over to him in partial satisfaction of the liability secured by the lien an amount determined by him to be not less than the value of the interest of the United States in the property to be so discharged. In determining the amount to be paid, the district director will take into consideration all the facts and circumstances of the case, including the expenses to which the Government has been put in the matter. In no case shall the amount to be paid be less than the value of the interest of the United States in the property with respect to which the certificate of discharge is to be issued.

(ii) *Interest of the United States valueless.* The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to the lien if he determines that the interest of the United States in the property to be so discharged has no value.

(iii) *Valuation of interest of United States.* For purposes of this subparagraph, in determining the value of the interest of the United States in the property, or any part thereof, with respect to which the certificate of discharge is to be issued, the district director shall give consideration to the value of the property and the amount of all liens and encumbrances thereon having priority over the Federal tax lien. In determining the value of the property, the district director may, in his discretion, give consideration to the forced sale value of the property in appropriate cases.

(3) *Discharge of property by substitution of proceeds of sale.* A district director may, in his discretion, issue a certificate of discharge of any part of the property subject to a lien imposed under chapter 64 of the Code if such part of the property is sold and, pursuant to a written agreement with the district director, the proceeds of the sale are held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as the lien or claim had with respect to the discharged property. This subparagraph does not apply unless the sale divests the taxpayer of all right, title, and interest in the property sought to be discharged. Any reasonable and necessary expenses incurred in connection with the sale of the property and the administration of the sale proceeds shall be paid by the applicant or from the proceeds of the sale before satisfaction of any lien or claim of the United States.

(4) *Application for certificate of discharge.* Any person desiring a certificate of discharge under this paragraph shall submit an application in writing to the district director responsible for collection of the tax. The application shall contain such information as the district director may require.

* * * * *

(d) *Subordination of lien*—(1) *By payment of the amount subordinated.* A district director may, in his discretion, issue a certificate of subordination of a lien imposed under chapter 64 of the Code upon any part of the property subject to the lien if there is paid over to the district director an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States. For this purpose, the tax lien may be subordinated to another lien or interest on a dollar-for-dollar basis. For example, if a notice of a Federal tax lien is filed and a delinquent taxpayer secures a mortgage loan on a part of the property subject to the tax lien and pays over the proceeds of the loan to a district director after an application for a certificate of subordination is approved, the district director will issue a certificate of subordination. This certificate will have the effect of subordinating the tax lien to the mortgage.

(2) *To facilitate tax collection*—(i) *In general.* A district director may, in his discretion, issue a certificate of subordination of a lien imposed under chapter 64 of the Code upon any part of the property subject to the lien if the district director believes that the subordination of the lien will ultimately result in an increase in the amount realized by the United States from the property subject to the lien and will facilitate the ultimate collection of the tax liability.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, a farmer, needs money in order to harvest his crop. A Federal tax lien, notice of which has been filed, is outstanding with respect to A's property. B, a lending institution is willing to make the necessary loan if the loan is secured by a first mortgage on the farm which is prior to the Federal tax lien. Upon examination, the district director believes that ultimately the amount realizable from A's property will be increased and the collection of the tax liability will be facilitated by the availability of cash when the crop is harvested and sold. In this case, the district director may, in his discretion, subordinate the tax lien on the farm to the mortgage securing the crop harvesting loan.

Example (2). C owns a commercial building which is deteriorating and in unsalable condition. Because of outstanding Federal tax liens, notices of which have been filed, C is unable to finance the repair and rehabilitation of the building. D, a contractor, is willing to do the work if his mechanic's lien on the property is superior to the Federal tax liens. Upon examination, the district director believes that ultimately the amount realizable from C's property will be increased and the collection of the tax liability will be facilitated by arresting deterioration of the property and restoring it to salable condition. In this case, the district director may, in his discretion, subordinate the tax lien on the building to the mechanic's lien.

Example (3). E, a manufacturer of electronic equipment, obtains financing from F, a lending institution, pursuant to a security agreement, with respect to which a financing statement was duly filed under the Uniform Commercial Code on June 1, 1970. On April 15, 1971, F gains actual notice or knowledge that notice of a Federal tax lien had been filed against E on March 31, 1971, and F refuses to make further advances unless its security interest is assured of priority over the Federal tax lien. Upon examination, the district director believes that ultimately the amount realizable from E's property will be increased and the collection of the tax liability will be facilitated if the work in process can be completed and the equipment sold. In this case, the district director may, in his discretion, subordinate the tax lien to F's security interest for the further advances required to complete the work.

Example (4). Suit is brought against G by H, who claims ownership of property the legal title to which is held by G. A Federal tax lien against G, notice of which has previously been filed, will be enforceable against the property if G's title is confirmed. Because section 6323(b)(8) is inapplicable, J, an attorney, is unwilling to defend the case for G unless he is granted a contractual lien on the property, superior to the Federal tax lien. Upon examination, the district director believes that the successful defense of the case by G will increase the amount ultimately realizable from G's property and will facilitate collection of the tax liability. In this case, the district director may, in his discretion, subordinate the tax lien to J's contractual lien on the disputed property to secure J's reasonable fees and expenses.

(3) *Application for certificate of subordination.* Any person desiring a certificate of subordination under this paragraph shall submit an application therefor in writing to the district director responsible for the collection of the tax. The application shall contain such information as the district director may require.

(e) *Nonattachment of lien.* If a district director determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed in accordance with § 301.6323(f)–1 refers to such person, the district director may issue a certificate of nonattachment. Such certificate shall state that the lien, notice of which has been filed, does not attach to the property of such person. Any person desiring a certificate of nonattachment under this paragraph shall submit an application

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therefor in writing to the district director responsible for the collection of the tax. The application shall contain such information as the district director may require.

(f) *Effect of certificate*—(1) *Conclusiveness.* Except as provided in subparagraphs (2) and (3) of this paragraph, if a certificate is issued under section 6325 by a district director and the certificate is filed in the same office as the notice of lien to which it relates (if the notice of lien has been filed), the certificate shall have the following effect—

(i) In the case of a certificate of release issued under paragraph (a) of this section, the certificate shall be conclusive that the tax lien referred to in the certificate is extinguished;

(ii) In the case of a certificate of discharge issued under paragraph (b) or (c) of this section, the certificate shall be conclusive that the property covered by the certificate is discharged from the tax lien;

(iii) In the case of a certificate of subordination issued under paragraph (d) of this section, the certificate shall be conclusive that the lien or interest to which the Federal tax lien is subordinated is superior to the tax lien; and

(iv) In the case of a certificate of nonattachment issued under paragraph (e), the certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in the certificate.

(2) *Revocation of certificate of release or nonattachment*—(i) *In general.* If a district director determines that either—

(*a*) A certificate of release or a certificate of nonattachment of the general tax lien imposed by section 6321 was issued erroneously or improvidently, or

(*b*) A certificate of release of such lien was issued in connection with a compromise agreement under section 7122 which has been breached,

and if the period of limitation on collection after assessment of the tax liability has not expired, the district director may revoke the certificate and reinstate the tax lien. The provisions of this subparagraph do not apply in the case of the lien imposed by section 6324 relating to estate and gift taxes.

(ii) *Method of revocation and reinstatement.* The revocation and reinstatement described in subdivision (i) of this subparagraph is accomplished by—

(*a*) Mailing notice of the revocation to the taxpayer at his last known address, and

(*b*) Filing notice of the revocation of the certificate in the same office in which the notice of lien to which it relates was filed (if the notice of lien has been filed).

(iii) *Effect of reinstatement*—(*a*) *Effective date.* A tax lien reinstated in accordance with the provisions of this subparagraph is effective on and after the date the notice of revocation is mailed to the taxpayer in accordance with the provisions of subdivision (ii) (*a*) of this subparagraph, but the reinstated lien is not effective before the filing of notice of revocation, in accordance with the provisions of subdivision (ii) (*b*) of this subparagraph, if the filing is required by reason of the fact that a notice of the lien had been filed.

(*b*) *Treatment of reinstated lien.* As of the effective date of reinstatement, a reinstated lien has the same force and effect as a general tax lien imposed by section 6321 which arises upon assessment of a tax liability. The reinstated lien continues in existence until the expiration of the period of limitation on collection after assessment of the tax liability to which it relates. The reinstatement of the lien does not retroactively reinstate a previously filed notice of lien. The reinstated lien is not valid against any holder of a lien or interest described in § 301.6323(a)–1 until notice of the reinstated lien has been filed in accordance with the provisions of § 301.6323(f)–1 subsequent to or concurrent with the time the reinstated lien became effective.

(iv) *Example.* The provisions of this subparagraph may be illustrated by the following example:

Example. On March 1, 1967, an assessment of an unpaid Federal tax liability is made against A. On March 1, 1968, notice of the Federal tax lien, which arose at the time of assessment, is filed. On April 1, 1968, A executes a bona fide mortgage on property belonging to him to B. On May 1, 1968, a certificate of release of the tax lien is erroneously issued and is filed by A in the same office in which the notice of lien was filed. On June 3, 1968, the lien is reinstated in accordance with the provisions of this subparagraph. On July 1, 1968, A executes a bona fide mortgage on property belonging to him to C. On August 1, 1968, a notice of the lien which was reinstated is properly filed in accordance with the provisions of § 301.6323(f)–1. The mortgages of both B and C will have priority over the rights of the United States with respect to the tax liability in question. Because a reinstated lien continues in existence only until the expiration of the period of limitation on collection after assessment of the tax liability to which the lien relates, in the absence of any extension or suspension of the period of limitation on collection after assessment, the reinstated lien will become unenforceable by reason of lapse of time after February 28, 1973.

(3) *Certificates void under certain conditions.* Notwithstanding any other provisions of subtitle F of the Code, any lien for Federal taxes attaches to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires the property after the certificate has been issued. Thus, if property subject to a Federal tax lien is discharged therefrom and is later reacquired by the delinquent taxpayer at a time when the lien is still in existence, the tax lien attaches to the reacquired property and is enforceable against it as in the case of after-acquired property generally.

(g) *Filing of certificates and notices.* If a certificate or notice described in this section may not be filed in the office designated by State law in which the notice of lien imposed by section 6321 (to which the certificate or notice relates) is filed, the certificate or notice is effective if filed in the office of the clerk of the United States district court for the judicial district in which the State office where the notice of lien is filed is situated.

[FR Doc.76-24536 Filed 8-20-76;8:45 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7431]

PART 53—FOUNDATION EXCISE TAXES

Application of Taxes to Certain Nonexempt Trusts

By a notice of proposed rule making appearing in the FEDERAL REGISTER for Thursday, March 18, 1971 (36 FR 25015), amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) were proposed in order to provide rules for the application of such taxes to certain nonexempt trusts under section 4947 of the Internal Revenue Code of 1954. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments of the regulations, subject to the changes, are adopted by this document.

Section 4947 generally subjects nonexempt charitable trusts to many of the requirements and restrictions imposed on private foundations in order to prevent taxpayers from avoiding these restrictions by the use of nonexempt trusts instead of private foundations. Thus, many nonexempt charitable trusts are subject to those provisions relating to self-dealing, retention of excess business holdings, and the making of speculative investments or taxable expenditures, but not the current income payout requirement if the trust is a split-interest trust (one in which not all the interests are charitable). However, the stock ownership and speculative investment requirements do not apply to split-interest trusts (a) in cases where charity is the only income beneficiary (and has no remainder interest) and the beneficial interest of charity in the trust is not more than 60 percent of the value of the trust property and also (b) in cases where the only interest of charity in the trust is as a remainderman (and there are no noncharitable remainder interests). In the latter case, the stock ownership and speculative investment requirements become applicable at the time the charitable remainder interest comes into possession.

The final regulations expand upon the proposed regulations by providing additional rules for determining the kinds of trusts that are subject to section 4947, when its provisions become applicable to trusts and the extent to which its provisions make other provisions of the Internal Revenue Code Applicable to trusts.

Adoption of amendments to the regulations. In consideration of the foregoing, the Foundation Excise Tax Regulations (26 CFR Part 53) are amended as follows:

Subpart H is added to 26 CFR Part 53 as follows:

Subpart H—Application to Certain Nonexempt Trusts

Sec.
53.4947 Statutory provisions; application of taxes to certain nonexempt trusts.
53.4947–1 Application of tax.
53.4947–2 Special rules.

SUBPART H—APPLICATION TO CERTAIN NONEXEMPT TRUSTS

§ 53.4947 Statutory provisions; application of taxes to certain nonexempt trusts.

SEC. 4947. *Application of taxes to certain nonexempt trusts*—(a) *Application of tax*—(1) *Charitable trusts.* For purposes of part II of subchapter F of chapter 1 (other than section 508 (a), (b), and (c)) and for purposes of this chapter, a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3). For purposes of section 509(a)(3)(A), such a trust shall be treated as if organized on the day on which it first becomes subject to this paragraph.

(2) *Split-interest trusts.* In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—

(A) Any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),

(B) Any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or

(C) Any amounts transferred in trust before May 27, 1969.

(3) *Segregated amounts.* For purposes of paragraph (2)(B), a trust with respect to which amounts are segregated shall separately account for the various income, deduction, and other items properly attributable to each of such segregated amounts.

(b) *Special rules*—(1) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(2) *Limit to segregated amounts.* If any amounts in the trust are segregated within the meaning of subsection (a)(2)(B) of this section, the value of the net assets for purposes of subsections (c)(2) and (g) of section 507 shall be limited to such segregated amounts.

(3) *Sections 4943 and 4944.* Sections 4943 and 4944 shall not apply to a trust which is described in subsection (a)(2) if—

(A) All the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have an aggregate value not more than 60 percent of the aggregate fair market value of all amounts in such trust[s], or

(B) A deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

(Sec. 4947, as added by sec. 101(b) Tax Reform Act 1969 (83 Stat. 517).)

§ 53.4947–1 Application of tax.

(a) *In general.* Section 4947 subjects trusts which are not exempt from taxation under section 501(a), all or part of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which have amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 to the same requirements and restrictions as are imposed on private foundations. The basic purpose of section 4947 is to prevent these trusts from being used to avoid the requirements and restrictions applicable to private foundations. For purposes of this section, a trust shall be presumed (in the absence of proof to the contrary) to have amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 if a deduction would have been allowable under one of these sections. Also for purposes of this section and § 53.4947–2, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(1).

(b) *Charitable trusts*—(1) *General rule.* (i) For purposes of this section and § 53.4947–2, a "charitable trust", within the meaning of section 4947(a)(1), is a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law). A trust is one for which a deduction was allowed under section 642(c), within the meaning of section 4947(a)(1), once a deduction is allowed under section 642(c) to the trust for any amount paid or permanently set aside. (See sections 642(c) and § 1.642–4 for the limitation on such deduction in certain cases.) A charitable trust (as defined in this paragraph) shall be treated as an organization described in section 501(c)(3) and, if it is determined under section 509 that the trust is a private foundation, then Part II of subchapter F of chapter 1 of the Code (other than section 508 (a), (b) and (c)) and chapter 42 shall apply to the trust. However, the charitable trust is not treated as an organization described in section 501(c)(3) for purposes of exemption from taxation under section 501(a). Thus, the trust is subject to the excise tax on its investment income under section 4940(b) rather than the tax imposed by section 4940(a). For purposes of satisfying the organizational test described in § 1.501(c)(3)–1(b) when a charitable trust seeks an exemption from taxation under section 501(a), a charitable trust (as defined in this paragraph) shall be considered organized on the day it first becomes subject to section 4947(a)(1). However, for purposes of the special and transitional rules in section 4940(c)(4)(B), 4942(f)(4), 4943(c)(4)(A)(i) and (B) and section 101(l)(2)(A), (B), (C), and (D), and (l)(3) of the Tax Reform Act of 1969, a charitable trust (as defined in this paragraph) shall be considered organized on the first day it has amounts in trust for which a deduction was allowed (within the meaning of paragraph (a) of this section) under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522. Thus, under this rule, a trust may be treated as a private foundation in existence on a date governing one of the applicable special and transitional rules even though the trust did not otherwise become subject to the provisions of chapter 42 until a later date.

(ii) The provisions of paragraph (b)(1) of this section may be illustrated by the following examples:

Example (1). On January 30, 1970, X creates an inter vivos trust under which M receives 50 percent and N receives 50 percent of the trust's income for 10 years, and upon the termination of which, at the end of the 10-year period, the corpus is to be distributed to O. M, N and O are all organizations described in section 501(c)(3) and X is allowed a deduction under section 170 for the value of all interests placed in trust. The trustees of the trust do not give notice to the Internal Revenue Service under the provisions of section 508(a), and the trust will therefore not be exempt from taxation under section 501(a). The trust is a charitable trust within the meaning of section 4947(a)(1) from the date of its creation.

Example 2. On March 1, 1971, Y creates a charitable remainder annuity trust described in section 664(d)(1) under which Z, Y's son, receives $10,000 per year for life, remainder to be held in trust for P, an organization described in section 501(c)(3). Y is allowed a deduction under section 170 for the present value of the remainder interest to P. During Z's lifetime, the trust is a split-interest trust described in section 4947(a)(2) and paragraph (c) of this section. Upon the death of Z, all unexpired interests (consisting of P's remainder interest) will be devoted to section 170(c)(2)(B) purposes. Except as provided in § 53.4947–1(b)(2)(iv) (relating to a reasonable period of settlement) the trust will be treated as a charitable trust within the meaning of section 4947(a)(1) from the date of the death of Z unless the trustees of the trust apply for recognition of

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section 501(c)(3) status under the provisions of section 508(a).

(2) *Scope of application of section 4947(a)(1).*—(i) *In general.* Subject to paragraph (b)(2)(ii) through (vii) of this section, section 4947(a)(1) applies to nonexempt trusts in which all unexpired interests are charitable. For purposes of this section, the term "charitable" when used to describe an interest or beneficiary refers to the purposes described in section 170(c)(2)(B). An estate from which the executor or administrator is required to distribute all of the net assets in trust to such beneficiaries will not be considered a charitable trust under section 4947(a)(1) during the period of estate administration or settlement, except as provided in paragraph (b)(2)(ii) of this section. A charitable trust created by will shall be considered a charitable trust under section 4947(a)(1) as of the date of death of the decedent-grantor, except as provided in paragraph (b)(2)(v) of this section (relating to trusts which wind up). For the circumstances under which segregated amounts are treated as charitable trusts, see § 53.4947–1(c)(3)(iii).

(ii) *Estates.* (A) When an estate from which the executor or administrator is required to distribute all of the net assets in trust for charitable beneficiaries, or free of trust to such beneficiaries, is considered terminated for Federal income tax purposes under § 1.641(b)–3(a), then the estate will be treated as a charitable trust under section 4947(a)(1) between the date on which the estate is considered terminated under § 1.641(b)–3(a) and the date final distribution of all of the net assets is made to or for the benefit of the charitable beneficiaries. This (ii) does not affect the determination of the tax liability under subtitle A of the beneficiaries of the estates.

(B) The provisions of this (ii) may be illustrated by the following example:

Example. X bequeaths his entire estate, including 100 percent of the stock of a wholly-owned corporation, to M, an organization described in section 501(c)(3), under a will which gives his executor authority to hold the stock and manage the corporation for a period of up to 10 years for the benefit of M prior to its ultimate disposition. A deduction for the charitable bequest was allowed to X's estate under section 2055. The executor is vested with a full range of powers, including the power of sale. Upon the death of X, his executor distributes X's assets to M except for the stock of the corporation, which he holds for 5 years prior to its disposition. The continued holding of the stock of the corporation by the executor after the expiration of a reasonable time for performance of all the ordinary duties of administration causes the estate to be considered terminated for Federal income tax purposes pursuant to § 1.641(b)–3(a) and thereby subjects it to the provisions of section 4947(a)(1) from the date of such termination to the date of final disposition of the stock of the corporation.

(iii) *Certain split-interest trusts which wind up.* A split-interest trust (as defined in paragraph (c) of this section) in which all of the unexpired interests are charitable remainder interests and in which the charitable beneficiaries have become entitled to distributions of corpus in trust or free of trust shall continue to be treated as a split-interest trust under section 4947(a)(2) until the date on which final distribution of all the net assets is made. However, if after the expiration of any intervening interests the trust is considered terminated for Federal income tax purposes under § 1.641(b)–3(b), then the trust will be treated as a charitable trust under section 4947(a)(1), rather than a split interest trust under section 4947(a)(2), between the date on which the trust is considered terminated under § 1.641(b)–3(b) and the date on which such final distribution of all of the net assets is made to or for the benefit of the charitable remainder beneficiaries. This (iii) does not affect the determination of the tax liability under subtitle A of the beneficiaries of the trusts.

(iv) *Split-interest trusts which become charitable trusts.* (A) A split-interest trust (as defined in paragraph (c) of this section) in which all of the unexpired interests are charitable remainder interests and in which some or all of the charitable beneficiaries are not entitled to distributions of corpus within the meaning of paragraph (b)(2)(iii) of this section shall continue to be treated as a split-interest trust under section 4947(a)(2) rather than a charitable trust under section 4947(a)(1) for a reasonable period of settlement after the expiration of the noncharitable interest. Thus, a split-interest trust which under its terms is to continue to hold assets for charitable beneficiaries after the expiration of the noncharitable interest rather than distributing them as in paragraph (b)(2)(iii) of this section is given a reasonable period of settlement before being treated as a charitable trust. For purposes of this paragraph, the term "reasonable period of settlement" means that period reasonably required (or if shorter, actually required) by the trustee to perform the ordinary duties of administration necessary for the settlement of the trust. These duties include, for example, the collection of assets, the payment of debts, taxes, and distributions, and the determination of the rights of the subsequent beneficiaries.

(B) This (iv) may be illustrated by the following example:

Example. On January 15, 1971, A creates a charitable remainder annuity trust described in section 664(d)(1) under which the trustees are required to distribute $10,000 a year to B, A's wife, for life, remainder to be held in trust for the use of M, an organization described in section 501(c)(3). A is allowed a deduction under section 170 for the amount of the charitable interest, and the trust is, therefore, treated as a split-interest trust under section 4947(a)(2) from the date of its creation. B dies on February 10, 1975. On April 15, 1975, the trustees complete performance of the ordinary duties of administration necessary for the settlement of the trust brought about by the death of B. These duties include, for example, an accounting for and payment to the estate of B of amounts accrued by B while alive during 1975. However, the trustees do not distribute the corpus to M by April 15, 1975. The trust shall continue to be treated as a split-interest trust under section 4947(a)(2) until April 15, 1975. After April 15, 1975, the trust shall be treated as a charitable trust under section 4947(a)(1).

(v) *Certain revocable and testamentary trusts which wind up.* A revocable trust that becomes irrevocable upon the death of the decedent-grantor, or a trust created by will, from which the trustee is required to distribute all of the net assets in trust for or free of trust to charitable beneficiaries is not considered a charitable trust under section 4947(a)(1) for a reasonable period of settlement (within the meaning of paragraph (b)(2)(iv) of this section) after becoming irrevocable. After that period the trust is considered a charitable trust under section 4947(a)(1).

(vi) *Revocable trusts which become charitable trusts.* A revocable trust that becomes irrevocable upon the death of the decedent-grantor in which all of the unexpired interests are charitable and under the terms of the governing instrument of which the trustee is required to hold some or all of the net assets in trust after becoming irrevocable solely for charitable beneficiaries is not considered a trust under section 4947(a)(1) for a reasonable period of settlement (within the meaning of paragraph (b)(2)(iv) of this section) after becoming irrevocable except that section 4941 may apply if the requirements of § 53.4941(d)–1(b)(3) are not met. After that period, the trust is considered a charitable trust under section 4947(a)(1).

(vii) *Trust devoted to 170(c) purposes.* (A) A trust all of the unexpired interests in which are devoted to section 170(c)(3) or (5) purposes together with section 170(c)(2)(B) purposes shall be considered a charitable trust except that payments under the terms of the governing instrument to an organization described in section 170(c)(3) or (5) shall not be considered a violation of section 4945(d)(5) or any other provisions of chapter 42 and shall be considered qualifying distributions under section 4942.

(B) *Example.* The application of paragraph (b)(2)(vii) of this section may be illustrated by the following example:

Example. On January 30, 1970, H creates an inter vivos trust under the terms of the governing instrument of which M, an organization described in section 170(c)(3), and N, an organization described in section 501(c)(3), are each to receive 50 percent of the income for a period of 10 years. At the end of the 10 year period, the corpus is to be distributed to O, an organization also described in section 501(c)(3). H is allowed a deduction under section 170 for the value of all interests placed in trust. The payments to M do not constitute a violation of section 4945(d)(5) or any other provision of chapter 42 and constitute qualifying distributions under section 4942. However, except as provided in the previous sentence, the trust shall be considered a charitable trust.

(3) *Charitable trusts described in section 509(a)(3).* For purposes of section 509(a)(3)(A), a charitable trust shall be treated as if organized on the day on which it first becomes subject to section 4947(a)(1). However, for purposes of applying §§ 1.509(a)–4(d)(2)(iv)(a), and 1.509(a)–4(i)(1)(ii) and (iii)(c) the previous relationship between the charitable trust and the section 509(a)(1) or (2) organizations it benefits or supports may be considered. If the charitable trust otherwise meets the requirements of section 509(a)(3), it may obtain recognition of its status as a section 509(a)(3) organization by requesting a ruling from the Internal Revenue Service. For the special rules pertaining to the application of the organizational test to organizations terminating their private foundation status under the 12-month or 60-month termination period provided under section 507(b)(1)(B) by becoming "public" under section 509(a)(3), see the regulations under section 507(b)(1).

(c) *Split-interest trusts.*—(1) *General rule.*—(i) *Definition.* For purposes of this section and § 53.4947–2, a "split-interest trust", within the meaning of section 4947(a)(2), is a trust which is not exempt from taxation under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed (within the meaning of paragraph (a) of this section) under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522. A trust is one which has amounts in trust for which a deduction was allowed under section 642(c) within the meaning of section 4947(a)(2) once a deduction is allowed under section 642(c) to the trust for any amount permanently set aside. This (i) also includes any trust which is not treated as a charitable trust by operation of paragraph (b)(2)(iii) or (iv) of this section (relating to split-interest trusts in the process of winding up or during a reasonable period of settlement). Section 4947(a)(1) shall apply to a trust described in this (i) (without regard to section 4947(a)(2)(A), (B), or (C)) from the first date upon which the provisions of paragraph (b)(2)(iii) or (iv) of this section are satisfied. For the circumstances under which a trust all of the unexpired interests in which are devoted to section 170(c)(3) or (5) purposes together with section 170(c)(2)(B) purposes is considered a charitable trust, see § 53.4947–1(b)(2)(vii).

(ii) *Applicability of statutory rules.* A split-interest trust is subject to the provisions of section 507 (except as provided in paragraph (e) of this section), 508(e) (to the extent applicable to a split-interest trust), 4941, 4943 (except as provided in section 4947(b)(3)), 4944 (except as provided in section 4947(b)(3)), and 4945 in the same manner as if such trust were a private foundation.

(iii) *Special rules.* A newly created trust shall, for purposes of section 4947(a)(2), be treated as having amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 from the date of its creation, even if a deduction was allowed for such amounts only at a later date. For purposes of this (iii), the date of creation of a charitable remainder trust shall be determined by applying the rules in § 1.664–1(a)(4).

(2) *Exception for amounts payable to income beneficiaries.*—(i) Under section 4947(a)(2)(A), paragraph (c)(1)(ii) of this section does not apply to any amounts payable under the terms of a split-interest trust to income beneficiaries unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) with respect to the income interest of any such beneficiary. See § 1.170A–6(c), § 20.2055–2(e)(2), and § 25.2522(c)–3(c)(2) for rules regarding the allowance of these deductions. However, section 4947(a)(2)(A) does not apply when the value of all interests in property transferred in trust are deductible under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). H creates a charitable remainder unitrust (described in section 664(d)(2)) which is required annually to pay W, H's wife, 5 percent of the net fair market value of the trust assets, valued annually, for her life; and to pay the remainder to Y, a section 501(c)(3) organization. A deduction under section 170(f)(2)(A) was allowed with respect to the remainder interest of Y. Under section 4947(a)(2)(A), each annual amount which becomes payable to W during her life is not subject to paragraph (c)(1)(ii) of this section on or after the date upon which it becomes so payable and the payment of each amount to W is not an act of self-dealing under section 4941(d)(1) and does not violate any other provision of chapter 42. However, except as provided in the preceding sentence, the trust is subject to paragraph (c)(1)(ii) of this section in the same manner as any other split-interest trust.

Example (2). H bequeaths the residue of his estate in trust for the benefit of S, his son, and Y, an organization described in section 501(c)(3). A guaranteed annuity interest of $10,000 is to be paid to S for 20 years. A guaranteed annuity interest of $5,000 which meets the requirements contained in § 20.2055–2(e)(2)(v)(a) is also to be paid to Y for 20 years. Upon termination of the 20-year term, the corpus is to be distributed to Z, another organization described in section 501(c)(3). The trust is a charitable remainder annuity trust as described in section 664(d)(1) and the regulations thereunder, and a deduction under section 2055(e)(2)(A) was allowed with respect to the remainder interest of Z. A deduction was also allowed under section 2055(e)(2)(B) with respect to the guaranteed annuity interest of Y. The assets in the trust are not segregated under section 4947(a)(2)(B) and paragraph (c)(3) of this section. Under section 4947(a)(2)(A), each payment of $10,000 to S is not subject to section 4947(a)(2) and paragraph (c)(1)(ii) of this section. The payment of each amount to S is not an act of self-dealing under section 4941(d)(1) and does not violate any other provision of chapter 42. However, except as provided in the preceding sentence, the trust is subject to section 4947(a)(2) and paragraph (c)(1)(ii) of this section in the same manner as any other split-interest trust.

Example (3). H creates a trust under which the trustees are required to pay over an annuity interest of $20,000 to W, H's wife, for her life. A guaranteed annuity interest of $10,000 which meets the requirements contained in § 25.2522(c)–3(c)(2)(v) is also to be paid to X, an organization described in section 501(c)(3), for the life of W. Upon the death of W, the corpus of the trust, which consists of office buildings M and N, is to be distributed to S, H's son. H received a deduction under section 2522(c)(2)(B) for the value of X's income interest in the trust. The assets in the trust are not segregated under section 4947(a)(2)(B) and paragraph (c)(3) of this section. Under section 4947(a)(2)(A), each payment of $20,000 to W is not subject to section 4947(a)(2) and paragraph (c)(1)(ii) of this section. The payment of each amount to W is not an act of self-dealing under section 4941(d)(1) and does not violate any other provision of chapter 42. However, except as provided in the preceding sentence, the trust is subject to paragraph (c)(1)(ii) of this section in the same manner as any other split-interest trust. See example (1) of paragraph (c)(3)(v) of this section for the application of section 4947(a)(2)(B) to a similar trust where the trustees segregate the assets of the trust.

(3) *Exception for certain segregated amounts.*—(i) *In general.* Under section 4947(a)(2)(B) paragraph (c)(1)(ii) of this section does not apply to assets held in trust (together with the income and capital gains derived from the assets), which are segregated from other assets held in trust for which a deduction was allowed for an income or remainder interest under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

(ii) *Segregation of amounts.* Amounts will generally be considered segregated (within the meaning of section 4947(a)(2)(B)) if:

(A) assets with respect to which no deduction was allowed (for an income or remainder interest) under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, are separately accounted for under section 4947(a)(3) and paragraph (c)(4) of this section from assets for which such a deduction was allowed for any income or remainder interest and,

(B) by reason of the separate accounting the trust can be treated as two separate trusts, one of which is devoted exclusively to noncharitable income and remainder interests and the other of which is a charitable trust described in section 4947(a)(1) or a split-interest trust described in section 4947(a)(2).

Under these circumstances, only the "trust" which is devoted exclusively to noncharitable income and remainder interests will be considered a segregated amount which, under section 4947(a)(2)(B), is not subject to section 4947(a)(2) and paragraph (c)(1)(ii) of this section.

(iii) *Exclusively charitable amounts.* If, under section 4947(a)(2)(B),

(A) an amount held in trust which is devoted exclusively to noncharitable income and remainder interests is segregated from

(B) an amount held in trust which is devoted exclusively to charitable income and remainder interests,

then for purposes of this section the amount described in paragraph (c)(3)(iii)(B) of this section will be treated as a charitable trust which is subject to the provisions of section 4947(a)(1).

V41H64 AUG 23 76 UMI

(iv) *Charitable and noncharitable amounts.* If, under section 4947(a)(2)(B),

(A) an amount held in trust which is devoted exclusively to noncharitable income and remainder interests is segregated from

(B) an amount held in trust which is devoted to both charitable income or remainder interests and noncharitable income or remainder interests,

then for purposes of this section the amount described in paragraph (c)(3)(iv)(B) of this section will be treated as a split-interest trust which is subject to the provisions of section 4947(a)(2).

(v) *Examples.* The application of paragraph (c)(3) of this section may be illustrated by the following examples:

Example (1). H creates a trust under which the trustees are required to pay over annually 5 percent of the net fair market value of M building, valued annually, to W, H's wife, for life, remainder to S, H's son. The other asset in the trust is N building, with respect to which the trustees are required to pay over annually 5 percent of the net fair market value of the building, valued annually, to X, a section 501(c)(3) organization, for a period of 15 years, remainder to S. Each asset is separately accounted for under section 4947(a)(3) and paragraph (c)(4) of this section. He received a deduction under section 2522 for the value of X's income interest in N building. Under these circumstances, M building is considered segregated (within the meaning of section 4947(a)(2)(B)) from N building and is not subject to section 4947 (a)(2). The remainder interest of S in N building is not considered segregated from the income interest of X in N building, since both are interests in the same asset. N building is considered held in a split-interest trust which is subject to section 4947 (a)(2) and paragraph (c)(1)(ii) of this section.

Example (2). H transfers $50,000 in trust to pay $2,500 per year to Z, a section 501(c)(3) organization, for a term of 20 years, remainder to S, H's son. H is allowed a deduction under section 2522 for the present value of Z's income interest. The income interest of Z in the trust asset cannot be segregated (within the meaning of section 4947(a)(2)(B)) from the remainder interest of S since both are interests in the same asset. Therefore, the entire trust is subject to section 4947(a)(2) and paragraph (c)(1)(ii) of this section.

(4) *Accounting for segregated amounts*—(i) *General rule.* Under section 4947(a)(2)(B), a trust with respect to which amounts are segregated within the meaning of paragraph (c)(3) of this section must separately account for the various income, deduction, and other items properly attributable to each segregated amount in the books of account and separately account to each of the beneficiaries of the trust.

(ii) *Method.* Separate accounting shall be made—

(A) According to the method regularly employed by the trust, if the method is reasonable, and

(B) In all other cases in a manner which, in the opinion of the Commissioner, is reasonable.

A method of separate accounting will be considered "regularly employed" by a trust when the method has been consistently followed in prior taxable years or when a trust which has never before maintained segregated amounts initiates a reasonable method of separate accounting for its segregated amounts and consistently follows such method thereafter. The trust shall keep permanent records and other data relating to the segregated amounts as are necessary to enable the district director to determine the correctness of the application of the rules prescribed in paragraph (c)(3) and (4) of this section.

(5) *Amounts transferred in trust before May 27, 1969*—(i) *General rule.* Under section 4947(a)(2)(C), paragraph (c)(1)(ii) of this section does not apply to any amounts transferred in trust before May 27, 1969. For purposes of this (5), an amount shall be considered to be transferred in trust only when the transfer is one which meets the requirements for the allowance of a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law). Income and capital gains which are derived at any time from amounts transferred in trust before May 27, 1969, shall also be excluded from the application of paragraph (c)(1)(ii) of this section. If an asset which was transferred in trust before May 27, 1969, is sold or exchanged after May 26, 1969, any asset received by the trust upon the sale or exchange shall be treated as an asset which was transferred in trust before May 27, 1969.

(ii) *Requirement for separate accounting for amounts transferred in trust before May 27, 1969.* If:

(A) Amounts are transferred in trust after May 26, 1969, and the trust to which the amounts are transferred also contains

(B) Amounts transferred in trust before May 27, 1969,

the general rule of paragraph (c)(5)(i) of this section applicable to the amounts described in paragraph (c)(5)(ii)(B) of this section will apply only if the amounts described in paragraph (c)(5)(ii)(A) of this section (together with all income and capital gains derived therefrom) are separately accounted for (within the meaning of paragraph (c)(4) of this section) from the amounts described in paragraph (c)(5)(ii)(B) of this section, together with all income and capital gains derived therefrom. For the application of section 508(e) to a trust with respect to which amounts were transferred both before and after May 27, 1969, see section 508(e) and the regulations thereunder.

(iii) *Exception for certain testamentary trusts.* (A) Amounts transferred in trust before May 27, 1969 include amounts transferred in trust after May 26, 1969 when the transfer is made under the terms of a testamentary trust created by the will of a decedent who died before May 27, 1969, (regardless of whether the executors or the testamentary trustees are required to execute testamentary trusts by court order under applicable local law). Amounts transferred in trust before May 27, 1969, also include amounts transferred to a testamentary trust created by the will of a decedent who died after May 26, 1969 if the will was executed before May 27, 1969 and no dispositive provision of the will was amended (within the meaning of § 20.2055-2(e)(4) and (5)) by the decedent by codicil or otherwise, after May 26, 1969, and the decedent was on May 27, 1969, and at all times thereafter under a mental disability (as defined in § 1.642(c)-2(b)(3)(ii)) to amend the will by codicil or otherwise.

(B) The provisions of this (iii) may be illustrated by the following example:

Example. X executed a will in 1960 which provided for the creation of a testamentary trust which meets the description of a split-interest trust under section 4947(a)(2). X died on April 15, 1969. Under the provisions of his will, the probate court permitted certain property in X's estate to be transferred to the testamentary trust at fixed intervals over a period of two years during the administration of the estate. Section 4947(a)(2) does not apply to any amount described in this example, including the amounts transferred after May 26, 1969, because, for purposes of section 4947(a)(2)(C), each such transfer will be treated as an amount transferred in trust before May 27, 1969, within the meaning of section 4947(a)(2)(C).

(6) *Scope of application of section 4947(a)(2)*—(i) *In general.* Subject to paragraph (c)(6)(ii), (iii), and (iv) of this section, section 4947(a)(2) applies to trusts in which some but not all unexpired interests are charitable. An estate from which the executor or administrator is required to distribute all of the net assets in trust or free of trust to both charitable and noncharitable beneficiaries will not be considered to be a split-interest trust under section 4947(a)(2) during the period of estate administration or settlement, except as provided in paragraph (c)(6)(ii) of this section. A split-interest trust created by will shall be considered a split-interest trust under section 4947(a)(2) as of the date of death of the decedent-grantor, except as provided in paragraph (c)(6)(iv) of this section.

(ii) *Estates.* (A) When an estate from which the executor or administrator is required to distribute all of the net assets in trust or free of trust to both charitable and noncharitable beneficiaries is considered terminated for Federal income tax purposes under § 1.641(b)-3(a), then the estate will be treated as a split-interest trust under section 4957(a)(2) (or a charitable trust under section 4957(a)(1), if applicable) between the date on which the estate is considered terminated under § 1.641(b)-3(a) and the date on which final distribution of the net assets to the last remaining charitable beneficiary is made. This (ii) does not affect the determination of the tax liability under subtitle A of either charitable or noncharitable beneficiaries of the estates.

(B) The provisions of this (ii) may be illustrated by the following example:

Example. X dies on January 15, 1973 and bequeaths $10,000 to M, an organization described in section 501(c)(3), and the residue of his estate to W, his wife. A deduction for the charitable bequest was allowed to X's estate under section 2055. Substantially all of X's estate consists of 100 percent of the stock of a wholly owned corporation, certain liquid assets such as marketable stocks and securities and bank accounts, and X's home, automobile, and other personal property. X's will gives his executor a full range of powers, including the power to sell the stock of the wholly owned corporation. After the death of X, his executor continues to manage the wholly owned corporation while attempting to sell the stock of the corporation. During this period, the executor makes no distributions to M. On May 24, 1978, the Internal Revenue Service determines under § 1.641(b)-3(a) that the administration of the estate has been unduly prolonged and the estate is considered terminated as of that date for Federal income tax purposes. X's estate will be treated as a split-interest trust described in section 4947(a)(2) between May 24, 1978 and the date on which the $10,000 bequest to M is satisfied. X's estate will therefore be subject to the applicable private foundation provisions during that period and, for example, a sale of the house by the estate to any disqualified person (as defined in section 4946) will be an act of self-dealing under section 4941.

(iii) *Revocable trusts which become split-interest trusts.* A revocable trust that becomes irrevocable upon the death of the decedent-grantor under the terms of the governing instrument of which the trustee is required to hold some or all of its net assets in trust after becoming irrevocable for both charitable and noncharitable beneficiaries is not considered a split-interest trust under section 4947(a)(2) for a reasonable period of settlement after becoming irrevocable except that section 4941 may apply if the requirements of § 53.4941(d)-1(b)(3) are not met.

After that period, the trust is considered a split-interest trust under section 4947(a)(2). For purposes of this (iii), the term "reasonable period of settlement" means that period reasonably required (or if shorter, actually required) by the trustee to perform the ordinary duties of administration necessary for the settlement of the trust. These duties include, for example, the collection of assets, the payment of debts, taxes, and distributions, and the determination of rights of the subsequent beneficiaries.

(iv) *Certain revocable and testamentary trusts which wind up.* A revocable trust that becomes irrevocable upon the death of the decedent-grantor, or a trust created by will, from which the trustee is required to distribute all of the net assets in trust or free of trust to both charitable and noncharitable beneficiaries is not considered a split-interest trust under section 4947(a)(2) for a reasonable period of settlement (within the meaning of paragraph (c)(6)(iii) of this section) after becoming irrevocable. After that period, the trust is considered a split-interest trust under section 4947(a)(2) (or a charitable trust under section 4947(a)(1), if applicable).

(d) *Cross references; Governing instrument requirements and charitable deduction limitations.* For the application of section 642(c)(6) (relating to section 170 limitations on charitable deductions of non-exempt private foundation trusts) to a trust described in section 4947(a)(1), see § 1.642(c)-4. For the denial of a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for a gift, a bequest, or an amount paid to (and the denial of a deduction under section 642(c) for an amount set aside in) a trust described in section 4947(a)(1) or (2) that fails to meet the applicable governing instrument requirements of section 508(e) by the end of the taxable year of the trust, see section 508(d)(2) and § 1.508-2(b). Since a charitable remainder trust (as defined in section 664) is not exempt under section 501(a), it is subject to section 4947(a)(2), and thus to the governing instrument requirements of section 508(e) to the extent they are applicable.

(e) *Application of section 507(a).*—(1) *General rule.* The provisions of section 507(a) shall not apply to a trust described in section 4947(a)(1) or (2) by reason of any payment to a beneficiary that is directed by the terms of the governing instrument of the trust and is not discretionary with the trustee or, in the case of a discretionary payment, by reason of, or following, the expiration of the last remaining charitable interest in the trust.

(2) *Examples.* The provisions of this (e) may be illustrated by the following examples:

Example (1). H creates a section 4947(a)(1) trust under which the income is to be paid for 15 years to R, a section 501(c)(3) organization. Upon the expiration of 15 years, the trust is to terminate and distribute all of its assets to S, another section 501(c)(3) organization. Distribution of the corpus of the trust to S will not be considered a termination of the trust's private foundation status within the meaning of section 507(a).

Example (2). H creates a trust under which X, a section 501(c)(3) organization, receives $20,000 per year for a period of 20 years, remainder to S, H's son. H is allowed a deduction under section 2522 for the present value of X's interest.

When the final payment to X has been made at the end of the 20-year period in accordance with the terms of the trust, the provisions of section 4947(a)(2) will cease to apply to the trust because the trust no longer retains any amounts for which the deduction under section 2522 was allowed. However, the final payment to X will not be considered a termination of the trust's private foundation status within the meaning of section 507(a).

Example (3). J creates a charitable remainder annuity trust described in section 664(d)(1) under which S, J's son, receives $10,000 per year for life, remainder to be distributed outright to P, an organization described in section 501(c)(3). J is allowed a deduction under section 170 for the value of the remainder interest placed in trust for the benefit of P, and the provisions of section 4947(a)(2) apply to the trust. At the death of S, the trust will terminate and all assets will be distributed to P. However, such final distribution to P will not be considered a termination of the trust's private foundation status within the meaning of section 507(a).

§ 53.4947-2 Special rules.

(a) *Limit to segregated amounts.* If any amounts held in trust are segregated within the meaning of § 53.4947-1(c)(3), the value of the net assets for purposes of section 507(c)(2) and (g) shall be limited to the segregated amounts with respect to which a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 was allowed. See the regulations under section 507(c)(2) and (g).

(b) *Applicability of sections 4943 and 4944 to split-interest trusts*—(1) *General rule.* Under section 4947(b)(3), sections 4943 and 4944 do not apply to a split-interest trust described in section 4947(a)(2) if:

(i) all the income interest (and none of the remainder interest) of the trust is devoted solely to one or more of the purposes described in section 170(c)(2)(B) and all amounts in the trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have an aggregate value (at the time for which the deduction was allowed) of not more than 60 percent of the aggregate fair market value of all amounts in the trust (after the payment of estate taxes and all other liabilities), or

(ii) a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2) or 2522 for amounts payable under the terms of the trust to every remainder beneficiary, but not to any income beneficiary.

This (1) shall apply to a trust described in paragraph (b)(1)(ii) of this section only if all amounts payable under the terms of the trust to every remainder beneficiary are to be devoted solely to one or more of the purposes described in section 170(c)(2)(B). After the expiration of all income interests in a trust described in paragraph (b)(1)(ii) of this section, the trust shall become subject to section 4947(a)(1) under § 53.4947-1(b)(2), and section 4947(b)(3) shall no longer apply to the trust. A pooled income fund described in section 642(c)(5) will generally meet the requirements of paragraph (b)(1)(ii) of this section, as will a charitable remainder trust described in section 664(d)(1), if in either case it does not make payments to any income beneficiary described in section 170(c).

(2) *Definitions.* (i) For purposes of section 4947(b)(3)(A), the term "income interest" shall include an interest in property transferred in trust which is in the form of a guaranteed annuity interest or unitrust interest as described in § 1.170A-6(c), § 20.2055-2(e)(2) or § 25.2522(c)-3(c)(2) and the term "remainder interest" shall include an interest which succeeds an "income interest" within the meaning of this (i).

(ii) For purposes of section 4947(b)(3)(B), the term "income beneficiary" shall include a recipient of payments described in section 642(c)(5)(F) from a pooled income fund, payments described in section 664(d)(1)(A) from a charitable remainder annuity trust, or payments described in section 664(d)(2)(A) or (3) from a charitable remainder unitrust. The term "remainder beneficiary" shall include a beneficiary

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of a remainder interest described in section 642(c)(5) or 664(d)(1)(C) or (2)(C).

(c) *Effective date.* Except as otherwise provided in §§ 53.4947–1 and 53.4947–2 and the regulations under sections 508 (d) and (e), §§ 53.4947–1 and 53.4947–2 shall take effect on January 1, 1970.

(Secs. 4947 and 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: August 16, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76–24678 Filed 8–20–76;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 540, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

PREAMBLE

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 13–19, 1976. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

§ 908.840 Valencia Orange Regulation 540.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 540 (41 FR 34006). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(iii) of § 908.840 (Valencia Orange Regulation 540 (41 FR 34006)) are hereby amended to read as follows:

"(i) District 1: 292,000 cartons;
"(ii) District 2: 358,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 18, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24600 Filed 8–20–76;8:45 am]

PART 967—CELERY GROWN IN FLORIDA

Handling Regulation

This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1976–77 season, with the objective of assuring adequate supplies and orderly marketing.

Notice of rule making was published in the FEDERAL REGISTER July 29, 1976 (41 FR 31558) that the Secretary of Agriculture was considering the issuance of a handling regulation designed to promote orderly marketing of celery grown in Florida. The proposal was discussed at a public meeting June 9, 1976, in Orlando, and was unanimously recommended by the Florida Celery Committee. This committee was established under Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967). This program regulates the handling of celery grown in Florida and is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views or arguments regarding the proposal with the Hearing Clerk not later than August 12, 1976. None was filed.

The committee recommended a Marketing Quantity of 9,223,520 crates of fresh celery for the 1976–77 season. This recommendation is based on the appraisal of expected supply and prospective market demand for the 1976–77 season.

During the past decade, planted acreage generally has ranged between 10,300 and 12,800 acres each year. Yield has been variable, mainly in response to weather, although unfavorable market conditions may sometimes reduce average output per acre. The 3.9 million hundredweight produced in 1975–76 was 6 percent below the previous season and 2 percent below the 1968–69—72–73 average. The relatively small crop reflected heavy insect-caused losses during the fall, and a moderate decline in total acreage following two years of low prices.

The Marketable Quantity recommended for 1976–77 of 9,223,520 crates is 11 percent more than the 8,326,671 crates in 1975–76. Each producer will have an allotment equal to 100 percent of his historical marketings compared with 90 percent in 1975–76. The recommended large supply will afford the Florida celery industry an opportunity to evaluate market response in a situation when maximum supplies are made available to markets that generally exhibit an inelastic demand. Actual acreage of celery to be planted in Florida and elsewhere for harvest during the 1976–77 season has not been officially estimated. However, the committee projects that 11,000 acres may be planted compared with 10,359 last season and 11,424 in 1974–75. Production may amount to 4.55 million hundredweight for fresh marketing as well as for processing purposes.

With no applicants for new or increased Base Quantities, no reserve was recommended for additional Base Quantities under § 967.37(d)(1).

On the basis of all considerations it is believed that this regulation will tend to effectuate the declared policy of the act.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the handling regulation set forth in this section through publicity in the production area and by publication of the proposal in the July 29, 1976, FEDERAL REGISTER, (2) as provided in the marketing agreement and order, this regulation applies to celery marketed during the 1976–77 season, (3) compliance with this section will not require any special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, approximately the latter part of October, (4) prompt issuance of this regulation will be beneficial to all interested persons because it should afford producers and handlers maximum time to plan their operations accordingly, and (5) no useful purpose will be served by postponing such issuance.

The regulation is as follows:

§ 967.312 Handling regulation; marketable quantity; and uniform percentage for the 1976–77 season ending July 31, 1977.

(a) The Marketable Quantity is established under § 967.36(a) as 9,223,520 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) No reserve for Base Quantities is established for the 1976–77 season.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 18, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24601 Filed 8–20–76;8:45 am]

[EDITORIAL NOTE: The following document was published at 41 FR 35156, August 20, 1976. However, the date, signature, and the file line were left blank. The document is reprinted below, without change, except for the addition of the the date, signature and file line.]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 53]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 22–28, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.353 Lemon Regulation 53.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectute the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is good for first grade fruit but continues to ease for the lower grade lemons. Average f.o.b. price was $6.51 per carton the week ended August 14, 1976 compared to $6.40 per carton the previous week. Track and rolling supplies at 145 cars were down 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 17, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 22, 1976, through August 28, 1976, is hereby fixed at 250,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 18, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24728 Filed 8–19–76;11:36 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart 1976—Crop Supplement to Cotton Loan Program Regulations

Correction

In FR Doc. 76–21670 appearing on page 31545 in the issue for Thursday, July 29, 1976, make the following changes: in § 147.101:

1. On page 31545, column 3, under Alabama, the 3rd entry should read:

Tuscombia	Colbert	39.40

2. On page 31546, column 1, under Georgia, the 33rd entry should read:

Haralson	Coweta	39.95

3. Also on page 31546, column 2, under Georgia, the 5th entry should read:

Waynesboro	Burke	39.95

4. In column 3 on page 31546, under Tennessee, the 1st entry should read:

Brownsville	Haywood	39.30

5. On page 31547, column 1, the 34th and 52nd entries should read respectively:

Littlefield	Lamb	38.85
•	•	•
Quitoque	Briscoe	38.85

6. On page 31547, in § 1427.102, in the column for "1⅛" the entry for "Light gray: SM and better", the number now reading "—155" should have read "—165".

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76–165]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Back Bay of Biloxi, Mississippi

This amendment revokes the regulations for the drawbridge across the Back

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Bay of Biloxi, Mississippi, mile 2.8, because this bridge has been replaced by a fixed bridge.

§ 117.245 [Amended]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (20–a) of paragraph (i) of § 117.245.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Effective date: This revision shall become effective September 27, 1976.

Dated: August 17, 1976.

A. F. FUGARD,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-24636 Filed 8-20-76;8:45 am]

[CGD 76-068]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bayou Boeuf, La.

This amendment changes the regulations for the pontoon bridge on State Route 307 across Bayou Boeuf, mile 1.3, at Kraemer, Louisiana, to require at least 12 hours notice from 9 p.m. to 5 a.m. daily. The draw shall open on signal from 5 a.m. to 9 p.m. This amendment was circulated as a public notice dated June 21, 1976, by the Commander, Eighth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 76-068) on June 14, 1976, (41 FR 23977). The one response received had no objection to the proposal.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

§ 117.540 [Amended]

In § 117.540(b), by adding the words "Bayou Boeuf, mile 1.3, S–307 highway drawbridge at Kraemer" immediately after the words "Bayou DuLarge, mile 23.2, S–315 highway drawbridge, near Theriot," in the listing.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Effective date: This revision shall become effective on September 27, 1976.

Dated: August 17, 1976.

A. F. FUGARD,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-24637 Filed 8-20-76;8:45 am]

[CGD 76-077]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bayou Lafourche, Louisiana

This amendment changes the regulations for the three drawbridges across Bayou Lafourche at mile 58.2, mile 58.7, and mile 66.1, to require at least 6 hours notice at all times. This amendment was circulated as a public notice dated June 21, 1976, by the Commander, Eighth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 76–077) on June 14, 1976, (41 FR 23977). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

1. Adding a new § 117.245(j)(4–a) to read as follows:

§ 117.245 **Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.**

* * * * * * *

(j) * * *

(4–a) Bayou Lafourche, La.; U.S. 90 drawbridge, mile 58.2, Raceland; U.S. 90 drawbridge, S. 307, Raceland, mile 58.7; and S. 18 drawbridge, Lafourche, mile 66.1. The draws shall open on signal if at least 6 hours notice is given.

* * * * * * *

§ 117.540 [Amended]

2. In § 117.540(b), by deleting the Words "Bayou Lafourche, mile 58.2, U.S. 90 highway drawbridge at Raceland" and the words "Bayou Lafourche, mile 66.1, S–18 highway drawbridge at St. Charles" from the listing.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Effective date: This revision shall become effective on September 27, 1976.

Dated: August 17, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc.76-24635 Filed 8-20-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20665; RM–2324]

PART 91—INDUSTRIAL RADIO SERVICES

Elimination of Required Annual Measurement of Transmitter Power, Frequency and Modulation and Specification of Transmitter Power in Terms of Output Power; Correction

In the Matter of Amendment of Parts 89, 91, and 93 of the Commission's Rules and Regulations to eliminate the required annual measurement of transmitter power, frequency and modulation, and to specify transmitter power in terms of output power.

The Report and Order in the above-captioned matter released August 6, 1976, and published in the FEDERAL REGISTER on August 11, 1976, 41 FR 33900, is corrected by adding the words "25 feet" following the last line of § 91.504(b)(14) in the second column of page 33905.

Dated: August 18, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-24650 Filed 8-20-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 69–19; Notice 15]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Republication of Lighting Standard

This notice republishes in its entirety 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment.

Since Standard No. 108 was last reissued (36 FR 22902, December 2, 1971), it has been amended approximately 29 times. The republication will insure that the public is afforded a current and convenient copy of a complex motor vehicle safety standard. Amendments to this standard published in the FEDERAL REGISTER are therefore reflected in the reissuance, and have been incorporated through August 1, 1976.

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108 is republished to read as set forth below.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718; 15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 16, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

§ 571.108 **Standard No. 108; Lamps, reflective devices, and associated equipment.**

S1. *Purpose and scope.* This standard specifies requirements for original and replacement lamps, reflective devices, and associated equipment necessary for signaling and for the safe operation of motor vehicles during darkness and other conditions of reduced visibility.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (except pole trailers and trailer converter dollies), and motorcycles, and to lamps, reflective devices, and associated equipment for replacement of like equipment on vehicles to which this standard applies.

S3. *Definitions.* "Flash" means a cycle of activation and deactivation of a lamp by automatic means continuing until stopped either automatically or manually.

"Speed attainable in 1 mile" means the speed attainable by accelerating at maximum rate from a standing start for 1 mile on a level surface.

S4. *Requirements.*

S4.1 *Required motor vehicle lighting equipment.*

S4.1.1 Except as provided in succeeding paragraphs of S4.1.1, each vehicle shall be equipped with at least the number of lamps, reflective devices, and associated equipment specified in Tables I and III, as applicable. Required equipment shall be designed to conform to the SAE Standards or Recommended Practices referenced in those tables. Table I applies to multipurpose passenger vehicles, trucks, trailers, and buses, 80 or more inches in overall width. Table III applies to passenger cars and motorcycles and to multipurpose passenger vehicles, trucks, trailers, and buses, less than 80 inches in overall width.

S4.1.1.1 A truck tractor need not be equipped with turn signal lamps mounted on the rear if the turn signal lamps at or near the front are so constructed (double-faced) and so located that they meet the requirements for double-faced turn signals specified in SAE Standard J588e, "Turn Signal Lamps," September 1970.

S4.1.1.2 A truck tractor need not be equipped with any rear side marker devices, rear clearance lamps, and rear identification lamps.

S4.1.1.3 Intermediate side marker devices are not required on vehicles less than 30 feet in overall length.

S4.1.1.4 Reflective material conforming to Federal Specification L–S–300, "Sheeting and Tape, Reflective; Nonexposed Lens, Adhesive Backing," September 7, 1965, may be used for side reflex reflectors if this material, as used on the vehicle, meets the performance standards in Table I of SAE Standard J594d, "Reflex Reflectors," March 1967.

S4.1.1.5 The turn signal operating unit on each passenger car, and multipurpose passenger vehicle, truck, and bus less than 80 inches in overall width manufactured on or after January 1, 1973, shall be self-canceling by steering wheel rotation and capable of cancellation by a manually operated control.

S4.1.1.6 Each stop lamp on any motor vehicle manufactured between January 1, 1973, and September 1, 1978, may be designed to conform to SAE Standard J586b, *Stop Lamps*, June 1966. It shall meet the photometric minimum candlepower requirements for class A red turn signal lamps specified in SAE Standard J575d, *Test for Motor Vehicle Lighting Devices and Components*, August 1967. Each such lamp on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps.

S4.1.1.7 Each turn signal lamp on any motor vehicle, except motorcycles, manufactured between January 1, 1972, and September 1, 1978, may be designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, and shall meet the photometric minimum candlepower requirements for Class A turn signal lamps specified in SAE Standard J575d, *Tests, for Motor Vehicle Lighting Devices and Components*, August 1967. Each such lamp on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches. If multiple compartment lamps or multiple lamps are used, the effective projected luminous area of each compartment or lamp shall be not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps. Each such lamp on a multipurpose passenger vehicle, truck, trailer or bus 80 inches or more in overall width shall have an effective projected luminous area not less than 12 square inches.

S4.1.1.8 For each passenger car, and each multipurpose passenger vehicle, truck, trailer, and bus of less than 80 inches in overall width the photometric minimum candlepower requirements for side marker lamps specified in SAE Standard J592e "Clearance, Side Marker, and Identification Lamps," July 1972, may be met for all inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side marker lamps.

S4.1.1.9 Boat trailers need not be equipped with both front and rear clearance lamps provided an amber (to front) and red (to rear) clearance lamp is located at or near the midpoint on each side of the trailer so as to indicate its extreme width.

S4.1.1.10 Multiple license plate lamps and backup lamps may be used to fulfill the requirements of the SAE Standards applicable to such lamps referenced in Tables I and III.

S4.1.1.11 A parking lamp is not required to meet the minimum photometric values at each test point specified in Table I of SAE Standard J222, "Parking Lamps (Position Lamps)," if the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in J222.

S4.1.1.12 A taillamp, stop lamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in the referenced SAE Standards, if the sum of the candlepower measured at the test points is not less than that specified for each group listed in Figure 1, or for motorcycle turn signal lamps, not less than one-half of such sum.

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Groups	Test points degrees	Parking lamps	Tail lamps			Red stop and turn signal lamps			Yellow turn signal lamps		
			One	Two	Three	One	Two	Three	One	Two	Three
1	20L-5U 20L-H 20L-5D 10L-10U 10L-10D 10U-V	2.8	1.6	2.7	3.8	55	66	80	135	165	190
2	5U-10L 5U-10R 10L-H	2.4	2.1	3.6	5.5	85	100	115	210	251	290
3	5L-5U 5L-5D 5U-V	4.2	3.4	5.3	8.0	140	167	195	350	420	490
4	H-5L H-V H-5R 5D-V	16.5	9.6	16.5	24.0	380	449	520	950	1,130	1,295
5	5R-5U 5R-5D 10R-H	4.2	3.4	5.3	8.0	140	167	195	350	420	490
6	5D-10L 5D-10R 10D-V	2.4	2.1	3.6	5.5	85	100	115	210	251	290
7	10R-10U 10R-10D 20R-5U 20R-H 20R-5D	2.8	1.6	2.7	3.8	55	66	80	135	165	190
Maximum rear lamps only			15	20	25	300	360	420	900	900	900

FIGURE 1.—Grouped photometric minimum candlepower requirements for devices using one, two, or three separately lighted compartments, or for one, two, or three lamps used in a single design location to perform a single function.

S4.1.1.13 [Reserved]

S4.1.1.14 [Reserved]

S4.1.1.15 [Reserved]

S4.1.1.16 All passengers cars and multipurpose passenger vehicles, trucks, and buses of less than 80 inches overall width shall be equipped with turn signal operating units designed to complete a durability test of 100,000 cycles.

S4.1.1.17 A trailer that is less than 30 inches in overall width may be equipped with only one of each of the following lamps and reflective devices, located at or near its vertical centerline: Tail lamp, stop lamp, and near reflex reflector.

S4.1.1.18 A trailer that is less than 6 feet in overall length, including the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

S4.1.1.19 A lamp manufactured on or after January 1, 1974, and designed to use a type of bulb that has not been assigned a mean spherical candlepower rating by its manufacturer and is not listed in SAE Standard J573d. "Lamp Bulbs and Sealed Units," December 1968, shall meet the applicable requirements of this standard when used with any bulb of the type specified by the lamp manufacturer, operated at the bulb's design voltage. A lamp that contains a sealed-in bulb shall meet these requirements with the bulb operated at the bulb's design voltage.

S4.1.1.20 Except for a lamp having a sealed-in bulb, a lamp manufactured on or after January 1, 1974 shall meet the applicable requirements of this standard when tested with a bulb whose filament is positioned within ±.010 inch of the nominal design position specified in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, or specified by the bulb manufacturer.

S4.1.1.21 Instead of a headlighting system of two Type 1 headlamps and two Type 2, 5¾-inch headlamps, a vehicle manufactured on or after January 1, 1974 may be equipped with a headlighting system of two Type 1A headlamps and two Type 2A headlamps, that meet the following requirements.

(a) Each Type 1A headlamp and Type 2A headlamp shall be designed to conform to the requirements for a Type 1 headlamp and Type 2, 5¾-inch headlamp respectively, as specified in any SAE Standard or Recommended Practice, referenced or subreferenced by Tables I and III, except as provided below.

(b) Each Type 1A and Type 2A headlamp shall be designed to conform to the applicable dimensional requirements and specifications of Figure 2. At a voltage of 12.8 volts, the maximum design wattage with an allowable tolerance of plus 7.5 percent shall be 50 watts for a Type 1A headlamp and 60 watts for each filament of a Type 2A headlamp.

(c) The following SAE Standards and Recommended Practices or portions thereof, do not apply:

(i) SAE Standard J571b, "Dimensional Specifications for Sealed Beam Headlamp Units," April 1965.

(ii) SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968.

(iii) Figure 1, SAE Recommended Practice J602, "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units," August 1963.

(iv) Paragraph 2 of "Retaining Ring Requirements," and the paragraph "Proper Seating of Sealed Beam Unit," SAE Standard J580a. "Sealed Beam Headlamp," June 1966.

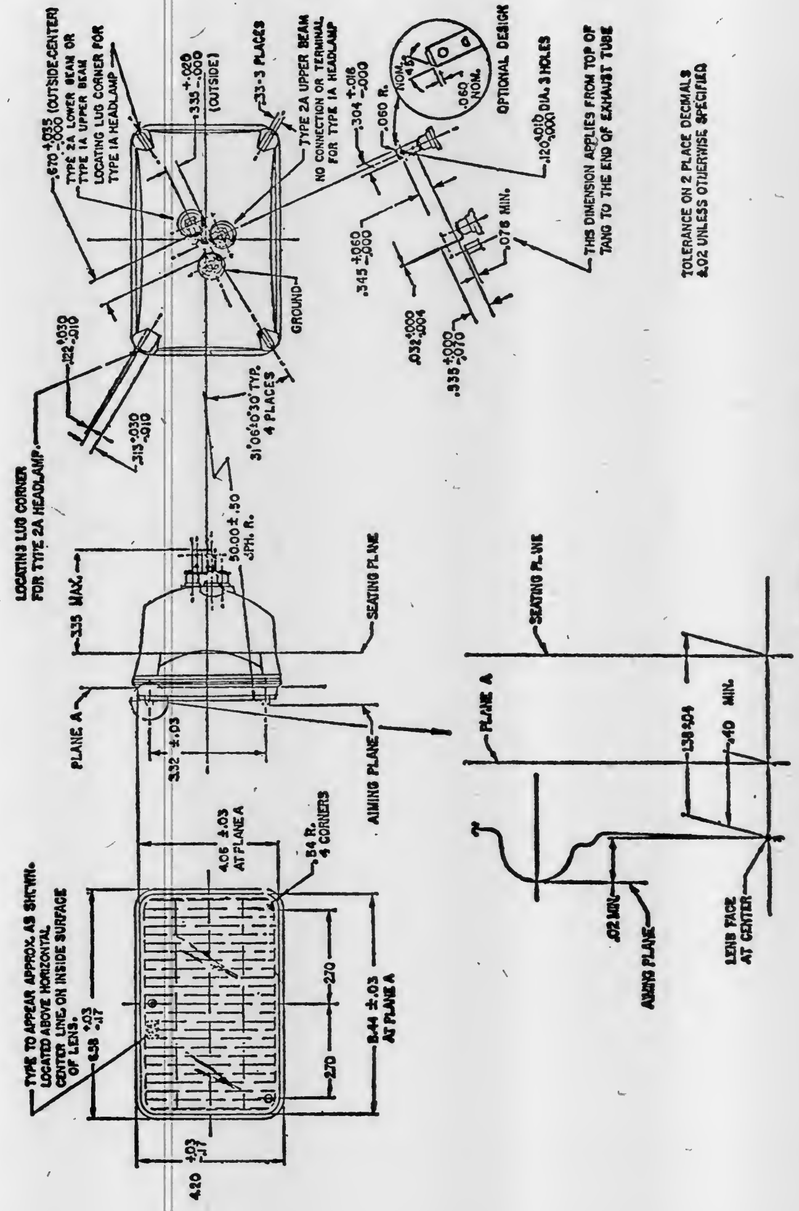


FIGURE 2
RECTANGULAR HEADLAMP SPECIFICATIONS

V 41 164 AUG 23 76 UMI

S4.1.1.22 A backup lamp is not required to meet the minimum photometric values at each test point specified in Table I of SAE Standard J593c "Backup Lamps" if the sum of the candlepower measured at the test points within each group listed in Figure 3 is not less than the group totals specified in that figure.

FIGURE 3.—*Minimum luminous intensity requirements for backup lamps*

Group	Test point, degrees	Total for group, candela (see note 1)
1[1]	45L–5U 45L–H 45L–5D	45
2[1]	30L–H 30L–5D 10L–10U 10L–5U V–10U	50
3	V–5U 10R–10U 10R–5U 10L–H 10L–5D V–H	100
4	V–5D 10R–H 10R–5D	360
5[1]	30R–H 30R–5D 45R–5U	50
6[1]	45R–H 45R–5D	45

[1] When 2 lamps of the same or symmetrically opposite design are used, the reading along the vertical axis and the averages of the readings for the same angles left and right of vertical for 1 lamp shall be used to determine compliance with the requirements. If 2 lamps of differing designs are used, they shall be tested individually and the values added to determine that the combined units meet twice the candela requirements.

When only 1 backup lamp is used on the vehicle, it shall be tested to twice the candela requirements.

S4.1.1.23 Variable load turn signal flashers shall comply with voltage drop and durability requirements with the maximum design load connected and shall comply with starting time, flash rate, and percent current "on" time requirements both with the minimum and with the maximum design load connected.

S4.1.1.24 The lowest voltage drop for turn signal flashers and hazard warning signal flashers measured between the input and load terminals shall not exceed 0.8 volt.

S4.1.1.25 The only required equipment for mobile structure trailers is stoplamps, taillamps, rear reflex reflectors, and turn signal lamps.

S4.1.1.26 A motor-driven cycle whose speed attainable in 1 mile is 30 mph or less need not be equipped with turn signal lamps.

S4.1.1.27 A motor-driven cycle whose speed attainable in 1 mile is 30 mph or less may be equipped with a stop lamp whose photometric output for the groups of test points specified in Figure 1 is at least one-half of the minimum values set forth in that figure.

S4.1.1.28 Each taillamp on any motor vehicle manufactured before September 1, 1978, may be designed to conform to SAE Standard J585c, *Tail Lamps*, June 1966.

S4.1.1.29 Each turn signal lamp on a motorcycle manufactured between January 1, 1973, and September 1, 1978, may be designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966.

S.4.1.1.30 Except as provided in paragraph S4.1.1.12 of this standard, each turn signal lamp on a motorcycle shall meet one-half of the minimum photometric values at each test point specified for Class A turn signal lamps in SAE Standard J575d, *Tests for Motor Vehicle Lighting Devices and Components*, August 1967, or in SAE Standard J588e, *Turn Signal Lamps*, September 1970, as applicable.

S4.1.1.31 Each turn signal lamp on a motorcycle manufactured on and after January 1, 1973, shall have an effective projected luminous area not less than 3½ square inches.

S4.1.1.32 Note 6 of Table 1 in SAE Standard J588e, *Turn Signal Lamps*, September 1970, does not apply. A stop lamp that is not optically combined with a turn signal lamp shall remain activated when the turn signal is flashing.

S4.1.1.33 Headlamps may conform to SAE Standard J579c, *Sealed Beam Headlamp Units for Motor Vehicles*, December 1974, except that:

(a) In Table I of SAE Standard J579c, the maximum candela at any test point shall not exceed 37,500;

(b) In Table II of SAE Standard J579c, the combined maximum candela at any test point shall not exceed 37,500; and

(c) At a voltage of 12.8 volts, the maximum design wattage, with an allowable tolerance of plus 7.5 percent, shall be as follows: 50 watts for Type 1 (5¾-inch); 37.5 watts for Type 2 (5¾-inch) high beam; and 60 watts for Type 2 (5¾-inch) low beam, Type 2 (7-inch) low beam, and Type 2 (7-inch) high beam.

S4.1.2 Plastic materials used for optical parts such as lenses and reflectors shall conform to SAE Recommended Practice J576c, May 1970, except that:

(a) Plastic materials manufactured before January 1, 1976, may conform to SAE J576b, August 1966;

(b) Plastic lenses used for inner lenses or those covered by another material and not exposed directly to sunlight shall meet the requirements of paragraphs 3.4 and 4.2 of SAE J576b, or J576c, as applicable, when covered by the outer lens or other material;

(c) After the outdoor exposure test, the haze and loss of surface luster of plastic materials used for lamp lenses shall not be greater than 30 percent haze as measured by ASTM–1003–61, "Haze and Luminous Transmittance of Transparent Plastic;" and

(d) After the outdoor exposure test, plastic materials used for reflex reflectors shall meet the appearance requirements of paragraph 4.2.2 of SAE J576b or J576c as applicable.

S4.1.3 No additional lamp, reflective device, or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by this standard.

S4.1.4 Each school bus shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and installed in accordance with that standard; or

(b) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and four amber signal lamps designed to conform to that standard, except for their color, and except that their candlepower shall be at least 2½ times that specified for red signal lamps. Both red and amber lamps shall be installed in accordance with SAE Standard J887, except that:

(i) Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(ii) The system shall be wired so that the amber signal lamps are activated only by manual or foot operation, and if activated, are automatically deactivated and the red signal lamps automatically activated when the bus entrance door is opened.

S4.1.5 The color in all lighting equipment covered by this standard shall be in accordance with SAE Standard J578a, April 1965, "Color Specification for Electric Signal Lighting Devices".

S4.2 *Other requirements.*

S4.2.1 The words "it is recommended that," "recommendations," or "should be" appearing in any SAE Standard or Recommended Practice referenced or subreferenced in this standard shall be read as setting forth mandatory requirements, except that the aiming pads on the lens face and the black area surrounding the signal lamp, recommended in SAE Standard J887, "School Bus Red Signal Lamps," July 1964, are not required.

S4.3 *Location of required equipment.*

S4.3.1 Except as provided in S4.3.1.1 through S4.3.1.8, each lamp, reflective device, and item of associated equipment shall be securely mounted on a rigid part of the vehicle other than glazing that is not designed to be removed except for repair, in accordance with the requirements of Table I or III and in locations specified in Table II (multipurpose passenger vehicles, trucks, trailers, and buses 80 or more inches in overall width) or Table IV (all passenger cars, and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses less than 80 inches in overall width), as applicable.

S4.3.1.1 Except as provided in S4.3.1.1.1, each lamp and reflective device shall be located so that it meets the visibility requirements specified in any applicable SAE Standard or Recommended Practice. In addition, no part of the vehicle shall prevent a parking lamp, taillamp, stop lamp, turn signal lamp, or backup lamp from meeting its photometric output at any applicable group of test points specified in Figures 1 and 3, or prevent any other lamp from meeting the photometric output at any test point specified in any applicable SAE Standard or Recommended Practice. However, if motor vehicle equipment (e.g., mirrors, snow plows, wrecker booms, backhoes, and winches) prevents compliance with this paragraph by any required lamp or reflective device, an auxiliary lamp or device meeting the requirements of this paragraph shall be provided.

S4.3.1.1.1 Clearance lamps may be mounted at a location other than on the front and read if necessary to indicate the overall width of a vehicle, or for protection from damage during normal operation of the vehicle, and at such a location they need not be visible at 45 degrees inboard.

S4.3.1.2 On a truck tractor, the red rear reflex reflectors may be mounted on the back of the cab, at a minimum height not less than 4 inches above the height of the rear tires.

S4.3.1.3 On a trailer, the amber front side reflex reflectors and amber front side marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S4.3.1.4 When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps need not meet the requirement of Table II that they be located as close as practicable to the top of the vehicle.

S4.3.1.5 The center of the lens referred to in SAE Standard J593c, "Backup Lamps," February 1968, is the optical center.

S4.3.1.6 On a truck tractor, clearance lamps mounted on the cab may be located to indicate the width of the cab, rather than the overall width of the vehicle.

S4.3.1.7 The requirement that there be not less than 4 inches between a front turn signal lamp and a low beam headlamp, specified in SAE Standard J588e, "Turn Signal Lamps," September 1970, shall not apply if the sum of the candlepower values of the turn signal lamp measured at the test points within each group listed in Figure 1 is not less than two and one-half times the sum specified for each group for yellow turn signal lamps.

S4.4 *Equipment combinations.*

S4.4.1 Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that no clearance lamp may be combined optically with any taillamp or identification lamp.

S4.5 *Special wiring requirements.*

S4.5.1 Each vehicle shall have a means of switching between lower and upper headlamp beams that conforms to SAE Recommended Practice J564a "Headlamp Beam Switching," April 1964 or to SAE Recommended Practice J565b, "Semi-Automatic Headlamp Beam Switching Devices," February 1969.

S4.5.2 Each vehicle shall have a means for indicating to the driver when the upper beams of the headlamps are on that conforms to SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S4.5.3 The taillamps on each vehicle shall be activated when the headlamps are activated in a steady-burning state.

S4.5.4 The stoplamps on each vehicle shall be activated upon application of the service brakes.

S4.5.5 The vehicular hazard warning signal operating unit on each vehicle shall operate independently of the ignition or equivalent switch, and when activated, shall cause to flash simultaneously sufficient turn signal lamps to meet, as a minimum, the turn signal lamp photometric requirements of this standard.

S4.5.6 Each vehicle equipped with a turn signal operating unit shall also have an illuminated pilot indicator. Failure of one or more turn signal lamps to operate shall be indicated in accordance with SAE Standard J588e, "Turn Signal Lamps," September 1970, except where a variable-load turn signal flasher is used on a truck, bus, or multipurpose passenger vehicle 80 or more inches in overall width, on a truck that is capable of accommodating a slide-in camper, or on any vehicle equipped to tow trailers.

S4.5.7 On all passenger cars, and motorcycles, and multipurpose passenger vehicles, trucks, and buses of less than 80 inches overall width:

(a) When the parking lamps are activated, the taillamps, license plate lamps, and side marker lamps shall also be activated; and

TABLE I.—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Multipurpose passenger vehicles, trucks, and buses	Trailers	Applicable SAE standard or recommended practice
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white 5¾-inch, Type 2 headlamp units.	None	J580a, June 1966; J579a, August 1965; and J566, January 1960.
Taillamps	2 red	2 red	J585d, August 1970.
Stoplamps	2 red	2 red	J586c, August 1970.
License plate lamp	1 white [2]	1 white [2]	J587d, March 1969.
Reflex reflectors	4 red; 2 amber [4]	4 red; 2 amber	J594e, March 1970.
Side marker lamps	2 red; 2 amber [4]	2 red; 2 amber	J592e, July 1972.
Backup lamp	1 white [2]	None	J593c, February 1968.
Turn signal lamps	2 red or amber; 2 amber [3]	2 red or amber	J588e, September 1970.
Turn signal operating unit.	1	None	J589, April 1964.
Turn signal flasher	1 [5]	None	J590b, October 1965.
Vehicular hazard warning signal operating unit.	1	None	J910, January 1966.
Vehicular hazard warning signal flasher.	1 [5]	None	J945, February 1966.
Identification lamps	3 amber; 3 red [4]	3 red	J592e, July 1972.
Clearance lamps	2 amber; 2 red [4]	2 amber, 2 red	J592e, July 1972.
Intermediate side marker lamps.	2 amber [4]	2 amber [4]	J592e, July 1972.
Intermediate reflex reflectors.	2 amber [4]	2 amber [4]	J594e, March 1970.

[1] See S4.1.1.6. [2] See S4.1.1.10. [3] See S4.5.6. [4] See S4.1.1.3. [5] See S4.4.2. [6] See S4.1.1.2.

(b) When the headlamps are activated in a steady-burning state, the taillamps, parking lamps, license plate lamps and side marker lamps shall also be activated.

S4.6 When activated:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall flash; and

(b) All other lamps shall be steady-burning, except that means may be provided to flash headlamps and side marker lamps for signaling purposes.

S4.7 *Replacement Equipment.*

S4.7.1 Each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies, shall be designed to conform with this standard.

S4.7.2 Each lamp, reflective device, or item of associated equipment to which section S4.7.1 applies may be labeled with the symbol DOT, which shall constitute a certification that it conforms to applicable Federal motor vehicle safety standards.

S5. *Subreferenced SAE Standards and Recommended Practices.*

S5.1 SAE Standards and Recommended Practices subreferenced by the SAE Standards and Recommended Practices included in Tables I and III and paragraphs S4.1.4 and S4.5.1 are those published in the 1970 edition of the SAE Handbook, except that the SAE Standard referred to as "J599" is J599c, *Lighting Inspection Code*, March 1973, and the subreferenced SAE Standard referred to as "J575" is J575e, *Tests for Motor Vehicle Lighting Devices and Components*, August 1970, for tail lamps, stop lamps, and turn signal lamps designed to conform to SAE Standard J585d, J586c, and J588e respectively.

S5.2 Requirements of SAE Standards incorporated by reference in this standard, other than J576b and J576c, do not include tests for warpage of devices with plastic lenses.

V 41 164 AUG 23 76 UMI

TABLE II.—LOCATION OF REQUIRED EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Location on—		Height above road surface measured from center of item on vehicle at curb weight
	Multipurpose passenger vehicles, trucks, and buses	Trailers	
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline; as far apart as practicable.	Not required	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear, 1 on each side of the vertical centerline, at the same height, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same height, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
Stoplamps	On the rear, 1 on each side of the vertical centerline, at the same height, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same height, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
License plate lamp.	At rear license plate, to illuminate the plate from the top or sides.	At rear license plate, to illuminate the plate from the top or sides.	No requirement.
Backup lamp	On the rear	Not required	No requirement.
Turn signal lamps.	At or near the front—1 amber on each side of the vertical centerline, at the same height, and as far apart as practicable. On the rear—1 red or amber on each side of the vertical centerline, at the same height, and as far apart as practicable.	On the rear—1 red or amber on each side of the vertical centerline, at the same height, and as far apart as practicable.	Not less than 15 inches, nor more than 83 inches.
Identification lamps.	On the front and rear—3 lamps, amber in front, red in rear, as close as practicable to the top of the vehicle, at the same height, as close as practicable to the vertical centerline, with lamp centers spaced not less than 6 inches or more than 12 inches apart.	On the rear—3 lamps as close as practicable to the top of the vehicle at the same height, as close as practicable to the vertical centerline, with lamp centers spaced not less than 6 inches or more than 12 inches apart.	No requirement.
Clearance lamps.	On the front and rear—2 amber lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top as practicable.[1]	On the front and rear—2 amber lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top thereof as practicable.[3 4]	No requirement.
Intermediate side marker lamps.	On each side—1 amber lamp located at or near the midpoint between the front and rear side marker lamps.	On each side—1 amber lamp located at or near the midpoint between the front and rear side marker lamps.	Not less than 15 inches.
Intermediate side reflex reflectors.	On each side—1 amber located at or near the midpoint between the front and rear side reflex reflectors.	On each side—1 amber located at or near the midpoint between the front and rear side reflex reflectors.	Not less than 15 inches nor more than 60 inches.
Reflex reflectors.	On the rear—1 red on each side of the vertical centerline, as far apart as practicable, and at the same height.[2] On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable.	On the rear—1 red on each side of the vertical centerline, as far apart as practicable, and at the same height. On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not less than 15 inches nor more than 60 inches.
Side marker lamps.	On each side—1 red as far as far to the rear as practicable, and 1 amber as far to the front as practicable.	On each side—1 red as far as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not less than 15 inches.

[1] See 84.3.1.6.
[2] See 84.3.1.2.
[3] See 84.3.1.4.
[4] See 84.1.1.9.

TABLE IV.—LOCATION OF REQUIRED EQUIPMENT

ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Location on		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
	Column 1	Column 2	Column 3	Column 4
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height 1 on each side of the vertical centerline; as far apart as practicable.	On the vertical centerline, except that if two are used, they shall be symmetrically disposed about the vertical centerline.	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear—1 on each side of the vertical centerline, at the same height, and as far apart as practicable.[2]	On the rear—on the vertical centerline except that if two are used, they shall be symmetrically disposed about the vertical centerline.	Not less than 15 inches, nor more than 72 inches.
Stoplamps	On the rear—1 on each side of the vertical centerline, at the same height, and as far apart as practicable.[2]	On the rear—on the vertical centerline except that if two are used, they shall be symmetrically disposed about the vertical centerline.	Not less than 13 inches, nor more than 72 inches.
License plate lamp	At rear license plate, to illuminate the plate from the top or sides.	At rear license plate	No requirement.
Parking lamps	On the front—1 on each side of the vertical centerline, at the same height, and as far apart as practicable.	Not required	Not less than 15 inches, nor more than 72 inches.
Reflex reflectors.	On the rear—1 red on each side of the vertical centerline, at the same height, and as far apart as practicable.[2] On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable.[3]	On the rear—1 red on the vertical centerline except, that, if two are used on the rear, they shall be symmetrically disposed about the vertical centerline. On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not less than 15 inches, nor more than 60 inches.
Backup lamp	On the rear	Not required	No requirement;
Turn signal lamps.[1]	At or near the front—1 amber on each side of the vertical centerline, at the same height, and as far apart as practicable. On the rear—1 red or amber on each side of the vertical centerline, at the same height, and as far apart as practicable.	At or near the front—1 amber on each side of the vertical centerline at the same height, and having a minimum horizontal separation distance (centerline of lamps) of 4 inches, with a maximum distance between lamp centers of 24 inches. At or near the rear—1 red or amber on each side of the vertical centerline at the same height, with a minimum horizontal separation distance (centerline to centerline of lamps) of 9 inches. Minimum edge to edge separation distance between lamp and tail lamp is 4 inches.	Not less than 15 inches; not more than 83 inches.
Side marker lamps.	On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not required	Not less than 15 inches;
Intermediate side marker lamps.	On each side—1 amber located at or near the midpoint between the front and rear side marker lamps.	Not required	Not less than 15 inches;
Intermediate side reflectors.	On each side—1 amber located at or near the midpoint between the front and rear side reflex reflectors.	Not required	Not less than 15 inches; nor more than 60 inches.

[1] Front turn signal lamps not required for trailers. [2] See 84.4.1.18.

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice
Headlamps	2 white, 7-inch, Type 2 headlamp units, or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.	2 red [14]	1 red	J580a, June 1966, J579e, August 1965, and J566, January 1960.
	2 red [14]	2 red [14]	1 white	J584, April 1964 and J566, January 1960.
Taillamps	2 red [14]	2 red [14]	1 white [5]	J585a, August 1970.
Stoplamps	2 red [14]	2 red [14]	1 white [5]	J587d, March 1969.
License plate lamp	1 white or white [4]	1 white or white [4]	None	J222, December 1970.
Parking lamps	4 red; 2 amber [4]	4 red; 2 amber	3 red; 2 amber	J594e, March 1970.
Reflex reflectors	2 red [14]	2 amber [4]	None	J594e, March 1970.
Intermediate side reflex reflectors.	2 amber [4]	2 amber [4]	None	J592e, July 1972.
Intermediate side marker lamps	2 amber [4]	2 amber [4]	None	J592e, July 1972.
Side marker lamps	2 red; 2 amber [4]	2 red; 2 amber [11]	None	J592e, July 1972.
Backup lamp	1 white [4 11]	None	1 white	J593e, July 1972.
Turn signal lamps	2 red or amber; 2 amber [4 11]	2 red or amber	2 amber; 2 red or amber [7 13]	J588e, September 1970.
Turn signal operating unit.	1 [7 13]	None	1 [13]	J589, April 1964.
Turn signal flasher	1 [8]	None	1 [13]	J590b, October 1965.
Vehicular hazard warning signal operating unit.	1	None	None	J910, January 1966.
Vehicular hazard warning signal flasher.	1 [8]	None	None	J945, February 1966.

[1] See 84.1.1.6. [2] See 84.1.1.7. [3] See 84.1.1.10. [4] See 84.1.1.11. [5] See 84.1.1.2. [6] See 84.4.2.
[7] See 84.5.6. [8] See 84.1.1.5. [9] See 84.1.1.3. [10] See 84.1.1.15. [11] See 84.1.1.17. [12] See 84.1.1.18.

V 41 164 AUG 23 76 UMI

NOTE: (1) The term "overall width" refers to the nominal design dimension of the widest part of the vehicle, exclusive of signal lamps, marker lamps, outside rearview mirrors, flexible fender extensions, and mud flaps, determine with doors and windows closed, and the wheels in the straight-ahead position.

This supersedes the interpretation of the term "overall width" appearing in the FEDERAL REGISTER of March 1, 1967 (32 F.R. 3390).

(2) Paragraph S3.1 and Tables I and III of § 571.108 as amended (32 F.R. 18033, Dec. 16, 1967), specify that certain lamp assemblies shall conform to applicable SAE Standards. Each of these basically referenced standards subreferences both SAE Standard J575 (tests for motor vehicle lighting devices and components) which in turn references SAE Standard J573 on bulbs, and SAE Standard J567 on bulb sockets.

(3) Paragraph C of SAE Standard J575 states in part: "Where special bulbs are specified, they should be submitted with the devices and the same or similar bulbs used in the tests and operated at their rated mean spherical candlepower." The Administrator has determined that this provision of SAE Standard J575 permits the use of special bulbs, including tubular-type bulbs, which do not conform to the detailed requirements of Table I of SAE Standard J573. It follows that the sockets for special bulbs need not conform to the detailed requirements of SAE Standard J567. These provisions for special bulbs in no way except the lamp assemblies from meeting all performance requirements specified in Federal Standard No. 108, including those specified in the basically referenced SAE Standards, and in the subreferenced SAE Standard J575.

[FR Doc.76-24446 Filed 8-20-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 5]

[Notice No. 299]

METRIC SIZES FOR DISTILLED SPIRITS

Completeness of Conversion

The Director, Bureau of Alcohol, Tobacco and Firearms (ATF), with the approval of the Secretary of the Treasury or his delegate, is considering an amendment to the labeling and advertising regulations for distilled spirits. ATF proposes to modify the "completeness of conversion" provision relating to metric sizes for distilled spirits by adding a State-by-State provision.

BACKGROUND

ATF published T.D. ATF-25 in the FEDERAL REGISTER on March 10, 1976, which established metric standards of fill for distilled spirits. Under the provisions of that Treasury decision, a bottler may optionally use metric standards of fill between October 1, 1976, and December 31, 1979. After December 31, 1979, the metric standards of fill become mandatory, and bottlers will no longer be permitted to use current standards of fill stated in U.S. measurements.

T.D. ATF-25 also contained a "completeness of conversion" provision which regulates the change to metric sizes during the transition period of October 1, 1976, through December 31, 1979. The "completeness of conversion" regulation requires that the optional conversion to metric sizes during the transition period will be on a permit, brand and size basis. Thus, a bottler, who begins bottling XYZ gin in liter liquor bottles may no longer bottle XYZ gin in quart bottles. The bottler could continue to bottle XYZ gin in fifth-size bottles and ABC gin (a different brand) in quart bottles.

As ATF stated in the notice proposing the metric standards of fill for distilled spirits (40 FR 29866), the "completeness of conversion" requirement was intended to "* * * reduce the period of overlap of new metric and U.S. sizes, while at the same time would allow bottlers a considerable degree of flexibility in terms of using up existing bottle stocks, etc." ATF feels that the reduction in the period of overlap of metric and U.S. sizes is an important consideration. Industry members will benefit because they they will have fewer packages to store, handle and account for. Equally important, consumers will be confronted less frequently with metric sizes appearing side-by-side with U.S. sizes of the same brand on retailers' shelves.

REASONS FOR CHANGE

State laws and regulations. Industry members not only have to comply with ATF laws and regulations, they must also comply with the requirements of State agencies. Several States have laws and/or regulations which, if not changed, would prevent the sale of liquor in some metric size bottles in those States. The following are a few examples which illustrate the problems industry members may face:

1. *Minimum size.* Kansas State law prevents liquor from being sold in containers of less than one-half pint in size. The new 200 ml size, contains slightly less than 8 ounces and, thus, under Kansas law, the 200 ml size cannot be sold or offered for sale in that State.

2. *Maximum size.* Wisconsin State law prevents liquor from being sold in containers greater than 32 ounces in capacity. The liter, which contains 33.8 ounces could not be sold in Wisconsin under its current State laws.

3. *Delayed effective dates.* The State of Michigan will allow metric size liquor bottles to be sold in that State. However, Michigan has set January 23, 1977, as the earliest date for the introduction of metric sizes.

Although many States have or are planning to revise their laws and regulations, it will be some time after October 1, 1976, when distilled spirits in metric sizes will be allowed to be sold in all States. Industry members are faced with a potential dilemma because the current "completeness of conversion" provisions does not allow for a State-by-State conversion process. Thus, a permittee, who wishes to commence bottling XYZ gin,in liters on October 1, 1976, may have to postpone that conversion because one or several States have laws which prohibit the introduction of liquor in bottles containing more than 32 ounces. On the other hand, if the same bottler converted to bottling liters of XYZ gin on October 1, 1976, that bottler would be unable to supply XYZ gin in quart bottles to those States which prohibit bottle sizes in excess of 32 ounces.

Single-plant proprietors. Under the current "completeness of conversion" provision, a company with one bottling plant (one permit) is at a disadvantage in comparison to a company with two or more bottling plants (two or more permits). Since the conversion process is on a permit-by-permit basis, a single-plant proprietor (one permit) cannot, after October 1, 1976, bottle the same brand in corresponding metric and U.S. sizes (e.g., the liter and the quart). Thus, the single-plant proprietor could not bottle liters of XYZ gin for one marketing area (or State) and quarts of XYZ gin for another marketing area (or State). A multiplant company (two or more permits), on the other hand, could have one of its plants bottle in liters and another of its plants bottle in quarts of the same brand and, therefore, it could supply two different marketing areas.

The permit-by-permit basis for the conversion process was adopted because conditions affecting the time of conversion to new metric bottles can vary considerably from one bottling plant to another, even though they are of the same ownership. For example, bottling and packing machinery can be significantiy different, resulting in varying lead times as far as making the equipment changes necessary for metrication. Similarly, supplies of bottles and labels can vary considerably from one plant to another. Without the permit-by-permit conversion provisions, it would be impossible in many situations to make the conversion simultaneously at two or more plants without wasting considerable stocks of unused bottles or labels or a costly redistribution of such materials. At the same time, since for competitive reasons different plants bottling the same brand almost invariably distribute to different market areas, the permit-by-permit conversion provision did not seem to threaten our consumer protection objective of keeping to a minimum the period during which a retailer might have both the old U.S. size and the replacement metric size of a given brand on his shelves at the same time.

PROPOSAL

ATF proposes to modify the "completeness of conversion" regulation by adding a *State-by-State* provision. In effect, instead of requiring that conversion to metrication be complete on a nationwide basis, the regulation would require that such conversion be complete for any given State. Once a permittee had converted a given size and brand to a corresponding metric size for distribution to a particular State, he could not continue, or revert back to, bottling that product in the U.S. size for distribution to that State. He could, however, continue to bottle the U.S. size of that product for distribution to other States.

ATF believes that this new provision would retain the consumer protection advantage of our current "completeness of conversion" requirement, while at the same time resolving the difficulties bottlers are encountering with State laws and regulations which now prevent the sale of distilled spirits in some metric bottles. It would also eliminate the bulk

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of the competitive disadvantages accruing to the single-plant proprietor from the current "completeness of conversion" provision.

SUBMISSION OF WRITTEN COMMENTS

Persons who wish to participate in the rulemaking process are invited to submit written comments or suggestion on the proposed regulatory change. The written material should be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (Attn: Chief, Regulations and Procedures Division) by [thirty days after publication in the Federal Register]. The provisions of 27 CFR 71.31(b) shall apply with respect to the designation of portions of comments as exempt from disclosure. Written comments, which are not exempt from disclosure, may be inspected by any person upon compliance with 27 CFR 71.22. Any interested person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director by [thirty days after publication in the Federal Register].

The proposed regulation is issued under the authority contained in section 27 U.S.C. 205 (49 Stat. 981, as amended).

PROPOSED REGULATION

In consideration of the foregoing, ATF proposes to amend the regulation relating to "completeness of conversion" (27 CFR Part 5), as follows:

Paragraph (d) of § 5.47a is proposed to be amended, as follows:

§ 5.47a Metric standards of fill.

(d) *Completness of conversion.* (1) Whenever a permittee or foreign bottler commences bottling a given product in a standard liquor bottle corresponding to a metric standard of fill prescribed by paragraph (a) of this section for distribution to a particular State, he may not thereafter bottle that product in any standard liquor bottle corresponding to a standard of fill prescribed by § 5.47 for distribution to that State. He may, however, continue to use a corresponding standard of fill prescribed by § 5.47 for that product in a bottle of unusual design which has been approved under the provisions of § 5.48. For the purposes of this paragraph, (i) product shall mean a given class and type of distilled spirits bearing a given brand name (e.g., ABC bourbon, ABC gin, XYZ bourbon, and XYZ gin would be four distinct products), and (ii) the standards of fill in U.S. measure which correspond to the metric standards are:

Metric standard (prescribed by sec. 5.47a(a)):	Corresponding standard (prescribed by sec. 5.47(a))	
1.75 liters	gallon	½
1.00 liter	quart	1
750 milliliters	do	⅘
500 milliliters	pint	1
200 milliliters	do	½
50 milliliters	do	⅛
		⅛, 1/10, 1/16.

* * * * *

Dated: August 12, 1976.

REX D. DAVIS,
Director.

Signed: August 17, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-24611 Filed 8-20-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1867]

[FmHA Instruction 452.1]

REAMORTIZING AND RENEWING OPERATING LOANS

Account Servicing

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of §§ 1867.3 and 1867.9 of Part 1867 of Title 7, Code of Federal Regulations (40 FR 13203). Paragraph (b) of § 1867.3 by revising the eligibility requirements for reamortizing and renewing Operating loans; § 1867.9 by deleting the requirement that the combined Operating loan and Emergency loan principal balances not exceed the loan approval official's approval authority.

Interested persons are invited to submit written comments, suggestions, data or arguments regarding the proposed amendments to the Office of the Chief, Directive's Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All materials received on or before September 22, 1976 will be considered. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directive's Management Branch, during regular business hours. (8:15 a.m.-4:45 p.m.)

As proposed, § 1867.3(b) (1), (2), (3), and (4) and § 1867.9 read as follows:

§ 1867.3 Eligibility requirements.

* * * * *

(b) *Other operating loans.* * * *

(1) The borrower has made an extra payment from sale of basic security or refund which will result in a significantly reduced income for the remaining period of the loan; and

(2) The approving official determines that the borrower cannot reasonably be expected to meet the repayment schedule in the original note(s); and

(3) The borrower's plan for the next operating year (or typical year if the next year will not be typical) shows that he can realistically meet the terms of the proposed payment schedule on the reamortized or renewed note under the conditions which will likely prevail; and

(4) The justification for the reamortization or renewal is fully documented in the running case record.

* * * * *

§ 1867.9 Approval authority.

Loan approval officials are hereby authorized to approve the reamortization or renewal of Operating loans subject to the policies within this regulation, and provided the principal amount owed on the Operating loan note being reamortized or renewed plus the outstanding total principal balance owed by the borrower on the Operating loans does not exceed the loan approval official's authority shown in Subpart B of Part 1810 of this Chapter.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: August 16, 1976.

FRANK W. NAYLOR, JR.,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-24602 Filed 8-20-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 128f]

[Docket No. 76N-0037]

TREE NUTS AND PEANUTS

Good Manufacturing Practice Regulation; Extension of Comment Period

The Food and Drug Administration is extending the period for comments on the proposed good manufacturing practice regulation for tree nuts and peanuts to September 30, 1976.

In the FEDERAL REGISTER of June 30, 1976 (41 FR 2700) the Commissioner of Food and Drugs issued a proposal to establish a good manufacturing practice regulation for nuts (almonds, Brazil nuts, cashew nuts, filberts, macadamia nuts, peanuts, pecans, pine nuts, pistachio nuts, and walnuts). Comments were to be filed on or before August 30, 1976.

The Commissioner has received a request for an extension of the comment period from the Dried Fruit Association of California, an association of dried fruit and tree nuts processors, in order to permit the association an opportunity to meet with all its commodity groups regarding the issues raised by the proposal. This opportunity will allow for the submission of more meaningful comments.

The Commissioner hereby extends the period for filing comments on the subject proposal to close of business September 30, 1976.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 402 (a)(3) and (4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a) (3) and (4), 371 (a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 18, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24716 Filed 8-20-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20891]

FM BROADCAST STATIONS IN RED OAK, IOWA AND MARYVILLE, MISSOURI

Proposed Table of Assignments

In the matter of amendment of § 73.202 (b), *Table of Assignments*, FM Broadcast Stations. (Red Oak, Iowa and Maryville, Missouri), Docket No. 20891, RM-2692.

1. The Commisison has before it a petition for rule making filed on April 23, 1976, by Red Oak Broadcasting Co., Inc. (petitioner), proposing the asignment of FM Channel 237A to Red Oak, Iowa, and the substitution of Channel 257A for Channel 237A at Maryville, Missouri. An opposition to the petition was filed by Nodaway Broadcasting Corp., licensee of FM Station KNIM-FM, operating on Channel 237A at Maryville, Missouri. The proposed change in the assignment at Maryville and the proposed assignment of a channel to Red Oak comply with the minimum mileage separation requirements.

2. Red Oak, Iowa, is a community of 6,210 persons[1] and is located in Montgomery County (pop. 12,781). It is situated in the southwestern part of Iowa, and 50 miles southeast of Omaha, Nebraska. It has one daytime-only AM station (KOAK), licensed to petitioner, and no FM assignments. Petitioner states that Red Oak has a mayor-council form of government, full-time fire and police departments, and elementary, junior high and high schools. It notes that the two banking institutions in Red Oak have deposits of $35,095,245, and total assets of $39,545,553. Petitioner adds that the six largest industries are Union Carbide, Thomas V. Murphy Co., Wilson Concrete Co., Red Oak Manufacturing Co., Red Oak Machine Co., and Na-Churs Plant Food Company, with the principal products produced being batteries, calendars, concrete products, pipe, agricultural-chemical packaging, metal fabrication and liquid fertilizer.

3. Nodaway Broadcasting Corp. (KNIM-FM), in its opposition alleges that the Red Oak Broadcasting Co., Inc. proposal which would require KNIM-FM to change channels, would be unfair to it, the public, merchants, and staff since they have put a lot of effort and expense into orienting the public to the station's format and location on the dial. KNIM-FM states that it has discussed this with the President of Red Oak Broadcasting Co., Inc., pointing out that this proposed change would cause a strain on the staff and management of KNIM-FM and a big loss of revenue which would be a very heavy burden. KNIM-FM urges the Commission not to proceed with the proposed change unless Red Oak and KNIM-FM are in agreement 100 percent. KNIM-FM contends that it has a large listening audience due to the effort of its staff in covering the needs of the public by working with the local, national and state news media; local market media; and local and state authorities. KNIM-FM states also that it covers all types of live sports direct from local. It argues that, in changing channels, it would lose a large number of listeners who would not know where KNIM-FM is located on the radio dial.

4. Red Oak states that in the event the proposed FM channel is assigned it will make application therefor, and, if granted, will promptly place the channel in operation. It also adds that it is ready, willing and able to reimburse Station KNIM-FM for those expenses reasonably and prudently expended in the required requested changeover from its present channel.

5. Although the proposed assignment is for a first Class A FM service and preclusion studies are not normally required, petitioner shows that the preclusion would occur only on Channels 237A and 257A. Substitution of Channel 257A for Channel 237A at Maryville would make available the assignment of Channel 237A to Falls City, Nebraska (pop. 5,444) which does not have any local aural broadcast service.

6. After careful consideration of the petitioner's proposal we believe it would be in the public interest to explore the possibility of making an FM assignment to Red Oak, Iowa, even though it would be inconvenient to the existing station (KNIM-FM) at Maryville, Missouri.

7. Accordingly, pursuant to our authority contained in sections 4(i), 303(r) and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b), the FM Table of Assignments, as follows:

City	Channel No. Present	Channel No. Proposed
Red Oak, Iowa		237A
Maryville, Mo	237A	257A

8. *It is ordered,* That, pursuant to section 316 of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it has a license, the following licensee shall show cause why the license of the station should not be modified to specify operation on the new channel as proposed herein instead of the present channel:

Station	Location	Licensee
KNIM-FM	Maryville, Mo...	Nodaway Broadcasting Corp.

9. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station KNIM-FM may, not later than 1976, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Nodaway Broadcasting Corp. may, not later than September 27, 1976, file a written statement showing with particularity why its license should not be modified as proposed in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Nodaway Broadcasting Corp. is deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel change referred to in paragraph 7 above is found to be in the public interest.

10. *It is further ordered,* That the Secretary of the Commission shall send a copy of this order by Certified mail return receipt requested, to Nodaway Broadcasting Corp., Station KNIM-FM, Maryville, Missouri, the party to whom the Order to Show Cause is directed.

11. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated by reference herein.

12. Interested parties may file comments on or before September 27, 1976, and reply comments on or before October 18, 1976.

Adopted: August 13, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking.

2. Showings required. Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

[1] All population figures cited are from the 1970 U.S. Census.

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(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. Number of copies. In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76-24648 Filed 8-20-76;8:45 am]

[47 CFR Part 73]

[Docket No. 20892]

FM BROADCAST STATIONS IN GREEN BAY AND STURGEON BAY, WISCONSIN

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Green Bay and Sturgeon Bay, Wisconsin.

1. The Commission has for its consideration a petition filed on February 9, 1976, by Communications Properties, Inc. (Communications), licensee of standard broadcast Station WNFL in Green Bay, Wisconsin, for rule making to amend the FM Table of Assignments by the assignment of Channel 240A to Green Bay, Wisconsin, and the substitution of Channel 261A for unoccupied Channel 240A at Sturgeon Bay, Wisconsin. This proposal would not require any other changes in the FM Table of Assignments. Communications' petition is opposed by Ralph E. Evans Associates (Evans) in a document entitled "Engineering Exhibit—Comments in Response to Petition for Rule Making," which was filed on April 21, 1976. Subsequently, Communications replied by a letter, received on May 19, 1976, and by a document entitled "Comment Upon Engineering Exhibit in Opposition to Petition" which was filed on May 25, 1976. These documents will be considered below.

2. Green Bay, Wisconsin (pop. 87,809)[1] is the seat of Brown County (pop. 158,244) and is located approximately 100 miles north of Milwaukee at the tip of Green Bay, which is an arm of Lake Michigan. Petitioner points out that Green Bay has grown 39.6 percent in population between 1960 and 1970, and that Brown County's population has increased by 26.5% during this same period. Green Bay is presently served locally by three standard broadcast stations and two commercial FM stations—WNFL, a full-time Class III AM station licensed to the petitioner; WBAY, a full-time Class III AM station; WDUZ, a full-time Class IV AM station; WBAY–FM, a Class C station (Channel 266); and WDUZ–FM a Class C station (Channel 253).[2] There are also two noncommercial, educational FM stations serving Green Bay—WGBW (Channel 218A) and WPNE–FM, a Class C station (Channel 207).

3. Petitioner urges that the Commission should propose the assignment of Channel 240A to Green Bay because it is a growing community. Petitioner states that Green Bay is a major Lake Michigan port with numerous paper mills and other industries. In addition, petitioner alleges that Green Bay is the agricultural trading center for northeastern Wisconsin and that Green Bay is the home of an NFL pro-football team.

4. Communications states that, although its proposal for adding a Class A channel as a third FM assignment for Green Bay would result in the intermixture of one Class A channel with two Class C channels, this would not be inconsistent with the Commission's usual practice of avoiding intermixture because there is no Class C channel available for assignment to Green Bay and because the petitioner is willing to operate a Class A channel in competition with the two existing Class C channels. Moreover, petitioner points out that the Commission permitted intermixture of commercial Class A Channel 252A with commercial Class C Channel 266 for many years in Green Bay until Class C Channel 253 was recently substituted for Channel 252A. See footnote 2, *supra*.

5. On April 21, 1976, Evans filed an Opposition to Communications' petition in which Evans states that the proposed assignment of Channel 240A is contrary to the public interest because of the resulting intermixture of Class A and Class C channels and because of the inability of a low power Class A station to place a city-grade signal over all of Green Bay from the reference point used by the petitioner. Evans also questions whether there is any land available for use as a transmitter site from which a city grade signal could cover the entire city of Green Bay.

6. By a letter received on May 19, 1976, and by a document filed on May 25, 1976, Communications argues that the Commission should dismiss or disregard Evans' Opposition because it was filed approximately four weeks late in violation of § 1.405(a) of the Commission's rules. According to § 1.405(a), "Any interested person may file a statement in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 30 days after 'Public Notice' * * * is given of the filing of such a petition." Communications points out that in conformity with Section 1.403 of the Commission's Rules, the Commission issued a Public Notice on February 20, 1976, of Communications' petition for rule making to assign Channel 240A to Green Bay and to substitute Channel 261A for Channel 240A at Sturgeon Bay. See Public Notice, Report No. 967, Mimeo No. 61287. However, petitioner points out that Evans did not file its Opposition until April 21, 1976.

7. Although § 1.405(a) could be applied here to dismiss Evans' filing due to the fact that it was submitted late and without a request for late acceptance, we believe that in this instance it is in the public interest to consider this filing as an opposition. Our consideration of this document will not result in prejudice to any of the parties, and the engineering issues discussed in the Opposition are part of the routine study by our engineering staff of the technical feasibility of a proposed amendment to the FM Table of Assignments. In any event, Evans' Opposition could still be considered as a comment to this notice of proposed rulemaking because the Opposition was filed before the cut-off dates for submitted comments or reply comments to this Notice as set out in paragraph 12 below. We would like to add that Communications' filing, which we shall treat as a reply, was submitted late on May 25, 1976, and without a request for a late acceptance in violation of § 1.405(b) which requires that a reply to statements in opposition to a petition for rulemaking be filed not later than 15 days after the filing of such a statement. Since Evans' Opposition was filed on April 21, 1976, the cut-off date for filing replies was May 6, 1976. However, due to the fact that our records do not indicate that Evans served its Opposition on the petitioner, we will excuse Communications' late filing.

8. Communications' Reply also asserts that there exists a three mile long area within which a Channel 240A transmitter site could be located to provide city-grade coverage over all of Green Bay. Petitioner alleges that such a transmitter site would maintain the full 65 mile separation from Station WCWC–FM (Channel 240A) in Ripon, Wisconsin. In addition, Communications submitted a letter from Barnard Corporation, a Green Bay realtor, affirming the availability for purchase or lease of several tracts of land within the designated three mile area which would be of adequate size for the proposed transmitter site. Because of the conflicting allegations over the existence of a transmitter site from which a city grade signal would cover all of Green Bay, we specifically request that the parties address the petitioner's statement in its Reply that there is a three mile long area which could be used as a transmitter site in conformity with out city-grade signal and minimum mileage separation rules.

9. We note that the addition of Channel 240A at Green Bay would not present any preclusion problems because there will be either no change in or reductions in the preclusion areas for Channels 237 through 243. Also, the substitution of Channels 258, 259, 260, and 262; however, will cause no additional preclusions for Channels 258, 259, 260, and 262; however, there will be small additional preclusions in land areas for Channels 261A, 263, and 264. Nevertheless, there are not communities in the precluded areas which are presently without an FM assignment.

10. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, with regard to Green Bay and Sturgeon Bay, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Green Bay, Wis	253, 266	253, 266, 240A
Sturgeon Bay, Wis	230, 240A	230, 261A

11. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

12. Interested parties may file comments on or before September 27, 1976, and reply comments on or before October 18, 1976.

Adopted: August 13, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rulemaking.

2. Showings required. Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. Number of copies. In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76-24649 Filed 8-20-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Airspace Docket No. 76-EA-59]

[14 CFR Part 71]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Control Zone

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Plattsburgh, N.Y., Control Zone (41 FR 417).

A new LOC RWY 1 instrument approach procedure developed for Clinton County Airport, Plattsburgh, N.Y., requires alteration of the control zone to provide some additional controlled airspace protectin for aircraft executing the prcedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before September 22, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Plattsburgh, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Plattsburgh, N.Y. Control Zone by adding the following:

within 3 miles each side of the Clinton County Airport ILS localizer south course, extending from the localizer to 3 miles south of the OM.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 9, 1976.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-24365 Filed 8-20-76;8:45 am]

[1] Unless otherwise indicated, all population data is taken from the 1970 U.S. Census.

[2] The Commission, effective January 15, 1976, amended its FM Table of Assignments to substitute Class C Channel 253 for Channel 252A and to modify the license held by Green Bay Broadcasting Company for Station WDUZ–FM to specify operation on Channel 253 in lieu of Channel 252A (Report and Order, Docket No. 20467, 35 R.R. 2d 1059 (1976)). This eliminated intermixture of a Class A and a Class C channel in Green Bay. See discussion of intermixture in para. 4, infra.

V 41 164 AUG 23 76 UMI

Coast Guard

[33 CFR Part 117]

[CGD 76-138]

BLACK RIVER, MICHIGAN

Proposed Drawbridge Operation Regulations

At the request of the City of Port Huron, the Coast Guard is considering revising the regulations for the Military Street, Seventh Street and Tenth Street drawbridges across the Black River, Port Huron, Michigan, to provide more restrictive opening periods. The draws of each bridge are presently required to open on signal. This change is being considered because of a significant increase in vehicular traffic during the daylight hours and because of infrequent requests for opening during the night.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Nineth Coast Guard District, 1240 East Main Street, Cleveland, Ohio 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before September 28, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by: 1. Revoking § 117.641(f)(5).

2. Adding a new § 117.702 immediately before § 117.703 to read as follows:

§ 117.702 Black River, Port Huron, Michigan; bridges.

(a) The draws of the Military Street, and Seventh Street bridges shall open as follows:

(1) From May 1 through October 31—(i) From Monday through Saturday, except holidays, from 9 a.m. to 5:30 p.m., the draw need open only on the hour and half hour; and

(ii) From 5:30 p.m. to 9 a.m., and on Sundays and holidays, the draw shall open on signal.

(2) During the months of April and November—(i) From 8 a.m. to 4 p.m., the draws shall open on signal; and

(ii) From 4 p.m. to 8 a.m., the draws shall open on signal if at least three hours notice is given.

(3) From December 1 through March 31, the draws shall open on signal if at least twenty four hours notice is given.

(b) The draw of the Tenth Street bridge shall open as follows:

(1) From May 1 through October 31—(i) From 8 a.m. to 11 p.m., the draw shall open on signal; and

(ii) From 11 p.m. to 8 a.m., the draw shall open on signal if at least one hour notice is given.

(2) During the months of April and November, the draw shall open on signal if at least three hours notice is given.

(3) From December 1 through March 31, the draw shall open on signal if at least twenty four hours notice is given.

(c) Signals. (1) The opening signal from the vessel for each of these bridges is one long blast followed by one short blast of a whistle, horn, siren, or by shouting.

(2) The acknowledging signal from the drawbridge is—

(i) One long blast followed by one short blast when the draw will open promptly; and

(ii) Four short blasts when the draw will not open promptly, or is open and must be closed.

(d) The owners of or agencies controlling each bridge shall provide the necessary draw tenders and the proper mechanical appliances for the safe, prompt opening of the draw for the passage of vessels.

(e) Advance notice for the opening of the draws may be given to the dispatcher of the City of Port Huron Police Department.

(f) Public vessels of the United States, state or local government vessels used for public safety, and vessels in distress, shall be passed through the draws of these bridges as soon as possible at any time.

(g) The owner of or agency controlling each bridge shall keep a copy of the regulations in this section, together with a notice stating exactly how the dispatcher may be reached, conspicuously posted both upstream and downstream, either on the bridge or elsewhere in such a manner that it can easily be read from an approaching vessel at all times.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Dated: August 16, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-24639 Filed 8-20-76;8:45 am]

[33 CFR Part 117]

[CGD 76 161]

MIDDLE RIVER, CALIFORNIA

Proposed Drawbridge Operation Regulations

At the request of the Atchison, Topeka and Santa Fe Railroad, the Coast Guard is considering revising the regulations for the drawbridge across Middle River, mile 6.8, to permit the draw to remain closed to the passage of vessels. The draw is presently required to open on signal if at least 12 hours notice is given. This change is being considered because of the limited requests for the opening of the draw from vessels (one in the past 25 years).

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Twelfth Coast Guard District.

The Commander, Twelfth Coast Guard District, will forward any comments received before September 28, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.714(c)(1)(ii) to read as follows:

§ 117.714 San Joaquin River and its tributaries, California.

* * * * *

(c)(1) * * *

(ii) The Atchison, Topeka and Santa Fe Railroad bridge near Middle River Station. The draw need not open for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: August 17, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-24638 Filed 8-20-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0053]

TRUTH IN LENDING

Proposed Interpretation on Disclosure of Amount of Dealer Participation

The Board of Governors of the Federal Reserve System proposes to adopt an interpretation of Regulation Z regarding disclosure of the amount of a dealer participation, commonly found in the financing of purchases of automobiles and other major consumer goods. In order to provide an opportunity for public discussion, the Board is publishing this interpretation for comment prior to any final action on this issue by the Board. The interpretation will not become effective until further notice by the Board.

The interpretation relates to the requirements of § 226.8(c)(8)(i) of Regulation Z with respect to identification of allocations by creditors to dealers of a portion of the finance charge on credit used to finance the purchase of automobiles and other consumer goods. The amount of dealer participation typically represents a portion of the interest component of a finance charge which is either allocated by the crediter to the dealer on the sale of its retail instalment contracts to that creditor or paid by the creditor to the dealer for arranging or referring a direct loan from the creditor.

The Board has been requested to determine whether these portions of the finance charge constitute finder's fees or similar charges within the meaning of § 226.4(a)(3) of the Regulation and whether they must be itemized as a separate component in disclosure of the finance charge under § 226.8(c)(8)(i).

Proponents of a requirement for separate disclosure of this amount take the position that the dealer participation represents a separate charge and that its specific disclosure would be beneficial to consumers. It is argued that disclosure of this amount would place the consumer in a more advantageous bargaining position with the dealer and that it would encourage a consumer to engage in further cost comparisons among various credit sources. Those in favor of this position apparently believe that this disclosure would indicate to the consumer that some portion of the cost of credit is attributable to the dealer's presence in the transaction. This awareness, they argue, would prompt the consumer to shop for better terms through direct financing.

Based on the information presently available, the Board does not believe that separate disclosure of these amounts is either required by the terms of the Regulation or mandated by the purposes of the Act. In the Board's view, a dealer participation differs from the concept of a finder's fee as that term is used in the Regulation. Unlike the dealer participation, a finder's fee or other charge of the type described in § 226.4(a)(3) is considered to be a separate charge imposed in addition to that portion of the finance charge which is attributable to a percentage rate or rates. Such fees are normally earned in full at the time of the transaction and are not subject to later adjustments on the basis of subsequent events.

A dealer participation, to the contrary, serves the purpose of apportioning the risk of loss on the credit transaction between the dealer and the financial institution. Through dealer reserve accounts and various recourse devices, the institution is able to accept a lower yield on dealer-related transactions where it does not bear the entire risk of loss. Because these amounts are frequently subject to later deductions for such occurrences as prepayment or default on the contract, the amount of dealer participation which would be disclosed to the customer may bear no relationship to the amount ultimately received by the dealer.

In the Board's view, the credit-shopping function of Truth in Lending is primarily served by disclosure of the total finance charge and annual percentage rate. These two terms, which already reflect any portion of the finance charge received by the dealer, provide the essential information needed for comparing credit sources and would not be enhanced by separate disclosure of the dealer participation. The present length and complexity of Truth in Lending disclosures argue against any additional disclosure which is not clearly mandated by the letter and the spirit of Truth in Lending and which may in fact detract from consumers' awareness of important credit terms.

For the reasons stated, the Board takes the position, in a proposed Interpretation § 226.821, that allocations of the finance charge between the dealer and the institution do not constitute finder's fees or similar charges and need not be separately described, when they represent a distribution of a portion of a finance charge which is computed by the application of a percentage rate or rates to the amount financed.

While the Board believes that the proposed interpretation correctly applies the present requirements of the Truth in Lending Act and Regulation Z, the Board is aware that this issue has been the subject of some controversy and wishes to provide an opportunity for public discussion before any final action is taken. Therefore, the Board invites written comments on the issue addressed in the interpretation. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be received by September 27, 1976. Comments should include a reference to Docket No. R-0053.

The text of the proposed interpretation is as follows:

§ 226.821 Disclosure of dealer participation.

(a) Section 226.8(c)(8)(i) requires the itemization of each component of a finance charge consisting of more than one type of charge. Section 226.4(a)(3) lists among the types of charges to be included in the finance charge a "finder's fee or similar charge." In certain credit transactions, such as the sale of automobiles and other consumer goods, where the finance charge is determined by application of a percentage rate or rates to the amount financed, a portion of that charge may be allocated to the dealer by the financial institution as a dealer participation. The question arises whether such allocations must be itemized as a separate component of the total finance charge in the nature of a finder's fee.

(b) The requirement for itemization of a finance charge which includes a finder's fee or other elements in addition to an interest component is intended to assure that the total finance charge disclosed to the customer properly reflects all components which must be included in that amount. Any component of the finance charge which is computed by the application of a percentage rate or rates to the amount financed constitutes a single charge of the type described in § 226.4(a)(1). As such, it must be included in the finance charge calculation and disclosure. A portion of such single component of the finance charge which is distributed to a dealer is not considered a "finder's fee or similar charge" and need not be separately identified or disclosed. The concept of a "finder's fee," as that term is used in § 226.4(a)(3), is intended to cover certain charges in the nature of brokerage fees which are imposed in addition to that portion of the finance charge attributable to the application of a percentage rate or rates to the amount financed. Any such separate fee must, of course, be separately itemized.

(Interprets and applies 12 CFR 226.8)

By order of the Board of Governors, August 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-24617 Filed 8-20-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 70]

SPECIAL NUCLEAR MATERIAL

Reporting of Material Accounting Data

On November 6, 1973, the Atomic Energy Commission published amendments to its regulations in 10 CFR Part 70 which revised the materials control and accounting requirements for special nuclear material (38 FR 30542). Included in those revised requirements were provisions for the periodic performance of physical inventories, and for the determination of the quantity of special nuclear material unaccounted for (MUF) and its associated limit of error (LE MUF). The results of these determinations were required to be recorded along with supporting data describing the quantities of special nuclear material in each component of the material balance, and the quantities of special nuclear material added to or removed from the process. These records are presently available to the Nuclear Regulatory Commission on request. Licensees are required by 10 CFR Part 70 to report to the Commission when the material unaccounted for exceeds its associated limit of error and specified quantities of special nuclear material, or when the limit of error of the material unaccounted for exceeds specified limits.

The Nuclear Regulatory Commission is considering amendments to its regulations in 10 CFR Part 70, "Special Nuclear Material," which would specify additional material accounting reporting requirements. The proposed amendments would require the reporting of the results of each ending physical inventory and associated material accounting and measurement error data. The information received from licensees would pro-

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vide an improved data basis from which the Nuclear Regulatory Commission would monitor the status of special nuclear material control and accounting in the commercial nuclear fuel cycle. The Commission considers such actions to be in the interest of the common defense and security and of the public health and safety. The new requirements would become effective 30 days after publication of this amendment in effective form in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by October 22, 1976. Copies of comments regarding the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Section 70.53 is amended by adding a new paragraph (c) to read as follows:

§ 70.53 Material status reports.

* * * * *

(c) Each licensee subject to the requirements of § 70.51(e) shall submit to the appropriate Regional Office of the NRC Office of Inspection and Enforcement listed in Appendix A of Part 73 of this chapter, promptly upon determination of the quantities described in paragraph (1), (2), and (3) of this paragraph (c), but not later than five calendar days after the material balance has been established following each ending physical inventory, a report containing for each plant (defined as a set of processes or operations coordinated into a single manufacturing, research and development, or testing effort identified by title, location and designated boundaries):

(1) The quantities of uranium and of fissile isotope contained in uranium enriched to less than 20 percent in the uranium-235 isotope, the quantities of uranium and of fissile isotope contained in uranium enriched to 20 percent or greater in the uranium-235 isotope, the quantities of uranium-233 and uranium element contained in uranium enriched in the uranium-233 isotope and the quantities of plutonium element associated with (i) the beginning plant inventory and the beginning inventory of the material in process, (ii) additions to the plant balance, and additions to material in process during the inventory interval, (iii) removals from the plant balance, and removals from material in process during the inventory interval by mode of removal, i.e., discards, encapsulated as sealed sources, tamper-safed product placed in storage, shipments to licensed waste disposal sites, burial, material shipped offsite, or to another plant, and (iv) the ending physical inventory, and the physical inventory of material in process;

(2) The calculated absolute quantities of material unaccounted for, for the entire plant material balance interval;

(3) The calculated quantities of material unaccounted for, for the in process material balance interval and the associated limit of error both (i) in terms of absolute quantity of element and, for uranium-235, or uranium-233, the fissile isotope, and (ii) relative to additions to and removals from material in process for the material balance interval.

The quantities reported pursuant to this paragraph (c) shall refer only to inventory results and material transactions pertinent to the material balance interval closed by the ending plant inventory for the current reporting period. Any adjustments to records related to prior inventory interval entries also shall be evaluated and reported separately.

(Secs. 53, 161i; Public Law 83-703, 68 Stat. 930, 948; Sec. 201(f), Pub. Law 93-438, 88 Stat. 1234 (42 U.S.C. 2073, 2201(i), 5841).)

Dated at Washington, D.C., this 18th day of August 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24748 Filed 8-20-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-6/83]

ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION

Meeting

Notice is hereby given, pursuant to the provisions of Public Law 92-463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission, will meet on September 23-25, 1976 in the auditorium of the Southwest Fisheries Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, California at 10:00 a.m. The meeting is to consider the 1975 fishery experience and outlook, the 1976 preliminary outlook for the fishery, and the domestic and international aspects of the tuna/porpoise problem. The meeting on September 23 will be open to the public. Persons wishing to attend the open session may participate in the discussions subject to instructions of the Chairman.

The Advisory Committee will also meet in closed session on September 24 and 25, 1976. At these sessions documents classified in accordance with Executive Order 11652 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure as provided in 5 USC 552(b)(1).

AUGUST 17, 1976.

ROZANNE L. RIDGWAY,
Deputy Assistant Secretary.

[FR Doc.24599 Filed 8-20-76;8:45 am]

[Public Notice CM-6/77]

NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that the U.S. National Committee for the International Telegraph and Telephone Consultative Committee (CCITT) will meet September 15, 1976 at 10 a.m. in Room 1105, Department of State, 2201 C Street NW., Washington, D.C.

The U.S. National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting on September 15 will be to discuss preparations for U.S. participation at the VIth Plenary Assembly of the CCITT, to be held September 27-October 8, 1976, in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to September 11, 1976, members of the general public who plan to attend the meeting inform Mr. Arthur L. Freeman, Office of International Communications Policy, Department of State, telephone (202) 632-1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

ARTHUR L. FREEMAN,
Chairman,
National Committee.

Dated: August 12, 1976.

[FR Doc.76-24598 Filed 8-20-76;8:45 am]

[Public Notice CM—6/79]

SHIPPING COORDINATING COMMITTEE

Meeting

An open meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. on Thursday, September 23, 1976, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W. Washington, D.C.

The purpose of the meeting will be to discuss preparations for the 35th Session of the Maritime Safety Committee (MSC), a committee of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to meet in London commencing September 27, 1976. Included in the agenda will be reports by the various MSC subcommittees:

- Subcommittee on Fire Protection, 18th Session
- Subcommittee on Ship Design and Equipment, 15th Session
- Subcommittee on Bulk Chemicals, 1st Session
- Subcommittee on Carriage of Dangerous Goods, 26th Session
- Subcommittee on Containers and Cargoes, 17th Session
- Subcommittee on Subdivision, Stability and Load Lines, 19th Session

Also included in the agenda will be discussions on

- Substandard Ships
  - guidelines for judging a ship to be substandard
  - ships of non-Convention countries or those below Convention size
- Tonnage Measurement
  - treatment of ballast spaces of segregated water ballast tankers
  - matters related to the 1969 Tonnage Convention

Requests for further information on the meeting should be directed to Richard K. Bank, Chairman, Shipping Coordinating Committee. He may be reached by telephone on (area code 202) 632-0704.

The Chairman will entertain comments from the public as time permits.

AUGUST 10, 1976.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

[FR Doc.76-24594, Filed 8-20-76;8:45 am]

[Public Notice CM-6/80]

SHIPPING COORDINATING COMMITTEE

Meeting

An open meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. on Friday, September 24, 1976, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss preparations for the 37th Session of the Council of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London commencing October 5, 1976. Agenda items to be covered at the meeting include:

- status of the IMCO Convention (IMCO Membership)
- status of Coventions and other Multilateral Instruments deposited with IMCO since the 36th Session of the Council
- consideration of the reports of the subsidiary organs of the Council
  - report of the Legal Committee
  - report of the Committee on Technical Cooperation
- headquarters facilities and accommodation: report on progress achieved since the 36th Session of the Council

Requests for further information on the meeting should be directed to Richard K. Bank, Chairman, Shipping Coordinating Committee. He may be reached by telephone on (area code 202) 632-0704.

The Chairman will entertain comments from the public as time permits.

AUGUST 11, 1976.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

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[Public Notice CM-6/75]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Tuesday, September 14, 1976, in Room 7202 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to

review the report of the Eighth Session of the Subcommittee on Standards of Training and Watchkeeping of the Intergovernmental Maritime Consultative Organization (IMCO) held in London, June 14–18, 1976

formulate the U.S. position on the agenda items of the Ninth Session of the Subcommittee on Standards of Training and Watchkeeping scheduled to be held in London December 13–17, 1976.

Requests for further information on the meeting should be directed to CDR B. E. Joyce, United States Coast Guard. He may be reached by telephone on (area code 202) 426–2251.

The Chairman will entertain comments from the public as time permits.

AUGUST 13, 1976.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

[FR Doc.76–29591 Filed 8–20–76;8:45]

[Public Notice CM-6/76]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold open meetings on September 14, 15 and 16, 1976, at 8:00 a.m. in Room 8334 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

On September 14 and 15, the agenda topic is mobile offshore drilling units with specific consideration to the following:

Electrical and machinery requirements (including industrial systems and equipment).
Operations manual.
Crane and other lifting appliances.
Helicopter facilities.
Towing arrangements.
Mooring of offshore supply vessels.
Diving systems.

On September 16, the agenda topics will be draft requirements for segregated ballast tankers under 150 meters in length and electrical and machinery requirements for the following types of vessels:

Training vessels.
Oceanographic research and exploration vessels.
Offshore supply vessels.
Pipe-laying vessels.
Shipborne barges and barge carriers.

Requests for further information on the meeting should be directed to CAPT D. J. Linde, United States Coast Guard. He may be reached by telephone on (area code 202) 426–2167.

The Chairman will entertain comments on documents from the public as time permits.

AUGUST 13, 1976.

RICHARD K. BANK,
Chairman, Shipping Coordinating, Committee.

[FR Doc. 76–24592 Filed 8–20–76; 8:45 am]

[Public Notice CM-6/78]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on safety of fishing vessels of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:30 a.m. on Tuesday, September 21, 1976, in Rooms 8236 and 8238 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to

Discuss the U.S. approach to the forthcoming Conference (International Conference on Safety of Fishing Vessels, 1977).
Review and approve a U.S. paper on the draft Convention document (SFV/CONF./4).

Requests for further information on the meeting should be directed to Mr. W. Cleary, Jr., United States Coast Guard. He may be reached by telephone on (area code 202) 426–2187.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

AUGUST 13, 1976.

[FR Doc.76–24593 Filed 8–20–76;8:45 am]

[Public Notice CM-6/91]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Friday, September 17, 1976, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss preparations and requirements for the 19th Session of the Subcommittee on Fire Protection of the Intergovernmental Maritime Consultative Organization (IMCO) scheduled to be held in London November 23–27, 1976; in particular the fire protection requirements for

Mobile offshore drilling units.
Tank vessels.
Vessels carrying dangerous goods.

Requests for further information on the meeting should be directed to Mr. Daniel F. Sheehan, United States Coast Guard. He may be reached by telephone (area code 202) 426–2197.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director Office of Maritime Affairs.

AUGUST 16, 1976.

[FR Doc.76–24596 Filed 8–20–76;8:45 am]

[Public Notice CM-6/77]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on life-saving appliances of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting on Friday, September 17, 1976, at 1:00 p.m. in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss

Preparations for the Tenth Session of the Subcommittee on Life-Saving Appliances of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London October 18–22, 1976.
The revision of SOLOAS Chapter III.
The use of emergency position-indicating radio beacons.
The revision of the IMCO Code for Life-Saving Appliances on mobile offshore drilling units.
Code for novel craft.

Requests for further information on the meeting should be directed to Mr. N. W. Lemley, United States Coast Guard. He may be reached by telephone on (area code 202) 426–1444.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director,
Office of Maritime Affairs.

AUGUST 16, 1976.

[FR Doc.76–24597 Filed 8–20–76;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

(Notice No. 76–9; Reference: ATF O 1100.6)

FORMULAS FOR DENATURED ALCOHOL AND RUM REGULATIONS

Authorities of the Director in 27 CFR Part 212; Delegation Order

1. *Purpose.* This order is being issued to delegate certain authorities, now vested in the Director by regulations in 27 CFR part 212, to the Assistant Director, Technical and Scientific Services.

2. *Background.* The position of Director has been written in regulations as the position of final authority on numerous minor actions relating to formulas for denatured alcohol and rum. The position as used in regulations, has meant Division Director of the former Alcohol, Tobacco and Firearms Division of the Internal Revenue Service. With the establishment of the Bureau, the position of Director increased in stature from that of Division Director to that of Bureau Director. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 212, Formulas For Denatured Alcohol and Rum Regulations, rightly belong at a lower organizational level and therefore should be delegated.

3. *Delegations.* Pursuant to the authority vested in the Director by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR section 301.7701–9 there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR, Part 212, Formulas for Denatured Alcohol and Rum Regulations:

a. Approval or disapproval of ATF Forms 1479–A describing manufacturing processes in wich stocks of specially denatured alcohol formulas no longer authorized in this part will be used up pursuant to 27 CFR 212.3(b).

b. Authorizations for the addition of odorants, rust inhibitors or dyes to completely denatured alcohol under 27 CFR 212.10.

c. Authorizations, pursuant to Forms 1479–A, for the use of any formula of specially denatured alcohol or specially denatured rum for uses not specifically authorized in this part under 27 CFR 212.15(b).

d. Authorizations, pursuant to Forms 1479–A, for the use of Specially Denatured Alcohol Formula No. 2–B in other than closed and continuous systems under 27 CFR 212.17(c).

e. Authorizations, pursuant to Forms 1479–A, for the use of Specially Denatured Alcohol Formula No. 2–C in other than closed and continuous systems under 27 CFR 212.18(c).

f. Approval of applications to use chemicals other than acetaldehyde or ethyl acetate as denaturants in Specially Denatured Alcohol Formula No. 29 under 27 CFR 212.39(a).

4. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of chemist in the Chemical Branch.

Effective date. This order becomes effective on August 13, 1976.

Signed: August 13, 1976.

JOHN S. KROGMAN,
Deputy Director.

[FR Doc.76–24577 Filed 8–20–76;8:45 am]

[Notice No. 76–10; Reference: ATF O 1100.67]

DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM REGULATIONS

Authorities of the Director in 27 CFR Part 211; Delegation Order

1. *Purpose.* This order is being issued to delegate certain authorities now vested in the Director by regulations in 27 CFR part 211, to the Assistant Director, Technical and Scientific Services.

2. *Background.* The position of Director has been written in regulations as the position of final authority on numerous minor actions relating to the distribution and use of denatured alcohol and rum. The position as used in regulations, has meant Division Director of the former Alcohol, Tobacco and Firearms Division of the Internal Revenue Service. With the establishment of the Bureau, the position of Director increased in stature from that of Division Director to that of Bureau Director. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum Regulations, rightly belong at a lower organizational level and therefore should be delegated.

3. *Delegations.* Pursuant to the authority vested in the Director by the Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR section 301.7701–9 there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum Regulations:

a. Approval or disapproval of all formulas and processes submitted on ATF Forms 1479–A except formulas for rubbing alcohol and rubbing alcohol base under 27 CFR 211.23.

b. Approval or disapproval of new labels or facsimilies for adopted formulas under 27 CFR 211.62.

c. Requests for the submission of samples of (a) any ingredient included in formulas submitted on Forms 1479–A and (b) proprietary antifreeze solutions containing completely denatured alcohol under 27 CFR 211.107.

d. Restrictions on Forms 1479–A covering the size of containers in which an article may be sold, the maximum quantity which may be sold to any person at one time, the class of vendee to which an article may be sold and the specific use for which an article may be sold under 27 CFR 211.108.

e. Approval or disapproval of extraneous matter to be printed on labels for completely denatured alcohol under 27 CFR 211.121.

f. Approval or disapproval of materials for use in making containers for proprietary antifreeze solutions under 27 CFR 211.123.

g. Approval or disapproval of Forms 1479–A covering the manufacture of proprietary solvent formulations under 27 CFR 211.170.

h. Approval or disapproval of Forms 1479–A covering the use of proprietary solvents in the manufacture of articles for sale under 27 CFR 211.172.

i. Approval or disapproval of Forms 1479–A covering the manufacture of special industrial solvent formulations under 27 CFR 211.180.

j. Approval or disapproval of Forms 1479–A covering the use of special industrial solvents in the manufacture of articles for sale under 27 CFR 211.182.

k. Approval or disapproval of labels for products specified under paragraph 211.191 under 27 CFR 197.

l. Approval or disapproval of Forms 1479–A covering the reprocessing of duplicating and printing fluids containing 1 percent or more by weight of a glycol ether and 10 percent or more by weight of methyl alcohol into printing ink for sale under 27 CFR 211.200.

m. Approval or disapproval of Forms 1479–A covering the manufacture of solvents for own use (but not for sale) under 27 CFR 211.200.

n. Action to impose label requirements on containers of articles, other than those specified in this part, containing specially denatured alcohol under 27 CFR 211.201, and 27 CFR 211.108.

4. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of chemist in the Chemical Branch.

Effective date: This order becomes effective on August 13, 1976.

Signed: August 13, 1976.

JOHN S. KROGMAN,
Deputy Director.

[FR Doc.76–24578 Filed 8–20–76;8:45 am]

[Notice No. 76–11; Reference: ATF 0 1100.68]

DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Authorities of the Director in 27 CFR Part 197; Delegation Order

1. *Purpose.* This order is being issued to delgate certain authorities now vested in the Director by regulations in 27 CFR part 197, to the Assistant Director, Technical and Scientific Services.

2. *Background.* The position of Director has been written in regulations as the position of final authority on numerous minor actions relating to obtaining drawback of internal revenue tax on distilled spirits used in manufacturing certain nonbeverage products. The position, as used in regulations, has meant Division Director of the former Alcohol, Tobacco and Firearms Division of the Internal Revenue Service. With the establishment of the Bureau, the position of Director increased in stature from that ternal Revenue Service. With the establishment of the Bureau, the position of Director increased in statur from that of Division Director to that of Bureau

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Director. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 197, Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products Regulations, rightly belong at a lower organizational level and therefore should be delegated.

3. *Delegations.* Pursuant to the authority vested in the Director by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR section 301.7701–9 there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR, Part 197, Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products Regulations:

a. Approval or disapproval of all formulas and processes submitted on ATF Forms 1678 as eligible for drawback of tax as stated under 27 CFR 197.95.

b. Requests for any drawback manufacturer to submit a sample of any nonbeverage product for examination as stated under 27 CFR 197.98.

4. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of physical science technician in the Chemical Branch.

Effective date: This order becomes effective on August 13, 1976.

Signed: August 13, 1976.

JOHN S. KROGMAN,
Director.

[FR Doc.76-24579 Filed 8-20-76;8:45 am]

GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be dangerous to the public interest.

Ackerman, Thomas E., 1918 27th Street, Des Moines, Iowa, convicted on October 19, 1957, in the District Court, Warren County, Iowa.

Amaro, Leandro, 1466 Silver Lake Boulevard, Los Angeles, California, convicted on June 16, 1970, in the Superior Court, Los Angeles County, California.

Angle, James C., 2209 Simpson, Winfield, Kansas, convicted on June 2, 1950, in the District Court, Cowley County, Kansas.

Bark, Carey G., Route No. 1, Denver, Iowa, convicted on March 1, 1974, in the District Court, Brewer County, Iowa; and April 11, 1974, in the District Court, Black Hawk County, Iowa.

Barnes, Jeffrey D., 5705 S.E. 39th, Lacey, Washington, convicted on October 1, 1969, in the Thurston County Superior Court, Washington.

Barnes, Warren E., 303 North 10th Street, Manitowoc, Wisconsin, convicted on August 7, 1967, in the County Court, Manitowoc County, Wisconsin.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Baskin, Klayton D., 1711 River Road, Yakima, Washington, convicted on October 24, 1972, in the Superior Court, Thurston County, Washington.

Beard, James L., 9137 South Laflin, Chicago, Illinois, convicted on March 3, 1966, in the Circuit Court of Cook County, Illinois.

Beasley, Harrison, Jr., 3561 Claymore, Apartment 3, Memphis, Tennessee, convicted on February 18, 1963, in the Circuit Court, Criminal Division, 10th Judicial Circuit, Alabama.

Bell, Gary D., 206 South Monroe, Carrollton, Missouri, convicted on October 14, 1968, in the Carroll County Circuit Court, Carrollton, Missouri.

Berry, Richard J., Route 3, Cedartown, Georgia, convicted on September 28, 1956, and July 15, 1966, and April 14, 1967, in the United States District Court, Northern District, Rome, Georgia.

Blomgren, Bennett E., 249 Park Drive, Hartland, Wisconsin, convicted on July 16, 1957, in the County Court, Polk County, Balsam Lake, Wisconsin; and March 21, 1960, in the United States District Court, Western District of Kentucky.

Boehm, William M., P.O. Box 408, Old Veal Station Road, Azle, Texas, convicted on May 4, 1972, in the United States District Court, Northern District of Texas, Dallas, Texas.

Brown, Malcolm L., 3015 107th SE, Bellevue, Washington, convicted on November 7, 1973, in the United States District Court, Western District Washington, Seattle, Washington.

Burkey, Clifford E., 6400 Lonas Drive, Apartment 316, Knoxville, Tennessee, convicted on November 15, 1963, in the Fulton County Superior Court, Georgia; and May 12, 1965, and May 30, 1967, in the Greene County Criminal Court, Tennessee.

Burr, Sanford E., 209 Kingwood Avenue, Newport News, Virginia, convicted on or about March 3, 1944, in the Mecklenburg County Superior Court, North Carolina; and on or about March 28, 1944, in the Guilford County Superior Court, Greensboro, North Carolina; and January 30, 1947, in the United States District Court, Western District of North Carolina.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Burton, Marion D., Route 2, Box 115, Ione, Washington, convicted on December 8, 1966, in the Criminal Court of Record, Dade County, Florida.

Butterworth, Robert W., 4921 Morwanda Street, Roanoke, Virginia, convicted on November 9, 1971, in the Circuit Court for the County of Roanoke, Virginia.

Cady, Wesley J., Wilson Hill Road, Colrain, Massachusetts, convicted on April 13, 1963, and June 18, 1970, in the Franklin County District Court, Greenfield, Massachusetts.

Calcote, Charles A., 703 Pennsylvania Avenue, Beaumont, California, convicted on or about November 15, 1957, in the Superior Court, San Bernardino County, California; and December 1960, in the United States District Court, New Mexico.

Cellamare, Dennis J., RFD 3, South Windham, Maine, convicted on March 17, 1969, in the Cumberland County Superior Court, Maine.

Cox, Jerry C., 21426 84th Avenue South, Kent, Washington, convicted on October 25, 1940, in the Superior Court, Clark County, Washington; and August 15, 1945, in the General Court-Martial, Fort Meade, Maryland, United States Army.

Davis, Raymond E., 419 Elm Street, Antigo, Wisconsin, convicted on September 4, 1957, in the United States District Court for the Eastern District of Wisconsin; and on or about January 23, 1970, in the County Court, Langlade County, Antigo, Wisconsin.

Devol, Thomas P., RR #1, Box 420, Westfield, Indiana, convicted on May 20, 1971, in the Hamilton County Superior Court, Indiana.

Ellis, Jack, 1342 West 67th Street, Cleveland, Ohio, convicted on February 25, 1937, and June 7, 1939, in the Logan County Courthouse, Logan, West Virginia.

Farris, Robert E., Box 205, Houstonia, Missouri, convicted on October 6, 1936, in the Circuit Court, Saline County, Missouri.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Franklin, Sherrill D., 803 West 1st, Anderson, Indiana, convicted on May 12, 1954, in the Circuit Court, Madison Courrty, Indiana.

Fritchman, Roger A., 1115 De la Vina #2, Santa Barbara, California, convicted on March 26, 1963, in the Superior Court, Wake County, North Carolina.

Gordon, Robert L., 1804 Silver Birch Lane, Las Vegas, Nevada, convicted on November 12, 1973, in the United States District Court for the Southern District of California.

Griffiths, Gerald M., 4456 Naval Air Road (Trailer Court) #45, Fort Hueneme, California, convicted on August 2, 1949, in the United States District Court, Denver, Colorado; and March 30, 1962, in the California Superior Court, Los Angeles County, California.

Gronenthal, Gale R., 7106 Olive Street, La Vista, Nebraska, convicted on August 16, 1972, in the District Court, Wayne County, Nebraska.

Habeck, Allen M., 1308 South 12th Avenue, Wausau, Wisconsin, convicted on July 25, 1972, in the Marathon County Court, Marathon County, Wisconsin.

Henry, Hans M., 1851–A Arundel Drive, Lexington, Kentucky, convicted on or about September 17, 1971, in the Scott County Circuit Court, Georgetown, Kentucky; and August 1971, in the Fayette County Quarterly Court, Lexington, Kentucky.

Highsmith, Gale V., 2825 South Burrell Street, Milwaukee, Wisconsin, convicted on June 28, 1956, in the Municipal Court, City and County of Milwaukee, Wisconsin.

Hixon, Pete E., 1200 East 24th Street, Winston-Salem, North Carolina, convicted on June 18, 1958, in the United States District Court, Middle District, North Carolina.

Horton, Robert J., 5410 Raymond Avenue, Burton, Michigan, convicted on October 3, 1952, in the Genesee Circuit Court, Michigan.

Kincheloe, Larry W., 1920 Poli, Ventura, California, convicted on November 3, 1972, in the Superior Court, Santa Barbara County, California.

Lazor, Raymond V., 13310 30th Avenue NE, Seattle, Washington, convicted on September 14, 1973, in the United States District Court, Tacoma, Washington.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Lenski, Donald A., 20151 Oleander, Perris, California, convicted on March 4, 1968, in the Superior Court of the State of California; and August 2, 1966, in the Superior Court of Riverdale County, California; and July 26, 1968, and November 15, 1968, in the Superior Court of the State of California, County of Riverside.

Lisiecki, Paul L., 460 Grant Street Apartment 3, Stanley, Wisconsin, convicted on January 31, 1973, in the County Court, Chippewa County, Chippewa Falls, Wisconsin.

Llanto, Gilmore C., 922 14th Avenue, Seattle, Washington, convicted on January 15, 1971, in the Superior Court, King County, Washington.

McDowell, Michael R., 5806 Roosevelt Street, Middleton, Wisconsin, convicted on or about April 22, 1968, in the Circuit Court, Dane County, Madison, Wisconsin.

MacKenzie, John W., 321 Oella Avenue, Catonsville, Maryland, convicted on August 10, 1944, in the United States Military Court, General Court-Martial, Fort Monmouth, New Jersey.

Maxfield, Don G., 3220 Tabor, Idaho Falls, Idaho, convicted on October 23, 1973, in the United States District Court, District of Idaho, Boise, Idaho.

Meyer, Edward C., 2808 Chelfield Street, Philadelphia, Pennsylvania, convicted on November 1, 1963, in the Philadelphia County Court, Pennsylvania.

Nitchals, David W., Rural Route 1, Wallingford, Iowa, convicted on or about July 20, 1972, in the Dickinson County District Court, Spirit Lake, Iowa.

O'Bryant, Michael G., 681 S. Magnolia, Rialto, California, convicted on January 22, 1971, in the San Bernardino County Municipal Court District, Valley Division, California.

Paulson, Jerry L., 3111 Cass Street, Omaha, Nebraska, convicted on January 12, 1970, in the District Court, Mills County, Iowa.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Ronniger, Stephen L., 2254 Fisher Lane, Salt Lake City, Utah, convicted on July 20, 1970, in the Circuit Court, Lane County, Oregon.

Roper, George W., II, 7406 Glencove Place, Norfolk, Virginia, convicted on March 29, 1974, in the United States District Court, Eastern District of Virginia, Norfolk, Virginia.

Rose, James C., Jr., 400 South Tiffin, Ranger, Texas, convicted on September 18, 1940, in the 91st Judicial District Court, Eastland County, Texas.

Rubino, James S., 1121 Golfview Drive, Carmel, Indiana, convicted on July 25, 1940, in New York, New York; and on September 23, 1957, in the County Court Judges Criminal Court, Windsor, Ontario, Canada.

Rueter, Kenneth T., 1000 South 1st Street, Ozark, Missouri, convicted on April 28, 1967, in the Circuit Court of Greene County, Missouri.

Seals, Levester, Jr., 1539 L'Orient, St. Paul, Minnesota, convicted on August 16, 1961, in the District Court, Second Judicial District, Ramsey County, Minnesota.

Shy, Larry G., 5522 N.E. Meadowbrook, Kansas City, Missouri, convicted on September 23, 1965, and on May 25, 1967, in the Circuit Court of Scott County, Missouri.

Silver, Sterling H., 707 Felton Street, Miles City, Montana, convicted on April 8, 1966, in the District Court of the Sixteenth Judicial District, Custer County, Montana.

Smith, Wilburn L., 314 Maple Street, Chaffee, Missouri, convicted on June 16, 1964, and on April 1, 1969, and on June 17, 1969, in the Circuit Court of Cape Girardeau County, Missouri.

Souther, Narvy V., Route 2, Box 453, Wilkesboro, North Carolina, convicted on May 20, 1960, and on October 20 1961, in the United States District Court, Middle District, North Carolina.

Stabenow, Larry D., Rural Route 2, Box 380, Colfax, Wisconsin, convicted on November 3, 1972, in the County Court, Dunn County, Wisconsin.

Still, Jacob L., III, Box 47, Western Mobile Park Liberal, Kansas, convicted on December 13, 1974, in the District Court of Seward County, Kansas.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Teigen, Thomas M., 3442 Nicollet South, Bloomington, Minnesota, convicted on August 22, 1973, in the District Court, Fourth Judicial District, Hennepin County, Minnesota.

Thacker, Alfred, 139 Tennyson, Highland Park, Michigan, convicted on October 26, 1954, in the Recorder's Court of the City of Detroit, Detroit, Michigan.

Tooley, Jack W., Post Office Box 254, Hartville, Missouri, convicted on December 1, 1966, in the Wright County Circuit Court, Missouri.

Wages, Johnny M., Route 2, Wilder, Idaho, convicted on March 19, 1971, in the Idaho District Court, Idaho.

Webster, Donald E., 2753 Glynn Court, Apartment 4, Detroit, Michigan, convicted on April 21, 1955, in the Recorder's Court of the City of Detroit, Michigan.

Williams, James, G., 1837 Andrews Drive, Concord, California, convicted on October 18, 1946, in the United States District Court, Eastern District, Missouri, St. Louis, Missouri.

Williams, Mack B., 209 Strange Street, Saraland, Alabama, convicted on July 13, 1973, in the United States District Court, Southern District, Alabama.

Williams, Phillip E., Route 2, Box 415–B, Wilkesboro, North Carolina, convicted on October 23, 1968, in the United States District Court, Middle District, North Carolina.

Wollin, Brad R., Route 1, Box 135, Lake Mills, Wisconsin, convicted on August 7, 1974, in the County Court of Jefferson County, Wisconsin.

Woods, Chester A., 1233 Yesler Avenue, Seattle, Washington, convicted on May 3, 1944, in the Superior Court, Yakima, County, Yakima, Washington.

Notice of Granting of Relief Pursuant to Section 925(c), Title 18, United States Code.

Woods, Robert H., Tom's Trailer Park #3, Fallon, Nevada, convicted on August 16, 1974, in the United States District Court, District of Nevada, Reno, Nevada.

Yoha, Richard O., 245 Luzena Avenue, Vacaville, California, convicted on October 2, 1970, in the United States District Court for Northern District of California.

Signed at Washington, DC, this 30th day of July 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco, and Firearms.

[FR Doc.78-24571 Filed 8-20-76; 8:45 am]

Office of the Secretary

[Administrative Ruling 76–1]

TREATMENT OF INDIAN TRIBE AND ALASKAN NATIVE VILLAGE ADJUSTED TAXES

Revenue Sharing

This ruling sets forth the procedure the Office of Revenue Sharing will follow in using Indian tribe and Alaskan native village adjusted tax data when calculating entitlements, pursuant to § 108(b) and § 108(c) of the State and Local Fiscal Assistance Act of 1972 (P.L. 92–512).

For purposes of paragraphs (1), (2), (3), (5), 6(C), (6)(D) of § 108(b) and for purposes of § 108(c) of the Act, the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions is excepted from treatment as a "unit of local government" by § 108(d)(1) of the Act.

It is the determination of the Department of the Treasury that the revised application of this above-mentioned language will result in a more equitable entitlement calculation procedure. When Indian adjusted tax data first became available, it was initially applied in the total entitlement calculation process under § 108 of the Act. Section 108(b)(4) of the Act, in describing the amount of allocations for Indian tribes and Alaskan native villages, provides that before § 108(b)(1) is applied there shall be allocated to such tribe or village a portion of the amount allocated to the county area for the entitlement period which bears the same ratio to such amount as the population of that tribe or village within that county area bears to the population of that county area. The allocation for Indian tribes and Alaskan native villages is therefore completed at this stage of the allocation process before application of § 108(b)(1) and succeeding subsections of the Act relating to the calculation of entitlement amounts. In order to improve the entitlement calculation process, Indian tribe and Alaskan native village adjusted tax data will only be applied under § 108(a) relating to allocations among county areas and pursuant to § 108(d)(1) will be excluded from allocation calculations under § 108(b) and § 108(c). This ruling will result in Indian tribe and Alaskan native village adjusted tax data being applied only to that portion of the entitlement calculation process which affects entitlement amounts for Indian tribes and Alaskan native villages.

The effective date for this procedure shall be for Entitlement Period Seven beginning July 1, 1976. Final allocations for Entitlement Period Seven shall be determined pursuant to this ruling.

JEANNA D. TULLY,
Director,
Office of Revenue Sharing.

[FR Doc.76-24641 Filed 8-20-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy

Date of Meeting: 9 September 1976

Place of Meeting: Capitol Building, Washington, D.C.

Time: 10:00 a.m.

Proposed Agenda: Review of and Inquiry into Academic Matters, USMA

This meeting will be concerned with matters listed in 5 U.S.C., Section 552b

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(6) and 552b(7)(A)(B) and will be closed to the public pursuant to Section 10(d), P.L. 92–463.

By Authority of The Secretary of the Army.

R. S. SEEBERG,
LTC, US Army, Acting Director, Administrative Management.

[FR Doc.76–24726 Filed 8–20–76;8:45 am]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Commitee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will meet September 14 and 15, 1976, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. and the meeting will be closed to the public.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including special intelligence briefings on foreign naval operations and presentations on ocean surveillance, new technology, and U.S. Navy plans and programs. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552(b)(1) of Title 5, United States Code.

Dated: August 16, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76–24587 Filed 8–20–76;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of section 10 of Pub. L. 92–463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on: Monday & Tuesday, 27–28 September 1976.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.76–24624 Filed 8–20–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[INT DES 76–30]

CROW CEDED AREA COAL LEASE DEVELOPMENT PROPOSAL

Availability of Draft Environmental Statement

Pursuant to Section 102 (2) (c) of the National Environmental Policy Act, the Bureau of Indian Affairs has prepared a Draft Environmental Statement for the Westmoreland Resources Crow Ceded Area Coal Lease, Tracts II and III, which is located in Bighorn County, Montana.

The environmental statement considers human and physical environmental effects associated with the approval of an existing 30,876 acre lease area. Written comments are invited within forty-five (45) days of this notice.

The U.S. Geological Survey is currently preparing a draft environmental statement on a proposed 20 year plan of mining and reclamation on 2,151 acres within Tract III; this statement will be made available to the public about October 1, 1976.

Copies of the BIA statement will be available for inspection at the following locations:

Bureau of Indian Affairs, Division of Trust Facilitation, Room 4554, Department of the Interior Bldg., Washington, D.C. 20245, Telephone: (202) 343–4004.

Bureau of Indian Affairs, Billings Area Office, Billings, Montana 59103, Telephone: (406) 245–6711.

Bureau of Indian Affairs, Crow Indian Agency, Crow Agency, Montana 59022, Telephone: (406) 638–2671.

Copies of the Draft Environmental Statement may be obtained from the Area Director, Bureau of Indian Affairs in Billings, Montana.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

AUGUST 17, 1976.

[FR Doc.76–24614 Filed 8–20–76;8:45 am]

CROW CEDED AREA COAL LEASE DEVELOPMENT PROPOSAL

Draft Environmental Statement; Public Hearing

A Public Hearing will be held to receive public comments regarding the environmental impacts portrayed in the Bureau of Indian Affairs Crow Ceded Area Coal Lease, Tracts II and III, Westmoreland Resources Draft Environmental Statement.

The Hearing is scheduled for September 29, 1976 at 10 a.m. Crow Agency, Montana.

Oral and written statements by interested parties are invited. Oral statements by any party will be limited to no more than 10 minutes. Written statements can be entered into the record by filing a copy with the presiding officer.

Additional information on the hearing and copies of the Crow Ceded Area Coal Lease, Tracts II and III Westmoreland Resources Draft Environmental Statement may be obtained from the Area Director, Billings Area Office, 316 North 26th Street, Billings, Montana 59103. Telephone (406) 245–6711.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

AUGUST 17, 1976.

[FR Doc.76–24613 Filed 8–20–76;8:45 am]

Bureau of Land Management

LAKEVIEW DISTRICT ADVISORY BOARD

Meeting

Notice is hereby given that the Bureau of Land Management, Lakeview District Advisory Board will meet at 9:00 a.m., Pacific Standard Time, on September 17, 1976, at the Lakeview Community Center.

The agenda for the meeting will include discussion of:

1. New BLM Grazing Regulation.
2. Memorial Day Motorcycle Race.
3. Board Reorganization.
4. District Tour.

The meeting will be open to the public insofar as seating is available. Time will be available for brief statements from members of the public, but those wishing to make an oral statement must inform the Chairman in writing prior to the meeting. Interested persons may file a written statement with the Board for its consideration. Statements should be sent to: Chairman, Lakeview District Advisory Board, Care of District Manager, Bureau of Land Management, P.O. Box 151, Lakeview, Oregon 97630.

RICHARD A. GERITY,
Lakeview District Manager.

AUGUST 12, 1976.

[FR Doc.76–24589 Filed 8–20–76;8:45 am]

YUMA DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Yuma District Multiple Use Advisory Board will convene on October 7, 1976, commencing at 9:00 a.m. at the Western Room, Chilton Inn, 300 E. 32nd Street, Yuma, Arizona.

The Board will discuss and make recommendations on proposed plans for Black Meadow Landing concession on Lake Havasu, standards for commercial and concession contracts, activity plans for wildlife habitat and recreation use areas, and the permit program developed under the Lower Colorado River Land Use Plan.

The meeting will be open to the public with seating provided for approximately 40 persons. Time will be available for a limited number of brief statements by members of the public beginning at 2:45 p.m. Those wishing to make oral statements should so inform the Bureau of Land Management, Yuma District Office, prior to the Board meeting. Written statements may also be filed with the Board for its consideration. Written statements may be submitted at the meeting or mailed to: Chairman, Yuma District Advisory Board, P.O. Box 5680, Yuma, Arizona 85364.

Prior to the meeting, the Board will tour the Laguna-Martinez areas on October 6, 1976. Members of the public may attend the tour but must furnish their own transportation.

Further information concerning the meeting may be obtained from H. Max Bruce, District Manager, at the above address. Telephone number: 602–726–2612.

Minutes of the meeting will be available for public inspection thirty (30) days after the meeting. Interested parties should contact the District Manager, Yuma District Office.

H. M. BRUCE,
District Manager.

AUGUST 13, 1976.

[FR Doc. 76–24590 Filed 8–20–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Notice No. 112]

SUGARCANE—LOUISIANA

Extension of Closing Date for Filing Applications for the 1977 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for sugarcane crop insurance for the 1977 crop year in all counties in Louisiana where such insurance is otherwise authorized to be offered is hereby extended until the close of business on September 30, 1976. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

Dated: August 9, 1976.

WARREN E. DIRKS,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76–24673 Filed 8–20–76;8:45 am]

Forest Service

WILDERNESS STUDY REPORT, LONE PEAK WILDERNESS STUDY AREA, UINTA AND WASATCH NATIONAL FORESTS

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Wilderness Study Report, Lone Peak Wilderness Study Area, Uinta and Wasatch National Forests, Utah. The Forest Service report number is USDA–FS–FES (Adm) R4–76–1.

The action analyzed by the final environmental statement is the result of the Lone Peak Wilderness study and designation of the Lone Peak Scenic Area of approximately 28,440 acres. The Lone Peak Scenic Area will be established by the Regional Forester under the authority of Title 36, Code of Federal Regulations, Section 294.1.

This final environmental statement was transmitted to CEQ on August 16, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW, Washington, D.C. 20250.

Wasatch National Forest, 4311 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Regional Planning & Budget, USDA, Forest Service, Federal Building, Room 4408, Ogden, Utah 84401.

Salt Lake Ranger District, USDA, Forest Service 3070 East 33rd South, Salt Lake City, Utah 84109.

A limited number of single copies are available upon request to Forest Supervisor Chandler P. St. John, Wasatch National Forest, 8226 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, or Acting Forest Supervisor Gordon A. Colby, Uinta National Forest, 88 West 100 North, Provo, Utah 84601.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

AUGUST 16, 1976.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.76–24584 Filed 8–20–76;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON FOREIGN ANIMAL DISEASES

Determination

Notice is hereby given that the Secretary of Agriculture intends to reestablish an Advisory Committee on Foreign Animal Diseases for a 2-year period. The Secretary has determined that establishment of the Committee is in the public interest in connection with duties imposed on the Department by law.

The purpose of the Committee will be to advise the Secretary regarding program operations and measures to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal diseases in the event such diseases should enter the United States. The economic consequences of such outbreaks could have disastrous effects on all segments of the public because of ever-changing methods of livestock production and distribution. The Chairman of the Committee will be the Assistant Secretary for Marketing and Consumer Services, United States Department of Agriculture, Washington, DC 20250. Plans are for the Committee to meet annually.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92–463). Views and comments of interested persons may be submitted to the Administrator, Animal and Plant Health Inspection Service, Room 316–E, United States Department of Agriculture, Washington, D.C. until September 7, 1976. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Dated: August 18, 1976.

J. PAUL BOLDUC,
Assistant Secretary for Administration.

[FR Doc.76–24674 Filed 8–20–76;3:45 am]

ANIMAL AND PLANT HEALTH INSPECTION SERVICE CONSUMER ADVISORY COMMITTEE

Determination

Notice is hereby given that the Secretary of Agriculture intends to establish an Animal and Plant Health Inspection Service (APHIS) Consumer Advisory Committee for a two-year period. The Secretary has determined that establishment of the Committee is in the public interest in connection with duties imposed on APHIS by law.

The laws governing the programs of APHIS are for the purposes of protecting livestock and poultry health; protecting crop production against plant pests and diseases; assuring the humane treatment of certain classes of animals; and assuring that meat and poultry food products are wholesome, safe for human consumption, and truthfully and informatively labeled.

The purpose of the Committee will be to provide a forum for the expression of views of persons qualified to represent consumers when changes are being considered in policies and procedures of APHIS. The Committee will have a balanced membership of persons representing consumer interests from all sections of the United States.

The Chairman of the Committee will be the Assistant Secretary for Marketing and Consumer Services, United States Department of Agriculture, Washington, D.C. 20250. Plans are for the Committee to meet at least three times annually.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92–463). Views and comments of interested persons may be submitted to the Administrator, APHIS, Room 316–E, United States Department of Agriculture, Washington, D.C. 20250 until September 7, 1976. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Dated: August 18, 1976.

J. PAUL BOLDUC,
Assistant Secretary for Administration.

[FR Doc.76–24675 Filed 8–20–76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[File No. 22(74)–4 Case No. 504]

PATRICK HUGHES, ET AL.

Order Denying Export Privileges

In the Matter of Patrick Hughes, Dukerswell Engineering Ltd., Instrument

V 41 164 AUG 23 76 UMI

Maintenance Services, Mobile Maintenance Services, 20 St. Lukes Avenue, Maidstone, Kent ME145AN, England, Respondents.

Pursuant to orders appearing in 30 F.R. 2687 (March 3, 1965), 32 F.R. 15646 (November 10, 1967) and 33 F.R. 3653 (March 1, 1968), respondents were denied all export privileges for an indefinite period for failure to furnish answers to interrogatories and to produce certain records or as related parties to Dukerswell. By letter dated May 21, 1976, Patrick Hughes and Mobile Maintenance Services were charged by the Director, Compliance Division, Office of Export Administration with violations of the Export Administration Act of 1949, as amended and supplemented, 15 U.S.C. App. § 2401 *et seq.*, and the regulations thereunder. Charges were made that the parties had violated the terms of the denial order and, on not less than eight occasions, had negotiated and purchased U.S. equipment. The charging letter was duly served upon respondents, however, they did not answer and are now in default.

The case was referred to the Hearing Commisioner pursuant to the authority of 15 CFR 388.4. He found that the failure to reply to the charges is deemed as confession of the truth thereof, i.e., the parties did violate the express terms of the prior denial orders. He recommended that a further denial order be issued against the respondents to deny them all export privileges in commodities requiring validated licenses for a period of five years.

I find the facts are as stated by the Hearing Commissioner and I accept his recommendation. I find that an order denying export privileges for a reasonable period of time is necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949. Therefore, pursuant to the authority of that Act and the Export Administration Regulations, 15 CFR 387.1, 388.1, it is:

ORDERED

(1) Except as otherwise specifically excepted herein or as otherwise expressly authorized, respondents are hereby denied all privileges or participating directly or indirectly, for a period ending May 31, 1981, in any manner or capacity, in any transaction involving export of U.S. commodities requiring a validated export license.

(2) The denial of export privileges shall extend to the respondents, their agents, employees and to any successor and to any person, firm, corporation, partnership, or other business organization with which respondents now or hereafter may be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade of related services.

(3) During the time when respondents are denied export privileges, no person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of East-West Trade, shall do any of the above-mentioned acts, directly or indirectly or carry on negotiations with respect thereto in any manner or capacity, on behalf, or in any association with respondents or whereby respondents may obtain any benefit therefrom, or have any interest or participation therein directly or indirectly. The prohibtions of this paragraph are restricted to transactions subject to validated license controls.

This supersedes the orders of 1965, 1967 and 1968, *supra*.

RAUER H. MEYER,
Office of Export Administration.

Dated: August 3, 1976.

[FR Doc. 76-24585; Filed 8-20-76; 8:45 am]

[File No. 23-577]

PORN AND DUNWOODY, LTD.

Export Privileges Restored

In the matter of Porn & Dunwoody, Ltd., Union Works, Bear Gardens, London, SE1 9EB, Respondent.

Written interrogatories were directed to respondent in connection with unauthorized diversions, which occurred in 1957, of diesel engine parts and roller bearings. Respondent failed to answer. Accordingly, pursuant to the authority of the export regulations, 15 CFR 388.15 (previously 382.15), respondent, by Order appearing in 24 F.R. 8683 (October 27, 1959), was denied all United States export privileges. The Order provided that it would remain in effect until reply was made or adequate reasons given for failure to respond.

Respondent now appears and petitions for restoration of export privileges and for full access to U.S. commodities. Respondent explains its failure to reply to the interrogatories resulted because of the termination of employment of its then managing director, now deceased. Respondent states that company employees cannot recall any details of the matter.

The Director, Compliance Division, reports respondent is not presently suspect of violating the Export Administration Regulations and is not known to have violated the terms of the denial order.

The Hearing Commissioner, in view of the Compliance Division's report, recommends respondent be restored to full export privileges and access to U.S. commodities.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report. Respondent is not presently suspect in connection with any violation of the United States export laws or the Export Administration Regulations. It is fair, fitting and proper that one who manifests intention of continued compliance with the export regulations, be restored to full export privileges. Restoration to full access to American commodities is in accord with the purpose and intent of the law, the regulations and the policies of this Department. Therefore, it is

ORDERED

Porn and Dunwoody, Ltd., is unconditionally restored to all United States export privileges.

Dated: August 16, 1976.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.76-24586 Filed 8-20-76;8:45 am]

[Department Organization Order 10-4; Amdt. 2]

Domestic and International Business Administration

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, September 14, 1976, at 1:00 p.m. in Room 1096, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist bloc countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Further review of technical evaluations on foreign availability provided by industry/government and discussion thereof.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552 (b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on December 5, 1975 (40 FR 56960).

Dated: August 17, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24687 Filed 8-20-76;8:45 am]

Maritime Administration

CONSTRUCTION OF 125,000 CUBIC METER LIQUEFIED NATURAL GAS (LNG) VESSELS MA DESIGN LG8-S-102a

Recomputation of Foreign Cost; Amended Notice of Intent

In Doc. No. 76-2419 appearing in the FEDERAL REGISTER on July 23, 1976 (41 F.R. 30375) Notice was given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to recompute the estimated foreign cost of construction of 125,000 cubic meter liquefied natural gas (LNG) vessels, MA Design LG8-S-102a, in view of the occurrence of a significant change in shipbuilding market conditions since the previous determination of estimated foreign cost was made.

Upon request of interested parties, good cause having been shown, the time for filing written statements with respect to said Notice is hereby extended to close of business on September 22, 1976.

Dated: August 18, 1976.

By Order of the Maritime Subsidy Board, Maritime Administration.

ROBERT J. PATTON, JR.,
Assistant Secretary.

[FR Doc.76 24688 Filed 8-20-76;8:45 am]

[Docket No. S-506]

AMERICAN PRESIDENT LINES, LTD., SECTION 805(A) REQUEST ON ATLANTIC/STRAITS SERVICE

Prehearing Conference Memorandum of Bulk Food Carriers, Inc.[1]

Responsive to the Notice of Prehearing Conference issued July 7, 1976, and pursuant to leave granted in the Ruling On Petition For Leave To Intervene, issued by the Administrative Law Judge on August 11, 1976, intervener, Bulk Food Carriers, Inc. ("BFC") hereby respectfully submits its prehearing conference memorandum in this proceeding.

I. BFC's STATEMENT OF THE ISSUES

It is BFC's position that this proceeding raises the following issues within the purview of Section 805(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1223):

A. Will the granting of this application result in unfair competition to BFC, a corporation operating exclusively in the intercoastal service?

B. Will the granting of this application be prejudicial to the objects and policy of the Act?

II. BFC's POSITION

BFC opposes the granting of a Section 805(a) waiver to applicant, American President Lines, Ltd. ("APL") unless the proposed intercostal operations of APL are appropriately restricted to preclude operations competitive with those of BFC. The latter has devoted considerable effort to providing needed service in the intercostal trade, which in recent years, has declined sharply with the abandonment of operations by numerous carriers. It would be both unfair and contrary to the public interest to subject BFC to the competition of a subsidized carrier.

III. PROSPECTIVE NUMBER OF BFC WITNESSES

It is BFC's present intention to present one witness who will descripe BFC's present and proposed domestic operations, the history and development of the company, and its present financial posture.

IV. SUGGESTED PLACE AND SCHEDULE FOR HEARING

BFC would prefer to reserve discussion of time and place of hearing until the prehearing conference but will undertake to cooperate fully in accommodating the convenience of the parties.

V. REQUESTS FOR DISCOVERY

BFC concurs in and adopts the requests for discovery of Sea-Land Service, Inc. In addition, inasmuch as BFC does not have access to the discovery responses of APL in Docket No. S-417, it is requested that APL furnish copies of such responses to the extent that the information contained therein is not included in or replaced by more current information furnished in response to the discovery requests in this proceeding.

VI. PRELIMINARY MOTIONS

BFC has no preliminary motions. It does, however, propose a stipulation which, if accepted by the parties and the Board, will satisfy BFC's interest in this proceeding. BFC proposes that APL stipulate that any waiver granted herein be restricted to the intercoastal transportation of cargo in containers in vessels that are exclusively designed and operated as containerships.

Respectfully submitted,

J. RAYMOND CLARK,
Attorney for Bulk Food Carriers, Inc.

[FR Doc.76-24686 Filed 8-20-76;8:45 am]

[1] Certificate of service filed as part of original document.

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV 1974), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Wednesday, September 22, 1976, from 9 a.m. to 5 p.m. and Thursday, September 23, from 8:30 a.m. to 12 m. in Room 6802 of the Main Department of Commerce Building, 14th and E Streets, NW., Washington, D.C.

V 41 164 AUG 23 76 UMI

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community. The agenda for the meeting is as follows:

WEDNESDAY, SEPTEMBER 22, 1976

9 a.m. to 12:00 m. Morning session.
Opening remarks by Assistant Secretary Ancker-Johnson.
Technology policy issue paper draft review and critique.
12 m to 1 p.m. Lunch.
1 p.m. to 5 p.m. Afternoon session.
Technology policy issue paper draft (continued).
Report of the export administration subcommittee of the President's export council re. East-West trade technology controls.
CTAB panel on energy policy, status report.

THURSDAY, SEPTEMBER 23, 1976

8:30 a.m. to 12 m.
CTAB plans for the 1976–77 year.
12 m. Adjournment.

The meeting will be conducted in a manner to facilitate the orderly flow of business. Practical considerations may dictate alterations in the above agenda or schedule.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. Such communications shall be directly relevant to the above agenda items. Only comments and questions from members of the Board, DOC officials and invited participants will be entertained at the meeting. A limited number of seats will be available to the public and to the press on a first-come first-serve basis.

Copies of minutes or tape and materials distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce Central Reference and Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Frank Cacciapaglia, Jr., Executive Director, CTAB, Room 3877, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–4595 after September 6, 1976.

Dated: August 17, 1976.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.76–24672 Filed 8–20–76;8:45 am]

ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT

Delegation of Authority

This order effective August 19, 1976 further amends the materials appearing at 40 FR 56702 of December 4, 1975 and of 40 FR 58878 of December 19, 1975.

Department Organization Order 10–4 of September 30, 1975, is hereby amended as shown below. The purpose of this amendment is to delegate the authority of the Secretary to administer Title I of the Public Works Employment Act of 1976, P.L. 94–369, to the Assistant Secretary for Economic Development (subparagraphs 4.01g. and 5.o.).

1. In section 4. Delegation of authority. A new subparagraph .01g. is added to read as follows:

"g. The Local Public Works Capital Development and Investment Act of 1976, which is Title I of the Public Works Employment Act of 1976 (Public Law 94–369, 42 U.S.C. 6701 et seq.)".

2. In section 5. General functions. a. A new subparagraph o. is added to read as follows:

"o. Assure the adequate and effective administration of Title I of the Public Works Employment Act of 1976, including the monitoring and servicing of grants."

b. In pen and ink reletter the current subparagraph o. as p.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–24756 Filed 8–20–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging

MEETING

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to Pub. L. 92–463 that the Council will hold a regular quarterly meeting on September 13 and 14, 1976, from 9:30 a.m. to 5 p.m. in Room 4559 Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. The agenda will consist of: President's response to FCA annual report and studies; Status of assets project; Recommendation for HUD assistance to minority housing sponsors; Response of aging agency network to Bicentennial Charter; Critique of 1971 White House Conference on Aging recommendations; Review of recommendations for services to the frail elderly; Status of Federal aging research plan; Status of FCA health manpower project; FCA project on older women; Review of Federal home health initiatives and FCA position on National Meals on Wheels legislative proposals.

This meeting will be open for public observation.

Further information on the Council may be obtained from: Cleonice Tavani, Executive Director, Federal Council on the Aging, Washington, D.C. 20201, telephone: (202) 245–0441.

CLEONICE TAVANI,
Executive Director, Federal Council on the Aging.

AUGUST 17, 1976.

[FR Doc.76–24580 Filed 8–20–76;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

This notice announces forthcoming meetings of the public advisory committees of the Food and Drug Administration. It also sets out a summary of the procedures governing the committee meetings and the methods by which interested persons may participate in the open public hearings conducted by the committees. The notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)). The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Panel on Review of Gastroenterological and Urological Devices and its following subcommittees: Implants Subcommittee, Dialysis Devices Subcommittee, High Frequency Surgical Devices Subcommittee, and the Endoscope/Surgical Devices Subcommittee.	Sept. 26 and 27, 8 a.m., Captain's Room, Channel Inn Motel, 650 Water St. SW., Washington, D.C.	Open public hearing, Sept. 26, 8 a.m. to 9 a.m.; open committee discussion, Sept. 26, 9 a.m. to 5 p.m.; open public hearing, Sept. 27, 8 a.m. to 9 a.m.; open committee discussion, Sept. 27, 9 a.m. to 5 p.m.; Thomas L. Anderson, M.D. (HFK–460), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the following list of devices to Thomas L. Anderson, M.D., executive secretary. Submission of data relative to tentative classification findings is also invited.

Open committee discussion—Implants Subcommittee (September 26, 9 a.m. to 12 m.). Discussion of the following devices: (1) Electrical implants: bladder pacemaker; electrical stimulator for incontinence. (2) Non-electrical implants: mechanical/hydraulic impotence devices; mechanical/hydraulic incontinence device; mesh steel; penile implants; prosthetic urethral sphincter; testicular implants; ureteral replacement; ureteral splints; ureterovesicle valves; urethral replacement; vas deferans implants. (3) Urine collecting devices: leg bag; ileostomy; ureterostomy; urosheath types incontinence devices. (4) Suprapubic drainage devices: malecot catheters; suprapubic catheters and tubes. (5) Surgical instruments: clips for suturing apparatus. (6) Intestinal (X-ray opaque) tubes: gastroenterostomy tube; ureteral catheters and accessories; ureteral catheters. (7) Urethral catheters: coude catheter; retention type catheter.

Dialysis Devices Subcommittee (September 26, 1 p.m. to 5 p.m.). Discussion of the following devices: (1) Blood circuit components: A–V shunt cannula; fistula needle; dialysis intracath, single needle dialyzer set; blood tubing set with and without anti-regurgitation valve. (2) Dialysate circuit components; proportioning subsystem. (3) Dialysate delivery systems: central multiple patient system; recirculating system; recirculating single pass system; sealed system; single pass system; single patient system; sorbent regenerated system. (4) Dialyzers: hollow fiber capillary dialyzer; disposable dialyzer; parallel flow dialyzer; single coil dialyzer; twin coil dialyzer. (5) Peritoneal devices: disposable single-use catheter; long term indwelling catheter; sorbent hemoperfusion apparatus; peritoneal automatic delivery system.

High Frequency Surgical Devices Subcommittee (September 27, 9 a.m. to 11 a.m.). Discussion of the following devices: (1) Electrosurgical units and accessories: flexible suction coagulator electrode; electrosurgical alarm systems; active electrosurgical electrodes; electrosurgical unit; solid state cautery devices; solid state coagulating devices. (2) Electric stone removal: electric bladder stone tripsors; high voltage stone fractionators. (3) Transurethral surgical instruments: electrodes; patient plates; resectoscope; transurethral disccators; tur loops; working element of resectoscope. (4) Ultrasound equipment: ultrasonic stone crusher.

Endoscopes/Surgical Devices Subcommittee (September 27, 12 m. to 5 p.m.). Discussion of the following devices: (1) Diagnostic light sources: routine fiberoptic light source. (2) Endoscopic equipment: diagnostic cystoscope; panendoscope (gastroduodenoscope); panendoscope (urethroscope). (3) Pressure and flow rate measuring devices: air cystometric device. (4) Physiologic function monitors: electrical recording cystometer; mechanical urinometer; urometer. (5) Surgical instruments: stomach and intestinal suturing apparatus. (6) Transabdominal instruments: automatic pneumoperitoneum apparatus. (7) Transurethral cryosurgical instruments: carbon dioxide delivery system; cryoprobe for carbon dioxide delivery system; cryoprobe for carbon dioxide monitoring system; cryoprobe for liquid nitrogen delivery system; cryoprobe for liquid nitrogen monitoring system liquid nitrogen delivery system; liquid nitrogen monitoring system. (8) Accessory therapeutic devices: disposable urological drapes; sheets. (9) Intraluminal therapy: hemostatic bag; endomagnetic retriever.

Committee name	Date, time, and place	Type of meeting and contact person
2. Gastrointestinal Drugs Advisory Committee.	Sept. 27 and 28, 9:30 a.m. (Sept. 28), Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Closed committee deliberations, Sept. 27, 9:30 a.m. to 12:30 p.m.; open committee discussion, Sept. 27, 1:30 p.m. to 4:30 p.m.; open public hearing, Sept. 28, 9:30 a.m. to 10:30 a.m.; open committee discussion, Sept. 28, 10:30 a.m. to 12:30 p.m.; Joan C. Standaert (HFD–110), 5600 Fishers Lane, Rockville, MD 20852, 301–443–4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Carbex and issues for future consideration relative to hepatotoxicity.

Closed committee deliberations. Discussion of Metoclopramide (Reglan) NDA 17–854 and NDA 17–862. This portion of the meeting will be closed to permit discussion of trade secret data, to protect the free exchange of internal views, and to avoid undue interference with committee activities (5 U.S.C. 552(b) (4) and (5)).

Committee name	Date, time, and place	Type of meeting and contact person
3. Panel on Review of Ear, Nose, and Throat Devices.	Sept. 27 and 28, 9 a.m., Rm. 1409, FB–8, 200 C St. SW., Washington, D.C.	Open public hearing, Sept. 27, 9 a.m. to 10 a.m.; open committee discussion, Sept. 27, 10 a.m. to 4:30 p.m.; open committee discussion, Sept. 28, 9 a.m. to 4:30 p.m.; Harry R. Sauberman, P.E. (HFK–450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301–427–7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to devices to be classified at this meeting to Harry R. Sauberman, P.E., executive secretary. Submission of data relative to tentative classification findings is also invited.

Open committee discussion. Review of panel comments on procedures handbook for advisory panel members and executive secretaries. Review of provisions of medical device bill applicable to classification activities. Completion and review of supplementary classification data sheets for the following devices: Hearing aids; auditory impedance testers; audiometers; group hearing aids and auditory trainers; electrocochleographic devices; auditory evoked-response systems; nystagmographs; facial nerve stimulators; caloric irrigation baths; transdermal stimulators; anticholce devices (tongs and suction); columella; nasal struts; septal implants; gelfoam; silastic implant material; tantalum prosthesis wire; teflon implant material; esophageal tubes; esophageal prosthesis; stainless steel ear tubes (middle ear); polymer ear tubes (middle ear); multiple material ear tubes (middle ear); metal ossicular replacement; polymer ossicular replacement; multiple material ossicular replacement; sacculotomy tacks; cochlear implants.

As time is available, the panel will also complete supplementary data sheets for the following devices: Acoustic chambers; air conduction transducers; bone conduction transducers; hearing trumpets; mechanical noise generators; sisi adaptors; tuning forks; gustometers; nasomanometers; Toynbee diagnostic tubes; transilluminators; cuspidors; powered ENT examining/treatment chairs; ENT examining/treatment tables; ENT treatment units; oral lavage units; polymer middle earmold; otoplasty prosthesis; rhinoplasty prosthesis; cutting blocks; gelfoam punch; ossicular finger vise; piston cutting jigs; wire bending die; wire closure forceps; wire crimpers; wire cutting scissors.

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Committee name	Date, time, and place	Type of meeting and contact person
4. Panel on Review of Obstetrical and Gynecological Devices.	Sept. 27 and 28, 9 a.m., Rm. 6821, FB-8, 200 C St. SW., Washington, DC.	Open public hearing, Sept. 27, 9 a.m. to 10 a.m.; open committee discussion, Sept. 27, 10 a.m. to 4 p.m. open public hearing, Sept. 28, 9 a.m. to 10 a.m. open committee, discussion, Sept. 28, 10 a.m. to 3 p.m.; Lillian Yin, Ph. D. (HFK-470), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the committee: Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the devices listed below to Lillian Yin, Ph. D., executive secretary. Submission of data relative to tentative classification findngs is also invted. On September 28, John B. Josimovich, M.D., will speak on patterns of infection with IUD use.

Open committee discussion: The panel will review classification of the following devices: Colpomicroscopes; colposcopes; pelvimeters; gyn biopsy forceps; cervical cytological spatula; fetoscopes (stethoscopic); aminiotomes; vaginal applicators; uterine insufflation cannula and accessories; circumcision clamps; umbilical clamps; uterine clamps; cleidoclast; lithotomy drape clips; craniotomes; craniotribes; uterine curettes; expandable dilators; fixed size dilators; vaginal dilators; uterine elevators; gynecological-surgical forceps and acessories; obstetrical forceps and accessories; fibroid hooks; obstetrical-destructive hooks; cervical cone knives; cerclage needles; uterine packers; vaginal retractors; episiotomy scissors; umbilical scissors; fibroid screws; uterine sounds; vaginal/illuminated specula; vaginal/non-illuminated specula; uterine tenacula; menstrual cups; vaginal douche kits; vaginal insufflator; menstrual pads; nonpowered sitz bath kits; abdominal binders; breast binders; maternity and nursing brassieres; maternity girdles; breast pads; manual breast pump; breast shields; vaginal electrical stimulators; ovulation detectors; bladder support implants; perineometer. The panel will review the draft guidelines for preclinical and clinical studies for a product development protocol for IUD's prepared by the Conception Control Devices Subcommittee.

Committee name	Date, time, and place	Type of meeting and contact person
5. Panel on Review of Ophthalmic Devices.	Sept. 27 and 28, 9:30 a.m., Rm. 4131, HEW-N, 330 Independence Ave. SW., Washington, DC.	Open public hearing, Sept. 27, 9:30 a.m. to 10:30 a.m.; open committee discussion, Sept. 27, 10:30 a.m. to 4:30 p.m.; open public hearing Sept. 28, 9:30 a.m. to 10:30 a.m.; open committee discussion, Sept. 28, 10:30 a.m. to 4:30 p.m.; James G. Dillon, Ph. D. (HFK-470), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to submit pertinent information in writing or to make an oral presentation to the panel. Any interested person who wishes to make a presentation should inform James Dillon, Ph. D., executive secretary, orally or in writing, prior to the meeting.

Open committee discussion. The panel will review clinical guidelines for the development of intraocular lenses. The panel, having completed classification of ophthalmic devices and having begun to summarize the reasons for the recommendations and identification of any risks to health that may be associated with the device, will continue with the summarization until it is completed.

Committee name	Date, time, and place	Type of meeting and contact person
6. Panel on Review of Topical Analgesics.	Sept. 27 and 28, 8 a.m. (Sept. 28), Hyatt Regency, 939 Ridge Lake Blvd., Memphis, TN.	Closed committee deliberations, Sept. 27, 11 a.m. to 7 p.m.; open public hearing, Sept. 28, 8 a.m. to 9 a.m.; closed committee deliberations, Sept. 28, 11 a.m. to 7 p.m.; Lee Geismar (HFD-510), 5600 Fishers Lane, Rockville, MD 20852, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. The panel will review data submitted in confidence pursuant to the OTC review's call for data for this panel (see also 21 CFR 330.10(a)(2)). This will include product names, formulas and formulation process data, sales data, and in some cases, portions of pending or approved New Drug Applications. Also, discussions relating to labeling, drug class standards, and testing will often be intermixed with discussion of formulas, sales data, or NDA material in such a way that the two discussions often cannot be separated without seriously impeding the progress of the panel's deliberations.

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

This portion of the meeting will be closed to permit discussion of trade secret data and to avoid undue interference with the panel's continuing review and investigation of the ingredients included in OTC drug products (5 U.S.C. 552(b) (4) and (5)).

Committee name	Date, time, and place	Type of meeting and contact person
7. Dermatology Advisory Committee.	Sept. 30, 8:30 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 8:30 a.m. to 9:30 a.m.; closed presentation of data, 9:30 a.m. to 12 m.; open committee discussion, 1 p.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 5 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, MD 20852, 301-443-4310.

General function of the committee. Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of dermatology.

Agenda—Open public hearing. Any interested persons may present data, information or views, orally or in writing, on issues pending before the committee.

Closed presentation of data. Review of Topicycline (NDA 50-493); presentations by Procter & Gamble and FDA reviewers. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552(b)(4)).

Open committee discussion. Discussion of Kwell, and review of guidelines for topical corticosteroids.

Closed committee deliberations. Discussion of subjects shown in open session above. This portion of the meeting will be closed to permit the free exchange of internal views and to avoid undue interference with agency operations (5 U.S.C. 552(b)(5)).

Committee name	Date, time, and place	Type of meeting and contact person
8. Panel on Review of Oral Cavity Drug Products.	Sept. 30 and Oct. 1, 9 a.m., Conference Rm. B, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, Sept. 30, 9 a.m. to 10 a.m.; closed committee deliberations, Sept. 30, 10 a.m. to 4:30 p.m., Oct. 1, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20852, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. The panel will review data submitted in confidence pursuant to the OTC review's call for data for this panel (see also 21 CFR 330.10(a)(2)). This will include product names, formulas and formulation process data, sales data and, in some cases, portions of pending or approved New Drug Applications. Also, discussions relating to labeling, drug class standards, and testing will often be intermixed with discussion of formulas, sales data, or NDA material in such a way that the two discussions often cannot be separated without seriously impeding the progress of the panel's deliberations.

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

This portion of the meeting will be closed to permit discussion of trade secret data and to avoid undue interference with the panel's continuing review and investigation of the ingredients included in OTC drug products (5 U.S.C. 552(b) (4) and (5)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the Advisory committee meetings so designated in this notice shall be closed. Both the Federal Advisory Committee Act and 5 U.S.C. 552(b) permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed shall, however, be closed for the shortest time possible consistent with the intent of the cited statutes.

Generally, FDA advisory committees will be closed because the subject matter is exempt from public disclosure under 5 U.S.C. 552(b) (4), (5), (6), or (7), although on occasion the other exemptions listed in 5 U.S.C. 552(b) may also apply. Thus, a portion of a meeting may be closed where the matter involves a trade secret; commercial or financial information that is privileged or confidential; personnel, medical, and similar files, disclosure of which could be an unwarranted invasion of personal privacy; and investigatory files compiled for law enforcement purposes. A portion of a meeting may also be closed if the Commissioner determines: (1) That it involves inter-agency or intra-agency memoranda or discussion and deliberations of matters that, if in writing would constitute such memoranda, and which would, therefore, be exempt from public disclosure; and (2) that it is essential to close such portion of a meeting to protect the free exchange of internal views and to avoid undue interference with agency or committee operations.

Examples of matters to be considered at closed portions are those related to the review, discussion, evaluation or ranking of grant applications; the review, discussion, and evaluation of specific drugs or devices; the deliberation and voting relative to the formation of specific regulatory recommendations (general discussion, however, will generally be done during the open committee discussion portion of the meeting); review of trade secrets or confidential data; consideration of matters involving FDA investigatory files; and review of medical records of individuals.

Examples of matters that ordinarily will be considered at open meetings are those related to the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices that have previously been made public, and presentation of any other data or information that is not exempt from public disclosure.

Dated: August 16, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-24408 Filed 8-20-76;8:45 am]

Food and Drug Administration

BACTERIOLOGICAL ANALYTICAL MANUAL FOR FOODS

Availability

The Food and Drug Administration (FDA) announces the public availability of the recently revised and expanded fourth edition of the Bacteriological Analytical Manual for Foods (BAM).

The purpose of this edition of the BAM, like previous editions, is to provide FDA laboratories with effective methods for qualitative and quantitative detection of microorganisms and some of their metabolic products. No claim is made that these methods are permanent. However, these methods are currently considered to be the most useful to FDA in enforcing the provisions of the Federal Food, Drug, and Cosmetic Act.

V 41 164 AUG 23 76 UMI

The contents of the BAM include procedures for sampling, handling and preparing samples, and conducting microscopic examination and aerobic plate counts. The chapters deal with specific organisms such as coliforms, enterococci, *Salmonella* (cultural and fluorescent antibody methods), *Shigella, Vibrio parahaemolyticus, Vibrio cholerae, Staphylococcus aureus* and its enterotoxins, *Clostridium botulinum, Clostridium perfringens*, and *Bacillus cereus*.

The manual also includes methods for enumeration of yeasts and molds in foods, examination of sterilized or microbiologically stable milk products, direct microscopic examination of eggs, and the detection of penicillin and other microbial inhibitors in milk and milk products. Appendices cover culture media, reagents, diluents, stains and staining procedures, and most-probable-number tables.

The manual is available from the Association of Official Analytical Chemists (AOAC), Box 540, Benjamin Franklin Station, Washington, DC 20044. The cost is $10.00 per copy, including postage and handling. Supplements will be forwarded automatically to purchasers at no additional charge. It is anticipated that supplements dealing with the examination of canned foods and can seams will be available in the near future.

Dated: August 17, 1976.

JOSEPH P. HILE, —
Acting Associate Commissioner for Compliance.

[FR Doc.76-24576 Filed 8-20-76;8:45 am]

National Institutes of Health

STUDY SECTIONS

Meetings During October and November

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for October and November 1976 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of study section members on individual applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20014, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time.

Study section	October-November 1976 meetings	Time	Location
Allergy and Immunology, Dr. Mischa E. Friedman, Rm. 320, Tel. 301-496-7380.	Nov. 4-6	8:45	Holiday Inn, Chevy Chase, Md.
Applied Physiology and Bioengineering, Mrs. Ileen E. Stewart, Rm. 318, Tel. 301-496-7581.	Oct. 28-30	8:30	Building 31, Bethesda, Md.
Bacteriology and Mycology, Dr. Milton Gordon, Rm. A-27, Tel. 301-496-7340.	Oct. 28-30	8:30	Holiday Inn, Chevy Chase, Md.
Biochemistry, Dr. Adolphus P. Toliver, Rm. 350, Tel. 301-496-7516.	Nov. 10-13	9:00	Holiday Inn, Bethesda, Md.
Biophysics and Biophysical Chemistry A, Dr. Irvin Fuhr, Rm. 4A-09, Tel. 301-496-7060.	Nov. 5-7	9:00	Mayflower Hotel, Washington, D.C.
Biophysics and Biophysical Chemistry B, Dr. John B. Wolff, Rm. 4A-07, Tel. 301-496-7070.	Oct. 28-30	8:30	Kenwood Country Club, Bethesda, Md.
Cardiovascular and Pulmonary, Dr. Vincent J. Cairoli, Rm. 339, Tel. 301-496-7901.	Oct. 27-30	8:30	Holiday Inn, Bethesda, Md.
Cardiovascular and Renal, Dr. Floyd O. Atchley, Rm. 339, Tel. 301-496-7901.	Nov. 3-6	8:30	Do.
Cell Biology, Dr. Evelyn A. Horenstein, Rm. 4A-04, Tel. 301-496-7020.	Nov. 11-13	8:30	Holiday Inn, Chevy Chase, Md.
Communicative Sciences, Mr. Frederick J. Gutter, Rm. 321, Tel. 301-496-7550.	Oct. 27-29	8:30	Building 31, Bethesda, Md.
Computer and Biomathematical Sciences, Dr. Bernice S. Lipkin, Rm. 310, Tel. 301-496-7568.	Nov. 10-12	9:00	Executive House, Washington, D.C.
Developmental Behavioral Sciences, Dr. Bertie H. R. Woolf, Rm. 4A-10, Tel. 301-496-7471.	Nov. 3-5	9:00	Mayflower Hotel, Washington, D.C.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346.	Oct. 18-21	[1] 7:00	Sheraton Inn, Silver Spring, Md.
Epidemiology and Disease Control, Mr. Glenn G. Lamson, Jr., Rm. 4A-11, Tel. 301-496-7224.	Nov. 3-5	8:30	Building 31, Bethesda, Md.
Experimental Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7004.	Nov. 2-4	9:00	Quality Inn, Silver Spring, Md.
Experimental Therapeutics, Dr. Anne R. Bourke, Rm. 319, Tel. 301-496-7839.	Oct. 21-23	8:30	Kenwood Country Club, Bethesda, Md.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301-496-7474.	Nov. 15-17	8:30	Building 31, Bethesda, Md.
General Medicine A, Dr. Harold M. Davidson, Rm. 354, Tel. 301-496-7797.	Nov. 8-10	9:00	Do.
General Medicine B, Dr. William F. Davis, Jr., Rm. 322, Tel. 301-496-7730.	Nov. 4-6	9:00	Embassy Row Hotel, Washington, D.C.
Genetics, Dr. Katherine S. Wilson, Rm. 349, Tel. 301-496-7271.	Nov 4-6	9:00	Building 31, Bethesda, Md.
Hematology, Dr. Joseph E. Hayes, Jr., Rm. 355, Tel. 301-496-7506.	Nov. 18-20	9:00	Holiday Inn, Chevy Chase, Md.
Human Embryology and Development, Dr. Samuel Moss, Rm. 221, Tel. 301-496-7597.	Oct. 28-30	9:00	Building 31, Bethesda, Md.
Immunobiology, Dr. James H. Turner, Rm. A-25, Tel. 301-496-7780.	Nov. 3-5	9:00	Kenwood Country Club, Bethesda, Md.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. A-36, Tel. 301-496-7179.	Nov. 15-17	9:00	Building 31, Bethesda, Md.
Medicinal Chemistry A, Dr. Asher A. Hyatt, Rm. 222, Tel. 301-496-7286.	Nov. 4-7	9:00	Hyatt Regency Washington, Washington, D.C.
Medicinal Chemistry B, Jr. Richard P. Bratzel, Rm. 222, Tel. 301-496-7286.	Nov. 18-20	9:00	Kenwood Country Club, Bethesda, Md.
Metabolism, Dr. Robert M. Leonard, Rm. 218, Tel. 301-496-7091.	Nov. 4-6	8:30	Building 31, Bethesda, Md.
Microbial Chemistry, Dr. Gustave Silber, Rm. 357, Tel. 301-496-7130.	Nov. 4-6	8:30	Embassy Row Hotel, Washington, D.C.
Molecular Biology, Dr. Donald T. Disque, Rm. 328, Tel. 301-496-7520.	Oct. 28-30	8:30	Connecticut Inn Motel, Washington, D.C.
Molecular Cytology, Dr. Wendell H. Kyle, Rm. 325, Tel. 301-496-7149.	Nov. 4-6	8:30	Building 31, Bethesda, Md.
Neurology A, Dr. William E. Morris, Rm. 326, Tel. 301-496-7095.	Nov. 10-13	9:00	Do.
Neurology B, Dr. Willard L. McFarland, Rm. 2A-10, Tel. 301-496-7422.	Oct. 21-23	8:00	Embassy Row Hotel, Washington, D.C.
Nutrition, Dr. John R. Schubert, Rm. 204, Tel. 301-496-7178.	Nov. 3-5	8:30	Holiday Inn, Bethesda, Md.
Oral Biology and Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 4A-03, Tel. 301-496-7818.	Oct. 26-29	9:00	Building 31, Bethesda, Md.
Pathobiological Chemistry, Dr. J. Sri Ram, Rm. 206, Tel. 301-496-7432.	Nov. 3-8	9:00	Do.
Pathology A, Dr. William B. Savchuck, Rm. 337, Tel. 301-496-7305.	Oct. 27-29	8:30	Sheraton Inn, Silver Spring, Md.
Pathology B, Mrs. Barbara S. Bynum, Rm. 352, Tel. 301-496-7244.	Nov. 3-5	8:30	Holiday Inn, Chevy Chase, Md.
Pharmacology, Dr. Joseph A. Kaiser, Rm. 334, Tel. 301-496-7408.	Oct. 26-28	8:30	Georgetown Inn, Washington, D.C.
Physiological Chemistry, Dr. Robert L. Ingram, Rm. 338, Tel. 301-496-7837.	Nov. 11-13	9:00	Building 31, Bethesda, Md.
Physiology, Dr. Clara E. Hamilton, Rm. 219, Tel. 301-496-7878.	Nov. 4-6	9:00	Do.
Population Research, Miss Carol A. Campbell, Rm. 210, Tel. 301-496-7140.	Nov. 5-7	9:00	Dupont Plaza Hotel, Washington, D.C.
Radiation, Dr. Robert L. Straube, Rm. 309, Tel. 301-496-7510.	Nov. 1-3	8:30	Building 31, Bethesda, Md.
Reproductive Biology, Dr. Dharam S. Dhindsa, Rm. 307, Tel. 301-496-7318.	Nov. 3-6	8:30	Holiday Inn, Bethesda, Md.
Surgery A, Dr. Raymond J. Helvig, Rm. 336, Tel. 301-496-7771.	Oct. 28-30	8:30	Holiday Inn, Chevy Chase, Md.

Study section	October-November 1976 meetings	Time	Location
Surgery B, Dr. Joe W. Atkinson, Rm. 348, Tel. 301-496-7506.	Oct. 28-30	8:30	Do.
Toxicology, Dr. Rob S. McCutcheon, Rm. 226, Tel. 301-496-7570.	Oct. 28-30	8:30	Holiday Inn, Bethesda, Md.
Tropical Medicine and Parasitology, Dr. Betty June Myers, Rm. 319, Tel. 301-496-7484.	Oct. 30 to Nov. 1.	9:00	University City Holiday Inn, Philadelphia, Pa.
Virology, Dr. Claire H. Winestock, Rm. 340, Tel. 301-496-7128.	Oct. 28-30	8:30	Building 31, Bethesda, Md.
Visual Sciences A, Dr. Orvil E. A. Bolduan, Rm. 2A-05, Tel. 301-496-7180.	Oct. 27-29	9:00	Sheraton Park Hotel, Washington, D.C.
Visual Sciences B, Dr. Marie A. Jakus, Rm. 353, Tel. 301-496-7251.	Oct. 27-30	9:00	Kenwood Country Club, Bethesda, Md.

[1] P.m.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393-13.396, 13.836-13.844, 13.846-13.871, 13.876, National Institutes of Health, DHEW.)

Dated: August 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-24373 Filed 8-20-76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on September 10, 11 and 12, 1976, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9:00 a.m. each day and will be open to the public, subject to the limitation of available space. The meeting will be held on September 12 only if it is determined to be necessary at the session on September 11.

The agenda will include discussion of issues identified in the legislative mandate to the Commission under Pub. L. 93-348 and 94-278, including deliberations on psychosurgery, deliberations on research involving children and the institutionalized mentally infirm, reports on the moral status of children and the use of "distributive justice" in policy making, sections of a final report on institutional review boards relating to research involving children and the institutionalized mentally infirm, and preliminary reports on the Special Study (section 203 of Pub. L. 93-348).

In accordance with the provisions of 5 U.S.C. 552(b)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4:00 p.m. to 5:00 p.m. on September 11, 1976 for the discussion of internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Requests for information should be directed to Ms. Anne Ballard, (301) 496-7776, Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Dated: August 16, 1976.

CHARLES U. LOWE,
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.76-24657 Filed 8-20-76;8:45 am]

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

The portion of the meeting of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research on September 11, 1976 from 4 p.m. to 5 p.m. listed in the notice as being closed involves the discussion of internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, this portion of the meeting is concerned with matters exempt from mandatory disclosure under 5 U.S.C. 552(b)(6).

Therefore, it is hereby determined in accordance with the provision of section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix 1) that the portion of the meeting referred to above will be closed as indicated.

Dated: August 17, 1976.

JAMES F. DICKSON, III,
Acting Assistant Secretary for Health.

[FR Doc.76-24655 Filed 8-20-76;8:45 am]

Office for Civil Rights

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Report on Nonpublic Schools Participating in Federal Programs

This Report is in response to questions concerning the participation by children enrolled in a nonpublic school in federally assisted programs administered by a public school.

Section 601 of Title VI of the Civil Rights Act of 1964 provides as follows:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity which receives Federal financial assistance.

Any educational institution or system which applies to become a recipient of Federal financial assistance is required by the Office for Civil Rights (OCR) to submit an assurance of compliance form (HEW Form 441). See 45 CFR 80.4. In addition, the Office for Civil Rights requires such an applicant to provide adequate documentation relating to the policies and practices of participating institutions, in order to show that the program receiving Federal assistance will not be administered in a discriminatory manner.

The issue addressed here in whether OCR requires any information or documentation from a nonpublic school in order to determine that children enrolled in that nonpublic school are eligible to participate in a federally assisted program being administered by a public school or agency.

If the nonpublic school were a recipient of Federal financial assistance, apart from the federally assisted program administered by the public school, then the nonpublic school would be subject to the requirements, noted above, to submit a HEW Form 441 and other documentation. However, if the nonpublic school is not to be a recipient of Federal financial assistance, but merely seeks eligibility for its students to participate in the federally assisted program of the public institution, OCR does not require HEW Form 441 from the nonpublic school. Rather, OCR requires the public institution which is the recipient of Federal assistance to provide that form and the documentation referred to above. The recipient school is responsible for making sure that no discriminatory practices occur in the federally assisted program and, if any questions arise in this regard, OCR looks to the recipent for further information or compliance activities.

It should be noted, however, that the children enrolled in the nonpublic school cannot participate in the public school program if the nonpublic school engages in discriminatory practices prohibited by Title VI. Even though the nonpublic school is not a recipient, any discriminatory practices by it would, in our view, directly affect the federally assisted program.

Although the Regional Offices of OCR will be able to provide information about those schools which have become the subject of a compliance review, OCR does not maintain a list, as such, of approved nonpublic schools and we do not require a nonpublic school to be so listed in order that children enrolled there can participate in public school programs.

If there are any questions they should be sent to the appropriate Regional OCR

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Director. Their names and addresses are as follows:

REGION I—CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, VERMONT

Mr. John G. Bynoe, Director, Office for Civil Rights, Region I, Department of Health, Education, and Welfare, RKO General Building—Room 501, Bullfinch Place—Government Center, Boston, Massachusetts 02114.

REGION II—NEW JERSEY, NEW YORK, PUERTO RICO, VIRGIN ISLANDS

Ms. Barbara Walker, Acting Director, Office for Civil Rights, Region II, Department of Health, Education, and Welfare, 26 Federal Plaza—Room 3908, New York, New York 10007.

REGION III—DELAWARE, DISTRICT OF COLUMBIA, MARYLAND, PENNSYLVANIA, VIRGINIA, WEST VIRGINIA

Mr. Dewey E. Doods, Director, Office of Civil Rights, Region III, Department of Health, Education, and Welfare, Gateway Building, 3535 Market Street, Post Office Box 13716, Philadelphia, Pennsylvania 19101.

REGION IV—ALABAMA, FLORIDA, GEORGIA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, SOUTH CAROLINA, TENNESSEE

Mr. William Thomas, Director, Office for Civil Rights, Region IV, Department of Health, Education, and Welfare, 50 Seventh Street, N.E., Atlanta, Georgia 30308.

REGION V—ILLINOIS, INDIANA, MICHIGAN, MINNESOTA, OHIO, WISCONSIN

Mr. Kenneth A. Mines, Director, Office for Civil Rights, Region V, Department of Health, Education, and Welfare, 300 South Wacker Drive—8th Floor, Chicago, Illinois 60606.

REGION VI—ARKANSAS, LOUISIANA, NEW MEXICO, OKLAHOMA, TEXAS

Ms. Dorothy D. Stuck, Director, Office for Civil Rights, Region VI, Department of Health, Education, and Welfare, 1200 Main Tower Building—Room 960, Dallas, Texas 75202.

REGION VII—IOWA, KANSAS, MISSOURI, NEBRASKA

Mr. Taylor D. August, Director, Office for Civil Rights, Region VII, Department of Health, Education, and Welfare, 12 Grand Building, 12th & Grand Streets—7th Floor, Kansas City, Missouri 64106.

REGION VIII—COLORADO, MONTANA, NORTH DAKOTA, SOUTH DAKOTA, UTAH, WYOMING

Mr. David Florence, Director, Office for Civil Rights, Region VIII, Department of Health, Education, and Welfare, Federal Building, 1961 Stout Street—Room 11037, Denver, Colorado 80202.

REGION IX—ARIZONA, CALIFORNIA, HAWAII, NEVADA

Mr. Floyd L. Pierce, Director, Office for Civil Rights, Region IX, Department of Health, Education, and Welfare, 760 Market Street—Room 700, San Francisco, California 94102.

REGION X—ALASKA, IDAHO, OREGON, WASHINGTON

Ms. Marlaina Kiner, Director, Office for Civil Rights, Region X, Department of Health, Education, and Welfare, Arcade Plaza Building, 1321 Second Avenue, M/S 137, Seattle, Washington 98101.

Dated: August 16, 1976.

MARTIN H. GERRY,
Director, Office for Civil Rights.

[FR Doc.76-24656 Filed 8-20-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[Docket No. 76-159]

DESIGN AND EQUIPMENT SOLAS WORKING GROUP

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Design and Equipment SOLAS Working Group, Ad-Hoc Working Group on Nuclear Ships to be held Friday, September 17, 1976 at NASSIF Building, Room 7200, 400 Seventh St., SW., Washington, D.C., at 9:30 a.m.

The agenda for this meeting is as follows: To discuss the development by the Inter-governmental Maritime Consultative Organization of an international code for the design, equipment and operation of nuclear powered merchant vessels.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtaind from, CDR J. DECK, III, Chief, Ship Design Branch, COMDT (G-MMT-4/82), U.S. Coast Guard, Washington, D.C. 20590 (Phone: 202-426-2197). Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. 20590 on 16 August 1976.

W. W. BENKERT,
Chief, Office of Merchant Marine Safety.

[FR Doc.76-24644 Filed 8-20-76;8:45 am]

Federal Aviation Administration

FAA FLIGHT INFORMATION ADVISORY COMMITTEE (FIAC)

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting (No. 2-76) of the Federal Aviation Administration (FAA) Flight Information Advisory Committee (FIAC) to be held beginning at 9:30 a.m., e.d.t., September 23, 1976, in Rooms 5A, B, C, at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. The agenda for this meeting is as follows:

1. Approval of minutes of meeting 1-76.
2. Approval of agenda.
3. A status report and further discussion on the following subjects from previous meetings.
   a. Airport/facility directory.
   b. Criteria for frequencies to be shown on IAP Charts.
   c. IAP bound volume concept.
   d. The establishment of a Pacific FLIP similar to that in Alaska and other alternatives.
   e. New concept (VFR Radio Navigation) of World Aeronautical Chart (WAC).
   f. Minimum Terrain Elevation Figure (MTEF) and Minimum Elevation Figure (MEF).
   g. Pilot controlled lighting.
4. A discussion of the need for a new publication consolidated procedures from various sources for oceanic operations.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than September 13, 1976, and information may be obtained from, Mr. Milton Wassmann, Executive Secretary, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone No. (202) 426-3758. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on August 17, 1976.

CHARLES V. HANNAN,
Chairman, Flight Information, Advisory Committee.

[FR Doc.76-24645 Filed 8-20-76;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX76-4; Notice 2]

DAIHATSU MOTOR CO. LTD.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice grants in part and denies in part the petition by Daihatsu Motor Co. Ltd. of Osaka, Japan, for a temporary exemption from portions of two Federal motor vehicle safety standards that apply to motorcycles. The basis of the petition was that it would facilitate the development and field evaluation of a low-emission vehicle.

Notice of the petition was published on June 3, 1976 (41 FR 22403) and an opportunity afforded for comment.

The vehicle for which exemption is sought is the Daihatsu Trike Model B20, an electric tricycle which has been developed for short distance on-road use. The B20's headlamp does not meet minimum photometric requirements specified for headlamps of motor-driven cycles in Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, nor will its parking brake system hold it for 5 minutes on a 30 percent grade in the reverse direction as required by Motor Vehicle Safety Standard No. 122, *Motorcycle Brake Systems*. The company argued that these nonconformances do not degrade the overall safety of the vehicle. The Daihatsu headlamp is said to be able to reveal an individual or vehicle at a distance of 300 feet, while it has its ability to stop within 15 feet from its top speed of 17.5 mph. Its maximum climbing ability is 10.5 percent which renders it unlikely ever to be parked on a grade that exceeds it. Its parking brake system however, holds it in a reverse direction on a 20-percent grade, but the vehicle begins to slide at any grade exceeding 20 percent. Petitioner argued that the exemption would allow evaluation of "one step of electric motor vehicle evolution". It will work to conform by July 15, 1978, and in the interim will not export more than 2,500 units of exempted B20's to the United States in any 12-month period for which an exemption is granted.

The California Highway Patrol supported the request for exemption from Standard No. 122 and opposed any exemption from Standard No. 108. No other comments were received. California agreed with petitioner's conclusion that the parking brake noncompliance with Standard No. 122 is relatively unimportant since it is unlikely that the low-powered B20 would ever be operated on a grade exceeding its ability to climb it. In its view, however, other electric motorcycles and tricycles are available with conforming lighting equipment, and for this reason it did not appear that an exemption from Standard No. 108 would facilitate low-emission vehicle development.

Under Section 123(a)(1)(C) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410(a)(1)(C)) the Administrator may provide the exemption that Daihatsu has requested if he finds that it "would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle." This authority implements national policy to encourage the development of engines whose toxic emissions are below the levels established by Congress, as well as those that may be acceptable alternatives to internal combustion power plants. Pursuant to this authority exemptions have been providcd a number of manufacturers of electric motor vehicles for a variety of transportation purposes—to an established manufacturer who had contracted to supply light trucks to the US Postal Service (AM General), to companies formed for the express purpose of electric vehicle production (Vanguard, Elcar); and to private entrepreneurs converting conventional motor vehicles to electric power (Electric Propulsion Systems, Waterman Industries, Jet Industries). The Daihatsu petition represents the first application on behalf of an electric powered motorcycle. While its range and carrying capacity appears limited, the B20 Trike is nevertheless an alternative form of transportation to a conventional motorcycle, deserving an opportunity to be tested under the competitive conditions of the American market. It is clear that an exemption would facilitate the field evaluation of a low-emission motor vehicle.

It is also clear, however, that an exemption from Standard No. 108 would unreasonably degrade the safety of the motor vehicle. With respect to Standard No. 122, the NHTSA agrees with Daihatsu, as concurred in by California, that a vehicle with a climbing ability of less than 11 percent is unlikely ever to be operated on a grade exceeding the ability of its parking brake to hold it there. However, the failure of the headlamp to meet the already-low photometric output required of motor driven cycle headlamps presents a different problem. While it may be true that the B20 can stop from its maximum speed of 17.5 mph in 15 feet, and its headlamps illuminate an object at a distance of 300 feet, there remains the question of whether the B20 will be accurately perceived by motorists approaching it from the opposite direction. The low silhouette and lessened speed of the B20 appear to make it as vulnerable as any other motor driven cycle such as a moped or motor scooter, in a traffic environment of heavier and faster moving motor vehicles. It ought, therefore, to be provided with the minimum headlamp output that Standard No. 108 requires if the overall safety of the vehicle is not to be degraded. There is a further consideration, too. The B20 headlamp uses a 24 volt bulb, not generally available on the American market. In the event of bulb failure, the inability to readily obtain a replacement would without doubt degrade the safety of the vehicle. The NHTSA asked Daihatsu whether it would be willing to use a 12 volt bulb, readily available on the American replacement market, which would require only a simple wiring change in the B20. The petitioner replied that this would cause a "power loss" and that it was more "convenient" to use the 24 volt bulb. The NHTSA has concluded that any such power loss should not be great and that a denial of the petition for exemption from Standard No. 108 ought not to prevent the introduction of the B20 into the American market, modified to accept a 12 volt bulb, and providing the headlamp output of other motordriven cycles.

In consideration of the foregoing, it is hereby found that a temporary exemption from the parking brake requirements of Standard No. 122 would facilitate the development and field evaluation of a low-emission motor vehicle and not degrade its overall safety. Accordingly, Daihatsu Motor Co. Ltd. is hereby granted NHTSA Exemption No. 76-4 from paragraph S5.6 of 49 CFR 571.122, Motor Vehicle Safety Standard No. 122, expiring July 1, 1978. The Administrator finds that an exemption from 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 would degrade the overall safety of the vehicle, and Daihatsu's petition for exemption from this standard is hereby denied.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C., 1410); delegation of authority at 49 CFR 1.50.)

Issued on August 13, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-24444 Filed 8-20-76;8:45 am]

[Docket No. EX 76-3; Notice 2]

WAYNE CORP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice grants the petition by Wayne Corporation, through its Miller-Meteor Division of Piqua, Ohio, for a temporary exemption from Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*, on the basis that compliance would cause it substantial economic hardship.

Miller-Meteor is a final-stage manufacturer of multi-purpose passenger vehicles, specifically funeral coaches and ambulances which it mounts on commercial chassis supplied by Cadillac Division of General Motors Corporation ("GM" hereafter). In the 12-month period March 1, 1975 through February 29, 1976, Miller-Meteor produced 551 such vehicles. In the same period Wayne produced approximately 5700 additional motor vehicles, primarily school buses, and specialized vehicles manufactured under contract. As required by 49 CFR Part 568, *Vehicles Manufactured in Two or More Stages*, GM as the manufacturer of an incomplete vehicle furnishes with each chassis information that the final-stage manufacturer, Miller-Meteor, may use to complete the vehicle so that it meets, and may be certified as meeting, all applicable Federal motor vehicle safety standards. On and after September 1, 1976, Standard No. 301-75 will apply to multi-purpose passenger vehicles including petitioner's products, and GM has informed the petitioner that it will make no representation as to conformity with Standard No. 301-75 on the grounds that compliance with it is not substantially determined by design of the incomplete vehicle. Petitioner has submitted itemized lists of fuel system compliance test programs for its vehicles based upon frontal barrier impact tests, estimating the cost of the 1977 model test program at $148,000, and the 1978 model test program at $71,000. It anticipates that modification in the body side and wheelhouse areas, and the "addition of deflection members, isolation plates and protective cages" will be required to effect compliance by September 1, 1978. To require compliance with Standard No. 301-75 in advance of that time would in its opinion add over $1,000 to the cost of an ambulance and in excess of 600 to that of a hearse. The company anticipates retail price increases of 15 to 20 percent for its 1977 models, without

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including any 301 conformance costs. Although Wayne Corporation had a net profit of $2,992,000 before taxes in 1975, the Miller-Meteor Division had a net loss of $461,000 for that year, and projects a further net loss of $351,000 in 1976. The company argues that an exemption is in the public interest and consistent with traffic safety objectives since it provides employment in an economically troubled geographic area and only a small number of vehicles are involved.

No comments on the petition were received.

NHTSA depends upon cooperation between incomplete vehicle and final-stage manufacturers in effecting compliance of multi-stage vehicles with the Federal motor vehicle safety standards. In its review of Wayne's petition, this agency has been concerned with GM's position that it will make no representation as to conformity with Standard No. 301–75 "as compliance is not substantially determined by design of the incomplete vehicle". GM delivers its chassis to Wayne with fuel system components and power train already installed, some of which Wayne removes (in order to mount a body) and reinstalls. It is clear that compliance of the completed vehicle with Standard No. 301–75 is substantially determined by both the design of the incomplete vehicle and the manner of completion by the final-stage manufacturer. Therefore the factual context of the GM-Wayne relationship precludes GM from use of a disclaimer in the incomplete vehicle document. GM must instead include, pursuant to Part 568, a statement that the complete vehicle will conform if no alterations are made in identified components of the incomplete vehicle will conform to Standard No. 301–75. GM has been informed of NHTSA's views in this matter.

Wayne has argued that a 2-year exemption is necessary in order to allow it to conform with the additional requirements effective on September 1, 1977. Although Wayne argues that there will be a distinct difference between 1976-model and 1977-model commercial car chassis because of the shorter models planned by Cadillac for 1977, it is understood that modifications to the 1978-model chassis will be minor. Further, the requirements of Standard No. 301–75 effective September 1, 1977, have been a matter of public record for some time and it is probable that GM has already completed engineering studies of 1978-model chassis incorporating changes deemed necessary. Consequently NHTSA expects Wayne to obtain compliance information through cooperation with GM in advance of the September 1, 1977, effective date, and to ensure that sufficient technical information, experience with the redesigned chassis, or some combination of the two will be available to allow it to conform with the additional requirements that become effective September 1, 1977. Bodies might be redesigned in such a way that no change in chassis construction is necessary. Conversely, all the necessary protection might be incorporated in an improved chassis design. The determination of the most appropriate form of such design or the time that each manufacturer might consider desirable to effect the transition is best made through cooperation or negotiation between the private parties involved. The NHTSA is therefore providing an exemption only until September 1, 1977, which should be sufficient to cover all vehicles completed on 1977-model commercial car chassis, and to insure an orderly program of compliance with 1978-model requirements. On the other hand, it seems clear that insufficient time remains before the commencement of 1977-model production to effect any changes that might be required.

It has been determined that to require compliance with Standard No. 301–75 before September 1, 1977, would cause Wayne Corp. substantial economic hardship. Since only a limited number of vehicles are involved, it is further found that the exemption is in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing, Wayne Corp. is hereby granted NHTSA Exemption No. 76–3 from 49 CFR 571.301–75, Motor Vehicle Safety Standard No. 301–75, *Fuel System Integrity*, expiring September 1, 1977.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on August 13, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-24445 Filed 8-20-76;8:45 am]

Pipeline Safety Operations Office

[Docket No. Pet. 75–13W]

TRANS-ALASKA CRUDE OIL PIPELINE

Grant of Waiver

By letter dated November 24, 1975, the Alyeska Pipeline Service Company (Alyeska) requested a waiver from compliance with the coating and cathodic protecton requirements of 49 CFR 195.238(a)(5) and 195.242(a) with respect to thermally insulated piping to be installed at the pump stations and the terminal on the Trans-Alaska crude oil pipeline.

Section 195.238(a)(5) provides: (a) No pipeline system component may be buried unless that component has an external protective coating that—

(5) Supports any supplemental cathodic protection.

Section 195.242(a) provides: (a) A cathodic protection system must be installed for all buried facilities to mitigate corrosion deterioration that might result in structural failure. A test procedure must be developed to determine whether adequate cathodic protection has been achieved.

The piping for which the waiver is sought is to be covered with an inner coating of inorganic zinc or Scotch-kote 202 and an outer coating of thermal insulation material. The outer coating consists of a high density closed-cell polyurethane foam and a vapor barrier sealant inside a rigid polyethylene jacket. This coating system precludes the effective operation of external cathodic protection. The insulation coating is necessary to maintain the temperature of oil in the piping and the temperature of the surrounding refrigerated soil.

Alyeska argues that a waiver is appropriate because the characteristics of the insulation coating and the low moisture content of the refrigerated soil virtually exclude the possibility that corrosion would occur on the piping. Alyeska further points out that these factors were determinative in the grant of waiver to Alyeska dated May 19, 1975 (40 FR 22579) regarding compliance with §§ 195.238(a)(5) and 195.242(a) for 4.3 miles of special, buried refrigerated sections of the pipeline.

In addition, Alyeska submits that the following procedures are to be followed in applying the insulation coating to the piping:

1. All insulation shall be examined upon receipt in the field and prior to application to determine integrity of vapor barrier and jacketing. If any discontinuities or flaws are found, they shall be coated or repaired (in accordance with applicable specifications). If repair is not feasible, they shall be replaced.

2. All joints shall be firmly butted together so that all voids are eliminated. Damaged butt ends or longitudinal faces shall be refitted or discarded. Insulating cement or vapor barrier material shall not be used to fill voids.

3. All circumferential and longitudinal joints shall have the polyethylene jacket sealed with a hot welding system in accordance with the manufacturer's recommendations.

4. When field conditions are such that manufacturer's recommendations for application temperatures cannot be met, or during inclement weather, the Contractor shall provide material and/or substrate heating, shelter, or other measures as necessary to insure successful application.

5. After sealing of all joints, contractor shall examine all joints or jacketing welds to insure integrity of jacketing and vapor barrier effectiveness. Examination shall be conducted by means of an electrical holiday detector.

The Materials Transportation Bureau (MTB) has reviewed the information submitted by Alyeska in connection with the requested waiver. Based on that review and other relevant information, MTB finds that a waiver is appropriate and consistent with pipeline safety for the following reasons: (1) the polyethylene jacket is a relatively impermeable barrier to moisture which is necessary for corrosion to occur; (2) in the event of a break in the outer jacket, the possibility of corrosion is minimized by the combination of a vapor barrier, low permeability of the polyurethane foam to water, and the existence of an underlying coating of Scotchkote 202 or inorganic zinc material; (3) if water does penetrate the thermal insulation, the supply of oxygen and its replenishment to support corrosion would be minimal; (4) the very high resistivity of the surrounding soil due to mechanical refrigeration virtually eliminates corrosive action; (5) the application procedures to be followed appear sufficient to insure the integrity of the insulation coating; and (6) the location of the piping at pump stations and the terminal facilitates inspection and observation of any leak which might occur.

Accordingly, effective immediately, the Alyeska Pipeline Service Company is hereby granted a waiver from compliance with the coating and cathodic protection requirements of 49 CFR 195.238(a)(5) and 195.242(a) with respect to thermaly insulated piping to be installed at the pump stations and the terminal on the Trans-Alaska crude oil pipeline.

(Sec. 6, Pub. L. 89–670, 80 Stat. 937 (49 USC 1655); (18 USC 831–835); 40 FR 43901, 49 CFR 1.53.)

Issued in Washington, D.C. on August 16, 1976.

JAMES T. CURTIS, JR.,
Director,
Materials Transportation Bureau.

[FR Doc.76-24745 Filed 8-20-76;8:45 am]

Office of the Secretary

CITIZENS' ADVISORY COMMITTEE ON TRANSPORTATION QUALITY

Open Meeting

The Citizens' Advisory Committee on Transportation Quality of the Department of Transportation will meet at 9 a.m., September 13 and 14, 1976, in Room 2230, 400 7th Street, SW., Washington, D.C.

The Citizens' Advisory Committee on Transportation Quality recommends transportation initiatives to the Secretary of Transportation, and assesses transportation policies from the consumer's viewpoint.

The subject of the two-day meeting will be the Federal Motor Vehicle Safety Standard No. 208 (Occupant Crash Protection).

The meeting is open to public observation. Those wishing to attend or to obtain additional information should contact Gail Boyle, Acting Executive Director, Citizens' Advisory Committee on Transportation Quality, Office of the Secretary of Transportation, TES–40, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202/426–4542.

This notice is given pursuant to section 10 of the Federal Advisory Committee Act (Public Law 92–463).

Issued in Washington, D.C., on August 18, 1976.

JUDITH T. CONNOR,
Assistant Secretary for Environment, Safety and Consumer Affairs.

[FR Doc.76-24643 Filed 8-20-76;8:45 am]

DELAWARE RIVER BASIN COMMISSION

PUBLIC HEARING

Notice is hereby given that the Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628, will hold a public hearing on Wednesday August 25, 1976, commencing at 2 p.m. The hearing will be held in the main conference room of the Commission's headquarters building, 25 State Police Drive, West Trenton, N.J. The subject of the hearing will be as follows:

A. Applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact:

1. *Bristol Water and Sewer Authority (D–69–66 CP(Rev.)*. Revision to the Authority's sewage treatment plant expansion in Bristol Borough, Bucks County, Pa. The facility is designed to provide removal of 89 percent of BOD_5 from an average sewage flow of 2.7 million gallons per day. Treated effluent will discharge to the Delaware River.

2. *Weatherly Municipal Authority (D–76–75 CP)*. A well water supply project to augment public water supplies in Weatherly Borough, Carbon County, Pa. Designated as Well No. 2, the new facility is expected to yield 144,000 gallons per day.

3. *Mobil Oil Corp. (D–69–195 CP (Rev.)*. Extension of a wastewater outfall line at the company's plant in Greenwich Township, Gloucester County, N.J. Approximately 15.8 million gallons per day of heated waste water will discharge to the Delaware River in a prescribed heat mixing zone.

4. *Caloric Corp. (D–76–36)*. An industrial wastewater discharge at the company's manufacturing plant in the Borough of Topton, Berks County, Pa. Treatment will involve neutralization of acid wastewater and removal of metals. About 257,000 gallons per day of treated effluent will discharge to Toad Creek, a tributary of the Lehigh River.

5. *Firestone Tire & Rubber Co. (D–76–17)*. Upgrading of industrial waste treatment facilities at the company's plant in Lower Pottsgrove Township, Montgomery County, Pa. A clarifier and oil separator will be installed to treat an average wastewater flow of 1.3 million gallons per day. Effluent will discharge to the Schuylkill River.

6. *Eastern Associated Coal Corp. (D–75–145)*. A cooling water discharge at the company's Philadelphia Coke Division in the City of Philadelphia, Pa. Approximately 4.5 million gallons per day of cooling water will be discharged to the Delaware River. Process wastewater will be segregated from the cooling water and discharged to the City's sanitary sewer system.

7. *Jersey Central Power and Light Co. (D–71–167 (Rev.))*. Modifications to the plan of operation during periods of low stream flow at the company's Gilbert Generating Station, Holland Township, Hunterdon County, N.J.

Documents relating to the items listed above may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing ((609) 883–9500).

AUGUST 11, 1976.

W. BRINTON WHITALL,
Secretary.

[FR Doc.76–24588 Filed 8–20–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 819]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 16, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under Part 68, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier; (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

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DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

22577–CD–P–76, **Phone Depots of Connecticut, Inc, d/b as Liberty Communications (KCC485)**, C.P. for additional facilities to operate on 152.03 MHz to be located at a new site described as Loc. No. 5: Corner Danbury and New Town Roads, Danbury, Connecticut.

22578–CD–P–76, Paging, Inc. (New), C.P. for a new station to operate on 152.21 MHz. (Base) and 459.200 MHz (Repeater) at Loc. No. 1 to be located at Peak knob, 1.3 miles Southeast of Pulaski; 454.200 MHz (Control) Loc. No. 2; to be located at 147 Jackson Street, Blacksburg, Virginia.

22579–CD–P–(2)–76, Radio Call Co. of New Jersey, Inc. (KEK290), C.P. to relocate, replace transmitter and change antenna system operating on 454.200 MHz. at Loc. No. 1 to be located at 8200 Kennedy Boulevard East, North Bergen: Change antenna system operating on 454.200 MHz at Loc. No. 3 located at 318 Eagle Rock Avenue, West Orange, New Jersey.

22580–CD–P–76, Great Eastern Communications Company (KWU242), C.P. to change antenna system operating on 35.58 MHz located 1 mile North on Rt. 662, Waterford, Virginia.

22588–CD–P–(3)–76, Radio Call Island, Inc. (KED367), C.P. to relocate and change antenna system operating on 454.200 MHz (Loc. No. 1); 1 Fairchild Avenue Plainview, and 454.200 MHz. (Loc. No. 2); E Side of Adirondack Dr., 300 feet S of Midvale Avenue, Selden, New York, and add a new site described as Loc. No. 3 to operate on 454.200 MHz. to be located at North Shore Towers, Grand Central Parkway, Glen Oaks, New York.

22589–CD–P–76, Radio Contact Corp. (KTS256), C.P. for additional facilities to operate on 158.70 MHz at a new site described as Loc. No. 3 to be located Near Buckhorn Mountain, 15.5 miles WNW of Fort Collins, Colorado.

22581–CD–TC–76, Radio Call Co. of Long Island, Inc. Consent to Transfer of Control from Marvin R. Neuwirth, Transferor to Long Island Message Centers, Inc. Transferee KED–367, Melville, New York.

22582–CD–P–(3)–76, The Mountain States Telephone & Telegraph Co. (KOA607), C.P. for additional facilities to operate on 454.450 and 454.600 MHz (Loc. No. 1) located 7.5 miles South of Phoenix: 152.78 MHz at (Loc. No. 3) to be located at White Tank Mountain. 8 miles WSW of Waddell, Arizona.

22683–CD–MP–76, AAA Anserphone, Inc., Jackson (KRS618), C.P. to relocated and change antenna system operating on 454.325 MHz. located 1½ miles NE of Petal, Mississippi.

22584–CD–P–ML–(2)–76, Southwestern Bell Telephone Company (KRS684), C.P. for additional facilities to operate on 152.57 MHz. to be located at 116 Ash Street, Pearsall, Texas.

22585–CD–AL–76, A–R Microwave Corporation. Consent to Assignment of License from A–R Microwave Corporation Assignor to Summit Mobile Radio Company. Assignee, Station KCA752, Auburn, Maine.

22586–CD–P–(2)–76, Mobilfone Service, Inc. (KKA402), C.P. to change antenna system operating on 459.25 MHz at Loc. No. 1 located at Magazine, 3 miles NE of Blue Mountain, Arkansas: 454.25 MHz at Loc. No. 3 located at Intersection of Yoakum and Choctaw streets, Arkoma, Oklahoma.

CORRECTION

22553–CD–TC–76, Correct entry to show Name of licensee as West Indies Communications and correct location to read St. Thomas, Virgin Islands. All other particulars to remain as previously Report No. 818, dated 8/9/76.

INFORMATIVE

This notice concerns the recent introduction of data processing to the licensing of applications in the Domestic Public Land Mobile Radio Service. The Mobile Services Division is currently issuing authorizations via the computer. In order to accomplish this mission it is necessary that we develop a data base for each authorized system (call sign). This process together with some remaining problems in the operation of our system has and will continue to cause an increase in the processing time of applications in the DPLMRS. The processing time for a non-contested, correctly completed application will increase to approximately 90 days from the date of its receipt at the Commission. It is anticipated that this increase in processing time will be temporary, lasting until the remaining new problems and procedures, which are inherent with the introduction of a data processing system, are resolved.

The benefits which can be expected due to a complete data base of all DPLMRS licensees and their facilities will far outweigh the consequences of a temporary increase in backlog.

We would therefore appreciate it if inquiries concerning the status of ones applications are not made until 90 days after the date it was filed.

On July 27, 1976, The Commission adopted Docket 19905 (FCC 76–719). It was released August 10, 1976. Included in this Report and Order is revised Section 21.33. New section 21.33 is titled Amendment of Applications and more clearly defines "Major Amendment" as used in Part 21 of the Rules. New Section 21.27(c)(1) of Docket 19905 indicates new filed applications will also be considered major or minor pursuant to the provisions of Section 21.23, subjecting them to the Public Notice requirements of Section 21.27.

At present FCC Form 401 does not provide a convenient location to indicate whether an application should be considered major or minor pursuant to Section 21.23. Effective September 17, 1976 and until FCC Form 401 is revised, all applications to be considered minor and meeting, the requirements of Section 21.23 should include as part of exhibit No. 1 (The environmental statement) a request that the application be considered minor and not subject to the Public Notice requirements of Section 21.27 (a) and (b) of the Commission's Rules.

RURAL RADIO:

60388–CR–P–(2)–76, RCA ALASKA COMMUNICATIONS, INC. (New), C.P. for a new Rural subscriber station to operate on 157.83 and 157.92 MHz to be located: Village located 8 miles ENE of Anchor Point, Nikolaevsk, Alaska.

60436–CR–P/L–(2)–76, RCA ALASKA COMMUNICATIONS, INC. (New), C.P. for a new Central Office Fixed station to operate on 87.50 MHz to be located 2.7 miles ESE of the Yakataga Airport, Yakataga, Alaska.

60437–CR–P/ML–76, Southwestern Bell Telephone Company (WIV29), C.P. for additional facilities to operate on 157.92 and 157.95 at 27.5 miles NNW of Laredo, Texas.

60438–CR–P/ML–76, Southwestern Bell Telephone Company (WPF–31), C.P. for additional facilities to operate on 157.92 and 157.98 MHz to be located at 24 miles North of Laredo, Texas.

60439–CR–P/ML–76, Southwestern Bell Telephone Company (WAQ583), C.P. for additional facilities to operate on 157.92 and 157.95 MHz to be located at 12 miles N.E. of Zapata, Texas.

4345–CF–P–76, Southwestern Bell Telephone Company (WDE62), IH20 & Hwy. 349, Midland, Texas. Lat. 31°58'37" N., Long. 102°-04'44" W. C.P. to change frequencies 6345.5V to 6286.2V toward Odessa RS, Texas on azimuth 283.2°; replace transmitter for this frequency and for 6226.9V toward Odessa RS.

4346–CF–P–76, Same, (KLT69), Odessa RS, 10 miles North, Odessa, Texas Lat. 32°02'-11" N., Long. 102°22'42" W. C.P. to change frequencies on 6093.5V 6034.2V toward Midland, Texas on azimuth 103.0°; change 5952.6H 6071.2H to 5974.8V 6034.2V MHz toward Andrens, Texas on azimuth 333.3°; replace transmitters on these frequencies and on 5974.8V MHz toward Midland RS, Texas.

4347–CF–P–76, Same, (KKK21), 1.7 miles North, Andrews, Texas Lat. 32°20'14" N., Long. 102°33'25" W. C.P. to change frequencies 6204.7H 6323.3H to 6226.9V 6286.-2V MHz toward Odessa RS, Texas on azimuth 153.2°; change 6278.9H 6397.4H to 6226.9V 6286.2V MHz toward Seminole, Texas on azimuth 348.7°; replace transmitters and antenna.

4348–CF–P–76, Same, (KLT52), 307 Southwest Third St. Seminole, Texas. Lat. 32°42'-57" N., Long. 102°38'48" W. C.P. to change frequencies 6026.7H 6145.3H to 5974.8V 6034.2V MHz toward Andrews, Texas on azimuth 168.6°; replace transmitters and antenna on these frequencies and on 5982.-3V 6100.9V MHz toward Hobbs, Texas on azimuth 268.3°; 5937.8V 6056.4V MHz toward Seagraves, Texas on azimuth 17.6°.

4725–CF–P–76, South Central Bell Tel. Company, (New), Almedia Rd. L&A R.R., Almedia, Louisiana Lat. 29°58'12" N., Long. 90°18'21" W. C.P. for a new station on frequencies 11485V 11485H MHz toward Norco, Louisiana on azimuth 288.9°.

4726–CF–P–76, Same, (new), Corner of Good Hope & 3rd, Norco, Louisiana. Lat. 30°00'-04" N., Long. 90°24'37" W. C.P. for a new station on frequencies 11035V 11035H MHz toward Almedia, Louisiana on azimuth 108.9°; and 11035V MHz toward Laplace, Louisiana on azimuth 316.4°.

4727–CF–P–76, Same, (New), Laplace Co. 821 Main Street, Laplace, Louisiana. Lat. 40°03'57" N., Long. 90°28'52" W. C.P. for a new station on frequency 11485V MHz toward Norco, Louisiana on azimuth 136.4°.

4758–CF–P–76, The Bell Telephone Company of Nevada, (New), 551 6th Street, Hawthorne Nevada Lat. 38°31'35" N., Long. 118°37'24" W. C.P. for a new station on frequencies 11485.0V 11325.0V MHz toward Skidue, passive reflector on azimuth 67.70°, and from passive reflector toward Rabbit Spring, Nevada on azimuth 284.5°.

4759–CF–P–76, Same, (KPF90), Rabbit Spring, 18.5 miles NW of Luning, Nevada. Lat. 38°39'16" N., Long. 118°18'40" W. C.P. to add point communication on frequencies 11035.0V 10875.0V MHz toward Skidue passive reflector on azimuth 104.4°, and from passive reflector toward Hawthorne, Nevada on azimuth 247.9°.

4760–CF–P–76, The Bell Telephone Company of Pennsylvania, (KYJ36), 210 Pine Street, Harrisburg, Pennsylvania Lat. 40°15'44" N., Long. 76°53'07" W. C.P. to replace transmitters and increase output power 11625H 11265V 11545H MHz Ramsey, Pennsylvania.

4761–CF–P–76, Same, (KYS58), Ramsey Hill 2.8 miles SW of Lewisberry, Pennsylvania Lat. 40°06'12" N., Long. 76°58'23' W. C.P. to replace transmitters on frequencies 10735H 11135H MHz toward Harrisburg, Pennsylvania and 11115H MHz toward Concordia, Pennsylvania; increase transmit antenna structure height and replace and move antenna on frequencies 11115H 6078.6V 6137.-9V 6019.3V MHz toward Concordia, Pennsylvania.

4762–CF–P–76, Same, (WDE64), Concordia 0.38 miles SW of Concordia Church, Pennsylvania Lat. 40°02'49" N., Long. 76°27'16" W. C.P. to replace transmitters and increase output power on frequency 11565H MHz toward Ramsey.

4776–CF–P–76, The Mountain States Telephone and Telegraph Company, (KPH60), Missoula Montana Lat. 46°51'21" N., Long. 113°55'18" W. C.P. to replace antennas and transmitters, increase output power on frequencies 10756V 10995H MHz toward TV Mountain, Montana.

4777–CF–P–76, Same, (KPH61), TV Mountain 9.5 miles N of Missoula, Montana Lat. 47°-01'09" N., Long. 114°00'41" W. C.P. to replace antennas and transmitters, increase power output on frequencies 11405V 11645H MHz toward Charlo, Montana, and 11445H 11685V MHz toward Missoula, Montana.

4778–CF–P–76, Same, (KPH62), Charlo 4.5 miles NW of Charlo, Montana Lat. 47°27'54" N., Long. 114°16'35" W. C.P. to replace antennas and transmitters, increase output power on frequencies 10715H 10956V MHz toward TV Mountain, Montana and 10755H 10995V MHz toward TM179, Montana; add 1 Hot Standby Transmitter to 6011.9H toward Ronan, Montana.

4779–CF–P–76, Same, (WOF83), Ronan, 21 Street & H Street, Ronan, Montana Lat. 47°31'47" N. Long. 114°05'52"W. C. P. to add a Hot Standby transmitter on frequency 6264H MHz toward Charlo, Montana.

4781–CF–P–76, Continental Telephone Company of California, (KPJ28), Parker, 912 12th Street Parker, Arizona Lat. 34°08'54" N., Long. 114°17'17"W. C. P. to add frequency 2114.0V MHz toward Black Peak, Arizona.

4782–CF–76, Same, (WQQ33), Black Peak 4.8 mile ESE of Parker, Arizona Lat. 34°07'29" N., Long. 114°12'36" W. C. P. to change frequency 2164.0V to 2172.0V MHz toward Bouse, Arizona; and frequency 2164.0V MHz toward Parker, Arizona; add 2164.0H MHz toward Poston, Arizona on azimuth 229.8 degrees; replace transmitter 2172.0H MHz toward Parker, Arizona.

4783–CF–P–76, Same, (WQQ32), Bouse, Plomosa Road, Bouse, Arizona Lat. 33°55'56" N., Long. 114°00'20" W. C. P. to change frequency 2114.0V to 2122.0V MHz toward Black Peak, Arizona.

4784–CF–P–76, Same, (New) Poston, Arizona Lat. 33°59'28" N., Long. 114°23'59"W. C. P. for a new station on frequency 2114.0H MHz Black Peak, Arizona on azimuth 49.7°

4763–CF–P/ML–76, Hawaiian Telephone Company, (KUQ83), Puu Kapele, Puu Kapele Trig., Hawaii. Lat. 22°04'58" N., Long. 159°40'10" W. C.P. and Mod. of License to change polarizations from horizontal to vertical on frequencies 6219.5 and 6278.8 Mhz toward Kapele passive reflector, and from passive reflector toward Kukuiolono, Hawaii.

4764–CF–P/ML–76, Same, (KXR51), Kukuiolono 0.9 miles S of Kalaheo, Hawaii Lat. 21°54'54" N., Long. 159°31'51" W. C. P. and Mod. of License to change polarization from horizontal to vertical on frequencies 5967.4 and 6026.7 MHz toward Kapele passive reflector and from passive reflector toward Puu Kapele.

4790–CF–P–76, The Offshore Telephone Company, (WGI40), EC216A Block 261 East Cameron Area, Gulf of Mexico Lat. 28°28'19" N., Long. 92°54'55" W. C. P. to change receive location for 2112.0H to West Cameron Block 513B; move antenna on 2120.0V to East Cameron Block 195A; add frequency 2128.0V toward East Cameron Block 323A on azimuth 147.6°

4791–CF–P–76, Same, (New), EC 322A Block 322 East Cameron Area, Gulf of Mexico Lat. 28°11'55" N., Long. 92°43'09" W. C. P. for a new station on frequency 2178.0V MHz toward East Cameron Block 261A on azimuth 327.7°.

4792–CF–MP–76, Same, (WAU231), Block 513 West Cameron, Gulf of Mexico Lat. 28°23'53" N., Long. 93°12'38" W. Mod. of C. P. (1169–CF–P–76) to delete West Cameron Block 513A as a point of communication; increase tower height move antennas and add frequencies 2162.0H Mhz East Cameron Block 261A on azimuth 74.0°; 2170.4V MHz toward High Island Area Block 309A on azimuth 63.8°; 2178.4H MHz toward West Cameron Block 605A on azimuth 172.6°.

4793–CF–P–76, Same, (New), Block A309, High Island Area. Gulf of Mexico Lat. 28°14'55" N., Long. 93°33'25" W. C. P. for a new station on frequencies 2120.0V MHz toward West Cameron Block 513B on azimuth 63.8°; 2126.5 Mhz toward High Island Block 330A on azimuth 155.6°.

4794–CF–P–76, Same, (New), Block A 330, High Island Area. Gulf of Mexico Lat. 28°05'47" N., Long. 93°28'43' W. C. P. for a new station on frequency 2177.0H MHz toward High Island Block 309A on azimuth 335.6°.

4795–CF–P–76, Same, (New). Block 605 West Cameron, Gulf of Mexico Lat. 28°04'36" N., Long. 93°09'48" W. C. P. for a new station on frequency 2128.4 MHz toward West Cameron Block 513B on azimuth 352.6°.

4671–CF–P–76, Southern Pacific Communication Co., (WLJ 66), Southern Pacific Bldg., Superstition Mtn., California. (Lat. 32°56'42" N., Long. 115°47'57" W.): Construction permit to add 6034.2V and 5947.8V MHz toward El Centro, California.

4672–CF–P–76, Southern Pacific Communications Co., (WQO 35), Southern Pacific Station, El Centro, California. (Lat. 32°47'36" N., Long. 115°33'03" W.): Construction permit to add 6226.9V and 6286.2V MHz toward Superstition Mtn. and Holtville, California on azimuth 95.4° toward Holtville.

4673–CF–P–76, Southern Pacific Communications Co., (WBA 878), 6.5 miles SE of Holtville, California. (Lat. 32°46'19" N., Long. 115°17'09" W.): Construction permit to add 5974.8H and 6034.2H MHz toward El Centro and 5945.2V and 5974.8H MHz toward Midway Wells, both in California on azimuths 27.5 and 114.6° respectively.

4674–CP–P–76, Southern Pacific Communications Co., (WQC 34), Southern Pacific Bldg. Midway Wells, California. (Lat. 32°42'36" N., Long. 115°07'33" W.): Construction permit to add 6226.9V and 6256.5H MHz toward Holtville, California and 3710.0H MHz toward Telegraph Pass, Arizona, on azimuth 294.7° toward Holtville, California.

4675–CF–P–76, Southern Pacific Communications Co., (WQO 32), Southern Pacific Bldg., Telegraph Pass, Arizona. (Lat. 32°40'13" N., Long. 14°20'05" W.): Construction permit to add 3950.0V MHz toward Oatman Mtn Arizona and 3750.0H MHz toward Midway Wells, California.

4676–CP–P–76, Southern Pacific Communications Co., (WQO 31), Southern Pacific Bldg., Oatman Mtn, Arizona. (Lat. 33°03'06" N., Long. 114°20'05" W.); Construction permit to add 3950.0V MHz toward Oatman Mtn Arizona and 3750.0H MHz toward Midway Wells, California.

4677–CF–P–76, Southern Pacific Communications Co., (WQO 30), Southern Pacific Bldg., Oatman Mtn, Arizona. (Lat. 33°03'06" N., Long. 113°08'03" W.): Construction permit to add 3850.0H) toward White Tank Mtn and Telegraph Pass, both in Arizona.

4678–CF–P–76, Southern Pacific Communications Co., (WQO 29), Union Station, Phoenix, Arizona. (Lat. 33°26'40" N., Long. 112°04'40" W.): Construction permit to add 3850.0V MHz toward Pinal Peak and 5960.0H MHz toward White Tank, both in Arizona.

4679–CF–P–76, Southern Pacific Communications Co., (WQO 28), Group 1, Lot 8. Pinal Peak, Arizona. (Lat. 33°16'49" N., Long. 110°49'11" W.): Construction permit to add 4030.0V MHz toward Mt. Lemmon and 3790.0H MHz toward Phoenix, both in Arizona.

4734–CF–P–76, Midwestern Relay Co., (WLJ 43), Merchandise Mart, Chicago, Illinois. (Lat. 41°53'28" N., Long. 87°38'07" W.): Construction permit to (a) add 6093.5H MHz, (b) change frequencies to 6034.2H and 6152.8H MHz toward existing point of communication, Glendale Heights, Illinois, on azimuth 273.2°.

4735–CF–P–76, Midwestern Relay Co., (WLJ 44), 0.5 mile East of Schmale Rd., Glendale Heights, Illinois. (Lat. 41°54'25" N., Long. 88°05'48" W.): Construction permit to add 6197.2H MHz toward Chicago #1 and Crystal Lake, Illinois, on azimuths 92.9 and 338.2°.

4736–CF–P–76, Midwestern Relay Co., (WLJ 45), 1.9 miles East of Crystal Lake, Illinois. (Lat. 42°15'14" N., Long. 88°17'02" W.): Construction permit to add 6034.2V MHz toward Glendale Heights, Illinois and 6152.8H MHz toward Lake Geneva #1, Wisconsin, on azimuths 158.0 and 350.9°.

4737–CF–P–76, Midwestern Relay Co., (WLJ 46), 3.0 miles East of Lake Geneva, Wisconsin. (Lat. 42°35'49" N., Long. 88°21'30" W.): Construction permit to add 6345.5V MHz toward Crystal Lake, Illinois on azimuth 170.8°.

4770–CF–P–76, American Microwave & Communications, Inc., (KQL 44), Millie Hill, 1 mile East of Iron Mtn., Michigan. (Lat. 45°49'15" N., Long. 88°02'30" W.): Construction permit to add 6219.5H 6278.8H, 6338.1H and 6397.4H MHz toward Iron Mtn. Headquarters, Michigan, on azimuth 281.0°.

4771–CF–P–76, American Microwave & Communications Inc., (KQM 45), 15 miles SE of Elmira, Michigan. (Lat. 45°02'23" N., Long. 84°50'23" W.): Construction permit to (a) add 6241.7V and 6360.3V MHz toward Gaylord, (b) 6241.7H and 6360.3H MHz toward Boyne City, both in Michigan, via power split, on azimuths 98.2 and 302.6°, respectively.

4772–CF–P–76, New England Microwave Inc. (New) 0.6 mile North of Wintechog Hill Rd, North Stonington, Connecticut. (Lat. 41°27'36" N., Long. 71°55'33" W.): Construction permit for new station—(a) 5989.6 MHz toward Westerly, (c) 5874.8H MHz toward Norwich, and (d) 5974.8V, 6034.2V, and 6093.5V MHz toward New London, all in Connecticut, on azimuths, 262.5, 121.5, 315.4, and 267.3°, respectively.

4773–CF–P–76, New England Microwave, Inc., (New), Killingworth, Connecticut. (Lat. 41°23'45" N., Long. 72°33'31" W.): Construction permit for new station—6212.0H and 6330.7H MHz toward Branford and 6301.0H and 6360.3H MHz toward Wintechog, both in Connecticut, on azimuths 261.8 and 82.1°, respectively.

4774–CF–P–76, New England Microwave, Inc., (New), 500 E. of Parsonage Hill Rd, Branford, Connecticut. (Lat. 41°22'05" N., Long. 72°48'38" W.): Construction permit for new station—5945.2H MHz toward Killingworth, Connecticut, on azimuth 81.6°.

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4775–CF–P–1976, **Orange County Radiotelephone Service, Inc., (New), Santa Ana,** California. (Lat. 33°44'33" N., Long. 117°51'18" W.): Construction permit to add 11665H MHz toward **Panorama,** (MDS station) California, on azimuth 75.5°.

4680–CF–P–1976, Southern Pacific Communications Co., (WQO 26), Mt. Lemmon, Arizona. (Lat. 32°26'23" N., Long. 110°47'04" W.): Construction permit to add 3750.0V MHz toward Final Peak, Arizona.

4732–CF–MP–1976, MCI Telecommunications, Corp., (WLI 92), 1.0 miles NW of North Royalton, Ohio. (Lat. 41°19'25" N., Long. 81°44'24" W.): Construction permit to change antenna system on existing point of communication—5945.2V MHz toward Medina, Ohio, on azimuth 197.6°.

4733–CF–MP–1976, MCI Telecommunications Corp., (WAU 312) 3.0 miles SSE of Medina, Ohio. (Lat. 41°04'48" N., Long. 81°50'32" W.): Construction permit to change antenna system and to change frequencies toward existing points of communication—6404.8V MHz toward North Royalton, 3730.0V MHz toward Akron, and 6286.2H MHz toward Nova, all in Ohio, on azimuth 17.6, 89.5, and 256.5°, respectively.

MAJOR AMENDMENTS:

3523–CF–P–1976, American Telephone and Telegraph Company, (KYS56), 2.2 miles NW of Monmouth Junction, New Jersey. AMEND application to change azimuth toward Freehold, New Jersey to read 122.3° for frequencies 3750V 3830V.

CORRECTIONS

4620–CF–P–76, Microvideo, Inc., (KLH 35), 0.5 mile North of Silverton, Texas. (Lat. 34°39'08" N., Long. 101°17'34" W.): This entry appearing in Public Notice of August 9, 1976, No. 818 is corrected to show applicant replacing transmitters and changing frequencies to 6182.4H MHz, 6241.7H, and 6301.0H MHz toward Memphis, Texas, via power split, on azimuth 73.4°.

4621–CF–P–76, Microvideo, Inc., (KLH 36), 0.7 mile West of Memphis, Texas. (Lat. 34°43'47" N., Long. 100°33'59" W.): This entry appearing in Public Notice dated August 9, 1976, No. 818 is corrected to show applicant replacing transmitters and changing frequencies to 5960.H, 6019.3H, and 6078.6H MHz toward Wellington and Childress, both in Texas, via power split, on azimuths 136.8 and 64.2°, respectively.

4622–CF–P–76, Microvideo, Inc., (KLU 60), SE Edge of Childress, Texas. (Lat. 30°24'25" N., Long. 100°12'05" W.): This entry appearing in Public Notice of August 9, 1976, No. 818 is corrected to show applicant replacing transmitters and changing frequencies to 6241.7V, 6301.0V, and 6360.3V MHz toward Paducah, and Quanah, both in Texas, via power split, on azimuths 195.9 and 103.8°.

4601–CF–MP–76, Eastern Microwave, Inc., (WPX 31), Attica, SE Corner of Fullington and Werner Rds, Attica, New York. (Lat. 42°50'12" N., Long. 78°12'20" W.): This entry appearing in Public Notice dated August 2, 1976, No. 817 is corrected to show 5960.0H and 6019.3H MHz toward Niagara Falls and Lackawanna as well as 5960.0V and 6019.3V MHz toward Buffalo, all in New York, via power split, on azimuths 283.7, 294.7, and 267.2°, respectively.

4509–CF–P–76, **New Jersey Bell Telephone Company,** Hamilton Square, 2 miles SW of Hamilton, New Jersey. Correct Call Sign to read WHT85. All other particulars remain as reported on Public Notice No. 815 dated July 19, 1976.

[FR Doc.76–24652 Filed 8–20–76;8:45 am]

[Report No. 997]

PETITIONS FOR RULE MAKING FILED

AUGUST 17, 1976.

Interested persons may file statements opposing or supporting any Petition for Rule Making listed herein within 30 days after the date of this Public Notice.

File No.	Rule No.	Petitioner	Date received	Nature of petition
RM–2736	Sec. 73.202(b)	Stoner Broadcasting System, Inc. Filed by Eugene F. Mullin and Nathaniel F. Emmons, attorneys.	July 23, 1976	Request amendment FM Table of Assignments to assign Channel 257A to Fort Myers Beach, Fla.
RM–2737	Part 73	Midwest St. Louis, Inc., et al.	do	Request institution of rulemaking to provide for uniform standards for designation for hearing of applications requesting subscription television authorization.
RM–2738	Sec. 73.507(a)	Faith Media, Inc. Filed by Julian P. Freret, attorney.	July 26, 1976	Request amendment FM Table of Educational Assignments to assign Channel 212B to Oxnard, Calif.
RM–2739	Part 74	National Translator Association. Filed by Leon T. Knauer, counsel.	Aug. 10, 1976	Request amendment of part 74 to allow VHF television translator stations to undertake originations which would be limited to the solicitation of contributions toward defrayal of the costs of installation, operation and maintenance of translator stations or acknowledgements of financial support for those purposes.
RM–2740	Part 74	National Translator Association. Filed by Leon T. Knauer, counsel.	do	Request amendment of part 74 to allow FM and television translator stations to originate oral emergency warnings of imminent danger.
RM–2741	Part 74	National Translator Association. Filed by Leon T. Knauer, counsel.	do	Request amendment of part 74 to allow FM translator stations to operate on an unattended basis.
RM–2742	Part 73	CBS, Inc. Filed by Eleanor S. Applewhaite, attorney.	do	Request institution of rulemaking proceedings looking toward adoption of standards for compatible FM stereo-quadraphonic broadcast transmissions.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–24651 Filed 8–20–76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

ALTERNATIVE MORTGAGE INSTRUMENTS RESEARCH STUDY ADVISORY COMMITTEE

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972)) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with OMB, the Chairman of the Federal Home Loan Bank Board has determined that the establishment of the Alternative Mortgage Instruments Research Study Advisory Committee is in the public interest in connection with the performance of duties imposed on the Board by law.

The Committee will advise the Chairman, through the Director of the Office of Economic Research, on the direction, form and substance of the study as it develops. This study will entail a close examination of a wide variety of alternative new mortgage instrument designs from the practical perspective of both borrowers and lenders.

The Committee will consist of 25 members, with a balanced representation of borrowers, lenders, representatives of related industries, government and universities, etc., appointed by the Chairman of the Bank Board.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the Alternative Mortgage Instruments Research Study Advisory Committee. Such comments, as well as any inquiries, may be addressed to Dr. Donald M. Kaplan, Director, Office of Economic Research, Federal Home Loan Bank Board, Washington, D.C. 20552, phone: 202–376–3131.

August 18, 1976.

GARTH MARSTON,
Acting Chairman.

[FR Doc.76–24606 Filed 8–20–76;8:45 am]

ALTERNATIVE MORTGAGE INSTRUMENTS RESEARCH STUDY ADVISORY COMMITTEE

Meeting

AUGUST 18, 1976.

Pursuant to Section 10(a) of Public Law 92–463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Alternative Mortgage Instruments Research Study Advisory Committee on Friday, September 10, 1976. The meeting will commence at 9:00 a.m. on September 10 at the HYATT Regency Hotel, 400 New Jersey Avenue, NW. Washington, D.C.

Meeting Agenda

Introductions
Background Review
Current Status of Alternative Mortgage Instruments
Definitions of Alternative Mortgage Instruments
Committee Administrative Matters
Section by Section Review of Proposed Analyses

The meeting of the Alternative Mortgage Instruments Research Study Advisory Committee is open to the public.

GARTH MARSTON,
Acting Chairman.

[FR Doc. 76–24607; Filed 8–20–76; 8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF KODIAK AND SEA-LAND SERVICE, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 13, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Gerald A. Malia, Esquire, Ragan & Mason, The Farragut Building, 900 Seventeenth Street, NW., Washington, D.C. 20006.

Agreement No. T–2582–2, between the City of Kodiak (City) and Sea-Land Service, Inc. (Sea-Land), modifies the basic agreement between the parties which provides for the preferential use by Sea-Land of a containership terminal constructed by the City for a term of 20 years, with renewal options. The purpose of the modification is to adjust the payment of overhead, maintenance and repair until June 30, 1978, biennially thereafter, at which time a review will be made and an adjusted amount will be negotiated. In addition, the payment of debt service by Sea-Land may, at Sea-Land's option, be made by the surrender of revenue bonds, which were issued by the City, and interest coupons instead of cash. The remainder of revenue bonds shall be counted for the purpose of computing the credit due Sea-Land under Paragraph 4.2.

By Order of the Federal Maritime Commission.

Dated: August 18, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–24671 Filed 8–20–76;8:45 am]

DART CONTAINERLINE CO.

Agreement Filed

Notice is hereby given that the following agreement has ben filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 13, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

MODIFICATION OF AGREEMENT

Notice of agreement filed by:

Edwin Longcope, Esquire, Hill, Betts & Nash, Suite 5215, One World Trade Center, New York, New York 10048.

Agreement No. 9745–2 modifies the basic agreement to (1) delete "Clarke Traffic Service, Ltd." as a listed party and substitute therefor "Consolidated Container Service Co., Ltd."; (2) delete "The Bristol City Line of Steamships, Ltd." as a listed party and substitute "Bristol City Line, Limited"; (3) expand the scope of the agreement to cover arrangements with other modes of transport for the movement of cargo to or from inland points in Europe and to or from ports on the U.S. Pacific Coast whether moving under a through bill of lading or otherwise and to cover intermodal and terminal rates, rules, charges and practices connected with or ancillary to such movements; and (4) identify the corporation established pursuant to the agreement as Dart Containerline Company Limited, a Bermuda Corporation.

Dated: August 17, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–24667 Filed 8–20–76;8:45 am]

[Independent Ocean Freight Forwarder License No. 629–R]

JOHN A. CONKEY & CO.

Reinstatement of License

By Federal Maritime Commission Order served July 22, 1976, John A. Conkey & Company's Independent Ocean Freight Forwarder License No. 629–R was revoked, effective July 16, 1976, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published on July 28, 1976 in 41 FR 31425.

An appropriate surety bond has been received in favor of John A. Conkey & Company and compliance pursuant to Section 44, Shipping Act, 1916, and Section 510.9 of General Order 4 has been achieved.

Therefore, by virtue of authority vested in my by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(a), dated September 15, 1973, Independent Ocean Freight Forwarder License No. 629–R shall be reissued to John A. Conkey & Company,

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effective July 16, 1976. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon John A. Conkey & Company.

DONALD J. BRUNNER,
Managing Director.

[FR Doc.76-24670 Filed 8-20-76;8:45 am]

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 13, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No. 9615-21, among the member lines of the above-named conference, modifies the conference's self-policing provisions and adds to the list of activities which shall constitute a violation or breach of the agreement.

By Order of the Federal Maritime Commission.

Dated: August 18, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24669 Filed 8-20-76;8:45 am]

LYKES BROS. STEAMSHIP CO. INC. AND TAPPER & COMPANY, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 2, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to Commerce.

A copy of any such statement should also be forwarded to the party filing the agreement, as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10194, between Lykes Bros. Steamship Co., Inc. and Tapper & Company, Inc., is an agency agreement whereby Lykes appoints Tapper to act as its agent in the port of Port St. Joe, Florida, on the terms and conditions and to the extent set forth therein. Notice of the filing of this agreement was originally published in the Federal Register on November 25, 1975, Volume 40, Number 228. The agreement has since been revised to provide the agent with the authority to solicit and book cargo at the aforementioned port.

Dated: August 17, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24666 Filed 8-20-76;8:45 am]

TRANS-PACIFIC FREIGHT CONFERENCE, ET AL.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 13, 1976. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Trans-Pacific Freight Conference, Orient Overseas Line, Orient Overseas Container Line, Zim Container Service (Agreement No. 10107).

New York Freight Bureau, American Export Line, Orient Overseas Line, Orient Overseas Container Line, Zim Container Service (Agreement No. 10108).

Notice of Agreements Filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW, Washington, D.C. 20036.

Agreement No. 10107-3 among the Trans-Pacific Freight Conference and Orient Overseas Line, Orient Overseas Container Line and Zim Container Service and Agreement No. 10108-2 among the New York Freight Bureau and American Export Line, Orient Overseas Line, Orient Overseas Container Line and Zim Container Service, would amend Article 1 of each rate agreement to extend the scope thereof to include ports in Macao.

By Order of the Federal Maritime Commission.

Dated: August 17, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24668 Filed 8-20-76;8:45 am]

FEDERAL POWER COMMISSION

Rate Schedule Nos. 25, *et al.*

DEVON CORPORATION, ET AL.

Rate Change Filings Pursuant to Commission's Opinion No. 699-H

AUGUST 11, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the application new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before August 25, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

Filing date	Producer	Rate schedule No.	Buyer	Area
July 26, 1976	Devon Corp., 3300 Liberty Tower, Oklahoma City, Okla. 73102.	25	Texas Eastern Transmission Corp.	Other southwest.
Do	Eason Oil Co., P.O. Box 18755, Oklahoma City, Okla. 7318.	52	do	Do.
Do	Phillips Petroleum Co., Bartlesville, Okla. 74004.	[1] 600	Mississippi River Transmission Corp.	Do.
July 29, 1976	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	230	Tennessee Gas Pipeline Co.	Texas Gulf Coast
Do	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	525	Trunkline Gas Co	Southern Louisiana.
Do	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	46	Natural Gas Pipeline Co. of America.	Hugoton-Anadarko.
Do	do	53	do	Do.
Aug. 2, 1976	Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052	146	Tennessee Gas Pipeline Co.	Southern Louisiana.

[1] Proposed designation of contract to supersede Phillips Petroleum Co. rate schedule No. 230.

[FR Doc.76-24484 Filed 8-20-76;8:45 am]

[Docket No. RI76-143]

CABOT CORP. (SW)

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

AUGUST 12, 1976.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cent per 1,000 ft[1] [2] Rate in effect	Cent per 1,000 ft[1] [2] Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI76-143	Cabot Corp. (SW)	77	9	Southern Natural Gas Co. (Southern Louisiana).	$116,438	7-13-76		8-14-76	20.35	[3] 37.60	

[1] Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[2] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.
[3] Includes 0.51¢/1,000 ft³ gathering allowance prescribed in opinion No. 749.

Cabot has filed a unilateral rate increase from its contractually authorized rate to the ceiling rate under Opinion No. 749. Cabot claims that the contract has been canceled, and thus it is entitled to make a unilateral filing. This is a question as to whether the contract has been canceled as a result of Cabot's determination not to replace the existing compression facilities at the current contract price.[1] Southern has indicated that it does not agree with Cabot that the contract has terminated. Cabot, in its filing, has stated that it has no objection to a one-day suspension pending resolution of the contract issue. Cabot's proposed rate increase is suspended for one day, pending such a determination and Cabot is permited to collect the rate thereafter subject to refund.

[1] Cabot filed on July 13, 1976, an abandonment application in Docket No. C176-681 with respect to the subject sales.

[FR Doc.76-24485 Filed 8-20-76;8:45 am]

[Docket Nos. G-6272, et al.]

GETTY OIL COMPANY, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

AUGUST 16, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to be-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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come parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per M ft³	Pressure base
G-6272 B 6-28-76	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	El Paso Natural Gas Co., Blinebry et al. fields, Lea County, N. Mex.	Wells reclassified	
C176-620 A 6-18-76	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Tennessee Gas Pipeline Co., Grand Isle block 48 (W/2), offshore Louisiana.	[2] $1.75	15.025
C176-647 A 6-30-76	Pennzoil Offshore Gas Operations, Inc., P.O. Box 2967, Houston, Tex. 77001.	Sea Robin Pipeline Co., block 533, West Cameron area, south addition, offshore Louisiana.	[3] $1.7754	15.025
C176-648 A 6-30-76	Pennzoil Offshore Gas Operators, Inc.	Sea Robin Pipeline Co., block 335, East Cameron area, south addition, offshore Louisiana.	[3] $1.7751	15.025
C176-649 A 6-30-76	do	Sea Robin Pipeline Co., block 532, West Cameron area, south addition, offshore Louisiana.	[3] $1.7754	15.025
C176-650 A 6-30-76	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Fashing Field, Atascosa and Karnes Counties, Tex.	[4] [5] 37.7065	14.65
C176-651 B 6-30-76	Alpar Resources, Inc., Allen Bldg., P.O. Box 906, Perryton, Tex. 79070.	Northern Natural Gas Co., Ochiltree County, Tex.	Nonproductive	
C176-653 [1] A 7-1-76	Pennzoil Offshore Gas Operators, Inc.	Sea Robin Pipeline Co., block 331, East Cameron area, south addition, offshore Louisiana.	[3] $1.7751	15.025
C176-662 B 6-28-76	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	United Gas Pipe Line Co., South Sunrise Field, Terrebonne Parish, La.	Nonproductive	
C176-674 (CS71-431) F 7-7-76	Gulf Oil Corp. (successor to S. & G. Oil Co., Inc.).	Arkansas Louisiana Gas Co., Carthage Field, Beckville area, Panola County, Tex.	20.17 [5] 32.7133	14.65
C176-680 B 7-12-76	Lear Petroleum Corp., 950 1 Energy Sq., 4925 Greenville Ave., Dallas, Tex. 75206.	Transwestern Pipeline Co., Ivanhoe Field, Beaver County, Okla.	Wells plugged and abandoned.	
C176-681 B 7-13-76	Cabot Corp. (SW) Operator et al., P.O. Box 1101, Pampa, Tex. 79065.	Southern Natural Gas Co., Bayou Henry Field, Iberville Parish, La.	Uneconomical	
C176-682 A 7-12-76	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Northern Natural Gas Co., Emperor Field, Winkler County, Tex.	[5] 55.9109	14.65
C176-683 A 7-15-76	Marathon Oil Co., 539 South Main St., Findlay, Ohio 43840.	Transwestern Pipeline Co.	[5] 55.9016	14.65
C176-684 B 7-6-76	Union Texas Petroleum, a Division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Cities Service Gas Co., Hillsdale northwestern area, Grant County, Oklahoma.	Depleted	
C176-685 B 7-15-76	Kirkpatrick Oil & Gas Co. and Damon Resources Corp. (successor in interest to Natol Petroleum Corp.), 1300 North Broadway, Oklahoma City, Okla. 73103; 3033 Northwest 63d St., Oklahoma City, Okla. 73112.	Michigan Wisconsin Pipeline Co., section 5, township 24 north, range 13, west, Woodward area, Woods County, Okla.	Depleted	
C176-686 B 7-19-76	Coastal States Gas Producing Co. and its successors by Mary Kate Withers, applicant, 1020 Bank & Trust Tower, Corpus Christi, Tex. 78477 and Five Greenway Plaza East, Room 1260B, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Maguellitos field, Webb County, Tex.	Nonproductive	
C176-687 B 7-19-76	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Hansford Morrow (lower) field, Ochiltree County, Tex.	Wells watered out	
C176-688 A 7-19-76	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Grand Isle, block 48 W/2, offshore Jefferson, La.	[3] $1.75	15.025
C176-689	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp., Eugene Island block 313-B platform, offshore La.	[3] 163.0	15.025
C176-690 B 7-19-76	Marathon Oil Co. (operator) et al.	Colorado Interstate Gas Co., South Wamsutter area, Sweetwater County, Wyo.	Leases terminated	
C176-691 A 7-21-76	Amoco Production Co.	El Paso Natural Gas Co., Carlsbad South et al. fields, Eddy and Lea Counties, N. Mex.	59.2127	14.73
C176-692 B 7-19-76	Exchange Oil & Gas Corp. (successor to Exchange Oil & Gas Co.), 16th floor, 1010 Common St., New Orleans, La. 70112.	Southern Natural Gas Co., block 19, Breton Sound area, Plaquemines Parish, La.	Depleted	
I76-693 B 7-15-76	Kirkpatrick Oil & Gas Co. and Damson Resources Corp. (successor in interest to Natol Petroleum Corp.).	Panhandle Eastern Pipeline Co., section 5, township 24 north, range 13 west, Woodward area, Woods County, Okla.	Depleted	
C176-694 A 7-21-76	Gulf Oil Corp.	El Paso Natural Gas Co., North Avalon Field, Hanson Federal No. 2 Well, S/2 of section 28-T20S-R27E, Eddy County, N. Mex.	57.3310	14.73
C176-695 B 7-12-76	Perry R. Bass, 3100 Fort Worth National Bank Bldg., Forth Worth, Tex. 76102.	Southern Natural Gas Co., Cox Bay, Little Lake, South Little Lake, etc. Fields, Plaquemines, Jefferson and La Fourche Parishes, La.	Production ceased	
C176-696 B 7-12-76	Weva Oil Corp., 608 Main St., Hingham, Mass. 02043.	Consolidated Gas Supply Corp., Wirt, Roane and Calhoun Counties, W. Va.	[12]	
C176-697 A 7-22-76	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Northern Natural Gas Co., West Cameron area, South Addition, blocks 609 and 617, Federal offshore, La.	[5] 53.5514	15.025
C176-698 (G-4146) F 7-22-76	Dallas McCasland (successor to Gulf Oil Corp.), P.O. Box 763, Hobbs, N. Mex. 88240.	Northern Natural Gas Co., Jalmat Field, Lea County, N. Mex.	[5] 28.42	15.025
C176-699 B 7-22-76	Lock 3 Oil, Coal & Dock Co., 200 Union Carbide Bldg., Pittsburgh, Pa. 15220.	Consolidated Natural Gas Corp., Warren District, Upshur County, W. Va.	Depleted	
C176-700 A 7-22-76	Amoco Production Co.	Texas Eastern Transmission Corp., Bethany-Longstreet field, De-Soto Parish, La.	[10] 62.8626	15.025
C176-701 A 7-23-76	Texaco Inc.	Sea Robin Pipeline Co., Eugene Island block 339, offshore, La.	[3] [5] 174.56	15.025
C176-702 A 7-22-76	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Natural Gas Pipeline Co., of America, Philly Federal No. 1 well, Eddy County, N. Mex.	[5] 95	14.73
C176-703 B 7-23-76	Bill Forney, Inc., 1800 St. James Place—Suite 204, Houston, Tex. 77056.	Transcontinental Gas Pipe Line Corp., North Hillje Area, Wharton County, Tex.	[11]	
C176-705 A 7-26-76	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., Mills Ranch (Arbuckle) field, Wheeler County, Tex.	[5] 55.9109	14.65
C176-706 A 7-26-76 [9]	Pennzoil Offshore Gas Operators, Inc.	Sea Robin Pipeline Co., Block 128, South Marsh Island area, South Addition, offshore La.	[5] $1.7745	15.025
C176-707 B 7-28-76	McCulloch Oil Corp., 10880 Wilshire Blvd., Suite 1500, Los Angeles, Calif. 90024.	Transcontinental Gas Pipe Line Corp., North Lake des Allemands field, section 27, township 12 south, range 19 east, St. Charles Parish, La.	Well plugged and abandoned	
C176-708 A 7-26-76	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Michigan Wisconsin Pipe Line Co., Coldwater Creek field, Hugoton-Anadarko area, Sherman County, Tex.	[3] [5] 80.0	14.65
C176-709 B 7-28-76	Howell Drilling, Inc. et al., (operator), Milam Bldg., San Antonio, Tex. 78205.	United Gas Pipe Line Co., South El Toro Field, Jackson County, Tex.	Depleted	
C176-710 B 7-28-76	David Jackman, Jr., P.O. Box 246, Augusta, Kans. 67010.	Panhandle Eastern Pipe Line Co., Greensburg, Kiowa County, Kans.	[12]	
C176-711 B 7-29-76	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Cities Service Gas Co., Southeast Eureka field, Grant and Alfalfa Counties, Okla.	Leases terminated	
C176-712 A 7-29-76	ONG Exploration, Inc., 624 South Boston, Tulsa, Okla. 74119.	Northern Natural Gas Co., Morrow field, Ellis County, Okla.	[5] 55.66	14.65
C176-713 A 7-29-76	Champlin Petroleum Co., 700 Houston Natural Gas Bldg., Houston, Tex. 77002.	El Paso Natural Gas Co., Carlsbad field, Eddy County, N. Mex.	[13] $1.00	14.73

Filing code; A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Being renoticed to correct docket number.
[2] Applicant is willing to accept a certificate conditioned to the opinion No. 699-H rate.
[3] Applicant requests certification at applicable national rate.
[4] Applicant is willing to accept a permanent certificate at the national rate in conformance with sec. 2.56a.
[5] Subject to upward and downward British thermal unit adjustment.
[6] Initial service under opinion No. 699.
[7] Unilateral rate based on opinion No. 607 and subject to upward and downward British thermal unit adjustment.
[8] Unilateral rate based on opinion No. 749; subject to upward and downward British thermal unit adjustment.
[9] Includes upward British thermal unit adjustment of 1.134¢/M ft³.
[10] Includes 1.8012¢ upward British thermal unit adjustment.
[11] Approval of settlement proposal in Docket No. CP74-94.
[12] Unable to sell gas in commercial quantities into purchaser's high pressure line.
[13] The subject deep formations are not being exploited and developed.

[FR Doc.76-24486 Filed 8-20-76;8:45 am]

[Docket Nos. CS76-924 *et al.*]

INSCOL PETROLEUM CO., ET AL.

Applications for "Small Producer" Certificates [1]

AUGUST 16, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No.	Filing date	Applicant
CS76-924	June 21, 1976	Inscol Petroleum Co., 8447 Wilshire Blvd. No. 323, Beverly Hills, Calif. 90211.
CS76-925	June 30, 1976	Magic Circle Gas Corp., 1450 United Founders Tower, Oklahoma City, Okla. 73112.
CS76-926	June 29, 1976	Kirby Exploration Co., 1100 Milam Bldg., Suite 2690, Houston, Tex. 77002.
CS76-927	July 1, 1976	Bolyard Oil & Gas, Ltd., 1020 15th St., Suite 20-D, Denver, Colo. 80202.
CS76-928	July 6, 1976	Monte Carlo Exploration, Inc., P.O. Box 6195, Bossier City, La. 71010.
CS76-929	do	W. H. Oberthier, P.O. Box 811, Texarkana, Tex.
CS76-930	do	Clemco, Inc., 478 Fair Foundation Bldg., Tyler, Tex. 75701.
CS76-931	do	John T. Pickens, 2320 Republic Bank Tower, Dallas, Tex. 75201.
CS76-932	do	R. H. Pickens, 2320 Republic Bank Tower, Dallas, Tex. 75201.
CS76-933	do	Willard Pease Oil and Gas Co., P.O. Box 548, Grand Junction, Colo. 81501.
CS76-934	July 7, 1976	Wylo Gas Co., 1338 3d Ave., Huntington, W. Va. 25701.
CS76-935	July 9, 1976	Langford Keith, Jr., Conservator of the Property of G. A. Brown a/k/a George A. Brown, P.O. Box 190, Silver City, N. Mex. 88061.
CS76-936	do	A. J. Hodges, Jr., P.O. Box 1817, Shreveport, La.
CS76-937	do	Harbert Construction Corp., P.O. Box 1297, Birmingham, Ala. 35201.
CS76-938	do	A. A. Lollar, 907 Crestway, Derby, Kans. 67037.
CS76-939	July 12, 1976	Filon Exploration Corp., Suite 2216, 1700 Broadway, Denver, Colo. 80202.
CS76-940	July 9, 1976	Peel Tree Gas Co., P.O. Box 57, Bridgeport, W. Va. 26330.
CS76-942	July 13, 1976	Melzer & Henderson, P.O. Box 82, Midland, Tex. 79701.
CS76-943	July 14, 1976	Greenbrier Petroleum Corp., Suite 604 Commerce Sq., Charleston, W. Va. 25301.
CS76-944	July 15, 1976	Viola J. Kirkwood, P.O. Drawer 3439, Casper, Wyo. 82601.
CS76-946	do	Bright Day Corp., P.O. Box 1394, Shawnee, Okla. 74801.
CS76-950	July 19, 1976	Crazy Mountain Resources, Inc., No. 350 Rocky Village, 1500 Poly Dr., Billings, Mont. 59102.
CS76-951	do	Netumar Resources, Inc., Hindry & Meyer, 2300 1st National Bank Bldg., Denver, Colo. 80202.
CS76-952	do	Sue Dimit Krutsinger, 121 Timber Lane, Boulder, Colo. 80302.
CS76-953	do	Jane Dimit North, 40 Raven Hills Ct., Colorado Springs, Colo. 80919.
CS76-954	do	Linda Adele Dimit, 1770 South Jackson No. 403, Denver, Colo. 80210.
CS76-955	do	Donald C. Condie, P.O. Box 82, Midland, Tex. 79701.
CS76-956	do	R. J. Sullivan, d/b/a Sullivan and Co., 1801 NBT Bldg., Tulsa, Okla. 74103.
CS76-957	July 21, 1976	Burl J. Bandy, P.O. Box 1248, Dalton, Ga. 30720.
CS76-958	July 20, 1976	Charles Gabbard, Route 2, Box 507, Manchester, Ky. 40962.
CS76-959	do	Copeland Energy Corp., 1100 Oil Center Bldg., 2601 NW. Expressway, Oklahoma City, Okla. 73112.
CS76-960	July 21, 1976	Evelyn R. Joeckel, 1660 Lincoln Suite 2210, Denver, Colo. 80203.
CS76-961	do	Waggoned Properties, 1252 Main Tower, Dallas, Tex. 75202.
CS76-962	July 23, 1976	Double Four Investment Club, 101 East Main St., Harrisville, W. Va. 26362.
CS76-963	July 22, 1976	Mr. and Mrs. Michael W. A. Wade, 4523 Yuma St., NW., Washington, D.C. 20016.
CS76-964	July 23, 1976	Donald B. Jones, 2403 Gulf, Midland, Tex.
CS76-965	do	Warren J. Hancock, P.O. Box 2527, Billings, Mont. 59103.
CS76-966	do	Eulalie M. Nobles, c/o James H. Nobles, Jr., 205 Armstron Bldg., El Dorado, Ark. 71730.
CS76-967	do	Nancy Dimit Campbell, 11250 West 78th Dr. Arvada Colo. 80005.
CS76-968	July 22, 1976	Somerset Gas Service City Hall, Somerset, Ky. 42500
CS76-969	July 26, 1976	Loyd B. Sands, 2900 1st National Bank Bldg., Dallas, Tex. 75202.
CS76-970	do	Billy Ray Troxell, Route 2, Shamrock, Tex. 79079.
CS76-971	do	George A. Thomas, 1450 Midland National Bank Tower, Midland, Tex. 79701.
CS76-972	do	Elmer A. Nelson and Roy E. Shipley, 6570 South Normandie Ave., Los Angeles, Calif. 90044.
CS76-973	do	Harold Melville, Jr., 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-974	do	Burmont Exploration 1972-A 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-975	do	Burmont Co., 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-976	do	John L. Mistrot, 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-977	do	Belmont International, Inc., 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-978	do	Pel-Tex Oil Co., Inc., 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-979	do	Earl P. Burke, Jr. (operator), 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-980	do	Burmont-Rosenbloom 1971 Venture, 1100 Milam Bldg., Suite, 3333, Houston, Tex. 77002.
CS76-981	do	Burmont Exploration 1973 A, 1100 Milam Bldg., Suite 3333, Houston, Tex. 77002.
CS76-982	do	Tar Heel Energy Corp., Box 1308, Gastonia, N.C. 28052.
CS76-983	do	John J. Kemmerer, Jr., 607 Colorado Bldg., 1615 California St., Denver, Colo. 80202.
CS76-984	July 27, 1976	J. Rober King, d/b/a Jacobson Oil Co., 6421 Independence Ave., Woodland Hills, Calif. 91367.
CS76-985	do	Gene C. Sigler, 504 Mid South Towers, Shreveport, La.
CS76-986	do	Fortune Gas and Oil, Inc., 504 Mid South Towers, Shreveport, La.
CS76-987	do	Harland B. Hundley, 504 Mid South Tower, Shreveport, La.
CS76-988	do	Robert M. Key, 501 Mid South Towers, Shreveport, La.
CS76-989	do	Panoak Oil and Gas Corp., 6869 East 40th St., Tulsa, Okla. 74145.

[FR Doc.76-24487 Filed 8-20-76;8:45 am]

CITIES SERVICE GAS CO.

[Docket No. RP76-13]

Notice of Conference on Rates and Charges

AUGUST 16, 1976.

Take notice that on August 24, 1976, a conference of all parties to intervene in this proceeding, the Cities Service Gas Company, any interested customers, and the Commission Staff will be held in Conference Room No. 3200 at the Federal Power Commission, 941 North Capitol Street, NE., Washington, D.C., at 10:00 a.m. (d.s.t.).

Copies of this notice are being mailed this date to all jurisdictional customers and interested State Commissions.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24615 Filed 8-20-76;8:45 am]

[Docket No. RI76-65]

DEVON CORPORATION, ET AL.

Order Setting Matter for Hearing, Establishing Procedures and Granting Intervention

AUGUST 17, 1976.

On November 18, 1975, Devon Corporation (Operator), *et al.* (Devon) filed in Docket No. RI76-65 a petition for special relief pursuant to Sections 2.56a(g) and 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. §§ 2.56a (g), 2.76) and Section 154.107(e) of the Commission's Regulations under the Natural Gas Act (18 C.F.R. § 154.107(e)) seeking a rate higher than the applicable area or national rate ceilings for sales of natural gas from 50 wells located in West Virginia which Devon operates and in which Devon owns interests.

Prior to June 21, 1973, Commonwealth Gas Corporation (Commonwealth) made sales in interstate commerce from the 50 subject wells to Columbia Gas Transmission Corporation (Columbia), Consolidated Gas Supply Corporation (Consolidated), and Cities Service Oil Company (Cities). On June 21, 1973, Commonwealth assigned all of its interests in these wells, one-half to John W. Nichols, the President of Devon, and one-half to Eason Oil Company (Eason). On June 23, 1973, John W. Nichols assigned his interest to Devon and retained a 36 percent overriding royalty interest.

Devon and Eason, on whose behalf Devon also seeks special relief, are currently selling natural gas pursuant to rate schedules on file with the Commission to Columbia from 48 of the subject wells at 29 cents per Mcf, to Consolidated from one of the subject wells at 29 cents per Mcf, and to Cities from one of the subject wells at 16.65 cents per Mcf. In its original petition Devon stated that production from these wells has declined to the extent that reconditioning, deepening, and installation of additional equipment are necessary to permit continued operations. Devon proposes a five-year program in which it will conduct reworking operations on eight of the wells, recomplete 25 of the wells in other producing formations, deepen one of the wells, and install compression facilities on 21 of the wells. The proposed program involves performing additional work on each of the subject wells, except for the well from which gas is sold to Consolidated, and Devon estimates that an additional 9,977,870 Mcf will be made available to the interstate market by the program. In return for conducting the proposed program, Devon requested in its original petition for special relief that it be authorized to collect a rate of 70 cents per Mcf plus an annual escalation of one cent per Mcf for its sales from all 50 wells. On February 23, 1976, Devon filed an amendment to its petition for special relief in which Devon stated that it is also requesting special relief from the rates set forth in Opinion No. 749 pursuant to Section 2.56B(h) of the Commission's General Policy and Interpretations. In its amendment to its petition Devon stated that its recent actual operating expenses far exceeded the estimates made by Devon when it prepared its original petition, and thus Devon requested that it be authorized to collect a rate of $1.08 per Mcf plus an annual escalation of one cent per Mcf. The requested rate includes costs from all 50 wells, an allowance for Federal income taxes as provided in Opinion No. 749, and a 20 percent rate of return as was provided for small producers in Opinion No. 742.[1]

Of the three purchasers of the subject gas, Columbia has agreed to pay Devon whatever rate the Commission determines to be just and reasonable for the sales. However, Devon has not as yet obtained contractual authority for any rate increase from either Consolidated or Cities. If Devon fails to obtain such contract authority prior to the issuance of a Commission order in this proceeding, Devon requests that the Commission condition any relief such that such relief be effective for its sales to Consolidated and Cities only if contractual authorization is obtained.

Notice of Devon's petition for special relief was issued on December 4, 1975, and appeared in the FEDERAL REGISTER on December 12, 1975, at 40 FR 57845. Notice of Devon's amendment to its petition was issued on March 10, 1976, and appeared in the FEDERAL REGISTER on March 16, 1976, at 41 FR 11078. Columbia and Cities filed timely petitions to intervene, and the Public Service Commission of the State of New York (PSCNY) filed a notice of intervention.

The Commission Staff has conducted a field audit of Devon's books and an extensive analysis of the data submitted by Devon and has concluded that the proposed rate increase may not be cost justified. In light of the factual and legal issues raised by Devon's petition for special relief, this proceeding should be set for hearing in order to provide Devon and other interested parties an opportunity to present evidence on the issues raised and on any other matters considered to be relevant to the proceeding. Specifically, Devon and any supporting intervenors should present testimony and evidence on the following issues:

[1] Devon filed an application for a small producer certificate on May 24, 1976, in Docket No. CS76-842. Eason was issued a small producer certificate in Docket No. CS71-631 on April 11, 1972.

(1) Whether data pertaining to the two wells for which Devon does not have contractual authorization for the proposed rate should be treated separately or included in the overall cost calculations;

(2) Whether data pertaining to the well upon which Devon does not propose to do any additional work should be included in the overall cost calculations;

(3) The additional recoverable reserves that will result from Devon's proposed workover program;

(4) Whether to include in the cost calculations as working interest volumes of Devon those volumes of gas attributable to the overriding royalty interest retained by John W. Nichols, the President of Devon;

(5) Whether a Federal income tax allowance should be included in the cost calculations, and if so, whether Devon is entitled to claim a Federal income tax allowance of 48 percent;

(6) Whether Devon's estimated future annual operating expenses should be based on an annualization of four recent months of expenses rather than on an actual year's expenses.

The Commission finds: (1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) Good cause exists to grant the petitions to intervene of Columbia and Cities.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 C.F.R. Chapter 1), a public hearing shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to determine the lawfulness of Devon's proposed rate increase.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 C.F.R. § 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(C) Devon and all intervenors supporting Devon shall file their direct testimony and evidence on or before September 15, 1976. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on September 30, 1976, at 9:30 A.M. EDT, in a hearing room at the address noted in Ordering Paragraph (A).

(E) Columbia and Cities are permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That their participation shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* that their admission in the manner provided shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders entered in this proceeding, and that they agree to accept the record as it now stands.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24621 Filed 8-20-76;8:45 am]

[Docket No. RP72-134 (PGA 76-18)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

AUGUST 16, 1976.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on July 30, 1976, tendered for filing Thirty-Second Revised Sheet No. 3A and Thirty-Second Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. These revised tariff sheets, to be effective September 1, 1976, will increase the commodity or delivery charges of Eastern Shore's Rate Schedules CD-1, CD-E, E-1, I-1 and PS-1 by .003¢ per Mcf. These increases reflect corresponding "tracking" rate increases for advance payments by Transcontinental Gas Pipe Line Corporation (Transco), Eastern Shore's sole supplier, in its filing of July 16, 1976, in FPC Docket Nos. RP75-75 and AP-76.

Pursuant to § 154.51 of the Regulations under the Natural Gas Act, Eastern Shore respectfully requests waiver of the notice requirements of § 154.22 of those Regulations and of § 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the tariff sheets submitted to become effective as of September 1, 1976, to coincide with the effective date of Transco's rate changes. In support thereof, Eastern Shore states that Transco's July 16 filing of its revised tariff sheets prohibited Eastern Shore from fulfilling the prescribed notice requirements under the General Terms and Conditions of its Tariff.

Eastern Shore states that copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be

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taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24616 Filed 8-20-76;8:45 am]

[Docket No. ER76-211]

FLORIDA POWER & LIGHT CO.

Settlement Conference

AUGUST 16, 1976.

Take notice that on September 10, 1976, a conference of all parties to intervene in these proceedings, Florida Power & Light Company, and the Commission Staff will be held in a Commission's Conference Room at 825 North Capitol Street NE., Washington, D.C., at 10:00 a.m.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24617 Filed 8-20-76;8:45 am]

[Docket No. RP73-14]

MICHIGAN WISCONSIN PIPE LINE CO.

Filing of Report

AUGUST 16, 1976.

Take notice that on August 2, 1976, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a report pursuant to Paragraph (C) of the Commission's Order dated May 10, 1976 in Docket Nos. RI74-56 and RI74-57.

Michigan Wisconsin states that pursuant to the provisions of the General Terms and Conditions of its tariff, Michigan Wisconsin will credit its Unrecovered Purchased Gas Cost Account with the amounts received ($45,029.81) from Phillips Petroleum Company ($36,803.60) and Kerr-McGee Corporation ($8,226.21) refunded pursuant to Paragraph (B) of the order referred to above.

Michigan Wisconsin further states that copy of its report has been mailed to each of Michigan Wisconsin's gas sales customers as well as to each of the following:

Illinois Commerce Commission
Public Service of Indiana
Iowa Commerce Commission
Kansas State Corporation Commission
Michigan Public Service Commission
Missouri Public Service Commission
Public Utilities Commission of Ohio
Tennessee Public Service Commission
Public Service Commission of Wisconsin

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24618 Filed 8-20-76;8:45 am]

[Docket No. RP72-149 (PGA 76-12)]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

AUGUST 16, 1976.

Take notice that Mississippi River Transmission Corporation (Mississippi) on July 30, 1976, submitted for filing Forty-Fourth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to become effective September 1, 1976.

The instant filing is being made pursuant to the provisions of Mississippi's purchased gas cost adjustment clause to track a rate change filing of Natural Gas Pipeline Company of America made pursuant to the terms of the PGA provisions of its tariff.

Mississippi submitted schedules containing computations supporting the rate changes to be effective September 1, 1976. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24619 Filed 8-20-76; 8:45 am]

[Docket No. ER76-305]

NORTHERN STATES POWER CO. (WISCONSIN)

Filing of Settlement Agreement

AUGUST 16, 1976.

Take notice that on August 4, 1976, Northern States Power Company (Wisconsin) (NSP) tendered for filing a proposed Settle-Agreement in the above-referenced docket. In the Settlement Agreement the parties thereto state that the agreement is in full settlement of all issues arising in the proceeding in this docket.

In the proposed Settlement Agreement it is requested that the proposed settlement rates be made effective March 1, 1976.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 3, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24620 Filed 8-20-76;8:45 am]

[Docket No. E-7172]

SOUTHWESTERN POWER ADMINISTRATION

Order Extending the Confirmation and Approval of Rate Schedules

AUGUST 17, 1976.

Pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), The Secretary of the Interior filed a request on May 20, 1976, on behalf of the Southwestern Power Administration (SWPA) requesting that the Commission extend for a maximum period of six months, to November 30, 1976, its confirmation and approval of the following system rate schedules and contractual rates and charges:

System rate schedules	*Contractual rates and charges*
F-1, firm power--- P-2 (Revised), peaking power. EE, excess energy-- IC, interruptible capacity.	Contract No. Ispa-356, with Oklahoma Gas and Electric Co. and Public Service Co. of Oklahoma (Oklahoma Companies). Contract No. 14-02-001-864 with Tex-La Electric Cooperative Inc. (Tex-La).

By order issued November 30, 1971, the Commission confirmed and approved all the system rate schedules listed above and the rates and charges set forth in Contract No. Ispa 356 (Oklahoma Companies). By order issued February 20, 1973, the Commission confirmed and approved the rates and charges set forth in Contract No. 14-02-001-864 (Tex-La). In both of the above orders, the rates and charges were approved for a period ending not later than May 31, 1974. By order issued May 31, 1974, the Commission extended its approval of the rates and charges for a period ending not later than May 31, 1975. By order issued July 3, 1975, the Commission extended its approval of the rates and charges for a period ending not later than November 30, 1975. By order issued February 9, 1976, the Commission extended its approval for an additional period ending not later than May 31, 1976.

SWPA currently markets the power and energy from an integrated system of 19 hydroelectric plants constructed and operated by the Corps of Engineers. The total installed capacity of the 19 plants is presently 1,839,200 kilowatts with an average annual generation of 5.08 billion kilowatt-hours.

CURRENT RATES AND CHARGES

The rates and charges currently in effect and for which Interior requests extention of the Commission's approval for up to six additional months are:

Rate Schedule F-1 for sale of firm power service to wholesale customers. The monthly demand charge is $1.60 per kilowatt, but a discount of $0.40 is given if service is taken from SWPA's high voltage grid. The monthly energy charge is 2.0 mills per kilowatt-hour for the first 150 kilowatt-hours per kilowatt, 3.0 mills for the next 290 kilowatt-hours per kilowatt, and 5.0 mills per kilowatt-hour for all in excess of 440 kilowatt-hours per kilowatt of billing demand.

Rate Schedule P-2 (Revised) for sale of peaking power at a monthly rate of $1.20 per kilowatt for capacity plus 2.0 mills per kilowatt-hour for energy, when service is taken from SWPA's high voltage grid. Where transmission service is provided beyond SWPA's high voltage grid and SWPA incurs additional costs therefor, the customer is required to pay an additional Transmission Service Charge equal to the cost to SWPA of providing such service.

Rate Schedule IC for sale of interruptible capacity at 4.5 cents per kilowatt per day with accompanying energy at 2.0 mills per kilowatt-hour.

Rate Schedule EE for sale of excess energy at 1.5 mills per kilowatt-hour.

Under Contract No. Ispa-356 wholesale sales of peaking power are made to the Oklahoma Companies at a monthly capacity charge of $1.20 per kilowatt and an energy charge of 3.4 mills per kilowatt-hour.

Under Contract No. 14-02-001-864 sale to Tex-La of 15,000 kilowatts of capacity and associated firm energy is made at a monthly capacity charge of $1.60 per kilowatt of billing demand, and energy charges of 2.0 mills per kilowatt-hour for the first 150 kilowatt-hour per kilowatt per month of billing demand, 3.0 mills per kilowatt-hour for the next 290 kilowatt-hours per kilowatt, and 5.0 mills per kilowatt-hour for energy in excess of 440 kilowatt-hours per kilowatt per month of billing demand.

STATUS OF REPAYMENT

In the filing of May 20, 1976, Interior made the following statements:

The Commission was advised in our letter dated November 28, 1975, requesting a six-month extension to May 31, 1976, that Federal court decisions concerning previous FPC approved rate increases involving approximately $3.7 million in annual revenue were pending and that in the event any one of these cases was decided within the six-month extension period, the repayment studies would be adjusted accordingly.

The action by the Supreme Court on October 6, 1975, denying the plaintiff's petition for certiorari in the suit brought by Associated Electric Cooperative, confirmed the November 1974 decision of the Court of Appeals which established the validity of the transmission service charge in SPA's Rate Schedule P-2 (Revised). This decision will result in additional gross revenue to SPA after resolution of the 'factual dispute' now pending before the District Court relating to the matter of computing such charge. SPA's proposed rate and repayment study has been revised to include an adjustment of $16.1 million in Fiscal Year 1976 as accounts receivable due from Associated Electric Cooperative, Inc., for Transmission Charges approved under Rate Schedule P-2 (Revised) for the period June 1, 1970, through June 30, 1976. The study also includes $2,647,100 per year thereafter expected to be recovered from Associated for Transmission Service Charges in the future.

At the time of preparation of the 1971 Study, SPA had repaid none of the original investment in power production and transmission facilities. In fact, on June 30, 1970, an accumulated deficit of over $28 million was recorded on financial records. SPA systematically reduced this deficit in succeeding years and eliminated it in FY 1974. Since then SPA has been able to commence repayment of the original investments and has applied almost $21 million to this purpose as of the end of FY 1975. At this time it appears that about another $7.0 million from sales of power will be applied to amortization in FY 1976. With the addition of the adjustment for past transmission service charges to Associated of $16.1 million, the total amount available for debt reduction will be about $23.1 million in 1976.

Studies completed by SPA, in anticipation of the expiration of the Commission's confirmation and approval of SPA's rate schedules disclose that revenues derived under these rate schedules will still not be adequate to fulfill SPA's repayment obligation during the payout period as required under Section 5 of the Flood Control Act of 1944. An increase of approximately $8.6 million per year in additional revenues will be required.

The extension requested will provide time during which SPA will conduct hearings on the study prepared in support of the proposed rates.

PUBLIC NOTICE

Public Notice of Interior's filing was issued June 1, 1976, and was published in the Federal Register on June 8, 1976. Comments or suggestions relative to the filing were requested to be submitted in writing on or before June 18, 1976.

COMMENTS RECEIVED

On June 17, 1976, the Oklahoma Companies filed a "Petition To Intervene And Protest." The Companies request permission to intervene and participate in a hearing if so ordered by the Commission. Alternatively, the Companies request that the Commission defer any action on Interior's request for extension of confirmation and approval of rates and charges until a final judgment has been rendered by the United States Court of Claims in pending litigation, and in connection with any appeal that may be taken therefrom. The Companies further state that the petition was filed to protect the Companies interest and to avoid any prejudice to their position in the litigation pending in the United States Court of Claims which might arise from a failure to respond to the Commission's notice of June 1, 1976.

The Commission finds: (1) The extension of its confirmation and approval of SWPA's above-listed system rate schedules and contractual rates and charges as hereinafter provided, will not be inconsistent with the provisions of the Flood Control Act of 1944.

(2) Grant of the requested extension through November 30, 1976, will not prejudice the rights of any party with respect to the litigation over Contract No. Ispa-356 between SWPA and the Oklahoma Companies now pending in the United States Court of Claims in *Public Service Company of Oklahoma and Oklahoma Gas & Electric Company vs. The United States of America*, No. 20-73.

The Commission orders: (A) The extension of its confirmation and approval of SWPA's above-listed system and contractual rates and charges for the period ending not later than November 30, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24622 Filed 8-20-76;8:45 am]

[Docket No. ER76-92]

WESTERN POWER DIVISION, CENTRAL TELEPHONE & UTILITIES CORPORATION

Electric Rates; Order Denying Motion for Reconsideration and Granting Permission To Withdraw

AUGUST 17, 1976.

On July 12, 1976, Western Power Division, Central Telephone & Utilities Corporation (Western Power) filed a motion for reconsideration of a letter dated June 1, 1976, from the Secretary of the Commission advising Western Power that its filing of revised rates to reflect exclusion of construction work in progress (CWIP) from rate base was deficient. In the alternative, Western Power moves for permission to withdraw a portion of the rate change. For reasons hereinafter stated, we will deny reconsideration of the deficiency letter and grant Western Power's motion to withdraw.

This docket commenced on August 29, 1975, with Western Power's filing of a proposed rate increase to thirty-two wholesale customers. By letter dated September 24, 1975, Western Power was in-

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formed that its filing was deficient by reason of stale test year data. On October 6, 1975, Western Power applied for rehearing of the September 24 deficiency letter and by order issued November 5, 1975, the Commission denied rehearing. On January 27, 1976, Western Power completed the filing upon submission of updated test year data. By order issued February 20, 1976, the Commission, inter alia, accepted for filing and suspended for one day the proposed rate changes and required Western Power to file revised rates reflecting the elimination of CWIP from rate base.

On April 6, 1976, Western Power filed revised rates based on the exclusion from rate base of the amount of CWIP included in the Period II test year (hereafter "Stale Period II") contained in its original filing of August 29, 1975. On May 4, 1976, Western Power's eleven wholesale cooperative customers (Cooperatives), intervenors herein, filed a "Protest of Revised Filing" claiming that Western Power had failed to utilize the Period II data underlying the January 27, 1976 filing (hereafter "Updated Period II") in computing the CWIP adjustment.

The argument advanced by Cooperatives in its May 4 protest is as follows: In its January 27 filing, Western Power relied upon Updated Period II, the 12 month period ending August 31, 1976, to present its test year support of the proposed rates. Based on such test year data, Western Power's cost-of-service analysis showed that the revenue increases of $59,074 to Central Kansas Electric Cooperative, Inc. (Central Kansas)[1] and $950,590 to the other ten cooperative customers yielded rates of return of 8.07% and 9.09% respectively. The April 6, 1976 filing of revised rates to reflect exclusion of CWIP from rate base used the Stale Period II data from Western Power's original filing to compute the CWIP adjustment thereby reducing the above referenced rate increases from $59,074 and $950,590 to $26,914 and $891,304, respectively. Testing those revised rates against the Updated Period II adjusted for exclusion of CWIP from rate base yielded rates of return of 8.76% and 9.96%, respectively. Cooperatives argue that insomuch as the Commission found Western Power's original filing deficient due to stale data, it is improper to compute the revised rate schedules on the Stale Period II included in such filing. Cooperatives claim that using Updated Period II data with a 9.09% return component, the CWIP adjustment would reduce the rate increase from $59,074 to negative $26,026 to Central Kansas and from $950,590 to $713,451 to the other cooperative customers.

By letter dated June 1, 1976, the Secretary of the Commission advised Western Power that its April 6 filing was deficient in that the revised rates were improperly based upon the Stale Period II and directed Western Power to submit revised rates reflecting the exclusion of CWIP from the rate base of Updated Period II.

In its motion for reconsideration of the June 1 deficiency letter, Western Power presumes that the policy underlying said letter is that when a revision is made by a utility in a pending rate increase filing, the rate of return proposed in the pending filing for any class of customers may not be exceeded and one item of cost of service may not be substituted for another item of cost of service to support the same rate of return level. Western Power argues that blind allegiance to such a policy can produce unfair results, such as here, where due to the change in test period from Stale Period II to Updated Period II there was a substantial increase in construction work in progress and a shift in the demand responsibility of the several classes of customers such that compliance with the June 1 deficiency letter would result in a rate decrease as to one rate schedule (i.e., Central Kansas) whereas rate increases would still be applicable to all other rate schedules.

We find Western Power's arguments unpersuasive. In a similar case the Commission rejected New England Power Company's attempt to rely upon a tax normalization alternative to justify its requested rate increase notwithstanding exclusion of CWIP from rate base.[2] In denying the company's motion for stay pending review of the Commission's orders in that case, Chief Judge Coffin of the U.S. Court of Appeals for the First Circuit had occasion to express the same rationale that underlies the Commission's actions here:

> For the present, neither claim persuades us in view of the administrative necessity of closing the books at a time certain and having a mechanism to prevent utilities from delaying refund orders by offering alternative justifications for the rate increases it has filed. FPC staff and intervenors cannot be expected to follow a moving target. Tax normalization was always and still remains an option for NEPCO. New data will often prove old projections wrong, but the risk of some shortfall because of interim refund orders is both recognized and inevitable. *F.P.C. v. Tennessee Gas Transmission Co.*, 371 U.S. 145 (1962).[3]

Accordingly, we shall deny Western Power's motion for reconsideration and grant permission to Western Power to withdraw Supplement 8 to Rate Schedule FPC No. 35 applicable to Central Kansas.

The Commission finds: (1) Good cause does not exist to grant Western Power's motion for reconsideration of the deficiency letter dated June 1, 1976.

(2) Good cause exists pursuant to 35.17(a) of the Regulations under the Federal Power Act to grant Western Power permission to withdraw Supplement No. 8 to Rate Schedule FPC No. 35.

The Commission orders: (A) Western Power's motion for reconsideration of the June 1, 1976 deficiency letter is hereby denied.

(B) Within 30 days of the issuance of this order, Western Power shall file revised rate schedules in compliance with the June 1, 1976 deficiency letter and shall otherwise comply with the refund provisions of our February 20, 1976 order in this proceedings.

(C) Western Power is hereby granted permission to withdraw Supplement No. 8 to Rate Schedule FPC No. 35 and is hereby ordered to refund within 30 days of the issuance of this order all increased amounts collected pursuant to the rates contained therein with interest at 9% per annum.

(D) Within 15 days after appropriate refunds have been made in accordance with Paragraphs (B) and (C) above, Western Power shall file with the Commission a compliance report detailing by customer the monthly billing determinants and revenues under the prior, originally proposed and revised rates and the monthly interest computation. The report shall also include a summary of the above information for the total refund period.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24623 Filed 8-20-76;8:45 am]

[1] Central Kansas is served on a different rate schedule from the other ten cooperatives.

[2] New England Power Company, Docket Nos. E-9136 and E-9140, Order issued August 5, 1975.

[3] *New England Power Co. v. F.P.C.*, No. 75-1379, slip at 3 (1st Cir. November 13, 1975).

FEDERAL OPEN MARKET COMMITTEE

DOMESTIC POLICY DIRECTIVE

July 19–20, 1976

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 19–20, 1976.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services, which had been vigorous in the first quarter, moderated in the second quarter as a consequence of a smaller advance in consumer spending and little change in the rate of inventory accumulation. In June growth in industrial production slowed and nonfarm payroll employment changed little. The unemployment rate edged up to 7.5 per cent from 7.3 per cent in May, but this increase may have partly reflected seasonal adjustment problems. Retail sales rebounded strongly in June. The rise in the wholesale price index for all commodities remained moderate, as the advance in average prices of farm products and foods slowed further. However, average prices of industrial commodities rose more than in other recent months. The advance in the index of average wage rates slowed considerably in June following a sharp rise in May; over the second quarter as a whole the index rose at about the same rate as in the first quarter.

The average value of the dollar against leading foreign currencies has remained relatively steady in recent weeks. In May there was a small surplus in the U.S. foreign trade balance.

M_1, which had grown moderately in May, declined slightly in June. From the first to the second quarter, however, M_1 expanded at an 8.4 per cent annual rate because of the exceptional rise in April. Growth in M_2 and M_3 moderated in June, mainly because of the decline in M_1, although inflows of the time and savings deposits included in the broader aggregates also slowed somewhat. Short-term market interest rates have declined somewhat in recent weeks, and most long-term rates have edged down.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

To implement this policy, while taking account of developments in domestic and international financial markets, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the period ahead.

By order of the Federal Open Market Committee, August 20, 1976.

ARTHUR L. BRODA,
Secretary.

[FR Doc.76-24812 Filed 8-20-76;10:21 am]

[1] The Record of Policy Actions of the Committee for the meeting of July 19–20, 1976 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 31]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS

Received During the Week Ending July 31, 1976

ACTIONS OF THE BOARD

Statement by Chairman Arthur F. Burns before the House Committee on Banking, Currency and Housing on the condition of the national economy and the course of monetary policy.

Statement by Governor Philip C. Jackson before the Senate Committee on Banking, Housing and Urban Affairs on the Board's enforcement activities under the Consumer Credit Protection Act.

Termination of registration for Columbus Production Credit Association, Columbus, Ohio.[1]

Commercial Bankshares Corp., Adrian, Michigan, extension of time within which to become a bank holding company through the acquisition of 100 percent of the voting shares of the successor by consolidation to The Commercial Savings Bank, Adrian, Michigan.[1]

Trans Texas Bancorporation, El Paso, Texas, extension of time to July 31, 1977, within which to dispose of its forty percent interest in Associated International, Ltd.[1]

United California Bank, Los Angeles, California, extension of time to March 6, 1977, within which to establish a branch in the vicinity of the intersection of Fairview Avenue and Calle Real, Santa Barbara County, California.[1]

Citizens Bank of Warrenton, Warrenton, North Carolina, proposed merger with Branch Banking and Trust Company, Wilson, North Carolina; report to the Federal Deposit Insurance Corporation on competitive factors.

Monroe Bank and Trust Company, Monroe, Connecticut, proposed merger with Lafayette Bank and Trust Company, Bridgeport, Connecticut; report to the Federal Deposit Insurance Corporation on competitive factors.

Plaza National Bank, Secaucus, New Jersey, proposed merger with New Jersey Bank (National Association), Clifton, New Jersey; report to the Comptroller of the Currency on competitive factors.

Somerset Loan and Building Association, Skowhegan, Maine, proposed merger with Franklin County Savings Bank, Farmington, Maine; report to the Federal Deposit Insurance Corporation on competitive factors.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Barclays Bank of New York, New York. Branch to be established at 3 Park Avenue, New York.[2]

Manufacturers Hanover Trust Company, Central New York, Rochester, New York. Branch to be established in the immediate neighborhood of Teal Avenue and Grant Boulevard, City of Syracuse, Onondaga County.[2]

Lincoln First Bank of Rochester, Rochester, New York. Branches to be established at the following locations:

A. The rehabilitation and diagnostic center, University of Rochester Medical Center, Crittenden Boulevard, Rochester, Monroe County.

B. Todd Union, University of Rochester–River Campus, Alumi Road, Rochester, Monroe County.[2]

Commonwealth Bank and Trust Company of Virginia, Sterling, Virginia. Branch to be established on Catoctin Circle near the Route 7 intersection in Leesburg, Loudoun County.[2]

Bank of Virginia, Richmond, Virginia. Branch to be established in the Canterbury Shopping Center at the intersection of Patterson Avenue and Pump Road, Henrico County.[2]

DENIED BY STATE

First Bank and Trust Company of South Bend, South Bend, Indiana. Branch to be established at 12435 Lincoln Way East, Penn Township, Osceola, St. Joseph County.

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To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Seabrook Bank and Trust Company, Seabrook, New Hampshire.[2]

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International Investments and Other Actions Approved Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

Boston Overseas Financial Corporation, Boston, Massachusetts: investment—additional in Boston leasing—Arrendamento representacoes E. servicos, Sao Paulo, Brazil.

First National City Overseas Investment Corporation, New York, New York: removal of the standard condition presently imposed on Coic's holding of shares of Bangkek First Investment & Trust Ltd.

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To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

SUSPENDED

Utica Agency, Inc., Utica, Kansas for approval to acquire 80 percent or more of the voting shares of The Citizens State Bank of Utica, Utica, Kansas.

REACTIVATED

Chambanco, Inc., Chambers, Nebraska, for approval to acquire 100 percent (less directors' qualifying shares) of voting shares of Chambers State Bank, Chambers, Nebraska.[2]

APPROVED

Banco de Santander, S.A., Santander, Spain, for approval to become a bank holding company through the acquisition of 67 percent or more of the voting shares of First National Bank of Puerto Rico, San Juan (P.O.), Hato Rey, Puerto Rico.

Chambanco, Inc., Chambers, Nebraska, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Chambers State Bank, Chambers, Nebraska.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

APPROVED

Indian Head Banks Inc., Nashua, New Hampshire, for approval to acquire 67 per cent or more of the voting shares of Community National Bank of Rochester, Rochester, New Hampshire.

DENIED

Florida National Banks of Florida, Inc., Jacksonville, Florida, for approval to acquire 50.37 per cent or more of the voting shares of the Citizens Bank of Bunnell, Bunnell, Florida.

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To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

DELAYED

Utica Agency, Inc., Utica, Kansas, for approval to acquire the shares of Horn Insurance Agency, Phoenix, Arizona.

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed on behalf of the Board of Governors under delegated authority.

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RETURNED

Merchants National Corporation, Indianapolis, Indiana, notification of intent to engage in de novo activities (leasing of capital of goods and equipment to industry, and banks or others or acting as agent broker or adviser in leasing such personal property where at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property, plus the estimated total cost of financing the property over the term of the lease, and such leases shall contain such other terms and conditions) at Austin Center, Cypress at West Shore Boulevard, Tampa, Florida, through a subsidiary of Circle Leasing Corp., to be known as Circle Leasing of Florida Corp. (7/30/76) [2]

First Security Corporation, Salt Lake City, Utah, for approval to retain 100 per cent of the voting shares of First Security Savings and Loan Association, Pocatello, Idaho.

REACTIVATED

Ashton Investment Company, Rock Rapids, Iowa, notification of intent to engage in de novo activities (leasing of real property on a one time basis where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated cost of financing the investment over the term of the lease) at 104 North Story Street, Rock Rapids, Iowa (7/30/76) [3]

PERMITTED

Citicorp, New York, New York notification of intent to engage in de novo activities (consumer personal lending, preauthorized consumer revolving credit; and acting as broker for the sale of consumer credit related life and accident and health insurance and consumer credit related property and casualty insurance; if these proposals are effected, the subsidiary will offer to sell insurance as follows: credit life and accident and health or individual decreasing or level (in the case of single payment loan life insurance to cover the outstanding balance of consumer credit transactions singly or jointly with their spouses or cosigner in the case of life coverage in the event of death, or to make the contractual monthly payments on the consumer credit transactions in the event of the obligators' disability to the extent permissible under applicable state insurance laws and regulations and individual casualty insurance on personal property, subject to security agreements and to include liability coverage, in home or automobile owner "package" policies where such is the general practice; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 1701 North Kipling Street, Suite 205, Lakewood, Colorado, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Citicorp Person-to-Person Financial Center, Inc., (7/24/76) [3]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in de novo activities (a consumer finance business included without limitation, making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company, servicing loans and other extensions of credit for any person; and acting as agent or broker for the sale of credit related life/accident and health insurance and consumer credit related property which is related to extensions of credit made or acquired by Ritter Finance Company and/or its direct and indirect subsidiaries) at King Street, Elizabethtown, North Carolina, through its subsidiary, Ritter Finance Company and its subsidiary, Ritter Finance Company, Inc., of North Carolina. (8/1/76) [3]

First Pennsylvania Corporation, Philadelphia, Pennsylvania, notification of intent to relocate *de novo* activities (making, or acquiring and servicing loans or other extensions of credit for personal, family or household purposes, including the sale of credit insurance (life/accident and health and disability insurance) which is directly related to such consumer loans) from 1302 Horner Road, Woodbridge, Virginia to 14337 Jefferson Davis Highway, Woodbridge, Virginia through its indirect subsidiary, Investors Loan Corp. of Virginia (7/31/76) [3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in *de novo* activities (making secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement or other lien on real estate situated in the State of Maryland, which property is subject to the lien of one or more prior encumbrances, or other leasehold interest; and act as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extensions of credit) at Fallston Building, Room 202, 1710A Harford Road, Fallston, Maryland, through its subsidiary Union Home Loan Corporation (7/29/76) [3]

Root River Agency, Inc., Preston, Minnesota, notification of intent to engage in the activities of (an agriculture credit company) at 100 Anthony, North Preston, Minnesota (7/29/76) [3]

To Expand a Bank Holding Company Pursuant to Section 4(c) (12) of the Bank Holding Company Act of 1956.

PERMITTED

Sterling Precision Corporation, West Palm Beach, Florida, notification of intent to acquire the outstanding stock of Thorpe Automotive Company, Pawtucket, Rhode Island, an automotive replacement parts distributor (7/29/76) [3]

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To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Girard Trust Bank, Bala Cynwyd, Montgomery County, Pennsylvania. Branch to be established in the John Wanamaker Store located in the Roosevelt Mall, Cottman Avenue and Roosevelt Boulevard, Philadelphia County, Pennsylvania.

The Union Bank and Savings Company, Bellevue, Ohio. Branch to be established at 855 Kilbourne Street, Bellevue, Sandusky County.

Citizens Bank of Pacific, Pacific, Missouri. Branch to be established on the West side of State Highway 100 near its intersection with Highway M in the unincorporated community of Gray Summitt, Franklin County.

Planters Bank & Trust Company, Hopkinsville, Kentucky. Branch to be established on U.S. Highway 41-A between gates 4 and 5 of Fort Campbell, in Oak Grove, Christian County.

Walker Bank and Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of Downtown Tooele, Tooele County.

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To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of The Bank Holding Company Act of 1956.

First International Bancshares, Inc., Dallas, Texas, to retain shares of The First State Bank of Kerens, Kerens, Texas.[2]

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To form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

First Hanover Park Corporation, Chicago, Illinois, for approval to acquire 80.03 per cent of the voting shares of First State Bank & Trust Company of Hanover Park, Hanover Park, Illinois.

Inland Beloit Corporation, Milwaukee, Wisconsin, for approval to acquire 100 per cent of the voting shares of Financial Network Corporation, Beloit, Wisconsin, and Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire 95.4 per cent of the voting shares of The Beloit State Bank, Beloit, Wisconsin, and 75.3 per cent of the voting shares of Community Bank of Beloit, Beloit, Wisconsin.

Union Holding Company, Halliday, North Dakota, for approval to acquire 80 per cent of the voting shares of The Union Bank, Halliday, North Dakota.

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To expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Inland Heritage Corporation, Wauwatosa, Wisconsin for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquire The Beloit State Bank, Beloit, Wisconsin.

Inland Heritage Corporation, Wauwatosa, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquire The Beloit State Bank, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin.

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company of 1956.

[3] Application processed on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

National Central Financial Corporation, Lancaster, Pennsylvania, for approval to acquire all of the mortgage servicing portfolio of Land Mortgages, Inc., Dayton, Ohio (and to engage in the mortgage banking business at Land Mortgages' Dayton office).

Southern Bankshares, Inc., Richmond, Virginia, for approval to retain the shares of Charter Insurance Managers, Inc. and National Union Life Insurance Company, both in Richmond, Virginia (acting as an insurance agency for credit life and credit accident and health insurance directly related to an extension of credit by the bank holding company system; and acting as an underwriter for credit life insurnace and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system).

Great American Corporation, Baton Rouge, Louisiana, notification of intent to engage in *de novo* activities (making and acquiring for its own account, loans discounts, acceptances and other extensions of credit and such other business as is customarily engaged in by consumer credit of finance company, and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiary to include credit life insurance, accident and health insurance and property insurance for collateral supporting loans made by said finance subsidiary) at 2960 Johnston, Winwood Shopping Center, Lafayette, Louisiana, through a subsidiary, Ambank Acceptance Corporation D/B/S American Acceptance Associates. (7/30/76) [3]

First Tennessee National Corporation, Memphis, Tennessee, notification of intent to engage in *de novo* activities (making or acquiring, for its own account, interest-bearing and discount loans and other extensions of credit; and offering through the direct insurer or the reinsurer, or acting as agent or broker with respect to insurance that is directly related to an extension of credit by the company or its subsidiaries), at 2711 North Fourteenth Street, Ponca City, Oklahoma, through its wholly-owned subsidiary, Crown Finance Corporation. (7/30/76) [3]

Patagonia Corporation, Tucson, Arizona, notification of intent to engage in de novo activities (leasing personal property or acting as agent, broker or advisor in leasing such property provided: the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property; the property to be leased is acquired specifically for the leasing transaction under consideration or was acquired specifically for an earlier leasing transaction; the lease is on a nonoperating basis; and at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonable anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over term of the lease) at Transco Tower, 2700 Post Oak, Houston, Texas, through its subsidiary, Patagonia Leasing Company. (7/21/76) [3]

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REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 17, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24653 Filed 8-20-76;8:45 am]

FIRST MIDWEST BANCORP., INC.

Acquisition of Bank

First Midwest Bancorp., Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Platte Valley Bank, Ravenwood, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 7, 1976.

Board of Governors of the Federal Reserve System, August 16, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24646 Filed 8-20-76;8:45 am]

FEDERAL TRADE COMMISSION

INTERLOCKING DIRECTORATES

Statement of Policy

On May 17, 1976, the Federal Trade Commission issued a complaint against Perpetual Federal Savings & Loan Association ("Perpetual"), Docket No. 9083. The complaint states that the Commission has reason to believe that Perpetual is violating Section 5 of the Federal Trade Commission Act by sharing common directors with competing banks in the Washington, D.C. area. The complaint alleges that Perpetual competes for savings deposits and residential loans with two of the largest banks in Washington and that six members of Perpetual's board of directors are also members of the boards of directors of one or the other of the two banks. A majority of the Commission voted to name Perpetual as a respondent but not the six individuals. A third Commissioner dissented from the motion to issue the complaint because the individuals were not also named as respondents.

The courts have recognized the Commission's discretion in determining who, among those who may be in violation of its act, should be made a respondent in a Commission proceeding.[1] This Statement of Policy is nonetheless being released to avoid misunderstanding in the legal and business communities concerning the susceptibility of individual directors to Commission process in interlock cases.

This Statement of Policy is only intended to provide general guidance and information. When time, circumstances, and the public interest require, this Statement may be superseded or amended by subsequent Commission action without prior notice. This Statement is not a rule or regulation. It does not modify the scope or coverage of any provision of the antitrust laws or the Federal Trade Commission Act. In issuing this Statement, the Commission has made no determination on the merits that Perpetual or any other person or corporation has actually violated the law by maintaining interlocking director relationships between a savings and loan association and a bank.

TRADITIONAL INTERLOCK ENFORCEMENT

In recent complaints that allege director interlocks to be violations of Section 5 of the Federal Trade Commission Act and Section 8 of the Clayton Act, the Commission's usual practice has been to name as respondents individual directors as well as the corporations they serve. Section 8 of the Clayton Act states that "no person at the same time shall be a director in any two or more [competing] corporations. • • •" (Emphasis added.) Section 5 of the FTC Act grants the Commission the authority to prevent "persons" as well as corporations from engaging in unfair acts, practices, and methods of competition. Although interlock cases terminated by consent generally result in resignations by the interlocked directors and, in the past, have often been concluded by orders issued against the offending corporations only the Commission has recently issued a final consent order against an individual respondent in an interlock case who had resigned after the issuance of the administrative complaint.[2]

The Commission traditionally has viewed compliance with the laws against director interlocks to be as much the responsibility of individual directors as of the affected corporations. Directors are expected to be consistently loyal to their corporations and to the shareholders of those corporations. They are not to place themselves in situations which entail actual or potential conflicts of interest.[3]

SAVINGS AND LOAN ASSOCIATIONS

Legal commentors have observed that savings and loan associations are subject

[1] *Moog Industries* v. *Federal Trade Commission*, 355 U.S. 411, 412 (1958).

[2] *See* In the Matter of Kraftco, Inc., SCM Corporation, and Richard G. Bond, Docket No. 9035, 41 F.R. 21442.

[3] *See generally*, 5. W. Fletcher, Private Corporations, ch. 20, § 441 (perm. ed. 1965); H. Henn, Handbook of the Law of Corporations, ch. 9, § 235 (2d ed. 1970).

VOL 41 NO 164 AUG 23 76 UM

to the antitrust laws and the FTC Act.[4] The Federal Home Loan Bank Board has advised regulated savings and loan associations of their susceptibility to antitrust and FTC Act liability.[5]

While the reach of Section 8 of the Clayton Act to interlocks between banks and other corporations such as savings and loans may not be clear,[6] no similar express statutory provision is contained in Section 5 of the FTC Act. The Commission has cited Section 5 as an independent basis of liability in interlock cases.[7]

In the case of savings and loan/bank interlocks there are two factors underlying the Commission's determination to emphasize a prospective approach to enforcement against individuals.

The first factor is the longstanding and apparently widespread nature of the practice of interlocking banks with savings and loan associations. According to publicly available information,[8] there may be over a thousand interlocks between banks and their savings and loan competitors, many of longstanding duration. The sheer number and duration of these may have reinforced the erroneous impression that these interlocks would never be subject to Federal Trade Commission scrutiny.

The second factor affecting the Commission's decision is that the agencies which are the principal regulators of banks and savings and loan associations have never prohibited the interlocks. The Federal Reserve Board has maintained that it lacks the statutory authority to address these interlocks.[9] The Federal Home Loan Bank Board has proposed regulations on the subject but has not promulgated final regulations.[10]

These factors would not justify future non-involvement by the Commission. Accordingly, the Commission will henceforth in appropriate situations adhere to its customary practice of naming individuals as well as corporations in interlock complaints subject to the Commission's jurisdiction. The Commission recognizes, however, that, in view of the apparent ubiquity of savings and loan association interlocks with banks, immediate resignations by interlocking directors might be disruptive. The Commission, therefore, believes that a short grace period may be appropriate as a matter of policy.[11] It is the Commission's intention, however, that after January 1, 1977, savings and loan association directors will be charged invidually in complaints which may from time to time issue challenging allegedly unlawful interlocks of this nature which it has reason to believe remain in existence on or after that date.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; 80 Stat. 378; (5 U.S.C. 552).)

By direction of the Commission dated August 3, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24574 Filed 8-20-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-27]

CHICORY ROOT: CRUDE AND PREPARED

Notice and Order

CONCERNING REVISED PROCEDURE FOR COMMISSION ACTION

Notice is hereby given that—

1. The United States International Trade Commission has extended the time, from August 16, 1976, to August 23, 1976, by which the presiding officer in this proceeding is to submit to the Commission his recommended determination concerning whether there is reason to believe that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337). In connection therewith, the Commission has also extended its own administrative deadline for issuing its determination from August 25, 1976, to September 3, 1976.

2. The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., August 30, 1976, in the Commission's Hearing Room, Room 331, 701 E Streeet NW., Washington, D.C., for the purpose of (1) hearing oral argument with respect to the recommended determination of the presiding officer concerning whether there is reason to believe, in this matter, that there is a violation of section 337 of the Tariff Act of 1930; (2) hearing oral argument concerning appropriate relief in the event the Commission determines that there is reason to believe that there is a violation of section 337 and determines that there should be relief; and (3) receiving information and hearing oral argument, as provided for in section 210.14(a) of the Commission's Rules of Practice and Procedure (41 F.R. 17710), concerning relief, bonding, and the public interest factors set forth in sections 337(e) and (f) of the Tariff Act which the Commission is to consider in the event it determines there is reason to believe that there is a violation of section 337 and determines that there should be relief.

For the purpose of this hearing, parties wishing to make oral argument with respect to the recommended determination shall be limited to no more than 30 minutes time per party, 10 minutes of which may be reserved by complainant for rebuttal; and parties wishing to make oral argument with respect to relief shall be limited to no more than 15 minutes time per party.

The Commission will take information and hear argument concerning relief, bonding, and the public interest factors from all parties and interested persons and agencies. Each participant will be limited to no more than 30 minutes time for making his presentation, and each participant will be permitted an additional 5 minutes time for closing arguments after all of the 30 minute presentations have been concluded.

For the duration of this hearing, the intervenor parties, Wm. B. Reily & Co., Inc., Community Coffee Co., Inc., and American Coffee Co., Inc., will jointly share the time limits allocable to one party, since they are similarly situated.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than noon, Friday, August 27, 1976. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief, bonding, and the public interest factors) in which the requesting person desires to participate.

[4] *See* the following articles in the Legal Bulletin of the Savings and Loan League: Carothers and Kramer, The Savings Association Business—Does It Have An Antitrust Future?, *Legal Bull.* 145, 164 (May, 1969); Manning, Savings and Loan Operations Under Antitrust, *Legal Bull.* 187 (July, 1975); Moscov, Antitrust Aspects of Merger, *Legal Bull.* 202 (July, 1975); Groeke, Savings Associations and the Antitrust Laws, *Legal Bull.* 1 (Jan., 1963).

[5] *See* Federal Home Loan Bank Board, Statement of Policy to Support 12 C.F.R. § 571.11 "Exclusive leases and similar arrangements," 41 FR 2805–806 (1976).

[6] Section 8 states, in pertinent part, that: "No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; • • •" and "• • • from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws."

[7] *E.g.*, Kraftco Inc. et al. Docket No. 9035 (1975).

[8] *See* Herman, *Conflicts of Interest in the Savings and Loan Industry*, in *Study of the Savings and Loan Industry* at 871–72 (FHLBB, 1969); see also reports of condition on file at the federal savings and loan and bank regulatory agencies.

[9] 12 C.F.R. § 212.5 (1976).

[10] Proposed Insurance Regulations No. 75-863, 40 Fed. Reg. 43832 (1975).

[11] Such a grace period is in keeping with the spirit of § 8 of the Clayton Act, which allows a director to serve one year from the date of his election if he was eligible to serve at that time but became ineligible subsequently. It is also in accord with the policy of seeking voluntary compliance with § 8 followed for some years by the Department of Justice. *See* ABA *Antitrust Law Developments* 102, n. 240.

Notice of the Commission's institution of investigation and of the former procedure for Commission action was published in the FEDERAL REGISTER of July 16, 1976 (41 F.R. 29496).

Issued: August 18, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-24654 Filed 8-20-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50-261]

CAROLINA POWER AND LIGHT COMPANY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-23 issued to Carolina Power & Light Company which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2, located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment requires operability and surveillance of shock suppressors (snubbers) required to protect the primary coolant system and all other safety related systems and components.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 28, 1976, (2) Amendment No. 22 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-24393 Filed 8-20-76;8:45 am]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Dresden Nuclear Power Station (the facility) located in Grundy County, Illinois. The license amendment is affective as of its date of issuance.

The license amendment revised Technical Specifications for the facility to require limiting conditions for operation and surveillance requirements for safety-related shock suppressors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 16, 1976, (2) Amendment No. 16 to License No. DPR-2, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of August 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-24394 Filed 8-20-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. Following this, an IAEA Technical Review Committee reviews the preliminary draft and modifies it to the extent necessary to develop a draft acceptable to the IAEA Technical Review Committee. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide SG-S4 "Population Distribution Around Nuclear Power Plants" has been developed and the NRC staff is soliciting comments on this Guide from the U.S. public.

An IAEA Working Group consisting of Mr. L. Namestek of Czechoslovakia, Mr. R. Gerald of France, Mr. T. Sarma of India, Mr. W. Gutschmidt of the Federal Republic of Germany, and Mr. W. Ramsay (Resources for the Future) of the United States developed the draft from an IAEA collation during a meeting that was held in Vienna, Austria on June 28 to July 16, 1976.

As the next step in its development the draft Safety Guide is scheduled to be reviewed by the IAEA Technical Review Committee on Siting at a meeting in Vienna, Austria on September 27–October 1, 1976. Comments received by September 15, 1976 will be useful to this review. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland, this 12th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-24389 Filed 8-20-76;8:45 am]

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INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. Following this, an IAEA Technical Review Committee reviews the preliminary draft and modifies it to the extent necessary to develop a draft acceptable to the IAEA Technical Review Committee. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide SG–S3b "Meteorology—Extreme Meteorological Conditions in Nuclear Power Plant Siting" is being developed. The draft of this Safety Guide was approved by the IAEA Technical Review Committee on Siting which met in June 1976.

As the next step in its development the draft Safety Guide is scheduled to be reviewed by the IAEA Senior Advisory Group at a meeting in Vienna, Austria on December 6–10, 1976. Comments received by September 30, 1976 will be useful to this review. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland, this 11th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-24390 Filed 8-20-76;8:45 am]

Docket Nos. 50-282 and 50-306

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 14 and 8 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments specify operability and surveillance requirements for shock suppressors (snubbers) to protect the primary coolant system and all other safety related systems and components of the facilities.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 30, 1976, (2) Amendment No. 14 and 8 to License Nos. DPR–42 and DPR–60, respectively, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of August 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-24391 Filed 8-20-76;8:45 am]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 15 and 9 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Units 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revised the Appendix A portion of the Technical Specifications for the facilities to allow a one-month extension of the maximum interval for refueling outage surveillance tests for the first operating cycle of Unit No. 2 of the Prairie Island Nuclear Generating Plant. This action also incorporated a temporary exemption from the requirements of Section III.D of Appendix J of 10 CFR Part 50 that allows containment leak rate tests for the first operating cycle of Unit No. 2 to be postponed for one month.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated May 27, 1976, (2) Amendment Nos. 15 and 9 to License Nos. DPR–42 and DPR–60, respectively, (3) the Commission's concurrently issued related Safety Evaluation, and (4) the Commission's letter to the Northern States Power Company being issued concurrently with this Notice. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of August 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-24392 Filed 8-20-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of ACRS Subcommittees, Working Groups, and the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the list of proposed meetings published in FR Vol. 41, Monday, July 19, 1976, page 29764. Those meetings that are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. These Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the September 9–11, 1976 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–1406, Attn: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m., e.d.t.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

Peaking Factors, August 20, 1976, Washington, DC to continue discussion of methods of measuring power distribution in reactors whose cores are fabricated by the Babcock and Wilcox Company. Notice has been published in FR Vol. 41, August 5, 1976, page 32796.

Environmental, August 24 and 25, 1976, Washington, DC to discuss proposed revisions to Regulatory Guides on emergency planning and occupation radiation exposure. Notice has been published in FR Vol. 41, August 9, 1976, page 33341.

Montague Nuclear Power Station, Units 1 and 2, August 26–27, 1976, Turners Falls, MA to review the application of the Northeast Nuclear Energy Company for a permit to construct Units 1 and 2. Notice has been published in FR Vol. 41, August 9, 1976, page 33342.

Diablo Canyon Nuclear Station, Unit 2, rescheduled from August 31 to September 29, 1976, Los Angeles, CA.

Emergency Core Cooling Systems (ECCS), September 2, 1976, Washington, DC to discuss the effect of upper-head injection (UHI) on the Westinghouse Electric Corporation's analytical models formulated to meet current ECCS criteria. Notice has been published in FR Vol. 41, August 16, 1976, page 34705.

Regulatory Guides, September 8, 1976, Washington, DC to review working papers regarding future Regulatory Guides and proposed changes to existing Guides.

Three Mile Island Nuclear Station, Unit 2, September 23–24, 1976, Harrisburg, PA to review the application of the Metropolitan Edison Company for an operating license.

Clinch River Breeder Reactor, September 28–29, 1976, Oak Ridge, TN to develop information for consideration by the ACRS in its review of the combined application of the U.S. Energy Research and Development Administration, the Tennessee Valley Authority, and the Project Management Corporation for a permit to construct this nuclear power plant.

Diablo Canyon Nuclear Power Station, Units 1 and 2, September 29, 1976 (rescheduled from August 31, 1976), Los Angeles, CA to continue the review of the application of the Pacific Gas and Electric Company for an operating license for Units 1 and 2. Notice has been published in FR Vol. 41, August 16, 1976, page 34704 and notice of the change of date appears elsewhere in this issue.

Floating Nuclear Plant, September 30–October 1, 1976, Los Angeles, CA to review the liquid pathway study, emergency core cooling, and probabilities of shipping accidents as part of the review for a manufacturing license.

Marble Hill Nuclear Generating Station, Units 1 and 2, October 1, 1976, Louisville, KY to review the application of the Public Service Company of Indiana for a permit to construct Units 1 and 2.

Reactor Safety Study, October 12, 1976 (tentative), Washington, DC to continue Working Group review of WASH–1400 (NUREG–75/014), "An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants."

North Anna Power Station, Units 1 and 2, October 13, 1976, Washington, DC. Concurrent meetings will be held to review steam generator and reactor coolant pump support questions at one meeting, and to continue the review of the application of the Virginia Electric Power Company for an operating license for Units 1 and 2 at the other meeting.

San Joaquin Nuclear Project, October 29, 1976, Bakersfield, CA to develop information for consideration by the ACRS in its review of the report on the suitability of the proposed site of the Department of Water and Power of the City of Los Angeles for the San Joaquin Nuclear Project.

FULL COMMITTEE MEETINGS

September 9–11, 1976

A. *Montague Nuclear Power Station, Units 1 and 2—Construction Permit Review

B. *Emergency Core Cooling Systems Upper-Head Injection—Review of Analytical Models

October 14–16, 1976

Agenda to be announced.

Dated: August 17, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24625 Filed 8-20-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR POWER STATION UNITS 1 AND 2

Change of Meeting Date

The Aug. 31, 1976 meeting of the ACRS Subcommitte on the Diablo Canyon Nuclear Power Station, Units 1 and 2, announced in FR Vol. 41, page 34704, Aug. 16, 1976 will be held on Sept. 29, 1976 at the same location.

Persons desiring to mail written comments may do so as indicated in the FR notice cited above. Comments postmarked no later than Sept. 22, 1976 will normally be received in time to be considered at this meeting.

Further information regarding the meeting can be obtained by a prepaid telephone call on Sept. 28, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1374 ATTN: Mr. John C. McKinley) between 8:15 a.m. and 5 p.m., e.d.t.

A copy of the transcript of the open portion of the meeting and a copy of the minutes of the meeting will be available for inspection on October 6, 1976 and December 29, 1976, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

All other matters pertaining to this meeting remain unchanged.

Dated: August 17, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24626 Filed 8-20-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON REGULATORY GUIDES

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Guides will hold a meeting on September 8, 1976 in Room 1062, 1717 H Street, NW., Washington, DC 20555. This meeting will have both open and closed sessions.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, September 8, 1976, 9 a.m. until about 11 a.m. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following items:

(1) Regulatory Guide 1.106, Revision 1, "Thermal Overload Protection for Electric Motors on Motor-Operated Valves."

(2) Regulatory Guide 1.107, Revision 1, "Qualifications for Cement Grouting for Prestressing Tendons in Containment Structures."

In connection with the above agenda items, the Subcommittee may hold one or more Executive Sessions, not open to the public, at approximately 8:30 a.m. and 11 a.m. to consider matters related to the above reviews. These sessions will involve an exchange of opinions and discussions of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

After the above portion of the meeting is concluded, the Subcommittee will meet in closed session with the NRC Staff and any consultants at about 11 a.m. until the close of business to discuss working papers on Regulatory Guide 1.XX, "Acceptable Model and Related Statistical Methods for Analysis of Fuel Densification."

This portion of the meeting may include Executive Sessions both before and after the closed session with the NRC Staff.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process and that other closed sessions will be held to discuss and exchange views on

V 41 164 AUG 23 76 UMI

working papers (5 U.S.C. 552(b)(5)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding Regulatory Guides 1.106 and 1.107 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 1, 1976 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 7, 1976 to the Office of the Executive Director of the Committee (telephone 22/634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after September 15, 1976 at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 after December 8, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 17, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24627 Filed 8-20-76;8:45 am]

[Docket No. 50-318]

BALTIMORE GAS AND ELECTRIC CO., CALVERT CLIFFS NUCLEAR PLANT, UNIT 2

Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issue Facility Operating License No. DPR–69 to Baltimore Gas and Electric Company authorizing operation of the Calvert Cliffs Nuclear Plant, Unit 2 in accordance with the provisions of the license and the Technical Specifications. The Calvert Cliffs Nuclear Plant, Unit 2 is a pressurized water nuclear reactor located at the licensee's site in Calvert County, Maryland, about 10½ miles southeast of Prince Frederick, Maryland.

The Commission has made appropriate findings regarding the environmental impact associated with issuing an operating license for testing purposes. These findings are contained in documents entitled "Negative Declaration Regarding Issuance of a Limited Facility License DPR–69, Calvert Cliffs Nuclear Power Plant, Unit 2" and "Environmental Impact Appraisal of Issuance of Fuel Loading, Criticality Lower-Power Testing Operating License for Calvert Cliffs Nuclear Power Plant, Unit 2". Pursuant to the findings in these documents, Facility Operating License No. DPR–69 authorizes operation of the facility at a reactor core power level not to exceed 25.6 megawatts thermal for testing purposes. License No. DPR–69 is conditioned to provide a sequential approach to one percent power by accounting for a series of incomplete construction items, preoperational tests, startup tests and other items which must be completed prior to attaining one percent power, and provides for further Commission approval at various stages of these activities.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

A copy of (1) Facility Operating License No. DPR–69, complete with Technical Specifications (Appendices "A" and "B"); (2) the "Negative Declaration Regarding Issuance of a Limited Facility License DPR–69, Calvert Cliffs Nuclear Power Plant, Unit 2," (3) the Environmental Impact Appraisal of Issuance of Fuel Loading, Criticality Low-Power Testing Operating License for Calvert Cliffs Nuclear Power Plant, Unit 2," (4) the report of the Advisory Committee on Reactor Safeguards, dated January 14, 1974; (5) the Office of Nuclear Reactor Regulation's Safety Evaluation Report and Supplements 1, 2, 3, 4, 5 and 6 thereto, dated August 28, 1972, May 4, 1973, December 4, 1973, June 14, 1974, December 27, 1974, August 10, 1976, and August 13, 1976, respectively; (6) the Final Safety Analysis Report and amendments thereto; (7) the applicant's Environmental Report dated November 1970 and supplements thereto; (8) the Draft Environmental Statement dated January 1972; and (9) the Final Environmental Statement dated April 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Calvert County Library, Prince Frederick, Maryland. Single copies of items (1), (2), (3), (4), (5) and (9) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 13th day of August 1976.

For the Nuclear Regulatory Commission.

R. C. DEYOUNG,
Deputy Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc.76-24629 Filed 8-20-76;8:45 am]

[Docket No. 50-318]

CALVERT CLIFFS NUCLEAR POWER PLANT, UNIT 2

Negative Declaration Regarding Issuance of a Limited Facility License DPR–69

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a limited Facility Operating License No. DPR–69 to Baltimore Gas and Electric Company, for authorizing certain operations of the Calvert Cliffs Nuclear Power Plant, Unit 2 located in Calvert County, Maryland.

The license would authorize operation of the facility at not more than 1 percent of full power for the purpose of testing the facility.

The Commission has prepared an environmental impact appraisal for the limited license and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Calvert Cliffs Library, Prince Frederick, Maryland 20678. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 13th day of August 1976.

For the Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis Office of Nuclear Reactor Regulation.

[FR Doc.76-24630 Filed 8-20-76;8:45 am]

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO.

Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding:

CONSUMERS POWER CO.

(MIDLAND PLANT, UNITS NO.1 AND NO.2) CONSTRUCTION PERMIT NOS. CPPR–81 AND CPPR–82

This action is in reference to the Memorandum and Order of the Commission dated August 16, 1976, directing that an Atomic Safety and Licensing Board for the Midland Facility be reconvened for the limited purpose of considering whether construction permits for that facility should be continued, modified or suspended until an interim fuel cycle rule has been made effective.

The Members of the Board and their addresses are as follows:

Daniel M. Head, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Emmeth A. Luebke, Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. J. Venn Leeds, Jr., Member, 10807 Atwell, Houston, Texas 77096.

Dated at Bethesda, Maryland, this 17th day of August 1976.

Atomic Safety and Licensing Board Panel.

ROBERT M. LAZO,
Acting Chairman.

[FR Doc.76-24631 Filed 8-20-76;8:45 am]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. DPR–70 to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company. License No. DPR–70 authorizes operation of the Salem Nuclear Generating Station, Unit No. 1 by the Public Service Electric and Gas Company in accordance with the provisions of the license and the Technical Specifications. The Salem Nuclear Generating Station, Unit No. 1 is a pressurized water nuclear reactor located at the licensees' site in Lower Alloways Creek Township, Salem County, New Jersey.

The Commission has made appropriate findings regarding the environmental impact associated with issuing an operating license for testing purposes. These findings are contained in documents entitled, "Negative Declaration Regarding Issuance of a Limited Facility License DPR–70, Salem Nuclear Generating Station, Unit No. 1," and "Environmental Impact Appraisal of Issuance of Fuel Loading, Criticality Low-Power Testing Operating License for Salem Nuclear Generating Station Unit No. 1." Pursuant to the findings in these documents, Facility Operating License No. DPR–70 authorizes operation of the Salem Nuclear Generating Station, Unit No. 1 at a reactor core power level not to exceed 33.38 megawatts thermal for testing purposes. License No. DPR–70 is conditioned to provide a sequential approach to one percent power by accounting for a series of incomplete construction items, preoperational tests, startup tests and other items which must be completed prior to attaining one percent power, and provides for further Commission approval at various stages of these activities.

The Commission has made appropriate findings as required by the Atomic Energy Act (the Act) of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

A copy of (1) Facility Operating Licensing No. DPR–70, complete with Attachment 1 and Technical Specifications (Appendices "A" and "B"); (2) the "Negative Declaration Regarding Issuance of a Limited Facility License DPR–70, Salem Nuclear Generating Station, Unit No. 1," (3) the "Environmental Impact Appraisal of Issuance of Fuel Loading, Criticality Low-Power Testing Operating License for Salem Nuclear Generating Station Unit No. 1," (4) the report of the Advisory Committee on Reactor Safeguards, dated February 14, 1975; (5) the Office of Nuclear Reactor Regulation's Safety Evaluation Report and Supplements Nos. 1 and 2 thereto, dated October 11, 1974, June 28, 1976, and August 13, 1976 respectively; (6) the Final Safety Analysis Report and amendments thereto; (7) the applicants' Environmental Report dated June 30, 1970 and supplements thereto; (8) the Draft Environmental Statement dated October 1972; and (9) the Final Environmental Statement dated April 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. Single copies of items (1), (2), (3), (4), (5) and (9) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 13th day of August 1976.

For the Nuclear Regulatory Commission.

R. C. DEYOUNG,
Deputy Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc.76-24632 Filed 8-20-76;8:45 am]

[Docket No. 50-272]

SALEM NUCLEAR GENERATING STATION UNIT NO. 1

Negative Declaration Regarding Issuance of a Limited Facility License DPR–70

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a limited Facility Operating License No. DPR–70 to Public Service Electric and Gas Company, for authorizing certain operations of the Salem Nuclear Generating Station Unit No. 1, located in Salem County, New Jersey.

The license would authorize operation of the facility at not more than 1 percent of full power for the purpose of testing the facility.

The Commission has prepared an environmental impact appraisal for the limited license and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document, 1717 H Street, NW., Washington, D.C., and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 13th day of August 1976.

For the Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Aanalysis, Office of Nuclear Reactor Regulation.

[FR Doc.76-24633 Filed 8-20-76;8:45 am]

[Docket No. STN 50-485]

ROCHESTER GAS AND ELECTRIC CORP. (STERLING POWER PROJECT NUCLEAR UNIT NO. 1)

Evidentiary Hearing

The evidentiary hearing in this matter will resume on Monday, August 30, 1976, at 1:30 p.m., at the Green Room, First Floor, Holiday Harbor Hotel, East

V 41 164 AUG 23 76 UM

Bridge Street (Route 57), Oswego, New York. The hearing will continue through Friday, September 3, 1976.

It is so ordered.

Dated at Bethesda, Maryland, this 16th day of August 1976.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

[FR Doc.76-24628 Filed 8-20-76;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.712, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding:

VERMONT YANKEE NUCLEAR POWER CORPORATION

(VERMONT YANKEE NUCLEAR POWER STATION) FACILITY OPERATING LICENSE NO. DPR-28

This action is in reference to the Memorandum and Order of the Commission dated August 16, 1976, directing that an Atomic Safety and Licensing Board for the Vermont Yankee Facility be reconvened for the limited purpose of considering whether the operating license for that facility should be continued, modified or suspended until an interim fuel cycle rule has been made effective.

The Members of the Board and their addresses are as follows:

Samuel W. Jensch, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. David B. Hall, Member, Los Alamos Scientific Laboratory, P.O. Box 1663, Los Alamos, New Mexico 87544.

Dr. Paul W. Purdom, Member, 245 Gulph Hills Road, Radnor, Pennsylvania 19087.

Dated at Bethesda, Maryland, this 17th day of August 1976.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
ROBERT M. LAZO,
Acting Chairman.

[FR Doc.76-24634 Filed 8-20-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 9-11, 1976, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

Thursday, September 9, 1976

8:30 a.m. to 9:30 a.m.: Executive Session (Closed)—The Committee will meet in closed executive session to exchange and discuss the personal opinions of individual members leading to the formulation of advice and recommendations regarding candidates for ACRS membership, procedures for conduct of ACRS meetings and related records, and proposed procedures for ACRS discussions with representatives of foreign governments. The Committee will also discuss the individual opinions and recommendations of ACRS members and consultants who may be present regarding proposed construction of the Montague Nuclear Power Station Units 1 & 2.

9:30 a.m. to 1:30 p.m.: Montague Nuclear Power Station Units 1 & 2 (Open)—The Committee will meet with representatives of the applicants and the NRC Staff to hear presentations and hold discussions regarding the request for a construction permit for this facility. Portions of this session will be closed if required to discuss proprietary information related to the design, construction or operation of these units. Closed portions will also be held if necessary to discuss security provisions for this facility and for Committee deliberative sessions.

2:30 p.m. to 3:15 p.m.: Executive Session (Closed)—The Committee will discuss the individual opinions and recommendations of ACRS members and consultants who may be present regarding the request for approval of the Upper Head Injection System proposed for Westinghouse Nuclear Power Plants.

3:15 p.m. to 5 p.m.: Upper Head Injection System (Open)—The Committee will hear presentations and hold discussions regarding the request for approval of this proposed change in the emergency core cooling systems for Westinghouse Electric Corporation nuclear steam supply systems. Portions of this session will be closed if required to discuss proprietary material related to this system modification. Closed Sessions will also be held for Committee deliberative sessions.

5 p.m. to 6:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to exchange personal opinions and recommendations of ACRS members leading to the formulation of advice and recommendations related to the evaluation of the Heavy Section Steel Technology Program and the Crystal River Nuclear Generating Plant and proposed Regulatory Guides.

Friday, September 10, 1976

8:30 a.m. to 9:30 a.m.: Executive Session (Closed)—The Committee will meet with the Executive Director for Operations to discuss NRC Staff review of internal practices and policies regarding backfitting of nuclear facilities and inspection of nuclear facilities.

9:30 a.m. to 11 a.m.: Meeting with NRC Staff (Open)—The Committee will meet with members of the NRC Staff to hear presentations and to discuss reactor operating experience and licensing actions, resolution of generic items related to light-water reactors and the future schedule for ACRS activities.

11 a.m. to 12:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to exchange and discuss the personal opinions and recommendations of individual members leading to the formulation of advice regarding items considered at this meeting.

1:30 p.m. to 3 p.m.: Report on Enrichment Facilities (Closed)—The Committee will hear presentations by representatives of the NRC Staff and ERDA regarding the design of and security provisions related to nuclear fuel enrichment facilities. This portion of the meeting will be closed to discuss material classified as Restricted Data.

3 p.m. to 6:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to exchange and discuss the personal opinions of ACRS members leading to the formulation of advice regarding management of radioactive wastes and safeguards provisions for nuclear facilities.

Saturday, September 11, 1976

8:30 a.m. to 4 p.m.: Executive Session (Closed)—The Committee will meet in closed executive session to exchange and discuss personal opinions and recommendations leading to the formulation of advice with respect to the items considered at this meeting. Proposed ACRS activities and reports on generic matters such as underground siting of nuclear plants and safety of mixed-oxide fuels will also be discussed.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect classified restricted data (5 U.S.C. 552 (b)(3)), proprietary data (5 U.S.C. 552 (b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)). These closed sessions will cosist primarily of deliberative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible

copy thereof in time for consideration at this meeting. Comments postmarked no later than September 2, 1976, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

Montague Nuclear Power Station, Units 1 & 2, Carnegie Library, Avenue A, Turner Falls, MA 01376.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on September 8, 1976, to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 AM and 5:00 PM, Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on September 8, 1976.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC, on or after December 10, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 19, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24747 Filed 8-20-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/17/76 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:
Report of Acreage and Marketing of Peanuts to Non-Established Buyers, MQ-98-1, Annually, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health:
Multiple Risk Factor Intervention Trial Forms, NIH-HL-9, Other (see SF-83), Industr. Employees; General Population and M.D.'s, Richard Eisinger, 395-6140.

Health Services Administration:
End Stage Renal Disease Home Dialysis Study, Single-Time, Candidates for Home Dialysis, Richard Eisinger, 395-6140.

Health Resources Administration:
Pretest of Household Interview Portion of Medical Care Expenditure Survey, None, Single-Time, Sampler of Household and Their Health Care Provided in 2 Locations, Richard Eisinger, Strasser, A. 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary:
Property Report Questionnaire, None, Single-time, Recipients of Property Reports; Housing, Veterans and Labor Division, Lowry, R. L., 395-3532.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-24761 Filed 8-20-76;8:45 am]

FEDERAL PROCUREMENT POLICY

Cost Comparisons Under OMB Circular A-76

Proposed Transmittal Memorandum to OMB Circular A-76, Providing Cost Factors to be Used in Determining the Cost of Government Commercial and Industrial Activities.

OMB Circular A-76, originally issued in 1966 and revised on August 30, 1967, states the Government's general policy of reliance on the private enterprise system for needed products and services. The Circular provides that exceptions to that policy may be justified when direct Government performance can be shown to be in the National interest. One basis for such an exception is a demonstrated cost saving from Government operation of a commercial or industrial activity. When executive agencies make a comparative cost analysis between commercial and Government sources, the cost to be incurred under each alternative must be determined in accordance with prescribed procedures.

The cost of commercial performance can be established primarily from a contract bid or proposal, but Government costs must be developed from less specific cost data. Circular A-76 states that Government costs must include: "all elements of compensation and allowances for both military and civilian personnel, including the full cost to the Government of retirement systems, calculated on a normal cost basis."

Both the employing agency and the employee contribute 7% of salary to the Civil Service Retirement System. The agency's 7% contribution is currently used in cost comparisons as the full cost to the Government, although it is widely recognized that the actual cost to the Government is substantially higher. The discrepancy results from the fact that agency and employee contributions are based on a "static" projection of the normal cost for the system; i.e., a projection which assumes that there will be no general increases in Civil Service wage

V 41 164 AUG 23 76 UMI

scales and no increases in benefit payments to retirees under the Consumer Price Index (CPI) escalator provisions. When these increases do occur, they create a deficit in funding of the system that is paid by additional Government contributions from general Treasury funds distributed over a thirty-year period. Underfunding prior to 1969 created an unfunded liability which is being stabilized by annual direct transfers of interest payments from the Treasury to the Civil Service Retirement Trust Fund.

In order to achieve greater accuracy 90801 Thoren 8–20–76 D. Lino Mach 52 and uniformity in agency cost studies, standard factors which reflect the full cost to the Government must be provided for use by all executive agencies. At the request of OMB, the Civil Service Commission developed cost factors for the Civil Service Retirement System and for Government contributions to employee insurance programs.

The retirement system factor was first approached from the standpoint of the cost of financing the system under current conditions, while excluding any cost attributable to past failures of the Government to make payments into the fund when due. The resulting figure, 19.9% of salary, included the agency contribution to the system, thirty-year payments to cover benefit improvements, and a portion of the interest on the unfunded liability. This retirement cost factor was criticized on the basis that it reflected the cost of financing obligations which have already been incurred, and that it did not include the impact of future salary and benefit increases, which must be anticipated. It was also recognized that a factor computed on this basis would increase each year as additional thirty-year payments are initiated. For example, the 19.9% factor, which was based on FY 1975 data, increased to 20.4% when recomputed with FY 1976 data.

An alternative approach was developed to determine a factor that reflects full Government cost for the system through the use of "dynamic" rather than "static" normal costs. Calculation of normal costs on a "dynamic" basis provides a more realistic measure of system costs by anticipating future changes in salaries, interest rates, and retirement benefits. This method has been recommended by the Board of Actuaries of the Civil Service Retirement System and the Comptroller General of the United States. Dynamic normal costs were calculated using the actuarial models of the Civil Service Retirement System.

In developing a cost factor on this basis, it was necessary to make economic assumptions about future average annual wage increases to civil service employee and average annual interest rates for money in the fund. Using empirical analyses of historical data and judgments as to how trends might change in the future, the following economic assumptions were developed:

Average annual real wage increase 1.3 percent.

Average annual real interest rate 1.6 percent.

The annual real interest rate of 1.6 percent was the prevailing rate between 1952 and 1964, our last period of sustained stability in inflation rates. If periods of erratic inflation had been included, the interest rate would have been lower. The average annual real wage increase was based on 1948–1973 real GNP growth per manhour worked, corrected for factors such as intersectoral shifts, and increased quality of workers. Data for 1974 and 1975 were excluded from the computation because of the greatly reduced GNP growth during those recession years. In addition, a conservative set of assumptions (from the point of view of retirement costs) was established, setting the real wage growth rate at 1.0 percent, and real interest rate at 2.0 percent. A third economic assumption that was required by the actuarial model was the expected rate of inflation. However, because the effect of different inflation rates proved to be essentially irrelevant, a zero inflation rate was used and the analysis was carried out in constant dollar terms.

The Civil Service Commission actuary was asked to calculate normal costs under the following three combinations of assumptions, assuming in addition that the "one percent kicker" on CPI initiated benefit increases will be discontinued.

Case	Annual real wage increase (percent)	Annual real interest rate (percent)
1	1.3	1.6
2	1.0	2.0
3	1.3	2.0

The actuary projected the costs of retirement in each case as a percentage of payroll costs. These were: Case 1, 36.6%; Case 2, 31.7%; and Case 3, 33.0%. Since the individual contributes 7 percent of his salary to the retirement system, costs to the Government become 29.6, 24.7, and 26.0 percent, respectively.

The 24.7% cost to the Government, which results from use of the set of assumptions most favorable to minimum retirement costs, has been selected for use in all cost comparisons under Circular A–76.

To ensure uniformity and consistency in cost studies performed by different agencies within the executive branch, the following Transmittal Memorandum to Circular A–76 has been prepared. All interested parties are invited to submit their views and comments on this memorandum for consideration by the Office of Federal Procurement Policy. Responses should be received by September 20, 1976 and should be addressed to:

Administrator for Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW, Washington, D.C. 20503.

HUGH E. WITT,
Administrator.

Subject: Policies for Acquiring Commercial or Industrial Products and Services for Government Use

1. *Purpose.* This Transmittal Memorandum provides guidance and specific cost factors to be used when agencies prepare a cost analysis under OMB Circular A–76.

2. *Background.* OMB Circular A–76 expresses the Government's general policy of relying upon the private enterprise system to supply its needs for products and services, in preference to engaging in commercial or industrial activity. This policy reflects the fundamental concept that the Government should generally perform only those functions which are governmental in nature and should utilize the competitive incentives of the private enterprise system to provide the products and services which are necessary to support governmental functions. Those commercial or industrial activities which the Government performs directly for itself are not inherently governmental functions, but rather are exceptions to the fundamental concept, and their performance by Government personnel must be justified as being in the National interest.

3. *Supplemental Guidance.* Circular A–76 sets forth specific circumstances under which it may be in the National interest for the Government to provide directly some products and services for its own use. One of these circumstances permits justification of Government commercial or industrial activity if a detailed comparative cost analysis demonstrates that Government performance would result in sufficient savings to justify involvement in such activity. However, the Circular does not require that a cost study be made in every case to support a decision in compliance with the policy preference for reliance on commercial sources. A cost analysis is not needed in circumstances where the Government's economic interests would be protected, such as the existence of a competitive commercial market, unless the agency has some unique economic advantage which would permit it to supply the needed product or service at less than commercial cost. In determining whether a cost study should be undertaken, consideration should be given to the delay and expense involved in a study sufficiently detailed and comprehensive to provide valid results.

Cost studies, when conducted, should be made in accordance with the guidelines in Section 6 of Circular A–76, and must cover all identifiable costs of both commercial and Government performance. Instructions for the determination of costs incurred by Government activities in providing products and services are set forth in paragraph 6.C. of the Circular. In computing the cost of civilian personnel services for a Government activity, the actual cost to the Government for employee benefits, such as retirement and insurance programs, must be included. Guidance in calculating these cost elements has been provided by the U.S. Civil Service Commission, which has determined current percentage factors for Government contributions to employee insurance programs and the full cost to the Government of the Civil Service Retirement System.

4. *Cost Factors.* (a) For the convenience of Federal agencies making cost studies, the following percentages of base pay will be used in computing the costs of civilian personnel services: Retirement, 24.7 percent; Health Insurance, 3.5 percent; Life Insurance, .5 percent.

(b) Cost comparisons made under the provisions of Circular A–76 should be sufficiently complete and documented to permit ready audit by qualified financial personnel. Copies will be made available to interested persons, on a cost reimbursable basis, when requested under the provisions of the Freedom of Information Act.

5. *Effective Date.* This Transmittal Memorandum is effective immediately.

6. *Inquiries.* Inquiries or requests for assistance should be directed to the Office of Federal Procurement Policy, telephone 395–3327.

[FR Doc. 76–24760 Filed 8–20–76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

PERSONAL-DATA RECORD-KEEPING PRACTICES IN EDUCATIONAL INSTITUTIONS

Hearings

On October 7 and 8, 1976, the Privacy Protection Study Commission will hold public hearings on personal-data record-keeping practices in educational institutions including elementary, secondary, and post-secondary schools. The October 7 and 8 hearings will be held in Room 8544, Federal Building, 300 North Los Angeles Street, Los Angeles, California, from 9:30 a.m. to 5:00 p.m. on October 7 and from 9:00 a.m. to 5:00 p.m. on October 8. Additional hearings will also be held on the East coast at a date and place to be announced.

These two Commission hearings will consider the protections afforded parents and students by th Family Educational Rights and Privacy Act of 1974, (FERPA) 20 U.S.C. § 1232g, and the Federal regulations issued thereunder. Because FERPA and its implementing regulations represent one approach to establishing a nationwide fair information practices policy, the Commission is interested in hearing about its feasibility and practical effects. In particular, the Commission wishes to understand the effects of FERPA on the record-keeping practices of educational institutions as applied in different school settings and in the context of different State statutes. Necessarily included in this inquiry will be the school records about students which are used by institutions that share responsibilities with educational institutions—for example, juvenile courts, law enforcement units, social service agencies, and persons conducting research in schools.

Section I below indicates the information needed for both sets of hearings. Section II focuses specifically on the matters to be handled in the Los Angeles hearings in October. As to the East Coast hearings, they will be partly devoted to matters not treated in the Los Angeles hearings, such as questions pertaining to the practices of organizations maintaining personal records related to school admissions or financial aid; resources and strategy for implementing FERPA; sanctions for violations of FERPA; and computer-based information systems. The notice announcing the time and place of the East Coast hearings will give further details on their subject matter.

To assist in the development of these inquiries the Commission wishes to learn about the experiences and views of interested parties, including students, parents, educational institutions and members of the public, prior to the Los Angeles hearings. Statements should be made in writing to the Executive Director, Privacy Protection Study Commission, Suite 424 2120 L Street, N.W., Washington, D.C. 20506, and should be received in the Commission offices no later than September 24, 1976.

I. REQUEST FOR BACKGROUND INFORMATION

The Commission needs additional background information on the actual practices of educational institutions that maintain records on students, former students, parents, and applicants. Accordingly, written submissions which deal with the following topics are requested.

The Commission needs detailed descriptions of the record-keeping systems in which different types of educational institutions maintain information on students, parents, former students, and applicants. FERPA recognizes six categories for records maintained by educational institutions: (a) education records; (b) medical records; (c) law enforcement records; (d) directory information; (e) research records; (f) "desk drawer" notes. In each case, the Commission would like to learn what type of information is typically contained in such records.

In addition, the Commission needs detailed answers to the following questions regarding the management of information that educational institutions maintain on students, former students, parents, and applicants. (1) Are explicit criteria of data relevance and reliability established and enforced in the day-to-day record-keeping practices of an educational institution and if so, who establishes them and what are they? (2) What training is provided staff who work with records about individuals? (3) What information is kept permanently and what is destroyed? (4) What information is maintained by electronic means? (5) What precautions are taken to avoid unauthorized access to information? (6) How are records linked within an institution and with records maintained by other organizations, including other educational institutions? (7) What procedures and standards govern routine use of recorded personal information by employees and other users? (8) What institutional policies and practices govern the security, sharing, and release of informal ("desk drawer") records and notes about students developed by individual teachers, counselors, law enforcement officers, medical personnel, and others working directly with students in schools? (9) How and why do breaches of policy, good practice, or security occur?

Although the following topics will be covered more extensively in the later East Coast hearings on FERPA, the Commission would also like written comments and background information on them at this time.

1. Practices of organizations that provide testing or screening services related to admissions and financial aid.

2. Encroachments on students' and parents' control over the dissemination of information about themselves which FERPA may have unintentionally ratified.

3. Resources and strategy for implementation of FERPA by the Department of Health, Education and Welfare (DHEW).

4. Adequacy of the current sanctions (withholding Federal funds) for violations of FERPA and alternatives that might be considered.

5. Development and funding of computer-based information systems containing individually identifiable data about parents, students and applicants for auditing, eligibility determination, or providing special services in schools.

6. Interaction of Federal statutes with current and pending State legislation.

II. SUBJECT OF OCTOBER HEARINGS

For its October 7 and 8 hearings the Commission will focus on and seek written submissions and public testimony on the following matters.

POLICIES OF EDUCATIONAL INSTITUTIONS PURSUANT TO FERPA.

The FERPA regulations issued by the Department of Health, Education and Welfare on June 17, 1976, require that local educational institutions formulate and adopt policies and procedures for informing parents and students of their rights under the Act and for carrying out the minimum requirements of the Act. (1) What policies have individual educational agencies developed and how have they developed them? (2) Which features of such policies are the product of State statutes and which are the product of FERPA requirements? (3) What evidence is there that these policies have produced parent and student awareness of their rights with respect to the records that are kept about them? (4) Are the FERPA grievance and redress requirements practical for schools and timely and convenient for students and parents? (5) What actual experiences have parents and students had in exercising their rights under local policies and procedures? (6) Have such policies increased the specificity, objectivity, and substantiation of the information that educational institutions record about students, former students, parents, and applicants?

Waivers of Rights. FERPA provides that the right to inspect and review certain education records (e.g., letters of recommendation) may be waived by a student. The Commission is interested in information concerning how and under what circumstances such waivers are obtained, the impact of the use of such waivers, and the consequences of an individual's decision not to waive his rights. The Commission would also like to learn whether the fact that a record, recommendation, or other information has been or may be reviewed by its subject might lead educators to treat it as less credible than would otherwise be the case, or as incomplete. For example, is it becoming necessary to verify or

V 41 164 AUG 23 76 UMI

supplement "reviewed" statements through oral inquiries of which no formal record is made or kept? Is a "reviewed" statement readily distinguishable on its face from one that has not been reviewed by its subject? Are there specific documentable situations in which permitting a student to read a candid appraisal of his qualifications, potential, or performance can be shown to have been harmful to him, to the individual making the appraisal, or to the educational institution requesting it? If there are such situations, how could the waiver provision in the Act be modified to deal specifically with them?

Access to Recorded Information by Law Enforcement Officials. Records maintained by the law enforcement unit(s) of an educational institution are exempted from the subject access requirements of FERPA provided that four conditions are met (1) such records are used solely for law enforcement purposes; (2) such records are kept separately from "education records"; (3) such records are not disclosed to "individuals other than law enforcement officials from the same jurisdiction"; and (4) the "education records" of the educational institution are not disclosed to its law enforcement officials. The Act further provides that educational agencies may disclose "education record" information without the consent of the student or his parents "to State or local officials or authorities to whom the information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974."

These provisions appear to give law enforcement officials outside an educational institution considerable access to recorded information about a student. The Commission is interested in learning about the extent of release of information to law enforcement agencies, and the standards of relevance and reliability that are imposed on information so released. What standards should define the circumstances under which education records are released to law enforcement officials?

The Commission is interested in learning how effectively records maintained by law enforcement units of an educational institution are restricted from other uses. How are such records distinguished from education records? For example, is the term "education record" being construed so as to give internal or external law enforcement officials broad access to information obtained for research or educational uses? Do law enforcement agency records affect educational decisions? To what extent does the disclosure of recorded information to outside law enforcement officials adversely affect the ability of schools to fulfill their primary missions? Would the fact that a student is said in an education record to be taking a medically prescribed but popularly abused drug be disclosed or disclosable to law enforcement officials within or outside the educational institution? How are records concerning a student's participation in "predelinquent" or "diversionary" programs used by an educational institution in making educational decisions about the student?

The DHEW regulations do not explicitly indicate what the phrase "same law enforcement jurisdiction" should be construed to mean in practice. Given that records might be released to law enforcement officials only under explicitly specified standards, how should the term "same jurisdiction" be defined. Should it be defined in personal/geographic terms? Or, should "same" be defined in terms of subject-matter jurisdiction; e.g., the FBI might use education records in cases of interstate car theft, while the State highway patrol might use education records in cases of State motor vehicle code violations.

Disclosures to Parents of a Minor Student. By providing parents the right to inspect their minor students' records, FERPA appears to make it impossible for school officials to guarantee a minor student that education record information he divulged about himself will be held in confidence. Does this conflict with protections afforded by State statutes?

The student may have volunteered sensitive information or opinions about his parents to school officials—regarding alcoholism or abuse of a sibling, for example. Mere record of contact with a school screening or information project concerning drug abuse or venereal disease, might also provide parents with information that would not be in the best interest of their child for them to have. Should any records of the student be withheld from parents, and if so, why? Are parents securing inappropriate access to medical records regarding a child?

Present and Pending State Legislation in California. A number of State legislatures have been very attentive to matters bearing on the creation, use, and management of records maintained by educational institutions. In California, for example, both current laws and proposed new statutes go beyond FERPA in a variety of ways and thus may anticipate matters that should be taken into account in considering amendments to FERPA. Accordingly, the Commission wishes information on present and pending State legislation affecting the personal-data recordkeeping practices of educational institutions in California. What arguments and facts have been cited concerning such State legislation? What experiences have States had in implementing such State laws? What is the rationale for current laws and pending legislation? What problems do current and proposed laws seek to resolve? How has FERPA affected current and proposed State statutes? How are State requirements for individually identifiable data (e.g., for program auditing) treated in State laws on personal data recordkeeping in education?

Research Conducted in Educational Institutions. Schools are a major source of data for social science researchers and for research training. Schools are often the subject of considerable public interest in particular, concerning the propriety, equity or effectiveness of local educational practices. FERPA and existing regulations under the act require the prior consent of subjects for research using educational records where such research is *not* conducted for or on behalf of either specified Federal authorities or an educational agency or institution.

The Commission needs to learn how FERPA requirements are being interpreted in the field, and how those interpretations are affecting research conducted in schools. How are local educational agencies deciding *who* can conduct research in schools without prior consent of subjects? Are FERPA requirements restricting research trainees' opportunities for data collection? Are students', citizens', or public interest research groups' inquiries into the propriety, equity, or effectiveness of educational practices being constrained by FERPA? Are FERPA requirements for prior consent for access to education records making retrospective longitudinal research strategies infeasible?

Whether or not subject to FERPA requirements, research in schools raises a number of additional questions. Should parents or law enforcement officials have access to data collected from students for research purposes? Under what circumstances should sensitive information about a student's family or teachers be solicited from the student? What practices are followed regarding consent of students or parents for student participation in research? How consistently do researchers use confidentiality-preserving modes of recording, reporting, and storing their data? How effective are these procedures when used? What safeguards should be used to protect against redisclosure of personal data in the course of reanalysis for purposes other than those for which the data were originally collected? Does collection of research information authorized under FERPA conflict with State statutes or local policies which establish tighter rules for data collection, use, and dissemination? Should information generated about individuals by clinical research studies be used for individual decision making.

Dated: August 17, 1976.

DAVID F. LINOWES,
Chairman.
CAROLE W. PARSONS,
Executive Director.

[FR Doc.76-24608 Filed 8-20-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-12703; File No. SR-CBOE-1976-16]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. Nos. 94-29, 16 (June 4, 1975), notice is hereby given that on August 4, 1976 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: (deletions, bracketed; additions italicized)

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 1.1(v) Primary Market. The term "primary market" in respect of an underlying security *which is principally traded on a national securities exchange* means the principal *exchange* market in which the underlying security is traded, and *in respect of an underlying security principally traded in the over-the-counter market means the over-the-counter market reflected in the National Association of Securities Dealers Automated Quotation System (NASDAQ).*

RESTRICTION OF OUT-OF-THE MONEY OPTIONS

Rule 4.17.[1] (a) Subject to the provisions of paragraphs (b) through (d), no member on behalf of a customer or for his own account, shall enter any order for an opening transaction (purchase or writing) in any call option contract as to which (i) the exercise price is more than $5 above the closing price of, *or, where applicable, the mean between the final representative bid and asked quotation for,* the underlying security in the primary on the last previous day on which the underlying security was traded and (ii) the closing price of the option on the Exchange was less than $0.50 per unit of trading on the last previous day on which the option was traded; and no member, on behalf of a customer or for his own account, shall enter any order for an opening transaction (purchase or writing) in any put option contract as to which (x) the exercise price is more than $5 below the closing price of, *or, where applicable, the mean between the final representative bid and asked quotation for,* the underlying security in the primary market on the last previous day on which the underlying security was traded and (y) the closing price of the option on the Exchange was less than $0.50 per unit of trading on the last previous day on which the option was traded.

* * * Interpretations and Policies: .01 It is contemplated that the authority given in paragraph (c)(ii) to make exceptions, modifications or additions will be applied primarily when an unusual intra-day trading movement in the price of the option or the *price of or representative quotations for* the underlying security is such that the President and Floor Officials determine that the prior day's [close] *closing price or final representative quotations* should no longer be decisive as to the application of the Rule.

APPROVAL OF UNDERLYING SECURITIES

Rule 5.3. The underlying securities of option contracts traded on the Exchange shall be approved for Exchange transactions by the Board following the recommendations of the Securities Committee. In approving underlying securities, both the Securities Committee and the Board shall give due regard to, and the Board shall promulgate guidelines relative to, the following factors:

(a) Underlying securities approved for Exchange transactions shall be characterized by a large number of outstanding units which are widely held and actively traded in the primary market;

(b) Underlying securities shall *either* be duly listed and registered on a national securities exchange[;] or, *shall be designated as "OTC Margin Stock" pursuant to Regulation T under the Securities Exchange Act of 1934;*

(c) The list of approved underlying securities shall be representative of issuers engaged in a wide variety of business activities; and

(d) Underlying securities shall meet the requirements set forth in the agreements of the Exchange with the Clearing Corporation.

TERMS OF OPTION CONTRACTS

Rule 5.6. (a) The expiration month and exercise price of option contracts of each series of options shall be determined by the Securities Committee at the time each series of options is first opened for trading. [Unless the Securities Committee otherwise provides and so indicates at the post at which the option contract is traded, option contracts shall expire in the months of January, April, July and October, and] Series of options of a given expiration month shall generally be opened for trading about nine months prior to such expiration month (e.g., October options will generally be opened during the preceding January). The exercise price of each series of options shall be fixed at a price per unit which is reasonably close to the price per unit at which the underlying security is traded in the primary market at the time such series of options is first opened for trading. Additional series of options of the same class may be opened as the market price of the underlying security moves substantially from the initial price or prices.

TRADING ROTATIONS

Rule 6.2. * * * Interpretations and Policies: .01 Trading rotations shall be employed at the opening and at the close of the Exchange each business day. For each class of option contracts that has been approved for trading, the opening and closing rotation shall be conducted by the Board Broker acting in such class of options. The rotations shall be conducted in the following manner.

(a) Opening Rotations. The opening rotation in each class of options shall be held promptly following *either* the opening of the underlying security on the principal exchange where it is traded [.] *or, in the case of underlying securities principally traded in the over-the-counter market, the availability of representative quotations through the NASDAQ system.* As a rule, a Board Broker acting in more than one class of options should open them in the same order in which opening transactions are reported *or representative quotations are available* in the underlying securities. In conducting each such opening rotation, the Board Broker should first open the one or more series of options of a given class having the nearest expiration, then proceed to series of options having the next most distant expiration, and so forth, until all series have been opened.[2] Except as otherwise provided by the Floor Procedure Committee, if both puts and calls covering the same underlying security are traded, the Board Broker shall determine which type of option should open first, and may alternate the opening of put series and call series or may open all series of one type before opening any series of the other type, depending on current market conditions.

In the event an underlying security *which is listed on an Exchange* has not opened *or current represenative quotations are not available for an underlying security which is principally traded in the over-the-counter market,* within a reasonable time after 9:00 a.m. (Chicago Time), the Board Broker acting in option contracts on such security shall report the delay to a Floor Official and an inquiry shall be made to determine the cause of the delay. The opening rotation for option contracts in such security shall be delayed until *either* the underlying security *which is listed on an exchange* has opened *or until current representative* quotations *are available for the underlying security which is principally traded in the over-the-counter market,* unless two Floor Officials determine that the interests of a fair and orderly market are best served by opening trading in the option contracts.

TRADING HALTS

Rule 6.3. (a) Halts. Any Floor Official may halt trading in any option contract in the interests of a fair and orderly market for a period not in excess of two consecutive business days. Among the factors that may be considered by the Floor Official are that:

(i) Trading in the underlying security has been halted or suspended in the primary market,

(ii) The opening of such underlying security in the primary market, *where the primary market is a national securities exchange,* has been delayed because of unusual circumstances,

(iii) Current representative quotations are not available for underlying securities principally traded in the over-the-counter market, or

[iii](*iv*) Other unusual conditions or circumstances are present.

b. Resumptions. Trading in an option contract that has been the subject of a halt under paragraph (a) above may be resumed upon a determination by the

[1] The text of Rule 4.17(a) reflects a proposed amendment filed under Rule 19b-4 in file No. SR-CBOE-1975-7.

[2] The text of paragraph (a) of interpretation 6.2.01 following the asterisk reflects a proposed amendment filed under Rule 19b-4 in file No. SR-CBOE-1975-7.

V 41 164 AUG 23 76 UMI

majority of Floor Officials that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

SUSPENSION OF TRADING

Rule 6.4. (a) Suspension. The Board may suspend trading in an option contract in the interests of a fair and orderly market. Among the factors that may be considered by the Board are that:

(i) Trading in the underlying security has been suspended in the primary market,

(ii) Representative quotations are unavailable for underlying securities principally traded in the over-the-counter market,

[(ii)] *(iii)* Trading in the option contract has been halted for two business days by the Floor Official acting in accordance with Rule 6.3, and the conditions which led to such halt are still present, or

[(iii)] *(iv)* Other unusual conditions or circumstances are present.

(b) Resumptions. Trading in an option contract that has been the subject of a suspension under paragraph (a) above may be resumed upon a determination of the Board that the conditions which led to the suspension are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

RESPONSIBILITIES OF FLOOR BROKERS

Rule 6.73. (a) General Responsibility. A Floor Broker handling an order is to use due diligence to execute the order at the best price or prices available to him, in accordance with the Rules.

(b) Contingency order or one-cancels-the-other order. A Floor Broker handling a contingency order or a one-cancels-the-other order that is dependent upon the price of, *or the representative quotation for*, the underlying security shall be responsible for satisfying the dependency requirement on the basis of the last reported price of, *or representative quotation for*, the underlying security in the primary market that is generally available on the floor of the Exchange at any given time. Unless mutually agreed by the members involved, an execution or non-execution that results shall not be altered by the fact that such price *or representative quotation* is subsequently found to have been erroneous.

(c) Spread orders at the opening or close. A Floor Broker shall not be held responsible for executing a spread order based upon transaction prices that are established at the opening or close of trading or during any trading rotation employed in accordance with Rule 6.2.

OBLIGATIONS OF MARKET-MAKERS

Rule 8.7 • • • (a) • • •

(b) Principal Appointment • • •

(i) • • •

(ii) Bidding no more than $1 lower and/or offering no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the *representative bid or offer for, or* price per share (or other unit of trading) of, the underlying security has changed by more than $1 since the last preceding transaction for the particular option contract.

CBOE'S STATEMENT OF BASIS AND PURPOSE

The principal purpose of the proposed rule changes is to permit selected securities that are traded in the over-the-counter market and are not listed on any national securities exchange to serve as underlying securities for options traded on CBOE. (These are referred to herein as "OTC underlying securities".) Prior to reflecting the proposed rule changes, under CBOE's rules each underlying security in respect of options traded on CBOE must itself be duly listed and registered on a national securities exchange. The purpose of each particular rule change that is proposed herein may be explained as follows:

Rule 1.1(v). The purpose of this amendment is to define the "primary market" in respect of securities principally traded in the OTC market to mean that market as reflected in the National Association of Securities Dealers Automated Quotation System (NASDAQ).

Rule 4.17. It is proposed to amend Rule 4.17 and Interpretation .01 thereunder to provide that for purposes of imposing restrictions on certain transactions in out-of-the-money options covering OTC underlying securities, the mean between the final representative bid and asked quotation on NASDAQ will be utilized as the current market price of the underlying security.

Rule 5.3. The proposed amendment to Rule 5.3 would permit CBOE to select for options trading underlying securities that are designated as "OTC Margin Stock" pursuant to Regulation T, provided that such securities meet all of the other requirements which presently pertain to the selection of underlying securities.

Rule 5.6. The proposed amendment to Rule 5.6, which is unrelated to the proposal to trade options covering OTC underlying securities, reflects the deletion from Rule 5.6 of the provision that unless otherwise designated, options shall expire in the months of January, April, July and October. This provision has been made obsolete by CBOE's practice of introducing options having expiration cycles other than as stated in the Rule.

Interpretation .01 of Rule 6.2. It is proposed to amend this Interpretation to provide that the opening rotation of options covering OTC underlying securities shall commence each trading day following the availability of representative quotations on NASDAQ.

Rules 6.3 and 6.4. Rule 6.3 is proposed to be amended to permit a Floor Official to halt trading in an option covering an OTC underlying security whenever current representative quotations for the underlying security are not available. Similarly, it is proposed to amend Rule 6.4 to permit the Board of Directors to suspend trading in such an option in the event such representative quotations are not available.

Rule 6.73. It is proposed to amend Rule 6.73, which describes various contingency orders that are dependent upon the market price of underlying securities, to provide that in the case of options covering OTC underlying securities, such contingency orders will depend upon representative quotations for the underlying securities in the over-the-counter market.

Rule 8.7. The proposed amendment to Rule 8.7 reflects that, in the case of options covering OTC underlying securities, changes in the representative bid or offer for the underlying security serve to determine the circumstances under which a market maker may change his option quotation by more than $1.00.

CBOE believes that it is consistent with the standards of the Act designated for the protection of investors and the public interest to select as underlying securities for options transactions certain of the most widely held and actively traded securities that are traded in the over-the-counter market and are not listed on any national securities exchange. In the case of such securities, the availability of current quotations via the NASDAQ system will enable options premiums to fairly reflect the current market value of the underlying security in the same manner as options premiums for listed securities are today determined on the basis of the last reported sale price. For this purpose, CBOE will make available at each post where options covering OTC underlying securities are traded a current updated Level I NASDAQ display showing the current representative bid and offer for each such security. In addition, CBOE is considering providing Level II NASDAQ information showing the bids and offers of each market maker in each such underlying security through interrogation devices on the CBOE trading floor. The availability of Level II NASDAQ information will depend upon whether arrangements can be made with the NASD and what the costs of providing such information would be. In all other material respects, trading in options covering OTC underlying securities is no different from the options trading that presently takes place in listed underlying securities.

Although formal comments have not been solicited or received, opinions informally expressed to CBOE have been in support of the proposal to extend options trading to selected OTC underlying securities.

The proposed rule changes will impose no burden on competition.

On or before September 27, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments

concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 13, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 12, 1976.

[FR Doc.76-24566 Filed 8-20-76;8:45 am]

[Rel. No. 34-12704; File No. SR-CBOE-1976-15]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 27, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is as follows (language to be deleted is included in brackets):

BROKERS' BLANKET BONDS

Rule 9.22, Interpretations and Policies. .01.5(a) A member organization may choose to maintain coverage in excess of the minimum requirements as set forth above in paragraph .01.2, and in such case, a deductible provision of up to $5,000 or 10% of the amount of the blanket bond coverage, whichever is greater, may be included in the bond purchased. However, the excess of this greater deductible amount over the maximum permissible deductible amount as described above in paragraph .01.5 must be subtracted from the member organization's net worth in the calculation of the member organization's net capital under SEC Rule 15c3-1 [If the member organization is a subsidiary of another exchange member which guarantees the subsidiary's net capital in writing, the excess deductible amount may instead be subtracted from the parent company's net worth.]

STATEMENT OF THE BASIS AND PURPOSE

The purpose of the proposed rule change is to delete the provision contained in the last sentence of Interpretation .01.5(a) under Rule 9.22 of the CBOE rules which provides that a member-subsidiary which carries bonding coverage greater than the minimum requirements for the firm would be permitted to have the amount of excess deductible in its bond subtracted from the parent's net worth, rather than from the subsidiary's net worth, in the calculation of the subsidiary's net capital pursuant to Section 240.15c3-1 (the "Uniform Net Capital Rule"). It appears that this provision is inconsistent with the purposes of the Uniform Net Capital Rule inasmuch as Appendix "C" thereto prohibits flow through capital benefits of this kind. Accordingly, the proposed rule change is being made in order to render Rule 9.22 consistent with the purposes of the Uniform Net Capital Rule in this regard.

Section 6(b)(1) under the Act provides, among other things, that an exchange shall not be registered as a national securities exchange unless "such exchange is so organized and has the capacity to be able to carry out the purposes of this title and to comply, and • • • to enforce compliance by its members and persons associated • • • with the provisions of this title, the rules and regulations thereunder, and the rules of the exchange." This section establishes the basis for the Exchange's proposal to amend Rule 9.22 in order to render it consistent with the purposes of the Uniform Net Capital Rule, particularly with respect to the policies set forth in Appendix "C" thereto.

Comments on the proposed rule were not solicited from members.

The Exchange does not believe that the proposed rule change will impose any burden upon competition.

On or before September 27, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 13, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 12, 1976.

[FR Doc. 76-24565 Filed 8-20-76; 8:45 am]

[Rel. No. 34-12708; File No. SR-DTC-76-7]

DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 4, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change provides for a new Certificate as to Citizenship to be executed by all Participants of The Depository Trust Company (DTC). The primary differences between the new Certificate and the former Certificate are that the new Certificate (a) deals more specifically with the requirements of Section 310 of Title 47 of the United States Code (restricting alien ownership of radio station licensees' capital stock), (b) encompasses the deposited capital stock of all corporate radio station licensees which securities are Eligible Securities under DTC's Rules, without naming the licensees, and (c) requires indemnification by the Participant of DTC and each officer, director, employee and DTC Participant against liabilities to which they may become subject due to action taken by DTC in reliance upon the new Certificate.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

3. *Purpose of Proposed Rule Change.* The purpose of the proposed rule change is to enable corporate radio station licensees whose capital stock is eligible for deposit at DTC to comply with Section 310 of Title 47 of the United States Code which restricts allen ownership of said capital stock.

4. *Basis under the Act for Proposed Rule Change.* (a) Not Applicable.

(b) The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by increasing DTC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions in that the proposed rule change allows DTC to make issues eligible for deposit which, due to governmental restrictions on citizenship of stockholders, might otherwise have to be excluded from eligibility.

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(c) Not Applicable.

5. *Comments Received from Members, Participants or Others on Proposed Rule Change.* No comments have been solicited.

6. *Burden on Competition.* None.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 13, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 16, 1976.

[FR Doc.76-24563 Filed 8-20-76; 8:45 am]

[Rel. No. 34-12712; File No. SR-OCC-76-7]

OPTIONS CLEARING CORP.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would permit each Clearing Member of OCC to effect settlements in respect of exercised option contracts through a clearing corporation designated by the Clearing Member for that purpose.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The primary purpose of the proposed rule change is to permit each Clearing Member of OCC to effect settlements in respect of exercised option contracts through the clearing corporation of its choice. OCC's present Rules assume that exercise settlements will be effected through an omnibus account maintained by OCC for its Clearing Members with a single clearing corporation. The proposed rule changes would permit each Clearing Member to designate a clearing corporation for exercise settlement purposes and to maintain an exercise settlement account directly with its designated clearing corporation.

The specific purpose of each of the proposed rule changes set forth under Item 1 is as follows:

1. The definition of "correspondent clearing corporation" in the OCC By-Laws is revised to incorporate the definition of "clearing agency" in the Securities Exchange Act of 1934, as amended, and to conform to the revised definition of "exercise settlement account" referred to below.

2. The term "designated clearing corporation" is made a defined term for the purpose of simplifying subsequent provisions.

3. The definition of "exercise settlement account" is revised to indicate that such accounts are to be maintained by Clearing Members directly, rather than through OCC (see paragraph 7, below), and to provide that the only settlements to be effected through such an account are settlements in respect of options exercised by the Clearing Member for which the account is maintained. Settlements in respect of the Clearing Member's assignments would be effected through its regular clearing account, so as to permit netting against other securities transactions.

4. A technical change is made in the definition of "long value position" and the term "short value position" is made a defined term to simplify the drafting of subsequent provisions.

5. Definitions are added for the terms "Receiving Clearing Member" and "Delivering Clearing Member" to simplify the drafting of subsequent provisions.

6. Article VIII, Sections 1 and 5 of the By-Laws are amended to clarify their application to losses incurred by OCC in connection with exercised option contracts.

7. New Rule 212 would require each Clearing Member to be a participant of at least one correspondent clearing corporation. Prior to or concurrently with the effectiveness of the proposed rule changes filed herein, OCC anticipates entering into exercise settlement agreements with Stock Clearing Corporation, American Stock Exchange Clearing Corporation, Midwest Clearing Corporation,[2] Pacific Clearing Corporation and Stock Clearing Corporation of Philadelphia. OCC understands that all but approximately five of its Clearing Members are currently participants of at least one of those clearing agencies, and anticipates that the remainder will voluntarily become participants prior to the effectiveness of proposed Rule 212.

[2] The new exercise settlement agreement will supersede OCC's present agreement with MCC and Midwest Securities Trust Company.

8. Technical changes have been made in Rule 909 and 912.

9. Proposed Rule 913(a) establishes a procedure whereby each Clearing Member is to designate the clearing corporation through which it wishes to effect option exercise settlements. It is anticipated that each Clearing Member will initially designate a single clearing corporation, but the Rule permits procedures to be developed in the future for designating different clearing corporations for different classifications of option contracts (e.g. contracts relating to particular underlying securities or contracts traded on particular exchanges).

10. A number of changes, largely of a technical nature, have been made in Rule 913(b) formerly Rule 913(a)), and a provision has been added permitting OCC to net (in reporting exercises to correspondent clearing corporations) a Clearing Member's rights to receive securities against its obligations to deliver securities of the same class on the same exercise settlement date.

11. Subparagraphs (c), (d) and (e) (formerly (b), (c) and (d)) of Rule 913 have been revised to conform their provisions to amended subparagraphs (a) and (b) of the Rule.

12. Rule 914 has been amended to clarify its provisions and to regulate positions resulting from settlements in respect of put option contracts.

13. The changes in subparagraphs (a) through (d) of Rule 915 are largely of a technical nature. A new subparagraph (e) has been added to prescribe the obligations of a Clearing Member after a buy-in of a long value position with a correspondent clearing corporation. Former subparagraphs (e), (f) and (g) have been redesignated and certain technical changes have been made therein.

14. Present Rule 916 is proposed to be deleted. Its purpose was to reduce OCC's exposure in the exent that a Clearing Member defaulted in its obligations to a correspondent clearing corporation. However, under the new exercise settlement system, OCC would no longer be exposed to loss in the event of such a default, because Clearing Members would maintain their exercise settlement accounts directly, rather than through OCC, and the correspondent clearing corporation would have no recourse against OCC in the event of a default.

15. New Rule 916 would provide a sell-out procedure for Clearing Members with short value positions in exercise settlement accounts in the event of the failure of a correspondent clearing corporation. The procedure generally parallels the buy-in procedure provided in amended Rule 915(f) for Clearing Members with long value positions. Under proposed Rule 916, no distinction is made, in terms of remedies, between a Clearing Member with a short value position which has not yet delivered securities in against that position and a Clearing Member which has delivered securities in but has not yet been paid. The latter would be required to seek either the return of the securities or payment of the applicable price from the

correspondent clearing corporation directly.

The proposed rule change relates to the prompt and accurate clearance and settlement of securities transactions, fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition. To the contrary, the proposed rule change would enhance competition among clearing agencies.

On or before September 27, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 13, 1976.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 17, 1976.

[FR Doc.76-24567 Filed 8-20-76; 8:45 am]

TEXT OF PROPOSED RULE CHANGE

Brackets indicate deletions, Italics indicate new material.

ARTICLE I, SECTION 1 OF BY-LAWS

Definitions. Section 1. Unless the context requires otherwise, the terms defined herein shall, for all purposes of these By-Laws and the Rules of the Corporation, have the meanings herein specified.

(a) through (aaa): [No change].

Correspondent Clearing Corporation. (bbb) The term "correspondent clearing corporation" means *a clearing agency (as defined in Section 3(a) of the Securities Exchange Act of 1934, as amended) which, by agreement with the Corporation, provides facilities for settlements in respect of exercised option contracts.* [clearing corporation (as that term is defined in Article 8 of the Uniform Commercial Code of the State of Illinois, or of such other State as may from time to time be designated by the Board of Directors, as the same may be amended from time to time) with which the Corporation maintains exercise settlement accounts.]

Designated Clearing Corporation. (ccc) *The term "designated clearing corporation," when used with respect to a Clearing Member and an exercised option contract for which the Clearing Member is the exercising or the Assigned Clearing Member, means the correspondent clearing corporation designated by that Clearing Member to act on its behalf in accordance with Chapter IX of the Rules in effecting settlement in respect of such exercised option contract.*

Exercise Settlement Account. (ddd) [(ccc)] The term "exercise settlement account" means an account maintained by a *Clearing Member* [the Corporation] with a correspondent clearing corporation [on behalf of a clearing Member for the purpose of facilitating] *for the sole purpose of effecting* settlements in respect of option contracts exercised by [or assigned to] such Clearing Member.

Free Position. (eee) [(ddd)] The term "free position," when used with respect to an exercise setlement account of a Clearing Member, means the position of the Clearing Member with respect to a security credited to such account for which the Clearing Member has fully paid or such account has been charged.

Long Value Position. (fff) [(eee)] The term "long value position," when used with respect to a security in an exercise settlement account of a Clearing Member, means the position of the Clearing Member with respect to the security when, under the rules and procedures of the correspondent clearing corporation carrying such account, the correspondent clearing corporation is obligated to deliver the security to the Clearing Member against payment of a [stipulated settlement] price *fixed pursuant to the rules of the correspondent clearing corporation* and the Clearing Member is obligated to receive the security and to pay such [settlement] price.

Short Value Position. (ggg) *The term "short value position," when used with respect to a security in an exercise settlement account of a Clearing Member, means the position of the Clearing Member with respect to the security when, under the rules and procedures of the correspondent clearing corporation carrying such account, the Clearing Member is obligated to deliver the security to the correspondent clearing corporation against payment of a price fixed pursuant to the rules of the correspondent clearing corporation and the correspondent clearing corporation is obligated to receive the securirty and pay such price.*

(fff) through (mmm). [Redesignated as (hhh) through (ooo); no change in text.]

Receiving Clearing Member. (ppp) *The Term "Receiving Clearing Member," when used (i) with respect to a call option contract, shall mean the exercising Clearing Member; and (ii) with respect to a put option contract shall mean the Assigned Clearing Member.*[1]

Delivering Clearing Member. (qqq) *The term "Delivering Clearing Member," when used (i) with respect to a call option contract shall mean the Assigned Clearing Member; and (ii) with respect to a put option contract shall mean the exercising Clearing Member.*[1]

ARTICLE VIII, SECTION 1 OF BY-LAWS

Maintenance and Purpose of the Clearing Fund.—Section 1. The Corporation shall maintain a Clearing Fund, to which each Clearing Member shall contribute, as provided in this Article VIII, to make good losses suffered by the Corporation as a result of the failure of any Assigned Clearing Member to perform its obligations under any assigned option contract, or as a result of the failure of any correspondent clearing corporation to *make any payment or delivery required with respect to an* [deliver securities credited or long value positions in] exercise settlement account[s], [to Clearing Members entitled thereto,] or as the result of any liquidation of a Clearing Member's open positions with the Corporation *or obligations in respect of exercised option contracts for which settlement has not yet been made,* or as a result of the failure by any Clearing Member to make any required payment to the Corporation or *any required payment* to a correspondent clearing corporation *which the Corporation makes on behalf of the Clearing Member.*

ARTICLE VIII, SECTION 5 OF BY-LAWS

Application of Clearing Fund.—Section 5. If any Clearing Member shall fail to discharge duly any obligation on or arising from any Exchange transaction accepted by the Corporation or any option contract assigned to such Clearing Member, or if the Clearing Member fails to make any required payment to the Corporation, or if the Clearing Member fails to make any required payment to a correspondent clearing corporation and the Corporation makes such payment on its behalf, or if the Corporation suffers any loss upon the liquidation of the Clearing Member's open long and short positions *or the Clearing Member's obligations in respect to exercised option contracts for which settlement has not yet been made,* [(including positions maintained at a correspondent clearing corporation)], then the Corporation shall apply the Clearing Member's Clear-

[1] The addition of this definition was proposed in SR-OCC-75-7, which is currently pending.

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ing Fund contribution to the discharge of such obligation, the making of such payment or the reimbursement of such loss. If the amount of the undischarged obligation, payment or loss exceeds the amount of the Clearing Member's total Clearing Fund contribution, and if the Clearing Member fails to pay the Corporation the amount of any such deficiency within 24 hours, the amount of the deficiency shall be paid out of the Clearing Fund and charged pro rata against all other Clearing Members' contributions as fixed at the time, but the Clearing Member who failed to pay the deficiency shall remain liable to the Corporation for the full amount of such deficiency until repayment thereof by such Clearing Member. If a correspondent clearing corporation shall fail to *make any required payment or delivery with respect to any* [deliver to a Clearing Member securities credited to a long value position in an] exercise settlement account, [of such Clearing Member], and *as a result thereof,* [such] securities are bought *in or sold out* for the account of in accordance with the Rules, [and the correspondent clearing corporation fails to reimburse the Corporation for all losses in connection therewith], the amount of [such unreimbursed] *any* loss[es] *incurred by the Corporation in connection with such buy-in or sell-out* shall be paid to the Corporation out of the Clearing Fund and charged pro rata against all Clearing Members' contributions as fixed at the time. [but without prejudice to the rights of the Corporation against such correspondent clearing corporation.]

PARTICIPATION IN CORRESPONDENT CLEARING CORPORATION

Rule 212. Every Clearing Member shall be and remain a participant in good standing of at least one correspondent clearing corporation.

NOTICE OF DELIVERY AND PAYMENT

Rule 909. Unless settlement is made through correspondent clearing corporations pursuant to Rule 913, the delivering Clearing Member and the receiving Clearing Member shall each promptly notify the Corporation, on forms prescribed by the Corporation, when delivery and payment have been made. Such notice shall be submitted to the Corporation as promptly as possible and in any event not later than 11:00 A.M. Central Time (12:00 noon Eastern Time) on the business day following the day on which delivery occurs. Notwithstanding the foregoing, in the event that a receiving Clearing Member is informed by the Corporation that a delivering Clearing Member has notified the Corporation that delivery has been made to such receiving Clearing Member, and the receiving Clearing Member does not advise the Corporation to the contrary by the close of business on the succeeding business day, the receiving Clearing Member's failure to do so shall constitute its acknowledgment to the Corporation that delivery has been made in the manner indicated in the notice furnished by the delivering Clearing Member. A delivering Clearing Member shall also notify the Corporation whenever it ships securities (whether through a bank, a correspondent broker, another clearing system or otherwise) for the purpose of effecting delivery, which notice shall state the certificate numbers of the securities being shipped.

DELIVERY AFTER "EX" DATE

Rule 912. *Subject to the provisions of Rule 913(e),* when an exercise notice is properly tendered to the Corporation pursuant to Rule 801 prior to an "ex" date (as fixed by the primary market for the underlying security) for a distribution that causes an adjustment to be made pursuant to the By-Laws, the delivering Clearing Member shall make delivery as required by such adjustment unless the parties otherwise agree. When an exercise notice is properly tendered to the Corporation prior to such an "ex" date for a distribution that does not cause an adjustment to be made pursuant to the By-Laws, and delivery of the underlying security is made too late to enable the receiving Clearing Member to transfer the security into its name and to receive such distribution, the delivering Clearing Member shall, at the time of delivery, issue its due bill check to the receiving Clearing Member for the amount of the distribution, which check shall be payable on the payment date of such distribution.

SETTLEMENT THROUGH CORRESPONDENT CLEARING CORPORATIONS

Rule 913. (a) *Each Clearing Member shall designate, in such manner as the Corporation shall from time to time prescribe, a correspondent clearing corporation of which the Clearing Member is a participant in good standing to serve as the Clearing Member's designated clearing corporation for the purposes of these Rules. Such a designation shall be maintained in effect at all times by each Clearing Member. The Corporation may establish procedures whereby a Clearing Member may appoint different designated clearing corporations for different classifications of exercised option contracts.*

(b) Notwithstanding anything to the contrary in Rules 901 through 912, the Corporation may specify in any Delivery Advice issued pursuant to Rule 803 that settlement in respect of the exercised option contract or contracts designated therein shall be made through the facilities of correspondent clearing corporations. In such event, *the Corporation shall report the exercise to the designated clearing corporations of the Delivering and the Receiving Clearing Member, furnishing such information with respect thereto as shall be necessary to enable settlement to be effected in respect of such exercise in accordance with the respective rules of such designated clearing corporations on the exercise settlement date (or, if any such designated clearing corporation is not open for business on that date, on the next date on which such clearing corporation is open for business).* [the Corporation will communicate the names of the exercising and Assigned Clearing Members, the quantity and description of the underlying securities to be delivered, the exercise settlement date and the exercise settlement amount to such correspondent clearing corporation, which, as of the opening of business on the exercise settlement date (or, if the correspondent clearing corporation is not open for business on that date, as of the opening of business on its next business day), shall credit the exercise settlement account of the exercising Clearing Member and debit the exercise settlement account of the Assigned Clearing Member with the amount of underlying securities specified in the Delivery Advice.] If settlement is to be made through [a] correspondent clearing corporations, the Delivery Advice issued to the *Receiving* [exercising] Clearing Member need not specify the name of the *Delivering* [Assigned] Clearing Member, and the Delivery Advice issued to the *Delivering* [Assigned] Clearing Member need not specify the name or address of the *Receiving* [exercising] Clearing Member. *In reporting exercises to a Clearing Member's designated clearing corporation hereunder, the Corporation may net exercised option contracts for which such Clearing Member is the Delivering Clearing Member against exercised option contracts for which such Clearing Member is the Delivering Clearing Member against exercised option contracts relating to the same underlying security and having the same exercise settlement date for which such Clearing Member is the Receiving Clearing Member.*[3]

(c) *If an exercise is reported to the designated clearing corporations of the Delivering and Receiving Clearing Members in accordance with paragraph (b) hereof, full settlement shall be deemed (for the purposes of these Rules) to have been made in respect of such exercise when the exercise settlement account of the exercising Clearing Member is credited or debited, as the case may be, with the quantity of underlying securities required to be delivered pursuant to the exercise. To the extent that an exercise is netted by the Corporation against an assignment in accordance with the last sentence of subparagraph (b) hereof, full settlement shall be deemed to have been made in respect of such exercise at the opening of business of the Corporation on the exercise settlement date; provided, however, that if the Corporation takes action with respect to such exercise pursuant to subparagraph (d) hereof, settlement shall be made in accordance with the provisions of subparagraph (d). From and after the time when settlement is deemed to have been made in respect of any exercise pursuant to the preceding provisions of this subparagraph (c), the Corporation shall have no further obligation in respect thereof, except as provided in Rules 915 and 916, and the obligations of the Delivering and the Receiving Clearing Member in respect of such exercise, and any long or short value positions or other obligations resulting from settlement in respect thereof, shall be determined by the rules and procedures of their designated clearing corporations.*

[(b) The making of the credits and debits provided for in subparagraph (a) hereof on the position records of the correspondent clearing corporation shall constitute full settlement in respect of the option contract or contracts in respect of which such credits and debits were made, and (except to the extent set forth in Rule 915) shall relieve the Corporation of any further obligation in respect thereof. From and after such settlement, the obligations of the respective Clearing Members in respect of the positions resulting from such credits and debits shall be subject to the rules and procedures of the correspondent clearing corporation.]

(d) [(c)] A specification in any Delivery Advice that settlement is to be made through the facilities of [a] correspondent clearing corpoartions may be revoked by the Corpoartion at any time prior to the opening of business on the exercise settlement date by an appropriate notice to the [exercising and Assigned] *Receiving and Delivering* Clearing Members. In the event of such revocation, delivery and payment shall be made in accordance with Rules 902 through 912 at the office established pursuant to Rule 201 by the *Receiving* [exercising] Clearing Member; provided, however, that the President of the Corpoartion may, upon the application of the *Receiving* [exercising] or the *Delivering* [Assigned] Clearing Member, extend or postpone the time for delivery to a date not more than five business days after the date of such revocation.

(e) [(d)] When an exercise notice is properly tendered to the Corporation pursuant to Rule 801 prior to an "ex" date (as fixed by the primary market for the underlying security) for any distribution, whether or not an adjustment is required to be made pursuant to the By-Laws, Clearing Members effecting settlement in respect of exercised option contracts pursuant to this Rule shall have such rights and obligations in respect of such distribution as may be provided under the rules and procedures of *their designated* [the correspondent] clearing corporations; [through which settlement is made]; provided, however, that the Board of Directors of the Corporation may in its discretion direct that additional adjustments be made as between *Receiving* [exercising] and *Delivering* [assigned] Clearing Members to prevent inequities in respect of any distribution.

[3] Previous filings under Rule 19b–4A with respect to this subparagraph (then designated as Rule 913(a)) were SR–OCC–75–1 (approved December 22, 1975) and SR–OCC–75–7 (currently pending). The proposed changes reflected in this filing incorporate certain changes proposed in SR–OCC–75–7.

MAINTENANCE AND ELIMINATION OF POSITIONS IN EXERCISE SETTLEMENT ACCOUNTS

Rule 914. (a) Positions of Clearing Members in exercise settlement accounts shall at all times be maintained in accordance with all applicable laws and governmental regulations and the rules and procedures of the correspondent clearing corporations carrying such accounts, including, without limitation, rules and procedures relating to the maintenance and elimination of long *and short* value positions and open fails to deliver or receive.

(b) No Clearing Member shall maintain a long value position with respect to any security in an exercise settlement account for a period in excess of thirty consecutive *calendar* days unless, during such *thirty-day period, the Clearing Member shall have duly demanded delivery of such security and shall have maintained such demand in effect continuously thereafter.*

(c) *No Clearing Member shall maintain a short value position or an open fail to deliver with respect to any security in an exercise settlement account without tendering delivery of such security for a period in excess of thirty consecutive days.*

FAILURE TO DELIVER BY CORRESPONDENT CLEARING CORPORATION

Rule 915. If a Clearing Member shall request the *immediate* delivery by a correspondent clearing corporation of securities *in respect of any* [credited to a] long value position in an exercise settlement account and shall comply with all applicable rules and procedures of the correspondent clearing corporation in connection with such request, and the correspondent clearing corporation shall fail, for a period of thirty or more calendar days thereafter, to deliver such securities to the Clearing Member *against payment therefor, or if a Clearing Member shall have an open fail to receive from a correspondent clearing corporation in an exercise settlement account for a period of thirty or more consecutive calendar days,* the Clearing Member may, not more than twenty days after the expiration of such thirty-day period, issue a written buy-in notice with respect to the undelivered securities. [Copies of] Such notice shall be delivered to the Corporation [and the correspondent clearing corporation] not later than 12:00 noon Central Time (1:00 P.M. Eastern Time) of the business day preceding the day when the buy-in is proposed to be executed. Such notice shall specify the date of the withdrawal request *or the settlement date for the open fail to receive* and the quantity and description of the undelivered securities, and shall state that unless delivery is made at or before a specified time, which may not be prior to 12:00 noon Central Time (1:00 P.M. Eastern Time) of the business day following the delivery of the notice, the undelivered securities shall be bought in on the date specified.

(b) Upon the failure of the Corporation or the correspondent clearing corporation to effect delivery *prior to the time specified in* [in accordance with] the buy-in notice, or to obtain a stay as hereinafter provided, the Clearing Member may purchase for "cash" in the best available market, or at the option of the Clearing Member for guaranteed delivery not later than five business days after the regular settlement date for such purchase, for the account and liability of the Corporation, all or any part of the securities necessary to complete the required delivery. In the event a buy-in is not completd pursuant hereto on the day specified in the notice, or as such date may be extended pursuant to subparagraph (c) hereof, the buy-in notice shall remain in force for five business days thereafter. Except as the Corporation may otherwise authorize, the Clearing Member shall buy in prior to the expiration of the buy-in notice. In all cases, Clearing Members must be prepared to defend the price at which the buy-in is executed relative to the current market at the time of the buy-in.

(c) If prior to the execution of a buy-in, the Clearing Member receives from the Corporation or the correspondent clearing corporation written notice stating that the securities are in transfer or in transit or *available for immediate delivery to the Clearing Member,* [are being shipped that day, and giving the certificate numbers] then the Clearing Member may not execute the buy-in for a period of five business days from the date delivery was due under the buy-in notice. [Upon request of the correspondent clearing corporation,] The Corporation may *extend such five-day period if* [grant additional extensions of time provided] the securities are in transfer and, due to the transfer agent, transfer is delayed.

(d) The Clearing Member executing a buy-in hereunder shall as promptly as possible on the day of execution notify the Corporation [and the correspondent clearing corporation] as to the description and quantity of the securities purchased and the price paid, and shall promptly mail or deliver formal confirmation thereof. [The Corporation shall promptly and in any event] Prior to 10:00 A.M. Central Time (11:00 A.M. Eastern Time) of the [following] business day following the *Corporation's receipt of such confirmation, the Corporation shall* pay the Clearing Member *an amount equal to the excess* [the difference] (if any) of (i) [between] the price paid on such buy-in [and] *over* (ii) the amount which would have been payable by the Clearing Member to the correspondent clearing corporation by reason of the delivery of the securities bought in if delivery thereof had been made by the correspondent clearing corporation on the business day preceding the date of the buy-in; *or, if (ii) exceeds (i), the Clearing Member shall pay to the Cor-*

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poration an amount equal to such excess.

(e) Unless the Corporation shall direct otherwise, from and after the execution of any buy-in hereunder, the Clearing Member which executed the buy-in shall continue to maintain with its designated clearing corporation the long value position or open fail in respect of which the buy-in was executed, and shall pay to or receive from the Corporation, on a daily basis, any mark-to-the-market payments received or payable by the Clearing Member in respect of such long value position or open fail under the rules and procedures of the correspondent clearing corporation. The Clearing Member shall maintain in effect, with respect to any such long value position, a withdrawal request of the highest priority permissible under the rules and procedures of the correspondent clearing corporation. Any securities delivered by the correspondent clearing corporation after the date of the buy-in to the Clearing Member in respect of such long value position or open fail shall be sold out promptly by the Clearing Member, in the best available market. Prior to 10:00 A.M. Central Time (11:00 A.M. Eastern Time) of the business day following the date of such sell-out, the Corporation shall pay to the Clearing Member an amount equal to the excess (if any) of (i) the amount paid by the Clearing Member to the correspondent clearing corporation by reason of the delivery of such securities over (ii) the amount realized on such sell-out; or, (ii) exceeds (i), the Clearing Member shall pay to the Corporation an amount equal to such excess.

(f) [(e)] Notwithstanding the foregoing *provisions of this Rule*, if a correspondent clearing corporation shall become insolvent or shall fail to meet its obligations with respect to any exercise settlement account, Clearing Members *having* [then holding] long value positions *or open fails to receive* in exercise settlement accounts with such correspondent clearing corporation shall *immediately apply to the Corporation for instructions; and* unless the Corporation directs otherwise, *shall* [immediately] request the *immediate* delivery of [all] securities [then held] in *respect of all of* such *long value* positions. If the correspondent clearing corporation shall fail to comply in full with any such request at or before 12:00 noon Central Time (1:00 P.M. Eastern Time) on the business day following the filing thereof, *or if the Clearing Member shall have an open fail to receive as of that time in respect of such exercise settlement account,* the Clearing Member which filed the request shall, unless the Corporation directs otherwise, promptly issue a written buy-in notice and buy in the undelivered securities in the manner specified in the preceding subparagraphs of this Rule. In the event of a buy-in pursuant to this subparagraph (*f*) [(e)], the amount payable by the Corporation to the Clearing Member in respect thereof shall be the *excess* [difference] (if any) [between] *of* (i) the price paid on such buy-in [and] *over* (ii) the amount which would have been payable by the Clearing Member to the correspondent clearing corporation by reason of the delivery of the securities bought in if delivery thereof had been made by the correspondent clearing corporation on the date when such correspondent clearing corporation became insolvent or failed to meet its obligations, adjusted by any mark-to-market payments received *or paid* by the Clearing Member in respect of the undelivered securities on or after that date; *or, if* (ii) *exceeds* (i); *the Clearing Member shall pay to the Corporation an amount equal to such excess.*

(g) [(f)] The Corporation shall have no responsibility to any Clearing Member *and no Clearing Member shall have any responsibility to the Corporation* in respect of any *long value position or open fail to receive in any* exercise settlement account except to the extent provided in the preceding subparagraphs of this Rule.

(h) [(g)] The Corporation shall have no responsibility under this Rule in respect of any long value position *or open fail to receive* maintained in violation of Rule 914.

DEFAULT BY CLEARING MEMBER

Rule 916. [Deleted] [1]

FAILURE TO RECEIVE BY CORRESPONDENT CLEARING CORPORATION

Rule 916. *(a) If a correspondent clearing corporation shall fail or refuse to receive or to pay for any securities delivered to it in good deliverable form and otherwise in accordance with its rules and procedures against a Clearing Member's short value position or open fail to deliver in an exercise settlement account, or if a correspondent clearing corporation shall become insolvent or shall fail to meet its obligations with respect to any exercise settlement account, Clearing Members having short value positions or open fails to deliver in exercise settlement accounts with such correspondent clearing corporation or rights to payment in respect of securities delivered against such short value positions or open fails, shall immediately apply to the Corporation for instructions; and unless the Corporation directs otherwise, shall promptly sell out in the best available market, for the account of the Corporation, all securities required to be delivered against such short value positions or open fails or securities of the same description and quantity as those previously delivered against such short value positions or open fails and not yet paid for.*

(b) Any Clearing Member executing a sell-out pursuant to subparagraph (a) shall promptly deliver written notice thereof to the Corporation, specifying the description and quantity of the securities sold out and the price received. Prior to 10:00 A.M. Central Time (11:00 A.M. Eastern Time) of the business day following the Corporation's receipt of such notice, the Corporation shall pay to the Clearing Member an amount equal to the excess (if any) of (i) the amount which would have been received by the Clearing Member from the correspondent clearing corporation by reason of the delivery of the securities sold out if payment therefor had been made by the correspondent clearing corporation on the date of the event giving rise to the sell-out, adjusted by any applicable mark-to-market payments received or paid by the Clearing Member thereafter, over (ii) the amount received on such sell-out; or, if (ii) exceeds (i), the Clearing Member shall pay to the Corporation an amount equal to such excess.

(c) The Corporation shall have no responsibility to any Clearing Member, and no Clearing Member shall have any responsibility to the Corporation, in respect of any short value position or open fail to deliver in any exercise settlement account except to the extent provided in the preceding subparagraphs of this Rule.

(d) The Corporation shall have no responsibility under this Rule in respect of any such short value position or open fail to deliver maintained in violation of Rule 914.

[FR Doc. 76-24567 Filed 8-20-76; 8:45 am]

[1] Rule 916 was added to the Rules by SR-OCC-75-6 (approved January 28, 1976).

[Rel. No. 34-12701; File No. SR-PSE-76-27]

PACIFIC STOCK EXCHANGE INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 27, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pacific Stock Exchange Incorporated ("PSE") hereby proposes to amend Section 1, Rule V of of its Rules as follows (italics indicate new language):

Section 1. Every member organization shall maintain a minimum net capital in accordance with the provisions of Rule 15c3-1 under the Securities Exchange Act of 1934, as amended. Each member organization shall promptly notify the Exchange if its net capital does not equal or exceed the appropriate minimum required by this paragraph. *If, in order to comply with the Constitution and Rules of the Exchange, the terms of Rule 153c-4 and any amendment or proposed amendment thereto, or any other Rule under the Securities Exchange Act of 1934, as amended, the member organization is required to deposit any sum of money into an escrow account for purposes of meeting minimum net capital requirements, then such sum, together with the proceeds from the sale of the membership under which the member organization does business on the Exchange, shall be subject to the prior claims of the Exchange, the Pacific Clearing Corporation and claims arising from member contracts as provided in Article VII, Section 4 of the Exchange's Constitution.*

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide for the financial responsibility of floor brokers and the availability of assets to settle contracts and claims upon the transfer of membership. PSE has previously received a no-action letter from the Commission Staff with respect to Floor Brokers on PSE who elect to comply with the alternative financial responsibility standard set forth in the proposed amendment to Rule 15c3-1(b)(2), as contained in Securities Exchange Act Release No. 11969, dated January 2, 1976.

Specifically, these Floor Brokers would be complying with the Rule, pending its final adoption, that the value of their exchange membership (based on the lesser of the most recent sale price or current bid price for an exchange membership) shall be not less than $15,000, or an amount equal to the excess of $15,000 over the value of the exchange membership shall be held by an independent agent in escrow. Since the proposed amendment further provides that exchange rules must require that sums held in escrow will on transfer of the membership be subject to the prior claims of the exchange, its clearing corporation, and for the settlement of member contracts, it is the purpose of the instant proposed rule change to make PSE rules fully consistent with the pending amendment to Rule 15c3-1(b)(2).

The proposed rule change facilitates (i) compliance by PSE members with the terms of proposed Rule 15c3-1(b)(2) by providing a mechanism for carrying out the purposes of insuring financial responsibility of floor brokers; (ii) equitable allocation of charges by insuring that sufficient assets are available to satisfy claims upon transfer of membership; (iii) protection of investors and the public interest by insuring that sufficient assets are available to satisfy member contracts upon a transfer of membership.

No comments have been solicited or received.

Any burden on competition brought about by the above rule change is necessary and appropriate in furtherance of the purpose of the Act to provide safeguards, with respect to the financial responsibility and related practices of brokers and dealers, and to protect customers' funds and securities.

On or before September 27, 1976, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before twenty-one days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 12, 1976.

[FR Doc.76-24564; Filed 8-20-76;8:45 am]

[70-5891]

ALLEGHENY POWER SYSTEM, INC. ET AL.

Application for Exemption for Advances Made To Employees for Moving Expenses Related To Transfers Within a Holding Company System

In the matter of Allegheny Power System, Inc., Allegheny Power Service Corporation, 320 Park Avenue, New York, New York 10022; Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740, West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Allegheny Power System, Inc., a registered holding company, and its wholly-owned subsidiary companies, Allegheny Power Service Corporation, Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (collectively referred to as the "Allegheny System"), have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating section 9 of the Act and Rule 48(b) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

The Allegheny System has adopted a policy ("Policy") to govern the making of advances to employees transferred to new geographical locations within the Allegheny System. The Policy allows a company to make a cash advance, limited in amount to the employee's equity in his old home, to a transferred employee who, either because of delays in selling his old residence or because the closing date of the sale of the old residence is later than the closing date of the new residence, may not have sufficient funds to make the equity down payment on his new residence on the closing date. Such advances must be approved by the Executive Vice President and General Manager or the Vice President, Administration, and it is the approving officer who makes a determination as to the value of the employee's equity interest in his old residence. Advances must be repaid by the employee when his residence in the old location is sold or within three months from the date of the loan, whichever is shorter. Under unusual circumstances the loan period may be extended on written authorization of the approving officer. Renewal under these circumstances will be on a month-to-month basis and interest will be charged at the rate of ½ of 1 percent per month.

Rule 48(b) requires Commission approval for any loan to an employee in excess of $10,000, even pursuant to the Policy, unless a first mortgage is obtained by the company to secure such loan. The Allegheny System states that as a practical matter, the circumstances which generally bring about the need for such a loan, thereby making the Policy applicable, would make it impossible for the employee to give the company a first mortgage, unless the amount of the loan were increased to cover not only the employee's equity in the old residence, but the entire value of the house, since in virtually all cases, the employee will have a first mortgage on his residence which would have to be paid before a first mortgage on the property could be given to the company.

Accordingly, the Allegheny System requests that it be excepted from the requirement of Rule 48(b)(2)(iii), that personal advances to employees in an aggregate amount of over $10,000 be secured by a first mortgage on a residence occupied by the employee, provided such advances are made pursuant to the terms of the Policy.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,300. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 9, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified of the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or

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as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24661 Filed 8-20-76;8:45 am]

[File No. 500-1]

FREMONT CORP. AND BLACKSTONE INTERNATIONAL CORP.

Suspension of Trading

AUGUST 13, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Fremont Corp. and Blackstone International Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m., E.D.T. August 13, 1976 through August 22, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24662 Filed 8-20-76;8:45 am]

[70-5882]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Sale of Utility Assets

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration with this Commission designating section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

I&M proposes to sell to United Telephone Company of Indiana, Inc. ("United"), which is not affiliated with either I&M or AEP, 2587 of I&M's poles located in certain portions of the State of Indiana in which both companies operate.

The purchase is made pursuant to a Joint Use Agreement between I&M and United dated January 1, 1969. By this agreement, either party has the option to purchase from the other any number of poles up to the number necessary to obtain the objective percentage by that party of the jointly-used poles specified in the agreement. United has exercised its option to purchase 2587 of I&M's poles which will give it ownership of 45 percent of the jointly-used poles under the agreement. The selling price, which is based on the depreciated replacement cost, will be $128,930. The original installed cost of these facilities was $138,686.

The fees and expenses to be incurred by I&M or AEP in connection with the proposed transaction are estimated at $2,300. It is stated that the Public Service Commission of Indiana has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 7, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24663 Filed 8-20-76;8:45 am]

[75-5890]

MIDDLE SOUTH ENERGY, INC.

Proposal by Generation Subsidiary To Issue and Sell Long-Term Unsecured Debentures; Request for Exception From Competitive Bidding

Notice is hereby given that Middle South Energy, Inc. ("MSEI"), 225 Baronne Street, New Orleans, Louisiana 70112, an electric utility subsidiary of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement regarding the proposed transaction.

MSEI was incorporated in 1974 under the laws of Arkansas to own and finance certain future generating capacity for the five Middle South system operating companies. By order dated June 21, 1974 (HCAR No. 18437), MSEI was authorized to acquire the Grand Gulf Nuclear Electric Station Project ("Grand Gulf Project") from Mississippi Power & Light Company, one of the five operating companies. When completed, the Grand Gulf Project will be a two-unit nuclear plant with a total capability of 2,500 mw. The first unit is scheduled to become operational in 1980, and the second unit in 1984.

The Commission also authorized various proposals relating to the construction, financing and operation of the Grand Gulf Project, including a bank loan agreement ("Loan Agreement") between MSEI and a group of commercial banks. As amended, the Loan Agreement permits MSEI to borrow up to $465 million through December 31, 1979. As of August 5, 1976, MSEI had borrowed an aggregate of $229.5 million. All borrowings under the Loan Agreement are payable on December 31, 1982. Under the terms of a capital funds agreement, Middle South agreed to supply equity capital to MSEI in an amount sufficient to maintain MSEI's equity at not less than 35 percent of capitalization. As of August 5, 1976, Middle South had provided MSEI with $120.5 million through the purchase of 120,500 shares of its common stock. MSEI has no other securities outstanding. MSEI also entered into power supply agreements with each of the Middle South system operating companies.

MSEI estimates that the cost of completing the Grand Gulf Project will be $1,733 million. Of this, MSEI expects to borrow approximately $1,126 million, or more than twice the maximum borrowings available to MSEI under its existing Loan Agreement. Accordingly, to secure the additional funds needs for future capital expenditures, MSEI proposes to arrange for an alternative source of debt financing. MSEI believes that there are practical restrictions in the alternative forms of debt financing available to it. Specifically, MSEI states that it is limited in the amount of short-term construction financing readily avialable from commercial banks. MSEI also does not believe it is desirable to sell first mortgage bonds to finance construction of the Grand Gulf Project, inasmuch as the company does not have earnings or an operating history to which prospective purchasers could look as security.

As an alternative to what MSEI believes are less attractive sources for its future debt financing, the company now proposes to issue and sell its unsecured long-term debentures ("Debentures") to a group of insurance companies and similar institutions. The Debentures will be issued in an amount not to exceed $400 million and will mature not less than 10 nor more than 20 years from the date of issuance thereof.

It is stated that the terms and conditions of the indenture under which the Debentures will be issued have not been determined but will be filed by amendment to this application-declaration. MSEI anticipates, however, that there will be two closings with respect to the Debentures. The first will involve the issuance of approximately $300 million on or about December 31, 1976; and the second will involve issuance of approximately $100 million on or about June 30, 1977. It is also contemplated that the Debentures will be noncallable for refunding purposes at a lower effective interest rate for a number of years (to be determined) from the issuance thereof and will have a sinking fund designed to retire the entire issue by maturity.

MSEI does not believe that a public offering of securities of this nature, in so great an amount, by an issuer such as MSEI is practical. Accordingly, MSEI proposes to offer the Debentures in a negotiated private sale, and requests an exception from the competitive bidding requirements of Rule 50 under clause (a)(5) thereof. MSEI cites, as representative of the special circumstances it faces, the company's lack of earnings or an operating history and its expectation that the Grand Gulf Project, now only 18 percent complete, will not become operational for at least four more years. MSEI believes that only through a negotiated sale could it effectively bargain for terms and conditions in the offering which will provide the company the flexibility it needs to cope with its special problems or any unanticipated changes in the company's circumstances. MSEI has retained Citibank, N.A., to act as its financial advisor in connection with the offering.

A statement of the fees, commissions and expenses incurred in connection with the proposed transaction will be supplied by amendment. MSEI proposes to pay Citibank, N.A., $800,000 on the proposed $400 million transaction. In the event that an amount less than $400 million were to be raised, the total fee would be 2/10 of 1 percent with a minimum fee of $25,000. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 16, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24664 Filed 8-20-76;8:45 am]

UNITED STATES SINAI SUPPORT MISSION

[Delegation of Authority 1; Revision No. 1]

DIRECTOR, SINAI FIELD MISSION

Delegation of Authority Regarding General Administrative Functions

Pursuant to the authority vested in me by Executive Order 11896, issued January 13, 1976, I hereby delegate the following functions and authorities to the Director, Sinai Field Mission, to be exercised at or in support of the Sinai Field Mission:

1. Approve and authorize travel and hospitalization related to medical evacuation.
2. Approve and authorize TDY travel.
3. Authorize and issue GTR's.
4. Approve travel advances.
5. Approve travel vouchers.
6. Approve and authorize local expenditures for administrative support (including employment of local nationals in Tel Aviv and Cairo) or for emergency purposes when not provided by the contractor.
7. Sign Time and Attendance cards.
8. Approve and authorize premium compensatory work.

The functions and authorities delegated herein may be redelegated.

Delegation of Authority No. 1 issued February 6, 1976, and published in the FEDERAL REGISTER on February 17, 1976, page 7185, is hereby revoked.

This delegation of authority is effective immediately.

Dated: August 17, 1976.

C. WILLIAM KONTOS,
Director, United States Sinai Support Mission.

[FR Doc.76-24569 Filed 8-20-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 124]

ASSIGNMENT OF HEARINGS

AUGUST 18, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141844, Grady County Farm Lines, Inc., now assigned September 20, 1976, at Louisville, Kentucky, has been postponed indefinitely.

MC-C-8829, Osborne West, Ltd., and West Transportation Inc., Investigation of Operations and Practices and Revocation of Certificates now being assigned November 10, 1976 (3 days) for continued hearings at San Francisco, California in a hearing room to be later designated.

MC 138635 (Sub 21), Carolina-Western Express, Inc., MC 139495 (Sub 128), and MC 25798 (Sub 278), Clay Hyder Trucking Lines, Inc. now being assigned November 8, 1976 (2 days) at San Francisco, California for continued hearing in a hearing room to be later designated.

MC-F-12633, Eagle Foods, Inc., DBA Rutherford's—Purchase (Portion)—Century Express, Ltd. Operator of Landsdale Transportation Co., Inc., now assigned July 29, 1976, at Washington, D.C. is postponed to October 14, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 36268, Kentucky Coal Company, et al v. The Chesapeake & Ohio Railway Company, et al, now assigned August 18, 1976, at Washington, D.C., is postponed indefinitely.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24684 Filed 8-20-76;8:45 am]

[Notice No. 125]

ASSIGNMENT OF HEARINGS

AUGUST 18, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

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Correction

MC 67485 (Sub-No. 18), Texas Tex-Pack Express, Inc., now assigned September 20, 1976, at Austin, Tex. will be held in Room 577, Federal Building, 300 East 8th Street, instead of Room 557.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-24685 Filed 8-20-76; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 18, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 7, 1976.

FSA No. 43215—*Iron or Steel Articles to Points in Texas.*

Filed by Southwestern Freight Bureau, Agent, (No. B-627), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Alton, Federal, and Sterling, Illinois, also Kansas City, Mo.-Kans., to specified points in Texas. Grounds for relief—Market competition. Tariff—Supplement 216 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on September 15, 1976.

FSA No. 43216—*Methanol from Bishop, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-628), for interested rail carriers. Rates on methanol, in tank-car loads, as described in the application, from Bishop, Texas, to Celriver, South Carolina. Grounds for relief—Market competition. Tariff—Supplement 15 to Southwestern Freight Bureau, Agent, tariff 11-G, I.C.C. No. 5217. Rates are published to become effective on September 15, 1976.

By the Commission

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24682 Filed 8-20-76;8:45 am]

[Notice No. 107]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 18, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication on or before September 7, 1976. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 21455 (Sub-No. 42TA), filed August 11, 1976. Applicant: GENE MITCHELL CO., 1106 Division St., West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheat products* (except in bulk), from ports of entry on the United States-Canadian International Boundary line located at Grand Rapids, Minn., and Champlain, N.Y., to Vernon, Calif.; Chicago and Schaumberg, Ill.; Terre Haute, Ind.; Hastings, Minn.; Kansas City, Mo.; Port Elizabeth, N.J.; Yonkers, N.Y.; Columbus and Worthington, Ohio; and Seattle and Spokane, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Industrial Grain Products, P.O. Box 6089, Montreal H3C 3H1, Quebec, Canada. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 58035 (Sub-No. 9 TA) (Correction), filed July 8, 1976, published in the FEDERAL REGISTER issue of July 26, 1976, and republished as corrected this issue. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Ave., Denver, Colo. 80216. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric household appliances and equipment; kitchen and bathroom appliances and equipment; oral hygiene appliances and equipment; hydro therapy equipment; sink and shower fixtures; smoke alarms; food processing machines; and filters;* (A) between the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., and at Los Angeles, Calif.; (B) from the plansites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., and at Los Angeles, Calif., to points in the following named cities and their commercial zones: Denver, Colorado Springs, Pueblo and Grand Junction, Colo.; Albuquerque, Santa Fe and Gallup, N. Mex.; Phoenix, Tucson and Flagstaff, Ariz.; Salt Lake City and Provo, Utah; Las Vegas, Sparks and Reno, Nev.; and points in California, and (2) *Materials, equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above; (A) between the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., and at Los Angeles, Calif.; and (B) from Alhambra, El Monte, Berkeley, Newbury Park, Monrovia, Los Angeles, Gardena, and Oxnard, Calif., to the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teledyne Water Pik, 1730 East Prospect St., Fort Collins, Colo. 80521. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202. The purpose of this republication is to state that Larimer County is in Colorado in lieu of California.

No. MC 96607 (Sub-No. 8 TA), filed August 10, 1976. Applicant: RUCKER BROTHERS TRUCKING, INC., 1820 Stewart, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Bldg., 607 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses*, Chehalis, Wash., to points in Montana, for 180 days. Supporting shipper: West Mills, Inc., 887 N. W. Ave., Chehalis, Wash. 98532. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 107403 (Sub-No. 983 TA), filed August 10, 1976. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles; (2) *Ferric sulphate*, in bulk, in tank vehicles, (1) from the plantsite of Pearl River Chemical Co., at or near Pearl River, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Tennessee and Texas; (2) from Copperhill, Tenn., to points in Louisiana, for 180 days. Supporting: Pearl River Chemical Company, P.O. Box 1202, Slidell, La. 70459. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 111434 (Sub-No. 91 TA), filed August 9, 1976. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, Colo. 80216. Applicant's representative: J. Albert Sebald, 1700 Western Federal Bldg., Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Pueblo, Colo., to points in Kansas, Oklahoma, New Mexico, Nebraska, Wyoming, Utah and Texas, for 180 days. Supporting shipper: Darold R. Tabor, Inc., P.O. Box 11354, Pueblo, Colo. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 114789 (Sub-No. 55 TA), filed July 27, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, stair treads, wall tile, china bath accessories, counter top coverings, mouldings and the materials and supplies* used in the installation, maintenance and repair of the commodities described above, from Elmsford, N.Y.; Roselle Park, Keyport and East Brunswick, N.J.; Philadelphia and Gettysburg, Pa., to points in the Minneapolis-St. Paul, Minn. Commercial Zone as defined by the Commission, under a continuing contract with Minnesota Tile Supply, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Tile Supply, 4825 France Ave., North, Minneapolis, Minn. 55429. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 117119 (Sub-No. 591 TA), filed August 11, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the facilities of Maverick Beef Packers, Inc., at or near Eagle Pass, Tex., to points in Georgia, Arkansas, Tennessee, South Carolina, North Carolina, Virginia, Kentucky, Illinois, Indiana, Ohio, West Virginia, Maryland, Pennsylvania, Delaware, Rhode Island, New Jersey, New York, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Michigan, Wisconsin, Missouri, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, New Mexico, Texas, Colorado, Utah, Nevada, Arizona, California, and the District of Columbia, for 180 days. Supporting shipper: Maverick Beef Packers, Inc., P.O. Box 617, Eagle Pass, Tex. 78852. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118535 (Sub-No. 89 TA), filed August 6, 1976. Applicant: TIONA TRUCK LINES, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Jim Tiona, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recycled waste materials*, in bulk, in pneumatic tank vehicles, from Washington, D.C., San Jose, Calif., and San Diego, Calif., to points in Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Wisconsin Solid Waste Recycling Authority, 3321 West Beltline Highway, Madison, Wis. 53702. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119302 (Sub-No. 23TA), filed August 11, 1976. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: A. David Milliner, 167 Fairfield Ave., P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and machinery parts*, moving with the machinery or separately, between the plantsite of Elliott Co., Division of Carrier Corporation, at Donora, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Elliott Co., Division of Carrier Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elliott Co., Division of Carrier Corporation, North 4th St., Jeannette, Pa. 15644. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 123091 (Sub-No. 17TA), filed August 10, 1976. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, Ohio 44403. Applicant's representative: Edwin H. van Deusen, P.O. Box 97, 220 West Bridge St., Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated lumber and plywood*, from the facilities of Dixie Wood Preserving Company, at or near Thomson, Ga., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Wood Preserving Company, P.O. Box 746, Thomson, Ga. 30824. Send protests to: James Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 127539 (Sub-No. 52TA), filed August 10, 1976. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Bldg., 706 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, in cartons or packages, in vehicles equipped with mechanical refrigeration, from Hughson and Willows, Calif., to the facilities of Brown & Haley Candy Company, at Tacoma, Wash., for 180 days. Supporting shipper: Brown & Haley Candy Company, 1940 East 11th, Tacoma, Wash., 98421. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 129032 (Sub-No. 25TA), filed August 11, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 49th West Ave., P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John Paul Fischer, 256 Montgomery St., San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafood*, from Seattle and Bellingham, Wash., to Lubbock, San Angelo, Dallas and San Antonio, Tex.; Shreveport, La.; Little Rock, Ark.; Memphis, Tenn., and Pauline, Kans., for 180 days. Supporting shipper: Kelley Clarke Company, 2460 Sixth Ave., South, Seattle, Wash. 98124. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 133119 (Sub-No. 97 TA), filed August 10, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: Donald Heyl (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural* chemicals (except in bulk), from Des Moines, Iowa and the plantsite and warehouse facilities of Monsanto Company, at or near Muscatine, Iowa, to ports of entry located on the International Boundary between Canada and the United States in Montana, North Dakota, and Minnesota, restricted to transportation of shipments destined to points in Alberta, Saskatchewan and Manitoba, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard E. Schrick, Agricultural Transportation Supervisor, Monsanto Company, 800 North Lindbergh Blvd., St. Louis, Mo. 63166. Send protests: to Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 135381 (Sub-No. 4 TA), filed August 11, 1976. Applicant: DRUM

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TRANSPORTATION CO., R.D. No. 1, Montgomery, Pa. 17752. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Traffic and maintenance paints;* (2) *Thermoplastic and cold applied plastic* for street and highway marking; (3) *Street and highway marking machines*, and (4) *Materials, components, and supplies* used in the manufacture of the commodities named in (1) and (2) above, between the facilities of Prismo Universal Corporation, at Montgomery and Pennsdale, Pa., and Marble Falls, Tex., and points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and Arizona, under a continuing contract with Prismo Universal Corporation, for 180 days. Supporting shipper: Prismo Universal Corporation, Montgomery, Pa. 17752. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 134 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 136228 (Sub-No. 23 TA), filed August 3, 1976. Applicant: LUISI TRUCK LINES, INC., P.O. Box 606, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip Skofstad, 18448 SE. Pine St., Portland, Oreg. 97233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh hanging* beef, fresh and frozen boxed meat, from Wallula, Wash., to Sublimity, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., P.O. Box 926, Pasco, Wash. 99301. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136407 (Sub-No. 13TA), filed August 6, 1976. Applicant: COORS TRANSPORTATION CO., 5101 York St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from points in Jefferson County, Colo., to points in Montana and Washington, under a continuing contract or contracts with Adolph Coors Company of Golden, Colo.; and (2) *Equipment, materials* (except in bulk), *and supplies* (except in bulk), used and dealt in by breweries, from points in Louisiana, Montana, and Washington, to points in Boulder and Jefferson Counties, Colo., under a continuing contract with Adolph Coors Company of Golden, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Company, Golden, Colo. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 139858 (Sub-No. 9 TA), filed August 10, 1976. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, Ohio 45015. Applicant's representative: Chandler L. VanOrman, 704 Southern Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *All products* manufactured and distributed by American Standard and its subsidiaries including, but limited to *plumbing fixtures and fittings, folding doors or partitions, fabric covered wall panels, fireplaces and chimney assemblies, safes and security equipment, steel doors*, printed and advertising matter, railway equipment, off road vehicle parts, air quality equipment, heat exchangers, and related equipment and supplies for each product line (except commodities in bulk and those which because of size or weight, require the use of special equipment), from American Standard's Corporate Distribution Center in Hamilton, Ohio, to Phoenix and Tucson, Ariz.; Oakland, Sacramento, San Diego, San Francisco, San Jose, San Pablo, Stockton, and Redwood City and Los Angeles County and Orange County, Calif.; Denver, Colo.; Las Vegas and Reno, Nev.; Albuquerque, N. Mex.; Portland, Oreg.; Salt Lake City, Utah; and Seattle, Wash., under a continuing contract with American Standard Inc., for 180 days. Supporting shipper: James P. Nelligan, General Traffic Manager, American Standard Inc., P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 140389 (Sub-No. 8 TA), filed August 11, 1976. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, Ala. 35902. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rugs, carpets* and textile products, from points in Georgia, to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 13 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141328 (Sub-No. 3 TA), filed August 6, 1976. Applicant: MID-STATES HAULING CONTRACTORS, INC., P.O. Box 13, 106 North 25th St., Lexington, Md. 64067. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 West Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, sand and gravel*, from points in Hot Springs, Sevier, Pulaski, Howard and Clark Counties, Ark., to points in Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Pensacola Construction Company, 4745 Poplar, Suite 307, Memphis, Tenn. 38117 and (2) Souter Construction Co., Inc., P.O. Box 876, Conway, Ark. 72032. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 142205 (Sub-No. 2 TA), filed August 11, 1976. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, Va. 22075. Applicant's representative: Thomas G. Jewell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Custom molded expandable polystryene packaging*, from the plantsite at Sterling Va., to points in Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Ohio and West Virginia, under a continuing contract with Preferred Plastics, Inc. Applicant intends to tack its existing authority with MC 142205, for 180 days. Applicant also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Preferred Plastics, Inc., State Rte. 634, P.O. Box 58, Sterling, Va. 22170. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 142338 TA, filed August 10, 1976. Applicant: JOHN E. WHATCOTT, doing business as TRADE SPECIALTIES, 1020 South Center, Mesa, Ariz. 85202. Applicant's representative: John E. Whatcott, 345 South Hobson, Mesa, Ariz. 85201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing materials, and such commodities* as are used in the construction and installation of roofs, from Barstow, Camarillo, Corona, Long Beach, Los Angeles, Oakland, Riverside, San Francisco, San Leandro, Santa Clara, Southgate and Wilmington, Calif., to Phoenix, Mesa, and Tucson, Ariz., under a continuing contract with Southwest Roofing Supply Company, and A & H Supply Co., Inc., for 180 days. Supporting shippers: Southwest Roofing Supply Company, 3151 W. Osborn Road, Phoenix, Ariz. and A & H Supply Co., Inc., 1702 East Jackson St., Phoenix, Ariz. 85034. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 142339 TA, filed August 10, 1976. Applicant: KITSAP DELIVERY, INC., 6816 Kitsap Way, Bremerton, Wash. 98310. Applicant's representative: James Sells, 245 4th St. Bldg., Bremerton, Wash. 98310. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General freight* not exceeding 1000 lbs. per delivery (except in bulk, in tank vehicles, between Seattle and points in King County and Tacoma and points in Pierce County and Bremerton and Points in Kitsap County. Applicant intends to interline at Seattle and Tacoma, Wash., for 180 days. Supporting shipper: Bennett Ford, 5101 Kean, Bremerton, Wash. 98310. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 142340 TA, filed August 10, 1976. Applicant: HERBERT F. CLARK, JR., INC., R.D. 2, Box 357 D, Selkirk, N.Y. 12158. Applicant's representative: Neil D. Breslin, 99 Washington Ave., Suite 1111, Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from Village of Green Island, N.Y., to Providence, R.I., Newark, N.J., Port of Entry at Niagara Falls, N.Y., Fairless Hills, Pa., Greenfield, Mass. and Sayerville, N.Y., for 180 days. Supporting shipper: Freedman & Son, Inc., P.O. Box 1533, Green Island, N.Y., 12183. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, N.Y. 12201.

PASSENGER APPLICATION

No. MC 142185 (Sub-No. 2 TA), filed August 2, 1976. Applicant: T.V. TRAVEL INC., doing business as T.V. WORLD TRAVEL SERVICE, Winters Bank Tower, Second and Jefferson Streets, Dayton, Ohio 45402. Applicant's representative: Richard S. Ewing, 1229 Nineteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in round-trip sightseeing excursions, beginning and ending at Hilton Head Island, S.C., and extending to points in Beaufort, Berkeley, Charleston, Colleton, Dorchester and Jasper Counties, S.C., and Chatham and Effingham Counties, Ga., restricted to the transportation of not more than 15 passengers in any one vehicle, in special operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisory, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24679 Filed 8-20-76;8:45 am]

[Notice No. 16]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 23, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76705. By application filed August 12, 1976, LANE TRUCK LINES, INC., 120 Newby Court, Rocky Mount, NC 27801, seeks temporary authority to transfer the operating rights of BUNDY TRUCK LINE, INC., Gatesville, NC 27938, under section 210a(b). The transfer to LANE TRUCK LINES, INC., of the operating rights of BUNDY TRUCK LINE, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24680 Filed 8-20-76;8:45 am]

[Notice No. 15]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 23, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76702. By application filed August 11, 1976, DARYLE LAMONICA FREIGHT LINES, INC., 6621 Arctic Spur Road, Anchorage, AK 99502, seeks temporary authority to transfer the operating rights of ARCTIC MOTOR FREIGHT, INC., Box 6243, Anchorage, AK 99502, under section 210a(b). The transfer to DARYLE LAMONICA FREIGHT LINES, INC., of the operating rights of ARCTIC MOTOR FREIGHT, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24681 Filed 8-20-76;8:45 am]

[AB 69 (Sub-No 2)]

WESTERN MARYLAND RAILWAY CO.

Abandonment Near Cumberland, Allegany County, Md., and Bedford County, Commonwealth of Pa.

AUGUST 13, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs staff has concluded that the proposed abandonment by the Western Maryland Railway Company of its State Line branch between Georges Creek Junction in Allegany County, Md., and State Line, in Bedford County, Pa., a distance of 4.52 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that inasmuch as no traffic has moved over the line for several years, abandonment of the line will not result in diversion to motor carriers and the attendant environmental impacts. In view of the absence of developmental plans in the vicinity of the subject line, the proposed action will not have a serious adverse effect on community and rural development. The right-of-way, most of which is subject to reversionary interests, has not been found suitable for alternative public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 23, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24683 Filed 8-20-76;8:45 am]

VOL 41 NO 164 AUG 23 76 UM

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PART II:

ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

■

Final Evaporative Emission Regulations for Light Duty Vehicles and Trucks

V41 I164 AUG 23 76 UMI

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 595–1]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Final Evaporative Emission Regulations for Light Duty Vehicles and Trucks

On January 13, 1976 a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 2022), setting forth proposed amendments to Subparts A and B of Part 86 of the Code of Federal Regulations (CFR) to become effective with 1978 model year light duty vehicles and light duty trucks. The NPRM announced the Agency's intention to revise the evaporative emission test procedures and establish standards of 6 g/test for 1978 and 2 g/test for 1979 and subsequent model years.

The issue of a 2 gram per test standard for 1979 is much more complex than the revised test procedures and the 1978 standard. Yet the current 1978 standard represents so large (about 70%) of a reduction from current light duty vehicle and truck evaporative emission levels that accepting the real risk of not being able to implement a 6 g/test standard for 1978, due to the additional time necessary to thoroughly study and evaluate the technical feasibility, relationship between a 2 g/test standard and background emission levels, cost and lead time associated with the 2 gram level, is not justified. Therefore, in order to allow implementation of the revised test procedure and the 6 g/test standard for 1978, the originally proposed regulatory action has been divided into two separate rulemaking actions. The revised test procedure and 1978 standard are being promulgated at this time. The final rulemaking for a longer term evaporative emission standard is presently being considered by the Agency. The 1978 standard will remain in effect for subsequent model years until revised.

Fuel evaporative hydrocarbon emissions have been studied and measured since 1958. Federal control of evaporative emission levels was first proposed in the FEDERAL REGISTER (32 FR 2448) in 1967 when a novel and relatively untried measurement procedure, the use of a vehicle enclosure, was proposed. These rules would have become effective for the 1969 model year. Final rulemaking published in 1968 (33 FR 8304) abandoned the vehicle enclosure measurement procedure in favor of a better known procedure (carbon trap method) which utilizes the adsorption of hydrocarbon on activated charcoal that is weighed before and after the test to determine the mass of hydrocarbon adsorbed. Because of manufacturing lead time requirements, the implementation of the standards was delayed until the 1971 model year, and the emission level was set at 6 g/test. The evaporative emission standard was reduced to a 2 g/test for 1972 and subsequent model years.

The current carbon trap method for measuring evaporative emissions has been found through testing with a more accurate measurement method to greatly underestimate actual evaporative emissions. The more accurate testing method is the Society of Automotive Engineers (SAE) recommended procedure for measuring evaporative emissions (SAE J171a) and involves collecting the evaporative emissions in a large sealed enclosure containing the test vehicle. Results from the 1972 EPA surveillance test program (as reported in Supplement No. 5 of AP–42) of "controlled" in-use vehicles indicate an average emisison level of about 24 g/test by the vehicle enclosure method, more than 12 times the current standard established for the carbon trap method. Thus, the amount of control thought to exist for evaporative emissions does not in actuality exist. Therefore, revised regulations are being implemented to reduce this major source of hydrocarbon air pollution.

The most significant change in the regulations is the revised evaporative emission test procedure which applies to both light duty vehicles and light duty trucks. The standard 6 g/test is established for the 1978 model year which appears to be higher than the present 2 g/test standard as measured by the "carbon trap method." However, when the 6 g/test standard is required to be met by the new test procedure, evaporative hydrocarbons emissions will be reduced from about 1.76 g/mile to 0.6 g/mile. This action will reduce nationwide hydrocarbon emissions from all mobile sources by as much as 46 percent by the year 1990. For certain Air Quality Control Regions that are expected to have difficulty meeting the ambient air quality standards for oxidants, this action will reduce hydrocarbon emissions from all sources by 7.8 percent by the year 1985.

It is estimated that the increased retail cost to the consumer will average about $7.30 for control system components to meet the new evaporative emission standard. No lifetime costs due to increased fuel consumption or maintenance are expected. It is estimated that the major impact on industry will be due to any decrease in sales resulting from this action; however, this is expected to be less than 0.16%. The cost of certification over the next five years that the manufacturers must bear is expected to increase by $2.2 million. The government's cost increase over the same five year period is expected to be $0.4 million. The total national capital investment over the first five years is estimated to total $530 million. This compares to a projected $230 billion in retail sales of new cars and light duty trucks during the same time period, i.e., 1978–1982.

The revised standard and procedure will provide improved air quality at a cost of about $50 per ton of hydrocarbon removed. As a comparison, the cost-effectiveness of reducing automotive exhaust hydrocarbon emissions from the current standard (1.5 g/mile) to the statutory standard (0.41 g/mile) is between $500 and $1400 per ton of hydrocarbon removed. This additional control of evaporative emissions is one of the more cost effective strategies available for reducing hydrocarbon emissions.

Comments on the NPRM were received from many motor vehicle manufacturers and from several other interested parties. All of the comments were analyzed and considered in the preparation of the final rulemaking. The major issues have been summarized here. For the minor technical issues, only the changes to the procedure will be identified. A complete analysis of comments on all issues has been prepared and is available for public review.

On July 18, 1975, the Environmental Protection Agency (EPA) published a decision in the FEDERAL REGISTER (40 FR 30311) which granted the State of California a waiver of Federal preemption under section 209(b) of the Clean Air Act to enable California to enforce an evaporative emission standard for 1977 and subsequent model year light duty vehicles and light duty trucks of 6 g/test as measured by the vehicle enclosure method. The decision granted the waiver to the extent that a Federal standard of equal or greater stringency was not subsequently established. At the same time, EPA announced that all reasonable efforts would be made to establish a more stringent Federal evaporative emission standard based on the vehicle enclosure measurement method. Since the Federal standard hereby published is of equal stringency to the 1978 California standard, the waiver granted to California on July 18, 1975, will no longer be in effect as of the date these Federal standards become effective.

MAJOR ISSUES

Feasibility and lead time requirements of a 6 g/test standard. Most manufacturers responded that a 6 g/test standard, measured by the proposed procedure, is feasible and desirable. Some stated that a delay until 1979 in the implementation of the standard would be more desirable. The consensus of opinion though, is that implementation for 1978 is achievable, although lead time constraints may present some problems.

Cost of a 6 g/test standard. The manufacturers estimated costs to the consumer that range from $1 to $15 per vehicle depending upon the control technique chosen. The sales weighted average of the manufacturers' cost estimates is $7.40 which is essentially the same as the value used in the draft economic impact statement ($7.30). An independent study performed by Exxon Research and Engineering Company for EPA indicated that costs of only about $2 per vehicle are possible. This indicates that the EPA estimate of $7.30 is conservative, and may be high.

Evaporative family concept for certification. The purpose of developing an evaporative family concept was to require evaporative emission testing of only those exhaust test vehicles which represent unique evaporative control systems. This would result in a reduction in the required test load. Those manufacturers who understood the proposal agreed that the test load would be reduced and favored the proposal. Others thought that evaporative test vehicles would be added to the exhaust test vehicles thus increasing the test fleet and therefore the test load. Modifications have been made to the regulations to clarify the requirements in this regard.

Durability and evaporative system deterioration. Most manufacturers suggested that durability testing should not be required. Some commented that EPA must demonstrate the need for durability testing before it can be required. Others contended that no durability data exist, that they can not be obtained for 1978, and that component life testing is sufficient demonstration of system durability. Others said that existing data demonstrate that systems do not deteriorate. The data presented do show that at least some systems deteriorate. The EPA is required, under the provisions of section 206(a)(1), to make a determination that a control system to be installed on vehicles will be effective for the useful life of the vehicle, prior to issuing a Certificate of Conformity for such vehicle. Useful Life has been defined as 50,000 miles. For exhaust emission control system evaluation, the testing protocols include the operation of a limited number of test vehicles over a defined 50,000 mile run. The 50,000 miles are usually accumulated during a 3 month period. However, there are technical reasons for believing that the durability of evaporative emission control systems may be more significantly affected by time than by mileage; extensive use of plastic-like materials is expected to be made to seal possible sources of evaporative emissions, and such materials tend to deteriorate as a function of time, rather than miles. Thus there is considerable question about the validity of utilizing the 50,000 mile test as a basis for evaluating the durability of evaporative emission control systems.

The EPA is currently unable to specify a single test protocol that would be applicable to all vehicles that could be demonstrated to be a valid test of the durability of evaporative emission control systems. Thus, for the purpose of satisfying the requirement that the EPA evaluate the durability of evaporative emission control systems, as well as for the purpose of generating data on alternative test protocols some of which may have industry-wide applicability, the regulations require that each manufacturer specify in his Part I application the test procedures that he intends to utilize to evaluate the durability of his evaporative emission control system and to develop a Deterioration Factor for such systems. The data from these test programs, and the derived Deterioration Factor, are required to be submitted with the Part II Application. From the data thus submitted the EPA expects, for some subsequent model year, to be able to promulgate a standardized durability testing protocol that will apply on an industry-wide basis.

Need for evaporative regulations. Some manufacturers contended that the value from the 1973 EPA surveillance test program cited in the NPRM was the result of a defective test procedure and that the actual values are much lower. EPA has investigated the test procedures used in the study in question and finds that the tests were conducted properly. Due to the computational errors, however, it has been determined that the average value should have been 26.5 g/test rather than 31 g/test as reported in the NPRM.

The value used in the economic impact statement was based on the results of the 1972 surveillance study which showed emissions to be at a 24 g/test level (1.76 g/mi equivalent). The 24 g/test level has undergone the scrutiny required to be incorporated as a part of the Compilation of Air Pollutant Emission factors, AP-42 (Supplement No. 5). The results from the 1973 surveillance program have not yet undergone such scrutiny and therefore were not used.

Background emissions. EPA originally proposed to include non-fuel evaporative hydrocarbon (background) emissions in the evaporative emission measurement and expected manufacturers to provide test vehicles with stabilized background emissions. Manufacturers responded that they sometimes use brand new cars (less than 60–90 days old) which do not have stabilized background emissions. The manufacturers did not address whether artificial aging of new vehicles or obtaining aged vehicles from other sources would be viable solutions to the problem. EPA analysis indicates that both of these are viable options for assuring stabilized background emission levels. At least one study has shown that new car background emissions can be reduced quickly by baking the car for several hours which is not prohibited under the current regulations. Regarding alternative sources of aged vehicles, manufacturers already have the option to rebuild existing vehicles into certification vehicles. Therefore vehicles can be obtained from a variety of sources, and rebuilt into certification vehicles. EPA will place no restrictions on the manufacturers' ability to provide test vehicles with stabilized background emissions.

In addition, manufacturers have a number of options available to them to minimize background emissions that come from new paint, from plastic in the interior of vehicles, from newly manufactured tires, and from road oil and oil drippings on the engine. The regulations do not require test cars to be painted, to contain plastic headliners or seatcovers, or to be equipped with recently-manufactured tires; the regulations do not prohibit the steam cleaning of cars prior to emission testing. Inasmuch as manufacturers typically take advantage of every possible regulatory provision to minimize measured emissions on test vehicles, it is reasonable to expect manufacturers to do everything that they may legally do to minimize background evaporative emissions from their test vehicles. Providing a factor to account for possible background emissions (e.g., 1 g/test) would thus have the practical effect of easing the intended fuel evaporative emission standard by whatever the background allowance might be since manufacturers would still be expected to provide test vehicles with minimized background emissions. For that reason, the proposal of several manufacturers to provide an allowance for background emissions has not been adopted.

EPA is aware of the fact that the options available to the manufacturer to reduce background emissions from prototype vehicles used in certification testing are not available when vehicles may be tested in in-use vehicle emission surveillance programs, or on the assembly line. As regards in-use vehicles, such vehicles would not normally be tested by EPA before they are a year or more older, at which time background emissions can reasonably be expected to have stabilized and be minimal. If, however, a manufacturer uses paints or plastic materials that will continue for long periods of time to emit significant levels of background emissions, these emissions should properly be charged against the in-use vehicle inasmuch as such emissions are real hydrocarbons that contribute to air pollution. Thus, for in-use vehicles the only additional preconditioning that would be undertaken would be removal of spilled or leaked oil, and miscellaneous deposits of road oils.

As regards assembly-line testing, the Agency recognizes that newly assembled vehicles may have high background emissions unrepresentative of typical in-use background emissions. Thus, testing of such vehicles is expected to utilize analytical procedures, yet to be specified, which enable fuel evaporative emissions to be distinguished from emissions from non-fuel sources.

TEST PROCEDURE CHANGES

The amount of fuel for preconditioning is changed from 2 gallons (as proposed in the NPRM) to 40 percent of nominal tank capacity to prevent abnormal loading of the evaporative control system.

The diurnal test has been modified to require installation of the fuel cap when the fuel temperature reaches 60±2° F instead of immediately after fueling as proposed. This test procedure change will eliminate unrepresentative loading of the evaporative control system. This change requires that capping take place in the enclosure with the purge blowers operating.

The diurnal test has also been modified to allow artificial heating of the fuel tank(s) to bring the liquid fuel up to the prescribed starting temperature. The prescribed initial fuel temperature specification has been broadened from the proposed 60±1° F to 60±2° F. The temperature rise has been changed to a 24±1° F temperature rise (above the initial fuel temperature) instead of the proposed 60±1° F to 84±1° F temperature rise. Also, the temperature control limits during the diurnal have been broadened from ±2° F to ±3° F. These modifications should improve test repeatability

V 41 164 AUG 23 76 UM

and provide a more practical test procedure.

Because of the changes to the diurnal test, the proposed requirement to use type T thermocouples is no longer necessary. Therefore, the type J thermocouples currently used can continue to be used without decreased accuracy.

Data show that vehicle idle times of up to 7 minutes have no effect on hot soak emissions. Time between the exhaust and the hot soak tests is changed from a total of 5 minutes, with no more than 1 minute of engine off time to a total of 7 minutes with no more than 2 minutes of engine off time.

The proposed regulations did not specify the exact amount of mixing required or specific fan location. The air circulation is now specified as not less than 200 cfm nor more than 1000 cfm. Multiple fans may be used, but the air stream(s) may not be directed toward the vehicle.

The proposed regulations did not specify the amount of propane to be used for the enclosure calibration. A nominal amount of propane (4g) is given as a convenient quantity for the enclosure calibration in the final regulations. Also, the criteria for an acceptable retention check have been changed. The final value (after 4 hours) may not differ by more than 4 percent of the initial value.

Enclosure background measurements need only be made after maintenance which can be expected to affect enclosure background levels rather than after any maintenance.

The proposed calculation of evaporative emissions required the use of a nominal value of 50 ft^3 for the volume of the vehicle. The final regulations add the option of allowing a manufacturer to measure the actual vehicle volume for all of his test vehicles.

These regulations do not change the requirement for evaporative emission testing at high altitude.

One further modification to the test procedures may be included in future rulemaking (expected to apply with the implementation of the longer term evaporative emission standard), but due to lead time requirements to develop such procedures is not included as a part of the 1978 regulations. This modification will be to place controls on the tank vapor temperature during the diurnal test to insure that the temperature rise in the vapor space is representative of actual use, since the vapor temperature rise is the principal driving force for diurnal emissions and recent data indicate that, although the liquid fuel temperature rises 24° F, the vapor temperature may rise only 12° to 14° F.

The proposed regulations reorganized Subpart B to promote clarity. Subpart B is further modified in the final regulations by the insertion of reserved sections for possible future expansion of the regulations.

The new numbering system that was proposed for Subpart B is adopted. The model year designation appears as a suffix following the section number and is separated by a hyphen. A section will remain effective until it is superseded. This change will make republishing for each model year unnecessary. Also, when a section is amended for an upcoming model year it will appear following the current section. This will enable the reader to quickly find the changes that have been made.

Comments which were received in response to the NPRM, EPA's analysis of the comments, and the Final Environmental Impact Statement are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Single copies of the Final Environmental Impact Statement for this regulation are available in limited number upon request from the Public Information Center (PM–215), U.S. Environmental Protection Agency, Washington, D.C. 20460.

This notice of final rulemaking is issued under authority of sections 202, 206, 207, 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, 1957f–5a, 1857f–6, and 1857g(a)).

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Effective date: This revision of Part 86 becomes effective on September 22, 1976.

Dated: August 12, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended by revising Subparts A and B as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light Duty Vehicles, 1977 and Later Model Year New Light Duty Trucks and for 1977 and Later Model New Heavy Duty Engines

1. A new § 86.078–2 is added and reads as follows:

§ 86.078–2 Definitions.

The following definitions apply beginning with the 1978 model year. Section 86.077–2 remains effective excepting those definitions which are hereby superseded.

"Accuracy" means the difference between a measurement and true value.

"Basic Engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

"Body Type" means a name denoting a group of vehicles that are either in the same car line or in different car lines provided the only reason the vehicles qualify to be considered in different car lines is that they are produced by separate divisions of a single manufacturer.

"Calibration" means the set of specifications, including tolerances, unique to a particular design, version, or application of a component or component assembly capable of functionally describing its operation over its working range.

"Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light duty trucks. Station wagons and light duty trucks are considered to be different car lines than passenger cars.

"Diurnal breathing losses" means evaporative emissions as a result of the daily range in temperature.

"Engine Code" means a unique combination, within an engine system combination, of displacement, carburetor (or fuel injection) calibration, choke calibration, distributor calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

"Engine—system combination" means an engine family-exhaust emission control system combination.

"Evaporative emission code" means a unique combination in an evaporative emission family—evaporative emission control system combination, of purge system calibrations, fuel tank and carburetor bowl vent calibrations and other fuel system and evaporative emission control system components and calibrations specified by the Administrator.

"Evaporative emissions" means hydrocarbons emitted into the atmosphere from a motor vehicle, other than exhaust and crankcase emissions.

"Evaporative vehicle configuration" means a unique combination of basic engine, engine code, body type, and evaporative emission code.

"Fuel system" means the combination of fuel tank(s), fuel pump, fuel lines, and carburetor or fuel injection components, and includes all fuel system vents and fuel evaporative emission control system components.

"Hot soak losses" means evaporative emissions after termination of engine operation.

"Malfunction" means not operating according to specifications listed in the application for certification.

"Model Type" means a unique combination of car line, basic engine, and transmission class.

"Nominal Fuel Tank Capacity" means the volume of the fuel tank(s), specified by the manufacturer to the nearest tenth of a U.S. gallon, which may be filled with fuel from the fuel tank filler inlet.

"Precision" means the standard deviation of replicated measurements.

"Tank fuel volume" means the volume of fuel in the fuel tank(s), which is determined by taking the manufacturer's nominal tank(s) capacity and multiplying by 0.40, the result being rounded using ASTM E29–67 to the nearest tenth of a U.S. gallon.

"Transmission Class" means the basic type of transmission, e.g., manual, automatic, semi-automatic.

"Transmission Configuration" means a unique combination, within a transmission class, of the number of the forward gears and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque convertor, multiplication ratio, stall speed and shift calibration, etc.), if he determines that significant fuel economy or exhaust emission differences exist within that transmission configuration.

"Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuraton, axle ratio.

"Zero (0) Miles" means that point after initial engine starting (not to exceed 10 miles of vehicle operation, or one hour of engine operation) at which normal assembly line operations adjustments are completed.

2. A new § 86.078–3 is added and reads as follows:

§ 86.078–3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, H, I and J of this part.

(b) The abbreviations used in this subpart have the following meanings in both capital and lower case:

AECD—Auxiliary Emission Control Device.
API—American Petroleum Institute.
ASTM—American Society for Testing and Materials.
BHP—Brake horsepower.
BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
BSNOx—Brake specific oxides of nitrogen.
C—Celsius.
cfh—Cubic feet per hour.
CFV—Critical flow venturi.
CL—Chemiluminescence.
CO_2—Carbon dioxide.
CO—Carbon monoxide.
Conc.—Concentration.
cfm—Cubic feet per minute.
CT—Closed Throttle.
cu. in.—Cubic inch(es).
CVS—Constant volume sampler.
EP—End point.
Evap.—Evaporated.
F—Fahrenheit.
FID—Flame ionization detector.
ft.—Feet.
FL—Full load.
gal.—U.S. gallon(s).
g—Grams.
GVW—Gross Vehicle Weight.
H_2O—Water.
HC—Hydrocarbon(s).
HFID—Heated flame ionization detector.
Hg—Mercury.
Hi.—High.
Hp—Horsepower.
Hr—Hour.
IBP—Initial boiling point.
ID—Internal diameter.
in.—Inches.
km/h—kilometers per hour.
kPa—Kilopascal(s).
Lb—Pound(s).
LFE—Laminar flow element.
Lb-ft—Pound-feet.
m—Metre.
Max.—Maximum.
Min.—Minimum.
Min.—Minute(s).
ml—Milliliter(s).
mph—Miles per hour.
mm—Millimeter(s).
mv—Millivolt(s).
N_2—Nitrogen.
NDIR—Nondispersive infrared.
NO—Nitric oxide.
NO_2—Nitrogen dioxide.
NOx—Oxides of nitrogen.
No.—Number.
Pb—Lead.
PDP—Positive displacement pump.
ppm—Parts per million by volume.
ppm C—Parts-per million, carbon.
psi—Pounds per square inch.

3. A new § 86.078–8 is added and reads as follows:

§ 86.078–8 Emission standards for 1978 light duty vehicles.

(a) (See paragraph (a) of § 86.077–8)

(b)(1) Evaporative emissions from gasoline fueled light duty vehicles shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) (See paragraph (c) of § 86.077–8)

4. A new § 86.078–9 is added and reads as follows:

§ 86.078–9 Emission standards for 1978 light duty trucks.

(a) (See paragraph (a) of § 86.077–9)

(b)(1) Evaporative emissions from 1978 model year gasoline fueled light duty trucks shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) (See paragraph (c) of § 86.077–9)

5. A new § 86.078–21 is added and reads as follows:

§ 86.078–21 Application for certification.

(a) through (b)(3) (See paragraphs (a) through (b)(3) of § 86.077–21)

(4)(i) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.077–23(a)(2).

(b)(5) through (c) (See paragraphs (b)(5) through (c) of § 86.077–21)

6. A new § 86.078–22 is added and reads as follows:

§ 86.078–22 Approval of application for certification test fleet selections.

(a) through (c) (See paragraphs (a) through (c) of § 86.077–22)

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.078–21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.078–24(b)(1) and if such procedures will involve testing of durability data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1), prior to initiation of such testing.

7. A new § 86.078–23 is added and reads as follows:

§ 86.078–23 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a)(1) Exhaust emission durability data on such vehicles (or engines) tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for diesel heavy duty engines) performed on the test vehicles (or test engines).

(2) Evaporative emission deterioration factors for each evaporative emission family—evaporative emission control system combination and all test data, that are derived from testing described under § 86.078–21(b)(4)(ii) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.078–30 will meet the evaporative emission standards in § 86.078–8 for the useful life of the vehicle.

(b)(1)(i) (See paragraph (b)(1)(i) of § 86.077–23).

(ii) Emission data on those vehicles selected under §§ 86.078–24(b)(1)(v) and 86.078–24(b)(1)(vii)(D) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high altitude conditions after 6436 kilometers (4000 miles) of operation at any altitude.

(b)(2) through (d)(2) (See paragraphs (b)(2) through (d)(2) of § 86.077–23)

(3) For evaporative emission durability, a statement of compliance with paragraph (a)(2) of this section.

8. A new § 86.078–24 is added and reads as follows:

§ 86.078–24 Test vehicles and engines.

(a)(1) through (a)(4) (See paragraphs (a)(1) through (a)(4) of § 86.077–24)

(5) The gasoline fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be identical in all of the following respects:

V 41 164 AUG 23 76 UM

(i) Vapor storage device (e.g., canister, air cleaner, crankcase, induction system).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) (1) (i) (See paragraph (b) (1) (i) of § 86.077–24).

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) through (v) (See paragraphs (b) (1) (iii) through (b) (1) (v) of § 86.077–24).

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b) (1) (v) or (b) (1) (vii) (D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b) (1) (ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under (b) (1) (vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator requiring a vehicle selected for testing under paragraphs (b) (1) (ii), (iii), (iv), (vii) (A), or (vii) (B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.078–23 (b) (1) (ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four (4) additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b) (1) (i) through (vi) of this section may be used to satisfy the requirements of paragraphs (b) (1) (vii) (A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under paragraph (b) (1) (v) of this section may be used to satisfy the requirements of paragraph (b) (1) (vii) (D) of this section.

(b) (2) through (g) (See paragraphs (b) (2) through (g) of § 86.077–241).

9. A new § 86.078–25 is added and reads as follows:

§ 86.078–25 Maintenance.

(a) (1) (See paragraph (a) (1) of § 86.077–25).

(a) (2) (i) Scheduled maintenance on the engine, emission control system, and fuel system of durability vehicles, selected by the Administrator or elected by the manufacturer under § 86.078–24(c) (1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a) (6) (iii) of this section, only under the following provisions.

(a) (2) (i) (A) through (a) (2) (v) (A) (1) (See paragraphs (a) (2) (i) (A) through (a) (2) (v) (1) of § 86.077–25).

(2) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfire, vehicle stall, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative system, this overt indication may be indicated by such items as fuel odor or fluid leakage.

(a) (2) (v) (B) through (a) (3) (i) (See paragraphs (a) (2) (v) (B) through (a) (3) (i) of § 86.077–25).

(a) (3) (ii) Maintenance on Emission data vehicles selected under § 86.078–24 (b) (1) (v) or 24(b) (1) (vii) (D) and permitted to be tested for purposes of § 86.078–23(b) (1) (ii) under the provisions of § 86.078–24(b) (1) (vi) may be performed in conjunction with emission control system modifications at the 6436 kilometer (4000 mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.077–38.

(a) (3) (iii) through (d) (See paragraphs (a) (3) (iii) through (d) of § 86.077–25)

10. A new § 86.078–26 is added and reads as follows:

§ 86.078–26 Mileage and service accumulation; emission measurements.

(a) (1) and (a) (2) (See paragraphs (a) (1) and (a) (2) of § 86.077–26)

(3) Emission data vehicles.

(i) Gasoline-fueled.

(A) Each gasoline-fueled emission data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.178–24(b) (1) (i) through (b) (1) (vi). Complete evaporative emission tests shall be conducted at 4000 miles on those vehicles selected under § 86.078–24(b) (1) (vii). The manufacturer may at his option test the vehicles selected under § 86.078–24(b) (1) (vii) up to three times at the 4000 mile test point as long as the ±250 mile test tolerance is adhered to. The Administrator may determine under § 86.078–24(f) that no testing is required.

(B) The emission data vehicle(s) selected for testing under § 86.078–24 (b) (1) (v) or (b) (1) (vii) (D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission data vehicle(s) selected for testing under § 86.078–24 (b) (1) (v) or (b) (1) (vii) (D) and permitted to be tested for purposes of § 86.078–23(b) (1) (ii) under the provisions of § 86.078–24(b) (1) (vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low and high altitude conditions. For the purposes of this subparagraph, low altitude means any elevation less than 549 meters (1800 feet).

(a) (3) (ii) through (a) (3) (ii) (C) (See paragraphs (a) (3) (ii) through (a) (3) (ii) (C) of § 86.077–26)

(4) Durability data vehicles

(i) *Gasoline Fueled.* Each gasoline fueled durability data vehicle selected by the Administrator or elected by the manufacturer under § 86.078–24(c) (1) shall be driven, with all emission control systems installed and operating for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c) at the following mileage points: 0; 5000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.078–24(f) that no testing is required.

(a) (4) (ii) through (a) (10) (See paragraphs (a) (4) (ii) through (a) (10) of § 86.077–26)

(a) (11) This section does not apply to testing conducted to meet the requirements of § 86.078–23(a) (2).

(b) through (c) (see paragraphs (b) through (c) of § 86.077–26)

11. A new § 86.078–28 is added and reads as follows:

§ 86.078–28 Compliance with emission standards.

(a) (1) through (a) (3) (see paragraphs (a) (1) through (a) (3) of § 86.077–28)

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability data vehicle(s) for each engine-system condition. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NOx for each engine system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(1) All valid exhaust emission data from the tests required under § 86.078–26(a) (4), except the zero mile tests. This shall include the official test results, as determined in § 86.078–29 for all tests conducted on all durability data vehicles of the combination selected under § 86.078–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.078–24(c) (1) (ii)).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.078–25(a).

(3) All exhaust emission data from tests required by maintenance approved under § 86.078–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 86.078–8 or § 86.078–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

factor=Exhaust emissions interpolated to 50,000 miles/exhaust emission interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.078–21(b) (4) (ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

factor=Evaporative emission level at 50,000 miles *minus* the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii) (A) The official exhaust emission test results for each emission data vehicle at the 4000 mile test point shall be multiplied by the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a) (4) (i) (B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission data vehicle at the 4000 mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a) (4) (i) (c) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(a) (4) (iii) (See paragraph (a) (4) (iii) of § 86.077–28)

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a) (4) (iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standards, as determined in paragraph (a) (4) (iii) of this section, before any vehicle in that family may be certified.

(b) through (c) (See paragraphs (b) through (c) of § 86.077–28)

12. A new § 86.078–29 is added and reads as follows:

§ 86.078–29 Testing by the Administrator.

(a) (1) through (a) (3) (i) (See paragraphs (a) (1) through (a) (3) (i) of § 86.077–29)

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (a) (2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, and further provided, that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.078–26(a) (3) (i) (A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(a) (3) (iii) (A) (See paragraph (a) (3) (iii) (A) of § 86.077–29)

(B) If the Administrator determines that the test data developed on an emission data vehicle under paragraph (a) (3) (i) of this section would cause that vehicle to fail due to excessive 4000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(a) (3) (iii) (B) (1) through (b) (See paragraphs (a) (3) (iii) (B) (1) through (b) of § 86.077–29)

13. A new § 86.078–30 is added and reads as follows:

§ 86.078–30 Certification.

(a) (1) and (a) (2) (See paragraphs (a) (1) and (a) (2) of § 86.077–30)

(3) One such certificate will be issued for each engine family—evaporative family combination and will certify compliance with no more than one set of applicable standards.

(a) (4) through (a) (7) (See paragraphs (a) (4) through (a) (7) of § 86.077–30)

(b) (1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) Light duty vehicles and light duty trucks.

(A) The durability data vehicle(s) selected under § 86.078–24 (c) (1) (i) shall represent all vehicles of the same engine-system combination.

(B) The emission data vehicle(s) selected under § 86.078–24 (b) (1) (ii), (b) (1) (iii), and (b) (1) (iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4000 ft.

(C) The emission data vehicle(s) selected under § 86.078–24 (b) (1) (vii) (A) and (b) (1) (vii) (B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4000 ft.

(D) The emission data vehicle(s) selected under § 76.078–24(b) (1) (v) shall represent all vehicles of the same engine system combination to be sold at high altitude.

(E) The emission data vehicle(s) selected under § 86.078–24(b) (1) (vii) (D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(b) (1) (ii) through (b) (1) (iii) (C) (See paragraphs (b) (1) (ii) through (b) (1) (iii) (C) of § 86.077–30)

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family—evaporative family combination, all of which comply with all applicable standards.

(3) (See paragraph (b) (3) of § 86.077–30)

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission

V 41 164 AUG 23 76 UMI

data vehicle determined not in compliance with all applicable standards for which it was tested.

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration as applicable) which failed from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission data vehicle which will be tested for compliance with both exhaust and evaporative emissions standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle-selection criteria, and one vehicle to satisfy the evaporative emission vehicle-selection criteria) both of which will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from his application and add a vehicle configuration(s) (or evaporative vehicle configuration(s) as applicable) not previously listed. The Administrator may require if applicable that the failed vehicle be modified to the new engine code (or evaporative emission code as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in place of the failed vehicle, a new emission data vehicle (or vehicles) which may be tested for compliance with both exhaust and evaporative emissions standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component, the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require, a new emission data vehicle, of identical vehicle configuration (or evaporative vehicle configuration as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(c) (See paragraph (C) of § 86.077–30)

14. A new § 86.078–35 is added and reads as follows:

§ 86.078–35 Labeling.

(a) Through (a) (1) (iii) (B) (See paragraphs (a) through (a) (1) (iii) (B) or § 86.077–35)

(C) Engine displacement (in cubic inches), engine family identification and evaporative family identification.

(a) (1) (iii) (D) through (c) (See paragraph (a) (1) (iii) (D) through paragraph (c) of § 86.077–35).

15. Subpart B is enlarged by adding §§ 86.101–78 through 86.145–78 (effective for the 1978 model year) which read as follows:

Subpart B—Emission Regulations for 1977 and Later Model Year New Light Duty Vehicles and New Light Duty Trucks; Test Procedures

Sec.

86.101 Applicability.
86.102 Definitions.
86.103 Abbreviations.
86.104 Section numbering, construction.
86.105 Introduction; structure of subpart.
86.106 Equipment required; overview.
86.107 Sampling, and analytical system evaporative emissions.
86.108 Dynamometer.
86.109 Exhaust gas sampling system.
86.110 [Reserved]
86.111 Exhaust gas analytical system.
86.112 [Reserved]
86.113 Fuel specifications.
86.114 Analytical gases.
86.115 EPA urban dynamometer driving schedule.
86.116 Calibrations, frequency and overview.
86.117 Evaporative emission enclosure calibrations.
86.118 Dynamometer calibration.
86.119 Constant volume sampler calibration.
86.120 [Reserved]
86.121 Hydrocarbon analyzer calibration.
86.122 Carbon monoxide analyzer calibration.
86.123 Oxides of nitrogen analyzer calibration.
86.124 Carbon dioxide analyzer calibration.
86.125 [Reserved]
86.126 Calibration of other equipment.
86.127 Test procedures, overview.
86.128 Transmissions.
86.129 Road load power and inertia weight determination.
86.130 Test sequence, general requirements.
86.131 Vehicle preparation.
86.132 Vehicle preconditioning.
86.133 Diurnal breathing loss test.
86.134 Running loss test.
86.135 Dynamometer procedure.
86.136 Engine starting and restarting.
86.137 Dynamometer test runs.
86.138 Hot soak test.
86.139 [Reserved]
86.140 Exhaust sample analysis.
86.141 [Reserved]
86.142 Records required.
86.143 Calculations; evaporative emissions.
86.144 Calculations; exhaust emissions.
86.145 [Reserved]

AUTHORITY: Secs. 202, 206, 207, 208, and 301 (a) of the Clean Air Act, as amended (42 U.S.C. 1857F–1, 1857F–5, 1857F–5a, 1857F–6, 1857g(a))

Subpart B—Emission Regulations for 1977 and Later Model Year New Light Duty Vehicles and New Light Duty Trucks; Test Procedures

§ 86.101–78 General applicability.

(a) The provisions of this subpart are applicable to 1977 and later model year new light duty vehicles and light duty trucks.

(1) Sections 86.101–78 through 86.145–78 apply for 1978 and later model years.

(2) Sections 86.177–1 through 86.177–23 apply for the 1977 model year only.

(b) Provisions of this subpart apply to tests performed by both the Administrator and motor vehicle manufacturers.

§ 86.102–78 Definitions.

The definitions in §§ 86.077–2 and 86.078–2 apply to this subpart.

§ 86.103–78 Abbreviations.

The abbreviations in § 86.078–3 apply to this subpart.

§ 86.104–78 Section numbering, construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example. Section 86.111–78 applies to the 1978 and subsequent model years until superseded. If a § 86.111–81 is promulgated it would take effect beginning with the 1981 model year; § 86.111–78 would apply to model years 1978 through 1980.

(b) Unless indicated, all provisions in this subpart apply to both gasoline and diesel fueled vehicles.

§ 86.105–78 Introduction, structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust and evaporative emission tests on light duty vehicles and light duty trucks. This Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Three topics are addressed in this subpart. Sections 86.106 through 86.115 set forth specifications and equipment requirements; §§ 86.116 through 86.126 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.127 through 86.145.

§ 86.106–78 Equipment required; overview.

(a) This subpart contains procedures for both exhaust and evaporative emissions tests on diesel or gasoline fueled light duty vehicles and light duty trucks. Certain items of equipment are not necessary for a particular test, e.g., evaporative enclosure when testing diesel vehicles. Equipment required and specifications are as follows:

(1) *Evaporative emission tests, gasoline fueled vehicles.* The evaporative emission test is closely related to and connected with the exhaust emission test. All vehicles tested for evaporative emissions must be tested for exhaust emissions. Further, unless the evaporative emission test is waived by the Administrator under § 86.077–26, all gasoline fueled vehicles must undergo both tests. (Diesel vehicles are excluded from the evaporative emission standard.) Section 86.107 specifies the necessary equipment.

(2) *Exhaust emission tests.* All vehicles subject to this subpart are tested for exhaust emissions. Diesel and gasoline fueled vehicles are tested identically with

the exception of hydrocarbon measurements; diesel vehicles require a heated hydrocarbon detector, § 86.109. All gasoline fueled vehicles are either tested for evaporative emissions or undergo a diurnal heat build, diesel vehicles are excluded from this requirement. Equipment necessary and specifications appear in §§ 86.108 through 86.114.

(3) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for exhaust and evaporative emission testing and for mileage accumulation for gasoline and diesel fueled vehicles are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule for use in exhaust testing is specified in § 86.115 and Appendix I.

§ 86.107–78 Sampling and analytical system, evaporative emissions.

(a) Component description (evaporative emissions sampling system). The following components will be used in evaporative emissions sampling systems for testing under this subpart.

(1) *Evaporative emission measurement enclosure.* The enclosure shall be readily sealable, rectangular in shape, with space for personnel access to all sides of the vehicle. When sealed, the enclosure shall be gas tight in accordance with § 86.117. Interior surfaces must be impermeable to hydrocarbons. One surface should be of flexible, impermeable material to allow for minor volume changes, resulting from temperature changes. Wall design should promote maximum dissipation of heat, and if artificial cooling is used, interior surface temperatures shall not be less than 68° F (20° C).

(2) *Evaporative emission hydrocarbon analyzers.* A hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 s, and be capable of meeting performance requirements expressed as a function of C_{std}; where C_{std} is the specific enclosure hydrocarbon level, in ppm, corresponding to the evaporative emission standard:

(i) Stability of the analyzer shall be better than 0.01 C_{std} ppm at both zero and C_{std}±5 ppm over a 15 minute period on all ranges used;

(ii) Repeatability of the analyzer, expressed as one standard deviation, shall be better than 0.005 C_{std} ppm at both zero and C_{std}±5 ppm on all ranges used.

(3) *Evaporative emission hydrocarbon data recording system.* The electrical output of the FID shall be recorded at least at the initiation and termination of each diurnal or hot soak. The recording may be by means of a strip chart potentiometric recorder, by use of an on-line computer system or other suitable means. In any case, the recording system must have operational characteristics (signal to noise ratio, speed of response, etc.) equivalent to or better than those of the signal source being recorded, and must provide a permanent record of results. The record shall show a positive indication of the initiation and completion of each diurnal or hot soak along with the time elapsed between initiation and completion of each soak.

(4) *Tank fuel heating system.* The tank fuel heating system shall consist of a heat source and a temperature controller. A typical heat source is a 2000 w heating pad. Other sources may be used as required by circumstances. The temperature controller may be manual, such as a variable voltage transformer, or may be automated. The heating system must not cause hot spots on the tank wetted surface which could cause local overheating of the fuel. Heat must not be applied to the vapor in the tank above the liquid fuel. The temperature controller must be capable of controlling the fuel tank temperature during the diurnal soak to within ±3° F (1.7° C) of the following equation:

$$F = T_o + 0.4\,t$$

or for SI units:

$$C = T_o + (2/9)\,t$$

Where:

F = Temperature in °F
C = Temperature in °C
t = Time since start of test in minutes
T_o = Initial temperature

(5) *Temperature recording system.* Strip chart recorder(s) or automatic data processor shall be used to record enclosure ambient and vehicle fuel tank temperature during the evaporative emissions test. The temperature recorder or data processor shall record each temperature at least once every minute. The recording system shall be capable of resolving time to ±15s and capable of resolving temperature to ±0.75° F (0.42° C). The temperature recording system (recorder and sensor) shall have an accuracy of ±2° F (1.1° C). The recorder (data processor) shall have a time accuracy of ±15s and a precision of ±15s. Two ambient temperature sensors, connected to provide one average output, shall be located in the enclosure. These sensors shall be located at the approximate vertical centerline of each side wall extending 4 inches (nominally) into the enclosure at a height of 3±0.5 ft (0.9±0.2 m). The vehicle fuel tank temperature sensor shall be located in the fuel tank so as to measure the temperature of the prescribed test fuel at the approximate mid-volume of the fuel. Manufacturers shall arrange that vehicles furnished for testing at Federal certification facilities be equipped with iron-constantan Type J thermocouples for measurement of fuel tank temperature.

(6) *Purge blower.* One or more portable or fixed blowers shall be used to purge the enclosure. The blowers shall have sufficient flow capacity to reduce the enclosure hydrocarbon concentration from the test level to the ambient level between tests. Actual flow capacity will depend upon the time available between tests.

(7) *Mixing blower.* One or more small blowers or fans with a total capacity of 200 to 1000 cfm shall be used to mix the contents of the enclosure during evaporative emission testing. No portion of the air stream shall be directed towards the vehicle. Maintenance of uniform concentrations throughout the enclosure is important to the accuracy of the test.

§ 86.108–78 Dynamometer.

The dynamometer shall have a power absorption unit for simmulation of road load power and flywheels or other means of simulating the inertia weight as specified in § 86.129.

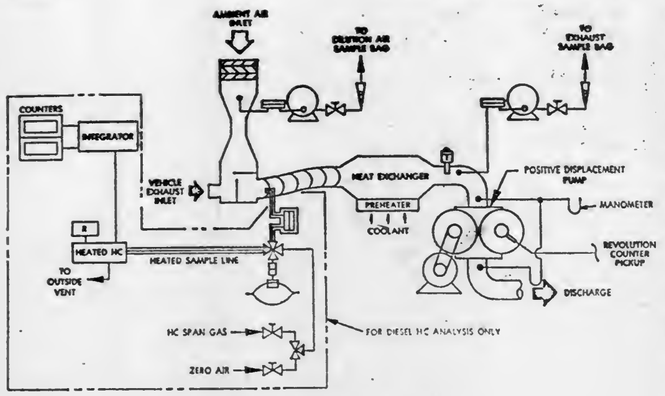
§ 86.109–78 Exhaust gas sampling system.

(a) (1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of vehicle exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied; the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and totalized flow over the test period.

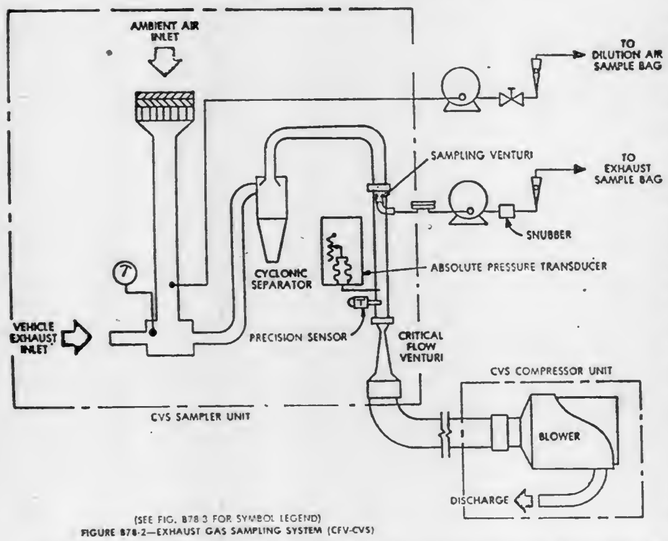
(2) *Positive Displacement Pump.* The Positive Displacement Pump-Constant Volume Sampler (PDP–CVS), Figure B78–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

(3) *Critical Flow Venturi.* The operation of the Critical Flow Venturi-Constant Volume Sample (CFV–CVS), Figure B78–2, is based upon the principles of fluid dynamics associated with critical flow. Proportional sampling throughout temperature excursions is maintained by use of a small CFV in the sample line. The variable mixture flow rate is maintained at sonic velocity, which is directly proportional to the square root of the gas temperature, and is computed continuously. Since the pressure and temperature are the same at both venturi inlets, the sample volume is proportional to the total volume.

V 41 164 AUG 23 76 UMI



(SEE FIG. B78-3 FOR SYMBOL LEGEND)
FIGURE B78-1—EXHAUST GAS SAMPLING SYSTEM (PDP-CVS)



(SEE FIG. B78-3 FOR SYMBOL LEGEND)
FIGURE B78-2—EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)

(4) *Diesel sampling.* Diesel vehicles require a heated flame ionization detector (HFID) for hydrocarbon analysis. The sample must be taken as close as practical to the mixing point of the dilution air and exhaust sample. The HFID, by design, draws its sample at a constant flow rate. Unless compensation for varying flow is made the HFID must be used with a constant flow system to insure a representative sample.

(5) *Other systems.* Other sampling systems may be used if shown to yield equivalent results, and if approved in advance by the Administrator (e.g., a heat exchanger with the CFV–CVS; an electronic flow integrator without a heat exchanger, with the PDP–CVS; or, for diesel HC measurements, an electronic flow compensator with the CFV–CVS).

(b) *Component description, PDP–CVS.* The PDP–CVS, Figure B78–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±10° F (5.6° C) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to ±10° F (5.6° C) during the entire test. The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C).

(3) The pressure gauges shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system (300 to 350 cfm, 0.140 to 0.165 m³/s, is sufficient for most vehicles).

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

(c) *Component description, CFV–CVS.* The CFV–CVS, Figure B78–2 consists of a dilution air filter and mixing assembly, cyclone particulate separator, sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors. The CFV–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C) and a response time of 0.100 s to 62.5% of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system (300 to 350 cfm, 0.142 to 0.165 m³/s, is sufficient for most vehicles).

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

§ 86.110–78 [Reserved]

§ 86.111–78 Exhaust gas analytical system.

(a) *Schematic drawings.* Figure B78–3 is a schematic drawing of the exhaust gas analytical system. The schematic of the hydrocarbon analysis train for diesel fueled vehicles is shown as part of Figure B78–1. Since various configurations can produce accurate results, exact conformance with either drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure B78–3, consists of a flame ionization detector (FID) for the determination of hydrocarbons, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. A heated flame ionization detector (HFID) is used for the continuous determination of hydrocarbons from diesel fueled vehicles, Figure B78–1. The exhaust gas analytical system shall conform to the following requirements:

(1) The chemiluminescence analyzer requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

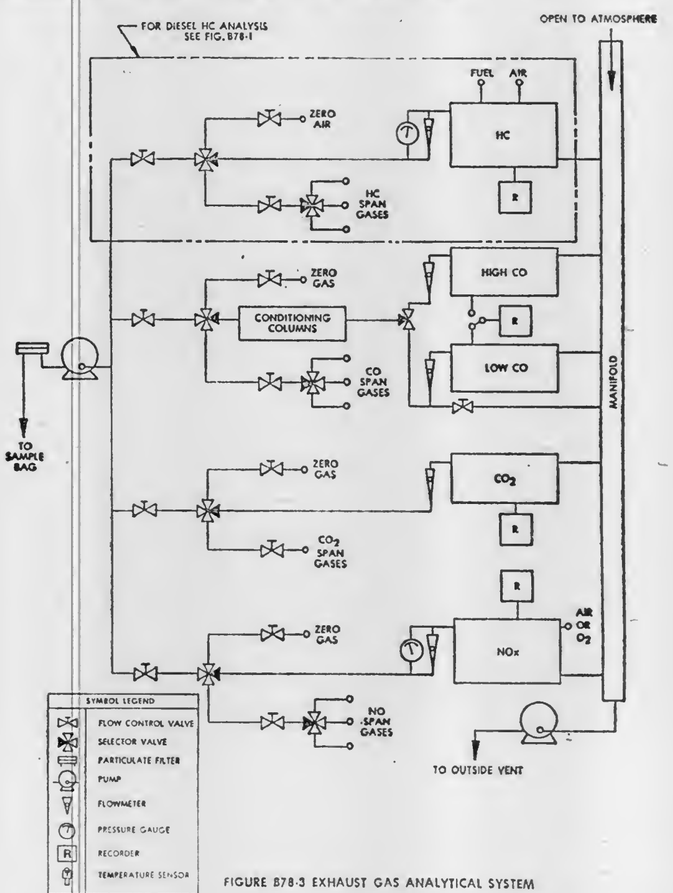


FIGURE B78-3 EXHAUST GAS ANALYTICAL SYSTEM

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see §§ 86.122 and 86.144.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensi-

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tive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.122.

(3) For diesel fueled vehicles a continuous sample shall be measured using a heated analyzer train as shown in Figure B78–1. The train shall include a heated continuous sampling line, a heated particulate filter and a heated hydrocarbon instrument (HFID) complete with heated pump, filter and flow control system.

(i) The response time of this instrument shall be less than 1.5 seconds for 90 percent of full-scale response.

(ii) Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(iii) The sample line and filter shall be heated to a set point ±10° F (±5.6° C) between 300 and 390° F (149 and 199° C).

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

§ 86.112–78 [Reserved]

§ 86.113–78 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust and evaporative emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust and evaporative testing, except that the lead and octane specifications do not apply.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	100	96
Pb. (organic), grams/U.S. gallon		[1] 1.4	0.00–0.05
Distillation range:			
IBP [2], °F	D86	75–95	75–95
10 pct point, °F	D86	120–135	120–135
50 pct point, °F	D86	200–230	200–230
90 pct point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulphur, weight percent, maximum	D1266	0.10	0.10
Phosphorous, grams/U.S. gallon, maximum		0.01	0.005
RVP [3 4], per square inch	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent, maximum	D1319	10	10
Aromatics, percent, maximum	D1319	35	35
Saturates	D1319	[5]	[5]

[1] Minimum.
[2] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 75–105.
[3] For testing which is unrelated to evaporative emission control, the specified range is 8.0–9.2.
[4] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 7.0–9.2.
[5] Remainder.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance with § 86.077–21(b)(3).

(b) *Diesel fuel.* (1) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: Centane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM	Type 1–D	Type 2–D
Cetane	D613	48–54	42–53
Distillation range	D86		
IBP, °F		330–390	340–400
10 pct point, °F		370–430	400–460
50 pct point, °F		410–480	470–540
90 pct point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D287	40–44	33–37
Total sulfur, percent	D129 or D2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D1319		
Aromatics, percent		8–15	[2] 27
Paraffins, Naphtenes, Olefins		[2]	
Flashpoint, °F (minimum)	D93	120	130
Viscosity, centistokes	D445	1.6–2.0	2.0–3.2

[1] Minimum.
[2] Remainder.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM	Type 1–D	Type 2–D
Cetane	D613	48–54	42–55
Distillation range	D86		
IBP, °F		330–390	340–410
10 pct point, °F		370–430	400–470
50 pct point, °F		410–480	470–540
90 pct point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D287	40–44	33–40
Total sulfur, percent	D129 or D2622	0.05–0.20	0.2–0.5
Flashpoint, °F (minimum)	D93	120	130
Viscosity, centistokes	D445	1.6–2.0	2.0–3.2

(4) Other petroleum distillation fuel specifications:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.077–21(b)(3).

§ 86.114–78 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for NOx analyzer shall be single blends of NO named as NOx, with a maximum NO_2 concentration of 5 percent of the nominal value using nitrogen as the diluent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 60 percent helium and 40 percent hydrogen containing less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(b) Calibration gases should be known to within ±2 percent of the true values.

§ 86.114–79 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for NOx analyzer shall be single blends of NO named as NOx, with a maximum NO_2 concentration of 5 percent of the nominal value, using nitrogen as the diluent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(b) Calibration gases shall be traceable to within 1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(c) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

§ 86.115–78 EPA urban dynamometer driving schedule.

(a) The dynamometer driving schedule is listed in Appendix I. The driving schedule is defined by a smooth trace drawn through the specified speed vs. time relationships. It consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 86.137 is defined by upper and lower limits. The upper limit is 2 mph (3.2 km/h) higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 mph (3.2 km/h) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. When conducted to meet the requirements of § 86.128 the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 mph (6.4 km/h).

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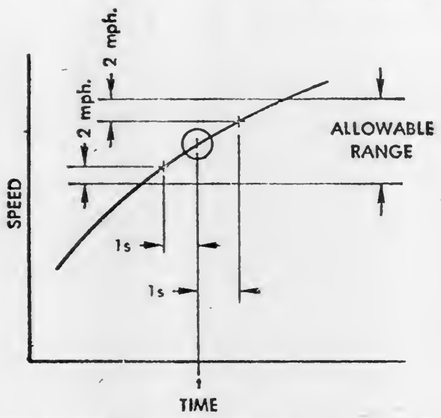


FIGURE B78-4a—DRIVERS TRACE, ALLOWABLE RANGE

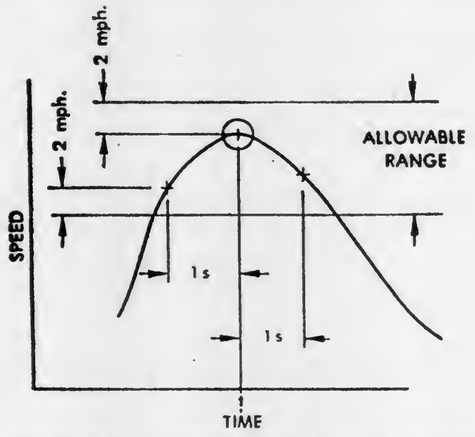


FIGURE B78-4b—DRIVERS TRACE, ALLOWABLE RANGE

(c) Figure B78–4 shows the range of acceptable speed tolerances for typical points. Figure B78–4(a) is typical of portions of the speed curve which are increasing or decreasing throughout the two second time interval. Figure B78–4 (b) is typical of portions of the speed curve which include a maximum or minimum value.

§ 86.116–78 Calibrations, frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.117 through 86.126.

(b) At least yearly or after any maintenance which could alter background emission levels, enclosure background emission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzers (both evaporative and exhaust instruments), carbon dioxide analyzer, carbon monoxide analyzer, oxides of nitrogen analyzer.

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed.

(3) Perform a hydrocarbon retention check and calibration on the evaporative emission enclosure.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and

(2) Perform a CVS system verification, and

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.119).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

§ 86.117–78 Evaporative emission enclosure calibrations.

The calibration of the evaporative emission enclosure consists of three parts: Initial and periodic determination of enclosure background emissions; initial determination of enclosure internal volume; and periodic hydrocarbon retention check and calibration.

(a) *Initial and periodic determination of enclosure background emissions.* Prior to its introduction into service, annually thereafter, and after any repair which can affect the enclosure background emissions, the enclosure shall be checked to determine that it does not contain materials which will themselves emit hydrocarbons. Proceed as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature, and barometric pressure. These are the initial readings C_{HCi}, T_i, and P_{Bi} for the enclosure background determination.

(5) Allow the enclosure to stand undisturbed without sampling for four hours.

(6) Measure the hydrocarbon concentration on the same FID. This is the final concentration, C_{HCf}. Also measure final temperature and barometric pressure.

(7) Calculate the mass change of hydrocarbons in the enclosure according to the equations in paragraph (d) of this section. The enclosure background emissions shall not be greater than 0.4g for the 4 hours.

(b) *Initial determination of enclosure internal volume.* Prior to its introduction into service the enclosure internal volume shall be determined by the following procedure.

(1) Carefully measure the internal length, width and height of the enclosure, accounting for irregularities (such as braces) and calculate the internal volume.

(2) Perform an enclosure calibration check according to paragraph (c)(1) through (7) of this section.

(3) If the calculated mass does not agree within 2 percent of the injected propane mass, then corrective action is required.

(c) *Hydrocarbon retention check and calibration.* The hydrocarbon retention check provides a check upon the calculated volume and also measures the leak rate. Prior to its introduction into service and at least monthly thereafter the enclosure leak rate shall be determined as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature and barometric pressure. These are the initial readings C_{HCi}, T_i and P_{Bi} for the enclosure calibration.

(5) Inject into the enclosure a known quantity of pure propane. (4 g is a convenient quantity.) The propane may be measured by volume flow or by mass measurement. The method used to measure the propane shall have an accuracy and precision of ±0.5% of the measured value.

(6) After a minimum of five minutes of mixing, analyze the enclosure atmosphere for hydrocarbon content, also record temperature and pressure. These measurements are the final readings for the enclosure calibration as well as the initial readings for the retention check.

(7) To verify the enclosure calibration calculate the mass of propane using the measurements taken in steps (4) and (6). See paragraph (d) of this section. This quantity must be within ±2% of that measured in step 5 above.

(8) Allow the enclosure to remain sealed for a minimum of four hours without sampling and with the mixing blower operating. After four hours analyze the enclosure atmosphere for hydrocarbon content; record temperature and barometric pressure. These are the final readings for the hydrocarbon retention check.

(9) Calculate, using the equations in paragraph (d) and the readings taken in (8), the hydrocarbon mass. It may not differ by more than 4 percent of the value in step (6).

(d) *Calculations.* The calculation of net hydrocarbon mass change is used to determine enclosure background and leak rate. It is also used to check the enclosure volume measurements. The mass change is calculated from the initial and final readings of hydrocarbon concentration, temperature and pressure according to the following equation:

$$M_{HC} = kV \times 10^{-4}\left[\frac{C_{HCf}P_{Bf}}{T_f} - \frac{C_{HCi}P_{Bi}}{T_i}\right]$$

Where:

M_{HC} = Hydrocarbon mass change, g.
C_{HC} = Hydrocarbon concentration as ppm carbon.
V = Enclosure volume, ft^3 (m^3), as measured in paragraph (b)(1) of this section.
P_B = Barometric pressure, in. Hg (kPa).
T = Enclosure ambient temperature, °R(K).
k = 3.05.

for SI units,

k = 17.60.
i = Indicates initial reading.
f = Indicates final reading.

NOTE: Hydrocarbon concentration is stated in ppm carbon, that is, ppm propane x3. Expressions in parenthesis are for SI units.

§ 86.118–78 Dynamometer calibration.

(a) The dynamometer shall be calibrated at least one each month or performance verified at least one each week and then calibrated as required. The calibration shall consist of the manufacturer's recommended calibration procedure plus a determination of the dynamometer frictional power absorption at 50.0 mph (80.5 km/h). One method for determining dynamometer frictional power absorption at 50.0 mph (80.5 km/h) is described below, other methods may be used if shown to yield equivalent results. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is (are) allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The inertia of the free (rear) roll may be neglected in the case of dynamometers with paired rolls.

(1) Devise a method to determine the speed of the drive roll if it is not already measured. A fifth wheel, revolution pickup, or other suitable means may be used.

(2) Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

(3) Engage the inertial flywheel or other inertial simulation system for the most common vehicle mass category for which the dynamometer is used. In addition other vehicle mass categories may be calibrated, if desired.

(4) Drive the dynamometer up to 50.0 mph (80.5 km/h).

(5) Record indicated road power.

(6) Drive the dynamometer up to 60.0 mph (96.9 km/h).

(7) Disengage the device used to drive the dynamometer.

(8) Record the time for the dynamometer drive roll to coastdown from 55.0 mph (88.5 km/h) to 45 mph (72.4 km/h).

(9) Adjust the power absorption unit to a different level.

(10) Repeat steps 4 to 9 above sufficient times to cover the range of road power used.

(11) Calculate absorbed road power (HP_d). See paragraph (c) of this section.

(12) Plot indicated road load power at 50 mph (80.5 km/h) versus road load power at 50 mph (80.5 km/h) as shown in Figure B78–5.

(b) The performance check consists of conducting a dynamometer coastdown at one or more inertia-horsepower settings and comparing the coastdown time to that recorded during the last calibration. If the coastdown times differ by more than 1 s, a new calibration is required.

(c) *Calculations.* The road load power actually absorbed by the dynamometer is calculated from the following equation:

$$HP_d = (1/2)\ (W/32.2)\ (V_1^2 - V_2^2)/550t$$

Where:

HP_d = Power, horsepower (kilowatts)
W = Equivalent inertia, lb (Kg)
V_1 = Initial Velocity, ft/s (m/s)
(55 mph = 88.5 km/h = 80.67 ft/s = 24.58 m/s)
V_2 = Final Velocity, ft/s (m/s)
(45 mph = 72.4 km/h = 66 ft/s = 20.11 m/s)

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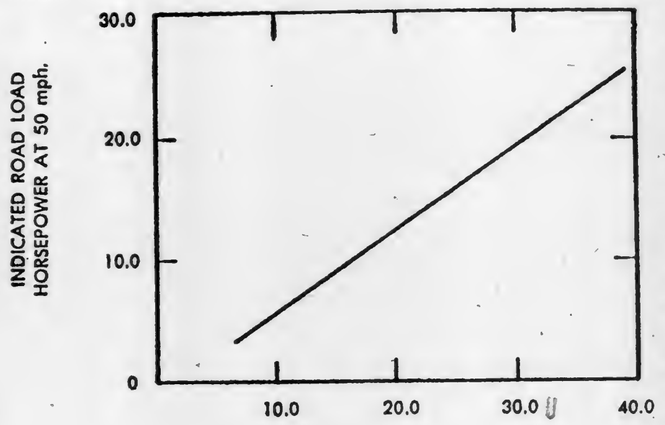


FIGURE B78-5—ROAD LOAD HORSEPOWER, ACTUAL VS. INDICATED

t=elapsed time for rolls to coast from 55 mph to 45 mph (88.5 to 72.4 km/h)

(Expressions in parenthesis are for SI units.) When the coastdown is from 55 to 45 mph (88.5 to 72.4 km/h) the above equation reduces to:

$HP_d = 0.06073\ (W/t)$
for SI units,
$HP_d = 0.09984\ (W/t)$

§ 86.119–78 CVS calibration.

The CVS (Constant Volume Sampler) is calibrated using an accurate flowmeter and restrictor valve. Measurements of various parameters are made and related to flow through the unit. Procedures used by EPA for both PDP (Positive Displacement Pump) and CFV (Critical Flow Venturi) are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator. After the calibration curve has been obtained, verification of the entire system can be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system, e.g. analyzer calibration. A verification procedure is found in paragraph (c) of this section.

(a) *PDP calibration.* (1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the constant volume sampler pump. All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump. The calculated flow rate ft³/min. (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value on a specific combination of pump parameters. The linear equation which relates the pump flow and the correlation function is then determined. In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve. First, the pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. Pressure taps that are mounted at the top center and bottom center of the pump drive headplate are exposed to the actual pump cavity pressures, and therefore reflect the absolute pressure differentials. Secondly, temperature stability must be maintained during the calibration. The laminar flowmeter is sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes (±2° F (1.1° C)) in temperature are acceptable as long as they occur over a period of several minutes. Finally, all connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

(3) During an exhaust emission test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

(4) Connect a system as shown in Figure B78–6. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	Inches Hg (kPa).	±.01 in Hg (±.034 kPa).
Ambient temperature	T_A	°F (°C).	±.5°F (±.28°C).
Air temperature into LFE	ETI	°F (°C).	±.25°F (±.14°C).
Pressure depression upstream of LFE	EPI	Inches H_2O (kPa).	±.05 in H_2O (±.012 kPa).
Pressure drop across the LFE matrix	EDP	Inches H_2O (kPa).	±.005 in H_2O (±.001 kPa).
Air temperature at CVS pump inlet	PTI	°F (°C).	±.5°F (±.28°C).
Pressure depression at CVS pump inlet	PPI	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Specific gravity of manometer fluid (1.75 oil).	Sp. Gr		
Pressure head at CVS pump outlet	PPO	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Air temperature at CVS pump outlet (optional).	PTO	°F (°C).	±.5°F (±.28°C).
Pump revolutions during test period	N	Revs.	±1 Rev.
Elapsed time for test period	t	s.	±.05 s.

(5) After the system has been connected as shown in Figure B78–6, set the variable restrictor in the wide open position and run the CVS pump for twenty minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression (about 4" H_2O (1.0 kPa) that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) Data analysis:

(i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, V_o, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Q_s}{n} \times \frac{T_p}{528} \times \frac{29.92}{P_p}$$

Where:

V_o=Pump flow, ft³/revolution (m³/revolution) at T_p, P_p

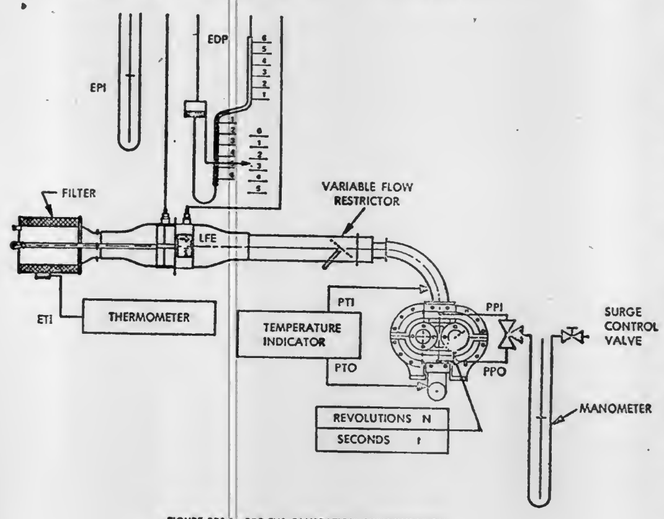


FIGURE B78-6—PDP-CVS CALIBRATION CONFIGURATION

Q_s=Meter air flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).

n=Pump speed in revolutions per minute.

T_p=Pump inlet temperature, R(K)=PTI+460

for SI units, T_p=PTI+273

P_p=Absolute pump inlet pressure, in. Hg (kPa)=P_B−PPI (SP. GR./13.57)

for SI units, P_p=P_B−PPI

Where:

P_B=barometric pressure, in. Hg (kPa)
PPI=Pump inlet depression, in. fluid (kPa)
SP. GR.=Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data:

$$X_o = \frac{1}{n}\sqrt{\frac{\Delta P_p}{P_e}}$$

Where:

X_o=correlation function.

ΔP_p=The pressure differential from pump inlet to pump outlet, in. Hg (kPa)=$P_e - P_p$

P_e=Absolute pump outlet pressure, in. Hg (kPa)=P_B+PPO (SP. GR./13.57)

for SI units, P_e=P_B+PPO

Where:

PPO=Pressure head at pump outlet, in. fluid (kPa)

(iv) A linear least squares fit is performed to generate the calibration equations which have the forms:

$V_o = D_o - M(X_o)$
$n = A - B(\Delta P_p)$

D_o, M, A, and B are the slope-intercept constants describing the lines.

(8) A CVS system that has multiple speeds should be calibrated on each speed used. The calibration curves generated for the ranges will be approximately parallel and the intercept values, D_o, will increase as the pump flow range decreases.

(9) If the calibration has been performed carefully, the calculated values from the equation will be within ±0.50% of the measured value of V_o. Values of M will vary from one pump to another, but values of D_o for pumps of the same make, model, and range should agree within ±3% of each other. Particulate influx from use will cause the pump slip to decrease as reflected by lower values for M. Calibrations should be performed at pump start-up and after major maintenance to assure the stability of the pump slip rate. Analysis of mass injection data will also reflect pump slip stability.

(b) *CFV calibration.* (1) Calibration of the Critical Flow Venturi (CFV) is based upon the flow equation for a crit-

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ical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

Q_s=Flow
K_v=Calibration coefficient
P=Absolute pressure
T=Absolute temperature

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed by calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	Inches Hg (kPa)	±.01 in Hg (±.034 kPa).
Air temperature, flowmeter	ETI	°F (°C).	±.25°F (±.14°C).
Pressure depression upstream of LFE	EPI	Inches H_2O (kPa).	±.05 in H_2O (±.012 kPa).
Pressure drop across LFE matrix	EDP	Inches H_2O (kPa).	±.005 in H_2O (±.001 kPa).
Air flow	Q_s	Ft^3/min. (m^3/min.)	±.5 pct.
CFV inlet depression	PPI	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Temperature at venturi inlet	T_v	°F (°C).	±.5°F (±.28°C).
Specific gravity of manometer fluid (1.75 oil).	Sp. Gr.		

(4) Set up equipment as shown in Figure B78–7 and check for leaks. Any leaks between the flow measuring device and the critical flow venturi will seriously affect the accuracy of the calibration.

(5) Set the variable flow restrictor to the open position, start the blower and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

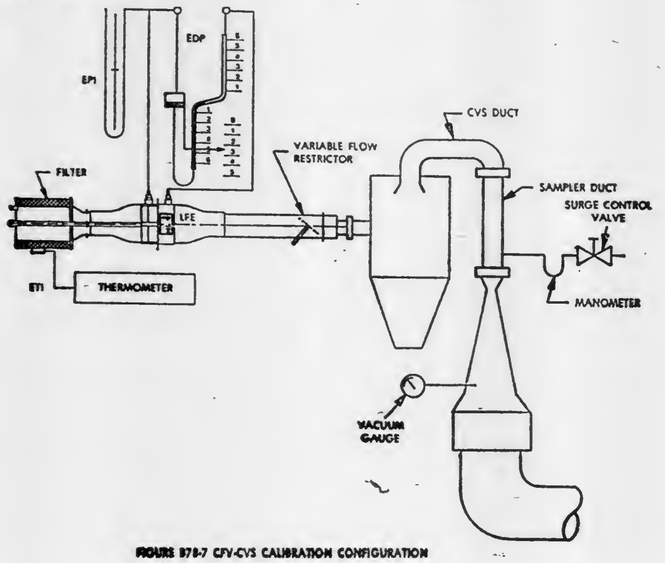


FIGURE B78-7 CFV-CVS CALIBRATION CONFIGURATION

(7) Data analysis: The data recorded during the calibration are to be used in the following calculations:

(i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s \sqrt{T_v}}{P_v}$$

Where:

Q_s=Flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).
T_v=Temperature at venturi inlet, R(K).
P_v=Pressure at venturi inlet, mm Hg (kPa) =P_B—PPI (SP. GR./13.57).

for SI units $P_v = P_B$—PPI.

Where:

PPI=Venturi inlet pressure depression, in. fluid (kPa).

SP. GR.=Specific gravity of manometer fluid, relative to water.

(iii) Plot K_v as a function of venturi inlet pressure. For sonic flow K_v will have a relatively constant value. As pressure decreases (vacuum increases) the venturi becomes unchocked and K_v decreases. See Figure B78–8.

(iv) For a minimum of 8 points in the critical region calculate an average K_v and the standard deviation.

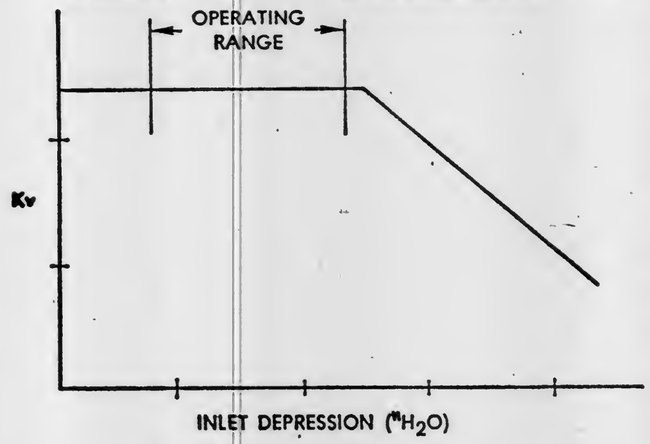


FIGURE B78-8—SONIC FLOW CHOKING

(v) If the standard deviation exceeds 0.3 percent of the average Kv take corrective action.

(c) *CVS System Verification.* The following "gravimetric" technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.144 are performed in the normal way except, in the case of propane. The density of propane (17.30 g/ft^3/carbon atom (0.6109 kg/m^3/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 g/ft^3 (1.164 kg/m^3) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) The cause for any discrepancy greater than ±2% percent must be found and corrected.

§ 86.120–78 [Reserved]

§ 86.121–78 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10° F (±5.5° C) between 300 and 390° F (149 and 199° C).

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for instrument startup and basic operating adjustment using the appropriate fuel and zero grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90 percent of the most common operating range.

(3) Select an operating fuel flow rate that will give near maximum response and least variation in response with minor fuel flow variations.

(4) To determine the optimum air flow, use the fuel flow setting determined above and vary air flow.

(5) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air.

(3) Calibrate on each normally used operating range with propane in air calibration gases having nominal concentrations of 50 and 100 percent of that range. Additional calibration points may be generated.

§ 86.122–78 Carbon monoxide analyzer calibration.

The NDIR carbon monoxide analyzer shall receive the following initial and periodic calibrations:

(a) *Initial and periodic interference check.* Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and CO_2:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance on the most sensitive range to be used.

(2) Zero the carbon monoxide analyzer with either zero grade air or zero grade nitrogen.

(3) Bubble a mixture of 3 percent CO_2 in N_2 through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1 percent of full scale for ranges above 300 ppm full scale or of more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) *Initial and periodic calibration.* Prior to its introduction into service and monthly thereafter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero grade air or zero grade nitrogen.

(3) Calibrate on each normally used operating range with carbon monoxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

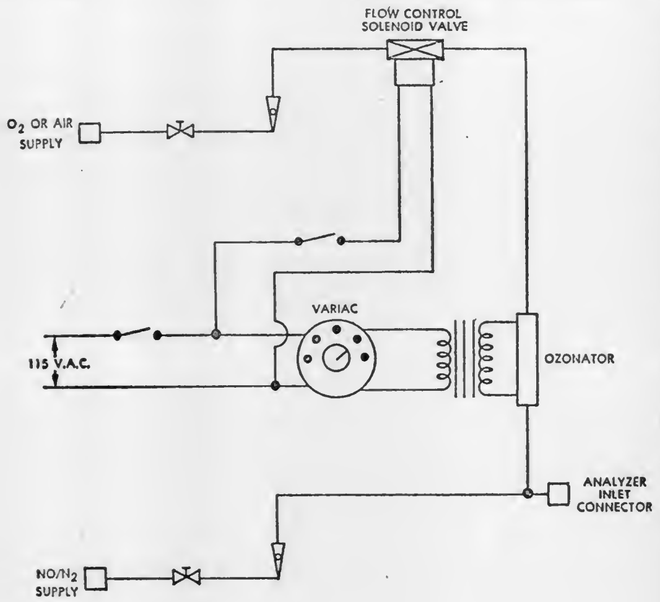
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§ 86.123–78 Oxides of nitrogen analyzer calibration.

The chemiluminescent oxides of nitrogen analyzer shall receive the following initial and periodic calibration.

(a) Prior to its introduction into service and weekly thereafter the chemiluminescent oxides of nitrogen analyzer shall be checked for NO_2 to NO converter efficiency. Figure B78–9 is a reference for the following steps:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.



(SEE FIG B78-3 FOR SYMBOL LEGEND)
FIGURE B78-9—NOx CONVERTER EFFICIENCY DETECTOR

(2) Zero the oxides of nitrogen analyzer with zero grade air or zero grade nitrogen.

(3) Connect the outlet of the NOx generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NOx generator analyzer-system an NO in nitrogen (N_2) mixture with a NO concentration equal to approximately 80 percent of the most common operating range. The NO_2 content of the gas mixture shall be less than 5 percent of the NO concentration.

(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.

(6) Turn on the NOx generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step 5. Record the concentration of NO in this $NO+O_2$ mixture.

(7) Switch the NOx generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step 5. There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NOx mode and measure total NOx. Record this value.

(9) Switch off the NOx generation but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the NOx in the $NO+O_2$ mixture. Record this value.

(10) Turn off the NOx generator O_2 (or air) supply. The analyzer will now indicate the NOx in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step 4.

(11) Calculate the efficiency of the NOx converted by substituting the concentrations obtained into the following equation:

$$\text{Percent Eff.} = \left(1+\frac{a-b}{c-d}\right)\times 100$$

where a=concentration obtained in step 8.
b=concentration obtained in step 9.
c=concentration obtained in step 6.
d=concentration obtained in step 7.

If converter efficiency is not greater than 90 percent corrective action will be required.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero grade air or zero grade nitrogen.

(3) Calibrate on each normally used operating range with NO in N_2 calibration gases with nominal concentrations of 50 and 100 percent of that range. Additional calibration points may be generated.

§ 86.124–78 Carbon dioxide analyzer calibration.

Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated:

(a) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(b) Zero the carbon dioxide analyzer with either zero grade air or zero grade nitrogen.

(c) Calibrate on each normally used operating range with carbon dioxide in N_2 calibration gases with nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.125–78 [Reserved]

§ 86.126–78 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.127–78 Test procedures, overview.

The procedures described in this and subsequent sections are used to determine

the conformity of vehicles with the standards set forth in Subpart A for light duty vehicles and light duty trucks.

(a) The overall test consists of prescribed sequences of fueling, parking and operating conditions. Vehicles are either tested for only exhaust emissions or are tested for exhaust and evaporative emissions. The evaporative portion of the test procedure occurs before and after the exhaust emission test, and, in some cases, during the exhaust emission test.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles (12.1 km). The test consists of engine startups and vehicle operation on a chassis dynamometer, through a specified driving schedule. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler (Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer).

(c) The evaporative emission test (gasoline fueled vehicles only) is designed to determine hydrocarbon evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving, and hot soaks during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in hydrocarbon vapor losses. The test procedure is designed to measure:

(1) Diurnal breathing losses resulting from daily temperature changes, measured by the enclosure technique;

(2) Running losses from suspected sources (if indicated by engineering analysis or vehicle inspection) resulting from a simulated trip on a chassis dynamometer, measured by carbon traps; and

(3) Hot soak losses which result when the vehicle is parked and the hot engine is turned off, measured by the enclosure technique.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.077.

§ 86.128–78 Transmissions.

(a) All test conditions shall be run with automatic and automatic stick shift transmissions in "Drive" (highest gear); manual transmissions shall be run in highest gear, except as noted. Automatic stick-shift transmissions may be shifted as manual transmissions if requested by the manufacturer.

(b) Cars equipped with free-wheeling or overdrive units shall be tested with these units locked out of operation.

(c) Idle modes shall be run with automatic transmissions in "Drive" and the wheels braked, manual transmissions shall be in gear with the clutch disengaged; except first idle, see §§ 86.136 and 86.137.

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly. Automatic transmissions shall shift automatically through the normal sequence of gears; manual transmissions shall be shifted as recommended by the manufacturer with the operator releasing the accelerator pedal during each shift and accomplishing the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(f) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed. Manual transmission vehicles shall have the clutch engaged and shall not change gears from the previous mode. For those modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24.14 km/h), when engine roughness is evident, or when engine stalling is imminent.

(g) Manual transmissions will be down shifted at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

(h) If shift speeds are not recommended by the manufacturer, manual transmission vehicles shall be shifted from first to second gear at 15 mph (24.14 km/h), from second to third gear at 25 mph (40.23 km/h), and, if so equipped, from third to fourth gear at 40 mph (64.37 km/h). Fifth gear, if so equipped, may be used at the manufacturer's option.

(i) If a four- or five-speed manual transmission has a first gear ratio in excess of 5:1, follow the procedure for three- or four-speed vehicles as if the first gear did not exist.

§ 86.129–78 Road load power and inertia weight determination.

(a) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs) available shall be used.

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mph (horsepower)
Up to 1,125	1,000	5.9
1,126 to 1,375	1,250	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(b) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.118 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) *Gasoline fueled vehicles.* (A) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph (80 km/h), and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 mph. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(ii) *Diesel vehicles.* (A) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph, and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 mph (80 km/h). The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent for testing all test vehicles representing such an engine family if those vehicles are intended to be offered with air conditioning in production.

§ 86.130–78 Test sequence, general requirements.

The test sequence shown in Figure B78–10 shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth. Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 68° F (20° C) nor more than 86° F (30° C). The vehicle shall be approximately level during all phases of the test sequence to prevent abnormal fuel distribution.

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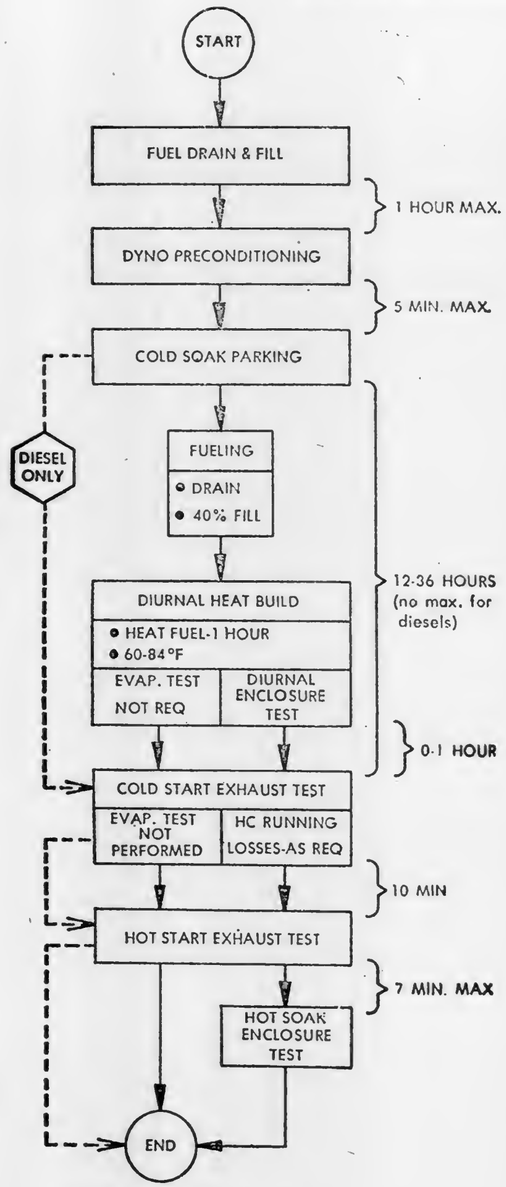


FIGURE B78-10 TEST SEQUENCE

§ 86.131–78 Vehicle preparation.

(a) For gasoline fueled vehicles prepare the fuel tank(s) for recording the temperature of the prescribed test fuel at the approximate mid-volume of the fuel.

(b) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank(s) as installed on the vehicle.

§ 86.132–78 Vehicle preconditioning.

(a) The vehicle shall be moved to the test area and the following operations performed:

(1) The fuel tank(s) shall be drained through the provided fuel tank(s) drain(s) and filled to the prescribed "tank fuel volume" with the specified test fuel, § 86.113. For the above operations the evaporative emission control system shall neither be abnormally purged nor abnormally loaded.

(2) Within one hour of being fueled the vehicle shall be placed, either by being driven or pushed, on a dynamometer and operated through one Urban Dynamometer Driving Schedule test procedure, see § 86.115 and Appendix I. A gasoline fueled test vehicle may not be used to set dynamometer horsepower.

(3) For those unusual circumstances where additional preconditioning is desired by the manufacturer, such preconditioning may be allowed with the advance approval of the Administrator. The Administrator may also choose to conduct or require the conduct of additional preconditioning to insure that the evaporative emission control system is stabilized. The additional preconditioning shall consist of an initial one hour minimum soak and, one, two or three driving cycles of the UDDS, as described in paragraph (a) (2) of this section, each followed by a soak of at least one hour with engine off, engine compartment cover closed and cooling fan off. The vehicle may be driven off the dynamometer following each UDDS for the soak period.

(b) Within five minutes of completion of preconditioning the vehicle shall be driven off the dynamometer and parked. The vehicle shall be stored for not less than 12 hours nor for more than 36 hours (except diesel fueled vehicles which have no maximum time limitation) prior to the cold start exhaust test. (Gasoline fueled vehicles undergo a one hour diurnal heat build prior to the cold start exhaust test. A wait of up to one hour is permitted between the end of the diurnal heat build and the beginning of the cold start exhaust test. See § 86.130 and Figure B78–10.)

(c) Vehicles to be tested for evaporative emissions shall be processed in accordance with procedures in §§ 86.133 through 86.138. Vehicles to be tested for exhaust emissions only shall be processed according to §§ 86.133 through 86.137.

§ 86.133–78 Diurnal breathing loss test.

(a) (1) Following vehicle preparation and vehicle preconditioning procedures described in §§ 86.131 and 86.132 the test vehicle shall be allowed to soak for a period of not less than 12 or more than 36 hours prior to the exhaust emission test. The diurnal test shall start not less than 10 or more than 35 hours after the end of the preconditioning procedure. The start of the exhaust test shall follow the end of the diurnal test within one hour.

(2) Gasoline fueled vehicles to be tested for exhaust emissions only, shall undergo the diurnal heat build. Since no evaporative measurements are necessary, an evaporative enclosure is not required.

(b) The evaporative emission enclosure shall be purged for several minutes immediately prior to the test.

NOTE.—If at anytime the hydrocarbon concentration exceeds 15,000 ppm C the enclosure should be immediately purged. This concentration provides a 4:1 safety factor against the lean flammability limit.

(c) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(d) If not already on, the evaporative enclosure mixing fan shall be turned on at this time.

(e) Immediately prior to the diurnal breathing loss test, the fuel tank(s) of the prepared vehicle shall be drained and recharged with the specified test fuel, § 86.113, to the prescribed "tank fuel volume," defined in § 86.078–2. The temperature of the fuel prior to its delivery to the fuel tank shall be between 50 and 60° F (10 and 16° C). The fuel tank cap(s) is not installed until the diurnal heat build begins.

(f) The test vehicle, with the engine shut off, shall be moved into the evaporative emission enclosure, the test vehicle windows and luggage compartments shall be opened, the fuel tank temperature sensor shall be connected to the temperature recording system, and, if required, the heat source shall be properly positioned with respect to the fuel tank(s) and/or connected to the temperature controller.

(g) The temperature recording system shall be started.

(h) The fuel may be artificially heated to the starting diurnal temperature.

(i) When the fuel temperature recording system reaches at least 58° F (14° C), immediately:

(1) Install fuel tank cap(s).

(2) Turn off purge blowers, if not already off at this time.

(3) Close and seal enclosure doors.

(j) When the fuel temperature recording system reaches 60±2° F (16±1.1° C), immediately:

(1) Analyze enclosure atmosphere for hydrocarbons and record. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi}, § 86.143.

(2) Start diurnal heat build and record time. This commences the 60±2 minute test period.

(k) The fuel shall be heated in such a way that its temperature change conforms to the following function to within ±3° F (±1.6° C):

$F = T_o + 0.4t$

for SI units, $C = T_o + (2/9)t$

Where:

F=fuel temperature, ° F
C=fuel temperature, ° C
t=time since beginning of test, minutes.
T_o=initial temperature.

After 60±2 minutes of heating, the fuel temperature rise shall be 24±1° F (±0.5° C).

(l) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the diurnal test.

(m) The end of the diurnal breathing loss test occurs 60±2 minutes after the heat build begins, paragraph (j) (2). Analyze the enclosure atmosphere for hydrocarbons and record. This is the final (time=60 minutes) hydrocarbon concentration, ^{c}HCf, § 86.143. The time (or elapsed time) of this analysis shall be recorded.

(n) The heat source shall be turned off and the enclosure doors unsealed and opened.

(o) The heat source shall be moved away from the vehicle, if required, and/or disconnected from the temperature controller, the fuel tank temperature sensor shall be disconnected from the temperature recording system, the test vehicle windows and luggage compartments may be closed and the test vehicle, with the engine shut off, shall be removed from the evaporative emission enclosure.

(p) For vehicles with multiple tanks, the largest tank shall be designated as the primary tank and shall be heated in accordance with the procedures described in paragraph (k) of this section. All other tanks shall be designated as auxiliary tanks and shall undergo a similar heat build such that the fuel temperature shall be within 3°F (1.6°C) of the primary tank.

§ 86.134–78 Running loss test.

(a) If an engineering analysis or vehicle inspection indicates the possibility of evaporative emissions during vehicle operation, evaporative emission running loss measurements shall be made during the cold transient and stabilized portion of the exhaust emission test. Since running loss measurements cannot be made in the enclosure, the equipment described in § 86.177–17 shall be used to collect these emissions.

(1) The procedure in § 86.135 shall be followed.

(2) Prior to the initiation of the cold start exhaust emission test, the vapor loss measurement system shall be connected to all suspected sources of running loss evaporative emissions.

(3) The cold start transient and stabilized exhaust emission test portions shall be conducted according to the procedures of § 86.135 through § 86.137.

(4) Within one minute after the end of the stabilized exhaust emission test, the vapor loss measurement system shall be disconnected from the vehicle and the inlets and outlets sealed.

(5) Within one hour from the end of the running loss measurement, weigh the vapor collection traps.

§ 86.135–78 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour and a maximum 36-hour soak according to the provisions of §§ 86.132 and 86.133 and a "hot" start test following the "cold" start test by 10 minutes. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis during each phase. The composite samples collected in bags are analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be squarely positioned within 12 inches of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 5,300 cfm (2.50 m^3/s). If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a

V 41 164 AUG 23 76 UMI

representative test, the fan capacity may be increased or additional fans used if approved in advance by the Administrator.

(c) The vehicle speed as measured from the dynamometer rolls shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(e) The drive wheel tires may be inflated up to a gauge pressure of 45 psi (310 kPa) in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(f) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make the adjustment. Dynamometers using automatic control of preselectable power settings may be set anythime prior to the beginning of the emissions test.

§ 86.136–78 Engine starting and restarting.

(a) *Gasoline fueled vehicles.* This paragraph (a) applies to gasoline fueled vehicles.

(1) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20 second idle period shall begin when the engine starts.

(2) *Choke operation:* (i) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating instructions or owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions or owner's manual.

(3) The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(4) The operator may use the choke, accelerator pedal, etc. where necessary to keep the engine running.

(5) If the manufacturer's operating instructions or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be starated by depressing the accelerator pedal about half way and cranking the engine until it starts.

(b) *Diesel fueled vehicles.* The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(c) If the vehicle does not start after 10 seconds of cranking; cranking shall cease and the reason for failure to start shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrater when testing diesel vehicles, see § 86.137, Dynamometer test runs) shall be turned off and the sample selector valves placed in the "standby" position during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period.

(1) If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(d) If the engine "false starts," the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(e) *Stalling:* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle shall then be restarted and accelerated to the speed required at that point in the driving schedule and the test continued. During acceleration to this point, shifting shall be performed in accordance with § 86.128.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 86.137–78 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours or more than 36 hours before the cold start exhaust emission test. The cold start exhaust test shall follow the diurnal breathing loss test by not more than 1 hour. The vehicle shall be stored prior to the emission test in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles (12.1 km) and simulates a hot start drive of 7.5 miles (12.1 km). The vehicle is allowed to stand on the dynamometer during the 10 minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first period of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and position the cooling fan.

(3) With the sample selector valves in the "standby" position connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(4) Start the Constant Volume Sampler (if not already on), the sample pumps, the temperature recorder, the vehicle cooling fan and the heated hydrocarbon analysis recorder (diesel only). (The heat exchanger of the constant volume sampler, if used, diesel hydrocarbon analyzer continuous sample line and filter (if applicable) should be preheated to their respective operating temperatures before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 cfh, 0.28 m^3/hr) and set the gas flow measuring devices to zero.

NOTE.—CFV–CVS sample flowrate is fixed by the venturi design.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the "transient" exhaust sample bag and the transient" dilution air sample bag (turn on the diesel hydrocarbon analyzer system integrator and mark the recorder chart, if applicable) and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 86.115).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off gas flow measuring device No. 1 (and the diesel hydrocarbon integrator No. 1, mark the diesel hydrocarbon recorder chart) and start gas flow measuring device No. 2 (and diesel hydrocarbon integrator No. 2). As soon as possible transfer the "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(12) Turn the engine off 2 seconds after the end of the last declaration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 2 (and the diesel hydrocarbon integrator No. 2, mark the hydrocarbon recorder chart, if applicable) and position the sample selector valves to the "standby" position. As soon as possible transfer the "stabilized" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(14) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(15) Turn off the CVS or disconnect the exhaust tube from the tailpipe of the vehicle.

(16) Repeat the steps in paragraph (b) (2) through (10) of this section for the hot start test, except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in paragraph (b) (7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off gas flow measuring device No. 1 (and diesel hydrocarbon integrator No. 1, mark the diesel hydrocarbon recorder chart, if applicable) and position the sample selector valve to the "standby" position. (Engine shutdown is not part of the hot start test sample period.)

(18) As soon as possible transfer the hot start "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and drive vehicle from dynamometer.

(20) The constant volume sampler may be turned off, if desired.

(21) Vehicles to be tested for evaporative emissions will proceed according to § 86.138. For all others this completes the test sequence.

§ 86.138–78 Hot soak test.

The hot soak evaporative emission test shall be conducted immediately following the hot transient exhaust emission test.

(a) Prior to the completion of the hot start transient exhaust emission sampling period, the evaporative emission enclosure shall be purged for several minutes.

(b) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(c) If not already on, the evaporative enclosure mixing fan shall be turned on at this time.

(d) Upon completion of the hot transient exhaust emission sampling period, the vehicle engine compartment cover shall be closed, the cooling fan shall be moved, the vehicle shall be disconnected from the dynamometer and exhaust sampling system, and then driven at minimum throttle to the vehicle entrance of the enclosure.

(e) The vehicle's engine must be stopped before any part of the vehicle enters the enclosure. The vehicle may be pushed or coasted into the enclosure.

(f) The test vehicle windows and luggage compartments shall be opened, if not already open.

(g) The temperature recording system shall be started and the time of engine shut off shall be noted on the evaporative emission hydrocarbon data recording system.

(h) The enclosure doors shall be closed and sealed within two minutes of engine shutdown and within seven minutes after the end of the exhaust test.

(i) The 60±0.5 minute hot soak begins when the enclosure doors are sealed. The enclosure atmosphere shall be analyzed and recorded. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi}, for use in calculating evaporative losses, see § 86.143.

(j) The test vehicle shall be permitted to soak for a period of one hour in the enclosure.

(k) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the test.

(l) At the end of the 60±0.5 minute test period, again analyze the enclosure atmosphere and record time. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf}, for use in calculating evaporative losses, see § 86.143. This operation completes the evaporative emission measurement procedure.

§ 86.139–78 [Reserved]

§ 86.140–78 Exhaust sample analysis.

The following sequence of operations shall be performed in conjunction with each series of measurements:

(a) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(b) Introduce span gases and set instrument gains. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(c) Check zeros; repeat the procedure in paragraphs (a) and (b) of this section if required.

(d) Check flowrates and pressures.

(e) Measure HC, CO, CO_2 and NO_x concentrations of samples.

(f) For diesel vehicles, continuously record (integrate electronically if desired) dilute hydrocarbon emission levels during test. Background samples are collected in sample bags and analyzed as above.

(g) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a) through (f) of this section.

§ 86.141–78 [Reserved]

§ 86.142–78 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement — Engine family — Evap. family—Idle rpm—Fuel system (fuel injection, nominal fuel tank(s) capacity, fuel tank(s) location, number of carburetors, number of carburetor barrels)—Inertia loading—Actual curb weight recorded at 0 miles—Actual road load at 50 mph (80 km/h) and drive wheel tire pressure, as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/h) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

V 41 164
AUG 23 76
UMI

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures, as prescribed.

(l) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(m) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow venturi during each test phase would be the equivalent record for a CFV–CVS.

(n) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.122 and § 86.144) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system (for diesel vehicles only).

§ 86.143–78 Calculations; evaporative emissions.

The calculation of the net hydrocarbon mass change in the enclosure is used to determine the diurnal and hot soak mass emissions. The mass is calculated from initial and final hydrocarbon concentrations in ppm carbon, initial and final enclosure ambient temperatures, initial and final barometric pressures, and net enclosure volume using the following equation:

$$M_{HC} = kV_n \times 10^{-4}\left[\frac{C_{HCf}P_{Bf}}{T_f} - \frac{C_{HCi}P_{Bi}}{T_i}\right]$$

Where:

M_{HC} = hydrocarbon mass, g.

C_{HC} = hydrocarbon concentration as ppm carbon.

V_n = net enclosure volume, ft³ (m³) as determined by subtracting 50 ft³ (1.42 m³) (volume of vehicle with trunk and windows open) from the enclosure volume. A manufacturer may use the measured volume of the vehicle (instead of the nominal 50 ft³) with advance approval by the Administrator: *Provided*, The measured volume is determined and used for all vehicles tested by that manufacturer.

P_B = barometric pressure, in. Hg (kPa).

T = enclosure ambient temperature, R (K).

k = .208 (12+H/C)

for SI units, k = 1.2 (12+H/C).

Where:

H/C = Hydrogen-carbon ratio.

H/C = 2.33 for diurnal emissions.

H/C = 2.2 for hot soak emissions.

i = indicates initial reading.

f = indicates final reading.

§ 86.144–78 Calculations; exhaust emissions.

The final reported test results shall be computed by use of the following formula:

(a) For light duty vehicles and light duty trucks:

$$Y_{wm} = (0.43\ Y_{ct} + 0.57\ Y_{ht} + Y_s)/7.5$$

Where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e., HC, CO, or NOx, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times (HC_{conc}/1{,}000{,}000)$$

(2) Oxides of nitrogen mass:

$$NOx_{mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NOx_{conc}/1{,}000{,}000)$$

(3) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc}/1{,}000{,}000)$$

(4) Carbon dioxide mass:

$$CO_{2mass} = V_{mix} \times Density_{CO_2} \times (CO_{2conc}/100)$$

(c) Meaning of symbols:

(1) HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons is 16.33 g/ft³ (.5767 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane × 3.

$HC_{conc} = HC_e - HC_d(1-1/DF)$

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample or, for diesel, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated HC traces, in ppm carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(2) NOx_{mass} = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

NOx_{conc} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$NOx_{conc} = NOx_e - NOx_d\ (1-1/DF)$

Where:

NOx_e = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

NOx_d = Oxides of nitrogen concentration of the dilute air as measured, in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³), at 68° F (20°C) and 760 mm Hg (101.3 kPa) pressure.

CO_{conc} = —Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc} = CO_e - CO_d\ (1-1/DF)$

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = (1-0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in percent.

R = Relative humidity of the dilution air, in per cent (see § 86.142(n)).

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1-0.000323\ R)\ CO_{dm}$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

NOTE.—If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

(4) CO_{2mass} = Carbon dioxide emissions, in grams per test phase.

$Density_{CO_2}$ = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³), at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

CO_{2conc} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2conc} = CO_{2e} - CO_{2d}\ (1-1/DF)$

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) $DF = 13.4/[CO_{2e} + (HC_e + CO_e)\ 10^{-4}]$

K_H = Humidity correction factor.

$K_H = 1/[1-0.0047(H-75)]$

for SI units $= 1/[1-0.0329(H-10.71)]$

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$

for SI units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528 R) (293 K) and 760 mm Hg (101.3 kPa)).

For PDP–CVS, V_{mix} is:

$$V_{mix} = V_o \times \frac{N(P_B - P_1)\ (528\ R)}{(760\ mm\ Hg)\ (T_p)}$$

for SI units,

$$V_{mix} = V_o \times \frac{N(P_B - P_1)\ (293.15\ K)}{(101.325\ kPa)\ (T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (m³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_1 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_p = Average temperature of dilute exhaust entering positive displacement pump during test, R(K).

(d) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) For the "transient" phase of the cold start test assume the following: $V_o = 0.29344$ ft³/revolution; N = 10,485; R = 48.0%; $R_a = 48.2\%$; $P_B = 762$ mm Hg; $P_d = 22.225$ mm Hg; $P_1 = 70$ mm Hg; $T_p = 570$ R; $HC_e = 105.8$ ppm, carbon equivalent; $NOx_e = 11.2$ ppm; $CO_{em} = 306.6$ ppm; $CO_{2e} = 1.43\%$; $HC_d = 12.1$ ppm; $NOx_d = 0.8$ ppm; $CO_{dm} = 15.3$ ppm.

Then:

$V_{mix} = (0.29344)\ (10{,}485)\ (762-70)\ (528)/(760)\ (570) = 2595.0$ ft³ per test phase.

$H = (43.478)\ (48.2)\ (22.225)/[762 - (22.225 \times 48.2/100)]$

$K_H = 1/[1-0.0047(62-75)] = 0.9424$

$CO_e = [1-0.01925\ (1.43) - 0.000323\ (48)]\ 306.0 = 293.4$ ppm

$CO_d = [1-0.000323\ (48)]\ 15.3 = 15.1$ ppm

$DF = 13.4/[1.43 + (105.8+293.4) \times 10^{-4}] = 9.116$

$HC_{conc} = 105.8 - 12.1(1-1/9.116) = 95.03$ ppm.

$HC_{mass} = (2595)\ (16.33)\ (95.03/1{,}000{,}000) = 4.027$ grams per test phase.

$NOx_{conc} = 11.2 - 0.8\ (1-1/9.116) = 10.49$ ppm

$NOx_{mass} = (2595)\ (54.16)\ (10.49/1{,}000{,}000)\ (0.9424) = 1.389$ grams per test phase.

$CO_{conc} = 293.4 - 15.1\ (1-1/9.116) = 280.0$ ppm

$CO_{mass} = (2595)\ (32.97)\ (280/1{,}000{,}000) = 23.96$ grams per test phase.

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

$HC_{mass} = 0.62$ grams per test phase

$NOx_{mass} = 1.27$ grams per test phase

$CO_{mass} = 5.98$ grams per test phase

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

$HC_{mass} = 0.51$ grams per test phase

$NOx_{mass} = 1.38$ grams per test phase

$CO_{mass} = 5.01$ grams per test phase

(4) Weighted mass emission results:

$HC_{wm} = [(0.43)\ (4.027) + (0.57)\ (0.51+0.62)]/7.5 = 0.352$ grams per vehicle mile.

$NOx_{wm} = [(0.43)\ (1.389) + (0.57)\ (1.38+1.27)]/7.5 = 0.354$ grams per vehicle mile.

$CO_{wm} = [(0.43)\ (23.96) + (0.57)\ (5.01+5.98)]/7.5 = 2.55$ grams per vehicle mile.

§ 86.145–78 [Reserved]

§§ 86.177–1 through 86.177–4 [Deleted]

13. Sections 86.177–1, 86.177–2, 86.177–3 and 86.177–4 are deleted.

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V 41 164 AUG 23 76 UMI

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MONDAY, AUGUST 23, 1976



PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

COMMITTEE MANAGEMENT

Interim Regulations

V41/164 AUG 23 76 UMI

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 11—COMMITTEE MANAGEMENT

Interim Regulations

On January 23, 1975 a document was published in the FEDERAL REGISTER (40 FR 3712) proposing regulations implementing the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. I et seq. and Office of Management and Budget Circular A–63, 39 FR 12389, April 5, 1974. Comments were received from thirty persons or organizations.

One commentator criticized the exclusion of certain groups from the provisions of the regulation such as committees composed wholly of full time officers or employees of the Federal government, operational groups, local civic groups, and state and local committees. See § 11.2(b)(3). This provision reflects section 4(c) of the Federal Advisory Committee Act (Pub. L. 92–463) which provides the Act shall not apply to such groups and has not been changed.

The language in § 11.2(b)(1)(i)–(v) listing several factors to be utilized in determining when a group is an advisory committee has been modified in response to a suggestion that the proposed wording ought to be clarified to indicate that the absence of one, or even several of the factors did not foreclose existence of a committee.

In response to one commentator's suggestion that the provisions of § 11.4(g) and (i) relating to the balancing of membership and assuring the selection of individuals representing diverse points of view were confusing and ought to be combined and clarified, and that subsection (h) should be stricken as unnecessarily redundant, we have combined § 11.4(g) and (i) and modified subsection (h) to clearly underscore the intent behind the latter section.

Several persons commented on the requirement established for a quorum. One commentator suggested that the quorum requirement of § 11.5(a)(1)(ii) was too harsh, and that a fairer rule would provide that a quorum consist of a majority of appointed, rather than the authorized membership. Another writer suggested that two-thirds of a committee membership ought to constitute a quorum. We agree with neither in light of the fact that a committee's charter can be written to provide a standard different from the general rule. One minor amendment has been made in this provision to clarify the fact ex-officio members are to be included in determining the number of members required for a quorum, and that such members shall have full voting rights.

Several commentators suggested that the notice requirements contained in § 11.5(a)(2) which provides for at least fifteen days advance notice in the FEDERAL REGISTER was insufficient. We disagree, however, we will continue to endeavor to give the maximum possible notice of all meetings. Department employees are encouraged to give as much advance notice of meetings as possible.

One commentator suggested that the words "to the extent practicable" be stricken from § 11.5(a)(2)(ii)(c) and that certain other mandatory forms of notice be added as requirements. We decline to strike the aforementioned phrase, but have added an additional notice requirement. Executive secretaries will be responsible for maintaining lists of persons and organizations requesting notices of meetings, and notifying them by mail in advance of any meeting.

Section 11.5(a)(2)(iii) has been amended in response to a comment that indicated that the regulation should clearly state that meetings should be held only in emergencies unless at least fifteen day notice was given.

Many commentators expressed concern with the provisions relating to the openness of committee meetings and records. Several commentators were particularly concerned that the regulations will inhibit free exchange of ideas and information among committee members by placing members in a position to be unduly influenced by observers reactions. Several members of the research community indicated a concern that the best ideas will not be submitted to the Department because potential submitters of ideas will be left without any protection or privacy. The closing of committee meetings requires a careful balancing of interests, the need for the greatest possible public disclosure of the advisory process, the encouragement of the free exchange of ideas, and the right of privacy of individuals submitting their ideas. One writer likened the committee process to that of the jury in the American judicial system and suggested that an individual's ideas are entitled to protection. The availability of an exemption does not require the closing of meetings, and the Department has exercised restraint in closing meetings. It will continue to do so.

One writer argued that exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5) was inapplicable to advisory committee records and discussions. We disagree. In the case of Washington Research Project, Inc., v. Department of Health, Education, and Welfare, 504 F. 2d 238 (D.C. Cir. 1974) the Court concluded that records of advisory committee meetings were exempt from mandatory disclosure under the Freedom of Information Act at least insofar as they reflected the views of advisory committee members. In the case of Aviation Consumer Action Project, et al v. Washburn, et al, ---- F. 2d ----, C.A.D.C. 1976, the Court also held that exemption five was available for use in the closing of committee meetings. Thus, § 11.5(a)(6)(ii) remains as proposed.

Section 11.5(a)(6)(f) has been amended to provide that requests for closing a meeting (or portion) shall be submitted sixty, rather than thirty days, in advance of any meeting. This requirement will provide additional time for consideration of closing requests by officials responsible for making such determinations.

In response to one commentator's suggestion, § 11.5(b)(3) has been modified to specify the procedures adhered to by the Department in maintaining advisory committee records.

Several commentators have suggested that a verbatim transcript be kept of all closed sessions. The Act does not require the keeping of such a transcript, and to do so by regulation would result in the Department incurring unwarranted and great expense. In any event, detailed minutes of all meetings provide a meaningful record for later use and review.

Several persons indicated the Department should be able to decide for itself whether a committee ought to be established or renewed without OMB consultation and concurrence. The Federal Advisory Committee Act, however, requires consultation with the OMB before a committee is established, and OMB Circular A–63, Transmittal Memorandum No. 1 requires that the Department obtain OMB concurrence prior to renewing a committee. Likewise, one commentator's conclusions that annual review, two year renewals, and retention of authority to adjourn committee meetings in stated circumstances will cause an upheaval of the committee mechanism ignore the fact that these matters are statutory requirements.

One commentator suggested that the Department maintain and disclose to the public even more complete committee records than those specified in these rules, such as a list of all persons who declined an invitation to serve on a committee and more data on members' personal and financial affairs. Responsibility for avoiding conflict of interest lies with the Department and we find that no useful purpose would be served by such disclosures. The Department will continue to provide maximum feasible disclosure of such matters within the constraints of the Privacy Act.

Another person suggested that the Department should publish the vote of members on a decision to close a meeting. We disagree. Any decision as to whether to close a meeting is not made by a committee's membership, but by a Department official.

Sections 11.7, 11.8, 11.9 as published have been deleted. These sections related to internal administrative matters which are a subject for inclusion in the Department's General Administration Manual.

Various editorial changes have also been made in the interest of clarity. 45 CFR Part 11 is revised as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections concerning the new Part 11 on or before September 22, 1976.

Comments should be addressed to: Department Committee Management Officer, Department of Health, Education, and Welfare, Room 4036 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

All comments received in timely response will be considered, and will be available for public inspection at the above address during regular business hours. Following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days following the close of the comment period. The regulations, as set forth below, will be applicable and effective on August 23, 1976.

Effective date: This regulation shall become effective August 23, 1976, as an interim final rule.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary.

Sec.

11.1 Scope.
11.2 Definitions.
11.3 General policies.
11.4 Guidelines for the creation and renewal of advisory committees.
11.5 Operation of advisory committees.
11.6 Administrative remedies.
11.7 Department committee management officer.

AUTHORITY: 86 Stat. 770, 5 U.S.C. App. I et seq. and Office of Management and Budget Circular A–63, 39 FR 12389, April 5, 1974.

§ 11.1 Scope.

(a) This part contains the Department's regulations implementing the Federal Advisory Committee Act.

(b) The regulations provided under this part apply to all advisory committees providing advice to the Department or any of its officials except to the extent that statutory provisions governing an advisory committee may specifically provide otherwise.

§ 11.2 Definitions.

(a) "Act" means the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. I et seq).

(b) "Advisory committee," subject to exclusions described in paragraph (b)(3) of this section means any committee, board, commission, council, conference, panel, task force, or other similar group or any subcommittee or other subgroup thereof which is established by statute or reorganization plan; or established or utilized by the Department in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government.

(1) Although no single factor is determinative in deciding whether a group is an advisory committee, the following factors will be considered:

(i) Fixed membership including at least one person who is not a full-time Federal employee;

(ii) Establishment by a Federal official or law; or if not Federally established, the initiative for its use as an advisory body for the Federal Government comes from a Federal official rather than from a private group;

(iii) A purpose of providing advice regarding a particular subject or particular subjects;

(iv) An organizational structure (e.g., officers and a staff;

(v) Regular or periodic meetings.

(2) The functions of an advisory committee are to be solely advisory. Where a group provides some advice to the Department, but the group's advisory function is incidental and inseparable from other (e.g., operational) functions, the provisions of this part do not apply. However, if the advisory function is separable, the group is subject to this part to the extent that the group operates as an advisory committee.

(3) Groups excluded from the effect of the provisions of this part include:

(i) Any committee which is composed wholly of full-time officers or employees of the Federal Government;

(ii) Any committee which is exclusively operational in nature (e.g., has functions which include making or implementing decisions, as opposed to the offerings of advice or recommendations);

(iii) Any local civic group whose primary function is that of rendering a public service with respect to a Federal program;

(iv) Any state or local committee or similar group established to advise State or local officials or agencies;

(v) The term "advisory committee" is not intended to include persons or organizations which have contractual relationships with the Department except in those cases where the criteria described in paragraph (b)(1) of this section are present:

(c) "Department" means the Department of Health, Education, and Welfare.

(d) "Secretary" means the Secretary of Health, Education, and Welfare, or his designee.

(e) "OMB Secretariat" is the office within the Office of Management and Budget to administer the provisions of OMB Circular A–63.

(f) "Presidential advisory committee" means an advisory committee which advises the President.

(g) "Statutory advisory committee" is one established by the Congress or required to be established by the Congress.

(h) "Non-statutory advisory committee" is one established by the President or other Federal officer, including a committee which was authorized by, but not established by or required to be established by statute.

§ 11.3 General policies.

(a) In interpreting this part, Department officials shall be guided by the Act and the intent of Congress in enacting the Act. These considerations include:

(1) Limiting the number of advisory committees to those that are essential and terminating any committee not fulfilling its purpose;

(2) Insuring effective use of advisory committees and their recommendations, while assuring that decisionmaking authority is retained by the responsible Department officers;

(3) Providing clear goals, standards and uniform procedures with respect to creation, operation, and duration of committees;

(4) Insuring that adequate information is provided to the President, the Congress and the public regarding advisory committees;

(5) Insuring adequate opportunities for access by the public to advisory committee meetings, and

(6) Providing uniform requirements for advisory committee reports and their availability to the public.

(b) Department officials shall be guided by the HEW Standards of Conduct (45 CFR 73.735), the Federal Personnel Manual, and the Federal Conflict of Interest statutes (18 U.S.C. 201 et seq.), in preventing conflicts of interest or appearance of conflicts of interest on the part of Department employees concerned with advisory committees, advisory committee members and staff, and consultants and experts concerned with advisory committees.

§ 11.4 Guidelines for the creation and renewal of advisory committees.

(a) Advisory committees shall be established by the Department only when they are determined to be essential. Their number shall be kept to the minimum necessary. They shall be terminated when they are no longer carrying out the purposes for which they were established or such purposes are no longer regarded as necessary to the operation of the department.

(b) No advisory committee shall be established or renewed unless such establishment or renewal is specifically authorized by statute, or established by statute or the President, or determined as a matter of formal record by the Secretary (after consultation with the OMB Secretariat) to be in the public interest in connection with the performance of duties imposed on the Department by law. In seeking such determination by the Secretary, the responsible official requesting establishment or continuance of an advisory committee shall make a request in writing to the Secretary. The request shall describe the nature or purpose of the proposed committee; the reasons why it is needed, including an explanation of why the functions of the proposed committee cannot be performed by Department employees, by an existing committee, or by some other means; and a description of the plan to attain balanced membership on the proposed committee in terms of the points of view to be represented, functions to be performed, and expected participation by women and minorities.

(c) No advisory committee shall meet or take any action until:

(1) In the case of establishment or renewal, in appropriate instances, the OMB Secretariat has been consulted.

(2) A formal charter has been approved by the Secretary;

(3) Public announcement of its establishment or renewal has been made in the FEDERAL REGISTER, at least fifteen days prior to the filing of the committee's charter.

(d) Copies of the charter shall be provided by the Department to the appro-

V 41 164 AUG 23 76 UMI

priate standing committees of the Senate and House of Representatives and to the Library of Congress. In the case of Presidential Committees a copy of the charter shall also be provided to the Office of Management and Budget. The charter shall be in a form prescribed by the Department Committee Management Officer and shall contain the following information:

(1) The committee's official designation;

(2) The committee's objectives and the scope of its activity;

(3) The period of time necessary for the committee to carry out its purpose;

(4) The official to whom the committee reports;

(5) The person responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(7) The estimated annual operating costs in dollars and man-years for such committee;

(8) The estimated number and frequency of committee meetings;

(9) The committee's termination date, if less than two years from the date of the committee's establishment; and

(10) The date the charter is approved by the Secretary.

(e) With regard to subgroups, if all of its members are members of the parent committee, requisite information may be set forth in the charter of the parent committee. In the event a subgroup includes members who are not all drawn from the parent committee, it shall be separately chartered. In addition, if not incorporated in the charter of the parent committee, subgroups shall be separately chartered.

(f) No advisory committee shall be created if its functions could otherwise be performed effectively within the Department or by an existing committee.

(g) The membership of an advisory committee shall be fairly balanced in terms of the points of view represented and the committee's functions. Appropriate safeguards shall be taken to assure that an advisory committee's advice and recommendations will not be inappropriately influenced by any special interest, but shall instead be the result of the advisory committee's independent judgment.

(h) In the selection of committee members, there shall be no discrimination on the basis of race, color, national origin, religion, age, sex, or handicap.

(i) Each advisory committee shall prepare an annual report describing its membership, functions, recommendations and other actions. A copy of the report shall be submitted to the Department Committee Management Officer who shall make copies of them available to the public, upon request. In addition, a copy of the report shall be filed with the Department's Library and made available to the public. Notice of the availability of the Annual Report shall be published in the FEDERAL REGISTER no later than sixty days after its completion. Such notice shall indicate its availability to the public.

(j) Unless specifically provided otherwise by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. For purposes of this provision, "Presidential directive" refers to an executive order, executive memorandum or an OMB directive.

(k) Decisions regarding actions or policies relating to matters dealt with by a Department advisory committee shall be made solely by Department officials.

(l) Except for committees created by Congress with a duration in excess of two years, no Department advisory committee shall continue in existence for a period of more than two years from its establishment unless renewed prior to the date of its scheduled termination by action of the Congress, the President, or the Secretary as appropriate. In the case of a committee continued by the Congress or the President beyond its scheduled termination date, a charter shall be approved by the Secretary and the requirements set forth in paragraph (c) of this section complied with before any meeting is held. To renew a committee the Secretary shall determine that such renewal is necessary and inform the OMB Secretariat of his determination and the reasons for it. Renewal determinations shall be made not more than sixty days before the scheduled date of termination. If the OMB Secretariat concurs, the Department Committee Management Officer shall notify the responsible Department officials who shall publish notice of the renewal in the FEDERAL REGISTER. A new charter shall also be approved by the Secretary.

(m) Any advisory committee which is renewed may continue for no more than a two-year period unless prior to the expiration of that period it is renewed for another two-year period in accord with the above provisions.

§ 11.5 Operation of advisory committees.

(a) *Meetings.* The provisions of this section shall apply to meetings of all Department advisory committees and all subgroups.

(1) *Calling of meetings and agenda.* (i) No advisory committee shall hold any meetings except at the call of or with the advance approval of the designated Department official.

(ii) No meeting shall be held in the absence of a quorum. Unless otherwise established in the charter of the committee, a quorum shall consist of a majority of the committee's authorized membership, including ex officio members. In addition, such members shall have full voting rights.

(iii) Each meeting of an advisory committee shall be conducted in accordance with an agenda approved by the designated Department official. Ordinarily, copies of the agenda shall be distributed to the members of the committee prior to the date of the meeting. The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b).

(2) *Notice of meeting.* (i) Except when the Director of the Office of Management and Budget determines otherwise for reasons of national security, or except as otherwise provided herein, notice of each advisory committee meeting shall be published in the FEDERAL REGISTER at least fifteen days prior to the meeting. The fact that a meeting is closed to the public pursuant to paragraph 10(d) of Pub. L. 92–463 shall not affect the foregoing requirement.

(a) The notice shall state the name of the advisory committee, the time and place of the meeting, and the purposes of the meeting and shall include a summary of the agenda.

(b) The notice shall state the extent to which the public will be permitted to attend or participate in the meeting. If the meeting will be closed to the public, the notice shall also state the reasons for closing, including appropriate citation to the Freedom of Information Act.

(ii) In addition to notice in the FEDERAL REGISTER, the Executive Secretary of each advisory committee shall maintain a list of persons and organizations who have requested to be notified of all meetings and notify them by mail in advance of any meeting. Other forms of notice, such as press releases and notices in professional journals shall be used to the extent practicable.

(iii) Meetings may be held only in emergency situations unless notice of the meeting has been published in the FEDERAL REGISTER at least fifteen days prior to the meeting. Such meetings shall be kept to a minimum, and whenever feasible, rescheduled for a later date. When a meeting must be called without fifteen days notice being given, the following steps shall be taken, to the extent possible:

(a) Advance notice shall be published in the FEDERAL REGISTER.

(b) Other forms of notice shall be utilized whenever practicable.

(c) In the case of meeting notices published in accordance with paragraphs (a)(2)(iii) and (a) and (b) of this section, the notice shall contain an explanation for the failure to give fifteen days notice.

(3) *Public participation at meetings.* (i) Subject to the exceptions described in paragraph (a)(6) of this section each advisory committee meeting shall be open to the public, and interested persons shall be permitted to attend, appear before, or file statements with any advisory committee.

(ii) The Executive Secretary of each committee shall, with respect to any advisory committee meeting, all or part of which is open to the public, assure compliance with the following rules:

(a) Meetings shall be held at reasonable times and places that are reasonably accessible to members of the public. Whenever feasible, Government facilities shall be used and meetings held in places involving the least expense to the Department.

(b) The size of the meeting room shall be reasonable, considering such factors as the size of the advisory committee, the number of members of the public expected to seek to attend, and the resources and facilities available to the Department.

(c) Any member of the public who wishes to do so shall be permitted to file a written statement with the committee, before or after a meeting.

(d) To the extent that the time available for a meeting permits, interested persons may be permitted to present oral statements. Any person seeking to present an oral statement to a committee may be required to obtain advance approval for such participation from the committee chairman or the committee's Executive Secretary.

(e) Participation by members of the public at committee meetings or questioning of committee members or other participants shall only be permitted with the authorization of the committee chairman.

(4) *Minutes and transcripts of meetings.* (i) Detailed minutes shall be kept of each meeting of each advisory committee, including meetings of formal and informal subgroups. The Executive Secretary of each advisory committee shall keep the minutes or designate some person to keep the minutes. Minutes need not be kept if a verbatim transcript is made.

(ii) The minutes shall include at least the following: The time and place of the meeting; a list of advisory committee members and staff and full-time Federal employees present at the meeting; a detailed summary of matters discussed, including different positions advanced by members and conclusions reached by the committee; copies of all reports received, issued, or approved by the advisory committee; an explanation of the extent to which the meeting was open to the public; and explanation of the extent of public participation, including a list of members of the public who presented oral or written statements; and an estimate of the number of members of the public who attended the meeting.

(iii) Within a reasonable time after the meeting the minutes shall be completed and submitted to the chairman of the advisory committee.

(iv) Within a reasonable time after receipt of the minutes the chairman of the advisory committee shall certify to the accuracy of the minutes and submit them to the Executive Secretary for submission to the official advised by the committee.

(5) *Designated Department employee.* (i) Each advisory committee meeting shall be attended by a Department employee designated by the Department official responsible for the Committee. Ordinarily, the employee so designated shall serve the advisory committee on a continuing basis.

(ii) No advisory committee shall conduct a meeting in the absence of the designated Department employee. If simultaneous subgroup meetings are to be held, each subgroup shall have a designated Department employee in attendance.

(iii) The designated Department employee is authorized to adjourn any advisory committee meeting, whenever he determines adjournment to be in the public interest. Inter alia, the designated Department employee shall adjourn the meeting in the event of unwarranted departure from a meeting's agenda.

(6) *Closing advisory committee meetings.* (i) Subsection 10(d) of the Act provides that the provisions concerning open meetings and public participation shall not apply to any advisory committee which the President, or the head of the department to which the advisory committee reports, determines is concerned with matters listed in 5 U.S.C. 552(b). The Department's regulation implementing that Act is found at 45 CFR Part 5. Department officials shall be guided by the policies set forth in that regulation in making determinations to close meetings. In applying the provisions of 5 U.S.C. 552(b) to advisory committee meetings, liberal interpretations shall be assumed with respect to the openness of such meetings. Any determination to close a meeting (or portion) shall restrict such closing to the shortest reasonable time.

(ii) In applying the Freedom of Information Act exemptions to advisory committee meetings, the following rules shall be followed:

(a) If a meeting (or portion) will have the express purposes of discussing an existing document which is within one of the exemptions set forth in 5 U.S.C. 552(b), the meeting (or portion) may be closed to the public.

(b) Meetings closed solely on the basis that a document exempt from mandatory disclosure under exemption (5) (concerning intra-agency and inter-agency memoranda and letters) is to be discussed, may only be closed if the Secretary determines that it is essential to close such meeting (or portion) to protect the free exchange of internal views of committee members and avoid undue interference with Department or committee operation.

(c) A meeting (or portion) involving solely the internal expression of views and judgments of committee members, and not the discussion of an exempt document may be closed if a finding is made that is essential to close the meeting (or portion) to protect the free exchange of members views and avoid undue interference with Department or committee operations, and such views if reduced to writing would be protected from mandatory disclosure under section 552(b)(5) of Title 5 U.S.C. When feasible, the public shall be given an opportunity to present relevant information and views to the committee. Concurrence for closing such a meeting shall be obtained from the Office of the General Counsel and the Office of Public Affairs.

(d) If a meeting (or portion) will have the express purpose of discussing a matter which is within one of the exemptions set forth in 5 U.S.C. 552(b), other than exemption (5), the meeting (or portion) may be closed to the public even though no specific exempt document is to be discussed.

(e) If the subject of a meeting will be such that paragraphs (a)(6)(ii)(a) through (d) inclusive above do not furnish a basis for closing it, the meeting shall be open to the public.

(f) When a advisory committee seeks to have a meeting (or portion) closed, the Executive Secretary shall make a request in writing for a determination by the Secretary. Such a request shall set forth the reasons why the meeting (or portion) should be closed. Whenever practical, the request shall be submitted at least sixty days before the scheduled date of the meeting.

(g) If the Secretary finds the request to be warranted and in accord with the policy of the Act and the Freedom of Information Act, the request shall be granted. The determination made by the Secretary shall be in writing and contain specific reasons for closing the meeting (or portion). Determinations made by authorized designees must be reviewed and approved by the Office of the General Counsel and the Office of Public Affairs.

(h) If a meeting is to be held for the consideration of several separable matters, not all of which are within the exemptions of 5 U.S.C. 552(b), only the portion of the meeting dealing with exempt matters may be closed.

(i) When part of a meeting is to be closed, the agenda shall be arranged to facilitate attendance by the public at the open portion of the meeting.

(j) When a meeting (or portion) is closed, only members of the committee, its staff, and Federal employees shall be permitted to attend.

(k) When a meeting (or portion) is closed, members of the advisory committee shall not disclose the matters discussed except to other members of the advisory committee, the staff of the advisory committee or Department employees.

(l) The Department Committee Management Officer may review, after the meeting, the appropriateness of any determination to close a meeting (or portion) and require that corrective action be taken with respect to the particular advisory committee or general procedures concerning the closing of meetings.

(m) When a meeting (or portion) is closed, and detailed minutes are not to be made available in their entirety to the public, the advisory committee shall prepare and make available to the public within fourteen days of the close of the meeting a summary of its activities and related matters which are informative to the public consistent with the policy of 5 U.S.C. 552(b). Notice of the availability of such a summary shall be incorporated in the notice of the meeting published in the FEDERAL REGISTER.

(b) *Access to records.* (1) All records, reports, and other documents of each advisory committee shall be available for public inspection and copying pursuant to the Department's public information

V 41 164 AUG 23 76 UM

regulation. Documents referred to herein include the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda or other documents which were made available to or prepared for or by each advisory committee.

(2) Advisory committee records determined to be available for public inspection are to be made available for inspection and copying at a single location in the offices of the advisory committee or the Department organizational component to which the advisory committee reports. The advisory committee or appropriate Department organizational component shall make available to any person copies of transcripts of committee proceedings or meetings at cost determined in accordance with the appropriate fee schedule.

(3) Advisory committee records are maintained and disposed of according to procedures prescribed in the Department's Records Management Manual.

§ 11.6 Administrative remedies.

(a) Any person whose request for access to an advisory committee document is denied may seek administrative review in accord with the Department's Freedom of Information Act regulation.

(b) Any person whose request for access to an advisory committee meeting is denied after publication of the notice of the meeting in the FEDERAL REGISTER may appeal to the appropriate official designated at 45 CFR 5.82. If the decision on appeal is adverse to the request or concurrence of the Assistant Secretary for Public Affairs or his designee, shall be obtained.

§ 11.7 Department committee management officer.

The Secretary shall designate a Department employee to implement this part and consult with the Office of Management and Budget on his behalf.

[FR Doc.76-24468 Filed 8-20-76;8:45 am]

federal register

MONDAY, AUGUST 23, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing
FHA Commissioner

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REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE; ALLOCATION OF HOUSING ASSISTANCE FUNDS

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Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-388]

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE; ALLOCATION OF HOUSING ASSISTANCE FUNDS

On May 5, 1976, the Department of Housing and Urban Development (HUD) published, for comment, in the FEDERAL REGISTER at page 18626 a proposed amendment to Chapter VIII of Title 24 of the Code of Federal Regulations by adding a new Part 891, "Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds."

Part 891 sets forth the regulations which apply to the review and approval of applications for housing assistance and to the allocation of housing assistance funds pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301). The provisions of this Part apply to applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437), Sections 235 and 236 of the National Housing Act (12 U.S.C. 1715z, 1715z-1), Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), these provisions do not apply to applications for assistance with respect to low income housing modernization under the United States Housing Act of 1937 (42 U.S.C. 1437) which will be covered in a notice of proposed rulemaking under 24 CFR, Part 863, nor to operating subsidy assistance (42 U.S.C. 1437g), which are not subject to the requirements of Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437).

Subpart A identifies the housing assistance programs subject to these regulations and defines the terms used. Subpart B describes the policies and procedures governing reviews and determinations with respect to applications for housing assistance to be located in areas with approved housing assistance plans (HAPs) and Subpart C describes such policies and procedures for areas without HAPs. Subpart D provides the policies and procedures governing the allocation of housing assistance funds. Subpart E contains the policies and procedures governing supplemental allocations of housing assistance funds for use in jurisdictions covered by a HAP and participating in an approved Areawide Housing Opportunity Plan. Subpart E was published separately for final effect on June 23, 1976, but has been incorporated with this publication to provide the necessary convenience and continuity for these regulations.

HUD received over 20 responses to the May 5, 1976, publication. All of these comments have been carefully considered, and certain changes have been made in the regulations as a result of these comments and other pertinent considerations. The following is a discussion of the principal comments and changes.

1. The definitions contained in § 891.102 have been expanded to include those terms applicable to the policies and procedures for supplemental allocations based upon Areawide Housing Opportunity Plans pursuant to Subpart E of this Part 891, and the definitions are now presented in alphabetical order.

2. The definition of the term Chief Executive Officer in § 891.102(e) has been modified to conform with the definition contained in the regulations governing the Community Development Block Grant program (24 CFR, Part 570). The reference in the proposed regulations to the delegation of responsibility for review of applications, by the Chief Executive Officer, has been deleted because Section 213(a) of the Housing and Community Development Act of 1974 (Act) merely requires notification of the Chief Executive Officer who must serve, therefore, as the point of contact on behalf of the local government having the review responsibility.

3. It was suggested that the Field Officer Director notify local governments pursuant to § 891.202 within ten days from "actual" receipt of an application for housing assistance, rather than after HUD's initial screening or preliminary evaluation. The concern was that initial screening could cause delays. Although this comment was seriously considered, it was not accepted. However, the language in § 891.102(1) has been revised to clarify that the purpose of initial screening or preliminary evaluation of an application is to determine its acceptability for processing. Notifications prior to this initial step would result in local governments being asked to comment on applications for housing assistance which were incomplete or were otherwise unacceptable and could not, therefore, be considered for approval by the Field Office Director.

4. Several comments suggested changes in § 891.202(a) to clarify which units of local government should be notified by the Field Office Director. The suggestion that special provisions be incorporated for Section 8 Existing Housing was adopted, and are included in § 891.202(a)(3). A related comment with respect to the Section 8 Existing Housing program suggested that language be included which would exempt a statewide Public Housing Agency (PHA) from having to notify all local governments within the State. While an exemption cannot be provided, the language in this subsection has been changed to provide for notification of those local governments identified as primary areas from which families to be assisted will be drawn. This provision will ensure that those local governments in which housing assistance will be provided in a concentrated manner will be notified.

5. One comment suggested that the Field Office Director notify the Public Housing Agency, in addition to the local government, that an application for the Section 8 Existing Housing Program or an application for the Section 8 Housing Assistance Payments Program-Special Allocations is under consideration. Since Section 213(a) of the Act specifically provides that the local government be notified, and makes no reference to a Public Housing Agency, this comment was not accepted.

6. It was suggested that a provision requiring review of all housing assistance applications by Areawide Planning Organizations be added to this regulation. This comment was not accepted, since provisions with respect to reviews by Areawide Planning Organizations are contained in the regulations for each housing assistance program, as well as in OMB Circular A-95.

7. Minor changes have been made in § 891.202(b) to clarify that the Chief Executive Officer is invited to provide relevant comments on behalf of the local government, and to provide examples of the type of comments which might be provided.

8. Several comments suggested that Field Office Directors encourage recommendations by local governments, as well as written objections. Section 891.204(a) provides for the submission of other comments with respect to an application when there is no objection to the approval of such application. However, since approval of a specific application, by the Field Office Director must be based upon several criteria, such as project feasibility, compliance with Departmental standards, comments by Areawide Planning Organizations pursuant to OMB Circular A-95, in addition to local government comments, the Field Office Director will not be able, in all cases, to accept a local government's positive recommendation that an application be approved.

9. Section 891.204(a)(2) contains the language formerly in § 891.205(c)(2), with respect to a major variation (i.e. where the units in the application exceed the annual goal by more than twenty percent or twenty units, whichever is greater), and the statement to be submitted by the Chief Executive Officer on behalf of the local government in such cases. Several comments recommended changes to provide additional flexibility, since the variations as previously defined in § 891.205(c)(2), were viewed as too restrictive. Accordingly, in order to provide the added flexibility, the content of the statement required, when there is no objection to a major variation, has been modified to include only information with respect to need and availability of public services and facilities in addition to a statement that there is no objection to approval of the application.

10. Several comments suggested changes with respect to the reasons set forth in § 891.204(b), which may serve as a basis for local government objection to approval of an application for housing assistance. One comment requested that the prior reference to housing assistance goals specify that objections may be based on the three-year housing assistance goals. Because local governments may, for valid reasons, intend to limit the total amount of housing assistance to be provided in any one year, this comment was not accepted with respect to the total number of dwelling units or households

to be assisted. However, the language with respect to a minor variation, previously in § 891.205(c)(2), has been changed and now is incorporated in § 891.204(b)(1), which states that a minor variation (i.e. one which exceeds the total number of units in the annual goal by no more than twenty percent or twenty units, whichever is greater), by itself, shall not be a basis for an objection.

In addition, a new § 891.204(b)(5) has been added which provides that an objection to an application for assistance under certain programs not specifically referred to in a HAP may be made on the basis that the application is inconsistent with the housing needs and housing assistance strategy of the locality.

11. Section 891.204(b)(2) now provides that an objection based upon the number of dwelling units or households to be assisted, by household type (elderly and/or handicapped, family, large family), must be based on the three-year housing assistance goal. The three-year time frame with respect to assistance by household type relates to the requirement in the HAP regulations, at § 570.303(c)(3)(iv), that the three-year total housing assistance goals must address the needs of the three household types generally in proportion to housing assistance needs.

12. One comment suggested that, if a local government objects on the ground that the proposed assistance is in different locations from those specified in the HAP, it should be required to demonstrate that the proposed units would be detrimental. In response to this comment § 891.204(b)(4) has been revised to require that local government objections, on the basis that the proposed location is inconsistent with the general locations specified in the applicable HAP, must be accompanied by a statement of the specific reasons why the location is objectionable.

13. One comment suggested that the inclusion in § 891.204(b)(4) of language permitting objections based on any other reasons that the local government deems appropriate without further definition, would defeat the purpose of Section 213 of the Act. Therefore, the language which now appears at § 891.204(b)(6) has been changed to permit objections only on the ground that it is inconsistent with "other limiting factors set forth in the HAP, in addition to information in the HUD-prescribed tables."

14. One comment noted that § 891.205(c) did not provide the Field Office Director any guidelines or review factors to measure an objection. This comment was accepted, and this subsection now makes it clear that the Field Office Director's finding of consistency or inconsistency must be based on the same factors as those applicable to the local government's objection, i.e. the factors set forth in § 891.204(b)(1) through (6).

15. As suggested by comments with respect to § 891.205(c), a follow-up process has been added for the Field Office Director to contact the local government when there is a major variation and no response is received during the thirty day comment period. If no subsequent response is received from the local government, an application which constitutes a major variation may not be approved by the Field Office Director.

16. The three levels of variation set forth in § 891.205(c)(2) of the proposed Regulation have been changed to eliminate the middle level of substantial variation, in response to comments stating that the variations were overly restrictive. A minor variation is now defined to include applications for assistance which exceed the annual goal by no more than twenty percent or twenty units, whichever is greater.

17. The language in § 891.205(c)(4) with respect to applications for Section 8 assistance pursuant to 24 CFR, Part 886, or an application for Section 202 or Section 235 assistance has been changed to clarify that the absence of specific reference to such assistance in the HAP shall not be a basis, "by itself and in the absence of a local government objection," for an independent finding of inconsistency by the Field Office Director.

18. A new § 891.205(c)(5) has been added to clarify that, even though a specific application may be determined consistent, it is not to be approved by the Field Office Director unless the written statement with respect to a major variation is received, if the particular application, taken into consideration with other applications previously approved, would constitute a major variation.

19. It was suggested that § 891.302 should, more appropriately, state that the Field Office Director is to determine the need for housing assistance and the availability of public facilities prior to issuing a Section 8 Invitation for Applications or Notification of Fund Availability. In response to this suggestion § 891.302 was modified to require the Field Office Director to make a determination of need for housing assistance prior to receiving applications. However, since the Field Office Director cannot make a determination of the adequacy of public facilities and services until the proposed location is known, this determination will be made prior to approval of the application for housing assistance.

20. One comment recommended the addition of language which would require that approved areawide housing plans reflecting a coordinated regional housing needs assessment be used as the only basis for determination of housing need and adequate public facilities and services. While the Department encourages the preparation and use of such plans as a basis for providing housing assistance, Section 213(c) of the Act specifically provides for local government comments which are relevant to the Field Office Director's determination. An areawide plan cannot be used as the only basis for the Field Office Director's determination, and this comment, therefore, was rejected.

21. In reference to § 891.303(a), one comment suggested that the notification procedure be the same for areas with HAPs and those without. Because Section 213 affords only local governments having HAPs the opportunity to object on the basis of such HAPs, and affords other communities an opportunity only to provide information or comments on the proposed applications, the notification procedures cannot be the same in both cases.

22. The reference to comments by the Chief Executive Officer in § 891.303(b)(2) and § 891.304(a) have been changed to clarify that such comments are submitted on behalf of the local government.

23. One comment suggested that the modifications to the statistical data elements used in determining housing needs on a program-by-program basis be clarified. Section 891.402(a) has been revised to indicate that the age and income as well as other relevant characteristics of the prospective program participants will be considered in making these modifications.

24. Several comments suggested that the "carry-over" contract authority referred to in Section 891.403(a) should be reallocated to the same Field Office Director without being subject to the national allocation formula. This comment was not accepted because Section 213(d) of the Act specifies that assistance be allocated on the basis of relative housing needs. Accordingly, since the needs factors used in allocating such assistance are adjusted annually to reflect changes in housing needs, the reallocation of "carryover" funds to the same Field Office Director might result in an allocation that is unrelated to need.

25. A suggestion that the Regional Administrator be permitted to retain a reserve of contract authority for unforeseen demands was not accepted. In the interest of flexibility, the reserve will be maintained at the national level or portions may be transferred to the Regional Administrators, as determined by the Secretary. To establish Regional Office reserves in addition to the reserve held by the Secretary, would be duplicative and would reduce the amount of contract authority initially allocated to areas and localities.

26. It was suggested that the Regional Administrator and Field Office Director be required to allocate all contract authority within fifteen working days, rather than the thirty days stated in the proposed regulations, so that more time would be available to sponsors, developers, and Public Housing Agencies. Although it is desirable to minimize the time for making allocations, a fifteen-day limitation may force the Regional Administrator and Field Office Director to compromise their determination of an equitable allocation in order to meet their short deadline and, therefore, this suggestion was not accepted. The Department intends to allocate contract authority as soon as possible with thirty days considered the maximum time allowable for Regional Administrators to suballocate such authority and for the Field Office Directors to determine the amount of contract authority to be allo-

V 41 164 AUG 23 76 UM

cated to specific geographic areas within their jurisdiction.

27. It was suggested that the contract authority, retained by the Secretary for special purposes, that is not used within ninety days prior to the end of the fiscal year be allocated to Regional Administrators in accordance with the formula used in the initial allocation. This suggestion was not accepted on the basis that allocation of the contract authority retained must be left to the discretion of the Secretary or the very purpose of the set-asides for special housing needs would be defeated. It is the Department's intent to allocate unused contract authority as soon as possible. However, these funds will be allocated in increments so that some portion of the reserve is retained to meet unforeseeable demands such as natural disaster housing requirements.

28. One comment suggested that a reserve be established for large metropolitan areas (over 500,000 population) which contain substantial proportions of lower and very low-income households and substandard housing. The comment indicates a misunderstanding of the purpose of the reserve which is to maintain a small amount of contract authority to satisfy special or unforeseen needs that were not reflected in the statistical factors used in making the initial allocation to the Field Office Directors.

29. It was suggested that allocations should be consistent with the policies for promoting Areawide Housing Opportunity Plans through the use of supplemental allocations and with the policies regarding the housing elements for the 701 planning program. The allocation procedures in these regulations are, in fact, consistent with these policies and are based on housing needs identified in HAPs which take into consideration housing needs according to type of family and location.

30. It was suggested that the Field Office Director be required to use available areawide or State housing plans in determining the relative housing needs. The suggestion was not accepted in its entirety but Section 891.404 was modified to provide greater use of areawide or State housing plans in determining relative housing needs.

31. Another comment suggested that the Field Office Director allocate contract authority to metropolitan areas and geographic regions, rather than to individual counties. This comment indicates a misunderstanding of Section 891.404(a). Although the housing assistance needs percentage factors for allocating contract authority is determined from census data on a county-by-county basis, the Field Office Director may subsequently group counties and/or cities to establish regional allocation areas as indicated in Section 891.404(a)(3).

32. Numerous objections were received to the provision that the amount of HFDA set-aside contract authority shall be established by the Field Office Director. Among the objections were (a) the Secretary could better appraise the needs and examine performance of all HFDAs, (b) set-asides established by the Field Office Director might result in inequities and low level of housing production due to differences in local policy, and (c) the procedure is inconsistent with the Department's past policy of making HFDA set-aside determinations at Headquarters level.

Section 891.404(b) has also been revised to indicate that the Field Office Director and the HFDA shall coordinate their respective efforts to assure an equitable distribution among allocation areas and, if an agreement cannot be reached, the Regional Administrator shall resolve any differences.

33. It was suggested that the regulations clearly indicate that priority for future approvals shall be given to those localities that did not receive housing assistance, provided that acceptable applications are received. This suggestion was accepted and Section 891.404(d) has been modified to reflect the recommendation.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A finding that this regulation is not subject to inflation impact statement requirements has also been made in accordance with HUD procedures. A copy of these findings will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C.

Accordingly, Title 24 is amended as follows: A new Part 891, is added to Chapter VIII to read as set forth hereinafter.

Subpart A—General Provisions

891.101 Applicability and Scope
891.102 Definitions

Subpart B—Applications for Housing Assistance in Areas With Housing Assistance Plans

891.201 General
891.202 Notification of Local Government
891.203 Review and Comment Period
891.204 Local Government Response
891.205 HUD Review of Applications for Housing Assistance
891.206 Notification of HUD Determinations

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

891.301 General
891.302 Finding of Need for Housing Assistance
891.303 Notification of Local Government
891.304 Review and Comment Period
891.305 HUD Review of Applications for Housing Assistance

Subpart D—Allocation of Housing Assistance Funds

891.401 General
891.402 Determinations of Lower Income Housing Needs
891.403 Initial Allocation to HUD Offices
891.404 Initial Allocation to Areas and Localities
891.405 Reallocation of Uncommitted Contract Authority

Subpart E—Supplemental Allocations Based Upon Areawide Housing Opportunity Plans

891.501 Applicability and Scope
891.502 General Criteria for Acceptable Plans
891.503 Criteria for Priority Plans
891.504 Contents of Requests for Supplemental Allocations
891.505 Review and Selection of Plans

AUTHORITY: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)) unless otherwise noted.

Subpart A—General Provisions

§ 891.101 Applicability and scope.

(a) The policies and procedures contained herein apply to the allocation of contract authority and the review and approval of applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437), sections 235 and 236 of the National Housing Act (12 U.S.C. 1715z, 1715z–1), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). These provisions do not apply to applications for low income housing modernization or operating subsidy assistance.

(b) This part covers the policies and procedures relating to the role and responsibilities of HUD and local governments, under section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), in reviewing and making determinations with respect to applications for housing assistance made available under the programs specified in § 891.101(a), determinations of lower-income housing needs, allocation of contract authority for metropolitan and nonmetropolitan areas, retention of a reserve of contract authority funds for special lower-income housing needs or programs, and supplemental allocations based upon areawide housing opportunity plans.

§ 891.102 Definitions.

(a) *Act.* The Housing and Community Development Act of 1974.

(b) *Application for housing assistance.* For the purpose of this part, the following definitions establish the documentation which constitutes an application for housing assistance within the meaning of section 213 of the Act.

(1) *Section 8 new construction and substantial rehabilitation.* A preliminary proposal containing the elements listed in § 880.205 of the regulations governing the section 8 Housing Assistance Payments Program—New Construction (24 CFR, Part 880) or the elements listed in § 881.205 of the regulations governing the section 8 Housing Assistance Payments Program—Substantial Rehabilitation (24 CFR, Part 881).

(2) *Section 8 existing housing.* An application containing the elements listed in § 882.204 of the regulations governing the section 8 Housing Assistance Payments Program—Existing Housing (24 CFR, Part 882) submitted by a Public Housing Agency (PHA), including a State Housing Finance and Development Agency (HFDA). In cases where no PHA has been organized or where the PHA is unable or unwilling to implement the program, and where HUD determines to perform such function itself, its determination to that effect shall be considered an application for the purposes of this part.

(3) *Section 8 housing finance and development agencies—new construction and substantial rehabilitation.* A housing finance and development agency's application for assignment of portion of set-aside to specific project, if a specific site is designated. If the site is not designated, the first new construction or substantial rehabilitation proposal submitted by the HFDA pursuant to the regulations governing the section 8 Housing Assistance Payments Program—State Housing Finance and Development Agencies (24 CFR, Part 883).

(4) *Section 8 housing assistance payments program—special allocations.* (i) An application containing the elements listed in § 886.105 of the regulations governing the section 8 Housing Assistance Payments Program—Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A).

(ii) A preliminary proposal containing the elements listed in § 886.207 of the regulations governing the section 8 Housing Assistance Payments Program—Additional Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart B).

(5) *Low-Income housing (including Indian Housing) by public housing agencies under the Housing Act of 1937 (other than under section 8).* If a specific site is designated, an Application for a Low-Income Housing Program, for the construction or acquisition of housing, submitted by a PHA or Indian Housing Authority; or, if the site is not designated, the preliminary site report submitted by the PHA.

(6) *Section 235 mortgage insurance and assistance payments for homeownership and project rehabilitation.* A request for preliminary reservation of contract authority submitted by a builder or seller.

(7) *Section 236 mortgage insurance and interest reduction payments for rental projects.* The first application for Project Mortgage Insurance, either for Site Appraisal and Market Analysis (SAMA), Conditional Commitment, or Firm Commitment.

(8) *Section 101 rent supplement payments.* The first Application for Project Mortgage Insurance, either for SAMA, Conditional Commitment, or Firm Commitment.

(9) *Section 202 housing for the elderly or handicapped.* A preliminary proposal containing the elements listed in § 885.310 of the regulations governing the Construction Loans for Housing for the Elderly and Handicapped (24 CFR, Part 885).

(c) *Areawide Housing Opportunity Plan (Plan).* A plan, developed by an Areawide Planning Organization, which addresses areawide housing assistance needs and goals and provides for the promotion of a greater choice of housing opportunities for lower income households outside of areas containing an undue concentration of low income households.

(d) *Areawide Planning Organization (APO).* An organization authorized by law or local agreement to undertake planning for a multi-county area (including county-municipality combinations) under section 701 of the Housing Act of 1954 (40 U.S.C. 461) and/or OMB Circular A–95.

(e) *Chief executive officer of a unit of general local government (Chief Executive Officer).* The elected official, or the legally designated official, who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "Chief Executive Officer" of a unit of local government may be: The elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of local government; or the chairman, governor, chief, or president (as the case may be) of an Indian tribe or Alaskan native village.

(f) *Field office director.* The HUD official responsible for the execution of programs and activities assigned to the field office. This term is applicable to (i) Area Office Directors, who are responsible for approving Housing Assistance Plans, as defined in § 891.102(g)(1), and applications for housing assistance; (ii) Insuring Office Directors, who are responsible for approving Housing Assistance Plans, as defined in § 891.102(g)(2), and applications for housing assistance; and (iii) Insuring Office Directors, who are responsible only for approving applications for housing assistance.

(g) *Housing Assistance Plan (HAP).* (1) A HAP meeting the requirements of § 570.303(c) of the Community Development Block Grant (CDBG) regulations (24 CFR, Part 570), which is submitted by a local government as part of the block grant application, and is approved by the Field Office Director.

(2) A HAP, meeting the requirements of § 570.303(c), submitted by a local government not participating in the CDBG Program and approved by the Field Office Director.

(h) *HUD.* The Department of Housing and Urban Development.

(i) *Metropolitan area.* A standard metropolitan statistical area (SMSA) as established by the Office of Management and Budget.

(j) *New communities.* HUD approved New Community developments under Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901) or Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

(k) *Participating jurisdiction.* A jurisdiction, whether or not it is covered by a HAP (including counties and other local governments), with which an APO has reached agreement on numerical goals for the distribution of lower-income housing assistance as well as the implementation of the Plan.

(l) *Receipt of an application for housing assistance.* An application for housing assistance shall be deemed to have been received after the Field Office Director completes the screening or preliminary evaluation to determine acceptability of the application for processing.

(m) *Regional administrator.* The HUD official responsible for the execution of programs and activities assigned to the Regional Office and field offices within the jurisdiction of the Regional Office.

(n) *Secretary.* The Secretary of the Department of Housing and Urban Development.

(o) *Unit of general local government (Local Government).* Any city, county, town, township, parish, village, or other general purpose political subdivision of a State, Guam, the Virgin Islands, and American Samoa or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian Tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos of the United States. Such terms also include a State or local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501) or Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901).

Subpart B—Applications for Housing Assistance in Areas With Housing Assistance Plans

§ 891.201 General.

This subpart describes the policies and procedures governing reviews and determinations pursuant to sections 213 (a) and (b) of the Act with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is applicable. This Subpart does not apply to the following applications for housing assistance and the Field Office Director is not required to submit such applications for local government review and comment:

(a) Applications for assistance involving twelve or fewer units in a single project or development.

(b) Applications for assistance with respect to housing in New Communities where the Secretary determines are necessary to meet the housing requirements in such developments.

(c) Applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof (including loans which also have Federal mortgage insurance or co-insurance), unless the local government in which the assistance is to be provided objects in its HAP to the exemption provided in this subparagraph.

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§ 891.202 Notification of local government.

(a) The Field Office Director shall notify the Chief Executive Officer of the local government having a HAP, no later than ten working days after receipt of an application, that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

(1) When the application is for housing assistance in an area which is covered by more than one HAP (e.g., a municipality which has a HAP and is located in a county which also has a HAP covering such municipality), the Field Office Director shall notify each Chief Executive Officer.

(2) When the application is for housing assistance in several non-overlapping different political jurisdictions (e.g., a scattered site project), the Field Office Director shall notify the Chief Executive Officer of each local government having a HAP.

(3) For section 8 Existing Housing applications pursuant to 24 CFR, Part 882, the Field Office Director shall notify the Chief Executive Officers of the localities identified in the Application for Existing Housing as primary areas from which families to be assisted will be drawn.

(b) The notification to the Chief Executive Officer shall:

(1) Advise him that the Field Office Director has received and is considering an application for housing assistance, identify the housing program (e.g., section 8, section 235), the type of housing (e.g., new construction, substantial rehabilitation, or existing housing), the number of units by bedroom size, the number of units by household type (elderly and/or handicapped, family, large family), and the proposed location.

(2) Advise him that the local government, for a period of thirty calendar days, has the opportunity to object to the approval of the application on the ground that it is inconsistent with the applicable HAP.

(3) Invite him to submit any other comments on behalf of the local government which are relevant to a determination by the Field Office Director concering approval of the proposed housing assistance (e.g., site-related comments; whether the project is approvable under local codes and zoning ordinances).

§ 891.203 Review and comment period.

(a) The Chief Executive Officer shall have a thirty-day comment period, beginning on the date of the notification letter described in § 891.202, to submit, on behalf of the local government, a written objection to the Field Office Director's approval on the ground that the application is inconsistent with its HAP, and the reasons therefor. The Field Office Director shall consider the comment period closed when such written objection or other comments are received. In no case shall the Field Office Director be obligated to consider subsequent objections unless the initial response indicated that additional comments would be provided prior to the expiration of the thirty-day comment period.

(b) The Chief Executive Officer, on behalf of the local government, may submit comments to the Field Office Director simultaneously with the application for housing assistance. In such cases the Field Office Director shall consider that the provisions of § 891.202 have been met.

(c) Any amendment to a HAP shall not be applicable to section 202 or section 8 proposals submitted in response to a previously issued invitation for preliminary proposals or notification of fund availability unless the local government makes a determination that, because of special circumstances, the public interest requires that the amendment be applicable to such proposals. These special circumstances shall be specified in the local government determination and such determination shall be approved by the Field Office Director.

§ 891.204 Local government response.

(a) *No objection.* If the local government determines that it does not want to object to the application on the ground that the application is inconsistent with the applicable HAP, the Field Office Director may be notified of this determination at any time within the thirty-day comment period.

(1) In addition, the Chief Executive Officer may submit, on behalf of the local government, in writing and within the thirty-day period, other comments with respect to the application which are relevant to a determination by the Field Office Director concerning the proposed housing assistance.

(2) When the application for housing assistance exceeds the total number of units in the annual goal by more than twenty percent or twenty units, whichever is greater, such application represents a major variation from the statement of the annual goal, as defined further in § 891.205(c)(2). If there is no objection to such application, the Chief Executive Officer shall provide a written statement, on behalf of the local government, that (i) there is a need for the assistance proposed, (ii) there are or will be available in the area sufficient public facilities and services to serve the excess units (except with respect to an application for Section 8 Existing Housing pursuant to 24 CFR, Part 882), and (iii) there is no objection to the approval of such application for housing assistance.

(b) *Objection.* The Chief Executive Officer, on behalf of the local government, may submit within the thirty-day comment period, a written objection to the approval of an application for housing assistance on the ground that the application is inconsistent with the applicable HAP, and the reasons therefor. Objections by the local government may be based on the following:

(1) The number of dwelling units or households to be assisted under a specific housing program is inconsistent with the information in the applicable HAP with respect to the housing assistance needs and housing assistance goals. A minor variation, defined as an application which exceeds the total number of units in the annual goal by no more than twenty percent or twenty units, whichever is greater, by itself, shall not be a basis for an objection.

(2) The number of dwelling units or households to be assisted, by household type (elderly and/or handicapped, family, large family), is inconsistent with the information in the applicable HAP with respect to the three-year housing assistance goals.

(3) The type of housing proposed (new construction, substantial rehabilitation, or existing housing) is not included in the types of housing assistance identified in the annual housing assistance goals.

(4) The proposed location of newly constructed or substantially rehabilitated units is inconsistent with the general locations specified in the applicable HAP, and is objectionable to the local government for reasons which are specified.

(5) The application is for section 8 assistance pursuant to 24 CFR Part 886, for section 202 or section 235 assistance or for assistance for low income housing by PHAs other than under section 8, there is not a specific reference to such assistance in the housing assistance goals of the applicable HAP, and the application is inconsistent with the housing needs and housing assistance strategy which are the basis of the HAP of the locality.

(6) The proposed housing assistance is inconsistent with other limiting factors set forth in the HAP, in addition to information in the HUD-prescribed tables.

(c) *No response.* The local government may choose not to comment with respect to an application for housing assistance. In such instances, if no response is received within the thirty-day comment period, the Field Office Director shall make an independent determination as to whether the application is inconsistent with the applicable HAP.

§ 891.205 HUD review of applications for housing assistance.

(a) *Review period.* The Field Office Director shall review each application for housing assistance to determine if it is consistent or inconsistent with the applicable HAP for the area in which the proposed housing is to be located. The Field Office Director's determination shall be completed within thirty calendar days after the close of the comment period specified in § 891.203(a) or within thirty calendar days after the receipt of the comments of the local government, whichever is earlier.

(b) *Review process.* The Field Office Director's finding of consistency or inconsistency shall be based on the information provided in the HAP, the application for housing assistance, and an analysis of the comments of the local government.

(1) *HUD review when response indicates no objection.* The Field Office Director may approve the application unless he makes an independent determination that it is inconsistent with the applicable HAP. The Field Office Director shall give consideration to other comments provided by the local government, if any, which are relevant to a determination concerning approval of the application for housing assistance.

(2) *HUD review when objection is received.* The Field Office Director shall concur in an objection by the local government unless he makes an independent determination of consistency, based on substantial evidence, that the application is consistent with the applicable HAP.

(3) *HUD review when no response is received.* The Field Office Director may approve the application unless he makes an independent determination that it is inconsistent with the applicable HAP.

(c) *Review factors.* The Field Office Director's determination shall be based on the following factors:

(1) The factors set forth in § 891.204(b)(1) through (6).

(2) In the case of an application which exceeds the total number of units in the annual goal by more than twenty percent or twenty units, whichever is greater, such an application represents a major variation from the annual goal in the HAP. The Field Office Director shall not approve the application unless the local government provides a written statement that (i) there is a need for the assistance proposed, (ii) there are or will be available in the area sufficient public facilities and services to serve the excess units (except with respect to an application for Section 8 Existing Housing pursuant to 24 CFR, Part 882), and (iii) there is no objection to the approval of such application for housing assistance. Accordingly, if no response has been received during the thirty-day comment period and the Field Office Director has determined that the application is otherwise approvable, he shall inform the Chief Executive Officer of this determination and will also advise him that, unless the above-cited written statement is received within ten days, the application will not be approved.

(3) A minor variation, defined as an application which exceeds the total number of units in the annual goal by no more than twenty percent or twenty units, whichever is greater, shall not be a basis for an independent finding of inconsistency by the Field Office Director.

(4) With respect to an application for section 8 assistance pursuant to 24 CFR, Part 886, an application for section 202 or section 235 assistance, an application for assistance for low income housing by PHAs other than under Section 8, the absence of specific reference to such assistance in housing assistance goals shall not be a basis, by itself and in the absence of a local objection, for a finding of inconsistency by the Field Office Director.

(5) Although a specific application may be determined consistent on the basis of the review factors set forth in § 891.204(b)(1) through (5), the Field Office Director shall not approve the application if such application, taken into consideration with other applications previously approved, exceeds the total number of units in the annual goal by more than twenty percent or twenty units, whichever is greater, unless the local government has submitted the written statement required by § 891.205(c)(2).

§ 891.206 Notification of HUD determinations.

The Field Office Director shall notify the Chief Executive Officer and the applicant, in writing, of the finding made with respect to the consistency or inconsistency of the application with the HAP. This notification shall be made within thirty calendar days after the close of the comment period indicating the reasons for the determination and, as appropriate, state that the Field Office Director will, or will not, continue to process the application for housing assistance.

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

§ 891.301 General.

This subpart describes the policies and procedures governing reviews and determinations, pursuant to Section 213(c) of the Act, with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is not applicable.

§ 891.302 Finding of need for housing assistance.

With respect to each application for housing assistance to be provided in an area which does not have a HAP, the Field Office Director is required to make a determination as to whether there is a need for such housing and whether there is or will be available in the area public facilities and services adequate to serve the proposed housing.

(a) The determination of need for housing assistance within a geographic area is made prior to receipt of an application as part of the allocation process pursuant to § 891.404. In making such a determination, the Field Office Director shall give consideration to the contents of any applicable state or areawide housing plans proposing housing assistance in the area as well as generally available data with respect to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, other objectively measurable tions pertaining to lower income housing needs.

(b) The determination of the adequacy of public facilities and services shall be made as part of the application review process and after considering any comments received from the local government.

(c) The Field Office Director shall afford the local government in which the proposed assistance is to be provided the opportunity, during a thirty-day period, to provide comments relevant to the required determinations by the Field Office Director with respect to the need for housing assistance and the adequacy of public facilities and services.

§ 891.303 Notification of local government.

(a) The Field Office Director shall notify the Chief Executive Officer no later than ten working days after receipt of an application, that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

(1) When the application is for housing assistance within the overlapping jurisdictions of more than one local government (e.g., a municipality which is also within a county), the Field Office Director shall notify the Chief Executive Officer of the local government having the smallest geographic area of coverage.

(2) When the application is for housing assistance in several non-overlapping different political jurisdictions (e.g., a scattered site project), the Field Office Director shall notify the Chief Executive Officer of each local government, having the smallest geographic area of coverage, where housing assistance is proposed.

(3) For section 8 Existing Housing applications pursuant to 24 CFR, Part 882, the Field Office Director shall notify the Chief Executive Officers of the localities identified in the Application for Existing Housing as primary areas from which families to be assisted will be drawn.

(b) The notification to the Chief Executive Officer shall:

(1) Advise him that the Field Office Director has received and is considering an application for housing assistance, identify the housing program (e.g., section 8, section 235), the type of housing (e.g., new construction, substantial rehabilitation, or existing housing), the number of units by bedroom size, the number of units by household type (elderly and/or handicapped, family, large family), and the proposed location.

(2) Invite him, on behalf of the local government to provide comments with respect to the application within a period of thirty calendar days, which are relevant to a determination by the Field Office Director concerning the proposed housing assistance.

§ 891.304 Review and comment period.

(a) The Chief Executive Officer shall have a thirty-day comment period, beginning on the date of the notification letter described in § 891.303, to submit, on behalf of the local government, written comments relevant to a determination by the Field Office Director concerning the proposed application for housing assistance. The Field Office Director shall consider the comment period closed when such written comments are received. In no case shall the Field Office Director be obligated to consider subsequent comments unless the initial response indicated that additional comments would be provided prior to the expiration of the thirty-day comment period.

(b) The Chief Executive Officer, on behalf of the local government, may submit comments to the Field Office Director simultaneously with the application

V 41 164 AUG 23 76 UMI

for housing assistance. In such cases the Field Office Director shall consider that the provisions of § 891.303 have been met.

§ 891.305 HUD review of applications for housing assistance.

(a) The Field Office Director shall not approve an application for housing assistance prior to either (1) receipt of comments, or (2) expiration of the thirty-day comment period, whichever occurs earlier.

(b) In determining whether an application will be approved, the Field Office Director shall consider the comments provided by the local government.

(c) The Field Office Director shall promptly notify the Chief Executive Officer and the applicant of his determination with respect to the approval or disapproval of the application for housing assistance.

Subpart D—Allocation of Housing Assistance Funds

§ 891.401 General.

This Subpart describes the policies and procedures governing the allocation of contract authority, pursuant to section 213(d) of the Act, for housing assistance under the programs identified in § 891.101(a). It describes, in sequence, the actions to be taken by the Secretary in allocating contract authority to regional administrators, the actions to be taken by regional administrators in suballocating contract authority to Field Office Directors, and the actions to be taken by Field Office Directors in allocating contract authority to geographic areas within their jurisdictions.

§ 891.402 Determinations of lower income housing needs.

(a) Prior to allocating contract authority for the housing assistance programs identified in § 891.101(a), the Secretary shall determine on a program-by-program basis, the relative need for lower income housing assistance in each HUD field office jurisdiction. The determination of housing needs shall be based, so far as practicable, on the most recent U.S. Census data available relating to population, poverty, housing overcrowding, or other objectively measurable conditions pertaining to lower income housing needs. The actual statistical data elements used in determining housing needs for a specific housing program may be modified to meet the objectives of that program by taking into consideration the ages, incomes, or other relevant characteristics of the prospective program participants.

(b) On the basis of the factors specified in § 891.402(a), the Secretary shall develop a separate housing needs percentage, for each field office jurisdiction, on a program-by-program basis. This housing needs percentage shall be adjusted to reflect the relative cost of providing housing among field office jurisdictions so that the amount of contract authority allocated conforms to the number of housing units available for each field office jurisdiction.

§ 891.403 Initial allocation to HUD offices.

(a) The Secretary shall determine the amount of contract authority to be allocated by considering as available any uncommitted "carry-over" contract authority from the prior fiscal year as well as any newly authorized contract authority for each program. The Secretary shall consider contract authority to be "committed" for the purpose of this paragraph when the Field Office Director has signed the notification letter approving the application defined in § 891.102 (b), or in the case of the Low-Income Housing Program, when the Field Office Director has signed the Annual Contributions Contract List.

(b) A portion of the contract authority available during any fiscal year for the housing programs listed in § 891.101(a) may be retained by the Secretary for subsequent allocations to specific areas and communities. This contract authority, not to exceed twenty percent, may be used for:

(1) Housing needs which were unforeseeable, or for other reasons that could not practicably be measured by the formula described in § 891.402, such as natural disaster housing requirements or unanticipated relocation needs.

(2) Activities designed to meet lower-income housing needs as described in HAPs submitted by local governments or combinations of such local governmental units, including but not limited to, activities carried out under areawide plans pursuant to Subpart E.

(3) Applications for assistance with respect to housing in New Communities.

(c) Contract authority, except that set-aside pursuant to § 891.403(b), shall be allocated, so far as practicable, on a program-by-program basis to each Regional Administrator in accordance with § 891.402. Of these amounts, at least twenty percent, but not more than twenty-five percent, shall be allocated on a nationwide basis for use in nonmetropolitan areas. However, each Regional Administrator's allocation will be based upon the proportion of nonmetropolitan housing need within his jurisdiction, which need not be in the same proportion as the nationwide ratio.

(d) The Regional Administrator shall suballocate all the contract authority to each Field Office Director within thirty days from receipt of such allocations from the Secretary.

In making these suballocations, the Regional Administrator shall consider the demand for housing assistance as reflected in HAPs, the characteristics of particular housing programs, and, as far as practicable, relevant housing needs data based on the factors specified in § 891.402.

§ 891.404 Initial allocation to areas and localities.

(a) In determining the amount of contract authority to be allocated to geographic areas within their jurisdiction, Field Office Directors shall use the following procedures as far as practicable:

(1) Determine the relative housing assistance needs on a county-by-county basis based on the most recent U.S. Census data available and relevant HAPs. In making this determination, consideration shall also be given to areawide or State housing plans that reflect a coordinated regional housing assessment of local housing needs.

(2) Develop for each county, on a program-by-program basis, a separate housing assistance needs percentage factor. The factor developed for each county in a SMSA should represent that county's proportion of the total needs within all metropolitan counties in the field office's jurisdiction; similarly, the factor developed for each county not in a SMSA should represent the county's proportion of the total needs within all nonmetropolitan counties. In the case of a county in a SMSA, the factor shall be applied to the total contract authority allocated for metropolitan areas. In the case of a county not in a SMSA, the factor shall be applied to the total contract authority allocated for nonmetropolitan areas.

(NOTE.—In the New England States, SMSA boundaries are drawn along town and city lines instead of counties.) In both cases, the resulting contract authority shall be converted to estimates of the number of units which can be assisted.

(3) Establish regional or other allocation areas, such as SMSAs or groups of rural counties, broad enough to support economically feasible housing programs. In establishing such allocation areas, consideration should be given to state, county and other planning district boundaries, topographical barriers, or established commuting patterns. In addition, consideration should be given to housing plans developed by an HFDA or APO.

(b) The Secretary may direct that contract authority be set aside for use by an HFDA, or authorize Regional Administrators or Field Office Directors to do so. In any case in which there is such a set aside, the Field Office Director and the HFDA shall coordinate their respective efforts to assure an equitable distribution among allocation areas. Accordingly, the Field Office Director shall schedule a meeting with the HFDA for the purpose of reaching an agreement on an allocation plan for the HFDA which complements the allocation program of the field office. If agreement cannot be reached at this meeting, the Field Office Director shall notify the Regional Administrator, who shall resolve the differences. Appropriate adjustments in the allocation plan developed by the Field Office Director pursuant to § 891.404(a) may be made if the needs of an allocation area will be met by the HFDA.

(c) Field Office Directors shall complete the actions set forth in subsections (a) and (b) above within thirty days from receipt of their suballocations from the Regional Administrator.

(d) In developing its HAP goals, each local government may consider as being available to it the entire amount allocated for the allocation area in which it is located. It should be understood that this is not a commitment to provide such amounts to the locality, since Field Office Directors may approve the best applications for housing assistance within the allocation area. However, priority for future approvals shall be given to acceptable applications for assistance in localities which did not previously receive housing assistance.

§ 891.405 Reallocation of uncommitted contract authority.

(a) If the Field Office Director determines that the contract authority for a particular allocation area is not likely to be utilized during the fiscal year, he may reallocate some or all of the contract authority to another area where it is likely to be utilized.

(b) If the Regional Administrator determines that the contract authority suballocated to a Field Office Director, or allocated for a particular allocation area, is not likely to be utilized during the fiscal year, the Regional Administrator may reallocate some or all of the contract authority to another Field Office Director or allocation area where it is likely to be utilized.

(c) Any reallocations must satisfy the requirements of § 891.403(c) with respect to nonmetropolitan allocations and the program-by-program allocations of contract authority, but should take into account the demands for housing assistance contained in the goals of approved HAPs and any additional HUD requirements.

(d) Only the Secretary may reallocate contract authority among Regional Administrators.

Subpart E—Supplemental Allocations Based Upon Areawide Housing Opportunity Plans

§ 891.501 Applicability and scope.

(a) This Subpart describes the policies and procedures governing supplemental allocations of contract authority for the housing assistance programs identified in § 891.101(a) for use in jurisdictions covered by a HAP and participating in an approved Plan. The Plan, developed by an APO, shall provide for the promotion of a greater choice of housing opportunities for lower income households outside of areas containing undue concentration of low income households. The role of the APO under the provisions of this Subpart includes, but need not be limited to, (i) development of the Plan and the allocation procedure as described in § 891.502, and (ii) submission of requests to the Secretary for supplemental allocations in accordance with Sec. 891.504. The participation of the APO will provide a determination of the housing assistance needs on an areawide basis as well as the development of numerical goals for housing assistance in participating jurisdictions.

(b) The Secretary, after considering all the pertinent factors under section 213(d) of the Act, will determine the amount of contract authority to be used as the housing assistance program(s) available in any fiscal year for which such allocations will be made.

(c) The amount of the supplemental allocation provided on the basis of any approved Plan shall not be less than twenty percent nor more than fifty percent of the contract authority for the applicable housing assistance program otherwise made during the same fiscal year to Participating Jurisdictions in accordance with Subpart D.

(d) The Secretary shall announce, through a Notice in the FEDERAL REGISTER, the amount of contract authority to be made available for supplemental allocations during any fiscal year; the housing assistance program(s) under which these allocations shall be made; any additional or special criteria which may be established for specific housing assistance programs; and the closing date and address for submission of requests for the supplemental allocations.

(e) In order to be approved as a basis for a supplemental allocation under this subpart, a Plan must meet the criteria for acceptability set forth in § 891.502. If, however, the number of Plans meeting the acceptability criteria would require supplemental allocations in excess of the amount made available by the Secretary, priority shall be given to those Plans which also meet the criteria set forth in § 891.503.

§ 891.502 General criteria for acceptable plans.

(a) In addition to any special criteria in the Notice published pursuant to § 891.501(d), a Plan, to be acceptable, shall be a system for allocating contract authority which provides for greater housing opportunities for lower income households outside areas of undue concentrations of low income households. The Plan shall contain, but need not be limited to, the following elements:

(1) An assessment of the housing assistance needs of lower income households on an areawide basis and for each jurisdiction within the area served by the APO (whether or not it is a Participating Jurisdiction), including households displaced or to be displaced by governmental action and an estimate of households expected to reside in each jurisdiction as a result of existing or planned employment facilities pursuant to § 570.303(c)(2) of the CDBG regulations. This assessment shall indicate housing assistance needs by (i) household type (elderly and/or handicapped, family, large family), (ii) present form of housing tenure (owner and renter), (iii) female heads-of-households and (iv) minority households. If the Plan does not include such assessment for households expected to reside or for any of the elements specified under (i), (ii), (iii), or (iv) of this subparagraph, it shall include a work plan acceptable to the Secretary for the preparation of that portion of the assessment, with a specific timetable for its completion.

(2) Numerical goals, on an annual basis, for the distribution of lower income housing assistance to each Participating Jurisdiction which reflect the needs identified in § 891.502(a)(1). These numerical goals and the needs identified in any HAPs applicable to Participating Jurisdictions must be generally consistent.

(3) Evidence of agreement between the APO and each Participating Jurisdiction on numerical goals for the distribution of lower income housing assistance and on the implementation of the Plan. This agreement shall be evidenced by (i) individual written agreements or other confirmation from the Chief Executive Officer or local government of the Participating Jurisdiction, (ii) support of the Plan in the HAPs of Participating Jurisdictions covered by HAPs; or (iii) an equivalent provision acceptable to the Secretary.

(4) A procedure for allocating contract authority in a reasonable manner which is in accordance with the objectives of the Plan and this Subpart.

(5) Provision for the Plan to be used in A-95 review of applications for community development and housing assistance programs.

(b) The Plan shall also meet the following conditions:

(1) The Plan shall apply to and include as Participating Jurisdictions at least fifty percent of the jurisdictions in the area served by the APO, wherein Participating Jurisdictions represent at least seventy five percent of the population of the area.

(2) The Plan shall have been approved by the executive board of the APO.

(3) The APO shall demonstrate that the Plan can be implemented and that an additional allocation of contract authority can be committed within a reasonable time within the Participating Jurisdictions consistent with the Plan. Satisfactory assurances of implementation include, but are not limited to, (i) the availability of sites which meet all applicable program standards and criteria (including adequate zoning and water and sewer capacity) in those Participating Jurisdictions in which the Plan proposes the use of newly-constructed or rehabilitated housing under the programs specified in Sec. 891.101(a), and developer/sponsor-owner interest (e.g. as evidenced by responses to recent invitations for housing applications under these programs); (ii) the willingness and ability of established PHAs to administer or otherwise participate in the program in those Participating Jurisdictions in which the Plan proposes the use of a program specified in Sec. 891.101(a) which requires the participation of a PHA, or actions taken by such Participating Jurisdictions to establish PHAs or to negotiate agreements with existing PHAs to perform this function; and (iii) contract authority currently allocated to Participating Jurisdictions has been committed or satisfactory progress has been made in committing such contract authority.

(4) The data used in making the assessment of housing assistance needs in § 891.502(a)(1) is available for use by Participating Jurisdictions in preparing their HAPs.

V 41 164 AUG 23 76 UM

§ 891.503 Criteria for priority plans.

(a) In order for an Acceptable Plan to qualify for priority consideration, it must meet one or more of the following criteria:

(1) The APO has completed all elements of the assessment required in § 891.502(a)(1).

(2) The APO presently administers or takes part in a program which provides housing information and referrals or related counseling and assistance to lower income and minority households desiring housing assistance outside areas which contain undue concentrations of low income or minority households.

(3) To the extent that the Section 8 Existing Housing Program is used by Participating Jurisdictions, eligible families currently are permitted to use their Section 8 certificates of family participation in all participating jurisdictions (e.g., through use of an areawide, regional, or state public housing agency, or through cooperation or other local agreements).

(4) The APO has endorsed and/or has become involved in the development of a voluntary areawide affirmative fair housing marketing plan which is currently operative.

(b) If the number of Plans meeting the priority criteria will require supplemental allocations in excess of the amount available, preference shall be given to those Plans which apply to and include as Participating Jurisdictions the greatest percent of the jurisdictions in the area served by the APO.

§ 891.504 Contents of Requests for Supplemental Allocations.

Each request for supplemental allocation shall consist of (a) a letter of transmittal; (b) an index of all materials submitted with the request, including graphs, maps, or other illustrative material; (c) a list of all jurisdictions within the area served by the APO, identification of Participating Jurisdictions and identification of Participating Jurisdictions covered by HAPs; (d) a copy of the Plan; (e) a statement with specific references to the Plan, where appropriate, which responds to each of the acceptability criteria contained in § 891.502 and the priority criteria contained in § 891.503, and discusses how the Plan conforms to these criteria; (f) a discussion of the methodology used in assessing areawide housing assistance needs under Sec. 891.502(a)(1); (g) a description of the housing allocation procedure required under § 891.502(a)(4) and the extent to which this procedure promotes greater housing opportunities for lower income households outside areas containing undue concentration of low income households; and (h) a tentative plan, showing type of households to be assisted and type of housing proposed for the Participating Jurisdiction covered by a HAP, for using supplemental allocations of twenty, thirty, forty and fifty percent of the contract authority for the applicable program(s) otherwise allocated to Participating Jurisdictions for the current fiscal year in accordance with subpart D.

§ 891.505 Review and selection of plans.

(a) The Secretary shall review all Plans submitted to identify (1) Acceptable Plans under § 891.502 and (2) Priority Plans under § 891.503. Field Office Directors and Regional Administrators shall be consulted in this evaluation.

(b) On the basis of the evaluation conducted in accordance with paragraph (a) of this section, and in accordance with § 891.501, the Secretary shall select, from among all acceptable plans, those plans on the basis of which supplemental allocations shall be awarded.

(c) The amount of the supplemental allocation for each of the selected plans shall be determined by the Secretary after considering the following factors:

(1) The overall quality of the plan with respect to each of the criteria in §§ 891.502 and 891.503.

(2) The type of households (elderly and/or handicapped, family, large family) and type of housing (new construction, substantial rehabilitation, or existing housing) proposed to be assisted with the supplemental allocation.

(3) The amount of housing assistance available for supplemental allocations and the number of Plans selected.

(4) The amount of housing assistance currently allocated to Participating Jurisdictions that is committed.

(d) After the total amount of the supplemental allocations for all the selected Plans is determined, the allocation will be distributed to the appropriate Field Office Directors for reallocation among Participating Jurisdictions covered by a HAP. The Field Office Directors will consult with APOs to determine the actual distribution and program mix of units on the basis of the Plan and other applicable administrative or statutory requirements.

(It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.)

Effective date: This regulation shall be effective October 1, 1976.

Issued at Washington, D.C., August 15, 1976.

JAMES YOUNG,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.76-24582 Filed 8-20-76;8:45 am]

federal register

MONDAY, AUGUST 23, 1976

PART V:

DEPARTMENT OF COMMERCE

Economic Development Administration

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Final Rulemaking

VOL 41 NO 164 AUG 23 76 UM

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 316—LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

The Economic Development Administration, pursuant to Title I of the Public Works Employment Act of 1976, hereby publishes these regulations to amend Title 13 of the Code of Federal Regulations by adding a new Part 316. These regulations describe procedures by which eligible applicants may receive financial assistance for the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects and for the completion of plans, specifications, and estimates for local public works projects.

STATEMENT OF OBJECTIVES

LEGISLATIVE OBJECTIVES

On the basis of an in-depth study of the Local Public Works Capitol Development and Investment Act of 1976 and its legislative history, it has been determined that the purpose of this legislation is to provide:

a. Employment opportunities in areas of high unemployment through the expeditious construction or renovation of useful public facilities; and

b. A countercyclical stimulus to the national economy.

EDA PROGRAM OBJECTIVES

Analyses of past public works programs and the Economic Development Administration's (EDA) experience in operating such programs have revealed certain characteristics about the extent and nature of employment generated by public works construction. Of these, the most relevant to the objectives of the Local Public Works Capital Development and Investment Act are the preponderance of skilled construction jobs and the relatively high cost of creating a job through such an approach. Between 68 and 81 percent of the costs of a public works project are for materials, equipment, overhead, and contractor profits, leaving between 19 and 32 percent for on-site wages. Consequently, even the most labor intensive public works projects generate a limited amount of direct employment per dollar of project cost. Public works projects do, however, result in useful end products and are commonly believed to provide general economic stimulation, particularly to the construction and construction-related industries.

In recognition of these characteristics of public works construction projects, as well as other considerations deriving from the legislation and EDA's experience, the following objectives for implementing the Local Public Works Act have been established:

a. To insure that consideration is given to the relative needs of the various sections of the country;

b. Within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, that maximize employment opportunities for unemployed residents of the project area;

c. To fund locally oriented projects that provide useful public facilities in areas of high unemployment and low income;

d. To fund projects that advance local plans and contribute to long-term development;

e. To fund facilities that could not have been constructed in the absence of the Local Public Works grant (i.e., facilities for which Federal funds are not merely replacing or reducing local, State or other Federal monies that have been specifically provided or set aside); and

f. To carry out a comprehensive evaluation of both the direct employment impact and the indirect or stimulative impact of the projects funded.

Because these regulations pertain to a grant program administered by the Economic Development Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. In addition, Section 107 of the Public Works Employment Act of 1976 requires implementing regulations to be prescribed within thirty days after date of enactment.

However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230 by September 24, 1976. This is a new and widespread program, and all suggestions received will be carefully considered. If a sufficient number of valid comments raising significant issues are received, these regulations may be amended and republished. Until such time as further changes are made, however, 13 CFR Part 316 shall remain in effect, thus permitting the public business to proceed more expeditiously.

The application form, necessary to carry out the Public Works Employment Act of 1976, as provided in Section 107 therein, has been prescribed and submitted to the Office of Management and Budget for clearance as required by OMB Circular No. A-40, as revised on February 10, 1976. When clearance has been received, EDA will publish the application form, which will then be available through EDA and its Regional Offices.

Interested persons should take notice that it is the policy of the Economic Development Administration that no applications for financial assistance pursuant to Title I of the Public Works Employment Act of 1976 will be accepted until the funds to implement the program have actually been appropriated and apportioned to and made available for use by the agency.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend or go beyond the statute, and therefore, there is no inflationary impact of these regulations beyond the statute.

Accordingly, the regulations shall read as follows:

Sec.
316.1 Purpose.
316.2 Definitions.
316.3 Applicants.
316.4 Direct grants.
316.5 Supplemental grants.
316.6 Limitations on grants.
316.7 Priority of projects.
316.8 Allocation of program resource levels to regional offices.
316.9 Determination of unemployment rates.
316.10 General considerations and requirements for financial assistance.
316.11 Compliance with other Federal requirements.
316.12 Acceptance of applications.
316.13 Environmental considerations.
316.14 Final determination.
316.15 Termination.

AUTHORITY: Title I, Pub. L. 94-369 (July 22, 1976); 42 U.S.C. 6701 *et seq.*; 90 Stat. 999; and Department of Commerce Organization Order 10-4 (September 30, 1975), as amended (40 FR 56702, as amended at 40 FR 58878).

§ 316.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants under Title I of the Public Works Employment Act of 1976, which is entitled the "Local Public Works Capital Development and Investment Act of 1976."

§ 316.2 Definitions.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan native village.

"Initiation of construction" means that a contract has been awarded for construction of the project or notice to proceed or its equivalent has been issued or on-site labor has begun, whichever is earlier.

"Local Public Works Act" means the "Local Public Works Capital Development and Investment Act of 1976," which is Title I of the Public Works Employment Act of 1976.

"Local government" means any city, county, town, parish, or other political subdivision of a State (including local school districts), and any Indian tribe.

"Maintenance costs" means costs that are incurred for any necessary repairs or upkeep of property which neither adds to the permanent value of the property or appreciably prolongs its intended life, but rather keeps it in an efficient operating condition.

"Political subdivision of a State" means the agencies, instrumentalities and authorities established or authorized by State law including, but not limited to, special districts and regional authorities formed by local governments.

"Public works" means public facilities including, but not limited to, municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

§ 316.3 Applicants.

A State or a local government, as defined in § 316.2 of this part, is eligible for assistance under the Local Public Works Act.

§ 316.4 Direct grants.

(a) The Assistant Secretary may make direct grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the Local Public Works Act. Such grants may include funds for the completion of plans, specifications and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

(b) Applications under this section will be approved only if the applicant submits with its application, if applicable, a written certification from the other Federal agency/agencies that the project meets all applicable Federal statutory and regulatory requirements.

(c) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

§ 316.5 Supplemental grants.

(a) The Assistant Secretary may make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the project cost for any Federally-assisted public works project authorized by any Federal law other than the Local Public Works Act if the applicant submits with its application:

(1) A written certification from the other Federal agency/agencies that:

(i) Federal financial assistance for the project has been approved and the funds are immediately available for the project;

(ii) The project meets all applicable Federal statutory and relevant related requirements; and

(2) Its written certification that actual construction of the project has not yet been initiated because of lack of funding for the non-Federal share.

(b) The Assistant Secretary also may make grants in an amount necessary to provide all or part of the required State or local share (but not both shares) of the cost of any public works project for which financial assistance is authorized by State or local law requiring such contribution if the applicant submits with its application a written certification from the appropriate authority that:

(1) The share of financial assistance not applied for has been properly approved and is immediately available for the project;

(2) The project meets all applicable statutory and other relevant requirements of law; and

(3) Construction of the project has not yet been initiated.

(c) Grants under this section may include funds for the completion of plans, specifications, and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

§ 316.6 Limitations on grants.

(a) *Canals and watercourses.* No grant shall be made under this part for any project having as its principal purpose and permanent effect:

(1) The channelization, damming, diversion, or dredging of any natural watercourse, or

(2) The construction or enlargement of any canal except a canal or raceway designated for maintenance as an historic site.

(b) *Real property.* No part of any grant made under this part shall be used for the acquisition of any interest in real property.

(c) *Maintenance.* No part of any grant made under this part shall be used for the payment of maintenance costs in connection with a project constructed (in whole or in part) with Federal financial assistance under the Local Public Works Act.

§ 316.7 Priority of projects.

(a) *Allocation of funds.* (1) In making grants under this part, when the average national unemployment rate for the three most recent consecutive months for which data is available from the United States Department of Labor, has been at least 6½ percent:

(i) Seventy percent of all amounts appropriated to carry out the Local Public Works Act shall be allocated for project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available exceeds the average national unemployment rate for the same period of time. The Assistant Secretary shall expedite and give priority to applications in this category.

(ii) The remaining thirty percent of all amounts appropriated to carry out the Local Public Works Act shall be available for distribution according to priority as listed below:

(A) Project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available is more than 6½ percent but not more than the average national unemployment rate for the same period of time, and

(B) Project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available is 6½ percent or less. These project applications will be considered only when funding of such projects is necessary to fulfill the minimum funding level required for each State or if funds are available in the 30 percent category.

(b) *State limitations:* Not less than one-half of one percent or more than twelve and one-half percent of all amounts appropriated to carry out the Local Public Works Act shall be granted for local public works projects within any one State, except that not less than one-half of one percent of the total of all funds appropriated for this part shall be granted for public works projects in Guam, the Virgin Islands, and American Samoa, in the aggregate.

§ 316.8 Allocation of program resource levels to regional offices.

(a) *Regional allocations.* To assist in the orderly utilization of program resources, the Assistant Secretary will assign to each regional office a target level of anticipated project assistance for the total of all areas served by that regional office. Such regional allocations of program resources shall be based on appropriation apportionments available to EDA and shall be calculated on a formula basis reflecting the relative numbers of unemployed persons in the States served by the regional office and the level of unemployment rates in those States.

(b) *State planning ceilings.* Regional offices shall observe with respect to each State served by it a ceiling on project approval recommendations. The allocation of funds to regions and States will be made after the funds have been apportioned to EDA and will be based on unemployment data available at that time. EDA will announce the date on which the funds are apportioned and the allocation is made. The formula by which the planning ceiling for each State will be established is as follows:

Subject to program administrative costs and statutory minimum and maximum amounts allocated to individual States by the legislation, 65 percent of the funds will be set aside as planning ceilings for individual States based on the share of unemployed workers residing in a State of the total national unemployed; 35 percent of the funds will be set aside as planning ceilings to individual States based on the relative severity of unemployment for each State above the national unemployment rate.

(c) It is to be understood that the planning ceiling assigned to each State is not to establish an entitlement to any minimum level of project assistance within that State (unless such is the statutory maximum or minimum) but is adopted only for the purpose of furthering the objective of assuring that ade-

V 41 164 AUG 23 76 UM

quate consideration is given to the relative needs of various sections of the country. Where the planning ceiling calculated on the formula basis is less than the statutory minimum assured for each State the statutory minimum shall be the planning ceiling, and where the planning ceiling calculated on the formula basis is greater than the statutory maximum for any State the statutory maximum shall be the planning ceiling.

(d) 120 days after the date on which funds are first apportioned for program assistance under the Act and at any time thereafter the Assistant Secretary may reconsider the regional allocations and State ceilings previously established and make such adjustments as are determined to be reasonable in achieving the purposes of the Act.

§ 316.9 Determination of unemployment rates.

(a) The average unemployment rate for the three most recent consecutive months for which data is available for a State or local government applicant under this part may be determined from information obtained in the following order:

(1) *The United States Department of Labor.* (i) EDA's Qualification Division has provided to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which shows the average unemployment rate for the three most recent consecutive months for:

(A) the entire nation;

(B) each State; and

(C) where available, "identifiable" local governments.

(ii) On or before September 15, 1976, EDA's Qualification Division will provide to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which will show the average unemployment rate for the three most recent consecutive months for approximately 1,000 counties throughout the nation.

(iii) The above lists will be updated and expanded if and when more information is obtained from the United States Department of Labor.

(2) If not available from the United States Department of Labor the average unemployment rate for the three most recent consecutive months for which information is available shall be obtained from the State employment security agency.

(3) Indian tribes shall submit information from the Bureau of Indian Affairs of the United States Department of Interior or other appropriate sources acceptable to the Assistant Secretary.

(b) If requested by an applicant, the unemployment rate of a local government shall be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood. The applicant shall apply to the State employment security agency for the average unemployment rate for the three most recent consecutive months for which data is available. The data obtained from the State employment security agency will be accepted by the Assistant Secretary.

(c) If requested by an applicant, in determining the unemployment rate of a local government, unemployment in those adjoining areas from which the labor force for a project may be drawn shall be taken into consideration.

(d) The Assistant Secretary has obtained from all State employment security agencies their cooperation to provide all applicants, other than Indian tribes, with unemployment data.

(e) EDA will not accept an unemployment rate determination that is based on data obtained for a time period which is longer than twelve months prior to the date of the application as stated therein.

(f) The unemployment rate established by one of the procedures above, will determine whether the area qualifies for the 70 percent or 30 percent category as described in § 316.7 above.

(g) No data regarding unemployment rates for time periods after the date of the application as stated therein, may be changed.

§ 316.10 General considerations and requirements for financial assistance.

(a) *Project selection procedure*—(1) *Considerations.* In line with the purposes and objectives of the Act, EDA's goal of choosing projects having the greatest potential for furthering these purposes and objectives, the relative importance of various factors in determining this potential, and the availability and consistency of data specified in the Act, the following project selection procedures have been adopted.

(2) *Project selection formula.* The ranking procedure developed for selecting projects within each State's planning allocation uses those project and area factors that will contribute most to achieving substate equity in the distribution of planning funds and insures that the relatively more economically efficient projects are selected. All factors will be standardized for comparability purposes and assigned policy weights to reflect their importance in the ranking procedure.

(i) *Basic rank.* The basic rank of a project will be determined by the following factors:

(A) The number of unemployed workers in the project area averaged over the three most recent months for which data is available. An area characterized as having a high unemployment rate overall is generally characterized as having a high unemployment rate in the construction industry. Similarly, an area characterized as having a large number of unemployed overall is generally characterized as having a relatively large number of unemployed construction workers as a share of the overall unemployed. Therefore, this factor gives consideration to construction unemployment. This factor will constitute 30 percent of a project's basic rank.

(B) Severity and duration of unemployment, as measured by the unemployment rate prevailing in the project area averaged over the last three months for which data is available. This factor will constitute 25 percent of a project's basic rank.

(C) The cost per person-month of employment, defined as the ratio of the total cost of the project to the total number of person-months of employment to be generated. In formulating project proposals, applicants should bear in mind the intent of the Act to reduce unemployment generally, and to give due consideration to the amount of unemployment and underemployment in the construction and construction-related industries. As previously indicated, projects eligible for funding would include, but are not limited to, such local public works projects as municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads, civic centers, museums, health, education and social service facilities, convention centers, and the upgrading of existing facilities through renovation, repair, and other related improvements. Finally, it should be emphasized that supplemental assistance provided for under the Act will be considered as part of total project costs; the latter is defined as funds from all sources, whether Federal, State, or local. The cost per person-month of employment factor will constitute 30 percent of a project's basic rank.

(ii) *Additional considerations.* A project's basic rank will be increased if the project meets one or more of the following criteria:

(A) Exhibits potential for providing long-term benefits. The basic rank of a project will be increased up to a maximum of 10 percent if it meets this criterion. The amount of increase will be determined by the nature and extent of the long-term benefit(s) to be provided by the project.

(B) Is sponsored by a general purpose unit of local government, as defined in § 316.2 above. Projects meeting this criterion will have their basic ranks increased by five percent.

(C) Relates to existing approved plans and programs of a local community development or regional development nature or promotes or advances longer range plans and programs. The basic rank of a project meeting this criterion will be increased by five percent.

(iii) *Final rank.* The final rank of a project is to be determined by summing the basic rank and increases attributable to the additional considerations defined above.

(3) *Application of project selection formula*—(i) *Geographic considerations.* Projects will be ranked and assessed relative to other projects submitted from the *same* State until such time as the Assistant Secretary determines, pursuant to paragraph (a)(2) above, that comparison of projects submitted from different States is required to either further the purposes and objectives of the Act or to comply with statutory requirements.

(ii) *Priority considerations.* Within each State, projects submitted from areas with an unemployment rate exceeding the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in this priority category. Similiarly, projects submitted by areas with an unemployment rate below the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in the same priority category. Applicants who anticipate the project labor requirements will draw upon the unemployed and underemployed labor resources of other jurisdictions outside the immediate project area (such as a multi-county area) will be given priority consideration on the basis of the unemployment rate prevailing in the extended geographical (labor market) area. Similarly, the basic rank computations discussed above will be computed in aggregate on data provided for the extended geographical area.

(iii) *Project selection.* Within each State and priority category, projects will be selected on the basis of their final ranks until the State planning allocation for each priority category has been exhausted or until such time as the Assistant Secretary determines that the remaining funds made available under the Act must be reallocated among the States.

(b) An application shall be rejected unless:

(1) It is properly prepared on appropriate forms prescribed by the Assistant Secretary.

(2) It contains one of the following:

(i) Information showing that the area conforms to an area for which United States Department of Labor unemployment statistics are available; or

(ii) Unemployment information from the appropriate State unemployment security agency.

(3) It contains a certification by the applicant that construction on the project has not yet been initiated;

(4) It contains assurances, satisfactory to the Assistant Secretary, that onsite labor can begin within ninety days of project approval;

(5) Where applicable, it relates the proposed project to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions;

(6) It contains evidence, where feasible, that the proposed project will promote or advance longer range plans and programs;

(7) It contains adequate assurances that all laborers and mechanics employed by contractors or subcontractors on the proposed project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5).

(8) It contains adequate assurance by the applicant and by any "other parties" as defined in 15 CFR Subtitle A, Part 8, that no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under the proposed project; and an assurance that it is not involved in any civil rights litigation or if it is involved in a lawsuit or Federal administrative action alleging discrimination it shall state the name of the case, the court where filed, or the name of the agency involved in the administrative action.

(9) It contains certification, by the properly authorized official of the Federal agency or State or local government, that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished, or replaced by funds requested under this part.

(c) Applicants should be advised that false representations and/or certifications in connection with applications for assistance under this part may be the basis for criminal liability under title 18 of the United States Code.

(d) No cost overruns for public works projects previously funded under this part will be approved.

(e) Project costs for administration, plans, specifications, estimates and other A/E costs, which have been incurred prior to the date of application, will not be funded.

(f) Applications will not normally be approved where any of the following conditions exist:

(1) The project site, including easements and rights-of-way, has not been obtained, clear of any encumbrances; or

(2) The project request is for a supplemental to another Federal, State or local grant which has not been approved by the applicable grant agency.

(g) The maximum amount of financial assistance made available under this part should not exceed $5 million for each project; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

(h) Projects which cannot be completed within two years after date of approval will not be considered; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

§ 316.11 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant under this part, comply with the following relevant Federal requirements:

(a) All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment as provided 13 CFR 309.6;

(b) Those concerning relocation and related payments to all persons displaced as a result of the development of a public works project with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 13 CFR Part 310;

(c) If the project involves a detention facility, those sections of Part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, found at 42 U.S.C. 3750 b(1) and (4)–(9);

(d) The provisions of OMB Circular A–95, except during the first ninety days after EDA begins receiving applications when the following procedures shall apply:

(1) Applicants must submit their full applications or notifications of intent to apply to the appropriate clearinghouse as early as possible.

(2) Upon submission of an application to EDA, the applicant must certify that he has submitted the full application to the appropriate clearinghouse.

(3) EDA may begin processing the application upon its receipt but will make no final approval of an application until 30 days after its receipt unless clearinghouse response is received before 30 days have elapsed.

(4) Clearinghouse comments will be submitted directly to EDA; EDA will consider such comments until it has finished processing the application.

(e) All environmental requirements, to the maximum extent possible, as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environment Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*); and EDA's requirements found in § 316.13 below;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) and EDA's requirements found in § 316.13 below;

(5) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271–1287) and EDA's requirements found in § 316.13 below;

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*);

(7) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 *et seq.*); and

(8) The Fish and Wildlife Coordination Act of March 10, 1934, as amended (16 U.S.C. 661–666c).

(f) 13 CFR 309.9, entitled "Records and Audit;"

(g) 13 CFR 309.27, entitled "Land use near Federal airfields;"

(h) 13 CFR 309.14, entitled "Design, construction, and alteration of buildings to accommodate the physically handicapped;"

(i) 13 CFR 309.26, entitled "Project modification;"

(j) 13 CFR Part 314, entitled, "Property management standards;"

(k) The National Flood Insurance Program and EDA's requirements re-

V 41 164 AUG 23 76 UMI

garding flood hazards found at 13 CFR 309.15; and

(l) Other laws affecting this program.

§ 316.12 Acceptance of applications.

(a) Applications for assistance under this part shall only be submitted to the appropriate EDA Regional Office, as provided in 13 CFR 301.31.

(b) Applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office.

(c) EDA shall endeavor, within five working days from the date the application is actually received by the appropriate Regional Office, to determine whether the application has been completely and properly prepared, and contains accurate unemployment rates. An application may be rejected (denied) unless it contains full and accurate information including the requirements of Section 316.10 above. By the end of the fifth working day after the date the application was received, the Regional Director should notify the applicant if the application has been rejected, and state what is needed to properly complete the application. However, EDA reserves the right during the 60 day period after receipt of an application to reject an application for substantially being incomplete, improperly prepared, or otherwise failing to meet the requirements of this part.

§ 316.13 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) Since the Local Public Works Act requires applications to be processed within 60 days of their acceptance, EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decision.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application, except with respect to subsections C and D if such materials are not available in which case the applicant must so certify:

(i) a description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected; and data on the expected environmental impact;

(ii) alternatives to the proposed project;

(iii) any environmental analysis previously conducted by local, State, federal agencies; and

(iv) evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA, within the 60 day limit, may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may, within the 60 day limit, request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmenal costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and request for comments prior to application's submission to EDA.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

(c) *The Wild and Scenic Rivers Act.* (1) If required, EDA will coordinate its processing of a proposed project with either the Department of Interior or the Department of Agriculture.

(2) EDA will use the results of this coordination process, even though completion of the process may not be possible, as a factor in making a final decision on the project.

§ 316.14 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director shall notify the applicant, in writing, when its application has been rejected and state the reasons therefor.

(c) The Regional Director shall forward to the Assistant Secretary in Washington, D.C., all applications which he deems are properly completed and eligible for assistance under this part.

(d) The Assistant Secretary shall review all applications received from the Regional Directors and make the final determination.

(e) If no determination has been made by the end of the sixtieth day after the application was received as determined in § 316.12 above, the application will be deemed to be approved.

§ 316.15 Termination.

(a) An appropriate official of the grantee may request EDA to cancel or terminate a public works project approved under this part. This request must be accompanied by a certified resolution or ordinance authorizing the requesting party to make such request. Before agreeing to such request, EDA will determine the legal sufficiency of such request.

(b) EDA may initiate a cancellation or termination of a project approved under this part for failure by the grantee to adhere to the requirements of the grant.

(c) EDA may initiate a cancellation or termination of a project approved under this part whenever it determines that such cancellation or termination is in the best interest of the government. Cancellation or termination shall be effected by delivering a notice to the grantee specifying the extent of the cancellation or termination and the date upon which it becomes effective.

Effective date: These regulations become effective on August 23, 1976.

JOHN W. EDEN,
Assistant Secretary
for Economic Development.

AUGUST 20, 1976.

[FR Doc.76-24805 Filed 8-20-76;9:47 am]

V 41 164
AUG 23 76
UMI

165

Vol.41–No.165
8–24–76
PAGES
35675–35842

federal register

TUESDAY, AUGUST 24, 1976



highlights

PART I:

NONFOOD ASSISTANCE PROGRAM
USDA/FNS issues final guidelines; effective 8–24–76.... 35686

SUMMER FOOD SERVICE
USDA/FNS publishes summary of comments on proposed regulations on program for children..... 35685

VOCATIONAL EDUCATION
HEW/OE proposes criteria for FY 1977 curriculum; comments by 9–23–76..... 35722

GRAIN CROPS
USDA/ASCS amends its regulations for wheat, feed grain, barley, oats, and rye (6 documents); effective 8–23 and 8–24–76 35694

NEW DRUGS
HEW/FDA denies hearing and refuses approval of applications for Dexamyl..... 35741

OLIVES
USDA/AMS issues proposed expenses and rate of assessment; comments by 9–10–76..... 35722

INTERSTATE HIGHWAYS
DOT/FHA requests comments by 9–20–76 on funding study 35756

DISASTER LOANS
SBA amends provisions; effective 6–25–76..... 35675

PRIVACY ACT OF 1974
The following agencies issue documents on implementation:
Treasury Department..... 35734
General Services Administration..... 35767
International Boundary and Water Commission—United States and Mexico..... 35833
Civil Service Commission..... 35757

MAIL SERVICES
PS adopts incorporation by reference for Code of Federal Regulations (2 documents); effective 9–1–76..... 35682, 35685

ENVIRONMENTAL IMPACT
PS proposes revision of assessment procedures; comments by 9–27–76..... 35725

CONTINUED INSIDE

V41 I165 AUG 24 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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MEETINGS—

USDA/ASCS: Advisory Committee on Grains—Wheat Feed Grains, and Soybeans, 9–16 and 9–17–76 35738
National Cotton Advisory Committee, 9–16 and 9–17–76 35738
Interior: National Petroleum Council, Committee on Future Energy Prospects, 9–10–76 35737
NPS: North Atlantic Region Advisory Committee, 9–20–76 35736
BLM: Craig, Colorado District Advisory Board, 10–4 thru 10–6–76 35735
Ukiah District Multiple-Use Advisory Board, 10–7 and 10–8–76 35735
HEW: National Professional Standards Review Council, 9–13 and 9–14–76 35755
Health Insurance Benefits Advisory Council, 9–16 and 9–17–76 35755
National Institute of Education: National Council on Educational Research, 8–30–76 35755
OE: National Advisory Council on Indian Education, 9–10 and 9–11–76 35754
DOD: Advisory Group on Electron Devices (2 documents); 9–16 and 9–17, 9–21 and 9–22–76 35735
Labor/ETA: Federal Committee on Apprenticeship, 9–8 and 9–9–76 35775
Commerce/DIBA: Semiconductor Manufacturing and Test Equipment Technical Advisory Committee: Material Preparation Subcommittee, 9–16–76 35740
Pattern Generation and Image Transfer and Inspection Subcommittee, 9–16–76 35740
National Foundation on the Arts and the Humanities: Artists-in-Schools Advisory Panel, 9–13 and 9–14–76 35770
Federal Graphics Evaluation Advisory Panel, 9–15–76 35770
Visual Arts Advisory Panel, 9–13 thru 9–15, 9–20 and 10–5–76 35770
Public Programs Panel, 9–20 and 9–21–76 35770
SBA: Concord District Advisory Council, 9–9–76 35771

CHANGED HEARINGS—

FTC: Food advertising, 10–25–76 35725

PART II:

SAVINGS AND LOAN ASSOCIATIONS

FHLBB adopts regulations on conflict of interest; effective 9–30–76 and proposes proxy solicitation amendments; comments by 10–8–76 (2 documents) 35812, 35827

PART III:

ELECTIONS

FEC publishes advisory opinion requests 35829

PART IV:

PRIVACY ACT

International Boundary and Water Commission, United States and Mexico, United States Section Issues notice of systems of records 35833

contents

AGRICULTURAL MARKETING SERVICE
Rules
Peaches grown in Colo 35695
Proposed Rules
Olives grown in Calif 35722
Notices
Grain standards; inspection points:
Nebraska 35738

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules
Feed grains; special programs; 1975–1977 crop years 35694
Wheat; marketing quotas and acreage allotments; 1975–1977 crop years 35694
Notices
Meetings:
Advisory Committee on Grains—Wheat, Feed Grains and Soybeans 35738
National Cotton Advisory Committee 35738

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Forest Service; Rural Electrification Administration.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Livestock and poultry quarantine:
Hog cholera 35675
Overtime services relating to imports and exports:
Plants, commuted travel time allowances 35693

ARTS AND THE HUMANITIES, NATIONAL FOUNDATION
Notices
Artists-in-Schools Advisory Panel 35770
Federal Graphics Evaluation Advisory Panel 35770
Public Programs Panel 35770
Visual Arts Advisory Panel 35770

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Continental Air Lines, Inc 35756

CIVIL SERVICE COMMISSION
Notices
Privacy Act of 1974; systems of records 35757

COMMERCE DEPARTMENT
See Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Barley 35695
Oats 35698
Rye 35701
Wheat 35702

DEFENSE DEPARTMENT
Notices
Meetings:
DOD Advisory Group on Electronic Devices (2 documents) 35735

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee (2 documents) 35740

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Import determination petitions:
Chip 'N Twigs, Inc 35741

EDUCATION OFFICE
Rules
State administered programs; Federal funding assistance; correction 35678
Proposed Rules
Vocational education curriculum; criteria for selection of applications 35722

V 41 165
AUG 24 76
UMI

Notices
Closed meeting activities of advisory committees; availability of reports ... 35754
Meetings:
National Advisory Council on Indian Education ... 35754

EMPLOYMENT AND TRAINING ADMINISTRATION
Proposed Rules
Comprehensive Employment and Training Act programs:
Farmworker grant funds, use ... 35724
Farmworker programs, designation of potential sponsors ... 35723
Notices
Comprehensive Employment and Training Act programs:
Designation of fiscal year 1977 prime sponsors ... 35771
Federal supplemental benefits (emergency unemployment compensation); Delaware ... 35775
Meetings:
Federal Committee on Apprenticeship ... 35775

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Notices
Global environmental effects of carbon dioxide; establishment of study group ... 35758

ENVIRONMENTAL PROTECTION AGENCY
Rules
Air quality implementation plans:
Preparation, adoption, and submittal; approval, etc.: correction ... 35676
Air quality implementation plans; various States, etc.:
Indiana ... 35676
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Captafol ... 35677
Proposed Rules
Air quality implementation plans; various States, etc.:
Oregon ... 35725
Notices
Pesticide registration:
Applications (3 documents) ... 35760–35765
Pesticides; specific exemptions and experimental use permits:
BASF Wyandotte Corp.; herbicide bentazon on peanuts ... 35758
Dow Chemical Co.; microbiocide bromine chloride to control growth of algae, bacteria and fungi ... 35759
Mobil Chemical Co.; insecticide on apples, etc ... 35759
Shell Chemical Co.; insecticides to control flies and mosquitoes ... 35759
U.S. Department of Agriculture; microbial insecticide on rangeland grass and hay ... 35760

FEDERAL ELECTION COMMISSION
Notices
Advisory opinion requests ... 35829

FEDERAL HIGHWAY ADMINISTRATION
Notices
Interstate funding study; request for comments ... 35756

FEDERAL HOME LOAN BANK BOARD
Rules
Savings and loan associations:
Officers; conflict of interest and proxy solicitation; disclosure, guidelines and prohibitions ... 35811
Proposed Rules
Federal Savings and Loan Insurance Corporation:
Proxies, solicitation of ... 35827

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Areas eligible for sale of insurance (2 documents) ... 35706, 35707
Special hazard areas, identification and mapping ... 35708
Flood Insurance Program, National; flood elevation determinations, etc.:
Pennsylvania (2 documents) ... 35712, 35714
Texas ... 35713
Virginia ... 35712

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc.:
Med-Gulf Conference ... 35766

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Cities Service Gas Co ... 35767

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
Citizens National Corp ... 35767

FEDERAL TRADE COMMISSION
Proposed Rules
Food advertising; change of hearing dates ... 35725

FISH AND WILDLIFE SERVICE
Rules
Hunting:
Necedah National Wildlife Refuge, Wis ... 35681
Sherburne National Wildlife Refuge, Minn. (2 documents) ... 35681, 35682
Public access, use, and recreation:
Kofa Game Range, Ariz., et al ... 35679

FOOD AND DRUG ADMINISTRATION
Notices
New drugs:
Denial of hearing and applications; dexamyl ... 35741

FOOD AND NUTRITION SERVICE
Rules
Nonfood assistance program:
Policies and procedures ... 35686
Summer food service program for children; summary of comments ... 35685

FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Sierra National Forest, Rancheria Management Unit ... 35739
St. Joe National Forest, Elk River Planning Unit ... 35739
Tongass National Forest, Karta Unit Management Plan ... 35738

GENERAL SERVICES ADMINISTRATION
Notices
Privacy Act of 1974; system of records; corrections ... 35767

GEOLOGICAL SURVEY
Proposed Rules
Coal-mining operating regulations:
Wyoming, reclamation laws and requirements ... 35716

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office; Food and Drug Administration; National Institute of Education; Social and Rehabilitation Service; Social Security Administration.
Notices
Meetings:
Health Insurance Benefits Advisory Council ... 35755
National Professional Standards Review Council ... 35755

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Insurance Administration; Housing Production and Mortgage Credit, Office of Assistant Secretary.

HOUSING PRODUCTION AND MORTGAGE CREDIT, OFFICE OF ASSISTANT SECRETARY
Rules
Mortgage and loan insurance programs:
Interest subsidy grants; correction ... 35706

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

Notices
Environmental statements; availability etc.:
Pacific Power and Light Co ... 35737
Sherwood Uranium Project, Spokane Indian Reservation ... 35738
Meetings:
Committee on Future Energy Prospects, National Petroleum Council ... 35737

INTERNATIONAL BOUNDARY AND WATER COMMISSION
Notices
Privacy Act of 1974; systems of records ... 35833

INTERSTATE COMMERCE COMMISSION
Rules
Railroad car service orders; various companies:
Chesapeake & Ohio Railway Co ... 35678
Motor carriers:
Freight and passenger tariffs and schedules; correction ... 35679
Proposed Rules
Rail carriers:
Subsidies, rail service continuation; determination standards ... 35730
Notices
Car service exemptions, mandatory ... 35779
Fourth section applications for relief ... 35779
Hearings assignments ... 35779
Motor carriers:
Temporary authority applications ... 35780
Transfer proceedings ... 35782
Rerouting of traffic:
Green Mountain Railroad Corp ... 35782

LABOR DEPARTMENT
See also Employment and Training Administration.
Notices
Adjustment assistance:
Brown Shoe Co ... 35776
Detroit Automotive Products ... 35776
Norvelt Clothing Co ... 35776
Oak Industries ... 35777
Progressive Uniform Manufacturing Corp ... 35777
Universal Communications Systems, Inc ... 35778

LAND MANAGEMENT BUREAU
Notices
Meetings:
Craig, Colorado District Advisory Board ... 35735
Ukiah District Multiple-Use Advisory Board ... 35735

MANAGEMENT AND BUDGET OFFICE
Notices
Clearance of reports; list of requests ... 35770

NATIONAL INSTITUTE OF EDUCATION
Notices
Meetings:
Educational Research, National Council ... 35755

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Rules
Marine mammals:
Endangered species parts and products; exemptions for pre-Act prohibitions; correction ... 35682

NATIONAL PARK SERVICE
Notices
Authority delegations:
Cumberland Gap National Historical Park, Ky., Administrative Officer ... 35735
Historic Places National Register; additions, deletions, etc ... 35736
Meetings:
North Atlantic Region Advisory Committee ... 35736

PATENT AND TRADEMARK OFFICE
Notices
International protection of government emblems and seals, submission procedures ... 35741

POSTAL SERVICE
Rules
Domestic mail:
Postal Service Manual; incorporation by reference ... 35685
International mail:
Publication 42; incorporation by reference ... 35682
Proposed Rules
Environmental statement procedures ... 35725

RURAL ELECTRIFICATION ADMINISTRATION
Notices
Loan guarantees proposed:
Tennessee Telephone Co ... 35739

SMALL BUSINESS ADMINISTRATION
Rules
Disaster loans ... 35675
Freedom of information ... 35675
Notices
Meetings:
Concord District Advisory Council ... 35771

SOCIAL AND REHABILITATION SERVICE
Rules
Financial assistance programs:
Eligibility coverage and conditions; correction ... 35678

SOCIAL SECURITY ADMINISTRATION
Notices
Foreign social insurance or pension system:
Western Samoa ... 35755

TRANSPORTATION DEPARTMENT
See Federal Highway Administration.

TREASURY DEPARTMENT
Notices
Privacy Act of 1974; system of records ... 35734

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"
Weekly Briefings at the Office of the Federal Register
(For Details, See 41 FR 22997, June 8, 1976)
RESERVATIONS: JANET SOREY, 523–5282

V 41 165 AUG 24 76 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

225 35685
230 35686
354 35693
728 35694
775 35694
919 35695
1421 (4 documents) 35695–35702

PROPOSED RULES:
932 35722

9 CFR

76 35675

12 CFR

545 35820
561 35821
563 35821

PROPOSED RULES:
569 35827

13 CFR

102 35675
123 35675

16 CFR

PROPOSED RULES:
437 35725

24 CFR

260 35706
1914 (2 documents) 35706, 35707
1915 35708
1917 (4 documents) 35712–35714

29 CFR

PROPOSED RULES:
97 (2 documents) 35723, 35724

30 CFR

PROPOSED RULES:
211 35716

39 CFR

10 (2 documents) 35682, 35685
111 (2 documents) 35682, 35685

PROPOSED RULES:
775 35725

40 CFR

51 35676
52 (2 documents) 35676
180 35677

PROPOSED RULES:
52 35725

45 CFR

117 35678
121a 35678
130 35678
141 35678
166 35678
173 35678
233 35678

PROPOSED RULES:
103 35722

49 CFR

1033 35678
1307 35679
1310 35679

PROPOSED RULES:
1125 35730

50 CFR

26 35679
32 (4 documents) 35679–35682
222 35682

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) 32399

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32689
11931 32689
11932 32691

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693

MEMORANDUMS:
July 19, 1976 32403

4 CFR

1 35155

5 CFR

213 ..... 32892, 33545, 34246, 34731, 35155
591 32892

7 CFR

35 32877
52 ..... 32222, 34751
103 34005
105 34005
106 34005
108 34006
111 34006
220 ..... 32405, 34757
225 35685
230 35686
235 32405
271 34760
331 ..... 32229, 32409
354 35693
409 34973
722 32878
728 35694
775 35694
790 34247
791 34247
905 34248
908 ..... 32228, 32695, 34006, 35053, 35520
910 ..... 32827, 34248, 35156, 35521
915 34973
916 32410
917 ..... 32410–32411, 34762
919 35695
926 34007
944 34762

7 CFR—Continued

947 ..... 32230, 32695
967 35520
982 34974
989 32412
1012 32417
1099 32575
1124 32418
1421 ..... 32879, 35695–35702
1427 35521
1430 32881
1472 34248
1701 33546
1806 34571
1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697

PROPOSED RULES:
16 ..... 34777, 34977, 35072
47 32231
51 32896
909 32234
910 ..... 33922, 35187
911 34049
919 32234
926 34647
927 34050
930 32606
931 32757
932 35722
946 32758
953 34766
981 34647
991 34648
993 33275
1004 34282
1006 35187
1007 33275
1011 ..... 33275, 34444
1012 35187
1013 35187
1030 33275
1032 33275
1033 ..... 34444, 35194
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275
1099 33275

7 CFR—Continued

PROPOSED RULES—Continued
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34286
923
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1260 34772
1430 32899
1701 32419
1801 33561
1813 33922
1823 34767
1861 33561
1867 35532
1980 33561

8 CFR

100 ..... 32419, 34937
103 34937
316a 34938

9 CFR

73 ..... 32882, 34731
76 ..... 32882, 35156, 35675
83 32432
113 32882
201 34007

PROPOSED RULES:
327 34293

10 CFR

35 34635
211 33881
212 34008
700 34731
735 34731

PROPOSED RULES:
9 35073
70 35537
205 ..... 34783, 34981
210 34784
211 34784
212 ..... 33282, 34080, 34784
705 34778

12 CFR

217 32578
220 34938
221 35477
303 35156
335 35477
545 35820
561 ..... 32419, 35821
563 ..... 32419, 35821
611 33546
615 33547
618 33547

PROPOSED RULES:
16 32864
225 33306

V41I165 AUG 24 76 UMI

12 CFR—Continued

PROPOSED RULES—Continued

226 ... 35536
569 ... 35827
584 ... 33566

13 CFR

102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670

PROPOSED RULES:

120 ... 33567

14 CFR

13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:

39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535
73 ... 34077, 34650
75 ... 34077
93 ... 35073
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941
15 ... 34594
433 ... 34594

PROPOSED RULES:

437 ... 35725
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060

17 CFR—Continued

200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167
249 ... 35167

PROPOSED RULES:

239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:

1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:

1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
602 ... 35169

PROPOSED RULES:

404 ... 34060
405 ... 35197
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743
520 ... 32889
522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:

1 ... 34051
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884

21 CFR—Continued

PROPOSED RULES—Continued

540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:

130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:

658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:

201 ... 32564
205 ... 34977
570 ... 34301
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR

41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:

41 ... 32756
221 ... 32757

26 CFR

1 ... 33262, 34025, 34619, 35490
20 ... 34627, 35490
25 ... 34628, 35490
31 ... 35174
53 ... 35514
141 ... 32889, 32890
301 ... 34025, 35174, 35490

26 CFR—Continued

PROPOSED RULES:

1 ... 33285
31 ... 32231
54 ... 32895

27 CFR

PROPOSED RULES:

5 ... 35531

28 CFR

0 ... 35183
16 ... 32423
20 ... 34949

29 CFR

699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741

PROPOSED RULES:

97 ... 35723, 35724
1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298
2200 ... 34657

30 CFR

55 ... 33263
56 ... 33263
57 ... 33263

PROPOSED RULES:

211 ... 35716

31 CFR

PROPOSED RULES:

210 ... 32605

32 CFR

581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:

505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR

117 ... 32217, 34034, 35521, 35522
127 ... 32742, 35066
207 ... 34034

PROPOSED RULES:

110 ... 34649
117 ... 32238, 35536
161 ... 32758

34 CFR

PROPOSED RULES:

Ch. I ... 34324

35 CFR

PROPOSED RULES:

133 ... 33307

36 CFR

7 ... 33263
50 ... 34748

38 CFR

4 ... 34256
21 ... 32217
36 ... 32218

PROPOSED RULES:

1 ... 32247

39 CFR

10 ... 35682–35685
111 ... 35682–35685
3002 ... 32742

PROPOSED RULES:

775 ... 35725
3003 ... 34792

40 CFR

51 ... 35676
52 ... 32743, 32890, 34259, 34749, 35184, 35676
60 ... 33264, 34628, 35184
61 ... 33264, 34629
86 ... 35626
87 ... 34722
180 ... 32426, 33265, 34629, 35677
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440

PROPOSED RULES:

52 ... 32241, 34422, 34782, 35725
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613
420 ... 32242
434 ... 34441

41 CFR

1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
28–1 ... 32426
29–60 ... 35186
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634

PROPOSED RULES:

3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR

51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR

419 ... 32427
2650 ... 33267
3302 ... 32891

PUBLIC LAND ORDERS:

5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267
5597 ... 33267
5598 ... 34035
5599 ... 34749
5600 ... 35067
5601 ... 35067

PROPOSED RULES:

232 ... 34299
302 ... 34298
2800 ... 34977

45 CFR

11 ... 35654
115 ... 34962
117 ... 35678
121a ... 35678
121d ... 33558
130 ... 35678
141 ... 35678
166 ... 35678
173 ... 35678
177 ... 33268
190 ... 33868
233 ... 35678
801 ... 33559
1069 ... 33268

PROPOSED RULES:

73b ... 32235
103 ... 35722
146 ... 34052
190 ... 33962

46 CFR

91 ... 32744
252 ... 32589
536 ... 32590

PROPOSED RULES:

93 ... 32237
180 ... 35072
531 ... 32899

47 CFR

0 ... 33272
1 ... 33885, 33895, 34259
2 ... 32680, 33885
15 ... 32590
19 ... 32891
21 ... 33269, 33885, 33895
73 ... 32219, 32220, 32891, 33270, 33559, 33560, 35068
74 ... 32429, 32593, 35068
76 ... 32429, 34963, 35068
78 ... 32429
83 ... 32220
89 ... 32680, 33902, 35522
91 ... 32680, 33889, 33903, 35068, 35522
93 ... 32682, 33907, 35522
95 ... 32682

PROPOSED RULES:

0 ... 33563
2 ... 32434
13 ... 32434
15 ... 34323

V 41 165
AUG 24 76
UMI

47 CFR—Continued

PROPOSED RULES—Continued

63 33280
64 33563
73 32434
33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242

49 CFR

81 32593
192 34598
195 34035
390 34968
571 ..... 32221, 35522
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678
1038 32594

49 CFR—Continued

1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 33280
801 34082
1067 33307
1109 32434
1125 35730
1201 33016

49 CFR—Continued

PROPOSED RULES—Continued

1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682
33 ..... 32222, 32431, 32603, 32755
217 34969
222 ..... 34969, 35682
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	32239–34570	13
32399–32574	3	34571–34730	16
32575–32688	4	34731–34935	17
32689–32875	5	34937–35051	18
32877–33244	6	35053–35153	19
33245–33543	9	35155–35475	20
33545–33880	10	35477–35674	23
33881–34003	11	35675–35842	24
34005–34238	12		

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

This amendment excludes Franklin, Hampden, Hampshire, and Berkshire Counties in Massachusetts; Rockingham, Cheshire, and Hillsborough Counties in New Hampshire and the entire State of Rhode Island from the areas quarantined by the regulations in 9 CFR Part 76, as amended, because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in New Hampshire and Rhode Island remain under quarantine.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases is hereby amended in the following respects:

In § 76.2, paragraph (e) is amended to read:

§ 76.2 Notice relating to existence of the contagion or vectors of hog cholera and other swine diseases; prohibition of movement of any hog cholera, virus, exceptions; spread of disease through raw garbage; regulations; quarantines.

(e) * * *

(1) *Massachusetts.* All of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester Counties.

(2) *New Jersey.* All of Mercer, Ocean, Burlington, Atlantic, Camden, Gloucester, Salem, Cumberland, and Cape May Counties.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective August 17, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of August 1976.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-24603 Filed 8-23-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 2, Amdt. 4]

PART 102—DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Change in Provisions Designating Official Deciding Appeals and Authorizing Testimony by SBA Personnel

Sections 102.5 and 102.7 of SBA's Rules and Regulations implementing the Freedom of Information Act now designate the Assistant Administrator for Congressional and Public Affairs as the official to whom administrative appeals of refusals to disclose information shall be addressed; who makes final Agency decisions on such appeals; and who authorizes appearances and testimony by SBA officers and employees.

Because of an internal Agency reorganization, the title of the official with the foregoing responsibilities is now the Assistant Administrator for Advocacy and Public Communications.

Since this change involves a matter of internal Agency management, the Agency finds it unnecessary to issue this change as a notice of proposed rulemaking with opportunity for public comment, or to delay its effective date, as provided for in 5 U.S.C. 553.

Accordingly, pursuant to the authority in section 5 of the Small Business Act (72 Stat. 385, 15 U.S.C. 634), §§ 102.5(c), 102.5(e), and 102.7 of Part 102 of Title 13 of the Code of Federal Regulations are amended, effective on August 24, 1976, by substituting "Assistant Administrator for Advocacy and Public Communications" for "Assistant Administrator for Congressional and Public Affairs", wherever it appears.

Dated: August 17, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-24739 Filed 8-23-76;8:45 am]

[Rev. 9, Amdt. 7]

PART 123—DISASTER LOANS

Miscellaneous Amendments

Pursuant to authority cited below, Part 123 of Chapter I, Title 13 of the Code of Federal Regulations is amended as hereinafter set forth.

Information and effective date. Public Law 94–305, approved on June 4, 1976, 90 Stat. 663, et seq., amended various provisions of the Small Business Act, which compel textual changes, hereinafter set forth, in addition to conforming amendments published effective June 25, 1976 (41 FR 26203). Since the regulatory amendments in question do not come within the public rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553), and comments thereon are not required, such comments are therefore not being solicited. Interested persons, however, are invited to send comments, in triplicate, to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

SBA has under consideration at the present time further proposed implementing amendments, necessary to carry into effect the statutory changes made by Pub. L. 94–305. They will be the subject of one or more Notices of Proposed Rulemaking to be published in the FEDERAL REGISTER, under the public rulemaking procedures prescribed by Section 4 of the Administrative Procedure Act, and the public will be invited to submit written comments prior to promulgation.

In view of the fact that these amendments carry out the statutory mandate of Pub. L. 94–305, and pursuant to the authority granted by section 5(b)(6) of the Small Business Act, 15 U.S.C. § 634 the amendments hereinafter set forth are effective June 4, 1976.

Part 123 is amended as follows:

§ 123.1 General. [Amended]

(1) Section 123.1 is amended by substituting in paragraph (b)(3) a period for the comma after the word "causes" and deleting the rest of the sentence.

(2) Section 123.1 is further amended by deleting paragraphs (c)(3) and (4) thereof.

V 41 165 AUG 24 76 UMI

§ 123.2 Eligibility. [Amended]

(3) Section 123.2 is amended by deleting subsection (a) (2) (i) therein. It will hereafter be identified as [Reserved].

(4) Section 123.2 is further amended by amending subsections (a) (5) (ii) to read as follows:

* * * * *

(ii) An otherwise eligible small business concern is eligible for product disaster assistance to continue or reestablish its business if SBA determines that the concern has suffered substantial economic injury as a result of the inability of such concern to process or market a product for human consumption because of disease or toxicity occurring in such product through natural or undetermined causes.

(5) Section 123.2 is further amended by deleting subsection (b) (1) (ii) therein. It will hereafter be identified as [Reserved].

§ 123.3 Purpose of loans. [Amended]

(6) Section 123.3 is amended by substituting a period for the comma after the word "causes" in the first sentence of paragraph (d) therein, and deleting the rest of the sentence.

(Catalog of Federal Domestic Assistance Programs Nos. 59.001, 59.002, 59.008, 59.010, 59.014, 59.017, 59.018, 59.020, 59.021, 59.022, 59.023, 59.024 and 59.025.)

Dated: August 12, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-24690 Filed 8-23-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 604-8]

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Correction

1. In 40 CFR Part 51.7 (b) (1) the reference to "paragraph (4) (i) and (ii)" should be changed to "paragraph (b) (4) (i) and (ii)."

2. In 40 CFR Part 51.7 (b) (5) the reference to "section 51.6 (g)" should be changed to "section 51.6 (d)."

3. In 40 CFR Part 51, Appendix L, Table II, Part B.2. the phrase under the heading "Sources of Air Pollution" should be changed to "Coal and oil-fired process steam generating facilities."

4. FEDERAL REGISTER Document 73-25119, published at page 33702 in the issue dated Thursday, December 6, 1973, granted a two-year extension for carbon monoxide and photochemical oxidants in Virginia's portion of the National Capital interstate region. This extension had been previously denied in the June 22, 1973, FEDERAL REGISTER. The December 6th FEDERAL REGISTER failed to revoke the original denial in 40 CFR Part 52.2428(c). This notice corrects that oversight by revoking 40 CFR Part 52.2428(c).

Dated: August 19, 1976.

ERIC O. STORK,
Acting Assistant Administrator for OAWM.

[FR Doc.76-24796 Filed 8-23-76;8:45 am]

[FRL 602-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Indiana—Approval/Disapproval of Plan Revisions

Pursuant to Section 110 of the Clean Air Act, the State of Indiana submitted to the Administrator of the United States Environmental Protection Agency a State Implementation Plan (SIP) on January 31, 1972 to achieve the National Ambient Air Quality Standards (NAAQS). The plan was approved by the Administrator on May 31, 1972 (37 FR 10842) with several exceptions, including a partial disapproval of the sulfur dioxide regulation. Subsequent to the May 31, 1972 action, the State submitted an amended sulfur dioxide regulation for stationary sources which the Administrator approved on May 14, 1973 (38 FR 12698).

In 1974, the Indiana Air Pollution Control Board, after public notice and hearing, adopted revisions to APC-13 and adopted a new regulation APC-22. On October 3, 1974 the Technical Secretary of the Air Pollution Control Board (APCB), acting for the Governor of Indiana, submitted to the Regional Administrator a new regulation APC-22, and on December 5, 1974 submitted Revised APC-13. With the revised regulations, the State submitted a technical support document describing the rationale for the changes to the regulations. Other regulatory changes were also submitted as revisions to the Indiana SIP, and on May 2, 1975 (40 FR 19210) the Regional Administrator of the USEPA, Region V published for public comment these proposed revisions to the regulations contained in the SIP. Final rulemaking action on Revised APC-3, APC-16, APC-17, APC-18, APC-20, and APC-22 (in part) appeared in the October 28, 1975 FEDERAL REGISTER (40 FR 50032). Disapproval of Revised APC-15 occurred on May 6, 1976 (41 FR 18654).

The remaining regulatory changes affect the control of sulfur dioxide. APC-13 sets emission limitations based on formulae, and APC-22 classifies counties within Indiana according to the need for control of emissions from sources located in each county. Thus, the submission is a complete revision of the applicable control strategy for sulfur dioxide.

In the May 2, 1975 FEDERAL REGISTER Notice, EPA proposed approval of APC-13, with certain exceptions, and APC-22 as it applies to APC-13 for all counties in Indiana except Dearborn, Floyd, Jefferson, LaPorte, Marion, Pike, Porter, Sullivan, Vermillion, Vigo, and Warrick.

On July 18, 1975 the State submitted additional data containing a reanalysis of the eleven counties questioned by EPA, otherwise described as the Revised Indiana Technical Support Document. This document describes in detail the methodology utilized by the State in deriving County Basin Classifications. Basically, the methodology utilizes computer dispersion models.

EPA reviewed this document (see detailed comments in EPA Technical Review Document) and has determined it to be deficient in the following respects:

(1) Maintenance of sulfur dioxide NAAQS was not addressed;

(2) Actual (1974) versus design or maximum operating conditions were used as input to the model;

(3) Meteorology of selected days from 1974 versus a representative year of meteorology was used as input to the model;

(4) Factors such as growth, representative load, and variability of sulfur content in coal were not considered;

(5) APC-13 and APC-22 failed to insure that emissions from a source would not increase from one year to the next.

In response to the May 2, 1975 proposal, a total of twenty-two comments were submitted on APC-13 and APC-22. Several requests for an extension of the comment period were received. Although these requests were not officially granted, EPA informally accepted comments through September 15, 1975. Many comments concerned the potential economic impact on public and industrial consumers and the Indiana coal industry if current SO_2 control requirements were retained in the counties whose redesignations were identified as unacceptable in the May 2, 1975 proposal. However, the comments provided only a superficial quantification of the economic impact of retaining the old control strategy. While the EPA is concerned about the costs of emission reduction, the recent decision in *Union Electric* v. *EPA*, No. 74-1542, decided June 25, 1976, confirmed the Agency's position that approval/disapproval must be based solely on compliance/non-compliance with the provisions of § 110(a) (2) (A-H) and that said provisions do not include a consideration of technological and economic feasibility. Therefore, cost can have no bearing on the Agency's final action on this plan revision. Three comments questioned the need for monitors in counties classified "C" and the use of dispersion modeling for classification. The requirement for installation of air quality monitors only affects major sources and will provide source specific air quality data which is needed to assure maintenance of the NAAQS in the vicinity of these sources. The EPA must rely on dispersion modeling for predicting air quality, especially when adequate valid air quality data is not available. Even where air quality data is available, modeling is useful as a complement to the ambient data.

The remaining comments discussed at length monitoring and modeling studies in support of the contention that "A"

classifications were unnecessary for specific counties. These remarks were evaluated, together with the State Division of Air Pollution Control's (DAPC's) Technical Support Documents.

This notice finalizes action on APC-13 and APC-22 insofar as it classifies countries for purposes of controlling sulfur dioxide. These regulations are approved as Indiana SIP revisions with the following exceptions:

(1) APC-13, Section 1(b) (2) insofar as the phrase "equivalent full load" would exempt from control boilers used moderately at less than rated capacity because the State failed to demonstrate that such exemptions would not interfere with attainment/maintenance of NAAQS throughout Indiana.

(2) APC-13, Section 2(a):

(a) the formula "$E_p=17.0\ Q_m^{0.67}$ where $E_p=E_m\times Q_m$" is disapproved because it permits the maximum allowable emissions (E_m) to increase if combustion sources are operating at less than rated capacity (Q_m). The State failed to demonstrate that such an allowance would not interfere with attainment/maintenance of standards.

(b) The modification of Q_m where non-Indiana coal is burned because "effluent gas volume" has not been defined and the State has not demonstrated that the less stringent emission limitation which could result from application of the modification will not interfere with attainment/maintenance of standards.

(3) APC-13, Sections 2(a), 3(c), 4(b), and 4(c) as they refer to "direct-fired process operations" because the State failed to demonstrate that the controls required by Section 2(a) as applied to these sources would result in attainment/maintenance of standards throughout Indiana.

(4) APC-13, Section 3(c) formulae insofar as they could be interpreted to permit reassignment of a county to a "B" or "C" Basin designation because of increased stack heights. Such interpretation is inconsistent with Environmental Protection Agency policy (see statement in February 18, 1976 FEDERAL REGISTER, 41 FR 7450) and the constant emission limitations requirement of Section 110(a) of the Clean Air Act [See *Big Rivers Electric Co. et. al.* v. *EPA*, 523 F. 2d 16 (6th Cir. 1975.)]

(5) APC-22, Section 4 priority classifications for sulfur dioxide control in Jefferson, LaPorte, Porter, Vigo and Warrick Counties because the Technical Support Documents provided by the State failed to demonstrate that primary and secondary standards for sulfur dioxide will be attained and maintained in these counties. Adequacy of emission and/or air quality data and adequacy of background values used in determining whether the 24-hour standard could be met without immediate control were questionable items in the State's support document.

All sources in the above-mentioned counties will be required to comply with the emission limitations specified in "old" APC-13, as finally approved on May 14, 1973 (38 FR 12698). Sources having greater than 3,000 million BTU per hour heat input are subject to an emission limitation of 1.2 lbs. of sulfur dioxide per million BTU heat input while smaller sources are subject to a sliding scale.

Finally, it should be noted that any reclassification of a county by the Board pursuant to Section 5 of APC-22 is considered a revision to the applicable SIP and must be formally submitted to the Administrator for approval.

With the exceptions noted above, all other portions of revised APC-13 and APC-22 insofar as it classifies counties for purposes of sulfur dioxide control are approved as meeting the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. Although the Circuit Court of Marion County declared these rules invalid in Indiana-Kentucky Electric, et al. v. Indiana Environmental Management Board, Case No. C73-675, and enjoined defendants from enforcing same on November 11, 1975, these rules meet the requirement of 40 CFR 51.22 that they be enforceable because the State is appealing the Circuit Court's decision and the court stayed its injunction pending the appeal on March 24, 1976.

This rulemaking will be effective immediately. The Agency finds good cause exists for not deferring the effective date of this rulemaking because the regulatory requirements are already in effect under State law and Federal approval imposes no new burden.

On May 6, 1976 (41 FR 18654), when EPA disapproved revised APC-15 (Hydrocarbons) and APC-22 as it reclassified areas for control of Hydrocarbons, the FEDERAL REGISTER notice did not contain the Part 52 amendments to the CFR. This inadvertent omission is being corrected today and does not affect in any way the finality of the May 6 disapproval action.

A technical review document discussing the background for the decision on APC-13 and APC-22 is available for inspection in the Region V Office of the U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604; the Public Information Reference Unit, U.S. Environmental Protection Agency, Waterside Mall, Washington, D.C.; and the Indiana Air Pollution Control Board, 1330 W. Michigan Street, Indianapolis, Indiana.

AUTHORITY: 42 USC 1857c-5(a)

Dated: August 18, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart P—Indiana

1. In § 52.770, paragraph (c), subparagraphs (13) and (14) are revised and subparagraph (15) is added as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(13) On October 3, 1974, the Technical Secretary submitted revised regulations APC-16 covering CO, APC-17 covering NO_2 and a new regulation APC-22 covering classification of counties for SO_2, oxidants, particulates, NO_2 and CO.

(14) On November 8, 1974, the Technical Secretary submitted revised regulation APC-3 covering visible emissions and revised regulation APC-15 covering hydrocarbons.

(15) On December 5, 1974, the Technical Secretary submitted revised regulation APC-13 covering SO_2. On July 18, 1975, an updated Technical Support Document on APC-13 was submitted by the Technical Secretary.

2. In § 52.771, paragraphs (c) and (d) are added as follows:

§ 52.771 Classification of regions.

* * * * *

(c) The requirements of § 51.3(a) of this chapter are not met by the classification of counties in APC-22 for the purposes of attainment and maintenance of the photochemical oxidant (hydrocarbon) standard.

(d) The requirements of 51.3(a) of this chapter are not met by the classification of Jefferson, LaPorte, Porter, Vigo and Warrick Counties in Indiana in Regulation APC-22 for the purposes of attainment and maintenance of the sulfur dioxide ambient air quality standards.

3. In § 52.777, paragraph (b) is added as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(b) The requirements of § 51.14 are not met by Revised APC-15 (November 8, 1974 submission) because it does not provide for attainment and maintenance of the photochemical oxidant (hydrocarbon) standards throughout Indiana.

3. Section 52.795 is added as follows:

§ 52.795 Control strategy: Sulfur dioxide.

(a) Revised APC-13 (December 5, 1974 submission) of Indiana's Air Pollution Control regulations (sulfur dioxide emission limitation) is disapproved insofar as the provisions identified below will interfere with the attainment and maintenance of the sulfur dioxide ambient air quality standards:

(1) The phrase "equivalent full load" in Section 1(b) (2).

(2) The formula "$E_p=17.0\ Q_m^{0.67}$ where $E_p=E_m\times Q_m$" in Section 2(a).

(3) The phrase "Direct fired process operations" in Sections 2(a), 3(c), 4(b), and 4(c).

(4) The modification of Q_m for non-Indiana coal as expressed in Section 2(a).

[FR Doc.76-24795 Filed 8-23-76;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP6E1775/R108; FRL 603-8]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Captafol

On June 29, 1976, the Environmental Protection Agency (EPA) published in

V 41 165 AUG 24 76 UMI

the FEDERAL REGISTER (41 FR 26707) a notice of proposed rulemaking, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, which proposed that 40 CFR 180.267 be amended by the establishment of a tolerance for residues of the fungicide captafol (*cis-N*-[(11,2,2-tetrachloroethyl) thio] - 4-cyclohexene-2, 3-dicarboximide) in or on the raw agricultural commodity blueberries at 35 parts per million.

This notice of proposed rulemaking was issued in response to a pesticide petition (PP 6E1775) submitted to the Agency by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903 on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Georgia, Michigan, New Jersey, North Carolina, and Pennsylvania. No comments or requests for referral to an advisory committee were received by EPA in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to the regulations be adopted without change. This amendment to the regulations will protect the public health.

Any person adversely affected by this regulation may, on or before September 23, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective August 24, 1976, 40 CFR 180.267 is amended as set forth below.

Dated: August 17, 1976.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.267 is amended by alphabetically inserting a tolerance of 35 ppm for the raw agricultural commodity blueberries, to read as follows:

§ 180.267 Captafol; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
Blueberries	35

* * * * *

[FR Doc.76-24702 Filed 8-23-76;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATE ADMINISTERED PROGRAMS

Correction

In FR Doc. 76–226, on page 1395 in the issue of Wednesday, January 7, 1976, certain citations to regulations were incorrect. Paragraphs one through six of that document are corrected to read as follows:

Title 45 of the Code of Federal Regulations is amended as follows:

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS

§ 117.2 [Amended]

1. In Part 117, § 117.2 is amended by deleting the last sentence in paragraph (d), and by deleting paragraph (i).

PART 121a—ASSISTANCE TO STATES FOR THE EDUCATION OF HANDICAPPED CHILDREN

§ 121a.5 [Amended]

2. In Part 121a, § 121a.5 is amended by deleting paragraph (b).

3. In Part 130, § 130.22 is amended by deleting and reserving paragraph (a) and by revising the remainder of the section to read as follows:

PART 130—LIBRARY SERVICES, PUBLIC LIBRARY CONSTRUCTION, AND INTERLIBRARY COOPERATION

§ 130.22 Amendment of State plan.

(a) [Reserved].

(b) Long-range program. The long-range program shall be amended to reflect changes in:

(1) Estimates of present and projected program needs;

(2) The plan of action for meeting these needs; and

(3) Policies, criteria, priorities, and procedures.

(c) Amendments of the basic State plan and the long-range program shall be submitted each year as part of the annual extension of the long-range program submitted pursuant to § 130.20(b).

(20 U.S.C. 351d, 354, 355c, 355e–2)

PART 141—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS IN PUBLIC SCHOOLS

§ 141.6 [Amended]

4. In Part 141, § 141.6 is amended by deleting paragraph (c).

PART 166—STATE ADULT EDUCATION PROGRAMS

§ 166.15 [Removed]

5. In Part 166, § 166.15 is deleted.

PART 173—FINANCIAL ASSISTANCE FOR COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

§ 173.13 [Removed]

6. In Part 173, § 173.13 is amended by deleting paragraph (b).

(Catalog of Federal Domestic Assistance Nos. 13.400–13.571, Office of Education.)

Dated: August 17, 1976.

BRYAN B. MITCHELL,
Acting Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76–24769 Filed 8–23–76;8:45 am]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Disregard of Benefits Received Under Other Laws; Correction

In FR Doc. 76–8777 appearing at page 13357 in the FEDERAL REGISTER of Tuesday, March 30, 1976, paragraph 1.c. of the preamble is corrected by adding a period following the words "Pub. L. 93–113" and deleting the phrase "who were receiving assistance prior to becoming VISTA volunteers." The correction is necessary to make the summarization of regulation changes in the preamble consistent with the regulation language. The disregard of VISTA payments applies to both applicants and recipients of public assistance.

Approved: August 17, 1976.

BRYAN B. MITCHELL,
Acting Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76–24770 Filed 8–23–76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S. O. No. 1236]

PART 1033—CAR SERVICE

Chesapeake and Ohio Railway Company

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 18th day of August, 1976.

It appearing, That a portion of the line of the Erie-Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees, (EL), located between State Line Tower and Hy Tower, in the vicinity of Hammond, Indiana, was removed from service on April 1, 1976; that these tracks of the EL were used by The Chesapeake and Ohio Railway Company (C&O), as a portion of its main line between Cincinnati, Ohio, and Chicago, Illinois; that there is no other practical route for the operation through Hammond of the C&O trains; that an alternate route for the aforementioned trains of the C&O is available via certain tracks of The Baltimore and Ohio Railroad Company (B&O), between Wellsboro, Indiana, and Pine Junction, Indiana; that the B&O has consented to use of these tracks by the C&O; that operation by the C&O of its trains over the aforementioned tracks of the B&O is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1236 The Chesapeake and Ohio Railway Company authorized to operate over tracks of the Baltimore and Ohio Railroad Company.

(a) The Chesapeake and Ohio Railway Company (C&O) be, and it is hereby authorized to operate over tracks of The Baltimore and Ohio Railroad Company (B&O), between Wellsboro and Pine Junction, Indiana, a distance of 35.06 miles, pending disposition of the application of the C&O in Finance Docket No. 28188, seeking permanent authority to operate over these tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the C&O over tracks of the B&O is deemed to be due to carrier's disability, the rates applicable to traffic moved by the C&O over these tracks of the B&O shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to relieve the C&O of its obligations to operate as a common carrier over its line between La Crosse, Indiana, and its connection with the EL at Hy Tower in Hammond, Indiana, to the extent required to provide rail transportation to shippers dependent on the C&O for railroad service.

(e) *Effective date:* This order shall become effective at 11:59 p.m., August 31, 1976.

(f) *Expiration date:* The provisions of this order shall expire at 11:59 p.m., January 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members, Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24803 Filed 8–23–76;8:45 am]

[Docket No. 35867]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

Correction

In FR Doc. 76–21147 appearing on page 30590 in the issue for Monday, July 26, 1976, the following changes should be made:

(1) On page 30600, in § 1310.6 (n) (6), the symbols at the top of the third column should have read as follows:

♦ or (R) to denote reductions
♦ or (A) denote increases
▲ or (C) denote changes which result in neither increases nor reductions in charges
● to denote no change in rate (see § 1310.10 (f) (rule 10))
+ to denote intrastate application only
□ to denote reissued matter (see § 1310.10 (g) (rule 10)) 352 I.C.C.

(2) On page 30624, in the third column, after the 4th line of § 1310.25(o), the following line was omitted: "old carrier has on file, and the authority".

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

PART 32—HUNTING

Individual Wildlife Refuge Areas

The following special regulation is issued and is effective on September 1, 1976.

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

ARIZONA

KOFA GAME RANGE

For purposes of protecting wildlife habitat and the fragile environment of the 660,000-acre Kofa Game Range, Arizona, camping is limited for each person to 14 days during any 12-month period. Recreational (non-commercial) rockhounding, including digging with simple hand tools, is permitted only in the designated area known as Crystal Hill, described as follows:

GILA AND SALT RIVER MERIDIAN

T. 2 N., R. 18 W.,
Sec. 2, lots 3 and 4, S½NW¼ and SW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½ and S½;
Secs. 9 and 10;
Sec. 11, W½;
Sec. 14, NW¼;
Sec. 15, N½.

The areas described aggregate 3,684.39 acres.

On the remainder of the Kofa Game Range outside the designated Crystal Hill area, collecting of rocks or minerals, or both, is restricted to materials that are exposed and collectible without the use of tools. Digging, including the use of simple hand tools, is prohibited except in the designated area known as Crystal Hill.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1976.

The following special regulations are issued and are effective on date of publication in the Federal Register. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

The public hunting of doves on the Cibola National Wildlife Refuge, Arizona and California, is permitted as follows: Arizona—mourning and white-winged doves, from September 1 through September 20, 1976, inclusive; mourning doves only, from December 11 through January 9, 1977, inclusive. California—mourning and white-winged doves, from September 1 through September 30, 1976, inclusive; and from November 20 through December 5, 1976, inclusive. Hunting is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 7,500 acres, are delineated on maps available at refuge headquarters, Blythe, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special conditions:

(1) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

(2) Pits or permanent blinds are prohibited.

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(3) Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.

(4) Campfires will be permitted only in designated areas. All other open fires are prohibited.

(5) Cibola Lake, located in Zone I, is closed to fishing from October 1 through March 1 during the waterfowl use period.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 9, 1977.

HAVASU NATIONAL WILDLIFE REFUGE

The public hunting of doves on the Havasu National Wildlife Refuge, Arizona and California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 24,200 acres, is delineated on maps available at refuge headquarters, Needles, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting seasons are as follows: Arizona—mourning and white-winged doves, from September 1 through September 20, 1976, inclusive; mourning doves only, from December 11, 1976 through January 9, 1977, inclusive. California—mourning and white-winged doves, from September 1 through September 30, 1976, inclusive; and from November 20 through December 5, 1976, inclusive. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special conditions:

(1) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation.

(2) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

(3) Hunters may enter the Topock Marsh and Pintail Slough hunt areas by way of the parking lot only.

(4) Shooting hours are from one-half hour before sunrise to sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 9, 1977.

IMPERIAL NATIONAL WILDLIFE REFUGE

The public hunting of doves on the Imperial National Wildlife Refuge, Arizona and California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 10,500 acres, is delineated on maps available at refuge headquarters, Martinez Lake, Arizona, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting seasons are as follows: Arizona—mourning doves only, from December 11, 1976 to January 9, 1977, inclusive; California—mourning and white-winged doves, from November 20 through December 5, 1976, inclusive. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special condition:

(1) Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (Area C) during the special teal hunting season (September 18 through September 26, 1976, inclusive) and during the regular waterfowl hunting season when both seasons run concurrently. Steel (iron) shot shotgun ammunition is available from at least 2 commercial outlets in Roswell, New Mexico.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 9, 1977.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of mourning and white-winged doves on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted from September 1 through October 30, 1976, inclusive, but only on the areas designated by signs as open to hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunting areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special conditions:

(1) Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (Area C) during the special teal hunting season (September 18 through September 26, 1976, inclusive) and during the regular waterfowl hunting season when both seasons run concurrently. Steel (iron) shot shotgun ammunition is available from at least 2 commercial outlets in Roswell, New Mexico.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 26, 1976.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

The public hunting of mourning and white-winged doves on the Bosque del Apache National Wildlife Refuge, New Mexico, is permitted from September 1 through October 30, 1976, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 9,775 acres, is delineated on maps available at refuge headquarters, 7 miles south of San Antonio, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special conditions:

(1) Vehicles are permitted only on established roads.

(2) The refuge is open to public use only from one-hour before sunrise to one-half hour after sunset.

(3) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 30, 1976.

OKLAHOMA

SEQUOYAH NATIONAL WILDLIFE REFUGE

The public hunting of doves and teal on the Sequoyah National Wildlife Refuge, Oklahoma, is permitted on three areas designated by signs as open to hunting. These open areas, comprising 10,500 acres, are delineated on maps available at refuge headquarters, Sallisaw, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting seasons are as follows: doves, from September 1 through October 30, 1976, inclusive; teal, from September 11 through September 19, 1976, inclusive. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves and teal subject to the following special conditions:

(1) Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down.

(2) Only longbow and arrow or shotguns without slug ammunition are permitted.

(3) Camping or possession of firearms on the refuge at night is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50,

Code of Federal Regulations, Part 32, and are effective through the last day of the regular 1976–77 duck season.

TISHOMINGO NATIONAL WILDLIFE REFUGE

The public hunting of mourning doves on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves subject to the following special conditions:

(1) The open season for hunting mourning doves on the refuge extends from September 1 through September 30, 1976, inclusive.

(2) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

(3) A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1976.

The public hunting of teal ducks on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted from September 11 through September 19, 1976, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of teal ducks subject to the following special conditions:

(1) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

(2) A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 19, 1976.

TEXAS

BRAZORIA NATIONAL WILDLIFE REFUGE

The public hunting of teal ducks on the Brazoria National Wildlife Refuge, Texas, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,300 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Bastrop, Christmas and Drum Bays, is delineated on maps available at refuge headquarters, Angleton, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of teal ducks subject to the following special conditions:

(1) The open season for hunting of teal ducks on the refuge extends from September 18 through September 26, 1976, inclusive.

(2) Access to the hunting area is entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted.

(3) Only temporary blinds may be constructed or used on the hunting area. Natural materials may be used for blind construction.

(4) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 26, 1976.

HAGERMAN NATIONAL WILDLIFE REFUGE

The public hunting of mourning doves on the Hagerman National Wildlife Refuge, Texas, is permitted only on the area designated by signs as open to hunting. This open area, comprising 1,754 acres, is delineated on maps available at refuge headquarters, 15 miles northwest of Sherman, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves subject to the following special condition:

(1) The open season for hunting mourning doves on the refuge extends from September 1 through September 30, 1976, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1976.

W. O. NELSON, JR.,
Regional Director,
Albuquerque, New Mexico.

AUGUST 16, 1976.

[FR Doc.76-24693 Filed 8-23-76;8:45 am]

PART 32—HUNTING

Necedah National Wildlife Refuge

The following special regulation is issued and is effective on August 24, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Public hunting of deer and unprotected mammal species as listed in the 1976 Wisconsin Big Game hunting regulations on the Necedah National Wildlife Refuge, Wisconsin is permitted with bow and arrow from September 18 through November 14, 1976 and December 4 through December 31, 1976 and with firearms from November 20 through November 28, 1976, but only on those areas designated by signs as open to hunting. These open areas comprising approximately 39,000 acres are delineated on a map available at the refuge headquarters, Necedah, Wisconsin and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

JAMES M. CARROLL, JR.,
Refuge Manager,
Necedah National Wildlife Refuge.

AUGUST 16, 1976.

[FR Doc.76-24696 Filed 8-23-76;8:45 am]

PART 32—HUNTING

Sherburne National Wildlife Refuge

The following special regulation is issued and is effective on August 24, 1976.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MINNESOTA

SHERBURNE NATIONAL WILDLIFE REFUGE

The public hunting of ruffed grouse, pheasant, grey and fox squirrels, rabbits and hares, raccoon, fox and skunk on the Sherburne National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 18,360 acres, is delineated on a map available at refuge headquarters, Route 2, Zimmerman, Minnesota 55398, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game subject to the following special conditions:

(1) No night hunting for raccoon.

(2) All motorized conveyances are prohibited from traveling off of established

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roads and parking areas open to such travel.

(3) Parking of vehicles is restricted to designated parking areas.

(4) Practice and target shooting, overnight camping and open fires are prohibited.

(5) Construction or use of any permanent artificial scaffold, platform, blind or other construction is prohibited.

(6) Boats, without motors, may be used on the St. Francis River only from designated river access sites.

(7) Snowmobile operations are prohibited on the refuge except within the rights-of-way of County Roads 4, 5, 9, 11 and 48.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through February 28, 1977.

JOHN E. WILBRECHT,
Refuge Manager,
Sherburne National Wildlife Refuge.

AUGUST 16, 1976

[FR Doc.76-24694 Filed 8-23-76;8:45 am]

PART 32—HUNTING

Sherburne National Wildlife Refuge

The following special regulation is issued and is effective on August 24, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MINNESOTA

SHERBURNE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Sherburne National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. The open area, comprising 18,360 acres, is delineated on a map available at the refuge headquarters, Route 2, Zimmerman, Minnesota 55398, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) All motorized conveyances are prohibited from traveling off of established roads and parking areas open to such travel.

(2) Parking of vehicles is restricted to designated parking areas.

(3) Practice and target shooting, overnight camping and open fires are prohibited.

(4) Construction or use of any permanent artificial scaffold, platform, blind or other construction is prohibited.

(5) Boats, without motors, may be used on the St. Francis River only from designated river access sites.

(6) Snowmobile operation is prohibited on the refuge except within the rights-of-way of County Roads 4, 5, 9, 11 and 48.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 14, 1976.

JOHN E. WILBRECHT,
Refuge Manager,
Sherburne National Wildlife Refuge.

AUGUST 16, 1976.

[FR Doc.76-24695 Filed 8-23-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 222—ENDANGERED FISH OR WILDLIFE

Contracts with GSA; Correction

In the FR Doc. number 76-24204, appearing at page 34970 in the issue of August 18, 1976, on page 34973, 50 CFR, Chapter II, Part 222, § 222.13-4, of Subpart B, is corrected to read as follows:

§ 222.13-4 Contracts with the General Services Administrator.

Any person who has entered into a valid contract with the Administrator of the United States General Services Administration, prior to July 12, 1976 and pursuant to the notice published in the FEDERAL REGISTER on January 9, 1973, for the sale of government-owned pre-Act endangered species parts shall not be required to obtain a certificate of exemption prescribed by this subpart: *Provided,* That the purchaser is able to claim a right under a certificate of exemption issued to the Administrator of the General Services Administration: *Provided further,* That if such pre-Act endangered species parts are commingled, amalgamated, or otherwise combined with such person's current inventory or stockpile, so as to preclude a reasonable determination of one stock from the other, it may not be further sold or transferred without a certificate of exemption first having been granted therefor.

Dated: August 19, 1976.

JACK W. GEHRINGER,
Deputy Director.

[FR Doc.76-24719 Filed 8-23-76;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

SUBCHAPTER B—INTERNATIONAL MAIL

PART 10—INTERNATIONAL POSTAL SERVICE

SUBCHAPTER C—POST OFFICE SERVICES [DOMESTIC MAIL]

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Incorporation by Reference

Purpose. The purpose of this document is to incorporate by reference Publication 42, International Mail, of the U.S. Postal Service. The regulations accomplishing this are set forth as Part 10 of Title 39 of the Code of Federal Regulations. The provision that incorporates the domestic mail regulations (39 CFR Part 111) is also being amended.

Pursuant to the policy and provisions of 5 U.S.C. 552(a) relating to material deemed published in the FEDERAL REGISTER when readily available to the public, Postal Service Publication 42, International Mail, is incorporated by reference. Publication 42 is and will remain readily available to all users of the U.S. Postal Service and may be examined at National Headquarters and all regional offices of the Postal Service, at any of the more than 31,000 United States Post Offices, and at all classified stations and branches during normal business hours. Publication 42 is sold in looseleaf subscription form by the Superintendent of Documents, Washington, D.C. 20402, for $9.00.[1]

Publication 42 has undergone a major change in its organization, format, and numbering system in the last year. However, except for revisions implementing changes in international mail regulations adopted by the 1974 Congress of the Universal Postal Union, notice of which was published in the FEDERAL REGISTER of January 28, 1976 (41 FR 4078), Publication 42 is not a substantive revision of the regulations on international mail. It is, therefore, substantially identical in content, although not in arrangement or style, to present Subchapter B of Chapter I, 39 CFR, concerning international mail.

In order to assure ready access for scholars and researchers and to provide historical continuity, all future amendments to Publication 42 will be published in full in the FEDERAL REGISTER. In addition, Publication 42 has a subject matter index which will also be published in the FEDERAL REGISTER and periodically updated.

This change in the manner of publication of Postal Service regulations governing international mail service establishes a more efficient and economical means of making the material available to the public. It will greatly reduce the amount of duplication of published material appearing in Publication 42, the FEDERAL REGISTER and the Code of Federal Regulations.

To govern this new format the regulations contained in 39 CFR Chapter I, Subchapter B (Parts 11-74) are revoked and Part 10 is established to take their place.

Under existing provisions incorporating domestic mail regulations in the FEDERAL REGISTER (39 CFR Part 111) the Postal Service is required to file amendments to the Postal Service Manual with the Director, Office of the Federal Register and to publish in the FEDERAL REGISTER an explanation of the changes. Consistent with the procedure announced above for Publication 42, § 111.3 is revised to require that future amendments to the Postal Service Manual will be published in full text in the FEDERAL REGISTER.

The Postal Service is exempt from the provisions of 5 U.S.C. 553 by reason of 39 U.S.C. 410(a). However, in the spirit of those provisions and notwithstanding the immediate effectiveness of this document, the Postal Service invites comments on the effects of this approach to Postal Service regulations and of their availability to the mailing public. Comments should identify this document as a basis for communication and be directed to: W. Allen Sanders, Assistant General Counsel, Legislative Division, Law Department, Room 9101, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408)

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

Accordingly, effective September 1, 1976, Parts 11-74, of Subchapter B of Title 39 are revoked and Part 10 is established, and § 111.3 of Subchapter C is revised to read as follows:

Sec.
10.1 Postal Service Publication 42, International Mail, incorporation by reference of international mail regulations.
10.2 Availability of Postal Service Publication 42, International Mail.
10.3 Amendments to Postal Service Publication 42, International Mail.
10.4 Approval of the Director of the Federal Register.
10.5 Contents of Postal Service Publication 42, International Mail.

AUTHORITY: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

§ 10.1 Postal Service Publication 42, International Mail; incorporation by reference of international mail regulations.

Section 552(a) of title 5, United States Code, relating to the public information requirements of the Administrative Procedure Act, provides in pertinent part that "• • • matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the FEDERAL REGISTER. In conformity with that provision, and with 39 U.S.C. 410(b)(1), and as provided in this part, the United States Postal Service hereby incorporates by reference in this part, Postal Service Publication 42, International Mail, a looseleaf publication published and maintained by the U.S. Postal Service, Washington, D.C. 20260.

§ 10.2 Availability of Postal Service Publication 42, International Mail.

(a) Copies of Postal Service Publication 42, International Mail, are available for reference and inspection upon request at the National Headquarters and regional offices of the U.S. Postal Service and at all United States Post Offices and classified stations and branches during normal business hours. Regional offices are located in New York, Philadelphia, Memphis, Chicago, and San Francisco.

(b) A copy of Postal Service Publication 42, International Mail, together with each amendment of it, is on file with the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, at 1100 "L" Street, NW, Room 8401, Washington, D.C.

(c) Copies of Postal Service Publication 42, International Mail, may be purchased from the Superintendent of Documents, Washington, D.C. 20402 for $9.00. This price includes entitlement to receive, for an indefinite period, changes in Publication 42 which may be published from time to time. Information about international mail also appears in condensed form in Publication 51, which the Postal Service publishes and distributes to all post offices and area supply centers. This publication is available to the public free of charge at all post offices and classified stations and branches.

§ 10.3 Amendments to Postal Service Publication 42, International Mail.

Changes in Postal Service Publication 42 will periodically be published in the FEDERAL REGISTER. Subscribers to Publication 42 will automatically receive the amendments from the Government Printing Office.

§ 10.4 Approval of the Director of the Federal Register.

(a) Incorporation by reference of Postal Service Publication 42, International Mail, was approved by the Director of the Federal Register under 5 U.S.C. 552a and 1 CFR Part 51.

(b) This approval was granted on August 18, 1976, effective until July 1, 1977 when it will expire without further action unless renewed and extended by the Director upon application by the U.S. Postal Service.

§ 10.5 Contents of Postal Service Publication 42, International Mail.

Postal Service Publication 42, International Mail, contains the following parts:

(a) CHAPTER 1—INFORMATION FOR USE OF THIS PUBLICATION

(1) SUBCHAPTER 110—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 120—PURPOSE OF THE PUBLICATION

(3) SUBCHAPTER 130—CATEGORIES OF INTERNATIONAL MAIL

(i) Part 131—General.
(ii) Part 132—Differences Between Postal Union Mail and Parcel Post Mail.
(iii) Part 133—Differences Among Countries.

(4) SUBCHAPTER 140—USE OF THE PUBLICATION

(i) Part 141—Organization and Format.
(ii) Part 142—Location of Information.

(5) SUBCHAPTER 150—OFFICIAL CORRESPONDENCE

(i) Part 151—Correspondence with Headquarters.
(ii) Part 152—Correspondence with Foreign Postal Authorities.
(iii) Part 153—Correspondence with Individuals in Other Countries.

(b) CHAPTER 2—OUTGOING POSTAL UNION MAIL.

(1) SUBCHAPTER 210—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 220—CONDITIONS FOR MAILING

(i) Part 221—Conditions for All Articles.
(ii) Part 222—Conditions for Letters and Letter Packages.
(iii) Part 223—Conditions for Post Cards.
(iv) Part 224—Conditions for Printed Matter.
(v) Part 225—Conditions for Matter for the Blind.
(vi) Part 226—Conditions for Small Packets.

(3) SUBCHAPTER 230—TREATMENT OF OUTGOING MAIL

(i) Part 231—Postmarking.
(ii) Part 232—Postage.
(iii) Part 233—Improperly Prepared Mail.
(iv) Part 234—Forwarding Mail of Domestic Origin.
(v) Part 235—Undeliverable Mail Returned to United States.
(vi) Part 236—Articles Mailed Aboard Ships (Paquebot).

(c) CHAPTER 3—OUTGOING PARCEL POST

(1) SUBCHAPTER 310—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 320—CONDITIONS FOR MAILING

(i) Part 321—Parcel Post Defined.
(ii) Part 322—Availability of Service.
(iii) Part 323—Prohibitions and Restrictions.
(iv) Part 324—Postage.
(v) Part 325—Weight and Size Limits.
(vi) Part 326—Preparation for Mailing.
(vii) Part 327—Forms Required.
(viii) Part 328—Marking and Endorsing.
(ix) Part 329—Mailing Location.

(3) SUBCHAPTER 330—TREATMENT OF OUTGOING PARCELS

(i) Part 331—Postmarking.
(ii) Part 332—Shortpaid Parcels.
(iii) Part 333—Forwarding Parcels of Domestic Origin.

(d) CHAPTER 4—SPECIAL SERVICES

(1) SUBCHAPTER 410—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 420—AIR SERVICE

(i) Part 421—Air Service Defined.
(ii) Part 422—Availability of Air Service.
(iii) Part 423—Postage.
(iv) Part 424—Marking and Endorsing for Air Service.
(v) Part 425—Aerogrammes.

(3) SUBCHAPTER 430—INSURANCE

(i) Part 431—Insurance Defined.
(ii) Part 432—Availability and Limits of Insurance.
(iii) Part 433—Insurance Fees.
(iv) Part 434—Preparation for Mailing Insured Parcels.
(v) Part 435—Processing Requests for Insurance.
(vi) Part 436—Treatment of Incoming Insured Parcels.
(vii) Part 437—Indemnity Claims and Payments.

(4) SUBCHAPTER 440—REGISTRY SERVICE

(i) Part 441—Registry Service Defined.
(ii) Part 442—Availability of Registry Service and Indemnity Limits.
(iii) Part 443—Registry Fees.
(iv) Part 444—Preparation of Registered Mail by Sender.
(v) Part 445—Processing Requests for Registry at Office of Mailing.

[1] See page 35686 of this issue of the FEDERAL REGISTER for a document issued by the Office of the Federal Register concerning the availability of Publication 42 within the FEDERAL REGISTER system.

V41165 AUG 24 76 UMI

(vi) Part 446—Treatment of Outgoing Registered Mail at all Offices.
(vii) Part 447—Treatment of Incoming Registered Mail.
(viii) Part 448—Indemnity Claims and Payments.

(5) SUBCHAPTER 450—RETURN RECEIPTS

(i) Part 451—Definitions.
(ii) Part 452—Availability.
(iii) Part 453—Fees or Charges.
(iv) Part 454—Processing Requests for Return Receipts for Outgoing Mail.
(v) Part 455—Treatment of Return Receipts for Incoming Mail.

(6) SUBCHAPTER 460—RESTRICTED DELIVERY

(i) Part 461—Restricted Delivery Defined.
(ii) Part 462—Availability of Restricted Delivery.
(iii) Part 463—Fee for Restricted Delivery.
(iv) Part 464—Processing Requests for Restricted Delivery of Outgoing Mail.
(v) Part 465—Treatment of Requests for Restricted Delivery of Incoming Mail.

(7) SUBCHAPTER 470—SPECIAL DELIVERY

(i) Part 471—Special Delivery Defined.
(ii) Part 472—Availability of Special Delivery.
(iii) Part 473—Fees and Payment for Special Delivery.
(iv) Part 474—Processing Requests for Special Delivery of Outgoing Mail.
(v) Part 475—Treatment of Incoming Mail Prepared for Special Delivery.

(8) SUBCHAPTER 480—SPECIAL HANDLING

(i) Part 481—Special Handling Defined.
(ii) Part 482—Availability of Special Handling.
(iii) Part 483—Fees and Payment for Special Handling.
(iv) Part 484—Processing Requests for Special Handling of Outgoing Mail.

(9) SUBCHAPTER 490—OTHER SPECIAL SERVICES

(i) Part 491—Certificates of Mailing.
(ii) Part 492—Recall or Change of Address.
(iii) Part 493—International Money Orders.

(e) CHAPTER 5—NONPOSTAL EXPORT REGULATIONS

(1) SUBCHAPTER 510—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 520—REQUIREMENTS FOR SHIPPER'S EXPORT DECLARATION

(i) Part 521—Description.
(ii) Part 522—When Required.
(iii) Part 523—How to Obtain Commerce Forms.
(iv) Part 524—How to Prepare Shipper's Export Declaration.
(v) Part 525—Handling and Disposal of Shipper's Export Declaration.

(3) SUBCHAPTER 530—REGULATIONS FOR COMMODITIES AND RELATED TECHNICAL DATA

(i) Part 531—Scope and Applicability of Licensing Requirements.
(ii) Part 532—General Export Licenses.
(iii) Part 533—Validated Export Licenses.

(4) SUBCHAPTER 540—REGULATIONS FOR MUNITIONS AND RELATED TECHNICAL DATA

(i) Part 541—Licensing Requirements.
(ii) Part 542—Mailing Under Individual Licenses.

(5) SUBCHAPTER 550—REGULATIONS FOR DRIED WHOLE EGGS

(i) Part 551—Description.
(ii) Part 552—Charges.
(iii) Part 553—How to Mail Dried Whole Eggs.

(6) SUBCHAPTER 560—REGULATIONS FOR TOBACCO SEEDS AND TOBACCO PLANTS

(i) Part 561—Description.
(ii) Part 562—Charges.
(iii) Part 563—How to Mail Tobacco Seeds and Tobacco Plants.

(7) SUBCHAPTER 570—CONSULAR AND COMMERCIAL INVOICES

(8) SUBCHAPTER 580—DRAWBACK ARRANGEMENTS

(i) Part 581—Description.
(ii) Part 582—Processing Drawback Claims.

(f) CHAPTER 6—INCOMING POSTAL UNION MAIL

(1) SUBCHAPTER 610—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 620—CHARGES

(i) Part 621—Customs Clearance and Delivery Fee.
(ii) Part 622—Shortpaid Mail.
(iii) Part 623—Invalid Foreign Postage.
(iv) Part 624—Letters Found in AO Mail.
(v) Part 625—Returned Mail.
(vi) Part 626—Storage.

(3) SUBCHAPTER 630—FOREIGN MARKINGS INSTEAD OF STAMPS

(4) SUBCHAPTER 640—FORWARDING MAIL OF FOREIGN ORIGIN

(i) Part 641—Forwarding Mail within the United States.
(ii) Part 642—Forwarding Mail to Another Country.
(iii) Part 643—Backstamping.
(iv) Part 644—Postage-Due Mail.

(5) SUBCHAPTER 650—UNDELIVERABLE ARTICLES

(i) Part 651—Retention Period.
(ii) Part 652—Directory Service.
(iii) Part 653—Marking and Disposal.
(iv) Part 654—Storage Charges.
(v) Part 655—Postage-Due Mail.

(6) SUBCHAPTER 660—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

(i) Part 661—Scope and Applicability.
(ii) Part 662—Advance Payment Required.
(iii) Part 663—Treatment if Advance Payment Not Made.
(iv) Part 664—Report of Incoming Mailings.

(g) CHAPTER 7—INCOMING PARCEL POST

(1) SUBCHAPTER 710—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 720—CHARGES

(i) Part 721—Customs Clearance and Delivery Fee.
(ii) Part 722—Letters Found in Parcels.
(iii) Part 723—Returned Parcels.
(iv) Part 724—Storage.

(3) SUBCHAPTER 730—STAMPS NOT AFFIXED

(4) SUBCHAPTER 740—DELIVERY

(i) Part 741—Parcels Addressed Through Bank or Other Organization.
(ii) Part 742—Foreign Dispatch Notes.

(5) SUBCHAPTER 750—FORWARDING PARCELS OF FOREIGN ORIGIN

(i) Part 751—Forwarding Parcels Within the United States.
(ii) Part 752—Forwarding Parcels to the Country of Origin.
(iii) Part 753—Forwarding Parcels to a Third Country.
(iv) Part 754—Dutiable Parcels.
(v) Part 755—Postage-Due Parcels.

(6) SUBCHAPTER 760—UNDELIVERABLE PARCELS

(i) Part 761—Parcels of U.S. Origin.
(ii) Part 762—Parcels of Foreign Origin.

(h) CHAPTER 8—IMPORTATIONS

(1) SUBCHAPTER 810—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 820—U.S. CUSTOMS INFORMATION

(i) Part 821—Customs Examination of Potentially Dutiable or Prohibited Mail.
(ii) Part 822—Treatment of Dutiable Mail at Delivery Office.

(3) SUBCHAPTER 830—PLANT AND ANIMAL QUARANTINE INSPECTION

(i) Part 831—What is Subject to Inspection.
(ii) Part 832—Segregation and Handling.
(iii) Part 833—Agriculture Inspection Stations and Offices.

(i) CHAPTER 9—INQUIRIES, INDEMNITIES, AND REFUNDS

(1) SUBCHAPTER 910—WHAT THIS CHAPTER COVERS

(2) SUBCHAPTER 920—INQUIRIES

(i) Part 921—Inquiries Defined.
(ii) Part 922—Charges for Inquiries.
(iii) Part 923—Processing Inquiries.

(3) SUBCHAPTER 930—INDEMNITY CLAIMS AND PAYMENT

(i) Part 931—Definition.
(ii) Part 932—Initiation and Documentation of Claims.
(iii) Part 933—Indemnity Payments.

(4) SUBCHAPTER 940—POSTAGE REFUNDS

(i) Part 941—Refunds Defined.
(ii) Part 942—Application by Senders.
(iii) Part 943—Processing Refund Applications.

(j) APPENDIX A—QUICK REFERENCE INFORMATION, RATES AND FEES

(k) INDEX

§ 111.3 Amendments to Chapter I of Postal Service Manual.

Changes in Chapter I of the Postal Service Manual will periodically be published in the FEDERAL REGISTER. Subscribers to the Postal Service Manual will automatically receive the amendments from the Government Printing Office.

Amendments to postal service manual

Transmittal letter	Issues	Dated	FEDERAL REGISTER publication
29	81	Aug. 15, 1974	39 FR 31634
30	85	Oct. 1, 1974	39 FR 37487
31	89	Nov. 15, 1974	39 FR 41530
32	91	Nov. 17, 1974	39 FR 43629
33	94	Jan. 17, 1975	40 FR 4420
34	97	Feb. 17, 1975	40 FR 6207
35	98	Feb. 21, 1975	40 FR 8230
36	102	May 1, 1975	40 FR 22133
37	108	June 30, 1975	40 FR 31402
38	109	July 21, 1975	40 FR 31766
39	112	Dec. 15, 1975	41 FR 6250
40	114	June 30, 1976	41 FR 29196

[FR Doc.76-24697 Filed 8-23-76;8:45 am]

PART 10—INTERNATIONAL POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Postal Service Manual; Incorporation by Reference

EDITORIAL NOTE.—The Director of the Federal Register has approved an extension of the incorporation by reference of the Postal Service Manual from September 1, 1976, until July 1, 1977, as provided in 39 CFR 111.4(a).

In addition, the Director of the Federal Register has agreed to incorporate by reference until July 1, 1977, the Postal Service Publication 42, International Mail, as provided in 39 CFR 10.4 (b). (See FR Doc. 76-24697 on page 35682 of this FEDERAL REGISTER.)

However, the Director of the Federal Register is considering publishing both the Postal Service Manual and the Postal Service Publication 42, International Mail, under separate cover as an Appendix to Title 39. This appendix would be considered a supplement to the Code of Federal Regulations (CFR), and would not be handled as a regular CFR volume. It would not conform to the uniform CFR codification system, but rather it would maintain the Postal Service Manual and Publication 42 organization and style. This appendix would not be revised annually, but would be supplemented periodically. This approach would provide historical continuity and ready access to bound volumes for scholars and researchers since both of the Postal Service publications are now in looseleaf form.

It should be pointed out that the original incorporation by reference of the domestic mail regulations (39 FR 20595, June 12, 1974) was adopted provisionally to allow for annual review. As part of the review process, we are issuing this document to determine how the public's need could best be served in light of its experience.

Comments on the need for and desirability of issuing an appendix volume to Title 39 are invited on or before October 7, 1976, to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

Dated: August 18, 1976.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.76-24698 Filed 8-23-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Summary of Comments on Proposed Regulations

Final regulations governing the Summer Food Service Program for Children were published March 5, 1976 (41 FR 9533) following the publication of proposed rulemaking (41 FR 1078). This statement summarizes the comments, suggestions, and objections received on the proposed regulations from interested persons and describes the principal changes which were made in the final regulations.

Responses to the proposed regulations were received from a total of 94 organizations and individuals, 34 of whom wrote simply endorsing the comments received from other organizations. Only substantive comments will be noted in this summary.

(1) *Definitions:* The principal comments and suggestions received on the definitions may be summarized as follows:

(a) Many respondents suggested raising the age of eligible children to 21. However, the age of eligible children was maintained at 18 because it was felt that most of the participants would be within that age group and that it was consistent with Federal and State changes in legal age. We recognize that there are young people in the 18–20 category who are employed under Federal programs which provide assistance to program sponsors. However, nothing in the regulations would prohibit a service institution from claiming meals served to such workers under administrative costs. In fact, the instructions on allowable program costs will specifically refer to this possibility.

(b) It was suggested that the definition of service institution be reworded to allow residential camps operating in other than summer months to participate. Under the authorizing legislation, only those service institutions which operate a program during May through September are eligible to operate under the continuous school calendar provision. Final regulations have expanded the definition of service institution to make clear that any service institution, including a residential camp, which operates during May through September may also participate under the continuous school calendar provision provided that it serves children who are on school vacation.

(2) *Eligibility Standards:* Several respondents suggested allowing residential summer camps to use area data instead of enrollment data if they so chose. Therefore, final regulations were changed accordingly.

(3) *Time Limitation on Meals:* Many respondents suggested that the time limits between meals were too long. In order to avoid excessive waste of food and in view of the fact that the law allows for service institutions to serve all meals (breakfast, lunch, supper, supplements), it was the rationale of the Department that a time frame of four hours between meals and three hours between meals and supplements was realistic. However, due to the large number of comments on this matter the hours between meal service were changed to three hours between all meals except that four hours must elapse between lunch and supper if no supplements are served.

(4) *Commodity Information:* Many respondents suggested that commodity lists be made available to service institutions early enough so the food can be more effectively utilized in the Program. Final regulations require State agencies to announce the availability of commodities at an early date prior to the development of menu cycles.

(5) *Advance Funding:* It was suggested that wording be included in the regulations to make advance funding mandatory in May and September as well as in June, July, and August. However, our experience has shown that very few service institutions participate in May and September. Therefore, this suggestion was not incorporated in the final regulations.

(6) *30 Days Submission Deadline:* Several respondents expressed concern about the 30 day deadline for submission of applications. The 30 day provision was added to the regulations to ensure that service institutions did not delay submitting applications, thus causing undue hardship on State agencies in their review of all necessary data in order to determine the ability of the service institutions to effectively administer the Program. Final regulations include the provision that applications must be submitted 30 days prior to the anticipated opening of the food service. However, we added a provision that applications received less than 30 days prior to the anticipated opening of the food service may be approved at the option of the State agency, or FNSRO where applicable.

(7) *Start-Up Costs:* Many respondents recommended raising the start-up costs to 4 percent, some even to 10 percent. However, it was felt that one percent was adequate. Should this amount prove to be inadequate, consideration will be given to raising it in the future.

(8) *Service Institution's Audit Requirement:* It was suggested that an audit be required annually of every service institution which participates in the Program, to be paid out of administrative costs. It is felt that to require every service institution regardless of size to be audited annually would be excessive. Small operations would not earn enough reimbursement to support the cost of an audit. Therefore, final regulations require only service institutions which anticipate reimbursement of over $30,000 during the period of their Agreement to be audited.

(9) *Minimizing the Number of Service Institutions in the Same Area:* The proposed regulations contained a requirement that the administering office review available data on the areas to be served, including the number of needy children in relation to the capacity of the service institutions, so as to minimize the number of service institutions approved in the same area. One respondent objected to the wording and felt the requirement should be more carefully spelled out or eliminated from the final regulations. Because of past problems of overlapping food service sites, the Department felt it was reasonable and in the interest of good management to retain the wording. The intention is not to deny food service to children from needy areas but to en-

V 41 165 AUG 24 76 UMI

sure that more than one service institution is not serving the same children.

Dated: August 19, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-24775 Filed 8-23-76;8:45 am]

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 230—NONFOOD ASSISTANCE PROGRAM

On February 10, 1976, there was published in the FEDERAL REGISTER (41 FR 5826) a proposed rulemaking redesignating and amending the regulations governing the Nonfood Assistance Program. The major reason for the proposed rulemaking was the implementation of Public Law 94-105.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. Comments were received from two educational State agencies, five Regional Offices, and seven other State or Federal agencies. Changes were made in the proposed regulations as a result of the comments received, except where the Department has no discretion under the law or where the replies were speculative or too general.

(1) General—Two respondents believe that the proposed regulations are wordy, cumbersome, and restrictive. While the scope of the regulations has increased substantially, most of the increase has resulted from the requirements of Pub. L. 94-105, and Federal Management Circular 74-7 (34 CFR Part 256). The Department does not believe the regulations as written are restrictive and a primary consideration in their development was to place greater dependence on the States for program administration.

(2) 230.2(aa) (proposed 230.2(x))—Definitions—One respondent believes that in the definition for "Reimbursement" eligible School Food Authorities should be referenced because in the programs administered by the respondent, reimbursement is paid to the School Food Authority, not the school. The Department agrees and we reference School Food Authorities in the definition.

(3) 230.2(bb) (proposed(y))—Definitions—One respondent suggests that the definition for school be expanded to list a Job Corps center as an example of an institution eligible to participate in the Program. The definition for school is a uniform definition used in all child nutrition programs and does not purport to list all child care institutions which may be eligible.

(4) 230.5—Multiyear Funding—One respondent believes that the multi-year funding provision permits a State, or FNSRO where applicable, to obligate in advance all or part of the funds for an approved project, with the funds to be disbursed when the project is completed.

The thrust of this provision is to permit the State agency, or FNSRO where applicable, when current fiscal year funds are insufficient, to approve the entire amount justified on the condition that such funds will be paid in increments to the School Food Authority, to the extent that sufficient funds are available, over a period not to exceed three consecutive fiscal years. However, nothing in these regulations prohibits the obligation of funds in a single year and the disbursement of funds, if available, on project completion.

(5) Another respondent interprets this provision to mean that multiyear funding is permissible only if the total number of applications exceed the amount of money available to the State agency or FNSRO for a fiscal year. The intent of the multiyear funding provision is to give the State agency, or FNSRO where applicable, the option to assist School Food Authorities over a period not to exceed three consecutive fiscal years when the amount of funds requested and justified in the application of any School Food Authority exceeds the amount of funds available under § 230.4 of this part.

(6) 230.7(a)—Matching of Funds—One respondent believes that this section as proposed might be interpreted to mean that all payments made by FNS must be matched, including payments to School Food Authorities for schools designated as "especially needy." The legislation does not require any matching from School Food Authorities for schools designated as "especially needy." The Department has changed the language to more clearly reflect the legislation.

(7) 230.9(b)(2)—Requirements for Participation—One respondent suggests that the wording of this section did not clearly demonstrate the need to get the State agency or FNSRO involved in the planning stage of equipment acquisition and systems development. The Department agrees and has changed the language to emphasize the desirability of State agency or FNSRO involvement early in the planning process in order to stress systems compatability over individual equipment and, if nonfood assistance funds are not available, help School Food Authorities consider and make the best use of other alternatives.

Accordingly, the Nonfood Assistance Program regulations are revised and reissued. This regulation supersedes the provisions 7 CFR Part 220 insofar as they pertain to the Nonfood Assistance Program.

Sec.

230.1 General purpose and scope.
230.2 Definitions.
230.3 Administration of the Program.
230.4 Apportionment of funds to States.
230.5 Multiyear funding.
230.6 Method of payment to States.
230.7 Matching of funds.
230.8 Use of funds.
230.9 Requirements for participation.
230.10 Reimbursement payments.
230.11 Claims for reimbursement.
230.12 Special responsibilities.
230.13 Claims against School Food Authorities.
230.14 Management evaluations and audits.
230.15 Procurement standards.
230.16 Property management requirements.
230.17 Prohibitions.
230.18 Other provisions.
230.19 Program information.

AUTHORITY: Secs. 5, 10, Public Law 89-642, 80 Stat. 887, 889 (42 U.S.C. 1774, 1779).

§ 230.1 General purpose and scope.

Section 5 of the Child Nutrition Act of 1966, as amended, authorizes the payment of funds to States to assist them to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than real property, for the storage, preparation, transportation, and serving of food, to enable them to establish, maintain, and expand school food service programs. This part announces the policies and prescribes the regulations necessary to carry out this purpose.

§ 230.2 Definitions.

For the purpose of this part, the term:

(a) "Acquisition cost" means the net invoice price of nonexpendable and expendable personal property acquired by purchase. This property may include attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges such as taxes, duty, protective intransit insurance, freight, or installation may also be included.

(b) "Act" means the Child Nutrition Act of 1966, as amended.

(c) "Breakfast" means a meal served to a school child at the beginning of the child's day at the school, which meets the requirements of the School Breakfast Program (7 CFR Part 220).

(d) "Child" means a person under 21 chronological years of age in schools as defined in § 230.2(bb) (2) and (3) or a student of high school grade or under as determined by the State educational agency in schools as defined in § 230.2 (bb)(1).

(e) "CND" means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

(f) "Delivery costs" means the cost incurred in transporting allowable equipment from point of shipment to the destination specified in the procurement document. It includes all usual costs associated with delivery, but does not include the alteration of buildings to accommodate equipment during the delivery process.

(g) "Department" means the U.S. Department of Agriculture.

(h) "Equipment" means articles and facilities, other than land or buildings, used for the receiving, storage, preparation, transportation, or serving of food.

(i) "Especially needy school" means a school whose School Food Authority does not have access to sufficient resources to meet the matching requirement of this part, and in which at least the majority of students enrolled are eligible for free or reduced price meals.

(j) "Expendable personal property" means all tangible personal property other than nonexpendable personal property.

(k) "Fiscal year" means the period of 12 calendar months beginning July 1, 1975, and ending June 30, 1976; the period of 15 calendar months beginning July 1, 1976, and ending September 30, 1977; and the period of 12 calendar months beginning October 1, 1977, and each October 1 of any calendar year thereafter and ending September 30 of the following calendar year.

(l) "FMC-74-7" means Federal Management Circular 74-7, the Circular which establishes uniform standards for the administration of grants-in-aid to State and local governments, including school districts (34 CFR Part 256).

(m) "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

(n) "FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the U.S. Department of Agriculture.

(o) "Installation costs" mean the usual costs incurred in uncrating, setting up, and making final connection of equipment to existing utilities in the room in which the equipment is to operate, except those costs that constitute a capital or leasehold improvement of the buildings.

(p) "Lunch" means a meal which meets the lunch pattern for specified age groups of children set forth in § 210.10 of Part 210 of this chapter.

(q) "National School Lunch Program" means the program authorized by the National School Lunch Act, as amended (7 CFR Part 210).

(r) "Needy children" mean children from families meeting the family size income standards for free or reduced price meals established by a State or FNSRO pursuant to Part 245 of this chapter.

(s) "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. The State agency may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

(t) "Nonprofit" means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by its Governor.

(u) "OA" means the Office of Audit of the Department.

(v) "OI" means the Office of Investigation of the Department.

(w) "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible, having no physical existence, such as patents, inventions, and copyrights.

(x) "Program" means the Nonfood Assistance Program authorized by section 5 of the Child Nutrition Act of 1966, as amended.

(y) "Real property" means land, land improvements, structures thereon and appurtenances thereto.

(z) "Reimbursement" means financial assistance paid or payable to eligible School Food Authorities for food service equipment. The term "reimbursement" also includes financial assistance made available through advances of Program funds to eligible School Food Authorities.

(aa) "School" means (1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade. (2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: Homes for the mentally retarded, the emotionally disturbed, the physically handicapped, unmarried mothers and their infants, group homes, halfway houses, orphanages, temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children, and juvenile detention centers. (3) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

(bb) "School Breakfast Program" means the program authorized by section 4 of the Child Nutrition Act of 1966, as amended (7CFR Part 220).

(cc) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch or breakfast program therein. The term "School Food Authority" also includes a nonprofit agency or organization to which such governing body has delegated authority to operate the lunch or breakfast program in schools under its jurisdiction, provided the governing body retains the responsibility to comply with Program regulations.

(dd) "School without a food service" means a school in which children do not presently have reasonable access, as determined by the State agency, or FNSRO where applicable, to a meal meeting requirements of the National School Lunch Program or the School Breakfast Program.

(ee) "School without facilities to prepare or receive hot meals" means a school that lacks facilities, or does not have reasonable access, as determined by the State agency, or FNSRO where applicable, to facilities capable of preparing or receiving hot meals meeting requirements of the National School Lunch Program or the School Breakfast Program.

(ff) "Secretary" means the Secretary of Agriculture.

(gg) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(hh) "State agency" means (1) the State educational agency or (2) such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in schools as defined in § 230.2(bb).

(ii) "State educational agency" means, as the State Legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of education controlling the State department of education.

§ 230.3 Administration of the program.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, CND shall be responsible for administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in schools of any State to which the State agency is not permitted by law to disburse Federal funds paid to it under the Act. References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program in such schools.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. The agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

§ 230.4 Apportionment of funds to States.

(a) Of the Federal funds appropriated for nonfood assistance under the Act, 66⅔ percent shall be apportioned among the States during each fiscal year on the basis of the ratio that the number of lunches, meeting the meal requirements set forth in § 210.10 of this chapter and served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned, bears to the total number of such lunches served in all States in such preceding fiscal year.

(b) For the fiscal year ending June 30, 1976, 33⅓ percent of the funds appropriated for nonfood assistance under the Act shall be apportioned among the States on the basis of the ratio of the number of children in each State, enrolled in schools without a food service to the number of children in all States enrolled in schools without a food service.

(c) For each fiscal year after the fiscal year ending June 30, 1976, 33⅓ percent of the funds appropriated for nonfood assistance under the Act shall be apportioned among the States on the basis of the ratio of the number of children in each State, enrolled in schools without the

V 41 165 AUG 24 76 UMI

facilities to prepare or receive hot meals, to the number of children in all States enrolled in schools without a food service and in schools without the facilities to prepare or receive hot meals.

(d) If any State agency, or FNSRO where applicable, cannot use all the funds apportioned to it under paragraph (a), (b) or (c) of this section, it shall release such funds to the Department for further apportionment among the remaining States, in the manner and for the purpose of the respective initial apportionment: *Provided, however,* That no further apportionment shall be made if the Department determines that the amount of such funds is too small to make a further apportionment. If funds apportioned under paragraph (b) or (c) of this section remain unused after such further apportionment, they shall immediately be reapportioned under the provisions of paragraph (a) of this section to assist schools with a food service program and with the facilities to prepare or receive hot meals.

(e) A share of the Program funds apportioned to any State in accordance with paragraph (a), (b) or (c) of this section shall be withheld by FMS for schools of that State if the State agency is prohibited by law from administering the Program with respect to such schools. The amount withheld from the funds apportioned under paragraph (a), of this section shall bear the same ratio to such apportioned funds as the number of lunches, meeting the requirements of § 210.10 of Part 210 of this chapter and served in such schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld, bears to the total number of such lunches served in all schools within such State in such preceding fiscal year. The amount withheld under paragraph (b) of this section for fiscal year 1976 shall bear the same ratio to such funds as the number of children, enrolled in such State in such schools without a food service, bears to the total number of children enrolled in all schools without a food service in such State in such fiscal year. For each fiscal year, after the fiscal year ending June 30, 1976, the amount withheld under paragraph (c) of this section shall bear the same ratio to such funds as the number of children, enrolled in such State in such schools without a food service and without the facilities to prepare or receive hot meals, bears to the total number of children enrolled in such State in such fiscal year, in all schools without a food service and without the facilities to prepare or receive hot meals.

§ 230.5 Multiyear funding.

If, in any fiscal year, the amount of funds made available under § 230.4 of this part to any State agency, or FNSRO where applicable, is insufficient to pay the entire amount of funds requested and justified in the application of any School Food Authority, the State agency, or FNSRO where applicable, may approve the entire amount justified on condition that such amount will be paid to the School Food Authority, to the extent that sufficient funds are available therefor, over a period not to exceed three consecutive fiscal years beginning with the fiscal year in which the application was approved.

§ 230.6 Method of payment to States.

Funds to be paid to any State shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall: (a) Obtain funds needed for reimbursement to institutions through presentation by designated State officials of a Payment Voucher on Letter of Credit (Treasury Form GFO 7578) in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department; (b) submit requests for funds only at such times and in such amounts as will permit prompt payment of claims; (c) use the funds received from such requests without delay for the purpose for which drawn. Notwithstanding the foregoing provisions, if funds are made available by Congress for the operation of the Program under a continuing resolution, Letters of Credit shall reflect only the amount available for the effective period of the resolution.

§ 230.7 Matching of funds.

(a) During any fiscal year, payments made by FNS to each State agency and payments made by FNSRO to School Food Authorities shall be upon the condition that at least one fourth of the costs of the equipment acquired shall be borne from sources within the State: *Provided, however,* That payments used to assist especially needy schools as determined by the State agency, or FNSRO where applicable, shall not be so matched. Payments made by FNS to a State agency may be matched, where matching is required, either by the respective recipient School Food Authorities or from other State or local sources and payments made by FNSRO to a School Food Authority may be matched either by the recipient School Food Authority or from other funds available to such School Food Authorities within the State in which the Program is administered by FNS.

(b) Funds from sources within the State shall include any source of State or local funds other than grants of the Department or any other Federal agency except when enabling legislation otherwise provides for such matching.

(c) It shall be the responsibility of the State agency, or FNSRO were applicable, to determine whether the requirements for financing from sources within the State are being met. In the event it appears that such requirements will not be met, the State agency, or FNSRO where applicable, shall take corrective action to assure compliance.

§ 230.8 Use of funds.

Federal funds made available for the Program shall be used in accordance with the provisions of this part to reimburse the School Food Authorities of schools which draw attendance from areas in which poor economic conditions exist, and which have no equipment or grossly inadequate equipment to conduct a school food service, in connection with the cost of purchase or rental of equipment to establish, maintain, and expand school food service: *Provided, however,* That with the approval of FNS, any State agency, or FNSRO where applicable, may reserve for use in carrying out special developmental projects an amount equal to not more than one percent of the sum of the Federal funds initially apportioned to it for any fiscal year for the Program. Funds apportioned under paragraph (a) of § 230.4 may be used to reimburse School Food Authorities of all eligible schools, funds apportioned under paragraphs (b) and (c) of § 230.4 may be used to reimburse School Food Auhorities of schools without a food service and School Food Authorities of schools without the facilities to prepare or receive hot meals.

§ 230.9 Requirements for participation.

(a) Each State agency, or FNSRO where applicable, shall require the School Food Authority to make written application to the State agency, or FNSRO where applicable, for any school which it desires to participate in the Program. Applications shall include information in sufficient detail to ensure that the school is eligible for assistance under paragraph (b) of this section and to ascertain the amount of financial assistance required.

(b) A school which draws attendance from areas in which poor economic conditions exist and which has no equipment or grossly inadequate equipment to operate a school food service under the National School Lunch Program or the School Breakfast Program shall be selected for participation in the Program on the basis of: (1) The financial ability and the relative need of the School Food Authority for assistance in acquiring adequate equipment, determined on the basis of the information supplied by the School Food Authority and by other School Food Authorities in the applications submitted; and (2) the amount of funds available to the State agency, or FNSRO where applicable. State Agencies, or FNSRO where applicable, have a positive obligation to inform eligible School Food Authorities and to work with them in planning for the acquisition of any equipment needed to operate their school food service effectively and, to the extent that funds are available, to aid the School Food Authorities in procuring such equipment.

(c) The State agency, or FNSRO where applicable, shall require the School Food Authority of each school selected for participation to enter into a written agreement with the State agency, or FNSRO where applicable. The School Food Authority shall agree to participate in the School Breakfast Program or the National School Lunch Program, or both.

§ 230.10 Reimbursement payments.

The amount of the reimbursement payment to any School Food Authority shall not exceed the acquisition cost of the equipment, including delivery and installation costs. The total amount of the reimbursement payments made to School Food Authorities in each State for food service equipment acquired for schools which are not especially needy shall not exceed three-fourths of the total cost of the equipment, including delivery and installation costs. The total amount of the reimbursement payments made to School Food Authorities in each State for equipment acquired for schools which are especially needy shall not exceed the cost of the equipment including delivery and installation costs.

§ 230.11 Claims for reimbursement.

Each State agency, or FNSRO where applicable, shall require School Food Authorities to submit claims for reimbursement which shall include data in sufficient detail to justify the amounts claimed and to enable the State to provide the information needed for reports and records required under § 230.12.

§ 230.12 Special responsibilities.

(a) Each State agency shall submit information on Program operations on a form provided by FNS and shall maintain current accounting records of Program operations which will adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of the submission of the final Financial Status Report, except that (1) if audit findings have not been resolved, the records shall be retained beyond the three year period as long as required for the resolution of the issues raised by the audit; and (2) records for nonexpendable property acquired with Program funds shall be retained for three years after the final disposition of such property.

(b) Each State agency shall report information on the use of Program funds to FNS on a Financial Status Report form provided by FNS. Reports shall continue to be submitted on a regular basis after the end of the fiscal year to which they pertain until all unpaid obligations have been liquidated, at which time the report reflecting the liquidation of all such unpaid obligations should be marked "Final" and submission discontinued for that fiscal year.

(c) Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State Agencies shall maintain on file evidence on such investigations and actions. FNS or OI shall make investigations at the request of the State agency or where FNS or OI determines investigations are appropriate.

(d) Each State agency shall release to FNS any Federal funds made available to it under the Act which are unobligated at the end of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNSRO and shall be reflected by a related adjustment in the State agency's Letter of Credit.

(e) Each State agency, or FNSRO where applicable, shall:

(1) Provide consultive, technical, and managerial personnel to administer the Program, monitor performance, and measure progress toward achieving Program goals, as specified in the State Plan of Child Nutrition Operations submitted in accordance with section 11(e)(1) of the National School Lunch Act and § 210.4a of the regulations governing the National School Lunch Program (7 CFR Part 210). In order to meet the minimum criteria for approval, the portion of the State Plan which deals with Program assistance shall include: (i) Objectives, (ii) reasons for the establishment of the objectives, (iii) methods to be used to accomplish the objectives, and (iv) evaluation methods to be used in determining if the objectives are being met.

(2) Visit the participating schools to ensure compliance with this Part and with the Department's nondiscrimination regulations (Part 15 of this title) issued under title VI of the Civil Rights Act of 1964.

(3) Maintain documentation of such assistance on file.

(f) Each State agency shall adequately safeguard all Program assets and assure that they are used for authorized purposes.

(g) Each State agency shall establish a system of accounting under which School Food Authorities shall report the information required in this part to enable the State agency, or FNSRO where applicable, to administer the Program, monitor performance, and measure progress toward Program goals.

(h) Each State agency shall require compliance by School Food Authorities with applicable provisions of this part.

§ 230.13 Claims against School Fund Authorities.

(a) State agencies shall disallow any portion of a claim and recover any payment from Program funds made to a School Food Authority that is not properly payable under this part. State agencies may use their own procedures to disallow claims and recover overpayments already made.

(b) State agencies may refer any action they propose to take under this section to CND, through FNSRO, for determination.

(c) If CND does not concur with a State agency's action in paying a claim, or in failing to collect an overpayment, CND shall assert a claim against the State agency for the amount of such claim or overpayment. In all such cases, the State agency shall have full opportunity to submit to CND evidence or information concerning the action taken. If, in the determination of CND, the State agency's action was unwarranted, the State agency shall promptly pay, from sources other than Program funds, to FNS the amount of the claim or overpayment.

(d) Amounts recovered by State agencies from School Food Authorities may be utilized, first, to make payments to School Food Authorities for the purpose of the Program during the fiscal year for which the funds were initially available, and, second, to repay any State funds in excess of the matching requirements of 230.7 of this part expended in the reimbursement of claims under the Program and not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of § 230.12(d).

(e) With respect to School Food Authorities of schools in which the Program is administered by FNSRO, when FNSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the School Food Authority of the reasons for such disallowance or demand and the School Food Authority shall have full opportunity to submit evidence or to file reclaims for any amounts disallowed or demanded in the same manner as that afforded to School Food Authorities of schools in which the Program is administered by State agencies.

§ 230.14 Management evaluations and audits.

(a) Each State agency, or FNSRO where applicable, shall provide for audits of the funds and operations of the Program at the State and School Food Authority levels to be made with reasonable frequency, but, beginning in fiscal year 1978, not less frequently than once every two years. The audits shall determine the fiscal integrity of financial transactions and reports, and the compliance with applicable laws and regulations and with the administrative requirements set forth in Attachment G of Federal Management Circular 74-7 (34 CFR Part 256). Audits may be made by State agency internal auditors, by State Auditors General, by State Controllers, or by other comparable State audit groups, or by Certified Public Accounts or State licensed public accountants.

(b) Each State agency shall develop a plan for the conduct of audits which shall be incorporated into the State Plan of Child Nutrition Operations provided for under § 210.4a of the National School Lunch Program regulations. The plan shall: (1) State the frequency of audits of State agencies and School Food Authorities and delineate the positive action to be taken during fiscal year 1977 to achieve audit frequency of not less than once every two years by the beginning of fiscal year 1978; (2) provide a description of the State organization in adequate detail to demonstrate the independence of the audit organization; and (3) provide a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) While OA shall rely to the fullest extent feasible upon State sponsored audits, it shall, whenever considered necessary, (1) make audits on a statewide basis, (2) perform on-site test audits, and (3) review audit reports and related

V 41 165
AUG 24 76
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working papers of audits performed by or for State agencies.

(d) Use of audit guides available from OA is encouraged. When these guides are utilized, OA will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(e) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools) of all operations of the State agency under the Program and shall provide OA with full opportunity to conduct audits (including visits to schools) of all operations of the State agency under the Program. Each State agency shall make available its records, including records of the receipt and expenditure of funds under the Program, upon a reasonable request by FNS or OA. OA shall also have the right to make audits of the records and operations of any School Food Authority.

§ 230.15 Procurement standards.

(a) This section provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, and services with Program funds for use in the Program. These standards will be applicable at the School Food Authority level effective October 1, 1977. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive Orders. State agencies or School Food Authorities may use their own procurement regulations which reflect applicable State and local laws, rules, and regulations, provided that procurement adheres to the standards set forth in this section.

(b) The standards contained in this section do not relieve the State agency or School Food Authority of the responsibilities arising under its contracts. The State agency or School Food Authority is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the Program. This includes, but is not limited to: disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the State or Federal authority that has proper jurisdiction.

(c) The State agency or School Food Authority shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Program funds. The State agency's or School Food Authority's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State laws, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the State agency's or School Food Authority's officers, employees, or agents, or by contractors or their agents.

(d) All procurement transactions of the State agency or School Food Authority, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The State agency or School Food Authority should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(e) The State agency or School Food Authority shall establish procurement procedures which comply with the provisions of this section.

(f) Proposed procurement actions shall be reviewed by appropriate officials of the State agency or School Food Authority to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(g) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured, such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement and, when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(h) Positive efforts shall be made by the State agency or School Food Authority to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for procurements to be made with Program funds.

(i) The type of procuring instruments used (e.g., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.) shall be appropriate for the particular procurement and for promoting the best interest of the Program. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(j) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to subparagraph (4) of this paragraph is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State law or regulations. When formal advertising is employed:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State agency or School Food Authority, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State agency or School Food Authority.

(3) Any or all bids may be rejected when it is in the State agency's or School Food Authority's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(4) Procurements may be negotiated by the State agency or School Food Authority if it is not practicable or feasible to use formal advertising. Notwithstanding the existence of circumstances justifying negotiations, competition shall be obtained to the maximum extent practicable. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(i) The public exigency will not permit the delay incident to advertising;

(ii) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the State agency, or FNSRO where applicable, for prior approval;

(iii) The aggregate amount involved does not exceed $10,000;

(iv) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(v) No acceptable bids have been received after formal advertising;

(vi) The purchases are for materials or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(vii) Negotiation is otherwise authorized by law, rules, or regulations.

(k) Contracts shall be made by State agencies or School Food Authorities only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(l) The procurement records or files of State agencies or School Food Authorities for negotiated purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: (1) Justification for the use of negotiation in lieu of advertising, (2) contractor selection, (3) the basis for the cost or price negotiated.

(m) A system for contract administration shall be maintained by the State agency or School Food Authority to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(n) The State agency or School Food Authority shall include provisions to define a sound and complete agreement in all contracts which it awards when the contract costs are to be borne by Program funds.

(o) In awarding contracts the State agency or School Food Authority must comply with the following requirements:

(1) The State agency's or School Food Authority's contract shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and shall provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State agencies or School Food Authorities in excess of $10,000 shall contain suitable provisions for termination by the State agency or School Food Authority including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) Where applicable, all contracts awarded by State agencies or School Food Authorities in excess of $2,500 which involve the employment of mechanics of laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Contract Work Hours and Safety Standards Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market or contracts for transportation.

(4) Contracts awarded by State agencies or School Food Authorities, the principal purpose of which is to create, develop, or improve products, processes, or methods, or for exploration into fields which directly concern public health, safety, or welfare, or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Department. The contractor shall be advised as to the source of additional information regarding these matters.

(5) All negotiated contracts (except those of $10,000 or less) awarded by State agencies or School Food Authorities shall include a provision to the effect that the State agency or School Food Authority, the Department, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the Program for the purpose of making audit, examination, excerpts, and transcriptions.

(6) Contracts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857b et seq.). Suspected violations shall be reported by the State agency or School Food Authority in writing to the Regional Office of the United States Environmental Protection Agency, with a copy to the Department.

(p) State agencies or School Food Authorities shall observe their regular requirements and practices with respect to bonding and insurance.

§ 230.16 Property management requirements.

(a) *General purpose and scope.* This section prescribes policies and procedures governing title, use, and disposition of personal property obtained by a State agency for eligible schools, whose cost was borne in whole or in part with Program funds. This section applies when the State agency is acting in the capacity of a School Food Authority, and when the property is obtained for use in the food service operation in schools participating in any Program authorized under the National School Lunch Act or Child Nutrition Act. The School Food Authorities of schools which are private and nonprofit shall follow the requirements of paragraph (b)(4) of this section. Other School Food Authorities shall follow applicable procedures contained herein beginning October 1, 1977. State agencies and School Food Authorities may follow their own property management policies and procedures provided they observe the requirements of this section.

(b) *Nonexpendable personal property.* The following requirements shall be observed in the acquisition, use, and disposition of nonexpendable personal property:

(1) *Title.* When nonexpendable personal property is acquired by a State agency or by a School Food Authority, in whole or in part with Program funds, title shall be vested in the State agency or School Food Authority, as applicable.

(2) *Use.* The State agency or School Food Authority shall retain such property in the Program as long as there is a need for such property to accomplish the purpose of the Program.

(3) *Disposition—Public school property.* When there is no longer a need for such property to accomplish the purpose of the program for which it was acquired, the State agency or School Food Authority shall use the property in connection with any Federal program it administers. Priority shall be given to Federal programs administered by the Department over the programs administered by other Federal agencies. Approval from the Department or State agency, as applicable, must be obtained by the State agency or the School Food Authority prior to using equipment acquired with Program funds for programs of other Federal agencies. When the State agency or School Food Authority no longer has need for such property in any of its federally assisted programs, the property may be used for the State agency's or School Food Authority's own official activities. In such situations, the State agency or School Food Authority may use the property without reimbursement to the Department or State agency, as applicable, or sell the property and retain the proceeds if the property had an acquisition cost of less than $500 per unit and has been used 4 years or more. In the case of other property, the State agency or School Food Authority may retain the property for its own use, *Provided*, That a fair compensation is made to the Department or State agency, as applicable, for the Federal share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the property to the current fair market value of the property. If the State agency or School Food Authority has no need for the property, disposition shall be made as follows:

(i) Except for property having an acquisition cost of less than $500 per unit which has been used for 4 years or more, the State agency or School Food Authority shall sell property having an acquisition cost of $1,000 or less per unit and reimburse the Department or State agency, as applicable, in accordance with subdivision (ii) of this paragraph.

(ii) If the property had an acquisition cost of over $1,000 per unit, the State agency or School Food Authority shall request disposition instructions from the Department or State agency, as applicable. If the Department or State agency, as applicable, has no need for the property, the availability of the property shall be reported to the General Services Administration by the Department to determine whether a requirement for the proprety exists in other Federal programs. The Department or State agency, as applicable, will issue instructions to the State agency or School Food Authority within 120 days following the receipt of the request. If the State agency or School Food Authority is instructed to ship the property elsewhere, the State agency or School Food Authority shall be reimbursed by the Department or State agency, as applicable, with an amount which is computed by applying the percentage of the State agency's or School Food Authority's participation in the cost of the property to the current fair market value of the property, plus any shipping or interim storage costs incurred. If the State agency or School Food Authority is instructed to otherwise dispose of the property, the State agency or School Food Authority will be reim-

V 41 165 AUG 24 76 UMI

bursed by the Department or State agency, as applicable, for the costs incurred in the disposition. If disposition instructions are not issued within 120 days after reporting, the State agency or School Food Authority shall sell the property and reimburse the Department or State agency, as applicable, an amount which is computed by applying the percentage of Federal participation in the cost of the property to the sales proceeds. Further, the State agency or School Food Authority may be permitted to retain $100 or 10 percent of the proceeds, whichever is greater, for the State agency's or School Food Authority's selling and handling expenses.

(iii) When the Department or State agency, as applicable, determines that nonexpendable personal property with an acquisition cost of $1,000 or more and financed solely with Program funds is unique, or difficult or costly to replace, the Department or State agency, as applicable, may reserve the right to require the State agency or School Food Authority to transfer title to the property to the Department or State agency, as applicable, or to a third party subject to the following provisions:

(A) The right to require the transfer of title may be reserved only by means of an express special condition in the grant or contract, or, if approval for the acquisition of the property is given after the grant is awarded, by means of a written stipulation at the time the approval is given.

(B) The property shall be appropriately identified in the award document or otherwise made known to the State agency, or FNSRO where applicable.

(C) The Department or State agency, as applicable, shall not exercise this right until the State agency or School Food Authority no longer needs the property in the program for which it was acquired. That need will be deemed to end on the date of completion or termination of such program unless the State agency or School Food Authority continues to conduct a school food service after that date and demonstrates to the Department or State agency, as applicable, a continued need for the property in its school food service.

(D) The Department or State agency, as applicable, shall issue disposition instructions within 120 days after the completion of the need for the property. If instructions are not issued within such 120-day period, the Department's or State agency's right shall lapse, and the State agency or School Food Authority shall apply the applicable standards contained in paragraphs (b)(3)(i) and (b)(3)(ii) of this section.

(E) The State agency or School Food Authority shall be entitled to reimbursement for any shipping and interim storage costs it incurs pursuant to the Department's or State agency's disposition instructions.

(4) *Disposition—Private school property.* When there is no longer a need for personal property to accomplish the purpose of the program for which it was acquired, a School Food Authority of a private and nonprofit school shall transfer it with the approval of the State agency or FNSRO, where applicable, to another School Food Authority of a private and nonprofit school participating in any program authorized by the Child Nutrition Act of 1966, as amended, or the National School Lunch Act, or to any other school participating in any of the programs authorized by such Acts. Failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States. Such reversion shall be effected in accordance with instructions from the State agency, or FNSRO where applicable.

(5) *Property management standards.* State agency or School Food Authority property management standards for nonexpendable personal property shall also include the following procedural requirements:

(i) Property records shall be maintained accurately and shall provide for: (A) A description of the property; (B) manufacturer's serial number or other identification number; (C) acquisition date and cost; (D) source of the property; (E) percentage of Program funds used in the purchase of the property; (F) location, use, and condition of the property; and (G) ultimate disposition data including sales price or the method used to determine current fair market value if the State agency or School Food Authority reimburses the Department or State agency, as applicable, for its share.

(ii) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(iii) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or the theft of the property. Any loss, damage, or the theft of nonexpendable property shall be investigated and fully documented. The State agency or School Food Authority shall be responsible for replacing or repairing (with funds of such State agency or School Food Authority) property which is lost, damaged, or stolen due to the negligence of the State agency or School Food Authority.

(iv) Adequate maintenance procedures, recommended by the manufacturer, shall be implemented to keep the property in good condition.

(v) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(c) *Expendable personal property.* The State agency or School Food Authority may at its option either retain or sell items of expendable personal property, not acquired for private and nonprofit school use, when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). Expendable personal property acquired for private and nonprofit schools shall be disposed of in accordance with the provisions of paragraph (b)(4) of this section. For expendable personal property acquired for public schools, compensation to the Department or State agency, as applicable, is required if the aggregate fair market value of all of those items acquired under the grant or contract exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original property to the current fair market value of items retained and to the sales proceeds of items sold.

(d) *Intangible personal property*—(1) *Patents and inventions.* If any Program activity produces patents, patent rights, processes or inventions in the course of work aided by the Department, such fact shall be promptly and fully reported to the Department or State agency, as applicable. Unless there is prior agreement between the State agency and the Department on disposition of such items, the Department shall determine whether protection of such invention or discovery will be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971), and "Statement of Government Patent Policy" (36 FR 16889).

(2) *Copyrights.* When a Program activity results in a book or other copyrightable material, the author or State agency or School Food Authority is free to copyright the work, but the Department reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use the work for government purposes.

(e) *Publications.* Any publication or presentation resulting from or primarily related to Federal financial assistance shall contain the following acknowledgement: The activity which is the subject of this report was supported in whole or in part by the U.S. Department of Agriculture, Food and Nutrition Service. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Department of Agriculture, and no official endorsement by the U.S. Department of Agriculture should be inferred.

§ 230.17 Prohibitions.

(a) In carrying out the provisions of this part, neither the Department nor the State shall impose any requirements with respect to teaching personnel, curriculum, instructions, methods of instruction, and materials of instruction in any school as a condition for participation in the Program.

(b) The value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

§ 230.18 Other provisions.

(a) *General.* Grant closeout procedures for the Program shall be in accordance with Attachment L of Federal Management Circular 74-7 of (34 CFR Part 256).

(b) *Termination for cause.* FNS may terminate a State agency's or School Food Authority's participation in the Program, in whole or in part, whenever it is determined that the State agency or School Food Authority has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency or School Food Authority in writing of the termination and the reasons for the termination, together with the effective date. When the Program has been terminated for cause, any payments made to the State agency or School Food Authority or any recoveries by FNS from the State agency shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS or the State agency may terminate a State agency's or School Food Authority's participation in the Program, in whole or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency or School Food Authority shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency or School Food Authority for the Federal share of noncancellable obligations properly incurred by the State agency or School Food Authority prior to termination.

(d) *State requirements.* Nothing contained in this part shall prevent the State agency from imposing additional requirements for participation in the Program which are not inconsistent with the provisions of this part.

§ 230.19 Program information.

School Food Authorities desiring information concerning the Program should write to their State agency or to the appropriate Food and Nutrition Service Regional Office, as indicated below:

(a) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 729 Alexander Road, Princeton, New Jersey 08540.

(b) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 34 Third Avenue, Burlington, Massachusetts 01803.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, Georgia 30309.

(d) In the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming: West-Central Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(f) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Program No. 10.554 National Archives Reference Services.)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This part shall become effective on August 24, 1976.

Dated: August 20, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-24933 Filed 8-23-76;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

• Purpose. The purpose of this document is to publish commuted traveltime established for agricultural inspection service. •

This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, February 10, 1976 (41 FR 5804), and May 18, 1976 (41 FR 20389), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

The table in § 354.2 is amended as follows:

§ 354.2 [Amended]

Deleted the following entries:

Commuted traveltime allowances

[In hours]

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
•	•	•	•
Alabama:			
Mobile		1	
Delaware:			
Undesignated ports	Dover		3
Louisiana:			
Baton Rouge	Baton Rouge	1	
Burnside	do		2
Convent	do		2
Port Allen	do	1	
Pennsylvania:			
Greater Pittsburgh International Airport.	Meadville		4
Do	Pittsburgh	2	
•	•	•	•

Add the following entries:

Commuted traveltime allowances

[In hours]

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
•	•	•	•
Alabama:			
Mobile	Mobile	2	
Delaware:			
Claymont	Dover		3
Delaware City	do		3
Greater Wilmington Airport.	do		3
Wilmington	do		3
Indiana:			
Mt. Vernon	Huntingburg		4
Louisiana:			
Baton Rouge (including Port Allen).	Baton Rouge	2	
Burnside	do		3
Convent	do		3
St. Gabriel	do		2
Uncle Sam	do		3
Undesignated ports	do		4
Maryland:			
Cambridge	Dover, Md		4
Salisbury	do		3
Montana:			
Great Falls International Airport.	Great Falls	1	
Pennsylvania:			
Greater Pittsburgh International Airport.	Meadville		5
Do	Pittsburgh	3	
Tennessee:			
Memphis	Batesville, Miss.		2
•	•	•	•

(64 Stat. 561; (7 U.S.C. 2260).)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are impracticable and

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unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date: The foregoing amendment shall become effective August 24, 1976.

Done at Washington, D.C., this 17th day of August, 1976.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-24677 Filed 8-23-76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENT

[Amendment 3]

PART 728—WHEAT

Wheat Program for Crop Years 1975–1977

The following changes, effective for 1976–1977, are being made in the regulations governing the Wheat Program for Crop Years 1975–1977.

1. The wheat marketing year is changed to June 1–May 31.

2. Form 580 is obsolete for 1976 and subsequent years. When necessary, acreage will be reported on Form 578 and reports of production and disposition will be obtained on Form 575–1 and on Form 658. Prevented planting will be reported on Form 574–1 instead of on Form 574.

3. Established yields may be adjusted to reflect a temporary change in the current year yield when there is a change in the number of acres irrigated within the disaster allotment.

4. Wheat acreage designated for nongrain use in accordance with instructions issued by the Deputy Administrator will be disregarded for low yield payment purposes.

5. The production charged to wheat acreage for which production cannot be determined may be equal to or less than the established yield.

6. Disaster payments shall not duplicate returns guaranteed by an agreement with a seed company for the production of seed.

Pursuant to section 107 of the Agriculture Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, and section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, 7 CFR Part 728 is amended as follows:

1. Section 728.2 is amended by adding paragraph (j) as follows:

§ 728.2 Definitions.

* * * * *

(j) "Wheat Marketing Year" means the period beginning June 1 and ending May 31.

2. Section 728.9 is amended by revising the last sentence of paragraph (b) and paragraph (c) to read as follows:

§ 728.9 Farm yields.

* * * * *

(b) * * * The operator or other affected producer shall report current year wheat acreage by filing a Report of Acreage and Field Determination (herein called "Form 578") if the foregoing provisions are to apply to any program year for which the five-year period includes the current year.

(c) *Yield adjustment.* For the purpose of determining eligibility for and amount of low yield payment as provided in § 728.17(b), the yield established under paragraphs (a) and (b) of this section for the farm shall be adjusted in accordance with instructions issued by the Deputy Administrator to reflect (1) any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices, or (2) the extent of irrigation within the disaster allotment.

§ 728.10 [Amended]

3. Section 728.10 is amended by changing "July 1" to read "June 1" in paragraph (a)(1).

4. Section 728.13 is amended by revising paragraph (b)(1) to read as follows:

§ 728.13 Requirements for program participation.

* * * * *

(b) *Farm requirements.* (1) For disaster payments, a Form 578 and an Application for Disaster Credit (herein called "Form 574") or a Claim for Prevented Planting (herein called "Form 574–1") shall be filed by the operator of an eligible farm with the office of the county committee having jurisdiction over the county where the farm is located. He shall also file (i) a Record of Acreages, Production and Disposition (herein called "Form 658") and (ii) a Summary of Production (herein called "Form 575–1") when the information thereon is needed for program administration. These forms shall be filed within the period authorized and according to instructions issued by the Deputy Administrator.

§ 728.16 [Amended]

5. Section 728.16 is corrected by changing "terminated" to read "determined" in paragraph (a).

6. Section 728.17 is amended by changing "nonfeed" to "nongrain" in paragraph (b)(1)(i) and by amending paragraphs (b)(4) and (b)(5) and adding paragraph (b)(7) to read as follows:

§ 728.17 Disaster payments.

* * * * *

(b) * * *

(4) The wheat production from acreage not harvested for grain shall be appraised and added to the actual grain production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(5) Any wheat acreage for which the production cannot be determined and which is not excluded in paragraph (b)(2) of this section shall be charged with the established yield: *Provided,* That if the county committee determines the acreage was affected by a disaster and the production was destroyed or used for other than grain before Form 574 was filed, the production charged shall be based on the larger of (i) the established yield multiplied by the factor determined according to paragraph (b)(3) of this section to determine eligibility for payment or (ii) the actual average yield from harvested acreage if requested by the producer in accordance with instructions issued by the Deputy Administrator.

(6) * * *

(7) Notwithstanding any other provisions of this section, disaster payments shall not duplicate returns guaranteed by contract, agreement, or understanding with a seed company for the production of seed.

(Sec. 107, 87 Stat. 224 (7 U.S.C. 1445a(c)); Sec. 301, 89 Stat. 302 (7 U.S.C. 1301(b)).)

Since these regulations apply to 1976 and planting has occurred, it is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Effective date: These regulations shall become effective August 23, 1976.

Signed at Washington, D.C., on August 17, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-24779;Filed 8-23-76;8:45 am]

SUBCHAPTER C—SPECIAL PROGRAMS

[Amendment 2]

PART 775—FEED GRAIN

Feed Grain Program for Crop Years 1975–1977

The following changes, effective for 1976–1977, are being made in the regulations governing the Feed Grain Program for Crop Years 1975–1977.

1. The barley marketing year is changed to June 1–May 31.

2. Established yields may be adjusted to reflect a temporary change in the current year yield when there is a change in the number of acres irrigated within the disaster allotment.

3. Form 580 is obsolete for 1976 and subsequent years. When necessary, acreage will be reported on Form 578 and production and disposition will be reported on Form 575–1 and on Form 658. Prevented planting will be reported on Form 574–1 intead of on Form 574.

4. Barley acreage designated for nongrain use in accordance with instructions issued by the Deputy Administrator will be disregarded for low yield payment purposes.

5. The production charged to feed grain acreage for which the production cannot be determined may be equal to or less than the established yield.

6. Disaster payments shall not duplicate returns guaranteed by an agreement with a seed company for the production of seed.

Pursuant to section 105 of the Agriculture Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, as amended, 7 C.F.R. Part 775 is amended as follows:

1. Section 775.2 is amended by adding paragraph (p) to read as follows:

§ 775.2 Definitions.

* * * * *

(p) "Marketing Year" means:

(1) For barley, the period beginning June 1 and ending May 31.

(2) For corn and grain sorghum, the period beginning October 1 and ending September 30.

2. Section 775.9 is amended by revising paragraph (b) to read as follows:

§ 775.9 Farm yields.

* * * * *

(b) *Yield adjustment.* For the purpose of determining eligibility for and amount of low yield payment as provided in § 775.17(b), the yield established under paragraph (a) of this section for the farm shall be adjusted in accordance with instructions issued by the Deputy Administrator to reflect (1) any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices, or (2) the extent of irrigation within the disaster allotment.

§ 775.10 [Amended]

3. Section 775.10 is amended by changing the July 1 date for barley to June 1 in the second sentence of paragraph (a)(2).

4. Section 775.13 is amended by revising paragraph (b)(1) to read as follows:

§ 775.13 Requirements for program participation.

* * * * *

(b) *Farm requirements.* (1) For disaster payments, a Report of Acreage and Field Determinations (herein called "Form 578") and an application for Disaster Credit (herein called "Form 574") or a Claim for Prevented Planting (herein called "Form 574–1") shall be filed by the operator of an eligible farm with the office of the county committee having jurisdiction over the county where the farm is located. He shall also file (i) a Record of Acreages, Production and Disposition (herein called "Form 658") and (ii) a Summary of Production (herein called "Form 575–1") when the information thereon is needed for program administration. These forms shall be filed within the period authorized and according to instructions issued by the Deputy Administrator.

5. Section 775.17 is amended by changing "nonfeed" to "nongrain" in paragraph (b)(1)(i) and by amending paragraphs (b)(4) and (b)(5) and adding paragraph (b)(7) to read as follows:

§ 775.17 Disaster payments.

* * * * *

(b) * * *

(4) The feed grain production from acreage not harvested for grain shall be appraised and added to the actual grain production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(5) Any feed grain acreage for which the production cannot be determined and which is not excluded in subparagraph (b)(2) of this section shall be charged with the established yield: *Provided,* That if the county committee determines the acreage was affected by a disaster and the production was destroyed or used for other than grain before Form 574 was filed, the production charged shall be based on the larger of (i) the established yield multiplied by the factor determined according to subparagraph (b)(3) of this section to determine eligibility for payment or (ii) the actual average yield from harvested acreage if requested by the producer in accordance with instructions issued by the Deputy Administrator.

(6) * * *

(7) Notwithstanding any other provisions of this section, disaster payments shall not duplicate returns guaranteed by contract, agreement, or understanding with a seed company for the production of seed.

(Sec. 105, 87 Stat. 230 (7 U.S.C. 1441 note).)

Since these regulations apply to 1976 and planting has occurred, it is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Effective Date: These regulations shall become effective August 23, 1976.

Signed at Washington, D.C. on August 17, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-24778 Filed 8-23-76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

Expenses and Rate of Assessment

This document authorizes expenses of $1,000 of the Administrative Committee, under Marketing Order No. 919, for the 1975–76 fiscal period and fixes the rate of assessment of $0.01332 per cwt. of peaches handled in such period to be paid to the committee by each first handler as his pro rata share of such expenses.

On July 28, 1976, notice of rulemaking was published in the FEDERAL REGISTER (41 FR 31390) regarding proposed expenses and the related rate of assessment for the period December 1, 1975, through November 30, 1976, pursuant to the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in Mesa County, Colorado. This notice allowed interested persons 19 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 919.215 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee during the period December 1, 1975, through November 30, 1976, will amount to $1,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 919.41, is fixed at $0.01332 per cwt. of peaches.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of peaches have already begun, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable peaches handled during the aforesaid period; and (3) such period began on December 1, 1975, and the rate of assessment herein fixed will automatically apply to all assessable peaches beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 18, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-24729 Filed 8-23-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1976 Crop Barley Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1976 Crop Barley Loan and Purchase Program

On July 3, 1975, notice of proposed rulemaking regarding loan and purchase rates for 1976 crop barley and operating provisions to carry out the 1976 crop barley loan and purchase program was pub-

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lished in the Federal Register (40 FR 28094).

Several responses were received from interested individuals. These responses ranged from requests suggesting an increase in the price support level to extending the maturity date for three years.

After consideration of all responses, and other factors, it has been determined that loan and purchase rates for 1976 crop barley on a national average will be increased to $1.02 per bushel. Support rates at the county level reflect adjustments necessary to reflect changes in rail freight rate structure and historical prices received by farmers by State and district. Loans as in 1975 will not have identical maturity dates but will mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued. Other operating provisions for the 1976 crop remain the same as those for the 1975 crop.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and any amendments thereto, and the 1970 and Subsequent Crops Barley Loan and Purchase Program Regulations, published at 35 FR 11166 and 11902, and any amendments to such regulations are further supplemented for the 1976 crop barley. CFR § 1421.72 through § 1421.75 and the title of the subpart are revised to read as provided below, effective as to the 1976 crop of barley. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1976 Crop Barley Loan and Purchase Program

Sec.
1421.72 Purpose.
1421.73 Availability.
1421.74 Maturity of loans.
1421.75 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1970, as amended (15 U.S.C. 714b and c); Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).

§ 1421.72 Purpose.

This supplement contains additional program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1976 and Subsequent Crops, the 1970 and Subsequent Crops Barley Loan and Purchase Program Regulations, and any amendments thereto, apply to loans on and purchases of the 1976 crop of barley.

§ 1421.73 Availability.

(a) Loans. A producer desiring to participate in the program through loans must request a loan on his 1976 crop of eligible barley on or before March 31, 1977.

(b) *Purchases.* Producers desiring to offer eligible 1976 crop barley not under loan for purchase must execute and deliver to the county ASCS office on or before February 28, 1978, a purchase agreement (Form CCC–614) indicating the approximate quantity of 1976 crop barley they will sell to CCC.

§ 1421.74 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued.

§ 1421.75 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic county rates (marketing area in the case of Alaska) for loan and settlement purposes for barley (except mixed barley) grading U.S. No. 2 or better are established as follows:

ALABAMA

County	Rate per bushel
All counties	$0.99

ALASKA[1]

Delta	$1.54	Kenai-Sold	1.66
Fairbanks	1.53	Palmer	1.72
Glenallen	1.63	Talkeetna	1.72
Homer	1.59		

ARIZONA

All counties	$1.19

ARKANSAS

All counties	0.99

CALIFORNIA

Alameda	$1.37	Plumas	1.20
Alpine	1.20	Riverside	1.32
Amador	1.33	Sacramento	1.37
Butta	1.28	San Benito	1.29
Calaveras	1.33	San Bernardino	1.33
Colusa	1.32	San Diego	1.37
Contra Costa	1.34	San Francisco	1.37
El Dorado	1.32	San Joaquin	1.37
Fresno	1.31	San Luis Obispo	1.29
Glenn	1.29	San Mateo	1.34
Humboldt	1.17	Santa Barbara	1.28
Imperial	1.31	Santa Clara	1.33
Inyo	1.19	Santa Cruz	1.30
Kern	1.32	Shasta	1.17
Kings	1.30	Sierra	1.19
Lake	1.27	Siskiyou	1.15
Lassen	1.17	Solano	1.34
Los Angeles	1.37	Sonoma	1.32
Madera	1.33	Stanislaus	1.35
Marin	1.34	Sutter	1.31
Mariposa	1.31	Tehama	1.28
Mendocino	1.21	Tulare	1.29
Merced	1.33	Tuolumne	1.31
Modoc	1.15	Ventura	1.32
Monterey	1.29	Yolo	1.34
Napa	1.32	Yuba	1.31
Orange	1.37		
Placer	1.30		

COLORADO

All counties	$1.05

CONNECTICUT

All counties	$0.99

DELAWARE

All counties	$0.99

FLORIDA

All counties	$1.00

GEORGIA

All counties	$1.00

[1] In Alaska, loan rates are for marketing areas.

IDAHO

County	Rate per bushel	County	Rate per bushel
Ada	$1.06	Gem	$1.06
Adams	1.06	Gooding	1.06
Bannock	1.06	Idaho	1.10
Bear Lake	1.03	Jefferson	1.02
Benewah	1.13	Jerome	1.06
Bingham	1.05	Kootenai	1.13
Blaine	1.06	Latah	1.13
Boise	1.06	Lemhi	1.02
Bonner	1.09	Lewis	1.12
Bonneville	1.03	Lincoln	1.06
Boundary	1.08	Madison	1.03
Butte	1.05	Minidoka	1.07
Camas	1.06	Nez Perce	1.13
Canyon	1.06	Oneida	1.06
Caribou	1.03	Owyhee	1.06
Cassia	1.05	Payette	1.06
Clark	1.02	Power	1.06
Clearwater	1.12	Shoshone	1.01
Custer	1.06	Teton	1.03
Elmore	1.06	Twin Falls	1.07
Franklin	1.07	Valley	1.06
Fremont	1.03	Washington	1.06

ILLINOIS

Alexander	$1.05	Saint Clair	$1.04
Cook	1.00	All other counties	.95
Madison	1.04		

INDIANA

All counties	$0.95

IOWA

Pottawattamie	$1.01	All other counties	$0.97

KANSAS

Wyandotte	$1.02	All other counties	$0.98

KENTUCKY

All counties	$0.96

LOUISIANA

E. Baton Rouge	$1.17	W. Baton Rouge	$1.17
Jefferson	1.17	All other counties	1.00
Orleans	1.17		
Saint Charles	1.17		

MAINE

All counties	$0.99

MARYLAND

Baltimore City	$1.17	All other counties	$0.99

MASSACHUSETTS

All counties	$0.99

MICHIGAN

All counties	$0.91

MINNESOTA

Aitkin	$1.05	Goodhue	$1.08
Anoka	1.08	Grant	.98
Becker	.96	Hennepin	1.09
Beltrami	.98	Houston	1.04
Benton	1.05	Hubbard	.98
Big Stone	1.00	Isanti	1.07
Blue Earth	1.08	Itasca	1.04
Brown	1.06	Jackson	1.05
Carlton	1.09	Kanabec	1.00
Carver	1.09	Kandiyohi	1.05
Cass	1.01	Kittson	.—
Chippewa	1.05	Koochiching	1.02
Chisago	1.08	Lac Qui Parle	1.04
Clay	.95	Lake of the Woods	.97
Clearwater	.95	Le Sueur	1.09
Cottonwood	1.05	Lincoln	1.01
Crow Wing	1.01	Lyon	1.04
Dakota	1.09	McLeod	1.08
Dodge	1.08	Mahnomen	.94
Douglas	1.00	Marshall	.93
Faribault	1.07	Martin	1.07
Fillmore	1.05	Meeker	1.06
Freeborn	1.08		

MINNESOTA—Continued

County	Rate per bushel	County	Rate per bushel
Mille Lacs	$1.06	Saint Louis	$1.09
Morrison	1.03	Scott	1.09
Mower	1.07	Sherburne	1.08
Murray	1.04	Sibley	1.08
Nicollet	1.08	Stearns	1.05
Nobles	1.04	Steele	1.09
Norman	.95	Stevens	1.00
Olmsted	1.06	Swift	1.04
Otter Tail	.97	Todd	$1.00
Pennington	.94	Traverse	.98
Pine	1.09	Wabasha	1.08
Pipestone	1.01	Wadena	.99
Polk	.94	Waseca	1.09
Pope	1.03	Washington	1.09
Ramsey	1.09	Watonwan	1.07
Red Lake	.94	Wilkin	.97
Redwood	1.06	Winona	1.06
Renville	1.06	Wright	1.09
Rice	1.09	Yellow Medicine	1.03
Rock	1.00		
Roseau	.92		

MISSISSIPPI

All counties	$0.99

MISSOURI

Buchanan	1.01	Saint Louis	1.03
Clay	1.01	All other counties	.99
Jackson	1.01		

MONTANA

Beaverhead	$0.95	McCone	$0.85
Big Horn	.91	Madison	1.01
Blaine	.86	Meagher	.95
Broadwater	.98	Mineral	1.03
Carbon	.91	Missoula	1.03
Carter	.83	Musselshell	.90
Cascade	.94	Park	.99
Chouteau	.90	Petroleum	.88
Custer	.85	Phillips	.83
Daniels	.82	Pondera	.92
Dawson	.85	Powder River	.85
Deer Lodge	1.01	Powell	1.01
Fallon	.83	Prairie	.85
Fergus	.92	Ravalli	.99
Flathead	1.06	Richland	.82
Gallatin	1.01	Roosevelt	.82
Garfield	.86	Rosebud	.86
Glacier	.93	Sanders	1.03
Golden Valley	.91	Sheridan	.81
Granite	.99	Silver Bow	1.01
Hill	.89	Stillwater	.91
Jefferson	1.01	Sweet Grass	.94
Judith Basin	.91	Teton	.92
Lake	.99	Toole	.92
Lewis and Clark	.92	Treasure	.86
Liberty	.91	Valley	.83
Lincoln	1.06	Wheatland	.92
		Wibaux	.83
		Yellowstone	.91

NEBRASKA

Douglas	$1.02	All other counties	$0.94

NEVADA

All counties	$1.19

NEW HAMPSHIRE

All counties	$0.99

NEW JERSEY

All counties	$0.99

NEW MEXICO

All counties	$1.09

NEW YORK

Albany	$1.17	All other counties	$0.99
New York City	1.17		

NORTH CAROLINA

All counties	$1.00

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$0.84	McLean	$0.86
Barnes	.92	Mercer	.84
Benson	.87	Morton	.84
Billings	.82	Mountrail	.82
Bottineau	.83	Nelson	.89
Bowman	.82	Oliver	.85
Burke	.82	Pembina	.89
Burleigh	.87	Pierce	.86
Cass	.95	Ramsey	.88
Cavalier	.87	Ransom	.92
Dickey	.91	Renville	.82
Divide	.82	Richland	.95
Dunn	.82	Rolette	.84
Eddy	.88	Sargent	.95
Emmons	.84	Sheridan	.86
Foster	.89	Sioux	.84
Golden Valley	.82	Slope	.82
Grand Forks	.92	Stark	.82
Grant	.82	Steele	.92
Griggs	.91	Stutsman	.92
Hettinger	.82	Towner	.85
Kidder	.87	Traill	.92
La Moure	.90	Walsh	.90
Logan	.87	Ward	.83
McHenry	.85	Wells	.88
McIntosh	.88	Williams	.82
McKenzie	.81		

OHIO

All counties	$0.93

OKLAHOMA

All counties	$1.00

OREGON

Baker	$1.11	Lake	$1.07
Benton	1.16	Lane	1.15
Clackamas	1.20	Lincoln	1.15
Clatsop	1.26	Linn	1.17
Columbia	1.26	Malheur	1.05
Coos	1.07	Marion	1.18
Crook	1.15	Morrow	1.19
Curry	1.05	Multnomah	1.26
Deschutes	1.15	Polk	1.18
Douglas	1.09	Sherman	1.21
Gilliam	1.20	Tillamook	1.21
Grant	1.15	Umatilla	1.16
Harney	1.02	Union	1.14
Hood River	1.22	Wallowa	1.11
Jackson	1.08	Wasco	1.22
Jefferson	1.18	Washington	1.22
Josephine	1.08	Wheeler	1.17
Klamath	1.08	Yamhill	1.20

PENNSYLVANIA

Philadelphia	$1.17	All other counties	$0.99

RHODE ISLAND

All counties	$0.99

SOUTH CAROLINA

Charleston	$1.15	All other counties	$1.00

SOUTH DAKOTA

Aurora	$0.92	Davison	$0.92
Beadle	.95	Day	.96
Bennett	.85	Deuel	1.01
Bon Homme	.95	Dewey	.87
Brookings	.99	Douglas	.93
Brown	.94	Edmunds	.92
Brule	.90	Fall River	.80
Buffalo	.92	Faulk	.93
Butte	.79	Grant	1.01
Campbell	.88	Gregory	.92
Charles Mix	.93	Haakon	.85
Clark	.95	Hamlin	.98
Clay	.96	Hand	.92
Codington	.98	Hanson	.92
Corson	.85	Harding	.81
Custer	.84	Hughes	.91

SOUTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Hutchinson	$0.93	Pennington	$0.84
Hyde	.92	Perkins	.83
Jackson	.85	Potter	.92
Jerauld	.92	Roberts	.99
Jones	.90	Sanborn	.92
Kingsbury	.98	Shannon	.84
Lake	.97	Spink	.94
Lawrence	.79	Stanley	.90
Lincoln	.96	Sully	.92
Lyman	.90	Todd	.89
McCook	.92	Tripp	.90
McPherson	.92	Turner	.96
Marshall	.95	Union	.97
Meade	.82	Walworth	.89
Mellette	.89	Washabaugh	.85
Miner	.93	Yankton	.96
Minnehaha	.96	Ziebach	.84
Moody	.97		

TENNESSEE

Shelby	$1.05	All other counties	$0.99

TEXAS

Chambers	$1.19	Nueces	$1.19
Galveston	1.19	San Patricio	1.19
Harris	1.19	All other counties	1.03
Jefferson	1.19		

UTAH

All counties	$1.09

VERMONT

All counties	$0.99

VIRGINIA

Chesapeake (Norfolk)	$1.17	All other counties	$0.99

WASHINGTON

Adams	$1.16	Lewis	$1.20
Asotin	1.16	Lincoln	1.15
Benton	1.18	Mason	1.13
Chelan	1.20	Okanogan	1.14
Clallam	1.06	Pacific	1.15
Clark	1.26	Pend Oreille	1.09
Columbia	1.17	Pierce	1.26
Cowlitz	1.26	San Juan	1.14
Douglas	1.15	Skagit	1.14
Ferry	1.11	Skamania	1.21
Franklin	1.17	Snohomish	1.19
Garfield	1.17	Spokane	1.13
Grant	1.16	Stevens	1.10
Grays Harbor	1.15	Thurston	1.20
Island	1.19	Wahkiakum	1.23
Jefferson	1.11	Walla Walla	1.17
King	1.26	Whatcom	1.12
Kitsap	1.19	Whitman	1.15
Kittitas	1.18	Yakima	1.17
Klickitat	1.19		

WEST VIRGINIA

All counties	$0.99

WISCONSIN

Douglas	$1.06	All other counties	$0.96

WYOMING

All counties	$1.03

(b) *Premiums and discounts.* The basic rates shall be adjusted by premiums or discounts as follows (all footnotes at end of paragraph):

	Discount (cents per bushel)
Class—Mixed Barley	2
Grade:	
U.S. No. 3	3
U.S. No. 4	6
U.S. No. 5	15
Garlicky	10
Weed Control Law (where required by § 1421.25)	10

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Other factors. Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the barley, such as (but not limited to) thin barley, moisture, foreign material, test weight, heat damage, musty, sour, smutty, stained, weevily, ergoty, and bleached. Such discounts will be established not later than the time delivery of barley to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

NOTE.—Discounts are cumulative except only one grade discount shall be applied. For the purpose of applying discounts, factors which cause barley of the subclass Malting Barley or Blue Malting Barley to have a lower numerical grade than if the barley were graded under a different subclass shall be disregarded.

Effective date: August 24, 1976.

Signed at Washington, D.C., on August 17, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-24789 Filed 8-23-76;8:45 am]

[CCC Grain Price Support Regs., 1976 Crop Oats Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1976 Crop Oats Loan and Purchase Program

On July 3, 1975, notice of proposed rulemaking regarding loan and purchase rates for 1976 crop oats and operating provisions to carry out the 1976 crop oats loan and purchase program was published in the FEDERAL REGISTER (40 FR 28094).

Several responses were received from interested individuals. These responses ranged from requests suggesting an increase in the price support level to extending the maturity date for three years.

After consideration of all responses, and other factors, it has been determined that loan and purchase rates for 1976 crop oats on a national average will be increased to $0.60 per bushel. Support rates at the county level reflect adjustments necessary to reflect changes in rail freight rate structure and historical prices received by farmers by State and district. Loans as in 1975 will not have identical maturity dates but will mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued. Other operating provisions for the 1976 crop remain the same as those for the 1975 crop.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and any amendments hereto, and the 1970 and Subsequent Crops Oats Loan and Purchase Program Regulations, published at 35 FR 8340 and any amendments to such regulations are further supplemented for the 1976 crop oats. CFR § 1421.270 through § 1421.273 and the title of the subpart are revised to read as provided below, effective as to the 1976 crop of oats. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1976 Crop Oats Loan and Purchase Program

Sec.
1421.270 Purpose.
1421.271 Availability.
1421.272 Maturity of loans.
1421.273 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).

§ 1421.270 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1976 and Subsequent Crops, the 1970 and Subsequent Crops Oats Loan and Purchase Program Regulations, and any amendments thereto, apply to loans on and purchases of the 1976 crop of oats.

§ 1421.271 Availability.

(a) *Loans.* A producer desiring to participate in the program through loans must request a loan on his 1976 crop of eligible oats on or before March 31, 1977.

(b) *Purchases.* Producers desiring to offer eligible 1976 crop oats not under loan for purchase must execute and deliver to the county ASCS office on or before February 28, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1976 crop oats they will sell to CCC.

§ 1421.272 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued.

§ 1421.273 Loan and purchase rates.

(a) *Basic loan and purchase rates.* County loan and purchase rates for oats and the schedule of premiums and discounts are shown below. The term "county" as used in this subpart with reference to the State of Alaska shall mean "marketing area." Marketing areas in Alaska shall be the areas established under the State small grain incentive program. Farm-stored loans will be made at the basic rate for the county where the grain is stored, adjusted only for the weed control discounts where applicable. The loan and purchase rate for warehouse-stored oats loans shall be the basic rate for the county where the oats are stored, adjusted by the premiums and discounts shown in this section. Notwithstanding § 1421.22(c), settlement for oats delivered from other than approved warehouse storage shall be based (1) on the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose. The basic rate applies to oats grading U.S. No. 3, having moisture not in excess of 14 percent.

ALABAMA

	Rate per bushel
All counties	$0.71

ALASKA [1]

Delta	$1.01	Kenai-Soldotna	$1.09
Fairbanks	1.00	Palmer	1.13
Glenallen	1.07	Talkeetna	1.13
Homer	1.04		

ARIZONA

All counties	$0.80

ARKANSAS

All counties	$0.69

CALIFORNIA

All counties	$0.80

COLORADO

All counties	$0.70

CONNECTICUT

All counties	$0.70

DELAWARE

All counties	$0.70

FLORIDA

All counties	$0.74

GEORGIA

All counties	$0.71

IDAHO

All counties	$0.70

ILLINOIS

Adams	$0.63	Cass	$0.63
Alexander	.66	Champaign	.63
Bond	.64	Christian	.63
Boone	.63	Clark	.64
Brown	.63	Clay	.65
Bureau	.63	Clinton	.65
Calhoun	.64	Coles	.63
Carroll	.63	Cook	.65

ILLINOIS

	Rate per bushel		Rate per bushel
Crawford	$0.65	Henry	$0.63
Cumberland	.64	Iroquois	.63
De Kalb	.63	Jackson	.66
De Witt	.63	Jasper	.65
Douglas	.63	Jefferson	.66
Du Page	.63	Jersey	.64
Edgar	.63	Jo Daviess	.63
Edwards	.66	Johnson	.66
Effingham	.64	Kane	.63
Fayette	.64	Kankakee	.63
Ford	.63	Kendall	.63
Franklin	.66	Knox	.63
Fulton	.63	Lake	.64
Gallatin	.67	La Salle	.63
Greene	.64	Lawrence	.66
Grundy	.63	Lee	.63
Hamilton	.66	Livingston	.63
Hancock	.63	Logan	.63
Hardin	.67	McDonough	.63
Henderson	.63	McHenry	.63

[1] In Alaska loan rates are for Marketing Areas.

ILLINOIS—Continued

County	Rate per bushel	County	Rate per bushel
McLean	$0.63	Richland	$0.65
Macon	.63	Rock Island	.63
Macoupin	.64	Saint Clair	.66
Madison	.65	Saline	.67
Marion	.65	Sangamon	.63
Marshall	.63	Schuyler	.63
Mason	.63	Scott	.63
Massac	.66	Shelby	.63
Menard	.63	Stark	.63
Mercer	.63	Stephenson	.63
Monroe	.66	Tazewell	.63
Montgomery	.64	Union	.66
Morgan	.63	Vermilion	.63
Moultrie	.63	Wabash	.66
Ogle	.63	Warren	.63
Peoria	.63	Washington	.66
Perry	.66	Wayne	.66
Piatt	.63	White	.66
Pike	.63	Whiteside	.63
Pope	.67	Will	.64
Pulaski	.66	Williamson	.66
Putnam	.63	Winnebago	.63
Randolph	.66	Woodford	.63

INDIANA

Adams	$0.69	Lawrence	$0.70
Allen	.69	Madison	.68
Bartholomew	.69	Marion	.68
Benton	.67	Marshall	.68
Blackford	.68	Martin	.70
Boone	.68	Miami	.68
Brown	.70	Monroe	.70
Carroll	.68	Montgomery	.68
Cass	.68	Morgan	.68
Clark	.70	Newton	.67
Clay	.68	Noble	.68
Clinton	.68	Ohio	.71
Crawford	.70	Orange	.70
Daviess	.70	Owen	.68
Dearborn	.71	Parke	.67
Decatur	.69	Perry	.70
De Kalb	.69	Pike	.70
Delaware	.68	Porter	.68
Dubois	.70	Posey	.70
Elkhart	.69	Pulaski	.68
Fayette	.68	Putnam	.68
Floyd	.70	Randolph	.69
Fountain	.67	Ripley	.71
Franklin	.70	Rush	.68
Fulton	.68	Saint Joseph	.69
Gibson	.70	Scott	.71
Grant	.68	Shelby	.68
Greene	.70	Spencer	.70
Hamilton	.68	Starke	.68
Hancock	.68	Steuben	.69
Harrison	.70	Sullivan	.69
Hendricks	.68	Switzerland	.71
Henry	.68	Tippecanoe	.68
Howard	.68	Tipton	.68
Huntington	.68	Union	.69
Jackson	.70	Vanderburgh	.70
Jasper	.67	Vermillion	.67
Jay	.69	Vigo	.68
Jefferson	.71	Wabash	.68
Jennings	.71	Warren	.67
Johnson	.68	Warrick	.70
Knox	.70	Washington	.70
Kosciusko	.68	Wayne	.69
Lagrange	.69	Wells	.68
Lake	.68	White	.68
La Porte	.69	Whitley	.68

IOWA

Adair	$0.62	Butler	$0.60
Adams	.62	Calhoun	.60
Allamakee	.59	Carroll	.60
Appanoose	.62	Cass	.62
Audubon	.60	Cedar	.62
Benton	.62	Cerro Gordo	.59
Black Hawk	.61	Cherokee	.60
Boone	.60	Chickasaw	.60
Bremer	.60	Clarke	.62
Buchanan	.61	Clay	.59
Buena Vista	.60	Clayton	.60

IOWA—Continued

County	Rate per bushel	County	Rate per bushel
Clinton	$0.62	Mahaska	$0.62
Crawford	.59	Marion	.62
Dallas	.60	Marshall	.60
Davis	.63	Mills	.62
Decatur	.62	Mitchell	.58
Delaware	.61	Monona	.59
Des Moines	.62	Monroe	.62
Dickinson	.58	Montgomery	.62
Dubuque	.61	Muscatine	.62
Emmet	.58	O'Brien	.59
Fayette	.60	Osceola	.57
Floyd	.59	Page	.62
Franklin	.60	Palo Alto	.60
Fremont	.62	Plymouth	.58
Greene	.60	Pocahontas	.60
Grundy	.60	Polk	.60
Guthrie	.60	Pottawattamie	.63
Hamilton	.60	Poweshiek	.60
Hancock	.59	Ringgold	.62
Hardin	.60	Sac	.60
Harrison	.60	Scott	.62
Henry	.62	Shelby	.60
Howard	.59	Sioux	.58
Humboldt	.60	Story	.60
Ida	.59	Tama	.60
Iowa	.62	Taylor	.62
Jackson	.62	Union	.62
Jasper	.60	Van Buren	.62
Jefferson	.62	Wapello	.62
Johnson	.62	Warren	.62
Jones	.62	Washington	.62
Keokuk	.62	Wayne	.62
Kossuth	.58	Webster	.60
Lee	.62	Winnebago	.58
Linn	.62	Winneshiek	.59
Louisa	.62	Woodbury	.58
Lucas	.62	Worth	.58
Lyon	.57	Wright	.60
Madison	.62		

KANSAS

All counties	$0.66

KENTUCKY

All counties	$0.71

LOUISIANA

All counties	$0.71

MAINE

All counties	$0.70

MARYLAND

All counties	$0.71

MASSACHUSETTS

All counties	$0.70

MICHIGAN

Alcona	$0.64	Gratiot	$0.65
Alger	.65	Hillsdale	.67
Allegan	.66	Houghton	.64
Alpena	.64	Huron	.64
Antrim	.65	Ingham	.65
Arenac	.64	Ionia	.65
Baraga	.64	Iosco	.64
Barry	.66	Iron	.64
Bay	.64	Isabella	.65
Benzie	.65	Jackson	.66
Berrien	.67	Kalamazoo	.66
Branch	.67	Kalkaska	.65
Calhoun	.66	Kent	.66
Cass	.67	Keweenaw	.64
Charlevoix	.65	Lake	.66
Cheboygan	.65	Lapeer	.64
Chippewa	.65	Leelanau	.65
Clare	.65	Lenawee	.67
Clinton	.65	Livingston	.65
Crawford	.64	Luce	.65
Delta	.64	Mackinac	.65
Dickinson	.64	Macomb	.65
Eaton	.65	Manistee	.66
Emmet	.65	Marquette	.64
Genesee	.64	Mason	.66
Gladwin	.64	Mecosta	.65
Gogebic	.64	Menominee	.64
Grand Traverse	.65	Midland	.64
		Missaukee	.65

MICHIGAN—Continued

County	Rate per bushel	County	Rate per bushel
Monroe	$0.67	Presque Isle	$0.64
Montcalm	.65	Roscommon	.64
Montmorency	.64	Saginaw	.64
Muskegon	.66	Saint Clair	.65
Newaygo	.66	Saint Joseph	.67
Oakland	.65	Sanilac	.64
Oceana	.66	Schoolcraft	.65
Ogemaw	.64	Shiawassee	.64
Ontonagon	.64	Tuscola	.64
Osceola	.65	Van Buren	.66
Oscoda	.64	Washtenaw	.66
Otsego	.65	Wayne	.66
Ottawa	.66	Wexford	.66

MINNESOTA

Aitkin	$0.57	Marshall	$0.51
Anoka	.59	Martin	.56
Becker	.53	Meeker	.57
Beltrami	.53	Mille Lacs	.57
Benton	.57	Morrison	.56
Big Stone	.54	Mower	.57
Blue Earth	.57	Murray	.55
Brown	.56	Nicollet	.57
Carlton	.59	Nobles	.55
Carver	.58	Norman	.51
Cass	.55	Olmstead	.57
Chippewa	.55	Otter Tail	.54
Chisago	.59	Pennington	.51
Clay	.52	Pine	.58
Clearwater	.53	Pipestone	.55
Cook	.59	Polk	.51
Cottonwood	.56	Pope	.55
Crow Wing	.56	Ramsey	.59
Dakota	.58	Red Lake	.51
Dodge	.57	Redwood	.56
Douglas	.55	Renville	.56
Faribault	.57	Rice	.57
Fillmore	.58	Rock	.55
Freeborn	.58	Roseau	.51
Goodhue	.57	Saint Louis	.59
Grant	.54	Scott	.58
Hennepin	.59	Sherburne	.58
Houston	.58	Sibley	.57
Hubbard	.54	Stearns	.56
Isanti	.58	Steele	.57
Itasca	.57	Stevens	.54
Jackson	.56	Swift	.55
Kanabec	.58	Todd	.55
Kandiyohi	.56	Traverse	.53
Kittson	.50	Wabasha	.57
Koochiching	.54	Wadena	.55
Lac Qui Parle	.55	Waseca	.57
Lake	.59	Washington	.59
Lake of the Woods	.52	Watonwan	.56
Le Sueur	.57	Wilkin	.53
Lincoln	.55	Winona	.58
Lyon	.55	Wright	.58
McLeod	.57	Yellow Medicine	.55
Mahnomen	.52		

MISSISSIPPI

All counties	$0.71

MISSOURI

All counties	$0.67

MONTANA

Beaverhead	$0.66	Glacier	$0.61
Big Horn	.59	Golden Valley	.60
Blaine	.56	Granite	.65
Broadwater	.62	Hill	.57
Carbon	.61	Jefferson	.63
Carter	.55	Judith Basin	.59
Cascade	.61	Lake	.65
Chouteau	.58	Lewis and Clark	.63
Custer	.55	Liberty	.58
Daniels	.53	Lincoln	.66
Dawson	.52	McCone	.53
Deer Lodge	.64	Madison	.64
Fallon	.53	Meagher	.61
Fergus	.58	Mineral	.66
Flathead	.64	Missoula	.65
Gallatin	.63		
Garfield	.55		

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MONTANA—Continued

County	Rate per bushel	County	Rate per bushel
Musselshell	$0.59	Sanders	$0.66
Park	.63	Sheridan	.52
Petroleum	.56	Silver Bow	.64
Phillips	.55	Stillwater	.61
Pondera	.60	Sweet Grass	.62
Powder River	.57	Teton	.60
Powell	.64	Toole	.59
Prairie	.54	Treasure	.58
Pavalli	.65	Valley	.54
Richland	.52	Wheatland	.61
Roosevelt	.52	Wilbaux	.52
Rosebud	.57	Yellowstone	.60

NEBRASKA

Adams	$0.62	Jefferson	$0.63
Antelope	.59	Johnson	.64
Arthur	.60	Kearney	.62
Banner	.60	Keith	.61
Blaine	.59	Keya Paha	.57
Boone	.60	Kimball	.61
Box Butte	.59	Knox	.58
Boyd	.57	Lancaster	.63
Brown	.58	Lincoln	.61
Buffalo	.61	Logan	.60
Burt	.61	Loup	.59
Butler	.62	McPherson	.60
Cass	.63	Madison	.60
Cedar	.59	Merrick	.60
Chase	.63	Morrill	.60
Cherry	.58	Nance	.60
Cheyenne	.61	Nemaha	.64
Clay	.62	Nuckolls	.63
Colfax	.61	Otoe	.63
Cuming	.61	Pawnee	.64
Custer	.60	Perkins	.62
Dakota	.61	Phelps	.62
Dawes	.59	Pierce	.59
Dawson	.61	Platte	.60
Deuel	.61	Polk	.61
Dixon	.60	Red Willow	.63
Dodge	.62	Richardson	.64
Douglas	.63	Rock	.58
Dundy	.64	Saline	.63
Fillmore	.62	Sarpy	.63
Franklin	.63	Saunders	.63
Frontier	.62	Scotts Bluff	.60
Furnas	.63	Seward	.62
Gage	.64	Sheridan	.59
Garden	.60	Sherman	.60
Garfield	.59	Sioux	.59
Gosper	.62	Stanton	.60
Grant	.59	Thayer	.63
Greeley	.60	Thomas	.59
Hall	.61	Thurston	.61
Hamilton	.61	Valley	.60
Harlan	.63	Washington	.62
Hayes	.63	Wayne	.60
Hitchcock	.64	Webster	.63
Holt	.58	Wheeler	.59
Hooker	.59	York	.61
Howard	.60		

NEVADA

All counties $0.80

NEW HAMPSHIRE

All counties $0.70

NEW JERSEY

All counties $0.71

NEW MEXICO

All counties $0.78

NEW YORK

All counties $0.74

NORTH CAROLINA

All counties $0.71

NORTH DAKOTA

Adams	$0.49	Burke	$0.47
Barnes	.50	Burleigh	.48
Benson	.48	Cass	.51
Billings	.47	Cavalier	.49
Bottineau	.46	Dickey	.50
Bowman	.51	Divide	.49

NORTH DAKOTA—Continued

Dunn	$0.47	Oliver	$0.47
Eddy	.49	Pembina	.50
Emmons	.49	Pierce	.47
Foster	.49	Ramsey	.49
Golden Valley	.49	Ransom	.51
Grank Forks	.50	Renville	.46
Grant	.48	Richland	.52
Griggs	.49	Rolette	.47
Hettinger	.48	Sargent	.51
Kidder	.49	Sheridan	.47
La Moure	.50	Sioux	.48
Logan	.49	Slope	.50
McHenry	.46	Stark	.46
McIntosh	.49	Steele	.50
McKenzie	.49	Stutsman	.50
McLean	.46	Towner	.48
Mercer	.46	Traill	.50
Morton	.47	Walsh	.50
Mountrail	.47	Ward	.46
Nelson	.49	Wells	.48
		Williams	.49

OHIO

Adams	$0.71	Licking	$0.70
Allen	.69	Logan	.70
Ashland	.70	Lorain	.71
Ashtabula	.72	Lucas	.69
Athens	.72	Madison	.70
Augulaize	.69	Mahoning	.72
Belmont	.73	Marion	.70
Brown	.71	Medina	.71
Butler	.69	Meigs	.72
Carroll	.72	Mercer	.67
Champaign	.70	Miami	.69
Clark	.70	Monroe	.73
Clermont	.71	Montgomery	.69
Clinton	.71	Morgan	.72
Columbiana	.72	Morrow	.70
Coshocton	.71	Muskingum	.71
Crawford	.70	Noble	.72
Cuyahoga	.71	Ottawa	.70
Darke	.68	Paulding	.68
Defiance	.68	Perry	.71
Delaware	.70	Pickaway	.70
Erie	.70	Pike	.71
Fairfield	.70	Portage	.71
Fayette	.70	Preble	.68
Franklin	.70	Putnam	.69
Fulton	.69	Richland	.70
Gallia	.72	Ross	.71
Geauga	.71	Sandusky	.70
Greene	.70	Scioto	.71
Guernsey	.72	Seneca	.70
Hamilton	.70	Shelby	.69
Hancock	.69	Stark	.71
Hardin	.69	Summit	.71
Harrison	.72	Trumbull	.72
Henry	.69	Tuscarawas	.71
Highland	.71	Union	.70
Hocking	.71	Van Wert	.68
Holmes	.71	Vinton	.71
Huron	.70	Warren	.70
Jackson	.71	Washington	.73
Jefferson	.73	Wayne	.71
Knox	.70	Williams	.69
Lake	.71	Wood	.69
Lawrence	.71	Wyandot	.70

OKLAHOMA

All counties $0.71

OREGON

All counties $0.76

PENNSYLVANIA

All counties $0.74

RHODE ISLAND

All counties $0.70

SOUTH CAROLINA

All counties $0.71

SOUTH DAKOTA

Aurora	$0.53	Bon Homme	$0.56
Beadle	.53	Brookings	.54
Bennett	.54	Brown	.51

SOUTH DAKOTA—Continued

Brule	$0.53	Kingsbury	$0.53
Buffalo	.53	Lake	.53
Butte	.52	Lawrence	.52
Campbell	.50	Lincoln	.56
Charles Mix	.54	Lyman	.53
Clark	.52	McCook	.54
Clay	.58	McPherson	.50
Codington	.53	Marshall	.51
Corson	.50	Meade	.52
Custer	.55	Mellette	.54
Davison	.53	Miner	.53
Day	.52	Minnehaha	.55
Deuel	.54	Moody	.54
Dewey	.52	Pennington	.53
Douglas	.54	Perkins	.50
Hanson	.53	Potter	.52
Edmunds	.51	Roberts	.52
Fall River	.55	Sanborn	.53
Faulk	.52	Shannon	.55
Grant	.54	Spink	.52
Gregory	.54	Stanley	.53
Haakon	.53	Sully	.53
Hamlin	.53	Todd	.54
Hand	.53	Tripp	.54
Hughes	.53	Turner	.56
Hutchinson	.55	Union	.58
Hyde	.53	Walworth	.52
Jackson	.53	Washabaugh	.54
Jerauld	.53	Yankton	.57
Jones	.53	Ziebach	.52

TENNESSEE

All counties $0.71

TEXAS

All counties $0.76

UTAH

All counties $0.78

VERMONT

All counties $0.70

VIRGINIA

All counties $0.71

WASHINGTON

All counties $0.72

WEST VIRGINIA

All counties $0.73

WISCONSIN

Adams	$0.62	Langlade	$0.62
Ashland	.62	Lincoln	.62
Barron	.60	Manitowoc	.61
Bayfield	.61	Marathon	.62
Brown	.61	Marinette	.63
Buffalo	.59	Marquette	.62
Burnett	.59	Menominee	.62
Calumet	.61	Milwaukee	.64
Chippewa	.61	Monroe	.61
Clark	.61	Oconto	.62
Columbia	.61	Oneida	.63
Crawford	.62	Outagamie	.61
Dane	.63	Ozaukee	.63
Dodge	.62	Pepin	.59
Door	.61	Pierce	.59
Douglas	.60	Polk	.59
Douglas	.59	Portage	.62
Eau Claire	.60	Price	.62
Florence	.63	Racine	.64
Fond du Lac	.61	Richland	.61
Forest	.63	Rock	.63
Grant	.62	Rusk	.61
Green	.63	Saint Croix	.59
Green Lake	.62	Sauk	.63
Iowa	.63	Sawyer	.61
Iron	.63	Shawano	.62
Jackson	.61	Sheboygan	.62
Jefferson	.63	Taylor	.62
Juneau	.62	Trempealeau	.60
Kenosha	.64	Vernon	.60
Kewaunee	.61	Vilas	.63
LaCrosse	.60	Walworth	.63
Lafayette	.63	Washburn	.60

WISCONSIN—Continued

County	Rate per bushel	County	Rate per bushel
Washington	$0.63	Waushara	$0.62
Waukesha	.64	Winnebago	.61
Waupaca	.63	Wood	.62

WYOMING

All counties $0.66

(b) *Premiums and discounts.* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows (all footnotes at end of paragraph):

	Cents per bushel
Premiums:[1]	
Grade U.S. No. 1	2
Grade U.S. No. 2	1
Test weight:	
Heavy	1
Extra heavy	2
Discounts:	
Grade U.S. No. 4 on the factor of test weight only but otherwise U.S. No. 3 or better	3
Grade U.S. No. 4 because of being "badly stained or materially weathered"	7
Garlicky	3
Weed control discount (where required by § 1421.25)	10

[1] Premiums shall not be applicable to "badly stained or materially weathered" oats.

(c) *Other factors.* Amounts determined by CCC to represent discounts for quality factors not specified above which affect the value of the oats, such as (but not limited to) low test weight, foreign material, heat damage, percent of sound cultivated oats, wild oats, moisture, sour, stones, musty, ergoty, weevily, smutty, and bleached. Such discounts will be established not later than the time delivery of oats to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Effective date: August 24, 1976.

Signed at Washington, D.C., on: August 17, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.76-24790 Filed 8-23-76;8:45 am]

[CCC Grain Price Support Reg., 1976 Crop Rye Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1976 Crop Rye Loan and Purchase Program

On July 3, 1975, notice of proposed rulemaking regarding loan and purchase rates for 1976 crop rye and operating provisions to carry out the 1976 crop rye loan and purchase program was published in the FEDERAL REGISTER (40 FR 28094).

Several responses were received from interested individuals. These responses ranged from requests suggesting an increase in the price support level to extending the maturity date for three years.

After consideration of all responses, and other factors, it has been determined that loan and purchase rates for 1976 crop rye on a national average will be increased to $1 per bushel. Support rates at the county level reflect adjustments necessary to reflect changes in rail freight rate structure and historical prices received by farmers by State and district. Loans as in 1975 will not have identical maturity dates but will mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued. Other operating provisions for the 1976 crop remain the same as those for the 1975 crop.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and any amendments thereto, and the 1970 and Subsequent Crops Rye Loan and Purchase Program Regulations, published at 35 FR 10355 and any amendments to such regulations are further supplemented for the 1976 crop rye. CFR § 1421.350 through § 1421.353 and the title of the subpart are revised to read as provided below, effective as to the 1976 crop of rye. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1976 Crop Rye Loan and Purchase Program

Sec.
1421.350 Purpose.
1421.351 Availability.
1421.352 Maturity of loans.
1421.353 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c) Secs. 105, 401, 63, Stat. 1051, as amended (7 U.S.C. 1441 note and 1421).

§ 1421.350 Purpose.

This supplement contains program provisions which, together with the provisions of the general regulations governing price support for the 1976 and subsequent crops, the 1970 and Subsequent Crops Rye Loan and Purchase Program regulations, and any amendments thereto, apply to loans and purchases with respect to the 1976 crop of rye.

§ 1421.351 Availability.

(a) Loans. A producer desiring to participate in the program through loans must request a loan on his 1976 crop of eligible rye on or before March 31, 1977.

(b) *Purchase.* Producers desiring to offer eligible 1976 crop rye not under loan for purchase must execute and deliver to the county ASCS office on or before February 28, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1976 crop rye they will sell to CCC.

§ 1421.352 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued.

§ 1421.353 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic county rates per bushel for loan and settlement purposes for rye are established for rye grading U.S. No. 2 or better, or U.S. No. 3 on the factor of test weight only and are as follows:

County	Rate per bushel
All counties	$1.11

ARIZONA

County	Rate per bushel
All counties	$1.08

ARKANSAS

County	Rate per bushel
All counties	$1.05

CALIFORNIA

County	Rate per bushel	County	Rate per bushel
Alameda	$1.25	San Joaquin	$1.25
Los Angeles	1.25	All other counties	1.12
Sacramento	1.25		
San Diego	1.25		
San Francisco	1.25		

COLORADO

County	Rate per bushel
All counties	$0.94

CONNECTICUT

County	Rate per bushel
All counties	$1.09

DELAWARE

County	Rate per bushel
All counties	$1.14

FLORIDA

County	Rate per bushel
All counties	$1.18

GEORGIA

County	Rate per bushel
All counties	$1.18

IDAHO

County	Rate per bushel
All counties	$1.03

ILLINOIS

County	Rate per bushel	County	Rate per bushel
Cook	$1.12	All other counties	$1.06
St. Clair	1.12		

INDIANA

County	Rate per bushel
All counties	$1.04

IOWA

County	Rate per bushel	County	Rate per bushel
Pottawattamie	$1.03	All other counties	$0.99
Woodbury	1.03		

KANSAS

County	Rate per bushel	County	Rate per bushel
Wyandotte	$1.03	All other counties	$0.93

KENTUCKY

County	Rate per bushel
All counties	$1.11

LOUISIANA

County	Rate per bushel	County	Rate per bushel
East Baton Rouge	$1.27	West Baton Rouge	$1.27
Jefferson	1.27	All other counties	1.08
Orleans	1.27		
St. Charles	1.27		

MAINE

County	Rate per bushel
All counties	$1.09

MARYLAND

County	Rate per bushel	County	Rate per bushel
Baltimore City	$1.25	All other counties	$1.14

MASSACHUSETTS

County	Rate per bushel
All counties	$1.09

MICHIGAN

County	Rate per bushel
All counties	$0.96

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MINNESOTA

County	Rate per bushel	County	Rate per bushel
Hennepin	$1.04	All other counties	$0.98
St. Louis	1.04		

MISSISSIPPI

All counties	$1.13

MISSOURI

St. Louis	$1.16	All other counties	$1.03

MONTANA

All counties	$0.84

NEBRASKA

All counties	$0.93

NEVADA

All counties	$0.98

NEW HAMPSHIRE

All counties	$1.09

NEW JERSEY

All counties	$1.11

NEW MEXICO

All counties	$0.98

NEW YORK

Albany	$1.25	All other counties	$1.09
New York City	1.25		

NORTH CAROLINA

All counties	$1.18

NORTH DAKOTA

All counties	$0.88

OHIO

All counties	$1.04

OKLAHOMA

All counties	$1.01

OREGON

Clatsop	$1.25	All other counties	$1.12
Multonomah	1.25		

PENNSYLVANIA

Philadelphia	$1.25	All other counties	$1.09

RHODE ISLAND

All counties	$1.09

SOUTH CAROLINA

Charleston	$1.25	All other counties	$1.16

SOUTH DAKOTA

All counties	$0.92

TENNESSEE

Shelby	$1.18	All other counties	$1.13

TEXAS

Galveston	$1.27	San Patricio	$1.27
Harris	1.27	All other counties	1.06
Jefferson	1.27		
Nueces	1.27		

UTAH

All counties	$0.93

VERMONT

All counties	$1.09

VIRGINIA

Chesapeake (Norfolk)	$1.25	All other counties	$1.14

WASHINGTON

Clark	$1.25	Pierce	$1.25
Cowlitz	1.25	All other counties	1.12
King	1.25		

WEST VIRGINIA

All counties	$1.11

WISCONSIN

Milwaukee	$1.13
All other counties	1.04

WYOMING

All counties	$.93

(b) *Premiums and discounts.* The basic rates shall be adjusted by premiums or discounts as follows:

	Cents per bushel
(1) *Class premiums and discounts:*	
(i) Premiums:	
Rye Grading U.S. No. 1	1
Rye Grading U.S. No. 3 on account of being "thin"	--
(ii) Discounts: "Thin" rye (percent):	
15.1 to 17.0	1
17.1 to 19.0	2
19.1 to 21.0	3
21.1 to 23.0	4
23.1 to 25.0	5
Weed control discount (where required by § 1421.25)	10

(c) Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of rye such as (but not limited to) moisture, weevily, stones, musty, sour, ergoty, and heating. Such discounts will be established approximately one month prior to the loan maturity date for rye and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts and adjustments thereof at county ASCS offices approximately one month prior to the loan maturity date or as soon thereafter as practicable.

Effective date: August 24, 1976.

Signed at Washington, D.C., on August 17, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.76-24791 Filed 8-23-76;8:45 am]

[CCC Grain Price Support Regs., 1976 Crop Wheat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Wheat Loan and Purchase Program

On July 3, 1975, notice of proposed rulemaking regarding loan and purchase rates for 1976 crop wheat and operating provisions to carry out the 1976 crop wheat loan and purchase program was published in the FEDERAL REGISTER (40 FR 28094).

Several responses were received from interested individuals. These responses ranged from requests suggesting an increase in the price support level to extending the maturity date for three years.

After consideration of all responses, and other factors, it has been determined that loan and purchase rates for 1976 crop wheat on a national average will be increased to $1.50 per bushel. Support rates at the county level reflect adjustments necessary to reflect changes in rail freight rate structure and historical prices received by farmers by State and district. Loans as in 1975 will not have identical maturity dates but will mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued. Other operating provisions for the 1976 crop remain the same as those for the 1975 crop.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and any amendments thereto, and the 1970 and Subsequent Crops Wheat Loan and Purchase Program Regulations, published at 35 FR 8204 and 9106, and any amendments to such regulations are further supplemented for the 1976 crop wheat. CFR § 1421.485 through § 1421.488 and the title of the subpart are revised to read as provided below, effective as to the 1976 crop of wheat. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1976 Crop Wheat Loan and Purchase Program

Sec.
1421.485 Availability.
1421.486 Maturity of loans.
1421.487 Ineligible classes.
1421.488 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 107, 401, 63 Stat. 1051, as amended (7 U.S.C. 1445a, 1421).

§ 1421.485 Availability.

(a) *Loans.* A producer desiring to participate in the program through loans must request a loan on his 1976 crop of eligible wheat on or before March 31, 1977.

(b) *Purchases.* Producers desiring to offer eligible 1976 crop wheat not under loan for purchase must execute and deliver to the county ASCS office on or before February 28, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1976 crop wheat they will sell to CCC.

§ 1421.486 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the eleventh calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the eleventh calendar month following the month the warehouse receipt was issued.

§ 1421.487 Ineligible classes.

The class, Red Durum Wheat, shall not be eligible for loan or purchase.

§ 1421.488 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic rates per bushel for loan and settlement purposes for wheat

are established for wheat grading U.S. No. 1 and are as follows:

County	Rate per Bushel
ALABAMA	
Mobile	$1.67
All other counties	1.48
ARIZONA	
All counties	$1.53
All counties	$1.49

CALIFORNIA

County	Rate per bushel	County	Rate per bushel
Alameda	$1.69	Riverside	$1.61
Alpine	1.51	Sacramento	1.69
Amador	1.64	San Benito	1.62
Butte	1.58	San Bernardino	1.70
Calaveras	1.64	San Diego	1.69
Colusa	1.63	San Francisco	1.69
Contra Costa	1.64	San Joaquin	1.69
El Dorado	1.68	San Luis Obispo	1.58
Fresno	1.59	San Mateo	1.69
Glenn	1.57	Santa Barbara	1.59
Humboldt	1.46	Santa Clara	1.63
Imperial	1.61	Santa Cruz	1.64
Inyo	1.57	Shasta	1.47
Kern	1.64	Sierra	1.48
Kings	1.61	Siskiyou	1.46
Lake	1.57	Solano	1.64
Lassen	1.46	Sonoma	1.61
Los Angeles	1.69	Stanislaus	1.66
Madera	1.62	Sutter	1.63
Marin	1.62	Telhama	1.58
Mariposa	1.62	Tulare	1.61
Mendocino	1.51	Tuolomne	1.62
Merced	1.65	Ventura	1.66
Modoc	1.46	Yolo	1.64
Monterey	1.59	Yuba	1.63
Napa	1.63		
Orange	1.69		
Placer	1.63		
Plumas	1.46		

COLORADO

Adams	$1.35	La Plata	$1.26
Alamosa	1.32	Larimer	1.35
Arapahoe	1.35	Las Animas	1.38
Archuleta	1.29	Lincoln	1.35
Baca	1.38	Logan	1.35
Bent	1.35	Mesa	1.26
Boulder	1.34	Moffat	1.32
Chaffee	1.32	Montezuma	1.26
Cheyenne	1.36	Montrose	1.26
Conehos	1.32	Morgan	1.35
Costilla	1.32	Otero	1.35
Crowley	1.35	Ouray	1.26
Custer	1.34	Phillips	1.35
Delta	1.26	Pitkin	1.26
Denver	1.35	Prowers	1.37
Dolores	1.26	Pueblo	1.35
Douglas	1.35	Rio Blanco	1.29
Eagle	1.29	Rio Grande	1.32
Elbert	1.35	Routt	1.32
El Paso	1.35	Saguache	1.32
Fremont	1.34	San Miguel	1.26
Garfield	1.29	Sedgwick	1.35
Grand	1.32	Summit	1.29
Huerfano	1.36	Teller	1.34
Jackson	1.32	Washington	1.35
Jefferson	1.34	Weld	1.35
Kiowa	1.36	Yuma	1.36
Kit Carson	1.36		

CONNECTICUT

All counties	$1.50

DELAWARE

All counties	$1.53

FLORIDA

All counties	$1.47

GEORGIA

All counties	$1.47

IDAHO

County	Rate per bushel	County	Rate per bushel
Ada	$1.45	Gem	$1.45
Adams	1.45	Gooding	1.45
Bannock	1.43	Idaho	1.53
Bear Lake	1.41	Jefferson	1.40
Benewah	1.56	Jerome	1.45
Bingham	1.41	Kootenai	1.54
Blaine	1.41	Latah	1.56
Boise	1.45	Lemhi	1.40
Bonner	1.48	Lewis	1.53
Bonneville	1.40	Lincoln	1.44
Boundary	1.46	Madison	1.40
Butte	1.40	Minidoka	1.44
Camas	1.42	Nez Perce	1.56
Canyon	1.45	Oneida	1.44
Caribou	1.42	Owyhee	1.44
Cassia	1.44	Payette	1.45
Clark	1.38	Power	1.44
Clearwater	1.54	Shoshone	1.54
Custer	1.40	Teton	1.39
Elmore	1.44	Twin Falls	1.45
Franklin	1.44	Valley	1.44
Fremont	1.39	Washington	1.45

ILLINOIS

Adams	1.51	Lee	$1.58
Alexander	1.54	Livingston	1.58
Bond	1.57	Logan	1.53
Boone	1.59	McDonough	1.53
Brown	1.51	McHenry	1.59
Bureau	1.57	McLean	1.55
Calhoun	1.58	Macon	1.53
Carroll	1.56	Macoupin	1.57
Cass	1.53	Madison	1.58
Champaign	1.57	Marion	1.57
Christian	1.55	Marshall	1.56
Clark	1.53	Mason	1.51
Clay	1.53	Massae	1.53
Clinton	1.57	Menard	1.51
Coles	1.58	Mercer	1.55
Cook	1.59	Monroe	1.58
Crawford	1.52	Montgomery	1.57
Cumberland	1.53	Morgan	1.55
De Kalb	1.59	Moultrie	1.54
DeWitt	1.53	Ogle	1.57
Douglas	1.54	Peoria	1.55
DuPage	1.59	Perry	1.57
Edgar	1.55	Piatt	1.53
Edwards	1.53	Pike	1.52
Effingham	1.55	Pope	1.51
Fayette	1.56	Pulaski	1.54
Ford	1.57	Putnam	1.56
Franklin	1.57	Randolph	1.58
Fulton	1.55	Richland	1.52
Gallatin	1.50	Rock Island	1.56
Greene	1.57	Saint Clair	1.58
Grundy	1.59	Saline	1.51
Hamilton	1.51	Sangamon	1.55
Hancock	1.51	Schuyler	1.51
Hardin	1.50	Scott	1.53
Henderson	1.53	Shelby	1.55
Henry	1.56	Stark	1.55
Iroquois	1.59	Stephenson	1.58
Jackson	1.56	Tazewell	1.53
Jasper	1.52	Union	1.54
Jefferson	1.57	Vermilion	1.58
Jersey	1.58	Wabash	1.52
Jo Daviess	1.56	Warren	1.55
Johnson	1.54	Washington	1.57
Kane	1.59	Wayne	1.53
Kankakee	1.59	White	1.50
Kendall	1.59	Whiteside	1.57
Knox	1.55	Will	1.59
Lake	1.59	Williamson	1.55
LaSalle	1.59	Winnebago	1.58
Lawrence	1.52	Woodford	1.55

INDIANA

Adams	$1.52	Boone	$1.51
Allen	1.52	Brown	1.52
Bartholomew	1.52	Carroll	1.55
Benton	1.57	Cass	1.55
Blackford	1.52	Clark	1.57

INDIANA—Continued

County	Rate per bushel	County	Rate per bushel
Clay	$1.53	Miami	$1.51
Clinton	1.51	Monroe	1.52
Crawford	1.57	Montgomery	1.53
Daviess	1.53	Morgan	1.51
Dearborn	1.52	Newton	1.58
Decatur	1.52	Noble	1.52
De Kalb	1.52	Ohio	1.52
Delaware	1.52	Orange	1.55
Dubois	1.54	Owen	1.52
Elkhart	1.54	Parke	1.55
Fayette	1.52	Perry	1.53
Floyd	1.57	Pike	1.53
Fountain	1.55	Porter	1.59
Franklin	1.52	Posey	1.50
Fulton	1.55	Pulaski	1.58
Gibson	1.52	Putnam	1.51
Grant	1.51	Randolph	1.52
Greene	1.53	Ripley	1.52
Hamilton	1.52	Rush	1.52
Hancock	1.52	Saint Joseph	1.57
Harrison	1.57	Scott	1.55
Hendricks	1.51	Shelby	1.52
Henry	1.52	Spencer	1.53
Howard	1.51	Starke	1.58
Huntington	1.51	Steuben	1.52
Jackson	1.53	Sullivan	1.53
Jasper	1.58	Switzerland	1.53
Jay	1.52	Tippecanoe	1.54
Jefferson	1.55	Tipton	1.51
Jennings	1.53	Union	1.52
Johnson	1.51	Vanderburgh	1.52
Knox	1.52	Vermillion	1.55
Kosciusko	1.55	Vigo	1.54
Lagrange	1.51	Wabash	1.51
Lake	1.59	Warren	1.57
La Porte	1.59	Warrick	1.53
Lawrence	1.53	Washington	1.55
Madison	1.52	Wayne	1.52
Marion	1.52	Wells	1.52
Marshall	1.55	White	1.57
Martin	1.53	Whitley	1.51

IOWA

Pottawattamie	$1.59	All other counties	$1.47

KANSAS

Allen	$1.54	Greeley	$1.35
Anderson	1.57	Greenwood	1.50
Atchison	1.59	Hamilton	1.37
Barber	1.43	Harper	1.45
Barton	1.46	Harvey	1.46
Bourbon	1.55	Haskell	1.38
Brown	1.57	Hodgeman	1.42
Butler	1.47	Jackson	1.56
Chase	1.50	Jefferson	1.58
Chautauqua	1.50	Jewell	1.47
Cherokee	1.52	Johnson	1.59
Cheyenne	1.36	Kearny	1.37
Clark	1.40	Kingman	1.46
Clay	1.48	Kiowa	1.43
Cloud	1.48	Labette	1.52
Coffey	1.55	Lane	1.41
Comanche	1.41	Leavenworth	1.59
Cowley	1.47	Lincoln	1.46
Crawford	1.53	Linn	1.57
Decatur	1.39	Logan	1.37
Dickinson	1.47	Lyon	1.52
Doniphan	1.57	McPherson	1.46
Douglas	1.58	Marion	1.46
Edwards	1.43	Marshall	1.52
Elk	1.50	Meade	1.40
Ellis	1.43	Miami	1.58
Ellsworth	1.46	Mitchell	1.46
Finney	1.38	Montgomery	1.52
Ford	1.41	Morris	1.50
Franklin	1.58	Morton	1.39
Geary	1.50	Nemaha	1.54
Gove	1.41	Neosho	1.53
Graham	1.43	Ness	1.42
Grant	1.37	Norton	1.43
Gray	1.40	Osage	1.55

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KANSAS—Continued

County	Rate per bushel	County	Rate per bushel
Osborne	$1.46	Shawnee	$1.56
Ottawa	1.47	Sheridan	1.40
Pawnee	1.43	Sherman	1.35
Phillips	1.43	Smith	1.46
Pottawatomie	1.54	Stafford	1.43
Pratt	1.43	Stanton	1.37
Rawlins	1.36	Stevens	1.39
Reno	1.46	Sumner	1.46
Republic	1.48	Thomas	1.37
Rice	1.46	Trego	1.43
Riley	1.52	Wabaunsee	1.53
Rooks	1.44	Wallace	1.35
Rush	1.43	Washington	1.50
Russell	1.44	Wichita	1.36
Saline	1.47	Wilson	1.52
Scott	1.37	Woodson	1.53
Sedgwick	1.46	Wyandotte	1.59
Seward	1.39		

KENTUCKY

Jefferson	$1.58	All other counties	$1.50

LOUISIANA

East Baton Rouge	$1.68	West Baton Rouge	$1.68
Jefferson	1.68	All other counties	1.53
Orleans	1.68		
Saint Charles	1.68		

MAINE

All counties	$1.47

MARYLAND

Baltimore City	$1.66	All other counties	$1.53

MASSACHUSETTS

All counties	$1.49

MICHIGAN

Alcona	$1.42	Lake	$1.44
Alger	1.43	Lapeer	1.50
Allegan	1.51	Leelanau	1.41
Alpena	1.39	Lenawee	1.54
Antrim	1.39	Livingston	1.51
Arenac	1.43	Luce	1.43
Baraga	1.43	Mackinac	1.43
Barry	1.50	Macomb	1.53
Bay	1.47	Manistee	1.43
Benzie	1.42	Marquette	1.43
Berrien	1.55	Mason	1.46
Branch	1.52	Mecosta	1.47
Calhoun	1.51	Menominee	1.43
Cass	1.52	Midland	1.47
Charlevoix	1.38	Missaukee	1.42
Cheboygan	1.38	Monroe	1.56
Chippewa	1.43	Montcalm	1.48
Clare	1.45	Montmorency	1.39
Clinton	1.48	Muskegon	1.48
Crawford	1.42	Newaygo	1.46
Delta	1.43	Oakland	1.53
Dickinson	1.43	Oceana	1.46
Eaton	1.50	Ogemaw	1.43
Emmet	1.36	Ontonagon	1.43
Genessee	1.50	Osceola	1.44
Gladwin	1.45	Oscoda	1.42
Gogebic	1.43	Otsego	1.39
Grand Traverse	1.42	Ottawa	1.48
Gratiot	1.48	Presque Isle	1.38
Hillsdale	1.53	Roscommon	1.42
Houghton	1.43	Saginaw	1.50
Huron	1.49	Saint Clair	1.53
Ingham	1.50	Saint Joseph	1.52
Ionia	1.48	Sanilac	1.50
Iosco	1.43	Schoolcraft	1.43
Iron	1.43	Shiawassee	1.50
Isabella	1.47	Tuscola	1.50
Jackson	1.51	Van Buren	1.51
Kalamazoo	1.51	Washtenaw	1.53
Kalkaska	1.42	Wayne	1.53
Kent	1.48	Wexford	1.42
Keweenaw	1.43		

MINNESOTA

County	Rate per bushel	County	Rate per bushel
Aitkin	$1.69	Martin	$1.65
Anoka	1.69	Meeker	1.69
Becker	1.59	Mille Lacs	1.68
Beltrami	1.62	Morrison	1.67
Benton	1.68	Mower	1.67
Big Stone	1.60	Murray	1.62
Blue Earth	1.67	Nicollet	1.69
Brown	1.67	Nobles	1.61
Carlton	1.69	Norman	1.57
Carver	1.69	Olmsted	1.67
Cass	1.65	Otter Tail	1.62
Chippewa	1.63	Pennington	1.58
Chisago	1.69	Pine	1.68
Clay	1.57	Pipestone	1.59
Clearwater	1.61	Polk	1.58
Cottonwood	1.64	Pope	1.65
Crow Wing	1.67	Ramsey	1.69
Dakota	1.69	Red Lake	1.58
Dodge	1.69	Redwood	1.65
Douglas	1.64	Renville	1.67
Faribault	1.66	Rice	1.69
Fillmore	1.65	Rock	1.59
Freeborn	1.65	Roseau	1.54
Goodhue	1.69	Saint Louis	1.69
Grant	1.62	Scott	1.69
Hennepin	1.69	Sherburne	1.69
Houston	1.62	Sibley	1.69
Hubbard	1.62	Stearns	1.67
Isanti	1.69	Steele	1.67
Itasca	1.67	Stevens	1.63
Jackson	1.63	Swift	1.63
Kanabec	1.68	Todd	1.65
Kandiyohi	1.67	Traverse	1.59
Kittson	1.53	Wabasha	1.68
Koochiching	1.63	Wadena	1.63
Lac Qui Parle	1.61	Waseca	1.68
Lake of the Woods	1.57	Washington	1.69
Le Sueur	1.69	Watonwan	1.66
Lincoln	1.59	Wilkin	1.59
Lyon	1.62	Winona	1.66
McLeod	1.69	Wright	1.69
Mahnomen	1.59	Yellow Medicine	1.63
Marshall	1.56		

MISSISSIPPI

Harrison	$1.68	All other counties	$1.49
Jackson	1.68		

MISSOURI

County	Rate per bushel	County	Rate per bushel
Adair	$1.46	Dent	$1.49
Andrew	1.57	Douglas	1.44
Atchison	1.52	Dunklin	1.51
Audrain	1.51	Franklin	1.57
Barry	1.47	Gasconade	1.54
Barton	1.51	Gentry	1.53
Bates	1.55	Greene	1.47
Benton	1.51	Grundy	1.51
Bollinger	1.51	Harrison	1.53
Boone	1.48	Henry	1.54
Buchanan	1.59	Hickory	1.51
Butler	1.50	Holt	1.55
Caldwell	1.56	Howard	1.48
Callaway	1.50	Howell	1.42
Camden	1.49	Iron	1.51
Cape Girardeau	1.52	Jackson	1.59
Carroll	1.54	Jasper	1.50
Carter	1.48	Jefferson	1.54
Cass	1.56	Johnson	1.55
Cedar	1.50	Knox	1.46
Chariton	1.52	Laclede	1.46
Christian	1.44	Lafayette	1.57
Clark	1.47	Lawrence	1.47
Clay	1.57	Lewis	1.46
Clinton	1.57	Lincoln	1.55
Cole	1.49	Linn	1.52
Cooper	1.48	Livingston	1.53
Crawford	1.51	McDonald	1.47
Dade	1.49	Macon	1.49
Dallas	1.46	Madison	1.51
Daviess	1.54	Maries	1.52
De Kalb	1.56	Marion	1.50
		Mercer	1.50

MISSOURI—Continued

County	Rate per bushel	County	Rate per bushel
Miller	$1.48	Ripley	$1.48
Mississippi	1.53	Saint Charles	1.57
Moniteau	1.46	Saint Clair	1.52
Monroe	1.50	Saint Genevieve	1.52
Montgomery	1.54	Saint Francis	1.52
Morgan	1.49	Saint Louis	1.57
New Madrid	1.53	Saline	1.52
Newton	1.47	Schuyler	1.44
Nodaway	1.55	Scotland	1.44
Oregon	1.46	Scott	1.53
Osage	1.50	Shannon	1.46
Ozark	1.42	Shelby	1.49
Pemiscot	1.57	Stoddard	1.52
Perry	1.51	Stone	1.47
Pettis	1.51	Sullivan	1.49
Phelps	1.49	Taney	1.44
Pike	1.53	Texas	1.45
Platte	1.57	Vernon	1.53
Polk	1.49	Warren	1.56
Pulaski	1.47	Washington	1.52
Putnam	1.48	Wayne	1.50
Ralls	1.50	Webster	1.45
Randolph	1.49	Worth	1.53
Ray	1.57	Wright	1.45
Reynolds	1.49		

MONTANA

Beaverhead	$1.39	McCone	$1.40
Big Horn	1.40	Madison	1.46
Blaine	1.41	Meagher	1.44
Broadwater	1.45	Mineral	1.46
Carbon	1.41	Missoula	1.46
Carter	1.41	Musselshell	1.41
Cascade	1.44	Park	1.45
Chouteau	1.44	Petroleum	1.40
Custer	1.40	Phillips	1.40
Daniels	1.39	Pondera	1.44
Dawson	1.41	Powder River	1.40
Deer Lodge	1.46	Powell	1.46
Fallon	1.42	Prairie	1.41
Fergus	1.43	Ravalli	1.44
Flathead	1.47	Richland	1.41
Gallatin	1.46	Roosevelt	1.40
Garfield	1.39	Rosebud	1.39
Glacier	1.44	Sanders	1.46
Golden Valley	1.43	Sheridan	1.40
Granite	1.46	Silver Bow	1.46
Hill	1.42	Stillwater	1.43
Jefferson	1.46	Sweet Grass	1.44
Judith Basin	1.43	Teton	1.44
Lake	1.46	Toole	1.43
Lewis and Clark	1.44	Treasure	1.40
Liberty	1.43	Valley	1.39
Lincoln	1.47	Wheatland	1.44
		Wibaux	1.42
		Yellowstone	1.41

NEBRASKA

Adams	$1.46	Deuel	$1.35
Antelope	1.54	Dixon	1.55
Arthur	1.37	Dodge	1.58
Banner	1.34	Douglas	1.59
Blaine	1.44	Dundy	1.36
Boone	1.54	Fillmore	1.49
Box Butte	1.34	Franklin	1.44
Boyd	1.51	Frontier	1.39
Brown	1.44	Furnas	1.42
Buffalo	1.47	Gage	1.52
Burt	1.59	Garden	1.35
Butler	1.56	Garfield	1.48
Cass	1.58	Gosper	1.42
Cedar	1.55	Grant	1.37
Chase	1.36	Greeley	1.50
Cherry	1.40	Hall	1.48
Cheyenne	1.34	Hamilton	1.50
Clay	1.47	Harlan	1.43
Colfax	1.56	Hayes	1.38
Cuming	1.58	Hitchcock	1.38
Custer	1.44	Holt	1.51
Dakota	1.58	Hooker	1.38
Dawes	1.34	Howard	1.48
Dawson	1.46	Jefferson	1.51

NEBRASKA—Continued

County	Rate per bushel	County	Rate per bushel
Johnson	$1.52	Polk	$1.58
Kearny	1.44	Red Willow	1.39
Keith	1.37	Richardson	1.55
Keya Paha	1.46	Rock	1.47
Kimball	1.34	Saline	1.51
Knox	1.54	Sarpy	1.59
Lancaster	1.55	Saunders	1.58
Lincoln	1.41	Scotts Bluff	1.34
Logan	1.41	Seward	1.54
Loup	1.44	Sheridan	1.35
McPherson	1.40	Sherman	1.47
Madison	1.54	Sioux	1.32
Merrick	1.51	Stanton	1.56
Morrill	1.34	Thayer	1.49
Nance	1.52	Thomas	1.41
Nemaha	1.52	Thurston	1.58
Nuckolls	1.46	Valley	1.47
Otoe	1.55	Washington	1.59
Pawnee	1.54	Wayne	1.55
Perkins	1.36	Webster	1.46
Phelps	1.43	Wheeler	1.50
Pierce	1.54	York	1.51
Platte	1.54		

NEVADA

All counties	$1.45

NEW HAMPSHIRE

All counties	$1.49

NEW JERSEY

All counties	$1.53

NEW MEXICO

All counties	$1.50

NEW YORK

Albany	$1.66	All other counties	$1.51
New York City	1.66		

NORTH CAROLINA

All counties	$1.47

NORTH DAKOTA

Adams	$1.41	McKenzie	$1.39
Barnes	1.54	McLean	1.41
Benson	1.47	Mercer	1.41
Billings	1.40	Morton	1.44
Bottineau	1.41	Mountrail	1.40
Bowman	1.41	Nelson	1.53
Burke	1.39	Oliver	1.42
Burleigh	1.45	Pembina	1.52
Cass	1.56	Pierce	1.44
Cavalier	1.48	Ramsey	1.49
Dickey	1.54	Ransom	1.57
Divide	1.38	Renville	1.41
Dunn	1.41	Richland	1.58
Eddy	1.50	Rolette	1.44
Emmons	1.48	Sargent	1.57
Foster	1.51	Sheridan	1.44
Golden Valley	1.40	Sioux	1.43
Grand Forks	1.55	Slope	1.41
Grant	1.43	Stark	1.41
Griggs	1.54	Steele	1.54
Hettinger	1.41	Stutsman	1.52
Kidder	1.45	Towner	1.45
La Moure	1.52	Traill	1.55
Logan	1.50	Walsh	1.54
McHenry	1.42	Ward	1.40
McIntosh	1.50	Wells	1.48
		Williams	1.39

OHIO

Adams	$1.53	Clinton	$1.53
Allen	1.54	Columbiana	1.56
Ashland	1.57	Coshocton	1.57
Ashtabula	1.59	Crawford	1.53
Athens	1.56	Cuyahoga	1.57
Auglaize	1.53	Darke	1.53
Belmont	1.57	Defiance	1.53
Brown	1.53	Delaware	1.56
Butler	1.53	Erie	1.56
Carroll	1.57	Fairfield	1.56
Champaign	1.53	Fayette	1.53
Clark	1.55	Franklin	1.56
Clermont	1.53	Fulton	1.55

OHIO—Continued

County	Rate per bushel	County	Rate per bushel
Gallia	$1.53	Morgan	$1.57
Geauga	1.59	Morrow	1.57
Greene	1.53	Muskingum	1.57
Guernsey	1.57	Noble	1.57
Hamilton	1.53	Ottawa	1.56
Hancock	1.56	Paulding	1.53
Hardin	1.56	Perry	1.56
Harrison	1.57	Pickaway	1.56
Henry	1.55	Pike	1.53
Highland	1.53	Portage	1.57
Hocking	1.56	Preble	1.53
Holmes	1.57	Putnam	1.55
Huron	1.56	Richland	1.57
Jackson	1.53	Ross	1.56
Jefferson	1.57	Sandusky	1.56
Knox	1.57	Scioto	1.53
Lake	1.59	Seneca	1.56
Lawrence	1.53	Shelby	1.53
Licking	1.57	Stark	1.57
Logan	1.53	Summit	1.57
Lorain	1.57	Trumbull	1.59
Lucas	1.56	Tuscarawas	1.57
Madison	1.53	Union	1.56
Mahoning	1.59	Van Wert	1.53
Marion	1.56	Vinton	1.56
Medina	1.57	Warren	1.53
Meigs	1.53	Washington	1.57
Mercer	1.53	Wayne	1.57
Miami	1.53	Williams	1.53
Monroe	1.57	Wood	1.56
Montgomery	1.53	Wyandote	1.56

OKLAHOMA

Adair	$1.51	Le Flore	$1.53
Alfalfa	1.49	Lincoln	1.53
Atoka	1.53	Logan	1.52
Beaver	1.44	Love	1.53
Beckham	1.52	McClain	1.53
Blaine	1.52	McCurtain	1.53
Bryan	1.53	McIntosh	1.53
Caddo	1.53	Major	1.51
Canadian	1.53	Marshall	1.53
Carter	1.53	Mayes	1.51
Cherokee	1.51	Murray	1.53
Choctaw	1.53	Muskogee	1.53
Cimarron	1.43	Noble	1.51
Cleveland	1.53	Nowata	1.51
Coal	1.53	Okfuskee	1.53
Comanche	1.53	Oklahoma	1.53
Cotton	1.53	Okmulgee	1.53
Craig	1.51	Osage	1.51
Creek	1.52	Ottawa	1.51
Custer	1.52	Pawnee	1.51
Delaware	1.51	Payne	1.52
Dewey	1.51	Pittsburg	1.53
Ellis	1.46	Pontotoc	1.53
Garfield	1.51	Pottawatomie	1.53
Garvin	1.53	Pushmataha	1.53
Grady	1.53	Roger Mills	1.50
Grant	1.49	Rogers	1.51
Greer	1.53	Seminole	1.53
Harmon	1.53	Sequoyah	1.53
Harper	1.44	Stephens	1.53
Haskell	1.53	Texas	1.44
Hughes	1.53	Tillman	1.53
Jackson	1.53	Tulsa	1.51
Jefferson	1.53	Wagoner	1.51
Johnston	1.53	Washington	1.51
Kay	1.50	Washita	1.52
Kingfisher	1.52	Woods	1.49
Kiowa	1.53	Woodward	1.49
Latimer	1.53		

OREGON

Baker	$1.56	Gilliam	$1.65
Benton	1.62	Grant	1.60
Clackamas	1.69	Harney	1.46
Clatsop	1.76	Hood River	1.71
Columbia	1.76	Jackson	1.46
Coos	1.42	Jefferson	1.63
Crook	1.60	Josephine	1.46
Curry	1.41	Klamath	1.54
Deschutes	1.60	Lake	1.51
Douglas	1.46	Lane	1.60

OREGON—Continued

County	Rate per bushel	County	Rate per bushel
Lincoln	$1.52	Tillamook	$1.69
Linn	1.63	Umatilla	1.62
Malheur	1.46	Union	1.58
Marion	1.67	Wallowa	1.56
Morrow	1.63	Wasco	1.67
Multnomah	1.76	Washington	1.69
Polk	1.65	Wheeler	1.62
Sherman	1.65	Yamhill	1.67

PENNSYLVANIA

Philadelphia	$1.66
All other counties	1.51

RHODE ISLAND

All counties	$1.50

SOUTH CAROLINA

Charleston	$1.66
All other counties	1.47

SOUTH DAKOTA

Aurora	$1.54	Jackson	$1.45
Beadle	1.53	Jerauld	1.54
Bennett	1.41	Jones	1.47
Bon Homme	1.57	Kingsbury	1.54
Brookings	1.57	Lake	1.58
Brown	1.53	Lawrence	1.39
Brule	1.51	Lincoln	1.59
Buffalo	1.51	Lyman	1.48
Butte	1.39	McCook	1.57
Campbell	1.46	McPherson	1.50
Charles Mix	1.53	Marshall	1.57
Clark	1.53	Meade	1.40
Clay	1.59	Mellette	1.46
Codington	1.57	Miner	1.55
Corson	1.43	Minnehaha	1.58
Custer	1.33	Moody	1.58
Davison	1.57	Pennington	1.40
Day	1.57	Perkins	1.40
Deuel	1.60	Potter	1.48
Dewey	1.43	Roberts	1.59
Douglas	1.53	Sanborn	1.54
Edmunds	1.50	Shannon	1.40
Fall River	1.33	Spink	1.53
Faulk	1.52	Stanley	1.47
Grant	1.60	Sully	1.48
Gregory	1.50	Todd	1.45
Haakon	1.46	Tripp	1.48
Hamlin	1.56	Turner	1.58
Hand	1.53	Union	1.59
Hanson	1.54	Walworth	1.48
Harding	1.40	Washabaugh	1.45
Hughes	1.49	Yankton	1.55
Hutchinson	1.56	Ziebach	1.41
Hyde	1.51		

TENNESSEE

Shelby	$1.59
All other counties	1.48

TEXAS

Andrews	$1.51	Chambers	$1.75
Archer	1.56	Cherokee	1.67
Armstrong	1.51	Childress	1.53
Atascosa	1.65	Clay	1.57
Bailey	1.51	Cochran	1.51
Bandera	1.61	Coke	1.52
Bastrop	1.65	Coleman	1.56
Baylor	1.55	Collin	1.60
Bee	1.73	Collingsworth	1.51
Bell	1.65	Comal	1.65
Bexar	1.65	Comanche	1.60
Blanco	1.63	Concho	1.57
Borden	1.51	Cooke	1.58
Bosque	1.62	Coryell	1.64
Bowie	1.58	Cottle	1.51
Brazos	1.70	Crosby	1.51
Briscoe	1.51	Colberson	1.51
Brown	1.59	Dallam	1.48
Burleson	1.70	Dallas	1.62
Burnet	1.63	Dawson	1.51
Caldwell	1.65	Deaf Smith	1.51
Calhoun	1.69	Delta	1.61
Callahan	1.55	Denton	1.60
Carson	1.51	DeWitt	1.67
Castro	1.51		

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TEXAS—Continued

County	Rate per bushel	County	Rate per bushel
Dickens	$1.51	McLennan	$1.64
Dimmit	1.59	Martin	1.51
Donley	1.51	Mason	1.59
Eastland	1.55	Maverick	1.55
Edwards	1.55	Medina	1.61
Ellis	1.62	Menard	1.57
El Paso	1.51	Midland	1.51
Erath	1.60	Milam	1.68
Falls	1.64	Mills	1.60
Fannin	1.58	Mitchell	1.52
Fisher	1.52	Montague	1.57
Floyd	1.51	Moore	1.48
Foard	1.53	Motley	1.51
Frio	1.63	Navarro	1.63
Gaines	1.51	Nolan	1.52
Galveston	1.75	Nueces	1.75
Garza	1.51	Ochiltree	1.48
Gillespie	1.59	Oldham	1.51
Glasscock	1.51	Palo Pinto	1.57
Goliad	1.69	Parker	1.59
Gray	1.51	Parmer	1.51
Grayson	1.58	Pecos	1.51
Grimes	1.70	Potter	1.51
Guadalupe	1.65	Presidio	1.51
Hale	1.51	Randall	1.51
Hall	1.51	Real	1.57
Hamilton	1.62	Reeves	1.51
Hansford	1.48	Refugio	1.72
Hardeman	1.53	Roberts	1.48
Harris	1.75	Robertson	1.67
Hartley	1.48	Rockwall	1.61
Haskell	1.53	Runnels	1.55
Hays	1.65	San Patricio	1.75
Hemphill	1.48	San Saba	1.60
Hill	1.62	Schleicher	1.53
Hockley	1.51	Scurry	1.52
Hood	1.59	Shackelford	1.55
Howard	1.51	Sherman	1.48
Hudspeth	1.51	Somervell	1.59
Hunt	1.61	Stephens	1.56
Hutchinson	1.48	Sterling	1.52
Irion	1.53	Stonewall	1.51
Jack	1.57	Sutton	1.53
Jackson	1.65	Swisher	1.51
Jeff Davis	1.51	Tarrant	1.62
Jefferson	1.71	Taylor	1.53
Johnson	1.61	Terry	1.51
Jones	1.53	Throckmorton	1.55
Karnes	1.69	Tom Green	1.54
Kaufman	1.63	Travis	1.65
Kendall	1.63	Uvalde	1.58
Kent	1.51	Van Zandt	1.63
Kerr	1.59	Victoria	1.69
Kimble	1.57	Waller	1.70
King	1.51	Ward	1.51
Kinney	1.55	Wharton	1.70
Knox	1.53	Wheeler	1.51
Lamar	1.58	Wichita	1.55
Lamb	1.51	Wilbarger	1.55
Lampasas	1.64	Williamson	1.65
Limestone	1.64	Wilson	1.67
Lipscomb	1.48	Wise	1.58
Live Oak	1.71	Yoakum	1.51
Llano	1.61	Young	1.56
Loving	1.51	Zavala	1.59
Lubbock	1.51		
Lynn	1.51		
McCulloch	1.59		

UTAH

All counties	$1.45

VERMONT

All counties	$1.49

VIRGINIA

Chesapeake (Norfolk)	$1.66
All other counties	1.51

WASHINGTON

County	Rate per bushel	County	Rate per bushel
Adams	$1.61	Columbia	$1.62
Asotin	1.58	Cowlitz	1.76
Benton	1.63	Douglas	1.61
Chelan	1.63	Ferry	1.53
Clallam	1.55	Franklin	1.62
Clark	1.76	Garfield	1.62
Grant	$1.61	Pierce	$1.76
Grays Harbor	1.68	San Juan	1.57
Island	1.57	Skagit	1.65
Jefferson	1.57	Skamania	1.71
King	1.76	Snohomish	1.70
Kitsap	1.58	Spokane	1.58
Kittitas	1.65	Stevens	1.53
Klickitat	1.67	Thurston	1.70
Lewis	1.71	Wahkiakum	1.70
Lincoln	1.59	Walla Walla	1.62
Mason	1.65	Whatcom	1.62
Okanogan	1.59	Whitman	1.59
Pacific	1.68	Yakim	1.63
Pend Oreille	1.48		

WEST VIRGINIA

All counties	$1.52

WISCONSIN

Douglas	$1.69	All other counties	$1.47

WYOMING

All counties	$1.36

(b) *Premiums and discounts.* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows (all footnotes at end of paragraph):

	Cents per bushel
(1) *Class premiums and discounts.*	
(i) Premiums:	
Hard Amber Durum (U.S. No. 3 or better)	+5
(ii) Discounts:	
Durum	−5
Mixed Wheat (mixtures of classes other than contrasting classes)	−2
Mixed Wheat (mixtures of contrasting classes)	−10
(2) *Grade premiums and discounts.*	
(i) Premium:	
Heavy, U.S. No. 3 or better (Hard Red Spring only)	+2
(ii) Discounts:	
U.S. No. 2	−1
U.S. No. 3	−3
U.S. No. 4	−6
U.S. No. 5	−9
Smut-degree basis:	
Light smutty	−2
Smutty	−6
Garlic-degree basis:	
Light garlicky	−10
Garlicky	−20
(3) *Protein premiums.* Applicable to grade U.S. No. 5 or better. Hard Red Winter, Hard Red Spring and Hard White Wheat.	
Protein content (percent):	
12.0 to 12.4	+1½
12.5 to 12.9	+3
13.0 to 13.4	+4½
13.5 to 13.9	+6
14.0 to 14.4	+7½
14.5 to 14.9	+9
15.0 to 15.4	+10½
15.5 to 15.9	+12
16.0 to 16.4	+13½
16.5 to 16.9	+15
17.0 to 17.4	+16½
17.5 and above	+18
(4) *Weed control discount (where required by § 1421.26)*	10

(5) *Other factors.* Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of wheat, such as (but not limited to) moisture, weevily, ergoty, stones, musty, sour, and heating. Such discounts will be established not later than the time delivery of wheat to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices.

NOTE.—Premiums and discounts are cumulative except only one grade discount shall be applied.

Effective date: August 24, 1976.

Signed at Washington, D.C., on August 17, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-24792 Filed 8-23-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-411]

PART 260—INTEREST SUBSIDY GRANTS

Final Regulations for Section 802(c)(2) Program; Correction

On August 16, 1976, at 41 FR 34608, the Department published final regulations with respect to the Section 802 (c)(2) program. The effective date of the regulations was inadvertently set as September 15, 1976. It was and is the intent of this Office to make Part 260 effective upon publication in order that applications for the program may be accepted immediately.

Accordingly, the effective date of Part 260, Interest Subsidy Grants, is corrected to read August 16, 1976.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d); § 802(c)(2), Housing and Community Development Act of 1974 (Pub. L. 93-383, 88 Stat. 633, (42 U.S.C. 1440(c)(2)).)

JAMES L. YOUNG,
Assistant Secretary for Housing.

[FR Doc.76-24722 Filed 8-23-76;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 2251]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

● The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.) ●

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Oklahoma	Kingfisher	Kingfisher, city of	Dec. 23, 1971, emergency Sept. 30, 1976, regular Oct. 1, 1976, suspended	Apr. 12, 1974	400062
Texas	Galveston	Crystal Beach, town of	Oct. 8, 1971, emergency Sept. 30, 1976, regular Oct. 1, 1976, suspended	Sept. 30, 1976	480243

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.

Issued: August 17, 1976.

RICHARD W. KRUMM,
Acting Federal Insurance Administrator.

[FR Doc.76-24530 Filed 8-23-76;8:45 am]

[Docket No. FI 2253]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

● The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128). ●

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 40 F.R. 57210-212 and 41 F.R. 1062). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirements applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. § 551. The entry reads as follows:

§ 1914.4 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Kentucky	Whitley	Corbin, city of	Aug. 16, 1976, emergency	June 14, 1974 Feb. 20, 1976	210227A
Michigan	Washtenaw	Dexter, township of	do	July 18, 1975	260536
Nebraska	Dodge	Snyder, village of	do	June 27, 1975 May 10, 1976	310319A
Vermont	Orleans	Barton, village of	do	Nov. 8, 1974 Apr. 16, 1976	500082A
Iowa	Grundy	Dike, city of	Aug. 17, 1976, emergency	July 25, 1975	190402
Kansas	Saline	Brookville, city of	do	Sept. 19, 1975	200304
New Hampshire	Merrimack	Newbury, town of	do	Jan. 31, 1975	330226
New York	Oneida	Western, town of	do	Aug. 2, 1974	360564
Ohio	Licking	St. Louisville, village of	do		390337
Oklahoma	Le Flore	Bokoshe, town of	do	Sept. 19, 1975	400358
Pennsylvania	Butler	Prospect, borough of	do	Jan. 17, 1977	422356
Do	Indiana	Young, township of	do	Dec. 20, 1974	421726
Washington	Pierce	Wilkeson, town of	do	Aug. 20, 1975	530268
West Virginia	Harrison	Unincorporated areas	Aug. 16, 1976, emergency	July 11, 1975	540053
Arkansas	Crittenden	Gilmore, town of	Aug. 18, 1976, emergency	June 27, 1975	050245
Iowa	Lyon	Inwood, city of	do	Aug. 8, 1975 June 11, 1976	190598A
Do	do	George, city of	do	Aug. 15, 1975	190447
Missouri	Cass	Archie, city of	do	June 7, 1974 Dec. 12, 1975	290061A
Montana	Broadwater	Townsend, city of	do	May 2, 1975	300131
New York	Allegany	Cuba, town of	do	Jan. 24, 1975	361009
Oklahoma	Logan	Langston, town of	do	Sept. 19, 1975	400297
Indiana	Blackford	Hartford City, city of	Aug. 19, 1976, emergency	Nov. 23, 1973 Mar. 5, 1976	180009A
New Jersey	Burlington	Springfield, township of	Aug. 16, 1976, emergency	July 26, 1974 May 28, 1976	340116A

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State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
New York	Wyoming	Pike, village of	Aug. 19, 1976, emergency	Aug. 9, 1974 Apr. 30, 1976	361027A
Oklahoma	Grady	Verden, town of	do	Apr. 30, 1976	400248
Do.	Cotton	Walters, city of	do		400249
South Carolina	Orangeburg	Holly Hill, town of	do	June 17, 1974 Apr. 23, 1976	450163A
Do.	Allendale	Ulmer, town of	do	Aug. 16, 1974 June 11, 1976	450012A
Wisconsin	Columbia	Pardeeville, village of	do	Dec. 28, 1973 Apr. 30, 1976	550062A
Colorado	Eagle	Eagle, town of	Aug. 20, 1976, emergency.	Aug. 15, 1975	080238
Indiana	Pike	Winslow, town of	do	Dec. 17, 1973 Jan. 30, 1976	180200A
Iowa	Sioux	Sioux Center, city of	do	Sept. 26, 1975	190658
New Hampshire	Belknap	Gilford, town of	do	Feb. 21, 1975	330004
New Mexico	Luna	Unincorporated areas	do		[1] 350139
Oklahoma	Grady	Alex, town of	do		400063
Do.	Major	Cleo Springs, town of	do	Sept. 12, 1975	400290
West Virginia	Preston	Unincorporated areas	do	July 25, 1975	540160
Wyoming	Crook	Moorcroft, town of	do	Sept. 19, 1975	560077

[1] New.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24529 Filed 8-23-76;8:45 am]

[Docket No. FI 2252]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

• The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards. •

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these area unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidental additions or improvements to be used solely for agricultural purposes on a farm.

The effective date of identification shall be 30 days after the date of publication in the FEDERAL REGISTER. This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Alabama	Jefferson	Bessemer, city of	H 010115A 01 through H 010115A 09.	Mayor, 1800 Third Ave., Bessemer, Ala. 35020	June 28, 1974 Aug. 27, 1976
Do.	Pike	Brundidge, city of	H 010347 01 through H 010347 02.	Mayor, 104 North Main St., Brundidge, Ala. 36010	Oct. 22, 1976
Do.	St. Clair	Pell City, city of	H 010189A 01 through H 010189A 08.	Mayor, 1905 First Ave., North, Pell City, Ala. 35125	June 21, 1974 Aug. 27, 1976
Arkansas	St. Francis	Madison, city of	H 050189A 01	Mayor, City Hall, Madison, Ark. 72359	Mar. 22, 1974 Aug. 27, 1976
California	Los Angeles	Covina, city of	H 065024B 01 through H 065024B 05.	Director Public Works, 125 East College St., Covina, Calif. 97123.	June 28, 1974 Nov. 7, 1975
Do.	Orange	Huntington Beach, city of	H 065034A 01 through H 065034A 05.	Director of Public Works, Planning Department, City Hall, Huntington Beach, Calif. 92648.	Aug. 9, 1974 Aug. 27, 1976
Connecticut	Tolland	Columbia, town of	H 090160A 01 through H 090160A 15.	Selectman, Town Hall, Yeomans Hall, Route 87, P.O. Box 165, Columbia, Conn. 06237.	Nov. 8, 1974 Aug. 27, 1976
Do.	New Haven	East Haven, town of	H 090076A 01 through H 090076A 05.	Mayor, Town Hall, 250 Main St., East Haven, Conn. 06512.	June 28, 1974 Aug. 27, 1976
Do.	New London	Sprague, town of	H 090105A 01 through H 090105A 05.	Selectman, 1 Main St., Box 162, Baltic, Conn. 06330	May 10, 1974 Aug. 27, 1976
Do.	Tolland	Vernon, town of	H 090131A 01 through H 090131A 06.	Mayor, Town Hall, 14 Park Pl., P.O. Box 245, Vernon, Conn. 06066.	Jan. 16, 1974 Aug. 27, 1976
Florida	St. Lucie	Fort Pierce, city of	H 120286A 01 through H 120286A 08.	City Manager, P.O. Box 1480, Fort Pierce, Fla. 33450	May 24, 1974 Aug. 27, 1976
Georgia	Cobb	Powder Springs, city of	H 130056A 01 through H 130056A 02.	Mayor, P.O. Box 46, Powder Springs, Ga. 30073	Apr. 12, 1974
Do.	Jefferson	Wrens, city of	H 130117A 01 through H 130117A 02.	Mayor, P.O. Box 125, Wrens, Ga. 30833	May 10, 1974 Aug. 27, 1976
Illinois	Mercer	Aledo, city of	H 170507A 01	Mayor, City Hall, Aledo, Ill. 61231	June 14, 1974 Aug. 27, 1976
Do.	Du Page	Carol Stream, village of	H 170202A 01 through H 170202A 03.	Village Administrator, 415 North Gary, Carol Stream, Ill. 60187.	Apr. 12, 1974 Aug. 27, 1976
Do.	Cook	Golf, village of	H 170098A 01 through H 170098A 02.	Village President, One Briar Rd., Golf, Ill. 60029	May 29, 1974 Aug. 27, 1976
Do.	do	Hoffman Estates, village of	H 170107A 01 through H 170107A 08.	Village President, 1200 North Gannon Dr., Hoffman Estates, Ill. 60172.	Sept. 20, 1974 Aug. 27, 1976
Do.	Lake	Lake Forest, city of	H 170374B 01 through H 170374B 06.	Mayor, 220 East Deerpath, Lake Forest, Ill. 60045	Feb. 20, 1976 Feb. 1, 1974 Aug. 27, 1976
Do.	do	Long Grove, village of	H 170350A 01 through H 170350A 05.	Mayor, Route 2, P.O. Box 286A, Long Grove, Ill. 60047	Apr. 5, 1974 Aug. 27, 1976
Do.	Madison	Madison, city of	H 170446A 01 through H 170446A 02.	Mayor, 1529 Third St., Madison, Ill. 62060	Nov. 23, 1973
Do.	Vermillion	Potomac, village of	H 170790A 01	Village President, P.O. Box 358, Potomac, Ill. 61865	Mar. 22, 1974 Aug. 27, 1976
Indiana	Steuben	Hamilton, town of	H 180248A 01	President, Town Board, 311 Bellefountain St., Hamilton, Ind. 56742.	Sept. 6, 1974 Aug. 27, 1976
Do.	Johnson	Princes Lakes, town of	H 180117A 01 through H 180117A 03.	Chairman, Town Board, R.D. 1, Box 207D, Nineveh, Ind.	May 3, 1974 Aug. 27, 1976
Do.	Jay	Salamonia, town of	H 180345A 01	Chairman of Town Board, Salamonia, Ind. 47381	Oct. 22, 1976
Iowa	Hancock	Corwith, town of	H 190407 01	Mayor, Town Hall, Corwith, Iowa 50430	Do.
Do.	Clinton	Dewitt, city of	H 190568 01	Mayor, City Hall, Dewitt, Iowa 52742	Do.
Do.	Muscatine	Wilton, city of	H 190686 01 through H 190686 04.	Mayor, City Hall, Wilton, Iowa 52778	Do.
Do.	Polk	Windsor Heights, city of	H 190687 01	Mayor, City Hall, Windsor Heights, Iowa 50311	Do.
Kentucky	Jefferson	Shively, city of	H 210124A 01 through H 210124A 03.	Mayor, P.O. Box 16007, Shively, Ky. 40216	May 17, 1974 Aug. 27, 1976
Maine	Lincoln	Bristol, town of	H 230215A 01 through H 230215A 18.	Chairman, Planning Board, Town Hall, Bristol, Maine 04558.	Feb. 21, 1975 Aug. 27, 1976
Do.	Somerset	Cambridge, town of	H 230355A 01 through H 230355A 08.	First Selectwomen, P.O. Box 4, RFD No. 1, Cambridge, Maine, 04924.	Jan. 17, 1975 Aug. 27, 1976
Do.	Aroostook	Caribou, city of	H 230014A 01 through H 230014A 24.	City Manager, 25 High St., Caribou, Maine 04736	Apr. 12, 1974 Aug. 27, 1976
Do.	Lincoln	Damariscotta, town of	H 230216A 01 through H 230216A 06.	Chairman, Board of Selectmen, Selectmen's Office, Town Hall, Damariscotta, Maine.	Feb. 14, 1975 Aug. 27, 1976
Do.	Hancock	Ellsworth, city of	H 230066A 01 through H 230066A 29.	City Manager, City Hall, Ellsworth, Maine 04605	July 19, 1974 Aug. 27, 1976
Do.	Kennebec	Gardiner, city of	H 230068A 01 through H 230068A 07.	City Manager, City Hall, Gardiner, Maine 04345	Feb. 22, 1974 Aug. 23, 1976
Do.	Knox	Thomaston, town of	H 230079A 01 through H 230079A 08.	Selectmen, Town Hall, Thomaston, Maine 04861	Sept. 6, 1974 Aug. 27, 1976
Massachusetts	Franklin	Colrain, town of	H 250113A 01 through H 250113A 16.	Selectmen, Town Hall, Colrain, Mass. 01340	July 26, 1974 Aug. 27, 1976
Do.	Berkshire	New Marlborough, town of	H 250033A 01 through H 250033A 17.	Selectman, Town Hall, Mill River, New Marlborough, Mass. 01244.	June 28, 1974 Aug. 27, 1976
Do.	Bristol	North Attleborough, town of	H 250059A 01 through H 250059A 08.	Selectman, Town Hall, 96 North Washington St., North Attleborough, Mass. 02760.	Mar. 15, 1974 Aug. 27, 1976
Do.	Worcester	Southborough, town of	H 250333A 01 through H 250333A 06.	Selectman, Town Hall, Common St., Southborough, Mass. 01772.	Aug. 2, 1974 Aug. 27, 1976
Do.	do	Warren, town of	H 250342A 01 through H 250342A 11.	Selectman, Town Hall, Main St., Warren, Mass. 01083	May 17, 1974 Aug. 27, 1976
Michigan	Charlevoix	Boyne Falls, village of	H 260371 01	President, Corner Main and Railroad Sts., Boyne Falls, Mich. 49713.	Oct. 22, 1976
Do.	Newaygo	Bridgeton, township of	H 260466 01 through H 260466 12.	Supervisor, 8380—100th St., Rt. 2, Holton, Mich. 49425	Do.
Do.	Sanilac	Evergreen, township of	H 260516 01 through H 260516 12.	Supervisor, Snover, Mich. 48472	Do.
Do.	Oakland	Farmington Hills, city of	H 260172A 01 through H 260172A 12.	Mayor, 31555 Eleven Mile Rd., Farmington Hills, Mich. 48024.	Mar. 15, 1974 Aug. 27, 1976
Do.	Oceana	Greenwood, township of	H 260483 01 through H 260483 12.	Supervisor, 8570 East Arthur Rd., Hesperia, Mich. 49421	Oct. 22, 1976
Do.	Oakland	Novi, city of	H 260175A 01 through H 260175A 11.	Mayor, 25850 Novi Rd., Novi, Mich. 48050	June 28, 1974 Aug. 27, 1976
Do.	Alger	Rock River, township of	H 260346 01 through H 260346 20.	Supervisor, Township Hall, Box 195, Chatham, Mich. 49816.	Oct. 22, 1976
Minnesota	Stearns	Avon, city of	H 270443A 01	Mayor, P.O. Box 236, Avon, Minn. 56310	Mar. 22, 1974 Aug. 27, 1976
Do.	Lac Qui Parle	Bellingham, city of	H 270679A 01	Mayor, City Hall, Bellingham, Minn. 56212	Aug. 23, 1974 Aug. 27, 1976
Do.	Dakota	Mendota, city of	H 270109A 01	Mayor, City Hall, Mendota, Minn. 55050	Feb. 8, 1974

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State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Missouri	Jefferson	Hillsboro, city of	H 290573 01 through H 290573 02.	Mayor, City Hall, Hillsboro, Mo. 63050	Oct. 22, 1976
Do	Ray	Richmond, city of	H 290657 01 through H 290657 02.	Mayor, City Hall, 303 South Thornton, Richmond, Mo. 64085.	Do.
Do	Jackson	Tarsney Lakes, village	H 290509 01	Chairman, Village Hall, P.O. Box AG, Grain Valley, Mo. 64029.	Do.
Mississippi	Marshall	Byhalia, town of	H 280112A 01	Mayor, P.O. Box 303, Byhalia, Miss. 38611	June 7, 1974
Do	Bolivar	Cleveland, city of	H 280016A 01 through H 280016A 04.	Mayor, P.O. Box 239, Cleveland, Miss. 38772	Aug. 27, 1976 May 10, 1974 Aug. 27, 1976
Do	Lee	Tupelo, city of	H 280100A 01 through H 280100A 09.	Mayor, P.O. Box 1435, Tupelo, Miss. 38801	June 14, 1974 Aug. 27, 1976
Do	Warren	Vicksburg, city of	H 280176A 01 through H 280176A 03.	Mayor, P.O. Box 150, Vicksburg, Miss. 39180	Jan. 23, 1974 Aug. 27, 1976
Nebraska	Richardson	Humboldt, city of	H 310183A 01	Mayor, City Hall, Humboldt, Neb. 68376	Mar. 22, 1974 Aug. 27, 1976
New Hampshire	Hillsborough	Antrim, town of	H 330082A 01 through H 330082A 15.	Selectman, Town Hall, Antrim, N.H. 03440	Apr. 12, 1974 Aug. 27, 1976
Do	Coos	Berlin, city of	H 330029A 01 through H 330029A 22.	Community Development Director, City Hall, Berlin, N.H. 03570.	July 19, 1974 Aug. 27, 1976
Do	Merrimack	Bradford, town of	H 330106A 01 through H 330106A 10.	Selectman, Town Hall, Bradford, N.H. 03221	June 28, 1974 Aug. 27, 1976
Do	Carroll	Conway, town of	H 330011A 01 through H 330011A 09.	Selectman, Town Hall, Center Conway, N.H. 03813	Sept. 13, 1974 Aug. 27, 1976
Do	Sullivan	Goshen, town of	H 330157A 01 through H 330157A 06.	Chairman, Board of Selectman, P.O. Box 752, Goshen, N.H. 03752.	Dec. 20, 1974 Aug. 27, 1976
Do	Rockingham	Plaistow, town of	H 330138A 01 through H 330138A 07.	Selectman, Town Hall, Plaistown, N.H. 03865	Oct. 15, 1974 Aug. 27, 1976
Do	Sullivan	Washington, town of	H 330166A 01 through H 330166A 17.	Chairman, Selectmen, Town Hall, Washington, N.H. 03280.	Dec. 27, 1974 Aug. 27, 1976
New Jersey	Warren	Alpha, borough of	H 340576 01 through H 340576 02.	Mayor, 1001 East Blvd., Alpha, N.J. 08865	Oct. 22, 1976
Do	Monmouth	Howell, township of	H 340301A 01 through H 340301A 14.	Mayor, P.O. Box 580, Howell, N.J. 07731	Mar. 22, 1974 Aug. 27, 1976
Do	do	Little Silver, borough of	H 340305A 01 through H 340305A 02.	Mayor, 480 Prospect Ave., Little Silver, N.J. 07739	Aug. 31, 1973 Aug. 27, 1976
Do	Somerset	South Bound Brook, borough of	H 340445 01	Mayor, 12 Main St., South Bound Brook, N.J. 08880	Oct. 22, 1976
Do	Salem	Woodstown, borough of	H 340426A 01	Mayor, Borough Hall, Box 246, West Ave., Woodstown, N.J. 08098.	Do.
New York	Erie	Concord, town of	H 360235A 01 through H 360235A 18.	Town Supervisor, 86 Franklin St., Springville, N.Y. 14141	Aug. 2, 1974 Aug. 27, 1976
Do	Columbia	Copake, town of	H 360174A 01 through H 360174A 03.	Supervisor, Town Hall, Copake, N.Y. 12516	May 24, 1974 Aug. 27, 1976
Do	Livingston	Dansville, village of	H 360383 01	Mayor, 14 Clara Barton St., Dansville N.Y. 14437	Oct. 22, 1976
Do	Schoharie	Esperance, town of	H 361194B 01 through H 361194B 07.	Supervisor, Town Hall, Esperance, N.Y. 12066	Nov. 14, 1975 Oct. 18, 1974 Aug. 27, 1976
Do	Monroe	Greece, town of	H 360417A 01 through H 360417A 21.	Supervisor, Greece Memorial Hall, 2505 West Ridge Rd., Rochester, N.Y. 14626.	Jan. 23, 1974 Aug. 27, 1976
Do	Columbia	Kinderhook, town of	H 361321A 01 through H 361321A 09.	Town Supervisor, R.D., Kinderhook, N.Y. 12106	Oct. 22, 1976
Do	Albany	Knox, town of	H 360011 01 through H 360011 11.	Supervisor, Star Route, Altamont, N.Y. 12009	Do.
Do	Niagara	Lockport, city of	H 360503A 01 through H 360503A 95.	Mayor, One Locks Plaza, Lockport, N.Y. 14094	Do.
Do	Niagara	Lockport, town of	H 361013A 01 through H 361013A 04.	Town Supervisor, 6560 Dysinger Rd., Lockport, N.Y. 14094.	Do.
Do	Cattaraugus	Machias, town of	H 360084A 01 through H 360084A 12.	Supervisor, Town Hall, Machias, N.Y. 14101	Oct. 18, 1974 Aug. 27, 1976
Do	Rensselaer	Nassau, village of	H 360675B 01	Mayor, Village Hall, Nassau, N.Y. 12123	Mar. 5, 1976 Mar. 22, 1974 Aug. 27, 1976
Do	Albany	Ravena, village of	H 361346 01	Mayor, P.O. Box 308, Ravena, N.Y. 12143	Oct. 22, 1976
Do	Monroe	Rochester, city of	H 360431A 01 through H 360431A 14.	Mayor, City Hall, 30 West Broad St., Rochester, N.Y. 14614.	June 28, 1974 Aug. 27, 1976
Do	Schoharie	Schoharie, town of	H 361196 01 through H 361196 13.	Town Supervisor, Town Hall, Schoharie, N.Y. 12157	Oct. 22, 1976
Do	Broome	Windsor, town of	H 360059A 01 through H 360059A 22.	Town Supervisor, P.O. Box 114, Windsor, N.Y. 13865	June 28, 1974 Aug. 27, 1976
North Carolina	Cherokee	Andrews, city of	H 370060A 01 through H 370060A 02.	Mayor, P.O. Box 217, Main St., Andrews, N.C. 28901	Mar. 8, 1974
Do	Buncombe	Black Mountain, city of	H 370033A 01 through H 370033A 06.	Mayor, 225 West State St., Black Mountain, N.C. 28711	Do. Aug. 27, 1976
Do	Haywood	Hazelwood, city of	H 370123A 01 through H 370123A 02.	Mayor, P.O. Box 295, 101 Brown Ave., Hazelwood, N.C. 28738.	Mar. 8, 1974 Aug. 27, 1976
Do	Scotland	Laurinburg, city of	H 370222A 01 through H 370222A 06.	Mayor, P.O. Box 786, Laurinburg, N.C. 28352	Jan. 9, 1974 Aug. 27, 1976
Do	Davidson	Lexington, city of	H 370081A 01 through H 370081A 07.	Mayor, Box 649, Lexington, N.C. 27292	June 21, 1974
Do	Mecklenburg	Unincorporated areas	H 370158 01 through H 370158 44.	Chairman, County Commissioners, 700 East Trade, Charlotte, N.C. 28202.	Aug. 27, 1976 Oct. 22, 1976
Do	Graham	Robbinsville, town of	H 370106A 01 through H 370106A 02.	Mayor, P.O. Box 126, Robbinsville, N.C. 28771	June 14, 1974 Aug. 27, 1976
Do	Mitchell	Spruce Pine, town of	H 370163A 01 through H 370163A 06.	Mayor, P.O. Box 189, Highland Ave., Spruce Pine, N.C. 28777.	June 14, 1974 Aug. 27, 1976
Do	Jackson	Sylvan, city of	H 370137A 01 through H 370137A 04.	Mayor, 11 Allen St., Sylvan, N.C. 28779	Mar. 8, 1974 Aug. 27, 1976
Do	Wake	Wake Forest, town of	H 370244A 01	Mayor, Box 352, Wake Forest, N.C. 27587	Mar. 15, 1974 Aug. 27, 1976
Do	Haywood	Waynesville, city of	H 370124A 01 through H 370124A 06.	Mayor, 106 South Main St., Waynesville, N.C. 28786	Mar. 8, 1974 Aug. 27, 1976
Ohio	Preble	Camden, village of	H 390461A 01 through H 390461A 08.	Mayor, P.O. Box 1, Camden, Ohio 45311	May 10, 1974 Aug. 27, 1976
Do	Jefferson	Empire, village of	H 390299A 01	Mayor, Box 118, Empire, Ohio 43926	Mar. 15, 1974 Aug. 27, 1976
Do	Hamilton	Evendale, village of	H 390214A 01 through H 390214A 03	Mayor, 10500 Reading Rd., Cincinnati, Ohio 45241	Mar. 1, 1974 Aug. 27, 1976
Do	Crawford	Galion, city of	H 390092A 01 through H 390092A 04.	Mayor, 301 Hardingway East, Galion, Ohio 44833	Mar. 15, 1974 Aug. 27, 1976
Do	Union	Marysville, city of	H 390548A 01 through H 390548A 02.	Manager, Sixth and Main Sts., Marysville, Ohio 43040	Mar. 22, 1974 Aug. 27, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Ohio	Cuyahoga	Middleburg Heights, city of	H 390117A 01 through H 390117A 09.	Mayor, 15700 Bagley Rd., Middleburg Heights, Ohio 44130.	Jan. 16, 1974 Aug. 27, 1976
Do	Montgomery	Moraine, city of	H 390414A 01 through H 390414A 03.	Mayor, 4200 Dryden Rd., Moraine, Ohio 45439	Mar. 1, 1974 Aug. 27, 1974
Do	Marion	Morral, village of	H 390746A 01	Mayor, 202 South Green St., Morral, Ohio 43337	Apr. 18, 1975 Aug. 22, 1976
Do	Logan	Russells Point, village of	H 390342A 01 through H 390342A 03.	Mayor, Locust Dr., Russells Point, Ohio	Apr. 5, 1974
Oklahoma	Hughes	Wetumka, city of	H 400453 01 through H 400453 02.	Mayor, City Hall, Wetumka, Okla. 74883.	Oct. 22, 1976
Oregon	Sherman	Wasco, city of	H 410195 01	Mayor, City Hall, Wasco, Oreg. 97065	Do.
Pennsylvania	Butler	Buffalo, township of	H 421416A 01 through H 421416A 02.	Chairman, Board of Supervisors, 565 Parker Rd., Sarver, Pa. 16055.	Sept. 20, 1974 Aug. 27, 1976
Do	Erie	Corry, city of	H 420447A 01 through H 420447A 07.	Mayor, Municipal Bldg., Corry, Pa. 16407	Apr. 12, 1974 Aug. 27, 1976
Do	Mercer	Greenville, borough of	H 420674A 01 through H 420674A 02.	Mayor, 125 Main St., Greenville, Pa. 16125	Aug. 23, 1974 Aug. 27, 1976
Do	York	Heidelberg, township of	H 422221A 01 through H 422221A 09.	Chairman, Township Bldg., Menges, Mills, Pa. 17346	Jan. 10, 1975 Aug. 27, 1976
Do	Cumberland	Lower Allen, township of	H 421016A 01 through H 421016A 03.	President of Commission, 427 Candlewyck Rd., Camp Hill, Pa. 17011.	Feb. 1, 1974 Aug. 27, 1976
Do	Union	Mifflinburg, borough of	H 420832A 01	Mayor, 305 North Third St., Mifflinburg, Pa. 17844	Jan. 23, 1974 Aug. 27, 1976
Do	Lebanon	Millcreek, township of	H 420574 01 through H 420574 08.	Chairman, Newmanstown, Pa. 17073	Oct. 22, 1976
Do	Crawford	Oil Creek, township of	H 421568 01 through H 421568 05.	Township Supervisor, R.D. 2, Titusville, Pa. 16354	Do.
Do	Lancaster	Pequea, township of	H 421779 01 through H 421779 05.	Chairman, Township Supervisors, Pequea Township Bldg., R.D. 1, Willow Street, Pa. 17584.	Do.
Do	Cumberland and Franklin.	Shippensburg, borough of	H 420368 01 through H 420368 04.	Mayor, P.O. Box 129, Shippensburg, Pa. 17257	Do.
Do	Lycoming	South Williamsport, borough of	H 420658A 01	Mayor, 329 West Southern Ave., South Williamsport, Pa. 17701.	Apr. 5, 1974 Aug. 27, 1976
Do	Clarion	Toby, township of	H 422377 01 through H 422377 10.	Chairman, R.D. 1, Parker, Pa. 16049	Oct. 22, 1976
Do	Schuylkill	Washington, township of	H 422506 01 through H 422506 09.	Chairman, R.D. 2, Box 433, Pine Grove, Pa. 17963	Do.
Do	Lancaster	West Lampeter, township of	H 420566A 01 through H 420566A 05.	Chairman, 1711 Lampeter Rd., Lampeter, Pa. 17537	Feb. 8, 1974 Aug. 27, 1976
Do	Montgomery	Whitemarsh, township of	H 420712 01 through H 420712 06.	Chairman of Supervisors, Township Bldg., Lafayette Hill, Pa. 19444.	Oct. 22, 1976
Do	Luzerne	Wilkes-Barre, township of	H 421823 01 through H 421823 02.	Mayor, 827 East Northampton St., Wilkes-Barre, Pa. 18702.	Do.
Do	Lycoming	Williamsport, city of	H 420662A 01 through H 420662A 03.	Mayor, City Hall, Williamsport, Pa. 17701	June 29, 1973 Aug. 27, 1976
Do	Butler	Winfield, township of	H 421225A 01 through H 421225A 03.	Chairman, Box 65, Cabot, Pa. 16023	July 26, 1974 Aug. 27, 1976
Do	York	Yoe, borough of	H 420044A 01	Mayor, 317 South Wilson, Court Yoe, Pa. 17313	June 28, 1974
Do	Delaware	Yeadon, borough of	H 420442A 01 through H 420442A 03.	Mayor, Borough Hall, Yeadon, Pa. 19050	Do. Aug. 27, 1976
Rhode Island	Providence	North Smithfield, town of	H 440021A 01 through H 440021A 10.	Town Clerk, Town Hall, Main St., Slatersville, R.I. 02876.	June 14, 1974 Aug. 27, 1976
South Carolina	Darlington	Darlington, city of	H 450061A 01 through H 450061A 02.	Mayor, P.O. Box 57, Darlington, S.C. 29532	June 7, 1974 Aug. 27, 1976
Tennessee	Gibson	Milan, town of	H 470060A 01 through H 470060A 03.	Mayor, South First St., Milan, Tenn. 38358	May 24, 1974 Aug. 27, 1976
Texas	Tarrant	Everman, city of	H 480594A 01	Mayor, City Hall, 212 North Race, Everman, Tex. 76140	Dec. 17, 1973 Aug. 27, 1976
Do	Palo Pinto	Gordon, town of	H 480068 01	Mayor, Town Hall, Gordon, Tex. 76453	Oct. 22, 1976
Do	Shelby	Joaquin, town of	H 481005 01	Mayor, Town Hall, P.O. Box 237, Joaquin, Tex. 75954	Do.
Do	Kimble	Junction, city of	H 480421A 01 through H 480421A 03.	Mayor, City Hall, 102 North Fifty St., Junction, Tex. 76849.	Mar. 22, 1974 Aug. 27, 1976
Do	Hardin	Lumberton, town of	H 481111 01 through H 481111 02.	Mayor, Town Hall, Lumberton, Tex. 77676	Oct. 22, 1976
Do	Hidalgo	Pharr, city of	H 480347A 01 through H 480347A 12.	Mayor, City Hall, 217 West Park St., Pharr, Tex. 78577	May 31, 1974 Aug. 27, 1976
Do	Sabine	Pineland, town of	H 480098 01	Mayor, P.O. Drawer 88, Pineland, Tex. 75968	Oct. 22, 1976
Do	Briscoe	Quitaque, city of	H 480715 01	Mayor, c/o James Brunson, Ald, P.O. Box 385, Quitaque, Tex. 79255,	Do.
Do	Lamar	Roxton, city of	H 480428A 01	Mayor, City Hall, Roxton, Tex. 75477	May 3, 1974 Aug. 22, 1976
Do	Austin	San Felipe, town of	H 480705 01 through H 480705 04.	Mayor, Town Hall, San Felipe, Tex. 77473	Oct. 22, 1976
Do	Hidalgo	San Juan, city of	H 480348A 01	Mayor, City Hall, 715 South Nebraska, San Juan, Tex. 78589.	Mar. 22, 1974
Do	Lubbock	Shallowater, town of	H 480917 01	Mayor, P.O. Box 220, Shallowater, Tex. 79363	Oct. 22, 1976
Do	Wheeler	Shamrock, city of	H 480656 01 through H 480656 02.	Mayor, City Hall, 116 West Second St., Shamrock, Tex. 79079.	Do.
Do	Sutton	Sonora, city of	H 480580A 01 through H 480580A 06.	Mayor, City Hall, 304 Northeast Oak St., Sonora, Tex. 76950.	Mar. 1, 1974 Aug. 27, 1976
Do	Lamb	Spring Lake, town of	H 480897 01	Mayor, Town Hall, Spring Lake, Tex. 79082	Oct. 22, 1976
Do	Titus	Talco, city of	H 481024A 01	Mayor, City Hall, 210 Broad St., Talco, Tex. 75487	Do.
Do	Dallas	Woodland Hills, city of	H 481166 01	Mayor, Route 1, P.O. Box 987, Dallas, Tex. 75224	Do.
Do	Throckmorton	Woodson, city of	H 481022 01	Mayor, City Hall, P.O. Box 251, Woodson, Tex. 76091	Do.
Utah	Box Elder	Garland, city of	H 490207 01	Mayor, City Hall, Garland, Utah 84312	Do.
Do	Sevier	Glenwood, city of	H 490126 01	Mayor, P.O. Box 573, Glenwood, Utah 84730	Do.
Do	Cache	Millville, town of	H 490021 01	Town President, Town Hall, Millville, Utah, 84326	Do.
Vermont	Franklin	Franklin, town of	H 500310A 01 through H 500310A 17.	Selectman, Town Hall, Franklin, Vt. 05457	Nov. 15, 1974 Aug. 27, 1976
Do	Rutland	Mount Holly, town of	H 500096A 01 through H 500096A 15.	Selectman, Town Hall, Mount Holly, Vt. 05758	June 28, 1974 Aug. 27, 1976
Do	Washington	Plainfield, town of	H 500276A 01 through H 500276A 08.	Selectman, Town Hall, Plainfield, Vt. 05667	Aug. 9, 1974 Aug. 27, 1976
Do	Windsor	Royalton, town of	H 500153A 01 through H 500153A 12.	Selectman, Town Hall, Royalton, Vt. 04068	July 19, 1974 Aug. 27, 1976
Do	Grand Isle	South Hero, town of	H 500226A 01 through H 500226A 16.	Chairman, South Hero Planning Board, South Hero, Vt. 05486.	Oct. 18, 1974 Aug. 27, 1976

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State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Virginia	Dickenson	Haysi, town of	H 510046A 01 through H 510046A 03.	Mayor, Town Office, Haysi, Va. 24256	May 31, 1974
Washington	Pierce	Eatonville, town of	H 530283 01	Mayor, P.O. Box 296, Eatonville, Wash. 98328	Aug. 27, 1976
Do.	King	Hunts Point, town of	H 530288 01	Mayor, 3261 Hunts Point Rd., Bellevue, Wash. 98004	Oct. 22, 1976
Do.	Kittitas	Roslyn, city of	H 530299 01	Mayor, City Hall, Roslyn, Wash. 98941	Do.
Do.	Thurston	Yelm, town of	H 530310 01	Mayor, c/o Orlando J. Martyr, Clerk, P.O. Box 479, Yelm, Wash. 98597.	Do.
West Virginia	Ohio	Tridelphia, town of	H 540150A 01 through H 540150A 04.	Mayor, Box 177, Tridelphia, W. Va. 26059	Feb. 8, 1974
Wisconsin	Green Lake	Green Lake, city of	H 550167 01	Mayor, 534 Mill St., Green Lake, Wis. 54941	Aug. 27, 1976
Do.	Waukesha	Menomonee Falls, village of	H 550483A 01 through H 550483A 12.	Manager, City Hall, Menomonee Falls, Wis. 54751	Oct. 22, 1976
Do.	Shawano	Wittenberg, village of	H 550423A 01	Village President, Wittenburg, Wis. 54499	Sept. 13, 1974
Wyoming	Converse	Douglas, town of	H 560013A 01	Mayor, Town Hall, 130 South Third St., Douglas, Wyo. 82633.	May 24, 1974
Do.	Fremont	Dubois, town of	H 560018A 01	Mayor, Town Hall, P.O. Box 456, Dubois, Wyo. 82513	Nov. 1, 1974

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969).

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24531 Filed 8-23-76;8:45 am]

[Docket No. FI-996]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Wormleysburg, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Wormleysburg, Cumberland County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board, Municipal Building, 20 Market Street, Wormleysburg.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation, feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Market Street Bridge	320		280
	Walnut Street Bridge	320		380
	Taylor Bridge	321		780
	Confluence with Conodoguinet Creek	321		1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24511 Filed 8-23-76;8:45 am]

[Docket No. FI-953]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Norton, Virginia

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Norton, Virginia under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board at City Hall, 618 Virginia Avenue, Norton.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Guest River	Northern corporate limits	2,201	(1)	240
	N. & W. Railroad crossing at Lost Creek	2,087	180	185
	Kentucky Avenue	2,078	130	145
	Rose Avenue		180	75
	Chestnut Avenue (Esserville)	2,070	250	70
Clear Creek	Esserville, eastern corporate limits	2,106	120	120
	12th Street (Esserville)	2,083	140	125
	N. & W. Railroad (Esserville)	2,080	135	50
Benges Branch	Western corporate limits	2,022	40	70
	Interstate railroad	2,030	80	130
	Main Avenue	2,075	70	870
	L. & N. Railroad	2,125	190	240
	Spring Avenue	2,145	375	[2] 500
	Laurel Avenue (extended)	2,210	110	45
	Chapman Street (extended)	2,225	250	80
Powell River	Along Route 610		50-100	(2)
	Along western corporate limits		40-240	10-170

[1] Corporate limits.
[2] Along road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24514 Filed 8-23-76;8:45 am]

[Docket No. FI-1,025]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Richland Hills, Tarrant County, Texas

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Richlands Hills, Tarrant County, Texas under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board at City Hall, 3200 Diana Drive, Richland Hills, Texas.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

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Source of flooding	Location	Elevation, feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Big Fossil Creek, tributary 3.	Dover Lane	563	20	125
	Brooks Street	558	40	90
	Keveu Kamp Avenue	555	60	30
	Bridges Avenue	543	65	90
	Baker Boulevard (Highway 183) north side.	540	25	40
	Baker Boulevard (Highway 183) south side.	534	10	25
	Latham Drive	530	50	25
	Park Place Drive	517	75	170
	Pecan Park Drive	512	310	200
	Texas Electric Service Co. right-of-way	509	240	815
	Pipe Line Co. easement	508	225	775
	Pine Park Drive	504	305	(1)
	Kingsbury Avenue	50	370	1,345
	Rosebnd Drive	502	260	1,110
	Cecil Drive	501	800	1,635
Big Fossil Creek, tributary 4.	Baker Boulevard (Highway 183) north side.	541	30	85
	Baker Boulevard (Highway 183) south side.	538	80	90
	Kings Court	523	50	45
	Park Place Drive	519	40	45
	Pecan Park Drive	512	100	225
	Kingsbury Avenue	510	230	1,530
Calloway Branch	Glen View Drive	555	325	50
	Leslie Drive (extended)	553	500	50
	Norma Lane (extended)	550	190	300
	Beth Court (extended)	549	380	165
	Southern corporate limits	545	110	290
Trinity River, tributary 2.	Alley (Street)	540	30	25
	Baker Boulevard (Highway 183) north side.	539	25	65
	Baker Boulevard (Highway 183) south side.	535	15	85
	Texas Electric Service Co., right-of-way	528	25	35
	State Highway 121, north side	520	110	30
	State Highway 121, south side	517	(1)	30
	Chicago, Rock Island and Gulf Railroad	515	(1)	185
	Southern corporate limits	515	(1)	80
Big Fossil Creek, tributary 5.	Northern corporate limits	534	35	80
	Baker Boulevard (Highway 183) north side.	532	110	105
	Baker Boulevard (Highway 183) south side.	528	115	80
	Allena Lane	507	550	200
	Lavon Drive (extended)	502	925	(1)
Big Fossil Creek, tributary 3.	Hardisty Street	580	110	145
	Glen Hills Road	576	140	90
	Richlynn Terrace	571	260	120
	Richland Road	567	40	65

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24513 Filed 8-23-76;8:45 am]

[Docket No. FI-1,003]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Conyngham, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Conyngham, Luzerne County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board at the Fire Hall, Main Street, Mocanaqua, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
North Branch Susquehanna River.	Northwest corporate limits	528	[2] 340	
	LR 40030 Bridge	522	[2] 220	
	T-436 (extended)	521	[2] 760	
	LR 40120 (extended)	518	[2] 800	
	T-448 (extended)	512	[2] 400	
	Southwest corporate limits	511	[2] 800	
Wapwallopen Creek	Southeast corporate limits	521	[2] 400	
	100 east of LR655	511	[2] 400	
	Penn-Central Railroad	511	[2] 320	
Little Wapwallopen Creek.	Southern corporate limits	(1)	60	120
	LR 40026	(1)	200	120
	T-459	515	720	160
	Penn-Central Railroad	515	50	1,940

[1] Not determined.
[2] Inside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24512 Filed 8-23-76;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Adoption of Requirements of Wyoming's Reclamation Laws and Requirements

On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally owned coal resources. 41 F.R. 20252 (1976). Those regulations established a procedure under which the Secretary of the Interior may decide, through rulemaking, that the Department will approve mining plans in a particular state only if the mining plans would comply with the requirements of state reclamation laws which are as stringent as the reclamation requirements of 30 CFR Part 211. In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a state's reclamation law. 41 FR 27993 (1976).

The Department has now completed its review of the requirements of the reclamation laws of the State of Wyoming using the procedures explained in the advance notice of proposed rulemaking. The Department has begun, but has not finished reviewing the requirements of other states. This rulemaking proceeding proposes that the requirements of the State of Wyoming's reclamation laws be applied as a condition upon the approval of any proposed federal exploration or mining plan. The proposed rulemaking lists the provisions of Wyoming law which are laws relating to reclamation, and lists the federal regulations that are superseded by the Wyoming requirements.

Title 30 CFR 211.75(a) says:

Section 211.75. *Applicability of State law.* (a) On the effective date of this part, and from time to time thereafter, the Secretary shall direct a prompt review of State laws and regulations in effect, relating to reclamation of lands disturbed by surface mining of coal in each State in which Federal coal has been leased, permitted, or licensed. If, after such review, the Secretary determines that the requirements of the laws and regulations of any such State afford general protection of environmental quality and values at least as stringent as would occur under exclusive application of this part, he shall, by rulemarking, direct that the requirements of such State laws and regulations thereafter be applied as conditions upon the approval of any proposed exploration or mining plan, unless:

(1) The Secretary determines that such application of the requirements of such laws and regulations would unreasonably and substantially prevent the mining of Federal coal in such State, and

(2) The Secretary determines that it is in the overriding national interest that such coal be produced without such application of such requirements. In any such determination of overriding national interest, the Secretary will consult in advance of such determination with the Governor of the State involved.

* * * * *

Table I summarizes the comparison that was made. (The Analytical Criteria used in the Table are illustrative of the requirements of federal law; their use is not intended to change the effect of the regulations). Table II sets out, verbatim, the requirements of Wyoming's laws and regulations that will be adopted. The proposed § 211.76(b), and the column of Table I captioned "Federal Citation (30 CFR Part 211)", list those sections of 30 CFR Part 211 that the Department has concluded are regulations relating to the reclamation of lands disturbed by surface mining of coal. The list consists of 30 CFR 211.40 (a), minus the paragraphs of that section that are directed toward health and safety concerns or purely procedural requirements, rather than reclamation concerns. The omitted paragraphs are 30 CFR 211.40(a) (9), (10), (13)(iii), (14)(ii)(A), (15), (16), (17). The Department determined that the provisions of Part 211 not in § 211.40(a) were not regulations relating to the reclamation of lands disturbed by coal mining either because they (1) were purely procedural requirements; (2) were requirements unrelated to reclamation; or (3) were requirements already included in § 211.40. For example, § 211.10 prescribes what information must be submitted in a mining plan. This assists the Mining Supervisor in determining whether an operator would comply with the substantive reclamation requirements. The section adds no "on-the-ground" requirements, however, and it is primarily a procedural requirement. Similarly, § 211.41(c) *Permanent abandonment*, which states what steps must be taken to properly abandon a mining operation, and which requires backfilling, regrading and revegetating, merely repeats requirements that are also found in the performance standards in § 211.40(a). Omitting § 211.41(c), does not lessen the operator's reclamation duties. The Department has also decided that the procedures in 30 CFR 211.74, *Variances* are not regulations relating to reclamation of lands disturbed by surface mining of coal, and they will not be superseded by this rulemaking. Both Wyoming's rules and regulations and the Department's regulations have procedures that allow an operator to vary from a reclamation requirement if the variation is essential to achieve the desired post-mining use of the reclaimed lands. Wyoming treats this type of problem in the text of its reclamation requirements; the Department treats it in a separate section. If the Department adopts the reclamation requirements of Wyoming's laws and regulations, as proposed by this rulemaking, it will grant variances from the reclamation requirements only after consideration of the requirements of Wyoming law, but will use the procedures in 30 CFR 211.74 to process the request for a variance. The Department will consult with Wyoming in deciding whether to grant a variance.

The comparison in Table I shows that the requirements of Wyoming's laws and regulations are equal to or greater than those in 30 CFR Part 211 in every instance except one, the requirement for limiting access to protect the reclaimed land from grazing. This "deficiency" is minimized by other provisions which ensure that overall general environmental protection is at least as stringest as under Federal regulations. The requirements that were reviewed are substantive not procedural requirements. Those aspects of procedure which relate to the administration and enforcement of reclamation operations are not a part of this rulemaking, but may be covered as part of agreements made under 30 CFR 211.75 (b). The procedures that will be used in deciding whether to approve a mining plan are federal procedures.

After reviewing the comparison, the Task Force (1) made a preliminary recommendation that the requirements of Wyoming's reclamation laws provided general environmental protection at least as stringent as would occur under 30 CFR Part 211, and (2) determined that application of these laws and regulations as a condition to federal approval of mining and exploration plans would not unreasonably and substantially prevent the mining of federal coal in Wyoming.

The Secretary reviewed the Task Force's conclusions and directed that this notice of proposed rulemaking be published. The proposed rulemaking adds a new section, § 211.76 to 30 CFR Part 211. Paragraph (a) of the new section lists the requirements of Wyoming's reclamation laws and regulations that will be made a condition to federal approval of a mining or exploration plan under 30 CFR Part 211. Paragraph (b) lists the sections of Part 211 that are replaced by the requirements of Wyoming's laws and regulations. Paragraph (c) says that the Department may, through rulemaking, terminate the application of the requirements in § 211.76(a) if changes in

the requirements of either Federal or State law make that application inconsistent with 30 CFR 211.75(a). Before the regulations are finally adopted, the Department, and the State of Wyoming will have to execute a memorandum of understanding to cover how they will act on changes in Federal or State laws or regulations. This agreement will be published along with the final rulemaking.

This rulemaking also includes two proposed technical amendments to Part 211. The first technical amendment corrects a drafting error in § 211.40(a)(2). The last sentence of that section is a variance procedure, not a performance standard and it should have been included in § 211.74. The proposed amendment corrects this error. The second technical amendment separates the health and safety aspects of § 211.40(a)(14)(ii) from the reclamation aspects of that section. When the proposed rulemaking refers to either § 211.40(a)(2), or § 211.40(a)(14)(ii), or § 211.74, the reference is to those sections as amended by these technical amendments.

Although the proposed rulemaking does not attempt to amend 43 CFR Subpart 3041, the Department would like to clarify that the reclamation requirements of that section will be administered consistently with the changes made in Part 211 as the result of this rulemaking. If necessary, this will include making appropriate changes in the language of Subpart 3041.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 CFR Part 3041) and Coal Mining Operating Regulations (30 CFR Part 211) (1976). NEPA does not require, and the Department will not prepare, a separate impact statement for this action.

The Department will conduct a public meeting on this proposed rulemaking during the week of September 20, 1976, in Cheyenne, Wyoming. The exact time and place of the hearing will be announced shortly. Any person who wishes to testify at the hearing should notify the Chief, Office of Public Affairs, Bureau of Land Management, Cheyenne, Wyoming 82001, (Tel. no. (307)–778–2220). The meetings will be open to the public. Depending upon the number of people desiring to be heard, the Chairperson may limit the amount of time available for each statement. Accordingly, those wishing to make an oral statement should plan to limit their remarks to 15 minutes. Additionally, such remarks should be reduced to writing and at least two copies filed with the Chairperson at the meetings. Individuals desiring to present extended remarks or written comments only for the record may do so at the meetings through the filing of at least two copies.

In addition, the Department will accept written comments on the proposed rulemaking until October 26, 1976. As the advance notice of proposed rulemaking stated, the comment period will not be extended. Please send your comments to Deputy Under Secretary Lyons, Chairman, Task Force on the Adoption of Requirements of State Reclamation Laws, Department of the Interior, Washington, D.C. 20240.

Dated: August 19, 1976.

JOHN KYL,
Acting Secretary,
U.S. Department of the Interior.

1. The Department of the Interior proposes to amend Title 30 CFR Part 211:

(a) By deleting the last sentence of 30 CFR 211.40(a)(2), and revising and renumbering 30 CFR 211.40(a)(14)(ii). As amended § 211.40 (a)(2) and (a)(14)(ii) reads as follows:

§ 211.40 Operating and reclamation standards.

(a) * * *

(2) The operator shall replace overburden and waste materials in the mined area by backfilling (compacting where necessary, to ensure stability or to prevent leaching of toxic materials), grading, or other means, so as to cover all acid-forming or other toxic materials, eliminate highwalls and spoil piles and restore the approximate original contour. Where the thickness of the coal deposits relative to the volume of overburden and other spoil and waste materials are either insufficient or more than sufficient to restore the approximate original contour, the operator shall, in order to provide adequate drainage, backfill, grade, and, where necessary compact using all available overburden or spoil material, to obtain the lowest practicable grade, which shall in any event be less than the angle of repose. Excess overburden or other spoil material shall be fully reclaimed in accordance with the requirements of this part;

* * * * *

(14) * * *

(ii) Provide warning signs, fencing, flagman, barricades and other safety and protective measures as may be necessary to regulate public access, vehicular traffic, and wildlife or livestock grazing in all areas of active operations, including lands undergoing reclamation:

(A) To protect the public, wildlife and livestock from hazards associated from such operations; and

(B) To protect revegetated areas from unplanned and uncontrolled grazing.

* * * * *

(b) By Amending 30 CFR 211.74(e) to read as follows:

§ 211.74 Variances.

* * * * *

(e) An operator may apply for a variance pursuant to the provisions of paragraph (a) of this section only by submitting a new or revised mining plan to the Mining Supervisor pursuant to the provisions of this Part. Variance from the requirements of subdivision (i) and (ii) of § 211.40(a)(2) may be allowed in an approved mining plan if the Director of the Geological Survey, with the concurrence of the Director of the Bureau of Land Management or the comparable appropriate authorized officer, determines that unusual physical conditions at the site, such as steeply dipping coal beds or multiple seam mining exists and such conditions make backfilling pursuant to such requirements impracticable as a result of the volume of material excavated or environmentally undesirable as a result of the duration of the operation. Minor changes of operations which do not involve violations of the performance standards set forth in this part, and the granting of a variance pursuant to this § 211.40(a)(2), will not be deemed to be subject to or require compliance with, the provisions of this section.

* * * * *

Adding a new § 211.76 to read as follows:

§ 211.76 Applicability of the requirements of Wyoming's Reclamation Laws and Regulations.

(a) Pursuant to § 211.75(a) the Secretary has determined that federal approval of a mining or exploration plan in Wyoming required by this Part 211 will be granted only if the plan would comply with the requirements of Wyoming's reclamation laws and regulations that are listed in subparagraphs (1)–(10) of this paragraph:

(1) Wyo. Stat. 35.502.3(e)(i);
(2) Wyo. Stat. 35.502.21(a)(i)–(vi);
(3) Wyo. Stat. 35.502.24:1;
(4) Wyo Stat. 35.502.32(b)(ii)–(ix);
(5) Wyo. Land Quality Reg. II–1b;
(6) Wyo. Land Quality Reg. II–2a(1), (2);
(7) Wyo. Land Quality Reg. II–3–5;
(8) Wyo. Land Quality Reg. III–1–4, 6–7;
(9) Wyo. Land Quality Reg. IV–1;
(10) Wyo. Land Quality Reg. VIII–1

(b) Paragraph (a) of this section supersedes the requirements of the following sections in this Part 211:

(1) 211.40(a)(1)–(8);
(2) 211.40(a)(11)–(13)(ii);
(3) 211.40(a)14(ii)(B)

(c) This section remains in effect until the Secretary determines, through rulemaking, and in accordance with a memorandum of understanding with the State of Wyoming that:

(1) The requirements of Wyoming's reclamation laws and regulations fail to provide general protection of environmental quality and values at least as stringent as would occur under the exclusive application of this Part; or

(2) The requirements of Wyoming reclamation laws and regulations unreasonably prevent the mining of federal coal and it is in the overriding national interest that the coal be produced without application of the requirements listed in paragraph (a) of this section.

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WYOMING

TABLE 1.—*Comparison of requirements of Federal-State reclamation laws and regulations*

Analytical criteria	Federal citation (30 CFR pt. 211)	State citation (chapter/section)	Comments	Stringency of protection
A. Timing and objectives of reclamation:				
1. Contemporaneously as practicable with operations.	211.40(a)(1)	IV-1 II-1b 35-502.21(a) (i)-(iii)	Under State law reclamation must begin as soon as possible and continue concurrently.	Equal.
2. To a condition capable of supporting prior uses		35-502.32(b)(ix) II-4a(3)		
B. Restoration of approximate original contour	211.40(a)(2)	II-2a (1), (2) 35-502.21(a)(ii) 35-502.3(e)(i) II-3 35.502.32 (v), (vi)	Federal regulations require elimination of a highwall unless a variance is allowed. State regulations provide that a stabilized highwall may be left if a water impoundment is approved in the reclamation plan.	Equal.
1. Replace overburden in the mined area by backfilling, grading, or other means.				
2. Eliminate highwalls				
3. Eliminate spoil piles				
4. Restore the approximate original contour				
C. Stabilize and protect surface areas affected by coal mining and reclamation.	211.40(a)(3)	II-2a (1), (2) II-5c(2) 35-502.3(e)(i)	State regulations do not explicitly require operator to protect and stabilize all mined areas, but the requirement is implicit in other sections.	Equal.
1. Control slides, erosion, subsidence, and attendant air and water pollution.				
D. Topsoil handling, replacement	211.40(a)(4)	35-502.21(a)(v) II-4(a) (1), (2) II-4(b)1	No significant differences	Equal.
1. Remove topsoil separately				
2. Stockpile topsoil if not used immediately				
3. If topsoil is stockpiled for lengthy period, use vegetative cover to protect from wind and water erosion.				
4. If topsoil is poor in quantity or quality, use best suitable material available for revegetation.				
5. Replace topsoil on backfilled areas				
E. Revegetation	211.40(a)(13)	II-5 II-3(b)(3) 35-502.21(a)(iv) 35.502.32(vii)	State exempts land which did not contain vegetation prior to disturbance; State requires test plots for substitute species.	State.
1. Establish diverse vegetative cover, native to the area on regraded areas and all other affected lands which is capable of regeneration and plant succession.				
2. Establish vegetative cover at least equal in density and permanence to the native vegetation.				
3. Use of approved mixtures of introduced or native species where preferable.				
F. Hydrologic management of water impoundments, retention facilities, dams, and settling ponds.	211.40(a)(5)	II 2 III 6 35-502.24.1	Both State and Federal regulations have similar requirements for management of water impoundments. State regulations are silent on use of mine or process wastes in construction of water facilities, but require prior approval by the State engineering office.	Equal.
1. Assure the water facilities are adequate for intended purpose and that water quality and quantity is adequate.				
2. Assure that water facilities are designed according to sound engineering standards and practices.				
3. Assure that grading of water facilities provides adequate access for proposed water uses.				
4. Assure that mine and process wastes are not used in construction of water facilities.				
5. Minimize disturbances to prevailing quality, quantity, and flow of water in surface and ground systems.				
G. Minimize disturbances to prevailing quality, quantity, and flow of water in surface and ground systems at mine site and offsite by:	211.40(a)(7)	III 1-3	Federal Regulations require best practicable commercial technology to minimize, control, or prevent disturbances to ground and surface water systems. State regulations are more specific on standards for diversion ditches.	Equal.
1. Control acid or toxic drainage				
2. Minimize contributions of suspended solids to streamflow or runoff.				
3. Unless authorized do not deepen or enlarge stream channels.				
4. Remove or modify siltation structures after disturbed areas are revegetated and stabilized.				
5. Protect the quality, quantity, and flow of both upstream and downstream surface and ground water resources of valley floors with significant vegetation.				
H. Handling of toxic materials	211.40(a) (2), (5), (6), (8)	III 1-3 35-502.32(b), (iii), (iv)	State provides that auger holes may be plugged if they are a source of pollution.	Equal.
1. Cover or plug auger holes to minimize harmful drainage.				
2. Minimize air and water pollution by treating or disposing of rubbish and noxious substances.				
3. Cover acid-forming or toxic materials				
4. Control acid or toxic drainage to protect water quality.				
I. Roads, pipelines, powerlines, etc	211.40a (11), (12)	VIII 1	Provided for.	Equal.
1. Roads, etc. shall be designed to applicable standards.				
2. Roads, etc., shall be removed in an environmentally acceptable manner when no longer necessary.				
3. Roads shall not be surfaced with acid or toxic substances.				
4. Roads shall not be constructed in a stream nor shall a stream bed be used as a road.				
J. Limit access to protect reclaimed areas	211.40(a)14	II-5	State requires protection by fencing, or other techniques, for two years or until vegetation is capable of renewing itself.	Federal.
1. Protect revegetated areas from unplanned and uncontrolled grazing by providing fencing, barricades, and other protective measures.				

TABLE II—APPLICABLE PROVISIONS OF WYOMING'S LAWS AND REGULATIONS

WYOMING STATUTES

(1) § 35-502.3.

(e) Specific definitions for land quality:

(i) "Reclamation" means the process of reclaiming an area of land affected by mining to use for grazing, recreational, wildlife purposes, or any other purpose of equal or greater value. The process may require contouring, terracing, grading, resoiling, revegetation, compaction, and stabilization, settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to eliminate water diminution to the extent that existing water sources are adversely affected, pollution, soil and wind erosion, or flooding resulting from mining or any other activity to accomplish the reclamation of the land affected to a useful purpose;

(2) 35-502.21. *Establishment of standards.*

(a) The council shall, upon recommendation by the advisory board, establish rules and regulations pursuant to the following reclamation standards for the affected areas, including but not limited to:

(i) The highest previous use of the affected lands, the surrounding terrain and natural vegetation, surface and subsurface flowing or stationary water bodies, wildlife and aquatic habitat and resources, and acceptable uses after reclamation including the utility and capacity of the reclaimed lands to support such uses;

(ii) Backfilling, regarding or recontouring to assure the reclamation of the land to a use at least equal to its highest previous use;

(iii) A time schedule encouraging the earliest possible reclamation program consistent with the orderly and economic development of the mining property;

(iv) Revegetation of affected lands including species to be used, methods of planting and other details necessary to assure the development of a vegetative cover consistent with the surrounding terrain and the highest prior use standards set out in subparagraph (i) of this paragraph;

(v) Stockpiling, preservation and reuse of topsoil for revegetation, unless it can be demonstrated to the satisfaction of the administrator that other methods of reclamation or types of soil are superior;

(vi) Prevention of pollution of waters of the State from mining operations, substantial erosion, sedimentation, landslides, accumulation and discharge or acid water, and flooding, both during and after mining and reclamation;

(3) § 35-502.24:1. *Water impoundments.*

(a) In any plan for the creation of a permanent water impoundment the applicant must adequately demonstrate that:

(i) The size of the impoundment, contouring and revegetation, if any, are suitable for its intended purpose and use;

(ii) Final grading will provide adequate safety and access for proposed water users;

(iii) The impoundment dam construction will be so designed to insure permanent stability and to prevent safety hazards.

(4) § 35.502.32. *Duties of operator.*

(b) The operator, pursuant to an approved surface mining permit and reclamation plan, shall:

(i) • • •

(ii) Conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan;

(iii) Protect the removed and segregated topsoil from wind and water erosion, and from acid or toxic materials, and preserve such in a usable condition for sustaining revegetation when restored in reclamation, or if topsoil is virtually non-existent or is not capable of sustaining vegetation, then subsoil, which is available and suitable, shall be removed, segregated, and preserved in a like manner as may be required in the approved reclamation plan;

(iv) Cover, bury, impound, contain or otherwise dispose of toxic acid-forming, or radioactive material or any material determined by the administrator to be hazardous to health and safety, or which constitutes a threat of pollution to surface or subsurface water as may be required in the approved reclamation plan;

(v) Conduct contouring operations to return the land to the use set out in the reclamation plan;

(vi) Backfill or grade, and replace topsoil, or approved subsoil, which has been segregated and preserved as may be required in the approved reclamation plan;

(vii) Replace, as nearly as possible, native or superior self regenerating revegetation on land affected, as may be required in the approved reclamation plan;

(viii) Prevent, throughout the mining and reclamation operation, and for a period of five years after the operation has been terminated, pollution of surface and subsurface waters on the land affected by the institution of plantings and revegetation, the construction of drainage systems and treatment facilities including settling ponds and the casing, sealing of boreholds, shafts, and wells so that no pollution is allowed to drain untreated into surface or subsurface water in accordance with state of federal water quality standards, whichever are higher, as may be required in the approved reclamation plan;

(ix) Reclaim the affected land as mining progresses in conformity with the approved reclamation plan.

WYOMING LAND QUALITY RULES AND REGULATIONS

(1) *Wyoming Land Quality Regulations.* II-1b.

b. Land uses—Previous uses of affected lands must be ranked on an individual basis according to the overall economic or social value of the land use to the community or area in which these lands are found.

(1) Reclamation shall restore the land to a condition equal to or greater than the "highest previous use." The land, after reclamation, must be suitable for the previous use which was of the greatest economic or social value to the community or area, or must have a use which is of more economic or social value than all of the other previous uses.

(2) The administrator of the Land Quality Division shall bear the responsibility of making a decision on the ranking of land uses in a particular area. This decision must be based on information concerning the economy of the area and the needs and desires of the people living thereon. The Land Quality Advisory Board may be consulted for suggestions or recommendations on the ranking of land uses in a given area.

(3) Operators are required to restore wildlife habitat, whenever possible, on affected land in a manner commensurate with or superior to habitat conditions which existed before the land became affected, unless the land is used for a recreational or agricultural purpose which precludes its use as "wildlife habitat."

(4) Water impoundments used for recreational purposes shall be constructed in accordance with the statutes and Chapter III, Section 6, of these regulations. Recreational lands, other than water impoundments, represent changes in the land which may or may not be suitable for wildlife habitat.

(2) *Wyoming Land Quality Regulation:* II-2a(1), (2).

SEC. 2. *Methods of mining—Reclamation required*—Surface reclamation of affected lands shall meet the following requirements for soft rock surface mining, hard rock surface mining and underground mining as described separately below:

a. Soft rock surface mining.

(1) If the reclamation plan does not provide for a water impoundment, the final pit area shall be backfilled, graded and contoured to the extent necessary to return the land to the use specified in the approved plan. In preparation of slope specifications in the plan, the operator shall consider an average of the measured slopes in the immediate area of the proposed mine site. The maximum inclination of slopes in the reclaimed area shall not be greater than the average inclination of the natural slopes in the immediate mine area. Slopes greater than the average natural slopes may be approved if the operator can demonstrate to the satisfaction of the administrator that returning the mined area to a slope equal to or less than the average natural slopes would create an unwarranted increase in the amount of affected lands. Individual slope measurements, locations of the measurements, and the average measurement shall be submitted with the reclamation plan. In determination of the average natural slope, the Land Quality Division may make an independent slope survey. All backfilling, grading, and contouring will be done in such a manner so as to preserve the original drainage or provide for approved adequate substitutes. No depressions to accumulate water will be permitted unless approved in the reclamation plan as being consistent with the proposed future use of the land.

Terraces or benches may be used only when it can be shown to the administrator's satisfaction that other methods of contouring will not provide the required result. If terracing is proposed, detailed plans indicating the dimensions and design of the terraces, check dams, any erosion prevention techniques, and slopes of the terraces and their intervals will be required.

(2) If the reclamation plan provides for a water impoundment and this use has been approved according to the requirements outlined in these regulations, the exposed pit areas must be sloped, graded, and contoured so as to blend with the topography of the surrounding terrain and provide for access and revegetation. Riprapping where necessary to prevent erosion will be required. Sloping requirements will be as described above. Under certain conditions wherein it can be demonstrated to the administrator's satisfaction that the pitwall can be stabilized by terracing or other techniques it may be permissible to leave not more than one half (½) of a proposed shoreline composed of the stabilized pitwall. The remaining portion of the shoreline must be graded and contoured so as to provide access and blend in with the topography of the surrounding terrain. In the event that a partial pitwall is proposed as final reclamation, the operator must submit a detailed explanation of the techniques to be used to establish the stability of the pitwalls in his reclamation plan. At the administrator's discretion, a study of the proposed pitwall stabilization techniques may be required from an independent engineering company for purposes

V 41 165 AUG 24 76 UMI

of verifying the effectiveness of the proposed stabilization techniques. The Land Quality Division will determine the acceptability of the proposed stabilization techniques based on this information and an on-site inspection.

(3) *Wyoming Land Quality Regulations.* II–3–5.

SEC. 3. *Surface preparation.* Backfilling, grading, and contouring of affected land shall be accomplished by one or more of the following as detailed in the approved reclamation plan:

a. Re-establishment of the contour of the land in a manner consistent with the proposed future use of the land.

b. Re-establishment of adequate through drainage if such a provision is necessary to prevent erosion, pollution or the accumulation of stagnant water.

c. Contouring of affected land to blend in with the topography of the surrounding terrain unless so doing would create an erosion problem or a hazard to man or beast.

d. Creation of water impoundments for a use certified in an approved plan in accordance with the statutes and Section 6, Chapter II, of these Regulations.

SEC. 4. *Topsoil, subsoil, overburden, and refuse.*

a. *Topsoil.* Topsoil, or an approved substitute, shall be evenly distributed on the surface of all lands affected during the course of the operation. Topsoil shall be so placed during the reclamation of all areas that are to be revegetated in accord with the approved reclamation plan.

(1) All topsoil or approved surface material shall be removed from all areas to be affected in the permit area prior to these areas being affected. The topsoil shall be segregated so as not to become mixed with subsoil and other overburden material, stockpiled in the most advantageous manner and saved for reclamation purposes.

(2) The topsoil or approved surface material shall be stockpiled in such a manner so as to minimize wind and water erosion. In order to accomplish this, the operator shall establish, through planting or other acceptable means, a quick growing cover of vegetation on the topsoil stockpiles. The topsoil shall also be protected from acid or toxic materials, and shall be preserved in a usable condition for sustaining vegetation when placed over affected land.

(3) Reclamation shall follow mining as soon as is feasible so as to minimize the amount of time topsoil must be stockpiled. If topsoil has been stored in a stockpile in excess of one year, the operator shall conduct soil analyses prior to use in order to determine its suitability for revegetation.

(4) Topsoil stockpiles shall be marked with a legible sign containing letters not less than six inches high on all approach roads to such stockpiles. Said signs shall contain the word "Topsoil" and shall be placed not more than 150 feet from any and all stockpiles of topsoil. Such signs must be in place at the time stockpiling is begun.

(5) The operator shall explain how the topsoil will be replaced on the affected land during reclamation, and shall indicate on his maps the location and sizes of all proposed topsoil stockpiles. This explanation shall include a description of the thickness of soil material to be placed over the affected land.

(6) If abundant topsoil is present, and it is not all needed to accomplish the reclamation required in the approved reclamation plan, the administrator may approve of use of this topsoil by this or another operator in another area for reclamation purposes.

(7) Trees, large rocks and other waste material which may hinder redistribution of topsoil shall be separated from the topsoil before stockpiling.

b. *Subsoil.* (1) If no topsoil is present in the permit area, or in the event that an operator must use subsoil for final cover, the operator shall obtain an adequate number of analyses of the subsoil to show pH, organic material content, available nitrogen, potassium, and phosphorus and such other elements and soil constituents as the administrator shall require, over the entire area of subsoil to be used, in order to determine suitability and fertilizer requirements. If the results of said analyses demonstrate to the satisfaction of the administrator that revegetation can be accomplished using such subsoil, the administrator may approve the use of such subsoil as an addition to or substitute for topsoil for reclamation purposes. The administrator shall require the operator to set up revegetation test plots using subsoil in order to determine the suitability of subsoil for revegetation purposes. Approval for the use of subsoil shall be obtained by the operator from the administrator prior to any mixing of topsoil and subsoil and prior to beginning any reclamation work. If the operator suspects that this procedure will be necessary prior to obtaining a permit he should describe the problem and his proposed procedure for eliminating this problem in his reclamation plan. If the problem is not discernible until after the permit is issued, an approved amendment to the reclamation plan will be required describing the operator's plans for accomplishing the above.

(2) Subsoil stockpiles shall be segregated from topsoil and overburden piles and shall be marked with a legible sign containing the word "Subsoil" in letters no less than six inches high on all approach roads to such stockpiles. Said sign or signs shall be placed not more than 150 feet from all stockpiles of subsoil. Such signs shall be placed at the time stockpiling is begun.

(3) The operator shall indicate on his maps the location of all subsoil piles.

(4) If subsoil is to be used in reclamation as a substitute for topsoil, all large rocks and other waste material which may hinder redistribution shall be separated before stockpiling.

(5) If all or some subsoil is not to be used in reclamation as a substitute for or additive to the topsoil, this unused subsoil must be regarded as all other overburden material and will be subject to the reclamation provisions described under the following section.

c. *Overburden, spoil and refuse.* (1) All overburden, spoil material and refuse shall be segregated from the topsoil and subsoil and stockpiled in such a manner to facilitate the earliest reclamation consistent with the approved reclamation plan.

(2) All overburden, spoil material, and refuse piles must be designed, graded, and contoured so as to blend in with the topography of the surrounding terrtain. (Slope requirements will depend on an everage of the slopes in the surrounding area as described in Chapter II, Section 2a. (1) and on the nature of the material.) After the grading and contouring of these stockpiles, topsoil, or approved subsoil must be distributed over them in preparation for the revegetation procedures. The slopes of all spoil areas must be designed so that they will be stabilized against wind and water erosion. This may include terracing, channeling around the toe of the spoil piles or other techniques. Terracing, if necessary, can be used to stabilize the slopes if it can be shown to the administrator's satisfaction that this technique of stabilization will produce the best results. If terracing is proposed, detailed plans indicating the dimensions and design of the terraces, check dams, erosion prevention techniques, slopes of the terraces, and terrace intervals will be required. The terrace design must be based on sloping requirements and the nature of the material involved.

(3) Piles of spoil material or other waste shall be marked with a legible sign containing the word "Spoil" or the words "Waste Material" in letters no less than six inches high on all approach roads to such spoil piles. Said sign or signs shall be placed not more than 150 feet from all stock piles. Such signs shall be in place at the time when piling of spoil or waste material is begun.

(4) All topsoil shall be removed from areas to be used for piling spoil material prior to the beginning of piling this material.

(5) The operator may be required to have analyses made of spoil material in order to determine if it will be a source of water pollution through reaction with leaching by surface water. If it is determined that this condition may exist, the operator shall describe proposed procedures for eliminating this condition.

(6) The operator must also indicate on his maps the location and size of all proposed spoil piles.

SEC. 5. *Revegetation.*

a. Revegetation of all affected lands shall be accomplished in a manner consistent with the approved reclamation plan and the proposed future use of the land.

b. Land which did not support vegetation prior to becoming affected land because of natural soil conditions need not be revegetated unless subsoil from such affected land will support vegetation. The operator shall demonstrate to the administrator's satisfaction that revegetation or reforestation is not possible if he seeks to proceed under the provisions of this Subsection.

c. After backfilling, grading, and contouring and the replacement of topsoil, and/or approved substitute, in such a manner so as to most efficiently accommodate the retention of moisture and control erosion on all affected lands to be revegetated, any fertilizer requirements as determined on the basis of previous analyses must be fulfilled. Seeding which is accomplished by mechanical drilling shall be on the contour unless specific situations dictate that other methods of seeding should be used.

d. The species of plants (grasses, legumes, forbs, shrubs, and trees seeding rates, seeding techniques, mulching requirements, and seeding times to be used in a given area for reclamation purposes shall be in accordance with rules, regulations, specifications and standards adopted by the State Conservation Commission and approved by the Land Quality Division. Whenever practicable, the Wyoming Game and Fish Department and the Wyoming Department of Agriculture may be consulted regarding revegetation procedures. The species of vegetation to be used in revegetation efforts shall be described in the reclamation plan indicating the composition of seed mixtures and the amount of seed to be distributed on the area on a per acre basis. Seed types will depend on the climatic and soil conditions prevailing in the permit area and the proposed use of the land after reclamation. Species to be planted as permanent cover shall be self-renewing. Seeding rates will depend on seed types, climatic and soil conditions and the techniques to be used in seeding.

e. More suitable species of vegetation may be substituted if revegetation test plot results show such species to be of superior value for reclamation purposes. Requests to substitute such species shall be made in writing to the administrator. The administrator shall inspect such test plots before approval or disapproval of the request.

f. The administrator shall not release the entire bond of any operator until such time as revegetation is complete, if revegetation is the method of reclamation as specified in the operator's approved reclamation plan. Revegetation shall be deemed to be complete when the vegetative cover of the affected land is shown to be capable of renewing itself under natural conditions prevailing at the site, and is at least of a density comparable to undisturbed areas in the immediate vicinity of the reclaimed land. Revegetation should be capable of withstanding grazing pressure at least comparable to that which the land could have sustained prior to mining, unless federal, state or local regulations prohibit grazing on such lands. If reforestation is the method of revegetation used, reforestation shall be deemed to be complete at such time as seventy-five (75%) of the seedings planted have shown themselves capable of continued growth over a period of five (5) years following planting. Quality and quantity of vegetative cover shall be determined in accordance with scientifically acceptable sampling procedures.

g. Any plans for irrigation must meet state laws for this use and be explained in the reclamation plan.

h. The operator must protect young vegetative growth from being destroyed by livestock by fencing or other approved techniques for a perfod of at least two (2) years, or until the vegetation is capable of renewing itself without supplemental irrigation or fertilization.

i. In those areas where there are no or very few noxious weeds prior to being affected by mining the operator must control and prevent the introduction of noxious weeds into the revegetated areas for a period of at least five (5) years after the initial seeding.

(4) *Wyoming Land Quality Regulation.* III–1–4, 6–7.

SECTION 1. *Temporary diversion of surface water.*

a. Surface water shall be diverted around the operation for the following purposes:

(1) To control water pollution.

(2) To control unnecessary erosion.

(3) To protect the on-going operation.

(4) To protect the water rights of downstream users.

b. Temporary diversion ditches shall be built to the following standards:

(1) In soils or other unconsolidated material, the sides of diversion ditches shall be no steeper than one and one-half to one (1½ : 1).

(2) In rock, the sides of diversion ditches shall not overhang.

(3) In soils or unconsolidated materials, the sides and in ditches carrying intermittent discharges, the bottom shall be seeded with approved grases so as to take advantage of the next growing season.

(4) Rock riprap, concrete, soil cement or other methods shall be used where necessary to prevent unnecessary erosion.

(5) Culverts or bridges shall be installed where necessary to allow access by the surface owner for fire control and other purposes.

c. In no case shall diversion ditches discharge upon topsoil storage areas, spoil or other unconsolidated material such as newly reclaimed areas.

d. A description of surface water diversion systems must be included in the mining plan and reclamation of these systems must be described in the reclamation plan.

SEC. 2. *Diversion of streams.*

a. In no case shall spoil, topsoil, or other unconsolidated material be pushed into, or placed below the flood level of a flowing or intermittent stream except during the approved construction of the diversion of said stream.

b. Diversion of a flowing stream classified as navigable shall first be approved by the Wyoming State Engineer.

c. The Wyoming Game and Fish Department shall be consulted prior to diversion or affecting more than 100 feet of bank or channel of a flowing stream.

d. The banks of a diverted flowing intermittent stream shall be protected by vegetation by planting approved species to take advantage of the next growing season.

e. The banks and channel of a diverted flowing or intermittent stream shall be protected where necessary by rock riprap or similar measures to minimize erosion and degradation of water quality.

f. Permanent diversion of a flowing stream must be fully described in the mining or reclamation plan.

g. Mining on the flood plain of a flowing or intermittent stream shall not be permitted if it would cause the uncontrolled diversion of the stream during periods of high water.

h. Waters flowing through or by the mining operation shall meet the standards set by the U.S. Environmental Protection Agency and the Wyoming Water Quality Division in regard to the effect of the operation upon such waters.

SEC. 3. *Surface waters.*

a. The operator shall list and describe the name, location, size, and approximate intermittent flow intervals for the present surface waters in and adjacent to the proposed permit area. The list shall include, but not be limited to, rivers, creeks, lakes, reservoirs, springs, and marshes.

b. Monitoring surface water conditions may be required during the course of the proposed operation based on the existing water conditions and the nature of the proposed operation.

SEC. 4. *Subsurface waters.*

a. The operator shall submit an estimate of the depth and quantity of any subsurface waters existing in the proposed permit area. The operator may be required to conduct test drilling and monitoring in order to determine the exact depth, quantity and quality of groundwater in geological formations affected by the mining operations. Such drilling will require permits from the State Engineer's Office.

SEC. 6. *Water impoundments.*

a. Water impoundments may be considered as final reclamation when it can be shown that their construction is an approved use of the land after reclamation and the proposed impoundments are part of the approved plan in accordance with the provisions of the statutes and these regulations.

b. In order for such impoundments to be considered for approval, the operator must submit the following in support of the proposal:

(1) Written consent from the surface landowner if different than the mineral owner.

(2) A description of the proposed use of the impoundment.

(3) A statement of the source, quality and quantity of water available for impoundment. It must be demonstrated that these characteristics will be consisted with the proposed use.

(4) A statement regarding the suitability for recreational, irrigation, livestock or wildlife watering. Such waters must be suitable for such use as determined by applicable State and Federal standards. The operator may be required to monitor surface and ground waters in order to determine that upon completion of the operation, the water quality and quantity will be consistent with the proposed use.

c. The operator must submit an alternative plan to be followed in the event monitoring indicates there is insufficient water of suitable quality to accomplish the proposed water impoundment plan.

d. All proposed water impoundments and dams to be constructed for reclamation purposed must be approved by the State Engineer's Office.

e. In addition to the above conditions, water impoundment construction will be subject to the following requirements:

(1) Dams must contain an overflow notch and spillway so as to prevent failure by overfilling and washing. Overflow notches and spillways must be riprapped with rock or concrete to prevent erosion.

(2) The slopes around all water impoundments must be gentle enough so as not to present a safety hazard to humans or livestock and so as to accommodate revegetation. Variations from this procedure may be approved by the administrator based on the conditions present at the individual locality.

(3) Mineral seams and other sources of possible water contamination within the impoundment area must be covered with overburden or stabilized in such a manner to prevent contamination of the impounded water.

(4) Bentonite or other mire producing material within the impoundment basin shall be removed or covered with materials which will prevent hazards to man or beast.

SEC. 7. *Tailings impoundments.*

a. Impoundments to contain mill tailings or slurry tailings shall be constructed in accordance with established engineering principles and shall be approved by the Wyoming State Engineer's Office. A copy of the State Engineer's approval shall be attached to the application.

b. Uranium mill tailings impoundments shall be subject to all applicable State and Federal requirements.

c. Reclamation of tailings impoundments shall be accomplished by removal and storage of all topsoil present within the tailings basin. After termination of operations, the topsoil shall be replaced and revegetated in accordance with these rules and regulations.

(1) If other methods of reclamation and stabilization against wind and water erosion are found to be necessary because of natural conditions, this must be stated and described subject to the administrators approval.

(5) *Wyoming Land Quality Regulation.* IV–1.

SEC. 1. *Time schedule.* The approved reclamation plan must be coordinated with the operator's mining plan in such a manner so as to facilitate reclamation at the earliest possible time consistent with the orderly development of the mining property.

a. Reclamation must begin as soon as possible after mining commences and must continue concurrently until such time that the mining operation is terminated and all of the affected land is reclaimed. If conditions are such that final reclamation procedures cannot begin until the mining operation is completed, this must be explained in the reclamation plan. Regardless of the type of operation, reclamation must begin within 180 days after termination of mineral production and must be completed within the time frame of the approved reclamation schedule. A detailed time schedule for the mining and reclamation progression must be included in the reclamation plan. This time schedule shall:

(1) Apply to reclamation of all lands to be affected in the permit area.

(2) Designate times for backfilling, grading, contouring, and reseeding.

(3) Be coordinated with a map indicating the areas of progressive mining and reclamation.

V 41 165 AUG 24 76 UMI

(4) Establish reclamation concurrently with mining operations, whenever possible.
(6) *Wyoming Land Quality Regulation.* VIII–1.

SECTION 1. *Roads and spur railroad lines.*

a. *Enclosure within permit area.* Access roads and railroad spurs shall be considered within the permit area and shall be covered by a reclamation bond. Spur lines shall be included within the permit area to the point where they join the main line or a spur serving another mine. Access and haul roads shall be included within the permit area. Roads maintained by the County, State or Federal Government need not be included in the permit area. Existing private roads must be included in the permit area if substantial upgrading is required.

b. *Upgrading.* Existing private roads need not be included within the permit area with the following exception(s).

(1) When the existing road requires extensive regrading and resurfacing in order to render the road usable.

(2) Upgrading of the road requires cuts, fills, and borrow areas.

c. *Legal ownership.* If the operator includes roads or spur lines within the permit area but does not possess the mineral rights or the right-to-mine, for these lands, the lands shall then be listed in the application as a separate Subsection in Appendix "C", the legal land description. The heading of the Subsection shall make it clear that the right-to-mine is not claimed on the described lands. Surface owners shall be listed for all lands crossed by spur lines and roads.

d. *Standards for roads.*

(1) Roads shall not be constructed up a stream channel or so close that the material shall spill into the channel.

(2) Streams shall be crossed at or near right angles unless contouring down to the stream bed will result in less potential stream bank erosion. Structure or ford entrances and exits must be constructed to prevent water from flowing down the roadway.

(3) A ditch must be provided on both sides of a through cut or a cutfill section, with ditch relief cross drains being spaced according to grade. Water must be intercepted before reaching a switchback or large fill area and diverted from the road. Water on a fill or switchback must be released below the fill or switchback, not over it. Waterbars shall be installed where needed.

(4) Culverts shall be installed at prominent drainageways, small creeks, and springs. Where necessary, culverts must be protected from erosion by adequae rock, concrete or riprap.

(5) Trees and vegetation may be cleared only for the essential width necessary to maintain slope stability and to serve traffic needs.

(6) Drainage facilities shall be installed as road construction progresses.

e. *Exemptions concerning roads.*

(1) If approval is obtained from the surface landowner to leave a road unreclaimed, an operator may request in writing to the Land Quality Division that a road be permitted to remain unreclaimed. The operator must furnish proof of the surface landowner's approval. Final decision of road reclamation will be made by the Land Quality Division Administrator.

(2) In the event that the surface landowner, a city or town, another agency of the State of Wyoming or an agency of the United States Government has approved the proposed access roads and has requested they not be reclaimed, no bond shall be required of the applicant for the reclamation of such roads and reclamation of such roads shall not be required; provided, however, that the administrator receives a copy of the written request from the surface landowner, city or town, or agency of the State or Federal Government, for retention of such roads.

[FR Doc. 76–24738 Filed 8–23–76; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Proposed Expenses and Rate of Assessment for 1976–77 Fiscal Year

This notice invites written comments relative to the proposed Olive Administrative Committee expenses of $876,000 and an assessment rate of $14 per ton of assessable olives to support committee activities during the 1976–77 fiscal year (September 1, 1976–August 31, 1977) under Marketing Order No. 932.

Consideration is being given to the following proposal submitted by the Olive Administrative Committee established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), as the agency to administer the order. The agreement and order regulate the handling of olives grown in California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is as follows:

(a) That expenses which are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1976, through August 31, 1977, will amount to $876,000.

(b) That the rate of assessment for that period, payable by each handler in accordance with § 932.39, be fixed at $14.00 per ton of olives.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in the amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file them, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 19, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24793 Filed 8–23–76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 103]

VOCATIONAL EDUCATION CURRICULUM

Additional Criteria

Pursuant to the authority contained in section 191 of Part I of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1391, notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 103 of Title 45 of the Code of Federal Regulations by revising Appendix C to read as set forth below. The proposed Appendix C would contain additional criteria for selection of applications under the program of support for Vocational Education Curriculum projects for fiscal year 1977.

(a) *Program purpose.* Section 191 of Part I of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1391, provides for Federally-administered grants or contracts for programs and projects for the development of curriculums for new and changing occupations, and for coordination of improvements in, and dissemination of, existing curriculum materials. The purposes of these projects are to: (1) Promote the development and curriculum materials for use in teaching occupational fields, and including those in public service; (2) Develop standards for curriculum development in all occupational fields; (3) Coordinate efforts of the States in the preparation of curriculum materials and also in the preparation of current lists of curriculum materials available in all occupational fields; (4) Survey curriculum materials produced by other agencies of Government, including the Department of Defense; (5) Evaluate vocational-technical education curriculum materials and their uses; and (6) Train personnel in curriculum development.

(b) *Other program information.* The projects are conducted under grants or contracts awarded by the Commissioner of Education, in accordance with the provisions of Part I of the Act and with the applicable Federal regulations, 45 CFR Part 103. Eligible applicants include local educational agencies, State boards for vocational education, and public and private agencies, institutions or organizations. Under departmental policy profit making applicants are eligible only for a contract.

(c) *Regulations and criteria.* Regulations for vocational education discretionary programs were published in the FEDERAL REGISTER on August 15, 1974, 39 FR 29361. Regulations published in the FEDERAL REGISTER on November 6, 1973, 38 FR 30654, relate to general fiscal and administrative provisions for all Office of Education programs. These general regulations contain general criteria for the review of applications under Office of Education project type programs 45 CFR 100a.26 and are applicable to the programs under Part I of the Act.

In addition to the criteria for review of applications already published in the FEDERAL REGISTER, as described above, it is proposed that the additional criteria set forth in proposed Appendix C to the regulations in 45 CFR Part 103 will be applicable in connection with the review of applications for grants to be awarded in fiscal year 1977.

(d) *Written comments.* Interested persons are invited to submit written comments, suggestions, or objections regarding such proposed additional criteria to the Division of Research and Demonstration, U.S. Office of Education, 7th and D Streets, S.W., Room 5042, ROB No. 3, Washington, D.C. 20202, on or before September 23, 1976. Although it is now the practice for the Department to allow 45 days to provide an apportunity for interested persons to take part in the rulemaking process, this notice provides 30 days for the submission of written comments. In accordance with 5 U.S.C. 553(b)(3)(B), it would be impracticable and contrary to the public interest to extend the comment period beyond 30 days in view of the time constraints for completing the award-making process for FY 1977.

Comments received shall be available for public inspection at the above office, Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m. All relevant materials received not later than September 23, 1976 will be considered.

(Catalog of Federal Domestic Assistance Program Number 13.496; Vocational Education—Curriculum)

Dated: August 13, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education and Welfare.

APPENDIX C

VOCATIONAL EDUCATION CURRICULUM

FISCAL YEAR 1977

The Office of Education contemplates supporting six project grants for six curriculum coordination centers in fiscal year 1977 program. Two of these awards will be open to competition. Four will be non-competing continuations of grants made in fiscal year 1976 to (1) the Illinois Office of Education; (2) the Oklahoma State Department of Vocational and Technical Education; (3) the Washington State Commission for Vocational Education and (4) the New Jersey Department of Education.

The two new awards will be funded with a three year multi-year approval on a non-competing annual basis, beginning January 1, 1977.

The applicants will submit their project goals and activities for the three-year multi-year period. Multi-year approval is intended to offer the project a reasonable degree of stability over time and to facilitate long range planning. Approval of a multi-year project shall not commit the Office of Education to provide financial assistance from appropriations not currently available; and second and third year funding is contingent on satisfactory performance.

(a) *Awarded applicants' obligation.* One of the three-year awards will provide leadership to curriculum coordination in the Southeast area including Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. The other three-year award will provide leadership for the Western area including American Samoa, Arizona, California, Guam, Hawaii, Nevada and Trust Territory of Pacific Islands.

Each awardee will be the facilitator in enabling the States in their regional consortium:

(1) Improve their curriculum services and capabilities;

(2) Share information and plans regarding curriculum materials and needs in order to reduce duplication of efforts;

(3) Plan for cooperation in development, testing, evaluation, dissemination, reproduction and implementation of materials; and

(4) Develop and maintain intra-State liaison activities that will stimulate cooperative relationships at State and local levels.

In addition each awardee will become a member of the National Network Council for Curriculum Coordination in vocational and technical education; and as a member each awardee will:

(1) Conduct coordination, dissemination and diffusion activities in order to improve the acceptance of new curriculum products and to assess their impact;

(2) Establish and maintain a system for determining curriculum needs in vocational and technical education based on available manpower projections and the advancement of equity for girls and women in vocational education and for recommending priorities for State and national emphasis;

(3) Share information regarding materials and studies available and under development; and

(4) Provide curriculum services which will encourage the adaptation, demonstration and adoption of effective curricula and curriculum development practices in vocational and technical education in conjunction with business and labor.

The Office of Education will entertain requests for these grants to support:

(1) Communication and coordination activities with the States, the Network, and the U.S. Office of Education.

(2) Travel costs and per diem for the Center personnel to attend two meetings annually of the National Network Council for Curriculum Coordination. One of these meetings will be held in Washington, D.C.

(3) Travel costs and per diem, excluding honoraria, for State representatives to attend meetings sponsored by the center. Each of the six centers will hold a consortium meeting with their State representatives concurrently at a central U.S. location.

(b) Application review criteria. The criteria to be utilized in reviewing applications are listed below. These criteria are consistent with section 100a.26, Review of Applications, in the Office of Education's General Provisions for Programs, published in the FEDERAL REGISTER in 38 FR 30654 on November 6, 1973.

Segments or a segment of the application must address each criterion. Each criterion is weighted to show the maximum score that can be given to each specific criterion. Each criterion and the maximum points possible are as follows:

CRITERIA AND SCORE

(a) *Need and problems*—The application should clearly define the need for the project within the specified consortium of States and should indicate responsiveness to problems rather than symptoms. 15

(b) *Objectives*—The objectives should be clearly stated, supportive of defined needs, capable of being attained by the proposed procedures, and capable of being measured. 15

(c) *Plan*—The management plan should show functions to be performed and services to be provided; and the procedures for accomplishing each are delineated. The size and scope of the project is appropriate and is phased to the multi-year duration of the project. The proposed plan of operation should clearly describe (a) how the objectives will be undertaken and accomplished, (b) how and when personnel and resources will be utilized, (c) what, if any, in-service training connected with project services will be provided, (d) what feedback and evaluation procedures will be implemented and (e) how input from State vocational education administrators will be utilized. 20

(d) *Results*—The proposed outcomes should be identified and described in terms of (1) expected potential for their use for similar educational purposes and (2) anticipated impact at National, State and local levels, and (3) relationships to Federal/National curriculum program. Provisions should be made for disseminating the results of the project including techniques or other outputs to the consortium States and the National Network. 20

(e) *Institutional capability*—Application should clearly set forth current curriculum strengths and the capability of the applicant to immediately initiate and maintain liaison functions with consortium States. There should be evidence that adequate facilities and equipment will be provided and that participation of cooperating States has been authorized. Relationships with other dissemination, diffusion and facilitation systems, if any, should be described. 15

(f) *Personnel*—The qualifications and experience of key staff should be appropriate for the requirements of the project; specific responsibilities and time commitments should be identified for each of the key staff; and at least one key staff person should devote a minimum of 50 percent of their time to the total objectives of the project. 10

(g) *Budget*—The estimated cost should be reasonable in relation to anticipated results and the geographic area, scope, and duration of the project. Where possible anticipated costs by objectives are included. The application should also include a clear statement of cost-sharing which is substantiated by line items in the proposed budget. 5

[FR Doc.76–24768 Filed 8–23–76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

[29 CFR Part 97]

DEFERRED DESIGNATION OF POTENTIAL SPONSORS FOR FARMWORKER PROGRAMS

Notice of Proposed Rulemaking

The Secretary of Labor proposes to revise Title III, Section 303 regulations under the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as the Act), (Pub. L. 93–203, 87 Stat. 839 and Pub. L. 93–567, 88 Stat. 1845) by adding a new sentence to 29 CFR 97.215(b).

This proposed amendment is intended to clarify the Secretary's authority to defer designation of potential sponsors pending adequate time to review performance of applicants under their existing CETA section 303 grant, and, in addition, to permit applicants whose funding

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requests have been rated as satisfactory by the Secretary to correct deficiencies in their current CETA Section 303 programs.

Comments on this proposed amendment will be received until September 8, 1976, after which the comments received will be evaluated, and if warranted, the proposal will be amended. Interested persons are invited to submit comments, data, or arguments to: Assistant Secretary for Employment and Training, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213, Attention: Pierce A. Quinlan, Administrator, Office of Comprehensive Employment Development.

It is proposed to amend 29 CFR 97 by amending § 97.215 as set forth below:

§ 97.215 Review of Funding Requests.

(a) • • •

(b) *Selection of potential grantees.* (1) As a result of the procedures set forth in paragraph (a) of this section, of consideration of the potential effectiveness and efficiency of the proposed programs, and of comments received pursuant to § 97.214(c), the Secretary shall designate potential grantees to receive a grant under section 303 for program operations in a designated target area. The consideration of the potential effectiveness and efficiency of the proposed programs includes but is not limited to the following: (i) cost effectiveness, and (ii) service delivery consideration.

(2) The Secretary may conditionally designate organizations as potential grantees pending resolution of their eligibility status, submission of additional documentation, or changes in the proposed program. The Secretary also reserves the right to defer designation of any organization which has submitted a Funding Request for a State or area or to invite the submission of new proposals. Such designations will be deferred pending (i) adequate time to consider performance of current CETA Section 303 applicants, or (ii) satisfactory correction of deficiencies by applicants in their current CETA Section 303 programs.

Signed this 12th day of August 1976, at Washington, D.C.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-24781 Filed 8-23-76;8:45 am]

[29 CFR Part 97]

USE OF FARMWORKER GRANT FUNDS TO JOIN ASSOCIATIONS

Notice of Proposed Rulemaking

The Secretary of Labor proposes to revise Title III, section 303 regulations under the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as the Act), (Pub. L. 93-203, 87 Stat. 839 and Pub. L. 93-567, 88 Stat. 1845) by adding a new paragraph, 29 CFR § 97.255(h).

This proposed amendment is intended to make clear that section 303 sponsors are permitted to use grant funds to join associations which serve the professional needs of section 303 program operators, and foster the exchange of technical employment and training information among such professionals; it is also intended to insure that Federal funds will not be used for lobbying or political purposes.

Comments on this proposed amendment will be received until September 23, 1976, after which the comments received will be evaluated, and if warranted, the proposal will be amended. Interested persons are invited to submit comments, data, or arguments to: Assistant Secretary for Employment and Traiming, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20013, Attention: Pierce A. Quinlan, Administrator, Office of Comprehensive Employment Development.

It is proposed to amend 29 CFR 97 by amending § 97.255 as set forth below:

§ 97.255 Allowable Federal Costs.

* * * * *

(h) *Association Membership.* (1) CETA Section 303 sponsors are permitted to utilize grant funds to join those associations which provide bona fide, relevant technical and administrative services in support of Section 303 program efforts. The activities of such associations must be designed to contribute to the enhancement of professional and technical program knowledge.

(2) For membership dues or other membership-related costs to be allowable, the following conditions shall be observed: (i) The association's activities shall not violate the Anti-lobbying Act, 18 U.S.C. 1913, which prohibits organizations from using Federal funds "directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote, or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation. * * *"

(ii) The association shall not violate the principles contained in the assurances set forth in the Section 303 sponsor grant package regarding restrictions against political activities for Federal grantees.

(iii) Those organizations substantially involved in lobbying are inappropriate selections for membership by CETA Section 303 sponsors. (See 41 CFR 1-15.711-19.) However, affiliated associations which are offshoots of such lobbying organizations, and whose only activity is to foster information exchanges and professional growth, may be appropriate selections for membership, if it can be demonstrated that their activities are separate from the parent association, and that the affiliate asociation does not contribute to the support of the parent organization.

(3) Sponsors wishing to utilize grant funds for membership in associations must obtain the prior approval of the Secretary before initiating membership procedures. Sponsors should submit documents which show that the association meets the conditions set forth in this paragraph 97.255(h), as well as budget information detailing the sponsor's proposed costs related to the proposed membership.

(4) Sponsors who seek to join an association shall submit (or cause the association to submit) to the Secretary a copy of the corporate charters, bylaws, constitution, or any other pertinent official document which explains the purpose of the association and demonstrates that the association will not be involved in activities which would violate the standards set forth in this paragraph 97.255(h). In the case of an association that is affiliated with an organization which conducts lobbying or political activities, the documentation must demonstrate that the activities of the association to be joined are separate from those of the affiliated organization.

(5) When the use of grant funds for membership in an association has been approved by the Secretary for one Section 303 sponsor, the Secretary will announce the approval and it will thereafter be unnecessary for any other 303 sponsor to submit the documentation required by paragraph (4) above. Each Section 303 sponsor must, however, receive written authorization from the Secretary before joining an approved association.

(6) Sponsor reviews will be conducted by the Secretary to determine that the purposes of such memberships are being carried out, and that program and operations are thereby enhanced.

(7) The cost shall be for Section 303 membership rather than an individual person's membership.

(8) The cost of the membership shall be reasonably related to the value of the services or benefits received. Sponsors are authorized to use up to one-tenth of one percent of their respective Section 303 allocations annually, with a maximum of $750.00 for association-related costs.

(9) Association-related costs shall be incorporated in the sponsor's Section 303 grant budget, charged to the administration category, and as such, shall be subject to the standard 20 percent overall grant administrative cost ceiling.

Signed this 12th day of August, 1976, at Washington, D.C.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-24782 Filed 8-23-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 603-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Oregon Implementation Plan

• The purpose of this notice is to announce receipt of proposed revisions to the Oregon State Implementation Plan and to invite public comment as to whether these revisions should be approved by the Administrator of EPA. •

On August 1, 1975, the State of Oregon Department of Environmental Quality (DEQ) submitted, for EPA's approval, revisions to the Oregon plan relating to open field burning. The revisions include the section of the Oregon Revised Statutes relating to field burning, ORS 468.450 through 468.485, passed by the regular session of the 1975 Oregon Legislative Assembly, and a revised regulation for agricultural burning, Oregon Administrative Rules (OAR), Chapter 340, 26-005 through 26-025. In addition, on February 1, 1976, the DEQ submitted further revisions to OAR 26-005 through 26-025 for EPA's approval. The revisions to the OAR, Chapter 340, 26-005 through 26-025 were made after proper notice was given and public hearings were held in accordance with 40 CFR 51.4.

The area most affected by field burning, the Eugene Air Quality Maintenance Area (AQMA), attained primary ambient air quality standards in 1975 at all monitoring stations except one. That station is felt to be unduly influenced by other nearby sources of particulate matter unrelated to field burning. The station will be subject to further evaluation before a final decision is made on the proposed revisions. On May 19, 1976, the Director of the DEQ submitted a request for the extension of the May 31, 1975 attainment date for meeting the national secondary ambient air quality standards for particulate matter in the Eugene AQMA to May 31, 1978. The request was made as a result of the action of the 1975 Oregon Legislature extending open field burning in the Willamette Valley.

The stautory provision relating to open burning which was approved as part of the Oregon plan in May 1972 banned open burning in the Willamette Valley of Oregon as of January 1, 1975. The revised statute, ORS 468.475, lifts the ban on open field burning and replaces it with a program to reduce the number of acres burned each year until 1978. In 1978, and each year thereafter, up to 50,000 acres may be burned annually, depending on several factors, including the availability of alternative methods of field sanitation. On June 28, 1976 a suit was filed in the Circuit Court of Marion County of the State of Oregon contending that the action by the 1975 Oregon Legislative Assembly to limit the number of acres to be burned is unconstitutional. (*Roy A. Bowers and Son, Inc., et.al.* v. *State of Oregon, Case No. 94173*).

In addition, the statute gives authority to the Oregon Environmental Quality Commission to: (1) Prohibit or limit, by rule, the amount of burning conducted; (2) adopt rules which will provide for a more rapid phase reduction in certain areas; (3) consult with other interested agencies before establishing any regulations; (4) establish emission standards for certified alternative methods to open field burning; and (5) establish the number of acres which can be burned each year.

Under the revised field burning program, each year applicants register the amount of acreage they wish to burn. The number of acres registered are totaled, after which the Environmental Quality Commission conducts hearings and determines the acreage allocation to be burned in that year. Permits to burn are issued by the Department which are not valid until a burning fee established by the legislature has been paid and a validation number has been assigned by the local fire district. The validation numbers are assigned only on days that meteorological conditions are satisfactory to burn a certain number of acres. The DEQ is responsible for enforcing the field burning rules adopted by the Commission and monitoring and preventing unlawful field burning.

The rules of the Department of Environmental Quality (OAR, Chapter 340, sections 26-005 through 26-025) as submitted on August 1, 1975 were revised to meet the requirements of ORS 468.450 through 486.485. The revisions submitted in February 1976 added a new section on certified alternatives to open field burning which includes emission standards for pilot field sanitizers approved by the Field Sanitation Committee and the Department of Environmental Quality.

The Administrator is required by Section 110 of the Clean Air Act to approve or disapprove any revision to an implementation plan submitted by a State. Public comment is invited on whether the revisions to Oregon's statutory authority and regulations for the control of open field burning and their request for extension of the attainment date for secondary particulate matter standards should be approved or disapproved as revisions to the State Implementation Plan. Copies of the proposed revisions are available for public inspection during normal business hours at these locations:

State of Oregon, Department of Environmental Quality, 1234 SW Morrison Street, Portland, Oregon 97205.
Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.
Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW, Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: K. Higley. Relevant comments postmarked on or before September 23, 1976, will be considered and will be available for public inspection at the above address.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5))

Dated: August 9, 1976.

DONALD P. DUBOIS,
Regional Administrator.

[FR Doc.76-24703 Filed 8-23-76;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 437]

FOOD ADVERTISING

Change in Date for Prospective Witnesses at Washington, D.C. Hearing To Notify Commission of Their Expected Testimony

On May 25, 1976 the Presiding Officer published in the Federal Register (41 FR 21368) a Notice of Change of Dates for the Washington, D.C. Hearings on Proposed Trade Regulation Rule. In that Notice, the date for hearings in Washington, which had been set to commence on June 7, 1976, was changed to November 15, 1976 and the deadline for witnesses planning to testify at those hearings to notify the Commission representative of their intent was September 21, 1976.

That deadline has been extended to October 25, 1976. Therefore, persons desiring to orally present their views in Washington, D.C. should so inform the Commission representative listed below no later than October 25, 1976:

Ms. Lois Dimore [202-724-1489], Division of National Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Prospective witnesses are reminded that when they intend to deliver statements not fully prepared and submitted in advance, they must file with the designated representative a detailed and comprehensive written outline or summary explaining the nature of their anticipated testimony, including, but not limited to, a statement of each fact, observation, opinion or conclusion which they expect to present. The Presiding Officer has the discretion to deny the right to present oral testimony to any person who fails to comply with this requirement.

Issued: August 19, 1976.

WILLIAM D. DIXON,
Presiding Officer.

[FR Doc.76-24725 Filed 8-23-76;8:45 am]

POSTAL SERVICE

[39 CFR 775]

ENVIRONMENTAL STATEMENT PROCEDURES

Revision of Procedures

This document gives notice of a proposed complete revision of part 775 of title 39, Code of Federal Regulations, dealing with Environmental Statement Procedures. The primary purpose of the revision is to update and clarify the regulation. In addition, certain obsolete provisions have been deleted, such as the provisions dealing with the Corps of Engineers in present § 775.12 and .13.

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Any persons interested in these revised procedures may participate in this proposed rulemaking by submitting written data, views, or arguments on the proposed revision to the Assistant Postmaster General, Real Estate and Building Department, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260, on or before September 27, 1976. Although exempt from the Administrative Procedure Act requirements, 5 U.S.C. 553(b), (c) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service proposes and invites public comment on the following amendment.

W. ALLEN SANDERS,
Assistant General Counsel.

In 39 C.F.R., Part 775 would be revised to read as follows:

PART 775—ENVIRONMENTAL STATEMENT PROCEDURES

Sec.
775.1 Purpose and policy.
775.2 Definitions.
775.3 Responsibilities.
775.4 Determining actions for which EIS must be prepared; actions to be assessed.
775.5 Preparation and use of environmental assessment; negative declaration.
775.6 Preparation and use of environmental impact statement.
775.7 Distribution and review of draft environmental impact statements.
775.8 Preparation and distribution of final environmental impact statements.
775.9 Public information.
775.10 Lists of environmental determinations.

Appendix I—Initial environmental assessment subject matter content.
Appendix II—Expanded environmental assessment outline.
Appendix III—Format of cover for environmental impact statements.
Appendix IV—Suggested outline for summary and conclusion to go at beginning of environmental impact statements.

775.1 Purpose and policy.

(a) These regulations prescribe the procedures to be followed in implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), hereinafter referred to as NEPA; Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality" (35 FR 4247); and the Guidelines issued by the Council on Environmental Quality (CEQ) for preparing Environmental Impact Statements, hereinafter referred to as the CEQ Guidelines (40 CFR 1500). In addition, by directing the use of Environmental Impact Statement procedures in such manner as to help achieve the goals and objectives of the laws and directives listed below, these regulations serve to implement partially, the following laws and directives: section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment" (36 FR 8921); the procedures of the Advisory Council on Historic Preservation for the protection of historic and cultural properties (36 CFR 800); Title IV of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231–4233); Office of Management and Budget Circular No. A–95 Revised, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" (41 CFR 2052).

(b) Insofar as practicable and consistent with the public interest, fulfillment of the mission of the Postal Service and of economic and technical factors, Postal Service programs and actions shall be planned, initiated, and carried out in a manner to avoid adverse effects on the quality of the human environment. When this is not feasible, all reasonable measures shall be taken to mitigate any adverse environmental impact of the actions. This general policy will be implemented in accordance with the following:

(1) As early as practicable in the planning phase of every action to be assessed for environmental impact (see 775.4(a)-(3) below), the relevant A–95 Clearing houses, and through them, all affected State, areawide, and local agencies which are authorized to develop and enforce environmental standards, shall be informed with regard to plans for the proposed action and shall be afforded an adequate opportunity to review and comment on the proposed action. Any comments of such agencies will accompany the environmental assessment and, if any, the environmental impact statement, through the subsequent decision making processes.

(2) An environmental assessment shall be made as early as practicable in the project planning phase of every action to be assessed and shall be evaluated continually during development and after completion of the facility specification. This assesment will include an analysis of whether the proposed action will affect significantly the quality of the human environment and whether practical alternatives exist which might have less impact on the environment. The assessment, depending upon its results, will either support a negative declaration or require a detailed environmental impact statement. Such assessment, negative declarations, and environmental impact statements shall be prepared and processed pursuant to the guidance contained herein.

(3) The Postal Service will consider its proposed actions in relation to those of other agencies. If the Postal Service is the principally concerned, or "lead agency," and one or more other agencies have partial responsibility for the action, the other agencies shall be requested to furnish to the responsible Postal Service official such information as may be necessary to prepare a suitable and complete environmental impact statement. If another agency is the "lead agency," the full cooperation of the Postal Service shall be given to that agency.

(4) Appropriate alternatives to recommended courses of action shall be developed and described in any proposal which involves unresolved conflicts concerning alternatives uses of available sources.

(5) The Council on Environmental Quality shall be informed of proposed project environmental considerations as prescribed herein.

775.2 Definitions.

(a) "Environmental Assessment" is a documented evaluation process used to determine whether a proposed action is a major Federal action significantly affecting the quality of the human environment.

(b) "Negative Declaration" is a written description of a proposed action and its expected environmental impact, based on an environmental assessment, which contains a statement of the conclusion that the proposed action is not a major action significantly affecting the quality of the human environment. All bases for the conclusion shall be set out in the Declaration.

(c) "Environmental Impact Statement" (EIS) is a report which responds to the requirements of section 102(2)(C) of NEPA, and identifies and analyzes in detail the environmental effects of a proposed action and of alternatives to the proposed action. An EIS normally will be prepared and circulated in draft (DEIS) and final (FEIS) form.

(d) Relevant A–95 Clearinghouse(s) are the State and areawide Clearinghouses(s) listed in OMB Circular No. A–95 (revised) Clearinghouse Directory for the geographical area in which the Postal Service action is to take place. (OMB through its Circular No. A–95 (revised) established this system of Clearinghouses to facilitate intergovernmental cooperation.) The relevant Clearinghouses are to be informed of each reporting milestone throughout the impact review process.

(e) The "Responsible Official" who will supervise the preparation of Environmental Assessments and Environmental Impact Statements, and will sign Declarations of Negative Impact, shall be the Assistant Postmaster General, Real Estate and Buildings Department, with regard to Major Facilities and the Director of the Regional Real Estate and Buildings Department with regard to facilities delegated to that region. The Responsible Official may delegate these responsibilities to the extent that he deems advisable.

775.3 Responsibilities.

(a) The Responsible Official is required, in accordance with these regulations to perform the following:

(1) Prepare an initial environmental assessment of each proposed action to be assessed for environmental impact (see 775.4(a)(3) below), utilizing the format set out in Appendix I of these regulations.

(2) Give written notice to the relevant A–95 Clearinghouses furnishing location and scope of each project being assessed, and requesting comment. As each such project continues, he shall give written notice of the preparation of a negative declaration or of draft and final environmental impact statements, furnishing copies.

(3) Assemble all necessary environmental assessment information for each proposed action, evaluate the initial environmental assessment continually during the planning phase of a project, and prepare an expanded environmental assessment whenever the degree of complexity of the project requires it, following the outline set out in Appendix II of these regulations.

(4) Prepare either a negative declaration or the draft and final impact statements as required in accordance with the provisions of this document.

(5) Forward to the Assistant Postmaster General, Real Estate and Buildings Department, when made, each determination to make an environmental impact statement and each negative declaration. (See 775.10(c) below.)

(6) Maintain environmental files of Postal Service contemplated actions; include in these files all environmental assessments, and environmental impact statements.

(7) Distribute, and transmit to CEQ, copies of draft and final environmental impact statements in accordance with 775.7 and 775.8 below.

(8) Determine the necessity for, arrange for, and conduct public hearings following issuance of a DEIS on a proposed action.

(9) Prepare final environmental impact statements (FEIS) and evaluate each major action in the light of DEIS comments received from Federal, State and local entities, private organizations and individuals.

(10) Forward copies of FEIS to appropriate internal groups, agencies, or community organizations and/or individuals from whom comments were received.

(b) The Department of Communications and Public Affairs, subject to approval by the Responsible Official, will issue all press releases, and will coordinate on official answers to public inquiries of major interest or policy significance.

775.4 Determining actions for which an EIS must be prepared; actions to be assessed.

(a) Types of Actions Covered—

(1) Proposals for Legislation. An Environmental Impact Statement shall be included in every recommendation or favorable report on proposals initiated by the Postal Service for legislation that has environmental significance or may be environmentally controversial. It is determined in this regard that the Postal Service heretofore has not initiated proposals for types of repetitive legislation requiring environmental impact statements, and that the initiation of such proposals in the future is not foreseen. Where legislative scheduling with regard to a proposal that is environmentally significant or controversial does not permit compliance with the normal EIS procedures and waiting periods provided for herein, a draft environmental statement may be furnished to the Congress and made available to the public pending subsequent transmittal of comments, as received, and the text of a final statement when completed. Where additional recommendations, comments, or reports are submitted on a proposal concerning which an EIS already has been submitted, a new EIS is not required; if new environmental issues are raised, however, the existing EIS shall be supplemented.

(2) Regulations and Procedures. An Environmental Impact Statement shall be included in every promulgation of rules, regulations, procedures and instructions having significant environmental consequences.

(3) Projects and Program Activities. Environmental Impact Statements normally are not required for the principal types of projects and program activities undertaken by the Postal Service. An occasional individual postal facility project is environmentally controversial, however, and a small number of such projects have been determined to have environmental effects of sufficient significance to warrant the preparation of Environmental Impact Statements. Accordingly, a documented environmental assessment shall be made of each proposed project and program of a type listed below, and a determination shall be made as to whether each such proposed project or program is a major action significantly affecting the quality of the human environment:

(i) Acquisition of postal space, whether by direct construction or lease construction, or by purchase, lease, or condemnation of existing buildings or improvements.

(ii) Modernization, improvement, or alteration of existing facilities where the external configuration is changed substantially, or the postal mission is changed significantly.

(iii) Use of Postal Service property by others, through permit, lease, license, or other arrangement, resulting in a signification change in usage of the property.

(iv) Any proposed action which is, or is likely to be, environmentally controversial.

(b) Identifying Major Actions Significantly Affecting the Environment. The Responsible Official must exercise sound judgment based on a thorough assessment and an evaluation of all relevant factors including the following:

(1) Cumulative Impact. The overall, cumulative impact of the proposed action, actions of other Federal agencies planned or taking place in the area, further Postal Service actions contemplated or foreseeable, and other developments taking place in the area, must be considered. If it is reasonable to anticipate a cumulatively significant impact on the environment from Federal actions in the area, an EIS probably should be prepared.

(2) Controversy. If the environmental impact of a proposed major action is likely to be highly controversial, an EIS should be prepared.

(3) Adverse Significant Effects. Adverse significant effects include those that—

(i) substantially degrade the quality of the environment;

(ii) curtail the range of beneficial uses of the environment such as by making irreversible and irretrievable commitments of resources;

(iii) serve short-term, to the disadvantage of substantial long-term, environmental goals; and

(iv) may be localized in their effect, but nevertheless have a decidedly harmful environmental impact.

(4) Beneficial and Detrimental Effects. Significant effects can include those which result from actions having both beneficial and detrimental effects even if, on balance, it appears that the net effect will be beneficial.

(5) Environmental Setting. The significance of a proposed action may vary with its setting. An action that might have little impact in a large city may be significant in a small-town, rural, or suburban setting, and vice versa.

(6) Secondary Effects. Secondary, as well as primary, effects of a proposed action may be significant. Many major Federal actions stimulate or induce secondary effects in the form of new investments and changed patterns of land-use and social and economic activity. Such secondary effects, through their impacts on existing community facilities and activities, through inducing new facilities and activities, or through changes in natural conditions, may be more significant than the primary effects of the original proposed action.

(7) Environmental Subject Areas. The assessment of significance shall take into account both direct and indirect effects in the following (among others) environmental subject areas:

(i) Water, air and noise pollution, undesirable land use patterns, solid waste disposal, pesticide and herbicide use, transportation and handling of hazardous materials;

(ii) Changes in population distribution, and the effects of such changes on urban congestion (including vehicular traffic), water supply, sewage treatment facilities, other public services, and human health, safety, and welfare;

(iii) Ecological systems such as wildlife, fish, and other marine life; and

(iv) The effects of construction, alteration, demolition, and real property disposal on the preservation and enhancement of historic, cultural, aesthetically pleasing, and healthful surroundings.

775.5 Preparation and use of environmental assessment; negative declaration.

(a) The environmental assessment shall be evaluated as part of the decision making process. It is the basis for judgment by the "Responsible Official" as to whether or not a proposed action is a major Federal action significantly affecting the quality of the human environment. It is of utmost importance that the assessment be complete, giving the decision maker a clear picture of existing and projected environmental conditions relevant to the proposed action and an evaluation of possible and probable effects, primary and secondary, beneficial or adverse, of that action and

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its practical alternatives. The environmental assessment is to be prepared by the responsible organization encompassing all phases of a proposed action and examining its effects on the environment.

(1) The environmental assessment will contain the information from the Postal Service's evaluation of available sites, an analysis of the consequences of the proposed action, alternatives to the proposed action, comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved, written responses resulting from the A–95 Clearinghouse notification, and comments of local citizens and officials. Every attempt should be made to insure that appropriate contacts are made to obtain the most complete data base for determining the environmental effects of the proposed action.

(2) The environmental assessment is to be prepared as directed by the Responsible Official utilizing the format set out in Appendix I, and following the outline set out in Appendix II, of these regulations.

(b) Negative Declaration. If the environmental assessment indicates that a proposed action is not a major Federal action significantly affecting the quality of the human environment, the Responsible Official shall prepare and sign a negative declaration to that effect. The declaration must state that a review of all environmental factors has been completed and the determination, based on the assessment, has been made that the proposed action is not a major Federal action significantly affecting the quality of the human environment (including effects on historic properties and places). Copies of the environmental assessment and the negative declaration shall be placed in the project environmental file, available on request for public review.

775.6 Preparation and use of environmental impact statements.

Whenever it is determined, based on an environmental assessment, that a proposed action is a major Federal action significantly affecting the quality of the human environment, a detailed environmental impact statement shall be prepared at the earliest feasible point in the development of the proposal, and shall be included in every subsequent recommendation or report on the proposed action. Each such statement must reflect that the particular economic and technical costs and benefits of the proposed action have been assessed and weighed against the environmental costs and benefits. Environmental Impact Statements shall be prepared in final form (FEIS) based on a draft environmental impact statement (DEIS) and a responsive evaluation of comments on the DEIS received from Federal, State, and local governmental agencies and the public.

(a) Early Public Notice. As soon as practicable after a decision is made to prepare a DEIS, public notice shall be given, and comments invited, by publication in the FEDERAL REGISTER and a local newspaper and by posting a notice on the bulletin boards of all postal facilities located in and adjacent to the area of potential environmental impact.

(b) Environmental Impact Statements should contain:

(1) A description of the proposed action its purpose and setting, including information, summary technical data, and maps and diagrams where pertinent, adequate to permit an assessment of potential environmental impacts of the proposed action by commenting agencies and the public. Highly technical data and analyses should be confined to appendices. The amount of detail provided should be commensurate with the size and expected impact of the proposed action. Population and growth characteristics of the affected area shall be included. The sources of data used shall be included. The sources of data used shall be expressly noted.

(2) The probable impact of the proposed action on the environment. Both primary, or direct, and secondary, or indirect, impacts on the environment shall be included in the analysis. The probable effects of the proposed action and its alternatives on population distribution shall be included, and also an analysis of the effect of any anticipated change in population and employment patterns upon the resources of the area, including land use, water supply, public services, and traffic.

(3) A brief discussion summarizing in one place any probable adverse environmental effects that cannot be avoided should the proposal be implemented such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health, or other consequences adverse to the environment. A statement should be included of how avoidable or mitigable adverse effects will be mitigated or avoided.

(4) An evaluation of the environmental impacts of alternatives to the proposed action. Section 102(2)(D) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous explanation and objective evaluation shall be made of the environmental impacts of all reasonable alternative actions, particularly those that might avoid or mitigate some or all of the adverse environmental effects. An analysis of such alternatives and their environmental benefits, costs, and risks shall accompany the proposed action through the agency review process so as not to foreclose prematurely consideration of options which might have less detrimental effects. The analysis should be sufficiently detailed to present a comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative.

(5) A brief discussion of the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This requires evaluation of the extent to which the proposed action involves trade-offs between short-term environmental gains and long-term losses, or vice versa, and it should contain a discussion of the extent to which the proposed action forecloses future options.

(6) A description of any irreversible or irretrievable commitment of resources which would be involved in the proposed action should it be implemented. This includes a statement of the extent to which the action irreversibly curtails the range of potential uses of the environment.

(7) An indication of economic, service, operational, working conditions, and other requirements and considerations of postal policy determined to offset or override any adverse environmental effects that have been identified. This discussion should also indicate the extent to which these countervailing benefits could or could not be realized by adopting identified alternatives to the proposed action that would avoid or mitigate some or all of the adverse environmental effects of the proposed action. If a cost-benefit analysis of the proposed action is prepared, it should be attached to the Statement and an indication should be given in the Statement of the extent to which environmental costs were considered in the cost-benefit analysis.

(8) A discussion of the relationship of the proposed action to the development plans and programs of the State, areawide, and local governments for the area in which the action is to take place. This should include a discussion of how the proposed action may conform to or conflict with Federal, State, areawide, and local land-use policies, plans, and controls and with current pollution limitations and compliance schedules duly adopted and approved pursuant to the Clean Air Act, the Federal Water Pollution Control Act, and the Noise Control Act of 1972, as the same may be amended from time to time. Where a conflict or inconsistency exists, a description should be included of the extent to which the proposed action has been reconciled or harmonized with the above plans, programs, policies, controls, limitations, and schedules, and the reasons should be given why the determination has been made to proceed notwithstanding the absence of full reconciliation.

(c) Prior to issuing either a draft or final EIS, the Responsible Official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. This shall include the Environmental Protection Agency in every case. (See 775.7(b)(1), below, with respect to historic preservation requirements.)

(d) Environmental impact statements shall be prepared with a cover and a summary and conclusions section. (See Appendices III and IV.)

775.7 Distribution and review of draft environmental impact statements.

(a) Transmittal to Council on Environmental Quality. As soon as a DEIS is prepared, 10 copies shall be transmitted to the Council on Environmental Quality.

(b) Distribution. DEIS's shall be distributed to:

(1) Federal agencies previously consulted or having jurisdiction by law or special expertise with respect to any environmental impact involved, which shall include the Environmental Protection Agency in every case, and the Advisory Council on Historic Preservation whenever a property that is included in or eligible for inclusion in the National Register of Historic Places is located within the area of the proposed action's potential environmental impact (This requirement is in addition to, and not in substitution for, the requirements of section 106 of the National Historic Preservation Act of 1966 and the Procedures for the Protection of Historic and Cultural Properties adopted by the Advisory Council on Historic Preservation.);

(2) Appropriate State and local agencies which are authorized to develop and enforce environmental standards, and State and areawide clearinghouses established pursuant to OMB Circular No. A–95 for the purpose of facilitating cooperation between the Federal Government and State and local governments (This requirement is in addition to, and not in substitution for, the requirements of section 401 of the Intergovernmental Cooperation Act of 1968 and of OMB Circular A–95, Part II, providing for coordination of direct Federal development projects at the earliest practicable stage with State, areawide, and local development plans and programs.); and

(3) Private organizations and individuals that request an opportunity to comment. In order to facilitate comment by private organizations and individuals, the availability of draft environmental statements shall be announced by publication of a notice in a local newspaper and by posting on the bulletin boards of all postal facilities located in and adjacent to the area of potential environmental impact.

(c) Timing. It is important that the DEIS be prepared and circulated for comment as early as possible in the project planning and review process in order to permit Postal Service decision makers and outside reviewers to give meaningful consideration to the environmental effects involved. Postal Service officials should keep in mind that such statements are to serve as the means of assessing the environmental impact of proposed actions rather than as a justification for decisions already made. The preparation of reports through the final EIS, including required periods for review and comment must be completed before the project planning and design is finalized.

(d) Review periods.

(1) A minimum of 45 days shall be allowed for comment on a DEIS, after which it may be presumed that no person or agency has any comment to make, unless an agency or person requests an extension of time to reply. In determining whether to grant a requested extension of time, and for how long, responsible officials shall consider the magnitude and complexity of the statement and the extent of citizen interest in the proposed action, as well as the Postal Service's schedule requirements.

(2) To the maximum extent practiable, administrative action subject to EIS requirements is not to be taken sooner than 90 days after the DEIS has been circulated, furnished to the CEQ and (except where public disclosure will result in significantly increased costs of procurement) made available to the public, and is not to be taken sooner than 30 days after the FEIS (including comments thereon) has been made available to the Council, commenting agencies and the public. The foregoing periods of 90 and 30 days may, but normally should not, run concurrently. Subject to the possible need for recirculating the statement for the appropriate period in cases of significant substantive change, a DEIS or FEIS may be supplemented or amended at any time.

775.8 Preparation and distribution of final environmental impact statements.

(a) Preparation. All substantive comments received on a DEIS shall be attached to the FEIS, except that where comments are received from a large number of single individuals, syntheses of their comemnts together with the names of the individuals whose comments are so synthesized may be attached in lieu of attaching each individual comment. A meaningful reference shall be made in the FEIS to any responsible and cogent opposing view not adequately discussed in the DEIS, indicating the Postal Service's response to the issues raised.

(b) Transmittal to Council on Environmental Quality. As soon as an FEIS is prepared, 10 copies (together with the substance of all comments received) shall be transmitted to the Council on Environmental Quality.

(c) Distribution. A FEIS, with comments attached, shall be sent to the Environmental Protection Agency, to each Federal, State, and local agency and private organization that made substantive comments on the DEIS, and to each individual who requests a copy.

775.9 Public information.

(a) Public Hearings. The Responsible Official should arrange for a public hearing following distribution of a DEIS when he determines it appropriate in accordance with the criteria set out in subparagraph (b) below. In such event, the DEIS shall be made available to the public at least 15 days prior to the hearing date. A written notice of the time, date, and place of the hearing shall be sent to all appropriate Federal, State, and local Government entities (including State and Areawide Clearinghouses) and to all private organizations and individuals known to be interested. In addition, copies of the notice should be posted in appropriate public places including postal facilities in and adjacent to the area and at any known site or sites of a proposed construction project; copies of the notice should also be sent to the local newspaper. The DEIS may be used as an outline for the conduct of discussions. If, upon conclusion of the hearing, it appears that some elements of controversy remain unresolved, the submission of written comments should be solicited. Following the public hearing, a summary of the issues discussed, the major points raised by witnesses, and other significant aspects of the hearing shall be prepared. If the Responsible Official deems it appropriate, he may append this summary to the FEIS.

(b) In deciding whether to hold a public hearing the Responsible Official should consider the following factors.

(1) The magnitude of the proposed project in terms of cost, size, geographic area affected, traffic generation, and the like;

(2) The degree of known public interest in the proposed project and significance of requests for a hearing;

(3) The complexity of issues that attend the proposed project and the likelihood that information will be presented at the hearing that will be of assistance;

(4) The extent to which public involvement has already been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and the submission of written comments during prepartion of the DEIS.

775.10 Lists of environmental determinations.

(a) There shall be maintained and kept current in the Real Estate Buildings Department in USPS Headquarters:

(1) a list of proposed projects for which Environmental Impact Statements are being prepared; and

(2) a list of proposed actions regarding which a determination has been made not to prepare an Environmental Impact Statement although—

(i) the action is similar to a significant number of Postal Service actions for which Statements have been prepared, or

(ii) it had been announced previously that a Statement would be prepared, or

(iii) the preparation of a Statement had been requested by the Council on Environmental Quality.

(b) Both of the above lists shall be updated and transmitted quarterly by the designated office to the Council on Environmental Quality and shall be made available for public inspection on request. With regard to any negative determination described in (a)(2) above, a publicly available record shall be maintained containing a brief statement of the reasons for the determination.

(c) So that the designated Headquarters office may perform its duties prescribed above in this 775.10, each Responsible Official shall furnish that office, on a current basis, the following:

(1) a brief description of each proposed project for which the preparation of an Environmental Impact Statement has been or is about to be commenced;

(2) notice of any abandonment or discontinuance of, or significant change in, any proposed project for which an EIS is, or was, being prepared;

(3) a copy of each DEIS and each FEIS; and

(4) a copy of each negative determination described in (a)(2) above, which shall contain or be accompanied by a statement of the reasons for the determination.

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APPENDIX I.—*Initial environmental assessment subject matter content*

	Effect on environment			
	None	Moderate and/or temporarily detrimental	Permanently detrimental	Beneficial
I. Evaluation of effect upon location:				
A. Topography and geology:				
1. Relief and surface characteristic changes				
2. Presence of faults and/or joints				
3. Surface strata and underlying bedrock				
4. Subsurface mineral deposits				
B. Hydrology and water quality:				
1. Effect on local ground water and water table				
2. Drainage patterns of stor n drains and creeks				
C. Land and water resources:				
1. Effect on adjacent residential development				
2. Creation of limited use land area				
3. Effect on adjacent streams or lakes				
4. Effect on industrial potential				
5. E fect on land use patterns				
. Historical and archeological:				
1. Effect on archeological salvage				
2. Effect on historic places, sites or monuments				
(a) Review by State historic preservation officer				
E. Fish and wildlife:				
1. Alteration of wildlife habitat				
2. Effect on rare or endangered species				
3. Effect on fish and other water related biota				
F. Botanical:				
1. Removal of or damage to trees, shrubs and other vegetation.				
2. Effect on rare or endangered species				
3. Effect on adjacent vegetation				
G. Air quality and sound control:				
1. Air pollution and atmospheric discharges				
2. Created noise levels				
3. Noise abatement				
II. Evaluation of effect upon existing public service:				
A. Lock box service				
B. Finance service				
C. Delivery service				
D. Accessibility and parking				
III. Evaluation of effect upon employees:				
A. Transportation—availability of public transportation, travel times, and cost.				
B. Housing and essential community services				
C. Public food service, its availability and proximity				
D. Medical service—proximity of hospitals, physicians, ambulance service, public health service.				
E. Employee safety as it might be jeopardized by hazardous conditions at the points of ingress and egress from or to the site.				
F. Working conditions				
G. Operational productivity				
H. Relocation				
IV. Evaluation of effect on socioeconomic conditions:				
A. Relocation of residential dwellings				
B. Effect on local employment				
C. Effect on public health and well-being				
D. Relocation of public utilities				
E. Urban congestion				
F. Alternation of traffic patterns				
G. Effect on population trends				
V. Conclusion summary:				

Using items listed above as a table of contents, prepare a narrative explanation for each particular evaluation.

APPENDIX II

EXPANDED ENVIRONMENTAL ASSESSMENT OUTLINE

I. Summary
II. Environmental setting without action:
  1. Physical Environment (Geology)
  2. Biological Environment (Ecology)
  3. Cultural Environment (Demographic)
III. Proposed Action
  Description
  Environmental Effects
IV. Conclusions
  Focus on the significant impacts, the chosen alternative, its mitigating effects and the need for a negative declaration or an Environmental Impact Statement.

APPENDIX III—FORMAT OF COVER FOR ENVIRONMENTAL IMPACT STATEMENTS

DRAFT (FINAL) ENVIRONMENTAL IMPACT STATEMENT

Descriptive Title of Project

UNITED STATES POSTAL SERVICE REAL ESTATE AND BUILDINGS DEPARTMENT

APPENDIX IV—SUGGESTED OUTLINE FOR SUMMARY AND CONCLUSIONS SECTION TO GO AT BEGINNING OF ENVIRONMENTAL IMPACT STATEMENTS

PROJECT TITLE

SUMMARY AND CONCLUSIONS

Name, address, and telephone number of the individual at the Postal Service who can be contacted for additional information.

1. Brief description of action indicating project purpose, scope, and location.
2. Summary of environmental impact and adverse environmental effects.
3. Summary of alternatives considered.
4. a. (For draft statements) List all Federal, State, and local agencies from which comments have been requested.
  b. (For final statements) List all Federal, State, and local agencies and other sources from which written comments have been received.
5. Dates draft statement and final statement made available to the Council on Environmental Quality and the public.

[FR Doc.76-24642 Filed 8-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parte 1125]

[Ex Parte No. 293 (Sub-No. 2]

STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES

Supplemental Notice of Proposed Rulemaking and Order

Section 205(d)(6) of the Regional Rail Reorganization Act of 1973 (the RRR Act), 45 U.S.C. 715(d)(6), as amended by section 309 of the Rail Revitalization and Regulatory Reform Act of 1976 (the Rail Act), Pub. L. 94-210, directs the Rail Services Planning Office (the Office) of the Interstate Commerce Commission (the Commission) to:

> • • • determine and publish, and from time to time revise and reissue, standards for determining (A) the "revenue attributable to the rail properties", (B) the "avoidable costs of providing service", (C) a "reasonable return on the value", and (D) a "reasonable management fee", as those phrases are used in section 304 of this Act [as amended by Section 804 of the Rail Act], after a proceeding in accordance with the provisions of section 553 of title 5, United States Code.

The Office first issued standards on July 1, 1974 for computing subsidies for the continuation of rail freight service in the Northeast-Midwest Region (39 FR 2429). After field testing, revised standards were published January 8, 1975 (40 FR 1624). They have since been amended on March 28, 1975 (40 FR 14186); January 22, 1976 (41 FR 3402); and March 26, 1976 (41 FR 12836).

During recent months, the Office has received several requests to reopen this proceeding to consider amendments to the standards. The Office is apprising the public through this notice of those areas in which requests have been made for modification and of other areas where the Office itself believes there may be a need for modification. The public is encouraged to study the discussion and to submit statements containing views and arguments in support of, or in opposition to, the suggested changes.

DISCUSSION

Passenger train revenues and costs. The Office has issued regulations, effective August 3, 1976, for determining commuter rail service continuation subsidies and emergency operating payments in the Northeast-Midwest Region (41 FR 32545). Consequently, the Office proposes to amend the regional freight standards to make it clear that revenues, costs and return on the value of properties covered by the commuter standards will be excluded from the regional freight standards.

Revenues from bridge and overhead traffic. The Office proposes to revise the method of calculating revenues derived from traffic carried over a subsidized branch but not originating or terminating on the branch. Such traffic includes bridge traffic, which passes over the branch line as a route between two lines of the same carrier, and interchange traffic which is exchanged with another railroad at a point on the branch. With regard to bridge traffic, the Office wants to stress that the parties are not bound by the mileage apportionment in the standards but are free to negotiate a mutually acceptable useage charge. The Office proposes to handle interchange traffic as if it actually originated or terminated on the branch. The present standards assign interchange (overhead) revenues to the branch on the ratio of miles moved on the branch to miles moved on the system. The proposed standard would attribute interchange revenues directly to the branch.

Off-Branch Costs—Class II railroads. The annual report of Class II railroads (Form R-2) does not contain expensive categories and service units in sufficient detail to compute off-branch costs in the manner presently prescribed. Therefore, the Office proposes to amend the standards by adding a new procedure for calculating the off-branch cost of Class II railroads which operate branch lines under subsidy. The method which the Office is proposing uses revenue gross ton-miles as the basis of assigning off-branch costs. Under this method, the total operating expenses, rents and taxes, excluding federal income taxes of the carrier, would be multiplied by a 3 year composite variability factor for all Class I railroads, and this amount would be divided by the system total revenue gross ton-miles. This unit cost would be applied to the total revenue gross ton-miles accumulated by branch line traffic moving over other portions of the Class II carrier's system.

The initial composite variability factor, based on the years 1972-74, would be .78; this factor would be periodically updated to reflect current Class I data. (A variability factor based on Class II data would be preferable, but cannot be derived from existing data.) A draft regulation is annexed.

Revenues from shipments with transit privileges. The Office has been asked to clarify whether the revenue attributable to a branch line from transit shipments is meant to include the full revenue the carrier receives for the shipment or only the revenue from that portion of the movement between the on-branch originating or terminating point and the transit point. The Office believes that the full revenue from such shipments (including any transit charges collected) should be attributed to the branch line. The off-branch costs associated with the movement beyond the transit point would of course be charged against the branch. The Office proposes to amend the standards to clarify its position.

Income from property over which subsidized service is performed. The New Jersey Department of Transportation (NJDOT) has pointed out that the property over which a subsidized service is operated may be used simultaneously by others and the standards are silent concerning income accounts related to such rail properties. It requests that either the income be included in revenues attributable to the rail properties or the income, actual and prospective, be capitalized and deducted from the overall property value. The Office is interested in obtaining the views of other parties on this subject.

Superintendence costs. The present standards do not allow the operator to include costs incurred for the supervision of maintenance of way, maintenance of equipment, or transportation on the subsidized line. The Office believed that the amount of time that a superintendent would have to devote to a particular branch would be negligible and therefore, his salary should not be included as an avoidable cost of providing the subsidized service. However, a railroad operating several branch lines under subsidy may have to employ more supervisory personnel than it would in the absence of subsidized service. In such a case, some superintendence costs might be avoidable. The issue then is how to fairly assign the costs of such superintendence to individual branch lines. The Office has considered several alternatives, including the use of an apportionment formulae, and is of the opinion that, if such costs are to be allowed, they should be directly assigned, based on the number of hours which a superintendent actually devotes to the branch line. These costs would be subject to audit, just as are the hours of crew wages and other direct costs. The parties are encouraged to address the following questions: should superintendence costs be included in the standards, and, if so, what is the fairest way of assigning these costs to the individual branch line?

Engineering costs. In some instances subsidizers have requested that the operating railroad provide engineering assistance for rehabilitation of the branch line or for the construction of new facilities. The Consolidated Rail Corporation (ConRail) has requested that the cost of providing this engineering assistance be considered an avoidable cost of providing the subsidized service. The Office believes that the costs of such services should be negotiated separately from the operating agreement and should be included as part of the rehabilitation costs.

Maintenance of way equipment repair costs. ConRail has requested that two additional accounts be included in the standards: Account 269—Roadway Machines, which includes the cost of repairing roadway machines which are used for repairs of roadway and structures, and Account 271—Small Tools and Supplies, which includes the cost of obtaining and repairing roadway tools, the costs of supplies consumed in the operation of roadway machines, and the cost of supplies used by trackwalkers, track watchmen, and roadway and track repairmen. ConRail requests that these accounts be apportioned to the individual branch on a ratio of maintenance costs performed on the branch in the subsidy year to the total ConRail system maintenance costs in the subsidy year.

The Office believes such repair costs, if incurred solely as a result of work done on the branch, should be included as a direct cost, not as an apportioned cost. It recognizes though that the direct cost approach might tempt the operating railroad to use old or run-down equipment for maintenance of subsidized lines and as a result that the repair costs for equipment used on subsidized lines might be substantially higher than repair costs for equipment used elsewhere on the operating lines of the carrier. The parties are requested to state their views as to whether Accounts 269 and 271 should be included in the standards, and, if so, how these costs should be determined and how they can be included without cross-subsidizing the upkeep of the carrier's maintenance of way equipment.

Running overhead from yard to branch; deadheading; taxi, and hotel costs. These categories of costs, which are not presently covered by the standards, may be incurred in the provision of some subsidized service. These costs arise because of the location of, or the nature of the service required over, the subsidized line. For example, it may be necessary for an engine crew and locomotive to run overhead from a yard, performing no work along the way, to reach a subsidized branch line which is the only duty assignment of the crew outside the yard. The Office is hesitant to allow this cost because it may provide an incentive for inefficiency on the part of the operating railroad. However, the Office believes that deadheading costs or taxi or hotel costs for the crew which operates the subsidized service should be included in the standards, but the Office prefers an approach which will provide an incentive for more efficient operation rather than a standard which rewards inefficiency. The parties are encouraged to propose a standard which they believe will promote efficient operation.

Specialized equipment costs. The standards presently assign locomotive repair costs on a ratio of ton-miles served on a branch to ton-miles served on the

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system. Similarly, other locomotive costs are assigned on a ratio of hours served on a branch to hours served on the system. This approach does not provide adequately for unique situations where a branch requires a special locomotive because of the physical characteristics of the branch. If a special locomotive is assigned to a subsidized branch and does not serve any other portion of the operating carrier's system, the actual repair and other costs of such a locomotive should be allowed. The same approach should apply to any other specialized equipment dedicated to service on a subsidized line.

Termination of service costs. Title V of the RRR Act provides protection for employees who lose their jobs or are relocated as a result of the consolidation of the region's bankrupt railroad systems into the ConRail system. Congress has authorized $250,000,000 to reimburse ConRail, USRA (where applicable) and acquiring railroads for amounts actually paid to protected employees pursuant to Title V. There is some uncertainty as to whether employees who are assigned by ConRail to work on branch lines operated under subsidy would be protected by the provisions of Title V should the subsidy not be renewed. The Office is seeking a ruling on this question from the Railroad Retirement Board.

The operating carrier may incur other termination costs, such as the cost of removing equipment, as a result of shutting down service on a line. The Office believes that such costs, to the extent that they can be shown to be validly incurred as a direct result of the termination of the subsidy, should be considered avoidable costs of providing service. The Office also believes that it would be appropriate to amend the standards to allow the parties to include in the operating agreement a mutually acceptable amount to cover the reasonable costs of termination.

Administrative fee. The standards presently provide that the operating carrier will receive an amount equal to 0.5 percent of revenues attributable to a subsidized branch as a fee for administering the subsidized service. ConRail has asserted that it will incur a serious deficit if the actual costs of administering the subsidized service which it operates are not treated as avoidable. The Office estimates that ConRail will receive an annual administrative fee of approximately $230,000.00 and has no information indicating that ConRail's actual costs will substantially exceed that amount. Consequently, the Office does not believe that there is a need to revise the administrative fee at this time. Furthermore, the fee established by the Office has several advantages: it is easily computed; it reduces the expense of record keeping; and it serves as an incentive to the operating carrier to hold the line on administrative costs. The Office would, of course, reconsider its position if operating experience should demonstrate that the actual cost of administering subsidized service substantially exceeds the fee as determined pursuant to the present standard.

Management fee. Under the standards, an amount equal to 4.5 percent of the total annual revenues attributable to the branch is to be paid to the operating carrier as a reasonable management fee. The parties may also negotiate an additional fee designed as an incentive to maximize revenues, minimize expenses, promote efficient service or otherwise achieve public interest objectives.

The Office wishes to stress that the 4.5 percent standard is not a ceiling; the parties are free to negotiate a higher percentage. The Office believes that a higher fee could serve as an incentive to section 304(d)(1)(C) designated operators to provide subsidized service. Also, limiting the management fee to 4 5 percent could produce an inequitable result where the subsidizer desired to have service provided by a short line carrier. Since the short line operator receives a much smaller share of the revenues from the traffic on the branch than would a carrier like ConRail it would be unfair if the fee were limited to 4.5 percent. The parties must be free to negotiate a management fee which they consider fair in such situations; however, if disputes arise the Office may have to issue specific guidelines for determining the management fee for short lines. The parties are encouraged to file suggestions for resolving this issue.

Traffic and general expenses. The present standards do not include any categories of traffic and general expenses, e.g., headquarters overhead and traffic solicitation expenses. The Office believes that, for the most part, a large, established carrier's expenses in these categories will not be affected materially by undertaking to continue service on branch lines. However, in some situations there may be a significant impact especially where a carrier was organized solely for the purpose of operating a subsidized line, a carrier's operations has been substantially increased by the addition of the subsidized service, or the single subsidized service is in itself a substantial railroad operation. In each of these situations considerable costs may be incurred which might have been avoided if the operating carrier had not undertaken to provide the subsidized service. In some cases, a carrier operating under section 304(d)(1)(c) of the RRR Act may have to cease subsidized service if the standards are not amended to include these items as avoidable costs of providing service. Therefore, the Office proposes to amend the standards to allow traffic and general expenses in certain cases. The Office proposes the following test to determine whether a railroad is eligible to include these expenses: either the railroad must have the size of its operation (measured in total mileage, gross revenues, gross ton-miles or car miles) increased by more than 25 percent as a result of taking on the subsidized service, or the service being operated under subsidy must in its own right qualify as a Class I railroad. The parties are requested to comment on this proposed approach and/or to provide suggested approaches of their own. The Office requests comments as to which traffic and general expenses an eligible carrier should be allowed to include. For example, if the executive officers of a railroad devote all their time to the operation of one or more subsidized lines, should the entire cost of their salaries be covered by subsidies? If they allot only part of their time to subsidized service, should the cost of their salaries be pro-rated accordingly? If so, should there be a cut-off point (e.g., if less than 10 percent of their time is devoted to subsidized service, should none of the cost of their salaries be eligible for inclusion)?

Determination of Revenues Attributable. In developing the regional standards, the Office reviewed several possible methods of defining "revenues attributable" and concluded that the only approach which would fairly represent the revenues a branch contributes to a carrier was to attribute all revenues received by the carrier from freight originating or terminating on the branch. For reasons stated in its prior rulemaking (39 FR at 24295), the Office also included off-branch costs calculated on a variable basis as "avoidable costs". Although this procedure has been judicially affirmed, *Commonwealth of Pennsylvania* v. *ICC; R. D. Timpany* v. *RSPO, ICC*, U.S.C.A., D.C., Nos. 75–1529; 75–1762, March 31, 1976, petition for certiorari pending, the Office, consistent with its duty to "revise and reissue" the standards from time to time, will consider suggestions from interested parties on alternative methods of defining "revenues attributable" which would permit elimination of off-branch costs.

Alternative compensation for use of property over which subsidized service is performed. Because of the inability of the parties to reach agreement with regard to valuation, other bases are being negotiated under which the trustees of the bankrupt railroads in the region are to be compensated for the use of their properties. The Office proposes to amend the standards to specifically provide for alternative compensation based on arm's-length negotiations.

Technical amendment. The reference in the last sentence of Section 1125.1(d) referring to "one of the first three quarterly Financial Status Reports required by Section 1125.9(f)" should be changed since it does not appear that the first three such reports will be issued within the time frame originally contemplated. The Office proposes to substitute the following language: "* * * based on the data contained in one of the Financial Status Reports issued during the first 10 months of the subsidy year as required by Section 1125.9 * * *."

Retroactivity. The Office requests comment on whether any of the proposed amendments discussed herein should be made effective retroactive to the date branch lines were first operated under the freight subsidy program.

FILING OF COMMENTS

After interested parties have filed their comments on the issues raised in this notice, the Office will allow further time for the participants to submit replies to the comments. To facilitate this process, the Office will reproduce all the comments received by the due date and provide them to all participants.

ORDER

In light of the foregoing considerations:

It is ordered, That the proceeding to formulate standards for determining rail freight service continuation subsidies in the Northeast-Midwest region, pursuant to Section 205(d)(6) of the Regional Rail Reorganization Act of 1973, as amended, is hereby reopened for the purpose of amending the standards.

And it is further ordered, That all interested persons are invited to participate in this proceeding by submitting written representations containing statements of facts or views. To be considered the original and 6 copies of each representation must be filed on or before September 24, 1976, with:

Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20036

Replies to the comments should be filed by October 15, 1976.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued August 19, 1976 by Alan M. Fitzwater, Director, Rail Services Planning Office.

ROBERT L. OSWALD,
Secretary.

CLASS II

OFF-BRANCH COSTS

Class II line-haul railroads shall calculate off-branch costs as follows:

(i) The estimated system variable expenses are calculated by multiplying the sum of the total operating expenses (Schedule 2002, L.54, col. (b)), net rents (Schedule 300, L.21, col. (b) and tax accruals less federal income taxes Schedule 350, L.18, col. (b) less L.13, col. (b)) in the carrier's latest Annual Report (Form R–2) by .78, the three year composite variability ratio for all Class I railroads.

(ii) The cost per revenue gross ton-mile is calculated by dividing the amount developed in step (i) by system total revenue gross ton-miles (Schedule 2601, L. 25, col. (d)) in the carrier's latest Annual Report (Form R–2).

(iii) The cost developed in step (ii) shall be applied to the total revenue ton-miles of traffic attributable to the branch which moves over other portions of the railroad's system.

[FR Doc.76-24797 Filed 8-23-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Proposed Change to a System of Records

On December 2, 1975, in accordance with the requirements of the Privacy Act of 1974 at 5 U.S.C. 552a(e)(4), a system of records to be initiated approximately January 1977 by the Office of the Secretary called "Treasury Payroll/Personnel Information System (Treasury/OS 00.054)" was adopted by notice published in the FEDERAL REGISTER (40 FR 56017, 56029). The Office of the Secretary now proposes to amend this system of records.

A number of changes became necessary during final planning. The principal changes proposed are: Advancement of the starting date to September 26, 1976; addition of a facility at San Francisco, California; provision for the inclusion of other agencies in the system; addition of the data element called the Minority Group Designator (MGD); addition of routine use number five; revision of the description of the storage, retrieval, and access policies and practices consistently with the dual location of the system; and addition of a disposition provision. Stylistic and grammatical revisions were made throughout the notice, the text of which follows in full.

Notice of this proposal as required by subsection (o) of the Act, 5 U.S.C. 552a (o), was filed on June 24, 1976, with the Senate, the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Any interested person may submit written data, views, objections, or arguments on this proposed amendment to the Acting Departmental Disclosure Officer, Office of Administrative Programs, United States Department of the Treasury, 1331 G Street NW, 3rd. floor, Washington, DC 20220, on or before September 23, 1976. All written comments received from the public by then will be considered by the Department before taking action on a final notice of adoption. Comments received will also be avialable for public inspection at the above address between the hours of 9:00 a.m. and 5:30 p.m., Mondays through Fridays, except public holidays. Further information is available by telephone at (202) 964-2792.

WARREN F. BRECHT,
Assistant Secretary (Administration).

Treasury/OS 00.054

System name: Treasury Payroll/Personnel Information System (To be implemented between 26 September 1976 and July 1978)—Treasury/OS.

System locations:
Internal Revenue Service Data Center, Box 1100, Detroit, Michigan 43232, and U.S. Old Mint Data Center Division, 88 5th Street, San Francisco, California 94103.

Categories of individuals covered by the system: All Treasury Department employees and employees of other agencies using the system.

Categories of records in the system: Personnel and payroll data on all Treasury Department employees and employees of other agencies using the system. Minority Group Designator (MGD) in compliance with Civil Service Commission Regulations.

Authority for maintenance of the system: The Civil Service Commission in the Federal Personnel Manual (Chapter 291), establishes control of the automated personnel information under the agency Director, Personnel. The Department of the Treasury, in the Fiscal Requirement Manual, establishes control of the automated payroll information under the agency Fiscal Assistant Secretary. 5 U.S.C. 301. The use of the social security account number is authorized by Executive Order 9397, November 22, 1943.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To generate the necessary payroll information, deductions and allotments to pay employees biweekly.

2. To furnish the necessary information to concerned agencies and state and city taxing authorities required by law.

3. To provide input to management information systems, and related accounting and budget systems, from the basic payroll and personnel master file.

4. To provide the Civil Service Commission with data on pay, leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions.

5. To supply information to other federal agencies, on properly authorized request, necessary for the fulfillment of programs authorized by statute or executive order.

For additional routine uses, see Appendix AA, 40 FEDERAL REGISTER 56419–56420, December 2, 1975.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records: Master file is kept on disc and magnetic tape. Information concerning the employee is retrieved through the use of the individual's name and/or Social Security Number. Information is reduced to hard copy in the form of reports and payroll information and documentation. The Director of the computer facility, where the system is located, is the designated Treasury official responsible for the onsite security of the data and the proper and timely processing of the system and to insure that data is maintained and handled in the computer facility in such a manner that will guard against the invasion of privacy of employees as set forth in all pertinent regulations. Disposition not yet authorized by the National Archives and Records Service. A formal request is in progress, proposing erasure in annual increments five years from the end of the calendar year in which the record was created. Should the disposition ultimately approved be materially different from the one outlined here, further notice will be made in this publication.

System manager and address: Chief, Treasury Employee Data and Payroll Division, Department of the Treasury, Washington, D.C. 20220.

Notification, access and contest procedure: By written request to the Bureau designee listed below. Requesters must state own name, social security account number, name of employing Bureau, and geographical location of facility or duty station to which assigned.

Bureau Designees:

Office of the Secretary. Director, Office of Management and Organization, Department of the Treasury, 15th and Pennsylvania Avenue NW, room 4406, Washington, D.C. 20220.

Bureau of Alcohol, Tobacco and Firearms. Assistant Director for Administration, Federal Building, room 4212, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20226.

Comptroller of the Currency. Director, Finance and Administration, 490 L'Enfant Plaza East SW, Fifth Floor, Washington, D.C. 20219.

U.S. Customs Service. Assistant Commissioner for Administration, 1301 Constitution Avenue NW, room 3124, Washington, D.C. 20229.

Bureau of Engraving and Printing. Assistant Director for Administration, 14th & C Streets SW, room 113M, Washington, D.C. 20228.

Federal Law Enforcement Training Center. Assistant Director for Administration, Glynco Facility, Brunswick, Georgia 31520.

Bureau of Government Financial Operations. Assistant Commissioner for Administration, Annex 1, room 600-E, Washington, D.C. 20226.

Internal Revenue Service. Assistant Commissioner (Administration), 1111 Constitution Avenue NW, room 3308, Washington, D.C. 20224.

Bureau of the Mint. Assistant Director for Administration, Warner Building, room 942, 501 13th Street NW, Washington, D.C. 20220.

Bureau of the Public Debt. Assistant Commissioner, Engraving and Printing Annex, room 648, 14th & D Streets SW, Washington, D.C. 20226.

U.S. Savings Bonds Division. Director of Administration, 1111 20th Street NW., room 219, Washington, D.C. 20226.

U.S. Secret Service. Assistant Director (Administration), 1800 G Street NW., room 850, Washington, D.C. 20223.

Record source categories: The Processing Clerk enters each new employee's personnel and payroll information on a copy of the SF–50, SF–52, or other standard input documents and transmits it to the processing data center. Subsequent personnel or payroll data is forwarded in this manner also.

[FR Doc.76-24718 Filed 8-23-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, NY 10014 on September 21–22, 1976.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 19, 1976.

[FR Doc.76-24758 Filed 8-23-76;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014, on September 16–17, 1976.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices:

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power devices area includes such programs as integrated circuits, charge coupled devices and memories. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 19, 1976.

[FR Doc.76-24759 Filed 8-23-76;8:45 am]

DEPARTMENT OF THE INTERIOR

COLORADO STATE MULTIPLE USE ADVISORY BOARD AND CRAIG, COLORADO DISTRICT ADVISORY BOARD

Bureau of Land Management Meeting

Notice is hereby given that the Colorado State Multiple Use Advisory Board and Craig, Colorado District Advisory Board will meet at the District Office in Craig, Colorado and at the Steamboat Village Inn, Steamboat Springs, Colorado, October 4, 5 and 6, 1976 from 8:30 a.m. to 5:00 p.m.

The District Board will meet October 4 at 8:30 a.m. at the Craig District Office and proceed on a field trip to view various resource programs in the general area of Douglas Mountain and Sand Wash, located northwest of Craig.

Both Boards will meet together Tuesday, October 5 at the Steamboat Village Inn to discuss on-going programs, as well as a briefing on the Energy Minerals Activity Recommendation System (EMARS).

The State Board will take a field trip on Wednesday, October 6 to view strip mining operations and rehabilitation work in the Craig area.

The meetings will be open to the public. Both District and State tours are open to the public. However, non-board members must provide their own transportation. Time will be made available from 1:00 p.m. to 2:00 p.m. October 5 for brief statements by members of the public. Such statements must not exceed ten minutes and limited in content to suggested topics and issues for consideration by the Board.

DALE R. ANDRUS,
State Director.

[FR Doc.76-24733 Filed 8-23-76;8:45 am]

UKIAH DISTRICT MULTIPLE-USE ADVISORY BOARD

Meeting

Notice is hereby given that the Ukiah District Multiple-Use Advisory Board to the Bureau of Land Management will meet in Garberville, California, October 7–8, 1976. Meeting times are 11:00 a.m. to 5:00 p.m. on Thursday and 8:00 a.m. to 3:00 p.m. on Friday.

A tour of the King Range National Conservation Area (NCA) located west of Garberville, will be conducted on the first day. All aspects of the NCA management plan, including general administration, forestry, mining, fisheries, and off-road vehicle use will be open for discussion during the tour. The tour, which will cover only the south end of the NCA, is open to the public; however, transportation must be provided by those wishing to attend. Off-road vehicles will not be required. Initial assembly point for the tour will be the Sherwood Forest Motel in Garberville. Scheduled departure time is 11:00 a.m.

The agenda for the formal meeting on Friday will include the following topics: King Range Management, Ukiah District Timber Management Program and Environmental Statement, and Ukiah District Geothermal Development.

The meeting will be held at the Garberville Justice Court, beginning at 8:00 a.m., and will be open to the public. Time will be made available at 8:30 a.m. and 11:30 a.m. on Friday for brief statements by members of the public. Such statements should be limited to matters set forth in the agenda. Those wishing to make an oral statement on an agenda topic should notify the Ukiah District Manager prior to the meeting days. Any interested person or organization may file a written statement with the Board for its consideration. Such statements may be submitted at the meeting or mailed to the Ukiah District Manager.

Dated: August 11, 1976.

MELVIN D. CLAUSEN,
District Manager.

[FR Doc.76-24734 Filed 8-23-76;8:45 am]

National Park Service

[Order No. 4]

CUMBERLAND GAP NATIONAL HISTORICAL PARK, KENTUCKY

Delegation of Authority

Section 1. Administrative Officer. The Administrative Officer may execute and approve contracts not in excess of $10,000, for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

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Section 2. Re-Delegation. The authority delegated in this Order Number 4 may not be redelegated.

Section 3. Revocation. This order supersedes Order No. 3, dated July 28, 1975 and published in 40 F.R. 55371, November 28, 1975.

(National Park Service Order No. 77 (38 F.R. 7478), as amended; Southeast Region Order No. 5 (37 F.R. 7721), as amended.)

Dated: June 9, 1976.

ALBERT A. HAWKINS,
Superintendent, Cumberland Gap National Historical Park.

[FR Doc.76-24762 Filed 8-23-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 13, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by (10 days after publication.

REX L. WILSON,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Dallas County

Selma vicinity, *Carlowville*, 17 m. S of Selma on AL 89.

Jackson County

Stevenson, *Fort Harker*, S of Railroad Depot.

Lauderdale County

Florence, *Walnut Street Neighborhood Historic District*, N. Walnut St. between Hermitage and Tuscaloosa.

DELAWARE

New Castle County

Wilmington, *Delaware Avenue Historic District*, Delaware Ave. from N. Harrison to N. Broom Sts. (both sides).

KANSAS

Chase County

Clements vicinity, *Clements Stone Arch Bridge*, 0.5 mi. SE of Clements on Cottonwood River.

Elmdale vicinity, *Flattop Quarry Site* (14CS2), S of Elmdale.

Cherokee County

Baxter Springs, *Johnston Library*, 210 W. 10th St.

Clark County

Ashland vicinity, *Bear Creek Dedoubt*, N of Ashland.

Ashland vicinity, *Cimarron Redoubt*, S of Ashland.

Crawford County

Girard, *Wayland, Julius A., House*, 721 N. Summit.

Hamilton County

Syracuse vicinity, *Fort Aubrey Site*, E of Syracuse.

Leavenworth County

Easton vicinity, *Biehler Barn*, 2.5 mi. N of Easton.

McPherson County

McPherson, *McPherson County Courthouse*, Maple and Kansas Aves.

Mitchell County

Beloit, *Perdue, C. A., House*, 422 W. 8th St.

Glen Elder, *Norris, E. W., Service Station*, Market and Main Sts.

Montgomery County

Coffeyville, *Brown, W. P., Mansion*, S. Walnut and Eldridge Sts.

Ness County

Beeler vicinity, *Carver, George Washington, Homestead Site*, 1.5 mi. S of Beeler.

Pawnee County

Rozel vicinity, *Meckfessel Archeological Site* (*14PA363*), E of Rozel.

Rozel vicinity, *Witcher Archeological Site* (*14PA411*), E of Rozel.

Russell County

Lucas, *Garden of Eden*, 2nd St. and Kansas Ave.

Sedgwick County

Wichita, *Hillside Cottage*, 303 Circle Dr.

Thomas County

Colby, *Thomas County Courthouse*, 300 N. Court.

Wallace County

Weskan vicinity, *Goose Creek Tipi Ring Site* (*14WC401*), N of Weskan.

MICHIGAN

Keweenaw County

Isle Royale National Park, *Edisen Fishery*, Rock Harbor.

NEW YORK

Oswego County

Oswego, *U.S. Customhouse*, W. Oneida St., between 1st and 2nd Sts.

Warren County

Chestertown, *Chestertown Historic District*, Canada Dr.

Westchester County

Rye, *Ward, William E., House*, Comly Ave.

NORTH DAKOTA

Stutsman County

Jamestown, *Stutsman County Courthouse and Sheriff's Residence/Jail*, 504 3rd Ave., SE.

OKLAHOMA

Oklahoma City, *Capitol-Lincoln Terrace Historic District*, irregular pattern within 13th, 23rd, Lincoln Blvd. and Kelley Ave.

TENNESSEE

Dyer County

Dyersburg, *Dyersburg Sanitarium*, 124 McGaughey.

Franklin County

Winchester vicinity, *Gray, Isaac, House*, SW of Winchester off U.S. 64.

TEXAS

Bexar County

San Antonio, *Bexar County Courthouse*, Main Plaza.

UTAH

Daggett County

Bridgeport vicinity, *Parson, Dr. John, Cabin Complex*, W of Bridgeport.

[FR Doc.76-24479 Filed 8-23-76;8:46 am]

NORTH ATLANTIC REGION ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act—Public Law 92-463, that a meeting of the North Atlantic Committee will be held at 2:00 p.m., EDT on September 20, 1976 through approximately 12:00 noon EDT on September 22, 1976 at Acadia National Park, Bar Harbor Motor Inn, Bar Harbor, Maine.

The purpose of the Committee is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the North Atlantic Region.

The members of the Committee are as follows:

Mr. John Cole, Brunswick, Maine.
Mrs. Antoinette Downing, Providence, Rhode Island.
Ms. Arthur Fenske, Green Village, New Jersey.
Dr. Charles H. W. Foster, Needham, Massachusetts.
Mr. George T. Hamilton, Dover, New Hampshire.
Mr. John Keith, Hartsdale, New York.
Mr. Frederick Micha, Ontario, New York.
Mr. William Niering, Gales Ferry, Connecticut.
Mr. William Pinney, Charlotte, Vermont.

Matters to be discussed at this meeting include:

1. Briefing on current activities in the North Atlantic Region
2. Fire Island National Seashore Master Plan
3. Gateway National Recreation Area Development Plan
4. National Park Service planning procedure and public participation policy
5. Transportation systems

The meeting will begin at approximately 2:00 p.m., September 20, 1976, at Bar Harbor Motor Inn, Bar Harbor, Maine. The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

The group will tour the Mt. Desert portion of Acadia National Park beginning at the Bar Harbor Motor Inn, Bar Harbor, Maine at 8:00 a.m. September 22, 1976 and returning to the motel at approximately 12:00 noon. There may be extra seats on the bus that will be available to the public on a first come basis, others are welcome to accompany the tour in their own transportation.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John C. Raftery, Assistant to the Regional Director, North Atlantic Regional Office at 617-223-2892. Minutes of the meeting will be available for public inspection approximately four weeks after the meeting at the office of the North Atlantic Region, 150 Causeway Street, Boston, Massachusetts, 02114.

Dated: August 11, 1976.

DENIS P. GALVIN,
Acting Regional Director.

[FR Doc.76-24763 Filed 8-23-76;8:45 am]

Office of the Secretary

COMMITTEE ON FUTURE ENERGY PROSPECTS; NATIONAL PETROLEUM COUNCIL

Meeting

Notice is hereby given for the following meeting:

The National Petroleum Council's Committee on Future Energy Prospects will meet on September 10, 1976, at 10:30 a.m., in the Arena Three Room of the Sheraton Inn, 3535 Quebec Street, Denver, Colorado.

The agenda includes the following items for review and discussion:

1. Progress of development of study topic papers.
2. Timetable for completion of study topic papers.
3. Any other matters pertinent to the overall assignment of the Committee on Future Energy Prospects.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information, and recommendations upon any matter relating to petroleum or the petroleum industry.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary-Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: August 19, 1976.

ROBERT L. PRESLEY,
Staff Assistant-Emergency Preparedness, Office of the Assistant Secretary-Energy and Minerals.

[FR Doc.76-24764 Filed 8-23-76;8:45 am]

Office of the Secretary

[INT DES 76-32]

PACIFIC POWER AND LIGHT CO.

Availability of Draft Environmental Statement; Proposed 500 KV Powerline, Midpoint, Idaho-Medford, Oregon

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement for a proposed 500 KV powerline between Midpoint, Idaho, and Medford, Oregon, and invited your written comments within 45 days of this notice.

The proposal involves construction, operation, and maintenance of a 500 KV electric transmission line between the Midpoint, Idaho, substation and a new substation to be constructed northeast of Medford, Oregon.

Copies are available for inspection at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets N.W., Washington, D.C. 20240, Telephone: (202) 343-4151.

Idaho State Office, Bureau of Land Management, Room 398 Federal Building, 550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 342-2711 Ext. 2291.

Oregon State Office, Bureau of Land Management, Room 100, 729 N.E. Oregon Street, Portland, Oregon 97208, Telephone: (503) 234-3361, Ext. 4024.

Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, Telephone: (208) 342-2711 Ext. 2582.

Shoshone District Office, Bureau of Land Management, 400 West "F" Street, Shoshone, Idaho 83352, Telephone: (208) 886-2208.

Lakeview District Office, Bureau of Land Management, 357 North "L" Street, Lakeview, Oregon 97630, Telephone: (503) 947-2177.

Vale District Office, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, Telephone: (503) 473-3144.

Region VI Information Office, U.S.F.S., 319 S.W. Pine, Portland, Oregon 97208, Telephone: (503) 221-2877.

Burns District Office, Bureau of Land Management, 74 S. Alvord Street, Burns, Oregon 97720, Telephone: (503) 573-2071.

Medford District Office, Bureau of Land Management, 310 W. 6th Street, Medford, Oregon 97501, Telephone: (503) 799-2351.

Fremont National Forest, 34 "D" Street N., Lakeview, Oregon 97630, Telephone: (503) 947-2151.

A limited number of single copies may be obtained from the Idaho and Oregon State Directors, Bureau of Land Management, and the Office of Public Affairs, Bureau of Land Management, Washington, D.C. 20240.

Notice is also given that public hearings on the draft environmental statement will be held at the following locations:

Courtroom, Federal Building, 310 West 6th Street, Medford, Oregon, 9:00 a.m. on Sept. 27, 1976.

Mills Auditorium, E. Main and Orchard Avenue, Klamath Falls, Oregon, 9:30 a.m. on Sept. 30, 1976.

Citizens Center, 11 North G., Lakeview, Oregon, 9:00 a.m. on Sept. 29, 1976.

Rodeway Inn, 29th and Chinden, Boise, Idaho, 9:00 a.m. on Oct. 6, 1976.

Oral testimony of a 10-minute maximum duration will be accepted from each witness at the hearings in lieu of written comments or in addition to any written comments submitted by such witness. The 10-minute time limit will be strictly enforced. Complete text of prepared testimony may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Written requests to testify orally should be filed as follows:

Medford Hearing—District Manager, Bureau of Land Management, at the above address prior to close of business of September 23, 1976.

Lakeview and Klamath Falls Hearings—District Manager, Bureau of Land Management, Lakeview, Oregon, at the above address prior to close of business of September 27, 1976.

Boise Hearing—Idaho State Director, Bureau of Land Management at the above address prior to close of business on October 4, 1976.

Requests to present testimony should be signed by the prospective witness and should state the approximate time preference for giving oral testimony. The cutoff dates are necessary so that a witness list can be made available on the day before the public hearings.

Speakers will be heard, if present, in their established order of precedence. After the last listed witness present has been heard, the presiding officer will consider the request of any other person present and wishing to testify. The presiding officer may continue the hearing into a subsequent session if necessary to hear all prospective witnesses. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinion of a private citizen.

Dated: August 20, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-24877 Filed 8-23-76;8:45 am]

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Office of the Secretary

[INT FES 76-45]

SHERWOOD URANIUM PROJECT ON THE SPOKANE INDIAN RESERVATION

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental impact statement for approval of a lease between the Spokane Tribe of Indians and Western Nuclear, Inc. The environmental impacts of developing a uranium mine and processing facilities on a 1,222 acre lease of the Spokane Indian Reservation near Wellpinit, Washington are presented.

Copies are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245. Telephone (202) 343-8248.

Bureau of Indian Affairs, Portland Area Office, Room 409, Loyd Plaza, 1425 N.E. Irving Street, Portland, Oregon 97232. Telephone (503) 234-3361 Ext. 4257.

Bureau of Indian Affairs, Spokane Indian Agency, Wellpinit, Washington 99040. Telephone (509) 258-4561.

Single copies of the final statement may be obtained without cost from the Portland Area Office, Bureau of Indian Affairs, Room 409, Loyd Plaza, 1425 NE. Irving Street, Portland, Oregon 97232.

Dated: August 19, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-24712 Filed 8-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Nebraska Grain Inspection Point

Statement of Considerations. The Hastings Grain Inspection, Inc., Hastings, Nebraska, is designated to operate as an official inspection agency in accordance with the provisions of section 7 (f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)). The Hastings Grain Inspection, Inc., has been providing official inspection service for approximately 42 years at Hastings and Grand Island, Nebraska, as designated inspection points and for approximately 1 year at Kearney, Nebraska, as a designated inspection point. The Hastings Grain Inspection, Inc., has also been providing official sampling service for approximately 41 years at Kearney, Nebraska, and for approximately 20 years at Ogallala, Nebraska. A designated inspection point is defined as a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency, or one or more of its licensed inspectors is located (7 CFR 26.1(b)(13)).

The Hastings Grain Inspection, Inc., now plans to locate one or more of its licensed grain inspectors at Ogallala, Nebraska, and has requested that its assignment of inspection points be amended in accordance with section 26.99 (b) of the regulations (7 CFR 26.99(b)) to add Ogallala, Nebraska, as a designated inspection point.

Notice is hereby given that the Agricultural Marketing Service has under consideration the request from the Hastings Grain Inspection, Inc., to add Ogallala, Nebraska, as a designated inspection point under the U.S. Grain Standards Act.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than September 20, 1976. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on August 19, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.76-24794 Filed 8-23-76;8:45 am]

Agricultural Stabilization and Conservation Service

ADVISORY COMMITTEE ON GRAINS—WHEAT, FEED GRAINS AND SOYBEANS

Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Advisory Committee on Grains—Wheat, Feed Grains and Soybeans. This meeting will be held on September 16-17, 1976, starting at 9 a.m., in Room 218-A of the Administration Building, U.S. Department of Agriculture. The Advisory Committee on Grains will meet jointly with the National Cotton Advisory Committee.

This meeting will be to discuss the current domestic and foreign supply-demand situation and the 1977 program outlook. The meeting will be open to the public. Any member of the public may file a written statement with the committee before or within one week following the meeting.

The names of the members of the committee, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Kenneth T. Benjamin, Director, Grains, Oilseeds and Cotton Division, ASCS, U.S. Department of Agriculture, Room 3741-S, Washington, D.C. 20250.

Signed at Washington, D.C. on August 18, 1976.

KENNETH BENJAMIN,
Executive Secretary, Advisory Committee on Grains—Wheat, Feed Grains & Soybeans.

[FR Doc.76-24777 Filed 8-23-76;8:45 am]

NATIONAL COTTON ADVISORY COMMITTEE

Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Cotton Advisory Committee. This meeting will be held on September 16-17, 1976, starting at 9 a.m., in Room 218-A of the Administration Building, U.S. Department of Agriculture. The Cotton Advisory Committee will meet jointly with the Advisory Committee on Grains—Wheat, Feed Grains and Soybeans.

This meeting will be to discuss the current domestic and foreign supply-demand situation and the 1977 program outlook. The meeting will be open to the public. Any member of the public may file a written statement with the committee before or within one week following the meeting.

The names of the members of the committee, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Kenneth T. Benjamin, Director, Grains, Oilseeds and Cotton Division, ASCS, U.S. Department of Agriculture, Room 3741-S, Washington, D.C. 20250.

Signed at Washington, D.C. on August 18, 1976.

KENNETH BENJAMIN,
Executive Secretary, National Cotton Advisory Committee.

[FR Doc.76-24776 Filed 8-23-76;8:45 am]

Forest Service

KARTA UNIT MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Karta Unit Management Plan, USDA-FS-R-10-DES(Adm)76-05.

This envrionmental statement proposes six alternatives for the future management of Tongass National Forest land in the Karta-Big Salt area. Following review and comment on this statement, a management plan will be selected and stated in a Final Environmental Statement.

This draft environmental statement was transmitted to the CEQ on August 18, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service; South Agriculture Bldg., Room 3231, 12th Street & Independence Ave. S.W., Washington, D.C. 20250.
USDA, Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99802..
Forest Supervisor, Chugach National Forest, 121 W. Firewood Lane, Suite 205, Anchorage, Alaska 99503.
Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.
Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Room 313, Ketchikan, Alaska 99901.
Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

A limited number of single copies are available upon request to James S. Watson, Forest Supervisor, Box 2278, Ketchikan, AK 99901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments, concerning the proposed action and requests for additional information should be addressed to James S. Watson, Forest Supervisor, Box 2278, Ketchikan, AK 99901.

Comments must be received by October 17, 1976 in order to be considered in the preparation of the final environmental statement.

Dated: August 18, 1976.

CARL W. SWANSON,
Regional Environmental Coordinator, Alaska Region.

[FR Doc.76-24740 Filed 8-23-76;8:45 am]

Forest Service

PROPOSED LAND USE PLAN, ELK RIVER PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Land Use Plan for Elk River Planning Unit, Forest Service Report Number USDA-FS-R1(05)-DES-Adm 76-21.

The environmental statement concerns a proposed revision of the Multiple Use Plan for the Elk River Planning Unit, Palouse Ranger District, St. Joe National Forest.

This draft environmental statement was transmitted to CEQ on August 16, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, DC 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA, Forest Service, Clearwater National Forest, Rt. 4 Ahsahka Road, Orofino, ID 83544.
USDA, Forest Service, Palouse Ranger District, Rt. 2, Box 4, Potlatch, ID 83855.

A limited number of single copies are available upon request to Forest Supervisor Kenneth P. Norman, Clearwater National Forest, Rt. 4, Ahsahka Road, Orofino, Idaho 83544.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Kenneth P. Norman, Clearwater National Forest, Rt. 4, Ahsahka Road, Orofino, Idaho 83544. Comments must be received by October 15, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: August 16, 1976.

WARREN G. DAVIES,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.76-24691 Filed 8-23-76;8:45 am]

RANCHERIA MANAGEMENT UNIT—SIERRA NATIONAL FOREST; LAND USE PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan, Rancheria Management Unit, Sierra National Forest, California, USDA-FS-R5-DES(Adm)-76-04.

The environmental statement concerns a proposed land use management plan for the 13,540 acres of National Forest lands known as the Rancheria Management Unit of the Sierra National Forest, in Fresno County, California. These lands contain no new wilderness study areas or inventoried roadless areas.

This draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on August 17, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, California 94111.
Forest Supervisor's Office, Sierra National Forest, 1130 "O" Street, Fresno, California 93721.
Forest Service, District Ranger, Trimmer Route, Sanger, California 93657.

A limited number of single copies are available, upon request, from Forest Supervisor Sotero Muniz, Sierra National Forest, 1130 "O" Street, Fresno, California 93721.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effect for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor Sotero Muniz, Sierra National Forest, 1130 "O" Street, Fresno, California 93721. Comments must be received within 60 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

T. W. KOSKELLA,
Deputy Regional Forester.

AUGUST 17, 1976.

[FR Doc.76-24730 Filed 8-23-76;8:45 am]

Rural Electrification Administration

TENNESSEE TELEPHONE CO.

Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the FEDERAL REGISTER, September 16, 1974 (Vol. 39 No. 180, pages 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,258,000 to Tennessee Telephone Company, Mt. Juliet, Tennessee. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing

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the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Eugene E. Morris, President, Tennessee Telephone Company, c/o 320 Cedar Bluff Road, Knoxville, Tennessee 37917.

To assure consideration, proposals must be submitted within 30 days of the date of this notice to Mr. Morris. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the Tennessee Telephone Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 12th day of August, 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-24676 Filed 8-23-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

MATERIAL PREPARATION SUBCOMMITTEE OF THE SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Material Preparation Subcommitee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Thursday, September 16, 1976 at 9:00 a.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Material Preparation Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was established on March 3, 1976, by the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Material Preparation Subcommittee was formed to provide advice to the Committee with respect to methods and equipment used for the preparation of semiconductor materials.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee's Acting Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on activities since the last Subcommittee Meeting—each member.

(4) Statement of future activities and schedule for actions.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on January 30, 1976 (41 FR 4623).

Dated: August 19, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24773 Filed 8-23-76;8:45 am]

PATTERN GENERATION AND IMAGE TRANSFER AND INSPECTION SUBCOMMITTEE OF THE SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Pattern Generation and Image Transfer and Inspection Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Thursday, September 16, 1976, at 9:00 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Pattern Generation and Image Transfer and Inspection Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was established on March 3, 1976, by the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Pattern Generation and Image Transfer and Inspection Subcommittee was formed to provide advice to the Committee with respect to equipment and techniques used in the formation of precision microelectronics artwork and masks.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of the following categories of equipment in the context of the (a) technical criteria, and (b) matrix: Interactive computer graphics and pattern generator systems—Robert J. Maerz; Step-and-repeat cameras—R. A. Richardson; Mask replication—A Tobey; Electro-and-X-Ray lithography—Committee of the whole.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on January 30, 1976, (41 FR 4623).

Dated: August 19, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24774 Filed 8-23-76;8:45 am]

Economic Development Administration

CHIPS 'N TWIGS, INC.

Petition for Determination of Eligibility

A petition by Chips 'N Twigs, Inc., 642 North Broad Street, Philadelphia, Pennsylvania 19130, and its affiliates, producers of apparel for men and boys, was accepted for filing on August 17, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firms contributed importantly to total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of the petitioning firms.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 3, 1976.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-24755 Filed 8-23-76;8:45 am]

Patent and Trademark Office

INTERNATIONAL PROTECTION OF GOVERNMENT EMBLEMS AND SEALS

Change of Intent

The Patent and Trademark Office, Department of Commerce, intends to forward only the 50 State seals plus one departmental seal for each department listed in the publication "Seals and Other Devices in Use at the Government Printing Office" ("Seals") instead of the entire publication, as indicated on page 59366 of the FEDERAL REGISTER of December 23, 1975.

Since the publication had been printed in 1975, it was assumed that few deletions and additions would be necessary. However, the response to the above notice, along with some necessary deletions, resulted in a large number of seals in the publication requiring deletion. This rendered the publication unacceptable for submission to the World Intellectual Property Organization (WIPO).

Therefore, the Patent and Trademark Office now intends to forward only the 50 State seals along with the departmental seal denoted "No. 1" for each department listed in the "Seals" publication. If this is not the preferred departmental or State seal, the department or State involved is requested to notify the Patent and Trademark Office by September 21, 1976. This notification should either specify the number of the preferred seal, as it appears in the "Seals" publication, or provide a clear, black and white photograph, suitable for reproduction, of the preferred seal. The seal must be no larger than 1½ inches in diameter.

These seals will then be forwarded to WIPO for protection under Article 6*ter* of the Paris Convention for the Protection of Industrial Property.

Address all correspondence to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Dated: August 18, 1976.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

[FR Doc.76-24724 Filed 8-23-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0239; DESI 5378]

CERTAIN COMBINATION ANORECTIC DRUGS: DEXAMYL SPANSULE CAPSULES, TABLETS, AND ELIXIR

Final Order on Objections and Request for Hearing on Refusal To Approve New Drug Applications

The Food and Drug Administration (FDA) denies hearing and refuses to approve the new drug applications for Dexamyl Elixir Spansule capsules and Tablets (NDA Nos. 17-074, 17-075, and 17-077; formerly docket No. FDC-D-582), effective September 3, 1976.

In the FEDERAL REGISTER of August 8, 1970 (35 FR 12652), FDA issued a statement of policy, under § 310.504 (21 CFR 310.504, formerly 21 CFR 130.46), regarding amphetamine-containing drugs, including dextroamphetamine. The statement noted that the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC) had found, inter alia, that this class of drugs had a generally short-term (a few weeks) anorectic effect, that there was no evidence that they altered the natural course of obesity, that they had a significant potential for abuse and that there were reservations about the adequacy of controls in some of the clinical studies. The Food and Drug Administration concurred with the NAS/NRC report, and in addition, noted that production data indicated that amphetamines were manufactured and used in quantities greatly in excess of demonstrated medical needs. Accordingly, the statement of policy required that such drugs be relabeled to deflect the present state of knowledge concerning amphetamines, their potential for misuse and abuse and their limited medical usefulness. The statement was made specifically applicable to combination drugs containing dextroamphetamine. Manufacturers of drugs not expressly covered by approved new drugs applications (NDA's) were permitted to continue marketing if they relabeled their products within 60 days and if they submitted a new drug application within 1 year.

V 41 165 AUG 24 76 UMI

Manufacturers were advised that the relabeled products—both single entity and combination—would be regarded as new drugs requiring new drug applications.

In a separate notice published in the FEDERAL REGISTER of August 8, 1970 (35 FR 12678), FDA announced its evaluation of 23 anorectic, i.e., appetite suppressant, drugs. The notice stated that FDA had considered the reports of the NAS/NRC, Drug Efficacy Study Group, together with other evidence, and concluded that there was a lack of substantial evidence for several claims but that the listed drugs were regarded as possibly effective for their claimed anorectic effects. Manufacturers were given 60 days to revise their labeling to delete those indications for which no substantial evidence had been found and 6 months to submit, in supplemental or original new drug applications, substantial evidence of effectiveness for the anorectic claims. Finally, the notice advised that at the end of the 6-month period, the data would be evaluated to determine whether or not substantial evidence had been demonstrated, and if it had not, procedures would be initiated to withdraw approval of the new drug applications pursuant to section 505(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)).

In response to the August 8, 1970 statement of policy, Smith, Kline and French (SKF) submitted new drug applications for Dexamyl Spansules (NDA No. 17–075), Tablets (NDA No. 17–077) and Elixir (NDA No. 17–074) combination drugs containing dextroamphetamine sulfate and amobarbital in varying amounts; the elixir also contained alcohol. In a letter accompanying the submission SKF contended that Dexamyl products were not "new drugs" within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) and that they were exempted from the requirements of the Drug Amendments of 1962 by the "grandfather clause" (section 107(c)(4) of Pub. L. 87–781 (21 U.S.C. 321 note)), and were therefore not subject to the August 8, 1970 statement of policy.

Subsequently, on January 15, 1973, the Acting Director of the Bureau of Drugs advised SKF that its applications were not approvable because (1) they failed to contain full reports of adequate tests by all methods reasonably applicable to show the safety and efficacy of the drugs for their labeled uses as required by section 505(b)(1) and (6) of the act, and (2) they failed to support the SKF claim that Dexamyl's sedative constituent, amobarbital, significantly decreased the adverse effects associated with the anorectic constituent, dextroamphetamine. Smith, Kline and French was further advised that it could contest the decision on the products and request a hearing by filing the applications over protest pursuant to § 314.110(d) (21 CFR 314.110(d)).

On February 12, 1973, SKF requested that its applications be filed over protest without prejudice to its position that the products were not "new drugs." On the same day, the statement of policy regarding amphetamines for human use under § 310.504 was revised and published in the FEDERAL REGISTER (38 FR 4249), to reflect that while sufficient data had been submitted, in response to the previous statement of policy, to generally support the anorectic efficacy of single entity, oral-dosage anorectic drugs, the degree of extra weight loss was small (a few tenths of a pound a week in many cases), variations were great, and the rate of weight loss decreased after the first weeks of therapy. Accordingly, the Commissioner of Food and Drugs concluded that single entity oral dosage forms were effective in the management of exogenous obesity as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction for patients in whom obesity is not alleviated by other measures. The statement reiterated that anorectic combinations containing sedatives or tranquilizers were regarded as new drugs requiring approved new drug applications and that the data in such applications must meet the requirements of § 300.50 *Fixed combination prescription drugs for humans* (21 CFR 300.50, formerly 21 CFR 3.86).

In a notice of opportunity for hearing covering 13 anorectic combinations, published in the same issue of the FEDERAL REGISTER (February 12, 1973 (38 FR 4279), Docket No. FDC–D–582), the Commissioner stated that the data submitted in response to the August 8, 1970 DESI notice had been reviewed and found not to provide substantial evidence that the drugs were effective as fixed combinations for their claimed uses because the submitted data did not support the contention that the combination products decrease the incidence or severity of side effects or lessen the abuse potential associated with the single anorectic ingredient. Accordingly, he proposed to withdraw approval of the named new drug applications and invited holder(s) of new drug applications and other interested persons, including manufacturers and distributors of identical, related, or similar products, to submit, on or before March 14, 1973, a written request for hearing. The request for hearing was to state why approval of the new drug application should not be withdrawn and to provide a well-organized and full factual analysis of the clinical and other investigational data in support of the requested hearing.

On March 14, 1973, SKF responded by letter and contended that the notice of opportunity for hearing should be withdrawn insofar as it applied to Dexamyl products because (1) Dexamyl products were not identical, similar or related to the 13 combinations named in the notice, (2) Dexamyl products have never been the subject of an approved NDA and therefore were not "new drugs" within the meaning of the act, and (3) the Commissioner lacked authority to determine whether a drug was a "new drug" within the meaning of the act. Alternatively, SKF argued that the data in its applications, and Dexamyl's 22-year history of safe and effective use raised issues of fact sufficient to justify a hearing and therefore that it was entitled to a detailed statement of reasons for the Commissioner's conclusion that its studies failed to provide substantial evidence of effectiveness.

In the FEDERAL REGISTER of March 30, 1973 (38 FR 8290), the Commissioner advised SKF and other manufacturers who had requested hearings that they could continue marketing their products pending a ruling on the hearing requests.

On July 11, 1973, SKF filed a supplemental hearing request reasserting its previous legal arguments and providing additional clinical studies.

The Commissioner has considered all of the material submitted by SKF and has concluded that there is no genuine issue of material fact requiring a hearing and that the legal objections offered are insubstantial. A full discussion follows:

I. THE DRUGS

A. *Elixir.* Each 5 milliliter (one teaspoonful) contains 5 milligrams dextroamphetamine, 32 milligrams amobarbital and 25 percent alcohol.

B. *Spansule capsules.* Each Spansule capsule No. 2 contains 15 milligrams dextroamphetamine and 97 milligrams amobarbital. Each Spansule capsule No. 1 contains 10 milligrams dextroamphetamine and 65 milligrams amobarbital.

C. *Tablets.* Each tablet contains 5 milligrams dextroamphetamine and 32 milligrams amobarbital.

II. RECOMMENDED USES AND DOSAGE: RATIONALE FOR THE COMBINATION

The labeling for Dexamyl products incorporates the changes required by § 310.504 and recommends Dexamyl solely for exogenous obesity as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction. Smith, Kline and French's rationale for including amobarbital is that it reduces the possibility of the wakefulness and excitation that may occur in some patients on dextroamphetamine alone.

The labeling generally provides that Dexamyl should be administered at the lowest effective, individually adjusted dosage. The specific recommended dosages are as follows: Elixir, 1 teaspoonful 2 or 3 times daily 30 to 60 minutes before meals; Spansule capsules, 1 in the morning; Tablets, 1 tablet 2 or 3 times daily, 30 to 60 minutes before meals.

III. DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS

If SKF is to have its three NDA's for Dexamyl approved, it must first establish, by adequate and well-controlled clinical investigations conducted pursuant to 21 U.S.C. 355(d) and 21 CFR 314.111(a)(5), that these products are effective anorectic agents. A well-controlled study is one, using subjects substantially identical in all respects except for the drug received, that permits comparison of test-drug treatment results

with the results of no treatment or some other effective treatment. Properly conducted, such a study permits conclusions to be drawn regarding the effect of a single, well-defined variable: the presence or absence of the test drug. To the extent that other variables, such as observer bias or differences between the patient-groups, are introduced into the study, the ability to reach a conclusion about the test drug is confounded. The principles set forth in § 314.111(a)(5) are intended to eliminate such confounding factors while assuring that the study generates unbiased documented quantitative information that permits FDA to evaluate the study results independently.

Additionally, because the various formulations of Dexamyl contain fixed combinations of dextroamphetamine and amobarbital (the Elixir also contains alcohol), SKF must show, by adequate and well-controlled clinical investigations conducted in accordance with the statute and regulations, that the drugs meet the requirements of the policy for fixed-combination prescription drugs for humans under § 300.50. This policy requires that each component of a product contribute to the effects claimed in its labeling and that the dosage of each component (amount, frequency and duration of administration) be such that the combination is safe and effective for a significant patient population requiring the concurrent therapy defined in the labeling. The regulation specifically cites as appropriate combinations those in which one component of a combination drug enhances the safety or effectiveness of the principal active component or minimizes the abuse potential of the active component.

Smith, Kline and French does not claim that amobarbital directly enhances or potentiates the effectiveness of dextroamphetamine. Nor does SKF claim that amobarbital reduces the abuse potential of dextroamphetamine. Rather, SKF claims that Dexamyl satisfies the combination policy because amobarbital significantly reduces the number of side effects attributable to dextroamphetamine. To substantiate its claim, SKF must compare the incidence and severity of side effects of Dexamyl and dextroamphetamine in two substantially identical groups of subjects who have the precise condition for which Dexamyl is recommended by its labeling. Both groups must receive the drugs under the conditions of use set forth in the labeling.

However, a demonstrated reduction in certain side effects would not satisfy all the requirements of the combination policy. If, for example, amobarbital reduced the incidence of insomnia, there would still be no logical reason to administer the barbiturate throughout the day. In that event, the "amount, frequency, and duration" of each component would not be such that the combination was safe and effective because clearly unnecessary drug administration would result from use of the fixed combination.

A. CONTRIBUTION OF AMOBARBITAL

1. *Elixir.* No data were submitted by SKF to support the contribution of amobarbital in this dosage form.

2. *Spansule capsules.* Regarding the claim that amobarbital reduces the possibility of excitation and wakefulness caused by dextroamphetamine, SKF identified five studies, only one of which utilized the Spansule dosage form. It is evaluated as follows:

"Anorexia and Central Nervous System Stimulation," T. M. Feinblatt and E. A. Ferguson, "Psychosomatics," Vol. II, No. 1, January-February, 1961. This study was described as a double-blind, 4-way cross-over study in which 91 subjects were divided into 4 groups and given placebo, phenmetrazine, dextroamphetamine, and combined dextroamphetamine-amobarbital for a period of 1 week until all patients received each regimen. To rule out order of administration as a confounding variable, each treatment was administered first, second, third, and fourth approximately the same number of times. Patients were told to take one dose a day and to restrict their diet to 1,200 calories per day.

The authors reported that Dexamyl-treated patients had significantly lower side effects than did patients treated with dextroamphetamine. The study, as reported, however, patently fails to meet the criteria for a well-controlled clinical investigation because it does not explain methods of observation and recording of results, including variables measured, quantitation or assessment of the subjects' response, and steps taken to minimize bias on the part of the data analyst, as required by 314.111(a)(5)(ii)(*a*) (*3*) and (*4*). Although the study was supposed to compare the incidence of stimulatory side effects, the only detail offered on the collection of data is that patients were asked a uniform series of questions. No information is provided about the nature or form of questions asked, and consequently their appropriateness for ascertaining the incidence of stimulatory side effects cannot be determined.

An important reason for knowing the questions used is that, as the authors recognize, soliciting information with specific questions gives an unusually high incidence of adverse effects compared to recording spontaneous comments. Accordingly, it is questionable whether these solicited responses may properly be considered drug-related adverse effects or whether they are more properly attributable to investigators' questions.

The investigators present their results in a summary data table with general categories such as "felt better," "insomnia," and "nervousness." They do not explain how data were placed into these categories, i.e., whether these descriptions summarize specific answers to specific questions or represent the overall conclusion of the investigator based on patient responses and/or his personal observations. Nor does the report state whether patients were given an opportunity to characterize the severity of their reactions. Without more information on how adverse reaction data were elicited and analyzed, assessment of results is impossible. There is also no way to tell if the questions were designed only to elicit dextroamphetamine-like adverse reactions or whether they were also directed at detecting amobarbital-type side effects. Obviously, it makes no sense to claim that the side effects of dextroamphetamine are reduced if the other component, amobarbital, is responsible for equally serious side effects of its own. Details on how adverse reactions were elicited are required to tell if the investigators took such a possibility into account.

In addition, the study did not provide the summary of methods of analysis and evaluation of data required by §314.111(a)(5)(ii)(*a*)(5). Without such a summary, it is impossible (even if methods of collecting data had been explained) to assess the authors conclusion that Dexamyl patients had fewer side effects than dextroamphetamine patients.

Clearly, this study is not a well-controlled clinical investigation. Even if it were well-controlled, it could not, by itself, constitute substantial evidence within the meaning of section 505(d) of the act, since that section requires at least two such studies. Furthermore, the 1¼ page paper is completely lacking in details that permit scientific evaluation (§ 314.111(a)(5)(ii)(*c*)).

3. *Dexamyl tablets.* The other four studies submitted by SKF all related to the tablet dosage form. These are evaluated as follows:

(a) "Effects of Placebo, Dexamyl, and Lucofen on Moods, Emotions, and Motivations," J. S. Cameron, P. G. Specht, and G. R. Wendt, "Journal of Psychology," Vol. 66, pp. 199–209, 1967. Smith, Kline and French provided a supplemental statistical analysis in which 78 volunteer students (39 men and 39 women) were observed after single-dose treatment with a variety of different drugs, each administered 2 or more days apart. The treatment drugs included Lucofen (chlorphentermine HCl), dextroamphetamine (men received 8 milligrams, women received 5 milligrams), a combination similar to Dexamyl tablets (5 milligrams dextroamphetamine and 30 milligrams amobarbital), dimenhydrinate, a variety of weak analgesics, and three placebo treatments. The treatments were given in different sequences to offset any effect related to the order of administration. On each treatment day the subject was evaluated twice, once before taking medication in the late morning and again 2 hours after medication. In the morning, before taking medication, each patient filled out a 133-item free-choice Adjective Check List designed to describe how he felt when filling it out, e.g., warmhearted, or friendly. In the afternoon, after taking medication, the free-choice check list was redone and, in addition, each patient completed a 32-item forced-choice Adjective Check List. The forced-choice check list consisted primarily of 32 pairs of self-descriptive adjectives, e.g., jittery-nerv-

V 41 165 AUG 24 76 UMI

ous, or easygoing-relaxed. For each paired description the subject was asked to indicate whether he felt more that way before taking the drug or after the drug took effect.

As reported by SKF, the forced-choice Adjective Check List showed significant advantages for Dexamyl over dextroamphetamine in two relevant categories in males "easygoing-relaxed" (more on Dexamyl) and "jittery-nervous" (fewer on Dexamyl). No significant differences were seen in females.

This study is not an adequate and well-controlled clinical investigation within the meaning of § 314.111(a)(5) for a number of reasons.

The most critical defect in the study is the use in males of a larger dose of dextroamphetamine in the dextroamphetamine-only group (8 milligrams) than in the combination drug group (5 milligrams). Because of this, the male test and control groups were not comparable with respect to the most pertinent variable, namely, the amount of dextroamphetamine taken (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). It is senseless to attempt to demonstrate that amobarbital reduces the side effects of a given amount of dextroamphetamine unless the same amount of dextroamphetamine is used in both halves of the comparison. The addition of the amobarbital accompanied by a reduction in the dose of dextroamphetamine (which itself would be expected to reduce side effects) makes it impossible to determine whether the smaller number of side effects was attributable to the addition of amobarbital or the decrease in dextroamphetamine, or both.

The study is not well-controlled in several other respects. The patients were not selected so as to assure their suitability for the purposes of the study as required by § 314.111(a)(5)(ii)(*a*)(2)(*i*). Although Dexamyl is recommended as an adjunct for the treatment of exogenous obesity in a regimen of weight reduction based on caloric restriction, it does not appear that patients in this study were either obese or on a calorie-restricted diet. Thus, the study is invalidated because there is no evidence suggesting that the subjects in the study will react to dextroamphetamine or amobarbital the same as obese patients on a calorie-restricted diet.

Equally important, although Dexamyl's labeling recommends use over a period of a few weeks, Dexamyl was administered only once, on a single day, in this study. Clearly therefore, the study can provide no evidence that the drug will have the effect it is represented to have under the conditions of use recommended in the labeling (§§ 300.50(a) and 314.111(a)(5)(i)).

Finally, the investigators did not use the same formulation of Dexamyl as the one for which approval is sought. The combination in the study consisted of 5 milligrams dextroamphetamine and 30 milligrams of amobarbital, yet none of the combinations covered by the subject NDA's contain this precise formulation (§ 314.111(b)).

The analysis of the results was also deficient (§ 314.111(a)(5)(ii)(*a*)(*5*)). No statistical analysis of the free-choice Adjective Check List was reported. Although the authors grouped adjectives into clusters (e.g., friendly, good-natured, trustful and warmhearted were combined), they do not explain how the adjectives and the clusters relate to adverse drug effects due to dextroamphetamine. Finally, in analyzing the free-choice Adjective Check List, results for males and females were combined and analyzed; no separate data for females were provided. Because the males received different dosages of dextroamphetamine, their data bias the results and render the combined analysis uninterpretable. Therefore, the results of the free-choice Adjective Check List cannot be used to support a claim that amobarbital reduces the incidence of dextroamphetamine side effects.

Nor do the results of the forced-choice Adjective Check List demonstrate a contribution of amobarbital. For this check list, male and female data were reported separately. There were no significant differences between women given 5 milligrams of dextroamphetamine and women given 5 milligrams of dextroamphetamine plus 30 milligrams of amobarbital. Although, as noted, the forced-choice Adjective Check List showed significant advantages for Dexamyl over dextroamphetamine in two relevant categories in males—"easygoing-relaxed" (more on Dexamyl) and "jittery-nervous" (fewer on Dexamyl)—this is meaningless because the Dexamyl males received less amphetamine than the dextroamphetamine males. Moreover, the same check list also showed that more males became "jittery-nervous" on placebo than on dextroamphetamine. This indicates a clear "no-test" situation and calls into question the validity and usefulness of the forced-choice Adjective Check List as a measurement of dextroamphetamine side effects.

(b) "Dexamyl Tablets (5 milligrams dextroamphetamine and 32 milligrams amobarbital) and Dextroamphetamine (5 milligrams dextroamphetamine) Mood Study in Thirty-Seven Overweight Women," J. C. Respess, unpublished study, 1973. This was a double-blind crossover study designed to test whether or not a psychological mood study could show differences between Dexamyl and dextroamphetamine; 39 female volunteers, all of whom were 20 percent or more overweight according to Metropolitan Life Insurance standards, participated in the study on 2 weekends. On the first Friday, the subjects were advised of the study procedure and completed a 50-item Adjective Check List. On Saturday morning, the subjects completed two additional Adjective Check Lists and filled out a 65-item Profile of Mood Status. After completing the second Adjective Check List, half of the subjects were given Dexamyl, and half dextroamphetamine; the two medications were identical in appearance. In the afternoon, subjects completed two Adjective Check Lists, received a second dosage of the respective medications, filled out two additional Adjective Check Lists and two additional mood status profiles. The routine was repeated on Sunday. Two weekends later the procedure was duplicated but the groups were crossed over to the other medication.

This study does not constitute substantial evidence of effectiveness within the meaning of § 314.111(a)(5)(i) because Dexamyl was not administered under the conditions of use recommended in its labeling and because, in any case, the results do not show that amobarbital reduces the side effects of dextroamphetamine.

Although Dexamyl was offered for daily use over a period of several weeks, the subjects received Dexamyl for only 2 days. Thus, there is no way to assess the effect of amobarbital when administered for the length of time suggested in Dexamyl's labeling (§§ 300.50(a) and 314.111(a)(5)(i)).

Similarly, there is no indication in the protocol or accompanying biostatistical analysis that the subjects were on a weight-reducing regimen. Since decreased food intake is the primary condition of use of Dexamyl, the drug must be studied in subjects who are on a calorie-restricted diet (§§ 300.50(a) and 314.111(a)(5)(*a*)(2)(*i*)).

The setting of this study was markedly different from that in which the medication would normally be taken (§§ 300.50(a) and 314.111(a)(5)(i)). In this regard, the author acknowledges that the results were influenced by the milieu of the sessions (companionship of others with similar weight problems, sharing motel rooms and meals and anticipation of being accepted in another upcoming weight-loss program), a milieu which he characterized as a "rather unusual socializing situation.

To summarize, it is meaningless to try to assess the contribution of amobarbital under conditions departing so radically from those recommended in the labeling.

Finally, the results do not provide any evidence that amobarbital reduces the the side effects of dextroa...phetamine. The items on the Adjective Check List were categorized into groups called "active factor" and "drowsy factor." No significant differences between the medications were found in the "drowsy factor." Although significant differences were found by the author and SKF for the "active factor," neither the author nor SKF has shown how this finding supports the claims made by Dexamyl's labeling. Thus, as defined by the author, the "active factor" consisted of the following adjectives: active, alert, alive, attentive, careful, cheerful, clear-thinking, confident, energetic, friendly, good-natured and sociable. Smith, Kline and French characterized the "active factor" as a mood of "better feeling of well-being and a more business like attitude" and, alternatively, a "like work and like people" attitude. No information is provided on how these adjectives support the claim that amobarbital decreases excitation and wakefulness attributable to dextroamphetamine. In

fact, the author noted that no difference was evident between Dexamyl and dextroamphetamine with respect to a third factor, "stimulation," a factor which would appear more directly relevant to the excitation that may be caused by dextroamphetamine.

(c) "Double-Blind Multiple Investigator Clinical Study Comparing Dexamyl Tablets (5 milligrams dextroamphetamine and 32 milligrams amobarbital) to Dextroamphetamine (5 milligrams dextroamphetamine)," A. A. Conte, R. E. Noble, M. M. Perloff, J. C. Respess, and J. Schneyer, unpublished, 1973. In this series of investigations, 5 doctors following the same protocol each selected 30 anxious subjects who were at least 20 percent overweight according to Metropolitan Life Insurance tables. Anxiety was measured with the aid of an Anxiety Manifestation Index scale that listed five signs and symptoms of anxiety: agitation, anxiety, hyperactivity, motor disturbance, and tension. Patients who had no manifestation of a particular sign or symptom were rated zero; patients with very mild, mild, and moderate manifestation of a sign or symptom were rated one, two, and three respectively. Only patients who had a total score of four or more were admitted to the study. Once admitted, the subject's height, weight, body frame, age, sex, pulse and blood pressure were recorded. Thereafter, patients in each study were randomly divided into two groups and given an 8-week supply of either Dexedrine (5 milligrams dextroamphetamine) or Dexamyl (5 milligrams dextroamphetamine and 32 milligrams amobarbital). Neither the investigator nor the subject knew which medication was being taken. The subjects were told to follow a 1,200-calorie daily diet, to take three tablets each day and to return every 2 weeks, at which time adverse reactions, weight, blood pressure and pulse were recorded.

The purpose of these investigations was to ascertain by two criteria whether amobarbital contributed to the claimed effect by determining (1) whether fewer Dexamyl patients dropped out of the study than dextroamphetamine-treated patients, and (2) whether patients on Dexamyl experienced fewer adverse effects than those on dextroamphetamine.

These studies are not well-controlled within the meaning of § 314.111(a)(5) for a number of reasons. First, it should be recognized that the subjects selected were not appropriate for the purposes of the study in light of Dexamyl's labeling (§§ 300.50(a) and 314.111(a)(5)(ii)(*a*)(2)(*i*)). Dexamyl's labeling does not in any way indicate that the drug is recommended for anxious patients, yet only patients with anxiety were entered in the study. Results in this population cannot be used to demonstrate the effectiveness of Dexamyl in the population described in Dexamyl's labeling. The rationale for the combination of drugs in Dexamyl is that the amobarbital component will reduce side effects due to the dextroamphetamine component. Such side effects presumably occur in both anxious and nonanxious persons and selection of an arbitrarily chosen subpopulation must be explained. The choice of subjects has not been explained nor has SKF provided any evidence that results in the test population could be generalized to the population described in Dexamyl's labeling.

Even assuming that anxious patients were appropriate subjects for study, the multi-clinic study is not well-controlled. It fails to demonstrate that the subjects in test and control groups were comparable with respect to the incidence and degree of anxiety (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). Although randomization would in many instances assure such comparability, a check on the results of randomization is necessary for obviously pertinent variables: This is clear from § 314.111(a)(5)(ii)(*a*)(2)(*iii*), which requires that both the protocol for a study and the report of the study assure comparability of pertinent variables. The study is clearly deficient in that no such analysis was carried out. Moreover, this defect cannot be remedied by further analyses because the device used to measure anxiety, the Anxiety Manifestation Index, has not been validated and thus the study fails to explain the methods of observation and recording of results, including the variables measured, quantitation, and assessment of subjects' response (§ 314.111(a)(5)(ii)(*a*)(3)). (Validation refers to the demonstrated ability of a particular index to detect the condition sought to be determined, in this case, anxiety.) Because the Anxiety Manifestation Index is not a recognized measure of anxiety and because SKF has not provided any evidence to support its validity, there can be no assurance that the test and control groups were comparable with respect to either the incidence or severity of anxiety (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)).

Assurance of test and control group comparability is further precluded by the absence of evidence that each investigator had experience or training in applying psychological measuring scales. Without this information there is no assurance, even if the Anxiety Manifestation Index scale had been validated, that it was properly used by any of the investigators.

The absence of evidence of validation and proper utilization of the Anxiety Manifestation Index precludes a demonstration of group comparability and renders these studies, on their face, less than well-controlled (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)).

Methods of observation and recording of subjects' response are not explained (§ 314.111(a)(5)(ii)(*a*)(3)). No explanation is provided as to whether the investigators evaluated subjects solely on the basis of their own observations, or on the basis of questions asked the subjects, or both. This is particularly critical since SKF's own investigators (Feinblatt & Ferguson, supra) have acknowledged that soliciting adverse reaction information, instead of recording spontaneous comments, yields an unusually high incidence of side effects. As stated previously, this raises a question whether reported adverse effects were attributable to the drug or to subject susceptibility to physician suggestion. Furthermore, if evaluations were based on specific questions, it is not explained whether subjects were asked if they were experiencing specific adverse reactions (e.g., Did you experience insomnia on the medication?) or whether only general questions were asked (e.g., Did you experience anything unusual on the medication?). Where adverse reaction data are susceptible to physician suggestion, such information is essential in evaluating the results. The absence of specific information regarding the precise questions asked is also critical because we are not told whether, and if so what, attempts were made to detect adverse reactions possibly caused by amobarbital. As shown above, it is quite misleading to claim that dextroamphatamine's side effects are reduced if, as indicated in Dexamyl's labeling, the second compo-nnt, amobarbital, is responsible for side effects of its own.

The necessity for more information about the methods of observation and recording of subjects' response is increased by use of the Anxiety Manifestation Index because the "adverse reactions" recorded by the investigators are in some cases the very signs and symptoms that constituted the basis for entering these patients into the study. Accordingly, there is no way to be sure, in the absence of a detailed explanation of methods of recording results, that a particular response is a true adverse reaction or mere persistence of a preexisting condition. In the Schneyer study, for example, the 11 "adverse reactions" on dextroamphetamine consisted (apart from 1 instance of diarrhea, 2 instances of insomnia—as noted earlier, insomnia does not require day-long use of a sedative—and 1 instance of tachycardia) of 6 instances of agitation and 1 of tension. "Agitation" and "tension" are two of the five anxiety parameters that make up the Anxiety Manifestation Index, which records that all of the people involved had some degree of agitation and tension prior to entering the study. It is not clear how Schneyer decided that agitation and tension were adverse reactions when the subjects had these conditions before taking any drug. It is possible he recorded as an adverse reaction every instance in which an element of the Anxiety Manifestation Index worsened compared to the pretreatment evaluation. Even this is not stated explicitly, however, and the scale may not have been used at all after initial selection of patients. In any case, it is not clear that an instance of one element worsening is a true adverse reaction. To consider such findings we must have some information regarding the spontaneous fluctuations of the elements of the Anxiety Manifestation Index over the 8-week period of the study. They almost certainly wax and wane spontaneously, so that it is not at all obvious, for

V 41 165 AUG 24 76 UMI

example, that a finding of "mild" tension or agitation at a particular follow-up visit in a patient who was rated as having a "very mild" tension or agitation prior to treatment should be considered a drug-related "adverse reaction." It may well have been a spontaneous fluctuation of the particular manifestation. A similar question is raised by recorded incidents of insomnia, a manifestation not listed on the Anxiety Manifestation Index. The invesigators should have stated, but did not, whether patients were asked if they had trouble sleeping prior to entering the study. If they were and the answer was "Yes," the insomnia could well have been another instance of a persisting, preexisting complaint.

In short, without a more detailed explanation of the method of eliciting and recording adverse reaction data and without documented information regarding the range of each patient's spontaneous fluctuations of the various symptoms, it is impossible to assess the validity or even interpret the results of this series of studies (§ 314.111(a)(5)(ii)(*a*)(3) and (*c*)).

These studies failed to assure comparability of test and control groups in another, highly pertinent variable: previous history of dextroamphetamine use (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). It is generally recognized that amphetamines as a class can produce both tolerance and dependence, as the labeling for Dexamyl acknowledges:

> Amphetamines have a significant potential for abuse. Tolerance and extreme psychological dependence have occurred. There are reports of patients who have increased dosage to many times that recommended. For these reasons, care should be used in the selection of candidates for 'Dexamyl' therapy * * *.

It is thus apparent that a subject's prior history of amphetamine use may affect not only the incidence of various side effects, but also the subject's perception of these side effects as adverse reactions. For example, a patient who finds the stimulatory effects of such drugs pleasurable, or at least not unpleasant, might report such effects differently from a patient who found them distressing, or might not report them at all. Although such patients are not per se unsuitable for study, it is obviously vital that test and control groups be comparable with respect to this variable. The exclusion by SFK of patients who had used drugs within 2 weeks of the studies' initiation does not provide such comparability but merely assures that there is no persisting drug effect in the persons studied.

In several respects, SKF failed to demonstrate that the data from the five investigators could be combined for statistical analysis because it was not shown that each block of patients, in any single study or in all five studies, was similar with respect to either the presence or the degree of anxiety (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). Because each investigator may have used widely varying criteria to measure anxiety, and because the effect of different degrees of anxiety on side effects is unknown, it is impermissible to pool the results of these investigators. A further obstacle to pooling is the investigators' failure to show that each block of subjects was comparable with respect to (1) prior history of amphetamine use, (2) the manner in which each investigator elicited adverse reaction data and/or (3) the method used to record adverse reactions.

In assessing the results of the multiple-investigator study, SKF concluded that "the data do not support the hypothesis that anticipated a lower dropout rate in favor of Dexamyl—approximately the same number of patients discontinued each medication before the end of the recommended 8-week study interval."

In support of the second hypothesis (that Dexamyl patients would experience fewer adverse reactions than dextroamphetamine patients), SKF claims that, for the combined analysis, only 19 percent (14 of 74) of the patients who used Dexamyl experienced adverse reactions while 34 percent (25 of 73) of the dextroamphetamine patients had adverse reactions. Smith, Kline and French claimed that this result is statistically significant, and also argued that the results of each individual study, separately examined, favored Dexamyl.

The Commissioner has already described many clear deficiencies in the individual studies making up the multi-investigator study. Because the combined analysis is the sum of these inadequately controlled studies, it can no more constitute an adequate and well-controlled study than they can, even if pooling of data had been justified by SKF. In addition, a multi-clinic study is still only a single study and, even if adequate and well-controlled, could not, standing alone, constitute substantial evidence of effectiveness within the meaning of section 505(b) of the act, which requires at least two such investigations. Moreover, the advantage of Dexamyl over dextroamphetamine in the combined analysis arises almost entirely from the Schneyer and Perloff studies, which are the two most seriously flawed studies in the series.

Smith, Kline and French argued that the results of each individual study, separately examined, favored Dexamyl. However, only in the Schneyer study (11 adverse reactions for dextroamphetamine patients and 5 for Dexamyl patients) did SKF argue that the results were statistically significant.

The Schneyer study has been discussed briefly above. Of the 11 dextroamphetamine adverse reactions, only 4 may have represented new symptoms in the patients involved: 2 instances of insomnia, 1 of tachycardia, and 1 of diarrhea. There is little reason to suppose, nor is it claimed by SKF, that amobarbital would prevent diarrhea, and this reaction is thus not relevant to Dexamyl. Also, as noted earlier, the presence of insomnia prior to the study cannot be determined and, in any case, insomnia is not an adverse effect that would justify all-day sedation; nocturnal sedation would be the appropriate treatment. The remaining seven "adverse effects" consist of agitation (six instances) and tension (one instance). The terms "agitation" and "tension" also happen to be two of the five parameters used to measure the patients' initial anxiety level and virtually all of the patients in the study had some degree of agitation and anxiety when they entered the study. Agitation and tension are thus not new findings in these patients. As noted above, it is unclear when or why Schneyer called agitation or anxiety (present in patients before any drug was given) an adverse reaction, but it is possible he did so when they appeared to become more severe during the course of the study. This is uncertain, however, and there is no evidence that a complete new Anxiety Manifestation Index was performed at each visit. Without such data, it is impossible to tell what the spontaneous fluctuation of the various parameters was and a minor change in a parameter, e.g., from "very mild" to "mild," is of uncertain significance; it certainly is not necessarily an adverse reaction and may represent mere spontaneous fluctuation. It is thus clear that the description of methods of observation in the Schneyer study is entirely insufficient to permit evaluation of the results of the study (§ 314.111(a)(5)(ii)(*a*)(3)). The Dexamyl group's five reported adverse effects included one diarrhea and one insomnia, as well as three worsenings of an element of the Anxiety Manifestation Index. When these variations of the rating scale elements are discounted, the adverse effects are few and obviously not significantly different for the two groups.

It is noteworthy that four other studies supposedly conducted using a protocol identical to Schneyer's gave results in no way resembling the Schneyer study. In any event, no single study can of itself constitute substantial evidence of effectiveness within the meaning of section 505(b) of the act, which requires at least two such investigations.

The Perloff study was, after Schneyer, the study that most favored Dexamyl, although not to a statistically significant degree (three adverse effects for dextroamphetamine and none for Dexamyl). The reported adverse effects were, in every case, "CNS stimulation," a term of uncertain meaning or significance, particularly in patients who were characterized, before receiving any medication, as agitated, anxious, and tense, i.e., who already showed "CNS stimulation." This constitutes an obvious failure to explain the "assessment of any subject's response" in § 314.111(a)(5)(ii)(*a*)(3). Moreover, the Perloff study is flawed by an extremely high (nearly 80 percent) dropout rate. Only two Dexamyl and three dextroamphetamine patients completed the entire 8-week study. Seven Dexamyl patients and three dextroamphetamine patients remained in the study for 2 weeks or less. Overall, the study appeared to favor dextroamphetamine in that patients on that drug stayed on therapy for a longer time.

The effects of this severe dropout rate (e.g., maintenance of comparability of pertinent variables (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)) were not analyzed, nor were the reasons for dropping out ascertained in most cases. The study is virtually uninterpretable and it cannot be considered remotely and adequate and well-controlled, either standing alone or as part of the pooled results.

The Respess and Noble studies each reported the same number of adverse effects for the Dexamyl and dextroamphetamine groups and thus do not suggest any benefit from amobarbital. Conte reported two adverse effects for the dextroamphetamine group, none for the Dexamyl group, but this was not a statistically significant difference.

Smith, Kline and French's attempt to interpret the Conte and Perloff studies more favorably for Dexamyl by counting the number of patients who had their doses reduced is meaningless. If doses were reduced because of an adverse reaction then the reaction should have been recorded; a dose reduction not accompanied by a recorded adverse reaction demonstrates the need for more detailed information regarding the method for identifying and recording this type of data.

Analysis of the individual studies thus reveals that each is fatally flawed in a number of ways and, in any case, that only one is even claimed to show a statistically significant advantage for Dexamyl. These flawed studies cannot be combined to produce a study that is any better than its inadequate parts. The multiclinic study is thus, whether analyzed as pooled data or an individual studies, not adequate or well-controlled, and cannot constitute or contribute to substantial evidence for the effectiveness of Dexamyl.

(d) "Double-Blind Comparison of Dexamyl Tablets (5 milligrams dextroamphetamine and 32 milligrams amobarbital) and Dextroamphetamine (5 milligrams dextroamphetamine) in Twenty Overweight 'Non-Anxious' Subjects," J. C. Respess, unpublished, 1973. With one exception, the author used the same protocol followed in the multiple investigator study in paragraph (c) above. The previous study admitted only those patients who had a score of four or more on the Anxiety Manifestation Index; only subjects who had a score of three or less, i.e., "Nonanxious" patients, were supposed to be admitted to this study.

Examination of patient report forms shows that the investigator failed to follow his own protocol. Of the 20 patients, 8 (40 percent) had anxiety scores exceeding 3 and thus, according to the author's own criteria, were not "nonanxious." Of course, as before, without a validated scale and without evidence that this investigator is trained and experienced in using such scales, there can be no assurance that the test and control groups were comparable with respect to either the incidence or degree of anxiety (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)).

Most important, the results of this study do not support the SKF claim because the author reported that of the 10 patients given dextroamphetamine only 1 experienced an adverse reaction whereas 2 of the 10 Dexamyl patients had adverse reactions.

It is noteworthy that this is a fifth study with substantially the same design as Schneyer's that fails to duplicate his results.

B. ANORECTIC EFFECT—CLINICAL INVESTIGATIONS.

Many of these studies were reviewed above in section III.A., "Contribution of Amobarbital." The methodologies of these studies will be repeated here only insofar as they pertain to the anorectic claims.

1. *Elixir.* No data were submitted by SKF in support of the claimed anorectic effectiveness for this dosage form.

2. *Spansule capsules.* Four articles were identified by SKF to support the claimed anorectic effect of the Spansule capsules. These are evaluated below.

(a) "Anorexia and Central Nervous System Stimulation," T. M. Feinblatt and E. A. Ferguson, reviewed in section III.A.2. of this notice. This study was conducted to discover whether "dampening" the stimulatory effects of dextroamphetamine interfered with its anorectic effect.

The study is not, however, adequate and well-controlled because it does not permit quantitative comparison of the results of drug treatment with an appropriate control (§ 314.111(a)(5)(ii)(*a*)(4)) and because the study is grossly lacking in details necessary for scientific evaluation (§ 314.111(a)(5)(ii)(*c*)). The study design itself is faulty because failure to provide a washout period between drug treatments makes it impossible to determine whether any weight loss observed was due to Dexamyl or to the cumulative effects of the other active treatments, and comparison between treatments is impossible. It should be noted that SKF recognized the need for such a washout period in its analysis of the Bargmeyer and Bauer study (see paragraph (b) of this section below). In addition, the data are analyzed in such a way that weight loss on Dexamyl is never quantitatively compared to weight loss on placebo or any other drug. The authors' conclusion that "on the average, patients on active drug lost about a pound a week; some lost more, some less" does not refer specifically to the anorectic effectiveness of Dexamyl and does not permit any conclusions to be drawn as to whether Dexamyl patients lost more weight than placebo patients or for that matter, lost any weight at all. This casual means of presenting data is plainly inadequate to permit scientific evaluation (§ 314.111(a)(5)(ii)(*c*)).

Accordingly, the authors' conclusion that amobarbital does not compromise the appetite suppressant effects of dextroamphetamine is not, and cannot be, supported by this study.

The study is less than well-controlled for other reasons. The authors did not characterize the subjects under study with respect to the degree or etiology of obesity (§ 314.111(a)(5)(ii)(*a*)(2)(*i*)). Without these data there is no way to assure that subjects were suitable for the study. They also did not explain such fundamental methods of observation and recording of results as steps taken to minimize bias on the part of the analysts of the data, whether care was taken to weigh subjects at the same time of day, whether the same scales were used at each weighing, whether the same individual conducted each weighing in and/or whether menstrual cycles of females were considered (§ 314.111(a)(5)(ii)(*a*)(3) and (4)). These details cannot be overlooked in a study designed to measure weight loss.

(b) "An Anorectic-Tranquilizer Combination in the Treatment of Overweight," Captain E. Bargmeyer and Captain C. R. Bauer, unpublished study, 1964. A separate statistical critique was submitted by SKF for this study. This was a two-phase, double-blind study designed to test whether active medications were more effective than placebo. In the first phase (4 weeks in length), 163 of 234 overweight patients were randomly assigned to 2 weeks' treatment with either Dexamyl Spansule capsules (15 milligrams dextroamphetamine and 97 milligrams amobarbital) or Eskatrol Spansule capsules (15 milligrams dextroamphetamine and 7.5 milligrams prochlorperazine) and then switched to the other medication for the remaining 2 weeks. At the end of this 4-week period, each subject was asked for a drug preference (first or second drug) and was continued on the preferred drug for the second 8-week phase. As a control, 71 subjects were divided into 2 groups and treated with a placebo that matched Dexamyl or a placebo that matched Eskatrol, and then switched to the other placebo for 2 weeks. At the end of 4 weeks, these subjects were also asked for preference (which placebo) and instructed to continue it for the second 8-week phase. All subjects were instructed to take one capsule a day and to avoid high calorie foods.

(i) *Phase I.* The first phase of the study is not well-controlled because the study report does not include a method of assigning patients to treatment and control groups in a way that minimizes bias (§ 314.111(a)(5)(ii)(*a*)(2)(*ii*)). Usually this is accomplished by assigning patients to treatment and control groups in a random fashion, e.g., using a table of random numbers. Although the report indicates that patients receiving active treatment were assigned randomly to either Dexamyl or Eskatrol, there is no such assurance that the assignment was random between active drug and placebo groups. Although the details of how patients were assigned to active drug and control groups are not provided (itself a critical defect which renders the study clearly inadequate, (§ 314.111(a)(5)(ii)(*a*)(2)(*ii*)), the language of the report suggests that 168 patients were chosen and given the 2 active drugs in a crossover design and that a wholly separate group of 71 patients was selected and given placebos, also in a crossover design. This technique does not constitute any attempt to minimize bias, as is necessary

V 41165 AUG 24 76 UMI

to preclude the possibility that an investigator might, consciously or unconsciously, assign individuals to the test drug group (Dexamyl) who, for one reason or another, would prejudice the results in favor of the test drug, e.g., assigning individuals to the Dexamyl group who show evidence of greater determination or who have had past success in weight loss programs.

The method of patient assignment fails to help assure that test and control groups were initially comparable with respect to pertinent variables, such as age, sex, degree of obesity, prior history of weight loss and history of amphetamine use (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). Moreover, no analysis was provided comparing distribution of such variables in the two groups, as is clearly required by regulation, which states that both the protocol for the study and the report of the study must assure comparability of pertinent variables (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). Accordingly, there can be no assurance that observed effects were attributable to the test drug rather than to one or more of the variables that may have been unevenly distributed between the groups.

The authors also failed to conduct a second followup analysis to show that test and control groups were still comparable at the conclusion of the first phase (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). This is necessary to ensure that the high dropout rate during this phase (31 of 71 placebo patients and 48 of 163 patients on active medications) did not alter the composition of the test and control groups with respect to pertinent variables.

The authors did not explain the methods of observation and recording of results within the meaning of, and as required by, § 314.111(a)(5)(ii)(*a*)(3). For example, no explanation is provided as to whether or not care was taken to weigh patients at the same time of day, whether subjects were consistently weighed with or without clothes, whether the same individuals conducted each weighing, and/or whether menstrual cycles of females were taken into account. Without this information, it is difficult to assess the accuracy and/or reliability of the data. Nor should these details be omitted in a study designed to measure weight loss.

The authors claim that first phase average weekly weight loss with active drugs was approximately three times that of placebo, but no actual numbers are provided and neither SKF nor the authors have provided a statistical analysis to determine whether these findings are statistically significant (§ 314.111(a)(5)(ii)(*a*)(5)). In any event, SKF appears to doubt that the results of the first phase can be used to support the claimed anorectic effectiveness of Dexamyl because the firm states in its report that "four weeks is not long enough to conduct a weight regimen program."[2]

(ii) *Phase II.* The second 8-week phase of the study is also not well-controlled because, like the first phase, it failed to assign patients to test groups in a way that minimizes bias and assures comparability of treatment and control groups with respect to pertinent variables (§ 314.111(a)(5)(ii)(*a*)(2)(*ii*) and (*iii*)). It has already been pointed out that patients do not appear to have been assigned randomly to the active drug and placebo groups in Phase I, nor was the comparability of the groups with respect to pertinent variables assessed. The second phase used the patients who had completed the first phase (almost one-third of the Phase I patients had dropped out of the first phase) and then reassigned them, but, again, not in random fashion. In fact, SKF stated in its analysis of the second phase, "patients were not randomly assigned to the drugs." Patients were allowed to select their treatment on the basis of personal preference. During the second phase, an additional 60 patients, nearly 40 percent of those who started the phase, dropped out before the study was completed. Such dropouts could easily upset whatever group comparability existed at the start of this phase. Despite this, comparability of the two groups was not analyzed.

The second phase of the study, like the first, did not explain methods of observing and recording results (§ 314.111(a)(5)(ii)(*a*)(3)), the statistical methods used (§ 314.111(a)(5)(ii)(*a*)(5)), or measures taken to minimize bias on the part of the analysts of the data (§ 314.111(a)(5)(ii)(*a*)(4)).

The authors report that during the 8-week period of the second phase, Dexamyl patients lost an average of 1.29 pounds per week, while placebo patients lost an average of 0.88 pound per week. For the entire 12-week study both the authors and SKF claimed that average weight loss with the two combinations was almost equal and that the difference between weight loss with drugs and weight loss with placebo was statistically significant. However, since the study was not well-controlled for the reasons detailed above, neither the study nor SKF's supplemental critique provides substantial evidence to support the claim that Dexamyl is an effective anorectic.

The separate statistical critique submitted by SKF raises more questions than it answers when it states "the authors' [sic] chose to omit some of the data," and when it states there were some "minor disagreements in numbers because all the little decisions that are needed to summarize clinical data were not recorded." Moreover, the SKF critique provides different numbers (than the authors) for patients entered into the study (168 on active drug rather than 163), for the number of dropouts at the end of 4 weeks (53 rather than 48), and for the number of patients who generated final results (157 active drug patients rather than 115, and 65 placebo patients rather than 40). These differences are not explained. In view of these representations by SKF, in view of the different figures presented by the two reports, and in view of the total absence of raw data, neither the study nor SKF's statistical analysis is acceptable even as corroborative support for a well-controlled study (§ 314.111(a)(5)(ii)(*c*)).

(c) "A Comparison of Prolonged-Release Amphetamine-Barbiturate Combinations in the Short-term Management of Obesity," F. P. Roland, "Clinical Medicine," pp. 805–809, May 1965. In this crossover study designed to compare 2 amphetamine-sedative combinations, 100 obese subjects were divided into 2 equal groups and assigned either Dexamyl (10 milligrams dextroamphetamine and 65 milligrams amobarbital) or another combination (10 milligrams methamphetamine HCl and 60 milligrams pentobarbital sodium) for a period of 2 weeks. At the end of 2 weeks, the subjects were crossed over to the other medication. Subjects selected their own diets and were told to take one capsule daily.

This study is clearly deficient in that it does not provide a comparison of the results of treatment with an appropriate control (§ 314.111(a)(5)(ii)(*a*)(*4*)). The regulations provide for several kinds of control including an "active treatment control," i.e., an "effective regimen of therapy." The comparison treatment in this study, however, is not such an effective regimen. Although the Commissioner has recognized that methamphetamine and dextroamphetamine, when used as single entities, are effective anorectic agents (as set forth in the revision of § 310.504 published in the FEDERAL REGISTER of February 12, 1973 (38 FR 4248)), he has made no such finding for anorectic combinations generally or for the specific methamphetamine-pentobarbital combination used in this study. It is thus of no use whatsoever to compare Dexamyl to this combination drug whose anorectic effectiveness has not been established.

The author failed to state what steps, if any, were taken to minimize bias on the part of the subjects, observers, or analysts of the data (§ 314.111(a)(5)(ii)(*a*)(*4*)). For example, there is no indication whether this study was conducted under double-blind or single-blind conditions, or whether, as SKF states in its summary, nonblind conditions prevailed, i.e., both patients and investigators knew which medication was being given. To rule out the possibility of introducing physician encouragement and/or subject expectations as causes of weight loss, it is desirable that anorectic trials be double-blind.

Finally, SKF admits that this study is not a well-controlled clinical investigation.

(d) "The Use of a Sustained-Release d-Amphetamine-Amobarbital Preparation in the Treatment of Obesity," R. P. Shapiro and K. I. Michaile, "International Record of Medicine and General Practice Clinics," pp. 638–641, October 1956. In this double-blind, crossover study, 39 obese patients were placed on a low calorie diet (1,000 to 1,400 calories) for periods ranging from 2 to 18 weeks (average, 8 weeks) depending upon how well they accepted and responded to the

restricted diet. At the end of the dieting period, patients were divided into two groups and given either Dexamyl Spansule capsules or an identical looking placebo for 8 weeks and then switched to the other treatment for 8 weeks.

This study is not well-controlled because the authors have failed to assure that test and control groups were comparable with respect to such pertinent variables as age, sex, duration or degree of obesity, concurrent use of other drugs and, most important here, the length of time that a patient was in the diet-alone phase of the study (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). Although group comparability is often not a serious problem in a crossover study, as any differences between groups are cancelled out by the crossover, this is not the case when there is an effect of sequence of drug administration on results. In an anorectic study as long as 16 weeks, it is well known, and the authors themselves recognize, that weight loss becomes more difficult to achieve as therapy is prolonged. Thus, as the greatest weight reductions are anticipated in the first phase when patients are more enthusiastic and determined, the weight losses achieved in the second phase will necessarily comprise less of the total weight losses, i.e., the combined weight losses for each group will be "weighted" more heavily by results from the first phase. It is thus critical that the patient groups entering the first phase be comparable, or alternatively, that the study be analyzed to show that there is no effect of sequence. For example, if patients who received Dexamyl first averaged only 6 weeks on diet alone (before taking Dexamyl) while the patients receiving placebo first averaged 10 weeks on diet alone (before taking placebo), a finding of greater weight loss for Dexamyl in the first phase of the study may not be due to Dexamyl's superiority. It might be due to the fact that the enthusiasm for dieting of the patients on diet had been sapped by their more prolonged attempts at weight loss. This would not be "cancelled out" by the second 8-week treatment period because by then the weight loss for all groups would be expected to diminish.

The authors did not explain what steps, if any, were taken to minimize bias on the part of analysts of the data (§ 314.111(a)(5)(ii)(*a*)(*4*)). For a study to be well-controlled, bias must be precluded at each stage. It is of little use to "blind" patients and observers of data if the analysts are allowed (consciously or unconsciously) to introduce bias in their presentation of the data. Analyst bias may easily be avoided by withholding the identity of the treatment (e.g., drug "A" and drug "B") until all subjective decisions have been made. The authors also did not provide any explanation of their methods of statistical analysis (§ 314.111(a)(5)(ii)(*a*)(5)). For example, they stated that patients on Dexamyl lost an average of 0.499 pound per week, and patients on placebo lost an average of 0.333 pound per week, a difference claimed to be statistically significant though "not very great"; but they did not bother to state the level of probability for statistical significance. Omission of this detail is incomprehensible and the term "statistically significant" is meaningless without reference to a probability level.

Similarly, in spite of the fact that order of drug administration was recognized as probably influencing the results, the authors have not presented any statistical analysis showing how the results were affected by this factor or showing that they were not affected (§ 314.111(a)(5)(ii)(*a*)(*5*)). The bare conclusion, unsupported by raw data or any details, that "active medication was more effective than the placebo in 21 of the 39 patients and its superiority was evident whether it was given before or after placebo therapy" is grossly inadequate. How many of the 21 patients for whom Dexamyl was more effective received it first? Obviously, if the majority received Dexamyl first, then as shown above, the result may well have been attributable to when the patient received the drug rather than the drug itself.

Finally, the study is lacking in the details which permit scientific evaluation (§ 314.111(a)(5)(*ii*)(*c*)). As noted above, rudimentary details of results and analysis are not provided, nor are the characteristics of the patients described. For example, the actual interim and final weights for individuals and even groups are omitted; only the average weekly weight loss is given. Details relating to methods of observation and recording of results, including whether care was taken to weigh subjects at the same time of day, whether the same scales were used, whether menstrual cycles of females were considered, or whether care was taken to consistently weigh subjects with or without clothes were also omitted (§ 314.111(a)(5)(ii)(*a*)(3)). This information should not be overlooked in any study designed to measure weight loss. Its absence becomes more important for evaluation of this study where the difference in weight loss was 0.166 pound.

3. *Tablets.* In support of the claimed anorectic effect of this dosage form, SKF identified three articles and two clinical studies. The articles are reviewed in full while the clinical studies, already reviewed above, will only be discussed insofar as they pertain to the anorectic claims.

(a) "A Study of the Effectiveness of Certain Anorexigenic Agents," J. F. Fazekas, W. Ehrmentraut and J. Kleh, "American Journal of Medical Science," pp. 692, 699, December, 1958. The relevant portion of this investigation was a double-blind study in which 43 mentally deficient, obese subjects were divided into 3 approximately equal groups according to sex, intelligence quotient, height and initial weight. The first group received phenmetrazine (25 milligrams), the second received Dexamyl tablets, and the third received placebo. All medications were given twice a day for the first 12 weeks; thereafter, for the next 16 weeks, dosage was doubled for patients who showed little or no weight loss. All patients were placed on a diet of approximately 2,700 calories per day. Weights were recorded at 4-week intervals.

Even if Dexamyl had been found effective in this study, the results cannot be considered adequate for approval of a new drug application because the drug was not studied under the conditions of use recommended in Dexamyl's labeling (§§ 300.50(a) and 314.111(a)(5)(i)). For example, patients who had their dosages doubled were receiving four tablets a day although Dexamyl's labeling recommends two or three tablets a day. Similarly, although the labeling for Dexamyl recommends use "as a short term (a few weeks) adjunct in a regimen of weight reduction," these patients were kept on treatments for approximately 7 months. Because the authors did not provide data on interim weight losses it is impossible to determine what anorectic effect, if any, the drug would have when used in accordance with the directions on the label.

In any event, despite the higher dose of medication and prolonged duration of therapy, the study failed to show a statistically significant difference between Dexamyl and placebo although it did show that phenmetrazine was effective compared to placebo.

There is no analysis of whether Dexamyl and phenmetrazine were different to a statistically significant degree, but from the data provided it appears they were not. Thus we have three findings: (1) Dexamyl was not better than placebo to a statistically significant degree, (2) Dexamyl was not different from phenmetrazine to a statistically significant degree, and (3) phenmetrazine was better than placebo to a statistically significant degree.

Although the study is not useful in demonstrating the effectiveness of Dexamyl, it illustrates the pitfalls of the positive control study. Had no placebo group been included, the conclusion might have been reached that the study showed Dexamyl to be an effective anorectic, a conclusion clearly not warranted by the study results. As will be discussed below, use of a potitive control to reach a conclusion that two drugs are not different requires an analysis of the power, i.e., sensitivity, of the statistical test used.

(b) "The Treatment of Obesity with an Anorexigenic Drug," E. Roberts, "Annals of Internal Medicine," Vol. 34, No. 6, pp. 1324–1330, June 1951. Dexamyl was given for 3 months to 64 patients (4 men and 60 women) who had failed to lose weight while under supervision at various clinics and private practice for 6 months. Each patient was instructed to follow the same diet recommended previously, which ranged from 1,000 to 1,800 calories per day. Patients were examined biweekly for the first month, and then at 1-month intervals.

This study is not well-controlled because the results of therapy with the test drug were not compared to the results in a control group (§ 314.111(a)(5)(ii)(*a*)(*4*)). Accordingly, it is impossible to determine whether weight loss was related to Dexamyl, to the overall program of diet, to physician contact and encour-

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agement, or to the placebo effect of pill-taking. The patients' varied experience at clinics and in private practice during the preceding 6 months cannot be considered an adequate control because many conditions (such as the degree and nature of physician contact and encouragement) in addition to medication, were necessarily changed during the study.

Moreover, since there was no control group, the physician was aware of the patients' medication, i.e., the study was "unblinded," and she may well have transmitted her favorable expectations to patients or introduced bias into the study in other ways. For example, the author, without any explanation, excluded from her calculations five patients who failed to show a satisfactory weight loss, thereby biasing the results in favor of Dexamyl. Obviously, an accurate picture of drug efficacy requires inclusion of treatment failures as well as successes. The regulations clearly require that some measures, preferably "blinding," be taken to minimize bias on the part of the observer and analyst of the data (§ 314.111 (a) (5) (ii) (*a*) (*3*) and (*4*)).

The absence of a placebo control group renders the study clearly incapable of demonstrating whether weight loss was related to Dexamyl or to the placebo effect associated with any pill-taking (§ 314.111(a) (5) (ii) (*a*) (*4*)). Thus the finding that 59 of the 64 subjects lost an average of 19 to 26 pounds at the end of 3 months, a "satisfactory" weight loss, does not constitute evidence of Dexamyl's effectiveness.

In any event, SKF does not claim the study is well-controlled.

(c) "The Use of Mood Ameliorating Agents in the Treatment of Psychogenic Obesity," P. Rosenberg, "American Practitioner and Digest of Treatment," Vol. 4, No. 12, pp. 818–820, December 1953. This investigator selected 94 obese, depressed, nervous patients and treated them with varying dosages of Dexamyl for periods ranging from 3 to 14 weeks. Patients were examined at weekly intervals and instructed to continue their recommended diet.

This study is clearly deficient because it lacks any comparison of the results of treatment with a control (§ 314.111(a) (5) (ii) (*a*) (*4*)). In the absence of such a control group it is impossible to distinguish drug effect from the placebo effect of pill-taking and/or from the effect of the overall program.

The investigator failed to use the drug in a manner prescribed by Dexamyl's labeling: 36 patients received twice the recommended maximum dosage and 16 other patients received undefined extra dosages (§§ 300.50(a) and 314.111(a) (5) (i)). Because the author failed to provide individual dosage or weight loss data, there is no way to identify and separate the double dosage patients.

Although the investigator stated that "other therapy was given when indicated," he failed to identify either the type of therapy given or the patients who received such therapy. Accordingly, there can be no assurance that the results were not attributable to modalities other than Dexamyl (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)).

The findings were so lacking in detail that scientific evaluation is impossible (§ 314.111(a) (5) (ii) (*c*)). For example, although the investigator concluded that "satisfactory weight loss was observed in all but one patient," he failed to define the criteria for "satisfactory." The investigator's attempt to relate weight loss to the claimed effect of Dexamyl on mood was equally meaningless (e.g., "markedly beneficial" patients lost an average of 3.0 pounds per week, "perceptibly improved" patients lost 2.5 pounds per week and "non-beneficial and adverse" patients lost 1.5 pounds per week) since he failed to define the criteria for the moods, failed to state how the moods were ascertained, failed to state how many patients comprised each group, and failed to offer any interim or final raw weight loss data.

In any event, SKF does not claim the study is a well-controlled clinical investigation.

(d) "Double-Blind Multiple Investigator Clinical Study Comparing Dexamyl Tablets to Dextroamphetamine," A. A. Conte, R. E. Noble, M. M. Perloff, J. C. Respess and J. Schneyer, reviewed above in section III.A.3.(c) of this notice. In this series of five studies SKF attempted to prove that Dexamyl is an effective anorectic agent by showing its equivalence to dextroamphetamine, an "active" control drug. Each investigator selected 30 obese, anxious patients, and randomly assigned them to 2 groups, dextroamphetamine or Dexamyl. Patients were weighed every 2 weeks for a period of 8 weeks and told to follow a 1,200-calorie daily diet.

This series is inherently incapable of establishing the anorectic effectiveness of Dexamyl since the active control used, dextroamphetamine, does not permit a quantitative evaluation of the effects of Dexamyl (§ 314.111(a) (5) (ii) (*a*) (*4*)). Because the anorectic effect of dextroampetamine is only marginal to begin with, (i.e., its advantage over placebo is small), and because its anorectic effect is highly variable, its effectiveness is not demonstrable in every study (see the FEDERAL REGISTER of February 12, 1973 (38 FR 4249). Therefore, before a finding of anorectic equivalence of dextroamphetamine and Dexyamyl in a particular study can be considered as evidence of the effectiveness of Dexamyl, it must be demonstrated that dextroamphetamine was in fact effective under the precise conditions of the study, e.g., by including a placebo control in the study. This series failed to include a placebo control or otherwise show that dextroamphetamine was in fact effective under those circumstances. Accordingly, a finding of "no difference" between Dexamyl and dextroamphetamine in a particular study can mean either that both were effective or that neither was effective in that study.

Moreover, even if it were contended that dextroamphetamine was a meaningful active control (i.e., that it was actually effective in these studies), the failure of SKF to include an appropriate statistical analysis, namely an analysis of the power of the statistical tests used, renders scientific evaluation impossible (§ 314.111(a) (5) (ii) (*a*) (*5*)).

The necessity for such a statistical test arises out of the fundamental difference between a study that attempts to show that a drug is better than a placebo control and one that attempts to show that a drug is as good as an active or positive control.

In a placebo-controlled study the relevant questions are: Did the drug-treated group respond differently from the placebo group, and, if so, was the difference statistically significant? A significant difference is usually defined, by convention, as less than 1 chance in 20 ($p \leq 0.05$) that the observed difference was due to chance alone. In a study that uses an active control the relevant questions are: Did the test group respond as well as the active group and, if so, was the study sufficiently sensitive to detect a difference between the two drugs if one existed? This second question is not addressed by SKF.

Because there are many elements in an active-control study that may prevent detection of a difference that really exists (e.g., too few subjects in the sample, insensitive measuring devices, large patient-to-patient variation in treatment response), a finding of drug equivalence may indicate only that the study was not sufficiently sensitive to detect a difference between the drugs.

The probability of detecting a difference between test and control drugs when they differ by some specified amount is called the "power" of a statistical test and is a critical part of the analysis of positive control studies. To illustrate with an example: If a study had only a 50 percent change (power= 0.5) of detecting a 50 percent difference between two drugs, a failure to find a statistically significant difference between treatments would mean little.

In view of the small size of the sample per study (30 patients), the known high variability of patient-to-patient response to anorectic drugs and the very modest weight loss achieved (about 1 pound per week on the average), all of which would render it difficult for the studies to show a difference between Dexamyl and dextroamphetamine, the failure of SKF to conduct a power of the test analysis further precludes scientific evaluation of this study.

In addition, the authors failed to assure comparability between test and control groups with respect to each subject's prior history of amphetamine use (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)). Inasmuch as Dexamyl's labeling recognizes that anorectic tolerance may develop with continued use of the drug, this failure, by itself, renders the studies not well-controlled. In the absence of a demonstration that test and control groups

in each study were comparable with respect to this variable, a showing of equivalent weight loss for the Dexamyl group in a study may reflect either effectiveness of Dexamyl or the fact that the dextroamphetamine group had acquired an anorectic tolerance for amphetamine drugs and no longer responded to them.

The authors and SKF also failed to state what steps, if any, were taken to minimize bias on the part of the analysts of the data (§ 314.111(a) (5) (ii) (*a*) (*4*)). Steps must be taken to preclude the possibility of analyst bias (either conscious or unconscious), since it may cause them to make subjective decisions that vitally affect the results of the study, e.g., whether or not to include all patients in the analysis or only those who completed the entire 8 weeks.

Finally, the authors did not explain the methods of observation and recording of results (§ 314.111(a) (5) (ii) (*a*) (*3*)). For example, they do not state whether care was taken to weigh patients at the same time of day, whether subjects were consistently weighed with their clothes on or off, whether the same individual conducted each weighing in each investigation, whether all investigations followed the same procedures, and whether the menstrual cycles of women were taken into account. This last factor is important because fluid retention often accounts for large fluctuations in weight and because 110 of the 120 subjects in this series were females.

Smith, Kline and French presented its conclusions in two ways. The first was the investigator's global effectiveness ratings ("excellent," "good," "fair," and "poor") which in turn were based upon a comparison of the patient's actual weight loss against the patient's expectations of how much weight he or she wanted to lose. Smith, Kline and French concluded that Dexamyl and dextroamphetamine were equivalent when measured in this manner. However, because the expectations were entirely subjective and because there was no showing that the two groups in each study and for all studies were initially comparable in their expectations, it is impossible to draw any meaningful scientific conclusions by this analysis (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)).

In a second, less subjective approach, SKF compared prestudy body weights with body weights at each 2-week interval and with final weights at the end of 8 weeks. This analysis was carried out for four of the five studies individually and then combined. Dr. Perloff's data were not included because patient followups were inadequate.

Analysis of the individual studies showed that in two studies (Noble and Repress), dextroamphetamine patients lost more weight than Dexamyl patients; in two other studies (Conte and Schneyer), Dexamyl patients lost more. In the combined analysis, after 4 weeks, dextroamphetamine patients lost significantly more weight than Dexamyl patients and this difference was statistically significant. After 8 weeks dextroamphetamine patients lost slightly more weight than Dexamyl patients.

Neither the individual nor the pooled results can demonstrate that Dexamyl is an effective anorectic agent, or even that it is equivalent to dextroamphetamine, because of the critical deficiencies described above which render the study inadequately controlled: failure to show that dextroamphetamine was in fact effective in this series, failure to analyze the power of the statistical tests used, failure to assure group comparability, failure to set forth steps taken to minimize analyst bias, and failure to explain the methods of observation and recording of results. The results of the pooled analysis are unacceptable for the additional reason that SKF did not demonstrate that the data from the four studies could be combined for statistical evaluation (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)).

Although the Commissioner does not in any way base his summary rejection of this study on his interpretation of the results obtained in the multi-investigation study, he believes that, even if the studies were well-controlled, the results are at best inconclusive. For example, the fact that there was a statistically significant difference in weight loss favoring dextroamphetamine at the end of 4 weeks may well indicate that Dexamyl is in fact less effective than dextroamphetamine when used as directed in its labeling, i.e., "as a short-term (a few weeks) adjunct" in a weight reduction program.

(e) "Double-Blind Comparison of Dexamyl Tablets (5 milligrams dextroamphetamine and 32 milligrams amobarbital) and Dextroamphetamine (5 milligrams dextroamphetamine) in Twenty Overweight 'Non-Anxious' Subjects," J. C. Respess, reviewed above in section III.A.3.(d) of this notice. This study followed the same protocol as the just-received multiple investigator study except that subjects were supposed to have an anxiety score of three or less (the multiple investigator study used only subjects with a score of four or more).

This study is not a well-controlled clinical investigation for reasons identical to those cited in the review of the multiple-investigator study. Most important is the absence of a placebo control which prevents a determination that either dextroamphetamine or Dexamyl was effective under the conditions of this study and at the same time precludes a quantitative comparison of the results of Dexamyl treatment with an appropriate control (§ 314.111(a) (5) (ii) (*a*) (*4*)).

IV. SUMMARY

A. *Elixir.* Smith, Kline, and French submitted no data to support the claimed anoretic effectiveness or the claimed decrease in excitation and wakefulness for this dosage form. It is obvious, therefore, that there is a genuine and substantial issue of fact and that the Commissioner must refuse to approve the NDA for this product.

B. *Spansule capsules.* Smith, Kline and French submitted only one study using this dosage form (Feinblatt & Ferguson, in section III.A.2. and B.2. of this notice) to support the claim that amobarbital reduces the side effects caused by dextroamphetamine. As shown above, the study did not explain the manner in which data was collected and assessed (§ 314.111(a) (5) (ii) (*a*) (*3*)), the steps taken to minimize bias on the part of the analyst of the data (§ 314.111(a) (5) (ii) (*a*) (*4*)), or the methods of data analysis (§ 314.111 (a) (5) (ii) (*a*) (*5*)). In short, it lacks the details necessary for scientific evaluation (§ 314.111(a) (5) (ii) (*c*)). Of course, even if the study were well-controlled, one study cannot constitute substantial evidence (section 505(b) of the act).

Four studies were identified by SKF to support the claimed anorectic effectiveness for the Spansule capsule dosage form. None of these meet the criteria for well-controlled clinical investigations.

The Feinblatt study, in addition to providing few of the details needed for scientific evaluation (§ 314.111(a) (5) (ii) (*c*)), failed to provide a drug-free period between treatment periods, making it impossible to differentiate the anorectic effect of the various drugs used from those of Dexamyl (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)). More important, the authors' evaluation of data lumped results for all "active" drugs together, so that Dexamyl was never specifically compared to any control (§ 314.111(a) (5) (ii) (*a*) (*4*)).

The Bargmeyer study (see section III.B.2.(b) of this notice) also did not provide a drug-free period between treatments. Most important, the investigators did not assign patients to treatment and control groups in a manner that would minimize bias (e.g., randomly) nor in a manner that assured comparability with respect to pertinent variables (§ 314.111 (a) (5) (ii) (*a*) (*2*) (*ii*) and (*iii*)). They also failed to explain the methods of observing and recording data (§ 314.111(a) (5) (ii) (*a*) (*3*)).

The Roland study (see section III.B.2.(c) of this notice) compared Dexamyl to another amphetamine-sedative combination, but not to placebo. Since neither combination is known to be an effective anorectic, this study does not permit a meaningful quantitative comparison of results and plainly cannot demonstrate effectiveness for either drug (§ 314.111 (a) (5) (ii) (*a*) (*4*) (*iii*)).

The Shapiro study (see section III.B.2.(d) of this notice) failed to assure test and control group comparability with respect to a variable (duration of therapy prior to receipt of drug) which, by the authors' own admission, was highly pertinent (§ 314.111(a) (5) (ii) (*a*) (*2*) (*iii*)). The authors did not describe the methods of analysis used or the level of probability at which statistical significance was found (§ 314.111(a) (5) (ii) (*a*) (*5*)), nor did they explain methods of observing and recording data essential in evaluating an anorectic trial (§ 314.111(a) (5) (ii) (*a*) (*3*)).

If SKF is to be granted a hearing for this dosage form, it must show that a genuine and substantial issue of fact exists as to both the anorectic claim and

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the claim that amobarbital reduces wakefulness and excitation attributable to dextroamphetamine. Since SKF has failed to submit any adequate and well-controlled clinical investigations to support either claim, it is clear that it is not entitled to a hearing regarding the Spansule capsule dosage form. Indeed, since only one study was offered to support the claimed contribution of amobarbital, it is unnecessary to examine the other data.

C. *Tablets.* Smith, Kline and French identified four studies to support its claim that amobarbital, in this dosage form, reduces the excitation and wakefulness caused by dextroamphetamine.

The Cameron study (see section III.A.3.(a) of this notice) was obviously incapable of showing that amorbarbital reduces adverse reactions caused by the principal active component, dextroamphetamine, because test and control groups were not comparable with respect to the amount of dextraomphetamine (§ 314.111(a)(5)(ii)(*a*)(*4*)). Furthermore, Dexamyl was administered only once to each patient (as opposed to two or three times a day as the labeling suggests) and none of the patients were either obese or on a calorie-restricted diet. Accordingly, no conclusions can be reached concerning the effects of Dexamyl when used as labeled (§ 314.111(a)(5)(i)).

The Respess (mood) study (see section III.A.3.(b) of this notice) did not test the drug under the conditions recommended in its labeling since patients received medication for only 2 days as opposed to a period of several weeks (§§ 300.50(a) and 314.111(a)(5)); did not assure that patients were suitable for the study since it does not appear that they were obese (§ 314.111(a)(5)(ii)(*a*)(2)(*b*)); and did not consider the adverse effects mentioned in Dexamyl's labeling but instead focused on mood changes that were of unestablished relationship to adverse effects.

The other Respess study (nonanxious) (see section III.A.3.(d) of this notice) reported fewer side effects for dextroamphetamine patients than for Dexamyl patients.

The multiple investigator series (see section III.A.3.(c) of this notice) failed to assure that patients were appropriate for the study since only anxious patients were tested whereas Dexamyl's labeling makes no claim to treat such a population (§ 314.111(a)(5)(ii)(*a*)(2)(*f*)). And, even assuming the propriety of the population, the study did not and cannot demonstrate test and control group comparability with respect to either the incidence or degree of anxiety, or prior history of amphetamine use (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)). The investigators did not explain the manner in which adverse effect data were elicited from the subjects (§ 314.111(a)(5)(ii)(*a*)(3)). For example, they did not explain whether patients were asked specific questions and, if so, the nature of the questions, whether the physicians recorded their personal observation of patient behavior or instead, the patients' self-evaluation, as gleaned from their spontaneous comments. In one study the "adverse reactions" reported appear to be the same manifestations of anxiety that were present even before the study began. The authors also failed to explain whether attempts were made to detect adverse reactions caused by amobarbital or how, if at all, they distinguished between true adverse reactions and spontaneous fluctuations of anxiety symptoms listed in the Anxiety Manifestation Index used to select patients at the beginning of the study. Without this information it is impossible to evaluate the findings of a study designed to determine the incidence and severity of adverse reactions (§ 314.111(a)(5)(ii)(*c*)).

In any event, even if the series were well-controlled, the results cannot provide substantial evidence to support the SKF claim that amobarbital significantly reduces wakefulness and excitation caused by dextroamphetamine since only one investigator, Schneyer, reported a significant reduction in side effects. A single study cannot be considered substantial evidence of effectiveness since section 505(b) of the act requires more than one such study. The same holds true if SKF elects to combine the data; it still represents a single study.

SKF submitted five studies to support the claimed anorectic effectiveness of Dexamyl tablets.

The Fazekas study (see section III.B.3.(a) of this notice), the only study using a placebo as well as a positive control, concluded that Dexamyl was no better than placebo.

The Roberts study (see section III.B.3.(b) of this notice) did not include a control group so there is no way to quantitatively compare the results of Dexamyl with results in a control (§ 314.111(a)(5)(ii)(*a*)(*4*)). Smith, Kline and French does not claim the study is a well-controlled clinical investigation.

The Rosenberg study (see section III.B.3.(c) of this notice) also failed to include a control group of any kind (§ 314.111(a)(5)(ii)(*a*)(*4*)). The investigator also did not test the drug under the conditions of use recommended in Dexamyl's labeling (§§ 300.50(a) and 314.111(a)(5)(i)). Smith, Kline and French does not claim the study is a well-controlled clinical investigation.

The multiple investigator study did not use an appropriate control (§ 314.111(a)(5)(ii)(*a*)(*4*)). Use of dextroamphetamine as an active treatment control, without a placebo control as well, is unacceptable because there was no showing that it was in fact effective under the precise conditions of these studies. Dextroamphetamine, while effective, is not demonstrably effective in every study. Accordingly, the conclusion that Dexamyl and dextroamphetamine were equivalent could mean either that both were effective or that neither was effective. Even if it had been shown that dextroamphetamine was effective in these studies, SKF failed to conduct the kind of statistical analysis essential to a meaningful evaluation of a study with an active control (§ 314.111(a)(5)(ii)(*a*)(*4*)). The study also failed to assure comparability between test and control groups with respect to previous history of amphetamine use (§ 314.111(a)(5)(ii)(*a*)(2)(*iii*)), did not set forth what steps, if any, were taken to minimize bias on the part of analysts of the data (§ 314.111(a)(5)(ii)(*a*)(*4*)), and did not explain relevant methods of observing and recording data (§ 314.111(a)(5)(ii)(*a*)(3)).

The Respess (nonanxious) study, which essentially followed the same protocol as the multiple investigator studies, is not well-controlled for the same reasons. Additionally, SKF did not draw any conclusions or offer any statistical analysis to evaluate the data generated by the study (§ 314.111(a)(5)(ii)(*a*)(5)).

If SKF is to be granted a hearing for the tablet dosage form, it must demonstrate the existence of a genuine and substantial issue of fact regarding both the anorectic claim and the claim that amobarbital significantly reduces side effects caused by dextroamphetamine. Inasmuch as SKF has failed to identify substantial evidence for either of these claims, no genuine and substantial issue of fact exists and the Commissioner must refuse to grant a hearing on his decision to refuse approval of this new drug application.

V. Legal Arguments

In its March 14, 1973 request for a hearing, SKF presented an array of legal defenses. They are discussed as follows:

Smith, Kline and French contends that its Dexamyl products are not identical, similar or related to the drugs named in the February 12, 1973 DESI notice and, therefore, any action taken with respect to those products does not affect Dexamyl. This argument is based on the observation that the combinations named in that notice which contained dextroamphetamine do not contain amobarbital, and the one combination that contained amobarbital does not contain dextroamphetamine. Although this may establish that Dexamyl is not identical to the drugs named in the February 12, 1973 notice, it in no way establishes that SKF's products are not similar or related to the named combinations. To the contrary, the regulations under 310.6(b) (21 CFR 310.6(b)) specifically provide that a drug is identical, similar or related to another drug if it is "related in chemical structure." Smith, Kline and French admits that dextroamphetamine is related chemically to phenmetrazine and amphetamine, two anorectic agents named in the notice.

In addition, the same regulation further provides that a drug is identical, similar or related to another drug if it is related in "known pharmacological properties." It is undisputed that the principal component of Dexamyl, dextroamphetamine, is a sympathomimetic drug; it is also undisputed that Dexamyl is promoted as an anorectic. Therefore, it is clear that Dexamyl is identical, similar and/or related to the sympathomimetic anorectic drugs named in the February 12, 1973 notice and covered

by it. Finally, § 310.6(b) specifically provides that "[a] combination drug product containing an identical, related, or similar drug is also subject to the conclusions contained in the notice." Since nearly all of the drugs named in the notice contain dextroamphetamine, (e.g., Appetrol (NDA No. 12–127), containing dextroamphetamine and meprobamate; Biphetamine-T (NDA No. 11–538), containing dextroamphetamine, di-amphetamine and methaqualone; and Dexerpine tablets (NDA No. 10–207), containing dextroamphetamine and reserpine alkaloid), and since one of the named drugs contains amobarbital (Delfeta-sed Stedytabs (NDA 12–415) containing, inter alia, methamphetamine HCl and amobarbital), Dexamyl is clearly subject to the notice.

The rationale for the generic approach to regulating drugs is stated succinctly in the regulations at § 310.6(a), "It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice." For the same reason the generic regulation has been specifically sanctioned by the courts. "USV Pharmaceutical Corp. v. Weinberger," 412 U.S. 655 (1973); "North American Pharmacal, Inc. v. Department of Health, Education, and Welfare," 491 F.2d 546 (8th Cir. 1973).

Smith, Kline and French also argues that Dexamyl products are exempted from the drug efficacy requirements of the Drug Amendments of 1962 by the "grandfather clause" (section 107(c)(4) of Pub. L. 87–781) because the products are not new drugs and because they have never been the subject of an approved NDA. For a number of reasons this argument is also without merit.

The Federal Food, Drug, and Cosmetic Act, enacted in 1938, provided for a system of premarketing clearance and subsequent supervision of all "new drugs" (section 505). A "new drug" was defined by the 1938 act under section 201(p) (21 U.S.C. 321(p)) as a drug not generally recognized by qualified experts as safe for its intended use. In the Drug Amendments of 1962, Congress broadened the protection afforded by the 1938 act by adding a requirement that drugs be proven effective, as well as safe, for their intended uses. However, the 1962 amendments also contained a "grandfather clause," section 107(c)(4), that exempted certain drugs from the newly imposed effectiveness requirements. Under this section a drug was exempted if on October 9, 1962, it was (1) commercially used or sold in the United States, (2) was not a "new drug" as defined in the 1938 act, i.e., was generally recognized as safe, and (3) "was not covered by an effective application" filed under section 505 of the 1938 act.

Since Dexamyl products were first marketed in 1950, it is clear they were commercially used and sold on October 9, 1962, within the meaning of the first condition of the exemption.

However, the products do not meet either of the remaining two criteria. Dexamyl products were obviously new drugs subject to regulation when first marketed in 1950. Smith, Kline and French has pointed to no definitive point in time when Dexamyl products ceased being new drugs, nor has it provided any cogent reason why they should have been considered old drugs as of October 9, 1962. Obviously, neither SKF's self-serving refusal to file an NDA for Dexamyl from 1950 to October 9, 1962, nor administrative oversight on the part of FDA to so require, can be used to establish the safety of Dexamyl. Under these circumstances, the Commissioner concludes that Dexamyl products were new drugs on October 9, 1962 whose effectiveness must be proved by substantial evidence.

It has already been shown that Dexamyl was "covered" by effective new drug applications on October 9, 1962. Therefore, SKF also fails to meet the third criterion for grandfather status.

There is an additional reason why Dexamyl products are not exempt from the 1962 amendments. A drug qualifies for exemption under section 107(c)(4), inter alia, "when [it is] intended solely for use under conditions prescribed, recommended, or suggested in labeling * * * on [October 9, 1962]". It is axiomatic that unless a drug's labeling has the identical conditions of use that it had on October 9, 1962, it cannot qualify for the grandfather exemption. "United States v. Tyler Pharmacal Distributors, Inc.," 408 F. 2d 95 (7th Cir. 1969); "United States v. Allan Drug Corp.," 357 F. 2d 713 (10th Cir. 1966), cert. denied, 385 U.S. 899; "United States v. 1,048,000 Capsules * * * Afrodex," 347 F. Supp. 768, 770 (S.D. Tex. 1972), aff'd 494 F. 2d 1158 (5th Cir. 1974); "Merritt v. Folsom," 165 F. Supp. 418, 421 (D.D.C. 1958). See also § 310.3(h) (21 CFR 310.3(h)). As shown below, Dexamyl's conditions of use have changed drastically since October 9, 1962.

On October 9, 1962, Dexamyl was unreservedly recommended by its labeling, inter alia, for "overweight control of appetite." Today, Dexamyl is recommended by its labeling for exogenous obesity, "as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction." The changes concerning the conditions of use are significant and self-evident. Dexamyl is now offered only for short-term use not to exceed a few weeks; the earlier 1962 labeling contained no such restriction on the duration of administration.

On October 9, 1962, SKF's labeling recommended Dexamyl for "relief of symptoms of mental and emotional stress frequently associated with lowered caloric intake"; the present labeling states that the combination reduces wakefulness and excitation attributable to dextroamphetamine. The two indications constitute wholly different conditions of use.

There are other changes. The present labeling greatly expands the 1962 list of contraindications, precautions and warnings. Contraindications added since 1962 include hyperthyroidism, agitated states, porphyria, patients with a history of drug abuse, and use with monamine oxidase inhibitors. Post-1962 precautions include advising cautious use in conjunction with alcohol and in patients taking guanethidine, or who have decreased liver function or diabetes mellitus. Post-1962 labeling contains elaborate warnings concerning tolerance to the anorectic effect of Dexamyl, masking of fatigue, potential for drug abuse, usage in pregnancy and by children under 12 years of age. None of these restrictions were present in the pre-1962 labeling.

It is clear that Dexamyl is not recommended for use under the same conditions as on October 9, 1962. Accordingly, even assuming, arguendo, that Dexamyl products were not "new drugs" on October 9, 1962, and even further assuming that they were not "covered" by existing approved NDA's on that date, the labeling changes, by themselves, render these products ineligible for exemption under section 107(c)(4).

It is of course well settled that the party seeking the protection of an exemption has the burden of showing he comes within its terms; it is equally well settled that exemptions are to be construed strictly against the party invoking their shelter. "United States v. Allan Drug" Corp., supra. Viewing the above facts against these legal principles, it is clear that SKF's claim for grandfather status must be rejected.

Smith, Kline and French next contends that FDA is without authority to determine the "new drug" status of Dexamyl and that, in any event, withdrawal of the NDA's named in the February 12, 1973 DESI notice would not ipso facto cause the Dexamyl products (which were not in the notice) to become unapproved new drugs. These contentions are also without merit because the Supreme Court has squarely held that the Commissioner does have the authority, subject to judicial review, to determine the "new drug" status of individual drugs or classes of drugs and that withdrawal or refusal to approve one NDA covers all identical, similar or related drugs. "Weinberger v. Hynson, Westcott & Dunning, 412 U.S. 609 (1973); "Weinberger v. Bentex Pharmaceutical, Inc.," 412 U.S. 640 (1973); "National Ethical Pharm. Ass'n. v. Weinberger," 365 F. Supp. 735 (D. S.C. 1973), aff'd 503 F. 2d 1051 (4th Cir. 1974). "North American Pharmacal, Inc. v. Department of Health, Education and Welfare," supra.

Smith, Kline and French contends that the Commissioner has not stated any reasons or facts to support his conclusion. This notice supplies the necessary reasons and facts. The summary procedure employed here has been explicitly approved by the Supreme Court in "Hynson, Westcott, & Dunning," supra, and by numerous other courts as well. See "Cooper Laboratories, Inc. v. Commissioner, Federal Food and Drug Administration" 501 F. 2d 772 (D.C. Cir. 1973); "Upjohn Co. v. Finch," 422 F. 2d 944 (6 Cir. 1970); "Pfizer, Inc. v. Richardson," 434 F. 2d 536 (2d Cir. 1970); "American Cyanamid Co. v. Richardson,

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456 F. 2d 509 (1st Cir. 1971). In Hynson, the Court stated [at p. 622]:

> The drug manufacturers have full and precise notice of the evidence they must present to sustain their NDA's, and under these circumstances we find FDA hearing regulations unexceptionable on any statutory or constitutional ground.

The Court undoubtedly approved of this procedure because manufacturers have both actual and constructive notice of the regulations and because they "express well-established principles of scientific investigation." Hynson, supra, at pp. 618–619. Here, SKF was given actual notice in the February 12, 1973 FEDERAL REGISTER notices (38 FR 4279 and 38 FR 4249) that evidence for the effectiveness of Dexamyl would have to meet the standards set forth in regulations promulgated in the FEDERAL REGISTER of May 8, 1970 (35 FR 7251). In view of these facts and in view of the failure of SKF's submission to comply with long-recognized scientific principles embodied in the regulations, additional notice is unwarranted.

Smith, Kline and French also contends that because FDA has expressed the opinion that all amphetamine combinations are ineffective and because this opinion may be based on studies submitted by other drug manufacturers, SKF should be permitted to review the other studies. For the same reason, SKF argues that an evidentiary hearing is necessary to assure a decision based on the evidence of record. Since the Commissioner's decision to refuse approval of the Dexamyl NDA's is based only on SKF's submissions reviewed in this order and upon well established principles of pharmacology and drug testing, SKF's apprehensions are unjustified and its requests are denied.

Finally, SKF contends that the data which it submitted together with the history of "safe and effective use of Dexamyl products over a period of 22 years" demonstrate its effectiveness. It is well settled that the commercial success and widespread acceptance of a product, standing alone, cannot meet the standards of substantial evidence. "Hynson, Westcott & Dunning v. Weinberger," supra; "Upjohn Co. v. Finch," 422 F. 2d 944, 954 supra, "Pharmaceutical Manufacturers Ass'n. v. Richardson," 318 F. Supp. 301, 310 (D. Del. 1970). As the Court stated in Hynson, supra [at p. 619]:

> The [Congressional] hearings underlying the 1962 Act show a marked concern that impressions or beliefs of physicians no matter how fervently believed, are treacherous.

FINDINGS

On the basis of the foregoing review of SKF's evidence and legal arguments, the Commissioner finds that (1) there is a lack of substantial evidence that Dexamyl products have the effects they are represented to have under the conditions of use recommended, suggested or prescribed in their labeling and (2) there is a lack of substantial evidence that each component of the combination products contributes to the total effects claimed.

Smith, Kline and French has failed to offer any data or legal reason to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(d)), 52 Stat. 1052 as amended (21 U.S.C. 355(d)) and under the authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 5, 1976 (41 FR 24262)), approval of new drug applications (NDA No. 17–074, 17–075 and 17–077 for Dexamyl Elixir, Tablets and Spansule capsules) and all amendments and supplements thereto, is refused. This order shall be effective on September 3, 1976.

(Sec. 505(d)), 52 Stat. 1052 as amended (21 U.S.C. 355(d).)

Dated: August 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76 24717 Filed 8–23–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Public Availability of Reports of Closed Meeting Activities of Advisory Committees

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. II 1972) and OMB Circular A–63 of March 27, 1974, those advisory committees of the Department of Health, Education and Welfare which held closed or partially closed meetings in 1975 have prepared a report on the activities of these meetings. Copies of the report have been filed and are available for public inspection at the following locations:

Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.
National Advisory Council on Indian Education, Room 326—Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C.
Committee Management Staff, U.S. Office of Education, Room 4156, FOB 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The name of the subject committee is listed below:

National Advisory Council on Indian Education.

LINCOLN C. WHITE,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.76–24731 Filed 8–23–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 1), that the next meeting of the Executive Committee of the National Advisory Council on Indian Education will be held September 10–11, 1976, at the Sheraton Denver Hotel, 3535 Quebec Street, Denver, Colorado 80207.

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g). The Council, among other things, is directed to:

(1) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;

(2) Review applications for assistance under sections 241aa to 241ff, 887c, and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

(3) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950, (Pub. L. 874, Eighty-first Congress); and

(6) To submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

The meeting on September 10–11, 1976, will be open to the public beginning at 9:00 a.m. and ending at 5:00 p.m. each day. This meeting will be held at the Sheraton Denver Hotel.

The proposed agenda includes:

(1) Develop FY '77 NACIE Budget
(2) Discuss Agenda items for September 17–19, 1976, Full Council Meeting
(3) Regular Committee Business

The September 10, 1976 meeting will be closed to the public from 3:00 p.m. to 5:00 p.m. for reviewing applications for the position of Deputy Commissioner for the Office of Indian Education that must be held in confidence, under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and under the exemptions contained in the Freedom of Information Act, Section 552(b) (4 and (6) of Title 5 U.S.C. (Pub. L. 90–23), 45 CFR 5.71(a) and § 5.71(c).

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C., on August 11, 1976.

LINCOLN C. WHITE,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.76–24754 Filed 8–23–76;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Special Meeting

Notice is hereby given that a special meeting of the National Council on Educational Research will be held on August 30, 1976, at the National Institute of Education, 1200—19th Street, N.W., Washington, D.C., in Room 823. Because this meeting will consist solely of a discussion of Fiscal Year 1978 budget matters which have not yet been approved by the President or released to the public, it has been determined that this meeting must be closed. This is in accordance with the Council's policy to close meetings only under the most extraordinary circumstances and consistent with the provisions of the Federal Advisory Committee Act.

Because of the urgency and timing of the mid-September budget submission, it is essential that this meeting take place on the above-scheduled date even though it creates an exception to the requirement for timely notification of meetings.

The National Council on Educational Research is established under Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

Dated: August 19, 1976.

VERA BROWN,
Executive Assistant to the Director, National Institute of Education.

[FR Doc.76–24856 Filed 8–23–76;8:45 am]

Office of the Assistant Secretary for Health

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the Health Insurance Benefits Advisory Council (HIBAC), established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters will meet on Thursday, September 16 at 9:00 a.m. and Friday, September 17, 1976 at 9:00 a.m. in Room 5051 of the Department of Health, Education, and Welfare's North Building, Third and C Streets, SW., Washington, D.C. Principal consideration and discussion will include general policy issues and options regarding cost-containment and program reform. These meetings are open for public observation.

Further information on the Council may be obtained by contacting Ronald M. Klar, M.D., M.P.H., Executive Secretary, Health Insurance Benefits Advisory Council, Room 17A–31, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443–3274 or 443–4728.

Dated: August 13, 1976.

RONALD M. KLAR,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.76–24732 Filed 8–23–76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: September 13, 1976 (10:00 a.m. to 5:00 p.m.) September 14, 1976 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), DHEW North Building, 330 Independence Avenue, S.W., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to William D. Coughlan, Staff Director, National Professional Standards Review Council, Office of Quality Standards, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Dated: August 16, 1976.

WILLIAM B. MUNIER,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.76–24721 Filed 8–23–76;8:45 am]

Social Security Administration

WESTERN SAMOA

Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that Western Samoa, beginning August 13, 1972, has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of Western Samoa, who leave Western Samoa, are permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Western Samoa has in effect, beginning August 13, 1972, a social insurance system which meets the requirements of Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

Dated: AUGUST 18, 1976.

PASQUALE F. CALIGIURI,
Director, Bureau of Retirement and Survivors Insurance.

[FR Doc.76–24742 Filed 8–23–76;8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

INTERSTATE FUNDING STUDY

Request for Comments

Pursuant to section 150(a) of the Federal-Aid Highway Act of 1976 (Pub. L. 94–280) the Federal Highway Administration, in conjunction with the Office of the Secretary of Transportation, is preparing a report to Congress on the financing of the completion of the Interstate Highway System. Section 150(a) specifically requests that the report "identify and analyze optional financing methods including State bonding authority under which the Secretary contracts to reimburse the States for up to 90 per centum of the principal and interest on such bonds." Present law does not allow Federal participation in interest payments on such bonds. The report is to be submitted to Congress by February 5, 1977.

To assure that all concerned parties have an opportunity to express their views, the Federal Highway Administration is soliciting comments on the subject of this study. Although any area of the subject may be commented upon, the Federal Highway Administration would be most interested in views concerning the feasibility of the States to issue bonds to accelerate construction of all or portions of the Interstate Highway System, and the potential economic, employment, construction industry, and other impacts of an accelerated Interstate System construction program.

Interested persons or organizations should submit their comments, in writing, to the Federal Highway Administration, Office of Program and Policy Planning, HPP–30, Washington, D.C. 20590, no later than September 20, 1976.

Issued on: August 18, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76–24727 Filed 8–23–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76–8–95; Docket No. 28744; Agreement CAB 25762]

CONTINENTAL AIR LINES, INC. AND RIO AIRWAYS, INC.

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of August, 1976.

By order 76–5–120, May 25, 1976, the Board set for hearing the application of Continental Air Lines, Inc. (Continental) to suspend its service over the Midland/Odessa-Tulsa portion of segment 3, Route 29, for a five-year period, and to approve Continental's agreement with Rio Airways, Inc. (Rio) for the replacement of its suspended service.[1] The Board's order states that the issues in the proceeding shall include: (1) whether Continental's authority to serve the Midland/Odessa-Tulsa portion of segment 3 should be suspended or deleted, and, if so, what conditions should be attached to any suspension found to be required; and (2) whether the Continental/Rio Replacement Agreement should be approved, and, if so, what conditions should be attached to the approval.

The Midland/Odessa parties filed a timely petition for reconsideration of the Board's order urging that the Board redefine the issues to include alternatives to suspension/replacement and to clarify the order.

It requests that the expanded issues include (1) whether the public interest requires the removal or modification of conditions (5) and (6) of Continental's certificate,[2] and (2) whether the public interest requires certification of an additional carrier to serve the Midland/Odessa-Tulsa portion of segment 3. Further, it requests that the Board make clear that there is no issue in this proceeding of suspending Continental's service without replacement by a more responsive and efficient service, and that the issue of suspension of Continental on the Midland/Odessa-Tulsa segment of Route 29 includes the more limited issue of simply authorizing the carrier to overfly Wichita Falls and/or Lawton/Fort Sill.

The petition is opposed by Continental to the extent that it would transform the proceeding into a Midland/Odessa-Oklahoma route proceeding. Continental does not oppose expansion of the issues to include the removal of restrictions from its certificate authority affecting its ability to serve segment 3, but it stresses the point that such measures alone are not adequate to solve its service problems on this segment, which are allegedly caused in large part by the ready access of the potential flow traffic to faster, convenient connecting service over the Dallas/Fort Worth gateway. Continental vigorously opposes the consideration in this proceeding of applications from other certificated carriers for Midland/Odessa-Oklahoma authority, which it asserts would completely change the proceeding from one for suspension/replacement to a full-blown new route proceeding, and would doom all prospects for continuing service to all points on segment 3. Neither Continental nor Rio would be interested in investing their resources in providing service to the remainder of the segment if stripped of the opportunity for providing replacement service in the Lubbock/Midland/Odessa-Oklahoma markets.

The Bureau states it would join in the request for inclusion of the issue of deleting restrictions from Continental's authority, but only if the inclusion of the issue is not opposed by Continental. The Bureau would, in the event such restriction removal is placed in issue, open the proceeding to consider new route applications from other certificated carriers; however, the Bureau does not justify or even explain its position on this point. Further, the Bureau opposes Midland/Odessa's suggestion that the Board make clear that this proceeding will not enable Continental to suspend service without providing replacement service. It contends that the Board has retained and should retain the freedom to attach any conditions to its final order as the public interest may dictate. The Bureau does not oppose clarification of the suspension issue as including permission to overfly Wichita Falls and Lawton/Fort Sill.[3]

Midland/Odessa's petition to expand the issues will be denied. Putting in issue the deletion of Continental's conditions (5) and (6) would completely transform the proceeding into a major competitive route case in which the issues of new turnaround authority in the Chicago-Kansas City and Kansas City-Tulsa markets would completely overshadow the issues of service in the segment 3 markets which are the intended subject of this proceeding. As Continenal points out, it would also be necessary to put in issue its condition (8)(a), thereby raising similar extraneous issues of new single-plane authority in numerous Chicago-Texas/Oklahoma markets; and the carrier further suggests putting new Kansas City-Oklahoma City nonstop authority in issue. No showing whatever has been made to justify so vast an expansion of the proceeding; indeed, Continental has been at pains to depreciate the suggestion that deletion of these certificate restrictions could be expected to result in a significantly increased flow of Chicago and Kansas City traffic over segment 3, and our own analysis indicates little support for segment 3 operations could be expected to result, in view of the multistop nature of any Chicago/Kansas City-Midland/Odessa service Continental might be able to mount and the superior frequency, speed, and convenience of existing connecting service via Dallas/Fort Worth.[4]

By the same token, although a lesser expansion of the issues to include a limited modification rather than outright deletion of Continental's conditions (5), (6), and (8)(a) might not require opening up the proceeding to competing applications, the foregoing analysis indicates too little likelihood of any useful result, in terms of materially strengthening Continental's ability to serve segment 3, to justify the complication and material delay of the proceeding which even such a limited consideration of Continental's certificate restrictions would entail. Moreover, we detect no interest by Continental in such a limited consideration of its restrictions.

Although consideration of substitute certificated service over the Midland/Odessa-Tulsa portion of segment 3 would not necessarily transform or greatly expand the scope of the proceeding, our analysis indicates very little likelihood that any certificated carrier would hope to operate such service on an economically sound basis, in view of the small traffic flows involved and the availability of relatively ample and convenient connecting service. The certificated carriers who might be expected to be interested in providing such substitute service are apparently in agreement, since none of them have in fact filed applications. In view of the absence of any such applications, Midland/Odessa's petition to expand the issues in this respect is essentially moot, and will accordingly be denied.

Midland/Odessa also requests clarification that there is no issue in this case of suspending Continental without replacement service. In the interest of providing the Board with maximum decisional flexibility we will not adopt Midland/Odessa's suggested clarification. Under the issues as framed by Order 76–5–120, the suspension of Continental's authority without a replacement service is one of a variety of alternative courses of action the Board could adopt.

Midland/Odessa's requested clarification that the suspension issue as stated in Order 76–5–120 includes the issue of authority to suspend and overfly certain low-traffic-generating points on segment 3 has merit and will be granted.[5] In addition, Continental has indicated in its latest pleading that it desires to retain unsuspended its authority (presently unused) to operate over segment 3 between Tulsa-Oklahoma City and Aubuquerque/El Paso—a desire inconsistent with its original application to suspend service over segment 3, and at least technically inconsistent with the way the issues in the proceeding were framed in Order 76–5–120. In view of this clarification of the applicant's intentions, it is appropriate to reframe the principal issue as being the suspension or deletion of Continental's authority to serve any or all of the present intermediate points in segment 3.[6]

Accordingly, it is ordered that:

1. Ordering paragraph 2(a) of Order 76–5–120 is hereby amended to read:

(a) Do the public convenience and necessity require that the authority of Continental Air Lines, Inc., to serve any or all of the intermediate points presently named on segment 3 of its certificate for Route 29 be suspended or deleted? If so, what terms, conditions, and limitations, if any, should be attached to any suspension or deletion found to be required?

2. Except to the extent granted herein, the petition for reconsideration filed by the Midland/Odessa parties be and it hereby is denied; and

3. The motions of Continental Air Lines and American Airlines for leave to file otherwise unauthorized documents be and they hereby are granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–24765 Filed 8–23–76;8:45 am]

CIVIL SERVICE COMMISSION

PRIVACY ACT OF 1974

Notice of Proposed System of Records

In accordance with 5 U.S.C. 552a(e)(4) and (11), Section 3 of the Privacy Act of 1974 (Public Law 93–579), notice is hereby given that the Commission proposes to establish a new system of records subject to the provisions of the Privacy Act. The following system of records, the CSC Managerial Potential Rating System (CSC–9), is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been previously published in the FEDERAL REGISTER.

Pursuant to 5 U.S.C. 552a(o) and guidelines for implementing the Privacy Act established by the Office of Management and Budget in OMB Circular A–108, on June 9, 1976, the Commission transmitted to the Congress, the Privacy Protection Study Commission, and the Office of Management and Budget the required "Report on New Systems" for the CSC Managerial Potential Rating System.

Any interested persons may submit written comments on this notice to the Director, Personnel and Labor Relations Division, Bureau of Management Services, U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C., by September 23, 1976.

All written comments received from the public through that date will be considered by the Commission before adoption of final notice. The comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays) until September 23, 1976.

Effective date: This notice shall be effective September 24, 1976.

CSC–9

System name. CSC Managerial Potential Rating System–CSC.

System location. Bureau of Management Services, U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415.

Categories of individuals covered by the system. Individuals who are employed or who were employed on or after the date of implementation of the system by the U.S. Civil Service Commission in permanent positions classified in pay grades GS–13, GS–14, and GS–15, and their supervisors.

Categories of records in the system. These records contain the following types of information about the covered individuals:

a. Demographic data—date of birth, sex, educational level, year of degree, academic discipline, service computation date, handicap code, and minority group designator.

b. Position data—organization, occupation, grade level, number of employees supervised, identification of supervisors.

c. Rating data—ratings of managerial potential obtained from the employee and his supervisors, and date of rating.

Authority for maintenance of the system. Sections 3341, 3361, 4118, and 4503 of Title 5, U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses. These records are used to:

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[1] Agreement CAB 25762.

[2] Condition (5) in substance requires that all Kansas City-Tulsa flights serve Albuquerque or El Paso. Condition (6) requires that all Chicago-Kansas City flights serve Los Angeles or a point west thereof. As Continental points out, consideration of condition (6) would be futile unless condition (8)(a) were also put in issue; the latter precludes Chicago-Kansas City flights from serving points south of Kansas City which are not on segment 6 (as none of the Texas/Oklahoma points here at issue are). Continental had previously asserted that these conditions make it difficult to flow Chicago and Kansas City traffic over segment 3 in order to support Tulsa/Oklahoma City-Lubbock/Midland/Odessa service.

[3] Continental filed a motion for leave to file an otherwise unauthorized document, which motion will be granted, and a reply to the Bureau's answer, in which it supports inclusion of the issue of deleting its conditions (5) and (6), provided condition (8)(a) is also put in issue, and suggests a still further expansion of the case to include the possibility of extending segment 3 to Kansas City, thereby putting in issue new Kansas City-Oklahoma City nonstop authority. If deletion of its conditions (5), (6), and (8)(a) is put in issue, Continental states it will not oppose consideration of competing applications to serve the Tulsa-Midland/Odessa portion of segment 3.

American Airlines subsequently filed a motion for leave to file an otherwise unauthorized document, which motion will also be granted, and an answer opposing the expansion of the issues proposed by the Midland/Odessa parties as amplified by Continental in its answer to the Midland/Odessa petition and further amplified in its reply to the Bureau's answer.

[4] In Order 76–6–84, in denying a separate petition by the Midland/Odessa parties for an investigation of service between Midland/Odessa and points in the East, the Board determined *inter alia* that the historic traffic in the Midland/Odessa-Chicago market (4,640 O&D passengers in 1974, or fewer than 7 passengers per day in each direction) does not warrant an investigation of the need for first single-plane service in that market, particularly since infrequent multistop service could be expected to attract only a portion of the available traffic in the face of one-stop connecting service over Dallas/Fort Worth. That conclusion is obviously relevant here.

[5] It must be pointed out, however, that any right to overfly a suspended point would not abrogate specific conditions otherwise contained in Continental's certificate. See, for example, Application of Hughes Airwest, Order 74–9–7, September 4, 1974, note 14.

[6] Continental holds authority over other segments in the Tulsa-Oklahoma City, Lubbock-Albuquerque, Lubbock-Midland/Odessa, and Midland/Odessa/El Paso markets which will not be affected by any suspension or deletion of intermediate points on segment 3 which may be ordered in this proceeding. See footnotes 1 and 12 of Order 76–5–120.

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a. Serve as a basis for employee counseling by supervisors on career development.

b. Rank the managerial potential of covered employees as one of the elements used for agency management decisions regarding career development, awards, and promotions to managerial positions.

c. Demographic data will be used to produce statistical summaries to help assure that ratings are based solely on individual performance. The summaries will indicate trends that will be helpful in assessing compliance with equal employment opportunity and in assessing the relationship of managerial potential rating to such factors as educational level, recency of education academic discipline, and years of Federal service.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system. See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage.—The records are maintained on magnetic tape, punched cards, lists, and forms.

Retrievability.—Records are indexed by a combination of name, employee identification number, grade, occupation, and organization.

Safeguards.—Records are stored in lockable metal file cabinets or in secured rooms with access limited to those whose official duties require access.

Retention and Disposal.—Automated records are retained for five to ten years. Manual input is retained for three years.

System manager and address. Director, Personnel and Labor Relations Division, Bureau of Management Services, U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415.

Notification procedure. Inquiries, including name, CSC employee identification number, and date of rating, should be addressed to the system manager named above.

Record access procedures. Current or former employees who wish to gain access to their records should direct such a request in writing, including their name, CSC employee identification number, and date of rating, to the system manager named above.

Contesting record procedures. Same as Record Access Procedures, above.

Record source categories. Information in this system of records comes from the individual to whom it applies, and/or the individual's supervisors, except position and demographic information provided by agency officials.

UNITED STATES CIVIL SERVICE COMMISSION
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-24228 Filed 8-23-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GLOBAL ENVIRONMENTAL EFFECTS OF CARBON DIOXIDE

Establishment of Study Group

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), I hereby certify that the establishment of a Study Group on Global Environmental Effects of Carbon Dioxide as hereinafter identified is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63 (Revised).

1. *Name of Advisory Committee.* Study Group on Global Environmental Effects of Carbon Dioxide.

2. *Purpose.* To give guidance to ERDA in the development of its role in environmental research dealing with the global effects of increasing levels of carbon dioxide produced by fossil fuel combustion and related matters. The Group's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area. Due recognition will also be given to recommendations put forward by the various scientific deliberative bodies. A preliminary guidance document is to be submitted to the Assistant Administrator for Environment and Safety by December 31, 1976. A more detailed report is to be submitted by April 30, 1977. This report may be updated subsequently by amendments if deemed necessary in the view of the Group or the Assistant Administrator for Environment and Safety. The Group will also review and comment upon the research program developed as a result of its guidance until the Group's date of termination.

3. *Effective date, establishment, and duration.* The Study Group is established effective on September 8, 1976 and after filing of the charter with the standing committees of Congress having legislative jurisdiction over the Energy Research and Development Administration. The Study Group's termination date shall be December 31, 1978.

4. *Membership.* The membership of the Study Group on Global Environmental Effects of Carbon Dioxide shall be fairly balanced in terms of the points of view represented and the Group's function. Membership will include representatives from the fields of the ecological sciences, meterorology, oceanography, and engineering. Individuals with strong scientific backgrounds and high level scientific administration experience will be included. Other qualified and experienced individuals who can contribute to the activities of the Group will also be included. There will be no discrimination on the basis of race, color, creed, national origin, religion, or sex.

5. *Study Group on Global Environmental Effects of Carbon Dioxide Operation.* The Study Group will operate in accordance with provisions of the Federal Advisory Committee Act (P.L. 92-463), ERDA policy and procedures, OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of the Act. The Study Group will be provided with the necessary support to accomplish its purpose.

Effective date: August 24, 1976.

ROBERT C. SEAMANS, JR.,
Administrator.

[FR Doc.76-24817 Filed 8-23-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[PF44; FRL 604-5]

BASF WLANDOTTE CORP. AND THOMPSON-HAYWARD CHEMICAL CO.

Filing of Pesticide Petitions

Pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1828. BASF Wyandotte Corp., Agricultural Chemicals Dept., 100 Cherry Hill Rd., Parsippany NJ 07054. Proposes that 40 CFR 180.355 be amended by the establishment of tolerances for combined residues of the herbicide bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodities peanuts (nutmeats after the removal of hulls) at 0.05 part per million (ppm), peanut hay at 3 ppm, peanut hulls at 0.3 ppm, corn grain and fresh corn (including sweet corn, kernels plus cob with husk removed) at 0.05 ppm, corn forage and fodder at 3 ppm, rice at 0.05 ppm, rice straw at 3 ppm, the hay of seed and pod vegetables (except soybeans) at 3 ppm, and soybean hay at 0.3 ppm. Proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector in the sulfur specific mode (394 mm). PM25 (202/755-7012)

PP 6F1832. Thompson-Hayward Chemical Co., PO Box 2383 Kansas City KS 66110. Proposes that 40 CFR 180 be amended by the establishment of a tolerance for residues of the insecticide N-[[(4-chlorophenyl)amino]carbonyl]-2,6-difiorobenzamide in or on the raw agricultural commodity soybeans at 0.05 ppm. Proposed analytical method for determining residues is a high-pressure liquid chromatographic procedure using UV spectrometry. PM17 (202/426-9425)

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Room 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions referred to in this notice may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24707 Filed 8-23-76;8:45 am]

[FRL 603-6; OPP—50243]

DOW CHEMICAL CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 464-EUP-47. Dow Chemical Company, Midland, Michigan 48640. This experimental use permit allows the use of $2,417 pounds of the microbiocide bromine chloride in effluent for evaluation of disinfection in sewage disposal plants to control bacteria and viruses and in water used in "once through" industrial water cooler systems to evaluate control of growth of algae, bacteria, and fungi. A total of 3,203,500 gallons of water are involved; the program is authorized only in the States of Maryland and Hawaii. The experimental use permit is effective from July 9, 1976, to July 9, 1977.

No. 201-EUP-50. Shell Chemical Company, Washington, DC 20460. This experimental use permit allows the use of 9,600 pounds of the insecticide (a synthetic pyrethroid) cyano (3-phenoxyphenyl) methyl-4-chloro-α-(1-methylethyl) benzene-acetate on cotton to evaluate control of the Pink Bollworm, the Cottonleaf Perforator, the Tobacco Budworm and the Cotton Bollworm and to evaluate reduction of the Bollweevil. A total of 5,000 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from July 9, 1976, to July 9, 1977. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established.

No. 239-EUP-74. Chevron Chemical Company, Richmond, California 94804. This experimental use permit allows the use of the remaining supply of 354.75 pounds of the insecticide acephate authorized in a previous experimental use permit; the insecticide will be used on almonds to evaluate control of the Naval Orangeworm. A total of 50 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from July 10, 1976, to July 31, 1977. A temporary tolerance for residues of the active ingredient in or on almonds has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24710 Filed 8-23-76;8:45 am]

[FRL 604-6; OPP-50242]

MOBIL CHEMICAL CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2224-EUP-16. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of 152 pounds of the insecticide 1-ethoxy-4-(1-[4-(1,1-dimethylethyl)phenyl]-2-nitrobutyl)-benzene on apples, pears, peaches, soybeans, cabbage, broccoli, brussels sprouts, cauliflowers, collards, Irish potatoes, and tomatoes to evaluate control of a variety of insects. A total of 160.5 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from May 12, 1976, to May 12, 1977. Any crops treated under this permit will be destroyed or used for research purposes only.

No. 100-EUP-44. Ciba-Geigy Corporation, Greensboro, North Carolina 27409. This experimental use permit allows the use of 866 pounds of a herbicide which is a mixture of 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide and procyazine on corn to evaluate control of annual grasses and broadleaf weeds. A total of 577 acres is involved; the program is authorized only in the States of Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Massachusetts, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from July 9, 1976, to April 30, 1977. A temporary tolerance for residues of the active ingredient in or on corn has been established.

No. 1016-EUP-35. Union Carbide Corporation, Washington DC 20006. This experimental use permit allows the use of 880 pounds of an insecticide which is a mixture of carbaryl and petroleum oils on corn to evaluate control of the Southwestern Corn Borer. A total of 140 acres is involved; the program is authorized only in the State of Texas. The experimental use permit is effective from July 9, 1976, to July 9, 1977. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.169).

Interested parties wishing to review the experimental use permits are referred to Rm. E-315, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency 401 M St. SW., Washington, D.C. 20406. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-24708 Filed 8-23-76;8:45 am]

[FRL 603-7; OPP-50244]

SHELL CHEMICAL CO. AND CIBA

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 201-EUP-54. Shell Chemical Company, Washington, D.C. 20036. This experimental use permit allows the use of 0.002 pounds of an insecticide which is a mixture of 2H-1,3-thiazine, tetrahydro-2-(nitromethylene) and (Z)-9-tricosene indoors and outdoors in kitchens, dining rooms, bedrooms, patios, porches, kennels, barns, garbage areas, etc., to evaluate control of flies and mosquitoes. A total of 250 units will be used, 1 unit per home, in four States; the program is authorized only in the States of Florida, Georgia, Texas, and California, with approximately 60 units being used in each State. The ex-

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perimental use permit is effective from July 12, 1976, to July 12, 1977.

No. 201–EUP–55. Shell Chemical Company, Washington, D.C. 20036. This experimental use permit allows the use of 0.002 pounds of the insecticide 2H–1, 3-thiazine, tetrahydro-2-(nitromethylene) indoors and outdoors in kitchens, dining rooms, living rooms, bedrooms, patios, porches, kennels, barns, garbage areas, etc. to evaluate control of flies and mosquitoes. A total of 250 units will be used, 1 unit per home, in four States, the program is authorized only in the States of Florida, Georgia, Texas, and California, with approximately 60 units being used in each State. The experimental use permit is effective from July 12, 1976, to July 12, 1977.

No. 100–EUP–46. Ciba-Geigy Corporation, Greensboro, North Carolina 27409. This experimental use permit allows the use of 320 pounds of the pre-emergent herbicide atrazine on wheat to evaluate control of cheatgrass, kochid, mustard, pigweed, Russian thistle, wild lettuce, wild sunflower, and volunteer wheat during the fallow period of a wheat-fallow-wheat rotation. A total of 850 acres is involved. The program is authorized in the States of North Dakota and Montana; the States of South Dakota, Iowa, and Minnesota are authorized for shipping purposes only. The experimental use permit is effective from July 12, 1976, to July 12, 1977. A permanent tolerance for residues of the active ingredient in or on wheat has been established (40 CFR 180.220).

No. 100–EUP–47. Ciba-Geigy Corporation, Greensboro, North Carolina 27409. This experimental use permit allows the use of 320 pounds of the pre-emergent herbicide atrazine on wheat to evaluate control of cheatgrass, kochid, mustard, pigweed, Russian thistle, wild lettuce, wild sunflower, and volunteer wheat during the fallow period of a wheat-fallow-wheat rotation. A total of 850 acres is involved. The program is authorized in the States of North Dakota and Montana; the States of South Dakota, Iowa, and Minnesota are authorized for shipping purposes only. The experimental use permit is effective from July 12, 1976, to July 12, 1977. A permanent tolerance for residues of the active ingredient in or on wheat has been established (40 CFR 180.220). This permit and the one above will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–24711 Filed 8–23–76; 8:45 am]

[FRL 604–1; OPP–50240/50241]

U.S. DEPARTMENT OF AGRICULTURE

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 27586–EUP–6. U.S. Department of Agriculture, Bozeman, Montana 59715. This experimental use permit allows the use of 2.5 tons formulated product of the microbial insecticide *Nosema locustae* (spores) on rangeland grass and hay to evaluate control of the Mormon cricket. The experimental use permit is effective from May 19, 1976, to May 19, 1977.

No. 27586–EUP–7. U.S. Department of Agriculture, Bozeman, Montana 59715. This experimental use permit allows the use of 2.5 tons formulated product of the microbial insecticide *Nosema locustae* (spores) on rangeland grass and hay to evaluate control of the Mormon cricket. A total of 3,250 acres is involved for both of these permits; the programs are authorized only in the States of Colorado and Utah. This experimental use permit is also effective from May 19, 1976, to May 19, 1977. The permits will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–24709 Filed 8–23–76; 8:45 am]

[FRL 604–2; OPP–33000/449 & 450]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755–9315; PM 21 and 22—202/426–2454; PM 24—202/755–2196; PM 31—202/426–2635; PM 33—202/755–9041; PM 15, 16, and 17—202/426–9425; PM 23—202/755–1397; PM 25—202/755–7012; PM 32—202/426–9486; and PM 34—202/426–9490.

The Interim Policy Statement requires that claims for compensation be filed on or before October 26, 1976. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 FIFRA, as amended, should be made on or before September 23, 1976.

Dated: August 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP—33000/449)

EPA Reg. No. 3125–102. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. GUTHION 2L EMULSIFIABLE INSECTICIDE. Active Ingredients: O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate 22.2%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA Reg. No. 3125–123. Chemagro Agricultural Div. GUTHION 8S. Active Ingredients: O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate 22%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA Reg. No. 3125–193. Chemagro Agricultural Div. GUTHION 50% WETTABLE POWDER. Active Ingredients: O-O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl] phosphorodithioate 50%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA Reg. No. 3125–25. Chemagro Agricultural Div. GUTHION 25% WETTABLE POWDER CROP INSECTICIDE. Active Ingredients: O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate 25%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA Reg. No. 352–372. E. I. du Pont de Nemours & Co., Inc., Biochemicals Dept., 6054 Dupont Bldg., Wilmington DE 19898. VYDATE L OXAMYL INSECTICIDE/NEMATICIDE FOR USE ON NON-BEARING APPLE TREES Active Ingredients: Methyl N',N'-dimethyl-N-[(methylcarbamoyl)oxy]-1-thiooxamimidate 24%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–370. E. I. du Pont de Nemours & Co., Inc. LANNATE L METHOMYL INSECTICIDE. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy]-1-thiooxamimidate 20%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–370. E. I. du Pont de Nemours & Co., Inc. LANNATE L METHOMYL INSECTICIDE FOR USE ON GREEN PEAS. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No. 352–354. E. I. du Pont de Nemours & Co., Inc. BENLATE BENOMYL FUNGICIDE. Active Ingredients: Benomyl (Methyl-1- (Butylcarbomoyl)-2-Benzimidazole-Carbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM22

EPA Reg. No. 352–354. E. I. du Pont de Nemours & Co., Inc. BENLATE BENOMYL FUNGICIDE. Active Ingredients: Benomyl (Methyl-1 (Butylcarbomoyl)-2-Benzimidazole-Carbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM22

EPA Reg. No. 352–342. E. I. du Pont de Nemours & Co., Inc. LANNATE METHOMYL INSECTICIDE FOR USE ON GREEN PEAS. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy] thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 912–37. Farmers Union Central Exchange, Inc., PO Box G, St. Paul MN 55165. GREEN HOUSE DACTHAL G–2.5 GRANULES FOR LAWNS, ORNAMENTAL TURF, STRAWBERRY PLANTINGS, FLOWER & VEGETABLE GARDENS. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 1457–AR. Fine Organics, Inc., A Subsidiary of Hexcel Corp., 205 Main St., Lodi NJ 07644. MYTAB. Active Ingredients: Tetradecyl trimethyl ammonium bromide 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 279–2961. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. FERBAM 5 SULFUR 90 DUST FUNGICIDE. Active Ingredients: Ferbam 5.00%; Sulfur 90.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 2393–306. Hopkins Agricultural Chemical Co., Box 584, Madison WI 53701. 2,4–D AMINE WEEDKILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 2393–GGA. Hopkins Agricultural Chemical Co. 2,4-D AMINE WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 407–338. Imperial, Inc., PO Box 423, W. 6th & Grassy, Shenandoah IA 51601. GARDEN WEED PREVENTER WETTABLE POWDER CONTAINS DACTHAL. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 407–284. Imperial, Inc. PRE-EMERGENCE HERBICIDE (2.5% DACTHAL GRANULES). Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2342–770. Kerr-McGee Chemical Corp., Kerr-McGee Bldg., Oklahoma City OK 73102. FASCO METHOMYL-DUST-2 INSECTICIDE. Active Ingredients: Methomyl (S-methyl-N-[(methylcarbamoyl)oxy]-thioacetimidate) 2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 1202–97. Puregro Co., 1052 W. 6th St., Los Angeles CA 90017. GAVAMINE D–40 WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2126–53. Science Products Co., Inc., 5801 N. Tripp Ave., Chicago IL 60646. 50% METHOXYCHLOR WETTABLE POWDER. Active Ingredients: Methoxychlor, technical 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

APPLICATIONS RECEIVED (OPP–33000/450)

EPA Reg. No. 264–189. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. SUPER D WEEDONE LAWN WEED CONTROL. Active Ingredients: Diethanol amine salt of 2,4-dichlorophenoxyacetic acid 20.3%; Diethanol amine salt of dicamba 1.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4–210. Bonide Chemical Co., Inc., 2 Wurz Ave., Yorkville NY 13495. LAWN WEED KILLER (DUST). Active Ingredients: Triethanalamine Salt of 2,4-Dichlorophenoxyacetic Acid 8.35%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4–114. Bonide Chemical Co., Inc. WEED & FEED. Active Ingredients: Triethanolamine salt of 2,4-Dichlorophenoxyacetic acid 1.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1022–491. Chapman Chemical Co., 416 E. Brooks Rd., P.O. Box 9158, Memphis TN 38109. PQ–15R T U. Active Ingredients: Copper 8-quinolinolate 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM22

EPA Reg. No. 802–513. The Chas. H. Lilly Co., 7737 N.E. Killingsworth, Portland OR 97218. LILLY MILLER LAWN & TURF WEED BOMB. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 0.287%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.130%, Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 0.029%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239–2418. Chevron Chemical Co., Ortho Div., 940 Hensley Way, San Francisco CA 94119. ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims. PM16

EPA Reg. No. 1913–2. The Dracket Products Co., 5020 Spring Grove Ave., Cincinnati OH 45232. POWER PACKED VANISH TOILET BOWL CLEANER. Active Ingredients: Sodium acid sulfate 62.00%, Monopotassium peroxymonosulfate 0.04%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised formulation. PM 34

EPA Reg. No. 16–42. Dragon Chemical Corp., PO Box 7311, 7033 Walrond Dr., Roanoke VA 24019. DRAGON GARDEN WEED & GRASS PREVENTER. Active ingredients: Dimethyl ester of tetrachloroterepthalic acid 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23.

EPA Reg. No. 534–88. FS Services, Inc., 1701 Towanda Ave., Bloomington IL 61701. FS FARMTOWN LAWNFOOD PLUS 11–4–7. Active Ingredients: Dimethyl Tetrachloroterephthalate 2.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

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EPA Reg. No. 257–131. Fuld-Stalfort, Inc., 1364 Old Post Rd., Havre De Grace MD 21078. SWITER EMULSION BOWL CLEANER & DISINFECTANT. Active Ingredients: Hydrogen Chloride 23%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 729–45. Gulf Oil Corp. (Houston), Box 1166, Pittsburgh PA 15230. GULF SPRAY MULTI PURPOSE INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl 3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%, d-trans Allethrin (allyl homolog of Cinerin 1) 0.200%, Related compounds 0.015%. Aromatic petroleum hydrocarbons 0.265%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 61–167. Koppers Company, Inc., 1401 Koppers Bldg., Pittsburgh PA 15219. BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–45 INTERNATIONAL ORANGE. Active Ingredients: Tributyltin Fluoride 15.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–157. Koppers Company, Inc. BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–44 BLACK. Active Ingredients. Tributyltin Fluoride 13.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–152. Koppers Company, Inc. BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–40 BLACK. Active Ingredients: Tributyltin Fluoride 14.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–151. Koppers Co., Inc., BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–41 RED. Active Ingredients: Tributyltin Fluoride 15.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–150. Koppers Co., Inc. BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–42 BLUE. Active Ingredients: Tributyltin Fluoride 15.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–149. Koppers Co., Inc. BROLITE Z-SPAR COLORTOX BOTTOM PAINT ANTIFOULING B–43 GREEN. Active Ingredients: Tributyltin Fluoride 15.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–147. Koppers Co., Inc. ANTIFOULANT COATING 990 BLUE. Active Ingredients: Tributyltin Fluoride 12.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–146. Koppers Co., Inc. ANTIFOULANT COATING 990 WHITE. Active Ingredients: Tributyltin Fluoride 11.88%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 61–145. Koppers Co., Inc. ANTIFOULANT COATING 990 GREEN. Active Ingredients: Tributyltin Fluoride 11.68%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 2491–216. Koos, Inc., 4500 13th Court, Kenosha WI 53140. ACE LAWN FOOD WITH WEED CONTROL 22–6–8. Active Ingredients: (2-Methoxy-3,6-dichlorobenzoic acid) 0.12%, 2,4-Dichlorophenoxyacetic acid 0.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1381–8. Land O'Lakes, Inc., 2827 8th Ave., So., Fort Dodge IA 50501. LAND O LAKES FELCO 4 LB AMINE 2,4-D WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 746–109. MFA Oil, PO Box 519, Columbia MO 65201. GARDEN WEEDER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 72–509. Miller Chemical & Fertilizer Corp., PO Box 333, Hanover PA 17331. MILLER TURF FOOD PLUS 2 12–6–6 GRANULAR + UREAFORM NITROGEN + 2,5-D BROADLEAF WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 0.42%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1706–95. Nalco Chemical Co., 6216 West 66th Place, Chicago IL 60638. NALCON 273. Active Ingredients: Methylene bis(thiocyanate) 10%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA Reg. No. 1706–146. Nalco Chemical Co. NALCO 2532. Active Ingredients: n-alky (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium Chloride 12.5%; Bis(tri-n-butyltin)oxide 2.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 2169–103. Patterson Chemical Co., Div. Curry-Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. PATTERSON'S GREEN UP VEGETABLE GARDEN DUST 1% ROTENONE. Active Ingredients: Rotenone 1.00%; Other Cube Resins 1.60%. Method of Support: Application proceeds under 2(c) of interim policy. PM 17

EPA Reg. No. 432–502. S. B. Penick & Co., Comm. Dev. Pesticides, 215 Watchung Ave., Orange NJ 07050. SBP–1382–40 MF OIL BASE CONCENTRATE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl - 3 - (2 - methylpropenyl) cyclopropane-carboxylate 40.00%; Related compounds 5.45%; Aromatic petroleum hydrocarbons 52.95%. Method of Support: Application proceeds under (c) of interim policy. Republished: Added use. PM17

EPA Reg. No. 70–203. Rigo Co., Buckner KY 40010. RIGO P.C.G. BLUE DEATH RAT AND MOUSE BAIT. Active Ingredients: 3-(alpha - Acetonylfurfuryl) - 4 - Hydroxycoumarin 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM11

EPA Reg. No. 572–285. Rockland Chemical Co., Inc., PO Box 809, West Caldwell NJ 07006. ROCKLAND PYRENONE ORGANIC VEGETABLE GARDEN SPRAY. Active Ingredients: Pyrethrins 0.02%; Piperonyl Butoxide, technical 0.20%; Petroleum distillate 0.08%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 829–216. Southern Agricultural Insecticides, Inc., Box 218, Palmetto FL 33561. S A BRAND 5 0 2% METHOMYL INSECTICIDE DUST. Active Ingredients: S - methyl - N - [(methylcarbamoyl) oxy] thioacetimidate 2%. Method of Support: Application proceeds under 2(b) of interim policy, Application for reregistration. PM12

EPA Reg. No. 476–2107. Stauffer Chemical Co., 1200 South 47th St., Richmond CA 94804. ORDRAM 8-E. Active Ingredients: *S*-ethyl hexahydro-1*H*-azepine-1-carbothioate 90.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 475–1615. Stauffer Chemical Co. TILLAM 6-E. Active Ingredients: *S*-propyl butylethylthiocarbamate 77.32%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 557–RIAT. Swift Agriculture Chemicals, 111 W. Jackson Blvd., Chicago IL 60604. VIGORO BAHIA AND BERMUDA LAWN WEEDER & FEEDER. Active Ingredients: Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 0.084%; Dimethylamine Salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.260%; Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 0.032%. Method of Support: Application proceeds under 2(c) of the interim policy. PM25

EPA Reg. No. 876–195. Velsicol Chemical Corp. VELSICOL PROBE 75. Active Ingredients: Methazole 75.0%; Related Compounds 3.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 876–120. Velsicol Chemical Corp. GOLD CREST BANVEL 4S. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 49.0%; Dimethylamine Salts of related acids 7.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 876–178. Velsicol Chemical Corp. VELSICOL BANVEL X.P. PELLETS. Active Ingredients: Dicamba (3,6-dichloro-o-anisic acid) 10.0%; Related acids 1.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25.

EPA Reg. No. 499–180. Whitmire Research Laboratories, Inc., 3568 Tree Court Industrial Blvd., St. Louis MO 63122. WHITMIRE PRESCRIPTION TREATMENT NO. 1200 AEROSOL GENERATOR. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 1.000%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amended Labeling. PM17

[FR Doc.76–24704 Filed 8–23–76;8:45 am]

[FRL 604–3; OPP—33000/451 & 452]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94–140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755–2315; PM 21 and 22—202/426–2454; PM 24—202/755–2196; PM 31—202/426–2635; PM 33—202/755–9041; PM 15, 16, and 17—202/426–9425; PM 23—202/755–1397; PM 25—202/755–7012; PM 32—202/426–9486; and PM 34—202/426–9490.

The Interim Policy Statement requires that claims for compensation be filed on or before October 26, 1976. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before September 23, 1976.

Dated: August 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/451)

EPA Reg. No. 2749–247. Aceto Chemical Co., Inc., Agricultural Chemicals Div., 126–02 Northern Blvd., Flushing NY 11368. BARBAN EC POST-EMERGENCE WILD OAT HERBICIDE. Active Ingredients: Barban (4-Chloro-2-Butyryl-M-Chloro - Carbanilate) 11.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 33955–LUR. Acme Div., PBI-Gordon Corp., 300 South 3rd Street, Kansas City KS 66118. ACME DURSBAN GRANULAR INSECTICIDE. Active Ingredients: Chlorpyrifos (0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 3051–72. AGCO Agricultural Products Co., Box 698, Mesquite NM. AGCO METHOMYL 2 INSECTICIDE DUST. Active Ingredients: S-methyl - N-[(methylcarbamoyl) oxy] thioacetimidate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 3442–624. USS Agri-Chemicals, P.O. Box 1685, Atlanta GA 30301. USS VERTAGARD MCPP-2,4-D (AMINE SALT) BROADLEAF WEED KILLER. Active Ingredients: Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) propionic acid 31.00%; Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 15.35%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 6308–77. The Ansul Co., P.O. Drawer 1165, Weslaco TX 78596. ANSAR 529 H.C. HERBICIDE WESTERN FORMULATION. Active Ingredients: Monosodium Acid Methanearsonate 47.65%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 6308–60. The Ansul Co. ANSAR 170 H.C. HERBICIDE HIGH CONCENTRATE. Active Ingredients: Monosodium Acid Methanearsonate 58.39%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 6308–29. The Ansul Co. ANSAR 529 H.C. HERBICIDE HIGH CONCENTRATE. Active Ingredients: Monosodium Acid Methanearsonate 47.74%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 6308–20. The Ansul Co. PHYTAR 560 HERBICIDE. Active Ingredients: Sodium Cacodylate 22.73%; Dimethylarsininc Acid (Cacodylic Acid) 3.88%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment: Added uses. PM23

EPA Reg. No. 10088–16. Athea Labs, Inc., 4180 N. First St., Milwaukee WI 53212. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 24.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5887–55. Black Leaf Products Co., 667 North State St., Elgin, IL 60120. Active Ingredients: Dimethylamine Salts of 2,4-Dichlorophenoxyacetic Acid 0.65%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 33313–3. Blakely-Wellgro, Inc., P.O. Box 26, Wellington CO 80549. TURF TONIC WEED AND FEED. Active Ingredients: Dimethylamine salts of 2,4-Dichlorophenoxyacetic Acid .67%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5011–60. Carmel Chemical Corp., Box 406, Westfield IN 46074. FORMULA GH–18. Active Ingredients: Naled-1,2-Dibromo-2,2 dichloroethyl dimethyl phosphate 10%; Aromatic petroleum distillate 45%; Petroleum distillate 45%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 34895–G. Central Solvents & Chemicals Co., 2465 South 1100 West, Wood Cross UT 84087. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 3125–148. Chemagro Agricultural Div., Mobay Chemical Corp., Box 4913, Kansas City MO 64120. Active Ingredients: fenthion 0,0-Dimethyl 0-(3-methyl-4-(methylthio) phenyl] phosphorothioate 93%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Method of Support changed from 2(a) to 2(b). PM15

EPA File Symbol 3125–277. Chemagro Agr. Div. SENCOR 50% WETTABLE POWDER HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl) -3-(methylthio) -1,2,4-triazin-5(4*H*) -one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised Offer to Pay statement submitted. PM25

EPA Reg. No. 5569–70. Coastal Chemical Corp., PO Box 856, Greenville NC 27834. 2% METHOMYL INSECTICIDE DUST. Active Ingredients: Methomyl (S-methyl-N-[(methylcarbamoyl) oxy] thioacetimidate 2%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 4715–304. Colorado International Corp., P.O. Box 7257, Denver CO 80207. BEST 4 SERVICE BRAND SURE DANDELION AND WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 24.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

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EPA File Symbol 4643–EO. Dearborn Chemical Div., Chemed Corp., Lake Zurich IL 60047. DEARCIDE 716 OXIDIZING MICROBIOCIDE. Active Ingredients: Trichloro-S-Triazinetrione 25.00%; Potassium Peroxymonosulfate 22.90%; Potassium Bisulfate 9.35%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24

EPA Reg. No. 3772–28. Earl May Seed & Nursery Co., North Elm Street, Shenandoah IA 51630. EARL MAY GARDEN WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 3770–GEN. Economy Products Co., Inc., Box 427, Shenandoah IA 51601. GARDEN VEGETABLE AND FLORAL DUST. Active Ingredients: Malathion (o,o-dimethyl dithiophosphate of diethyl mercaptosuccinate) 5.00%; Methoxychlor, technical 5.00%; Captan: (N-(trichloromethyl) thio) -4-cyclohexene-1,2-dicarboximide) 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM13

EPA Reg. No. 4816–428. FMC Corp., A.C.D., Industrial Sales Dept., 100 Niagara St., Middleport NY 14105. PYRENONE SPACE SPRAY. Active Ingredients: Pyrethrins 0.3% Piperonyl Butoxide; Technical 2.4%; Petroleum Distillate 97.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 36867–R. Henley and Co., Inc., 750 Third Ave., New York NY 10022. TRI-N-BUTYLTINOXIDE. Active Ingredients: Bis (Tri-n-Butyltin) Oxide 95%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 4704–2. J. C. Ehrlich Chemical Co., Inc., 800 Hiesters Lane, Reading PA 19605. MAGIC CIRCLE RABBIT REPELLENT. Active Ingredients: Thiram (Tetramethylthiuram disulfide) 20%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM11

EPA File Symbol 32196–R. Kare Kemical, 148 Eagle Plaza, Opa Locka FL 33054. CONCENTRATED ALGICIDE. Active Ingredients: Alkyl Dimethyl Benzyl Ammonium Chloride (C14, 60%; C12, 25%; C16, 15%) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 8940–5. Lite Weight Products, Inc., 707 Funston Rd., Kansas City KS 66115. SUP–RO 5 WEED AND FEED. Active Ingredients: Dimethylamine 2,4-Dichlorophenoxyacetate 1.50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5204–16. M&T Chemicals Inc., Subsidiary of American Can Co., P.O. Box 1104, Rahway NJ 07065. BIOMET BLUE ANTIFOULING PAINT NO. 12122. Active Ingredients: Tributyltin fluoride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 38811–R. Muskol Enterprises Ltd., P.O. Box 644, 244 Pleasant St., Truro, N.S., Canada B2N5E5. MUSKOL INSECT REPELLENT. Active Ingredients: Dimethyl Phthalate 47.1%; 2-Ethyl 3 Hexanediol 41.0%; Indalone 11.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 38811–E. Muskol Enterprises Ltd. MUSKOL MARK II INSECT REPELLENT. Active Ingredients: Diethyl-Meta-Toluamide 95%; Related Toluamides (Para & Ortho) 5%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 9779–228. Riverside Chemical Co., P.O. Box 171199, Memphis TN 38117. RIVERSIDE FERMATE DUST. Active Ingredients: Ferbam (Ferric Dimethyldithiocarbamate) 11.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 9779–203. Riverside Chemical Co., Box 17199, Memphis TN 38117. RIVERSIDE 2% METHOMYL DUST. Active Ingredients: Methomyl S-methyl-N-(methylcarbamoyl) thiocetimidate 2%. Method of support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA File Symbol 8636–R. W. B. Enterprises Inc., Distributors of Stiles Kem Water Treatment Products, 4977 Santa Anita, Temple City CA. W. B. ENTERPRISES INC. ALGAECIDE WT-140. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 3.64%; n-alkyl (68% C12, 32% C14) dimethyl ethyl benzyl ammonium chloride 3.64%; isopropanol 2.80%; n-alkyl (55% C14, 25% C12, 17% C16, 3% C18) methyl isoquinolinium chloride 2.42%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 22555–3. Stoller Chemical Co., Inc., 8705 Katy Freeway, Suite 400, Houston TX 77024. TOP COP WITH SULFUR. Active Ingredients: Sulfur as S 50.0%; Copper as Metallic 4.4%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM22

EPA File Symbol 7401–EGU. Voluntary Purchasing Groups, Inc., P.O. Box 460, Bonham TX 75418. SYTEMIC WEED & FEED. Active Ingredients: Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 0.050%; Dimethylamine Salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.165%; Dimethylamine Sale of Dicamba (3-6-dichloro-o-anisic acid) 0.019%. Method of Support: Application proceeds under 2(b) of interim policy. Application for Reregistration. PM23

APPLICATIONS RECEIVED (OPP–33000/452)

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., 6054 Du Pont Bldg., Wilmington, DE 19898. LANNATE L METHOMYL INSECTICIDE. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 352–362. E. I. Du Pont De Nemours & Co., Inc., LANNATE WP METHOMYL INSECTICIDE. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 352–342. E. I. Du Pont de Nemours & Co., Inc. LANNATE METHOMYL INSECTICIDE WATER SOLUBLE POWDER. Active Ingredients: Methomyl S-methyl N[(methylcarbamoyl)oxy]thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 912–46. Farmers Union Central Exchange, Inc., PO Box "G", St. Paul MN 55165. SYSTEMIC-T FERTILIZER PLUS INSECTICIDE. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio) methyl] phosphorodithioate .67%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 912–38. Farmers Union Central Exchange, Inc. SYSTEMIC-T FERTILIZER PLUS INSECTICIDE. Active Ingredients: Phorate (0,0 - diethyl S - [(ethylthio) methyl] phosphorodithioate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 407–317. Imperial, Inc., PO Box 423, West 6th & Grass, Shenandoah IA 51601. IMPERIAL GARDEN WEEDER. Active Ingredients: Dimethylester of tetrachloroterephthalic acid 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–278. Lebanon Chemical Corp., PO Box 180, Lebanon PA 17042. GREEN GOLD PRE-EMERGENCE CRABGRASS CONTROL. Active Ingredients: Dimethyl Tetrachloroterephthalate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–273. Lebanon Chemical Corp. LEBANON PREEMERGENCE WEED CONTROL. Active Ingredients: Dimethyl tetrachlorotherephthalate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–243. Lebanon Chemical Corp. LEBANON PREEMERGE CRABGRASS KILLER AND LAWN FERTILIZER 10–6–4. Active Ingriedients: Dimethyl tetrachloroterephthalate 2.90%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–225. Lebanon Chemical Corp. LEBANON CRABGRASS SEEDLING KILLER. Active Ingredients: Dimethyl tetrachloroterephthalate 4.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–205. Lebanon Chemical Corp. PENNSYLVANIA DUTCH PREEMERGE CRABGRASS KILLER. Active Ingredients: Dimethyl tetrachloroterephthalate 2.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 72–478. Miller Chemical & Fertilizer Corp., An Alco Standard Co., PO Box 333, Hanover PA 17331. MILLER WEED FREE. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–48. O. M. Scott & Sons, Marysville OH 43040. SPOT DANDELION CONTROL. Active Ingredients: Alkanolamine salts (ethanol and ispropanol series) of 2,4-Dichlorophenoxyacetic acid 1.66%; Dicamba-dimethylamine salt of (2-Methoxy-3,6-dichlorobenzoic acid) 0.31%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–45. O. M. Scott & Sons. PROTURF (R) BRAND BROAD SPECTRUM WEEDICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 2.95%; Dicamba (2 - methoxy - 3,6 - dichlorobenzoic acid) 1.00% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–44. O. M. Scott & Sons. BONUS (R) TYPE B. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.40%; Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.07%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–33. O. M. Scott & Sons. PROTURF FERTILIZER PLUS DICOT WEED CONTROL. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 1.10%; Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.35%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–9. O. M. Scott & Sons. KANSEL (R) BRAND. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 2.95%; Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.48%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 201–324. Shell Chemical Co., Agricultural Div., 1025 Connecticut Ave. NW, Suite 200, Washington DC 20036. NUDRIN 90 METHOMYL INSECTICIDE WATER SOLUBLE POWDER. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl)oxy] - thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 448–476. Techne Corp., St. Joseph MO 64502. TECHNE FERBAM 76. Active Ingredients: Ferbam (Ferric dimethyl dithiocarbamate) 76.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 226–192. Tobacco States Chemical Co., Inc., Box 479, Lexington KY 40501. TOBACCO STATES BRAND DISULFOTON TOBACCO. Active Ingredients: O,O-Diethyl S-[2-(ethylthio) ethyl] phosphorodithioate 15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

[FR Doc.76–24705 Filed 8–23–76;8:45 am]

[FRL 604–4; OPP–33000/453]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticides registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington, D.C. 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755–9315; PM 21 and 22—202/426–2454; PM 24—202/755–2196; PM 31—202/426–2635; PM 33—202/755–9041; PM 15, 16 and 17—202/426–9425; PM 23—202/755–1397; PM 25—202/755–7012; PM 32—202/426–9486; and PM 34—202/426–9490.

The Interim Policy Statement requires that claims for compensation be filed on or before October 26, 1976. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before September 23, 1976.

Dated: August 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/453)

EPA File Symbol 35988–R. Aerosol West, PO Box 5103, Ventura CA 93003. INSECTICIDE, AEROSOL RESMETHRIN—2%. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl- 3 -(2 - methylpropenyl) cyclopropanecarboxylate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 39259–A. The Aluvis Co., 23996 Clawiter St., Hayward CA 94545. RAT–X ALL WEATHER RAT BAIT READY TO USE BLOCKS. Active Ingredients: Diphacinone (2-diphenylacetyl-1,3-indandione) 0.005%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39259–L. The Aluvis Co. RAT–XW ALL WEATHER RAT BAIT READY TO USE BLOCKS. Active Ingredients: Warfarin [3-(a-acetonylbenzyl)-4-hydroxycoumarin] 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39259–U. The Aluvis Co. RAT–XW FENCE BLOCK ALL WEATHER ROOF RAT BAIT READY TO USE BLOCKS. Active Ingredients: Warfarin [3-(a-acetonlbenzyl) -4-hydroxycoumarin] 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39259–G. The Aluvis Co. RAT–XP ALL WEATHER RAT BAIT READY TO USE BLOCKS (SEWERS). Active Ingredients: Pival [2-Pivalyl-1,3-Inandione] 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39259–R. The Aluvis Co. RAT–X FENCE BLOCK ALL WEATHER ROOF RAT BAIT READY TO USE BLOCKS. Active Ingredients: Diphacinone [2-diphenylacetyl-1,3-indandione] 0.005%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA Reg. No. 35378–6. Aqua Process Chemicals, PO Box 20155, Houston TX 77025. S–75 MICROBIOCIDE. Active Ingredients: 2-(Thiocyanomathylthio)-benzothiazole 8.-0%; 2-Hydroxypropylmethane-thiosulfonate 7.0% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA File Symbol 5734–T. Avril, Inc., 601 N. Third St., Reading PA 19601. AVRIL SWIMMING POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 5887–97. Black Leaf Products Co., 667 N. State St., Elgin IL 60120. BLACK LEAF WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM26

EPA File Symbol 36535–G. Carnation Co., 5054 Wilshire Blvd., Los Angelees CA 90036. ALBERS RABON 7.76 ORAL LARVICIDE PREMIX. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 7.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 36535–E. Carnation Co. RED ROSE RABON 7.76 ORAL LARVICIDE PREMIX. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 7.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 4715–234. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND

V 41 165 AUG 24 76 UMI

DANDELION DESTROYER. Active Ingredients: Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 3.43%; Dimethylamine Salts of Related Acids 0.55%; Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 17.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 3770-218. Economy Products Co., Inc., PO Box 427, Shenandoah IO 51601. DACTHAL 50W HERBICIDE. Active Ingredients: Dimethyl Tetrachloroterephthalate 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23.

EPA Reg. No. 3770-180. Economy Products Co., Inc., ECONOMY DACTHAL HERBICIDE FOR ORNAMENTALS (GRANULAR). Active Ingredients: Dimethyl Tetrachloroterephthalate 4.16%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 3770-176. Economy Products Co., Inc. ECONOMY DACTHAL HERBICIDE FOR VEGETABLES (GRANULAR). Active Ingredients: Dimethyl Tetrachloroterephalate 4.16%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 3770-52. Economy Products Co., Inc. ECONOMY CRAB GRASS CONTROL. Active Ingredients: Dimethyl tetrachloroterephthalate 4.16%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990-365. Farmland Industries, Inc., c/o Regulatory Affairs Dept., PO Box 7305, Kansas City MO 64116. CO-OP BIG 2 LAWN FERTILIZER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, dimethylamine salt 1.00%; 3,6-dichloro-o-anistic acid (Dicamba), dimethylamine salt 0.25%; Related acids of dimethylamine salts 0.04%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990-362. Farmland Industries, Inc. CO-OP LAWN AND GARDEN WEED KILLER DACTHAL (8) GRANULES. Active Ingredients: Dimethyl tetrachloroterephthalate (Dacthal) 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990-332. Farmland Industries, Inc. CO-OP BANVEL D/2,4-D GRANULES LAWN WEED KILLER. Active Ingredients: 3,6-dichloro-o-anisic acid (Dicamba), dimethylamine salt 0.28%; 2,4-Dichlorophenoxyacetic acid, dimethylamine salt 0.83%; Related acids of dimethylamine salt 0.05%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990-310. Farmland Industries, Inc. CO-OP BROAD LEAF WEED KILLER. Active Ingredients: 3,6-dichloro-o-anisic (Dicamba), dimethylamine salt 6.48%; 2,4-dichlorophenoxyacetic acid, dimethylamine salt 25.92%; Related acids of dimethylamine salts 1.14%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 9198-30. Free Flow Fertilizer, PO Box 119, Maumee OH 43537. TURF CARE 20-4-10 WITH 0.92% BENEFIN. Active Ingredients: N-butyl-N-ethyl-α,α,α-trifluoro-2,6-dinitro-p-toluidine 0.92%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 39902-R. Florida Correctional Industries, Glades Correctional Institute, 500 Orange Ave. Circle, Tallahassee FL 33430. DEE-CEE CONCENTRATED DISINFECTANT. Active Ingredients: Trisodium Phosphate 2.27%; Sodium Tripolyphosphate 2.27%; Diethanolamides of coconut fatty acids 6.93%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.70%; n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chlorides 1.70%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 8780-41. High Point Mills, Inc., 1225 Lehigh Station Rd., Henrietta NY 14467. ANTHIC LAWN WEED KILLER PLUS FERTILIZER. Active Ingredients: 2-(2-methyl-4-chlorophenoxy) propionic acid, dimethylamine salt 1.06%; 2,4-dichlorophenoxyacetic acid, sodium salt monohydrate 1.08%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2342-705. Kerr-McGee Chemical Corp., Kerr-McGee Center, PO Box 25861, Oklahoma City OK. FASCO GRANSIL 10P. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 39101-E. Lamar Chemical Co., Box 177, Petal MS 39465. ALL-PRO SANITIZER-CLEANER. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%; Sodium Carbonate 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 7796-L. Dr. MacDonald's Vitamized Feed Co., Inc., Highway 20W., PO Box 1077, Fort Dodge IA 50501. DR. MCDONALD'S EX-L FLY CONTROL VY-TAB-O-LATOR. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 1.79%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 8123-74. Frank Miller & Sons, Inc., 13831 S. Emerald Ave., Chicago IL 60627. GRANULAR HERBICIDE. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 8123-72. Frank Miller & Sons, Inc. GRANULAR WEED AND VEGETATION KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6 - methyluracil) 3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 8123-13. Frank Miller & Sons, Inc. WEED AND VEGETATION KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 1.0%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 1769-143. National Chemsearch, Div. of USACHEM, Inc., 2727 Chemsearch Blvd., Irving, TX 75062. NATIONAL CHEMSEARCH APOLLO 445. Active Ingredients: Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) proprionic acid 8.0%; Diethanolamine salt of 2,4-Dichlorophenoxyacetic 8.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 3635-EEA. Oxford Chemicals, PO Box 80202, Atlanta GA 30341. OXFORD 1219. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1812-212. Parramore & Griffin, Box 188, Valdosta GA 31601. METHOMIL TOBACCO DUST. Active Ingredients: Methomyl [S-methyl - N - (methylcarbamoyl) oxy] thioacetimidate 2.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 2169-180. Patterson Chemical Co., Div. Curry-Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. PATTERSON'S GARDEN WEED PREVENTER (CONTAINS DACTHAL). Active Ingredients: Dimethyl Tetrachloroterephthalate 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1159-165. Seacoast Laboratories, Inc., 257 Hwy. 18, PO Box 157, East Brunswick NJ 08816. TWIN LIGHT PROFESSIONAL DACTHAL CRABGRASS PREVENTER. Active Ingredients: Dimethyl Tetrachloroterephthalate 4.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401-171. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham, TX 75418. FERTI-LOME SYSTEMIC WEED KILLER. Active Ingredients: Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 1.43%; Dimethylamine Salt of Related Acids .23%; Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 8.23%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401-40. Voluntary Purchasing Groups, Inc. FERTI-LOME BROAD SPECTRUM WEED KILLER. Active Ingredients: Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 3.43%; Dimethylamine Salt of related acids 0.61%; Dimethylamine Salts of 2,4-dichlorophenoxyacetic acid 20.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401-37. Voluntary Purchasing Groups, Inc. FERTI-LOME WEED & FEED FOR CONTROLLING WEEDS. Active Ingredients: Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 0.11%; Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 0.31%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23.

[FR Doc.76-24706 Filed 8-23-76;8:45 am]

FEDERAL MARITIME COMMISSION

[FMC-142(a); (Rev. 3/74)]

MED-GULF CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

MED-GULF CONFERENCE

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006

Agreement No. 9522-27, among the members of the above-named conference, modifies the basic agreement by establishing a separate section for Puerto Rican tariff with exclusive jurisdiction over the tariff rules and regulations apropos to that section.

By Order of the Federal Maritime Commission.

Dated: August 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24772 Filed 8-23-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP68-16]

CITIES SERVICE GAS CO.

Filing of Releases

AUGUST 11, 1976.

Take notice that on June 28, 1976, Cities Service Gas Company (Cities) filed, pursuant to Paragraph (E) of the Commission's order issued on January 30, 1969, in this docket, copies of 22 releases received by Cities from its customers. In filing its refund report on November 8, 1975, in this docket, Cities noted that releases had not been received from 23 jurisdictional customers at the time of the report but that such releases would be filed with the Commission upon receipt.

Cities states that with the exception of the Town of Gate, Oklahoma (Gate), Cities has now supplied to the Commission copies of the releases from all customers which were mailed refunds on October 11, 1973. Gate, according to Cities, failed to negotiate two separate refund sheets mailed to it by Cities; Cities reduced Gate's May, 1976 bill by the amount of the refund in order to fulfill its refund obligation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24744 Filed 8-23-76;8:45 am]

FEDERAL RESERVE SYSTEM

CITIZENS NATIONAL CORP.

Formation of Bank Holding Company

Citizens National Corporation, Wisner, Nebraska, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent (or more) of the voting shares of Citizens National Bank of Wisner, Wisner, Nebraska. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 17, 1976.

Board of Governors of the Federal Reserve System, August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24744 Filed 8-23-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Corrections to Automated Data and Telecommunications Service (ADTS) Systems of Records

On August 27 and October 7, 1975, there were published in the FEDERAL REGISTER (40 FR 39185 and 46421) notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a. Notice is hereby given that the General Services Administration proposes to revise and correct these systems of records to clarify the contents of the systems and their routine uses and to correct minor inaccuracies. The systems of records identified as GSA/ADTS 1, Classified Control Files; GSA/ADTS 3, Discretionary Supervisor Files; GSA/ADTS 5, Financial Management Files; and GSA/ADTS 6, Personnel Administrative Files, are revised to correct minor inaccuracies. GSA/ADTS 4, Emergency Notification Files, is revised to clarify the routine uses and correct minor inaccuracies; and GSA/ADTS 8. Key Personnel and Essential Residence Telephone Directory, is revised to change the system's name and to clarify the telephone listings contained in the system and the system's routine uses. None of the changes requires a new system report.

Any person interested in commenting on the additional routine uses contained in this notice may do so by submitting comments in writing to General Services Administration (BR), Washington, DC 20405. Comments must be submitted on or before September 23, 1976.

GSA/ADTS 1

System name: Classified Control Files, GSA/ADTS.

System location: Office of Telecommunications, Central Office and regional offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

Categories of individuals covered by the system: Employees of GSA, other Government agencies, and commercial corporations.

Categories of records in the system: Records are mantained in this nonautomated system for the purpose of ensuring control over access to classified information and facilities. Contains records such as: Security clearance levels, identificaiton credentials, registers, access authorizations, official courier/messenger designations, security officer appointments, files custodian lists, security briefings, and acknowledgments.

Authority for maintenance of the system: Executive Order 10450, April 27, 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining and exchanging current information regarding authority of personnel to gain access to classified material or facilities. Documenting responsibilities of designated personnel to administer the overall security program. Used to verify clearance for access to classified material or facilities; to allow performance of maintenance and repair of classified communications equipment; and to verify authority to release, transport, and receive classified material, both inter and intra agency. Other routine uses are contained in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files kept in safes or storage cabinets.

Retrievability: Filed alphabetically at each location by name of individual.

Safeguards: Buildings employ security guards. Storage containers are either locked or located in a limited access area.

Retention and disposal: Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

Systems manager(s) and address: Chief, Secure and Emergency Commu-

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nications Branch, Office of Telecommunications, GS Building, 18th & F Streets, NW., Washington, DC; mailing address: General Service Administration (CTOS), Washington, DC 20405.

Notification procedure: Inquiries should be directed to the Chief, Secure and Emergency Communications Branch, at the above address or to the Director, Telecommunications Division, of the appropriate regional office at the address listed in the appendix following GSA/ADTS notices.

Record access procedures: Same individuals as above.

Contesting record procedures: GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: The individuals themselves, requests for clearance and/or access, and other security forms.

GSA/ADTS 3

System name: Discretionary Supervisor Files, GSA/ADTS

System location: Normal place of business of supervisor in either the GSA/ADTS Office or regional locations. The addresses are listed in the appendix following the GSA/ADTS notices.

Categories of individuals covered by the system: ADTS employees including those in intern, youth employment, and temporary status.

Categories of records in the system: Records are maintained in this nonautomated system at the complete discretion of the ADTS supervisor. Contains records such as personnel actions, training requests, performance appraisals, letters of commendation, citations, awards, job descriptions, accident reports, supervisor's assessment, career counseling, leave record, copies of warnings, grievances, reprimands, attendance, annotated organizational charts, selection brief, outside employment, and labor relations.

Authority for maintenance of the system: Title 5 U.S.C. Section 301.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses: The routine uses of these records, as defined in 5 U.S.C. 552a(a)(7) and provided for in 5 U.S.C. 552a(b)(3), are described in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files stored in metal lockable filing cabinets and metal lockable desk drawers.

Retrievability: Filed alphabetically at each location by name of individual.

Safeguards: Buildings employ security guards. Records are maintained in metal lockable filing cabinets or metal lockable desk drawers, with limited access.

Retention and disposal: Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

Systems manager(s) and address: Executive Director, ADTS, GS Building, 18th & F Streets, NW., Washington, DC; mailing address: General Services Administration (CX), Washington, DC 20405.

Notification procedure: Inquiries should be directed to the individual's immediate supervisor. Any required additional assistance can be obtained from the system manager identified above, or the Regional Commissioner of the appropriate regional office at the address listed in the appendix following the GSA/ADTS notices.

Record access procedures: Same individuals as above.

Contesting record procedures: GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: The individuals themselves, personal observations of the supervisor, conversations, copies of documents prepared by the supervisor, and other employees.

GSA/ADTS 4

System name: Emergency Notification Files, GSA/ADTS.

System location: Central and Regional Offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

Categories of individuals covered by the system: GSA/ADTS Central Office and regional employees.

Categories of records in the system: Records are maintained in this nonautomated system for the purpose of notifying and identifying employees or their designees under emergency conditions. Contains records such as: employees name, address, position title, office phone number, and home phone number.

Authority for maintenance of the system: Title 5 U.S.C. Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining a current listing of Federal officials to be contacted during national disasters, contingency and emergency situations; and providing this information, as necessary, in disasters or public or personal emergencies, to concerned agencies, telephone companies, telecommunications common carriers, civil defense, and other activities and individuals involved in the emergency or relief effort. Contacting officials in support of Federal Emergency Plan D and NCS Plan for Communications Support in major disasters and emergencies. Other routine uses are contained in the appendix following the GSA Notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files kept in safes or storage cabinets.

Retrievability: Filed alphabetically at each location by name of individual.

Safeguards: Buildings employ security guards. Storage containers are either locked or located in a limited access area. Information is released only to authorized officials.

Retention and disposal: Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Chief, Secure and Emergency Communications Branch, Office of Telecommunications, GS Building, 18th & F Streets, NW., Washington, DC; mailing address: General Services Administration (CTOS), Washington, DC 20405.

Notification procedure: Inquiries should be directed to the system manager identified above or to the Director, Telecommunications Division, at the regional office at the address listed in the appendix following the GSA/ADTS notices.

Record access procedures: Same individuals as above.

Contesting record procedures: GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: The individuals themselves, their supervisors, emergency listings, disaster plans, and personnel files.

GSA/ADTS 5

System name: Financial Management Files, GSA/ADTS.

System location: Financial Management Division, ADTS, at the Central Office and in the offices of the ADTS Commissioners and Telecommunications Division Directors in the regional offices at the address listed in the appendix following the GSA/ADTS notices.

Categories of individuals covered by the system: GSA/ADTS Central Office and regional employees.

Categories of records in the system: Records are maintained in both paper and automated form for the purpose of financial management. Contains information on financial projections for short and long range planning, preparation of annual financial plans, monthly and quarterly analysis of operation funds, and verifying accounting reports. Contains records such as: Travel logs, transportation requests, claims, vouchers, within grade notices, pay changes, operator cost data, credit cards, requisitions, overtime requests, operating plans, time and attendance files, payroll, commercial call certifications, employment staffing, retirement eligibility, and manpower and payroll statistics.

Authority for maintenance of the system: Title 31 U.S.C. Sections 66a and 66b.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records, as defined in 5 U.S.C. 552(a)(7) and provided for in 5 U.S.C. 552(b)(3), are described in the appendix following the GSA notices.

Polices and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files are kept in storage containers. Magnetic tapes are filed in a tape library.

Retrievability: Filed alphabetically at each location by name of individual.

Safeguards: Buildings employ security guards. Records containing personal information are maintained in metal lockable filing cabinets or metal lockable desk drawers, with limited access. Tapes and other records are located in a limited access area.

Retention and disposal: Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Director, ADTS, GS Building, 18th & F Streets, NW., Washington, DC; mailing address: General Service Administration (CX), Washington, DC 20405.

Notification procedure: Inquiries should be addressed to the system manager identified above or to the Regional Commissioner of the appropriate regional office at the address listed in the appendix following the GSA/ADTS notices.

Record access procedures: Same individual as above.

Contesting record procedures: GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: Telephone Inventory Accounting System and individuals submitting the various types of claims, vouchers, and requests.

GSA/ADTS 6

System name: Personnel Administrative Files, GSA/ADTS.

System location: Central Office and regional offices of ADTS at the addresses listed in the appendix following GSA/ADTS notices.

Categories of individuals covered by the system: GSA, ADTS, Central Office and regional employees.

Categories of records in the system: Records are maintained in this nonautomated system for the purpose of administering personnel matters in the ADTS Central Office and regions. Contains annotated organizational charts, training, duty and leave schedules, travel requests, authorizations, reprimands, warnings, vouchers, appraisals, position descriptions, biographic and career information, suggestions, details, personnel actions, grievance and appeal files, EEO files, personnel ceiling control, licenses, awards, essential residence telephone service listing, skill directory, trainee and intern files, property receipts, rosters, locators, job applications, and surveys.

Authority for maintenance of the system: Title 5 U.S.C. Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Action taken with Civil Service Commission or pending on grievances, reprimands, warnings, suggestions, etc. Other routine uses are described in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files kept in metal lockable filing cabinets or metal lockable desk drawers.

Retrievability: Filed alphabetically at each location by name of individual.

Safeguards: Buildings employ security guards. Records maintained in metal lockable filing cabinets or metal lockable desk drawers, with limited access.

Retention and disposal: Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Director, ADTS, GS Building, 18th & F Streets, NW., Washington, DC; mailing address: General Service Administration (CX), Washington, DC 20405.

Notification procedure: Inquiries should be directed to the employee's immediate supervisor. Any additional assistance can be obtained from the system manager identified above, or the Regional Commissioner of the appropriate regional office at the address listed in the appendix following the GSA/ADTS notices.

Record access procedures: Same individuals as above.

Contesting record procedures: GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: The individuals themselves, their supervisors, and from other ADTS employees.

GSA/ADTS 8

System name: Special Purpose Telephone Contact Listings, GSA/ADTS.

System location: GSA/ADTS Regional Telecommunications Offices and GSA operated switchboards within the ten GSA regions and the FTS Central Information Service and Emergency Poison Control listings at GSA, ADTS Region 3. See Appendix GSA/ADTS Address of Locations following the GSA/ADTS notices.

Categories of individuals covered by the system: Federal agency personnel as designated by the Federal agencies.

Categories of records in the system: Includes listings such as Key Personnel and Essential Residence Telephone Listing for the purpose of identifying essential residential telephone service to designated key officials in time of emergency; FTS Central Information Service for the purpose of contacting key officials for necessary day-to-day operations and in emergency situations; Emergency Poison Control Listings for the purpose of providing emergency medical assistance; and other listings of key officials for the purpose of day-to-day operations and emergencies. These listings may include name, position, title, office address, office telephone number, home address, and/or home telephone number.

Authority for maintenance of the system: The Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses: The routine uses of these records, as defined in 5 U.S.C. 552a(a)(7) and provided for in 5 U.S.C. 552a(b)(3), shall include: (1) The transfer to GSA of the above described information from the Federal agency responsible for collecting the information for inclusion in the GSA-maintained nationwide central information service and in regional listings of Federal personnel designated as key personnel or points of contact; (Personal information; i.e., home address or telephone number, will not be disclosed to a caller. The GSA switchboard operator will either "patch" the call through to the subject, or will notify the subject that a call has been made to him for callback purposes.) (2) the transfer of designated essential residence information (and deletions from such list) in the regions to the appropriate telephone companies to provide emergency line load control pursuant to 41 CFR 101–35.6; and (3) those routine uses described in the appendix following the GSA notices.

Policies and practices for storing, retrieving, processing, retaining, and disposing of records in the system:

Storage: Paper, tapes, and/or cards.

Retrievability: Indexed by name and/or agency.

Safeguards: Limited access areas and records are accessible only to authorized personnel of GSA.

Retention and disposal: Maintained until rescinded by authorized agency.

System manager(s) and address: The officials responsible for the telephone contact listings are: (1) Central Information Service and Emergency Poison Control: Regional Director, Telecommunications Division, Region 3; (2) Regional listings: Regional Director, Telecommunications Division, in the appropriate region. The addresses of the responsible officials are listed in the appendix following the GSA/ADTS notices.

Notification procedures: Information may be obtained from the officials listed above.

Record access procedures: Same individuals as above.

Contesting record procedures: GSA rules for access to systems of records, contesting the contents of a system of records, and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the FEDERAL REGISTER.

Record source categories: Information provided by Federal agencies and subject individuals.

Dated at Washington, D.C., on August 13, 1976.

G. C. GARDNER,
Director of Administration.

[FR Doc.76–24723 Filed 8–23–76;8:45 am]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Artists-In-Schools Advisory Panel to the National Endowment for the Arts will be held on September 13-14, 1976 from 9:00 a.m.-5:00 p.m. in the 14th floor conference room of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on September 13 from 9:00 a.m.-11:00 a.m. and on September 14 from 2:00 p.m.-5:00 p.m. on a space available basis. Accommodations are limited. On September 13 the agenda for this portion will include: (1) An Orientation (2) An overview of components of the A-I-S Program. On September 14 the agenda will include: (1) Preview of the January or February Panel Policy (2) Film on A-I-S (3) Discussion.

The remaining sessions of this meeting on September 13 from 11:00 a.m.-5:00 p.m. and on September 14 from 9:00 a.m.-2:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-24735 Filed 8-23-76;8:45 am]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the Federal Graphics Improvement Program will be held on September 15, 1976 from 9:30 a.m.-4:00 p.m. in Room 1127 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on September 15 from 9:30 a.m.-1:30 p.m. and from 2:30 p.m.-4:00 p.m. on a space available basis. Accommodations are limited. Interested persons may submit written statements with the committee. During the open session the there will be a general discussion on the graphics material of the Energy Research and Development Agency.

The remaining sessions of this meeting on September 15 from 1:30 p.m.-2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on Federal Graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended in accordance with the President's Directives of May 16, 1972, August 23, 1974, and June 26, 1975, on Improvement of Federal Graphics. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provision of the Freedom of Information Act (5 U.S.C. 552(b)(5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-24736 Filed 8-23-76;8:45 am]

PUBLIC PROGRAMS PANEL ADVISORY COMMITTEE

Meeting

AUGUST 6, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on September 20 and 21, 1976, commencing at 9:30 a.m., in Room 1130 at 806 15th Street, N.W.

The purpose of the meeting is to review Humanities Media Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Declaration of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-24741 Filed 8-23-76;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel to the National Endowment for the Arts will be held on September 13-15, September 20, and October 5, 1976 from 9:30 a.m.-6:00 p.m. in Room 1115 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

These meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-24737 Filed 8-23-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/18/76 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

Credit Reference, SBA 143, on Occasion, Creditors of SBA Loan Applicants, Warren Topelius, 395-5872.

Contractor's Estimate, SBA 1018B, on Occasion, Contractors Estimating Damage for SBA Loan Program, Warren Topelius, 395-5872.

Personal Financial Statement, SBA-413, on Occasion, Applicants for Disaster Loans, Warren Topelius, 395-5872.

Disaster Loan Application: Home, SBA-5C, 739, on Occasion, Applicants for Disaster Loans, Warren Topelius, 395-5872.

VETERANS ADMINISTRATION

Evaluation of Treatment of Drug-Dependent Patients, Follow-Up Form, 10-1471B, Single-Time, Patients and Former Patients of VA Drug Dependence Treatment Prog Housing, Veterans and Labor Division, Reese, B. F., 395-3532.

DEPARTMENT OF STATE (EXCL. AID AND ACTION)

Application for grant of an Annuity Pursuant to Section 523(C) Pub. L. 94-350, Approved July 12, 1976, DSP-91, on Occasion, Widows of Deceased Forest Service Officers, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Grain Marketing Survey (Wisconsin), Single-Time, Corn and Soybeans Producers, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, Instructional Dimensions Study Forms, NIE 161, Single-Time, LEA Administrators, Principals, Teachers, Kathy Wallman, 395-6140.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Special Recreation Application and Permit (Long Form), 6260-5, on Occasion, Applicants for Permits, Warren Topelius, 395-5872.

REVISIONS

NATIONAL SCIENCE FOUNDATION

Survey of Scientific and Engineering Expenditures at Universities and Colleges, NSF 411, Annually, Institutions of Higher Education with Science Programs, Kathy Wallman, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Institutional Surveys of Bilingual Education Training, OE 2383-1, Single-Time, Institutions of Higher Education, Kathy Wallman, 395-6140.

DEPARTMENT OF LABOR

Employment and Training Administration, Trade Readjustment Allowance Activities and Employability Services (Part D of 1974 WAA Handbook), MA 5-63, Monthly, State Employment Security Agencies for Petitions Under Trade Act, Laverne V. Collins, 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration, Reparation Complaint (Packers and Stockyards Act Violations), PSA-202, on Occasion, Livestock Producers, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Economic Development Administration, Depository Bank Acceptance and Confirmation Statement, ED-1004, on Occasion, Units of Local Government, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Departmental and Other Youth Attitude Tracking Study, Semi-Annually, 16-21-year Old Male Civilians, George Hall, Maria Gonzalez, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Hospital Questionnaire for Indiana Prospective Payment Study, SSA-3174, Single-Time, Participating Hospitals in Indiana, Michigan, Iowa, Illinois, and Minnesota, George Hall, Sunderhauf, M. B., 395-6140.

Health Resources Administration Grant Application, RMP, BHRD 0718, on Occasion, Specialized Non-Profit Agencies, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-24897 Filed 8-23-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

CONCORD DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Concord District Advisory Council will hold a public meeting at 10:00 a.m., Thursday, September 9, 1976, at the Federal Building, 55 Pleasant Street, Room 304, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Bert F. Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, 603/834-4724.

Dated: August 18, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-24689 Filed 8-23-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA) OF 1973

Designation of Fiscal Year 1977 Prime Sponsors

The Comprehensive Employment and Training Act (CETA) authorizes the Secretary of Labor to grant funds to State and local governments, and to other specified parties, to act as prime sponsors of programs to provide training and employment services to persons in need of such assistance. Notice is hereby given for the designation of 445 CETA prime sponsors for Fiscal Year 1977.

The entire list of prime sponsors is published here to inform all interested parties.

NOTE.—Wherever indicated in this material, the * will mean: An independently eligible applicant which has elected to either join a consortium or be served by another prime sponsor.

FISCAL YEAR 1977 TITLE I PRIME SPONSOR DESIGNATION BY REGION

REGION I

Connecticut

Bridgeport consortium:
- Bridgeport*
- Easton
- Fairfield
- Milford
- Monroe
- Stratford
- Trumbull

Hartford consortium:
- Hartford*
- Avon
- Bloomfield
- Canton
- East Granby
- East Hartford
- Enfield
- Farmington
- Glastonbury
- Granby
- Manchester
- Rock Hill
- Simsbury
- South Windsor
- Suffield
- West Hartford
- Wethersfield
- Windsor Locks
- Bolton
- Ellington
- Somers
- Stafford
- Tolland
- Vernon
- Andover
- East Windsor
- Marlborough

New Haven consortium:
- New Haven*
- West Haven
- Bethany
- Branford
- East Haven
- Guilford
- Hamden
- Madison
- North Branford
- North Haven
- Orange
- Woodbridge
- Wallingford

Stamford consortium:
- Stamford*
- Greenwich
- Darien

Waterbury

Balance of Connecticut

Maine

Cumberland County consortium:
- Cumberland County*
- Oxford County

Penobscot County consortium:
- Penobscot County*
- Hancock County
- Kennebec County

Balance of Maine
- York County*

Massachusetts

Boston City

New Bedford consortium:
- New Bedford*
- Acushnet City
- Dartmouth
- Fairhaven
- Marion
- Mattapoisett
- Rochester
- Wareham

Springfield consortium:
- Springfield*
- Chicopee City
- Holyoke
- Westfield
- Agawam
- East Longmeadow
- Hampden
- Holland City
- Longmeadow
- Ludlow
- Monson City
- Palmer City
- Southwick City
- West Springfield
- Wilbraham
- Branford
- Brimfield
- Chester
- Granville
- Montgomery
- Russell
- Tolland
- Wales

Worcester consortium:
- Worcester*
- Auburn City
- Boylston
- Grafton
- Holden
- Leicester
- Milbury
- Northborough

VOL 41 165 AUG 24 76 UMI

Massachusetts—Continued

Paxton
Rutland
Shrewsbury
Spencer
Westborough
West Boylston
Cambridge consortium:
Cambridge*
Watertown City
Somerville City
Arlington City
Belmont City
Brockton consortium:
Brockton*
Abington
Avon
Bridgewater
East Bridgewater
West Bridgewater
Easton
Hanson
Stoughton
Whitman
Lowell consortium:
Lowell*
Billerica City
Chelmsford
Dracut
Dunstable
Tewksbury
Tyngsborough
Westford City
Balance of Massachusetts

New Hampshire

Rockingham/Strafford consortium:
Rockingham County*
Stafford County
Hillsboro County
Balance of New Hampshire

Rhode Island

Providence
Balance of Rhode Island

Vermont

Balance of Vermont
Chittenden County*

REGION II

New Jersey

Atlantic County
Hudson County consortium:
Hudson County*
Jersey City*
Monmouth County
Essex County
Newark City
Morris County
Union County
Elizabeth City
Middlesex County
Bergen County
Passaic County
Paterson City
Mercer County
Trenton City
Cumberland County
Burlington County
Camden County
Gloucester County
Ocean County
Somerset County
Balance of New Jersey
Camden City

New York

Albany consortium:
Albany County*
Albany City*
Rensselaer County
Saratoga County
Schenectady County
Erie consortium:
Erie County*
Cheektowaga*
Tonawanda*
Buffalo City
Niagara County
Broome County
Chemung County
New York City
Rockland County
Westchester consortium:
Westchester County*
Putnam County
Yonkers City
Nassau consortium:
Town of Hempstead*
North Hempstead*
Oyster Bay*
Suffolk consortium:
Town of Babylon*
Town of Brookhaven*
Town of Huntington*
Town of Islip*
Town of Smithtown*
Balance of Suffolk County
Dutchess County
Monroe/Rochester consortium:
Monroe County*
Rochester City*
Oswego County
Onondaga County
Syracuse City
Oneida County
Chautauqua consortium:
Allegany County
Chautauqua County*
Cattaraugus County
Orange County
St. Lawrence County
Ulster County
Balance of New York
Steuben County

Puerto Rico

Ponce Muncipio
Bayamon Municipio
Carolina Municipio
San Juan consortium:
Catano Municipio
Guaynabo Municipio
San Juan Municipio*
Balance of Puerto Rico
Mayaguez Municipio
Caguas Municipio

Virgin Islands

REGION III

Delaware

Wilmington
State of Delaware Intergovernmental Manpower consortium:
New Castle County*
Balance of Delaware*

Maryland

Baltimore consortium:
Baltimore City*
Baltimore County*
Anne Arundel County*
Hartford*
Carroll County
Howard County
Montgomery County
Prince George's County
Western Maryland consortium:
Washington County*
Allegheny County
Garrett County
Frederick County
Balance of Maryland

Pennsylvania

Lehigh Valley consortium:
Lehigh County*
Northampton County*
Allentown*
Southern Allegheny consortium:
Cambridge County*
Blair County*
Somerset County
Bedford County
Fulton County
Huntingdon County
Erie County
Erie City
Susquehanna consortium:
Cumberland County*
Dauphin County*
Perry County
Bucks County
Chester County
Delaware County
Montgomery County
Philadelphia City
Alleghany County
Pittsburgh City
Beaver County
Washington County
Westmoreland County
Berks County
Luzerne County
York County
Lycoming consortium:
Lycoming County*
Clinton County
Tri-County consortium:
Butler*
Armstrong
Indiana County
Fayette County
Franklin County
Lawrence County
Mercer County consortium:
Mercer County*
Crawford County
Warren County
Forrest County
Clarion County
Venango County
Schuykill consortium:
Schuykill County*
Carbon County
Scranton City
Centre County
Northumberland County
Lancaster consortium:
Lancaster County*
Lebanon County
Lackawanna County
Balance of Pennsylvania

Virginia

Penninsula consortium:
Newport News*
Hampton City*
Williamsburg
James City/County
York County
Town of Poquoson
STAMA consortium:
Norfolk*
Portsmouth*
Virginia Beach*
Chesapeake*

Virginia—Continued

Suffolk
Franklin City
Isle of Wight County
Southhampton County
RAMPS consortium:
Richmond*
Charles County
Goochland County
New Kent County
Powhatan County
Henrico County consortium:
Henrico County*
Chesterfield County
Hanover County
Roanoke consortium:
Roanoke
Salem
Covington
Clifton Forge
Alleghany County
Botetourt County
Craig County
Roanoke County
Arlington County
Fairfax County
Prince William County
Alexandria
Balance of Virginia

West Virginia

Statewide consortium:
Kanawha County*
Cabell County*
Balance of State
West Virginia*

District of Columbia

REGION IV

Alabama

Birmingham consortium:
Birmingham*
Jefferson County*
Huntsville consortium:
Huntsville*
Madison County
Mobile consortium:
Mobile City*
Mobile County*
Baldwin County
Escambia County
Montgomery consortium:
Montgomery City*
Autauga County
Elmore County
Montgomery County
Tuscaloosa County
Balance of Alabama
Calhoun County*
Balance of State

Florida

Volusia County
Lee County
Alachua County
Brevard County
Orange County/Orlando consortium:
Orange County*
Orlando City*
Escambia County
Sarasota County
Pasco County
Palm Beach County
Heartland Manpower consortium:
Polk County*
Highlands County
DeSota County
Hardee County
Okeechobee Count
Miami/Dade consortium:
Dade County*
Miami City*
Hialeah*
Monroe County
N.E. Florida Manpower consortium:
Jacksonville/Duval County*
Nassau County
Baker County
Broward consortium:
Broward County*
Fort Lauderdale*
Hollywood*
Leon/Gadsen consortium:
Leon County*
Gadsen County
St. Petersburg consortium:
St. Petersburg*
Pinellas County*
Tampa consortium:
Tampa*
Hillsborough County*
Balance of Florida
Manatee County
Seminole County

Georgia

Atlanta City
Fulton County
DeKalb County
Cobb County
CSRA consortium:
Richmond County*
Burke County
Columbia County
Emanuel County
Glascock County
Jenkins County
Lincoln County
Jefferson County
Screven County
Taliaferro County
Warren County
Wilkes County
McDuffie County
Savannah/Chatham

Georgia—Continued

consortium:
Savannah*
Chatham County
Mid Georgia consortium:
Macon County*
Jones County
Crawford County
Twiggs County
Monroe County
Peach County
Houston County
Bibb County
Columbus Area consortium:
Columbus/Muscogee County*
Chattahoochee County
Clayton County
Balance of Georgia
Gwinnett County

Kentucky

Kenton County
Louisville/Jefferson consortium:
Louisville*
Jefferson County*
Blue Grass Manpower consortium:
Lexington/Fayette*
Franklin County
Madison County
Clark County
Bourbon County
Scott County
Woodford County
Balance of Kentucky
Eastern Kentucky Rural CEP

Mississippi

Jackson consortium:
Jackson County*
Rankin County
Hines County
Balance of Mississippi
Jackson County*
Harrison County*

North Carolina

Buncombe County
Cumberland County
Gaston County
Onslow County
Charlotte City
Davidson County
Wake County
Winston Salem consortium:
Winston Salem*
Forsyth County
Raleigh consortium:
Raleigh City*
Johnson County
Lee County
Chatham County
Greensboro consortium:
Greensboro*
Guilford*
Durham consortium:
Durham City*
Orange County
Durham County
Alamance County
Balance of North Carolina

South Carolina

South Carolina consortium:
Charleston County*
Richland County*
Columbia County*
Greenville County*
Spartanburg County*
Anderson County*
Lexington County*
Balance of South Carolina

Tennessee

Chattanooga City
Hamilton County
Nashville/Davidson County
Sullivan County
Knoxville consortium:
Knox County
Knoxville City*
Memphis consortium:
Memphis City*
Shelby County
Balance of Tennessee

REGION V

Illinois

City of Chicago
Cook County
DuPage County
Kane County consortium:
Kane County*
Dekalb County
Lake County
Macon County
McHenry County
Rock Island County
Tazewell County
LaSalle County
Rockford consortium:
City of Rockford*
Winnebago County*
Boone County
Champaign consortium:
Champaign County*
Ford County
Piatt County
Iroquois County
Will-Grundy consortium:
Will County*
Grundy County
Sangamon-Cass consortium:
Sangamon County
Cass County
Madison County consortium:
Bond County
Madison County*
St. Clair County consortium:
St. Clair County*
Washington County
Perry County
Peoria consortium:
City of Peoria*
Peoria County
City of East St. Louis
Shawnee consortium for southernmost Illinois:
Union County
Johnson County
Alexander County
Pulaski County
Massac County
McLean County
Balance of Illinois

Indiana

City of Gary
City of Hammond
Lake County
Elkhart County
City of South Bend
St. Joseph County
Tippecanoe County
Madison County
Vigo County
City of Indianapolis
LaPorte County
Ft. Wayne Area consortium:
City of Fort Wayne*
Allen County
DeKalb County
Noble County
LaGrange County
Whitley County
Adams County
Southwestern Indiana manpower consortium:
City of Evansville*
Vanderburgh Coun
Posey County
Warrick County
Gibson County
Pike County
Dubois County
Spencer County
Perry County
Delaware-Blackford consortium:
Delaware County*
Blackford County
Balance of Indiana

Michigan

Wayne County
Detroit City
Dearborn City
Livonia City
Monroe County
Bay County
Saginaw County
Oakland County
St. Clair County
Calhoun County
Kalamazoo County
Berrien County
Ottawa County
Grand Rapids Area Manpower Planning Council:
Kent County*
Grand Rapids*
Allegan County
Ionia County
Montcalm County
Muskegon/Oceana consortium:
Muskegon County*
Oceana County
Genessee, Flint, Shiawasee-Lapeer manpower consortium:
Genessee County*
City of Flint*
Shiawasee County
Lapeer County
Lansing Tri-County regional manpower consortium:
Ingham County*
City of Lansing*
Clinton County
Eaton County
City of East Lansing*
City of Ann Arbor
Washtenaw County
Region II manpower consortium:
Jackson County*
Lenawee County
Hillsdale County
Macomb County
Warren City
Balance of Michigan

Minnesota

Duluth
Dakota County
City of Minneapolis
Hennepin County
Anoka, Carver, Scott, Washington consortium:
Anoka County*
Scott County
Carver County
Washington County
City of St. Paul
Ramsey County
Region III consortium:
St. Louis County*
Lake County
Cook County
Koochiching County
Itasca County
Carlton County
Aitkin County
Rural Minnesota CEP
Balance of Minnesota
Sterns County*

Ohio

Cincinnati City
Butler County
Clark County
Hamilton County
Licking/Delaware/Perry consortium
Licking County*
Delaware County
Perry County
Lorain County
Akron, Summit, Medina consortium
Akron City*
Summit City*
Medina County
Portage County
Canton, Stark, Wayne consortium:
Canton*
Stark County*
Wayne County
Cleveland area western reserve manpower consortium
City of Cleveland*
City of Parma*
Cuyahoga County*
Geauga County
Columbus/Franklin consortium:
Columbus City*
Franklin County*
Miami Valley manpower consortium:
City of Dayton*
Montgomery County*
Preble County
Greene County
Toledo area manpower consortium:
Toledo City*
Lucas County*
Wood County*
Northeast Ohio manpower consortium:
Youngstown City*
Mahoning County*
Trumbull County*
Columbiana*
Lake/Astabula consortium:
Lake County*
Astabula County*
Southwest Ohio manpower consortium:
Adams County
Brown County
Highland County
Warren County
Clermont County*
Allen County
Balance of Ohio
Richland-Morrow consortium:
Richland County*
Morrow County

Wisconsin

Outagamie County
Rock County
Milwaukee County (not a consortium):
Milwaukee City*
Milwaukee County*
Madison/Dane consortium:
Madison City*
Dane County*
WOW consortium:
Waukesha County*
Ozaukee County
Washington County
Winne-Fond consortium:
Winnebago County*
Fond du lac County
Tri-County CETA consortium:
Kenosha County*
Racine County*
Walworth County
Balance of Wisconsin
Brown County*
Sheboygan County*
Marathon County
Northwest Wisconsin CEP

REGION VI

Arkansas

Central Arkansas consortium:
Pulaski County*
Little Rock*
Saline County
Lonoke County
Faulkner County
Texarkana consortium:
Miller County
Little River County (also Bowie County, Texas)
Balance of Arkansas

Louisiana

Rapides Parish
Baton Rouge
Layfayette Parish
Calcasieu/Jefferson Davis consortium:
Calcasieu Parish*
Jefferson Davis Parish
Cameron Parish
Quachita Parish
New Orleans
Jefferson Parish
Shreveport City
Balance of Louisiana

New Mexico

Albuquerque consortium:
Albuquerque City*
Bernalillo County
Balance of New Mexico

Oklahoma

Comanche County
Oklahoma County
Oklahoma City consortium:

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Oklahoma—Continued

Oklahoma City*	Tulsa City*
Logan County	Tulsa County
Canadian County	Osage County
Cleveland County	Creek County
Tulsa consortium:	Balance of Oklahoma

Texas

Dallas City	Amarillo City*
Dallas County consortium:	Potter County
	Randall County
Dallas County*	Collingworth County
Irving*	Wheeler County
Garland*	Hemphill County
El Paso consortium:	Lipscomb County
El Paso City*	Carson County
El Paso County	Armstrong County
Fort Worth consortium:	Swisher County
	Hartley County
Fort Worth City*	Oldham County
Arlington City*	Deaf Smith County
Bedford City	
Hurst City	Parmer County
White Settlement	Brisco County
Haltom City	Hall County
Tarrant County	Roberts County
Galveston County	Gray County
Houston	Donley County
Harris County	Capital area manpower consortium:
Central Texas manpower:	
	Austin*
Bell County*	Travis County
Coryell County	Bastrop County
Hamilton County	Burnet County
Lampasas County	Fayette County
Milam County	Hays County
Mills County	Lee County
San Saba County	Caldwell County
Hidalgo County consortium:	Williamson County
Hidalgo County*	S.E. Texas comprehensive manpower consortium:
Wallacy County	
Alamo consortium:	Beaumont City*
San Antonio City*	Jefferson County*
Bexar County*	Hardin County
Atascosa County	Orange County
Bandera County	Cameron County
Gillespie County	Coastal Bend manpower consortium:
Kerr County	
Kendall County	Corpus Christi*
Comal County	Nueces County
Guadalupe County	Bee County
	Brooks County
Medina County	Duval County
Frio County	Jim Wells County
Wilson County	Kleburg County
Karnes County	Live Oak County
Region XI consortium:	McMullen County
	Refugio County
McClennon County*	Sanpatricio County
Bosque County	Kennedy County
Falls County	Arkansas County
Freestone County	
Hill County	
Limestone County	
Texas Panhandle manpower consortium:	

West Central Texas consortium:

Taylor County*	Mitchell County
Brown County	Nolan County
Callahan County	Runnels County
Coleman County	Scurry County
Comanche County	Shackelford County
Eastland County	
Fisher County	Stephens County
Haskell County	Stonewall County
Jones County	Throckmorton County
Kent County	
Knox County	Lubbock City

North Texas State planning regional consortium:

Wichita County*	Foard County
Archer County	Hardeman County
Baylor County	Montague County
Childress County	Wilbarger County
Jack County	Young County
Clay County	Webb County
Cottle County	

Texarkana consortium:

Bowie County (also Miller and Little River Counties, Ark.)

Gulf Coast area manpower:	County
	Montgomery County
Brazoria County*	
Austin County	Walker County
Chambers County	Waller County
Colorado County	Wharton County
St. Bend County	Pasadena City
Liberty County	Balance of Texas
Matagorda	Smith County*

REGION VII

Iowa

Central Iowa Regional Association of Local Governments:	Dallas County
	Linn County manpower consortium:
Des Moines City*	Cedar Rapids City*
Balance of Polk County	Balance of Linn County
Warren County	Blackhawk County
Boone County	Scott County
Story County	Woodbury County
Madison County	Balance of State Iowa
Marion County	
Jasper County	

Kansas

Kansas City consortium:	Johnson County*
	Leavenworth County
Kansas City*	
Balance of Wyandotte County	Topeka consortium:
	Topeka City*
Johnson/Leavenworth consortium:	Shawnee County
	Wichita City
	Balance of Kansas

Missouri

St. Louis County	Kansas City*
Springfield	Cass County
St. Louis City	Platte County
Jackson County	Ray County
Jefferson/Franklin consortium:	Clay County
	Independence
Jefferson County*	St. Charles County
Franklin County	Balance of State Missouri
Kansas City consortium:	

Nebraska

Lincoln	Douglas County
Omaha consortium:	Sarpy County
Omaha*	Balance of Nebraska

REGION VIII

Colorado

Arapahoe County	El Paso County*
Aurora (Part)*	Denver City/County
Jefferson County (not a consortium):	Adams County
	Aurora (Part)*
	Boulder County
Jefferson County*	Pueblo County (not a consortium):
Lakewood City*	
Colorado Springs consortium:	Larimer County
	Weld County
Colorado Springs*	Balance of Colorado

Montana

Balance of Montana	Butte Rural CEP

North Dakota

Balance of North Dakota

South Dakota

Balance of South Dakota

Wyoming

Balance of Wyoming

Utah

Statewide consortium:	Utah County
	Weber County
Salt Lake City*	Davis County*
Salt Lake County*	Balance of State

REGION IX

Arizona

Phoenix City	Tucson City*
Maricopa County	Balance of Pima County
Mesa City	
Tucson/Pima consortium:	Balance of Arizona

California

Sunnyvale	Santa Ana*
Humboldt County	Inland Manpower Association:
Berkeley	
Glendale	Riverside City*
Long Beach	Riverside County*
Los Angeles	San Bernardino City*
Oakland	
Pasadena	San Bernardino County*
San Francisco	
Torrance	Fresno City/County:
Butte County	Fresno*
Contra Cost County	Fresno County*
Kern County	Tulare/Kings County consortium:
Los Angeles County	
Marin County	Tulare*
Merced County	Kings County
Monterey County	Sacramento/Yolo:
San Luis Obispo County	Sacramento*
	Sacramento County*
San Mateo County	
Santa Barbara County	Yolo County
	Stockton/San Joaquin manpower committee:
Santa Cruz County	
Solano County	Stockton*
Sonoma County	San Joaquin County*
Stanislaus County	
Ventura County	Santa Clara Valley:
San Diego RETC:	San Jose*
San Diego City*	Santa Clara County*
San Diego County*	
Orange County manpower:	County of Alameda:
	Fremont*
Orange County*	Alameda County*
Huntington Beach*	Richmond
	Imperial County
Anaheim*	Balance of California
Garden Grove*	

Hawaii

Honolulu City/County	Balance of Hawaii

Nevada

Las Vegas consortium:	Washoe County
	Balance of Nevada
Las Vegas City*	
Clark County*	

American Samoa

Guam

Trust Territories

REGION X

Alaska

Anchorage Borough	Balance of Alaska

Idaho

Statewide consortium:	Ada County*
	Balance of Idaho

Oregon

Portland City	M-Wilm. Valley Manpower consortium:
Clackamas County	
Multnomah/Washington constorium:	Marion County*
	Yamhill County
Washington County*	Polk County
	Balance of Oregon
Balance of Multnomah County*	Jackson County consortium:
Lane County	Josephine County
	Jackson County*

Washington

King/Snohomish consortium:	Spokane consortium:
	Spokane City*
Seattle*	Balance of Spokane County*
Snohomish County*	Clark County
	Kitsap County
Balance of King County*	Yakima County
	Balance of Washington
Tacoma City	
Pierce City	

PIERCE A. QUINLAN,
Administrator, Office of Comprehensive Employment Development.

[FR Doc.76-24544 Filed 8-23-76;8:45 am]

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct an open meeting on Wednesday, September 8, from 9:00 a.m.-4:30 p.m.; Thursday, September 9, 1976, from 9:00 a.m.-12:00 noon in Room S-5215 (A-B-C), New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The agenda for the meeting on September 8 will include:

1. "THE SKY'S THE LIMIT"—(Employment and Training Administration's BAT Film on Women Apprentices).

2. Presentation on: "The Apprenticeship Outreach Program: A Summary Review".

3. Report of NASTAD (National Association of State and Territorial Apprenticeship Directors) Annual Meeting held May 1976, Milwaukee, Wisconsin.

4. Report of FCA Subcommittee on Federal-State Relations.

5. Changing Age and Educational Restrictions on Entry to Apprenticeship; Increasing Women's Participation in Apprenticeship.

The agenda for the meeting on September 9 will include:

1. Presentation on: "Awarding Post-Secondary Educational Credit for Apprenticeship Training".

2. Report of FCA Subcommittee on Goals of the Federal Committee on Apprenticeship.

3. Report of FCA Subcommittee on Equal Apprenticeship Opportunity.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street, N.W. (Rm. 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 18th day of August 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training Administration.

[FR Doc.76-24783 Filed 8-23-76;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Ending of Federal Supplemental Benefit Period in Delaware

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Delaware effective August 22, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Delaware on February 22, 1976.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Delaware has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on July 31, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Delaware for the week ending on July 31, 1976, and that the Federal Supplemental Benefit Period in that State terminated on August 22, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Delaware Department of Labor of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

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Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Delaware should contact the nearest State Employment Office of the Delaware Department of Labor in their locality.

Signed at Washington, D.C., on August 19, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-24780 Filed 8-23-76;8:45 am]

Office of the Secretary

[TA-W-1,016]

BROWN SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 11, 1976 the Department of Labor received a petition dated August 3, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America on behalf of the workers and former workers of the Leachville, Arkansas plant of Brown Group, Inc., St. Louis, Missouri (TA-W-1,016). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with infants and children's shoes produced by Brown Shoe Company, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24784 Filed 8-23-76;8:45 am]

[TA-W-1,015]

DETROIT AUTOMOTIVE PRODUCTS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 11, 1976 the Department of Labor received a petition dated July 22, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Detroit Automotive Products, Warren, Michigan, a division of ASPRO, Inc., Westport, Conn. (TA-W-1,015). Accordingly, the Director, Officer of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with "No-Spin" differential and components produced by Detroit Automotive Products, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24785 Filed 8-23-76;8:45 am]

[TA-W-794]

NORVELT CLOTHING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-794: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 16, 1976 in response to a worker petition received on April 16, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing rainwear, carcoats, and jackets at Norvelt Clothing Company, Norvelt, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20045). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Norvelt Clothing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 11.1 percent from 1973 to 1974 and declined 34.1 percent from 1974 to 1975. Employment declined in each quarter of 1975 compared to the same quarter of 1974. Average hours worked increased 6.9 percent from 1973 to 1974 and then declined 35.4 percent from 1974 to 1975.

The average number of salaried workers declined 33.3 percent from 1973 to 1974 and declined 50.0 percent from 1974 to 1975. Salaried employment declined in each quarter of 1975 compared to the same quarter of 1974.

All employment at Norvelt was terminated in December 1975 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data for 1973 were available only for the fourth quarter. Total sales by Norvelt declined in value 14.2 percent in the fourth quarter of 1974 compared to the fourth quarter of 1973. The value of sales declined 43.8 percent from 1974 to 1975. Sales declined in each quarter of 1975 when compared to the same quarter of 1974.

Production at Norvelt was identical to sales. In the fourth quarter of 1974, Norvelt produced men's raincoats and carcoats. Production was stopped in the first quarter of 1975, due to lack of orders. During the remainder of 1975, Norvelt produced men's carcoats and leisure suit jackets. All production ceased when the plant closed in December 1975.

INCREASED IMPORTS

Imports of men's and boys' outercoats and jackets increased absolutely and relative to domestic production in each year from 1971 through 1973, and then declined absolutely and relatively from 1973 to 1974. Absolute imports declined 6.1 percent from 1974 to 1975. Domestic production of men's and boys' outercoats and jackets declined 8.7 percent from 1974 to 1975. The ratios of imports to domestic production and consumption increased from 29.8 percent and 22.9 percent, respectively in 1974 to 30.6 percent and 23.4 percent in 1975.

Imports of men's and boys' suits increased absolutely and relative to domestic production in each year from 1971 through 1975. Absolute imports increased 26.9 percent from 1974 to 1975. The ratios of imports to domestic production and consumption increased from 12.2 percent and 10.9 percent respectively in 1974 to 17.2 percent and 14.6 percent, respectively, in 1975.

Imports of men's and boys' raincoats declined absolutely and relative to domestic production from 1971 to 1972 and then increased absolutely and relatively from 1972 to 1973. Imports declined absolutely and relatively from 1973 to 1974 and from 1974 to 1975. Domestic production of men's and boys' raincoats declined 5.0 percent from 1974 to 1975. The ratios of imports to domestic production and consumption declined from 11.5 percent and 10.4 percent, respectively, in 1974 to 8.1 percent and 7.5 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the manufacturer who contracted work with Norvelt in 1974 and 1975 decreased purchases of domestically made men's carcoats and leisure suits and increased purchases of imported men's carcoats and leisure suits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's carcoats and leisure suit jackets produced at the Norvelt, Pennsylvania plant of Norvelt Clothing Company contributed importantly to the total or partial separations of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's carcoats and leisure suit jackets at the Norvelt, Pennsylvania plant of Norvelt Clothing Company who became totally or partially separated from employment on or after April 6, 1975 and before December 31, 1975 are eligible for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974. All workers who became totally or partially separated on or after December 31, 1975 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 17th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-24786 Filed 8-23-76;8:45 am]

[TA-W-1,017]

OAK INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 11, 1976 the Department of Labor received a petition dated August 2, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Elkhorn, Wisconsin Division of Oak Industries, Inc., Crystal Lake, Illinois (TA-W-1,017). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the inspection and repairing of TV tuners and CATV units provided by Oak Industries, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24787 Filed 8-23-76;8:45 am]

Office of the Secretary

[TA-W-919]

PROGRESSIVE UNIFORM MANUFACTURING CORP., PHILADELPHIA, PENNSYLVANIA

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-919: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1976 in response to a worker petition received on June 7, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's and women's uniforms, jeans, overalls, shorts, jackets, and women's dresses and skirts at the Progressive Uniform Mfg. Corp. in Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24797). No public hearing was requested and none was held.

The information upon which the determination was made was obtained prin-

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cipally from officials of the Progressive Uniform Mfg. Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actually, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 10.5 percent in the first quarter of 1976 compared to the first quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Progressive Uniform Manufacturing Corporation decreased 38.9 percent in quantity in the first quarter of 1976 compared to the first quarter of 1975.

Sales at the Progressive Uniform Manufacturing Corporation decreased 17.4 percent in value in the first quarter of 1976 compared to the first quarter of 1975.

INCREASED IMPORTS

Imports of women's, misses', and children's woven slacks, jeans and shorts increased in 1972 compared to 1971, decreased in 1973 and 1974, then increased 18.5 percent in 1975 compared to 1974, and 64.4 percent in the first quarter of 1976 compared to the first quarter of 1975. The ratio of imports to domestic production decreased each year from 1972 through 1974, then increased from 23.9 percent in 1974 to 24.8 percent in 1975.

Imports of men's and boys' woven cotton and man-made fiber trousers and shorts, excluding uniforms, increased in 1972 compared to 1971, decreased in 1973, then increased in 1974 through the first quarter of 1976. Imports increased 34.7 percent in 1975 compared to 1974, and 30.7 percent in the first quarter of 1976 compared to the like period of 1975. The ratio of imports to domestic production decreased in 1972 compared to 1971, then increased every year from 1973 through 1975. The ratio of imports to domestic production increased from 9.4 percent in 1974 to 14.8 percent in 1975.

Imports of women's, misses', juniors', girls', children's and infants' coats and jackets increased in 1972 and 1973, decreased in 1974, then increased 2.2 percent in 1975 compared to 1974, and 9.5 percent in the first quarter of 1976 compared to the like period of 1975. The ratio of imports to domestic production decreased each year from 1972 through 1975. The ratio of imports to domestic production decreased from 26.4 percent in 1974 to 21.3 percent in 1975.

Imports of men's and boys' cotton nontailored outer jackets increased in 1972 and 1973, decreased in 1974, then increased 14.6 percent in 1975 compared to 1974. The ratio of imports to domestic production increased in 1972 compared to 1971, decreased in 1973 and 1974, then increased from 14.8 percent in 1974 to 16.6 percent in 1975.

Imports of women's, misses', and juniors' woven skirts decreased in 1972 and 1973, then increased in 1974 through the first quarter of 1976. Imports increased 176 percent in 1975 compared to 1974, and 322 percent in the first quarter of 1976 compared to the first quarter of 1975. The ratio of imports to domestic production decreased in 1972 and 1973, then increased in 1974 and 1975. The ratio of imports to domestic production increased from 4.7 percent in 1974 to 10.3 percent in 1975.

Imports of women's, misses', children's, and infants' knit and woven dresses decreased each year from 1972 through 1974, then increased 1.6 percent in 1975 compared to 1974, and decreased 9.3 percent in the first quarter of 1976 compared to the first quarter of 1975. The ratio of imports to domestic production decreased in 1972 and 1973, then increased in 1974 and 1975. The ratio of imports to domestic production increased from 6.5 percent in 1974 to 7.4 percent in 1975.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they have decreased their purchases of clothing from the Progressive Uniform Manufacturing Corporation relative to their purchases of imported clothing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imported men's and women's uniforms, jeans, overalls, shorts, jackets, and women's dresses and skirts contributed importantly to the total or partial separation of workers at the Progressive Uniform Manufacturing Corporation, Philadelphia, Pennsylvania. In accordance with the provisions of the Act, I make the following certification:

All workers at the Progressive Uniform Manufacturing Corporation, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after January 3, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.24605 Filed 8-23-76;8:45 am]

[TA-W-1,018]

UNIVERSAL COMMUNICATIONS SYSTEMS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 11, 1976 the Department of Labor received a petition dated August 3, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Universal Communications Systems, Inc., Roanoke, Virginia (TA-W-1,018). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with telephone systems and equipment produced by Universal Communications Systems, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, or such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 3, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-24788 Filed 8-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 126]

ASSIGNMENT OF HEARINGS

AUGUST 19, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 116474 (Sub 32), Leavitts Freight Service, Inc., Extension-Eugene, Oregon, MC 116474 (Sub 29), Leavitts Freight Service, Inc., Extension-Seven States, MC 116474 (Sub 24), Leavitts Freight Service, Inc., Extension-Lane County, Oregon, MC 135430, Leavitts Freight Service, Inc.-Conversion Application and MC 135430 (Sub 1), Leavitts Freight Service, Inc., Extension-Waste Paper (Springfield, Oregon) now assigned September 21, 1976 at Portland, Oregon is now cancelled and application dismissed.

MC 136828 (Sub-No. 7), Cox & Shay, Inc., now assigned October 13, 1976 at Birmingham, Alabama is canceled and the application is dismissed.

MC 52841 Sub 166, Hunt Transportation, Inc., now being assigned November 4, 1976 (2 days), at Albuquerque, N. Mexico, in a hearing room to be later designated.

MC-C 9014, Whitfield Transportation, Inc., V. O.N.C. Freight Systems, now being assigned November 4, 1976 (2 days), at Albuquerque, N. Mexico, in a hearing room to be later designated.

MC 133566 Sub 51, Gangloff & Downham Trucking Co., Inc., now being assigned November 16, 1976 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 113651 Sub 188 & Sub 189, Indiana Refrigerator Lines, Inc., now being assigned November 18, 1976 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 123255 Sub 62, B & L Motor Freight, Inc., now being assigned November 16, 1976 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 124951 (Sub 35), Wathen Transport, Inc. now being assigned September 20, 1976 (1 day) at Louisville, Kentucky and will be held in Room 273, Federal Building, 600 Federal Place.

MC 118959 (Sub 129), Jerry Lipps, Inc. now assigned September 21, 1976 at Louisville, Kentucky and will be held in Room 273, Federal Building, 600 Federal Place.

MC 111729 (Sub 557), Purolator Courier Corp. now assigned September 14, 1976 at Frankfort, Kentucky and will be held in the U.S. District Courtroom, 3rd Floor, John C. Watts Federal Building.

MC-F 12784, Smith's Transfer Corporation—Purchase—A & W Service, Inc. and MC 110688 (Sub 108), Smith's Transfer Corporation now assigned September 23, 1976 at Louisville, Kentucky and will be held in Room 273, Federal Building, 600 Federal Place.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24800 Filed 8-23-76;8:45 am]

[Second Revised Exemption No. 128; Rule 19, Ex Parte 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

To:

The Atchison, Topeka and Santa Fe Railroad Company.
Chicago & Eastern Illinois Railroad Company.
Chicago and North Western Transportation Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
Chicago, Rock Island and Pacific Railroad Company.
Illinois Central Gulf Railroad Company.
Louisville and Nashville Railroad Company.
Missouri-Illinois Railroad Company.
Missouri Pacific Railroad Company.
St. Louis Southwestern Railway Company.
Seaboard Coast Line Railroad Company.
Southern Railway Company.
The Texas and Pacific Railway Company.

It appearing, That the thirteen railroads listed below have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", "GS", and "GT" and bearing reporting marks assigned to such carriers.

It further appearing that these thirteen railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other twelve roads as systems, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register I.C.C.–R.E.R. No. 400, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", "GS", and "GT" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b), while on the lines of any of the above named railroads.

The Atchison, Topeka and Santa Fe Railroad Company, Reporting Marks: ATSF.
Chicago & Eastern Illinois Railroad Company, Reporting Marks: CEI Effective July 15, 1976.
Chicago and North Western Transportation Company, Reporting Marks: CNW-CGW-CMO-FDDM-MSTL.
Chicago, Milwaukee, St, Paul and Pacific Railroad Company, Reporting Marks: MILW Effective July 15, 1976.
Chicago, Rock Island and Pacific Railroad Company, Reporting Marks: RI-ROCK.
Illinois Central Gulf Railroad Company, Reporting Marks: ICG-GM&O-IC.
[1] Louisville and Nashville Railroad Company, Reporting Marks: L&N-GIL-MON-NC Effective August 15, 1976.
Missouri-Illinois Railroad Company, Reporting Marks: MI Effective July 15, 1976.
Missouri Pacific Railroad Company, Reporting Marks: MP Effective July 15, 1976.
St. Louis Southwestern Railway Company Reporting Marks: SSW Effective July 15, 1976.
[1] Seaboard Coast Line Railroad Company Reporting Marks: SCL-ACL-C&WC-SAL Effective August 15, 1976.
Southern Railway Company, Reporting Marks: SOU-AEC-CG-GF-NS-SA Effective July 15, 1976.
The Texas and Pacific Railway Company, Reporting Marks: T&P Effective July 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project starting July 15, 1976, the Car Service Division to issue appropriate notification to Project participants, and to advise the undersigned.

Expires February 15, 1977.

Issued at Washington, D.C., August 11, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-24804 Filed 8-23-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 19, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43217—*Joint Water-Rail Container Rates—Far Eastern Shipping Company.* Filed by Far Eastern Shipping Company, (No. 5), for itself and interested rail carriers. Rates on general commodities, from ports in Republic of the Philippines, Singapore, Thailand and West Malaysia, to rail carriers terminals on the U.S. Atlantic and Gulf coasts.

Grounds for relief—Water competition.

FSA No. 43218—*Joint Water-Rail Container Rates—Pacific Far East Line, Inc.* Filed by Pacific Far East Line, Inc., (No.

[1] Effective date inserted.

VOL 41 165 AUG 24 76 UM

8), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in The Federation of Malaysia and the Republic of Singapore.
Grounds for relief—Water competition.

FSA No. 43219—*Joint Water-Rail Container Rates—Knutsen Line.* Filed by Knutsen Line, (No. 3), for itself and interested rail carriers. Rates on general commodities, between ports in The Federation of Malaysia, Hong Kong, Japan, Korea, The Republic of Singapore and Taiwan, and rail stations on the U.S. Atlantic and Gulf Seaboard.
Grounds for relief—Water competition.

By the Commission,

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24799 Filed 8-23-76;8:45 am]

[Notice No. 108]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 19, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and qouting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106089 (Sub-No. 13 TA), filed August 11, 1976. Applicant: JOHN G. LANE LINES, INC., 1017 North McDuff Ave., P.O. Box 6854, Jacksonville, Fla. 32205. Applicant's representative: McCarthy Crenshaw, 1205 Universal Marion Bldg., 21 W. Church St., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (not refrigerated and not frozen) *and potato chips*, from Jacksonville, Fla., to points in Alabama (except Montgomery and points in Alabama located within an area bounded by U.S. Highway 80, on the north, U.S. Highway 31, on the west, the Alabama-Florida State Lines on the south, and the Alabama-Georgia State Line on the east, and from the points in the above-described territory to Jacksonville, Fla. (limited to stale bakery products on return movement), for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Darling Bakers, Inc., 825 Barnett St., Jacksonville, Fla. 32209. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 109397 (Sub-No. 336 TA), filed August 11, 1976. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Special nuclear materials*, from Lynchburg, Va., to Sargents, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Navy Nuclear Fuel Division, Babcock & Wilcox, Box 785, Lynchburg, Va. 24505. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 112288 (Sub-No. 12 TA), filed August 10, 1976. Applicant: YARBROUGH TRANSFER CO., 1500 Doune St., Winston-Salem, N.C. 27107. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require the use of special equipment, between points in North Carolina, on the one hand, and, on the other, points in South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Mart Office Bldg., Room CC516, Charlotte, N.C. 28205.

No. MC 114533 (Sub-No. 348 TA), filed August 9, 1976. Applicant: BANKERS DISPATCH CORP., 1106 W. 35th St., Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Marion, Ind., on the one hand, and, on the other, Indianapolis, Ind., restricted to shipments having a prior or subsequent movement by air, for 180 days. Supporting shipper: Fisher-Body-General Offices, GMC, J. R. Murphy, Director of Traffic, 30001 Vay Dyke, Traffic Activity, Room 162-11, Warren, Mich. 48090. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 115092 (Sub. No. 48 TA), filed August 11, 1976. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Escalante, Utah, to Chicago, Rockford, Peoria, Springfield, and Champaign, Ill.; Indianapolis and Fort Wayne, Ind.; Milwaukee, Madison, Green Bay and LaCrosse, Wis.; Minneapolis, Minn.; Des Moines and Davenport, Iowa; Omaha, Nebr., and all of their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teton West Lumber Co., P.O. Box 3656, Casper, Wyo. 82602. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 136848 (Sub-No. 10 TA), filed August 11, 1976. Applicant: JAMES BRUCE LEE AND STANLEY LEE, doing business as LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, Ill. 61768. Applicant's representative: Edward F. Stanula, 837 E. 162nd St., South Holland, Ill. 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines, magazine parts, printed paper and printed inserts; and printing paper* (other than newsprint or carbonized) not printed or imprinted in rolls and sheets, from Pontiac Ill., to Milwaukee, New Berlin and Waukesha, Wis.; New York, N.Y.; Fairview, Vineland and Trenton, N.J.; Bridgeport, New Britain, North Haven and Bristol, Conn.; Indianapolis, Ind.; Des Moines, Meridith and Mt. Pleasant, Iowa; Danton, Ohio; Waseco, Minn.; Hialeah, Fla., Lavonia, Mich.; Effingham, Chicago, Bloomington, Carbondale and Centralia, Ill.; and from Bristol, Conn., to Pontiac, Crystal Lake, Effingham, Bloomington and Chicago, Ill.; Greenville, Ind.; and Printing paper, (other than newsprint or carbonized) not printed or imprinted, in rolls or sheets, between our plant and warehouse facilities at or near Pontiac, Ill., on the one hand, and our plants and warehouse facilities at or near Bristol and New Haven, Conn., on the other, for 180 days. Supporting shipper: City National Printing Co., Merle Shoop, Superintendent, 1600 N. Main St., Pontiac, Ill. 61764. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 138177 (Sub-No. 5 TA), filed August 11, 1976. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Road, Memphis, Tenn. 38138. Applicant's representative: John Paul Jones, 189 Jefferson Ave., Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles; (1) from the facilities of St. Bernard Coal Co., and C.O.R.D. Mining Company near Morgantown, Ky., and from the facilties of Alley-Cassity Coal Co., Inc., and St. Bernard Coal Co., near Nashville, Tenn., to the plantsite of Arkansas Lightweight Aggregate Corp., near West Memphis, Ark.; and (2) which has an immediate prior movement by water, from the site of a terminal at President's Island, Memphis, Tenn., to the plantsite of Arkansas Lightweight Aggregate Corp., near West Memphis, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arkansas Lightweight Aggregate Corp., P.O. Box 1567, West Memphis, Ark. 72301. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 140443 (Sub-No. 2 TA), filed August 12, 1976. Applicant: CENTRAL DELIVERY SERVICE OF WASHINGTON, INC., 1101 Ripley St., Silver Spring, Md. 20910. Applicant's representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Checks and related bank papers*, (1) from the Baltimore Branch, Federal Reserve Bank of Richmond, Baltimore, Md., to points in the District of Columbia; points in Arlington, Fairfax, Loudoun and Prince William Counties, Va., and the cities of Alexandria, Fairfax and Falls Church, Va., and points in Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral and Morgan Counties, W. Va.; (2) from the Baltimore Branch, Federal Reserve Bank of Richmond, Baltimore, Md., to the Friendship International Airport, near Baltimore, Md., restricted to the transportation of shipments having a subsequent movement by air, and (3) from Cumberland, Md., to points in Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral and Morgan Counties, W. Va., restricted to the transportation of shipments having a prior movement by air, and (4) from points in Arlington, Fairfax, Loudoun and Prince William Counties, Va., and the cities of Alexandria, Fairfax and Falls Church, Va., and the District of Columbia, to the Baltimore Branch, Federal Reserve Bank of Richmond, Baltimore, Md., under a continuing contract with Baltimore Branch, Federal Reserve Bank of Richmond, for 180 days. Supporting shipper: Baltimore Branch, Federal Reserve Bank of Richmond, 7210 Ambassador Road, Baltimore, Md. 21207. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 142004 (Sub-No. 1 TA), filed August 9, 1976. Applicant: JAMES M. BATES, doing business as BATES TRUCKING, Box 323, Tolono, Ill. 61880. Applicant's representative: Robert W. Dodd, 201 Springfield, Suite 206, Champaign, Ill. 61820. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except dry cement), between points in Montgomery, Fountain, Warren, Tippicanoe, Marion, Hendricks, Boone, Vigo Parke, Vermillion and Putnam Counties Ind.; points in Vermillion, Champaign and Edgar Counties, Ill., under a continuing contract with The Wiskes Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Wiskes Corporation, D. A. Kloes, Manager, Traffic & Consolidation, 515 N. Washington Ave., Saginaw, Mich. 48607. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142264 (Sub-No. 1 TA), filed August 11, 1976. Applicant: RAYMOND E. PATTERSON, doing business as RAY PATTERSON MOTORS, 389 East Main, Greenwood, Ind. 46142. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, in truckaway service, between points in Illinois, Indiana, Kentucky, Ohio, Michigan and Tennessee, for 180 days. Supporting shippers: There are approximately 20 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William S. Ennis, Transportation Specialist, Interstate Commerce Commission, Federal and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 142337 TA, filed August 10, 1976. Applicant: CAN-FAST EXPRESS LTD., 54 Transwell Ave., Toronto, Ontario, Canada. Applicant's representative: Morton Finkelstein (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, material, supplies, and such merchandise* required for the manufacturing and/or installations produced or distributed by Honeywell, Ltd., Canada, between Ports of Entry on the United States-Canadian International Boundary in New York, Michigan and Vermont, on the one hand, and, on the other, Boston, Lawrence, Framingham, Waltham, Mass.; Philadelphia and Leechburg, Pa.; Cleveland and Akron, Ohio; Chicago, Freeport and Arlington Heights, Ill.; Detroit, Mich., restricted to service for Honeywell Limited Canada, and further restricted to transportation by air ride trailers, under a continuing contract with Honeywell Limited. Applicant intends to tack, for 180 days. Supporting shipper: Honeywell Limited, 740 Ellesmere Road, Scarborough, Ontario, Canada M1P 2V9. Send protests to: George M. Parker, District Supervisor, Room 910, 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 142342 TA, filed August 12, 1976. Applicant: AGGREGATE TRANSPORT, INC., P.O. Drawer D, Albany, Ga. 31702. Applicant's representative: J. Michael May, Suite 400, 1447 Peachtree St., N.E., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Atlanta, Eden and Thomasville, Ga., to Anniston, Birmingham and Motts, Ala.; points in Colbert and Marshall Counties, Ala.; Jacksonville, Panama City, Pensacola, Port St. Joe and West Palm Beach, Fla.; Corbin, Ky.; points in Marshall and Nuhlenberg Counties, Ky.; Pascagoula, Miss.; Charleston and Copper Hill, Tenn.; and points in Anderson, Hamblen, Hardin, Jefferson, Loudon, Polk, Rhea and Warren Counties, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dawes Mining Company, Inc., 2480 Windy Hill Road, Marietta, Ga. 30062. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142343 TA, filed August 10, 1976. Applicant: JOSEPH MACRI, doing business as J & M TRUCKING, 8237 West Mexico, Lakewood, Colo. 80226. Applicant's representative: Joseph Macri (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Offal and inedible meat and meat by-products*, in shipper owned trailers, from Torrington and Riverton, Wyo., to Denver, Colo., under a continuing contract with Denver Recycling Company, for 180 days. Supporting Shipper: Denver Recycling Company, 5350 N. Washington St., Denver, Colo. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

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No. MC 142344 TA, filed August 11, 1976. Applicant: PLANTATION WOOD PRODUCTS, INC., 1800 Oakhaven Drive, Albany, Ga. 31702. Applicant's representative: Robert L. Arnold (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry grit*, from the plant and warehouse facility of Blackledge Stone Company in Randolph County, Ga., to points in Alabama north of Interstate 20 and points in Tennessee east of Highway 231, for 180 days. Supporting shipper: Blackledge Stone Company, Route 3, Box 489 B, Leesburg, Ga. 31763. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142345 TA, filed August 11, 1976. Applicant: A-1 PROFESSIONAL PACK & LOAD, INC., 2027 SE 90th Place, Portland, Oreg. 97216. Applicant's representative: Nancy C. Fink (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, restricted to shipments packed and loaded by A-1 Professional Pack and Load, Inc., and further restricted to shipments transported in shipper-leased vehicles, between points in Arkansas, Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Wisconsin and Wyoming, for 180 days. Supporting shippers: There are approximately 7 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

PASSENGER APPLICATION

No. MC 142325 (Sub-No. 1 TA), filed August 9, 1976. Applicant: ALEXANDER JAMES AND JAMES E. SYKES, JR., doing business as ALJAMCO LEISURE, 36 N. Edgewood St., Philadelphia, Pa. 19139. Applicant's representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with the passengers, in special operations, between Philadelphia, Pa., on the one hand, and, on the other, points on the Delaware Bay and Atlantic Coast of New Jersey, from Penngrove, Gloucester County, to Sandy Hook, Monmouth County, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Guardian Civic League, Inc., 5406 Pine St., Philadelphia, Pa. 19143. First Masonic District, Prince Hall Grand Lodge, 4301 N. Broad St., Philadelphia, Pa. 19140. Lancaster Avenue Business Assoc., 4145 Lancaster Ave., Philadelphia, Pa. Optimists Int'l, 8246 W. Chester Pike, Upper Darby, Pa. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24798 Filed 8-23-76;8:45 am]

[Notice No. 17]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 24, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76700. By application filed August 13, 1976, ASSOCIATED BOAT TRANSPORT, INC., 10008 126th NE., Kirkland, WA 98033, seeks temporary authority to transfer a portion of the operating rights of ASSOCIATED TRANSFER & STORAGE CO., INC., 730 N. Northlake Way, Seattle, WA 98103, under section 210a(b). The transfer to ASSOCIATED BOAT TRANSPORT, INC., of the operating rights of ASSOCIATED TRANSFER & STORAGE CO., INC., is presently pending.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24802 Filed 8-23-76;8:45 am]

[I.C.C. Order No. 173 Under Revised Service Order No. 994]

REROUTING TRAFFIC

To all Railroads. In the opinion of Lewis R. Teeple, Agent, the Green Mountain Railroad Corporation is unable to transport traffic over its line because of track damage from flooding.

It is ordered, That, (a) The Green Mountain Railroad Corporation, being unable to transport traffic over its line because of track damage from flooding, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 4:30 p.m., August 10, 1976.

(g) Expiration date. This order shall expire at 11:59 p.m., September 10, 1976, unless otherwise modified changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 10, 1976.

INTERSTATE COMMERCE COMMISSION
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-24801 Filed 8-23-76;8:45 am]

federal register

TUESDAY, AUGUST 24, 1976

PART II:

FEDERAL HOME LOAN BANK BOARD

■

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Guidelines on Conflict of Interest and Solicitations of Proxy

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Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 76-588]

SAVING AND LOAN ASSOCIATIONS

Director Guidelines and Certain Prohibitions and Disclosure

SUMMARY

AUGUST 18, 1976.

The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. NEW INSURANCE REGULATIONS §§ 561.29, 561.30, 561.31, 561.32, 561.33, 561.34, 561.35, 561.36, AND 561.37: DEFINITIONS—

A. *Affiliated person.* An affiliated person of an insured institution is:

1. A director, officer or controlling person of such institution;

2. The spouse of any person in (1); and

3. A member of the immediate family of any person in (1) who has the same home as such person, or who is a director, officer, or controlling person of any subsidiary or of any holding company affiliate of such institution;

4. Any corporation or organization (other than the insured institution or a corporation or organization through which the insured institution operates) of which any person in (1) is an officer or partner or is, directly or indirectly, either alone or with his spouse, the owner of 10 percent or more of any class of equity securities or the owner with other persons in (1) and their spouses of 25 percent or more of any class of equity securities; and

5. Any trust or other estate in which a person in (1) or the spouse of any such person has a substantial beneficial interest or as to which such person or his spouse serves as trustee or in a similar fiduciary capacity.

B. *Immediate family.* A person's immediate family means:

1. Such person's spouse, father, mother, children, brothers, sisters, and grandchildren;

2. The father, mother, brothers and sisters of such person's spouse; and

3. The spouse of a child, brother or sister of such person.

C. *Director.* The term "director" means any director, trustee or other person performing similar functions, but does not include advisory, honorary, or emeritus directors, unless the person is performing functions similar to those of a director.

D. *Officer.* The term "officer" means the president, any vice-president, the secretary, the treasurer, the comptroller, and any other person performing similar functions. The term also includes the chairman of the board if he is involved in operating management.

E. *Financial institution.* The term "financial institution" means any savings and loan association, savings bank, commercial bank, or similar institution, but does not include a Federal Home Loan Bank or the Bank for Savings and Loan Associations, Chicago, Illinois.

F. *Holding company affiliate.* The term "holding company affiliate" of an insured institution means a savings and loan holding company of which the insured institution is a subsidiary and any other subsidiary thereof, other than a subsidiary of the institution. With respect to a bank, the term means a bank holding company of which the bank is a subsidiary and any other subsidiary thereof.

G. *Principal supervisory agent.* The "principal supervisory agent" of the Corporation means the President of the FHLBank of the district in which the principal office of the insured institution is located.

H. *Parent company and subsidiary.* These terms are defined in §§ 583.10 and 583.14 of the Holding Company Regulations.

I. *Audit period.* The "audit period" of an insured institution means the 12-month period covered by the annual audit conducted to satisfy § 563.17-1.

II. REVISED INSURANCE REGULATION § 561.28

The term "controlling person" of an insured institution means any person or entity which, either directly or indirectly, or acting in concert with others, owns, controls or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares of such institution. However, a director of an insured institution will not be deemed a controlling person thereof because he votes proxies of the owners of such institution, if such proxies were: (a) Obtained in connection with an annual proxy solicitation, or (b) obtained from savings accountholders if such proxies are voted in accordance with a majority vote of the institution's entire board of directors, or by a committee of such directors.

III. REVISED INSURANCE REGULATION § 563.17: MANAGEMENT AND FINANCIAL POLICIES

Previously required compensation to officers, directors, and employees of insured institutions and their service corporations to not be in excess of that which is reasonable and commensurate with their duties and responsibilities. Revised to make clear that the term "employees" includes former officers, directors, and employees who regularly perform services for the institution or service corporation pursuant to consulting contracts.

IV. NEW INSURANCE REGULATION § 563.33: DIRECTORS, OFFICERS AND EMPLOYEES

A. Sets forth recommended guidelines concerning composition of boards of directors of insured institutions. Such guidelines will be used in the future as conditions of insurance for newly insured institutions and apply for five years. Limitations concerning directors or officers contained in existing conditions of insurance are eliminated as to all insured institutions agreeing to follow the guidelines. The guidelines are as follows:

1. A majority to live or work in institution's normal lending territory;

2. Not more than ⅓ to be salaried officers or employees of institution or any subsidiary or holding company affiliate thereof;

3. Not more than 2 to be members of same immediate family;

4. Not more than 1 to be attorney with same law firm; and

5. a. None to be directors of another financial institution or holding company affiliate thereof other than a commercial bank or trust company; and

b. Not more than ⅓ to be directors of a commercial bank, trust company, or holding company affiliate thereof; and

c. Not more than 1 to be director of same commercial bank, trust company, or holding company affiliate thereof; and

d. None to be salaried officers or employees of other financial institutions or holding company affiliates thereof.

e. Exception from all guidelines in (5) for directors, officers, and employees of other financial institutions and their holding company affiliates if part of the same S&L holding company as the insured institution, or if neither the financial institution nor any financial institution which is a holding company affiliate thereof has an office in any county or standard metropolitan statistical area in which the insured institution has an office, or within any county or SMSA from which such insured institution receives either more than $5,000,000 in savings or 5 percent of its savings accounts.

B. Precludes salaried officers of insured institutions from becoming, and after 1978 annual meeting from continuing to serve as, salaried officers or employees of other financial institutions or holding company affiliates thereof. All exceptions in (A)(5)(e) are applicable to this prohibition.

C. Prohibits use of employees of insured institution or its subsidiaries to do work during the hours of their employment by the institution or subsidiary for any affiliated person without compensation to the institution or subsidiary.

V. REVISED INSURANCE REGULATION § 563.34: DEPOSIT RELATIONSHIPS

Revised regulation prohibits an insured institution or subsidiary thereof from having a deposit relationship with an affiliated person of the institution, or with any financial institution or holding company affiliate thereof of which an affiliated person of the institution is a director, if maintenance of such deposit relationship has been specifically disapproved by the Principal Supervisory Agent. Also prohibits a new deposit relationship of this type (including a new interlock involving an existing deposit relationship) without the approval of the Principal Supervisory Agent. Factors to be considered by the Principal Supervisory Agent are set forth.

VI. REVISED INSURANCE REGULATION § 563.35: RESTRICTIONS INVOLVING LOAN SERVICES

A. No insured institution or subsidiary thereof may make a loan on condition that the borrower contract with any specific person or organization for the following:

1. Insurance services (as an agent, broker, or underwriter), except insurance or guarantee provided by a government agency or private mortgage insurance;

2. Building materials or construction services;

3. Legal services rendered to the borrower;

4. Services of a real estate agent or broker; or

5. Real estate or property management services.

B. An insured institution or subsidiary thereof must notify home borrowers (home defined in § 541.10-2 as 1-4 family dwelling) at or prior to commitment of their right to select the person or organization rendering insurance services. However, an institution or subsidiary could refuse to make a loan if it believed on reasonable grounds that insurance services provided by the person or organization selected by borrower would afford it insufficient protection.

C. An insured institution or subsidiary thereof may require home borrowers to reimburse it for legal services rendered to it by its attorney, or to directly pay for such services, only if the fee:

1. is limited to legal services attributable to such loan;

2. if in excess of $100, is supported by a statement prepared by or on behalf of the attorney (a) describing the legal services performed, (b) setting forth the time spent and the hourly rate or other basis for determining the fee, (c) stating that such legal services are performed for the institution and not for the borrower, and (d) stating that such services are paid for by the borrower;

3. is reasonable and commensurate with the legal services performed; and

4. is separately itemized on the loan settlement sheet and identified as a fee to the lender's attorney.

VII. NEW INSURANCE REGULATION § 563.40: PAYMENT OF FEES TO AFFILIATED PERSONS

A. Prohibits affiliated persons of an insured institution from receiving, directly or indirectly, loan procurement fees from the institution, any subsidiary thereof, or any other source.

B. Applies the kickback and unearned fee prohibitions in sec. 8 of the Real Estate Settlement Procedures Act of 1974 (RESPA) to all loans by insured institutions and their subsidiaries secured by real property, whether or not covered by RESPA. (RESPA generally covers only 1-4 family loans.)

VIII. NEW INSURANCE REGULATION § 563.41: RESTRICTIONS ON REAL PROPERTY TRANSACTIONS WITH AFFILIATED PERSONS

A. Prohibits insured institutions and their subsidiaries from purchasing from, jointly owning with, selling to, or leasing from an affiliated person of such institution any interest in real property.

B. Exceptions for:

1. Joint ownerships in existence on effective date;

2. Purchases from affiliated persons of their interests in real property jointly owned on effective date;

3. Sales to affiliated persons of interest of institution or subsidiary in real property jointly owned on effective date;

4. Lease of real property on which the institution or subsidiary maintains an office or has applied to maintain an office existing on effective date;

5. Renewal of any lease in (4);

6. Purchase of real property being leased by the institution under (4) or (5); and

7. Lease (including renewals) of real property on which the institution or subsidiary will maintain an office, if the space being leased is not more than 15 percent of the total space available for lease in the office building or shopping center.

C. Exceptions (2), (3), (5), (6) and (7) are subject to the following conditions:

1. Transaction must be approved in advance by Principal Supervisory Agent;

2. Terms of the transaction must be fair to, and in best interests of, institution or subsidiary;

3. Price must be supported by independent appraisal not prepared by affiliated person of institution; and

4. Transaction must be approved in advance by a disinterested majority of the board of directors of the institution or subsidiary, with full disclosure of the terms of such transaction; information to be included in disclosure is set forth.

IX. NEW INSURANCE REGULATION § 563.43: RESTRICTIONS ON LOANS AND OTHER INVESTMENTS INVOLVING AFFILIATED PERSONS

A. Prohibits insured institutions and their subsidiaries from engaging in loan and other transactions with affiliated persons. Exceptions for loans in the ordinary course of business, not involving more than normal risk of collectibility or any other unfavorable features, which are of the following types:

1. Loans secured by a single-family dwelling owned and occupied as the borrower's principal residence;

2. Loans aggregating not more than $10,000 for constructing, adding to, improving, altering, repairing, equipping, or furnishing a single-family dwelling owned and occupied as the borrower's principal residence;

3. Loans secured by a mobile home owned and occupied as the borrower's principal residence;

4. Loans secured by savings accounts maintained by the affiliated person at the institution;

5. Loans aggregating not more than $10,000 for payment of educational expenses; and

6. Consumer loans aggregating not more than $10,000, including loans under (2).

Loans excepted under (1), (2), (3), (5) and (6) must be approved in advance by a disinterested majority of the board of directors of the institution or subsidiary, following full disclosure of the loan terms; information to be included in disclosure is set forth.

B. Prohibits insured institutions and their subsidiaries from engaging in the following types of transactions with third persons:

1. Making to or purchasing from third persons loans secured by property acquired directly from an affiliated person; exception for loans purchased through secondary market, such as FHLMC, and for loans on property which was principal residence of affiliated person prior to its sale;

2. Making or purchasing loans secured by property in which an affiliated person has a security interest;

3. Accepting securities of an affiliated person as loan collateral;

4. Maintaining compensating balances with respect to a loan by a third party to an affiliated person; and

5. Guarantees or take-out commitments with respect to a loan by a third party to an affiliated person.

X. NEW INSURANCE REGULATION § 563.45: DISCLOSURE

A. *Annual reports.* Requires an insured institution to send either an annual report, or notice of meeting stating that such report is available upon request, to members having 2 or more votes at least 20 days (30 days in the case of the notice) before each annual meeting, beginning with annual meeting in 1978. Disclosure in annual report not a defense to supervisory action.

B. *Exceptions.* Exceptions for institutions with assets under $15,000,000 or which are subject to the proxy solicitation requirements of the Securities & Exchange Act of 1934. However, institutions under $15,000,000 in assets still must file annual reports with the Corporation for any year as to which certain conditions are not met, and may be required (on an individual basis) to make their reports available under certain circumstances to persons having at least 2 votes. Also an exception for any institution:

1. Having a board of directors in accordance with the guidelines in § 563.33 (a),

2. Whose affiliated persons have not engaged in material transactions with the institution or any subsidiary thereof since the beginning of the institution's last audit period, and

3. If proxies solicited by such institution from savings accountholders and borrowers in connection with election of directors (other than in connection with an annual proxy solicitation) are voted as directed by a majority vote of its board of directors, or by a committee of such directors.

C. *Content of annual reports.* Annual reports must contain information concerning:

1. Directors and nominees for directorship, including names, ages, immediate family relationships with others in the

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institution's management, and principal occupations;

2. Similar information as to officers;

3. The voting rights of each class of persons having such rights;

4. Proxies, including the method by which management solicits proxies for election of directors, the names and positions of persons holding these proxies, and whether they are revocable;

5. Changes in controlling persons of the institution;

6. Direct remuneration of management, with total for officers and directors as a group and individual remuneration (if in excess of $40,000) for three highest paid officers and each director;

7. Annuities, pensions, and retirement benefits;

8. Loans to affiliated persons, except for loans permitted under § 563.43 (b) which are on comparable third party terms (including interest rates and collateral), with disclosure for loans at below market interest rates to officers as a group but not individually;

9. Transactions with the institution or subsidiary thereof in which affiliated persons have a material ($40,000 in the aggregate) interest, including (a) loan transactions in which such a person is acting as attorney or appraiser for the institution or subsidiary (and is not a full time salaried officer or employee thereof), builder, escrow agent, or real estate agent/broker, (b) loan transactions in connection with which such a person acts as an insurance agent/broker or underwriter, supplier of title examination or abstract services, or supplier of building materials if such person was selected by or on the basis of a referral from the institution or subsidiary, and (c) loan transactions in connection with which an affiliated person acts as a building materials supplier if the institution or subsidiary thereof knows that such person is acting in such capacity;

10. Options to purchase securities;

11. Transactions between affiliated persons and pension and other similar plans of the institution or any parent company or subsidiary thereof;

12. The business done by such institution, in brief terms; and

13. Financial statements for the institution's last two audit periods.

D. *Financial statements.* Financial statements must include statements of financial condition, income, retained earnings, and changes in financial position. They must be audited and accompanied by the accountant's report. If audited statements are not within 120 days of annual meeting, updated unaudited statements also required.

E. *Filing.* Annual report and notice of meeting to be publicly filed with Board concurrently with mailing, unless Board determines previous material to be materially deficient, in which case prior filing and authorization to use material required before mailing.

By Resolution No. 75-863, dated September 15, 1975, the Federal Home Loan Bank Board proposed to amend Parts 561 and 563 of the rules and regulations for Insurance of Accounts (12 CFR Parts 561 and 563) and Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) in order to regulate conflicts of interest more effectively and to ensure independence of boards of directors. The proposal sought to accomplish the first objective by restricting various types of conflict of interest practices which the Board believes are unsafe and unsound or inconsistent with economical home financing. It sought to accomplish the second objective by prescribing a number of requirements concerning composition of insured institution boards of directors.

These proposed amendments were published in the FEDERAL REGISTER on September 23, 1975 (40 FR 43832-47), for public comment until November 10, 1975. This 45-day comment period followed extensive public comment in connection with the Board's preceding proposal in these areas (Board Resolution No. 74-1219; November 22, 1974; 39 FR 42382-91) which had a comment period from December 5, 1974 through February 20, 1975. In furtherance of its objectives in proposing amendments in these areas, the Board considers it desirable to adopt final amendments as described below. In conjunction with these amendments, the Board also considers it desirable to propose amendments concerning solicitation of proxies by insured institutions (Board Resolution No. 76-589; August 18, 1976).

The amendments to Parts 561 and 563 (12 CFR Parts 561 and 563) adopted by this resolution add fourteen new sections thereto and revise four existing sections thereof. The amendments to Part 545 (12 CFR Part 545) revise nine sections thereof by revoking certain provisions in these sections to the extent that such provisions are rendered inconsistent or redundant by the amendments to Parts 561 and 563. These conforming amendments to Part 545 are necessary because Federal savings and loan associations are presently circumscribed in their ability to engage in some of the practices to which the amendments to Parts 561 and 563 apply different restrictions with respect to all insured institutions. Because these amendments to Part 545 are conforming in nature and all but two were discussed in considerable detail in the preambles of both proposals, (see 40 FR 43833-43 and 39 FR 4283-88), the discussion in this resolution of the amendments to Part 545 is somewhat abbreviated. The two Federal regulation amendments which were not discussed in the proposal—amendments to §§ 545.23 and 545.6-18—are dicsussed in this preamble.

This resolution does not adopt proposed § 563.42, captioned Independent office facilities, because the Board has concluded that the problem addressed by this provision is adequately dealt with by the existing requirement of independent facilities in its agreements with insured institutions, e.g., standard Conditions of Insurance and Agreement for Operating Policies. The Board notes that nonadoption of proposed § 563.42 is not intended to abrogate any such existing requirement. It is, however, the Board's intention to consider as a separate matter whether it should in the future impose this condition selectively, based on whether a proposed nonindependent facility would or would not be appropriate to the operations of an insured institution, e.g., whether a particular proposed shared facility could be misleading to the public or otherwise inappropriate, and whether it should modify its existing agreements with insured institutions on this matter.

The Board also notes that its decision not to adopt a regulation requiring ground-floor quarters reflects its determination that no such requirement is necessary (See 40 F.R. 43834). It is therefore the Board's intention that, unlike the matter of independent quarters, nonadoption of the ground-floor quarters requirement abrogates this requirement in all its existing agreements with insured institutions.

To facilitate understanding of this complex set of amendments, each new or revised Insurance Regulation will be explained separately. As an additional aid to the reader, related amendments are discussed together under the following four headings: (I) Composition of Boards of Directors and Disclosure; (II) Deposit Relationships; (III) Restrictions Concerning Loan Services; and (IV) Restrictions Concerning Affiliated Persons.

COMPOSITION OF BOARDS OF DIRECTORS AND DISCLOSURE

A. New § 563.33: *Directors, officers and employees.* Section 563.33(a) sets forth guidelines concerning the composition of insured institution boards of directors—in place of the requirements in this area which were contained in the proposal. The Board believes these guidelines—which are generally less stringent than the proposed requirements—together with the revisions of proposed new § 563.45, captioned disclosure, will increase the independence of boards of directors of insured institutions. No insured institution which agrees in writing with the Corporation to comply with all of the guidelines need continue to comply with any present condition of insurance or provision of its agreement for operating policies concerning board composition. However, the Board plans to revise its standard conditions of insurance and agreement for operating policies so as to require institutions which become Federally-chartered or insured after the effective date of § 563.33 to comply with the guidelines for a five-year period.

Before turning to the guidelines themselves, three definitions should be particularly noted. Besides being used in the guidelines, they are used throughout the other amendments adopted by this resolution.

The term "financial institution" was defined in the proposal to mean any savings and loan association, building and loan association, homestead association, cooperative bank, mutual savings bank, commercial bank, or trust company—but not a Federal Home Loan Bank. This term has the same meaning as in the proposal, except that the Bank for Savings and Loan Associations in Chicago, Illinois, is also excluded.

The term "holding company affiliate" is new, and replaces the less explicit term "affiliate." A "holding company affiliate" of an insured institution is a savings and loan holding company of which such institution is a subsidiary (as defined in § 563.14) and any other subsidiary of such holding company other than a subsidiary of the insured institution (e.g. a service corporation). A "holding company affiliate" of a bank is a bank holding company of which the bank is a subsidiary and any other subsidiary of such holding company. The coverage of the term "holding company affiliate" and of the proposed term "affiliate" is essentially the same.

The term "subsidiary" has the same meaning as in § 584.14 of the Holding Company Regulations (12 CFR Part 584.14)—viz., an entity which is at least 25 percent controlled. This term replaces the less general term "service corporation affiliate," which was defined in terms of at least 50 percent control. This percentage test has been changed because the Board believes 25 percent ownership generally involves sufficient control to warrant characterization of the entity so owned as a subsidiary. In this connection, it should be noted that the new term "parent company" (which is used in many of the amendments adopted by this Resolution, but not in the guidelines on board composition) has the same definition as in § 584.10 of the Holding Company Regulations (12 CFR Part 584.10)—viz, a company which has at least 25 percent control of another company.

The guidelines adopted by this resolution address the same five areas as did the proposed requirements. First, § 563.33 (a)(1) suggests that a majority of the directors of an insured institution either live or work in the institution's normal lending territory. This guideline is identical to the corresponding restriction in the proposal.

Second, § 563.33(a)(2) suggests that not more than one-third of the directors of an insured institution be salaried officers or employees of the institution or of any affiliated person thereof. This guideline differs from the corresponding restriction in the proposal in that the proposal would have limited officer/employee service on a board (whether or not salaried as officers or employees) to the lesser of two or one-third, with a limited exception in connection with mergers. The Board believes that the "one-third" guideline will prove more flexible than the proposed restriction.

Third, § 563.33(a)(3) suggests that the board of an insured institution not have more than two directors who are members of the same immediate family. (The definition of the term "immediate family" is discussed in Part IV of this preamble, and is unchanged from the proposal.) This guideline is less restrictive than the corresponding provision in the proposal—which would have limited membership from one immediate family on a board to the lesser of two or one-third of the directors on such board.

Fourth, § 563.33(a)(4) suggests that an insured institution not have more than one director who is an attorney with any one law firm. This guideline is identical to the corresponding restriction in the proposal.

Fifth, § 563.33(a)(5)(i) suggests that no directors of an insured institution be directors of other financial institutions or their holding company affiliates, other than a commercial bank or trust company. Section 563.33(a)(5)(ii) suggests that not more than one-third of the directors of an insured institution be directors of commercial banks, trust companies, or holding company affiliates thereof. This guideline differs from the corresponding restriction in the proposal in that the proposal would have limited service by directors of all other financial institutions and their affiliates to the lesser of two or one-third of an insured institution's board, with an exception for full-time salaried officers and employees of such insured institution. The guideline differs only slightly from the provision on this matter in the Board's standard conditions of insurance for newly insured institutions which presently requires that less than one-third of an insured institution's directorate be also directors of banks and that none be directors of any other savings and loan type institution, including mutual savings banks. Although the Board has decided that no further change is presently required from the policy on this matter reflected in the standard conditions, it may reconsider this decision in the future if such reconsideration appears necessary or appropriate.

Section 563.33(a)(5)(iii) suggests that not more than one director of an insured institution be a director of the same commercial bank, trust company, or holding company affiliate thereof. This guideline is the same as the corresponding restriction in the proposal, except that it does not apply to savings and loan type institutions because the guidelines suggest that there be no interlocks with such institutions, as discussed above.

Section 563.33(a)(5)(iv) suggests that no directors of an insured institution be salaried officers or employees of other financial institutions or their holding company affiliates. This guideline is identical to the corresponding restriction in the proposal, except that it only pertains to "salaried" officers and employees of other financial institutions and their holding company affiliates. As with the instances in § 563.33 where references to officers or employees have been changed to "salaried" officers or employees, this change is based on the premise that a person serving in two potentially conflicting capacities will be more loyal to the entity which pays him a salary.

Section 563.33(a)(5)(v) provides for an exception from the guidelines set forth in §§ 563.33(a)(5)(i)-(iv) for directors, officers and employees of other financial institutions and their holding company affiliates which are part of the same savings and loan holding company as the insured institution. The proposal contained a similar holding company exception. Section 563.33(a)(5)(v) also provides for an exception if neither the financial institution nor any financial institution which is a holding company affiliate thereof has an office in any county or standard metropolitan statistical area in which the insured institution has an office, nor within any county or SMSA from which such insured institution receives more than $5,000,000 or five percent of its savings accounts. The exception concerning savings accounts is new, and is intended to make clear that this type of competition also should be a factor in determining acceptable representation of other financial institutions on the board of an insured institution.

Section 563.33(c) prohibits salaried officers of an insured institution from becoming, or after such institutions' 1978 annual meeting from continuing as, salaried officers or employees of other financial institutions or their holding company affiliates. This prohibition differs from the proposal in that this resolution applies all of the exceptions in § 563.33 (a)(5) to such prohibition, whereas the proposal would have only excepted financial institutions which were affiliates of the insured institution. The Board believes these additional exceptions are appropriate because they address situations in which there presumably is no significant competition. An insured institution operating pursuant to a condition of insurance or a provision of its agreement for operating policies which restricts the employment of its officers need not continue to comply with such condition or provision after the effective date of § 563.33.

Section 563.33(d) prohibits an insured institution and its subsidiaries from permitting their salaried officers or employees from doing work for any affiliated person of such institution or subsidiary during their hours of employment, unless such affiliated person compensates the institution or subsidiary for the time spent in such work. This prohibition was adopted as proposed, except that it has been clarified to refer only to work done for affiliated persons during the hours of employment of the officer or employee.

Proposed § 563.33(f) would have prohibited clearly excessive compensation to directors, officers, and controlling persons of insured institutions and their service corporation affiliates, and would have set forth standards for determining when such compensation was "clearly excessive." Because there is an existing Insurance Regulation in this area (§ 563.17 (b)), the Board has decided not to adopt proposed § 563.33(f). However, the Board does plan to issue an interpretation of said § 563.17(b) to clarify certain portions of that section. In addition, § 563.17 (b) is hereby revised to make clear that former officers, directors, and employees of an insured institution or service corporation thereof who regularly perform services for the institution or service corporation under consulting contracts will be considered employees of the institution or service corporation for purposes of compliance with § 563.17(b), which accords with previous interpretation of § 563.17(b) by the Board's staff.

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B. New § 563.45 *Disclosure.* As indicated at the beginning of Part IA, the Board believes the combination of guidelines concerning composition of boards of directors of insured institutions and revised § 563.45 on disclosure will produce more independent boards of directors. However, § 563.45 makes clear that disclosure required by this section does not restrict the Board's authority to take appropriate action as to unsafe or unsound practices, or violations of law or regulation, respecting the matters disclosed.

As revised, § 563.45 requires an insured institution (with three exceptions) to either (1) submit to each member having two or more votes an annual report containing the information specified in Form AR at least 20 calendar days prior to its 1978 annual meeting and each annual meeting thereafter, or (2) send a notice to such members at least 30 days prior to any such meeting stating that such a report will be promptly provided on request, and include with the notice a postage prepaid card for making such a request. For purposes of complying with this requirement, an institution may determine its voting members as of a date prior to the actual record date for an annual meeting. The Board does not believe this requirement (with the exceptions) will prove unduly onerous, because neither the annual report nor the notice of meeting need be provided (unless requested) to a person having less than two votes (e.g., borrower-members) and because the report itself need not be mailed out unless requested.
on request, and include with the notice a

The first exception to the annual report requirement is for insured institutions having less than $15,000,000 in assets; however, this is a qualified exception, as discussed in the following paragraph. While voting members of such institutions are no less entitled to annual report information than voting members of larger institutions, the Board believes this right must be balanced against the cost of mailing such reports (or a notice thereof). In the case of institutions with less than $15,000,000 in assets, the Board has concluded not to require incurrence of such cost at this time, in the absence of unusual circumstances.

The exception from the annual report requirement in § 563.45(a) for institutions having less than $15,000,000 in assets is not unqualified. Rather, the requirements applicable to such institutions have been scaled down to achieve a reasonable balance between the advantages to be gained from such requirements and the cost considerations described in the preceding paragraph. Thus, § 653.45(d) merely requires an insured institution which has less than $15,000,000 in assets, and which does not meet the three standards in the third exception (discussed below) to the § 563.45 (a) annual report requirement, to file with the Board an annual report which meets the specifications of Form AR. Such a report need not be sent or made available by the institution to its voting members pursuant to § 563.45(a) unless the Board determines (1) that the annual report for the preceding audit period revealed events or practices which the Board believes should be so disclosed, and (2) such events or practices are continuing.

The second exception to the annual report requirement is for insured stock institutions which are subject to the proxy solicitation requirements of § 563d.1—i.e. institutions registered under the Securities and Exchange Act of 1934. Because such institutions must provide information to stockholders in connection with their annual proxy solicitations which is considerably more elaborate than that required pursuant to § 563.45, requiring such institutions to also comply with the § 563.45 annual report requirement would be superfluous.

The third exception to the annual report requirement applies to any insured institution which has all of the following three characteristics. First, such an institution must have a board of directors which conforms to the composition guidelines set forth in § 563.33(a) at the end of the audit period preceding the institution's annual meeting, beginning with its 1978 annual meeting (or its 1980 meeting if directors are elected for staggered three-year terms). Second, affiliated persons of such institution must not have engaged subsequent to the effective date of this regulation in any transactions which would have to be disclosed under Item 6(e) of the annual report form during the audit period prior to the annual meeting; these transactions are generally those in which the affiliated person has a material interest. Third, proxies solicited by such institution's management from savings account holders and borrowers for the next annual meeting (starting with the 1978 annual meeting), other than in connection with an annual proxy solicitation, must be voted as directed by a majority vote of the entire board of directors, or by a committee of such directors if such committee's composition and authority are controlled by a majority vote of the entire board and its authority is revocable by such a majority. This third requirement generally does not invalidate existing proxies, because a vote by the majority of a board of directors would be within the scope of the type of assigning language used in most proxies—e.g. "to Mr. X or Mr. Y, with full power of substitution in each of them." Requiring a majority vote would simply involve substitution of the entire board for a specific designated person or persons.

The Board views the exception described in the preceding paragraph as the key to its disclosure regulation, because its effect is to make the disclosure regulation optional. Thus, an insured institution which does not desire to prepare annual reports meeting the requirements of Form AR may choose not to do so, provided that such institution conforms to the standards set forth in the third exception. One of the points made most frequently in the public comments on the Board's proposals was that this area is an extremely complex one involving diverse needs and practices, and that Board regulations therefore should be as flexible as possible. The Board believes that the alternatives provided by § 563.45 will produce the desired flexibility, without jeopardizing the Board's goals in this area.

The report which must be prepared under § 563.45 requires that information pertinent to the election of directors of an insured institution be available to persons having voting rights, with somewhat different treatment for institutions having less than $15,000,000 in assets. Proposed § 563.45 would have required an insured institution to make available to persons having voting rights certain information concerning (1) loans to affiliated persons of such institution and certain of their business associates, and (2) loan transactions in which such persons had a material interest by virtue of acting in certain capacities with respect to such transactions—e.g., as the institution's attorney. While information in these areas is necessary for persons having voting rights to be able to make informed decisions concerning the election of directors, other types of information are also relevant in making such decisions—e.g., information concerning voting rights and proxies, present directors and nominees for directorships (such as their recent professional experience), remuneration of directors and officers, changes in controlling persons of the institution, and the present financial condition of the institution. The contents of the annual report required by § 563.45 are very similar to those of the corresponding portions of the proxy statement form used by the Federal Deposit Insurance Corporation (Form F–5; 12 CFR 335.51); the major differences between them involve deletions from the FDIC form of certain material not particularly relevant to the election of directors and addition from the FDIC's annual report form (Form F–2; 12 CFR 335.42) of material which is relevant to director election. The information required by the Board's annual report form is also similar to the content of comparable forms used by the Securities and Exchange Commission, the Federal Reserve Board, and the Comptroller of the Currency.

If an insured institution is required by § 563.45(a) to prepare an annual report, it must file six copies with the Board concurrently with or prior to their being used or transmitted, together with six copies of any notice of meeting transmitted in lieu of such annual report. Three of these copies must be mailed to the Principal Supervisory Agent (PSA) and the other three to the Securities Division of the Board's General Counsel's office in Washington. If the Board determines that the material so filed fails to comply in any material respect with Form AR, it may require such material for three years thereafter to be filed with the Board and authorized for use prior to being transmitted or made available to voting members.

The format of the annual report form prescribed by § 563.45 (Form AR) is also similar to the FDIC forms in this area (as well as the forms of the other agencies mentioned above) in that it is a list of "Items" of information to be disclosed, with each such Item being followed by a number of Instructions as to what should be included or not included. Because this format produces a form relatively easy to read and understand, the Board does not believe it necessary to describe the disclosures in detail in this preamble.

The annual report form specified by § 563.45 is divided into eight items, as follows: (1) Nominees and Directors, (2) Officers, (3) Voting Rights, (4) Proxies and Revocability Thereof, (5) Change in Control, (6) Remuneration and Other Transactions With Management and Others, (7) Brief Description of Business, and (8) Financial Statements. Item (6) is in turn divided into seven paragraphs, as follows: (a) Direct Remuneration, (b) Annuities, Pensions, and Retirement Benefits, (c) Other Remuneration, (d) Loans, (e) Transactions Where Certain Persons Have a Material Interest, (f) Options to Purchase Securities and (g) Transactions Involving Certain Pension, Retirement, Savings, and Other Similar Plans.

In connection with new § 563.45, it should be noted that § 545.23 has been amended to provide that a Federal association need not mail or publish the Statement of Condition required by that section to its depositors and borrowers in connection with any annual meeting with respect to which the association has mailed an annual report meeting the requirements of Form AR to such persons. The Board believes the § 545.23 requirement would be superfluous in such instances.

II. Deposit Relationships

Revised § 563.34 prohibits an insured institution and its subsidiaries from maintaining a deposit relationship with any affiliated person of such institution or with any financial institution or holding company affiliate thereof of which an affiliated person of the institution is a director, if maintenance of such relationship has been specifically disapproved by the Principal Supervisory Agent. This section also prohibits establishment of such a relationship (after September 30, 1976) without prior written approval of the PSA, or maintenance of an existing relationship without such approval (1) if the financial institution becomes an affiliated person or (2) if an affiliated person of the insured institution becomes a director of the financial institution or any holding company affiliated thereof.

This revision produces a regulation similar to existing § 563.34. The only differences are (1) a different effective date for the requirement of PSA approval (the date in existing § 563.34 is July 1, 1972) and (2) a more complete list of standards to be used in PSA approval and disapproval.

Revised § 563.34 differs from the proposed amendments in several respects, as follows. First, maintenance of existing deposit relationships is treated differently from establishment of new relationships. The proposal would have prohibited both maintenance and establishment after specified dates in the absence of PSA approval. Because there are many such relationships presently in existence, the Board believes it more appropriate to continue to authorize PSA's to specifically disapprove those not conforming to certain standards, rather than to require approval.

Second, the revisions adopted by this resolution specify several additional factors to be considered by PSAs in determining whether to disapprove an existing deposit relationship or approve establishment of a new relationship. Although these additional factors were not previously in the regulation, they have been used by the PSAs, and the Board believes it desirable that they be made part of this regulation. These factors are (1) need for the depository relationship and availability of alternative deposit relationships not involving affiliated persons, (2) the extent to which affiliated persons have an interest in the depository, (3) whether the depository relationship has been approved by a disinterested majority of the entire board of directors of the institution or subsidiary, (4) any current supervisory problems involving the institution or subsidiary and affiliated persons having an interest in the depository, and (5) whether the depository relationship was established prior to July 1, 1972 (the effective date of the previous regulatory provision in this area).

Revised § 563.34 also differs from the proposed amendments in this area in two minor respects. First, the restrictions now apply to subsidiaries of insured institutions as well as to the institutions themselves. The Board believes this extension of the restrictions is desirable to preclude their circumvention by having a subsidiary maintain or establish a deposit relationship which would not be permitted for its parent institution. Second, the terminology used in revised § 563.34 differs somewhat from that used in the proposed amendments. These changes result from changes to the definition of the term "affiliated person" (discussed in Part IV, A of this preamble) and do not change the application of § 563.34, except as previously discussed.

III. Restrictions Concerning Loan Services

Revised § 563.35(a), which sets forth certain tie-in provisions applicable to insured institutions, differs in three respects from the amendments to that section which were proposed. First, these prohibitions apply to subsidiaries of insured institutions as well as to the institutions themselves. The Board knows of no reason why subsidiaries should be permitted to impose conditions of this type in connection with making loans. Second, the proposed clarification of the existing tie-in prohibition as to insurance services has been modified to specifically except private mortgage insurance, because this type of insurance does not benefit the borrower in the same way as do other types of insurance, and the borrower does not contract for it with the insurer. This does not constitute a substantive change, because private mortgage insurance has previously been excepted from this prohibition by interpretation. Third, the revisions add a tie-in prohibition as to real estate or property management services.

The revisions to proposed § 563.35(b), which requires insured institutions to notify home borrowers of their right to select the person or organization providing insurance services, apply this requirement to subsidiaries of insured institutions as well as the institutions themselves. The Board believes home borrowers from subsidiaries are entitled to the same treatment in this area as home borrowers from insured institutions.

Several revisions have been made to proposed § 563.35(d) concerning payment of the insured institution's attorney's fee in connection with home loans. This proposed amendment would have permitted insured institutions to require home borrowers to reimburse the institution for such legal services if three conditions were met, and this format is continued except that the restriction is now applicable to subsidiaries of insured institutions as well as the institutions themselves. Two of these conditions are contained in the amendments adopted by this resolution—viz., (1) the attorney's fee must be limited to legal services attributable to the loan (and not to unrelated legal work), and (2) the fee must be supported by a statement prepared or by on behalf of the attorney describing the legal services performed, setting forth the time spent and the hourly rate or other basis for determining the fee.

The first of these conditions was adopted without change. The second condition was changed in four respects. First, fees of $100 or less are excepted. The Board does not believe this type of disclosure is necessary for fees of this size, and is also concerned that such a requirement might result in increase of such fees. Second, the statement provided to home borrowers must also state that the legal services for which the fee is paid are performed for the institution and not for the borrower, and that such services to the institution are being paid for by the home borrower. The Board believes it is not always clear to a home borrower that the institution's attorney is not representing the borrower even through the borrower is paying the fee, and that such attorney's role should be completely clear. Third, the attorney's fee must be separately itemized on the loan settlement sheet and identified as a fee to the lender's attorney, so that the borrower knows the amount of this fee. Fourth, such attorney's fee must be reasonable and commensurate with the legal services performed. The Board believes this requirement is necessary because the third condition referred to above has not been adopted, as discussed in the following paragraph.

The third condition in the proposal was that neither the institution's closing attorney nor any attorney in his law firm be an affiliated person of the institution, unless such attorney acted as sal-

V 41 165 AUG 24 76 UM

aried in-house counsel to the institution. The Board decided not to adopt this third condition now, because the other revisions to this section, together with new § 563.45 on disclosure, may solve existing problems, and because of the strongly held belief of many in the industry that it would cause undue and harmful disruption of existing mortgage closing practices—although the Board is not convinced that such harmful disruption would actually occur. The Board reserves the right to reconsider this decision in the light of future experience in this area.

Proposed § 563.35(e) would have prohibited an insured institution from requiring a home borrower to pay for an appraisal in connection with his loan if the appraisal was performed by an affiliated person of the institution or a member of his firm, unless such person was a salaried in-house appraiser for the institution. This proposed restriction was not adopted for the same reason that the corresponding provision concerning attorneys' fees was not adopted.

IV. RESTRICTIONS CONCERNING AFFILIATED PERSONS

A. *New §§ 561.29, 561.30, 561.31 and 651.32: Definitions.* The substantive restrictions concerning affiliated persons depend on four definitions, discussed below.

The proposal would have defined an "affiliated person" of an insured institution as (1) a director, officer, or controlling person of the institution, (2) a spouse of the persons in (1), and (3) a corporation, partnership, trust, or similar organization in which any person in (1), either directly or indirectly (other than through the insured institution), had an equity or income beneficiary interest of 10 percent or more individually or 15 percent or more collectively with persons in (1). This definition has been revised in four respects. First, the term now includes any immediate family member of directors, officers, and controlling persons who has the same home as such persons or one who is a director or officer of any subsidiary of such institution or any holding company affiliate of the institution. Second, the definition now includes corporations and other organizations (other than the insured institution or a corporation or organization through which the insured institution operates) of which a director, officer, or controlling person of the institution is an officer or partner. Third, the aggregate ownership test by which such persons cause an entity to be an affiliated person has been increased to 25 percent. Fourth, the definition now includes trusts or other estates as to which such persons or their spouses serve as trustees or in a similar fiduciary capacity. These changes were made to conform the definition generally to the SEC and FDIC definition of "associate". It should also be noted that the definition of "controlling person" has been revised to make clear that it includes persons who control an institution by virtue of holding proxies representing 10 percent or more of the voting rights in such institution. However, a director will not be deemed a controlling person based on his voting (either alone or in concert with other directors) proxies obtained from savings account holders and borrowers in connection with an annual solicitation of proxies, or if such proxies are voted as directed by a majority vote of the entire board of such institution. The Board believes these exclusions are appropriate, because a proxy-holding director cannot individually "control" an institution in the intended sense of the controlling person definition in either of these two situations.

Proposed § 561.30 would have defined the "immediate family" of a person as (1) such person's spouse, father, mother, children, brothers, sisters, and grandchildren, (2) the father, mother, brothers, and sisters of such person's spouse, and (3) the spouse of a child, brother, or sister of such person. This definition was adopted without change.

The proposal would have defined a director as any director, trustee, or other person performing similar functions with respect to any organization, whether incorporated or unincorporated. This definition was adopted without change, except that it has been clarified to exclude advisory directors, directors emeritus, and similar persons, unless they perform functions similar to those of a director. This change is intended to provide flexibility with respect to such directors, who often serve in a purely honorary capacity but sometimes serve as true directors.

The proposed definition of "officer" included the chairman of the board of an organization, the president, any vice-president (with certain exceptions), secretary, treasurer, comptroller, and any other person performing similar functions. This definition was adopted without change, except that it now includes a chairman of the board only if he is authorized by the charter or bylaws of the organization to participate in its operating management or in fact participates in such management. As with the definition of director, this change is intended to provide sufficient flexibility to reflect the facts of particular situations.

In connection with the exceptions for certain vice presidents within the definition of officer, it should be noted that the thrust of these exceptions is to exclude vice presidents having little or no policy making authority. Thus, while the list of exceptions does not refer specifically to vice presidents who are branch managers but do not participate in policy making, such persons would not be officers under § 561.32.

B. *New § 563.40: Payment of Fees to Affiliated Persons.* Proposed § 563.40(a) would have prohibited affiliated persons of an insured institution from receiving, directly or indirectly, loan procurement fees from the institution or any other source in connection with a loan by such institution. This section was adopted without change, except that it has been clarified to also prohibit receipt of such fees from a subsidiary of an insured institution and in connection with loans by any such subsidiary. As noted in the introductory portion of this preamble, conforming changes have been made in § 545.6–10.

Proposed § 563.40(b) would have applied the prohibitions against kickbacks and unearned fees in sections 8(a) and 8(b) of the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93–533) to monies or other items of value given to or accepted by an insured institution or service corporation affiliate or affiliated person thereof in connection with any loan on real property made by such institution or service corporation affiliate, without regard to whether the loan was a "federally related mortgage loan" as defined in sec. 3(1) of the Act (i.e. a loan secured by a 1–4 family home). This section was adopted without change, except for the conforming amendments to § 545.8 referred to in the introductory portion of this preamble, and the substitution of "subsidiary" for "service corporation affiliate."

An insured institution need not continue to comply after the effective date of said § 563.40, with any condition of insurance or provision of its agreement for operating policies concerning commissions or fees paid to persons associated with the institution.

C. *New § 563.41: Restrictions on Real Property Transactions with Affiliated Persons.* Proposed § 563.41 would have prohibited an insured institution and its service corporation affiliates from, either directly or indirectly, purchasing from, jointly owning with, selling to, or leasing from an affiliated person of such institution any interest in real property. An exception was provided for existing office building leases and joint ownerships, but no such lease could have been renewed unless certain conditions were met, as determined by a PSA. These conditions were that the terms of the renewal be fair and (if the term of the renewal was to last after January 1, 1980) that there be no other suitable location or that moving would cause undue hardship.

This proposed provision has been changed in two general respects—(1) additional exceptions have been added and (2) several exceptions are now subject to certain revised conditions, including PSA approval. The new exceptions are for (1) a purchase from an affiliated person of his interest in real property jointly owned on September 30, 1976, (2) a sale to an affiliated person of the institution's or subsidiary's interest in such jointly owned property, (3) a lease (including any renewal thereof) from an affiliated person existing on such date with respect to which the institution or subsidiary has applied to maintain an office, (4) the purchase from an affiliated person of property subject to an existing lease on which the institution or subsidiary maintains or has applied to maintain an office, and (5) a new lease (including renewals) of real property, from an affiliated person on which the institution or subsidiary will maintain an office if the space being leased is not more than 15 percent of the total space being leased in the shopping center or office building. The Board believes that these additional exceptions are not likely to be detrimental to insured institutions if the conditions described in the following paragraph are met.

The following conditions must be met with respect to all of the new exceptions as well as with respect to renewal of a lease of property on which the institution or subsidiary maintains an office on September 30, 1976. In other words, these conditions apply to all the exceptions to § 563.41 except existing joint ownerships and leases. The conditions are that (1) the transaction receive prior written approval of the PSA, (2) the terms of the transaction be fair to, and in the best interest of, the insured institution or subsidiary, (3) the transaction be supported by an independent appraisal not prepared by an affiliated person or employee of the institution or subsidiary, and (4) the transaction be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of the institution or subsidiary, or by a majority of the total votes eligible to be cast by the voting members of such institution at a meeting called for such purpose, with no votes being cast by proxies not solicited for such purpose. Full disclosure must include the source of financing of the affiliated person, including whether the insured institution or a subsidiary thereof has a deposit relationship with any financial institution or holding company thereof providing such financing. As indicated in the previous paragraph, the Board believes these conditions will substantially mitigate any possible adverse effects of these exceptions on insured institutions.

As noted in the introductory portion of this preamble, conforming amendments have been made in § 545.6–5 and 545.10. In addition, § 545.6–18, captioned "Urban renewal loans and investments," is amended by revoking paragraph (g) thereof. Said § 545.6–18(g) imposed several restrictions concerning real property investments involving affiliated persons which are inconsistent or redundant as a result of the amendments hereby adopted.

D. New § 563.43: *Restrictions on loans and other investments involving affiliated persons.* Section 563.43(b) of the proposal would have prohibited insured institutions and their service corporation affiliates (termed subsidiaries in these final regulations as noted above) from engaging in loan or certain other types of transactions with affiliated persons, with certain exceptions. This proposed prohibition was adopted without change, except for some revision of the exceptions as described in the following paragraph.

The first exception permits an institution and its subsidiaries to make loans to affiliated persons secured by single-family dwellings owned and occupied as the borrower's principal residence. The second exception permits loans to such persons aggregating not more than $10,000 for constructing, adding to, improving, altering, repairing, equipping, or furnishing a single-family dwelling owned and occupied as the borrower's principal residence. The aggregate $10,000 limit is new and is intended to set a reasonable limit on such loans. The third exception permits loans to such persons secured by a mobile home owned and occupied by the borrower as his principal residence. The fourth exception permits loans secured by savings accounts maintained by the affiliated person at the institution. The fifth exception permits loans aggregating not more than $10,000 for payment of educational expenses. The $10,000 aggregate limit is new and was added for the same reason as the $10,000 limit in the second exception. The sixth exception permits consumer loans aggregating not more than $10,000 (including loans made under the second exception). The $10,000 limit here is likewise new.

In addition to these dollar limitations added to three of the above-described exceptions, all loans made pursuant to any of these exceptions, other than that authorizing savings account secured loans, must be approved in advance by a disinterested majority of the board of directors of the institution or subsidiary making the loan, following full disclosure of the loan terms to such board of directors. Full disclosure includes whether the loan (1) is made in the ordinary course of business of the institution or subsidiary, (2) is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time for comparable loans to other than affiliated persons, and (3) involves more than the normal risk of collectibility or presents other unfavorable features. If the interest rate or other terms are more favorable to the affiliated person, the resolution must justify the more favorable terms, particularly as to affiliated persons who are not salaried officers or other employees of the institution or subsidiary. Disclosure of this type of information (other than the justification) is traditionally made to persons having voting rights in connection with annual proxy solicitations. (See Instruction 2 to Item 6(d) of Form AR under § 563.45 of this chapter.) The Board believes the justification is particularly necessary as to borrowers other than salaried officers and employees, because the customary reason for making such loans at below-market interest rates is to provide additional compensation to the borrowers.

The Board believes this approval/disclosure requirement will help to ensure that loans to affiliated persons are not made on terms so favorable to the borrower as to be detrimental to the institution or subsidiary, because boards of directors who will be approving the loans have a legal responsibility to act in the best interests of the entities on whose boards they serve.

Section 563.43(b) of the proposal would also have prohibited insured institutions and their service corporation affiliates (now subsidiaries) from investing, either directly or indirectly, in the stock, bonds, notes, or other securities of affiliated persons. Similarly, the direct or indirect purchase of securities under a repurchase agreement from an affiliated person would also have been prohibited. These two prohibitions are adopted by this resolution as proposed.

Proposed § 563.43(c) would have prohibited insured institutions and their service corporation affiliates (now subsidiaries) from directly or indirectly entering into five types of transactions with third parties from which affiliated persons would derive benefit, or which could place the institution or subsidiary in a position of having to choose between acting in the best interests of itself or the affiliated person. First, institutions and their subsidiaries could not make any loans to, or purchase (other than through a secondary market such as the Federal Home Loan Mortgage Corporation) any such loan made to, any third party on the security of property acquired directly from an affiliated person. This prohibition has been changed to provide an additional exception for loans secured by a single-family dwelling purchased from an affiliated person which was owned and occupied by such person as his principal residence. The Board sees no reason to prohibit such a loan to a third party, which could be made to an affiliated person directly. The exception for secondary market transactions where the loan purchaser does not know the identity of the seller of the security property, such as ordinary Federal Home Loan Mortgage Corporation transactions, has been retained. Second, an institution and its subsidiaries could not make a loan to, or purchase a loan made to, any third party secured by real property with respect to which any affiliated person holds a security interest. Third, no institution or subsidiary thereof could accept the stock, bonds, notes, or other securities of any affiliated person as security for a loan to any third party made or purchased by such institution or subsidiary. Fourth, no institution or subsidiary thereof could maintain a compensating balance with respect to a loan made by a third party to an affiliated person. Fifth, no institution or subsidiary thereof could enter into any guarantee arrangement or make any takeout commitment with respect to a loan made by a third party to any affiliated person. Proposed § 563.43 was adopted without change, except as described above.

As mentioned in the introductory portion of this preamble, conforming amendments have been made in § 545.8, § 545.6–10(a), § 545.6–20(a) and § 545.8–3, and § 545.6–8 has been revoked. It should also be noted that an insured institution need not continue to comply with any condition of insurance or provision of its agreement for operating policies concerning loans made to or purchased from persons associated with the institution after September 30, 1976.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 545 by revoking § 545.6–8 and by revising §§ 545.6–5(a), 545.6–10, 545.6–18, 545.6–20(a), 545.8, 545.8–3, 545.10 and 545.23 thereof as set forth below, effective September 30, 1976. It should be noted that all the above-listed amendments to part

V 41 165 AUG 24 76 UM

545 involve either deletions, exceptions, redesignations of existing provisions, or alteration of references to other sections; no new substantive requirements are added to these sections. The Federal added to these sections. The Federal Home Loan Bank Board also hereby amends Part 561 by revising § 561.28 thereof and by adding §§ 561.29, 561.30, 561.31, 561.32, 561.33, 561.34, 561.35, 561.36 and 561.37 thereto, and amends Part 563 by revising §§ 563.17, 563.34 and 563.35 thereof and by adding §§ 563.33, 563.40, 563.41, 563.43 and 563.45 thereto, as set forth below, effective on September 30, 1976, except as otherwise set forth in said amendments.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Section 545.6-5(a) is revised to read as follows:

§ 545.6–5 Purchase of loans.

(a) *General provisions.* A Federal association may purchase any loan that t may make, unless expressly prohibited by other provisions of this part, and may also purchase any insured loan secured by a home or combination of home and business property located outside of the State (including the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States) in which such association's home office is located at an investment not exceeding the sum of (1) $55,000 for each single-family dwelling, or $82,500 with respect to each such dwelling in Alaska, Guam or Hawaii, (2) an amount per dwelling unit within the limits set forth in section 207 (c) (3) of the National Housing Act, with such increases therein as may be made from time to time by the Federal Housing Commissioner in accordance therewith; and (3) the percentage of value acceptable to the insuring agency of such part of the property as is not attributable to dwelling use. If a Federal association increases its savings accounts as part of the purchase of any loan, it shall obtain such approval as is required by the rules and regulations for insurance of accounts.

• • • • •

§ 545.6–8 Loans to directors, officers or employees. [Revoked]

2. Section 545.6–8 is revoked.

3. Section 545.6–10 is revised to read as follows:

§ 545.6–10 Initial loan charges.

Except as provided in §§ 563.35(d) and (e) of this chapter, borrowers may be required to pay the necessary initial charges in connection with the making of a loan, including the actual costs of title examination, appraisal, credit report, survey, drawing of papers, closing of the loan, and other necessary incidental services and costs in such reasonable amounts as may be fixed by the board of directors; such necessary initial charges may be collected by the association from the borrower and paid to the persons rendering such services.

4. Section 545.6–18 is revised by revoking paragraph (g) as follows:

§ 545.6–18 Loans in urban renewal areas.

• • • • •

(g) [Revoked]

5. In § 545.6–20 the introductory text of paragraphs (a) and (a) (3) are revised to read as follows:

§ 545.6–20 Loans guaranteed under the Foreign Assistance Act of 1961.

(a) *General.* Without regard to the provisions of any other section of this part, a Federal association which has a charter in the form of Charter K (rev.) or Charter N may invest in any of the following loans, or any interest therein:

• • • • •

(3) Loans having the benefit of any guaranty under sections 221 or 222 of such Act, as in effect on December 30, 1969, and thereafter.

• • • • •

6. In § 548.8, paragraph (b) is revoked and the introductory text of paragraph (a) is revised to read as follows:

§ 545.8 Loans without requirement of security.

Without regard to any other provision of this part, any Federal association that has amended Charter K by the addition thereto of section 14.1 and any Federal association that has a charter in the form of Charter K (rev.) or Charter N may, upon adoption of such a loan plan by its board of directors, invest in loans of the following types, but no investment shall be made under this section if immediately after such investment the outstanding aggregate of all investments of the association made under this section would exceed 20 percent of the association's assets:

• • • • •

(b) [Revoked]

7. Section 545.8–3 is revised to read as follows:

§ 545.8–3 Insured loans for title purchase.

Without regard to any other provision of this part, a Federal association which has a Charter in the form of Charter K (rev.) or Charter N may invest in loans, or interests therein, made for the purpose of financing the purchase by homeowners of the fee simple title to property on which their homes are located and as to which the association has the benefit of insurance under section 240 of the National Housing Act, as amended, or of a commitment or agreement for such insurance.

8. Section 545.10 is revised to read as follows:

§ 545.10 Real estate for office and related facilities.

(a) A Federal association may invest in real estate (improved or unimproved) to be used for office and related facilities of the association, or for such office and related facilities and for rental or sale, if each such investment is made and maintained pursuant to a prudent program of property acquisition to meet either the association's present needs or its reasonable future needs for office and related facilities. Except with the prior approval of the Board, no such investment may be made before the Board has approved an application for the establishment or maintenance of an office facility at the location of such real estate or the change of an office facility to such location, if, as a result of such investment, the outstanding aggregate book value of all such investments made before such Board approval would exceed 25 percent of the association's net worth. Except with the prior approval of the Board, no such investment may be made before or after the Board has approved an application, if any such application is required, for the establishment or maintenance of an office facility at the location of such real estate or the change of an office facility to such location, if, as a result of such investment, the outstanding aggregate book value of all such investments made before and after such Board approval would exceed the association's net worth.

(b) *Requests for Board approval of exceptions.* Any request by a Federal association for Board approval of an exception to the limitations contained in this section shall be transmitted to the Supervisory Agent, with a copy thereof to the Director, Office of Examinations and Supervision, 320 First Street, NW., Washington, D.C. 20552. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of which the Federal association is a member or any other officer or employee of such bank designated by the Board as its agent pursuant to § 501.11 of this chapter.

9. Section 545.23 is revised to read as follows:

§ 545.23 Statement of condition.

Within the month immediately after the annual closing of a Federal association's books, such Federal association shall either mail to each of its members, or in the case of a Charter S association each of its depositors and borrowers, at his last address appearing on the association's books, or publish in a newspaper printed in the English language and of general circulation in the county in which the association's home office is located, a statement of condition of the association as of such closing of its books, in form prescribed by the Board. (The Board has prescribed a form of "Statement of Conditions," an illustrative copy of which may be obtained from any Federal Home Loan Bank or from the Federal Home Loan Bank Board, Washington, D.C.) Within five days after each such statement of condition has been so mailed or published, a certification to such effect, signed by an executive officer of such Federal association, together with a copy of the statement of condition, shall be transmitted by the association to the Federal Home Loan Bank of which the association is a member. This section shall not apply to a Federal association in any year in which such association transmits an annual report containing the information required by § 563.45(a) of this chapter to its voting members at least 20 calendar days prior to its annual meeting in such year.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITION

10. Part 561 is amended by revising § 561.28 to read as follows:

§ 561.28 Controlling person.

A "controlling person" of an insured institution is any person or entity which, either directly or indirectly, or acting in concert with one or more other persons or entities, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or rights of such institution; or controls in any manner the election or appointment of a majority of the directors of such institution. However, a director of an insured institution will not be deemed to be a controlling person of such institution based upon his voting, or acting in concert with other directors in voting, proxies (a) obtained in connection with an annual solicitation of proxies or (b) obtained from savings accountholders and borrowers if such proxies are voted as directed by a majority vote of the entire board of directors of such institution, or of a committee of such directors if such committee's composition and authority are controlled by a majority vote of the entire board and if its authority is revocable by such a majority.

11. Part 561 is further amended by adding §§ 561.29 through 561.37 as follows:

§ 561.29 Affiliated person.

The term "affiliated person" of an insured institution means the following:

(a) A director, officer, or controlling person of such institution;

(b) A spouse of a director, officer, or controlling person of such institution;

(c) A member of the immediate family of a director, officer, or controlling person of such institution, who has the same home as such person or who is a director or officer of any subsidiary of such institution or of any holding company affiliate of such institution;

(d) Any corporation or organization (other than the insured institution or a corporation or organization through which the insured institution operates) of which a director, officer or controlling person of such institution is an officer or partner or is, directly or indirectly either alone or with his spouse, the owner of 10 percent or more of any class of equity securities or the owner with other directors, officers, and controlling persons of such institution and their spouses of 25 percent or more of any class of equity securities; and

(e) Any trust or other estate in which a director, officer, or controlling person of such institution or the spouse of such person has a substantial beneficial interest or as to which such person or his spouse serves as trustee or in a similar fiduciary capacity.

§ 561.30 Immediate family.

The term "immediate family" of any natural person means the following (whether by the full or half blood or by adoption):

(a) Such person's spouse, father, mother, children, brothers, sisters, and grandchildren;

(b) The father, mother, brothers, and sisters of such person's spouse; and

(c) The spouse of a child, brother, or sister of such person.

§ 561.31 Director.

The term "director" means any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. Such term does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

§ 561.32 Officer.

The term "officer" means the president, any vice-president (but not an assistant vice-president, second vice-president or other vice-president having authority similar to an assistant or second vice-president), the secretary, the treasurer, the comptroller, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated. The term "officer" also includes the chairman of the board of directors if the chairman is authorized by the charter of by-laws of the organization to participate in its operating management or if the chairman in fact participates in such management.

§ 561.33 Financial institution.

The term "financial institution" means any savings and loan association, building and loan association, homestead association, cooperative bank, mutual savings bank, commercial bank or trust company. Such term does not include a Federal Home Loan Bank or the Bank for Savings and Loan Associations, Chicago, Illinois.

§ 561.34 Holding company affiliate.

The term "holding company affiliate" of an insured institution means a savings and loan holding company of which such insured institution is a subsidiary and any other subsidiary of such holding company other than a subsidiary of such insured institution. The term "holding company affiliate" applies to an uninsured institution as if such institution were insured. For purposes of these definitions of "holding company affiliate", see § 583.7 Uninsured institution, § 583.11 Savings and loan holding company, § 583.14 Subsidiary, § 583.15 Affiliate and related definitions in Part 583 of this chapter. The term "holding company affiliate" of a bank means a bank holding company of which hte bank is a subsidiary and any other subsidiary of such holding company. For purposes of this definition, see definitions of "bank holding company of which the bank is a subing company", "bank", "subsidiary" and related definitions in the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841).

§ 561.35 Principal supervisory agent.

The term "Principal Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the principal office of the insured institution is located.

§ 561.36 Parent company; subsidiary.

The terms "parent company" and "subsidiary" have the meanings given to them by §§ 583.10 and 583.14 of this chapter, respectively.

§ 561.37 Audit period.

The "audit period" of an insured institution means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 563.17–1.

PART 563—OPERATIONS

12. Part 563 is amended by revising § 563.17(b) thereof to read as follows:

§ 563.17 Management and financial policies.

• • • • •

(b) Compensation to officers, directors, and employees of each insured institution and its service corporations shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities. Former officers, directors, and employees of an insured institution or its service corporation who regularly perform services therefor under consulting contracts are employees thereof for purposes of this paragraph (b).

13. Part 563 is amended by adding § 563.33 to read as follows:

§ 563.33 Directors, officers, and employees.

(a) *Directors.* The following guidelines are recommended for composition of the board of directors of an insured institution:

(1) A majority of the directors of an insured institution should live or work in the normal lending territory of such institutions.

(2) Not more than one-third of the directors of an insured institution should be salaried officers or employees of such institution or of any subsidiary or holding company affiliate thereof.

(3) Not more than two of the directors of an insured institution should be members of the same immediate family.

(4) Not more than one director of an insured institution should be an attorney with the same law firm.

(5) (i) No director of an insured institution should be a director of any other financial institution or holding company affiliate thereof, other than a commercial bank or trust company.

(ii) Not more than one-third of the directors of an insured institution should be directors of a commercial bank, trust

V 41 165 AUG 24 76 UM

company, or holding company affiliate of such a bank or company.

(iii) Not more than one director of an insured institution should be a director of the same commercial bank, trust company, or holding company affiliate of such a bank or company.

(iv) No director of an insured institution should be a salaried officer or employee of any other financial institution or holding company affiliate thereof.

(v) Paragraphs (a)(5) and paragraph (c) of this section do not apply to directors, officers or employees of another financial institution or holding company affiliate thereof (*a*) if such other financial institution and such insured institution are subsidiaries of the same savings and loan holding company or (*b*) if neither such other financial institution nor any holding company affiliate thereof which is a financial institution has an office located within any county (or similar political subdivision) or standard metropolitan statistical area (SMSA) in which such insured institution has an office or within any county or SMSA from which such insured institution receives either more than $5,000,000 or five percent of its savings accounts.

(b) *Inconsistent conditions of insurance or agreements for operating policies.* Any insured institution which agrees in writing with the Corporation to comply with all of the guidelines set forth in paragraph (a) of this section need no longer comply with any present condition of insurance or provision of its agreement for operating policies concerning the composition of its board of directors or the employment of its officers.

(c) *Officers.* Except as provided in paragraph (a)(5)(v) of this section, no salaried officer of an insured institution may become or, after the 1978 annual meeting of such institution, continue to serve as a salaried officer or employee of any other financial institution or holding company affiliate thereof.

(d) *Other employment.* No insured institution or subsidiary thereof shall permit any salaried officer or employee to work during the hours of his employment by such institution or subsidiary for any affiliated person of such institution unless such affiliated person compensates such institution or subsidiary for the time during which such officer or employee is engaged in such work.

14. Section 563.34 is revised to read as follows:

§56.3.34 Deposit relationships involving affiliated persons.

No insured institution or subsidiary thereof shall maintain a deposit relationship with any affiliated person of such institution or with any financial institution or holding company affiliate thereof of which an affiliated person of such insured institution is a director, if the maintenance of such deposit relationship has been specifically disapproved by the Principal Supervisory Agent of the Corporation. No such deposit relationship shall be established (including a new interlock involving an existing deposit relationship) after September 30, 1976, without the prior written approval of the Principal Supervisory Agent. In taking action with respect to the maintenance or establishment of such deposit relationship, factors to be considered by the Principal Supervisory Agent will include:

(a) The size of the depository relative to the deposits maintained or to be maintained by such insured institution or subsidiary;

(b) The amount of the deposits relative to the size of such insured institution or subsidiary;

(c) The need for the deposit relationship by such insured institution or subsidiary and available alternative deposit relationships not involving affiliated persons;

(d) The extent to which affiliated persons have an interest in the depository;

(e) Whether the deposit relationship has been approved by a disinterested majority of the entire board of directors of such insured institution or subsidiary;

(f) Any current supervisory problems involving such insured institution or subsidiary and the affiliated persons having an interest in the depository;

(g) Whether the deposit relationship involves an active demand account;

(h) Whether the deposit relationship was established prior to July 1, 1972; and

(i) Any other factors which may have a detrimental effect on such insured institution or subsidiary.

15. Section 563.35 is revised to read as follows:

§ 563.35 Restrictions involving loan services.

(a) *Tie-in prohibitions.* No insured institution or service corporation affiliate thereof may grant any loan on the prior condition, agreement, or understanding that the borrower contract with any specific person or organization for the following:

(1) Insurance services (as an agent, broker, or underwriter), except insurance or a guarantee provided by a government agency or private mortgage insurance;

(2) Building materials or construction services;

(3) Legal services rendered to the borrower;

(4) Services of a real estate agent or broker; or

(5) Real estate or property management services.

(b) *Notice with respect to insurance on home loans.* An insured institution or subsidiary thereof shall notify the borrower in writing of his right to freely select the person or organization rendering the insurance services referred to in paragraph (a)(1) of this section in connection with a loan on a home (as defined in § 541.10–2 of this chapter) occupied or to be occupied by the borrower at or prior to the time of the written commitment to make such loan.

(c) *Limitation on paragraphs (a) and (b).* Notwithstanding paragraphs (a) and (b) of this section, an insured institution or subsidiary thereof may refuse to make any loan if it believes on reasonable grounds that the insurance services provided by the person or organization selected by the borrower will afford insufficient protection to such institution or subsidiary.

(d) *Payment of attorney's fee by home borrowers.* In connection with a loan on a home (as defined in § 541.10–2 of this chapter) occupied or to be occupied by the borrower, an insured institution or subsidiary thereof may require such borrower to reimburse it for legal services rendered by its attorney, or to directly pay such attorney for such services, only if:

(1) such attorney's fee is limited to legal services attributable to processing and closing such loan (and not unrelated services performed for the institution or subsidiary by the attorney);

(2) Such attorney's fee, if in excess of $100, is supported by a statement provided to the borrower at or prior to settlement which (i) describes the legal services being performed, (ii) sets forth the time being spent by such attorney and the hourly rate or other basis for determining such fee, (iii) states that the legal services are being performed on behalf of the insured institution or subsidiary and not on behalf of the borrower, and (iv) states that such services are being paid for by the borrower;

(3) Such attorney's fee does not exceed that which is reasonable and commensurate with the legal services being performed; and

(4) Such attorney's fee is separately itemized on the loan settlement sheet and identified as a fee to the lender's attorney.

16. Part 563 is amended by adding §§ 563.40, 563.41, 563.43 and 563.45 to read as follows:

§ 563.40 Restrictions on loan procurement fees, kickbacks and unearned fees.

(a) *Loan procurement fees.* No affiliated person of an insured institution may receive, either directly or indirectly, from such institution, any subsidiary thereof, or any other source any fee or other compensation of any kind in connection with the procurement of any loan from such institution or subsidiary thereof.

(b) *Kickbacks and unearned fees.* The prohibitions contained in sections 8(a) and 8(b) of the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93–533) shall apply to any fee, kickback, thing of value, and any portion, split or percentage of any charge, either directly or indirectly, given to or accepted by an insured institution or subsidiary or affiliated person thereof, in connection with any loan on real property made by an insured institution or subsidiary thereof, without regard to whether the loan is within the term "federally related mortgage loan", as defined in section 3(1) of the Act.

§ 563.41 Restrictions on real property transactions with affiliated persons.

(a) *Scope of section.* Section 584.3 of this chapter is controlling with respect to transactions between an insured institution and a holding company.

(b) *Restrictions.* No insured institution or subsidiary thereof may, either directly or indirectly, purchase from, jointly own with, sell to, or lease from an affiliated person of such institution any interest in real property, except as follows:

(1) A joint ownership of real property with an affiliated person existing on September 30, 1976;

(2) A purchase from an affiliated person of his interest in real property jointly owned on September 30, 1976, or a sale to an affiliated person of the interest of such institution or subsidiary in real property jointly owned with the affiliated person on such date;

(3) A lease (including any renewal thereof) from an affiliated person existing on September 30, 1976, with respect to real property on which such institution or subsidiary maintains or has applied to maintain an office, and the purchase from an affiliated person of real property subject to such a lease; and

(4) A lease from an affiliated person of real property on which such institution or subsidiary will maintain an office, if the space being leased by such institution or subsidiary is for not more than 15 percent of the total space being leased in the shopping center or office building, and a renewal of such a lease. The exceptions provided in (2), (3), and (4) of the preceding sentence are subject to the following conditions:

(i) The transaction must receive prior written approval of the Principal Supervisory Agent;

(ii) The terms of the transaction must be fair to, and in the best interests of, the insured institution or subsidiary thereof;

(iii) The transaction must be supported by an independent appraisal not prepared by an affiliated person or employee of such institution or subsidiary; and

(iv) The transaction must be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of such institution or subsidiary (or alternatively by a majority of the total votes eligible to be cast by the voting members of such institution at a meeting called for such purpose, with no votes being cast by proxies not solicited for such purpose). Full disclosure must include the source of financing of the affiliated person for the real property involved in the transaction, including whether the insured institution or any subsidiary thereof has a deposit relationship with any financial institution or holding company affiliate thereof providing the financing.

§ 563.43 Restrictions on loans and other investments involving affiliated persons.

(a) *Scope of section.* Section 584.3 of this chapter is controlling with respect to transactions between an insured institution and a holding company.

(b) *Restrictions concerning loan transactions with affiliated persons.* (1) No insured institution or subsidiary thereof may, either directly or indirectly, make a loan to any affiliated person of such institution or purchase such a loan, except for loans in the ordinary course of the business of such institution or subsidiary which do not involve more than normal risk of collectibility or present other unfavorable features, and are of the following types:

(i) A loan secured by a single-family dwelling owned and occupied by the borrower as his principal residence;

(ii) Loans in the aggregate not exceeding $10,000 for constructing, adding to, improving, altering, repairing, equipping, or furnishing a single-family dwelling owned and occupied by the borrower as his principal residence;

(iii) A loan secured by a mobile home owned and occupied by the borrower as his principal residence;

(iv) Loans secured by savings accounts maintained by the affiliated person at the institution;

(v) Loans in the aggregate not exceeding $10,000 for payment of educational expenses; and

(vi) Consumer loans in the aggregate not exceeding $10,000 (including any amounts borrowed under subdivision (ii) of this subparagraph). With respect to loans covered by the exceptions in (i), (ii), (iii), (v) and (vi) of the preceding sentence, each loan must be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of such institution or subsidiary. Full disclosure must include whether the loan is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time for comparable loans to other than affiliated persons. If the interest rate or other terms are more favorable to the affiliated person, the resolution should justify the more favorable terms, particularly as to affiliated persons who are not salaried officers or other employees of such institution or subsidiary. (See Instruction 2 to Item 6(d) of Form AR under § 563.45 of this chapter.)

(2) No insured institution or subsidiary thereof may invest, either directly or indirectly, in the stock, bonds, notes, or other securities of any affiliated person of such institution.

(3) No insured institution or subsidiary thereof may, either directly or indirectly, purchase securities under a repurchase agreement from any affiliated person of such institution.

(c) *Prohibitions concerning loan transactions with third persons.* No insured institution or subsidiary thereof may, either directly or indirectly:

(1) Make any loan to, or purchase (other than through a secondary market such as the Federal Home Loan Mortgage Corporation) any loan made to, any third party on the security of real property purchased from any affiliated person of such institution, unless the property was a single-family dwelling owned and occupied by the affiliated person as his principal residence;

(2) Make a loan to, or purchase a loan made to, any third party secured by real property with respect to which any affiliated person of such institution holds a security interest;

(3) Accept the stock, bonds, notes, or other securities of any affiliated person of such institution as security for a loan to any third party made or purchased by such institution or subsidiary thereof;

(4) Maintain a compensating balance with respect to a loan made by any third party to any affiliated person of such institution; or

(5) Enter into any guarantee arrangement or make any takeout commitment with respect to a loan made by any third party to any affiliated person of such institution.

§ 563.45 Disclosure.

(a) *Annual disclosure requirements.* Except as provided in this paragraph and paragraph (b) of this section, an insured institution shall transmit to its voting members at least 20 calendar days prior to its 1978 annual meeting, and every annual meeting thereafter, an annual report meeting the requirements of Form AR. In lieu of transmitting such annual report, an insured institution may, not less than 30 calendar days prior to its annual meeting, transmit a notice of meeting to its voting members clearly stating that such annual report will be promptly furnished to such person upon request, and provide a postage prepaid card for making such request. For purposes of complying with this paragraph, an insured institution may, if necessary, determine its voting members as of a date prior to the actual record date for voting at its annual meeting. An insured institution is not required by this paragraph to transmit such annual report or notice of meeting to any voting member with less than two votes, unless requested by such member.

(b) *Exemptions from paragraph (a).* Paragraph (a) shall not apply to an insured institution:

(1) If such institution has total assets of less than $15,000,000 as of the end of its audit period immediately preceding the annual meeting, except as provided in paragraph (d); or

(2) In the case of a stock-chartered insured institution, if such institution is subject to the proxy solicitation requirements of § 563d.1 of this chapter; or

(3) If (i) the composition of the board of directors of such institution is in accordance with the guidelines set forth in § 563.33(a) as of the end of its audit pe-

V 41 165 AUG 24 76 UMI

riod immediately preceding the annual meeting, except that an institution whose directors are elected for three-year staggered terms need not be in compliance until the audit period immediately preceding its 1980 annual meeting; (ii) the affiliated persons of such institution have not engaged in any transactions since the beginning of such immediately preceding audit period which must be disclosed under Item 6(e) of Form AR; and (iii) proxies solicited by management from savings accountholders and borrowers for the election of directors (other than in connection with an annual proxy solicitation) will be voted as directed by a majority vote of such institution's entire board of directors, or of a committee of such directors if such committee's composition and authority are controlled by a majority vote of its entire board and if its authority is revocable by such a majority.

(c) *Filing requirements.* Six copies of each annual report, prepared pursuant to paragraph (a) of this section, and any notice of meeting transmitted to voting members pursuant thereto, shall be publicly filed with the Board concurrently with or prior to transmission of such report or notice pursuant to paragraph (a). Three of such copies shall be mailed or delivered to the Principal Supervisory Agent and the other three to the Securities Division, Office of the General Counsel, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552. If the Board determines that the material so filed fails to comply in any material respect with the requirements of Form AR, the Board may require such material for three years thereafter to be filed with the Board and authorized for use prior to being transmitted to voting members.

(d) *Annual disclosure requirements for institutions under $15 million in assets.* An insured institution which is not exempt from paragraph (a) by paragraph (b)(2), and which has less than $15,000,000 in assets as of the end of any audit period (beginning with the audit period immediately preceding its 1978 annual meeting), shall prepare an annual report meeting the requirements of Form AR with respect to each such audit period as to which such institution does not conform with paragraph (b)(3). Six copies of each annual report required by the preceding sentence shall be publicly filed with the Board at least 20 days prior to the annual meeting following the audit period as to which such report was prepared. Three of such copies shall be mailed or delivered to the Principal Supervisory Agent and the other three to the Securities Division, Office of the General Counsel, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552. If the Board determines that an annual report prepared by an insured institution pursuant to this paragraph (d) reveals practices or events during the audit period covered by such report which, if continued, the Board believes should be disclosed to persons having voting rights in such institution, then the Board may require such institution to comply with the requirements of paragraph (a) in connection with the annual report for its next audit period if such a report is required by this paragraph (d). If an annual report prepared pursuant to this paragraph (d) reveals information of the type described in the immediately preceding sentence, the Board will notify the institution in writing within 60 days of the filing of such report with the Board that such institution must submit its annual report (if any) for its next audit period to the Board for a determination as to whether such institution must comply with the requirements of paragraph (a) in connection with such report.

(e) *Disclosure not a restriction on Board's general authority.* Disclosure under this section does not restrict the Board's authority to take appropriate action as to unsafe or unsound practices, or violations of law or regulation, respecting the matters disclosed.

(f) *Additional scope of "affiliated person."* As used in § 563.45 and in Form AR, the term "affiliated person" includes any person who has been nominated to be a director of the insured institution as if such person had been a director since the beginning of the institution's last audit period.

FORM AR (ANNUAL REPORT FORM)

GENERAL INSTRUCTIONS

Each annual report required under § 563.45 shall, to the extent applicable, include the information called for under each of the items below. In preparation of the annual report, particular attention should be given to the definitions in Part 561 of this chapter.

This form is not to be used as a blank form to be filled in, nor is it intended to prescribe a form for presentation of material in the statement. Its purpose is solely to prescribe the information required to be set forth in the statement; any additional information that the insured institution deems appropriate may be included.

INFORMATION REQUIRED IN STATEMENT

Item 1—*Nominees and Directors.* (a) Furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

(1) State the name and age of each such person, the nature of any immediate family relationship between him and other directors, nominees and officers, when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the institution presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(2) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five years, unless he is now a director and was elected to his present term of office at an annual meeting with respect to which an annual report meeting the requirements of Form AR was furnished.

(3) If he is or has previously been a director of the institution, state the period or periods during which he has served as such.

(4) In the case of a stock institution, state, as of the most recent practicable date, the approximate amount of each class of equity securities (other than directors' qualifying shares) of the institution, or any parent company or subsidiary thereof, beneficially owned by him, either directly or indirectly. If he disclaims beneficial ownership of any such securities, make a statement to that effect.

(b) If any nominee for election as a director is proposed to be elected pursuant to any arrangement or understanding between the nominee and any other person or persons, except the directors and officers of the institution acting solely in those capacities, name such other person or persons and describe briefly such arrangement or understanding.

(c) State whether the composition of the institution's board of directors will be in compliance with the guidelines set forth in § 563.33(a), and if not, the extent to which the composition of such board will not comply with such guidelines.

Item 2—*Officers.* List the names and ages of all officers of such institution and all persons chosen to become officers; state the nature of any immediate family relationship between them; indicate all positions and offices with the institution held by each such person; if such person has served as an officer of the institution for less than five years, state the period during which he has served as an officer; and if such person is employed pursuant to an employment contract, states the period of such contract and whether it may be terminated for cause by the institution.

Item 3—*Voting rights.* Describe the voting rights of each class of persons having voting rights (e.g., accountholders, borrowers and/or stockholders) and the approximate number of votes to which each such class of persons is entitled; state the date as of which the record of voting members entitled to vote at the meeting will be determined; and in the case of a stock institution, describe any cumulative voting rights.

Item 4—*Proxies and revocability thereof.* State the method by which proxies are solicited by management for the election of directors (e.g., by annual solicitation or by having savings accountholders sign a proxy of indefinite duration in conjunction with opening their accounts). Also, state the names of the persons, and their positions and offices with the institution, holding these proxies, and whether the persons giving these proxies have the power to revoke them. If the right of revocation before these proxies are exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 5—*Change in control.* (a) Name each controlling person of the institution and include the number of proxies held by such person and, in the case of a stock institution, the number of voting shares of stock or other voting securities owned, controlled, or held with power to vote by such person.

(b) Describe any change in controlling persons of the institution which has occurred since the beginning of its last audit period.

(c) Describe any contractual arrangements, known to the institution, including any pledge of voting securities of the institution or any parent company thereof, the operation of the terms of which may at a subsequent date result in a change of control of the institution.

Item 6—*Remuneration and other transactions with Management and others.*—(a) *Direct remuneration.* Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the institution and its subsidiaries during the institution's latest

audit period to the following persons for services in all capacities:

(1) Each director of the institution whose aggregate direct remuneration exceeded $40,000, and each of the three highest paid officers of the institution whose aggregate direct remuneration exceeded that amount, naming each director and officer.

(2) All directors and officers of the institution as a group without naming them, but stating the number of persons included.

Name of individual or number of persons in group	Capacities in which remuneration was received	Aggregate direct remuneration
(A)	(B)	(C)

Instructions. 1. This item applies to any person who was a director or officer of the institution at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer.

2. The information is to be given on an accrual basis, if practicable. The tables required by this paragraph and paragraph (b) may be combined if the institution so desires.

3. Do not include remuneration paid to a partnership in which any director or officer was a partner. But see paragraph (e) below.

(b) *Annuities, pensions, and retirement benefits.* Furnish the following information, in substantially the tabular form indicated, as to all annuity, pension, or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the institution or any subsidiary thereof to each director or officer named in answer to paragraph (a)(1) and to all directors and officers of the institution who are eligible for such benefits, as a group, stating the number of persons in the group without naming them:

Name of individual or number of persons in group	Amount set aside or accrued during institution's last audit period	Estimated annual benefits upon retirement
(A)	(B)	(C)

Instructions. 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors and officers as a group.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings or profits of the institution or its subsidiaries for such period or a prior period (or where otherwise impracticable to state the estimated annual benefits upon retirement) there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless impracticable to do so, in which case the method of computing such benefits shall be stated. In addition, furnish a brief description of the material terms of the plan, including the method used in computing the institution's contribution, and the amount set aside or accrued during the institution's last audit period for all officers and directors as a group, indicating the number of persons in such group without naming them.

(c) *Other remuneration.* Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b)) proposed to be made in the future, directly or indirectly, by the institution or any subsidiary thereof pursuant to any existing plan or arrangement to (1) each director or officer named in answer to paragraph (a)(1), naming each such person, and (2) all directors and officers of the institution as a group, without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments shall be stated, together with an explanation of the basis for future payments.

(d) *Loans.* State as to each affiliated person of the institution who was indebted to the institution or any subsidiary thereof at any time since the beginning of the last audit period of the institution, (1) the largest aggregate amount of indebtedness outstanding at any time during such period, (2) the nature of the indebtedness and of the transaction in which it was incurred, (3) the amount thereof outstanding as of the latest practicable date, and (4) the rate of interest paid or charged thereon.

Instructions. 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. Disclosure under this Item 6(d) shall not be required where the transaction consists of a loan by the institution or subsidiary that (i) is of the type covered by an exception in § 563.43(b), and (ii) is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time for comparable transactions with other than affiliated persons. In the case of a loan made to an officer who is not a director or controlling person of the institution, disclosure of the loan transaction need not be made under this Item 6(d) if (i) disclosure would not have been required under the preceding sentence except that the interest rate being paid is less than the rate for comparable loans to other than affiliated persons at the time the loan was made, and (ii) the aggregate principal balance of all loans at less than such comparable interest rates to such officers as a group outstanding at the end of the last audit period of the institution is stated, together with a brief description of the policy of the institution or subsidiary in making such loans.

(e) *Transactions where certain persons have a material interest.* Describe briefly any transactions since the beginning of the last audit period, and any presently proposed transactions, to which the institution or any of its subsidiaries was or is to be a party, in which any affiliated person of the institution had or is to have a direct or indirect material interest, naming such person and stating his relationship to the institution, the nature of his interest in the transaction and, where practicable, the amount of such interest.

Instructions. 1. This item applies to any person who was an affiliated person of the institution at any time during the period specified. However, information need not be given for any portion of the period during which such person was not an affiliated person.

2. In connection with a loan transaction to which the institution or a subsidiary thereof is a party, an affiliated person of the institution acting as attorney or appraiser for the institution or subsidiary, or as escrow agent, builder or real estate agent/broker, will be deemed to have a direct or indirect interest in such loan transaction, unless such person acts in such capacity or capacities as a full time salaried officer or employee of the institution or subsidiary without additional or separate compensation for individual loan transactions. An affiliated person acting as an insurance agent/broker or underwriter, supplier of title examination or abstract services, or building materials supplier will be deemed to have a direct or indirect interest in such loan transaction if the affiliated person was selected by, or on the basis of a referral from, the institution or subsidiary. An affiliated person acting as a building materials supplier will be deemed to have a direct or indirect interest in such loan transaction if the institution or subsidiary had knowledge that such person would act in such capacity at the time the loan commitment was made. In determining whether the interest of the affiliated person in such loan transaction is material, all payments made during an audit period of the institution to the affiliated person for acting in one or more of the foregoing capacities shall be aggregated for purposes of the $40,000 computation under Instruction 4(c).

3. A person will be deemed to have a direct or indirect material interest in a loan transaction to which the institution or a subsidiary thereof was or is to be a party if the loan is to finance the purchase of real property from such person.

4. No information need be given in answer to this item as to any transaction where—

(a) The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services at rates or charges fixed in conformity with law or governmental authority; but information shall be given notwithstanding approval of the transaction by the Board, its Principal Supervisory Agent, or other governmental authority;

(b) The transaction involves services as a transfer agent, registrar, trustee under a corporate trust indenture, or similar services; but information shall be given as to transactions involving services as a bank depository if the amount of the deposits of the institution and its subsidiaries averaged on a monthly basis $40,000 or more during the last audit period of the institution;

(c) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $40,000;

(d) The interest of the affiliated person arises solely from ownership of securities of the institution and the affiliated person receives no extra or special benefit not shared on a pro rata basis by all holders of securities of the class; or

(e) The transaction consists of indebtedness to the institution or subsidiary disclosed under Item 6(d) or exempt from disclosure under Instruction 2 to Item 6(d).

5. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the institution or a subsidiary thereof may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material in-

V 41 N 165 AUG 24 76 UMI

direct interest in a transaction within the meaning of this Item where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from direct or indirect ownership by such person and all other persons specified in subparagraphs (1) and (2) above, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in subparagraphs (1) and (2) above had an interest of less than 10 percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the institution or any subsidiary thereof and the transaction is not material to such other person.

6. The amount of the interest of any specified person shall be computed without regard to the amount of profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

7. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this Item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of an affiliated person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this Item.

8. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the institution where any of the affiliated persons were or are to be a principal underwriter or is a controlling person or a member of a firm that was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the institution or any subsidiary thereof.

(f) *Options to purchase securities.* In the case of stock institutions, furnish the following information as to all options to purchase securities, from the institution or any parent company or subsidiary thereof, which were granted to or exercised by the following persons since the beginning of the institution's last audit period and as to all options held by such persons as of the latest practicable date: (i) each director or officer named in answer to paragraph (a)(1) of this Item, naming each such person; and (ii) all directors and officers of the institution as a group, without naming them:

(1) As to options granted, state (i) the title and amount of securities called for; (ii) the prices, expiration dates, and other material provisions; and (iii) the market value of the securities called for on the granting date.

(2) As to options exercised, state (i) the title and amount of securities purchased; (ii) the aggregate purchase price; and (iii) the aggregate market value of the securities purchased on the date of purchase.

(3) As to all unexercised options held as of the latest practicable date, regardless of when such options were granted, state (i) the title and aggregate amount of securities called for; (ii) the average option price per share; and (iii) the per share market price of the securities subject to the option, as of the latest practicable date.

Instructions. 1. The term "options" as used in this paragraph (f) includes all options, warrants, or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given.

2. The extension, regranting, or material amendment of options shall be deemed the granting of options within the meaning of this paragraph.

3. This item need not be answered with respect to options granted, exercised, or outstanding, as may be specified therein, where the total market value (i) on the granting date of the securities called for by all options granted during the period specified; (ii) on the dates of purchase of all securities purchased through the exercise of options during the period specified; or (iii) as of the latest practicable date of the securities called for by all options held at such time, does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1) of this Item, or $40,000 for all officers and directors as a group.

(g) *Transactions involving certain pension, retirement, savings and other similar plans.* Describe briefly any transactions since the beginning of the institution's last audit period or any presently proposed transaction, to which any pension, retirement, savings, or similar plan provided by the institution or any parent company or subsidiary thereof, was or is to be a party, in which any affiliated person of the institution had or is to have a direct or indirect material interest, naming such person and stating his relation to the institution, the nature of his interest in the transaction, and, where practicable, the amount of such interest.

Instructions. 1. Without limiting the general meaning of the term "transaction" there shall be included in answer to this item any remuneration received or any loans received or outstanding during the period, or proposed to be received.

2. No information need be given in answer to paragraph (g) with respect to—

(a) payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) payments of remuneration for services not in excess of five percent of the aggregate remuneration received by the affiliated person during the institution's last audit period from the institution and its subsidiaries.

Item 7—*Brief description of business.* Furnish a brief description of the business done by the institution and its subsidiaries during the institution's most recent audit period, including information concerning any material developments during such period.

Item 8—*Financial statements.* Furnish a statement of financial condition of the institution as of the end of its last two audit periods and related statements of income, retained earnings and changes in financial position for such periods. Such financial statements shall be certified by independent public accountants (except as otherwise provided in § 563.17–1), and accompanied by the accountants' report. Such financial statements may be presented on a consolidated basis with subsidiaries of the institution. If the institution's audit period ends more than 120 days before its annual meeting, financial statements of the type described above shall also be furnished on an unaudited basis as of a date and for the related period ending within 120 days of its annual meeting.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 F.R. 4891, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.76-24610 Filed 8-20-76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 569]

[No. 76–589]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Solicitation of Proxies

SUMMARY

AUGUST 18, 1976.

The following summary of the amendments proposed by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the proposal.

I. *Existing regulations.* None.

II. *Proposed regulations.* A. Would prohibit the management of an insured institution required by § 563.45(a) to prepare an annual report from voting proxies not solicited in connection with providing the report (or a notice of meeting). Section 563.45(a) applies to institutions with assets of $15 million or more which do not choose to meet certain standards, and is not effective until an institution's 1978 annual meeting.

B. Would provide that the Board may prohibit the management of certain insured institutions required by § 563.45(d) to prepare an annual report from voting proxies not solicited in connection with providing the report (or a notice of meeting). Section 563.45(d) applies to institutions with assets less than $15 million which do not choose to meet certain standards, and does not become effective until an institution's 1978 annual meeting.

C. Would expressly authorize the management of an insured institution not required by §§ 563.45 (a) or (d) to prepare an annual report in connection with an annual meeting to vote any proxy held by management which had not been revoked or superseded and was not invalid by its terms.

D. Would make clear that a person who does not respond to a proxy solicitation pursuant to this section shall not be deemed to have thereby revoked an outstanding proxy for purposes of a subsequent annual meeting for which no proxy solicitation is required.

III. *Reason for proposal.* To bring insured institutions into conformity with the general practice of most other types of business corporations, which customarily solicit proxies from their owners on an annual basis and provide such owners with certain information in connection with such annual solicitations.

The Federal Home Loan Bank Board considers it desirable to propose to amend Part 569 of the rules and regulations for Insurance of Accounts (12 CFR Part 569) by adding a new § 569.5 thereto, captioned "Solicitation of proxies." In general, the effect of proposed § 569.5 would be to require an insured institution to solicit proxies in connection with any annual meeting as to which it must (1) prepare an annual report, and (2) furnish either the report or a notice of the annual meeting to persons having voting rights in the institution. Proposed § 569.5 is closely tied to § 563.45, "Disclosure," and this preamble therefore briefly reviews the provisions of § 563.45 in connection with explaining this proposal.

Section 563.45(a), "Annual disclosure requirements," requires insured institutions to send their voting members: (1) a copy of the annual report for the audit period preceding the meeting, or (2) a notice of such meeting which clearly states that a copy of the report is available on request. Section 563.45 does not take effect until an institution's 1978 annual meeting, and no disclosure is required to persons having only one vote in the institution (e.g. borrowers from a Federal association) unless specifically requested.

Section 563.45(b) excepts three types of institutions from the requirements of § 563.45(a). First, § 563.45(b)(1) excepts institutions having less than $15,000,000 in assets. (But see the discussion of § 563.45(d), below.) Second, § 563.45(b)(2) excepts stock institutions already subject to proxy solicitation requirements under § 563d.1 (12 CFR Part 563d)—i.e., institutions which are registered under the Securities and Exchange Act of 1934. Third, § 563.45(b)(3) excepts any institution which meets the following three standards: (1) The composition of its board of directors conforms to the guidelines in § 563.33(a) (12 CFR Part 563), (2) during the institution's most recent audit period, no affiliated persons thereof engaged in transactions which would have to be disclosed under Item 6(e) of the annual report form (Form AR), and (3) management-held proxies not acquired in connection with an annual proxy solicitation are voted as directed by a majority vote of the institution's entire board or by a committee of such directors controlled by such a majority.

Proposed new § 569.5(a), "Solicitation by institutions preparing annual reports under § 563.45(a)," would provide that no proxies held by directors or officers of an institution required to transmit an annual report or notice of meeting to its members pursuant to § 563.45(a) could be voted at the annual meeting in connection with which the report or notice was transmitted unless such proxies were solicited from persons concurrently or previously furnished with the report or notice. Copies of the form of proxy solicited by an insured institution pursuant to § 569.5(a) would have to be filed with the Board in accordance with § 563.45(c). The Board expects that compliance with this requirement would typically take the form of enclosing an unsigned proxy with the annual report or notice of annual meeting. If done in this fashion, the Board does not believe compliance with § 569.5(a) would result in significant additional costs to insured institutions.

Section 563.45(d), "Annual disclosure requirements for institutions under $15 million in assets," requires insured institutions with less than $15 million in assets to file with the Board, shortly in advance of each annual meeting, an annual report for the audit period preceding the meeting which compiles with the requirements of Form AR. However, no institution need prepare such a report for an audit period as to which such institution meets the standards set forth in § 563.45(b)(3)—i.e. the standards on board composition, transactions with affiliated persons, and voting of management-held proxies. As with § 563.45(a), § 563.45(d) does not take effect until an institution's 1978 annual meeting.

As discussed in the preceding paragraph, insured institutions which must prepare an annual report pursuant to § 563.45(d) normally need only file such report with the Board—i.e. neither the report nor a notice of the upcoming annual meeting need be transmitted to persons having voting rights in the institution. However, § 563.45(d) makes clear that the Board will examine all annual reports required by that section. In the course of these examinations, the Board may determine that an institution's annual report reveals information as to practices or events which, if continued, should be disclosed to persons having voting rights in that institution. If such a situation occurs, the Board may require the institution to comply with § 563.45(a) in connection with the annual report for its next audit period—i.e. the institution would have to transmit the annual report for its next audit period to persons having voting rights in the institution, or else send such persons a notice of the meeting clearly stating that the report was available on request. As in § 563.45(a), this information would not have to be sent to persons having only one vote unless specifically requested.

Proposed § 569.5(b), "Solicitation by certain institutions preparing annual reports under § 563.45(d)," would provide that the Board may apply § 569.5(a) to an institution (1) which is required to file an annual report with the Board pursuant to § 563.45(d), and (2) which the Board has directed to comply with the requirements of § 563.45(a) in connection with such report (i.e. transmit the report or notice of annual meeting to persons with voting rights). In other words, the Board may prohibit proxies held by directors and officers of such an institution from being voted at an annual meeting in connection with which the institution must prepare an annual report and transmit the report (or notice of meeting) to persons having voting rights, unless such proxies were solicited in connection with transmitting this material. Hence, § 569.5(b) would be invoked by the Board only on a case-by-case basis.

Proposed § 569.5(c), "Solicitation not required for institutions excepted from annual report requirements in §§ 563.45(a) and (d)," would provide that directors and officers of an institution may vote any proxy held by them at any annual meeting in connection with which the institution is not required to transmit an annual report or notice of meeting to persons having voting rights in such institution. Of course, proposed § 569.5(c) would not authorize

V 41 165 AUG 24 76 UMI

the voting of any proxy which had been revoked or superseded, or which was invalid by its terms. Proposed § 569.5(c) would also make clear that a person who does not respond to a proxy solicitation made pursuant to § 569.5 shall not be deemed to have thereby revoked an outstanding proxy for purposes of an annual meeting as to which no proxy solicitation is required by § 569.5.

The authority for the proposed proxy solicitation is section 407(1)(5) of the National Housing Act, as amended, 12 U.S.C. 1730(1)(5), which provides that the Board, as operating head of the Federal Savings and Loan Insurance Corporation, "may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the * * * (Board) may determine to be necessary or appropriate for the protection of investors or the (Federal Savings and Loan Insurance) Corporation".

The purpose of the proposal is to enhance the ability of persons with voting rights in insured institutions to exercise those rights meaningfully in situations where management has engaged in the types of transactions which must be disclosed in an annual report under § 563.45 or elects not to follow the Board's guidelines respecting composition of the institution's board of directors. Because of the inherent potential of such situations for possible abuse detrimental to insured institutions, the Board believes that where such transactions or nonconforming boards occur or exist, and are required to be disclosed under § 563.45, management should be permitted to vote only proxies given in the light of such disclosure, so that persons giving such proxies may exercise oversight of management in this area and thereby serve as an additional "check" upon such possible abuse.

To place the proposal in proper prospective, the Board believes an additional point should be made. While member and outside stockholder oversight of an insured institution's management, under the circumstances described above, is desirable, and will hopefully prove beneficial, an even better "check" on management is management itself. Thus, the Board believes very strongly that first-line responsibility for safe and proper functioning of an insured institution lies with its officers and directors. In keeping with this philosophy, it should be emphasized that the proxy solicitations provided for by this proposal are optional in the sense that institutions which choose to comply with the standards set forth in § 563.45(b)(3) (and therefore do not have to prepare annual reports) do not have to solicit proxies. The Board believes that an institution which complies with these standards is very likely to be a well-run institution not in need of additional oversight. However, the Board recognizes that not all insured institutions will elect to follow such standards, and the annual report/proxy solicitation alternative provided by §§ 563.45 and 569.5 is intended to provide a reasonable amount of flexibility for insured institutions consistent with the Board's statutory responsibility to adopt regulations and take other actions to ensure safe and sound functioning of such institutions.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 569 by adding a new § 569.5 thereto, to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552, by October 8, 1976, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

§ 569.5 Solicitation of proxies.

(a) *Solicitation by institutions preparing annual reports under § 563.45(a).* If an insured institution is required by § 563.45(a) to transmit an annual report (or notice of annual meeting in lieu thereof) to persons having at least two votes in such institution, no proxies held by directors or officers of such institution may be voted at the annual meeting in connection with which such report or notice is transmitted unless such proxies were solicited from persons concurrently or previously furnished with such report or notice. Copies of the form of proxy so solicited shall be publicly filed with the Board concurrently with the annual report, as provided in § 563.45(c). This paragraph (a) does not apply to an institution which prepares an annual report pursuant to § 563.45(d), except as provided in paragraph (b) of this section.

(b) *Solicitation by certain institutions preparing annual reports under § 563.45(d).* If an insured institution is required by § 563.45(d) to file an annual report with the Board, and if the Board has determined pursuant thereto that such institution must comply with the requirements of § 563.45(a) in connection with such report, then the Board may also determine to apply paragraph (a) of this section to such institution, and in such event will so notify such institution in the notice provided for in § 563.45(d).

(c) *Solicitation not required for institutions excepted from annual report requirements in §§ 563.45(a) and (d).* In connection with any annual meeting as to which an insured institution is not required by §§ 563.45(a) or (d) to transmit an annual report (or notice of annual meeting in lieu thereof) to persons having at least two votes in such institution, the directors and officers of such institution may vote (in accordance with § 563.45(b)(3)(iii)) any proxy held by them which has not been revoked or superseded and which is not invalid by its terms. A person having voting rights in an insured institution who does not respond to a proxy solicitation made pursuant to paragraphs (a) or (b) of this section shall not be deemed to have thereby revoked an outstanding proxy for purposes of an annual meeting of the type described in the immediately preceding sentence.

(Sec. 407, 48 Stat. 1260, as amended; (12 U.S.C. 1730). Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.76-24612 Filed 8-20-76;8:45 am]

federal register

TUESDAY, AUGUST 24, 1976

PART III:

FEDERAL ELECTION COMMISSION

ADVISORY OPINION REQUESTS

Availability

V 41 165 AUG 24 76 UM

FEDERAL ELECTION COMMISSION

[Notice 1976-40, AOR 1976-59 through 1976-70]

ADVISORY OPINION REQUESTS

Availability

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's notice of proposed rulemaking, published on May 26, 1976 (41 FR 21590), advisory opinion requests 1976-59 through 1976-70 have been made public at the Commission. Copies of AOR 1976-59 and AOR 1976-69 were made available on August 4, 1976; AOR 1976-61 through 1976-64 were made available on August 9, 1976; AOR 1976-65 through 1976-67 were made available on August 10, 1976; AOR 1976-68 and AOR 1976-69 were made available on August 11, 1976; and AOR 1976-70 was made available on August 12, 1976. These copies of advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, NW, Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1976-59: What limitations, if any, exist with respect to the amount of an honorarium or of travel or incidental expenses paid to a candidate who is not a Federal officeholder; what limitations, if any, exist with respect to travel and incidental expenses paid to a candidate who is a Federal officeholder. (Requested by Jack P. Jefferies of Lord, Day & Lord for American Hotel & Motel Association Political Action Committee, New York, New York.)

AOR 1976-60: Whether a candidate who makes a loan to his personal primary campaign fund may transfer the unpaid loan balances to his campaign committee organized to run the general election campaign. (Requested by Robert L. Tammaro, Treasurer, Joseph S. Indyk Congressional Campaign Committee, Princeton, New Jersey.)

AOR 1976-61: Whether excess campaign funds may be used by a Member to pay for attorneys fees incurred in defending in a civil action. (Requested by Congressman John G. Fary, U.S. House of Representatives.)

AOR 1976-62: Whether and under what circumstances a concert fundraising effort may utilize a commercial ticket outlet which is not able to record names and addresses of ticket purchasers. (Requested by Casey N. Kaplan, Ramsey Clark/Senate '76, New York, New York.)

AOR 1976-63: Whether the American Hotel & Motel Association Political Action Committee (AHMPAC) may accept the representation of member corporations that the AHMPAC solicitation is the only one made or that the solicitation of employees is either the first or second of the year. (Requested by Gerald M. Tierney, Jr., of Lord, Day & Lord for the American Hotel & Motel Association Political Action Committee, New York, New York.)

AOR 1976-64: Whether the Friends of Hamilton Fish, Jr., Committee may provide Congressman Fish with a vehicle to be used in connection wtih his office duties. (Requested by Peter G. Pellegrini, Treasurer, Friends of Hamilton Fish, Jr., Poughkeepsie, New York.)

AOR 1976-65: Whether a county-level party which publishes a party newspaper may accept corporate advertising; whether reporting obligations exist. (Requested by Joseph G. Schiff, County Chairman, The Republican Party of Louisville and Jefferson County, Louisville, Kentucky.)

AOR 1976-66: Whether an owner of corporate real estate may permit the erection of political yardsigns for one candidate to the exclusion of the opposition; whether an automobile owned or leased by a corporation may display political bumper stickers of one candidate to the exclusion of the opposition. (Requested by Carla Moore, Campaign Coordinator, Martha Keys for Congress, Topeka, Kansas.)

AOR 1976-67: Whether the establishment and proposed program of the Consolidated Edison Political Action Committee complies with the Act. (Requested by Robert O. Lenrman, Chairman, Consolidated Edison Political Action Committee, New York, New York.)

AOR 1976-68: Whether payment of a deceased candidate's debts by the deceased candidate's father is a contribution. (Requested by Robert Thomson, Counsel to Missourians for Litton, Washington, D.C.)

AOR 1976-69: Whether a telephone corporation may include in its bill inserts nonpartisan voter information if requested to do so by the League of Women Voters of Alabama. (Requested by Connie Fortune, Voters Service Chairman, League of Women Voters Education Fund, Washington, D.C.)

AOR 1976-70: Whether a professional corporation may pay an individual who is a candidate personal benefits or a paid leave of absence if the individual is on leave from the firm. (Requested by Jan Baran, Counsel, National Republican Congressional Committee, Washington, D.C.)

Dated: August 17, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-24640 Filed 8-23-76;8:45 am]

V 41 165 AUG 24 76 UMI

federal register

TUESDAY, AUGUST 24, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

PART IV:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

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PRIVACY ACT OF 1974

Systems of Records

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STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF
NATIONAL FLOOD INSURERS ASSOCIATION
NEW YORK, N. Y.
(HEREIN CALLED THE COMPANY)

APPENDIX A
(1)
DWELLING BUILDING AND CONTENTS

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. Dwelling: The term "dwelling" shall mean a residential building designed for the occupancy of from 1 to 4 families and occupied principally for dwelling purposes by the number of families stated herein.

When the insurance under this policy covers a dwelling, such insurance shall include additions in contact therewith; also, if the property of the owner of the described dwelling and when not otherwise covered, building equipment, fixtures and outdoor equipment, all pertaining to the service of the described premises and while within an enclosed structure located on the described premises; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such dwelling or appurtenant private structures on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the dwelling covered under this policy, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described dwelling and additions in contact therewith) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described dwelling, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, such insurance shall cover all household and personal property owned or incidental to the occupancy of the premises as a dwelling—except other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within an enclosed structure located on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the contents covered under this policy, not as an additional amount of insurance, as follows:

(a) If not the owner of the described premises, to cover loss to improvement, alterations, and additions to the described dwelling and appurtenant enclosed private structures as described above.

(b) If an individual condominium unit owner of the described premises, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described dwelling and appurtenant enclosed private structures as described above.

ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A
(1) DWELLING BUILDING AND CONTENTS

This Company shall not be liable for loss in any one occurrence for more than:

1. $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);
2. $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the dwelling, appurtenant enclosed private structures or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Animals, birds, fish, aircraft, motor vehicles (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

DEDUCTIBLES

A. With respect to loss to the dwelling, appurtenant enclosed private structures or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the dwelling, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

REPLACEMENT COST PROVISIONS

With respect only to a Single Family Dwelling Structure covered hereunder, the term "actual cash value" shall mean replacement cost, subject to following provisions. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from these provisions.

A. If at the time of loss the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such building structure is extended to include the full cost of repair or replacement (without deduction for depreciation).

B. If at the time of loss the whole amount of insurance applicable to said building structure is less than 80% of the full replacement cost of such building structure and less than the maximum amount of insurance available under the National Flood Insurance Program, this Company's liability for loss under this policy shall not exceed the larger of the following amounts:

1. the actual cash value of that part of the building structure damaged or destroyed; or
2. (a) that proportion of the full cost of repair or replacement without deduction for depreciation of that part of the building structure damaged or destroyed, which the whole amount of insurance applicable to said building structure bears to 80% of the full replacement cost of such building structure; or
   (b) the maximum amount of insurance available under the National Flood Insurance Program,

   whichever is larger.

C. This Company's liability for loss under this policy shall not exceed the smallest of the following amounts:

1. the limit of liability of this policy applicable to the damaged or destroyed building structure;
2. the replacement cost of the building structure of any part thereof identical with such building structure on the same premises and intended for the same occupancy and use; or
3. the amount actually and necessarily expended in repairing or replacing said building structure or any part thereof intended for the same occupancy and use.

D. When the full cost of repair or replacement is more than $1,000 or more than 5% of the whole amount of insurance applicable to said building structure, this Company shall not be liable for any loss under paragraph A or subparagraph 2 of paragraph B of these provisions unless and until actual repair or replacement is completed.

E. In determining if the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

F. The Named Insured may elect to disregard this condition in making claim hereunder, but such election shall not prejudice the Named Insured's right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

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APPENDIX A (1) DWELLING BUILDING AND CONTENTS

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause [Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.]—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancelation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

O. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

P. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

Q. Abandonment—There shall be no abandonment to this Company of any property.

R. When Loss Payable—The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

S. Action Against the Company—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

T. Subrogation—In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. W. Williams

Attorney-in-Fact for the Insurance Companies
Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF
NATIONAL FLOOD INSURERS ASSOCIATION
NEW YORK, N. Y.
(HEREIN CALLED THE COMPANY)

APPENDIX A
(2) GENERAL PROPERTY

GENERAL PROPERTY

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. Building: When the insurance under this policy covers a building, such insurance shall include additions and extensions attached thereto; permanent fixtures, machinery and equipment forming a part of and pertaining to the service of the building; personal property of the insured as landlord used for the maintenance or service of the building including fire extinguishing apparatus, floor coverings, refrigerating and ventilating equipment, all while within the described building; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such building or appurtenant private structures on the described premises.

When the insurance under this policy covers a building used for residential purposes, the insured may apply up to 10% of the amount of insurance, applicable to such building, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described building and additions and extensions attached thereto) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described building, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover merchandise and stock, materials and stock supplies of every description; furniture, fixtures, machinery and equipment of every description all owned by the insured; improvements and betterments (as hereinafter defined) to the building if the insured is not the owner of the building and when not otherwise covered; all while within the described enclosed building.

2. When the insurance under this policy covers household contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a residence—except animals, birds, fish, business property, other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within the described building.

The Insured, if not the owner of the described building, may apply up to 10% of the amount of insurance applicable to the household contents covered under this item, not as an additional amount of insurance, to cover loss to improvements and betterments (as hereinafter defined) to the described building.

The Insured, if an individual condominum unit owner in the described building, may apply up to 10% of the amount of insurance on contents covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described building.

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ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A
(2) GENERAL PROPERTY

This Company shall not be liable for loss in any one occurrence for more than:

(a) $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);

(b) $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

3. When the insurance under this policy covers improvements and betterments, such insurance shall cover the Insured's used interest in improvements and betterments to the described building.

(a) The term "improvements and betterments" wherever used in this policy is defined as fixtures, alterations, installations, or additions comprising a part of the described building and made, or acquired, at the expense of the Insured exclusive of rent paid by the Insured, but which are not legally subject to removal by the Insured.

(b) The word "lease" wherever used in this policy shall mean the lease or rental agreement, whether written or oral, in effect as of the time of loss.

(c) In the event improvements and betterments are damaged or destroyed during the term of this policy by the peril insured against, the liability of this Company shall be determined as follows:

(1) If repaired or replaced at the expense of the Insured within a reasonable time after such loss, the actual cash value of the damaged or destroyed improvements and betterments.

(2) If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged or destroyed improvements and betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such improvements and betterments were made to the expiration date of the lease.

(3) If repaired or replaced at the expense of others for the use of the Insured, there shall be no liability hereunder.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the building or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Automobiles; any self-propelled vehicles or machines, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the Insured; watercraft or aircraft.

E. Contents specifically covered by other insurance except for the excess of value of such property above the amount of such insurance.

DEDUCTIBLES

A. With respect to loss to the building or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the building, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Loss Payable Clause
(Applicable to contents item only and effective only when a loss payee is named in Application and Declarations Form.)

Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

O. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

P. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Q. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

R. Abandonment—There shall be no abandonment to this Company of any property.

S. When Loss Payable The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

T. Action Against the Company No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

U. Subrogation— In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. P. Williams

Attorney-in-Fact for the Insurance Companies
Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

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9.1 PREMIUM NOTICE (PAYOR)—NFIA-50—50-A

APPENDIX B

Approximately one and a half months before expiration of a policy for which the NFIA is able to determine rates and calculate renewal premiums, the payor (insured or mortgagee) is sent a premium notice advising him of the approaching expiration and specifying renewal premium amounts. The bottom of the form is a detachable renewal stub to be returned to the NFIA with the premium. Instructions for preparing the form are printed on its back. Samples of the front and back of the form are presented below and on the following page. NFIA-50A, marked "Agent's Copy," is sent to the agent at the same time as the premium notice is sent to payor; it is identical to the payor's copy.

NATIONAL FLOOD INSURANCE PREMIUM NOTICE

POLICY NR: SERVICE COMPANY: DATE:

IMPORTANT – YOUR CURRENT FLOOD INSURANCE POLICY WILL EXPIRE
SEE REVERSE FOR INSTRUCTIONS

A Shows your current level(s) of insurance and the total premium due to renew your insurance at these levels.

B Due to increased repair and replacement costs, it is recommended that you consider increasing your amount of building insurance as shown (see replacement cost provision of your policy). If you elect this option for the next annual term your renewal premium would be as shown.

		AMOUNT OF INSURANCE	PAYABLE PREMIUM
A	BUILDING CONTENTS		
			TOTAL DUE
		AMOUNT OF INSURANCE	PAYABLE PREMIUM
B	BUILDING CONTENTS		
			TOTAL DUE

PAYOR NAME & MAILING ADDRESS

PAYOR COPY

LOCAL AGENT NAME & MAILING ADDRESS

NFIA-50

DETACH HERE

NATIONAL FLOOD INSURANCE RENEWAL FORM

DETACH HERE

POLICY NR: PLAN: COMPANY NR: COMMUNITY: ZONE:

RENEWAL EFFECTIVE DATE: RENEWAL EXPIRATION DATE:

1. CHECK EITHER A OR B FOR DESIRED AMOUNT OF INSURANCE.
2. DETACH THIS RENEWAL FORM AND RETURN IT WITH CHECK OR MONEY ORDER PAYABLE TO NATIONAL FLOOD INSURERS ASSOCIATION FOR THE EXACT AMOUNT SHOWN IN A OR B.
3. WE REQUEST YOUR RENEWAL PREMIUM PAYMENT BE MADE PRIOR TO

TOTAL RENEWAL PREMIUM DUE	COMPANY USE
A ☐	
B ☐	

MORTGAGEE KEY

AGENT NUMBER

NATIONAL FLOOD INSURERS ASSOCIATION
P.O. BOX 8768
ARLINGTON, VA. 22202

INSURED NAME & MAILING ADDRESS

If you have any questions or wish to change your amount of insurance to other levels than in B shown above, CONTACT YOUR LOCAL AGENT.

NATIONAL FLOOD INSURANCE COPY

NFIA-50

APPENDIX C (1)

Regular Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

R REGULAR FLOOD INSURANCE PROGRAM

Insurance Companies Members of National Flood Insurers Association (In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

RENEWAL: YES ☐ NO ☐ (If RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
Number, Street, City or Town, County, State, Zip Code)

Policy Term 1 Year, From _____ to _____

Inception (Mo. Day Yr.) Expiration (Mo. Day. Yr.) 12:01 AM. Standard Time at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ FIRM Zone # _____

ITEM NO.	AMOUNT OF INSURANCE a) First Layer b) Second Layer	RATES AND PREMIUMS ACTUARIAL RATES	ACTUARIAL PREMIUMS Check Box ☐ If $15 Expense Constant Included.	PAYABLE BY THE INSURED RATES a) Payable b) Actuarial	PAYABLE BY THE INSURED PREMIUMS	Description and Location of Property Covered (Location same as mailing address above unless otherwise indicated)
1. Bldg.	a) $_____ b) $_____ $_____ Total		$_____ ☐ $_____ $_____ Total	a) _____ b) _____	a) $_____ ☐ b) $_____ $_____ Total	Occupied as _____ Located at _____ On Contents consisting principally of _____ in the Enclosed Building Described Above ☐: or _____
2. Cont.	a) $_____ b) $_____ $_____ Total		$_____ ☐ $_____ $_____ Total	a) _____ b) _____	a) $_____ ☐ b) $_____ $_____ Total	Located at _____ Loss Payee (Contents): _____
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.			$_____	Grand Total Premium Payable By Insured →	$_____	INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Base Flood Elevation from FIRM	= _____	Masonry walls-slab foundation	☐
First Floor Elevation — Certify	= _____	Masonry walls-other foundation	☐
Dift. Plus (+) or Minus (—) To Nearest Foot	= _____	All other walls-slab foundation	☐
Does Insured Qualify as "Small Business?" Yes ☐ No ☐		All other walls-other foundation	☐
Is Structure Single Family ☐; 2-4 Family ☐; Other Residential ☐; All Other ☐		Check only one box	
Is This a Motel or Hotel Structure with normal occupancy of less than six (6) Months? Yes ☐ No ☐			
Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐			
Date New Construction or Substantial Improvement started _____			
Is structure within ☐ corporate limits or ☐ unincorporated area of county.			
One Story — Basement ☐ No Basement ☐			
Two or more Stories — Basement ☐ No Basement ☐			
Split Level — Basement ☐ No Basement ☐			
Mobile Home on Foundation ☐			

Contents Rated as:	Residential	All Other
All in Basement —	☐	☐
All on First Floor —	☐	☐
All on First Two Floors —	☐	☐
All on First Floor & Basement —	☐	☐
All on First Two Floors & Basement —	☐	☐
All above First Floor —	☐	☐
All in Mobile Home on Foundation	☐	☐

_____ DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with Insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

NFIA-2 (Ed. 7-74)

INSURED'S COPY

VOL 41 NO 165 AUG 24 76 UM

Emergency Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

EMERGENCY FLOOD INSURANCE PROGRAM

APPENDIX C (2)

Insurance Companies Members of National Flood Insurers Association (In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Either)

Policy No. FL

RENEWAL: YES ☐ NO ☐ (IF RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
(Number, Street, City or Town, County, State, Zip Code)

Policy Term 1 Year, from _____ to _____

Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM (Standard Time) at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ Property in Zone A? Yes ☐ No ☐

ITEM NO.	AMOUNT OF INSURANCE	RATE	PREMIUM	DESCRIPTION AND LOCATION OF PROPERTY COVERED (Location same as mailing address above unless otherwise indicated)
1. Bldg.	$_____	_____	$_____	Occupied as _____ Located at _____
2. Contr.	$_____	_____	$_____	On Contents consisting principally of _____ in the Enclosed Building Described Above ☐; or Located at _____ Loss Payee (Contents): _____ (INSERT NAME(S) AND MAILING ADDRESS(ES))
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.		Total Premium →	$_____	

Mortgagee (Building): Insert Name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Does insured qualify as "Small Business" Yes ☐ No ☐

Is structure Single Family ☐; 2—4 Family ☐; Other Residential ☐; All other ☐

Is this a Motel or Hotel Structure with normal occupancy of less than six (6) months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story—Basement	☐ No Basement ☐
Two or More stories—Basement	☐ No Basement ☐
Split Level—Basement	☐ No Basement ☐
Mobile Home on Foundation	☐

Masonry walls-slab foundation	☐
Masonry walls-other foundation	☐
All other walls-slab foundation	☐
All other walls-other foundation	☐

Check only one box

Contents Rated as	Residential	All Other
All in Basement	☐	☐
All on First Floor	☐	☐
All on First Two Floors	☐	☐
All on First Floor & Bsmt.	☐	☐
All on First Two Floors & Bsmt.	☐	☐
All Above First Floor	☐	☐
All in Mobile Home on Foundation	☐	☐

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE — AUTHORIZED REPRESENTATIVE

_____ DATE OF APPLICATION

The above Statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

_____ SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

NFIA-4 (Ed. 7-74)

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[FR Doc.76-24757 Filed 8-23-76;8:45 am]

FEDERAL REGISTER, VOL. 41, NO. 165—TUESDAY, AUGUST 24, 1976

V 41 165 AUG 24 76 UMI



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V 41 1 165

AUG 24 76

UMI

166

Vol.41–No.166
8–25–76
PAGES
35843–36012

federal register

WEDNESDAY, AUGUST 25, 1976

highlights

CORRECTION

Pages 35834 to 35842 of the Tuesday, August 24, 1976 "Federal Register" were printed in error. The correct text of Federal Register Document 76–24757 is printed in today's issue as Part V appearing at pages 36003 to 36012.

PART I:

NEW ANIMAL DRUGS
HEW/FDA specifies form to be used in submitting advertising and promotional data; effective 9–24–76.... 35844

MEDICAL DEVICES
HEW/FDA establishes new classification panels (2 documents) 35877, 35878

TEXTILES AND LEATHER
FTC sets hearing dates and designates issues on care labeling proposals; comments by 9–24–76..... 35863

ATTORNEY'S FEES AND OTHER ASSISTANCE
HEW/FDA issues advance notice of proposed rulemaking regarding payments to participants in its proceedings in certain circumstances; comments by 10–26–76..... 35855

SOCIAL SECURITY BENEFITS APPLICATION
HEW/SSA proposal relating to time period during which claimant may cancel withdrawal; comments by 10–12–76 35862

MEDICAID
HEW/SRS issues regulations on home health services; effective 11–23–76..... 35847

FEDERAL OLD-AGE SURVIVORS AND DISABILITY INSURANCE
HEW/SSA proposal relating to date of death of missing person; comments by 10–12–76..... 35861

HOME HEALTH CARE
HEW announces series of public hearings, 9–20 through 10–1–76 35882

ENDANGERED SPECIES
Interior/FWS reviews status of Eastern Marten; comments by 11–24–76..... 35855

CONTINUED INSIDE

V41 166 AUG 25 76
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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MEETINGS—
Commerce/DIBA: Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, 9–14–76 ... 35876
President's Export Council Task Force on Export Promotion, 9–16–76 ... 35877
DOD: Defense Science Board Task Force on Theater Nuclear Forces R & D Requirements, 9–28 through 9–30–76 ... 35866
HEW/OE: Women's Educational Programs Advisory Council, 9–10 and 9–11–76 ... 35880
Interior: Natural Sciences Advisory Committee for Fish and Wildlife and Parks, 9–10 and 9–11–76 ... 35875
BLM: Montana State Multiple Use Advisory Board, 9–8 through 9–10–76 ... 35873
Roswell District Multiple Use Advisory Board 9–20–76 ... 35873
NPS: Chesapeake and Ohio Canal National Historical Park Commission, 9–25–76 ... 35873
SBA: Cleveland District Advisory Council, 9–17–76 ... 35912
Syracuse District Advisory Council, 9–16–76 ... 35913
State: Subcommittee on Safety of Life at Sea, 9–16–76 ... 35866
VA: Cooperative Studies Evaluation Committee, 10–26 and 10–27–76 ... 35913

CANCELLED MEETING—
ERDA: Demonstration Projects as a Commerclalization Incentive Task Force, 8–27–76 ... 35889

PUBLIC HEARINGS LOCATION CHANGE—
Interior: Availability of Federally-owned Mineral Lands Task Force, 9–15 and 9–16–76 ... 35875

PART II:

FEDERAL ELECTIONS
FEC publishes Implementation regulations ... 35931

PART III:

NEW COMMUNITIES
HUD/NCDC proposes regulations for financing public and private development; comments by 9–23–76 ... 35977

PART IV:

DOMESTIC CRUDE OIL
FEA issues entitlement notice for allocation program, June 1976 ... 35995

PART V:

PRIVACY ACT
International Boundary and Water Commission, United States and Mexico, United States Section issues notice of systems of records ... 36003

contents

AGRICULTURAL MARKETING SERVICE
Rules
Grapefruit grown in Ariz. and Calif ... 35843
Milk marketing orders:
Oregon-Washington ... 35843

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Forest Service.

ANTITRUST DIVISION, JUSTICE DEPARTMENT
Notices
Competitive impact statements and proposed consent judgments, U.S. versus listed companies:
Air Conditioning and Refrigeration Wholesalers, et al ... 35866

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Pan American World Airways, Inc. and Trans World Airlines, Inc ... 35886
Trans World Airlines, Inc. and Compagnie Nationale Air France ... 35888

COMMERCE DEPARTMENT
See Domestic and International Business Administration.

DEFENSE DEPARTMENT
Notices
Meetings:
Defense Science Board Task Force on Theater Nuclear Forces R. & D. Requirements ... 35866

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Computer Systems Technical Advisory Committee; Licensing Procedures Subcommittee ... 35876
President's Export Council ... 35877

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
Assistance to States for State equalization plans ... 35881
Meetings:
Advisory Council on Women's Educational Programs ... 35880

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Notices
Meetings:
Task Force on Demonstration Projects as Commercialization Incentive ... 35889

FEDERAL COMMUNICATIONS COMMISSION
Rules
FM broadcast stations; table of assignments:
Idaho ... 35849
Proposed Rules
Public safety radio services:
Land mobile radio systems, private; interconnection with public telephone network; extension of time ... 35863
Notices
FM broadcast applications ready and available for processing ... 35889
Hearings, etc.:
Britt, William Henry ... 35898

FEDERAL DISASTER ASSISTANCE ADMINISTRATION
Notices
Disaster areas:
Vermont ... 35883

FEDERAL ELECTION COMMISSION
Rules
Federal Election Campaign Act; implementation ... 35931

FEDERAL ENERGY ADMINISTRATION
Notices
Domestic crude oil allocation program; entitlement notices:
June 1976 ... 35995

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National; flood elevation determinations, etc.:
Hawaii ... 35847
Louisiana ... 35844
Missouri (2 documents) ... 35844, 35845
New Jersey (2 documents) ... 35845
North Dakota (2 documents) ... 35845, 35846
South Dakota ... 35846
Texas (2 documents) ... 35846, 35847

V 41 1 166 AUG 25 76 UMI

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Moreno, Gladys C., et al 35901
Oil pollution; certificates of financial responsibility (2 documents) 35899, 35900

FEDERAL POWER COMMISSION

Notices

Committees; establishment, renewals, etc.:
National Power Survey Executive Advisory Committee and Coordinating Committee 35903
Hearings, etc.:
Arkansas Power & Light Co 35901
Delmarva Power & Light Co 35902
Duke Power Co 35902
El Paso Natural Gas Co 35903
Mississippi Power & Light Co 35903
New England Power Co 35904
Southern Natural Gas Co 35904
Tampa Electric Co 35904
Tennessee Gas Pipeline Co 35904
Union Electric Co. (2 documents) 35906
United Gas Pipe Line Co. (2 documents) 35906, 35907

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Bankers Trust New York Corp. 35907
Industrial Loan and Investment Co 35908
Old National Bancorporation 35908

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Clark, William R 35843

Proposed Rules

Textile products and leather wearing apparel; care labeling 35863

FISCAL SERVICE

Proposed Rules

Payments through financial organizations, other than by check; collection procedures; correction 35855

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Wheeler National Wildlife Refuge, Ala 35849

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
Eastern marten 35855

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
New drug applications; submission of advertising and promotional data 35844

Proposed Rules

Administrative practices and procedures, authority delegations, etc.:
Attorneys' fees 35855

Notices

Committees; establishment, renewals, etc.:
Medical Devices Classification Panels (2 documents) 35877, 35878
Human drugs:
High molecular weight dextran 6 percent 35877
Meperidine hydrochloride and promethazine hydrochloride injection 35878

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Boulder Planning Unit 35875
South Fourche Unit 35876
Thompson Creek Land Use Plan 35876

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (3 documents) 35909, 35910

GENERAL SERVICES ADMINISTRATION

Notices

Authority delegations:
Administrator, Energy Research and Development Administration 35910

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Health Services Administration; Social and Rehabilitation Service; Social Security Administration.

Notices

Hearings:
Home health care 35882

HEALTH SERVICES ADMINISTRATION

Notices

Professional Standards Review Organizations; inquiry:
Arizona 35880
Illinois 35880
Indiana 35880
Louisiana 35880
North Carolina 35880
Virginia 35880

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration; Federal Insurance Administration; Interstate Land Sales Registration Office; New Community Development Corporation.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Colorado River Storage Project; proposed allocation of peaking power 35874
Hearing:
Task Force on the Availability of Federally-Owned Mineral Lands, change of location 35875
Meetings:
Natural Sciences Advisory Committee for Fish and Wildlife and Parks 35875

INTERNAL REVENUE SERVICE

Proposed Rules

Income taxes:
Foreign base company shipping income; correction (2 documents) 35855

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Notices

Privacy Act of 1974; systems of records 36003

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
Alto Village 35884
Camelot Unit 1 35884
Emerald Lakes 35884
Glendale Yearound 35885
Greenwood Acres 35885
Grizzley Park 35885
Sunset Valley 35886

JUSTICE DEPARTMENT

See Antitrust Division.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
California 35873
Meetings:
Montana State Multiple Use Advisory Board 35873
Roswell District Multiple Use Advisory Board 35873

NATIONAL PARK SERVICE

Notices

Meetings:
Chesapeake and Ohio National Historical Park Commission 35873

NEW COMMUNITY DEVELOPMENT CORPORATION

Proposed Rules

Public and private new community development; financing 35977

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Boston Stock Exchange 35910
Image Systems, Inc 35910
Reserve Management Corp. and Reserve Fund, Inc. (2 documents) 35910

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Bohlen Carital Corp 35912
Massachusetts Capital Corp 35913
Meetings, advisory councils:
Cleveland District 35912
Syracuse District 35913

SOCIAL AND REHABILITATION SERVICE

Rules

Financial assistance programs:
Eligibility coverages and conditions; limitation established; correction 35847
Medical assistance programs:
Home health services 35847

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Aged, blind, and disabled; supplemental security income for; and old-age, survivors, and disability insurance:
Applications; cancellation of request for withdrawal 35862
Old-age, survivors, and disability insurance:
Missing persons; date of death determinations 35861

STATE DEPARTMENT

Notices

Meetings:
Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea 35866

TRANSPORTATION DEPARTMENT

Rules

Organization and functions:
Authority delegation to National Highway Traffic Safety Administrator et al 35849

TREASURY DEPARTMENT

See Fiscal Service; Internal Revenue Service.

VETERANS ADMINISTRATION

Notices

Meetings:
Cooperative Studies Evaluation Committee 35913

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month. A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
909 35843
1124 35843

11 CFR
Ch. I 35932

16 CFR
13 35843
PROPOSED RULES:
423 35863

20 CFR
PROPOSED RULES:
404 (2 documents) 35861, 35862
416 35862

21 CFR
510 35844
PROPOSED RULES:
2 35855

24 CFR
1916 (10 documents) 35844–35847
1920 35847
PROPOSED RULES:
710 35978
720 35978

26 CFR
PROPOSED RULES:
1 (2 documents) 35855

31 CFR
PROPOSED RULES:
210 35855

45 CFR
233 35847
249 35847

47 CFR
73 35849
PROPOSED RULES:
89 35863
91 35863
93 35863
95 35863

49 CFR
1 35849

50 CFR
32 35849
PROPOSED RULES:
17 35855

V 41 1166
AUG 25 76
UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 ... 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) ... 32399

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ... 34035
October 19, 1911 (Revoked in part by PLO 5598) ... 34035
April 16, 1912 (Revoked in part by PLO 5598) ... 34035
October 27, 1914 (Revoked in part by PLO 5598) ... 34035
6276 (Revoked in part by PLO 5596) ... 33267
11652 (See EO 11932) ... 32691
11790 (See EO 11930) ... 32399
11814 (See EO 11930) ... 32399
11912 (See EO 11930) ... 32399
11930 ... 32399
11931 ... 32689
11932 ... 32691

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ... 32693
July 30, 1976 ... 32693

MEMORANDUMS:
July 19, 1976 ... 32403

4 CFR

1 ... 35155

5 CFR

213 ... 32892, 33545, 34246, 34731, 35155
591 ... 32892

7 CFR

35 ... 32877
52 ... 32222, 34751
103 ... 34005
105 ... 34005
106 ... 34005
108 ... 34006
111 ... 34006
220 ... 32405, 34757
225 ... 35685
230 ... 35686
235 ... 32405
271 ... 34760
331 ... 32229, 32409
354 ... 35693
409 ... 34973
722 ... 32878
728 ... 35694
775 ... 35694
790 ... 34247
791 ... 34247
905 ... 34248
908 ... 32229, 32695, 34006, 35053, 35520
909 ... 35843
910 ... 32827, 34248, 35156, 35521
915 ... 34973
916 ... 32410

7 CFR—Continued

917 ... 32410–32411, 34762
919 ... 35695
926 ... 34007
944 ... 34762
947 ... 32230, 32695
967 ... 35520
982 ... 34974
989 ... 32412
1012 ... 32417
1099 ... 32575
1421 ... 32879, 35695–35702
1124 ... 32418, 35843
1427 ... 35521
1430 ... 32881
1472 ... 34248
1701 ... 33546
1806 ... 34571
1821 ... 32575
1822 ... 34577, 34578
1831 ... 32575, 32697
1861 ... 32576
1871 ... 32576
1872 ... 32577, 32578
1890c ... 32578
1901 ... 34583
1955 ... 32697

PROPOSED RULES:
16 ... 34777, 34977, 35072
47 ... 32231
51 ... 32896
909 ... 32234
910 ... 33922, 35187
911 ... 34049
919 ... 32234
926 ... 34647
927 ... 34050
930 ... 32606
931 ... 32757
932 ... 35722
946 ... 32758
953 ... 34766
981 ... 34647
991 ... 34648
993 ... 33275
1004 ... 34282
1006 ... 35187
1007 ... 33275
1011 ... 33275, 34444
1012 ... 35187
1013 ... 35187
1030 ... 33275
1032 ... 33275
1033 ... 34444, 35194
1046 ... 33275
1049 ... 33275
1050 ... 33275
1062 ... 33275
1063 ... 33275
1064 ... 33275
1065 ... 33275
1068 ... 33275
1070 ... 33275
1071 ... 33275
1073 ... 33275
1076 ... 33275
1078 ... 33275
1079 ... 33275
1090 ... 33275, 34444

7 CFR—Continued

PROPOSED RULES—Continued
1094 ... 33275
1096 ... 33275
1097 ... 33275
1098 ... 33275
1099 ... 33275
1101 ... 33275, 34444
1102 ... 33275
1104 ... 33275
1106 ... 33275
1108 ... 33275
1120 ... 33275
1124 ... 34286
1126 ... 33275
1131 ... 33275
1132 ... 33275
1138 ... 33275
1207 ... 32606
1260 ... 34772
1430 ... 32899
1701 ... 22419
1801 ... 33561
1813 ... 33922
1823 ... 34767
1861 ... 33561
1867 ... 35532
1980 ... 33561

8 CFR

100 ... 32419, 34937
103 ... 34937
316a ... 34938

9 CFR

73 ... 32882, 34731
76 ... 32882, 35156, 35675
83 ... 32432
113 ... 32882
201 ... 34007

PROPOSED RULES:
327 ... 34293

10 CFR

35 ... 34635
211 ... 33881
212 ... 34008
700 ... 34731
735 ... 34731

PROPOSED RULES:
9 ... 35073
70 ... 35537
205 ... 34783, 34981
210 ... 34784
211 ... 34784
212 ... 33282, 34080, 34784
705 ... 34778

11 CFR

Ch. I ... 35932

12 CFR

217 ... 32578
220 ... 34938
221 ... 35477
303 ... 35158

12 CFR—Continued

335 ... 35477
545 ... 35820
561 ... 32419, 35821
563 ... 32419, 35821
611 ... 33546
615 ... 33547
618 ... 33547

PROPOSED RULES:
16 ... 32864
225 ... 33306
226 ... 35536
569 ... 35827
584 ... 33566

13 CFR

102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670

PROPOSED RULES:
120 ... 33567

14 CFR

13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:
39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535
73 ... 34077, 34650
75 ... 34077
93 ... 35073
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941, 35843
15 ... 34594
433 ... 34594

16 CFR—Continued

PROPOSED RULES:
423 ... 35863
437 ... 35725
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167
249 ... 35167

PROPOSED RULES:
239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:
1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:
1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
602 ... 35169

PROPOSED RULES:
404 ... 34060, 35861, 35862
405 ... 35197
416 ... 35862
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743, 35844
520 ... 32889

21 CFR—Continued

522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:
1 ... 34051
2 ... 35855
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:
130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:
658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556 33919–33921, 35844–35847
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174, 35847
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:
201 ... 32564
205 ... 34977
570 ... 34301
710 ... 35978
720 ... 35978
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

V 41 1 166 AUG 25 76 A UMI

25 CFR

41 33556
43h 32421
221 34743

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619, 35490
20 ..... 34627, 35490
25 ..... 34628, 35490
31 35174
53 35514
141 ..... 32889, 32890
301 ..... 34025, 35174, 35490

PROPOSED RULES:

1 ..... 33285, 35855
31 32231
54 32895

27 CFR

PROPOSED RULES:

5 35531

28 CFR

0 35183
16 32423
20 34949

29 CFR

699 34744
1601 34745
1602 33557
1910 35185
1952 ..... 32424, 34251, 34252
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

97 ..... 35723, 35724
1601 33924
1910 ..... 32911, 32912, 35200
1952 ..... 32912, 34298
2200 34657

30 CFR

55 33263
56 33263
57 33263

PROPOSED RULES:

211 35716

31 CFR

PROPOSED RULES:

210 ..... 32605, 35855

32 CFR

581 34253
722 34745
725 32742
832 34951
889 34952
968 34962
1008 34962

PROPOSED RULES:

505 34764
642 32346
657 34924
832 34976
1286 32231

33 CFR

117 ..... 32217, 34034, 35521, 35522
127 ..... 32742, 35066
207 34034

PROPOSED RULES:

110 34649
117 ..... 32238, 35536
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263
50 34748

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

10 35682–35685
111 35682–35685
3002 32742

PROPOSED RULES:

775 35725
3003 34792

40 CFR

51 35676
52 ..... 32743, 32890, 34259, 34749, 35184, 35676
60 ..... 33264, 34628, 35184
61 ..... 33264, 34629
86 35626
87 34722
180 ..... 32426, 33265, 34629, 35677
402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34422, 34782, 35725
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
7–7 35067
8–1 32219
8–3 32219
28–1 32426
29–60 35186
101–20 34629
101–26 34630
101–32 34634

41 CFR—Continued

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

51e 35140
101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891

PUBLIC LAND ORDERS:

5592 32589
5593 34962
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749
5600 35067
5601 35067

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

11 35654
115 34962
117 35678
121a 35678
121d 33558
130 35678
141 35678
166 35678
173 35678
177 33268
190 33868
233 ..... 35678, 35847
249 35847
801 33559
1069 33268

PROPOSED RULES:

73b 32235
103 35722
146 34052
190 33962

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
180 35072
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885
15 32590
19 32891
21 ..... 33269, 33885, 33895

47 CFR—Continued

73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902, 35522
91 ..... 32680, 33889, 33903, 35068, 35522
93 ..... 32682, 33907, 35522
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242
89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849
81 32593
192 34598
195 34035
390 34968
571 ..... 32221, 35522
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 33280

49 CFR—Continued

PROPOSED RULES—Continued

801 34082
1067 33307
1109 32434
1125 35730
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849
33 ..... 32222, 32431, 32603, 32755
217 34969
222 ..... 34969, 35682
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922, 35855
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	32239–34570	13
32399–32574	3	34571–34730	16
32575–32688	4	34731–34935	17
32689–32875	5	34937–35051	18
32877–33244	6	35053–35153	19
33245–33543	9	35155–35475	20
33545–33680	10	35477–35674	23
33881–34003	11	35675–35842	24
34005–34238	12	35843–36012	25

V41166
AUG 25 76
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT
- Agricultural Marketing Service—
  - Administrative determination of who is a responsibly connected person; comments by 9–1–76.... 32231; 8–2–76
  - Almonds grown in Calif., Board expenses and 1976–77 crop year rate of assessment; comments by 8–31–76..... 34647; 8–16–76
  - Frozen strawberries; revision of standards for grades; comments by 8–31–76..... 28291; 7–9–76
  - Grapes (tokay) grown in San Joaquin County, Calif.; proposed expenses, rate of assessment, etc.; comments by 9–1–76..... 34647; 8–16–76
  - Peaches (fresh) grown in Colorado; redefinition of districts; comments by 8–30–76..... 32234; 8–2–76
- Agricultural Stabilization and Conservation service—
  - Cotton; determinations regarding 1977 crop loan and payments program; comments by 8–30–76. 31850; 7–30–76
  - Cotton, extra long staple; market quotas and acreage allotments; comments by 8–30–76.... 31847; 7–30–76
  - Cotton, upland; marketing quotas and acreage allotments; comments by 8–30–76..... 31848; 7–30–76
  - Grain, feed; 1977 national allotment and setaside program determinations; comments by 8–30–76. 31849; 7–30–76
  - Wheat; 1977 set aside program determinations; comments by 8–30–76 31849; 7–30–76
- Commodity Credit Corporation—
  - Dairy products; purchases, etc.; price support for milk; comments by 9–1–76..... 32899; 8–6–76
  - Feed grain, wheat and soy beans; loan, purchase and payment programs; comments by 8–30–76. 31563; 7–29–76
- Food and Nutrition Service—
  - Summer Food Service Program for Children; alternate food proposal; comments by 9–1–76..... 28796; 7–13–76
- Rural Electrification Administration—
  - Trunk carrier equipment; specification PE–60; comments by 9–2–76. 32433; 8–3–76

CIVIL AERONAUTICS BOARD
- Free and reduced rate transportation; comments by 9–3–76..... 32612; 8–4–76

CONSUMER PRODUCT SAFETY COMMISSION
- Flammable fabrics; applications for exemptions from preemption; comments by 8–30–76.. 31569; 7–29–76

DEFENSE DEPARTMENT
- Defense Supply Agency—
  - Personal privacy and rights of individuals regarding their personal records; exempted record systems; comments by 9–1–76..... 32231; 8–2–76
- Engineer Corps—
  - Water resources; coastal zone management program; comments by 8–31–76..... 29146; 7–15–76
- Office of the Secretary—
  - Non-government standards; development and use; comments by 8–30–76..... 31842; 7–30–76

ENVIRONMENTAL PROTECTION AGENCY
- Iron and steel manufacturing point source category; correction; comments by 9–1–76.... 32242; 8–2–76
- State implementation plans; Maryland; comments by 8–30–76..... 31573; 7–29–76
- State implementation plans; New Jersey; comments by 8–30–76..... 31574; 7–29–76
- State implementation plans; Oregon; comments by 9–1–76..... 32241; 8–2–76

FEDERAL COMMUNICATIONS COMMISSION
- FM broadcast stations, table of assignments; Mich., Penn., Ka., Wisc.; reply comments by 9–2–76..... 28803; 7–13–76
- FM broadcast stations; table of assignments, Mont.; comments by 9–2–76. 29869; 7–20–76
- FM stations; table of assignments; N.Y.; reply comments by 8–30–76. 27389; 7–2–76
- FM broadcast stations, table of assignments; Washington; reply comments by 9–2–76..... 28802; 7–13–76
- Private land mobile radio system; interconnection policies; comments by 9–4–76 ..... 28540; 7–12–76
- Ship stations; licensees to provide public correspondence service; comments by 8–30–76 ..... 31235; 7–27–76

FEDERAL DEPOSIT INSURANCE CORPORATION
- Insured state nonmember banks; securities; comments by 8–31–76. 25032; 6–22–76

FEDERAL ENERGY ADMINISTRATION
- Domestic crude oil; advantage under entitlements program; comments by 9–1–76..... 31575; 7–29–76
- Exemption of naphtha jet fuel from the mandatory petroleum allocation and price regulations; comments by 9–3–76..... 34784; 8–17–76

FEDERAL POWER COMMISSION
- Annual report of power system transmission and distribution technical data; comments by 8–30–76. 28416; 7–9–76
- Rate treatment for research and development; advanced approval; comments by 9–1–76.... 32911; 8–6–76

FEDERAL RESERVE SYSTEM
- Equal credit opportunity; comments by 9–1–76..... 29870; 7–20–76

GENERAL SERVICES ADMINISTRATION
- Privacy Act of 1974; comments by 9–1–76..... 32245; 8–2–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
- Food and Drug Administration—
  - Benzylpenicilloyl-polylysine; minimum shelf-life potency; comments by 8–30–76..... 27083; 7–1–76
  - Erythromycin tablets and erythromycin stearate tablets; technical changes and updating; comments by 8–30–76..... 27083; 7–1–76
  - Tree nuts and peanuts, good manufacturing practice regulation; comments by 8–30–76..... 27000; 6–30–76
- Public Health Service—
  - Standards of conduct; supplement for NIH; comments by 9–1–76. 32235; 8–2–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
- Federal Disaster Assistance Administration—
  - Individual and family grants; advance of state share; comments by 8–31–76..... 32237; 8–2–76
- Office of Assistant Secretary for Housing—Federal Housing Commissioner—
  - Low Income Housing—Modernization Program PHA-Owned Projects; comments by 9–2–76..... 32370; 8–2–76

INTERIOR DEPARTMENT
- Fish and Wildlife Service—
  - Leopard Darter; proposed threatened status and critical habitat; comments by 9–1–76..... 27737; 7–6–76
  - Public entry and use; Johnston Atoll National Wildlife Refuge; comments by 9–1–76..... 32433; 8–3–76

JUSTICE DEPARTMENT
- Drug Enforcement Administration—
  - Halazepam, prazepam and loperamide; placement in Schedules IV and V; comments by 8–31–76. 31553; 7–29–76

- Office of the Attorney General—
  - Equal employment opportunity; Federally assisted programs; comments by 8–30–76..... 31550; 7–29–76
  - Relocation assistance and land acquisition policies; comments by 8–31–76..... 34636; 8–16–76

SECURITIES AND EXCHANGE COMMISSION
- SECO Bonding Rule, minimum fidelity bonding requirements; comments 9–3–76..... 35073; 8–19–76

SMALL BUSINESS ADMINISTRATION
- Business loan policy; proposed rulemaking; comments by 8–30–76. 33567; 10–8–76

TRANSPORTATION DEPARTMENT
- Coast Guard—
  - New Orleans vessel traffic service; extension of comment period; comments by 9–3–76.. 32758; 8–5–76
- Federal Aviation Administration—
  - Airworthiness directives; General Electric; comments by 8–31–76. 31567; 7–29–76
  - Airworthiness directives; Lockheed-California Co.; comments by 8–30–76..... 30136; 7–22–76
  - Airworthiness directives; McDonnell Douglas; comments by 8–30–76. 30137; 7–22–76
  - Airworthiness directive; Pratt & Whitney Aircraft; comments by 9–2–76. 32238; 8–2–76
  - Airworthiness directive; Pratt & Whitney; comments by 9–2–76. 32239; 8–2–76
  - Airworthiness directive; Pratt & Whitney Aircraft; comments by 9–1–76. 32239; 8–2–76
  - Transition area; Champion, Pennsylvania; comments by 9–1–76. 32240; 8–2–76
  - Transition area; Illinois; comments by 9–1–76..... 32240; 8–2–76
  - Transition area; Montague, Calif.; comments by 9–2–76.... 27085; 7–1–76
  - Transition area; Pitman, N.J.; comments by 8–30–76..... 31567; 7–29–76
- Federal Highway Administration—
  - National maximum speed limit; proposed amendments to State certification of speed limit enforcement; comments by 9–2–76..... 32240; 8–2–76
- Federal Railroad Administration—
  - Highway grade crossing warning devices; standards for maintenance, inspection, and testing; comments by 8–31–76..... 26580; 6–28–76

TREASURY DEPARTMENT
- Comptroller of the Currency—
  - Credit life insurance; disposition of income; comments by 9–3–76. 29846; 7–20–76
- Fiscal Service—
  - Federal recurring payments through financial organizations by means other than by check; proposed collection procedures; comments by 9–3–76..... 32605; 8–4–76

VETERANS ADMINISTRATION
- Release of information from other than claimant records; schedule of fees; comments by 9–1–76. 32247; 8–2–76

Next Week's Meetings

AGRICULTURE DEPARTMENT
- Forest Service—
  - Deschutes National Forest Advisory Committee, Bend, Oreg. ((open), 8–31–76..... 29895; 7–20–76

CIVIL RIGHTS COMMISSION
- Illinois Advisory Committee, Washington, D.C. (open with restrictions), 8–31–76 ..... 33320; 8–9–76
- Kansas/Missouri Advisory Committee, Kansas City, Mo. (open), 9–1–76. 33321; 8–9–76

COMMERCE DEPARTMENT
- National Bureau of Standards—
  - Computer Networking Standards for Library and Information Science Community, Gaithersburg, Md. (open), 9–1 and 9–2–76.... 34099; 8–12–76
- National Oceanic and Atmospheric Administration—
  - Preliminary Management Plans/Environmental Assessment, Atlanta, Ga. (open), 9–2–76..... 35087; 8–19–76

DEFENSE DEPARTMENT
- Engineers Corps—
  - Shoreline Erosion Advisory Panel, Alexandria, Va. (open with restrictions), 8–30 and 8–31–76. 33926; 8–11–76
- Office of the Secretary—
  - Advisory Group on Electron Devices, New York, NY (closed), 9–2–76. 33927; 8–11–76
  - Defense Wage Committee, Pentagon, Washington, D.C. (closed), 8–31–76..... 27747; 7–6–76

ENVIRONMENTAL PROTECTION AGENCY
- Technical Advisory Group to the Municipal Construction Division, Arlington, Va. (open), 8–30 and 8–31–76. 32947; 8–6–76

FEDERAL POWER COMMISSION
- National Gas Survey, Transmission, Distribution and Storage Technical Advisory Task Force—Impact of Gas Shortage on Consumers, Washington, D.C. (open), 8–31–76..... 31616; 7–29–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
- Education Office—
  - Advisory Council on Environmental Education's Work Group on Evaluation and Contributions, Wash., D.C. (open), 8–31–76.. 34805; 8–17–76
- Child and Family Development Research Review Committee, Washington, D.C. (closed), 9–1 to 9–3–76..... 29011; 7–14–76
- Health Resources Administration—
  - Cooperative Health Statistics Advisory Committee, Washington, D.C. (open), 8–30 and 8–31–76. 32938; 8–6–76
- National Institutes of Health—
  - Review of research contract proposals, Bethesda, Maryland (partially open), 9–1 and 9–2–76. 32281; 8–2–76
  - Scientific Counselors Board, NINCDS, Bethesda, Md. (partially open), 9–2 and 9–3–76 .. 27857; 7–7–76
- Office of the Secretary—
  - Review Panel on New Drug Regulation, Washington, D.C. (open), 8–30 and 8–31–76..... 33939; 8–11–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
- Assistant Secretary for Consumer Affairs and Regulatory Functions—
  - National Mobile Home Advisory Council, Washington, D.C. (open), 9–1–76..... 33317; 8–9–76

INTERIOR DEPARTMENT
- Land Management Bureau—
  - Eugene District Multiple Use Advisory Board, Eugene, Oregon (open), 8–31–76 ..... 34084; 8–12–76
- National Park Service—
  - Midwest Regional Advisory Committee, Rock Harbor, Mich. (open), 9–1–76..... 31581; 7–29–76

LABOR DEPARTMENT
- Occupational Safety and Health Administration—
  - National Advisory Committee on Occupational Safety and Health, Washington, D.C. (open), 9–1–76. 34387; 8–13–76

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION
- Executive Committee, Washington, D.C. (open with restrictions), 9–2 and 9–3–76..... 28570; 7–12–76

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES
- Fellowships Panel Advisory Committee, Wash., D.C. (closed), 8–30–76. 31271; 7–27–76

NATIONAL SCIENCE FOUNDATION
- Advisory Panel on Chemistry, San Francisco, Calif. (open), 8–29 and 8–30–76 ..... 33338; 8–9–76

NUCLEAR REGULATORY COMMISSION
- Subcommittee on Diablo Canyon Nuclear Power Station Units 1 and 2, Advisory Committee on Reactor Safeguards, Los Angeles, Calif. (open and closed), 8–31–76 34704; 8–16–76
- Subcommittee on Emergency Core Cooling Systems, Advisory Committee on Reactor Safeguards, Washington, D.C. (open and closed), 9–2–76. 34705; 8–16–76

V 41 1166 AUG 25 76 UMI

SMALL BUSINESS ADMINISTRATION
Salt Lake City District Advisory Council, Salt Lake City, Utah, 9–3–76. 33591; 8–10–76

STATE DEPARTMENT
Office of the Secretary—
Shipping Coordinating Committee; Subcommittee on Tonnage Measurement, Wash., D.C. (open), 8–30–76..... 32763; 8–5–76

TREASURY DEPARTMENT
Comptroller of the Currency—
Regional Advisory Committee on Banking Policies and Practices for the Second National Bank Region, New York, N.Y. (open), 8–30–76. 34328; 8–13–76

VETERANS ADMINISTRATION
Central Office Education and Training Review Panel, Washington, D.C. (open), 8–30–76.... 34141; 8–12–76

Next Week's Public Hearings

INTERNATIONAL TRADE COMMISSION
Harmonized Commodity Description and Coding System, Washington, D.C., 9–2–76.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Increase in Rate of Assessment 1975–76 Fiscal Period

On August 2, 1976, notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 32234) regarding a proposed increase in the previously approved rate of assessment, from two and one-half to three cents per carton of grapefruit, for the fiscal period September 1, 1975, through August 31, 1976, pursuant to Order No. 909, as amended (7 CFR Part 909), regulating the handling of Grapefruit grown in Arizona and designated parts of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposal set forth in such notice which was submitted by the Grapefruit Administrative Committee (established pursuant to said amended marketing order), it is hereby found and determined that due to a decrease in the projected grapefruit crop, 4 million cartons of assessable grapefruit will be shipped during 1975–76, down from the 5 million cartons estimated at the beginning of the year. Therefore, income from the currently approved rate of assessment is not sufficient to meet the expenses of the committee, thus rendering necessary an increase in assessment rate.

It is, therefore, ordered that paragraph (b) *Rate of assessment* of § 909.214 (40 FR 54236) be amended to read as follows:

§ 909.214 Expenses, rate of assessment, and carryover of unexpended funds.

* * * * *

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three cents ($0.03) per carton, or equivalent quantity of grapefruit.

* * * * *

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the increased rate of assessment is necessary to enable the committee to meet its obligations and carry out its functions, (2) grapefruit shipments are now being made and will be completed for the 1975–76 fiscal period on August 31, 1976, (3) The relevant provisions of said marketing order require that the amended rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during said period, and (4) such period began on September 1, 1975, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 20, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–24838 Filed 8–24–76;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 124; Docket No. AO–368–A9]

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the order amending the order regulating the handling of milk in the Oregon-Washington marketing area, which was attached to the decision of the Assistant Secretary issued August 6, 1976, is approved or favored by the producers, as defined under the terms of the order, as proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of March, 1976 is hereby determined to be the representative period for the conduct of such referendum.

James A. Burger is hereby designated agent of the Secretary to conduct the referendum for the Oregon-Washington marketing area in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.). Such referendum shall be completed on or before September 24, 1976.

Signed at Washington, D.C., on August 19, 1976.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.76–24839 Filed 8–24–76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8761]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

William R. Clark

NOTE.—Codification under 16 CFR Part 13 appears at 34 FR 15348.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the Matter of William R. Clark

Order modifying an earlier order dated August 6, 1969, 34 FR 15348, 76 F.T.C. 207, modified September 1, 1970, 35 FR 15807, 77 F.T.C. 1186, by deleting Paragraph 16 of the Order because provisions of the newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses supersedes it.

The modifying order to cease and desist is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On June 17, 1976, respondent William R. Clark (Clark) by a paper entitled Motion to Modify Order Issued on August 6, 1969, and Modified on September 1, 1970, which will be treated as a petition to reopen this proceeding, has requested that Paragraph 16 be deleted from the Order. The Bureau of Consumer Protection has filed an answer wherein it advises that it does not oppose Clark's request.

The Commission has determined that the request should be granted because the provisions of its newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses have superseded Paragraph 16 of this order.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the Order to Cease and Desist be, and it hereby is, modified by deleting Paragraph 16.

The Modifying Order was issued by the Commission July 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76–24841 Filed 8–24–76;8:45 am]

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 75N-0297]

PART 510—NEW ANIMAL DRUGS

Subpart D—Records and Reports

SUBMISSION OF ADVERTISING AND PROMOTIONAL DATA

The Food and Drug Administration is providing for use of the form entitled "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs" (Form FD-2301) in submitting new animal drug promotional material, effective September 24, 1976.

In the FEDERAL REGISTER of February 27, 1976 (41 FR 8496), the Commissioner of Food and Drugs proposed to amend § 510.302 (21 CFR 510.302) to make it consistent with the other regulations on records and reports and with the format and intended use of Form FD-2301. The Commissioner provided a 60-day period for comment on the proposal, until April 27, 1976, but no comments were received.

Form FD-2301 provides for the submission of new animal drug promotional material to the agency. Previously, submissions under § 510.300(b) (1), (2), and (3) (21 CFR 510.300(b) (1), (2), and (3)) were exempted by § 510.302 from using Form FD-2301. The basis for exempting the reports submitted pursuant to § 510.300(b) (1) and (2) from use of Form FD-2301 is the agency's need to receive and process the information submitted, which includes information concerning product defects and unusual or unexpected side effects, as rapidly as possible because expeditious agency implementing action may be necessary. Exemption under § 510.300(b)(3) from use of this form for the submission of mailing pieces or any other labeling and advertising that are devised for promotion of a new animal drug, on the other hand, is unnecessary because the exigency is absent for this type of information, and the Commissioner concludes that this information is more appropriately and easily processed when submitted on the Form FD-2301. Accordingly, the Commissioner is amending § 510.302 to require that information listed in § 510.300(b)(3) be submitted on Form FD-2301.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 510 in § 510.302 by revising paragraph (a) to read as follows:

§ 510.302 Reporting forms.

(a) The information described in § 510.300, except that described in paragraph (b) (1) and (2) of that section, shall be submitted appropriately identified with the new animal drug application(s) to which they relate in duplicate on Form FD-2301 "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs."

• • • • •

Effective date: This amendment shall be effective September 24, 1976.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)).)

Dated: August 18, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24847 Filed 8-24-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Village of Jean Lafitte, Louisiana

On April 5, 1975, at 41 FR 14368, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Jean Lafitte. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 26, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 220371A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jean Lafitte Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jean Lafitte map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24866 Filed 8-24-76;8:45 am]

[Docket No. FI-1042]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations City of Clayton, Missouri

On April 21, 1976, at 41 FR 16655, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Clayton, Missouri. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 290341B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Clayton Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Clayton map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24865 Filed 8-24-76;8:45 am]

[Docket No. FI-1075]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Smithville, Missouri

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Smithville, Missouri. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 295271A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Lavallette Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Lavallette map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24868 Filed 8-24-76;8:45 am]

[Docket No. FI-1036]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Lavallette, New Jersey

On April 16, 1976, at 41 FR 16147, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Lavallette, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 16, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 340379C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rumson Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rumson map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24867 Filed 8-24-76;8:45 am]

[Docket No. FI-1076]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Rumson, New Jersey

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rumson, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345316B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rumson map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rumson map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24869 Filed 8-24-76;8:45 am]

[Docket No. FI-1078]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Fargo, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Fargo, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

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The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385364A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Fargo Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Fargo map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24870 Filed 8–24–76;8:45 am]

[Docket No. FI–1077]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Pembina, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Pembina, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385368C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Pembina Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Pembina map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24871 Filed 8–24–76;8:45 am]

[Docket No. FI–173]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Rapid City, South Dakota

On August 7, 1975, at 40 FR 33283, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rapid City, South Dakota. Ninety days have elapsed since that date, and the Administrator has received an appeal from Rapid City, requesting changes in the proposed flood elevation determinations.

The Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base flood elevations proposed on August 7, 1975, as a result of requests for changes in the determination. These modified elevations are in effect as of September 3, 1976, and amend the Flood Insurance Rate Map, which was in effect prior to this date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 465420C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rapid City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rapid City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24872 Filed 8–24–76;8:45 am]

[Docket No. FI–989]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations, City of Arlington, Texas

On March 26, 1976, at 41 FR 12682, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Arlington, Texas. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485454A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Arlington Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Arlington map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24873 Filed 8–24–76;8:45 am]

[Docket No. FI–990]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Bay City, Texas

On March 26, 1976, at 41 FR 12683, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Bay City. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485455A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Bay City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Bay City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 4, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24874 Filed 8–24–76;8:45 am]

[Docket No. FI–2254]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Honolulu County, Hawaii

On June 3, 1970, in 35 FR 8734, the Federal Insurance Administrator published a list of communities with special hazard areas which included Honolulu, Hawaii. Map No. H 150001 45 indicates that Haiku Gardens Townhouse Development, being R–6 Residential District No. R–57, Heela, Koolauporo, Oahu, Hawaii, recorded in Liber 10045, Page 316 in the office of the Bureau of Conveyance, State of Hawaii, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 150001 45 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 5, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–24875 Filed 8–24–76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Need and Amount of Assistance; Correction

In FEDERAL REGISTER Document 76–21627, published at page 30647 in the issue dated Monday, July 26, 1976, the definition of Need Standard appearing near the end of the Notice is corrected to read: "Need standard means the money value assigned by the State to the basic and special needs it recognizes as essential for applicants and recipients;"

Approved: August 13, 1976.

THOMAS S. MCFEE,
Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76–24914 Filed 8–24–76;8:45 am]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Home Health Services

Notice of proposed rule making was published August 21, 1975 (40 FR 36702) revising existing regulations on the provision of home health services under State plans for medical assistance (title XIX, Social Security Act). The purpose of the proposed revisions was to remove certain restrictions and ambiguities which prevented full realization of the benefits of such services. The basis for the proposal was the Department's desire to increase the availability of home health services to Medicaid recipients and to encourage their use in appropriate cases as one alternative to institutionalization.

In summary, the regulations as proposed would have:

Permitted certain types of qualified health service agencies, in addition to those which meet Medicare standards, to provide home health services under Medicaid programs;

Prescribed the standards which those agencies must meet, which paralleled those for Medicare but were appropriately adjusted for differing needs under Medicaid;

Permitted proprietary agencies to participate if they met the standards, subject to any licensing law of the State;

Clarified that States must make available under the State plan the three main types of services needed in home care: nursing, home health, aide, and supplies and equipment, and also permitted them to provide various therapies as home health services;

Clarified the Medicaid recipients to whom home health services must be available, specified the requirements for a physician's determination of medical needs recorded in a plan of care and periodically reviewed, and clarified that Medicare requirements relating to need for certain types of "skilled" care and the prior hospitalization applicable to the Medicare Part A home health benefit do not apply under Medicaid.

Nearly 1300 comments were received from a broad range of interested parties: Members of Congress, private citizens, national health and welfare organizations, consumer and senior citizen groups, public and private providers and provider organizations, State and local agencies, etc. The comments themselves represented a broad range of opinion from approval of the changes to strong objections in whole or in part. Evidence of widespread interest was also presented by the holding of public hearings on Oc-

V 41 166 AUG 25 76 UMI

tober 28, 1975 by subcommittees of the Senate and House Committees on Aging, and by the convening of an all-day session on the major issues to which the Department invited State, congressional, consumer and provider representatives.

The greatest controversy arose over the proposal to drop from Medicaid the restrictions on proprietary agency participation applied by statute under Medicare, thus allowing their participation in the Medicaid program on the same basis and under the same standards as nonprofit agencies. Another major issue was the establishment of standards differing in some respects from Medicare's, including the provision for single service agencies to participate in Medicaid (those offering only nursing or only home health aide services). In addition, however, these were questions and suggestions on virtually every detail of the proposed regulations.

In light of the great public interest and widely varying opinions the Medicaid regulations are being published at this time with only those revisions necessary to clarify the previous ambiguities on persons eligible to receive home health services and types of services State must provide. This should increase understanding of the requirements on the part of States, recipients and home health agencies and facilitate the appropriate provisions of the services. The issues raised by the proposed rule making will be included for discussion in the overall review of home health care on which the Department has announced public hearings (see Notice of Intent, FR Doc. 76–24916 published elsewhere in this issue).

With respect to the eligibility provisions, comments received were affirmative. Comments on the services requirements and the Department's response are summarized below:

(a) Clarify when services may be provided in an intermediate care facility. This has been done by giving an example.

(b) Change the 90-day physician's review to the Medicare requirement of 60 days. This has been done.

(c) With respect to use of a "solo" nurse in the absence of a qualified agency: Drop the requirement, make it optional, clarify when no agency is considered "available", require States to hold public hearings prior to such a finding, clarify "direction" by a physician.

The requirement has been retained since it is necessary for the provision of services in certain areas, primarily rural. Approximately 23 States now make use of this provision and the Department considers it essential for all States to have such arrangements in effect. However, the requirement has been strengthened by restricting its applicability to use of registered nurses.

The non-availability of an agency has been clarified by changing the wording to "no such agency exists in the area". This clarification also makes it unnecessary to provide for public hearings on whether an agency is not "available". The wording on "direction" by a physician has been replaced by more specific language.

(d) Clarify whether the home health agency itself must furnish the medical supplies, equipment and appliances required by § 249.10(b)(7)(i)(C).

It is the State's responsibility to make payment for any such item. The items may be supplied by direct prescription of the physician and not necessarily by the home health agency.

(e) Many respondents suggested that a variety of other services—nutrition, homemaker, social services—should be required and that the therapy services listed as optional should be mandated.

The Department recognizes that many of these services would enhance the benefits gained from home health services. However, some of the suggested services are solely custodial in nature and readily available under other federally-assisted programs and, therefore, do not appear to be appropriate for inclusion under title XIX of the Act, the primary purpose of which is to make medical care and services available to indigent people. The therapy services have been retained as optional since it is felt that in the light of current fiscal restraints, this should be a State decision. Such services are optional in State Medicaid programs for provision to any recipient as well as under home health programs. However, all suggestions on services will be considered in the development of possible legislative proposals as a result of the NOI and public hearings discussed above.

A comment was also received on the definition of a medical rehabilitation facility which may provide therapy services under these regulations. It pointed out an inconsistency between the specification that the major portion of services be provided in the facility and the fact that home health services are provided in the patient's residence. The wording has been clarified.

Accordingly, the proposed regulations, as modified, are hereby adopted.

During the year following the publication of these regulations, the Department will evaluate the utilization and delivery of home health services under both Medicare and Medicaid. Modifications in the legislation and regulations of both programs will be considered on the basis of this evaluation.

Chapter II, Title 45, Code of Federal Regulations, is amended as follows:

1. Section 249.10 is amended by revising paragraphs (a)(4) and (b)(7) to read as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

(a) * * *

* * * * * * *

(4) Provide for the inclusion of home health services which, as a minimum, shall include nursing services, home health aide services, and medical supplies, equipment and appliances, as specified in paragraph (b)(7) of this section. Under this requirement, home health services must be provided to all categorically needy individuals 21 years of age or over; to all categorically needy individuals under 21 years of age if the State plan provides for skilled nursing facility services for such individuals; and to all corresponding groups of medically needy individuals to whom skilled nursing facility services are available under the plan. Eligibility of any individual to receive home health services available under the plan shall not depend upon his need for, or discharge from, institutional care.

* * * * * * *

(b) * * *

* * * * * * *

(7) *Home health services.* (i) This term means the following services and items provided to a recipient in his place of residence. Such residence does not include a hospital, skilled nursing facility or intermediate care facility, except that these services and items may be furnished as home health services to a recipient in an intermediate care facility if they are not required to be furnished by the facility as intermediate care services (for example, short-term registered nurse service during an acute illness to avoid transfer to a skilled nursing facility). Any such service or item provided to a recipient of home health services must be ordered by his physician as part of a written plan of care which is reviewed by his physician at least every 60 days. Those services listed in paragraphs (A), (B) and (C) are required to be made available by the State as home health services; those listed in paragraph (D) may be provided as home health services at State option.

(A) Nursing service, as defined in the State Nurse Practice Act, provided on a part-time or intermittent basis by a home health agency or, in the case where no such agency exists in the area by a registered nurse who is currently licensed to practice in the State, who receives written orders from the patient's physician, documents the care and services provided, and has had orientation to acceptable clinical and administrative record-keeping from a health department nurse.

(B) Home health aide services provided by a home health agency.

(C) Medical supplies, equipment and appliances suitable for use in the home.

(D) Physical therapy, occupational therapy or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services.

(ii) The term "home health agency" means a public or private agency or organization, or a subdivision of such an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(iii) A "facility licensed by the State to provide medical rehabilitation services" means one which is operated under competent medical supervision and which provides therapy services for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of (I) medical evaluation and services, and (II) psychological, social, or vocational evaluation and services. The facility must be operated either in connection with a hospital or as a facility in which all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

* * * * * * *

(Sec. 1102, 49 Stat. 648 (42 U.S.C. 1302).)

Effective date: The regulations in this section will be effective November 23, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Answers to specific questions may be obtained by calling Robert Silva, 202–245–0251.

Dated: August 13, 1976.

DON WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76-24915 Filed 8-24-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Alameda and Pocatello, Idaho

Order. In the matter of amendment of § 73.202(b), *table of assignments*, FM Broadcast Stations. (Alameda and Pocatello, Idaho).

1. The FM Table of Assignments indicates that Channel 285A is assigned to Alameda, Idaho. However, since the adoption of the assignment, Alameda has been incorporated into the City of Pocatello, Idaho. Pocatello (pop. 40,036) has two Class C FM assignments (Channels 229 and 235). In order to update and correct the assignment in the FM Table, Channel 285A is redesignated as a Pocatello assignment. There is an application pending for use of the channel (BPH–9877) filed by KSEI Broadcasters, Inc. The application will not be affected since Alameda is now a part of the City of Pocatello.

2. This amendment to the rules is adopted pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules. Since this amendment constitutes a corrective measures, imposes no new requirements, and will not adversely affect the rights of any licensee, prior notice of proposed rulemaking and the usual effective date requirements of the Administrative Procedure Act are unnecessary. 5 U.S.C. 553(d)(B) and 5 U.S.C. 553(d)(3).

3. Accordingly, *it is ordered*, That effective September 3, 1976, the Table of FM Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows:

City:	Channel No.
Alameda, Idaho	—
Pocatello, Idaho	229, 235, 285A

Adopted: August 19, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-24893 Filed 8-24-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–118]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegations Under Executive Order 11912

The purpose of this amendment is to delegate to various Departmental officers functions vested in the Secretary by Executive Order 11912, "Delegation of Authorities Relating to Energy Policy and Conservations" (41 FR 15825; April 15, 1976.)

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.50, a new paragraph (j) is added, to read as follows:

§ 1.50 Delegations to National Highway Traffic Safety Administrator.

The National Highway Traffic Safety Administrator is delegated authority to—

* * * * * * *

(j) Carry out the functions vested in the Secretary by section 1(a) of Executive Order-11912.

2. In § 1.57, a new paragraph (d) is added, to read as follows:

§ 1.57 Delegations to Assistant Secretary for Policy, Plans, and International Affairs.

The Assistant Secretary for Policy, Plans, and International Affairs is delegated authority to—

* * * * * * *

(d) Carry out the functions vested in the Secretary by section 4(a) of Executive Order 11912.

3. In § 1.59, a new subparagraph (3) is added at the end of paragraph (a), and a new paragraph (m) is added, to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

(a) *Procurement.* * * *

(3) Carry out the functions vested in the Secretary by sections 3 and 4(b) (as appropriate) of Executive Order 11912.

* * * * * * *

(m) *Building management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

4. In § 1.63, a new paragraph (c) is added, to read as follows:

§ 1.63 Delegations to Director of Public Affairs.

The Director of Public Affairs is delegated authority to—

* * * * * * *

(c) Carry out the functions vested in the Secretary by section 4(b) (as appropriate) of Executive Order 11912.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Effective date: This amendment is effective August 25, 1976.

Issued in Washington, D.C., on August 19, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-24878 Filed 8-24-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on September 10, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Wheeler National Wildlife Refuge is permitted only on the area designated by signs and/or on hunt maps as open to hunting. This open area, comprising that part of the Wheeler National Wildlife Refuge located within the boundaries of the Redstone Arsenal Reservation, is delineated on maps available at the Refuge Headquarters, Box 1643, Decatur, Alabama 35601; the Provost Marshal's Office at Redstone Arsenal, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing hunting of deer, subject to the following conditions:

(1) Hunting shall be by daily permit only.

V 41 166 AUG 25 76 UMI

(2) Hunting will be limited to the periods October 23–24, October 30–31, November 6–7, November 13–14, 1976, archery only, either sex; November 20–21, November 27–28, December 4–5, December 11–12, December 18, 1976, guns only, antlered bucks only; and December 26, 1976, January 2, and January 8, 1977, gun, either sex.

(3) Weapons are limited to shotguns of gauges 20 to 12, loaded with single ball only and longbows with broadhead arrows.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 8, 1977.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of deer with longbow and arrow on the Holla Bend National Wildlife Refuge, Arkansas, is permitted. The hunting area, comprising approximately 6,367 acres, is delineated on a map available at Refuge Headquarters, Box 1043, Russellville, Arkansas 72801, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following special conditions:

(1) Open Season: October 1 through November 30, 1976; Archery only.

(2) A special permit is required.

(3) Hunters may not enter the refuge earlier than 2 hours before official sunrise daily.

(4) All deer taken must be reported before leaving the refuge.

(5) Only portable tree stands capable of being quickly removed are permitted. Stands must bear the name and address of the owner and must be removed from the refuge by December 6, 1976.

(6) All hunters must register upon entering the refuge each day.

(7) Hunters are prohibited from driving vehicles across or otherwise damaging standing crops and may not park their vehicle so as to block any road or thoroughfare.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1976.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the White River National Wildlife Refuge, Arkansas, is permitted only on the area designated by signs as open to hunting. This open area is delineated on a map available at the Refuge Headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer, beaver, and feral hogs.

(2) Open season: Archery—October 16–30; Muzzleloading rifles—October 22–23; Gun—November 8–9, 1976.

(3) Bag limits: One deer of either sex, no limit on beaver and feral hogs.

(4) Weapons—in accordance with State regulations.

(5) Loaded guns are not permitted in vehicles or in camps. Shooting is not allowed from boats, vehicles, or roadways used by vehicles. Dogs and horses are not allowed and all vehicles must stay on regularly used roads and trails. Shooting hours are 30 minutes before sunrise to 30 minutes after sunset. Camping is permitted in designated areas. Hunters may enter the open hunting area at noon on the date preceding each hunt and must be out of the area by dark of the closing day. Fires may be built only at the campsites.

(6) Deer killed during the gun hunting must be checked at one of the refuge check stations between 7:30 a.m. and 7 p.m.

(7) Hunters may not return to hunt hogs or beaver after they have killed a deer.

(8) Permit required. No person is authorized to enter the hunting area without a permit. Submission of more than one permit application or applications containing false information is prohibited.

(9) Each hunter under 17 years of age must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(10) Each gun deer hunter is required to wear a minimum of 500 square inches of daylight fluorescent orange above the waistline.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 9, 1976.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer and feral (wild) hogs is permitted on approximately 1,450 acres of Lake Woodruff National Wildlife Refuge. The area open to hunting includes all Federally owned lands on Dexter and Tick Islands as delineated on a map available at the Refuge Headquarters, P.O. Box 488, DeLeon Springs, Florida 32028, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer and hogs, subject to the following special conditions:

(1) Open seasons: (a) Archery—September 10–12 and September 24–26, 1976. (b) Primitive gun—October 8–10 and October 29–31, 1976.

(2) Bag limits: White-tailed deer—same as State regulations. Feral hogs—no bag limit. Deer of either sex, except spotted fawns, may be hunted during the archery and primitive gun seasons.

(3) Permitted methods of hunting:

(a) Archery season: Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the hunt area is permitted during the stand hunt hours.

(b) Primitive gun season: Weapons permitted are muzzleloading percussion cap or flintlock rifles with iron sights and rifled bores.

(4) Access and hours of use: No overnight use is permitted on the refuge. No entry will be permitted prior to two hours before sunrise, and all hunters must clear the area by one hour after sunset. All hunters must check in daily at the check station before entering the hunt area and check out daily before leaving.

(5) Permits: A refuge permit is required. Permits are non-transferable; submission of more than one permit application or applications containing false information is prohibited.

(6) Scouting: Participants drawn for the hunts may visit the hunt area on September 3 and 4 and October 1 and 2 from 8:00 a.m. to 5:00 p.m. Weapons, dogs and fires are prohibited.

(7) During the primitive gun season hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) All fires are prohibited.

(10) No dogs are allowed on the refuge.

(11) It is unlawful to drive a nail, spike, or other metal object into any tree, or to hunt from any tree in which a metal object has been driven.

(12) Game must be checked at the refuge check station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title

50, Code of Federal Regulations, Part 32, and are effective through October 31, 1976.

ST. MARKS NATIONAL WILDLIFE REFUGE

Public hunting of deer and wild hogs on the St. Marks National Wildlife Refuge, Florida, is permitted only in the area designated by signs as open to hunting. This open area, comprising approximately 1,200 acres is delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer and wild hogs.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1977.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer, feral (wild) hogs, raccoon, and opossum is permitted on 12,358 acres of St. Vincent National Wildlife Refuge. The area open to hunting includes all of St. Vincent Island. The area open to hunting is delineated on a map available at the Refuge Headquarters. P.O. Box 447, Apalachicola, Florida 32320, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, wild hogs, raccoon, and opossum, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer—either sex (except spotted fawn) on archery hunts. Antlered bucks only on primitive gun hunt. Hogs (minimum 15 inch shoulder height), raccoon, and opossum.

(2) Bag limits: White-tailed deer—1 per day, 2 per season. Hogs, raccoon, and opossum—no bag limits.

(3) Open seasons: Bow and arrow—October 21–24, 1976, and November 18–21, 1976. Primitive gun—December 9–12, 1976.

(4) Methods of hunting: (a) Bow and arrow seasons—Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the woodlands is permitted during the stand hunt hours. (b) Primitive gun season—Weapons permitted are muzzleloading percussion cap or flintlock rifles with rifled barrels.

(5) A special permit is required for all hunts.

(6) Access: Initial entry onto St. Vincent Island is restricted to two check stations throughout the hunts. These are designated Campsite 1 and Campsite 2 on the hunting area map. Each hunter must check in upon initial entry and check out before he leaves the island on his last hunting day. Participants are to have their game inspected by refuge personnel at the check station where they received their permits. The use of boats to gain access at points other than check stations must first be registered at one of the check stations. The use of boats for ingress and egress at unauthorized locations is prohibited.

(7) During the primitive gun hunt, hunters are required to wear outer garments above the waist which contain a minimum total of 500 square inches of daylight, fluorescent orange colored material. Bow hunters are required to wear red, orange, or yellow outer garment (hat, vest, etc.) while hunting.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Camping and fires are restricted to designated camping areas. Participants may set up camp one day prior to the opening of each hunt season, but are not permitted to leave the campsite area to set up stands, "scout," etc. Campers must remove all equipment from St. Vincent Island by 3:00 p.m. following the last day of each hunt season.

(10) Dogs are not permitted on the island.

(11) No motorized vehicles or equipment will be permitted.

(12) Only dead wood may be cut for campfires.

(13) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer on Blackbeard Island National Wildlife Refuge, Georgia, is permitted only on the area designated as Blackbeard Island proper. This open area, comprising 4,535 acres, is delineated on a map available at the Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following conditions:

(1) Deer and raccoon may be taken during the following open periods: October 28–31, 1976 and December 28–30, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. to sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only archery equipment as prescribed in State regulations may be used.

(5) Dogs are prohibited.

(6) Camping and fires will be permitted only at the designated camping area.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Participants may not enter the refuge more than 2 days in advance of each opening date and must depart the refuge the day following the last day of the hunt.

(9) The refuge will be closed to all forms of public use except hunting during the periods October 28–31, 1976 and December 28–30, 1976.

(10) *Hunters will be restricted to the camping area until the morning of the first day of each hunt period.*

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not permitted.

(12) A refuge permit is required to hunt and camp.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Piedmont National Wildlife Refuge, Georgia, is permitted on the refuge except in those areas designated by signs as closed. The open area, comprising approximately 33,000 acres, is delineated on the map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer, subject to the following special conditions:

(1) Open season and bag limit:

(a) Archery hunt—October 2–10, 1976. Limit two deer of either sex.

(b) Buck hunt—October 28–30, 1976. Limit two bucks with visible antlers.

(c) Either sex hunts—November 5 and 13, 1976. Limit one deer.

(2) Roads cabled off or not shown on the map are closed to all vehicular travel. Parked vehicles must be in sight of the road and must not block entrances to roads.

(3) Buckshot and handguns may not be used or possessed. Target practice during the gun hunts is prohibited.

(4) All deer killed must be field dressed and checked in at Refuge Headquarters on the same day they are killed and before leaving the refuge area.

(5) Dogs are prohibited.

(6) Camping and fires are restricted to the designated camping area in Com-

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partment 19 which will be open on the following dates: October 1–11; October 27–31; November 4–6; and November 12–14, 1976.

(7) Each hunter under age 17 must be under the close supervision of an adult. The ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) It is unlawful to drive a nail, spike, or metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(9) All areas open for hunting may be visited for scouting purposes only on October 23, 1976, during daylight hours only. Weapons and dogs are not permitted.

(10) A refuge permit is required. Hunt permits are nontransferable. Submission of more than one permit application or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 13, 1976.

WASSAW ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer and raccoon on Wassaw Island National Wildlife Refuge, Georgia, is permitted on the area designated as Wassaw Island proper excluding that area known as the "Home Parcel." This open area, comprising 1,705 acres, is delineated on a map available at Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and raccoon, subject to the following conditions:

(1) Deer and raccoon may be taken December 17–19, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. until sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only rifles, and shotguns 20 gauge or larger using slugs may be used during the hunt. Handguns and buckshot are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded except during the daily hunting periods.

(5) Dogs are prohibited.

(6) All camping will be at the designated camping area on Pine Island. Fires must be confined to the camping area.

(7) Permit holders must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

(8) The refuge will be closed to all forms of public use except hunting from December 17–19, 1976.

(9) Hunt participants may not enter the refuge more than 1 day prior to the hunt. Hunters will be restricted to the camping area until the morning of the first day of each hunt period.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not allowed.

(12) A refuge permit is required to hunt and camp. Hunt permits are nontransferable. Submission of more than one permit application, or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1976.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted within the fenced portion of Catahoula National Wildlife Refuge designated by signs as open to hunting. This area, comprising 3,000 acres or 55 percent of the total refuge area, is delineated on the map on the reverse side. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Archery hunt: Either sex—October 30–November 7, 1976.

(b) Gun hunt: Bucks only—December 2–4, 1976.

(2) Weapons:

(a) Archery: Longbows as provided for in State regulations.

(b) Gun: Centerfire rifles.

(3) Hunting hours: One-half hour before sunrise until one-half hour after sunset. Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

(4) Permits: A refuge permit is required for all hunts.

(5) Still hunting only. No dogs allowed. No permanent tree stands may be constructed. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a metal object has been driven.

(6) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square-inches of daylight fluorescent orange colored material worn above the waistline.

(7) No vehicles may be parked more than 50 yards from existing roads or trails. No ATV vehicles other than jeep type will be allowed. No vehicles with tires larger than 9.00x16" may be used.

(8) Unmarked feral hogs may be taken by deer hunters.

(9) All deer killed must be checked out at a refuge checking station.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 4, 1976.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs and delineated on maps available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Open Seasons: Archery hunt—October 2–16, 1976; Gun hunts—November 22–27, 1976 and January 10–15, 1977; Primitive weapons—December 6–11, 1976.

(2) Weapons: Longbow and arrows, shotguns 20 gauge or larger and centerfire rifles, muzzleloading rifles and shotguns.

(3) Sunday hunting prohibited.

(4) Horses and dogs are not permitted.

(5) All deer killed must be checked out at one of the designated refuge checking stations.

(6) Permits are required for all deer hunts.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Man-drive deer hunting prohibited.

(9) The use of any CB radio devices to aid in the pursuit or taking of any wildlife species is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1977.

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Yazoo National Wildlife Refuge is permitted only in wooded areas not designated by signs as closed to hunting. This open area, comprising approximately 10,500 acres, is delineated on a map available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer, subject to the following special conditions:

(1) Open season: Archery—October 30–November 13, 1976, Sundays excluded. Gun—December 27, 1976–January 1, 1977.

(2) Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

(3) Weapons: Archery—Longbows only; Gun—Shotguns, 20 gauge and larger, and centerfire rifles .222 cal. or larger. No handguns permitted.

(4) A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one permit application or applications containing false information is prohibited.

(5) Firearms may not be discharged within 250 yards of residences or the Refuge Headquarters. The carrying of loaded firearms in vehicles and shooting from or across county or State roads is prohibited.

(6) All deer killed must be checked out at a refuge checking station.

(7) Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset and gun hunters must depart the hunting area no later than 1 hour after sunset.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Gun hunters are required to wear a minimum of 500 square inches of daylight fluorescent orange colored garment above the waist.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1977.

NORTH CAROLINA

PUNGO NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Pungo National Wildlife Refuge, North Carolina, is permitted on all areas not designated by signs as closed to hunting. This open area, comprising 7,000 acres, is delineated on maps available at the Refuge Headquarters, Plymouth, North Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Bow and arrow only: Either sex—September 20–October 6, 1976.

(b) Shotguns and primitive weapons: Either sex—October 12, 13, 14, 18, 19, 20, 26, and 27, 1976.

(2) Hunting hours; Sunrise to sunset. All guns must be unloaded and bows unstrung at sunset.

(3) Weapons:

(a) Bow and arrow as provided for in State regulations.

(b) Shotguns—20 gauge or larger with rifled slugs or shot no smaller than No. 4 buckshot.

(c) Primitive weapons—muzzleloading percussion cap or flintlock rifles.

(4) Permits: A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(5) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square inches of daylight fluorescent orange colored material worn above the waistline.

(6) Age Limits: Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(7) Closed area: Unauthorized entry into any building or designated "CLOSED AREA" is prohibited. No hunting is permitted within 200 yards of the refuge subheadquarters.

(8) Transporting weapons: Weapons must be unloaded while being transported in or on a vehicle.

(9) Prohibited: Modern rifles, pistols, crossbows, dogs, fires, camping, and littering.

(10) Hunters shall not disturb, damage, or destroy unharvested crops.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 27, 1976.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) The open season for hunting of white-tailed deer (either sex) is November 8–13 and December 6–11, 1976.

(2) Only archery equipment in accordance with State regulations is permitted. Firearms & ammunitions, crossbows, poison arrows, dogs, alcoholic beverages, nails, paint or flagging are not allowed on the Island.

(3) On the area north of Beach Road, hunters must remain on their stands from 30 minutes before sunrise until 9 a.m. and from 3 p.m. until 30 minutes after sunset. No hunting within 100 feet of the Walking Trail (interpretative foot trail).

(4) Each hunter must obtain a Refuge permit upon arrival at Bulls Island and must turn in this permit before leaving the Island. All deer taken must be checked by refuge personnel before leaving the Island.

(5) Only hunters with a valid refuge hunting permit may camp. Camping and fires are restricted to the designated camping area which will be open from 9 a.m. on November 7 until 12 noon on November 14 and from 9 a.m. on December 5 to 12 noon on December 12, 1976.

(6) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted on 96 percent of the Carolina Sandhills National Wildlife Refuge. This open area is designated by signs and delineated on a map available from Refuge Headquarters, McBee, South Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following special conditions:

(1) Seasons:

(a) Archery only—October 18–23, 1976.

(b) Gun hunts—November 1–3, 8–10, 15, and 22, 1976.

(2) Hunters are allowed on the hunting area from 5:30 a.m. until 6:30 p.m. Hunters must enter the hunting area at designated entrance points and must park their vehicles on the hunting area.

(3) Bag limits:

(a) Archery only—Two (2) of either sex.

(b) Gun hunts—November 1–3 and 8–10—Two (2) bucks with antlers visible above the hairline; November 15 and 22, One (1) of either sex. All deer taken must be checked before leaving the refuge.

(4) Only stalk and still hunting with centerfire rifles and shotguns using slugs permitted during gun hunts.

(5) Stopping, parking, walking, or hunting within 500 feet of the paved auto visitor drive or hunting within 100 feet of any other road or trail open for vehicle travel is prohibited.

(6) A refuge permit is required for all hunts. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

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(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(8) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange colored material above the waistline. Alcoholic beverages are not permitted. The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 22, 1976.

SANTEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted only on the Cuddo Unit of Santee National Wildlife Refuge. The open area, comprising some 3,140 acres, is delineated on a map available at refuge headquarter and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(a) Open season: October 4–5, 8–9, and 13–14, 1976.

(b) Daily bag Limit: One (1) white-tailed deer of either sex per hunter.

(c) Method of hunting:

(1) Only shotguns using slugs and centerfire rifles larger than .22 caliber will be permitted. Buckshot, other shotgun shells, and pistols will not be allowed. No military or hard jacketed ammunition may be used.

(2) Only stalk and still hunting will be permitted. No dogs or drives are allowed.

(3) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange color above the waistline.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(5) A refuge permit is required. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(6) All deer taken must be checked at the designated check station prior to leaving the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 14, 1976.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tennessee National Wildlife Refuge, Tennessee, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 2,800 acres for bow hunting only, 1,900 acres for muzzleloading rifle hunting, and 5,075 acres for gun and bow hunting, are delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer, subject to the following conditions:

(1) Open seasons: Archery only—October 2 and 3, 1976; Gun—December 26–28, 1976; Muzzleloading rifle only—December 29 and 30, 1976.

(2) The bag limit is one deer of either sex per hunter during the archery hunt, the gun hunt, and the muzzleloader rifle hunt, not to exceed the total season bag set by State regulations.

(3) The use of dogs is not permitted.

(4) Camping on the area is not permitted.

(5) Driving of deer is prohibited.

(6) Hunters may enter the public hunting area at sunrise and must be out of the area one-half hour after sunset.

(7) All hunters must wear protective clothing of daylight fluorescent orange material of at least 500 square inches above the waist.

(8) Each hunter under the age of 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(9) A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(10) Hunters must check in and out of the designated checking station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

KENNETH E. BLACK,
Regional Director, U.S. Fish and Wildlife Service.

AUGUST 13, 1976.

[FR Doc.76-24809 Filed 8-24-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 210]

FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Proposed Collection Procedures

Correction

In FR Doc. 76–22605 appearing on page 32605 in the issue for Wednesday, August 4, 1976, make the following correction:

(1) On page 32605, in the third column, under § 210.7, the first paragraph should have been designated as "(e)", and the first sentence should have read as follows: "(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment."

Internal Revenue Service

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making; Correction

On Monday, August 9, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 33285). The following corrections are made to the proposed regulations:

(1) In paragraph (b)(4) of example (4) of § 1.952–3(d) (page 33289), the phrase "foreign base company shipping income" should be "foreign base company income".

(2) In § 1.955A–4(d) (page 33306), the phrase "less developed countries" should be "foreign base company shipping operations" in lines 7 and 8 of example (2), lines 11 and 13 of example (3), and line 32 of example (4).

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76–24932 Filed 8–24–76;8:45 am]

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making

Correction

In FR Doc. 76–23140, appearing at page 33285, of the issue of Monday, August 9, 1976, the following changes should be made:

1. On page 33302, the fourth line of the first column should be changed to read "date. The excess of a liability which constitutes a specific charge against property over".

2. On page 33303, in the middle column, the table in the example should be changed by amending the parenthetical material under (5) to read "($9 x $40/$60)".

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Eastern Marten; Review of Status

On June 25, 1975, the Department of the Interior received a petition from the North Star Chapter of the Sierra Club (807 Midland Bank Building, Minneapolis, Minnesota 55402) seeking determination of the Eastern Marten (*Martes americana americana*) as Endangered, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

As required by section 4(c)(2) of the Act, notice is hereby given of the Department's determination that substantial evidence has been presented by the petition to warrant a review of the status of *Martes americana americana* in the United States to determine whether it should be proposed for listing as Endangered or Threatened.

The Department is seeking the views of the Governors of Maine, Michigan, Minnesota, New Hampshire, New York, Vermont, and Wisconsin. All other interested parties are hereby invited to submit any factual information which is germane to this review of the status of this species, or which could assist in determining its Critical Habitat. Such information should be sent to: Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 by November 24, 1976. This information, together with the evidence presented and available to the Secretary, and that provided with the petition of the Sierra Club, will be reviewed to determine whether the Eastern Marten should be listed as Endangered or Threatened.

Dated: August 17, 1976.

KEITH M. SCHREINER,
Acting Director, Fish and Wildlife Service.

[FR Doc.76–24885 Filed 8–24–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76P–0126]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Advance Notice of Proposed Rule Making

The Food and Drug Administration (FDA) is considering amending Part 2 of its regulations to provide for payment of attorneys' fees and the provision of other assistance to participants in its proceedings in appropriate circumstances. This advance notice of proposed rule making is published because the Commissioner of Food and Drugs believes it would be helpful to invite public comment on whether such assistance should be provided and on the identification and selection of appropriate criteria and procedures for providing assistance. All communications received on or before October 26, 1976 will be considered by the Commissioner before any further action is taken on this matter.

Interested persons are invited to participate in developing the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted (preferably in quintuplicate) to: Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. Received comments may be seen in the above office, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this advance notice of proposed rule making, a proposed rule will be published in the FEDERAL REGISTER.

Increasing attention has been given in recent years to the financial barriers to effective public participation in agency proceedings. The Administrative Conference of the United States has recommended that agencies consider measures to facilitate public participation under 1 CFR 305.71–6. The Food and Drug Administration has already adopted several measures to aid participants in proceedings, including making agency staff available to answer inquiries for factual information, and proposing a regulation under § 2.151 (21 CFR 2.151), published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682), to relieve participants who are under an unreasonable financial burden from requirements to

V 41 166 AUG 25 76 UMI

submit multiple copies. The Food and Drug Administration has issued comprehensive regulations under Part 4 (21 CFR Part 4) to implement the Freedom of Information Act; the regulations make nearly all agency records available to any member of the public. Any citizen may also petition the agency to take action on any matter within the agency's responsibilities, and have the petition reviewed and ruled upon by the Commissioner, pursuant to proposed § 2.7 (21 CFR 2.7), published in the FEDERAL REGISTER of September 3, 1975.

The measures so far adopted by FDA have not included provision of attorneys' fees to participants. The Comptroller General has stated in a decision issued February 19, 1976 (File No. B–92288) that a regulatory agency may use its appropriations to extend financial assistance to interested parties "who require it" and "whose participation is essential to dispose of the matter" before the agency.

The Commissioner has recently received a petition from the Consumers Union of United States, Inc., 1714 Massachusetts Ave., NW., Washington, DC 20036, requesting an amendment of FDA regulations to provide compensation of attorneys' fees and other costs to certain participants in agency hearings. Because of its importance in evaluating the need for proposed rule making and in identifying the issues that need to be resolved, the Commissioner is setting forth below the proposed regulation, statement of grounds, and appendices (Appendix A and Appendix B) contained in the petition. To conform with certain format requirements, the material in footnotes in the petition has been included in the text in parenthesis, and certain introductory material has been omitted.

A. THE PROPOSED REGULATION.

§ 2.151 ____.

(a) (1) The Commissioner may provide compensation for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants in any rule making or adjudicatory proceeding conducted pursuant to Subparts B, C, D, and E of these regulations, whenever public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

(2) Any person is eligible to receive an award under this section ____ for _____ participation (whether or not as a party) in a rule making or adjudicatory proceeding if

(i) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, taking into account the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests; and

(ii) (*a*) The economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person or, in the case of a group or organization, the economic interest of the individual members of such group or organization is small in comparison to the costs of effective participation in the proceedings; or

(*b*) The person demonstrates to the satisfaction of the Commissioner that such person does not have sufficient resources available to adequately participate in the proceeding in the absence of an award under this section.

(3) (i) In order to facilitate public participation, the Commissioner shall make a determination of the eligibility of a person for an award under this section, and the amount of such award, prior to the commencement of any proceeding, unless the Commissioner makes an express written finding that such a determination cannot practically be made at that time.

(ii) Payment of fees and costs under this section shall be made within 90 days of the date on which a final decision or order disposing of the matters involved in the proceeding is made by the Commissioner. If an eligible person establishes, in a manner to be prescribed by the Commissioner, that its ability to participate in the proceeding will be impaired by the failure to receive funds prior to the conclusion of the proceeding, then the Commissioner shall make advance payments to permit the person to participate or to continue to participate in the proceeding.

(iii) Reasonable attorney's fees, expert witness fees, and other reasonable costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of service provided, but in no event shall exceed the rate of compensation (including fringe benefits and overhead) paid to Food and Drug Administration attorneys, expert witnesses, and other personnel with comparable experience and expertise.

B. STATEMENT OF THE GROUNDS

Representation of diverse points of view, including the traditionally underrepresented consumer viewpoint, is essential to fair and balanced decisionmaking by FDA. However, the high costs of participation in administrative proceedings precludes effective participation in agency proceedings by nonindustry groups in the absence of financial assistance from FDA. The Food and Drug Administration has inherent authority, even in the absence of explicit statutory sanction, to compensate certain participants for attorneys' fees and other costs of participation, in view of its broad regulatory powers and the statutory requirement that FDA conduct public hearings with respect to certain regulatory actions.

1. *Financial assistance is necessary for effective public participation and advocacy of diverse points of view before FDA.* Public participation is an essential element of a sound, balanced administrative decisionmaking process. (The importance of public participation in administrative proceedings has been acknowledged by the President, by Congress, by the Courts, by the Administrative Conference of the United States, and by various commentators. See, e.g., letter from President Ford to Senator Ribicoff, Rep. Brooks, and Rep. Staggers, April 17, 1975, released to press by White House; Federal Trade Commission Improvements Act, 15 U.S.C. 757(a)(h), compensation for attorneys' fees in rule making proceedings; Hearings on S. 2715 before the Senate Subcommittee on Administrative Practice, 94th Cong., 2d Sess. (Jan. 30, 1976 and Feb. 6, 1976), Kennedy bill providing for reimbursement of costs of participation; *National Welfare Rights Organization* v. *Finch*, 429 F.2d 725 (D.C. Cir. 1970); *Office of Communications of United Church of Christ* v. *F.C.C.*, 359 F.2d 994 F.2d 608 (2d Cir. 1965); Recommendation 28, 2 Recommendations and Reports of the Administrative Conference of the United States 35 (1970–1972), reprinted in 30 Ad. L. 2d 121 (1972), Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process," 60 Geo. L. J. 525 (1972); Gellhorn, "Public Participation in Administrative Proceedings," 81 Yale L. J. 359 (1972); Lazarus and Onek, "The Regulators and the People," 57 Va. L. Rev. 1069 (1972); Note, "Federal Agency Assistance of Impecunious Intervenors," 88 Harv. L. Rev. 1815 (1975).) An imbalance in the advocacy of diverse points of view before regulatory agencies is likely to produce an imbalance in the decisions which are ultimately reached by agency officials. As Roger Cramton, a former chairman of the Administrative Conference of the United States, has written, "The cardinal fact that underlies the demand for broadened public participation is that governmental agencies rarely respond to interests that are not represented in their proceedings." (60 Geo. L. J., supra, at 529.)

It is no longer an accepted notion that the agency can itself perform as the advocate for the "consumer interest," as distinct from the interest of the regulated industries. Judge Warren Burger, now Chief Justice of the Supreme Court, cast aside such thoughts with respect to the Federal Communications Commission nearly a decade ago in *Office of United Church of Christ* v. *FCC* when he wrote:

> The Commission of course represents and indeed is the prime arbiter of the public interest, but its duties and jurisdiction are vast, and it acknowledges that it cannot begin to monitor or oversee the performance of every one of thousands of licensees. • • •
>
> The theory that the Commission can always effectively represent the listener interests in a renewal proceeding without the aid and participation of legitimate listener representatives fulfilling the role of private attorneys general is one of those assumptions we collectively try to work with so long as they are reasonably adequate. When it becomes clear, as it does to us now, that it is no longer a valid assumption which stands up under the realities of actual experience, neither we nor the Commission can continue to rely on it. (359 F.2d 994, 1003 (1966).)

His remarks apply with equal logic to representation of diverse interests before FDA. At present advocacy before FDA follows the usual pattern:

(Governmental agencies) are exposed, with rare and somewhat insignificant exceptions, only to the view of those who have a sufficient economic stake in a proceeding or succession of proceedings to warrant the substantial expense of hiring lawyers and expert witnesses to make a case for them. (60 Geo. L. J., supra, at 529.)

Although the interests of the food, drug, cosmetic, and medical device industries are frequently at odds with the interests of consumers of these regulated products, consumer advocacy before FDA is rare, sporadic, and virtually always underfinanced, while the regulated industries maintain continuous and well-financed advocacy directly and through their trade associations. (One measure of this imbalance is FDA's Public Calendar, which indicates constant and routine contacts between members of the regulated industries, and only occasional contacts with nonindustry spokespersons.)

Yet Congress clearly intended that, in exercising its extensive regulatory powers, FDA fully consider the interests of those who consume the products regulated by the agency, as well as the interests of those who produce them. With regard to certain actions of FDA, Congress directed FDA to conduct hearings upon objection by "any person who will be adversely affected" by such orders, and explicitly stated that "any interested person" may be heard at these hearings. Addressing itself to similar language in the Atomic Energy Act, the Nuclear Regulatory Commission recently stated that such language:

> (p)resumably • • • reflects a Congressional emphasis on the importance of hearings and of broad participation in the [licensing] process. (*In the Matter of Consumer Power Co.*, (Big Rock Point Nuclear Plant) Docket 50–155, (Memorandum and Order, November 21, 1974, at 5. The Atomic Energy Act provides that "The Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit such person as a party to such proceeding." 42 U.S.C. 2239.)

Consistent with its statutory mandate, FDA has removed formal obstacles to public participation in its proceedings by adopting broad rules of standing for both initiation of and participation in informal agency proceedings. (See §§ 2.2, 2.110, 2.117, 2.130, 2.155, of the proposed Administrative Practices and Procedures.) In the preamble to its Administrative Practices and Procedures, FDA has adopted a broad interpretation of the statutory language of section 701(e) (21 U.S.C. 371(e)) as follows:

> The terms "interested person" and "any person who will be adversely affected" are defined very broadly to mean any person who wishes to participate in any proceeding of the Food and Drug Administration. There is no requirement that such person exhibit any particular interest, or show any specific economic or other harm or other indicia of "standing." Since Food and Drug Administration activities directly affect all members of the public, all members of the public who wish to participate are "interested persons" and "adversely affected" by definition. The courts have ruled that all citizens who wish to challenge agency actions affecting food and drugs are "adversely affected" and thus may properly submit objections and otherwise participate in the administrative proceedings where the statute requires such a showing. (See *Reade* v. *Ewing*, 205 F.2d 630 (2d Cir. 1953).)

While advocates of consumer interests thus enjoy broad rights of participation at FDA, as a practical matter these are hollow rights in the absence of adequate funding for the costs of preparing and presenting effective testimony. (Although the extent of participation varies from proceeding to proceeding, effective participation will usually involve extensive investigatory work, surveying, case regulation and the testimony of experts who serve as consultants and/or witnesses. Public interest representatives "cannot merely rely on legal arguments that certain interests be taken into account but must develop an affirmative case of their own." Cramton, supra, at 539. That is expensive, and well beyond the means of advocates of consumer interests.) As the Administrative Conference has recognized, "(t)he cost of participation in trial-type proceedings can render the opportunity to participate meaningless." (Recommendation 28, supra.) As Simon Lazarus and Joseph Onek have stated:

> Assuring the legal rights of public interest representatives to participate in regulatory proceedings is a vital first step. It is, however, only a first step. Without further affirmative action to assure that public representatives actually appear, the legal right to participate will be largely a symbolic—perhaps merely a cosmetic—advance. (57 Va. L. Rev., supra, at 1096.)

Ernest Gellhorn put it more strongly:

> If public participation is in fact a 'right' which agencies have a mandate to foster, failure to render some assistance amounts to a practical subversion of that mandate. (81 Yale L. J., supra, at 389.)

So-called "public interest" organizations generally operate under strict financial constraints, and have little or no funding available for intervention or participation. (The phrase "public interest" is a term of art, suggesting a group that represents diffuse, noncommercial interests which traditionally have not received direct representation in the courts, agencies, or legislature.) Many such groups operate with volunteer labor and little or no legal assistance. Others possess some legal capability but little or no in-house scientific expertise. Even larger organizations are unable to afford participation in most of the agency proceedings which affect the health and safety of their memberships or constituencies. Despite their limited monetary and manpower resources, however, many of these groups represent memberships or constituencies of substantial size.

The Food and Drug Administration's Administrative Practices and Procedures rules permit a participant who is "indigent" and whose participation has a "strong public interest justification" or one whose participation "can be considered primarily as benefiting the general public" to petition in forma pauperis for an exemption from the filing and service requirements of the rules, § 2.151 of the Administrative Practices and Procedures. While reducing duplicating and mailing expenses associated with participation is desirable, these cost savings represent but a tiny fraction of the actual costs incurred by intervenors in FDA proceedings and will not induce a group to participate fully in a proceeding it cannot otherwise afford.

While the actual costs of participation will of course vary with the nature and length of the proceeding, the complexity of the issues, and the extent of the participation, Cramton has estimated that the "cost of active participation in an FDA rule making proceeding is in the range of $30,000 to $40,000." (60 Geo. L. J., supra, at 538.) This estimate is based upon Administrative Conference staff interviews with "informed persons, including agency staff members, public interest lawyers, and private practitioners." (60 Geo. L. J., supra, at 538, n. 31.) It was made in 1972. The cost of living having increased 35 percent since then, the current figures are closer to $40,000 to $54,000. Costs for participation in a more complex rule making or adjudicatory hearing could entail substantially greater expense.

In summary, while the act sets forth the rights of any aggrieved person to request and receive a public hearing, and for any interested person to be heard at such hearing, virtually no nonindustry persons have been able to invoke these rights. In practical effect, these rights of participation are hollow and the record upon which FDA ultimately bases decisions directly affecting the public is thereby impoverished and untested. As a practical matter, systematic advocacy of diverse points of view is likely to occur only if FDA actively encourages participation by those who are likely to contribute to a fuller, fairer, and more balanced record by reducing the financial barriers to such participation. (The Supreme Court has recognized approvingly the ability of agencies to encourage or discourage certain activities by adjusting the costs attendant to these activities. In *National Cable Television Association* v. *U.S.*, 415 U.S. 336 (1974), the Court stated:

> The lawmaker may, in light of the 'public policy or interest served' make the assessment heavy if the lawmaker wants to discourage the activity; or it may make the levy light if a bounty is to be bestowed • • •. 415 U.S. at 1149.

Although these comments were made in relation to direct assessment of fees by an agency against the regulated industry, they apply with equal logic to the unavoidable "assessment" of costs against those who wish to take part in agency proceedings. Interestingly, the Court further stated that, to the extent the benefits of certain agency actions accrue principally to the public, private parties should not be made to bear the costs of such actions. 415 U.S. at 1150. By analogy, where nonindustry advocates bear the burden of preparing and presenting an effective case, which aids

V 41 166 AUG 25 76 UMI

FDA in reaching a decision which benefits the public health and welfare, it is appropriate that the public bear a portion of the expense.)

2. *Authority to compensate intervenors is inherent in FDA's statutory mandate.* The Food and Drug Administration's broad regulatory powers, and the procedural requirements attendant to the exercise of those powers (supra) are sufficient to permit FDA to compensate intervenors who can be expected to contribute to the fairness and balance of FDA proceedings. (Congress vested in FDA responsibility for protecting consumer health, safety and, to a limited extent, economic wellbeing, in the purchase and use of foods, drugs, cosmetics, and medical devices. 21 U.S.C. 321 et seq.; 15 U.S.C. 1451 et seq. The Food and Drug Administration's extensive regulatory powers include the authority to approve drugs before they can be marketed; to set standards of identity and quality for food products; to require ingredient, warning, or other labeling of products within the agency's jurisdiction; and to remove from the marketplace products which are misbranded, adulterated, or otherwise in violation of the requirements of the act.) Indeed, FDA possesses not only the ability to compensate such intervenors but may well have a duty to do so where compensation is necessary to develop a fair and balanced record. 21 U.S.C. 371(e). As the Court of Appeals for the Second Circuit has stated, an agency (in that case, the Federal Power Commission) "must see to it that the record is complete. [The agency] has an affirmative duty to inquire into and consider all relevant facts." (*Scenic Hudson Preservation Conference* v. *FPC*, 354 F.2d 608, 620 (1965), and cases cited therein.)

In February 1976, the Comptroller General of the United States removed any vestige of doubt that an agency may use funds which Congress appropriates for "necessary expenses" to compensate indigent intervenors, even in the absence of explicit statutory authority for compensation. (Comptroller General's Opinion B–92288, Feb. 19, 1976.) Responding to an inquiry from the General Counsel of the Nuclear Regulatory Commission (NRC) as to the NRC's authority to reimburse for attorneys' fees, expert witness fees, and related expenses of participants in nuclear licensing and rule making proceedings, the Comptroller General concluded that NRC has the legal authority to compensate indigent intervenors with funds generally appropriated for "necessary expenses" if the agency determines, as a matter of discretion, that compensation is "necessary" to meet its statutory obligation to conduct public hearings. (The Comptroller General's opinion was sought by the General Counsel of NRC, following a determination by members of the Commission that they are "tentatively inclined to the conclusion" that the agency does have authority to assist intervenors financially and a published notice seeking comment on the issue. *See In the Matter of Consumer Power Co.* (Big Rock Point *Nuclear Plant*), Docket No. 50–155, Memorandum and Order, Nov. 21, 1974, at 5; and 40 FR 37056, Aug. 25, 1975.)

The Comptroller General's opinion states:

> While 31 U.S.C. § 628 (1970) prohibits agencies from using appropriated funds except for the purposes for which the appropriation was made, we have long held that where an appropriation is made for a particular object, purpose or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in controvention of the law or for some purpose for which other appropriations are made specifically available. • • •
>
> The question, of course, is whether it is necessary to pay the expenses of indigent intervenors in order to carry out [the agency's] statutory functions. • • • We believe only the administering agency can make that determination • • •.

(The Comptroller General's opinion, supra, at 3. In a previous opinion, the Comptroller General made similar statements with respect to FTC's authority to spend its generally appropriated funds to compensate intervenors:

> The appropriations for the Commission are normally available for necessary expenses. While the Commission submits budgets to the Congress prior to the passage of the appropriation acts, the appropriations are enacted in the form of lump sums with no specific limitations as to use. Thus, the determination of what constitutes necessary expenses is left to the reasonable discretion of the Commission.

Comptroller General's opinion B–139703, July 24, 1972, reprinted at Pike & Fischer, Ad. L. 2d at 424 and as addendum to 60 Geo. L. J. 525. With respect to FTC, the Comptroller General was asked to assess the authority of the agency to reimburse for transcript costs, attendance fees, mileage and subsistence expenses of witnesses or respondents, travel and other connected expenses of the intervenor's attorney and traveling and subsistence expenses incident to his own appearance.)

Addressing more directly the question of whether compensation of intervenors might constitute a "necessary expense," the Comptroller General referred to provisions of the Atomic Energy Act which mandate that, in licensing matters, NRC "shall grant a hearing upon the request of any person whose interest may be affected by the proceeding," (Opinion B–92288, supra, at 3, citing 42 U.S.C. 2239(a).) and concluded that:

> • • • if NRC in the exercise of its administrative discretion, determines that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose participation is essential to dispose of the matter before it, we would not object to the use of appropriated funds for this purpose. This is essentially the same rationale we followed in our decision B–139703, July 24, 1972, in which we held that the Federal Trade Commission (FTC) had authority to pay certain expenses incurred by indigent respondents and intervenors appearing before the Commission in adjudicative proceedings.

(Opinion B–92288, supra, at 4. The Comptroller General's opinion on FTC's authority to compensate indigent intervenors addressed this point as follows:

> Insofar as intervenors are concerned, section 5(b) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(b), specifically authorizes the Commission to grant intervention "upon good cause shown". Thus, if the Commission determines it is necessary to allow a person to intervene in order to properly dispose of a matter before it, the Commission has the authority to do so. As in the case of an indigent respondent, and for the same reasons, appropriated funds of Commission would be available to assure proper case preparation.)

FDA, like NRC, receives substantial appropriations for "necessary expenses, not otherwise provided for." (Pub. L. 94–122, Title 5, Slip. Op. at 25.) Clearly, under the rationale set forth by the Comptroller General with respect to NRC, the Commissioner has authority to determine whether compensation of certain intervenors is "necessary" for a fair and balanced hearing, and if he so determines, to award compensation to these participants. (Neither *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975), *Turner* v. *FCC*, 514 F. 2d 1354 (D.C. 1975), nor *Greene County Planning Board* v. *FPC* are applicable with respect to the relief sought by this petition. As the Comptroller General stated in his NRC opinion:

> In both the *Alyeska* and *Turner* cases, plaintiffs, the prevailing parties, sought to force their adversaries to pay their costs, including reasonable attorneys' fees. All the court did, in our view, is to uphold the 'American rule,' that in the absence of a statutory provision to the contrary, neither a court nor a regulatory commission may shift the costs from one litigant to the other. In the *Greene County case*, the court said it had no power to order either the opposing litigants or the agency to pay the costs of the intervenors.
>
> In the matter before us, we are not considering whether [the agency] has the authority to determine whether one participant in its proceedings should pay the expenses of the other, nor are we concerned with whether the persons to whom financial assistance is extended prevail. There is also no question of compelling [the agency] to pay the expenses of any of the parties. (Comptroller General's opinion, supra, at 7.)

The courts, too, have long recognized that an agency has inherent authority to take actions which it deems necessary and appropriate to carrying out its explicit statutory responsibilities. As the Court of Appeals for the Seventh Circuit observed in *Northern States Power Co.* v. *FPC.*:

> If [the agency] is intelligently to exercise its extensive regulatory and supervisory power, it must have been intended that it shall have power to do everything essential to the execution of its clearly granted powers and the achievement of the purposes of the legislation.

(118 F.2d 141, 143 (1941), citing *Clarion River Power Co.* v. *Smith*, 61 App. D.C. 186, 59 F.2d 861 (1932). In that case, the Court held that the FPC could require its licensee to adopt a particular accounting procedure, in the absence of explicit statutory authority to do so. The ability to require such procedures was held to be

"the necessary implications of the [Federal Power] act." Id.)

The Second Circuit Court of Appeals has stated,

> It has been the law at least since *McCulloch* v. *Maryland*, 4 Wheat. 316, 4 L. Ed. 579, that the lawful delegation of a power carries with it the authority to do whatever is reasonable and appropriate properly to effectuate the power. (*Gallagher's Steak House* v. *Bowles*, 142 F.2d 530, 534 (1944).)

While *McCulloch* v. *Maryland* dealt with delegation of authority by the states to the federal government, the general reasoning of that decision nonetheless applies to delegation of authority by Congress to the regulatory agencies and to the "implied powers" which petitioner urges FDA to recognize. Justice John Marshall reasoned as follows:

> [I]t may, with great reason be contended that a government entrusted with such ample powers • • • must also be entrusted with ample means for their execution. The power being given, it is in the interest of the nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution by withholding the most appropriate means • • •. (4 Wheat. 316, 4 L. Ed. 579.)

Compensation of intervenors has been deemed by several agencies to be an "appropriate means" for responding to the dilemma of how to widen participation in agency proceedings in the face of exorbitant costs to participants. (The Consumer Product Safety Commission, for example, agreed to reimburse a public interest witness for the cost of travel to a hearing on fireworks when consumer representatives petitioned the agency claiming that such travel expenses were beyond the means of representatives of their point of view.) The Commission ruled that:

> Should the Presiding Officer consider it necessary to a full and complete hearing to have the Commission provide for a representative of those parties in favor of the proposed rule or a stricter rule to appear at the Commission expense in Kansas City and Honolulu, then he may so rule.

In Re Fireworks Devices, CPSC Docket No. 74–3. More recently, CPSC ruled that it had authority to pay for the counsel of an indigent respondent and to reimburse those expenses of respondents "reasonably necessary to make meaningful the representation of counsel." *In the Matter of Esquire Carpet Mills, Inc.* FTC Docket No. 8013, CPSC June 2, 1975, Slip Op. at 3.) In fact, FDA has made some modest strides toward assisting intervenors by reducing costs, apparently on the assumption that such actions are within the agency's inherent authority. First, indigents may apply to participate in formal proceedings in forma pauperis, thereby reducing filing and duplicating costs, which are absorbed by FDA. (See supra.) Secondly, participants in any FDA proceeding, formal or informal, may request that outside independent experts be consulted by the presiding officer, as witnesses, at FDA expense. (Letter from Peter Hutt, then General Counsel of FDA, to Tersh Boasberg, Esq., May 12, 1975. See also § 2.151 of the Administrative Practices and Procedures.) Such mechanisms, while helpful, are not adequate to effectively encourage public participation, as is clearly evidenced by the paucity of such participation in FDA proceedings. Direct reimbursement of costs, including attorneys' fees, would be the appropriate next step, still within FDA's inherent authority, to ensure fair and balanced hearings.

Finally, as the Comptroller General's recent opinion makes clear, the absence of explicit statutory authority to compensate intervenors in no way implies that compensation is inappropriate. Indeed, on at least one occasion, Congress has expressly stated as much. In deleting Senate-approved financial assistance language from the Energy Reorganization Act of 1974, a Conference Committee took pains to explain the limited impact of that action. (This provision, sponsored by Senator Kennedy, would have allowed the Nuclear Regulatory Commission to "reimburse eligible parties for the cost of participation, including reasonable attorneys fees • • •." See Senate debate, 120 *Congressional Record* § 15050–15054, daily ed. August 15, 1974.) The Report of the conference committee states:

> The deletion of [the financial assistance provision] is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings. Rather, it was felt that because there are currently several cases on this subject pending before the [Atomic Energy] Commission, it would be best to withhold Congressional action until these issues have been definitively determined. The resolution of these issues will help the Congress determine whether a provision similar to Title V is necessary since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary.

(H. Rep. 93–1445, 93rd Cong., 2d Sess. 37 (1974). In reference to this conference report language, the Comptroller General has stated:

> We do not agree that the deletion of the Senate amendment indicated congressional intent to deny the NRC authority to reimburse intervenors. On the contrary, it appears that the members of the conference committee felt that although they wished to await NRC's final position on the matter, quite possibly specific legislation would not be necessary to authorize such financial assistance since they believe that the Atomic Energy Act as amended already contains the necessary authority. Opinion B–92288, February 19, 1976, at 6.)

Surely if affirmative Congressional action to delete a provision authorizing reimbursement is not to be construed as an expression of Congressional intent that reimbursement is unauthorized, then mere silence cannot be so construed, particularly in light of the inherent authority of the agency to effect such reimbursement.

Conclusion

Thus, it is clear that FDA has ample power to compensate legitimate and prudent expenses of intervenors whose participation is likely to result in fairer, more balanced decisionmaking by FDA. Compensation would further the important regulatory goals of facilitating responsible and productive public participation and providing a broader base upon which to rest crucial decisions affecting the consumers of foods, drugs, and other products regulated by FDA.

Authority to compensate intervenors is inherent in FDA's broad regulatory powers, its Congressionally mandated hearing procedure, and the wide discretion afforded in its appropriations legislation. It is barred neither by FDA's authorizing legislation nor its appropriations authority.

Appendix A—Explanatory Material

The proposed regulation is an adaptation of the proposed Public Participation in Government Proceedings Act (S. 2715, 94th Cong., 1st Sess.) and the compensation provision of the proposed Consumer Food Act of 1976, as reported by the Senate Labor and Public Welfare Committee and the Senate Commerce Committee. (S. 641 and S. Rep. 94–684). The fact that Congress is considering statutory language to authorize agencies, including FDA, to compensate intervenors does not imply that agencies lack authority to so provide by regulation. As the Comptroller General has stated with respect to enactment of the FTC Improvement Act,

> [w]e do not feel that enactment of this provision was intended to overrule or modify the basis of our 1972 decision so as to reflect on its precedent value in dealing with agencies for which Congress has not enacted a similar statutory provision. Comptroller General's Opinion B–92288, at 5.)

Petitioner selected these models as the basis for the proposed regulation because they include improvements which experience under the FTC Improvement Act, 15 U.S.C. 557(a)(h), and the regulations pursuant thereto (16 CFR 1.117) has shown to be warranted.

Under the proposed regulation, applicants for compensation must meet both an "interest" test and an "economic" test before funds may be awarded.

It is petitioner's intention that under the "interest" test (petitioner's proposed § 2.151(a)(2)(i)), compensation will be awarded to applicants who represent interests that can reasonably be expected to contribute to the fairness and balance of a proceeding, but only if the applicant has an ability to adequately represent that interest given appropriate financial assistance. (This test is a modification of the "interest" test adopted by the Federal Trade Commission, 40 FR 33968, August 13, 1975. The FTC test provides (1) that the interest represented must "be necessary for" a fair determination of the proceeding, i.e., the "necessity test" and (2) that such interest would not otherwise be represented in the proceeding, i.e., the "uniqueness test". Although Consumers Union has been awarded compensation from the FTC under this test, it has been the experience of Con-

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sumers Union and other nonindustry groups that this formulation is extremely burdensome to applicants and very difficult to administer. First, it requires that an applicant have knowledge of any other advocate who may be considering participation in a particular proceeding and the probable content of that person's presentation. As a practical matter, "public interest" applicants are not likely to have such knowledge, as they have no formal network or body to serve the coordinating function performed by industry trade associations. Furthermore, there may be instances where FDA wants to encourage participation by an outside advocate, although some information that the outsider proposes to present may already be available to FDA staff.)

The "economic" test (petitioner's proposed § 2.151(a)(2)(ii)) is stated in the alternative and is intended to permit compensation—both of applicants who cannot afford the costs of participation, and of applicants who represent interests which would contribute to the fairness and balance of the proceeding but who lack the economic stake in the outcome of the proceeding to justify the substantial costs of participating in it. In assessing the interest, i.e., the economic stake in the outcome of the proceeding, of an applicant that is a group or organization, the size of the economic stake of the organization's members, taken individually, is to be considered. When assessing the resources of an applicant, consideration is to be give to the resources which are available for purposes of advocacy. The consumer interest often can best be represented by organizations which, although not "indigent" in any technical sense, have very limited funds available for advocacy activities. Such organizations, including Consumers Union, differ from industry organizations in this respect and also in that the interest of their members as consumers are diffused among hundreds of proceedings in a multitude of agencies, while industry groups generally need to monitor only one or two agencies and select the few proceedings that directly affect their own or their members' profits. To disqualify these organizations on the basis of nonidigency may in effect remove those advocates who are best equipped to present the consumer point of view at particular proceedings.

KINDS OF PROCEEDINGS

Petitioners have requested that reimbursement be authorized for all proceedings defined in Subpart B (formal evidentiary public hearings), Subpart C (public hearing before a public board of inquiry), Subpart D (public hearing before a public advisory committee), and Subpart E (public hearing before the Commissioner) of the Administrative Practices and Procedures (proposed 21 CFR Part 2). It is the petitioner's intention that reimbursement of costs be authorized for all types of hearings for which public notice is required and an opportunity for public participation is available.

REIMBURSABLE COSTS

The proposed regulation limits reimbursement to reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants (petitioner's proposed § 2.151(a)(1)). These costs are intended to include the costs of preparing oral or written testimony, surveys and other submissions, fees for consultants, travel and administrative costs, and miscellaneous expenses. It is intended that costs incurred in preparing an application for funds would be reimbursable under the proposed regulation, in cases where funds for participation are ultimately awarded.

As a rule, applicants are to be notified before the proceeding in question begins as to whether or not they will be compensated for their costs of participation, although payment is to be made within 90 days after final disposition of the matter involved in the proceeding. However, interim advance payments are to be authorized where the participant has demonstrated that his participation will be impaired unless this manner of payment is adopted.

Petitioners further intend that a participant who has not applied for funds initially but finds during or after the proceeding that unanticipated and burdensome expenses have been incurred, may apply for compensation. At this point, of course, the Commissioner could judge the actual contribution of the applicant to the fair balance of the proceeding. Similarly, the proposal would permit persons to apply after commencement of a proceeding for funding to participate at one of the later stages of the proceeding.

APPENDIX B

May 10, 1976.

The HONORABLE JOHN E. MOSS, *Chairman Oversight and Investigations Subcommittee, Committee on Interstate and Foreign Commerce, House of Representatives*

DEAR MR. CHAIRMAN. This refers to your letter in which you request the advice of this Office, with respect to nine agencies of the Government under study by the Subcommittee on Oversight and Investigations, as to whether public participants in proceedings before those agencies may be assisted in any or all of the following ways:

"(1) the provision of funds directly to participants, (2) modification of procedural rules so as to ease their financial burden on public participants, (3) provision of technical assistance by agency staff, (4) provision of legal assistance by agency staff, (5) creation of an independent public counsel, and (6) creation of a Consumer Assistance Office such as that now employed by the FCC."

The agencies to which you refer are the Federal Communications Commission, the Federal Trade Commission, the Federal Power Commission, the Interstate Commerce Commission, the Consumer Product Safety Commission, the Securities and Exchange Commission, the Food and Drug Administration, the Environmental Protection Agency, and the National Highway Traffic Safety Administration.

Your letter refers to our decision in the Matter of Costs of Intervention, Nuclear Regulatory Commission (NRC), B-92288, February 19, 1976, to the NRC (hereafter referred to as the NRC decision) in which we considered the legality of providing similar types of assistance to participants and intervenors in NRC rule making and licensing proceedings.

Due to the time constraints established by the terms of your request, we have not solicited comments and views of the agencies concerned on the questions your letter poses. However, we have examined, with respect to each agency, some of the statutory and/or regulatory authorities which authorize or direct that public hearings be held for a variety of purposes related to accomplishment of the agency mission. We find that each agency has authority to request participation by members of the general public in its proceedings, either as parties or intervenors, although there are individual differences in the extent to which such participation would be likely to be required.

Finally, we could discover no statutory prohibition against the provision of any of the types of assistance about which you have inquired.

We thus conclude that there is no significant difference in the relevant authorities for the nine agencies you named and in those of the NRC. Accordingly, the rationale of our February 19 decision to NRC is equally applicable to each agency named.

1. Provision of funds directly to participants. With respect to your first question, appropriated funds of each agency may be used to finance the costs of participants in agency hearings whenever the agency finds that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose representation is necessary to dispose of the matter before it; and (2) the party is indigent or otherwise unable to finance its participation. It should be noted that the Federal Trade Commission (FTC) has specific statutory authority, provided by section 202(a) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. No. 93-637, 88 Stat. 2183, approved January 4, 1975, to provide compensation for expenses of participation for persons appearing before it. This provision is discussed on pages 4 and 5 of our aforementioned decision.

We would like to emphasize, however, that it is within the discretion of each individual agency to determine whether the participation of the particular party involved is necessary in order for it to properly carry out its functions and whether the party is indigent or otherwise unable to finance its participation. No party has a right to intervene at Federal expense unless the agency so determines.

Finally, for the reasons set forth in the NRC decision, we believe it would be advisable for the parameters of such financial assistance, and the scope and limitations on the use of appropriated funds for this purpose to be fully set forth by the Congress in legislation, as was done in the case of the Federal Trade Commission by the provisions of section 202(a) of the "Magnuson-Moss Warranty—Federal Trade Commission Improvement Act," supra.

2. Modification of procedural rules so as to ease their financial burdens on public participants. For the reasons stated with respect to NRC in the NRC decision, we find nothing in the laws of any of the agencies considered to prevent simplification of procedures and the elimination of unduly burdensome requirements which increase the cost of participation by parties involved.

3. Provision of technical assistance by agency staff. For the same reasons given under "Access to Technical Information and Staff" in the NRC decision with respect to NRC, the same access to technical expertise may be made available by each agency. As we stated with respect to NRC, this would not extend to the assignment of agency staff members to participants in the role of individual technical advisors for the purpose of advancing the position of a particular party.

4. Provision of legal assistance by agency staff. To the extent a participant needs factual information concerning legal aspects of a proceeding, such as explanations of procedures or examples of documents required to be filed, we believe agency staff members can provide this. However, agency staff could not be permitted to act in the capacity of advocates for a participant.

5. Creation of an independent public counsel. We believe nothing precludes an agency from having it staff present information to the agency's decisionmaking bodies concerning the public interest or consumer viewpoints in the course of a proceeding in order to call attention to relevant opinions not expressed by parties representing private interests. However, no agency could use its appropriations to establish an independent entity outside its jurisdiction and control.

6. Creation of a Consumer Assistance Office such as that now employed by the FCC. On March 19, 1976, the Federal Communications Commission (FCC) announced the formation of a new Consumer Assistance office. According to a press release from FCC:

"This office will provide a central location or coordinating point within the Commission for members of the public, citizens groups and FCC licensees who seek information or assistance.

• • • • • •

"The Consumer Assistance Office represents another step in the FCC's efforts to ensure prompt and accurate response to inquiries and to enhance public understanding of the Commission's policies and regulations.

• • • • • •

"Any person or group wishing information about the Commission's rules, matters pending or material explaining FCC policies and regulations may contact one of the full-time staff members of the Office.

"The Office also will provide information assistance to persons who wish to participate in the Commission's processes or file an application with the FCC but who are unfamiliar with the procedures to be followed.

"Finally, the Office will help prepare attractive and easy to understand brochures explaining Commission regulations and how best to comply with them."

We have been informally advised by staff of the FCC that this office is not in any way intended to act as an advocate for consumers. It does not include in its staff attorneys or professional experts in other fields. Its function is, basically, that of providing the public with factual information. We are not aware of anything which would preclude any of the agencies named in your letter from establishing a similar office.

We might also point out that our NRC decision would also be applicable to agencies other than the ones mentioned in your letter, assuming that there was no specific legislative prohibition against it, provided that the particular agency holds hearings at which it has the discretion as to whom to admit as participants or intervenors; has appropriations available to pay for "necessary expenses" to carry out the missions for which the hearings are being held; and makes the determinations mentioned in the immediately preceding paragraph. This is also true of the other types of assistance mentioned herein.

Sincerely yours,

R. F. KELLER,
Comptroller General of the United States.

Comments on the above Consumers Union petition are specifically requested on the following areas of interest:

1. In what type of proceedings, if any, should attorneys' fees and other assistance be provided?

2. Should the standard for providing attorney's fees and other assistance be the standard discussed by the Comptroller General (participation by an interested party is essential to dispose of the matter pending before the agency and the party is indigent or otherwise unable to finance participation); a standard based on the Consumers Union petition (representation of an interest which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, and the economic interest in the outcome of the person or the individual members of a group or organization seeking the assistance is small in comparison to the costs of effective participation); or some other standard?

3. What financial eligibility criteria should be adopted?

4. Should attorneys' fees be available only to those whose participation benefits the general public or has a strong public interest justification or should those with an economic interest in the outcome be eligible, e.g., a small business distributing products subject to the Federal Food, Drug, and Cosmetic Act?

5. What procedures and criteria should the agency adopt for (a) evaluating the quality of a participant's potential contribution to the resolution of a hearing; (b) to determining the importance of the issue(s) on which a participant wants to be heard; (c) assessing the strength of a participant's interest or the uniqueness of a participant's point of view; and (d) distinguishing among equally capable participants all of whom want to receive financial support for participation in the same proceeding?

6. Should the number of participants who may be subsidized in any one proceeding be limited? If so, what should the number be?

7. When should any determination of eligibility for financial assistance be made, i.e., before a hearing or after the hearing has been held?

8. If separation of function requirements apply to the hearing, what effect, if any, should this have on the timing of a determination of eligibility and the designation of an official to determine eligibility.

9. At what rate should participants be subsidized?

10. What criteria should the agency adopt for determining whether the costs of participation incurred by a participant are reasonable or necessary for participation?

11. Should reimbursable costs be limited to certain costs, but not all costs, e.g., the cost of travel, but not the costs of research needed to prepare oral or written testimony?

12. What amount of public funds should be allocated to subsidizing participants, and from what other FDA activities should the funds be taken?

13. What consideration should FDA give to alternative ways of providing advocacy assistance to participants, e.g., establishment of a public counsel within the agency to represent consumer interests in hearings; and what support should FDA give for establishment of an independent agency to advocate consumer interests?

The Commissioner points out that he would make certain editorial changes if he were to propose a regulation like that urged in the petition; so there is no need for the submission of comments to bring these matters to his attention. In lieu of the term "intervenor," he would use the term "participant," a term which has been defined broadly in § 2.3 (21 CFR 2.3) of the agency's proposed regulations on administrative practices and procedures. In addition, to comport with the organizational scheme used for the proposed regulations on administrative practices and procedures, the proposal would be numbered to fall within the general provisions of Subpart A, rather than be numbered as § 2.151, a section which properly relates solely to formal evidentiary public hearings.

Comments are welcome on these questions, as well as on any other matter relevant to the payment of attorneys' fees and provision of other assistance to participants.

This advance notice of proposed rule making is issued under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040–1059 as amended (21 U.S.C. 321 et seq.)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-24845 Filed 8-24-76;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart H—Evidence—Death

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendment to the regulation set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment relates to a finding of death for a person in missing status by an agency or department of the United States authorized by law to make such a determination. A finding of presumptive death made under section 5 of the Missing Persons Act (56 Stat. 143, 50 U.S.C. App. 1005), as amended, was

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acceptable to the Social Security Administration only as evidence of the fact of death but not of the date of death. The Missing Persons Act was repealed by Pub. L. 89–554, section 8(a), 80 Stat. 651. Members of the uniformed services and their dependents in a missing status may now be declared dead under 37 U.S.C. 555 (80 Stat. 628). Federal civilian officers and employees and their dependents in a missing status may now be declared dead under 5 U.S.C. 5565 (80 Stat. 492). The enactment of Pub. L. 89–554 resulted in no substantive change when the source law, i.e. section 5 of the Missing Persons Act, 50 U.S.C. App. 1005, was codified in section 5565 of title 5 and in section 555 of title 37 of the U.S.C. As under section 5 of the Missing Persons Act, when a finding of death is made under either 5 U.S.C. 5565 or 37 U.S.C. 555, the finding must include the date death is presumed to have occurred. Although the Federal agency concerned is legally free, upon review of the case, to continue the missing status if there is a reasonable presumption that the individual is alive, should it make a finding of presumed death the date of that death must be set at a time specified by the respective statutes. The date of presumed death is to be either a year and a day after the disappearance or, if the missing status was continued beyond 12 months from the time of the disappearance, a date determined by the agency concerned. These statutes also specify that the date is "for the purpose of the ending of crediting pay and allowances and settlement of accounts" and, in cases involving a member of a uniformed service, for the payment of death gratuities. Therefore, a determination made under these statutes must be accepted by the Social Security Administration as evidence of the *fact* of death but not of the *date* of death. The latter date is controlling only with respect to the agency making the determination of presumed death and only for the purposes indicated in the statutes. In the absence of evidence establishing a later date, the Social Security Administration will use the missing date (usually cited in the finding) as the date of death for purposes of benefit payments.

Consequently, 20 CFR 404.704(b)(3) is being amended to reflect the repeal of the Missing Persons Act and its replacement by 37 U.S.C. 555, applying to members of the uniformed services and their dependents and 5 U.S.C. 5565, applying to Federal civilian officers and employees and their dependents. The amendment also clarifies that, when a determination of death is made in respect to a missing person under either of these Federal statutes, in absence of evidence establishing a later date, the Social Security Administration shall use the date the person disappeared as the date of death for benefit payments rather than the date of death determined by the other department or agency.

Prior to the final adoption of the amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education and Welfare, P.O. Box, 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Sec. 205 and 1102 of the Social Security Act, as amended; 49 Stat. 624, as amended; 49 Stat. 647, as amended, 53 Stat. 1362, as amended; 42 U.S.C. 405 and 1302.)

(Catalog of Federal Domestic Program No. 13.805, Social Security—Survivors Insurance.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

20 CFR Part 404 is amended by revising paragraph (b)(3) of § 404.704 to read as follows:

§ 404.704 Evidence as to death.

* * * * * * *

(b) * * *

(3) A certified copy of an official report or finding of death made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designed in § 404.701(g) (2) or (3), as approviate: *Provided, however,* That a finding of presumptive death made pursuant to the missing persons provisions of 5 U.S.C. 5565 or 37 U.S.C. 555, shall be accepted only as evidence of the fact of death and not of the date of death. In the absence of evidence establishing a later date, the Social Security Administration shall use the missing date as the date of death for purposes of benefit payments.

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[FR Doc.76–24918 Filed 8–24–76;8:45 am]

[20 CFR Parts 404, 416]

[Regs. No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Cancellation of a Request for Withdrawal of an Application

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide that the time allowed for the cancellation of an approved request for withdrawal of an application for social security benefits or supplemental security income benefits shall be measured from the date of the notice to the claimant rather than from the date of approval of the request for withdrawal. This would ensure that the claimant knows the point in time from which to measure the period allowed for requesting cancellation of an approved request for withdrawal of an application. Interested parties have until on or before October 12, 1976 in which to submit data, comments or arguments.

Under current provisions of Regulations No. 16, a claimant may cancel his request for withdrawal of his application within 60 days of the approval of the withdrawal request. There may be a delay of several days between the approval of the request and the date the notice of the approval is released. The claimant is not aware of the date of approval and, therefore, could not know the date by which his request for cancellation must be made. Under the proposed regulation the 60 days would run, not from the date of the approval of the withdrawal request, but from the date of the notice to the claimant that the request for withdrawal has been approved. This would ensure that the claimant knows the point in time from which to measure the 60 days and grants more time than currently allowed for the claimant, if he so desires, to reinstate his application. Conforming changes are also being made to Regulations No. 4.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or argument pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments to the regulations are to be issued under the authority contained in sections 205, 1102, 1611, and 1631 of the Social Security Act, as amended, 49 Stat. 624 and 647, as amended, 86 Stat. 1466, 86 Stat. 1475, 42 U.S.C. 405, 1302, 1382, 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security-Disability Insurance; 13.803, Social Security-Retirement Insurance; 13.807, Supplemental Security Income Program.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.615a is revised to read as follows:

§ 404.615a Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 404.603 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application or request for revision of earnings be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

2. Section 416.345 is revised to read as follows:

§ 416.345 Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 416.310 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

[FR Doc. 76–24919 Filed 8–24–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93, 95]

[Docket No. 20846]

PUBLIC LAND MOBILE RADIO SYSTEMS

Interconnection Policies; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Parts 89, 91, 93 and 95 (Class A only) of the Commission's rules to prescribe policies and regulations to govern "interconnection" of private land mobile systems with the public switched telephone network, Docket No. 20846.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a petition filed by the National Association of Business and Educational Radio, Inc. (NABER) for an extension of time for filing comments in the above-captioned proceeding.[1] The prescribed time for filing comments ends September 3, 1976. The petitioner requests that this deadline be extended to December 3, 1976.

2. In support of its petition, NABER points out that while it is certain that many licensees in the Business Radio Service now utilize some form of interconnection, there is a lack of definitive information as to how widespread such interconnection arrangements may be and considerable uncertainty as to the future demand for this capability. Accordingly, in order to insure a responsive and comprehensive filing, NABER wishes to prepare a questionnaire on this subject to canvass all of its members.

3. The Commission, in the Notice of Inquiry phase of this proceeding, solicited information on the various types of interconnection arrangements now in use, the utility of interconnected private land mobile radio systems in the conduct of activities and functions permitted in the private radio services, and the needs and requirements presently met through interconnected facilities which could not be met if the practice was to be limited and restricted as proposed. In addition, we sought information on the degree to which interconnected communications would be compatible with dispatch functions more characteristic of the private services.

4. We feel that the proposed NABER survey would be in accord with the above-stated objectives and would contribute substantially to the information necessary for a proper determination in this matter. We are particularly desirous of obtaining such information on the effect (actual or anticipated) of interconnection in the Commission's largest and most heterogenous commercial radio service. Accordingly, we find that a grant of the NABER petition would be appropriate.

5. Further, in consideration of the large number of anticipated comments in this proceeding and the occurrance of the holiday season near the end of what would normally be the revised reply comment deadline, we propose to extend this deadline an additional two weeks.

6. Accordingly, it is ordered, Pursuant to the authority contained in §§ 0.331 and 1.46 of the Commission's rules, that the time for filing comments in Docket 20846 is extended to December 3, 1976, and that the time for filing reply comments is extended to January 18, 1977.

Adopted: August 17, 1976.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.76–24894 Filed 8–24–76;8:45 am]

[1] See 41 FR 28540, Monday, July 12, 1976.

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Final Notice of Proposed Trade Regulation Rulemaking Proceeding and Public Hearings

On January 26, 1976, the Commission published in the FEDERAL REGISTER (41 FR 3747) an initial notice proposing a revised trade regulation rule relating to Care Labeling of Textile Products and Leather Wearing Apparel (proposed revised rule) under the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and rules of practice (Rules of Practice) 16 CFR 1.7–1.20, and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure). The Commission staff has written a report on the proposed revised rule. The report has been placed in the public record and can be studied by interested persons in Room 130, Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

Now, under the same authority and more specifically under § 1.12 of the rules of practice the duly appointed Presiding Officer gives final notice of this proposed rulemaking proceeding. The contents of the initial notice which includes the proposed revised rule are incorporated in this notice by reference.

NOTICE TO INTERESTED PERSONS

A. WRITTEN COMMENTS

Please send data, views and arguments on any issue of fact, law and policy that may have some bearing on the proposed revised rule. Your comments need not be limited to the designated issues set forth below in Section D. You may comment on any aspect of the proposed revised rule. Any earlier comments you may have sent have been placed in the public record and need not be sent again.

Send your comments to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than September 24, 1976. Mark them "Care Labeling Comments" for prompt identification and consideration. If possible, send five copies.

B. PUBLIC HEARINGS: DATES AND PLACES

Public hearings on the proposed revised rule will be held as follows:

1. *Washington, D.C.* Hearing will start on November 8, 1976, at 9:30 a.m. in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at 6th Street NW.

2. *Los Angeles, California.* Hearing will start on January 10, 1977, at 9:30 a.m. in Room 13209, Federal Building, 11000 Wilshire Boulevard.

If more hearings are needed, the dates and places will be published later in another FEDERAL REGISTER notice.

C. INSTRUCTIONS FOR WITNESSES

If you are a member of an interested group you are encouraged to make your

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views known through your group representative. If you want to testify at a hearing, in any capacity, you must, by the date specified below, give notice and file a word-for-word statement of your testimony or at least a detailed outline. You can testify in only one location.

If you want to testify at the Washington hearing, contact Cynthia S. Lamb ((202) 724–1566), Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commmission, Washington, D.C. 20580. You must notify and file with Ms. Lamb your word-for-word statement of testimony or detailed outline no later than October 15, 1976.

If you want to testify at the Los Angeles hearing, contact Helen T. Sierichs ((213) 824–7575 ext. 234), Federal Trade Commission, 13209 Federal Building, 11000 Wilshire Boulevard, Los Angeles, California 90024. You must notify and file with Ms. Sierichs your word-for-word statement of testimony or detailed outline no later than December 20, 1976.

In your statement or outline list each fact, observation, opinion and conclusion you are going to discuss. If possible, give the specific factual basis for each opinion and conclusion. Remember, the proposed revised rule declares certain acts and practices unfair or deceptive. The Commission needs evidence in the record as to the prevalence of such acts and practices.

Your statement or outline must be available for study by other interested persons before the hearing so they can decide whether to examine or cross-examine you or file contradictory statements (rebuttals). This is an additional reason for you to make your statement or outline as detailed and factual as possible.

If you file an outline that is not sufficiently detailed or factual, the Presiding Officer may require you to file a word-for-word statement before you testify. If you fail to furnish a statement or outline of your testimony, the Presiding Officer has the power to refuse to let you testify.

Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period so they can be studied by interested persons. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines for filing statements or outlines. Mark each document with your name and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitate, biographical sketch, resume or summary of your professional background and a bibliography of your publications. If you are going to testify but not as an expert witness, attach such material if it is available.

If possible, send five copies of your statement or outline and exhibits.

In your testimony you can discuss any questions of fact, law or policy concerning the proposed revised rule. You do not have to limt your testimony to the designated issues. But if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons and there may be rebuttals. Also, the Presiding Officer may question you directly or let others question you about other issues.

These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires.

Ordinarily, you will have about twenty minutes for your testimony. If you need more than twenty minutes, send your request for extra time when you file your statement of testimony or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning. If you want to discuss more than can be presented in a limited time, include it in your written statement.

D. DESIGNATED ISSUES

Set forth below are the issues which the Presiding Officer has determined to designate under § 1.13(d)(1) of the rules of practice as issues to be considered in accordance with § 1.13(d) (5) and (6) of the rules of practice. Testimony with respect to these issues may entitle group representatives or other interested persons to conduct or have conducted such cross-examination as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issue so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by an interested person add to or modify any designated issue. Such petitions will not be considered unless good cause is shown why such issue or modification was not proposed during the time specified in the initial notice.

The Presiding Officer has designated the following disputed issues of fact as material and necessary to resolve:

1. *Piece Goods; Yarn* (*§ 423.2*). Are there methods of distribution available for the purpose of ensuring that permanent care labels are obtained by consumer-purchasers of piece goods and yarn at the point-of-sale without requiring the retailer to be ressponsible for such distribution?

2. *Carpets and Rugs* (*§ 423.3*). Are there methods of distribution available for the purpose of ensuring that care instructions are obtained by consumer-purchasers of carpets and rugs at the point-of-sale without requiring the retailer to be responsible for such distribution?

3. *Intermediate Components* (*§ 423.4*). In the absence of regular care instructions accompanying intermediate components covered by the proposed revised rule, do a substantial number of manufacturers of products covered by § 423.1 or § 423.3 of the proposed revised rule assume that certain regular care procedures can be successfully used without restriction to refurbish the components themselves or products made from such components? If so, does this assumption result in damage or substantial impairment to such products or their components due to inaccurate, incomplete or unclear care instructions on labels provided by manufacturers of such products.

4. *Bleaching Instruction* (*§ 423.5(a)(1)(iii)*). When a product covered by the Rule contains a washing instruction which does not include a bleaching instruction, do a substantial number of consumers of such products assume that any accepted bleaching method can be used on such products without damage or substantial impairment? If so, does the assumption result in damage or substantial impairment to the product due to the application of improper bleaching methods by the user?

5. *Bleaching Instruction* (*§ 423.5(a)(1)(iii)*). Is bleaching information in washing instructions required by the proposed revised rule needed to enable the consumer-purchaser of a product covered by such rule to care for and maintain the product adequately without damage or substantial impairment§

6. *Dry Cleaning Instruction* (*§ 423.5(a)(2)*). If a dry cleaning solvent is specified in a dry cleaning instruction, will the consumer-purchaser of a product containing that specification assume that the solvent is readily available in the vicinity of the consumer's residence?

E. REQUESTS FOR CROSS-EXAMINATION RIGHTS

If you want to examine or cross-examine witnesses on the designated issues, you must give written notification to the Presiding Officer by September 24, 1976. State your particular interest in and your position on each designated issue or, if you have no interest or position as to any issue, merely indicate, "No Interest". Also furnish any explanation as to why you are requesting the right to take part in examination as to why you are requesting the right to take part in examination, cross-examination, or to offer rebuttals. Send your request to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 by September 24, 1976, regardless of the hearing you want to take part in. Mark your notice "Care Labeling Notification" so it can be considered promptly.

If new designated issues are added later you must promptly give the Presiding Officer an additional notice of interest and request for cross-examination rights.

You have a right to study statements of testimony and outlines submitted by prospective witnesses and prepare for examination, cross-examination, or rebuttals. To do so, contact Ms. Lamb in Washington, D.C. or Ms. Sierichs in Los Angeles (see Section C).

Before the hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative

for the purpose of examination, including cross-examination. If members of any group cannot agree on a representative the Presiding Officer may select one.

If you are a member of such a group, you must make a good faith effort to agree on a representative. If you cannot agree and you wan to present major relevant issues which will not be adequately presented by the group representative, notify the Presiding Officer. He may allow you to conduct or have conducted examination of witnesses, including cross-examination, or to offer rebuttals.

F. SUMMARY OF HEARING DATES

1. Washington, D.C., November 8, 1976.
2. Los Angeles, Calif., January 10, 1977.

G. SUMMARY OF DEADLINES

1. All written comments and requests for cross-examination, September 24, 1976.

2. Witnesses' prepared word-for-word statements or detailed outlines and exhibits for:

(a) Washington hearing, October 15, 1976.
(b) Los Angeles hearing, December 20, 1976.

Issued: August 25, 1976.

JOHN A. GRAY,
Presiding Officer.

[FR Doc.76–24854 Filed 8–24–76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Office of the Secretary

[CM-6/84]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on Thursday, September 16, 1976, in Room 8440 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 17th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London in February, 1977. In particular, the working group will discuss the following topics:

Promulgation of navigational warnings to shipping,

Training and qualifications of radio officers, radio operators, and radio telephone operators,

Operational standards for shipboard radio equipment,

Operational requirements for emergency position indicating radio beacons and portable radio apparatus for survival craft.

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

For further information, contact LT. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

AUGUST 17, 1976

[FR Doc.76-24811 Filed 8-24-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on September 28, 29, and 30, 1976 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

AUGUST 20, 1976.

[FR Doc.76-24898 Filed 8-24-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. AIR CONDITIONING AND REFRIGERATION WHOLESALERS, ET AL.

Proposed Judgment; Comments and Responses

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court for the Northern District of Ohio, Eastern Division, in Civil Action No. C-70-829 WKT, "United States of America v. Air Conditioning and Refrigeration Wholesalers, et al.," were received by the Department of Justice and are published herewith, together with Justice's responses to these comments.

Dated: August 18, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF INTERNATIONAL PLASTICS, INC.

The United States submits this response to the comments of International Plastics, Inc., (IPI) upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

In its comments, IPI urges that additional relief be included in the proposed Judgment to deal with the special problems of independent repackagers of refrigerant gas. IPI seeks provisions requiring timely delivery of adequate supplies of refrigerant gas to repackagers; it seeks a requirement that such gas be sold to repackagers at "reasonable prices" in relationship to the prices at which manufacturers are selling gas in packaged form; and it seeks the right to institute actions to enforce the Judgment.

The Department of Justice in formulating the proposed Judgment has sought to protect the interest of repackagers and all other resellers of refrigerant gas. Thus the Judgment enjoins the type of conspiratorial action which was the gravamen of the complaint, and in addition requires that for five years, each defendant sell refrigerant gas to any reseller on non-discriminatory terms and conditions to the extent the defendant has gas and containers available. But IPI seeks preferred treatment, particularly as to price.

1. ANTICIPATED ECONOMIC IMPACT OF THE PROPOSED JUDGMENT

IPI argues that the inevitable economic impact of the proposed Judgment will be to eliminate and destroy independent repackagers of refrigerant gas and thus to deprive wholesalers and other resellers of refrigerant gas of the benefits of independent repackagers as a source of supply.

A repackager buys refrigerant gas in large quantities (tank car or truck load lots), from a manufacturer and repackages it into smaller containers. These containers may be as small as one pound packages aimed at the ultimate user such as an automobile owner who wishes to add refrigerant gas to the car's air conditioner, or the container may hold 145 pounds of gas, suitable for an air conditioning wholesaler. IPI correctly notes that the manufacturer defendants in this case are in the business of packaging refrigerant gas as well as the business of manufacturing it.

GOVERNMENT'S RESPONSE

The claim that the judgment will inevitably destroy independent repackagers as competitors is wholly without merit. It is plausible only if the repackager has no useful economic function once the conspiracy alleged in the complaint is terminated. That alleged conspiracy kept refrigerant manufacturers from selling to non-ARW wholesalers. Independent repackagers such as IPI were able to take advantage of this conspiracy to sell to such non-ARW wholesalers. But for some time now, manufacturers have also been selling to non-ARW wholesalers. The economic impact of the Judgment will not be to cut off the supplies of independent repackagers or to require manufacturers to sell to them at high prices. In fact, the impact of the Judgment will be just the opposite. It will require sales to them at non-discriminatory prices, and it will assure that if a manufacturer has gas available, it must sell. If a manufacturer sells to one reseller in bulk at a favorable price, he may not discriminate against a repackager buying similar bulk quantities pursuant to Section VI of the Judgment.

IPI will have to continue to face competition from manufacturers which also package and sell their gas to non-ARW wholesalers.

Surely, IPI cannot be urging that the Court order the conspiracy to continue thus freeing IPI of such competition.

2. RECENT DEVELOPMENTS IN THE REFRIGERANT GAS MARKET

IPI notes a number of recent developments in the refrigerant gas market which it contends require the Court to reject the proposed Judgment as not in the public interest.

The developments noted may be summarized as follows:

(1) IPI is now able to purchase refrigerant gas in bulk from a number of the defendant manufacturers, rather than from only one or two of them as in past years.

(2) There is vigorous price competition by the manufacturers in selling refrigerant gas in cylinders and other consumer oriented packages.

(3) The defendant manufacturers are now competing with IPI for sales to non-ARW wholesalers and to other types of customer.

(4) The price spread between refrigerant gas in bulk and in package form has narrowed.

(5) IPI has not been able to purchase all the refrigerant gas it desired in 1973 and 1974.

GOVERNMENT'S RESPONSE

All these developments appear consistent with a competitive market, and do not appear to be a result of the conspiracy alleged in the complaint in this action. In fact, several of these developments would be expected results of an end to that conspiracy.

Refrigerant gas has as its principal raw materials, chemicals derived from petroleum. Thus when the price of petroleum rose from about $3.50 in 1973 to $12.00 per barrel in 1976, the price of refrigerant gas might be expected to follow a similar course. Likewise when there was a shortage of petroleum in 1973 and 1974 because of the Arab boycott, it is not surprising that there was a shortage of refrigerant gas.

In times of shortage it is not surprising that a manufacturer would unilaterally determine to take care of its internal needs for refrigerant gas to be sold in the consumer oriented containers, and to sell gas in bulk only at a price which returned as much total profit. Likewise it is not surprising that once the conspiracy alleged in the complaint was ended, manufacturers of refrigerant gas sought to win new markets from which they had previously been excluded by the conspiracy. As a result, IPI experienced new competition.

In short, the Department of Justice was aware of the "recent developments" noted by IPI. The Judgment was drafted in light of those developments. In particular, this is shown by the provision of Section VI (C) relating to allocation in times of shortage, a provision which did not appear in early drafts of a proposed Judgment.

3. ADDITIONAL PROVISIONS OF THE PROPOSED JUDGMENT

IPI urges that the Court find the proposed Judgment not in the public interest (1) because it does not contain provisions requiring timely delivery of adequate quantities of refrigerant gas in bulk to fill orders of independent repackagers, (2) because it does not require that sales of such gas be at "reasonable prices", and (3) because it does not permit non-parties such as IPI to apply to the Court for enforcement of the Judgment.

GOVERNMENT'S RESPONSE

1. For a period of five years, the Judgment does require each of the defendant manufacturers to sell refrigerant gas to IPI to the extent the defendant has gas and containers available. The defendant may not avoid the thrust of this order by delay or obfuscation. On the other hand, the Court must recognize that gas may not always be available in sufficient quantities to fill all orders. A great deal of thought, argument, and economic research went in to the Government's proposal as to what to do under such circumstances.

At the outset, it should be said that simply because one manufacturer is short of gas, it does not at all follow that all others will be similarly short. In fact, we expect excess capacity if there is a decline in the use of fluorocarbons as propellants in aerosol sprays.

As outlined in greater detail in the Competitive Impact Statement, the timing of demand in this industry and the capital investment of the manufacturers in cylinders and marketing programs dictated that manufacturers be specifically permitted to consider in such allocation program anticipated demand and marketing objectives for container mix.

2. The Court should not undertake to require sales of refrigerant gas at "reasonable prices". It is true that in antitrust cases courts may order licensing of patents at "reasonable royalties" and in a very few other monopoly cases the monopolist has been ordered to provide some other service at "reasonable prices". "United States v. International Boxing Club of New York," 358 U.S. 242 (1959). But absent a monopoly, the Court can and should rely on the pressures of competition to determie price. Here there are six competing manufacturers selling refrigerant gas. The Court would be unwise to put itself in the position of establishing prices in this industry.

3. The Court should not permit enforcement of this Judgment by non-parties. The courts have routinely refused to permit non-parties to enforce Government antitrust judgments, "United States v. American Society of Composers, Authors and Publishers," 341 F. 2d 1003 (1965), except in the unusual circumstance where reasonable royalty patent licensing has been ordered. "United States v. Vehicular Parking," Ltd., DC, D. Del. (1947) 7 FRD 336.

CONCLUSION

IPI is in error in its prediction that the economic impact of the proposed Judgment will be to eliminate and destroy it as a competitor in the market for packaged refrigerant gas. The "recent developments" in the refrigerant gas industry noted by IPI were known to the Government during the period when the Judgment aws being negotiated. These developments point towards a competitive market and an end to the conspiracy alleged in the complaint. The IPI proposals for additional relief are unwise, not warranted by the allegations of the complaint, and would burden the Court with price regulation of the refrigerant gas industry.

Dated: August 17, 1976.

JOHN A. WEEDON,
Chief, Great Lakes Field Office.
ROBERT S. ZUCKERMAN,
Assistant Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF REFRIGERATION SALES COMPANY

The United States submits this response to the comments of Refrigeration Sales Company, upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

First, the definition of "refrigerant gas" in the Consent Decree is limited to use as a refrigerant. This was the area covered by the conspiracy and is the part of the industry to which the Consent Judgment addresses itself. Gas with the chemical characteristics specified in the definition of refrigerant gas is produced in extremely large quantities for such purposes as propellants for aerosol containers.

The terms of the Consent Judgment have no rational relationship to the other areas where the gas is used. As a result, limiting the definition of refrigerant gas to its use as a refrigerant is justified by the facts and logically consistent with the terms of the Consent Judgment.

Second, the comments suggest certain changes in the definition of the term "reseller". The Competitive Impact Statement ("CIS") clearly covers the area of specificity mentioned. Further, the term "reseller" is broadly defined to include all possible business entities without the necessity of a "laundry list", which could, by negative implication, exclude a reseller of a type not contemplated. Therefore, it is believed that a broad, nonspecific definition of "reseller" is most appropriate in this Consent Judgment.

Third, the comments note that the injunctive prohibitions of the Judgment are limited to an injunction against concerted refusals to deal. It is true that the perpetual injunction in Section IV(A) is so limited. It is thus responsive to the allegation of law violation contained in the complaint and the prayer for relief of the complaint. However, the unusual injunctions of Section IV (B) and (C) broadly prohibit for five years even discussions of distribution policies and practices amongst manufacturers or by ARW. These provisions thus provide unusually strong relief to prevent the type of conspiritorial activities which Refrigeration Sales Company fears. The Judgment does not deal with unilateral actions by individual defendants in establishing distribution and pricing policies, as such activities were not the subject of this action. It is appropriate that general statutory and common law apply to such activities.

Fourth, the comments of Refrigeration Sales Company argue that the five year time period for the compulsory sales provision of the proposed Judgment is too short. Compulsory sales provisions in antitrust judgments vary in duration depending on their purpose. Here the aim is to end a pattern of refusals to deal which allegedly resulted from a conspiracy. Once a new pattern of business relationships is established, the Court should end as quickly as possible the absolute requirement that defendants sell refrigerant gas to every business which falls within the very broad definition of "reseller." There are, of course, valid business reasons why a manufacturer might thereafter, wish to limit his sales.

Fifth, the comments oppose the proviso in Section VI (A) of the Judgment that defendants need not sell gas in containers larger than 145 pounds to any person who is not technically qualified to use such gas to fill smaller containers. Sales of refrigerant gas, particularly R-12 and R-22, the most commonly used gases, to wholesalers and other resellers are typically made in 145-pound cylinders. Again, the Consent Judgment cannot hope to deal with every possible

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transaction in every form and size. However, the language of paragraph VI(A) covers the overwhelming majority of sales to wholesalers and other resellers and specifically deals with the facts as we know them in this case. The proviso tracks langauge in the prayer for relief of the complaint in this case. We believe it affords appropriate protection to the public as well as to the manufacturers.

Sixth, the question raised in the comments regarding deliveries to other than principal places of business is provided for in the Consent Decree. The Competitive Impact Statement makes the warehouse situation clear. Further, manufacturers may not agree on whether they will ship direct to a customer. This is neither prohibited nor mandated by the Consent Decree. There are arguments for and against "drop shipping." Nothing further by way of specificity is required in the Consent Judgment.

Seventh, concerning the recommended language regarding public warehouses, as pointed out in the comments, this is covered in the CIS. Again, to avoid a "laundry list" situation, it is believed that no useful purpose would be served by adding this language to the Consent Decree.

Finally, we believe that the terms of this Consent Decree, (see paragraphs III and VII) bind the ARW, its members, and subgroups operating under the ARW's auspices. Thus, we believe that the ARW's regional groups are covered by the Consent Decree and would act accordingly should these groups act in ways contrary to the Consent Decree.

Though many points raised in the comments are well-taken, we believe, based on the foregoing, that the changes recommended are either unnecessary or inappropriate and, therefore, would not further the public interest in this matter.

Dated: August 17, 1976.

ROBERT S. ZUCKERMAN,
Assistant Chief,
Great Lakes Field Office.
JOHN A. WEEDON,
Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

BERGSON, BORKLAND,
MARGOLIS & ADLER,
Washington, D.C., July 1, 1976.

Re *United States* v. *Air Conditioning and Refrigeration Wholesalers, et al.* Civil No. C-70-829

JOHN WEEDON, Esq.,
Chief, Great Lakes Field Office,
Antitrust Division,
U.S. Department of Justice,
Celebreaze Federal Building,
Cleveland, Ohio.

Dear Mr. WEEDON: This is in connection with the proposed consent judgment in the above case which was published in the FEDERAL REGISTER on May 10, 1976. I am submitting these comments on behalf of Refrigeration Sales Co., Inc. of Long Island City, New York.

There are a number of respects in which the proposed consent judgment should be modified in order to provide adequate relief from the violations alleged in the complaint. The gravamen of the complaint was that the defendant manufacturers of refrigerant gas had agreed with a trade association of air conditioning and refrigeration wholesalers to boycott national wholesalers and others who sought to purchase a gas for resale in competition with trade association members, or agreed to sell such other wholesalers only under certain disadvantageous or restrictive terms. We are concerned that the proposed judgment does not preclude a continuation of such anticompetitive practices, in the changing circumstances of the industry. In addition, there are a number of respects in which the language of the decree could be clarified to more clearly set forth the intention described in the Competitive Impact Statement.

Our proposed changes are as follows:

Paragraph II(A). The proposed judgment defines "Refrigerant gas" or "gas" to mean combinations of carbon, chlorine, fluorine and in some instances hydrogen, "which is sold for use in airconditioning and refrigeration equipment". This is a change from the definition in the complaint, which refers to gas "which is suitable for use in air conditioning and refrigeration equipment" (emphasis added). We see no good reason for the change in this definition. Refrigerant gas sold to wholesalers has always included gas used for purposes other than for installation in air conditioning and refrigeration equipment. While the complaint is directed to violations in the sale of gas for replacement purposes in such installations, the practices also affected sales for other purposes. As pointed out below, in our discussion of VI(A), competition in sales for other purposes has increased, particularly in large volume containers, and the judgment should protect competition in this aspect of the market.

We submit that the definition of "refrigerant gas" or "gas" should maintain the same scope as was set forth in the complaint. It should be changed by deleting the word "sold" and inserting instead the word "suitable".

Paragraph II(D). The proposed judgment defines "Reseller" to mean "any person, other than a manufacturer of refrigerant gas, which is engaged in the United States in the business of purchasing refrigerant gas for resale to contractors, dealers, installers, servicemen, or other resellers." A principal item of relief proposed in the consent judgment is the requirement that defendant manufacturers sell on a nondiscriminatory basis for a period of five years to "any reseller" who meets certain specified requirements. It is clear from the Competitive Impact Statement that this obligation is supposed to include all resellers; and, specifically, that it is intended to require defendants to sell to wholesalers who resell to ultimate users that do their own installing or service work (see Competitive Impact Statement, pp. 9–10). This intention is not fully expressed in the stated definition of the word "reseller", because it could be interpreted as being limited to companies who in turn sell to other resellers (to contractors, servicemen, etc.). We submit that the definition should be amended to clarify this point. This could be accomplished by inserting the words "(including industrial and commercial users who do their own installation or service)," after the word "servicemen".

Paragraph IV(A). This provision enjoins the defendants from combining or conspiring with any manufacturer of refrigerant gas, or any association or group of purchasers, "to refuse to sell refrigerant gas to any customer or class or group of customers". As above stated, the violations stated in the complaint consisted of a combination and conspiracy not to sell, or not to sell except on disadvantageous or restrictive terms. In particular, it is alleged that there was an agreement not to deliver containers of gas to certain destinations (see Competitive Impact Statement, pp. 2–3). There were other discriminatory practices as well to which the decree should be addressed. One of particular significance has been the refusal to accept cylinder returns and to refund cylinder deposits as requested by disfavored wholesalers or their customers. The manufacturers retain ownership of the cylinders, and they are able to use this power for anticompetitive ends; the deposit amounts can be very substantial for individual wholesalers. Refrigeration Sales has had experience with this problem; it offers to customers the service of handling returns of cylinders and has encountered serious difficulties in arranging for refunds. The Competitive Impact Statement (pp. 5, 10) recognizes the manufacturers' interests in the handling of refund of container deposits. There should be equivalent respect for the customers' interests in fair and non-discriminatory treatment. It should be noted that the necessity to prevent discriminatory treatment is recognized elsewhere in the proposed consent judgment, in VI(A), which imposes a duty upon defendant manufacturers to sell to any reseller for a term of years, and includes the requirements that such sales shall be upon "the manufacturer's terms and conditions of sale", i.e., those generally applicable.

In our view, it is essential that paragraph IV(A) should prohibit a conspiracy or agreement to impose discriminatory terms upon any purchaser; and specific reference should be made to the terms governing cylinder returns and refunds. This paragraph should be amended, therefore, by inserting at the end, after the words "or group of customers", the following: ", or to sell refrigerant gas to any customer or group of customers upon discriminatorily unfavorable or unreasonable terms, including terms for return of cylinders and refunds of deposits pursuant to customer request."

Paragraph VI(A). This paragraph contains the critical item of relief which is essential to open up channels of trade that had been blocked by the combination and conspiracy among the manufacturers and the trade association, and to provide some assurance that the alleged practices will not be continued or resumed. It orders each defendant manufacturer to sell refrigerant gas on a nondiscriminatory basis to any reseller who meets cash or credit requirements for a period of five years, and to ship to branches or warehouses of such resellers. Because of the importance of this relief, we are most concerned about the following limitations or inadequancies which should be rectified.

1. The obligation to sell is for five years. We do not believe that this is a sufficient period of time to dissipate the effects of the combination and conspiracy. As the complaint alleges, the conspiracy goes back more than two decades insofar as the leading manufacturers are concerned. This case itself has been pending for six years, a longer period of itme than would be covered by the proposed injunction. In these circumstances, five years is simply too short to assure that long-standing abuses have been ended, not merely suspended temporarily. Furthermore, refrigerant gas goes through periods of fluctuating demand. We are now in an oversupply situation because of a decline in use of fluorocarbons in aerosols, and the obligation imposed by VI(A) should be of sufficient duration to reach beyond the current cycle of oversupply. We recommend that the period should be at least 10 [ten] years.

2. The manufacturers' obligation to sell is subject to the following exception: "*Provided, however,* That a defendant manufacturer shall not be required to sell refrigerant gas in containers larger than 145 pounds to any reseller which is not technically qualified to uses such gas to fill smaller containers."

We submit that the exception proviso must be modified in two respects:

(a) The cutoff point of 145 pound containers is not appropriate as an across-the-board standard. For each refrigerant, there are different sizes of containers which represent those sold for normal installation, as distinguished from possible use for refilling smaller containers. Refrigerant 12 is sold for that purpose in cylinders up to 145 pounds, and it is that to which the proposed consent judgment appears to refer. But this limit is not appropriate for other commercially important refrigerants. Refrigerant 114 is sold in cylinders up to 150 pounds for normal use. In addition, two important types are sold in liquid form—refrigerant 11 in drums up to 650 pounds, and refrigerant 113 in drums up to 690 pounds. Accordingly, the proviso should be changed by substituting for the words "refrigerant gas in containers larger than 145 pounds" the following: "Refrigerant gas in containers larger than 150 pounds, or refrigerant gas in liquid form in containers larger than 690 pounds."

(b) The proviso is based upon the assumption that larger containers are utilized to fill smaller containers, and hence that it is reasonable for the manufacturers to impose a condition that the reseller must be technically qualified to undertake such refilling. However, during the time in which this complaint has been pending, there has been an increasing development of wholesaler business in the resale of larger sizes of containers directly to ultimate users. Thus, Refrigeration Sales Co., Inc. purchases and resells—without refilling—refrigerant gas in ton tanks and in bulk (tank trucks or tank cars) in substantial and growing quantities. These are sales to industrial or commercial users—industrial plants, large refrigerated warehouses or large building complexes. Because of the importance of wholesale competition in this sector of the business, it is essential that the consent judgment provide assurance that restrictive practices not be utilized to impair or limit competitive activities in such sales. Hence, the proviso in paragraph VI(A) should permit the manufacturers to consider a reseller's technical qualifications for refilling *only* when refilling is contemplated. There would be no purpose, other than an anticompetitive purpose, in using the pretext of technical qualification as a basis for refusing to sell large containers to a company like Refrigeration Sales which plans to resell the containers in wholesale competition. This danger could be guarded against by amending the proviso to insert after the initial words "provided, however, that" the following: ", when refilling is contemplated by the reseller,".

As indicated in our comment on paragraph II(A), some of the applications for which bulk volumes of refrigerant gas are sold go beyond refrigeration and air conditioning. These include use in petroleum processing, freeze-drying and as solvents or propellants. While the amount of such activity has increased during the pendency of the case, the wholesaler market has always included purchases and resale for non-refrigerant uses. These were included in the sales data alleged in the complaint. The manufacturers' price lists to wholesalers have regularly included gas in units designed for such use, e.g., in fire extinguishers and for cleaning purposes. Furthermore, as a practical matter, the decree should cover sales of refrigerant gas to wholesalers regardless of the ultimate application. The manufacturer has no right to control the purposes for which a wholesaler resells, and should not be permitted or encouraged to inquire into such resales. In addition, the unlawful practices are or can be employed in all sales to wholesalers, regardless of the ultimate use of the gas. Since the decree establishes a regime for the relations between manufacturers and wholesalers, it should extend to all such relations. It is well established that a decree can properly bar the parties from other means of reaching the same or related violations and can also properly prevent unlawful conduct in implementation of the decree's affirmative provisions. As a result of the redefinition of "refrigerant gas" and "gas", which we have recommended for II(A), the manufacturers' obligation to sell in this paragraph VI(A) will cover, as it should, all uses for which refrigerant gases are sold, and competition in bulk sales should be protected by the above recommended change in the proviso.

3. The final sentence of paragraph VI(A) provides: "Each defendant manufacturer shall accord all resellers a fair opportunity to place orders and shall ship to any bona fide branch or warehouse of a reseller purchasing gas from it." We have two suggested modifications in this provision:

(a) As pointed out in the Competitive Impact Statement (pp. 2–3), an element in the alleged combination and conspiracy was the refusal to ship smaller containers to any location other than the purchaser's principal place of business or qualified branch, and the refusal to ship larger containers (ton tanks) to any location other than the job site of customers. An essential element of relief is the above obligation to ship "to any bona fide branch or warehouse of a reseller." The Competitive Impact Statement (p. 6) makes it clear that this provision is intended to cover space of a reseller in a public warehouse. We believe that it would be helpful to make this point explicit in the consent judgment and also to make it clear that the provision applies without regard to the method of charging applied by the warehouse (rental of space, payment for storage, etc.). This could be done by inserting after the words "of a reseller" the following: "(including use by a reseller of space in a public warehouse)."

(b) With respect to the larger containers, the manufacturers have barred shipment to any location other than the job site of the reseller's customer, and this has been incorporated in their stated conditions of sale. The proposed judgment requires shipment to branches and warehouse locations, if so desired by the reseller. But with such large containers the reseller may need and desire to have delivery made to the job site of the customer. We believe that it would be proper to provide explicitly that it is the reseller who has the option of determining where the larger containers should be shipped. This could be accomplished by inserting at the end of the sentence, after the words "purchasing gas from it," the following: "; *Provided,* That containers of one ton or larger shall be shipped to such branch or warehouse, or to the site of the reseller's customer, at the option of the reseller."

Paragraph VII. This paragraph imposes various obligations upon defendant trade trade association, Air Conditioning and Refrigeration Wholesalers (ARW). As the Department of Justice is aware, members of ARW are constituted in twelve regional groups, which also conduct meetings and other group activities. Such regional groups may readily be used as vehicles for continuation or resumption of the violations stated in the complaint. It is our belief that they were an important part of the conspiracy in the past. It is not clear to us whether the regional groups are, as legal entities, subordinates to or directly related with ARW. In any event, paragraph VII should be amended to require ARW to take steps to see that the regional organizations amend their by-laws, membership rules, etc., to conform to paragraph VII of the decree.

We submit that the above suggested modifications correct inadequacies in the proposed consent judgment, and provide more effective relief in the public interest. If you desire any further information or submissions, please do not hesitate to contact me.

I would appreciate notice of the filing of the Department's response to the comments received.

Sincerely yours,

LIONEL KESTENBAUM.

COMMENT OF INTERNATIONAL PLASTICS, INC. UPON PROPOSED CONSENT JUDGMENT

International Plastics, Inc. ("IPI") hereby comments upon the Stipulation, Final Judgment, and Competitive Impact Statement ("the proposed Consent Judgment") which was filed herein on May 3, 1976. This Comment is filed pursuant to 15 U.S.C. 16 and Section VI, "Procedures Available for Modification of Consent Judgment" of the Competitive Impact Statement.

SUMMARY OF POSITION

The proposed Consent Judgment fails to contain adequate economic and quantitative assurances concerning supplies of bulk refrigerant gas for non-manufacturer ("independent") repackagers, thus jeopardizing the competitive sources of supply which the wholesaler has enjoyed heretofore.

This failure results from a deficient recognition of the role of the independent repackager as a source of packaged refrigerant to wholesalers. In the context of the events and circumstances which gave rise to this litigation, that role has been in the past and must remain in the future one of particular significance and vigor.

Over the last several years, the independent repackager has effectively provided practical market-place solutions (albeit not total ones) for the problems for which this litigation seeks legal solutions. The contributions of the independent repackager have been of crucial benefit to, indeed have become the bulwark of the non-ARW (i.e., the defendant Air Conditioning and Refrigeration Wholesalers) wholesalers market. Legal solutions will be effective only as they embrace the competitive and economic realities of the market place. On the facts of this case, legal solutions must work in conjunction with, rather than destroy, the position of the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler.

The proposed Consent Judgment, if approved in its present form, will necessarily produce two results. The independent repackager will be essentially eliminated from the wholesaler market. An industry will be crippled, if not destroyed.

A second result—one even more important from a public interest standpoint—also inevitably will follow. The wholesaler will no longer have the independent repackager and the defendant-manufacturers competing to supply him. Removal of the independent repackager as such a competitor is a result which the defendant-manufacturers have not and cannot achieve within the anti-trust laws and the economics of the market place. Yet the proposed Consent Judgment will deliver the wholesaler as a totally captive market to the defendant-manufacturers.

This litigation was commenced to relieve the wholesaler market from specific anticompetitive conditions which the defendants created and maintained. The proposed Consent Judgment will merely substitute evils for those wholesalers (i.e.: Replace some packaged product distribution restrictions with the defendant-manufacturers as exclusive supply sources); and it will create for the independent repackager anti-trust and economic problems sufficient virtually to toll the knell for that entire segment of the refrigerant industry.

These are results and circumstances which the Department of Justice and this Court, in the administration of the anti-trust laws, should vigorously oppose. If the proposed

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Consent Judgment is approved, those results and circumstances will follow precisely because of the approvals of the Department and of the Court. The position of the defendant-manufacturers as monopolists or virtual monopolists will be further enhanced, indeed assured. The solutions contained in the proposed Consent Judgment lack legal or economic imperatives. That is to say that even if that Consent Judgment were to be approved, it fundamentally is and would remain legally and economically wrong. And the rule would appear to be obvious that one set of anti-competitive problems cannot be solved properly by merely shifting them to other persons or by creating new ones in their stead. The rights of the independent repackager must not be trammeled roughshod in an effort to alleviate the wholesaler's problems. Although the rights of the wholesaler to operate its business profitably, including open access to supply, are as great as the independent repackager's rights, they certainly are not greater.

The public interest is substantially present in this case both in the preservation and maintenance of competitive sources of supply as well as in the continued viability of the independent repackager segment of the refrigerant industry. In neither of these respects is the public interest served by the proposed Consent Judgment.

The specific deficiencies in the proposed Consent Judgment are as follows:

1. Failure to contain assurances that the defendant-manufacturers' sales of bulk refrigerant to the independent repackager and their sales of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler;

2. Failure to contain assurances that the defendant-manufacturers will provide the independent repackager with physical quantities of bulk refrigerant on a timely basis and in amounts adequate to enable the independent to compete with the manufacturer as a supplier to the wholesaler; and

3. Failure to provide that any reseller including an independent repackager may apply to the Court for relief under Section IX of the Final Judgment.

In the "Conclusion and Proposed Solutions" section of this Comment, IPI suggests amendments to the proposed Consent Judgment which will reduce or eliminate these deficiencies.

Prior and Recent Practices and Events In the Wholesaler Market

A. Background Information

Certain background information, most of which was omitted from the Competitive Impact Statement, is essential to a full understanding of the proposed Consent Judgment's "anticipated effects on competition" (15 U.S.C. 16(b)(3)) in the wholesaler packaged refrigerant market.

1. *IPI and the Other Independent Repackagers.* IPI is a repackager of fluorocarbon refrigerant gas, particularly of grades "12" and "22" (but also including certain other grades of gas). IPI is a publicly held corporation, but is neither wholly nor partially owned by nor otherwise aligned (except by supply contracts) with any fluorocarbon manufacturer, including any of the defendants.

IPI's business consists of purchasing fluorocarbon refrigerant gas (grades "12" and "22" together with certain other grades) in bulk directly from one or more of the defendant-manufacturers, repackaging that gas into cans and cylinders of various sizes, and selling the gas as packaged under its proprietary labels to the wholesaler as well as to other markets (i.e., to "resellers" in the terms of the proposed Consent Judgment).

IPI has been engaged in this business since 1961. It currently employs between 70 and 100 persons, and has an annual payroll of approximately $672,000.00. From its former location in Wichita, Kansas, the company moved in 1968 to near Colwich, Kansas, where it presently is located. IPI received two issues of industrial revenue bonds of the City of Colwich totalling $850,000.00. The bonds are being retired on schedule, and approximately $760,000.00 principal amount of those bonds is now outstanding.

In addition to IPI, other principal independent repackagers also serving the reseller market include: Paramount Chemicals, Drew Chemical Corp., Virginia Chemical, R-I-P, Airosol, Inc., Ig-Lo, Technical Chemicals, Surefire, Chem-Spray, Radiator Specialty, U.S. Avlex, and Interdynamics.

2. *The Product and Its Market.* Two types of refrigerant gas are primarily involved, i.e.: grade "12" and grade "22" refrigerant. The principal application of grade "12" refrigerant gas is to the automotive market. This market is and over the years has been served primarily be repackagers, such as IPI. Manufacturers historically have not successfully served this market to any great extent. By contrast, the principal application of grade "22" refrigerant is to the commercial or wholesaler markets for use in virtually all modern, non-automotive types of air conditioning and refrigeration systems. This market is and over the years has been served primarily by the manufacturers. Other grades of refrigerant gas also are involved, but not to the extent that grades "12" and "22" are.

Sales of packaged refrigerant for the current year are estimated at 200,000,000 pounds. The defendant-manufacturers' current share of the market is an estimated 83 percent, and the independent repackager's share is approximately 17 percent. Prior to the entry of IPI into the cylinder market in 1970, the manufacturer absolutely controlled that market.

An understanding of the distinct manufacturer-repackager-reseller functions within the refrigeration production-distribution chain is important. Refrigerant gas is manufactured in bulk from raw chemicals (i.e., carbon tetrachloride, chloroform, and hydrofluoric acid). An estimated 800,000,000 pounds of fluorocarbon was manufactured by the defendant-manufacturers in 1975 for many applications, only some of which include aerosol propellant, blowing agents for plastic foam, and refrigerant products. The total packaged refrigerant market (all applications) uses approximately 25 percent of the fluorocarbon manufactured. The defendant-manufacturers are the sole domestic manufacturers of refrigerant, and none of the independent repackagers has manufacturing facilities. At the other end of the product-distribution chain, the refrigerant "reseller" distributes or sells packaged refrigerant to retailers or to ultimate consumers. In the middle of this chain are the repackagers. They "package" bulk refrigerant gas into cans and cylinders of various sizes and then distribute the gas to the resellers, principally to wholesalers and automotive users.

Although the foregong manufacturer-repackager-reseller references are to separate functions within the production-distribution chain, they are not necessarily references to separate companies or persons. All the defendant-manufacturers are involved in the dual roles of manufacturing as well as of repackaging. Such defendants in effect purchase bulk refrigerant primarily from themselves, package the refrigerant, and compete directly with the independent repackager as a supplier to the wholesaler. The significance of the three distinct functions within the production-distribution chain, and of the duality of roles played by the defendant-manufacturers, is at the crux of IPI's instant Comment. It is the significance which the proposed Consent Judgment totally misses.

3. *Distribution of packaged refrigerant to the wholesaler market.* Preliminarily, the two trade associations which have been particularly significant in the distribution of refrigerant gas to the wholesaler should be discussed.

Historically, the defendant ARW was composed basically of wholesalers who handled parts and accessories for servicing air conditioning and refrigeration systems. ARW members were not normally engaged either in the sale of the basic system hardware, nor at all in the heating business. They sold the parts and accessories for such equipment. The North American Heating and Air Conditioning Wholesalers Association (NHAW) historically sold but did not carry the accessories and parts for air conditioning and refrigeration as well as heating systems. In recent years, however, the foregoing distinctions between the two associations and their memberships have tended to disappear, and now the members of either association might carry air conditioning systems, parts and accessories therefor. Other wholesalers exist, of course, who are not and have never been affiliated with either trade association.

We turn now to the historic channels of distribution of packaged refrigerant to the wholesaler, being the restricted distribution patterns which gave rise to this litigation.

At the time when IPI commenced its business operations, a very strong demand existed in the non-ARW wholesaler market (principally in the NHAW market) for packaged refrigerant products, especially of grade "22". At that time, such products were available primarily through ARW wholesalers, as this litigation has correctly noted. IPI began and has since maintained a nation-wide sales program aimed at supplying packaged refrigerant to all qualified wholesalers, regardless of any trade association affiliation. Over the past several years, IPI has become one of the major, if not indeed the principal, independent supplier of packaged refrigerant to the non-ARW wholesaler market.

When IPI commenced the refrigerant repackaging aspects of its business, in fashion typical of other repackagers, it served only the "12" automotive market. In approximately 1970, IPI also began to serve the "22" cylinder market, primarily the NHAW wholesaler and other non-ARW wholesalers. In response, the majority of the defendant-manufacturers initially refused to deal further with IPI. At no time during the period 1968–1974 did more than two of the defendant-manufacturers sell bulk refrigerant of either grades "12" or "22" to IPI. Further, during a portion of that time (from 1970–1972) only one of the defendant-manufacturers would sell to IPI. The refusal of the remaining manufacturers to sell or even to quote to IPI has continued until recently.

Nonetheless, during the years 1970–1974, IPI became one of the only two principal repackagers to serve successfully both the "12" and the "22" markets. Thus, IPI is a principal independent repackager of "12" and "22" refrigerant gas, and likewise is a principal independent supplier of such packaged product to the non-ARW wholesaler market. In 1974, for instance, more than 25 percent of the NHAW mebership were IPI customers.

In the 1974 season, IPI's principal manufacturer-supplier refused to sell to IPI at volume levels equal to, much less greater than, the prior year. That manufacturer claimed shortage of product. After the 1974 season's contract was executed, the manufacturer refused to make timely deliveries of product to IPI, as it always had done before and as was necessary for IPI to serve its customers during the limited refrigerant season. Because of such product shortages, IPI was unable to confirm customer orders and experienced significant numbers of customer order cancellations. Thereafter, IPI learned that some of its customers were being actively solicited by that manufacturer, that some of IPI's cancelled orders were being served by it, that the manufacturer was seeking new wholesaler accounts, and that the manufacturer was servicing substantial numbers of its regular customers at volume levels greatly increased over previous years' sales. Also, that manufacturer for the first time adopted IPI's method of marketing, which to that point had not been utilized by the defendant-manufacturers.

For these reasons, IPI commenced an anti-trust action in the federal court in Wichita, Kansas. The legal basis for the suit was that an anti-trust violation and an unfair trade practice occur when a sole or principal supplier competes with its customer and at the same time denies him product. From the consumer's standpoint, such conduct constitutes an additional anti-trust violation and unfair trade practice: The customer-wholesaler is denied the competition between the manufacturer and independent sources of supply. Upon a preliminary finding of likelihood of success by IPI on the merits of its case, that Court ordered the manufacturer to fulfill its existing 1974 contract in a proper manner, and to make timely shipments of product to IPI. The action was ultimately settled between the parties and dismissed.

The background is not yet complete. Beginning in the fall and winter of 1974 and continuing through the spring of 1975, all but one of the defendant-manufacturers offered bulk "12" (and in some cases, "22") to IPI. Thus, two additional manufacturers broke their several-year embargo against sales to IPI, albeit only to a modest extent initially; and IPI's previous manufacturer-suppliers continued to offer product to it. Indeed, in the latter portions of 1974 and in the early part of 1975, these manufacturers offered to flood IPI with product. But the product was expensive. The prices were unprecedentedly high. And the products were offered to IPI only at those high prices. The manufacturers explained that the high prices merely reflected increased costs of production.

The latter portion of 1974 through the the spring of 1975 was the period when bulk suppliers and manufacturers alike were seeking to contract wholesaler sales for the 1975 cooling season, striving in competition with one other. During this period, IPI repeatedly saw that the manufacturers' artificially high bulk prices were eliminating the company as a competitor in major segments of the market place. Further, it saw that correspondingly high prices were not being charged directly by the manufacturers to the wholesalers nor by the manufacturers to others with whom IPI competed. As a result of these inflated price structures, IPI lost a substantial number of its national accounts. These were accounts which it had held for many years and which, but for the artificially high cost of its raw supplies and its lack of assured and timely deliveries, it would have continued to hold. Additionally, the company's profit on the sales which it did make were substantially reduced because of this same pricing structure.

As a further indicator that the high bulk price was simply a manipulative market device, the manufacturers rolled their bulk prices to IPI back in approximately May, 1975—but not before the sales period for that refrigerant season was essentially over and not before IPI had been substantially hurt.

Accordingly, the independent repackagers, led by IPI, have served for many years as the life-line of packaged products for the non-ARW wholesaler. Because of the independent repackager, existing wholesalers of other products were allowed to branch out into the packaged refrigerant field, and new ones were enabled to enter the business. Without the independent repackager, the scope and stature of the non-ARW wholesaler today might well have been insufficient to warrant or to sustain the instant litigation.

B. Recent Developments

Certain recent developments also are unnoticed in the Competitive Impact Statement. These developments are significant in that they disclose as to the defendant-manufacturers: A continuing intent to engage in anti-competitive practices in the refrigerant market to the detriment of the wholesaler and the independent repackager alike; an understanding of the appropriate mechanisms to carry out those intentions, particularly the elimination of the independent repackager as a competitor in supplying the wholesaler; and an abundantly adequate power to achieve those ends.

These developments have occurred in the last eighteen months or so, in the very shadow of the proposed Consent Judgment. The defendant-manufacturers presumably have been aware of the essential terms of the proposed Consent Judgment during those months. These recent developments indicate, therefore, the practices, procedures and attitudes which the defendant-manufacturers propose to adopt if the Consent Judgment is approved in its present form.

Those developments are:

1. The pricing of bulk refrigerant gas to IPI and the pricing of packaged refrigerant to the wholesaler all at prices which necessarily result in IPI's having to price packaged refrigerant to the wholesaler at levels which are uneconomical to IPI and non-competitive with the corresponding prices listed by the manufacturer in its publications.

For example, recent manufacturer-published quotes of bulk refrigerant "12" plus only the cost to IPI of the can or cylinder approximate the manufacturer-published list price of packaged product to the wholesaler.

But even based upon IPI's actual costs of bulk refrigerant "12," IPI can meet the manufacturer's published list prices only by absorbing direct and indirect overhead costs, freight and profit. Typically, packaged product is sold to the wholesaler at prices less than the published list prices, various discounts or credits being given for cash and for "competitive conditions." Last year, manufacturers' "competitive discounts" alone at one point reached as much as 20 percent off of published list price, before further reduction for prompt payment. To be competitive with the actual packaged price of the manufacturers, IPI also would have to absorb similar terms, which it cannot do.

Even more startling, recent manufacturer quotes to IPI for certain exotic gas in bulk exceeded the manufacturer's published list price for such packaged gas to the wholesaler. The foregoing are merely some of the examples which could be given.

As a result, competition with the defendant-manufacturers in the wholesaler market is economically disastrous. Profit margins are eroded to the point of elimination. IPI believes that its production and selling costs are at least as favorable as those of the other independent repackagers, and that its position as above set forth is representative of the respective positions of the other independent repackagers as well.

2. The defendant-manufacturers have used and continue to use their control over bulk refrigerant together with their market dominance in the wholesaler market in a constant state of turmoil. The years 1974–1975 were marked by numerous manufacturer-led price changes from manufacturer-published list prices. This contrasts with only a few such price changes per year in each of the preceding several years. In 1974, the prices of bulk and packaged refrigerant were dramatically increased. In 1975, the prices of packaged refrigerant were greatly decreased, but the prices of bulk remained essentially the same. The message implicit in this flex of defendant-manufacturer muscle is clear: Only the manufacturer, not the independent repackager, has certainty of supply; only the manufacturer sets the package price to the wholesaler. The message is not lost upon the trade.

These recent developments have the effect, if not indeed the underlying purpose, of eliminating the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler. These developments reflect the continuing intent of the defendant-manufacturers to pursue anti-competitive ends and means in the refrigerant market. They reflect the defendant-manufacturers' awareness of and power to accomplish the things which will remove the independent repackager from the wholesaler market to the exclusive benefit of the manufacturers. And these developments clearly demonstrate the defendant-manufacturer's view of the proposed Consent Judgment.

The Proposed Consent Judgment

The proposed Consent Judgment, viewed through the Competitive Impact Statement, constitutes only a fragmented description of the refrigerant market and the most cursory study of the impact which the decree would have upon competition in that market. Few of the circumstances and events described in the preceding section ("Prior and Recent Practices and Events in the Wholesaler Market") of this Comment are reported in the Competitive Impact Statement. Without considering and addressing those matters, the proposed Consent Judgment cannot be in the public interest nor in any way properly approvable by this Court.

By Section IV(A), the proposed Consent Judgment enjoins the defendant-manufacturers from agreeing to refuse to sell refrigerant gas to any group or class of customers. By Section VI, it requires each of the defendant-manufacturers to sell, for a five-year period, refrigerant gas to any "reseller." (See Competitive Impact Statement, pp. 4–5.)

As analyzed by the Competitive Impact Statement, under the foregoing provisions: "Certain classes of customers such as repackagers and resellers who previously supplied these wholesalers may find their business diminished." (Competitive Impact Statement, p. 8.) Explicit in that analysis is the awareness that under the proposed Consent Judgment the independent repackager will lose significant portions of his wholesaler trade to the manufacturers. The analysis does not project that the proposed Consent Judgment will secure unto that trade the benefits of continued and expanded manufacturer-vs.-independent supplier competition. Rather, it clearly reports that the delivery of this trade exclusively to the defendant-manufacturers is a foregone conclusion.

The parties must have been aware that the proposed Consent Judgment would eliminate the independent from the market and reduce manufacturer-independent competition. Why the independent repackager should be eliminated or its vigor reduced so that the

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manufacturers will begin properly to serve the wholesaler is not explained. Why the independent repackager should be ousted from or economically penalized in the wholesale market so that the manufacturers will start obeying the anti-trust laws is nowhere justified either in the proposed Consent Judgment document or by the facts of this case.

That competition between manufacturer and independent suppliers falls within the protection of the anti-trust laws is clear from the cases. "*Industrial Building Materials, Inc. vs. Interchemical Corp.*" (CA 9, 1970) 437 F. 2d 1336 contains an excellent statement of and application of those principles.

We completely fail to see what interest the Department or this Court can have in returning the wholesaler market to the defendant-manufacturers, who have so long so thoroughly abused it, as witnessed by this action. The public interest would be satisfied, indeed would be extraordinarily well served, by a final decree which would preserve and promote competing manufacturer-vs.-independent sources of supply to the wholesaler.

The Competitive Impact Statement's foregoing analysis of Sections IV(A) and VI then continues: "• • • but they [i.e., the repackagers and resellers] may also find that they now have a more reliable source of supply" (at p. 8).

As a reference to a key provision in the proposed settlement of th's anti-trust case, that statement is an absurdity.

"May" is vague and elusive. A provision which "may" do something, equally "may not" do it. By saying "may," the draftsmen of the proposed Consent Judgment are simply saying that they don't know what will happen, and are not even willing to undertake that anything specific should happen. The defendant-manufacturers know what they intend to do under the Consent Judgment about supplying the independent repackager. Those defendants are not willing to represent that their supplies will "probably" or even "likely" be more reliable, quantitatively or economically, under that decree than they have been in the past. And the Department seems to be at a total loss in the matter. Given the circumstances of the refrigerant market, the role of the independent repackager therein, and the need for anti-trust relief, a decree which only "may" assure competitive manufacturer-vs.-independent supplies to the wholesaler has no inherent necessity or imperative to do anything at all.

The "more reliable supply" statement apparently refers to the quantitative rather than to the economic aspects of supply to independent repackagers. Even so, little may be found in the proposed Consent Judgment as interpreted by the Competitive Impact Statement to support that supposition.

No provision assures that a sufficient supply of refrigerant will be made available to maintain or to promote the independent repackager as a meaningful competitor to the defendant-manufacturers in the wholesaler market. A manufacturer need only to sell "to the extent that it has gas and containers available." Although each defendant "shall afford all resellers a fair opportunity to place orders," nothing prescribes how or when the manufacturer is to fill such orders or ship product thereunder. Recognizing that a defendant-manufacturer will not be in a position at all times to supply all resellers who may seek to purchase refrigerant, the proposed Consent Judgment allows "each defendant-manufacturer [to] determine, unilaterally • • • the manner in which demand or anticipated demand shall be met on the basis of any allocation, reasonable and equitable under all the circumstances." Further, in working out its allocation formula, the manufacturer "may take into account its objectives with regard to container mix." A very suspicious set of provisions, indeed!

The decree provides no guidelines for the parties or the Court in determining whether and to what extent refrigerant shall be deemed "available." May the manufacturers refuse to commit product to the independent repackager based upon actual—or hoped for—demand from the wholesalers or other classes of trade; if so, to what extent and for how long? That is to inquire: May the manufacturers now shove all they can to the wholesaler market, leaving little or nothing available for the independent, who seeks to compete with the manufacturers in that market; or can the manufacturers now hold the orders of the independent until the prime of the refrigerant season has passed before the manufacturers either must accept those orders or ship thereunder? May the manufacturer assert the non-availability of refrigerant to the independent repackager based upon the manufacturer's development and promotion of new products, while at the same time filling refrigerant orders from wholesalers? Neither does the proposed Consent Judgment provide any guidelines for working out allocation and container mix issues in terms of continued and adequate supplies to the independent repackager.

Totally overlooked by the proposed Consent Judgment are any provisions requiring promptness in the manufacturers' acceptance of orders or requiring timeliness in the manufacturers' shipment of refrigerant under accepted orders. IPI has had expensive experience with some of the defendant-manufacturers in delaying acceptance of orders, in refusing to set or to abide by shipping schedules, and in failing to ship in a timely fashion. The result has been that IPI has lost substantial sales because it did not have the refrigerant to package; meanwhile, IPI's manufacturer-suppliers were competing with it directly in the wholesaler market, were filling their own orders, and were exploiting IPI's lack of available and reliable supply. Any final decree entered herein should impose upon the defendant-manufacturers affirmative duties requiring the prompt acceptance of orders as well as the timely and seasonable shipment of refrigerant thereunder, particularly concerning orders of their competitors, the independent repackagers.

The deficiencies in the proposed Consent Judgment's provisions concerning the physical or quantitative aspects of assuring bulk supplies to the independent repackager are significant. Nonetheless, those deficiencies are overshadowed by the omission of any terms concerning the prices at which the defendant-manufacturers are to sell bulk refrigerant to the independent repackager or to themselves as "repackagers," or at which they are to sell packaged refrigerant to the wholesaler. That the defendants must sell "on such defendant-manufacturer's regular terms and conditions of sale • • • to any reseller who pays cash or meets its customary credit requirements" misses the point entirely. As earlier noted in this Comment, the defendant-manufacturers occupy the dual positions of manufacturer as well as repackager. Among the recent developments which were discussed above was that the manufacturers were quoting bulk refrigerant to the independent repackager and were quoting packaged refrigerant to the wholesaler all at prices which would not allow the independent to compete with the manufacturers for the wholesaler trade. One explanation is that the manufacturer-repackager is not "selling" bulk to itself at the same prices as it is quoting to the independent. Because other direct packaging costs, freight, etc. tend to be generally standardized, the only remaining alternative explanation is that the manufacturers are selling to the wholesaler at or below the manufacturers' cost.

The drift of the manufacturer's activities during the course of this litigation has been from the original crude refusal to sell to certain wholesalers to the present sophisticated effective refusal to sell by the deft orchestration of pricing mechanisms. Rather than curing the manufacturer-created anti-trust problems in the refrigerant market, this case in the posture of the proposed Consent Judgment has simply matured those problems. If this Court and the Department of Justice are not up to combating these current refinements of the manufacturer's conduct, the wholesalers' situation will be worsened by the judicially-approved elimination of the independent repackager as a source of supply competitive with the manufacturer.

In sum, the proposed Consent Judgment lacks adequate quantitative and price assurances concerning refrigerant sales from the defendant-manufacturers to the independent repackager. That Consent Judgment will foster the total takeover of the wholesalers' supply channels. The independent repackager segment of the refrigerant market will be eliminated. And the wholesaler as well as the ultimate consumer will be deprived of the benefits of the competition between the manufacturer and the independent supplier. Undoubtedly, so long as the manufacturers' present pricing techniques continue, the wholesaler can purchase packaged refrigerant from those defendants cheaper than he can from the independent repackager. In the balance and over the long term, however, preserving manufacturer-independent supplier competition must be viewed as more in the public interest than any short-term price bargains.

CONCLUSION

Three principal deficiencies in the proposed Consent Judgment have been discussed in this Comment: (1) The failure to contain assurances that the defendant-manufacturers will provide the independent repackager on a timely basis with physical quantities of bulk refrigerant adequate to enable the independent repackager to compete with the manufacturer for the wholesaler trade; (2) the failure to contain assurances that the defendant-manufacturers' sale of bulk refrigerant to the independent repackager and their sale of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler; and (3) the failure to provide that any reseller, including an independent repackager, may apply to the Court directly for relief under Section IX of the Final Judgment.

Until these deficiencies are corrected, the proposed Consent Judgment is not in the public interest. This Court should approve that Consent Judgment only if provisions are added covering the following general areas:

A. Prohibiting each defendant-manufacturer from instituting and/or pursuing any practice with regard to pricing, terms of sale, or other types of action in the sale of bulk or packaged refrigerant to IPI or to any other independent repackager or to any wholesaler with the intent or effect of reducing or eliminating competition between such defendant-manufacturer and IPI or any other independent repackager;

B. Providing that it shall be unreasonable for any defendant-manufacturer to institute any plan for the distribution of its refrigerant that gives any less preference to the independent repackager than to any other customer or class of customer of such defendant; and

C. Providing that jurisdiction be retained by the Court for the purpose of enabling IPI or any other independent repackager to apply directly to this Court for relief under Section IX of the Final Judgment.

In Appendix "A" hereto, IPI offers some specific suggestions which might remedy the deficiencies of the proposed Consent Judgment. Being suggestions only and offered solely to be constructive, they do not constitute an essential part of IPI's Comment. Nonetheless, those suggestions do address themselves to the general areas which must be covered if the Consent Judgment is to serve adequately the public interest. And these general areas, as above set out, must serve as reference points to this Court in its determination whether to approve the presently proposed or any future proposed consent decree.

With these deficiencies corrected in the general areas set forth, the proposed Consent Judgment is otherwise generally satisfactory to IPI.

Respectfully submitted,

RICHARD JONES,
ROBERT J. O'CONNOR,
Hershberger, Patterson, Jones & Roth, 700 Farm Credit Banks Building, Wichita, Kansas 67202.

GEORGE F. KARCH, JR.,
Thompson, Hine & Flory, 1100 National City Bank Building, Cleveland, Ohio 44114.

By RICHARD J. O'CONNOR.

[FR Doc.76-24843 Filed 8-24-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3839]

CALIFORNIA

Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), the Juniper Petroleum Corporation has applied for a 3½" low pressure gas pipeline right-of-way across the following described public lands:

MOUNT DIABLO BASE AND MERIDIAN

CALIFORNIA

T. 30 S., R. 20 E.
Sec. 25, in E½NE¼
T. 30 S., R. 21 E.
Sec. 19, in lot 17

This pipeline will carry gas across 4670.34 feet of national resource lands in Kern County, California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the State Office, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.76-24842 Filed 8-24-76;8:45 am]

MONTANA STATE MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Montana State Multiple Use Advisory Board of the Bureau of Land Management will meet September 8, 9, and 10, 1976. The September 8 session will be held in the meeting room of the First State Bank of Fort Benton, 1502 Main St., Fort Benton, Montana, at 7 p.m. This session will be devoted to briefings and presentations for the Board Members on problems and opportunities associated with managing national resource lands and resources along the Missouri River in Montana.

This meeting is open to the public, and time will be provided for interested persons to make oral presentations to the board on management of national resource lands and resources along the Missouri River.

Written presentations on any subject may be filed for consideration by the board at the meeting or with the State Director, Bureau of Land Management, 222 North 32nd St., P.O. Box 30157, Billings, MT 59107.

Persons wishing to make presentations to the board at the September 8 session should notify the Montana Bureau of Land Management State Director at the above address prior to September 7, 1976.

The September 9-10 sessions will be in the form of a guided field trip on the Missouri River in Montana between Coalbanks Landing and Judith Landing with a campout on the night of September 9 at Hole in the Wall. The field trip is also open to the public. Persons going on the trip will have to provide their own transportation, equipment and meals.

Further information concerning this meeting may be obtained from Gordon W. Flint, Public Affairs Officer, Bureau of Land Management, P.O. Box 30157, Billings, MT 59107. Telephone (406) 245-6711, Ext. 6561.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.76-24808 Filed 8-24-76;8:45 am]

ROSWELL DISTRICT MULTIPLE USE ADVISORY BOARD

Public Meeting

Notice is hereby given that the Roswell District Multiple Use Advisory Board of the Bureau of Land Management will meet in open session September 20, 1976, at the Roswell Inn, 1815 North Main, Roswell, New Mexico.

The morning session will begin at 8 a.m. and will be devoted to review and recommendation on the Department of the Interior's proposed revised regulations for the management of livestock grazing on lands administered by the Bureau of Land Management. Time will be available for a limited number of brief oral statements by members of the public.

The afternoon session will begin at 1 p.m. and will be for further public comments on antelope fencing and fence modifications. No recommendations will be asked for in this session.

Written statements on either subject should be presented to the official listed below. Further information concerning this meeting may be obtained from James H. O'Connor, District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201, telephone number 622-7670.

Dated: August 17, 1976.

JAMES H. O'CONNOR,
District Manager.

[FR Doc.76-24887 Filed 8-24-76;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, September 25, 1976, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long (Chairman), Glen Echo, Maryland.
Mrs. Anthony C. Morella, Bethesda, Maryland.
Mr. Donald Frush, Hagerstown, Maryland.
Honorable Vladimir A. Wahbe, Baltimore, Maryland.
Mr. Anthony Abar, Annapolis, Maryland.
Mrs. John L. Melnick, Arlington, Virginia.
Mrs. Dorothy Grotos, Arlington, Virginia.
Mr. Burton C. English, Berkeley Springs, West Virginia.
Mr. Henry W. Miller, Jr., Paw Paw, West Virginia.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mr. Ronald A. Clites, LaVale, Maryland.
Mrs. Mary Miltenberger, Cumberland, Maryland.
Dr. James H. Gilford, Frederick, Maryland.
Dr. Kenneth Bromfield, Frederick, Maryland.
Mr. Edwin F. Wesely, Chevy Chase, Maryland.
Mr. John C. Frye, Gapland, Maryland.
Mr. Rome F. Schwagel, Keedysville, Maryland.

The matters to be discussed at this meeting include:

1. Whiting's Neck Farm Community.
2. Western Maryland Railway Abandonment.
3. Interpretive Prospectus.
4. Abner Cloud House.
5. Legislation to Dedicate C&O Canal NHP to Justice Douglas.
6. Cumberland Boundary Legislation.
7. Reaction to General Plan.
8. Canal Construction Projects.
9. Montgomery County AWT.

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10. Land Acquisition.
11. Commission Goals.
12. Park Maintenance: Mowing Policy.
13. Superintendent's and Area Reports.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at Area Code 202–426–6715. Minutes of the meeting will be available for public inspection 2 weeks after the meeting, at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: August 19, 1976.

RICHARD L. STANTON,
Director, National Capital Parks.

[FR Doc.76–24824 Filed 8–24–76;8:45 am]

Office of the Secretary

COLORADO RIVER STORAGE PROJECT

Notice of Proposed Revised Allocation of Peaking Power

Pursuant to Pub. L. 84–485, April 11, 1956 (70 Stat. 105), and by virtue of authority under the Reclamation Project Act of 1939, August 4, 1939 (53 Stat. 1187, 1194, 1198), the Secretary of the Interior proposes to allocate additional power from the Colorado River Storage Project (CRSP) to be marketed by the Bureau of Reclamation.

There will be 108 megawatts of peaking power available without energy for each summer season (April through September) and 227 megawatts without energy for each winter season (October through March) beginning with the 1977–78 winter season and extending through the end of the 1989 summer season.

Twelve public comments were received on the proposed allocation which was published by notice in the FEDERAL REGISTER, Vol. 40, No. 247, Tuesday, December 23, 1975. A detailed review of the comments received was made, and copies of the comments and the review are available for public inspection at either of the offices below:

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–5337.

Regional Director, Attention: Code 600, Upper Colorado Region, Bureau of Reclamation, Department of the Interior, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5493.

Based on that review, a proposed revised allocation has been made and appears below. The principal changes are that the quantities of peaking power rejected by various allottees have been reallocated among those allottees which requested additional amounts of peaking power.

Northern Division allocations were increased to those allottees which requested additional amounts in proportion to the original allocation since the majority of requests were not for definite amounts but for whatever additional quantities would be available. The Southern Division allocations were increased to those allottees which requested additional amounts of peaking power in proportion to the requests since all such requests were for definite amounts of power.

The proposed revision to the original allocation appears below:

Entities wishing to do so should submit their comments in writing to either of the offices shown above on or before September 24, 1976. After review of any comments received, a final allocation will be prepared and published, after which allottees will have until December 1, 1976, to place their allocations under contract. Any allocations not placed under contract by that date will be automatically rescinded.

Dated: August 17, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

PROPOSED PEAKING POWER ALLOCATION
Colorado River Storage Project

Customer	Summer Season Accepted	Summer Season Additional	Summer Season Total	Winter Season Accepted	Winter Season Additional	Winter Season Total
Northern Division						
Arizona						
Navajo Tribal Utility Authority	1,350	272	1,622	4,840	20	4,860
Page	470	95	565	1,720	442	2,162
Sub-total	1,820	367	2,187	6,560	462	7,022
Colorado						
Colorado Springs	1,130	228	1,358	13,440	3,456	16,896
Delta	80	16	96	270	30	300
Fleming	10	2	12	10	1	11
Fort Morgan	590	118	708	1,860	478	2,338
Gunnison	340	/1	340	1,610	/1	1,610
Haxtun	40	8	48	110	28	138
Holyoke	110	22	132	400	103	503
Oak Creek	20	4	24	100	26	126
Platte River Power Authority	8,770	1,768	10,538	36,270	9,327	45,597
Wray	40	8	48	230	59	289
Yuma,	80	16	96	290	75	365
Sub-total	11,210	2,190	13,400	54,590	13,585	68,175
Colorado & Wyoming						
Tri-State G. & T. Assn.	18,930	/2	18,930	48,120	/2	48,120
New Mexico						
Energy Research & Development Adm.	15,000	3,025	18,025	15,000	3,858	18,858
Farmington	1,130	228	1,358	4,040	960	5,000
Plains G, & T. Cooperative	8,520	1,718	10,238	35,760	9,196	44,956
Sub-total	24,650	4,971	29,621	54,800	14,014	68,814
Wyoming						
Cody	200	40	240	710	183	893
Consumers L. & P. Assn.	10	/1	10	20	/1	20
Fort Laramie	10	2	12	20	5	29
Guernsey	30	6	36	110	28	138
Lingle	10	2	12	30	8	38
Lusk	20	4	24	270	69	339
Pine Bluffs	10	2	12	50	13	63
Torrington	130	26	156	250	64	314
Wheatland	70	14	84	240	62	302
Willwood	10	2	12	10	3	13
Sub-total	500	96	596	1,710	435	2,145
Utah						
Brigham City	580	117	697	2,960	761	3,721
Levan	30	6	36	110	28	138
Murray	1,920	387	2,307	7,820	2,010	9,830
Intermountain Consumer P.A.						
Beaver	100	20	120	570	147	717
Bountiful	1,870	377	2,247	9,180	766	9,946
Bridger Valley Elec. Assn.	600	121	721	2,260	581	2,841
Dixie R.E.A.	610	123	733	2,900	746	3,646
Ephraim	120	24	144	750	193	943
Escalante Valley Elec. Assn.	690	139	829	1,950	502	2,452
Fairview	40	8	48	200	51	251
Fillmore	130	26	156	510	131	641
Flowell Elec. Assn.	310	62	372	80	21	101
Garkane Power Assn.	1,000	201	1,201	3,980	1,024	5,004
Heber	230	46	276	1,290	332	1,622
Holden	20	4	24	80	21	101
Hyrum	150	30	180	770	198	968
Kanosh	20	4	24	80	21	101
Kayenta	120	24	144	560	144	704
Lehi	200	40	240	1,080	278	1,358
Logan	1,130	228	1,358	4,970	1,278	6,248
Meadow	20	4	24	60	15	75
Moorse	50	10	60	310	80	390
Moon Lake Elec. Assn.	3,460	697	4,157	12,770	3,284	16,054
Morgan	120	24	144	530	136	666
Mt. Pleasant	80	16	96	400	103	503
Mt. Wheeler Power, Inc.	1,650	332	1,982	3,440	885	4,325
Oak City	20	4	24	70	18	88
Parowan	80	16	96	410	105	515
Spring City	20	4	24	60	15	75
U.C.P.A. total	12,840	2,584	15,424	49,260	11,075	60,335
Sub-total	25,370	5,094	30,464	80,150	20,874	74,024
Northern Division total	72,480	10,720	83,200	225,930	42,370	268,300

Customer	Summer Season Accepted	Summer Season Additional	Summer Season Total	Winter Season Accepted	Winter Season Additional	Winter Season Total
Southern Division						
Arizona						
Arizona Elec. Power Coop. /3	2,430	/1	2,430	170	/1	170
Colorado River Indian Agency	80	/1	80	/4	—	—
Electrical District No. 2	2,370	2,337	3,707	470	/1	470
Electrical District No. 6	210	1,186	1,396	/4	—	—
Maricopa County M.W.C.D.	650	1,226	1,876	/4	—	—
Mesa	540	6,269	6,809	/4	—	—
Navajo Tribal Utility Authority	280	1,326	1,606	370	1,980	2,100
Roosevelt Irr. Dist.	580	940	1,520	/4	—	—
Roosevelt Water Conservation Dist.	280	1,140	1,420	/4	—	—
Thatcher	60	/1	60	30	/1	30
Wellton-Mohawk I.D.D.	30	904	1,024	20	693	713
Yuma Proving Ground	30	132	182	30	218	248
Sub-total	5,860	15,750	21,610	840	2,891	3,731
Nevada						
Div. of Colo. River Resources	3,190	/1	3,190	1,820	3,149	4,969
Southern Division total	9,050	15,750	24,800	2,660	6,040	8,700
GRAND TOTAL	81,530	26,470	108,000	228,590	48,410	277,000

/1 Did not request additional peaking power.
/2 Applied for additional peaking power beyond March 1, 1976, deadline.
/3 Includes Mohave Electric Cooperative.
/4 Rejected peaking power.

[FR Doc.76–24713 Filed 8–24–76;8:45 am]

NATURAL SCIENCES ADVISORY COMMITTEE FOR FISH AND WILDLIFE AND PARKS

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Natural Sciences Advisory Committee for Fish and Wildlife and Parks will be held on September 10 and 11 in the Superintendent's Conference Room, Mammoth Hot Springs, Yellowstone National Park.

The purpose of the Advisory Committee is to advise the Secretary of the Interior with regard to the planning and execution of the fish and wildlife research and habitat preservation programs and natural history scientific research programs.

The members of the Advisory Committee are as follows:

Dr. Durward L. Allen (Chairman), Lafayette, Indiana
Dr. A. Starker Leopold, Berkeley, California
Dr. Frank C. Bellrose, Havana, Illinois
Dr. Eric G. Bolen, Sinton, Texas
Dr. Clark Hubbs, Austin, Texas
Dr. Laurence R. Jahn, Washington, D.C.
Dr. F. Wayne King, Bronx, New York
Dr. Willard D. Klimstra, Carbondale, Illinois
Dr. Robert T. Lackey, Blacksburg, Virginia
Mr. John L. Spinks, Jr., (Executive Secretary), Washington, D.C.

Meetings will commence at 9 a.m. on September 10 in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:

Introductory remarks by Assistant Secretary Reed
Review of Predator Research Program of the U.S. Fish and Wildlife Service
Review of Cooperative Wildlife Research Unit Program, U.S. Fish and Wildlife Service
The meeting will continue, commencing 9:00 a.m. on September 11, in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:
National Wildlife Refuge System—Implementation of Recommendations of 1968 Leopold Report, Fish and Wildlife Service
Fisheries Management Program, Yellowstone National Park, National Park Service
Natural Fire Management, Yellowstone National Park, National Park Service
Status, Management, and Possible Reintroductions of *Canis lupus irremotus*
National Park Service, Fish and Wildlife Service
Consideration of Agenda and Confirmation of Dates for next Committee Meeting

The meetings will be open to the public, but facilities and space to accommodate members of the public are limited, and it is expected that not more than 20 people will be able to attend.

Any member of the public may file with the Advisory Committee a statement in writing concerning any of the matters to be discussed. Persons desiring further information concerning this meeting or who wish to file written statements may contact Mr. John L. Spinks, Jr., Office of the Assistant Secretary of Interior for Fish and Wildlife and Parks, Washington, D.C., at 202 343–6767.

Minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3153, Interior Building, Washington, D.C., and in the Superintendent's Office, Yellowstone Park Headquarters.

Dated: August 19, 1976.

JOHN L. SPINKS, JR.,
Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc.76–24822 Filed 8–24–76;8:45 am]

TASK FORCE ON THE AVAILABILITY OF FEDERALLY-OWNED MINERAL LANDS

Change of Location of Public Hearings

Notice is hereby given that the location of the public hearings being held by the Department of the Interior's Task Force on the Availability of Federally-Owned Mineral Lands, September 15 and 16 at 9 a.m., has been changed from the Department of the Interior's South auditorium to the auditorium of the Main Interior Building at 18th and C Streets, NW.

Hearings in Salt Lake City, Utah, September 8 and 9, will be held at the Salt Palace, as originally scheduled.

DENNIS SACHS,
Chairman,
Deputy Assistant Secretary.

AUGUST 18, 1976.

[FR Doc.76–24810 Filed 8–24–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BOULDER PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Boulder Planning Unit, Forest Service Report Number USDA–FS–R1–04–DES–Adm R1–76–22.

The environmental statement concerns a proposed land use plan for Boulder Planning Unit, Boundary County, Idaho. Approximately 68,000 acres are included in the planning unit of which 55,640 acres are National Forest land. This plan allocates resources and specifies land use prescriptions for National Forest land only. Resource information for lands in other ownership is also included for owners/managers to use as they wish.

With the exception of State or private holdings generally located along the north and west boundaries of the planning unit, most of the National Forest ownership is contiguous. The proposed plan would emphasize timber management for three of the five management units, big game winter range for a fourth, and wildlife and recreation values for a fifth. Critical grizzly bear habitat, which occurs in two management units, would not be developed.

Sizeable undeveloped areas exist within and contiguous to the Boulder unit. Planning processes for this unit included a wilderness evaluation of this total undeveloped acreage. Under the proposed plan for Boulder no portion of the undeveloped areas within this unit would be studied for possible inclusion in the National Wilderness Preservation System. However, much of the unit's currently undeveloped areas, 24,120 acres out of a possible 39,800, would remain in an undeveloped state.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

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USDA Forest Service, Bonners Ferry Ranger District, Route No. 1, Box 390, Bonners Ferry, ID 83805.

A limited number of single copies are available upon request to Forest Supervisor Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

Comments must be received by October 18, 1976 in order to be considered in the preparation of the final environmental statement.

RALPH D. KIZER,
Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24888 Filed 8-24-76;8:45 am]

SOUTH FOURCHE UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the South Fourche Planning Unit, Ouachita National Forest, Arkansas, USDA-FS-R8-DES (Adm.)-76-08.

This environmental statement concerns the proposed management direction and resource allocation for the South Fourche Unit, Ouachita National Forest.

This draft environmental statement was transmitted to CEQ on August 16, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road, NW., Room 804, Atlanta, Georgia 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

A limited number of single copies are available upon request to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901. Comments must be received by October 16, 1976 in order to be considered in the preparation of the final environmental statement.

ALVIS Z. OWEN,
Forest Supervisor.

AUGUST 16, 1976.

[FR Doc.76-24806 Filed 8-24-76;8:45 am]

THOMPSON CREEK LAND USE PLAN FOR THE WHITE RIVER NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Thompson Creek Land Use Plan for the White River National Forest. The Forest Service report number is USDA-FS-R2-FES (Adm) FY-76-12.

The environmental statement concerns a proposal to revise the existing multiple use plan for the Thompson Creek area of the White River National Forest.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.
USDA, Forest Service, White River National Forest, Old Federal Building, P.O. 948, Glenwood Springs, CO 81601.
USDA, Forest Service, Sopris Ranger District, Main & Weant, P.O. Box 248, Carbondale, CO 81623.

A limited number of single copies are available upon request to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601. Comments must be received by October 18, 1976, in order to be considered in the preparation of the final environmental statement.

JOHN C. SMITH,
Acting Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24840 Filed 8-24-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, September 14, 1976, at 9 a.m. in Room 1096, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App.. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend areas where improvements can be made.

The agenda for the meeting is:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Status review of parameters format.

(4) Presentation by Donald Sackman: Administrative information system/industry certification.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any ime before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington D.C. 20230, telephone: A/C 202-377-4196.

Dated: August 20, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24910 Filed 8-24-76;8:45 am]

PRESIDENT'S EXPORT COUNCIL

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. I, (Supp IV, 1974), notice is hereby given that a meeting of the President's Export Council Task Force on Export Promotion will be held on September 16, 1976 from 9 a.m. to 4:30 p.m. in Conference Room 3817 of the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

The Council Task Force was established in accordance with the provisions of Executive Order 11753 of December 20, 1973 (38 FR 34983) and the Federal Advisory Committee Act. The objectives of the Task Force will be that of reviewing export promotion programs and activities of the Department of Commerce and developing recommendations, including proposals for new programs, in this area for Export Council consideration.

The purpose of this meeting will be to receive the recommendations of the Task Force sub-groups on Data Collection, Communicating with Exporters and Communicating with Customers of Exporters and initiate the preparation of the Task Force report to the Export Council.

The meeting is open to the public and approximately 10 seats will be available on a first-come, first-served basis. Inquiries may be addressed to Mr. Frederich R. Crupe, Executive Secretary of the President's Export Council, U.S. Department of Commerce, Domestic and International Business Administration, Bureau of International Commerce, Washington, D.C. 20230 (telephone 202-377-2373).

Copies of minutes of the meeting will be available on request.

Any member of the public who wishes to file a written statement with the Task Force may do so before or after the meeting.

Dated: August 19, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant Secretary for International Commerce.

[FR Doc.76-24853 Filed 8-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0303; DESI 8564]

HIGH MOLECULAR WEIGHT DEXTRAN 6 PERCENT

Withdrawal of Approval of New Drug Applications

In a notice (DESI 8564; Docket No. FDC-D-333 (now Docket No. 76N-0303)) published in the FEDERAL REGISTER of May 27, 1971 (36 FR 9670), the Commissioner of Food and Drugs offered an opportunity for hearing on his proposal to issue an order withdrawing approval of the following drug products containing dextran, which is used as a blood volume expander. Approval is now being withdrawn, effective September 7, 1976.

NDA 11-951; 6 Percent Dextran; Cooper Laboratories, Inc., 1259 Route 46, Parsippany, NJ 07054.

NDA 9-310; Plasran 6 Percent; Mead Johnson Laboratories, Division of Mead Johnson & Co., 2404 Pennsylvania St., Evansville, IN 47721.

NDA 8-858; Dextran Injection 6 Percent; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

The basis of the proposed action was that here was lack of substantial evidence that the drug products are effective for certain of their labeled claims, and that the applications had not been supplemented to remove the less-than-effective claims from the labeling.

Neither the holders of the new drug applications nor any other person filed a written appearance of election as provided by the notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.31), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 8-858, 9-310, and 11-951 and all amendments and supplements applying thereto, is withdrawn effective September 7, 1976.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24846 Filed 8-24-76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 9, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Anesthesiology Device Classification Panel.
Cardiovascular Device Classification Panel.
Dental Device Classification Panel.
Ear, Nose, and Throat Device Classification Panel.
Gastroenterological and Urological Device Classification Panel.
General and Plastic Surgery Device Classification Panel.
General Hospital and Personal Use Device Classification Panel.
Neurological Device Classification Panel.
Obstetrical and Gynecological Device Classification Panel.
Ophthalmic Device Classification Panel.
Orthopedic Device Classification Panel.
Physical Medicine Device Classification Panel.
Radiological Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the

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act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

These newly established panels supersede the following device review panels listed with their dates of establishment:

Panel on Review of Anesthesiology Devices, established on October 3, 1972;
Panel on Review of Cardiovascular Devices, established on March 22, 1972;
Panel on Review of Dental Devices, established on October 3, 1972;
Panel on Review of Ear, Nose, and Throat Devices, established on October 15, 1973;
Panel on Review of Gastroenterological and Urological Devices, established on April 16, 1973;
Panel on Review of General and Plastic Surgery Devices, established on October 15, 1973;
Panel on Review of General Hospital and Personal Use Devices, established on October 15, 1973;
Panel on Review of Neurological Devices, established on October 15, 1973;
Panel on Review of Obstetrical and Gynecological Devices, established on April 16, 1973;
Panel on Review of Ophthalmic Devices, established on October 15, 1973;
Panel on Review of Orthopedic Devices, established on April 25, 1972;
Panel on Review of Physical Medicine (Physiatry) Devices, established on October 15, 1973;
Panel on Review of Radiological Devices, established on October 15, 1973.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24850 Filed 8-24-76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 10, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Clinical Chemistry Device Classification Panel.
Clinical Toxicology Device Classification Panel.
Hematology Device Classification Panel.
Immunology Device Classification Panel.
Microbiology Device Classification Panel.
Pathology Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectivenes of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24849 Filed 8-24-76;8:45 am]

[Docket No. 76N-0246; DESI 11730]

MEPERIDINE HYDROCHLORIDE AND PROMETHAZINE HYDROCHLORIDE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 11730; Docket No. FDC-D-440 (now Docket No. 76N-0246)) published in the FEDERAL REGISTER of July 11, 1972 (37 FR 13563), the Food and Drug Administration (FDA) announced its conclusions that the drug product described below is (1) effective as a preanesthetic medication and as an adjunct to local or general anesthesia; (2) possibly effective for the analgesic claims made for it (because of a lack of evidence that promethazine contributed to the analgesic effectiveness of meperidine) and for use as an antiemetic; and (3) lacking substantial evidence of effectiveness for its amnesic action. The notice also offered an opportunity for a hearing concerning the indication concluded at that time to lack substantial evidence of effectiveness. The FDA has reconsidered the information available with respect to the various analgesic claims for which the product was regarded as possibly effective and it is concluded that the drug is effective as an analgesic (and sedative) in preanesthetic medication. The manufacturer of the drug has deleted from the labeling all of the other possibly effective claims and the indication stated to lack substantial evidence of effectiveness. No person has submitted any data in support of the remaining possibly effective indications and those indications are now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before September 24, 1976.

The notice that follows does not pertain to the indication stated in the notice of July 11, 1972, to lack substantial evidence of effectiveness. No person requested a hearing concerning it and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

NDA 11-730; Mepergan Injection containing meperidine hydrochloride and promethazine hydrochloride; Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.

Wyeth Laboratories supplemented the new drug application to modify the effective indications, to state that the fixed combination was effective as a preanesthetic medication when both analgesia and sedation were indicated. The supplement was approved on June 11, 1973.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indications evaluated as possibly effective in the notice of July 11, 1972.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

As a preanesthetic medication when analgesia and sedation are indicated. As an adjunct to local and general anesthesia.

3. *Marketing status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 26, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), and 21 CFR 300.50, demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subjects to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 24, 1976, a written notice of appearance and request for hearing, and (2) on or before October 26, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 11730, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences—National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24848 Filed 8-24-76;8:45 am]

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Health Services Administration

ARIZONA

Poll of Physicians; Correction

In FR Doc. 76-23881 appearing at page 34665 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-24925 Filed 8-24-76;8:45 am]

ILLINOIS; PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Intention To Enter Into Agreement

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act (42 USC 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Chicago Foundation for Medical Care for PSRO Area III, which area is designated a Professional Standards Review Organization area in 42 CFR 101.17.

The Secretary has determined that the Chicago Foundation for Medical Care is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Illinois, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois.

As stipulated in its Articles of Incorporation, the principal officers of the Chicago Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Andrew J. Brislin, M.D., President.
2. Maynard I. Shapiro, M.D., Vice President.
3. Audley F. Connor, Jr., M.D., Treasurer.
4. Richard L. Jenson, D.O., Secretary.

The official address of the corporation is 10 South Riverside Plaza, Suite 1558, Chicago, Illinois 60606.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois who objects to the Secretary entering into an agreement with the Chicago Foundation for Medical Care, on the grounds that this organization is not representative of the doctors in such area may, on or before September 24, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 11,657 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area III of the State of Illinois. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Chicago Foundation for Medical Care is representative of such doctors in the area; Provided that pursuant to section 108(b) of Pub. L. 94-182, the provisions of section 1152(f) (42 USC 1320c-1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organziation representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 18, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-25078 Filed 8-24-76;8:45 am]

INDIANA

Poll of Physicians; Correction

In FR Doc. 76-23883 appearing at pages 34665-34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24926 Filed 8-24-76;8:45 am]

LOUISIANA

Poll of Physicians; Correction

In FR Doc. 76-23884 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24927 Filed 8-24-76;8:45 am]

NORTH CAROLINA

Poll of Physicians; Correction

In FR Doc. 76-23886 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24928 Filed 8-24-76;8:45 am]

VIRGINIA

Poll of Physicians; Correction

In FR Doc. 76-23888 appearing at page 34667 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24929 Filed 8-24-76;8:45 am]

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Special Committee on Rural Women of the Advisory Council on Women's Educational Programs will be held from 9 a.m. to 5 p.m. September 10 and 11, 1976, at Mabry Hall of the State Department of Education, Don Gaspar Street, Santa Fe, New Mexico.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commission with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meeting of the Special Committee on Rural Women will be open to the public. The agenda for the meeting will include (1) a public consultation session on educational equity for rural girls and women in the Southwest, from 9 a.m. to 5 p.m. on September 10 and from 9 a.m. to 3 p.m. on September 11; (2) a Committee discussion of the information gathered at the consultation session from 3 p.m. to 5 p.m. on September 11.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C., on August 18, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76-24913 Filed 8-24-76;8:45 am]

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

Closing Date for Receipt of State Plans and Applications for the Transition Quarter Appropriation

Notice is hereby given that, pursuant to the authority contained in section 842 of the Education Amendments of 1974 (20 U.S.C. 246), State plans or proposals to develop State plans for a program of financial assistance to local educational agencies to assist such agencies in the provision of free public education and applications for reimbursement for the development or administration of such plans or proposals are being accepted by the U.S. Office of Education, that a closing date has been set for the receipt of such plans or proposals and applications for reimbursement from the funds made available for section 842 by Pub. L. 94-303, approved June 1, 1976. In addition, a table of maximum reimbursement entitlements for States is contained in this Notice at paragraph C. The President, by message of July 28, 1976, has requested Congress to rescind the Transitional Quarter appropriation for this program. The Office of Education reaffirms the reasons stated in the President's rescission message as to why this program should not be funded. However, should these funds be available for obligation at the end of the rescission period, it will be necessary to be able to process applications in a timely manner in order to obligate funds by September 30, 1976.

A. *Submission of plans, proposals and reimbursement applications.* A State plan or proposal and a reimbursement application must be received by the U.S. Office of Education on or before September 24, 1976 in order to be considered for funding under the appropriation available for the period July 1, 1976 to September 30, 1976. A proposal to develop a State plan must be accompanied by a schedule of activities which will provide that the State plan developed pursuant to the proposal will be submitted to the Office of Education before July 1, 1977. States shall submit State plans and proposals under cover of a presentation in conformance with applicable regulations in Part 156, Title 45 of the Code of Federal Regulations.

(1) Plans, proposals and reimbursement applications sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.572. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) The plan, proposal, or reimbursement application was sent by registered or certified mail not later than September 20, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The plan, proposal, or reimbursement application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(2) A plan, proposal, or reimbursement application to be hand delivered must be taken to the Office of Education Application Control Center, Rm. 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand delivered plans, proposals, or reimbursement applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Plans, proposals and reimbursement applications will not be accepted after 4:00 p.m. on September 24, 1976.

B. *Program information and forms.* Information and application forms may be obtained from the Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

C. *Table of maximum reimbursement entitlements.* Paragraph (c)(1) of section 842 of the Education Amendments of 1974 establishes a maximum reimbursement schedule for States in the development or administration of State plans meeting the statutory and regulatory requirements under that section. The schedule is based upon the ratio of the population of each State to the population of all the States, with the further limitation that no State shall receive less than $100,000 and no State shall receive more than $1,000,000. The following table sets forth the maximum amount that each State may be reimbursed, based upon appropriations sufficient to pay full entitlements. In the event that the funds appropriated for Section 842 for the period July 1, 1976 to September 30, 1976 are insufficient to satisfy the maximum reimbursement entitlements, as calculated under the provisions of 45 CFR 156.6(a), then the entitlements shall be calculated under the provisions of 45 CFR 156.6 (b), (c), and (d).

State	Amount
Alabama	$241, 739
Alaska	100, 000
Arizona	179, 723
Arkansas	175, 690
California	1, 000, 000
Colorado	195, 281
Connecticut	220, 307
Delaware	110, 344
Florida	440, 015
Georgia	298, 802
Hawaii	122, 484
Idaho	119, 942
Illinois	574, 171
Indiana	317, 911
Iowa	210, 270
Kansas	184, 368
Kentucky	232, 053
Louisiana	249, 934
Maine	131, 030
Maryland	264, 934
Massachusetts	339, 211
Michigan	484, 831
Minnesota	256, 203
Mississippi	187, 349
Missouri	294, 200
Montana	117, 356
Nebraska	152, 593
Nevada	110, 212
New Hampshire	120, 468
New Jersey	405, 981
New Mexico	134, 098
New York	876, 379
North Carolina	320, 628
North Dakota	112, 929
Ohio	555, 983
Oklahoma	202, 557
Oregon	183, 886
Pennsylvania	604, 018
Rhode Island	126, 165
South Carolina	206, 677
South Dakota	114, 902
Tennessee	266, 896
Texas	611, 731
Utah	136, 728
Vermont	105, 586
Virginia	300, 249
Washington	238, 189
West Virginia	163, 243
Wisconsin	285, 172
Wyoming	100, 921

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and regulations governing Assistance to States for State Equalization Plans (45 CFR Part 156), published in the FEDERAL REGISTER on August 1, 1975, at 40 FR 32329.

(20 U.S.C. 246)

(Catalog of Federal Domestic Assistance, Number 13.572; Assistance to States for State Equalization Plans)

Dated: August 23, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76-25050 Filed 8-24-76;8:45 am]

V 41 1166 AUG 25 76 UMI

Office of the Secretary

HOME HEALTH CARE

Public Hearings

This is a Notice to announce the plans of the Department of Health, Education, and Welfare to conduct a series of public hearings on issues in home health, and to encourage widespread participation by interested and knowledgeable individuals, public and private groups and organizations, and Federal, State, and local government agencies.

Date: Monday, September 20 and Tuesday, September 21, 1976.
Time: 9 a.m. to 6 p.m.
Place: Americana Hotel, 801 7th Ave. between 52nd and 53rd Streets, New York, New York.
Person to Contact: Mr. Robert O'Connell (212/264–3620), Department of Health, Education, and Welfare, Room 3835 Federal Building, 26 Federal Plaza, New York, N.Y. 10007.

Date: Tuesday, September 21 and Wednesday, September 22, 1976.
Time: 9 a.m. to 6 p.m.
Place: Cibola Inn, 1601 East Division, Arlington, Texas 76010.
Person to Contact: Mr. Jerry Stephens or Mr. Weldon Grundy (214/655–3338), Department of Health, Education, and Welfare, Room 1135, 1200 Main Tower, Dallas, Texas 75202.

Date: Wednesday, September 22 and Thursday, September 23, 1976.
Time: 9 a.m. to 6 p.m.
Place: Atlanta Hilton, Courtland and Harris Streets, Atlanta, Georgia.
Person to Contact: Mr. Joe Juska (404/526–5001), Department of Health, Education, and Welfare, Room 434, 50 Seventh Street, N.E., Atlanta, Georgia 30323.

Date: Thursday, September 23 and Friday, September 24, 1976.
Time: 9 a.m. to 6 p.m.
Place: Holiday Inn, 300 East Ohio Street, Chicago, Illinois.
Person to Contact: Ms. Arline Bredin (312/853–7801), Department of Health, Education, and Welfare, 35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Date: Thursday, September 30 and Friday, October 1, 1976.
Time: 9 a.m. to 6 p.m.
Place: Convention Center, 1201 South Figueroa, Room 217–A, Los Angeles, California.
Person to Contact: Mr. Allen Marer (415/556–1961), Department of Health, Education, and Welfare, Room 427 Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

INSTRUCTIONS TO WITNESSES

Those individuals desiring to comment during a particular hearing should register prior to the meeting either by writing or telephoning the contact person in the city in which they wish to be heard, or they may register in person at the hearing room on either day of the hearing. Preference will be given to those who register in advance but efforts will also be made to hear those who register on either day of the hearing. Persons who register or who submit written comments should provide their name, address, telephone number and, if appropriate, the organization they represent. An organization will be permitted to make an oral presentation at only one of the five hearings. All speakers will be limited to five minutes of oral presentation.

Since the oral presentation for any one person will be limited, written comments are encouraged so that they may be introduced into the record of the hearings. In addition, those who will not be able to attend a hearing may submit written comments to the appropriate contact person no later than the second day of the hearing. It is requested that ten (10) copies of each set of written comments be furnished, but the furnishing of a lesser number of copies will in no way affect the consideration given. Equal consideration will be given to oral and written comments.

Transcripts of the hearings and materials submitted for each hearing will be available for public inspection in the Office of Public Affairs, Room 647D HEW Building (South Portal), 200 Independence Avenue, S.W., Washington, D.C. 20201, and in the Office of Public Affairs in each of the following Department of Health, Education and Welfare Regional Offices:

REGION I:

Room 2411, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

REGION II:

Room 3835, Federal Building, 26 Federal Plaza, New York, New York 10007.

REGION III:

Room 10400, 3535 Market Street, Philadelphia, Pennsylvania 19101.

REGION IV:

Room 434, 50 Seventh Street, NE., Atlanta, Georgia 30323.

REGION V:

35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

REGION VI:

Room 1100, 1200 Main Tower Building, Dallas, Texas 75202.

REGION VII:

Room 612C, 601 East 12th Street, Kansas City, Missouri 64106.

REGION VIII:

10th Floor, 1961 Stout Street, Denver, Colorado 80202.

REGION IX:

Room 401, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

REGION X:

Room 6132, Arcade Plaza, 1321 Second Avenue, Seattle, Washington 98101.

PURPOSE OF THE HEARINGS

During the next year, the Department will give further consideration to several important issues in home health care and will take necessary action to modify Medicare (Title XVIII, Social Security Act) and Medicaid (Title XIX, Social Security Act) regulations and further develop Federal policy concerning home health services. Public participation and comment are vital to these Departmental efforts and such participation is invited early in the process.

The Department considers these hearings to be an essential step in the evolution of a more uniform, coordinated, and rational approach to the Federal financing of home health care. Public participation at this stage of the process will contribute to (1) the identification of specific local, State and national concerns regarding home health care, particularly as related to Federal financing efforts; (2) the further clarification of critical issues affecting the development of administrative, regulatory, and legislative approaches; and (3) an increased awareness and sensitivity on the part of the Department to the public's views in this area.

It should be noted that in this volume of the FEDERAL REGISTER, (FR Doc. 76–24915) final Medicaid regulations are issued by the Department, through the Social and Rehabilitation Service, to remove certain restrictions and ambiguities regarding persons eligible to receive home health services and to specify the types of services States must provide (i.e., nursing, home health aide, and supplies and equipment). Provisions related to increased participation by proprietary home health agencies and participation of single-service agencies, which were contained in the notice of proposed rule making of August 21, 1975 (40 CFR 36702), have been omitted from the final regulations and are included as issues for discussion at these hearings.

The hearings are expected to produce a report which will be transmitted to the Secretary (HEW) for use in determing the future direction of Departmental efforts in home health care. Other activities to be undertaken by the Department are: (1) The continuation of efforts to achieve greater uniformity between the Medicare and Medicaid programs, as exemplified by the publication of the revised Medicaid regulations on home health services; (2) the development of a plan for increasing public attention to the problems and issues surrounding home health care, and for fostering media participation in the discussion of the issues; (3) the conduct of in-depth analyses of home health issues, with particular attention to the impact of reimbursement procedures and regulatory requirements on the delivery and utilization of services; (4) the implementation and careful monitoring of HEW-supported home health projects; and, if necessary, (5) the development of legislative proposals covering desired programmatic improvements.

TOPICS FOR DISCUSSION

The Department seeks to determine its role in home health care as a part of the broader health care delivery system. In relation to this objective, the following issues are set forth as a general framework for the hearings, and should be viewed as a guide in the preparation of oral and written comments. Participants may choose to comment on as many of the issues as desired, and additional issues may be persented as well. Private citizens who wish to be heard, and who do not choose to speak to any one of the issues listed, are invited to comment on the basis of personal knowledge of, and experience with home health care.

In considering the issues listed below, the following working definition of home health care may be used: services of physicians, nurses, social workers, therapists, home health aides, and medical equipment and supplies, delivered to a patient in his place of residence.

1. *The Significance of Home Health Care.* 1.1 To what extent is home health care an effective alternative to inappropriate institutional care by: a) preventing or delaying institutionalization; b) allowing individuals to be discharged from an institution and still obtain necessary services; or c) providing a less costly alternative to inappropriate institutional care?

1.2 To what extent does home health care prevent illness, disability, and dependency, and promote, maintain or restore health (i.e. what is its effectiveness apart from its impact on institutionalization)?

1.3 What type of individual is more appropriately cared for through home health care?

2. *Community Need for Home Health Services.* 2.1 What is the extent of community need for home health services and other in-home support services such as transportation and escort services, friendly visiting, home-delivered meals, homemaker services, chore services, etc.?

2.2 What effective measures are there to determine a community's overall needs for home health services?

2.3 How can a community determine whether existing resources are adequate to meet those needs?

2.4 If significant unmet need for home health services exists, is this attributable to lack of eligible providers, restrictions on recipient eligibility or restrictions on services that are reimbursable?

2.5 If existing resources do not meet existing needs, what steps should be taken?

2.6 Are there barriers to the acceptance and continued use of home health services by the physician and other providers and by consumers? If so, what are they and how may they be surmounted?

3. *Eligibility for Care and Extent of Coverage under Titles XVIII (Medicare), XIX (Medicaid), and XX (Social Services).* 3.1 What health and support services should be included in the benefits under Titles XVIII, XIX and XX?

3.2 Should home health care be defined in terms of services or patient needs?

3.3 Should income criteria be used to determine eligibility for home health services? If so, what?

3.4 Should there be limitations regarding length of care and type of service? If so, what?

3.5 Should other limitations be placed on federally-financed home health services? If so, what?

3.6 What Federal programs should pay for which kinds of services?

3.7 Should benefits be assured for special groups, for example, the developmentally disabled, the mentally ill, the terminally ill, etc.? If so, how?

4. *Home Health Service Development.* 4.1 What are and should be the roles of Federal, State, and local governments and community agencies and organizations in the initial development, expansion, and operation of home health programs?

4.2 What are and should be the roles of Federal, State, and local governments in planning, and regulating in-home services (including home health services) through the Health Planning Act (Pub. L. 93–641) and other mechanisms?

4.3 What Federal, State, and local government statutory and regulatory restrictions on the development of in-home services (including home-health services) currently exist; and what is their impact?

4.4 What is the appropriate role for consumers in the planing and development of home health services?

4.5 Are there better ways to organize and finance home health and other long-term care services than the approaches currently in use?

4.6 Are there barriers to the acceptance, continued use, and financing of home health care from a local perspective? From a State or Federal perspective? If so, what can and should be done to eliminate these barriers?

5. *Home Health Services Delivery.* 5.1 What types of agencies should provide and be reimbursed for home health services (i.e., public, voluntary, private nonprofit, proprietary)?

5.2 What types of personel should provide home health services? How much supervision is needed and by whom? What licensure or certification requirements should be considered for home health personnel?

5.3 How can economy in the organization and distribution of home health resources, and efficiency in the delivery of home health services, be encouraged and maintained? What measures should be taken to contain costs?

5.4 How should home health agencies coordinate their services with other health care providers and existing social and support services in the community such as transportation, home-delivered meals, homemaker services, etc.?

5.5 What other alternatives to inappropriate institutional care should be developed (e.g., day care, day hospitals, etc.)?

5.6 What strategies should be employed to assure adequate coordination of resources and services at the local level, including ways to provide services to medically underserved populations in urban and rural areas?

5.7 How should statewide coordination of such services be attained?

6. *Quality Assurance.* 6.1 Are present health care and administrative standards for home health services delivery appropriate, enforceable and measureable in terms of outcomes of care; If not, how should they be modified;

6.2 What should be the role of mechanisms such as Profesional Standards Review Organizations, or Medical Review in determining the quality of home health services;

6.3 What mechanisms are there to prevent fraud and abuse in home health care?

6.4 Should licensure of home health agencies be considered as a means of assuring quality? If so, at what level should it be carried out?

6.5 Should accreditation of home health agencies be considered at this time? If so, by whom?

6.6 What difficulties do home health agencies participating in both Titles XVIII and XIX encounter in administering the program standards?

6.7 What need is there for basic and continuing technical, health professional and managerial training for all home health agency personnel?

7. *Reimbursement.* 7.1 Can and should reimbursement policies (e.g., those related to eligibility and benefits) be more consistent among all private and public third-party payors?

7.2 Should reimbursement be on a per visit, per diem, prospective, retrospective, or other basis?

7.3 What changes are needed in Federal reimbursement policies to contain costs? Do the policies and procedures of non-governmental reimbursement sources require modification? If so, what modifications?

7.4 Should in-home services under Title XX be mandated on a statewide basis to supplement Title XIX?

7.5 For purposes of Federal reimbursement, who should be permitted to authorize home health services (i.e. physicians, physician extenders, nurse practitioners, others)?

Dated: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76–24916 Filed 8–24–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA–518–DR; Docket No. N–76–623]

VERMONT

Amendment to Notice of Major Disaster

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary of Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 13, 1976, the President amended his major disaster declaration of August 5, 1976, as follows:

I hereby amend my August 5, 1976, declaration of a "major disaster" for the State of Vermont to read as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms, high winds, and flooding, beginning about July 11, 1976, and from severe storms and flooding associated with Hurricane Belle, beginning about August 9, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Vermont.

V 41 1166 AUG 25 76 UMI

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development, Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. E. Paul Hartzell, HUD Region I, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Vermont to have been adversely affected by this declared major disaster:

The counties of:

Addison	Orange
Bennington	Orleans
Caledonia	Rutland
Chittenden	Washington
Franklin	Windham
Lamoille	Windsor

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–24857 Filed 8–24–76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N–76–616]

ALTO VILLAGE, ET AL.

Hearing

In the matter of: Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, OILSR No. 0–0425–36–10 (A–B), Docket No. 76–221–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Alto Villages, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on November 16 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 26, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24858 Filed 8–24–76;8:45 am]

[Docket No. N–76–620]

CAMELOT, UNIT 1 ET AL.

Hearing

In the matter of: Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, OILSR NO. 0–3049–36–143, Docket No. 76–196–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Camelot, Unit 1, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 13, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washintgon, D.C., on November 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 4, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default in the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24862 Filed 8–24–76;8:45 am]

[Docket No. N–76–618]

EMERALD LAKES, ET AL.

Hearing

In the matter of: Emerald Lakes, James B. Rabold, President and Unidel Corporation, OILSR NO. 0–0258–44–8 and (A–H), Docket No. 76–205–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Emerald Lakes, James B. Rabold, President, and United Corporation, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 27, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Emerald Lakes, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 9, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on September 27, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 30, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24860 Filed 8–24–76;8:45 am]

[Docket No. N–76–621]

GLENDALE YEAROUND, ET AL.

Hearing

In the matter of: Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, OILSR No. 0–1752–44–84 and (A–C), Docket No. 76–173–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1745(b) (1) and 1720. 125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Glendale Yearound, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 71456, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 3, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24863 Filed 8–24–76;8:45 am]

[Docket No. N–76–617]

GREENWOOD ACRES, ET AL.

Hearing

In the matter of: Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, OILSR NO. 0–2360–44–143, Docket No. 76–211–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Greenwood Acres, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 10, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 20, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24859 Filed 8–24–76;8:45 am]

[Docket No. N–76–622]

GRIZZLEY PARK ET AL.

Hearing

In the matter of: Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, OILSR NO. 0–2554–04–38, Docket No. 76–235–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued August 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Grizzley Park, located in El Dorado County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

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2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 13, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 15, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 18, 1976.

By the Secretary.

JAMES W. MASTA,
Administrative Law Judge.

[FR Doc.76-24864 Filed 8-24-76;8:45 am]

[Docket No. N-76-619]

SUNSET VALLEY ET AL.

Hearing

In the matter of: Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, OILSR No. 0-1145-42-7, Docket No. 76-148-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Sunset Valley, located in Cherokee County, Oklahoma, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 27, 1976 in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 12, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 14, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24861 Filed 8-24-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 29490, 29500, 29565, 29567, 29569; Order 76-8-111]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC.

Tariffs Containing New Air Fares Over the North Atlantic; Order of Deferral

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of August, 1976.

On June 28, 1976 and July 22, 1976, Trans World Airlines, Inc. (TWA) and Pan American World Airways, Inc. (Pan American), respectively, filed tariffs establishing new transatlantic air fares for transportation commencing November 1, 1976.[1] Complaints against the TWA proposal have been filed by Pan American, the member carriers of the National Air Carrier Association (NACA), and the Department of Transportation (DOT). All of the complainants have requested that the tariffs be suspended and investigated. TWA filed a consolidated answer to the complaints. Complaints against the Pan American proposal have been filed by TWA, National Airlines, Inc. (National), NACA, and DOT. Pan American has filed an answer.

TWA's Proposal

TWA's proposal would increase first-class fares; establish a single-factor, year-around normal economy-class fare; consolidate the present 14/21-day and 22/45-day excursion fares into a 14/45-day excursion fare with 2 stopovers available at $25 each; retain the present APEX fares but with more liberal conditions; and introduce at the APEX levels a new advance-purchase inclusive-tour fare (APIT) available for 14/21 day travel during the peak season and 7/21 days during the basic (off-peak) season. All group fares—affinity, incentive, and inclusive-tour group fares as well as youth fares—would expire under their own terms effective October 31, 1976. TWA's proposed fare levels and related conditions are detailed in the attachment.[2]

In support of its filing TWA states that its proposal represents a basis for resolving the present impasse in IATA fare negotiations while at the same time providing the traveling public with low-cost scheduled-service fares totally free of group requirements. TWA alleges that reducing the number of fares and the complexity of the fare structure will better enable the individual traveler to comprehend his fare options and to choose the fare that most adequately fills his needs; will eliminate unneeded and uneconomic fares; and, along with some upward adjustment in fare levels, will assist TWA to realize a profitable scheduled-service operation. TWA estimates a pre-tax profit of $5.3 million with the proposed structure versus an $18.6 million loss if the present structure is continued. The carrier estimates a return on investment of 6.7 percent under the proposal versus a negative 3.4 percent under status quo fares. Under both fare assumptions, load factors are expected to improve over the historical 1975 results of 53.6 percent to 57.4 percent under present fares and to 58.7 percent under the proposed fares.

As noted previously all of the complainants request suspension and investigation of TWA's proposal. Pan American, while endorsing TWA's objectives, contends the fare structure will not result in revenue improvement. Pan American argues that the levels for the APEX and the APIT fares are unnecessarily low and that TWA's projected increases in normal economy-fare traffic are unrealistic. The DOT commends TWA for its efforts to revise the structure; however, it alleges that TWA has failed to provide data which is critical to an evaluation of its proposal and that additional supporting data must be submitted.[3] In the event the data required to justify the proposal are not provided, the tariffs should be suspended. NACA alleges that the tariffs should be suspended because the normal economy-fare levels are unreasonably high while the APIT and APEX fares are unreasonably low.

In its consolidated answer TWA avers that NACA's contentions, that TWA's proposal would reduce discount fares and that the proposed normal-promotional fare differentials are improper, are false; that the problems raised by DOT cannot be solved now and that TWA's justification is adequate; and that Pan American fails to show that TWA's proposal will not improve revenues and fails to give any other reason for suspension.

Pan American's Proposal

Pan American would increase first-class fares; establish a single-factor, year-around normal economy fare with limited free stopovers and a weekend surcharge; and provide three 14/45-day excursion fares, with no stopovers, at various levels depending on the time of purchase—no advance purchase, 30 days, and 60 days. In addition, Pan American would extend the peak season from three to four months. As with TWA's filing Pan American proposes elimination of all group and youth fares. The proposed fares and related conditions are shown in the attachment.[4]

In support of its filing, Pan American alleges that its proposal presents a logical and simple structure, easily marketable and understandable by sellers and purchasers of air transportation alike; that the structure would be at a compensatory level under prevailing regulatory standards; and that it would enable carriers, after years of unsatisfactory financial results, to offer their services on a reasonably compensatory basis. Pan American forecasts that with status quo fares, its operating profit would be $17 million and its net income would be $3 million producing a rate of return on investment of 6 percent with a 56 percent passenger load factor. The proposed package, Pan American alleges, would increase operating profit to $46 million and improve net income to $19 million for a 12 percent rate of return with a 52 percent seat factor.[5]

Insofar as the proposed scheduled-service fare structure is concerned, NACA's complaint is directed to Pan American's proposed normal economy fares which it alleges are unreasonably high, unjustly discriminatory, and unlawful, and which should be suspended pending investigation. TWA requests suspension on the grounds that the promotional fares proposed are not set at low enough levels and as a consequence significant diversion of scheduled-service traffic to charter services will occur. Comparing Pan American's proposal with its own, TWA estimates that the Pan American fare structure (including the charter-transfer facility) would have the effect of reducing passengers by 16 percent and revenues by 9 percent. A similar comparison with status quo fares, TWA alleges, would reduce passengers by 14 percent and revenues by 3 percent. National objects to Pan American's proposal on the grounds that it does not contain an attractive, low-cost, individual promotional fare. DOT generally supports the various requests for suspension and investigation.

In its consolidated answer, Pan American alleges, in response to the NACA complaint, that at most there is a 9.5 percent variance between total economic costs including a 12 percent return on investment and its proposed normal economy fares and that its proposal will not complicate the fare structure as alleged by TWA.

Upon consideration of the carriers' tariff filings and their justifications in support of those filings, the complaints, answers, and all other relevant matters, we have decided to take no action with respect to the tariff filings at this time. Our action herein is not to be construed as a final action on North Atlantic fare issues for the period after November 1, 1976, but rather an action of deferral in order that our views may be made known on both carrier proposals and with the expectation that additional U.S.-and foreign-carrier proposals will be considered within the IATA framework before a final proposal on North Atlantic fares for the period after November 1 will be submitted. Having in mind our statutory authority to take suspension action against these tariffs at any time in the future, we believe our present action is a proper course of action and that it accomplishes the objective sought by TWA which requests prompt consideration of its proposal to "provide the catalyst that is needed to bring about a sound IATA fare agreement for the transaltantic travel market."

Both Pan American and TWA are to be commended for their efforts to bring about a simplified fare structure, a structure easily understood by both buyers and sellers of air transportation and geared to individual rather than group sales, thus eliminating the potential for abuses which have long been associated with group fares. The present structure of nine distinct fares with varying conditions geared to age, group travel, inclusive tours, and affinity groups would be replaced with a total of five fares all geared to individual travel with charges for stopovers and with appropriate advance-purchase and penalty conditions on usage of the lowest-level fares. We favor the Pan American proposal insofar as it would more closely relate economy fares to costs by limiting the presently unlimited free stopovers to one free stopover in each direction. In addition, no stopovers would be permitted on Pan American's three 14/45-day excursion fares. On the other hand, TWA's 14/45-day excursion-fare proposal would permit 2 stopovers at $25 each, which does not appear unreasonable. Board fare-structure pronouncements have long called for movement in the direction of additional payment for more costly circuitous and broken-journey travel, and we are encouraged by this aspect of Pan American's and TWA's filings.

TWA proposes a 14-22/90-day advance-purchase excursion fare and a 7-14/21-day advance-purchase inclusive-tour fare (APIT). The latter fare, the APIT, has, in our view, the potential of significant diversion from higher-rated fares, especially in the basic season when the fare would be available for a 7- to 21-day duration and require only a 30-day advance purchase and a minimum ground package of only $100. We also have serious reservations about the potential for abuses associated with inclusive-tour fares and question the economic vability of this type fare because of the unresolved question of who puts the ground packages together and at what cost. In sum, while we tend to favor the Pan American structure of excursion fares, the Board would approve promotional fares which include charges for stopovers as TWA proposes as well as such fares with a prohibition on stopovers such as Pan American proposes. Much more economic detail as to the costs associated with TWA's advance-purchase inclusive-tour fare and its significant potential diversion from higher-rated fares would be required before we could consider approval.

Turning now to the proposed fare levels, we shall focus on the two proposals for normal economy fares and advance-purchase fares. By Order 76-6-180, June 18, 1976, the Board suspended tariffs of both Pan American and TWA which proposed increases to normal economy fares in varying amounts. Earlier, by Order 76-4-175, April 30, 1976, the Board disapproved an IATA agreement which would have increased normal fares in greater amounts than unilaterally proposed by the two carriers. The Board's disapprovals were based on the carriers' failure to demonstrate differences in the costs of transporting an economy-class passenger which warranted charging that passenger up to twice the amount charged certain promotional-fare passengers. The Board continues to believe that present normal economy-class-fare passengers pay fares well in excess of the costs of providing the service. In the instant case both Pan American and TWA propose to increase normal economy fares. TWA would charge a $700 round-trip, year-round fare, New York-London, compared with the $584, $626, and $764 currently in effect during the winter, shoulder, and peak seasons, respectively. Based on IATA's North Atlantic normal economy-class traffic distribution in 1974 the average fare to be charged, at today's levels, would equal $652—$48 be-

[1] Trans World Airlines, Inc., International Local and Joint Passenger Fares Tariff No. F-11, C.A.B. No. 305, issued June 28, 1975, and Passenger Fares Tariff No. PF-6, C.A.B. No. 70, Air Tariffs Corporation, Agent, issued July 22, 1976.

[2] Filed as part of original document.

[3] DOT filed a motion to submit a late-filed document which is hereby granted.

[4] Pan American also proposes to revise its charter rules and permit the carriage of charter groups on scheduled service. This proposal, called the "charter transfer facility" by Pan American, is being dealt with separately.

[5] Pan American's results include $5.6 million in revenue from charter transfer passengers and the reduction in passenger load factor results from altering its economy class seating configuration from 9 abreast to 10 abreast.

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low TWA's proposal.[6] To Rome TWA proposes a normal economy fare of $934 which represents an increase of $77 over present average fares. While Pan American proposes a lesser increase than does TWA, ($674 vs. $700 New York-London round trip), the Pan American proposal represents potential increases even more severe than those proposed by TWA. First, TWA would retain the existing scheme of free stopovers and no weekend surcharges. On the other hand, Pan American, although proposing a New York-London level only $26 below TWA, would limit stopovers and would charge $15 each way for weekend travel.[7] Thus, both proposals would significantly increase normal economy fares which, in our view, are already set well above compensatory levels.

Two additional points warrant comment. Both Pan American and TWA propose a single year-round economy fare and two- rather than three-tier promotional-fare pricing. The Board has in the past approved the carriers' efforts to alleviate the problems of traffic peaking through differentiated seasonal pricing, and full justification from the carriers would be necessary before such a fundamental change could be accepted. Also, both carriers propose significant increases in first-class fares. We have no difficulty with the level of these fares *per se*. However, to the extent that efforts are made to continue to set the level of excess-baggage charges to first-class fares, and significant progress is not made in implementing our decision in Docket 24869, Baggage Allowance Tariff Rules in Overseas & Foreign Air Transportation, we very well might not be able to approve the increases.

The APEX fares proposed by Pan American are set at relatively high levels which indicate that carrier's obvious reliance on the "charter-transfer facility" (see fn. 3) as its lowest scheduled-service promotional fare. Were the charter-transfer facility not implemented, Pan American might well revise its APEX fare proposals. On the other hand, TWA's proposed advance-purchase fares appear abnormally low during the basic off-peak season especially considering the diversion possibilities from other higher-rated fares. In addition, TWA's limitation of use of the APIT and APEX fares to a maximum one-third of weekly economy seats over a given route does not sufficiently restrict usage of these fares. In its justification TWA expects 43 percent of its total passengers to avail themselves of these fares. This 43 percent is probably understated considering the passenger load factors projected. The levels of $325 to London and $402 to Rome during the basic season provide discounts significantly in excess of 50 percent from the proposed normal economy fares and their use would represent savings to the one-way passenger (who would otherwise be required to fly at a normal economy fare) of $25 to London and $65 to Rome. The undercut from normal economy round-trip fares would be twice that, or $50 to London and $130 to Rome. Even if the present normal economy fares were to be retained, TWA's proposed low fares during the basic season would not entirely correct this undercut situation although it would be significantly ameliorated. We further note that TWA's proposal represents only marginal increases over the present below-cost APEX fares to London and reductions from the present APEX fares to Rome.

Neither carrier has made any effort to demonstrate that the various fare levels contained in its proposal are cost-related. Rather each carrier estimates usage of each fare in its proposed structure to produce a bottom-line profit figure for comparison with what it expects with status quo fares. While we are unqualifiedly convinced that the fare structure can and should be simplified with fares geared to individual rather than group travel and with free stopovers curtailed, which both carriers are proposing, we are equally convinced that normal economy fares are already excessive in relation to cost and that promotional fares must be set at levels and must be adequately restricted so as to limit diversion and yield dilution and to insure that only truly generative promotional fares are included in the structure.

In view of the foregoing, we would expect the carriers to take steps to revise their tariff filings sufficiently well in advance of November 1, 1976 or to reach an early agreement within IATA which is acceptable and approved by the Board for implementation on November 1, 1976. In the event that no acceptable agreement is reached within IATA and the carriers do not refile tariffs more in line with our views herein, we will take whatever suspension or other action we may then deem appropriate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 404, 801, and 1002 thereof,

It is ordered, That: 1. Action be and hereby is deferred on the complaints filed by Pan American World Airways, Inc., the member carriers of the National Air Carrier Association, and the Department of Transportation in Dockets 29500 and 29490 requesting suspension and investigation of tariffs filed by Trans World Airlines, Inc. proposing transatlantic fares for sale beginning November 1, 1976;

2. Action be and hereby is deferred on the complaints filed by Trans World Airlines, Inc., the member carriers of the National Air Carrier Association, and National Airlines, Inc., and on the request of the Department of Transportation in Dockets 29565, 29567, and 29569, for suspension and investigation of tariffs filed by Pan American World Airways, Inc. proposing transatlantic air fares for sale beginning November 1, 1976; and

3. Copies of this order shall be served on Trans World Airlines, Inc., Pan American World Airways, Inc., National Airlines, Inc., the National Air Carrier Association, the Department of Transportation, and the International Air Transport Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24905 Filed 8-24-76;8:45 am]

[Docket 29519; Order No. 76-8-109]

TRANS WORLD AIRLINES, INC. AND COMPAGNIE NATIONALE AIR FRANCE

Bulk Specific Commodity Rate; Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of August, 1976.

By Tariffs filed July 12, 1976 effective August 11, 1976, Trans World Airlines, Inc. (TWA) proposed to reduce from 61 cents to 57 cents per kilogram the specific commodity rate (SCR) for bulk carriage of horsefiesh (Item 0670), tendered in minimum-sized shipments of 5,000 kilograms, from New York to Paris. In addition, by tariffs filed July 28, 1976 for effect August 27, 1976, Compagnie Nationale Air France (Air France) has filed to meet TWA's horsefiesh rates citing arguments in support that are substantially similar to TWA's arguments set forth herein.[1] Seaboard World Airlines, Inc. (Seaboard) has filed a complaint requesting suspension and investigation of TWA's proposed revision.

In support of its filing, TWA contends that under present rates for horsefiesh, Montreal enjoys a 4-cents-per-pound (8-cents-per-kilogram) advantage over New York; that with single large-sized shipments such as horsefiesh,[2] small rate differentials can influence a shipper's routing; and that U.S. carriers are losing a considerable share of this traffic to carriers who move horsefiesh via Montreal using a combination of air-truck rates. TWA claims that reducing the present 4-cents differential to approximately 2 cents per pound will provide both a satisfactory alternative rate and service for U.S. shippers and an acceptable revenue return per pallet position for the carrier. The carrier estimates that, with this rate change, over 10 million pounds of a total 22 million pounds of horsefiesh now originating in the U.S. will move through U.S. gateway points rather than through Canadian gateway points.

In support of the reasonableness of the reduction, TWA claims that horsefiesh is so dense that the average per pallet return at the proposed rate would be greater than the average per pallet return both from horsefiesh carried in charter service and from average-density traffic carried in scheduled service. Thus, the carrier maintains that increased carriage of horsefiesh, used as filler traffic on scheduled service, can bring about better use of aircraft space since more pallet positions will be occupied, and can make a significant contribution to recovery of fully allocated costs per flight since fewer tons of higher-rated normal-density traffic would be needed.

In its complaint against the rate, Seaboard states that the reduction is contrary to past Board policy statements concerning undue carrier reliance on heavily discounted SCRs. In addition, while not arguing for a further rate reduction, Seaboard considers that TWA's proposal is senseless as it still leaves Montreal with a rate advantage, will generate no additional traffic, and will achieve nothing but dilution of TWA's revenue since it is clearly uneconomic based upon TWA's own cost data. Lastly, Seaboard contends that TWA has provided no support for its estimates of horsefiesh traffic that would be diverted to U.S. gateways from Canada under its proposed rate.

In its reply[3], TWA claims Seaboard's complaint is without merit and should be dismissed. The carrier reiterates its arguments concerning the diversionary and generative aspects of the present and proposed rates, and states that although the reduced rate approximates the present rate available at Boston, horsefiesh does not move through Boston due to inadequate freighter and/or wide-bodied capacity. The carrier further argues that Seaboard's charges that the reduced rate is uneconomic are invalid since Seaboard's conclusions were reached based on an analysis of yields and costs per ton-mile; that it is inappropriate to use cost/revenue per ton-mile to measure profitability when the per pallet and per plane-mile revenue can be determined; and that the reduced rate is economic.

Upon full consideration of the tariff filings, the carriers' justifications and reply, Seaboard's complaint, and all other relevant factors, the Board has determined to dismiss the complaint and permit the filings to become effective.

While TWA's arguments are not entirely persuasive and the question is close, the fact remains that there is a large 8-cents-per-kilogram differential between the New York-Paris and Montreal-Paris horsefiesh rates and that no carrier has disputed the allegation that movement of horsefiesh by air is extremely sensitive to differences in transportation costs. In view of all this, it is plausible that U.S. horsefiesh traffic has diverted to Montreal in significant quantities and that some adjustment in the New York rate is needed to regain a share of this traffic for U.S. carriers. TWA's reduction of this differential by half to 4 cents per kilogram falls short of fully equalizing the New York and Montreal rates, but appears to be a reasonable compromise which could aid in regaining some of the lost traffic to U.S. carriage, and could make some contribution to improved U.S. carrier economics.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 1002 thereof,

It is ordered, That: 1. The complaint of Seaboard World Airlines, Inc. in Docket 29519 be and hereby is dismissed; and

2. The motion of Trans World Airlines, Inc. for leave of file an otherwise unauthorized document in Docket 29519 be and hereby is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24904 Filed 8-24-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Cancellation of Meeting

AUGUST 20, 1976.

Notice is hereby given of the cancellation of the meeting of the Task Force on Demonstration Prodjects as a Commercialization Incentive of August 27, 1976, which was published in the FEDERAL REGISTER August 5, 1976, 41 FR 32777.

K. DEAN HELMS,
Acting Advisory Committee Management Officer.

[FR Doc.76-24920 Filed 8-24-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on October 4, 1976, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list below or with any other application on file by the close of business on October 1, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 1, 1976. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: August 10, 1976.

Released: August 17, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[6] Of the total normal economy-fare passengers flying the North Atlantic in 1974, 35 percent, 35 percent, and 29 percent flew in the winter, shoulder, and peak seasons, respectively. The weighted average of such travel, based on present fares, is $652, New York-London round trip.

[7] We do not intend by this, however, to discourage Pan American's commendable movement to limit the number of stopovers which can be made at the normal economy fare without additional payment, and to charge for weekend travel to even out peaking.

[1] Trans World Airlines, Inc., Tariff C.A.B. 230, 16th Revised Page 69, and Air Tariffs Corporation, Agent, C.A.B. No. 50, 14th Revised Page 234.

[2] TWA states that its single horsefiesh shipments have ranged from 30,000 lbs. (13,609 kgs.) to 42,500 lbs. (19,278 kgs.) during the last few months and averaged 34,590 lbs. (15,690 kgs.) during 1975.

[3] TWA's reply was filed with a motion for leave to file an unauthorized document, which will be granted.

V 41 166 AUG 25 76 UMI

BPH-9720 NEW PATTERSON, NEW YORK
PATTERSON BROADCASTING CORP.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 1.11 KW; HAAT: 460 FT.

BPH-9841 NEW BOZEMAN, MONTANA
NORTHERN SUN CORPORATION
REQ: 93.7 MHZ; CHANNEL NO. 229C
ERP: 100 KW; HAAT: 221 FT.

BPH-9862 WOWK STATE COLLEGE, PENNSYLVANIA
STATE COLLEGE COMMUNICATIONS CORP.
HAS: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 78 FT. (LIC)
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: .225 KW; HAAT: 919 FT.

BPH-9900 NEW DEMING, NEW MEXICO
LUNA COUNTY B/CTING CO.
REQ: 94.3 MHZ; CHANNEL NO. 232A
ERP: 3 KW; HAAT: 195 FT.

BPH-9902 NEW HILO, HAWAII
CHRISTIAN BROADCASTING ASSOCIATION
REQ: 97.1 MHZ; CHANNEL NO. 246C
ERP: 100 KW; HAAT: -98 FT.

BPH-9903 NEW PALM SPRINGS, CALIFORNIA
GRAY-SCHWARTZ BROADCASTING
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: .575 KW; HAAT: 619 FT.

BPH-9904 NEW PANA, ILLINOIS
PANA BROADCASTING CORPORATION
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: [illegible] KW; HAAT: 292 FT.

BPH-9907 NEW GILMER, TEXAS
DANIELS BROADCASTING, INC.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.4 KW; HAAT: 420 FT.

BPH-9908 WIVY-FM JACKSONVILLE, FLORIDA
JACKSONVILLE BROADCASTING CORP.
HAS: 102.9 MHZ; CHANNEL NO. 275C
ERP: 29 KW; HAAT: 205 FT. (LIC)
REQ: 102.9 MHZ; CHANNEL NO. 275C
ERP: 60 KW; HAAT: 572 FT.

BPH-9909 NEW EUNICE, LOUISIANA
TRI-PARISH B/CTING CO., INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: .2 KW; HAAT: 105.6 FT.

BPH-9910 NEW BERRYVILLE, VIRGINIA
BERRYVILLE MEDIA GROUP
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.

BPH-9913 NEW COLUMBIA, SOUTH CAROLINA
OASIS MEDIA LIMITED
REQ: 103.1 MHZ; CHANNEL NO. 276A
ERP: 3 KW; HAAT: 300 FT.

BPH-9914 NEW JEFFERSONTOWN, KENTUCKY
PUBLICAST COMMUNICATIONS, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: 300 FT.

BPH-9915 NEW LEWISBURG, WEST VIRGINIA
LEWISBURG FM BROADCASTERS
REQ: 105.5 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO RONCEVERTE, WV.)

BPH-9917 NEW FRANKFORT, MICHIGAN
BENZIE COUNTY COMMUNICATIONS, INC.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 300 FT.

BPH-9918 NEW LAKE VILLAGE, ARKANSAS
JACK A. CARPENTER
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

V 41 1 166 AUG 25 76 UMI

BPH-9920 KBRE-FM CEDAR CITY, UTAH
NEW ERA BROADCASTING COMPANY
HAS: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.5 KW; HAAT: -160 FT. (LIC)
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.3 KW; HAAT: 1681 FT.

BPH-9921 NEW BETHLEHEM, WEST VIRGINIA
RADIO WHEELING, INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO MOUNDSVILLE, WV.)

BPH-9923 NEW ASHLAND, OREGON
FAITH TABERNACLE, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: -1298 FT.

BPH-9924 NEW PRENTISS, MISSISSIPPI
JEFF DAVIS BROADCASTING SERVICE
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 1 KW; HAAT: 94 FT.

BPH-9926 NEW MARIPOSA, CALIFORNIA
MARIPOSA BROADCASTING, INC.
REQ: 96.3 MHZ; CHANNEL NO. 242B
ERP: 1.1 KW; HAAT: 2079 FT.

BPH-9928 WTWE MANNING, SOUTH CAROLINA
CLARENDON COUNTY BROADCASTING CO.
HAS: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 160 FT. (LIC)
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9929 KDES-FM PALM SPRINGS, CALIFORNIA
TOURTELOT BROADCASTING COMPANY
HAS: 104.7 MHZ; CHANNEL NO. 284B
ERP: 20 KW; HAAT: -600 FT. (LIC)
REQ: 104.7 MHZ; CHANNEL NO. 284B
ERP: 41.5 KW; HAAT: 543 FT.

BPH-9930 WKPT-FM KINGSPORT, TENNESSEE
HOLSTON VALLEY BROADCASTING CORP.
HAS: 98.5 MHZ; CHANNEL NO. 253C
ERP: 45 KW; HAAT: 960 FT. (LIC)
REQ: 98.5 MHZ; CHANNEL NO. 253C
ERP: 100 KW; HAAT: 1260 FT.

BPH-9931 NEW PRICE, UTAH
EASTERN UTAH BROADCASTING COMPANY
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 3 KW; HAAT: -144 FT.

BPH-9932 NEW LIVINGSTON, MONTANA
YELLOWSTONE B/CTING SERVICES, INC.
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: -245 FT.

BPH-9936 NEW LAKE ARROWHEAD, CALIFORNIA
ARROWHEAD BROADCASTING CORPORATION
REQ: 103.9 MHZ; CHANNEL NO. 280A
ERP: .087 KW; HAAT: 1486 FT.

BPH-9937 NEW HIGH SPRINGS, FLORIDA
COUNTRY BROADCASTING COMPANY
REQ: 104.9 MHZ; CHANNEL NO. 285A
ERP: 3 KW; HAAT: 300 FT.

BPH-9938 KDUX-FM ABERDEEN, WASHINGTON
ABERDEEN BROADCASTING CO.
HAS: 104.7 MHZ; CHANNEL NO. 284C
ERP: 48 KW; HAAT: 155 FT. (LIC)
(OCEAN SHORES, WASHINGTON)
REQ: 104.7 MHZ; CHANNEL NO. 284C
ERP: 31.3 KW; HAAT: 361 FT.
(ABERDEEN, WASHINGTON)

BPH-9948 NEW GAYLORD, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.8 KW; HAAT: 371 FT.

BPH-9949 NEW ST. IGNACE, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 102.3 MHZ; CHANNEL NO. 272A
ERP: 3 KW; HAAT: 300 FT.

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BPH-9952 WDAS-FM PHILADELPHIA, PENNSYLVANIA
MAX M. LEON, INC.
HAS: 105.3 MHZ; CHANNEL NO. 287B
ERP: 50 KW; HAAT: 185 FT. (LIC)
REQ: 105.3 MHZ; CHANNEL NO. 287B
ERP: 3.31 KW; HAAT: 872 FT.

BPH-9954 NEW BASTROP, LOUISIANA
HAGAN BROADCASTING, INC.
REQ: 100.1 MHZ; CHANNEL NO. 261A
ERP: 3 KW; HAAT: 182 FT.

BPH-9955 NEW PLYMOUTH, NORTH CAROLINA
RALPH D. EPPERSON
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 2.6 KW; HAAT: 326 FT.

BPH-9956 NEW SLATON, TEXAS
FAITH BROADCASTING SERVICE
REQ: 92.7 MHZ; CHANNEL NO. 224A
ERP: 3 KW; HAAT: 300 FT.

BPH-9957 KWHO-FM SALT LAKE CITY, UTAH
RADIO STATION KWHO
HAS: 93.3 MHZ; CHANNEL NO. 227C
ERP: 37 KW; HAAT: -93 FT. (LIC)
REQ: 93.3 MHZ; CHANNEL NO. 227C
ERP: 13 KW; HAAT: 3650 FT.

BPH-9965 NEW MINEOLA, TEXAS
A-C CORPORATION
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 300 FT.

BPH-9967 NEW AZTEC, NEW MEXICO
BASIN BROADCASTING COMPANY
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 30 KW; HAAT: 429 FT.

BPH-9971 KSND SPRINGFIELD-EUGENE, OREGON
STERLING RECREATION ORGANIZATION CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 2.6 KW; HAAT: 81 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 26.7 KW; HAAT: 814 FT.

BPH-9972 KSUM-FM ONTARIO, CALIFORNIA
MEDIA MANAGEMENT CO., INC.
HAS: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: -400 FT. (LIC)
REQ: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: 89 FT.

BPH-9974 KTYL TYLER, TEXAS
OIL CENTER BROADCASTING CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 4.8 KW; HAAT: 380 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 100 KW; HAAT: 468.2 FT.

BPH-9977 NEW ALLIANCE, NEBRASKA
QUIVEN O. FORTNER & ROBERT V. HILL
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9980 NEW BETHANY, MISSOURI
JERRELL A. SHEPHERD
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

BPH-9981 NEW HERMISTON, OREGON
HERMISTON BROADCASTING CO.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 78 FT.

BPH-9996 KLSN BROWNWOOD, TEXAS
G.B.E., INC.
HAS: 99.3 MHZ; CHANNEL NO. 257A
ERP: .7 KW; HAAT: 115 FT. (LIC)
REQ: 104.1 MHZ; CHANNEL NO. 281C
ERP: 25 KW; HAAT: 206 FT.

BPH-10111 NEW HEALDSBURG, CALIFORNIA
CARROLL E. BROCK
REQ: 92.9 MHZ; CHANNEL NO. 225B
ERP: 18 KW; HAAT: 730 FT.

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BMPH-14866 WBJH TRENTON, NEW JERSEY
WRUD, INC.
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 130 FT. (LIC)
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 120 FT. (CP)
REQ: 101.5 MHZ; CHANNEL NO. 268B
ERP: 50 KW; HAAT: 120 FT.

BMPH-14875 KRKE-FM ALBUQUERQUE, NEW MEXICO
GAYLORD BROADCASTING CO., INC.
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 1.6 KW; HAAT: -150 FT. (LIC)
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 3.5 KW; HAAT: -155 FT. (CP)
REQ: 94.1 MHZ; CHANNEL NO. 231C
ERP: 8.14 KW; HAAT: 4104 FT.

BMPH-14876 KNCY-FM NEBRASKA CITY, NEBRASKA
THE KNCY RADIO CORP.
HAS: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 125 FT. (CP)
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 300 FT.

BPED-2146 NEW CHESTER, PENNSYLVANIA
WIDENER COLLEGE
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2210 NEW BAINBRIDGE, OHIO
KENSTON LOCAL SCHOOL DISTRICT
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2215 NEW RICHMOND, VIRGINIA
UNIVERSITY OF RICHMOND
REQ: 90.1 MHZ; CHANNEL NO. 211D
TPO: .01 KW.

BPED-2239 NEW PRAIRIE VIEW, TEXAS
PRAIRIE VIEW A & M UNIVERSITY
REQ: 88.3 MHZ; CHANNEL NO. 202C
ERP: 50 KW; HAAT: 402 FT.

BPED-2245 NEW CAROLINA, PUERTO RICO
CHRISTIAN BROADCASTING CORP.
REQ: 90.5 MHZ; CHANNEL NO. 213B
ERP: 25 KW; HAAT: 1861 FT.

BPED-2246 NEW ELKTON, MARYLAND
MARANATHA BIBLE INSTITUTE, INC.
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: 3 KW; HAAT: 260.6 FT.

BPED-2248 NEW ELON COLLEGE, NORTH CAROLINA
ELON COLLEGE
REQ: 89.3 MHZ; CHANNEL NO. 207D
TPO: .01 KW.

BPED-2252 WVXU-FM CINCINNATI, OHIO
XAVIER UNIVERSITY
HAS: 91.7 MHZ; CHANNEL NO. 219D
ERP: .065 KW; HAAT: 650 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219B
ERP: 6.39 KW; HAAT: 683 FT.

BPED-2254 NEW NEW ORLEANS, LOUISIANA
NEW ORLEANS BAPTIST THEOLOGICAL SEM.
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

BPED-2259 KVIT DALLAS, TEXAS
RESEARCH EDUCATIONAL FOUNDATION, INC
HAS: 91.7 MHZ; CHANNEL NO. 219C
ERP: .78 KW; HAAT: 69 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219C
ERP: 100 KW; HAAT: 786 FT.

BPED-2260 NEW MONROE, MICHIGAN
MONROE PUBLIC SCHOOLS
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2261 NEW UTICA, NEW YORK
SYRACUSE UNIV. UTICA COLLEGE BRANCH
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

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PAGE 9

BPED-2264 NEW BUXFORD, MASSACHUSETTS
MASCONOMET REGIONAL SCHOOL SYSTEM
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: .710 KW; HAAT: 19 FT.

BPED-2265 NEW LAKE HAVASU CITY, ARIZONA
ROYAL RANGER TRAILBLAZER OUTPOST #67
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2267 WKTL STRUTHERS, OHIO
BD. OF EDUC.,STRUTHERS CTY SCH. DIST
HAS: 90.7 MHZ; CHANNEL NO. 214A
ERP: .91 KW; HAAT: 26 FT. (LIC)
REQ: 90.7 MHZ; CHANNEL NO. 214A
ERP: 14.9 KW; HAAT: 23 FT.

BPED-2272 NEW SODUS, NEW YORK
SODUS CENTRAL SCHOOL
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2276 NEW LANCASTER, PENNSYLVANIA
LANCASTER BIBLE COLLEGE
REQ: 90.3 MHZ; CHANNEL NO. 212A
ERP: 1.06 KW; HAAT: 87.5 FT.

BPED-2281 KAVS THIEF RIVER FALLS, MINNESOTA
AREA VOCATIONAL TECHNICAL INSTITUTE
REQ: 90.1 MHZ; CHANNEL NO. 211A
ERP: 1.8 KW; HAAT: 82 FT.

BPED-2359 KDVS DAVIS, CALIFORNIA
UNIVERSITY OF CALIFORNIA
HAS: 91.5 MHZ; CHANNEL NO. 218D
TPO: .01 KW. (LIC)
REQ: 90.3 MHZ; CHANNEL NO. 212B
ERP: 5 KW; HAAT: 149 FT.

BPED-1291 NEVL MEMPHIS, TENNESSEE
SOUTHERN COMMUNICATION VOLUNTEERS
HAS: 90.3 MHZ; CHANNEL NO. 212D
TPO: .01 KW. (CP)
REQ: 89.9 MHZ; CHANNEL NO. 210C
ERP: 6.3 KW; HAAT: 279 FT.

[FR Doc.76-24896 Filed 8-24-76;8:45 am]

[Docket No. 20824; File No. BPH-9300]

WILLIAM HENRY BRITT

Designating Application for Hearing on Stated Issues

In reference application of William Henry Britt, Lubbock, Texas, Docket No. 20824, File No. BPH-9300, Requests: 102.5 MHz, Channel 273; 29.15 kW; 436 feet; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned application of William Henry Britt (Britt) for a construction permit for a new commercial FM broadcast station at Lubbock, Texas.

2. Analysis of Britt's financial documentation indicates that he will require $85,663 to construct his proposed facility and operate for one year, itemized as follows:

Equipment	$15,876
Loan curtailments	5,843
Interest on loan	4,674
Miscellaneous	9,290
Working capital (1st-yr.)	49,980
Total	85,663

To meet this requirement, Britt intends to rely upon existing capital, a bank loan, and anticipated revenues. However, it does not appear that these funds are, in fact, available to him. Since Britt's balance sheet fails to segregate current liabilities from long-term liabilities, as required by the instructions in section III of the application (FCC Form 301), the staff has been unable to determine the amount of capital available. Although Britt has indicated his intention to apply for a bank loan from the Lubbock National Bank, he has submitted no letter of commitment from that bank nor from any other financial institution. Finally, Britt has not submitted any advertising commitments in support of his intent to rely upon anticipated revenues. Rather, he has submitted a letter from a Webster and Harris Advertising Agency of Lubbock stating that it would consider placement of advertising for its clients on Britt's proposed station. However, such a letter from an advertising agency in lieu of advertising commitments, as required by the instructions to section III of the application, is insufficient. Therefore, a financial issue will be specified.

3. In addition, Britt has failed to comply with the requirements of the "Primer on the Ascertainment of Community Problems by Broadcast Applicants", 27 FCC 2d 650, 21 RR 2d 1501 (1971). Based upon the information contained in Britt's demographic material, it does not appear that he has surveyed leaders of all significant groups within his proposed community of service. "Voice of Dixie, Inc.", 45 FCC 2d 1027, 29 RR 2d 1127 (1974). For example, Britt states that the "principal business opportunities in Lubbock county are centered around agricultural business," including farming and farm related industries (e.g., farm machinery, fertilizer, and related farm products.) However, Britt has consulted no agricultural leaders nor leaders of farm related industries. In addition to Britt's omission of agricultural leaders, he has also excluded industrial leaders, religious leaders, professional leaders, and leaders of students and youth despite the fact that Lubbock is the home of Texas Tech University, one of Texas' largest universities. Further, it does not appear that all of Britt's community leader consultations were conducted by principals or management-level employees, as required by question and answer 11(a) of the "Primer".

4. In his application, as amended, Britt has ascertained the existence of 13 community problems. However, his entire programming proposal in response to these problems consists of one 15-minute program entitled, "Twist the Action" which will be broadcast three times daily, three days per week. Britt's attempt to correlate one program with all of Lubbock's ascertained community problems and needs is so vague and overly general as to reflect but a token effort to comply with the requirements of the "Primer Southeast Arkansas Radio, Inc.," 47 FCC 2d 835, 30 RR 2d 769 (1974). Therefore, a "Suburban"[1] issue will be included.

5. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

6. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether William Henry Britt is financially qualified to construct and operate as proposed.

2. To determine the efforts made by William Henry Britt to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

3. To determine, pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

7. *It is further ordered*, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

8. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 9, 1976.

Released: August 17, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-24895 Filed 8-24-76;8:45 am]

[1] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01084---	The West Hartlepool Steam Navigation Company Limited: *Granteyhall.*
01088---	Schulte & Gruns, Kingstrasse 2: *Lucie Schulte.*
01150---	Chevron Transport Corporation: *Elmer R. Peterson.*
01181---	Smith Sorensen Tankrederi A/S: *Orion.*
01252---	Aktieselskapet Havtor: *Havprins.*
01425---	Johnston Warren Lines Limited: *Nova Scotia.*
01817---	The Clan Line Steamers Limited: *Clan MacLeod.*
02013---	Granges AB: *Adak, Anaris, Arvidsjaur, Raunala, Avafors, Aurivaara.*
02146---	Pittston Marine Transport Corporation: *Cortland.*
02198---	The Peninsular and Oriental Steam Navigation Company: *Busiris.*
02295---	The Great Eastern Shipping Co., Ltd.: *Jag Anand.*
02473---	Irish Shipping Ltd.: *Irish Stardust.*
02492---	Interstate Oil Transport Co.: *Ocean 250, Ocean 135, Ocean 115, Ocean 96, Ocean 90, Ocean 80, Interstate No. 52, Interstate No. 53, Interstate No. 50, Interstate No. 48, Interstate No. 34, Interstate No. 30, Offshore 2401, Argoil 185, Interstate No. 19, Interstate No. 12, Interstate No. 17, Argoil 150, Argoil 160, Argoil 130, Chem Ten, Chesapeake, Interstate No. 8, Interstate No. 1, Argoil 105, R.T.C. No. 51, Interstate 54, Interstate 55, Interstate 36, Elk River, Interstate 72, Ocean States, Ocean 190, Interstate 71, Atlantic 28, York River, Ocean 155, Tide 119, Interstate 37, Interstate 35, Argoil 175, Interstate 70, Interstate 29, Ocean 255, Interstate 38.*
02715---	Allied Towing Corporation: *Hot Oil 17, ATC-141.*
02831---	Ednasa Company Ltd.: *Robina, Lorina, Louisana, Lamaria, Lindana, Lalinda, Lisana, Lennia, Losina, Larina, Lafumina, Lynda, Lissa, Larissa, Lasinda, Lilliana.*
02889---	Showa Kaiun K.K.: *Tonen Maru.*
02952---	Blandford Shipping Co., Ltd.: *Bamford, Bedford, Castleton Bulford Bideford Boxford.*
03068---	Pacific Shipping Company Limited: *Lot Kim.*
03214---	Saleninvest AB: *Sea Song.*
03293---	Maritime Fruit Carriers Company Limited: *Mandarincorc.*
03447---	K.K. Kyokuyo: *Kyo Maru No. 15. Kyo Maru No. 23, Kyo Maru No. 25.*
03477---	Nissui Kaiun K.K.: *Seiko Maru, Soyokaze Maru, Toko Maru, Hakukaze Maru, Matsukaze Maru, Hokko Maru, Asakaze Maru.*
03508---	Taiyo Gyogyo K.K.: *Azumar Maru No. 8.*
03513---	Tanda Sangyo Kisen Kabushiki Kaisha: *Seiran Maru.*
03521---	Tokushima Kisen Kaisha, Ltd.: *Tokusei Maru.*
93595---	Artagan Shipping Company Limited: *Artiba.*
03645---	Tidewater Morgan City Inc.: *Tide Mar 21, Tide Mar 20.*
03692---	Marmac Corporation: *WGH-14.*
04358---	Holland Bulk Transport B.V.: *Ameland.*
04503---	Okutsu Suisan K.K.: *Zenkomaru No. 18.*
04569---	Marasia S.A.: *Pacifico.*
04767---	Texaco Inc.: *Texaco Illinois.*
04768---	Texaco Overseas Tankship Limited: *Texaco Durham.*
04770---	Texaco Panama Inc.: *Texaco Missouri.*
05098---	EXXO Tankers Inc.: *ESSO Libya.*
05265---	Oceanostar Compania Maritima S.A.: *Valencia.*
05526---	Eastern Shipping Lines, Inc.: *Eastern Meteor.*
05578---	Baltic Shipping Company: *Alapajevkles, Arkhangelskles, Nikolai Krylenko, Nikolai Tjuljpin, Iuljam Foster, Alexandr Pushkin, Chernyakhovsk, Krasnogvardejsk, Krasnovraljsk, Olyga Ulyanova Dmitrij Ulyanov, Karachaevo Cherkessija, Vereya, Ilovaisk, Akademik Rikacher, Alecandr Ulianov, Valerian Kuibyshev, Nikolaj Pogodin.*
06074---	Quinto Navigation Corporation: *Island Engineer.*
06950---	Syra Compania Maritima S.A.: *Syra.*
06952---	Far East Shipping Co., Ltd.: *Mercury Gas.*
07141---	Miyagi Ken: *Miyagi Maru.*
07374---	Ocean Tramping Company Limited: *Mingchang, Nebula, Weili, Kailok.*
07817---	Yick Fung Shipping and and Enterprises Co. Ltd.: *China Sea, Steed.*
07990---	Partrederiet Proctor VI: *Pacific Proctor.*
08176---	Esso Italiana Spa.: *Esso Napoli.*
08414---	I.F.R. Services Limited: *Newcastle Clipper, Labrador Clipper, Lapland.*
08765---	Landmo Shipping Services Limited: *Bonnydale.*
09074---	Zuito Shipping Co., Ltd.: *Toko Maru.*
09164---	Aquanaves, C.A.: *Aquanaves II.*
09206---	Societe Navale Chargeurs Delmas Vieljeux: *Delchim Bearn.*
09580---	Tiana Shipping Co., Ltd.: *Sea Trader.*
09623---	Sea Goblin, Inc.: *Sea Goblin.*
09997---	Robina Shipping Co., S.A.: *Wisteria, Sunny Pioneer, Atlantic Pioneer.*
10260---	Hollywood Marine, Inc.: *T-220.*
10332---	Fukujin Kisen Kabushiki Kaisha: *Matsufukujin Maru.*

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Certificate No.	Owner/operator and vessels
10369---	Monarch Cruise Lines, Inc.: *Monarch Sun.*
10675---	Gilbralter Strait Shipping Inc.: *Fedtrade.*
10772---	Dalwa Line S.A.: *Michaelson Queen, Count Albatross, Atlantic Albatross, Tokelau.*
11011---	Power Corporation of Canada Ltd.: *Eskimo.*
11065---	C & M Shipping Co., S.A.: *Gloria Takeshi.*
11271---	China Merchants Steam Navigation Co. Ltd.: *Hai Hui.*
11286---	Binion Marine Service, Inc.: *ETT-105.*
11291---	Hull Investments Limited: *Manoora, Kanimbla.*
11498---	Herald Shipping Co., Ltd.: *Gomasa*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24771 Filed 8-24-76;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Issuances

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01016---	C. Clausen Dampskibsrederi A/S: *Linda Clausen, Helene Clausen.*
01233---	Burles Markes Ltd.: *La Selva.*
01330---	Shell Tankers (U.K.) Ltd.: *Limopsis.*
01425---	Johnston Warren Lines Ltd.: *Tropic.*
01426---	Kuwait Shipping Co.: *Ibn al Haitham, Ibn al Nafees, Ibn al Atheer.*
01449---	The Cairn Line of Steamships Ltd.: *Saxon Prince.*
01613---	Reardon Smith Line Ltd.: *Eastern City.*
01755---	Hugo Stinnes: *Pampero.*
01758---	Chotin Transportation, Inc.: *NMS 1802.*
01805---	Suisse Atlantique Societe d'Armement Maritime S.A.: *Los Andes, Lavaux.*
01889---	Gazocean Armement: *Pythagore.*
01935---	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Anders Maersk, Arild Maersk.*
02145---	Memphis Boat Refueling Service, Inc.: *CE 62.*
02344---	Empresa Lineas Maritimas Argentinas S.A.: *Catamarca II.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Sandgate.*
02462---	Hellenic Lines Ltd.: *Hellenic Patriot.*
02497---	Transworld Drilling Co.: *Transworld Rig 64.*
02560---	Aethalia Shipping Corp.: *Island Sky.*
02654---	Neuenfelder Reederei H. J. Wesch kg.: *Scol Trident.*
02836---	The Scindia Steam Navigation Co., Ltd.: *Jalaputra.*
02844---	Gloria Bahama, Ltd.: *Albion.*
02877---	Nippon Yusen Kabushiki Kaisha: *Kasuga Maru.*
02975---	Venture Shipping (Managers) Ltd.: *Summit Venture, American Venture.*
02977---	J. Ray McDermott & Co., Inc.: *McDermott Tidelands 010.*
03434---	Hoko Suisan K.K.: *Yashima Maru, Ebisu Maru, Shintoku Maru No. 26.*
03482---	Ryutsu Kaiun K.K.: *Mikata Maru.*
03484---	Sanko Kisen K.K.: *Eastern Dale, World Eminence.*
03517---	Tokyo Kaiji Kabushiki Kaisha: *Yucaly.*
03564---	A/S Mosvolds Rederi: *Mospoint.*
03680---	Murphy Pacific Marine Salvage Co.: *Gear.*
03692---	Marmac Corp.: *KS-101, Jane Houghland, JGH-33, WGH-10, RWH-43.*
03836---	Splosna Plovba: *Kranj.*
93878---	Ingram Barge Co.: *Sam M. Fleming.*
03918---	Mobile Shipping & Transportation Co.: *Mobil Hawk.*
04150---	Jan C. Uiterwyk Co., Inc.: *Susie U, Vera U.*
04172---	Eklof Marine Corp.: *E-16, E-24.*
04199---	Commercial Oil Carriers Ltd.: *Solana.*
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Belgium, Mol.*
04285---	Western Contracting Corp.: *Western Condor.*
04417---	Howaldt Schiffahrts-K.G.: *Paula Howaldt Russ.*
04768---	Texaco Overseas Tankship Ltd.: *Texaco London.*
04961---	Solar Navigation Corp.: *Andromachi.*
05098---	Esso Tankers Inc.: *Esso Saint Petersburg.*
05520---	Union Carbide Corp.: *USL-494, USL-601, USL-498.*
05559---	Maryland Shipbuilding & Drydock Co.: *Valerie F.*
05624---	Perusahaan Pertambangan Minyak Dan Gas Bumi Negara: *Permina Samudra XIV.*
05736---	Flota Cubana de Pesca: *Rio Contra Maerstre, Rio Mayabeque.*
06248---	Commercial Corp. "Sovrybflot": *Kvant.*
06290---	Dockside Elevators, Inc.: *S-24, Mr. Bert.*
06389---	Sears Oil Co., Inc.: *Rome Sears.*
06721---	Kooil Industrial Co. Ltd.: *O Dae Yang No. 202, Endeavourers No. 7.*
06806---	Korea Marine Transport Co. Ltd.: *Royal Sapphire.*
06818---	Globus Reederei GMBH Hamburg: *Sa Sabie.*
06995---	Novorossisk Shipping Co.: *Apsheron.*
06996---	Akita Senpaku K.K.: *Akitsushima Maru.*
07019---	Allied Shipping International Corp.: *Astron.*
07307---	Nagashiki Kisen K.K.: *Kamishio Maru.*
07458---	Galissa Compania Maritima S.A.: *Galissa.*
07640---	Exxon Co. U.S.A.: *CTCO 194-25, CTCO 195-25, TTC-1, Exxon Barge No. 312, Exxon Barge No. 313, Exxon Barge No. 333.*
08390---	The Interlake Steamship Co.: *James R. Barker.*
08584---	The Mogul Line Ltd.: *Jana Priya, Jana Vijay.*
08931---	American River Transportation Co.: *Ardyce Randall.*
08090---	Compagnie Navale des Petroles: *Rigel, Cassiopee, Betelegeuse.*
09094---	Lambert Brothers Shipping Ltd.: *Temple Hall.*
09096---	Dong Won Industrial Co. Ltd.: *Dong Won No. 51.*
09206---	Societe Navale Chargeurs Delmas-Vielljeux: *Lucien Delmas.*
09408---	Partenreederei M.S. Woermann Sanaga: *Sanaga.*
09724---	Kagaya Matsuei: *Yachiyo Maru No. 26.*
09785---	San Diego Transportation Co.: *450-5.*
09792---	United Fair Agencies Ltd.: *Grand Universe, San Polluz.*
10260---	Hollywood Marine Inc.: *B-524.*
10314---	Edipsos Compania Naviera S.A.: *Kallimachos.*
10454---	West Coast Carriers Ltd.: *Fortune Carrier.*
10552---	F. Laeisz Maritime & Trading Co., Ltd.: *Josefa, Eva Maria, Vanessa.*
10768---	South Caribbean Shipping Co., Ltd.: *Stavros, G.L.*
10769---	North Caribbean Shipping Co., Ltd.: *Tina.*
10771---	Alexandria Shipping and Navigation Co.: *Al Anoud, Kuwait, Gada.*
10813---	Benitses Shipping Corp.: *Vassilis.*
10834---	Transports, Inc.: *Southern Isle.*
11065---	C & M Shipping Co. S.A.: *Glory Universe, Glory Friendship.*
11082---	Interocean Management Corp.: *Maryland.*
11211---	Princeland Maritime Corp.: *Euro Princess.*
11256---	Field-Swire Drilling Co.: *Pacific Driller.*
11267---	Hae Woi Industrial Co. Ltd.: *Espoir No. 103, Espoir No. 105.*
11276---	Petula Shipping Co. Ltd.: *United Fortune.*
11277---	Caribe Tugboat Corp.: *MM 366.*
11289---	Sajo Industrial Co. Ltd.: *Oryong No. 31.*
11301---	SBB, Stahl-Und Blech-Bau GmbH: *Matthias III.*
11339---	Eastern Street Maritime Co. S.A.: *Eastern Street.*
11345---	Norfolk Shipping Ltd.: *Aster.*
11351---	Sea Containers (Cyprus) Ltd.: *Deckship Arabella.*
11361---	Boston Tow Boat Co.: *Harold Smith.*
11372---	Crowley Maritime International S.A.: *Barge H-32.*
11384---	Frendo A/S: *Frendo Carib.*
11409---	Himmelman Shipping Ltd.: *O.K. Service.*
11421---	Karavos Compania Naviera S.A. Panama: *Swede Tonia.*
11422---	Dorycnium Shipping Corp.: *Swede Pride.*
11449---	Mare Shipping Co. Ltd.: *Eureo Faith.*
11462---	Reinante Oceanica Armadora S.A. Panama: *St. Vincent.*
11466---	Lee-Vac, Ltd.: *S & H No. 1, GW 50, Z-61, H & S No. 3, H & S No. 2, GW 701, Z-71, Z-112, Z-110, Z-111, UMI 1807B, Z101, Minnesota, Z-120, Z-122, Domar 2502, Ceco 2501, Domar 2503, Domar 6501.*
11477---	Jackson Towing Co., Inc.: *LRL-109.*
11479---	Marvel Shipping Co. S.A.: *Angelina.*
11482---	IO Shipping Co. S.A.: *IO.*
11486---	Oriental Central America Lines Inc.: *Hongkong Success.*
11487---	Selefkos S.A. of Panama: *Arta.*
11488---	Poong Yang Industrial Co.: *Poong Yang No. 2.*

Certificate No.	Owner/operator and vessels
11490---	United Overseas Container Services Inc.: *Oriental Statesman.*
11492---	Wakamatsu Kaiun Kabushiki Kaisha: *Wakatake Maru.*
11493---	A/S Shipping Enchant: *Emanuel.*
11496---	Transworld No. 3 Tanker Services Inc.: *Brazilian Faith.*
11497---	Alto Pool S.A.: *Dimitris P. Lemos.*
11498---	Herald Shipping Co. Ltd.: *Gomasa.*
11499---	Firstmark Maritime Co. Ltd.: *Michelle F.*
11500---	Reina Guillermina Compania de Navegacion S.A. Panama: *Apex.*
11502---	Transportes Del Mar: *Isla de San Andres.*
11504---	Transportes de Liquidos SNA Andres Ltd.: *Jacqueline.*
11505---	Tokuei Kaiun Yugen Kaisha: *Tokuei Maru No. 27.*
11506---	Pacific Bulk Carriers: *Argosy Pacific.*
11507---	Gavaly Caribe S.A.: *Marissa I.*
11508---	Endymion Shipping Corp.: *Gaudeamus.*
11509---	Southern Seas Navigation Ltd.: *Messiniaki Floga.*
11510---	Taeping Overeas Services, Inc.: *Taeping.*
11511---	Seth Shipping Corp.: *Jade.*
11513---	Sissy Steamship Co. Ltd.: *Archipelagos.*
11515---	Palmer Barge Line Inc.: *APT 300, APT 301.*
11517---	Tunegoro Shoji: *Daiki Maru No. 8.*
11520---	Noah Naviera Corp. S.A.: *Seed Leaf, Fortune Leaf.*
11522---	Green Mariner Corp.: *Gladiator.*
11523---	Irano-British Ship Service Co. Ltd.: *Shoush, Semnan, Shadgan, Minab, and Nokran.*
11524---	St. Godric's Shipping Co. Ltd.: *Caricom Adventurer.*
11526---	Sockabo Transports Inc.: *REB 1901, and REB 1902.*
11528---	Stolt Spirit Inc.: *Stolt Spirit.*
11529---	Ssangyong Shipping Co. Ltd.: *Gayong.*
11530---	Glory Maritime Ltd.: *Aquaglory.*

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24912 Filed 8-24-76;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Gladys C. Moreno, 215 SW. 17th Avenue, Miami, FL 33135.

Eui Man Kim, 147-30 38th Avenue, Apt. No. 1D, Flushing, NY 11354.

Air Sea Forwarding Corp., 115-52 Lefferts Blvd., Jamaica, NY 11420, Officers: Joseph Cacici, President/Treasurer, Donna M. Cacici, Vice Pres./Secretary, Bernard Mazzocchi, Vice Pres./Traffic, Ruth Loeffler, Vice Pres./Traffic.

Bratt International (Thomas W. Bratt, dba), 408 Waters Street, Baltimore, MD 21202.

By the Federal Maritime Commission.

Dated: August 20, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24911 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

Order Granting Withdrawal of Application for Change in Land Rights and Vacating Order Providing for Hearing

AUGUST 18, 1976.

On October 30, 1972, Arkansas Power & Light Company (AP&L), licensee for the Carpenter and Remmel Project No. 271,[1] filed an application for change in land rights at Project No. 271. The application sought Commission approval of a proposed conveyance of 100 acres of Electric Island and 16.2 acres of Little Goat Island, both located in the project's Lake Hamilton reservoir, to the City of Hot Springs, Arkansas. The City in turn proposed to grant a 50 year lease for the two islands to a private individual, who planned extensive development of a resort/recreational complex. AP&L stated in its application that, following Commission approval of the conveyance, it would amend Exhibit R of its application for new license for Project No. 271, currently pending before the Commission, to reflect the proposed new recreational development at Electric and Little Goat Islands.

Before us now is a motion filed on April 7, 1976, by which AP&L seeks to withdraw the above-described application. For the reasons stated below, and subject to the conditions imposed by this order, we find it appropriate to grant AP&L's motion.

PROCEDURAL BACKGROUND

The confusing procedural background of the instant application dates back to February 4, 1970, when AP&L filed its application for new major license for Project No. 271.[2] Subsequently, AP&L filed a number of applications for change in land rights, including that which AP&L now seeks to withdraw. On September 10, 1973, the Commission issued three orders, which approved changes in land rights at Project No. 271 to allow the construction and maintenance of effluent outfall lines for a motel complex and two residential subdivision.[3]

In a fourth order issued on September 10, 1973, we expressed our concern with "the practice of allowing increased use of project lands and waters on a piecemeal basis rather than being related to a comprehensive consideration of the capacity of the project lands and waters to serve known and forseeable [sic] public uses * * *."[4] Pursuant to that concern, we noted the pending application for change in land rights involving the transfer of portions of Electric and Little Goat Islands to the City of Hot Springs, and referred that application to hearing with other existing applications for easements or other permission to utilize project lands and waters, so that they could be considered in light of a comprehensive analysis of the project lands and waters as a whole.

DISCUSSION

In support of its motion to withdraw the Electric and Little Goat Islands application, AP&L states that the time limits of its offer to donate the property to the City of Hot Springs have expired, and further, that the City has informed AP&L that financing for the proposed development is no longer feasible and, for the foreseeable future, cannot be obtained. In view of these allegations, and in view of the substantial opposition to the proposed development voiced by local citizens following public notice and the uncertain effect of such development on a fish hatchery maintained by the Arkansas Game and Fish Commission near Electric Island, we have no objection to withdrawal of the application.

In an order issued September 9, 1975, we considered an application for change in land rights at Project No. 271, filed subsequent to the order providing for hearing.[5] We decided that the original hearing order encompassed only applications involving project lands and waters then before the Commission, and that applications filed after September 10, 1973, would be considered in light of the underlying policy of the September 10, 1973 hearing order, to determine whether consolidation within the hearing is appropriate.

Aside from AP&L's application for new license, the only application filed prior to September 10, 1973, that will be left before the Commission following withdrawal of the Electric and Little Goat Islands proposal will be an application for approval of an easement filed on December 4, 1966. This application seeks approval of an easement granted by AP&L to the Union Carbide Corporation for placement of intake and outflow facilities to serve a vandium processing plant at Lake Catherine. The application proposes no additional construction, and

[1] Project No. 271 is located on the Ouachita River in Garland County, Arkansas, near the City of Hot Springs.

[2] The original license for Project No. 271 expired on February 6, 1973. Since that time, the project has been maintained and operated under annual licenses.

[3] Orders Approving Change in Land Rights, Arkansas Power and Light Co., Project No. 271, 50 F.P.C. 687, 692, 695 (1973).

[4] Order Providing for Hearing, Arkansas Power and Light Co., Project No. 271, issued September 10, 1973, slip op. at 1 (unreported).

[5] Order Denying Motion for Severance and Granting Application for Easement, Arkansas Power & Light Co., Project No. 271, issued September 9, 1975, slip op. at 1, 54 F.P.C. ---- (1975).

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therefore is not within the ambit of the concern which prompted our hearing order in this proceeding. Accordingly, with the withdrawal of the Electric and Little Goat Islands application there being no applications for change in land rights for which a hearing on comprehensive uses of project lands and waters might be held, we find it appropriate to vacate the Order Providing for Hearing of September 10, 1973. The intent of that Order, however, remains our policy respecting the use of project lands and waters in relation to a comprehensive consideration of their capacity to serve known and foreseeable public uses. To this extent, any future applications which might result in intensified use of the project's resources will be evaluated from a comprehensive resource utilization perspective. We reserve the right, also, to provide for hearing on AP&L's application for new license or on any future applications that come before us, should a hearing be found necessary or appropriate.

In Exhibit R of its application for new license for Project No. 271, AP&L stated that its proposed plans for project recreation included development of Electric Island; in fact, according to the application, "Electric Island is the largest single projected recreational development of the project." The application that AP&L now withdraws included the detailed proposal for development of Electric Island. This being so, we believe that AP&L should reassess its Exhibit R to consider what, if any, recreational development at the project should be proposed in lieu of the development proposed in the withdrawn application. If appropriate, AP&L should then file a revision to the pending Exhibit R.

The Commission finds: (1) It is appropriate for purposes of the Federal Power Act and in the public interest to grant the motion of Arkansas Power & Light Company to withdraw the application for change in land rights, which application was filed on October 30, 1972, and proposed to convey 100 acres of Electric Island and 16.2 acres of Little Goat Island, located in Lake Hamilton, to the City of Hot Springs, as hereinafter provided.

(2) It is appropriate for purposes of the Federal Power Act to vacate the Order Providing for Hearing in this proceeding, issued September 10, 1973.

The Commission orders: (A) The motion of Arkansas Power & Light Company to withdraw its application for change in land rights, as described in paragraph (1), above, is hereby granted.

(B) Arkansas Power & Light Company shall reassess the pending Exhibit R of its application for new license for Project No. 271 to determine what, if any, alternative recreational development should be proposed in lieu of that which was proposed at Electric and Little Goat Islands by the withdrawn application and, if appropriate, shall file a revision to the Exhibit R to propose such alternative recreational development.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24837 Filed 8-24-76;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER & LIGHT CO.

Order Granting Amendment to Motion To Intervene and Extending Procedural Dates

AUGUST 17, 1976.

On September 29, 1975, Delmarva Power and Light Company and its subsidiaries (Delmarva) tendered for filing, pursuant to § 35.13(b)(4)(ii), proposed changes in the intercompany Power Supply Agreement. By order issued October 31, 1975, the Commission accepted for filing and suspended the proposed changes, established procedures, and allowed the intervention of the Public Service Commission of Maryland (Maryland). The Commission also granted intervention to the Public Service Commission of the State of Delaware (Delaware), the State Corporation Commission of the State of Virginia (Virginia), and the People's Counsel of the Maryland Public Service Commission (People's Coupsel) by separate orders dated December 4, 1975, December 18, 1975, and May 18, 1976, respectively.

On June 29, 1976, Delaware filed its direct evidentiary presentation[1] and an amended notice of intervention along with direct evidence relating to the new issues raised in the Amendment.[2] On July 8 and July 9, 1976, Maryland and Virginia, respectively, filed objections to Delaware's Amendment to Motion to Intervene and both requested that it be stricken along with Delaware's testimony relating thereto. In the alternative, both requested that the procedural dates in this proceeding be postponed to allow all parties an opportunity to prepare testimony on the issues raised by Delaware. Delmarva, on July 9, 1976, and staff, on July 14, 1976, filed responses to Delaware's motion.

Although all parties except staff basically objected to the amendment, their main concern involved the extension of procedural dates. All parties have filed their direct evidence and the hearing is now scheduled to begin on August 27, 1976.[3]

It is clear that the changes proposed in the Amendment have an impact upon the distribution of costs of Delmarva's generating and transmission plant among the three states. Although including these issues will mean that additional time will be required for the parties to file supplemental testimony thereby prolonging the case, it is more appropriate to include them in this docket than, as Delaware has stated in its reply, to institute "a new docket merely to raise these questions" which would result in "needless expense, delay, and, moreover, confusion" in the resolution of the questions raised by the initial petition.

After a careful review of the issues in this proceeding, we will grant the Amendment to the Motion to Intervene and extend the procedural dates as hereinafter ordered.

The Commission finds: (1) Good cause exists to grant the Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976.

(2) Good cause exists to extend the procedural dates as hereinafter ordered.

The Commission orders: (A) The Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976, is hereby granted.

(B) The procedural dates in the above matter are modified as follows:

Service of Company's Revised Case, August 26, 1976.
Service of Supplemental Intervenor Testimony, September 10, 1976.
Service of Supplemental Staff Testimony, September 24, 1976.
Service of Company Rebuttal, October 8, 1976.
Hearing, October 26, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24827 Filed 8-24-76;8:45 am]

[Docket Nos. E-9453 and ER76-648]

DUKE POWER CO.

Order Adopting Settlement and Terminating Proceeding

AUGUST 17, 1976.

By order of June 18, 1975, we suspended the rate filing of Duke Power Company (Duke) in this proceeding. By order of May 27, 1976, we suspended Duke's filing of a revised schedule to its agreement with Yadkin, Inc., Docket No. ER76-648, and consolidated Docket Nos. E-9453 and ER76-648 since they involved "equivalent" rates. Settlement negotiations among Duke and the customers have ripened into an uncontested settlement, which was certified to us by the Administrative Law Judge on June 15, 1976. On July 16, 1976, the Commission staff filed comments on the settlement agreement favoring the settlement with one minor adjustment with regard to interest on leased nuclear fuel in Account 518. On July 30, 1976, Duke and the Joint Intervenors filed a joint response to the Commission staff's comments indicating their concurrence with staff's revision of the fuel adjustment clause provided the base cost of fuel were changed from .7923¢/kilowatt-hour to .8018¢/kilowatt-hour.

[1] Rate of return was the only issue raised in its original notice of intervention.

[2] The issues raised by Delaware in its Amendment include the overall rate of return, cost of money component, fixed charge rate, the return on production materials and supplies, construction work in progress with allowances for funds used during construction, renaming the Power Supply Agreement and treatment of the impact of depreciation on tax expense.

[3] Originally, the hearing was scheduled to begin on July 27, 1976. On July 21, 1976, Staff filed a motion to extend the procedural dates. This motion was granted on July 26, 1976.

Based on our review of the record in these proceedings, including the settlement agreement itself, the filings, documents and pleadings submitted, we conclude that the settlement agreement represents a reasonable resolution of the issues in the proceeding in the public interest, and that accordingly the settlement should be approved, subject to the above modification.

The Commission finds: The settlement agreement certified by the Presiding Judge to the Commission in this docket, should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The settlement agreement certified by the Presiding Judge in this docket on June 15, 1976, is hereby approved and made effective.

(B) Within 30 days from the date of this order, Duke shall file with the Commission revised rate schedule supplements applicable to the customers served in Docket Nos. E-9453 and ER76-648 in conformity with the terms of the settlement agreement approved herein. Duke's filing should include a revision of the fuel clause to make it consistent with the requirements of 18 CFR 35.14, with the base cost of fuel changed from .7923¢/kilowatt-hour to .8081¢/kilowatt-hour.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, against Duke or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24828 Filed 8-24-76;8:45 am]

[Docket Nos. RP72-150 (Rate Design), RP73-104, RP74-57, and RP75-39]

EL PASO NATURAL GAS CO.

Filing of Stipulation and Agreement

AUGUST 17, 1976.

Take notice that on August 6, 1976, El Paso Natural Gas Company (El Paso) filed with the Commission a Stipulation and Agreement (Stipulation) which proposes to dispose of all issues in the above-captioned rate proceedings.

El Paso states that the Stipulation has the support of all parties to these proceedings, including the Commission's Staff, on all issues except three: (1) The rate design issue related to Rate Schedule A-1-X; (2) the rate treatment for payments made to owners of special overriding royalty interests; and (3) El Paso's proposal to supplement its Reserve for Exploration. El Paso states further that these three issues have been left for determination by the Commission following initial decision thereon by the Presiding Administrative Law Judge, and that the parties have agreed to briefing dates for the three issues.

Copies of the Stipulation are on file with the Commission and are available for public inspection. Any person desiring to comment on the matters contained therein should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 27, 1976. Any reply comments should be filed on or before September 3, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24829 Filed 8-24-76;8:45 am]

[Docket No. ER76-830]

MISSISSIPPI POWER & LIGHT CO.

Tariff Change

AUGUST 17, 1976.

Take notice that Mississippi Power & Light Company on July 30, 1976, tendered for filing in accordance with Section 35.13 of the Commission's Regulations proposed changes in its FPC Electric Service Tariff to Electric Power Associations, FPC Rate Schedules No. 123, 124, 125 165, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 184, 185, 186, 188, 189, 190, 191, 192, 194, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 216, 218, 219, 220, 222, 223, 224, 225, 226, 227, 231, 232, 233, 238 and to municipal electric utilities FPC Rate Schedules No. 39, 87, 88, 93, and 238. The proposed changes would increase revenues $3,406,000 based on the 12 months period ending December 31, 1976.

The Company states that the tariff changes requested are necessary to reflect its cost of service for the projected period. In support thereof the company states that it earned a rate of return of 7.58 percent on its sales for resale to electric power associations and 7.63 percent on its sales for resale to municipal electric utilities in the calendar year 1975, and that the projected rate of return under the present electric service tariff for the 12 months ending December 31, 1976, for sales for resale to the electric power associations is 7.24 percent and for sales to the municipal electric utilities is 7.22 percent.

The company is also requesting that construction work in progress (CWIP) be included in the rate base in the proceeding.

Copies of the filing were served upon the customers receiving services under the above listed FPC Rate Schedules and upon the Mississippi Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24830 Filed 8-24-76;8:45 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE AND COORDINATING COMMITTEE

Determination and Certification With Respect to Renewal

The Chairman of the Federal Power Commission has determined that renewal of the terms of the Executive Advisory Committee and the Coordinating Committee of the National Power Survey to a date not later than December 31, 1976, is necessary in the public interest in connection with the performance of duties imposed on the Commission by law.

The notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, 38 FR 1083, as amended by Commission General Order No. 464-A, issued August 2, 1974, and authorities referred to therein, 39 FR 28929. See also Office of Management and Budget. Advisory Committee Management, Circular A-63, Revised, March 27, 1974, 30 FR 12389, as amended July 19, 1974.

The Executive Advisory Committee was established by Commission order, dated August 11, 1972, 37 FR 24213, and the Coordinating Committee by order, dated November 2, 1972, 37 FR 23868. These orders refer to the Commission order issued June 29, 1972, 37 FR 13380, which announced initiation of the National Power Survey, authorized formation of advisory committees, and established procedures therefor. By order issued December 19, 1972, 37 FR 28661, the Commission amended its earlier orders to conform with the requirements of the subsequently enacted Federal Advisory Committee Act, 86 Stat. 770.

The continued existence of these two committees is desirable during preparation of the Commission report. Specifically, the Executive Advisory Committee will be solicited for its views and comments regarding the staff report, while the Coordinating Committee is the remaining link between the Commission staff and technical advisory committees whose work, in some cases, may form the basis for Commission action; these technical advisory committees have expired.

The Commission continues or reestablishes these committees in accordance with the terms of this order, and the following Commission orders:

Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures, issued June 29, 1972, 37 FR 13380.

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Order Establishing National Power Survey Executive Advisory Committee and Designating Initial Membership and Chairmanship, issued August 11, 1972, 37 FR 24213.
Order Establishing National Power Survey Coordinating Committee and Designating Initial Membership and Chairmanship, issued November 2, 1972, 37 FR 23868.
Order Amending National Power Survey Orders issued December 19, 1972, 37 FR 28661.
General Order No. 464–A, issued August 2, 1974, 39 FR 28929.
Order Renewing National Power Survey Executive Advisory Committees, issued August 7, 1974, 39 FR 29233.
Order Renewing National Power Survey Coordinating Committee, issued January 13, 1975, 39 FR 3250.
Order Renewing National Power Survey Executive Advisory Committee and Coordinating Committee, issued June 3, 1976, 41 FR 23246.

By Notice of Determination and Certification with Respect to Renewal with Respect to Renewal of National Power Survey Advisory Committees, dated July 30, 1974, 39 FR 27608, the Chairman of this Commission has determined and certified that the renewal of the aforesaid advisory committees of the National Power Survey for the period set forth herein is necessary in the public interest in connection with the performance of duties imposed upon the Commission by law. The Office of Management and Budget, Advisory Committee Management, has ascertained that the renewal of the aforesaid advisory committees of the National Power Survey is in accord with the requirements of the Federal Advisory Committee Act, 86 Stat. 770, 773–4.

1. *Purposes.* The purposes of the Executive Advisory Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of August 11, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein. The purposes of the Coordinating Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of November 2, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein.

It is anticipated that the continuance of these National Power Survey Advisory Committees for the period ending December 31, 1976, will facilitate the conclusion of the Commission's work on the current phase of the continuing National Power Survey.

2. *Membership.* The Chairman, Secretary and other members of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix below. The Chairman, coordinating representatives, secretaries and other members of the Coordinating Committee established herein, as selected by the Chairman of the Commission with the approval of the Commission, are designated in the appendix below.

3. *Selection of Future Committee Members.* All future Executive Advisory Committee members, and persons designated to act as Committee Chairmen shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary. All future Coordinating Committee members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission's order issued June 29, 1972, as amended by Commission order issued December 19, 1972, and by Order Further Amending National Power Survey Orders, August 7, 1974, are hereby incorporated by reference herein:

3. Conduct of Meeting.
4. Minutes and Records.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recommendations offered by the Committee.

5. The National Power Survey Executive Advisory Committee and the Coordinating Committee renewed by this order shall terminate not later than December 31, 1976.

6. The Secretary of the Commission shall file with the Chairman, Committee on Commerce, United States Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of this order along with the Order Further Amending National Power Survey orders, issued concurrently herewith, as constituting charters of the National Power Survey Advisory Committees renewed by this order.

7. This order shall take effect immediately upon the issuance thereof and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Bernard B. Chew, Chief, Division of Power Surveys and Analyses, Federal Power Commission.
Members:
Edward E. Cobb, General Manager, Huntsville Utilities.
Michael E. Collins, General Manager, Wakefield Municipal Light Department.
D. C. Cook, President, American Electric Power Company, Inc.
J. E. Corette, Chairman of the Board, Montana Power Company.
Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Leo A. Daly, President, Leo A. Daly Company.
William E. Dean, Association of Illinois Electric Cooperatives.
Paul Donovan, President, Donovan, Hamester, & Rattlen, Inc.
William M. Elmer, Chairman of the Board, Texas Gas Transmission Corporation.
Bernard Falk, President, National Electrical Manufacturers Assn.
T. J. Galligan, Jr., President, Boston Edison Company.
R. F. Gilkeson, Chairman, Philadelphia Electric Company.
J. L. Grahl, General Manager, Basin Electric Power Cooperative.
Lt. General William C. Gribble, Chief of Engineers, Department of the Army.
Dr. David A. Hamil, Administrator, Rural Electrification Administration.
John D. Harper, Chairman, Aluminum Company of America.
Edwin I. Hatch, President, Georgia Power Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Durwood W. Hill, General Manager, Nebraska Public Power District.
Jack K. Horton, Chairman of the Board, Southern California Edison Company.
Timothy L. Jenkins, Chairman, The MATCH Institution.
Ms. Virginia H. Knauer, Director, Office of Consumer Affairs.
Donald C. Lutken, President, Mississippi Power and Light Company.
William A. Lyons, Chairman and Chief Executive Officer, New York. State Electric and Gas Corporation.
D. Bruce Mansfield, President, Ohio Edison Company.
Paul Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Marshall McDonald, President, Florida Power and Light Company.
T. Justin Moore, Jr., President, Virginia Electric and Power Co.
Dr. Laurence I. Moss, Consultant.
Dr. Bruce Netschert, Vice President, National Economic Research Associates.
G. W. Nichols, President and Chief Executive Officer, New England Electric System.
Arthur L. Padrutt, Wisconsin Public Service Commission.
Dr. Ruth Patrick, Curator and Chairman, Dept. of Limnology, Academy of Natural Sciences of Philadelphia.
Russell W. Peterson, Chairman, Council on Environmental Quality.
Charles H. Pillard, President, International Brotherhood of Electrical Workers.
John G. Quale, resident, Wisconsin Electric Power Company.
Dr. Henry J. Ramey, Jr., Department of Petroleum Engineering, Stanford University.
William P. Reilly, President, Arizona Public Service Company.
P. H. Robinson, Chairman, Houston Lighting and Power Company.
Dr. Robert C. Seamans, Jr., Administrator, Energy Research and Development Administration.
Raymond J. Sherwin, Superior Court Hall of Justice, Fairfield, California.
Shermer L. Sibley, Chairman of the Board, Pacific Gas and Electric Company.
M. Frederik Smith, Rockefeller Associates.
Irwin M. Stelzer, President, National Economic Research Associates.
Louis Strong, General Manager, Kentucky Rural Cooperatives Corporation.
W. C. Tallman, President, Public Service Company of New Hampshire.
W. Reid Thompson, Chairman of the Board and President, Potomac Electric and Power Company.
Russell E. Train, Administrator, Environmental Protection Agency.
Alvin W. Vogtle, Jr., President, The Southern Company.
Aubrey J. Wagner, Chairman, Tennessee Valley Authority.
Colston E. Warne, President, Board of Directors, Consumers Union of the U.S., Inc.
M. Frank Warren, President, Portland General Electric Company.
Ben T. Wiggins, Chairman, Georgia Public Service Commission.
Jack L. Wilkins, Chairman, National Electric Reliability Council.
Charles E. Wyckoff, President, National Rural Electric Cooperative Assn.

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Daniel G. Lewis, Assistant Director for Research and Development, Office of Energy Systems, Federal Power Commission.

Members:

Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Bruce Netschert, Vice President, National Economic Research Associates.
Paul Donovan, President, Donovan, Hamester and Rattlen.
Irwin M. Stelzer, President, National Economic Research Associates.

[FR Doc.76–24743 Filed 8–19–76;1:02 pm]

[Docket Nos. E–7700, etc.]

NEW ENGLAND POWER CO.

Cost of Service; Tax Normalization

AUGUST 17, 1976.

By order of November 30, 1973, in these dockets, we approved a rate settlement relating to certain rates of the New England Power Company (NEPCO) 50 FPC 1729. On January 30, 1976, NEPCO filed a motion to consolidate these 3 dockets with Docket Nos. E–8641, E–8251, E–8169, E–8476[1] and ER76–304 and ER76–317, and for designation of a Presiding Judge to hear the Issue of Normalization. NEPCO's motion in Docket Nos. E–7700, E–7729, E–7800, E–8641, E–8251, E–8169 and E–8476 was denied by operation of law 18 CFR 1.12(e).

Our order of November 30, 1973, recognized that the settlement did not include a reserved issue relating to "the reduction in Federal income taxes resulting from the deduction for tax purposes of actual interest charges allocated to NEPCO's investment in construction work in progress." 50 FPC 1729, 1730–1731.

The reserved issue was the subject of 3 Commission orders, Order 530 40 FR 26981, Order 530–A 41 FR 3849, and Order 530–B 41 FR 28474. Pursuant to Order 530–B the tax deduction due to construction work in progress taken for tax purposes but capitalized in the cost of utility plant for book purposes is a tax timing difference which may be normalized by a public utility.

The Commission finds: It is necessary and appropriate for the purposes of the Federal Power Act that these dockets be terminated and that NEPCO be permitted pursuant to Order 530–B to normalize the interest expense deduction related to construction work in progress.

The Commission orders: (A) The issue reserved by our earlier order 50 FPC 1729, 1730–1731 has been resolved by Order 530–B which permits NEPCO to normalize. These proceedings are hereby terminated.

(B) The Secretray shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24831 Filed 8–24–76;8:45 am]

[Docket No. CP71–273]

SOUTHERN NATURAL GAS CO.

Extension of Time

AUGUST 16, 1976.

On July 29, 1976, Southern Natural Gas Company filed a motion to extend the date fixed by Order issued October 16, 1975, for facilities certificated in this proceeding to be constructed and placed in service.

Upon consideration, notice is hereby given that the date on which facilities are to be constructed and placed in service in the above-designated docket is extended to and including April 16, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24825 Filed 8–24–76;8:45 am]

[Docket No. ER76–629]

TAMPA ELECTRIC CO.

Compliance Filing

AUGUST 17, 1976.

Take notice that on August 2, 1976 Tampa Electric Company (Tampa) tendered for filing a revised page 1 of Supplement No. 1 to its Rate Schedule FPC No. 5 (Schedule WR–1). Tampa states that the purpose of this revision is to comply with the Commission's letter order of July 1, 1976 requiring Tampa to submit a fuel adjustment clause in the format specified in Section 35.14 of the Commission's Regulations. The effective date shown on the tendered page 1 is July 8, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24832 Filed 8–24–76;8:45 am]

[Docket Nos. CP60–94, etc.]

TENNESSEE GAS PIPELINE CO.

Application To Amend

AUGUST 16, 1976.

Take notice that on August 2, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed pursuant to Section 7(c) of the Natural Gas Act an application to amend certain of the Commission's orders issued September 19, 1963, October 1, 1965, June 22, 1970, January 29, 1971, and October 31, 1974, in Docket Nos. CP60–94, CP66–20, CP70–185, CP69–222 (Phase II), and CP–74–318, respectively, which orders among other things, authorized Tennessee to serve Connecticut Natural Gas Corporation (Connecticut Natural) a contracted demand volume of 36,794 Mcf per day under Tennessee's Rate Schedule CD–6 and The Connecticut Gas Company (Connecticut Gas) and the Hartford Electric Light Company (HELCO) a combined maximum contract quantity of 39,631 Mcf per day under Tennessee's Rate Schedules G–6 and GS–6, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Tennessee states that the purpose of the application to amend is (1) to reflect the acquisition by Connecticut Natural, an existing CD–6 customer, of the gas distribution facilities and properties of Connecticut Gas and HELCO; (2) to reflect the assignment by Connecticut Gas and HELCO to Connecticut Natural of their gas sales contracts with Tennessee for the Derby-Shelton, Norwalk, Winsted, Stamford and Torrington service areas, which contracts provide for service by Tennessee to Connecticut Gas and HELCO under Rate Schedules GS–6 and G–6; and (3) to request authorization for service by Tennessee to Connecticut Natural at each of such service areas, in addition to the service areas of Connecticut Natural presently being served by Tennessee, under Rate Schedule CD–6 and under a single new gas sales contract providing for a contracted demand volume of 76,425 Mcf per day, at the daily volume limits and at the delivery points set forth in such new gas sales contract.

It is indicated that the proposed consolidation of gas sales contracts would allow Connecticut Natural the flexibility to operate its distribution system so as to maximize the use of pipeline natural gas by its high priority residential and small commercial customers, thereby reducing the requirements during winter periods for supplemental gas sources such as propane-air. Tennessee states

[1] On June 25, 1975 and February 3, 1976, Presiding Administrative Law Judge Levant issued Initial Decisions in Docket Nos. E–8641, E–8476, E–8251, and E–8169.

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that Connecticut Natural is not requesting any increase in maximum contract quantities presently authorized for the Connecticut Natural, Connecticut Gas and HELCO service areas combined.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before September 3, 1976, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24826 Filed 8-24-76;8:45 am]

[Docket No. ER76-847]

UNION ELECTRIC CO.

Letter Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing a Letter Agreement establishing a new delivery point under the Interchange Agreement dated March 27, 1968, as amended, between Associated Electric Cooperative, Inc. and Union. Union states that the new delivery point will provide support to Associated's system. Union requests that the Letter Agreement become effective on the in service date of the delivery point of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24833 Filed 8-24-76;8:45 am]

[Docket No. ER76-851]

UNION ELECTRIC CO.

Amendatory Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing an Amendatory Agreement to the Interchange Service Contract dated July 18, 1967 between the City of Columbia, Missouri and Union. Union states that said Amendatory Agreement establishes an additional connection between the parties to cover contingencies and expected load growth.

Union requests that the Amendatory Agreement become effective on the in-service date of the connection of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24834 Filed 8-24-76;8:45 am]

[Docket No. CP76-469]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-469 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to use up to 19,900 Mcf per day of its 200,000 Mcf per day reserved capacities in the pipeline systems of Stingray Pipeline Company (Stingray) and Natural Gas Pipeline Company of America (Natural) to transport gas to be purchased by Sea Robin Pipeline Company (Sea Robin) in Blocks 532, 533, and 586, West Cameron Area, offshore Louisiana, to a point onshore near Texaco Inc.'s Henry Plant in Vermilion Parish Louisiana where Applicant's and Natural's facilities Interconnect, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Sea Robin has or expects to acquire the right to purchase 41.67 percent of the reserves underlying Block 586, West Cameron Area, and that Sea Robin proposes in Docket No. CP76-418[1] to construct facilities to transport gas for itself and others from the producers' platform to a point of interconnection with Stingray's system in Block 595, West Cameron Area. Applicant states further that Sea Robin has purchased 3.335 percent of the reserves underlying Blocks 532 and 533, West Cameron Area. Stingray would transport Sea Robin's gas for Applicant's account, in accordance with Stingray's Rate Schedule T-2, to the northern terminus of its system near Holly Beach, Louisiana, where Natural would take the gas for further transportation for the account of Applicant to the Henry Plant delivery point in accordance with Natural's Rate Schedule X-48. At the Henry Plant delivery point Sea Robin would sell one-half of the gas to each of Applicant and Southern Natural Gas Company.

The application states that in return for the right to utilize a portion of Applicant's reserved capacities in the Stingray and Natural systems, Sea Robin would reimburse Applicant for a pro rata share of the monthly charges paid by Applicant to Stingray and Natural. Further, it is stated, Applicant would credit the revenues from Sea Robin against its own cost of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own revew of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24835 Filed 8-24-76;8:45 am]

[1] Notice published July 30, 1976 (41 FR 31947).

[Docket No. CP76-471]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-471 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain metering and compression facilities in Calcasieu Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate three 3,100 horsepower turbine-driven centrifugal compressor units and a multiple 12-inch tube meter station and related station piping in Calcasieu Parish where the existing pipeline facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), intersect. The application shows the estimated cost of these facilities to be $5,496,700, which cost would be financed from funds on hand.

Applicant states that it has or expects to obtain commitments to purchase gas attributable to reserves underlying a substantial number of blocks located in the High Island Area, offshore Texas, to be served by the proposed pipeline system to be constructed by High Island Offshore System (HIOS). Said gas, it is stated, would be transported from various points in the High Island Area to a point in West Cameron Block 167, offshore Louisiana, by HIOS pursuant to a transportation agreement, dated February 15, 1976, between HIOS and Applicant. It is indicated that at the northern terminus of the HIOS system in West Cameron Block 167, U-T Offshore System (U-TOS) would take delivery of the offshore Texas gas Applicant expects to purchase and would transport said gas to a point of interconnection onshore with existing facilities of Transco near Johnson's Bayou, Cameron Parish, Louisiana, in accordance with the terms of a transportation agreement, dated February 15, 1976, between U-TOS and Applicant.

Applicant asserts that by agreement, dated February 15, 1976, between it and Transco, Transco agreed to transport Applicant's offshore Texas gas from the terminus of the U-TOS system north through its existing system to a proposed point of interconnection near Starks, Calcasieu Parish, Louisiana, with an existing 30-inch pipeline owned by Tennessee. Further, it is stated that pursuant to a letter, dated June 16, 1976, Tennessee has agreed to transport Applicant's gas from the interconnection with Transco to various mutually agreeable existing points of interconnection between the systems of Applicant and Tennessee.

Applicant indicates that the proposed metering and compression facilities are necessary to enable Applicant to effect deliveries to Tennessee since Tennessee's facilities are operated at a higher line pressure than the adjacent facilities of Transco.

Applicant states that the proposed facilities would materially assist it in meeting its urgent customer requirements by enabling it to deliver new gas supplies to Tennessee for ultimate redelivery to its existing pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisson's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commisson on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24836 Filed 8-24-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANKERS TRUST NEW YORK CORP.

Order Denying Acquisition of Bank

Bankers Trust New York Corporation, New York, New York ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares of The First National Bank of Mexico, Mexico, New York ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Bank, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in the State of New York, controls nine banks with aggregate deposits of approximately $10.4 billion, representing approximately 7.7 percent of the total deposits in commercial banks in New York.[1] Acquisition of Bank ($9.8 million in deposits) would increase Applicant's share of the total commercial bank deposits in the State by 0.01 of one percent and would not significantly increase the concentration of banking resources in New York.

Bank ranks eleventh among the 15 banking organizations located in the Syracuse banking market (approximated by the western half of Madison County and all of Onondaga and Oswego Counties) and controls approximately 0.7 of one percent of total market deposits. The closest branch of any of Applicant's banking subsidiaries to Bank is located approximately 25 miles southeast of Bank in the same banking market. While there is some existing competition between Applicant's banking subsidiaries and Bank, the amount of such competition that would be eliminated as a result of this proposal does not appear to be significant. Similarly, the effects of the proposal on potential competition do not appear to be significant. Bank is one of the smaller banks in the market, and its acquisition by Applicant would not raise significant barriers to entry by other organizations not presently in the

[1] All banking data are as of December 31, 1975.

V 41 166 AUG 25 76 UMI

market. Therefore, on the basis of the facts of record, the Board concludes that consumption of the proposal would not have significant adverse effects on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Bank are generally satisfactory.[2]

As the Board has stated on a number of occasions, a bank holding company should be a source of financial and managerial strength for its subsidiaries. With regard to the financial and managerial resources and future prospects of Applicant, information in the record, including all bank examination information available to the Board, indicates that Applicant has been experiencing financial difficulties that have detracted from its overall financial condition and lessened its ability to serve as a source of strength for its subsidiaries. The subject application by its very nature would to some extent impose an additional burden on Applicant's operations. In these circumstances, it is the Board's view that Applicant's resources should be directed toward developing and maintaining strong and efficient operations within its existing structure. Accordingly, the Board concludes that considerations related to the financial and managerial aspects of Applicant's proposal weigh against approval of the application.

There is no evidence to indicate that the banking needs of the community to be served are not being met currently. Applicant states that the proposed transaction would allow Bank to offer additional services to its customers, including trust and investment services, international banking services, savings incentive plans and underwriting and advisory services for municipalities. While convenience and needs considerations appear to be consistent with approval of the application, they are not sufficient, in the Board's judgment, to outweigh the aforementioned adverse banking factors reflected in the record. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

[2] In connection with this proposal, Applicant indicates that it intends to finance the proposed transaction through the issuance of $1.9 million in promissory notes maturing over a 13 year period and that Bank's earnings alone will be sufficient to retire the debt while maintaining an adequate capital position for Bank. On the basis of the facts of record and its analysis of the proposal, however, the Board is unable to conclude that Applicant's assumptions are correct and that the financing of the proposal solely from Bank's earnings would not result in a deterioration of Bank's capital position.

By order of the Board of Governors,[3] effective August 18, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24879 Filed 8-24-76;8:45 am]

INDUSTRIAL LOAN AND INVESTMENT CO.

Formation of Bank Holding Co.

Industrial Loan and Investment Company, Sedalia, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.6% percent of the voting shares of Bank of Ionia, Ionia, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Industrial Loan and Investment Company, Sedalia, Missouri has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the business of an industrial loan and investment company in Sedalia, Missouri, and to continue to engage in the sale of credit related insurance associated with loans made by Applicant. Notice of the application was published on June 30, 1976 in the Sedalia Democrat, a newspaper circulated in Sedalia, Missouri.

Applicant states that it will continue to engage in the activities of an industrial loan and investment company and will continue to engage in the sale of insurance that is directly related to extensions of credit by Applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 19, 1976.

Board of Governors of the Federal Reserve System, August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24880 Filed 8-24-76;8:45 am]

OLD NATIONAL BANCORPORATION

Order Approving Acquisition of Shares of Old National Life Insurance Co.

Old National Bancorporation (formerly Washington Bancshares, Inc.), Spokane, Washington ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire shares of Old National Life Insurance Company, Phoenix, Arizona ("Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's lending subsidiaries in the State of Washington. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 24634). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act.

Applicant, the fifth largest banking organization in Washington, controls two subsidiary banks with aggregate deposits of approximately $605.5 million, representing approximately 6.1 percent of the total deposits in commercial banks in the State.[1] Applicant also engages, through nonbank subsidiaries, in equipment leasing, mortgage banking and servicing, investment advising and insurance agency activities.

Company will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance in connection with extensions of credit by Applicant's lending subsidiaries. Company will be formed as an Arizona insurance corporation and will be qualified to underwrite insurance directly only in Arizona. Accordingly, the insurance sold by Applicant's lending subsidiaries will be directly underwritten by an unaffiliated insurance company qualified to do business in Washington, and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since Applicant proposes to engage in this activity de novo, consummation of the transaction would not have any significant adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a)(10) n. 7)

Applicant has stated that following consummation of the proposed acquisition, Company will offer the several types of credit-related insurance that it will reinsure at premium rates ranging from 3.3 percent to 20.0 percent below the maximum allowable rates in the State of Washington for example, reducing term joint life insurance and level term joint life insurance will be offered at rates 12.0 and 18.8 percent, respectively, below the maximum allowable rates. In addition, credit accident and health insurance will be offered at rates 5 percent below the statutory maximum. Applicant has committed to similar rate reductions for each type of insurance coverage that Company will underwrite. The Board is of the view that Applicant's proposed reductions in insurance premiums are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[2] effective August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24881 Filed 8-24-76;8:45 am]

[1] All banking data are as of December 31, 1975.

[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson and Partee. Absent and not voting: Governor Lilly.

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

GENERAL ACCOUNTING OFFICE

CIVIL AERONAUTICS BOARD AND INTERSTATE COMMERCE COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 18, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and ICC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of "Application for Operating Authorization (CAB Form 351)." This form is used by the Board to determine whether an applicant should be granted authority to operate as an air freight forwarder. CAB estimates it receives approximately 50 applications a year and that respondent burden averages 15 hours per application.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension no change clearance of Quarterly Report Form CBS, required to be filed by some 65 Class I linehaul railroads, pursuant to Section 20 of the Interstate Commerce Act. Data collected on Form CBS are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 7 hours per report.

ICC requests an extension no change clearance of Annual Report Form MP-2 required to be filed by some 870 Class II and III motor carriers of passengers having annual operating revenues of less than $1 million pursuant to order of the Interstate Commerce Commission 49 CFR 1249.6. Data collected on Form MP-2 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. Reporting burden for carriers to average 2½ hours per report.

ICC requests an extension no change clearance of Annual Report Form W-3 required to be filed by some 105 Class III carriers by water having annual carrier operating revenues of less than $100,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1250.30. Data collected on Form W-3 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 4 hours per report.

ICC requests an extension no change clearance of Quarterly Report Form RE&I, required to be filed by some 65 Class I line-haul railroads, pursuant to section 20 of the Interstate Commerce Act. Data collected on Form RE&I are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 6 hours per report.

ICC requests clearance of a revision to Quarterly Report Form QFR, required to be filed by some 900 Class I and 2600 Class II common and contract motor carriers of property pursuant to section 220(a) of the Interstate Commerce Act. Data collected on Form QFR are used for economic regulatory purposes. Reports are mandatory and available for use of the public. One minor change has been made on page 11 of Form QFR, a new Item 283 has been added. ICC states this item is part of a routine accounting procedure and is readily available from carriers records and will not add any burden on respondents. Item 283 reads "(2611 through 2661) Total Stockholder's Equity." Previous items 283 through 285 are renumbered 284 through 286. ICC estimates reporting burden to average 4¼ hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-24889 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was re-

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ceived by the Regulatory Reports Review Staff, GAO, on August 19, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC report are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

FEDERAL POWER COMMISSION

The FPC requests clearance of a new Form 108, Questionnaire Schedules For Continuing Review of Rate Schedules Analysis, Filed Rates, Volumes and Quality Conditions. Form 108 will be used by the Commission to (1) give a detailed breakdown of rate schedules on file with the Commission; (2) provide a basis for estimating the revenue impact of nationwide and/or area ratemaking proposals by pricing area, state, purchaser; (3) provide a means of determining the potential effects of periodic price escalations and indefinite price provisions; and (4) monitor changes in gas sales contracts and gas quality and their effect on consumers. The following schedules as part of Form 108 will be filed as shown:

Schedule No.	Frequency	Frequency date
501	Annually	March 31.
502–504	Initially	Before Mar. 31, 1977.
502–504	Event	Application for rate certificate and amendment to the rate schedule.
505	Annually	March 31.
507	Event	As rate changes are requested.

FPC estimates Form 108 will be filed by approximately 888 natural gas producers and that the burden will average approximately 18 hours per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–24890 Filed 8–24–76;8:45 am]

INTERSTATE COMMERCE COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 19, 1976. See 43 U.S.C 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

INTERSTATE COMMERCE COMMISSION

ICC requests clearance of a revised Annual Financial Report for Class III Common and Contract Motor Carriers of Property, Form M–3, required to be filed by all carriers having annual carrier operating revenues (including interstate and intrastate) of less than $500,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1249.4.

The report form is revised to incorporate the needs of the majority of State regulatory commissions and the Interstate Commerce Commission. Carriers and State commissions will benefit from the use of the same form. Carriers can avoid restructuring similar data for different State reports and State regulatory commissions can reduce printing costs by utilizing the uniform printed report. Reporting burden is reduced on smaller carriers by exempting carriers with operating revenues of $100,000 or less from completing the balance sheet, income statement and other detailed disclosures. A $50,000 revenue exemption was previously used from 1957 to 1975. The corporate ownership disclosure requirement was expanded and a schedule disclosing salaries, wages, and other compensation was added. Household goods operations are now required to be segregated for certain operating statistics and unpaid cargo loss and damage claims must be disclosed. The disclosure requirements on pages 7 and 8 were inserted to more closely align Class I, II and III motor carrier reports. The additional disclosures were added to keep pace with recent changes in Commission accounting rules, satisfy the information needs of the Commission, State regulatory commissions and interested parties. Reports are mandatory and must be filed by some 12,500 carriers. ICC estimates annual reporting burden for carriers with operating revenues of $100,000 or under to be one-half hour, and two hours for carriers whose operating revenues exceed $100,000.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–24891 Filed 8–24–76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. F–396]

ADMINISTRATOR, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government in intrastate gas rate proceedings.

2. *Effective date.* This regulation is effective August 9, 1976.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205 (d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government before the Missouri Public Service Commission involving the filing by the Gas Service Company of Kansas City for new rates for the provision of natural gas (Docket No. 18662).

b. The Administrator, Energy Research and Development Administration, may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

T. M. CHAMBERS,
Acting Administrator of General Services.

AUGUST 16, 1976.

[FR Doc.76–24807 Filed 8–24–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 17, 1976.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Albany International Corp. $1.25 Par Capital, File No. 7–4860.
Commonwealth Edison Co. $1.25 Convertible Preferred NPV, File No. 7–4861.
Congoleum Corp. Common $1.00 Par, File No. 7–4862.
Nalco Chemical Co. Common $0.75 Par, File No. 7–4863.
Northwest Telecom Ltd., Common Stock NPV, File No. 7–4864.
Rio Algom Ltd. Common Stock NPV, File No. 7–4865.
Spencer Companies, Inc. Common Stock $1.00 Par, File No. 7–4866.

Upon receipt of a request, on or before August 30, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24818 Filed 8–24–76;8:45 am]

[File No. 500–1]

IMAGE SYSTEMS, INC.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Image Systems, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 1:05 p. m. (e.d.t.) on August 18, 1976 through August 27, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24819 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24820 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions

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of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to Section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6): Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's Rules of Practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of tre Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management, or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24821 Filed 8-24-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0317]

BOHLEN CAPITAL CORP.

Application for a License

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Bohlen Capital Corporation (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its principal place of business at 30 East 42nd Street, New York, New York 10017 will begin operations with $1,000,000 of paid-in capital and surplus and will be solely owned by Bohlen Industries of North America, Inc. (BINA), which is a wholly owned subsidiary of Bohlen Industrie Aktiengesellschaft (BIAG), a German Corporation.

BIAG, which is principally located at Maximillian Strasse 22, D-8,000, Munich, West Germany, is owned by Messrs Berthold von Bohlen und Halbach and Harold von Bohlen und Halbach who each own 49 percent and 50 percent respectively of the company's stock. Mr. Raiser is President and Director of BIAG.

The officers and directors of the applicant will be as follows:

NAME AND TITLE

Helmut Raiser, 14 Franz-Joseph Strasse, Munich, Germany, Chairman of the Board and Director.

Harvey J. Wertheim, 9 Rawlins Drive, Melville, New York 11746, President, Treasurer and Director.

Emilio A. Dominianni, 5 Spring Lake Drive, E. White Plains, New York 10604, Secretary and Director.

Maximo Gonzales, 1 bis rue clement Marot, Paris, France, Director.

John H. French II, 151 East 72nd Street, New York, New York 10023, Director.

The applicant will conduct its operations principally in the New York area and will not concentrate its investments in any particular industry.

Research and Science Investors, Inc., 30 East 42nd Street, New York, New York 10017 (RSI), a privately held venture capital investment company will serve as investment advisor/manager of the Applicant. Messrs. French and Wertheim are president-director and vice president, treasurer, director respectively of RSI. Messrs. Wertheim and French also serve as the President and a Director respectively of Van Rietschoten Capital Corp., a licensed Small Business Investment Company, 30 East 42nd Street, New York, New York 10017.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the SBA Rules and Regulations.

Any person may, on or before September 9, 1976, submit to SBA written comments on the proposed Licensee. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 18, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-24844 Filed 8-24-76;8:45 am]

CLEVELAND DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Cleveland District Advisory Council will hold a public meeting at 9:45 a.m., Friday, September 17, 1976, in the Bond Court Hotel, 777 St. Clair Avenue, NE, Cleveland, Ohio, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call S. Charles Hemming, Jr., District Director, U.S. Small Business Administration, 1240 East Ninth Street, AJC Federal Building, Room 317, Cleveland, Ohio 44199, 216/293-4182.

Dated: August 13, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-24900 Filed 8-24-76;8:45 am]

[License No. 01/01-0018]

MASSACHUSETTS CAPITAL CORP.

Transfer of a Small Business Investment Company License

On April 27, 1976, a Notice of application for a transfer of control of Massachusetts Capital Corporation, a small business investment company, was published in the Federal Register (Vol. 14, No. 82) pursuant to § 107.701 of the Small Business Administration (SBA) Regulations governing small business Administration (SBA) Regulations governing small business investment companies (13 CFR 107.701 (1976)).

Interested parties were given 10 days to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA approves the transfer of control of Massachusetts Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 12, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-24902 Filed 8-24-76;8:45 am]

SYRACUSE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Syracuse District Advisory Council will hold a public meeting at 8:30 a.m., Thursday, September 16, 1976, in the Board Room, Manufacturers & Traders Trust Company, 1 M & T Plaza, Buffalo, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Federal Building, Room 1073, Syracuse, New York 13202, 315/951-3460.

Dated: August 13, 1976.

HENRY V. Z HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-24901 Filed 8-24-76;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in Room 119 of the main Veterans Administration building, 810 Vermont Avenue, NW, Washington, DC, on October 26 and 27, 1976. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on its findings.

The meeting will be open to the public up to the seating capacity of the room from 1:30 to 2 p.m., October 26, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC, (202-389-3702) prior to October 8.

The meeting will be closed from 2 p.m. to 4:45 p.m. October 26 and all day on October 27 for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Pub. L. 92-463 and Sections 552(b)(2) and 552(b)(6) of Title 5, U.S. Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: August 19, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-24892 Filed 8-24-76;8:45 am]

V 41 166 AUG 25 76 UMI

federal register

WEDNESDAY, AUGUST 25, 1976



PART II:

FEDERAL ELECTION COMMISSION

■

ESTABLISHMENT OF CHAPTER

V41 1 166 AUG 25 76 UMI

Title 11—Federal Elections

CHAPTER I—FEDERAL ELECTION COMMISSION

[Notice 1976-38]

ESTABLISHMENT OF CHAPTER

The Federal Election Commission today publishes regulations which it has adopted to implement the provisions of the Federal Election Campaign Act of 1971, as amended in 1974 and 1976. Commission approval of these regulations occurred on July 27, 29 and 30, 1976, and August 5, 1976. Pursuant to 2 U.S.C. § 438, the regulations have been transmitted to the Congress of the United States. The regulations are not yet effective. Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress for 30 legislative days in accordance with 2 U.S.C. § 438(c), 26 U.S.C. § 9009(c), and 26 U.S.C. § 9039(b).

These regulations were originally published in proposed form on May 26, 1976 (41 FR 21572-21605), on June 25, 1976 (41 FR 26397) and on July 9, 1976 (41 FR 28413). Written comments were received and public hearings were held. The regulations published today will be promulgated in their present form unless disapproved by the Congress under 2 U.S.C. § 438(c), 26 U.S.C. §§ 9009(c) or 9039(b).

Dated: August 19, 1976.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

Chapter I is added to Title 11 of the Code of Federal Regulations to read as follows:

SUBCHAPTER A—GENERAL

PART 100—SCOPE AND DEFINITIONS

Sec.
100.1 Scope.
100.2 Candidate.
100.3 Commission.
100.4 Contribution.
100.5 Support.
100.6 Election.
100.7 Expenditure.
100.8 Federal office.
100.9 File, filed, or filing.
100.10 Identification.
100.11 Occupation.
100.12 Principal place of business.
100.13 Person.
100.14 Political committee.
100.15 Connected organization.
100.16 Political party.
100.17 National committee.
100.18 State.
100.19 State committee, subordinate committee.
100.20 Act.

PART 101—CANDIDATE STATUS AND DESIGNATIONS

101.1 Duration of candidate status.
101.2 Candidate designations.
101.3 Waiver of candidate reporting.

PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

102.1 Registration of political committees.
102.2 Forms and filing.
102.3 Change or correction in information.
102.4 Termination of registration.
102.5 Identification number.
102.6 Federal committees and accounts; separation of Federal and non-Federal funds.
102.7 Organization of political committees.
102.8 Receipt of contributions.
102.9 Accounting for contributions and expenditures.
102.10 Petty cash fund.
102.11 Designation of principal campaign committee.
102.12 Authorization of political committees.
102.13 Notice; solicitations of contributions.
102.14 Records; retention.
102.15 Segregated funds.

PART 103—CAMPAIGN DEPOSITORIES

103.1 Notification of the Commission.
102.2 Depositories.
103.3 Deposits and expenditures.
103.4 Vice-Presidential candidate campaign depositories.

PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

104.1 General.
104.2 Form and content of reports.
104.3 Disclosure of receipt and consumption of in-kind contributions.
104.4 Filing dates.
104.5 Uniform reporting of contributions.
104.6 Uniform reporting of expenditures.
104.7 Allocation of expenditures among candidates.
104.8 Continuous reporting of debts and obligations.
104.9 Waiver of reporting requirements.
104.10 Political committees; cash on hand.
104.11 Members of Congress; reporting exemption.
104.12 Formal requirements regarding reports and statements.
104.13 Sale or use restriction.

PART 105—DOCUMENT FILING

105.1 Place of filing; House candidates and committees.
105.2 Place of filing; Senate candidates and committees.
105.3 Place of filing; Presidential candidates and committees.
105.4 Place of filing; committees and others.
105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

106.1 Allocation of expenditures among (or between) candidates and activities.
106.2 Allocation of expenditures among States by candidates for Presidential nomination.
106.3 Allocation of expenses between campaign and non-campaign related travel.
106.4 Allocation of polling expenses.

PART 107—CONVENTION REPORTS

107.1 Reports by municipal and private host committees.
107.2 Reports by political parties.
107.3 Convention reports; time and content of filing.
107.4 Convention expenses; definitions.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS

108.1 Filing requirements.
108.2 Filing copies of reports of Presidential and Vice Presidential candidates.
108.3 Filing copies of reports by other Federal candidates and committees.
108.4 Filing copies of reports by committees supporting Presidential candidates.
108.5 Time and manner of filing copies.
108.6 Duty of State officers.
108.7 Effect on state law.
108.8 Exemption for the District of Columbia.

PART 109—INDEPENDENT EXPENDITURES

109.1 Definitions.
109.2 Reporting of independent expenditures.
109.3 Certification of independent expenditures.
109.4 Non-authorization notice.
109.5 Reporting of independent contributions.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

110.1 Contributions by persons.
110.2 Contributions by multicandidate committees.
110.3 Affiliated committees; transfers.
110.4 Prohibited contributions.
110.5 Annual contribution limitation.
110.6 Earmarked contributions.
110.7 Party committee expenditures.
110.8 Presidential candidate expenditure limitations.
110.9 Miscellaneous provisions.
110.10 Expenditures by candidates.
110.11 Communications; advertising.
110.12 Honorariums.

PART 111—COMPLIANCE PROCEDURE

111.1 Scope.
111.2 Complaint; filing.
111.3 Initial processing.
111.4 Notification.
111.5 Investigation.
111.6 Commission action.
111.7 Conciliation.
111.8 Disclosure of Commission action.
111.9 Civil proceedings.
111.10 Issuance of subpoena and subpoena duces tecum.
111.11 Depositions.
111.12 Service of subpoenas and notices of deposition.
111.13 Motions to quash.
111.14 Witness fees and mileage.
111.15 Ex parte communications.

PART 112—ADVISORY OPINION PROCEDURE

112.1 Requests for advisory opinions.
112.2 Public availability of requests.
112.3 Written comments on requests.
112.4 Issuance of advisory opinions.
112.5 Reliance on advisory opinions.
112.6 Reconsideration of advisory opinions.

PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

113.1 Definitions.
113.2 Use of funds.
113.3 Deposits of funds donated to a Federal or State officeholder.
113.4 Reports of office accounts.
113.5 Contribution and expenditure limitations.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

114.1 Definitions.
114.2 Prohibitions on contributions and expenditures.
114.3 Partisan communications.
114.4 Nonpartisan communications.
114.5 Separate segregated funds.
114.6 Twice yearly solicitations.
114.7 Membership organizations, cooperatives, or corporations without capital stock.
114.8 Trade associations.
114.9 Use of corporate or labor organization facilities and means of transportation.
114.10 Extension of credit and settlement of corporate debts.
114.11 Employee participation plans.
114.12 Miscellaneous provisions.

PART 115—FEDERAL CONTRACTORS

115.1 Definitions.
115.2 Prohibition.
115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.
115.4 Partnerships.
115.5 Individuals and sole proprietors.
115.6 Employee contributions or expenditures.

SUBCHAPTER B—PRESIDENTIAL ELECTION CAMPAIGN FUND, FEDERAL FINANCING OF CONVENTIONS

PART 120—GENERAL PROVISIONS

120.1 Scope.
120.2 Definitions.

PART 121—LIMITATION OF EXPENDITURES

SUBPART A—NATIONAL PARTY LIMITATIONS

121.1 Major parties.
121.2 Minor parties.
121.3 Exception.
121.4 Expenditures by agencies and municipal corporations.

SUBPART B—IN-KIND CONTRIBUTIONS BY BUSINESSES

121.5 Discounts by retail business concerns.
121.6 Samples and promotional material.
121.7 In-kind contributions to the host committee.

SUBPART C—DONATION OF FUNDS BY LOCAL BUSINESSES AND LABOR ORGANIZATIONS; ADVERTISING

121.8 Donation of funds to host committee.
121.9 Use of funds by host committee.
121.10 Expenditures by individuals and groups.

PART 122—ENTITLEMENT TO AND DISPOSITION OF PAYMENTS FROM THE FUND

122.1 Major parties.
122.2 Minor parties.
122.3 Adjustment of entitlements.
122.4 Investment of funds.
122.5 Use of funds; candidate and delegate expenses.

PART 123—PAYMENT PROCEDURE FOR PRESIDENTIAL NOMINATING CONVENTIONS

123.1 Optional payments; private contributions.
123.2 Transfer to the fund.
123.3 Information required to qualify for public funds.
123.4 Payment schedule.

PART 124—POST-DISBURSEMENT PROCEDURES

124.1 Repayments.
124.2 Notification of need for repayments.
124.3 Examination and audits.

PART 125—CONVENTION REPORTS

125.1 Reports by municipal and private host committees.
125.2 Reports by political parties.
125.3 Post-convention reports; time and content of filing.
125.4 Committees receiving Federal funds; quarterly reports.
125.5 Convention expenses; definition.

SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

PART 130—DEFINITIONS

130.1 Authorized committee.
130.2 Political committee.
130.3 Candidate.
130.4 Commission.
130.5 Matching payment account.
130.6 Matching payment period.
130.7 Primary election.
130.8 Matchable campaign contributions.
130.9 Nonmatchable contributions.
130.10 Qualified campaign expense.
130.11 State.

PART 131—ELIGIBILITY FOR PAYMENTS

131.1 Candidate agreements.
131.2 Candidate certifications; threshold amount.
131.3 Matching payment threshold requirements.
131.4 Matching payments in excess of threshold.
131.5 Candidate entitlements.
131.6 Expenditure limitation.

PART 132—CERTIFICATION AND DISBURSEMENT

132.1 Initial certification.
132.2 Additional certifications.
132.3 Payments and deposits of Presidential primary matching funds.
132.4 Insufficient documentation.
132.25 Certification review and notice.
132.6 Resubmission and hearing opportunity.

PART 133—TERMINATIONS OF PAYMENTS

133.1 Continuation of certification.
133.2 Ineligibility dates defined.
133.3 Use of matching payments; net outstanding campaign obligations.
133.4 Determination of inactive candidacy.
133.5 Determination of active candidacy.
133.6 Reestablishment of eligibility dates.
133.7 Suspension of payments.

PART 134—EXAMINATIONS AND AUDITS; REPAYMENTS

134.1 Audit.
134.2 Repayments.
134.3 Liquidation of obligations; repayment.

SUBCHAPTER D—PRESIDENTIAL ELECTION CAMPAIGN FUND, GENERAL ELECTION FINANCING

PART 140—DEFINITIONS

140.1 Authorized committee.
140.2 Candidate.
140.3 Commission.
140.4 Eligible candidates.
140.5 Fund.
140.6 Major party.
140.7 Minor party.
140.8 New party.
140.9 Political committee.
140.10 Presidential election.
140.11 Qualified campaign expense.
140.12 Expenditure report period.
140.13 Contribution; exclusions.
140.14 Secretary.

PART 141—ELIGIBILITY FOR PAYMENTS

141.1 Candidate agreements.
141.2 Candidate certifications.
141.3 Allowable contributions.

PART 142—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

142.1 Major parties.
142.2 Minor parties.
142.3 Minor and new parties; post-election payments.
142.4 Use of payments.
142.5 Withdrawal by candidate.

PART 143—CERTIFICATION BY COMMISSION

143.1 Initial certification.
143.2 Payments from the fund.
143.3 Finality of certification; hearings.

PART 144—REPORTS AND RECORDKEEPING

144.1 Separate reports.
144.2 Allocation of administrative expenses.

PART 145—EXAMINATIONS AND AUDITS; REPAYMENTS

145.1 Audits, records, and investigations.
145.2 Repayments.
145.3 Notification.

PART 146—OTHER EXPENDITURES

146.1 Expenditures by political party committees.

SUBCHAPTER A—GENERAL

PART 100—SCOPE AND DEFINITIONS

Sec.
100.1 Scope.
100.2 Candidate.
100.3 Commission.
100.4 Contribution.
100.5 Support.
100.6 Election.
100.7 Expenditure.
100.8 Federal office.
100.9 File, filed, or filing.
100.10 Identification.
100.11 Occupation.
100.12 Principal place of business.
100.13 Person.
100.14 Political committee.
100.15 Connected organization.
100.16 Political party.
100.17 National committee.
100.18 State.
100.19 State committee, subordinate committee.
100.20 Act.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission under Title III of the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended in 1974 (Public Law 93-443), and as amended in 1976 (Public Law 94-283) and is applicable to campaigns for nomination or election to the offices of President and Vice President of the United States; and Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.2 Candidate.

An individual is a candidate for Federal office, whether or not elected, whenever any of the following events occur:

(a) The individual has taken the action necessary, under relevant State law, to qualify in a primary, runoff, special or general election convention or caucus; or

(b) The individual has received contributions or made expenditures, or has given his or her consent for any other person to receive contributions or make

V 41 166 AUG 25 76 UMI

expenditures, with a view toward bringing about his or her election; or

(c) If after written notification by the Commission that any other person is receiving contributions or making expenditures on the individual's behalf, the individual fails to disavow this activity by letter to the Commission within 30 days of receipt of the notification.

§ 100.3 Commission.

"Commission" means the Federal Election Comimssion, 1325 K Street, NW., Washington, D.C. 20463.

§ 100.4 Contribution.

(a) "Contribution" means—

(1) A gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office; or for the purpose of influencing the results of a primary election, caucus, or convention held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (a),

(i) The term "loan" includes a guarantee, endorsement, and any other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser as well as with a political committee, candidate, or other primary obligor. A loan is a contribution to the extent that the obligation remains outstanding.

(ii) The term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the items. The amount of a contribution of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the candidate or political committee.

(B) For purposes of this section,

(*1*) "Usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(*2*) "Usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) The donation of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner.

(3) A written contract, promise, or agreement such as a signed pledge card, whether or not legally enforceable, to make a contribution. The contract, promise, or agreement shall be reported as a debt owed to the candidate or committee until it is honored.

(4) A transfer of funds to a political committee or candidate from another political committee, other political organization, or other similar source whether or not such organization is a political committee. The transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(5) The payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate or political committee without charge. No compensation is considered paid to any employee—

(i)(A) Who is paid on an hourly or salaried basis;

(B) Who is expected to perform duties for an employer for a particular number of hours per period; and

(C) Who engages in political activity during what would otherwise be a regular work period;

if the taken or released time is made up or completed by that employee within a reasonable period; or

(ii) Who is paid on a commission or piecework basis, or is paid only for work actually performed, whose time is considered the employee's own to use as he or she sees fit and who engages in political activity during what would otherwise be normal working hours; or

(iii) Where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(6) The extension of credit for a length of time beyond normal business or trade practice, unless the creditor has made a commercially reasonable attempt to collect the debt (see § 114.10).

(b) The term "contribution" does not include—

(1) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise become a candidate. If the individual otherwise subsequently becomes a candidate, the payments are contributions, and must be reported with the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(2) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

(3) The rental value of an individual's residence used for campaign-related activity.

(4) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of the candidate do not exceed $500 with respect to an election. For purposes of this paragraph a contribution by a married individual shall not be attributed to a spouse.

(5) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the charge for use in a candidate's campaign is at least equal to the cost of food or beverage to the vendor, and the cumulative value of the discounts given by the vendor does not exceed $500 for an election.

(6) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed $500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not contributions.

(7) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by the committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards, posters, and signs.

(8) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other periodical publication unless the facility is owned or controlled by any political party, political committee, or candidate, in which case a news story which (1) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (2) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be a contribution.

(9) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114, would not constitute an expenditure by the corporation or labor organization.

(10) An honorarium, and related expenses, within the meaning of § 110.12.

(11) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office. For purposes of this paragraph and paragraph 12, a partnership shall be deemed to be the regular employer of a partner.

(12) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(13) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations, and in the ordinary course of business, but these loans (i) shall be reported in accordance with Part 104; and (ii) shall be considered a loan by each endorser or guarantor, in that proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(14) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility and which is not for the purpose of influencing the election of any candidate in any particular election for Federal office, except that such a transaction shall be reported in accordance with Part 104.

(15) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

§ 100.5 Support.

The term "support" means to make a contribution of any amount or value to, or to make an expenditure of any amount or value on behalf of, a candidate or political committee, but see § 102.11(c).

§ 100.6 Election.

"Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. Specific types of elections, defined below, are included in this definition.

(a) *General election.* "General election" means—

(1) An election held in even numbered years on the Tuesday next after the first Monday in November, or

(2) An election which is held to fill a vacancy in a Federal office (special election) and which is intended to result in the final selection of a single individual to the office at stake.

(b) *Primary election.* (1) "Primary election" means an election—

(i) Which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election, or

(ii) Which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States, or

(iii) Which is held to elect delegates to a national nominating convention.

(2) With respect to individuals seeking Federal office as independent candidates, or without nomination by a major party (as defined in 26 U.S.C. § 9002(6)), the primary election is considered to occur, at the choice of the candidate—

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot, or

(ii) The date of the last major party primary election, caucus or convention in that State, or

(iii) In the case of non-major parties, the date of the nomination by that party.

(c) *Runoff election.* "Runoff election" means the election held after a

(1) Primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, or

(2) General election, and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect.

(d) *Caucus or Convention.* A caucus or convention of a political party which has authority to select a nominee is an election.

(e) *Special election.* "Special election" means an election which is held to fill a vacancy in a Federal office, and which may be a primary, general, or runoff election.

§ 100.7 Expenditure.

(a) "Expenditure" means—

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or to the office of Presidential or Vice Presidential elector; or for the purpose of influencing the result of a primary election, caucus or convention held for the selection of delegates for a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (1)—

(i) The term "payment"

(A) Includes payment of any interest on an obligation; and

(B) Includes a guarantee or endorsement by a candidate or a political committee of a loan;

(C) Does not include the repayment of the principal of an outstanding obligation, the proceeds of which constituted a contribution under these regulations, except that the repayment shall be reported.

(ii) The term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the items. The amount of the expenditure of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged for the candidate or committee. For purposes of this paragraph,

(A) "Usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(B) "Usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) A written contract, promise, or agreement, whether or not legally enforceable, to make any expenditure.

(3) A transfer of funds by a political committee to another political committee or candidate. A transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(4) An independent expenditure, which meets the requirements of Part 109, except that such independent expenditure is to be reported by the person making the expenditure as set forth in Part 109.

(b) The term "expenditure" does not include—

(1) Contributions by an individual from personal funds to a political committee or candidate.

(2) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise subsequently become a candidate. If the individual becomes a candidate, the payments are expenditures, and must be reported with the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(3) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other publication, unless the facility is owned or controlled by any political party, political committee or candidate, in which case a news story which (i) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be an expenditure.

(4) Nonpartisan activity designed to encourage individuals to register to vote or to vote. For purposes of this section, nonpartisan activity means that no ef-

V 41 166 AUG 25 76 UMI

fort is made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(5) Any communication by a membership organization to its members or by a corporation to its stockholders or executive or administrative personnel, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission on FEC Form 7. For the purposes of this paragraph—

(i) "Labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, or dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—

(*1*) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(2) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include—

(*1*) Professionals who are represented by a labor organization;

(2) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(3) Former or retired personnel who are not stockholders; or

(*4*) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–1.

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–1.

(D) The Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* and the regulations issued pursuant to the Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) "Election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held;

(vi) "Corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs exceed $2,000 per election, all costs of the communication shall be reported on the filing dates provided in § 104.4, and shall include the total amount expended for each candidate supported.

(6) The rental value of an individual's residence used for campaign-related activity.

(7) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of a candidate do not exceed $500 with respect to an election. For purposes of this paragraph an expenditure by a married individual shall not be attributed to a spouse.

(8) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed $500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not expenditures.

(9) Any communication by a person which is not made for the purpose of influencing the nomination for election, or election, of an individual to Federal office.

(10) Any payments by the candidate from non-campaign funds for routine living expenses of the candidate which would have been incurred without candidacy, including food and residence.

(11) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising, such as billboards, posters, and signs.

(12) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114 and 2 U.S.C. § 441b, would not constitute an expenditure by the corporation or labor organization.

(13) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has received Presidential Primary Matching Fund Payments (or a minor new party candidate receiving general election public financing under 26 U.S.C. § 9004), not exceeding 20% of the expenditure limitation applicable to the candidate, but these costs shall be reported under Part 104.

(ii) For purposes of this paragraph, "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days of a primary election, convention, or caucus, see § 110.8(c).

(14) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office. For purposes of this paragraph and paragraph (15), a partnership shall be deemed to be the regular employer of a partner.

(15) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(16) A loan of money by a national or State bank made in accordance with the applicable banking laws, but such a loan shall be made in accordance with § 100.4(b)(13), and shall be reported in accordance with Part 104.

(17) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

§ 100.8 Federal office.

"Federal office" means the office of President, or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.9 File, filed, or filing.

"File," "filed," and "filing" mean with respect to reports and statements required to be filed under this chapter—

(a) Delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the Senate, Washington, D.C. 20510; or the Clerk of the House of Representatives, Washington, D.C. 20515, as required by Part 105, by the close of the prescribed filing date, or

(b) (1) deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked not later than midnight of the twelfth day before the date of the election.

(2) Reports and statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

§ 100.10 Identification.

"Identification" means (a) in the case of an individual, his or her full name, including first name, middle name or initial, if available, last name, and full address of his or principal place of residence, and (b) in the case of any other person, the full name and mailing address.

§ 100.11 Occupation.

"Occupation" means principal job title or position and whether or not self-employed.

§ 100.12 Principal place of business.

"Principal place of business" means the full name under which the business is conducted and the city and state in which the person is employed or conducts business.

§ 100.13 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organiztaion or group of persons.

§ 100.14 Political committee.

"Political committee" means any committee, club, association, or other group of persons which anticipates receiving, or receives contributions, or makes expenditures, totalling more than $1,000 in value during a calendar year, and means any principal campaign committee.

(a) The following are political committees:

(1) *Principal compaign committee.* "Principal campaign committee" means the political committee designated by a candidate as his or her principal campaign committee pursuant to § 101.2.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.

(3) *Multicandidate committee.* "Multicandidate committee" means a political committee which (i) has been registered with the Commission, Clerk, or Secretary for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates, see § 110.2.

(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(b) A political committee is either an authorized committee or an unauthorized committee.

(1) *Authorized committee.* An "authorized committee" is a political committee which is empowered in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has not been disavowed pursuant to § 100.2(c).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has been disavowed pursuant to § 100.2(c).

(c) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All commitees (including a separate segregated fund, see Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that—

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association, see § 114.8(a), and/or by related State and local entities, are affiliated;

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For organizations not covered by (i) above, indicia of establishing, financing, maintaining, or controlling, include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authoriy, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

§ 100.15 Connected organization.

"Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports the registrant such as a corporation (including one without capital stock), a labor organization, a membership organization, a cooperative, or trade association.

§ 100.16 Political party.

"Political party" means an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

§ 100.17 National committee.

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level.

§ 100.18 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 100.19 State committee, subordinate committee.

(a) "State committee" means the organization which, by virtue of the by-

V 41 166 AUG 25 76 UMI

laws of a political party, is responsible for the day-to-day operation of the political party at the State level.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State, or any organization under the control or direction of the State committee.

§ 100.20 Act.

"Act" means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974, and 1976, and, unless specifically excluded, includes chapters 95 and 96 of the Internal Revenue Code of 1954 relating to the public financing of Federal elections.

PART 101—CANDIDATE STATUS AND DESIGNATIONS

Sec.
101.1 Duration of candidate status.
101.2 Candidate designations.
101.3 Waiver of candidate reporting.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 86 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 101.1 Duration of candidate status.

Once an individual becomes a candidate under § 100.2 and does not have a waiver of candidate reporting under § 101.3, he or she continues to be a candidate for reporting purposes until all debts and obligations for which the candidate is personally obligated arising in connection with the election are extinguished. Candidacy then may be terminated by letter, containing the information required by § 102.4; see § 102.4 for termination of committees.

§ 101.2 Candidate designations.

(a) Within 30 days after attaining candidate status an individual is required to file a Statement of a Candidate for Nomination or Election to Federal Office on FEC Form 2, or file by a letter containing the same information in which such candidate shall—

(1) Designate a principal campaign committee in accordance with § 102.11, and

(2) Designate at least one national or State bank as a campaign depository under § 103.1.

(b) The candidate shall file a Statement of Authorization on FEC Form 2a or by letter containing the same information for any political committee other than a principal campaign committee which will be authorized to accept contributions or make expenditures on behalf of that candidate.

(c) The candidate shall commence filing personal reports of receipts and expenditures in accordance with Part 104, unless a waiver of personal reporting is obtained under § 101.3, or unless reporting is exempted under §§ 104.1(c), 104.4(d)(2), or 104.4(f).

(d) If the candidate, or his or her authorized committee(s), receive contributions designated for the general election prior to the date of the primary election, the candidate or his or her authorized committee(s) shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include but are not limited to (1) the designation of separate accounts for each election, caucus, or convention and (2) the establishment of separate books and records for each election.

§ 101.3 Waiver of candidate reporting.

A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states on FEC Form 2 or in a letter that—

(a) Within 5 days after personally receiving a contribution, the candidate will surrender possession of the entire contribution to the treasurer of his or her principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions conveyed by check, money order, or other written instrument shall be consigned directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditures for his or her campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to the candidate's designated principal campaign committee which shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

Sec.
102.1 Registration of political committees.
102.2 Forms and filing.
102.3 Change or correction in information.
102.4 Termination of registration.
102.5 Identification number.
102.6 Federal committees and accounts; separation of Federal and non-Federal funds.
102.7 Organization of political committees.
102.8 Receipt of contributions.
102.9 Accounting for contributions and expenditures.
102.10 Petty cash fund.
102.11 Designation of principal campaign committee.
102.12 Authorization of political committees.
102.13 Notice; solicitations of contributions.
102.14 Records; retention.
102.15 Segregated funds.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 102.1 Registration of political committees.

(a) Each political committee except as specified in paragraphs (b) and (c), shall file a Statement of Organization with the Federal Election Commission, the Secretary of the Senate, or the Clerk of the House, as appropriate, within 10 days after the date of its organization, or within 10 days after the date on which the committee has information which causes it to anticipate receiving contributions or making expenditures exceeding $1,000 in a calendar year for Federal candidates, whichever is later, and, in the case of a principal campaign committee, within 10 days of when it is designated by the candidate.

(b) Each authorized committee shall file the Statement of Organization required by paragraph (a) of this section, and any amendment thereto, or termination thereof required by sections 102.3 or 102.4 of this Part, with the affiliated principal campaign committee. The principal campaign committee shall file a copy of this Statement, amendment, or termination as in paragraph (a) of this section.

(c) A political committee which has previously filed a Statement of Organization with the Commission, the General Accounting Office, the Clerk of the House of Representatives or the Secretary of the Senate, and has not validly terminated is not required to file a new Statement.

§ 102.2 Forms and filing.

(a) The Statement of Organization shall be filed on Federal Election Commission Form 1, which may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. The Statement, to be signed by the treasurer, shall include the following:

(1) The name, address, and type (see § 100.14) of committee;

(2) The names, addresses, and relationships of affiliated and connected organizations (see paragraph (b) of this section);

(3) The area, scope, or jurisdiction of the committee;

(4) The name, address, and committee position of the custodian of books and accounts;

(5) The name, address, and committee position of other principal officers, including the assistant treasurer and assistant chairman (if any) and the officers and members of the finance committee, if any;

(6)(i) The name, address, office sought, and party affiliation of (A) each candidate for Federal office whom the committee is supporting and (B) each candidate whom the committee is supporting for nomination or election to any other public office; or if the committee is supporting the entire ticket of any party, the name of the party and the State in which the election is held.

(ii) If a committee wishes to terminate support, it shall amend its statement of organization;

(7) A statement whether the committee's existence will continue beyond the calendar year;

(8) The disposition of residual funds which will be made in the event of dissolution;

(9) A listing of all banks, safety deposit boxes, or other repositories used;

(10) A statement listing any reports (other than those required by these regulations) regarding candidates for Federal office filed under State or local law by the committee with State or local officers, and the names, addresses, and positions of such officers. See 2 U.S.C. § 453, and § 108.7 of these regulations.

(b)(1) "Affiliated organization" means an affiliated committee as defined in § 100.14(c).

(i) Only a principal campaign committee is required to disclose the name and address of all other authorized committees of its candidate; other authorized committees need only disclose the name of their principal campaign committee.

(ii)(A) Only political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions, a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local, or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons (other than political party organizations).

(B) Political committees established by subsidiaries of State, local, or other subordinate units are only required to disclose the name and address of each political committee established by their parent or superior body, *e.g.*, parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined in § 100.15.

§ 102.3 Change or correction in information.

Any change or correction in the information previously filed in the Statement of Organization shall be reported within 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the change or correction.

§ 102.4 Termination of registration.

(a) Any political committee (except a principal campaign committee) not having outstanding debts or obligations owed to or by it incurred on behalf of Federal candidates which, after having filed one or more Statements of Organization, seeks to disband or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000, shall file a notice of termination on FEC Form 3, FEC Form 6 or by letter containing the same information with the Commission, the Clerk of the House or the Secretary of the Senate, as appropriate. The notice shall contain a final report of receipts and disbursements, including a statement as to the disposition of residual funds if the committee is disbanding.

(b) A principal campaign committee may not terminate until—

(1) All debts of other authorized committees of the candidate have been extinguished, and,

(2) The candidate has terminated candidate status under § 101.1.

§ 102.5 Identification number.

Upon receipt of a Statement of Organization under this Part, or upon Commission review of statements already filed, an identification number shall be assigned to the statement, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.6 Federal committees and accounts; separation of Federal and non-Federal funds.

(a)(1) Each State committee, and each subordinate committee of the State committee (see § 100.19), which intends to solicit, receive, or make contributions or expenditures, in excess of $1,000, to, for, or on behalf of, any candidate for Federal office, or

(2) Any political committee which has solicited or received contributions for or on behalf of, or made expenditures or transfers to or on behalf of, any candidate for Federal office, shall either—

(i) Establish a separate Federal campaign committee which shall register as a political committee. The Federal campaign committee shall establish a segregated Federal account in either a national or State bank; or

(ii) Establish a single committee with a single account to make contributions to Federal and non-Federal candidates, but only if all contributions received are permissible under the Act, and all contributors are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5.

(b) The accounts and committees in (a)(2)(i) and (ii) above—(1) may not receive contributions other than contributions designated for the Federal committee or account, contributions received as a result of a solicitation which expressly states that the contribution will be used for Federal elections, or contributions from contributors who are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5; or (2) may not receive transfers from an account or committee established by a State committee, subordinate committee of a State committee, or another political committee, except from a committee or account set out in (i) and (ii).

(c) The Federal campaign committee or account may make transfers for any lawful purpose. The committee shall file a Statement of Organization and shall file reports and statements pursuant to Part 104.

§ 102.7 Organization of political committees.

(a) Every political committee shall have a chairman and a treasurer, who shall not be the same individual.

(b) A political committee may designate—

(1) A vice chairman who shall assume the duties and responsibilities of the chairman in the event of a temporary or permanent vacancy in the office;

(2) An assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office.

(c) No contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the chairman or the treasurer.

(d) No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or an agent authorized orally or in writing by the chairman or treasurer.

§ 102.8 Receipt of contributions.

Every person who is not an authorized agent of the treasurer or candidate, and who receives contributions aggregating in excess of $50 on behalf of a political committee or candidate shall, on demand of the treasurer or candidate, and in any event within 5 days after receipt, render to the treasurer or an authorized agent or the candidate an accounting thereof, which shall include—

(a) The exact amount of the contribution and the date received, and

(b) The identification of the contributor and, in the case of a contribution with a value in excess of $100, the occupation and principal place of business or employment, if any.

§ 102.9 Accounting for contributions and expenditures.

It shall be the duty of a candidate (not having received a waiver under § 101.3) and of the treasurer of a political committee or an agent authorized by the treasurer to receive contributions and/or make expenditures to—

(a) Keep an account of all contributions made to or for the committee or candidate, and record

(1) The identification of every person making a contribution in excess of $50;

V 41 166 AUG 25 76 UMI

(2) The occupation and principal place of business of individuals whose contributions aggregate in excess of $100 in a calendar year;

(3) The date received; and

(4) The amount of the contribution.

(b) Keep an account of all expenditures made by or on behalf of the committee or candidate, and record

(1) The identification of every person to whom any expenditure is made;

(2) The date of the expenditure;

(3) The amount of the expenditure;

(4) The name and address of each candidate on whose behalf the expenditure was made; and

(5) The office sought by the candidate.

(c) Obtain and keep a receipted bill from the person to whom the expenditure is made for every expenditure made by or on behalf of the committee or candidate—

(1) In excess of $100;

(2) In a lesser amount if the aggregate amount of expenditures during a calendar year to the same person exceeds $100;

(3) The receipted bill shall contain—

(i) The identification of the person to whom the exenditure is made;

(ii) The amount of the expenditure;

(iii) The purpose of the expenditure; and

(iv) The date the expenditure was made.

(4) Instead of a receipted bill, the treasurer may keep—

(i) The canceled check(s) showing payment(s) of the bill; and

(ii) The bill, invoice, or other contemporaneous memorandum of the transaction containing the same information as required in (3) above.

(d) Keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fundraising events, including the date, location, and nature of each event. He or she shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, and these records shall reflect the cost of the items to the committee, the sale price, and the total volume sold. These records shall be preserved in accordance with Part 104.

(e) Use his or her best efforts to obtain the required information, and shall keep a complete record of the efforts to do so. If there is a showing that best efforts have been made, the reporting candidate or committee shall be deemed to be in compliance with this section.

§ 102.10 Petty cash fund.

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements, including the purpose of each disbursement from the fund. The treasurer need not preserve receipts or invoices in connection with the transaction except as provided in § 102.9(c). A check made payable to "cash" shall not be made in excess of $100 except to replenish a petty cash fund.

§ 102.11 Designation of principal campaign committee.

(a) Each candidate for Federal office (other than for election to the office of Vice President of the United States), shall designate a political committee as his or her principal campaign committee (see § 101.2), even if the candidate does not plan to use the committee to receive or expend funds. Each principal campaign committee shall register and report, whether or not otherwise required to do so under § 102.1(a).

(b) No political committee may be designated as the principal campaign committee of more than one candidate.

(c) No political committee which supports more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States may designate the national committee of a political party as his or her principal campaign committee.

(1) For purposes of this paragraph, any occasional, isolated, or incidental support of a candidate shall not be construed as "support" of that candidate.

(2) For purposes of this paragraph, "occasional, isolated, or incidental support" means making contributions to, or expenditures on behalf of, a candidate from another candidate's principal campaign committee not exceeding $1000 for any election when combined with any personal contributions from the contributor candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate. See Part 110.

§ 102.12 Authorization of political committees.

(a) (1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. The authorization shall include a designation of campaign depositories to be used by such political committee in accordance with § 101.2 and Part 103.

(2) If an individual fails to disavow activity pursuant to § 100.2(c) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing and designate a campaign depository in accordance with § 101.2 and Part 103.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to § 110.7.

§ 102.13 Notice; solicitations of contributions.

Each political committee shall include on the face or front page of all printed literature and advertisements soliciting contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

§ 102.14 Records; retention.

The treasurer of a political committee shall preserve all receipts, bills, accounts, and all other records in accordance with the requirements of § 104.12.

§ 102.15 Segregated funds.

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of that committee.

PART 103—CAMPAIGN DEPOSITORIES

Sec.

103.1 Notification of the Commission.
103.2 Depositories.
103.3 Deposits and expenditures.
103.4 Vice-Presidential candidate campaign depositories.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 103.1 Notification of the Commission.

Each committee shall notify the Commission of the banks it has designated as its depositories, pursuant to §§ 101.2 and 102.3.

§ 103.2 Depositories.

Only national or State banks chartered by the United States or a State may be designated as campaign depositories. One or more depositories may be established in one or more States. One or more accounts may be established in a depository.

§ 103.3 Deposits and expenditures.

(a) All contributions received by a candidate, his or her authorized political committee(s), and any other political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the candidate, or by the treasurer of the committee or his or her agent, within 10 days of the candidate's or treasurer's receipt thereof. An expenditure may be made by a candidate or committee only by check drawn on an account in a designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to § 102.10. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before expenditures are made.

(b) Contributions which appear to be illegal shall be, within 10 days—

(1) Returned to the contributor; or

(2) Deposited into the campaign depository, and reported in which case the treasurer shall make and retain a written record noting the basis for the appearance of illegality. The treasurer shall make his or her best efforts to determine the legality of the contribution. Refunds shall be made when a contribution cannot be determined to be legal within a reasonable time, and the treasurer shall so note by amending the current report or noting the change on the candidate's or committee's next required report.

§ 103.4 Vice-Presidential candidate campaign depositories.

The campaign depository(ies) designated by a political party's candidate for President shall be the campaign depository(ies) of that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

Sec.

104.1 General.
104.2 Form and content of reports.
104.3 Disclosure of receipt and consumption of in-kind contributions.
104.4 Filing dates.
104.5 Uniform reporting of contributions.
104.6 Uniform reporting of expenditures.
104.7 Allocation of expenditures among candidates.
104.8 Continuous reporting of debts and obligations.
104.9 Waiver of reporting requirements.
104.10 Political committees; cash on hand.
104.11 Members of Congress; reporting exemption.
104.12 Formal requirements regarding reports and statements.
104.13 Sale or use restriction.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 104.1 General.

(a) Each political committee registered with the Commission, the Clerk of the House, the Secretary of the Senate, or with a principal campaign committee (see Part 102 of this subchapter) shall file quarterly reports of contributions and expenditures (unless waived) until—

(1) All debts and obligations relating to that committee's Federal election activity are extinguished; and

(2) The committee has filed a valid Notice of Termniation, see § 102.4.

(b) Each candidate for Federal office (other than a Vice-Presidential candidate) shall file quarterly reports of contributions and expenditures until all debts and obligations relating to that candidacy on which he or she is personally obligated are extinguished, unless the candidate is granted a waiver pursuant to § 101.3, or has terminated candidate status under § 101.1.

(c) (1) (i) A political committee or candidate is exempt from filing a quarterly report if the political committee or candidate did not receive contributions in excess of $1,000 or make expenditures in excess of $1,000 in that quarter.

(ii) In an election year, a candidate or committee with outstanding debts and obligations shall file a 4th quarter report, even if contributions or expenditures do not exceed $1,000.

(2) In any non-election year the candidate and his or her authorized committees shall only be required to file quarterly reports for a calendar quarter in which the candidate and his or her authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000.

(3) (i) The political committee or candidate shall notify the Commission on FEC Form 3a or by letter containing the same information at the close of the first quarter in which the exemption applies; and

(ii) The political committee or candidate shall continue to file the pre-election, post-election and annual reports required by § 104.4 until terminated or waived.

(4) Notwithstanding paragraphs (1) and (2), if the candidate's authorized committees (including a principal campaign committee) in the aggregate receive or expend in excess of $1,000 (or in a non-election year $5,000) all authorized committees shall file reports with the principal campaign committee, which shall file the consolidated report pursuant to § 104.2(c).

§ 104.2 Form and content of reports.

(a) Except as noted below, each report filed by a political committe or candidate under this part shall be on FEC Form 3. For candidates having only one authorized committee which neither receives contributions nor makes expenditures in excess of $50,000 for an election and does not make independent expenditures, see Part 109, the report may be on FEC Form 6. Either reporting form shall reflect all receipts and disbursements of a candidate or committee. Each authorized committee shall file its reports with its principal campaign committee, which shall file a consolidated report with the Commission, Clerk, or Secretary as appropriate. Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) Each report filed under this part shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of $100, or in an amount of less than $100 if the person's contributions within a calendar year total more than $100, together with the amount and date of such contributions;

(3) (i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under (b)(2) above;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of $100, shall itemize these by attaching a separate schedule. Contributions of $100 or less shall not be reported on the same schedule with the required itemized contributions in excess of $100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to §110.6 of each transaction involving earmarked funds;

(5) Each loan—

(i) (A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii) (A) Over $100 in value and made during the reporting period; or

(B) Less than $100 in value and the total of the loans from one person is over $100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—

(i) The sale of tickets to each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of $100 received during the reporting period, not otherwise listed under (b)(2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8) (i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in § 100.14(c));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period which total more than $100, or in an amount less than $100 if the total exceeds $100 within a calendar year, together with the

V 41 166 AUG 25 76 UM

amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditures were made;

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in § 100.14(c)) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make contributions or expenditures, see § 104.8;

(12) Independent expenditures, see Part 109.

(c) (1) Except as noted in (2) below, each principal campaign committee shall consolidate in its report for each election the reports required to be filed with it, including (i) the candidate's report (unless waived) and (ii) reports submitted to it by any authorized committees and (iii) the principal campaign committee's own report. The consolidation shall be made on FEC Form 3b and submitted with the reports of the principal campaign committee and the reports or applicable portions of the reports of the committees shown on the consolidation.

(2) For pre-election reports, the principal campaign committee may, if necessary, file the consolidated report disclosing the total receipts and expenditures by all authorized committees with respect to that election without including all of the detailed reports of committees required to file with it.

(i) Committees required to file with a principal campaign committee shall file a copy of their report with the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission by the 10th day preceding the election, in addition to filing with the principal campaign committee, unless the principal campaign committee files a complete consolidated report 10 days prior to the election under (c) (1) above.

(ii) The principal campaign committee shall then file a consolidated report no later than 5 days before the election, the report to include the detailed reports from committees required to file with it, if the detailed report was not filed 10 days prior to the election.

§ 104.3 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) Each in-kind contribution shall be valued at the usual and normal charge on the date received and reported if in excess of $100 on the appropriate schedule of receipts, identified as to its nature and listed as an "in-kind contribution."

(2) Except for items noted in (b) below, each contribution shall be reported as an expenditure at the same usual and normal charge and reported on the appropriate expenditure schedule, identified and listed as an "in-kind contribution."

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee or candidate shall record as a memo entry (not as cash) the item's fair market value on the date received, including the identification (and where in excess of $100, occupation and principal place of business) of the contributor.

(2) When the item is sold, the committee or candidate shall record the proceeds. It shall also report the (i) identification (and where in excess of $100, the occupation and principal place of business) of the purchaser, if purchased directly from the candidate or committee, in which case he or she shall be considered to have made a contribution, and (ii) the identification of the original contributor.

§ 104.4 Filing dates.

(a) Except as provided otherwise in this section, each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to that office shall file the reports of receipts and expenditures required under this part.

(b) *Pre-Election and Post-Election Reports.*

(1) Candidates.

(i) Pre-election report.

(A) Individuals not having a waiver under § 101.3 shall file a pre-election report no later than the 10th day before every election in which they are a candidate.

(B) Each report filed by registered or certified mail shall be postmarked not later than the 12th day before the election.

(C) This report shall disclose all receipts and disbursements as of the 15th day before the election.

(ii) Post-election report.

(A) Individuals required to file a pre-election report shall also file a post-election report no later than the 30th day after the election.

(B) This report shall include all receipts and disbursements as of the 20th day after the election.

(2) Principal campaign committees. The principal campaign committee of every candidate shall file pre- and post-election reports in the same manner as specified for candidates by subparagraph (1). The pre-election report shall be a consolidated report of all authorized political committees of the candidate or a detailed report, see § 104.2(c).

(3) Authorized political committees. Authorized political committees shall file pre- and post-election reports with the principal campaign committee, the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission pursuant to § 104.2 (c) (2) (i).

(4) All other political committees. All other political committees shall file pre- and post-election reports for each election for which the committee has supported a candidate, unless granted monthly reporting status.

(5) Contributions to Presidential candidates from political committees which are not reporting monthly—

(i) Political committees which make a contribution to a Presidential primary candidate shall file pre- and post-election reports relating to the election next occurring after the contribution is made. A political committee which makes a contribution to a Presidential candidate in the general election shall file a pre- and post-general election report.

(ii) If the contribution is made less than 15 days before an election, the contribution shall be reported on the post election report relating to that election.

(iii) For purposes of this paragraph, contributions to the principal campaign committee of a Presidential candidate are considered contributions relating to the next election in which that candidate is on the ballot or has a slate of authorized delegates on the ballot. If two or more elections are held on one day, the contribution shall be considered to relate to each election on that day in which the candidate is a candidate.

(c) *Annual Report.* In any calendar year in which an individual is a candidate but there is no election for the office sought, an annual report shall include all transactions as of December 31 and shall be filed by January 31 of the following year.

(d) *Quarterly Report.* A report shall be filed on April 10, July 10, October 10, and January 31 following the close of the immediately preceding calendar quarter in which the candidate or political committee received contributions in excess of $1,000 or made expenditures in excess of $1,000, or, in non-election years, when contributions and expenditures to or by candidates and their authorized committees together exceed $5,000, see § 104.1.

(1) These reports shall include all receipts and disbursements from the close of the last reporting period to the close of the calendar quarter.

(2) When the last day for filing any quarterly report required by this paragraph (d) occurs within 10 days before or after an election, the quarterly report need not be filed so long as the pre-election reports required by (b) (1) above are timely filed.

(e) If any contribution of $1,000 or more is received by a candidate, his or her authorized committee or agent subsequent to the 15th day, but more than 48 hours before 12:01 a.m. of the day on which an election is to be conducted, the identification, occupation and principal place of business of the contributor shall be reported to the Commission, the Clerk of the House, or Secretary of the Senate, as custodian for the Commission, within 48 hours of receipt, and included in the post-election report. For purposes of this paragraph, report means—

(1) A letter signed by the treasurer or his or her agent, hand delivered within 48 hours of the receipt of the contribution, or

(2) A telegram, followed by a letter signed by the treasurer or his or her agent, sent registered or certified mail and postmarked within 48 hours of the receipt of the contribution.

(3) For purposes of this paragraph (e) only, "election" means an election for which the ballot bears the name of the

candidate, or delegates committed to the candidate who received (or one of whose authorized committees received) the contribution, or an election for which a candidate is conducting a write-in campaign.

(f) *Monthly Reporting.* (1) In any calendar year after 1976 in which a general election is held, and except as otherwise provided in subparagraph (2), each Presidential candidate who makes contributions or expenditures in more than one State, and his or her principal campaign committee and any other authorized committee, shall file the reports required by this Part 104 by the 20th day of the month in each month except January, November, and December of the calendar year, instead of pre- and post-primary reports and quarterly reports. These reports shall include all receipts and disbursements as of the last day of the month immediately preceding the month in which the report is filed.

(2) The pre- and post-election reports required to be filed under paragraph (b) relating to a general election, the 4th quarterly reports required to be filed under paragraph (d), and the reports required to be filed prior to an election under paragraph (e), shall nevertheless be filed.

(3) For candidates, the monthly reporting requirement shall continue until a candidate files with the Commission a statement that his or her name will not appear on any ballot in a primary or the general election. Any candidate filing this statement shall thereafter file reports pursuant to paragraphs (c) and (d) of this section.

(4) Political committees which make contributions or expenditures in more than one State, may, upon request to and approval by the Commission, file monthly reports as set out above.

§ 104.5 Uniform reporting of contributions.

(a) Each contributor of an amount in excess of $100 shall be disclosed by identification, occupation, and principal place of business, if any. If a contributor's name or address is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first subsequent entry.

(b) In each case when a contribution received from a person in a reporting period is added to previously unitemized contributions from the same person and the aggregate exceeds $100 within a calendar year, the identification, occupation, and principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms.

(c) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

(d) All contributions from the same person during the calendar year shall be listed under the same name.

(e) A contribution which represents contributions by more than one person shall indicate on the written instrument or on an accompanying writing signed by all contributors, the amount to be attributed to each contributor.

§ 104.6 Uniform reporting of expenditures.

(a) A candidate and his or her authorized committees shall report each expenditure by or on behalf of a candidate or committee in excess of $100, and shall include the identification of the recipient.

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds $100 for the calendar year, the identification of that recipient shall be listed on the prescribed reporting forms.

§ 104.7 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or for Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with § 104.12.

§ 104.8 Continuous reporting of debts and obligations.

(a) Debts and obligations which remain outstanding after the election shall be continuously reported until extinguished, see § 104.1(b). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished.

(b) A debt, obligation, or other promise to make an expenditure of $500 or less, shall be reported as of the time payment is made or no later than 60 days after incurrence, whichever comes first. A loan of money in the ordinary course of business and any debt or obligation over $500 shall be reported as of the time of the transaction.

§ 104.9 Waiver of reporting requirements.

Upon application to the Commission, a political committee may be relieved, at the discretion of the Commission, of the duty to file reports of receipts and disbursements if the treasurer of that political committee certifies that the political committee—

(a) Primarily supports persons seeking State or local office; and

(b) Does not operate in more than one State or does not operate on a statewide basis.

§ 104.10 Political committees; cash on hand.

Political committees and candidates which have cash on hand at the time of registration (which the committee or candidate anticipates using in an election) shall disclose on their first report the source(s) of these funds, including the information required by § 104.2. The cash balances are assumed to be composed of those contributions most recently received by the committee or candidate. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act, see Parts 110, 114, and 115.

§ 104.11 Members of Congress; reporting exemption.

(a) Except as provided in (b), a Member of the Congress is not required to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if the services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congresssional Committee, or the National Republican Congressional Committee.

(b) (1) The cost of recording services furnished during the calendar year before the year in which the Member's term expires, shall be reported by letter, attached to the principal campaign committee's next report, but shall not be included in the summary of expenditures on FEC Form 3 or Form 6.

(2) A Member who is not a candidate has no reporting obligation under this paragraph, except that a Member who subsequently becomes a candidate shall report as set forth in (b) (1), regardless of the dates the funds were expended in that year.

§ 104.12 Formal Requirements regarding reports and statements.

(a) Each individual having the responsibility to file a report required under this subchapter shall sign the original report.

(b) Each candidate, political committee, or other person required to file any report or statement under this subchapter shall—

(1) Maintain records with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and date from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement filed; and

(3) Keep those records and reports available for audit, inspection, or examination by the Commission or its authorized representatives for a period of not less than 3 years from the end of the year in which the report or statement was filed.

(c) Acknowledgments by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization or reports or statements filed under this subchapter are intended solely to inform the person

V 41 166 AUG 25 76 UMI

filing the report of its receipt and neither the acknowledgment nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement under these regulations and under the Act shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.13 Sale or use restriction.

Any information copied, or otherwise obtained, from any report or statement, or copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent chief State election officer, shall not be sold or utilized by any person for the purpose of soliciting contributions, or any commercial purpose. For purposes of this section, "any commercial purpose" does not include the sale of newspapers, magazines, books, or other similar communications, the principal purpose of which is not to communicate lists or other information obtained from a report filed as noted above.

PART 105—DOCUMENT FILING

Sec.

105.1 Place of filing; House candidates and committees.
105.2 Place of filing; Senate candidates and committees.
105.3 Place of filing; Presidential candidates and committees.
105.4 Place of filing; committees and others.
105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

AUTHORITY: Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315 (a)10), Pub. L. 92–225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93–443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 105.1 Place of filing; House candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of Representative in or Delegate or Resident Commissioner to, the Congress of the United States, and by the candidate's principal campaign committee shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of United States Senator and by the candidate's principal campaign committee shall be filed in original form with and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of President or Vice President of the United States, and by the candidate's principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; committees and others.

(a) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, 104 of these regulations by political committees (other than a candidate's principal campaign committee and other authorized committees of a candidate)—

(1) Which support only candidates for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

(2) Which support only candidates for nomination or election to the office of United States Senator, shall be filed in original form with, and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

(b) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by all other political committees, and all persons (other than political committees) making independent contributions or expenditures, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

(a) Upon receiving a report or statement filed under § 105.1, § 105.2, and § 105.4(a), the Secretary of the Senate and the Clerk of the House shall each initiate a process to assure prompt transmittal to the Commission of a microfilm copy and a photocopy of each report and statement filed with each of them.

(b) The Secretary of the Senate and the Clerk of the House shall place on each report and statement received a time and date stamp reflecting the time and date the original report or statement was received.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

Sec.

106.1 Allocation of expenditures among (or between) candidates and activities.
106.2 Allocation of expenditures among States by candidates for Presidential nomination.
106.3 Allocation of expenses between campaign and non-campaign related travel.
106.4 Allocation of polling expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315 (a)10), Pub. L. 92–225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93–443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

(a) General Rule: Expenditures, including independent expenditures, made on behalf of more than one candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived.

(b) An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to § 110.7 need only be reported as an expenditure.

(c) Exceptions:

(1) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the-vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate, and the expenditure can be directly attributed to that candidate.

(d) For purposes of this section, "clearly identified" means—

(1) The candidate's name appears;

(2) A photograph or drawing of the candidate appears; or

(3) The identity of the candidate is apparent by unambiguous reference.

(e) Party committees and other political committees which have established Federal campaign committees pursuant to § 102.6 shall allocate administrative

expenses on a reasonable basis between their Federal and non-Federal accounts in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis.

§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.

(a) Expenditures made by a candidate or his or her authorized committee(s) which seek to influence the nomination of a candidate for the office of President of the United States in a particular State shall be attributed to that State. This allocation of expenditures shall be reported on FEC Form 3c.

(b) Expenditures for administrative, staff, and overhead costs directly relating to the national campaign headquarters shall be reported but need not be attributed to individual States. Expenditures for staff, media, printing, and other goods and services used in a campaign in a specific State shall be attributed to that State.

(c) An expenditure by a Presidential candidate for use in two or more States, which cannot be attributed in specific amounts to each State, shall be attributed to each State based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

(1) Expenditures for publication and distribution of newspaper, magazine, radio, television, and other types of advertisements distributed in more than one State shall be attributed to each State in proportion to the estimated viewing audience or readership of voting age which can reasonably be expected to be influenced by these advertisements.

(2) Expenditures for travel within a State shall be attributed to that State. Expenditures for travel between States need not be attributed to any individual State.

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

(a) All expenditures for campaign-related travel paid for by a candidate from a campaign account or by his or her authorized committees or by any other political committee shall be reported.

(b)(1) Travel expenses paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related.

(2) Where a candidate's trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin.

(3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and travel expenditures made are reportable. Campaign-related activity shall not include any incidental contacts.

(c)(1) Where an individual, other than a candidate, conducts campaign-related activities on a trip, the portion of the trip attributed to each candidate shall be allocated on a reasonable basis.

(2) Travel expenses of a candidate's spouse and family are reportable as expenditures only if the spouse or family members conduct campaign-related activities.

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C., and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by a candidate from a thorized committee(s), or by any other thorized committee(s) or, by any other political committee(s). If these costs are paid from an office account, they shall be reported under Part 113.

(e) Notwithstanding (b) and (c) above, the reportable expenditure for a candidate who uses government conveyance or accommodations for travel which is campaign-related is the rate for comparable commercial conveyance or accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the costs of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and non-campaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) above.

§ 106.4 Allocation of polling expenses.

(a) The purchase of opinion poll results by a candidate or a candidate's authorized political committee or agent is an expenditure by the candidate. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.7(b)(2).

(b) The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent acceptance of the poll results by a candidate or a candidate's authorized political committee or agent or by another unauthorized political committee is a contribution in-kind by the purchaser to the candidate or other political committee and an expenditure by the candidate or other political committee. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.4(b)(1). The poll results are accepted by a candidate or other political committee if the candidate or the candidate's authorized political committee or agent or the other unauthorized political committee—

(1) Requested the poll results before their receipt;

(2) Uses the poll results; or

(3) Does not notify the contributor that the results are refused.

(c) The acceptance of any part of a poll's results which part, prior to receipt, has been made public without any request, authorization, prearrangement, or coordination by the candidate-receipient or political committee-recipient, shall not be treated as a contribution in-kind and expenditure under paragraph (b).

(d) The purchase of opinion poll results by an unauthorized political committee for its own use, in whole or in part, is an overhead expenditure by the political committee under § 106.1(c)(1) to the extent of the benefit derived by the committee.

(e) The amount of a contribution under paragraph (b) or of any expenditure under paragraphs (a) and (b) attributable to each candidate-recipient or political committee-recipient shall be—

(1) That share of the overall cost of the poll which is allocable to each candidate (including State and local candidates) or political committee, based upon the cost allocation formula of the polling firm from which the results are purchased. Under this method the size of the sample, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares; or

(2) An amount computed by dividing the overall cost of the poll equally among candidates (including State and local candidates) or political committees receiving the results; or

(3) A proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate or political committee bears to the total number of question results received by all candidates (including State and local candidates) and political committees; or

(4) An amount computed by any other method which reasonably reflects the benefit derived.

(f) The first candidate(s) or committee(s) receiving poll results under paragraph (b) or (d) and any candidate or political committee receiving poll results under paragraph (b) within 15 days after receipt by the initial recipient(s) shall compute the amount of the contribution in-kind and the expenditure as provided in paragraph (e).

(g) The amount of the contribution and expenditure reported by a candidate or a political committee receiving poll results under paragraph (b) more than 15 days after receipt of such poll results by the initial recipient(s) shall be—

(1) If the results are received during the period 16 to 60 days following receipt by the initial recipient(s), 50 percent of the amount allocated to an initial recipient of the same results;

(2) If the results are received during the period 61 to 180 days after receipt by the initial recipient(s), 5 percent of the amount allocated to an initial recipient of the same results;

(3) If the results are received more than 180 days after receipt by the initial recipient(s), no amount need be allocated.

(h) A contributor of poll results under paragraph (b) shall maintain records sufficient to support the valuation of the contribution(s) in-kind and shall inform the candidate-recipient(s) or po-

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litical committee-recipient(s) of the value of the contribution(s).

PART 107—CONVENTION REPORTS

Sec.
107.1 Reports by municipal and private host committees.
107.2 Reports by political parties.
107.3 Convention reports; time and content of filing.
107.4 Convention expenses; definitions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 88 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 107.1 Reports by municipal and private host committees.

Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons, in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State, shall file reports with the Commission as set out in § 107.3 below.

§ 107.2 Reports by political parties.

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President shall file reports with the Commission as set out in § 107.3 below.

(b) A State party committee or a subordinate committee of a State party committee which assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar arrangements, or which sponsors, caucuses, receptions, and similar activities at the convention site need not report under this Part 107.

§ 107.3 Convention reports; time and content of filing.

(a) Each committee organization required to file under §§ 107.1-2 shall, within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4, which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 50 days following the convention.

(b) If the committee spends or receives any funds after 60 days following the convention, the committee shall file, no later than 10 days after the end of the next calendar quarter, a report disclosing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports until all debts and obligations have been extinguished.

(c) Each committee shall file a final report with the Commission not later than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to §§ 107.3 (a) or (b).

§ 107.4 Convention expenses; definitions.

For purposes of this part, receipts and disbursements in connection with a convention, means convention expenses as defined in Part 120 of these regulations.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS

Sec.
108.1 Filing requirements.
108.2 Filing copies of reports of Presidential and Vice Presidential candidates.
108.3 Filing copies of reports by other Federal candidates and committees.
108.4 Filing copies of reports by committees supporting Presidential candidates.
108.5 Time and manner of filing copies.
108.6 Duty of State officers.
108.7 Effect on State law.
108.8 Exemption for the District of Columbia.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 108.1 Filing requirements.

A copy of each statement and report required to be filed under this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this part, the term "appropriate State" means the State or jurisdiction designated in § 108.2 or § 108.3.

§ 108.2 Filing copies of reports by Presidential and Vice Presidential candidates.

A copy of each report and statement required to be filed under this subchapter shall be filed by a candidate for President or Vice President or his or her authorized committees, or by the person making an expenditure or contribution pursuant to Part 109 with the State office of each State or other jurisdiction in which an expenditure is made, the report to contain at least all transactions pertaining to that State during that reporting period.

§ 108.3 Filing copies of reports by other Federal candidates and committees.

A copy of each report and statement required to be filed under this subchapter by other candidates and political committees shall be filed for each reporting period during which an expenditure is made in that State with the State officer of each State or other jurisdiction in which the candidate, other than for President or Vice President, seeks election.

§ 108.4 Filing copies of reports by committees supporting Presidential candidates.

Committees, other than a Presidential candidate's principal campaign committee and other authorized committees, which make contributions to or expenditures on behalf of Presidential candidates, shall file a copy of reports and statements only in the State(s) in which the recipient and contributing committees have their headquarters.

§ 108.5 Time and manner of filing copies.

A copy required to be filed with a State officer under this part shall be filed at the same time as the original report is filed. Each copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed.

§ 108.6 Duties of State officers.

It is the duty of the Secretary of State, or the equivalent State officer—

(a) To receive and maintain in an orderly manner all reports and statements required to be filed;

(b) To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives need be preserved for only 5 years from the date of receipt;

(c) To make the reports and statements filed available for public inspection and copying during regular office hours commencing as soon as practicable but not later than the end of the day on which it was received and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person, such per copy expense to be reasonable; and

(d) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

§ 108.7 Effect on State law.

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia.

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES

Sec.
109.1 Definitions.
109.2 Reporting of independent expenditures.
109.3 Certification of independent expenditures.
109.4 Non-authorization notice.
109.5 Reporting of independent contributions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 109.1 Definitions.

(a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

(1) "Person" means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see Part 114) but does not mean a labor organization, corporation, or national bank.

(2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

(3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means—

(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

(5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d)(1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a)(4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

§ 109.2 Reporting of independent expenditures.

(a) Every political committee making an independent expenditure shall report on Schedule E each such expenditure or contribution to the Commission, Clerk, or Secretary, as appropriate.

(1) The report shall contain, for each expenditure in excess of $100, the identification of the person to whom it was made, the amount and date of the expenditure, the name of the candidate with respect to whom the expenditure was made and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) This information shall be filed on Schedule E as part of a report (monthly, quarterly, pre-election, post-election, or annual) covering any period in which any independent expenditure exceeding $100 is made. Schedule E shall also include the total of all expenditures of $100 or less.

(3) Political committees not required to report under § 104.1(c) shall nonetheless report each independent expenditure in excess of $100 on Schedule E at the time the report for that period would have been filed.

(b) Every other person who makes independent expenditures aggregating in excess of $100 during a calendar year shall file a report with the Commission on FEC Form 5.

(1) The report shall contain the reporting person's identification, occupation, and principal place of business, if any, the identification of the person to whom the expenditure was made, the amount and date of the expenditure, the candidate's name and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) The report shall be filed at the end of the reporting period (quarterly, pre-election, post-election, annual) during which the expenditure is made and in any reporting period thereafter in which additional independent expenditures are made.

(c) Independent expenditures by any person or any political committee of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditures pursuant to § 104.4(e).

§ 109.3 Certification of independent expenditures.

Each report of independent expenditures shall be signed and shall include a notarized certification under the penalty of perjury that the expenditure was not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, any candidate or any agent or authorized committee of the candidate.

§ 109.4 Non-authorization notice.

(a)(1) Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, a pin, button, pen, and similar small items upon which the disclaimer cannot be conveniently printed, the communication shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any

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affiliated or connected organization required to be listed under § 102.2(a)(2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

§ 109.5 Reporting of independent contributions.

Every person (other than a political committee or candidate) who makes a contribution for the purpose of expressly advocating the election or defeat of a clearly identified candidate, other than by contributing to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file reports in the same manner as is required with respect to independent expenditures under § 109.2.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

Sec.

110.1 Contributions by persons.
110.2 Contributions by multicandidate committees.
110.3 Affiliated committees; transfers.
110.4 Prohibited contributions.
110.5 Annual contribution limitation.
110.6 Earmarked contributions.
110.7 Party committee expenditures.
110.8 Presidential candidate expenditure limitations.
110.9 Miscellaneous provisions.
110.10 Expenditures by candidates.
110.11 Communications; advertising.
110.12 Honoraria.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (e)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10).

§ 110.1 Contributions by persons.

(a)(1) No person (except multicandidate committees under § 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office which in the aggregate exceed $1,000.

(2) "With respect to any election" means—

(i) In the case of a contribution designated in writing for a particular election, the election so designated, except that a contribution made after a primary election, caucus or convention, and designated for the primary election, caucus or convention shall be made only to the extent that the contribution does not exceed net debts outstanding from the primary election, caucus or convention.

(ii) In the case of a contribution not designated in writing for a particular election,

(A) For a primary election, caucus or convention, if made on or before the date of the election, caucus or convention, or

(B) For a general election if made after the date of the primary election.

(b)(1) No person (except multicandidate committees under § 110.2) shall make contributions to the political committees established and maintained by a national political party, which, in the aggregate, exceed $20,000 in any calendar year.

(2) For purposes of this section, "political committees established and maintained by a national political party" means—

(i) The national committee; (ii) the House campaign committee; and (iii) the Senate campaign committee. Each may receive up to the $20,000 limitation from a contributor, see § 110.5.

(3) The recipient committee shall not be an authorized committee of any candidate.

(c) No person (except multicandidate committees under § 110.2) shall make contributions to any other political committee which in the aggregate exceed $5,000 in any calendar year.

(d) The limitations in (b) and (c) also apply to contributions made to committees making independent expenditures, see Part 109.

(e) A contribution by a partnership shall—

(1) Be attributed to each partner in direct proportion to his or her share of the partnership profits, according to instructions which shall be provided by the partnership to the committee or candidate; or

(2) Be attributed by agreement of the partners, as long as—

(i) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased), and

(ii) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them; and

(3) Not exceed the limits in (a), (b), and (c).

(f) If an individual is a candidate for more than one Federal office, a person may contribute not more than $1,000 to the candidate, or his or her authorized committees for each election for each office, as long as—

(1) The contributor clearly designates in writing for which office each contribution is intended;

(2) The candidate maintains separate campaign organizations, including separate principal campaign committees and separate accounts; and

(3) No funds are transferred, loaned, or otherwise contributed between or among the separate campaigns and no expenditures are made by one campaign on behalf of the other campaign except as provided in § 110.3(a)(2)(iv).

(g)(1) Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of this Part 110, as long as contributions and solicitations to retire these debts are clearly designated and used for that purpose.

(2) Contributions made to retire debts resulting from elections held after December 31, 1974 are subject to the limitations of this Part 110.

(h) A person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as—

(1) The political committee is not the candidate's principal campaign committee or other authorized committee or a single candidate committee;

(2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

(i)(1) Even though a spouse in a single income family has contributed $1,000 to a candidate for an election, the other spouse may similarly contribute $1,000 to the same candidate for the same election, see § 104.5(e).

(2) Minor children (children under 18 years of age) may contribute up to $1,000 to a candidate for an election, see § 104.5(e), if—

(i) The decision to contribute is made knowingly and voluntarily by the minor child;

(ii) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(iii) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

(j)(1) The limitations on contributions in this section shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

§ 110.2 Contributions by multicandidate committees.

(a) No multicandidate political committee shall make contributions—

(1) To any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000; "with respect to any election" has the same meaning as in § 110.1(a)(2);

(2) To the political committees established and maintained by a national political party in any calendar year which, in the aggregate, exceed $15,000;

(i) The recipient committee shall not be an authorized committee of any candidate;

(ii) "Political committees established and maintained by a national political party" means (A) the national committee; (B) Senate campaign committee; and (C) the House campaign committee. Each may receive up to the $15,000 limitation from a contributor;

(3) To any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(b) "Multicandidate political committee" has the same meaning as in § 100.14(a)(3).

(c) Notwithstanding any other provision of the Act, the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may contribute not more than a combined total of $17,500 to a candidate for nomination or election to the Senate during the calendar year of the election for which he or she is a candidate. Any contribution made by the committees to a Senate candidate in a year other than that election year shall be considered to be part of the $17,500 total contribution limit for that election year.

(d)(1) The limitations on contributions in this section (other than (c)) shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

§ 110.3 Affiliated committees; transfers.

(a)(1)(i) For purposes of the limitations in §§ 110.1 and 110.2, contributions shall be considered to be made by a single political committee (including a single separate segregated fund) if made by more than one political committee (including a separate segregated fund) established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit thereof, or by a group of those persons, see affiliated committees, § 100.14(c).

(ii) Application of the rule of this paragraph means—

(A) All of the political committees set up by a single corporation and/or its subsidiaries are treated as a single political committee;

(B) All of the political committees set up by a single national or international union and/or its local unions or other subordinate organizations are treated as a single political committee;

(C) All of the political committees set up by an organization of national or international unions and/or all its State and local central bodies are treated as a single political committee;

(D) All of the political committees (other than party committees, see paragraph (b) set up by a membership organization, including trade or professional associations, see § 114.8(a), and/or by related State and local entities of that organization or group, are treated as a single political committee;

(E) All of the political committees set up by the same group of persons are treated as a single political committee.

(iii) For organizations not described by (i) or (ii) above, indicia of establishing, financing, maintaining, or controlling may include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of by-laws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

(2) This Part shall not limit transfers between—

(i) Political committees of the funds raised through joint fundraising;

(ii) Authorized committees of the same candidate, or between the candidate and his or her authorized committees, if the candidate has not received a waiver from reporting;

(iii) The primary campaign and general election campaign of a candidate, of funds unused for the primary;

(iv) A candidate's previous campaign committee and his or her currently registered principal campaign committee or other authorized committee, as long as none of the funds transferred contain contributions which would be in violation of the Act; or

(v) The principal campaign committees of a candidate seeking nomination or election to more than one Federal office, as long as—

(A) The transfer is made when the candidate is not actively seeking nomination or election to more than one office. For purposes of this paragraph, "not actively seeking" means a principal campaign committee has filed a termination report with the Commission, or has notified the Commission that the candidate and his authorized committees will make no further expenditure, except in connection with the retirement of debts outstanding at the time of the notification;

(B) The limitations on contributions by persons are not exceeded by the transfer. To assure this, the contributions making up the funds transferred shall be reviewed, beginning with the last received and working back until the amount transferred is reached. A person's contribution or any portion thereof, shall be excluded if, when added to contributions already made to the transferee principal campaign committee, it causes the contributor to exceed his or her limitation; and

(C) The candidate has not received funds under 26 U.S.C. §§ 9006 or 9037.

(b)(1) For purposes of the limitations in § 110.1 and § 110.2,

(i) All contributions made by the national committee of a political party, and any political committees established, financed, maintained, or controlled by the same national committee; and

(ii) All contributions made by the State committee of a political party, shall be considered to be made by separate political committees.

(2) For purposes of this section,

(i) The House campaign committee of each political party shall be considered separate from the national committee of that party, giving the national committee and the House campaign committees separate limitations;

(ii) All contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee. This presumption shall not apply if—

(A) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and

(B) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.

(3) For example, as a result of (1) above,

(i) The national committee of a party and that party's House campaign committee may each contribute a total of $1,000 ($5,000 if a multicandidate committee) and the State committee of a party and each of its independent subordinate committees, may each contribute a total of $1,000 ($5,000 if a multicandidate committee) to a candidate for nomination for President of the United States, or to a candidate for the House for each election;

(ii) A State committee and any subordinate committee able to demonstrate independence under the criteria of §110.3(b)(2)(ii) may each contribute $1,000 ($5,000 if a multicandidate committee) to a candidate for each election.

(4) The national committee of a political party and the Senate campaign committee have special limitations regarding Senate candidates, see § 110.2(c).

(c) Transfers between and among political committees which are national, State, district, or local committees, and subordinate committees thereof, of the same political party are unlimited.

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§ 110.4 Prohibited contributions.

(a) (1) A foreign national shall not directly or through any other person make a contribution, or expressly or impliedly promise to make a contribution, in connection with a convention, caucus, primary, general, special, or runoff election in connection with any local, State or Federal public office.

(2) No person shall solicit, accept, or receive a contribution as set out above from a foreign national.

(3) For purposes of this section, "foreign national" means—

(i) A foreign principal, as defined in 22 U.S.C. § 611(b); or

(ii) An individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined in 8 U.S.C. § 1101(a)(20);

(iii) Except that "foreign national" shall not include any individual who is a citizen of the United States.

(b) (1) No person shall—

(i) Make a contribution in the name of another;

(ii) Knowingly permit his or her name to be used to effect that contribution; or

(iii) Knowingly accept a contribution made by one person in the name of another.

(2) Examples of "contribution in the name of another" include—

(i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made, see § 110.6; or

(ii) Making a contribution of money or anything of value and attributing as the source of the money or the thing of value another person when in fact the contributor is the source.

(c) (1) With respect to any campaign for nomination for election, or election, to Federal office, no person shall make contributions to a candidate or political committee of currency of the United States, or of any foreign country, which in the aggregate exceed $100.

(2) A candidate or committee receiving a cash contribution in excess of $100 shall promptly return the amount over $100 to the contributor.

(3) A candidate or committee receiving an anonymous cash contribution in excess of $50 shall promptly dispose of the amount over $50. The amount over $50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

§ 110.5 Annual contribution limitation.

(a) No individual shall make contributions aggregating more than $25,000 in any calendar year.

(b) For purposes of this section,

(1) Any contribution made in a year other than in the calendar year in which an election is held shall be considered to be made during the calendar year in which the election is held, as long as the contribution is made with respect to a particular candidate and election;

(2) An individual's contribution to a political committee in a non-election year shall not be attributable to the calendar year in which an election is held, as long as the political committee is not the principal campaign committee, or other authorized committee of a candidate, or a single candidate committee supporting the candidate and as long as the contribution is not otherwise designated for a particular election.

(c) The limitation in (a) also applies to contributions made to a person who is making independent expenditures, see Part 109.

§ 110.6 Earmarked contributions.

(a) All contributions by a person made on behalf of or to a candidate, including contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit, are contributions from the person to the candidate.

(b) For purposes of this section, earmarked means a designation, instruction, or encumbrance (including those which are direct or indirect, express or implied, oral or written) which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

(c) The intermediary or conduit of the earmarked contribution shall report the original source and intended recipient of the contribution to the Commission, the Clerk of the House of Representatives, or the Secretary of the Senate, as appropriate (see Part 105), and to the intended recipient.

(1) The report to the Commission, Clerk, or Secretary shall be included in the conduit or intermediary's next due quarterly, pre- or post-election, or annual report, or, if the conduit is not a reporting entity, by letter to the Commission, and shall—

(i) If the contribution passed through the conduit's account, disclose each contribution, regardless of amount, on schedules of itemized receipts and expenditures;

(ii) If the contribution was passed on in the form of the contributor's check, disclose each contribution on a separate schedule attached to the conduit's next report, or attached to the letter to the Commission.

(2) The report to the intended recipient shall be made when the contribution is passed on to the intended recipient.

(3) The intended recipient shall disclose on his next report each conduit through which the contribution passed.

(4) The reports in (1) and (2) above shall contain—

(i) The identification of the contributor, and if the contribution exceeds $100, the contributor's occupation and principal place of business;

(ii) The amount of the contribution, the date received by the conduit, and the intended recipient as designated by the contributor;

(iii) The date the contribution was passed on to the intended recipient, and whether the contribution was passed on in cash, by the contributor's check, or by the conduit's check.

(5) This section shall not apply to occasional, isolated, or incidental physical transfers of checks or other written instruments payable to a candidate or his or her authorized committees. For purposes of this paragraph, "occasional, isolated, or incidental" means no more than $1,000 is conveyed to any one candidate or committee in a calendar year.

(d) (1) A conduit or intermediary's contribution limits are not affected by passing on earmarked contributions, except where the conduit exercises any direction or control over the choice of the recipient candidate.

(2) If a conduit exercises any direction or control over the choice of the recipient candidate, the contribution shall be considered a contribution by both the original contributor and the conduit, and shall be so reported by the conduit to the Commission, Clerk, or Secretary, as appropriate, or, if the conduit is not a reporting entity, by letter to the Commission, and to the recipient. The recipient candidate or committee shall report it in its reporting of contributions received, indicating that the contribution is made by both the original contributor and the conduit, but that the actual cash received does not reflect the two contributions.

§ 110.7 Party committee expenditures.

(a) (1) The national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party.

(2) The expenditures shall not exceed an amount equal to 2 cents multiplied by the voting age population of the United States.

(3) Any expenditure under paragraph (a) shall be in addition to—

(i) Any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for President of the United States; and

(ii) Any contribution by the national committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

(5) The national committee of a political party may not make independent expenditures (see Part 109) in connection with the general election campaign of a candidate for President of the United States.

(b) (1) The national committee of a political party, and a State committee of a political party, including any subordinate committee of a State committee, may each make expenditures in connection with the general election campaign of a candidate for Federal office in that

State who is affiliated with the party.

(2) The expenditures shall not exceed—

(i) In the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(A) Two cents multiplied by the voting age population of the State; or

(B) Twenty thousand dollars; and

(ii) In the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(3) Any expenditure under paragraph (b) shall be in addition to any contribution by a committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The party committees identified in (b) (1) shall not make independent expenditures in connection with the general election campaign of candidates for Federal office.

(5) Any expenditure by a State, county, city, or congressional district committee of a political party, the primary purpose of which is to further the general election campaign of that party's nominee or nominees, that also furthers the general election campaign of that party's candidates for President and Vice President shall not constitute the making of a contribution or expenditure to a Federal candidate as long as the expenditure does not exceed $1,000 per such committee. Such expenditures shall not count toward the limits of § 110.7(a), (b) (1) and (b) (2).

(c) For limitation purposes, State committee includes subordinate State committees. State committees and subordinate State committees combined shall not exceed the limits in (b) (2). To ensure compliance with the limitations, the State committee shall administer the limitation in one of the following ways:

(1) The State central committee shall be responsible for insuring that the expenditures of the entire party organization are within the limitations, including receiving reports from any subordinate committee making expenditures under paragraph (b), and filing consolidated reports showing all expenditures in the State with the Commission; or

(2) (i) The State committee shall file with the Commission an allocation statement setting forth the amounts each subordinate committee in the State will expend on which Federal candidate, as agreed upon by the State committee and the subordinate committees;

(ii) The State committee shall file with the allocation statement a list of participating subordinate committees which have filed a Statement of Organization with the Commission, Clerk, or Secretary, and for those subordinate committees which have not filed a Statement of Organization, the information required in a Statement of Organization, see Part 102;

(iii) Each subordinate committee will be responsible for ensuring that it does not exceed its allocated limitation, and shall register with and report to the Commission as if it were a political committee if its expenditures exceed $100 in a calendar year. If its expenditures in the aggregate exceed $1,000, it shall register as a political committee pursuant to Part 102 and report pursuant to Part 104; or

(3) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

§ 110.8 Presidential candidate expenditure limitations.

(a) No candidate for the office of President of the United States who is eligible under 26 U.S.C. § 9003 (relating to conditions for eligibility for payments) or under 26 U.S.C. § 9033 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury and has received payments, may make expenditures in excess of—

(1) $10,000,000 in the case of a campaign for nomination for election to the office, except the aggregate of expenditures under this paragraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State or $200,000; or

(2) $20,000,000 in the case of a campaign for election to the office.

(b) The expenditure limitations shall not be considered violated if, after the date of the primary or general election, convention or caucus, receipt of refunds and rebates causes a candidate's expenditures to be within the limitations.

(c) For the State limitations in (a) (1)—

(1) Expenditures made in a State after the date of the primary election, convention or caucus relating to the primary election, convention or caucus count toward that State's expenditure limitation;

(2) Expenditures for fundraising activities targeted at a particular State and occurring within 28 days before that state's primary election, convention, or caucus shall be presumed to be attributable to the expenditure limitation for that State, § 100.7(b) (13) (relating to the 20% fundraising exemption) notwithstanding.

(d) (1) If an individual is a candidate for more than one Federal office, or for a Federal office and a State office, he or she must designate separate principal campaign committees and establish completely separate campaign organizations.

(2) No funds, goods, or services, including loans and loan guarantees, may be transferred between or used by the separate campaigns, except as provided in § 110.3(a) (2) (iv).

(3) Except for Presidential candidates receiving Presidential Primary Matching Funds, see 26 U.S.C. § 9032, or General Election Public Financing, see 26 U.S.C. § 9002, campaigns may share personnel and facilities, as long as expenditures are allocated between the campaigns, and the payment made from each campaign account reflects the allocation.

(e) (1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations in (a) (1) or (2), as long as—

(i) The event is a bona fide party event or appearance; and

(ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event were for the purpose of influencing the candidate's nomination or election.

(2) (i) An event or appearance meeting the requirements of (e) (1) and occurring prior to January 1 of the year of the election for which the individual is a candidate is presumptively party-related;

(ii) Notwithstanding the requirements of (e) (1), an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of this Part 110.

(iii) The presumptions in (1) and (ii) may be rebutted by a showing to the Commission that the appearance or event was, or was not, party-related, as the case may be.

(f) (1) Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States.

(2) Expenditures from personal funds made by a candidate for Vice President shall be considered to be expenditures by the candidate for President, if the candidate is receiving General Election Public Financing, see § 141.2(c).

(g) An expenditure is made on behalf of a candidate, including a Vice-Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making any expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee not authorized in writing, so long as it is requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

§ 110.9 Miscellaneous provisions.

(a) *Violation of Limitations.* No candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of Part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this Part 110.

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(b) *Fraudulent Misrepresentation.* No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) Fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) Willfully and knowingly participate in or conspire to participate in any plan or design to violate paragraph (1).

(c) *Price Index Increase.* (1) Each limitation established by § 110.7 and §110.8 shall be increased by the annual percent difference of the price index, as certified to the Commission by the Secretary of Labor. Each amount so increased shall be the amount in effect for that calendar year.

(2) For purposes of paragraph (1), the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) *Voting Age Population.* The Commission shall assure that there is annually published in the FEDERAL REGISTER an estimate of the voting age population based on an estimate of the voting age population of the United States, of each State, and of each congressional district. The term "voting age population" means resident population, 18 years of age or older.

§ 110.10 Expenditures by candidates.

(a) Except as provided in subchapters C and D of this chapter pertaining to Presidential candidates, candidates for Federal office may make unlimited expenditures from personal funds.

(b) For purposes of this section, "personal funds" means—

(1) Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members; and

(2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

§ 110.11 Communications; advertising.

(a) (1) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, pin, button, pen and similar small items upon which the disclaimer cannot be conveniently printed, the communication—

(i) If authorized by a candidate, his or her authorized political committees, or their agents, shall clearly and conspicuously state that the communication has been authorized on behalf of that candidate;

(ii) If not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case a political committee, the name of any affiliated or connected organization required to be listed under § 102.2(a)(2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter, and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

(b) (1) No person who sells space in a newspaper or magazine to a candidate, an authorized committee of a candidate, or an agent of the candidate, for use in connection with the candidate's campaign for nomination or for election, shall charge an amount for the space which exceeds the comparable rate for the space for non-campaign purposes.

(2) For purposes of this section, "comparable rate" means the rate charged to a national or general rate advertiser, and shall include discount privileges usually and normally available to a national or general rate advertiser.

(c) Each political committee shall include on the face or front page of all printed literature and advertisements soliticing contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

§ 110.12 Honorariums.

(a) No person while an elected or appointed officer or employee of any branch of the Federal government shall accept—

(1) Any honorarium of more than $2,000;

(2) Honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

(b) The term "honorarium" means a payment of money or anything of value received by an officer or employee of the Federal government, if it is accepted as consideration for an appearance, speech, or article. An honorarium does not include payment for or provision of actual travel and subsistence, including transportation, accommodations, and meals for the officer or employee and spouse or an aide, and does not include amounts paid or incurred for any agents' fees or commissions.

(1) *Officer or Employee.* The term "officer or employee of the Federal government," or "officer or employee" means any person appointed or elected to a position of responsibility or authority in the United States government, regardless of whether the person is compensated for this position; and any other person receiving a salary, compensation, or reimbursement from the United States government, who accepts an honorarium for an appearance, speech, or article. Included within this class is the President; the Vice President; any Member of Congress; any judge of any court of the United States; any Cabinet officer; and any other elected or appointed officer or employee of any branch of the Federal government.

(2) *Appearance.* "Appearance" means attendance at a public or private conference, convention, meeting, social event, or like gathering, and the incidental conversation or remarks made at that time.

(3) *Speech.* "Speech" means an address, oration, or other form of oral presentation, regardless of whether presented in person, recorded, or broadcast over the media.

(4) *Article.* "Article" means a writing other than a book, which has been or is intended to be published.

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code.

(c) The term "honorarium" does not include—

(1) *An award.* An award is a gift of money or anything of value given—

(i) Primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civil achievement;

(ii) Based on a selection process with established criteria and which does not require the officer or employee to apply for or take any other action in the way of competition for the award;

(iii) Gratuitously under circumstances which do not require the recipient to make an appearance or speech, or write an article as a condition for receiving the award; and

(iv) Which is not made to serve in place of an honorarium or a contribution.

(2) *A gift.* A gift is a voluntary conveyance of real or personal property which is made gratuitously, and is not supported by consideration, and is not made to serve in place of an honorarium or a contribution.

(3) *A stipend.* A stipend is a payment for services on a continuing basis, including a salary or other compensation paid by news media for commentary on events other than the campaign of the individual compensated. A stipend cannot be paid by a political committee other than a candidate's principal campaign committee or other authorized committee to that candidate.

PART 111—COMPLIANCE PROCEDURE

Sec.
111.1 Scope.
111.2 Complaint; filing.
111.3 Initial processing.
111.4 Notification.
111.5 Investigation.
111.6 Commission action.
111.7 Conciliation.
111.8 Disclosure of Commission action.
111.9 Civil proceedings.
111.10 Issuance of Subpoenas and Subpoenas Duces Tecum.
111.11 Depositions.
111.12 Service of subpoenas and notices of deposition.
111.13 Motions to quash.
111.14 Witness fees and mileage.
111.15 Ex parte communication.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 111.1 Scope.

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. §§ 9001, *et seq* and 9031 *et seq.*).

§ 111.2 Complaint; filing.

(a) Any person may file a complaint with the Commission setting forth grounds for believing that a person has violated the Act or chapter 96 of the Internal Revenue Code of 1954. A complaint shall be in writing and signed, and shall be sworn to and notarized.

(b) A complaint shall contain—

(1) The full name, address, and telephone number of the complainant;

(2) A clear and concise statement of the acts which are alleged to constitute a violation of the Act;

(3) Any documentation of allegations of the complaint available to the complainant; and

(4) An assertion that the person complaining, if not a candidate, is not filing the complaint on behalf of or at the request or suggestion of a candidate, unless such is the fact, in which case it shall be set forth.

§ 111.3 Initial processing.

The General Counsel shall review the complaint and all relevant material filed with the Commission and report to the Commission on the factual and legal bases for the possible violation. On the basis of the General Counsel's report and the relevant materials, the Commission shall determine by the agreement of at least four of its members whether it has "reason to believe" that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 have been or will be violated and order any investigation it believes necessary.

§ 111.4 Notification.

Upon determination by agreement of at least four members of the Commission that it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, the General Counsel shall notify respondent of that determination, providing a copy of the complaint or summary of the matters brought into question and advising respondent that he or she should submit any factual or legal information which he or she believes demonstrates that no action should be taken against him or her. Such notification shall be confidential as required by 2 U.S.C. § 437g(a)(3)(B).

§ 111.5 Investigation.

(a) In any case in which the Commission finds it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, it shall order an investigation into those maters about which it believes it needs further information.

(b) If a complaint is filed by a candidate, any investigation shall include an investigation of the reports and statements filed by the complaining candidate, pursuant to 2 U.S.C. § 437g(a)(3).

§ 111.6 Commission action.

After review of the relevant materials obtained during the investigation, the Commission by agreement of at least four of its members shall determine whether there is reasonable cause to believe that respondent has committed or is about to commit a violation of the Act or of chapter 95 or 96 of the Internal Revenue Code of 1954. In the event that the Commission so determines, it shall inform the respondent of its decision and seek voluntary compliance by the respondent.

§ 111.7 Conciliation.

(a) Within a reasonable time after the Commission has determined that it has reasonable cause to believe that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been or will be violated, the General Counsel shall attempt to correct or prevent the violation by informal methods of conference, conciliation, and persuasion.

(b) If a tentative conciliation agreement is reached with respondent, the General Counsel shall submit it to the Commission for approval by agreement of at least four members.

(c) If, after attempting conciliation for the appropriate period of time (see 2 U.S.C. § 437g(a)(5)(A)), the General Counsel concludes that no acceptable conciliation agreement can be reached, he or she shall prepare a report for the Commission which sets forth the reasons for the inability to obtain a conciliation agreement.

§ 111.8 Disclosure of Commisison action.

(a) If the Commission has notified respondent of its decision that he or she has not violated the Act or chapter 95 or 96 of the Internal Revenue Code of 1954, it shall make available to the public its determination and the basis for it.

(b) After the Commission has concluded any conciliation attempts, it shall make available the results of any such attempts, including any conciliation agreement entered into.

§ 111.9 Civil proceedings.

The Commission, on the recommendation of the General Counsel, after attempts to correct or prevent any violation by informal methods of conference, conciliation, or persuasion have been unsuccessful, may determine by the agreement of at least four of its members that there is probable cause to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur and may direct the General Counsel to commence civil proceedings and seek appropriate relief.

§ 110.10 Issuance of subpoenas and subpoenas duces tecum.

(a) The Chairman or the Vice Chairman shall issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other tangible evidence upon request by the General Counsel.

(b) Any party may request the General Counsel to subpoena particular persons or evidence, but such subpoenas shall not be obtainable as a matter of right.

§ 111.11 Depositions.

In any proceeding or investigation, the Commission, upon written notice, may order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths.

§ 111.12 Service of subpoenas and notices of depositions.

(a) Service of a subpoena or notice of deposition upon a person named therein shall be made by delivering a copy to that person in the manner described by paragraphs (b), (c), and (d). Fees for one day's attendance and mileage shall be tendered as specified in § 111.14.

(b) Whenever service is to be made upon a person who is represented in the pending proceeding by an attorney, the service may be made upon the attorney.

(c) Delivery of a copy of a subpoena or notice of deposition and tender of the fees to a natural person may be made by handing them to the person; or leaving them at his office with the person in charge thereof; or leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; or mailing them by registered

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or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date.

(d) When the person to be served is not a natural person, delivery of a copy of the subpoena or notice of deposition and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; or by mailing them by registered or certified mail to such representative at his last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

§ 111.13 Motions to quash.

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor.

(b) The Commission upon the agreement of at least four of its members may deny the application, or, upon granting notice and an opportunity for reply to the person upon whose request the subpoena was issued, may—

(1) Deny the application;
(2) Quash the subpoena; or
(3) Modify the subpoena.

§ 111.14 Witness fees and mileage.

(a) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(b) Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 111.15 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 2 U.S.C. § 437g(a) (1) or (2), except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of the Commission's staff involved in handling enforcement actions any ex parte communication relative to the factual merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff involved in the decisional process make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. § 437g(a) (1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. § 437g(a) (2), and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

PART 112—ADVISORY OPINION PROCEDURE

Sec.
112.1 Requests for advisory opinions.
112.2 Public availability of requests.
112.3 Written comments on requests.
112.4 Issuance of advisory opinions.
112.5 Reliance on advisory opinions.
112.6 Reconsideration of advisory opinions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 112.1 Requests for advisory opinions.

(a) Any—
(1) Holder of Federal office;
(2) Candidate for Federal office;
(3) Political committee;
(4) National committee of a political party; or
(5) Authorized agent of any of the foregoing persons (if the agent discloses the identity of his or her principal)

may request in writing, an advisory opinion concerning application of a general rule of law (i) stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue Code of 1954, or (ii) duly prescribed as a rule or regulation by the Commission, to a specific factual situation that involves the requesting person.

(b) Requests shall include all facts relevant to the specific factual situation with respect to which the request is made. Hypothetical questions will not be treated as advisory opinion requests.

(c) Advisory opinion requests may be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(d) Upon receipt by the Commission, each advisory opinion request (AOR) shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests.

(a) Advisory opinion requests submitted under § 112.1 shall promptly be made public at the Commission.

(b) A copy of the original request shall be available for public inspection and purchase, except when it involves a compliance action (see Part 111), at the Federal Election Commission, Public Records Division, 1325 K Street, NW., Washington, D.C. 20463.

(c) Advisory opinion requests may be made public through other means, and publication in those cases shall be either in the form originally submitted or in an edited or paraphrased form as the Commission considers appropriate.

§ 112.3 Written comment on requests.

(a) Interested persons are invited to submit written comments concerning advisory opinion requests.

(b) Written comments may be submitted within 10 calendar days of the date the request is made public at the Commission. The Commission may in its discretion shorten or extend the comment period on a particular request where there is reasonable cause for doing so.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Additional time in which to comment may be granted upon written request or in the discretion of the Commission.

(e) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(f) Before it issues an advisory opinion the Commission shall consider all timely comments received.

§ 112.4 Issuance of advisory opinions.

(a) Within a reasonable time after receiving a written request properly made under § 112.1 the Commission shall issue a written advisory opinion.

(b) The Commission may issue advisory opinions pertaining only to the Federal Election Campaing Act of 1971, as amended, chapter 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(c) No advisory opinion may state a general rule of law, other than one which is stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue Code of 1954, until that general rule is prescribed by the Commission as a rule or regulation pursuant to 2 U.S.C. § 438 (c).

(d) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this § 112.4; however, this paragraph does not preclude distribution by the Commission of information consistent with the Act and chapter 95 or 96 of the Internal Revenue Code of 1954.

(e) When issued by the Commission each advisory opinion shall be made public and sent by mail, or personally delivered, to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions.

(a) An advisory opinion rendered by the Commission under this Part 112 may be relied upon by:

(1) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with paragraph (a) of this § 112.5 and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapter 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

The Commission may reconsider advisory opinions upon written request by the party originally submitting the request and upon request of a Commissioner who voted with the majority that approved the opinion.

PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

Sec.
113.1 Definitions.
113.2 Use of funds.
113.3 Deposits of funds donated to a Federal or State officeholder.
113.4 Reports of office accounts.
113.5 Contribution and expenditure limitations.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 113.1 Definitions.

When used in this part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds.

Excess campaign funds and funds donated—

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be given to any organization described in section 170(c) of Title 26, of the U.S. Code; or

(c) May be used for any other lawful purpose, including contributions to a political party or to another candidate, in which case the contributions shall be considered personal contributions by the officeholder, subject to the limitations of Part 110.

§ 113.3 Deposits of funds donated to a Federal or State officeholder.

All funds donated to a Federal officeholder, or State officeholder who is a candidate for Federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to Part 103; or

(b) An office account.

§ 113.4 Reports of office accounts.

(a) All Federal officeholders having office accounts shall report on April 15 and October 15 of each year. The April 15 report shall disclose all receipts and disbursements from October 1 of the preceding year through March 30 of the year in which the report is filed. The October 15 report shall disclose all receipts and disbursements from April 1 through September 30 of the year the report is filed.

(b) A Federal officeholder shall file the reports required by § 113.4(a) with the Clerk of the House of Representatives in the case of a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, or with the Secretary of the Senate in the case of a United States Senator, or with the Commission in the case of the President or Vice President.

(c) When a State officeholder having an office account becomes a candidate for Federal office, pursuant to 2 U.S.C. § 431(b), he or she shall file the reports provided for in (b) above. The reports shall contain a report of all receipts and disbursements, including the same information required to be reported by a political committee regarding contributions and expenditures, see § 104.2, except that the identification, occupation, and principal place of business of donors of in excess of $50 in cash shall be reported.

§ 113.5 Contribution and expenditure limitations.

(a) Any contributions to, or expenditures from, an office account which are made for the purpose of influencing a Federal election shall be subject to 2 U.S.C. § 441a and Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be used in connection with a Federal election.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

Sec.
114.1 Definitions.
114.2 Prohibitions on contributions and expenditures.
114.3 Partisan communications.
114.4 Nonpartisan communications.
114.5 Separate segregated funds.
114.6 Twice yearly solicitations.
114.7 Membership organizations, cooperatives, or corporations without capital stock.
114.8 Trade associations.
114.9 Use of corporate or labor organization facilities and means of transportation.
114.10 Extension of credit and settlement of corporate debts.
114.11 Employee participation plans.
114.12 Miscellaneous provisions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438 (a)(10)).

§ 114.1 Definitions.

(a) For purposes of Part 114 and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h))—

(1) The term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, political party or committee, organization, or any other person in connection with any election to any of the offices referred to in § 114.2(a) or (b) as applicable.

(2) The term "contribution or expenditure" shall *not* include—

(i) Communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its

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members and their families on any subject;

(ii) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families;

(iii) The establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock;

(iv) An honorarium, including actual travel and subsistence, as defined in § 110.12;

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the amount charged by the vendor is at least equal to the cost of food or beverage to the vendor, except that the cumulative value of discounts given by the vendor may not exceed $500 per candidate, per election;

(vi) The payment for legal or accounting services rendered to or on behalf of the national committee of a political party other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(vii) The payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services, but amounts paid or incurred for these services shall be reported in accordance with Part 104. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(viii) Activity with respect to a national nominating convention allowed under § 121.5;

(ix) A gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with Part 104; or

(x) Any activity which is specifically permitted by Part 114.

(b) "Establishment, administration, and solicitation costs" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(c) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes—

(i) The individuals who run the corporation's business such as officers, other executives, and plant, division, and section managers; and

(ii) Individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does *not* include—

(i) Professionals who are represented by a labor organization;

(ii) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(iii) Former or retired personnel who are not stockholders; or

(iv) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–1 of the corporation for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, § 3402.

(3) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–1 of the corporation for the purpose of income withholding tax on employee wages under the Internal Revenue Code of 1954, § 3402.

(4) The Fair Labor Standards Act, 29 U.S.C. § 201, et seq. and the regulations issued pursuant to that Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(d) "Labor organization" means any organization of any kind, or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(f) "Method of facilitating the making of contributions" means the manner in which the contributions are received or collected such as, but not limited to, payroll deduction or checkoff systems, other periodic payment plans, or return envelopes enclosed in a solicitation request.

(g) "Method of soliciting voluntary contributions" means the manner in which the solicitation is undertaken including, but not limited to, mailings, oral requests for contributions, and hand distribution of pamphlets.

(h) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(i) "Voluntary contributions" are contributions which have been obtained by the separate segregated fund of a corporation or labor organization in a manner which is in compliance with § 114.5(a) and which is in accordance with other provisions of the Act.

§ 114.2 Prohibitions on contributions and expenditures.

(a) National banks, or corporations organized by authority of any law of Congress, are prohibited from making a contribution or expenditure, as defined in § 114.1(a), in connection with election to any political office, including local, State and Federal offices, or in connection with any primary election or political convention or caucus held to select candidates for any political office, including any local, State or Federal office.

(1) Such national banks and corporations may engage in the activities permitted by this Part, except to the extent that such activity is foreclosed by provisions of law other than the Act.

(2) The provisions of this Part apply to the activities of a national bank or corporation organized by any law of Congress in connection with both State and Federal elections.

(b) Any corporation whatever or any labor organization is prohibited from making a contribution or expenditure, as defined in § 114.1(a) in connection with any Federal election.

(c) A candidate, political committee, or other person is prohibited from knowingly accepting or receiving any contribution prohibited by this section.

(d) No officer or director of any corporation or any national bank, and no officer of any labor organization shall consent to any contribution or expenditure by the corporation, national bank, or labor organization prohibited by this section.

§ 114.3 Partisan communications.

(a) A corporation may make partisan communications in connection with a Federal election to its stockholders and executive or administrative personnel and their families. A labor organization may make partisan communications in connection with a Federal election to its members and their families.

(b) Expenditures for partisan communications which expressly advocate the election or defeat of a clearly identified candidate must be reported in accord with § 100.7(b)(5).

(c) The manner in which partisan communications may be made includes, but is not limited to—

(1) The distribution of printed material of a partisan nature by a corporation to its stockholders and executive or administrative personnel and their families, or by a labor organization to its members and their families, Provided;

(i) That the material is produced at the expense of the corporation or labor organization or the separate segregated fund of either; and

(ii) That the material constitutes a communication of the views of the corporation or the labor organization, and is not simply the republication or reproduction in whole or in any part, of any broadcast transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents.

(2) Allowing a candidate or party representative to address the stockholders and executive or administrative personnel of the corporation and their families at a meeting, convention, or other regularly scheduled function of the corporation which is primarily held for other purposes or allowing a candidate or party representative to address the members of a labor organization and their families at a meeting, convention, or other regularly scheduled function of the labor organization which is primarily held for other purposes. The candidate or party representative may ask for contributions to his or her campaign or party at the time of the appearance, ask that contributions be sent to his or her campaign or party, or ask that contributions to the separate segregated fund of the corporation or labor organization be designated for his or her campaign or party.

(3) The establishment and operation of phone banks by a corporation to communicate with its stockholders and executive or administrative personnel and their families urging them to register and/or vote for a particular candidate or candidates, and the establishment and operation of phone banks by a labor organization to communicate with its members and their families urging them to register and/or vote for a particular candidate or candidates.

(4) Registration and get-out-the-vote drives, as by providing transportation to the polls, by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families. Such drives may be partisan in that individuals may be urged to register with a particular party or to vote for a particular candidate or candidates, but assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

§ 114.4 Nonpartisan communications.

(a) *Communications by a corporation to its stockholders and executive or administrative personnel and by a labor organization to its members.* (1) A corporation may make nonpartisan communications on any subjects to its stockholders and executive or administrative personnel. A labor organization may make nonpartisan communications to its members on any subject.

(2) A corporation may engage in nonpartisan registration and get-out-the-vote activity aimed at its stockholders and executive or administrative personnel and their families. A labor organization may engage in nonpartisan registration and get-out-the-vote activity aimed at its members and their families.

(b) *Candidate and party appearances.*—(1) *Corporations.* Under the following circumstances, corporations may permit candidates (or their representatives) or representatives of political parties on corporate premises to address or meet employees in addition to stockholders and executive or administrative personnel:

(i) If a candidate for the House or Senate is permitted on the premises to address or meet employees, all candidates for that seat who request to appear must be given the same opportunity to appear;

(ii) If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear;

(iii) If representatives of political parties are permitted on the premises, representatives of all political parties which had a candidate or candidates on the ballot in the last general election or which anticipate having or will have a candidate or candidates on the ballot in the next general election which request to appear must be given the same opportunity to appear.

(iv) A corporation, its stockholders, executive or administrative personnel, or other employees of the corporation or its separate segregated fund shall make no effort, either oral or written, to solicit or direct or control contributions by members of the audience or group to any candidate or party in conjunction with any appearance by any candidate or party representative under this section; and

(v) A corporation, its stockholders, executive or administrative personnel or other employees of the corporation or its separate segregated fund shall **not**, in conjunction with any candidate or party representative appearances under this section, endorse or otherwise support one particular candidate or group of candidates or one particular political party over another political party.

(2) *Labor organizations.* A labor organization may permit candidates (or their representatives) or representatives of political parties on the organization's premises to address employees of the labor organization in addition to members of the labor organization if the conditions in paragraph (b)(1(i) through (iii) of this section are met.

(i) An official, member, or employee of a labor organization or its separate segregated fund shall not make any effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party representative under this section.

(ii) An official, member, or employee of a labor organization or its separate segregated fund shall not, in conjunction with any candidate's or party representative's appearance under this section, endorse or otherwise support one particular candidate or group of candidates over another candidate or group of candidates or one particular political party over another political party.

(c) *Nonpartisan registration and voting information.* (1) A corporation or labor organization may, by posters or in newsletters or other communications, urge the employees of the corporation or of the labor organization to register or to vote or to otherwise participate in the political process if—

(i) The communication mentions no political affiliation (except as permitted by (ii)) and is restricted to urging acts such as contributing, voting, and/or registering and, describing the hours and places of registration and voting; and

(ii) Information about particular candidates or political parties is not included in the communication, except that the corporation or labor organization may reprint the entire list of names and political affiliations of candidates on the official ballot.

(2) A corporation or labor organization may distribute or reprint (in whole) any registration or voting information, such as instructional materials, which have been produced by the official election administrators for distribution to the general public.

(3) A corporation or labor organization may distribute voter guides or other types of brochures describing the candidates and their positions if—

(i) The materials do not favor one candidate or political party over another; and

(ii) The materials are obtained from a civic or other nonprofit organization which does not endorse or support or is not affiliated with any candidate or political party.

(d) *Nonpartisan registration and get-out-the-vote drives.* (1) A corporation may support nonpartisan registration and get-out-the-vote drives, as by transporting people to the polls, which are not restricted to its stockholders and executive or administrative personnel and their families, and a labor organization may support such drives which are not restricted to its members and their families if:

(i) The corporation or labor organization jointly sponsors the drives with a civic or other nonprofit organization

V 41 166 AUG 25 76 UMI

which does not support or endorse candidates or political parties and if the activities are conducted by the other organization; and

(ii) These services are made available without regard to the voter's political preference.

(2) A corporation or labor organization may donate funds to be used for nonpartisan registration and get-out-the-vote drives to civic and other nonprofit organizations which do not endorse candidates or political parties.

(3) The civic or nonprofit organization, in conducting the nonpartisan registration and get-out-the-vote activities, may utilize the employees and facilities of a corporation or the employees or members and facilities of a labor organization.

§ 114.5 Separate segregated funds.

(a) *Voluntary contributions to a separate segregated fund.* (1) A separate segregated fund is prohibited from making a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction. For purposes of this section, fees or monies paid as a condition of acquiring or retaining membership or employment are monies required as a condition of membership or employment even though they are refundable upon request of the payor.

(2) A guideline for contributions may be suggested by a corporation or a labor organization, or the separate segregated fund of either, provided that the person soliciting or the solicitation informs the persons being solicited—

(i) That the guidelines are merely suggestions; and

(ii) That an individual is free to contribute more or less than the guidelines suggest and the corporation or labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.

A corporation or labor organization or the separate segregated fund of either may not enforce any guideline for contributions.

(3) Any person soliciting an employee or member for a contribution to a separate segregated fund must inform such employee or member of the political purposes of the fund at the time of the solicitation.

(4) Any persons soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member at the time of such solicitation of his or her right to refuse to so contribute without any reprisal.

(5) Any written solicitation for a contribution to a separate segregated fund which is addressed to an employee or member must contain statements which comply with the requirements of paragraph (a) (3) and (4) of this section, and if a guideline is suggested, statements which comply with the requirements of paragraph (a)(2) of this section.

(b) *Use of treasury monies.* Corporations, labor organizations, membership organizations, cooperatives, or corporations without capital stock may use general treasury monies, including monies obtained in commercial transactions and dues monies or membership fees, for the establishment, administration, and solicitation of contributions to its separate segregated fund. A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may not use the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions.

(1) A contributor may not be paid for his or her contribution through a bonus, expense account, or other form of direct or indirect compensation.

(2) A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may, subject to the provisions of 39 U.S.C. § 3005 and Chapter 61, Title 18, United States Code, utilize a raffle or other fundraising device which involves a prize, so long as State law permits and the prize is not disproportionately valuable. Dances, parties, and other types of entertainment may also be used as fundraising devices. When using raffles or entertainment to raise funds, a reasonable practice to follow is for the separate segregated fund to reimburse the corporation or labor organization for costs which exceed one-third of the money contributed.

(c) *Membership in separate segregated funds.* (1) A separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock may provide that persons who contribute a certain amount to its separate segregated fund will become "members" of its separate segregated fund, so long as—

(i) The fund accepts contributions of all amounts, subject to the limitations of Part 110;

(ii) Subject to subsection (iii), no thing of value may be given in return for or in the course of membership;

(iii) The fund may use membership status for intangible privileges such as allowing members only to choose the candidates to whom the fund will contribute.

(2) The fact that the separate segregated fund of a corporation, labor organization, membership organization, cooperative, or corporation without capital stock is a "membership group" does not provide the corporation, labor organization, membership organization, cooperative, or corporation without capital stock with any greater right of communication or solicitation than the corporation, labor organization, membership organization, cooperative, or corporation without capital stock is otherwise granted under this Part.

(d) *Control of funds.* A corporation, membership organization, cooperative, corporation without capital stock, or labor organization may exercise control over its separate segregated fund.

(e) *Disclosure.* Separate segregated funds are subject to the following disclosure requirements:

(1) A corporation or labor organization is not required to report any payment made or obligation incurred which is not a contribution or expenditure, as defined in § 114.1(a), except those reporting requirements specifically set forth in this section.

(2) A membership organization or corporation is not required to report the cost of any communication to its members or stockholders or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office, except that—

(i) The costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported in accordance with § 100.7(b)(5); and

(ii) The amounts paid or incurred for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 paid by a corporation or labor organization which is the regular employer of the individual rendering such services, shall be reported in accordance with the provisions of Part 104.

(3) A separate segregated fund is subject to all other disclosure requirements of political committees as set forth in Part 104.

(f) *Contribution limits.* Separate segregated funds are subject to the contribution limitations for political committees set forth in Part 110. (See particularly § 110.3).

(g) *Solicitations.* Except as specifically provided in §§ 114.6, 114.7, and 114.8, a corporation and/or its separate segregated fund or a labor organization and/or its separate segregated fund is subject to the following limitations on solicitations:

(1) A corporation, or a separate segregated fund established by a corporation is prohibited from soliciting contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families. A corporation may solicit the executive or administrative personnel of its subsidiaries, branches, divisions, and affiliates and their families.

(2) A labor organization, or a separate segregated fund established by a labor organization is prohibited from soliciting contributions to such a fund from any person other than its members and their families.

(h) *Accidental or inadvertent solicitation.* Accidental or inadvertent solicitation by a corporation or labor organization, or the separate segregated fund of either, of persons apart from and beyond those whom it is permitted to solicit will not be deemed a violation, provided that such corporation or labor organization or separate segregated fund has used its best efforts to comply with the limitations regarding the persons it may solicit and that the method of solicitation is corrected forthwith after the discovery of such erroneous solicitation.

(i) *Communications paid for with voluntary contributions.* A separate segregated fund may, using voluntary contributions, communicate with the general public, except that such communications may not solicit contributions to a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock, unless such solicitation is permitted under paragraph (g) of this section.

(j) *Acceptance of contributions.* A separate segregated fund may accept contributions from persons otherwise permitted by law to make contributions.

(k) *Availability of methods.* Any corporation, including its subsidiaries, branches, divisions, and affiliates, that uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions from its stockholders or executive or administrative personnel and their families, shall make that method available to a labor organization representing any members working for the corporation, its subsidiaries, branches, divisions, and affiliates for soliciting voluntary contributions or facilitating the making of voluntary contributions from its members and their families. Such method shall be made available on the written request of the labor organization and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby. For example—

(1) If a corporation, including its subsidiaries, branches, divisions, or affiliates utilizes a payroll deduction plan, checkoff system, or other plan which deducts contributions from the dividend or payroll checks of stockholders or executive or administrative personnel, the corporation shall, upon written request of the labor organization, make that method available to members of the labor organization working for the corporation, its subsidiaries, branches, divisions, or affiliates, who wish to contribute to the separate segregated fund of the labor organization representing any members working for the corporation, or any of its subsidiaries, branches, divisions, or affiliates. The corporation shall make the payroll deduction plan available to the labor organization at a cost sufficient only to reimburse the corporation for the actual expenses incurred thereby.

(2) If a corporation uses a computer for addressing envelopes or labels for a solicitation to its stockholders or executive or administrative personnel, the corporation shall, upon written request, program the computer to enable the labor organization to solicit its members. The corporation shall charge the labor organization a cost sufficient only to reimburse the corporation for the actual expenses incurred in programming the computers and the allocated cost of employee time relating to the work, and the materials used.

(3) If a corporation uses corporate facilities, such as a company dining room or cafeteria, for meetings of stockholders or executive or administrative personnel at which solicitations are made, the corporation shall, upon written request of the labor organization allow that labor organization to use existing corporate facilities for meetings to solicit its members. The labor organization shall be required to reimburse the corporation for any actual expenses incurred thereby, such as any increase in the overhead to the corporation and any cost involved in setting up the facilities.

(4) If a corporation uses no method to solicit voluntary contributions or to facilitate the making of voluntary contributions from stockholders or executive or administrative personnel, it is not required by law to make any method available to the labor organization for its members. The corporation and the labor organization may agree upon making any lawful method available even though such agreement is not required by the Act.

(5) The availability of methods of twice yearly solicitations is subject to the provisions of § 114.6(e).

(l) *Methods permitted by law to labor organizations.* Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

§ 114.6 Twice yearly solicitations.

(a) A corporation and/or its separate segregated fund may make a total of two written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel, and their families. Employees as used in this section does not include former or retired employees who are not stockholders. Nothing in this paragraph shall limit the number of solicitations a corporation may make of its stockholders and executive or administrative personnel under § 114.5(g).

(b) A labor organization and/or its separate segregated fund may make a total of two written solicitations per calendar year of employees who are not members of the labor organization, executive or administrative personnel, or stockholders (and their families) of a corporation in which the labor organization represents members working for the corporation. Nothing in this paragraph shall limit the number of solicitations a labor organization may make of its members under § 114.5(g).

(c) Written solicitation. A solicitation under this section may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residences. All written solicitations must inform the recipient—

(1) Of the existence of the custodial arrangement described hereinafter;

(2) That the corporation, labor organization, or the separate segregated fund of either cannot be informed of persons who do not make contributions; and

(3) That persons who, in a calendar year, make a single contribution of $50 or less or multiple contributions aggregating $100 or less may maintain their anonymity by returning their contributions to the custodian.

(d) The custodial arrangement. In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of $50 or less or multiple contributions aggregating $100 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

(1) The custodian for a separate segregated fund established by a corporation shall not be a stockholder, officer, executive or administrative personnel, or employee of the corporation, or an officer, or employee of its separate segregated fund. The custodian for a separate segregated fund established by a labor organization shall not be a member, officer or employee of the labor organization or its separate segregated fund.

(2) The custodian shall keep the records of contributions received in accordance with the requirements of Part 102 and shall also—

(i) Establish a separate account and deposit contributions in accordance with the provisions of Part 103;

(ii) Provide the fund with the identification of any person who makes a single contribution of more than $50 and the identification, occupation, and principal place of busines of any person who makes multiple contributions aggregating more than $100. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

(iii) Periodically forward all funds in the separate account, by check drawn on that account, to the separate segregated fund; and

(iv) Treat all funds which appear to be illegal in accordance with the provisions of § 103.3(b).

(3) The custodian shall not—

(i) Make the records of persons making a single contribution of $50 or less or multiple contributions aggregating $100 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate; and law enforcement officials or judicial bodies.

V 41 166
AUG 25 76
UMI

(ii) Provide the corporation or the labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of $50 or less or multiple contributions aggregating $100 or less, except that the custodian may forward to the corporation, labor organization, or separate segregated fund of either the total number of contributions received; or

(iii) Provide the corporation, labor organization, or the separate segregated fund of either with any information pertaining to persons who have not contributed.

(4) The corporation, labor organization, or the separate segregated fund of either shall provide the custodian with a list of all contributions, indicating the contributor's identification and amount contributed, which have been made directly to the separate segregated fund by any person within the group of persons solicited under this section.

(5) Notwithstanding the prohibitions of paragraph (d)(1), the custodian may be employed by the separate segregated fund as its treasurer and may handle all of its contributions, provided that the custodian preserves the anonymity of the contributors as required by this section. The custodian shall file the required reports with the Federal Election Commission, the Clerk of the House, or the Secretary of the Senate, as appropriate. A custodian who serves as treasurer is subject to all of the duties, responsibilities, and liabilities of a treasurer under the Act, and may not participate in the decision making process whereby the separate segregated fund makes contributions and expenditures.

(e) *Availability of methods.* (1) A corporation or labor organization or the separate segregated fund of either may not use a payroll deduction plan, a checkoff system, or other plan which deducts contributions from an employee's paycheck as a method of facilitating the making of contributions under this section.

(2) The twice yearly solicitation may only be used by a corporation or labor organization to solicit contributions to its separate segregated fund and may not be used for any other purpose.

(3) A corporation is required to make available to a labor organization representing any members working for the corporation or its subsidiaries, branches, divisions, or affiliates the method which the corporation uses to solicit employees under this section during any calendar year.

(i) If the corporation uses a method to solicit any employees under this section, the corporation is required to make that method available to the labor organization to solicit the employees of the corporation who are not represented by that labor organization, and the executive or administrative personnel and the stockholders of the corporation and their families.

(ii) If the corporation does not wish to disclose the names and addresses of stockholders or employees, the corporation shall make the names and addresses of stockholders and employees available to an independent mailing service which shall be retained to make the mailing for *both* the corporation and the labor organization for any mailings under this section.

(iii) If the corporation makes no solicitation of employees under this section during the calendar year, the corporation is not required to make any method or any names and addresses available to any labor organization.

(4) The corporation shall notify the labor organization of its intention to make a solicitation under this section during a calendar year and of the method it will use, within a reasonable time prior to the solicitation, in order to allow the labor organization opportunity to make a similar solicitation.

(5) If there are several labor organizations representing members employed at a single corporation, its subsidiaries, branches, divisions, or affiliates, the labor organizations, either singularly or jointly, may not make a combined total of more than two written solicitations per calendar year. A written solicitation may contain a request for contributions to each separate fund established by the various labor organizations making the combined mailing.

§ 114.7 Membership organizations, cooperatives, or corporations without capital stock.

(a) Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members of the organization, cooperative, or corporation without capital stock.

(b) Nothing in this section waives the prohibition on contributions to the separate segregated fund by corporations, national banks, or labor organizations which are members of a membership organization, cooperative, or corporation without capital stock.

(c) A trade association whose membership is made up in whole or in part of corporations is subject to the provisions of § 114.8 when soliciting any stockholders or executive or administrative personnel of member corporations. A trade association which is a membership organization may solicit its noncorporate members under the provisions of this section.

(d) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

(e) There is no limitation upon the number of times an organization under this section may solicit its members.

(f) There is no limitation under this section on the method of solicitation or the method of facilitating the making of voluntary contributions which may be used.

(g) A membership organization, cooperative, or corporation without capital stock and the separate segregated funds of the organizations are subject to the provisions in § 114.5(a).

(h) A membership organization, cooperative, or corporation without capital stock may communicate with its members under the provisions of § 114.3.

(i) A mutual life insurance company may solicit its policyholders if the policyholders are members within the organizational structure.

(j) A membership organization, including a trade association, cooperative, or corporation without capital stock or a separate segregated fund established by such organization may not solicit contributions from the separate segregated funds established by its members. The separate segregated fund established by a membership organization, including a trade association, cooperative, or corporation without capital stock may, however, accept unsolicited contributions from the separate segregated funds established by its members.

§ 114.8 Trade associations.

(a) *Definition.* A trade association is generally a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member.

(b) *Prohibition.* Nothing in this section waives the prohibition on contributions by corporations which are members of a trade association.

(c) *Limitations.* A trade association or a separate segregated fund established by a trade association may solicit contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders and personnel if—

(1) The member corporation involved has separately and specifically approved the solicitations; and

(2) The member corporation has not approved a solicitation by any other trade association during the calendar year.

(d) *Separate and specific approval.* (1) The member corporation must knowingly and specifically approve any solicitation for a trade association, whether the solicitation is done by the trade association, its separate segregated fund, or the corporation or any of its personnel, for contributions to the trade association's separate segregated fund.

(2) A copy of each approved request received by a trade association or its separate segregated fund shall be maintained by the trade association or its fund for three years from the date the approval is given.

(3) The request for approval may contain a copy of solicitation materials which will be used if approval is granted. Such a mailing must specifically indicate the requirement of approval and the limitation of (c)(2), and approval must be

granted to the trade association or its separate segregated fund prior to the time any solicitation is made of the stockholders or executive or administrative personnel by the trade association, its separate segregated fund, or by the corporation for contributions to the separate segregated fund of the trade association. (The request for approval may be sent to the representatives of the corporation with whom the trade association normally conducts the association's activities.)

(4) A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders and executive or administrative personnel applies through the calendar year in which it is obtained. A separate authorization must be obtained each year.

(5) In its request to a member corporation, a trade association may indicate that it intends to solicit, for example, a limited class of the executive or administrative personnel of the member corporation, or only the executive or administrative personnel but not the stockholders of the member corporation. Moreover, in its approval, a member corporation may similarly limit any solicitation by the trade association or its separate segregated fund. In any event, a member corporation, once it has approved any solicitation—even to a limited extent—of its personnel or stockholders by a trade association or its separate segregated fund, is precluded from approving any such solicitation by another trade association or its separate segregated fund and the corporation and its personnel are precluded from soliciting the corporation's executive or administrative personnel or stockholders on behalf of another trade association or its separate segregated fund.

(e) *Solicitation.* (1) After a trade association has obtained the approval required in paragraph (c), there is no limit on the number of times the trade association or its separate segregated fund may solicit the persons approved by the member corporation during the calendar year to which the approval applies. The member corporation may, however, in its approval limit the number of times solicitations may be made.

(2) A member corporation which grants permission to a trade association to solicit is in no way restricted in its rights under § 114.5(g) to solicit its stockholders or executive or administrative personnel and their families for contributions to the corporation's own separate segregated fund.

(3) There is no limitation on the method of soliciting voluntary contributions or the method of facilitating the making of voluntary contributions which a trade association may use. The member corporation may not use a payroll deduction or checkoff system for executive or administrative personnel contributing to the separate segregated fund of the trade association.

(4) A trade association and/or its separate segregated fund is subject to the provisions of § 114.5(a).

(f) *Solicitation of a subsidiary corporation.* If a parent corporation is a member of the trade association, but its subsidiary is not, the trade association or its separate segregated fund may only solicit the parent's executive or administrative personnel and shareholders and their families; and no personnel of the subsidiary may be solicited. If a subsidiary is a member, but the parent is not, the trade association or its separate segregated fund may solicit the subsidiary's personnel and their families; it may not solicit the parent's shareholders. If both parent and subsidiary are members, executive and administrative personnel and stockholders of each and their families may be solicited.

(g) *Federations of trade associations.* (1) A federation of trade associations is an organization representing trade associations involved in the same or allied line of commerce. Such a federation may, subject to the following limitations, solicit the members of the federation's regional, State, or local affiliates or members, provided that all of the political committees established, financed, maintained, or controlled by the federation and its regional, State, or local affiliates or members are considered one political committee for the purposes of the limitations in §§ 110.1 and 110.2.

(i) The federation and its member associations may engage in a joint solicitation; or

(ii) The member association may delegate its solicitation rights to the federation.

(2) A federation is subject to the provisions of this section when soliciting the stockholders and executive or administrative personnel of the corporate members of its member associations.

(h) *Communications other than solicitations.* A trade association may make communications, other than solicitations, to its members under the provisions of § 114.3. When making communications to a member which is a corporation, the trade association may communicate with the representatives of the corporation with whom the trade association normally conducts the association's activities.

(i) *Trade association employees.* (1) A trade association may communicate with its executive or administrative personnel under the provisions of § 114.3; a trade association may communicate with its other employees under the provisions of § 114.4.

(2) A trade association may solicit its executive or administrative personnel under the provisions of § 114.5(g); a trade association may solicit its other employees under the provisions of § 114.6.

§ 114.9 Use of corporate or labor organization facilities and means of transportation.

(a) *Use of corporate facilities for individual volunteer activity by stockholders and employees.* (1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the corporate facilities.

(2) A stockholder or employee who makes more than occasional, isolated, or incidental use of a corporation's facilities for individual volunteer activities in connection with a Federal election is required to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of such facilities.

(b) *Use of labor organization facilities for individual volunteer activity by officials, members and employees.* (1) The officials, members, and employees of a labor organization may, subject to the rules and practices of the labor organization, make occasional, isolated, or incidental use of the facilities of a labor organization for individual volunteer activity in connection with a Federal election and will be required to reimburse the labor organization only to the extent that the overhead or operating costs of the labor organization are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by members other than employees during the working period, such use does not interfere with the labor organization in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the labor organization facilities.

(2) The officials, members, and employees who make more than occasional,

V 41 166
AUG 25 76
UMI

isolated, or incidental use of a labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of such facilities.

(c) *Use of corporate or labor organization facilities to produce materials.* Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market.

(d) *Use or rental of corporate or labor organization facilities by other persons.* Persons, other than those specifically mentioned in paragraphs (a) and (b), who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of the facilities.

(e) *Use of airplanes and other means of transportation.* (1) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election must, in advance, reimburse the corporation or labor organization—

(i) In the case of travel to a city served by regularly scheduled commercial service, the first class air fare;

(ii) In the case of travel to a city not served by a regularly scheduled commercial service, the usual charter rate.

(2) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation owned or leased by a corporation or labor organization must reimburse, within a commercially reasonable time, the corporation or labor organization at the normal and usual rental charge.

§ 114.10 Extension of credit and settlement of corporate debts.

(a) A corporation may extend credit to a candidate, political committee, or other person in connection with a Federal election provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors which are of similar risk and size of obligation. Nothing in this section modifies regulations prescribed by the Civil Aeronautics Board, the Federal Communications Commission or the Interstate Commerce Commission issued pursuant to 2 U.S.C. § 451 or any other regulations prescribed by other Federal agencies with regard to credit extended by the regulated corporations.

(b) Except as specifically provided in paragraph (c), a corporation may not forgive prior debts or settle debts which have been incurred by a candidate or political committee or other person for use in connection with a Federal election for less than the amount owed on the debt.

(c) A corporation may settle or forgive a debt if the creditor has treated the outstanding debt in a commercially reasonable manner. A settlement will be considered commercially reasonable if—

(1) The initial extension of credit was made in accordance with regulations issued pursuant to 2 U.S.C. § 451 or paragraph (a).

(2) The candidate or political committee or person has undertaken all commercially reasonable efforts to satisfy the outstanding debt; and

(3) The corporate creditor has pursued its remedies in a manner similar in intensity to that employed by the corporation in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

The corporation and/or the debtor must file a statement of settlement with the Commission including the initial terms of credit, the steps the debtor has taken to satisfy the debt, and remedies pursued by the creditor. This statement must be filed prior to the termination of the reporting status of the debtor and the settlement is subject to Commission review.

§ 114.11 Employee participation plans.

(a) A corporation may establish and administer an employee participation plan (i.e. a "trustee plan") which is a political giving program in which a corporation pays the cost of establishing and administering separate bank accounts for any employee who wishes to participate. The cost of administering and establishing includes the payment of costs for a payroll deduction or check-off plan and the cost of maintaining the separate bank accounts.

(1) The employees must exercise complete control and discretion over the disbursement of the monies in their accounts.

(2) The trustee, bank, or other administrator shall not provide the corporation or its separate segregated fund any report of the source or recipient of any contribution(s) or donation(s) into or out of any account or of the amount any employee has in an account.

(3) The trustee, bank, or other administrator may provide the corporation or its separate segregated fund with a periodic report limited to information about the total number of employees in the program, the total number of funds in all the accounts combined, and the total amount of contributions made to all candidates and committees combined.

(4) No stockholder, director, or employee of the corporation or its separate segregated fund may exert pressure of any kind to induce participation in the program.

(5) No stockholder, director, or employee of the corporation or its separate segregated fund may exercise any direction or control, either oral or written, over contributions by participants in the program to any candidate, group of candidates, political party, or other person.

(b) An employee participation plan must be made available to all employees including members of a labor organization who are employees of the corporation. Communications about participation in the plan may be conducted by either the corporation or the labor organization or both.

(c) A labor organization may establish and administer an employee participation plan subject to the above provisions, except that the cost shall be borne by the labor organization.

(d) The method used to transmit employee or member contributions to the candidate or political committee may not in any manner identify the corporation or labor organization which established the employee participation plan.

§ 114.12 Miscellaneous provisions.

(a) An organization may incorporate and not be subject to the provisions of this Part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined in § 100.14. Notwithstanding the corporate status of the political committee, the chairman and the treasurer of an incorporated political committee remain personally responsible for carrying out their respective duties under the Act.

(b) Notwithstanding any other provision of Part 114, a corporation or a labor organization which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a political committee or candidate if the meeting rooms are made available on a nonpartisan basis and on the same terms given to other groups using the meeting rooms.

(c)(1) A corporation of labor organization may not pay the employer's share of the cost of fringe benefits, such as health and life insurance and retirement, for employees or members on leave-without-pay to participate in political campaigns of Federal candidates. The separate segregated fund of a corporation or a labor organization may pay the employer's share of fringe benefits, and such payment would be a contribution in-kind to the candidate. An employee or member may, out of unreimbursed personal funds, assure the continuity of his or her fringe benefits during absence from work for political campaigning, and such payment would not be a contribution in-kind.

(2) Service credit for periods of leave-without-pay is not considered compensation for purposes of this section if the employer normally gives identical treatment to employees placed on leave-without-pay for nonpolitical purposes.

(d) A corporation which, prior to May 11, 1976, had solicited employees other than stockholders or executive or administrative personnel for voluntary contributions to its separate segregated fund and had offered such employees the opportunity to enroll in a payroll deduction plan may, until December 31, 1976, unless the employee withdraws before that date, continue to deduct contributions from the checks of employees who signed up prior to May 11, 1976. Any solicitation of such employees after May 11, 1976, is subject to the provisions of 2 U.S.C. § 441b(b)(4)(B) and § 114.6 when prescribed.

PART 115—FEDERAL CONTRACTORS

Sec.
115.1 Definitions.
115.2 Prohibition.
115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.
115.4 Partnerships.
115.5 Individuals and sole proprietors.
115.6 Employee contributions or expenditures.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 115.1 Definitions.

(a) "A Federal contractor" means a person, as defined in § 100.13 who—

(1) Enters into any contract with the United States or any department or agency thereof either for—

(i) The rendition of personal services; or

(ii) Furnishing any material, supplies, or equipment; or

(iii) Selling any land or buildings;

(2) If the payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.

(b) The period during which a person is prohibited from making a contribution or expenditure is the time between the earlier of the commencement of negotiations or when the requests for proposals are sent out, and the later of—

(1) The completion of performance under; or

(2) The termination of negotiations for, the contract or furnishing of material, supplies, equipment, land, or buildings, or the rendition of personal services.

(c) For purposes of this Part, a contract includes

(1) A sole source, negotiated, or advertised procurement conducted by the United States or any of its agencies;

(2) A written (except as otherwise authorized) contract, between any person and the United States or any of its departments or agencies, for the furnishing of personal property, real property, or personal services; and

(3) Any modification of a contract.

(d) The basic contractual relationship must be with the United States or any department or agency thereof. A person who contracts with a State or local jurisdiction or entity other than the United States or any department or agency thereof is not subject to this Part, even if the State or local jurisdiction or entity is funded in whole or in part from funds appropriated by the Congress. The third party beneficiary of a Federal contract is not subject to the prohibitions of this Part.

(e) The term labor organization has the meaning given it by § 114.1(a).

§ 115.2 Prohibition.

(a) It shall be unlawful for a Federal contractor, as defined in § 115.1(a), to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for Federal office or to any person for any political purpose or use. This prohibition does not apply to contributions or expenditures in connection with State or local elections.

(b) This prohibition runs for the time period set forth in § 115.1(b).

(c) It shall be unlawful for any person knowingly to solicit any such contribution from a Federal contractor.

§ 115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

(a) Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock to which this Part applies may expend treasury monies to establish, administer, and solicit contributions to any separate segregated fund subject to the provisions of Part 114. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under Part 114 applies to a corporation, labor organization, or separate segregated fund to which this Part applies.

(b) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

§ 115.4 Partnerships.

(a) The assets of a partnership which is a Federal contractor may not be used to make contributions or expenditures in connection with Federal elections.

(b) Individual partners may make contributions or expenditures in their own names from their personal assets.

(c) Nothing in this part prohibits an employee of a partnership which is a Federal contractor from making contributions or expenditures from his or her personal assets.

§ 115.5 Individuals and sole proprietors.

Individuals or sole proprietors who are Federal contractors are prohibited from making contributions or expenditures from their business, personal, or other funds under their dominion or control. The spouse of an individual or sole proprietor who is a Federal contractor is not prohibited from making a personal contribution or expenditure in his or her name.

§ 115.6 Employee contributions or expenditures.

Nothing in this part shall prohibit the stockholders, officers, or employees of a corporation, the employees, officers, or members of an unincorporated association, cooperative, membership organization, labor organization, or other group or organization which is a Federal contractor from making contributions or expenditures from their personal assets.

SUBCHAPTER B—PRESIDENTIAL ELECTION CAMPAIGN FUND, FEDERAL FINANCING OF CONVENTIONS

PART 120—GENERAL PROVISIONS

Sec.
120.1 Scope.
120.2 Definitions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b).

§ 120.1 Scope.

(a) This part interprets 2 U.S.C. § 437 and 26 U.S.C. § 9008. Section 9008 of Title 26 authorizes the Federal Election Commission to certify to the Secretary of the Treasury for payments of the amounts to which the national committee of any major or minor party is entitled under 26 U.S.C. § 9008 with respect to a Presidential nominating convention, but the entitlement of each major party may not exceed the aggregate amount of $2,000,000, adjusted by the Consumer Price Index. Section 437 of Title 2 requires certain organizations to file convention reports.

(b) Under 26 U.S.C. § 9008(b) the national committees of both major and minor parties are entitled to payments from public funds to defray expenses which they incurred with respect to a Presidential nominating convention. These expenses are limited to $2,000,000, as adjusted by the Consumer Price Index. New parties are exempt from any expenditure limitation and are not entitled to any public funds. For a minor party to be entitled to its proportionate share of public funds for convention expenses, its Presidential candidate in the last election must have received (as the Presidential candidate of that party) at least 5 percent of the total popular vote received by all Presidential candidates in such election.

§ 120.2 Definitions.

The following definitions shall apply for the purposes of this subchapter:

(a) "Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) "Fund" means the Presidential Election Campaign Fund established by 26 U.S.C. § 9006(a).

(c) "Major party" means, with respect to any Presidential election, a political party whose candidate for the office of

V 41 166 AUG 25 76 UMI

President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(d) "Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

(e) "New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

(f) "Convention expenses" or "expenses or expenditures incurred with respect to a Presidential nominating convention" means expenses incurred for the purpose of conducting a presidential nominating convention or convention-related activities (including the payment of deposits) by or on behalf of the national committee of a political party, including—

(1) Any expense for preparing, maintaining, and dismantling the physical site of the convention, including rental of the hall, platforms and seating, decorations, telephones, security, and convention hall utilities;

(2) Salaries and expenses of personnel whose responsibilities are planning, managing, or conducting the convention, including staff members of convention committees or arrangements committees and similar personnel;

(3) Any expenses of those persons employed by the national committee of a political party which were incurred in the performance of personal services for the convention that were in addition to their normal duties to the national committee, such as travel expenses to and from or at the convention city or other locations specified in subsection (4), but excluding any portion of the person's salary paid by the national committee, provided that the services of that person were incidental to the convention and not performed as a major responsibility;

(4) The expense of conducting meetings, whether or not at the convention site, of or related to convention policy committees, such as rules, credentials, and platform committees, including costs of renting meeting space and printing materials (except for certain legal and accounting expenses, see § 121.10(b));

(5) The expenses incurred in securing a convention city and facility;

(6) The expense of providing a transportation system in a convention city for the use of delegates and other persons attending or otherwise connected with the conventions;

(7) The expenses of entertainment activities which are part of official convention activity sponsored by the national committee, including but not limited to dinners, concerts, and receptions, but not including entertainment activities sponsored by or on behalf of candidates for nomination to the office of President or Vice President, or State delegations, or activities sponsored by the national committee if the purpose of the activity is solely for national committee business, such as fundraising events, selecting new officers for the national committee, or entertainment activities sponsored by persons other than the national committee, not otherwise prohibited;

(8) The expenses of printing official convention programs, a journal of proceedings, agendas, tickets, badges, passes, and other official publications;

(9) The administrative and office expenses of conducting the convention such as stationery and office supplies, office machines, and telephone charges, but excluding the cost of any such services supplied by the national committee at its headquarters or principal office so long as such services are incidental to the convention and not utilized primarily for the convention;

(10) The interest on loans the proceeds of which are used to defray convention expenses; and

(11) The expenses of any candidate or delegate participating in the national nominating convention, subject to the provisions of §§ 121.10 and 122.5.

(g) "Secretary" means the Secretary of the Treasury of the United States.

(h) "Host committee" means a local organization such as a local civic association, business league, chamber of commerce, real estate board, board of trade, or convention bureau—

(1) Not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(2) A principal objective of which is the encouragement of commerce in the convention city, as well as projecting a favorable image of the city to convention attendees.

PART 121—LIMITATION OF EXPENDITURES

Subpart A—National Party Limitations

Sec.
121.1 Major parties.
121.2 Minor parties.
121.3 Exception.
121.4 Expenditures by agencies and municipal corporations.

Subpart B—In-Kind Contributions by Businesses

121.5 Discounts by retail business concerns.
121.6 Samples and promotional material.
121.7 In-kind contributions to the host committee.

Subpart C—Donation of Funds by Local Businesses and Labor Organizations

121.8 Donation of funds to host committee.
121.9 Use of funds by host committee.
121.10 Expenditures by individuals and groups.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

Subpart A—National Party Limitations

§ 121.1 Major parties.

Except as provided by § 121.3, the national committee of a major party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

§ 121.2 Minor parties.

Except as provided by § 121.3, the national committee of a minor party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

§ 121.3 Exception.

The Commission may authorize the national committee of a major party or minor party to make expenditures for convention expenses which, in the aggregate, exceed the limitation established by § 121.1 or § 121.2. This authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, the expenditures are necessary to assure the effective operation of the Presidential nominating convention by the committee. In no case, however, will such authorization entitle the national committees to receive public funds greater than the amount the national committees are entitled to under § 122.1 or § 122.2.

§ 121.4 Expenditures by agencies and municipal corporations.

(a) Expenditures with respect to a Presidential nominating convention incurred by Federal and local governmental agencies and municipal corporations will not be considered either as expenditures made by a national party or as illegal corporate contributions under 2 U.S.C. § 441b. These expenditures will therefore not be subject to the national party's expenditure limitations of §§ 121.1 and 121.2, provided that the facilities or services supplied at no charge or less than the normal charge to the national committee were not leased or bought from corporations, national banks, labor organizations, or any other person for less than their fair market value.

(b) Expenditures made under paragraph (a) are reportable under § 125.1.

Subpart B—In-Kind Contributions by Businesses

§ 121.5 Discounts by retail business concerns.

(a) Private retail business concerns (whether incorporated or not) may sell, lease, or rent, or offer to sell, lease, or rent to the national party for the convention any services, materials, space, or goods that the business normally deals in, at less than the fair market value; For example, the business may provide discounts in standard rates of any goods or services, provided that the discounts are offered in the ordinary course of business and are standard practice based upon the quantity of similar goods and services sold, leased, or rented in similar transactions.

(b) As long as the discount does not exceed the amounts specified in paragraph (a) will not count toward the national party expenditure limitation under §§ 121.2 and 121.2.

§ 121.6 Samples and promotional material.

(a) Private business concerns may sell at nominal cost or provide at no charge any of their products or services in the form of samples or discount coupons, or provide promotional items of nominal value, such as maps, pens, or pencils, with the business's name imprinted on the item, to those attending the convention functions, provided that—

(1) The samples and the like are solely for bona fide advertising or promotional purposes and are not provided for the purpose of influencing any delegate's or alternate vote;

(2) The activity is in the ordinary course of business as evidenced by past practice with other political and nonpolitical conventions.

(b) The samples, coupons, and promotional material may be distributed by or with the help of persons employed by the business, the national party, or a citizen host committee.

(c) The value of the benefits provided will not count toward the national party's expenditure limitation under §§ 121.1 and 121.2.

§ 121.7 In-kind contributions to the host committee.

Local private businesses and labor organizations may donate or offer at a reduced rate to the host committee office space, supplies, furniture, transportation, and the like for use by the host committee for administrative purposes.

Subpart C—Donation of Funds by Local Businesses and Labor Organizations; Advertising

§ 121.8 Donation of funds to host committee.

(a) Local businesses (whether incorporated or not) and labor organizations may donate funds to a citizen's host committee.

(b) Subject to § 121.9, the use of the funds may be restricted by the donor in any manner agreeable between the donor and the recipient host committee, such as earmarking the funds for a particular project or purpose, or having the contribution acknowledged as "Courtesy of X, Y and Z Companies," so long as any restrictions are commercially motivated and are non-political.

§ 121.9 Use of funds by host committee.

(a) Funds donated to the host committee may be used—

(1) To defray those expenses incurred for the purpose of promoting the suitability of the city as a convention site;

(2) To defray those expenses incurred for welcoming the convention attendees to the city, such as expenses for information booths, receptions, and tours;

(3) To defray those expenses incurred in facilitating commerce, such as providing the convention and attendees with shopping and entertainment guides and distributing the discount coupons and samples specified in § 121.6; and

(4) To defray the administrative expenses incurred by the host committee, such as salaries, rent, travel, and liability insurance.

(b) If the host committee has received funds from an incorporated local retail business in an amount proportionate to the commercial return reasonably expected by that business during the life of the convention, and if the committee maintains such funds in a separate account (along with funds donated by unincorporated businesses if any), the funds may be used to pay for what would otherwise be a convention expense by the national committee, such as the renting or refurbishing of the convention hall or the rental of seats, lights, and like equipment. No other corporate funds may be used to pay such expenses.

§ 121.10 Expenditures by individuals and groups.

(a) (1) For purposes of this part, expenditures made by Presidential candidates from campaign accounts, by delegates, or by any other individual out of his or her personal funds for the purpose of attending and participating in the convention or convention-related activities, or made on his or her behalf by State or local committees of a political party, will not be considered as expenditures made by or on behalf of the national party, and are therefore not subject to the overall expenditure limitations of §§ 121.1 and 121.2.

(2) Expenditures made under paragraph (a)(1) by candidates from campaign accounts, or by State and local party committees or any other political committee or person shall be reported pursuant to Part 104.

(b) *Legal and accounting services.* For purposes of this section—

(1) The payment by any person (other than the national committee of a political party) of compensation to any individual for legal or accounting services rendered to, or on behalf of, the national committee is not an expenditure counting against the expenditure limitation for a Presidential nominating convention, as long as the person paying is the regular employer of the individual rendering the service.

(2) The payment by the national committee of compensation to any individual for legal and accounting services rendered to, or on behalf of, the national committee is an expenditure counting against the expenditure limitation for a Presidential nominating convention, whether paid from funds received by the national committee from the Presidential Election Campaign Fund or from private contributions.

PART 122—ENTITLEMENT TO AND DISPOSITION OF PAYMENTS FROM THE FUND

Sec.
122.1 Major parties.
122.2 Minor parties.
122.3 Adjustment of entitlements.
122.4 Investment of funds.
122.5 Use of funds; candidate and delegate expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 122.1 Major parties.

Subject to the provisions of this part, the national committee of a major party shall be entitled to receive payments under § 123.4, with respect to any Presidential nominating convention, in amounts which, in the aggregate, shall not exceed $2 million, as adjusted by the Consumer Price Index.

§ 122.2 Minor parties.

Subject to the provisions of this part, the national committee of a minor party shall be entitled to payments under § 123.4, with respect to any Presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under § 122.1, as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding Presidential election.

§ 122.3 Adjustment of entitlements.

(a) The entitlements established by this part shall be adjusted in the same manner as expenditure limitations established by § 441a(b) of Title 2, United States Code are adjusted pursuant to the provisions of § 441a(c) of such title.

(b) The entitlements established by this part shall be decreased by the amount of income generated by the investment of public funds under § 122.4.

(c) The entitlements established by this part shall be adjusted so as not to exceed the difference between the expenditure limitations of Part 121 and the amount of private contributions received under § 123.1 by the national committee of a political party and used to defray convention expenses.

§ 122.4 Investment of funds.

Any investment of public funds or their use in any other way which generates income is permissible only if the income so generated is used for the purposes described in § 122.5. This income will be applied against the na-

V 41 166 AUG 25 76 UMI

tional committee's entitlement, and where appropriate, the Commission may determine that a repayment is required because of excess payment under § 124.1 (a).

§ 122.5 Use of funds; candidate and delegate expenses.

(a)(1) No part of any payment made under § 123.4 shall be used to defray the expenses of any candidate, delegate, or alternate delegate who is participating in any Presidential nominating convention.

(2) The expenses of a person participating in the convention as official personnel of the national party may be defrayed with public funds even though that person is simultaneously participating as a delegate or candidate to the convention. Public funds shall not be used to defray any expense the incurring or payment of which violates any law of the United States or of the State in which such expense is incurred or paid.

(b) Any payment shall be used only—

(1) To defray convention expenses incurred (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) To repay the principal and interest on loans the proceeds of which were used to defray convention expenses; or

(3) To restore funds (other than contributions to defray convention expenses received by the committee under § 123.1) used to defray convention expenses.

PART 123—PAYMENT PROCEDURE FOR PRESIDENTIAL NOMINATING CONVENTIONS

Sec.

123.1 Optional payments; private contributions.
123.2 Transfer to the fund.
123.3 Information required to qualify for public funds.
123.4 Payment schedule.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 123.1 Optional payments; private contributions.

(a) A major or minor party may elect to receive all, part, or none of the amounts to which it is entitled under §§ 122.1 and 122.2.

(b) A major party electing to receive part or none of the amounts to which it is entitled under § 122.1 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.1.

(c) A minor party electing to receive all, part, or none of the amounts to which it is entitled under § 122.2 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.2.

§ 123.2 Transfer to the fund.

If, after the close of a Presidential nominating convention and after the national committee of the political party involved has been paid the amount to which it is entitled under Part 122, there are moneys remaining in the account maintained by the Secretary of the Treasury for such national committee because of the adjustment due to § 122.3 (b) or (c) (interest received on investments and acceptance of private contributions), the Secretary will transfer the moneys so remaining to the Presidential Election Campaign Fund.

§ 123.3 Information required to qualify for public funds.

(a) To qualify for public financing of their conventions, the national committees of the major and minor parties shall file an application statement and agreements containing the information in paragraphs (b) and (c) of this section with the Federal Election Commission.

(b) This application statement shall be filed no earlier than June 1 of the calendar year preceding the year in which a Presidential nominating convention of a political party is held and shall include—

(1) The name and address of the national committee;

(2) The name and address of the convention arrangements committee of the national committee or such similar committee in charge of the national convention;

(3) The name of the city where the convention is to be held and the approximate dates;

(4) The name, address, and position of the officers and members of the convention arrangements committee;

(5) The name, address, and position of the party officials designated by the national committee to sign requests for payment;

(6) The name and address of the commercial bank to be used as the depository of the convention arrangements committee; and

(7) Signature cards, available from the Commission, signed by the designated party officials authorized to request payments.

(c) If the application statement is filed before the cost of living increase is able to be determined for the year preceding the convention, that amount determined by the increase shall be paid to the national committee promptly after the increase has been determined.

(d) The national committees of the major and minor parties shall agree to limit the expenditures for their convention to the amount specified in Part 121.

(e) Any change in the information required by paragraph (c) shall be reported to the Commission within a 10-day period following the change.

§ 123.4 Payment schedule.

After a national committee has properly submitted its application statement under § 123.1, payments will be disbursed upon the receipt of a payment request in installments in the manner specified in paragraphs (a)-(e).

(a) Initial payment. (1) A writtetn request for an initial payment shall—

(i) Be signed by the authorized individual(s) whose name appears on the signature card;

(ii) Specify an amount to be received, not to exceed 30 percent of the aggregate amount to which the committee is entitled;

(iii) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all public funds received for convention financing, or certify that such account(s) will be established;

(iv) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all private contributions to defray convention expenses, or certify that such account(s) will be established if the national committee decides to receive such contributions; and

(v) Be supported by a statement projecting and describing estimated convention expenses and those already incurred, if any, through and including the last day of the calendar quarter in which the request is made, except that projected expenditure categories need not be itemized in specific dollar figures.

(2) A request for an initial payment may be submitted to the Commission simultaneously with the application statement required under § 123.3 or at any time thereafter.

(3) A properly submitted request for initial payment shall be reviewed and certified by the Commission to the Secretary for payment not later than 5 working days after being received by the Commission, or July 1 of the calendar year preceding the calendar year of the convention, whichever is later.

(b) Quarterly payment requests. (1) Requests for disbursements after the national committee has qualified for public financing under § 123.3 and received its initial disbursement under § 123.4(a) shall be submitted quarterly commencing with October 1 of the year prior to the year in which the convention will be held.

(2) The written requests shall—

(i) Be signed by the authorized individuals(s);

(ii) Be accompanied by a statement of projected convention expenses estimated through the close of the quarterly period, except that no specific dollar figure need be assigned to the various expenditure categories;

(iii) Specify an amount to be received which shall reflect the amount of the projected expenses; and

(iv) Be submitted to the Commission anytime during the quarter to which the request relates.

(c) Special certification for accelerand payment schedule. The Commission may certify more than one disbursement per quarter where a showing is made that a deficit is likely to be incurred unless a further disbursement is made. Any payment request for such further disbursement should be supported by a summary of actual convention expenses previously incurred for the quarter, together with the projected convention expenses which will occasion the deficit if a further disbursement is not forthcoming.

(d) Amount of disbursement.

Each disbursement certification to the Secretary will be based upon the convention expenses projected for the requesting period, subject to any deductions as the Commission may determine under paragraph (e) of this section and § 124.1(f).

(e) Post-convention disbursements.

(1) Notwithstanding the payment request for the last quarter preceding the convention, the Commission may, in its discretion and upon appropriate notice to the committee, certify to the Secretary for an amount less than the amount requested, but in no case may the amount of such adjustment downward exceed 10 percent of the total entitlement of that party.

(2) Funds withheld under this paragraph, if any, shall be disbursed after the convention upon the proper submission of a post-convention payment request accompanied by the convention financing report required under Part 125.

(3) Post-convention payments shall be subject to audit by the Commission and deductions computed under § 124.1(f) in addition to other requirements imposed by law.

(f) Properly submitted requests for quarterly, accelerated, and post-convention payments shall be certified by the Commission to the Secretary for disbursement within five working days after being received by the Commission.

PART 124—POST-DISBURSEMENT PROCEDURES

Sec.

124.1 Repayments.
124.2 Notification of need for repayments.
124.3 Examination and audits.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 124.1 Repayments.

(a) If the Commission determines that any portion of the payments to the national committee under § 123.4 was in excess of the aggregate payments to which the national committee was entitled, it shall so notify the national committee, and such national committee shall pay to the Secretary an amount equal to such portion.

(b) If the Commission determines that the national committee incurred convention expenses in excess of the aggregate payments to which the national committee of a major party was entitled, it shall notify such national committee of the amount of such excess, and such national committee shall pay to the Secretary an amount equal to that amount.

(c) If the Commission determines that the national committee of a major party accepted contributions to defray convention expenses which, when added to the amount of payments received, exceeds the expenditure limitation of such party, it shall notify such national committee of the amount of the contributions so accepted, and such national committee shall pay to the Secretary an amount equal to that amount.

(d) If the Commission determines that any amount of any payment to the national committee under § 123.4 was used for any purpose other than those authorized by § 122.5, it shall notify such national committee of the amount so used, and such national committee shall pay to the Secretary the amount so specified.

(e) No repayment shall be required from the national committee under this section, which, when added to other repayments required from such national committee under this section, exceeds the amount of payments received by such national committee under § 123.4.

(f) Subject to § 124.2, the Commission may obtain repayment by authorizing the Secretary to deduct the repayable amount determined under paragraphs (a)-(e) from the amount otherwise due the national committee for its next payment. All other repayments shall be made payable to the Secretary and deposited by him in the general fund of the Treasury.

§ 124.2 Notification of need for repayment.

(a) If the Commission determines that repayment is required under § 124.1, it shall give written notification to the affected national committee of the amounts required to be paid and the reasons thereof.

(b) No notification shall be made by the Commission under this section more than 3 years after the last day of the Presidential nominating convention.

(c) The national party shall repay to the Secretary, within 90 days of the notice, the amount of the repayment. Upon application submitted by the national party, the Commission may grant a 90-day extension of the repayment period.

(d) If the national committee disputes the Commission's determination that a repayment is required, it shall notify the Commission within 30 days of receipt of the Commission's notification.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the representaitve of the national committee may make a showing of where the Commission erred in its determination of repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute a final and conclusive determination, and shall so notify the national committee.

§ 124.3 Examinations and audits.

The Commission shall conduct an examination and audit of the convention expenses of the national party no later than December 31 of the calendar year of the convention and may at any time conduct other examinations and audits as it deems necessary.

PART 125—CONVENTION REPORTS

Sec.

125.1 Reports by municipal and private host committees.
125.2 Reports by political parties.
125.3 Post-convention reports; time and content of filing.
125.4 Committees receiving Federal funds; quarterly reports.
125.5 Convention expenses; definition.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 125.1 Reports by municipal and private host committees.

(a) Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State or political subdivision shall file reports with the Commission as set out in § 125.3 below.

(b) Each committee or other organization specified in paragraph (a) need not report its unsuccessful efforts to attract the convention to its city.

§ 125.2 Reports by political parties.

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President, shall file reports with the Commission as set out in § 125.3 below.

(b) A State party committee or a subordinate committee of a State party committee which only assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar activities at the convention site, need not report under this Part.

§ 125.3 Post-convention reports: content and time of filing.

(a) Each committee or organization required to file a financial statement shall within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4 which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 45 days following the convention.

(b) If the committee spends or receives any funds after 45 days following the convention, the committee shall begin to file no later than 10 days after the end of the next calendar quarter a report dis-

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closing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports thereafter until the committee ceases activity.

(c) Each committee shall file a final report with the Commission not later than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to § 125.3(a) or (b).

§ 125.4 Committees receiving Federal funds; quarterly reports.

Any national committee of a major or minor party which receives, directly or indirectly, all or part of the payment for Presidential nominating conventions under 26 U.S.C. § 9008, shall, in addition to the post-convention reports required to be filed under § 125.3, file quarterly reports as follows:

(a) The quarterly report shall be filed no later than 10 days after the end of the calendar quarter in which the committee receives payment under 26 U.S.C. § 9008 and after each subsequent quarter in which the committee receives or expends any funds until the date of the convention, except that any quarterly report due 20 days or less before or after the convention shall be suspended and need not be filed until 30 days after the close of the convention.

(b) The reports shall contain the same information as required under § 125.3 and shall disclose all transactions as of the end of the calendar quarter.

§ 125.5 Convention expenses; definition.

For the purposes of this part, "receipts and disbursements in connection with a convention" means convention expenses as defined in Part 120 of these regulations.

SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

PART 130—DEFINITIONS

Sec.
130.1 Authorized committee.
130.2 Political committee.
130.3 Candidate.
130.4 Commission.
130.5 Matching payment account.
130.6 Matching payment period.
130.7 Primary election.
130.8 Matchable campaign contribution.
130.9 Nonmatchable contributions.
130.10 Qualified campaign expense.
130.11 State.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 130.1 Authorized committee.

"Authorized committee" means any political committee which is authorized in writing by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate. This authorization shall be addressed to the authorized political committee, and a copy of the authorization shall be filed by the candidate with the Commission. A withdrawal of authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

§ 130.2 Political committee.

"Political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

§ 130.3 Candidate.

(a) "Candidate" means an individual who seeks nomination for election to be President of the United States. An individual is considered to seek the nomination for election if he or she—

(1) Takes the action necessary under the law of a State to qualify for nomination for election; or

(2) Receives contributions or incurs qualified campaign expenses; or

(3) Gives consent for any other person to receive contributions or to incur qualified campaign expenses on his or her behalf.

(b) "Candidate" shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

§ 130.4 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

§ 130.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. § 9037(a).

§ 130.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the year in which a general election for the office of President of the United States is held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, the last day for the matching period shall be the earlier of (a) the date the party nominates its candidates for the office of President of the United States or (b) the last day of the last national convention held by a major party.

§ 130.7 Primary election.

"Primary election" means an election, including a runoff election, or a nominating convention or a caucus held by a political party—

(a) For the selection of delegates to a national nominating convention of a political party; or

(b) For the expression of a preference for the nomination of candidates for election to the office of President of the United States; or

(c) Which is an election that combines the features of both paragraphs (a) and (b); or

(d) To nominate a candidate for election to the office of President of the United States.

§ 130.8 Matchable campaign contribution.

(a) "Matchable campaign contribution" means a gift of money made by a written instrument identifying the individual making the contribution by full name and mailing address and made for the purpose of influencing the result of a primary election.

(1) Gifts of money will be considered matchable campaign contributions only to the extent of the first $250 contributed by an individual.

(2) The amount of the contribution which is submitted for matching shall be actually received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the principal campaign committee.

(3) The contribution shall be received and deposited by the candidate or authorized committee on or after the first day of the calendar year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period.

(b) For purposes of this section the term "money" means checks, money orders, or any other negotiable instrument payable on demand.

(c) For purposes of this section "written instrument" means a check written on a personal, escrow, or trust account, a money order, or any other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the Presidential candidate or to his or her principal campaign committee. The candidate's name shall be included by the contributor on the face or endorsement of the written instrument, which shall contain the full name and signature of the contributor, the amount and date of the contribution, and the mailing address of the contributor.

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check. To be attributed equally to other joint tenants of the account, the check or other written instrument shall contain the other individual's signature(s).

(2) Checks drawn on escrow or trust accounts can only be a contribution from the person who has beneficial ownership of the account and therefore must be signed by that person with the statement that the giving of the contribution does not violate the conditions of the trust or escrow agreement.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as—

(i) The checks are accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

(ii) Such documentation is signed by the individual or individuals; and

(iii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business account does not exceed $1,000 to any one Federal candidate for an election.

§ 130.9 Nonmatchable contributions.

A contribution to a candidate other than by a gift of money under § 130.8 is not matchable. Contributions which are not matchable include—

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purpose;

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in § 100.14 or any group of persons other than those under § 130.8(c)(3);

(e) Contributions which are illegally made or accepted, such as contributions in the name of another;

(f) Contributions in the form of a check drawn upon the account of a committee, corporation, union, or government contractor even though the funds represent personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a concert, motion picture, or theatrical performance, in which case the amount of the matchable contribution shall include only the excess of the amount paid for admission over the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate.

(1) The fair market value and any amount in excess of the fair market value of the benefits conferred shall be clearly and separately indicated on the promotional material and the tickets for the event, and a copy of such material and of a ticket shall accompany the submission of documentation under §§ 131.2 and 132.2.

(2) A contribution in the form of the purchase price paid for admission to an activity that is essentially political is fully matchable. An "essentially political" program is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception;

(j) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(k) Contributions of currency of the United States or currency of any foreign country.

§ 130.10 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by a candidate or by the candidate's authorized committees no later than the last day of the candidate's eligibility as determined under § 133.2 and made in connection with his or her campaign for nomination for election; and

(2) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any State in which the expense is incurred or paid, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, shall not be considered a State law for purposes of this paragraph.

(b) For purposes of this section, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or committee.

§ 130.11 State.

"State" means each State of the United States and the District of Columbia.

PART 131—ELIGIBILITY FOR PAYMENTS

Sec.
131.1 Candidate agreements.
131.2 Candidate certifications; threshold amount.
131.3 Matching payment threshold requirements.
131.4 Matching payments in excess of threshold.
131.5 Candidate entitlements.
131.6 Expenditure limitation.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 131.1 Candidate agreements.

(a) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter to the Commission, signed by the candidate, that the candidate and his or her principal campaign committee will—

(1) Obtain and furnish to the Commission any evidence the Commission may request regarding qualified campaign expenses, including expenses made by all authorized committees of a candidate;

(2) Keep, and furnish to the Commission any books, records, or other information that the Commission may request, including copies of books and records maintained by all authorized committees of the candidate;

(3) Permit an audit and examination by the Commission, pursuant to Part 134, and pay any amounts required to be paid under that Part. In addition, the candidate shall submit the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository as required in Part 103 of this chapter and § 132.3(c); and

(4) Comply with the applicable requirements of Title 2, United States Code and Parts 100–108 of these regulations.

(b) Failure by the candidate or the candidate's principal campaign committee to comply with the agreements in paragraph (a) may result in the suspension of the certification process under § 133.7.

§ 131.2 Candidate certifications; threshold amount.

A candidate seeking to become eligible to receive Presidential primary matching fund payments shall certify to the Commission, in a written statement signed by the candidate, that—

(a) He or she is seeking nomination by a political party to the office of President of the United States in more than one State;

(b) The candidate and his or her authorized committee(s) will not incur qualified campaign expenses in excess of the limitation on such expenses under § 131.6;

(c) The candidate and his authorized committees have received matchable campaign contributions which, in the aggregate, exceed $5,000 in contributions from individuals who are residents of each of at least 20 States, and which in respect to any individual do not exceed $250. For each State in which the candidate certifies he or she has met this requirement, the candidate shall—

(1) Submit an alphabetical list of contributors showing each contributor's full name and residential address, the date of the receipt of each contribution by the candidate or his or her committee and of the deposit into the designated campaign depository, the dollar amount of each contribution submitted for matching purposes, the matchable portion thereof, the total amount of all matchable contributions submitted, and a notation as to whether the contribution was received as a result of an entertainment activity under § 130.9(i); and

(2) Submit a photocopy of each check or other written instrument for each contribution which the candidate submits to receive matching funds. The photocopies shall be segregated alphabetically by deposit, and shall be accompanied by copies of the relevant deposit slip.

(d) The Commission may conduct audits of candidate records to determine eligibility and shall notify candidates if it chooses to conduct the audits. In that case, the Commission may at its own

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discretion waive the submission requirement of paragraphs (c)(1) and (c)(2) of this section.

(e) If a candidate is not active in more than one State, matching payments will be terminated under § 133.4.

(f) If a candidate knowingly exceeds the expenditure limitation in any State after he or she has accepted matching funds, the candidate is disqualified from receiving further matching funds with respect to that Presidential election.

§ 131.3 Matching payment threshold requirements.

During the matching payment period, the Commission shall, as soon as practicable and generally within 5 working days, examine the submission under § 131.1 and § 131.2 (a), (b), and (c) and shall either—

(a) Make a preliminary determination that the candidate has satisfied the requirement of raising an amount in excess of $5000 in contributions from individuals who are residents of each of at least 20 States, which in respect to any individual do not exceed $250; or

(b) Promptly notify the candidate giving a detailed explanation of the reasons for the Commission's conclusion that the candidate has failed to satisfy the matching payment threshold requirements.

§ 131.4 Matching payments in excess of threshold.

(a) After a preliminary determination has been made that the candidate has successfully satisfied the threshold requirement under § 131.3, the Commission shall so notify the candidate and request the submission in good order of the necessary documentation of all contributions received and deposited by a date specified by the Commission.

(b) Contributions which have been submitted for matching purposes after notification that the candidate has met the threshold requirement need not be segregated by State, including any resubmission of the threshold contributions. Each submission shall include an aggregate total of each individual's contributions submitted for matching purposes.

§ 131.5 Candidate entitlements.

A candidate who is certified by the Commission under § 132.1 below as eligible to receive payments is entitled to payments in an amount equal to the amount of each matchable campaign contribution, as defined in § 130.8, provided that the total amount of payments to a candidate shall not exceed 50 percent of the total expenditure limitation applicable under 2 U.S.C. § 441a(b)(1)(A) as adjusted by 2 U.S.C. § 441a(c).

§ 131.6 Expenditure limitation.

(a) No candidate who has accepted matching funds shall knowingly—

(1) Incur qualified campaign expenses in excess of the expenditure limitation applicable under 2 U.S.C., § 441a(b)(1)(A); and

(2) Make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of applying paragraph (a)(2) of this section, expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(d) For purposes of this section, "personal funds" has the same meaning as specified in § 110.10.

PART 132—CERTIFICATION AND DISBURSEMENT

Sec.
132.1 Initial certification.
132.2 Additional certifications.
132.3 Payments and deposits of Presidential primary matching funds.
132.4 Insufficient documentation.
132.5 Certification review and notice.
132.6 Resubmissions and hearing opportunity.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 132.1 Initial certification.

Within 10 calendar days after the Commission formally determines that a candidate has established his or her eligibility under Part 131 to receive payments, the Commission shall certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

§ 132.2 Additional certifications.

(a) To obtain subsequent certifications following the initial certification and payment, a candidate shall file all information required for the initial eligibility under Part 131, except that—

(1) The alphabetical listing of contributors need not be segregated by State; and

(2) The candidate need not resubmit the agreements under § 131.1 and the certifications under § 131.2.

(b) Requests for additional certifications may be submitted on dates to be determined and publicized by the Commission from time to time.

(c) Except as provided by § 132.4, requests for additional certification shall be made for those contributions received by the candidate after the close of the period for which the previous submission was made.

(d) The Commission shall certify to the Secretary of the Treasury any additional amount to which a candidate is entitled within 15 calendar days of receipt of information submitted under paragraph (a).

§ 132.3 Payments and deposits of Presidential primary matching funds.

(a) Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate will promptly transfer the amount certified from the matching payment account to the candidate.

(b) In making such transfers to candidates of the same political party, the Secretary or his or her delegate will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary or his or her delegate will take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

(c) Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

§ 132.4 Insufficient documentation.

Contributions which are otherwise matchable may be rejected for matching purposes because of insufficient supporting documentation. These contributions may become matchable if there is a proper resubmission in accordance with §§ 132.5 and 132.6. Insufficient documentation includes—

(a) Discrepancies in the written instruments, such as—

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount of the contribution, or the listing of the committee or candidate as payee;

(b) Discrepancies between listed contributions and supporting documentation, such as—

(1) The contributor's name is misspelled;

(2) The listed amount requested for matching exceeds the amount contained on the written instrument; and

(3) A written instrument has not been submitted to support a listed contribution;

(c) Discrepancies within or between contribution lists submitted, such as—

(1) The address of the contributor is missing or incomplete, or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item; and

(2) A discrepancy in aggregation within or between submissions, or a listing of a contributor more than once within the same submission.

§ 132.5 Certification review and notice.

(a) The Commission will review the submission to determine if the submission meets acceptable standards of good order. Those submissions not meeting the standards will not be certified, and the candidate will be requested to resubmit the documentation. Submissions of a sufficient size will be reviewed using statistical sampling, and the candidate will be given the option of correcting and resubmitting the documentation or of accepting a dollar reduction in the amount requested for matching based on the results of the sample. If the Commission certifies to the Treasury for payment an amount which is less than the amount requested by the candidate, the Commission shall notify the candidate in writing which notice or notices shall include—

(1) The amount less than the full amount requested for certification;

(2) The amount of the contribution and the name of the contributor which the Commission considers not matchable and the reasons therefore, or, if statistical sampling is used, the estimated amount of contributions by type and the reasons for rejection;

(3) The amount of matchable contributions that are not in dispute which the Commission will certify to the Treasury for payment; and

(4) A statement that the candidate has the opportunity to supply the Commission with additional documentation or other explanation in the form of a resubmission under § 132.6 so as to make the disputed contributions matchable.

(b) In any case where the candidate or his or her committee has knowledge that a contribution which has been submitted for matching purposes does not so qualify, such as a check returned to the committee for insufficient funds, the Commission shall be notified as soon as possible so that a proper adjustment may be made in the amount to be certified.

§ 132.6 Resubmissions and hearing opportunity.

(a) Contributions which were submitted and rejected under § 132.5(a) may be resubmitted with the necessary information.

(b) In order to be reviewed, the resubmission of disputed contributions shall be made on a separate list identifying the submission in which the contributions were originally submitted.

(c) Resubmissions must be presented to the Commission at a time specified and, to the extent approved, will be certified to the Secretary of the Treasury within 15 calendar days.

(d) If the candidate chooses to make a resubmission and the Commission determines that the disputed contribution is still unmatchable, the Commission will notify the candidate in writing of such action and the reasons therefor and will accord the candidate an opportunity for a hearing if he or she so requests within 7 days from the receipt of this second notification.

(e) The hearing shall be informal and shall be held before the Commission or a designee of the Commission who shall not have been responsible for the certification in question. The candidate or his or her representative shall bring to the hearing all documents relevant to the disputed contributions.

(f) The Commission shall certify for payment the amount of the disputed contributions which have been found at the hearing to be matchable. Failure of the Commission to certify unresolved disputed contributions shall constitute a final and conclusive determination by the Commission. The Commission shall so notify the candidate of its determinations.

PART 133—TERMINATIONS OF PAYMENTS

Sec.
133.1 Continuation of certification.
133.2 Ineligibility dates defined.
133.3 Use of matching payments; net outstanding campaign obligations.
133.4 Determination of inactive candidacy.
133.5 Determination of active candidacy.
133.6 Reestablishment of eligibility dates.
133.7 Suspension of payments.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 133.1 Continuation of certification.

Except as provided by § 133.3,

(a) Candidates who have received matching funds may continue to submit contributions to the Commission to be certified for matching through January 21 of the year following the election.

(b) No contribution will be matched if it is submitted after this period, regardless of the date the contribution was deposited.

§ 133.2 Ineligibility dates defined.

The ineligibility date of a candidate is determined by paragraph (a) or (b), whichever occurs first.

(a) The day on which an individual ceases to be a candidate because the candidate is not actively conducting campaigns in more than one State in connection with seeking the nomination for election to the office of President of the United States. That date shall be the earlier of—

(1) The date the candidate publicly announces to be the date that he or she will not be actively conducting campaigns in more than one State; or

(2) The date which the Commission determines under § 133.4 to be the date that the candidate is not actively seeking election in more than one State; or

(b) The 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission at least 15 days prior to the primary that he will not be an active candidate in the primary involved.

(1) For purposes of this paragraph, if the primary elections involved are held in more than one State on the same date, the highest percentage of votes a candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern.

(2) For purposes of this paragraph, the Commission may determine that, notwithstanding the certification by the candidate that he is not an active candidate in the primary involved, he will be deemed to be an active candidate if the Commission so finds under § 133.5.

§ 133.3 Use of matching payment; net outstanding campaign obligations.

(a) Matching payments shall be used only to defray qualified campaign expenses.

(b) If either § 133.2(a) or § 133.2(b) becomes applicable to a candidate, any expenses incurred after that date are *not* qualified campaign expenses. Matching payments made to a candidate, after the date he or she becomes ineligible under § 133.2 (a) or (b) may only be used to defray net outstanding campaign obligations as of the date determined by § 133.2 (a) or (b).

(c) Net outstanding campaign obligations are total outstanding obligations for qualified campaign expenses as of the close of business on the last date of candidate eligibility less the amount of cash on hand and less the total of any debts owed *to* the campaign in the form of returns or rebates of qualified campaign expenses (telephone deposits, reimbusements for the press or Secret Service for travel, etc.).

(d) If a campaign has *no* net outstanding campaign obligations—

(1) The ineligible candidate may not receive further matching payments regardless of the date of deposit of the underlying contributions; and

(2) Any surplus on the date of ineligibility shall be returned to the Treasury in an amount determined by the formula specified in § 134.3(c).

(e) If a campaign has net outstanding campaign obligations, the candidate may, subject to § 130.6, submit contributions for matching, regardless of the date of deposit, but in no event will the Commission certify for matching an amount which exceeds outstanding campaign obligations.

§ 133.4 Determination of inactive candidacy.

(a) The Commission may make an initial determination that a candidate is no longer actively seeking nomination for election in more than one State, unless the candidate chooses to send a letter to the Commission indicating an inactive status.

(b) A notice of initial determination shall be sent to the candidate, which determination shall become final if the candidate fails to respond within 10 business days.

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(c) The candidate will be afforded an opportunity to make a showing that he or she is an active candidate.

(d) After a proper hearing, the Commission may make a final determination that the candidate is inactive.

(e) The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials;

(3) Continued payment and employment of personnel and use of volunteers; or

(4) The release of committed delegates, or permitting an opponent to seek their support.

§ 133.5 Determination of active candidacy.

If a candidate certifies to the Commission that he will not be an active candidate in the primary involved under § 133.2(b), the Commission may nevertheless determine that the candidate is active in the primary involved based upon the same criteria and procedure outlined in § 133.4.

§ 133.6 Reestablishment of eligibility dates.

(a) If a candidate is not actively conducting campaigns in more than one State, the Commission may subsequently find that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make this finding without requiring such individual to reestablish his eligibility to receive payments under § 131.2. This finding will be based upon a showing that the candidate is making a bona fide effort to campaign in more than one State. The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertising;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials; and

(3) Continued payment and employment of personnel and the use of volunteers, and the continued existence of a campaign organization in a State. The day which the Commission determines to be the day the candidate became active again is the reestablishment of eligibility date.

(b) If it has been determined that § 133.2(b) applies to a candidate, the reestablishment of eligibility date shall be the day on which the candidate receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.

(c) If the candidate is reestablished under § 133.6(a) or (b), contributions which were not matched during the ineligibility period may be matched, and the payment received may be used to defray expenses incurred during the ineligible period and during the ensuing period of eligibility.

§ 133.7 Suspension of payments.

If the Commission determines that a candidate or his principal campaign committee substantially failed to comply with § 131.1(a)(4), no certifications will be made until the Commission determines that § 131.1(a)(4) has been substantially complied with. Before suspending payments, the Commission shall notify the candidate and afford him or her an opportunity to demonstrate that the requirements of Title 2 have been substantially complied with.

PART 134—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
134.1 Audit.
134.2 Repayments.
134.3 Liquidation of obligations; repayment.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 134.1 Audit.

(a) After the close of a matching payment period, the Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committees who received Presidential primary matching funds.

(b) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

§ 134.2 Repayments.

(a) If the Commission determines that—

(1) Any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount to which such candidate was entitled; or

(2) Any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(i) To defray qualified campaign expenses; or

(ii) To repay loans which were used to defray qualified campaign expenses; or

(3) Any portion of any payment made to a candidate on the basis of contributions received after the ineligibility date in § 133.2 was used for any purpose other than to defray qualified campaign expenses incurred before the ineligibility date;

The Commission shall so inform the candidate as soon as possible, but no later than 3 years after the end of such matching payment period, and the candidate shall repay to the Secretary of the Treasury, within 90 days of the notice, an amount equal to the excess payments, or an amount equal to the amount expended for nonqualified campaign expenses. Upon application submitted by the candidate, the Commission may grant a 90-day extension of the repayment period.

(b) If the candidate disputes the Commission's determination that a repayment is required, he or she shall notify the Commission within 30 days of receipt of the Commission's notification to the candidate.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination requiring repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

§ 134.3 Liquidation of obligations; repayment.

(a) Qualified campaign expenses may be liquidated through use of matching payment funds during a period up to 6 months after the end of the matching payment period.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) If on the last day of candidate eligibility the net outstanding campaign obligations of the candidate, as defined in § 133.3(c), reflect a surplus, the candidate shall repay to the Secretary of the Treasury an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received from the matching payment account bears to the aggregate of all contributions and matching funds deposited in all the candidate's depositories from the first day of the matching payment period through the last day of candidate eligibility. Repayment shall be made within 30 days after the liquidation of all outstanding campaign obligations, but no later than 6 months after the end of the matching payment period.

(2) If on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations. Any amounts paid which are not used to liquidate the net outstanding campaign obligations within 6 months shall be repaid to the Treasury 30 days thereafter.

(d) All payments received by the Secretary under §§ 134.2 or 134.3 shall be deposited in the matching payment account.

SUBCHAPTER D—PRESIDENTIAL ELECTION CAMPAIGN FUND, GENERAL ELECTION FINANCING

PART 140—DEFINITIONS

Sec.
140.1 Authorized committee.
140.2 Candidate.
140.3 Commission.
140.4 Eligible candidates.
140.5 Fund.

Sec.
140.6 Major party.
140.7 Minor party.
140.8 New party.
140.9 Political committee.
140.10 Presidential election.
140.11 Qualified campaign expense.
140.12 Expenditure report period.
140.13 Contribution, exclusions.
140.14 Secretary.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)); and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 140.1 Authorized committee.

"Authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

§ 140.2 Candidate.

(a) "Candidate" means, with respect to any Presidential election, an individual who—

(1) Has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party; or

(2) Has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States.

(b) For purposes of §§ 140.6, 140.7, and 142.2 the term "candidate" means, with respect to any preceding Presidential election, an individual who received popular votes for the office of President in such election.

(c) The term "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States in more than one State.

§ 140.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

§ 140.4 Eligible candidates.

"Eligible candidates" means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in Part 141.

§ 140.5 Fund.

"Fund" means the President Election Campaign Fund established by 26 U.S.C. § 9006(a).

§ 140.6 Major party.

"Major party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

§ 140.7 Minor party.

"Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

§ 140.8 New party.

"New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

§ 140.9 Political committee.

"Political committee" means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

§ 140.10 Presidential election.

"Presidential election" means the election of Presidential and Vice-Presidential electors.

§ 140.11 Qualified campaign expense.

"Qualified campaign expense" means an expense—

(a) Incurred—

(1) By the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both;

(2) By the candidate of a political party for the office of the Vice President to further his election to that office or to further the election of the candidate of the political party for the office of President, or both;

(3) By an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of the candidates to the respective offices; or

(4) By a person authorized by the Presidential or Vice-Presidential candidate or any of their authorized committees, as the case may be, to incur an expense on behalf of the candidate or committee;

(b) Incurred within the expenditure report period or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period; or

(c) Incurred for travel, such as renting airplanes and buses, but only to the extent of the greater of—

(1) Gross transportation expenses, less Secret Service and media reimbursements; or

(2) The product of (i) the highest rate for which reimbursement is sought by the candidate from any person for transportation, multiplied by (ii) the total persons transported, less the number of—

(A) Airline or bus company employees;

(B) Secret Service; and

(C) Media personnel;

(d) Neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

(e) "Qualified campaign expense" does not include, inter alia, amounts paid by a campaign for—

(1) Expenses incurred after the expenditure report period;

(2) Legal and accounting services paid for by the lawyer's or accountant's regular employers or by the candidate or his or her committee and rendered solely for the purposes of insuring compliance with this Act or chapter 95 of the Internal Revenue Code of 1954, except if the candidate wishes to treat those expenses as qualified campaign expenses, and, in any event, amounts paid or incurred for these services shall be reported in accordance with Part 104.

§ 140.12 Expenditure report period.

"Expenditure report period" with respect to any Presidential election means—

(a) In the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the Presidential election; and

(b) In the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such Presidential election under paragraph (a).

§ 140.13 Contribution; exclusions.

For purposes of this subchapter—

(a) "Contribution" is given the meaning in § 100.4; and

(b) "Contribution" does not include

(1) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations and in the ordinary course of business and not endorsed or guaranteed by any person other than the candidate to the extent that the amount so endorsed by the candidate, when added to all other expenditures made from his personal funds and those of his immediate family, does not exceed $50,000;

(2) Reimbursements to the candidate or his or her authorized committee from members of the press, the Secret Service,

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or other persons for air and surface transportation; or

(3) Contributions made to a candidate or his or her committees to defray nonqualified campaign expenses (see § 140.11(e)). These contributions are subject to the limitations of Part 110, and shall be deposited in, and disbursed from, a separate account and not commingled with any money from the fund.

§ 140.14 Secretary.

"Secretary" means the Secretary of the Treasury.

PART 141—ELIGIBILITY FOR PAYMENTS

Sec.
141.1 Candidate agreements.
141.2 Candidate certifications.
141.3 Allowable contributions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 141.1 Candidate agreements.

In order to be eligible to receive any payments under § 143.2, the candidates of a political party in a Presidential election shall, in writing—

(a) Agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates;

(b) Agree to keep and furnish to the Commission such records, books, and other information as it may request;

(c) Agree to an audit and examination by the Commission under Part 145 and to pay any amounts required to be paid under that section; and

(d) Provide the Commission with the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository.

§ 141.2 Candidate certifications.

(a) Major parties. In order to be eligible to receive any payments under § 143.2, the candidates of a major party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) The candidates and their authorized committees will not incure qualified campaign expenses in excess of the aggregate payments to which they will be entitled under § 142.1; and

(2) No contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. § 9006(d), and no contributions to defray expenses which would be qualified campaign expenses but for § 140.11(c) have been or will be accepted by such candidates or any of their authorized committees.

(b) Minor and new parties. In order to be eligible to receive any payments under § 143.2, the candidates of a minor or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) Such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under § 142.1; and

(2) Such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to § 143.2.

(c) All parties. In order to be eligible to receive any payment under § 143.2, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this paragraph, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(1) For purposes of this paragraph the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(2) For purposes of this paragraph expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(3) Expenditures from personal funds made under this paragraph shall not count toward the expenditure limitations.

(d) The certifications in paragraphs (a)-(c) shall be made no sooner than the day upon which the individual became a nominee and no later than 14 days after the nomination.

§ 141.3 Allowable contributions.

Candidates for the office of President and Vice President may accept contributions to defray the expenses specified in § 140.11(e)(1) and (2), provided that—

(a) No donations are made by an organization prohibited from contributing by Parts 114 and 115, and contributions from other persons do not exceed the limitations set forth in Part 110;

(b) The contributions shall be deposited and maintained in an account separate from that described in § 143.2, and shall not be commingled with the money paid to the candidates by the Secretary pursuant to § 143.2;

(c) Receipt of any and all of these contributions shall be reported in a report separate from, and in addition to, the report required by § 144.1;

(d) Any solicitation for these contributions must clearly state the purpose to which the contributions are to be applied; and

(e) Any excess of the contributions may not be used to retire debts remaining from the Presidential primaries.

PART 142—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

Sec.
142.1 Major parties.
142.2 Minor parties.
142.3 Minor and new parties; post-election payments.
142.4 Use of payments.
142.5 Withdrawal by candidate.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 142.1 Major parties.

The eligible candidates of each major party in a Presidential election shall be entitled to equal payments under § 143.2 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under 2 U.S.C. § 441a(b)(1)(B).

§ 142.2 Minor parties.

(a) The eligible candidates of a minor party in a Presidential election shall be entitled to payments under § 143.2 equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding Presidential election.

(b) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding Presidential election and received 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of §§ 141.1 and 141.2, shall be treated as eligible candidates entitled to payments under § 142.1 in an amount computed as provided in paragraph (a) by taking into account all the popular votes received by such candidate for the office of President in the preceding Presidential election. If eligible candidates of a minor party are entitled to payments under this paragraph, such entitlement shall be reduced by the amount of the entitlement allowed under paragraph (a).

§ 142.3 Minor and new parties; post-election payments.

(a) The eligible candidates of a minor party or a new party in a Presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under this part equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties.

(b) In the case of eligible candidates entitled to payments under § 142.2 the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under § 142.2.

§ 142.4 Use of payments.

(a) The eligible candidates of a political party shall be entitled to payments only—

(1) To defray qualified campaign expenses incurred by such eligible candidates or their authorized committees; or

(2) To repay bank loans in the case of a major party candidate, and all other loans in the case of a minor or new party candidate, the proceeds of which were used to defray such qualified campaign expenses or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by minor or new party candidates or committees) used to defray such qualified campaign expenses.

(b) Payments may be invested by an eligible candidate or his or her authorized committee, but any income derived from an investment, such as interest on a certificate of deposit, shall be returned to the Secretary.

§ 142.5 Withdrawal by candidate.

In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of § 140.2(c) such individual—

(a) Shall no longer be eligible to receive any payments under § 143.2, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(b) Shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under § 143.2 which are used to defray qualified campaign expenses.

PART 143—CERTIFICATION BY COMMISSION

Sec.
143.1 Initial certification.
143.2 Payments from the fund.
143.3 Finality of certification; hearings.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 143.1 Initial certification.

Not later than 10 days after both of the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under Part 141, the Commission shall certify to the Secretary for payment to the eligible candidates under § 143.2 payment in full of amounts to which the candidates are entitled under Part 142.

§ 143.2 Payments from the fund.

(a) Upon receipt of a certification from the Commission under § 143.1 for payment to the eligible candidates of a political party, the Secretary shall pay to Presidential and Vice-Presidential candidates out of the fund the amount certified by the Commission.

(b) Payment received by the Presidential candidate shall be deposited in a separate account maintained by his principal campaign committee. The Presidential candidate nominated by a political party may designate the national committee of that political party as the candidate's principal campaign committee.

(c) Payment received by the Vice-Presidential candidate may be deposited in a separate account other than the Presidential account in paragraph (b) as long as that account is in the same depository as that maintained by the Presidential candidate.

(d) No funds other than the payments received from the Treasury and the reimbursements described in § 140.11(c) may be deposited in the accounts described in paragraphs (b) and (c).

(e) Except as provided by this subchapter, amounts paid to any candidate shall be under control of that candidate.

§ 143.3 Finality of certification; hearings.

(a) Certifications by the Commission under § 143.1, and all determinations made by it under this subchapter shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under Part 145 and judicial review under 26 U.S.C. § 9011.

(b)(1) If the candidate disputes any determination made by the Commission under § 143.1, the candidate shall notify the Commission within 15 days of the determination in order to request a re-determination.

(2) Upon receipt of the request for a re-determination, the Commission shall afford the candidate an opportunity to be heard and to present supporting evidence.

PART 144—REPORTS AND RECORD KEEPING

Sec.
144.1 Separate reports.
144.2 Allocation of administrative expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 144.1 Separate reports.

(a) The principal campaign committee of any Presidential candidate of a major party, the candidate himself, unless waived, and all authorized committees shall report all expenditures with respect to the general election separately from any other monthly or quarterly reports, as if the general election were the only election activity engaged in by the committees and the candidate.

(b) In addition to the requirements in paragraph (a), minor and new parties shall report the receipt of any private contributions for the general election.

§ 144.2 Allocation of administrative expenses.

If an authorized committee (including the national committee if authorized) of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in proportion to the number of other candidates supported. For example, if an authorized committee supports the Presidential candidate, the Vice-Presidential candidate, 5 congressional candidates, and 9 State candidates, the total number of candidates supported is 16. The amount of overhead and administrative expenses incurred by the authorized committee for the Presidential and Vice-Presidential candidates is 2/16 or 1/8.

PART 145—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
145.1 Audits, records, and investigations.
145.2 Repayments.
145.3 Notification.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 145.1 Audits, records, and investigations.

(a) After each Presidential election, the Commission shall conduct a thorough examination and audit of the qualified

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campaign expenses of the candidates of each political party for President and Vice President.

(b) In addition, the Commission may conduct other examinations and audits or investigations and require the keeping and submission of books, records, and information as it deems necessary to carry out the functions and duties imposed on it by this subchapter.

§ 145.2 Repayments.

(a) If the Commission determines that—

(1) Any portion of the payments made to the eligible candidates of a political party under § 143.2 was in excess of the aggregate payments to which candidates were entitled under Part 142;

(2) The eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under Part 142;

(3) The eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of 26 U.S.C. § 9006(c) or loans from a bank) to defray qualified campaign expenses (other than those excess qualified campaign expenses with respect to which repayment is already required under paragraph (a)(2) of this section); or

(4) Any amount of any payment made to the eligible candidates of a political party under § 143.2 was used for any purpose other than—

(i) To defray qualified campaign expenses with respect to which the payment was made; or

(ii) To repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions received by a minor or new party candidate to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses;

The Commission shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to the amount determined under paragraphs (a)(1)-(4).

(b) Any portion of the payment under § 143.2 which remains unspent after all qualified campaign expenses have been paid shall be returned to the Secretary.

(c) No repayment shall be required from the eligible candidates of a political party under § 145.2 to the extent that any repayment, when added to other repayments required from the candidates under § 145.2, exceeds the amount of payments received by the candidates under § 143.2.

(d)(1) The candidates shall repay to the Secretary within 90 days of the notice in paragraph (a) an amount equal to the excess payments or an amount equal to the amount expended for nonqualified campaign expenditures. Upon application submitted by the candidate, the Commission may grant a 90-day extension of the repayment period.

(2) If the candidates dispute the Commission's determination that a repayment is required, they shall notify the Commission within 30 days of receipt of the Commission's notification to the candidates.

(i) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination of repayment.

(ii) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

§ 145.3 Notification.

No notification shall be made by the Commission under § 145.2(a) with respect to a Presidential election more than 3 years after the day of the election.

PART 146—OTHER EXPENDITURES

§ 146.1 Expenditures by political party committees.

Notwithstanding the expenditure limitation applicable to the candidates, national, State, and subordinate committees of a political party may make expenditures in connection with a Presidential general election in amounts that do not exceed those specified in § 110.7.

(Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b))).

[FR Doc.76-24855 Filed 8-20-76;1:00 pm]

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WEDNESDAY, AUGUST 25, 1976



PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

■

ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

Financing Public and Private Development

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[24 CFR Parts 710, 720]

[Docket R-76-415]

ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

Financing Public and Private Development

The Department proposes to amend Title 24 by revising the title of Subchapter B to read "Assistance for New Communities—1968 Act" and the title of Part 710 to read "Financing Private New Community Development" and by adding a new Subchapter C, "Assistance for New Communities—1970 Act" and under Subchapter C a new Part 720 entitled "Financing Public and Private New Community Development." On July 31, 1971, 36 FR 14205–14, a notice of proposed rule making, R–71–133, proposed comprehensive regulations to implement Title VII of the Housing and Urban Development Act of 1970 (Part B of the Urban Growth and New Community Development Act of 1970), 42 U.S.C. 4511. With the passage of time, that proposal has become obsolete and the rule making proceeding in Docket No. R–71–133 is therefore being terminated. However, a number of comments were received in response to that Notice and each of these comments will be considered in developing the regulations herein proposed. Moreover since 1971, additional operating experience has enabled the Department to review and revise the earlier proposal with the objective of better explaining basic program requirements. This Notice, then, invites further public comment on a proposed rule significantly changed from the 1971 proposal with the intention of developing a clearer and more complete final rule.

Part 720 consists of six Subparts as follows:

Subpart A sets forth the purposes of Part B of the Urban Growth and New Community Development Act of 1970 and states the authority of the Secretary, including the power to guarantee debt obligations issued by, or on behalf of Developers to assist in financing new community Projects and the power to make supplementary grants to assist in providing necessary public facilities. It also sets forth the organization of the new communities program within HUD, including the New Community Development Corporation and the New Communities Administration.

Subpart B contains the criteria and standards which the Secretary will apply in determining whether a proposed Project is approvable under the Act. These criteria and standards include: (1) Internal characteristics, such as the relative balance of proposed land uses; (2) Urban growth considerations, including the functional types of Projects which may be assisted and the relationship of a Project to its surrounding area; (3) The physical plan and program for the Project; (4) The proposed system for the delivery of human services and facilities such as health, education and recreation and the local governmental structure and other arrangements for the provision of such services; (5) The provision of housing to accommodate a broad range of income levels, employment opportunities in support of such provisions and which provide for federal assistance to meet low and moderate income housing goals; (6) The level and type of necessary State and local government reviews and approvals; (7) Environmental planning requirements; (8) The impact of a Project on the area it will affect and the degree of consistency with existing comprehensive areawide plans; (9) The use of advances in design and technology with respect to land utilization, materials and methods of construction and the provision of community facilities and services; (10) The establishment and maintenance of an affirmative action program to assure equal opportunity in all phases of the new community including employment and housing; (11) The basis for determining that the Developer possesses the financial, technical and administrative ability to carry out the Project with reasonable assurance of its completion as scheduled; (12) Labor standards, use of small builders, work safety and health standards, relocation and the regulation of utilities.

Subpart B also contains criteria and standards designed to establish the economic feasibility of a Project and the acceptability of its financial risk to the Government. These criteria and standards include necessary determinations regarding: (1) Marketing assumptions; (2) projected revenues and costs to the Developer, to any community association which may be established and to each Subsidiary over the development period; (3) the financial experience of the Developer including its ability to borrow sufficient funds and contribute required equity to the Project; (4) the maximum outstanding indebtedness which may be guaranteed under the Act for any Project; (5) provisions relating to the security interests of the United States; (6) the administration of the Escrow Account; (7) the terms of the guarantee; (8) appropriate financial tests and controls designed to assure the Developer's ability to meets its liabilities and to provide an early warning system regarding any financial problems being encountered in development of the Project; and (9) methods for preparing and auditing financial statements.

Subpart C sets forth in sequential order the procedural steps leading to the approval or disapproval of applications for initial and additional guarantee assistance and for a Determination of Eligibility. It specifies the nature and content of the Project Agreement and other documents which evidence the commitment of the Secretary to guarantee a specified maximum principal amount of debt obligations to be issued by the Developer. The Subpart also indicates the procedures which shall be followed by applicants under the Act in order to comply with OMB Circular A–95, as well as the effect upon processing of compliance by the Secretary with the National Environmental Policy Act of 1969.

Subpart D sets forth the requirements, purposes and methods for monitoring and evaluating the progress of Projects throughout the development period to assure compliance with the Project Agreement. It sets forth policies and procedures concerning the rights of the Secretary with respect to inspection, amendments to Project Documents and waivers and remedies of the Secretary in the event of default. In addition, this Subpart specifies the periodic financial and nonfinancial reports and projections which Developers are required to submit as well as the special notification and internal evaluation requirements which they must comply with.

Subpart E specifies the general requirements and procedures applicable to assistance other than guarantee assistance which is available under Title VII and other Federal programs to Projects for which guarantee assistance has been provided under, the Act or for which a Determination of Eligibility has been made. The Subpart specifically deals with supplementary grants, community development block grants and federally-assisted housing.

Subpart F specified the fees and charges which have been established for payment to HUD in connection with the processing of applications for guarantee assistance and Determinations of Eligibility. These include application, commitment, reopening, guarantee, annual, and transfer fees and charges.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations.

Comments received by September 23, 1976 will be considered before final action is taken on this proposal.

Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made pursuant to HUD Handbook 1390.1. The environmental inapplicability statement will be available at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular No. A–107.

On January 14, 1975, the Secretary directed that the processing of applications on hand and the acceptance of applications for guarantee assistance to new projects be suspended. As a result, the proposed rule applies only to existing approved projects and does not alter the current moratorium concerning new project applications.

Accordingly, the Secretary proposes to amend Title 24 by (1) revising the title of Subchapter B to read "Assistance for New Communities—1968 Act", (2) revising the title of Part 710 to read "Financing Private New Community Development", (3) adding a new Subchapter C, "Assistance for New Communities—1970 Act", and (4) adding a new Part 720 to Subchapter C entitled "Financing Public and Private New Community Development" which reads as follows:

It is proposed to amend the title of Subchapter B and the title of Part 710 to read as follows:

SUBCHAPTER B—ASSISTANCE FOR NEW COMMUNITIES 1968 ACT

PART 710—FINANCING PRIVATE NEW COMMUNITY DEVELOPMENT

It is proposed to add Subchapter C and Part 720 to read as follows:

SUBCHAPTER C—ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

PART 720—FINANCING PUBLIC AND PRIVATE NEW COMMUNITY DEVELOPMENT

Sec.

Subpart A—General

720.1 Statement of applicable law.
720.2 Definitions.
720.3 Other authorities.
720.4 Program information.

Subpart B—Criteria and Standards

720.10 Applicability of this Subpart.
720.11 Statutory basis.
720.12 General criteria.
720.13 Physical plan and program.
720.14 Human service delivery system.
720.15 Housing and population balance.
720.16 Governmental reviews and approvals.
720.17 Environmental quality.
720.18 Welfare of the area.
720.19 Area planning and development.
720.20 Advances in design and technology.
720.21 Capacity and Ownership of the developer.
720.22 Equal opportunity.
720.23 Economic feasibility and financial risk.
720.24 Economic base and growth potential.
720.25 Financial plan.
720.26 Other financial review criteria.
720.27 Amount of Federal guarantee.
720.28 Debt obligations.
720.29 Security for the guarantee.
720.30 Escrow account.
720.31 Terms of guarantee.
720.32 Other financial standards.
720.33 Accounting standards and audit.
720.34 Other requirements.

Subpart C—Procedures for Application, Commitment and Agreement

720.50 Applicability of this Subpart.
720.51 Inquiry.
720.52 Pre-application.
720.53 Compliance with OMB Circular A–95.
720.54 Application for assistance.
720.55 Compliance with National Environmental Policy Act.
720.56 Commitment.
720.57 Project Agreement and other agreements.
720.58 Issuance of guaranteed obligations.
720.59 Additional guarantee assistance.
720.60 Projects initiated under the New Communities Act of 1968.

Subpart D—Project Execution and Monitoring

720.70 Applicability of this Subpart.
720.71 Purpose.
720.72 Inspection.
720.73 Reporting requirements.
720.74 Internal reporting and evaluation.
720.75 Amendments and waivers.
720.76 Remedies of the Secretary.

Subpart E—Other Assistance

720.80 Applicability of this Subpart.
720.81 Multiple forms assistance.
720.82 Supplementary grants.
720.83 Community development block grants.
720.84 Federally-assisted housing.

Subpart F—Fee and Charge Schedule

720.90 Applicability of this Subpart.
720.91 Fees and charges.

AUTHORITY: Sec. 7(d) Department of Housing and Urban Development 42 USC 3535(d), Title VI, Housing and Community Development Act of 1974, 42 USC 5401.

Subpart A—General

§ 720.1 Statement of applicable law.

(a) *Purposes of act.* The declared purposes of Part B of the Urban Growth and New Community Development Act of 1970 (42 U.S.C. 4511–32) are to:

(1) Provide Private Developers and State and Local Public Bodies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise;

(2) Strengthen the capacity of State and local governments to deal with local problems;

(3) Preserve and enhance both the natural and urban environment;

(4) Increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment;

(5) Encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities;

(6) Assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable costs;

(7) Increase the capability of all segments of the homebuilding industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth;

(8) Help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation;

(9) Encourage desirable innovation in meeting domestic problems whether physical, economic, or social; and

(10) Improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas.

(b) *Applicability of this part.* This Part is applicable to the following authorities of the Secretary (acting through the Corporation for the purposes of paragraph (b)(1) of this section) under the Act and under other provisions of law, to assist new community Projects:

(1) The guarantee of debt obligations issued by, or on behalf of, Developers for the purpose of assisting in the financing of new community Projects;

(2) Making supplementary grants for the purpose of assisting in the provision of facilities which are necessary or desirable for carrying out Projects. The authority to make such grants is subject to the following limitations:

(i) Supplementary grants may be made only for the purpose of assisting in the provision of facilities for which grants have been made under the following provisions of law: Section 3, Urban Mass Transportation Act of 1964 (49 U.S.C. 1602); (23 U.S.C. 120(a)) (highways other than interstate); section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719); Title VI of the Public Health Service Act (42 U.S.C. 291) (hospital and medical facilities); Title II of the Library Services and Construction Act (20 U.S.C. 355(a)); section 5 of the Land and Water Conservation Fund Act of 1961 (16 U.S.C. 460(l)); Title VII of the Housing Act of 1961 (42 U.S.C. 1500); section 702 or 703 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102–3); section 8 of the Federal Water Pollution Control Act (33 U.S.C. 1281); section 306(a)(2) of the Consolidated Farmers Home Administration Act (7 U.S.C. 1926(a)(2)); section 101(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131).

(ii) No supplementary grant may exceed 20 percent of the total eligible costs of providing the facility for which the grant is made, as determined by the Federal department or agency which makes a grant specified in paragraph (b)(2)(i) of this section, nor may the total Federal contribution to the cost of the facility exceed 80 percent of such total eligible costs;

(3) Providing other forms of assistance, benefits and priorities to assist in carrying out Projects; and

(4) Assisting Developers in securing other assistance to Projects which may be available under other Federal laws or under State or local laws.

§ 720.2 Definitions.

For the purpose of this Part, the following terms shall mean:

Act. Part B of the Urban Growth and New Community Development Act of 1970 (Title VII of the Housing and Urban Development Act of 1970, 42 U.S.C. 4511–32).

Actual cost. The costs (exclusive of rebates or discounts) incurred by a new community Developer or a Restricted Affiliate for Land Acquisition and in carrying out the Land Development assisted under the Act. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architects' fees, surveys, taxes and interest during development,

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organization and legal expenses, such allocation of general overhead expenses as is acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the Developer and a contractor, there may be included as part of Actual Cost an allowance for the contractor's profit or risk in an amount deemed reasonable by the Secretary.

Board. The Board of Directors of the Corporation.

Corporation. The New Community Development Corporation established within the Department of Housing and Urban Development under the Act.

Determination of eligibility. A determination by the Secretary, pursuant to section 712 of the Act (42 U.S.C. 4513) that a Project is a new community development program eligible for assistance, other than guarantee assistance, under the Act. The provisions of section 712 appear in § 720.11.

Developer. Any Public Developer or Private Developer.

Development plan. An exhibit to the Project Agreement which describes the Project, establishes the objectives of the Developer and specifies its undertakings with respect to physical and social elements of the Project over the development period.

Escrow account. An account which is security for the sole benefit of the Secretary consisting of the proceeds of all guaranteed obligations investments and other funds as provided in the Project Documents.

Financial plan. A document containing projected revenues and costs, prepared pursuant to § 720.25.

General manager. The chief executive officer of the Corporation.

Indenture. An indenture of mortgage and deed of trust executed by the Developer in favor of a Trustee, creating a lien on real and personal property as security for the Secretary.

Land acquisition. The acquisition of real property for Land Development as part of the project, including the removal of liens and encumbrances thereon.

Land development. The process of clearing and grading land making, installing, or constructing waterlines and water supply installations, sewer lines and sewage or waste disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, community or neighborhood central heating or air-conditioning systems and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial or other uses, or to provide facilities for public or common use. Land Development includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage or waste disposal installation, a community or neighborhood central heating or air-conditioning system, or a steam, gas, or electric line or installation, or (2) to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

Local public body or agency. Any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

Non-project activities. Activities other than Land Acquisition or Land Development.

Person. Any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, entity or government or any agency or political subdivision thereof.

Private developer. Any private entity organized in a form satisfactory to the Secretary for carrying out one or more Projects.

Project. The activities and undertakings required to carry out a program which meets the eligibility standards set forth in the Act and these Regulations.

Project agreement. The legal document by which the Secretary and the Developer agree to comply in all respects with the relevant provisions of the Act and with these Regulations.

Project documents. All Project-related documents executed or required by the Secretary.

Public developer. Any State or Local Public Body or Agency with authority to act as Developer in carrying out one or more Projects.

Regulations. The Regulations adopted by the Secretary under the Act.

Restricted affiliate or subsidiary. A Subsidiary restricted in its business operations pursuant to the Project Documents.

Revolving fund. The fund established by the Secretary pursuant to Section 717 of the Act for the purpose of making authorized program expenditures.

Secretary. The Secretary of Housing and Urban Development or the Secretary's authorized representative (HUD).

State. Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

Subsidiary. A Person of whom the Developer, directly or indirectly through one or more intermediaries, has control.

Trustee. A bank or trust company approved by the Secretary and named as trustee under an Indenture.

§ 720.3 Other authorities.

(a) *Authority of the Corporation.* Section 729(c) of the Act (42 U.S.C. 4532 (c)) directs that functions of the Secretary with respect to guarantees of new community development shall be administered through the Corporation. According to the delegation of authority, dated March 1971 (36 FR 5304), the Corporation performs the functions and duties and exercises the power and authority of the Secretary with respect to Part B of the Act. According to the by-laws of the Corporation (24 CFR 700.1), the Board has general supervision and direction of the Corporation and its officers.

(b) *General manager.* The General Manager is the chief executive officer of the Corporation and, under the general direction of the Board, has responsibility for executive management of the operation of the Corporation.

(c) *Establishment of the new communities administration.* The Secretary has established the New Communities Administration to perform policy, staff and operational roles in support of the Corporation.

(d) *The Administrator of the new communities administration.* An Administrator appointed by the Secretary is the chief executive officer of the New Communities Administration and is responsible directly to the General Manager.

§ 720.4 Program information.

(a) *General information.* Instructions for applying for assistance under this program as well as information on other Federal programs which are related to the establishment and development of new communities may be obtained from the Office of the Administrator, New Communities Administration, Department of Housing and Urban Development, Washington, D.C. 20410.

(b) *Other publications.* Detailed information, supplementing these Regulations and relating to planning, operations and management of new community Projects, is also available in HUD handbooks and guidelines.

Subpart B—Criteria and Standards

§ 720.10 Applicability of this Subpart.

This Subpart sets forth the policies and requirements which shall be met before Developers and Projects may qualify for guarantee assistance under the Act or for a Determination of Eligibility. Developers and Projects shall also comply with applicable Sections of this Subpart during the term of any Project Agreement executed pursuant to § 720.57.

§ 720.11 Statutory basis.

The basis for the criteria and standards set forth in this Subpart is provided by the folowing Sections of the Act:

Section 712. (a) A new community development program is eligible for assistance under this part only if the Secretary determines that the program (or the new community it contemplates)—

(1) Will provide an alternative to disorderly urban growth, helping preserve or enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities as to help reverse migration from existing cities or rural areas;

(2) Will be economically feasible in terms of economic base or potential for economic growth;

(3) Will contribute to the welfare of the entire area which will be substantially affected by the program and of which the land to be developed is a part;

(4) Is consistent with comprehensive planning, physical and social, determined by the Secretary to provide an adequate basis for evaluating the new community development program in relation to other plans (including State, local, and private plans) and activities involving area population, housing and development trends, and transportation, water, sewerage, open space, recreation, and other relevant facilities;

(5) Has received all governmental reviews and approvals required by State or local law, or by the Secretary;

(6) Will contribute to good living conditions in the community, and that such community will be characterized by well balanced and diversified land use patterns and will include or be served by adequate public, community, and commercial facilities (including facilities needed for education, health and social services, recreation, and transportation) deemed satisfactory by the Secretary;

(7) Makes substantial provision for housing within the means of persons of low and moderate income and that such housing will constitute an appropriate proportion of the community's housing supply; and

(8) Will make significant use of advances in design and technology with respect to land utilization, materials, and methods of construction, and the provision of community facilities and services.

(b) A new community development program approved for assistance under this part shall be undertaken by a private new community developer or State land development agency approved by the Secretary on the basis of financial, technical, and administrative ability which demonstrates capacity to carry out the program with reasonable assurance of its completion.

Sec. 716. (a) No guarantee or loan shall be made under this part unless the Secretary has determined that the new community development program represents an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, including the manner in which the developer proposes to finance and schedule land acquisition, land development, and marketing, and (2) the public purposes of this part and the special problems involved in financing new communities, including (i) the large amount of initial capital required to finance sound new communities, (ii) the extended period before initial returns can be expected, and (iii) the irregular pattern of cash returns characteristic of this type of development.

§ 720.12 General criteria.

(a) *Internal characteristics.* In determining whether a proposed Project (otherwise eligible for assistance and consistent with the purposes of the Act) is a new community within the meaning of the Act, the Secretary will apply the following general criteria:

(1) It must be designed so as to create a newly-built community or major addition to an existing community which includes most, if not all, of the basic services and facilities normally associated with a city or town: housing (including substantial provision for housing for persons and families of low and moderate income), transportation, utilities, industry, commerce, open space and recreation, education and health, cultural, and social facilities and services.

(2) It must, during each major phase of the development, combine the above components to acheve a well-planned and harmonious whole that is socially balanced, economically sound and environmentally attractive as a place to live, work and play.

(3) It must provide a framework for the creation of a substantial number and variety of jobs, both in conjunction with Project development and construction activities and through plans for the inclusion of sites for public and business enterprises within the Project.

(4) It need not be completely self-sufficient. In determining balance for a given Project, consideration shall be given to the adequacy of existing or projected development of services and facilities in the immediate area. However, the Project may not consist of housing alone, or housing with a minimum of commercial facilities serving only the immediate needs of people for neighborhood shopping. Nor may the Project be predominantly an industrial or commercial development, with a minimum supply of new housing.

(5) If a Project is proposed as a major addition to an existing community, the following criteria will be applied to determine whether the Project qualifies for assistance under the Act:

(i) The Project plan must evidence careful integration of the proposed Project development with the existing development.

(ii) The resultant community must be of substantially higher quality and designed to accommodate a substantially larger number of housing units and related urban functions than that which existed.

(b) *Urban growth considerations.* A Project shall provide an alternative to disorderly urban growth, or so improve general and economic conditions in established communities and rural areas as to help stem migration therefrom and shall in any event help to preserve or enhance desirable aspects of the natural and urban environment. In addition to criteria set forth in other Paragraphs of this section, the following factors will be considered in this context:

(1) The development proposed under the Project shall be significantly superior, as measured by environmental, fiscal and other impacts, to development which, in the absence of the Project, would be likely to occur in the area.

(2) The Project shall provide for an increase in available choices for living and working for individuals and families of varying incomes and social needs so as to help relieve pressures causing (i) detrimental and unnecessary migration from existing cities and from rural areas, and (ii) undue concentration of population by income, race, and lifestyle.

(3) The following types of Projects, clasified by functional relationship to the processes of urban growth, may be assisted under the Act. While this classification reflects commonly accepted categories of Projects, it is recognized that a particular Project may exhibit the characteristics of more than one such category or may not specifically fall in any of them. No Project, otherwise eligible for assistance under the Act, shall be disqualified solely on the basis of failure to be clearly identified under one of these categories. The Secretary and the Board may, however, acord priorities for approval based upon such categories:

(i) New Town-In-Town. Major developments within or adjacent to existing cities, on vacant land or land requiring limited redevelopment, whose purpose is to revitalize existing urban centers, stabilize surrounding neighborhoods and provide a wide range of housing within easy access of employment, commercial, recreational, cultural, and other facilities and amenities within such urban centers;

(ii) Satellite or Suburban: Projects located within or close to metropolitan areas which serve as superior alternatives to urban sprawl which would be likely to occur in their absence.

(iii) Small Town Growth Centers: Additions to smaller cities and towns, with potential for growth, which serve to avoid urban sprawl which would be likely to take place in their absence, or which serve to prevent economic decline and consequent migration to metropolitan areas; and

(iv) Free-Standing: Self-sufficient development, remote from existing urban centers, which may provide sound community development when combined with significant, long-term capital investment in hitherto economically underdeveloped areas.

(c) *Size.* The Project population, density or size of site area must be significant in comparison with existing development or communities in the area in which the Project is to be located, but no minimum or maximum population density or size of site area is prescribed. Size and boundary determinations may be influenced by natural features, political boundaries and existing development. Other determinants shall be considered, such as market data indicating the potential for, and absorption rate of, residential, commercial, and industrial growth, through an extended development period necessary to result in a balanced and mature community.

(d) *Access.* A Project shall have access to highways, airports, and other transportation facilities commensurate with its size and the reasonably anticipated requirements of its population, industry and commerce.

(e) *Relationship to surrounding area.* (1) A Project shall contribute to the social and economic welfare of the entire area which it will significantly affect.

(2) Site selection and internal planning for a Project shall reflect consideration of existing and planned development in the area surrounding the Project.

(3) To the extent that vital needs of the Project (such as energy supply, transportation access, water supply, waste treatment and disposal, etc.) are dependent on linkages with facilities and services outside the Project boundary, there must be reasonable assurance that feasible physical, financial and institutional methods and arrangements are available to meet such needs.

(4) A new community may, as appropriate, be incorporated as a separate municipality, or be subject to the jurisdiction of an existing city, town, county or other political entity.

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§ 720.13 Physical plan and program.

(a) *General requirement.* A Project shall include a general physical plan and program for creating and maintaining a functional and pleasing environment wrich is responsive to human needs.

(b) *Factors to be considered.* Among the factors which the Secretary shall consider in the evaluation of the general physical plan and program are the following:

(1) *Suitability of the site.* The site must be suitable for the proposed uses, considering its location, size, topography, microclimate and soil characteristics, and there must be a harmonious relationship of these uses with surrounding development, including protection of such uses against undesirable effects from the area surrounding the Project and protection of the area surrounding the Project from undesirable effects from the Project.

(2) *Interrelationship of plan components.* The various elements of the plan must be effectively interrelated through efficient, unified plans for land use, transportation and circulation, population density and distribution, employment, services, recreation and other elements.

(3) *Design controls.* Adequate controls and incentives must be included in the plan and program to create efficient land utilization and quality urban design, and to maintain architectural and environmental standards.

(4) *Phased development.* All elements of the physical plan and program (including housing, industry, utilities, commerce, circulation systems, management of undeveloped land, institutions, open space, recreation, service delivery systems and special features) shall be phased on a schedule compatible with economic feasibility and the achievement of social balance and shall be coordinated with the timing of Land Acquisition, Land Development and Disposition as reflected in the Financial Plan.

(5) *Consideration of alternatives.* Alternative plans, taking into account environmental, social, and other factors specified in this part, must be considered in the planning process.

(6) *Infrastructure and facilities.* The plan must contain adequate infrastructure and other public and private facilities, taking into consideration Project needs, recognized standards and existing facilities in the area. These shall include commercial, transportation, recreational, educational, health, religious and other community facilities as well as utility systems.

(7) *Provision for handicapped and elderly.* Buildings, outdoor areas and facilities must be designed to facilitate movement and self-sufficiency of the physically handicapped and elderly.

(8) *Adaptability of the plan.* The plan must be adaptable to the various needs and alternatives which may arise as the development program proceeds. The size of the initial land area which the Developer owns or controls must be adequate to permit the construction of a comparatively balanced community should completion of planned Land Acquisition prove to be infeasible.

(9) *Advances in design and technology.* The plan and program must show that significant use will be made of advances in design and technology.

§ 720.14 Human service delivery system.

(a) *General requirement.* The Project shall include a plan, satisfactory to the Secretary, for delivery of human services throughout the development period and must provide reasonable assurance of such cooperation of public and private entities as may be necessary to carry out the plan. Such plan shall include the following components:

(1) *Education.* High quality primary, secondary, adult and vocational education, and, as feasible and appropriate, institutions of higher education, directed to the needs of population groups which the new community is likely to attract, making maximum use of advanced methods, facilities, curriculum, and equipment and integrating the educational system into the life of the community.

(2) *Health.* An adequate comprehensive system of health facilities and services, accessible to new community residents of all ages and incomes, including ambulatory, hospital and long-term care, emergency and mental health services, care for the elderly and the mentally or physically handicapped, public health, nursing homes and, where feasible, prepaid health care as in health maintenance organizations.

(3) *Recreation and cultural.* Adequate recreational and cultural facilities and services which allow opportunity for full participation by all residents of the Project and are of sufficient variety to meet needs and preferences of all residents including low income persons, renters, minority group residents, and groups with special needs such as youth, the handicapped and the elderly.

(4) *Public safety.* A public safety system to proivde police and fire protection, emergency medical services, communications and other functions necessary to safeguard persons and property.

(5) *Other services.* Other services and facilities, including child care centers, information and referral systems, manpower development programs, religious institutions, social welfare, counseling, libraries, meeting places, advanced telecommunications systems, and other services identified by local agencies or residents.

(b) *Facilities.* The plan shall provide for the appropriate location of facilities needed to implement the human service delivery system and shall demonstrate that the financing of such facilities (and programs) through public and Developer resources, as they are needed, is feasible.

(c) *Planning and implementation process.* The plan shall provide for an ongoing planning and implementation process with Local Public Bodies, residents, community groups and private agencies to:

(1) Analyze the needs of the population projected for the new community by relevant subgroup to determine the diversity of needs, including consideration of needs by age, race, tenure of residents, sex, national origin, religion, marital status, family size, income and place of employment;

(2) Develop criteria for judging alternative plans for facilities and services based on identified needs;

(3) Inventory and evaluate the quality of existing facilities and services in the surrounding area in terms of ability to expand service and be responsive to the needs of current and future residents of the Project;

(4) Develop plans for providing the service systems discussed above to meet identified needs either through expansion of existing services or through other means; and

(5) Develop systems for insuring ongoing adjustment of plans, coordination of efforts, and evaluation of service delivery.

(d) *Structure for provision of services.* (1) To the maximum extent possible, the provision of services should be the responsibility of Local Public Agencies, preferably agencies of general purpose units of government rather than special purpose districts.

(2) To the extent necessary to meet and maintain the standards of services contemplated by the plan for the Project, the plan may provide for the creation of community associations to provide services which are not provided by Local Public Agencies. Such associations shall provide for membership and opportunity for full participation by all residents of the are which they serve. To the extent that such associations are initially controlled by the Developer, provision acceptable to the Secretary shall be made for the orderly transfer of control from the Developer to the residents. Provision shall be made, as may be appropriate, for the transfer of responsibility for delivery of services from such associations to appropriate government units as the earliest feasible time. All covenants creating community associations and all by-laws governing the boards of directors of such associations shall be approved by the Secretary.

§ 720.15 Housing and population balance.

(a) *General requirement.* A Project shall provide for the development and sale of land in accordance with a plan and program, acceptable to the Secretary, which:

(1) Provides for a variety of housing types within the Project to accommodate persons of a broad range of incomes, ages, household composition and lifestyles;

(2) Makes substantial provisions for housing within the means of persons of low and moderate income, which housing shall constitute an appropriate proportion of the Project's housing supply and of each major construction stage thereof;

(3) Provides for a broad range and mix of employment opportunities through industrial, commercial and institutional enterprises located in or nor the Project;

(4) Provides an opportunity for all persons who work within the Project to reside therein; and

(5) Provides for spatial distribution of housing, by type and price range, so as to avoid excessive concentration of low and moderate income households and afford all residents reasonably equal access to community and neighborhood facilities, services and activities.

(b) *Establishment of housing goals.* (1) *Initial goals.* A Project must be determined by the Secretary to provide a plan for Land Development and sales which will result in an acceptable amount, phasing and mix of housing based upon consideration of the following factors, except that in no case shall the amount of housing within the means of persons of low and moderate income be below a minimum level which may be determined by the Secretary to be necessary to meet the intent of the Act:

(i) Projected age, household composition and incomes of persons likely to be employed within or near the Project, based upon the employment plan and program specified in paragraph (c)(3) of this section and using methods of computation acceptable to the Secretary;

(ii) Current and projected need for housing by age, household size and income for the region and market area;

(iii) Impact of any commitments which may be required of the Developer, in connection with the provision of low and moderate income housing, upon the economic feasibility of the Project; and

(iv) Other factors (including, but not limited to, marketing, economic and social factors) as the Secretary may determine to be relevant to the overall success of the Project and its consistency with the purposes of the Act.

(2) *Periodic readjustment of goals.* The initial housing goals shall be subject to periodic readjustment by the Secretary based upon consideration, in addition to factors specified in paragraph (b)(1) of this section, of the following factors:

(i) Past performance and experience;

(ii) Changes in the income of low and moderate income Project residents;

(iii) Changes in supply and demand factors; and

(iv) Such other factors as the Secretary may determine to be appropriate.

(3) *Definition of low and moderate income.* As used in this Section, low-income refers to the income levels of families classified as "very low-income families" eligible for assistance under Section 8 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437(f)), or under any program designated as a successor program by the Secretary, or, if no such program exists, families within income levels to be established by the Secretary. Moderate-income refers to the income levels of families classified as "lower income families" eligible for assistance under the said Section 8 program, or under any program designated as a successor program by the Secretary, or, if no such program exists, families within income levels to be established by the Secretary. Currently effective income levels shall be provided by the New Communities Administration upon written request.

(c) *Program for achieving housing goals.* The Project must provide for a program acceptable to the Secretary which provides reasonable assurance that the housing goals established pursuant to paragraph (b) of this section will be met. Such program shall include the following elements:

(1) An obligation of the Developer to develop land in accordance with the plan, to use his best efforts to sell such land and, in connection with the sale of land, to bind the buyer thereof to use such land to provide housing in accordance with the plan;

(2) A commitment by the Developer to undertake such other actions as may be determined by the Secretary to be necessary to assure achievement of housing goals, including:

(i) Seeking, or causing others to seek, such assistance as may be available from Federal, State and local low and moderate income housing programs;

(ii) Causing, if economically feasible, unassisted housing for low and moderate income persons to be provided;

(iii) Reducing lot prices and making other financial contributions, subject to overall limitations of the latest approved Financial Plan;

(iv) Requesting and assisting officials of local political jurisdictions to take such action as may be needed to achieve housing goals;

(v) Complying with applicable local property and construction standards and FHA Minimum Property Standards; (MPS) (HUD 4900.1, 4910.1, 4920.1 and 4930.1), and

(vi) Assuring that adequate counseling services related to home maintenance and operation are provided to assist low and moderate income persons residing in the Project; and

(3) The Project shall provide for a program, consistent with market considerations as set forth in § 720.24, to attract a mix of commercial, industrial and institutional enterprises which will offer employment opportunities for persons with a broad range of skills and other qualifications, including, to the maximum extent feasible, employment opportunities for persons of low and moderate income.

(d) *Federal housing assistance programs.* It is the policy of the Secretary to encourage and assist, within budgetary constraints, the construction of a substantial number of housing units for persons of low and moderate income in approved Projects. Accordingly, to the extent determined by the Secretary to be necessary, taking into consideration among other things the elements set forth in paragraph (c)(2) of this section, above, to meet the then current annual housing goals (as determined under paragraph (b) of this section, for provision of low and moderate income housing within the Project), the Secretary shall assure that approved Projects receive a sufficient share of available federal assistance during a given fiscal year.

§ 720.16 Governmental reviews and approvals.

The Developer shall secure all State and local government reviews and approvals required by law or determined by the Secretary to be necessary for initiating and continuing the Project. To the extent significant Project activities will require or depend upon future approvals that are necessarily unobtainable at the time an offer of commitment is made or a Project Agreement is executed, reasonable assurance shall be provided that such approvals will be secured in a timely fashion, as needed. Unless otherwise specified by the Secretary, such assurance shall include the adoption by the governing body of the unit of general local government of a resolution in a form satisfactory to the Secretary, approving the general plan for the development of the new community. In addition, before an offer of commitment shall be accepted, the land proposed to be developed in the initial stage shall be subject to specific zoning or other equivalent required approval which permits development of such land in accordance with the Project plans.

§ 720.17 Environmental quality.

(a) *General requirement.* The Project must be determined by the Secretary to contribute to the preservation or enhancement of desirable aspects of the natural and urban environment.

(b) *Planning and execution.* All factors affecting the environment must be considered at every stage of planning and execution of the Project, incuding site selection and suitability analyses, land use planning, urban design and architecture, engineering, construction and management. The effects of and on probable surrounding development shall also be considered.

(c) *Factors to be considered.* (1) *Environmental components.* The components making up the environment, which must be taken into account in preparing applications and in determining whether the Project meets environmental requirements, include without limitation: air, water, energy, biota geology, soils, facilities and services, special physical features, climate, safety, physical and mental health, aesthetics, comfort and sense of community.

(2) *Relevant statutes and regulations.* Project planning and development must be determined to be in compliance with all applicable Federal, State and local laws and ordinances including, but not limited to, the following Federal statutes, regulations and guidelines which establish substantive environmental requirements and standards:

(i) National Flood Insurance Act (42 U.S.C. 4001 et seq.);

(ii) National Historic Preservation Act of 1966 (16 U.S.C. 470);

(iii) Clean Air Act (42 U.S.C. 1857 et seq.);

(iv) Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(v) HUD Circular 1390.2, Noise Abatement and Control;

(vi) Historical and Archaeological Data Act of 1974 (16 U.S.C. 469);

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(vii) Safe Water Drinking Act of 1973 (21 U.S.C. 349; 42 U.S.C. 201, 300f–300j–9);

(viii) Energy Policy and Conservation Act of 1975 (15 U.S.C. 753 et seq.);

(ix) Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.;

(x) Solid Waste Disposal Act as amended by the Resources Recovery Act of 1970 (42 U.S.C. 3259);

(xi) Noise Control Act of 1972 (42 U.S.C. 4901–18); and

(xii) Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661 et seq.),

(d) *Management.* To assure that environmental quality requirements will be achieved, management systems and controls shall be instituted to provide for the monitoring and analysis of components of the Development Plan affecting the environment, particularly major changes in environmental impact, over the life of the Project. Such systems and controls may involve coordination or participation by State, regional or local government.

(e) *Project agreement restrictions.* Reservations and restrictions which are considered by the Secretary to be necessary to assure the achievement of environmental quality objectives shall be incorporated in the Project Agreement.

§ 720.18 Welfare of the area.

The Project must contribute to the welfare of the entire area which will be substantially affected by the Project and of which the land to be developed is a part. Among the factors which the Secretary will consider in determining whether a Project meets this requirement are:

(a) The estimated fiscal impact of the Project on local units of government which are, or will be, responsible for meeting the on-site and off-site needs for public facilities and services generated by the Project. In determining this impact both the estimated expenditures and revenues, on- and off-site, incident to the development of the Project will be considered. Due to its importance, particular and detailed consideration will be given to the fiscal impact associated with the provision of educational facilities and services;

(b) The estimated fiscal impact of development which would be likely to occur in the absence of the Project, on local units of government which would be responsible for meeting the projected on-site and off-site needs for public facilities and services generated by such development. The factors indicated in paragraph (a) of this section will be considered for this purpose; and

(c) Other benefits and costs to the area generated by the Project such as jobs created and similar economic benefits, increased availability and accessibility of transportation, commercial, recreational, health, educational and other community facilities and services, and the anticipated overall effects of the new community upon the quality of development and growth of the area as a whole.

§ 720.19 Area planning and development.

(a) If the area within which the Project is to be located is covered by a comprehensive areawide plan or by an ongoing planning effort by an authorized agency, the Project must be consistent with such comprehensive plan or planning and must reflect consideration of any economic development programs, physical plans, social and service delivery plans and programs, and public works programs of relevant Federal, State, regional, city or county agencies for the area, provided such planning is, in the Secretary's judgment, sufficiently detailed to provide a reasonable basis for evaluating the relationship of the proposed new community to such other plans.

(b) Throughout the development period of the Project, there shall be continued planning coordination by the Developer with the appropriate local, areawide or State planning agencies.

§ 720.20 Advances in design and technology.

(a) *General requirement.* A Project shall make significant use of advances in design and technology with respect to land utilization, materials and methods of construction, and the provision of community facilities and services.

(b) *Scope and nature of advances.* Advances meeting the requirements of this section need not be limited to physical elements of a Project, but may include the Project as a whole, if it involves an advanced general concept or approach to community building, or any significant advance in the planning, design, financing or management of systems and institutional arrangements for meeting the needs of the community.

(c) *Factors to be considered.* The Secretary shall take the following factors into account in determining whether a given element of a Project meets the requirements of this section:

(1) A proposed element may meet this requirement if it constitutes an advance over general practice in the area in which the Project is located, even though it may have been instituted or applied in other areas of the country.

(2) While some degree of risk may be inherent, the probable impact of a proposed advance on marketability or other aspects of the Project shall be considered in relation to the overall economic feasibility of the Project. To the extent that a high risk advance is proposed for an element critical to the success of the entire Project, other feasible options shall be available in the event the advance shall prove to be infeasible.

(3) An advance accepted for the purposes of meeting the requirements of the Act shall, subsequent to its implementation, be subject to evaluation by the Developer or by outside groups, and to arrangements satisfactory to the Secretary for dissemination of information about the advance.

(d) *Financial assistance for advances.* (1) Where substantial costs for studies and implementation are involved, the Project shall include a plan financing of such costs by the Developer, by outside sources or by a combination thereof. Commitments of financing by the Developer shall be subject to overall economic feasibility requirements as set forth in § 720.23.

(2) It is the policy of the Secretary to assist the Developer, within budgetary constraints, in instituting or applying advances approved by the Secretary.

§ 720.21 Capacity and ownership of the developer.

The Developer shall possess the financial, technical, and administrative ability which demonstrates its capacity to carry out the Project with reasonable assurance of its completion in accordance with the Project Agreement. Such capacity shall in part be determined by the criteria and standards set forth in this section and elsewhere in these Regulations.

(a) *Management structure.* The Developer shall establish and maintain throughout the development period a management structure and system which, in the judgment of the Secretary, is appropriate to:

(1) The size and complexity of the Project;

(2) The amount of the debt obligations to be guaranteed or other assistance given;

(3) The current development status of the Project;

(4) The purposes, criteria, requirements and standards of the Act and the Regulations;

(5) Project Documents; and

(6) Principles of sound business practice.

Such plan shall identify the various components of its operation, including kinds and levels of expertise required over the development period. Consideration shall be given to projections of overhead costs, contingencies, and realistic schedules (especially during the initial stage of development) in establishing the workload and expertise needed for efficient and economical management during each stage of development.

(b) *Management system.* The management system shall include the following components:

(1) Establishment of goals and functions to be performed in planning, development and management of the new community;

(2) An identification of the roles to be performed in carrying out these functions by the Developer and by any entities outside the immediate control of the Developer, such as Local Public Bodies or affiliates and Subsidiaries;

(3) Planning and programming techniques, including a sound mechanism for long-range planning, which will permit proper phasing of diverse activities and the ability to adapt to changing requirements of the development process;

(4) A mechanism for measuring results against established criteria and standards;

(5) Provision of accurate and current data and analysis of changing conditions, and the utilization of this data in further decision-making; and

(6) Establishment of management control mechanisms to execute the program in an efficient manner.

(c) *Personnel resources.* (1) The Developer shall have, either in its own organization or available to it, personnel with the requisite managerial, administrative and technical ability and background appropriate to the implementation of the management structure and system as set forth under paragraphs (a) and (b) of this section. Proposed use of consultants, by number and profession, as a supplement to the Developer's management organization, shall be identified by development stage and cost.

(2) Prior to acceptance of the offer of commitment (see § 720.56), person(s) approved by the Secretary, who shall exercise the responsibilities of a chief executive officer for the Project shall be under contract to the Developer. Such approval shall be based upon consideration of background and experience indicating managerial ability and the probity of such individuals as determined pursuant to paragraph (d)(2) of this section.

(d) *Probity of owners and management staff.* (1) *Owners.* Prior to acceptance of the offer of commitment, the Developer shall submit such information as the Secretary shall require in order to conduct a background investigation of the stockholders, partners and any other Person having a direct or indirect ownership interest in the Developer. In the event that the results of any such investigation are adverse as to the probity of any such Person, the Secretary reserves the right to disapprove any such stockholder, partner or other Person. No sale, transfer, pledge or other disposition of all or any portion of a Private Developer's stock or other equity interest may be made without the approval of the Secretary. No sale, transfer, pledge or other disposition of the stock or other equity interest of any entity which directly or indirectly owns or controls any interest in a Private Developer may be made without the approval of the Secretary where either a change in control of the Private Developer may result or the transaction involves a Person or entity whom the Secretary deems to have a substantial relationship to the Project.

(2) *Management staff.* Prior to acceptance of the offer of commitment (and at any time thereafter that a change is proposed), the Developer shall submit such information as the Secretary may require in order to conduct a background investigation of the officers, directors, managing or general partners, and any other individual having a management function with respect to the Developer. In the event that the results of any such investigation are, in the judgment of the Secretary, adverse as to the probity of such Person, the Secretary reserves the right to disapprove any such Person.

§ 720.22 Equal opportunity.

(a) *General requirement.* A Project must be specifically designed and implemented so as to assure compliance with all requirements imposed by or pursuant to any applicable statute, executive order or regulation (as they have been or may be amended from time to time) concerning discrimination on the basis of race, creed, color, religion, sex, or national origin. These include Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–3619); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)); the Civil Rights Acts of 1866 and 1870 (42 U.S.C. 1981–2); Executive Order 11063 (27 FR 11527); and Executive Order 11625 (36 FR 19967); Executive Order 11246 (30 FR 12319) and Executive Order 11375 (32 FR 14303). These authorities apply variously so as to prohibit discrimination and promote equal opportunity in the use, sale, lease or other disposition of land, housing, or facilities in the Project and in employment in, or in the development of, the Project. Pursuant to the authority in each executive department to issue regulations and take other appropriate action under Executive Order 11063 with respect to its programs, discrimination on the basis of race, color, creed, or national origin in the use, sale, lease or other disposition of any land developed for residential or related uses with assistance under the Act is hereby specifically made a violation of that order enforceable under the terms of section 302 of the order after due notice and hearing. A Project must also be specifically designed and implemented to comply with all requirements imposed by or pursuant to section 3 of the Housing and Ubran Development Act of 1968 (12 U.S.C. 1701(u)), as it may be amended from time to time, regarding job and business opportunities for Project area residents.

(b) *Affirmative action program.* In furtherance of paragraph (a) of this section, and as a condition of the granting or continuation of assistance by the Secretary, the Developer shall formulate and implement an affirmative action program. Such program shall be in addition to any other requirements imposed by or pursuant to the authorities cited in paragraph (a) of this section. Such program shall include: (1) Planning and construction activities as well as marketing practices which provide a full range of individual housing choice and encourage members of various ethnic and racial minorities to live and work in the new community, cooperation with civil rights and civic groups, action to provide equal opportunity within the Developer's staff, and inclusion of equal opportunity provisions in pertinent contracts, subcontracts, covenants, and other documents; (2) an affirmative action program for equal employment opportunity in direct employment by the Developer and employment by contractors and subcontractors of the Developer. In addition, the Developer is encouraged to take all feasible steps to involve minority entrepreneurs in planning and development of the Project.

(c) *Monitoring of Affirmative Action Program.* The Developer shall establish methods to periodically assess the results of each portion of his affirmative action program. He shall incorporate, in a timely manner, appropriate adjustments to achieve the goals of such program.

§ 720.23 Economic feasibility and financial risk.

A Project must be determined by the Secretary to be economically feasible and to constitute an acceptable financial risk to the U.S. Government based upon consideration of the following factors:

(a) The economic potential of the Project, as measured against the criteria and other considerations described in § 720.24 for marketing land in accordance with assumptions as to prices, quantities, types, timing, and other factors specified in the plan for development of the Project;

(b) The Financial Plan for the Project prepared in accordance with § 720.25; and

(c) Other factors, including, without limitation, those set forth in § 720.26, affecting the financial risk to the United States.

§ 720.24 Economic base and growth potential.

A proposed Project must be determined by the Secretary to be likely to accomplish the marketing of land to be developed within the Project in accordance with assumptions as to prices, quantities, types, timing and other factors specified in a plan for development of the Project. Such determination shall be based upon consideration of studies and analyses included as part of the Developer's application, of the following market criteria and factors and such other information, studies and analyses as may be available to the Secretary:

(a) *Market criteria.* The size of the potential market for various categories of land use in the area must be determined, together with expected capture rates for the proposed Project, based upon consideration of the Project relative to other existing and probable development in the area. For each major land use category, consideration shall be given to the following factors:

(1) *Residential land.* (i) *Demand factors.* Historic absorption rates of residential units by type and price range, the current status and the historic and projected growth rate for each of the following market indicators: population, household size, employment, family income, personal income, housing preference and demand by type of units, including subsidized sale and rental housing units.

(ii) *Supply factors.* With respect to probable as well as existing supply: sales of residential land comparable as to the location, price per unit and per acre by type of dwelling unit; size, accessibility, and availabiltiy of other residential sites; utilities and amenities of other residential sites compared with the proposed Project; amount and condition of the housing stock by resident income; housing permits and starts; rental unit by

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type and monthly rent; and vacancy rates by type,

(2) *Industrial land.* (i) *Demand factors.* With respect to the market area for industrial land, which may constitute a larger area than that identified for the residential market: employment growth rates by types of industries; sizes and types of major industries located in the market area; capital investment and value added to the local tax base by these industries; the historic absorption rate of land zoned industrial; the size, growth rate and wage rates of the major industrial employers; availability of raw materials, transportation and markets for products; prevailing tax policies in the area, and other relevant factors.

(ii) *Supply factors.* With respect to probable as well as existing supply: availability of industrial sites in the market area by location and size; comparable historical sales and rental activity, including sale price per acre and per square foot rental rates; and availability of utilities and amenities.

(3) *Commercial land.* (i) *Demand factors.* Projections of retail sales to expected residents of the new community; identification of population in the trade area by driving time intervals, income profile and area consumer expenditure patterns; conversion of retail sales projections into space and land requirements; identification of existing and proposed commercial developments; capital investment by commercial center; and historic absorption rates of land zoned for commercial use.

(ii) *Supply factors.* Comparable sales and rental data and availability of sites outside the Project but within the trade area; generally the same type of information indicated in paragraph (a) (2) (ii) of this section.

(4) *Office land.* (i) *Demand factors.* Size of the market area; projections of white collar employment; space requirements per employee, industry or service; identification of existing and proposed office building centers; capital investment for office building; absorption rates of land zoned for office use; and historic vacancy rates.

(ii) *Supply factors.* Comparable sales and rental data and availability of sites outside the Project but within the market area; generally the same type of information indicated in paragraph (a) (2) (ii) of this section.

(b) *Non-market criteria.* In addition to the market criteria specified in paragraph (a) of this section, the following special criteria shall be considered in determining the economic base or potential for economic growth in the indicated types of Projects.

(1) *Free-standing and growth center projects.* In the case of free-standing and small town growth centers, as described in § 720.12(b) (3), prior to the issuance of guarantees there shall be reasonable assurance, in the form of commitments or otherwise from industry and/or governments, that major employment generators will locate within the Project at an early development stage specified in the plan for development of the Project.

(2) *New-towns-in-town.* In the case of new-towns-in-town; as described in § 720.12(b) (3), prior to issuance of guarantees, there shall be such local government commitments of funds and other support for basic infrastructure and other municipal services as may be necessary to provide reasonable assurance of successful development of the Project.

§ 720.25 Financial plan.

(a) *General requirement.* A Project must be developed according to a Financial Plan which sets forth, in a format prescribed by the Secretary, the projected revenues and costs of the Developer, any community association as may be established pursuant to § 720.14(d), and each Subsidiary over the development period. The Financial Plan must demonstrate compliance with all of the criteria and standards of these Regulations and shall contain or provide for:

(1) An optimal financial strategy based upon consideration of alternative assumptions with regard to costs, market demand, interest rates and other factors critical to the Project;

(2) Projections of the sources and uses of cash for each year of the development period (based upon the planned development of the Project), projections of the financial position statements and statements of operations for short-term development and an analysis of the escrow funds and security requirements;

(3) Achievement of a break-even point or a positive cash surplus after all costs, debt and borrowings have been repaid and assurance that investments in the land will be recovered by the end of the development period;

(4) An appropriate allowance for contingencies;

(5) Separate financial projections for all community associations and Subsidiaries which demonstrate the ability of such entities to attain financial self-sufficiency, based upon the development of regular and recurrent revenue.

All assumptions of the Financial Plan shall be set forth with specificity and fully documented in a format prescribed by the Secretary.

(b) *Revenues.* Revenues shall include funds derived from land sales, and all other sources. Land sales revenues shall be reflected in a marketing schedule which is based upon the criteria and factors set forth in § 720.24. Projected land sales revenues may assume reasonable increases in property value due to population pressures and and growth of the Project. Revenues should reflect actual cash receipts expected in any given year based on actual and anticipated contracts of sale and financing arrangements. Other sources of revenues may include, but shall not be limited to, rebates from utility companies, sale of land not within the Project, income from the sale of timber, minerals and agricultural products, and rental income from the use of Project property.

(c) *Costs.* Costs shall include the estimated Actual Cost of Land Acquisition and Land Development. Costs of the Developer other than Actual Cost shall be identified as being for Non-Project Activities and must be specifically approved by the Secretary. The costs of Land Acquisition shall be based on the terms of actual purchase agreements and options as well as on reasonable terms of contracts for anticipated land purchases. Actual Cost of Land Development shall be supported by detailed engineering estimates or recent bid prices for comparable work in the area where the Project is located. Actual Cost shall also include the cost of providing those public facilities and municipal services normally funded by local government or otherwise which are consistent with the plan for development of the Project and which must be or are reasonably expected to be funded by the Developer, any community association, or any Subsidiary. The costs of such facilities and services shall be supported, among other things, by a projection of the total cost of providing such public facilities and services.

(d) *Determination of eligibility.* In those instances where the Developer has requested only a Determination of Eligibility, the determination that the Project is economically feasible will be based on an analysis of the Financial Plan which takes into consideration any financial resources or support to be provided. In such cases, the Financial Plan need not include the extensive documentation required for a loan guarantee. In lieu thereof, the Secretary will specify the type of documentation needed for each Project.

§ 720.26 Other financial review criteria.

The following other financial review criteria must be met.

(a) *Experience.* The Developer and its principals must be determined by the Secretary to have the experience appropriate to develop the Project based upon consideration of credit ratings, earnings history, previous and current lender and investor relationships and growth prospects of all other ventures sponsored by the Developer.

(b) *Borrowings.* The Developer shall demonstrate (1) its ability to obtain any necessary borrowings within the next two-year period, and (2) the extent to which it is likely to obtain any necessary borrowings beyond such two-year period.

(c) *Equity.* There shall be an equity contribution (including loans to the Developer that are subordinated, both as to principal and interest, to the Government guaranteed debt obligations) in an amount sufficient to assure Project liquidity and to assure that the Developer and its principals have sufficient financial incentive in the Project to complete it in accordance with the Development Plan. The amount of equity required in relation to the total amount of funds needed for development of the project shall be determined by the Secretary.

(d) *Agreement and compliance.* The Developer and other Persons shall, as

appropriate, comply with the provisions of § 720.27 through § 720.34.

(e) *Strategic risk factors.* The Secretary must be satisfied with certain strategic risk factors including, without limitation: Completeness of land assembly, competitive location of large parcels of land under single ownership or control; dependence of the Project on an interstate highway or other major public improvement that is not yet in place; the structure of local government; diversity and favorable recent history of local building industry; availability and interest of successful small residential developers; and availability of local sources or outlets of mortgage credit for homeowners.

(f) *Developer's statement of estimated disbursements.* Prior to the issuance of guaranteed debt obligation, the Secretary must approve the Developer's statement of estimated disbursements from the Escrow Account.

§ 720.27 Amount of Federal guarantee.

(a) *General formula and limitations.* The maximum outstanding indebtedness which may be guaranteed under the Act for any Project shall be:

(1) *Public developer.* In the case of a Public Developer, an amount not exceeding 100 percent of the sum of the Secretary's estimate of the value of the real property before development and the estimated Actual Cost of the Land Development, or

(2) *Private developer.* In the case of a Private Developer, an amount not exceeding the sum of 80 percent of the Secretary's estimate of the value of the real property before development and 90 percent of the estimated Actual Cost of the Land Development. In no event shall the principal amount of the outstanding debt obligations guaranteed under the Act with respect to a single Project exceed $50 million. No debt obligation of any Public Developer shall be guaranteed under the Act if the income from such obligation is exempt from Federal taxation.

(b) *Future transactions.* The value of land which is yet to be acquired and Actual Costs of Land Development which are yet to be incurred at the time an offer of commitment is made may be included as a basis for determining the maximum commitment.

(c) *Prior transactions.* To assist the Secretary in the determination of the value of the real property before development, the Developer shall notify the Secretary of all transactions involved in the determination of the amount of debt obligations to be guaranteed which would otherwise be classified as a transaction with an Interested Person as defined in § 740.32(m).

§ 720.28 Debt obligations.

(a) *Kind of obligations.* The debt obligations guaranteed under the Act may include any bond, debenture, or other obligation issued by a Developer for public or private sale.

(b) *Use of Federal Financing Bank.* The debt obligations guaranteed shall be sold to the Federal Financing Bank unless another disposition is approved by the Secretary.

(c) *Terms of guaranteed debt obligations.* Rates of interest and any other charges relating to guaranteed debt obligations, and the repayment, maturity, and redemption privilege provisions of such obligations shall be approved by the Secretary.

§ 720.29 Security for the guarantee.

(a) *General requirements.* All obligations guaranteed under the Act must contain, or be issued subject to, such provisions relating to the security interests of the United States as may be required by the Secretary. These shall include general provisions under which the United States acquires rights of subrogation and such special provisions relating to the security of the United States in the specific property, including real property being acquired and developed or other property satisfactory to the Secretary. The value of the real property which is security, plus other elements of security, shall at all times equal or exceed a prescribed percentage of the principal amount of outstanding guaranteed debt obligations.

(b) *First lien on real property.* Unless otherwise approved by the Secretary, the security of the United States shall include a first lien on the real property of the Developer. Such lien shall constitute security for the sole benefit of the Secretary. Upon or before the issuance of obligations guaranteed under the Act, the lien shall be created in favor of the Secretary and/or the Trustee. The Indenture and any other instruments creating such lien must be satisfactory to the Secretary.

(c) *Release of real property.* The Indenture shall include provisions for the release of real property from the lien as such property is sold or otherwise disposed of for Project purposes in accordance with such schedules and procedures as the Secretary may require to assure that upon the sale or other disposition of such property (1) adequate release payments will be applied to the redemption of the guaranteed debt obligations or paid into an appropriate fund, or (2) other appropriate action will be taken or assurances received as may be required to protect the security interests of the United States.

(d) *Real property valuation.* The real property in security shall be valued initially and may be revalued periodically as required by the Secretary. During the period between the initial valuation and any revaluations, the security value of the real property is assumed to increase by the amount of certain Actual Costs of Land Acquisition and Land Development certified to the Secretary as set forth in § 720.30(c). Prior to the initial valuation and each revaluation the Secretary shall undertake or commission an appraisal. An independent appraisal may also be furnished by the Developer at an appropriate time, as determined by the Secretary. Appraisals, regardless of source, are subject to review, modification, and acceptance by the Secretary.

(1) *Initial valuation.* An initial valuation of the real property which is security shall be made upon the first issuance of the guaranteed debt obligations. Appraisals must be prepared in strict accordance with the latest instructions issued by the Secretary. If the Secretary finds that any factor (including zoning), which has been included in the value estimated by the appraiser has been influenced by the expectation of the Federal guarantee of debt obligations, the Secretary will adjust such value estimate to exclude such influence.

(2) *Revaluations.* Revaluation of real property which is security shall be based on the Secretary's review of appraisals prepared in accordance with the latest instructions issued by the Secretary.

(e) *Personal property.* Personal property constituting security shall consist of the Escrow Account and any other personal property acceptable to the Secretary.

§ 720.30 Escrow account.

(a) *Administration.* The Escrow Account shall be held and administered by the Trustee as security for the sole benefit of the United States. Funds in the Escrow Account may be invested by the Trustee as provided in the Project Documents.

(b) *Maximum disbursement amounts.* (1) *Initial issuance.* Upon the initial issuance of the guaranteed debt obligations the amount approved for disbursement shall be 80 percent of the Secretary's valuation of the real property (less the value of any permitted encumbrances) subject to the lien of the Indenture and approved Actual Costs as determined by the Secretary.

(2) *Subsequent to initial issuance.* Subsequent to the initial issuance of guaranteed debt obligations for Projects approved under the Act, the amount endorsed shall be 80 percent of the Actual Cost of Land Acquisition and 90 percent of the Actual Cost of Land Development. For Projects approved under the New Communities Act of 1968, the amount endorsed shall be 75 percent of the Actual Cost of Land Acquisition and 90 percent of the Actual Cost of Land Development. Subject to paragraphs (c) and (d) of this section the Trustee shall, upon request of the Developer, disburse the amounts so endorsed to the Developer.

(c) *Disbursement procedures.* In order to obtain the release of funds in the Escrow Account the Developer shall certify to the Secretary, in a form satisfactory to him, Actual Cost incurred subsequent to the initial issuance of the guaranteed debt obligations and shall submit with such certification such supporting documentation as the Secretary may require to assure that such costs have actually been incurred and are eligible for endorsement. The Secretary shall review such certifications and, if he determines that such costs (or a portion thereof) have actually been incurred and are eligible for assistance under the Act, shall furnish an endorsement in whole or in part to the Developer.

V 41 166
AUG 25 76
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(d) *Limitation on disbursements.* Without the prior written consent of the Secretary, no funds may be disbursed by the Trustee unless the Developer presents its certificate stating that no default exists under the Project Documents. Further limitations on disbursements shall be set forth in the Project Documents. Such limitations shall relate, but not be limited to: the progress of work completed, the maintenance by the Developer of required levels of equity and working capital, the possibility of overruns or unanticipated costs, the extent to which allowable land values exceed costs, or the amount of excess security available, and such other factors as the Secretary may deem relevant.

§ 720.31 Terms of guarantee.

(a) *Nature and scope.* The full faith and credit of the United States is pledged to the payment of all guarantees made under the Act with respect to principal, interest, and any redemption premiums. The guarantee extends to interest accruing between the date of default under a guaranteed debt obligation and the payment in full of the amount in respect of which the default occurred. Any such guarantee made by the Secretary shall be conclusive evidence of eligibility of the debt obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed debt obligation.

(b) *Claims and payment upon default.* Upon default by a Developer in payment of interest or premium on, or principal of, a debt obligation guaranteed under the Act, the first recourse of the holder shall be a claim under the guarantee for payment of defaulted interest, premium, or principal. Upon payment thereof in accordance with the terms of such guarantee, the holder shall have no further recourse. All payments thereunder shall be made in cash from the Revolving Fund.

§ 720.32 Other financial standards.

The Developer shall comply with the following financial standards except as otherwise approved by the Secretary. For the purpose of this section, "the Developer" shall be deemed to include any Restricted Affiliate. The Developer shall comply with the following standards:

(a) *Financial tests.* The Developer shall comply with financial tests designed by the Secretary for the purpose of assuring the Developer's ability to meet its liabilities.

(b) *Maintenance of good standing and properties.* The Developer and any Subsidiary shall maintain its legal existence, pay all taxes, assessments and governmental charges and all claims for labor, materials and supplies which might result in property encumbrance, maintain its properties in good repair, and service and preserve prior security interests on property which is security for the Secretary's guarantee.

(c) *Insurance.* The Developer shall maintain insurance coverage in form and amount satisfactory to the Secretary.

(d) *Condemnation.* In the event that any property subject to the lien of the Indenture be taken by eminent domain, any award for the property so taken shall be paid to the Trustee to be held as security for the guarantee.

(e) *Non-project activities.* The Developer shall not engage in Non-Project Activities.

(f) *Limitation on debt.* The Developer shall not create, incur, assume, or suffer to exist any debt other than: Debt evidenced by the guaranteed debt obligations; debt subject to an agreement subordinating such debt to both principal and interest on the Government-guaranteed debt obligations; debt, if any, secured by permitted encumbrances; and other debt specifically permitted in writing by the Secretary.

(g) *Sale or acquisition of assets; merger.* The Developer shall not enter into any merger or consolidation or acquire all or substantially all the assets of any Person, or sell, lease or otherwise dispose of any substantial portion of its assets except in the ordinary course of business.

(h) *Extension of credit.* The Developer shall not lend to any Person except as provided in the Project Documents.

(i) *Investments of developer.* The Developer shall not purchase, acquire or hold obligations or stock of, or any interest in, any Person other than as provided in the Project Documents.

(j) *Sale and leaseback.* The Developer shall not directly or indirectly enter into any arrangements whereby the Developer shall sell or transfer any part of its assets and thereupon, or within one year thereafter, lease the assets so sold or transferred.

(k) *Leases.* The Developer shall not enter into any lease of real property except as provided in the Project Documents.

(l) *Change in form or control.* No sale, transfer, pledge or other disposition of the stock or other equity which directly or indirectly represents ownership or control of any interest in a Developer or Subsidiary shall be made without the written approval of the Secretary.

(m) *Transactions with interested persons.* The Developer shall not enter into any transaction directly or indirectly involving the transfer of money or other items of value with any "Interested Person," except as authorized in writing by the Secretary. "Interested Person" means any:

(1) Person who is a limited or general partner of the Developer;

(2) Person who is an officer or director of (i) the Developer or (ii) a limited or general partner of the Developer;

(3) Stockholder of the Developer;

(4) Person owning or controlling any interest in the profits or voting rights of the Developer;

(5) Person directly or indirectly owning or controlling a 3.5 percent or greater interest in any Person described in paragraphs (m) (1) through (4) of this section, but excluding stockholders of an entity which directly or indirectly owns the Developer, and whose stock is publicly traded, as to whom the Project Documents' definition of Interested Person shall apply;

(6) Person of which a 10 percent or greater interest in profits or voting rights is directly or indirectly owned or controlled by a Person described in paragraphs (m) (1) through (4) this section or by the Developer;

(7) Person owning or having an interest in subordinated debt of the Developer.

For the purposes of this definition, any direct or indirect ownership or control held by a Person's spouse or by any parent, child, grandchild, brother or sister of such Person or such Person's spouse shall be attributed to such Person.

(n) *Reimbursement of payments under guarantees; interest on delinquent payments.* Immediately upon the payment by the United States of any amount under any guarantee, the Developer shall pay to the Secretary the amount of such guarantee payment, with interest at the rate borne by the guaranteed debt obligations with respect to which such payment has been made from the date of such guarantee payment until reimbursement thereof to the Secretary in full. The Developer shall pay to the Secretary on demand the amount of any overdue annual fee (as specified in § 720.91(e) due the Secretary, with interest at the highest rate borne by any of the underlying debt obligations from the due date until repayment in full.

(o) *Accounting systems and records.* The Developer shall keep and shall cause each Subsidiary to keep true and complete books of records and accounts satisfactory to the Secretary. The Developer and each Subsidiary shall maintain an accounting system which shall include complete books of original entry supported by adequately detailed journals and underlying source documents maintained in accordance with sound management practices. The accounting system shall also include a system of internal accounting controls satisfactory to the Secretary. The Developer and each Subsidiary shall use the same fiscal year.

(p) *Financial reporting and monitoring.* The Developer shall submit to the Secretary, in accordance with a schedule and in a format prescribed by the Secretary, operating and budget plans, financial reports and financial statements that show the financial performance and financial condition of the Developer, each Subsidiary, and each community association. The Developer shall submit annually financial statements that have been audited by an independent public accountant who has been approved by the Secretary.

(q) *Agreement of restricted affiliates.* The Developer shall cause each Restricted Affiliate to agree to financial, record, and other covenants satisfactory to the Secretary.

§ 720.33 Accounting standards and audit.

(a) *Financial statement standards.* All financial statements and financial test calculations shall be prepared in accordance with generally accepted accounting principles, and examinations required shall be conducted in accordance with generally accepted auditing standards. The terms "generally accepted accounting principles" and "generally accepted auditing standards" refer to the principles, standards, methods, and practices of accounting and auditing sanctioned by the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or any successor thereof, as evidenced in its Statement of Auditing Standards and Opinion, bulletins, and circulars published periodically by it or by authoritative bodies designated by it, and applied on a consistent basis. The form, frequency, and scope of the financial statements and reports shall conform to the requirements of the Secretary.

(b) *Auditing by the government.* Upon request, all records and all agreements relevant thereto shall be made available for examination by the Secretary. Insofar as such records and agreements relate to any grants, loans, or guarantees from the Government, the financial transactions may also be audited by the General Accounting Office (GAO under rules and regulations issued by the Comptroller General of the United States. The Secretary and representatives of the Secretary and GAO shall have access to all books, accounts, records, files, and all other papers, materials, or property belonging to or in use by such recipients of Federal assistance which pertain to such financial transactions and are necessary to facilitate the audit. Such documents shall be retained by recipients of Federal assistance for audit purposes until the Secretary notifies such recipients in writing that they are no longer required.

§ 720.34 Other requirements.

(a) *Labor standards.* (1) All laborers and mechanics employed by the Developer or by contractors or subcontractors in Land Development assisted under this Part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a et seq.) and as it may be amended from time to time. No assistance shall be extended under this part for any Project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in Land Development within the Project. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (5 U.S.C. p. 242) and 40 U.S.C. 276c. Proceeds of debt obligations guaranteed under this Part may not be disbursed to a Developer with respect to Land Development construction unless these labor standards have been complied with to the satisfaction of the Secretary.

(2) All construction contracts and subcontracts for Land Development assisted under this part shall contain labor standards clauses in furtherance of the Act and of the applicable regulations of the Secretary of Labor as they may be amended from time to time. The Developer shall comply with the provisions of said labor standards clauses. The regulations of the Secretary and the Secretary of Labor with respect to ineligible contractors shall be observed by the Developer. The Developer shall furnish such certification for filing as necessary to assure compliance with the provisions of said labor standards clauses, be filed as necessary to assure compliance with the provisions of said labor standards clauses.

(b) *Small builders.* The Developer shall, in a manner satisfactory to the Secretary, encourage and help maintain a diversified, local homebuilding industry by making an adequate supply of building sites available to local and small builders and contractors at competitive prices and terms.

(c) *Work safety and health standards.* No laborer or mechanic employed by the Developer or by contractors or subcontractors in Land Development assisted under this part shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (52 U.S.C. 333).

(d) *Ineligible contractors.* No contract shall be entered into with a contractor or subcontractor where the name of such contractor or subcontractor or their affiliate's name appears on the Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees established by the Secretary pursuant to the regulations contained in 24 CFR, Chapter 1. Part 24. Proceeds of debt obligations guaranteed under this Part may not be disbursed to a Developer with respect to Land Development performed by a contractor or subcontractor whose name or whose affiliate's name appears on such list.

(e) *Interstate land sales.* The Developer shall comply with the regulations issued by the Office of Interstate Land Sales (24 CFR, Chapter IX).

(f) *Relocation.* When relocation of eixsting residents and businesses during the course of the development of a Project becomes necessary, the relocation program shall be carried out in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899; 42 U.S.C. 4601 et seq.), and other applicable Federal, State and local laws and regulations.

(g) *Regulation of utilities.* Utilities or other public facilities which are established to provide services to a Project and which are operated by a non-public body, shall be regulated as to rates and charges, capital structure, rate of return, and methods of operation by a public body or by other means satisfactory to the Secretary.

Subpart C—Procedures for Application, Commitment and Project Agreement

§ 720.50 Applicability of this Subpart.

This Subpart describes the procedures for applying for initial guarantee assistance, a Determination of Eligibility, and additional guarantee assistance.

§ 720.51 Inquiry.

After acquainting themselves with the Act and the Regulations, prospective applicants for an initial guarantee or a Determination of Eligibility are encouraged to meet with the General Manager or his designated representatives to discuss their proposals and obtain an understanding of the goals and requirements of the program.

§ 720.52 Pre-application.

(a) *Purpose.* The pre-application procedures for initial guarantee assistance and for a Determination of Eligibility under the Act are designed to provide an initial screening, prior to submission of detailed plans by the Developer. This will permit an initial determination as to whether the Developer and the selected site have the potential to comply with the requirements of the Act, these Regulations and other policies and priorities of the Secretary and the Board. It will also provide an opportunity to work with the Developer from the earliest stages of Project planning.

(b) *Submission.* The first formal step by an applicant seeking assistance under the Act, is the submission of a pre-application to the General Manager, New Community Development Corporation, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. The pre-application should deal in summary form with the criteria for Project evaluation set forth in Subpart B of this Part and should contain evidence that initial notice has been submitted (in accordance with § 720.53) to each appropriate clearinghouse for review and comment.

(c) *Review and action.* The General Manager, upon completion of his review of each pre-application, shall inform the applicant in writing of his findings and:

(1) State his willingness to accept a full application where the pre-application appears to meet and be consistent with the program criteria and priorities mentioned above;

(2) Discourage an application, listing the reasons therefore, where the proposal does not appear to be consistent with program criteria and priorities; or

(3) Require the resolution of certain problems and issues before proceeding with an application.

(d) *Significance of action.* Acceptance of or indication of willingness to accept an application does not constitute or imply an assurance of eventual approval of such an application.

(e) *Resubmission.* If the applicant is not encouraged to submit an application, but nevertheless believes that the Project may qualify under the Act, he may resubmit the pre-application for further

V 41 166
AUG 25 76
UMI

review with such changes as, in his opinion, will overcome the initial objections of the General Manager.

§ 720.53 Compliance with OMB Circular A–95.

(a) *Applicability and purpose.* The provision of initial guarantee assistance under the Act is subject to compliance with the provisions of Attachment A, Part I of Circular A–95 issued by the Office of Management nad Budget (41 FR 2052).

(1) A major purpose of the Circular is to secure the assistance of State and areawide planning and development clearinghouses in the coordination of proposals for Federally assisted projects and programs with State, areawide and local planning for orderly growth and development.

(2) To achieve this objective, the Circular establishes a system for review and comment by appropriate State, regional and local agencies of Projects for which Federal assistance is sought and for adequate consideration of such comments by the applicant prior to submission of an application and by the concerned Federal agency prior to taking action on such application.

(b) *General procedures.* Detailed instructions for compliance will be provided at the time of inquiry (§ 720.51). In general, the following procedures shall be adhered to with respect to Projects for which assistance is sought under the Act.

(1) *Notification.* (i) At the earliest possible time, but no later than the submission of the pre-application (§ 720.52) to the General Manager, the applicant is required to provide notification (including a summary description of the Project as specified in Circular A–95) of intent to apply for assistance under the Act to the clearinghouse of the State and, if one exists, of the region in which the Project is to be located. Each clearinghouse under Circular A–95 has up to 30 days after receipt of the notification to transmit to the applicant any comments or recommendations which it or its constituent agencies may have with respect to the Project.

(ii) The applicant shall forward copies of any communications received from each clearinghouse, together with a summary of the nature and status of oral consultations, if any, with each clearinghouse, to the General Manager. No final action on a pre-application proposal shall be taken until the General Manager has received either (A) copies of all written communications and a summary of all oral communications with each clearinghouse following the notification or (B) a statement from the applicant that at least 30 days have elapsed since the filing of notification with each appropriate clearinghouse and that no response therefrom has been received.

(2) *Application review and comment.* (i) Before submission to the General Manager, the applicant shall send a copy of the proposed application to each clearinghouse for review and comment. Each clearinghouse under Circular A–95 has up to 30 days after receipt in which to review the completed application and to transmit to the applicant any comment or recommendations the clearinghouse or its constituent agencies may have. The applicant shall give appropriate consideration to such comments and recommendations, including such modification of the application as may, in the applicant's judgment, be appropriate. If substantive changes in the application are made at this point, the revised proposed application shall be submitted to each clearinghouse for further review and comment.

(ii) Copies of any comments and recommendations made by or through each clearinghouse, together with a statement that such comments have been considered, shall be appended to the application submitted to the General Manager (§ 720.54). No application shall be processed by the General Manager unless it contains either (A) materials described in paragraph (b) (i) of this section above or (B) a statement from the applicant that the procedures outlined in this section have been followed and that no comments or recommendations have been received from the appropriate clearinghouses.

(c) *Other procedural requirements.* (1) Any substantial amendment to an application made after submission to the General Manager will, at the applicant's initiative or at the request of the General Manager, be sent by the applicant to each clearinghouse for review and comment. In such a case, the procedures set forth in paragraph (b) (2) of this section shall be followed.

(2) An application for additional guarantee assistance may, at the determination of the General Manager, require compliance with the procedures as outlined in paragraph (b) of this section.

(3) Any request for modification of the procedures set forth in this section shall be submitted in writing to the General Manager.

§ 720.54 Application for assistance.

An application for initial guarantee assistance (see § 720.59 concerning additional guarantee assistance) or for a Determination of Eligibility may be submitted to the General Manager following submission and review of pre-applications pursuant to § 720.52 and upon payment of the application charge specified in § 720.91(a). The application shall contain information, supporting documentation and analysis adequate to enable the Secretary, acting through the Corporation, to make a determination as to whether or not the Developer and the proposed Project meet the requirements of the Act, of these Regulations, and other policies of the Secretary and the Corporation. Applications shall be in a format specified in instructions issued by the General Manager and may be submitted in stages or parts so that basic obstacles to Project approval can be identified early in the application process.

§ 720.55 Compliance with National Environmental Policy Act.

(a) *Applicability and purpose.* Assistance under the Act is subject to compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and with issuances implementing NEPA which have been promulgated by the Council on Environmental Quality (CEQ), (40 CFR Part 1500) and by HUD (HUD Handbook 1390.1, as amended; 38 FR 19182, 39 FR 38922; 41 FR 23878). The purpose of this section is to indicate to applicants and others the effect of such compliance by the Secretary upon the procedures and timing for processing and taking action on applications for assistance under the Act. Interested individuals should consult the above-cited issuances for detailed policies and procedures.

(b) *General procedures for Compliance.* (1) *Draft environmental impact statement.* (i) *Preparation.* Based upon an analysis of the application submitted in accordance with § 720.54 and such other information as may be needed for this purpose, the General Manager shall prepare a draft environmental impact statement addressing the issues set forth in section 102(2)(c) of NEPA (42 U.S.C. 4332(c)) and in accordance with applicable policies, guidelines and procedures pursuant thereto. Normally draft statements will be prepared within 60 days after receipt by the General Manager of a complete application. Such time period is, however, subject to adjustment depending on the complexity of the Project, the existence of unusual environmental issues, and the adequacy of the information included in the application.

(ii) *Circulation.* After internal clearance within the Department in accordance with HUD regulations (normally up to 30 days), the draft statement will be circulated for review and comment to relevant Federal, State, and local agencies and made available to the public. The period for comment is 45 days subject to extensions of up to 15 additional days, if necessary, upon request to HUD.

(2) *Final environmental impact statement.* Based upon consideration of the comments on the draft statement and such other analyses as may have been performed, the General Manager shall prepare a final environmental impact statement. The final statement shall include a discussion of problems and objections, if any, raised by reviewing agencies and the public and a statement of the disposition of issues involved. The final statement, together with comments, shall be filed with the CEQ, sent to appropriate agencies, and made available to the public. The period for comment on the final statement is 30 days from the date of filing with the CEQ.

(3) *Offer of commitment.* For purposes of compliance with NEPA and CEQ guidelines, the "major Federal action significantly affecting the quality of the human environment" is the offer of commitment as described in § 720.56. In accordance with applicable regulations, no offer of commitment shall be made sooner than 90 days after a draft statement has been circulated, nor sooner than 30 days after the final statement has been filed with the CEQ, sent to appropriate agencies, and made available to the public.

(c) *Exceptions to compliance procedures.* Exceptions to the above procedures are permitted, under unusual circumstances, by the CEQ guidelines. Circumstances which might warrant such an exception should be brought to the attention of the General Manager by the applicant as soon as possible.

(d) *Issuance of environmental impact statement during project execution.* Any proposed change in the Development Plan of an approved Project which, in the determination of the Secretary, would constitute a "major Federal action significantly affecting the quality of the human environment" shall require circulation of an environmental impact statement. No approval of such a change shall be made until after full compliance with the review procedures of NEPA and CEQ guidelines.

§ 720.56 Commitment.

(a) *Review and action.* After review of the complete application, the Secretary shall either issue an offer of commitment, require changes in the application before an offer of commitment can be issued, or deny the application.

(b) *Offer of commitment.* (1) If the General Manager's determination referred to in § 720.54 is favorable to the applicant, the Secretary (acting through the Corporation) may address a letter to the applicant stating, in effect, that based upon the information contained in the applicant's preapplication and application and any other information which may have been reviewed by the Secretary, the Secretary is prepared to enter into a Project Agreement regarding (i) a Determination of Eligibility, or (ii) the guarantee of a specified maximum principal amount of debt obligations to be issued by the Developer. Such offer shall be subject to approval by the Secretary of:

(2) The initial investors (in the case of a private sale of such obligations) or the terms and conditions of the underwriting (in the case of a public sale of such obligations) if the debt obligations are not sold to the Federal Financing Bank (§ 720.28(b));

(3) The rate of interest to be borne by such obligations or the formula by which such rate shall be determined if such obligations are not purchased by the Federal Financing Bank;

(4) The repayment and maturity provisions of such obligations;

(5) The specific measures for the protection of the security interests of the United States, and release of liens, and payment of taxes;

(6) All other terms and conditions of the financing arrangements which affect the interests of the United States; and

(7) Such further conditions as the Secretary may prescribe.

(c) *Acceptance of offer of commitment.* The offer of commitment shall expire 120 days after the issuance thereof unless accepted by the applicant during such period by payment of the commitment charge specified in § 720.91(b) and by meeting such conditions to acceptance as the Secretary may impose. The Secretary may in his discretion extend the expiration date of the offer of commitment. Within 120 days after the expiration of such offer of commitment, the applicant may request in writing to the Secretary accompanied by tender of the commitment charge and the reopening charge as specified in § 720.91 (b) and (c), that the offer be reopened. If the Secretary in his discretion approves such a request, the offer may be accepted by the applicant. An accepted offer of commitment shall remain effective as a commitment to enter into a Project Agreement pursuant to § 720.57 for six (6) months, at which time the commitment shall expire unless the applicant has taken all steps that the Secretary determines to be required under this Part as a prerequisite to the execution of such Project Agreement or unless such six (6) month period is extended at the discretion of the Secretary.

§ 720.57 Project agreement and other agreements.

(a) *Project Agreement.* Following acceptance of the offer of commitment by the applicant (§ 720.56(c)), and before or simultaneously with the making of any guarantee or Determination of Eligibility, the Developer shall be required to enter into a Project Agreement satisfactory to the Secretary. The Project Agreement shall set forth the understandings or the Secretary and the Developer with respect to implementation of the entire Project during the development period. The Project Agreement shall also set forth the Developer's agreement to carry out the Project in accordance with application documents and other information and plans, as approved or deemed relevant by the Secretary, and the Secretary, and the Secretary's agreement to guarantee debt obligations of the Developer issue pursuant to those plans, subject to the limitations set forth in the Act, these Regulations and the Project Agreement. The Project Agreement (or a related agreement) shall further include:

(1) An express covenant to the effect that the United States' interest in the Project is not limited to its financial interest, but extends to accomplishment of the public purposes of the Act;

(2) A Development Plan setting forth the objectives, plans and undertakings of the Developer over specific time periods to assure the Secretary of compliance with the purposes of the Act and with these Regulations as they may be amended during the development period and to protect the Secretary's financial interest as guarantor of the debt obligations;

(3) Provisions setting forth the duties and responsibilities of the Developer with respect to parts or portions of the Project which will not be carried out by the Developer;

(4) Provisions governing the security to be provided to the United States;

(5) Provisions setting forth the rights and remedies of the United States in the event of default, including rights to seek injunctive or other equitable relief;

(6) Special provisions as necessary to assure compliance with environmental, equal opportunity, relocation, historic preservation, barrier-free, labor standards, and other particular requirements;

(7) Duties of the Developer to provide information, data, and reports as required by the Secretary; maintain adequate books and records; and permit and provide as necessary for inspections and on-site examinations by or on behalf of the Secretary; and

(8) Such other provisions as the Secretary may require as necessary or appropriate to assure adherence to the Project as approved to the provisions of the Act or of these Regulations, or to protect the United States against loss.

(b) *Other agreements.* The Developer, and such other parties as the Secretary shall designate, shall execute, simultaneously with the Project Agreement, an Indenture, and such other documents all of which shall be satisfactory to the Secretary.

§ 720.58 Issuance of guaranteed obligations.

Pursuant to the Project Agreement (§ 720.57) and upon satisfaction of the conditions specified in such Agreement, the Secretary shall endorse his guarantee upon debt obligations duly issued by the Developer pursuant to a purchase or underwriting agreement approved by the Secretary. The guarantee fee specified in § 720.91(d) shall be paid at the time any guarantee is made, subject to waiver in whole or in part, at the discretion of the Secretary, in the case of debt obligations issued by a Public Developer with respect to which the Secretary determines that the interests of the United States are protected by appropriate recourse to, or other arrangements with, State or local governments.

§ 720.59 Additional guarantee assistance.

(a) *Applications.* Developers whose debt obligations have been guaranteed under the Act in an amount less than the statutory maximum of $50,000,000 per project, may submit to the General Manager an application for additional guarantee assistance, subject to this maximum. The application shall be prepared in accordance with instructions of the General Manager who shall commence review of such application upon receipt of the application charge specified in § 720.91(a). The application shall contain sufficient information, supporting documentation, and analysis to enable the Secretary, acting through the Corporation, to make a determination as to whether or not the Developer and the Project meet the requirements of the Act, these Regulations, and other policies of the Secretary and the Corporation. Applications shall be in a form specified in instructions issued by the General Manager and may be submitted in stages or parts so that basic obstacles to issuance of an offer of commitment can be identified early in the application process.

(b) *Additional information.* In addition to consideration of the application, the Secretary, acting through the Cor-

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poration, may base his determination of whether to provide additional guarantee assistance on:

(1) A revaluation of the security;

(2) The results of one or more market studies commissioned or undertaken by the Secretary;

(3) An audit report on the Project prepared by an independent certified public accountant under instructions approved by the Secretary; and

(4)Such other information, reports and analyses as the Secretary may deem appropriate.

(c) *Processing requirements.* The provisions of §§ 720.53(b), 720.55(d), 720.56 and 720.57 shall be applicable to the processing of applications for additional guarantee assistance.

§ 720.60 Projects initiated under the New Communities Act of 1968.

A Developer to whom a commitment of guarantee assistance has been offered under the New Communities Act of 1968 (42 U.S.C. 3901 et seq.) may elect, as to any outstanding portion of such commitment, to proceed under the Act and this Part or to proceed under the New Communities Act of 1968 and the regulations issued thereunder. If the Developer elects to proceed under the Act, it may do so only after the Secretary has determined that the Developer and the Project have satisfied all requirements of the Act and have met the standards and criteria of these Regulations. All preapplication proposals, applications, and materials in support thereof, submitted in respect of Projects for which no commitment has been offered under the New Communities Act of 1958, shall be deemed submitted under the Act and this Part.

Subpart D—Project Execution and Monitoring

§ 720.70 Applicability of this Subpart.

This Subpart is applicable to the monitoring of Projects which have received a guarantee or a Determination of Eligibility.

§ 720.71 Purpose.

Among the purposes of Project monitoring and evaluation are the following:

(a) To protect the security interests of the United States.

(b) To facilitate the measurement and evaluation of the progress of each Project throughout the development period in compliance with the objectives and requirements of the Act, the Regulations and the Project Documents.

(c) To provide the Secretary with the opportunity to take appropriate and timely action to resolve Project problems and to assist the Developer.

(d) To facilitate the retrieval and assembly of relevant data, statistics and information in a uniform format for the purpose of:

(1) Analyzing Project problems and experiences;

(2) Evaluating program effectiveness with respect to overall new community program goals and in conjunction with national urban growth policy;

(3) Making comparisons among Projects; and

(4) Developing basic educational and training materials for Developers, institutions and others interested and involved in new community development.

(e) To encourage evaluation and monitoring of the Project by the Developer, independent of Federal requirements, pursuant to sound management practices.

§ 720.72 Inspection.

The Secretary shall be afforded access to the Project site and to the records of the Developer and Subsidiaries at all reasonable times for purposes of inspection and monitoring of Project development.

§ 720.73 Reporting requirements.

(a) *General requirement.* To ensure that the Project is being executed in a manner consistent with the objectives of the Act and as provided in the Project Documents, the Developer shall be required to submit periodic financial and non-financial reports and projections on Project execution.

(b) *Financial reports.* Financial reports shal be prepared and submitted according to requirements of § 720.32(p) except that Projects receiving a Determination of Eligibility shall follow these requirements as adapted by the Secretary to the organizational and financial structure of the Developer and described in Project Documents.

(c) *Non-financial reports.* Non-financial reports; consisting of statistical and narrative information in a format specified by the Secretary, will be prepared and submitted as set forth in the Project Documents.

(d) *Other reports.* Other reports and studies specifically required by the Secretary are identified in Project Documents. In addition, the Developer shall furnish to the Secretary any reports or analyses reviewing or evaluating any aspect of the Project undertaken by, for or on behalf of the Developer, any Federal, State or Local Public Body or any other Person as well as such other information with respect to the Project as the Secretary may from time to time request.

(e) *Special notification requirements.* The Developer shall ascertain and give immediate notice to the Secretary of any facts or conditions which may adversely and substantially affect or impede the implementation of the Project, including: (1) Notice of litigation affecting (i) the status or powers of, or ownership interests in the Developer or any Restricted Affiliate, (ii) outstanding debt obligations, (iii) Project property or (iv) Project requirements; (2) changes in laws, ordinances or official plans related to the Project; (3) major damage to Project property; (4) work stoppages for longer than five business days on any part of the Project; (5) defaults on contracts or sub-contracts covering Project activities and (6) changes in financial condition of any shareholder, principal or partner of the Developer.

§ 720.74 Internal monitoring and evaluation.

(a) *Internal reporting and monitoring.* The Developer shall develop an internal reporting and monitoring system to meet its own management needs which is compatible with requirements and guidelines established by the Secretary.

(b) *Developer's evaluation.* The Developer shall undertake evaluation as an integral part of its monitoring activities in order to provide a continuing assessment of performance and development progress measured against approved goals and projections.

(c) *Secretary's evaluation.* The Secretary may contract with outside experts, undertake field surveys, and make use of other Federal agencies for evaluation of approved Projects.

§ 720.75 Amendments and waivers.

Development Plans, financial requirements and all other terms and conditions in the Project Agreement, Indenture and other Project Documents that do not specifically require the consent of all or a portion of the holders of the guaranteed debt obligations that were initially approved by the Secretary, may be amended or waived. All proposals by the Developer for amendments or waivers shall be submitted to the Secretary for approval. The Secretary may recommend or require such amendments, modifications or waivers as he shall deem necessary or desirable to ensure the financial viability of the Project, to protect the security interests of the United States or to otherwise preserve his ability to carry out the purposes of the Act.

§ 720.76 Remedies of the Secretary.

(a) *General.* The Secretary shall have the remedies set forth in the Project Documents, together with such other remedies as are available at law or equity.

(b) *Foreclosure.* (1) When an event occurs which, under the Project Documents, entitles the Secretary or the Trustee to foreclose against any of the real property subject to the lien of the Indenture, the Secretary or the Trustee may foreclose in full or in part, in either case regardless of whether acceleration of maturity of any outstanding guaranteed debt obligations has occurred.

(2) The Secretary shall have no obligation to accelerate the maturity of any guaranteed debt obligations regardless of the amount realized from foreclosure.

(c) *Extinguishment.* (1) The authority to extinguish granted to the Secretary under 42 U.S.C. 4527(3) and under the Project Documents may be exercised by the Secretary to extinguish rights and equities of redemption.

(2) No compensation shall be payable to any party on account of the extinguishment of any of such party's rights.

(d) *Deed in lieu of foreclosure.* The Secretary may accept a deed-in-lieu of foreclosure upon terms and conditions satisfactory to him.

Subpart E—Other Assistance

§ 720.80 Applicability of this Subpart.

This Subpart applies to assistance, other than guarantee assistacne, available under the Act and other provisions of law to assist in carrying out Projects for which guarantee assistance has been provided under the Act or for which a Determination of Eligibility has been made.

§ 720.81 Multiple forms of assistance.

The award of any form of assistance provided under this Subpart shall not in itself exclude the availability of any other form of assistance under this Subpart. The availability of any form of assistance under this Subpart is not conditioned upon action taken with respect to any other form of assistance under this Subpart.

§ 720.82 Supplementary grants.

Following are the general requirements and procedures applicable to Supplementary Grants for Public Facilities as described in § 720.1(b)(2).

(a) *Application for basic grant.* The first step in applying for a supplementary grant is the submission of an application for a grant (referred to herein as the "basic grant") under one of the statutory authorities cited in § 720.1(b)(2)(i). Such application and the subsequent processing and approval thereof must be in accordance with the requirements of the Federal agency responsible for the administration of the basic grant program. No application for a supplementary grant shall be accepted by the General Manager unless an application for the corresponding basic grant has been made.

(b) *Application for supplementary grant.* An application for a supplementary grant, in a form prescribed by the General Manager, shall only be made to the General Manager at or subsequent to the time an application for the corresponding basic grant is made. A copy of the application for the basic grant shall accompany the application for the supplementary grant.

(c) *Approval of supplementary grant.* A supplementary grant shall be approved only if:

(1) The Secretary determines that the facility proposed to be assisted by the supplmentary grant is necessary or desirable for carrying out a Project;

(2) The related basic grant has been approved by the basic granting agency; and

(3) A Project Agreement has been entered into for the Project which the facility is intended to serve.

§ 720.83 Community development block grants.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 301) authorizes grant assistance for certain community development activities, including such activities in behalf of Projects under the Act and under the New Communities Act of 1968 (42 U.S.C. 3901 et seq.). The policies and procedures applicable to this program are contained in 24 CFR, Part 570. Developers and others intending to apply for assistance under Title I in behalf of new communities should consult with the General Manager.

§ 720.84 Federally-assisted housing.

Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437(f)), authorizes the making of housing assistance payments on behalf of lower income families renting housing pursuant to the United States Housing Act of 1937 (42 U.S.C. 1430 et seq.), including such families renting such housing in new community Projects. The policies and procedures applicable to this program are contained in 24 CFR, Ch. II.

Subpart F—Fee and Charge Schedule

§ 720.90 Applicability of this Subpart.

This Subpart specifies the fees and charges which have been established for payment to HUD in connection with applications for and approval of guarantees and other assistance.

§ 720.91 Fees and charges.

(a) *Application charge.* A non-refundable application charge of $10,000 shall accompany the initial submission of all or part of an application by a Public or Private Developer for guarantee assistance or a Determination of Eligibility (§ 720.54).

(b) *Commitment charge.* A commitment charge equal to 0.5 percent of the principal amount of the guarantee commitment by the Secretary up to $30 million, and in addition, 0.1 percent of the principal amount above $30 million shall be paid by the Developer upon acceptance of an offer of commitment (§ 720.56(c)) or at the time a guarantee is made (§ 720.58), which ever occurs first. Should the Project become impractical, infeasible, or imposible to undertake prior to issuance of a guarantee, the Secretary may refund such portion of the commitment charge as he deems equitable.

(c) *Reopening charge.* A timely reopening request (§ 720.56(c)) shall be accompanied by a charge of 0.05 percent of the expired offer of commitment for guarantee assistance. An offer of commitment which has expired because of the failure to pay the commitment charge may be reopened and accepted only upon payment by the Developer of the commitment charge and the reopening charge.

(d) *Gurantee fee.* A guarantee fee equal to 3 percent of the principal amount of guaranteed debt obligations shall be paid by the Developer at the time of the issuance of such obligations, subject to waiver in whole or in part at the discretion of the Secretary in the case of debt obligations issued by a Public Developer, as provided in § 720.58.

(e) *Annual fee.* An annual fee equal to 0.5 percent of the average principal amount of guaranteed debt obligations and unused guarantee commitment, outstanding during the preceding year, shall be paid on the first anniversary date of the guarantee, until the seventh anniversary date. Thereafter an annual fee of 1 percent of the average principal amount of guaranteed debt obligations and unused guarantee commitment outstanding during the preceding year shall be paid on each subsequent anniversary date of the initial guarantee until the total debt obligation is paid in full. Annual fees may, however, be waived in whole or in part at the discretion of the Secretary.

(f) *Transfer charge.* Upon application for approval of a substitution of Developers (§ 720.21(d)), a transfer charge of 0.05 percent of the unused portion of the commitment for guarantee assistance shall be paid by either the initial Developer or the substitute Developer.

Issued at Washington, D.C. August 18, 1976.

JOHN B. RHINELANDER,
Under Secretary of Housing and Urban Development.

[FR Doc.76-24720 Filed 8-24-76;8:45 am]

V 41 166 AUG 25 76 UMI

federal register

WEDNESDAY, AUGUST 25, 1976

PART IV:

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlements

V 41 1 166 AUG 25 76 UMI

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for June 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills and eligible product imports for June 1976, imported naphtha utilized as a petrochemical feedstock in Puerto Rico in May and June 1976, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for June 1976 is calculated to be .328463.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of June 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .170926 of a barrel of deemed old oil.

The issuance of entitlements for the month of June 1976 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of June 1976 at $7.91, which is the exact differential as reported for the month of June between the weighted average per barrel costs to refiners of old oil and of imported crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of June 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of June 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of June 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through May 1976 pursuant to 10 CFR 211.67(j)(1). Pursuant to an amendment to § 211.67(j)(2), corrections for reporting errors for months prior to September 1975 will be reflected in the entitlement notices for the months July 1976 through February 1977. The proposed dollar amounts of these latter corrections are set forth in the special correction notice issued by FEA on July 22, 1976 (41 FR 31793, July 29, 1976).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals.

The listing also reflects entitlements issued to refiners and one other firm for volumes of naphtha imported into Puerto Rico for petrochemical use in May and June 1976 pursuant to the newly adopted provisions of § 211.67(d)(5). These entitlement issuances are shown in the Exceptions and Appeals column in the listing. Except for one refiner (Corco) that received exception relief with respect to imported naphtha for petrochemical feedstock use through the month May 1976, entitlements issued hereby pursuant to § 211.67(d)(5) relate to the months May and June 1976. For purposes of these entitlement issuances only, but not for any other purposes under FEA's regulations, FEA has treated the Puetro Rico subsidiary of Phillips Petroleum Company as a separate firm. This subsidiary is shown in the listings as Phillips–PR.

One eligible firm is shown in the listing with a negative product entitlement issuance nad a corresponding purchase obligation as a result of corrections effected for a prior month's reporting error.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 10,139,129 barrels for June 1976. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 28,784,032 barrels.

The total number of entitlements required to be purchased and sold under this notice is 22,023,390.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for June 1976 must be made by August 31, 1976.

On or prior to September 10, 1976, each firm which is required to purchase or sell entitlements for the month of June 1976 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of June. FEA has mailed the monthly transaction report forms for the month of June to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by August 31, 1976 contact FEA at 202–254–6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to August 31, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 24, 1976.

Issued in Washington, D.C. on August 19, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX

ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 6

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	********** REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	130,097	0	26,250	0	130,097
ALLIED	47,596	86,812	0	0	0	39,216
AMER-PETROFINA	1,805,993	1,751,112	0	0	54,881	0
AMERADA-HESS	2,861,441	4,754,913	0	179,578	0	1,893,472
AMOCO	12,084,140	10,863,556	0	14,717	1,220,584	0
APCO	491,862	617,326	0	0	0	125,464
ARCO	6,897,668	6,457,410	0	0	440,258	0
ARIZONA	24,750	26,730	11,778	0	0	1,980
ASAMERA	10,895	24,275	0	0	0	13,380
ASHLAND	1,815,042	3,595,972	0	0	0	1,780,930
ASIATIC	0	177,658	0	177,658	0	177,658
BAYOU	32,953	44,252	0	0	0	11,299
BEACON	275,181	275,181	83,237	0	0	0
BELCHER	0	150,596	0	150,596	0	150,596
CALUMET	11,455	30,451	0	0	0	18,996
CANAL	63,804	67,443	0	0	0	3,639
CARIBOU	102,219	124,665	0	0	0	22,446
CF-PETROLEUM	0	799,740	0	0	0	799,740
CHAMPLIN	2,089,235	1,390,105	0	0	699,130	0
CHARTER	598,228	437,001	0	0	161,227	0
CITGO	3,735,621	2,435,950	0	0	1,299,671	0
CLAIBORNE	8,802	18,546	0	0	0	9,744
CLARK	398,726	1,099,397	0	0	0	700,671
COASTAL	821,872	1,398,902	0	0	0	577,030
COLONIAL	0	35,574	0	35,574	0	35,574
CONOCO	3,772,959	3,674,295	0	0	98,664	0
CORCO	0	1,508,254	208,907	0	0	1,508,254
CRA-FARMLAND	512,647	714,107	0	0	0	201,460
CROSS	24,344	291,527	0	0	0	267,183
CROWN	399,363	831,912	0	0	0	432,549
CRYSTAL-OIL	181,245	190,186	0	0	0	8,941
CRYSTAL-REF	1,818	49,287	0	0	0	47,469
DEEPWATER	0	7,850	0	7,850	0	7,850
DELTA	426,253	422,221	0	0	4,032	0

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
DIAMOND	602,337	563,222	0	0	39,115	0
DORCHESTER	9,904	13,917	0	0	0	4,013
DOW	52,995	146,645	0	0	0	93,650
E-SEABOARD	0	228,237	0	228,237	0	228,237
EDDY	48,048	45,546	0	0	2,502	0
EDGINGTON-OIL	625,457	406,176	129,325	0	219,281	0
EDGINGTON-OXN	5,752	11,046	0	0	0	5,294
EVANGELINE	41,422	32,753	0	0	8,669	0
EXXON	13,908,397	12,224,593	0	756,877	1,683,804	0
FAMARISS	253,096	415,918	0	0	0	162,822
FARMERS-UN	200,441	440,628	0	0	0	240,187
FLETCHER	5,495	180,781	0	0	0	175,286
FLINT	12,175	11,598	0	0	577	0
GARY	32,056	101,256	0	0	0	69,200
GETTY	849,146	946,076	0	0	0	96,930
GIANT	11,672	34,121	0	0	0	22,449
GLACIER-PARK	80,565	50,476	0	0	30,089	0
GLADIEUX	92,942	167,079	0	0	0	74,137
GOLDEN-EAGLE	4,421	181,888	0	0	0	177,467
GOOD-HOPE	342,599	342,599	97,188	0	0	0
GUAM	0	349,556	0	0	0	349,556
GULF	11,455,900	8,480,819	0	8,517	2,975,081	0
GULF-STS	59,501	78,193	0	0	0	18,692
HIRI	0	654,669	0	0	0	654,669
HOWARD	0	48,707	0	48,707	0	48,707
HOWELL	791,145	382,045	0	0	409,100	0
HUNT	245,446	325,756	0	0	0	80,310
HUSKY	575,313	575,313	65,356	0	0	0
INDIANA-FARM	91,061	272,518	0	0	0	181,457
INGER-OIL	51	167	0	0	0	116
IRVING	0	16,160	0	16,160	0	16,160
J&W	43,617	54,899	30,821	0	0	11,282
KENTUCKY	3,088	7,079	0	0	0	3,991
KERN	315,124	293,560	57,090	0	21,564	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
KERR-MCGEE	1,658,163	1,571,211	0	0	86,952	0
KOCH	405,066	1,285,522	0	14,089	0	880,456
LAGLORIA	501,598	358,104	0	0	143,494	0
LAKESIDE	18,341	51,434	0	0	0	33,093
LAKETON	94,795	94,795	9,583	0	0	0
LITTLE-AMER	347,781	347,781	111,199	0	0	0
LOUISIANA-LAND	135,608	368,854	0	0	0	233,246
MACMILLAN	90,131	218,123	0	0	0	127,992
MARATHON	4,269,902	2,979,752	0	0	1,290,150	0
MARION	145,655	239,585	0	0	0	93,930
MID-AMER	11,033	42,872	0	0	0	31,839
MIDLAND	211,355	257,443	0	0	0	46,088
MOBIL	9,089,522	8,409,273	0	21,525	680,249	0
MOHAWK	436,029	436,029	83,546	0	0	0
MONSANTO	419,332	409,511	0	0	9,821	0
MORRISON	7,396	7,490	0	0	0	94
MOUNTAINEER	5,097	4,985	0	0	112	0
MURPHY	790,108	972,713	0	0	0	182,605
N-AMER-PETRO	29,205	76,482	0	0	0	47,277
NATL-COOP	416,269	587,411	0	0	0	171,142
NAVAJO	442,600	438,037	53,743	0	4,563	0
NEW-ENGL-PETRO	0	476,221	0	476,221	0	476,221
NEWHALL	97,009	73,569	0	0	23,440	0
NORTHEAST-PETRO	0	-7,108 *	0	-7,108 *	7,108	0
NORTHLAND	41,050	70,767	0	0	0	29,717
NORTHVILLE	0	17,937	0	17,937	0	17,937
OIL-SHALE	2,563,184	1,554,387	0	0	1,008,797	0
OKC	382,653	382,653	109,960	0	0	0
PASCO	946,022	739,660	272,713	0	206,362	0
PATCHOGUE	0	15,231	0	15,231	0	15,231
PENNZOIL	807,787	572,444	0	0	235,343	0
PETRO-HEAT-CT	0	2,463	0	2,463	0	2,463
PHILLIPS	3,342,344	3,043,767	0	0	298,577	0
PHILLIPS-PR	0	527,304	527,304	0	0	527,304

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
PIONEER	16,787	186,527	0	0	0	169,740
PITTSTON	0	73,739	0	73,739	0	73,739
PLACID	153,433	438,870	0	0	0	285,437
PLATEAU	106,336	144,259	0	0	0	37,923
POWERINE	314,689	444,745	0	0	0	130,056
PRIDE	135,136	330,738	0	0	0	195,602
QUAKER-ST	116,377	296,428	0	0	0	180,051
ROAD-OIL	551	18,360	0	0	0	17,809
ROCK-ISLAND	514,888	399,175	502	0	115,713	0
SABER-TEX	32,349	165,686	0	0	0	133,337
SABRE-CAL	56,359	56,359	22,237	0	0	0
SAGE-CREEK	2,210	5,855	0	0	0	3,645
SAN-JOAQUIN	173,339	226,321	62,810	0	0	52,982
SEARS	0	19,510	0	19,510	0	19,510
SEMINOLE	0	45,981	0	0	0	45,981
SHELL	13,118,934	10,048,933	0	0	3,070,001	0
SIGMOR	14,541	19,230	0	0	0	4,689
SKELLY	1,330,032	811,554	0	0	518,478	0
SO-HAMPTON	33,613	217,612	0	0	0	183,999
SOCAL	9,503,602	9,921,978	0	17,953	0	418,376
SOHIO	1,493,512	4,184,334	0	0	0	2,690,822
SOMERSET	55,646	68,132	0	0	0	12,486
SOUND	70,457	36,111	0	0	34,346	0
SOUTHLAND	373,806	322,978	95,937	0	50,828	0
SOUTHWESTERN	2,778	3,045	0	0	0	267
SPRAGUE	0	40,937	0	40,937	0	40,937
STEUART	0	38,733	0	38,733	0	38,733
SUNLAND	180,522	180,522	65,177	0	0	0
SUNOCO	6,333,368	4,861,137	0	0	1,472,231	0
SWANN	0	42,654	0	42,654	0	42,654
TENNECO	945,784	893,998	0	0	51,786	0
TESORO	998,357	880,937	0	0	117,420	0
TEXACO	12,248,826	10,541,832	0	347,103	1,706,994	0
TEXAS-ASPH	901	2,938	0	0	0	2,037

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
TEXAS-CITY	202,751	788,734	0	0	0	585,983
THAGARD	107,497	107,497	47,758	0	0	0
THE-REFINERY	117,572	216,642	0	0	0	99,070
THRIFTWAY	27,396	43,763	0	0	0	16,367
THUNDERBIRD	90,403	191,295	0	0	0	100,892
TONKAWA	32,692	50,243	0	0	0	17,551
TOTAL-LEONARD	164,771	474,495	0	0	0	309,724
UCC-CARIBE	0	312,559	312,559	0	0	312,559
UNION-OIL	5,630,865	4,109,173	0	0	1,521,692	0
UNION-PETRO	0	22,611	0	22,611	0	22,611
UNION-TEXAS	119,560	153,107	0	0	0	33,547
UNTD-REF	267,131	488,715	0	0	0	221,584
US-OIL	23,962	180,313	0	0	0	156,351
USA-PETROCHEM	30,165	161,197	0	0	0	131,032
VICKERS	252,953	638,374	0	0	0	385,421
VULCAN	13,689	53,244	0	0	0	39,555
WALLER	0	10,839	0	10,839	0	10,839
WARRIOR	34,773	36,042	0	0	0	1,269
WEST-COAST	34,474	64,659	0	0	0	30,185
WESTERN	38,395	43,587	0	0	0	5,192
WICKETT	84,250	83,546	0	0	704	0
WINSTON	137,558	221,803	0	0	0	84,245
WIREBACK	486	1,585	0	0	0	1,099
WITCO	143,330	222,664	0	0	0	79,334
YETTER	567	1,850	0	0	0	1,283
YOUNG	76,821	76,821	28,644	0	0	0
TOTAL	153,919,507	153,919,507	2,487,374	2,836,349	22,023,390	22,023,390

*Reflects a correction to a prior month's report.

[FR Doc.76-24851 Filed 8-20-76;11:53 am]

federal register

WEDNESDAY, AUGUST 25, 1976



PART V:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

■

PRIVACY ACT OF 1974

Systems of Records

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INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PRIVACY ACT OF 1974

Notices of Systems of Records

On February 24, 1976, there was published in the Federal Register (41 FR 8144) a notice of proposed systems of records in accordance with Section 552a of the Privacy Act of 1974. Interested parties were given the opportunity to submit, not later than March 15, 1976, written data, comments, views or arguments regarding the proposed systems of records.

Since no unfavorable comments were received, the proposed systems of records, which contain non-substantive revisions resulting from this Sections final review and correction of typographical errors, are adopted as set forth below.

Pursuant to 5 U.S.C. 552a(e)(4), International Boundary and Water Commission, United States, and Mexico, United States Section hereby publishes the systems of records as currently maintained by the agency.

Effective date: April 30, 1976.

Signed at El Paso, Texas, on August 6, 1976.

Frank Fullerton,
Special Legal Assistant.

IBWC/US SEC.—1

System name: Attendance, Leave, and Payroll records of employees.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Name, Social Security Number and employee number, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; Internal Revenue Service tax lien data; savings bond and charitable deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost-of-living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to United States Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: Tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health insurance to the insurance carriers and the United States Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance when open is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Cut off at the end of a calendar year; retained for 3 years or until after General Accounting Office audit, whichever is earlier; and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Resister (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individuals concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, and Internal Revenue Service.

IBWC/US SEC.—2

System name: Accounts Receivable.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons owing money to the United States Section, including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Names and addresses; amounts owed and services performed, overpayment or other accounting therefor; invoice numbers, if any; and United States Treasury certificates of deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For billing purposes to obtain funds due the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and invoice number, as appropriate.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained until payment is received and account audited, then disposed of in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, EL Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, EL Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individual; Procurement Section; and accounting records.

IBWC/US SEC.—3

System name: Confidential statements of employment and financial interests.

System location: Room 229, IBWC Building, 4110 Rio Bravo, EL Paso, Texas 79902.

Categories of individuals covered by the system: Employees paid at a level of the Executive Schedule in subchapter II of 5 U.S.C.53, and Section employees who are required by Executive Order 11222 to file such statements, including former employees.

Categories of records in the system: Statements of personal and family holdings and other interests in business enterprises; listing of creditors, outside employment and opinion of reviewing official; and any confirmation material.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To comply with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 735). Records form an effective system of review for disclosing conflicts or apparent conflicts of interest on the part of employees. Records from this system may be forwarded to the United States Civil Service Commission when requested. Information may not be disclosed from a statement other than to designated employees who have an official need, except as the Chairman of the United States Civil Service Commission, or the Commissioner of the Section, may determine for a good cause shown.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in sealed envelopes.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a locked box in a combination safe-metal file cabinet in a secured room, with access limited under very controlled conditions to those individuals whose official duties require access.

Retention and disposal: These records are disposed of 2 years after separation of the employee, in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the Commissioner, United States Section, International Boundary and Water Commission, Room 200, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Commissioner, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Employees on whom records are required to be maintained:

IBWC/US SEC.—4

System name: Individual identification cards.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Categories of records in the system: Names, titles, nationalities, places of birth, physical descriptions (color of hair, eyes, and height, etc.), and photographs.

Authority for maintenance of the system: 1944 Water Treaty; 5 U.S.C. 301, and 44 U.S.C.3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the identification of key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by name—alphabetically.

Safeguards: Records are located in metal card-file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for 6 years after cancellation, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained form Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom identification cards pertain.

IBWC/US SEC.—5

System name: Certificates of Medical Examination.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Medical certificates (SF-78* or equivalent) and any other medical records of examinations used to determine an employee's fitness for the job, and may include employee's name, date of birth, and Social Security Number. (* Parts D, E, and F of SF-78 are not considered a medical record, and are filed in the Official Personnel Folder.)

Authority for maintenance of the system: 5 U.S.C 3301, 3302; and Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine medical eligibility for appointment, and for changes in assignment within the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Upon employee's transfer to another agency or separation from Federal service, the sealed envelope with medical records attached on the right side of the Official Personnel Folder will be forwarded to National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, within thirty (30) days after separation from Federal service, or to the agency to which the employee is transferring within thirty (30) days from such transfer. In the case of disability retirements, medical information is obtained and forwarded to the United States Civil Service Commission's Medical Officer in the El Paso, Texas area.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above. Information may be released upon receipt of a subpoena, or to a nonfederal entity or person, upon written authorization from employee, and the extent of the information will be in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Contesting record procedures: Rules for access to records for contesting contents and appealing initial determinations by the in-

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dividual concerned, as published in the Section's rules in the Federal Register (41 FR 19625), are in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Record source categories: Individual's physician or Section's designated physician covering individuals to whom the records pertain.

Systems exempted from certain provisions of the act: Subject system from Pub. L. 93-579, 552a, Sec. 3. (k)(6), unless approved for release by the Regional Medical Officer of the United States Civil Service Commission. Information will be given to the employee if determined by the Regional Medical Officer that the material is not considered detrimental to the employee's well-being. Medical information may also be released to a licensed physician designated in writing for that purpose by the individual to whom the information pertains, or to his or her designated representative.

IBWC/US SEC.—6

System name: Equal Employment Opportunity.

System location: Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees or applicants for employment who have filed complaints of discrimination against the Section.

Categories of records in the system: Affidavits concerning the complaint; correspondence and written documentation related to the complaint; and copies of personnel records and information covering how the complaint was resolved.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; and Pub. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain records of discrimination complaints filed by employees or applicants for employment with the Section, and all documentation and information pertaining thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Records are retained for 7 years after close of the matter, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, Equal Employment Opportunity, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: From employees of, or applicants for employment with, the Section involved as complainants, witnesses, etc., in discrimination complaints; reports of investigations, and other materials prepared by the Equal Employment Opportunity Director, Equal Employment Opportunity Assistant, counselors, coordinators, and investigators; copies of Section documents relevant to any Equal Employment Opportunity investigations; and records of hearings on complaints.

IBWC/US SEC.—7

System name: Occupational Health and Injury Files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who have sustained injuries or have other occupational health problems.

Categories of records in the system: Accident reports (CA-1 and CA-2); claims for compensation for injury or occupational disease (CA-4); claims for continuance of compensation on account of disability (CA-8); logs of employees receiving medical services or who have sustained a work-related injury or disease; health and medical records, including medical reports on the compensation forms or in response to medical treatment and examination; and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 81; 5 U.S.C. 7153; 5 U.S.C. 7901; The Occupational Safety and Health Act of 1970; and Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information, including statistical data, required by the Occupational Safety and Health Administration, Department of Labor, and Office of Workers' Compensation Programs, Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a lockable metal file cabinet in a secured area, with access limited to those individuals whose official duties require access.

Retention and disposal: Files are maintained indefinitely while individual is in employ of the Section. Upon separation, records are retained for 5 years and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundry and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Official records are maintained by the Office of Workers' Compensation Programs (OWCP), New Orleans, Louisiana, or other district offices of the OWCP, and records contested must be filed with that agency under its contesting procedures. Information and address may be obtained from the Comptroller, address as noted under notification section above.

Record source categories: From employees who have suffered a work-related illness or injury; Section supervisory personnel; medical authorities treting or examining employee; and witnesses to an accident or occurrence giving rise to a claim.

Systems exempted from certain provisions of the act: Pub. L. 93-579, 552a, Sec. 3.(k)(1) and (4). Records maintained under this system are unofficial copies of OWCP records and are maintained to assist in processing compensation claims. Persons seeking information under this system should follow the directions given in the notification procedure above. Information will be given to supervisors and to the employee covered by the record if the material is not considered detrimental to the employee's well-being. Requests for information which appear detrimental will be referred to the OWCP for opinion prior to release.

IBWC/US SEC.—8

System name: Motor Vehicle Operator Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are seeking or holding a United States Government Motor Vehicle Operator's Identification Card.

Categories of records in the system: Applications for government driver's licenses, Social Security Numbers, physical fitness statements, driving violation records, road test results, and pertinent correspondence.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide the Section with information necessary and relevant to the accomplishment of its functions covering motor vehicle operators; and to request information from State and local police departments to determine an employee's eligibility for a government license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained 3 years after separation of employee or 3 years after rescission of authorization to operate a government-owned vehicle, whichever occurs earlier; then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom records pertain, witnesses to driving violations, police and court records, and road test examiners.

IBWC/US SEC.—9

System name: Employees' travel records—initial appointment and/or change of duty stations.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees and applicants selected for appointment in shortage category occupations.

Categories of records in the system: Names, addresses, estimated travel expenses, modes of travel, employment service agreements, and travel orders.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document authority for change of duty station travel and the payment of authorized travel expenses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: Filed in chronological order.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained according to General Services Administration Federal Travel Regulations, and then disposed of and destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: Subject individual, supervisors, and Finance Office standard references.

IBWC/US SEC.—10

System name: Freedom of Information Act requests for records.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons requesting copies of records from the United States Section under the provisions of the Freedom of Information Act, as amended.

Categories of records in the system: Names, addresses and telephone numbers of requesters; description or identification of records requested, furnished, and/or denied; dates of request and response; amount of fees paid, reduced, or waived, if any; payment delinquencies, if any; petitions of indigency; appeals of denials; final determinations; and names and titles of denying officials and determining officials.

Authority for maintenance of the system: Freedom of Information Act, as amended (Pub. L. 93-502).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Annual Report to the Congress under section (d) of the Freedom of Information Act, as amended; and available for public inspection at all times.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed chronologically by date received.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved requests and denied requests which do not result in appeals or litigation: completed actions cut off at close of fiscal year and destroyed two years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation: cut off at close of fiscal year in which final determination is made. Transferred to Federal Archieves Records Center, Forth Worth, Texas, two years after cut off, and destroyed ten years after cutoff in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individuals, Section officers, and employees engaged in processing or making determinations with respect to Freedom of Information Act requests.

IBWC/US SEC.—11

System name: General Personnel Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902, or Field Office where individual is employed.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: General correspondence and files relating to employment or conditions of employment; promotion, Notification of Personnel Action (SF-50), and request for Personnel Action (SF-52) files; leave and training records; Central Personnel Data File (CPDF), and retirement records relating to person-

V 41 166
AUG 25 76
UMI

nel actions and determinations concerning an individual while employed. These records may contain information about an individual relating to name; date of birth; home address; telephone number; emergency addresses; Social Security Number; Veteran's Preference; tenure; work connected injuries; handicap code; employment history; qualification background; past and present salaries; grades and position titles; training; awards and other recognition; counseling; performance appraisal; conduct; pay and leave; and data documenting reasons for personnel actions; decisions or recommendations concerning an employee; and background data and documentation leading to an adverse action being taken against an employee.

Authority for maintenance of the system: 5 U.S.C. 1302, 2951, 4118, 4308, 4506, 7501, 7511, 7521; and Executive Order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

(A) By an agency of the Federal government having oversight or review authority, such as the United States Civil Service Commission.

(B) In the event an appeal is made outside the Section, records which are relevant may be referred to the appropriate agency charged with rendering a decision on the appeal.

(C) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not correct, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, and computer printouts.

Retrievability: Records are indexed by any combination of name, date of birth, Social Security Number, or employee identification number.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained during the period of individual's employment with the Section; transferred to individual's Official Personnel Folder upon resignation, transfer or separation from Section service.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: From information supplied by applicable individuals, or as provided by applicable Section supervisors.

IBWC/US SEC.—12

System name: Investigative records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: Name, address, date and place of birth; citizenship status; physical characteristics; employment and military service history; arrest records; Federally-employed relatives; dates and purposes of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and conflicts of interest, security, and suitability material.

Authority for maintenance of the system: Executive Orders 10450 and 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine suitability for Federal employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, and access limited to those individuals whose official duties require access.

Retention and disposal: The records consist of confidential background investigations for Section employees; and are filed in manila envelopes attached on the outside of the Official Personnel Folder, the envelopes bearing employee name and Social Security Number. When the employee transfers or separates, these records are placed in the Official Personnel Folder and disposed of as part of such Official Personnel Folder.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States section, International boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the section's rules published in the Federal Register (41 FR 19625).

Record source categories: Applications and other personnel and security forms furnished by the individual; investigative and other record material furnished by other Federal agencies; notices of personnel actions furnished by other Federal agencies; personal investigations or written inquires from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and published hearings of Congressional Committees.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). Reference Section's rules published in the Federal Register (41 FR 19625).

IBWC/US SEC.—13

System name: Employees' vehicle accident reports.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Full names and addresses of persons involved and their individual statements; vehicle tag number; service and repairs required; invoice number; cost code; and applicable appropriation symbol.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1941, as amended (40 U.S.C. 471, et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Finance Section employees to complete billing procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, date of accident, and invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retain on hand 3 fiscal years, and then dispose of and destroy in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: From subject individual, supervisors and/or Finance Section's standard references.

IBWC/US SEC.—14

System name: Records of cash receipts.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals and companies making payments to cover goods acquired and services rendered; reimbursements for overpayments; and miscellaneous monies received by the Section.

Categories of records in the system: Names of individuals or companies; goods acquired or services rendered; amounts; dates; check numbers; locations; bank deposit information; and United States Treasury deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accounting for all monies received by the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: By name and/or account or invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center, Fort Worth, Texas.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individual and/or company.

IBWC/US SEC.—15

System name: Disciplinary Action, Appeal, and Grievance Files; and Unfair Labor Practice Charges/Complaints.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Section employees who have had disciplinary actions taken against them, and who have filed appeals or grievances.

Categories of records in the system: Warning letters and official reprimand files; grievance files (Section or negotiated); adverse action decision letters; disciplinary action files; appeals hearing transcripts (if held); background information in support of disciplinary and adverse actions; and unfair labor practice charges/complaints.

Authority for maintenance of the system: Executive Orders 10987, 11491, 11787; and 5 U.S.C. 77.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) To the United States Civil Service Commission upon request in conjunction with any appeal or in conjunction with its official duties pertaining to personnel matters and investigations regarding complaints of Federal employees or applicants for employment.

(b) To designated officers and employees of other Federal agencies conducting investigations of an individual for the purpose of granting security clearance or access determination, and having a need to evaluate qualifications, suitability and loyalty to the United States Government in connection with employment.

(c) In the event of any indication of violation or potential violation of the law, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcement or implementation of the statute, rule, regulation or order issued pursuant thereto.

(d) To respond to a court subpoena or response to a district court in connection with a civil suit.

(e) To designated hearing examiners, arbitrators, and third-party appellate authorities involved in the hearing or appeal processes.

(f) To investigative officials of the Department of Labor and Federal Labor Relations Council for settlement of a complaint or appeal.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, filed alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Records involving court actions are retained permanently; all others retained 7 years after completion of action, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom records pertain; Section officials; affidavits or statements from employees; testimony of witnesses; official documents relating to appeals, grievances, or complaints; and correspondence from specific organizations or individuals.

V 41 166
AUG 25 76
UMI

IBEW/US SEC.—16

System name: Official Personnel Folders.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official Personnel Folders containing name, Social Security Number; date of birth; employment history; education; job and pay data; performance reviews; letters of commendation; reprimands; training certificates; salary and benefits information, to include allowance and insurance data; travel orders and general correspondence; other personnel data such as security clearance, loyalty, military service evidence, injury reports, suggestions, health qualification records, etc.

Authority for maintenance of the system: Executive Order 10561; and United States Civil Service Commission Regulations (Federal Personnel Manual Chapters 293 and 294).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(A) To provide hard-copy documentation on employees' current job and pay data, past job history, career progression, etc. Used to determine qualifications and to provide information for processing personnel actions.

(B) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present)—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders

Retrievability: Filed by employee name—alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Retained for duration of employment, and then folders are transmitted to the Personnel Records Center (Civilian) at 111 Winnebago Street, St. Louis, Missouri, 63118, within 30 days after separation—except for those employees leaving on military furlough, or with retirement applications pending, or compensation cases which are pending and which have not been adjudicated.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, as conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for acess for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Applications for employment; applications for fidelity bonds; college transcripts; personnel actions; performance reviews and/or personnel evaluation reports; letters of commendation or reprimand; training certificates; travel orders; employee insurance data; certificates of clearance; and loyalty affidavits.

IBWC/US SEC.—17

System name: Service records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official summary of employment history to include name, Social Security Number, date of birth, service computation date, Veteran's Preference, life insurance enrollment, retirement data, handicap code, performance reviews (date and type), service award data, and employment record to include date, type, job, pay, and separation data.

Authority for maintenance of the system: United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 293-31).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To have a ready reference to official summary of employment histories, chronology of personal and service data of employees, and provide information for processing personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records filed in Kardex or file box.

Retrievability: Arranged by (a) budgeted position in organization sequence; (b) pay plan; and (c) descending grade level within each pay plan.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retain 3 years after employee's separation from the Section, then dispose of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Personnel actions, performance reviews and/or personnel evaluation reports; application forms, and training and service award certificates.

IBWC/US SEC.—18

System name: Employment resources files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Applicants for employment with the United States Section.

Categories of records in the system: Applications for employment; personal qualifications statement (SF-171); and other pertinent employment data.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 634(b)(6); and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain a source of qualified applicants for the purpose of filing vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records files in file folders.

Retrievability: Grouped by positions for which applicants appear qualified; arranged by name within position groupings.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Applications considered active for 2 years; then destroyed after 2 years from date signed, in accordance with standard procedures—except upon written request that they be returned to individuals.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: Applicants; previous employers.

IBWC/US SEC.—19

System name: Incentive Awards files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section, or non-employees who submit suggestions.

Categories of records in the system: Award certificates; letters of commendation, citation, and awards; letters of non-adoption of suggestions.

Authority for maintenance of the system: 5 U.S.C. 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document staff or other agency comments in support of justification for, or disapproval of, award nominations in order to present findings to Incentive Awards Committee or other Section officials or, at its request, to the United States Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Suggestions—by number; performance nominations—chronologically by type of award.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured room or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of calendar year, retained for 2 years, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC, Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Employees, supervisors, management officials, Incentive Awards Committee, officials of other agencies, and members of the public, if appropriate.

IBWC/US SEC.—20

System name: Travel advance information files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are required to travel.

Categories of records in the system: Employees' names, areas of assignment, and dollar amounts advanced.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Finance Section to monitor travel advance expenditures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by employee name, alphabetically.

Safeguards: Records are located in metal card file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of fiscal year; retained for 3 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: From Imprest Fund receipts signed by employee-traveler when amount is under 150 dollars, and from Bureau schedules for checks issued by the United States Treasury to employee-traveler when the amount is above 150 dollars.

IBWC/US SEC.—21

System name: Employer's tax return files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Federal and State monthly and/or quarterly employee withholding tax form information; computer printouts, magnetic tapes and related documents showing reports of Federal and State taxes withheld from employees, and the banking and payment thereof.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reconciliation and payment of taxes withheld from employees and employer's share; to provide Internal Revenue Service with record representing wages covered by Social Security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at the close of fiscal year, retained for 2 years, and then destroyed in accordance with standard procedures.

V 41 166 AUG 25 76 UMI

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Data stored in payroll master file.

IBWC/US SEC.—22

System name: Privacy Act request file.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals requesting information on records concerning them or someone on whose behalf the individual is authorized to act which are in the custody of the United States Section, or individuals requesting access or amendment to such records under the provisions of The Privacy Act of 1974, 5 U.S.C. 552a.

Categories of records in the system: Copies of correspondence between individuals and Section custodian official; written summaries of conversations with individuals; coordination documents between the Section and other Federal, State, and local government agencies when records which are the subject of an individual inquiry were originated by another agency; and copies of documents which are the subject of an individual inquiry. Originals of amendment requests, refusals, and appeals accumulated by the custodian of the records concerned are included in the file containing those records.

Authority for maintenance of the system: The Privacy Act of 1974, 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process and coordinate requests for information, access, and amendment of personal records; to process and record appeals by individuals against Section rulings; and to assure timely response to requesters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by requester's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved and/or denied requests not resulting in appeals or litigation—completed actions cut off at close of fiscal year and destroyed 2 years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation—cut off at close of fiscal year in which final determination is made; transferred to Federal Archives Record Center, Fort Worth, Texas, 2 years after cutoff; destroyed 10 years after cutoff in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC, Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individual requesters, and agencies of the Federal, State, and local governments.

[FR Doc.76–24757 Filed 8–23–76;8:45 am]

V 41 1 166 AUG 25 76 UMI

V41/166
AUG 25 76
UMI

V41/166
AUG 25 76
UMI

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V 41 1 166 AUG 25 76 UM

Vol. 41—No. 167
8-26-76
PAGES
36013–36191

federal register

THURSDAY, AUGUST 26, 1976

highlights

PART I:

AIR INSTALLATIONS COMPATIBLE USE ZONES
DOD proposal on State and local government involvement; comments by 9–30–76 36030

ALMONDS, LIMES, POTATOES, GRAPES
USDA/AMS rules and proposals on container, rate, and quality requirements (4 documents); comments by 9–10 and 12–31–76; effective date 8–29–76 ..... 36013–36014, 36034–36035

ANIMAL DRUGS
HEW/FDA approves use of sterile prednisone suspension in horses and dogs for treating inflammatory conditions; effective 8–26–76 36063

AWARDS DETERMINATION
HEW/OE publishes approved list of students' need analysis system for certain programs for academic year 1977–78 36062

DEVELOPING INSTITUTIONS PROGRAM
HEW/OE notice of 11–1–76 as closing date for receipt of applications 36062

ENERGY POLICY AND CONSERVATION ACT OF 1975
ICC implementation proposal; comments by 10–12–76 .. 36041

FULBRIGHT-HAYS TRAINING GRANTS
HEW/OE notice of 11–5–76 as closing date for receipt of applications 36061

INDOCHINESE REFUGEES
HEW/SSA regulations regarding Federal financing of State supplementary payments; effective 8–26–76 36017

MINERAL LEASING
Interior/BLM amends commercial quantities and trespass regulations; effective 9–27–76 36022

PROFICIENCY CHECKS
DOT/FAA proposal permitting a pilot-in-command to omit maneuver under certain conditions; comments by 11–24–76 36036

CONTINUED INSIDE

V 41 167
AUG 26 76
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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REARVIEW MIRRORS
DOT/NHTSA amends requirements for motorcycles, school buses, and large multipurpose passenger vehicles and trucks; effective 2–26–77, and proposes standard to allow optional use; comments by 10–11–76 (2 documents) 36023, 36037

SAFETY
NTSB publishes notice of availability and receipt of recommendations and responses 36091

SAVINGS AND LOAN SYSTEM
FHLBB proposal on rural branching; comments by 9–27–76 36039

TEACHER CORPS
HEW/OE notice of 9–15–76 as closing date for X and XI Cycle Youth Advocacy Projects 36062

WINE AND DISTILLED SPIRITS
Treasury/AFT proposes label information requirements for bottles or cartons; comments by 9–27–76 36029

MEETINGS—
Commerce/DIBA: Advisory Committee on East West Trade, 8–16–76 36056
Assembly Packaging and Test Subcommittee, Semiconductor Manufacturing and Test Equipment Technical Advisory Committee, 9–16–76 36056
Wafer Processing Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee, 9–16–76 36057
Commission of Fine Arts, 9–15–76 36067
DOT/CG: Research Advisory Committee, 9–22 through 9–24–76 36064
National Boating Safety Advisory Council, 10–19–76 36063
Ship Structure Subcommittee, 9–22–76 36064
NHTSA: National Motor Vehicle Safety Advisory Council, 9–15 and 9–16–76 36065
EPA: Strategy Subcommittee of Administrator's Pesticide Policy Advisory Committee, 9–10–76 36069
FCC: Executive Committee, 9–16–76 36075
FEA: Worldwide Supply and Demand Task Group, LP–Gas Transportation and Storage Subcommittee, 9–16–76 36075
HEW/OE: Community Education Advisory Council, 9–17 and 9–18–76 36061
National Advisory Council on Equality of Educational Opportunity, 9–24 and 9–25–76 36063
Interior: National Petroleum Council; 9–14 through 9–17–76 36054
BLM: Albuquerque District Multiple Use Advisory Board, 9–28 and 9–29–76 36046
New Mexico Multiple Use Advisory Board, 9–22 and 9–23–76 36046
Mines: Advisory Committee on Coal Mine Safety Research Subcommittee, 9–15–76 36046
Justice/FBI: National Crime Information Center Advisory Policy Board, 10–19 and 10–20–76 36045
Security and Confidentiality Committee, 10–13 and 10–14–76 36045
LEAA: National Institute of Law Enforcement and Criminal Justice, 9–30–76 36045
SBA: Baltimore District Advisory Council, 10–15 and 10–16–76 36098
Denver District Advisory Council, 10–8–76 36098
SEC: Advisory Committee on Replacement Cost Implementation, 9–17–76 36095
National Advisory Market Board, 9–20 and 9–21–76 36094
State: Committee on Ocean Dumping, 9–15–76 36044

PART II:

SOCIAL SERVICES
HEW/SRS proposes amendments for programs for individuals and families under Title XX of the Social Security Act; comments by 10–11–76 36155

PART III:

DOMESTIC CRUDE OIL
FEA rule clarifying mandatory price regulations; effective 9–1–76 36171

PART IV:

PRIVACY ACT OF 1974
HEW requests comments by 9–27–76 on systems of records and proposed routine uses 36187

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Authority delegations:
Barbados, AID Affairs Officer for Caribbean Regional Programs 36044

AGRICULTURAL MARKETING SERVICE
Rules
Limes grown in Fla 36013
Oranges (Valencia) grown in Ariz. and Calif 36013
Potatoes (Irish) grown in Wash 36014
Proposed Rules
Almonds grown in Calif 36034
Grapes (Tokay) grown in Calif 36035
Notices
Grain standards:
Idaho 36055
Mississippi 36055

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Farmers Home Administration; Food and Nutrition Service; Forest Service.

ALCOHOL, TOBACCO, AND FIREARMS BUREAU
Proposed Rules
Wine and distilled spirits; labeling and advertising; required information on coverings or cartons 36029

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Ephrata-Moses Lake 36066
Flying Tiger Line Inc 36065

COAST GUARD
Rules
Anchorage grounds:
New York 36018
Notices
Meetings:
National Boating Safety Advisory Council 36063
Research Advisory Committee 36064
Ship Structure Subcommittee 36064

COMMERCE DEPARTMENT
See also Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration.
Notices
Organization and functions:
Assistant Secretary for Administration 36058
Financial Management Services 36058
National Bureau of Standards 36058
National Oceanic and Atmospheric Administration 36061

V 41 1 167 AUG 26 76 UMI

V 41 167
AUG 26 76
UMI

CONTENTS

COMPTROLLER OF CURRENCY
Notices
Securities; over-the-counter trading suspension:
Mercantile National Bank 36044

DEFENSE DEPARTMENT
Proposed Rules
Air installations compatible use zones 36030

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Advisory Committee on East-West Trade 36056
Assembly, packaging and test Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee 36056
Wafer Processing Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee 36057

EDUCATION OFFICE
Notices
Funding criteria for applications:
Developing Institutions Programs 36062
Fulbright-Hays Training Grants 36061
National Direct Student Loan, etc 36062
Teacher Corps 36062
Meetings:
Community Education Advisory Council 36061
Equality of Educational Opportunity, National Advisory Council 36063

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Rules
Procurement 36021

ENVIRONMENTAL PROTECTION AGENCY
Notices
Environmental statements; availability of agency comments 36070
Meetings:
Administrator's Pesticide Policy Advisory Committee 36069
Pesticide chemicals, etc.; petitions:
Chapman Chemical Co., et al 36068

FARMERS HOME ADMINISTRATION
Notices
Disaster areas:
New York 36055

FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Armstrong Whitworth 36014
Enstrom 36015
Grumman-American Aviation Corp 36015
Hawker Siddeley Aviation, Ltd. 36015
Control zones (2 documents) 36016
Transition areas 36016
Proposed Rules
Air carriers certification and operations:
Proficiency checks; maneuvering with simulated powerplant failure 36036
Transition areas 36036

FEDERAL BUREAU OF INVESTIGATION
Notices
Meetings:
National Crime Information Center and Policy Board 36045
Security and Confidentiality Committee 36045

FEDERAL COMMUNICATIONS COMMISSION
Rules
FM broadcast stations; table of assignments:
Texas 36022
Television broadcast stations; table of assignments:
Wisconsin 36023
Notices
Meetings:
Radio Technical Commission for Marine Services 36075

FEDERAL ENERGY ADMINISTRATION
Rules
Petroleum price regulations, mandatory:
Crude oil, domestic; clarification 36171
Notices
Meetings:
LP-Gas Industry Advisory Committee, Worldwide Supply and Demand Task Group 36075

FEDERAL HOME LOAN BANK BOARD
Proposed Rules
Federal savings and loan system:
Rural locations of branch offices and mobile facilities 36039

FEDERAL MARITIME COMMISSION
Notices
Freight forwarder licenses:
Columbus Express and Shipping Co., Inc 36076
Agreements filed, etc.:
Puerto Rico Ports Authority and Puerto Rico Maritime Shipping Authority 36076

FEDERAL POWER COMMISSION
Proposed Rules
Electric utilities:
Securities issuance procedures; revisions; withdrawn 36040
Notices
Amounts subject to refund; interest rate 36084
Hearings, etc.:
Algonquin Gas Transmission Co 36076
Allaun, William E 36080
Appalachian Power Co 36077
Carolina Power and Light Co 36077
Cities Service Gas Co. (2 documents) 36078, 36088
Columbia Gas Transmission Corp 36079
Community Public Service Co 36079
Dille, Earl K 36079
East Tennessee Natural Gas Co 36079
Interstate Power Co 36088
Iowa, Cities of Lenox, et al 36087
Iowa Power and Light Co. (2 documents) 36080, 36089
Kansas Power and Light Co 36080
Michigan Wisconsin Pipe Line Co 36080
Midwestern Gas Transmission Co. (2 documents) 36081
Mobile Oil Corp 36081
Montana Power Co 36082
Nantahala Power and Light Co 36082
New England Power Co. (2 documents) 36082
Northern Michigan Exploration Co., et al 36082
Northern States Power Co 36083
Northwest Pipeline Corp 36089
Oil Resources Inc 36083
Panhandle Eastern Pipe Line Co. (3 documents) 36083, 36089, 36090
Pennsylvania Electric Co 36084
Public Service Company of Colorado 36084
Texas Eastern Transmission Corp 36085
Toledo Edison Co 36085
Trunkline Gas Co 36090
Union Electric Co. (2 documents) 36085, 36086
Utah Gas Service Co 36086
Utah Power and Light Co., et al 36086
Virginia Electric and Power Co 36090
Western Massachusetts Electric Co 36087

FINE ARTS COMMISSION
Notices
Meeting 36067

FISH AND WILDLIFE SERVICE
Rules
Hunting:
Cibola National Wildlife Refuge, Ariz. and Calif., et al 36027
Notices
Endangered species permits; applications:
Clark, William S 36047
National Zoological Park 36051
Patuxent Wildlife Research Center 36052
Seattle Aquarium 36053
Ure, Lloyd R 36049

FOOD AND DRUG ADMINISTRATION
Rules
Animal drugs, feeds, and related products:
Prednisone suspension, sterile 36018
Notices
Animal drugs:
Hexederm and derma hex shampoos; withdrawal of approval 36063
Human drugs:
Hydroxydione sodium succinate; correction 36063

CONTENTS

FOOD AND NUTRITION SERVICE
Rules
School breakfast program; correction 36013

FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Emerald Creek Planning Unit 36055
Lakeview Planning Unit; correction 36056
Ozone Unit Plan 36056

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office; Food and Drug Administration; Social and Rehabilitation Service; Social Security Administration.
Notices
Privacy Act, 1974 36187

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Land Management Bureau; Mines Bureau.
Notices
Meetings:
National Petroleum Council 36054

INTERNAL REVENUE SERVICE
Notices
Authority delegations:
Deputy Commissioner, et al 36044

INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Plant hangers, beads 36091

INTERSTATE COMMERCE COMMISSION
Rules
Railroad car service orders:
Hopper cars, substitution of 36027
Proposed Rules
Practice rules:
Energy policy and conservation 36041
Notices
Finance application 36136
Fourth section applications for relief 36132
Hearing assignments (3 documents) 36099, 36131
Motor carriers:
Irregular route property carriers; gateway elimination 36099
Lease and interchange of vehicles (3 documents) 36103
Temporary authority applications 36133
Temporary authority termination 36104
Transfer proceedings (3 documents) 36103, 36104, 36132
Operating rights applications, etc. 36104
Railroad freight rates and charges; various States:
Colorado 36131

JUSTICE DEPARTMENT
See Federal Bureau of Investigation; Law Enforcement Assistance Administration.

LAND MANAGEMENT BUREAU
Rules
Mineral leasing and trespass:
Dating of leases and preference right, etc 36022
Notices
Applications, etc.:
New Mexico (3 documents) 36045, 36046
Meetings:
Albuquerque District Multiple Use Advisory Board 36046
New Mexico Multiple Use Advisory Board 36046

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Notices
Meetings:
Advisory Committee of the National Institute of Law Enforcement and Criminal Justice 36045

MARITIME ADMINISTRATION
Notices
Construction of two containerships, MA Design C5–S–73b 36058

MINES BUREAU
Notices
Meetings:
Advisory Committee on Coal Mine Safety Research 36046

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Rules
Motor vehicle safety standards:
Rearview mirrors 36023
School bus rollover protection 36026
Proposed Rules
Motor vehicle safety standards:
Rearview mirrors 36037
Notices
Meetings:
National Motor Vehicle Safety Advisory Council 36065
Motor vehicle safety standards; exemption petitions, etc.:
General Motors Corp 36064
Travel Equipment Corp 36065

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Rules
Marine mammals:
Endangered species parts and products; exemptions for pre-Act prohibitions 36028

NATIONAL TRANSPORTATION SAFETY BOARD
Notices
Safety recommendations and responses; availability and receipt 36091

NUCLEAR REGULATORY COMMISSION
Notices
Environmental statements; availability, etc.:
Puerto Rico Water Resources Authority 36093
Regulatory guides; issuance and availability 36093
Applications, etc.
Commonwealth Edison Co 36092
Commonwealth Edison Co. (Zion Station Units 1 and 2) 36094
Duke Power Co 36093

SECURITIES AND EXCHANGE COMMISSION
Notices
Meetings:
Market Advisory Board, National 36094
Replacement Cost Implementation Advisory Committee 36095
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc 36094
Chicago Board Options Exchange, Inc 36095
Midwest Securities Trust Co 36095
Hearings, etc.:
Diversified Industries, Inc 36095
Equity Funding Corp. of America and Orion Capital Corp 36095
Nathan Hale Investment Corp 36096
Southeast Acquisition Co 36097
Taxpayers Aid Society, Inc 36098

SMALL BUSINESS ADMINISTRATION
Notices
Meetings:
Baltimore District Advisory Council 36098
Denver District Advisory Council 36098

SOCIAL AND REHABILITATION SERVICE
Proposed Rules
Social services programs:
Individuals and families; eligibility determination, etc 36155

SOCIAL SECURITY ADMINISTRATION
Rules
Aged, blind, and disabled; supplemental security income for:
Indochinese refugee assistance; State fiscal liability limitations, etc 36017

STATE DEPARTMENT
See also Agency for International Development.
Notices
Meetings:
Shipping Coordinating Committee 36044

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE
Notices
Cotton, wool, and man-made textiles:
Korea, Republic of 36067

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT
See Alcohol, Tobacco and Firearms Bureau; Comptroller of the Currency; Internal Revenue Service.

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
220 36013
908 36013
911 36013
946 36014
PROPOSED RULES:
926 36035
981 36034

10 CFR
212 36172

12 CFR
PROPOSED RULES:
556 36039

14 CFR
39 (4 documents) 36014, 36015
71 (3 documents) 36016
PROPOSED RULES:
71 36036
121 36036

18 CFR
PROPOSED RULES:
34 36040

20 CFR
416 36017

21 CFR
522 36018

27 CFR
PROPOSED RULES:
4 36029
5 36029

32 CFR
PROPOSED RULES:
256 36030

33 CFR
109 36018
110 36018

41 CFR
9–3 36021

43 CFR
3520 36022
9230 36022

45 CFR
PROPOSED RULES:
228 36156

47 CFR
73 (2 documents) 36022, 36023

49 CFR
571 (2 documents) 36023–36026
1033 36027
PROPOSED RULES:
571 36037
1106 36041

50 CFR
32 36027
222 36028

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR
PROPOSED RULES:
18 32861

3 CFR
PROCLAMATIONS:
3279 (See EO 11930) 32399
EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32399
11931 32689
11932 32691
DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693
MEMORANDUMS:
July 19, 1976 32403

4 CFR
1 35155

5 CFR
213 ..... 32892, 33545, 34246, 34731, 35155
591 32892

7 CFR
35 32877
52 ..... 32222, 34751
103 34005
105 34005
106 34005
108 34006
111 34006
220 ..... 32405, 34757, 36013
225 35685
230 35686
235 32405
271 34760
331 ..... 32229, 32409
354 35693
409 34973
722 32878
728 35694
775 35694
790 34247
791 34247
905 34248
908 ..... 32229, 32695, 34006, 35053, 35520, 36013
909 35843
910 ..... 32827, 34248, 35156, 35521
911 36013
915 34973
916 32410
917 ..... 32410–32411, 34762
919 35695

7 CFR—Continued
926 34007
944 34762
946 36014
947 ..... 32230, 32695
967 35520
982 34974
989 32412
1012 32417
1099 32575
1421 ..... 32879, 35695–35702
1124 ..... 32418, 35843
1427 35521
1430 32881
1472 34248
1701 33546
1806 34571
1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697
PROPOSED RULES:
16 ..... 34777, 34977, 35072
47 32231
51 32896
909 32234
910 ..... 33922, 35187
911 34049
919 32234
926 ..... 34647, 36035
927 34050
930 32606
931 32757
932 35722
946 32758
953 34766
981 ..... 34647, 36034
991 34648
993 33275
1004 34282
1006 35187
1007 33275
1011 ..... 33275, 34444
1012 35187
1013 35187
1030 33275
1032 33275
1033 ..... 34444, 35194
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275

7 CFR—Continued
PROPOSED RULES—Continued
1099 33275
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34286
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1260 34772
1430 32899
1701 32419
1801 33561
1813 33922
1823 34767
1861 33561
1867 35532
1980 33561

8 CFR
100 ..... 32419, 34937
103 34937
316a 34938

9 CFR
73 ..... 32882, 34731
76 ..... 32882, 35156, 35675
83 32432
113 32882
201 34007
PROPOSED RULES:
327 34293

10 CFR
35 34635
211 33881
212 ..... 34008, 36172
700 34731
735 34731
PROPOSED RULES:
9 35073
70 35537
205 ..... 34783, 34981
210 34784
211 34784
212 ..... 33282, 34080, 34784
705 34778

11 CFR
Ch. I 35932

12 CFR
217 32578
220 34038
221 35477
303 35156
335 35477
545 35820
561 ..... 32419, 35821
563 ..... 32419, 35821
611 33546
615 35547
618 33547

V 41 1 167 AUG 26 76 UMI

12 CFR—Continued
PROPOSED RULES:
16 ... 32864
225 ... 33306
226 ... 35536
556 ... 36039
569 ... 35827
584 ... 33566

13 CFR
102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670
PROPOSED RULES:
120 ... 33567

14 CFR
13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059, 36014, 36015
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478, 36016
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479
PROPOSED RULES:
39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535, 36036
73 ... 34077, 34650
75 ... 34077
93 ... 35073
121 ... 36036
Ch. II ... 34979
300 ... 34650

15 CFR
0 ... 34938
905 ... 34017

16 CFR
13 ... 32420, 34019, 34249, 34742, 34939–34941, 35843
15 ... 34594
433 ... 34594
PROPOSED RULES:
423 ... 35863
437 ... 35725
456 ... 33925
700 ... 34654

16 CFR—Continued
PROPOSED RULES—Continued
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR
150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167
249 ... 35167
PROPOSED RULES:
239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR
2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,
PROPOSED RULES:
1 ... 34324
2 ... 32910
34 ... 36040
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR
1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248
PROPOSED RULES:
1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR
404 ... 32885
410 ... 33549
416 ... 36017
602 ... 35169
PROPOSED RULES:
404 ... 34060, 35861, 35862
405 ... 35197
416 ... 35862
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR
2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743, 35844
520 ... 32889
522 ... 32583, 32889, 33882, 36018
555 ... 32583, 33882
558 ... 34943

21 CFR—Continued
620 ... 35480
640 ... 35062
701 ... 32583
PROPOSED RULES:
1 ... 34051
2 ... 35855
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR
102 ... 34743
503 ... 35480
606 ... 33550
PROPOSED RULES:
130 ... 33446

23 CFR
230 ... 34239
420 ... 33440
630 ... 33253
PROPOSED RULES:
658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR
10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556 33919–33921, 35844–35847
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174, 35847
1930 ... 34618
1931 ... 34618
2205 ... 32359
PROPOSED RULES:
201 ... 32564
205 ... 34977
570 ... 34301
710 ... 35978
720 ... 35978
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR
41 ... 33556
43h ... 32421
221 ... 34743

25 CFR—Continued
PROPOSED RULES:
41 ... 32756
221 ... 32757

26 CFR
1 ... 33262, 34025, 34619, 35490
20 ... 34627, 35490
25 ... 34628, 35490
31 ... 35174
53 ... 35514
141 ... 32889, 32890
301 ... 34025, 35174, 35490
PROPOSED RULES:
1 ... 33285, 35855
31 ... 32231
54 ... 32895

27 CFR
PROPOSED RULES:
4 ... 36029
5 ... 35531, 36029

28 CFR
0 ... 35183
16 ... 32423
20 ... 34949

29 CFR
699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741
PROPOSED RULES:
97 ... 35723, 35724
1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298
2200 ... 34657

30 CFR
55 ... 33263
56 ... 33263
57 ... 33263
PROPOSED RULES:
211 ... 35716

31 CFR
PROPOSED RULES:
210 ... 32605, 35855

32 CFR
581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962
PROPOSED RULES:
256 ... 36030
505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR
109 ... 36018
110 ... 36018
117 ... 32217, 34034, 35521, 35522
127 ... 32742, 35066
207 ... 34034
PROPOSED RULES:
110 ... 34649
117 ... 32238, 35536
161 ... 32758

34 CFR
PROPOSED RULES:
Ch. I ... 34324

35 CFR
PROPOSED RULES:
133 ... 33307

36 CFR
7 ... 33263
50 ... 34748

38 CFR
4 ... 34256
21 ... 32217
36 ... 32218
PROPOSED RULES:
1 ... 32247

39 CFR
10 ... 35682–35685
111 ... 35682–35685
3002 ... 32742
PROPOSED RULES:
775 ... 35725
3003 ... 34792

40 CFR
51 ... 35676
52 ... 32743, 32890, 34259, 34749, 35184, 35676
60 ... 33264, 34628, 35184
61 ... 33264, 34629
86 ... 35626
87 ... 34722
180 ... 32426, 33265, 34629, 35677
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440
PROPOSED RULES:
52 ... 32241, 34422, 34782, 35725
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613
420 ... 32242
434 ... 34441

41 CFR
1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
9–3 ... 36021
28–1 ... 32426

41 CFR—Continued
29–60 ... 35186
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634
PROPOSED RULES:
3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR
51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR
419 ... 32427
2650 ... 33267
3302 ... 32891
3520 ... 36022
9230 ... 36022
PUBLIC LAND ORDERS:
5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267
5597 ... 33267
5598 ... 34035
5599 ... 34749
5600 ... 35067
5601 ... 35067
PROPOSED RULES:
232 ... 34299
302 ... 34298
2800 ... 34977

45 CFR
11 ... 35654
115 ... 34962
117 ... 35678
121a ... 35678
121d ... 33558
130 ... 35678
141 ... 35678
166 ... 35678
173 ... 35678
177 ... 33268
190 ... 33868
233 ... 35678, 35847
249 ... 35847
801 ... 33559
1069 ... 33268
PROPOSED RULES:
73b ... 32235
103 ... 35722
146 ... 34052
190 ... 33962
228 ... 36156

46 CFR
91 ... 32744
252 ... 32589
536 ... 32590
PROPOSED RULES:
93 ... 32237
180 ... 35072
531 ... 32899

V41167
AUG 26 76
UMI

47 CFR

0 ---- 33272
1 ---- 33885, 33895, 34259
2 ---- 32680, 33885
15 ---- 32590
19 ---- 32891
21 ---- 33269, 33885, 33895
73 ---- 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849, 36022, 36023
74 ---- 32429, 32593, 35068
76 ---- 32429, 34963, 35068
78 ---- 32429
83 ---- 32220
89 ---- 32680, 33902, 35522
91 ---- 32680, 33889, 33903, 35068, 35522
93 ---- 32682, 33907, 35522
95 ---- 32682

PROPOSED RULES:

0 ---- 33563
2 ---- 32434
13 ---- 32434
15 ---- 34323
63 ---- 33280
64 ---- 33563
73 ---- 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534
76 ---- 32381, 34930
81 ---- 32434, 33281, 34790
83 ---- 32434, 33281, 34790
87 ---- 32242
89 ---- 35863

47 CFR—Continued

PROPOSED RULES—Continued

91 ---- 35863
93 ---- 35863
95 ---- 35863

49 CFR

1 ---- 35849
81 ---- 32593
192 ---- 34598
195 ---- 34035
390 ---- 34968
571 ---- 32221, 35522, 36023–36026
575 ---- 34607
581 ---- 35068
613 ---- 33443
1033 ---- 32221, 32429, 32430, 34607, 35068, 35678, 36027
1038 ---- 32594
1109 ---- 32744
1124 ---- 34260
1127 ---- 32546
1201 ---- 32595
1202 ---- 32596
1203 ---- 32596
1204 ---- 32597
1205 ---- 32597
1206 ---- 32598
1207 ---- 32599
1208 ---- 32601
1209 ---- 32601
1210 ---- 32602
1307 ---- 34260, 35679
1310 ---- 35679

49 CFR—Continued

PROPOSED RULES:

266 ---- 33354
571 ---- 33280, 36037
801 ---- 34082
1067 ---- 33307
1106 ---- 36041
1109 ---- 32434
1125 ---- 35730
1201 ---- 33016
1241 ---- 33016
1243 ---- 33016

50 CFR

20 ---- 34041
26 ---- 35679
28 ---- 32602
32 ---- 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849, 36027
33 ---- 32222, 32431, 32603, 32755
217 ---- 34969
222 ---- 34969, 35682, 36028
240 ---- 34047
285 ---- 32603

PROPOSED RULES:

17 ---- 32896, 33922, 35855
20 ---- 34273
26 ---- 32433
32 ---- 34049
222 ---- 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	*Date*	*Pages*	*Date*
32205–32398	Aug. 2	32239–34570	13
32399–32574	3	34571–34730	16
32575–32688	4	34731–34935	17
32689–32875	5	34937–35051	18
32877–33244	6	35053–35153	19
33245–33543	9	35155–35475	20
33545–33880	10	35477–35674	23
33881–34003	11	35675–35842	24
34005–34238	12	35843–36012	25
		36013–36191	26

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/CG—Adequate manning of vessels; revocation of temporary regulations. 30648; 7–26–76

FAA—Standard instrument approach procedures; recent changes and additions ---- 29098; 7–15–76
Standard instrument approach procedures ---- 31525; 7–29–76
Standard Instrument Approach Procedures; Santa Maria, Ca., Pocatello, Id., Billings, Mt., Pierre, SD, Watertown, SD ---- 28511; 7–12–76
Standard Instrument Approach Procedures; Santa Maria, Ca., Billings, Mt., Pierre, SD, Watertown, SD. 28511; 7–12–76
Standard Instrument Approach Procedures; Fresno, Ca., Watertown, SD. 28511; 7–12–76
Standard Instrument Approach Procedures; Denver, Co.... 28511; 7–12–76
Standard Instrument Approach Procedures; Los Angeles, Ca., Santa Maria, Ca., Billings, Mt., Pierre SD, Watertown, SD ---- 28511; 7–12–76

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 7896 ---- Pub. Law 94–390
To amend sections 2734a(a) and 2734b (a) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the armed forces, and for other purposes
(Aug. 19, 1976; 90 Stat. 1191)

H.R. 10374 ---- Pub. Law 94–391
To amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board
(Aug. 19, 1976; 90 Stat. 1192)

H.R. 13359 ---- Pub. Law 94–392
To authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes
(Aug. 19, 1976; 90 Stat. 1193)

S. 2642 ---- Pub. Law 94–393
To provide for the establishment of the Ninety Six National Historic Site in the State of South Carolina, and for other purposes
(Aug. 19, 1976; 90 Stat. 1196)

V 41 1 167 A UG 26 76 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 25]

PART 220—SCHOOL BREAKFAST PROGRAM

Child Nutrition Programs

Correction

In FR Doc. 76-24227 appearing on page 34757 in the issue for Tuesday, August 17, 1976, make the following corrections:

1. On page 34758, in the first column, in the Authority appearing beneath the table of contents, "Stat. 866" should have read "Stat. 886".

2. On page 34758, in the third column, under § 220.2 (u), in the 20th line, "nonprofit child care institution," should have read "nonprofit private child care institution,".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 542]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 27–Sept. 2, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh marget demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.842 Valencia Orange Regulation 542.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues slow. Prices f.o.b. for the week ending August 19 were $3.42 a carton on 614 cars as compared with $3.45 per carton on 593 cars during the prior week. Track and rolling supplies at 286 cars were down 29 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 24, 1976.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 27, 1976, through September 2, 1976, are hereby fixed as follows:

(i) District 1: 292,000 cartons;

(ii) District 2: 358,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 25, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-25295 Filed 8-25-76;11:13 am]

[Lime Reg. 27, Amdt. 5]

PART 911—LIMES GROWN IN FLORIDA

Container Regulation

This amendment to the current container regulation continues suspension of the use of 10-pound containers for the handling of fresh Florida limes during the period August 29 through October 30, 1976. Such suspension was scheduled to end August 28. The amendment continues to authorize the use of six containers with minimum content requirements of 20 pounds and 38 pounds net weight of limes.

On August 12, 1976, notice of rulemaking was published in the FEDERAL REGISTER (41 FR 34049) regarding a proposed amendment of the current container regulation (7 CFR 911.329; 38 FR

V 41 1 167 AUG 26 76 UMI

12323, 15726; 41 FR 15685, 19299, 30343) in effect pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The proposal was submitted by the Florida Lime Administrative Committee (established pursuant to said amended marketing agreement and order). This is a marketing order program issued pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). No exception to said notice was filed.

The amendment reflects the Department's appraisal of present and prospective marketing conditions for limes. Production estimates indicate that supplies of limes will continue heavy through October 30. The committee reports that trade reaction has been favorable during the period of suspension of the 10-pound containers. Limiting shipments to the larger 20- and 38-pound containers results in lower container costs and handling and marketing charges for a given volume of limes. Indications are that the lower packing and marketing charges enable lower f.o.b. prices. Such prices should encourage increased sales during the period of heaviest lime supplies. Hence, the action would contribute to orderly marketing of limes and be in the public interest.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the committee, and other available information, it is hereby found that the amendment hereinafter set forth is in accordance with the provisions of said amended marketing agreement and order; and such amendment will tend to effectuate the declared policy of the act with respect to effectuating orderly marketing in the public interest.

It is hereby further found that it is impracticable and contrary to the public interest to give further notice and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinafter set forth in that: (1) Shipments of the current crop of limes began on April 1, 1976, and heavy shipments of limes are now in progress, and this regulation should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) The recommendations upon which this regulation is based were developed by the committee at an open meeting on July 20, 1976, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) A notice of proposed amendment of the container regulation for Florida limes was published in the FEDERAL REGISTER (41 FR 34049); and (4) The amended container regulation herein specified is the same as the proposed regulation.

Order. The provisions of paragraph (a) (2) of § 911.329 (Lime Regulation 27; 38 FR 12323, 15726; 41 FR 15685, 19299, 30343) are hereby amended to read as follows:

§ 911.329 Lime Regulation 27.

(a) • • •

(2) During the period August 29, 1976, through October 30, 1976, no handler shall handle any variety of limes, grown in the production area, in containers having inside dimensions of 12 x 9⅝ x 3¾ inches and 12 x 9⅝ x 5 inches: *Provided,* That during such period and thereafter no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in individual bags having a capacity of more than 4 pounds net weight of limes.

• • • • • •

Dated: August 23, 1976, to become effective August 29, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–25067 Filed 8–25–76;8:45 am]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Expenses and Rate of Assessment

This document authorizes the State of Washington Potato Committee to spend not more than $16,200 for its operations during the fiscal period ending June 30, 1977, and to collect one-tenth cent per hundredweight on assessable potatoes handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 113 and Order No. 946, both as amended, regulating the handling of Irish potatoes grown in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Notice was published in the August 5 FEDERAL REGISTER (41 FR 32758) regarding the proposals. It afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than August 20, 1976. None was filed.

After consideration of all relevant matters, including the proposals set forth in the notice, it is hereby found and determined that the following budget and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period.

§ 946.229 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1977, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $16,200.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-tenth cent (0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during the fiscal period, except potatoes for canning, freezing, and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 946.42(a).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 23, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–25068 Filed 8–25–76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16030; Amdt. 39–2701]

PART 39—AIRWORTHINESS DIRECTIVES

Armstrong Whitworth Argosy Model AW–650 Series 101 Airplanes

There have been reports of cracks in the main undercarriage sliding cylinder on Armstrong Whitworth Model AW–650 Series 101 airplanes that could result in the failure of the main landing gear. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires an inspection with magnetic particle fluid of the main undercarriage sliding cylinder and its replacement, if cracks are discovered, on Armstrong Whitworth Model AW–650 Series 101 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the folowing new airworthiness directive:

ARMSTRONG WHITWORTH. Applies to all Model AW–650 Series 101 airplanes certificated in all categories.

Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

To detect cracks in the undercut at the bottom of the main undercarriage sliding cylinder and prevent possible failure of the main landing gear, accomplish the following:

(a) Inspect the undercut at the bottom of the main undercarriage sliding cylinder with magnetic particle fluid in accordance with Accomplishment Instructions 2A (1) through 2A (6) of Dowty Rotol Service Bulletin No. 32–49D, dated August 15, 1975, or an FAA-approved equivalent.

(b) If a crack in the sliding cylinder is detected during the inspection required by paragraph (a) of this AD, replace the main undercarriage sliding cylinder before further flight with a serviceable part of the same part number or an FAA-approved equivalent.

This amendment becomes effective, on September 9, 1976.

Issued in Washington, D.C. on August 18, 1976.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.76–24715 Filed 8–25–76;8:45 am]

[Docket No. 76–GL–15; Amdt. 39–2700]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom Models F–28, F–28A and 280

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), an airworthiness directive was adopted on August 6, 1976, and made effective immediately as to all known United States operators of Enstrom helicopters Models F–28, F–28A and 280, except for those helicopters which have certain main rotor shaft gear box serial numbers as listed in the AD. The directive requires Enstrom helicopter owners to report any evidence of tool marks or surface irregularities on the main rotor shaft in the area of the radius beneath the rotor hub shoulder and make inspections for cracks at closer intervals. This directive supersedes Amendment 39–2472 (40 FR 59197), AD 75–26–19.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known United States operators of Enstrom helicopters Models F–28, F–28A and 280, except for those helicopters which have main rotor shaft gear box serial numbers listed in the AD, by individual airmail letters dated August 6, 1976. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ENSTROM. Applies to Models F–28, F–28A, and 280 helicopters certificated in all categories, except for those helicopters which have the following main rotor shaft gear box serial numbers.

032FS	10–002–72PS
041PS	19–024–74PS
067PS	34–029–75PS
070PS	39–002–13PS
091	44–011–76PS
07–012–74PS	44–019–76PS
08–001–72S	53–003–73PS

To detect tool marks, surface irregularities, and cracks which may develop into failure of the Main Rotor Shaft (Enstrom Part Number 28–13104) accomplish the following:

A. Before further flight visually inspect the main rotor shaft in the area of the radius beneath the rotor hub shoulder, using an eight power or greater magnifying glass and report to the Enstrom Helicopter Corporation, Menominee County Airport, P.O. Box 277, Menominee, Michigan, Phone 906–863–9971, any evidence of circumferentially disposed tool marks or surface irregularities.

B. Before further flight, unless previously accomplished within the last 20 hours time in service or one month, and every 20 hours or one month thereafter, whichever occurs first, inspect the main rotor shaft for cracks in the area of the radius beneath the rotor hub shoulder using a 3-step dye-penetrant method. The inspections are to be performed by maintenance personnel familiar with the dye-penetrant inspection method.

C. Within 10 hours time in service or 15 days, whichever occurs first after each dye-penetrant inspection, visually check the main rotor shaft for cracks in the area of the radius beneath the rotor hub shoulder using an eight power or greater magnifying glass.

D. Before further flight remove from service any main rotor shaft found to contain cracks or other evidence of damage and replace with an airworthy shaft of the same part number or later FAA approved part number.

E. Immediately check in accordance with Paragraph B above any helicopter which develops unusual once-per-rotor-revolution vibration. Such vibrations serve as warning of imminent failure.

F. The above inspections may be discontinued after completion of main rotor shaft modifications in accordance with Enstrom Service Directive Bulletin Number 0036.

This supersedes Amendment 39–2472 (40 FR 59197), AD 75–26–19.

This amendment is effective September 1, 1976 and was effective immediately for all recipients of the airmail letters dated August 6, 1976 which contained this amendment.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to The Enstrom Helicopter Corporation, Menominee County Airport, P.O. Box 277, Menominee, Michigan 49858. These documents may also be examined at the FAA Great Lakes Region, Engineering and Manufacturing Branch, AGL–210, 2300 East Devon Avenue, Des Plaines, Illinois. A historical file on this AD which includes the incorporated material in full is also maintained at that office.

The incorporation by reference provisions in this document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on August 18, 1976.

LEON C. DAUGHERTY,
Acting Director, Great Lakes Region.

[FR Doc.76–24886 Filed 8–25–76;8:45 am]

[Docket No. 76–GL–14; Amdt. 39–2699]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Aviation Corp.; Model AA1, AA1A, AA1B, AA5, AA–5A, and AA–5B Series Airplanes

There have been failures of the bondline integrity on control surfaces on Grumman American airplanes that could result in control surface skin delamination. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require bondline inspection and repair, if necessary, and installation of rivets on control surfaces on Grumman American Model AA1, AA1A, AA1B, AA5, AA–5A and AA–5B airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GRUMMAN AMERICAN AVIATION CORPORATION

Applies to *Model*	*Serial Number*
AA1, AA1A	0001 and up
AA1B	0001 thru 0641
AA5	0001 and up
AA–5A	0001 thru 0173, 0176 thru 0196
AA–5B	0001 thru 0309, 0311 thru 0324

airplanes certificated in all categories.

Compliance required within the next 25 flight hours' time in service after the effective date of this AD, unless already accomplished.

To detect delaminations in bonded skins and prevent any possible further delaminations, accomplish the following: Inspect and perform rework as prescribed by the instructions of Grumman American Aviation Corporation Service Bulletin No. 155, dated July 30, 1976, or an equivalent inspection and modification approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment becomes effective August 30, 1976.

Issued in Des Plaines, Illinois, on August 16, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76–24814 Filed 8–25–76;8:45 am]

[Docket No. 15616; Amdt. 39–2705]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. Model DH/BH–125 Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring

V 41 167 AUG 26 76 UMI

necessary modifications of the airbrake servodynes and operating circuit on certain Hawker Siddeley Aviation, Ltd. Model DH/BH–125 airplanes was published in the FEDERAL REGISTER at 41 FR 17400.

Interested persons have been afforded an opportunity to participate in the making of the amendment and no objections were received.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH/BH–125 airplanes Series 400A, S/N NA–711 through NA–758 and all Model DH/BH–125 airplanes Series 1A, 1A–522, 1A/S–522, 3A, 3AR, 3ARA, certificated in all categories.

Compliance is required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To prevent possible unwanted deployment of airbrakes in flight, accomplish the following:

(a) For all aircraft except those altered to include airbrake servodynes P/N AIR 46520/0 and 46521/0 in accordance with the Part D Supplement of Hawker Siddeley Aviation Ltd., Modification 252174, Service Bulletin SB 27–86–(2174), dated March 29, 1972, modify the airbrake servodynes, P/N AIR 45398 and 45399, in accordance with Part A of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation Ltd., Service Bulletin 27–86–(2174), Revision 4, dated March 29, 1972, or an FAA-approved equivalent.

(b) For all aircraft, modify the airbrake operating circuit (R/H and L/H) in accordance with Part C of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Service Bulletin 27–86–(2174), Revision 4, dated March 29, 1972, or an FAA-approved equivalent.

This amendment becomes effective September 27, 1976.

Issued in Washington, D.C. on August 19, 1976.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.76–24882 Filed 8–25–76;8:45 am]

[Airspace Docket 76–NW–11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone

On April 22, 1976, a Notice of Proposed Rulemaking was published in the Federal Register (41 FR 16827), stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Salem, Oregon, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without changes.

Effective date: This amendment shall be effective 0901 G.m.t. on November 4, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on August 12, 1976.

J. H. TANNER,
Acting Director,
Northwest Region.

§ 71.171 [Amended]

In § 71.171 (41 FR 423) the description of the Salem, Oregon, Control Zone is amended to read as follows:

SALEM, OREGON

Within a 5 mile radius of McNary Field, Salem, Oregon. Latitude 44°54'35" N., Longitude 123°00'05" W., and within 2 miles each side of the Salem ILS localizer E course, extending from the 5 mile radius zone to the LOM; within 4 miles each side of the Salem ILS localizer W course, extending from the 5 mile radius zone to 15 miles west of the airport.

(Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

[FR Doc.76–24883 Filed 8–25–76;8:45 am]

[Airspace Docket No. 76–SO–76]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Columbus, Miss., control zone.

The Columbus control zone is described in § 71.171 (41 FR 355). It is necessary to amend the description by reducing the effective hours of operation from 24 hours per day to 0600 to 1800 hours, local time, Monday thru Thursday; 0600 to 2000 hours, local time, Friday; 0900 to 1600 hours, local time, Saturday; 1000 to 1600 hours, local time, Sunday; and closed on Federal holidays. Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary.

§ 71.171 [Amended]

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 4, 1976, as hereinafter set forth. In § 71.171 (41 FR 355), the Columbus, Miss., control zone is amended by adding:

This control zone is effective from 0600 to 1800 hours, local time, Monday thru Thursday; 0600 to 2000 hours, local time, Friday; 0900 to 1600 hours, local time, Saturday; 1000 to 1600 hours, local time, Sunday; and closed on Federal Holidays.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on August 16, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76–24884 Filed 8–25–76;8:45 am]

[Airspace Docket No. 76–WE–15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Lompoc, Calif.; Designation of Transition Area

On July 1, 1976 a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (41 FR 27085) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Lompoc Airport, Lompoc, California.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. The only objection was submitted by the Department of the Air Force. Their objection was based on the fact that the proposed transition area would overlie Restricted Areas R–2516, R–2534A and R–2534B, and aircraft executing an instrument letdown to the Lompoc airport could penetrate restricted airspace while circling to land or executing a missed approach while remaining within the confines of the transition area.

The new transition area will be designated so as to exclude that airspace within Restricted Area R–2516, since R–2516 is not a joint use Restricted Area and is therefore not open for public use. Restricted Areas R–2534A and R–2534B are both joint use and are available for transit on a coordinated basis.

Additionally, the approach procedure to Lompoc will be annotated in the remarks section to show the procedure will only be available during the hours the Vandenberg AFB RAPCON is in operation.

In consideration of the foregoing, the proposed amendment is hereby adopted subject to the following:

After Gaviota VORTAC add the sentence, "The airspace within R–2516 is excluded."

(Sec. 307(2) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Effective date: This amendment shall be effective 0901 G.m.t., November 4, 1976.

Issued in Los Angeles, California, on August 16, 1976.

LYNN L. HINK,
Acting Director, Western Region.

In consideration of the foregoing, the FAA proposes the following airspace action.

§ 71.181 [Amended]

In § 17.181 (41 FR 440) the following transition area is added:

LOMPOC, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lompoc Airport (latitude 34°39'56" N., longitude 120°27'56" W.) and within 5 miles each side of the Gaviota VORTAC 293° radial, extending from the 5-mile radius area to 16 miles west of the Gaviota VORTAC. That airspace within R–2516 is excluded."

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on June 18, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76–24813 Filed 8–25–76;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart T—State Supplementation Provisions; Agreements; Payments

EFFECTS OF FEDERAL FINANCING OF STATE SUPPLEMENTARY PAYMENTS TO INDOCHINESE REFUGEES—FEDERAL ADMINISTRATION OF STATE SUPPLEMENTATION FINAL REGULATIONS

The amendments to regulations set forth below set out the effects of implementation of certain portions of the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94–23), as amended by Pub. L. 94–313, as they relate to Federal administration of State supplementation for beneficiaries under the supplemental security income program (title XVI of the Social Security Act). The Indochina Migration and Refugee Assistance Act authorizes Federal funds for a range of purposes. Under this Act, States will be provided 100 percent reimbursement for financial assistance to these refugees in accordance with the current policy of the Social and Rehabilitation Service; this policy is expected to be in effect through September 30, 1977, when the authorizing legislation expires, but is conditioned on availability of funds until that date. The Social and Rehabilitation Service, in general, will deal directly with the States in effectuating reimbursement for payments to refugees pursuant to such law. However, to provide for situations where State supplementation is administered by the Social Security Administration under the terms of a Federal/State agreement pursuant to § 416.2005 of Subpart T, Regulations No. 16, the Social and Rehabilitation Service and the Social Security Administration have entered into an interagency agreement to implement the Federal financing (by the Social and Rehabilitation Service) of the federally-administered supplement for fiscal year 1976, and it is anticipated that this agreement will be extended through September 30, 1977. The amendments to the regulations make it clear that Federal funding of State supplements pursuant to Pub. L. 94–23 does not affect the supplementation character of such payments (i.e., they are excluded from countable income under the supplemental security income program and do not affect the State's obligation to include all supplemental security income recipients under its supplementation agreement). The amendments further provide, however, that a State shall not be liable to the Secretary for federally-administered supplementation payment amounts which are reimbursable by the Social and Rehabilitation Service directly to the Social Security Administration under the terms of the interagency agreement described above and pursuant to Pub. L. 94–23, as amended. Further, such amounts shall not be considered State supplementary payments for purposes of the State fiscal relief provisions of § 416.2080.

Thus, these amounts which are reimbursed by the Social and Rehabilitation Service rather than the State will not be counted towards determining when the State has spent an amount equal to its base calendar year 1972 expenditures and neither debits nor credits will be generated by the payments. They will have no bearing in any way upon the computation of State fiscal relief.

The notice of proposed rulemaking is being waived in spite of the Secretary's new policy against so doing because these amendments have no effect upon the amount of supplementation which individuals will receive; but in recognition of the fact that the State supplementation of SSI for eligible Indochinese refugees is considered a Federal responsibility, under SRS policy implementing Pub. L. 94–23, as amended, they merely make provision for the Federal Government to assume what could otherwise be the State's cost of supplementing these cases. Therefore, the Secretary finds that it is appropriate to make these regulations effective August 26, 1976, and that notice of proposed rulemaking, as well as publication at least 45 days prior to the effective date, is unnecessary.

Although the notice of proposed rulemaking is being dispensed with, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments received in response to these amendments will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue S.W., Washington, D.C. 20201, on or before October 12, 1976.

(Secs. 1102, 1616, Social Security Act, as amended; 49 Stat. 647 as amended; 86 Stat. 1474; (42 U.S.C. 1302, 1382e); sec. 401 of Pub. L. 92–603, Pub. L. 94–23, and Pub. L. 94–24.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: June 7, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.2001 is amended by revising the language in paragraph (a) preceding paragraph (a)(1) to read as follows:

§ 416.2001 State supplementary payments; general.

(a) *State supplementary payments; defined.* State supplementary payments which shall be excluded from income pursuant to § 416.1151, are any payments made by a State or one of its political subdivisions (including any such payments for which reimbursement is available from the Social and Rehabilitation Service pursuant to Pub. L. 94–23 (89 Stat. 87), as amended by Pub. L. 94–313, to a recipient of supplemental security income benefits (or to an individual who would be eligible for such benefits except for income), if the payments are made:

* * * * *

2. Section 416.2080 is amended by adding thereto a new paragraph (g) to read as follows:

§ 416.2080 Limitation of fiscal liability of States.

* * * * *

(g) *Refugee assistance.* The State shall not be liable under this subpart to the Secretary for the amount of any State supplementary payment for which reimbursement is available from the Social and Rehabilitation Service pursuant to the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94–23), as amended. Further, such amount shall not be considered or included as a State supplementary payment for any purpose under this section, e.g., it shall not be included for determining when a State has exceeded the total amount described in paragraph (a) of this section, it does not give rise to debits or credits under paragraph (e) of this section, etc.

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3. Section 416.2090 is amended by adding thereto a new paragraph (d) to read as follows:

§ 416.2090 State funds advanced for supplementary payments.

* * * * * *

(d) *Advance payment and adjustment not applicable.* The provisions of paragraphs (a) and (b) of this section shall not apply with respect to any State supplementary payment for which reimbursement is available from the Social and Rehabilitation Service pursuant to the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94–23; 89 Stat. 87), as amended, since such amounts are not considered to be State supplementary payments for purposes of § 416.2080.

[FR Doc.76–25048 Filed 8–25–76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Sterile Prednisone Suspension

The Food and Drug Administration approves new animal drug application (92–233) filed by Syntex Laboratories, Inc., 3401 Hillview Dr., Palo Alto, CA 94304, proposing safe and effective intramuscular use of sterile prednisone suspension in horses and dogs for the treatment of inflammatory conditions involving joints and accessory structures. The approval is effective August 26, 1976.

The Commissioner of Food and Drugs is amending Part 522 (21 CFR Part 522) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 522 is amended by adding new § 522.1890 to read as follows:

§ 522.1890 Sterile prednisone suspension.

(a) *Specifications.* Each milliliter of sterile aqueous suspension contains 10 or 40 milligrams of prednisone.

(b) *Sponsor.* See No. 000033 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in horses and dogs for the treatment of inflammatory conditions involving joints and accessory structures.

(2) It is administered by intramuscular injection as follows:

(i) Horses—100 to 500 milligrams, repeating if necessary. If no response is observed after 3 to 4 days of therapy, reevaluate diagnosis.

(ii) Canine—0.25 to 1.0 milligram per pound of body weight for 3 to 5 days or until a response is noted. Treatment may be continued with an orally administered maintenance dose.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(4) Not for use in horses intended for food.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Effective date: This regulation shall be effective on August 26, 1976.

Dated: August 19, 1976.

PHILIP D. CAZIER,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.76–24990 Filed 8–25–76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74–194]

PART 109—GENERAL

PART 110—ANCHORAGE REGULATIONS

Anchorage Grounds—Port of New York

On March 1, 1976, there was published in the FEDERAL REGISTER (41 FR 8794), a notice of proposed rulemaking to amend the anchorage regulations for New York Harbor by increasing the area of some New York anchorages, establishing safety requirements, and opening for general use certain previously restricted anchorages. The notice also contained a proposal to add the Ports and Waterways Safety Act of 1972 (PWSA) as the authority for regulating the anchorages established under the Anchorage Grounds Act in New York Harbor.

Interested persons were given the opportunity to comment on this proposal. All comments received before April 15, 1976 were considered by the Coast Guard before the promulgation of the final rule. Certain sections of the notice of proposed rulemaking are changed as a result of the comments received. There are also some minor organizational changes from the notice of proposed rulemaking in the final rule.

Several commenters stated that the increase in the maximum penalty for violation of the anchorage regulations is excessive. These regulations are issued under the Ports and Waterways Safety Act of 1972 (PWSA). Under PWSA, whoever commits a nonwillful violation of a regulation issued under it, in this instance the New York Anchorage Regulations, could be assessed a penalty of up to $10,000. As noted in the preamble to the notice of proposed rulemaking the casualties and near casualties in the New York Anchorages are a serious enough problem for the Coast Guard to use the PWSA as authority for regulating the New York anchorages. The anchorage regulations will not be the only method of handling operating problems. The Coast Guard will continue to cooperate with industry on vessel operations in New York Harbor; however, it is necessary for the Coast Guard as an enforcement agency to have the authority to assess penalties when unsafe vessel operations occur.

One commenter noted the elimination of the channel through Anchorage No. 21. He had not objection to the deletion of the channel, but pointed out that discussions are being conducted to establish a carfloat service that would require a channel through Anchorage No. 21. The Coast Guard would be able to reestablish the channel when it would be needed for the carfloat service.

Another commenter stated that occasionally a vessel at anchor near the edge of a channel would, during the tidal cycle, and with an offshore wind, swing into the channel for as much as an hour. This is an unsafe condition, and will not be allowed. The New York anchorage regulations are intended to make the Port as safe as possible. To allow a vessel at anchor to swing into the channel particularly during periods of reduced visibility would create an especially hazardous situation.

This commenter also recommended that an anchorage officer be right on scene to solve anchoring problems, pointing out that the Coast Guard had an anchorage officer during World War II. The Captain of the Port of New York maintains an anchorage plot in the Operations Duty Office, which is manned 24 hours a day. Since vessels must notify the Captain of the Port before anchoring, the anchorage plot in the Ship Movement Office should provide information for the Captain of the Port to deal with problems of anchorage overcrowding without the need for an anchorage officer on scene.

Another commenter recommended that vessels with a draft of 12 feet or less be allowed to use Anchorage No. 21–B when Anchorage No. 21–A cannot be used. This comment is not being adopted by the Coast Guard; however, the Captain of the Port under § 110.155(l)(13) can grant permission to vessels to anchor in other anchorages. After study on the use of Anchorage No. 21–B the Coast Guard is amending the draft restriction to allow vessels with a draft of over 10 feet instead of 12 feet.

Another comment recommended that Anchorage No. 23–A and 23–B be combined into one anchorage. Anchorage No. 23 was divided into two anchorages and made length restrictive to require vessels of similar length to be anchored in the same area. This increases the likelihood of anchored vessels swinging "in step" on the changes of the tide, and thus increases the number of vessels that can safely use these anchorages. The division of Anchorage No. 23 has been in effect for some time and the divided anchorages have been able to accommodate additional vessels, therefore the division of Anchorage No. 23–A and 23–B is retained.

Another commenter questioned why the requirement to anchor only within 5 hours of ebb tide applied only to tank vessels with drafts of 40 feet or over. This requirement is being changed to apply to all vessels with drafts of 40 feet or over to make the requirement consistent for all deep draft vessels.

Two commenters opposed requiring deep draft vessels to anchor on the ebb tide only in the Stapleton anchorages. One of these commenters noted that the number of vessels in the anchorage and whether the vessel is assisted by a tug are conditions that might mitigate the anchoring restriction. The Coast Guard is partially adopting this comment. The requirement of when a deep draft vessel may anchor is being retained; however, upon request, the Captain of the Port, after considering the conditions of the anchorage, might permit a vessel to anchor at a time otherwise prohibited by this regulation.

One comment opposed the section requiring vessels over 800 feet in length or 40 feet in draft to report 48 hours in advance of arrival at New York. The commenter pointed out the vessels reporting under the Automated Merchant Vessel Report (AMVER) system already report their intended arrival 48 hours in advance. While this is true, the report does not contain the vessel's draft or whether the vessel intends to anchor which is critical is controlling the proper distribution of vessels in the anchorages.

In consideration of the foregoing Part 109 and Part 110 of Title 33 of the Code of Federal Regulations are amended as follows:

Effective date: This amendment is effective on October 1, 1976.

Signed August 19, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

In consideration of the foregoing Part 109 and Part 110 of Title 33 of the Code of Federal Regulations are amended as follows:

1. By amending the authority citation for Part 109 by adding; unless otherwise noted.

2. By amending Part 109 by adding a new § 109.07 to read as follows:

§ 109.07 Anchorages under Ports and Waterways Safety Act of 1972.

The provisions of section 101 (3) and (4) of the Ports and Waterways Safety Act of 1972 as delegated to the Commandant of the U.S. Coast Guard in 49 CFR 1.46(n)(4) authorize the Commandant to specify times of movement within ports and harbors, restrict vessel operations in hazardous areas and under hazardous conditions, and direct the anchoring of vessels. The sections listed in § 110.1a of this Subchapter are regulated under Title I of the Ports and Waterways Safety Act of 1972.

(Pub. L. 92–340, Title I, 86 Stat. 424 (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)).

3. By amending the general authority citation for Part 110 by adding: Unless otherwise noted.

4. By amending Part 110 by adding a new § 110.1a to read as follows:

§ 110.1a Anchorages under Ports and Waterways Safety Act of 1972.

(a) The anchorages listed in this section are regulated under Title I, Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.):

(1) Section 110.155 *Port of New York.*

(b) Whoever violates any regulation under Title I Ports and Waterways Safety Act of 1972—

(1) Is liable to a civil penalty of not more than $10,000;

(2) If the violation is willfull is fined not less than $5,000 or more than $50,000 or imprisoned for not more than 5 years or both.

(Pub. L. 92–340, Title I, 86 Stat. 424 (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)).

5. By revising § 110.155(c)(1)(i), (c)(2)(i), (c)(3)(i), (c)(4)(i), and (c)(5) to read as follows:

§ 110.155 Port of New York.

* * * * * *

(c) *Hudson River.* * * *

(1) * * *

(i) When the use of Anchorage No. 16 is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(2) * * *

(i) When the use of Anchorage No. 17 is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(3) * * *

(i) When the use of Anchorage No. 18–A is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(4) * * *

(i) When the use of Anchorage 18–B is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(5) *Anchorage No. 19.* An area located east of the Weehawken-Edgewater Channel beginning at a point on the Manhattan shoreline at latitude 40°46'47.8" N., longitude 73°59'23.3" W.; thence to latitude 40°46'59.8" N., longitude 73°59'52.8" W.; thence to latitude 40°47'42.5" N., longitude 73°59'13" W.; thence to latitude 40°48'27" N., longitude 73°58'45.5" W.; thence to latitude 40°49'28" N., longitude 73°58'06.2" W.; thence to latitude 40°50'15.5" N., longitude 73°57'18" W.; thence to latitude 40°51'02.3" N., longitude 73°56'59" W.; thence to a point on the Manhattan shoreline at latitude 40°51'00.8" N., longitude 73°56'51" W.; thence following the shoreline to the point of beginning.

(i) No vessel may anchor in Anchorage No. 19 without permission from the Captain of the Port.

(ii) Each vessel shall report its position within Anchorage No. 19 to the Captain of the Port immediately after anchoring.

(iii) No vessel may conduct lightering operations in Anchorage No. 19 without permission from the Captain of the Port.

(iv) When the use of Anchorage No. 19 is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(v) No vessel over 800 feet, in length overall, or 40 feet in draft may anchor in Anchorage No. 19 unless it notifies the Captain of the Port at least 48 hours before it arrives in New York Harbor.

§ 110.155 [Amended]

6. By revising § 110.155(d)(2)(i) by deleting the footnote following subparagraph (d)(2)(i).

7. By revising § 110.155(d)(5), (d)(6), and (d)(7) to read as follows:

* * * * * *

(d) *Upper Bay.*

* * *

(5) *Anchorage No. 21.* (*Bay Ridge Anchorage*). An area located at the junction of Bay Ridge and Anchorage Channels, beginning at a point of latitude 40°38'03" N., longitude 74°02'49.5" W.; thence to latitude 40°38'03" N., longitude 74°03'02" W.; thence to latitude 40°38'57" N., longitude 74°03'10" W.; thence to latitude 40°40'22.5" N., longitude 74°02'14.5" W.; thence to latitude 40°40'19.5" N., longitude 74°01'28" W.; thence to latitude 40°39'49" N., longitude 74°01'23" W.; thence to latitude 40°38'42" N., longitude 74°02'32.5" W.; thence to the point of beginning. Anchorage No. 21 is divided into Anchorage No. 21–A, Anchorage No. 21–B, and Anchorage No. 21–C.

(5–A) *Anchorage No. 21–A.* That portion on Anchorage No. 21, north of a line of latitude 40°39'09" N., and east of a line connecting a point at latitude 40°39'09" N., longitude 74°02'22" W., and latitude 40°40'20" N., longitude 74°01'35" W. Any vessel anchored in or intending to anchor in Anchorage 21–A shall comply with the following requirements.

(i) No vessel may anchor unless it notifies the Captain of the Port when it anchors of the vessel's name, length, and draft and its position in the anchorage.

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(ii) Each vessel anchored shall notify the Captain of the Port when it weighs anchor.

(iii) No vessel may conduct lightering operations unless it notifies the Captain of the Port before it begins its lightering operations.

(iv) Each vessel lightering shall notify the Captain of the Port when it ends its lightering.

(v) No vessel may anchor unless it maintains a bridge watch, guards and answers channel 16 FM, and maintains an accurate position plot.

(vi) If any vessel is so close to another that a collision is probable, each vessel shall communicate with the other vessel and the Captain of the Port on channel 16 FM, and shall act to eliminate the close proximity situation.

(vii) No vessel may anchor unless it maintains the capability to get under way within 30 minutes, without permission from the Captain of the Port.

(viii) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal control) without permission from the Captain of the Port.

(ix) Each vessel in a "dead ship" status while lightering shall engage a tug alongside during tide changes. The tug alongside may assume the channel 16 FM radio guard for the vessel after it notifies the Captain of the Port.

(x) No vessel over 800 feet in length overall or 40 feet in draft may anchor unless it notifies the Captain of the Port at least 48 hours before it arrives in New York Harbor.

(5–B) *Anchorage No. 21–B.* That portion of Anchorage No. 21 north of a line drawn from latitude 40°39'14.3'' N., longtitude 74°02'59'' W. to latitude 40°38'43.9'' N., longitude 74°02'30.5'' W. and exclusive of the above designated Anchorage No. 21–A area.

(i) No vessel with a draft 3.048m (10 feet) or less may anchor in Anchorage No. 21–B.

(ii) Any vessel anchored in or intending to anchor in Anchorage 21–B must comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

(5–C) *Anchorage No. 21–C.* That portion of Anchorage No. 21 south of a line drawn from latitude 40°39'14.3'' N., longitude 74°02'59'' W. to latitude 40°38'43.9'' N., longitude 74°02'30.5'' W.

(i) No vessel with a draft of 10.058m (33 feet) or less may anchor in Anchorage No. 21–C.

(ii) Any vessel anchored in or intending to anchor in Anchorage 21–C must comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

(6) *Anchorage No. 23 (Stapleton Anchorage).* An area located west of the Anchorage Channel beginning at a point of latitude 40°38'36.5'' N., longitude 74°04'13.3'' W.; thence to latitude 40°38'37'' N., longitude 74°03'49'' W.; thence to latitude 40°38'22'' N., longitude 74°03'36'' W.; thence to latitude 40°37'26.8'' N., longitude 74°03'18'' W.; thence to latitude 40°37'23.2'' N., longitude 74°03'59'' W.; thence to latitude 40°37'30.7'' N., longitude 74°04'04.5'' W.; thence to the point of beginning. Anchorage No. 23 is divided into Anchorage No. 23–A and Anchorage No. 23–B.

(6–A) *Anchorage No. 23–A.* That portion of Anchorage No. 23, north of a line bearing 090° T from the northernmost corner of Pier 12, Staten Island at latitude 40°37'49.5'' N., longitude 74°04'-10.4'' W.

(i) No vessel may anchor in Anchorage No. 23–A for a period longer than 48 hours without permission from the Captain of the Port.

(ii) No vessel with a length overall of more than 670 feet may anchor in Anchorage No. 23–A unless otherwise authorized by the Captain of the Port.

(iii) No vessel with a draft of 40 feet or over may anchor in Anchorage No. 23–A without permission from the Captain of the Port unless it anchors within 5 hours after ebb current begins at the Narrows. Daily predicted times of ebb current are found in the Department of Commerce Tidal Current Tables, Atlantic Coast of North America, utilizing the Narrows as the reference station.

(iv) Any vessel anchored in or intending to anchor in Anchorage 23–A shall comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

(6–B) *Anchorage No. 23–B.* That portion of Anchorage No. 23, south of a line bearing 090° T from the northernmost corner of Pier 12, Staten Island at latitude 40°37'49.5'' N., longitude 74°04'-10.4'' W.

(i) No vessel may anchor in Anchorage No. 23–B for a period longer than 48 hours without permission from the Captain of the Port.

(ii) No vessel with a length overall of 670 feet or less may anchor in Anchorage No. 23–B, unless otherwise authorized by the Captain of the port.

(iii) No vessel with a draft of 40 feet or over may anchor in Anchorage No. 23–B without permission from the Captain of the Port unless it anchors within 5 hours after ebb current begins at the Narrows. Daily predicted times of ebb current are found in the Department of Commerce Tidal Current Tables, Atlantic Coast of North America, utilizing the Narows as the reference station.

(iv) Any vessel anchored in or intending to anchor in Anchorage 23–B shall comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

(7) *Anchorage No. 24 (Stapleton Anchorage South).* An area located west of the Anchorage Channel beginning at a point of latitude 40°37'23.2'' N., longitude 74°03'59'' W.; thence to latitude 40°37'26.8'' N., longitude 74°03'18'' W.; thence to latitude 40°36'25'' N., longitude 74°02'58'' W. thence to a point on the Staten Island shoreline at latitude 40°36'20'' N., longitude 70°03'14'' W.; thence to the point of beginning.

(i) No vessel may anchor in Anchorage No. 24 for a period longer than 48 hours without permission from the Captain of the Port.

(ii) No vessel with a length overall of less than 800 feet (243.840 meters) or with a draft of less than 40 feet (12.192 meters) may anchor in Anchorage No. 24.

(iii) No vessel with a draft of 40 feet or over may anchor in Anchorage No. 24 without permission from the Captain of the Port unless it anchors within 5 hours after ebb current begins at the Narrows. Daily predicted times of ebb current are found in the Department of Commerce Tidal Current Tables, Atlantic Coast of North America, utilizing the Narrows as the reference station.

(iv) Any vessel anchored in or intending to anchor in Anchorage No. 24 shall comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

8. By revising § 110.155(e) to read as follows:

§ 110.155 Port of New York.

* * * * *

(e) *Anchorage No. 25 Gravesend Bay).* An area located east of Ambrose Channel beginning at a point on the Coney Island shoreline at latitude 40°-34'36'' N., longitude 74°00'47'' W.; thence to latitude 40°34'53'' N., longitude 74°01'56.5'' W.; thence to latitude 40°-35'24'' N., longitude 74°02'05'' W.; thence to latitude 40°35'58'' N., longitude 74°02'18.5'' W.; thence to a point on the Brooklyn shoreline at latitude 40°36'12.9'' N., longitude 74°01'24.2'' W.; thence following the shoreline to latitude 40°36'06.8'' N., longitude 74°00'54.5'' W.; thence to latitude 40°34'53.8'' N., longitude 74°00'23.5'' W.; thence following the shoreline to the point of beginning.

(i) When the use of Anchorage No. 25 is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(ii) Any vessel anchored in or intending to anchor in Anchorage No. 25 must comply with the regulations for Anchorage No. 21–A (§ 110.155(d) (5–A) (i)–(x)).

9. By revising § 110.155(1) by adding a new paragraph (13) to read as follows:

§ 110.155 Port of New York.

* * * * *

(1) * * *

(13) Any vessel prohibited by these rules from anchoring in a specific anchorage because of the vessel's length or draft may anchor in the anchorage with permission from the Captain of the Port.

10. By adding the following note and authority citation of the end of § 110.155:

§ 110.155 Port of New York.

* * * * *

NOTE: The anchorage in this section are regulated under Title I, Ports and Waterways Safety Act of 1972 as stated in § 110.1a(a) of this Part. The penalties for violating regulations under this Act are stated in § 110.1a(b) of this Part.

(Pub. L. 92–340, Title I, 86 Stat. 424 (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n))

[FR Doc.76–25037 Filed 8–25–76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA–PR Temporary Reg. No. 22]

PART 9–3—PROCUREMENT BY NEGOTIATION

Cost-Plus-Award-Fee Contracts

AUGUST 20, 1976.

1. *Purpose.* This regulation establishes ERDA cost-plus-award-fee contracting policy.

2. *Effective date.* This regulation is effective on August 26, 1976.

3. *Expiration date.* This regulation will remain in effect until it is canceled or until its provisions are incorporated into the ERDA–PR.

4. *Explanation of changes.* In Subpart 9–3.4, *Types of Contracts,* § 9–3.405–50, *Cost-plus-award-fee (CPAF) contract,* is added as follows:

Subpart 9–3.4 Types of Contracts

§ 9–3.405–50 Cost - plus - award - fee (CPAF) contract.

(a) *Description.* The CPAF contract is a cost-reimbursement type contract with special fee provisions. It provides a means of applying incentives in contracts which are not susceptible to finite measurements of performance essential to structured incentive contracts. The fee established in a CPAF contract consists of two parts: (1) A fixed amount (base fee) which does not vary with performance and which could be zero, and (2) an award amount (award fee), in addition to the fixed amount, sufficient to encourage attainment of excellent contract performance in stated areas such as quality, timeliness, ingenuity, and cost effectiveness. Award fee may be earned by the contractor in whole or in part. The amount of award fee to be paid is determined after a subjective evaluation by the Government of the contractor's performance, judged against performance criteria established by the Government and furnished in writing to the contractor. The number and kinds of performance goals and performance evaluation criteria used will differ widely from one contract to another. Therefore, when determining performance goals, criteria and rating plans, the contracting activity should select the plan which will motivate the contractor in a positive way to improve performance in specific areas. Evaluation reports will be prepared by the Government and results should be furnished to the contractor for comment on the evaluation findings. Additionally, the contractor may be asked to provide an assessment of its performance in relation to each performance evaluation criterion. The decision that all or part of the award fee has been earned is a unilateral determination made by a fee determination official not subject to the Disputes clause of the contract.

(b) *Application.* The cost-plus-award-fee contract is suitable for use when:

(1) A cost-reimbursement type contract is found necessary;

(2) The work to be performed is such that specific quantitative or objective measurement is not feasible;

(3) The achievement of procurement objectives will be enhanced by the use of a contract that effectively motivates the contractor toward exceptional performance, and permits ERDA the flexibility to evaluate both actual performance levels and the conditions under which such levels were achieved; and

(4) Any additional administrative effort and cost required to monitor and evaluate performance, as well as added fees available for award, are justified by the benefits expected.

(c) *Consideration of concept.* (1) The opportunity to earn increased fees, the clear statement of goals, objectives, and performance evaluation criteria and the improved communication between and among ERDA personnel and the contractor, are designed to encourage the contractor to perform the required work effectively, to control costs, and to improve the timeliness and quality of performance. Base fees generally are negotiated commensurate with minimum acceptable performance, taking into consideration the various profit evaluation factors under § 9–3.808–2. The base fee should be set at a minimum in order to provide a large award fee pool, thereby providing the contractor maximum incentive to improve performance. The award fee potential should be large enough to reward the contractor at any level of performance above minimum acceptable. In this regard, the award of additional fee for performance exceeding minimum acceptable performance in evaluated areas should be contingent upon the maintenance of at least minimum acceptable levels in all other areas of contract performance.

(2) Although award fee determinations are unilateral ones based upon judgmental evaluations, quantifying devices such as adjective ratings, point systems, or percentages of achievements may be used. Where used, these devices are for the sole purpose of quantifying the facts considered, and the amount of award fee earned shall not be merely the result of the application of summing, averaging, or a mathematical formula.

(3) For operating, onsite service, architect-engineer and construction contracts which are subject to the maximum allowable CPFF fees set forth in the Interim ERDA Procurement Handbook, "Establishing and Negotiating Fee and Profit," dated March 1976, the base fee should normally not exceed 50 percent of the maximum allowable CPFF fee. The base fee plus the award fee should normally not exceed the maximum allowable CPFF fee by more than 50 percent.

(4) For contracts performed in commercial facilities, where the Weighted Guidelines (WGL) of § 9–3.808–50 can be used to establish a reasonable fee for acceptable performance level, the base fee should normally not exceed 50 percent of the fee developed using the WGL. The base fee plus the award fee should normally not exceed the WGL developed fee by more than 50 percent.

(5) Prior approval of the Director of Procurement is required for total fees exceeding: The guidelines in paragraphs (3) and (4) of this paragraph; 15 percent of estimated costs, exclusive of fees, in contracts for experimental, developmental, or research work; or 10 percent of estimated costs, exclusive of fees, in other contracts.

(d) *Payment of fees.* Base fees may be paid periodically as provided for in the contract. Award fees will be paid only after the amount of the award fee earned has been established. Payments of award fees earned will be made promptly after the award decision has been made in each evaluation period.

(e) *Limitations.* (1) The cost-plus-award-fee contract shall not be used (i) in procurements in which all factors to be considered in the award fee arrangement (e.g., cost, delivery, performance) can be measured objectively in terms of predetermined incentive targets, or (ii) where the contract amount, term of performance, or the benefits expected from use of the award fee arrangement are insufficient to warrant any additional administrative effort or cost that may be required.

(2) Cost-reimbursement type contracts having award fee arrangements limited to technical performance considerations are prohibited because they may increase cost disproportionately to any benefits gained. Instead, the award fee arrangement shall include both technical performance and business management considerations tailored to the needs of the particular situation. The only exception is a situation where cost estimating reliability and other factors are such that the negotiation of a separate, predetermined incentive sharing arrangement applicable to cost performance is determined both feasible and advantageous. The resulting contract would then be identified as a Cost-Plus-Incentive-Fee/Award-Fee combination type. The goals and evaluation criteria should be results-oriented. The award fee should be concentrated on the end product of the contract, that is, output, be it hardware, research, development, demonstration or services, together with business management considerations. However, input criteria such as equal employment opportunity, small business programs, functional management areas, such as safety, security, etc., cannot be disregarded and may be appropriate criteria upon which to base some part of the award fee. Specific goals or objectives should be established in relation to each performance evaluation criteria against which to measure contractor performance.

(f) *Evaluation.* (1) The contract should provide for evaluation at stated intervals during contract performance, so that the contractor will know how its performance is rated and what areas need to be improved. Partial payment of award fee earned will correspond to the evaluation periods. This will make effec-

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tive the incentive which the award fee was designed create by inducing the contractor to improve poor performance or to continue excellent performance.

(2) The contractor shall be furnished the performance evaluation criteria to be used to arrive at the award fee before award of the contract. The goals and objectives should be clearly set forth.

(3) As a part of contract negotiation, the Government should obtain agreement and incorporate into the contract a provision that the Government unilaterally can change the performance evaluation criteria, goals and objectives, weights and rating plan after reasonable advance notice to the contractor. The specific number of days constituting reasonable notice should be agreed to in advance by the parties.

(g) *Organization and administration.*

(1) Individuals will be designated as performance monitors. They will be responsible for evaluating, in assigned areas, the contractor's performance against the established criteria.

(2) A board will be established to evaluate the contractor's performance (based on monitors' reports, contractor's input and other information) and to recommend the amount of the award fee to the fee determination official.

(3) The fee determination official will be an individual who is organizationally above the persons who are directly involved in performance evaluation.

(4) The contractor should be given an opportunity to present matters to the board or the fee determination official on its own behalf.

(Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93-438).)

Effective date: August 26, 1976.

M. J. TASHJIAN,
Director of Procurement.

[FR Doc.76-25059 Filed 8-25-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2402]

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

PART 9230—TRESPASS

Mineral Leasing Regulations

On page 23206 of the FEDERAL REGISTER of Wednesday, June 9, 1976, a notice was published proposing to amend two sections of 43 CFR 3520 and one section of 43 CFR 9230 to clearly state that leasable minerals cannot be mined in commercial quantities prior to the issuance of a lease for that purpose. Comments were requested for a thirty-day period, ending July 10, 1976. Since no comments, suggestions, or objections were received, the rulemaking is adopted as proposed.

Under the authority of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181-287) and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359), Title 43, Subtitle B, Chapter II is amended as set forth below, effective September 27, 1976.

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

AUGUST 19, 1976.

1. Section 3520.2-2(a) is revised to read as follows:

§ 3520.2-2 Dating of Leases.

(a) Leases will be dated the first day of the month following the date signed by the lessor, except that upon receipt of a prior written request, a lease may be dated the first day of the month in which it is signed.

* * * * *

2. Section 3521.4-1 is revised to read as follows:

§ 3521.4-1 Preference right lease.

Mining operations carried on prior to the effective date of a lease shall constitute an act of trespass.

3. Section 9239.5-3(b) is amended to read as follows:

§ 9239.5-3 Coal.

* * * * *

(b) *Coal mined when there is no lease in effect.* Any mining of coal which is not pursuant to a coal lease in effect at the time of the mining shall constitute a trespass, and the coal so mined must be paid for on a trespass basis.

[FR Doc.76-25029 Filed 8-25-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20785; RM-2597]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Bryan, Texas).

1. The Commission herein considers its notice of proposed rulemaking, 41 FR 17784, in the above-captioned proceeding issued in response to a petition filed by Scott and Davis Enterprises (S&D).[1] The petition proposed the assignment of Channel 285A to Bryan, Texas, as a second FM assignment to the community. S&D is the only commenting party.

2. Bryan, Texas (pop. 33,719), seat of Brazos County (pop. 57,978),[2] is located adjacent to College Station, Texas, approximately 257 kilometers (160 miles) southeast of Dallas and 145 kilometers (90 miles) northwest of Houston. Bryan presently receives local aural service from AM Station KTAM and FM Station KORA-FM (Channel 252A), Bryan. Service is also provided from nearby College Station by daytime-only AM Station WTAW and FM Station WTAW-FM (Channel 221A).

3. S&D sets forth in its supporting comments a level of commercial and economic activity in the Bryan area sufficient to support the assignment of a second FM channel to the community. It points out that, during the period 1960-1970, the population of Bryan increased 22.4 percent and that of College Station 55.1 percent. S&D adds that Bryan-College Station will experience a 40 percent population increase during 1970-1980, and a 232.7 percent increase during 1970-2020. S&D states it will promptly apply for a construction permit to operate on Channel 285A at Bryan if the proposed assignment is granted, and will provide the only "Good Music" format in the Bryan-College Station area, operating with maximum permissible facilities.

4. Preclusion would occur only on co-channel 285A in a very small area which is sparsely populated. The impact of the potential preclusion is insignificant. In order to meet the minimum distance separation requirements of our rules, a site 4.8 kilometers (3 miles) north of the community would be required.[3]

5. We have given careful consideration to the proposal in this proceeding and believe Channel 285A should be assigned to Bryan, Texas. Considering the size of Bryan (which qualifies for one or two assignments), its currrent and anticipated growth, the fact that preclusion would be limited to Channel 285A in a very small area which is sparsely populated and the assignment would result in efficient use of radio spectrum, we are of the view that the assignment of Channel 285A to Bryan, Texas would serve the public interest.

6. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules.

§ 73.202 [Amended]

7. In view of the foregoing, *It is ordered*, That effective September 30, 1976, § 73.202(b) of the Commission's Rules, the Table of FM Assignments, is amended to read as follows:

City:	*Channel No.*
Bryan, Tex	252A, 285A

8. *It is further ordered*, That this proceeding is terminated.

[1] We are informed by letter dated October 6, 1975, signed by Stuart F. Pierson, counsel for Scott and Davis Enterprises, that all ownership interest in Scott and Davis Enterprises are now owned by Bob Bell.

[2] All population figures are taken from the 1970 U.S. Census.

[3] On April 9, 1976, the Commission granted the application (BMPH-14767) of Radio Lufkin, Ltd., licensee of KLUF-FM, to modify its existing construction permit so as to specify a transmitter site location 10.5 kilometers (6.5 miles) northwest of Lufkin. We also granted the earlier request of Radio Lufkin to dismiss a prior application (BMPH-14617) to locate the transmitter site for KLUF-FM southwest of Lufkin (a site which would have barred the proposed assignment to Bryan).

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Adopted: August 17, 1976.

Released: August 19, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-25055 Filed 8-25-76;8:45 am]

[Docket No. 20803; RM-2629]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations; Table of Assignments; Correction

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Park Falls, Wisconsin).

In the *Report and Order* in the above-entitled proceeding, Mimeo No. 41951, which was released on August 4, 1976, the amendment to the Television Table of Assignments, § 73.606(b) of the Commission's Rules, appearing in paragraph 6 of the *Report and Order* should be amended to read as follows:

§ 73.606 [Amended]

City:	*Channel No.*
Park Falls, Wis	*36+

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-25054 Filed 8-25-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-20; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Rearview Mirrors

This notice amends Standard No. 111, Rearview Mirrors, to establish separate requirements for school buses, to increase the amount of reflective surface required for mirrors on multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more, and to extend the coverage of the standard to motorcycles.

By final rule published by the National Highway Traffic Safety Administration (NHTSA) on August 12, 1975 (40 FR 33825), Standard No. 111 (49 CFR 571.111) was amended to allow installation of truck-type mirror systems on multipurpose passenger vehicles and to extend the coverage of the standard to trucks and buses. As amended, the standard specified identical requirements for all types of buses. No distinction was made between commercial buses and school buses. No requirements were set out for motorcycles, as had been proposed in an earlier notice. Further, the standard imposed the same requirements for all multipurpose passenger vehicles, trucks, and buses with a GVWR of more than 10,000 pounds.

At the time of these changes, the NHTSA had completed further research and considered comments submitted by participants in that rulemaking, and determined that the promulgation of separate rearview mirror requirements for motorcycles, school buses, and multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more would ensure the provision of minimum mirror performance levels essential to motor vehicle safety. Therefore, a notice proposing these changes was also published on August 12, 1975 (40 FR 33828), and forms the basis of the present amendments.

Interested persons were afforded an opportunity to submit comments on the proposal by September 26, 1975, and due consideration has been given to the 24 comments received. The National Motor Vehicle Safety Advisory Council did not take a position on the proposed amendments. (Active dockets concerning rearview mirrors are Docket No. 74-20 and Docket No. 71-3a.)

Commenters generally agreed with the NHTSA proposal to establish rearview mirror requirements for motorcycles. However, the Grote Manufacturing Company opposed the optional use of convex mirrors, contending that their use on motorcycles would be hazardous due to the distortion of distance characteristics of convex mirrors and the unfamiliarity of young drivers with them. The NHTSA has decided that both plane and convex motorcycle mirrors should be permitted, since available data does not support the contention that convex mirrors would be hazardous. The SAE Recommended Practice J268(a), "Rear View Mirrors—Motorcycles," specifies criteria for both plane and convex mirrors, and convex mirrors are presently in common usage on motorcycles.

There were also recommendations for both larger and smaller minimum reflective area requirements for motorcycle mirrors, and one recommendation for field-of-view performance requirements instead of a reflective area requirement. The amendment specifies 12.5 in² of reflective surface for a plane motorcycle mirror or 10 in² of reflective surface for a convex mirror. The NHTSA concludes that these required reflective surface areas will ensure a safe level of rearview visibility on motorcycles. The NHTSA finds the larger reflective area is needed on the plane mirror to offset its smaller field-of-view compared to that of a convex mirror. It is contemplated that field-of-view performance requirements will be developed in future rulemaking.

The State of California commented that the SAE Recommended Practice J964a, specified in paragraph S11 of the standard, does not include a procedure for measuring the reflectance of convex mirrors, and suggested that a different procedure be specified. This suggestion is not well taken since, contrary to California's comment, the Recommended Practice does include a procedure for measuring convex mirror reflectance.

This amendment excepts school buses from the general bus requirements specified in paragraphs S6 and S7 of the standard, as amended by this notice, and establishes a new paragraph, S9, which requires school buses to be equipped with outside mirrors of unit magnification with not less than 50 in² of reflective surface and, except for forward control vehicles, with a convex cross-view mirror that has a minimum of 40 in² of reflective surface and an average radius of curvature not less than 12 inches and not greater than 25 inches.

The Grote Manufacturing Company contended that a 50 in² plane mirror on the right side of a school bus is inadequate, but the NHTSA believes that the 50 in² mirror in common use offers sufficient reflective area. Likewise, the NHTSA cannot agree with the views of the States of California and Illinois that a 40 in² cross-view mirror is insufficient. Manufacturers can meet this requirement with the 7½ inch-diameter convex mirror which is commonly installed on school buses and which has been found to be adequate.

California also opposed the proposal that forward control school buses be excluded from the cross-view mirror requirements, stating that cross-view mirrors might be necessary on some forward control configurations. The NHTSA will consider this aspect of California's comment in future rulemaking in which the agency plans to develop field-of-view performance tests.

The State of Illinois, noting that the proposed amendments specified requirements for cross-view mirrors on school buses, recommended that the title of Standard No. 111, Rearview Mirrors, be shortened to "Mirrors." The NHTSA believes that such a change is unnecessary and might create confusion since the industry has come to associate the existing title with the standard number. Therefore, there is no change in the title of Standard No. 111 even though this amendment adds a provision for cross-view mirrors.

Several commenters, including Blue Bird Body Company, the State of Illinois, and the Grote Manufacturing Company, disagreed with the preamble discussion concerning preemption that appeared in the notice proposing this amendment (40 FR 33828), in regard to Federal versus State requirements for rearview mirrors on school buses. There appears to be some confusion concerning the provision of the National Traffic and Motor Vehicle Safety Act of 1966, Pub. L. 89-563 (15 U.S.C. 1392(d)) that allows states and political subdivisions to impose higher standards of performance than is required by Federal standards in the case of vehicles procured for their own use. Blue Bird Body Company commented that the interpretation in the preamble to the proposal "would allow local governments and other parties to specify potentially conflicting requirements with all NHTSA standards." This is incorrect. Section 103(d) of the National Traffic and Motor Vehicle Safety Act provides that no State or political subdivision of a State shall have author-

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ity to establish a motor vehicle safety standard governing the same aspect of performance of a motor vehicle or of motor vehicle equipment as a Federal standard, unless it is identical to the Federal standard. The only exception, also provided in section 103(d) of the Act, is that a State may establish a safety requirement applicable to motor vehicles or motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than the Federal standard. This means that a State may impose requirements additional to those specified in an applicable Federal standard only if the vehicles are procured specifically for use by the State or its political subdivision. Therefore, a State may not require vehicles manufactured or sold for use by private parties to meet any standards not identical with Federal standards, even if the State standard would require a higher level of performance. Use of the phrase "higher standard of performance" means that the State standard must not conflict with the Federal standard but may contain additional requirements.

The phrase does not mean that a State standard will be subjectively analyzed as a whole to determine its comparable worth in safety terms in relation to a Federal standard. Such an interpretation would create impracticable results. Finally, as stated in the preamble of the notice proposing these amendments, the National Traffic and Motor Vehicle Safety Act of 1966 does not prohibit a nongovernmental purchaser of a vehicle from contracting with a manufacturer or dealer for additional safety features beyond those required by Federal motor vehicle safety standards.

The majority of comments favored the proposal that multipurpose passenger vehicles and trucks with a GVWR of more than 10,000 and less than 25,000 pounds, and buses, other than school buses, with a GVWR of more than 10,000 pounds continue to be equipped with outside mirrors of unit magnification on both sides of the vehicle, each with not less than 50 in² of reflective surface.

The Teamsters Union recommended that the proposed 75-square-inch reflective area requirement for trucks and multipurpose vehicles with a GVWR of 25,000 pounds or more be increased to a 96-square-inch requirement. The NHTSA has carefully considered the views of the Teamsters, but must conclude, based on available studies, that the proposed 75-square-inch mirror is adequate for safety purposes. Further, a larger reflective area requirement would prohibit the new truck mirrors that are designed to be mounted below the driver's line of sight. Use of these mirrors is encouraged by the agency since they do not obstruct the forward view of the driver, as do the larger "West Coast" mirrors.

The obstruction of the forward view due to the mounting location of some of the larger mirrors can create a potential safety hazard, as pointed out by several commenters. However, rather than incorporating mounting location as a requirement of the standard at this time, the NHTSA believes the problem can better be solved through viewing performance requirements to be promulgated in the future.

The State of California suggested that minimum width requirements be specified for side-mounted mirrors, and that truck classification be based on a system other than GVWR. We see no need to specify width requirements. The California comments provided no evidence, and the agency has no indication, that manufacturers would circumvent the purposes of the standard by providing long and narrow side mirrors. No circumvention of this sort has occurred in the case of mirrors currently available on the market. The NHTSA recognizes that truck classification based on GVWR creates some artificiality in the applicability of requirements, but other methods of classification create similar problems. These problems can better be corrected in future rulemaking with the specification of field-of-view performance requirements.

Finally, several commenters recommended that combination plane and convex mirrors be required for large multipurpose passenger vehicles and trucks, in order to increase the field of view. The NHSTA agrees that the use of convex mirrors on larger vehicles would be of some benefit because of the increased field-of-view they would provide. Therefore, the agency publishes in this issue of the FEDERAL REGISTER a proposal to amend Standard No. 111 to specify the optional use of plane and convex mirror combinations on buses other than school buses, multipurpose passenger vehicles, and trucks that have a GVWR of 10,000 pounds or more.

This amendment also clarifies the deflection requirements for inside rearview mirror mountings on passenger cars. The amendment specifies that the mounting is required to "break away" when the test force is applied to the reflective surface of the mirror in any direction that forms an angle of up to 45° with the forward longitudinal direction. The amendment clarifies that the mounting is required to deflect, collapse, or "break away" when the force is applied to the reflective surface in a generally forward direction.

The provision of Standard No. 111 regarding mirror construction is amended to provide that the "average" reflectance value of the reflective film employed on any mirror required by the standard must be at least 35 percent. The purpose of this amendment is to make clear that the failure of any individual point or points on the reflective surface of a mirror to reflect 35 percent of a light source does not constitute a failure to comply with the standard if the average reflectance of the total points comprising the reflective surface is at least 35 percent.

The amendment incorporates into the mirror construction requirements the current test procedures for measurement of average reflectance value found in the Society of Automotive Engineers Recommended Practice J964a, August, 1974.

Standard No. 111 is further amended by this notice to add a definition of the term "mirror of unit magnification." This definition incorporates a previous NHTSA interpretation to the effect that precise "unit magnification" is not required by the standard if any deviations are not in excess of normal manufacturing tolerances. The definition provides that a prismatic day-night adjustment rearview mirror, one of whose positions provides unit magnification, is considered a unit magnification mirror.

The notice proposing these amendments (40 FR 33828) included a proposal that the term "driver's eye reference point" referred to in S5.1.1 and S5.2.1 of the standard as amended by this notice, be changed to "driver's eye reference points" in order to more accurately describe the locations to which the term refers. The notice further proposed that the standard be amended to permit location of the driver's eye reference point at "a nominal location appropriate for any 95th percentile male driver," as had been established in a previously published NHTSA interpretation (32 FR 5498). At the time of the proposal, Standard No. 111 only provided that the location of the driver's eye reference point "shall be that established in Motor Vehicle Safety Standard No. 104." The proposal provided that the location of the eye reference point could be derived through either formula.

In response to four petitions for reconsideration, by final rule issued February 19, 1976 (41 FR 7510), Standard No. 111 was amended to partially adopt the proposed changes regarding driver's eye reference point. The standard was amended to incorporate the previous NHTSA interpretation which allowed location of the driver's eye reference point "at a nominal location appropriate for any 95th percentile adult male driver." The petitioners had requested that this aspect of the proposal be adopted immediately.

Today's amendment completes the adoption of the proposed changes by modifying the term "driver's eye reference point" to read "driver's eye reference points." As amended, the last sentence of S5.1.1 and of S5.2.1 now reads: "The location of the driver's eye reference points shall be those established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile adult male driver." Even with these changes, however, there still appears to be much confusion concerning this aspect of the field-of-view performance requirements for passenger cars. General Motors has recommended that the reference to Standard No. 104 in paragraphs S5.1.1 and S5.2.1 be deleted, since that standard's designation of "eye reference points" is ambiguous. In light of the evident confusion, the NHTSA is proposing in this issue of the FEDERAL REGISTER to amend paragraphs S5.1.1 and S5.2.1 of Standard No. 111 to specify that location of driver's eye reference points shall be determined in accordance with the procedure found in SAE Recommended

Practice J1050, "Describing the Driver's Field of View," Section 7 (September, 1973). References to Standard No. 104 and to the "nominal location" method of determining the eye reference points would be deleted from the standard.

These amendments should have only a minimal economic and environmental impact, since manufacturers are currently equipping vehicles with the same type mirrors that are required by the amendments.

In consideration of the foregoing, the amendments of Motor Vehicle Safety Standard No. 111 (49 CFR 571.111) are adopted without change, as set forth below.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Effective date: February 26, 1977.

Issued on August 17, 1976.

JOHN W. SNOW,
Administrator.

Section 571.111 is added to read as follows:

§ 571.111 Standard No. 111; Rearview Mirrors.

S1. *Scope.* This standard specifies requirements for the performance and location of rearview mirrors.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, school buses and motorcycles.

S4. *Definition.* "Unit magnification mirror" means a plane or flat mirror with a reflective surface through which the angular height and width of the image of an object is equal to the angular height and width of the object when viewed directly at the same distance except for flaws that do not exceed normal manufacturing tolerances. For the purposes of this regulation a prismatic day-night adjustment rearview mirror one of whose positions provides unit magnification is considered a unit magnification mirror.

S5. *Requirements for passenger cars.*

S5.1. *Inside rearview mirror.* Each passenger car shall have an inside rearview mirror of unit magnification.

S5.1.1. *Field of view.* Except as provided in S5.3, the mirror shall provide a field of view with an included horizontal angle measured from the projected eye point of at least 20 degrees, and sufficient vertical angle to provide a view of a level road surface extending to the horizon beginning at a point not greater than 200 feet to the rear of the vehicle when the vehicle is occupied by the driver and four passengers or the designed occupant capacity, if less, based on an average occupant weight of 150 pounds. The line of sight may be partially obscured by seated occupants or by head restraints. The location of the driver's eye reference points shall be those established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile male driver.

S5.1.2. *Mounting.* The mirror mounting shall provide a stable support for the mirror, and shall provide for mirror adjustment by tilting in both the horizontal and vertical directions. If the mirror is in the head impact area, the mounting shall deflect, collapse or break away without leaving sharp edges when the reflective surface of the mirror is subjected to a force of 90 pounds in any forward direction that is not more than 45° from the forward longitudinal direction.

S5.2 *Outside rearview mirror—driver's side.*

S5.2.1. *Field of view.* Each passenger car shall have an outside mirror of unit magnification. The mirror shall provide the driver a view of a level road surface extending to the horizon from a line, perpendicular to a longitudinal plane tangent to the driver's side of the vehicle at the widest point, extending 8 feet out from the tangent plane 35 feet behind the driver's eyes, with the seat in the rearmost position. The line of sight may be partially obscured by rear body or fender contours. The location of the driver's eye reference points shall be those established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile male driver.

S5.2.2. *Mounting.* The mirror mounting shall provide a stable support for the mirror, and neither the mirror nor the mounting shall protrude farther than the widest part of the vehicle body except to the extent necessary to produce a field of view meeting or exceeding the requirements of S5.2.1. The mirror shall not be obscured by the unwiped portion of the windshield, and shall be adjustable by tilting in both horizontal and vertical directions from the driver's seated position. The mirror and mounting shall be free of sharp points or edges that could contribute to pedestrian injury.

S5.3. *Outside rearview mirror passenger's side.* Each passenger car whose inside reafview mirror does not meet the field of view requirements of S5.1.1 shall have an outside rearview mirror of unit magnification installed on the passenger's side. The mirror mounting shall provide a stable support and be free of sharp points or edges that could contribute to pedestrian injury. The mirror need not be adjustable from the driver's seat but shall be capable of adjustment by tilting in both horizontal and vertical directions.

S6 *Requirements for multipurpose passenger vehicles, trucks, and buses, other than school buses, with GVWR of 10,000 pounds or less.*

S6.1. Each multipurpose passenger vehicle, truck and bus, other than a school bus, with a GVWR of 10,000 pounds or less shall have either—

(a) Mirrors that conform to the requirements of S5; or

(b) Outside mirrors of unit magnification, each with not less than 19.5 in² of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle, and adjustable in both the horizontal and vertical directions to view the rearward scene.

S7. *Requirements for multipurpose passenger vehicles and trucks with a GVWR of more than 10,000 and less than 25,000 pounds and buses, other than school buses, with a GVWR of more than 10,000 pounds.*

S7.1. Each multipurpose passenger vehicle and truck with a GVWR of more than 10,000 pounds and less than 25,000 pounds and each bus, other than a school bus, with a GVWR of more than 10,000 pounds shall have outside mirrors of unit magnification, each with not less than 50 in² of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable both in the horizontal and vertical directions to view the rearward scene.

S8. *Requirements for multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more.*

S8.1 Each multipurpose passenger vehicle and truck with a GVWR of 25,000 pounds or more shall have outside mirrors of unit magnification, each with not less than 75 in² of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable both in the horizontal and vertical directions to view the rearward scene.

S9. *Requirements for school buses.*

S9.1. *Outside rearview mirrors.* Each school bus shall have outside mirrors of unit magnification, each with not less than 50 in² of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable both in the horizontal and vertical directions to view the rearward scene.

S9.2. *Outside cross view mirror.* Each school bus, except those which are forward control vehicles, shall have a convex mirror with at least 40 in² of reflective surface with an average radius of curvature not less than 12 inches and not greater than 25 inches, installed with a stable support, and mounted so as to provide the driver a view of the front bumper and the area in front of the bus.

S10. *Requirements for motorcycles.*

S10.1. Each motorcycle shall have either a mirror of unit magnification with not les than 12.5 in² of reflective surface, or a convex mirror with not less than 10 in² of reflective surface and an average radius of curvature not less than 20 inches and not greater than 60 inches, installed with a stable support, and

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mounted so that the horizontal center of the reflective surface is at least 11 inches outward of the longitudinal centerline of the motorcycle. The mirror shall be adjustable by tilting in both the horizontal and vertical directions.

S11. *Mirror construction.* The average reflectance value of the reflective film employed on any mirror required by this standard, determined in accordance with SAE Recommended Practice J964a, August 1974, shall be at least 35 percent. If a mirror is of the selective position prismatic type, the reflectance value in the night driving position shall be at least 4 percent.

[FR Doc.76-24907 Filed 8-25-76;8:45 am]

[Docket No. 73-03; Notice 07, et al.]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Effective Dates for School Bus Requirements

Docket No. 73-03; Notice 07; Docket No. 73-20; Notice 010; Docket No. 73-34; Notice 04; Docket No. 75-02; Notice 03; Docket No. 75-03; Notice 05; Docket No. 75-07; Notice 03; Docket No. 75-24; Notice 03.

This notice announces that the effective dates of the redefinition of "school bus" and of six Federal motor vehicle safety standards as they apply to school buses are changed to April 1, 1977, from the previously established effective dates. This notice also makes a minor amendment to Standard No. 220, School Bus Rollover Protection, and adds a figure to Standard No. 221, School Bus Body Joint Strength.

The Motor Vehicle and Schoolbus Safety Amendments of 1974 (the Act) mandated the issuance of Federal motor vehicle safety standards for several aspects of school bus performance, Pub. L. 93-492, section 202 (15 U.S.C. 1392(i)(1)(A)). These amendments included a definition of school bus that necessitated a revision of the existing definition used by the NHTSA in establishing safety requirements. The Act also specified that the new requirements "apply to each schoolbus and item of schoolbus equipment which is manufactured . . . on or after the expiration of the 9-month period which begins on the date of promulgation of such safety standards." (15 U.S.C. 1392(i)(1)(B).)

Pursuant to the Act, amendments were made to the following standards: Standard No. 301-75, Fuel System Integrity (49 CFR 571.301-75), effective July 15, 1976, for school buses not already covered by the standard, (40 FR 483521, October 15, 1975); Standard No. 105-75, Hydraulic Brake Systems (49 CFR 571.105-75), effective October 12, 1976 (41 FR 2391, January 16, 1976); and Standard No. 217, Bus Window Retention and Release (49 CFR 571.217), effective for school buses on October 26, 1976 (41 FR 3871, January 27, 1976).

In addition, the following new standards were added to Part 571 of Title 49 of the Code of Federal Regulations, effective October 26, 1976: Standard No. 220, School Bus Rollover Protection (41 FR 3874, January 27, 1976); Standard No. 221, School Bus Body Joint Strength (41 FR 3872, January 26, 1976); and Standard No. 222, School Bus Passenger Seating and Crash Protection (41 FR 4016, January 28, 1976). Also, the existing definition of "school bus" was amended, effective October 27, 1976, in line with the date set by the Act for issuance of the standards.

The Act was recently amended by Pub. L. 94-346 (July 8, 1976) to change the effective dates of the school bus standards to April 1, 1977 (15 U.S.C. 1392(i)(1)(B)). This notice is intended to advise interested persons of these changes of effective dates. In the case of Standard No. 301-75, the change of effective date is reflected in a conforming amendment to S5.4 of that standard. A similar amendment is made in S3 of Standard No. 105-75.

The agency concludes that the October 27, 1976, effective date for the redefinition of "school bus" should be postponed to April 1, 1977, to conform to the new effective dates for the upcoming requirements. If this were not done, the new classes of school buses would be required to meet existing standards that apply to school buses (e.g., Standard No. 108 (49 CFR 571.108)) before being required to meet the new standards. This would result in two stages of compliance, and would complicate the redesign efforts that Congress sought to relieve.

This notice also amends Standard No. 220 in response to an interpretation request by Blue Bird Body Company, and Sheller-Globe Corporation's petition for reconsideration of the standard. Both companies request confirmation that the standard's requirement to operate emergency exits during the application of force to the vehicle roof (S4(b)) does not apply to roof exits which are covered by the force application plate. The agency did not intend to require the operation of roof exits while the force application plate is in place on the vehicle. Accordingly, an appropriate amendment has been made to S4(b) of the standard.

With regard to Standard No. 220, Sheller-Globe also requested confirmation that, in testing its school buses that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less, it may test with a force application plate with dimensions other than those specified in the standard. The standard does not prohibit a manufacturer from using a different dimension from that specified, in view of the NHTSA's expressed position on the legal effect of its regulations. To certify compliance, a manufacturer is free to choose any means, in the exercise of due care, to show that a vehicle (or item of motor vehicle equipment) would comply if tested by the NHTSA as specified in the standard. Thus the force application plate used by the NHTSA need not be duplicated by each manufacturer or compliance test facility. Sheller-Globe, for example, is free to use a force application plate of any width as long as it can certify its vehicle would comply if tested by the NHTSA according to the standard.

In a separate area, the agency corrects the inadvertent omission of an illustration from Standard No. 221 as it was issued January 26, 1976 (41 FR 3872). The figure does not differ from that proposed and, in that form, it received no adverse comment.

In accordance with recently-enunciated Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. The changes in effective dates for the school bus standards are not evaluated because they were accomplished by law and not by regulatory action.

The change of effective date for the redefinition of "school bus" will result in savings to manufacturers who will not be required to meet existing school bus standards between October 27, 1976, and April 1, 1977. The agency calculates that the only standard that would not be met would be the requirement in Standard No. 108 for school bus marker lamps. In view of the agency's existing provision for the marking of light school buses in Pupil Transportation Standard No. 17 (23 CFR 1204), it is concluded that the absence of this equipment until April 1, 1977, will not have a significant adverse impact on safety.

The interpretative amendment of Standard No. 220 and the addition of a figure to Standard No. 221 are not expected to affect the manufacture or operation of school buses.

In consideration of the foregoing, Part 571 of Title 49 of the Code of Federal Regulations is amended as follows:

§ 571.105-75 [Amended]

1. In Standard No. 105-75 (49 CFR 571.105-75), the date "October 12, 1976" in S3 is changed to "April 1, 1977".

§ 571.220 [Amended]

2. The first sentence of S4(b) of Standard No. 220 (49 CFR 571.220) is amended to read:

S4. *Requirements.*

* * * * *

(b) Each emergency exit of the vehicle provided in accordance with Standard No. 217 (§ 571.217) shall be capable of opening as specified in that standard during the full application of the force and after release of the force, except that an emergency exit located in the roof of the vehicle is not required to be capable of being opened during the application of the force.

§ 571.221 [Amended]

3. The figure set forth below is added to Standard No. 221 (49 CFR 571.221), following paragraph S6.1.3.

§ 571.301-75 [Amended]

4. In Standard No. 301-75 (49 CFR 571.301-75), the date "July 15, 1976" in S5.4 is changed to "April 1, 1977".

EFFECTIVE DATES

1. Because the listed amendments do not impose additional requirements of any person, the National Highway Traffic Safety Administration finds that an immediate effective date of August 26, 1976 is in the public interest.

2. The effective date of the redefinition of "school bus" in 49 CFR Part 571.3 that was published in the issue of December 31, 1976 (40 FR 60033) is changed to April 1, 1977.

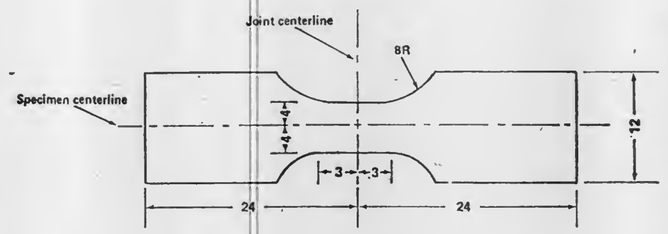
3. The effective dates of Standard Nos. 105-75, 217, 301-75, 220, 221, and 222 (as they apply to school buses) are April 1, 1977, in accordance with Pub. L. 94-346.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Pub. L. 94-346, Stat. (15 U.S.C. § 1392(1)(1)(B)); delegation of authority at 49 CFR 1.50)

Issued on August 17, 1976.

JOHN W. SNOW,
Administrator.

FIGURE 1



All dimensions in inches

[FR Doc.76-24906 Filed 8-25-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1250]

PART 1033—CAR SERVICE

Substitution of Hopper Cars for Covered Hopper Cars of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of August 1976.

It appearing, That an acute shortage of covered hopper cars and boxcars for transporting shipments of grain, grain screenings, soybeans, or grain products exists in certain sections of the country; that some carriers have adequate supplies of open hopper cars; that use of these cars for transporting grain, grain screenings, soybeans, or grain products is precluded by certain tariff provisions requiring the use of covered hopper cars or boxcars, thus curtailing shipments of grain, grain screenings, soybeans, or grain products and creating great economic loss; that present regulations and practices with respect to the use, supply, control, movement, and distribution of covered hopper cars and boxcars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1250 Service Order No. 1250.

(a) *Substitution of hopper cars for covered hopper cars or boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* Subject to the concurrence of the shipper, the carrier may substitute open hopper cars for shipments of grain, grain screenings, soybeans, or grain products, whether from the point of origin or from an intermediate in-transit point, regardless of tariff provisions requiring the use of covered hoppers or boxcars.

(2) *Minimum weights.* The minimum weights per shipment of grain, grain screenings, soybeans, or grain products transported in open hopper cars substituted for covered hopper cars or boxcars shall be the minimum weight specified in the tariffs for shipments made in covered hopper cars or boxcars regardless of the number of open hopper cars required to be used to secure the minimum weight.

(3) In shipping grain, grain screenings, soybeans, or grain products in open hopper cars in lieu of covered hopper cars or boxcars as provided herein, the shipper shall be deemed to have acknowledged the terms and conditions of the contract of carriage embodied in the bill of lading that the carrier shall not be liable for injury, loss, or damage to the lading resulting from a defect or vice in such property.

(4) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1250.

(5) The term "open hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 400, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "HFA", "HK", "HM", "HMA", "HT", or "HTA".

(6) The term "covered hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 400, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO".

(7) The term "boxcars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 400, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XL", "XLI", "XM", or "XMI".

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., August 23, 1976.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 15, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384 as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne and William J. Love. Member Lewis R. Teeple not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24941 Filed 8-25-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Cibola National Wildlife Refuge, Arizona and California and Bitter Lake National Wildlife Refuge, New Mexico

The following special regulations are issued and are effective August 26, 1976.

V 41 167 AUG 26 76 UMI

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

The public hunting of deer on Cibola National Wildlife Refuge, Arizona and California, is permitted as follows: Arizona—bow and arrow, from October 22 through November 7, 1976, inclusive; gun, from November 12 through November 21, 1976, inclusive. California—bow and arrow, from August 21 through September 13, 1976, inclusive; gun, from September 25 through November 7, 1976, inclusive. The areas designated by signs as open to hunting comprise 7,500 acres and are delineated on maps available at refuge headquarters, Blythe, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.

(2) Campfires will be permitted only in designated areas. All other open fires are prohibited.

(3) Wildlife observation is permitted within the two closed hunting zones. Persons are permitted to use only established routes of travel.

(4) Cibola Lake, located in Zone 1, is closed to fishing and boating from October 1 through March during the waterfowl use period.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 21, 1976.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted only on the North Tract as follows: bow hunting, from September 18 through October 3, 1976, inclusive; general hunting, from November 6 through November 21, 1976, inclusive. This hunting area, comprising approximately 12,000 acres, is delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 21, 1976.

ROBERT F. STEPHENS,
Acting Regional Director,
Albuquerque, New Mexico.

AUGUST 19, 1976.

[FR Doc.76-25028 Filed 8-25-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 222—ENDANGERED FISH OR WILDLIFE

General Permit Requirement

On August 18, 1976, interim regulations were published in the FEDERAL REGISTER to implement the provisions of Pub. L. 94-359, which would allow the regulated disposal of certain pre-Act endangered species parts or products held in the course of a commercial activity prior to December 28, 1973.

The interim regulations established a new Subpart B of Part 222 which provides for the issuance of certificates of exemption. Such certificates of exemption will entitle the holder to engage in or carry on certain activities otherwise prohibited.

However, § 222.21 of Subpart C of this part appears to be in conflict with the new subpart B. It is the purpose of this amendment to eliminate any potential conflict and to make the existing regulations conform with the latest promulgation.

Accordingly, existing § 222.21 is amended as hereinafter set out.

This amendment is effective August 26, 1976.

JACK W. GEHRINGER,
Deputy Director.

In Subpart C of this part, § 222.21 is revised to read as follows:

§ 222.21 General permit requirement.

No person shall take, import, export, or engage in any other prohibited activity involving, any species or subspecies of fish or wildlife which the Secretary has determined to be endangered under the Endangered Species Act of 1973, as evidenced by its inclusion on the list of endangered fish or wildlife (see 50 CFR Chapter I, Part 17) or which the Secretary of the Interior determined to be endangered under the Endangered Species Conservation Act of 1969 and which are now under the jurisdictional responsibilities of the Secretary of Commerce, without a valid permit issued pursuant to this part.

[FR Doc.76-24992 Filed 8-25-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 4, 5]

[Notice No. 300]

WINE AND DISTILLED SPIRITS BOTTLES AND CONFORMING CHANGE TO TEQUILA DESIGNATION

Label Information on Coverings or Cartons

The Bureau of Alcohol, Tobacco and Firearms with the approval of the Secretary of the Treasury or his delegate, is proposing amendments to the regulations for the labeling and advertising of wine and distilled spirits, 27 CFR Parts 4 and 5, respectively.

PETITION

Request. The Bureau of Alcohol, Tobacco and Firearms was recently petitioned by the Distilled Spirits Council of the United States, Inc. (DISCUS), a trade association representing numerous distillers and bottlers of distilled spirits and by Schenley Distillers, Inc., to amend 27 CFR Part 5, Labeling and Advertising of Distilled Spirits, with respect to information required to appear on coverings or cartons of individually wrapped or packed distilled spirits bottles.

Request for regulatory amendment. The proposals submitted by the petitioners would amend 27 CFR 5.41(c) to permit readily openable cartons of distilled spirits bottles to display any information which is not misleading stated alone, or is not in conflict with the label on the bottle therein.

Justification for amendment. In support of their proposal, the petitioners state that the present regulatory requirements for information on cartons and containers are unnecessarily restrictive. Specifically, they state that the present regulations preclude the depiction of key information (e.g., proof and net contents) that would be helpful to the consumer without the need for opening the carton, unless all of the mandatory information is present. Further, the petitioners contend that, although the regulations permit the name and address of the manufacturer, bottler, or importer to be shown on the container, the function of the permittee (e.g., bottler, rectifier, distiller) may be shown only if all of the mandatory information is indicated.

REGULATORY HISTORY

The regulations implementing the provisions of the Federal Alcohol Administration Act (FAA Act) were promulgated in 1936. At that time, provisions establishing information required to be included on coverings, cartons, or other containers of distilled spirits bottles were included in the regulations governing the labeling and advertising of distilled spirits (FAA regulations No. 5, section 51). These regulations provided that distilled spirits in bottles would be considered misbranded if the bottle was in an individual carton and such carton obscured the mandatory label information while failing to reproduce all mandatory label information. Cartons or containers were, however, permitted to display the name and address of the manufacturer, importer, or other person by whom bottled, without including all mandatory label information. These regulations were amended in 1969 to establish the current requirement that sealed cartons must bear all mandatory label information, whereas openable cartons must bear all mandatory label information only when the carton displayed information other than the brand name and the name and address of the manufacturing, bottler, or importer.

BUREAU EVALUATION OF REQUESTS

Effect on industry. The Bureau recognizes that industry packaging technology has changed over the years and, therefore, and, as a result, its regulations must be examined to identify unnecessarily restrictive or obsolete requirements. In this case we recognize that, in many instances, distilled spirits bottle cartons or containers are manufactured so as to permit ready access to the bottle and the information stated on its label. Therefore, we believe that the need for duplication of all mandatory information on the carton or container may not be necessary.

Effect on consumers. The Bureau also considers the effect of proposed regulatory changes on the retail purchaser of distilled spirits to be a determining factor in the consideration of a proposal of this nature. Although the petitioners for the amendment have indicated that the proposed regulatory changes would permit key information to be included on the bottle carton and that this would be helpful to the consumer, the Bureau also believes that "romance language" (puffery) would probably also be added to the carton to enhance its consumer appeal. The Bureau believes that such information could be added to cartons without misleading consumers, since regulations will retain existing provisions prohibiting statements or information on cartons or coverings which are false or create a misleading impression. Although the Bureau believes that the overall effect of the proposed amendments would not be detrimental to consumers, our information in this area is limited. Therefore, the Bureau has decided to propose the changes petitioned for, but at the same time encourage the submission of relevant comments or suggestions by consumers as well as members of the alcoholic beverage industry and other government agencies.

ADDITIONAL PROPOSED REGULATORY AMENDMENTS

Wine bottle cartons. In conjunction with the requested changes for the information on distilled spirits bottle cartons, the Bureau has examined the regulatory provisions for wine bottle cartons and believes that similar changes should be made in 27 CFR Part 4, Labeling and Advertising of Wine. Therefore, it is proposed to provide the same regulatory requirements for wine bottle cartons information as the proposed distilled spirits bottle information. In addition, it is proposed to eliminate obsolete regulatory references and relocate existing provisions to a more suitable position in the regulations. The changes will be accomplished by deleting § 4.31 and paragraph (j) of § 4.39 and by adding a new § 4.38a.

Standard of identity for Tequila. Pursuant to T.D. ATF-7 (38 FR 33300), effective February 1, 1974, Tequila was declared to be a distinctive product of Mexico. Section 5.22(j)(5), currently requires that the word "imitation" shall modify the name of any Tequila to which neutral spirits or distilled spirits other than Tequila have been added. However, since Tequila has been accorded special protection as a distinctive product of Mexico, if neutral spirits or distilled spirits other than Tequila are added outside of Mexico, the product may not contain the word "Tequila" in its designation, even if modified by the word "imitation". For this reason, the Bureau is proposing an amendment to § 5.22(j)(5) to eliminate the reference to Tequila.

PUBLIC PARTICIPATION

Prior to final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, (Attn: Chief, Regulations and Procedures Division) on or before September 27, 1976. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of com-

V 41 167 AUG 26 76 UMI

ments or suggestions as exempt from disclosure. Any interested person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Bureau of Alcohol, Tobacco and Firearms, within the 30-day period.

The proposed regulations are to be issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

PROPOSED REGULATIONS

In consideration of the foregoing, it is proposed that Title 27 of the Code of Federal Regulations be amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

§ 4.31 [Reserved]

PARAGRAPH 1. Section 4.31 is revoked and reserved.

PAR. 2. A new § 4.38a is added immediately following § 4.38, to provide for revised requirements concerning bottle cartons, booklets and leaflets, and it reads as follows:

§ 4.38a Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 4.30–4.39 on labels.

(b) *Sealed cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than a shipping container), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, e.g. by "Brand" or "Product of U.S.A.", must also display such modification.

(3) Wines for which a truthful and adequate statement of composition is required must display such statement.

§ 4.39 [Amended]

PAR. 3. Paragraph (j) of § 4.39 is deleted.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

PAR. 4. Paragraph (j) (5) of § 5.22 is amended to delete reference to Tequila. As amended, paragraph (j) (5) reads as follows:

§ 5.22 The standards of identity.

* * * * * * *

(j) *Class 10; imitations.* * * *

(5) Any rum to which neutral spirits or distilled spirits other than rum have been added;

* * * * * * *

PAR. 5. Paragraph (c) of § 5.41 is amended to change the requirements for information that must be shown on bottle cartons. As amended, paragraph (c) reads as follows:

§ 5.41 Bottle cartons, booklets and leaflets.

* * * * * * *

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, e.g. by "Brand" or "Product of U.S.A.", must also display such modification.

(3) Specialty products for which a truthful and adequate statement of composition is required must display such statement.

Signed: August 16, 1976.

REX D. DAVIS,
Director.

Approved: August 20, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-24903 Filed 8-25-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 256]

AIR INSTALLATIONS COMPATIBLE USE ZONES

Pursuant to 5 U.S.C. 552, notice is hereby given that a new Part 256, will be added to Subchapter M. Part 256 will state Department of Defense policy on Air Installations Compatible Use Zones. This policy was previously stated in Department of Defense Instruction 4165.57.[1] Public comment on that document was obtained through the Environmental Impact Statement process and a final statement was filed with the Council of Environmental Quality on June 30, 1973.

This proposed rule will revise the original document to place greater emphasis on state and local government involvement in the program; prioritize the land areas in which the Department of Defense may wish to acquire an interest with those areas having the greatest potential for aircraft accident first; classify runways by type of aircraft using them; adopt the Leq/Ldn noise descriptor system; define clear zones and accident potential zones; and clarify language.

Public comments on the proposed Part 256 may be addressed to the Deputy Assistant Secretary of Defense (Installations and Housing), Pentagon Building, Washington, D.C. 20301. All material received on or before September 30, 1976 will be considered. All comments in response to these proposed rules will be available for public inspection during normal business hours at the foregoing address.

The proposed Part 256 to this subchapter reads as follows:

PART 256—AIR INSTALLATIONS COMPATIBLE USE ZONES

Sec.
256.1 Purpose.
256.2 Applicability.
256.3 Criteria.
256.4 Policy.
256.5 The Air Installation compatible use program.
256.6 Runway classification by aircraft type.
256.7 Accident potential zone guidelines.
256.8 Land use compatibility guidelines for accidental potential zones and footnotes.
256.9 Real estate interests to be considered for clear zones and accident potential zone.
256.10 Air installations compatible use zone noise descriptors.
256.11 Effective date and implementation.

AUTHORITY: National Security Act of 1947, as amended, 61 Stat. 495.

§ 256.1 Purpose.

This part: (a) Sets forth Department of Defense policy on achieving compatible use of public and private lands in the vicinity of military airfields; (b) defines (1) required restrictions on the uses and heights of natural and man-made objects in the vicinity of air installations to provide for safety of flight and to assure that people and facilities are not concentrated in areas susceptible to aircraft accidents; and (2) desirable restrictions on land use to assure its compatibility with the characteristics, including noise, of air installations operations; (c) describes the procedures by which Air Installations Compatible Use Zones (AICUZ) may be defined; and (d) provides policy on the extent of Government interest in real property within these zones which may be retained or acquired to protect the operational capability of active military airfields (subject in each case to the availability of required authorizations and appropriations).

§ 256.2 Applicability.

This part applies to air installations of the Military Departments located within the United States, its territories, trusts, and possessions.

§ 256.3 Criteria.

(a) *General.* The Air Installations Compatible Use Zone for each military air installation shall consist of (1) land areas upon which certain uses may obstruct the airspace or otherwise be hazardous to aircraft operations, and (2) land areas which are exposed to the health, safety or welfare hazards of aircraft operations.

(b) *Height of Obstructions.* The land area and height standards defined in AFM 86-8,[2] NavFac P-272 and P-80,[2] and TM 5-803-4[2] will be used for purposes of height restriction criteria.

(c) *Accident Potential.* (1) *General.* (i) Areas immediately beyond the ends of runways and along primary flight paths are subject to more aircraft accidents than other areas. For this reason, these areas should remain undeveloped, or if developed should be only sparsely developed in order to limit, as much as possible, the adverse effects of a possible aircraft accident.

(ii) DoD fixed wing runways are separated into two types for the purpose of defining accident potential areas. Class A runways are those restricted to light aircraft (See § 256.6) and which do not have the potential for development for heavy or high performance aircraft use or for which no foreseeable requirement for such use exists. Typically these runways have less than 10 percent of their operations involving Class B aircraft (§ 256.6) and are less than 8000 feet long. Class B runways are all other fixed wing runways.

(iii) The following descriptions of Accident Potential Zones are guidelines only. Their strict application would result in increasing the safety of the general public but would not provide complete protection against the effects of aircraft accidents. Such a degree of protection is probably impossible to achieve. Local situations may differ significantly from the assumptions and data upon which these guidelines are based and require individual study. Where it is desirable to restrict the density of development of an area, it is not usually possible to state that one density is safe and another is not. Safety is a relative term and the objective should be the realization of the greatest degree of safety that can be reasonably attained.

(2) *Accident Potential and Clear Zones (See § 256.7).* (i) The area immediately beyond the end of a runway is the "Clear Zone", an area which possesses a high potential for accidents, and has traditionally been acquired by the Government in fee and kept clear of obstructions to flight.

(ii) Accident Potential Zone I (APZ I) is the area beyond the clear zone which possesses a significant potential for accidents.

(iii) Accident Potential Zone II (APZ II) is an area beyond APZ I having a measurable potential for accidents.

(iv) Modifications to APZs I and II will be considered if:

(A) The runway is infrequently used.

(B) The prevailing wind conditions are such that a large percentage (i.e., over 80 percent) of the operations are in one direction.

(C) Most aircraft do not overfly the APZs as defined herein during normal flight operations (modifications may be made to alter these zones and adjust them to conform to the line of flight).

(D) Local accident history indicates consideration of different areas.

(E) Other unusual conditions exist.

(v) The takeoff safety zone for VFR rotary-wing facilities wil be used for the clear zone; the remainder of the approach-departure zone will be used as APZ I.

(vi) Land use compatibility with clear zones and APZs is shown in § 256.8.

(d) *Noise.* (1) *General.* Noise exposure is described in various ways. In 1964, the Department of Defense began using the Composite Noise Rating (CNR) system to describe aircraft noise. Several years ago the Noise Exposure Forecast (NEF) system began to replace CNR. In August 1974, the Environmental Protection Agency notified all Federal agencies of intent to implement the Day-Night Average Sound Level (Ldn) noise descriptor, and this was subsequently adopted by the DoD. This Ldn system will be used for air installations. Where AICUZ studies have been published using the CNR of NEF systems or where studies have progressed to the point that a change in the descriptor system is impractical or uneconomical, such studies may be published and continued in use. However, in such cases, data necessary for conversion to Ldn should be collected and studies should be revised as soon as time and budgetary considerations permit. However, if state or local laws require some other noise descriptor, it may be used in lieu of Ldn.

(2) *Noise Zones.* (i) As a minimum, contours for Ldn 65, 70, 75 and 80 shall be plotted on maps as part of AICUZ studies.

(ii) See § 256.10 for a further discussion of Ldn use and conversion to Ldn from previously used systems.

§ 256.4 Policy.

(a) *General.* As a first priority step, all reasonable, economical, and practical measures will be taken to reduce and/or control the generation of noise from flying and flying related activities. Typical measures normally include siting of engine test and runup facilities in remote areas if practical, provision of sound suppression equipment where necessary, and may include additional measures such as adjustment of traffic patterns to avoid built-up areas where such can be accomplished with safety and without significant impairment of operational effectiveness. After all reasonable noise source control measures have been taken, there will usually remain significant land areas wherein the total noise exposure is such as to be incompatible with certain uses.

(b) *Compatible Use Land.* (1) *General.* (i) DoD policy is to work toward achieving compatibility between air installations and neighboring civilian communities by means of a compatible land use planning and control process conducted by the local community.

(ii) Land use compatibility guidelines will be specified for each Clear Zone, Accident Potential Zone, Noise Zone and combination of these as appropriate.

(iii) The method of control and regulation of land usage within each zone will vary according to local conditions. In all instances the primary objective will be to identify reasonable planning areas and land use guidelines which will be recommended to appropriate agencies who are in control of the planning functions for the affected areas.

(2) *Property Rights Acquisition.* (i) *General.* While noise generated by aircraft at military air installations should be an integral element of land use compatibility efforts, the acquisition of property rights on the basis of noise by the Department of Defense may not be in the long term best interests of the United States. Therefore, while the complete requirement for individual installations should be defined prior to any programming actions, acquisition of interests should be programmed in accordance with the following priorities.

(ii) *Priorities.* (A) The first priority is the acquisition in fee and/or appropriate restrictive easements of lands within the clear zones whenever practicable.

(B) Outside the clear zone, program for the acquisition of interests first in Accident Potential Zones and secondly in high noise areas only when all possibilities of achieving compatible use control, or similar protection, have been exhausted and the operational integrity of the air installation is manifestly threatened. If programming actions are considered necessary, complete records of all discussions, negotiations, testimony, etc., with or before all local officials, boards, etc., must be maintained. This will ensure that documentation is available to indicate that all reasonable and prudent efforts were made to preclude incompatible land use through cooperation with local governmental officials and that all recourse to such action has been exhausted. Such records shall accompany programming actions and/or apportionment requests for items programed prior to the date of this Part. In addition, a complete economic analysis and assessment of the future of the installation must be included.

(*1*) Costs of establishing and maintaining compatible use zones must be weighed against other available options, such as changing the installation, or such other courses of action as may be available. In performing analyses of this type, exceptional care must be exercised to assure that a decision to change or relocate a mission is fully justified and that all aspects of the situation have been thoroughly considered.

(2) When, as a result of such analysis, it is determined that relocation or abandonment of a mission will be required, then no new construction shall be undertaken in support of such activities except as is absolutely necessary to maintain

[1] Filed as part of original. Copies available from Naval Forms and Publications Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attn: Code 300.

[2] Filed as part of original. Copies available in the Office of the Assistant Secretary of Defense (Installations and Logistics)—LID, Washington, D.C. 20301.

V 41 167 AUG 26 76 UM

safety and operational readiness pending accomplishment of the changes required.

(iii) *Guidelines.* This Part shall not be used as sole justification for either the acquisition or the retention of owned interests beyond the minimum required to protect the Government.

(A) Necessary rights to land within the defined compatible use area may be obtained by purchase, exchange, or donation, in accordance with all applicable laws and regulations.

(B) If fee title is currently held or subsequently acquired in an area where compatible uses could be developed and no requirement for a fee interest in the land exists except to prevent incompatible use, disposal actions shall normally be instituted. Only those rights and interests necessary to establish and maintain compatible uses shall be retained. Where proceeds from disposal would be inconsequential, consideration may be given to retaining fee title.

(C) If the cost of acquiring a required interest approaches closely the cost of fee title, consideration shall be given to whether acquisition of fee title would be to the advantage of the Government.

(c) *Rights and Interests Which May Be Obtained.* When it is determined to be necessary for the Federal Government to acquire interests in land, a careful assessment of the type of interest to be acquired is mandatory. § 256.9 contains a listing of possible interests which should be examined for applicability.

(d) *Environmental Impact Statements.* (1) Any actions taken with respect to safety of flight, accident hazard, or noise which involve acquisition of interests in land must be examined to determine the necessity of preparing an environmental impact statement in accordance with DoD Directive 6050.1, "Environmental Consideration in DoD Actions," March 19, 1974 (32 CFR 214).

(2) All such environmental impact statements must be forwarded to appropriate Federal and local agencies for review in accordance with DoD Directive 6050.1 (32 CFR 214).

(3) Coordination with local agencies will be in accordance with OMB Circular A–95.

§ 256.5 The air installation compatible use program.

(a) The Secretaries of the Military Departments will develop, implement and maintain a program to investigate and study all air installations in necesary order of priority to develop an Air Installation Compatible Use Zone (AICUZ) program for each air installation consistent with § 256.4. AICUZ studies which contain an analysis of land use compatibility problems and potential solutions shall be developed and updated as necessary. As a minimum, each Study shall include the following:

(1) Determination by detailed study of flight operations, actual noise and safety surveys if necessary, and best available projections of future flying activities, desirable restrictions on land use due to noise characteristics and safety of flight;

(2) Identification of present incompatible land uses;

(3) Identification of land that if inappropriately developed would be incompatible;

(4) Indication of types of desirable development for various land tracts;

(5) Land value estimates for the zones in question.

(6) Review of the airfield master plans to ensure that existing and future facilities siting is consistent with the policies in this Part.

(7) Full consideration of joint use of air installations by activities of separate Military Departments whenever such use will result in maintaining operational capabilities while reducing noise, real estate and construction requirements.

(8) Recommendations for necessary minimum programs of acquisition, relocation, work with local zoning boards, or such other actions as are indicated by the results of the Study.

(b) *Procedures.* In developing AICUZ Studies the Secretaries of Military Departments shall:

(1) Follow the review and comment procedures established under OMB Circular A–95;

(2) Ensure that appropriate environmental factors are considered; and

(3) Ensure that other local, State or Federal agencies engaged in land use planning or land regulation for a particular area have an opportunity to review and comment upon any proposed plan or significant modification thereof.

(c) *Coordination with State and Local Governments.* Secretaries of the Military Departments shall develop procedures for coordinating AICUZ Studies with the land use planning and regulatory agencies in the area. Developing compatible land use plans may require working with local governments, local planning commissions, special purpose districts, regional planning agencies, state agencies, state legislatures, as well as the other Federal agencies. Technical assistance to local, regional, and state agencies to assist them in developing their land use planning and regulatory processes, to explain an AICUZ Study and its implications, and generally to work toward compatible planning and development in the vicinity of military airfields, should be provided.

(d) *Property Rights Acquisition.* The AICUZ Study shall serve as the basis for new land acquisitions, property disposal, and other proposed changes in Military Departments real property holdings in the vicinity of military airfields where applicable.

(e) *Required Approvals.* Based on the results of the AICUZ Studies, each Military Department will prepare recommendations for individual installation's AICUZ programs for approval as follows:

(1) The Secretaries of the Military Departments or their designated representatives will review and approve the AICUZ Studies establishing the individual air installation AICUZ program.

(2) When relocation or abandonment of a mission or an installation is apparently required, the Secretaries of the Military Departments will submit the proposed plan for the installation, with appropriate recommendations, to the Secretary of Defense for approval.

(3) A time-phased fiscal year plan for implementation of the AICUZ program in priority order, consistent with budgetary considerations, will be developed for approval by the Secretary of the Military Departments, or their designated representatives. These plans will serve as the basis for all AICUZ actions at the individual installations.

(f) *Coincident Actions.* The Secretaries of the Military Departments will also take action to assure in accordance with § 256.4 (a) and (b) that:

(1) As the first priority action in developing an AICUZ program, full attention is given to safety and noise problems.

(2) In all planning, acquisition and siting of noise generating items, such as engine test stands, full advantage is taken of available alleviating measures, such as remote sites or sound suppression equipment.

(3) The noise exposure of on-installation facilities and personnel are considered together with that off the installation.

(4) There is development or continuation with renewed emphasis, of programs to inform local governments, citizens groups, and the general public of the requirements of flying activities, the reasons therefore, the efforts which may have been made or may be taken to reduce noise exposure, and similar matters which will promote and develop a public awareness of the complexities of air installation operations, the problems associated therewith, and the willingness of the Department of Defense to take all measures possible to alleviate undesirable external effects.

(g) Responsibilities for the acquisition, management and disposal of real property are defined in DoD Directive 4165.6, "Real Property; Acquisition, Management and Disposal," September 15, 1955 (20 FR 7113).

(h) The Assistant Secretary of Defense (Installations and Logistics) will examine the program developed pursuant to this Part, and from time to time review the progress thereunder to assure conformance with policy.

§ 256.6 Runway classification by aircraft type.

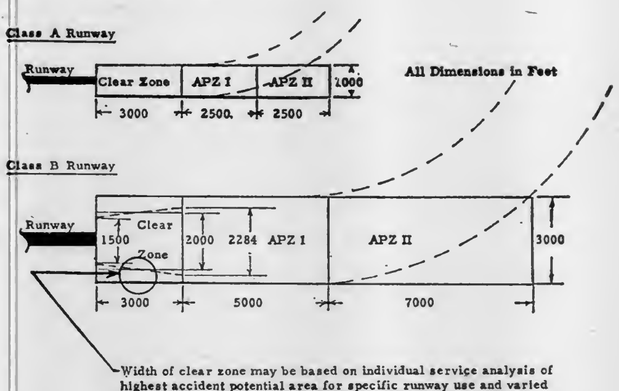
CLASS A RUNWAYS

S–2, VC–6, C–1, C–2, TC–4C, C–7, C–8, C–12, C–47, C–117, U–1, U–3, U–6, U–8, U–9, U–10, U–11, LU–16, TU–16, HU–16, U–21, OU–22, E–1, E–2, O–1, O–2, OV–1, OV–10, T–28, T–34, T–41, T–42.

CLASS B RUNWAYS

A–1, A–3, A–4, A–5, A–6, A–7, A–38, AV–8, P–2, P–3, F–9, F–14, F–4, F–8, F–111, YF–12, SR–71, F–100, F–101, F–102, F–104, F–105, F–106, F–5, F–15, F–18, S–3, T–29, T–33, T–37, T–39, T–1, T–2, T–38, B–52, B–57, B–57F, B–66, C–9, C–54, C–97, C–118, C–119, C–121, EC–121, WC–121, C–123, C–130, HC–130B, C–131, C–140, C–5A, KC–97, C–124, EC–130E, HC–130, C–135, VC–137, C–141, KC–135, EC–135, RC–135, U–2.

§ 256.7 Accident Potential Zone Guidelines.



§ 256.8 Land use compatibility guidelines for accident potential zones and footnotes.

Land use category	Compatibility [1]		
	Clear zone	APZ I	APZ II
Residential:			
Single family	No	No	Yes.[2]
2 to 4 family	No	No	No.
Multifamily dwellings	No	No	No.
Group quarters	No	No	No.
Residential hotels	No	No	No.
Mobile home parks or courts	No	No	No.
Other residential	No	No	No.
Industrial/manufacturing: [3]			
Food and kindred products	No	No	Yes.
Textile mill products	No	No	Yes.
Apparel	No	No	No.
Lumber and wood products	No	Yes	Yes.
Furniture and fixtures	No	Yes	Yes.
Paper and allied products	No	Yes	Yes.
Printing, publishing	No	Yes	Yes.
Chemicals and allied products	No	No	No.
Petroleum refining and related industries	No	No	No.
Rubber and miscellaneous plastic goods	No	No	No.
Stone, clay, and glass products	No	Yes	Yes.
Primary metal industries	No	Yes	Yes.
Fabricated metal products	No	Yes	Yes.
Professional, scientific, and controlling instruments	No	No	No.
Miscellaneous manufacturing	No	Yes	Yes.
Transportation, communications and utilities: [4]			
Railroad, rapid rail transit (on-grade)	Yes	Yes [4]	Yes.
Highway and street ROW	Yes	Yes	Yes.
Auto parking	No	Yes	Yes.
Communication	Yes	Yes	Yes.
Utilities	Yes	Yes [4]	Yes.
Other transportation, communications and utilities	Yes	Yes	Yes.
Commercial retail trade:			
Wholesale trade	No	Yes	Yes.
Building materials—retail	No	Yes	Yes.
General merchandise—retail	No	No	Yes.
Food—retail	No	No	Yes.
Automotive, marine, aviation—retail	No	Yes	Yes.
Apparel and accessories—retail	No	No	Yes.
Furniture, homefurnishing—retail	No	No	Yes.
Eating and drinking places	No	No	No.
Other retail trade	No	No	Yes.
Personal and business services: [5]			
Finance, insurance, and real estate	No	No	Yes.
Personal services	No	No	Yes.
Business services	No	No	Yes.
Repair services	No	Yes	Yes.
Professional services	No	No	Yes.
Contract construction services	No	Yes	Yes.
Indoor recreation services	No	No	Yes.
Other services	No	No	Yes.
Public and Quasi-public services:			
Government services	No	No	Yes.[6]
Educational services	No	No	No.
Cultural activities	No	No	No.
Medical and other health services	No	No	No.
Cemeteries	No	Yes [6]	Yes.[6]
Nonprofit organization including churches	No	No	No.
Other public and quasi-public services	No	No	Yes.
Outdoor recreation:			
Playground's neighboring parks	No	No	Yes.
Community and regional parks	No	Yes [7]	Yes.[7]
Nature exhibits	No	Yes	Yes.
Spectator sports incorporate arenas	No	No	No.

See footnotes at end of table.

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Land use category	Compatibility [1]		
	Clear zone	APZ I	APZ II
Outdoor recreation—Continued			
Golf course,[5] riding stables [6]	No	Yes	Yes.
Water-based recreational areas	No	Yes	Yes.
Resort and group camps	No	No	No.
Entertainment assembly	No	No	No.
Other outdoor recreation	No	Yes [7]	Yes.
Resource production and extraction and open land:			
Agriculture [10]	Yes	Yes	Yes.
Livestock farming, animal breeding [11]	No	Yes	Yes.
Forestry activities [12]	No [13]	Yes	Yes.
Fishing activities and related services [14]	No [13]	Yes [17]	Yes.
Mining activities	No	Yes	Yes.
Permanent open space	Yes	Yes	Yes.
Water areas [7]	Yes	Yes	Yes.

[1] A "yes" or "no" designation for compatible land use is to be used only for gross comparison. Within each, uses exist where further definition may be needed as to whether it is clear or normally acceptable/unacceptable owing to variations in densities of people and structures.
[2] Suggested maximum density 1-2 DU/AC, possibly increased under a planned unit development where maximum lot covered less than 20 pct.
[3] Factors to be considered: Labor intensity, structural coverage, explosive characteristics, air pollution.
[4] No passenger terminals and no major aboveground transmission lines in APZ I.
[5] Low intensity office uses only. Meeting places, auditoriums, et cetera, not recommended.
[6] Excludes chapels.
[7] Facilities must be low intensity.
[8] Clubhouse not recommended.
[9] Concentrated rings with large classes not recommended.
[10] Includes livestock grazing but excludes feedlots and intensive animal husbandry.
[11] Includes feedlots and intensive animal husbandry.
[12] No structures (except airfield lighting), buildings or aboveground utility/communication lines should be located in the clear zone. For further runway safety clearance limitations pertaining to the clear zone see AFM 86-6, TM 5-803-4, and NAVFAC P-80.3
[13] Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with DOD Instruction 4170.7, "Natural Resources—Forest Management," June 21, 1965 (32 CFR 233) and DOD instruction 7310.1, "Accounting and Reporting for Property Disposal and Proceeds from Sale of Disposable Personal Property and Lumber or Timber Products," July 10, 1970.[1]
[14] Includes hunting and fishing.
[15] Controlled hunting and fishing may be permitted for the purpose of wildlife control.

§ 256.9 Real estate interests to be considered for clear zones and accident potential zone.

(a) The right to make low and frequent flights over said land and to generate noises associated with:

(1) Aircraft in flight, whether or not while directly over said land,

(2) Aircraft and aircraft engines operating on the ground at said base, and,

(3) Aircraft engine test/stand/cell operations at said base.

(b) The right to regulate or prohibit the release into the air of any substance which would impair the visibility or otherwise interfere with the operations of aircraft, such as, but not limited to, steam, dust and smoke.

(c) The right to regulate or prohibit light emissions, either direct or indirect (reflective), which might interfere with pilot vision.

(d) The right to prohibit electrical emissions which would interfere with aircraft and Air Force communications systems or aircraft navigational equipment.

(e) The right to prohibit any use of the land which would unnecessarily attract birds or waterfowl, such as, but not limited to, operation or sanitary landfills, maintenance of feeding stations or the growing of certain types of vegetation attractive to birds or waterfowl.

(f) The right to prohibit and remove any buildings or other nonfrangible structures.

(g) The right to top, cut to ground level, and to remove trees, shrubs, brush or other forms of obstruction which the installation commander determines might interfere with the operation of aircraft, including emergency landings.

(h) The right of ingress and egress upon, over and across said land for the purpose of exercising the rights set forth herein.

(i) The right to post signs on said land indicating the nature and extent of the Government's control over said land.

(j) The right to prohibit land uses other than the following:

(1) Agriculture.
(2) Livestock grazing.
(3) Permanent open space.
(4) Existing water areas.
(5) Rights of way for fenced two land highways, without sidewalks or bicycle trails and single track railroads.
(6) Communications and utilities rights of way, provided all facilities are at or below grade.

(k) The right to prohibit entry of persons onto the land except in connection with activities authorized under (a), (b), (c) and (f) of this section.

(l) The right to disapprove land uses not in accordance with § 256.8.

(m) The right to control the height of structures to insure that they do not become a hazard to flight.

(n) The right to install airfield lighting and navigational aids.

§ 256.10 Air installations compatible use zone noise descriptors.

(a) Composite Noise Rating (CNR) and Noise Exposure Forecast (NEF) values as previously required by sections III., IV., and V. of DoD Instruction 4165.-57, "Air Installations Compatible Use Zones," July 30, 1973 [1] will no longer be used.

(b) Where CNR 100 (or the quietest boundary of CNR Zone 2 if otherwise computed) or NEF 30 would previously have been used, data shall be collected sufficient to permit computation of Ldn 65 noise contours and these noise contours shall be plotted on maps accompanying AICUZ studies.

(c) Where CNR 115 (or the boundary of CNR Zone 3 if otherwise computed) or NEF 40 would previously have been used, data shall be collected sufficient to permit computation of Ldn 75 noise contours and these noise contours shall be plotted on maps accompanying AICUZ studies.

(d) Where previous studies have used CNR or NEF, for matters of policy, noise planning and decisionmaking, areas quieter than Ldn 65 shall be considered approximately equivalent to the previously used CNR Zone 1 and to areas quieter than NEF 30. The area between Ldn 65 and Ldn 75 shall be considered approximately equivalent to the previously used CNR Zone 2 and to the area between NEF 30 and NEF 40. The area of higher noise than Ldn 75 shall be considered approximately equivalent to the previously used CNR Zone 3 and to noise higher than NEF 40. The procedures shall remain in effect only until sufficient data to compute Ldn values can be obtained.

(e) When computing helicopter noise levels using data collected from meters, a correction of +7db shall be added to meter readings obtained under conditions where blade slap was present until and unless meters are developed which more accurately reflect true conditions.

(f) Noise contours less than Ldn 65 or more than Ldn 80 need not be plotted for AICUZ studies.

(g) Since CNR noise levels are not normally directly convertible to Ldn values without introducing significant error, care should be exercised to assure that personnel do not revise previous studies by erroneously relabeling CNR contours to the approximately equivalent Ldn values.

(h) Under consideration at this time is the use of "C" weighted noise levels for intermittent impulse noises such as are associated with bombing and gunnery ranges.

§ 256.11 Effective date and implementation.

This part is effective immediately. Two copies of implementing regulations shall be forwarded to the Assistant Secretary of Defense (Installations & Logistics) within 90 days after publication of final rules.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

AUGUST 19, 1976.

[FR Doc.76-24899 Filed 8-25-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations; Quality Control

Notice is given of a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.481) by adding a new § 981.442. The new section would provide for quality control of incoming almonds. It prescribes how the quantity of inedible kernels in each variety of almonds received by a handler must be determined and disposed of. The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 41 FR 26852; 27827), hereinafter collectively referred to as the "order", regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Almond Board of California.

The recent amendment to the marketing order added § 981.42. Among other things, it provides that each handler shall cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety received by him, and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, shall constitute a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board-accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. It also provides that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

Under the proposal, all almond receipts would be sampled by variety in a manner acceptable to the Board and the inspection agency. The inspection agency is the Federal-State Inspection Service or, when specifically designated, the Federal Inspection Service. The samples then would be analyzed for sound and inedible kernel content by the inspection agency or by the handler receiving the almonds under the supervision of the inspection agency. The weight of inedible kernels in excess of two percent of the total kernel weight of any variety received by the handler would constitute his disposition obligation. The handler would satisfy his obligation with deliveries of inedible kernels or other such material to outlets such as oil or feed. The proposal also provides procedures for maintaining the identity of the various types of almond receipts by variety, reporting requirements, and waiving a portion of the disposition obligations of those handlers not blanching almonds or manufacturing almond products.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposal is to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.481) by adding a new § 981.442 to read as follows:

§ 981.442 Quality control.

(a) *Incoming.* Pursuant to § 981.42(a), the quantity of inedible kernels in each variety of almonds received by a handler, including almonds of his own production, shall be determined and disposed of in accordance with the provisions of this paragraph.

(1) *Sampling.* Each handler shall cause a representative sample of almonds to be drawn from each lot of any variety received by him. The sample shall be drawn before inedible kernels are removed from the lot, or the lot is processed or stored by the handler. For receipts at premises with mechanical sampling equipment and under contracts providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, samples shall be drawn by or under the surveillance of the inspection agency. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency. Each handler shall identify his receipts according to the method of acquisition. Each handler shall report the quantity of each variety received, by method of acquisition, to the Board as it may prescribe.

(2) *Variety.* For the purpose of classifying receipts by variety to determine a handler's disposition obligation, "variety" shall mean that variety of almonds which constitutes at least 90 percent of a lot. If no variety constitutes at least 90 percent of the almonds in a lot, the lot shall be designated as "mixed". If no variety is known, the lot shall be designated "unknown".

(3) *Analysis of sample.* Each sample shall be analyzed by or under the surveillance of the inspection agency to determine the kernel content and the proportion of inedible kernels in the sample. The inspection agency shall prepare a report for each handler showing, by variety, the weight of almonds received by the handler, the total kernel weight, and the inedible kernel weight. The report shall cover the handler's daily receipts or the handler's total receipts during a period not exceeding one month, and shall be submitted by the inspection agency to the Board and the handler.

(4) *Disposition obligation.* The weight of inedible kernels in excess of two percent of the total kernel weight of any variety received by a handler shall constitute his disposition obligation.

(5) *Meeting the disposition obligation.* Each handler shall meet his disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes, on record with the Board as Accepted Users. Each disposition of such almond material shall be sampled and the almond meat content determined at the time of loading for delivery to the accepted user or at the user's destination by the inspection agency or the Board. The almond meat content of each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation. Deliveries containing less than 10 percent almond meat content shall not be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred.

(6) *Partial waiver of obligation.* Any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this inedible weight and his disposition obligation. The petition will be granted only if the handler certifies to the Secretary and the Board that: (i) He did not engage in any blanching, cutting, chopping or other processing of almond kernels during the crop year, (ii) All almonds shelled by or for him were hand-picked on belts and the visibly inedible almonds removed, and (iii) That he did not place into trade channels any almonds with more than two percent inedibles. However, no waiver shall be granted for more than 30 percent of the handler's inedible disposition obligation.

(7) *Inedible almonds unfit for processing.* All lots received from growers as as "inedible almonds unfit for processing", shall be disposed of in their entirety as provided in paragraph (a)(5) of this section. Such lots must be received and kept under surveillance of the inspection agency, and shall be identified as the inspection agency and the Board may require.

Dated: August 20, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division.

[FR Doc.76-25065 Filed 8-25-76;8:45 am]

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Proposed Extension of Grade Regulation and Container Marking Requirements

This notice invites written comments relative to a proposal to continue through

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December 31, 1976, the currently effective grade and container marking requirements for fresh Tokay grapes shipped from San Joaquin County, California. These requirements are specified by Tokay Grape Regulation 12 (§ 926.313; 41 FR 34007) issued under Marketing Order No. 926. The regulation requires that such grapes meet the grade and size specifications of U.S. No. 1 Table Grapes and, in addition, that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. Each container of such grapes must bear a Federal-State Inspection Service number in plain letters and figures on one outside end. These regulatory provisions are the same as the provisions that were in effect during the previous four seasons. They are necessary to assure the shipment of only those grapes which will be of suitable quality and size in the interest of consumers and producers.

The regulation was proposed by the Industry Committee which is established under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is to amend § 926.313 (Tokay Grape Regulation 12; 41 FR 34007) to continue the effective period through December 31, 1976. Unless so amended, the regulation would end September 30, 1976.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend § 926.313 to read as follows:

§ 926.313 Tokay Grape Regulation 12.

Order. (a) During the period August 15, 1976, through December 31, 1976, no handler shall ship:

(1) Any Tokay grapes, grown in the production area, which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* As used herein, the terms "handler", "ship", and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 51.880–51.912).

Dated: August 20, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–25066 Filed 8–25–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76–RM–20]

ST. GEORGE, UTAH

Alteration of Transition Area

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at St. George, Ut.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received on or before September 24, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A state-owned VOR has been commissioned at St. George, Ut. Public-use instrument approach procedures have been developed utilizing the VOR. Additional controlled airspace is required to provide protection to aircraft conducting these procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (41 FR 440) the description of the St. George, Ut. transition area is amended to read:

ST. GEORGE, UT.

That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 6 miles southwest of the St. George, Ut. VOR (latitude 37°05'28" N., longitude 113°35'26" W.) 131 radial extending from 7 miles northwest to 18.5 miles southeast; and within 5 miles each side of the St. George VOR 183 radial extending from the VOR to 15.5 miles south; that airspace extending upward from 1200 feet above the surface within an arc of a 23 mile radius of the St. George VOR extending clockwise from the 058 radial to the 239 radial; and within 10 miles east and 6.5 miles west of the St. George VOR 183 radial extending from the 23 mile arc to 37.5 miles south of the VOR.

Issued in Aurora, Colorado, August 17, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.76–24815 Filed 8–25–76;8:45 am]

[14 CFR Part 121]

[Docket No. 14245; Notice No. 76–17]

PROFICIENCY CHECKS: MANEUVERING WITH SIMULATED POWERPLANT FAILURE

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to permit a pilot-in-command to omit the maneuver to a landing with simulated powerplant failure during a required proficiency check or simulator course of training, if he satisfactorily performed that maneuver during a proficiency check, or during an approved simulator course of training under the observation of a check airman, within the preceding six calendar months.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before November 24, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This notice is issued in response to a petition for rulemaking submitted by the Air Transport Association of America (ATA).

Section 121.441(a) of the Federal Aviation Regulations provides that a Part 121 certificate holder may not use a person, nor may a person serve as a required pilot flight crewmember, unless he has satisfactorily completed either a proficiency check or an approved simulator course of training. Paragraph (a)(1) of

that section requires, for a pilot-in-command, a proficiency check within the preceding 12 calendar months and, in addition, within the preceding six calendar months, either a proficiency check or appropriate simulator training.

Section 121.441(b)(1) provides, in pertinent part, that a proficiency check must include at least the procedures and maneuvers set forth in Appendix F of Part 121, unless otherwise specifically provided in that appendix. Paragraph V(d)(1) of Appendix F requires, in the case of three engine airplanes, a maneuver to a landing with an approved procedure that approximates the loss of two powerplants (center and one outboard engine); and paragraph V(d)(2) requires, in the case of other multiengine airplanes, a maneuver to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane. The appendix permits the maneuver to be performed in a visual simulator or in flight.

The ATA petitions for an amendment to Part 121 that would permit omission of the maneuver to a landing with a simulated failure of 50 percent of available powerplants (with the simulated loss of power on one side of the airplane) on every other six-month proficiency check or course of training if, during the preceding and following proficiency check or course of training, the maneuver has been and will be performed in a visual simulator. This, it states, would avoid the possible need to perform the maneuver in an airplane to a landing in the event the visual simulator is inoperative and would provide operational flexibility.

The FAA believes that a pilot-in-command may omit the subject maneuver during a required proficiency check or simulator course of training without compromising safety, provided that he satisfactorily performed that maneuver during a proficiency check, or during an approved simulator course of training under the observation of a check airman, within the preceding six calendar months.

Paragraph V(d)(2) of Appendix F of Part 121 currently provides, in pertinent part, that before January 1, 1975, for 4-engine turbojet airplanes, the maneuver described therein could have been performed in an approved simulator or in flight at altitude. Since this provision now is obsolete, this notice proposes that it be deleted.

(Secs. 313(a), 601, 602, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, and 1424) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations as follows:

By deleting the last sentence in paragraph V(d)(2) of Appendix F, and by adding a sentence to the flush paragraph immediately following that paragraph, as follows:

APPENDIX F—PROFICIENCY CHECK REQUIREMENTS

* * * * *

V. LANDINGS AND APPROACHES TO LANDINGS

* * * * *

(d) Maneuvering to a landing with simulated powerplant failure as follows:

(1) In the case of 3-engine airplanes, maneuvering to a landing with an approved procedure that approximates the loss of two powerplants (center and one outboard engine); or

(2) In the case of other multiengine airplanes, maneuvering to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane.

Notwithstanding the requirements of subparagraphs (d)(1) and (d)(2) of this paragraph, in a proficiency check for other than a pilot-in-command, the simulated loss of power may be only the most critical powerplant. However, if a pilot satisfies the requirement of subparagraph (d)(1) or (d)(2) of this paragraph in a visual simulator, he also must maneuver in flight to a landing with a simulated failure of the most critical powerplant. In addition, a pilot-in-command may omit the maneuver required by subparagraph (d)(1) or (d)(2) of this paragraph during a required proficiency check or simulator course of training if he satisfactorily performed that maneuver during a proficiency check, or during an approved simulator course of training under the observation of a check airman, within the preceding six calendar months.

Issued in Washington, D.C., on August 11, 1976.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.76–24816 Filed 8–25–76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74–20; Notice 6]

MOTOR VEHICLE SAFETY STANDARDS

Rearview Mirrors

This notice proposes the amendment of Standard No. 111, Rearview Mirrors, to provide for the optional use of plane and convex mirror combinations for buses other than school buses, multipurpose passenger vehicles, and trucks, with a GVWR of 10,000 pounds or more, to provide for the optional use of convex mirrors on the passenger's side of vehicles when right-side mirrors are required by the standard in order to meet the passenger car requirements, and to modify paragraphs S5.1.1 and S5.2.1 of the standard to specify that location of the driver's "eye reference points" shall be determined by the procedure provided in SAE Recommended Practice J1050.

By final rule published in this issue of the FEDERAL REGISTER, Standard No. 111 (49 CFR 571.111) is amended to establish separate rearview mirror requirements for school buses, to increase the amount of reflective surface required for mirrors on multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more, and to extend the coverage of the standard to motorcycles.

Several commenters to that rulemaking, including Carl G. Seashore and Associates, the International Brotherhood of Teamsters, the American Mutual Insurance Alliance, Mack Trucks, Inc., and a petition for rulemaking from Mr. M. W. Urban, recommended that Standard No. 111 be amended to require the use of convex mirrors on multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or more, because of the larger field of view of convex mirrors compared to mirrors of unit magnification.

The NHTSA agrees that the larger vehicles have unique rearward visibility problems that can create potential safety hazards, and that use of both plane and convex mirrors on these vehicles should help to increase rearward visibility. These heavy-duty vehicles are driven by professional drivers who have had experience with different types of rearview mirrors. However, the NHTSA disagrees that the use of convex mirrors should be made a mandatory requirement of the standard at this time because the agency has concluded that detailed evaluation techniques for convex mirrors cannot be established until appropriate rearview performance requirements can be developed. These test procedures will be included in future rulemaking. Therefore, this notice proposes to permit the use of plane and convex mirror combinations in place of the presently required plane mirror, at the option of the manufacturer. The proposed combination mirror would include a plane mirror with a smaller area of reflective surface than would otherwise be required by the standard.

It is proposed that paragraph S7.1 of the standard be modified to provide for either outside mirrors of unit magnification, each with not less than 50 in^2 of reflective surface or, at the option of the manufacturer, unit magnification mirrors with not less than 35 in^2 of reflective surface, combined with convex mirrors with not less than 19.5 in^2 of reflective surface. It is proposed that paragraph S8.1 of the standard be amended to provide for either outside mirrors of unit magnification, each with not less than 75 in^2 of reflective surface or, at the manufacturer's option, mirrors of unit magnification, each with not less than 45 in^2 of reflective surface, combined with convex mirrors, each with not less than 25 in^2 of reflective surface. Manufacturers would be permitted to use the combination plane and convex mirrors on either side or on both sides of the vehicle. The proposal specifies that convex mirrors shall have an average radius of curvature not less than 20 inches and not greater than 60 inches.

General Motors recently petitioned for rulemaking to amend paragraph S5.3 of Standard No. 111 to specify the optional

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use of convex mirrors on the passenger side of vehicles, when right-side mirrors are required by the standard due to the failure of the inside rearview mirror to meet the specified field of view performance requirements.

The use of convex mirrors on the smaller vehicles presents some concern, since these vehicles are generally driven by non-professional drivers. Although the convex mirror provides a wider field of view, results from recent NHTSA research indicates that one out of five drivers has difficulty using an outside convex mirror on the passenger side due to distortion problems. Therefore, the NHTSA has reservations regarding the substitution of a convex mirror to satisfy the existing requirements for a plane mirror on the right side of passenger cars and other light-weight vehicles. However, a proposed amendment of paragraph S5.3 is included in this notice for the purpose of obtaining comments and data. On the basis of the comments and research, the NHTSA will make a decision concerning the advisability of allowing the optional use of convex mirrors on the smaller vehicles.

This notice proposes to amend paragraph S5.3 of the standard to specify that each passenger car whose inside rearview mirror does not meet the field of view requirements of paragraph S5.1.1 shall have an outside rearview mirror installed on the passenger side which is either a mirror of unit magnification or a convex mirror that has an average radius of curvature not less than 40 inches and not greater than 60 inches. If the optional convex mirror is used, the proposed amendment provides that it shall have a highly reflective, brightly colored reference frame that is at least 0.125 inches wide and extends around the entire periphery of the reflective surface. NHTSA field tests indicate that a colored border surrounding the convex mirror alerts drivers that they are viewing a convex mirror rather than a plane mirror (see NHTSA Report: "Evaluation of a New Automotive Plane and Convex Mirror System by Government Drivers," SAE 760006, February, 1976). The proposed amendment also requires manufacturers to provide explanatory information indicating the location of the convex mirror, stating that the convex mirror has a highly reflective, brightly colored reference frame, and stating that convex mirrors are wide-angle rearview mirrors that are useful for lane changing purposes, but which present a distorted field of view. This information could be included in the vehicle owner's manual, if one is provided.

The colored reference frame and the information in the owner's manual is intended to alert drivers that they are viewing a convex mirror, since the visual information received is different than that received from a mirror of unit magnification. To minimize this distortion problem, the proposed convex mirror option specifies that only convex mirrors having an average radius of curvature from 40 to 60 inches may be used. This would effectively limit the degree of distortion to which drivers would have to become accustomed. The proposed amendment leaves intact the requirements for the inside rearview mirror and the driver's outside rearview mirror, both unit magnification mirrors that are familiar to the driving public. The proposed convex mirror option would be applicable to buses other than school buses, multipurpose passenger vehicles, and trucks with a GVWR of 10,000 pounds or less, in addition to passenger cars, since paragraph S6.1(a) of the standard provides that the former category of vehicles may be equipped with mirrors meeting the requirements of Section S5 for passenger cars.

This notice further proposes to amend paragraphs S5.1.1 and S5.2.1 of Standard No. 111 to specify that location of the driver's "eye reference points" and the evaluation of the rearward fields of view shall be determined in accordance with the procedures found in Section 7 of the SAE Recommended Practice J1050, "Describing the Driver's Field of View," (September 1973). Currently the standard provides that location of the "eye reference points" shall be that established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile adult male driver.

General Motors recommended that reference to Standard No. 104 in paragraphs S5.1.1 and S5.2.1 be deleted, since that standard's designation of "eye reference points" is ambiguous. The nominal location method of determining the points was incorporated into the standard (41 FR 7510) to affirm a previously published NHTSA interpretation (32 FR 5498) that the standard permits location of the driver's "eye reference points" in that manner. Neither of the current two methods specifies the location of the points as well as the SAE recommended procedure. Therefore, the purpose of this proposed amendment is to improve the procedure for locating the "eye reference points" and to clarify the methods to be used to evaluate mirror performance.

Since these proposed amendments would not require additional equipment and would merely provide options for motor-vehicle manufacturers, they should have no significant inflationary or environmental impact.

In consideration of the foregoing, it is proposed that Motor Vehicle Safety Standard No. 111, Rearview Mirrors (49 CFR 571.111), be amended as follows:

§ 571.111 [Amended]

1. The last sentence of paragraph S5.1.1 and the last sentence of paragraph S5.2.1 would be revised to read:

The location of the driver's eye reference points and the evaluation of the rearward field of view shall be determined in accordance with the procedures in section 7 of the SAE Recommended Practice J1050, "Describing the Driver's Field of View," (September 1973).

2. Paragraph S5.3 would be revised to read:

S5.3 *Outside rearview mirror passenger's side.* Each passenger car whose inside rearview mirror does not meet the field of view requirements of S5.1.1 shall have either an outside rearview mirror of unit magnification or, at the option of the manufacturer, an outside convex mirror with an average radius of curvature not less than 40 inches and not greater than 60 inches, installed on the passenger's side. The mirror mounting shall provide a stable support and be free of sharp points or edges that could contribute to pedestrian injury. The mirror need not be adjustable from the driver's seat but shall be capable of adjustment by tilting in both horizontal and vertical directions. If a convex mirror is installed, it shall have a highly reflective, brightly colored reference frame that is at least 0.125 inches wide, extending around the entire periphery of the reflective surface. Explanatory information concerning the supplemental convex mirror shall be provided with each vehicle, stating that: (i) The convex mirror is located on the passenger's side of the vehicle; (ii) the convex mirror has a highly reflective, brightly colored reference frame for the purpose of alerting a driver that he is viewing a convex mirror rather than a plane mirror; and (iii) convex mirrors are wide-angle rearview mirrors that are useful in detecting traffic for lane changing purposes, but present a distorted perception of distance. If a vehicle owner's manual is provided, this information shall be included in the manual.

3. The first sentence in paragraph S7.1 would be revised to read:

S7.1. Each multipurpose passenger vehicle and truck with a GVWR of more than 10,000 pounds and less than 25,000 pounds and each bus, other than a school bus, with a GVWR of more than 10,000 pounds shall have installed with stable supports on each side of the vehicle, an outside mirror(s) that is either: (i) A mirror of unit magnification with not less than 50 in^2 of relative surface or, at the option of the manufacturer, (ii) two mirrors, one of unit magnification with not less than 35 in^2 of reflective surface, and the other a convex mirror with not less than 19.5 in^2 of reflective surface and an average radius of curvature not less than 20 inches and not greater than 60 inches.

4. The first sentence in paragraph S8.1 would be revised to read:

S8.1. Each multipurpose passenger vehicle and truck with a GVWR of 25,000 pounds or more shall have installed with stable supports on each side of the vehicle, an outside mirror(s) that is either: (i) A mirror of unit magnification with not less than 75 in^2 of reflective surface or, at the option of the manufacturer, (ii) two mirrors, one of unit magnification with not less than 45 in^2 of reflective surface, and the other a convex mirror with not less than 25 in^2 of reflective surface and an average radius of curvature not less than 20 inches and not greater than 60 inches.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: October 11, 1976.

Proposed effective date: 6 months after publication of final rule in FEDERAL REGISTER.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50 and 501.8.)

Issued on August 19, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.24908 Filed 8-25-76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 556]

[76-613]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendment Relating to Locating Branch Offices and Mobile Facilities in Rural Areas

SUMMARY

AUGUST 18, 1976.

The following summary of the amendment proposed by this Resolution is provided for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions in the regulations.

I. *Existing Regulations.* The Board's general policy requires that a Federal association's branch office or mobile facility be located not more than 100 miles from the association's home office. An exception to that policy permits the Board to consider a branch office or mobile facility application without regard to such 100-mile limit if the new office or facility is to be located in a rural county having 3 or less savings-and-loan-association offices.

II. *Proposed Amendment.* The Board's general policy regarding the 100-mile limitation would be retained, but thrift institutions whose accounts are not insured by the Federal Savings and Loan Insurance Corporation (FSLIC) would not be counted when applying the "rural-county" exception.

III. *Purpose of Amendment.* To liberalize the Board's policy regarding branching into certain rural areas which are not adequately served by branch offices or mobile facilities of FSLIC-insured institutions.

The Federal Home Loan Bank Board considers it desirable to propose to amend Part 556 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 556) for the purpose stated in Item III of the Summary of this Resolution.

The first sentence of § 556.5(b)(3) of said Part 556 states in substance that it is the Board's general policy to consider an application for a branch office or mobile facility only when the proposed branch office or mobile facility is to be located not more than 100 miles from the applicant's home office, unless the application falls within certain exceptions specified in that section. Subdivision (*d*) of § 556.5(b)(3) provides one such exception and states in substance that the Board may permit consideration of an application where the new office or facility would be located in a rural county presently served by 3 or less savings and loan associations having home or branch offices or mobile facilities in such county. Pursuant to that subdivision (*d*), branch offices and mobile facilities of both FSLIC-insured and non-FSLIC-insured savings and loan associations are presently counted when applying the "rural-county" exception.

The principal effect of this Resolution is to propose to liberalize the Board's policy regarding this matter by eliminating the counting of non-FSLIC-savings and loan associations. This change would permit the Board to consider certain applications which the present provision may bar. For example, although the Board's policy was intended to allow more liberal branching into rural areas, the present provision would not be available in counties which, although not served by any FSLIC-insured institution, nevertheless, have 3 or more non-FSLIC-insured savings and loan associations located therein.

It is noted that the liberalized exception to the 100-mile limitation proposed by this Resolution would not relieve an applicant for a branch office or mobile facility from the requirements of § 545.14(c) (12 CFR 545.14(c)), i.e. the applicant must furnish information to show: "(1) There will be at the time the branch is opened a necessity for the proposed branch office in the community to be served by it; (2) there is a reasonable probability of usefulness and success of the proposed branch office; and (3) the proposed branch office can be established without undue injury to properly conducted existing local thrift and home-financing institutions."

Accordingly, the Board hereby proposes to amend said Part 556 by revising said § 556.5(b)(3)(*d*) thereof by deleting the words "savings and loan associations" and substituting therefor the words "insured institutions (as defined in § 561.1 of this chapter)", to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by September 27, 1976, as to whether this proposal should be adopted, rejected, or modified. Copies of all written material submitted will be available for public inspection at the above address during normal business hours.

Section 556.5(b)(3)(*d*) is revised as follows:

§ 556.5 Establishment of Federal savings and loan associations and branch office and mobile facilities of such associations.

* * * * *

(b) * * *

* * * * *

(3) It is the Board's general policy to consider an application by such an association for permission to establish or maintain a branch office or mobile facility only when the proposed branch office or mobile facility is to be located not more than 100 miles from the association's home office unless (i) the association's home office is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands, (ii) such application is for permission to maintain, as a branch office, an existing home or branch office of an institution which is to be absorbed by merger or other approved acquisition, or (iii) such application is by a Federal association which has converted (or is in the process of converting) from a State-chartered association for permission to upgrade an office facility, which is located outside the State in which the applicant's home office is located but inside the applicant's regular lending area as prescribed in § 545.6-6 of this chapter, to the status of a branch office located at or in the same vicinity as such existing office facility is located. However, the Board may permit consideration of applications for permission to establish branch offices or mobile facilities in a State without regard to the 100-mile geographical limitation contained in the preceding sentence if the Board or its Principal Supervisory Agent, as defined in § 545.14(a)(3)(i) of this chapter, determines that:

* * * * *

(*d*) Such branch office or mobile facility is to be located in a county (or similar political subdivision) which is primarily rural in character and which is presently served by 3 or less insured institutions (as defined in § 561.1 of this chapter) having home or branch offices or mobile facilities in such county. For this purpose, a county will not be determined to be primarily rural in character if it is part of a Standard Metropolitan Statistical Area.

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(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorganization Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76–25060 Filed 8–25–76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 34]

[Docket No. RM75–16]

REVISION OF PROCEDURES FOR THE ISSUANCE OF SECURITIES

Order Terminating Proposed Rulemaking Proceeding

AUGUST 18, 1976.

On January 20, 1975, the Commission issued in this docket a notice of proposed rulemaking (40 FR 4320, January 29, 1975). The rulemaking proposed, inter alia, revisions of §§ 34.1a and 34.2 (f) of Chapter I, Title 18 of the Code of Federal Regulations by (1) requiring public invitation of proposals for the purchase or underwriting of security issues involving proceeds of $10 million or more before exemption from the competitive bidding requirements of the Regulations would be considered by the Commission; (2) exempting security issues involving proceeds under $10 million from the competitive bidding requirements of the Regulations; (3) requiring utilities, when filing negotiated procedures, to submit evidence of having negotiated with at least three purchasers or underwriters and to show that the effective cost of the security issue is reasonable in relation to the state of the financial or money markets before approval of issuance of securities by negotiation would be authorized by the Commission; and (4) eliminating the requirement that utilities must receive Commission approval to engage in negotiation for the sale or underwriting of securities. Comments were invited from interested parties on Docket No. RM75–16, to be submitted on or before March 3, 1975. The Commission received timely comments from thirteen respondents,[1] and three of those thirteen respondents requested conferences with the Commission's Staff.[2] The Commission also received comments from three respondents which were filed after the termination of the notice period and these documents were accepted for filing conditionally,[3] and two of those respondents sought conferences with the Commission's Staff.[4]

All parties agreed that the Commission should exempt security issues involving proceeds under $10 million from the competitive bidding requirements of the Regulations. However, several respondents suggested that the size of the exemption should be increased to $20–$30 million.[5]

Moreover, it was the consensus of all respondents that the proposed revision of Part 34 of the Commission's regulations which would require public invitation of proposals for the purchase or underwriting of security issues involving proceeds of $10 million or more before exemption from the competitive bidding requirements of the Regulations would be considered by the Commission could have serious detrimental effects on the capital structure of affected utilities, place a heavy burden on affected utilities, increase expenses, complicate an already complicated process and would not in any meaningful way protect the public interest.

On May 9, 1975, the Commission issued in this docket a notice of public meeting, pursuant to § 1.3 of the Commission's Rules of Practice and Procedure (18 CFR § 1.3), to be convened at the offices of the Federal Power Commission, Washington, D.C. 20426. The Commission's Staff determined that such a conference was an appropriate forum for the discussion of relevant issues relating to the subject of the proposed rulemaking. Specifically, the purpose of the conference was to discuss the proposed procedures enunciated in Docket No. RM75–16 and in the alternative to discuss any procedures that the participants might suggest which would aid the Commission in fulfilling its statutory responsibilities. In response to the notice of public meeting, fourteen firms were represented at the conference which convened at the Offices of the Federal Power Commission, Washington, D.C. on Tuesday, May 27, 1975.[6]

The comments and suggestions proffered by the respondents at the public conference were essentially the same as those filed with the Commission in response to the notice of proposed rulemaking.[7] It was the consensus of all in attendance at the public conference that by requiring an issuer to place an issue for actual bidding before seeking exemption, many delays and costs will be produced which are not in the public interest. The numerous comments in opposition to the proposed rulemaking stress the fact that the procedures would seriously disrupt the flow of capital into the affected utilities. In addition, the parties point out that one of the most important jobs the financial officer of a large electric utility company has, is to ensure that the timing of the company's issue will not conflict with the timing of comparable issues, thereby spreading the available market too thin on the day of the issue. Issues are scheduled long in advance of the proposed offering date in order that the numerous companies coming to market will not all decide to attempt to sell on the same day, thus exerting excessive strains on the underwriting system to the detriment of the issuing utilities. The parties proffer that with the volume of offerings of comparably rated utilities, finding a place on the calendar is becoming increasingly difficult. Therefore, with the procedure proposed by the Commission, a company would not be assured that it could sell its securities at any given time. The parties stress that the magnitude of the timing problem cannot be overemphasized.

Upon review and further consideration of the additional requirements proposed by this rulemaking, and giving consideration to the pertinent comments filed herein, we find that this proposed rulemaking should not be implemented. We believe instead that exemption from the competitive bidding requirements of the Regulations should continue to be considered on a case-by-case basis.

For the reasons stated, we find that the proposed rulemaking in this docket is not in the public interest and should therefore not be implemented. Accordingly, the rulemaking shall be terminated.

The Commission finds: (1) The termination of the proposed rulemaking in Docket No. RM75–16 is appropriate and necessary for carrying out the provisions of the Federal Power Act.

(2) Compliance with the effective date provisions of section 553 Title 5 of the United States Code is unnecessary.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 3(16), 19, 20, 203, 204, 205, 305, 308 and 309 (41 Stat. 1073, 1074; 49 Stat. 839, 849, 850, 851, 852, 856, 858–859; 16 U.S.C. 796(16), 812, 813, 824b, 824c 824d, 825d, 825g, 825h), orders:

(A) Effective upon issuance of this order, the proposed rulemaking in Docket No. RM75–16 is terminated.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24952 Filed 8–25–76;8:45 am]

[1] The Edison Electric Institute, The Cincinnati Gas & Electric Company, The Utah Power & Light Company, The Iowa Electric Light & Power Company, The Pacific Power & Light Company, The Law Offices of Chapman & Cutler of Chicago, Illinois, The firm of Salomon Brothers, Professor Ronald W. Melicher, The firm of Merrill Lynch, Pierce, Fenner & Smith, The Gulf States Utilities Company, The Long Island Lighting Company, The firm of Blyth Eastman Dillon & Company, and The firm of Kidder, Peabody and Company.

[2] The Pacific Power & Light Company; Blyth Eastman Dillon & Company; and Merrill Lynch, Pierce, Fenner & Smith

[3] The firm of Goldman, Sachs & Company; The Iowa-Illinois Gas and Electric Company; The firm of White, Weld & Company.

[4] Goldman, Sachs & Company and White, Weld and Company.

[5] The firms of Kidder, Peabody & Company and Salomon Brothers.

[6] White, Weld & Company, Edison Electric Institute, Salomon Brothers, Iowa Electric Light & Power Company, Iowa Power & Light Company, Gulf States Utilities Company, Merrill Lynch, Pierce, Fenner & Smith, Chapman & Cutler, Idaho Power Company, Pacific Power & Light Company, Utah Power & Light Company, Blyth Eastman Dillon & Company. The Securities and Exchange Commission, and Natural Gas Pipe Line.

[7] 40 FR 4320, January 29, 1975.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1106]

[Ex Parte No. 55 (Sub-No. 22)]

ENERGY POLICY AND CONSERVATION ACT OF 1975

Proposed Implementation

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of August 1976.

It is ordered, That based on the reasons set forth in the attached notice, a proceeding be, and it is hereby, instituted pursuant to 5 U.S.C. 552, 553, and 559 (the Administrative Procedure Act), for the purpose of implementing the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6201 et seq.).

It is further ordered, That the attached notice be, and it is hereby, adopted and is incorporated by reference into this order.

And it is further ordered, That notice of the institution of this proceeding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

By the Commission (Commissioners Murphy and Brown not participating).

ROBERT L. OSWALD,
Secretary.

The Energy Policy and Conservation Act of 1975, Pub. L. 94–163, 42 U.S.C. 6201 et seq. (EPACA), establishes a comprehensive national energy policy designed to:

(1) Maximize domestic production of energy and provide for strategic storage reserves of crude oil, residual fuel oil and refined petroleum products;

(2) Minimize the impact of disruptions in energy supplies by providing for emergency standby measures;

(3) Provide for domestic crude oil prices that will encourage domestic production in a manner consistent with economic recovery; and

(4) Reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

Recognizing the fact that the transportation industry is a major user of energy resources and that Federal regulation of transportation influences the amount of energy consumed by the regulated transport modes, EPACA imposes certain responsibilities upon this Commission and four other Federal agencies vested with jurisdiction to regulate surface, air, and maritime transportation.

Specifically, section 382(a) of the statute directs this Commission and the other affected agencies to file three separate reports with Congress over a period of one year. The first report, which this Commission submitted to Congress on February 20, 1976, entailed a description of our energy conservation policies and practices instituted subsequent to October 1973, while the second report, which was submitted on April 14, 1976, contained proposals aimed at achieving additional energy savings by regulated carriers. A third report, which must be filed by December 1976, will consist of an analysis of Commission policies, past and present, which promote or perpetuate the inefficient use of petroleum products and other energy resources.

In addition to submission of the above-described reports, which are non-recurring obligations, section 382(b) vests this Commission with the continuing responsibility of including in any major regulatory action, where practicable and consistent with the exercise of authority under other law, "a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation".

IMPLEMENTATION

EPACA does not define the term "major regulatory action" and specifically confers the responsibility of defining it upon each of the affected agencies through rulemaking. This proceeding has been instituted to define what this Commission considers to be a "major regulatory action" for purposes of EPACA and to propose guidelines for implementation of the section 382(b) requirements.

Before discussing the proposed guidelines, mention should be made of this Commission's existing policy to fully consider the implications of its actions upon energy consumption and its efforts to continually reexamine its regulatory programs and practices in order to maximize energy conservation consistent with its statutory obligation to develop, coordinate, and preserve a multi-modal national system of transportation adequate to meet the needs of the Nation. Energy impacts are identified in Commission procedures implementing the National Environmental Policy Act of 1969 (NEPA) (see 49 CFR 1108) as part of the broader range of environmental impacts which may result from Commission action. Impacts on energy conservation and energy efficiency, when present, are analyzed in Commission environmental impact statements or environmental threshold assessment surveys and are given careful consideration in our decisionmaking and review process. Furthermore, the Commission has adopted rules over the last 3 years which have encouraged the conservation of substantial amounts of fuel by eliminating unnecessary circuity in motor carrier operations. See Gateway Elimination, 119 M.C.C. 530 (1974); and Enlargement of Operational Circuity Reduction, 121 M.C.C. 685 (1975).

In order to assess the energy conservation impact of Commission rulemaking proceedings as well as to investigate the need for further rulemakings which may result in more efficient utilization of energy resources, the Commission has sponsored several research projects to assess the extent of unused capacity within the motor carrier industry which may lead to energy consumption inefficiency. One project, conducted by an independent consultant under contract from the Commission, analyzed the percentage and reasons for motor carrier empty miles. Another project, conducted by the Commission's staff, consists of a nationwide survey designed to produce statistically valid quantitative measures of unused motor carrier capacity. Still another staff-conducted project entails an investigation of the fuel, time, and cost savings engendered by the Gateway Elimination rules.

Motor carrier operating rights applicants are also required to show in their applications that the service proposed therein will be operationally feasible in terms of minimizing empty mileage on backhauls. See General Policy Statement Concerning Motor Carrier Licensing Procedures (Operational Feasibility), (November 15, 1973). In addition, this Commission has established special certification procedures encouraging the transportation of waste products for reuse and recycling, thus allowing more efficient use of energy and other natural resources. Transportation of "Waste" Products for Reuse and Recycling, 124 M.C.C. 583 (1976).

With respect to effecting additional energy savings in the future, this Commission has proposed legislation designed to conserve substantial amounts of fuel, see The Energy Crisis and the Need for Emergency Transportation Legislation, 349 I.C.C. 699 (1975), and has recently created a policy and planning unit which will seek out ways to improve energy efficiency among the regulated surface carriers.

In view of this Commission's demonstrated commitment towards promoting energy conservation and our existing mechanism for considering energy impacts in the decisionmaking process, EPACA is not expected to create substantial new responsibilities or require extensive new procedures. Rather, the statute primarily serves to reemphasize the important role that energy considerations play in this Commission's regulatory process.

In implementing EPACA, the primary interpretative problem lies in defining the term "major regulatory action". The legislative history of the Act is silent as to why this particular term was used and how it differs, if at all, from the "major Federal action" terminology employed in NEPA. However, inasmuch as the "statement of energy impact" (SEI) requirement of EPACA is apparently similar in purpose to the "environmental impact statement" requirement of NEPA, the basic principles utilized in formulating the Commission's NEPA procedures have been adopted in these proposed guidelines.

Inasmuch as this Commission's actions are primarily regulatory in nature, we

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perceive no distinction, as far as this Commission is concerned, between the words "regulatory" as used in section 382(b) of EPACA and "Federal" as used in section 102(2)(C) of NEPA. It is true that the section 102(2)(C) term "major Federal action" is modified by the phrase "significantly affecting the quality of the human environment" and that no such modifier is utilized in EPACA. In spite of this, however, it is believed that Congress intended "energy impact statements" to be issued under essentially the same circumstances which would trigger issuance of environmental impact statements, i.e., whenever a proposal before the Commission may result in a significant impact upon energy efficiency and energy conservation. Accordingly, the proposed guidelines define "major regulatory action" in terms of the significance of the proposal's impact on energy efficiency and conservation. The word "significant" is difficult to define inasmuch as that which may be significant under one set of facts may not be such in other circumstances. Instead of defining this term, therefore, the proposed rules indicate those factors which will be considered in arriving at a threshold determination of significance.

In view of the fact that each case must be evaluated on the basis of its own particular facts, it cannot be stated with assurance in these proposed guidelines which Commission actions will require the preparation of an SEI. However, this Commission's experience in implementing NEPA has indicated that certain categories of actions have greater potential for significant energy impacts than others. Such actions include rail line constructions; commuter fare increases; merger, control, or consolidations involving two or more class I railroads (which normally require an environmental impact statement (EIS)); abandonment, acquisition or operation of rail lines; water carrier certification; Investigation and Suspension, rate complaint, or formal docket cases involving recyclable commodities; rulemaking and legislative proposals affecting carrier operations; and general rate increases (which normally do not require an EIS). Although proceedings within the abovementioned categories will, in many cases, not result in significant impacts on energy efficiency and energy conservation, they will receive close scrutiny in determining whether preparation of an SEI is appropriate.

Once a decision is made to prepare an SEI, said statement will be incorporated into the environmental impact statement (EIS) for the involved proceeding. The EIS is proposed as the appropriate vehicle for identifying and evaluating significant energy impacts since it represents a systematic, finely tuned, and comprehensive analysis of the broad range of environmental impacts, including those related to energy efficiency and conservation. The consultation procedures utilized in the EIS process, which entail the solicitation of comments from State and Federal agencies with special jurisdiction or expertise in energy and other fields, will also be beneficial in accurately assessing energy impacts.

The fact that only "major regulatory actions" will engender the preparation of Statements of Energy Impact does not mean that the energy implications of other actions will not be considered in the Commission's decisionmaking and review processes. This Commission recognizes its responsibility to consider energy, as well as other environmental impacts, as integral factors in arriving at informed decisions which are in the public interest. The level of analysis, however, must necessarily depend upon the magnitude of the relevant energy impacts. Consequently, potentially serious energy impacts of actions not considered major for purposes of EPACA will normally be discussed and considered either in environmental impact statements (when prepared in instances where nonenergy impacts are significant), threshold assessment surveys prepared by the Commission's Environmental Affairs Staff as a reviewable record under NEPA, or in the decisional document of a proceeding.

Inasmuch as extensive reporting requirements encompassing the identification of potential impacts on energy already exist (see 49 CFR 1108.12), no additional requirements have been proposed herein. However, applicants should keep in mind the importance that this Commission, as well as Congress, attaches to energy considerations and should make a conscientious effort to fully describe the impacts of their proposals on energy efficiency and energy conservation in complying with 49 CFR 1108.12.

Oral hearings do not appear to be necessary at this time and none are contemplated. Anyone wishing to present their views and evidence, either in support of, or in opposition to, the action proposed in this order may do so by the submission of written data, views, or arguments. An original (and 15 copies whenever possible) of such data, views, or arguments shall be filed with the Commission on or before October 12, 1976.

All such statements will be a part of the record in the proceeding and will be available for public inspection during regular business hours at the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

(Secs. 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559).)

Accordingly, it is proposed to add Part 1106 to Title 49 of the Code of Federal Regulations, to read as follows:

PART 1106—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT OF 1975

Sec.
1106.1 Purpose and scope.
1106.2 Authority.
1106.3 Definitions.
1106.4 Actions normally constituting major regulatory actions.

AUTHORITY: 42 U.S.C. 6201 et seq.; 49 U.S.C. 17(8), 204(a)(b), 304(a), 403(a); 5 U.S.C. 552, 553, 559.

§ 1106.1 Purpose and scope.

(a) The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq., hereinafter referred to as EPACA) directs and authorizes that certain steps be taken by the Federal and State governments to reduce demand for energy, increase domestic energy supplies, and conserve existing energy supplies through energy conservation programs and improvements in the energy efficiencies of motor vehicles and other consumer products. Consistent with this mandate, efforts should also be taken to increase the energy efficiency of other modes of surface transportation subject to Commission regulation.

(b) The purpose of these regulations is to establish procedures for facilitating the Commission's discharge of its duties under the Energy Policy and Conservation Act of 1975.

(c) These guidelines apply to all proceedings before the Commission.

§ 1106.2 Authority.

(a) Section 382 of EPACA requires the Commission to examine its policies and programs with the purpose of instituting measures designed to reduce energy consumption by persons subject to its regulation. Section 382(b) of the EPACA directs the Commission to include in any major regulatory action, where practicable and consistent with the exercise of its authority under other law, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation. The statute directs the Commission to define the term "major regulatory action" by rule.

(b) Sections 17(3), 204(a)(b), 304(a), and 403(a) of the Interstate Commerce Act authorize the Commission, consistent with the purpose of the Act, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

§ 1106.3 Definitions.

(a) "Act" means the Interstate Commerce Act, as amended.

(b) "Commission" means the Interstate Commerce Commission.

(c) "EPACA" means the Energy Policy and Conservation Act of 1975.

(d) "Environmental impact statement" (EIS) is a complete and fully comprehensive environmental analysis including such formal review as may be provided by other Federal, State, and local agencies and the public pursuant to section 102(2)(C) of NEPA. The EIS is developed in two stages, draft and final.

(e) "Major regulatory action" is any activity undertaken, approved, or licensed by the Commission which has a significant impact on the conservation of energy resources or upon energy efficiency.

(f) "NEPA" means the National Environmental Policy Act of 1969.

(g) "Statement of Energy Impact" (SEI) is a detailed analysis, incorporated into an environmental impact statement, which describes the probable impact of a

major regulatory action on energy conservation and energy efficiency.

§ 1106.4 Actions normally constituting major regulatory actions.

(a) In determining whether a proposed action will have a significant impact on energy conservation or energy efficiency, consideration will be given to:

(1) The extent to which the action will increase energy consumption in excess of existing energy consumption in the affected area;

(2) The extent to which the action will result in diversion of traffic from one mode of transportation to another;

(3) The extent to which the action will result in more efficient or less efficient use of existing modes of transportation;

(4) The extent to which the proposed action is consistent with Federal, State, and local plans regarding energy conservation;

(5) The extent to which the action will result in the disruption of existing patterns of energy distribution; and

(6) The extent to which the action will provide necessary transportation access for the development of energy resources.

(b) Upon a termination that a proposed action is a major regulatory action, the Commission's Environmental Affairs Staff will prepare a Statement of Energy Impact. The SEI will be incorporated into the staff-prepared environmental impact statement for the proceeding and will be considered with the EIS in the Commission's review process.

[FR Doc.76-25070 Filed 8-25-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.80]

AID AFFAIRS OFFICER FOR CARIBBEAN REGIONAL PROGRAMS, BRIDGETOWN, BARBADOS

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1.80 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Affairs Officer for Caribbean Regional Programs, Bridgetown, Barbados, the authority to sign or approve:

1. U.S. Government contracts, and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalents.

2. Contracts with individuals for the services of the individual alone without monetary limitations.

3. Grants (other than grants to foreign governments or agencies thereof), and amendments thereto, for technical assistance, provided that the aggregate amount of each individual grant does not exceed $25,000 or local currency equivalents.

The authority herein delegated may be redelegated in writing in whole or in part, by said AID Affairs Officer at his discretion to the person or persons designated by the AID Affairs Officer as Contracting Officer. Such redelegations shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer for AID programs, or until the redelegation is revoked by the AID Affairs Officer, whichever shall first occur. The authority so redelegated by the AID Affairs Officer may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated to the AID Affairs Officer may be exercised by duly authorized persons who are performing the functions of the AID Affairs Officer in an acting capacity.

This redelegation of authority shall be effective immediately.

Dated: August 19, 1976.

RUSSELL DILTS,
Acting Director, Office of Contract Management.

[FR Doc.76-25035 Filed 8-25-76;8:45 am]

Office of the Secretary

[Public Notice CM-6/86]

SHIPPING COORDINATING COMMITTEE; COMMITTEE ON OCEAN DUMPING

Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Wednesday, September 15, 1976 in Room 1101 West Tower, Environmental Protection Agency, 401 M Street SW, Washington, D.C.

The purpose of the meeting is to review position documents for the first consultative meeting of the Contracting Parties of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, scheduled to be held in London September 20–24, 1976.

Requests for further information should be directed to Mr. Alan Sielen, Oceans Division, Office of International Activities, Environmental Protection Agency, Washington, D.C. 20460. Mr. Sielen may be reached by telephone on (202) 755–0533.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director, Office of Maritime Affairs.

AUGUST 20, 1976.

[FR Doc.76-24987 Filed 8-25-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MERCANTILE NATIONAL BANK, ATLANTA, GEORGIA

Suspension of Trading

It appearing that an extension of the Order, issued August 12, 1976, suspending trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 12(1) and 12(k) of the Securities Exchange Act of 1934, the suspension of trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is hereby extended for the ten-day period commencing at midnight (EDT) on August 22, 1976, and terminating at midnight (EDT) on September 1, 1976.

Dated: August 20, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-24930 Filed 8-25-76;8:45 am]

Internal Revenue Service

[Order No. 19 (Rev. 5)]

DEPUTY COMMISSIONER ET AL.

Authority Delegation

Payment of Expenses Incident to Transfers or Appointments of Employees to New Official Stations, Vacation Leave Travel, and Similar Items.

1. This order delegates authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 72 Revised, to authorize or approve the allowance and payment from Government funds of expenses allowable under Chapter 2, Relocation Allowances, of General Services Administration Federal Property Management Regulations Part 101–7, Federal Travel Regulations. The following officers may authorize or approve the incurrence of such expenses, and make related determinations, subject to the restrictions in the succeeding paragraphs of this order and pursuant to implementing regulations in Treasury Department Administrative Circular No. 19, as revised, and IRM 1763, Travel Handbook:

Deputy Commissioner.
Assistant to the Commissioner (Public Affairs).
Assistant Commissioners.
Chief Counsel.
Division Directors.
Director of Internal Operations.
Director, National Computer Center.
Fiscal Management Officer.
Regional Commissioners.
Regional Inspectors.
Regional Counsel.
District Directors.
Service Center Directors.
Director, Data Center.

2. This delegation does not include the authority to agree to the payment of moving expenses by an office other than the gaining office in transfers between the Internal Revenue Service and another agency, department, bureau of the Treasury Department, etc.

3. This delegation does not include the authority to agree to payment of travel and transportation of new appointees to first post of duty.

4. This delegation does not include the authority to approve a period of service of less than two years, or to accept separation, without penalty, from service before the end of a year of service, with respect to employees serving outside the conterminous (contiguous 48 States and the District of Columbia) United States under circumstances requiring two years of service.

5. No redelegation of the above authority may be made except that: (1) Regional Commissioners may redelegate, but not lower than to Branch Chiefs in the Regional Office, (2) District Directors, Service Center Directors, and the Director, Data Center, may redelegate, but not lower than to Division Chiefs.

6. The Director of International Operations and the Regional Commissioner, Western Region, may make determinations and authorizations in cases under their jurisdiction with respect to the transportation and emergency storage of privately-owned motor vehicles of Service employees appointed or transferred to posts of duty other than those located in the conterminous United States. The Fiscal Management Officer may make such determinations and authorizations with respect to all other Service employees appointed or transferred to posts of duty outside the conterminous United States. This authority may not be redelegated.

7. Delegation Order No. 19 (Rev. 4), issued May 23, 1975, is superseded.

Date of Issue: August 19, 1976.

Effective Date: September 3, 1976.

DONALD ALEXANDER,
Commissioner.

[FR Doc.76-24931 Filed 8-25-76;8:45 am]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Meeting

Pursuant to the provisions of Pub. L. 92–463, notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board (Board) will be held on October 19–20, 1976, at the Royal Inn of Santa Monica, Santa Monica, California. The meeting will begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss matters relating to NCIC which are presented to the Board.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must file written statements or questions at least twenty-four hours prior to the beginning of each meeting. All questions or statements shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Administrative Services Division, FBI, Washington, D.C.

Additional information may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Administrative Services Division, FBI Headquarters, Washington, D.C. 20535, at telephone number 202/324–2606.

Minutes of the meeting will be available upon request from the above designated FBI official.

CLARENCE M. KELLEY,
Director.

[FR Doc.76-25030 Filed 8-25-76;8:45 am]

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD'S SECURITY AND CONFIDENTIALITY (S&C) COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, the National Crime Information Center (NCIC) Advisory Policy Board's Security and Confidentiality (S&C) Committee will meet October 13–14, 1976, at the Royal Inn of Santa Monica, Santa Monica, California. The meeting will begin at 9 a.m. and conclude at 5 p.m. each day.

The purpose of the S&C Committee meeting will be to review the document entitled, "National Crime Information Center Computerized Criminal History Program Background, Concept and Policy As Approved By NCIC Advisory Policy Board April 1, 1976," and to consider any other matters relating to security and privacy of the NCIC system which may come before this Committee.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the committee members must file written statements or questions at least twenty-four hours prior to the beginning of each meeting. These statements or questions shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Administrative Services Division, FBI, Washington, D.C.

Additional information may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Administrative Services Division, FBI Headquarters, Washington, D.C. 20535, at telephone number 202/324–2606.

Minutes of the meeting will be available upon request from the above designated FBI official.

CLARENCE M. KELLEY,
Director.

[FR Doc.76-25031 Filed 8-25-76;8:45 am]

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on September 30, 1976 from 9:30 a.m.–5 p.m. at the International Inn, No. 10 Thomas Circle, NW., Washington, D.C.

Topics of discussion will include a briefing on Institute activities and proposed research topics for fiscal year 1977.

The meeting will be open to the public.

For further information, please contact Gerald M. Caplan, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531. (202) 376–3606.

JAY BROZOST,
Attorney-Advisor, Office of General Counsel.

[FR Doc.76-25032 Filed 8-25-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 28579]

NEW MEXICO

Application

AUGUST 18, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 18 S., R. 29 E.
Sec. 31, lot, 5, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼.

This pipeline will convey natural gas across .723 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their view should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-25023 Filed 8-25-76;8:45 am]

[NM 28580, 28581, 28582, 28583, 28584, 28589, 28658 and 28666]

NEW MEXICO

Applications

AUGUST 19, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station and seven 4½-inch natural gas pipeline rights-of-way across the following lands:

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NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 10, SE¼SE¼;
Sec. 15, NE¼NE¼.
T. 29 N., R. 9 W.,
Sec. 1, lot 7.
T. 25 N., R. 11 W.,
Sec. 22, NE¼NW¼.
T. 28 N., R. 12 W.,
Sec. 22, E½SE¼;
Sec. 23, S½SW¼ and SW¼SE¼;
Sec. 27, N½NE¼.
T. 27 N., R. 12 W.,
Sec. 31, SW¼NE¼;
Sec. 36, N½SW¼, SE¼SW¼ and SW¼SE¼.
T. 30 N., R. 13 W.,
Sec. 9, SW¼NE¼.

The cathodic protection station and the pipelines will be used to convey natural gas across 2.704 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-25024 Filed 8-25-76;8:45 am]

[NM 28590, 28591 and 28592]

NEW MEXICO

Applications

AUGUST 19, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for three 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 6, lot 5, SW¼NE¼, SE¼NW¼ and NW¼SE¼;
Sec. 9, SW¼SE¼;
Sec. 10, SW¼NW¼ and NW¼SW¼.
T. 30 N., R. 9 W.,
Sec. 1, SE¼NE¼ and NE¼SE¼;
Sec. 5, lot 2, SW¼NE¼ and NW¼SE¼;
Sec. 8, N½NW¼, SW¼NW¼ and NW¼SW¼;
Sec. 17, S½SW¼;
Sec. 19, NE¼NE¼;
Sec. 20, N½NW¼.

These pipelines will convey natural gas across 3.578 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-25025 Filed 8-25-76;8:45 am]

ALBUQUERQUE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Multiple Use Advisory Board for the Albuquerque District, Bureau of Land Management will meet at 8:00 a.m. on September 28 and 29, 1976. The Board will meet at the Holiday Inn, 600 Broadway, Farmington, New Mexico.

On September 28 the board members will tour lands involved in a Grazing Environmental Statement, a Coal Environmental Statement, Land Exchanges, the Navajo Indian Irrigation Project and coal mines.

On September 29 the Board will meet at 8 a.m. at the Farmington, New Mexico Holiday Inn, 600 Broadway.

The meeting agenda will include discussions on the proposed revised grazing regulations, amendments to off-road vehicle regulations and the lands viewed on the previous day.

The meeting will be open to the public and time will be made available for public statements starting at 10:00 a.m. Statements should be limited to items listed in the agenda. Those wishing to make an oral statement should inform the District Manager prior to the meeting. Written statements may be filed for the Board's consideration by submitting them at the meeting or mailing in advance to the Bureau of Land Management at the address listed below.

Further information concerning the meeting may be obtained from Mr. R. Keith Miller, District Manager, Albuquerque District, 3550 Pan American Freeway, NE., Albuquerque, New Mexico 87107 (telephone 505-766-2455).

Minutes of the meeting will be available at the Albuquerque District Office for public inspection and copying thirty days after the meeting.

Dated: August 20, 1976.

R. KEITH MILLER,
District Manager.

[FR Doc.76-25027 Filed 8-25-76;8:45 am]

NEW MEXICO MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the New Mexico Multiple Use Advisory Board of the Bureau of Land Management will meet at the Inn at Loretto in Santa Fe, New Mexico, September 22 and 23, 1976, as follows:

September 22—8 a.m. to 10 a.m. public comment period on proposed new grazing regulations for lands administered by the Bureau. 10:30 a.m. to 11:30 a.m. Board deliberations upon the regulations and possible formulation of recommendation. 11:30 a.m. to 1:30 p.m. lunch recess. 1:30 p.m. to 3 p.m. public comment period on proposed new amendments to off-road vehicle regulations for lands administered by the Bureau. 3:30 p.m. to 4:30 p.m. Board deliberations upon the regulations and possible formulation of recommendation.

September 23—8 a.m. Review by the Bureau for possible Board recommendation of Bureau primitive area policy and management. 9 a.m. review by the Bureau for possible Board recommendation of the impacts of its allotment management planning and implementation upon interminglied land owners, and vice versa. 10:30 a.m. review by the Bureau for possible Board recommendation of Bureau research policies and programs in New Mexico. 11:30 a.m. to 1:30 p.m. lunch recess. 1:30 p.m. report by the Bureau to the Board for possible recommendation on Bureau policy and methods of personnel management with particular emphasis on rotation of field personnel. 3 p.m. report by the Bureau on the concepts, statutory requirements, organization, function, and interrelationships of the Bureau's district, state, and National Multiple Use Advisory Boards. 4 p.m. discussion of various provisions of the Federal Land Use Policy and Management Act of 1976.

All sessions will be open to the public. Opportunity will be set aside as described above, on a time-available basis, for public comment or statements, on September 22, and on a time-available basis topic-by-topic on September 23. Public comment will be limited to the topics set forth herein.

Members of the public wishing to make written or oral statements should advise Doyle Kline, the Bureau's public affairs officer for New Mexico, of their desire prior to the beginning of the session at which they desire to speak or to submit written comment.

Summary minutes of the meeting will be prepared and will be available approximately 30 days following the meeting. They will be available from the Office of Public Affairs, New Mexico State Office, Bureau of Land Management, Post Office/Federal Building, Santa Fe, N.M.

ARTHUR W. ZIMMERMAN,
State Director.

AUGUST 20, 1976.

[FR Doc.76-25026 Filed 8-25-76;8:45 am]

Bureau of Mines

ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a subcommittee meeting of the Advisory Committee on Coal Mine Safety Research will be held on September 15, 1976, commencing at 9:30 a.m. at the Department of the Interior, Room 6071, 18th and C Streets, N.W., Washington, D.C.

The Committee was established to consult with and make recommendations to the Secretary of the Interior on matters involving or relating to coal mine safety research.

The purpose of the meeting is to meet with Department of the Interior officials to discuss fiscal year 1979 budget procedures and requirements and the Committee's role in providing input to the budget process. The meeting is open to the public. Space will be provided for approximately 10 persons other than subcommittee members.

The following is a list of the subcommittee membership:

Dr. John V. Grimaldi, Chairman
Mr. Michael Trbovich, Member
Mr. Robert L. Vines, Member
Mr. Harreld N. Kirkpatrick, Member.

Further information concerning this meeting may be obtained from Rolland R. Reid, Deputy Assistant Secretary—Minerals, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, telephone: (202) 343-4881. Transcripts of the meeting will be available for public inspection and copying three weeks after the meeting upon written request addressed to the official above.

Dated: August 20, 1976.

J. D. MORGAN,
Acting Director, Bureau of Mines.

[FR Doc.76-25008 Filed 8-25-76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application for Amendment

A permit was issued on November 10, 1975, to Mr. William S. Clark, Annandale, Virginia, authorizing capture and banding of Peregrine Falcons (*Falco peregrinus tundrius*), not to exceed eight (8) per year, at Cape May Point, New Jersey, during the months of September, October and November. The expiration date of that permit—December 31, 1977.

A notice containing the application for the permit was published in the FEDERAL REGISTER on July 17, 1975 (40 FR 30141-42-43), soliciting public comments for a period of 30 days.

A notice of the issuance of the permit was published on March 5, 1976 (41 FR 9576).

Under date of July 26, 1976, Mr. William S. Clark submitted a request for an amendment to the permit. Published herewith are copies of the terms of the permit and the request for an amendment. The request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — IMPORT OR EXPORT LICENSE [ ] — Amendment to PERMIT [X]

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Amendment of my Endangered Species Permit No. PRT 8-226-B-C to:
1.) Allow up to 30 (Thirty) Peregrine Falcons be banded per Year.
2.) Allow my subpermittee, L. Steveson Potts, to band Peregrine Falcons under my direction.
This research is being conducted by the Cape May Bird Observatory to assis the "International Color-Banding Studi of Peregrine Falcons " of Dr. F.P. War

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
William S. Clark
4353 Greenberry Lane
Annandale, Va. 22003
(after August 15, 1976 then
Cape May Bird Observatory,
Cape May Point, New Jersey 0821

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
[X] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT: 6'2" WEIGHT: 190
DATE OF BIRTH: Oct 25, 1937 COLOR HAIR: Brown COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 797-6877 SOCIAL SECURITY NUMBER: 225-44-0250
OCCUPATION: Computer & Raptor Consultant -
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Cape May Bird Observatory

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N/A
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Cape May, New Jersey to band Peregrine Falcons.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number(s)): Endangered Species Permit PRT 8-226-B-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(If yes, list jurisdictions and type of document(s)): New Jersey State Banding Permit

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N/A

10. DESIRED EFFECTIVE DATE: September 1, 1976

11. DURATION NEEDED: December 31,1976

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 C.F.R. 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: William S. Clark — DATE: July 26, 1976

3-200 6/70 GPO 890-042

V 41 167 AUG 26 76 UMI

12. Attachments. (As required is Section 17.22)
This is an application for an amendment to my Endangered Species Permit No. PRT 8-226-B-C to capture and band Peregrine Falcons. The specific items to be amended are:

1.) To alter the number of Peregrine Falcons that can be banded from up to 8 (Eight) to 30 (Thirty).
2.) Include my subpermittee, Mr. Louis Stevenson Potts, to capture and band Peregrine Falcons under my direction.
Mr. Potts is 5'8" in height, 145 lbs in weight, was born on September 8, 1956. His hair is brown and his eyes are green. His Social Security Number is 226-76-4087.

The reasons for this amendment request is that the Cape May Bird Observatory, in cooperation with the International Color-banding Studies of Peregrine Falcons conducted by Dr. F. Prescott Ward, wants to set up and operate a special station to capture and band Arctic Peregrine Falcons, (Falco peregrinus tundrius) which are still in the wild. In our previous raptor banding activities, we have banded over 11,500 hawks and owls, but only 26 Peregrine Falcons. The reason for our low Peregrine yield is that we have been operating in a woods and marsh location and the Peregrines usually fly, hunt and rest in a beach locale. It is proposed that we set up a special station for the Peregrine Falcons (and Merlins and Kestrels) on the beach within the confines of the U.S. Coast Guard Station at Cape May. Permission has already been granted by the base commander. An alternate site at the Loran station a mile to the north is being considered.

Mr. Potts is scheduled to operate the station every day from mid-September until late October, weather permitting. I will on occasion relieve him. The migration of Peregrine Falcons should be heavier on the beach side of the peninsula and CMBO will be able to add a considerable number of color banded peregrines to the study. Those caught will be banded with U.S. Fish & Wildlife Service bands and color bands and released immediately. Except if they have color bands or radio transmitters on them. In this event we will photograph the bird up close to show the condition of the marker. In the event something unusual comes up, I will be within 5 miles and 15 minutes of Mr. Potts.

Mr. Potts has served as my subpermittee for over three years, except for the time he was away at college. He has operated, both as an assistant and as a bander, both of the present stations of CMBO Raptor banding operation. He is very familiar with the handling, identification and trapping of birds of prey. Mr. Potts has finished two years of college in wildlife management. He will be operating under Department of the Army invitational orders while working at CMBO. He will be under my daily supervision. I have the utmost confidence that Mr. Potts will be an able assistant.

William S. Clark July 26, 1976
William S. Clark

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
3-201 (7/74)

FEDERAL FISH AND WILDLIFE PERMIT

1a. PERMITTEE: • William S. Clark, Annandale, Virginia 22003, -- (4353 Greenberry Lane)	2. AUTHORITY - STATUTES: 16 USC 1539(a); REGULATIONS (Effective): 50 CFR 17.22
	3. NUMBER: PRT 8-226-B-C
	4. RENEWABLE: [X] YES [ ] NO
	5. MAY COPY: [X] YES [ ] NO
	6. EFFECTIVE: NOV 10 1975
	7. EXPIRES: 12/31/77
8. NAME AND TITLE OF PRINCIPAL OFFICER (If 1a is a business): William S. Clark	9. TYPE OF PERMIT: Endangered Species - Banding

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Cape May Point, Raptor Banding Station, Cape May, New Jersey

11. CONDITIONS AND AUTHORIZATIONS

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE only.

D. Authorized to capture and band, not to exceed eight (8) each year, Peregrine falcons (Falco peregrinus tundrius) at Cape May Point, New Jersey during the months of September, October, and November.

E. Activities conducted under authority of this permit must be for official business only.

F. Permittee must have a copy of this permit in his possession while conducting the activities authorized.

G. The peregrine falcons must be released immediately at the capture site.

H. May salvage and care for any peregrine falcons found injured or dead and any injured or killed as a result of the permitted activity. Dead specimens shall be preserved for scientific research.

[X] ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENT: A report of the activities conducted under authority of this permit must be submitted to the Director (FWS), P.O. Box 19183, Washington, D. C. 20036, by January 31st of the following year.

ISSUED BY: s/ Lorna K. Porcher, for	Chief, Division of Law Enforcement	DATE: NOV 10 1975

I. The Special Agent in charge, New York (212-995-5381) will provide instructions for the disposition of any specimens salvaged.

J. When a peregrine falcon is salvaged, it must be reported within 48 hours to Special Agent in Charge, New York (212-995-5381).

K. Maintain records as required in 50 CFR 13.46.

In keeping with the spirit of the Endangered Species Act of 1973 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. Please refer to PRT 8-226-B-C, when submitting comments. All relevant comments received on or before September 27, 1976.

Dated: August 19, 1976.

MARSHALL L. STENNETT,
Acting Chief, Division of Law Enforcement,
U.S. Fish and Wildlife Service.

[FR Doc.76-24950 Filed 8-26-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205):

Applicant: Mr. Lloyd R. Ure, Route 1, Granton, Wisconsin 54436

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR/IN: [ ] IMPORT OR EXPORT LICENSE [X] PERMIT (Fully Iced)

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: TO BE ABLE TO HAVE DESIGNATED PASSPORTS TO PROTECT-INSURE THEIR SURVIVAL

3. APPLICANT (Person, partnership or corporation) (Print or type full name, business, agency, or institution for which permit is requested): LLOYD R. URE, RT. 1, GRANTON, WIS. 54436, Phone 715-238 7281

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: [X] MALE [ ] FEMALE; HEIGHT: 5'9"; WEIGHT: 150
DATE OF BIRTH: SEPT 13, 1930; COLOR HAIR: BROWN; COLOR EYES: BLUE
PHONE NUMBER WHERE EMPLOYED: 715-238-7281; SOCIAL SECURITY NUMBER: 398-22-8238
OCCUPATION: DAIRY FARMING
IF BUSINESS, AGENCY OR INSTITUTION IS NOT INDIVIDUAL, BRIEFLY DESCRIBE ITS NATURE AND ACTIVITIES. IF A CORPORATION, GIVE NAMES AND TITLES OF PRINCIPAL OFFICERS. IF A PARTNERSHIP, GIVE NAMES OF ALL PARTNERS. IF AN AGENCY OR INSTITUTION, GIVE NAMES OF PRINCIPAL OFFICIALS. ATTACH ADDITIONAL SHEET IF NECESSARY.

5. IF "APPLICANT" IS A BUSINESS, PARTNERSHIP, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY OR INSTITUTION: DOES NOT APPLY
IF "APPLICANT" IS A PARTNERSHIP, GIVE NAME AND ADDRESS OF EACH PARTNER. IF A CORPORATION, GIVE NAME AND ADDRESS OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: DOES NOT APPLY
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: DOES NOT APPLY

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED (Peregrine Endangered Passports At my cabin at Rt. 1 Granton Wis. Shipping Address Clark County) (If buying live birds indicate source and shipping intrastate, interstate or foreign): Peregrine Endangered Passports At my cabin at Rt. 1 Granton Wis. Shipping Address Clark County. Peregrine Endangered Passports Are Bought Live Birds Banded And Shipping Interstate. Printing Passports Granton Wisconsin Peregrine Endangered Passports Are Bought Live Birds Banded And Shipping Interstate. Printing Passports Granton Wisconsin (Peregrines Born In Missing)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU DESCRIBE IN ITEM 2? [ ] YES [ ] NO
IF YES, GIVE JURISDICTION AND TYPE OF APPROVAL: I Hold A Commercial Propagation License, Issued By The State Of Wisconsin License No. 4617

8. DESCRIBE FACILITIES AND EQUIPMENT YOU HAVE FOR HOUSING AND CARING FOR WILDLIFE: Wildlife Endangered Passports Are Bought Live Birds Banded And Shipping Interstate. Printing Passports Granton Wisconsin (Peregrines Born In Missing)

9. CERTIFIED CHECK OR MONEY ORDER (If required) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: Does Not Apply

10. DESIRED EFFECTIVE DATE: SEPT 1, 1976
11. DURATION NEEDED: 60 DAYS

12. ATTACHMENTS: THE FOREGOING INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT PROVIDED IS (OR IS BEING) FURNISHED AS AN ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 50 CFR PART 17.22 Permits for scientific purposes, pet for the enhancement of propagation or survival

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 11 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY BE SUBJECT TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Lloyd R. Ure
DATE: June 28, 1976

1. Would like to purchase two Brown Eared (Crossoptilon Mantchuricum) females to mate with my two males for propagation purposes as well as for new blood.

2. Wildlife born in captivity

3. By purchasing the above pheasants that were raised in captivity. From breeders in the states. By having the above shipped in padded crates to avoid chance of injury.

4. The brown Eared hens were raised in captivity by Mr. C. Milton Bayne, Box 204, Dover Road, Reisterstown, Md 21136. Phone: 301-429-8969 The males were raised at my farm at Rt. 1, Granton, Wis. 54436.

5. The birds are and will be kept at my farm. The aviaries are 8' x 16' x 6' high with vegatative cover to insure contentment of the birds.

6.(I)

—	—	—	—	—

Pens are 8'x 16' x 6' high. Covered with 1" mesh netting and boarded up 2' on the bottom. The back 4' of the pen is enclosed with a weather proof roof for shade and protection from the weather.

(II) in the past 9 years I have raised Pheasant such as Golden, Amherst, Silver, Reeves, Elliots, Swinhoe, Impeyan, Cheer, Nepal, Mikado, Humes, and Brown Eared as well as waterfowl such as Canadian Geese and Wood Ducks.

(III) I would be more than willing to cooperate in a breeding program and keep accurate records, as I believe the only reason many species exist today is because of the dedicated individuals who are raising them in captivity.

(IV) The containers used for shipping are at least 1' x 2' x 18" high, Made of masonite, with the top lined with 1" of foam rubber. Feed and Water is placeed in each box. As the airline is contacted in advancem they will not be in a box more than 24 to 36 hours.

(V) I have never lost a Brown Eared Pheasant. In 1974, a mink got into a pen and killed a pair of Cheer and an Amherst Cock. I buried wire around the pens to prevent any wild animal from digging under. I also lost a Swinhoe and an Elliots Hen last winter in a storm. I feel they were weakened by age as they were 9 years old. The pens are kept clean and a medication plan is followed.

7. Ther are no written contracts or agreements. Mr. Bayne said he will hold the birds at Reisterstown, Md., until a permit is issued or rejected.

8.(I) I plan on keeping and breeding Brown Eared Pheasants as well as the other pheasants I have now.

(II) and (III) I will supply adequate pens, housing, feed and care to insure the birds contentment in captivity, so they will breed to keep a captive self sustaining stock. I strongly feel that they will only do so in the care and quiet surroundings provided by the private propogator.

(IV) If I would quit raising birds, I would sell or donate them to other breeders to continue propagating them.

However since this is the only hobby I care for and I have a great love for raising birds, this is a very remote possibility.

Documents and other information submitted with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT PRT 2-273-07; please refer to this number when submitting comments. All relevant comments received on or before September 27, 1976, will be considered.

Dated: August 19, 1976.

MARSHALL L. STINNETT,
Acting Chief Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-24949 Filed 8-25-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: National Zoological Park, Smithsonian Institution, Washington, D.C. 20009.

Director: Theodore H. Reed, D.V.M.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Request permit to import one male and three female parma wallaby, Macropus parma, from the Royal Zoological Society of South Australia, Inc. (Adelaide Zoo).

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
National Zoological Park
Smithsonian Institution
Washington, D. C. 20009

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological Park
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Theodore H. Reed, D.V.M., Director (202) 381-7222.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
National Zoological Park
Washington, D. C. 20009

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(*If yes, list license or permit numbers*)
PRT 5-3-X; PRT 8-142-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(*If yes, list: jurisdictions and type of documents*)
Australian Customs (letter)
Nat'l Parks & Wildlife Service, Adelaide (letter); expires 30 September 1976.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: ASAP
11. DURATION NEEDED: through 5 Oct. 1976

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(a)*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) T. H. Reed — DATE 15 July 76

3-200
16/74

T. H. Reed

JULY 12, 1976.

Re Endangered Species Import Permit Application

MR. LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service, Attn: Law Enforcement, P.O. Box 19183, Washington, D.C.

DEAR SIR: 1. Request permit to import one (1) male and three (3) female parma wallaby, *Macropus parma* (*Wallabia parma*) born 1975, from the Royal Zoological Society of South Australia, Inc. (Adelaide Zoo).

2. These animals were born in captivity.

3. N.A.

4. Born Adelaide Zoo, Australia.

5. To be imported to the National Zoological Park, Washington, D.C. 20009, U.S.A.

6. (I) The enclosure in which we intend to house the parma wallabies is a triangular area of the following dimensions: 300 feet long, 150 feet wide at upper end of enclosure by 50' wide at lower portion of enclosure. The substrate is an earth/gravel mix with a heavy growth of grasses. In addition the area is heavily planted with pyracatha, holly, white pine maple, oak and poplar. The entire area is fenced with vinyl-coated wire with a mesh size of 2''×4''. The fence height is 6 feet.

Housing is provided in the form of 4 wooden sheds, each sub-divided inside into two compartments. Each house is equipped with two infra-red heat lamps, one per compartment. The houses measure 10'×4', 5'×3' and 3'×2' respectively. There are three wooden barrels approximately 18'' wide × 36'' long buried partly beneath the ground to provide additional hiding/shelter areas.

Viewing by the public is allowed from only two areas: the long 300' frontage and the 150' side. The rear of the enclosure is double fenced with heavy planting, masking the area from the public. The same is true of the 50' lower side area.

At the present time the enclosure is inhabited by a group of 1.4 red kangaroos, *Megaleia rufa*, and 1.3 dik-dik, *Madoqua kirki*. There is also a single male parma wallaby in the exhibit. Reproduction has occurred in all of the above species. It is intended to remove the existing male parma wallaby and place him in a smaller holding area for use as a back-up breeder. The 1.3 animals requested are to be housed in the enclosure with a major effort toward breeding them.

(II) The staff of the Office of Animal Management has had over 40 years combined experience with macropods. In addition, the Office of Zoological Research has extensively studied the reproduction and behavior of Australian carsupials, and the Office of Animal Health has experience in treating marsupial diseases. (See previous applications for staff resumes.)

(III) We are willing to participate in a cooperative breeding program and to contribute data to a studbook.

(IV) The animals will be shipped from Australia by airplane and will conform to the IATA live animal regulations (container note 25).

(V) On June 15, 1970 we received a female parma wallaby and on January 30, 1970 we received a male. Both had been in the possession of private citizens. The pair bred in January and October of 1972; no offspring resulted. This male died with a fractured spine of unknown origin on November 14, 1973. A new male (the one currently at the ZOO) was received December 13, 1973 from another zoo (where it was born in 1971), and after quarantine was put with the female on January 29, 1974. The female was found dead on October 24, 1975; neither gross autopsy nor histological examination of the tissues enabled us to determine the cause of death. The female was pregnant at the time, and a 1.5 cm foetus was found in the uterus.

The zoo currently has 22 specimens of three (3) other species of macropods; of these 11 were born at the National Zoo (four (4) were born at other zoos).

7. Attached is a copy of the permit from National Parks and Wildlife Service of Australia authorizing export of four (4) parma wallaby (*Wallabia parma*) from the Adelaide Zoo to the National Zoo. This permit is valid until 30 September 1976, and shipment would take place between the date of receipt of a U.S. Endangered Species and 30 September.

8. The National Zoological Park currently has one lone male parma wallaby, of breeding age (5 years).

(I) The National Zoo wishes to purchase one (1) male and three (3) females of the same species from the Adelaide Zoo.

(II) The four wallabies which are to be imported would be shipped via air to either the San Francisco or Los Angeles airport and then on to Washington, D.C.

(III) Based on previous experience with macropods, the National Zoo has a good chance to keep the specimens alive and to breed them (see 6 (V) above).

(IV) It is planned that the specimens would remain at the National Zoological Park. At death the autopsied carcasses would go to the U.S. National Museum (Smithsonian Institution).

THEODORE H. REED, D.V.M.,
Director, National Zoological Park.

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DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 43-R170

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Collection of blood samples from peregrine falcons (endangered species) to measure their exposure to environmental contaminants. Peregrines are currently being trapped by other individuals at two localities; we wish to take samples from the birds they catch and also from birds caught in our own traps at a third location.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Patuxent Wildlife Research Center
U. S. Fish and Wildlife Service
Laurel, Maryland 20811

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Wildlife research to enhance the status of endangered and threatened species; also to determine the effects of environmental pollutants on wildlife and their habitat.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Lucille F. Stickel, Director, 301-776-4880
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Scientific collecting on:
(1) Assateague Island, Maryland and Virginia
(2) Padre Island, Texas
(3) Coast of Washington and Oregon

7. (a) DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT (If yes, list license or permit number) ☐ YES ☒ NO
PRT 8-85-C, PRT 8-169-C, PRT 2-913-BA, PRT 8-86-B-C

(b) IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU DESCRIBE IN ITEM 2? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)
Dr. Charles J. Henny, principal investigator, will obtain all necessary state permits before beginning collections

8. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

9. DESIRED EFFECTIVE DATE
Sept. 25, 1976

10. ESTIMATED DURATION NEEDED
Dec. 31, 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR PART 13) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF SECTION UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Lucille F. Stickel — DATE 7/27/76

Lucille F. Stickel

FWS Form 3-200 (6-76) 1810-0018

TO WHOM IT MAY CONCERN

This is to certify that permission has been granted to the Royal Zoological Society of South Australia Incorporated, Frome Road, Adelaide, to export overseas to the National Zoological Park, Washington D.C., U.S.A., four only Parma Wallabies (Wallabia parma). This permit is valid to 30th September, 1976, and is issued subject to export approval by the Commonwealth Bureau of Customs.

6th February, 1976

NATIONAL PARKS & WILDLIFE SERVICE
of Australia
2nd FLOOR, 11-45TH BUILDING, 135 WAKEFIELD STREET, ADELAIDE.
BOX 1783 G.P.O. ADELAIDE, S.A. 5001
TELEPHONE 217066
TELEGRAMS "NATIONAL PARKS" ADELAIDE

Dated: August 19, 1976.

MARSHALL L. STINNETT,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-24893 Filed 8-25-76;8:45 am]

ENDANGERED SPECIES PERMIT
Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1974 (Pub. L. 93-205).

Applicant: Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland 20811.

Dr. Lucille F. Stickel, Director.

PATUXENT WILDLIFE RESEARCH CENTER
ENDANGERED SPECIES PERMIT APPLICATION
ATTACHMENT

17.22(a)

(1) Common name: Peregrine Falcon; Scientific name: *Falco peregrinus*. Trapping (and banding) of peregrines during fall migration at Assateague Island, Maryland and Virginia and Padre Island, Texas is authorized by Federal permits (PRT 8-251-B-C and PRT 8-112-B-C) issued to other individuals. We wish to take blood samples from birds caught at those localities, to trap and band not more than 25 peregrine falcons along the coast of Washington and Oregon, and to take a small amount (3 cc.) of blood to be analyzed for environmental pollutants. Permit is requested for taking blood samples from at least six, but not more than 12, peregrines at each of the three (3) localities; total number of blood samples would not exceed 36. Samples would be taken from adults, if they are available, of either sex. Cooperators will be provided instructions, both in person and in writing, and equipment for taking samples. Blood samples will be analyzed for organochlorine pesticides and PCB's at the Patuxent Wildlife Research Center, following procedures in the PWRC Analytical Manual.

(2) All birds from which samples would be taken are in the wild.

(3) Peregrines will be caught with nets, snares, traps or other similar proven techniques that are under constant observation to ensure that birds are not injured or captured by predators. Using these techniques, blood samples have been taken from more than 300 raptors in the Pacific Northwest (see 8, below). To the best of our knowledge, no birds died as a result of the blood sampling.

(4) Not applicable.

(5) Peregrine falcons will not be maintained in captivity. The blood samples will be taken immediately after falcons are captured. The birds will then be banded and released, certainly within 30 minutes of capture.

(6) (i) No facilities are to be used for housing the peregrines because samples will be taken immediately; the birds will then be banded and released.

(ii) Dr. Charles J. Henny, Research Biologist, is the principal investigator for this study. He and his field assistants have used similar methods to take blood samples from more than 300 raptors in the Pacific Northwest (see (6) (v), below).

(iii) Not applicable.

(iv) See (6) (i), above.

(v) Dr. Henny and his assistants have successfully taken blood samples from many raptors in their study of the effects of the DDT spray program against the tusock moth on raptors in the Pacific Northwest. There was no known mortality of raptors as a result of taking the blood samples in that study.

(7) Each of the cooperating banders will send a letter of agreement directly to Federal Wildlife Permit Office as soon as possible.

(8) Justification: Concern for the status of the peregrine falcon coupled with the sparse data on pesticide burdens and the strong prevailing hypothesis that the decline of peregrines in many cases resulted from environmental contamination make it highly desirable to obtain a more extensive data base for this species. The birds are already being trapped and studied routinely. Blood samples can be taken at the same time without harm to the bird, and with essentially no additional costs.

The use of blood for measuring pesticide exposure has been used for epidemiological investigations of pesticide exposure in man (Davies et al. 1969, Am. J. Public Health 59: 435; Radomski et al. 1971, Toxicol. Appl. Pharmacol. 20: 175-185; and others). Dale et al. (1966, Life Sci. 5: 47-54) reported that the six insecticides that they routinely identified in a general human population occurred so predominantly in plasma that serum or plasma values were satisfactory for toxicological studies. Their observations have been supported by data for dieldrin, lindane, DDE and DDT residues in the blood and fat of man (Brown et al. 1964, Br. J. Ind. Med. 21: 283; Radomski and Rey 1969, Ind. Med. 38: 53-90; Edmundson et al. 1972, In J. E. Davies and W. F. Edmundson (ed.). Futura Publishing Co., Inc., Mt. Kisco, N.Y. 157 pp.). Blood has also been used to monitor exposure of waterfowl to both organochlorine pollutants and lead (Dieter, et al. 1976, Arch. Environ. Contam. Toxicol. 4) and to monitor exposure of fish to endrin (Mount et al. 1966, Science 152: 1388-1390).

Friend et al. (in prep.) concluded from a test of the relationship between DDE in blood sera and DDE in the fat of mallards (*Anas platyrhynchos*) that there was a consistent relationship. Major advantages of blood sampling include: (1) The bird does not have to be killed to obtain the sample, therefore, large-scale sampling is possible even with endangered or threatened species; (2) multiple samples are possible over time from some individuals; (3) freezer storage space for specimens is greatly reduced; (4) discrete populations can be sampled periodically over time in sufficient numbers to establish pesticide exposure patterns and biologically meaningful changes in residue levels.

We utilized this technique to monitor the effects of the 1974 DDT spray program against the tussock moth on raptors in the Pacific Northwest (Henny et al. 1976, Rep. to USDA, Forest Service, Portland, OR. Memeo. 23 pp.). The magnitude of change in pesticide burdens in and away from DDT spray area showed the same pattern from eggs as it did from sera in American kestrels (*Falco sparverius*). Furthermore, the amount of DDT and its metabolites in the eggs appeared to be a log function of the amount in the sera from the same female (Henny et al. 1976). Additional laboratory work with American kestrels fed varying diets of DDE (Henny, unpublished) showed an excellent correlation between DDE levels in the sera and brain of the same birds ($y=0.290+1.408X$, $r=+0.964$, $n=26$).

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-310-07; please refer to this number when submitting comments. All relevant comments received on or before September 27, 1976, will be considered.

Dated: August 20, 1976.

MARSHALL L. STINNETT,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-24995 Filed 8-25-76;8:45 am]

MARINE MAMMALS
Issuance of Permit and Amendment

On March 26, 1976, a notice was published in the FEDERAL REGISTER (41 FR 12726-27-28), that an application had been filed with the Fish and Wildlife Service by the Seattle Aquarium, Department of Parks and Recreation, City of Seattle, Washington (H. D. Kemper, Jr., Director), for a permit to collect five (5) SEA OTTERS (*Enhydra lutris*), for public display and scientific research.

Notice is hereby given that on August 10, 1976, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit to the Seattle Aquarium. A copy of that permit is published herewith.

On August 18, 1976, Amendment No. 1 to that permit (PRT 2-90), was issued, changing the location where the authorized activity may be conducted. A copy of that amendment is also published herewith.

Dated: August 20, 1976.

MARSHALL L. STINNETT,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

V41167 AUG 26 76 UMI

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

PERMITTEE

The Seattle Aquarium
Department of Parks and Recreation
100 Dexter Avenue North
Seattle, Washington 98109

3-201-
Rev. 9-1-68

3. AUTHORITY (STATUTES): 16 USC 1371(a)(1)
REGULATIONS (Attached): 50 CFR 18.31
2. NUMBER: PRT 2-90
4. RENEWABLE: ☐ YES ☒ NO
5. MAY COPY: ☒ YES ☐ NO
6. EFFECTIVE:
7. EXPIRES: 02/28/77

AUG 10 1976

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business): H. Doug Kemper, Jr., Director
9. TYPE OF PERMIT (CHECK ISSUED): PUBLIC DISPLAY & SCIENTIFIC RESEARCH
10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED: STATE OF CALIFORNIA

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK 10 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE and any person who is under the direct control of, or who is employed by or under contract to, the permittee.

D. Authorized to capture, as specified in Block 10, one (1) male and four (4) female subadult (1-1/2 to 3 years of age) Sea otters (Enhydra lutris), and transport them to the Seattle Aquarium for the purposes of public display and scientific research.

E. The actual collection of the animals is to be performed by personnel of the California Department of Fish and Game.

F. No nursing females are to be taken and the utmost care is to be exercised not to take any pregnant females.

G. Activities conducted under authority of this permit must be for official business only.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS: A report of the activities conducted under authority of this permit must be submitted to the Director (FWS), P.O. Box 19183, Washington, D.C. 20036, by January 31st of the following year.

ISSUED BY: s/ Loren K. Parcher, Chief, Division of Law Enforcement — DATE: AUG 10 1976

(S) Loren K. Parcher for – Chief, Division of Law Enforcement — Aug.10,1976

H. Acceptance of this permit authorizes inspection per 50 CFR 13.47.

I. Permittee must have a copy of this permit in his possession while conducting the activities authorized.

J. The loss, death, or destruction of any Sea otters as a result of these authorized taking activities must be reported within 24 hours to the Special Agent in Charge at Sacramento (916-468-4748), and in writing to the Director (FWS), Box 19183, Washington, D.C. 20036.

K. Any dead or injured Sea otters found may be salvaged or cared for. Dead specimens shall be preserved for scientific research.

L. The Sacramento FWS office will provide instructions for the disposition of any specimens salvaged in California waters.

M. Maintain records as required in 50 CFR 13.46.

N. The expiration date in block 7 refers only to the preceding authorization and conditions listed above. The following conditions remain effective until amended, modified, revoked, or upon death of the wildlife.

O. Upon the death of any Sea otters, taken, transported and held under the authority of this permit, the Special Agent in Charge at Portland (503-234-3361), must be notified within 24 hours.

P. Upon the death of any Sea otters, taken, transported and held under authority of this permit, the Special Agent in Charge at Portland (503-234-3361), will provide instructions for disposition of the carcass(s).

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., August 18, 1976.

THE SEATTLE AQUARIUM,
Department of Parks and Recreation,
100 Dexter Avenue North,
Seattle, Washington.

Attention: H. Doug Kemper, Jr., Director.
Re PRT 2-90-10,11; Amendment No. 1

DEAR MR. KEMPER: Under date of August 10, 1976, you were issued a permit PRT 2-90-10,11 to collect five (5) Sea otters (*Enhydra lutris*), and transport them to the Seattle Aquarium, for the purposes of public display and scientific research.

The permit authorized the collecting activities in California waters. A recommendation by the Marine Mammal Commission on May 20, 1976, was made to authorize collecting activities in Alaska waters only. The recommendation by the Commission was inadvertently overlooked in preparing the conditions of the permit.

Therefore, as discussed in a telephone conversation on August 12, 1976, between you and the Fish and Wildlife Law Enforcement office in Washington, D.C., and in accordance with Federal Regulations your permit is amended as follows:

Block 10. Location Where Authorized Activity May Be Conducted.

10. Delete—as written. Amend—to read: State of Alaska.

Block 11.E. Delete.

Block 11.J. Delete—as written.

11.J. Amend—to read: The loss, death, or destruction of any Sea otters as a result of these authorized taking activities must be reported within 24 hours to the Special Agent in Charge at Anchorage (907-278-2031), and in writing to the Director (FWS), P.O. Box 19183, Washington, D.C. 20036.

Block 11.L. Delete—as written.

11.L. Amend—to read: The Anchorage FWS office will provide instructions for the disposition of any specimens salvaged.

In accordance with § 18.33, Title 50 Code of Federal Regulations, permittees have the option of requesting a hearing where a modification of a marine mammal permit is proposed. We view your expressed willingness and request to have this amendment accomplished as rapidly, as possible, as related to Special Agent Sims of my staff in telephone conservations as a waiver of your option for a hearing. Accordingly, the amendment has been issued immediately to preclude time delays.

Please attach this letter to your original permit.

All other terms and conditions remain in effect.

Sincerely yours,

MARSHALL L. STINNETT,
Acting Chief,
Division of Law Enforcement.

[FR Doc.76-24994 Filed 8-25-76;8:45 am]

Office of the Secretary

COMMITTEE ON ENHANCED RECOVERY TECHNIQUES FOR OIL AND GAS IN THE UNITED STATES, SUBGROUPS; NATIONAL PETROLEUM COUNCIL

Meetings

Notice is hereby given for the following meetings: 1. The Coordinating Subcommittee will meet on September 16–17, 1976, at 9:30 a.m. on September 16 and at 9:00 a.m. on September 17, in the President's Room of the Writer's Manor, 1730 South Colorado Boulevard, Denver, Colorado.

The agenda includes the following items for review and discussion: (1) Comments received from the Committee on Enhanced Recovery Techniques for Oil and Gas in the United States regarding the direction of the study.

(2) Task Group comments.

(3) Draft proposals for the final report.

(4) Schedule for completion of study.

(5) Any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

2. The Technology Task Group will meet on September 14–15, 1976, at 10:00 a.m. on September 14 and at 8:30 a.m. on September 15, in the President's Room of the Writer's Manor, 1730 South Colorado Boulevard, Denver, Colorado.

The agenda includes the following items for review and discussion: (1) Submissions on Task Group assignments.

(2) Draft proposals for final report.

(3) Any other matters pertinent to the overall assignment of the Technology Task Group.

3. The Economic Conditions Task Group will meet on September 14–15, 1976, at 1:30 p.m. on September 14 and at 9:00 a.m. on September 15, in the Olympic Room of the Writer's Manor, 1730 South Colorado Boulevard, Denver, Colorado.

The agenda includes the following items for review and discussion: (1) Submissions on Task Group assignments.

(2) Draft proposals for final report.

(3) Any other matters pertinent to the overall assignment of the Economic Conditions Task Group.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information, and recommendations upon any matter relating to petroleum or the petroleum industry.

The meetings will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meetings. Interested persons who wish to speak at the meetings must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meetings may be obtained from Ben Tafoya, Office of the Assistant Secretary-Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: August 20, 1976.

ROBERT L. PRESLEY,
Staff Assistant-Emergency Preparedness, Office of the Assistant Secretary-Energy and Minerals.

[FR Doc.76-24991 Filed 8-25-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

IDAHO

Grain Standards Inspection Point

Notice is hereby given pursuant to § 26.99 of the regulations (7 CFR 26.99) under the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) that on June 4, 1976, there was published in the FEDERAL REGISTER (41 FR 22639) a notice announcing a request by the Utah-Idaho Grain Exchange, Ogden, Utah, that its assignment of inspection points be amended to add Pocatello, Idaho, as a designated inspection point. Interested persons were given until July 6, 1976, to submit written views and comments with respect to the proposed amendment of assignment.

No comments were received with respect to the June 4, 1976, notice in the FEDERAL REGISTER. After due consideration of market needs and circumstances and other material available to the Department, the assignment of the Utah-Idaho Grain Exchange, Ogden, Utah, is amended to add Pocatel, Idaho, as a designated inspection point.

(Sec. 7, 39 Stat. 882, as amended 82 Stat. 764 (7 U.S.C. 79(f); 37 FR 28464 and 28476.)

Effective date: This notice shall become effective August 26, 1976.

Done in Washington, D.C. on August 20, 1976.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.76-25063 Filed 8-25-76;8:45 am]

MISSISSIPPI

Grain Standards Inspection Point

Statement of considerations. On July 16, 1976, there was published in the FEDERAL REGISTER (41 FR 29450) a notice announcing the request of the Woodson-Tenent Laboratories, that effective September 1, 1976, its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Clarksdale, Mississippi, be canceled because it is unable to recover the cost of providing the service due to the low volume of inspection. Interested persons were given until August 16, 1976, to make application for designation to operate as an official inspection agency at Clarksdale, Mississippi, and to submit written views and comments with respect to the proposed cancellation.

No comments were received with respect to the July 16, 1976, notice in the FEDERAL REGISTER. Therefore, the designation of the Woodson-Tenent Laboratories to operate as an official inspection agency at Clarksdale, Mississippi, is canceled. No person is now designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Clarksdale, Mississippi. This notice does not preclude intereted persons from making application later for designation to operate as an official inspection agency at Clarksdale, Mississippi, in accordance with the requirements in § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

(Sec. 7, 39 Stat. 482, as amended 82 Stat. 764 (7 U.S.C. 79(f)); 37 FR 28464 and 28476.)

Effective date: This notice shall become effective August 26, 1976.

Done in Washington, D.C. on: August 20, 1976.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.76-25064 Filed 8-25-76;8:45 am]

Farmers Home Administration

[Designation Number A363]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of the natural disasters shown below:

Columbia County—Winterkill resulting from severely low temperatures and cool wet weather March 16 through July 21, 1976, and hailstorms June 10 and June 11, 1976.

Wayne County—Torrential rains, flooding, and abnormally wet conditions March 1 to July 23, 1976, and damaging hail April 15, April 16, and June 14, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Application for emergency loans must be received by this Department no later than October 18, 1976, for physical losses and May 18, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC. this 20th day of August, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-25062 Filed 8-25-76;8:45 am]

Forest Service

EMERALD CREEK PLANNING UNIT; LAND USE PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Use Plan — Emerald Creek Planning Unit, Forest Service Report Number USDA-FS-R1(04)-FES-Adm.-75-13.

The environmental statement concerns the proposed implementation of a revised Land Use Plan for the Emerald Creek Planning Unit, St. Maries Ranger District, Idaho Panhandle National Forests, Benewah, Shoshone and Latah Counties, Idaho. About 15,800 acres of National Forest land are affected. The planning unit is divided into five subunits of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was transmitted to CEQ on August 19, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, DC 20250.

USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.

USDA, Forest Service, Idaho Panhandle National Forests, 218 North 23rd Street, Coeur d'Alene, Idaho 83814.

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USDA, Forest Service, St. Maries Ranger District, Federal Building, St. Maries, Idaho 83861.

A limited number of single copies are available upon request to:

USDA, Forest Service, St. Maries Ranger District, P.O. Box 407, St. Maries, Idaho 83861.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

RALPH D. KIZER,
Forest Supervisor, Idaho Panhandle National Forests, Northern Region, Forest Service.

AUGUST 19, 1976.

[FR Doc. 76-25020 Filed 8-25-76;8:45 am]

OZONE UNIT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Ozone Unit Plan, USDA-FS-R8-FES-Adm.-75-19.

The environmental statement concerns a proposed action to manage the Ozone Unit, which is part of the Ozark National Forest, in accordance with the 10-year management direction contained in the Unit Plan. This Unit contains 66,417 acres of National Forest land in Johnson County, Arkansas. It is proposed that this Unit be managed for a wide range of multiple-use benefits, including water, wildlife, recreation, range, minerals and timber. Major actions in the 10-year period include regenerating 6,650 acres, thinning and releasing 9,600 acres, increasing the diversity of wildlife habitat conditions, maintenance and improvement of existing, developed recreation sites, administration of on-going gas and oil leasing activities, managing the range resource and the construction or reconstruction by timber purchasers, contractors or permittees of 67 miles of single lane, gravel roads.

This Final environmental statement was transmitted to CEQ on August 20, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, Southern Region, Room 804, 1720 Peachtree Rd., NW, Atlanta, GA 30309.

USDA, Forest Service, Main and Fargo, Russellville, AR 72801.

A limited number of single copies are available upon request to Larry D. Henson, Forest Supervisor, P.O. Box 1008, Russellville, AR 72801.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

LARRY D. HENSON,
Forest Supervisor.

AUGUST 20, 1976.

[FR Doc.76-25021 Filed 8-25-76;8:45 am]

LAKEVIEW PLANNING UNIT

Notice of Availability of Final Environmental Statement; Correction

AUGUST 19, 1976.

The report number shown on the Notice of Availability of Final Environmental Statement, Department of Agriculture, Forest Service, Lakeview Planning Unit, submitted to you on August 12, 1976, is in error. The correct number is USDA-FS-R1(04)-FES-Adm 75-10.

DANIEL K. CHISHOLM,
Planning Coordinator.

[FR Doc.76-25038 Filed 8-25-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Thursday, September 16, 1976, at 9:00 a.m., in Room 4832, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to facilitate and coordinate the expansion of two-way trade with countries having centrally planned economies, so as to enhance the balance of trade and payments situation.

Agenda items are as follows:

MORNING SESSION, 9:00 A.M.-12 NOON

1. Review of miscellaneous items outstanding from previous meetings.

2. Discussion of the submissions by Committee members to the Committee study on the Policy Implications of East-West Trade

3. Discussion of Media Perceptions of East-West Trade Issues.

4. Review of items submitted by Committee members.

5. Review of items submitted by the Public.

AFTERNOON SESSION, 1:00 P.M.-2:00 P.M.

6. Presentation and discussion of current policies of the Export Import Bank of the United States in regard to East-West Trade.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each.

More extensive questions or comments should be submitted in writing before May 24, 1976. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

Approximately 20 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of minutes will be available 30 days after the meeting upon written request addressed to the Domestic and International Business Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Inquiries should be addressed to Robert Frothingham III, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4691.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

AUGUST 20, 1976.

[FR Doc.76-25011 Filed 8-25-76;8:45 am]

ASSEMBLY, PACKAGING AND TEST SUBCOMMITTEE OF THE SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Assembly, Packaging and Test Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Thursday, September 16, 1976 at 1:30 p.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Assembly, Packaging and Test Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was established on March 4, 1976, by the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Assembly, Packaging and Test Subcommittee was formed to provide advice to the Committee with respect to equipment for completing microelectronic circuit assemblies and for testing circuits during production or at final test stations.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Reports by Subcommittee members on their assignments and investigations in their respective areas: Assembly Equipment, S. Harrell; Test Equipment, B. Cohen; Packaging Equipment, K. Russell.

(4) Review of findings and summarization of the reports.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on January 30, 1976 (41 FR 4623).

Dated: August 20, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-25009 Filed 8-25-76;8:45 am]

WAFER PROCESSING SUBCOMMITTEE OF THE SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Wafer Processing Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Thursday, September 16, 1976 at 1:30 p.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Wafer Processing Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was established on March 3, 1976, by the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Wafer Processing Subcommittee was formed to provide advice to the Committee with respect to processes and processing equipment including but not limited to cleaning wafer surfaces, applying resist materials, and developing circut patterns.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of current product and technology availability from foreign sources in the areas of chemical vapor deposition, metalization and ion implantation.

(4) Discussion of the critical process steps required to manfacture low powered schottky, complimentary-metal oxide semiconductor, and TTL devices as related to the fields of chemical vapor disposition, metalization, and ion implantation.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on January 30, 1976 (41 FR 4623).

Dated: August 20, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-25010 Filed 8-25-76;8:45 am]

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Maritime Administration

CONSTRUCTION OF TWO CONTAINERSHIPS MA DESIGN C5–S–73b

Computation of Foreign Cost; Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of two containerships, MA Design C5–S–73b.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on September 15, 1976, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

By order of the Maritime Subsidy Board, Maritime Administration.

Dated: August 20, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76–24948 Filed 8–25–76;8:45 am]

Office of the Secretary

[Department Organization Order 10–5; Amdt. 2]

ASSISTANT SECRETARY FOR ADMINISTRATION

Authority Delegation

JULY 1, 1976.

This order effective July 1, 1976 further amends the material appearing at 38 FR 34133 of December 11, 1973 and 41 FR 19998 of May 14, 1976.

Department Organization Order 10–5, dated November 23, 1973 is hereby further amended as shown below. The purpose of this amendment is to delegate responsibility for coordinating the responsibilities of the Secretary required by Section 901 of Executive Order 11490, as amended, and to transfer budget activities pertaining to the Office of the Secretary from the Office of Financial Management Services to the Office of the Assistant Secretary for Administration.

1. *Section 3. Scope of authority.* A new subparagraph .02d. is added to read as follows:

"d. Coordinating departmentwide the preparation of the national emergency plans and the development of the preparedness programs required by Section 901 of Executive Order 11490, as amended."

2. *Section 4. Office of the Assistant Secretary for Administration.*

a. A new subparagraph .01d. is added to read as follows:

"d. The Office of the Secretary Budget Staff which shall provide budgetary services for the Office of the Secretary, and for assigned operating units."

b. In pen and ink renumber current subparagraph .01d. as .01e.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–25012 Filed 8–25–76;8:45 am]

[Department Organization Order 20–5]

FINANCIAL MANAGEMENT SERVICES OFFICE

Authority Delegation

JULY 21, 1976.

This order effective July 21, 1976 supersedes the material appearing at 37 FR 6410 of March 29, 1976.

Section 1. Purpose.

.01 This order prescribes the functions and organization of the Office of Financial Management Services (OFMS).

.02 This revision reflects the transfer of the Budget Staff to the Office of the Assistant Secretary for Administration and provides an updated reference, Regional Action Planning Commissions, in place of Regional Economic Development Commissions.

Section 2. Status and line of authority.

The Office of Financial Management Services, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the office shall provide accounting and related financial services to the Office of the Secretary, and, as may be designated by the Assistant Secretary for Administration, to particular operating units, and shall exercise staff responsibility for Departmentwide policies and procedures on official travel.

.02 The Director shall also manage the Working Capital Fund of the Office of the Secretary, which responsibility shall consist of proposing financial policies on operating the Fund for the Assistant Secretary for Administration, prescribing rules and procedures on use of the Fund, giving financial management instructions to heads of Departmental offices responsible for services being financed through the Fund, and taking other actions as may be required to maintain liquidity of the Fund.

Section 4. Organization.

The functions of the Office shall be carried out under the direction and supervision of the Director and through its principal organization element, the *Central Accounting Division* which shall:

a. Provide accounting, payrolling and related services for the Office of the Secretary, Regional Action Planning Commission, and assigned operating units; and

b. Be responsible for the consolidated billings of the Department, for preparation of consolidated accounting statements required of the Department, and for the office's staff responsibility on official travel.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–25013 Filed 8–25–76;8:45 am]

[Department Organization Order 30–2B]

NATIONAL BUREAU OF STANDARDS

Authority Delegation

JULY 21, 1976.

This order effective July 21, 1976 supersedes the material appearing at 40 FR 36604 of August 21, 1975.

Section 1. Purpose.

.01 This order prescribes the organization and assignment of functions within the National Bureau of Standards (NBS). The scope of authority and functions are set forth in Department Organization Order 30–2A.

.02 This revision effects no organization changes in NBS, but streamlines the order by deleting (1) offices reporting to Institutes, (2) all units reporting to Centers, and (3) separate functional statements for division-level units outside the Office of the Associate Director for Administration. References to, and detailed descriptions of, the organization elements deleted from this order are contained in NBS Administrative Manual, Chapter 9.02, "Functional Statements".

Section 2. Organization.

The organization structure and line of authority of NBS shall be as depicted in the attached organization chart. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Section 3. Office of the Director.

.01 The *Director* determines the policies of NBS and directs the development and execution of its programs.

.02 The *Deputy Director* assists the Director in the direction of NBS and performs the functions of the Director in the latter's absence.

Section 4. Staff unit reporting to the Director.

The *Office of Legal Adviser* shall, under the professional supervision of the Department's General Counsel and as provided in Department Organization Order 10–6, serve as the law office of, and have responsibility for, all legal services at NBS.

Section 5. Office of the Associate Director for Programs.

The *Office of the Associate Director for Programs* shall plan, develop, and evaluate Bureau-level programs and policy; serve as the Director's staff for Bureau-level programmatic matters; serve as the focal point of intelligence and feedback for Bureau-level programmatic matters; critique programmatic documents developed by line units; provide programmatic information and support for the budgetary process and recommend program and budget priorities; participate in external liaison with industry, universities, state and local governments, and other agencies of government and provide program information to NBS management; carry out strategic planning and policy development; analyze and describe NBS relationships with its constituencies; develop goals, objectives, and strategies; coordinate NBS approaches; develop forecasts; provide program evaluation methods; conduct major issue and impact studies; formulate policy proposals; and administer the Post Doctoral and Research Associate Programs.

Section 6. Office of Experimental Technology Incentives Program.

The Office of Experimental Technology Incentives Program shall investigate the effectiveness of various incentives and mechanisms to stimulate increased development and use of technology by industry. These investigations shall be designed to provide an experimental basis for the formulation of Government policy in this area.

Section 7. Office of the Associate Director for Administration.

.01 The *Associate Director for Administration* shall be the principal assistant and adviser to the Director on management matters and is responsible for the conduct of administrative management functions, including the management of NBS buildings, plants, and non-scientific facilities. He shall carry out these responsibilities primarily through the organization units specified below, which are under his direction.

.02 The *Accounting Division* shall administer the official system of central fiscal records, payments and reports, and provide staff assistance on accounting and related matters.

.03 The *Administrative Services Division* shall be responsible for security, safety, emergency planning, and civil defense activities; provide mail, messenger, communications, duplicating, and related office services; manage use of auditorium and conference rooms; conduct records and forms management programs; operate an NBS records holding area; manage the NBS motor vehicle fleet; and provide janitorial service.

.04 The *Budget Division* shall provide advice and assistance to line management in the preparation, review, presentation, and management of NBS's budget encompassing its total financial resources.

.05 The *Personnel Division* shall advise on personal policy and utilization; administer recruitment, placement, classification, employee development and employee relations activities; provide health care and medical office services to the NBS staff; and assist operating officials on these and other aspects of personnel management.

.06 The *Plant Division* shall maintain the physical plant at Gaithersburg, Maryland, and perform staff work in planning and providing grounds, buildings, and improvements at other Bureau locations.

.07 The *Supply Division* shall procure and distribute material, equipment, and supplies purchased by NBS; keep records and promote effective utilization of property; act as the Bureau coordinating office for research, construction, supply and lease contracts of NBS; and administer telephone communications services and travel services.

.08 The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; develop administrative information systems; maintain the directives system; and perform reports management and committee management functions.

.09 The *Instrument Shops Division* shall design, construct, and repair precision scientific instruments and auxiliary equipment.

Section 8. Office of the Associate Director for Information Programs.

.01 The *Associate Director for Information Programs* shall administer the National Standard Reference Data System which provides critically evaluated data in the physical sciences to the scientific community; shall manage and coordinate NBS standards and scientific exchanges; shall provide scientific information generated within and outside NBS to the scientific community and the NBS staff respectively by means of such functions as library services and processing, announcing and distributing NBS publications; and shall direct public information activities of NBS.

.02 The *organizational units* reporting to the Associate Director for Information Programs are as follows:

Office of Standard Reference Data
Office of Information Activities
Office of Technical Publications
Library Division
Office of International Standards
Office of International Relations

Section 9. Institute for Basic Standards.

.01 The *Institute for Basic Standards* shall provide the central basis within the United States of a complete and consistent system of physical measurement; coordinate that system with measurement systems of other nations; and furnish essential services leading to accurate and uniform physical measurements throughout the Nation's scientific community, industry, and commerce.

.02 The *Office of the Director.*

a. The *Director* shall direct the development, execution, and evaluation of the programs of the Institute.

b. The *Deputy Director* shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

c. The *Deputy Director, Institute for Basic Standards/Boulder* shall assist in the direction of the Institute's programs at Boulder and report to the Associate Director for Administration through the Director, IBS, in supervising the administrative divisions at Boulder.

d. The *administrative divisions* reporting to the Deputy Director, Institute for Basic Standards/Boulder include:

Supply Services Division
Instrument Shops Division
Plant Division

These divisions and units within the Office of the Deputy Director shall provide staff support for the technical program and administrative services for the NBS organization at Boulder, Colorado. The administrative units and divisions shall also service, as needed, National Oceanic and Atmospheric Administration, and Office of Telecommunications units at Boulder, Colorado, and associated field stations.

.03 The *Center for Radiation Research* shall constitute a prime resource within NBS for research and measurement involving radiation and for the application of radiation to NBS problems and those of other agencies and other institutions.

a. The *Director* shall report to the Director, Institute for Basic Standards, and shall direct the development, execution, and evaluation of the programs of the Center.

b. The *Deputy Director* shall assist in the direction of the Center and perform the functions of the Director in the latter's absence.

.04 a. The divisions reporting to the Director of the Institute for Basic Standards or the Deputy Director at Boulder are as follows:

LOCATED AT BUREAU HDQRS.

Applied Mathematics Division
Electricity Division
Mechanics Division
Heat Division
Optical Physics Division

LOCATED AT BOULDER, COLORADO

Electromagnetics Division
Time and Frequency Division
Laboratory Astrophysics Division
Cryogenics Division

b. Each Division, shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

1. Develop and maintain the national standards for physical measurement, develop appropriate multiples and submultiples of prototype standards, and develop transfer standards and standard instruments;

2. Determine important fundamental physical constants which may serve as reference standards, and analyze the self-consistencies of their measured values;

3. Conduct experimental and theoretical studies of fundamental physical phenomena of interest to scientists and engineers with the general objective of improving or creating new measurement methods and standards to meet existing or anticipated needs;

4. Conduct general research and development on basic measurement techniques and instrumentation, including research on the interaction of basic measuring processes on the properties of matter and physical and chemical processes;

5. Calibrate instruments in terms of the national standards, and provide other measurement services to promote accuracy and uniformity of physical measurements;

6. Correlate with other nations the national standards and definitions of the units of measurement;

7. Provide advisory services to Government, science, and industry on basic measurement problems; and

8. Conduct research in various fields of mathematics important to physical and engineering sciences, automatic data processing, and operations research, with emphasis on statistical,

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numerical and combinatorial analysis and systems dynamics; provide consultative services to NBS and other Federal agencies; and develop and advise on the use of mathematical tools, in checking mathematical tables, handbooks, manuals, mathematical models, and computational methods.

Section 10. Institute for Materials Research.

.01 The *Institute for Materials Research* shall conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and Government; provide advisory and research services to other Government agencies; and develop, produce, and distribute standard reference materials.

a. The *Director* shall direct the development, execution, and evaluation of the programs of the Institute.

b. The *Deputy Director* shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

.02 The divisions reporting to the Director of the Institute for Materials Research are as follows:

Analytical Chemistry Division
Polymers Division
Metallurgy Division
Inorganic Materials Division
Reactor Radiation Division
Physical Chemistry Division

Each Division shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

a. Conduct research on the chemical and physical constants, constitution, structure, and properties of matter and materials;

b. Devise and improve methods for the preparation, purification, analysis, and characterization of materials;

c. Investigate fundamental chemical and physical phenomena related to materials of importance to science and industry, such as fatigue and fracture, crystal growth and imperfections, stress, corrosion, etc.;

d. Develop techniques for measurement of the properties of materials under carefully controlled conditions, including extremes of high and low temperature and pressure and exposure to different types of radiation and environmental conditions;

e. Assist in the development of standard methods of measurement and equipment for evaluating the properties of materials;

f. Conduct research and develop methodology leading to the production of standard reference materials, and produce these materials;

g. Provide advisory services to Government, industry, universities, and the scientific and technological community on problems related to materials;

h. Assist industry and national standards organizations in the development and establishment of standards; and

i. Cooperate with and assist national and international organizations engaged in the development of international standards.

Section 11. Institute for Applied Technology.

.01 The *Institute for Applied Technology* shall coordinate and conduct research and development on improved measurement technology; provide technical advice and services to facilitate the use of available technology and the development of new technology by industry and Government; cooperate with public and private organizations which develop and apply technological standards, codes, and test methods; provide information to Government, private sector organizations, and the public on product performance, energy use, and safety; and provide technical advice and services to Government agencies upon request. The Institute shall also monitor NBS engineering standards activities and provide liaison between NBS and national engineering standards bodies.

a. The *Director* shall direct the development, execution, and evaluation of the programs of the Institute.

b. The *Deputy Director* shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

.02 The *Center for Consumer Product Technology* shall, in cooperation with the appropriate organizations outside NBS, coordinate and conduct research and the design of measurement and test methods to evaluate the safety, energy efficiency, and other performance characteristics of consumer products and law enforcement equipment.

a. The *Director* shall report to the Director, Institute for Applied Technology and shall direct the development, execution, and evaluation of the programs of the Center.

b. The *Deputy Director* shall assist in the direction of the Center and perform the functions of the Director in the latter's absence.

.03 The *Center for Building Technology* shall consult with industry, government agencies, professional associations, labor organizations, consumers, and such organizations as the National Conference of States on Building Codes and Standards in developing test methods for evaluating the performance of buildings, including their materials and components, the support and stability characteristics of their elements and systems, the effects of new design strategies, their fire safety and environmental characteristics, and their service and communication systems; shall formulate performance criteria for building design and urban systems; and shall perform research (including research on safety factors) in the systems approach to building design and construction, in improving construction and management efficiency, in building material characteristics, in structural behavior, and in building environmental systems.

a. The *Director* shall report to the Director, Institute for Applied Technology and shall direct the development, execution and evaluation of the programs of the Center.

b. The *Deputy Director* shall assist in the direction of the Center and perform the functions of the Director in the latter's absence.

.04 The *Center for Fire Research* shall conduct a program covering the types of fire research specifically identified in section 18 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 278f.). It shall also cooperate with the National Fire Prevention and Control Administration in insuring dissemination of the results of this research and in encouraging their adoption and use. The content and priorities of the Center's activities shall be determined in consultation with the Administrator of the National Fire Prevention and Control Administration.

a. The *Director* shall report to the Director, Institute for Applied Technology. He shall (1) in consultation with the National Fire Prevention and Control Administration, direct the development and evaluation of the Center's programs, and (2) direct their execution.

b. The *Deputy Director* shall assist in the direction of the Center and perform the functions of the Director in the latter's absence.

.05 The divisions reporting to the Director of the Institute for Applied Technology are as follows:

Standards Application and Analysis Division; and
Electronic Technology Division.

Section 12. Institute for Computer Sciences and Technology.

.01 The *Institute for Computer Sciences and Technology* shall conduct research and provide scientific and technical services to aid Federal agencies in the selection, acquisition, application and use of computer and automation technology to improve effectiveness and economy in Government operations in accordance with Public Law 89-306 (40 U.S.C. 759), relevant Executive Orders and other directives. The Institute carries out this mission by managing the Federal Information Processing Standards Program, developing Federal ADP standards guidelines, and managing Federal participation in ADP voluntary standardization activities; providing scientific and technological advisory services and assistance to Federal agencies; providing the technical foundation for computer-related policies of the Federal Government; assisting in the resolution of the issues of technology transfer and export of computers in international trade; and operating and managing the NBS central computer facility to provide ADP services to the NBS staff.

a. The *Director* shall direct the development, execution, and evaluation of the programs of the Institute.

b. The *Deputy Director* shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

.02 The *organizational units* of the Institute are as follows:

Computer Services Division
Systems and Software Division
Computer Systems Engineering Division
Information Technology Division

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-25015 Filed 8-25-76;8:45 am]

[Department Organization Order 25-5B; Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority Delegation

JULY 1, 1976.

This order effective July 1, 1976 amends the material appearing at 41 FR 795 of January 1, 1976. Department Organization Order 25-5B, dated December 4, 1975 is hereby amended as shown below. The purpose of this amendment is to abolish the National Ocean Survey's Lake Survey Center and to transfer its functions to other organizations within NOS, particularly the Office of Marine Surveys and Maps and the Atlantic Marine Center.

1. *Section 13. National Ocean Survey.*

a. Paragraph .04 is revised to read as follows:

".04 The *Office of Marine Surveys and Maps* shall contribute to the safety of marine navigation through nautical charting and related publications, and seek added knowledge about the states and processes of the ocean. It shall study the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canal, and the Minnesota-Ontario Border Lakes. The Office shall plan and direct marine geophysical mapping and services, hydrographic and oceanographic surveys; analyze physical phenomena pertaining to the sea, including tide and current phenomena, the dynamic and physical properties of seawater and shoreline and bottom configuration as they affect seawave and current propagation and attenuation; operate a network of tide and water level stations; compile survey data, including the compilation of nautical charts and marine geophysical maps; and conduct research. It shall also make studies and conduct photogrammetric surveys for coastal mapping, seaward boundaries, and coastal evacuation maps."

b. Paragraph .08 is revised to read as follows:

".08 a. The *Field Structure* shall consist of the following organizational elements:

"1. The *Atlantic and Pacific Marine Centers* shall direct the operation of ocean-going survey ships; maintain ship bases at Norfolk, Miami, and Seattle; operate shore facilities for processing oceanographic data and compiling photogrammetric survey data; and manage photogrammetric field units. The Atlantic Marine Center shall also manage hydrographic, tide, and water level field units.

"2. The *NOAA Data Buoy Office* and the *National Oceanographic Instrumentation Center* shall report to the Office of Marine Technology at the Headquarters of NOS.

"b. The *Atlantic Marine Center* shall provide its own administrative support except where it is determined to be more practical and advantageous to NOAA to have the services furnished by other NOAA components. The Atlantic Marine Center shall provide such services to other NOAA components as directed. The Pacific Marine Center shall obtain its administrative support from the Northwest Administrative Service Office."

2. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated December 4, 1975.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-25014 Filed 8-25-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634, that the next meeting of the Community Education Advisory Council will be held September 17 and 18, 1976. The meeting will be held in Parlor 509 at the Washington Statler Hilton Hotel located at 16th and K Streets, NW., Washington, D.C.

The Friday meeting will begin at 9:30 a.m. and end at 4:30 p.m. On Saturday, the meeting will begin at 9:30 a.m. and end at 4:30 p.m.

The Community Education Advisory Council is authorized under Pub L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

The meeting of the Council will be open to the public. The proposed agenda includes:

(1) Discussion of Long-Range Program Direction for Community Education Program.
(2) Report on Clearing House.
(3) Report on Evaluation.
(4) Presentation of Issue Paper.
(5) Discussion of Role and Function of the Council.
(6) Briefing on Conflict of Interest.
(7) Special Reports.
(8) Status Report on Current Community Schools Act Action.
(9) Other Administrative Matters and Related Business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on August 11, 1976.

JULIE ENGLUND,
Director, Community Education Program.

[FR Doc.76-25017 Filed 8-25-76;8:45 am]

FULBRIGHT-HAYS TRAINING GRANTS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(6)), applications are being accepted from eligible institutions for Fulbright-Hays training grants.

Eligible applicants for Fulbright-Hays training grants are as follows:

A. For the Faculty Research Abroad program, accredited institutions of higher education.

B. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies,

C. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private non-profit educational organizations, and consortiums of such entities.

D. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private non-profit educational organizations, and consortiums of such entities.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 5, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention (as applicable): 13.438 Faculty Research Abroad; 13.439 Foreign Curriculum Consultants; 13.440 Group Projects Abroad; or 13.441 Doctoral Dissertation Research Abroad. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail no later than November 1, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

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C. *Program information and forms.* Information and application forms may be obtained from the International Studies Branch, Division of International Education, Bureau of Postsecondary Education, Office of Education, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202.

D. *Applicable regulations.* Awards made pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Modern Foreign Language Training and Area Studies (45 CFR Part 148) published on March 9, 1976 at 41 FR 10200.

(22 U.S.C. 2452(b)(6).)

(Catalog of Federal Domestic Assistance Programs: 13.438 Fulbright-Hays Training Grants—Faculty Research Abroad; 13.439 Fulbright-Hays Training Grants—Foreign Curriculum Consultants; 13.440 Fulbright-Hays Training Grants—Group Projects Abroad; 13.441 Fulbright-Hays Training Grants—Doctoral Dissertation Research Abroad.)

Dated: August 19, 1976.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.76-25052 Filed 8-25-76;8:45 am]

NATIONAL DIRECT STUDENT LOAN, COLLEGE WORK-STUDY AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS

Approved List of Need Analysis Systems

Notice is hereby given that the need analysis systems listed below are approved by the Commissioner of Education for use by institutions of higher education in applying for funds under the Supplemental Educational Opportunity Grant, (SEOG) College Work-Study (CWS) and National Direct Student Loan (NDSL) Programs for the 1977–78 academic year and for making awards to students under those programs for that year.

Section 144.14 of the National Direct Student Loan Program Regulations (45 CFR 144.14), section 175.17 of the College Work-Study Program Regulations (45 CFR 175.17) and section 176.13 of the Supplemental Educational Opportunity Grant Program Regulations (45 CFR 176.13) approve the use of certain need analysis systems and methods of determining expected family contributions for dependent and independent students, and set forth procedures for an annual review and approval by the Commissioner of other need analysis systems for use in those programs. In order to be approved for dependent students the latter systems must generate expected parental contributions for at least 75 percent of the sample cases which are within $50 of the benchmark figures published by the Commissioner for those cases. The benchmark figures for the 1977–1978 academic year were published in the FEDERAL REGISTER of May 6, 1976 (41 F.R. 18660). For independent students, a system that was not specifically included in the regulations must produce expected family contributions which are comparable to those produced by one of the systems specified in subparagraph (c)(1) of each section.

The following list includes those pre-approved systems, those systems for independent students which produced results comparable to those pre-approved for independent students, and those systems for dependent students which generated expected family contributions that were, for at least 75 percent of the sample cases, within $50 of the benchmark figure. The approved systems are:

1. Dependent students only—

a. The Income Tax System.

2. Dependent and independent students—

a. The method of calculating expected family contributions used in the Basic Educational Opportunity Grant Program (45 CFR 190);

b. The system of need analysis published by the College Scholarship Service;

c. The system of need analysis published by the American College Testing Program;

d. The need analysis service published by the Graduate and Professional Student Financial Aid Service;

e. The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson and Associates;

f. The system of need analysis published by Student Assistance Financial Evaluation, a program of Information and Communications, Inc.;

g. The system of need analysis published by Student Aid Management, a program of Education Methods, Inc.;

h. The system of need analysis published by the Illinois State Scholarship Commission; and

i. The system of need analysis published by Rockwell International.

(20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b–1 and 1070b–2.)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program.)

Dated: August 20, 1976.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.76-25053 Filed 8-25-76;8:45 am]

STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM, AND BASIC AND ADVANCED INSTITUTIONAL DEVELOPMENT PROGRAMS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 304 of Title III of the Higher Education Act of 1965, as amended (20 U.S.C. 1054), applications are being accepted from institutions of higher education for grants under both the Basic and Advanced Institutional Development Programs (Title III, HEA, 20 U.S.C. 1051 et seq.).

In order to be assured of consideration for funding from appropriations for Fiscal Year 1977, applications must be received by the U.S. Office of Education Application Control Center on or before November 1, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Attention: Basic 13.454B or Advanced 13.454A. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than October 27, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Bureau of Postsecondary Education, Division of Institutional Development, Basic Institutional Development Branch and/or Advanced Institutional Development Branch, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and The Strengthening Developing Institutions regulations (45 CFR 169) which were published in the FEDERAL REGISTER on June 3, 1975 at 23857.

(20 U.S.C. 1054)

(Catalog of Federal Domestic Assistance Number 13.454; Strengthening Developing Institutions.)

Dated: August 19, 1976.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.76-25051 Filed 8-25-76;8:45 am]

TEACHER CORPS PROJECTS

Closing Date for Receipt of Amendments

Notice is hereby given that pursuant to the authority contained in Part B–1 of the Education Professions Development Act (Title V of the Higher Education Act of 1965, as amended, 20 U.S.C. 1101–1107a), amendments are being accepted from Teacher Corps Tenth and Eleventh Cycle Youth Advocacy Programs for Fiscal Year 1976.

Amendments must be received by the Application Control Center on or before September 15, 1976.

A. *Amendments sent by mail.* An amendment sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13489. An amendment sent by mail will be considered to be received on time by the Application Control Center if:

(1) The amendment was sent by registered or certified mail not later than September 10, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The amendment is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered amendments.* An amendment to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered amendments will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays or Federal holidays. Amendments will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Teacher Corps, Donohoe Building, 400 6th Street SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the funding criteria applicable to this program published in the FEDERAL REGISTER on December 17, 1975.

(20 U.S.C. 1101–1107a)

(Catalog of Federal Domestic Assistance Number 13.489; Teacher Corps—Operations and Training.)

Dated: August 20, 1976.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.76-25049 File 8-25-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the National Advisory Council on Equality of Educational Opportunity will convene at 10:00 a.m. on Friday, September 24, until 4:00 p.m., and reconvene at 10:00 a.m. on Saturday, September 25, until 12:00 noon, in the Brent Room of the Holiday Inn, Old Town Alexandria, 480 King Street, Alexandria, Virginia.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (P.L. 92–318, Title VII, as amended by P.L. 93–380). The Council is established to: (1) advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting of the Council, which is open to the public, will be primarily concerned with recommendations to the full Council from its standing Committees. USOE program representative, Dr. Herman Goldberg, will discuss the FY 1976 ESAA/CRA funding cycle which has just been completed and Mr. Frederick Cioffi, from the Office of Civil Rights, Elementary and Secondary Education Branch, will discuss the Office of Civil Rights program activities for FY 1976–1977. Members of other educational units have also been invited to participate during the course of the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C., and are available for public inspection.

Signed at Washington, D.C., on August 24, 1976.

LEO A. LORENZO,
Executive Director.

[FR Doc.76-25294 Filed 8-25-76;11:11 am]

Food and Drug Administration

[Docket No. 76N–0360; DESI 9990]

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Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Hearing; Correction

In FR Doc. 76–23785 appearing in the issue of Monday, August 16, 1976 (41 FR 34664), in the brackets in the heading and in the second line of the first paragraph, "Docket No. 76N–0259" is corrected to read, "Docket No. 76N–0360."

Dated: August 19, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24986 Filed 8-25-76;8:45 am]

[NADA 12-773V]

PHILIPS ROXANE, INC.

Hexederm and Derma Hex Shampoos; Withdrawal of Approval of New Animal Drug Application

Under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the following notice is issued:

New animal drug application (NADA) 12–773V held by Philips Roxane, Inc., St. Joseph, MO 64502 provides for the use of Hexederm and Derma Hex Shampoos on dogs, cats, and horses for the treatment of nonspecific dermatoses, or specific dermatoses caused or complicated by bacteria and/or fungi sensitive to the shampoo, and for treatment of ringworm, dandruff, seborrheic dermatitis, and pruritus.

The Food and Drug Administration advised the firm by letter dated October 20, 1975, that the agency cannot approve revised labeling because efficacy data were not adequate to support any of the labeling claims. The firm responded by letter dated April 22, 1976, requesting withdrawal of approval of the NADA and waiving an opportunity for a hearing because the product is no longer being marketed.

Therefore, in accordance with § 514.115 (21 CFR 514.115), notice is given that approval of NADA No. 12–773V and all supplements and amendments thereto is hereby withdrawn, effective August 26, 1976.

Dated: August 19, 1976.

PHILIP D. CAZIER,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.76-24989 Filed 8-25-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

NATIONAL BOATING SAFETY ADVISORY COUNCIL

[CGD 76–169]

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L.

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92–463; 5 U.S.C. App 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Tuesday, October 19, 1976 in Room 2230, Departmental Headquarters, 7th and D Streets, S.W., Washington, D.C. The meeting is scheduled to begin at 9:00 a.m. and adjourn at 4:00 p.m. The following day, a demonstration of the characteristics of typical Personal Flotation Devices will be provided for the Council members at Naval District Washington (Anacostia Annex) indoor pool. The agenda for this meeting is as follows:

1. Review of action taken at the Fourteenth Meeting of the Council.
2. Executive Director's Report.
3. Vote on need to require fire extinguishers on all boats using gasoline for fuel.
4. Report on accident statistics relative to wearable Personal Flotation Devices (P.F.D.'s) on all watercraft.
5. Discussion on Foot Throttle/Dead Man Throttle.
6. Discussion on Anti-Siphon Valves.
7. Report on Flotation Material Research.
8. Presentation on the effect of including empty or full fuel tank weight in the calculation of Maximum Weight and Persons Capacity for boats.
9. Update on Proposed Fuel and Electrical Systems Regulation.
10. Sub-committee Report on Capacity Labels.
11. Status report on proposed amendment to maximum weight for boats rated for 2 horsepower or less.
12. Status report on proposed Level Flotation Regulation.
13. Technical Proposal on Specifications for Navigation Lights.
14. Members Items.
15. Chairman's Session.

Attendance is open to the interested public.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from CDR. M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G–BA–TP), Washington, D.C. 20590 or by calling (202) 426–1080. Any member of the public may present a written statement to the Council at any time.

Issued in Washington, D.C., on August 17, 1976.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 76–24767 Filed 8–25–76;8:45 am]

[CDG 76–166]

SHIP STRUCTURE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Wednesday, September 22, 1976 at 9:30 a.m. in the 7th Floor Conference Room, American Bureau of Shipping, 45 Broad Street, New York, New York. The agenda for this meeting is as follows: Discussion of the research program and operations of the Ship Structure Committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, LCDR E. A. Chazal, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590, (202) 426–2205. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 17, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76–24766 Filed 8–25–76;8:45 am]

[CGD 76–158]

RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–643, 5 U.S.C. App. I) notice is hereby given of a meeting of the Research Advisory Committee to be held at 2:00 PM EDT on September 22, 1976 and at 8:30 AM EDT on September 23–24, 1976 in the Transpoint Building, Room 5409, located at 2100 2nd Street, S.W., Washington, D.C., 20590. The agenda for this meeting is as follows:

(1) Welcome aboard and delineation of agenda.
(2) Research and development highlights for the period April, 1976 to September, 1976.
(3) Core technology choices for the Research and Development Center.
(4) Old business from the 13th meeting.
(5) Technical evaluation of proposed research project areas.
(6) Report on USCG technical liaison activity.
(7) Committee administration:
(a) Time and place of next meeting.
(b) Suggestions for new members.
(c) Election of Chairman for CY 77.
(8) Other appropriate matters that may be brought before the committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting and information may be obtained from, Mrs. Patricia Shenkle, Executive Secretary of the Research Advisory Committee, Office of Research and Development, U.S. Coast Guard (G–DS/62, Transpoint), Washington, D.C., 20590, Phone: 202–426–1037. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on 20 August 1976.

A. H. SIEMENS,
Rear Admiral, Chief, Office of Research and Development.

[FR Doc.76–24936 Filed 8–25–76; 8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP76–6; Notice 2]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan ("GM" herein) to be exempted from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, Tire Selection and Rims for Passenger Cars, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on June 3, 1976 (41 FR 22404) and an opportunity afforded for comment. No comments were received on the petition.

A total of 4,964 station wagons with front bucket seats were manufactured in the 1974, 1975, 1976 model Chevrolet Malibu and Buick Century passenger lines. The tire inflation placard on these station wagons indicate that their front occupant capacity is "3" when it is in fact two. Corrections have been made in production. GM argued that the noncompliance is inconsequential since loading a vehicle to the 1200 pounds shown on the incorrect placard as its total vehicle capacity "will not exceed the total load carrying capacity of these vehicles because they are identical in this regard to station wagons equipped with bench seats".

This agency concurs with GM's conclusion that the noncompliance is inconsequential. The important figure is that of total vehicle capacity, 1200 pounds, and it is not affected by the noncompliance. Because of the presence of the console between the bucket seats, no one is likely to be misled that the vehicle can actually carry three adults in the front seat area. Accordingly, it is hereby found that the noncompliance with Standard No. 110 herein described is inconsequential as it relates to motor vehicle safety.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 18, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76–24746 Filed 8–25–76;8:45 am]

[Docket No. IP 76–5; Notice 2]

TRAVEL EQUIPMENT CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice denies the petition by Travel Equipment Corporation of Goshen, Indiana, to be exempted from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.302, Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on April 22, 1976 (41 FR 16858) and an opportunity afforded for comment.

At issue is the flammability of seat cushion material used in 180 of the company's 1973 model motor homes. This forms the basis of NHTSA's investigatory file, CIR 1077. The fabric was subjected to four NHTSA compliance tests in transverse and longitudinal directions in 1974 at two laboratories. Seven of the eight test results showed failures, with burn rates from 4.6 inches to 6.7 inches a minute. There was one marginal pass, at 3.9 inches a minute. The overall average burn rate of Travel Equipment Corp's. seat cushion fabric was 5.5 inches per minute, 1.5 inch in excess of the standard's permissible maximum burn rate of 4 inches a minute. Travel Equipment Company submitted 18 test reports on the fabric with no failure registered. It argued that the noncompliance is inconsequential because the material smoulders but does not ignite when the cushion is installed. The company originally agreed to replace the pillow case covers at no cost to owners, and while it does not now "absolutely reject a recall campaign", it believes that such "probably would not provide any real increased protection to vehicle owners". There have been no fires in the company's motor homes reported as attributed to seat cushion materials.

General Motors Corporation supported the petition. No comments were received opposing it. In GM's opinion, a maximum burn rate of 12 inches a minute would meet the stated intent of Standard No. 302 to insure "• • • when fires occur in the interior of the vehicle from such sources as matches, cigarettes, or short circuits in interior wiring, that there be sufficient time for the driver to stop the vehicle and if necessary, for occupant to leave it, before injury occurs." Therefore, the burn rates exhibited by Travel Equipment Corporation material would seem "more than adequate" to allow vehicle occupant egress.

By definition (15 U.S.C. 1391(2)) a "motor vehicle safety standard" is "a minimum standard for motor vehicle performance, or motor vehicle equipment performance". The minimum established by Standard No. 302 is that the burn rate of interior fabrics not exceed 4 inches a minute. The average margin of noncompliance of the fabric here concerned is 1.5 inches, a failure to meet the minimum by over 25 per cent, hardly an inconsequential margin of noncompliance. Available data indicates that at burn rates greater than 4 inches a minute, polyvinyl chloride material may release hydrogen chloride gas in potentially lethal quantities. Petitioner's argument that the material smoulders but does not ignite when the cushion is installed presupposes that a vehicle fire would start at the cushion itself but overlooks the possibility that the cushion might ignite in a high temperature environment such as would exist were adjacent fabrics already afire. Travel Equipment Corp. has not met its burden of convincing this agency that the noncompliance is inconsequential as it relates to motor vehicle safety, and its petition is hereby denied.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 19, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76–24909 Filed 8–25–76;8:45 am]

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Motor Vehicle Safety Advisory Council to be held on September 15 and 16, 1976, at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C., with the following program:

Consumer and Public Information Committee, September 15, 8:30 a.m., room 2230, agenda: Future Committee Goals.

Motorcycle Committee, September 15, 9:30 a.m., room 4234, agenda:

Briefing on Docket Comments on Motorized Bicycle Rulemaking.
Status Report on California Demonstration Project on Motorcycle Driver Licensing.
Discussion of Proposed 1977 Seminar on Head and Neck Injuries.
New Business/Old Business.

1977 Fifth International Congress Committee, 1:30 p.m. to 2:00 p.m., room 4234, agenda: Status Report on Plans for Congress.

Accident Avoidance and Operating Systems Committee and Crashworthiness Committee, joint meeting, September 15, 2:00 p.m. to 5:00 p.m., room 2230, agenda:

Review of August 3 Passive Restraint Hearing.
New Business/Old Business.

Full Council, September 16, 9:00 a.m. to 12 Noon, room 2230, agenda:

Approval of July Council Minutes.
Briefing on Proposed National Data Center (S. 2608).
Report of Consumer and Public Information Committee.
Report of Motorcycle Committee.
Report of Crashworthiness and Accident Avoidance and Operating Systems Committees.
Report of 1977 International Congress Committee.
New Business/Old Business.

Executive Committee meeting, 12 Noon to 1:00 p.m., room 2230, to discuss future Council meetings and agenda.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Additional information may be obtained from the NHTSA Executive Secretary, room 5205, 400 Seventh Street, SW., Washington, D.C., telephone 202–426–2872.

Any member of the public may present a written statement to the Council at any time.

Issued in Washington, D.C., on August 19, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76–24986 Filed 8–25–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22859; Order 76–8–116]

FLYING TIGER LINE INC.

Order of Suspension Regarding Increased Air Freight Rates From Chicago to New York

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of August 1976.

By tariff revisions[1] filed July 23 and marked to become effective August 22, 1976, The Flying Tiger Line Inc. (Tiger) proposes to increase all bulk and most container general commodity rates and charges from Chicago to New York by approximately 8 percent. The proponent asserts that the increases are justified by value-of-service considerations; that it will realize $75,000 additional annual revenue; and that no rate equals more than 105 percent of industry-average costs.

The proposed rates and charges fall within the scope of the "Domestic Air Freight Rate Investigation (DAFRI)," Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

In view of all relevant factors, the Board concludes that the proposal should be suspended pending investigation. The proposed increases would result in general commodity rates and charges higher by about 8 percent from Chicago to New York than in the reverse direction, without adequate support therefor. Although the proposed rates and charges do not appear to be unreasonable, substantial issues of unjust discrimination and undue preference and prejudice are inherent in their relationship to the westbound rates. Tiger's justification, that the eastbound traffic has a higher value of service, is unsupported and, pending

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169 and 227.

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resolution of the issue of directional rates in DAFRI, is unacceptable.

In addition, the rates proposed from Chicago to New York would exceed the general commodity rates from Milwaukee to New York. Inasmuch as the carrier serves the latter market through Chicago, the proposal would result in a long- and short-haul situation, raising significant questions of undue preference and prejudice that Tiger has not even attempted to resolve.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, all increased rates and charges on "GEN" and "GCX" from Chicago to New York/Newark on 18th Revised Page 618–D of Tariff C.A.B. No. 169, issued by Airline Tariff Publishing Company, Agent, and all increased "GEN" rates and charges on container types A–2, B, B–2, D, FTC, L–3, and M–1 from Chicago to New York/Newark on 39th Revised Page 161 of Tariff C.A.B. No. 227, issued by Airline Tariff Publishing Company, Agent, are suspended and their use deferred to and including November 19, 1976, unless otherwise ordered by the Board; and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs and served upon The Flying Tiger Line, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–25058 Filed 8–25–76;8:45 am]

[Docket No. 29684; Order 76–8–113]

HUGHES AIRWEST

Ephrata-Moses Lake Deletion Case

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of August 1976. Application of Hughes Airwest for authority to suspend service temporarily at Wenatchee and Ephrata-Moses Lake, Wash.—Docket 26383, Ephrata-Moses Lake Deletion Case—Docket 29684.

ORDER

By order 75–8–83, August 15, 1975, the Board directed all interested parties to show cause why the certificate of Hughes Airwest for route 76 should not be amended by deleting Ephrata-Moses Lake, Wash., therefrom. On August 28, 1975, the Port of Ephrata filed an answer to the show-cause order, objecting to the finalization of the deletion without prior hearing on the merits.

While the show-cause order was still pending, Airwest on March 1, 1976, filed an application for renewal of its authority to suspend service at Wenatchee and Ephrata-Moses Lake pending deletion of the points from its certificate.[1] The carrier also requested a waiver of the timeliness-of-filing requirements of Part 377 of the Board's Special Regulations so as to permit the original suspension authority to continue in effect until after Board action on the renewal request. By order 76–3–121, dated March 18, 1976, the Director, Bureau of Operating Rights, acting under delegated authority, granted the waiver.

In support of its renewal application, Airwest cites the Board's proposed findings in the show-cause order regarding Ephrata-Moses Lake, namely, that Ephrata has never been a strong traffic-generating point; that Ephrata does not generate enough traffic to support the commuter service;[2] that Ephrata has access to the air transportation system; and that reinstitution of service by Airwest would result in substantial losses without commensurate public benefits.[3]

The Port of Ephrata filed an answer to Airwest's renewal application, requesting the Board to hold a formal hearing on the issue or to require Airwest to resume service at the point.

In view of the substantial objections raised by the Port of Ephrata to the show-cause order and the suspension renewal application, it would be inappropriate to finalize the show-cause order herein. Therefore, that order will be vacated, and we will institute a proceeding to be called the *Ephrata-Moses Lake Deletion Case*. We will consolidate into that proceeding Airwest's application in docket 26383,[4] to the extent it conforms to the scope of the proceeding. The disputed facts and issues in this matter can best be resolved on the basis of an evidentiary record after hearing. In the interim, we will condition Airwest's continued suspension at Ephrata-Moses Lake on the provision of commuter service by Sun Basin (or another acceptable Part 298 carrier) at Moses Lake, with the attendant tariff-filing requirements. Thus, the carrier's service responsibility will be retained, and Ephrata-Moses Lake will be assured of adequate air service during the pendency of the proceeding instituted herein. We will expect Airwest to make whatever arrangements are necessary to effectuate these requirements.

With regard to Wenatchee, we find that renewal of Airwest's suspension for a period of 5 years is in the public interest.[5] Cascade continues to provide commuter service at the point, and Airwest has not indicated that either it or Cascade is dissatisfied with the results of the first 2 years of the suspension/replacement. We will therefore impose the same substitute service requirements as were contained in the original suspension order.

Finally, Airwest has not submitted sufficient information for us to determine the environmental consequences of the proposed suspension/deletion of Ephrata-Moses Lake at this time. Therefore, we will require the carrier to file the information set forth in Part 312 of the Board's Procedural Regulations within 30 days of the date of adoption of this order.

Accordingly, it is ordered, That:

1. A proceeding designated as the *Ephrata-Moses Lake Deletion Case*, docket 29684, be and it hereby is instituted and set for hearing before an administrative law judge of the Board at a time and place to be hereafter designated, as the orderly administration of the Board's docket permits;

2. The proceeding instituted by paragraph 1, above, shall include consideration of the following issues:

a. Whether the public convenience and necessity require, pursuant to section 401(g) of the Act, that the certificate of Hughes Airwest for route 76 be altered, amended, or modified so as to suspend, with or without conditions, or delete Ephrata-Moses Lake, Wash.; and

b. Whether the public interest requires, pursuant to section 401(j) of the Act, the temporary suspension of service by Airwest at Ephrata-Moses Lake, Wash., with or without conditions;

3. The application of Hughes Airwest in docket 26383, to the extent that it conforms to the scope of the proceeding, be and it hereby is consolidated into the proceeding instituted by paragraph 1 above;

4. Order 75–8–83, dated August 15, 1975, be and it hereby is vacated;

5. Hughes Airwest be and it hereby is authorized to suspend service temporarily at Ephrata-Moses Lake, Wash., until

[1] Airwest was first authorized to suspend service at Wenatchee and Ephrata-Moses Lake by order 74–4–119, Apr. 23, 1974, for a period of 2 years, subject to certain conditions. By order 74–6–124, June 27, 1974, the Board amended the conditions contained in the original order.

[2] Cascade Airways, the replacement carrier, terminated its service at Ephrata on Sept. 29, 1975. Another air taxi operator, Sun Basin Airlines, began service at Moses Lake during the summer of 1975, but discontinued service as of Feb. 20, 1976. On Apr. 2, 1976, Airwest filed a letter informing the Board that Sun Basin resumed service at Moses Lake on Apr. 1 with one round trip 5 days per week and one round trip 6 days per week to and from Seattle.

[3] The carrier made no allegations regarding Wenatchee.

[4] In its renewal request Airwest erroneously states that the Board's original suspension order authorized the carrier to suspend service at Ephrata-Moses Lake and Wenatchee for a period of 2 years or until 60 days after final decision on its deletion application. There is no application on file with the Board which requests deletion of either point. The issue of deletion of Ephrata-Moses Lake has been raised as a result of Airwest's motion for an order to show cause in this docket; deletion of Wenatchee has never been requested formally by the carrier. Therefore, the proceeding being instituted herein will consider only the question of the service needs of Ephrata-Moses Lake.

[5] In view of the fact that this action only renews Airwest's present suspension authority at Wenatchee, it is not a major Federal action within the meaning of the National Environmental Policy Act of 1969, and the requirement that Airwest file an environmental evaluation will be waived.

60 days after final decision in the proceeding instituted in paragraph 1 above, subject to the conditions that:

a. Such suspension shall be effective as long as Sun Basin Airlines (or an acceptable Part 298 carrier) is providing at least two round trips 6 days per week between Ephrata or Moses Lake, Wash., on the one hand, and Seattle, Wash., on the other hand;

b. Such suspension shall terminate 30 days after Sun Basin Airlines (or an acceptable Part 298 carrier) ceases or fails to provide regularly the service specified in paragraph a above;

c. Hughes Airwest shall maintain in effect for the Ephrata-Moses Lake service operated by Sun Basin (or an acceptable Part 298 carrier) all joint tariffs now in effect or hereafter required to be filed by the Board in the *Domestic Passenger-Fare Investigation*, docket 21866; and

d. Hughes Airwest shall maintain, and Sun Basin (or an acceptable Part 298 carrier) shall concur in, as long as the suspension is in effect, its local passenger fares and cargo rates to and from Ephrata-Moses Lake, and such rates shall be no higher than the rates which Airwest could charge for travel between Ephrata-Moses Lake, on the one hand, and other points on Airwest's system, on the other hand, if it were providing service at Ephrata-Moses Lake with its own aircraft;[6]

6. Hughes Airwest be and it hereby is authorized to suspend service temporarily at Wenatchee, Wash., for a period of 5 years from the date of adoption of this order, subject to the conditions that:

a. Hughes Airwest maintain on file with the Board (1) a verified statement setting forth in detail the support services outlined in paragraph 6b(iii) of this order and indicating that the specific arrangements are satisfactory to Cascade Airways (or an acceptable Part 298 carrier), and (2) copies of such contracts and agreements as are entered into and may be required to be filed for Board approval under section 412 of the Act;

b. Such suspension shall terminate 30 days after:

(i) Cascade Airways, Inc. (or an acceptable Part 298 carrier), ceases or fails to provide (1) at least two round trips 6 days per week between Wenatchee and Seattle, and (2) at least one round trip 6 days per week between Wenatchee and Spokane; or

(ii) Hughes Airwest ceases to provide the services specified in paragraph (iii) below to Cascade Airways, Inc. (or an acceptable Part 298 carrier); or

(iii) Cascade Airways, Inc. (or an acceptable Part 298 carrier), ceases to provide service to the Seattle-Tacoma International Airport, and Hughes Airwest ceases to provide (at no cost to the Part 298 carrier)[7] the following support services and facilities at said airport, provided that the named support services and facilities need not be supplied as a condition for suspension to the extent that the air taxi replacement carrier establishes and maintains its own independent services and facilities at the Seattle-Tacoma International Airport:

(a) Complete ramp parking for aircraft;

(b) Complete ticketing and passenger handling;

(c) Joint passenger loading-gate positions;

(d) Joint baggage handling;

(e) Access to Airwest's weather printer, if any;

(f) Cleaning and maintenance of passenger loading areas; and

(g) Snow removal from ramp area;

c. Hughes Airwest shall maintain in effect for the Wenatchee service operated by Cascade (or an acceptable Part 298 carrier) all joint tariffs now in effect or hereafter required to be filed by the Board in the *Domestic Passenger-Fare Investigation*, docket 21866; and

d. Hughes Airwest shall maintain, and Cascade (or another acceptable Part 298 carrier) shall concur in, as long as the suspension is in effect, its local passenger fares and cargo rates to and from Wenatchee, and such rates shall be no higher than the rates which Airwest could charge for travel between Wenatchee, on the one hand, and other points on Airwest's system, on the other hand, if it were providing service at Wenatchee with its own aircraft;[6]

7. Hughes Airwest shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of this order; and

8. A copy of this order shall be served upon Hughes Airwest; Cascade Airways, Inc.; Governor, State of Washington; Mayor, City of Ephrata; Mayor, City of Moses Lake; Mayor, City of Wenatchee; Airport Manager, Port of Ephrata Airport; Airport Manager, Wenatchee Municipal Airport; Sun Basin Airlines; Director, Washington State Aeronautics Commission; Chairman, Utilities and Transportation Commission, State of Washington; and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–25027 Filed 8–25–76;8:45 am]

[6] Airwest may comply with the requirement that it maintain its local fares and rates and joint fares required by the *Domestic Passenger-Fare Investigation* by providing in its tariff that its fares will continue to apply when transportation is via Cascade between Wenatchee and Seattle/Spokane and via Sun Basin between Ephrata-Moses Lake and Seattle.

[7] To the extent that Airwest would be required to increase services and facilities solely for the Wenatchee replacement service, and thereby incur additional out-of-pocket costs at Seattle-Tacoma International Airport, Airwest may request compensation from the Part 298 carrier for any such additional costs. [6] See n. 6.

COMMISSION OF FINE ARTS

MEETING

AUGUST 19, 1976.

The Commission of Fine Arts will meet in open session on Wednesday, September 15, 1976, at 10 a.m. in the Commission offices at 708 Jackson Place, NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda or requests to submit written or verbal statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address, or by telephone at 202/343–5324.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.76–25022 Filed 8–25–76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

Adjusting Import Levels

AUGUST 24, 1976.

On September 30, 1975, there was published in the FEDERAL REGISTER (40 F.R. 44862) a letter dated September 25, 1975, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, which establish specific export limitations on certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1975. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 7(a)(ii) of the agreement which provides that specific levels of restraint may exceed current-year limits by up to six percent with the amount of that adjustment being deducted from the applicable levels of the succeeding agreement year.

Accordingly, pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of August 24, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to textile products in Categories 9/10, 49, 116/117, 120, 121, 124, 229, and 238 during the twelve-month period which began on October 1, 1975.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS, UNITED STATES DEPARTMENT OF COMMERCE, THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Washington, D.C. 20230, August 24, 1976.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On September 25, 1975 the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning October 1, 1975 and extending through September 30, 1976 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 26, 1976, the levels of restraint established for the indicated categories to the following:

Category:		*Amended 12-mo. level of restraint* [1]
9/10	square yards	7, 153, 449
49	dozen	54, 028
116/117	pounds	517, 430
120	numbers	355, 697
121	do	213, 120
124	do	1, 110, 000
229	dozen	796, 510
238	do	230, 778

[1] The levels of restraint have not been adjusted to reflect any entries made after Sept. 30, 1975.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-25110 Filed 8-25-76;8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint within Categories 1-38, part of 63 (shoe uppers), 64, 200-213, and 241-243 may be exceeded by 10 percent; within Categories 39-62, part of 63 (other than shoe uppers), and 214-240, by 7 percent; and within Categories 101-132, by 5 percent; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-605-3; FIFRA Docket Nos. 246, et al.]

CHAPMAN CHEMICAL CO., ET AL.

Consolidated Mercury Cancellation Hearing; Supplement and Order

On February 17, 1976 (41 FR 16497, April 19, 1976), I issued a Decision and Order in the above-captioned proceeding, cancelling some of the registered uses of mercury compounds as fungicides and bactericides.[1] Several parties filed petitions for review in various Federal Courts of Appeal pursuant to Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"). For various reasons, some of these petitions have been dismissed. The five (5) petitioners who remain have proposed terms of settlement of their petitions.[2] For the reasons stated herein, I have concluded that the terms and conditions of settlement proposed by the registrants satisfy applicable statutory standards under FIFRA, and that for this and other reasons, acceptance of the proposed settlements is in the public interest.

THE USE OF MERCURY AS A SEED DISINFECTANT AND AS A FUNGICIDE FOR CONTROL OF SUMMER TURF DISEASES

My Order of February 17, 1976, cancelled registrations for mercurial seed disinfectants and registration for mercurial fungicides for control of summer turf diseases.[3] Approximately 7,000 pounds of mercury are used annually as seed disinfectants; between 10,000 and 15,000 pounds are used annually to control summer turf diseases. Two (2) registrants[4] sought review of the Order cancelling registrations for seed disinfectants and two (2) registrants[5] sought review of the Order cancelling registrations for summer turf fungicides.

These registrants have offered to dismiss their petitions for review pursuant to the following terms and conditions;[6] (1) Total permitted production of these pesticide products is strictly limited; in no event shall it exceed the equivalent of two (2) years of production, as determined by production data for recent years; (2) The effective date of final cancellation is dependent on the date on which the total permitted production is reached, but in no event shall final cancellation be later than August 31, 1978; (3) Products produced before the effective date of final cancellation will become "existing stocks," the sale, distribution and use of which will be permitted; (4) Registrants shall regularly submit reports (including, among other things the date on which total production is reached) to EPA in order that the Agency can monitor and implement the terms of the agreement. In essence, registrants will submit to final cancellation without further contest in return for an extension of the current stay.

I believe that these offers should be accepted. Settlement provides for a certain end point of this lengthy and costly litigation. An end-point two years hence is not significantly in excess of the end point which might be expected if this case proceeded through the Court of Appeals. Although I am confident that the Court would affirm my cancellation order, settlement will eliminate whatever uncertainty might exist with respect to whether cancellation will be finally achieved. Further, terminating this case now will permit a reallocation of the Agency's limited resources to other necessary programs, including the Agency's review of pesticides pursuant to the reregistration program mandated by Section 4(c) of the Federal Environmental Pesticide Control Act of 1972, as amended ("FEPCA").[7] I am, therefore, accepting the settlement proposal of the registrants of summer turf products and seed disinfectant products.

THE USE OF MERCURY AS A FUNGICIDE FOR CONTROL OF WINTER TURF DISEASES

My Order of February 17, 1976, cancelled registrations for mercurial fungicides for control of winter turf diseases.[8]

[2] On March 2, 1976, I issued an Order granting a temporary stay of the effective date of the February 17, 1976 Order, and on May 27, 1976, I extended that stay until November 30, 1976, or until the conclusion of judicial review, if earlier.

[3] Those petitioners are Gustafson, Inc., Troy Chemical Corporation, W. A. Cleary Corporation, O. M. Scott & Sons Company, and Mallinckrodt, Inc.

[4] The term "summer turf diseases" encompasses a wide array of pathogens which can attack fine turf under temperate climate conditions. In addition, for the purposes of the settlement agreement, the term includes winter diseases which occur on golf course areas other than greens, tees and aprons.

[4] Gustafson, Inc., and Troy Chemical Corporation.

[5] W. A. Cleary Corporation and O. M. Scott & Sons Company.

[6] I am necessarily summarizing and simplifying the actual terms of the settlement offers. Copies of these documents may be obtained from the Hearing Clerk, United States Environmental Protection Agency, Room 1019, Waterside Mall, East Tower, 401 M Street, S.W., Washington, D.C. 20460. Any specific question of interpretation of the terms of settlement must necessarily be resolved by reference to the documents themselves.

[7] *See*, also "Data Requirements to Support Reregistration of Pesticide Active Ingredients and Preliminary Schedule of Call-Ins", 41 FR 7216, February 17, 1976.

[8] The term "winter turf diseases" refers to various forms of snow mold which can attack and damage the fine turf of greens, tees and aprons of golf courses.

Between 10,000 and 15,000 pounds of mercury are used annually to control winter turf diseases. Three (3)[9] registrants sought review of my Order cancelling these uses.

These registrants have offered to dismiss their petitions for review pursuant to the following terms and conditions: (1) the use of these products shall be prohibited within 25 feet of any water body where fish are taken for human consumption; (2) these products shall be applied only by or under the direct supervision of golf course superintendents; and (3) the products will be classified as restricted use pesticides when they are reregistered and classified in accordance with Section 4(c) of FEPCA.

This settlement offer obviously poses questions different from those discussed above, in that registrations for this use will not be ultimately cancelled. This offer is environmentally acceptable only if the proposed restrictions reduce the risk sufficiently to render that risk reasonable in relation to benefits. An examination of the record is required to make this determination.

The Administrative Law Judge ("ALJ") who presided at the consolidated mercury cancellation hearing recommended that I continue this use based on his finding that benefits exceeded risks. It was his opinion that the nonmercurial fungicides used against winter turf diseases were more costly, and not as effective as mercurials, and that the benefits were accordingly greater than the benefits for summer turf disease control, registrations for which he recommended be cancelled.[10] While accepting the ALJ's findings on risk, I concluded that the nonmercurial substitutes were adequate, even though more costly and not quite as effective as mercury.[11]

The degree of risk posed by these products does appear to be lessened considerably by the proposed restrictions. Although some mercury escapes from treated turf grass through volatilization, the evidence of record indicates that the translocation pathways of most concern are leaching and run-off. This evidence demonstrates that most of the mercury which is leached or drained from its site of application travels a relatively short distance. Since respondent's case for cancellation was directed primarily at the hazards to man posed by mercury pesticides which reach aquatic environments,[12] I believe that restricting use near water bodies where fish are taken for human consumption will considerably decrease that risk.

Although I am not persuaded that my February 17, 1976 Decision and Order cancelling this use was in error, I believe that this settlement, as a practical matter, substantially achieves the end sought by the Agency. As discussed above, the hazard associated with this use concerns the movement of mercury to aquatic environments. The proposed restrictions greatly mitigate this hazard.[13]

Moreover, such incremental advantage as may be achieved by of cancellation of this use is more than offset by the advantages to the Agency and the public of resolution of this matter at this time through acceptance of the settlement offer. The uncertainties of further litigation are eliminated. This issue is resolved today, rather than being further postponed pending judicial review. Finally, this settlement will release additional Agency resources needed for review of other pesticides possibly requiring regulatory action and other important projects.

Accordingly, I have decided to accept the settlement proposal of the registrants of winter turf products. In accordance therewith, I am vacating that portion of my Order which cancelled the use of mercurial turf fungicides for use against winter turf diseases on greens, tees, and aprons, subject to the terms and conditions discussed above.

ORDER

In accordance with the foregoing discussion, it is hereby ordered that:

(1) The effective date of the Order of February 17, 1976, insofar as it cancelled (a) registrations for mercurial seed treatment pesticide products held by petitioners, and (b) registrations for mercurial fungicide products for use against summer turf diseases held by petitioners is stayed until August 31, 1978, or such earlier date as provided for in the respective settlement agreements, in accordance with the terms of the respective settlement agreements;

(2) That part of the Order of February 17, 1976 which cancelled registrations for mercurial fungicide products for use against winter turf diseases held by petitioners is vacated, in accordance with the terms of the respective settlement agreements;

(3) The Order Granting Temporary Stay (March 2, 1976, and amended on May 27, 1976) is dissolved, effective August 31, 1976.

All parties who have appealed the Order of February 17, 1976, have agreed to settlement of the case.[14] Therefore, this Order shall be final on August 26, 1976.

Dated: August 19, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-24921 Filed 8-25-76;8:45 am]

[9] Mallinckrodt, Inc., W. A. Cleary Corporation, O. M. Scott & Sons Company.

[10] The evidence was virtually unanimous that a number of effective substitutes exist for control of summer turf diseases. However, fewer substitutes apparently exist for control of winter turf diseases, and the record reveals considerable controversy regarding their efficacy.

[11] The ALJ characterized the risk as "minimal." Several registrants contended at that time that a pesticide posing "minimal risks" cannot be cancelled under the FIFRA. But as I discussed in my Decision (at 16499), "[t]he FIFRA does not specify that any specific level or magnitude of risks must be found to exist before a pesticide may be cancelled • • • [A]lthough I do not adopt his characterization, I do not find that the ALJ's characterization of the risks of mercurial pesticides as being 'minimal' in any way precludes cancellation. It is certainly an indication of some risk which must be weighed against the • • • costs and benefits of continued use of mercurial pesticides." Nothing in this decision should be interpreted as a retreat from this standard.

[12] I noted in my Decision of February 17, 1976:

"[T]he principal thrust of respondent's case is that mercury compounds in pesticides (following application according to their registered uses) are transported into the aquatic environment through the routes of volatilization, run-off, and leaching. Once in the aquatic environment, these compounds are subject to biological transformation (biotransformation) to methylated mercury, which bioaccumulates throughout the aquatic food chain. The result, respondent contends, is the creation of an unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of mercurial pesticides." [41 FR 16500]

[13] Section 3(d) of FIFRA authorizes the classification of pesticides for restricted use in those cases in which the environmental hazards of the pesticide can be mitigated by prudent and careful use.

[14] Parsons Chemical Works, Inc. holds registrations for mercurial seed treatment products which were cancelled by my Order of February 17, 1976. Although they have not appealed the cancellation Order, fairness requires that Parsons be permitted to participate in the phase-out of mercurial seed treatment products provided for in the settlement. Accordingly, Parsons is given until September 15, 1976 to participate in the settlement according to the terms and conditions outlined above. If Parsons submits such an offer, it shall, for the purposes of this Order, be considered a "petitioner".

[FRL 605-4]

ADMINISTRATOR'S PESTICIDE POLICY ADVISORY COMMITTEE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following subcommittee meeting:

Name: The Strategy Subcommittee of the Administrator's Pesticide Policy Advisory Committee

Date: September 10, 1976

Time: 9:00 a.m.-4:00 p.m. (approximately)

Place: Environmental Protection Agency, 401 M Street, SW., Washington, D.C., Room 1032, West Tower

Proposed Agenda: Review the latest version of the draft pesticide strategy.

For further information please contact David K. Sabock, Executive Secretary, Administrator's Pesticide Policy Advisory Committee, Office of Water and Hazardous Materials (WH-556), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Anyone wishing to have their name placed on the mailing list for any committee reports, meeting announcements and minutes of all meetings should contact the executive secretary, either in writing or by telephone—(202) 755-0405.

Dated: August 20, 1976.

VICTOR KIMM,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-24922 Filed 8-25-76;8:45 am]

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[FRL 605-5]

IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Agency Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of July 1, 1976 and July 31, 1976.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classification of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reveiwed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed and not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agencies' regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions and EPA comments referenced herein may be obtained by writing the Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington DC 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal agency or department.

Dated: August 18, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between July 1 and 31, 1976*

Identifying No	Title	General nature of comments	Source for copies of comment
Corps of Engineers:			
DS-COE-A32312-LA	Atchafalaya River, Chene, Boeuf, and Black Bayous, La.	ER-1	G
D-COE-D36020-PA	Bull Run flood protection project, Loyalsock township and the west branch of the Susquehanna River, Lycoming County, Pa.	LO-1	D
DS-COE-E33000-GA	Harbor improvements, Brunswick Harbor, Glynn County, Ga.	ER-2	E
D-COE-E32017-GA	Channel widening for navigation, Savannah Harbor, Ga.	ER-2	E
D-COE-E36038-TN	White Oak Creek flood control, Sunbright, Morgan County, Tenn.	LO-2	E
DS-COE-F32039-00	Ottawa River Harbor, Michigan and Ohio	LO-2	F
D-COE-F32041-MI	Mitigation of shore damage Frankfort Harbor, Benzie County, Mich.	LO-2	F
D-COE-F36038-IN	Marion local flood protection project, Mississippi River, Grant County, Ind.	LO-2	F
D-COE-G34023-LA	Bayou Teche, Bayou Teche and Vermilion River and Freshwater Bayou, La.	LO-1	G
D-COE-G34024-TX	Industrial Canal, Texas City Channel, Galveston County, Tex.	LO-1	G
D-COE-G34025-TX	Mouth of Colorado River, Matagorda County, Tex.	LO-2	G
D-COE-G36048-TX	Lake Wichita, Holliday Creek, Wichita Falls, Tex.	3	G
D-COE-H32002-00	Missouri River bank stabilization and navigation project, from Sioux City, Iowa to the mouth in St. Louis, Mo., Kansas, Nebraska, and Iowa.	ER-3	H
D-COE-K11008-CA	Dow Chemical Co., petrochemical facility permit application, construction of chemical plants, Pittsburg, Contra Costa County, and Montazuma Hill, Solano County, Calif.	3	J
D-COE-K35007-HI	Honolulu Harbor main entrance channel, dredging, Oahu waterborne commerce, Oahu, Hawaii.	LO-2	J
D-COE-L02003-WA	Port of Grays Harbor, Kaiser Steel Corp., permit application, Hoquiam, Wash.	LO-1	K
D-COE-L36035-OR	Umpqua River jetty extension, Portland, Oreg.	LO-1	K
D-COE-L36037-OR	Siuslaw River jetty extension, Portland, Lane County, Oreg.	LO-1	K
D-COE-L36038-WA	Grays Harbor, widening and deepening, navigation channel improvements, Washington.	ER-2	K
D-COE-L36039-ID	Little Wood River flood damage reduction, Gooding and Lincoln Counties, Idaho.	ER-2	K
DS-COE-L36040-OR	Days Creek Lake project, Umpqua River Basin, Douglas County, Oregon.	LO-2	K
DS-COE-L39006-AK	Small boat harbor, Kodiak, Alaska	LO-1	K
D-COE-L39008-OR	South Beach Marina, Yaquina Bay small boat basin, Lincoln County, Oregon.	ER-2	K
DS-COE-L61023-00	Lower Snake River report for compensation for fish and wildlife losses, Idaho and Washington.	LO-1	K
Department of Agriculture:			
D-AFS-E65012-MS	Bienville National Forest, timber management plan, Jasper, Newton, Scott and Smith Counties, Miss. (USDA-FS-R8-DES-ADM-76-13).	LO-2	E
D-AFS-J61011-UT	Four Season Winter Sports Site, Uinta National Forest, Utah (USDA-FS-DES(ADM)-R4-76-13).	EU-2	I
D-AFS-J65045-MT	Multiple use plan, Big Hole planning unit, Lolo National Forest, Mont.	ER-2	I
D-AFS-J65046-00	Bears Ears land use plan, Routt National Forest, Colo. and Wyo.	ER-2	I
DS-AFS-K40029-AZ	Swift Trail Forest Highway 34, Coronado National Forest, Graham County, Ariz.	LO-1	J
D-AFS-K65017-NV	Santa Rosa planning unit, Humboldt National Forest, land use plan, Humboldt County, Nev.	LO-1	J
D-AFS-L61072-WA	Trapper-Siouxon planning unit, Gifford Pinchot National Forest, Skamania County, Wash. (USDA-FS-R6-DES-(ADM)-76-11).	LO-2	K
D-AFS-L61073-00	Lamb upper west branch planning unit, Kaniksu National Forest, Idaho and Wash. (USDA-FS-R1-04-DES-(ADM)-R1-76-16).	LO-1	K
D-AFS-L61075-OR	South Fork planning unit, Malheur National Forest, Grant County, Oreg.	LO-2	K
D-AFS-L61076-ID	Management alternatives, Diamond Creek planning unit, Caribou National Forest, Caribou and Bear Lake Counties, Idaho.	3	K
D-AFS-L65019-ID	Timber management plan, Boise National Forest, Idaho (USDA-FS-R-4-DES-R4-76-16).	LO-1	K
D-SCS-D36018-WV	Hacker's Creek watershed, Lewis, Harrison and Upshur Counties, W. Va. (USDA-SCS-EIS-WS-(ADM)-76-1-D-WV).	LO-2	D
Department of Defense:			
D-UAF-C10001-NY	Establishment of Falcon military operating area, Adirondacks, N.Y.	LO-2	C
D-UAF-K61011-GU	Proposed development of lot 10080, access easement across U.S. Air Force lands to Seibu Leisure, Guam.	ER-2	J
D-USN-D03002-VA	POL bulk pipelines, naval supply center, Norfolk, Va.	LO-2	D
Department of the Interior:			
D-BIA-A01029-WA	Sherwood uranium project, Spokane Indian Reservation, Stevens County Wash. (DES 76-13).	LO-2	K
D-BIA-G31001-NM	Navajo Indian irrigation project, San Juan, N. Mex.	LO-1	G
D-BPA-L08023-00	Fiscal year 1978 proposed program	LO-1	K

Identifying No.	Title	General nature of comments	Source for copies of comment
Department of the Interior—Continued			
D-IBR-J39002-00	Colorado River water quality improvement program, Arizona, Nevada, California, Colorado, Wyoming.	ER-2	I
D-IGS-L67001-ID	Development of phosphate resources in southeastern Idaho (DES 76-15).	3	K
D-NPS-L08022-AK	Electric distribution line extension to McKinley Park, Mount McKinley National Park, Alaska.	LO-1	K
Department of Transportation:			
D-FAA-E51016-MS	C. D. Lemons Field runway construction, Tupelo, Lee County, Miss.	ER-2	E
D-FAA-E51017-TN	Scott County Municipal Airport, Oneida, Tenn.	LO-2	E
D-FAA-K51006-TT	Kusaie Island Airport and Harbor project, Trust Territory of Pacific Islands.	ER-2	J
D-FAA-K51007-CA	San Francisco International Airport development program, San Francisco, Calif.	ER-2	J
DS-FHW-A41091-OR	Green Timber Road, Little Nestucca and Neskowin Section, Forest Highway OR-56, U.S. 101, Tillamook County, Oreg.	LO-1	K
DS-FHW-A42077-VA	I-66, I-495 to Potomac River, Fairfax and Arlington Counties, Va.	ER-2	D
D-FHW-C40023-NJ	NJ-169 and NJ-440, Bayonne Bridge to Bayview Avenue, Jersey City, Hudson County, N.J.	EU-2	C
D-FHW-D40035-VA	VA-291, Lynchburg, Bedford, and Campbell Counties, Va.	ER-2	D
D-FHW-E40079-NC	NC-160 relocation, vicinity of Charlotte Airport, Mecklenburg County, N.C. (FHWA-NC-EIS-76-03-D).	LO-2	E
DS-FHW-E40080-NC	I-40, I-85 west of Durham to I-40 southeast Durham and Orange Counties, N.C. (FHWA-NC-EIS-73-07-D).	LO-2	E
D-FHW-E40081-NC	Sand mining from Yadkin River, Davidson County, N.C.	LO-2	E
D-FHW-F40004-WI	I-43, CTH "JJ," Manitowoc Road, Manitowoc County, Wis.	LO-1	F
D-FHW-G40050-NM	Bridge Stadium overpass and bridge, from Coors Road to I-25, Albuquerque, Bernalillo County, N. Mex.	3	O
D-FHW-G40051-TX	U.S. 287, U.S. 79 southeast to U.S. 84, Oak Street to Granberry Street, Palestine, Anderson County, Tex.	ER-1	O
D-FHW-G40052-TX	Northeast Odessa and northwest Midland, Parkway Boulevard and Spur 492, intersection of TX-158 and FM 1369, Ector County, Tex.	LO-1	O
D-FHW-G40053-TX	North Arterial Loop, junction FM 1369 and I-20, Midland, Midland County, Tex.	LO-1	O
D-FHW-G40054-LA	Reserve Relief Canal turnaround and interchange I-10, St. John the Baptist Parish, La.	ER-2	O
D-FHW-H40035-NB	Stolley Park Road, Grand Island, Hall County, Nebr.	ER-2	K
D-FHW-K40040-NV	Proposed upgrading of U.S. 395, Carson City to Pather Valley, Carson City, Washoe County, Nev. (FHWA-NV-EIS-76-02-D).	ER-2	
D-FHW-L40033-WA	WA-82 and WA-97 connection, Union Gap, Yakima County, Wash.	LO-2	K
D-FHW-L40034-WA	WA-14, Kennewick vicinity, Benton County, Wash. (FHWA-WA-EIS-76-02-D).	LO-2	
Energy Research and Development Administration:			
D-ERD-A00116-NY	Brookhaven National Laboratory, Upton, N.Y. (ERDA-1540).	LO-2	Z
D-ERD-A00118-CA	Positron-Electron storage ring project, Stanford Linear Accelerator Center, Stanford, Calif. (ERDA-1546).	LO-2	
General Services Administration:			
D-GSA-L81005-ID	Federal Building, Pocatello, Bannock County, Idaho.	LO-1	
Department of Health, Education, and Welfare:			
D-HEW-E81012-NC	National Environmental Health Research Center, Research Triangle Park, N.C.	LO-2	E
Department of Housing and Urban Development:			
D-HUD-C85008-NY	Development of Industrial Park, village of St. Johnsville, Montgomery County, N.Y.	3	C
D-HUD-C85009-NY	Rochester southeast loop urban renewal project 175, Monroe County, N.Y.	3	C
D-HUD-E28012-AL	Chase area water system (CDBG), Madison County, Ala.	LO-2	E
D-HUD-E61018-GA	Dublin Park, a neighborhood park facility, Augusta, Richmond County, Ga.	LO-2	E
D-HUD-F36040-IL	Park Forest and Richton Basin stormwater retention, Will County, Ill.	LO-2	F
D-HUD-G85014-LA	Alsen and St. Irma Lee area sewage facilities project (CDBG), East Baton Rouge Parish, La.	3	G
D-HUD-J85005-CO	Hutchinson Heights, planned community zone district, Denver, Arapahoe County, Colo.	3	I
D-HUD-J85006-CO	The Brown farm, planned residential development, Fort Collins and Larimer Counties, Denver, Colo.	ER-2	I
D-HUD-J85007-CO	Harriman Park and Lake Hurst West III, planned Development, Jefferson County, Colo.	3	I
Nuclear Regulatory Commission:			
D-NRC-A00120-00	Transportation of radioactive materials by air and other modes, docket No. PR-71, 73 (NUREG-0034).	EU-2	A
D-NRC-G06001-AR	Arkansas nuclear one, unit 2, Pope County, Ark.	ER-2	G

APPENDIX II

DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

Environmental Impact of the Action

LO—LACK OF OBJECTION

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—ENVIRONMENTAL RESERVATIONS

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—ENVIRONMENTALLY UNSATISFACTORY

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

CATEGORY 1—ADEQUATE

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

CATEGORY 2—INSUFFICIENT INFORMATION

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

CATEGORY 3—INADEQUATE

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

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APPENDIX III.—*Final environmental impact statements for which comments were issued between July 1 and 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers:			
F-COE-A32515-FL	ITT palm coast, permit to remove nine earthen plugs Flagler County, Fla.	EPA continues to have environmental reservations on the proposed project in respect to poor water quality and lack of plans to reestablish flows to Long Creek. EPA recommended the Corps of Engineers conduct further studies and a reassessment be made.	E
F-COE-A36174-NY	Flood control project for Ardsly, Saw Mill River Basin, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
F-COE-C32004-PR	Ponce Harbor, navigation project, Puerto Rico.	do	C
F-COE-H36006-IA	Missouri River levee system, unit L 611-614, Mills and Pottawattamie counties, Iowa.	do	H
F-COE-H36013-NB	Missouri River levee system, unit R-616, Sarpy County, Nebr.	do	H
Department of Agriculture:			
F-AFS-J65003-MT	Multiple use plan, Lake Five planning unit, Flathead National Forest, Mont.	EPA's concerns were adequately addressed in the final EIS. However, EPA continues to have concerns in use of trail bikes in roadless areas.	I
F-AFS-J65037-CO	Snake River land use plan, White River National Forest, Summit County, Colo.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA suggested the Forest Service actively solicit input from the public and interested agencies when assessing possible expansion of the Keystone ski area.	I
F-SCS-H36022-IA	Little River watershed, Decatur County, Iowa.	EPA continues to have environmental reservations with the water quality aspects of the proposed multipurpose impoundment. Significant concentrations of pesticides, heavy metals and PCB's may not allow the impoundment to be used as a water supply during certain periods of the year and may also contaminate the fishery making it inedible. EPA recommended that Soil Conservation Service initiate further water quality assessments and these assessments be completed before a final decision is reached on whether the multipurpose structure should be constructed.	H
F-SCS-K36005-HI	Honolulu watershed project, Maui County, Hawaii.	EPA's concerns have been adequately addressed in the final EIS.	J
Department of Defense:			
FS-USN-A10042-CT	Dredge River Channel, Naval Submarine Base, New London, Groton, Conn.	EPA's concerns were adequately addressed in the supplement final EIS.	B
Department of the Interior:			
F-IBR-K28002-CA	Sugar Pine Dam, reservoir and conduit, Central Valley project, Placer County, Calif.	EPA generally had no objections to the proposed project, but requested that some concerns be addressed before Bureau of Reclamation proceeds with the project.	J
Department of Transportation:			
F-CGD-D50001-VA	James River Bridge permit, I-95 to downtown expressway, Richmond, Va.	EPA continues to have environmental reservations on the proposed project's air and noise impacts. EPA has requested the Coast Guard to provide further information on these concerns.	D
FS-FAA-E51018-NC	Douglas Municipal Airport, construction of runway 18R-36L, Charlotte, N. C.	EPA's concerns were adequately addressed in the final EIS.	E
F-FHW-A41505-PA	LR 1022, sections 10, 11, and 12, relocation of PA-219, Somerset County, Pa.	do	D
F-FHW-A41879-NY	NY-13, Newfield Hill to Ithaca, NY-96, Ithaca to Duboise Road, Tompkins County, N.Y.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA will reserve comment on the Route 13 portion of the proposed project until a specific alignment is chosen.	C
F-FHW-C40013-VI	Sion Farm to Christiansted Highway, St. Croix, Virgin Islands.	EPA's concerns were adequately addressed in the final EIS.	C
F-FHW-D40013-MD	Salisbury Bypass, relocated U.S. 13, Wicomico County, Md.	do	D
F-FHW-K40015-CA	Coast Highway Bridge replacement, Upper Newport Bay, Newport Beach, Orange County, Calif. (FHWA-CA-EIS-76-02-F.)	Generally EPA's concerns were adequately addressed in the final EIA.	J
F-FHW-K40021-NV	I-80, city of Lovelock bypass, Pershing County, Nev. (FHWA-NV-EIS-75-01-F).	EPA's concerns were adequately addressed in the final EIS.	J
F-FHW-K40030-NV	West leg, U.S. 95, Las Vegas and Clark Counties, Nev.	do	J
General Services Administration:			
F-GSA-D00002-VA	Virginia heating plant improvements, Arlington County, Va. (EVA 76001).	do	D

Identifying No.	Title	General nature of comments	Source for copies of comments
General Services Administration—Continued			
F-GSA-D03003-DC	Installation of multifuel boilers, Central Heating and Refrigeration Plant, Washington, D.C.	do	D
Department of Housing and Urban Development:			
F-HUD-C25002-PR	Acquisition of 25 acres for solid waste disposal facilities, Salinas, Puerto Rico.	EPA's review of the final EIS indicated the statement to be unresponsive to EPA's comments on the draft EIS. Additional information on the collection, treatment, and use of leachate and a detailed illustration of the gas gathering and ventilation systems are needed in order for EPA to adequately evaluate the proposed project.	C
F-HUD-D89015-VA	Downtown west redevelopment project, Norfolk, Va. (CDBG).	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA requested the opportunity to review the environmental aspects of further refinements in design and planning activities before construction takes place.	D
F-HUD-E85001-SC	Camp Fornace urban renewal area, Columbia, Richland County, S.C.	EPA's concerns were adequately addressed in the final EIS.	E
International Boundary and Water Commission:			
F-IBW-A36396-CA	Tijuana River flood control project, San Diego County, Calif.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA suggested consideration be given to more extensive measures to offset project impact.	J
Nuclear Regulatory Commission:			
F-NRC-E06002-NC	William B. McGuire Nuclear Station, units 1 and 2, Duke Power Co., Lake Norman, Mecklenburg County, N.C.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that the operating license provide for monitoring and restriction on operation to prevent violation of water quality standards. A biomonitoring program will be of praticular importance because of the massive numbers of shad predicted to be impinged and the possible negative effect of the highly turbulent area of the mixing chamber when hypolimnetic water is being utilized. Also, all blow-off operations or steam venting should be muffled, and a program of monitoring and abatement should be implemented immedintely should complaints arise regarding noise after the plant operation begins.	E

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between July 1 and 31, 1976*

Identifying No.	Title	Source of review
Corps of engineers:		
F-COE-A32536-CA	Extension of entrance to Islais Creek Channel, San Francisco Harbor, Calif.	J
F-COE-A36178-PA	Wyoming Valley flood control, Susquehanna River, Pa	D
F-COE-A36193-00	Wallkill River, flood control project, New York and New Jersey	C
F-COE-A36264-CA	Wildcat and San Pablo Creeks, water resources project, Contra Costa County, Calif.	J
F-COE-E32013-00	Apalachicola, Chattahoochee, and Flint Rivers, continued operation and maintenance, Alabama, Florida, and Georgia.	E
F-COE-E34001-KY	Wolf Creek Dam, Lake Cumberland, continued operation, maintenance and management, south central Kentucky.	E
F-COE-G34004-OK	Operation and maintenance program, Oologah Lake, Verdigris River, Hulah Lake, Caney River, Reyburn Lake, Polecat Creek, Okla.	G
F-COE-G34012-TX	Operation and maintenance, Canyon Lake, Guadalupe River Basin, Tex.	G
F-COE-G36040-LA	Upper Point Coupee, watershed project, Johnson Bayou, La	G
F-COE-H34004-IA	Operation and maintenance, Rathbun Dam and Lake, Iowa	H
F-COE-H34010-KS	Operation and maintenance, Tuttle Creek Lake, Kans	H
F-COE-K34002-CA	Small Craft Harbor, San Leandro Marina, Alameda County, Calif	J
F-COE-K36006-CA	Maintenance dredging, outer harbor, Crescent City, Del Norte County, Calif.	J
F-COE-L26001-AK	Lost River mining project, Lost River, Alaska	K
F-COE-L36006-WA	Shelton Creek flood control and storm drainage project, Shelton, Wash.	K
F-COE-L36012-WA	Lower monumental lock and dam, Snake River, Wash	K
Department of Agriculture:		
F-AFS-A65006-MT	Land use plan, Elkhorn planning unit, Helena National Forest, Mont.	I
F-AFS-J65022-MT	Multiple use basin planning unit, Deerlodge National Forest, Mont	I
F-AFS-J65033-CO	Management of Mount Welba unit, Routt National Forest, Colo	I
F-AFS-J65036-WY	Ryan Park winter sports site, Medicine Bow National Forest, Wyo	I
F-AFS-K65008-CA	Palomar Mountain planning unit, Cleveland National Forest, San Diego, Calif.	J
FS-AFS-L65018-AK	Herbicide use on national forests of Alaska, calendar year 1976, Alaska.	K
F-REA-E06006-SC	230 kV transmission lines, Sumner to Hilton Head, S.C	E
F-SCS-B36007-CT	Norwalk River watershed, Fairfield County, Conn. (USDA-SCS-EIS-WS-(ADM)-76-2-F).	B
F-SCS-D36012-VA	Great Creek watershed, Brunswick and Lunenburg Counties, Va. (USDA-SCS-EIS-WS-ADM-76-2-F).	D
F-SCS-D36013-VA	Bush River watershed, Prince Edward County, Va. (USDA-SCS-EIS-WS-(ADM)-76-3(D)-VA).	D
F-SCS-D36016-MD	Big Pipe Creek watershed plan, Carroll County, Md	D
F-SCS-E36018-GA	Mill Branch watershed, Bacon County, Ga. (USDA-SCS-EIS-WS-ADM-75-2-F-GA).	E

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Identifying No.	Title	Source of review
Department of Agriculture—Continued		
F-SCS-E36030-MS	Deer Creek watershed, Bolivar and Washington Counties, Miss. (SCS-EIS-WS-ADM-75-4-F-MS).	E
F-SCS-E36033-NC	Crabtree Creek watershed, Wake and Durham Counties, N.C. (SCS-EIS-WS-ADM-76-01-F).	E
F-SCS-E36036-00	Muddy Creek watershed, Tippah County, Miss. and Hardeman County, Tenn. (USDA-SCS-EIS-WS-ADM-76-1-F-MS).	E
F-SCS-G36016-NM	Espanola-Rio Chama watershed, Rio Arriba and Sandoval Counties, N. Mex.	G
F-SCS-H36008-NB	Long Beach watershed, Richardson, Nemaha, Pawnee, and Johnson Counties, Nebr.	H
F-SCS-H36023-KS	Middle Walnut watershed, Butler, Cowley, Sedgwick, and Sumner Counties, Kans.	H
F-SCS-J38001-MT	Boulder River, watershed plan, Jefferson County, Mont.	I
F-SCS-L36029-WA	Goose Creek watershed, Lincoln County, Wash.	K
Department of Defense:		
F-USN-L10001-WA	Naval torpedo station, Keyport, Indian Island annex, Jefferson County, Wash.	K
Department of the Interior:		
F-DOI-A61260-NY	Proposed master plan, home of Franklin Roosevelt National Historic Site, Hyde Park, N.Y.	C
F-IBR-L36024-OR	Anadromous fish passage improvements, Savage Rapid Dam, Grants Pass division, Rouge River Basin, Jackson and Josephine Counties, Oreg.	K
F-NPS-A61165-MT	Master plan, Glacier National Park, Mont.	I
Department of Transportation:		
F-FHW-A41609-NB	27th Street improvement, Lincoln, Lancaster County, Nebr.	H
NF-FHW-E40035-MS	U.S. 78, Desoto, Marshall, Benton, and Union Counties, Miss. (FHWA-MS-EIS-75-01-F).	E
NF-FHW-E40056-FL	FL A-1-A, Dania Beach Boulevard to 17th Street, Fort Lauderdale, Broward County, Fla.	E
F-FHW-E40059-FL	FL-21, Blanding Boulevard, Clay County, Fla. (FHW-FLA-EIS-75-04-F).	E
F-FHW-G40003-NM	I-25, Algondones north, Santa Fe and Sandoval Counties, N. Mex.	G
F-FHW-G40004-LA	I-110, Baton Rouge to Scotlandville, East Baton Rouge Parish, La.	G
F-FHW-G40026-LA	LA-3026, Rapides Parish, La.	G
NF-FHW-H40060-IA	IA-57, Cedar Falls, Black Hawk County, Iowa.	H
F-FHW-L40025-ID	Forest Highway ID-50, St. Joe River Road, Calder to Avery, Benewah and Shoshone Counties, Idaho.	K
F-FHW-L40028-ID	Elk City Highway, Forest Highway ID-18, Nezperce National Forest, Idaho County, Idaho.	K
Federal Power Commission:		
FS-FPC-B03001-RI	Construction and operation of an LNG import terminal, Algonquin Gas Co., Providence, R.I. (docket Nos. 73-47, 88-129, 197, 199).	B
F-FPC-E05005-GA	Rocky Mountain project No. 2725, Heath Creek, Floyd County, Ga.	E
General Services Administration:		
F-GSA-C81002-NY	Federal Correctional Institution, Otisville, Orange County, N.Y.	C
Department of Housing and Urban Development:		
F-HUD-E80002-TN	University Center urban renewal area I, Nashville, Tenn. (HUD-R04-EIS-76-01).	E

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between July 1 and 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
R-AFS-A65123-00	36 CFR pts. 213, 231, 261, national forests and national grasslands, grazing.	EPA has no major objections to the regulations as proposed. However, three language changes were suggested to explicitly incorporate environmental consideration into the regulations.	A
Department of the Interior:			
A-BLM-A02002-00	Mid-Atlantic Outer Continental Shelf, (OCS, sale No. 49), call for nominations.	The lack of infrastructure for oil support activities, possible aggravation of existing photochemical oxidant problems, possible conflicts between OCS and ocean dumping sites, and other intensive current uses of the proposed sale area present considerable difficulties in environmental analysis of the proposed lease sale. These difficulties are exaggerated by the large area (40,000 M²) involved in the proposed sale. EPA suggested that BLM limit the sale to a more easily managed area.	A
A-BLM-A02003-AK	Beaufort Sea Outer Continental Shelf (OCS sale No. 50), off the northern coast of Alaska, call for nominations.	EPA expressed its concern over the environmental safety of the project, in particular the possibility of a blowout continuing uncontrolled for several years. EPA recommended a 1-yr delay in order to prepare contingency plans for such occurrences, to complete biological baseline studies, and to finalize operating orders. EPA stated that the environmental impact of this lease sale could not be meaningfully evaluated without such information.	A

Identifying No.	Title	General nature of comments	Source for copies of comment
Department of the Interior—Continued			
A-IGS-A02008-00	Oil and gas drilling operations on the Outer Continental Shelf (OCS), proposed standard for training personnel.	EPA noted that training in response to an actual blowout was not provided, although training in blowout-prevention was provided. EPA recommended blowout response training, and suggested other minor changes.	A
A-IGS-A09047-00	Pipelines and surface production facilities, proposed geothermal resources, central and western regions (GRO No. 6).	EPA recommended that approval of pipelines and surface production facilities be conditioned in the subdivision by the applicant of a contingency plan for environmental cleanups in the event of pipeline failure or well blowout.	A
Federal Energy Administration:			
R-FEA-A04051-00	Emergency commuter parking management and carpooling incentives.	EPA offered several suggestions related to the definition of park and ride facilities, the coupling of mandatory parking restrictions with transit and carpool incentives, and the consideration of regional parking practices in the determination of national parking fractions.	A
Department of Labor:			
R-OSH-A88014-00	29 CFR pt. 1910, occupational noise exposure, availability of economic impact analysis hearing.	EPA expressed the intention to submit comments to the docket concerning the economic impact analysis of the proposed regulations.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, 1421 Peachtree Street, NE., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.76-24923 Filed 8-25-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Committee Meetings

To: RTCM Officers, Executive Committee Representatives and Alternates, and Special Committee Chairmen.

Subject: Executive Committee Meeting, Thursday, September 16, 1976.

The next Executive Committee Meeting will be on Thursday, September 16, 1976, at 9:30 a.m. in Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Progress Reports on Currently Active Committees.
5. Status Reports on Other Committees.
6. New Membership Applications for Executive Committee Approval.
7. Approved of membership contribution schedule for FY 1977.
8. Approval of SC-65 "Ship Radar" Paper.
9. Review of Unit Pricing Schedule for Quantity MRT Orders.
10. Discussion on 1977 Assembly Meeting.
11. Summary Reports and Announcements.
12. New Business.
13. Establishment of next meeting date.

Special Committee No. 68 "Marine Radiotelephone Operator Education."

Notice of 16th Meeting: Wednesday, September 15, 1976—9:30 a.m.; Conference Room A-205, 1229 20th Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-68 Summary Records.
4. Review promotion plans for Handbook.
5. Review proposed feature stories.
6. New business.
7. Establishment of next meeting date.

A. Newell Garden, Chairman, SC-68, Raytheon Company, 141 Spring Street, Lexington, Mass. 02173. Phone: (617) 862-6600 (Ext. 414).

RTCM SC 69/FCC WARC-79 Advisory Committee for Maritime Mobile Service tenth meeting, 2025 M Street, N.W., Washington, D.C., Room 8210, 9:30 a.m. to 12:30 p.m., Tuesday, September 14, 1976.

AGENDA

1. Call of the Agenda.
2. Chairman's Opening Remarks.
3. Reports of the Task Forces.
4. Review work to be accomplished.
5. Further Business.
6. Set date for next meeting.
7. Adjournment.

Charles Dorian, Chairman SC 69, COMSAT General, 950 L'Enfant Plaza, S.W., Washington, D.C 20024, Phone: (202) 554-6829.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-25056 Filed 8-25-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

WORLDWIDE SUPPLY AND DEMAND TASK GROUP OF THE LP-GAS TRANSPORTATION AND STORAGE SUBCOMMITTEE OF THE LP-GAS INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Worldwide Supply and Demand Task Group of the LP-Gas Transportation and Storage Subcommittee of the LP-Gas Industry Advisory Committee will meet Thursday, September 16, 1976, at 10 a.m., in the Tower Suite, Host International Hotel, Houston Intercontinental Airport, Houston, Texas.

The Subcommittee was established to make recommendations to the parent Committee with respect to policy and implementation of programs that affect the LP-Gas industry.

The purpose of the meeting is to review production and demand statistics by country.

The meeting is open to the public. The Chairman of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so,

V 41 167 AUG 26 76 UMI

either before or after the meeting. Members of the public who wish to make oral statements should inform Lois G. Weeks, Director, Advisory Committee Management, (202) 961-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C., on August 23, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25016 Filed 8-23-76;2:06 pm]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1496]

COLUMBUS EXPRESS & SHIPPING CO., INC.

Order of Revocation

By letter dated July 20, 1976, Columbus Express & Shipping Co., Inc., 1029 East 167th Street, Bronx NY 10459 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1496 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 19, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Columbus Express & Shipping Co., Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1496 issued to Columbus Express & Shipping Co., Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1496 be and is hereby revoked effective August 18, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Columbus Express & Shipping Co., Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-25069 Filed 8-25-76;8:45 am]

PUERTO RICO PORTS AUTHORITY AND PUERTO RICO MARITIME SHIPPING AUTHORITY

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 15, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Julio Maymi Pagan, Executive Director, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Agreement No. T-3272, as amended, between the Puerto Rico Ports Authority (Port) and Puerto Rico Maritime Shipping Authority (PRMSA), provides for PRMSA's three-year lease and exclusive use (with month-to-month renewal options) of an area at Mayaguez, Puerto Rico to be used for the operation of a marshalling facility and a trucking terminal. As compensation, PRMSA shall pay Port a minimum monthly rental of $929.67, subject to readjustment by the Port.

By Order of the Federal Maritime Port.

Dated: August 20, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-25061 Filed 8-25-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CP76-85, et al.]

ALGONQUIN GAS TRANSMISSION CO. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Certification of Settlement Agreement, Stipulation, and Conditional Motions for Certificates With Pre-Granted Abandonment

AUGUST 18, 1976.

Take notice that on July 13, 1976 the Presiding Administrative Law Judge certified to the Commission a Settlement Agreement, a Stipulation, and relevant portions of the record in these dockets relating thereto. The Settlement Agreement covers the rate charged and to be charged by Algonquin Gas Transmission Company (Algonquin) for the exchange-transportation services rendered in Docket Nos. CP76-85, *et al.*, and proposed to be rendered by Algonquin in Docket No. CP76-85 through October 31, 1976. The Stipulation, which is concurred in by the Staff, reflects the bases upon which Boston Gas Company (Boston Gas), South Jersey Gas Company, and The Connecticut Gas Company will accept limited-term permanent certificates, with pre-granted abandonment, for the services proposed by them in these dockets. All other issues in these proceedings have been reserved for determination by the Presiding Administrative Law Judge and the Commission.

Take further notice that on July 2, and 5, 1976 motions for limited-term permanent certificates extending authorization to render exchange-transportation services for the benefit of the Brooklyn Union Gas Company (Brooklyn Union) in Docket No. CP76-85 have been filed by Algonquin and Texas Eastern Transmission Corporation, and by Brooklyn Union and Boston Gas. Such motions are conditioned on Commission approval of the Settlement Agreement and Stipulation. The motions request pre-granted abandonment for this extended service effective October 31, 1976.

Any person, including the parties to this proceeding, may file comments with respect to the Settlement Agreement or Stipulation on or before September 9, 1976.

Any person desiring to be heard or to protest the motions should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol

Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on these matters if no petition to intervene is filed within the time required herein, and if the Commission on its own review finds that approval of the Settlement and Stipulation and grant of the certificates described above are required by the public convenience and necessity. If the Commission on its own motion in response to a petition to intervene believes that a formal hearing is required, further notice of such hearing will be given. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for the moving parties to appear or be represented at the hearing.

Copies of both the Settlement Agreement and the motions are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24971 Filed 8-25-76;8:45 am]

[Docket Nos. ER76-799, ER76-800]

APPALACHIAN POWER CO.

Electric Rates; Order Accepting for Filing and Suspending Proposed Rate Schedule Provisions, Consolidating Proceedings, and Establishing Procedures

AUGUST 19, 1976.

On July 21, 1976 Appalachian Power Company (APCo) tendered for filing a Supplement to its FPC Rate Schedule No. 23 for service to Kingsport Power Company (Kingsport), an affiliate of APCo. APCo tendered also a Supplement to its FPC Rate Schedule No. 24 for service to Carolina Power & Light Company (CP&L). Both proposed Supplements contain (1) rate increases which reflect increased demand and energy charges and (2) a revised fuel clause which purports to conform to Section 35.14 of the Commission's Regulations. For the reasons hereinafter stated, the Commission will accept and suspend the proposed revisions, consolidate these proceedings and establish procedures.

The proposed Supplement to Kingsport supersedes and replaces a number of provisions of APCo's Rate Schedule No. 23.[1] The proposed Supplement to CP&L supersedes and replaces a number of provisions of APCo's Rate Schedule No. 24.[2]

The proposed Supplement to Kingsport increases the monthly demand charge from $1.20/Kw to $3.93/Kw and contains a single energy charge of 11.66 mills per KWh. APCo proposes also to eliminate a reserve clause requiring a monthly purchase by Kingsport. Finally, the filing contains a fuel adjustment clause conforming to Section 35.14 of the Commission's Regulations. The Commission's review of APCO's proposed supplement to Kingsport indicates that it has not been shown to be just and reasonable and, therefore, it may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the Commission shall accept the supplement in Docket No. ER76-799 for filing and suspend its operation for one month.

The proposed Supplement to CP&L provides for a demand charge of $3.77/Kw/month and an energy charge of 10.9 mills/KWh. APCo has filed also a proposed fuel clause which conforms to Section 35.14 of the Commission's Regulations. The Commission's review of APCo's filing with regard to CP&L indicates that it has not been shown to be just and reasonable and, therefore, it may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, it shall be accepted for filing and its use suspended for one day.

Notices of APCo's filings were issued on July 26, 1976 with comments, protests or petitions to intervene due on or before August 9, 1976.

On August 9, 1970 a Petition to Intervene and Protest, Motion to Reject and Dismiss and in the Alternative Motion to Stay was filed by CP&L. The Commission shall defer action on CP&L's filing until it receives any pleadings responding to it. These responsive pleadings should be filed on or before September 3, 1976. The Commission believes, however, that good cause exists to grant CP&L's petition to intervene.

The Commission finds. Because the cases raise similar issues of law and fact, good cause exists to consolidate Docket Nos. ER76-799 and ER76-800 for purposes of litigation and decision.

The Commission orders. (A) Docket Nos. ER76-799 and ER76-800 are hereby consolidated for purposes of litigation and decision.

(B) The proposed change tendered in Docket No. ER76-799 is hereby accepted for filing and its operation suspended until September 21, 1976, at which time it shall become effective, subject to refund, pending a final decision in this case.

(C) The proposed change tendered in Docket No. ER76-800 is hereby accepted for filing and its operations suspended until August 21, 1976, at which time it shall become effective, subject to refund, pending a final decision in this case.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before February 23, 1977 (See Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See, Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) APCo shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19a of the Commission Regulations, 18 CFR Section 35.19a.

(G) CP&L's Petition to Intervene is hereby granted; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the petitions to intervene; *Provided, further,* That admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(H) the Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24962 Filed 8-25-76;8:45 am]

[Docket No. ER76-495 (Phase II)]

CAROLINA POWER & LIGHT CO.

Notice of Settlement Conference

AUGUST 18, 1976.

Take notice that on August 24, 1976, a conference of all parties to intervene in these consolidated proceedings, Carolina Power & Light Company, and Commission Staff will be held in a Commission Hearing Room at 825 North Capitol Street, NE., Washington, D.C., at 11:00 a.m.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the

[1] Article 7, Section 7.014, Article 8, Sections 8.01 and 8.02; Article 9, Sections 9.01, 9.02, 9.03 and 9.04.

[2] Section 5, Articles 5.1 and 5.2; Section 6, Articles 6.1, 6.2, 6.3, 6.4, 6.5, 6.11, 6.12, 6.13, 6.15, 6.16 and 6.17.

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Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24955 Filed 8-25-76;8:45 am]

[Docket No. RP76-135]

CITIES SERVICE GAS CO.

Natural Gas Pipeline; Order Rejecting, Accepting, and Suspending in Part Proposed Rate Increase, and Establishing Procedures

AUGUST 19, 1976.

On July 23, 1976, Cities Service Gas Company (Cities) tendered for filing four revised and three original tariff sheets[1] to its FPC Gas Tariff, Second Revised Volume No. 1, reflecting general increases in its jurisdictional sales rates amounting to $13,489,441 (6.03%), based on the twelve months ended March 31, 1976, as adjusted for known and measurable changes through December 31, 1976. Cities requests an effective date of August 23, 1976.

Cities' base tariff rates shown on Seventeenth Revised Sheet PGA-1 and the underlying cost of service in the instant filing reflect the base cost of purchased gas of 40.20 cents per Mcf, as established in Cities' PGA filing of June 7, 1976, which became effective July 24, 1976, in Docket No. RP72-142 (PGA76-5). Cities proposes to file a Substitute Revised Sheet PGA-1 to replace the sheets filed in this docket, in order to reflect the current average cost of purchased gas established in the most recent Cities PGA filing, which becomes effective prior to the effective date of Seventeenth Revised Sheet No. PGA-1.

Cities gives the following principal reasons for seeking increased rates: (1) a need for a rate of return of 12.6%; (2) a reduction in available gas supply; (3) additional advance payments to producers to obtain additional gas supplies; (4) increases in plant and related cost of service items, including increased depreciation expense; and (5) increases in supplies, materials, wages and various taxes.

Cities proposes to amend a provision[2] of its General Terms and Conditions which deals with the accrual of interest to be paid by Cities' customers on overdue invoices. Under the proposed amendment, such interest would accrue monthly at the currently effective rate stated in section 154.67(c) of the Commission's Regulations under the Natural Gas Act.

In addition, Cities proposes to introduce into the General Terms and Conditions an advance payment rate adjustment provision[3] which would allow the tracking of rate changes for advance payments. Cities requests waiver of § 154.38(d)(3) of the Commission's Regulations in order to include this provision in its tariff.

Public notice of the filing was issued on August 6, 1976, with comments, protests, or petitions to intervene due on or before August 16, 1976.

The Commission's review of Cities' proposed tariff sheet. Seventeenth Revised Sheet PGA-1, indicates that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall suspend the effective date of the rates for five months until January 23, 1977, subject to refund.

Cities' proposed Third Revised Sheet No. 28 and First Revised Sheet No. 29, which contain amended Article 6 of Cities' General Terms and Conditions, should be accepted for filing and be made effective on the requested effective date of August 23, 1976.

Cities' proposed Original Sheet Nos. 37K, 37L and 37M, which contain Cities' proposed advance payment rate adjustment, should be rejected, and the Company's request for waiver of the requirements of § 154.38(d)(3) of the Commission's Regulations should be denied. Rejection of this proposed tariff tracking provision will be without prejudice to Cities' right to include the proposal in its case for final Commission decision thereon.

The Commission finds. (1) Good cause exists to accept for filing the proposed Seventeenth Revised Sheet PGA-1 and Fourth Revised Sheet No. 37D to Cities Service Gas Company's FPC Gas Tariff, Second Revised Volume No. 1, tendered by the Company on July 23, 1976, and to suspend their use for five months, until January 23, 1977, and until such further time as they are made effective, subject to refund, by motion filed in the manner prescribed by Section 4(e) of the Natural Gas Act.

(2) It is proper and necessary in the public interest and to aid in the enforcement of the Natural Gas Act that a hearing concerning the lawfulness of Cities Service Gas Company's rates be commenced.

(3) Good cause exists to accept for filing and make effective as of August 23, 1976, Cities Service Gas Company's proposed Third Revised Sheet No. 28 and First Revised Sheet No. 29, tendered by the Company on July 23, 1976.

(4) Good cause exists to deny waiver of § 154.38(d)(3) of the Commission's Regulations under the Natural Gas Act and to reject the Company's proposed Original Sheet Nos. 37K, 37L and 37M, tendered by the Company on July 23, 1976. Rejection of this proposed tariff provision should be without prejudice to the Company's right to include the proposal in its case for final Commission decision thereon.

The Commission orders. (A) Cities Service Gas Company's Seventeenth Revised Sheet PGA-1 and Fourth Revised Sheet No. 37D to its FPC Gas Tariff, Second Revised Volume No. 1, tendered July 23, 1976, are hereby accepted for filing and suspended for five months, until January 23, 1977, and until such further time as they are made effective, subject to refund, by motion filed in the manner prescribed by Section 4(e) of the Natural Gas Act.

(B) Cities Service Gas Company's proposed Third Revised Sheet No. 28 and First Revised Sheet No. 29, tendered on July 23, 1976, are hereby accepted and made effective as of August 23, 1976.

(C) Cities Service Gas Company's request for waiver of Section 154.38(d)(3) of the Commission's Regulations under the Natral Gas Act is hereby denied, and proposed Original Sheet Nos. 37K, 37L and 37M, tendered on July 23, 1976, are hereby rejected, without prejudice to the Company's right to include the proposal in its case for final Commission decision thereon.

(D) Pursuant to the authority of the Natral Gas Act, particularly section 4 thereof, and the Commission's Rules and Regulations, a hearing shall be held concerning the lawfulness and reasonableness of the subject increased rates.

(E) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 1, 1976. (See Administrative Order No. 157).

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24963 Filed 8-25-76;8:45 am]

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[1] Seventeenth Revised Sheet PGA-1, Third Revised Sheet No. 28, First Revised Sheet No. 29, Fourth Revised Sheet No. 37D; Original Sheet Nos. 37K, 37L and 37M.

[2] Article 6 of General Terms and Conditions, Third Revised Sheet No. 28 and First Revised Sheet No. 29.

[3] Article 23 of General Terms and Conditions, Original Sheet Nos. 37K, 37L and 37M.

[Docket No. RP73-65 (PGA75-5)]

COLUMBIA GAS TRANSMISSION CORP.

Pipeline Rates: Amendment To Order

AUGUST 19, 1976.

Through various correspondence to the Commission Secretary, as well as members of the Commission Staff, it has become evident that certain deletions, additions and modifications are necessary to the list of independent Ohio natural gas producers who were made respondents to this proceeding by order issued October 22, 1975, in this docket. Accordingly, the Commission shall amend the list of producer-respondents to this proceeding as follows:

(1) Delete the following names and addresses:

Colton Petroleum Corporation, 2121 S. Columbia Avenue, Tulsa, Oklahoma 74114.
Kenneth E. Dixon, 725 Stoney Hill Road, Hinchley, Ohio 44233.
Charles W. Badger, c/o Energy Development Corporation, 7667 West 95th Street, Hickory Hills, Illinois 60457.
Julia Badger, c/o Energy Development Corporation, 7667 West 95th Street, Hickory Hills, Ohio 60457.
Chief Petroleum, Inc., 4770 Indianola Avenue, Suite 141, Columbus, Ohio 43214.
H. D. Collins, 304 Philtower Building, Tulsa, Oklahoma 74103.
Paul Grim, Route 3, Logan, Ohio 43138.
Refiners Petroleum Corporation, First National Bank Building, One East First Street, Reno, Nevada 89501.
Star Gas Company, 809 Hanawko Valley Building, Charleston, West Virginia 25301.

(2) Add the following names and addresses:

Charles W. Badger, c/o Energy Development Corporation, P.O. Box 446, Oak Lawn, Illinois 60453.
Julia Badger, c/o Energy Development Corporation, P.O. Box 446, Oak Lawn, Illinois 60453.
Chief Petroleum, Inc., 4968 Tamarack Blvd., Columbus, Ohio 43229.
H. D. Collins, 3304 First National Tower, Tulsa, Oklahoma 74103.
Paul A. Grim, Route 5, Logan, Ohio 43138.
Refiners Petroleum Corporation, 2550 Fifth Avenue, Suite 1009, San Diego, California 92103.
Star Gas Company, Suite 208, Litton Building, 1207 Quarrier Street, Charleston, West Virginia 25301.
Mr. Gay Wilson, Route No. 1, Walhouding, Ohio 43843.
Mr. R. D. Smith, Box 85, Holmesville, Ohio 44633.

The Commission orders: (A) The Commission's list of producer-respondents in Docket No. RP73-64 (PGA75-5) shall be amended as set forth in the body of this order.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24973 Filed 8-25-76;8:45 am]

[Docket No. ES76-50]

COMMUNITY PUBLIC SERVICE CO.

Notice of Application

AUGUST 19, 1976.

Take notice that on July 26, 1976, the Community Public Service Company (Applicant), filed an application with the Commission, pursuant to Section 204 of the Federal Power Act and Part 34 of the Rules and Regulations thereunder, seeking authorization to issue $10,000,000 principal amount of First Mortgage Bonds, Series M and up to 150,000 shares of Common Stock, par value $10 per share. The proposed Series M Bonds have a maturity of more than ten years and are to be sold by public offering, either negotiated or competitive. In addition, the proposed Common Stock is to be sold by public offering, either negotiated or competitive.

Applicant is incorporated under the laws of the State of Texas, with its principal business office at Fort Worth, Texas and is domesticated in the State of New Mexico. Applicant is engaged primarily in the generation, purchase, distribution and sale of electric energy and the purchase, distribution and sale of natural gas. Applicant provides electricity and Natural gas service to a total of 77 municipalities in Texas and nine municipalities in New Mexico.

The purpose of the proposed First Mortgage Bonds and Common Stock will be the reimbursement of the treasury of applicant for expenditures for the construction, completion, extension or improvement of facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24974 Filed 8-25-76;8:45 am]

[Docket No. ID-1607]

EARL K. DILLE

Notice of Application

AUGUST 19, 1976.

Take notice that on May 1, 1975, Earl K. Dille (Applicant), Executive Vice President, Union Electric Company, St. Louis, Missouri, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Executive vice president and director.[1]	Union Electric Co. (Union Electric).	Public utility.
Director[1]	Missouri Edison Co.[2] (Missouri Edison).	Do.
Do[1]	Missouri Powor and Light Co.[2] (Missouri Power).	Do.
Do	Missouri Uulities Co[2][3] (Missouri Uulities).	Do.
Do[1]	Electric Energy Inc.[4] (Electric Energy).	Do.

[1] Positions previously authorized.
[2] Subsidiary of Union Electric.
[3] Elected director April 23, 1975.
[4] Forty percent owned by Union Electric.

By Order issued August 3, 1972, the Applicant was authorized to hold all the above positions except the position of Director of Missouri Utilities, which is the subject of this application.

Any person desiring to be heard or to make any protest with reference to such application should, on or before September 20, 1976, file with the Federal Power Commission, in accordance with the requirements of the Commssion's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropirate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24975 Filed 8-25-76;8:45 am]

[Docket No. RP75-114]

EAST TENNESSEE NATURAL GAS CO.

Notice of Certification of Proposed Settlement Agreement

AUGUST 19, 1976.

Take notice that on July 7, 1976, the Presiding Administrative Law Judge certified to the Commission for its consideration and disposition a proposed settlement agreement in the above-entitled proceeding together with the record related thereto.

Any person wishing to do so may submit comments in writing covering the proposed settlement. All such comments should be submitted to the Federal Power Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, on or before August 31, 1976. Copies of the settlement

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agreement are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24964 Filed 8-25-76;8:45 am]

[Docket Nos. RI61-280 and RI71-1014]

ESTATE OF WILLIAM E. ALLAUN AND CORNELIA H. ALLAUN

Notice of Petition for Special Relief

AUGUST 18, 1976.

Take notice that on May 4, 1976, The Estate of William Edwin Allaun and Mrs. Cornelia Harris Allaun (Petitioners), Melson Building, 123 30th Street, Newport News, Virginia 23607, filed a petition for special relief in Docket Nos. RI61-280 and RI71-1014, pursuant to Section 8.2.6 of Commission Order No. 459. Petitioner requests to be excused from undischarged refund obligations in the amount of $95,605.13 after it has already made a sincere and diligent effort to find gas to meet its refund obligations but has failed to do so. The refund obligations arose from sales of natural gas from the Gwinville Field, Jefferson Davis and Simpson Counties, Mississippi, to Bass Enterprises Production Company, et al.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24976 Filed 8-25-76;8:45 am]

[Docket No. E-9564]

IOWA POWER AND LIGHT CO.

Notice of Application

AUGUST 19, 1976.

Take notice that on August 9, 1976, Iowa Power and Light Company (Company) filed, pursuant to section 203 of the Federal Power Act and Part 33 of the Commission's Regulations thereunder, an application for authority to sell approximately 20 miles of 161 kV electric transmission line in the Iowa counties of Jasper and Poweshiek. The purchaser of the line will be Iowa Southern Utilities Company, Centerville, Iowa.

The Company is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged primarily in the generation, transmission, distribution and sale at retail of electric energy and in the purchase, distribution and sale at retail of natural gas in central and southwestern Iowa.

The Company states that the proposed sale of facilities is consistent with the public interest, inasmuch as it will tend to equalize the benefits and costs of transmission facilities located in areas of mutual load responsibilities.

The Company has moved that the intermediate decision procedure be omitted and that the Commission forthwith render the final decision on this application.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24976 Filed 8-25-76;8:45 am]

[Docket No. ER76-834]

KANSAS POWER AND LIGHT CO.

Proposed Changes In Rates and Charges

AUGUST 18, 1976.

Take notice that on August 2, 1976, The Kansas Power and Light Company (Kansas) tendered for filing a newly executed renewal contract dated April 26, 1976, with the City of Hillsboro, Kansas for wholesale service to that community. Kansas states that this is a renewal of a similar contract dated October 7, 1969, and designated KPL Rate Schedule FPC No. 119. The proposed effective date is October 1, 1976. According to Kansas, the net billing for the twelve months succeeding the proposed change in agreements was $251,849.85. In addition, Kansas states that copies of the contract have been mailed to the City of Hillsboro and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24957 Filed 8-25-76;8:45 am]

[Docket No. AR67-1]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Filing of Report

AUGUST 19, 1976.

Take notice that on August 2, 1976, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a report in response to Paragraph (C) of the Commission's Order dated February 23, 1976 in Docket No. AR67-1, et al.

Michigan Wisconsin states that pursuant to the provisions of the General Terms and Conditions of its tariff, Michigan Wisconsin will credit its Unrecovered Purchased Gas Cost Account with the following refunds received:

Producer	Rate schedule	Refund amount
Exxon Co., U.S.A.	316	$4,414.03
Getty Oil Co.	118	1,435.31
Mobil Oil Corp.	316	6,606.58
Total		12,455.92

Michigan Wisconsin further states that the refunds were determined pursuant to FPC Opinion 607, as amended, and refunded pursuant to Paragraph (A) of the Order referred to above. Michigan Wisconsin states that refunds not yet received will be credited to the Unrecovered Purchased Gas Cost Account when received; the Company's records indicate that Pennzoil Producing Company has a refund obligation of $9,856.64 under its rate schedule 249 which has not yet been received or otherwise discharged.

Michigan Wisconsin states that a copy of its report was mailed to each of Michigan Wisconsin's gas sales customers, as well as to each of the following:

Illinois Commerce Commission
Public Service Commission of Indiana
Iowa Commerce Commission
Kansas State Corporation Commission
Michigan Public Service Commission
Missouri Public Service Commission
Public Utilities Commission of Ohio
Tennessee Public Service Commission
Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24977 Filed 8-25-76;8:45 am]

[Docket Nos. G-18314, CP66-121 and CP70-25]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Petition To Amend Orders

AUGUST 19, 1976.

Take notice that on June 21, 1976, Midwestern Gas Transmission Company (Midwestern) petitioned the Federal Power Commission to amend its three import authorizations under Section 3 of the Natural Gas Act issued in the above-entitled proceedings to authorize the continued importation of natural gas at a border price of $1.80 (Canadian) per MMBTU effective September 10, 1976, and $1.94 (Canadian) per MMBTU effective January 1, 1977, as such rate may be set forth in an amendment to TransCanada PipeLines Limited's (TransCanada) export licenses for its sales to Midwestern to be issued by the Canadian National Energy Board pursuant to an order of the Canadian Government. Midwestern's petition recites that on June 10, 1976, the Canadian Minister of Energy, Mines and Resources issued a statement that the Canadian Government had instructed the Canadian National Energy Board to amend existing export licenses to establish such border prices for the export licenses pertaining to TransCanada's sales to Midwestern. Midwestern presently purchases gas from TransCanada at a border price of $1.60 (Canadian) per MMBTU. The proposed border prices would be of a significant increase of the border prices now in effect. The petition also states that if Midwestern's import authorizations are not timely amended, Midwestern will be faced with termination of imports of gas from TransCanada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24978 Filed 8-25-76;8:45 am]

[Docket No. RP76-114]

MIDWESTERN GAS TRANSMISSION CO.

Pipeline Rates—Intervention

AUGUST 19, 1976.

On June 30, 1976, Midwestern Gas Transmission Company (Midwestern) tendered for filing revised tariff sheets to its FPC Gas Tariff[1] seeking an increase in annual jurisdictional revenues of $4,758,726 for its Southern System and $3,796,501 for its Northern System. Notice of Midwestern's tender was issued on July 8, 1976, with comments, protests, and petitions to intervene due on or before July 23, 1976. Various timely petitions to intervene were filed (See Appendix A). Having reviewed these petitions to intervene, we believe that the petitioners have sufficient interest in this proceeding to warrant intervention.

The Commission finds: The participation in the proceeding by the petitioners listed in Appendix A may be in the public interest.

The Commission orders: (A) The petitioners listed in Appendix A are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

North Central Public Service Company, Division of Donovan Companies, Inc.
Northern Indiana Public Service Company
Northern Illinois Gas Company
Central Illinois Light Company
The Peoples Gas Light and Coke Company
Wisconsin Gas Company
Michigan Wisconsin Pipe Line Company

[FR Doc.76-24979 Filed 8-25-76;8:45 am]

[Docket No. G-7645]

MOBIL OIL CORP.

Order Granting Intervention and Answering Petition for Declaratory Order

AUGUST 18, 1976.

On May 24, 1976, Mobil Oil Corporation (Mobil) filed a petition for delaratory order pursuant to Sections 4, 7, 14, and 16 of the Natural Gas Act[1] and Section 1.7(c) of the Commission's rules of practice and procedure.[2] The petition requests an order declaring whether Mobil can and should continue a sale to the City of Guymon, Oklahoma, from leases subsequently dedicated to interstate service under contract with Cities Service Gas Company (Cities Service). On June 21, 1976, Cities Service filed a petition to intervene; on June 28, 1976, the City of Guymon (Guymon) filed an untimely petition to intervene.

Mobil's petition relates to two contracts. Under the earlier contract dated January 4, 1946, Mobil has been supplying Guymon with "all its requirements" for use "in its municipal distribution system and any extensions or additions thereto." The contract term for this non-jurisdictional sale has been extended from time to time but will expire on August 31 of this year. The second contract dated February 28, 1946, dedicated Mobil's interests in certain reserves to Cities Service for the life of these reserves.[3] This contract contained a prior commitment clause[4] which recognized Mobil's obligation to sell to Guymon "under the terms of a contract dated January 4, 1946, and any extensions thereof."

Mobil states that the contract with Guymon will expire as of August 31, 1976, and Guymon would best be served by supplier(s) other than Mobil. Therefore, Mobil wants to extend its contract for only one year in order to give Guymon time to secure other supplies.

The Commission, in 1954, issued a "grandfather" certificate to Republic (Mobil's predecessor) covering its sale to Cities Service. In so doing, it accepted the reservation contained in the Republic (Mobil)-Cities Service contract which provides as follows:

Section 2(b), Limitations on Republic's Obligation

Republic reserves the right to use gas produced from said acreage for * * *

(iv) Natural gas which Republic shall hereafter sell to the City of Guymon, Oklahoma, a municipal corporation, under the terms of a contract dated January 4, 1946, *and any extension*[5] *thereof* (emphasis supplied).

Since any extension of the Mobil-Guymon contract is expressly contemplated by the Republic (Mobil)-Cities Service contract, as certificated by the Commission, Mobil, if so desires, may continue to serve Guymon.

The Commission finds: Participation by Cities Service and the City of Guymon in these proceedings may be in the

[1] Third Revised Volume No. 1, Fifteenth Revised Sheet No. 5, Original Sheet No. 5A, Second Revised Sheet Nos. 80 and 85; Original Volume No. 2, First Revised Sheet No. 37.

[1] On file as Mobil Oil Corporation Rate Schedule No. 283.
[2] Section 2(b) of the Mobil contract.
[3] On file as Mobil Oil Corporation Rate Schedule No. 283.
[4] Section 2(b) of the Mobil contract.
[5] See p. 3 of "Petition of Mobil Oil Corporation For Declaratory Order", Docket No. G-7645, filed May 24, 1976.

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public interest and good cause exists for permitting such intervention.

The Commission orders: (A) The issue raised in Mobil's petition is answered in the body of this order.

(B) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission, Provided, however, that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* That the admission of intervenors in the manner provided shall not be construed as recognition by the Commission that such intervenors might be aggrieved because of any order or orders entered in this proceeding, and that intervenors agree to accept the record as it now stands.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24958 Filed 8–25–76;8:45 am]

[Docket No. ER76–848]

MONTANA POWER COMPANY

Notice of Rate Filing

AUGUST 19, 1976.

Take notice that The Montana Power Company on August 9, 1976, tendered for filing in accordance with Section 35 of the Commission's Regulations, a rate Tariff designated FPC Electric Tariff M–1, which provides for sale of nonfirm energy to other utilities for resale.

The Montana Power Company respectfully requests that this rate schedule be made effective August 1, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24965 Filed 8–25–76;8:45 am]

[Docket No. ER76–828]

NANTAHALA POWER AND LIGHT CO.

Tariff Change

AUGUST 17, 1976.

Take notice that Nantahala Power and Light Company (Nantahala) on July 30, 1976, tendered for filing proposed changes in its FPC Electric Rate Schedule PL. The proposed changes would increase revenues from jurisdictional sales or service by $121,908, based on the 12 month period ending on December 31, 1975.

The proposed rate changes and rate charges are designed to increase the revenue from Haywood Electric Membership Corporation, the Town of Highlands and Western Carolina University, Nantahala Power and Light Company's only jurisdictional customers, sufficiently to raise the rate of return on the investment necessary to serve jurisdictional customers to an acceptable level.

Copies of the filing were served upon Nantahala's jurisdictional customers and on the regulatory commission of the State of North Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24970 Filed 8–25–76;8:45 am]

[Docket No. ER76–841]

NEW ENGLAND POWER CO.

Agreements

AUGUST 19, 1976.

Take notice that on August 4, 1976, New England Power Company (NEP) tendered for filing notice of an Agreement dated May 3, 1976, between it and the Water and Light Department of the Town of Littleton, New Hampshire (Littleton) which pertains to the transfer by NEP to Littleton of a portion of a 34.5 KV transmission line from approximately NEP's Pattenville switching tower to Littleton's substation.

NEP tendered also a service agreement, dated June 30, 1976, between it and Littleton which provides for a new single transmission point at the Pattenville switching tower.

NEP requests that the notice requirements be waived in order to permit the agreements to be effective as of May 3, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24980 Filed 8–25–76;8:45 am]

[Docket No. ER76–842]

NEW ENGLAND POWER CO.

Transmission Contract

AUGUST 19, 1976.

Take notice that on August 4, 1976, New England Power Company (NEP tendered for filing a Transmission Contract between it and the Town of Braintree, Massachusetts, Electric Light Department (BELD) which is submitted as an initial rate schedule.

This contract provides for NEP to transmit across its system BELD's purchase from Vermont Electric Power Company, Inc. of 1,248 KW from Vermont's life-of-the-unit purchase of capacity in Public Service Company of New Hampshire's unit designated as Merrimack Unit No. 2.

NEP requests waiver of the notice requirements in order to permit the Contract to be effective as of April 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24981 Filed 8–25–76;8:45 am]

[Docket Nos. RI76–132, RI76–133, RI76–135]

NORTHERN MICHIGAN EXPLORATION CO., ET AL.

Extension of Time

AUGUST 17, 1976.

In the matter of Northern Michigan Exploration Company, Docket No. RI76–132; Clark Oil Producing Company, Docket No. RI76–133; Diamond Shamrock Corporation, Docket No. RI76–135.

On August 12, 1976, Clark Oil Producing Company filed a motion to extend the time for filing direct testimony and

the date for the pre-hearing conference, fixed by Order issued August 4, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above-designated proceeding are extended as follows:

Date for filing direct testimony: August 31, 1976.

Pre-hearing conference, to convene at 9:30 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, September 23, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24954 Filed 8–25–76;8:45 am]

[Docket No. ER76–844]

NORTHERN STATES POWER CO.

Filing of Rate Schedule Supplement

AUGUST 19, 1976.

Take notice that Northern States Power Company on August 5, 1976, tendered for filing Supplement No. 3, dated June 21, 1976, to the Interconnection and Interchange Service Agreement with Minnesota Power & Light Company.

Supplement No. 3 adds the Sturgeon Lake and Forbes Interconnections and provides for the operation of the 500 KV transmission line from Forbes, Minnesota, to Minneapolis-St. Paul, Minnesota, as part of the parties' network.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24982 Filed 8–25–76;8:45 am]

[Docket Nos. CS73–388, *et al.*]

OIL RESOURCES INCORPORATED, OPERATOR, ET AL. AND OTHER APPLICANTS LISTED HEREIN

Applications for "Small Producer" Certificates [1]

AUGUST 19, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Filing date	Applicant
CS73–388	July 30, 1976	Oil Resources Inc., operator, *et al.*, 1155 15th St., NW., Washington, D.C. 20005.
CS76–945	Nov. 21, 1975	James E. Prothro, *et al.*, 1800 First National Bank Bldg., Dallas, Tex. 75202.
CS76–947	July 19, 1976	Impel Corp., 475 17th St., Suite 600, Denver, Colo. 80202.
CS76–948	do	Darrell M. Fink, 1460 Oil and Gas Bldg., New Orleans, La. 70112.
CS76–949	do	Driscoll Production Co., 1620 Guaranty National Bank Plaza, Corpus Christi, Tex. 78403.
CS76–999	Aug. 2, 1976	Bailey Gas Systems, Inc., 4111 South Darlington, Tulsa, Okla. 74135.
CS76–1000	do	Simba Corp., 4111 South Darlington, Tulsa, Okla. 74135.
CS76–1001	do	H. A. Mayor, Jr., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1002	do	Andy Payne, 941 Northeast 49th St., Oklahoma City, Okla 73105.
CS76–1003	do	B. John Ashley, Jr., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1004	do	Byron J. Ashley, Sr., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1005	do	William Campion, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1006	do	Clanor Co., Inc., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1007	do	Jamie Coulter, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1008	do	Margaret B. Curfman, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1009	do	W. R. Dakan, Jr., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1010	do	Max S. Deterding, 240 Page Court, 220 West Douglas, Wichita, Kans. 67282.
CS76–1011	do	Robert Geist, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1012	do	Charles W. Harris, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1013	do	John M. Lyon, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1014	do	H. A. Mayor, Jr., 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1015	do	Donald J. Nigg, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS–76–1016	do	P. R. Peterson, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1017	do	Cort O. Platt, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1018	do	John M. Prest, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1019	do	John O. Schreiner, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1020	do	Richard D. Smith, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1021	do	Temple and Roark, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1022	do	Ken Wagnon, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1023	do	Winston Wheeler, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1024	do	R. A. Whorlan, 240 Page Court, 220 West Douglas, Wichita, Kans. 67202.
CS76–1025	do	Morningside Company, Inc., 441 Morningside Dr., Wichita, Kans. 67218.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.76–24985 Filed 8–25–76;8:45 am]

[Docket No. RP68–15]

PANHANDLE EASTERN PIPE LINE CO.

Filing of Report

AUGUST 18, 1976.

Take notice that on August 2, 1976, in accordance with Paragraph (E) of the January 29, 1969, Escrow Instructions of Panhandle Eastern Pipe Line Company to the Commerce Bank of Kansas City (Commerce Bank) involving an initial deposit of $103,900.73, Commerce Bank filed a quarterly report certifying the amount on deposit in the Escrow Ac-

V 41 167 AUG 26 76 UMI

count at the end of the quarter ending on July 29, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24959 Filed 8-25-76;8:45 am]

[Project No. 2769]

PENNSYLVANIA ELECTRIC COMPANY AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

Application for Preliminary Permit

AUGUST 18, 1976.

Public notice is hereby given that an application for a preliminary permit was filed on April 21, 1976, and supplemented June 21, 1976, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by the Pennsylvania Electric Company and Allegheny Electric Cooperative, Inc. (Correspondence to: W. R. Thomas, Secretary and Treasurer, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907; Mr. William F. Matson, Executive Vice President, Allgeheny Electric Cooperative Inc., 2929 North Front Street, Harrisburg, Pennsylvania 17110; with copies to: Harry N. Platt, Jr., Esq., Ballard, Saphr, Andrews and Ingersoll, United Engineers Building, 20th Floor, 30 South 17th Street. Philadelphia, Pennsylvania 19103; William C. Wise, Esq., 1019 19th Street, N.W., Suite 200, Washington, D.C. 20036; James B. Liberman, Esq., Berlack, Israels & Liberman, 26 Broadway, New York, New York 1004; Marian Schwalm Furmari, Esq., General Counsel, Allegheny Electric Cooperative, Inc., 2929 North Front Street, Harrisburg, Pennsylvania 17110) for the proposed Raystown Hydroelectric development, FPC Project No. 2769, to be located on the Raystown Branch of the Juniata River, near the community of Huntingdon in Huntingdon County, Pennsylvania. The project would affect lands of the United States in Juniata Township in Huntingdon County and the Corps of Engineers' Raystown Reservoir.

The Raystown Hydroelectric Project would utilize the 136-foot head created by the Corps of Engineers' Raystown Reservoir Project and would utilize the existing Corps of Engineers' diversion and emergency regulating tunnel to divert water from the Corps' reservoir to a powerhouse with maximum installed capacity of 50,000 kW.

Transmission facilities would be built to connect the generating facilities with a substation planned for construction for other purposes on the 230 kV transmission system of Pennsylvania Electric Company.

The power generated would be used in the Applicant's Service Area for public utility purposes.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittees, during the term of the permit, the right of priority of application for a license while the permittees undertake the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24960 Filed 8-25-76;8:45 am]

[Docket No. ER76-850]

PUBLIC SERVICE COMPANY OF COLORADO

Filing of Initial Rate Schedule

AUGUST 19, 1976.

Take notice that Public Service Company of Colorado (PSCo) on August 9, 1976 tendered for filing as an initial rate schedule a power and energy sales agreement among PSCo, Colorado-Ute Electric Association, Inc., and Salt River Project Agricultural Improvement and Power District.

The Agreement, known as the Hayden Power Pool Agreement, provides for Scheduling and Delivery of Economy Energy, Payments for Economy Energy, Transmission Service, Sale of Available Operating Capacity and other similar operating matters.

PSCo states that copies of the filing were served upon all parties and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 29426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24966 Filed 8-25-76;8:45 am]

[Docket No. RM74-18]

RATE OF INTEREST ON AMOUNTS SUBJECT TO REFUND

Order Granting Rehearing of Order No. 513–A for Purposes of Further Consideration

AUGUST 19, 1976.

On July 14, 1976, the Commission issued Order No. 513–A in the above-captioned docket. Applications for rehearing of the order were filed by Shell Oil Company (Shell) on July 21, 1976; by The California Company, a division of Chevron Oil Company (Calco) on August 2, 1976; by General American Oil Company of Texas (GA) on August 9, 1976; and by various municipal distributor groups purchasing natural gas from a number of the major interstate pipeline companies[1] (Municipals) on August 4, 1976. For the reasons stated below, we shall grant rehearing for the limited purpose of further consideration.

The applications for rehearing filed by Shell, Calco and GA were alternatively styled as motions for clarification of Order 513–A. In that order the Commission directed that the 9% interest rate prescribed in Order 513 be applied to refunds made on all excess charges collected on and after October 10, 1974, unles there was a final, non-appealable Commission order in the proceding directing the disbursement of refunds of amounts collected or held during the time periods which are the subject of the order. The Commission further stated that where such orders have been issued but are not final and non-appealable on the date of Order No. 513–A, the 9% interest rate will be applied.

Shell, Calco and GA contend that the latter exception to the final, non-appealable order exception to 513–A should not be read to include a situation where the Commission has previously entered a final order granting refunds, no longer subject to review, and has not yet ordered actual disbursement of the refunds, but has fixed the interest rate on the face of the Commission's order. This situation, Shell, Calco and GA contend, describes the status of the Commission's order in the second Southern Louisiana Area Rate Opinion, Opinion No. 598, where ordering paragraph (G) reads in part:

> If a producer's refund obligation has not been completely discharged by October 1, 1977, such producer will be obligated to refund in cash plus 7 percent interest effective from August 1, 1971, the outstanding refund obligation. (Emphasis supplied) (46 F.P.C. at 148)

Shell, Calco and GA argue that, since the interest rate was affirmatively fixed by the Commission on the face of its opinion, and since that opinion was affirmed by the United States Court of Appeals for the Fifth Circuit and by the United States Supreme Court, that the Commission cannot now provide for a different interest rate applicable to refunds ordered pursuant to that Opinion, but which have not yet been ordered to be disbursed because of the refund work-off period provided therein. Shell, Calco and GA therefore seek either a clarifying order stating that the 9% interest rate should not be applied to refunds ordered pursuant to the terms of Opinion No. 598 or, if the Commission intends that the 9% rate should apply in such a case, for rehearing of Order No. 513–A on that issue.

The Municipals in their petition for rehearing of Order No. 513–A filed on August 4, 1976, argue that it is unreasonable and discriminatory to determine whether 7% interest or 9% interest is to be paid on excess amounts collected after October 10, 1974 on the basis of whether a final, non-appealable order has been issued in a case. The Municipals cite *Austral Oil Co.* v. *FPC*, 428 F. 2d 407, 444–45 (5th Cir. 1970), clarified on rehearing, 444 F. 2d 125 (1971) for the proposition that the Commission has not only the authority but also the duty to stay, modify or rescind any part of a final, non-appealable order where changed circumstances have made such a change advisable in the public interest. They further contend that the Court of Appeals opinion in *American Public Gas Association, et al* v. *FPC*, No. 75–1104, (D.C. Cir., May 19, 1976) has removed the matter from Commission discretion and made it mandatory that the Commission apply Order No. 513–A retroactively to all excess amounts collected since October 10, 1974, irregardless of the finality of the Commission's orders. The Municipals argue additionally that even if the Commission had discretion as to whether or not it would re-open cases in which a final, non-appealable order had been issued, the Commission would abuse its discretion if it did not reopen such cases, since the issuance or non-issuance of a final, non-appealable order does not alter the illegality of the 7% interest rate as to excess charges collected after October 10, 1974. For the above reasons, the Municipals request rehearing of Order No. 513–A and that the Commission on rehearing order all pipelines to pay a 9% interest rate on all overcharges collected after October 10, 1974, regardless of whether or not final, non-appealable orders had previously issued in a given rate proceeding.

Because of the diversity and complexity of the issues raised by the above petitions, and in order to have before us all issues which may be raised in petitions for rehearing of Order No. 513–A, it is appropriate that the Commission have additional time in which to consider the issues involved. The above applications for rehearing shall therefore be granted for the limited purposes of further consideration and study of the Commission's Order No. 513–A.

The Commission finds: In order to afford the Commission additional time for the consideration of the issues discussed in the applications for rehearing of Shell, Calco, General American and the Municipal distributors named herein, and to allow for responsive pleadings on all issues, it is necessary and proper in the administration of the Natural Gas Act to grant rehearing of the Commission's Order No. 513–A issued in this proceeding on July 14, 1976, for the limited purpose of further consideration.

The Commission orders: Rehearing of the Commission's Order No. 513–A issued on July 14, 1976, in this proceeding is hereby granted for the limited purpose of further consideration.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—LIST OF MEMBERS OF MUNICIPAL GROUPS BY PIPELINE SUPPLIER

1. Cities Service Gas Company (RP74–4).—Kansas: Abbyville, Altamont, Argonia, Auburn, Burlingame, Danville, Howard, Humboldt, Iola, Lancaster, Lebo, Neosho Rapids, Norwich, Hamilton, Olivet, Osage City, Sylvia, Chanute, McPherson, Effingham, Eskridge, Cassoday, Lancaster, Neodesha, McLouth, Uniontown, Stark, Sylvia, Viola, Partridge, Plevna, Reading, Sharon, Garnett.

2. Columbia Gas Transmission Corp. (RP 73–86, RP74–82).—Virginia: City of Charlottesville.

3. *Northern Natural Gas Company (RP74–80).*—Iowa: Brooklyn, Cascade, Emmetsburg, Des Moines, Gilmore City, Graettinger, Harlan, Hawarden, Manilla, Sioux Center, Manning, Osage, Preston, Remsen, Rolfe, Sac City, Sanborn, West Bend, Whittemore, Woodbine. Nebraska: Pender, Ponca. Minnesota: Mora, Buffalo, Hutchinson, New Prague, Circle Pines, Austin.

4. *Texas Eastern Transmission Corp. (RP 74–41).*—Illinois: Cairo. Pennsylvania: Chambersburg, Indiana: Huntingburg. Tennessee: Smyrna. Mississippi: Utica.

[FR Doc.76-24951 Filed 8-25-76;8:45 am]

[Docket Nos. RP71–41, RP75–73 (PGA 76–5 DCA76–2)]

TEXAS EASTERN TRANSMISSION CORP.

Tender of Emergency Purchases Information

AUGUST 18, 1976.

Take notice that on July 12, 1976, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing information requested by the Commission's order issued June 30, 1976, in the above captioned dockets, ordering paragraph (G), with respect to the compliance with the criteria of 699–B of certain 60 day emergency purchases.

Any person wishing to do so may submit comments in writing concerning Texas Eastern's tender. All such comments should be submitted to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 29, 1976. Texas Eastern's information is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24972 Filed 8-25-76;8:45 am]

[Docket No. ER76–846]

TOLEDO EDISON CO.

Service Agreement

AUGUST 19, 1976.

Take notice that The Toledo Edison Company, on August 6, 1976, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume Number 1 applicable to sales to Municipalities for Resale. The changes consist of filing a Service Agreement executed by the Village of Pioneer, Ohio, and Seventh Revised Sheet Number 3, List of Purchasers.

Toledo Edison states that the executed Service Agreement with the Village of Pioneer provides that the Village will be served under rate Municipal Resale Service Rate—Small and that the Service Agreement replaces a contract (Rate Schedules FPC Number 18) which will expire on September 22, 1976. An effective date of September 23, 1976 has been requested for the filed Service Agreement.

Toledo Edison states that copies of this filing were served upon the Village of Pioneer, Ohio, and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24969 Filed 8-25-76;8:45 am]

[Docket No. ER76–843]

UNION ELECTRIC CO.

Letter Agreement

AUGUST 18, 1976.

Take notice that on August 5, 1976, Union Electric Company (Union) ten-

[1] See Appendix A.

V41167 AUG 26 76 UMI

dered for filing a Letter Agreement revising the demand charge for Maintenance Energy transactions under the Interconnection Agreement dated November 1, 1969 between the Tennessee Valley Authority and Central Illinois Public Service Company, Illinois Power Company, and Union.

Union requests waiver of the filing requirements to allow an effective date of September 1, 1976, for the Letter Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washintgon, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24961 Filed 8-25-76;8:45 am]

[Docket No. ER76-852]

UNION ELECTRIC CO.

Revised Service Schedule

AUGUST 19, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing an Amendment and revised Appendix "C" to the Electric Service Agreement dated December 15, 1955, as amended, between Missouri Power & Light Company (MPL) and Union. Union states that said documents reflect added generating capability by MPL and the subsequent increase in the credit MPL receives in computing monthly billing demand. Union requests an effective date of June 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a peition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24963 Filed 8-25-76;8:45 am]

[Docket No. RP76-109]

UTAH GAS SERVICE CO.

Order Granting Intervention

AUGUST 19, 1976.

On June 4, 1976, Utah Gas Service Company (Utah Gas) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes would increase from $0.61715 per Mcf to $0.84275 per Mcf the cost of natural gas sold by Utah Gas to Northwest Pipeline Corporation. Notice of the filing was issued on June 15, 1976, with comments, protests, or petitions to intervene due on or before June 28, 1976.

On June 24, 1976, Northwest Pipeline Corporation filed a timely petition to intervene. Upon consideration thereof, the Commission finds that good cause exists to grant the petition.

The Commission finds. Participation by Northwest Pipeline Corporation may be in the public interest, and good cause exists to permit such intervention.

The Commission orders. (A) Northwest Pipeline Corporation is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however*, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to me made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24967 Filed 8-25-76;8:45 am]

[Docket No. E-9561]

UTAH POWER & LIGHT COMPANY, MAINE CORP. AND UTAH POWER & LIGHT COMPANY, UTAH CORP.

Order Authorizing Merger

AUGUST 19, 1976.

On June 8, 1976, Utah Power & Light Company, Maine Corporation and Utah Power & Light Company, Utah Corporation (collectively referred to as the "Applicants"), filed a joint application, pursuant to Section 203 of the Federal Power Act, requesting authorization to merge into a single corporation with the Utah Power & Light Company, Utah Corporation being the surviving corporation. The Maine Company is incorporated under the laws of the State of Maine with its principal business office at Salt Lake City, Utah, and has qualified to do business as a foreign corporation in the states of Utah, Colorado, Idaho, Wyoming and New Mexico. It owns and operates a system engaged in the generation, purchase, transmission and distribution of electric energy. The Utah Company was recently incorporated under the laws of the State of Utah for the stated purpose of furnishing a vehicle for transferring the corporate domicile of the Maine Company to the State of Utah.

The Utah Company is a wholly-owned subsidiary of the Maine Company organized solely for the purpose of accomplishing the proposed merger and changing the state of incorporation from Maine to Utah. The Utah Company is not presently engaged in business but upon consummation of the proposed merger said Company will conduct the electric utility business of the Maine Company in all respects as same was conducted prior to the merger.

The Applicants propose to merge, pursuant to a Plan of Merger which has been approved by the Board of Directors and stockholders of each company. The Articles of Incorporation and By-Laws of the Utah Corporation, taken together, are identical in all material respects with the Composite Certificate of Organization and By-Laws, taken together, of the Maine Corporation, except as to differences in form of the Articles of Incorporation which are required to comply with the provisions of the Utah Business Corporation Act. The Utah Corporation, prior to the merger, will not have any significant assets or liabilities. Following the merger, the Utah Corporation will succeed to all of the rights, assets and properties, and assume all of the obligations and liabilities of the Maine Corporation.

Upon the consummation of the proposed merger, each outstanding share of common stock and of preferred stock of each class and series of the Maine Company will automatically be converted into and become, respectively, a like share of the outstanding common or preferred stock of such class and series of the Utah Company. On the effective date of the proposed merger, the Utah Company will assume all of the funded debt and guarantees thereof the Maine Company and the one outstanding share of common stock of the Utah Company which is held by the Maine Company will be acquired by the Utah Company, cancelled and restored to the status of authorized but unissued common stock.

The proposed merger will transfer all of the operating facilities and all other property of every kind whatsoever from the Maine Company to the Utah Company. No change in the method of operation of the facilities of the Company will result from the proposed merger. Upon the consummation of the proposed merger, the Utah Company will succeed, by operation of law, to all of the rights, powers and privileges and all of the duties, obligations, and liabilities under all contracts of the Maine Company for the purchase, sale, or interchange of electric energy.

The facts relied upon by Applicants to show that the proposed merger will be consistent with the public interest are as follows:

(1) Incorporation in Utah will promote a better understanding by state and local government authorities, the Company's customers, and stockholders, and the public generally, of the Company's scope of operations, management and ownership. Although, the Company was incorporated under the laws of Maine in 1912, its principal service area, facilities and headquarters are located in the state of Utah. The Company does not conduct any business in Maine and has no property in that state.

(2) Following the merger, the Company will be relieved of compliance with the laws of the state of Maine and the taxes, fees, reports, and miscellaneous expense incident to compliance with its laws. No additional annual taxes will be payable to the state of Utah as a result of the change.

(3) The Corporate identity of the Company will be clarified in that the state of incorporation, the state appearing in the Company name, the state wherein the corporate headquarters are located, and the state in which the principal service area of the Company is located, will be one and the same state (Utah).

The Public Service Commission of Wyoming, by order issued June 2, 1976, authorized consummation of the transactions described herein.

Written notice of the application has been given to the Wyoming Public Service Commission, the Idaho Public Utilities Commission, the Utah Public Service Commission and to the Governor of each of those states. Notice has also been given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest should on or before July 9, 1976, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No petitions, protest or request to be heard in opposition to the granting of the application has been received.

The Commission finds. (1) Utah Power & Light Company, a Maine Corporation and Utah Power & Light Company, a Utah Corporation, are public utilities within the meaning of Section 203 of the Federal Power Act and subject to the jurisdiction of the Commission.

(2) By the proposed transaction, as described above, and as set forth in the application, the Utah Power & Light Company, a Maine Corporation, will merge or consolidate its facilities with those of Utah Power & Light Company, a Utah Corporation.

(3) The proposed acquisition and merger of the facilities of Utah Power & Light Company, Maine Corporation by Utah Power & Light Company, a Utah Corporation, upon the terms and conditions specified in the application and subject to the provisions of this order, will be consistent with the public interest as expressed in Section 203 of the Federal Power Act for the reasons set forth above.

(4) The period of public notice given in this matter is reasonable.

The Commission orders. (A) The proposed acquisition and merger or consolidation of the facilities of Utah Power & Light Company, a Maine Corporation by the Utah Power & Light Company, a Utah Corporation, all as described above, is hereby authorized and approved upon the terms and conditions set forth in the application and subject to the provisions of this order.

(B) Utah Power & Light Company, a Utah Corporation, shall record the merger transaction herein authorized and approved and the facilities and properties described above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24968 Filed 8-25-76;8:45 am]

[Docket No. ER76-829]

WESTERN MASSACHUSETTS ELECTRIC CO.

Filing of Rate Schedule Amendments

AUGUST 19, 1976.

Take notice that Western Massachusetts Electric Company (WMECO) on July 30, 1976, tendered for filing proposed changes in Resale Service Rate CD-1 and in its FPC Electric Tariff, Original Volume No. 1 (FFC Rate Schedule No. RS-1). The Company states that the proposed changes in rates are estimated to result in an increase in billings to the Company's wholesale customers of approximately $1,650,000 as a result of the changes. In addition, WMECO proposes to amend its fuel adjustment clause to comply with Section 35.14 of the Commission's Regulations.

The increased rates are proposed by WMECO in order to recover its increased costs of service, including the capacity costs associated with its ownership interest in the nuclear generating unit known as Millstone Unit 2, which began commercial operation in December, 1975, and higher depreciation rates and to reflect the accounting procedures relating to interperiod allocations of income taxes promulgated by Commission Orders 50 and 530-B.

Copies of the filing were served upon WMECO's jurisdictional customers and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24984 Filed 8-25-76;8:45 am]

[Docket No. CP76-468 [1]]

CLEARFIELD, AND PRESCOTT, IOWA CITIES OF LENOX, BEDFORD,

Petition for Extraordinary Relief, or, in the Alternative, for an Order Pursuant to Section 7(a) of the Natural Gas Act

AUGUST 18, 1976.

Take notice that on July 14, 1976,[2] the Cities of Lenox, Bedford, Clearfield, and Prescott, Iowa (Cities or Petitioners), 201 Century Plaza Building, Wichita, Kansas 67202, filed in Docket No. CP76-468 a petition pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(b)) for extraordinary relief to obtain an increase of 798 Mcf in their combined maximum daily quantity entitlement from their sole supplier of gas, Natural Gas Pipeline Company of America (Natural), from the present authorized level of 2,055 Mcf per day to 2,853 Mcf per day in order to meet present peak day requirements and the peak day requirements of prior-committed, but as yet unattached, residential and small commercial consumers, or, in the alternative, for an order of the Commission pursuant to Section 7(a) of the Natural Gas Act directing Natural to provide such additional service, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that by order issued March 10, 1967, in Docket No. CP67-189 Natural was directed pursuant to Section 7(a) of the Natural Gas Act to sell and deliver the combined maximum daily entitlement of the Cities at the third year projected operating level of 2,055 Mcf for resale by each of the four municipally-owned systems. It is said that at the time of the filing of the Section 7(a) application, neither the Cities nor their citizens had any reason to believe that their respective gas distribution systems would not be permitted to experience normal growth in the future up to a level of service which provided gas to the bulk of the residents of these municipalities. Thus, it is stated, that when the four communities decided to issue revenue

[1] The subject petition was filed in Docket No. RP76-58-2; however, said petition has been assigned Docket No. CP76-468.

[2] The subject petition was tendered for filing July 14, 1976; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 9, 1976. Thus, filing was not completed until the latter date.

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bonds to pay for their new gas systems, it was fully contemplated that the maximum daily entitlement of the Cities would be increased as required at least during the first 10 years of operation until the four systems had grown out of their infancy and matured to a level of service upon which their revenue bonds were premised and which their citizens were promised. However, Petitioners assert, because a supply deficiency did begin to occur on Natural's system in 1970, the Cities have remained frozen at their third year projected peak day operating level of 2,055 Mcf and have not been afforded the opportunity to achieve the growth of Natural's other distributor customers.

Cities state that they are seeking a most modest 798 Mcf increase in their peak day entitlement of 2,055 Mcf originally granted in 1967 and that, since all of their present customers would qualify as Priority 1 residential and small commercial users, none can be cut off to serve the additional residences and small businesses that have been promised natural gas since the beginning of their municipal systems. Further, it is stated that all of these additional consumers would also be properly classified as Priority 1 users and that, even if no new consumers are added by the Cities, an increase in the maximum daily gas entitlement is required to assure an adequate supply to existing consumers should a design peak day occur on the Cities' systems. Cities thus assert that even if no new consumers are attached, the peak day requirements of their present customers of 2,132 Mcf exceed their present maximum daily entitlement of 2,055 Mcf by 77 Mcf, and at the very least, an increase in Cities' maximum daily entitlement to 2,132 Mcf should be granted. Additionally, the Cities assert that they should be granted enough gas to serve the additional residential and small commercial consumers conservatively projected for the tenth year of operation and that this would require an increment of 721 Mcf to meet the design day needs of these new Priority 1 end users. It is stated that the requested 798 Mcf increase in the Cities' present maximum daily entitlement is necessary to put the Cities on a par with Natural's other distributor-customers which had the opportunity to mature fully before the gas supply deficiency began on Natural's system.

It is asserted that the request for an additional 798 Mcf on a peak day is truly *de minimis* when measured against the 967,145,000 Mcf which Natural projects it would have available for market during the 12-month period, April 1976 to March 1977, and the 3,356,200 Mcf the pipeline expects to be able to supply on the peak day. Further, it is asserted, that since the Cities' incremental peak day entitlement would be consumed exclusively by Priority 1 customers, while Natural is now serving many lower priority end users, the Cities' request is consistent with the Commission's end use policy of encouraging the delivery of natural gas to the highest priority consumers, and no harm would result to any existing high priority customers served by Natural.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24999 Filed 8-25-76;8:45 am]

[Docket No. RP72-142; PGA 76-7]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 19, 1976.

Take notice that Cities Service Gas Company (Cities Service) on August 6, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based solely on increased purchase gas costs which will result from filings by one of its pipeline suppliers, Transwestern Pipeline Company (Transwestern).

Cities Service states that it has filed its First Revised Sixteenth Revised Sheet PGA-1 to be effective September 23, 1976, to reflect the rates on Transwestern's Substitute Third Revised Sheet Nos. 5 and 6.

Transwestern has filed its Substitute Third Revised Sheet Nos. 5 and 6 to its FPC Gas Tariff, Second Revised Volume No. 1, to track producers' increases resulting from Opinion Nos. 749 and 749-A. Such rates will become effective August 1, 1976.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72-142 and RP76-13.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25000 Filed 8-25-76;8:45 am]

[Docket No. ES76-62]

INTERSTATE POWER CO.

Application

AUGUST 19, 1976.

Take notice that on July 29, 1976, an application was filed with the Federal Power Commission pursuant to Section 204 of the Federal Power Act by Interstate Power Company (Applicant), seeking an order authorizing the issuance of $25,000 principal amount of First Mortgage Bonds, due 2001, and 400,000 shares of its authorized but unissued Preference Stock of the par value of $1 per share.

Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

The Bonds proposed to be issued will be in the aggregate principal amount of $25,000,000 and will bear interest at a rate and shall be sold at a price to be determined by competitive bids which the Applicant proposes publicly to invite pursuant to the requirements of Section 34.1a(b) of the Commission's Regulations under the Federal Power Act. The Bonds will be dated as of October 1, 1976, and will be expressed to mature on October 1, 2001, and will be issued under a Fifteenth Supplemental Indenture to be dated as of October 1, 1976.

Applicant proposes to issue 400,000 shares of its authorized but unissued Preference Stock of the par value of $1 per share. The dividend rate is proposed to be determined pursuant to competitive bidding on or about September 28, 1976, and to be sold in accordance with the requirements of Section 34.1a(b) of the Commission's Regulations.

Applicant proposes to use the proceeds from the issuance of the securities to pay off a portion of short-term loans incurred and to be incurred prior to the sale of the Bonds and the Preference Stock to secure funds for construction purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 31, 1976, filed with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25001 Filed 8-25-76;8:45 am]

[Docket No. ES76-63]

IOWA POWER AND LIGHT CO.

Application

AUGUST 19, 1976.

Take Notice that on July 29, 1976, Iowa Power and Light Company (Applicant) of Des Moines, Iowa, filed an application, pursuant to Section 204 of the Federal Power Act, for authorization to negotiate privately with the City of Chillicothe, Iowa for the purpose of financing the Company's undivided interest in certain pollution control facilities at Ottumwa Generating Station Unit 1 through the issuance of the City's Pollution Control Revenue Bonds. A loan agreement between the City, Applicant and certain other companies possessing undivided interests in Unit 1 would commit the City to issue and sell to underwriters its Pollution Control Bonds in an aggregate principal amount equal to the cost of such facilities and to loan the proceeds from the sale of such Revenue Bonds to the companies in proportion to their respective ownership interests. The repayment obligation of the companies, including Applicant, would be evidenced by debt obligations bearing identical terms with, and pledged to support the payment of, such Revenue Bonds.

Applicant is incorporated under the laws of the State of Iowa with its principal office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

Any person desiring to be heard or to make any protest with reference to the Application should on or before September 10, 1976, filed with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission wil be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25002 Filed 8-25-76;8:45 am]

[Docket No. CP73-332]

NORTHWEST PIPELINE CORP.

Petition To Amend

AUGUST 19, 1976.

Take notice that on August 9, 1976, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP73-332 a petition to amend further the order issued February 26, 1975, in said docket pursuant to Section 3 of the Natural Gas Act by authorizing the continued importation of up to 55,000 Mcf of natural gas per day at the increased border prices ordered by the National Energy Board of Canada (NEB), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the order of February 26, 1975, among other things, authorized Petitioner to import at a point on the international boundary near Sumas, Washington, natural gas purchased from Westcoast Transmission Company Limited (Westcoast) under a 1974 Temporary Agreement, dated August 14, 1974, as amended November 14 and December 7, 1974. Petitioner now requests authorization to continue to import said gas at the Canadian Government's newly established border prices of $1.80 per Mcf commencing September 10, 1976, and at $1.94 commencing January 1, 1977, and continuing through April 30, 1977, the expiration date of the temporary agreement.

Petitioner states that Westcoast purchases the gas it sells to Petitioner from Pan Alberta Gas Company Limited (Pan Alberta) and that the newly established border price for Westcoast's License GL-41 removed the previously provided exception for the Pan Alberta gas and that, therefore, Petitioner states the price for said gas under the 1974 Temporary Agreement would be $1.80 per Mcf effective September 10, 1976, and $1.94 per Mcf effective January 1, 1977.

Applicant asserts that the continued importation would provide approximately 11,660,000 Mcf of natural gas which may not otherwise be available should the requested authorization not be granted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25003 Filed 8-25-76;8:45 am]

[Docket No. CP76-473]

PANHANDLE EASTERN PIPELINE CO.

Application

AUGUST 19, 1976.

Take notice that on August 9, 1976, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, filed in Docket No. CP76-473 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7 (b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing the date of authorization, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,000,000 and that no single onshore project would exceed a cost of $1,500,000. These costs would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7

V 41 N 167 AUG 26 76 UMI

and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25004 Filed 8-25-76;8:45 am]

[Docket No. CP76-472]

PANHANDLE EASTERN PIPE LINE CO.

Application

AUGUST 19, 1976.

Take notice that on August 9, 1976, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP76-472 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing the date of authorization, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from the authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $2,000,000 and that the cost of any single project would not exceed $500,000. These costs would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25005 Filed 8-25-76;8:45 am]

[Docket Nos. RP73-35 and RP74-89; (PGA76-3 and AP76-3)]

TRUNKLINE GAS CO.

Order Granting Intervention

AUGUST 19, 1976.

Pipeline rates: Intervention. Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On June 15, 1976, Trunkline Gas Company (Trunkline) tendered for filing a revised tariff sheet[1] that amounts to a rate increase of 11.48¢ per Mcf. Notice of Trunkline's filing was issued on June 22, 1976, with protests and petitions to intervene due on or before July 13, 1976. An untimely petition to intervene was filed by Consumers Power Company (Consumers) on July 15, 1976. Having reviewed the above petition to intervene, we believe that Consumers has sufficient interest in these proceedings to warrant intervention and that good cause exists for permitting the late filing.

The Commission finds: The participation of Consumers in these proceedings may be in the public interest and good cause exists for permitting the late filing.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious determination of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25006 Filed 8-25-76;8:45 am]

[1] Sixteenth Revised Sheet No. 3-A to Original Volume No. 1.

[Docket No. ER76-808]

VIRGINIA ELECTRIC AND POWER CO.

Tendered Revised Contract Supplements

AUGUST 19, 1976.

Take notice that on July 23, 1976, Virginia Electric and Power Company (VEPCO), tendered for filing revised supplements to contracts between VEPCO and Shenandoah Valley Electric Cooperative. VEPCO states that the revised contract supplements correct certain items to reflect changes made in the past at various delivery points as set forth below:

Delivery point	Present FPC No.	Proposed FPC No.	Requested effective date	Item corrected
Brands	84-12	84-38	Apr. 20, 1976	4, 5(1), 5(2), 5(3), 6, 7, 11.
Crimora	84-10	84-39	Aug. 28, 1972	5(1), 5(2), 5(3), 11.
Dayton	84-30	84-40	Mar. 6, 1976	4, 5(3).
Sherando	84-7	84-41	Apr. 10, 1974	4, 5(2), 5(3).

VEPCO states that the revised contract supplements are intended to supersede the listed FPC Rate Schedules and requests that the revised supplements be allowed to become effective on the requested effective dates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25007 Filed 8-25-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-15]

PLANT HANGERS

Amendment of Scope of Investigation

Notice is hereby given that the United States International Trade Commission, on August 23, 1976, amended the scope of its investigation No. TA-201-15, Plant Hangers, being conducted under section 201(b) of the Trade Act of 1974, by adding to the scope of the investigation plant hangers, of beads, provided for in item 741.50 of the Tariff Schedules of the United States.

Notice of the Commission's institution of the investigation and hearings was published in the FEDERAL REGISTER of July 2, 1976 (41 F.R. 27449); notice of the times and places of hearings was published in the FEDERAL REGISTER of August 4, 1976 (41 F.R. 32670).

By order of the Commission:

Issued: August 23, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-25079 Filed 8-25-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-35]

SAFETY RECOMMENDATIONS AND RESPONSES

Notice of Availability and Receipt

Aviation Safety Recommendations.—The National Transportation Safety Board, by letter of August 20, has issued to the Federal Aviation Administration 11 recommendations concerning aerobatic maneuvers. The recommendations stemmed from the Board's special study, "General Aviation Accidents Involving Aerobatics, 1972-1974." This study, soon to be released to the public, was prompted by the continued occurrence in recent years of fatal aerobatic accidents—105 such accidents, resulting in 107 fatalities and 21 serious injuries, occurred from 1972 through 1974. In view of the growing interest in sport aerobatics and the continuing manufacture of airplanes certificated for aerobatic operation, the Safety Board believes that an effort should be made to reduce the number of such accidents.

The recommendation letter focuses upon several areas of need for corrective action in aerobatics: Training, operations/airworthiness, accidents at low altitude, spins, and load factor measurement. Accordingly, the Board recommends that FAA (1) expand the presentation of flight instructor stall/spin indoctrination clinics patterned after the one initially held in FAA's Central Region on August 15-17, 1975, to include all FAA Regions and various popular make and model airplanes (recommendation No. A-76-105); (2) require a commercial flight instructor to hold a "letter of competence" or its equivalent before providing aerobatic instruction other than that routinely required during the normal course of training for airmen certification tests (A-76-106); (3) require that pilots obtaining a logbook endorsement from an aerobatic flight instructor before performing aerobatic maneuvers other than those required in connection with airman certification tests (A-76-107); (4) issue an Advisory Circular explaining the operational considerations, airworthiness requirements, and safety aspects associated with the performance of aerobatics (A-76-108); (5) require that all airplanes subsequently certificated in the aerobatic category, including those previously certificated in another category under a regulatory Part other than 14 CFR 23, conform with the currently applicable structural criteria in subpart C of FAR 23, particularly the provisions relating to limit maneuvering load factors (A-76-109); (6) evaluate the feasibility of specifying stick force gradient requirements uniquely applicable to aerobatic airplanes in 14 CFR 23.155, "Elevator control force in maneuvers" (A-76-110); (7) amend 14 CFR 91.71, "Aerobatic flight" to include a schedule of minimum initial spin altitudes (A-76-111); (8) conduct an intensive accident prevention campaign to emphasize and enforce effectively the provisions of 14 CFR 91.71, "Acrobatic flight," and 14 CFR 91.9, "Careless or reckless operation" (A-76-112); (9) require the installation of accelerometers in all aerobatic airplanes (A-76-113); (10) amend 14 CFR 23.337, "Limit maneuvering load factors," to increase the minimum required, negative limit maneuvering load factor for aerobatic airplanes from −3.0 to −4.5 (A-76-114); and (11) amend 14 CFR 23.333, "Flight envelope," to require that the negative maneuvering load factor specified in 14 CFR 23.337 for the aerobatic category remain constant beween design cruising speed and design dive speed (A-76-115).

Recommendations A-76-105, A-76-108, A-76-109, A-76-111, and A-76-112 are designated Class II—priority followup; the remainder are Class III—longer-term followup.

Railroad Safety Recommendations.—Two more recommendations have been issued by the Safety Board as a result of its ongoing investigation of the July 13 collision of two ConRail commuter trains at New Canaan, Connecticut. (See 41 FR 32795), August 5, 1976.) The latest recommendations, Nos. R-76-48 and R-76-49, were issued by Safety Board letter of August 20 addressed jointly to the Connecticut Department of Transportation and to the Metropolitan Transportation Authority. The recommendations were prompted by testimony during the investigation that passengers had extreme difficulty after the collision in following the instructions for operating the emergency release mechanisms which opened the side doors of the cars. Upon completion of the investigation, the Board's report containing facts, analysis, and conclusions concerning this accident will be released to the public.

The problems of emergency evacuation of passengers from M-2 cars have been brought to the attention of Federal, State, and local officials before without correction, according to the Safety Board. Corrections of these problems are practical; hence, the Board now urges that these recommendations be implemented on an "urgent followup" basis: (1) change the emergency release mechanism for the side doors on the type of cars involved in this accident (M-1 and M-2) so that the doors can be opened easily by passengers under emergency conditions without opening the mechanism's compartment (R-76-48); and (2) provide means for emergency aid personnel to open the doors from the outside when electrical power is lost (R-76-49).

Letters in Response to Safety Board Recommendations.—Received by the Board during the past week were these responses from the following recommendation addressees:

Federal Highway Administration letter of August 13 responds to recommendation H-76-16 which resulted from investigation of five major accidents involving commercial vehicles in which semi-trailers had become separated from their tractors during rollover. (See 41 FR 21713, May 27, 1976.) FHA states that of the 25,358 accidents reported to the Bureau of Motor Carrier Safety (BMCS) for 1974, 56, or 0.2 percent, involved fifth wheel separation. Analysis indicated that 45 percent separated because of apparent improper coupling, and would not have been affected by the Board's recommendation; 30 percent indicated improper mounting or improper maintenance of the attachment of the fifth wheel to the tractor frame; 20 percent related to the upper half of the fifth wheel or the kingpin; and the remaining 5 percent were inconclusive because of lack of information.

As a result of study of the five Board-cited accidents, and the indication of substandard maintenance and extremely violent forces acting on the fifth wheel assembly, FHA concludes that there is no justification for revising 49 CFR 393.70, as recommended. According to FHA, BMCS will issue a memorandum and guidelines to all field offices to point out the need for detailed inspection of fifth wheel mountings when conducting vehicle compliance checks. A copy of the memorandum and guidelines is attached to FHA's letter.

U.S. Coast Guard letter of August 11 updates response to recommendations M-74-26, M-74-28, and M-74-31 which were issued as a result of investigation of the death of three ship's officers at

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Guayanilla, Puerto Rico, on November 18, 1972, while serving on board the *SS William T. Steele*. (Marine casualty report No. USCG/NTSB–MAR–74–6.) Recommendation M–74–26 asked the Coast Guard to review and revise requirements for emergency equipment within cargo tanks and require a scheduled check procedure to insure that such equipment is maintained in working order. Referring to its letter of March 21, 1975, Coast Guard notes that a notice of proposed rulemaking is currently being drafted, publication expected by this year's end.

Re recommendation M–74–28, Coast Guard notes that the Merchant Marine Safety School at Yorktown, Virginia, has included in its curriculum the information contained in Commandant Notice 5941 of February 26, 1975, a copy of which was supplied to the Board with Coast Guard's response to April 2, 1975 (40 FR 19045, May 1, 1975). Emergency equipment is inspected at regularly scheduled inspections of vessels. Coast Guard considers that implementation of this recommendation is fulfilled. Re recommendation M–74–31, Coast Guard states that the notice of proposed rulemaking spoken to in its response of December 15, 1975 (41 FR 1547, January 8, 1976) has been drafted, and publication may be expected prior to the end of this year.

Port Authority Transit Corporation (PATCO) letter of August 11 and *Washington Metropolitan Area Transit Authority* (WMATA) letter of August 10 both respond to recommendations R–76–42 through R–76–44 concerning automatic train control (ATC). (See 41 FR 34125, August 12, 1976.) PATCO states concerning R–76–42 that the ATC and cab signal functions of the lead car of every train is cycled on a test section of track within yard limits before that train is allowed to enter the mainline tracks. Only trains with fully functioning ATC and cab signals are permitted to enter mainline tracks. Re recommendation R–76–43, PATCO details rules concerning its cars' ATC system which is designed on the "fail safe" principle and which will automatically bring a train to "stop" in the event of cab signal failure, whereupon the train operator must notify the system dispatcher immediately. In the event the dispatcher decides that these rules cannot be complied with, all passengers are discharged at the next station and the train removed from service. Concerning recommendation R–76–44, the letter states that all PATCO train operating cabs are equipped with two-way voice communication between trains and system dispatcher, located at the Center Tower, and between trains within the same communications zone. Also, PATCO cars are equipped with public address systems controlled from the active operators cab. PATCO concludes, "Thus it is clear that PATCO operations are in accord with the objectives of NTSB Safety Recommendations R–76–42 through R–76–44."

WMATA notes, with reference to R–76–42, its requirement to perform daily safety tests on all cars prior to being placed in revenue service each day; should any car fail to pass the test, it is not dispatched until deficiencies are corrected and it does pass the test. Re R–76–43, WMATA has procedures for evacuating passengers from defective trains. WMATA states that, when trains fail en route and it is necessary to operate with automatic train protection subsystem inoperative or with less than 75 percent braking, passengers are unloaded at the next station, manual blocks established, and the train is operated non-revenue at reduced speed to the yard and off the mainline. Re 9–76–44, WMATA indicates that each car is equipped with a radio and that radio checks are made prior to entering mainline operation each day. Also, radio communication between operations control center and each train is frequent throughout the operating day. WMATA further states that the radio communications subsystem is equipped with base stations failure detection equipment that immediately notifies the Operations Control Center of any failures of base stations.

Michigan Wisconsin Pipe Line Company letter of August 10 concerns recommendations P–76–27 through P–76–29, which were issued after investigation of the January 7, 1976, rupture of a 12-inch gas-gathering pipeline at Cedarville, Oklahoma. (See 41 FR 27136, July 1, 1976.) The company letter notes re P–76–27 that, following the accident, instructions were issued to field supervision again stressing the importance of Operation and Maintenance and Emergency Procedure review at the semi-annual training meetings each year. Also, since the accident, field locations have conducted numerous meetings on procedural matters, emphasizing the concern described in recommendation P–76–28. All personnel at each field location receive this type of training twice a year, and these training meetings are in addition to the monthly safety meetings conducted at each location.

Re R–76–28, Michigan Wisconsin has examined its Emergency Procedures and Operation and Maintenance Procedures for pipelines and compressor stations, and its procedure for isolation of facilities now provides operating personnel performing valving or piping changes with written instructions reviewed by at least two persons and approved by the supervisor. Re P–76–29, Michigan Wisconsin will prohibit valve or piping changes while construction is being conducted within the area, except for necessary maintenance of service and emergency conditions.

Safety Board Reply to Recommendation Response:—In reply to Coast Guard's letter of July 20 (41 FR 32796, August 5, 1976) regarding recommendation M–74–19, the Safety Board on August 13 indicated that Coast Guard's review process conducted on applications for bridge construction contains many of the elements of the safety impact study recommended by the Safety Board.

The Board further stated that, while safety impact studies would provide a formalized and definite methodology and format for the safety analysis and provide a clearer assessment of risks, the procedures described by Coast Guard appear able to accomplish the same results. The Board accepts this procedure as equivalent to recommendation M–74–19.

Safety recommendation letters are available to the general public; single copies may be obtained without charge. Copies of the letters responding to safety recommendations and Safety Board replies may be obtained at a cost of $1.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 23, 1976.

[FR Doc.76–25077 Filed 8–25–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 23 and 20 to Facility Operating Licenses Nos. DPR–39 and DPR–48 issued to Commonwealth Edison Company for operation of the Zion Station, Units 1 and 2, located in Zion, Illinois. The amendments are effective upon date of issuance.

These amendments authorize changes in the design of the Zion spent fuel pool from that reviewed and approved in the operating license review and as described in the Zion Station Final Safety Analysis Report. The changes will increase spent fuel storage capacity from 340 to 868 assemblies. These amendments also change the amount of U–235 the licensee is allowed to possess, per unit, from 4000 Kg to that amount limited to storage capacity and amounts required for reactor operation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on November 17, 1975 (40 FR 53323).

In connection with the issuance of the amendments, the Commission has issued a Negative Declaration and Environmental Impact Appraisal.

For further details with respect to this action, see (1) the application for amendments dated October 24, 1975, as supplemented December 12, 1975, February 13, March 23, June 1, and June 8, 1976, (2) Amendments Nos. 23 and 20 to Licenses Nos. DPR–39 and DPR–48, (3) the Commission's Negative Declaration published concurrently with this Notice, (4) the Commission's Environmental Impact Appraisal, and (5) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60685.

A copy of items (2), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76–24751 Filed 8–25–76;8:45 am]

[Docket Nos. 50–269, 50–270 and 50–287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 29, 29, and 26 to Facility Operating Licenses No. DPR–38, DPR–47, and DPR–55, respectively, issued to Duke Power Company which revised Technical Specifications for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments consist of revisions to the Limiting Conditions for Operation and Surveillance Requirements for safety related air filter systems.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to the action, see (1) the application for amendment dated March 10, 1976, (2) Amendments No. 29, 29, and 26 to Licenses No. DPR–38, DPR–47, and DPR–55, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76–24750 Filed 8–25–76;8:45 am]

[Docket No. 50–376]

PUERTO RICO WATER RESOURCES AUTHORITY

Availability of Draft Environmental Statement (English Version) for North Coast Nuclear Plant, Unit No. 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (English version) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the suitability of the site proposed for construction of the North Coast Nuclear Plant, Unit No. 1. The proposed site is located on the north central coast of Puerto Rico (Islote). The Draft Environmental Statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., the Arecibo City Hall Library, Post Office Box 1086, Arecibo, Puerto Rico 00612 and the Etien Totti Public Library, College of Engineers, Architects and Surveyors, Orb Roosevelt Development, Hato Rey, Puerto Rico 00918. The Draft Statement is also being made available at the Puerto Rico Planning Board, P.O. Box 41119, Minillas Station, Santurce, Puerto Rico 00940. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

A Spanish translation of this Draft Environmental Statement will be issued later, the availability of which will be published in the FEDERAL REGISTER.

The Applicant's Environmental Report, as supplemented, submitted by Puerto Rico Water Resources Authority, is also available for public inspection at the above designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on February 14, 1975 (40 FR 6835).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, Commonwealth, and specified local agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement. Other interested persons or local agencies may obtain these documents upon request. Comments will be due 45 days after the notice of availability of the Spanish version of the Draft Environmental Statement is published in the FEDERAL REGISTER by the Council on Environmental Quality. Comments by Federal, Commonwealth, and local officials, or other members of the public will be made available by the Commission for public inspection at the Commission's Public Document Room in Washington, D.C., the Arecibo City Hall Library, Arecibo, Puerto Rico 00612, and the Etien Totti Public Library, College of Engineers, Architects and Surveyors, Orb Roosevelt Development, Hato Rey, Puerto Rico 00918. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 18th day of August 1976.

For the Nuclear Regulatory Commission.

FRED J. CLARK, Jr.,
Acting Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76–24749 Filed 8–25–76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 7, "Code Case Acceptability—ASME Section III Design and Fabrication," and Regulatory Guide 1.85, Revision 7, "Code

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Case Acceptability—ASME Section III Materials," list those Code Cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable Code Cases and to reflect public comment.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-24753 Filed 8-25-76;8:45 am]

[Dockets Nos. 50-295 and 50-304; Licensee Nos. DPR-39 and DPR-48]

ZION STATION UNITS 1 AND 2

Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of Amendments to Facility Operating Licenses No. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) for operation of the Zion Station Units 1 and 2, located in Zion, Lake County, Illinois.

The amendments would authorize changes in the design of the Zion spent fuel storage pool from that reviewed and approved in the operating license review and as described in the Zion Station Final Safety Analysis Report. The changes would increase spent fuel storage capacity from 340 to 868 assemblies. These amendments would also change the amount of U-235 the licensee is allowed to possess, per unit, from 4,000 Kg to that amount limited to storage capacity and amounts required for reactor operation.

The Commission's Division of Operating Reactors has prepared an environmental impact appraisal for this proposed modification to the spent fuel pool. Within the context of this appraisal, the Staff applied, weighed, and balanced the five factors specified by the Commission in its issuance of FEDERAL REGISTER Notice (40 FR 42801) dated September 16, 1975, regarding handling and storage of spent fuel from light water power reactors. On the basis of this environmental impact appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this proposed amendment will not significantly affect the quality of the human environment.

The enviornmental impact appraisal setting forth the basis for the Commission's determination is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois, 60685.

Dated at Bethesda, Maryland, this 9th day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc.76-24752 Filed 8-25-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the National Market Advisory Board will conduct open meetings on September 20 and 21, 1976, in Room 776, 500 North Capitol Street, Washington, D.C., beginning at 9:30 a.m. on September 20, and at 8:30 a.m. on September 21. The Board will also conduct open meetings on October 6, 7, and 8, 1976, at the same location, beginning at 9:30 a.m. on October 6 and at 8:30 a.m. on October 7 and 8. The Board will also conduct open meetings on October 18 and 19, 1976, the location and summarized agenda for which will be published in the FEDERAL REGISTER at a later date. Initial notice of the September meeting was published in the FEDERAL REGISTER on July 2, 1976.

The summarized agenda for the September meeting is as follows:

1. Discussion of the Board's report to the Securities and Exchange Commission on in-house agency cross transactions in listed securities by exchange members;
2. Discussion of the Board's report to the Securities and Exchange Commission regarding the establishment of a consolidated limit order book; and
3. Discussion of such other matters as may properly be brought before the Board.

The summarized agenda for the October 6, 7 and 8 meeting is as follows:

1. Discussion of the Board's report to the Securities and Exchange Commission regarding the establishment of a consolidated limit order book; and
2. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 20, 1976.

[FR Doc.76-24996 Filed 8-25-76;8:45 am]

[SR-Amex-76-17]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

On July 20, 1976, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"), and Rule 19b-4 thereunder, copies of a proposed rule change to delete from the Amex Constitution section 4(g) of Article V and section 2 of Article XI which prohibit dealings on the Amex floor in any security which is admitted to trading on any other exchange located in New York City.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12656, (July 26, 1976)) and by publication in the FEDERAL REGISTER (41 F.R. 32478 (August 3, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

On August 10, 1976 the Amex filed an amendment to this rule proposal in which it was stated that the foregoing constitutional amendments were approved by the Amex membership at a special meeting held on August 5, 1976. Further, the Amex requested accelerated approval so as to permit the amendments to become effective on August 22, 1976. On August 23, 1976, the first issue in many years to be dually listed on the Amex and the New York Stock Exchange ("NYSE") is scheduled to commence trading on the NYSE. Hence, it is necessary for the Amex's proposal to take effect on or before August 23, 1976 to permit continued trading in the dually listed security on the Amex. Moreover, the Amex proposal will help to enhance fair competition among exchange markets, which is one of the objectives of the Act. The Commission therefore finds good cause for approving Amex filing 76-17 prior to the thirtieth day after the date of publication of notice of the filing.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on July 20, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-24998 Filed 8-24-76;8:45 am]

[SR-CBOE-76-6]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

On March 2, 1976, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, § 16 (June 4, 1975) (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal") to amend CBOE Rule 5.4 ("Rule 5.4"). Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 12178, March 8, 1976) and by publication in the FEDERAL REGISTER (41 FR 10974, March 15, 1976). The submission was then amended by three separate amendments submitted on April 26, 1976, April 28, 1976 and May 12, 1976, respectively.

Amendment No. 4 to the Proposal was submitted on June 2, 1976; notice of the filing of such amendment, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 12540, June 11, 1976) and by publication in the FEDERAL REGISTER (41 FR 24782, June 18, 1976). Additional amendments to the Proposal were submitted on July 22, 1976 and August 4, 1976, respectively.

The Proposal, as amended ("Amended Proposal"), is to revise Rule 5.4 so as to set forth delisting (i.e., maintenance) standards for underlying securities of option contracts traded on the CBOE.

The Commission understands that CBOE is prepared, subject to review of public comments on a related proposed rule change (submitted as File No. SR-CBOE-76-18) and the Commission's final decision thereon, to adopt certain amendments to CBOE Rule 5.3 which would set forth initial listing standards for underlying securities of option contracts traded on the CBOE and to adopt additional amendments to Rule 5.4. The Commission further understands, however, that CBOE will reconsider, in accordance with the Commission's suggestion, a certain proposed "maintenance" standard relating to minimum market price set forth in such related proposal. On that basis, the Commission finds that the Amended Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the Amended Proposal be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24997 Filed 8-24-76;8:45 am]

ADVISORY COMMITTEE ON REPLACEMENT COST IMPLEMENTATION

Meeting

This is to give public notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Securities and Exchange Commission Advisory Committee on Replacement Cost Implementation will conduct a meeting on September 17, 1976 at the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. beginning at 9:30 a.m. This meeting will be open to the public.

This will be the fourth meeting of the Advisory Committee. The purpose of the meeting is to (1) discuss the Chief Accountant's recommended solutions to questions put before the Advisory Committee at its previous meeting (August 9, 1976), (2) discuss various aspects of the Commission's replacement cost regulation and (3) discuss implementation questions having come to the attention of the Chief Accountant of the Securities and Exchange Commission since the date of the previous meetings.

In addition, the Disclosure sub-committee of the Advisory Committee on Replacement Cost Implementation will meet on September 16, 1976, beginning at 1:30 p.m. to discuss sample disclosures.

Further information on this matter may be obtained by writing:

Mr. George A. Fitzsimmons, Secretary, Securities and Exchange Commission, United States Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Advisory Committee Management Officer.

AUGUST 17, 1976.

[FR Doc 76-25044 Filed 8-25-76;8:45 am]

[File No. 500-1]

DIVERSIFIED INDUSTRIES, INC.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Diversified Industries, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from August 19, 1976 through August 28, 1976.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-25040 Filed 8-25-76;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA AND ORION CAPITAL CORP.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Equity Funding Corporation of America, including Orion Capital Corporation, being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from August 19, 1976 through August 26, 1976.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-25039 Filed 8-25-76;8:45 am]

[Release No. 34-12707; File No. SR-MSTC-76-10]

MIDWEST SECURITIES TRUST CO.

Proposed Rule Change; Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 14, 1976, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Agreement made this ------- day of ---------- 1976, by and between Midwest Securities Trust Company, an Illinois corporation and trust company, hereinafter called the "Depository", and Bradford Trust Company, 95 Wall Street, New York, New York 10005, hereinafter called the "Custodian".

In consideration of the fees to be paid by the Depository to the Custodian in accordance with the attached fee schedule designated as Schedule "A", and other valuable considerations, receipt of which is hereby acknowledged, the parties mutually agree as follows:

1. From time to time, the Depository will deliver to the Custodian certificate(s) representing securities which the Custodian will hold, safeguard, and transfer solely in the manner provided herein. As used in this agreement, "securities" shall mean common and preferred stock certificates and American depository receipts.

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2. The Custodian shall, solely in accordance with the written instructions of the Depository, receive securities from the Depository, hold such securities in safekeeping, and deliver such securities to the Depository or (to the extent permitted by the rules and procedures of the Custodian) to such parties as the Depository shall designate. Prior to the delivery of any securities in accordance herewith, the Custodian shall, if the Depository so requests, transfer or procure the transfer of such securities into such name or names as the Depository shall specify. All of the aforesaid written instructions and requests will be delivered by the Depository to the manager of the Custodian's TAD Division at the address of the Custodian.

3. At the end of each business day, the Custodian shall (a) provide the Depository with a dated statement showing, in respect of each class of securities held by the Custodian for the Depository, (i) an opening balance, (ii) the total number of shares deposited with the Custodian for the account of the Depository on that business day, (iii) the total number of shares withdrawn from the account of the Depository on that business day, (iv) a closing balance, and (v) the total number of shares subject to transfer and other instructions received from the Depository which are being processed; and (b) hold within its custody certificates, registered in or endorsed for transfer into the name of the Custodian's nominee (TAD & Co.), representing the aggregate number of shares of each security reflected in the closing balances shown on the Custodian's statement to the Depository for that business day, less such shares as shall be represented by certificates which have been submitted by the Custodian for transfer into the name of its nominee.

4. Certificates evidencing securities held by the Custodian for the account of the Depository may be commingled by the Custodian and held in a fungible bulk with certificates evidencing securities held by the Custodian for other depositors. As between the Depository and the Custodian (including, without limitation, its creditors, lien holders, and pledgees) all securities from time to time held by the Custodian for the account of the Depository shall be deemed to be the sole property of the Depository and the Custodian shall have no interest in them whatsoever. The Custodian agrees that it will not for any reason, including the assertion of any claim, right or lien of any kind, refuse or refrain from promptly delivering any such securities to the Depository or as directed by it: *Provided, however,* That if the Custodian is served with a notice of levy, seizure or similar notice, or order or judgment, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over the Custodian, which on its face affects such securities, the Custodian may, pending further direction of such goverenmental agency or court, refuse or refrain from delivering in contravention of such notice of levy, seizure or similar notice, or order or judgment, securities not greater in amount or number than the securities which are affected by such notice of levy, seizure or similar notice, or order or judgment, on the face thereof. No amendment shall be made to this paragraph unless such amendment shall have been filed with the Securities and Exchange Commission pursuant to the provisions of Rule 19b-4 and Rules 8c-1(g) and 15c2-1(g) under the Securities Exchange Act of 1934, as amended, and approved and deemed adequate by the Securities and Exchange Commission for the protection of investors.

5. The Custodian shall hold the securities held by it hereunder in a secure area(s) located at 2 Broadway, New York, New York 10004. The Custodian shall remove such securities from the secure area(s) only to the extent necessary to register transfers and effect deliveries as directed by the Depository's written instructions.

6. The Custodian shall provide and be responsible for the safekeeping of the securities held by it hereunder, and shall, at its expense, replace, within the shortest time practicable, any such securities which shall be lost or destroyed in any manner or for which the Custodian shall be unable to account after such securities have been delivered to and received by the Custodian. Any such loss or destruction of securities, or inability to account therefor, shall be reported immediately by the Custodian to the Depository.

7. During the term of this Agreement, the Custodian will provide, at its expense, blanket insurance coverage which will be in the form of the customary Bankers Blanket Bond Form (or comparable plan of insurance). The Custodian shall, from time to time, upon Depository's request, furnish the Depository with copies of the policies evidencing such coverage, and such copies shall be certified as correct and current by responsible officers of the Custodian.

8. The Custodian in its Transfer Agent Custodian capacity shall not assert or claim any lien of any nature with respect to the certificates held by it hereunder.

9. The Custodian may delegate or subcontract to its subsidiary TAD Depository Corporation the duty of processing securities held by the Custodian for the Depository hereunder, provided that (a) such securities shall remain at all times (except as otherwise expressly permitted herein) within the custody of the Custodian and in a secure area or areas under its control; and (b) the delegation or subcontracting of any of the duties or responsibilities of the Custodian hereunder shall not, as between the Depository and the Custodian, relieve the Custodian of responsibility therefor.

10. The Custodian shall act upon the Depository's instructions only when in writing and when transmitted to it by the Manager of the Depository's Transfer Department, or by such other persons as said Depository shall from time to time designate in writing to the Custodian.

11. This Agreement may be terminated by either party upon ten (10) days' written notice to the other party. At the termination of this Agreement, the Custodian shall deliver all securities and certificates then held by it to the Depository, at the Depository's expense, at 120 South LaSalle Street, Chicago, Illinois 60603 or such other address as the Depository may from time to time designate.

12. This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois and all other statutory, regulatory or common law binding either or both of the parties.

13. In addition to the normal written instructions hereinbefore provided, any additional notices given here under shall be in writing, shall be delivered by hand or mailed by certified or registered mail and a return receipt requested, and shall be addressed to the Custodian at 2 Broadway, New York, New York 10004, and to the Depository at 120 South LaSalle Street, Chicago, Illinois 60603 or at such other address as either party may designate by a notice mailed in the same manner.

Midwest Securities Trust Company

By _____

Title _____

Date: _____

_____

(Custodian)

By _____

Title _____

Date: _____

STATEMENT OF BASIS AND PURPOSE

The proposed rule change creates a New York custodian agent for the Midwest Securities Trust Company for the holding, safeguarding, and transferring of securities on its behalf.

The proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions.

Comments were neither solicited nor received.

The Midwest Securities Trust Company believes that no burdens have been placed on competition.

On or before September 29, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 15, 1976.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 16, 1976.

[FR Doc.76-25045 Filed 8-25-76;8:45 am]

[File No. 500-1]

NATHAN HALE INVESTMENT CORP.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Nathan Hale Investment Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:15 p.m. (e.d.t.) on August 18, 1976 through August 27, 1976.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-25041 Filed 8-25-76;8:45 am]

[File No. 81-216]

SOUTHEAST ACQUISITION CO. AND PALMER BANK CORP.

Application and Opportunity for Hearing

AUGUST 18, 1976.

Notice is hereby given that Southeast Acquisition Company, successor by merger to Palmer Bank Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from filing with respect to Palmer Bank Corporation ("Palmer") an annual report on Form 10-K for the year ended December 31, 1975 and all other reports required to be filed pursuant to section 13 or 15(d) of the 1934 Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons.

Sections 13 and 15(d) of the 1934 Act require that issuers of securities registered pursuant to section 12 or that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of section 12(g), 13, 14 or 15(d) of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The Applicant states in part that:

(1) Applicant is a wholly-owned subsidiary of Southeast Banking Corporation ("Southeast").

(2) Prior to the merger of Palmer into Applicant, Palmer was subject to the provisions of section 15(d) of the 1934 Act and its common stock was registered pursuant to section 12(g) of the 1934 Act.

(3) Prior to the merger of Palmer into Applicant, Palmer had 1,745,324 shares of its common stock issued and outstanding.

(4) A plan to merge Palmer into Applicant was submitted to the shareholders of Palmer at a special meeting held on December 18, 1975 and proxy soliciting materials containing detailed information, including financial statements, concerning Palmer and the terms of the merger were filed with the Commission and distributed to shareholders. The plan was approved by the shareholders of Palmer and the merger was consummated on January 15, 1976.

(5) Pursuant to the terms of the merger, all of the outstanding securities of Palmer were converted into securities of Southeast Banking Corporation. Applicant is a wholly-owned subsidiary of Southeast Banking Corporation.

(6) There is no trading in Palmer's common stock.

In the absence of an exemption, Applicant is required to file pursuant to sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10-K for the year ending December 31, 1975. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Palmer no longer exists as a corporation and there is no trading in its securities. Applicant believes that the time, effort and expense involved in the preparation of additional period reports would be disproportionate to any benefit to the public or to former holders of Palmer's securities.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested persons, not later than September 13, 1976, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-25042 Filed 8-25-76;8:45 am]

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[24A-2283 and A-857]

TAXPAYERS AID SOCIETY, INC.

Order Permanently Suspending Exemption

AUGUST 20, 1976.

I. On December 23, 1975, Taxpayers Aid Society, Inc. (the "issuer"), a North Carolina corporation with offices at 107 N. Vance Street, Pembroke, North Carolina 28372, filed with Atlanta Regional Office of the Securities and Exchange Commission a Notification, offering circular and related exhibits for a proposed offering of $500,000 (aggregate) of short-term promissory notes in order to obtain an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and Regulation A promulgated thereunder. No amendments have been filed and a commencement date for the offering has not been established.

II. On June 15, 1976, the Commission temporarily suspended the Regulation A exemption of the issuer, stating that it had reasonable cause to believe that:

A. The notification, offering circular and other sales literature contain untrue statements of material facts and omit to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in particular with respect to:

1. The failure to disclose that the issuer had commenced the offering of its short-term promissory notes prior to the filing of the notification and the issuer's sales of securities in violation of section 5(a) of the Securities Act of 1933 within one year prior to the filing of the notification;

2. The failure to disclose that the issuer's "guaranteed" notes were, in fact, unsecured.
unsecured:

3. The failure to disclose adequately the nature of the issuer's business operations;

4. The failure to provide the financial statements required by Regulation A prepared in accordance with generally accepted accounting principles; and

5. The inclusion of an inadequate and misleading accountant's report on the financial statements furnished.

B. The terms and conditions of Regulation A have not been met in the following respects:

1. The offering, if allowed to commence, would exceed the ceiling restrictions imposed by Rule 254; and

2. Subsequent to the filing, an injunction was issued by the United States District Court for the Eastern District of North Carolina against the issuer and other related persons which would have rendered the Regulation A exemption unavailable if it had occurred prior to filing; and

3. The failure to provide in the offering circular the financial statements required by Regulation A.

C. The offering, if commenced, would be in violation of Section 17 of the Securities Act of 1933, as amended.

III. No hearing having been requested by the issuer within thirty days after the entry of the order temporarily suspending its exemption under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption be permanently suspended.

It is ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it is hereby, permanently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-25043 Filed 8-25-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

BALTIMORE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Baltimore District Advisory Council will hold a public meeting at 1 p.m., Friday, October 15, 1976, and conclude on Saturday, October 16, 1976, at the Sheraton Fontainebleau Hotel in Ocean City, Maryland, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Gerald J. Lang, U.S. Small Business Administration, 7800 York Road, Towson, Maryland 21204, (301) 922-2150.

Dated: August 19, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-25033 Filed 8-25-76;8:45 am]

DENVER DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Denver District Advisory Council will hold a public meeting at 9 a.m., Friday, October 8, 1976, in the Federal Office Building, Room 2330 (2nd Floor), 1951 Stout Street, Denver, Colorado, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Douglas F. Graves, U.S. Small Business Administration, New Custom House, 721-19th Street, Denver, Colorado 80202, (303) 327-3673.

Dated: August 19, 1976.

HENRY V. Z. HYDE, JR.
Deputy Advocate for Advisory Councils.

[FR Doc.76-25034 Filed 8-25-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 128]

ASSIGNMENT OF HEARINGS

AUGUST 20, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 4405 (Sub-No. 531), Dealers Transit, Inc., now assigned September 28, 1976 at Chicago, Illinois; will be held in Room 834 Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 838.

MC 114211 (Sub-No. 259), Warren Transport Inc., now assigned September 29, 1976 at Chicago, Illinois; will be held in Room 834 Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 835.

MC 116273 (Sub-No. 201), D & L Transport, Inc., now assigned September 30, 1976 at Chicago, Illinois; will be held in Room 634 Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 835.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-24942 Filed 8-25-76;8:45 am]

[Notice No. 127]

ASSIGNMENT OF HEARINGS

AUGUST 20, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 30280 (Sub-No. 67), Watkins Carolina Express, Inc., has been transferred to Modified Procedure.

MC 134765 (Sub-No. 18), Speciality Transport, Inc., now assigned September 23, 1976 at Washington, D.C., has been canceled and transferred to Modified Procedure.

MC 112713 (Sub-No. 193), Yellow Freight System, Inc. application dismissed.

ROBERT L, OSWALD,
Secretary.

[FR Doc.76-24943 Filed 8-25-76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY APPLICATIONS

AUGUST 20, 1976.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before September 27, 1976. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530). A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 87103 (Sub-No. 21-G), filed July 23, 1976. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: A. David Millner, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and contractors' equipment and supplies* which by reason of size or weight require the use of special devices for handling, between points in Clarion County, Pa., on the one hand, and, on the other, points in Connecticut, Massachusetts and Rhode Island; and (2) *Articles* which by reason of size or weight require the use of special equipment or devices for handling, between Clarion, Pa., and points within 40 miles thereof, on the one hand, and, on the other, points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateway at points in New York within 25 miles of Pittsfield, Mass.

(3) *Machinery and contractors' equipment and supplies* which by reason of size or weight require the use of special equipment or devices for handling, between points in Connecticut, Massachusetts and Rhode Island, on the one hand, and, on the other, points in Illinois, Indiana, Ohio, New York and West Virginia. The purpose of this filing is to eliminate the gateways at Clarion, Pa., points in Clarion County, Pa., points within 40 miles of Clarion, Pa., and points in New York within 25 miles of Pittsfield, Mass.

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

AUGUST 20, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 7, 1976. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 40215 (Sub-No. E1), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. 5th Street, Salina, Kans. 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, from points in Arizona on and north of a line beginning at the Arizona-California State line and extending along U.S. Highway 80 and Interstate Highway 8, to junction Arizona Highway 84, thence along Arizona Highway 84 and Interstate Highway 8, to junction Interstate Highway 10 and Arizona Highway 93, and thence along Interstate Highway 10 and U.S. Highway 80 to the Arizona-New Mexico State line, to points in Arkansas; from points in Arizona to points in District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, and Nebraska on and east of a line beginning at the Nebraska-South Dakota State line and extending along Nebraska State Highway 61 to junction Interstate Highway 80 to the Nebraska-Colorado State line; Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 281 to junction U.S. Highway 60 and U.S. Highway 183, extending along U.S. Highway 183 to the Oklahoma-Texas State line, Pennsylvania, South Dakota on and east of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 65, to junction U.S. Highway 212, to junction South Dakota Highway 63, to junction Interstate Highway 90, to junction U.S. Highway 83 to the South Dakota-Nebraska State line; Tennessee, Virginia, West

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Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Garden City, Kans., Pratt, Kans., Salina, Kans., Galena, Kans., and Ravenna, Ohio.

No. MC 40215 (Sub-No. E2), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. 5th St., Salina, Kans. 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, from points in Arizona on and east of a line beginning at the Arizona-New Mexico State line and extending along Interstate Highway 10 to junction U.S. Highway 666, thence south along U.S. Highway 666 to the Arizona-New Mexico State line, to points in Colorado on and east of a line beginning at the Colorado-Wyoming State line and extending south along U.S. Highway 85 to junction of U.S. Highway 34, to junction Colorado Highway 71, to junction U.S. Highway 50, to junction Colorado Highway 101, to junction U.S. Highway 160, to junction U.S. Highway 287, to the Colorado-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Coolidge, Kans.

No. MC 87966 (Sub-No. E11), filed May 9, 1974. Applicant: ELEVELD CHICAGO FURNITURE SERVICE, INC., 4020 W. 24th Street, Chicago. Ill. 60623. Applicant's representative: E. H. Eleveld (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *New furniture* (uncrated), as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Grand Rapids, Mich., to points in Missouri. The purpose of this filing is to eliminate the gateway of Peru, Ind. (b) *New furniture* (uncrated), as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Grand Rapids, Mich., to points in Pennsylvania within 60 miles of Philadelphia, Pa. The purpose of this filing is to eliminate the gateway of Peru, Ind.

No. MC 87966 (Sub-No. E12), filed May 9, 1974. Applicant: ELEVELD CHICAGO FURNITURE SERVICE, INC., 4020 W. 24th Street, Chicago. Ill. 60623. Applicant's representative: E. H. Eleveld (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such store and office fixtures* (as described in Appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 275) and *parts* thereof, as are included in new furniture (uncrated), as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the plantsite of Capitol Fixture and Construction Corporation at or near Arlington Heights, Ill., to points in Pennsylvania and Kentucky. The purpose of this filing is to eliminate the gateway of Peru, Ind.

No. MC 112070 (Sub-No. E37), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Colorado and Wyoming. The purpose of this filing is to eliminate the gateway of Missouri and Illinois.

No. MC 112070 (Sub-No. E39), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Iowa, on the one hand, and, on the other, points in Tennessee, *(Missouri), Kentucky, Indiana, Ohio, Pennsylvania, New York, New Jersey, Connecticut, and *(Illinois). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 113843 (Sub-No. E174) (correction), filed May 17, 1974, published in the FEDERAL REGISTER June 18, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between (1) Westfield, Dunkirk, Fredonia, Brockton, Silver Creek, Farnham, Angola, North Collins, South Dayton, Lawtons, Gowanda, E. Autora, and Eden, N.Y., on the one hand, and, on the other, points in Towanda, Pa. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y. The remainder of the letter-notice remains as previously published. The purpose of this correction is to correct the destination description in Part (1).

No. MC 113843 (Sub-No. E480) (Partial Correction), filed May 19, 1974, published in the FEDERAL REGISTER June 9, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods*, (38) between Atlantic City, Bridgeton, Cape May, Millville, Seabrook, and Vineland, N.J., on the one hand, and, on the other, points in Michigan; (49) from those points in New Jersey bounded on the south by a line beginning at the Atlantic Ocean and extending along U.S. Highway 9 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the New Jersey-Pennsylvania State line, and bounded on the north by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 1 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the Hudson River to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 127 to junction U.S. Highway 42, thence along U.S. Highway 42 to the Kentucky-Indiana State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to correct a portion missing in the publication in Part (38) and to correct the territorial description in Part (49). The remainder of the letter-notice remains as previously published.

No. MC 114552 (Sub-No. E189), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards*, from points in Minnesota, on and west of a line beginning at the Minnesota-Canada State line and extending along U.S. Highway 71 to junction Minnesota Highway 27, thence along Minnesota Highway 27 to the Minnesota-South Dakota State line, to points in South Carolina, on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction U.S. Highway 301, thence along U.S. Highway 301 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E198) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk) from points in Wisconsin, on and north of a line beginning at Lake Michigan and extending along U.S. Highway 151 to junction Wisconsin Highway 68, thence along Wisconsin Highway 68 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to the Wisconsin-Minnesota State line, to points in Florida, on and south of Florida Highway 84. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the territorial description.

No. MC 114552 (Sub-No. E199) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Michigan, to points in South Carolina, on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the commodity description that was published incorrectly.

No. MC 114552 (Sub-No. E204) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* except commodities in bulk) from points in Oklahoma, on and south of a line beginning at the Oklahoma-Arkansas State line and extending along Oklahoma Highway 63 to junction U.S. Highway 271, thence along U.S. Highway 271 to junction Oklahoma Highway 144, thence along Oklahoma Highway 144 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Texas State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line, and extending along U.S. Highway 11 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to junction Pennsylvania Highway 279, thence along Pennsylvania Highway 279 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the territorial description.

No. MC 114552 (Sub-No. E209) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture* and installation of composition boards (except commodities in bulk), from points in Texas, on and south of a line beginning at the Gulf of Mexico and extending along U.S. Highway 75 to U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 180, thence along U.S. Highway 180 to the Texas-New Mexico State line to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 76, thence along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 522 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the territorial description.

No. MC 114552 (Sub-No. E214) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Arkansas, on and south of a line beginning at the Arkansas-Missouri State line, and extending along Arkansas Highway 25 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 22, to junction Pennsylvania Turnpike Extension, thence along the Pennsylvania Turnpike Extension to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the typographical errors which appear in the FEDERAL REGISTER publication of July 28, 1976.

No. MC 114552 (Sub-No. E216) (Correction), filed September 22, 1975, published in the FEDERAL REGISTER July 28, 1976, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, and extending along U.S. Highway 49 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 270, thence along U.S. Highway 270 to the Arkansas-Oklahoma State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of the plantsite and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plantsite and warehouse facilities of the Celotex Corporation in Wayne County, N.C. The purpose of this correction is to correct the territorial description.

No. MC 117416 (Sub-No. E5) (Correction), filed June 4, 1974, published in the

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FEDERAL REGISTER August 19, 1974, and republished, as corrected, this issue. Applicant: NEWMAN & PEMBERTON CORP., 2007 University Avenue NW., Knoxville, Tenn. 37921. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed foodstuffs* (except fresh or cured meats, dairy products, frozen commodities, or commodities in bulk), from those points in Indiana located on or east of a line beginning at the Indiana-Kentucky State line, at or near Rising Sun, Ind., thence along Indiana Highway 262 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 101, thence along Indiana Highway 101 to junction Indiana Highway 46, thence along Indian Highway 46 to junction Indiana Highway 229, thence along Indiana Highway 229 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Ohio State line to points in Perry, Autauga, Bibb, Chilton, Coosa, Tallapoosa, Clay, Shelby, Talladega, and Calhoun Counties, Ala., and those points in Tuscaloosa, St. Clair, Jefferson, and Etowah Counties, Ala., on or south of U.S. Highway 11. The purpose of this filing is to eliminate the gateway of Tellico Plains, Tenn. The purpose of this correction is to correct the territorial description.

No. MC 119702 (Sub-No. E9), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from St. Louis, Mo., to points in Iowa, The purpose of this filing is to eliminate the gateways of East St. Louis, Ill., and the terminal of the Great Lakes Pipe Lines Company located near Palmyra, Mo. (b) *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Cahokia and East St. Louis, Ill., to points in Wisconsin on, south, and east of a line beginning at La Crosse, Wis., and extending along U.S. Highway 16 through Sparta, Wis., to Wisconsin Dells, Wis., thence along Wisconsin Highway 13 through Wisconsin Rapids, Wis., to junction Wisconsin Highway 64, and thence along Wisconsin Highway 64 through Antigo, Wis., to Marinette, Wis. The purpose of this filing is to eliminate the gateways of St. Louis, Mo., the plantsite and facilities used by Illinois Road Contractors, Inc., in Pike County, Ill., and Amboy, Ill.

No. MC 119702 (Sub-No. E11), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the plantsite and facilities used by Illinois Road Contractors, Inc., in Pike County, Ill., to points in that part of Wisconsin on, south, and east of a line beginning at La Crosse, Wis., and extending along U.S. Highway 16 through Sparta, Wis., to Wisconsin Dells, Wis., thence along Wisconsin Highway 13 through Wisconsin Rapids, Wis., to junction Wisconsin Highway 64, and thence along Wisconsin Highway 64 through Antigo, Wis., to Marinette, Wis. The purpose of this filing is to eliminate the gateway of Amboy, Ill.

No. MC–119702 (Sub-No. E12), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the terminal of the Great Lakes Pipe Lines Company located near Palmyra, Mo., to points in Wisconsin on, east and south of a line beginning at the Wisconsin-Illinois State line and extending along U.S. Highway 51 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to Marinette, Wis. The purpose of this filing is to eliminate the gateway of Amboy, Ill.

No. MC–119702 (Sub-No. E13), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from St. Louis, Mo., to points in that part of Missouri within 125 miles of East St. Louis, Ill. (except points within the St. Louis Commercial zone). The purpose of this filing is to eliminate the gateway of East St. Louis, Ill. (b) *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Cahokia and East St. Louis, Ill., to points in Missouri on, north and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateways of St. Louis, Mo., and the plant site and facilities used by Illinois Road Contractors, Inc., in Pike County, Ill.

No. MC 119702 (Sub-No. E14), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Hartford, Roxana, and Wood River, Ill., to points in Missouri on, north and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateways St. Louis, Mo., and the plant site and facilities of used by Illinois Road Contractors, Inc. in Pike County, Ill.

No. MC 119702 (Sub-No. E15), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from St. Louis, Mo., to points in that part of Wisconsin on, south and east of a line beginning at La Crosse, Wis., and extending along U.S. Highway 16 through Sparta, Wis., to Wisconsin Dells, Wis., thence along Wisconsin Highway 13 through Wisconsin Rapids, Wis., to junction Wisconsin Highway 64, and thence along Wisconsin Highway 64 through Antigo, Wis., to Marinette, Wis. The purpose of this filing is to eliminate the gateways of the plant site and facilities used by Illinois Road Contractors, Inc., in Pike County, Ill. and Amboy, Ill.

No. MC–119702 (Sub-No. E16), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Hartford, Roxana, and Wood River, Ill., to points in Illinois on and south of U.S. Highway 50 (except points in St. Clair, Clinton, and Washington Counties, Ill.). The purpose of this filing is to eliminate the gateway of St. Louis, Mo.

No. MC–119702 (Sub-No. E19), filed May 31, 1974, Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Hartford, Roxana, and Wood River, Ill., to points in Illinois on, north and west of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line. The purpose of this filing is to eliminate the gateways of St. Louis, Mo., and the plant site and facilities used by Illinois Road Contractors, Inc. in Pike County, Ill.

No. MC–119702 (Sub-No. E20), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from St. Louis, Mo., to points in Missouri on, north, and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateway of the plant site and facilities used by Illinois Road Contractors, Inc., in Pike County, Ill.

No. MC–119702 (Sub-No. E21), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Cahokia and East St. Louis, Ill., to points in Illinois on and south of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of St. Louis, Mo.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24947 Filed 8–25–76;8:45 am]

[Ex Parte No. MC–43; Service Date Aug. 20, 1976]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

AUGUST 13, 1976.

It appearing, That a petition has been filed by Watkins Motor Lines, Inc. (MC–95540 and numerous subs) and Watkins Carolina Express, Inc. (MC–30280 and various subs), under permanent common control for waiver of paragraphs (a) (3) and (c) of Section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners have a jointly-administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That the U.S. Department of Transportation offers no objection to a grant of the petition, based on the absence of adverse information in the Department's records;

It is ordered, That waiver of paragraphs (a) (3) and (c) of Section 1057.4, be, and it is hereby granted, provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24938 Filed 8–25–76;8:45 am]

[Ex Parte No. MC–43; Service Date Aug. 20, 1976]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

AUGUST 13, 1976.

It appearing, That a petition has been filed by J. V. McNicholas Transfer Co. (MC–14552 and numerous subs) and J. M. Barbe Co. (MC–59952 and Sub-Nos. 6 and 8), under temporary common control for waiver of paragraph (c) of Section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners have a jointly administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That the U.S. Department of Transportation offers no objection to a grant of the petition based on an examination of petitioners' records;

It is ordered, That waiver of paragraph (c) of Section 1057.4, be, and it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the U.S. Department of Transportation, and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24939 Filed 8–25–76;8:45 am]

[Ex Parte No. MC–43; Service Date August 20, 1976]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

It appearing, That a petition has been filed by B & L Motor Freight, Inc. (MC–123255 and numerous subs), Harry A. Blades, Inc. (MC–123275 and various subs), and Service Motor Freight (MC–139645 and various subs), under common control for waiver of paragraphs (a) (3) and (c) of section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners have a jointly administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That that Department offers no objection to granting the petition;

It is ordered, That waiver of paragraphs (a) (3) and (c) of section 1057.4, be, and it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations by the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24940 Filed 8–25–76;8:45 am]

[Notice No. 18]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 25, 1976.

Application filed for temporary authority under Section 210a(b) in con-

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nection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76590. By application filed August 16, 1976, ROBERT C. FENNELL, DBA ROBERT FENNELL TRUCKING CO., 305 Fairfax Drive, P.O. Box 239, Blacksburg, VA., 24060, seeks temporary authority to lease the operating rights of H. T. Ratcliff, 454 West Main Street, Abingdon, VA., 24210, under section 210 a(b). The transfer to Robert C. Fennell, d.b.a. ROBERT FENNELL TRUCKING CO., of the operating rights of H. T. Ratcliff, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24946 Filed 8–25–76;8:45 am]

[Notice No. 19]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 25, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76706. By application filed August 16, 1976, ASSOCIATED FURNITURE FREIGHTWAYS COMPANY, 440 Boston Post Road, Orange, Connecticut, 06477, seeks temporary authority to lease the operating rights of THE FURNITURE TRANSPORT COMPANY, INC., Furniture Row, P.O. Box 392, Milford, Connecticut, 06460, under section 210a (b). The transfer to ASSOCIATED FURNITURE FREIGHTWAYS COMPANY, of the operating rights of THE FURNITURE TRANSPORT COMPANY, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76–24945 Filed 8–25–76;8:45 am]

[Notice No. 137]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Ashton Trucking Co., MC–57880 Sub-14	MC–57880 Sub-15	July 30, 1976
Fiderak Trucking, Inc., MC–115994 Sub-12	MC–115994 Sub-11	July 6, 1976
Carretta Trucking, Inc., MC–129455 Sub-10	MC–129455 Sub-11	July 29, 1976
Heyl Truck Lines, Inc., MC–133119 Sub-62	MC–133119 Sub-60	July 19, 1976
Overland Express, Inc., MC–133689 Sub-68	MC–133689 Sub-59 and Sub-60.	Do.
North East Express, Inc., MC–133966 Sub-22	MC–133966 Sub-27	July 15, 1976
North East Express, Inc., MC–133966 Sub-33	MC–133966 Sub-34	Do.
McCort Drive A Way, Inc., MC–134426 Sub-3 and Sub-4	MC–134426 Sub-5	July 12, 1976
Mid Continent Trucking Co., MC–134983 Sub-3	MC–134983 Sub-2	July 14, 1976
Dba Guiley Trucking, MC–136086 Sub-2	MC–136086 Sub-3	July 9, 1976
Robco Transportation, Inc., MC–136786 Sub-63 and Sub-63	MC–136786 Sub-67	July 12, 1976
Robco Transportation, Inc., MC–136786 Sub-71	MC–136786 Sub-82	July 30, 1976
Cleon Carder Truck Line, Inc., MC–136812 Sub-5	MC–136812 Sub-6	Aug. 12, 1976
Dba Matlock Transportation, MC–136814 Sub-3	MC–136814 Sub-2	July 15, 1976
F. W. Caspersen, MC–138043 Sub-2	MC–138043 Sub-3	July 19, 1976
Mt. Snow Shuttle Service, Inc., MC–138254 Sub-4	MC–138254 Sub-3	July 16, 1976
Mill Trucking Corporation, MC–138281 Sub-3	MC–138281 Sub-4	July 14, 1976
W. O. Moore & Sons, Division of Cedar Rock Ranch, Inc., MC–139009	MC–139009 Sub-1	Do.
Logan Motor Lines, Inc., MC–139091 Sub-6	MC–139091 Sub-5	July 13, 1976
Modular Transportation, Co., MC–139555 Sub-1	MC–139555 Sub-2	July 15, 1976
D.b.a. J. D Cartage Service, MC–139701	MC–139701 Sub-1	July 14, 1976
Miller Trucking Co., MC–139923 Sub-5	MC–139923 Sub-6	July 15, 1976
D.b.a. Plastic Express, MC–140030	MC–140030 Sub-1	Aug. 12, 1976
Twombly Grain Co. Inc., MC–140108	MC–140108 Sub-1	July 13, 1976
Robert Fennell Trucking Co., MC–140239 Sub-1	MC–140239 Sub-2	July 9, 1976
D.b.a. Larry E. Hickox Trucking, MC–140265 Sub-1	MC–140265 Sub-2	July 16, 1976
Export Metals Co., MC–140281 Sub-1	MC–140281 Sub-2	July 13, 1976
D.b.a. J & R Trucking, MC–140313 Sub-3	MC–140313 Sub-4	July 30, 1976
Richard Sisson, MC–140342 Sub-1	MC–140342 Sub-2	July 19, 1976
D.b.a. Riverview Dairy Farms, MC–140468 Sub-2	MC–140468 Sub-3	Do.
D.b.a. Ed Northington Trucking, MC–140567 Sub-1	MC–140567 Sub-2	July 14, 1976
Don's Towing Service, MC–140597 Sub-1	MC–140597 Sub-2	July 13, 1976
Frank's, Inc., MC–140603	MC–140603 Sub-1	July 15, 1976
D.b.a. Hill City Trucking, MC–140646 Sub-1	MC–140646 Sub-2	July 9, 1976
D.b.a. Earl J. Ruckdaschel Trucking, MC–140655 Sub-1	MC–140655 Sub-2	July 19, 1976
Donald R. Simmons, MC–140690 Sub-1	MC–140690 Sub-2	Do.
D.b.a. John Lawrence Trailer Towing, MC–140731 Sub-1	MC–140731 Sub-2	July 13, 1976
Paul Swenglish, MC–140884 Sub-1	MC–140884 Sub-2	July 19, 1976
D.b.a. Tanner Trucking, MC–141077 Sub-1	MC–141077 Sub-2	July 30, 1976
School Bus Service, Inc., MC–141087 Sub-1	MC–141087 Sub-2	July 19, 1976
Jones Trucking Co., MC–141155 Sub-1	MC–141155 Sub-2	July 15, 1976
Montgomery X-Ray Transportation, Inc., MC–141322	MC–141322 Sub-1	Do.
D.b.a. Ozark Coach Lines, MC–141394 Sub-1	MC–141394 Sub-2	Aug. 12, 1976

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24944 Filed 8–25–76;8:45 am]

[Volume No. 45]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

AUGUST 20, 1976.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 263 (Notice of Filing of Petition for Clarification and Modification of Certificate) filed February 17, 1976. Petitioner: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, P.O. Box 4048, Pocatello, Idaho 83201. Petitioner's representative: Maurice H. Greene, P.O. Box 4201, Pocatello, Idaho 83201. Petitioner holds a motor *common carrier* Certificate in No. MC 263, issued September 28, 1956, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between Boise, Idaho, and Portland, Oreg., serving the intermediate points of Nampa, Caldwell, and New Plymouth, Idaho, and Huntington, Baker, Union, LaGrande, Pendleton, Vale, Juntura, Burns, and Bend, Oreg., and the off-route points of Weiser and Payette, Idaho, as follows: from Boise over U.S. Highway 30 to Portland; from Boise over Idaho Highway 44 (formerly U.S. Highway 20) to junction U.S. Highway 30, thence over U.S. Highway 30 to Ontario, Oreg., thence over Oregon Highway 201 (formerly U.S. Highway 28) to junction U.S. Highway 20 (formerly U.S. Highway 28), thence over U.S. Highway 20 to Vale, Oreg., thence over U.S. Highway 20 to Bend, Oreg., thence over U.S. Highway 97 to junction U.S. Highway 26 (formerly Oregon Highway 50), and thence over U.S. Highway 26 to Portland; and return from Portland over U.S. Highway 30 to junction Idaho Highway 44 (formerly U.S. Highway 20) thence over either Idaho Highway 44 or U.S. Highway 30 to Boise. Additionally, and as pertinent, petitioner holds authority in its (Sub-No. 136) Certificate to transport *general commodities* (with the usual exceptions), between Umatilla, and Cold Springs, Oreg., and Westland, Oreg., serving the intermediate and off-route points of Hermiston, U.S. Ordnance Depot, and U.S. Munitions Dump near Hermiston and Westland, Oreg.: From Umatilla over unnumbered highway (formerly U.S. Highway 30) to Hermiston, Oreg., thence over Oregon Highway 207 to Westland, and return over the same route; and From Cold Springs over Oregon Highway 207 to Westland, and return over the same route, restricted in the service authorized immediately above to the condition that no traffic moving to or from points on the carrier's route over U.S. Highway 30 west of Umatilla, Oreg., shall be transported over the immediately above-specified routes between Umatilla and Cold Springs, Oreg., and Westland, Oreg.; and in (Sub-No. 185) petitioner holds authority to transport, as pertinent, over regular and irregular routes, *classes A and B explosives*, between the points authorized and over the routes described in carrier's presently held certificates authorizing the transportation of general commodities (except among other commodities, classes A and B explosives) in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah and Washington subject to all territorial restrictions applicable to operation in the above states, except that no authority is granted herein to transport classes A and B explosives between Billings, Mont., and St. Paul, Minn., and intermediate points between Billings and St. Paul.

By the instant petition, petitioner seeks clarification of its authority with respect to serving the Umatilla Army Depot, located near Ordinance, Oreg. to indicate that it can serve the Umatilla Army Depot, Oreg. from its lead Certificate from the nearest regular route point and over the shortest practical highways, or in the alternative, modify the lead Certificate to include the Umatilla Army Depot located near Ordinance, Oreg. as a specified off-route point.

No. MC 12720 (Notice of Filing of Petition For Modification of Brokers License), filed August 11, 1976. Petitioner: TRAVEL & TOUR SERVICE, INC., 722 North Third St., Milwaukee, Wis. 53203. Petitioner's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53202. Petitioner holds a license to engage in operations as a *broker* in interstate or foreign commerce, at Milwaukee, Wis., in No. MC 12720, issued August 5, 1960, to arrange the transportation of *passengers and groups of passengers and their baggage*, in charter and special operations, beginning and ending at Milwaukee, Wis., and at points in Brown, Calumet, Dane, Dodge, Fond du Lac, Jefferson, Kenosha, Manitowoc, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukeska, and Winnebago Counties, Wis., and extending to points in the United States, including Alaska and Hawaii. By the instant petition, petitioner seeks to modify its territorial description so as to read; "Between points in the United States".

No. MC 123091 and (Sub-No. 13G) (Notice of Filing of Petition to Modify Commodity Description), filed July 29, 1976. Petitioner: NICK STRIMBU, INC., 3500 Parkway Rd., Brookfield, Ohio 44403. Petitioner's representative: James Duvall, 220 West Bridge Street, Dublin, Ohio 43017. Petitioner holds motor *common carrier* Certificates in No. MC 123091 and (Sub-No. 13G), issued June 1, 1965 and May 27, 1975, respectively, authorizing transportation (1) in No. MC 123091 over irregular routes, of *steel and steel products*, between Sharon, Pa., on the one hand, and, on the other, points in Ohio; and (2) in No. MC 123091 (Sub-No. 13G) over irregular routes, of *steel articles*, between points in Ohio, on the one hand, and, on the other, points in that part of Pennsylvania bounded by a line beginning at Sharon, Pa., and extending along U.S. Highway 62 to junction U.S. Highway 322, thence along U.S. Highway 322 to Clarion, thence along Pennsylvania Highway 66 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 136, thence along Pennsylvania Highway 136 to junction Pennsylvania Highway 844, thence along Pennsylvania Highway 844 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, and thence along the Pennsylvania-Ohio State line to the point of beginning, including points on the specified portions of the Highways indicated: From points in Ohio, and points in that part of Pennsylvania bounded by a line beginning at Sharon, Pa., and extending along U.S. Highway 62 to junction U.S. Highway 322, thence along U.S. Highway 322 to Clarion, thence along Pennsylvania Highway 66 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 136, thence along Pennsylvania Highway 136 to junction Pennsylvania Highway 844, thence along Pennsylvania Highway 844 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to points of beginning, including points on the specified portions of the highways indicated, to points in Arizona, California, Colorado, Florida, Kansas, Mississippi, South Carolina, and Wyoming, that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 31W to Nashville, and thence along U.S. Highway 31 to the Tennessee-Alabama State line, and points in Alabama (except Birmingham and points within 65 miles of Birmingham). By the instant petition, petitioner seeks to modify the commodity description in both MC 123091 and (Sub-No. 13G) so as to read: *"Iron and steel articles"*.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by Order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 136916 (Sub-No. 13) (Republication), filed February 19, 1976, published in the FEDERAL REGISTER issue of March 18, 1976, and republished this issue. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, N.J. 07848. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. An Order of the Commission, Review Board Number 2, dated July 23, 1976, and served August 4, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes transporting, *Dry cement additives and dry soil stabilizing compounds*, in bulk, in tank and dump vehicles, from the facilities of Limestone Products Corporation of America, located in Sussex County, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island and the District of Columbia, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of dry cement additives and dry soil stabilizing compounds in bulk, in tank vehicles and dump vehicles, in lieu of cemdust blend and materials, as previously published.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a

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protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 340 (Sub-No. 42), filed June 21, 1976. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, Tex. 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt liquor beverages* (except commodities in bulk, in tank vehicles), from San Antonio, Tex., to points in Indiana, Illinois, Kentucky, Ohio, Wisconsin, the Lower Peninsula of Michigan and St. Louis County, Mo. and points within 50 miles thereof.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Antonio or Dallas, Tex.

No. MC 409 (Sub-No. 59) filed July 19, 1976. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, Nebr. 68979. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from the facilities of Cominco American, located at or near Hoag, Nebr., to points in Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr. or Omaha, Nebr.

No. MC 720 (Sub-No. 15), filed July 19, 1976. Applicant: BIRD TRUCKING CO., INC., Box 227, Waupun, Wis. 53968. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Road, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, chain grocery, and food business houses (except commodities in bulk), between Hodgkins, Ill., on the one hand, and, on the other, points in Brown Calumet, Columbia, Dodge, Door, Fond du Lac, Green Lake, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee (except points east of Wisconsin Highway 100 in Milwaukee, County), Outagamie, Ozaukee, Portage, Racine, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood Counties, Wis., restricted to warehouse and Distributors, Inc., Hodgkins, Ill. If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Washington, D.C.

No. MC 4405 (Sub-No. 534), filed July 22, 1976. Applicant: DEALERS TRANSIT, INC., 220 E. 170th Street, Lansing, Ill. 60438. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements, in truckaway and driveaway service, from Opole, Minn., to points in the United States (except Alaska and Hawaii); and (2) *tractors*, in secondary movements, in driveaway service when drawing trailer chassis in initial movements, from Opole, Minn., to points in Arizona, Nevada, Oregon and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 42011 (Sub-No. 23), filed July 20, 1976. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Jewett, Tex., to Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico and Oklahoma, restricted to shipments originating at the facilities of Nucor Steel Corporation located at Jewett, Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with similar applications of C & H Transportation, J. J. Willis Trucking Co., Tom Hicks Transfer Co., Inc., Eagle Motor Lines, Tex-O-Ka-N Transportation Co., Inc., and Wales Transportation, Inc., at Dallas, Tex.

No. MC 51146 (Sub-No. 473), filed July 22, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and equipment, materials, supplies, and accessories* used in the manufacture and distribution of containers and container ends, when moving with containers and container ends, from Fogelsville, Pa., to points in the United States (except Alaska, Hawaii, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and West Virginia).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or New York, N.Y.

No. MC 58885 (Sub-No. 30), filed July 19, 1976. Applicant: ATLANTA MOTOR LINES, INC., P.O. Box 345, Conley, Ga. 30027. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); Between Atlanta, and Lavonia, Ga.: (1) From Atlanta, Ga., over U.S. Highway 29 to Winder, Ga., thence over Georgia Highway 11 to Jefferson, Ga., thence over Georgia Highway 15 to Commerce, Ga., and thence over Georgia Highway 59 to Lavonia, Ga., and return over the same route, serving all intermediate points; and (2) From Atlanta, Ga., over Interstate Highway 85 to Lavonia, Ga., and return over the same route serving all intermediate points. Serving Maysville, Homer, Avalon and Martin, Ga., and all points in Franklin County, Ga., as off-route points in connection with Routes 1 and 2 above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Commerce, Ga.

No. MC 82492 (Sub-No. 134), filed July 16, 1976. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride; caustic soda; chemicals; cleaning, deodorizing, disinfecting,*

laundry, polishing, scouring and washing compounds; petroleum products, soda ash; laundry sour, and bleach, from Ludington, Midland, Rockwood, St. Louis and Wyandotte, Mich.; Cleveland, Delaware, Macedonia and Painesville, Ohio, and Syracuse, N.Y., to points in Minnesota, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich. or Washington, D.C.

No. MC 83835 (Sub-No. 133), filed July 20, 1976. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Armco Steel Corporation located at or near Sand Springs, Okla., to points in Arkansas, Kansas, Louisiana, Missouri and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Dallas, Tex.

No. MC 92068 (Sub-No. 17), filed July 13, 1976. Applicant: MUTUAL TRANSPORTATION, INC., President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 7401 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by retail and discount department stores, from the facilities of Mutual Transportation, Inc., at Baltimore, Md., to the store and facilities of Mammoth Mart, Inc., at Odenton, Md., and the store and facilities of the K Mart store of S. S. Kresge Company, at the intersection of U.S. Highway 301 and Maryland Highway 424, near Crofton, Md.; and (2) *returned shipments* of the commodities in (1) above, from the store and facilities of Mammoth Mart, Inc., at Odenton, Md., and from the store and facilities of the K Mart store of S. S. Kresge Company, at the intersection of U.S. Highway 301 and Maryland Highway 424, near Crofton, Md., to the facilities of Mutual Transportation, Inc. at Baltimore, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 94350 (Sub-No. 362), filed July 13, 1976. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Texas on or east of U.S. Highway 281, to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma; and (2) *buildings, in sections*, mounted on wheeled undercarriages, from points in Texas on or east of U.S. Highway 281, to points in Arizona, Arkansas, Kansas, Louisiana, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 98952 (Sub-No. 36), filed July 13, 1976. Applicant: GENERAL TRANSFER COMPANY, a Corporation, 2880 North Woodford St., P.O. Box 2203, Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in mechanically refrigerated equipment (except in bulk), from the plant and warehouse facilities owned and operated by Archer-Daniels-Midland Company, located at Decatur, Ill.; also, shipping products for Wilsey Foods, Inc., and others, to Kansas City, Kans., and points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, restricted to traffic originating at above origin, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Springfield or Chicago, Ill.

No. MC 98952 (Sub-No. 37), filed July 20, 1976. Applicant: GENERAL TRANSFER COMPANY, 2880 N. Woodford St., P.O. Box 2203, Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 E. Capitol Avenue, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in conduct of such business (except commodities in bulk and foodstuffs), from the facilities of Consolidated Sales Corp., located at or near Indianapolis, Ind., to facilities of Jewel Food Stores, Division of Jewel Companies, Inc., located at or near Franklin Park, Ill., restricted to traffic originating at named origin and destined to named destination.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 99427 (Sub-No. 31), filed July 16, 1976. Applicant: ARIZONA TANK LINES, INC., 3200 Ruan Center, 666 Grand Avenue, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sulfuric acid*, in bulk, in tank vehicles, from points in Arizona, to points in New Mexico; and (2) *graphite*, in bulk, from Buckeye, Ariz., to points in California, Colorado, Nevada, New Mexico, Texas, and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz., or Denver, Colo.

No. MC 100449 (Sub-No. 68), filed July 22, 1976. Applicant: MALLINGER TRUCK LINE, INC., Route No. 4, Fort Dodge, Iowa 50501. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fort Dodge, Hartley, and Spencer, Iowa, Fremont and Schuyler, Nebr., to points in Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sioux City or Des Moines, Iowa, or Omaha, Nebr.

No. MC 100666 (Sub-No. 327), filed July 2, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper*, from Anniston, Ala., to Medicine Lodge, Kans., and Rotan, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 100666 (Sub-No. 328), filed July 22, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products*, (1) from Los Angeles, Calif., to points in Arizona, Colorado, and New Mexico; (2) from San Antonio, Tex., to points in Arizona and Colorado; and (3) from Houston, Tex., to points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 103066 (Sub-No. 36), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from Piscataquis County, Maine, to points in California, Illinois, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 37), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth St., NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Plastic granules*, between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 38), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth St., NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple products, hard cider*, from points in New York, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 39), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth St., NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from Franklin County, Maine, to points in Arizona, California, Illinois, Ohio, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 40), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101 Applicant's representative: Eugene D. Anderson, 910 Seventeenth St., NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from Somerset County, Maine, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 41), filed June 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 17th St. NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, including dairy products, (A) from Plymouth, Wis. and Van Wert, Ohio, to points in California, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (B) from Plymouth, Wis., to Van Wert, Ohio, restricted to traffic originating at the plantsites and storage facilities utilized by Borden Foods, a Division of Borden, Inc. located at or near Plymouth, Wis. and Van Wert, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 42), filed June 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth Street NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal pallet forming and supporting systems*, from Cleveland, Ohio, to points in the United States (except Hawaii and Alaska).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 43), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Euguene D. Anderson, 910 Seventeenth Street NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and supplies* used in the installation of floor coverings, from the plants of Congoleum Corporation located at or near Trenton, N.J. and Marcus Hook, Pa., to points in Arizona, California, Colorado, Kansas, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 44), filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth Street NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from Brooklyn, N.Y., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 45) filed July 21, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth St. NW., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics, vinyl compounds*, between points in New Jersey and points on the International Boundary line between the United States and Canada, located at points in Idaho, Maine, Montana, New Hampshire, New York, Vermont and Washington; and (2) *scrap plastic, off-grade and reground plastic and vinyl compounds*, from points in the United States (except Alaska and Hawaii), to points in New Jersey.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 105045 (Sub-No. 63) filed July 21, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated air pollution equipment and structural steel*, from the plantsite and other facilities of Consolidated Steel Fabricators, Inc., located at Birmingham, Ala., to points in Arkansas, California, Connecticut, Delaware, Iowa, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Vermont, Wisconsin and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Birmingham, Ala.

No. MC 105566 (Sub-No. 124) filed July 20, 1976. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 2069, Springfield, Va. 22152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sheet steel baskets; cans, sheet steel ware; wire goods; fence, in panels; stands, flat or folded flat; baskets, wire; candle holders; flower vase liners; trunk, N.O.I., hand with platform; steel handles; plastic articles; plant stands, holders, bag; racks; plant supports wire; plant stakes; and rings; rolled steel*, from Columbus, Ohio to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 106497 (Sub-No. 132) filed July 16, 1976. Applicant: PARKHILL TRUCK COMPANY (a corporation), P.O. Box 912, (Bus. Rt. I–44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lifting or handling equipment, machinery, and parts*, from Guthrie, Okla., to points in the United States (including Alaska, but excluding Hawaii); and (2) *equipment, materials, parts, and supplies* (including Alaska, but excluding Hawaii), to Guthrie, Okla.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Tulsa or Oklahoma City, Okla.

No. MC 107012 (Sub-No. 229) filed July 19, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles, and parts and accessories thereof, and materials and supplies* used in the manufacture of bicycles and tricycles, between Celina, and St. Marys, Ohio; Azusa, Torrence and City of Industry, Calif. and Richmond, Ind., on the one hand, and, on the other points in the United States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cincinnati, Ohio or Chicago, Ill.

No. MC 107107 (Sub-No. 451) filed July 16, 1976. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW. 42d Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and citrus products* (except in bulk) in vehicles equipped with mechanical refrigeration, from points in Florida to Albuquerque, N. Mex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C., or Albuquerque, N. Mex.

No. MC 107541 (Sub-No. 41) filed July 18, 1976. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 2000 East Columbia Way, Building 54, P.O. Box 1371, Vancouver, Wash. 98661. Applicant's representative: Gulseth & Willard, 125 University Avenue, Berkeley, Calif. 94710. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* and *salt products*, from Silsbee, Utah, to ports of entry on the International Boundary Line between the United States and Canada located at or near Blaine and Oroville, Wash., restricted to the Province of British Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 109689 (Sub-No. 299) filed July 20, 1976. Applicant: W. S. HATCH CO., 643 South 800 West, Wood Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, (except petro-chemicals and sulfuric acid), from points in Pima and Maricopa Counties, Ariz., to points in Nevada and Utah; (2) *industrial chemicals and feed supplements* (except petro-chemicals, paint, lacquer, lacquer thinners, varnish, turpentine, phosphoric acid, sulfuric acid and tallow), from Pima and Maricopa Counties, Ariz., to points in California; (3) *graphite*, water base, in bulk, from Buckeye, Ariz., to Cucamonga, Calif.; and (4) *ammonium sulfide*, in bulk, from Sahuarita, Ariz., to Delta, Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake, City, Utah.

No. MC 109708 (Sub-No. 65), filed July 16, 1976. Applicant: INDIAN RIVER TRANSPORT CO., doing business as INDIAN RIVER TRANSPORT INC., P.O. Box 966, 908 North NW. Park Street, Okeechobee, Fla. 33472. Applicant's representative: James E. Wharton, 100 South Orange Avenue, Suite 811, Metcalf Bldg., Orlando, Fla. 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and wines, brandy, neutral citrus residue spirits or alcohol*, in bulk, from Roberta, Ga., to Burlingame, Calif.; Peoria, Ill.; and Scobeyville, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Chicago, Ill.

No. MC 110567 (Sub-No. 10), filed July 23, 1976. Applicant: SOONER TRANSPORT CORPORATION, P.O. Box 855, 666 Grand Avenue, Des Moines, Iowa 50304. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, from Marble City and Sallisaw, Okla., to points in Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Omaha, Nebr.

No. MC 111045 (Sub-No. 130), filed July 21, 1976. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed additives, feed ingredients for livestock, feed and fertilizer*, in bulk, in tank vehicles, from Montgomery, Ala., to Jacksonville and Tampa, Fla.; Bainbridge and Macon, Ga.; Soso and Vicksburg, Miss.; and Nashville and Chattanooga, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montgomery, Ala., or Tampa, Fla.

No. MC 111053 (Sub-No. 5), filed July 21, 1976. Applicant: EHRLICK TRANSPORT, LTD., 3250 Derry Road East, Mississauga, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses* (other than ordinary), and in the same vehicle with such horses, stable supplies and equipment used in the care and exhibition of such horses, mascots, and the personal effects of their attendants, trainers, and exhibitors, between ports of entry on the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating in or destined to points in the province of Manitoba, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 111401 (Sub-No. 466), filed July 16, 1976. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naphtha and solvent*, in bulk, from Cyril, Okla., to points in Tennessee and Hill Air Force Base, Utah, and Offutt Air Force Base, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 111839 (Sub-No. 16), filed July 8, 1976. Applicant: BEE LINE EXPRESS, INC., P.O. Box 388, Albertville, Ala. 35950. Applicant's representative: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value), Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment (1) Between Chattanooga, Tenn., and Birmingham, Ala., serving the intermediate point of Albertville, Ala., and all intermediate points between Albertville, Ala., and Chattanooga, Tenn., with service at Albertville, Ala.; restricted to the transportation of shipments moving from, to, or through Chattanooga, Tenn.; and serving the off-route points within three miles of the indicated portion of Alabama Highway 75: From Chattanooga over U.S. Highway 11 to Trenton, Ga., thence over Georgia Highway 143 to the Alabama-Georgia State line, and thence over Alabama Highway 75 via Albertville and Oneonta, Ala., to Birmingham, and return over the same route; (2) Between Rainsville, Ala., and Scottsboro, Ala., serving all intermediate points: From Rainsville over Alabama Highway 35 to Scottsboro, and return over the same route; and (3) Between Scottsboro, Ala., and Chattanooga, Tenn., serving all intermediate points in Alabama on U.S. Highway 72 between Scottsboro and the Tennessee-Alabama State line, and the off-route point of Widows Creek, Ala.: From Scottsboro over U.S. Highway 72 to Chattanooga, and return over the same route.

NOTE.—Applicant states that the purpose of this application is to eliminate the restriction that the traffic moving to, from, or through Chattanoga may not be transported by applicant to or from Birmingham in applicant's Certificate of Public conven-

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ience and Necessity in MC 111839. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Chattanooga, Tenn.

No. MC 112617 (Sub-No. 349), filed July 22, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, in bulk, in tank vehicles, from Cairo, Ill., to points in Alabama, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky., or Washington, D.C.

No. MC 112617 (Sub-No. 350), filed July 16, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Liquid chemicals*, in bulk, in tank vehicles, from the plantsite of Rohm & Haas Company, located at Knoxville, Tenn., to points in Alabama, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia, restricted to shipments having an origin at Louisville, Ky., and stopped in transit for additional loading.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky., or Washington, D.C.

No. MC 113267 (Sub-No. 336), filed July 19, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and frozen food* (except in bulk), from the facilities of New Orleans Cold Storage and Warehouse Co., located at New Orleans, La., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Memphis, Tenn.

No. MC 113429 (Sub-No. 3), filed July 21, 1976. Applicant: MIKE CONTRIS, doing business as CONTRIS TRUCKINK, Route 1, Harrod, Ohio 45850. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machine parts and materials* (except commodities in bulk) used in the manufacture of or repair of construction equipment, in express service, restricted to shipments not exceeding 5000 pounds, between Lima, Ohio, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii and Ohio), under a continuing contract with Clark Equipment Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 113495 (Sub-No. 78) (Correction), filed June 22, 1976, published in the FEDERAL REGISTER issue of July 29, 1976, and republished as corrected this issue. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels); (b) *equipment* designed for use in conjunction with trailers; (c) *agricultural, industrial, and construction machinery and equipment;* (d) *trailers* designed for the transportation of the commodities named in (a), (b), and (c) (except trailers designed to be drawn by passenger automobiles); (e) *attachments* for the commodities named in (a), (b) (c), and (d) above; (f) *internal combustion engines;* and (g) *parts* of the commodities named in (a), (b), (c), (d), (e), and (f) above, from the plants, warehouse sites and experimental farms of Deere & Company located at Philadelphia, Pa., Baltimore, Md., Atlanta, Ga., and Wilmington, N.C., and points in Black Hawk, Dubuque, Polk and Wapello Counties, Iowa, Rock Island County, Ill., and Dodge County, Wis., to points in Alabama, Delaware, Georgia, Florida, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *returned shipments* of the commodities described above, from the destination named in (1) above, to the origin points named in (1) above.

NOTE.—The purpose of this republication is (1) to correct the territorial description; and (2) to correct applicant's representative's name published as Wilmer B. Hull, in lieu of Wilmer B. Hill. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Charlotte, N.C.

No. MC 113624 (Sub-No. 75), filed July 20, 1976. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, Colo. 81001. Applicant's representative: Marion F. Jones, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solution*, in bulk, in tank vehicles, from Grant, Nebr., to points in Iowa, Missouri, and North Dakota, and points in Oklahoma south of Interstate Highway 40, and points in South Dakota east of the Missouri River.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., or Denver, Colo.

No. MC 113678 (Sub-No. 631), filed July 23, 1976. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between points in Wisconsin and the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis., in consolidation with Aubrey Freight; Container Transit; Diamond Transportation; Carl Subler; and Truck Transport.

No. MC 114211 (Sub-No. 279), filed July 19, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight, require the use of special *equipment, and related machinery, parts and supplies*, when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment, and *commodities* which do not require the use of special equipment when moving on the same equipment or same bill of lading as commodities which because of size or weight require the use of special equipment; and (2) *self-propelled articles and related machinery, tools, parts, and supplies* moving in conjunction therewith, between the ports of entry on the International Boundary line between the United States and Canada, located in Minnesota, North Dakota, Montana, Idaho, and Washington, on the one hand, and on the other, points in the United States including Alaska but excluding Hawaii, restricted against the transportation of tractors, road making machinery, contractors' equipment and supplies and farm machinery.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn., or Fargo, N. Dak.

No. MC 114569 (Sub-No. 142), filed July 20, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (unfrozen), from Belledeau and St. Francisville, La.,

to points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Peoria or Chicago, Ill.

No. MC 114829 (Sub-No. 11), filed July 22, 1976. Applicant: GENERAL CARTAGE COMPANY, INC., West U.S. Route No. 30, Rock Falls, Ill. 61071. Applicant's representative: Daniel C. Sullivan 327 South La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials and products* (except in bulk), from points in Lake County, Ind., to Sterling, Ill., under a continuing contract or contracts with Northwestern Steel & Wire Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sterling or Chicago, Ill.

No. MC 115278 (Sub-No. 4) (Clarification), filed June 17, 1976, published in the FEDERAL REGISTER issue of July 29, 1976, and republished, as clarified this issue. Applicant: SIEGEL & COHEN EXPRESS, INC., 566 South 11th Street, Newark, N.J. 07103. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn*, in packages, from Henderson, N.C., to points in that part of the New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451 within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Act (the "exempt zone") and points in New Jersey within 35 miles of New York, N.Y., restricted against interlining at origin or destination.

NOTE.—The purpose of this republication is to clarify the territorial description. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 115654 (Sub-No. 55), filed July 21, 1976. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 23193, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Memphis, Tenn., to points in Alabama, Kentucky, and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 115904 (Sub-No. 57), filed July 15, 1976. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from Denver, Colo., to points in Colorado, Idaho, Montana, Nebraska, New Mexico, South Dakota, Texas, Utah, and Wyoming, restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, and those commodities falling within the category described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 495, and further restricted to the transportation of traffic originating at the facilities of Western Plastics Corp., located at Denver, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Washington, D.C.

No. MC 116763 (Sub-No. 348), filed July 23, 1976. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between points in Wisconsin and the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

No. MC 117068 (Sub-No. 63), filed July 16, 1976. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Newcastle, Wyo., to points in Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Washington, D.C.

No. MC 117119 (Sub-No. 588), filed July 23, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and unfrozen potato products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Beaver Dam and Milwaukee, Wis., to points in Arizona, California, Maryland, Nevada, and Utah, restricted to traffic originating at the facilities of American Potato located at Beaver Dam and Milwaukee, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 117574 (Sub-No. 276), filed July 26, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies*, used in the installation of building, wall, or insulating boards (except commodities in bulk), from the plantsite of Armstrong Cork Company, at or near Macon, Ga., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117815 (Sub-No. 250), filed July 13, 1976. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plant and warehouse facilities owned and operated by Archer-Daniel-Midland Company, locatet in Decatur, Ill., also, shipping products for Wilsey Foods, Inc., and others, to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118831 (Sub-No. 135) filed July 23, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 2608, High Point, N.C. 27261. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar, corn, cane, and beet products, and blends thereof*, in bulk, from the plantsite and warehouse facilities of Amalgamaize Company, located at or near Decatur, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Birmingham, Ala.

No. MC 118831 (Sub-No. 136) filed July 22, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 2608, High Point, N.C. 27261. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules and pellets*, in bulk, from the plantsite of Minne-

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sota Mining and Manufacturing Company, located at Greenville, S.C., to Bristol, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119641 (Sub-No. 135) filed July 21, 1976. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, P.O. Box 2278, Colee Station, Ft. Lauderdale, Fla. 33303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum roofing, siding, gutters, downspouts, and fabricated aluminum products*, and *parts, attachments, and accessories* for the forementioned commodities, from the facilities of Alumax Building Products located at Bristol, Ind., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 119789 (Sub-No. 295) filed July 23, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Ellensburg and Seattle, Wash., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, the District of Columbia and its Commercial Zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash, or Portland, Oreg.

No. MC 119880 (Sub-No. 84) filed July 23, 1976. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056. East Peoria, Ill. 61611. Applicant's representative: Bruce A. Bullock, 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wine*, in bulk, in tank vehicles, from St. Louis, Mo., to Memphis, Tenn., Atlanta, Ga., and Tampa, Fla. and (2) *alcoholic liquors*, in bulk, in tank vehicles, from Lake Alfred, Fla., Bardstown, Ky., Frankfort, Ky., and Lawrenceburg, Ind., to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or St. Louis, Mo.

No. MC 123048 (Sub-No. 343) filed July 23, 1976. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between points in Wisconsin and the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

No. MC 123111 (Sub-No. 10) filed June 30, 1976. Applicant: QUEENSWAY TANK LINES LIMITED, a Corporation, Queensway Road, Chesterville, Ontario, Canada. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic liquid detergents*, from Hoboken, N.J., to ports of entry on the International Boundary line between the United States and Canada, located at points in New York, restricted to the transportation of traffic destined to the Provinces of Ottawa and Toronto, Ontario, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 123407 (Sub-No. 319) filed July 22, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Southwind Maritime Centre, located in Posey County, Ind., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held on a consolidated record with similar applications of Artim Transportation, Associated Truck Lines, B & C Motor Freight, Brada Miller Freight System, Centralia Cartage, Commercial Motor Freight of Indiana, Eck Miller Transportation, E. K. Motor Service, Hoosier Transport, I & S McDaniel, and seven other applications, at Indianapolis, Ind.

No. MC 123407 (Sub-No. 320), filed July 22, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall and insulating boards, and materials and supplies* used in the installation of building, wall and insulating boards (except commodities in bulk), from the plantsite of Armstrong Cork Company located at or near Macon, Ga., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 696) filed July 22, 1976. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, in bulk, in tank vehicles, from Cairo, Ill., to points in Alabama, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 113832 (Sub-No. 68), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Chicago, Ill.

No. MC 124078 (Sub-No. 697) filed July 23, 1976. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Corsicana, Tex., to points in the United States (except Connecticut, Delaware, Hawaii, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Vermont and Alaska).

NOTE.—Applicant holds contract carrier authority in No. MC-113832 (Sub-No. 68), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 124328 (Sub-No. 107) filed July 22, 1976. Applicant: BRINK's INCORPORATED, Suite 710, One Crossroads of Commerce, Algonquin Road & Rte. 53, Rolling Meadows, Ill. 60008. Applicant's representative: Richard H. Streeter, 704 Southern Building, 15th and H Streets, N.W., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Museum antifacts* of extraordinary value, between points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Smithsonian Institution.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124813 (Sub-No. 152) filed July 19, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean mill run and hulls*, from the facilities of Cargill, Incorporated, at Sioux City, Iowa, to points in Colorado, Kansas, Minnesota, Missouri, North Dakota, South Dakota and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 118468 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or St. Paul, Minn.

No. MC 124839 (Sub-No. 28), filed July 21, 1976. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, Ga. 31408. Applicant's representative: William P. Sullivan, 1819 H St., N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass fibre rovings, yarn and strand, glass fibre mats and matting, and materials, equipment and supplies* (except in bulk) used in the manufacture and distribution of the foregoing commodities, between the plantsite and warehouse facilities of Certain-Teed Products Corp. located in Clarke and DeKalb Counties, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia and (2) *insulating materials and materials, equipment and supplies* (except in bulk) used in their manufacture and distribution, between the plantsite and warehouse facilities of Certain-Teed Products Corp., located in Clarke and DeKalb Counties, Ga., on the one hand, and, on the other, points in Delaware, Illinois, Missouri, New Jersey, Ohio and Pennsylvania, under a continuing contract, or contracts, with Certain-Teed Products Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 125023 (Sub-No. 38), filed July 19, 1976. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Cliffwood, N.J., to points in New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or New York, N.Y.

No. MC 125433 (Sub-No. 79), filed July 1, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Kenneth W. Barber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from Denver, Colo., to points in Arizona, Kansas, Nebraska, New Mexico, Texas, and Utah, restricted against transportation of those commodities described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and further restricted to the transportation of traffic originating at the facilities of Amoco Chemicals Corporation located at Denver, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Denvor, Colo., or Salt Lake City, Utah.

No. MC 125813 (Sub-No. 14), filed July 23, 1976. Applicant: CRESSLER TRUCKING, INC., 153 West Orange Street, Shippensburg, Pa. 17257. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Castings, pumps, patterns, core boxes, and parts and accessories therefor*, from the plantsite of ITT Domestic Pump, Shippensburg Township (Cumberland County), Pa., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, parts, and supplies* used in the manufacture of the commodities described in (1) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite of ITT Domestic Pump, located at Shippensburg Township (Cumberland County), Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 126118 (Sub-No. 21), filed July 19, 1976. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuts and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act when transported in mixed loads with nuts, from points in California to points in and east of Kansas, Louisiana, Nebraska, North Dakota, Oklahoma, and South Dakota.

NOTE.—Applicant holds contract carrier authority in MC 128375 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Sacramento, Calif., or Lincoln, Nebr.

No. MC 126276 (Sub-No. 154), filed July 22, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and equipment, materials, and supplies*, used in the manufacture and distribution of containers and container ends, when moving with containers and container ends (except commodities in bulk), from the plantsite of the National Can Corporation, at Fogelsville, Pa., to points in the United States (except Alaska, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia), under contract with National Can Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126899 (Sub-No. 101), filed July 23, 1976. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., P.O. Box 3051, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material* and *empty malt beverage containers* on return, from Louisville, Ky., to points in Illinois, Ohio, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville or Frankfort, Ky.

No. MC 127692 (Sub-No. 4) (Correction) filed June 30, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, republished as corrected this issue. Applicant: FIDELITY STORAGE CORPORATION, P.O. Box 10257, Alexandria, Va. 22310. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Arlington, Clarke, Culpepper, Fairfax, Fauquier, King George, Loudoun, Prince William, Rappahannock, Spotsylvania, Stafford and Warren Counties, Va., Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Howard, Montgomery, Prince Georges, St. Marys and Washington Counties, Md., Baltimore, Md., Alexandria and Falls Church, Va., and the District of Columbia, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—Applicant presently holds authority to transport used household goods, subject to the same "King Pak" restrictions, between points in Prince Georges, Montgomery, Howard, Anne Arundel, Baltimore, and Frederick Counties, Md., and Baltimore, Md., and Washington, D.C., and Fairfax, Arlington, Prince William, Loudoun, and Stafford Counties, Va., and Alexandria and Falls Church, Va. The purpose of this republication is to indicate the extent of applicant's present authority, which was previously omitted. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

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No. MC 128273 (Sub-No. 232) filed July 15, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials and supplies used in the manufacture of printed matter* (except commodities in bulk), between Willard, Ohio, and Crawfordsville, Ind., on the one hand, and, on the other, points in Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests is be held at either Chicago, Ill., or Washington, D.C.

No. MC 128633 (Sub-No. 12) filed July 23, 1976. Applicant: LAUREL HILL TRUCKING COMPANY, 614 New County Rd., Secaucus, N.J. 07094. Applicant's representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, N.J. 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by retail department stores (except foodstuffs and commodities in bulk), between carrier's terminal at Secaucus, N.J., on the one hand, and, on the other, South Gate, Roseville, Detroit, Southfield and Madison Heights, Mich. and Oaklawn, Matteson, Elmhurst, Morton Grove, North Riverside and Arlington Heights, Ill., restricted to shipments originating at or destined to retail stores or warehouses of Korvettes Department Stores at the above named points or Bayonne, N.J., under a continuing contract, or contracts, with Korvette Department Stores, Division of Korvettes, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 128058 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York City, N.Y.

No. MC 128702 (Sub-No. 1), filed July 1, 1976. Applicant: TANNAHILL TRANSPORT, LTEE., Allans Corners, Ormstown, Quebec, Canada Jos iko. Applicant's representative: Neil D. Breslin, 99 Washington Avenue, Suite 1111, Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins*, from points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Vermont to ports of entry on the International Boundary line between the United States and Canada, located at Rouses Point, Chateaugay and Trout River, N.Y.; Highgate Springs, Richford and North Troy, Vt.; Derby Line and Norton, N.H.; Jackson, Maine; and Montreal and Howick, in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albany, N.Y.

No. MC 129032 (Sub-No. 23), filed July 22, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, 5th Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper* (except in bulk), from the plantsite of Bowater Southern Paper Corporation, located at Calhoun, Tenn., to points in Arkansas, Arizona, Illinois, Iowa, Kansas, Michigan, Missouri, Minnesota, Nebraska, New Mexico, Oklahoma and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests is be held at either Tulsa, Okla. or San Francisco, Calif.

No. MC 129613 (Sub-No. 21) filed July 21, 1976. Applicant: ARTHUR H. FULTON, an Individual, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, between Martinsburg, W. Va., on the one hand, and, on the other, points in California, Oregon and Washington, under a continuing contract, or contracts, with Erath Veneer Corporation.

NOTE.—Applicant holds common carrier authority in No. MC 138000 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 129950 (Sub-No. 2) filed July 21, 1976. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Ave., South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores *and supplies and equipment* used in the conduct of such business (except commodities in bulk and foodstuffs), between points in the New York, N.Y., Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Oklahoma, Texas and Wisconsin, under a continuing contract with Jubilee Shops, Inc.

NOTE.—Applicant holds common carrier authority in MC 117685 therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 133666 (Sub-No. 15) filed July 22, 1976. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, P.O. Box 368, Wheaton, Minn. 56296. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the storage facilities of Farmland Industries, Inc., located at or near Barnesville and Benson, Minn., to points in Minnesota, Montana, North Dakota, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 134022 (Sub-No. 20), filed July 21, 1976. Applicant: RICHARD A. ZIMA, doing business sa ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, (except wrecked or disabled), on flat-bed equipment, between Appleton, Wis., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Montana, Illinois, Washington and North Dakota).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 134388 (Sub-No. 14) filed July 21, 1976. Applicant: HOME RUN, INC., Three North Sycamore St., Jamestown, Ohio 45335. Applicant's representative: Boyd B. Ferris, 50 West Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and component parts, materials, supplies* and *fixtures* used in the erection or assembly of buildings, between Victor, N.Y.; Chardon and Jamestown, Ohio; Coraopolis, Eighty-four and Wampum, Pa.; and Fredericksburg, Va., on the one hand, and, on the other, points in Mississippi, under a continuing contract, or contracts, with Ryan Homes, Inc. located in Pittsburgh, Pa., restricted against the transportation of (a) buildings, in sections when mounted on wheeled undercarriages, and (b) cement.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 134405 (Sub-No. 30) filed July 23, 1976. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asphaltic emulsions*, from Springfield, Mo., to points in Arkansas; and (2) *liquid asphalt*, in bulk, in tank vehicles, from Enid and Ardmore, Okla., to points in Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Oklahoma City, Okla.

No. MC 134484 (Sub-No. 9), filed July 21, 1976. Applicant: EDWARDS BROS. INC., 1875 North Holmes Ave., P.O. Box 1684, Idaho Falls, Idaho 83401. Applicant's representative: Morgan G. Edwards (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, from Flathead County, Mont., to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho or Billings, Mont.

No. MC 134922 (Sub-No. 184), filed July 13, 1976. Applicant: B. J. McADAMS, INC., Route 6, P.O. Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, foodstuffs and commodities requiring special equipment), between the Yellow Creek Port Terminal and Industrial area, located in Tishomingo County, Miss., on the one hand, and, on the other, points in the United States including Alaska, but excluding Alabama, Florida, Georgia, Hawaii, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Memphis, Tenn.

No. MC 135183 (Sub-No. 6) filed July 13, 1976. Applicant: KERR CONTRACT CARRIAGE, INC., Route 4, Salem, Mo. 65560. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, and charcoal lighter fluid*, from the plantsite of Floyd Charcoal Co., located near Salem, Mo., to points in Iowa, Louisiana, Nebraska and South Carolina; (2) *paper bags*, from Mobile, Ala.; Pensacola, Fla.; Savannah, Ga.; Peoria, Ill.; Indianapolis and Seymour, Ind.; West Monroe, La.; Omaha, Nebr.; Spartanburg, S.C.; and Bristol, Tenn.; to the plantsite of Floyd Charcoal Co., located near Salem, Mo.; and (3) *sodium nitrate*, in bags, from Lake Charles, La., to the plantsite of Floyd Charcoal Co., located near Salem, Mo., under a continuing contract, or contracts, with Floyd Charcoal Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Springfield, Ill.

No. MC 135185 (Sub-No. 30) filed July 19, 1976. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Avenue, P.O. Box 22198, Denver, Colo. 80222. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning, scouring and washing compounds, polishing* and *buffing compounds, disinfectants, deodorants, drugs* and *toilet preparations, insecticides, other household cleaning supplies, chemicals, hydraulic cement, sand, coal tar, adhesive tape, plastic synthetics, paint solvents, rubber cement, caulking and brazing compounds, varnish, paints, phosphoric acid and titanium dioxide*, (a) from Lincoln, Ill., and Toledo, Ohio, to points in Hennepin and Ramsey Counties, Minn.; and (b) from Belle Mead, N.J., to points in California and Massachusetts; and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in Illinois to Toledo, Ohio, under a continuing contract, or contracts, in (1) and (2) above with Lehn & Fink Products Co., a Division of Sterling Drug, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Newark, N.J. or New York, N.Y.

No. MC 135283 (Sub-No. 17), filed July 16, 1976. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Box 1665, E. Highway 30, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Midwestern Beef, Inc., Platte Valley Division, located at or near Darr, Nebr., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Pennsylvania and Wisconsin, restricted to the transportation of traffic originating at the named origin point and destined to the named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln or Grand Island, Nebr.

No. MC 135732 (Sub-No. 25), filed July 23, 1976. Applicant: AUBREY FREIGHT LINES, INC., 605 Grove St., P.O. Box 503, Elizabeth, N.J. 07202. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between points in Wisconsin and the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis., in consolidation with Container Transit, Inc.; Curtis, Inc.; Diamond Transportation System; Truck Transport, Inc.; Carl Subler Trucking, Inc.

No. MC 136343 (Sub-No. 87), filed July 2, 1976. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 535, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood and plastic mouldings*, from the facilities of Abitibi Corporation located at Middlebury, Ind., to points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas; and (2) *discontinued merchandise, returned, refused and rejected shipments*, from the above destination points to the facilities of Abitibi Corporation located at Middlebury, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio or Washington, D.C.

No. MC 136762 (Sub-No. 11), filed June 22, 1976. Applicant: OSBORNE HIGHWAY EXPRESS, P.O. Box 763, Ukiah, Calif. 95482. Applicant's representative: J. H. Gulseth, 125 University Avenue, Berkeley, Calif. 94710. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from Fruita, Colo., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 136786 (Sub-No. 101), filed July 7, 1976. Applicant: ROBCO TRANSPORTATION, INC., 309 5th Avenue Northwest, P.O. Box 12729, New Brighton, Minn. 55112. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials and supplies* used in the manufacture of printed matter (except commodities in bulk), between Willard, Ohio, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Iowa, Kansas, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 138308 (Sub-No. 16), filed July 19, 1976. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wiring devices and electrical and lighting equipment* (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Union Insulating Co., Inc. located at or near Parkersburg, W. Va., to point in California, Oregon and Washington.

NOTE.—Applicant holds contract carrier authority in MC 128592 and subs thereunder, therefore dual operations may be involved.

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If a hearing is deemed necessary, the applicant requests it be held at either Jackson Miss. or Memphis, Tenn.

No. MC 138312 (Sub-No. 3), filed July 21, 1976. Applicant: T & R MOTORS, INC., U.S. 169 South, Route No. 2, Nowata, Okla. 74048. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, from the plantsite and storage facilities of Farmland Industries, Inc., located at or near Muskogee, Okla., to points in Arkansas, Kansas and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 138413 (Sub-No. 7), filed July 15, 1976. Applicant: JOHN TOWNROW, an Individual, doing business as: JOHN TOWNROW TRUCKING, 4290 Elton St., Baldwin Park, Calif. 91706. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Games, toys, juvenile furniture and playground apparatus*, from points in Connecticut, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, and West Point, Miss., to Compton and San Jose, Calif.; Secaucus, N.J.; Beltsville, Md.; Bensenville, Ill.; Melvindale, Mich.; and Houston, Tex., under a continuing contract, or contracts, with Lash-Tamaron Division of Toys-R-US.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York City, N.Y. or Los Angeles, Calif.

No. MC 138741 (Sub-No. 22), filed July 13, 1976. Applicant: E. K. MOTOR SERVICE, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom Kretsinger, 910 Brookfield Bldg., 101 West 11th St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, valves and hydrants and materials*, used in the installation thereof (except Oil Field Commodities, as defined in Mercer Extension Oil Field Commodities 74 M.C.C. 459), (1) from the plantsite, warehousing and shipping facilities of the Clow Corporation, at Coshocton, Ohio, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, those points in the Lower Peninsula of Michigan, and points in Minnesota, Missouri, Nebraska, Oklahoma, Tennessee and Wisconsin; and (2) *refused, rejected or returned shipments*, from the destination points in (1) above, to Coshocton, Ohio, restricted against the transportation of commodities in bulk.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 139253 (Sub-No. 7), filed July 22, 1976. Applicant: SOUTHEASTERN WAREHOUSING AND DISTRIBUTION CORP., West Side Industrial, Johnson City, Tenn. 37601. Applicant's representative: Robert L. Baker, Suite 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), (1) Between Johnson City, Tenn., and Blowing Rock, N.C.: From Johnson City, Tenn., over U.S. Highway 321 to Blowing Rock, N.C., and return over the same route, serving all intermediate points; (2) Between Elizabethton, Tenn., and Blowing Rock, N.C.: From Elizabethton, Tenn., over U.S. Highway 19–E to its intersection with North Carolina Highway 194, thence south over North Carolina Highway 194 to its intersection with U.S. Highway 221, thence over U.S. Highway 221 to Blowing Rock, N.C., and return over the same route, serving all intermediate points; (3) Between Linville and Boone, N.C.: From Linville, N.C., over North Carolina Highway 105 to its intersection with U.S. Highway 321, thence over U.S. Highway 321 to Boone, N.C., and return over the same route, serving all intermediate points; (4) Between Boone, N.C., and Trade, Tenn.: From Boone, N.C., over U.S. Highway 421 to its intersection with North Carolina Highway 194, thence over North Carolina Highway 194 to the North Carolina-Virginia State Line, thence over an unnumbered highway in Virginia to U.S. Highway 58, thence over U.S. Highway 58 to its intersection with Virginia Highway 91, thence over Virginia Highway 91 to the Virginia-Tennessee border, thence over Tennessee Highway 91 to its intersection with U.S. Highway 421, thence over U.S. Highway 421 to Trade, Tenn., and return over the same route serving all intermediate points; (5) Between Elk Park and Warrensville, N.C.: From Elk Park, N.C., over U.S. Highway 19–E, to its intersection with North Carolina Highway 194, thence over North Carolina Highway 194 to its intersection with U.S. Highway 421, thence over U.S. Highway 421 to its intersection with North Carolina Highway 88, thence over North Carolina Highway 88 to Warrensville, N.C., and return over the same route serving all intermediate points; and (6) Between Elizabethton and Mountain City, Tenn.: From Elizabethton, Tenn., over Tennessee Highway 91 to its intersection with U.S. Highway 421, thence over U.S. Highway 421 to Mountain City, Tenn., and return over the same route, serving all intermediate points, and serving all other points in Carter and Johnson Counties, Tenn., as off-route points.

NOTE.—If a hearing is deemed necesary, the applicant requests it be held at Johnson City, Tenn.

No. MC 139306 (Sub-No. 7), filed July 22, 1976. Applicant: DEL R. STANAGE AND JOE R. STANAGE doing business as STANAGE TRANSPORTATION, 121 Indiana Springs Road, Hot Springs, Ark. 71901. Applicant's representative: Del R. Stanage (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet*, broken glass, in bulk, in dump vehicles, (1) between Little Rock, Ark.; Paris, Tex.; Logan, Ohio; Reform, Ala.; and Salina, Kans.; and (2) between Fairmont, W. Va., and Owensboro, Ky., on the one hand, and, on the other, Little Rock, Ark.; Paris, Tex., Reform, Ala.; and Salina, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 139420 (Sub-No. 12) filed July 14, 1976. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen novelty confections and dietetic frozen desserts*, from Grand Forks, N. Dak., to points in Idaho, Montana and Oregon.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fargo, N. Dak. or Minneapolis, Minn.

No. MC 139432 (Sub-No. 7), filed July 12, 1976. Applicant: SUNRISE TRANSPORTATION, INC., 9850 East Highway 120, Manteca, Calif. 95336. Applicant's representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and liquid feed supplement*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., at Stockton, Calif., to points in Curry, Josephine, Jackson, Klamath, Lake, Harney, Malheur, Coos, Douglas, Lane, Deschutes, Crook, Wheeler, and Grant Counties, Oreg., under a continuing contract or contracts with Cargill, Inc.

NOTE.—Applicant holds common carrier authority in MC 119912 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco or San Diego, Calif.

No. MC 139495 (Sub-No. 138) (Amendment), filed April 1, 1976, published in the FEDERAL REGISTER issue of May 13, 1975, republished as amended this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW, Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring and washing compounds; and water treating compounds* (except in bulk) from the plantsite and storage facilities of Calgon Corporation located at or near Frisco, Pa. to Hayward, and City

of Industry, Calif.; Denver, Colo.; Atlanta, Ga.; New Orleans, La.; Duluth, Minn.; St. Louis, Mo.; Charlotte, N.C.; Bayport and Houston, Tex.; Salt Lake City, Utah; Seattle, Wash. and Bluefield, W. Va.

NOTE.—The purpose of this republication are to (1) delete activated carbon and lavatory fixtures from the commodity description and (2) delete parts (1), (3) and (4) from the territorial description and (3) to add Denver, Colo., Duluth, Minn. and City Industry, Calif. as destination points in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139743 (Sub-No. 5) (Correction), filed June 23, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, as MC 13974, republished as corrected this issue. Applicant: GEORGIA CARPET EXPRESS, INC., P.O. Box 1680 (Tibbs Road), Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree St., NW, Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting and carpet samples*, from the plantsites and warehouse facilities of Salem Carpet Mills, Inc., located at or near Ringgold, Ga., and Normandy Carpets, Inc., located at or near Dalton, Ga., to points in California.

NOTE.—The purpose of this republication is to change docket number MC 139743 Sub-No. 5 in lieu of MC 13974 Sub-No. 5 which was previously omitted. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 140033 (Sub-No. 15), filed July 19, 1976. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: E. Larry Wells, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite of Maverick Beef Packers, Inc., at or near Eagle Pass, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Antonio or Dallas, Tex.

No. MC 140581 (Sub-No. 4), filed July 21, 1976. Applicant: TOMMY HAGWOOD, an individual, doing business as HAGWOOD ENTERPRISES, Route 1, Box 222–A, Trafford, Ala. 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, in truckaway service, between Oakland, Calif., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 140743 (Sub-No. 9) (Amendment), filed March 29, 1976, published in the FEDERAL REGISTER issue of April 29, 1976, republished as amended this issue. Applicant: GORSKI BULK TRANSPORT, INC., 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Applicant's representative: William B. Elmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from the ports of entry on the International Boundary line between the United States and Canada, located in Michigan, Montana, New York and North Dakota, to Cincinnati, Ohio, restricted to traffic originating at Calgary, Alberta, Canada.

NOTE.—The purpose of this republication is to amend the requested authority in this proceeding. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.; Cincinnati, Ohio; or Detroit, Mich.

No. MC 141172 (Sub-No. 1), filed June 24, 1976. Applicant: RETTA TRUCKING CO., INC., 3 Pleasantville Road, Ossining, N.Y. 10562. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, N.Y. 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sauces*, from the facilities of Saucy Susan Products, Inc., in the Village of Briarcliff Manor (Westchester County), N.Y., to points in Connecticut and New Jersey; (2) *glass*, from Port Allegheny, Pa., to the facilities of Saucy Susan Products, Inc., in the Village of Briarcliff Manor (Westchester County), N.Y., under a continuing contract or contracts in (1) and (2) above with Saucy Susan Products, Inc.; and (3) *sauces and mustard*, from the facilities of Aunt Millie's Sauces, Inc., in the Hamlet of Hawthorne (Westchester County), N.Y., to points in Connecticut and New Jersey, under a continuing contract or contracts with Aunt Millie's Sauces, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 141485 (Sub-No. 1), filed July 13, 1976. Applicant: CLIFFORD RAY RUTLAND, doing business as CLIFF RUTLAND TRUCKING, Rural Route No. 1, Independence, Kans. 67301. Applicant's representative: Laurel D. McClellan, 430 North 7th, P.O. Box 478, Fredonia, Kans. 66736. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feeds and feed ingredients*, from Republic, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Nebraska, New Mexico, North Carolina, New York, Oklahoma, Tennessee, Texas, Utah, and Wyoming; (2) *feed ingredients*, from Hutchinson and Pittsburg, Kans., Danville, Springfield, and Decatur, Ill., and Stuttgart, Ark., to Republic, Mo.; (3) *feed bags*, from Memphis, Tenn., to Republic, Mo., under a continuing contract, or contracts, in (1) through (3) above, with American Agri Products, Inc., located at Republic, Mo.; (4) animal feeds, from Ava and Republic, Mo., Parsons, Kans., Washington, Okla., and Denver, Colo., to points in Alabama, Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Nebraska, New Mexico, North Carolina, New York, Oklahoma, Tennessee, Texas, Utah, and Wyoming; (5) *feed ingredients*, from Hutchinson and Pittsburg, Kans., Danville, Springfield, and Decatur, Ill., and Stuttgart, Ark., to Republic, Mo.; (6) *feed bags*, from Memphis, Tenn., to Ava and Republic, Mo.; and (7) *feed bags*, from Ava and Republic, Mo., to Washington, Okla., Denver, Colo., Wills Point, Tex., Parsons and Bonner Springs, Kans., Hubbard, Iowa, Beemer, Nebr., and St. George, Utah, under a continuing contract, or contracts, in (4) through (7) above, with Super Sup Equine Products, Inc., located at Springfield, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wichita, Kans., or Joplin or Kansas City, Mo.

No. MC 141550 (Sub-No. 3), filed July 14, 1976. Applicant: HOPPY LINES, INC., 420 Devonshire Drive, Brea, Calif. 92621. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Chlorinated *paraffin*, in packages and containers, from Santa Fe Springs and Anaheim, Calif., to points in Colorado, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Washington, and Wyoming; and (2) *coal tar* and *petroleum resin*, in packages and containers, from Neville Island, Pa., to points in California: (1) and (2) above are under a continuing contract, or contracts, with Neville Chemical Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 141804 (Sub-No. 19), filed July 19, 1976. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail stores (except foodstuffs and commodities in bulk), (1)

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from points in New Jersey, New York, and Hanover County, Va., to points in California and Texas; (2) from Arlington, Tex., to points in California and (3) from points in New Jersey and New York, to points in Hanover County, Va., restricted in (1), (2), and (3) to the transportation of traffic originating at the named origins, and destined to the facilities of Best Products Co., Inc., in the described destination area.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Nashville, Tenn.

No. MC 141957 (Sub-No. 1) (Correction), filed May 7, 1976, published in the FEDERAL REGISTER issue of June 17, 1976, republished as corrected this issue. Applicant: EUGENE NAVARRO, doing business as MIAMI CRATING CO., 5522 NW. 72nd Avenue, Miami, Fla. 33178. Applicant's representative: Richard B. Austin, Ste. 214, Palm Coast II Bldg., 5255 NW. 87th Avenue, Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, crated or in containers, and *commodities* which by reason of their size and weight do not require the use of special equipment, from applicant's warehouse facilities at or near Miami, Fla., to Miami, Fla., restricted to traffic having a subsequent movement by water.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 142038 (Sub-No. 1), filed July 16, 1976. Applicant: DARIO GUERRA, doing business as DARIO GUERRA TRANSFER, 1040 Biscayne Blvd., Miami, Fla. 33132. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 NW. 87th Ave., Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), in shipper-owned trailers, between Port Everglades, the Port of Miami, and points in Dade County, Fla., restricted to traffic having an immediately prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 142055 (Sub-No. 3), filed July 19, 1976. Applicant: THOMAS H. PRESLEY, doing business as PRESLEY'S TRUCKING SERVICE, P.O. Box 46, Shuqualak, Miss. 39361. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and structural tile*, (1) between the plant and facilities of Delta-Shuqualak Brick & Title Company, Inc., at or near Shuqualak, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas; and (2) between the plant and facilities of Delta Brick & Title Company, Inc., at or near Indianola, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas, under a continuing contract or contracts with Delta Brick & Title Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 142145 (Sub-No. 2), filed July 22, 1976. Applicant: LINDSAY TRANSPORTATION, INC., Lindsay, Nebr. 68644. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and parts, equipments, materials, and supplies*, used in irrigation systems, their shipment or their installation, from the facilities utilized by Lindsay Manufacturing Co., Inc., at or near Amarillo, Tex., to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials, and supplies*, utilized in the manufacture of irrigation systems, from points in the United States (except Alaska and Hawaii), to the facilities of Lindsay Manufacturing Co., Inc., at or near Amarillo, Tex., restricted to a transportation service to be performed under a continuing contract or contracts with Lindsay Manufacturing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Omaha or Lincoln, Nebr.

No. MC 142172 (Sub-No. 2), filed July 16, 1976. Applicant: CAR TRUCK SHUTTLE SERVICE LIMITED, 1209 North Service Road, Oakville, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks*, in driveaway service, from the ports of entry on the International Boundary line between the United States and Canada, at or near Buffalo, N.Y., to Buffalo, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 142221, filed June 14, 1976. Applicant: McAULEY TRUCKING COMPANY, INC., P.O. Box 626, North State Street, Ellsworth, Maine 04605. Applicant's representative: Robert S. Briggs, One Merchants Plaza, Bangor, Maine 04401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beams (spools) and boxes of yarn, fibre, and raw materials* used in the manufacture thereof, between the plantsite of McAuley Textile Corporation, located in Ellsworth, Maine, and Fall River, Hudson, Mass., Ellenboro, Kinston, Rocky Mount, and Roxboro, N.C., Norwood, N.J., Woonsocket, R.I., Camlen, Greenville, and La France, S.C., Kingsport, Tenn., and Nitro, W.Va.; and (2) *empty beams (spools)*, between the points named in (1) above to the plantsite of McAuley Textile Corporation located in Ellsworth, Maine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Maine, or Boston, Mass.

No. MC 142284 (Sub-No. 1), filed July 21, 1976. Applicant: AIR COURIERS INTERNATIONAL, INC., 4131 N. 36th Street, Suite No. 1, Phoenix, Ariz. 85018. Applicant's representative: Jeremy Kahn, Investment Building, Suite 733, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business papers*, used or useful in the conduct of insurance business, between the facilities of American Home Assurance Company, located at New York, N.Y., and the facilities of American Home Assurance Company, located at Manchester, N.H., under a continuing contract, or contracts, with American Home Assurance Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142296, filed July 19, 1976. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: E. Larry Wells, 4645 North Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clothing and wearing apparel and component parts* used in the manufacture thereof, between the plantsite and warehouse facilities of Munsingwear, Inc., located at or near Memphis, Tenn., on the one hand, and, on the other, Los Angeles and San Francisco, Calif., under a continuing contract with Munsingwear/Vassarette.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Minneapolis, Minn.

No. MC 142313, filed July 16, 1976. Applicant: JAMES SWETT, doing business as L. J. TRANSPORT, 1403 South 6th, Mt. Vernon, Wash. 98273. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen horsemeat, and horsemeat products*, from points in Washington, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), together with ports of entry on the International Boundary line between the United States and Canada, located in Michigan, New York, and Washington, under contract with Florence Packing; Florence Meat Sales; and Northwest Processor, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 142315, filed July 23, 1976. Applicant: MEISLER CARTAGE, INC., 1103 East Franklin Street, Evansville, Ind. 47711. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk, in tank vehicles and in dump vehicles), between points in Illinois, Indiana, and Kentucky, on the one hand, and, on the other, Evansville, Ind., restricted to the transportation of shipments having a prior or subsequent movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.; Chicago, Ill.; or Washington, D.C.

No. MC 142319, filed July 19, 1976. Applicant: STRAUSS TRUCKING, LTD., 54 Matsunaye Drive, Medford, N.Y. 11763. Applicant's representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass, wood and metal store, office, and restaurant fixtures, equipment and showcases*, uncrated, from Copiague and New York, N.Y., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia; and (2) *used glass, wood and metal store, office, and restaurant fixtures, equipment and showcases, uncrated*, from the destination points named in (1) above to New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

PASSENGER APPLICATIONS

No. MC 61016 (Sub-No. 43), filed May 24, 1976. Applicant: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, Mass. 01103. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Passengers* in special operations, from points in Amherst, Hadley, Northampton, Easthampton, Holyoke, Williamnsett, Chicopee, Springfield, Ludlow, Longmeadow, East Longmeadow, Wilbraham, Palmer, Brimfield, Sturbridge, Southbridge, and Dudley, Mass., to the site of Plainfield Greyhound Park, Plainfield, Conn., and return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Springfield, Mass.

No. MC 126986 (Sub-No. 9), filed July 22, 1976. Applicant: DUFOUR BROTHERS, INC., 115 South Street, Pittsfield, Mass. 01201. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip and one-way special and charter operations, between points in Berkshire County, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsfield, Mass.

No. MC 135288 (Sub-No. 7), filed July 21, 1976. Applicant: McGILL'S TAXI AND BUS LINES, INC., doing business as, ASHEBORO COACH CO., 151 Sunset Avenue, P.O. Box 626, Asheboro, N.C. 27203. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Alamance, Anson, Chatham, Davidson, Guilford, Hoke, Lee Montgomery, Moore, Orange, Randolph, Richmond, Robeson, Scotland, Stanly, and Union Counties, N.C., and High Point, N.C., and points in its Commercial Zone, and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Greensboro or Asheboro, N.C.

BROKER APPLICATION

No. MC 130398, filed July 7, 1976. Applicant: RIDGE TRAVEL AGENCY, INC., 151 East Center Street, Sebring, Fla. 33870. Applicant's representative: S. Harrison Kahn, Investment Building, Suite 733, Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Sebring, Lake Placid, and Avon Park, Fla., by motor vehicle, rail, water or air carriers, in the transportation of *Passengers*, individual and in groups, and *their baggage*, in special and charter operations, in sightseeing and pleasure tours, between points in the United States, including Alaska and Hawaii, restricted to tours originating at and destined to points in Highlands County, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sebring, Fla.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR § 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

No. MC-F-12718 (Amendment) (FLORIDA TRANSPORT GROUP, INC.—CONTROL—TARPON TRANSPORTATION, INC.), published in the January 14, 1976, issue of the FEDERAL REGISTER, on page 2148. By amendment filed August 12, 1976, applicants seek to modify the original transaction by substituting as vendee FLAMINGO TRANSPORTATION, INC., of Miami, FL. FLAMINGO TRANSPORTATION, INC., is authorized to operate as a *common carrier* in Florida.

No. MC-F-12859. (COPPER FREIGHT LINES, INC., d/b/a COPPER FREIGHT LINES—PURCHASE—AURORA DELIVERY, INC., d/b/a AURORA DELIVERY), published in the August 12, 1976, issue of the FEDERAL REGISTER on page 34159. Application filed August 10, 1976, for temporary authority under Section 210a(b).

No. MC-F-12875. (Correction) (DELTA LINES, INC.—PURCHASE (PORTION)—(B) RINGSBY TRUCK LINES, INC. AND (BB) RINGSBY-PACIFIC LTD., published in the July 22, 1976, issue of the FEDERAL REGISTER on pages 30247 and 30248. Notice should include under (BB) General Commodities, with exceptions, as a *common carrier* over irregular routes between Tacoma, Wash., on the one hand, and, on the other, points in Pierce, Thurston, Lewis, Mason, and Grays Harbor Counties, Wash.

No. MC-F-12891. (Correction) (AAA TRUCKING CORPORATION OF CALIFORNIA — PURCHASE — RELIABLE DELIVERY SERVICE, INC.), published in the July 29, 1976, FEDERAL REGISTER. Correct Title is as follows: BONSCO, INC. and AAA TRUCKING CORPORATION OF CALIFORNIA—PURCHASE—RELIABLE DELIVERY SERVICE, INC. (ASSIGNEE, CREDIT MANAGERS ASSOCIATION OF SOUTHERN CALIFORNIA, INC.)

No. MC-F-12921. Authority sought for control by OSBORNE GROUP, INC., (controls motor carriers), 125 University Avenue, Berkeley, CA., 94710, of WASHINGTON - OREGON LUMBER FREIGHTERS, INC., 2000 E. Columbia Way, Building 54, Vancouver, Washington 98661, and for acquisition by GENE OSBORNE, 604 Lander, Reno, NV., 89502, of control of WASHINGTON-OREGON LUMBER FREIGHTERS, INC., through the acquisition by GENE OSBORNE. Applicants' attorney: Earle V. White, 2400 SW Fourth Avenue, Portland, OR., 97201. Operating rights sought to be controlled: *General commodities*, with exceptions as a *common carrier* over regular routes between Klickitat, Wash., and Portland, Oreg., serving the intermediate point of Lyle, Wash., the intermediate and off-route points on Wah-

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kiacus, Wash., the site of the State Fish Hatchery on the Klickitat River (approximately 15 miles north of Klickitat), and the site of the J. Neil Lumber Company's Reload Station (approximately ten miles north of Klickitat); between junction U.S. Highway 830 and Bridge of the Gods (south of Stevenson, Wash.) and Portland, Oreg., serving no intermediate points; *solidified carbon dioxide (dry ice)*, as a *common carrier* from Klickitat Springs over regular and irregular routes, over unnumbered highway to the Columbia River, thence across the Columbia River to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 395, thence over U.S. Highway 395 to Wallula, Wash., and thence over irregular routes to points in Washington east of the Columbia River, and return with no transportation for compensation except as otherwise authorized, over irregular routes to Wallula, thence over the above-specified regular route to Klickitat Springs; *sugar, salt, and cement*, as a common carrier over irregular routes from the Dalles, Oreg., to points in Benton, Klickitat, and Yakima Counties, Wash.; scrap *metal* from points in Skamania and Yakima Counties, Wash., to Portland, Oreg.

Building materials and plumbing supplies, from the Dalles and Portland, Oreg., to points in Skamania and Yakima Counties, Wash.; *household goods* as defined by the Commission, between points in Klickitat County, Wash., and all other points within 25 miles of Klickitat, Wash., on the one hand, and, on the other, points in Oregon; *livestock*, between points in Klickitat County, Wash., on the one hand, and, on the other, points in Oregon; *livestock and wool*, between points in Benton, Yakima, and Franklin Counties, Wash., on the one hand, and, on the other, points in Wasco, Hood River, Morrow, Gilliam, Umatilla, and Multnomah Counties, Oreg.; *lumber, lumber products, and fruit*, between points in Yakima, Skamania, and Klickitat Counties, Wash., on the one hand, and, on the other points in Oregon; *lumber and box shooks*, between points in Klickitat County, Wash., on the one hand, and, on the other, points in that part of Idaho south of Nez Perce, Lewis, and Clearwater Counties, Idaho; *agricultural commodities, farm machinery, wool, livestock, lumber*, and *box shooks*, between points in Skamania and Klickitat Counties, Wash., on the one hand, and, on the other, points in Walla Walla, Columbia, Garfield, and Asotin Counties, Wash.; *Agricultural commodities, forest products, paper products, feed, Flour, farm machinery, road building machinery, fertilizer, wool, box shooks, building material, plumbing supplies and fixtures*, and *materials* and *supplies* used or useful in the preparation, packing, and shipment of fruit, between points in Klickitat County, Wash.; and between points in Klickitat County, Wash., on the one hand, and, on the other, points in Wasco, Hood River, Multnomah Counties, Oreg.; *agricultural commodities, feed, farm machinery* and *implements*, and *forest products*, between points in Skamania and Yakima Counties, Wash., on the one hand, and, on the other, points in Columbia, Washington, Marion, Yamhill, Clackamas, Multnomah, Hood River, Wasco, Sherman, Gilliam, Deschutes, Jefferson, Wheeler, Crook, Morrow, and Umatilla Counties, Oreg.; *sand, gravel, contractors' equipment, fuel oil, mineral water, and solidified carbon dioxide*, between Klickitat, Wash., on the one hand, and, on the other, Portland and the Dalles, Oreg., and points on U.S. Highway 30 between Portland and the Dalles, and those in Hood River County, Oreg.

Mineral water and solidified carbon dioxide, between Klickitat Springs, Wash., on the one hand, and, on the other, Portland and the Dalles, Oreg., and points on U.S. Highway 30 between Portland and the Dalles, and those in Hood River County, Oreg.; *nursery stock*, between points in Skamania, Klickitat, and Yakima Counties, Wash., on the one hand, and, on the other, points in Wasco and Multnomah Counties, Oreg.; *lumber*, between points in Washington, with restrictions; from White Sulphur Springs, Mont., and points within ten miles thereof, to points in Idaho, Wyoming, North Dakota, and South Dakota, points in Nebraska on and west of U.S. Highway 81, and points in Adams, Arapahoe, Boulder, Clear Creek, Denver, Jefferson, Larimer, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, and Yuma Counties, Colo., from points in Oregon and Washington, to points in Rio Arriba and San Juan Counties, N. Mex., Colorado, Wyoming, Arizona and Nevada, from points in Yamhill, Washington, Tillamook, and Union Counties, Oreg., to points in Idaho and Utah, between points in Oregon, on the one hand, and, on the other, points in Washington, from points in Multnomah, Clackamas, Polk, Marion, Douglas, Linn, Benton, Lane, Deschutes, and Jefferson Counties, Oreg., to points in Idaho and Utah; and *rejected shipments of lumber*, from points in Idaho and Utah, to points in Multnomah, Clackamas, Polk, Marion, Douglas, Linn, Benton, Lane, Deschutes, and Jefferson Counties, Oreg.; *stone*, from Ash Fork and Williams, Ariz., and points within 35 miles of each, to points in Oregon and Washington, from the site of Kifer quarry approximately five miles northwest of Kettle Falls, in Ferry County, Wash., the site of Matson quarry approximately 15 miles west of Addy, Wash., and from quarry sites located in Stevens County, Wash., between the Columbia and Kettle Rivers north of the confluence of said rivers near Kettle Falls, to points in Oregon; *lumber, and box shooks*, from Klickitat, Wash., to Sacramento, Fresno, and Los Angeles, Calif.

Solidified carbon dioxide (dry ice) from Klickitat Springs, Wash., to points in Oregon (except Portland and the Dalles, points on U.S. Highway 30 between Portland and the Dalles, and those in Hood River County); *box shook*, from Klickitat, Wash., to Salinas, Calif; *laminated wood products* and *connecting hardware items*, from Tacoma, Wash., to points in Arizona, Nevada, Utah, and New Mexico, and points in California in and south of San Luis Obispo, Kern, and San Bernardino Counties; *lumber, chipboard hardboard, particleboard*, and *fiberboard*, (except gypsum board, paperboard, and pulpboard), from Alameda, Contra Costa, Del Norte, Humboldt, Lassen, Mendocino, Modoc, San Francisco, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, and Sonoma Counties, Calif., to points in Oregon and Washington; *feed, feed ingredients, and fertilizer* (except liquid, in bulk), from Gabbs, Nev., and points in California, to points in Oregon and Washington; *Urea*, from Cheyenne, Wyo., to points in Oregon and Washington; *spent grain*, from Golden, Colo., to points in Utah, Idaho, Oregon, and Washington; *Brewers yeast*, in bags, from Denver and Golden, Colo., to points in Utah, Idaho, Oregon, and Washington; *meat meal and blood meal*, from points in Colorado to points in Idaho, Utah, Oregon, and Washington; *dehydrated alfalfa, pellets*, from Silt, Colo., to points in Idaho, Utah, Oregon, and Washington; *wood flour*, in bales and packages, from Grants Pass, Oreg., and points in Linn County, Oreg. to points in Contra Costa and Los Angeles Counties, Calif.

Lumber, from points in Washington to points in Utah and those in Idaho in and south of Adams, Valley, Lemhi, Clark, and Fremont Counties, Idaho, restricted against service from points in Whitman, Garfield, Asotin, and Columbia Counties, Wash., to points in Adams and Valley Counties, Idaho, from points in Washington to Sacramento, Fresno, and Los Angeles, Calif., from points in Wallowa, Union, Umatilla, Grant, Wheller, Morrow, Gilliam, Sherman, Wasco, Hood River, Clackamas, Multnomah, Washington, and Columbia Counties, Oreg., to Sacramento, Fresno, and Los Angeles, Calif., from points in Wallowa, Union, Umatilla, Grant, Wheeler, Morrow, Gilliam, Sherman, Wasco, Hood River, Clackamas, Multnomah, Washington, and Columbia Counties, Oreg., to Sacramento, Fresno, and Los Angeles, Calif., from points in Yamhill and Marion Counties, Oreg., to Los Angeles, Calif.; *lumber*, from points in and north of Malheur, Harney, Deschutes, Linn, Benton, and Lincoln Counties, Oreg., to Sacramento, Fresno, and Los Angeles, Calif. OSBORNE GROUP, INC., holds no authority from this Commission. However, GENE OSBORNE is the owner of all of the issued and outstanding stock of OSBORNE GROUP, INC. OSBORNE GROUP, INC., holds all of the stock of OSBORNE HIGHWAY EXPRESS, a motor carrier, who under MC–136762 and subs thereunder is authorized to operate as a common carrier in California, Nevada, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12922. Authority sought for purchase by RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, P.O. Box 2809, Kansas City, MO., 64142, of a portion of the operating rights of O'DONNELL'S EXPRESS., 5 Davis Street, Presque Isle, ME., 04767, and for acquisition by REPUBLIC INDUSTRIES, INC., and ROBERT B. RISS, both of 903 Grand Ave., Kansas City, MO., 64142, of control of such rights through the purchase. Applicants' attorneys: Kenneth B. Williams, 84 State St., Boston, MA., 02109, and Ivan E. Moody, Box 2809, Kansas City, MO., 64142. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Boston, Mass., and Attleboro, Mass., serving all intermediate points; between Boston, Mass., and Blackstone, Mass., serving all intermediate points; between Boston, Mass., and New Bedford, Mass., serving all intermediate points; Between Boston, Mass., and Webster, Mass., serving all intermediate points, and the off-route point of Barre, Mass.; between Providence, R.I., and Woonsocket, R.I. serving all intermediate points; between Providence, R.I., and Bristol, R.I., serving all intermediate points; between Providence, R.I., and Westerly, R.I., serving all intermediate points; between Lowell, Mass., and Providence, R.I., serving no intermediate points; between Lawrence, Mass., and Woonsocket, R.I., serving no intermediate points; between Boston, Mass., and Westerly, R.I., serving all intermediate points; between New Bedford, Mass., and Providence, R.I., serving all intermediate points; between Boston, Mass., and Providence, R.I., serving all intermediate points; Between Haverhill, Mass., and the Massachusetts-Connecticut State line serving all intermediate points, with restrictions.

General commodities, with exceptions, as a common carrier over irregular routes between Boston, Mass., on the one hand, and, on the other, points in Massachusetts, except those within 15 miles of the State House in Boston, and those in Middlesex and Essex Counties, Mass., between Boston, Mass. and points within 12 miles of Boston, on the one hand, and, on the other, points in Rhode Island; *chemicals, shoes, shoe supplies, building materials, manufactured products, lubricating oils*, and *waste materials, except in bulk*, in *tank vehicles*, between points in Massachusetts, except those within 15 miles of the State House in Boston, and those in Middlesex and Essex Counties, Mass. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Texas, Oklahoma, Colorado, Michigan, Iowa, Illinois, Nebraska, Massachusetts, New Jersey, Pennsylvania, West Virginia, Ohio, Maryland, the District of Columbia, New York, Kentucky, Indiana, Connecticut, Virginia, Delaware, Florida, North Carolina, South Carolina, Wisconsin, Minnesota, Vermont, Maine, New Hampshire, Georgia, Alabama, Mississippi, Louisiana, Tennessee, South Dakota, and Wyoming. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–200 (Sub. No. 282) is a directly related matter.

No. MC–F–12924. Application under Section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA., 94027, with six carriers, namely (A) COLUMBIA RIVER TRUCK CO., INC. (MC–31307 Sub No. 1), (B) GARY WILLIAM MILLER DBA COTTAGE GROVE-EUGENE FREIGHT COMPANY, P.O. Box 586, Old Highway 99th, Cottage Grove, OR., 97424, (MC–4312), (C) LONGVIEW MOTOR TRANSPORT, INC., P.O. Box 1366, Longview, WA., 98632, (MC–22426 Sub No. 67), (D) REDDAWAY'S TRUCK LINE, INC., P.O. Box 708, Oregon City, OR., 97045, (MC–65895 Sub No. 3), (E) REEDSPORT MOTOR FREIGHT, INC., P.O. Box 24, Reedsport, OR., 97467, (MC–7183), and (F) SANDY TRUCK LINE, INC., P.O. Box 207, Sandy, OR., 97055, (MC–29447), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving to and from points in (A) Camas, Fisher, Washougal, Washington; (B) between Cottage Grove, Oregon and Eugene, Oregon serving the points of Goshen, Creswell, Walker, Saginaw, and Cottage Grove; (C) all points between Oak Point, Washington and Naselle, Washington on Washington Highway 4 (formerly U.S. Highway 830) to the junction of Washington State Highway 401 (formerly Washington Highway 12B) and the off route points of Naselle, Altoona, Deep River Camp, Crown-Willamette Camp and Puget Island, Oak Point Cathlamet, Skamokawa, Grays River, Nasalle, Roseburg, Deep River Camp, Crown-Willamette Camp, and Puget Island, Washington, (D) points between Canby, Oregon and Woodburn, Oregon located on U.S. Highway 99E serving the following named points: Canby, Aurora, Woodburn, and Hubbard, (E) between Elkton, Oregon and Reedsport, Oregon serving named points on Oregon Highway 38 and Winchester Bay on U.S. Highway 101, Winchester Bay Scottsburg, Reedsport, and Elkton, and (F) all points located on U.S. Highway 26 between Gresham, Oregon and Government Camp, Oregon excluding Gresham, Oregon, Sandy Alder Creek, Brightwood, Wemme, Welches, Rhododendron, Government Camp, and Zigzag.

Applicants' representatives: G. T. West, Vice President-Traffic, 175 Linfield Drive, Menlo Park, CA., 94025, and Robert M. Bowden, Commerce Supervisor, P.O. Box 3062, Portland, OR., 97028. CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, is authorized to operate as a common carrier in all the States in the United States (except Hawaii).

No. MC–F–12926. Authority sought for purchase by SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410, of a portion of the operating rights of INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, UT 84110, and for acquisition by CLYDE M. FULLER, P.O. Box 2171, Fort Oglethorpe, GA 30742, of control of such rights through the purchase. Applicants' attorneys: Patrick E. Quinn, P.O. Box 82028, Lincoln, NE 68501 and Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Operating rights sought to be transferred: *Paper* and *paper products, plastic* and *plastic articles, fabricated metal products, waste* and *scrap materials*, and *equipment, materials*, and *supplies* used in the manufacture of the above commodities (except commodities in bulk), as a *common carrier* over irregular routes between the facilities of Container Corporation of America in Washington, Oregon, and California, on the one hand, and, on the other, points in that part of the United States in and east of Montana, Wyoming, Colorado, New Mexico, and Texas, with restriction. Vendee is authorized to operate as a *common carrier* in all the States in the United States including District of Columbia but excluding Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12927. Authority sought for purchase by JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764, of a portion of the operating rights and property of TRANS-AMERICAN FREIGHT LINES, INC., Represented by HAROLD O. LOVE, RECEIVER, 5650 Foremost Drive, S.E., Grand Rapids, MI 49506, and for acquisition by H. JONES, 10 East Emma Avenue, Springdale, AR 72664, of control of such rights and property through the purchase. Applicants' attorneys: James B. Blair, 111 Holcomb Street, Springdale, AR 72764 and A. David Millner, 167 Fairfield Road, Fairfield, NJ 07006. Operating rights and property sought to be purchased: *General commodities*, with exceptions as a *common carrier* over regular routes, between Chicago, Ill., and Jefferson, Iowa, serving all intermediate points on westbound traffic, restricted to pick-up, and all intermediate points on eastbound traffic, restricted to delivery; between Chicago, Ill., and Lincoln, Nebr., serving all intermediate points on westbound traffic, restricted to pick-up, and all intermediate points on eastbound traffic, restricted to delivery, and Omaha, Nebr., and Council Bluffs, Iowa, without restriction; and over irregular routes, *malt beverages*, from Mankato and St. Paul, Minn., to Lincoln, Beatrice, and Grand Island, Nebr.; *empty containers*, from Lincoln, Beatrice and Grand Island, Nebr., to Mankato and St. Paul, Minn., and points on the regular routes noted above; *canned goods*, from points in Illinois, Minnesota, and Iowa to Omaha, Lincoln, Beatrice, Fremont, Grand Island, and Hastings, Nebr., and from points in Illinois to Des Moines and Council Bluffs, Iowa

Dairy products, dressed poultry, and *eggs*, from Fremont, Grand Island, Hastings, Wahoo, and Lincoln, Nebr., and Harlan, Clarinda, and Logan, Iowa, to

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Chicago, Ill.; *dairy products*, from Geneva, Hartington, Wakefield, Fairmont, and Tecumseh, Nebr., to Chicago, Ill.; *hides, pelts, tallow*, and *trimmings*, from Hastings, Grand Island, Fremont, Lincoln, Beatrice and Omaha, Nebr., to Chicago and Waukegan, Ill., and from points in Colorado to Lincoln, Nebr.; *farm machinery* and *parts*, and *binder twine* from Chicago, Rock Falls, Canton, Springfield, Peoria, Rock Island, Moline, and East Moline, Ill., and Davenport and Waterloo, Iowa, to Omaha and Lincoln, Nebr., and return with no transportation for compensation except as otherwise authorized, to the specified origin points; and *general commodities*, with exceptions, between Chicago, Sterling, and Rock Island, Ill., and Omaha, Nebr., on the one hand, and, on the other, Sioux City, Denison, Dedham, Woodbine, Audubon, Carroll, Arcadia, Breda, Templeton, Coon Rapids, and Manning, Iowa. Vendee is authorized to operate as a *common carrier* in All the United States except Alaska and Hawaii. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12929. Authority sought for purchase by CRST, INC., 3930–16th Avenue S.W., P.O. Box 68, Cedar Rapids, IA 52406, of a portion of the operating rights and property of CHI-FLI, INC., 3611 South Normal Avenue, Chicago, IL 60605, and for acquisition by HERALD A. and MIRIAM G. SMITH, both of 536 Valley Brook Drive S.E., Cedar Rapids IA and also by PAUL R. and REBECCA F. SHAWVER of 2314 Blake Blvd., Cedar Rapids, IA, of control of such rights through the purchase. Applicants' attorneys: Robert E. Konchar, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, IA 52406 and H. Neil Garson, 1400 North Uhle Street, Arlington, Va. 22201. Operating rights sought to be transferred: *General commodities* (except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment) as a *common carrier* over irregular routes between Chicago, Ill., and Gary, Hammond, and Whiting, Ind., on the one hand, and, on the other, Louisville, Ky., and points in Indiana. Vendee is authorized to operate as a *common carrier* in all the States in the United States including District of Columbia, but excluding Alaska and Hawaii. Application has been filed for temporary authority under Section 210a(b).

NOTE.—No. MC 114273 Sub-No. 253 is a directly related matter.

No. MC–F–12931. Authority sought for control by ALLIED VAN LINES, INC., d.b.a. ALLIED VAN LINES, 25th Avenue and Roosevelt Road, Broadview, IL., 60153, of BLODGETT FURNITURE SERVICE, INC., 3801–36th Street, S.E., Grand Rapids, MI., 49508, of control of such rights through the transaction. Applicants' attorneys: L. C. Major, Jr. and Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA., 22312. Operating rights sought to be controlled: *New furniture, new and used uncrated furniture, and damaged or defective shipments of new furniture, refrigerators, ranges, laundry equipment (including washers and driers, and freezers, new uncrated and various other specified commodities* as a common carrier over regular and irregular routes, from, to, and between specified points in all the States in the United States (except Alaska & Hawaii), with certain restrictions, as more specifically described in Docket No. MC–35890 and Sub numbers thereunder. This notice does not purport to be a complete discription of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full, the entirety thereof. Vendee is authorized to operate as a *common carrier* in all the States in the United States including Alaska and Hawaii. Application has been filed for temporary authority under section 210a (b).

No. MC–F–12932. Authority sought for merger by IML FREIGHT, INC., 2175 South 3270 West, P.O. Box 30277, Salt Lake City, UT., 84115, with B & F TRANSFER COMPANY, also of Salt Lake City, UT., 84115, address, and for acquisition by GATES CORPORATION, 999 South Broadway, Denver, CO., 80209, of control of such rights through the merger. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL., 60603. Operating rights sought to be merged: *General commodities* with the usual exceptions, over regular routes, as *a common carrier* in the State of Ohio, generally between Wooster and Akron, Wooster and Cleveland, Wooster and Ashland, serving intermediate points; general commodities over a network of regular routes between Wooster, Ohio, on the one hand, and, on the other, all points in the State of Ohio. Vendee is authorized to operate as a *common carrier* in Arizona, California, Colorado, Connecticut, the District of Columbia, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Utah, Washington, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

NOTE.—By order served July 23, 1974, IML FREIGHT, INC., was granted control of B & F TRANSFER COMPANY.

No. MC–F–12933. Authority sought for purchase by PAUL MARCKESANO AND SONS, CO., INC., 36 Ferris Street, Brooklyn, N.Y. 11231, of the operating rights of ALCO MOTOR TRUCKING CORP., 303 Washington Street, Jersey City, N.J., 07302, and for acquisition by LOUIS MARCHESANO, 1038 Commack Rd., Brentwood, N.Y., JAMES MARCHESANO, 537 Livingston St., Bklyn, N.Y., IRVING BELSON, 1161 E. 56 St., Bklyn, N.Y., ANTHONY MARCHESANO, 1650 E. 32 St., Bklyn, N.Y., BLAISE MARCHESANO, 24 Swallow Lane, Levittown, N.Y., JOHN MARCHESANO, 10 Lenox Ave., Lynbrook, N.Y., PAUL MARCHESANO, JR., 1509 Meadowbrook Rd., N. Merrick, N.Y., and MICHAEL MARCHESANO, 4100 43 Ave., L.I. City, N.Y., of control of such rights through the purchase. Applicants' attorneys: Hylan Cooper, 450 7th Ave., New York, N.Y., 10001, and Morton E. Kiel, Suite 6193 5 World Trade Center, New York, N.Y., 10048. Operating rights sought to be transferred: *Paper and paper products*, as a *common carrier* over irregular routes, between points and places in the New York, N.Y., Commercial Zone, as defined by the Commission in 1 M.C.C. 665, on the one hand, and, on the other, points and places in Bergen, Passaic, Essex, Hudson, Union, Middlesex, and Morris Counties, N.J., between Newark, N.J., and Port Newark, N.J., on the one hand, and, on the other, points and places in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, and those in Bergen, Passaic, Essex, Hudson, Union Middlesex, and Morris Counties, N.J., between points and places in the New York, N.Y., Commercial zone, as defined by the Commission in 1 M.C.C. 665; *paper, paper products, and flocking material*, between points in that part of the New York, N.Y., Commercial zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203 (b) (8) of the Act (the "exempt" zone), on the one hand, and, on the other, points in Warren, Hunterdon, Sussex, and Somerset Counties, N.J., and Westchester, Nassau, and Suffolk Counties, N.Y., with restrictions. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12936. Authority sought for purchase by UNZICKER TRUCKING, INC., P.O. Box 35, Highway 24 East, El Paso, IL., 61738, of the operating rights of CHIPPER CARTAGE COMPANY, INC., 1327 N.E. Bond Street, Peoria, IL., 61603, and for acquisition by WALTER W. UNZICKER, also of El Paso, IL., 61738, of control of such rights through the purchase. Applicants' attorney: Michael J. Oqborn, P.O. Box 82028, Lincoln, NB., 68501. Operating rights sought to be transferred: Meats, meat products, and packinghouse products as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, as a *common carrier* over irregular routes from Peoria, Illinois to points In Illinois, those in Indiana on and north and west of a line beginning at the Illinois-Indiana State Line, and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to Crawfordsville, Indiana, thence along Indiana Highway 43 to junction U.S. Highway 421 to Reynolds, Indiana, thence

along U.S. Highway 421 TO Lake Michigan, including Crawsfordsville, LaFayette and Michigan City, Indiana, and points in Iowa on and east of a line beginning at the Mississippi River, and extending south along U.S. Highway 52 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction Iowa Highway 13, thence along Iowa Highway 13, to Cedar Rapids, Iowa, and thence along U.S. Highway 218 to the Mississippi River, including Iowa City and Keokuk, Iowa; and empty containers or other articles used in transporting the above specified commodities, from points in the above described destination territories to Peoria, Illinois, meats, meat products, and meat by products, as described in Section A of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from Cedar Rapids, Iowa to points in that part of Indiana on and north and west of a line beginning at the Illinois-Indiana State Line, and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 43 at Crawfordsville, Indiana.

Thence along Indiana Highway 43 to junction U.S. Highway 421 at Reynolds, Indiana, thence along U.S. Highway 421 to Lake Michigan, including Crawfordsville, Lafayette, and Michigan City, Indiana, and points in Illinois (except Chicago, Illinois, and points in Illinois in the Chicago, Illinois Commercial Zone, as defined by the Commission), with no transportation for compensation on return except as otherwise authorized, from Peoria, Illinois to points in Iowa and Wisconsin, from Waterloo, Iowa to points in Illinois (except Chicago, Illinois) and points in Lake, Porter, Jasper, LaPorte, Newton, Pulaski, Starke, St. Joseph, Elkhart, and Marshall Counties, Indiana, meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of George A. Hormel & Co. at or near Bureau, Illinois to points in Indiana, Ohio and to those points in Iowa on and east of U.S. Highway 69, meats, meat products, and meat by-products, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and dairy products except commodities in bulk, in tank vehicles, from Chicago, and Rochelle, Illinois to points in Muscatine, Scott, Clinton, Linn, Johnson, Cedar, Jones, Jackson, Dubuque, Delaware, Buchanan, Black Hawk, and Beton Counties, Iowa, and Rock Island, Mercer, Henry, Whiteside, Bureau and Stark Counties, Illinois, meats, meats products, and meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc. Beardstown, Illinois and the warehouse site of United States Cold Storage Corporation, East Peoria, Illinois, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin, frozen and prepared foods, from the warehouse site of United States Cold Storage Corporation, East Peoria, Illinois to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, from the plantsite and storage facilities of Oscar Mayer & Co., Inc. at Davenport, Iowa to points in Indiana (except points within the Chicago, Illinois Commercial Zone as defined by the Commission), Michigan, and Ohio.

From the plantsite and storage facilities utilized by Wilson & Co., Inc. at or near Logansport, Indiana to St. Louis, Missouri and to points in Iowa and Illinois, from the plantsite and storage facilities utilized by Wilson & Co., Inc., at or near Monmouth, Illinois to points in Indiana, Michigan and Ohio, with restrictions; meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite of Rath Packing Company at Columbus Junction, Iowa to points in Illinois, and Indiana, restricted to the transportation of shipments originating at the named plantsite and destined to points in Illinois and Indiana, meats, with or without other ingredients, in hermetically sealed containers, from the plantsite of Armour-Dail, Inc. at Fort Madison, Iowa, to points in Illinois and Ohio, restricted to traffic originating at the named plantsite and destined to the respectively named destination states, meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from points in Illinois and Indiana, to the plantsite of Armour-Dial, Inc. at Fort Madison, Iowa, restricted to traffic destined to the named plantsite, from Davenport, Iowa to points in Illinois, such merchandise as is dealt in by wholesale and retail grocery and food business houses (except commodities in bulk), from the facilities of United Facilities, Inc. at or near Galesburg, Illinois, to points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin, restricted to the transportation of traffic originating at the named origin and destined to the named destinations, meats, meat products, meat by-products, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Waterloo, Iowa, and Peoria, Illinois to points in Vigo and Clay Counties, Indiana, foodstuff (except commodities in bulk).

From the plantsite and warehouse facilities utilized by George A. Hormel & Co. at or near Beloit, Wisconsin to points in Illinois, Indiana, Iowa, Missouri, Minnesota, Ohio, and Kentucky, restricted to the transportation of traffic originating at the named origin and destined to the specified destinations, meats, meat products, meat by-products, foodstuff, and canning plant materials, equipment and supplies (except hides and commodities in bulk), from points in Minnesota, Iowa, Illinois, Indiana, Missouri, and Ohio to the plantsite and warehouse facilities utilized by George A. Hormel & Co., at or near Beloit, Wisconsin, restricted to the transportation of traffic originating at the specified origin points and destined to the named destination, meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and cold storage facilities utilized by Wilson & Company, Inc., at Cedar Rapids, Iowa, to Boscobel, Darlington, Dodgeville, Lancaster, Platteville and Spring Green, Wisconsin, meat products, and meat by-products, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, hides, skins, pieces thereof, and tannery products and by-products, from Waterloo, Iowa and and Peoria, Illinois to points in Indiana, fresh meats and packinghouse products as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or cold storage facilities utilized by Wilson & Company, Inc. at Cedar Rapids, Iowa to Bloomington, Columbus, Crawfordsville, Elkhart, Frankfort, Greencastle, Indianapolis, Kokomo, Lafayette, Lebanon, Marion, Mishawaka, Muncie, and South Bend, Indiana, meats, meat products, meat by-products, and articles distributed by meat packinghouses (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc. at Cedar Rapids, Iowa to points in Indiana, and to those points in Wisconsin, on, south, and west of Interstate Highway 90 (except Beloit, Janesville, and Madison, Wisconsin), and meats, meat products, and meat by-products (except commodities in bulk) as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766.

From Waterloo, Iowa and Peoria, Illinois to points in Indiana, meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209

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and 766, except hides and commodities in bulk, from the plantsite and/or cold storage facilities utilized by Wilson & Company, Inc., at Cedar Rapids, Iowa to St. Louis, Missouri and points in Missouri located in St. Louis, Missouri Commercial Zone, meats, meat products, meat byproducts and articles distributed by meat packinghouses (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the facilities of Wilson & Company, Inc. at Cedar Rapids, Iowa, to points in Illinois within the commercial zone of Chicago, Illinois, to points in Missouri within the commercial zone of St. Louis, Missouri, general commodities, with exceptions, from the facilities of S. C. Johnson & Son, Inc., at Waxdale and Racine, Wisconsin, to points in Illinois, Indiana, Iowa and Missouri, from the storage facilities and customers of The Dry Storage Corporation in the Chicago, Illinois Commercial Zone to that portion of Iowa bounded on the west by Route 169 and by the State line to the North, South and East, such merchandise, as is dealt in by wholesale, retail and chain grocery food business (except commodities in bulk), from Hammond, Indiana to points in Illinois; Waterloo and Cedar Rapids, Iowa; and those points in Iowa on and east of U.S. Highway 218, restricted to the transportation of shipments originating at the facilities of Lever Brothers Company and destined to the above-named destinations.

From the plantsites, storage and/or warehouse facilities of the Kroger Co., located in St. Louis, and Hazelwood, Missouri, to the stores and warehouse of the Kroger Co., located in Illinois, restricted to traffic originating and destined to the above-named plants; frozen foods, from Noblesville, Indiana to points in Illinois; points in that part of Wisconsin bounded on the south by the Wisconsin-Illinois State line and extending northerly from Beloit, Wisconsin along Wisconsin Highway 213 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 12, including all of Madison, Wisconsin, thence northerly along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to Lake Michigan; points in that part of Iowa bounded on the east by the Wisconsin-Illinois-Iowa State lines and extending westerly from Dubuque, Iowa along U.S. Highway 52 to junction Iowa Highway 136, thence along Iowa Highway 136 to junction U.S. Highway 151, thence westerly along U.S. Highway 151 to Cedar Rapids, Iowa, thence southerly along U.S. Highway 218 to the Iowa-Missouri State line, including all of Cedar Rapids, and Iowa City, Iowa; and that part of Missouri bounded on the east by the Missouri-Illinois State line and extending along Missouri Highway 47 westerly and southerly to junction Missouri Highway 21A, thence easterly along Missouri Highway 21A to the Missouri-Illinois State line, soybeans products, in containers, from the facilities of Central Soya Company, Inc. at Gibson City, Illinois to points in Illinois, with restrictions. Vendee is authorized to operate as a *common carrier* in all the States in the United States (except Alaska and Hawaii) including the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12937. Authority sought for purchase by SUNVAN CALIFORNIA, INC. (non-carrier), 100 West Harrison Plaza, Seattle, WA., 98119, of the operating rights and property of BORIS M. PETROFF, an individual, dba, TRANSWORLD VAN LINES, 1520 West 11th Street, Long Beach, CA., 90813, and for acquisition by SUNVAN INTERNATIONAL, INC., and W. E. FALLON, both of Seattle, WA., 98119, address, of control of such rights and properties through the purchase. Applicants' attorney: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Operating rights sought to be transferred: *Used household goods*, as a *common carrier*, over irregular routes between points in Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif.; *household goods*, between San Francisco and Oakland, Calif., on the one hand, and, on the other, Fresno, Lemoote, Merred, Monterey, Sacramento, San Luis Obispo, Santa Barbara, Santa Clara and Stockton, Calif.; between points in the Los Angeles Harbor Commercial Zone as defined by the Commission and San Diego, Calif., on the one hand, and, on the other, points in Alameda, Contra Costa, Fresno, Kings, Merced, Monterey, Sacramento, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano and Tulare Counties, Calif., with restrictions. SUNVAN CALIFORNIA, INC., holds no authority from this Commission. However, SUNVAN INTERNATION, INC., a non-carrier, is the parent company. Subsidiary carrier companies of SUNVAN INTERNATIONAL, INC., are as follows: (1) SUNPAK MOVERS, INC., is a regulated freight forwarder, Permit No. FF-322, authorized to forward used house hold goods, unaccompanied baggage and used automobiles between points in the United States (including Hawaii but excluding Alaska). It also holds C.A.B. air freight forwarder authority and is a non-vessel operating common carrier by water under jurisdiction of the Federal Maritime Commission. (2) SUNVAN HAWAII, INC. is a motor carrier of household goods operating between points in Hawaii, under MC-118498. (3) SUNVAN WASHINGTON, INC. is a motor carrier of household goods operating between points in five counties in the State of Washington, under MC-133356. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12938. Authority sought for purchase by COOPER-JARRETT, INC., 23 South Essex Avenue, Orange, N.J., 07051, of the operating rights of SCHERER FREIGHT LINES, INC., a subsidiary of ASSOCIATED TRANSPORT, INC., THOMAS J. CAHILL, TRUSTEE, c/o Arthur S. Olick, 39th Floor, 630 Fifth Avenue, New York, N.Y., 10020, and for acquisition by R. E. COOPER, JR., 23 South Essex Ave., Orange, N.J., 07051, of control of such rights through the purchase. Applicants' attorneys: Irving Klein, 371 Seventh Ave., New York, N.Y. 10001, and Fritz R. Kahn, Suite 1100, 1660 L St., NW., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities* as a *common carrier* over regular routes between Chicago, Ill., and Milwaukee, Wis., from Chicago over Illinois Highway 21 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Milwaukee County Highway "A", thence over Milwaukee County Highway "A" to Milwaukee, Wis., with restrictions. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Washington, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

NOTE.—ASSOCIATED TRANSPORT, INC., owns all of the stock of SCHERER FREIGHT LINES, INC., which holds interstate operating authority under certificates issued in Docket No. MC-21571 and various sub numbers thereof.

No. MC-F-12941. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, of the operating rights of TERMINAL TRANSPORTATION COMPANY, 701 N. Beach Street, Philadelphia, PA 19123, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., International Building, 601 California Street, San Francisco, CA 94108, of control of such rights through the purchase. Applicants' attorneys: R. C. Stetson, 175 Linfield Drive, Menlo Park, CA 94025, Eugene T. Lipfert, 1660 L Street, N.W., Washington, D.C. 20036, and Mervin J. Hartman, 1100 Western Savings Bank Bldg., Philadelphia, PA 19107. Operating rights sought to be transferred: *General commodities*, except classes A and B explosives, articles of unusual dimensions, household goods as defined by the Commission, commodities in bulk, and commodities contaminating to other lading, as a *common carrier* over irregular routes between points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, Vineland, Millville, Minotola, Landisville, Newfield, Clayton, Glassboro, Malaga, Woodbury, Runnemede, Bridgeton, Pitman, Iona, and Franklinville, N.J. Vendee is authorized to operate as a *common carrier* in all the States in the United States including District of Columbia and Alaska but excluding Hawaii, Maine, and Vermont.

Application has been filed for temporary authority under Section 210a(b).

OPERATING RIGHTS APPLICATIONS DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights applications are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with pending transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its applications.

No. MC 96979 (Sub-No. 2), filed June 28, 1976. Applicant: T-J MOTOR LINES, INC., Ridge Hill Road, Assonet, Mass. 02702. Applicant's representative: Louis A. Perras, Jr., 45 Chace Road, E. Freetown, Mass. 02717. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those which because of size or weight require the use of special equipment), between points in Massachusetts on and east of a line beginning at the intersection of Massachusetts Highway 19 and the Massachusetts-Connecticut Boundary Line, thence along Massachusetts Highway 19, to junction Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 31, thence along Massachusetts Highway 31 to junction Massachusetts Highway 2, thence along Massachusetts Highway 2 to junction Massachusetts Highway 13, thence along Massachusetts Highway 13 to junction Massachusetts Highway 225, thence along Massachusetts Highway 225 to junction Massachusetts Highway 40, thence along Massachusetts Highway 40 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction Massachusetts Highway 110, thence along Massachusetts Highway 110 to junction Massachusetts Highway 1A, thence along Massachusetts Highway 1A to Salisbury Beach, Mass.

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(a) finance proceeding in MC-F 12728, published in the FEDERAL REGISTER issue of January 14, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Providence, R.I. or Boston, Mass.

No. MC 110325 (Sub-No. 74) (Correction), filed May 21, 1976, published in the FR issues of June 24, 1976 and July 15, 1976, and republished as corrected this issue. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, Calif. 90019. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between the junction of U.S. Highway 70 and U.S. Highway 27, south of Rockwood, Tenn., (except Rockwood) and Knoxville, Tenn., serving no intermediate points and serving the junction of U.S. Highway 70 and U.S. Highway 27 for purposes of joinder only: (a) From the junction of U.S. Highway 70 and U.S. Highway 27 over U.S. Highway 70 to Knoxville, Tenn., and return over the same route; and (b) From the junction of U.S. Highway 70 and U.S. Highway 27 over U.S. Highway 70 to Kingston, Tenn., thence over Interstate Highway 40, to Knoxville, restricted against either picking up or delivery of any traffic at any point on U.S. Highway 27 south of Rockwood, Tenn., including Chattanooga, Tenn.; (2) Between Nashville, Tenn. and Sparta, Tenn., serving the intermediate and off-route points of Campaign, Rock Island, Quebeck, Doyle, McMinnville, and Walling, Tenn.; From Nashville over Tennessee Highway 1 (U.S. Highway 70-S) to Sparta and return over the same route; (3) Between Sparta, Tenn., and Cookeville, Tenn., serving all intermediate points; From Sparta over Tennessee Highway 42 to Cookeville, and return over the same route; (4) Between Sparta, Tenn. and Spencer, Tenn., serving all intermediate points: From Sparta over Tennessee Highway 111 to Spencer, and return over the same route.

(5) Between Nashville, Tenn. and Cookeville, Tenn., serving no intermediate points: (a) From Nashville over U.S. Highway 70 to junction Interstate Highway 40, thence over Interstate Highway 40 to Cookeville; and (b) From Nashville over Interstate Highway 40 to Cookeville, and return over the same route; (6) Between Chattanooga, Tenn. and Monterey, Tenn., serving all intermediate points between Crab Orchard, Tenn., including Crab Orchard, and Monterey, Tenn.: From Chattanooga over U.S. Highway 27 to the junction of U.S. Highway 27 and U.S. Highway 70 (Rockwood Junction), thence over U.S. Highway 70 to Crossville, Tenn., thence over U.S. Highway 70 N to Monterey, and return over the same route; (7) Between Crossville, Tenn. and Sparta, Tenn., serving all intermediate points: From Crossville over U.S. Highway 70 to Sparta, and return over the same route; (8) Between Crossville, Tenn. and Jamestown, Tenn., serving all intermediate points: From Crossville over U.S. Highway 127 to Jamestown and return over the same route; (9) Between McMinnville, Tenn. and Morrison, Tenn., serving all intermediate points and the plant site of the Carrier Air Conditioning Corporation: From McMinnville over Tennessee Highway 55 to Morrison, and return over the same route; (10) Between Livingston, Tenn. and Cookeville, Tenn., serving all intermediate points: From Livingston over Tennessee Highway 42 to Cookeville, and return over the same route; (11) Between Nashville, Tenn. and Memphis, Tenn., serving no intermediate points and restricted against any service between Chattanooga, Tenn. and Memphis, Tenn.: From Nashville over Interstate Highway 40, and return over the same route; (12) Between Knoxville, Tenn. and Bristol, Tenn., serving all intermediate points between Surgoinsville, Tenn. and Bristol, Tenn., including Surgoinsville, and those intermediate points lying within two miles of U.S. Highway 11-W between Surgoinsville, Tenn. and Kingsport, Tenn.: From Knoxville over U.S. Highway 11-W to Bristol, and return over the same route; (13) Between Knoxville, Tenn. and Bristol, Tenn., serving all intermediate points between Johnson City, Tenn. and Bristol, Tenn., including Johnson City, Tenn.: From Knoxville over U.S. Highway 11-E to Bristol, and return over the same route; (14) Between Knoxville, Tenn. and Bristol, Tenn., serving no intermediate points, and serving all points in Tennessee otherwise authorized to be served in routes (12)-(20) inclusive hereof as offroute points: From Knoxville over Interstate Highway 81 to Bristol, and return over the same route.

(15) Between Kingsport, Tenn. and Erwin, Tenn., serving all intermediate points: From Kingsport over U.S. Highway 23 to Erwin, and return over the same route; (16) Between Elizabethton, Tenn. and Bristol, Tenn., serving all intermediate points: From Elizabethton over U.S. Highway 19-E to the junction of U.S. Highway 19, thence over U.S. Highway 19 to Bristol, and return over the same route; (17) Between Elizabethton, Tenn. and Johnson City, Tenn., serving all intermediate points: From Elizabethton over U.S. Highway 321 to Johnson City, and return over the same route; (18) Between Bristol, Tenn. and Kingsport, Tenn., serving all intermediate points: From Bristol over Tennessee Highway 126 to Kingsport, and return over the same route; (19) Between Blountville, Tenn. and the junction of U.S. Highway 23 and Tennessee Highway 75, serving all intermediate points: From Blountville over Tennessee Highway 75 to the junction of U.S. Highway 23, and Tennessee Highway 75 and return over the same route; (20) Between Blountville, Tenn. and Bluff City, Tenn.,

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serving all intermediate points: From Blountville over Tennessee Highway 37 to Bluff City, and return over the same route; (A) Serving the plant site of Firestone Tire & Rubber Company in Rutherford County, near Nashville, Tenn., as an off-route point in connection with carrier's otherwise authorized regular route operations.

(B) Alternate routes for operating convenience only: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Sparta, Tenn. and Nashville, Tenn. in connection with carrier's authorized regular route operations serving no intermediate points: From Sparta over U.S. Highway 70, and return over the same route; (2) Between Chattanooga, Tenn. and Nashville, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: (a) From Chattanooga over U.S. Highway 64 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville and return over the same route; (b) From Chattanooga over Interstate Highway 24 to Nashville and return over the same route; (3) Between Chattanooga, Tenn. and Knoxville, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: From Chattanooga over Interstate Highway 75 to Knoxville, and return over the same route; (4) Between Chattanooga, Tenn. and Memphis, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: From Chattanooga over Interstate Highway 24 to the junction of U.S. Highway 64, thence over U.S. Highway 64 to Memphis, and return over the same route; (5) Between Sparta, Tenn. and Chattanooga, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: (a) From Sparta over Tennessee Highway 111 to junction Tennessee Highway 8, thence over Tennessee Highway 8 to junction U.S. Highway 127, thence over U.S. Highway 127 to Chattanooga, and return over the same route, and (b) From Sparta over Tennessee Highway 111 to junction Tennessee Highway 30, thence over Tennessee Highway 30 to junction U.S. Highway 127, thence over U.S. Highway 127 to Chattanooga, and return over the same route; (6) Between Chattanooga, Tenn. and McMinnville, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points.

(a) From Chattanooga over U.S. Highway 64 to junction Interstate Highway 24, thence over Interstate Highway 24 to junction Tennessee Highway 55, thence over Tennessee Highway 55 to McMinnville, and return over the same route; and (b) From Chattanooga over Interstate Highway 24 to junction Tennessee Highway 55, thence over Tennessee Highway 55 to McMinnville, and return over the same route; (7) Between McMinnville, Tenn. and Nashville, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: From McMinnville over Tennessee Highway 55 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville, and return over the same route; (8) Between Sparta, Tenn. and Nashville, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: From Sparta over Tennessee Highway 42 to the junction of Interstate Highway 40, thence over Interstate Highway 40 to Nashville, and return over the same route; (9) Between Cookeville, Tenn. and Monterey, Tenn., in connection with carrier's authorized regular route operations, serving no intermediate points: From Cookeville over Interstate Highway 40 to Monterey, and return over the same route; (10) Between Livingston, Tenn. and Jamestown, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Livingston over Tennessee Highway 52 to Jamestown, and return over the same route; (11) Between Livingston, Tenn. and Monterey, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Livingston over Tennessee Highway 42 to junction Tennessee Highway 84; thence over Tennessee Highway 84 to Monterey, and return over the same route.

(12) Between Monterey, Tenn. and Clarkrange, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Monterey over Tennessee Highway 62 to Clarkrange, and return over the same route; (13) Between Sparta, Tenn. and Monterey, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Sparta over Tennessee Highway 84 to Monterey, and return over the same route; (14) Between Crossville, Tenn. and Chattanooga, Tenn. in connection with carrier's regular route operations, serving no intermediate points: From Crossville over U.S. Highway 127 to Chattanooga, also from Crossville over U.S. Highway 127 to junction Tennessee Highway 68, thence over Tennessee Highway 68 to junction U.S. Highway 27, thence over U.S. Highway 27 to Chattanooga, and return over the same route; (15) Between McMinnville, Tenn. and Nashville, Tenn. in connection with carrier's regular route operations, serving no intermediate points: From McMinnville over Tennessee Highway 56 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Interstate Highway 40, thence over Interstate Highway 40 to Nashville, and return over the same route; (16) Between McMinnville, Tenn. and Spencer, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From McMinnville over Tennessee Highway 30 to Spencer, and return over the same route; (17) Between Spencer, Tenn. and Chattanooga, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Spencer over Tennessee Highway 111 to junction Tennessee Highway 8, thence over Tennessee Highway 8 to junction U.S. Highway 127, thence over U.S. Highway 127 to Chattanooga, and return over the same route; (18) Between Crossville, Tenn. and Knoxville, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Crossville over U.S. Highway 70 to junction Interstate Highway 40, thence over to Interstate Highway 40 to Knoxville, and return over the same route.

(19) Between Crossville, Tenn., and Nashville, Tenn., in connection with carrier's regular route operations, serving no intermediate points: From Crossville over U.S. Highway 127 to junction Interstate Highway 40, thence over Interstate Highway 40 to Nashville, and return over the same route; (20) Between Nashville, Tenn., and Knoxville, Tenn. in conection with carrier's regular route operations, serving no intermediate points: From Nashville over Interstate Highway 40 to Knoxville, and return over the same route. (C) Irregular routes: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Spencer, Tenn., and Fall Creek Falls State Park, Tenn., serving all points within ten miles of the boundary of said Park, except Dunlap and Pikeville, Tenn., and points on U.S. Highway 127 between Dunlap and Pikeville.

NOTE.—The purpose of this republication is to correct applicant's requested authority, which was published in error. Applicant seeks to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–12843, published in the FEDERAL REGISTER issue of June 10, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Nashville or Memphis, Tenn., or Washington, D.C.

No. MC 138991 (Sub-No. 16) filed July 26, 1976. Applicant: K. J. TRANSPORTATION, INC., P.O. Box 9764, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Columbus, Ohio and Newark, N.J., to Rochester, N.Y.; (2) *macaroni, spaghetti, and egg noodle products*, from Rochester, N.Y., to points in Connecticut, Illinois, Maryland, Massachusetts, the Lower Peninsula of Michigan, Minnesota, Ohio, Pennsylvania, Rhode Island, West Virginia and Wisconsin; and (3) *malt beverages* (except imported malt beverages), from Brooklyn, N.Y., to Rochester, N.Y.

NOTE.—The purpose of this application is to convert a Permit to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–12900 published in the FEDERAL REGISTER issue of August 12, 1976. If a hearing is deemed necessary, the applicant requests it be held at Rochester or Buffalo, N.Y.

ABANDONMENT APPLICATIONS

FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB–1(Sub-No. 10)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY—ABANDONMENT BETWEEN IRVINGTON AND BENNINGTON, NEBRASKA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a) that by an report and order entered on May 25, 1076, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q.R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Chicago and North Western Transportation Company of its branch line beginning at milepost 7.7 near Irvington, Nebraska, and extending in a northwesterly direction to the end of the line at milepost 14.2 at Bennington, Nebraska, a distance of 6.5 miles all within Douglas County, Nebraska. A certificate of abandonment will be issued to the above-named railroad based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–6 (Sub-No. 14)]

BURLINGTON NORTHERN, INC., ABANDONMENT BETWEEN SAUK CENTRE AND LONG PRAIRIE, IN TODD AND STEARNS COUNTIES, MINNESOTA

FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order served July 13, 1976, to which no exceptions were filed, it was found that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 0.00 near Sauk Centre, Minn., in a northerly direction to milepost 17.78 near Long Prairie, Minn., a distance of 17.78 miles in Todd and Stearns Counties, Minnesota. A certificate of abandonment will be issued to the Burlington Northern, Inc., based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Case" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No.(AB–8 (Sub-No. 2)]

DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, ABANDONMENT BETWEEN MONTROSE AND RIDGWAY, MONTROSE AND OURAY COUNTIES, COLO.

FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order served July 15, 1976, to which no exceptions were filed, it was found that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Renver and Rio Grande Western Railroad Company of its branch line of railroad sometimes known as the Ridgway Branch between milepost 352.64 at or just south of Montrose, Colo., and the end of said line at or near Ridgway, Colo., milepost 377.56, a total of about 24.92 miles of running track plus about 1.69 miles of yard and other tracks, in Montrose and Ouray Counties. A certificate of abandonment will be issued to the Denver & Rio Grande Western Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(a) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved in be continued; and

(2) It is likely that such proffered assistance would:

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(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–55 (Sub-No. 4)]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN RAVENEL AND DRAINAGE, IN CHARLESTON COUNTY, SOUTH CAROLINA

FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 25, 1976, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Seaboard Coast Line Railroad Company of its line of railroad extending from railroad milepost MAB–406.41 near Ravenel in a southerly direction to railroad milepost AMB–409.38 near Drainage, a distance of 2.97 miles in Charleston County, South Carolina. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–57 (Sub-No. 1)]

SOO LINE RAILROAD COMPANY ABANDONMENT BETWEEN RAPID RIVER AND EBEN JUNCTION IN DELTA AND ALGER COUNTIES, MICHIGAN

FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order served July 15, 1976, to which no exceptions were filed, it was found that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Soo Line Railroad Company of its branch line between Rapid River in Delta County, Michigan, and Eben Junction in Alger County, Michigan, beginning at milepost 348.69 at Rapid River and extending in a northerly direction to the end of the line at milepost 379.23 at Eben Junction, a distance of 30.54 miles. A certificate of abandonment will be issued to the Soo Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such as assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Property (49 CFR § 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIER OF PROPERTY

No. MC–76032 (Deviation No. 33), NAVAJO FREIGHT LINES, INC., 1205 S. Platte River Drive, Denver, Colo. 80223, filed August 12, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 20 and Ohio Highway 11 near Ashtabula, Ohio over Ohio Highway 11 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction Interstate Highway 71 near Wadsworth, Ohio, thence over Interstate Highway 71 to junction Interstate Highway 70 near Columbus, Ohio, thence over Interstate Highway 70 to Indianapolis, Ind. and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized transport the same commodities, over a pertinent service route as follows: From junction U.S. Highway 20 and Ohio Highway 11 near Ashtabula, Ohio, over U.S. Highway 20 to junction Ohio Highway 120, thence over Ohio Highway 120 to Toledo, Ohio, thence over Ohio Highway 2 to junction unnumbered highway, thence over unnumbered highway to junction U.S. Highway 127, thence over U.S. Highway 127 to junction Ohio Highway 2, thence over Ohio Highway 2 to the Ohio-Indiana state line, thence over Indiana Highway 37 to Ft. Wayne, Ind., thence over U.S. Highway 24 to Huntington, Ind., thence over Indiana Highway 9 to junction U.S. Highway 36, thence over U.S. Highway 36 to Indianapolis, Ind., and return over the same route.

No. MC–85850 (Sub-No. 7) (Deviation No. 3), NEYLON FREIGHT LINES, INC., c/o Jones Truck Lines, Inc., 610 E. Emma Ave., Springdale, Ark. 72764, filed August 6, 1976. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 29 to junction Iowa Highway 2, thence over Iowa Highway 2 to Lincoln, Nebr., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 73 to Hiawatha, Kans., thence over U.S Highway 36 to junction Kansas Highway 15E, thence east over U.S. Highway 36 to Marysville, Kans., thence over U.S. Highway 77 to Lincoln, Nebr., and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules — Motor Carriers of Passengers (49 CFR § 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC–1515 (Deviation No. 710), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From junction unnumbered highway and U.S. Highway 1 north of West Palm Beach, Fla., over unnumbered highway to junction Interstate Highway 95, thence over Interstate Highway 95 to Fort Lauderdale, Fla., with the following access routes: (1) From West Palm Beach, Fla., over city streets to junction Interstate Highway 95, and (2) From Pompano Beach, Fla., over city streets to junction Interstate Highway 95, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From junction unnumbered highway and U.S. Highway 1 north of West Palm Beach, Fla., over U.S. Highway 1 to Fort Lauderdale, Fla., and return over the same route.

No. MC–1515 (Deviation No. 711) (Cancels Deviation Nos. 668 and 696), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 2, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Savannah, Ga., over Interstate Highway 16 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 17 near Richmond Hill, Ga., (2) From junction Interstate Highway 95 and U.S. Highway 17 near Richmond Hill, Ga., over Interstate Highway 95 to junction U.S. Highway 17 near South Newport, Ga., with the following access route: From junction Interstate Highway 95 and Georgia Highway 38 over Georgia Highway 38 to junction U.S. Highway 17, and (3) From junction Interstate Highway 95 and U.S. Highway 17 near South Newport, Ga., over Interstate Highway 95 to Jacksonville, Fla., with the following access routes: (a) From junction Interstate Highway 95 and Georgia Highway 251 over Georgia Highway 251 to junction U.S. Highway 17, (b) From junction Interstate Highway 95 and Georgia Highway 99 over Georgia Highway 99 to junction U.S. Highway 17, (c) From Brunswick, Ga., over U.S. Highway 25 to junction Interstate Highway 95, (d) From Brunswick, Ga., over U.S. Highway 84 to junction Interstate Highway 95, and (e) From Woodbine, Ga., over unnumbered highway to junction Interstate Highway 95 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Savannah, Ga., over U.S. Highway 17 to Jacksonville, Fla., and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATIONS

The following application for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR § 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 56643, filed July 26, 1976. Applicant: E AND M TRUCKING, INC., doing business as DELLA ROSA TRUCKING, P.O. Box 150, 3555 Pacheco Blvd., Martinez, Calif. 94553. Applicant's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, Calif. 94104. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Petroleum products chemicals, catalysts, empty containers, and roofing materials*, between all points and places in the Counties of Contra Costa, Alameda, San Francisco, Santa Clara, and Solano, and between the above named counties, on the one hand, and the City of Stockton, California, on the other. Restriction No. 1: Service to or from the above named points shall be restricted to the transportation of shipments having a prior or subsequent movement by water. Restriction No. 2: The above captioned authority is restricted against the transportation of petroleum products, in containers, over irregular routes from Avon and Martinez, California to Richmond, Point Richmond, Point San Pablo, Oakland, Alameda, and San Francisco, California, and empty containers for petroleum products, over irregular routes from Richmond, Point Richmond, Point San Pablo, Oakland, Alameda, and San Francisco, California, to Avon and Martinez, California, in interstate commerce. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. A 56662, filed August 2, 1976. Applicant: SOUTHERN CALIFORNIA MOTOR DELIVERY, INC., 8023 East Slauson Avenue, Montebello, Calif. 90640. Applicant's represent-

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ative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except the following: (a) Used household goods and personal effects not packed in accordance with the crated property requirements; (b) Livestock; (c) Liquids, compressed gases, comodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (d) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (e) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (f) Logs; (g) Fresh fruits and vegetables; (h) Articles of extraordinary value; and (i) Automobiles, trucks, busses, and trailer coaches and campers). 1. Between all points and places in the Los Angeles Basin Territory, as described in Note A:

NOTE A

Los Angeles Basin Territory (Revised) includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; southwesterly along Mill Creek Road to the county road known as Bryant Street 3.8 miles north of Yucaipa; southerly along Bryant Street to the San Bernardino-Riverside County line; west, north and west along the San Bernardino-Riverside County line to Iowa Street; southerly along Iowa Street to U.S. Highway 395; southeasterly along U.S. Highway 395 to Nuevo Road, approximately 1 mile north of Perris; easterly along Nuevo Road through Nuevo and northeasterly and northerly through Lakeview; easterly along Ramona Expressway and Boulevard to the City of San Jacinto; southerly along San Jacinto Street to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet.

Southerly, westerly, and northerly along said corporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego county boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. 2. Between all points and places, inclusively, on and within 25 miles of points on the following routes: (a) U.S. Highway 101 between Paso Robles and Los Angeles; (b) State Highway 99 and Interstate Highway 5 between Fresno and Los Angeles; (c) Interstate Highway 5 between Los Angeles and San Diego; and (d) Interstate Highway 15 and U.S. Highway 395 between Riverside and San Diego. Restriction: Transportation under the proposed authority shall be restricted against the transportation of shipments which had an immediate prior or will have an immediate subsequent movement by a regulated freight forwarder or a common carrier by air, motor or water.

In performing the service, applicant proposes to use any and all streets, roads, highways, and bridges necessary or convenient for the performance of the service. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

New Hampshire Docket No. DT 76–74, filed June 9, 1976. Applicant: ROSS EXPRESS, INC., P.O. Box 42, Route 3, Penacook, N.H. 03301. Applicant's representative: Grenville Clark III and Charles A. DeGrandpre, 40 Stark Street, Manchester, N.H. 03104. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except Class A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious and contaminating to other lading), over regular and irregular routes as authorized in New Hampshire Property Carrier Certificate of Public Convenience and Necessity No. 3, described in Note A.

NOTE A

REGULAR ROUTE COMMON CARRIER

Transportation of general commodities with the exception of Household Goods over the following specified routes, in either direction, as follows: 1. From Nashua to Colebrook, via U.S. Highway Route No. 3, and between Franklin and Ashland, via N.H. Highway Routes Nos. 127 and 3B. 2. Between Colebrook and Errol via N.H. Highway Route No. 26. 3. Between Errol and West Ossipee, via N.H. Highway Route No. 16. 4. Between West Ossipee and Meredith, via N.H. Highway Route No. 25.

5. Between Meredith, N.H. and New Hampton, N.H. via New Hampshire Highway Route No. 104. 6. Between Boscowen and West Lebanon, N.H. via U.S. Highway Route No. 4. 7. Between West Lebanon and Littleton, via N.H. Highway Route No. 10. 8. Between Littleton and Concord, via Interstate Highway No. 93. 9. Between Concord and Salmon Falls, via U.S. Highway Route No. 4 and N.H. Highway Routes Nos. 155 and 4. 10. Between Epson Traffic Circle and Wolfeboro, via N.H. Highway Route No. 28. 11. Between Salmon Falls and Alton, via unnumbered highway to Somersworth; thence via N.H. Highway Route Nos. 16A, 16, and 11 to Alton. 12. Between Concord and Keene, via N.H. Highway Route No. 9. 13. Between Hopkinton and Claremont, via N.H. Highway Route No. 103. 14. Between Potter Place and Newport, via N.H. Highway Route No. 11. 15. Between Newport and Marlow, via N.H. Highway Route No. 10. 16. Between Marlow and Clarmont, via N.H. Highway Routes Nos. 123 and 12. 17. Between Keene and Hampton, via N.H. Highway Route No. 101. 18. Between Seabrook and Durham, via U.S. Highway Routes Nos. 1 and 4. 19. Between Durham and Exeter, via N.H. Highway Route No. 108.

20. Between U.S. Highway Route No. 4 and N.H. Highway Route No. 101, via N.H. Highway Route 125. 21. Between Manchester and Salem, via N.H. Highway Route No. 28. Service is authorized to all intermediate points on the above numbered routes.

IRREGULAR ROUTE COMMON CARRIER

Transportation of *general commodities*, with the exception of Household Goods, as above described, between points and places in New Hampshire. Interstate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place assigned for October 5, 1976, at 10 a.m. at the offices of the New Hampshire Public Utilities Commission, 26 Pleasant Street, Concord, N.H. 03301. Requests for procedural information should be addressed to the New Hampshire Public Utilities Commission, 26 Pleasant Street, Concord, N.H. 03301, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5317 (Sub-No. 1), filed July 19, 1976. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, Tenn. 37211. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment), (1) From Memphis, Tenn., via U.S. Highway 51, to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, Tenn., serving all points in said Counties (but serving no intermediate points between Memphis and the said Obion County Line), and return over the same route. (2) From Memphis, Tenn., via Interstate Highway 40 to junction with U.S. Highway 45, near Jackson, Tenn., thence via U.S. Highway 45 to its junction with U.S. Highway 45E, thence via U.S. Highway 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, Tenn., serving all points in said Counties (but serving no intermediate points between Memphis and the said Weakley County Line), and return over the same route. Restriction: Restricted against tacking with the carrier's present authority. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 28, 1976, at 9:30 a.m., in the Governor's Room, Biltimore Motel, Union City, Tenn. Requests for procedural information should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Room C1–III, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–24937 Filed 8–25–76;8:45 am]

[Notice No. 129]

ASSIGNMENT OF HEARINGS

AUGUST 23, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 98327 (Sub-No. 17), System 99, A Corporation, now being assigned continued hearing November 2, 1976 (4 days) at San Francisco, California; in a hearing room to be later designated.

MC 141742, Flowers Transportation, Inc., now being assigned November 8, 1976 (1 week) at San Francisco, California; in a hearing room to be later designated.

MC 43269 (Sub-No. 61), Wells Cargo, Inc., now bein gassigned November 15, 1976 (1 week) at Las Vegas, Nevada; in a hearing room to be later designated.

MC 141620, Van Bus Delivery, dba United Van Bus Delivery now assigned September 13, 1976 at St. Paul, Minnesota is now cancelled, application dismissed.

MC 49692 (Sub 50), Henry Edwards, dba Henry Edwards Trucking Company now assigned September 13, 1976 at Memphis, Tennessee and will be held in the Holiday Inn-Rivermont, 200 West Georgia.

MC–C–8733, Cango Corporation, McNair Transport, Inc., Robertson Tank Lines, Inc., Chemical Leaman Tank Lines, Inc., Croendyke Transport, Inc. and Western Commercial Transport, Inc. Investigation and Revocation of Certificates, now assigned September 21, 1976, at Dallas, Tex. is canceled.

MC 75320 (Sub 186), Campbell Sixty-Six Express, Inc. now being assigned October 13, 1976 (8 days) at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 126305 Sub 13, 14, 22, 24, 25, 28, 29, 30, 31, 37, 39, and 40; Boyd Brothers Transportation Co., Inc., now being assigned October 13, 1976 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25075 Filed 8–25–76;8:45 am]

[No. 36342]

COLORADO INTRASTATE FREIGHT RATES AND CHARGES—1976

Petition for Investigation

Present: Dale W. Hardin, Commissioner, to whom this matter has been assigned for action.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed April 5, 1976, petitioners, eleven common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Colorado, request that this Commission institute an investigation of their Colorado intrastate freight rates and charges on recyclable materials, under sections 13 and 15a of the Interstate Commerce Act, among others, wherein they will seek an order authorizing them to increase such rates and charges in the amounts presently applied on interstate traffic, currently the subject of the investigation in Ex Parte No. 305–RE, Increased Freight Rates and Charges, 1975—Recyclable Materials.

By tariff filed October 17, 1975, with the Public Utilities Commission of the State of Colorado, petitioners sought to increase their rail freight rates and charges on Colorado intrastate traffic of recyclables by 10 percent, effective November 12, 1975, to correspond to the recent 10-percent increase in the rail freight rates and charges on interstate traffic of recyclables, which 10-percent increase is presently the subject of the investigation in Ex Parte No. 305–RE, *supra*. Following suspension of said tariff, the Colorado Commission, by decision No. 88281, dated February 25, 1976, authorized petitioners to file a tariff increasing their rail freight rates and charges on Colorado intrastate traffic of recyclables, but only by 4 percent.

Petitioners contend that present interstate rail freight rates on recyclable materials moving from, to, and within Colorado are just and reasonable and that the proposed intrastate rail freight rates on recyclable materials will not exceed a just and reasonable level; that transportation conditions for intrastate traffic of recyclable materials in Colorado are not more favorable than for interstate traffic of recyclable materials; that recyclable traffic moving under present Colorado intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Colorado intrastate rail freight rates and charges on recyclable materials create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Colorado and interstate or foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13(4) and 15a of the Interstate Commerce Act, among others, to the extent that they do not include all of the recent 10-percent increase in interstate rail freight rates and charges on recyclable materials, which increase is the subject of the investigation in Ex Parte No. 305–RE, *supra*.

Under sections 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation, into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate state body a change in an intrastate rate, fare or charge for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.

Wherefore, and good cause appearing therefor;

It is ordered, That the petition be, and it is hereby, granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Colorado intrastate rail freight rates and charges on recyclable materials in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons and localities in intrastate commerce and those in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full 10-percent increase in interstate rail freight rates and

[1] The Atchison, Topeka and Santa Fe Railway Company; Burlington Northern, Inc.; Chicago, Rock Island and Pacific Railroad Company; The Colorado and Southern Railway Company; The Colorado and Wyoming Railway Company; The Denver and Rio Grande Western Railroad Company; The Great Western Railway; Missouri Pacific Railroad Company; San Luis Central Railroad; Southern San Luis Valley Railroad Company; and Union Pacific Railroad Company.

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charges on recyclable materials, which increase is the subject of the investigation in Ex Parte No. 305–RE, *supra;* and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Colorado, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423,, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners herein; that the State of Colorado be notified of the proceeding by sending copies of this order and of the instant petition by certified mail to the Governor of the State of Colorado and The Public Utilities Commission of the State of Colorado, Denver, Colorado; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 20th day of August, 1976.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25074 Filed 8–25–76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 23, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43220—*Joint Rail-Water Container Rates—Hoegh Lines.* Filed by Hoegh Lines, (No. 1), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in The Federation of Malaysia and The Republic of Singapore. Grounds for relief—Water competition.

FSA No. 43221—*Joint Rail-Water Container Rates—The Shipping Corporation of India, Ltd.* Filed by The Shipping Corporation of India, Ltd., (No. 1), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in The Federation of Malaysia and The Republic of Singapore. Grounds for relief—Water competition.

FSA No. 43222—*Joint Rail-Water Container Rates—Maritime Company of The Philippines.* Filed by Maritime Company of The Philippines, (No. 101), for itself and interested rail carriers. Rates on general commodities, from and to rail and water terminals on the U.S. Atlantic and Gulf Coast Seaboard, and ports and terminals in Hong Kong, Japan, and The Philippines. Grounds for relief—Water competition.

FSA No. 43223—*Joint Rail-Water Container Rates—Baltic Shipping Company.* Filed by Baltic Shipping Company, (No. 104), for itself and interested rail carriers. Rates on general commodities, between railroad terminals at U.S. Pacific Coast ports, and ports in Continental Europe, United Kingdom, Black Sea, Scandinavia, Denmark, and the U.S.S.R. Grounds for relief—Water competition.

Tariff—Baltic Shipping Company tariff No. 3, I.C.C. No. 3, F.M.C. No. 28. Rates are published to become effective on September 19, 1976.

FSA No. 43224—*Joint Rail-Water Container Rates—Black Sea Shipping Company.* Filed by Black Sea Shipping Company, (No. 2), for itself and interested rail carriers. Rates on general commodities, from railroad terminals at U.S. Pacific Coast ports, to ports in the Mediterranean. Grounds for relief—Water competition.

Tariff—Black Sea Shipping Company Eastbound tariff No. 2, I.C.C. No. 2, F.M.C. No. 10. Rates are published to become effective on September 19, 1976.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25073 Filed 8–25–76;8:45 am]

[Notice No. 20]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76626, filed July 12, 1976. Transferee: GEORGE R. MURPHY, doing business as Murphy & Excavating Co., Route No. 1, Marietta, Ohio 45750. Transferor: Ohio Valley Motor Freight, Inc., 504 Peoples Bank Building, Marietta, Ohio 45750. Applicants' representative: William A. Fields, Attorney at Law, 217 Second Street, Marietta, Ohio 45750. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC–114718, MC–114718 (Sub-No. 9), and MC–114718 (Sub-No. 11), issued December 10, 1971, September 29, 1964, and December 17, 1965, respectively, as follows: Ferro alloys, in bulk, in dump vehicles, from Alloy, W. Va., to points in Ohio and Pennsylvania; ferro alloys and silicon metals, from Graham, W. Va., to specified points in Ohio, and Pennsylvania; agricultural commodities, from points in Washington County, Ohio, to Uniontown, Pittsburgh, and Sharon, Pa.; safes, from Marietta, Ohio, to points in Fayette, Washington, Greene, and Westmoreland Counties, Pa.; general commodities, with exceptions, radially, between points in Washington County, Ohio, and points in Wood and Pleasants Counties, W. Va.; heavy machinery, and machinery, materials, supplies, and equipment, used in the oil and gas industry, radially, between points in Washington County, Ohio, and points in that part of West Virginia on and west of U.S. Highway 19 and on and north of U.S. Highway 60 and points in Ohio; livestock, radially,

between points in Washington County, Ohio and Pittsburgh, Pa., household goods, radially, between points in Washington County, Ohio, and points in Illinois, Indiana, Pennsylvania, West Virginia, and the Lower Peninsula of Michigan; tricalcium phosphate, (bond ash), from Riveview, Ohio, to points in Illinois, Missouri, North Carolina, Pennsylvania, and Wisconsin; and ferro chrome, from Baltimore, Md., and Newport News, Va., to points in Michigan, Ohio, Pennsylvania, and West Virginia, from Philadelphia, Pa. to points in Michigan, Ohio (except Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties), Pennsylvania, and West Virginia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76645, filed July 2, 1976. Transferee: MAX KAFER EXPRESS, INC., 262 West 37th Street, New York, N.Y. 10018. Transferor: Rutgers Express, Inc., 189 Townsend Street, New Brunswick, N.J. 08901. Applicants' representative: S. Michael Richards/Raymond A. Richards, Registered I.C.C. Practitioners, 44 North Avenue, Webster, N.Y. 14580. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–40896 issued February 12, 1976, as follows: Wearing apparel, cut and uncut goods, trimmings, buttons, clips, clasps, and other articles used in the manufacture of wearing apparel which is being transported or is to be transported, cutlery, resin, unfinished cutlery, paper compounds, handles, chests, and such other articles and ingredients used in the manufacture and sale of cutlery, between Englishtown, N.J., and New York, N.Y., and all intermediate points other than Woodbridge, N.J.; and also off-route points in Monmouth and Ocean Counties, N.J.; and wearing apparel between Orange, N.J., and Elizabeth, N.J. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76672, filed July 22, 1976. Transferee: JERRY D. LANDING, doing business as Jerry Landing Moving Service, 260 N. Main Street, St. Clair, Mo. 63077. Transferor: Herb Whitworth Moving & Storage Co., A Corporation, 3344 Greenwood Blvd., Maplewood, Mo. 63143. Applicants' representative: Charles R. Preslar, President, 3344 Greenwood Blvd., Maplewood, Mo. 63143. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–126852, issued October 2, 1973, as follows: Uncrated new household furniture, household furnishings, household appliances, and pianos, from St. Louis, Mo., and points in St. Louis County, Mo., to points in that part of Illinois south of a line beginning at the Illinois-Iowa State line, near Burlington, Iowa, and extending along U.S. Highway 34 to junction Illinois Highway 116, thence south and east along Illinois Highway 116 to junction U.S. Highway 24 at Peoria, Ill., thence east along U.S. Highway 24, to the Illinois-Indiana State line. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76687, filed July 30, 1976. Transferee: Clinton Shrum, doing business as Ambassador Coaches, 212 "A" Street N.W., Miami, OK 74354. Transferor: Missouri, Kansas and Oklahoma Coach Lines, Inc., doing business as M. K. & O. Lines, 321 S. Cincinnati Street, Tulsa, OK 74103. Transferee's representative: Robert A. Miller, Attorney-at-Law, 2505 City Nat'l Bank Tower, Oklahoma City, OK 73102. Transferor's representative: John L. Arrington, Jr., Attorney-at-Law, 510 Oklahoma Natural Bldg., Tulsa, OK 74119. Authority sought for purchase by transferee of that portion of the operating rights of transferor as set forth in Certificate No. MC–36364, issued June 15, 1972, as follows: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Coffeyville, Kans., and Tulsa, Okla., serving all intermediate points, from Coffeyville over U.S. Highway 169 to Collinsville, Okla., thence over U.S. Highway 75 to Tulsa, and return over the same route. Incidental charter operations in interstate or foreign commerce may be conducted. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76698, filed August 10, 1976. Transferee: Sebring Transport, Inc., 2101 Davis Street, San Leandro, CA 94577. Transferor: Senna Trucking Co., Inc., 2101 Davis St., San Leandro, CA 94577. Applicants' representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, CA 94903. Authority sought for purchase by transferee of that portion of the operating rights of transferor, as set forth in Certificate of Registration No. MC–111313 (Sub-No. 1), issued June 20, 1975, as follows: General commodities, and other specified commodities, between the San Francisco Territory, California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76699, filed August 10, 1976. Transferee: King Delivery, Inc., 5600 W. Arbor Vitae, Los Angeles, Calif. 90045. Transferor: Swift Transportation Company, 14719 South San Pedro St., Gardena, Calif. 90247. Applicants' representative: LeRoy R. Davis, Attorney-at-Law, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC–99497 (Sub-No. 4), issued April 29, 1964, and those set forth in Certificate of Registration No. MC–10881 (Sub-No. 3), issued to S & M Freight Lines and acquired by transferor herein pursuant to No. MC–F–12654, as follows: General commodities, with specified exceptions, between specified points in California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76705, filed August 12, 1975. Transferee: Lane Truck Lines, Inc., 120 Newby Court, Rocky Mount, N.C. 27801. Transferor: Bundy Truck Line, Inc., Gatesville, N.C. 27938. Applicants' representative: Ralph McDonald, Attorney-at-Law, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC–115056 (Sub-No. 2), MC–115056 (Sub-No. 13), MC–115056 (Sub-No. 14), MC–115056 (Sub-No. 15), and MC–115056 (Sub-No. 16), issued July 6, 1961, February 14, 1963, June 25, 1964, April 15, 1966, and August 6, 1968, respectively as follows: Lumber, wooden boxes, box shooks, wooden pallets, fiberglass swimming pools, pickle products, glass jars, jar caps, cans, barrels, spices, and sugar, from, to, or between points in North Carolina, Virginia, Maryland, Pennsylvania, Delaware, New Jersey, New York, West Virginia, Connecticut, Ohio, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Illinois, Texas, Minnesota, Michigan, Kentucky, Tennessee, Louisiana, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25072 Filed 8–25–76;8:45 am]

[Notice No. 109]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 23, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available

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for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1328 (Sub-No. 21TA), filed August 13, 1976. Applicant: MGS TRANSPORTATION, INC., P.O. Box 270, Alexandria, Ind. 46001. Applicant's representative: Charles Garrett (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock wool and wool products*, from Rock Wool Industires, Inc., Missouri Division, at Cameron, Mo.; Pueblo, Colorado Division; and Belton, Texas Division, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract with Rock Wool Industires, Indiana Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rock Wool Industries, Indiana Division, P.O. Box D, Alexandria, Ind. 46001. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 93903 (Sub-No. 11TA), filed August 16, 1976. Applicant: ANDERSON'S TRUCKING CORPORATION, P.O. Box 709, Englishtown, N.J. 07726. Applicant's representative: Nathaniel H. Yohalem, Sutton Metro Park, Woodbridge, N.J. 07095. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete poles, light and/or telephone poles, connectors, grout and other accessories* used in the installation thereof, between East Brunswick, N.J., and points in Connecticut, Delaware, the District of Columbia, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Interpace Corporation, 260 Cherry Hill Road, Parsippany, N.J. 07054. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 107496 (Sub-No. 1041TA), filed August 5, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank vehicles, from Waukegan, Ill., to points in Indiana and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Admixtures Corporation, 5909 North Rogers Ave., Chicago, Ill. 60646. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109891 (Sub-No. 28TA), filed August 13, 1976. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 7398, 2811 Carner Ave., Charleston Heights, S.C. 29405. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum No. 2 fuel oil*, in bulk, in tank vehicles, from Duke Power Company plantsites at or near Pelzer (Anderson Cy.) and Chappels (Newberry Cy.), S.C., to Duke Power Company, at or near Gliffside (Rutherford Cy.), N.C.; Mt. Holly (Gaston Cy.), N.C.; Spencer (Rowan Cy.), N.C.; Terrell (Catawba Cy.), N.C.; and Belmont (Gaston Cy.), N.C., for 180 days. Supporting shipper: Duke Power Company, P.O. Box 1339, Charlotte, N.C. 28232. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 320, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 110410 (Sub-No. 17TA), filed August 10, 1976. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker St. NW., Atlanta, Ga. 30313. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, (a) between Atlanta, Ga., on the one hand, and, on the other, points in Florida on and east of Florida Highway 83, and U.S. Highway 331; and (b) between points in Florida on and east of Florida Highway 83, and U.S. Highway 331, for 180 days. Supporting shippers: There are approximately 22 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 110525 (Sub-No. 1163TA), filed August 13, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride*, in bulk, or in sealbins, from Aluminum Co., of America plantsite near Palestine, Tex., to Mobile, Ala.; Baton Rouge, La.; Carville, La.; St. James, La.; Baltimore, Md.; Hamilton, Miss.; Picayune, Miss.; Gulfport, Miss.; Sugar Creek, Mo.; Bound Brook, N.J.; East Hanover, N.J.; Ashtabula, Ohio; West Elizabeth, Pa.; Memphis, Tenn.; Institute, W. Va., and ports of entry on the International Boundary line between the United States and Canada located at Port Huron, Mich., for furtherance in foreign commerce, for 180 days. Supporting shipper: Aluminum Company of America, 1501 Alcoa Bldg., Pittsburgh, Pa. 15219. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 675TA), filed August 16, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, moving in courier service (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment); *and commercial papers, documents and written instruments* as are used in the business of banks and banking institutions, between points in Iowa, Kansas, Missouri and Nebraska. Restrictions: (1) No service shall be provided for the transportation of packages weighing more than 50 pounds, and each package or article shall be considered a separate and distinct shipment; (2) No service shall be provided for the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day; and (3) No transportation of shipments shall be provided to or from the premises of any shipper for whom applicant or any of its subsidiaries perform contract carrier service, for 180 days. Supporting shippers: There are approximately 30 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114569 (Sub-No. 146TA), filed August 13, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fairwater and Beaver Dam, Wis., and their commercial zones, to points in Pennsylvania, New York, New Jersey, Delaware and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Acme Markets, Inc., 124 N. 15th St., Philadelphia, Pa. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 119555 (Sub-No. 12TA), filed August 10, 1976. Applicant: OIL AND INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, 640 12th Ave., Calgary, Alberta, Canada T2P 2P9. Applicant's representative: D. S. Vincent (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in bulk, in tank vehicles, from the United States-Canada International Boundary line at or near Port Huron, Marine City and Sault Ste. Marie, Mich., and Noyes, Minn., to Detroit, Mich., on shipments originating at Berthierville, Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. Luc Madore, Superintendent, Quality Control, Blending & Maturing, Melchers Distilleries Limited, 555 Montcalm St., P.O. Box 100, Berthierville, Quebec, Canada, JOK 1A0. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 123778 (Sub-No. 31TA), filed August 13, 1976. Applicant: JALT CORP., in that part of New York on, east, and doing business as United Newspaper Delivery Service, 75 Cutters Dock Road, P.O. Box 398, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and advertising matter*, shipped with magazines, from Old Saybrook, Conn., to points in New Jersey, points in that part of Pennsylvania on and east of U.S. Highway 15, and points in that part of New York on, east, and south of a line beginning at the New York-Pennsylvania State line, and extending along U.S. Highway 11 to Syracuse, thence along New York Highway 5 to Schenectady, and thence along New York Highway 7 to the New York-Vermont State line, and to Wilmington, Del., Baltimore, Md., and the District of Columbia, under a continuing contract with Curtis Circulation Company, for 180 days. Supporting shipper: Curtis Circulation Company, 21 Henderson Drive, W. Caldwell, N.J. 07006. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 127598 (Sub-No. 2TA), filed August 12, 1976. Applicant: HARRY M. MOWREY, 6597 Rollymead, Cincinnati, Ohio 45243. Applicant's representative: John F. Fulcher, 239 Crescent Lane, Cliffside Park, N.J. 07010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except frozen poultry and poultry products), *dairy plant equipment* (except articles because of size, shape or weight requiring the use of special equipment), *materials and supplies*, between Louisville, Ky., on the one hand, and, on the other, points in Michigan, points in Indiana on and north of U.S. Highway 36, points in Ohio on and north of U.S. Highway 30, and those in West Virginia on the east of U.S. Highway 220, under a continuing contract with Breakstone Sugar Creek Foods, Division of Kraftco Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John F. Fulcher, General Traffic Manager, Breakstone Sugar Creek Foods, Division of Kraftco Corporation, 800 7th Ave., New York, N.Y. 10019. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Bldg., Cincinnati, Ohio 45202.

No. MC 128133 (Sub-No. 14TA), filed August 2, 1976. Applicant: H. H. OMPS, INC., Route 7, P.O. Box 295, Winchester, Va. 22601. Applicant's representative: S. Harrison Kahn, Investment Bldg., Suite 733, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from New Alexandria, Pa., to Winchester, Leesburg, and Front Royal, Va., in bulk, in pneumatic equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crider & Shockey, Inc., P.O. Box 767, Winchester, Va. 22601. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 134262 (Sub-No. 11TA), filed August 12, 1976. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., Boyden, Iowa 51234. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except anhydrous ammonia and liquids in bulk), from points in Brazos County, Tex., to points in North Dakota, under a continuing contract with Farmers Feed & Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. G. Heusinkveld, President, Farmers Feed & Supply, Inc., Boyden, Iowa 51234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 134282 (Sub-No. 14TA), filed August 10, 1976. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Drawer 776, Ennis, Tex. 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and materials and supplies* used in the installation thereof, from the plantsite of the Flintkote Company, at Ennis, Tex., to points in Kansas, New Mexico and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Flintkote Company, 480 Central Ave., East Rutherford, N.J. 07073. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 138510 (Sub-No. 7TA), filed August 12, 1976. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Ave., at Aloe St., Pomona, N.J. 08240. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated furniture and laminated furniture parts*, uncrated, for the account of International Wood Products, Inc., from Pleasantville, N.J., to Tampa, Orlando and Miami, Fla.; Mocksville, N.C.; Memphis, Tenn.; Houston and Dallas, Tex.; Phoenix, Ariz.; New York City, Amityville and Buffalo, N.Y.; Pittsburgh, Pa.; Chicago, Ill.; Laurel, Md.; Louisville, Ky.; and the District of Columbia, under a continuing contract with International Wood Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Wood Products, Inc., P.O. Box 142, Cologne, N.J. 08213. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 139313 (Sub-No. 4TA), filed August 10, 1976. Applicant: P. KRIMBEL, doing business as Krimbel Trucking Co., 3554 McReynolds Ave., Modesto, Calif. 95355. Applicant's representative: Charles Ennis (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wine, champagne, brandy* and (2) *beer*, from (1) Modesto, Lodi, San Jose, Calif.; and (2) San Francisco, Los Angeles and Orange Counties, Calif.; to Everett, Seattle and Bellevue, Wash., under a continuing contract with K & L Distributors, Inc., and E & J Gallo Winery, for 180 days. Supporting shippers: K & L Distrib-

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utors, Inc., P.O. Box 1969, Bellevue, Wash. 98009. E & J Gallo Winery, Modesto, Calif. Send protests to: Claud W. Reeves, District Supervisor, Suite 500, 211 Main, San Francisco, Calif. 94105.

No. MC 139533 (Sub-No. 2TA), filed August 13, 1976. Applicant: ALEX K. SCHERER, 22 Oak Lane, Ottawa, Ill. 61350. Applicant's representative: Alex K. Scherer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers*, in bulk, from North Pekin, Ill., to points in Iowa, Minnesota, Missouri and Wisconsin, for 180 days. Supporting shipper: First Miss Inc., Ralph S. Cramer, Supervisor of Rates, P.O. Box 328, Ft. Madison, Iowa 52627. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 139658 (Sub-No. 13TA), filed August 13, 1976. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, Ga. 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coke*, in bulk, in dump trucks, (1) from points in Etowah, Jackson, DeKalb, Marshall, Blount, Cullman, Cherokee, Madison, Morgan, Cleburn, Saint Claire, and Jefferson Counties, Ala., on the one hand, and on the other, to points in Tennessee; and (2) from Dade, Walker, Chattooga, Floyd, Bartow, Gordan, Murray, Whitefield, Catoosa, Gilmer, and Pickens Counties, Ga., on the one hand, and, on the other, to points in Alabama and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Birmingham Coal & Coke Company, Inc., 4363 1st Ave., N., Birmingham, Ala. 35222. Cotham Smith & Smith Realty Co., 151 Lamar St., Macon, Ga. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 142113TA, filed June 2, 1976, published in the FEDERAL REGISTER of June 21, 1976, republished in the FEDERAL REGISTER of June 23, 1976, and republished as corrected this issue. Applicant: CHESTER A. RICHMOND, doing business as, RICHMOND CARTAGE, P.O. Box 337, Craigsville, W. Va. 26205. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurrican, W. Va. 25526. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value. Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Charleston, W. Va., and Marlinton, W. Va.: From Charleston, W. Va., over U.S. Highway 119 to junction with Interstate Highway 79, thence over Interstate Highway 79 to junction with U.S. Highway 19 at Sutton, W. Va., thence over U.S. Highway 19 to junction with West Virginia Highway 41, thence over West Virginia Highway 41 to junction with West Virginia Highway 20, thence over West Virginia Highway 20 to junction with West Virginia Highway 39, thence over West Virginia Highway 39 to junction U.S. Highway 219, thence over U.S. Highway 219 to Marlinton, W. Va., and return over the same routes, serving all intermediate points on the above described route between Sutton and Marlinton, W. Va. (except Sutton), and all off-route points in Greenbriar, Nicholas, Pocahontas, and Webster Counties and those in Randolph County on and south of U.S. Highway 33. Applicant intends to interline at Charleston, W. Va. with existing carriers, for 180 days. Supporting shipper: There are approximately 24 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof may be examined at the field office named below. Send protest to: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 141655 (Sub-No. 3TA), filed August 13, 1976. Applicant: TRANSPHOS, INC., 410 Ware Blvd., Suite 713, Tampa, Fla. 33619. Applicant's representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste lime past*, in bulk, in dump vehicles, from Birmingham and Mobile, Ala., to Bartow, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Union Carbide Corporation, 270 Park Ave., New York, N.Y. 10017, CF Chemicals, Inc., P.O. Box 1480, Bartow, Fla. 33830. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

By the Commission.

ROBERT L. OSWALD,
Secretary

[FR Doc.76-25076 Filed 8-25-76;8:45 am]

FINANCE APPLICATION

The following application seeks approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before September 27, 1976. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

ACQUISITION INVOLVING BOTH A WATER CARRIER AND MOTOR CARRIER

No. MC-F-12925. (Correction) (SEA-WHEELS, INC.) (formerly PENBROOK HAULING COMPANY, INC.)—Purchase (Portion)—(DAILY EXPRESS, INC.), published in the August 19, 1976, issue of the FEDERAL REGISTER, on page 35133. Prior notice should read as follows: "General commodities with exceptions, in containers or in *Trailers having an immediately prior or subsequent movement* by water"

By the Commission.

GORDON H. HOMME, JR.,
Acting Secretary.

[FR Doc.76-25256 Filed 8-25-76;8:45 am]

federal register

THURSDAY, AUGUST 26, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES

Proposed Revisions to Program Regulations

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 228]

SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES

Proposed Revisions to Program Regulations

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare.

Various sections of the regulations for the title XX program which were published in the FEDERAL REGISTER on June 27, 1975 (40 FR 27352) have been amended during the first program year to ease problems encountered by State agencies. The revisions, published on October 3, 1975, February 9, April 2, and May 19, 1976 primarily: (1) Extended the period of time allowed the States to determine individual eligibility of persons who had been receiving services on the basis of group eligibility under titles IV–A and VI; (2) first extended the period of time allowed the States to establish the individual recipient basic data file, and then rescinded the requirement for the file; (3) liberalized the definition of family and permitted States to use the declaration method or any other method of their choice for determining eligibility on an individual basis; and (4) removed limitations on the services that could be provided to prevent or remedy neglect, abuse or exploitation of children or adults.

The amendments proposed here, however, reflect the first comprehensive review of the regulations since the program began on October 1, 1975. Because of the Department's desire to be open in the rulemaking process and to seek advice from a range of individuals and organizations who are interested in an efficient and effective public social service program, a new process was initiated in the development of these proposals. Between April and June, 1976, advice was sought on an early draft of these regulations from 51 State agencies, and 175 national public and private organizations. In addition to the consideration given to 458 written comments that resulted from that effort, a series of meetings was held with representatives of these groups and others such as the National Association of Counties, National Conference of State Legislatures, National League of Cities, National Governor's Conference, National Association of Social Workers Coalition, and the American Public Welfare Association. Again, comments were received and considered in arriving at these proposals.

Generally, the purposes of the amendments are: To clarify the intent of some aspects of the existing regulations; to eliminate or simplify administrative requirements on States and reduce the possibility of their incurring fiscal sanctions (especially in the preparation and publication of their comprehensive annual services plan); to provide a method for correcting deficiencies in the services plans; to provide specificity where it was requested (as in new and revised definitions and in the provisions dealing with staff training and amendments to the final services plan); and to relieve the States of complicated systems for costing out services and training.

The basis for the amendments is the Department's wish to enhance the ability of the States to focus on the delivery of services to eligible individuals and avoid undue administrative burdens and unnecessary costs. The amendments are aimed at reducing operational difficulties which States have encountered during the 1st year of the program.

The major proposed changes are summarized as follows.

DEFINITIONS

Four definitions in § 228.1 are affected: (1) The term "remedial care" is replaced by the broader term "medical and remedial care" to be used in determining when such care is an allowable cost under title XX as an integral but subordinate part of a service. This responds to requests for a definition of what a medical service is. (2) The definition of "family" is revised for clarification. (3) The definition of "other public agencies" has been added and includes Indian tribes so that they may have the same advantages as providers of services that public agencies do. This change reflects more accurately the true nature of their status in the social services delivery context. This new interpretation also results in revising § 228.54 to delete Indian tribes as non-profit, private agencies and include them as public agencies in § 228.53. (4) The definitions of "room" and "board" are moved from § 228.41 to § 228.1 in order to place in one section all definitions of terms that reoccur in the regulations.

COMPREHENSIVE ANNUAL SERVICES PROGRAM PLAN

Section 228.20 to revised to: (1) Change its heading from "general" to "conditions for FFP"; and (2) clarify when Federal financial participation (FFP) begins for expenditures under a final services plan.

Section 228.24 is revised to require the State agency to include in its annual services plan the operational definition of family it is using in the title XX program. This is necessary because an April 2, 1976 amendment to the regulations, retroactive at State option to October 1, 1975, gave the State several options for defining family. Also added are requirements for additional information in the services plan: (1) If the State wishes to limit services to eligible persons with certain characteristics, it would be required to describe the limiting characteristics in sufficient detail to meaningfully inform the public. In this way, there should be as little misunderstanding as possible about who is eligible for services, and (2) similarly, to inform the public, the State would be required to specify any variations in fee schedules, based on geographic area.

Section 228.25 is revised to delete the requirement that foster care services must be available in a services plan in every geographic area under title XX to all children who are eligible for foster care under Aid to Families with Dependent Children (AFDC). The deletion is made because the requirement for foster care services and the possibility of losing FFP for not providing them are in title IV of the Social Security Act and not in title XX. However, § 228.26(f) requires that the services plan describe the foster care services, if any, provided, to such AFDC children under title XX; and is further revised to clarify what is required for the description of a service in the services plan, and to delete paragraph (e) (inclusion of other services) as superfluous.

Section 228.27 is revised to specify the reason for, and nature of, estimates of expenditures to be included in the annual services plan to clarify that only information applicable to title XX expenditures is necessary.

Section 228.28 is revised, for purposes of clarity, to redefine program resources in terms of Federal title XX funds and State and local appropriated funds and other funds to be used in the program.

Section 228.29 is revised to add a requirement for a description of steps taken to involve various public, private, and governmental groups or individuals in the development of the services program. This is intended to encourage States to involve such groups in title XX planning and subsequently to inform the public, when it reads the services plan, of the extent to which such groups had participated in the development of the services plan.

Section 228.31, "Needs Assessment," and § 228.32, "Planning, Evaluation and Reporting," are revised to give the States more flexibility as to the information they provide on these areas in their services plans. The effect is to free the States from possible fiscal sanctions if they fail to address each and every item as was previously required.

Section 228.33, renamed "The public review process," brings together, for purposes of clarity, all requirements relating to publication of the proposed and final services plans, the content of the display advertisements for each plan and of the summary of the proposed plan, the comment periods, and the handling of public comments and public access. Issuance of a press release prior to publication of the final services plan is made optional in the belief that States will use press releases in any case but that SRS would be reluctant to impose a fiscal sanction if States did not. However, since some have commented that relaxation of the requirements might be detrimental to the public review processes, comments is especially invited on the desirability of these proposed changes.

Section 228.34 now contains the requirements that the State submit to the SRS Regional Commissioner its proposed services plan, display advertisement and other documentation related to the publication of the plan, within 5 days of its

publication; commits the Regional Commissioner to review these materials and notify the State within 10 days following receipt of them of his/her findings (either that the plan meets the requirements or that it is deficient and must be corrected); and specifies what constitutes deficiencies. This change is necessary to answer questions frequently put to SRS about the nature of such deficiencies and to formalize procedures which evolved from experience following issuance of the first proposed and final services plans by the States.

Section 228.35 now deals with how to correct deficiencies in the proposed and final services plans and to the display advertisements of each. Essentially, State must republish in newspapers information that was incorrect initially so that the public will be accurately informed about the content of the services plan. This new material responds to requests from States for guidance about how to correct errors in the services plans so that FFP will not be lost.

The material regarding amendment of the final services plan (now § 228.36) has been revised to specify when the services plan must be amended, to describe the public review process for amendments, and to list the materials to be submitted to the Regional Commissioner. The original requirements were criticized as being too vague and non-specific as to when an amendment was needed and the public review process required to implement it. Now it is clear that amendments to the plan are necessary only when significant changes in a State's services program are planned and that, as a minimum, amendments are required when such changes as deletion or addition of services, revisions in fee schedule or changes in categories of eligible individuals will occur.

LIMITATIONS: SERVICES

Section 226.40 is revised to delete all the material in the present paragraph (b) which defines when medical or remedial care can be considered integral but subordinate to a service, and to eliminate the need for the complex computations to determine amounts payable for such care. In addition to including in its services plan a description of the service of which medical care is integral but subordinate, the State would only be required to document that the medical or remedial care is necessary in the specific case to meet the objective of the service and not merely to correct a medical condition. This change is for the purpose of simplifying administrative procedures. Because there is concern that the liberalization of this requirement may lead to indiscriminate use of medical care, SRS believes documentation is necessary. Comments are solicited on efficient and effective ways of documenting that medical care is integral but subordinate.

Section 228.41 is revised to: (1) Change the time limit on Federal financial participation (FFP) in room or board from a period of 6 consecutive months in any 12 month period to 6 consecutvie months for any one placement; (2) define "placement"; (3) delete the percentage formula for determining when room or board is subordinate to a service; and (4) require the State to document for each case that board or room is necessary to meet the objective of the service and not merely to provide food or shelter. By changing the time frame within which FFP is available in room and board, SRS believes it has now more accurately reflected the statutory requirement which speaks of "a period of not more than six consecutive months." The addition of the definition of placement makes clear the circumstance to which the period of six months applies. Administrative simplicity is the goal of eliminating the percentage formulas. But as in the liberalition of § 228.40, concern remains that indiscriminate charging of board or room to title XX does not follow. Thus, documentation is again seen as essential. Comments are also solicited, therefore, on efficient and effective ways of documenting that board or room is integral but subordinate.

Section 228.44 is revised to clarify what SRS means by the inherent and intrinsic responsibilities of "institutions" for which FFP is not available under title XX. SRS believes this carries out the intent of Congress to provide certain "in reach" social services but not to finance, with title XX funds, aspects of institutional operations which are the responsibility of the States. This section also clarifies the nature of a separate juvenile correctional facility as distinct from a prison and clarifies the availability of FFP for services provided therein.

Section 228.45 is revised to permit a foster caregiver qualified by experience to give special services without further training. This was added because the regulation was unclear and it was mistakenly interpreted by the States to mean that even experienced persons had to receive training before they could give special services.

Section 228.46 is revised to eliminate the requirement that there be "clear and present" danger of abuse, neglect, or exploitation. The change was necessary to eliminate an incorrect interpretation by the States—that the situation had to be critical before services could be provided.

Section 228.47 is revised to permit the title XX agency to accept a bill (as well as a receipt of payment) for a service that has already been rendered to an individual, as a basis for giving him the money to pay for the service. By doing so, SRS seeks to eliminate what may be a hardship for the recipient—that is, requiring him to pay for the service out of his own pocket before the State can make an expenditure for which FFP is available. However, SRS wishes to make clear that money can be given to a recipient only for a service which has already been provided to him with prior State agency approval.

LIMITATIONS: FINANCIAL

Section 228.51 is revised to delete from paragraphs (a) and (b) the parenthetical phrase "less fees collected" in order to underscore the possibility for a State to expand the particular service for which the fee was collected as well as any other service under the services plan. (See § 228.62(e)).

Section 228.55 is revised to delete the words "of child-bearing age" after "individuals" to clarify that family planning services are available to males also.

LIMITATIONS: INDIVIDUALS SERVED, ELIGIBILITY AND FEES

Section 228.60 is reorganized for clarity and revised to make it possible for States to use the median incomes promulgated by the Secretary throughout their program year instead of having to use two different sets of median incomes if their program year does not coincide with the Federal fiscal year. Added are:

(1) The option for States to establish different income levels for different geographic areas (to provide for additional State flexibility and difference in standards of living in the State); (2) a reference to discretionary fees for individuals below the 80 percent level (to alert the user of the regulation to the location of that provision); and (3) requirements for notifying applicants (orally or in writing) regarding their eligibility within 15 days after the agency has made a decision (to assure prompt notification of eligibility) and for entering the date of such notification in the case record. A statement is added to make clear that no application is required for information and referral services.

Section 228.61 is revised to: (1) Clarify that eligibility is determined on an individual basis only; (2) define the "declaration method" of determining eligibility; (3) set forth the conditions for FFP vis-a-vis proper and improper determination or redetermination of eligibility; (4) define "proper determination of eligibility"; (5) provide that an individual who wishes to keep confidential a service (such as services to drug addicts or alcohol abusers) for which the provider determines eligibility, may request and be entitled to have any outside contacts, necessary to determine eligibility, made by the title XX agency rather than the provider agency; (6) give the States the option of redetermining eligibility on an annual basis (rather than every 6 months) for persons whose income is derived exclusively from pensions or Social Security benefits (to ease burdens on elderly individuals); and (7) clarify the nature of the State agency's responsibility for continuous monitoring of its method(s) for determining eligibility.

Changes (3) and (4) in § 228.61 regarding determination of eligibility are designed to establish and make clear that for purposes of FFP, a determination of eligibility that was correctly made on the basis of information available to the agency at the time of the determination will be a proper basis for Federal matching even though subsequent information may prove that the information on which the eligibility determination was based was in error.

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SRS believes this is in line with its policy enunciated throughout these regulations; namely, to encourage the States to use their limited Federal dollars under this program to the greatest extent possible on service delivery and not for administrative costs.

Change (5) in § 228.61 deals only with a phase of confidentiality concerned with determination of eligibility by a provider. All other aspects of and requirements for confidentiality regarding applicants for and recipients of title XX services are covered in § 205.50 which contains provisions for safeguarding information on all persons served under Social Security Act programs administered by the Social and Rehabilitation Service. Preparatory to revising § 205.50 to reflect more clearly the Department's views on privacy for individuals under these programs, SRS staff has met with representatives of State and local agencies in the areas of social services, medical and financial assistance, and has canvassed State legal staff for their input. A Notice of Intent will be published in the FEDERAL REGISTER in the near future to invite public comment on all issues pertinent to confidentiality and privacy in SRS programs. After the conclusion of the public participation activities, SRS will assess the results and develop a proposed regulaton covering title XX and other SRS programs.

Change (7) in § 228.61 regarding State responsibility for monitoring its eligibility determination method(s) is necessary to respond to questions and to avoid confusion about this area of program administration.

This section intends to make clear that the State must continuously monitor the method(s) it uses for determining eligibility for the purpose of making sure that such method(s) result in correct determinations. The State must test its method(s), for example, the declaration method, by going behind some eligibility determinations made by that method and ascertaining whether those determinations are correct. In doing this, if the State finds erroneous determinations, it must take action to eliminate such errors.

The States' responsibility for developing method(s) that achieve the desired result, that is, eligible individuals in accordance with the services plan, is an essential part of implementing its responsibility under § 228.6(e) for establishing and maintaining standards for the determination of eligibility.

Section 228.62 is revised to: (1) Permit the State to vary fees for services in different geographic areas (to allow for differences in cost of living); (2) clarify that fees imposed must be reasonably related to the family's gross monthly income because it is a statutory requirement; (3) deny FFP in the costs of any service for which any fee or charge other than those specified in the regulation is imposed (to prevent the imposition of "unauthorized" fees); and (4) to clarify an optional method for handling fees collected by provider agencies. This option for handling fees emphasizes the States' flexibility in the use of fees to support selected programs. Although as currently written there is no prohibition against the use of fees to expand a particular program, the wording of the regulation seemed to imply that fees collected by a provider agency could only be used to reduce the cost and, thereby, the amount of expenditures subject to Federal participation.

The change in language in these proposals makes clear the State option to authorize a provider to use fees to expand the program under terms of the contract. Because fees collected are income from a program supported in part by Federal funds, such fees may not be used to generate additional Federal participation. Thus, program expansion under this option is limited to the amount of fees collected. Additionally, any amount of fees collected and not used for expansion under this option must be deducted from the total expenditures for which FFP is claimed.

Section 228.64 is revised to reflect the May 19, 1976 revocation of § 228.63 which had required an individual recipient basic data file.

In § 228.65(a)(1), which currently reads ". . . provided to an individual under 18, harmed or threatened with harm by a person responsible for the individual's health or welfare," the limiting phrase "by a person responsible for the individual's health or welfare" has been deleted. States would thus be free to provide services to prevent or remedy neglect, abuse, or exploitation without regard to the kind of person who actually (or potentially) harms the child.

PURCHASE OF SERVICE

Section 228.70, renamed "Procurement standards," is revised to require that purchase of services contracts specify that the provider will impose no fees other than those specified in the regulations and established by the State in accordance with prescribed criteria (to prevent imposition of unauthorized fees); and permit the State agency to purchase services from an individual provider (one with no direct service employees or subcontractors) without a written contract, provided that the State's statute of frauds does not preclude the State agency from enforcing its unwritten contract with the provider, and that the agency documents such contract. The latter change is made to reduce administrative requirements on the individual provider.

TRAINING AND RETRAINING

Subpart H—Training and Retraining—has been extensively reorganized and rewritten.

Within SRS, the question is now being raised whether this regulation should be combined with the one on training under title I, IV-A, X, XIV, XVI (AABD) or XIX. One school of thought favors a self-contained title XX regulation to the greatest extent possible for ease of State use and in view of some basic differences with other SRS programs. Another school of thought prefers one regulation covering training for all SRS support programs under title XX and the other six titles of the Social Security Act. Comments by States and the public are solicited on the desirability of a separate title XX training regulation or one combining training for all programs for which SRS is responsible.

Section 228.80 is now called "Conditions for FFP." It describes the kind of training which may be provided, and when FFP may be claimed for training expenditures.

The requirement that State agencies file with SRS their training plans for each program year was deleted from this section because it was considered needlessly burdensome to States. While SRS believes that careful planning of training is essential to sound program management, it is thought that States can be encouraged and assisted in such planning without mandating submittal of a training plan to SRS.

Section 228.81 is revised to: (1) Include the training of provider agency personnel who are determining eligibility for title XX services (as well as those who are providing the title XX services); (2) identify provider agency service delivery and eligibility determination personnel who may be trained; (3) expand the circumstances under which foster caregivers providing special services may be trained; and (4) provide FFP for training of foster caregivers whose homes provide a resource to the title XX agency in its own directly operated foster care services program for eligible children and adults.

Regarding the changes in § 228.81, training provider eligibility workers is a logical outcome of permitting providers to determine eligibility of persons applying to them for services.

In reference to the training of foster caregivers, the present regulation permits training only of those who will provide special services. Under past and present law and regulations, other foster caregivers, although undeniably necessary to the provision of services to children and adults, have not been eligible for training because their function was defined in terms that would preclude training—they were not "staff of the agency" or defined as "providers of services." However, since foster caregivers are necessary to enable the title XX agency to have a foster care program, they are seen as "directly related to the provision of services" and thus meet the training eligibility requirements under title XX.

Section 228.82 is revised to delete the requirement that specified categories of students shall be included in the classroom program of instruction funded under grants to educational institutions, and to substitute a requirement that such grants contain specific objectives and be evaluated as a condition for continued funding. This provides an alternative for an administratively infeasible requirement.

Section 228.83 is revised to: (1) Revoke the provision for disallowance of Federal funds when less than 90 percent of the persons preparing for employment with the title XX agency (and whose training was funded under title XX) report for employment following such training by either the title XX agency, a public or private title XX provider agency, or a title XX agency in another State (experience has shown that all the foregoing are administratively infeasible requirements); (2) substitute procedures to be followed by the student and the State agency by requiring simply that the student accept employment if offered by the agency within six months after completion of his training and, if not employed, keep the agency informed of his employment status for one year; and that the State agency offer employment to the student unless precluded by circumstances beyond its control. (SRS believes this alternative is a reasonable way to facilitate increased numbers of qualified staff in State services programs); and (3) clarify that any funds received by the State from students who fail to meet their commitment to accept employment and, instead, repay all or part of funds provided to them by the State to defray the costs of their training, shall be subtracted from the State's total expenditures for training before FFP is claimed.

Section 228.84 is revised to exclude FFP from dependency allowances of provider agency employees in training programs of 8 consecutive weeks or longer. The availability of FFP for such costs under the present regulation was an inadvertent error. Dependency allowances are ancillary to salaries; and since salaries are not eligible for FFP under title XX, SRS believes that it is unreasonable to include dependency allowances. Eight weeks refer to the length of a semester in a tri-semester system and is generally accepted as the least amount of time in which a full course of study can be completed.

A second revision to § 228.84 adds the provision of FFP in the training costs for activities of staff development personnel of provider agencies who are conducting title XX training under the contract. The same costs are covered as those for staff development personnel of the State agency: Salaries, fringe benefits, travel and per diem. This policy was inadvertently omitted in the present regulation. SRS believes that provider agencies and State agencies should both be able to train their own staff in title XX eligibility or service delivery where they have the capability to do so.

GENERAL PROVISIONS

In Subpart I—General Provisions—§ 228.90 is revised to permit FFP in: (1) Costs of transportation (tokens or tickets) and medical examinations (not available to the individual under title XVIII or XIX) which are necessary for the development of a services plan for him; and (2) costs of administrative support activities furnished by private organizations and individuals. These changes are included for administrative convenience.

In addition to the substantive amendments discussed in the foregoing, extensive editorial, technical, and clarifying changes have been made in all reprinted sections, including such things as recoding, insertion of paragraph titles where they weer lacking, and more detailed references to other documents.

Prior to the adoption of the proposed amendments, consideration will be given to any written comments, suggestions, or objections thereto received by the Administrator, Social and Rehabilitation Service, P.O. Box 2366, Washington, D.C. 20013, on or before October 12, 1976. Comments received will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C., beginning approximately two weeks after publication of this Notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-235-0950).

(Catalog of Federal Domestic Assistance Program No. 13.771, Social Services for Low Income and Public Assistance Recipients.)

It is hereby certified that the economic and inflationary effects of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Dated: August 9, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary.

1. The Table of Contents to Part 228, Title 45 of the Code of Federal Regulations is revised to read as follows:

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Subpart A—Scope and Definitions

Sec.
228.0 Scope of program.
228.1 Program definitions.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

228.5 State plan requirements.
228.6 Appropriate State agency.
228.7 State financial participation.
228.8 Statewide operation.
228.9 Merit system.
228.10 Safeguarding information.
228.11 Residency requirements.
228.12 Standards for institutions or foster homes.
228.13 Standards for child day care services.
228.14 Fair hearings.
228.15 Amendments to State plan.
228.16 Submittal of State plan and amendments for approval by the Secretary.
228.17 Reports and maintenance of records.
228.18 Maintenance of effort.
228.19 Noncompliance.

Subpart C—Comprehensive Annual Services Program Plan

228.20 Conditions for FFP.
228.21 Establishment of program year.
228.22 Services plan.
228.23 Program goals and objectives.
228.24 Individuals to be served.
228.25 Availability of services by geographic area.
228.26 Services.
228.27 Estimates of individuals to be served and expenditures.
228.28 Program resources.
228.29 Program coordination and utilization.
228.30 Organizational structure.
228.31 Needs assessment.
228.32 Planning, evaluation and reporting.
228.33 The public review process.
228.34 Regional review of proposed and final services plans.
228.35 Correction of proposed and final services plans.
228.36 Amendments to final services plan.

Subpart D—Limitations: Services

228.39 General.
228.40 Minor medical and remedial care.
228.41 Room or board.
228.42 Child care standards.
228.43 Educational services.
228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.
228.45 Special services provided by foster family homes.
228.46 Emergency shelter.
228.47 Payments to recipients for services.

Subpart E—Limitations: Financial

228.50 Services and individuals covered in the services plan.
228.51 Matching rates.
228.52 Allotments to States.
228.53 Public sources of State's share.
228.54 Private sources of State's share.
228.55 Family Planning Services.
228.56 Fifty Percent Rule.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

228.60 Persons eligible.
228.61 Determination and redetermination of eligibility.
228.62 Fees for services.
228.63 [Reserved].
228.64 Information and referral services.
228.65 Services directed at the goal of preventing or remedying neglect, abuse or exploitation of children or adults unable to protect their own interests.
228.66 Monthly gross income.

Subpart G—Purchase of Service

228.70 Procurement standards.
228.71 Rates of payment.

Subpart H—Training and Retraining

228.80 Conditions for FFP.
228.81 Who may be trained.
228.82 Grants to educational institutions.
228.83 Financial assistance to students.
228.84 Activities and costs matchable as training expenditures.
228.85 Activities and costs not matchable as training expenditures.
228.86 Phase-in of training requirements.

Subpart I—General Provisions

228.90 Expenditures for which Federal financial participation is available.
228.91 Expenditures for which Federal financial participation is not available.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Scope and Definitions

2. Section 228.1 is amended by revising the following definitions to read as follows:

V 41 167 AUG 26 76 UMI

§ 228.1 **Program definitions.**

As used in this Part:

Act means the Social Security Act.

Administrator means the Administrator of the Social and Rehabilitation Service of the U.S. Department of Health, Education, and Welfare.

Categories of individuals means groupings of persons on the basis of common characteristics such as recipient status (AFDC, SSI, Medicaid), income level, age, physical or mental condition, or any other characteristic that the State specifies in its comprehensive annual services plan.

Family means one or more adults and children, if any, related by blood, or law, and residing in the same household. Where adults, other than spouses, reside together, each may be considered a separate family by the State. Emancipated minors and children living under the care of individuals not legally responsible for that care may be considered one-person families by the State.

Fiscal year means the Federal fiscal year unless otherwise specified.

FFP means Federal financial participation.

Geographic area means any identifiable area encompased within the State.

Indian tribal council means the official Indian organization administering the government of an Indian reservation.

Indian tribe means any Indian tribe band, nation, or other organized group or community, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 883), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Medical or remedial care means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and which care is provided by or under the direct supervision of such a medical practitioner or other licensed health professional.

Monthly gross income means the monthly sum of income received from sources identified by the U.S. Census Bureau in computing median income. (See 228.66.)

Other public agencies means State and local public agencies other than the State agency, and Indian Tribes.

Room means shelter only; and board means 3 meals a day or any other full nutritional regimen.

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Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

3. In § 228.6, paragraph (f) and the introduction text of paragraph (e) are revised to read as follows:

§ 228.6 **State agency.**

• • • • •

(e) *Authority and responsibility of the agency.* There shall be maintained within the State agency the authority and responsibility for:

• • • • •

(f) *Administrative support agreements.* In carrying out the responsibilities under paragraph (e) of this section, the State agency may enter into agreements in accordance with the procurement requirements of 45 CFR Part 74, Subparts P and Q, with public or private entities to provide administrative support. A local agency administering the program under the supervision of the State agency may also enter into such agreements.

Subpart C—Comprehensive Annual Services Program Plan

4. Section 228.20 is revised to read as follows:

§ 228.20 **Conditions for FFP.**

(a) The State's final services plan shall meet all requirements of this Subpart and of § 228.50; if it does not (except for family planning services provided pursuant to § 228.26(g)), there will be no FFP in expenditures for services under the services plan.

(b) FFP will be available in expenditures under the final services plan for services that are provided:

(1) No earlier than 90 days after a proposed services plan has been published and made available for public review and any corrections necessary to bring such proposed plan into compliance with all requirements of §§ 228.21 through 228.33 have been published, with 45 days for public comment; and

(2) No earlier than the date of publication of a final services plan that meets all requirements of §§ 228.21 through 228.35 (if applicable).

5. Section 228.21 is revised to read as follows:

§ 228.21 **Establishment of program year.**

The State shall establish the beginning of the fiscal year or the fiscal year of the State government as the beginning of the State's services program year.

6. Section 228.22 is revised to read as follows:

§ 228.22 **Services plan.**

(a) The State agency shall prepare and publish in both proposed and final form a Comprehensive Annual Service Program Plan (hereinafter in this Part referred to as the sevices plan) prior to the beginning of each services program year. The proposed and final services plans shall meet all requirements of this Subpart.

(b) The final services plan shall also include an explanation of differences between the proposed and final services plans and the reasons therefor, and a summary of the public comments.

7. Section 228.24 is revised to read as follows:

§ 228.24 **Individuals to be served.**

The proposed and final services plans shall:

(a) Specify which of the categories of individuals described in § 228.60 will be provided services in the forthcoming program year; describe the income levels for eligibility, and include the Statewide definition of family in accordance with § 228.1;

(b) If the State limits services to individuals with certain characteristics, describe the limitations imposed for each category in sufficient detail to enable individuals to know if they are likely to meet the eligibility requirements, e.g., female-headed families whose income is not more than 80 percent of the median income; mentally retarded SSI recipients, and alcohol abusers whose income does not exceed 50 percent of the median income;

(c) Specify which of the categories to be served will be charged a fee;

(d) Include the fee schedule, specifying any variations by service or by geographic area, as permitted under § 228.52; and

(e) Specify whether information and referral services, and services to prevent or remedy neglect, abuse or exploitation will be provided without regard to income.

8. Section 228.25 is revised to read as follows:

§ 228.25 **Availability of services by geographic area.**

For the purpose of delivering services described in the service plan, the State agency may divide the State into geographic areas, but only if such geographic areas encompass the entire State, including Indian reservations. The State shall consider, in defining geographic areas, the boundaries of planning areas of other human services programs. If the State chooses to establish such geographic areas, the services plan shall:

(a) Describe those geographic areas;

(b) Provide that the services described in § 228.26(e) will be available to eligible individuals in every geographic area; and

(c) Where different services are made available to a category of individuals in different geographic areas, provide that the services furnished in a geographic area will be available to all eligible individuals in that category who reside in that area.

9. Section 228.26 is revised to read as follows:

§ 228.26 **Services.**

The services plan shall: (a) Describe each discrete service in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service. For purposes of this paragraph, services such as "child welfare services" "services to alcoholics" or "protective services" are not discrete services but rather clusters of services, each of which shall be separately described. If medical or remedial care or room or board as described in §§ 228.40 and 228.41 are part of a service, the plan shall so specify in describing that service.

(b) Specify the method of delivery for each service, i.e., directly by the State agency, by a provider (public or private), or both;

(c) Indicate the relationship of each service to one or more of the program goals and one or more of the program objectives specified in § 228.23;

(d) Specify the categories of individuals in each geographic area to whom each service will be provided.

(e) Include among the services to be provided in each geographic area:

(1) At least three services for SSI recipients;

(2) At least one service directed at each of the program goals specified in § 228.23.

(f) Describe the foster care services required under section 408 of the Act to be provided to all recipients of AFDC–FC, if such services are available under title XX;

(g) Describe any family planning services that will be provided pursuant to section 402(a)(15) of the Act. Failure to include such family planning services will not constitute a deficiency in the services plan. However, failure to provide family planning services pursuant to section 402(a)(15) of the Act may result in a loss of FFP to the State under its AFDC program.

10. Section 228.27 is revised to read as follows:

§ 228.27 **Estimates of individuals to be served and expenditures.**

In order to provide residents of the State with information on the scope of the services program, the services plan shall include estimates of State and Federal expenditures applicable to the title XX program as follows:

(a) For each service, a list of estimated expenditures and estimated numbers of individuals to be served, by each category of eligible individuals and by each geographic area;

(b) Estimated expenditure for the forthcoming program year; and

(c) A comparison of estimated aggregate non-Federal expenditures for the forthcoming program year with those of the preceding completed program year.

11. Section 228.28 is revised to read as follows:

§ 228.28 **Program resources.**

The services plan shall indicate how the State intends to finance its title XX program by providing an estimate of the funds to be used from the State's title XX allotment, and by separately identifying and estimating State and local appropriated funds, and the aggregate of donated and other funds to be used to meet the expenditures under the program.

12. Section 228.29 is revised to read as follows:

§ 228.29 **Program coordination and utilization.**

The services plan shall describe:

(a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) title IV–A, AFDC (including WIN);

(ii) title IV–B, Child Welfare Services;

(iii) title XVI, SSI; and

(iv) title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, develop mentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) The steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(c) The steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

13. Section 228.30 is revised to read as follows:

§ 228.30 **Organizational structure.**

The services plan shall describe the organizational structure of the State agency through which the program will be administered including where individuals may apply for services and have their eligibility determined, and the estimated number of volunteers or a brief description of volunteer activities.

14. Section 228.31 is revised to read as follows:

§ 228.31 **Needs assessment.**

The services plan shall describe the steps taken to assure that the needs of all residents of, and all geographic areas in, the State are taken into account in the development of the services plan. The description shall include the data sources used (or to be used).

15. Section 228.32 is revised to read as follows:

§ 228.32 **Planning, evaluation and reporting.**

The services plan shall describe the planning, evaluation, and reporting procedures and activities the State has carried out or plans to carry out in connection with its services program. Examples of these procedures and activities which may be described include the following:

(a) *Planning.* Relationship with the State budget process and the legislature; input from other State, regional and local planning units and from local general purpose governmental units; citizen organizations and individuals; relationship of needs assessment and service resources inventory to setting of program priorities and allocation of resources.

(b) *Evaluation.* Purpose, scope and timing of current and proposed evaluations, and the schedule for dissemination of evaluation results.

(c) *Reporting.* Description of planned formal reports, such as reports to elected officials or to the public (but excluding reports furnished to SRS), and the schedule for issuance.

16. Section 228.33 is revised to read as follows:

§ 228.33 **The public review process.**

A State's services plan does not become effective for its services program year until the public review process is completed in accordance with § 228.33, § 228.34, and § 228.35 (if applicable).

(a) *Purpose.* The purpose of the public review process is to enable the residents of each State to participate meaningfully in the State decision-making process with respect to the States' services plan.

(b) *Scope.* The public review process shall include at least:

(1) Publication of the proposed services plan and a display advertisement describing that plan, and a summary of the plan, if any, at least 90 days before the beginning of the program year, with a 45-day period for public comment;

(2) Consideration of, and public access to, comments received;

(3) Publication of any corrections required to bring the proposed services plan into compliance with the requirements of §§ 228.21 through 228.33;

(4) Publication of the final services plan and a display advertisement announcing its publication no earlier than 45 days after publication of the proposed services plan;

(5) Publication of any necessary corrections to the final plan;

(6) Publication of any proposed amendments to the final plan with a 30-day period for comments;

(7) Publication of the final amendments; and

(8) Public access to copies of the proposed and final services plans.

(c) *Approval prior to publication.* Prior to publication, the proposed and final services plans shall each be approved by the Governor or such other official as the laws of the State provide.

(d) *Retention of published services plans.* Copies of the proposed and final services plans shall be retained in specified local public offices and made available for public inspection throughout the program year.

(e) *Handling of public comments.* (1) Written comments on the proposed services plan shall be considered by the State agency if received within 45 days after publication of the display advertisement announcing publication and availability of the proposed services plan; and

(2) Such comments shall be retained for at least 3 years for inspection by the public and by Federal officials.

(f) *Display advertisement; general requirements.* (1) A display advertisement is one prepared for and published within the main news section of a newspaper; advertisements placed in the legal or classified sections of a newspaper do not meet this requirement.

V 41 1 67 AUG 26 76 UMI

(2) Such advertisement must be published in the newspaper of widest circulation (and in foreign languages or foreign language newspapers where appropriate) in each geographic area described in the proposed and final services plans.

(g) *Display advertisement for the proposed plan.* A display advertisement shall at least:

(1) Specify the beginning and ending dates of the program year;

(2) Include a brief description of the services to be offered under the services plan;

(3) Describe the categories of individuals to be served:

(i) Identify those whose eligibility is based on their status as recipients of AFDC or SSI; and

(ii) Specify the maximum dollar amount of income that a family of four can have and still be eligible on the basis of income status; and

(iii) Indicate that such dollar amount is adjusted by family size.

(4) If the State has different income levels for different services, or different income levels for different geographic areas, specify that those different income levels are described in the proposed plan and in the plan summary (if the State has published a summary);

(5) Indicate beginning and ending dates of the 45-day period for public review and comment.

(6) Specify a toll-free telephone number that can be called to obtain without charge either a copy of the proposed plan or a summary thereof; or state that such copies can be obtained by calling a specified local public agency in each county, such as the local social services agency.

(7) Identify a local public agency in each county such as the social services agency, where copies of the proposed services plan are available for public review; and for distribution to the public either free (if no summary is provided) or at a reasonable cost; and

(8) Specify the address where written comments may be sent and, if there are to be public hearings on the proposed plan, the location, date, and time for such hearings; or state that information concerning the hearings can be obtained by calling a specified toll-free number or by telephoning specified local agencies after a given date.

(h) *Summary of proposed services plan.* If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

(1) The beginning and ending dates of the program year;

(2) The categories of individuals including any limitations, who are eligible for services;

(3) The categories of individuals to whom a fee will be charged if they wish to be provided services under the services plan;

(4) Fee schedules, including any variations by service or by geographic area;

(5) A description of each discrete service to be provided under the plan;

(6) The services that will be made available to each category of individuals in each geographic area under the services plan;

(7) For each service, estimated expenditures, and estimated numbers to be served by each category of eligible individuals and by each geographic area; and

(8) Amount and sources of funds to finance the services program.

(i) *Display advertisement of the final services plan.* The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefore;

(3) A toll-free telephone number that can be called to obtain information about the services plan and where to apply for services; or the name of a local public agency in each county, where information regarding the services plan will be made available and where applications for services will be accepted;

(4) The name of a local public agency in each county where copies of the final services plan are available for public review and distribution to the public either free or at a reasonable cost; and

(5) The location where public comments on the proposed services plan are available for review.

18. Section 228.34 is revised to read as follows:

§ 228.34 Regional review of proposed and final services plans.

(a) *Proposed services plan.* (1) Not later than 5 working days after publication of the proposed services plan, the State shall submit to the SRS Regional Commissioner the following: 7 copies of the proposed services plan and its summary, if any; a dated copy of the display advertisement; the names of the newspapers in which the display advertisement appeared; and the geographic areas covered by those newspapers.

(2) The Regional Commissioner will review the materials submitted to determine whether all requirements of §§ 228.21 through 228.33 have been met.

(3) Within 10 working days following receipt of the materials described in paragraph (a)(1) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that those materials meet all the requirements of this Subpart, or will specify the deficiencies that must be corrected in accordance with § 228.35. For purposes of this paragraph, a display advertisement which does not meet each requirement of paragraphs (f) and (g) of § 228.33, or a proposed services plan which does not comply with each required item under §§ 228.21 through 228.32, and 228.33(c) is deficient.

(4)(i) If correction(s) to the proposed services plan or to the display advertisement announcing the proposed services plan is necessary, the State shall submit to the SRS Regional Commissioner no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the proposed services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the proposed services plan.)

(B) For correction(s) to the display advertisement announcing the proposed services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of receipt of the materials submitted pursuant to paragraph (a)(4)(i)(A) and (B) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that the correction meets the requirements of §§ 228.21 through 228.32, 228.33(c), and 228.35; and that the State is free to publish its final services plan following expiration of the 45-day comment period; or will specify the additional correction that must be made in accordance with § 228.35.

(b) *Final services plan.* (1) Not later than 5 working days after publication of the final services plan, the State shall transmit to the SRS Regional Commissioner: 7 copies of such plan; a dated copy of the display advertisement; and a statement containing the date of publication of the final services plan; the names of newspapers where the display advertisement appeared; and the geographic areas in the services plan covered by those newspapers;

(2) The Regional Commissioner will review the materials submitted to determine whether all requirements of §§ 228.21 through 228.33 have been met;

(3) Within 5 working days following receipt of the materials described in paragraph (b)(1) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that the final services plan meets all the requirements of §§ 228.21 through 228.33, or will specify the deficiencies that must be corrected in accordance with § 228.35. For purposes of this paragraph (b)(3), a display advertisement that does not meet all requirements of § 228.33(i), or a final services plan that does not comply with each requirement of §§ 228.21 through 228.32, and 228.33(c) is deficient.

(4)(i) If correction(s) to the final services plan or to the display advertisement announcing the final services plan is necessary, the State shall submit to the SRS Regional Commissioner no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the final services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the final services plan.)

(B) For correction(s) to the display advertisement announcing the final services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of the receipt of the materials specified in paragraph (b)(4)(i)(A) and (B) of this section, the SRS Regional Commissioner will notify the State agency in writing that the correction(s) meets all the requirements of §§ 228.21 through 228.32, 228.33(c) and 228.35; and that the final services plan is in effect; or specify the additional corrections that are required before the plan can become effective.

19. Section 228.35 is revised to read as follows:

§ 228.35 Correction of proposed and final services plans and display advertisements.

(a) A display advertisement which is deficient shall be corrected by publication of correct information for each deficient item in a display advertisement in all newspapers in which the original display advertisement appeared.

(b) A deficient proposed or final services plan shall be corrected by publishing the following information in a display advertisement in all newspapers in which the original advertisement apeared:

(1) The items being corrected;

(2) A statement that corrected pages for insertion in the plan are available without charge; and

(3) A toll-free number or the address of the local public office where corrected pages may be obtained.

(c) For correction of a proposed services plan, the display advertisement shall contain the information specified in paragraph (b) of this section and also indicate the beginning and ending dates of the new 45-day comment period on the corrected plan, and the method for submitting comments.

20. Section 228.36 is added to read as follows:

§ 228.36 Amendments to final services plan.

(a) Amendments to the final services plan are necessary at least when:

(1) Changes are to be made in the program year;

(2) Geographic areas are to be realigned; or

(3) Any of the following changes are to be made, whether applicable Statewide or only in particular geographic areas:

(i) Specific services are to be added or deleted;

(ii) Fees are to be changed, or the charging of fees is to be initiated or discontinued; or

(iii) The categories of individuals to be served are to be changed.

(b) Any amendment to a final services plan shall be prepared by the State agency and approved, published, and made generally available to the public by the Governor or such other official as the laws of the State provide in the following manner:

(1) The proposed amendment shall be published in a display advertisement in the newspaper of widest circulation (and in foreign languages or foreign language newspapers, where appropriate) in each geographic area in which the change has impact, and shall provide for a public comment period of at least 30 days. The display advertisement shall contain at least:

(i) A description of the proposed changes and the reasons therefor, and the proposed effective date of the changes which shall be no earlier than 30 days after publication of the proposed changes;

(ii) The method for public comment and where comments will be received; and

(iii) The beginning and ending dates of the 30 day period for public comment.

(2) No earlier than 30 days following the publication of the proposed amendment, the final amendment shall be published as a display advertisement in each newspaper in which the proposed amendment was published. This display advertisement shall contain at least:

(i) A description of the final amendment of the services plan;

(ii) The effective date of the amendment; and

(iii) An explanation of the differences, if any, between the proposed and final amendments and the reasons therefor.

(c) The effective date of an amendment shall be no earlier than the date of publication of the final amendment.

(d) Not later than 5 calendar days following publication of the final amendment, the State agency shall submit to the SRS Regional Commissioner 7 copies of the final amendment and a dated copy of the display advertisements which announced the proposed and final amendments.

Subpart D—Limitations: Services

21. Section 228.40 is revised to read as follows:

§ 228.40 Minor medical and remedial care.

(a) FFP is not available for medical or remedial care, other than family planning services, except when it is an integral but subordinate part of a service described in the services plan, and the medical or remedial care is not available to the individual under the State's approved title XIX plan and to the extent the individual or the provider is not eligible to receive payment under title XVIII for the provision of the service to the individual.

(b) Medical and remedial care is deemed to be an integral but subordinate component of a service if it is included in the description of that service in the State's services plan, and the State documents for each case that the medical or remedial care is necessary to achieve the objective of that service and not merely to correct a medical condition.

22. Section 228.41 is revised to read as follows:

§ 228.41 Room or board.

(a) FFP is not available for room or board under a services plan, except when provided in emergency shelter under § 228.46, or as an integral but subordinate part of another service and then only for a period of not more than six consecutive months for any one placement.

(b) Room or board is deemed to be as an integral but subordinate component of a service if it is included in the description of that service in the State's services plan and the State documents, for each case that the room or board is necessary to achieve the objective of that service and not merely to provide food or shelter.

(c) Room or board under this Part shall not be considered an integral but subordinate part of a service when provided to an individual in a foster family home or other facility such as a foster care institution or other facility whose primary purpose is to provide board, room and care or supervision.

(d) As used in this section, the term *placement* means an uninterrupted period of time during which an individual takes up, or is placed in, residence in a facility other than his usual place of residence, for the purpose of undergoing a specific regimen of services or treatment according to a prescribed plan.

23. Section 228.44 is revised to read as follows:

§ 228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

(a) FFP is available for services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons only under the following conditions:

(1) The services provided are separately identifiable in the services plan (generalized descriptions such as "services to nursing home patients" or "services to increase socialization skills" are unacceptable under this provision).

(2) Such services are provided by other than the facility in which the individual is living. This requirement is not met if the services are provided by:

(i) Staff or contractors who are under the professional direction or direct supervision of the facility; the facility exercises control of the employment, tenure or compensation of such staff or contractors or makes assignments or alters the service regimen provided by them; or

(ii) Staff of like facilities under reciprocal arrangement.

(3) Such services are also provided to individuals who:

(i) Are not living in a hospital, skilled nursing facility, intermediate care facility (including any such hospitals or facilities for mentaly retarded), or prison; and

(ii) Are residents of any part of a geographic area that is within the catchment area of such facility.

(b) FFP is not available for:

(1) Inherent responsibilities of a facility including but not limited to the pro-

V 41 167
AUG 26 76
UMI

vision of food, clothing, shelter, general supervision and care; or

(2) Activities that are intrinsic to the purpose of such facility including but not limited to training in self care medical or psychiatric treatment, psychological or rehabilitative services, or detention functions.

(c) For purposes of this section:

(1) *"Prison"* means any State or local correctional institution or facility for the confinement of individuals charged with or convicted of criminal offenses. The term does not include separate juvenile correctional facilities nor community-based residential service facilities, such as half-way houses.

(2) *Separate juvenile correctional facility* means one that is located in a separate building or buildings; is served by separate day-to-day operational staff; and provides a separate and distinct program of services.

(3) *Skilled nursing facility (SNF)* means an institution primarily engaged in providing to inpatients skilled nursing care and related services for patients requiring medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(4) *Intermediate care facility (ICF)* means an institution which provides on a regular basis, health related care and services to individuals who do not require the degree of care which a hospital or SNF is designed to provide, but who because of their mental or physical condition require health related care and services above the level of room or board which can be made available to them only through institutional facilities.

(5) *Hospital* means an institution which is primarily engaged in providing by or under the supervision of physicians, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(d) Services in separate juvenile correctional facilities may be provided by staff of the facility. However, FFP is not available for inherent responsibilities and intrinsic activities as defined in paragraph (b) of this section.

24. Section 228.45 is revised to read as follows:

§ 228.45 Special services provided by foster family homes.

(a) A foster family home is a home licensed or approved by appropriate State or local authority or an Indian tribal council, in accordance with § 228.12, to provide board and care including parenting for children and oversight for adults.

(b) *Special services provided by foster family homes.* FFP is not available for activities described under paragraph (a) of this section, but is available for special services provided by a foster family home to an individual living in that home, only upon documentation, by an appropriately qualified professional person who is other than the placement worker, that:

(1) The individual requires an identified special service because of a health (physical or mental) condition, an emotional or behavioral problem; and

(2) The caregivers are capable, by virtue of special training, or experience, of providing the needed service.

(c) Nothing in this section precludes the provision of any other service in the services plan to eligible individuals living in foster family homes when provided by other than the foster family.

25. Section 228.46 is revised to read as follows:

§ 228.46 Emergency shelter.

(a) FFP is available for emergency shelter as a protective service to any child, including runaways, only under the following conditions:

(1) The child is in danger of abuse, neglect or exploitation;

(2) The need for emergency shelter is documented bp personnel authorized by State law to place children, or by an Indian tribal council; and

(3) Emergency shelter is provided for not in excess of 30 days in any 12 month period, which may be consecutive or may accumulate over more than one stay.

(b) Emergency shelter may be provided in facilities such as foster family homes, institutions, and group homes.

26. Section 228.47 is revised to read as follows:

§ 228.47 Payments to recipient for services.

FFP is available in cash payments made to a recipient for a service already rendered to him, upon presentation of a bill for, or presentation of a receipt of payment for, such service if he was eligible under the services plan for the service at the time it was provided and if the purchased service:

(a) Is identified in the services plan;

(b) Was authorized by the State agency prior to its purchase and meets applicable standards, if any; and

(c) Was secured by the individual within a period of time and at a cost which were approved by the State agency.

Subpart E—Limitation: Financial

27. Section 228.51 is revised to read as follows:

§ 228.51 Matching rates.

(a) *Seventy-five percent FFP.* FFP is available at the 75 percent rate for service costs and for personnel training and retraining directly related to the provision of services under the services plan.

(b) *Ninety percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 90 percent rate for costs of family planning services provided under the services plan.

28. In § 228.52, paragraphs (a), (e) and (f) are revised as follows:

§ 228.52 Allotments to States.

(a) *Basic Limitation.* The amount of Federal funds payable to the 50 States and the District of Columbia under this Part for any fiscal year with respect to expenditures for services under the services plan (other than expenditures for personnel training or retraining directly related to the provision of services) may not exceed the allotment set forth in this section.

* * * * *

(e) *Date of Expenditure.* For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the State or local agency makes payment or the date to which the expenditure was allocated, pursuant to the cost principles of Subpart Q of 45 CFR Part 74 and the cost allocation procedures of 45 CFR 205.150. In the case of local administration, the date of expenditures by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to October 1, 1975, and other factors relevant to the purposes of this section.

(f) *Procedures for making grants to States.* See 45 CFR Part 201.

29. Section 228.53 is revised to read as follows:

§ 228.53 Public sources of State's share.

(a) *Funds available for matching.* Public funds used by the State or local agency for its services programs, including administrative functions, may be considered as the State's share in claiming FFP only where such funds are:

(1) Appropriated directly to the State or local agency; or

(2) Funds of another public agency (including Indian tribes) which are:

(i) Transferred to the State or local agency and are under its administrative control; or

(ii) Certified by the contributing public agency as representing expenditures for services eligible for FFP under this Part; or

(iii) Representing value, as determined in accordance with 45 CFR 74.53(b) and (c), and Appendix C, Part II, B.11 of 45 CFR 74, of goods or property provided by a public agency even if the agency does not incur any current expenditures for such goods or property during the period of their use in the services program.

(b) *Funds not available for matching.* Notwithstanding paragraph (a) of this section, public funds used by the State or local agency for its services programs may not be used as the State's share in claiming FFP where such funds are:

(1) Federal funds not authorized by Federal law to be used to match other Federal funds; or

(2) Used to match other Federal funds.

30. Section 228.54 is revised to read as follows:

§ 228.54 Private sources of State's share.

(a) *Funds available for matching.* Funds donated from private sources for services or administrative functions may be considered as State funds in claiming FFP only where such funds are:

(1) Transferred to the State or local agency and under its administrative control;

(2) Donated to the State, without restrictions as to use, other than restrictions as to the services, administration or training with respect to which the funds are to be used imposed by a donor who is not a sponsor or operator of a program to provide those services, or the geographic area in which the services with respect to which the contribution is used are to be provided; and

(3) Not used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(b) For purposes of this Part, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and member agencies are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

31. Section 228.55 is revised to read as follows:

§ 228.55 Family planning services.

(a) For purposes of this Part, family planning services means counseling, educational and medical services (including diagnosis, treatment, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of a physician) to enable individuals (including minors) voluntarily to limit their family size or to space their children.

(b) Where a State authorizes sterilization as a family planning service, it must comply with the provisions of 45 CFR 205.35.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

32. Section 228.60 is revised to read as follows:

§ 228.60 Persons eligible.

(a) *Categories of individuals.* FFP is available only for services to individuals included in the categories identified in the services plan who are determined to be eligible under the provisions of this section and of § 228.61.

(1) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

(i) Recipients of AFDC; and

(ii) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and

(iii) Recipients of SSI benefits or State supplementary payments.

(2) *Income status.* Individuals other than those described in paragraph (a)(1) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 228.62.

(b) *Median income.* (1) On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four for each State and for the 50 States and the District of Columbia.

(c) *Income levels.* (1) The State shall use the lower of its median income, or the median income for the 50 States and the District of Columbia, to establish income levels to be used throughout its ensuing program year for the purposes of eligibility determination and imposition of fees for services.

(2) A State may establish an income level:

(i) At a lower level than 115 percent of the median income;

(ii) At different levels for different services under the services plan;

(iii) At different levels for different categories of individuals;

(iv) At different levels in different geographic areas; or

(v) At different levels for different sizes of families within the limits for eligibility and fees set forth in paragraph (c)(4) of this section.

(3) A State shall not establish an income level which is in excess of 115 percent of the median income.

(4) All median income figures used for eligibility at the 115 percent level and the imposition of fees above the 80 percent level in accordance with this paragraph shall be adjusted by family size according to the following percentages of the State median income for a family of four:

(i) One person—52 percent.
(ii) Two person family—68 percent.
(iii) Three person family—84 percent.
(iv) Four person family—100 percent.
(v) Five person family—116 percent.
(vi) Six person family—132 percent.
(vii) For each additional family member above six persons, add 3 percentage points to the percentage for a family of six.

(5) For discretionary fees, applicable to families who are at or below the 80 percent level or are eligible on the basis of income maintenance status, see § 228.62(b).

(d) *Services without regard to income.* Notwithstanding paragraphs (a) and (b) of this section, information or referral services under § 228.64 or services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults under § 228.65 may, if included in the services plan, be provided to all individuals who need them.

(e) *Responsibility of State agency.* (1) FFP is available, with respect to expenditures, only for services provided to categories of individuals identified in the services plan who are eligible when the service is delivered and such service is included in the State's services plan.

(2) Each individual wishing to do so shall be assured the opportunity to apply for services without delay. The application shall be in writing in a form prescribed by the agency, dated and signed by the applicant. When information needed to establish eligibility is included in an application, or on a different form, the applicant shall certify that the information is correct. The application may be filed by the applicant himself or his authorized representative, or where the applicant is incompetent or incapacitated or in an emergency, by some one acting responsibly for him, including agency staff.

(i) When protective services are provided without regard to income under conditions specified in § 228.65, a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult, may be considered an acceptable alternative to the written application for that individual.

(ii) A written application is not required for information and referral services.

(3) A decision shall be made on all applications within time standards established by the State agency pursuant to § 228.6, but not to exceed 30 calendar days from the date of application.

(4) The agency shall notify applicants about their eligibility within 15 calendar days after it makes a decision. The date of each notification shall be entered in the case record. Applicants found to be eligible shall be notified orally or in writing; those found to be ineligible shall be notified in writing unless the requested service is provided to them through another funding source.

(5) At the time of application for services, each applicant shall be given information about the right to request and obtain a fair hearing, in accordance with § 228.14.

(6) FFP is not available for services provided prior to the date of request for information and referral services, or the date on which the application for other services is signed, or the need for protective services is documented in accordance with paragraph (e)(2)(i) of this section.

(7) Standards and methods for determination of eligibility will be consistent with the objectives of the program, will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant Federal and State requirements.

33. In § 228.61, paragraphs (a), (b), (d), (e), (f), and (g) are revised to read as follows:

§ 228.61 Determination and redetermination of eligibility.

(a) *Methods of determining (or redetermining) eligibility.* (1) States may establish any method or methods, including a declaration method, for determining individual eligibility in accordance with § 228.60 and § 228.66.

(i) *Declaration method* means acceptance of an individual's statements re-

V 41 167
AUG 26 76
UMI

garding the source and amount of his family's gross monthly income, and the income maintenance status (as described in § 228.60(a)(1)) of any member of the family.

(2) States may use one method for determining eligibility for all services, categories of individuals and geographic areas, or they may use different methods for different services, different categories of individuals and different geographic areas.

(3) States shall have available for Federal review a written description of the method(s) they have established for determining and redetermining eligibility.

(b) *Conditions for FFP.* Regardless of the method chosen for determination or redetermination of eligibility:

(1) An individual properly determined to be eligible on the basis of information available to the agency at the time of determination shall be deemed to be eligible until the end of the month in which he is determined to be ineligible;

(2) FFP is available in the cost of services provided prior to the actual date of an initial determination of eligibility only if such determination is made within 30 days of the date of application and the individual is properly determined to have been eligible when the services were initiated.

(3) FFP is available in the cost of services provided to a recipient in any month if such recipient was properly determined to be eligible for such service for any part of such month.

(4) When a recipient of services was improperly determined to be eligible, FFP is not available in the cost of services provided during the period of improperly determined eligibility.

A proper determination of eligibility is a determination which is based on a correct assessment of the information available to the agency at the time of such determination, provided that all information necessary to make a determination is available; a proper redetermination is one which meets those criteria and, in addition, is made within the time limits established by paragraph (b) of ths section.

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(d) *When redetermination shall be made.*

Redetermination of eligibility shall be made:

(1) When required on the basis of information the agency has obtained about anticipated changes in the individual's situation;

(2) Promptly, not to exceed 30 days, after information is obtained about changes which have occurred in the individual's circumstances that may make him ineligible; and

(3) Periodically, but not less frequently than every 6 months except that for individuals whose family gross monthly income at the time of determination is derived exclusively from pensions or social security benefits, redetermination may be made at 12-month intervals.

(e) *Who makes the determination.* Determinations of eligibility shall be made by the State agency, or, pursuant to written contract in accordance with Subpart G, by a provider of services.

(f) *Outside contacts.* (1) When the provider agency determines eligibility, it shall inform the applicant or recipient that, if it is necessary to contact outside sources (including employers) and the applicant or recipient wishes to keep the service confidential, he is entitled to request that such contacts be made by the State agency; and

(2) The State agency, upon notification of the individual's request, shall make the outside contacts and relay the information to the provider.

(g) *State monitoring of eligibility process.* Whether the determination of eligibility is made by the State or the provider, the State shall establish and implement a continuous monitoring procedure to test the ability of its method(s) for determining eligibility to correctly make those determinations and shall, where erroneous determinations are disclosed, take action designed to eliminate such errors. A monitoring procedure under this paragraph may include the use of statistically valid samples. Periodic reports on the State agency's monitoring procedures, findings, and actions under this paragraph will be required pursuant to § 228.17(b).

34. In § 228.62 paragraphs (a), (c), and (d) are revised and paragraphs (e) and (f) are added to read as follows:

§ 228.62 Fees for services.

(a) *Mandatory fees.* FFP is available for a service provided to an individual whose eligibility is based on income status if his family's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted as to family size, only if a fee or other charge, based on a fee schedule in accordance with paragraph (c) of this section, is imposed.

• • • • • •

(c) *Criteria for fees.* (1) Fees established by the State agency:

(i) May be different for different services;

(ii) May be different for different geographic areas;

(iii) Shall be reasonably related to the individual's income; and

(iv) Shall not exceed the cost of the service.

(2) Where several services are provided concurrently to an individual, the total fees imposed shall not exceed the amount reasonably related to his income.

(d) *Methods of collection.* The State agency shall:

(1) Establish methods for the collection of any fee or other charge imposed; and

(2) Maintain evidence of a reasonable effort to collect such fee or charge.

(e) *Disposition of fees collected.* Fees collected from service recipients may, at State option:

(1) If provided for in the purchase of service agreement, be retained by the provider and used to expand the service under that contract; or

(2) Be used to reimburse the provider, if the contract so specifies, for costs above the negotiated rate when it is lower than his normal charge for the service. Any amount remaining after such reimbursement to the provider for these costs shall be deducted from the amount of expenditures for which FFP is claimed; or

(3) Be deducted from service expenditures before FFP is claimed.

(f) FFP is not available in the costs of any service for which the State agency imposes any fees or other charges which do not meet the requirements in § 228.24 (c) and (d) and paragraph (c) of this section.

§ 228.63 [Reserved]

35. Section 228.63 is deleted and reserved.

Section 228.64 is revised to read as follows:

§ 228.64 Information and referral services.

FFP is available: (a) Only for information about services provided under title XX and related service programs, brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral, and referral to and follow-up with those community resources which provide or make available such services; and (b) Only when provided by an agency that has information and referral as a specific recognized function and that has a staff with identifiable tasks relating to information and referral.

36. In § 228.65, paragraph (a)(1) is revised to read as follows:

§ 228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

(a) FFP is available without regard to income for services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, only as follows:

(1) With respect to children, only when provided to or in behalf of an individual under the age of 18 who is harmed or threatened with harm through nonaccidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. For purposes of this section, runaways are presumed to be harmed or threatened with harm by virtue of their status.

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Subpart G—Purchase of Service

37. Section 228.70 is revised to read as follows:

§ 228.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with relevant provisions of Subpart P of 45 CFR 74, and the requirements of this Subpart.

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this Part and 45 CFR 74.159 with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of § 74.159, the contract shall:

(1) Include all terms of the contract in one instrument, be dated, and be executed by authorized representatives of all parties to the contract prior to the date of implementation;

(2) Have a definite effective and termination date;

(3) Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain a statement to that effect and criteria in accordance with Subpart F which shall be used by the provider for such determinations; and specify that the provider will inform individuals of their right to fair hearings in accordance with § 228.14;

(5) Provide for a stated number of units of service at a specific dollar rate, or for a specific dollar amount, or for costs to be determined in accordance with acceptable cost allocation methods;

(6) Specify the method and source of payment to the provider, including collection and disposition of fees, if applicable;

(7) Specify that no fees shall be imposed by the provider other than those set by the State in accordance with § 228.62 and described in the services plan;

(8) Include a statement that the provider meets applicable State or Federal standards as specified in this part;

(9) Specify the locations of facilities to be used in providing services;

(10) Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, and for safeguarding information in accordance with § 228.10;

(11) Provide that any subcontracts permitted by the contract shall be subject to the requirements of this Part; and that the provider is responsible for the performance of any subcontractor;

(12) Specify requirements for fiscal and program responsibility, billing, records, controls, reports, and monitoring procedures; and

(13) Provide for access to financial and other records pertaining to the program by State and Federal officials.

(b) The requirements of this section may be satisfied by a simple printed contract form so long as all items described in paragraph (a) of this section are contained therein.

(c) The provisions of this section do not apply when services are obtained directly by the recipient and payment is made to him. (See § 228.47.)

(d) A written contract is not required for purchase of services from an individual provider who has no direct service employees or subcontractors provided:

(1) The State's statute of frauds does not preclude the agency from enforcing its unwritten contract with the provider; and

(2) The State agency maintains documentation of the terms of the unwritten contract including all applicable items specified in paragraph (a) of this section.

38. Section 228.71 is revised to read as follows:

§ 228.71 Rates of payment.

(a) FFP is available for expenditures for services only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service, and where services are purchased from other public agencies, are in accord with cost principles of Appendix C of 45 CFR Part 74 and are reasonably assignable to such services. The State agency shall maintain and make available for Federal review records which describe and support the rates of payment and the methods used to establish and maintain such rates.

(b) Public Health Service grant funds from programs specified in 42 CFR Part 50 of the Health Services Funding regulation (as well as any matching funds required to earn those grant funds) which have been made available under a grant to a health service project, if not required to be used to finance cost of services to individuals eligible for services under title XX, shall not be deemed by the State agency to be available to reduce the costs otherwise subject to reimbursement under title XX. This precludes double Federal payment for the same individuals.

Subpart H—Training and Retraining

39. Section 228.80 is revised to read as follows:

§ 228.80 Conditions for FFP.

FFP is available in expenditures for personnel training and retraining that is directly related to the services program if the State meets all requirements of this Subpart. The training may include in-service training, and short and long-term training at educational institutions. FFP in such training expenditures may be claimed inside or outside the State's allotment for services and is available at the 75 percent rate. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with § 228.20.

40. Section 228.81 is revised to read as follows:

§ 228.81 Who may be trained.

FFP is available for training only the following individuals:

(a) State agency staff employed in all classes of positions which directly relate to the operation of the Title XX program;

(b) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(c) Service delivery and eligibility determination personnel employed by providers only when:

(1) A purchase of service contract which includes determination of eligibility by the provider, is in effect in accordance with Subpart G;

(2) The training provided is directly related to the provision of services, or the determination of eligibility under the contract; and

(3) The provider personnel, during or immediately following the training period, participate in the provision of services or the determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided;

(d) Persons preparing for employment in the State agency in all classes of positions which directly relate to operation of the title XX program;

(e) Individual providers who are currently under contract pursuant to Subpart G including, but not limited to:

(1) Foster family caregivers who need training to enable them to provide special services (as defined in §228.45) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(2) Family or in-home day care givers;

(f) Individuals who provide services paid for by the recipient, as provided in § 228.47, if training is directly related to such service, and

(g) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

41. Section 228.82 is revised to read as follows:

§ 228.82 Grants to educational institutions.

(a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met:

(1) Grants are made: (i) For the purpose of developing, expanding, or improving training for employees of the State agency and of providers, or persons preparing for employment with the State agency; (ii) for an educational program (curriculum development, classroom instruction, and related field instruction) that is directly related to the title XX program and provision of services; and (iii) for not more than three years, renewable subject to the provisions of paragraph (b) of this section;

(2) Grants are available only to post secondary, undergraduate and graduate educational institutions and programs

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that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body shall be accredited by, have pre-accreditation status from, or have applied for, accreditation by such body, (45 CFR Part 149 specifies the criteria and prodcedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the FEDERAL REGISTER periodically. See also "Nationally Recognized Accrediting Agencies and Associations" dated June, 1975 and published by the Office of Education).

(3) The State agency has written policies establishing conditions and procedures for such grants; and

(4) Each grant specifies objectives in terms of how the educational program is related to the title XX services program and how it is designed to meet the State agency's manpower needs.

(b) An evaluation of the educational program funded by each grant is made no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the SRS Regional Office to determine whether the conditions and objectives specified in the grant are being met.

(c) If a majority, which includes equal representation from the three groups comprising the panel, finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

42. Section 228.83 is revised to read as follows:

§ 228.83 Financial assistance to trainees.

(a) FFP is available for expenditures in the costs of training persons specified in § 228.81. If the following conditions are met, and within the specified limitations:

(1) State agency employees and service delivery personnel and eligibility workers of provider agencies who are in attendance full-time at training programs for 8 consecutive workweeks or longer have a legally binding commitment to continue to work in the State or provider agency for a period of time at least equal to the period for which financial assistance is granted.

(2) Persons preparing for employment in the State agency are:

(i) Selected by the State agency and accepted by the school;

(ii) Pursuing educational programs approved by the agency; and

(iii) Legally committed to work for the State agency for a period of time at least equal to the period for which financial assistance is granted if employment is offered within 6 months after training is completed. If not employed by the State agency, such persons shall keep the agency informed of their employment status for one year.

(b) *State agency responsibilities.* The State agency shall:

(1) Offer employment to the individual preparing for employment in the State agency during the 6 months following completion of the training, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and

(2) Evaluate the training programs.

(c) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determining net costs for FFP.

43. Section 228.84 is revised to read as follows:

§ 228.84 Activities and costs matchable as training expenditures.

FFP is available in the following costs as training expenditures:

(a) *State agency employees.* (1) For State agency employees in full-time training programs of eight consecutive work weeks or longer (with no assigned agency duties); salaries (including fringe benefits), dependency allowances, travel, and education costs (that is, tuition, books, and supplies);

(2) For State agency employees in full-time training programs of less than eight consecutive work weeks: per diem, travel, and education costs;

(3) For State agency employees in part-time training programs (part of work week, evenings, mornings): Education costs.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), assigned full time to training functions: salaries, fringe benefits, travel and per diem. (Costs of staff spending less than full time on training for the title XX program must be allocated according to the time actually spent on such training.)

(c) *State agency training activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the title XX program: cost of use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel, and education costs.

(e) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs, provided such costs are not included in the cost of services purchased from the provider agency, and provided they are reasonably assignable to title XX training:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training programs of less than 8 consecutive work weeks: per diem, travel, and education costs;

(3) For provider agency employees on part-time educational leave: education costs;

(f) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to provider agency staff eligible for training under § 228.81(c) salaries and fringe benefits, travel and per diem.

(g) *Provider agency training activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching supplies and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(h) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

(i) *Payments to educational institutions.* Under conditions specified in § 228.82, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance; teaching materials and equipment—for example, books and audio-visual aids.

Subpart I—General Provisions

44. Section 228.90 is revised to read as follows:

§ 228.90 Expenditures for which Federal financial participation is available.

(a) Federal financial participation is available only for expenditures which are identified and allocated in accordance with grant administration requirements set forth in 45 CFR Part 74, and, where appropriate, with the cost allocation provisions of 45 CFR 205.150.

(b) Under this Part, expenditures for the following are considered appropriate for the effective and efficient administration of the program:

(1) Salary, fringe benefits and travel costs of staff engaged in carrying out service work or service related work;

(2) Costs or related expenses, such as equipment, furniture, supplies, communications, and office space, transportation (such as tokens or tickets) and medical examinations, when necessary for the development of a services plan for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act.

(3) Costs of State advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(4) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(5) Cost to the agency for the use of volunteers in the program;

(6) Costs of operation of agency facilities used solely for the provision of services, except that appropriate distribution of costs is necessary when other agencies also use such facilities in carrying out their functions;

(7) Costs of administrative support activities furnished by other public agencies, private organizations, or individuals, or other units within the State agency which are properly cost allocated;

(8) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the State agency in developing, planning, monitoring, and evaluating the services program; and

(9) Costs of public liability and other insurance protection.

44. Section 228.91 is revised to read as follows:

§ 228.91 Expenditures for which Federal financial participation is not available.

(a) Federal financial participation is not available under this Part in expenditures for:

(1) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(2) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment. However, FFP is available in the cost of using buildings, capital improvements, and equipment, in accordance with 45 CFR 74, Appendix C, Part II, B. 11.

(3) Housing costs for families and individuals including rent, deposits, purchase, construction, major renovation or repair;

(4) Goods or services provided in-kind by a private organization; and

(5) Sabbatical leave.

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V 41 167 AUG 26 76 UMI

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PART III:

FEDERAL ENERGY ADMINISTRATION

MANDATORY PETROLEUM PRICE REGULATIONS

Clarifications Applicable to Domestic Crude Oil

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil

On April 13, 1976, the Federal Energy Administration ("FEA") gave notice (41 FR 16179, April 16, 1976) of a proposed rulemaking and public hearing to consider clarifications to certain technical aspects of the Mandatory Petroleum Price Regulations applicable to domestic crude oil (10 CFR Part 212, Subpart D).

The FEA did not propose in this rulemaking proceeding to alter any of the major policy decisions already reached, or now under consideration, in the three rulemaking stages to implement the crude oil pricing policies of the Energy Policy and Conservation Act ("EPCA," Pub. L. 94–163). Rather, the purpose of the present rulemaking proceeding has been to resolve as many as possible of a variety of more technical subsidiary issues that have arisen in connection with the implementation of the EPCA. These issues include those related to the definition of "property" and "posted price;" whether a well is properly classified as an "oil well" for purposes of the stripper well lease rule; the partial rescission and modification of Ruling 1975–15, including the issue whether a property's producing patterns have been "significantly altered" for purposes of the enhanced recovery rule applicable to unitized properties (10 CFR 212.75); and whether the certification of domestic crude oil sales presently required in 10 CFR 212.131 is adequate to enable crude oil purchasers to report on the Form FEA–P124–M–O, Domestic Crude Oil Purchaser's Monthly Report, notice of which was also issued on April 13, 1976.

In this proceeding, written comments were received from more than 45 interested persons, and public hearings were held in Denver, Colorado; Dallas, Texas; and Washington, D.C., at which oral presentations were received from more than 45 interested persons. After consideration of all the written and oral presentations, the FEA has determined that certain actions should be taken at this time.

I. The Definition of "Property"

A. Outline of Common Legal Relationships in Crude Oil Production

Before discussing the purpose and intent of the crude oil pricing regulations and the definition of "property," a brief outline of the general nature of the legal relationships pursuant to which crude oil is typically produced should prove helpful in affording a better understanding of the issues involved.

Crude oil which can be commercially produced generally must be found in underground reservoirs—geological formations which have trapped a sufficient quantity of marketable crude oil to make production economically feasible. The nature of the interests which may exist in crude oil is extremely complex. In the simplest case, the owner of land in fee is generally entitled to produce and dispose of any crude oil which may be recovered by wells on that land. This right is not unqualified, however, but is subject to laws and regulations, which have been adopted in various states for conservation and other purposes, and to various legal doctrines which have evolved with respect to protection of the correllative rights of other parties, such as adjoining landowners, that may be affected by the landowner's production of crude oil.

In the typical case, however, the landowner does not exercise the right to produce crude oil which is inherent in the fee interest; rather, the various rights, powers, privileges, and immunities associated with the ownership of land in fee (and the crude oil which may be recovered therefrom) are transferred or otherwise divided among several parties. Although the nature of the interests which may be created by such transactions is virtually limitless, certain principal rights have been grouped together with sufficient frequency that they may be generally described as follows:

(a) Mineral interests,
(b) Royalty interests, and
(c) Leasehold interests.

Thus, the owner of the land may grant to others (or reserve to himself) the right to go upon the land and remove therefrom the crude oil (or other minerals) which may be found beneath the surface, thus separating this right (the "mineral interest") from the balance of rights otherwise appurtenant to the ownership of land.

The owner of the mineral interest may, in turn, execute what is generally known as an oil and gas lease, which typically conveys the right to go upon the land for the purpose of prospecting for and producing crude oil (the "leasehold interest"). Such leases are typically for a term of years, subject to extension in the event crude oil is produced from the land during the term described in the lease. In consideration for receiving such a "leasehold interest," the lessee usually agrees to deliver to the lessor free of cost a share of the crude oil produced from the land (said to be taken by the lessor "in kind"), or a share of the proceeds of such crude oil produced and sold from the land. This right, typically retained by the holder of the mineral interest, to a share of production or proceeds is described as a "royalty interest." (See generally 1 H. Williams and C. Meyers, Oil and Gas Law §§ 101, 201–202 (1975 Supp.), hereinafter cited as "Williams and Meyers.") An oil and gas lease may be described as follows:

> The basic document of the oil and gas industry is the lease which authorizes an operator, the lessee or his assignee, to enter upon described premises for the purpose of exploring for and developing the mineral resources in the premises. . . .
>
> The modern oil and gas lease is the product of conflicts between the landowner and the operator of the oil and gas interest. The operator has been desirous of securing a lease with a small capital investment, keeping the lease as long as it was productive or was valuable for speculative purposes, and at the same time, being able to terminate an unprofitable lease without liability to the lessor. The landowner has been interested primarily in obtaining royalties from the lease and therefore has pressed for immediate exploration and development operations. In lieu of exploration and development operations, the lessor has tried to secure a periodic return for the holding of the leasehold interest. However, he has also wanted to limit the time the lessee can postpone drilling by periodic payments, in order to prevent the lessee from holding the lease merely for speculation, and to assure the exploration and development of the lease within a short time. (3 Williams and Meyers § 601, at 1–2.)

B. Regulatory Background

In the April 13 Notice, FEA traced briefly the history of the two tier crude oil pricing system and the fundamental role played by the property concept under that system. To delineate further the issues addressed in this proceeding with respect to the definition of the term "property," and in order to place the comments received and the actions being taken by FEA in more adequate perspective, a more detailed review of that history is appropriate.

The two tier pricing system was proposed on July 19, 1973 (38 FR 19464, July 20, 1973), by the Cost of Living Council ("CLC") under authority of the Economic Stabilization Act of 1970, as amended. In proposing the two tier system, CLC stated:

> The Council recognizes a need to stimulate increased production and is proposing a system which allows increased production (new crude petroleum) from each producing property and an equal amount of the current production (old crude petroleum) to be sold without respect to the ceiling price rule. Adoption of this incentive plan creates a two-tier pricing system for crude oil, which requires posting of two sets of prices, one for "old oil" and one for "new oil." Postings for "old oil" can be no higher than the ceiling price and postings for "new oil" is (sic) at the buyer's discretion.
>
> A crude oil producer is required to prorate among all his "old oil" buyers the amount of "old oil" freed from ceiling limitations by the production of a like amount of "new oil." (38 FR 19467.)

The regulations proposed on July 19 did not include a definition of the term "property," but defined "base production control level" (i.e., the level above which a property's current production and sale would qualify as "new oil") as follows:

> "Base production control level" for a particular month means—
>
> (1) For a particular property on which the producer has leased production rights, the total number of barrels of domestic crude petroleum produced in the same month of 1973 from that property.
>
> (ii) For a particular property on which the producer owns production rights, the total number of barrels of domestic crude petroleum produced in the same month of 1972 from that property. (38 FR 19482.)

In adopting the two tier pricing system on August 17, 1973 (effective August 19, 1973,) (38 FR 22536, August 22, 1973), CLC indicated:

> A 2-tier price system has been adopted, providing for a ceiling on domestic crude petroleum prices but allowing new crude and an equivalent amount of old crude to be sold at prices above the ceiling. . . . (38 FR 22536.)

CLC also stated:

> . . . The substantive policy changes (between the July 19, 1973 proposal and the August 17, 1973 final regulations) were publicly announced on August 10. These regulations implement those policy decisions and, in addition, incorporate numerous changes to better implement the program. (38 FR 22536.)

The August 10 public announcement referred to above was in the form of a press release issued by CLC, stating that with respect to the two tier pricing system

> The Council has been very concerned that the final regulations strike a balance between constraining prices while at the same time encouraging the necessary increase in supplies which the country must have. . . .

The press release explained the two tier pricing system as follows:

> Rule: A two-tier pricing system is provided. Producers will have the opportunity to sell "new oil"—that above 1972 production levels—at free market prices.
>
> Reason: The two-tier pricing system which allows new oil to be sold at higher prices than "old oil" is expected to stimulate domestic crude oil production while maintaining price controls on oil presently being produced. The two-tier system will encourage increased investment in domestic exploration and will provide an economic incentive to allow the recovery of a larger percentage of oil in existing reservoirs. (2 Historical Working Papers on the Economic Stabilization Program August 15, 1971 to April 30, 1974, at 1259–60.)

There was no discussion of the term property in the preamble to the final regulations, but a definition of property was included in 6 CFR 150.354 of the August 17, 1973 final regulations, as follows:

> "Property" is the right which arises from a lease or from a fee interest to produce domestic crude petroleum. (38 FR 22538.)

Thus, from the very inception of the two tier pricing system, producers were required to measure current monthly production and sale of crude oil from a "property" against the amount of crude oil produced and sold from that same "property" in the same month of 1972, in order to determine the amount of current crude oil production which would be subject to the ceiling price rule.

CLC did not elaborate on the rationale for the two tier price system, beyond the statements quoted above concerning the need to constrain prices while at the same time encouraging increased production. Thus, CLC perceived its statutory objective as primarily to control inflation with what was envisioned to be a short-term program under authority of the Economic Stabilization Act of 1970. That Act was scheduled to expire, as it did, eight months later, on April 30, 1974. (Thus, for example, CLC began sector-by-sector decontrol on October 25, 1973.) FEA noted in the April 13 Notice with respect to this consideration that:

> Because the Economic Stabilization Program was always intended to be a temporary program, the regulations adopted pursuant to that program were designed so as to achieve the price control regulatory objectives with minimal disruption to normal business practices. Thus, a definition of property was adopted to serve two basic purposes. First, the entity was intended to be one for which producers would in their normal course of business maintain production records so that new recordkeeping or data collection by the producers would not generally be necessary and audits for compliance purposes would be facilitated. Second, the entity was designed to serve as the basic building block for the incentive system which rewarded increased or new production from a property by classifying that production as new crude oil. (41 FR 16180.)

It should be noted also that the concept of a "current cumulative deficiency" was also incorporated in the two tier pricing system from the outset. (Once new crude oil had been produced and sold from a property, and current production and sale then fell short of 1972 production and sale levels, new crude oil could not thereafter be sold from the property until enough production in excess of 1972 levels had been sold at the ceiling price even though it would otherwise have qualified as new crude oil but for the requirement to make up the cumulative deficiency.) However, the cumulative deficiency rule was not a significant factor in the early months of the two tier system, since production and sale levels in late 1973 were, in general, not significantly less than 1972 levels.

C. Legislative Background

The term "property" gained further significance under the crude oil pricing regulations with the advent of the statutory exemption from those regulations of the first sale of crude oil produced from stripper well leases, which was initially provided for by the Trans-Alaska Pipeline Authorization Act ("TAPAA," Pub. L. 93–153), signed by the President on November 16, 1973. The exemption was implemented by CLC by an amendment to its regulations, which was issued November 21, 1973 and made effective as of November 16, 1973 (38 FR 32494, November 26, 1973). The amendment defined "stripper well lease" to mean a "property" (as previously defined in the two tier crude oil pricing regulations) whose average daily production did not exceed the qualifying limits set by the statute. In so doing, CLC stated:

> . . . For purposes of this exemption, the term "property" is described as being co-extensive with that "property" used to determine 1972 base production control levels, as measured by leases in existence in 1972. This narrow definition was adopted in order to comply with the Congressional intent expressed in the Conference Report which stated that the "Congress specifically intends that the regulations shall, among other things, prevent any 'gerrymandering' of leases to average down high production wells with a number of low production stripper wells to remove the high production wells from price ceilings" (H.R. Rep. No. 93–624). (38 FR 32495.)

On November 27, 1973, the Emergency Petroleum Allocation Act of 1973 ("EPAA," Pub. L. 93–159) was enacted, and it modified the test for stripper well lease qualification from one based on production levels during the preceding calendar month to one based on production levels during the preceding calendar year. A corresponding change in the crude oil pricing regulations was made by CLC, effective November 27, 1973 (38 FR 34464, December 14, 1973), but in all other respects the definition of stripper well lease remained as initially adopted.

Section 4(e)(2) of the EPAA provided for the stripper well lease exemption (until its repeal, effective February 1, 1976, by the Energy Policy and Conservation Act) and read, in part, as follows:

> (A) The regulation promulgated under subsection (a) of this section shall not apply to the first sale of crude oil produced in the United States from any lease whose average daily production of crude oil for the preceding calendar year does not exceed ten barrels per well.
>
> (B) To qualify for the exemption under this paragraph, a lease must be operating at the maximum feasible rate of production and in accord with recognized conservation practices.

Neither the EPAA nor the TAPAA included a definition of the term "lease." The most extensive legislative history concerning the original stripper well lease exemption is found in the Conference Report accompanying the TAPAA.

Although the Conferees did not discuss the meaning of the term "lease," they did state:

> The Congress intends that the provisions of this section will be strictly enforced and regulated by the administering agency to insure that the limited exemption of this class of wells for the express purposes described above is not in any way broadened. . . . Congress also directs that the administering agency shall promulgate regulations to implement the provisions of this section before it becomes operative. The Conferees expect the administering agency to utilize State data regarding production volumes, and to provide by regulation safeguards against the manipulation of gerrymandering of lease units in a manner that evades the price control and allocation programs.
>
> These regulations shall be so designed as to provide safeguards against any abuse, over-reaching or altering of normal patterns of operations to achieve a benefit under this section which would not otherwise be available. Congress specifically intends that the regulations shall, among other things, prevent any "gerrymandering" of leases to average down high production wells with a number of low production stripper wells to remove the high production wells from price ceilings. The sole purpose and objective of this Section 406 is to keep stripper wells—those producing less than ten barrels per day—in production and to insure that the crude oil they produce continues to be available for U.S. refineries and U.S. consumers. It is not intended to confer any benefit on the owners and operators of wells producing in excess of ten barrels per day.
>
> The Congress also intends that the regulations provide appropriate limitations and provisions in the definition of "lease" to in-

V 41 167 AUG 26 76 UMI

sure that an administratively workable system is established which does not permit abuse. (Emphasis in original, H.R. Rep. No. 624, 93d Cong., 1st Sess. at ——— (1973).)

The TAPAA stripper well lease exemption originated with a floor amendment that was introduced by Senator Bartlett of Oklahoma. The original text of the amendment provided that:

> Those oil leases whose average daily production per well does not exceed that of a stripper well of not more than ten barrels of oil per day shall be exempt from any allocation or price restraints. . . . (119 Cong., Rec. S13432 (daily ed. July 14, 1973).)

In explaining this amendment Senator Bartlett stated:

> So if the stripper producer had production that did not qualify, he, of course, would not be in any position to have that production exempted from price controls. It is done on a lease basis, because normally all the wells on one lease go into one tank or on a several tank basis. So if it is from a big well, the average goes away (sic) up.
>
> Incidentally, when subsidies were put on (stripper well production) during World War II, that went beyond just a lease basis; that was done on a field basis, because it is easier to do all the accounting that way. But in this case, it is only decided on a lease basis. (Id. at S13435, remarks of Senator Bartlett.)

It should be noted also that the sponsor of the amendment understood stripper wells typically to be operated by independent producers pursuant to a lease:

> Large oil companies have few stripper wells. Because of their higher operational costs, major oil companies are forced to sell their leases to independents—who can operate these leases for a longer period. (Id. at S13432.)

The legislation which became the Emergency Petroleum Allocation Act of 1973 ("EPAA") originated in the Senate where a bill was passed on June 5, 1973, containing no stripper well provision of any kind. When the House passed a similar version of the emergency petroleum allocation measure on October 17, 1973, it contained a "stripper" exemption applicable to wells rather than to leases. In the Conference Report of November 10, 1973, a stripper well lease provision was substituted, without comment, and this provision was subsequently adopted by Congress in the final version of the EPAA without debate or comment on the meaning of "leases."

The general legislative silence on the meaning of stripper well "leases" in connection with the drafting and passage of the EPAA can therefore be explained only by the fact that this matter was decided largely in connection with the TAPAA companion measure. These two statutory stripper well lease provisions, although identical insofar as the concept of "leases" is concerned, contained certain technical differences. Because of the use of the same language in both enactments concerning "leases," however, the legislative history of the TAPAA is relevant and applicable to the meaning of stripper well "leases" under the EPAA and the implementing CLC, FEO, and FEA regulations.

D. CHANGES SINCE ADOPTION OF THE TWO TIER CRUDE OIL PRICING SYSTEM

Several important changes in circumstances have occurred since the initial definitions of "property" and "stripper well lease" were adopted. First, with the passage of time, the natural decline in the rate of production has operated to make the cumulative deficiency provision of the two tier pricing system increasingly more significant. Second, the initial emphasis of CLC on restraining prices and controlling inflation has tended to be of lesser significance compared with the need to provide effective incentives for increased domestic production of crude oil. Third, the price differential between "old crude oil" and crude oil not subject to the ceiling price limitation has increased dramatically, from modest initial levels of $.50 per barrel or less, to amounts of $7.00 per barrel or more. The "old crude oil allocation" or "entitlements" program was instituted in response to this increased price disparity, and since November, 1974, refiners have been required to have an "entitlement" to refine a barrel of old crude oil, with those refiners having more than the national average of old crude oil generally required to purchase such entitlements from refiners having less than the national average of old crude oil. Finally, enactment of the EPCA on December 22, 1975, effectively changed the crude oil pricing program from one which was expected only to be temporary to one which would be mandatory for at least 40 months.

The amendments to the crude oil pricing regulations adopted to implement the crude oil pricing policies of the EPCA are intended to reflect these changed circumstances. Under the two tier pricing system as revised effective February 1, 1976, existing cumulative deficiencies were eliminated for all properties. Also, provisions were subsequently added to take into account the natural rate of production decline in future months, so that the level of production which must be exceeded before crude oil produced from a property may be sold at upper tier prices (the "base production control level") may be adjusted downward at six month intervals. These provisions were added to help keep the incentive of higher, upper tier prices within the reach of producers of most properties, so that measures taken to increase rates of production could realistically be expected to result in upper tier prices without regard to the time that has elapsed since the initial base production control levels were first established. Also, the "released crude oil" provisions which were included in the initial two tier pricing system as a special incentive for increased production in the short term were eliminated on a prospective basis, and base production control levels are now determined with reference to the average monthly volume of "old crude oil" produced and sold from each property in 1975.

E. GENERAL CONSIDERATIONS

Because the considerations involved with respect to past applications of the term "property" are significantly different from the considerations involved in prospective applications of the term, FEA has concluded that the clarifications that are appropriate with respect to past applications of the term are likewise different from those which are to be applied on a prospective basis. With respect to past interpretations FEA is, of course, bound to formulate those clarifications which are most consistent with the purpose and intent of the regulations in effect during that time, whereas with respect to future applications of the term, FEA enjoys greater latitude to make such prospective adjustments in the meaning of the term as will best suit the current objectives of the two tier pricing system.

In seeking at this time to clarify the meaning of a term that has been so widely applied for almost three years, FEA has sought, first, to determine the legal significance of the words used to define the term and, second, to identify and evaluate the extent to which other factors (extrinsic to the language of the definition itself) may have made it inequitable or impracticable to apply the literal meaning of that definition in certain circumstances. With this intention, and based upon the comments received in this proceeding, therefore, FEA has concluded that the literal meaning of the term "property," as defined by FEA, is generally to be understood as synonymous with the physical "tract" or "premises" as to which a working interest is established by an oil and gas lease, or by a fee interest. It has also concluded that in certain instances it is permissible to segregate the interest so described for purposes of delineating an FEA "property," while in other instances the aggregation of such interests to form a single FEA "property" is appropriate.

The conclusion that the term "property" (i.e., "the right which arises from a lease or from a fee interest to produce domestic crude petroleum") is, in the strictest sense, generally synonomous with the tract or premises as to which a right to produce exists pursuant to an oil and gas lease or a fee interest, is based in large measure on the foregoing review of the history of these concepts.

Although the evidence is not unambiguous, FEA has concluded that CLC by its definition of the term "property" intended to refer to the premises described in the oil and gas lease pursuant to which crude oil was being produced. It also appears that this is the reasonable meaning of the definition that CLC used and that the definition should have been so understood. Thus, when CLC first proposed the two tier concept, it described the productive entity with respect to which production was to be measured as "a particular property on which the producer has leased production rights." Use

of the phrase "property on which" suggests that CLC contemplated that crude oil production would be measured according to the surface acreage, or "tract," as to which a producer had obtained production rights through an oil and gas lease. (Such leases typically describe the premises by surface boundaries, although they may also delineate particular underground strata as to which rights are conferred. (See e.g., 3 Williams and Meyers, § 665).)

When the two tier pricing system was adopted, property was defined, as noted above, as "the right which arises from a lease or a fee interest to produce domestic crude petroleum." The term "lease" has been generally defined, for purposes of oil and gas law, as "[t]he instrument by which a leasehold or working interest is created in minerals. . . ." Williams and Meyers, Manual of Oil and Gas Terms at 240–241 (3d ed. 1971). "Working interest" has been defined, in turn, as "[t]he operating interest under an oil and gas lease. The owner of the working interest has the exclusive right to exploit the minerals on the land. . . ." (Id. at 511.)

Inasmuch as the lease is the basic document of the oil and gas industry, there should have been no doubt but that CLC intended by its definition of property to signify the premises described by an oil and gas lease (or by a deed, in those comparatively few instances in which the operator was also the owner of the mineral interest). FEA believes that this term, which has generally uniform historic meaning throughout the crude oil production industry, was used initially with the intention and expectation that it would provide a uniform basis for application of price controls throughout the industry and would avoid the need for taking into account the varying state regulatory concepts and internal systems of accounting.

Also relevant to the intent with which CLC used the term is that the concept of released crude oil was specifically designed as an incentive to increased production over a relatively short time. The fastest means of increasing production was through maximum exploitation by producers of tracts subject to their working interests—whether by application of enhanced recovery techniques, re-working of wells, or by re-completion of wells in new producing formations. The treatment, for example, of separate reservoirs subject to the same oil and gas lease as separate properties would have been inconsistent with the objective of the released crude oil concept to provide producers with maximum incentives to exploit to the fullest extent the tracts which were subject to their existing rights to produce crude oil.

The evidence with respect to the legislative treatment of the term "lease" is not inconsistent with this conclusion. FEA's review of the legislative history of the stripper well lease exemption indicates that the sponsor of the stripper well lease exemption used the "lease" as the unit of measurement simply because the production of several wells subject to a single lease is commonly commingled in one or more storage tanks. He proposed that the stripper well exemption be "decided on a lease basis," rather than on some other basis, solely because of the practical necessity inherent in the common collection and storage systems in use. Thus, a well-by-well measurement would not normally be possible on the one hand and, on the other hand, averaging per well production across an entire field, to the extent a field "went beyond" or was broader in scope than a lease, was presumably not desirable because it would in some cases have unnecessarily expanded the scope of the exemption to leases that were not marginal and in other cases would have unnecessarily prevented marginal leases from benefiting from the exemption. The term "lease" therefore appears to have been regarded as the most appropriate term available to describe an interest that would typically encompass more than a "well" but less than a "field." It also appears that the term was regarded to be commonly understood as no definition was included in the Act.

However, notwithstanding the strong support, both in the legislative history and elsewhere, for a literal interpretation of the definition of property, FEA has determined that the clarification of past applications of the property concept should recognize more flexibility because of a variety of circumstances under which an interpretation of the term property that was limited to the literal meaning of the language of the definition would be inequitable. Several considerations led to this conclusion.

As noted in the foregoing review of the concept of property and its significance under the two tier price system, the term "property" was first defined in regulations which were issued on August 17, 1973, and became effective on August 19, 1973. Thus, producers were required immediately (i.e., by the end of August) to apply the new definition to their particular circumstances to determine whether any "new" or "released" crude oil had been produced from a property in that month. While the definition of the term appears to have been premised on the assumption that it would provide a common and easily-understood basis for delineating appropriate productive entities, comments received in this and other proceedings indicate that there have, in fact, been many differing interpretations of the meaning of the term among producers.

With respect to the extent to which differing and possibly conflicting interpretations of the term should be recognized by FEA as consistent with the regulations, it must be recognized that producers had no detailed guidance initially from CLC, FEO, or FEA with respect to the numerous questions that arose with respect to the property definition. The first ruling on the definition of property was not issued until August 29, 1975 (FEA Ruling 1975–15, 40 FR 40832, September 4, 1975). Further, when the CLC definition of property had to be adapted by producers to their particular circumstances in August, 1973, the benefits or detriments of alternative approaches, to the extent they may have been considered, would have been perceived much differently than at a later time.

It should be recognized, for example, that the two tier pricing system initially operated generally to provide an economic incentive for the aggregation of productive entities if one such entity was capable of producing significantly higher volumes of crude oil than it produced in 1972. This is because there had not yet been time for significant current deficiencies to accumulate as to most productive entities, and the increased production from one entity, if sufficient, would serve under the special release rule to release from the ceiling price rule crude oil from other productive entities only if they were treated as part of the same property. Of course, to the extent that any cumulative deficiency had accrued at that date, selective segregation of entities would have served immediately to result in all "new crude oil" from any separate entity with respect to which production was just being initiated. As a general matter, however, it seems unjust, with the benefit of hindsight, to ascribe now improper motivations to applications of the property concept which were made under considerably different circumstances nearly three years ago.

Also favoring a more flexible interpretation of past applications of the term property is the reality of several significant consequences attached to the determinations that have been made with respect to the meaning of the term "property." Volumes of "old," "new," "released," and "stripper well lease" crude oil are a function of the scope of the "property" as determined by the producer. "Old" crude oil volumes, thus determined, have been certified, and entitlements have been purchased by refiners with respect to such volumes. The costs of the crude oil and entitlements to refiners have, in turn, generally been passed through in prices charged for refined products. Revenues paid to producers have, in like manner, generally been used to pay operating costs or to initiate enhanced recovery or new exploration and development, and remitted to royalty owners, or otherwise disposed of. In addition, since February 1, 1976, the "base production control level" of each property has been defined by reference to the volume of "old crude oil" produced and sold from the property concerned during 1975.

FEA recognizes the substantial reliance that has been placed on these determinations by numerous parties, that there is no basis for concluding in general that such determinations were other than good faith attempts to comply with the regulations, and that there is a substantial need for a measure of administrative finality to attach to as many of these determinations as possible, so as to avoid substantially disruptive retroactive adjustments.

The legislative history of congressional intent with respect to the meaning of "lease" in the context of the stripper well

V 41 N 167 A AUG 26 76 UM

lease exemption is not inconsistent with the need to afford some measure of flexibility in the definition of the term "property." The Conference Report accompanying the TAPAA states that "Congress . . . intends that the regulations provide appropriate limitations and provisions in the definition of 'lease' to insure that an administratively workable system is established which does not permit abuse." This statement clearly indicates that rigid adherance to a "lease" system was not expected and that the necessity for some degree of flexibility in defining the term was acknowledged. Consistent with this intent, the regulatory definition of a stripper well lease provided for, among other understandable exercises in flexibility, inclusion of "fee interests" within the meaning of the statutory term "lease."

The strictures in the Conference Report on the subject of stripper well "gerrymandering" do not contradict this view. The only express qualification on administrative flexibility in defining "lease" would seem to be one which would be present by implication in any event (i.e., that the administrative treatment of the term "lease"—as in any other phase of administering the stripper well exemption—must not be such as to permit abuse of the exemption).

On the other hand, FEA does not regard its ability retroactively to provide for a more flexible interpretation of the term property to be unqualified. Principles of equity generally favor that those who are similarly situated receive comparable treatment. In this regard, it would be particularly inappropriate for those producers which closely adhered to the regulatory definition of the term "property" to be treated much less favorably than those producers which interpreted the term in a less formal manner. Moreover, FEA is also concerned that unwarranted departures from its regulations not be permitted and that the interests of consumers in full and fair enforcement of the price controls on crude oil be adequately protected.

Accordingly, the detailed discussion setting forth the proper clarification of past applications of the property concept in the following Section I. F. represents FEA's attempt to strike an appropriate balance between the foregoing considerations as to a literal interpretation of the term property vis-a-vis a more flexible interpretation which takes into account factors extrinsic to the language of the definition itself.

FEA believes that the clarifications adopted today are consistent with the practices that have been followed by the substantial majority of producers. However, to the extent that these clarifications would permit any producer to calculate larger volumes of "new," "released," or "stripper well lease" crude oil than were calculated and certified in prior months, no recertifications of additional volumes will be permitted. Such recertifications will be considered, if at all, only on a case-by-case basis on normal grounds of inequity or hardship through the FEA exceptions process. FEA is aware that in so affording significance to differing good faith definitions of property that have been adopted by producers, similarly situated persons will in some instances be treated differently under the regulations. This fact is, however, counterbalanced in FEA's view by the need for the greatest possible measure of administrative finality to be afforded the determinations already made as to volumes of old crude oil. Appropriate compliance actions will, of course, be taken with respect to applications of the term property which are not consistent with the clarifications set forth herein, to the extent that they have resulted in the certification of greater volumes of new or upper tier crude oil than is permitted. FEA reserves the right in such compliance actions to determine whether any misapplication of the "property" concept, which resulted in improper classification of lower tier crude oil as upper tier crude oil to a particular purchaser, also resulted in that purchaser receiving at lower tier prices other volumes of crude oil that could properly have been certified as upper tier crude oil. In such cases, and in the context of formal compliance action (i.e., by remedial order or consent order), FEA may permit the producer to recertify such amounts of crude oil mistakenly invoiced as lower tier crude oil, but only to the extent that additional funds due the producer because of such recertification do not exceed refunds due to the purchaser because of sales of crude oil by the producer at prices in excess of the appropriate ceiling prices.

F. PAST APPLICATIONS OF THE TERM "PROPERTY"

The issues with respect to past applications of the term property may, for purposes of convenience, be generally divided into three categories: (1) Those involving the delineation of the premises which are subject to a single "right to produce" pursuant to a lease or fee interest, (2) those involving the aggregation of two or more such premises, and (3) those involving the segregation of such premises subject to a single "right to produce."

(1) *The right to produce.* Ruling 1975–15 made it clear that the property concept is one that begins with "the right *to produce crude oil.*" Consistent with the discussion above of the common meaning of that term as being generally synonomous with the concept of "working interest," the analysis of property will generally begin with identifying the one or more "premises" or "tracts" described in the instrument that confers the right to produce. Generally speaking, except in those cases where the right to produce is conveyed separately with respect to separate horizontal strata, the "premises" as to which the right to produce exists will generally be described in terms of surface acreage—commonly referred to as a "tract." In those instances in which production is undertaken by the owner of the mineral interest in fee, rather than by a lessee, the instrument conveying the fee interest will similarly describe the premises typically in terms of surface acreage, also referred to as a "tract." The terms "premises" and "tract" are both used here to refer to the physical limits as to which a right to produce exists. Since "tract" implies surface acreage, whereas "premises" is not so limited (but also signifies use of three dimensional boundaries), the latter term is preferred.

Difficult issues can arise with respect to construing a lease or deed to delineate the one or more premises as to which a "right to produce" exists under that instrument. This can occur, for example, where a lease conveys a right to produce with respect to described premises, but imposes differing or special rights or obligations with respect to the development of and production from particular portions of the described premises. Generally speaking, where the rights or duties created under a single instrument are significantly different with respect to particular identified portions of a described premises, where a producer has in good faith relied upon such differences in its exploration and development activities, and where the producer has consistently and historically accounted for such portions separately, FEA will permit the lease concerned to be considered as having established more than a single "right to produce" and, consequently, more than a single property. Thus, for example, where the time within which a lessee is obligated to begin production activities varies as to specified portions of a particular tract, those portions of the tract would be subject to differing "rights to produce," and hence, could constitute separate "properties."

(2) *Segregation of premises subject to a single right to produce.* More complex issues are posed with respect to the extent to which the premises subject to a single right to produce may appropriately be subdivided to form separate "properties." As noted above, there are instances in which a single lease may create several distinct "rights to produce" with respect to specified portions of the premises described therein. And as discussed below, the aggregation (with premises subject to other rights to produce) of less than all of the premises covered by a single right to produce may result in the subdivision of the premises formerly subject to a single right to produce into at least two properties—the portion which has been aggregated and the portion which remains. There are, however, still further instances in which segregation into one or more properties of a premises subject to a single right to produce appears to have been appropriate under the existing regulations.

a. *Non-contiguous tracts.* One such instance is in the case of non-contiguous tracts. Particularly in the case of fee interests, but also in the case of certain large leases (typically old leases), a single instrument may convey a single undifferentiated right to produce with respect to multiple, non-contiguous tracts, which may be located at great distances from one another. In all cases in which it can be shown that such non-contiguous tracts were developed and produced separately, and where they have historically and consistently been accounted for as separate properties, FEA will continue to permit them to be so regarded. The basis for this determination is principally that FEA understands this to have been a consistent and historic practice and one which was followed to conform the treatment of the atypical situation of multiple tracts subject to a single instrument to that afforded in the more typical situation of a single tract subject to a single lease.

b. *Very large tracts.* Another such instance is in the case of very large tracts which are subject to a single right to produce. Although this problem appears to exist mainly with respect to large fee interests, it also obtains with respect to certain large leases, particularly those granted many years ago by Federal and state governments. As noted above, the modern oil and gas lease typically conveys a right to produce which must be exercised within a specified period in order for production rights to be retained by the lessee. The objective of the lessor is to obtain production in a specified area within a specified time. Accordingly, most oil and gas leases confer a right to produce as to an area within which exploration and development by the lessee can reasonably be expected within a reasonable time—five years is typical.

Owners of mineral interests in fee which undertake their own exploration and development activities are not, of course, bound by any lease obligations with respect to the time within which such activities must take place. Accordingly, exploration and development of a large fee interest may take place over an extended period of time, in much the same manner as if several leases had been conveyed with respect to particular areas and time periods. Similarly, with respect to large leases, a comparable form of phased development may have taken place. Indeed, as to certain large government-granted leases, a "selection" process has been employed, whereby only with respect to those portions of the lease that are developed does the lessee retain production rights. In such cases, the right conveyed by the initial "lease" is more in the nature of a right to explore, which ripened into a right to produce those areas that the lessee has developed in a timely fashion.

In order to treat holders of large tracts subject to a single right to produce—whether by a lease or by fee interest—in a manner that is comparable to the treatment of those who hold a right to produce under the more limited typical modern oil and gas lease which covers a lesser area, FEA has concluded that separate geological formations subject to the same right to produce which have been developed and produced separately, and which have historically and consistently been accounted for separately may continue to be so regarded.

c. *Partial unitization or other aggregation of interests.* It is not uncommon for less than the total premises subject to a right to produce to be unitized or otherwise aggregated with all or portions of premises subject to other rights to produce, to form a single "property," leaving the balance of the premises formerly subject to a single right to produce not aggregated with any other such rights. The portion of the premises which is not aggregated is appropriately recognized as a property separate and apart from the portion of the premises which has been aggregated with other rights to produce.

In some cases, FEA understands that the inclusion of the so-called "Pugh" clause in a lease would operate to create a separate and distinct right to produce with respect to the non-unitized portion of the premises subject to that lease, by stating that production from the unitized portion of a lease will not serve to fulfill the lessee's production obligations with respect to the non-unitized portion. Thus, the two portions of the lease including such a clause would become separate properties by the terms of the lease itself. However, even where such a clause is not included, FEA has concluded that treatment of the non-unitized portion of the premises as a separate property is appropriate.

d. *Severance tax or royalty owner accountability.* Another instance in which segregation of a premises subject to a single right to produce is appropriate is where the production from identifiable portions of the premises is required to be measured and accounted for separately for purposes of determining severance tax liability or for purposes of accounting to royalty owners. FEA has concluded that where the payment of revenues to state tax authorities or to royalty owners requires separate accounting for production from identified portions of a premises subject to a single right to produce, and where such a portions of the premises have consistently and historically been treated as separate properties, such separate treatment may appropriately be continued.

e. *Other segregation not permitted.* The most complex and apparently controversial issue with respect to segregation of a premises subject to a single right to produce has to do with production from separate "reservoirs." FEA has studied this issue at considerable length but has been unable to find a solution which is likely to be satisfactory to all parties concerned. FEA has concluded on the basis of the review of the legislative and regulatory history and the general considerations outlined above that a premises which contains multiple reservoirs but which is subject to a single right to produce may not, simply by virtue of the existence of separate reservoirs, be treated as comprising multiple "properties."

FEA does not believe that the language of the definition of the existing term "property" can be construed to mean that production from separate reservoirs subject to the same working interest would, simply by virtue of the fact that the several reservoirs have been developed and produced separately, be regarded as production from separate properties. (Producers have been on express notice of this at least since the issuance of FEA Ruling 1975–15 on August 29, 1975.) Moreover, any producer which adopted a reservoir-by-reservoir approach to the definition of property (and, hence, to the computation of amounts of "new" and "released" crude oil) would typically have been in a position to achieve greater benefits under the price regulations over the past three years than those producers who took the approach of aggregating production from all reservoirs subject to the same right to produce, as required under the regulations. At least until February 1, 1976, any producer that treated each reservoir as a separate property automatically would have obtained "new" crude oil whenever production was obtained from a new reservoir. Producers using the lease approach, on the other hand, were required first to exceed 1972 levels of production from the lease concerned before any production from a new reservoir would be regarded as "new" crude oil. FEA has unfortunately not been able to obtain any approximation of the extent to which producers have actually adopted a reservoir-by-reservoir definition of property.

Under these circumstances, FEA has concluded that it would be inequitable to permit producers who took an expansive—and, in FEA's view, unwarranted—view of the meaning of the term property to obtain benefits that were not afforded to producers who adhered closely to the regulations. Thus, FEA has concluded that separate reservoirs which are subject to the same right to produce will generally not be treated as separate properties under existing regulations.

There are, however, instances in which for a variety of reasons, it would have been impracticable or inequitable for producers not to have treated separately production from a separate reservoir or reservoirs. Those instances of which FEA is aware have been noted above. There may well be other instances of which FEA is not aware, but which may be appropriately addressed in subsequent rulings, as they become known. The mere existence of separate reservoirs and the requirement to report separately the production from such reservoirs in itself will, however, only suffice to permit separate property treatment if the producer has applied for exceptions relief and has been permitted to use such a definition in order to avoid serious hardship or gross equity.

(3) *Aggregation of "rights to produce."* The aggregation of separate "rights to produce" pursuant to a unitization agreement was discussed in FEA Ruling 1975–15. There are, however, other circumstances under which separate rights to produce may appropriately be aggregated, pursuant to either voluntary or involuntary arrangements.

Thus, for example, various parties may hold partial undivided interests in the right to produce crude oil from a particular tract. Whether voluntarily through a joint operating agreement or other

V 41 167 AUG 26 76 UMI

type of agreement, or pursuant to compulsory state regulations, such undivided interests in the right to produce from a tract must typically be aggregated before production can begin. Under such circumstances, no apparent purpose would be served by requiring property delineations to be carried back to the individual partial undivided interests which have been aggregated in order to perfect the right to produce.

Another instance in which rights to produce may be aggregated occurs where the premises subject to such rights are required to be combined by a state regulatory agency as a condition to the operation of production activities. Thus, for example, in Louisiana the state regulatory agency will compel a "unit" to be formed by the owners of the tracts with respect to the surface area which overlies the portion of a reservoir that may be efficiently drained by a single well, provided the owners of at least 75 percent of the surface area agree to the formation of a unit.

Similarly, in states that maintain spacing requirements for oil wells, individual rights to produce may need to be combined, whether voluntarily or involuntarily, before a single well may be drilled and the right to produce made effective. Such aggregations of rights to produce (sometimes known as "drilling units") are also appropriately recognized as single "properties."

Generally speaking, FEA will follow a liberal policy with respect to the aggregation of rights to produce which will be permitted to be treated as a single "property," as long as a bona fide reason for the aggregation can be demonstrated by the producer.

G. *Prospective amendments to the term "property."* The issuance by FEA of Ruling 1975–15 engendered significant comment, primarily from crude oil producers urging FEA to adopt a property concept that would recognize as separate properties each producing reservior underlying a lease. Since that time, FEA has undertaken an analysis of the property concept as conceived and first implemented by the Cost of Living Council (and set forth in some detail in Part A above), and concluded preliminarily that the incentives offered under the tract-by-tract concept were better suited to the temporary program envisioned by CLC, but that in the more than two years since the two tier system was first implemented those incentives had decreased in impact or effectiveness. Accordingly, on January 6, 1976, in connection with the first stage of rulemaking proceedings to implement the crude oil pricing policy of the EPCA, FEA proposed for comment an amended definition of property (to have been applied prospectively, effective February 1, 1976) that would have recognized the existence of separate properties under the same tract, where the tract encompassed separate and distinct producing reservoirs. When final regulations were adopted on February 1, 1976, FEA rejected the proposal and generally indicated

(1) the uncertainty over the effect of such an amendment on the relative proportions of old, new, and stripper well lease crude oil; and

(2) the likelihood of enormous administrative problems associated with determining the limits of thousands of different reservoirs.

Comments submitted in connection with the first stage proceeding either did not address these concerns, or tended to confirm FEA's belief that data sufficient to make such determinations were generally unavailable.

However, after issuance of the February 1 amendments, FEA again received a significant number of inquiries and comments, urging reconsideration of the proposal to establish a property concept based upon separate reservoirs. Accordingly, as part of the continuing analysis of the property issue, FEA again reviewed this matter so as to formulate for public comment a proposed revision of the property concept. In this regard, FEA sought a concept that would optimize the incentives under the two tier system in a manner that is administratively feasible for FEA and that would facilitate compliance by crude oil producers.

The resulting proposal, as set forth in the April 13 Notice, was to afford under FEA regulations the maximum practical significance to pre-existing state regulatory concepts and historical accounting systems that have been developed within the framework of the various state regulatory concepts. With this goal in mind, FEA solicited comments in the April 13 Notice and indicated its intention to consider the adoption of retroactive amendments and the issuance of rulings, as well as the adoption of prospective amendments, to the extent that such actions were determined to be appropriate in resolving the issues under consideration. The discussion in Part F above represents the formal interpretation of FEA of the definition of property as promulgated by CLC and carried foward by FEO and FEA, and will be applied until the amendment discussed below becomes effective on September 1, 1976.

Although a number of different property concepts were discussed in the comments received in connection with this proceeding, most commenters still seem to favor reservoir-by-reservoir determinations. Under such an approach, each non-unitized reservoir or portion of a reservoir underlying each tract would constitute a separate property. Some producers have argued that this is the best approach because it would provide the greatest incentive to develop new reserves and maintain production of existing reserves. The incentive would arguably be maximized under the reservoir approach because decisions regarding the exploration for and development of crude oil reserves could be made on an individual reservoir basis without regard to the happenstance of production characteristics of other reservoirs underlying the same tract. It follows that a producer would more likely search for and develop new reserves (or increase the development of certain existing reserves) if the producer could be assured that resulting increased production would qualify as upper tier crude oil.

A property concept that follows tract boundaries, on the other hand, without regard to the separate reservoirs which may underlie the tract, may not provide appropriate incentives under the two tier pricing system. This is because increased production from one reservoir may fail to qualify as upper tier crude oil because of the requirement that tract production must exceed the BPCL and cumulative deficiency determined from all reservoirs that underlie the tract.

For example, a producer holds the right to produce crude oil from tract X under which are situated four separate and distinct reservoirs, with production figures as set forth in Table 1 below:

TABLE 1

Reservoirs	1972	1973	1974	1975	1976
A	11,000	8,000	5,000	3,000	1,000
B	7,500	5,000	4,000	3,000	2,000
C	0	0	11,000	10,000	9,000
D	0	0	0	0	
Totals	18,500	13,000	20,000	16,000	12,000

As Table 1 indicates, the incentive intended to be provided by the CLC has diminished over time. While the producer was able to respond to the short term incentive by developing production from reservoir C and thereby exceeding the property's BPCL in 1974, the continued decline in production from reservoirs A and B makes remote any incentive in 1976 or later to develop production from reservoir D. Under a reservoir-by-reservoir determination of upper and lower tier crude oil, however, production from reservoir C would continue to qualify as upper tier crude oil, as would any production from reservoir D.

The merit in a property concept that recognizes separate reservoirs (to some extent at least) is undeniable. However, an unqualified reservoir-by-reservoir concept is largely administratively infeasible. First, unitizations aside, crude oil accounting has consistently and historically had some relation to the lease because it is the lease that in the first instance describes ownership interests. Accordingly, a true reservoir-by-reservoir concept would require the establishment of reservoir BPCL's without regard to producing interests, and would force producers to determine production on a reservoir basis in the same manner as is done for unitizations, but where there is no agreement among various interest holders for that purpose. Moreover, additional problems would be encountered due to differences among various lease operators of the same reservoir.

Accordingly, the reservoir concept that FEA proposed in the January 8 Notice was one which would have recognized separate reservoirs underlying the same tract. In this way, it was thought that a system would result that benefited from the best aspects of a reservoir concept but which remained subject to the legal requirements entailed by tract concepts.

As noted above, the January 8 proposal was not adopted primarily because FEA concluded that it would be infeasible to attempt to administer a program under which FEA could not require easily understandable records from which could be determined the limits of each producing property. FEA has neither the expertise nor the resources required to monitor reservoir-by-reservoir production, and FEA auditors would not have at their disposal adequate means to confirm or deny that production had in fact resulted from two or more separate and distinct producing reservoirs.

This problem would be minimized if FEA could defer to other expert agencies to make reservoir-by-reservoir determinations. For this reason, FEA proposed in this proceeding to recognize the existence, as separate properties, of each separate and distinct producing reservoir underlying the tract, to the extent that such reservoirs have been recognized by the appropriate state regulatory body, and production is separately reported as such.

While many comments evidence a continued preference for a property definition that would recognize each reservoir regardless of state recognition, vel non, most comments indicated approval of the tentative conclusions set forth by FEA in the April 13 Notice. Therefore, effective September 1, 1976, the definition of property is amended to recognize as separate entities, each reservoir underlying a tract, to the extent that the reservoir is recognized by the appropriate state regulatory body, and production has been consistently and historically reported as such. The following guidelines are set forth to aid producers in making property determinations effective September 1, 1976.

(1) *Unitizations.* Where two or more tracts, or parts of two or more tracts, are unitized so that production is undertaken from the reservoir as a single unit, the reservoir, as unitized, constitutes the property. In most cases, the unitization of several tracts is accomplished by a unitization agreement, which describes the unitized reservoir and is submitted to the state regulatory body for prior approval. The method of determining upper tier crude oil volumes from unitized properties was addressed in Ruling 1975–15. The ruling did not, however, address an important aspect of unitization that has given rise to several questions from producers.

A unitization, as stated in Ruling 1975–15, constitutes a single property, but non-unitized production, if any, from each of the participating tracts continues to be accounted for on a tract-by-tract basis. This should mitigate some of what producers have perceived as the harshness of the requirement that unitization requires the accumulation of BPCL's from all participating tracts. The ruling is, therefore, amended by this Notice to make it clear that only that part of each tract's BPCL attributable to the unitized reservoir is accumulated to determine the new unit BPCL so that no participating tract carries into the unit an unrepresentatively high BPCL. For the non-unitized portion, if any, of each tract, the tract-by-tract rule discussed below is operative. (The allocation of a BPCL—which was formerly attributable to the entire tract—between the unitized and non-unitized portions of the tract would be made in the same manner as is discussed below with respect to implementing the reservoir-by-reservoir property definition, effective September 1, 1976.)

It has become evident during the course of this rulemaking that there has been some confusion resulting from the various meanings which may be attributed to the term "unit," which has two generally-accepted meanings: (1) The total area incorporated in a unitization agreement; and (2) the acreage allocated to a particular well. (See Williams and Meyers, Manual of Oil and Gas Terms at 484.) The rule discussed above applies to unitizations (the combining of all or parts of two or more tracts in order to operate the reservoir as a single productive unit subject to a single operating interest), and not to "spacing units," which merely define the minimum acreage allotted to a single well within the confines of a single tract. With respect to "drilling units," a term that is sometimes used to signify the forced pooling of two or more small tracts into sufficient area to meet the spacing requirement, the drilling unit will constitute the property if it is recognized as such by the state body, and production is reported as such.

(2) *Determination of base production control levels.* Because the amendment to the property definition adopted today is expected in many cases to result in a recalculation of BPCL's where the amended definition of property results in a greater number of producing properties for any producer, the following guidelines are set forth to aid producers in making those recalculations.

For each non-unitized tract, the producer should first determine how many properties are contained within that tract. If the tract produces only from one reservoir the tract constitutes the property and the BPCL, as previously calculated under FEA price regulations, remains the same. This will be true even though the producer may have reason to believe that crude oil has been produced from two or more separate reservoirs under the tract, but where no such separate recognition has been accorded the reservoirs by the state regulatory authority.

However, where the tract encompasses more than one producing reservoir, each of which has been recognized by the state regulatory authority as a separate and distinct reservoir, each may be treated as a separate property under the amendment adopted today, in which case a BPCL must be determined for each property. This should be done as follows:

(A) Reservoirs (properties) from which there was no production and sale of crude oil in 1972 will have a BPCL of zero;

(B) For reservoirs (properties) from which there was production and sale of crude oil in 1972, the producer will recompute levels of new, released, and old crude oil (since September 1, 1973) for each reservoir in order to determine revised levels of old crude oil for each reservoir in calendar year 1975. In this way, for each state-recognized reservoir (property) within the tract, the producer will be able to determine the production and sale of old crude oil in 1975, and hence a revised BPCL.

Although such calculations will need to be done for as far back as September 1973, no recertification of new crude oil is intended and none will be permitted. Such recalculations are to be done only for the purpose of establishing new BPCL's, where needed, effective September 1, 1976.

FEA is aware that the amended definition of property adopted today is likely to result, effective September 1, 1976, in the reclassification of some volumes of old crude oil as new crude oil. This will occur for some properties where the recalculation of BPCL's on a reservoir basis will result in the classification as new crude oil of some volumes that had (under the previous definition) been used each month to offset production from other reservoirs which had declined since the base year.

With respect to any amendment to the regulations that would permit an increase in the price for any volume of "old crude oil production" (as defined in section 8(b)(3) of the EPAA) after December 22, 1975, section 8(b)(2) of the EPAA requires the President to find that such amendment—

(A) Will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development from such properties; or

(B) Is necessary to take into account declining production from such properties; and

(C) Is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

The FEA finds that the amendment adopted today comports with all three of the objectives set forth in section 8(b)(2). To the extent that producers elect to treat separate reservoirs as separate properties, an incentive is provided to develop new deep reservoirs which would result in all new crude oil production. Moreover, the amendment adopted today removes the disincentive some producers faced with respect to properties where declining production from existing reservoirs offset new production from other reservoirs which would otherwise have qualified for treatment as new crude oil. To the extent that this disincentive is eliminated, the amended definition of property is likely to result in production from those reservoirs which would not otherwise have occurred under the previous property definition.

II. THE DEFINITION OF "POSTED PRICE"

FEA price regulations employ historical crude oil posted prices as references for determining lower and upper tier ceiling prices, with lower tier ceiling prices determined by reference to the

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highest posted price for the same grade of crude oil in the same or nearest field on May 15, 1973, plus a per-barrel increment, and with upper tier ceiling prices determined by reference to the highest posted price for the same grade of crude oil in the same or nearest field on September 30, 1975, less a per-barrel increment.

The definition of "posted price" was adopted by the Cost of Living Council on November 30, 1973, and has remained substantially unchanged since that time:

> "Posted price" means a written statement of crude petroleum prices circulated publicly among sellers and buyers of crude petroleum in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field. (38 FR 33577 at 33578, December 6, 1973.)

Although FEA has until this time issued no interpretive ruling with respect to this definition, the posted price concept has served as the basis for determining lower tier ceiling prices for nearly three years.

On February 1, 1976, in connection with the first stage of rulemaking proceedings to implement the crude oil pricing policy of the EPCA, the FEA rejected its proposal (41 FR 1564, January 8, 1976) to determine upper tier ceiling prices by reference to actual transaction prices, and decided instead to determine upper tier ceiling prices with reference to highest posted prices on September 30, 1976. Most of the comments submitted in the first stage proceeding indicated that postings were prevalent in September 1975, and suggested that the use of field-wide September postings would avoid other difficulties inherent in FEA's proposal to base upper tier ceiling prices upon actual transactions (*e.g.*, the need to establish a price where there had been no production and sale of crude oil from the property concerned in September 1975).

After publication of the February 1 amendments, however, a substantial number of inquiries were received by FEA relative to the correct application of the posted price concept to the determination of upper tier ceiling prices. (To a much lesser extent, inquiries were also received relative to the posted price for purposes of determining lower tier ceiling prices. However, the problem was said to be not as prevalent with respect to lower tier ceiling prices due to the relative uniformity of crude oil prices in May 1973.) Accordingly, FEA determined that comments should be received in this rulemaking in order to determine whether any clarifications were necessary with respect to the definition of posted price. Notwithstanding the clearly expressed purpose of the rulemaking in this regard, however, a large number of written and oral comments suggested that FEA either (1) depart from the posted price concept in favor of the actual transaction approach that was specifically rejected on February 1, or (2) interpret the definition of "highest posted prices" as the "highest prevailing price," so as to include within the definition actual transaction prices that prevailed on September 30, 1975. After consideration of all the written and oral comments FEA has determined that while amendments to the current definition are unnecessary, the following clarifications should resolve any confusion that persists with respect to the posted price concept.

Prior to the implementation of price controls by CLC, the traditional and historical operation of the crude oil market included the use of posted field prices, a mechanism well known among buyers and sellers of crude oil throughout the world as

> The announced price at which a crude oil purchaser will buy the oil (of specified quality) from a field. At one time, the price was actually announced by a statement posted in the field. [More recently], the announcement is usually made in the newspapers. (*Williams and Meyers, Manual of Oil and Gas Terms* at 339.)

The general practice among principal purchasers has been periodically to issue price bulletins, which are widely circulated to the public, announcing the price that that particular purchaser would pay for a particular grade crude oil in a particular location.

It was in this context that CLC adopted the two tier pricing system in August 1973. In the Notice of Proposed Rulemaking issued on July 19, 1973, CLC indicated that the ceiling price for crude oil was to be "the price posted on May 15, 1973 for each grade of petroleum from each particular field." (38 FR 19464 at 19467, July 20, 1973.) The posted price concept was selected because the ready availability of price bulletins (which were understood to be in normal circulation in May 1973) provided a mechanism whereby producers and purchasers alike could be able to determine the ceiling price for any grade crude oil in any particular field. Moreover, the use of price bulletins avoided the enormous administrative complexity of having to establish ceiling prices that would maintain traditional gravity and quality price differentials.

Although the August 17, 1973 Subpart L Petroleum Price Regulations did not contain a definition of posted price, a definition was adopted by CLC on November 30, 1973 to make it clear "that a posted price must be a publicly circulated written offer to purchase." (Emphasis added, 38 FR 33577 at 33578, December 6, 1973.)

Although the CLC definition did not require the formality of a printed price bulletin such as is published by major purchasers, the CLC did require the formality of a "publicly circulated written offer." The requirement that the offer be in writing eliminates verbal offers, and the requirement that the written offer be publicly circulated eliminates offers (even though written) to specified producers. Accordingly, other than the published price bulletins of the type traditionally issued by major oil companies, FEA will only recognize as a "posted price" written offers to purchase only so long as they were bona fide public offers of general applicability to crude oil producers in the field. For example, a letter from a purchaser to all crude oil producers in a field or in an area would constitute a posted price if the letter was understood by producers and the purchaser to be a bona fide offer to purchase from all producers in that field or area. A written contract, of course, would not qualify as a posted price because it represents an agreement between a buyer and specific producer, not a bona fide offer to purchase from all producers.

Accordingly, in determining the "highest posted price," a producer should first determine which offers qualify as posted prices under the definition as interpreted above. The next inquiry is into which of those posted prices were on September 30, 1975 (or May 15, 1973 for lower tier ceiling prices) applicable to the particular field in question. Once that determination has been made the producer simply identifies the highest price offered among qualified postings.

With respect to determining the applicability of specific postings to particular fields, it has become clear that the principal issue relates to the use of the term "field" in the definition of posted price. Buyers and sellers alike indicated that inasmuch as "field" is not a defined term, conflicting September 30, 1975 "highest posted prices" occur in many areas of the country. Specifically, the term field has different accepted meanings and usages in various producing areas, and consequently might have been interpreted to mean an area as small as a lease, or as large as one or more entire states. However, for purposes of posting crude oil prices, crude oil producers and purchasers have generally understood the term "field" to signify a general area underlain by one or more reservoirs. For example, while some price bulletins refer specifically to named fields in which the particular price prevails, other types of bulletins specify a price for a particular grade of crude oil, which is produced over a large geographical area—perhaps even over an area of one or more states.

The problem arises where a single price bulletin was issued for an area and grade of crude oil (without specifying particular fields), while a price bulletin was issued by a competing buyer offering a higher price, but specifically limited to certain named fields which do not include all the fields within the larger area referred to in the price bulletin offering a lower price. Resolution of such disputes should be as follows: Price bulletins which specify only a geographical area and crude oil grade (e.g., "West Texas Sour") are presumed to be applicable to every field within the named area, unless a particular field is specifically excluded. However, the existence of a price bulletin stating a higher price for specifically named fields within the same area will, of course, supersede the area-wide price bulletin, for the named field only.

Finally, there should remain no question that posted prices used to establish lower tier ceiling prices, as well as posted prices for upper tier crude oil, do "not include premiums above posted prices which may have been paid for crude purchased on May 15, 1973 [or September 30, 1975] (38 FR 33577 at 33578, December 6, 1973)." This was made clear by CLC in November 1973 and should have been understood since that time.

III. Applicability of the Stripper Well Property Rule to Condensate Produced From Gas Wells

Prior to February 1, 1976, 10 CFR 210.32 provided an exemption from price and allocation regulations for the first sale of "crude oil, including condensates, produced from any stripper well lease. . . ." A stripper well lease was defined in § 210.32 as a

> "property" whose average daily production of crude oil, including condensates, per well did not exceed 10 barrels per day during any preceding calendar year beginning after December 31, 1972.

In Ruling 1974–28 (39 FR 44414, December 24, 1974), FEA held that the stripper well lease exemption was inapplicable to condensate produced from gas wells. This issue was subsequently reconsidered in the context of a formal rulemaking proceeding, and on August 29, 1975, FEA determined that, in all respects except the applicability of the stripper well lease exemption to gas wells, Ruling 1974–28 remains interpretive of the price regulations since they were first promulgated (40 FR 40818, September 4, 1975). With respect to the treatment of gas-well condensate for purposes of the stripper well lease exemption, FEA concluded that because of the good faith treatment by producers of gas-well condensate as being eligible for treatment under the stripper well lease exemption prior to the issuance of Ruling 1974–28, FEA would not require gas-well condensate to be excluded from the scope of the stripper well lease exemption until January 1, 1975, so that the impact of Ruling 1974–28 in this respect was made prospective only.

On February 1, 1976, the stripper well lease exemption was deleted from FEA price and allocation regulations pursuant to the removal of the former exemption of the EPAA by section 401(b)(1) of the EPCA. However, FEA determined that in keeping with the congressional objectives embodied in the EPCA, crude oil produced from stripper well leases should qualify for treatment as upper tier crude oil. At that time the definition of a stripper well lease was modified to make it clear that only "crude oil (excluding condensate recovered in non-associated production)" is counted in determining whether the property qualifies as a stripper well lease.

Since the issuance of Ruling 1974–28, certain producers have indicated that some uncertainty exists as to the meaning of the term "gas-well condensate," inasmuch as different state classifications might result in wells having basically the same productive characteristics being classified as a gas well in one state and an oil well in another.

In the August 29 Notice, FEA recognized this issue and stated:

> In order further to eliminate any uncertainty that might have arisen from the [original] regulatory language, conforming amendments are made today, effective January 1, 1975, to the stripper well lease exemption in 10 CFR 210.32 to reflect that the *exemption extends only to crude oil and condensate recovered in associated production.* (Emphasis added, 40 FR 40820.)

Thus, the qualification of a property as a stripper well property is only prohibited to the extent that the property consists of wells having only non-associated production of natural gas and condensates. That is, unless a well produces some crude oil, the well fails to qualify for inclusion as a producing well in the stripper well lease computations.

Therefore, if a well produces from an associated reservoir (i.e., a reservoir in which gas occurs in association with crude oil), that well may be included to determine if the property is a stripper well property only if crude oil is produced from that well. If only condensate is produced, in association with the gas, the well may not be included to determine if the property is a stripper well property. On the other hand, if a well is producing non-associated gas (i.e., free gas not in contact with crude oil in the reservoir), or only natural gas (even if from an associated gas reservoir), that well may not be included as a producing well because it does not produce crude oil.

To the extent that a single property includes wells of both types, only the wells that produce crude oil may be counted in calculating average daily production. The volumes of condensate produced from the non-associated gas wells are not properly included in the calculation of the property's average daily production.

In this rulemaking, comments were solicited on the extent to which the distinctions outlined above may be made with uniformity in various states. Notwithstanding this specific request, the thrust of most comments was to urge FEA to eliminate the distinction between condensate produced in associated and non-associated production, and to extend the stripper well property provisions to all condensate production. The FEA has rejected these suggestions but is currently considering in the context of the third stage rulemaking to implement the EPCA to adopt a stripper well property rule applicable to condensate recovered in non-associated production. (*See* 41 FR 18873, at 18878, May 7, 1976.)

With respect to the current stripper well property rule, however, the FEA has determined that the distinctions set forth in the April 13 Notice and reproduced here are valid and will continue to serve to determine which producing wells are to be counted for purposes of determining if the property is a stripper well lease.

IV. Enhanced Recovery Units

In the amendments adopted February 1, FEA promulgated a new 10 CFR 212.75 ("Enhanced recovery projects on units.") to provide an incentive for producers to implement enhanced recovery projects on unitized properties. In this regard, FEA rescinded that part of Ruling 1975–15 that required that as of the time a unit agreement becomes effective, current total production and sale of crude oil from the unit must exceed the total base production control levels for all the participating tracts before any of the unit production qualifies as new crude oil. This partial rescission of Ruling 1975–15 was intended to permit but not to require tract-by-tract calculations of upper tier crude oil volumes for tracts subject to unitization agreements to be continued even after the unitization agreement has become effective.

However, it is nevertheless clear that due to the eventual alteration of tract-by-tract producing patterns, production from the unit must at some point be treated as the aggregate of production from all the participating tracts, in order to obtain a meaningful comparison of production levels. Accordingly, in connection with the first stage of EPCA rulemaking proceedings, FEA determined that upon implementation of enhanced recovery techniques, or upon the significant alteration of producing patterns, a producer must treat the unit as a single property, if it has not already been treated as such. If the unit is an enhanced recovery property as defined in § 212.75, a unitized BPCL would be calculated. Regardless whether the unit was formed for enhanced recovery, the new rule required that the unit be treated as the property from such time as there has been a significant alteration in producing patterns.

In this rulemaking, FEA solicited comments on the appropriate manner for determining the point at which there has been a significant alteration in producing patterns. Comments received in response to the April 13 Notice included a variety of suggestions for determining when producing patterns have been significantly altered. These included (1) requiring a unitized BPCL as of the date of unitization; (2) permitting the use of an option until injection occurs; (3) permitting the use of an option for two years; and, among others, (4) permitting the use of an option for an indefinite period.

FEA has considered carefully all the suggestions contained in the comments, and has concluded that the use of any fixed date other than the effective date of unitization would be arbitrary. On the other hand, the comments submitted in connection with this rulemaking indicated the difficulty associated with attempting to develop a workable standard for determining the point at which production patterns have been significantly altered.

In response to the various comments received in this regard, FEA is today adopting a modified unitization rule intended to provide a mechanism whereby producers can determine quantities of upper and lower tier crude oil from unitized properties in a way that provides a meaningful comparison of current production and base level production, and to provide a mechanism that does not discourage the increased production of crude oil that might otherwise be obtained through unitization.

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Accordingly, the rule adopted today fixes a date certain for each unitized property to be treated as a single property under FEA regulations, but provides sufficient flexibility for extending that date in those cases where the producer can establish that there is no need to depart from tract-by-tract determinations of upper and lower tier crude oil.

The rule provides that as of the effective date of unitization, the producer must (unless certain conditions are met) treat the unit as the property and determine upper tier crude oil by comparing current production and sale from the unit with the accumulated BPCL's of all of the participating properties. The effective date of unitization is appropriate because it is a well-defined date that is established by the state regulatory authority and is the date generally recognized throughout the industry and by the states for the purposes of accounting and making payments to interest owners. The use of any other date would necessarily entail the establishment of a separate system of reporting and accounting.

FEA recognizes that some producers perceived the use of this date as stated in Ruling 1975–15 as a disincentive to unitization because new crude oil produced from some of the pre-unitized properties that comprise the unit might be required after that date to be sold at old crude oil prices to compensate for other pre-unitized properties that contributed production to the unit that was significantly below their BPCL's or that had cumulative deficiencies. This result was avoided in substantial measure, however, by the elimination of all cumulative deficiencies as of the date that the unit is treated as a single property. However, because a unit BPCL is based upon the average monthly production and sale of old crude oil (with respect to non-stripper well properties) in the 12 month period immediately preceding unitization, to the extent that following unitization some pre-unitized properties were producing less than their average monthly production in the preceding 12 month period, those amounts would have to be compensated for by selling at old crude oil prices that would otherwise be new crude oil production from other pre-unitized properties.

In order to eliminate any remaining disincentive to producers of new crude oil to enter unitized properties, a special rule is adopted today which will ensure that once a unit BPCL has been established there will be no decrease in absolute volumes of new crude oil. Thus, regardless whether the unit BPCL is exceeded by current unit monthly production and sale, a mount of production from the unit will always qualify for treatment as new crude oil. This amount, referred to as "imputed new crude oil," is a number of barrels each month equal to the number of barrels of new crude oil produced and sold from each of the participating properties during the 12 month period immediately preceding the establishment of a unitized BPCL. Production and sale of "imputed new crude oil" will have no effect insofar as the "current unit cumulative deficiency" is concerned. Only when production and sale of crude oil from a unit exceeds the unit BPCL will the deficiency provision be operative, and the amount of any such deficiency will be calculated from month to month also without regard to any production and sale of "imputed new crude oil."

FEA will not prescribe the distribution of such volumes of upper tier crude oil among unit participants, but will continue to permit such determinations to be made by the parties concerned. The existing rule with respect to contribution to the unit of volumes of crude oil produced from stripper well properties remains unchanged. The new unitized BPCL rule applies to all unitizations approved by applicable governmental authority, regardless whether for enhanced recovery purposes or not. Accordingly, the former definition of "enhanced recovery project" is deleted from § 212.75. The requirement that a unit BPCL be adopted on the date of unitization contains an exception to provide the maximum flexibility to producers seeking to form and maintain unitized properties. The exception provides that notwithstanding the requirement to adopt a unitized BPCL as of the effective date of unitization, determinations of upper and lower tier crude oil volumes may continue to be made separately for properties that comprise the unit, after certification to FEA of intention to do so and only for so long as (1) injection has not begun, and (2) there has been no transfer of production allowables among participating leases. Such certifications should be made to FEA pursuant to the provisions of 10 CFR Part 210, Subpart G (Other Proceedings). Beginning with the month following the occurrences of either event the producer will be required to treat the unit as a single property.

Finally, some producers erroneously interpreted Ruling 1975–15 to require the accumulation into a unit BPCL of the entire BPCL of each property as to which any portion has been unitized, including amounts of the BPCL attributable to non-unitized portions of participating properties. This is not required, however, as FEA has pointed out above in connection with the definition of property.

The foregoing clarifications and modifications to the regulations concerning unit BPCL's should serve effectively to remove any FEA regulatory impediments to the formation of units, and thereby facilitate the enhanced recovery projects such units are typically intended to promote.

V. Miscellaneous

FEA also solicited comments in any other area of the price regulations applicable to domestic crude oil which might need clarification or amendment. Particularly in this regard, producers were asked to address the extent, if any, to which the certification requirements of 10 CFR 212.131 impose an unnecessary burden on small producers. Some small producers had indicated that this has been the case due to the nature of their relationships with their purchasers, where, for example, the purchaser (rather than the producer) may have access to the information needed to effect a valid certification. Comments were solicited to address the extent of this problem and possible alternative methods of certifying the information currently required under § 212.131.

Specifically, several first purchasers have indicated that the certification requirements of § 212.131(a)(1) are unclear with respect to the alternative one-time certification provision in cases of production from stripper well properties, since the requirement to certify a property's base production control level has no meaning for stripper well properties.

After consideration of the comments submitted in this proceeding, as well as other available information, FEA has determined that it is appropriate to amend § 212.131(a) applicable to certifications by producers, in order to provide a less complicated procedure for such certifications. Questions concerning certifications by resellers will be considered in a subsequent proceeding.

The previous certification requirements evolved over the past three years from the rule originally adopted by CLC on August 17, 1973, requiring producers which charged a price in excess of the ceiling price to certify in writing to the purchaser in each sale: (1) the ceiling price of the crude oil; (2) the amount of new crude oil; and (3) the base production control level. These certifications were required to contain a statement that the price charged for the crude oil was not greater than the price permitted under Subpart L (6 CFR 150.354, 38 FR 22536 at 22539, August 22, 1973).

These requirements were substantially continued by FEO in 10 CFR 212.74(c) (39 FR 1924, January 15, 1974) and remained unchanged until August 29, 1974 (39 FR 31622, August 30, 1974) when FEA issued amendments to lay the foundation for the implementation of the old crude oil allocation program. At that time the certification requirements were deleted from § 212.74 and appeared in a new § 212.131, which required each producer and each seller of domestic crude oil to certify in writing to the purchaser, with respect to each sale: (1) The ceiling price (in first sales), (2) the amount of stripper well lease crude oil, (3) the amount of new crude oil, (4) the amount of released crude oil, and (5) the amount of old crude oil. These certifications also were required to contain a statement that the price charged was not greater than permitted pursuant to Part 212.

FEA amended the certification requirements to "insure that old domestic crude petroleum [would] be more easily traced" in connection with the anticipated program to allocate old crude oil (39 FR 31623), and in adopting the old oil allocation program (39 FR 42246, December 4, 1974), FEA further amended § 212.131 to provide that the certification requirements as to a first sale of domestic crude oil may be satisfied by a one-time certification as to the BPCL for each month of 1972 for the particular property. The requirements remained

substantially unchanged until February 1, 1976 when FEA adopted the first stage of EPCA implementing regulations (41 FR 4931, February 3, 1976). At that time, basically three changes were made:

(1) The requirement to certify "ceiling price" was expanded to "ceiling price or prices" to account for the upper tier ceiling price rule adopted on February 1, 1976;

(2) The permissive one-time certification provision was amended to make it clear that (a) prior to February 1, 1976, the rule required a certification of the property's BPCL for each month in 1972, and (b) effective February 1, 1976, the rule required a certification of the property's BPCL (either average monthly production and sale of crude oil in 1972, or average monthly production and sale of old crude oil in 1975), and a certification of the upper and lower tier ceiling prices for the particular crude oil; and

(3) Each producer was required in the month of February 1976 to certify in writing to each purchaser for each property whether 1972 or 1975 would be used to determine the property's BPCL.

With respect to the one-time certification procedure permitted under § 212.131, then, prior to February 1, 1976, a producer could comply fully with the requirements of the rule by certifying once in writing to the purchaser (1) the monthly production and sale of crude oil from the property concerned in 1972, and (2) that the price charged for the crude oil was not in excess of the maximum price permitted under Part 212. The requirement (2) above did not necessitate the use of an actual price, but only a certification that the price charged was not unlawful.

Effective February 1, 1976, however, new written certifications were required by each producer for each purchaser from each property. The certification requirements could be satisfied by a new one-time certification containing (1) the property's BPCL (either average monthly production and sale of crude oil during 1972 or average monthly production and sale of old crude oil during 1975, selected by the producer); (2) the lower and upper tier ceiling prices; and (3) a statement that the price charged is not in excess of that permitted under Part 212. Moreover, in the month of February 1976, each producer was required to certify in writing to each purchaser from each property whether the BPCL would thereafter be based upon average monthly production and sale of crude oil in 1972 or average monthly production and sale of old crude oil in 1975.

Producers have indicated basically two problems with the one-time certification provision of § 212.131, which the amendment adopted today is designed to eliminate. First, with respect to stripper well properties, the one-time certification of the "BPCL" is confusing in that such properties are not required to compute BPCL's. Second, with respect to a non-stripper well property from which crude oil is sold to more than one purchaser, the one-time certification of the property's BPCL does not accomplish the purpose of the certification requirement, in that it does not provide the purchasers with sufficient information to determine how much of that purchaser's crude oil purchased each month is properly classified as new crude oil. Where the property's total monthly production is sold to a single purchaser, of course, that purchaser can easily determine the amount of new crude oil each month by subtracting the property's BPCL from the current monthly production and sale. Where the property's total monthly production is sold to two or more purchasers, however, none of the purchasers is able to determine the amount of new crude oil without knowing how much production was sold to other purchasers.

Finally, with respect to all properties, the requirement that the one-time certification contain the lower and upper tier ceiling prices is also confusing due to the monthly upward adjustments in the lower and upper tier ceiling prices established under the second stage rulemaking proceeding to implement the crude oil pricing policy of the EPCA (41 FR 15566, April 13, 1976). Although the monthly upward adjustments to crude oil prices established under the second stage have been temporarily discontinued (41 FR 27730, July 6, 1976) they will, of course, resume after the overrecoupment has been corrected, and a one-time certification of those ceiling prices is obviously not possible under a system of continuing adjustments.

The amendment adopted today is designed to resolve any confusion with respect to the problems discussed above, and to eliminate any unnecessary certification burden on producers by requiring (wherever possible) only a one-time certification, containing the minimum amount of information needed to ensure the efficient monitoring of crude oil prices and to maintain the necessary lower and upper tier distinction with respect to a fungible commodity. Accordingly, under the amendments adopted today, a producer of a stripper well property is required only to certify to each purchaser (1) that the property has qualified as a stripper well property, (2) the property's average daily production during the 12 month period in which it qualified as a stripper well property, and (3) the highest posted price on September 30, 1975 which forms the basis for the upper tier ceiling price of the crude oil sold from that property. With respect to nonstripper well properties from which crude oil is sold only to one purchaser, the producer is required only to certify (1) the property's monthly BPCL (and whether based upon 1972 or 1975), and (2) the highest posted prices on May 15, 1973 and September 30, 1975, which form the bases for the lower and upper tier ceiling prices for crude oil sold from that property. With respect to nonstripper well properties from which crude oil is sold to two or more purchasers, the producer will, in addition to a one-time certification, of posted prices used to determine lower and upper tier ceiling price, be required in each sale to certify (1) the number of barrels of new crude oil, and (2) the number of barrels of old crude oil.

For crude oil produced from unitized properties for which the producer has determined a unit base production control level, if crude oil is sold only to one purchaser, the producer is required only to certify (1) the monthly unit base production control level, (2) the amounts, if any, of "imputed new crude oil" and "imputed stripper well crude oil," and (3) the highest posted prices on May 15, 1973 and September 30, 1975, which form the bases for the lower and upper tier ceiling prices for crude oil sold from that property. With respect to such unitized properties from which crude oil is sold to two or more purchasers, the producer will, in addition to a one-time certification of posted prices used to determine lower and upper tier ceiling prices, be required in each sale to certify (1) the number of barrels of new crude oil (and whether "actual new crude oil" or "imputed new crude oil"), (2) the number of barrels of "imputed stripper well crude oil," and (3) the number of barrels of old crude oil.

All producers are required by October 1, 1976 to render the one-time certifications in writing to the purchaser. Exceptions will be permitted, of course, for (1) those stripper well properties which qualify after September 1, 1976, in which event the one-time certification will be required within 60 days after qualification; (2) those properties from which crude oil is first produced and sold after September 1, 1976, in which event the one-time certification will be required within 60 days after crude oil has first been produced and sold; (3) those cases in which new supplier/purchaser relationships are properly established after September 1, 1976, in which event the one-time certification to that purchaser will be required within 60 days after crude oil has first been sold to that purchaser; and (4) those unitized properties for which a unit base production control level is first established after September 1, 1976, in which event the one-time certification will be required within 60 days after a unit BPCL has been established.

Finally, it should be noted that it has been the practice among many purchasers and producers for the purchaser to prepare the certification and send it to the producer for completion and authentication and return to the purchaser. FEA has no objections to this practice to the extent that it permits any large purchaser to help to relieve the certification burdens on a small producer. However, the certification responsibility must in every case rest ultimately with the producer.

Moreover, § 212.131(c) makes it clear that "[n]o firm may sell domestic crude oil unless it provides the certification required by this section." To ensure compliance with the requirements of this section, a purchaser may refuse to recognize a sale of crude oil at other than

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lower tier prices until the necessary certification has been made. Indeed, the purchase of crude oil at other than lower tier prices, in the absence of a valid certification, clearly constitutes a violation of FEA regulations.

VI. FURTHER COMMENTS REQUESTED

FEA has attempted in this proceeding to undertake a comprehensive analysis of the definition of "property," as well as other technical issues that have arisen with respect to the proper application of the Mandatory Petroleum Price Regulations applicable to first sales of domestic crude oil. Nevertheless, FEA is concerned that there may remain some peripheral issues that justify further consideration. Moreover, the conclusions set forth in this Notice—although the result of FEA's thorough consideration of all the comments and data available to FEA—may engender further comment from those parties that are likely to be affected by those conclusions.

Accordingly, FEA requests further comments addressed to the resolution of the issues addressed in this Notice, or to any other issue not specifically addressed in this Notice, that might need further clarification or modification. In this regard, comments should be restricted to issues concerning the Mandatory Petroleum Price Regulations applicable to first sales of domestic crude oil. Comments should be addressed to Executive Communications, Room 3309, Federal Energy Administration, Box GQ, Washington, D.C. 20461, and should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Clarifications to the Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil: Further Comments."

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 Code of Federal Regulations is amended as follows, effective September 1, 1976.

Issued in Washington, D.C., August 20, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Wherever the term "stripper well lease" appears in Part 212, it is changed to read "stripper well property."

2. Section 212.72 is amended to read as follows:

§ 212.72 Definitions.

* * * * *

"Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

* * * * *

3. Section 212.75 is revised to read as follows:

§ 212.75 Determination of upper tier crude oil produced from unitized properties.

(a) *Rule.* With respect to each unitized property, a producer shall, as of the effective date of unitization, establish a unit base production control level.

(b) *Definitions.* For purposes of this section:

"Current unit cumulative deficiency" means the total number of barrels by which production and sale of crude oil from the unitized property was less than the unit base production control level subsequent to the first month (following the establishment of a unit base production control level for that unitized property) in which any crude oil produced and sold from that unit was eligible to be classified as actual new crude oil (without regard to whether the amount of actual new crude oil was exceeded by the amount of imputed new crude oil), minus the total number of barrels of domestic crude oil produced and sold in each prior month from that unitized property (following the establishment of a unit base production control level for that unitized property) which was in excess of the unit base production control level for that month, but which was not eligible to be classified as actual new crude oil because of this requirement to reduce the amount of actual new crude oil in each month by the amount of the current unit cumulative deficiency.

"New crude oil" means either (a) actual new crude oil, which is the total number of barrels of crude oil produced and sold in a specific month from all properties that constitute the unitized property, less (1) the unit base production control level, and less (2) the current unit cumulative deficiency; or (b) imputed new crude oil, which is a number of barrels of crude oil equal to the total number of barrels of new crude oil produced and sold during the 12 month period immediately preceding the establishment of a unit base production control level for the unitized property, from all properties that constitute the unitized property, divided by 12; whichever number is greater.

"Old crude oil" means the total number of barrels of crude oil produced and sold in a specific month from all properties that constitute the unitized property, less the total number of barrels of new crude oil produced and sold from the unitized property in that month, and less the total number of barrels of crude oil sold at the upper tier ceiling price pursuant to the provisions of paragraph (f) of this section.

"Significant alteration in producing patterns" means the occurrence of either (1) the application of extraneous energy sources by the injection of liquids or gases into the reservoir, or (2) the increase of production allowables for any property that constitutes the unitized property.

"Unit base production control level" means, (1) the total number of barrels of old crude oil, as defined in § 212.72, produced and sold during the 12 month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties that constitute the unitized property; plus (2) the total number of barrels of crude oil produced during the 12 month period immediately preceding the establishment of a unit base production control level for the unitized property from all stripper well properties that constitute the unitized property; divided by 365, and multiplied by the number of days in the particular month.

"Unitized property" means the right to produce crude oil that arises from a unitization agreement approved by the applicable governmental regulatory authority (or FEA).

(c) Notwithstanding the provisions of paragraph (a) above, a producer shall not be required to establish a unit base production control level for a particular unitized property, provided that the producer has (pursuant to the provisions of 10 CFR Part 205, Subpart G) certified to FEA its intention to continue to determine volumes of upper and lower tier crude oil separately for all properties that constitute the unitized property, and provided further that the unitized property has not sustained a significant alteration in producing patterns.

(d) Except as provided in paragraphs (e) and (f) below with respect to new crude oil and imputed stripper well property crude oil, no produeer of crude oil from a unitized property may charge a price higher than the lower tier ceiling price (as set forth in § 212.73 of this Part) for any first sale of domestic crude oil produced and sold from the unitized property.

(e) Notwithstanding the provisions of paragraph (d) above, a producer of crude oil from a unitized property may, in any month, charge a price not to exceed the upper tier ceiling price (as set forth in § 212.74) in first sales of new crude oil produced and sold from the unitized property.

(f) Notwithstanding the provisions of paragraphs (d) and (e) above, a producer of crude oil from a unitized property may, in any month, charge a price not to exceed the upper tier ceiling price (as set forth in § 212.74) in first sales of imputed stripper well crude oil, which is a number of barrels of crude oil equal to the total number of barrels of crude oil produced during the 12 month period immediately preceding the establishment of a unit base production control level for the unitized property, from all stripper well properties that constitute the unitized property, divided by 12.

4. Section 212.131 is revised to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a) (1) *Stripper well properties.* With respect to each stripper well property, the producer shall certify in writing to each purchaser of crude oil produced from that property:

(i) That the property concerned has qualified as a stripper well property;

(ii) The average daily production for the 12 month period during which the property qualified as a stripper well property; and

(iii) The highest posted price on September 30, 1975, for transactions in that particular grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted.

The certification required under paragraph (a)(1) of this section shall be made (i) on or before October 1, 1976, with respect to any property which qualified as a stripper well property on or before August 1, 1976; and (ii) with respect to any property which qualifies as a stripper well property after August 1, 1976, within 60 days from the date that such property qualifies as a stripper well property.

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels of new crude oil and the number of barrels of old crude oil. With respect to any property which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(2)(A) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to 10 CFR 212.72, and whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975.

(ii) With respect to each property which has not qualified as a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property:

(A) the highest posted price at 6 a.m., local time, May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; and

(B) the highest posted price on September 30, 1975 for transactions in that particular grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted.

(iii) The one-time certification required under paragraph (a)(2)(ii) of this section, and the one-time certification permitted under paragraph (a)(2)(i) of this section, shall be made on or before October 1, 1975, provided that with respect to any property from which crude oil has not been produced and sold prior to August 1, 1976, the one-time certification required under paragraph (a)(2)(ii) of this section, and the one-time certification permitted under paragraph (a)(2)(A) of this section, shall be made within 60 days from the date when such crude oil is first produced and sold.

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of new crude oil (and whether "actual new crude oil" or "imputed new crude oil" determined pursuant to 10 CFR 212.75(b)), the number of barrels of old crude oil, and the number of barrels of imputed stripper well crude oil (if any) determined pursuant to 10 CFR 212.75(b). With respect to any unitized property for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time written certification to the purchaser of (A) the monthly unit base production control level determined pursuant to 10 CFR 212.75(b); (B) the amount of imputed new crude oil (if any, determined pursuant to 10 CFR 212.75(b)); and (C) the amount of imputed stripper well crude oil (if any, determined pursuant to 10 CFR 212.75(b)).

(ii) With respect to each unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing once to each purchaser of crude oil produced from the property:

(A) the highest posted price at 6 a.m., local time May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; and

(B) the highest posted price on September 30, 1975, for transactions in that particular grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted.

(iii) The one-time certification required under paragraph (a)(3)(ii) of this section, and the one-time certification permitted under paragraph (a)(3)(i) of this section, shall be made on or before October 1, 1975, provided that with respect to any unitized property for which a unit base production control level has not been established prior to August 1, 1976, the one-time certification required under paragraph (a)(3)(ii) of this section, and the one-time certification permitted under paragraph (a)(3)(A) of this section, shall be made within 60 days from the date when such unit base production control level is established.

(4) *New purchasers.* With respect to any purchaser who has not purchased crude oil from the property (or the unitized property) concerned prior to August 1, 1976, the one-time certifications required under paragraphs (a)(2)(ii) and (a)(3)(ii) of this section, and the certifications permitted under paragraphs (a)(2)(i) and (a)(3)(i) of this section, shall be made within 60 days from the date such purchaser first purchases crude oil from that property or unitized property.

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a)(1) of this section shall, with respect to each sale of domestic crude oil other than (i) an allocation sale pursuant to § 211.65 of Part 211, or (ii) a sale in which no volumes of old crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the amount of old crude oil included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

(2) Each seller of domestic crude oil, other than a producer of domestic crude oil, shall make the certification required by this paragraph as soon as practicable after receipt of the required certifications from its sellers, but in no event later than 30 days following such receipt. However, if the domestic crude oil is not sold until after the expiration of the thirty-day period, the certification required by this paragraph shall be made within ten days following the sale of the domestic crude oil.

(c) With respect to each allocation sale under § 211.65 of Part 211, the seller shall certify in writing to the purchaser the amount of old crude oil deemed (under the provisions of § 211.67(f) of Part 211) to be included in the volume of crude oil so sold. Such written certification shall be made within 25 days following the month in which the crude oil so sold is delivered to or for the account of the purchaser.

(d) No firm may sell domestic crude oil unless it provides the certification required by this section. No firm may knowingly purchase domestic crude oil for which there is no certification as required by this section; provided, however, that the provisions of this paragraph do not apply to the sale of domestic crude oil to a firm under circumstances of economic or other coercion in which the buyer, because of its need for crude oil, had no reasonable alternative but to purchase the domestic crude oil for which there is no certification, and such firm promptly reports the purchase to the Federal Energy Administration for investigation.

(e) All certifications required by this section shall be in writing, either upon an invoice or billing or by separate instrument, and shall be effective only when delivered to and received by the purchaser of domestic crude oil.

[FR Doc.76-24924 Filed 8-20-76;4:06 pm]

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THURSDAY, AUGUST 26, 1976



PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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PRIVACY ACT OF 1974

Systems of Records and Proposed Routine Uses Thereof

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579) as prescribed in 5 U.S.C. 552a(e)(4), the following notices of systems of records that are maintained by the Department of Health, Education, and Welfare are published as set forth below. These systems are currently ongoing and were either inadvertently omitted from past publications because of administrative oversight and/or they are notices of contractor systems of records where the contracts were entered into before September 27, 1975.

Prior to the final adoption of the proposed routine uses for these notices, consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submited in writing on or before September 27, 1976. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Ave., S.W., Washington, D.C. 20201. Comments received will be available for inspection in Room 526E, South Portal Building, at the above address.

Dated: August 20, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

NIH NIDR 0334.00

System name: Research studies dealing with prevention of dental caries, plaque, and gingivitus, HEW/NIH/NIDR.

Security classification: None.

System location:

Westwood Building, Rm 534
5333 Westbard Ave.
Bethesda, Md 20014
and at medical/dental facilities, clinics, etc. under contract or participating in direct operations. A list of locations is available from system manager.

Categories of individuals covered by the system: Volunteers and patients participating in research projects involving dental caries, plaque, gingivitus, and agents and/or techniques for their prevention and control.

Categories of records in the system: Individual medical/dental records of participating individuals.

Authority for maintenance of the system: 42 U.S.C. 241, 288a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.
2. Appendix B Departmental Regulations (45 CFR part 5b) Item 100 - 'To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.'

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, computer tapes, or discs.

Retrievability: Name or identifier code. HEW uses: data analysis; program management; HEW user (National Institute of Dental Research) will receive data extracted by principal investigators from volunteer and patient research records concerning medical/dental measures of dental caries, plaque, gingivitus, and other oral health-related variables.

Safeguards: The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator, and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards established in accordance with Departmental standards and National Bureau of Standards guidelines (e.g., security codes) will be used limiting access to authorized personnel.

Retention and disposal: One year to indefinitely, depending on the requirements of the specific study. Records are shredded, burned or erased.

System manager(s) and address:

Chief, Biometry Section
National Caries Program
National Institute of Dental Research
Westwood Building, Rm 534
5333 Westbard Ave
Bethesda, Md 20014

Notification procedure: To determine if a file exists, write to the System Manager and provide the following information:

1. approximate dates and place of examination or treatment
2. name of the study, if known
3. an individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR Part 5b.6) Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager, and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information provided by subject individuals and clinical investigators.

Systems exempted from certain provisions of the act: None.

NIH NIAID 0335.00

System name: Kidney Transplant Histocompatibility Study(KTHS) DHEW/NIH/NIAID.

Security classification: None.

System location: Records included in this system are located in hospitals, research foundations, and universities under contract, in the Naval Medical Research Institute, and in the National Institute of Allergy and Infectious Diseases facilities in Bethesda, Md. (See Appendix I).

Categories of individuals covered by the system: Patients who have received kidney transplants and donors of kidneys transplanted at participating institutions (See Appendix I) during the period January 1, 1974, through December 31, 1976.

Categories of records in the system: Clinical and medical records containing information on clinical examinations, laboratory findings, and related research records. For kidney recipients, a demographic profile is also included.

Authority for maintenance of the system: 42 U.S.C. 241(g) and 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.
2. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations (45 CFR Part 5b), Item 100).
3. Clinical research data are made available to authorized individuals and organizations deemed qualified to carry out specific research solely for the purpose of carrying out such research. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 101).
4. Research data may be made available to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 102).
5. Certain infectious diseases are reported to state governments as required by law.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, punched cards, and magnetic tapes or discs.

Retrievability: Information is retrieved by name and location of study and by transplant number. HEW Uses: Summaries of the data developed in this study will be used to study the relevance of tissue typing to the outcome of kidney transplants. The influence of organ preservation techniques and various surgical and medical therapies will be similarly studied. As a regular part of these studies, clinical research data are made available to collaborating researchers who are part of the program. These are HEW employees and/or researchers employed by the contractors.

Safeguards: The records are maintained in file cabinets in offices which are locked when not attended, with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards' guidelines, e.g., security codes will be used limiting access to authorized personnel.

Retention and disposal: Records are retained for five years to indefinitely, depending on the requirements of the study. Records are burned or erased.

System manager(s) and address:

Chief, Transplantation and Immunology Branch
National Institute of Allergy and Infectious Diseases, NIH
Westwood Building, Room 750
5333 Westbard Avenue
Bethesda, Maryland, 20016

Notification procedure: To determine if a record exists, write to the System Manager and provide the following information:

V 41 167 AUG 26 76 UMI

1. Full name
2. Name and location of clinical trial facility
3. Approximate dates of enrollment in the research study An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are in accordance with Department Regulations (45 CFR, Part 5b.6), Federal Register, October 8, 1975, page 47411.

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager, and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information contained in these records is obtained directly from individual participants and from medical records and clinical research observations.

Systems exempted from certain provisions of the act: None.

APPENDIX I - Location of Records

National Institute of Allergy and Infectious Diseases
Westwood Building, Room 750
5333 Westbard Avenue
Bethesda, Maryland 20016

Louis D. Homer, M.D., Ph.D.
Naval Medical Research Institute
National Naval Medical Center
8901 Rockville Pike
Bethesda, Maryland 20014

And in the offices of the Kidney Transplant Histocompatibility Study Registrars at the following participating hospitals:

University of Arkansas Medical Center
4301 W. Markham
Little Rock, Arkansas 72201

Children's Memorial Hospital
2300 Children's Plaza
Chicago, Illinois 60614

Rush-Presbyterian-St. Luke's Hospital
Chicago, Illinois 60612

Billings Hospital
950 E. 59th Street
Chicago, Illinois 60637

University of Illinois Hospital
840 S. Wood
Chicago, Illinois 60612

Veterans Administration Research Hospital
333 East Huron
Chicago, Illinois 60611

Veterans Administration Hospital
Hines, Illinois 60141

Loyola University Hospital
Maywood, Illinois 60153

Memorial Hospital
Springfield, Illinois 62705

Children's Hospital
300 Longwood Avenue
Boston, Massachusetts 02115

Massachusetts General Hospital
32 Fruit Street
Boston, Massachusetts 02114

Peter Bent Brigham Hospital
721 Huntington Avenue
Boston, Massachusetts

University of Minnesota Hospital
412 Union Street, SE
Minneapolis, Minnesota, 55455

Albany Medical Center
43 New Scotland Avenue
Albany, New York 12208

Downstate Medical Center
450 Clarkson Avenue
Brooklyn, New York 11203

Buffalo General Hospital
100 High Street
Buffalo, New York 14203

Meyer Memorial Hospital
462 Grider Street
Buffalo, New York 14215

Strong Memorial Hospital
260 Crittenden Blvd.
Rochester, New York 14620

Upstate Medical Center
766 Irving Avenue
Syracuse, New York 13210

Cleveland Clinic
2050 E. 93rd Street
Cleveland, Ohio 44106

University of Oklahoma Health Sciences Center
P.O. Box 26901
Oklahoma City, Oklahoma 73190

Parkland Memorial Hospital
5201 Harry Hines
Dallas, Texas 75235

University of Texas Medical Branch
Galveston, Texas 77550

Methodist Hospital
6516 Bertner
Houston, Texas 77025

University of Texas Health Sciences Center, San Antonio
7703 Floyd Curl Drive
San Antonio, Texas 78284

Wilford Hall Hospital
Lackland Air Force Base
San Antonio, Texas 78236

University of Utah Hospital
50 North Medical Drive
Salt Lake City, Utah 84112

SSA PP RSL 0375.00

System name: Matches of Social Security Administration, Department of Defense and Veterans Administration Data Relating Earnings History to Armed Forces Training Experience.

Security classification: None.

System location:
Social Security Administration
Universal North Building
1875 Connecticut Avenue
Washington, D.C. 20009

Categories of individuals covered by the system: Samples of enlisted men who separated from active duty during fiscal 1969 after having satisfactorily completed one term of service.

Categories of records in the system: Limited Social Security Administration earnings information, Department of Defense sociodemographic and post-service data, and Veterans Administration program participation information.

Authority for maintenance of the system: Section 702 of the Social Security Act, 42 U.S.C. 902.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records stored on magnetic tape.

Retrievability: Records are indexed by social security number during the matching steps at the Social Security Administration but identifiers are not made available outside SSA.

Safeguards: Social Security Administration keeps all records in a secured building (and locked file) and all employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. Social security employees access only to particular items of Department of Defense and Veterans Administration data relevant to the matched study. All social security numbers have been removed from tapes made available outside the Social Security Administration. However, matched files containing identifiers are being maintained at Social Security for possible use in further matching of later years.

Retention and disposal: Records will be held for three years at which time the program will be reviewed for need to retain identifiers. Whenever all matching operations are complete, the identifiers will be eliminated.

System manager(s) and address:
Assistant Commissioner for Research and Statistics
Social Security Administration, Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: In order to gain access to the intermediate extract files which are the only ones for which the Social Security Administration retains identifying information, the system manager would require the name of the system; the individual's Social Security Number; and, for verification purposes, name, address, date of birth, and sex.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Social Security Administration summary earnings record and Department of Defense Manpower Research and Data Analysis Center post-service file; veterans entitlement and program participation data from VA.

Systems exempted from certain provisions of the act: None. /*

[FR Doc.76-24876 Filed 8-25-76;8:45 am]

V 41 167 AUG 26 76 UMI

V41/167
AUG 26 76
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V 41 1 16 7
AUG 26 76
UM

168

Vol.41–No.168
8–27–76

PAGES
36193–36484

federal register

FRIDAY, AUGUST 27, 1976

highlights

PART I:

MEDICAID
HEW/SRS expands definition of "factoring" in prohibition against reassignment of claims; effective 11–26–76 36207

MEDICARE
HEW/SSA issues notice proposing schedule of limits on skilled nursing facility costs; comments by 10–12–76 36237

PEANUTS
USDA/ASCS announces natural disaster transfers; effective 8–27–76 36194

EXTRA LONG STABLE COTTON
USDA/ASCS amends allotment regulations for 1976 crop; effective 8–27–76 36193

INTERCITY RAIL PASSENGER SERVICE
ICC adopts rule regarding condition of track 36210

PRIVACY ACT OF 1974
Harry S. Truman Foundation proposes regulations for implementation; comments by 9–27–76 and issues notice of Systems of Records; comments by 9–27–76 .... 36222, 36278

FREEDOM OF INFORMATION
Harry S. Truman Scholarship Foundation issues notice of procedures 36278

FEDERAL-AID HIGHWAYS
DOT/FHA unifies construction and maintenance general material requirements; effective 9–10–76 36204

SPENT FUELS
ERDA publishes notice on chemical processing and conversion; effective 8–27–76 36244

NEW ANIMAL DRUGS
HEW/FDA issues rule on maintenance of copies of approved medicated feed applications in feed mills; effective 11–26–76 36200

FTS SYSTEM
GSA revises identification procedures; effective 8–27–76 .. 36207

CONTINUED INSIDE

V 41 168 AUG 27 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Appropriate signal carriage rules and definition for "specialty stations" and specialty format programming."
30334; 7–23–76

HEW/PHS—Health systems agencies; requirements for conditional designation.
31208; 7–27–76

Interior/FWS—Migratory bird hunting; steel shot ammunition or ammunition containing pellets made of other approved material for waterfowl hunting.
31386; 7–28–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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PRIVATE-SECTOR ORGANIZATIONS
Privacy Protection Study Commission issues notice soliciting information concerning employment and recordkeeping practices; submissions by 10–15–76..... 36270

FEDERAL AND FEDERALLY-ASSISTED PROGRAMS AND PROJECTS
Justice/LEAA proposes amplification of regulation on compliance with OMB Circular; comments by 9–30–76..... 36215

FEDERAL EMPLOYEES
State adopts regulations on participation in cultural exchange programs of foreign governments; effective 8–17–76 36203

EMPLOYEE BENEFIT PLANS
LABOR/EBSO issues notice of Advisory Opinion procedures; effective 8–27–76..... 36281

INEDIBLE MEAT
USDA/APHIS withdraws proposal to permit importation 36215

EDIBLE LIVESTOCK
USDA/APHIS exempts rendering by retail stores from inspection requirements and clarifies term "year"; effective 9–27–76 36197

WATER POLLUTION
FPC terminates proposal on quality standards certification in applications for licenses..... 36222

AIR QUALITY
EPA issues notice on ambient air monitoring reference and equivalent methods..... 36245

IMPORTED IN-SHELL BRAZIL NUTS
HEW/FDA issues memo of understanding with USDA/AMS on testing and control program for aflatoxins; effective 8–17–76..... 36232

MUNICIPAL SECURITIES
SEC requires Rulemaking Board to file annual report; effective 9–20–76 36199

MEETINGS—
Commerce/DIBA: National Industrial Energy Council, Sub-Council on Business Awareness, 9–14–76.... 36231
National Industrial Energy Council, Sub-Council on Industry Programs, 9–8–76..... 36231
CRC: Louisiana Advisory Committee, 9–17–76..... 36241
Michigan Advisory Committee, 9–16–76..... 36241
West Virginia Advisory Committee, 9–23–76..... 36241
Wyoming Advisory Committee, 9–18–76..... 36241
HEW/ADAMHA: Advisory Committee, Community Alcoholism Services Review Committee, 9–27 through 10–1–76..... 36231
Interior/NPS: Western Regional Advisory Committee, 9–17–76 36227
National Foundation on the Arts and the Humanities, National Council on the Arts, 9–16, 9–17, 9–18 and 9–19–76 36270
State: U.S. National Committee for the International Radio Consultative Committee (CCIR), Study Group 4, 9–14–76..... 36224
FEA: Industry Advisory Board to the International Energy Agency, Subcommittee A; 8–31 thru 9–31–76 36261
VA: Administrator's Education and Rehabilitation Advisory Committee, 9–28–76..... 36280

AMENDED MEETING—
National Advisory Committee on Oceans and Atmosphere, 9–14–76..... 36270

CHANGED MEETINGS—
CRC: Connecticut Advisory Committee, 9–29–76..... 36241

PART II:
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM
HEW/OE coordinates financial assistance for Indian students also eligible for BIA grants..... 36319
HEW/OE proposes exempting certain funds and property from need determination system for aid to Indian students; comments by 9–27–76..... 36322

PART III:
SULFUR DIOXIDE CONTROL
EPA approves and promulgates implementation plan for Ohio; effective 9–27–76..... 36323

PART IV:
SERIES E SAVINGS BONDS
Treasury/FS revises schedule of interest accruals for bonds issued on or after 9–1–76..... 36341

PART V:
SERIES H SAVINGS BONDS
Treasury/FS publishes schedule of interest payments and investment yields for bonds of various issue dates.... 36353

PART VI:
MINIMUM WAGES
LABOR/ESA publishes determination decisions for Federal and federally assisted construction..... 36359

PART VII:
ELECTRIC UTILITIES AND LICENSEES
FPC proposes form on Corporate and Financial Report for Class C and D; comments by 10–8–76..... 36401

V41168 AUG 27 76 UMI

contents

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Calif. and Ariz. 36195
Onions grown in Idaho and Oreg. 36195
Potato research and promotion plan; expenses 36197

Proposed Rules

Grapefruit grown in Fla. 36212
Lemons grown in Ariz. and Calif. 36211

Notices

Aflatoxin in imported Brazil nuts; testing and control programs; cross reference 36229

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules

Cotton; marketing quotas and acreage allotments 36193
Peanuts; marketing quotas and acreage allotments 36194

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service; Rural Electrification Administration.

Rules

Authority delegations by Secretary and General Officers:
Marketing and Consumer Services, Assistant Secretary; transferral of Commodity Exchange Authority functions 36193

AIR FORCE DEPARTMENT

Notices

Environmental impact statement; public hearing 36224

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Meetings:
Community Alcoholism Services Review Committee 36231

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Meat and poultry inspection, mandatory:
Retail stores; exemption on rendering or refining livestock fat; clarification of term 36197

Proposed Rules

Meat and poultry inspection, mandatory:
Importation of undenatured and inedible meat and products; withdrawn 36215

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
National Council on the Arts 36270

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1976; additions 36241

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Las Vegas-Dallas/Fort Worth nonstop service investigation 36240
Sacramento - Denver nonstop proceeding 36240

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees:
Connecticut; amendment 36241
Louisiana 36241
Michigan 36241
West Virginia 36241
Wyoming 36241

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Interior Department 36193

COMMERCE DEPARTMENT

See Domestic and International Business Administration.

COMPTROLLER OF CURRENCY

Rules

Rulings:
Customer-bank communication terminals; rescinded 36198

DEFENSE DEPARTMENT

See Air Force Department.

DISEASE CONTROL CENTER

Notices

Occupational safety and health standards; chemical/physical agents; request for information; correction 36232

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
Sub-Council on Business Awarements (2 documents) 36231
Scientific Articles; duty free entry:
Oklahoma University 36231

EDUCATION OFFICE

Rules

Supplemental educational opportunity grants program; coordination of awards with Indian Affairs Bureau 36319

Proposed Rules

National direct student loan program, etc.; Indian students, financial assistance eligibility 36322

EMPLOYEE BENEFITS SECURITY OFFICE

Notices

Employee benefit plans; advisory opinion procedure 36281

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Employment transfer and business competition determinations; financial assistance applications 36280
Unemployment compensation emergency:
Federal supplemental benefits ending period; Montana 36281

EMPLOYMENT STANDARDS ADMINISTRATION

Proposed Rules

Black lung disease; claims for disability or death benefits, correction 36219

Notices

Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions 36359

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Spent fuels; chemical processing and conversion 36244

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
Ohio 36323

Notices

Air pollution; ambient air monitoring reference and equivalent methods 36245
Environmental statements; availability, etc.:
Greeley Region Wastewater Management Program 36248
Metro Denver Sludge Management Plan, Colo. 36248
Pesticide applicator certification; State plans:
District of Columbia 36249
Pesticides; specific exemptions and experimental use permits:
American Cyanamid Co. et al.; herbicide, bird repellent and fungicide 36245
California Department of Health; DDT for flea control on wild rodents; amendment 36250
Chevron Chemical Co.; acephate on grapes 36246
Elanco Products Co. et al.; herbicides and insecticides 36246
Health, Education, and Welfare Department; DDT on fleas 36250
Idaho State Department of Agriculture; ethyl parathion to control pea aphid, bean weeds 36251
Monsanto Co. and American Cyanamid Co., herbicides on and vetch aphid on lentils 36246
North Dakota State University et al.; insecticide and fungicide 36247
Penick, S. B. and Co., et al.; insecticides 36247
Pennwalt Corp. et al.; herbicides and insecticides 36247
Velsicol Chemical Corp. et al.; herbicides and insecticide 36248

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc 36241

FEDERAL COMMUNICATIONS COMMISSION

Rules

Citizens radio service:
Class D stations operating rules; correction 36209

Proposed Rules

FM broadcast stations; table of assignments:
Arizona 36219
New Mexico 36220
Wyoming 36220
Radio broadcast services:
Standard AM and FM stations; review of network regulations; extension of time 36221

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster areas:
Colorado 36239
New Jersey 36240

FEDERAL ENERGY ADMINISTRATION

Notices

Appeals and application for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants 36257
Committees, advisory; charters:
Coal Industry 36252
Construction 36252
Consumer Affairs/Special Impact 36253
Electric Utilities 36253
Environmental 36254
Food Industry 36254
Fuel Oil Marketing 36255
Gasoline Marketing 36255
LP-Gas Industry 36255
Natural Gas Transmission & Distribution 36256
State Regulatory 36256
Transportation 36257
Committees; establishment, renewals, etc.:
Coal Industry Advisory Committee *et al* 36251
Fuel Oil and Gasoline Marketing Advisory Committees 36252
Meetings:
Industry Advisory Board to the International Energy Agency, Subcommittee A 36261

FEDERAL HIGHWAY ADMINISTRATION

Rules

Engineering and traffic operations:
Construction and maintenance; material requirements 36204

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc.:
Atlantraffik Express Service 36261
Puerto Rico Marine Management, Inc. and Sea-Land Service, Inc 36262
Complaints filed:
Eastern Cement Corp. v. Port of Palm Beach District 36262

FEDERAL POWER COMMISSION

Proposed Rules

Electric utilities:
Statements and reports (schedules); corporate and financial reports 36401
Water quality standard certifications; license applications; withdrawn 36222
Policy and interpretations:
Electric rate schedule filings; policy statement; correction 36221

Notices

Hearings, etc.:
Boston Edison Co. 36262
Canal Electric Co. 36262
Central Louisiana Electric Co., Inc 36263
Colorado Interstate Gas Co. 36263
Columbia Gulf Transmission Co 36263
Connecticut Light and Power Co 36264
Detroit Edison Co. 36264
El Paso Natural Gas Co. 36264
Gulf States Utilities Co. (2 documents) 36264, 36265
Mid Louisiana Gas Co. 36265
Missouri Public Service Co. 36265
Montana-Dakota Utilities Co. 36265
Pacific Gas and Electric Co. 36266
Pacific Power and Light Co. 36266
Pennsylvania Electric Co. 36267
Southern Natural Gas Co. 36267
Southern Union Gas Co. 36267
Texas Gas Transmission Corp. 36268
Texas Gulf Coast Area Rate Proceeding 36268
Union Electric Co. 36268
United Gas Pipe Line Co. 36269
Upper Peninsula Power Co. 36269

FEDERAL RESERVE SYSTEM

Rules

Authority delegations:
Board employees and Federal Reserve Banks; specific functions; correction 36198

Notices

Applications, etc.:
Republic of Texas Corp. 36269

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Crown Central Petroleum Corp. 36198
Weaver Airline Personnel School, Inc., et al 36199

FISCAL SERVICE

Rules

Bonds, savings:
Series E; offering 36341
Series H; offering 36353

FISH AND WILDLIFE SERVICE

Proposed Rules

Hunting:
Barnegat National Wildlife Refuge, N.J. 36211

Notices

Endangered species permits; applications 36225
Marine mammal applications, etc.:
Martini, Frederic 36224
Miami University 36224

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Medicated feed applications; maintenance of copies 36200

Notices

Aflatoxin in imported Brazil nuts; testing and control program 36232
Committees; establishment, renewals, etc.:
Device Good Manufacturing Practice Advisory Committee 36233

FOREST SERVICE

Notices

Environmental impact statements; availability, etc.:
Bull Run Planning Unit, Oregon 36229
Prospect Planning Unit, Mont. 36230

GENERAL SERVICES ADMINISTRATION

Rules

Property management:
Federal telecommunications system (FTS); identification procedures, etc 36207
Public buildings and space; urban centers; acquisition by lease 36206

GEOLOGICAL SURVEY

Notices

Procurement actions; legal review 36226

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Alcohol, Drug Abuse and Mental Health Administration; Disease Control Center; Education Office; Food and Drug Administration; Public Health Service; Social and Rehabilitation Service; Social Security Administration.

V41168 AUG 27 76 UMI

CONTENTS

Notices
Authority delegations:
Education Office 36233
Social Security Administration (2 documents) 36234, 36236

HEARINGS AND APPEALS OFFICE
Notices
Applications, etc.:
Affinity Mining Co 36226
Big Fork Coal Co., Inc 36227
Cabin Knoll Coal Co 36228
Dean Jones Coal Co., Inc 36228
Mary E. Coal Corp 36229

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Disaster Assistance Administration; Interstate Land Sales Registration Office.

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Geological Survey; Hearings and Appeals Office; Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION
Rules
Railroad, intercity passenger service, adequacy 36210
Railroad car service orders; various companies:
Chicago & Eastern Illinois Railroad Co 36209
Illinois Central Gulf Railroad Co 36209
Notices
Abandonment of railroad services, etc.:
Southern Railway Co 36293
Hearing assignments (2 documents) 36289
Motor carriers:
Temporary authority applications 36290
Petitions filing:
Whitfield Tank Lines and E. B. Law and Son, Inc 36293

INTERSTATE LAND SALES REGISTRATION OFFICE
Notices
Land developers; investigatory hearings, orders of suspension, etc.:
Lake Creek Subdivision 36240

JUSTICE DEPARTMENT
See Law Enforcement Assistance Administration.

LABOR DEPARTMENT
See also Employee Benefits Security Office; Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.
Notices
Adjustment assistance:
Armco Steel Corp 36285
Babcock and Wilcox Co 36285
Beaunit Corp 36286
Bethlehem Steel Corp 36287
Corplex International Corp 36287
H. P. Snyder Manufacturing Co 36288
Textron Inc 36288
Vulcan Rivet and Bolt Co 36289

LAND MANAGEMENT BUREAU
Notices
Plat of survey, filing; Copper River Meridian, Alaska 36224

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Proposed Rules
Federal and federally-assisted programs and projects 36215

NATIONAL PARK SERVICE
Notices
Meetings:
Western Regional Advisory Committee 36227

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
Rules
State plans for enforcement of standards:
Alaska 36206
Proposed Rules
State plans for enforcement of standards:
Alaska 36219
Notices
Applications, etc.:
American Tobacco Co 36283

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE
Notices
Meeting, amended agenda 36270

PRIVACY PROTECTION STUDY COMMISSION
Notices
Employment and Personnel records inquiry 36270

PUBLIC HEALTH SERVICE
Notices
Authority delegations:
Regional Offices 36237

RURAL ELECTRIFICATION ADMINISTRATION
Notices
Loan guarantees proposed:
Chautauqua and Erie Telephone Corp 36230

SECURITIES AND EXCHANGE COMMISSION
Rules
Securities Exchange Act:
Municipal Securities Rulemaking Board; annual report filing requirements 36199
Notices
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc 36272
Depository Trust Co 36274
Hearings, etc.:
Americare Growth Fund, Inc 36271
Colt Industries, Inc., et al 36274
Lafitte Co., Inc 36275
Middle South Utilities, Inc 36276
Nicor, Inc. and MGIC Investment Co 36277

SMALL BUSINESS ADMINISTRATION
Notices
Applications, etc.:
Brittany Capital Corp 36277
Sci-Tronics Fund, Inc 36277
Space Ventures, Inc 36278
Disaster areas:
Vermont 36278

SOCIAL AND REHABILITATION SERVICE
Rules
Medical assistance programs:
Reassignment of claims; prohibition 36207

SOCIAL SECURITY ADMINISTRATION
Notices
Skilled Nursing facility costs; reporting periods 36237

STATE DEPARTMENT
Rules
Cultural exchange programs of foreign governments:
Federal employee participation 36203
Notices
Meetings:
International Radio Consultative Committee, Study Group 4 of the U.S. National Committee 36224

TRANSPORTATION DEPARTMENT
See Federal Highway Administration.

TREASURY DEPARTMENT
See also Comptroller of the Currency; Fiscal Service.
Notices
Notes, Treasury:
Series Q-1978 36224

TRUMAN, HARRY S., SCHOLARSHIP
Proposed Rules
Privacy Act; implementation 36222
Notices
Freedom of Information Act, procedures 36278
Privacy Act, 1974, system of records 36278

VETERANS ADMINISTRATION
Notices
Meetings:
Administrator's Education and Rehabilitation Advisory Committee 36280

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"
Weekly Briefings at the Office of the Federal Register
(For Details, See 41 FR 22997, June 8, 1976)
RESERVATIONS: JANET SOREY, 523–5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts effected, covering the current month to date, follows beginning with the second issue of the month.
A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR
213 36193

7 CFR
2 36193
722 36193
729 36194
910 36195
958 36195
1207 36197
PROPOSED RULES:
910 36211
912 36212

9 CFR
303 36197
381 36197
PROPOSED RULES:
320 36215
325 36215
327 36215

12 CFR
7 36198
265 36198

16 CFR
13 (2 documents) 36198, 36199

17 CFR
240 36199

18 CFR
PROPOSED RULES:
2 36221
4 36222
131 36222
141 36402

20 CFR
PROPOSED RULES:
725 36219

21 CFR
510 36200
514 36200

22 CFR
64 36203

23 CFR
633 36204
635 36204
655 36206

28 CFR
PROPOSED RULES:
30 36215

29 CFR
1952 36206
PROPOSED RULES:
1952 36219

31 CFR
316 36342
332 36354

40 CFR
52 36324

41 CFR
101–18 36206
101–35 36207

45 CFR
176 36320
249 36207
PROPOSED RULES:
144 36322
175 36322
176 36322
1800 36222

47 CFR
2 36209
91 36209
93 36209
PROPOSED RULES:
73 (4 documents) 36219–36221

49 CFR
1033 (2 documents) 36209
1124 36210

50 CFR
PROPOSED RULES:
32 36211

V41168 AUG 27 76 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 ... 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) ... 32399

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ... 34035
October 19, 1911 (Revoked in part by PLO 5598) ... 34035
April 16, 1912 (Revoked in part by PLO 5598) ... 34035
October 27, 1914 (Revoked in part by PLO 5598) ... 34035
6276 (Revoked in part by PLO 5596) ... 33267
11652 (See EO 11932) ... 32691
11790 (See EO 11930) ... 32399
11814 (See EO 11930) ... 32399
11912 (See EO 11930) ... 32399
11930 ... 32399
11931 ... 32689
11932 ... 32691

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ... 32693
July 30, 1976 ... 32693

MEMORANDUMS:
July 19, 1976 ... 32403

4 CFR

1 ... 35155

5 CFR

213 ... 32892, 33545, 34246, 34731, 35155, 36193
591 ... 32892

7 CFR

2 ... 36193
35 ... 32877
52 ... 32222, 34751
103 ... 34005
105 ... 34005
106 ... 34005
108 ... 34006
111 ... 34006
220 ... 32405, 34757, 36013
225 ... 35685
230 ... 35686
235 ... 32405
271 ... 34760
331 ... 32229, 32409
354 ... 35693
409 ... 34973
722 ... 32878, 36193
728 ... 35694
775 ... 35694
729 ... 36194
790 ... 34247
791 ... 34247
905 ... 34248
908 ... 32229, 32695, 34006, 35053, 35520, 36013
909 ... 35843
910 ... 32827, 34248, 35156, 35521, 36195

7 CFR—Continued

911 ... 36013
915 ... 34973
916 ... 32410
917 ... 32410–32411, 34762
919 ... 35695
926 ... 34007
944 ... 34762
946 ... 36014
947 ... 32230, 32695
958 ... 36195
967 ... 35520
982 ... 34974
989 ... 32412
1012 ... 32417
1099 ... 32575
1207 ... 36197
1421 ... 32879, 35695–35702
1124 ... 32418, 35843
1427 ... 35521
1430 ... 32881
1472 ... 34248
1701 ... 33546
1806 ... 34571
1821 ... 32575
1822 ... 34577, 34578
1831 ... 32575, 32697
1861 ... 32576
1871 ... 32576
1872 ... 32577, 32578
1890c ... 32578
1901 ... 34583
1955 ... 32697

PROPOSED RULES:
16 ... 34777, 34977, 35072
47 ... 32231
51 ... 32896
909 ... 32234
910 ... 33922, 35187, 36211
911 ... 34049
912 ... 36212
919 ... 32234
926 ... 34647, 36035
927 ... 34050
930 ... 32606
931 ... 32757
932 ... 35722
946 ... 32758
953 ... 34766
981 ... 34647, 36034
991 ... 34648
993 ... 33275
1004 ... 34282
1006 ... 35187
1007 ... 33275
1011 ... 33275, 34444
1012 ... 35187
1013 ... 35187
1030 ... 33275
1032 ... 33275
1033 ... 34444, 35194
1046 ... 33275
1049 ... 33275
1050 ... 33275
1062 ... 33275
1063 ... 33275
1064 ... 33275
1065 ... 33275

7 CFR—Continued

PROPOSED RULES—Continued
1068 ... 33275
1070 ... 33275
1071 ... 33275
1073 ... 33275
1076 ... 33275
1078 ... 33275
1079 ... 33275
1090 ... 33275, 34444
1094 ... 33275
1096 ... 33275
1097 ... 33275
1098 ... 33275
1099 ... 33275
1101 ... 33275, 34444
1102 ... 33275
1104 ... 33275
1106 ... 33275
1108 ... 33275
1120 ... 33275
1124 ... 34286
1126 ... 33275
1131 ... 33275
1132 ... 33275
1138 ... 33275
1207 ... 32606
1260 ... 34772
1430 ... 32899
1701 ... 32419
1801 ... 33561
1813 ... 33922
1823 ... 34767
1861 ... 33561
1867 ... 35532
1980 ... 33561

8 CFR

100 ... 32419, 34937
103 ... 34937
316a ... 34938

9 CFR

73 ... 32882, 34731
76 ... 32882, 35156, 35675
83 ... 32432
113 ... 32882
201 ... 34007
303 ... 36197
381 ... 36197

PROPOSED RULES:
320 ... 36215
325 ... 36215
327 ... 34293, 36215

10 CFR

35 ... 34635
211 ... 33881
212 ... 34008, 36172
700 ... 34731
735 ... 34731

PROPOSED RULES:
9 ... 35073
70 ... 35537
205 ... 34783, 34981
210 ... 34784
211 ... 34784
212 ... 33282, 34080, 34784
705 ... 34778

11 CFR

Ch. I ... 35932

12 CFR

7 ... 36198
217 ... 32578
220 ... 34938
221 ... 35477
265 ... 36198
303 ... 35156
335 ... 35477
545 ... 35820
561 ... 32419, 35821
563 ... 32419, 35821
611 ... 33546
615 ... 33547
618 ... 33547

PROPOSED RULES:
16 ... 32864
225 ... 33306
226 ... 35536
556 ... 36039
569 ... 35827
584 ... 33566

13 CFR

102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670

PROPOSED RULES:
120 ... 33567

14 CFR

13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059, 36014, 36015
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478, 36016
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:
39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535, 36036
73 ... 34077, 34650
75 ... 34077
93 ... 35073
121 ... 36036
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941, 35843, 36198, 36199
15 ... 34594
433 ... 34594

PROPOSED RULES:
423 ... 35863
437 ... 35725
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167, 36199
249 ... 35167

PROPOSED RULES:
239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:
1 ... 34324
2 ... 32910, 36221
4 ... 36222
34 ... 36040
35 ... 32911
131 ... 36222
141 ... 36402
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:
1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
416 ... 36017
602 ... 35169

PROPOSED RULES:
404 ... 34060, 35861, 35862
405 ... 35197
416 ... 35862
701 ... 34294
702 ... 34294
725 ... 34972, 36219

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743, 35844, 36200
514 ... 36200
520 ... 32889
522 ... 32583, 32889, 33882, 36018
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:
1 ... 34051
2 ... 35855
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

64 ... 36203
102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:
130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253
633 ... 36204
635 ... 36204
655 ... 36206

PROPOSED RULES:
658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921, 35844–35847
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174, 35847

V41I168 AUG 27 76 UMI

24 CFR—Continued

1930 34618
1931 34618
2205 32359

PROPOSED RULES:

201 32564
205 34977
570 34301
710 35978
720 35978
868 32370
1710 34648
1917 ..... 34063–34075, 34305–34322
2205 32237

25 CFR

41 33556
43h 32421
221 34743

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619, 35490
20 ..... 34627, 35490
25 ..... 34628, 35490
31 35174
53 35514
141 ..... 32889, 32890
301 ..... 34025, 35174, 35490

PROPOSED RULES:

1 ..... 33285, 35855
31 32231
54 32895

27 CFR

PROPOSED RULES:

4 36029
5 ..... 35531, 36029

28 CFR

0 35183
16 32423
20 34949

PROPOSED RULES:

30 36215

29 CFR

699 34744
1601 34745
1602 33557
1910 35185
1952 ..... 32424, 34251, 34252, 36206
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

97 ..... 35723, 35724
1601 33924
1910 ..... 32911, 32912, 35200
1952 ..... 32912, 34298, 36219
2200 34657

30 CFR

55 33263
56 33263
57 33263

PROPOSED RULES:

211 35716

31 CFR

316 36342
332 36354

PROPOSED RULES:

210 ..... 32605, 35855

32 CFR

581 34253
722 34745
725 32742
832 34951
889 34952
968 34962
1008 34962

PROPOSED RULES:

256 36030
505 34764
642 32346
657 34924
832 34976
1286 32231

33 CFR

109 36018
110 36018
117 ..... 32217, 34034, 35521, 35522
127 ..... 32742, 35066
207 34034

PROPOSED RULES:

110 34649
117 ..... 32238, 35536
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263
50 34748

38 CFR

4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

10 35682–35685
111 35682–35685
3002 32742

PROPOSED RULES:

775 35725
3003 34792

40 CFR

51 35676
52 ..... 32743, 32890, 34259, 34749, 35184, 35676, 36324
60 ..... 33264, 34628, 35184
61 ..... 33264, 34629
86 35626
87 34722
180 ..... 32426, 33265, 34629, 35677

40 CFR—Continued

402 33265
416 32578
420 32218
434 34440

PROPOSED RULES:

52 ..... 32241, 34422, 34782, 35725
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441

41 CFR

1–7 33265
1–12 33265
1–16 33265
7–7 35067
8–1 32219
8–3 32219
9–3 36021
28–1 32426
29–60 35186
101–18 36206
101–20 34629
101–26 34630
101–32 34634
101–35 36207

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

51e 35140
101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891
3520 36022
9230 36022

PUBLIC LAND ORDERS:

5592 32589
5593 34962
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749
5600 35067
5601 35067

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

11 35654
115 34962
117 35678
121a 35678
121d 33558
130 35678
141 35678
166 35678

45 CFR—Continued

173 35678
176 36320
177 33268
190 33868
233 ..... 35678, 35847
249 ..... 35847, 36207
801 33559
1069 33268

PROPOSED RULES:

73b 32235
103 35722
144 36322
146 34052
175 36322
176 36322
190 33962
228 36156
1800 36222

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
180 35072
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885, 36209
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849, 36022, 36023
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902, 35522

47 CFR—Continued

91 ..... 32680, 33889, 33903, 35068, 35522, 36209
93 ..... 32682, 33907, 35522, 36209
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534, 36219–36221
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242
89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849
81 32593
192 34598
195 34035
390 34968
571 ..... 32221, 35522, 36023–36026
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678, 36027, 36209
1038 32594
1109 32744
1124 ..... 34260, 36210
1127 32546
1201 32595
1202 32596

49 CFR—Continued

1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 ..... 33280, 36037
801 34082
1067 33307
1106 36041
1109 32434
1125 35730
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849, 36027
33 ..... 32222, 32431, 32603, 32755
217 34969
222 ..... 34969, 35682, 36028
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922, 35855
20 34273
26 32433
32 ..... 34049, 36211
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	34571–34730	16
32399–32574	3	34731–34935	17
32575–32688	4	34937–35051	18
32689–32875	5	35053–35153	19
32877–33244	6	35155–35475	20
33245–33543	9	35477–35674	23
33545–33880	10	35675–35842	24
33881–34003	11	35843–36012	25
34005–34238	12	36013–36191	26
32239–34570	13	36193–36484	27

V 41 168
AUG 27 76
UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Special Assistant to the Deputy Director, National Park Service, is expected under Schedule C.

Effective on August 27, 1976, § 213.3312 (h) (7) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * * * *

(h) *National Park Service.* * * *

(7) One Special Assistant to the Deputy Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–25226 Filed 8–26–76;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Miscellaneous Amendments

Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended to revoke delegations of authority from the Secretary of Agriculture to the Assistant Secretary for Marketing and Consumer Services pertaining to the Commodity Exchange Authority which was transferred to the Commodity Futures Trading Commission by authority of Pub. L. 93–463.

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Director of Agricultural Economics

1. Section 2.17 is amended by revoking and reserving paragraphs (c) and (g) as follows:

§ 2.17 Delegations of Authority to the Assistant Secretary for Marketing and Consumer Services.

* * * * * * *

(c) [Reserved]

* * * * * * *

(g) [Reserved]

* * * * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Consumer Services

2. Section 2.52 is amended by revoking and reserving the entire section as follows:

§ 2.52 [Reserved]

Effective date: These amendments shall become effective August 27, 1976.

For Subpart C:

August 24, 1976.

JOHN A. KNEBEL,
Acting Secretary of Agriculture.

For Subpart F:

August 19, 1976.

RICHARD L. FELTNER,
Assistant Secretary for Marketing & Consumer Services.

[FR Doc.76–25251 Filed 8–26–76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 11]

PART 722—COTTON

Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton

MISCELLANEOUS AMENDMENTS

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of this amendment are as follows:

1. To provide that the total State reserve for all purposes established by the State committee shall not exceed one percent of the State allotment available for distribution to counties in the State.

2. To delete Lake County, Florida and Puerto Rico from the list of ELS cotton counties since these counties no longer receive ELS cotton allotments.

3. To provide that any new ELS cotton acreage allotment established for the farm shall be automatically reduced to the sum of the ELS cotton planted acreage and the ELS cotton prevented planted acreage when the sum of such acreage is less than 75 percent of the farm acreage allotment.

4. To make minor technical changes in the provisions on county allotments and reserves.

Since this amendment only involves technical, corrective, and clarifying changes, it is hereby found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest. Accordingly, this amendment shall become effective on date of publication in the Federal Register.

The Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton, of Part 722, Subchapter B of Chapter VII, Title 7 (31 FR 6247, 13530, 32 FR 5416, 33 FR 8427, 16066, 16434, 34 FR 5808, 37 FR 9202, 11965, 24428, 38 FR 5880) is amended as follows:

1. The first sentence of § 722.506 is revised to read as follows:

§ 722.506 Apportionment of national allotment among States.

The national allotment proclaimed for the current year shall be apportioned among the States on the basis of the average acreage planted to ELS cotton in each such State for the State base years, with adjustments in such acreage for failure to seed ELS cotton because of abnormal weather conditions. * * *

2. Paragraph (a) of § 722.507 is revised to read as follows:

§ 722.507 Annual allocations.

(a) The regulations in §§ 722.501 to 722.550 will be supplemented to establish for each year for which farm acreage allotments and farm marketing quotas are proclaimed the following:

(1) State allotment which is the State's share of the national allotment,

(2) County allotment.

(3) Allocations of State reserve.

3. Section 722.508 is amended by revising paragraph (a) and paragraphs (b) (4) and (5) to read as follows:

§ 722.508 State reserve.

(a) *Establishment of State reserve.* The total reserve for all uses established by the State committee shall not exceed one percent of the State allotment available for distribution to counties in the State. The allotment available for distribution to counties shall be the State's share of the national allotment less the allotment in the State productivity pool attributable to history acreage pooled as a result of productivity adjustments under § 722.529(b). The State committee shall divide the State reserve among the categories listed in this paragraph.

(1) Adjusting computed county allotments for trends in acreage,

(2) Adjusting computed county allotments for abnormal conditions affecting plantings,

V 41 168
AUG 27 76
UMI

rules and regulations

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Special Assistant to the Deputy Director, National Park Service, is expected under Schedule C.

Effective on August 27, 1976, § 213.3312 (h) (7) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * * * *

(h) *National Park Service.* * * *

(7) One Special Assistant to the Deputy Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–25226 Filed 8–26–76;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Miscellaneous Amendments

Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended to revoke delegations of authority from the Secretary of Agriculture to the Assistant Secretary for Marketing and Consumer Services pertaining to the Commodity Exchange Authority which was transferred to the Commodity Futures Trading Commission by authority of Pub. L. 93–463.

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Director of Agricultural Economics

1. Section 2.17 is amended by revoking and reserving paragraphs (c) and (g) as follows:

§ 2.17 Delegations of Authority to the Assistant Secretary for Marketing and Consumer Services.

* * * * *

(c) [Reserved]

* * * * *

(g) [Reserved]

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Consumer Services

2. Section 2.52 is amended by revoking and reserving the entire section as follows:

§ 2.52 [Reserved]

Effective date: These amendments shall become effective August 27, 1976.

For Subpart C:

August 24, 1976.

JOHN A. KNEBEL,
Acting Secretary of Agriculture.

For Subpart F:

August 19, 1976.

RICHARD L. FELTNER,
Assistant Secretary for Marketing & Consumer Services.

[FR Doc.76–25251 Filed 8–26–76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 11]

PART 722—COTTON

Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton

MISCELLANEOUS AMENDMENTS

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of this amendment are as follows:

1. To provide that the total State reserve for all purposes established by the State committee shall not exceed one percent of the State allotment available for distribution to counties in the State.

2. To delete Lake County, Florida and Puerto Rico from the list of ELS cotton counties since these counties no longer receive ELS cotton allotments.

3. To provide that any new ELS cotton acreage allotment established for the farm shall be automatically reduced to the sum of the ELS cotton planted acreage and the ELS cotton prevented planted acreage when the sum of such acreage is less than 75 percent of the farm acreage allotment.

4. To make minor technical changes in the provisions on county allotments and reserves.

Since this amendment only involves technical, corrective, and clarifying changes, it is hereby found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest. Accordingly, this amendment shall become effective on date of publication in the Federal Register.

The Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton, of Part 722, Subchapter B of Chapter VII, Title 7 (31 FR 6247, 13530, 32 FR 5416, 33 FR 8427, 16066, 16434, 34 FR 5808, 37 FR 9202, 11965, 24428, 38 FR 5880) is amended as follows:

1. The first sentence of § 722.506 is revised to read as follows:

§ 722.506 Apportionment of national allotment among States.

The national allotment proclaimed for the current year shall be apportioned among the States on the basis of the average acreage planted to ELS cotton in each such State for the State base years, with adjustments in such acreage for failure to seed ELS cotton because of abnormal weather conditions. * * *

2. Paragraph (a) of § 722.507 is revised to read as follows:

§ 722.507 Annual allocations.

(a) The regulations in §§ 722.501 to 722.550 will be supplemented to establish for each year for which farm acreage allotments and farm marketing quotas are proclaimed the following:

(1) State allotment which is the State's share of the national allotment,

(2) County allotment.

(3) Allocations of State reserve.

3. Section 722.508 is amended by revising paragraph (a) and paragraphs (b) (4) and (5) to read as follows:

§ 722.508 State reserve.

(a) *Establishment of State reserve.* The total reserve for all uses established by the State committee shall not exceed one percent of the State allotment available for distribution to counties in the State. The allotment available for distribution to counties shall be the State's share of the national allotment less the allotment in the State productivity pool attributable to history acreage pooled as a result of productivity adjustments under § 722.529(b). The State committee shall divide the State reserve among the categories listed in this paragraph.

(1) Adjusting computed county allotments for trends in acreage,

(2) Adjusting computed county allotments for abnormal conditions affecting plantings,

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(3) Adjusting allotments determined for small farms,

(4) Adjusting farm allotments to correct inequities and to prevent hardships,

(5) Establishing allotments for new ELS cotton farms.

(b) Use of State reserve. • • •

• • • • •

(4) State reserve to correct inequities in farm allotments and to prevent hardships shall be used by the county committee to adjust farm allotments to correct inequities and to prevent hardships. Allocation of such reserve acreage shall be made on the basis of facts determined for each farm and shall not be apportioned among farms on the basis of a formula.

(5) State reserve for new ELS cotton farms shall be used by the county committee to establish farm allotments for new ELS cotton farms. Such State reserve may also include reserve acreage to assist county committees in correcting allotments, in establishing allotments for missed farms and in making late adjustments to correct inequities and to prevented hardship.

4. Paragraph (b) of § 722.509 is amended by deleting from the list of designated counties, Lake County, Florida and Puerto Rico.

5. Section 722.509 is amended by adding a new sentence at the end of the last sentence in paragraph (d) to read as follows:

§ 722.509 Apportionment of State allotment among counties and establishment of county reserve.

• • • • •

(b) [Amended]

• • • • •

(d) *County reserve.* • • • The amount of county reserve held in each county is available for inspection at the local ASCS office.

• • • • •

6. Section 722.511 is amended by adding a new sentence at the end of the last sentence in paragraph (h) (4) to read as follows:

§ 722.511 Establishment of farm allotments.

• • • • •

(h) *Use of county reserve.* • • •

• • • • •

(4) *Acreage allotments for missed farms and correction of errors.* • • • The county committee shall not correct the allotment for a farm if reserve acreage is not available as authorized by the State committee.

• • • • •

7. Paragraph (e) of § 722.512 is revised to read as follows:

§ 722.512 Allotments for new ELS cotton farms.

• • • • •

(e) *Reduction of new ELS cotton farm allotments for underplanting.* Any new ELS cotton acreage allotment established for the farm shall be automatically reduced to the sum of the ELS cotton planted acreage and the ELS cotton prevented planted acreage when the sum of such acreage is less than 75 percent of the farm acreage allotment.

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended (7 U.S.C. 1344, 1347, 1375).)

Effective date. This amendment becomes effective August 27, 1976.

Signed at Washington, D.C., on August 18, 1976.

E. J. PERSON,
Acting Administrator.

[FR Doc.76-24934 Filed 8-26-76;8:45 am]

[Amdt. 7]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1972 and Subsequent Crops of Peanuts

MISCELLANEOUS CHANGES

This amendment of the allotment and marketing quota regulations for peanuts of the 1972 and subsequent crops is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purposes of this amendment are (1) to include failed acreage and acreage prevented from being planted because of a natural disaster in the final peanut acreage for the farm, (2) to provide that a new farm allotment be reduced to the sum of the planted acreage and the prevented planted acreage when the sum of such acreage is less than 75 percent of the allotment and (3) to implement the provisions of Pub. L. 94-247 (approved March 25, 1976) which permits transfer of peanut acreage allotments because of a natural disaster.

Since farmers need to know these provisions of the program for the 1976 crop as soon as possible, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

The regulations for determination of acreage allotments and marketing quotas for 1972 and subsequent crops of peanuts (37 FR 2645, 3629, 23414, 39 FR 10883, 36564, 40578, 41 FR 1885; 7 CFR Part 729) are amended as follows:

1. The table of contents is revised by adding a new § 729.70 to read as follows:

Sec.
729.70 Transfer of farm peanut acreage allotment for farms affected by a natural disaster.

2. Paragraph (b) of § 729.11 is revised to read as follows:

§ 729.11 Determination of farm peanut history acreage.

• • • • •

(b) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as peanut history acreage for the current year if in the current year or either of the two preceding years, as much as 75 percent of the farm allotment, after reduction for violation, release of acreage but before reapportionment or increase for type in short supply, was devoted to the sum of:

(1) the final peanut acreage (including acreage which fails or is prevented from being planted due to a natural disaster) as determined under Part 718 of this chapter, (2) the acreage transferred from the farm by lease or temporarily transferred by owner (except increase for type), (3) the acreage regarded as planted to peanuts under the conservation programs and practices according to Part 719 of this chapter, and (4) the acreage allotment in the eminent domain allotment pool according to Part 719 of this chapter.

• • • • •

3. Section 729.17 is revised to read as follows:

§ 729.17 Reduction and cancellation of new farm allotments.

The allotment determined under this subpart for a new farm shall be reduced to the peanut acreage planted and the acreage prevented from being planted to peanuts due to a natural disaster on the farm when it is found that the sum of the planted and prevented planted acreage is less than 75 percent of the allotment. Any farm allotment established and any history acreage credit shall be void as of the date the new farm allotment was issued if the State committee determines that the applicant knowingly furnished false, incomplete or inaccurate information to obtain the allotment. Any new farm allotment established, where incomplete or inaccurate information was unknowingly furnished by the applicant and so determined by the county committee shall be void for the next crop year. However, the cancellation shall not be applicable to the current year or to prior years.

4. A new section is added following § 729.69 to read as follows:

§ 729.70 Transfer of peanut farm acreage allotment for farms affected by a natural disaster.

(a) *Designation of counties affected by a natural disaster.* The State committee shall determine those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any of the peanut acreage allotment for any farm in the county. The county committee of each county affected by the determination shall publicize the determination.

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of peanut acreage within the farm peanut allotment for such year to another farm in the same county or in an adjoining county in the same or adjoining State if such acreage cannot be timely planted or replanted because of the natural disaster. The application shall be filed with the county committee for the county in which the farm affected by such disaster is located. If the application involves a transfer to an adjoining county, the county committee for the adjoining county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the farm allotment established under this part less such acreage planted to peanuts and not destroyed by the natural disaster.

(d) *County committee approval.* The county committee shall approve the transfer of such peanut acreage if it finds that:

(1) Such acreage on the transferring farm could not be timely planted or replanted because of the natural disaster; and

(2) One or more of the producers of peanuts on the transferring farm will be a bona fide producer engaged in the production of peanuts on the receiving farm and will share in the proceeds of the peanuts.

(e) *Cancellation of transfers.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, State committee, or the Deputy Administrator may cancel such transfer. Action by the county committee to cancel a transfer shall be subject to the approval of the State committee or its representative.

(f) *Acreage history credits and eligibility as an old peanut farm.* Any acreage transferred under this paragraph shall be considered for the purpose of determining future allotments to have been planted to peanuts on the farm from which such allotment is transferred.

(g) *Closing dates.* The closing date for filing applications for transfers with the county committee shall be July 15 of the current year. Notwithstanding such closing date requirement, the county committee may accept applications filed after the closing date upon a determination by the county committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State committee approves such determination.

(Secs. 358, 358a, 359, 375, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended (7 U.S.C. 1358, 1358a, 1359, 1375).)

Effective date: August 27, 1976.

Signed at Washington, D.C., on August 18, 1976.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-24935 Filed 8-26-76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 54]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Aug. 29-Sept. 4, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.354 Lemon Regulation 54.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues easier this week on all sizes and grades. Average f.o.b. price was $6.34 per carton the week ended August 21, 1976 compared to $6.51 per carton the previous week. Track and rolling supplies at 150 cars were up 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 24, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 29, 1976, through September 4, 1976, is hereby fixed at 205,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 25, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-25421 Filed 8-26-76;11:58 am]

[Docket No. AO-283-A2]

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment

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thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 958, as amended (7 CFR Part 958), regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of onions grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions grown in the production area; and

(5) All handling of onions grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective not later than September 1, 1976. Any delay beyond that date would tend to disrupt the orderly marketing of onions grown in certain designated counties in Idaho and Malheur County, Oregon, because: (1) Shipments of production area onions began on July 25, 1976, and the amendment should be made effective on the date specified herein so that producers may avail themselves of any benefits that may be derivable from the amendment during the greatest possible portion of the current marketing season; (2) the provisions of this order are known to handlers and other interested persons by reason of the public hearing, the recommended decision, and the final decision thereon; (3) the producer referendum was held July 30 through August 9, 1976, when a summary of the amendment was mailed to each known producer; (4) the changes effected by this amendment will not require advance preparation by handlers; and (5) no useful purpose will be served by postponing the effective date beyond that specified herein.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective September 1, 1976, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (Secs. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping onions covered by the said order, as amended, and as hereby further amended) who, during the period July 1, 1975, through June 30, 1976, handled not less than 50 percent of the volume of such onions covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period July 1, 1975, through June 30, 1976 (which has been deemed to be a representative period), have been engaged within the production area in the production of onions for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of onions shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Section 958.5 is revised to read as follows:

§ 958.5 Onions.

"Onions" means all varieties of *Allium cepa,* commonly known as onions, grown, or which may be grown in the production area.

2. Paragraphs (e) and (h) of § 958.25 are revised to read as follows:

§ 958.25 Duties.

• • • • • •

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping and marketing conditions with respect to onions and to engage in such research and service activity which relate to the production, handling or marketing of onions as may be approved by the Secretary.

• • • • • •

(h) Prior to each fiscal period, to submit to the Secretary a budget of its proposed expenses for such fiscal period, together with a report thereon;

• • • • • •

3. Section 958.26 is revised to read as follows:

§ 958.26 Expenses.

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part. However, at its discretion the committee may request the attendance of alternates at any or all meetings notwithstanding the expected or actual presence of the respective members.

4. The first sentence of § 958.41 is revised to read as follows:

§ 958.41 Budget.

Prior to each fiscal period, and as may be necessary thereafter the committee shall prepare a budget of estimated income and expenditures necessary for the administration of this part.

• • • • • •

5. A new § 958.46 is added to read as follows:

§ 958.46 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 958.47. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

6. Section 958.47 is revised to read as follows:

§ 958.47 Research and development.

(a) The committee with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of onions. Any such project for the promotion and advertising of onions may utilize an identifying mark which shall be made available for use by all handlers in accordance with such terms and conditions as the committee, with the approval of the Secretary, may prescribe. The expenses of such projects shall be paid from funds collected pursuant to § 958.42 or § 958.46.

(b) In recommending projects pursuant to this section the committee shall give consideration to the following:

(1) The expected supply of onions in relation to market requirements;

(2) The supply situation among competing areas and commodities;

(3) The anticipated benefits from such projects in relation to their costs;

(4) The need for marketing research with respect to any market development activity; and

(5) The need for a coordinated effort with USDA's Food Marketing Alert or other similar programs.

(c) If the committee should conclude that a program of research or development should be undertaken, or continued, in any crop year, it shall submit the following for the approval of the Secretary:

(1) Its recommendations as to the funds to be obtained pursuant to § 958.42 or § 958.46;

(2) Its recommendation as to any research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

(d) Upon conclusion of each activity, but at least annually, the committee shall summarize and report the results of such activity to its members and to the Secretary.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Effective date: September 1, 1976.

Signed at Washington, D.C., on: August 24, 1976.

JOHN DAMGARD,
Deputy Assistant Secretary.

[FR Doc.76-25252 Filed 8-26-76;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 1]

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Increase In Expenses

Notice was published in the August 4, 1976, issue of the FEDERAL REGISTER (41 FR 32606) regarding a proposed increase in expenses of $260,000 recommended by the National Potato Promotion Board for its fiscal period ending June 30, 1977. The Potato Board was established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207) issued under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

The notice afforded interested persons an opportunity to file written comments not later than August 20, 1976. None was filed.

On May 25, 1976, the Secretary approved Potato Board expenses of $2,109,000 for the fiscal period ending June 30, 1977 (41 FR 22072).

On July 23, 1976, the Administrative Committee voted to budget an additional $260,000 for a potato value advertising campaign to market the expected plentiful supplies of fall crop potatoes, by informing consumers that potatoes are a bargain as an economical source of nutrients.

The proposed increase would result in a Potato Board budget of $2,369,000 for the fiscal period ending June 30, 1977.

After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the increase in expenses will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) funds will need to be expended for this project shortly; (2) the increase was recommended by the National Potato Promotion Board on July 23, 1976; and (3) notice regarding this increase in expenses was published in the FEDERAL REGISTER on August 4, 1976.

The amendment is as follows:

Revise § 1207.405 (41 FR 22072) as follows:

§ 1207.405 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1977, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,369,000.

• • • • • •

(Title III of Pub. L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627)

Dated: August 23, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-25153 Filed 8-26-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION) DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 303—EXEMPTIONS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Edible Livestock Fat Rendering or Refining by Retail Stores; Clarification of Calendar Year

• Purpose: The purpose of this document is to clarify the term "year" as used in the retail store exemption regulations under the Federal Meat Inspection Act and the Poultry Products Inspection Act and to exempt rendering or refining of livestock fat by retail stores from inspection requirements of the Federal Meat Inspection Act. •

Statement of Considerations. On January 30, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 4438) regarding these matters. It was proposed to amend the Federal meat inspection regulations and the poultry products inspection regulations to define the term "year," with respect to limitations of the retail exemptions, as a calendar year from January 1 through December 31. It was also proposed to amend the Federal meat inspection regulations by adding the operations of rendering or refining livestock fat to the list of those of a type traditionally and usually conducted by retail stores. Without such listing, stores conducting rendering or refining of livestock fat would require Federal inspection if operating in intrastate commerce in States or Territories which are designated by the Secretary under the Federal Meat Inspection Act as not having developed or not effectively enforcing requirements at least equal to those imposed under the Act.

Interested persons were given 60 days in which to submit data, views, or arguments concerning the proposed amendment. Sixty-nine comments were received on this proposal.

The Department received statements on, but no specific opposition to, the portion of the proposal relating to the clarification of the term "year."

The rendering proposal was controversial. Favorable comments were received from a retailer, locker plants, butcher shops, associations of meat processors, and State meat inspection programs. These comments stated that: The change is in keeping with the Act because rendering is a traditional and usual part of retail meat processing operations; that the fat is now wasted because it cannot be rendered legally for edible purposes; that the fats used are from inspected meat and are heated so there is no health hazard; and that absence of the proposed regulation has forced some operators to discontinue rendering and still others to place themselves under needless and costly inspection.

Opposition comments were received from renderers' associations, renderers, private citizens, and State meat inspection programs. The opposing comments stated that: (1) This proposal would result is unfair competition for inspected renderers, the rendering of unwholesome fat, and the undermining of inspection; (2) it is contrary to the Act since rendering is not traditional for retail stores and it would allow locker plants to render; (3) there would be control problems since stores having both custom and retail operations could render; and (4) it would result in the loss of rendering residues now used for animal feed.

Although some opponents of this amendment have criticized its adoption on the basis that consumer protection will be lessened, it is the judgment of the Department that this will not occur. Rendering of fats by retail stores generally would involve only a few pieces of relatively simple equipment. It is a much less complex procedure than curing, smoking, and sausage manufacturing which are currently conducted by retail stores under exemption. Commingling of product is a potential problem when custom

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and retail operations are conducted on the same premises. However, the Act permits such arrangements under specified conditions, and workable measures to insure product separation and compliance with other prescribed requirements have been developed for retail stores having custom operations. It appears that these safeguards would work as well for such stores which also render or refine fats. The Department believes that consumers will have the same opportunity to judge the acceptability of the rendering operation as with other areas in which meat is prepared for their use in retail stores.

In regard to opposition comments that retail rendering would offer unfair competition to inspected renderers, it is the Department's position such would not be the case. The amount of raw fat derived from retail operations is limited and the market for the rendered fat also would be limited since it could be sold directly to household consumers only. Any retailer who renders fat from an uninspected carcass or part thereof for sale would not be exempted from inspection, and such operation without inspection would constitute a violation of the Federal Meat Inspection Act and the regulations issued thereunder and subject the retailer to possible prosecution. The enforcement of this exemption will be accomplished in the same manner as is done now by reviews of premises and examination of records.

Given the small volume of operations at retail stores, any residues from rendering that could be used for animal feed are insignificant. Therefore, the use of rendered fat from such retail operations for sale to household consumers should not have any significant effect on the supply of materials for animal feed. There is no requirement, moreover, that residues which are not capable of use as human food, be withheld from animal feed purposes.

In the final analysis, the question hinges on whether or not the subject operations are traditional and usual to retail stores. The Department finds that there are a significant number of retail store operators who had rendered edible fat for sale to their customers and who wish to resume this practice. The operation would be consistent with, and a useful and a reasonable adjunct to, other food preparation activities at retail stores. Therefore, the Department has determined, from all the information available, that rendering or refining of livestock fat is a traditional and usual retail practice, and, therefore, should be included in the list of operations exempt from inspection under section 301 (c) (2) of the Federal Meat Inspection Act.

Accordingly, the Department has concluded to adopt the amendments as proposed. Therefore, sections 303.1(d) (2) and 381.10(d) (2) are amended as proposed.

1. Section 303.1(d) (2) (i) (c) is amended to read as follows:

§ 303.1 Exemptions.

* * * * *

(d) * * *

(2) * * *

(i) Operations of types traditionally and usually conducted at retail stores and restaurants are the following: * * *

(c) Curing, cooking, smoking, rendering or refining of livestock fat, or other preparation of products, except slaughtering or the retort processing of canned products;

* * * * *

2. Section 303.1(d) (2) (iii) is amended by inserting "calendar" immediately before the word "year" and by inserting "(i.e., January 1 through December 31)" immediately after the word "year."

§ 381.10 [Amended]

3. Section 381.10(d) (2) (iii) is amended by inserting "calendar" immediately before the word "year" and by inserting "(i.e., January 1 through December 31)" immediately after the word "year."

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; Sec. 14, 71 Stat. 441, as amended, 21 U.S.C. 463; 37 FR 28464, 28477)

It does not appear that further public rulemaking procedure on these amendments would make additional relevant information available to the Department which would alter the decision. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found that further rulemaking procedures are impractical and unnecessary.

These amendments shall become effective September 27, 1976.

Done at Washington, D.C., on: August 24, 1976.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Services.

[FR Doc.76-25253 Filed 8-26-76;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Customer-Bank Communication Terminals Ruling Rescinded

On October 21, 1975 (40 FR 49077), the Comptroller of the Currency published notice that Interpretive Ruling 7.7491, on customer-bank communication terminals, had been suspended pending appellate proceedings in the case of "IBAA, et al. v. Smith," 402 F. Supp. 207 (D. D.C. 1975). Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the decision of the district court (D.C. Cir. No. 75-1785, March 23, 1976).

On behalf of the Comptroller, the Solicitor General's Office will file a petition for *certiorari* in the U.S. Supreme Court seeking reversal of the Court of Appeals decision in "IBAA v. Smith." A petition for *certiorari* has also been filed in the related case of "State of Illinois v. Continental Illinois National Bank," 7th Cir. Nos. 76-1084, 1085, 1086 (May 27, 1976), by the banks involved.

On July 29, 1976, the district court in "IBAA v. Smith," issued an order requiring that Interpretive Ruling 7.7491 be formally rescinded. Accordingly, 12 CFR 7.7491 is hereby rescinded.

Dated: August 23, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-25141 Filed 8-26-76;8:45 am]

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Secretary of the Board; Correction

In FR Doc. 76-19067 appearing at page 27026 in the issue of Thursday, July 1, 1976, the paragraph to be added is § 265.2 (a) (16). The document should be corrected as follows:

The number (15) appearing at lines 13 and 21 of the text should be changed to (16).

Board of Governors of the Federal Reserve System, August 20, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25219 Filed 8-26-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8851]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Crown Central Petroleum Corp.

NOTE: Codification under 16 CFR Part 13 appears at 40 FR 12775.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

In the Matter of Crown Central Petroleum Corporation, a Corporation.

Order modifying an earlier order dated Nov. 26, 1974, 40 FR 12775, 84 F.T.C. 1493, by entering the modifying words "performance" before the words "quality" and "characteristic" in order provision 7(d) of the order.

The modifying order, including further order requiring report of compliance therewith, is as follows: [1]

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondent having filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, and that Court having issued, on March 4, 1976, its order affirming the Commission's order to cease and desist entered November 26, 1974, with the insertion of modifying words in one provision thereof:

It is ordered, That the Commission's order issued in this matter on November 26, 1974, be modified in accordance with the decision and judgment of the Court so as to read in full as follows:

It is ordered, That respondent Crown Central Petroleum Corporation, a corporation, its successors and assigns, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution of Crown gasolines, or the additive CA-101, or any other product in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that any such product:

(a) Will produce or result in motor vehicle exhaust which is pollution free or generally pollution free; or

(b) Will eliminate or reduce air pollution caused by motor vehicles; or

(c) Will eliminate or reduce emissions from all or any number or group of motor vehicles in which it is used; or that:

(d) Any gasoline or gasoline additive product has any other performance quality, performance ability or performance characteristic; or

(e) Tests, demonstrations, research or experiments have been conducted which prove or substantiate any of said representations;

Unless and only to the extent that each and every such representation is true and has been fully and completely substantiated by competent scientific tests. The results of said tests, the original data collected in the course thereof and a detailed description of how said tests were performed shall be kept available in written form for at least three years following the final use of the representation.

2. Representing directly or by implication that any such product has any effectiveness in reducing air pollution or an air pollutant or air pollutants without at the same time, in the same advertisement or other form of communication, conspicuously disclosing that not all of the harmful pollutants in automotive exhaust are affected by said product.

3. Representing directly or by implication that any product will reduce any emissions of pollutants from automobile exhaust by any percentage or numerical quantity unless in connection therewith there is a clear, accurate and conspicuous disclosure of the type of vehicle which can expect to achieve reductions of such magnitude and the approximate percentage of such vehicles in the general car population.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which affects compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service of the order upon it, file with the Commission a written report, signed by the respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

The Order Modifying Order to Cease and Desist was issued by the Commission August 3, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-25205 Filed 8-26-76;8:45 am]

[1] Copies of the Modifying Order filed with the original document.

[Docket No. C-2638]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Weaver Airline Personnel School, Inc. and General Education Services Corp.

NOTE: Codification under 16 CFR Part 13 appears at 40 FR 15872.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Weaver Airline Personnel School, Inc., and General Educational Services Corporation.

Order modifying an earlier order dated February 13, 1975, 40 FR 15872, 85 F.T.C. 237, adds to Paragraph 12(2)(c) of the Order the provision that if money required to be deposited in the Escrow Funds cannot be distributed, respondent must make direct pro rata payments to eligible students within 60 days.

The modifying order, including further order requiring report of compliance therewith, is as follows: [1]

ORDER MODIFYING ORDER TO CEASE AND DESIST AND ORDER DISCONTINUING STAY

On May 18, 1976, the Commission issued an order to show cause why the Commission's Order To Cease and Desist, issued February 13, 1975, in this proceeding, should not be altered and modified by language specified in the order. The modification was proposed to make clear that respondent General Educational Services Corporation's obligation to pay restitution would not be affected by the removal of monies from the escrow account which will be funded by certain students of respondent Weaver Airline Personnel School, Inc. Respondents, in their answer to the Order To Show Cause, indicate that they and Commission's staff have negotiated a modification that differs from the modification proposed in the Order To Show Cause by providing that respondent General Educational Services Corporation "shall make direct pro rata payments to" eligible Weaver students "if any of the sums required to be deposited into the Escrow Funds have been removed or cannot be distributed." The modification proposed in the Order To Show Cause was not so specific: *Providing*, That General Educational Services Corporation "shall assure * * * that the total sums required be deposited into the Escrow Fund for restitution are paid." We agree that the modification recommended by respondents is preferable, and we will order that the Commission's Order To Cease and Desist be modified by the language recommended in respondents' answer to the Order To Show Cause.

Accordingly, it is ordered, That the following language be added to Paragraph 12(2)(c) of the Order:

Provided, however, That if, other than with the express written consent of the Federal Trade Commission, any of the sums required to be deposited in the Escrow Funds have been removed or cannot be distributed, then within sixty (60) days after the final date established for submission of student requests for restitution under this Paragraph, respondent General Educational Services Corporation shall make direct pro rata payments to the eligible Weaver students described in this Paragraph in the same amounts that each such eligible student would have received had such payments been made from the Escrow Funds, but the total amount so paid shall not exceed the total amount required to be deposited in the Escrow Funds.

The Commission further ordered on May 18, 1976, the reopening of this proceeding so as to stay and suspend enforcement of compliance with the notification provision of Paragraph 12 of the order of February 13, 1975. Because the obligation of General Educational Services Corporation has now been clarified, the stay and suspension of compliance is no longer necessary and compliance will be required.

Accordingly, it is ordered, That the stay and suspension of compliance with Paragraph 12 of the order of February 13, 1975 be, and it hereby is, discontinued.

The Order Modifying Order to Cease and Desist and Order Discontinuing Stay was issued by the Commission August 3, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-25206 Filed 8-26-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12718]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Reports of Municipal Securities Rulemaking Board

In Securities Exchange Act Release No. 11878 (November 26, 1975) [1] the

[1] 40 FR 50084 (1975).

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Commission proposed to amend Title 17 of the Code of Federal Regulations by adding a new § 240.17a–21 to require the Municipal Securities Rulemaking Board ("MSRB") to file with the Commission annual and supplemental reports concerning the activities of the MSRB. The Commission has adopted § 240.17a–21 with certain technical amendments designed to facilitate compliance by the MSRB.

Persons other than the MSRB who filed comments expressed concern that the information required to be filed in annual reports be made publicly available, particularly to persons who are required by MSRB rules to pay fees or other charges to defray the costs and expenses of its operation. The Commission expects that such persons will be adequately informed by the MSRB concerning its activities. In any event, reports filed by the MSRB pursuant to § 240.17a–21 will be publicly available documents and the list of such documents at 17 CFR 200.80a will be amended to reflect that fact.

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934 ("the Act") 15 U.S.C. 78a et seq., as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94–29 (June 4, 1975), and particularly sections 2, 17, and 23 thereof (15 U.S.C. 78b, 78q, and 78w), hereby adopts § 240.17a–21 of Title 17 of the Code of Federal Regulations effective September 20, 1976. The Commission finds that any burdens on competition which may be imposed by the aforementioned section are appropriate in furtherance of the purposes of the Act which contemplated that the Commission will require reports from MSRB.

(Secs. 2, 17, 23, 48 Stat. 881, 897, 901, as amended by secs. 2, 14, 18, 89 Stat. 97, 137–141, 155–156 (15 U.S.C. 78b, 78q, and 78w, as amended by Pub. L. No. 94–29))

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 19, 1976.

Section 240.17a–21 is added as follows:

§ 240.17a–21 Reports of the Municipal Securities Rulemaking Board.

(a) *Annual Report of the Municipal Securities Rulemaking Board.* The Municipal Securities Rulemaking Board shall file annual reports with the Commission as follows:

(1) Prior to October 1 of 1976, the Municipal Securities Rulemaking Board shall file with the Commission an annual report for the period from its formation until June 30, 1976 and shall include whatever information, data and recommendations it considers advisable with regard to matters within its jurisdiction.

(2) Prior to December 1 of 1977, the Municipal Securities Rulemaking Board shall file with the Commission an annual report for the period from July 1, 1976 until September 30, 1977 and shall include whatever information, data and recommendations it considers advisable with regard to matters within its jurisdiction.

(3) Prior to December 1 of each year beginning in 1978, the Municipal Securities Rulemaking Board shall file with the Commission an annual report for the twelve months immediately preceding October 1 of that year and shall include whatever information, data and recommendations it considers advisable with regard to matters within its jurisdiction.

(4) The Municipal Securities Rulemaking Board shall include in its annual report a statement and an analysis of its expenses and operations including:

(i) A balance sheet as of the end of the period covered by the report and a statement of revenues and expenses for the Board for that period.

(ii) The rules of the Board (including a statement indicating all additions to or deletions from the rules of the Board during the period covered by the report);

(iii) Written interpretations of the rules of the Board, including staff interpretative letters;

(iv) All forms required by rule of the Board to be filed by municipal securities brokers or municipal securities dealers or any class thereof;

(v) The following information concerning members of the Board: (A) Name, (B) dates of commencement and termination of present term of office, (C) length of time each member has held such office, (D) name of principal organization with which connected, (E) title, (F) city wherein the principal office of such organization is located;

(vi) Address of the Board, the name and address of each person authorized to receive notices on behalf of the Board from the Commission, and the name and address of counsel to the Board, if any;

(vii) A list, including addresses, as of the latest practicable date, alphabetically arranged, of all municipal securities brokers and municipal securities dealers which have paid to the Board fees and charges to defray the costs and expenses of operating the Board;

(5) Within 10 days after the discovery of any material inaccuracy in its annual report or in any amendment thereto the Municipal Securities Rulemaking Board shall file with the Commission an amendment correcting such inaccuracy.

(b) *Supplemental reports of the Municipal Securities Rulemaking Board.* The Municipal Securities Rulemaking Board shall file supplemental reports to the Commission as follows:

(1) Within 10 days after issuing or making generally available to municipal securities brokers and municipal securities dealers any materials (including notices, circulars, bulletins, lists, periodicals, etc.), the Muncipal Securities Rulemaking Board shall file with the Commission three copies of such material (unless such material is filed with the Commission pursuant to Rule 19b–4).

(2) Within 10 days after any action is taken which renders no longer accurate any of the information required by paragraphs (a)(3)(iii), (iv), (v), and (vi) of this section to be contained in the annual report of the Municipal Securities Rulemaking Board (except action reported to the Commission pursuant to Rule 19b–4), the Board shall file with the Commission written notification in triplicate setting forth the nature of such action and the effective date thereof. Such notice may be filed either in the form of a letter or in the form of a notice made generally available to municipal securities brokers and municipal securities dealers.

[FR Doc.76–25149 Filed 8–26–76;8:47 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 76N–0294]

PART 510—NEW ANIMAL DRUGS

PART 514—NEW ANIMAL DRUG APPLICATIONS

Maintenance of Copies of Approved Medicated Feed Applications

The Food and Drug Administration (FDA) is requiring that each facility that manufactures animal feeds bearing or containing new animal drugs maintain on its premises certain information regarding the conditions of approval for each such medicated feed; effective November 26, 1976.

The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of November 22, 1974 (39 FR 40959), new § 135.14d Maintenance of copies of approved applications for animal feed bearing or containing new animal drugs (now being designated § 510.305, to conform with recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)).

The proposal provided that each manufacturer having an approved Form FD–1800, which is the application for the manufacture of an animal feed bearing or containing a new animal drug, shall maintain on its premises either a copy of the approved form or appropriate identification of approval. In either case the labeling that accompanied the approved Form FD–1800 would have to be kept on the premises. The requirements would also be imposed for all supplemental applications. The proposal also included editorial changes in Part 135 (now Part 514) to reflect the designation of the form.

The current regulations permit an applicant to file a single Form FD–1800 if more than one of its facilities is manufacturing a medicated feed provided that applicant has demonstrated that each facility complies with the requirements established by section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) and the regulations promulgated thereunder, e.g., 21 CFR Part 225. In such cases, a copy of the approved medicated feed application is usually maintained at the home or central office of the applicant. Therefore, at a particular feed mill an inspection cannot readily determine that the medicated animal feeds are being produced in accordance with an approved Form FD–1800. The Commissioner concludes that adoption of the proposal is necessary to permit inspectors, either FDA employees or employees of state regulatory agencies authorized by the Commissioner under section 702(a) of the act to conduct feed mill inspections on the agency's behalf, to determine that each establishment is producing animal feeds bearing or containing new animal drugs in accordance with an approval granted by FDA.

Nineteen comments on the proposal were received; they came from the following sources: The North Carolina Department of Agriculture, the National Feed Ingredients Association, the American Feed Manufacturers Association, and sixteen feed manufacturers that are multimill operators. Twelve feed manufacturers endorsed the American Feed Manufacturers Association's comment, though several offered additional comments.

The trade associations and most of the multimill operators contended that requiring a copy of the approved Form FD–1800 and the labeling at each manufacturing facility is impractical and burdensome for multimill operators. They acknowledged that records of this type are valuable; and they indicated that an alternative means of maintaining them, e.g., as described in § 510.305(b) of the regulation, would be acceptable.

The Commissioner concludes that the records required by the regulation below are necessary to permit regulatory officials to determine efficiently whether feed mills and medicated animal feeds manufactured by these mills are in compliance with the act. Section 510.305(a) requires each petitioner under section 512(m) of the act merely to maintain a copy of the approved Form FD–1800 for each medicated animal feed that has been approved for manufacture at a mill at a single location in that manufacturing facility. Given the accessibility of copying equipment, e.g., xerographic or microfilm-reader equipment, the Commissioner rejects the suggestion that this requirement is impractical and burdensome. The additional requirement that samples of approved labeling for each medicated feed be kept in this record-keeping system also is practical and is necessary to permit efficient determination of compliance with those sections of the act that are primarily concerned with labeling.

Moreover, the Commissioner has provided an alternative method of supplying this information; the alternative method is described in paragraph (b) of the regulation and is discussed in comment 3 below. The alternative method permits the petitioner to develop a single file or document at each of its manufacturing facilities. This single file or document will include the primary information required by Form FD–1800 and a sample of the approved labeling; it will provide the necessary information needed by an inspector to facilitate a determination that the feed mill and medicated feeds manufactured at that mill are in compliance with the act. Single-mill operations must also comply with this regulation, which may be accomplished, inter alia, by maintaining the original of the approved Form FD–1800 and labeling in the record repository. For these reasons, the Commissioner concludes that this regulation, which is necessary for the efficient enforcement of the act, is practical, fair, and appropriate.

The remaining principal comments and the Commissioner's conclusions regarding them are as follows:

1. One firm questioned the Commissioner's statutory authority to promulgate this regulation.

Section 512(m)(5) of the act (21 U.S.C. 360b(m)(5)) provides explicit statutory authority for this regulation:

> In the case of any animal feed for which an approval of an application filed pursuant to this subsection is in effect—
>
> (A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4) of this subsection.
>
> (B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

The Supreme Court, has also upheld the Commissioner's authority to promulgate binding regulations for the efficient enforcement of the act pursuant to section 701(a) of the act (*Weinberger* v. *Hynson, Westcott and Dunning*, 412 U.S. 609 (1973)). The lower courts have consistently rejected subsequent challenges to this rulemaking authority. (See, e.g., *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F2d 688, 696–99 (2d Cir. 1975); *Cosmetic, Toiletry and Fragrance Ass'n, Inc.* v. *Schmidt*, Civil Action No. 75–1715 (D. D.C. Feb. 3, 1976); *American Frozen Food Institute* v. *Mathews*, Civil Action No. 74–354 (D. D.C. March 30, 1976); *National Confectioners Association* v. *Mathews*, Civil Action No. 75–1272 (D. D.C. April 14, 1976).) Moreover, the Supreme Court has long recognized the value of class regulation through rulemaking. (See, e.g., *Weinberger* v. *Hynson, Westcott and Dunning, supra* at 620–622; *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973); *Federal Power Commission* v. *Texaco*, 377 U.S. 33, 39–41 (1964); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 202–205 (1956).) In issuing this regulation, the Commissioner has particularized a statutory standard for efficient regulation of feed mills, an action that is amply supported by statutory authority.

2. One comment requested that the regulation apply only to those medicated animal feeds currently being produced at each facility and that records not be required to be maintained for more than 2 years.

The Commissioner rejects this suggestion. Comments revealed that firms hold approvals that may not be in current use, i.e., "they have been obtained for insurance against possible need or shelved in favor of other medicated feeds." The Commissioner therefore concludes that copies of all approved Forms FD–1800 must be retained at each facility to assure that all medicated feeds are manufactured in compliance with section 512(i) of the act and the other provisions of the act, as well as regulations that are designed to assure the integrity of the medicated animal feeds.

A facility that is no longer manufacturing a medicated animal feed for which it holds an approval may on its own initiative file a written request, described in § 514.115(d) (21 CFR 514.115(d)), that the Commisisoner withdraw its approved Form FD–1800 and thereby be relieved of the requirements of this regulation. But any facility retaining approvals must comply with this regulation to assure that all medicated animal feeds manufactured at any feed mill facility are safe, effective, and neither adulterated nor misbranded. For these reasons the Commissioner concludes that the regulation must apply to all medicated feed applications that are approved for each manufacturing facility.

3. Most comments concerned the alternate means by which identification of approved medicated feed applications could be accomplished. The information required by § 510.305(b) is discussed in the sequence it appeared in the proposal:

(a) The date and number of the approval; concentration of drug(s) contained in the premix(es); name(s) of the approved supplier(s) of the premix(es): Comments suggested that the requirement for the date and number of each Form FD–1800 approval, including supplemental approvals could be supplied by including this information on the production formula sheet or master list that is maintained at each facility. Several comments contended that the concentration of drug contained in a premix could be best maintained on a master list or similar sheet at the facility. Others suggested the name of the approved supplier of the premix could be maintained on the same list.

The Commissioner concludes that the alternative method of recordkeeping set forth in § 510.305(b) is appropriate, as modified in response to the comments. The function of this regulation is to provide regulatory officials with easily accessible, readable information about the manufacture of medicated animal feeds, i.e., to facilitate a determination whether the medicated feeds, the facility, the personnel, the manufacturing process, etc. are in compliance with the act. Information that assists such determination

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is prominent and easily available when copies of all approved Forms FD–1800 for a facility and the accompanying labeling are located in a single accessible location at that facility. When the necessary information is as readily accessible as a complete file of Form FD–1800 copies, the regulatory purpose is satisfied.

The Commissioner has concluded, however, that this function is accomplished only when the information specified in paragraph (b) of the regulation is consolidated not merely in a single accessible location on each premises, but also in a single, readable file or document. Inspectors are familiar with Form FD–1800, and smaller feed mills will be the most likely to elect § 510.305(a) as their recordkeeping system. In these smaller operations, the single location nevertheless still provides the inspector with rapid access to the necessary information. In the larger feed mill facilities, the information, though standardized, may be kept in a manner that is unique to the parent multimill company's recordkeeping system. To assure ease of access to the information, the Commissioner concludes the single file requirement is necessary.

Therefore, the Commissioner concludes that procedures suggested by the comments are acceptable (1) when all information required by § 510.305(b) is maintained in the same readable document and (2) when that document is maintained in a single accessible location at the facility where all other documents identifying approved Form FD–1800 are maintained.

Questions have been raised about the Commissioner's ability to assure the integrity of the records required by this regulation. The failure to establish or maintain these records or the refusal to permit access to them is a violation of section 301(e) of the Act. The Commissioner maintains that the risk of court enforcement action, including criminal prosecution, for violation of this provision will provide sufficient incentive to mill operators to assure the reliability of these records.

(b) Batch formulation with the concentration of the drug(s) in the finished medicated feed: Several comments requested that this provision be modified to be consistent with the information required by Form FD–1800. They stated that the medicated feed application requires the petitioner to list only the quantity of the drug premix ingredient rather than all ingredients in the feed.

The Commissioner agrees that this provision should be modified to be consistent with the information required by Form FD–1800. Because the medicated feed application does not require batch formulation, the provision requiring batch formulation has been deleted. The Commissioner notes, however, that the medicated feed application requires more information about feed ingredients than merely the quantity of the drug premix ingredient. Before it can be approved, Form FD–1800 must include a list of all feed ingredients, including the finished drug level in the finished feed formulation, and this list must appear either on the finished feed's bag label, or, if the finished feed is a bulk or a custom mix, on the invoice that must accompany the placard labeling for that feed as required by section 403(1) of the act and § 1.10 (21 CFR 1.10). For this reason and for the reasons discussed below, the Commissioner concludes that a sample of the approved labeling, which provides the listing of all feed ingredients, including collective names designated under § 1.16 (21 CFR 1.16) must be maintained as a part of the required information. Additionally, to standardize the requirements of § 510.305 (a) and (b), the Commissioner concludes that the name of the drug premix and the premix manufacturer must be maintained because this information is required in the medicated feed application. From a regulatory standpoint, this information, rather than information about the premix's supplier, is essential.

(c) A sample of the approved labeling: One comment suggested that the regulation be revised to refer to "current labeling" since, with the exception of reference to the drug ingredient listing and conditions of use, feed labels are subject to frequent modification. Another comment suggested the term "representative label" be adopted, while a third noted that the label in current use must obviously reflect that which has been approved.

The Commissioner rejects the suggested changes. Sections 512(b)(6) and 512(m)(1)(D) of the act are identical; Specimens of the labeling must be filed with the agency. These requirements have been further amplified by §§ 514.8 and 514.9 (21 CFR 514.8 and 514.9). All labeling for these articles is subject to agency review and approval, and the regulations clearly require the holder of an approval to file a supplemental application for any labeling changes, including additional distributors. The requirements were imposed to assure that all medicated animal feeds are labeled in accordance with the act and the approved safety and effectiveness claims for the new animal drug ingredient. The Commissioner maintains that these requirements remain necessary for effective medicated feed regulation, and he therefore concludes each manufacturing establishment must maintain in the medicated feed approval identification file a sample of all approved labeling.

4. Rather than require that each feed manufacturing facility maintain the information required by this regulation, comments suggested that the Commissioner revive a past practice and supply this information to the inspecting agents.

Approximately 13,000 feed mills are regulated by FDA. Because the agency's resources are limited, the Commissioner, in accordance with section 702(a) of the act, has authorized state feed control officials in many states to examine and investigate the facilities in their states. By this mechanism he can most economically multiply the agency's inspectional capability. Providing the information required by this regulation to inspection officials before an inspection accomplishes merely one element of the regulation's overall function, and the cost to the agency would be very high. By using the overall regulatory scheme, the officials can evaluate precisely what a feed mill is authorized to make, what labeling is approved, what quality control mechanisms have been established, and whether these mechanisms are in accord with current good manufacturing practices; and cost to the government is minimal. Should questions about an approval arise, the inspector can then discuss them with FDA along with other compliance questions. Moreover, the Commissioner could statutorily require each mill to submit a Form FD–1800 for each medicated feed that it manufactures, but he has rejected this because he is of the opinion that the safety, effectiveness, quality, and integrity of medicated animal feeds can be assured when the parent feed mill operator submits the required information that can be easily verified by inspecting each manufacturing facility. This regulation thus aids this inspection process.

When a Form FD–1800 is approved the Commissioner supplies a copy of the approval to the FDA district office having jurisdiction over a multiplant mill's home office. The individual mills are often located in jurisdictions other than that of the home office, and inspectors lack necessary access to the required information when it is not on the manufacturer's premises. Therefore, in lieu of requiring each mill to file a Form FD–1800, the Commissioner concludes that requiring the holder of an approved feed application to maintain the required information at each mill is necessary for the efficient enforcement of the act.

5. It has been suggested that feed mill inspection include an inspection of the general office (home office) of multiplant companies because the pertinent records concerning medicated feed applications are often maintained there.

An inspection of a multiplant mill's home office may fail to disclose whether a particular feed mill is producing medicated animal feeds in accordance with current good manufacturing practices and an approved Form FD–1800, which is essential to a proper feed mill inspection. Moreover, if the home office is in a different inspectional jurisdiction than the manufacturing mill, the inspector lacks the immediate accessibility to pertinent records that is also mandatory for a comprehensive inspection. Consequently, the Commissioner rejects the suggestion. For these same reasons he also rejects the suggestion that the inspecting official obtain this information by telephoning the general office.

6. Some comments requested a reasonable time to complete the clerical work needed for compliance with the regulation.

Comments indicated that many feed mills have recordkeeping systems that can be easily modified to comply with the

regulation. Nevertheless, to assure all affected parties notice and opportunity to comply with the regulation, the Commissioner concludes its effective date shall be November 26, 1976.

The Commissioner has carefully considered the environmental effects of the regulation, and because the action will not significantly affect the quality of the human environment, he has concluded that an environmental impact statement is not required. A copy of the FDA environmental impact assessment is on file with the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512(m), 701(a), 52 Stat. 1055, 82 Stat. 348–350 (21 U.S.C. 360b(m), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Parts 510 and 514 are amended as follows:

1. In Part 510, by adding new § 510.305 to Subpart D to read as follows:

§ 510.305 Maintenance of copies of approved applications for animal feed bearing or containing new animal drugs.

Each applicant shall maintain in a single accessible location on the premises of each establishment to which an approved medicated feed application (Form FD–1800) or supplemental application applies either:

(a) A copy of the approved medicated feed application (Form FD–1800) and a sample of the approved labeling; or

(b) Identification of the approved medicated feed application in a single file or in a single readable document that includes:

(1) The application number and date of its approval;

(2) The name(s) of the premix(es) and the concentration of the drug(s) contained in the premix(es);

(3) The name(s) of the approved manufacturer(s) of the premix(es);

(4) The concentration of the drug(s) in the finished medicated feed; and

(5) A sample of the approved labeling.

§ 514.2 [Amended]

2. In Part 514, by revising the reference "Form FD–1800 6–68" in the introductory text of § 514.2 to read, "Form FD–1800 (5/72)."

Effective date. This regulation becomes effective November 26, 1976.

(Sec. 512(m), 701(a) 52 Stat. 1055, 82 Stat. 348–350 (21 U.S.C. 360b(m), 371(a)).)

Dated: August 23, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-25140 Filed 8-26-76;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.728]

PART 64—PARTICIPATION BY FEDERAL EMPLOYEES IN CULTURAL EXCHANGE PROGRAMS OF FOREIGN GOVERNMENTS

On pages 29410 and 29411 of the FEDERAL REGISTER of July 16, 1976, the Department published a proposed new Part 64 to Chapter I of Title 22 of the Code of Federal Regulations to promulgate regulations to facilitate the participation by Federal employees in cultural exchange programs of foreign governments. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No objections were received; therefore, the proposed regulations are hereby adopted without change as set forth below.

Effective date. These regulations are effective August 17, 1976.

Dated: August 19, 1976.

For the Secretary of State.

JOHN RICHARDSON, JR.,
Assistant Secretary for Educational and Cultural Affairs.

Sec.
64.1 Purpose.
64.2 Definitions.
64.3 Submission of application.
64.4 Criteria for approval of program.
64.5 Contents of application.
64.6 Request for further information.
64.7 Approval of application.
64.8 Obligation of employee to advise agency.
64.9 Termination of approval.
64.10 Grant not to constitute a gift.

AUTHORITY: Sec. 108A (Pub. L. 94–350, 90 Stat. 823) added to the Mutual Educational and Cultural Exchange Act, as amended, 75 Stat. 527–538, 22 U.S.C. 2451, et seq.; and under Executive Order 11034, as amended, and State Department Delegation of Authority No. 105, as amended.

§ 64.1 Purpose.

This part sets forth the procedures for the application for approval of a cultural exchange program of a foreign government, so that Federal employees may participate in such program; the grant and termination of such approval; and related procedures.

§ 64.2 Definitions.

For the purpose of this part:

(a) "Federal employee" means: (1) An employee as defined by section 2105 of Title 5, United States Code; (2) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the District of Columbia; (3) a member of a uniformed service; (4) the President and Vice President; and (5) a member of the Senate or the House of Representatives, a Delegate from the District of Columbia in Congress, and the Resident Commissioner from Puerto Rico in Congress.

(b) A "foreign government" means a foreign government and an official agent or representative thereof; a group of governments and an official agent or representative thereof; an international organization composed of governments, and an official agent or representative thereof.

(c) A program of the "type described in section 102(a)(2)(i) of the Act" means a cultural exchange program involving "visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons."

(d) The "purpose stated in section 101 of the Act" is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world."

(e) "Assistant Secretary" means the Assistant Secretary for Educational and Cultural Affairs, Department of State.

(f) "Department" means the Department of State.

(g) "Act" means the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.).

(h) "Member of the family or household" of a Federal employee means a relative of the employee by blood, marriage or adoption or any person who is a resident of the household of the employee.

§ 64.3 Submission of application.

A foreign government intending to provide grants or other assistance to facilitate the participation of Federal employees in a program of cultural exchange shall submit to the Department an application for approval of the program through its Embassy, Mission, or office at Washington, D.C. If there is no Embassy, Mission, or office at Washington, D.C. of the foreign government the application may be submitted by the home office or headquarters of the foreign government. The application shall be addressed to the Assistant Secretary.

§ 64.4 Criteria for approval of program.

To obtain approval of its program of cultural exchanges a foreign government is required to show that:

(a) The cultural exchange program is of the type described in section 102(a)(2)(i) of the Act;

V 41 I 168 AUG 27 76 UMI

(b) The cultural exchange program is conducted for a purpose comparable to the purpose stated in section 101 of the Act; and

(c) A grant under such program will not provide assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

§ 64.5 Contents of application.

The foreign government shall provide information in the application showing that its program meets the criteria set forth in § 64.4, and shall include in such application the following:

(a) Name and description of the program and the provisions of legislation or regulation authorizing the program;

(b) Number of annual United States citizen participants expected, including the number of United States Federal employees;

(c) Average duration of stay abroad;

(d) Agency of the foreign government responsible for the program;

(e) Name and address of contact in the United States with whom communication may be made with respect to the program; in the absence of such a contact in the United States, the name and address of a contact in the home office or headquarters of the foreign government.

§ 64.6 Request for further information.

The Department may request the foreign government to supply additional information.

§ 64.7 Approval of application.

The Assistant Secretary shall review the application and if satisfied that the criteria of § 64.4 are met shall inform the foreign government of the approval of its program.

§ 64.8 Obligation of employee to advise agency.

Any Federal employee receiving any offer of a grant or other assistance under a cultural exchange program approved by the Assistant Secretary shall advise the employee's agency of such offer and shall not accept such offer unless the employee's agency states that it has no objection to such acceptance. In the case of the Department, an employee shall advise the Assistant Secretary who shall, after consultation with appropriate officials of the Department, furnish the no objection statement.

§ 64.9 Termination of approval.

If at any time it appears to the Assistant Secretary that the purpose of a program which has been approved has been changed so that it no longer meets the criteria of § 64.4 or that the program is being misused, the Assistant Secretary may terminate such approval, or suspend such approval pending the supplying of additional information. However, a termination or suspension shall not affect a grant which has been made under a previously approved program.

§ 64.10 Grant not to constitute a gift.

A grant made under an approved program shall not constitute a gift for purposes of 22 CFR 10.735–203 and section 7342 of Title 5, United States Code.

[FR Doc.76–25214 Filed 8–26–76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

CONSTRUCTION AND MAINTENANCE

General Material Requirements

• Purpose. The purpose of this document is to publish in one subpart general material requirements applicable to Federal-aid highways. •

The Federal Highway Administration is amending Chapter I of Title 23, CFR Part 635 by adding a new Subpart D—General Material Requirements. Heretofore some general material requirements were published in 23 CFR 635, Subpart A and others in various uncodified directives. All of the material requirements applicable to Federal-aid highways have been assembled in a new addition to the Federal-Aid Highway Program Manual, Volume 6, Chapter 4, Section 1, Subsection 16. Those portions of the Manual addition which impose requirements on recipients in order to qualify for Federal aid are hereby published.

The matters affected relate to benefits or contracts within the purview of 5 U.S.C. 552(a)(2), thus general notice of proposed rulemaking is not required.

Effective date: September 10, 1976.

Issued on August 16, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

PART 633—REQUIRED CONTRACT PROVISIONS

1. Conforming amendments to Title 23 CFR are necessary as follows:

§ 633.207 Construction labor and materials.

(a) In § 633.207(e) the reference to "§ 635.116" (40 FR 49084, Oct. 21, 1975) is changed to "§ 635.409."

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A of Part 635 of Title 23 (39 FR 35152, September 30, 1974) is revised as follows:

1. The table of sections is revised by deletion of the following:

Sec.
635.115 Use of material made available by a public agency.
635.116 Restrictions upon materials.
635.117 Material or product selection.

APPENDIX A.—Summary of Acceptable Criteria for Specifying types of Culvert Pipes.

2. Sections 635.115, 635.116, and 635.117 and Appendix A are deleted.

3. Chapter I of Title 23, Code of Federal Regulations, is amended by adding Subpart D to Part 635 to read as follows:

Subpart D—General Materials Requirements

Sec.
635.401 Purpose.
635.403 Definitions.
635.405 Applicability.
635.407 Use of materials made available by a public agency.
635.409 Restrictions upon materials.
635.411 Material or product selection.
635.413 Guaranty and warranty clauses.

APPENDIX A.—Summary of Acceptable Criteria for Specifying Types of Culvert Pipes.

AUTHORITY: 23 U.S.C. 112, 114, and 315; 49 CFR 1.48(b).

Subpart D—General Material Requirements

§ 635.401 Purpose.

The purpose of this subpart is to prescribe requirements and procedures relating to product and material selection and use on Federal-aid highway projects.

§ 635.403 Definitions.

As used in this subpart, the following terms have the meanings indicated:

(a) "FHWA Division Administrator" means the chief Federal Highway Administration (FHWA) official assigned to conduct business in a particular State;

(b) "Material" means any tangible substance incorporated into a Federal-aid highway project;

(c) "PS&E" means plans, specifications, and estimates;

(d) "Special provisions" means additions and revisions to the standard and supplemental specifications applicable to an individual project;

(e) "Standard specifications" means a compilation in book form of specifications approved for general application and repetitive use;

(f) "State" has the meaning set forth in 23 U.S.C. 101;

(g) "State highway agency" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction;

(h) "Supplemental specifications" means approved additions and revisions to the standard specifications.

§ 635.405 Applicability.

The requirements and procedures prescribed in this subpart apply to all contracts relating to Federal-aid highway projects, except those constructed under a Certification Acceptance Plan.

§ 635.407 Use of material made available by a public agency.

(a) Contracts for highway projects shall require the contractor to furnish all materials to be incorporated in the work and shall permit the contractor to select the sources from which the materials are to be obtained. Exception to this requirement may be made when there is a definite finding by the State highway agency and concurred in by the FHWA Division Administrator, that it is in the public interest to require the contractor to use material furnished by the State highway agency or from sources designated by the State highway agency. In cases such as this, the FHWA does not expect mutual sharing of costs unless the State highway agency receives a related credit from another agency or political subdivision of the State. Where such a credit does accrue to the State highway agency, it shall be applied to the Federal-aid project involved. The designation of a mandatory material source may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost. Otherwise, if a State highway agency proposal to designate a material source for mandatory use would result in higher project costs, Federal-aid funds shall not participate in the increase even if the designation would conserve other public funds.

(b) The provisions of paragraph (a) of this section will not preclude the designation in the plans and specifications of sources of local natural materials, such as borrow aggregates, that have been investigated by the State highway agency and found to contain materials meeting specification requirements. The use of materials from such designated sources shall not be mandatory unless there is a finding of public interest as stated in paragraph (a) of this section.

(c) Federal funds may participate in the cost of specifications materials made available by a public agency when they have been actually incorporated in accepted items of work, or in the cost of such materials meeting the criteria and stockpiled at the locations specified in § 635.114 of this chapter.

(d) To be eligible for Federal participation in its cost, any material, other than local natural materials, to be purchased by the State highway agency and furnished to the contractor for mandatory use in the project, must have been acquired on the basis of competitive bidding, except when there is a finding of public interest justifying the use of another method of acquisition. The location and unit price at which such material will be available to the contractor must be stated in the special provisions for the benefit of all prospective bidders. The unit cost eligible for Federation participation will be limited to the unit cost of such material to the State highway agency.

(e) When the State highway agency or another public agency owns or has control over the source of a local natural material the unit price at which such material will be made available to the contractor must be stated in the plans or special provisions. Federal participation will be limited to (1) the cost of the material to the State highway agency or other public agency; or (2) the fair and reasonable value of the material, whichever is less. Special cases may arise that will justify Federal participation on a basis other than that set forth above. Such cases should be fully documented and receive advance approval by the FHWA Division Administrator.

(f) Costs incurred by the State highway agency or other public agency for acquiring a designated source or the right to take materials from it will not be eligible for Federal participation if the source is not used by the contractor.

(g) The contract provisions for one or a combination of Federal-aid projects shall not specify a mandatory site for the disposal of surplus excavated materials unless there is a finding by the State highway agency with the concurrence of the FHWA Division Administrator that such placement is the most economical except that the designation of a mandatory site may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost.

§ 635.409 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State highway agency in connection with a project which may operate:

(a) To require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or

(b) To prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Transportation as evidenced by requirements and procedures prescribed by the FHWA Administrator to carry out such policies.

§ 635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State highway agency certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State highway agency wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State highway agency may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Appendix A sets forth the FHWA requirements regarding (1) the specification of alternative types of culvert pipes, and (2) the number and types of such alternatives which must be set forth in the specifications for various types of drainage installations.

(e) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

§ 635.413 Guaranty and warranty clauses.

(a) Except as provided in paragraph (b) of this section, clauses that require the contractor to guarantee or warrant materials and workmanship or to otherwise maintain the work for a specified period after its satisfactory completion by the contractor and its final acceptance by the State, will not be approved for use in Federal-aid contracts. Work performed and materials replaced under such guaranty or warranty clauses after final acceptance of work are not eligible for Federal participation.

(b) Contracts which involve furnishing and/or installing electrical or mechanical equipment should generally include contract clauses that require:

(1) Manufacturer's warranties or guarantees on all electrical and mechanical equipment consistent with those provided as customary trade practice, or

(2) Contractors' warranties or guarantees providing for satisfactory inservice operation of the mechanical and electrical equipment and related components for a period not to exceed 6 months following project acceptance.

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APPENDIX A.—*Summary of acceptable criteria for specifying types of culvert pipes*

Type of drainage installation	Alternatives required Yes	No	AASHTO designations to be included with alternatives Number		Application	Remarks
Cross drains under high-type pavement.[1]	.....	×	.....		Statewide.....	Any AASHTO-approved material.[2]
Other cross-drain installations.	×	.....	3 minimum.	M-170 and M-190.....	do.....	Do.[2]
Side-drain installations.....	×	.....	do.....	M-36.....	do.....	Do.[2]
Special installation conditions.	.....	×	.....	.....	Individual installation.	Specified to meet special conditions.
Special drainage systems (storm sewers, inverted siphons, etc.).	.....	×	.....	.....	do.....	Specified to meet site requirements.

[1] High-type pavement is generally described as FHWA construction type codes I, J, K, L, and plant mix and penetration macadam segments, respectively shown in the right-hand columns of type codes G and H having a combined thickness of surface and base of 7 in or more (or equivalent) or that are constructed on rigid bases.
[2] Types not included in currently approved AASHTO specifications may be specified if recommended by the State with adequate justification and approved by FHWA.

PART 655—TRAFFIC OPERATIONS

§ 655.407 Project administration.

1. In § 655.407(c) the reference to "Volume 6, Chapter 4, section 2, subsection 5 of the Federal-Aid Highway Program Manual" (39 FR 33208, September 16, 1974) is changed to "§ 635.413 of this chapter."

§ 655.605 Improvement projects.

2. In § 655.605(c)(3) the reference to "23 CFR Part 635, Subparts A and B" (39 FR 35650, Oct. 3, 1974) is changed to "23 CFR Part 635, Subpart D."

§ 655.606 Funding.

3. In § 655.606(a) the reference to "23 CFR Part 635, Subparts A and B" (39 FR 35650, Oct. 3, 1974) is changed to "23 CFR Part 635, Subpart D."

§ 655.608 Pavement markings.

4. (a) In § 655.608(d) the reference to "§ 635.117 of this Chapter" (41 FR 10430, March 11, 1976) is changed to "§ 635.411 of this Chapter."

(b) In § 655.608(d) the reference to "23 CFR Part 635, subpart A and B" (39 FR 35650, Oct. 3, 1974) is changed to "23 CFR Part 635, Subpart D."

[FR Doc.76-25036 Filed 8-26-76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Approval of Plan Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, a notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision. On June 15, 1976, the State of Alaska submitted supplements to the plan involving developmental changes to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplements were forwarded to the Assistant Secretary of Labor for Occupational Safety and Health for his determination as to whether they should be approved. The supplements are described below:

2. *Description of the supplements.* (a) Staff training. The State has submitted a statement certifying the completion of the training objectives as set forth in the State plan. The Alaska agency has initiated, developed and adopted both an interim and an extended training plan for its compliance officers and voluntary compliance safety consultants. The interim plan was accomplished on April 1, 1974, and the extended plan was accomplished on October 1, 1975.

(b) Management Information System. The system will operate as a manual system. The system will provide, among other things, data on inspection type, employee participation, employee discrimination, special programs, number and type of violations, proposed penalties and collection of penalties, employee complaints, safety and health coverage, serious and non-serious penalties and violations, training, time utilization, and contested cases.

(c) Industrial Health Laboratory. The Alaska Industrial Health Laboratory became fully operational on May 31, 1976, The laboratory is equipped with all necessary equipment to conduct analysis of all samples with the exception of vinyl chloride and carcinogens. These substances will not be analyzed due to the lack of major users within the State. However, when users are identified and evaluated, the samples will be sent to an accredited laboratory for analysis. The laboratory is staffed with a qualified and trained chemist.

3. *Location of the plan and its supplements for inspection and copying.* A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99810.

4. *Public participation.* Under § 1953.2(c) of this Chapter the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Alaska plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

5. *Decision.* After careful consideration, the Alaska plan supplements described in (a), (b), and (c) above are hereby approved under Subpart B of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart R of 29 CFR Part 1952 is hereby amended to reflect the completion of two developmental steps by adding a new § 1952.244 as follows:

§ 1952.244 Completed developmental steps.

(a) In accordance with § 1952.243(g) Alaska has completed the training program as described in the approved plan.

(b) In accordance with § 1952.243(c) Alaska has developed and implemented a manual Management Information System.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 20th day of August 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-25232 Filed 8-26-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

[FPMR Amdt. D-55]

PART 101-18—ACQUISITION OF REAL PROPERTY

Subpart 101-18.1—Acquisition by Lease

URBAN CENTERS

This regulation amends the list of urban centers nationwide by adding to the list of urban centers two counties in the State of Oregon previously classified as non-urban.

Section 101-18.102(a) is amended to read as follows:

§ 101-18.102 Acquisition by other agencies.

(a) The Departments of Agriculture, Commerce, and Defense may lease their own building space, and land incidental to its use, and provide for its operation, maintenance, and custody when the space is situated outside an urban center. Urban centers are:

• • • • •

Salem, Oreg.:
Marion County.
Polk County.

• • • • •

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Effective date. This regulation is effective on August 27, 1976.

NOTE: It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-25131 Filed 8-26-76;8:45 am]

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

[FPMR Amdt. F-27]

PART 101-35—TELECOMMUNICATIONS

Federal Telecommunications System (FTS) Identification Procedures

This amendment codifies FPMR Temporary Regulation F-368, dated January 16, 1976, which prescribes revised identification procedures to be used on the Federal Telecommunications System (FTS) intercity voice network and amends Subpart 101-35.5 to reflect new directory charges.

The table of contents for Part 101-35 is revised as follows:

Sec.
101-35.505 [Reserved]

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

Section 101-35.309 is revised to read as follows:

§ 101-35.309 FTS intercity voice network identification symbols.

§ 101-35.309-1 General.

Each Federal agency authorized to use the FTS intercity voice network will be assigned an eight-digit FTS identification symbol by the General Services Administration. The FTS identification symbol is required only for placing calls from commercial telephones to FTS telephones and authorizes FTS operators to complete the call. GSA will revise these FTS identification symbols periodically to assist agencies in ensuring that only authorized personnel have them. These symbols will be distributed by the GSA Central Office to heads of agencies or their designated control personnel. GSA will not distribute these symbols to other agency personnel.

§ 101-35.309-2 Agency responsibility.

Each agency shall issue the eight-digit FTS identification symbol to only those FTS users who are authorized to place FTS calls from commercial telephones to FTS intercity voice network telephones. FTS operators will not accept calls from commercial telephones unless the caller furnishes his name, a valid FTS identification symbol, and the seven-digit FTS telephone number being called. Restricted issuance of the FTS identification symbol is essential since its use is considered certification that such calls are official.

NOTE: Each agency is responsible for controlling use of the FTS intercity voice network and shall limit the calls to only those users authorized by the agency. Agencies shall issue to these users the four-digit agency bureau code. This four-digit code is used for sampling purposes and for completing calls to Alaska, Hawaii, and Puerto Rico.

Agencies shall instruct users who place telephone calls from FTS telephones to non-FTS telephones to provide the FTS operators their FTS telephone number and the telephone number being called. FTS operators will not accept calls unless the caller furnishes this information.

Subpart 101-35.5—Telephone Information Services Provided at GSA-Operated Telephone Switchboards

Section 101-35.502 is revised and 101-35.505 is deleted and reserved as follows:

§ 101-35.502 Directory costs.

The cost of printing and maintaining Government telephone directories is included in the local telephone service charge. Agencies are provided directories on a one-per-telephone-instrument basis plus a reasonable quantity of copies (up to 5 percent additional) for administrative purposes. Agencies will be charged at cost for copies above these normal requirements.

§ 101-35.505 [Reserved]

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Effective date. This regulation is effective on August 27, 1976.

NOTE: It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-25130 Filed 8-26-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Prohibition Against Reassignment of Claims; Factoring

Notice of proposed rule making was published on February 4, 1976, in the FEDERAL REGISTER (41 FR 5131), clarifying and expanding the regulations governing the prohibition against reassignment of claims to payment in the medical assistance program administered under title XIX, Social Security Act, which were published in final form on April 9, 1974 and became effective on June 24, 1974.

The purpose of the proposed regulations was to specify that the prohibition covers, in addition to physicians, dentists, and other individual practitioners, all providers who are not reimbursed on a reasonable cost basis. In addition, they provided that payment to the specified providers may not be made to or through a factor. The basis for the proposal was the Department's belief based on its experience in administering this provision under section 1902(a)(32) of the Social Security Act, that these additional safeguards are necessary to carry out the objectives of this State plan requirement.

Comments were received from one voluntary social service agency, one State Medicaid agency, one county social service agency, one provider association, four factoring organizations and four legal firms representing factors.

Specific major concerns expressed and the Department's responses are as follows:

Comment. The provider check should be mailed only to the location where that provider performed the service.

Response. As to the intent of the legislation, there is a specific statement in the Senate Finance Committee Report to accompany H.R. 1 that "This provision would not preclude a physician or other person who provided the services and accepted an assignment from having the payment mailed to anyone or any organization he wishes, but the payment would be to him in his name." However, this does not mean that the regulation can be circumvented to permit the reassignment of claims.

Comment. The provisions of the regulations "requiring direct payment to providers and prohibiting payment to and through a factor [should] apply to *all* Medicaid vendors regardless of whether their fees or rates are cost-based."

Response. The following statement relating to those providers who are reimbursed on a reasonable cost basis appears in the Senate Finance Committee Report: "It is not the intent of the committee that this provision apply to payments to providers of services that are based on the reasonable cost of the services."

Comment. Local government units should be permitted to bill the State directly for medical assistance claims to reimburse providers of services to Medicaid recipients.

Response. The definition of "Factor" in the regulation is not intended to include local government units.

Comment. The definition of a factoring agency should prohibit collection agencies from utilizing the provider's power of attorney in order to achieve a transfer of Medicaid claims.

Response. This suggestion has been accepted. The regulation has also been clarified with respect to the permissible use of billing agents and similar business representatives, a statement on which had appeared in the preamble to the Notice of Proposed Rule Making.

Comment. Proposed revision should be adopted. Commenter also pointed out that voluntary agencies should be able to receive payment for services rendered

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by medical and social service personnel in their employ.

Response. The regulation stipulates that direct payment can be made under specific exceptions (249.31(b)(1)). These cover the direct payment, under certain conditions, for services to employers of personnel providing medical care under the title XIX program.

Comment. There should be a 60-day period between the time the final regulation becomes effective and the date upon which invoices previously submitted by factors would be honored.

Response. The regulation is being made effective 90 days after publication in the FEDERAL REGISTER in order to allow States to complete processing of claims already submitted.

Comment. The arguments submitted against prohibiting payments to or through factors include the following:

Factors perform computer, clerical and accounting services as well as providing financing. Factors are assisting providers in establishing practices in deprived socioeconomic areas who would ordinarily not have the capital to do so—thereby providing for greater and often the only provider participation in these areas.

Many of the providers who furnish medical services to the indigent under the Medicaid program are Spanish or Oriental and are unable to cope with the record-keeping requirements of the Federal and State agencies. These providers are for the most part without sufficient funds to wait for payment of their bills for services rendered. Delays of six months are frequent. Factors supply the cash flow needed for these practitioners to continue providing services.

The news media has been replete with stories of nefarious practices, but very little proof has been forthcoming. Factors obviously perform a valuable service or they would not be used by providers.

"• • • since 1969 the Medicaid factoring industry has become somewhat of a political football • • •." Special Assistants to the Attorney General in one State have investigated numerous factoring companies and have not been able to show one instance of fraud that had been committed by a factor.

Adoption of the regulation would possibly destroy the Medicaid program in the New York area. In 1975, one group of factors purchased $30,000,000 worth of accounts receivable—$11,000,000 of which is still due and owing on these claims. The factor, by providing "the services of immediate cash payment to the provider and relief from voluminous paper work, and record-keeping and cumbersome procedures, effectively attracts providers to participation in the program." At no time is there any provision for the check to be made payable to the factoring organization (power of attorney is used). An anti-factor bias pervades the proposed regulation. One commenter stated that charges that the practice of factoring is "somehow driving up the fees" under Medicaid are false. Specific references were made to the following charges:

(1) Factors change bills after being prepared by the provider so as to pocket the difference between the amount allowed on the bill and the amount collected. In answer to this charge, the factors state that such a change would be presumptively fraudulent and would subject the factor to criminal charges. Such charges could very well disqualify the payment of the item so that the factor can only hurt himself. Also, each of the State payment vouchers identify the amount of each payment request and the amount allowed; thus any provider can determine that he had not received a credit for all the funds paid by the State agency.

(2) Factors represent unsavory or "syndicate" money. The factors reply that, in fact, they deal with reputable banks.

(3) Factors are bill collectors and hence unsavory. Factors state that these charges in the press were designed to identify factors with certain other scandals relating to oppressive practices of bill collectors on small individual debtors. Except for lapse of time, there is no problem of credit in the Medicaid program. The only problems are those of waiting a considerable time for the State agency to improve its administrative processes, of following a complex administrative format, and the lack of certainty as to when payments will be received.

Factors state that the Department of HEW in previous litigation stated that the Department had no objection to the mailing of checks as directed by the provider.

The regulation is contrary to the intent of the statute, which sought only to prohibit assigning claims in a manner that enabled the assignee to submit claims and receive payment in his own name. It does not prohibit sending a check made payable to a provider to a different person or organization. A Federal agency cannot amend the statute by regulation and add requirements not found in the legislation.

In lieu of prohibiting factoring, HEW should require that each item on an invoice be signed or initialed by the provider and that procedures be followed that would preclude addition of any items after signature.

There were suggestions that HEW require State regulation of factoring firms so that they can continue to function. Factors support legislation that would license and regulate medical factoring companies.

Instead of a blanket rejection of all financial institutions, there should be a more definitive study of the problems of "illegal" payments, produced by unethical financing service organizations.

Controls should be established to permit ethical financial institutions to serve provider needs. These controls should include audits of systems and records to assure compliance.

Factors call for a public hearing to express views before the regulation is published in final form in the FEDERAL REGISTER.

Response. The legislative history in expresses the problems factoring of the Senate Finance Committee Report claims had caused and the intent to prevent past abuses: "Such reassignments have been a source of incorrect and inflated claims for services and have created administrative problems with respect to determinations of reasonable charges and recovery of overpayments. Fraudulent operation of collection agencies have been identified in Medicaid. Substantial overpayments to many such organizations have been identified in the Medicare program, one involving over a million dollars." The report sees the subject provision as a means "to overcome these difficulties by prohibiting payment under these programs to anyone other than" the recipient or practitioner.

There is no question that a provider may have his check, made out in his name, mailed to a bank, savings and loan institution, etc., rather than to his office or home. However, use of factoring organizations is not allowed even though the check is payable to the provider and is cashed under power of attorney, since this would negate the purpose of the statutory prohibition against reassignment and could lead to the abuses which the factoring activity is seen to produce.

Providers can continue to utilize billing and other services, as described in the range of services provided by factors, if the service does not include a transfer of the provider's accounts receivable through any means including power of attorney. Thus there is no need for providers themselves to take on the work of preparing and submitting claims, performing bookkeeping tasks, etc. The regulation has been clarified to indicate that performance of such services by business representatives is and always has been permitted.

As more and more State agencies improve their claims processing systems, the problem of delay in payments should be reduced, thus overcoming any cash flow problems. The comments suggesting the licensing and auditing of factors are not germane since factoring itself is prohibited with respect to the Medicaid program.

Accordingly, the regulations as proposed are hereby adopted with the modifications indicated above. Since the regulation previously promulgated pursuant to section 1902(a)(32) could be considered ambiguous with respect to factoring, it has not been clear to some HEW regional offices and States that the practice is prohibited. Consequently, a reasonable amount of time has been allowed in order that States and providers may take the administrative steps necessary for cessation of the practice.

§ 249.31 Prohibition against reassignment of claims to benefits.

(a) *Meaning of terms.* For purposes of this section:

(1) "Facility" is a hospital or other institution which makes provision for furnishing health care services to inpatients.

(2) "Organized health care delivery system" is a public or private organization for delivering health services which may include, but is not limited to, a clinic or a group practice prepaid capitation plan.

(3) "Factor" is an organization, i.e., collection agency or service bureau, which, or an individual who, advances money to a provider for his accounts receivable which have been assigned or sold, or otherwise transferred, including transfer through the use of power of attorney, to such organization or individual for an added fee or a deduction of a portion of such accounts receivable.

For purposes of this regulation, the term "factor" does not include business representatives, such as billing agents or accounting firms, which render statements and receive payments in the name of the individual provider, provided that the compensation of such business representative for such service is reasonably related to the cost of processing the billings and is not related on a percentage or other basis to the dollar amounts to be billed or collected.

(b) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must provide that (1) no payment under the plan for any care or service provided to a patient by a physician, dentist, other individual practitioner, or any other provider who is not reimbursed on a reasonable cost basis, shall be made to anyone other than such patient (who is eligible to receive such payments in accordance with § 249.32) or to such physician, dentist, practitioner, or any other provider who is not reimbursed on a reasonable cost basis. However, with respect to physicians, dentists, or other individual practitioners, direct payment may be made:

(i) To the employer of the physician, dentist, or other practitioner if the practitioner is required as a condition of his employment to turn over his fees to his employer; or

(ii) Where the care or service was provided in a facility, to the facility in which the care or service was provided, if there is a contractual arrangement between the practitioner and the facility whereby the facility submits the claim for reimbursement; or

(iii) To a foundation, plan, or similar organization, including a health maintenance organization, which furnishes health care through an organized health care delivery system if there is a contractual arrangement between the organization and the person furnishing the service under which the organization bills or receives payments for such person's services; (2) payment under the plan for any care or service furnished to an individual by providers as specified in paragraph (b)(1) of this section shall not be made to or through a factor, either directly, or by virtue of a power of attorney given by the provider to the factor.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Effective date: The regulations in this section will be effective November 26, 1976.

Dated: June 2, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-24660 Filed 8-26-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket 20120; RM-1508, 1592, 1733, 1751, 1841, 1905, 1991, 2053, 2084, 2132, 2300, 2317, 2318; FCC-76-707]

REVISION OF OPERATING RULES FOR CLASS D STATIONS IN THE CITIZENS RADIO SERVICES

Correction

In FR Doc. 76-22424, appearing at page 32678, in the issue for Wednesday, August 4, 1976, the following changes should be made:

(1) On page 32680, in the table under "§ 2.106 Table of frequency allocations", the third line of the column designated "Band (megahertz) 7" now reading "(225) (u.S.1)", should read "(225) (U.S.1)".

(2) On page 32681, in the first column, the third line of § 91.404(b)(8), should read "quencies between 26.96 MHz and 27.41".

(3) On page 32682, in the first column, following Part 93, paragraph (12), the following heading should be inserted:

§ ---- Frequencies below 952 MHz available for base, mobile, and operational fixed stations.

(4) On page 32682, in the second column, in the table which follows the paragraph designated "(2)", the second figure in the first column of the table now reading "26.965", should read "26.975."

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1245; Amdt. No. 1]

PART 1033—CAR SERVICE

Chicago & Eastern Illinois Railroad Company

AUGUST 24, 1976.

At a session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 23rd day of August, 1976.

Upon further consideration of Service Order No. 1245 (41 FR 26692) and good cause appearing therefor:

It is ordered, That Service Order No. 1245 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1245 Chicago & Eastern Illinois Railroad Company authorized to operate over tracks of Burlington Northern Inc.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-25255 Filed 8-26-76;8:45 am]

[Corrected S.O. No. 1230; Amdt. No. 1]

PART 1033—CAR SERVICE

Illinois Central Gulf Railroad Company

AUGUST 24, 1976.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 20th day of August, 1976.

Upon further consideration of Corrected Service Order No. 1230 (41 FR 8347), and good cause appearing therefor:

It is ordered, That Corrected Service Order No. 1230 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1230 The Illinois Central Gulf Railroad Company authorized to operate over tracks of the Waterloo Railroad Company.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

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It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne, and William J. Love. Member Lewis R. Teeple not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-25254 Filed 8-26-76;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 277 (Sub-No. 2)]

PART 1124—REGULATIONS GOVERNING THE ADEQUACY OF INTERCITY RAILROAD PASSENGER SERVICE

Adequacy of Intercity Rail Passenger Service—Track

It appearing, That by notice of proposed rulemaking and order served July 17, 1974, the Commission instituted this proceeding under section 801 of the Rail Passenger Service Act with a view to adopting regulations requiring that the condition of all trackage used for intercity rail passenger service be brought up to the level which existed on May 1, 1971; and that the Commission invited the submission of relevant information, including information pertinent to the future adoption of regulations requiring the upgrading of trackage for high-speed passenger service operations;

It further appearing, That the proposed regulations were intended to supplement the Commission's present Adequacy of Service Regulations appearing at 49 CFR 1124.1 *et seq.;* and

It further appearing, That numerous verified statements and comments were received by the Commission with regard to the proposed regulations; that the Commission has given full consideration to all submissions; and that the Commission has made and filed its report herein containing its findings, conclusions, and final regulations, which report is hereby referred to and made a part hereof;

It is ordered, That Part 1124 of Chapter X of Title 49 of the Code of Federal Regulations, Regulations Governing the Adequacy of Intercity Railroad Passenger Service, be, and it is hereby, amended by adding a new § 1124.26 reading as set forth below:

It is further ordered, That this order shall be effective 35 days from the date it is served; and

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission in Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

ROBERT L. OSWALD,
Secretary.

In view of our above-stated conclusion that an entirely new proceeding will be necessary at some time in the future before any second-step regulations requiring upgrading for high-speed operations can be adopted, we have not made specific findings with regard to the expense and time required for upgrading of trackage for high-speed operations.

An appropriate order will be entered promulgating the regulation set out below.

Commissioner Murphy and Corber voted to concur in the result.

The regulation hereby adopted in this proceeding is as follows:

§ 1124.26 Track standards.

(a) The trackage of a carrier used in intercity rail passenger service shall be maintained by the carrier at not less than the level of utility existing on May 1, 1971.

(b) For purposes of this regulation, the "level of utility" shall be considered as being maintained if the track permits operation of a train between terminals in the same elapsed time as on May 1, 1917, with a reasonable degree of regularity and with a reasonable degree of passenger comfort. The elapsed time shall be determined from the applicable employee timetable speeds, without allowing for slow orders and speed restrictions in effect on May 1, 1971.

The following table lists the maximum allowable operating speeds over the various classes of track as prescribed by the Department of Transportation, Federal Railroad Administration. 49

APPENDIX I

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed for freight trains is—	The maximum allowable operating speed for passenger trains is—
Class 1 track	10	15
Class 2 track	25	30
Class 3 track	40	60
Class 4 track	60	80
Class 5 track	80	90
Class 6 track	110	110

NOTE.—Trains may operate in excess of the maximum allowable speed of 110 mi/h only upon approval of the Federal Railroad Administration, pursuant to 49 CFR sec. 213.9(c).

APPENDIX II

The following short-haul routes designated by Amtrak as corridor routes were selected for special consideration in this proceeding: New York-Washington, New York-Boston (via Providence), New York-Boston (via Springfield and Worcester), New York-Buffalo, Philadelphia-Harrisburg, Washington-Cumberland, Chicago-Carbondale, Chicago-Champaign, Chicago-Detroit, Chicago-Quincy, Chicago-St. Louis, Chicago-Milwaukee, Seattle-Portland, Oakland-Los Angeles, and Los Angeles-San Diego.

The following routes were also selected for special consideration: Washington-Richmond-Norfolk, Chicago-Indianapolis-Cincinnati, and Orlando-Tampa.

APPENDIX III.—*Table summarizing railroads respondents' statements*

Carrier	Present condition of track	Cost of upgrading to class 4	Cost of upgrading to class 5	Cost of upgrading to class 6
Burlington Northern	Same as May 1971	0	(1)	[3] $992,000,000
C. & O./B. & O	do	(1)	(1)	(1)
D. & R. G. W	do	(1)	(1)	(1)
Illinois Central Gulf	Substantially same as May 1971.	0	[2] $34,770,000	[4] 135,000,000
Milwaukee Rd	Same as May 1971	0	210,000,000	(1)
Missouri Pacific	do	$4,650,000	395,085,000	446,462,000
Penn Central	do	(1)	(1)	(1)
R.F. & P	do	0	26,500,000	109,500,000
Rock Island	Deteriorated	(5)	57,000,000	(1)
Santa Fe	Same as May 1971	0	(6)	(7)
SCL L. & N	do	0	(1)	93,500,000
Southern	do	0	(1)	1,700,000,000
Southern Pacific	do	[8] 941,606,000	5,737,765,000	9,188,008,000
Union Pacific	do	0	8,120,000	(1)

[1] No data.
[2] If separate (nonfreight) track: $1,240,000,000.
[3] Doesn't include new signaling or grade separation; Amtrak projects class 5 Chicago to Carbondale at $85,000,000.
[4] Chicago-St. Louis only (Amtrak estimate).
[5] No data (13,234,552 to class 3).
[6] Much of system good for 110 mi/h:
[7] No data, impossible or unfeasible.
[8] To 80 mi/h., $84,126,000 to class 3.

[FR Doc.76-25071 Filed 8-26-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Opening of Barnegat National Wildlife Refuge, New Jersey to Hunting of Migratory Game Birds

Notice is hereby given that it is proposed that 50 CFR Part 32 be amended by the addition of the Barnegat National Wildlife Refuge, New Jersey, to the list of refuge areas opened for the hunting of migratory game birds, which is published at 50 CFR § 32.11.

Pursuant to the authority of 16 U.S.C. 668dd(d) as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director may open refuge area to public hunting upon a determination that it would be in accordance with provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such use is compatible with the major purposes for which such areas were established. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. It is the purpose of this proposed rulemaking to allow the hunting of migatory game birds on the Barnegat National Wildlife Refuge, which is presently prohibited.

Furthermore, pursuant to the requirements of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared on this proposal which will help determine whether this rulemaking constitutes a major Federal action significantly affecting the human enviromnent. A copy of this assessment is available at the address below.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportuinty to participate in the rulemaking process. Therefore, interested persons may submit writen comments, suggestions, or objections regarding the proposed amendment to the Regional Director, U.S. Post Office and Court House, Boston, Massachusetts 02109 on or before September 27, 1976. All relevant comments received will be considered by the Director prior to the issuance of final rulemaking.

Accordingly, it is proposed to amend § 32.11, in Title 50 of the Code of Federal Regulations as set forth below:

§ 32.11 List of open areas; migratory game birds.

* * * * *

NEW JERSEY

BARNEGAT NATIONAL WILDLIFE REFUGE

* * * * *

Dated: August 23, 1976.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.76-25094 Filed 8-26-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Size Requirements

This notice invites written comment relative to a proposal submitted by the Lemon Administrative Committee that the size regulation currently in effect through September 25, 1976, be continued in effect during the period September 26, 1976, through September 24, 1977. The proposal would continue unchanged the current minimum size requirements for lemons at 1.82 inches in diameter (size 235's in cartons). The size requirements are those which have been found to provide consumers with lemons of acceptable maturity and juice content.

Notice is hereby given that the Department is considering a proposed size regulation for lemons grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended, (7 CFR Part 910) regulating the handling of lemons grown in Arizona and designated part of California. The regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The current size regulation, Lemon Regulation 11 (40 FR 44120), is effective through September 25, 1976, and the proposed regulation would continue, through September 24, 1977, the same size requirements on the handling of lemons as are currently in effect. The proposed regulation would limit the handling of lemons grown in District 1, District 2, or District 3 to lemons measuring 1.82 inches or larger. The proposal was submitted by the Lemon Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The regulation unanimously recommended by the committee reflects its appraisal of the lemon crop and the current and prospective marketing conditions. The size limitations proposed are designed to prevent the handling of lemons, on and after the proposed effective date, of sizes smaller than those herein specified so as to provide consumers with a plentiful supply of lemons of acceptable maturity and juice content consistent with (1) the overall size composition of the crop, and (2) improving returns to growers pursuant to the declared policy of the act. The committee advises there are more than adequate quantities of lemons available in a broad range of sizes to fill all market needs, and lemons smaller than 235's have negligible sales opportunity in fresh form, because they are costly to prepare for market, and have lower juice yield than larger lemons.

Order. (a) From September 26, 1976, through September 24, 1977, no handler shall handle any lemons grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section "handle", and "handler", "District 1", "District 2", and "District 3" each shall have the same meaning as when used in the said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than September 13, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 23, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-25155 Filed 8-26-76;8:45 am]

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[7 CFR Part 912]

[Docket No. AO 333–A5]

GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida, hereinafter referred to collectively as the "order."

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by September 17, 1976. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement. This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at Vero Beach, Florida, on June 24, 1976. Notice of the hearing was published in the June 4 and June 18, 1976, issues of the FEDERAL REGISTER (41 FR 22568; 24716). The proposals contained in the notice of hearing were submitted by the Indian River Grapefruit Committee and Mr. Bernard A. Egan, President, D–N–E Sales, Inc., Ft. Pierce, Florida.

Material issues. The material issues of record are as follows:

(1) Substitute a definition of "standard packed carton" for the definition of "standard packed box", and revise the sections on assessments and overshipments to conform therewith;

(2) Revise committee quorum and voting procedures with respect to recommending weekly regulation;

(3) Provide authority for reapportionment of grower member and handler member representation on the committee; and

(4) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

1. The order currently defines "standard packed box" to mean a unit of measure equivalent to one and three-fifths (1⅗) United States bushels of grapefruit. That term was included in the order to provide a convenient unit upon which to base assessments and to compute allotments. Since the standard packed box is no longer used for packaging Indian River grapefruit, the definition of such term should be deleted from the order. A definition of "carton or standard packed carton" should be included in the order. Carton or standard packed carton should be defined to mean a unit of measure equivalent to four-fifths (⅘) of a bushel of grapefruit.

For a number of years the principal container used for shipping fresh grapefruit was a wood box with a capacity of 1⅗ bushels. This container was referred to as a "standard packed box." The wood box now has been replaced by a corrugated paperboard carton with a capacity of four-fifths of a bushel of grapefruit.

The Fruit and Vegetable Inspection Division of the Florida Department of Agriculture at Winter Haven, which compiles much of the data used by the committee has converted all of its fresh citrus records to a four-fifths bushel carton basis. In addition, the Florida Department of Citrus eliminated the 1⅗ bushel box as an approved container, and under the Department of Citrus rules, Chapter 20–39.02, the standard container for shipping fresh citrus is of four-fifths bushel capacity.

The record indicates that during the 1974–75 season, 94 percent of Indian River fresh grapefruit shipments were in four-fifths bushel corrugated containers, with the balance shipped in bulk, bags, and two-fifths bushel cartons. Thus, it is important that the definition of "standard packed box" be replaced by a definition of "carton or standard packed carton" to recognize current industry usage of a four-fifths bushel carton.

Likewise, §§ 912.41 Assessments and 912.50 Overshipments should be amended so that such sections relate to the definition of "carton or standard packed carton." Accordingly, the order should be amended as hereinafter set forth.

2. The order should be amended, as hereinafter set forth, to revise § 912.32 Procedure of committee to provide that for any decision or recommendation for regulations to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, nine members shall constitute a quorum and nine concurring votes shall be required. The amendment should continue the present requirement that eight members shall constitute a quorum and eight concurring votes shall apply to recommendations to amend an existing regulation. Currently, the order requires that for any recommendation for regulation to be effective for any week prior to the first full week in January and during and after the first full week in May, twelve members shall constitute a quorum and twelve concurring votes shall be required.

The order provided that eight members shall be present and eight agree in any recommendation for regulation during the period beginning with the first full calendar week in January and ending with, but not including the first full calendar week in May. It is during the January through April period that the bulk of fresh Indian River grapefruit is shipped. The order should be amended to require that nine members shall be present and nine agree in any recommendation for regulation, except for a week following three or more weeks of continuous regulation, in order to provide uniform quorum and voting requirements, for such recommendations, throughout the entire season. Committee membership includes six grower members and six handler members, and the record indicates that increasing the quorum and vote requirements by one member for recommendations for regulation during the January through April period would not cause any problems. There was no testimony in opposition to the increase in quorum and vote requirements for a recommendation for regulation during such period. Hence, the amendment is appropriate and it is recommended that it be adopted.

When the marketing order was first made effective in 1962, the industry consensus was that conditions calling for regulations, except in the period beginning with the first full calendar week in January and ending with, but not including the first full week in May, would occur only infrequently. It was believed appropriate to adopt a stringent voting requirement to assure that the committee would be fully convinced that regulation was necessary before a recommendation for such was made. Hence, the order provided that all 12 members shall be present and all 12 agree in any recommendation for a regulation, except in the specified period.

Conditions have changed in the industry. Acreage has increased from 23,000 in the 1961–62 season to 52,500 in 1974–75. Production of white and pink seedless grapefruit in that period increased from 9.1 million 1⅗ bushel boxes to 18.9 million. Many increased planting are located south of the area where the industry was located when the order was put into effect. These plantings consist of young vigorous trees located in areas less subject to cold damage. The trees tend to bloom and to mature fruit earlier in the season. Thus, a heavy volume of fruit now is available for shipment early in the season. Moreover, packinghouse and facilities for conditioning fruit for shipment have increased. Hence, there is pressure on handlers to ship heavier volumes of fruit, facilities are available, and the potential for excessive shipments and oversupplied markets in the early part of the season prior to January is substantially greater now than it was when the order was initiated. The evidence indicates that the provision which requires a full committee for a quorum and unanimous vote by all members to recommend a regulation in the May to January period is no longer appropriate. This provision has prevented the committee from taking action to recommend regulations, although such action was favored by as many as eleven members.

Hence, it is concluded that the provision is not in the best interests of the order and its objectives.

The order, in § 912.46, sets forth the factors to be considered by the committee in arriving at a decision as to whether or not to recommend that a regulation be issued by the Secretary. The committee should be in a position to consider such factors and to make such recommendation, if it determines that such is in the best interest of the industry.

The proposal submitted by the committee and carried in the notice of hearing which would provide that nine members shall constitute a quorum and not less than nine concurring votes shall be required to recommend a regulation to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, appears to be reasonable and appropriate in the circumstances. Therefore, it is concluded that the order should be amended to so provide, as hereinafter set forth.

3. The order should be amended, as hereinafter set forth, to revise § 912.25 Selection of handler members of the Indian River Grapefruit Committee to provide for reallocation of the six handler member positions between handlers affiliated with cooperative marketing organizations, hereinafter referred to as "cooperative" members, and handlers not so affiliated, hereinafter referred to as "independent" members, upon the basis of the relative amounts of grapefruit handled during the three most recent completed seasons.

Handler membership currently is divided equally between the two groups with each being allocated three members. It has been customary to consider volume of shipments in the allocation of handler members of marketing order committees among handlers. The current allocation of members was made at the time the order was promulgated in 1962 when, according to the record, cooperative handlers accounted for 45 percent of the volume of shipments and independent handlers for 55 percent. The record indicates independent handlers have increased their proportion of the volume shipped. Hence, the current allocation is not representative of the volume of shipments. The proposition that the order should be modified to provide for reallocation between cooperative and independent handlers was supported by all witnesses, and it was generally agreed that after the initial reallocation further adjustments should be considered at three year intervals to maintain a balance based upon relative volume of shipments. However, there was disagreement as to when the initial reallocation should be made. One view was that it should be made immediately after the amendment is made effective. The other was that it should apply to the committee which would be selected for the 1977–78 term, as nominations had already been submitted for the 1976–77 term. The term of office of the committee begins August 1 of one year and ends July 31 of the following year. While it would be less disruptive of committee operations to delay reallocation until nominations are made for the term beginning August 1, 1977, it is concluded that it is appropriate to provide for the initial reallocation to be made effective at the same time as the amended voting requirements. This will require renomination of handler nominees to effect changes in composition of the handler membership of the committee, as appointments of committee members will have been made for the 1976–77 term by the effective date of the amendment, if the order is amended. However, the production area is comparatively small and nomination meetings of handlers could be held with little difficulty. Such meetings should be held and new appointments made between the time the amended order is issued and the time it becomes effective. Such meetings would be held in accordance with §§ 912.24 and 912.120, except that the times and dates specified therein shall not apply.

Prior to nomination meetings for the initial reallocation, and before the nomination meetings each third year thereafter, the committee should review Indian River grapefruit shipments by cooperative handlers and independent handlers for each of the three most recently completed seasons. For the initial reallocation, this would include shipments for the 1973–74, 1974–75, and 1975–76 seasons. In arriving at the proportional volume of shipments both interstate and export shipments would be tabulated for all cooperative handlers, including handlers affiliated with a cooperative central selling agency, and for all independent handlers. The annual percentages shipped would be calculated for all independent handlers as a group and for all cooperative handlers as a group for each of the three most recently completed seasons. Next a simple average of these percentages would be calculated. By this method, each season would be weighted equally by averaging the percentages handled by each group. This would avoid giving undue weight to seasons when shipments were unusually large.

After the Indian River Grapefruit Committee has compiled the average percentages handled by cooperative and independent handlers for each of the three seasons, it should make its recommendation for allocating handler member positions to the Secretary. It is concluded from the record, however, that regardless of the percentages handled by cooperative or independent handlers that each such group of handlers shall be allocated not less than one handler membership on the committee.

The following percentages of grapefruit shipments were suggested as a basis for allocating handler members and should apply in the initial reallocation. However, the percentages so indicated should not be considered as inflexible for future reallocations as experience may disclose a need for modification by the committee, with the approval of the Secretary, to meet changing circumstances:

Percentages of grapefruit shipped previous 3-year-period		Allocation of handler members	
Cooperatives	Independents	Cooperatives	Independents
Under 25	75 and above	1	5
25 through 41.99	58 through 74.99	2	4
42 through 57.99	42 through 57.99	3	3
58 through 74.99	25 through 41.99	4	2
75 and above	Under 25	5	1

Witnesses representing independents supported the proposal that grower membership should be allocated on the basis of the relative volumes of grapefruit shipped by the two handler groups. However, this was opposed by other witnesses, including committee witnesses, who maintained that allocation of grower representation should recognize the relative numbers of growers shipping through the two types of handlers, and that using shipments of handler groups to determine grower member composition would be inequitable, in that it would tend to give an undue advantage to the larger volume growers. Currently, provisions of the order allocate three grower members to the growers that ship through independent handlers and three members to the growers who ship through cooperatives. Testimony was presented that although the volume of shipments of independent handlers is larger than that of cooperative handlers, the number of growers is more nearly equal as growers who ship through the independent handlers tend to be the larger volume growers. A review of the record does not disclose a preponderence of evidence supporting either position. Therefore, it is concluded that no change should be made in the current allocation of grower membership as between independent and cooperative growers.

4. A proposal in the notice of hearing was that consideration should be given to making such other changes in the order as may be necessary to make the entire order conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition. However, no conforming changes other than those heretofore mentioned are necessary.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed July 23, 1976, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set

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forth herein. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of grapefruit grown in the Indian River District, as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which foregoing conclusions may be carried out:

1. (a) Section 912.8 is revised to read as follows:

§ 912.8 Carton or standard packed carton.

"Carton or standard packed carton" means a unit of measure equivalent to four-fifths (4/5) of a United States bushel of grapefruit, whether in bulk or in any container.

(b) Paragraph (a) of § 912.41 is revised to read as follows:

§ 912.41 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

* * * * *

(c) Section 912.50 is revised to read as follows:

§ 912.50 Overshipments.

During any week for which the Secretary has fixed the total quantity of grapefruit which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him, an amount of grapefruit equivalent to 10 percent of such total allotment or 1,000 cartons, whichever is greater: *Provided*, That the Secretary, on the basis of a recommendation of the committee or other available information, may set such amount at any figure not less than 1,000 cartons and not more than 2,000 cartons. Handlers may overship (a) during such week the entire 1,000 cartons or other amount not in excess of 2,000 cartons as may be set by the Secretary, or (b) during two or more consecutive weekly periods when regulations are in effect, any portion of such 1,000 cartons or any other amount set by the Secretary until the accumulated overshipments reach the applicable maximum number of cartons permitted to be overshipped. The quantity of grapefruit so overshipped when regulations are in effect shall be deducted from such person's allotment for the week following the one in which the total permitted overshipment is reached or for the week in which such person makes no shipments of grapefruit. If such person's allotment for such week is an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotment because of previous overshipments pursuant to this part.

2. Paragraph (b) of § 912.32 is revised to read as follows:

§ 912.32 Procedure of committee.

* * * * *

(b) For any decision or recommendation with respect to regulations to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, nine members shall constitute a quorum and nine concurring votes shall be required. The quorum necessary to make a recommendation for regulation for any week immediately following three or more continuous weeks of regulation shall be twelve members and twelve concurring votes shall be required. The requirements of this paragraph shall not apply to recommendations to amend an existing regulation.

* * * * *

3. Section 912.24 is amended as follows:

(1) Redesignate paragraph (b) as paragraph (c) and insert a new paragraph (b) as follows:

§ 912.24 Nomination of handler members for the Indian River Grapefruit Committee.

(a) * * *

(b) The committee, as soon as practicable after issuance of the amendment to this part and every third year thereafter, not later than the date prescribed in paragraph (a) of this section, shall reallocate the six handler member and six handler alternate member positions for which voting for nominees is to take place. At such meetings, voting for nominees shall be in accordance with representation which may be required as a result of any reallocation. The reallocation of committee member and alternate member positions shall be between handlers affiliated with bona fide cooperative fresh fruit marketing organizations, herein referred to as "cooperative" handlers, and handlers not so affiliated, herein referred to as "independent" handlers, on the basis of the relative amounts of grapefruit shipped by each group during each of the three immediately preceding completed crop years. The committee shall make its recommendation for allocating handler member positions to the Secretary. The following percentages of grapefruit shipments shall be used by the committee as a basis for allocating handler member and alternate member representation: *Provided*, That the committee, with the approval of the Secretary, may modify the percentages and/or allocation, whenever necessary to meet changing circumstances: *Provided*, That in no event shall any group be allocated less than one member.

Percentages of grapefruit shipped previous 3-year-period		Allocation of handler members	
Cooperatives	Independents	Cooperatives	Independents
Under 25	75 and above	1	5
25 through 41.99	58 through 74.99	2	4
42 through 57.99	42 through 57.99	3	3
58 through 74.99	25 through 41.99	4	2
75 and above	Under 25	5	1

* * * * * *

(2) Section 912.25 is amended to read as follows:

§ 912.25 Selection of handler members of the Indian River Grapefruit Committee.

From the nominations made pursuant to § 912.24, or from other qualified persons, the Secretary shall select six members and six alternate members of the committee. Three such members and their alternates shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three such members and their alternates shall not be so affiliated: *Provided*, That when membership is reallocated as provided in § 912.24(b), selection shall reflect such reallocation.

Signed at Washington, D.C., on August 23, 1976.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.76-25154 Filed 8-26-76;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Parts 320, 325, 327]

IMPORTATION OF UNDENATURED, INEDIBLE MEAT AND MEAT PRODUCTS

Withdrawal of Proposed Regulation

Purpose.—The purpose of this document is to announce that the Department is withdrawing the proposed regulation to permit the importation of undenatured, inedible meat and meat products.

Statement of considerations.—On May 31, 1974, the Animal and Plant Health Inspection Service published in the FEDERAL REGISTER (39 FR 19222) a proposal to amend the Federal meat inspection regulations (9 CFR Parts 320, 325, and 327) to permit the importation of undenatured, inedible meat and meat products for use in nonhuman food products. Forty-four individual written comments were received of which 37 opposed the amendment on grounds that a large surplus of these materials already exists in the United States, and increasing this supply through importation would depress the market for such domestic products. Several comments contended that increasing the volume of inedible products would make control of them more difficult and thereby heighten the potential for the diversion of these articles into human food channels. The possibility for livestock diseases to be introduced by means of the inedible products was referred to in several comments but no evidence to support such a claim was provided.

Those commenting in favor of the proposal cited the need for alternate sources of inedible materials for pet foods and made claims that this proposal would provide more jobs in the pet food industry.

In view of indications that sufficient inedible meat and meat products suitable for use by the pet food industry are now readily available in the United States and that the potential for diversion of these products to human food could be enhanced, the Department has decided good reasons exist to withdraw the proposal published May 31, 1974, in the FEDERAL REGISTER (39 FR 19222).

Done at Washington, D.C., on August 23, 1976.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-25156 Filed 8-26-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

[28 CFR Part 30]

FEDERAL AND FEDERALLY ASSISTED PROGRAMS AND PROJECTS

Proposed Draft Regulation Relating to the LEAA Implementation of the OMB Circular No. A-95 Revised: Evaluation, Review, and Coordination

The Law Enforcement Assistance Administration hereby proposes to amend Part 30 to Chapter I of Title 28 of the Code of Federal Regulations. This regulation will amplify current LEAA regulation governing compliance with OMB Circular No. A-95 Revised entitled "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects."

It is anticipated that this proposed amplification shall be promulgated in final form and become effective on or about October 15, 1976.

Interested persons may sumbit written comments, suggestions, or objections concerning the proposed regulation to Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, United States Department of Justice, 633 Indiana Avenue, Washington, D.C. 20531, on or before September 30, 1976. All written comments received from the public through that date will be considered by LEAA in formulating the final regulation.

RICHARD W. VELDE,
Administrator.

Accordingly, Part 30 of Title 28 is revised to read as follows:

Subpart A—General Provisions

Sec.
30.1 Purpose.
30.2 Authority.
30.3 Implementation.

Subpart B—Project Notification Procedures

30.4 Notification of intent.
30.5 Application submission.
30.6 Indian tribes.
30.7 Clearinghouse review.
30.8 SPA responsibilities.
30.9 Funding agency responsibilities.
30.10 Requests for exemptions and procedural variations.
30.11 Joint funding.

Subpart C—Direct Federal Development

30.12 Non-applicability.

Subpart D—State Plans

30.13 General.
30.14 Governor's comments.

Subpart E—Coordination of Planning in Multijurisdictional Areas

30.15 Planning and development districts or regions.
30.16 Governor's review and comment.
30.17 Consultation in review boundaries.
30.18 Justification for variance.
30.19 Common and consistent planning bases and coordination of related activities in multijurisdictional areas.
30.20 Memorandum of agreement signatories.
30.21 Applicant for assistance to accomplish areawide planning.
30.22 SPA implementation of memorandum of agreement requirement.
30.23 Inability to effectuate a memorandum of agreement.

Subpart F—Definitions

30.24 Definitions.

AUTHORITY: OMB Circ. No. A-95 Rev.; sec. 501, Crime Control Act of 1973, as amended (42 U.S.C. 3701).

Subpart A—General Provisions

§ 30.1 Purpose.

The purpose of this regulation is to implement OMB Circular A-95 Revised (41 FR 2052 (January 13, 1976)) for the cooperation with the Law Enforcement Assistance Administration (LEAA) and State Planning Agencies (SPAs) in the evaluation, review, and coordination of LEAA assisted programs and projects.

§ 30.2 Authority.

This regulation is based upon and incorporates OMB Circular No. A-95 Revised, and is promulgated for the:

(a) Encouragement for the use of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968.

(b) Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or federally assisted projects affecting the environment pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969 and regulations of the Council on Environmental Quality.

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(c) Furthering the objectives of Title VI of the Civil Rights Act of 1964; section 262(b) of the Juvenile Justice and Delinquency Prevention Act of 1974; and section 518(c) of the Crime Control Act of 1973.

§ 30.3 Implementation.

Full compliance with OMB circular No. A–95 Revised is required by all applicants for funds under programs associated with section 205, section 306(a), section 455(a) and section 515(b) of the Crime Control Act of 1973, Pub. L. 93–83 as amended by Pub. L. 93–415, and section 222(a) and section 224(a) of the Juvenile Justice Delinquency Prevention Act of 1974, Pub. L. 93–415. This regulation and OMB Circular No. A–95 Revised will have applicability to all programs, projects, and activities (or significant substantive changes thereto) for which LEAA assistance is being sought as outlined below:

(a) Subpart B of this part and Part I of OMB Circular No. A–95 Revised cover the following programs:

(1) 16.500 Law Enforcement Assistance—Comprehensive Planning Grants.

(2) 16.501 Law Enforcement Assistance—Discretionary Grants.

(3) 16.502 Law Enforcement Assistance—Improving and Strengthening Law Enforcement and Criminal Justice.

(4) 16.515 Criminal Justice Systems Development.

(5) 16.516 Law Enforcement Assistance—Juvenile Justice and Delinquency Prevention—Formula Allocation to the States.

(6) 16.517 Law Enforcement Assistance—JJPD Special Emphasis Prevention and Treatment.

(b) Part II of OMB Circular No. A–95 Revised does not apply to LEAA assisted programs and projects.

(c) Subpart D of this part and Part III of OMB Circular No. A–95 Revised cover the following programs:

(1) 16.502 Law Enforcement Assistance—Improving and Strengthening Law Enforcement and Criminal Justice.

(2) 16.516 Law Enforcement Assistance—Juvenile Justice and Delinquency Prevention—Allocation to the States.

(d) Subpart E of this part and Part IV of OMB Circular No. A–95 Revised cover the same programs as listed in § 30.3(a).

Subpart B—Project Notification Procedures

§ 30.4 Notification of intent.

(a) Any applicant undertaking to apply to LEAA or an SPA for assistance for a project or program or major substantive modification thereto under a LEAA assisted project or program covered by this Subpart and Part I of OMB Circular No. A–95 Revised is required to notify both the State and areawide planning and development clearinghouses in the jurisdiction in which the project is to be located of the applicant's intent to apply for assistance at such time as the applicant determines to develop an application.

(b) In the case of the applications for projects involving land or water use and development or construction in the National Capital (as defined in section 1(b) of the National Capital Planning Act of 1952, as amended) a copy of the notification is to be sent to the National Capital Planning Commission (NCPC) in addition to the State and area wide clearinghouses.

(c) In the case of an application in any State for an activity that is statewide or broader in nature and does not have specific applicability to areawide or local planning and programs, the notification is to be sent only to the State clearinghouse unless otherwise required by the State clearinghouse.

(d) Notifications shall include a summary description of the proposed project. The summary description shall contain the following information:

(1) Identity of the applicant.

(2) The geographic location of the proposed project. A map should be provided, if appropriate.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that may be affected by the proposed project.

(4) A statement as to whether the applicant will be required by the funding agency to submit environmental impact information for the proposed project.

(5) The LEAA program title and number under which assistance will be sought as provided in § 30.3.

(6) The estimated date the applicant expects to formally file an application.

(e) Applicants are encouraged to contact the clearinghouse to which the notification will be sent to obtain notification forms and instructions and to submit the notification containing the preliminary information indicated above to the clearing house at the earliest possible time to expedite clearinghouse review.

(f) Notifications of all projects affecting a unit of general local government may be requested by the chief executive of such unit to be sent to such chief executive or to such central agency as the chief executive may designate for review and reference to appropriate agencies of such unit.

§ 30.5 Application submission.

(a) All applications for assistance under programs covered by this Subpart must be submitted to appropriate clearinghouses for review prior to their submission to the funding agency.

(b) Where review by clearinghouse has been completed prior to completion of an application, the applicant is not required to submit a completed application to the clearinghouses prior to submission to the funding agency. However, the applicant may be requested by the clearinghouses to supply an information copy of the completed application when the application is submitted to the funding agency.

(c) Applicants will include with the completed application as submitted to the funding agency:

(1) All comments and recommendations by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

(2) Where no comments have been received from a clearinghouse a statement that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

(d) Applications for renewal or continuation grants or applications not submitted to or acted upon by the funding agency within one year after completion of clearinghouse review will be subject to re-review upon request of the clearinghouse.

(e) Applications submitted to clearinghouses for review from nongovernmental applicants are not required to include confidential information concerning the financial status or structure or the personnel of the applicant organization, even though the funding agency may require such information to be sent to the funding agency as part of the application.

§ 30.6 Indian tribes.

(a) Applications from federally recognized Indian tribes are not subject to the requirements of this Subpart or Part II of OMB Circular No. A–95 Revised. However, Indian tribes may voluntarily comply with this Subpart and are encouraged to do so.

(b) The funding agency shall notify the appropriate State and areawide clearinghouses of any applications submitted by federally recognized Indian tribes upon receipt.

(c) Where a federally recognized Tribal Government has established a mechanism for coordinating the activities of Tribal departments, divisions, enterprises, and entities, such Tribal Government may require upon obtaining approval from LEAA that applications for assistance under programs covered by this Subpart from such Tribal departments, division, enterprises, and entities shall be subject to review by such Tribal coordinating mechanism as though it were a State or areawide clearinghouse. Upon receiving such request for approval, LEAA shall transmit the request to the Office of Management and Budget for comment.

§ 30.7 Clearinghouse review.

(a) Comments and recommendations made by or through clearinghouses with respect to any project are for the purpose of assuring maximum consistency of such project with State, areawide, and local comprehensive plans.

(b) An applicant may generally expect that State and areawide clearinghouses will complete review of a project notification within 30 days after receipt of the notification. However, clearinghouses may request an additional 30 days to review the completed application. Where

the applicant has not received a response to the applicant's notification from the clearinghouse within the initial 30-day period, the applicant may consider the clearinghouse to have waived its opportunity to review and comment on the proposed project.

(c) If an applicant submits a completed application to State and areawide clearinghouses during the 30-day notification review period, the applicant may expect that the clearinghouses will complete review within 30 days plus the number of days remaining in the 30-day notification period. If an applicant submits to the clearinghouses a completed application without a project notification, the applicant may expect that the clearinghouses will complete review of the application within 60 days. In all other cases, the applicant may expect that the clearinghouses will complete review of a completed application within 30 days. If clearinghouse review of an application is not completed within these time periods, the applicant may consider that the application has been favorably reviewed and may submit the application to the funding agency for consideration.

§ 30.8 SPA responsibilities.

SPAs shall provide procedures:

(a) For the submission of applications for programs or projects covered by this subpart to the appropriate clearinghouses.

(b) To insure that all applications contain a State Application Identifier (SAI) number. This is mandatory for use in notifying clearinghouses of action taken on the application.

(c) To insure that all comments have been considered and made a part of the application.

§ 30.9 Funding agency responsibilities.

(a) A funding agency that receives an application that does not carry evidence that appropirate clearinghouses have been given an opportunity to review the application shall return the application to the applicant with instructions to fulfill the requirements of this Subpart.

(b) The funding agency must notify appropriate clearinghouses within seven working days of any major action taken on any application that has been reviewed by such clearinghouses. Major actions will include awards, rejections, returns for amendment, deferrals, or withdrawals. The standard multipurpose form, SF 424, as prescribed by Treasury Circular TC 1082 (as revised, October 1975) will be used for this purpose.

(c) Where a clearinghouse has recommended against approval or approval only with specific and major substantive changes and the funding agency approves the application substantially as submitted, the funding agency will provide the clearinghouse with, along with the action notice, an explanation therefor.

(d) Where a clearinghouse has recommended approval of a project because it conflicts with or duplicates another Federal or federally assisted project, the funding agency will consult with the agency assisting the referenced project prior to acting if it plans to approve the application.

§ 30.10 Requests for exemptions and procedural variations.

(a) LEAA may request an exemption from OMB for certain classes of projects or activities under programs otherwise covered which:

(1) Meet any of the following characteristics:

(i) Assistance to organizations and institutions for the provision of education or training not designed to meet the needs of specific individual States or localities.

(ii) Research, not involving capital construction, which is national in scope or is not designed to meet the needs or to address problems of a particular State, area, or locality (except in the case of demonstration or pilot research programs where projects may have an impact on the community or area in which they are being conducted.

(iii) Assistance to educational, medical, or similar service institutions or agencies for internal staff development or management improvement purposes.

(iv) Assistance to educational institutions or activities that are part of a school's regular academic program and are not related to local programs of health, welfare, employment, or other social services.

(v) Assistance for construction involving only routine maintenance, repair, or minor construction which does not change the use or the scale or intensity of use of the structure or facility.

(vi) Assistance for law enforcement projects involving confidential law enforcement investigative information, techniques, or procedures.

(2) Are of small scale or size or are highly localized as to impact; or

(3) Display other characteristics which might make review impractical.

(b) LEAA may request procedural variations from normal review processes:

(1) On a temporary basis for programs with time constraints brought about because of start up requirements or other unusual circumstances beyond the control of the funding agency.

NOTE: Delay in fund availability is not normally an acceptable reason for a variation. When a delay is anticipated, applicants should be instructed to have their applications reviewed by clearinghouses in readiness for submission when funds become available.

(2) For programs where statutory or related procedural limitations make the normal review processes impracticable.

(c) All requests from LEAA offices or SPAs through LEAA Regional Offices for exemptions or procedural variations should be routed through the Office of Regional Operations, LEAA, Washington, D.C. 20531.

(d) Individual clearinghouses may exempt certain types of projects from review for reasons indicated above or for other reasons appropriate to the State or area.

(e) Applicants should be aware that in various States State law requires review of applications for Federal assistance under various programs not covered by this subpart. Implementation of such law is enforced through State rules and regulations, and applicants are urged to ascertain the existence of such laws and to acquaint themselves with applicable State procedures.

§ 30.11 Joint funding.

Applications for assistance to activities under the Joint Funding Simplification Act (Pub. L. 93–510) or any other joint funding authority, which involves activities funded under one or more of the programs covered under this Subpart, will be subject to the requirements of this subpart.

Subpart C—Direct Federal Development

§ 30.12 Non-applicability.

Part II of the OMB Circular No. A–95 Revised does not apply to LEAA.

Subpart D—State Plans

§ 30.13 General.

The purpose of this subpart and Part III of OMB Circular No. A–95 Revised is to provide information about the relationship to State or areawide comprehensive planning of the Annual Comprehensive State Plan.

§ 30.14 Governor's comments.

The Governor, or the agency the Governor has designated to perform reviews under Part III of OMB Circular No. A–95 Revised, must be given an opportunity to comment (up to 45 days) on the relationship of the Annual Comprehensive State Plan to comprehensive and other State plans and programs and to those of affected local or areawide jurisdictions. A period of 45 days must be provided the Governor or the delegated agency to make such comments and any comments must be submitted with the Annual Comprehensive State Plan.

Subpart E—Coordination of Planning in Multijurisdictional Areas

§ 30.15 Planning and development districts or regions.

The States are encouraged to:

(a) Exercise leadership in delineating and establishing a system of planning and development districts or regions in each State, which can provide a consistent geographic base for the planning and coordination of Federal, State, and local development programs.

(b) Use agencies that have been designated to perform areawide comprehensive planning, planning and development districts or regions established pursuant to paragraph (a) of this section (generally, areawide clearinghouses designated pursuant to Part I of OMB Circular No. A–95 Revised) to carry out or coordinate planning. In the case of interstate metropolitan areas, agencies designated as metropolitan areawide clearinghouses

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should be utilized to the extent possible to carry out or coordinate LEAA assisted or required areawide planning.

§ 30.16 Governor's review and comment.

Prior to the designation or redesignation (or the approval thereof) of any planning and development district or region under the LEAA programs, the Governor(s) of the State(s) in which the district or region will be located must be allowed a period of 30 days to review the boundaries thereof and comment on its relationship to planning and development districts or regions established by the State. Where the State has established such planning and development districts, the boundaries of areas designated under LEAA programs will conform to them unless there is clear justification for not doing so.

§ 30.17 Consultation in review boundaries.

Where the State has not established planning and development districts or regions which provide a basis for evaluation of the boundaries of the area proposed for designation, major units of general local government and the appropriate Federal Regional Council (FRC) will also be consulted prior to designation of the area to assure consistency with districts established under inter-local agreements and under related Federal programs.

§ 30.18 Justification for variance.

The Office of Management and Budget will be notified through the appropriate FRC by LEAA of any proposed designation and will be informed of such designation when it is made, including such justifications as may be required under § 30.16 above.

§ 30.19 Common and consistent planning bases and coordination of related activities in multijurisdictional areas.

(a) Each SPA will develop procedures and requirements for applications for multijurisdictional planning and development assistance under appropriate programs to assure the fullest consistency and coordination with planning and development being carried on by the areawide comprehensive planning agency or clearinghouse designated under Part I of the OMB Circular No. A–95 Revised. These procedures shall include provision for submission to the funding agency by any applicant for multijurisdictional planning assistance, if the applicant is other than an areawide comprehensive planning agency, of a memorandum of agreement between the applicant and such areawide comprehensive planning agency covering the means by which their planning activities will be coordinated. The agreement will cover but need not be limited to the following matters:

(1) Identification of relationships between the planning proposed by the applicant and that of the SPA and of similar or related activities that will require coordination;

(2) The organizational and procedural arrangements for coordinating such activities, such as: Overlapping board membership, procedures for joint review of project activities and policies, information exchange, etc.;

(3) Cooperative arrangements for sharing planning resources (funds, personnel, facilities, and services); and

(4) Agreed upon base data, statistics and projections (social, economic, demographic) on the basis of which planning in the area will proceed.

(b) Each SPA must provide to LEAA a description of:

(1) The extent to which law enforcement and criminal justice planning regions are consistent with State established planning and developing districts or regions together with reasons for any inconsistency.

(2) Procedural arrangements to assure maximum coordination with related planning under other Federal programs citing existing or planned memoranda of agreement and specific Regional Planning Units and/or State agencies which must execute memoranda of agreement.

§ 30.20 Memorandum of agreement signatories.

The signatories to the memorandum of agreement are:

(a) The areawide comprehensive planning agency (usually the areawide A–95 clearinghouse), and

(b) The applicant for assistance to carry out areawide planning if other than paragraph (a) of this section. (Not infrequently paragraphs (a) and (b) of this section are the same, in which case no memorandum of agreement is required.)

§ 30.21 Applicant for assistance to accomplish areawide planning.

The applicant referred to in § 30.20 (b) will in most cases mean any Regional Planning Units which cover a multijurisdictional area comprising, encompassing or extending into more than one unit of general local government and which does not operate under the auspices of an areawide comprehensive planning agency.

§ 30.22 SPA implementation of memorandum of agreement requirement.

The SPA is required to implement procedures to assure that the memorandum of agreement requirement is followed.

§ 30.23 Inability to effectuate a memorandum of agreement.

Where an applicant has been unable to effectuate a memorandum of agreement, the applicant will submit a statement indicating the efforts which were made to secure an agreement and the issues that have prevented it. In such case, the SPA in consultation with LEAA and the designated State clearinghouse, will undertake, within a 30 day period after receipt of the application, resolution of the issue before approving the application, if it is otherwise in good order. The SPA may seek the aid of the FRC if LEAA is unable to achieve an acceptable resolution.

Subpart F—Definitions

§ 30.24 Definitions.

(a) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(b) "Unit of general local government" means any city, county, township, town, borough, parish, village or other general purpose political subdivision of State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia.

(c) "Special purpose unit of local government" is any special district, public purpose corporation, or other strictly limited purpose political subdivision of a State.

(d) "LEAA assistance, LEAA financial assistance, LEAA assistance program, or LEAA assisted programs" are programs that provide assistance through LEAA grant or contractual arrangements; these also include technical assistance programs or programs providing assistance in the form of loans. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code sec. 47–2501a and 47–2501b).

(e) "Funding agency" is the Law Enforcement Assistance Administration or, in the case of block or formula grant programs, the State Planning Agency which is responsible for final approval of applications for assistance.

(f) "Metropolitan area" is a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Office of Management and Budget may determine to be appropriate for the purpose of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and the OMB Circular No. A–95 Revised.

(g) "Areawide" means comprising, in metropolitan areas, the whole of contiguous urban and urbanizing areas; and in non-metropolitan areas, contiguous counties or other multijurisdictional areas having common or related social, economic, or physical characteristics indicating a community of developmental interests or, in either, the area included in a sub-State district designated pursuant to paragraph 1d, Part IV, Attachment A of the OMB Circular No. A–95 Revised.

(h) "Planning and development clearinghouse or clearinghouses" includes:

(1) State Clearinghouse" which is an agency of the State government designated by the Governor or by State law to carry out the requirements of paragraph 3, Part I, Attachment A of the OMB Circular No. A–95 Revised.

(2) "Areawide clearinghouse" means:

(i) In non-metropolitan areas a comprehensive planning agency designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law to carry out requirements of OMB Circular No. A–95 Revised.

(ii) In metropolitan areas an areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Intergovernmental Cooperation Act of 1968, and OMB Circular No. A–95 Revised.

(i) "Multijurisdictional area" means any geographical area comprising, encompassing, or extending into more than one unit of general local government.

(j) "Planning and developmental district or region" means a multijurisdictional area that has been formally designated or recognized as an appropriate area for planning under State law or Federal program requirements.

(k) "Direct Federal development" means planning and construction of public works, physical facilities, and installations or land and real property development (including the acquisition, use, and disposal of real property) undertaken by or for the use of the Federal Government or any of its agencies; or the leasing of real property for Federal use where the use or intensity of use of such property will be substantially altered.

[FR Doc.76–25208 Filed 8–26–76;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 725]

BLACK LUNG DISEASE

Claims for Disability or Death Benefits; Correction

FR Doc. 76–24080 dated August 11, 1976, and published on August 17, 1976, at 41 FR 34792 is hereby corrected by changing the date for receipt of comments on the proposal from August 30, 1976 to September 30, 1976.

Signed at Washington, D.C., on this 25th day of August, 1976.

JOHN C. READ,
Assistant Secretary for Employment Standards.

[FR Doc.76–25345 Filed 8–26–76;8:45 am]

Occupational Safety and Health Administration

[29 CFR Part 1952]

ALASKA

Proposed Supplement to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in State plans which have been approved in accordance with Section 18 (c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the Federal Register (38 FR 21630) of the approval of the Alaska Plan and the adoption of Subpart R to Part 1952 containing this decision. On June 2, 1976, the State of Alaska submitted to the Seattle Regional Office of the Occupational Safety and Health Administration a supplement to the plan involving a State initiated change. Following regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether it should be approved. The supplement is described below.

2. *Description of the supplement.* The State has submitted a revision to the plan to withdraw from coverage the Maritime issue as set forth in the original plan. The State has requested that OSHA maintain jurisdiction of the on-shore operations within the State for the following reasons: (1) to eliminate jurisdictional problems within a single industry; and, (2) to relieve employers and employees of having to deal with two separate jurisdictions and Review Commissions concerning identical hazards.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and the supplement may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N–3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Assistant Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

4. *Public Participation.* Interested persons are hereby given until September 27, 1976 in which to submit written data, views and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N–3112, 200 Constitution Avenue, NW., Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart R of Part 1952 and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 20th of August 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–25231 Filed 8–26–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20894]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Arizona

1. Notice of proposed rule making is hereby given concerning the proposed amendment of § 73.202(b) of the rules, the FM Table of Assignments, by deleting the present assignment of Channel 269A at San Manuel, Arizona, and substituting Channel 288A. Channel 269A is unoccupied and unapplied for. The Commission makes this proposal on its own motion.

2. San Manuel, an unincorporated community of 4,332 persons, is located in Pinal County (pop. 67,916). Channel 269A is the only FM assignment at San Manuel. It is short spaced 11 kilometers (7 miles) to the first adjacent channel (268) on which Class C Station KHEP, Phoenix, Arizona, operates. In order to solve this short-spacing problem, we propose to replace Channel 269A with a new assignment, Channel 288A, which will not affect any other existing assignments in the FM Table.

3. In view of the fact that San Manuel is within 320 kilometers (199 miles) of the United States-Mexican border, the proposed assignment of Channel 288A to San Manuel is subject to concurrence by the Mexican authorities.

4. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), with regard to the community of San Manuel, Arizona, as follows:

City	Channel No.	
	Present	Proposed
San Manuel, Ariz.	269A	288A

5. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

6. Interested parties may file comments on or before October 5, 1976, and reply comments on or before October 26, 1976.

Adopted: August 19, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

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[Docket No. 20894]

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rule making to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rule making to which this is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76–25172 Filed 8–26–76;8:45 am]

[47 CFR Part 73]

[Docket No. 20893; RM–2716]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

New Mexico

1. The Commission has before it a petition filed by Fontana Media Corp. (KMYR(FM)), licensee of Station KMYR(FM) (Channel 258), Albuquerque, New Mexico, proposing the substitution of either Channel 288A or 296A for Channel 257A at Taos, New Mexico. An application has been tendered for filing by the Taos Communications Corp. for Channel 257A. Amendment of this application would be necessary if the proposed substitute channel is assigned. Either of the proposed substitute channels for Taos could be assigned without affecting any other existing FM assignment.

2. KMYR(FM) seeks to relocate its station to a site which it will share with Stations KHFM(FM) and KRKE–FM, also of Albuquerque. Its engineering study shows that the substitution of either Channel 288A or 296A would eliminate the nine mile short-spacing from the proposed transmitter site (BPH–9935) to the reference point of the first adjacent channel (257A) assigned to Taos, New Mexico. The short-spacing to the Taos proposed station would be 10 miles.

3. Taos (pop. 2,475)[1] the seat of Taos County (pop. 17,516), New Mexico, is situated approximately 57 miles northwest of Santa Fe, New Mexico. It is served by one full-time AM station (KKIT) in Taos.

4. KMYR(FM) points out that the proposed substitution will eliminate the short spacing to its proposed transmitter site; affect no other existing FM assignments; and enable Station KMYR(FM) to provide improved service to its listeners. For these reasons, we believe consideration of the proposal to substitute either Channel 288A or 296A for Channel 257A at Taos, New Mexico, is warranted.

5. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), with regard to the community of Taos, New Mexico, as follows:

City	Channel No.	
	Present	Proposed
Taos, N. Mex.	257A	288A or 296A

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached below and are incorporated herein.

7. Interested parties may file comments on or before September 27, 1976, and reply comments on or before October 18, 1976.

Adopted: August 13, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[1] All population figures are taken from the 1970 U.S. Census.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rule making to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rule making to which this is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76–25173 Filed 8–26–76;8:45 am]

[47 CFR Part 73]

[Docket No. 20895]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Wyoming

1. The Commission, on its own motion, proposes the substitution of Channel 257A for Channel 221A at Douglas, Wyoming, in order to correct a short spacing situation.

2. Douglas (pop. 2,677), a community in Converse County (pop. 5,938), is located approximately 113 kilometers (70 miles) east of Casper, Wyoming. Channel 221A, which is the only FM assignment in Douglas, is unoccupied and unapplied for.

3. The University of Wyoming has submitted an application (BPED–1864) to change the operation of Station KUWR (FM), Laramie, Wyoming, from Channel 218 to Channel 220 and increase its power. In our analysis of the application, which has since been granted, there appeared to have been a 8 kilometer (5 miles) short spacing from the proposed site of KUWR(FM) to Channel 221A which is assigned to Douglas, Wyoming. Since several substitute Class A channels which meet the minimum mileage separation requirements are available for assignment to Douglas, the short spacing problem can be corrected. We are therefore proposing the assignment of Channel 257A as a substitute for Channel 221A in that community.

4. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), with regard to Douglas, Wyoming, as follows:

City	Channel No.	
	Present	Proposed
Douglas, Wyo.	221A	257A

5. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and the filing requirements are contained below and are incorporated herein.

6. Interested parties may file comments on or before October 5, 1976, and reply comments on or before October 26, 1976.

Adopted: August 19, 1976.

Released: August 23, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rule making to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76–25171 Filed 8–26–76;8:45 am]

[47 CFR Part 73]

[Docket No. 20721; RM–2432]

NETWORK BROADCASTING BY STANDARD (AM) AND FM BROADCAST STATIONS

Review of Regulatory Policies

In the matter of review of Commission rules and regulatory policies concerning network broadcasting by standard (AM) and FM broadcast stations and Petitions of Mutual Broadcasting System, Inc. for rules applicable to newswire services.

1. On February 19, 1976, the Commission adopted a Notice of proposed rule making and notice of inquiry, 41 FR 9191, in the above-entitled proceeding. The date for filing comments has expired and the date for filing reply comments is presently August 23, 1976.[1]

2. On August 18, 1976, Mutual Broadcasting System, Inc. (Mutual), by its attorneys, requested that the time for filing reply comments be extended to and including September 2, 1976. Counsel states that in view of the numerous questions raised by the Commission's Notice and the volume of comments filed in this proceeding, a brief additional period of time for Mutual to prepare a response, which will be of maximum assistance to the Commission in its review of the comments, is necessary. Counsel further states that in light of the press of other business, Mutual and its counsel have been unable to devote the attention to the preparation of the reply which this matter deserves.

3. Pursuant to the provisions of § 1.46 of the rules, motions for extension of time are to be filed seven days prior to the filing date to afford the Commission sufficient time to act on the request and give timely notice of the action to interested persons. Late-filed requests will be considered in cases of last minute emergencies which could not have been anticipated by the party requesting the extension. The instant late-filed request is borderline in that counsel should have anticipated that a longer period of time would be needed in order to prepare a meaningful response to the questions raised in the Notice and the numerous comments filed in this proceeding. Since the Commission feels it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, and since this extension of time would not prejudice any parties to the proceeding, we are granting Mutual's request for additional time in which to file reply comments.

4. Accordingly, *it is ordered*, That the date for filing reply comments is extended to and including September 2, 1976.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: August 20, 1976.

Released: August 24, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76–25174 Filed 8–26–76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM76–29]

ELECTRIC RATE SCHEDULE FILINGS

Proposed Statement of Policy; Correction

AUGUST 11, 1976.

In the matter of Policy Statement Concerning Electric Rate Schedule Filings and the Requirement for Filing of Comparative Rate Information in Certain Situations.

In the notice of proposed statement of policy, issued July 29, 1976, (41 FR 32910, Aug. 6, 1976), in the first sentence of the notice, delete "and sections 16 and 17(b) of the Natural Gas Act (52 Stat. 830; (15 U.S.C. 717p(b), 717o)),".

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–25180 Filed 8–26–76;8:45 am]

[1] The original dates for filing comments and reply comments were May 10, and June 7, 1976, respectively. On May 5, 1976, an Order extending these dates to July 9 and August 6, 1976, was adopted. A subsequent Order was adopted August 2, 1976, extending the time for filing reply comments to August 23, 1976, based on a request of United Press International, an opposing party in this proceeding.

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[18 CFR Parts 4 and 131]

[Docket No. R-426]

WATER QUALITY STANDARD CERTIFICATIONS IN APPLICATIONS FOR LICENSE

Order Terminating Proposed Rulemaking

AUGUST 19, 1976.

On August 10, 1971, the Commission issued a notice of proposed rulemaking (37 FR 15669, August 17. 1971) in which we proposed to amend 18 CFR 4.41 (Exhibit H), 131.6, and 131.30. The proposed rulemaking resulted from the passage of the Water Quality Improvement Act of 1970, Pub. L. No. 91-224, 84 Stat. 91, which amended the Federal Water Pollution Control Act.

Comments concerning the proposed rulemaking were invited from interested persons to be submitted by September 15, 1971. Comments were received from five respondents.[1]

Subsequent to our August 10, 1971, notice, Congress passed the Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, 86 Stat. 816. This Act was a comprehensive revision of the Federal Water Pollution Control Act as it existed at the time of our proposed rulemaking. We therefore terminate the proposed rulemaking because it is based on an act which has been amended.

The Commission finds: It is appropriate and in the public interest to terminate the proposed rulemaking in Docket No. R-426 entitled "Water Quality Standard Certifications in Applications for Licenses."

The Commission orders: Docket No. R-426 entitled "Water Quality Standard Certifications in Applications for Licenses" is hereby terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25179 Filed 8-26-76;8:45 am]

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

[45 CFR Part 1800]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

The following proposed regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. Interested parties should submit comments on or before September 27, 1976. Comments should be addressed to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, D.C. 20006.

Signed this 24th day of August 1976, by

ROBERT E. CLEARY,
Executive Secretary.

[1] State Water Resources Control Board of the Resources Agency of the State of California; State of Oregon Game Commission; Pennsylvania Power & Light Company; Alabama Power Company; Mr. Chris C. Oynes.

It is proposed to add the following Part 1800 to Title 45 of the CFR:

PART 1800—PRIVACY ACT IMPLEMENTATION

Sec.

1800.1 Purpose and scope.
1800.2 Definitions.
1800.3 Procedures for requests pertaining to individual records in a record system.
1800.4 Times, places, and requirements for the identification of the individual making a request.
1800.5 Disclosure of requested information to the individual.
1800.6 Request for correction or amendment to the record.
1800.7 Agency review of request for correction or amendment of the record.
1800.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1800.9 Disclosure of record to a person other than the individual to whom the record pertains.
1800.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 1800.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Harry S. Truman Scholarship Foundation (hereafter known as the Foundation) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1800.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Foundation, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Foundation from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1800.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a request to the Deputy Executive Secretary of the Foundation to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Deputy Executive Secretary of the Foundation which states the individual's desire to review his or her record.

§ 1800.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Deputy Executive Secretary of the Foundation pursuant to Section 1800.3 shall present the request at the Foundation offices, 712 Jackson Place, NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Foundation's offices with a form of identification which will permit the Foundation to verify that the individual is the same individual as contained in the record requested.

§ 1800.5 Access to requested information to the individual.

Upon verification of identity the Foundation shall disclose to the individual the information contained in the record which pertains to that individual.

§ 1800.6 Request for correction or amendment to the record.

The individual should submit a request to the Deputy Executive Secretary of the Foundation which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 1800.4.

§ 1800.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Deputy Executive Secretary of the Foundation will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Foundation for the individual to request a review of that refusal.

§ 1800.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Deputy Executive Secretary of the Foundation to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, D.C. 20006.

The Executive Secretary will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Secretary extends such thirty day period. If, after his or her review, the Executive Secretary also refuses to correct or to amend the record in accordance with the request, the individual may file with the Foundation a concise statement setting forth the reasons for his or her disagreement with the refusal of the Foundation and may seek judicial review of the Executive Secretary's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1800.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Foundation will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Foundation's notices of its systems of records.

§ 1800.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc.76-25220 Filed 8-26-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-6/85]

STUDY GROUP 4 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 4 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 14, 1976, at 10 a.m. in the First Floor Auditorium of the ComSat Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The main items of the agenda for the meeting on September 14 are:

a. Report on the international meeting in May 1976;
b. Review of scheduled pertinent meetings within the International Telecommunication Union;
c. Organization of work programs;
d. Other business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: August 19, 1976.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.76-25213, Filed 8-26-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supp. to Dept. Circular Public Debt Series—No. 21-76]

TREASURY NOTES OF SERIES Q-1978

Interest Rate; Redesignation

AUGUST 20, 1976.

The Secretary of the Treasury announced on August 19, 1976, 41 FR 35078, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 21-76, dated August 13, 1976, will be 6⅝ percent per annum. Accordingly, the notes are hereby redesignated 6⅝ percent Treasury Notes of Series Q-1978. Interest on the notes will be payable at the rate of 6⅝ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-25159 Filed 8-26-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

DRAFT ENVIRONMENTAL STATEMENT

Public Hearing

AUGUST 13, 1976.

It was announced in the July 16, 1976 FEDERAL REGISTER that the U.S. Air Force would hold informal public hearings on August 30, 31 and September 1, 1976 in Grandview, Missouri. The purpose of the hearings is to solicit comments from the public for the proposed relocation of Air Force Communication Service from Richards-Gebaur AFB, Missouri to Scott AFB, Illinois. The Draft Environmental Statement (DES) for this proposed action was filed with the Council on Environmental Quality (CEQ) on June 25, 1976.

The public hearings will be held at the following times and places:

9:00 AM on August 30, 1976 at the Little Theater Municipal Auditorium, 13th and Wyandotte, Kansas City, Missouri;

7:00 PM on August 31, 1976, with the option to continue on September 1, 1976, at the Grandview High School Auditorium, Grandview, Missouri.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-25315 Filed 8-26-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. September 30, 1976.

COPPER RIVER MERIDIAN, ALASKA

T. 8 N., R. 2 W.
Sec. 1: Lots 1 to 9 inclusive, SE¼NE¼, E½SE¼
Sec. 12: Lots 1, 2, 3
Containing 419.12 acres.

2. The portion surveyed lies on the east side of the Gulkana River, south of Sourdough, Alaska. The Richardson Highway traverses the northeast corner of section 1. The land is nearly level to gently rolling, with some steep bluffs along the east side of the Gulkana River. The timber is black spruce, with willow and alder undergrowth.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including PL 92-203, December 18, 1971, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLYDE DUREN, JR.,
Acting Chief, Division of Cadastral Survey.

AUGUST 3, 1976.

[FR Doc.76-25132 Filed 8-26-76;8:45 am]

Fish and Wildlife Service

MARINE MAMMALS AND ENDANGERED SPECIES

Issuance of Permit

On June 18, 1976, a notice was published in the FEDERAL REGISTER (41 FR 24737), that an application had been filed with the Fish and Wildlife Service by Frederic Martini, Ph. D., Bradenton, Florida, for a permit to collect and import skeletal material and tissue samples of DUGONGS (*Dugong dugon*), for the purpose of scientific research.

Notice is hereby given that on August 17, 1976, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit to Dr. Frederic Martini, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 24, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, Fish and Wildlife Service.

[FR Doc.76-25262 Filed 8-26-76;8:45 am]

MARINE MAMMALS AND ENDANGERED SPECIES

Issuance of Permit

On April 23, 1976, a notice was published in the FEDERAL REGISTER (41 FR 16986), that an application had been filed with the Fish and Wildlife Service by the University of Miami (John Elliott Reynolds III), Miami, Florida, for a permit to observe MANATEES (*Trichechus manatus*), at close range, in the State of Florida, for scientific research.

Notice is hereby given that on August 11, 1976, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit (*PRT 2-123*), to the University of Miami, Miami, Florida, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours the the Fish and Wildlife Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 24, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, Fish and Wildlife Service.

[FR Doc.76-25263 Filed 8-26-76;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: University of Nevada System, Water Resources Center, Desert Research Institute, Reno, Nevada 89507.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
The fish will be used in a continuing program underway for about four years to determine the specific stress factors on Lahonton cutthroat trout (Salmo clarki henshawi) and rainbow trout (Salmo gairdneri) from alkaline, saline waters of the Great Basin.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dr. David L. Koch, Associate Research Prof.
Water Resources Center
Desert Research Institute
University of Nevada System
Reno, Nevada 89507
(702) 784-6955

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Scientific research - non-profit educational

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Desert Research
Lloyd P. Smith, President, Institute
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Desert Research Institute
Water Resources Center, Reno, Nevada 89507
and
Biology Department
University of Nevada
Reno, Nevada 89507

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdiction and type of document)
N/A

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: June 15, 1976
11. DURATION NEEDED: December 30, 19-6

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attached

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) David L Koch
DATE June 15, 1976

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GPO 895-042

12. The specific information required for the type of license/permit requested

This request is for 60-70 Lahonton cutthroat trout (*Salmo clarki henshawi*) per month from the Lahontan National Fish Hatchery for scientific research that are of the size available from normal hatchery operation. The sections of 50 CFR that apply to this request are 17.31 and 17.32.

The facilities where the fish will be held include temperature controlled recirculating tanks at the Institute. The fish will be transported to Reno from Gardnerville in chilled, aerated fish hauling containers.

All information derived from the experimentation with these fish will be available to the Service and will be published in scientific journals.

See attached Viate (for David L. Koch) and correspondence.

VITAE—DAVID L. KOCH

BIRTHDATE

September 1, 1943.

HEALTH

Excellent.

MARITAL STATUS

Married with one dependent.

EDUCATION

B.S.—Bethany College, Lindsborg, Kansas—Biology (1966); M.S.—Ft. Hays Kansas State College, Hays, Kansas—Limnology (1968); Ph.D.—Univ. of Nevada, Reno, Nevada—Ichthyology, Fishery Biology (1972).

PROFESSIONAL EXPERIENCE

1976-Present—Associate Research Professor, Center for Water Resources Research, Desert Research Institute, University of Nevada System, Reno, Nevada.

1973-1976—Assistant Research Professor, Center for Water Resources Research, Desert Research Institute, University of Nevada System, Reno, Nevada.

1969-1970—Chairman, Department of Biology, Hutchinson Community Junior College, Hutchinson, Kansas.

1968-1969—Instructor of Biology, Hutchinson Community Junior College, Hutchinson, Kansas.

1967-1968—Field Assistant, Ft. Hays Kansas State College, Hays, Kansas; Ran a small mammal live trap study for Division of Biological Sciences.

1966-1967—Field Assistant, Ft. Hays Kansas State College, Hays, Kansas; Conducted a fish survey for the western half of Kansas for the Division of Biological Sciences.

OTHER ACADEMIC EXPERIENCE

1971-1972—NSF Research Fellow, University of Nevada, Reno, Nevada.

1970-1971—Teaching Fellow, University of Nevada, Reno, Nevada.

1967-1968—Teaching Fellow, Ft. Hays Kansas State College.

MEMBERSHIPS

Kansas Academy of Science, American Society of Limnology and Oceanography, American Fishery Society, California-Nevada Chapter American Fisheries Society, Society of the Sigma Xi.

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RESEARCH PROJECTS AS PRINCIPAL INVESTIGATOR

Survey of the Lost River Fishes of the lower Klamath River Basin, California-Oregon, U.S. Bureau of Reclamation contract.

Population survey of benthic macroinvertebrates of the Truckee River. Nevada State Legislative appropriation.

Study of the vegetative canopy on the Truckee River as to how it effects environmental conditions of the Lahontan Cutthroat Trout life cycle. U.S. Fish and Wildlife Service contract.

Interrelationships of the zooplakton, algae and fishes of Pyramid Lake. Office of Water Research and Technology Matching Grant contract.

Project Director—Fishery restoration of Pyramid Lake. Directed design, construction, and development of a closed system hatchery for Lahonton Cutthroat Trout. Contract with the Pyramid Lake Paiute Indian Tribe.

Dynamic Ecological Relationships in Walker Lake, Nevada. Cooperative research program with Nevada Department of Fish and Game funded by the Office of Water Research and Technology.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-261-28; please refer to this number when submitting comments. All relevant comments received on or before September 27, 1976.

Dated: August 24, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-25264 Filed 8-26-76;8:45 am]

Geological Survey

LEGAL REVIEW OF PROCUREMENT ACTIONS

Implementation Agreement

AUGUST 23, 1976.

Notice of an agreement between the Geological Survey and the Office of the Solicitor on the implementation of Interior Procurement Regulations, Subpart 14-1.352, Legal Review of Procurement Actions.

Procedure. The following procurement actions shall be submitted to the appropriate Office of the Solicitor for review of legal sufficiency:

A. All proposed contracts and grants and amendments thereto (including all support documentation) exceeding the following dollar amounts by procurement office.

(1) Headquarters, Branch of Procurement and Contracts, $200,000.00.

(2) Regional Offices (Reston, VA; Denver, CO; Menlo Park, CA), $150,000.00.

These amounts may be modified by subsequent written agreement between the Chief, Branch of Procurement and Contracts, and the Assistant Solicitor—Procurement, Division of General Law, Department of the Interior.

B. All procurement contracts and grants, regardless of amount which involve the interpretation of contract or grant authority which have not previously been approved by the Office of the Solicitor.

C. Any solicitation, procurement contract or grant, or amendments thereto, or any other procurement action may be submitted for legal review, if in the judgment of the contracting officer such review is desirable and advisable.

D. All findings and decisions to be issued pursuant to the disputes clause.

E. All proposed notices of termination, whether for default or convenience, cure notices and show cause letters.

F. All protests and mistakes in bids.

Review. Documents shall be forwarded for review prior to release to contractor or grantee for execution or prior to execution by contracting officer and release to contractor (governed by document involved).

Documents shall be clearly identified as procurement action documents, filed in a contract folder in an orderly and readable manner and delivered to a designated location in the Office of the Solicitor. The contracting officer's name and telephone number will be prominently displayed on the document.

The review will normally be completed within seven working days of receipt of the documents by the Office of the Solicitor. In the event that the Office of the Solicitor needs time in excess of seven days, the contracting officer will be notified. Emergency procurement actions requiring expeditious actions will be hand delivered to the reviewing office, with a memorandum signed by the Chief Procurement Officer of Headquarters or the Regional Procurement Officer setting forth the urgency. These will then be given priority handling by the reviewing office.

The Office of the Solicitor shall review the procurement document and return it to the contracting officer with written findings of legal sufficiency or insufficiency and any recommendation or suggestion deemed appropriate. The contracting officer will address each review comment and indicate in the procurement file the action taken pursuant to it.

EDMUND J. GRANT,
Assistant Director for Administration.

[FR Doc.76-25267 Filed 8-26-76;8:45 am]

National Park Service

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a combined public meeting and field trip of the Western Regional Advisory Committee will be held in Yosemite National Park. The field trip will begin at 8:30 a.m. PDT on September 17, 1976, at the Awahnee Hotel. The public meeting will begin at 9:00 a.m. PDT on September 18, 1976 at the Yosemite Valley Visitor Center auditorium.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region of the National Park Service.

Members of the Advisory Committee are as follows:

Lewis S. Eaton, Fresno, California (Chairman)
Ben Avery, Phoenix, Arizona
David W. Ballie, Jr., Lihue, Kauai, Hawaii
Ed Fike, Las Vegas, Nevada
Bernard Fontana, Tucson, Arizona.
Jean Ford, Las Vegas, Nevada
Sonya Thompson, Agoura, California
Jack Walston, San Marino, California
Todd Watkins, Bishop, California

Friday morning, September 17, the Committee will make a field trip covering those areas of major significance to be involved in the present master planning process and as yet unvisited by the Committee.

Saturday morning, September 18, a public meeting will be held to provide the Committee and the public the opportunity to discuss the various alternatives to be considered in the master plan presently being developed.

The meeting will be open to the public. Any member of the public will also be able to file, with the Committee, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office at (415) 556-8227.

Copies of the Committee's recommendations and/or resolutions as a result of this meeting will be available through the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

AUGUST 12, 1976.

[FR Doc.76-25152 Filed 8-26-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-393]

AFFINITY MINING CO.

Amendment [1] to Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Affinity Mining Company has filed an amended petition to modify the application of 30 CFR 75.1710 to its Keystone No. 5 Mine, Raleigh County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710-1 which is pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. After filing its initial petition, Petitioner became aware of a memo from the Acting Assistant Administrator, Coal Mine Health and Safety, dated September 20, 1973. That memo defines the term "mining height" as used in § 75.-1710-1 "as being the distance from the floor to the finished roof less 12 inches."

2. The measurements stated in paragraph 4 of the initial petition represent the actual floor-to-roof measurements, without the subtraction of 12 inches.

3. In light of the above interpretation, and in light of the recent amendment to 30 CFR 75.1710-1 (41 FR 23,199-23,200 of June 9, 1976), Petitioner deems it necessary to amend its original petition in order to validly indicate the appropriate governing regulation and to clarify the factual pleadings.

4. Accordingly, the above-captioned petition is amended to substitute references to 30 CFR 75.1710-1(a)(5) (i) and (ii) for references to 30 CFR 75.1710-1 (a)(4). Also, paragraph 1 of the notice of May 13, 1976, is amended to read as follows:

The average "coal seam heights" in the Keystone No. 5 Mine range from 40 to 42 inches. An average of 4 to 7 inches decrease in the effective average height occurs as a result of the installation of supplemental supports and wedges installed in accordance with the approved roof control plan. In addition, the natural undulations and rolls of the coal seam result in ascending and descending grades that further lower the effective height. The average "mining heights" in the Keystone No. 5 Mine range from 28 to 30 inches (see Addendum No. 1).[2] Taken as a whole, these conditions tend to limit and/or prevent the safe use of cabs and canopies on electric face equipment used in the Keystone No. 5 Mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 27, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 16, 1976.

[FR Doc.76-25133 Filed 8-26-76;8:45 am]

[1] Notice of the original petition was published in 41 FR 19685 on Thursday, May 13, 1976.

[Docket No. M76-533]

BIG FORK COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Big Fork Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Big Fork No. 8, Big Fork No. 9, and Big Fork No. 11 Mines, Nicholas County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710-1 which is pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On an after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner operates the foregoing mines in seams of coal in heights averaging 44 to 48 inches. In all of the mines covered by this petition, primary problems and hazards occur due to abrupt changes in seam heights and undulations in the mine floors which do not permit clearance between the top of operated equipment and the roof adequate to allow installation of canopies for the protection of the operators.

2. The machinery and equipment being used at the mines covered by this petition consist of a 70UR Cutting Machine, Wilcox WRDD-J6 Roofbolters, S & S UAT74SSBCA Battery Powered Scoops, a M20PF Wilcox Continuous Miner, a Joy 11RU Cutting Machine, a 14BU8 Joy Loading Machine, and Joy 8SC Shuttle Cars. Petitioner states that use of this equipment necessitates that the operators leave the machines to make certain adjustments and to do maintenance which cannot be readily accomplished with canopies in place. In addition the canopies would destroy or partially block the view of the operator or cause him to have to project his head from underneath the canopies for proper visual inspection.

3. Petitioner states that in the mines covered by this petition, hazards exist from roof contact at areas where low seams, rolls, dips, and seam variations drop to the vicinity of equipment height. As a result of the undulation of seam heights in these mines, the installation of canopies would cause equipment clearance to be inadequate causing collisions with the top, sheared roof bolts, damaged cross beams, and destroyed equipment and roof support.

4. Petitioner has been in contact with other coal operators in the area, as well as equipment vendors, and finds that no standard canopy now in production can meet the requirements of the law and still permit coal of these variable fluc-

[2] Addendum No. 1 is available for inspection at the address contained in the last paragraph of this notice.

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tuating heights to be satisfactorily removed.

5. Petitioner asks that the standard involved be modified since its enforcement will result in diminution of safety at its mines, and since no technology is available at present to satisfactorily accomplish the desired results of increased safety. The production for these mines will be sharply curtailed, or stopped, if it is required to install the present standard canopy.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 27, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Office of Hearings and Appeals.

AUGUST 16, 1976.

[FR Doc.76-25134 Filed 8-26-76;8:45 am]

[Docket No. M76-540]

CABIN KNOLL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Cabin Knoll Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 9 Mine.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction wtih § 75.-1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the foregoing standard with respect to haulage equipment and a roof bolting machine in its No. 9 Mine. Petitioner's said haulage equipment consists of one S & S Scoop, Model 486; one cutting machine; and one roof bolting machine.

2. The No. 9 Mine is in the Lower Elkhorn seam and ranges from 42 to 46 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that installation of canopies on the foregoing equipment creates the following hazards to the equipment operators:

(a) As a result of dips in the coal seam, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support. Also, the canopies allow only a 23-inch vertical operating compartment, thus limiting the vision of the equipment operators and creating a hazard to them a swell as to the other employees in the mine.

(b) Petitioner maintains that since the equipment operators' vision is limited in the postiion required in order to be seated in the operating decks, that the instalation of canopies could be contributing factors in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 27, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 16, 1976.

[FR Doc.76-25135 Filed 8-26-76;8:45 am]

[Docket No. M76-527]

DEAN JONES COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Dean Jones Coal Company, Incorporated, has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, Lee County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the foregoing mandatory standard as it applies to all electric and self-propelled electric face equipment presently in its Mine No. 1 and to any of such equipment purchased in the future for use in this underground mine.

2. The underground Mine No. 1 is an underground bituminous coal mine with an average height of 35 inches.

3. Petitioner states that installation of required canopies would extremely confine the equipment operator and impair his mobility, thus creating a safety hazard.

4. Petitioner states that due to the low coal height in its Mine No. 1, a canopy or cab would prevent the continuous miner operator from having the necessary peripheral vision of equipment and surroundings to permit safe operation.

5. Petitioner states that it has an approved roof control plan, approved by the Virginia Division of Mines and by the Mining Enforcement and Safety Administration, which is adequate for roof support in its Mine No. 1.

6. Petitioner states that its accident record for roof falls is clean. No fatalities or injuries by roof falls in any of its underground mines have occurred since their opening in 1967.

7. Petitioner states that it employs a Wilcox Continuous Miner, which has a height of 26 inches, and that its coalbed has some dips and nonuniform slopes. According to Petitioner, the miner operator believes that it would be impossible to operate the miner safely with a canopy or cab installed as it would diminish peripheral vision and limit operator movement, creating a safety hazard.

8. Petitioner maintains that canopies or cabs installed on its electric face equipment would be a far greater hindrance than a help in its continuous miner operation due to the coal height in the Mine No. 1, the impaired peripheral vision, and the confinement of miner operator's movement. Petitioner states that compliance with this required safety standard presents more of a safety hazard than operating without a canopy or cab in the circumstance of its mining operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 27, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 16, 1976.

[FR Doc.76-25136 Filed 8-26-76;8:45 am]

[Docket No. M76-495]

MARY E. COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Mary E. Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, Whitewood, Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710–1 which in pertinent part provides:

• • • Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. • • •

The substance of Petitioner's statement is as follows:

1. In its mine Petitioner operates the following equipment:

Name	Type	Model No.	Height	Length	Width
			Inches	*Feet*	*Feet*
S & S	Scoop	74	30	25	9
S & S	do	74	30	25	9
Royal	Cutting machine		28	21	7
Do	do		28	21	7
Do	Roof bolter		28	10	4
S & S	Tractor	80	24	13	6
S & S	do	100	26	15	7½
S & S	do	100	26	15	7½
S & S	do	100	26	15	7½
S & S	do	120	27	15	7½

2. The varying height of the coal seam and the way it dips and rolls prevents any protective device which would increase the height of the equipment from being installed.

3. Cabs and canopies would be dangerous because the height of the coal seam is so low that the operator of the equipment would endanger himself and the other workers. If he operated the equipment with cabs or canopies installed he would be cramped in the deck of the equipment thereby impairing his control of the equipment. Vision would be restricted, endangering the operator and his fellow workers. Many of the employees have stated opposition to operating the equipment with cabs and canopies installed for fear that it would be more of a threat to their safety than if they were to use the equipment without cabs and canopies. Also the uneven mine floor (the many rolls, rises, and drops) prevents the use of cabs and canopies on equipment in this mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 27, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

AUGUST 16, 1976.

[FR Doc.76-25137 Filed 8-26-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

TESTING AND CONTROL PROGRAM FOR AFLATOXIN IN IMPORTED IN-SHELL BRAZIL NUTS

Memorandum of Understanding With Food and Drug Administration

CROSS REFERENCE: See FR Doc. 76-25139 in the Notices section of this issue of the FEDERAL REGISTER for a Memorandum of Understanding with the Food and Drug Administration setting forth working arrangements for testing for and control of aflatoxins in imported in-shell Brazil nuts.

Forest Service

BULL RUN PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Bull Run Planning Unit, USDA–FS–R6–DES(Adm)–76–16.

The environmental statement concerns a proposed land use plan for the 144,294 acre Bull Run Planning Unit, Mt. Hood National Forest, Oregon. The Planning Unit contains the 142,080 acre Bull Run Reserve, established in 1892 by President Benjamin Harrison.

The proposed plan was prepared in cooperation with the City of Portland, Oregon Water Bureau, as the 67,329 acre Bull Run drainage is the watershed for the City of Portland. The proposed plan

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recommends changing the boundary of the Bull Run Reserve to reduce the area to 95,262 acres.

All management activities inside the Bull Run drainage would be designed to meet the principal objective of maintaining water quality. Activities and uses would include timber harvesting, additional water storage facilities, hydroelectric power generation, research and public education. Public use and entry would be limited to conditions jointly agreed upon by the City of Portland and the Forest Service. A Memorandum of Understanding between the City of Portland Water Bureau and the Forest Service would be maintained. The Planning Unit contains two roadless areas, Lake (10,100 acres) and Big Bend (10,200 acres). The proposed plan does not recommend these areas for Wilderness Study.

The remaining 49,032 acres outside the proposed Reserve would be managed for a full range of multiple uses, including recreation, timber production, water, wildlife, and wilderness study.

Implementation of the proposed plan could require legislation, pending the final outcome of current litigation.

This environmental statement was transmited to CEQ on August 20, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine, Portland, Oregon 97204.
Mt. Hood National Forest, 2440 SE. 195th Ave., Portland, Oregon 97233.
Columbia Gorge Ranger Station, Route 3, Box 44A, Troutdale, Oregon 97060.
Zigzag Ranger Station, Zigzag, Oregon 97073.
Hood River Valley Ranger Station, Route 1, Box 573, Parkdale, Oregon 97047.
Portland Water Bureau, 1800 SW. 6th Ave., Portland, Oregon 97201.

A limited number of single copies are available upon request to Forest Supervisor, Mt. Hood National Forest, 2440 SE. 195th Ave., Portland, Oregon 97233.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Mt. Hood National Forest, 2440 SE. 195th Ave., Portland, Oregon 97233. Comments must be received by October 30, 1976 in order to be considered in the preparation of the final environmental statement.

F. DALE ROBERTSON,
Forest Supervisor,
Mt. Hood National Forest.

[FR Doc.76-25129 Filed 8-26-76;8:45 am]

MULTIPLE USE PLAN PROSPECT PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan Prospect Planning Unit, USDA-FS-R1(16)DES-Adm-76-23.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Prospect Planning Unit, located on the Thompson Falls Ranger District, Lolo National Forest in Sanders County, Montana. The action affects 139,000 acres of National Forest Land. The plan recommends that 124,920 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber and range. An area of 14,080 acres which will remain unroaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 62,830 acres that are presently roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources; the availability of products, employment, and services provided; and in the natural condition of vegetation, soil, water, and wildlife.

This draft environmental statement was transmitted to CEQ on August 20, 1976. Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, 340 N. Pattee, Missoula, MT 59801.
USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.
USDA, Forest Service, Thompson Falls Ranger District, Thompson Falls, MT 59873.
University of Montana, University Library, Documents Division, Missoula, MT 59801.
University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.
Missoula City—County Library, Washington and East Main, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from the State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Orville L. Daniels, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Comments must be received by October 20 in order to be considered in the preparation of the Prospect final environmental statement.

ORVILLE L. DANIELS,
Forest Supervisor.

AUGUST 20, 1976.

[FR Doc.76-25128 Filed 8-26-76;8:45 am]

Rural Electrification Administration

CHAUTAUQUA AND ERIE TELEPHONE CORP., WESTFIELD, NEW YORK

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in the REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form on the FEDERAL REGISTER, September 16, 1974, (Vol. 39 No. 180, 34 FR 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $8,800,000 to Chautauqua and Erie Telephone Corporation, Westfield, New York. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Alastair Nixon, President, Chautauqua and Erie Telephone Corporation, 30 Main Street, Post Office Box B, Westfield, New York.

To assure consideration, proposals must be submitted (within 30 days of the date of this notice) to Mr. Nixon. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Chautauqua and Erie Telephone Corporation and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 20 day of August 1976.

C. R. BALLARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-25157 Filed 8-26-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY COUNCIL; SUB-COUNCIL ON BUSINESS AWARENESS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974) notice is hereby given that the meeting of the Sub-Council on Business Awareness of the National Industrial Energy Council will be held on Tuesday, September 14, 1976, from 10:00 a.m. to 12 Noon, in Conference Room 1851, Main Commerce Building, 14th & Constitution Avenue, NW., Washington, D.C. 20230.

The Sub-Council will meet to discuss its progress toward meeting the objectives of the Sub-Council and to prepare a report to be submitted at the next full Council meeting.

The meeting is open to public attendance and a limited number of seats will be available on a first-come, first-serve basis. To the extent that time permits, members of the public may present oral statements to the Sub-Council. Interested persons are also invited to file written statements with the Sub-Council before or after the meeting.

Inquiries should be addressed to Ms. Kay Courtney, Office of Energy Programs, DIBA, Room 2211, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230. Tele: (202) 377-5001.

Dated: August 4, 1976.

ROBERT M. JACKSON,
Acting Executive Director, National Industrial Energy Council.

[FR Doc.76-25111 Filed 8-26-76;8:45 am]

NATIONAL INDUSTRIAL ENERGY COUNCIL; SUB-COUNCIL ON INDUSTRY PROGRAMS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974) notice is hereby given that the meeting of the Sub-Council on Industry Programs of the National Industrial Energy Council will be held on Wednesday, September 8, 1976, from 10:30 a.m. to 12 Noon, in Conference Room 4830, Main Commerce Building, 14th & Constitution Avenue, NW., Washington, D.C. 20230.

The Sub-Council will meet to discuss its progress toward meeting the objectives of the Sub-Council and to prepare a report to be submitted at the next full Council meeting.

The meeting is open to public attendance and a limited number of seats will be available on a first-come, first-serve basis. To the extent that time permits, members of the public may present oral statements to the Sub-Council. Interested persons are also invited to file written statements with the Sub-Council before or after the meeting.

Inquiries should be addressed to Ms. Kay Courtney, Office of Energy Programs, DIBA, Room 2211, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230. Tele: (202) 377-5001.

Dated: August 4, 1976.

ROBERT M. JACKSON,
Acting Executive Director, National Industrial Energy Council.

[FR Doc.76-25112 Filed 8-26-76;8:45 am]

UNIVERSITY OF OKLAHOMA HEALTH SCIENCES CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00360. Applicant: The University of Oklahoma Health Sciences Center, 800 N.E. 13th Street, M.S. Room 137, PO Box 26901, Oklahoma City, Oklahoma 73190. Article: Electron Microscope, Model HS-9 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used in the course Electron Microscopial Methods, Pathology 6012 in which the basic theory and biological application of the electron microscope in medical research is presented. An indepth training in tissue preparation, specimen cutting and staining, photographic techniques, and the use of the electron microscope are areas that are studied under the guidance of an experienced electron microscopist.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 20, 1975). Reasons: The foreign article is a relatively-simple, easy to operate, medium resolution electron microscope designed for confident use in teaching beginning students with a minimum of detailed programming. The article provides 6Å point-to-point resolution, an accelerating voltage of 75 kilovolts, and low distortion magnification from 500X through 100,000X plus 200X for scanning which permits an overlap of light and electron microscopy.

The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU-4C supplied by the Adam David Company. The Model EMU-4C is a relatively complex instrument vis a vis the article which provides magnifications of 1400X to 240,000X with its standard pole-piece and low distortion magnifications of 500X to 70,000X through the use of a low magnification pole-piece. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 16, 1976 that relative simplicity and ease of operation are pertinent to the applicant's intended educational purposes. HEW also advises that the Model EMU-4C is more complex than the educational work requires.

Adam David Company advertises another model electron microscope, the PA-1. In this regard, we note that a prototype of the PA-1 was first shown by Adam David in November, 1974. The record shows that neither the Department nor its consultants have been able to determine or verify the capabilities of the PA-1 as of the date of this decision. Thus the Department does not have a sufficient basis for ruling that the Adam David Company was able to supply the PA-1 at the time the foreign article was ordered, or that it is the scientific equivalent of the foreign article. We, therefore, find that the Model EMU-4C was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-25169 Filed 8-26-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1976:

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

September 27-October 1; 8:00 a.m.
Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland
Open—September 27, 8:00-9:00 a.m.
Closed—Otherwise
Contact Mr. Sidney Leopold, Parklawn Building, Room 14C-17, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2080.

V 41 168 AUG 27 76 UMI

Purpose. The Committee provides initial review of applications for community alcoholism services demonstration grants for the prevention of alcoholism and the treatment and rehabilitation of special population groups with drinking problems, such as cross-population, poverty, women and youth and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 8:00 a.m. to 9:00 a.m., September 27, the meeting will be open for discussion of administrative announcements. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, NIAAA, 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301-443-3306.

Dated: August 23, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-25150 Filed 8-26-76;8:45 am]

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Chemical/Physical Agents

Correction

In FR Doc. 76-21906, appearing at page 31585, in the issue for Thursday, July 29, 1976, the following corrections should be made:

On page 31586, in the first column, in the table entitled "Criteria Documents", the second line of the left column should read "Carbon Monoxide", and the fourth line of the left column should read "Ultraviolet Radiation".

Food and Drug Administration

TESTING AND CONTROL PROGRAM FOR AFLATOXINS IN IMPORTED IN-SHELL BRAZIL NUTS

Memorandum of Understanding With Agricultural Marketing Service

The Food and Drug Administration is announcing that a Memorandum of Understanding has been executed with the Agricultural Marketing Service of the U.S. Department of Agriculture on August 17, 1976. The purpose of the memorandum is to set forth working arrangements for performing each agency's responsibilities under the Federal Food, Drug, and Cosmetic Act for testing for and control of aflatoxins in imported in-shell Brazil nuts.

Pursuant to the announcement published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing this notice. The Memorandum of Understanding with the Agricultural Marketing Service reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE AGRICULTURAL MARKETING SERVICE AND THE FOOD AND DRUG ADMINISTRATION

AFLATOXIN TESTING PROGRAM FOR IN-SHELL BRAZIL NUTS

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. In fulfilling its responsibilities under the act, the activities of FDA are directed toward, among other things, the protection of the public health of the Nation by ensuring that foods are safe and wholesome.

The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA), under the authority of the Agricultural Marketing Act of 1946, carries out certain voluntary service functions designed to aid in the efficient marketing of agricultural products. These include the development of commercial grade standards and specifications for foods and the furnishing of inspection and grading services, including the issuance of certificates of quality and/or condition to producers, processors, shippers, buyers, or other interested parties.

Since 1967, FDA and AMS have cooperated in a voluntary program with United States importers for aflatoxin testing of in-shell Brazil nuts. Aflatoxins, which are potent carcinogens produced by the mold *Aspergillus flavus*, may contaminate various kinds of foods, including tree nuts. Under this voluntary program, importers of in-shell Brazil nuts subject each lot of the product to USDA inspection prior to its introduction into United States commerce. USDA is responsible for sampling and testing each lot for aflatoxin in accordance with procedures prescribed by FDA. USDA then issues an analysis certificate for each lot, which FDA accepts and then allows entry of that lot into United States commerce provided the aflatoxin level does not exceed the current action level prescribed by FDA.

The two agencies believe it desirable from the standpoint of public interest to set forth in this Memorandum of Understanding the working arrangements that are being followed by each agency in carrying out this program.

I. It is mutually agreed that the USDA sampling and testing program will be conducted as follows:

A. *Application for Inspection.* It will be the importers' responsibility to contact the Fruit and Vegetable Division, Agricultural Marketing Service of USDA for inspection of in-shell Brazil nuts imported into the United States. Such contract will be in the form of a written application identifying the lots to be sampled and tested. The following items will be specified: location of lots, number of bags, size of bags, code marks, markings, and other pertinent information that may be necessary to positively identify the tender. Upon application, the importer shall state whether the sample is to be subject to analysis of the entire sample, including both the shells and kernels, or to kernel analysis only.

B. *Sampling.* Samples will be drawn in accordance with the following schedule:

Number of bags in lot	Number of bags sampled	Total pounds in sample	Approximate number of nuts
200 or less	20	20	1,000
201 to 800	40	40	2,000
801 to 2,000	60	60	3,000

C. *Aflatoxin Assay*—1. *Shell and kernel analysis.* The entire sample of shells and kernels will be ground in a Hobart Vertical Cutter mixer. A well-mixed portion of the ground composite will be assayed chemically for aflatoxin, using the BF method as described in the Book of Official Methods of Analysis of the Association of Official Analytical Chemists, 12th ed., Secs. 26.020-26.024. The aflatoxin level will be calculated on the basis of the nut kernel, assuming the kernel constitutes half the weight of the total in-shell nut.

2. *Kernel analysis.* The entire sample is individually shelled. Those kernels that have an obviously inedible appearance will be discarded. The remaining kernels will be composited and ground with the addition of an inert grinding aid. A well-mixed portion of the ground composite will be assayed as described in paragraph 1 above.

D. *Reporting.* A separate analysis certificate will be issued for each lot. Appropriate identification marks will be shown on each certificate so that the report can be related to the specific lot sampled. In showing the results of the assay, the following procedure will be used:

1. Lots containing aflatoxin at or less than the current action level prescribed by FDA will be reported as negative.

2. When shell and kernels are analyzed, and the lot contains aflatoxin above the action level, the importer may have the lot reanalyzed in accordance with kernel analysis requirements. Personnel from the Fruit and Vegetable Division, Agriculture Marketing Service, will phone or wire the proper inspection office to request a second sample for this purpose. If the kernel assay is at the action level or lower than the action level, a negative certificate is issued. If the assay is higher than the action level, the appropriate FDA District Office will be notified.

II. Each agency will designate a person to serve as a central contact to whom communications dealing with this agreement or matters affected thereby may be first referred for attention.

III. Both agencies will maintain close working relations with each other, both in headquarters as well as in the field.

IV. Both agencies will work with industry toward greater efficiency in connection with improvement of the testing program.

V. Nothing in this agreement modifies other existing agreements, nor does it preclude entering into separate agreements setting forth procedures for special programs that can be handled more efficiently and expeditiously by such special agreement.

VI. The provisions of this memorandum may be modified at any time by mutual agreement.

Approved and accepted for the U.S. Department of Agriculture.

Dated: July 28, 1976.

IRVING W. THOMAS,
Acting Administrator, Agricultural Marketing Service.

Approved and accepted for the Food and Drug Administration.

Dated: August 17, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

Effective date. This Memorandum of Understanding became effective August 17, 1976.

Dated: August 17, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-25139 Filed 8-26-76;8:45 am]

DEVICE GOOD MANUFACTURING PRACTICE ADVISORY COMMITTEE

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 12, 1976, of the Device Good Manufacturing Practice Advisory Committee specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583), which amended the Federal Food, Drug, and Cosmetic Act ("the act").

The function of this committee is to review regulations proposed for promulgation regarding good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and to make recommendation to the Commissioner concerning the feasibility and reasonableness of those proposed regulations. The committee will also advise the Commissioner regarding any petition submitted by a manufacturer for an exemption or variance from good manufacturing practice regulations that the Commissioner refers to the committee.

This committee is exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and its charter will remain in effect until amended or terminated by the Commissioner.

Dated: August 23, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-25138 Filed 8-26-76;8:45 am]

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part 2 (Office of Education), Section 2-B, Organization and Functions of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended to attain the purposes of the General Education Provisions Act (Title IV of P.L. 90-247 as amended by Section 503 of the Education Amendments of 1974). The statement published in the FEDERAL REGISTER of 11/21/73, at 38 FR 32154, as amended, is amended as follows. The following new statement, which describes the function of the ten Office of Education Regional Offices, is inserted immediately after the statement following the heading Office of the Commissioner.

Office of the Regional Commissioner. Provides leadership, directs and administers the educational affairs of an HEW region consistent with legislative intent. Carries out programmatic delegations of authority as assigned and in accordance with existing legislation. Serves as a center for dissemination of information and provides technical assistance to State and local education agencies, institutions of higher education, and other educational agencies, institutions, and organizations, and to individuals and other groups having an interest in federal education activities. Provides the overall management and administration of the regional office operations, personnel, programs, and resource utilization.

Office of Management and Administration. Provides all administrative functions assigned to the Regional Office including such areas as personnel management; S & E budget planning and execution; monitoring audit response, resolution, and settlement; and special management studies or analyses. Carries out contract and grant negotiation, award, monitoring, and close-out; application processing and control; liaison with RD personnel activities; liaison with RD accounting and fiscal activities; and liaison with RD general services activities.

Office of Planning and Special Programs. Provides technical assistance and dissemination services for legislated programs as directed by the Regional Commissioner. Develops and monitors Regional Office objectives established through the Operational Planning System and coordinates objectives interfacing with the regional HEW and headquarters system of objectives. Serves as the intra HEW and interagency coordinating division for the Regional Commissioner. Prepares special studies relative to the unique educational needs of the region as a basis for effective program administration and as a basis for policy recommendation at the national level. Serves as regional contact for program functions and activities assigned to the Immediate Office of the Commissioner, Office of Indian Education, and Bureau of Education for the Handicapped, by providing technical assistance and dissemination functions as directed by the Regional Commissioner. Provides the Regional Commissioner with input and recommendations for all aspects of forward planning such as program budget formulation, evaluation planning, and legislative planning. Monitors and evaluates the use of Office of Education program resources in the field and provides recommendations to enhance and improve the administration, utilization, and effectiveness of program and project activities.

Division of Elementary and Secondary Education. Plans and directs OE field operation of elementary and secondary educational and library programs in accordance with delegations of authority to the Regional Commissioner. Provides policy input to the Regional Commissioner, and serves as an instrument to test the feasibility of such policies in operation in the field. Provides technical assistance through: (a) the interpretation of regulations, guidelines, and manuals to State and local education agencies, other agencies and organizations, and individuals interested in Federally supported elementary and secondary programs; (b) the maintenance of administrative and technical contact with OE contractors, grantees, and award recipients in the field in an effort to maximize the utilization and benefit of OE sponsored programs and makes recommendations for the improved management of such programs as warranted; (c) the resolution of problems associated with the administration of such elementary and secondary education programs at the State and local levels; (d) the provision of advisory and informational services in the area of elementary and secondary education to State and local educational agencies, institutions of higher education, and other private and public agencies and organizations; (e) the identification of exemplary projects and programs in the area of elementary and secondary education and the dissemination of this information to others in the field; and (f) the encouragement and coordination of efforts in the field through meetings and workshops to resolve pressing educational problems and concerns.

Division of Occupational and Adult Education. Plans and directs OE field operation of Bureau of Occupational and Adult programs in accordance with delegations of authority from the Deputy Commissioner for Occupational and Adult Education. Provides policy input to the Regional Commissioner and serves as an instrument to test the feasibility and soundness of such policies for operation in the field. Reviews and recommends through the Regional Commissioner the approval or disapproval and necessary action on Vocational and Adult Education State Plans and requested reports. Provides technical assistance through: (a) the interpretation of regulations, guidelines, and manuals to State and local education agencies, institutions of higher education, other agencies and organizations, and individuals interested in federally supported vocational, occupational and adult education programs; (b) the maintenance of close contact with OE contractors, grantees, and award recipients in the field in an effort to maximize the utilization and benefit of OE sponsored programs and makes recommendations for the improved management of such programs as warranted; (c) the conduct of liaison between the

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interested groups, coordinating various elements and aspects of the occupational and adult education area; (d) the communication of pertinent information to a wide variety of recipients; and (e) the dissemination of information, counsel and materials to State and local educational agencies and public and private community agencies or organizations on programs not administered by OE regional offices.

Division of Postsecondary Education. Plans and directs OE field operation of postsecondary education programs in accordance with delegations of authority to the Regional Commissioner. Provides policy input to the Regional Commissioner and serves as an instrument to test the feasibility of such policies in operation in the field. Provides technical assistance through: (a) the interpretation of regulations, guidelines, and manuals to State and local education agencies, institutions of postsecondary education, other agencies and organizations and individuals interested in federally supported postsecondary education programs; (b) the maintenance of close contact with OE contractors, grantees, and award recipients in the field in an effort to maximize the utilization and benefit of OE sponsored programs and makes recommendations for the improved management of such programs as warranted; (c) the resolution of problems associated with the administration of such postsecondary education programs at the State and local level; (d) the identification of emerging trends in postsecondary education which have national policy implication; and (e) the dissemination of information to State and local education agencies, institutions of higher education and other public and private agencies, organizations on the benefit of other OE postsecondary programs administered directly by Headquarters Offices.

Division of Guaranteed Student Loans. Plans and directs OE field operation of the Guaranteed Student Loan Program in accordance with the delegation of authority to the Regional Commissioner. Provides policy input to the Regional Commissioner. Provides technical assistance through: (a) the interpretation of regulations, guidelines, and manuals to State and local agencies, lending institutions, institutions of postsecondary education, organizations servicing student loans, and interested individuals; (b) the provision of advisory services in the area of student loans to State agencies, financial and educational institutions, other private and public agencies and organizations, and individuals. Reviews the performance of such institutions to monitor compliance with applicable laws and regulations, and to maximize the utilization and benefits of the program, and makes recommendations for improved program management and compliance as warranted. Resolves problems associated with the administration of the program at the institution or State agency level. Carries out such business activities and processes, including approval of Federally insured student loans, and collection of defaulted loans, as shall be necessary for the execution of the regionally delegated authority. Encourages educational and financial institutions to participate in the Guaranteed Student Loan Program.

Dated: August 20, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-25228 Filed 8-26-76;8:45 am]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part 4 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections 4-02-00 through 4-02-20 of the SSA Statement (40 FR 4474-75, dated January 30, 1975) describe the Mission, Organization, Order of Succession and Functions for SSA's Office of Management and Administration (OMA). Sections 4-02-10 G. and 4-02-20 G. of the OMA Statement are devoted to OMA's Office of Human Resources (OHR). These sections for OHR are hereby modified and expanded to reflect a reorganization of OHR. The revised material for OHR reads as follows:

Sec. 4-02-10 *Office of Management and Administration*—(Organization).

G. Office of Human Resources:

1. Administrative Staff;
2. Systems Coordination and Operations Analysis Staff;
3. Division of Personnel and Training Operations;
4. Division of Classification;
5. Division of Labor Relations;
6. Division of Employee Health and Occupational Safety;
7. Division of Policy Management and Research;
8. Division of Employee Relations;
9. Management-Employee Communications Staff;
10. Evaluation Staff.

Sec. 4-02-20 *Office of Management and Administration*—(Functions).

G. *The Office of Human Resources* (OHR) provides direction to the development, implementation and maintenance of a totally integrated and coordinated program responsive to the needs of SSA's human resources. It represents SSA in dealings with DHEW, other Federal agencies and sources outside the Federal establishment with respect to matters concerning personnel and human resources management programs. OHR provides executive-level line direction and supervision to components functioning in the following area: personnel; training and career development; labor-management relations; employee health and occupational safety; management-employee communications; and employee relations. The Office includes the following components and functions:

1. *Administrative Staff* (AS)

a. Provides OHR components with a full range of administrative services including: forms management; records management; printing and distribution; procurement of equipment, supplies and facilities; and office service management.

b. Develops cost estimates; and establishes and maintains controls on budget expenditures, personnel ceilings, and travel plans and approvals.

c. Receives, controls and assigns correspondence to OHR components for reply; and conducts a quality review to assure that these replies are consistent with SSA policy in the areas of public and congressional relations.

2. *Systems Coordination and Operations Analysis Staff* (SCOAS):

a. Provides leadership and direction to the total OHR systems effort; develops design concepts and guidelines for all OHR systems activities; and serves as liaison with other SSA components, DHEW, CSC and other Federal agencies in matters relating to the total OHR systems effort.

b. Develops, publishes and maintains the master plan for the total OHR system; ensures the responsiveness of this system to changing needs for OHR information; and advises OHR components of changes in laws, policies and regulations as they affect the management of data systems.

c. Manages the OHR system data base; reviews and approves OHR systems and sub-systems proposals and/or changes for adherence to standards, compatibility with existing and planned OHR systems, and conformance with OHR systems objectives, manpower requirements and cost estimates; and assigns priorities among systems workloads of OHR components.

d. Conducts ongoing quality appraisal of all OHR data bases; analyzes frequency of data base usage; develops and implements formal systems evaluation procedures and analyzes systems accomplishments in terms of initial requirements, responsiveness to OHR and management needs and cost effectiveness; and ensures documentation of the total system, including a systems manual, operations handbook and users manual.

e. Conducts internal management studies to identify and recommend solutions to operational problems in OHR work processes, through application of advanced management concepts.

3. *Division of Personnel and Training Operations (DPTO):*

a. Directs the implementation of policies, programs and regulations pertaining to employee recruitment, placement and common training needs within SSA headquarters, and develops and publishes internal operating procedures, as necessary.

b. Provides SSA headquarters components with the necessary daily services in recruitment, placement and training, in accordance wth applicable CSC and DHEW regulations; directs the administration of all merit promotion plans applicable within Baltimore/Washington

headquarters components; directs a program to determine and anticipate changing needs in services provided to various components; and assures maintenance of appropriate coordination with other OHR components.

c. Establishes and maintains official personnel folders for all SSA headquarters employees; directs processing for entrance on duty and appointment actions; and establishes and operates applicant supply and other files necessary for effective and timely operations.

d. Plans, implements and directs SSA headquarters employee counseling and testing programs in accordance with SSA policy guidelines.

e. Directs implementation of training and career development programs designated as SSA-wide programs, within the framework of SSA policies; publishes internal operating procedures for these programs; and develops and carries out long and short-range plans for replacement of top SSA executive staff and filling of additional executive positions allocated to SSA.

4. *Division of Classification* (DC):

a. Develops and directs implementation of the position classification programs within SSA headquarters and position classification activities having SSA-wide significance.

b. Provides leadership and coordination in the formulation of SSA policies, directives and programs relating to the Fair Labor Standards Act and to salary and wage surveys.

c. Formulates and oversees implementation of SSA-wide policies, directives and programs pertaining to classification aspects of position management; serves as the central SSA reference point for inquiries, guidance and interpretations on classification matters; and acts as SSA liaison with CSC, DHEW and non-SSA entities and organizations with respect to classification aspects of SSA position management.

d. Conducts a continuing review of the applicability of classification standards and, as apprcpriate, negotiates with CSC for the revision of such standards or the development of single agency standards.

5. *Division of Labor Relations* (DLR):

a. Formulates SSA-wide policy regarding the development, implementation and evaluation of labor relations; serves as the central SSA reference point for inquiries, guidance and interpretations on labor relations matters; and provides SSA liaison with CSC, DHEW and non-SSA entities and organizations concerning labor relations in SSA.

b. Carries out an ongoing review and advises on the establishment and implementation of labor relations policies, programs and directives initiated by individual SSA components; provides a full range of advisory services to all SSA components; advises on and, as necessary, participates in the resolution of disputes or questions in the labor relations area; and advises on management positions during bargaining sessions.

c. Implements programs and policies pertinent to labor relations matters within SSA headquarters; participates in negotiation and implementation of negotiated procedures with SSA headquarters labor organizations; provides technical guidance and assistance to line managers, to ensure proper application of negotiated provisions; and directs monitoring of union-management consultations as required by negotiated agreements or Executive Orders.

d. Directs the development and implementation of a labor relations training program, in conjunction with other OHR components; and participates in the evaluation of labor relations activities SSA-wide.

6. *Division of Employee Health and Occupational Safety* (DEHOS):

a. Develops policies relating to establishment, implementation and evaluation of the SSA-wide employee health services program and occupational health and safety program, in conformance with appropriate laws, and CSC, DHEW and SSA policies, regulations and/or directives; ensures that these programs are responsive to the organizational and occupational needs of SSA; serves as the central SSA reference point for inquiries, guidance and interpretations on health and safety matters; and acts as liaison with CSC, DHEW and non-SSA entities and organizations with respect to health and safety matters.

b. Develops, interprets and directs implementation of SSA medical policy in employee health and safety matters; establishes and maintains employee health records and ensures that the privileged and confidential nature of such records is not compromised.

c. Ensures adequacy and quality of professional medical services provided to employees; and formulates and oversees implementation of training programs for professional medical and support staffs, in order to maintain a proper level of medical services.

d. Directs a program of systematic evaluation to determine the costs and judge the effectiveness of SSA employee health services and occupational health and safety programs, and reports to SSA management on a regularly scheduled basis.

e. Directs administration of SSA's program to comply with the Occupational Safety and Health Act and to implement Executive Orders and regulations.

7. *Division of Policy Management and Research* (DPMR):

a. Establishes SSA-wide policy concerning development, implementation and evalution of training, career development and staffing; reviews policies of SSA components in these areas, to assure conformance with OMB, CSC, DHEW and SSA regulations and/or directives; serves as a central SSA reference point for inquiries, guidance and interpretations on such matters; and provides SSA liaison with CSC, DHEW and non-SSA entities and organizations regarding personnel policies, issuances and research.

b. Formulates and issues SSA personnel management policies, directives and programs, and oversees their dissemination and implementation; and develops and maintains the SSA personnel manual system and reviews all issuances under this system.

c. Studies proposed legislation and SSA administrative plans to provide short and long-range projections of training, career development and staffing needs of SSA components, and identifies and proposes action programs and areas of special emphasis to meet current and projected needs in these areas.

d. Conducts a continuing review of the applicability of qualification standards; negotiates with CSC for the revision of such standards or development of single agency standards, as appropriate; participates with various SSA components in developing proposed CSC training agreements; prepares or approves the final contract document for proposed training agreements; and negotiates approval of such agreements with CSC.

e. Designs, carries out and analyzes a variety of research projects in the area of personnel management.

8. *Division of Employee Relations* (DER):

a. Formulates SSA-wide policy regarding development, implementation and evaluation of employee relations matters, including employee conduct; employee organizations other than unions; employee grievances and appeals under agency procedures; processing of adverse actions; employee alcohol and drug abuse matters; and general employee services, such as consumer and financial guidance, group health plans and related assistance; serves as the central SSA reference point for inquiries, guidance and interpretations on such matters; and provides SSA liaison with CSC, DHEW and non-SSA entities and organizations with respect to these matters.

b. Directs implementation and operation of the SSA program for adverse actions and appeals, in accordance with CSC, DHEW and SSA regulations, directives and procedures; assures SSA-wide equity in adverse actions; provides intermediary services for personnel investigations, including polices, courts and physicians; provides determinations on employment suitability; and participates, as appropriate, in the processing, under agency procedures, of grievances having DHEW-wide impact.

c. Directs development and operation of the SSA program for incentive and honor awards, and the employee suggestion program; develops SSA policy and guidelines on acceptable level of competence for within-grade increases; and establishes and implements policies and procedures for employee welfare and recreational groups, and provides liaison with such groups, other than unions.

d. Plans and develops an SSA-wide program for continuing assessment, improvement and effective coordination of employee relations policies, methods and techniques; and assures appropriate SSA-wide reporting on employee relations activities.

9. *Management-Employee Communications Staff* (MECS):

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a. Directs the management-employee communications program in SSA.

b. Publishes a variety of informational materials, including a monthly employee magazine, a semi-monthly management newsletter and a weekly central office bulletin; and prepares and edits administrative reports and presentations.

c. Provides assistance to and appraises management-employee communication activities in the field; identifies weaknesses in management-employee communications SSA-wide; and recommends improvements.

10. *Evaluation Staff* (ES):

a. Formulates policy regarding SSA-wide development and implementation of human resources evaluation, and prepares periodic and evaluation reports for top SSA management DHEW, and CSC.

b. Plans, implements and directs an SSA-wide program for inspection and evaluation of SSA's personnel management program, including training and career development; employment and staffing; position management and classification; employee relations; equal employment opportunity; and occupational health and safety, and conducts administrative surveys and special studies to assure conformance with CSC, DHEW and SSA policies, regulations and/or directives.

c. Plans and assures the installation of self-evaluation programs regarding personnel management and training, at appropriate organizational levels, in accordance with CSC and DHEW regulations; and monitors and evaluates the effectiveness of such programs.

d. Provides OHR management with internal inspection and evaluation services by assessing personnel management; component relationships; communications; staffing; methods, procedures; organization; training; problems; conflicts, and other areas of concern in OHR; and assists the Director of OHR in the evaluation of OHR subject matter areas.

Dated: August 20, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-25229 Filed 8-26-76;8:45 am]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part 4 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections 4-02-00 through 4-02-20 of the SSA Statement (40 FR 4474-75, dated January 30, 1975) describe the Mission, Organization, Order of Succession and Functions for SSA's Office of Management and Administration (OMA). Sections 4-02-10 H. and 4-02-20 H. of the OMA Statement are hereby modified and expanded to reflect a change in the title of OMA's Office of Operating Facilities to the Office of Materiel Management (OMM) and a reorganization of this component. The reorganization is designed to improve the alignment of functions assigned to OMM; to strengthen its contracting and procurement functions; and to provide for an effective assimilation of office services functions recently transferred to OMM from the Bureau of Data Processing in SSA's Office of Program Operations. This revised material for OMM reads as follows:

Sec. 4-02-10 *Office of Management and Administration*—(Organization).

H. Office of Materiel Management:

1. Administrative Management and Analysis Staff.
2. Division of Contracting and Procurement.
3. Division of Property Management.
4. Division of Realty and Space Management.
5. Division of Communications and Records Management.
6. Division of Publications Management.
7. Division of Management Services.

Sec. 4-02-20 *Office of Management and Administration*—(Functions).

H. The Office of Materiel Management (OMM) directs the materiel management and management support programs of SSA and develops objectives, policies, standards and procedures for these programs. It directs SSA's activities in the areas of: contracting and procurement; real and personal property management; equipment management; supply operations; space acquisition, utilization and management; telephone systems; mail and distribution operations; records; publications; forms; printing; reprographics; facilities maintenance; protective security; civil defense; library services; audio-visual and graphics services; visitor reception and tours; and services to SSA Headquarters personnel, including: transportation, parking, commuter information, food services, and other concessions management and facilities. OMM provides SSA liaison with GSA; DHEW; other Federal agencies; and various other public and private organizations concerning matters pertaining to the mission of OMM. The Office includes the following components and functions:

1. *Administrative management and analysis staff* (AMAS):

a. Provides staff support to the Director of OMM concerning a wide range of administrative management functions, including: budget planning and execution; personnel and training; organizational development; administrative policies and procedures; and review of directives.

b. Conducts studies to evaluate the effectiveness of OMM operations; continually reviews and analyzes operational and activity reports; evaluates and recommends improvements in data collection, compilation, and information for management regarding the quantity and quality of services performed in OMM; and coordinates the development of OMM forward plans, including the establishment of operational objectives and systems development plans, and the monitoring of progress toward implementation of objectives.

c. Assists OMM components in establishing effective work measurement techniques and production standards; conducts both short-term and longer-range projects to effect improvements in OMM operations; coordinates inter-divisional projects and studies within OMM; and provides leadership in the performance of analyses associated with the development of operational support systems in OMM.

2. *Division of contracting and procurement* (DCP):

a. Establishes, develops and carries out a total procurement program for SSA, including the negotiation, award, administration and termination of contracts required in support of SSA program administration; ADP equipment acquisition; and procurement of major supply items and administrative supplies, materials and services.

b. Performs a continuous surveillance, review and evaluation of SSA procurement actions to ensure adherence to legal and regulatory requirements, including small business and minority business programs requirements.

c. Plans, develops, and implements comprehensive policies, procedures, regulations and directives for SSA procurement activities, and provides advice and assistance to SSA components in the conduct of procurement-related activities.

d. Performs all facets of cost/price analysis and evaluation required in conjunction with the award and administration of SSA contracts; evaluates procurement actions on a post-award basis; and compiles data and prepares reports for management on SSA contracting and procurement actions.

3. *Division of property management* (DPM):

a. Administers the SSA property management program, including the formulation of SSA-wide policies, procedures, and directives governing the program.

b. Directs the SSA equipment management program, and provides equipment maintenance and repair services to SSA Headquarters components.

c. Manages the operation of SSA warehousing facilities, including receipt, storage and issuance of forms, publications, supplies and equipment for SSA-wide use; controls the maintenance of stock; and provides general labor services for SSA Headquarters.

4. *Division of realty and space management* (DRSM):

a. Manages the SSA real property program, including: current and longer-range planning; design; construction; leasing; acquisition; project management; utilization; alteration; and repairs.

b. Responsible for the acquisition, utilization and management of space at SSA Headquarters; and directs a comprehensive space inventory and utilization system.

c. Provides technical guidance and advice on architectural design for SSA and the coordination of architectural matters; manages a technical drafting service and design support function; and provides an engineering resource to support alterations, repairs and improvements to SSA facilities.

5. *Division of communications and records management* (DCRM):

a. Directs and manages SSA telephone systems, including the planning, analysis and design of these systems.

b. Provides mail processing and messenger services for SSA Headquarters; conducts studies and analyses to improve mail service and to reduce SSA's mail costs; determines the most appropriate and least costly mailing methods for the dissemination of written communications to SSA components, beneficiaries and members of the general public; and represents SSA in negotiations with the Postal Service to secure waivers from postal regulations in the interest of more efficient administration of SSA programs.

c. Directs the SSA records management program, including the SSA vital records program; and develops, recommends and carries out SSA-wide policies, objectives, standards and procedures governing the retention and disposition of SSA records; files and filing equipment; and correspondence.

d. Implements records management aspects of the Privacy Act, including: development of necessary records safeguards; review of the accuracy of SSA notices of new and changed records systems; and provision of advice and assistance to SSA components regarding the effect of the Privacy Act on records management.

6. *Division of publications management* (DPM):

a. Provides SSA-wide leadership and direction for a comprehensive SSA publications management program, including: design, development, production, initial distribution and maintenance of publications and forms; and develops policies, standards and procedures governing SSA's printing, reprographics and distribution programs.

b. Assures the provision of printing and reprographic services and supplies for SSA; and manages SSA printing duplicating, reprographic and distribution services.

c. Provides SSA liaison with DHEW; the Government Printing Office; and the Joint Committee on Printing, concerning printing policy and acquisition of printing supplies and equipment.

7. *Division of Management Services* (DMS):

a. Provides SSA-wide leadership, policy and procedures, and conducts programs in the areas of employee and facilities protection; criminal investigation; library; and audio-visual and graphics services.

b. Conducts management support services programs for SSA Headquarters in the areas of: buildings management, food, transportation, commuter information, and other services for employees; and conducts studies of SSA needs and capabilities in these areas.

c. Establishes and maintains administrative and operational liaison with GSA; commercial contractors; cafeteria management and concessionaires; and local, county, State, union and public transportation officials, to ensure that SSA Headquarters buildings are properly equipped and serviced.

Dated: August 20, 1976.

JOHN OTTINA,
Assistant Secretary, for Administration and Management.

[FR Doc.76-25230 Filed 8-26-76;8:45 am]

Public Health Service

PUBLIC HEALTH SERVICE REGIONAL OFFICES

Statement of Organization, Functions, and Delegations of Authority

Part 15, Chapter 15, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, entitled Public Health Service (PHS) Regional Offices (39 FR 1468, as amended) is amended to reflect the establishment of the Division of Alcoholism, Drug Abuse, and Mental Health (1N8951) in Region IX only.

In *Section 15-B, Organization and Functions*, insert the following statement after the Division of Prevention (1N8149):

Division of Alcoholism, Drug Abuse, and Mental Health (1N8951) Region IX): Directs and coordinates programs and activities designed to promote and provide for the planning, development, and delivery of quality mental health, drug abuse, and alcohol services within the region.

Administers programs of Federal support to mental health and mental health related service delivery systems, including interpretation of policies and guidelines to state and local officials and private nonprofit organizations, site assessments, project development and project monitoring.

Assists in mental health program development at state and local levels through the provision of professional consultation, guidance and technical assistance in the planning, production, and maintenance of mental health and mental health related service delivery systems.

Serves as regional focal point for promoting and directing efforts to integrate and coordinate mental health and related programs and activities with programs and activities in other areas of health and in the fields of social welfare, education, rehabilitation, and adult and juvenile corrections.

Monitors grants for compliance with applicable laws, regulations, policies, and guidelines.

Administers the Regional Public Health Employees Assistance Program, including the provision of orientation to supervisors and the provision of counseling and referral services to employees.

Dated: August 20, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-25227 Filed 8-26-76;8:45 am]

Social Security Administration

SKILLED NURSING FACILITY (SNF) COSTS UNDER THE HEALTH INSURANCE PROGRAM

Cost-Reporting Periods Beginning After the Effective Date of a Final Schedule of Limits

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that a proposed Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs in the Medicare program is set forth in tentative form as proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Section 1861(v)(1) of the Social Security Act permits the Secretary to set prospective limits on direct or indirect overall incurred costs or incurred costs for specific items or services, or groups of items or services furnished by a provider, to be recognized as reasonable based on estimates of costs necessary in the efficient delivery of needed health services.

The proposed schedule of limits on skilled nursing facility (SNF) inpatient routine service costs set forth below, when published in final, will be applicable to cost-reporting periods beginning after the effective date of the final schedule and before the effective date of a revised schedule. The proposed schedule of limits will apply to the entire cost-reporting period of a skilled nursing facility whose cost-reporting period begins during the effective period of this schedule. The proposed schedule will apply to the total of the cost of routine services as defined in 20 CFR 405.452(d)(2) (also see § 405.452(d)(7)). These limits will not apply to the cost of ancillary services.

To permit reasonable comparison between skilled nursing facilities in a group, a classification system has been developed to take into account the economic environment of the area in which the skilled nursing facility operates. Per capita income has been used as the basis to reflect differences in input costs such as wages and costs of construction, goods, and services between various geographical areas. We have used the Standard Metropolitan Statistical Areas (SMSA) as the major geographical factor for identifying and classifying urban areas. (A Standard Metropolitan Statistical Area, as defined by the Office of Management and Budget, is a county or group of contiguous counties which (1) includes at least one city of 50,000 inhabitants, or (2) otherwise meets the basic criteria specified by the Office of Management and Budget for defining such areas. The standard definition and a complete list

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of SMSA's can be found in the Federal Information Processing Standards Publication (F.I.P.S. Pub. 8–4) which is available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.) A provider location within an SMSA is used as a basis for an urban location while providers not located in an SMSA are considered nonurban.

It should be noted that bed size is not used as a classifier, as was done in setting limits on hospital inpatient general routine services because analysis of skilled nursing facility cost data indicates there is a random distribution of routine service per diem costs for small, medium, and large bed size SNF's. Because the distribution does not indicate a significant cost relationship between bed size and cost, separate limits based on bed-size categories are inappropriate in the case of SNF's. Moreover, there are no data which demonstrate that SNF's furnish significantly more complex or intensive services as they become larger in size, as is generally the case with hospitals.

Two per capita income groups are used to classify SNF's located in non-SMSA areas as compared with 5 groups used to classify hospitals in such areas. The reduction is the result of an analysis which indicates that the median routine service per diem cost of SNF's located in non-SMSA areas are so similar that they can be consolidated into 2 groups. It thus appears that the cost of providing SNF care in nonurban areas is not as sensitive to economic environment as are the costs of hospitals similarly located.

Consideration has been given to providing separate limits for hospital-based SNF's and free-standing SNF's under the rationale that the higher costs of hospital-based SNF's result because these providers have more seriously ill patients. SNF care is, by law, the next lower level of care than the care provided in a hospital, and all SNF's are required to provide such care. Similarly, the Conditions of Participation (20 CFR 405.1101–405.1137) and Certification Procedures (20 CFR 405.1901–405.1913) are the same for all SNF's. Thus, it is reasonable to assume that all SNF's generally supply the level of care defined in regulations and that a premium reimbursement for hospital based-SNF's merely because their costs are higher is not warranted. Any comments on this issue will be carefully evaluated in regard to the issue of whether separate limits for hospital-based SNF's are appropriate.

The provisions of 20 CFR 405.460 (Regulations No. 5) providing that exceptions, exemptions, and classification adjustments may be made to the application of the limits where certain required conditions are present, apply to SNF's as well as to hospitals.

METHODOLOGY

To develop urban groups, the SMSA's were arrayed on the basis of their per capita income and classes were established. The nonurban groups were developed in the same manner, using per capita income of non-SMSA areas within a State. The classification system utilizes 7 classes—5 income groups for providers located in SMSA areas and 2 income groups for providers located in non-SMSA areas.

Under the proposed classification system, all SMSA's have been divided into the following five groups:

SMSA

GROUP I

Alaska: Anchorage.
California: Los Angeles-Long Beach; Salinas-Seaside-Monterey; San Francisco-Oakland.
Colorado: Denver-Boulder.
Connecticut: Bridgeport; Bristol; Danbury; Hartford; Meriden; New Britain; New Haven-West Haven; Norwalk; Stamford; Waterbury.
Delaware: Wilmington, DE–NJ–MD.
District of Columbia: Washington, DC–MD–VA.
Florida: Miami; West Palm Beach-Boca Raton.
Hawaii: Honolulu.
Illinois: Chicago; Decatur; Rockford; Springfield.
Massachusetts: Boston; Brockton; Lawrence-Haverhill, MA-NH; Lowell, MA-NH.
Michigan: Ann Arbor; Detroit; Flint.
Minnesota: Minneapolis-St. Paul, MN-WI.
Nevada: Las Vegas; Reno.
New Jersey: Jersey City; New Brunswick-Perth Amboy-Sayreville; Newark; Trenton.
New York: Nassau-Suffolk; New York, NY-NJ; Rochester.
Ohio: Cleveland.
Virginia: Richmond.
Wisconsin: Milwaukee.

GROUP II

Arizona: Phoenix.
California: Anaheim-Santa Ana-Garden Grove; San Diego; Santa Barbara-Santa Maria-Lompoc; San Jose.
Florida: Fort Lauderdale-Hollywood; Sarasota.
Georgia: Atlanta.
Idaho: Boise City.
Illinois: Bloomington-Normal; Peoria.
Indiana: Fort Wayne; Indianapolis.
Iowa: Cedar Rapids; Davenport-Rock Island-Moline, IA–IL; Des Moines.
Kansas: Topeka, Wichita.
Kentucky: Louisville, KY–IN.
Maryland: Baltimore.
Massachusetts: Fitchburg-Leominster; Pittsfield; Worcester.
Michigan: Grand Rapids; Jackson, Lansing-East Lansing; Saginaw.
Minnesota: Rochester.
Missouri: Kansas City, MO–KS; St. Louis, MO-IL.
New Jersey: Patterson-Clifton-Passaic.
New York: Albany-Schenectady-Troy; Buffalo; Poughkeepsie.
North Carolina: Charlotte-Gastonia.
Ohio: Akron; Cincinnati, OH–KY–IN; Dayton; Mansfield; Toledo, OH–MI; Youngstown-Warren.
Oregon: Portland, OR–WA.
Pennsylvania: Allentown-Bethlehem-Easton, PA–NJ; Philadelphia, PA–NJ; Pittsburgh; Reading.
Texas: Dallas-Fort Worth; Houston, Midland, Wichita Falls.
Washington: Seattle-Everett.
Wisconsin: Kenosha; Madison.

GROUP III

Arizona: Tucson.
Arkansas: Little Rock-North Little Rock.
California: Fresno; Modesto; Sacramento; Santa Cruz; Santa Rosa; Stockton; Vallejo-Fairfield-Napa.
Colorado: Colorado Springs.
Connecticut: New London-Norwich, CT–RI.
Florida: Jacksonville-Winter Haven; Orlando; Tampa-St. Petersburg.
Illinois: Champaign-Urbana-Rantoul.
Indiana: Anderson, Evansville, IN–KY; Gary-Hammond-East Chicago; Lafayette-West Lafayette; South Bend.
Iowa: Dubuque; Sioux City, IA–NE; Waterloo-Cedar Falls.
Kentucky: Lexington.
Louisiana: New Orleans.
Maine: Portland.
Massachusetts: Springfield-Chicopee-Holyoke, MA–CT.
Michigan: Battle Creek; Bay City; Kalamazoo-Portage.
Missouri: St. Joseph.
Montana: Billings; Great Falls.
Nebraska: Lincoln; Omaha, NE–IA.
New Hampshire: Manchester; Nashua.
New Jersey: Atlantic City; Long Branch-Asbury Park; Vineland-Millville-Bridgeton.
New York: Binghamton, NY–PA; Syracuse.
North Carolina: Greensboro-Winston-Salem-High Point; Daleigh-Durham.
Ohio: Canton; Columbus; Lima; Lorain-Elyria; Springfield; Steubenville-Weirton, OH–WV.
Oklahoma: Oklahoma City; Tulsa.
Pennsylvania: Erie; Harrisburg; Lancaster; York.
Rhode Island: Providence-Warwick-Pawtuckett, RI–MA.
Tennessee: Memphis, TN–AR–MS; Nashville-Davidson.
Texas: Amarillo; Beaumont-Port Arthur-Orange; Killeen-Temple.
Virginia: Newport News-Hampton; Norfolk-Virginia Beach-Portsmouth, VA-NC; Roanoke:
Washington: Richland-Kennewick; Spokane; Tacoma.
West Virginia: Charleston:
Wisconsin: Appleton-Oshkosh; Racine.

GROUP IV

Alabama: Birmingham; Montgomery.
California: Bakersfield; Oxnard-Simi Valley-Ventura; Riverside-San Bernardino-Ontario.
Colorado: Pueblo.
Florida: Daytona Beach; Fort Myers; Gainesville; Melbourne-Titusville-Cocoa; Pensacola.
Georgia: Augusta, GA-SC; Macon; Savannah.
Indiana: Muncie.
Kentucky: Owensboro.
Louisiana: Baton Rouge; Shreveport.
Massachusetts: Fall River, MA-RI; New Bedford.
Michigan: Muskegon-Muskegon Heights.
Minnesota: Duluth-Superior, MN-WI.
Mississippi: Jackson..
Missouri: Springfield.
New Mexico: Albuquerque.
New York: Utica-Rome.
North Carolina: Asheville; Burlington.
North Dakota: Fargo-Moorhead, ND-MN.
Ohio: Hamilton-Middletown.
Oregon: Eugene-Springfield; Salem.
South Carolina: Columbia; Greenville-Spartanburg.
South Dakota: Sioux Falls.
Tennessee: Chattanooga, TN-GA; Knoxville.
Texas: Abilene; Galveston-Texas City; San Angelo; San Antonio; Sherman-Denison; Tyler; Waco.
Utah: Salt Lake City-Ogden.
Virginia: Petersburg-Colonial Heights-Hopewell.
Washington: Yakima.
West Virginia: Parkersburg-Marietta, WV-OH; Wheeling, WV-OH.
Wisconsin: Green Bay; La Crosse.

GROUP V

Alabama: Anniston; Florence; Gadsden; Huntsville; Mobile; Tuscaloosa.
Arkansas: Fayetteville-Springdale; Fort Smith, AR–OK; Pine Bluff.
Florida: Tallahassee.
Georgia: Albany; Columbus, GA–AL.
Indiana: Terre Haute.
Louisiana: Alexandria; Lafayette; Lake Charles; Monroe.
Maine: Lewiston-Auburn.
Minnesota: St. Cloud.
Mississippi: Biloxi-Gulfport.
Missouri: Columbia.
New York: Elmira.
North Carolina: Fayetteville; Wilmington.
Oklahoma: Lawton.
Pennsylvania: Altoona; Johnstown; Northeast Pennsylvania; Williamsport.
Puerto Rico: Caguas; Mayaguez; Ponce; San Juan.
South Carolina: Charleston.
Tennessee: Clarksville-Hopkinsonville; TN–KY; Kingsport-Bristol, TN–VA.
Texas: Austin; Brownsville-Harlingen-San Benito; Bryan-College Station; Corpus Christi; El Paso; Laredo; Lubbock; McAllen-Pharr-Edinburg; Odessa; Texarkana, TX, Texarkana, AR.
Utah: Provo-Orem.
Virginia: Lynchburg.
West Virginia: Huntington-Ashland, WV–KY–OH.

The following are the two State groupings to be used for skilled nursing facilities located in non-SMSA counties in those States.

NON-SMSA

GROUP I

Alaska	Montana
Arizona	Nebraska
California	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
Hawaii	New York
Illinois	Ohio
Indiana	Oregon
Iowa	Rhode Island
Kansas	Vermont
Maryland	Washington
Massachusetts	

GROUP II

Alabama	North Dakota
Arkansas	Oklahoma
Colorado	Pennsylvania
Florida	Puerto Rico
Georgia	South Carolina
Idaho	South Dakota
Kentucky	Tennessee
Louisiana	Texas
Maine	Utah
Michigan	Virginia
Minnesota	Virgin Islands
Mississippi	West Virginia
Missouri	Wisconsin
New Mexico	Wyoming
North Carolina	

The proposed limits were developed for each of the classification groups in the following manner:

1. Inpatient routine service cost data for each participating skilled nursing facility were obtained from the fiscal intermediaries.

2. The data for skilled nursing facilities in each class were arrayed in descending order of inpatient routine service costs.

3. The 90th percentile and median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 90th percentile amount.

5. This sum was adjusted by a factor to reflect a 10 percent annual rate of estimated cost increases in per diem costs following the date of data collection.

6. The amount calculated in step 5 was rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for reporting periods starting after January 1, 1976.

Under the authority of section 1861(v)(1) of the Social Security Act, it is proposed that the following cost limitations apply to the total of the skilled nursing facility inpatient routine service costs (excluding costs incurred for ancillary services), adjusted upward as provided for below. The proposed limits are applicable to cost-reporting periods beginning on or after the effective date of the final notice of these limits and will remain in effect until the effective date of a revised schedule. This schedule will apply to the entire cost-reporting period of a skilled nursing facility whose cost-reporting period begins during its effective period. Where a skilled nursing facility has a cost-reporting period beginning after January 1, 1976, the published limit will be adjusted upward by a factor of .833 percent for each elapsed month between January 1, 1976, and the first day of the month in which the skilled nursing facility's reporting period starts. The result of this calculation is not rounded and is to be given in dollars and cents.

Example. Skilled nursing facility A's cost-reporting period begins April 1, 1976, and ends March 31, 1977. The cost limit for skilled nursing facility A's group from the table below is $46.00.

COMPUTATION OF ADJUSTED COST LIMIT

Cost limit	$46.00
Plus adjustment for 3-mo period Jan. 1, 1976, to Apr. 1, 1976, 3 mo times 0.833 pct equals 2.50 pct; 2.50 pct times $46	1.15
Adjusted cost limit applicable to skilled nursing facility A for the Apr. 1, 1976, to Mar. 31, 1977, reporting period	47.15

SCHEDULE OF LIMITS ON SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR SKILLED NURSING FACILITIES

SKILLED NURSING FACILITIES LOCATED WITHIN SMSA'S (URBAN)

SMSA group:	Dollar limit
I[1]	$53
II	46
III	46
IV	37
V	43

[1] Limits apply to all group I SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment was made. The limits for these areas are as follows:

Anchorage	$66
Honolulu	61

SKILLED NURSING FACILITIES LOCATED OUTSIDE SMSA'S (NONURBAN)

State group:	Dollar limit
I[2]	$47
II	40

[2] Limits apply to all group I States except Alaska and Hawaii. The limits for these areas are as follows:

Alaska	$58
Hawaii	54

Prior to the final adoption of the proposed schedule of limits on skilled nursing facility costs, consideration will be given to any data, views, and comments pertaining thereto which are submitted in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

Copies of all comments received in response to this notice will be available for public inspection during the regular business hours at the Washington Inquiries Section, Office of Information, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged-Hospital Insurance.)

Dated: March 16, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

[FR Doc.76-24917 Filed 8-26-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–360; FDAA–517–DR]

COLORADO

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Colorado, dated August 2, 1976, is hereby amended to include the following counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 2, 1976:

The Counties of:

Ela Paso
Pueblo
Weld

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: August 19, 1976.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76-25246 Filed 8-26-76;8:45 am]

V 41 168 AUG 27 76 UMI

[Docket No. NFD-359; FDAA-519-DR]

NEW JERSEY

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 21, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of New Jersey resulting from severe storms, high winds, and flooding associated with Hurricane Belle beginning about August 9, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of New Jersey.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas R. Casey, FDAA Region II, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of New Jersey to have been adversely affected by this declared major disaster:

The Counties of:

Atlantic	Monmouth
Cape May	Ocean

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: August 21, 1976.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76-25247 Filed 8-26-76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-76-578; OILSR No. 0-2072-12-18; Land Sales Enforcement Division No. 75-302 IS]

LAKE CREEK SUBDIVISION

ORDER OF SUSPENSION

Notice is hereby given that: On January 8, 1976, the Department published a Notice of Proceedings and Opportunity for Hearing in the FEDERAL REGISTER (41 FR 1507) pursuant to 44 U.S.C. 1508. The developer, Solman Syndicate Trust, whose last known address is P.O. Box 907, Phoenix, Arizona 85001, has failed to respond or to request a hearing pursuant to 1720.160 within 15 days of the service by publication of the said Notice of Proceedings and Opportunity for Hearing. Accordingly, an Order of Suspension is being issued, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), as follows:

ORDER OF SUSPENSION

1. The developer, having filed a Statement of Record for the named subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et. seq.* and the Rules and Regulations promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As provided by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Assistant Secretary for Consumer Affairs and Regulatory Functions (41 FR 19365, May 12, 1976):

3. According to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it should appear to the Assistant Secretary for Consumer Affairs and Regulatory Functions that an effective Statement of Record includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the said Assistant Secretary is authorized, after notice, and after any opportunity for a hearing requested within 15 days after receipt of such notice, to issue an order suspending the Statement of Record.

4. On January 8, 1976, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, caused to be published in the FEDERAL REGISTER (41 FR 1507) a Notice of Proceedings and Opportunity for Hearing. The notice informed the developer of information obtained by the Office of Interstate Land Sales Registration showing a change occurred affecting a material fact contained in the Statement of Record and Property Report. The developer has failed to answer or to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said publication.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) the Statement of Record heretofore filed by the developer pertaining to said subdivision is hereby suspended, effective August 27, 1976. This Order of Suspension shall remain in effect until such time as the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and implementing Regulations.

This Order shall be served upon the Respondent by publication in the FEDERAL REGISTER, pursuant to 44 U.S.C. 1508.

Any sales or offers to sell made by the developer or its agents, successors or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued at Washington, D.C., this 24th day of August, 1976.

JUDITH A. HERMANSON,
Acting Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-25248 Filed 8-26-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29445]

LAS VEGAS-DALLAS/FORT WORTH NONSTOP SERVICE INVESTIGATION

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on September 22, 1976 (41 FR 28578, July 12, 1976) is hereby postponed to October 27, 1976 at 9:30 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., August 23, 1976.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.76-25224 Filed 8-26-76;8:45 am]

[Docket 28961]

SACRAMENTO-DENVER NONSTOP PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the above-entitled proceeding is assigned for hearing on September 28, 1976 at 9:30 a.m. (local time), in the Comstock Room at the Sacramento Inn, 1401 Arden Way, Sacramento, California 95815, before Administrative Law Judge Ralph L. Wiser.

Without limiting the scope of the issues to be considered, particular attention will be directed to the following matters:

(1) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in competitive nonstop air transportation between Sacramento, California, and Denver, Colorado?

(2) If the answer to (1) is in the affirmative, which air carrier(s) should be authorized to engage in such transportation?

(3) What conditions, if any should be placed upon the operations of such carrier(s)?

The statutory requirement of fitness, willingness, and ability is, of course, at issue for all applicants.

For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices entered in the proceeding, the documents filed by the parties, and the Judge's report of prehearing conference, served May 18, 1976, and the supplement thereto served June 1, 1976, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than the parties of record desiring to be heard in this proceeding shall file with the Board on or before September 20, 1976, a statement setting forth the issues of fact or law raised by the proceeding which he desires to controvert.

Dated at Washington, D.C., August 23, 1976.

RALPH L. WISER,
Administrative Law Judge.

[FR Doc.76-25225 Filed 8-26-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Meeting; Correction

Correction

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that the meeting scheduled for September 27, 1976, of the Connecticut Advisory Committee (CAC) to the Commission published in the FEDERAL REGISTER on Tuesday, August 17, 1976, on page 34812 (FR Doc. 76-23932) is hereby amended to change meeting date to September 29, 1976. The time and place remain the same.

Dated at Washington, D.C., August 24, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-25163 Filed 8-26-76;8:45 am]

LOUISIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Louisiana Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. and end at 4:00 p.m. on September 17, 1976, at the Hilton-Corporate Square (Feliciano Room) 5500 Hilton Avenue, Baton Rouge, Louisiana 70808.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is distribution and followup to the Louisiana prison project report will be discussed as well as other project programming for the ensuing year.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-25167 Filed 8-26-76;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) to this Commission will convene at 9:00 a.m. and end at 5:00 p.m. on September 16, 1976, at the Feminist Women's City Club of Detroit, 2110 Park, Detroit, Michigan 48201.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Western Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois.

The purpose of this meeting is to plan release of Sault Ste. Marie report. Continue planning community development and update the Benton Harbor situation.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-25165 Filed 8-26-76;8:45 am]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) to this Commission will convene at 1:00 p.m. and end at 4:00 p.m. on September 23, 1976, at the Professional Building, 1036 Quarrier Street, 2nd Floor, Charleston, West Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss the status of civil rights in West Virginia.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-25166 Filed 8-26-76;8:45 am]

WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) to this Commission will convene at 1:00 p.m. and end at 3:00 p.m. on September 18, 1976, at the Holiday Inn, 300 W. F Street, Casper, Wyoming 82601.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss the upcoming Mexican American education project and the sub-committee project on availability of abortion services in Wyoming.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-25164 Filed 8-26-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed additions of the following commodities to Procurement List 1976, November 25, 1975 (40 FR 54742).

Class 1430

Circuit Card Assemblies, 1430-00-089-9251, 1430-00-187-5201, 1430-00-328-5477, 1430-00-403-5787, 1430-00-421-4036.

Class 6515

Case Ear Plug, 6515-00-299-8287.

Class 8470

Headband, Ground Troops, Helmet Liner, 8470-00-153-6671.

Comments and views regarding the proposed additions may be filed with the Committee on or before September 27, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled on or before February 27, 1976.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-25204 Filed 8-26-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental

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Quality from August 16 through August 20, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 11, 1976) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359–A, Washington, D.C. 20250, 202–447–3965.

FOREST SERVICE

Draft

South Fourche Unit Plan, Quachita N.F., Saline, Yell, and Perry Counties, Arkansas, August 19: Proposed is a plan for the management of the 98,275 acre South Fourche Planning Unit, Quachita National Forest, from October 1, 1976 to September 30, 1986. Major actions include regenerating commercial timber stands on 11,945 acres, thinning timber on 19,000 acres, improving wildlife habitat, and constructing 23 miles and reconstructing 72 miles of road. The degree of negative impact varies according to the nature and location of the many activities. (96 pages) (ELR Order No. 61220.)

Mohawk Unit Plan, Plumas and Tahoe N.F., Plumas and Sierra Counties, California, August 18: This statement concerns six different land use plans located within portions of the Beckwourth, LaPorte and Quincy Ranger Districts (Plumas National Forest) and the Downieville Ranger District (Tahoe National Forest) in California. These land use plans apply to 120,620 acres of National Forest land. Approximately 1,365 acres of private land are planned for acquisition in Plumas County and approximately 1,135 in Sierra County. (198 pages) (ELR Order No. 61217.)

Rancheria Unit Plan, Sierra N.F., Fresno County, California, August 19: This statement concerns a proposed land use plan for the Rancheria Management Unit within Kings River Planning Unit, Sierra National Forest. Five alternative plans are discussed, emphasizing timber production, dispersed recreation, and wildlife habitat improvement on lands that are best suited for these uses. Adverse effects will vary according to the alternative selected. (92 pages) (ELR Order No. 61223.)

Elk River Unit Plan, St. Joe N.F., Clearwater County, Idaho, August 19: Proposed is the implementation of a land use plan for the 42,500 acre Elk River Planning Unit, St. Joe National Forest. The plan divides the planning unit into five management units which reflect differences in land capability and sensitivity. Adverse effect relate to timber harvest and access road construction and include decreased land productivity and environmental quality, loss of wildlife and fisheries values, and reduced economic and social benefits. (209 pages) (ELR Order No. 61221.)

Final

Prescott N.F. Timber Management Plan, Yavapai and Coconino Counties, Arizona, August 19: Proposed is a Ten-Year Plan for the Timber Management Program of the Prescott National Forest, located in Central Arizona. Ponderosa pine is the only commercial timber species. Of the total National Forest acreage, approximately 36% is classified as forested and 7% classified as commercial forest. Adverse effects include soil disturbance and erosion. (127 pages) Comments made by: USDA, DOC, DOI, EPA, State and local agencies, concerned citizens (ELR Order No. 61222).

Lakeview Unit Land Use Plan, Kaniksu N.F., Bonner County, Idaho, August 17: The proposal is to implement a land use plan for the Lakeview Planning Unit, Kaniksu National Forest. Approximately 63,063 acres are included in the planning unit, of which 57,120 acres are National Forest lands. This plan allocates resources and specifies land use prescriptions including management of high scenic quality, fisheries habitat recreation and wildlife habitat uses while providing timber, foliage and water uses. Unfavorable impacts include a reduced timber growth potential, alteration of the natural landscape in some areas, and reduced opportunities for solitude. Even with the proposed plan prescriptions there will be short-term reductions in quality. (250 pages) Comments made by: DOI, COE, FPC, USDA, EPA, State agencies, concerned citizens (ELR Order No. 61203).

West Kootenai Planning Unit, Kootenai N.F., Lincoln County, Montana, August 17: The action involves the implementation of a revised multiple use plan for the 68,976 acre West Kootenai Planning Unit, Kootenai National Forest. The plan emphasizes recreation, production of forest products, and an increased transportation system. Implementation of the program will result in development of natural areas, temporary acceleration of soil and vegetation disturbance, and noise and air pollution. (145 pages). Comments made by: USDA, EPA, State agencies and local groups, concerned citizens. (ELR Order No. 61201.)

Mt. Charleston Unit Plan, Toiyabe N.F., Clark County, Nevada, August 17: Proposed is a land use plan for the 58,000 acre Mount Charleston Planning Unit, Toiyabe National Forest. Plan objectives include the resolve management status of one inventoried roadless area, the provision of protection for sensitive environmental components, and the maintenance of aceptable levels of air and water quality. Adverse effects from project implementation are expected to be minimal. (317 pages) Comments made by: EPA, AHP, HEW, USDA, State and local agencies, concerned citizens. (ELR Order No. 61207.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Burlington Station, Two 50MW Combustion Turbines, Kit Carson County, Colorado, August 17: This statement has been prepared in connection with a request from Tri-State Generation and Transmission Association, Inc. for the REA to guarantee a $16,731,000 loan to finance approximately 100 MW of combustion turbine capacity to be installed at a 43-acre site in Kit Carson County. The units will be designed to fire No. 2 distillate fuel oil, with provisions for future modifications of the system if necessary. Adverse impacts include the annual emission of about 224 tons of sulfur oxides, 504 tons of nitrogen oxides, and 32 tons of particulate matter, as well as an increase in noise levels. (32 pages) (ELR Order No. 61208.)

Wyodak to Antelope, 230 kV Transmission Line, Campbell and Converse Counties, Wyoming, August 18: Proposed is a loan from the Rural Electrification Administration to the Tri County Electric Association, Inc. (TCEA). The loan would finance 59 miles of 230 kV line from a bay owned by TCEA at the Wyodak substation south to a point at the Campbell-Converse County line. The environmental effect include minor soil and vegetation disturbances, and minor limitations on land use. (ELR Order No. 61211.)

Final

(50 MW) Combustion Turbine, Kansas 53 Central, Finney County, Kansas, August 18: Proposed is the addition of a 50-megawatt combustion turbine at Garden City, Kansas. Operation of the unit will result in the emission of nitrogen and sulfur oxides and an insignificant quantity of particulates. Water will be obtained from existing wells, and the unit will discharge approximately 5 gpm to the Arkansas River. Any biotic life associated with the immediate area proposed for the unit will be forced to move. (81 pages) Comments made by: DOI, NSDA, EPA, State and local agencies. (ELR Order No. 61213.)

Lignite Unit No. 1 & Associated Mine and Lines, Atascosa County, Texas, August 20: This action involves the request for guaranteed loan funds from the REA to finance a new 447 MW (gross) generating plant to be located 15 miles south of Jourdanton, Texas. The project also includes approximately 254 miles of 345 kV transmission lines, 195 miles of 138 kV transmission lines and 25 miles of 69 kV transmission lines. Adverse effects include the release to the atmosphere of some oxides of sulphur and nitrogen along with particulate matter. The environment will also be affected adversely by the lignite mining operations which will involve about [illegible] acres per year during the life of the project. (130 pages) Comments made by: DOI, EPA, DOT, COE, USDA, FPC, State agencies. (ELR Order No. 61226.)

SOIL CONSERVATION SERVICE

Draft

Central Madison Watershed Project, Madison County, Louisiana, August 16: The proposed project is for watershed protection, flood prevention, and drainage in Madison Parish, Louisiana. Approximately 52 miles of channel work with appurtenant measures will be installed. Land treatment measures will be applied on 38,700 acres of cropland and pastureland, and 16,200 acres will be managed for wildlife habitat. About 796 acres of forest land, 2 acres of wooded channel banks, and 285 acres of open land will be disturbed by construction. (180 pages) (ELR Order No. 61195.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202–967–4335.

NAT'L OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final

Interim Convention, N. Pacific Fur Seals Conservation, August 20: The statement refers to the renegotiation of the present Interim Convention on Conservation of North Pacific Fur Seals. The United States intends to negotiate a new convention which will essentially continue the present management arrangements and amend the management objectives as stated in the Convention, to provide for the maintenance of the health and stability of the marine ecosystem and in other ways bring the language of the Convention into conformity with the Marine Mammal Protection Act of 1972. (163 pages) Comments made by: DOI, STAT, EPA, state and local governments, concerned groups and individuals. (ELR Order No. 61224.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202–693–6795.

Draft

Humboldt Bay Harbor Marina (Reg. Permit): Humboldt County, California, August 18: Proposed is the development, at Humboldt Bay Harbor, of the Eastern shore of Woodley Island and the Eureka Inner Reach Channel into a public marina with support facilities. This project would reduce the width of the open channel and decrease the flushing capability of the channel. Approximately ⅓ of the open apace/wildlife habitat, including 10 acres of salt marsh, would be replaced by marina development. (San Francisco District) (250 pages) (ELR Order No. 61215.)

Final

Beach Erosion, Hurricane Protection Proj., Dade Co., Dade County, Florida, August 20: The project involves the partial restoration of the 10.5 mile Dade County, Florida, Beach Erosion Control and Hurricane Protection Project to provide protective and recreational beach. Adverse impacts are temporary turbidity and siltation in the borrow and fill areas during construction, and the destruction of some marinelife. (Jacksonville District) (177 pages.) Comments made by: USDA, DOC, USCG, DOI, EPA, state and local agencies, concerned individuals. (ELR Order No. 61225.)

Supplement

Bonneville Lock and Dam, Columbia River (S–2), Oregon and Washington, August 16: This supplement is a Memorandum of Agreement with the Advisory Council on Historic Preservation concerning a final EIS filed with CEQ on August 6, 1976. The Agreement refers to the effects of the construction of the Second Powerhouse, Bonneville Lock and Dam, on archaeological site 45 SA11, in Skamania County, Washington. (6 pages) (ELR Order No. 61192.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, SW., Washington D.C. 20460 202–755–0760 (stop 460).

Final

Livermore-Amador Valley Wastewater Management, Alameda County California, August 16: Proposed is the implementation of a Wastewater Management Plan for the Livermore-Amador Valley, California. This plan would: continue treatment at the existing Livermore Water Reclamation Plant (WRP) and Valley Community Services District (VCSD) treatment plants, require a pipeline from the Livermore WRP to VCSD, and require a force main along I–580 to Boehmer Summit. A gravity pipeline would then carry the flows to the Oro Loma-Castro Valley pumping station of the EBD Interceptor. Construction activities would adversely affect the surrounding areas. (207 pages) Comments made by: AHP, USDA, USA, COE, EPA, HEW, DOI, DOT, State and county agencies, concerned citizens. (ELR Order No. 61196.)

Water Quality Program (Phase I), San Francisco Bay, California, August 17: Proposed is a Water Quality Management Plan designed to eliminate six shallow shoreline discharges of treated, chlorinated sewage from the eastern shore of Lower and South San Francisco Bay. The existing Irvington and Newark sewage treatment plants will be abandoned and replaced by untreated sewage pump stations. New discharge locations will increase the transport and dispersion of pollutants from the Lower Bay to the Central Bay and Pacific Ocean. Adverse effects include damage to bottom organisms, and traffic disruption and other construction associated impacts. (1500 pages) Comments made by: HUD, AHP, USDA, EPA, DOT, DOC, DOI, state and local agencies, concerned citizens. (ELR Order No. 61204.)

Bay to Bay Sanitary District-Wastewater Systems, Lincoln County, Oregon, August 17: Proposed is the provision of a wastewater treatment and disposal program for the Bay to Bay Sanitary District, located between Yaquina Bay and Alsea Bay, Oregon. This statement identifies alternatives for providing the district with wastewater facilities designed to meet the needs of the district and maintenance of environmental quality. Short and long-term impacts will vary subject to the alternative chosen. (Region X) (253 pages) Comments made by: HEW, COE, USDA, HUD, DOI, AHP, state and local agencies, concerned citizens. (ELR Order No. 61209.)

SW Lincoln County Wastewater Systems, Lincoln County, Oregon, August 17: Proposed is the provision of a wastewater treatment and disposal program for the Southwest Lincoln County Sanitary District, located between the Cities of Waldport and Yachats, Oregon. This statement identifies alternatives for providing the district with wastewater facilities designed to meet the needs of the residents of the district and maintenance of environmental quality. Subject to the alternative chosen, long-term impacts include increases in energy consumption, possible disturbance of archaeological sites, and effects on land use patterns and state park operations. (Region X) (330 pages) Comments made by: HEW, COE, DOI, USDA, AHP, state and county agencies, concerned citizens and local groups. (ELR Order No. 61210.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405. (202) 343–4161.

Supplement

Disposal of a portion of Fort Holabird (S–1), Baltimore County, Maryland, August 16: This statement supplements a final EIS filed with CEQ in November of 1975. Proposed is the disposal of 226.82 acres of Fort Holabird, Baltimore, Maryland. The land would be disposed of as follows: approximately 179.20 acres for general public purposes; approximately 37 acres for conveyance to the city of Baltimore for park and recreational purposes; approximately 4 acres for conveyance to Baltimore County for park and recreational purposes; and approximately 406.65 acres through Sealed Bid Sale. Some adverse effects would result from increases in noise, emission pollutants, sewage, water, and other utilities including solid waste disposal. (90 pages) (ELR Order No. 61198.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental, Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410. (202) 755–6308.

Draft

1977 Block Grant Program, San Francisco, San Francisco County, California, August 16: This statement is for the 1977 block grant application as a whole for the San Francisco, California area. It describes the types of projects eligible for block grant funding, the criteria employed in project selection, the environmental impacts of the program, measures to reduce potential impacts, possible alternatives to the proposed program, and the funding and environmental review status of individual proposed projects. Effects of the various projects are discussed. (80 pages). (ELR Order No. 61193.)

Wimmerton Planned Unit Development, Westmoreland County, Pennsylvania, August 16: This statement deals with the residential portion of a planned unit development to be known as Wimmerton in Westmoreland County, Pennsylvania. The proposal was submitted to HUD to obtain approval for insured mortgages. Approximately 1,110 acres which were formerly in agricultural use are planned for development with 537 acres to be used for residential development. Ultimately, 2,800 dwelling units are expected to be built and most of these will be apartments and townhouses. (43 pages). (ELR Order No. 61194.)

Final

Stony Creek, A Planned Development, Jefferson County, Colorado, August 17: The statement concerns the development of Stony Creek Subdivision which consists of 1,875 single and multi-family units on 439 acres in an unincorporated section of Jefferson County. The development of Stony Creek will disrupt the existing plant and animal communities and result in an increase of auto generated pollutants. It will strain the existing educational, social, and impact on an historical site. (130 pages). Comments made by: FEA, EPA, DOT, COE, HEW, DOI, USDA, (ELR Order No. 61200.)

Pinehurst Harbour, Anne Arundel County, Maryland, August 17: proposed is the approval of Pinehurst Harbour under the Title X Mortgage Insurance Program, which in turn would facilitate the development of a 240 acre peninsula at Bodkin Point with residences, neighborhood shopping, and conference facilities. A marina providing berths for 300 to 500 boats would also be provided. Sixteen hundred dwelling units would be constructed in six phases. Adverse effects include the loss of wooded areas on Bodkin Point including the loss of some animal habitats. (100 pages).

Comments made by: AHP, DOC, EPA, DOI, DOT, state and local agencies. (ELR Order No. 61206.)

Princeton Park Subdivision, Dallas County, Texas, August 16: This statement concerns an application by Billy B. Williams and Associates for Federal mortgage insurance on a predominantly residential development of 1560 homes located in the community of Rowlett, approximately 23 miles northeast of Dallas. Acreage has also been allocated for apartments, small commercial enterprises, parks, schools, and office buildings. The proposed development would create greater demand for fossil fuels through heavy dependence on the automobile for transportation to jobs and various urban facilities (167 pages).

Comments made by: EPA, COE, USDA, AHP, DOT, DOI, HEW, state and local agencies. (ELR Order No. 61197.)

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Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Final

Pickens County Water Systems, Pickens County, Alabama, August 17: The proposed project consists of a water supply system designed to serve the most heavily populated and developed rural area of North Pickens County, Alabama. This project forms the core of the northern component of the planned Pickens County Water System. Future expansions of the distribution system will permit it to serve all of the area included in the original proposal. Adverse effects include temporary increases in noise, dust, visual clutter and some additional soil erosion during periods of heavy rainfall. (35 pages). Comments made by: EPA2 county agencies. (ELR Order No. 61205.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240. (202) 343-3891.

Draft

BUREAU OF INDIAN AFFAIRS

Crow Ceded Area Coal Lease, Tracts I and III, Big Horn County, Montana, August 18: The statement concerns reconsideration of approval of existing coal leases between the Crow tribes and Westmoreland Resources. The leases involve stripmining of coal reserves located in Tracts I and III, Crow Ceded Area. Three levels of development are analyzed, 1) 19 million tons per year for transport by rail, 2) 26 million tons per year for transport by rail, and 3) 14 million tons per year for rail transport, plus 6.5 million tons per year for energy conversion at a hypothetical nearby facility. Adverse impacts include disruption of soil, vegetation and wildlife, the destruction of ground water aquifers and loss of surface lands from agricultural use. (440 pages). (ELR Order No. 61212.)

Final

Sherwood Uranium Project, Stevens County, Washington, August 19: Proposed is the approval of a lease allowing development of an open-pit uranium mine and processing facilities near the town of Willipinit on the Spokane Indian Reservation in Stevens County, Washington. The 10.6 year project involves a minimum of approximately 35 million bank cubic yards of overburden, removal, and processing of 7,950,000 tons of ore from which approximately 14,000,000 pounds of uranium oxide will be removed. Adverse effects include the emigration or death of most wildlife due to changes in project area. Mining and processing will affect approximately 320 acres. (610 pages). Comments made by: USDA, ERDA, EPA, HEW, COE, DLAB, DOI, state and local agencies, Spokane Indian Tribe. (ELR Order No. 61218.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

U.S. Highway 24 Bypass, Colorado Springs, El Paso County, Colorado, August 18: Proposed is the upgrading and potential rerouting of U.S. Highway 24 in Colorado Springs, Colorado. The termini of this project are from a point near the present U.S. Highway 24 and State Highway 94 intersection to the present U.S. Highway 24 and Interstate 25 intersection (Cimarron Interchange). Project length varies from 7.4 miles to 10 miles subject to the alternate chosen. A 4(f) statement is included concerning Fountain Park. (225 pages). (ELR Order No. 61216.)

Gould Street Connection, Bannock County, Bannock County, Idaho, August 16: Proposed is the upgrading of the intercity loop of U.S. 30 in Pocatello City. The improvement would include the intersection, approach sections and the Gould Street viaduct which crosses the Union Pacific Railroad Tracks. Adverse impacts would include removal of 4 commercial structures and 13 residential structures, and loss of shade trees. (177 pages). (ELR Order No. 61214.)

Flamingo Road, I-15 to U.S. 93-95, Clark County, Nevada, August 19: Proposed is the Flamingo Road Project, which consists of upgrading an existing arterial roadway in the Las Vegas metropolitan area, south of the present limits of the City of Las Vegas. The western terminus of the project is I-15, and the eastern terminus is U.F. 93-95 (Boulder Highway). Total project length is 6 miles, with part of the roadway divided into four lanes and the remainder into 6 lanes. Adverse impacts include 8 residential and 3 business relocations, damage to several commercial properties, and increased noise levels in the area. (317 pages). (ELR Order No. 61219.)

U.S. 74, West of Hallsboro to East of Bolton, Columbus County, North Carolina, August 17: Proposed is the imporvement of the existing U.S. 74 highway in Columbus County from west of Hallsboro to east of Bolton. The improvement will be a divided four-lane facility with five-lane urbanized sections, and will extend a distance of approximately 17.0 to 18.6 miles. The project will require the taking of land for right-of-way and will displace 14 to 76 families, 2 to 33 businesses, and 1 to 3 churches depending on the alternative selected. (Region 4) (100 pages). (ELR Order No. 61199).

Final

Forest Highway Route 19, Ferry County, Washington, August 17: The statement refers to the reconstruction of a 4.7 mile section of Forest Highway Route 19, Tonasket-San Poil Highway, from the Okanogan-Ferry County Line easterly to the intersection of Sixth and Clark Streets in Republic FHA 19 is a portion of Washington State Routes 20 and 21. Adverse impacts are the loss of some agricultural land, displacement of a maximum of 5 dwellings, increased air and noise pollution, and the potential for temporary sediment pollution of Granite Creek. (95 pages). Comments made by: DOI, COE, EPA, SDA2, state and local agencies, private organizations. (ELR Order No. 61202).

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-25178 Filed 8-26-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SPENT FUELS

Chemical Processing and Conversion

This notice amends a similarly entitled notice published January 3, 1968, 33 FR 30, and as amended in 33 FR 8715, June 8, 1970; and in 35 FR 18302, December 1, 1970; and in 40 FR 3031, January 17, 1975, which sets forth the essential terms of ERDA's policy with respect to the receipt of irradiated reactor fuels and making settlement therefor. This amendment revises pricing policy for uranium-aluminum alloy fuel and extends term of the same to December 31, 1982.

1. Delete the date "December 31, 1977" in paragraph 3.c. of said notice and substitute in lieu thereof the date "December 31, 1982".

2. Delete first sentence of paragraph 5.a. of said notice and substitute in lieu thereof the following sentence: "For those reactor materials, other than enriched uranium-aluminum (other than uranium-233) alloy fuels, which can be processed by an assumed chemical processing plant, the establishment of the firm charge by ERDA will be based on the costs estimated to be associated with that plant."

3. Add paragraph 5.c. to said notice as follows:

"For enriched uranium-aluminum (other than uranium-233) alloy fuel processable in currently operating ERDA plants, the chemical reprocessing charge will be based on full cost recovery with plants operating at 100% throughout (based on 300 days of operation per year). When the plants are operated at less than 100% throughput on a yearly basis, an equivalent 100% throughput cost will be utilized so that the customer is not penalized for idle plant capacity."

4. Renumber paragraph 6.c. to 6.d.

5. Add paragraph 6.c. to said notice as follows:

"ERDA has determined that as of June 1976, the cost for processing enriched uranium-aluminum alloy fuels to be $360/kg of total weight of uranium and aluminum metal contained in the processing batch. Of this total, $135 is capital related and $255 is related to operation costs. This charge covers receiving, chemical processing and waste management cost components, but not any special handling and/or storage requirements. A minimum charge of $30,000 (receiving and processing) plus $175/kg total weight of uranium and aluminum metal (waste management) will be applied to each processing batch."

6. Delete the words, "in accordance with the price indices for inorganic chemicals" from paragraph 6.d.(2) and substitute in lieu thereof, "in accordance with the Basic Inorganic Chemicals Index."

7. Add paragraph 6.d.(3) to said notice as follows:

"The operation related charges for enriched uranium-aluminum (other than uranium-233) alloy fuels shall be adjusted to reflect changes in price levels from the base date of June 1976 in accordance with the Official Monthly Construction Cost Indices, as appearing in 'Engineering News Record'."

8. Delete paragraph 10.a. (1) of said notice.

9. Renumber paragraphs 10.a. (2), (3) and (4) of said notice as paragraphs 10.a. (1), (2) and (3), respectively.

10. Delete paragraph 10.b. and substitute the folowing in lieu thereof: "The ERDA will periodically review the respective charges described in paragraphs 10.a. (1), (2) and (3) above to determine the extent, if any, to which they should be adjusted and publish such adjustments as deemed necessary."

This notice is effective August 27, 1976.

Dated at Germantown, Md., this 24th day of August 1976. For the U.S. Energy Research and Development Administration.

EDMUND F. O'CONNOR,
Deputy Assistant Administrator for Nuclear Energy.

[FR Doc.76-25276 Filed 8-26-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 606-1]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Reference and Equivalent Method Designations

Notice is hereby given that EPA in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of carbon monoxide and another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new reference method is an automated method (analyzer) which utilizes a measurement principle based on non-dispersive infrared spectrometry. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on flame photometry for the detection of sulfur dioxide. The methods are:

(1) RFCA-0876-012, "Beckman Model 866 Ambient CO Monitoring System" consisting of the following components:

Pump/Sample-Handling Module
Gas Control Panel
Model 865-17 Analyzer Unit
Automatic Zero/Span Standardizer

operated with a 0 to 50 ppm range, a 13 second electronic response time, and with or without any of the following options:

Current Output Feature
Linearizer Circuit
Bench Mounting Kit

This method is available from Beckman Instruments, Inc., Process Instruments Division, 2500 Harbor Boulevard, Fullerton, California 92634.

(2) EQSA-0876-013, "Monitor Labs Model 8450 Sulfur Monitor", operated with a 0 to 0.5 ppm range, a 5 second time constant, a model 8740 hydrogen sulfide scrubber in the sample line, with or without any of the following options:

(a) Option BP—Bipolar Signal Processor.
(b) Option V—Zero/Span Valves
(c) Option VT—Zero/Span Valves and Timer
(d) Option TF—TFE Sample Particulate Filter
(e) Option IZS—Internal Zero/Span Module
(f) Option CLO—Current Loop Output
(g) Option DO—Status Remote Interface

This method is available from Monitor Labs, Incorporated, 4202 Sorrento Valley Boulevard, San Diego, California 92121.

A test analyzer representative of each of these methods has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the respective applicants, EPA has determined, in accordance with Part 53, that these methods should be designated as reference and equivalent methods respectively. The information submitted by the applicants will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As reference or equivalent methods, these methods are acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, each method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (*e.g.*, operating range) specified in the applicable designation (see descriptions of the methods above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (FEDERAL REGISTER, Vol. 41, page 11255).

In general, each designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (*e.g.*, by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions are given in 40 CFR Part 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them with 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a).

Additional information concerning this action may be obtained by writing to the address given above.

Dated: August 20, 1976.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

[FR Doc.76-25082 Filed 8-26-76;8:45 am]

[FRL 607-1; OPP-50251]

AMERICAN CYANAMID CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance

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with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 241–EUP–81. American Cyanamid Company, Princeton, New Jersey 08540. This experimental use permit allows the use of 262 pounds of the herbicide N-(1-ethylpropyl)-3,4-dimethyl-2, 6-dinitrobenzenamine on potatoes to evaluate control of various weeds. A total of 150 acres is involved; the program is authorized only in the States of California, Colorado, Florida, Idaho, Maine, Maryland, Minnesota, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Virginia, Washington, and Wisconsin. The experimental use permit is effective from July 30, 1976, to July 30, 1977. A temporary tolerance for residues of the active ingredient in or on potatoes has been established.

No. 6704–EUP–11. U.S. Fish and Wildlife Service, Washington, D.C. 20240. This experimental use permit allows the use of 10 pounds of the bird repellent 4-aminopyridine on sunflowers to evaluate control of red-winged blackbirds, yellow-headed blackbirds, common grackles, cowbirds, and starlings. A total of 200 acres is involved; the program is authorized only in the State of North Dakota. The experimental use permit is effective from July 28, 1976, to July 28, 1977. A permanent tolerance for residues of the active ingredient in or on sunflower seeds has been established (40 CFR 180.312).

No. 9518–EUP–1. Tower Chemical Company, Clermont, Florida 32711. This experimental use permit allows the use of 138 pounds of the fungicide copper salt of fatty and rosin acids on soybeans to evaluate control of frogeye leaf spot, and rod and stem blight. A total of 60 acres is involved; the program is authorized only in the States of Alabama and Arkansas. The experimental use permit is effective from July 29, 1976, to July 29, 1977. An exemption from the requirement of a tolerance for residues of the active ingredient in or on raw agricultural commodities when used as a fungicide has been established (40 CFR 180.1001(b)(1)).

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25089 Filed 8–26–76;8:45 am]

[FRL 607–3; OPP–50230]

CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chevron Chemical Company, Richmond, California 94804. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239–EUP–71) allows the use of 7,500 pounds of the insecticide acephate on grapes to evaluate control of the Grape Leafhopper, the Orange Tortrix, the Saltmarsh Caterpillar, and the Omnivorous Leaf Roller. A total of 1,000 acres is involved; the program is authorized only in the States of Arkansas, Arizona, California, Michigan, New York, and Washington. The experimental use permit is effective from July 6, 1976, to July 6, 1977. A temporary tolerance for residues of the active ingredient in or on grapes has been established.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25083 Filed 8–26–76;8:45 am]

[FRL 606–4; OPP–50245]

ELANCO PRODUCTS CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471–EUP–53. Elanco Products Company, Indianapolis, Indiana 46206. This experimental use permit allows the use of 4,240 pounds of the herbicide oryzalin on soybeans to evaluate control of various annual and broadleaf weeds. A total of 7,420 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Nebraska, North Carolina, North Dakota, New York, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin. The experimental use permit is effective from July 9, 1976, to July 9, 1977. A permanent tolerance for residues of the active ingredient in or on soybeans has been established.

No. 10350–EUP–1. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 955 pounds of an insecticide which is a mixture of pyrethrins, piperonyl butoxide, N-octyl bicycloheptene dicarboximide, and petroleum distillate in food handling establishments, dairy and cattle barns, stables, and poultry houses to evaluate control of ants, flies, mosquitoes, fleas, ticks, and other insects. The program is authorized only in the States of California, Florida, Georgia, Illinois, Indiana, Minnesota, New Jersey, New York, North Carolina, Tennessee, Texas, and Washington. The experimental use permit is effective from July 9, 1976, to July 9, 1977.

No. 148–EUP–20. Thompson-Hayward Chemical Company, Kansas City, Kansas 66110. This experimental use permit allows the use of 193.48 pounds of the insecticide N[[(4-chlorophenyl)amino]carbonyl] - 2,6 - difluorobenzamide in temporarily flooded areas, drainage ditches, lagoons from dairy, poultry and swine housing and feeding areas, fresh water swamps and marshes and salt water marshes to evaluate control of mosquito larvae. A total of 1,300 acres is involved; the program is authorized only in the States of California, Colorado, Delaware, Georgia, Illinois, Louisiana, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from July 13, 1976, to July 13, 1977.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25084 Filed 8–26–76;8:45 am]

[FRL 606–8; OPP–50250]

MONSANTO CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524–EUP–29. Monsanto Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 2,452 pounds of the herbicide glyphosate in irrigation systems, drainage systems, and small water impoundments such as farm ponds, for nonselective weed control. A total of 613 acres is involved; the program is authorized only in the States of Arkansas, Arizona, California, Colorado, Idaho, Iowa, Hawaii, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from July 28, 1976, to July 28, 1977. Temporary tolerances for residues of the active ingredient in or on various

crop groupings, avocadoes, cottonseed, and hops have been established; in addition, a food additive tolerance for residues in potable water has been established. There can be no direct treatment to moving bodies of water such as streams and rivers.

No. 241–EUP–80. American Cyanamid Company, Princeton, New Jersey 08540. This experimental use permit allows the use of 560 pounds of the herbicide N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine on peanuts to evaluate control of various annual grasses and broadleaf weeds. A total of 548 acres is involved; the program its authorized only in the States of Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia. The experimental use permit is effective from July 28, 1976, to July 28, 1977. Temporary tolerances for residues of the active ingredient in or on peanuts, and peanut forage and hay have been established.

No. 241–EUP–82. American Cyanamid Company, Princeton, New Jersey 08540. This experimental use permit allows the use of 168 pounds of the herbicide N-(1-ethylpropyl)-3,4 - dimethyl - 2,6 - dinitrobenzenamine on beans to evaluate control of various weeds. A total of 188 acres is involved; the program is authorized only in the States of California, Colorado, Delaware, Idaho, Kansas, Maryland, Michigan, Minnesota, Montana, Nebraska, New York, North Dakota, Oregon, Pennsylvania, Tennessee, Utah, Washington, Wisconsin and Wyoming. The experimental use permit is effective from July 30, 1976, to July 30, 1977. A temporary tolerance for residues of the active ingredient in or on beans (dry, snap, and lima) has been established.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25088 Filed 8–26–76;8:45 am]

[FRL 606–6; OPP–50247]

NORTH DAKOTA STATE UNIVERSITY ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 35963–EUP–2. North Dakota State University, Department of Entomology, Fargo, North Dakota 58102. This experimental use permit allows the use of 22 pounds of the insecticide carbaryl, which will be incorporated into edible carriers (shredded newsprint) with grasshopper phagostimulant (diluted molasses), on rangeland to evaluate control of grasshoppers. A maximum of 100 acres is involved; the program is authorized only in the State of North Dakota. The experimental use permit is effective from July 15, 1976, to July 15, 1977. A permant tolerance for residues of the active ingredient in or on grass and grass hay has been established (40 CFR 180.169).

No. 769–EUP–5. Woolfolk Chemical Works, Fort Valley, Georgia 31030. This experimental use permit allows the use of 4,972.8 pounds of the fungicide calcium polysulphide on soybeans to evaluate control of frogeye leaf spot. A total of 414 acres is involved; the program is authorized only in the States of Alabama, Georgia, and South Carolina. The experimental use permit is effective from July 22, 1976, to July 22, 1977. An exemption from the requirement of a pesticide tolerance for residues of the active ingredient in soybeans has been established.

No. 6704–EUP–10. Fish and Wildlife Service, Washington, D.C. 20240. This experimental use permit allows the use of 15 pounds of bird repellent 4-aminopyridine to evaluate control of blackbirds in corn fields. A total of 3,000 acres is involved; the program is authorized only in the State of Ohio. The experimental use permit is effective from July 21, 1976, to July 21, 1977. A permanent tolerance for residues of the active ingredient in or on field corn has been established (40 CFR 180.312).

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visitng the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25086 Filed 8–26–76;8:45 am]

[FRL 606–5; OPP–50246]

PENNWALT CORP. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 12 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 4581–EUP–26. Pennwalt Corporation, Tacoma, Washington 98421. This experimental use permit allows the use of 13,200 pounds of the herbicide mono(N,N-dimethylalkylamine) salt of endothall in irrigation canals to evaluate control of various algae and aquatic weeds. A total of 19 irrigation canals will be treated; the program is authorized only in the States of Arizona, California, Colorado, Idaho, and Washington. The experimental use permit is effective from July 16, 1976, to July 16, 1977. Treated water will not be used for human or animal consumption or for irrigation of crops until endothall residues have been diluted to levels below 0.2 part per million.

No. 279–EUP–62. FMC Corporation, Middleport, New York 14105. This experimental use permit allows the use of 120 pounds of the insecticide carbofuran on the leatherleaf fern to evaluate control of fern borer nematodes. A total of 12 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from July 16, 1976, to July 16, 1977.

No. 7946–EUP–4. J. J. Mauget Company, Burbank, California 91504. This experimental use permit allows the use of 83 pounds of the insecticide S-[2-(ethylsulfinyl) ethyl] O,O-dimethyl phosphorothioate for injectiou into trees to evaluate control of various tree insects. A total of 55 acres containing 1,155 trees is involved; the program is authorized only in the States of Arizona, California, Florida, Kansas, Massachusetts, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. The experimental use permit is effective from July 16, 1976, to July 16, 1977.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 19, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–25035 Filed 8–26–76;8:45 am]

[FRL 606–7; OPP–50249]

S. B. PENICK AND CO. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 432–EUP–31. S. B. Penick and Company, Orange, New Jersey 07050. This experimental use permit allows the use of 13 pounds of the insecticide (5-Benzyl-3-furyl) methyl 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate in residential and industrial business sites, food processing plants, and flour mills to evaluate control of various insects. The program is authorized only in the States of California, Florida, Georgia, New Jersey, and Pennsylvania. The experimental use permit is effective from July 22, 1976, to July 22, 1977.

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No. 148–EUP–26. Thompson-Hayward Chemical Company, Kansas City, Kansas 66110. This experimental use permit allows the use of 12.5 pounds of the insecticide N-[[(4-chlorophenyl)amino] carbonyl]-2, 6-difluorobenzamide in the Lower Blue Lake, Lake County, California, to evaluate control of the Clear Water Gnat. A total of 46 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from July 28, 1976, to July 28, 1977. Treated water may not be used as a potable water source or for livestock watering crop irrigation, or commercial fishing.

No. 279–EUP–61. FMC Corporation, Middleport, New York 14105. This experimental use permit allows the use of 1,600 pounds of the insecticide carbofuran on corn to evaluate control of adult corn rootworm beetles. A total of 3,000 acres is involved; the program is authorized only in the States of Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. The experimental use permit is effective from July 29, 1976, to July 29, 1977. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.254).

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated August 19, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–25087 Filed 8–26–76;8:45 am]

[FRL 607–2; OPP–50252]

VELSICOL CHEMICAL CORP. ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 876–EUP–31. Velsicol Chemical Corporation, Chicago, Illinois 60611. This experimental use permit allows the use of 2,250 pounds of the herbicide methazole on onions to evaluate control of various weeds. A total of 1,130 acres is involved; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Michigan, Minnesota, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Texas, Washington, and Wisconsin. The experimental use permit is effective from August 2, 1976, to August 2, 1977. A temporary tolerance for residues of the active ingredient in or on onions has been established.

Nos. 4581–EUP–27. Pennwalt Corporation, King of Prussia, Pennsylvania 19406. This experimental use permit allows the use of 15.5 pounds of the herbicide Potassium 3,4-dichloroisothiazole-5-carboxylate on cotton to evaluate its use as a conditioner for cotton defoliation. A total of 66 acres is involved; the program is authorized only in the States of Alabama, Arizona, Mississippi, and Texas. The experimental use permit is effective from August 6, 1976, to August 6, 1977. This permit is issued for use on cotton grown for seed purposes only.

No. 11556–EUP–4. Bayvet Corporation, Shawnee Mission, Kansas 66201. This experimental use permit allows the use of 12.09 pounds of the insecticide fenthion on beef and non-lactating dairy cattle to evaluate control of horn flies. Approximately 1600 head of cattle will be treated; the program is authorized only in the States of Arkansas, Colorado, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, New Mexico, South Dakota, and Virginia. The experimental use permit is effective from August 6, 1976, to August 6, 1977. A permanent tolerance for residues of the active ingredient in or on the meat, fat, and meat byproducts of cattle, goats, and poultry has been established (40 CFR 180.214).

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: August 19, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–25090 Filed 8–26–76;8:45 am]

[FRL 606–3]

GREELEY REGION WASTEWATER MANAGEMENT PROGRAM

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Greeley Region Wastewater Management Program, Weld County, Colorado.

Proposed is the granting of funds to Greeley, Colorado, for the construction of wastewater treatment facilities. The City of Greeley has recommended the building of a regional wastewater treatment facility in the delta agricultural area east of the city near the confluence of the Cache La Poudre and South Platte Rivers.

To receive additional public comments, the Environmental Protection Agency, Region VIII, will hold an open public hearing on this DEIS September 20, at 7:00 p.m. at the 4H Building, Island Grove Park, Greeley, Colorado. All interested parties are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

The DEIS was transmitted to the Council on Environmental Quality (CEQ) August 20, 1976. In accordance with CEQ's notice of availability, comments are due October 4, 1976. Copies of the DEIS are available for review and comment from: Mr. William Geise, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: 303–837–4831 or FTS 327–4831).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII, Library, 1st Floor, 1860 Lincoln Street, Denver, Colorado 80203.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, DC 20460.

Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, DC 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: August 20, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76–25091 Filed 8–26–76;8:45 am]

[FRL 606–2]

METRO DENVER SLUDGE MANAGEMENT PLAN, COLORADO

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Metro Denver Sludge Management Plan, Adams County, Colorado.

The Metropolitan Denver Sewer Disposal District No. 1 (Metro) proposes to construct the necessary facilities to transport sludge to a site in Adams County for air drying in earthen basins, stockpiling in above-ground windows and distributing to the farming community to be reused on land for growing crops.

To receive additional public comments, the Environmental Protection Agency, Region VIII, will hold open public hearings on this DEIS on September 8, at 9:00 a.m., in Room 269 of the U.S. Post Office in Denver and September 9, at 1:30 p.m., at the Adams County Regional Fairgrounds Annex Building, East 124th Avenue and Henderson Road, Denver. All interested persons are invited to express their views at these hearings. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) August 20, 1976. In accordance with CEQ's notice of availability, comments are due October 4, 1976. Copies of the DEIS are available for review and comment from: Mr. William Geise, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: 303–837–4831 or FTS 327–4831)

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Environmental Protection Agency, Region VIII, Library, 1st Floor, 1860 Lincoln Street, Denver, Colorado 80203.

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Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: August 20, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76–25092 Filed 8–26–76;8:45 am]

[FRL 605–7; OPP–42027]

DISTRICT OF COLUMBIA

Submission of Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 [39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)], the Honorable Walter E. Washington, Mayor of the District of Columbia has submitted a Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending enactment by the City Council of all necessary legislation and promulgation of regulations thereunder.

Notice is hereby given of the intention of the Regional Administrator, EPA Region III, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attached appendices may be examined during normal business hours at the following locations:

Room 3323, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Pesticides Branch, U.S. Environmental Protection Agency, Region III. Phone: 215/597–9869

Room 711, Department of Environmental Services, 801 N. Capitol Street, N.E., Washington, D.C. 20002. Phone: 202/629–3113

Room 401, East Tower, 401 "M" Street, S.W., Washington, D.C. 20460, Office of Pesticide Programs, Federal Register Section. Phone: 202/755–4854

SUMMARY OF DISTRICT OF COLUMBIA STATE PLAN

The Department of Environmental Services has been designated as the lead agency for the administration of the pesticide certification program, including enforcement activities.

The Department of Environmental Services is solely responsible for the administration of the plan. However, the certification program will be coordinated with other Departments and Agencies.

The Department of Economic Development (DED) will be involved with the issuance, denial, suspension or revocation of licenses upon authorization of the lead agency. The Solid Waste Management Division (SWMD) will assist the lead agency in developing standards relating to storage and disposal of pesticides and pesticide containers. The State Cooperative Extension Service (SCES) of the District of Columbia will assist the lead agency in training and testing leading toward certification. Also, the Mayor may create a Pesticide Advisory Board to advise the lead agency on matters relating to the use and application of pesticides.

Legal authority for the program may be found in the proposed Pesticide Operations Act. Other authorities cited are: Commissioner's Order No. 71–255 of July 27, 1971; Commissioner's Order No. 73–178 of July 27, 1973; Pesticide Operations Regulation No. 72–25 of November 18, 1972; and, Commissioner's Order No. 72–96 of April 18, 1972.

The plan indicates that the lead agency and cooperating agencies will have sufficient qualified personnel and funds needed to carry out the proposed program. It is estimated that the funds necessary to conduct a minimum program will amount to $80,000. A request will be made for sufficient funds at the time of reorganization and again if necessary when City Council holds public hearings on the proposed Pesticide Operations Act.

The District estimates that 302 commercial applicators and only 20 private applicators will need to be certified.

When qualified, both commercial and private applicators will be issued a certificate and a license. The lead agency will also issue a wallet size ID card which will be presented at the time of purchase of restricted use pesticides.

The State lead agency will submit an annual report on or about August 15 of each year covering the activities of the previous fiscal year ending on June 30. Other reports will be submitted as required by the EPA Administrator.

The commercial applicator categories proposed are those which are listed in 40 CFR 171.3. However, it is anticipated that the District will not have need for the following categories:

(1) Agricultural Pest Control, (2) Forest Pest Control, and (3) Seed Treatment.

Subcategories proposed in the plan are:

A. Ornamental and Turf Pest Control.
(1) Ornamental Plants and Shade Trees.
(2) Turf and Lawn Pest Control.

B. Industrial, Institutional, Structural and Health Related Pest Control.
(1) General.
(2) Wood Destroying Organisms.
(3) Bird Control.
(4) Fumigation.
(5) Rodent Control.
(6) Industrial Weed Control.

To become certified as a commercial applicator, an individual will be required to pass a written and practical examination. Examinations will cover general information and also specific information in each category of service in which the individual seeks certification. Standards of competency reflected in the examinations will be based on the Federal standards presented in 40 CFR 171.4(b) and (c) and 171.6.

Private applicators (agricultural commodity producers) will be required to pass a written examination meeting the standards outlined in 40 CFR 171.5 and 171.6. Certified private applicators will be authorized to purchase only specific brand name products or similar products having the same active ingredient formulation for which competency has been demonstrated.

Application forms pertaining to certification and licensing will be made available through the lead agency and the DED. All qualified applicants will be notified of location and time of examinations.

Upon receiving a passing score, each applicant for certification will receive a Certificate of Qualification from the lead agency which he will need to become licensed by DED. Certificates of Qualification and licenses should be posted at the applicator's place of employment.

Applicants for certification who desire training will be able to attend formal training programs which will be conducted by the SCES. Training materials for both commercial and private applicators will be based upon EPA and North East Core Manuals and other supplementary material prepared by SCES.

After the initial training and certification is completed, continued training will be conducted on a scheduled basis as the need indicates.

Sample examinations and examination questions are exhibited in the plan.

At the present time, the District of Columbia has no need for special testing procedures.

The plan also indicates that within 60 days of the final approval of the Government Agency Plan (GAP) by EPA, a statement concerning acceptance of GAP qualified Federal employees will be submitted for inclusion in the plan.

Conditions for granting reciprocal certifications to residents of other states are addressed in the plan. Also, all reciprocal agreements formed between the District of Columbia and other states will be submitted to EPA as an amendment to the plan.

Other regulatory activities listed in the plan which will supplement the District's certification program are: the requirement that all dealers in restricted

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use pesticides be licensed and maintain records; authority by the Mayor to restrict or prohibit the use of certain pesticides; the requirement that commercial applicators submit records of all pesticides used; also, the plan indicates that regulatory activities will be conducted for pesticide registration, label review, and product analysis.

With respect to the maintenance of the plan, it is proposed to provide full-time inspectional capabilities. Consumer Safety Officers will monitor licenses, examine pesticide use and sale records, inspect equipment and storage areas, check on safety standards and observe operational procedures.

To assure that certified applicators maintain a continued level of competence, the plan provides that they become recertified every three years. The recertification process may entail either reexamining or presenting documentation indicating satisfactory completion of educational courses, programs, seminars or workshops. Also, the lead agency in cooperation with SCES will publish a biannual newsletter dealing with new developments and techniques relating to the pesticide industry.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the District of Columbia to the Chief, Pesticides Branch, Region III, U.S. Environmental Protection Agency, 6th & Walnut Streets, Room 3323, Philadelphia, Pennsylvania 19106. The comments must be received on or before September 26, 1976, and should bear the identifying notation OPP-42027. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: July 19, 1976.

DANIEL J. SNYDER III,
Regional Administrator, U.S. Environmental Protection Agency—Region III.

[FR Doc.76-25093 Filed 8-26-76;8:45 am]

[FRL 607-8; OPP-180072B]

CALIFORNIA DEPARTMENT OF HEALTH

Amendment to Specific Exemption To Use DDT To Suppress Flea Vectors of Plague

On May 5, 1976, the California Department of Health (hereafter referred to as the "Applicant") promulgated a crisis exemption under the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136). This crisis exemption involved the use of a ten (10) percent DDT dust to suppress populations of fleas which were vectoring plague on wild rodents and threatening human health on the Grizzly and Grasshopper Campgrounds, Lake Davis, Plumas County, California; this action was taken after repeated carbaryl applications failed to control the situation. Notice of this exemption was published in the Federal Register on June 8, 1976 (41 FR 22979). Forty-seven (47) pounds of a ten percent DDT dust were applied directly into rodent burrows on 80 acres of the affected campground. A comparison of pre- and post-treatment flea indices (No. fleas/No. rodents) indicated that plague vectoring flea populations were reduced on chipmunks, white-footed deer mice, and golden-mantled ground squirrels to a level which was adequate to protect the public health.

Subsequently, the Applicant requested a specific exemption for use of DDT to suppress flea population which were vectoring plague on wild rodents and threatening the public health in the foothills and mountains of California. After reviewing the application and other available information, and conferring with the Chief, Plague Branch, Center for Disease Control (CDC), the Applicant was authorized to use no more than fifty (50) pounds of actual DDT. Notice of the granting of this exemption was published in the Federal Register on August 4, 1976 (41 FR 32640).

However, the Applicant has requested an amendment to the specific exemption which would permit the use of DDT dust stations in situations where burrow dusting is impractical or the burrows inaccessible. The original specific exemption indicated that DDT would be applied directly to wild rodent burrows with hand-powered dusting equipment. After reviewing additional scientific information provided by the Applicant, and consulting with the Chief, Plague Branch, CDC, EPA has determined that the use of DDT dust bait stations to control flea populations vectoring plague on wild rodents in California is necessary to protect the public health. The other conditions pursuant to the original specific exemption remain in force.

Dated: August 20, 1976.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-25267 Filed 8-26-76;8:45 am]

[FRL 607-7; OPP-180084]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Issuance of Specific Exemption To Use DDT To Suppress Flea Vectors of Plague

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Indian Health Service of the Department of Health, Education, and Welfare (hereafter referred to as "DHEW") to use ten (10) percent DDT dust in a program to suppress fleas vectoring plague on wild rodents and threatening the public health on Indian Reservations in Arizona, Colorado, New Mexico, and Utah. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Rm. E-315, Washington, DC 20460.

According to DHEW, there is an unusually large and early incidence of plague-infected rodents on Indian Reservations located in the four States specified. Three human cases have been reported among Indian populations this year. The Chief of the Plague Branch, Center for Disease Control (CDC), DHEW, Fort Collins, Colorado, has predicted that a record number of plague incidents will occur in the affected States in 1976; he further recommended limited use of DDT for control of vector fleas in the high risk areas of these Indian lands. DHEW stated that whenever appropriate, carbaryl would be used rather than DDT to control the fleas.

DHEW defines high risk areas as those in which Rock Squirrels (*Spermophilus variegatus*) live in close proximity to human residences. Other animals which might be involved in a plague outbreak are the prairie dog species *Cynomys ludovicianus* and *C. gunnisoni*. Sylvatic plague is transmitted among rodent plague reservoirs by infected fleas. Flea control must be initiated promptly to protect human health since transmission to humans occurs primarily from May through September. Carbaryl, the only insecticide registered for flea control on wild rodents, is nonpersistent and would require one or more reapplications, according to DHEW; furthermore, DHEW indicated that due to a manpower shortage and the advanced plague season, it would not be possible to treat high risk areas with carbaryl more than once.

Teams of three to eight men will apply two (2) ounces of a ten (10) percent DDT dust with hand-powered dusting equipment to animal burrows located near villages and towns on Indian Reservations. A maximum of 2,000 pounds of ten percent DDT dust (20 pounds actual DDT) will be used for Indian Reservations in the four States. The teams will be supervised by Indian Health Service Sanitarians; the overall supervision of the program will be provided by the CDC, Fort Collins, Colorado. One DDT application will be made to each rodent burrow in high risk areas. The DHEW stated that, since the DDT dust will be applied directly into the rodent burrows, few adverse environmental effects are anticipated. The Chief of the Plague Branch, CDC, Fort Collins, Colorado, has advised EPA that widespread but localized plague epizootics are presently sweeping through wild rodent populations in Colorado and New Mexico. He stated that a potentially serious threat of a plague epizootic exists also in Arizona, California, and Utah. The CDC has reported that two (2) deaths have occurred.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fleas vectoring plague has occurred; (b) there is no pesticide presently registered and available for use to control the flea populations on Indian Reservations located in Arizona, Colorado, New Mexico, and Utah; (c) there are not alternative means of control, taking into account the efficacy and hazard; (d) significant health problems may result if the fleas vectoring plague are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, DHEW has been granted a specific exemption to use the pesticide noted above until August 31, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. DDT treatment is limited to high risk areas where wild rodents live in close proximity to areas of human habitation;
2. DDT will be applied directly into wild rodent burrows with hand-powered dusting equipment;
3. Total actual DDT used will be two hundred (200) pounds;
4. Each rodent burrow will receive a single application of approximately two (2) ounces of a ten (10) percent DDT dust formulation; and
5. Personnel of the CDC and the Indian Health Service, DHEW, will supervise the pesticide applications.

Dated: August 20, 1976.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-25266 Filed 8-26-76;8:45 am]

[FRL 607-6; OPP-180086]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Ethyl Parathion To Control Pea Aphid, Bean Aphid, and Vetch Aphid on Lentils

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use ethyl parathion to suppress populations of the pea aphid, the bean aphid, and the vetch aphid which are threatening the commercial lentil crop on 25,000 acres in ten (10) northern Idaho counties. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 25,000 acres of lentils in the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis Nez Perce, and Shoshone in northern Idaho could suffer thirty (30) percent potential yield loss, valued at $1,125,000, due to infestations of pea aphid, bean aphid, and vetch aphid. Significant numbers of these pests can cause damage as long as the plants are green.

Malathion is the only insecticide registered for use on lentils. According to the Applicant, the population of pests are still at the economic threshold of forty aphids per sweep on some lentil fields, after two (2) applications of malathion. Ethyl parathion has proven efficacy against numerous species of aphids, and the Applicant believes it will be effective against the pea aphid, bean aphid, and vetch aphid. In addition, an experimental use permit has been issued for similar uses of ethyl parathion in the States of Idaho and Washington. This permit is covered by a temporary tolerance of one (1.0) ppm; the temporary tolerance expires on June 1, 1977.

The Applicant will use ethyl parathion at an application rate of one-half (0.5) pound avoirdupois actual ingredient per acre; application will be made both aerially and with ground equipment, with a ten (10) day preharvest interval. The applications will be terminated on August 15, 1976. Applications will be limited to State-licensed commercial applicators. A few growers might elect to apply ethyl parathion on their own property.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that three endangered species—American Peregrine Falcon, Grizzly Bear, and Northern Rocky Mountain Wolf—and one proposed endangered species, the Northern Bald Eagle, are resident to one or more of the Idaho counties where ethyl parathion will be applied. However, it is anticipated that there will be no adverse effects to man or the environment as a result of this application.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of pea aphid, bean aphid, and vetch aphid has occurred; (b) there is no pesticide presently registered and available for use to control these aphids in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these aphids are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A parathion EC formulation containing four (4) pounds of actual ethyl parathion per gallon and appropriately labeled for method of application (ground or air) will be used;
2. Rate of application will be one-half (0.5) pound of actual ethyl parathion per acre per application for a maximum of two (2) applications;
3. Lentil acreages to be treated are limited to those counties previously mentioned in this notice;
4. Lentil crop residues (forage) treated with ethyl parathion may not be used for food, feed, or fodder. Livestock may not graze in treated lentil fields;
5. Lentils with ethyl parathion residues not exceeding one (1.0) ppm will not pose a hazard to the public health and may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this decision;
6. A ten (10) day preharvest interval will be observed;
7. The Applicant is responsible for supervising all ethyl parathion applications;
8. Efficacy and residue data will be collected pursuant to registering this use pattern under section 3 of the amended FIFRA;
9. Every precaution will be taken to avoid or minimize spray drift to nontarget areas;
10. Liaison will be established with the Idaho State Departments of Agriculture, Fisheries, and Game to minimize any adverse effects on fish and wildlife resources; and
11. Every precaution will be taken to assure the protection of all endangered species residing in or migrating through the treatment area.

Dated: August 23, 1976.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-25268 Filed 8-26-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ADVISORY COMMITTEES AND ADVISORY COMMITTEE CHARTERS

Renewal and Amendment

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular No. A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) and following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties imposed on the Federal Energy

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Administration by law, to renew the following advisory committees: Coal Industry Advisory Committee; Construction Advisory Committee; Consumer Affairs and Special Impact Advisory Committee; Electric Utilities Advisory Committee; Environmental Advisory Committee; Food Industry Advisory Committee; LP-Gas Industry Advisory Committee; Natural Gas Transmission and Distribution Advisory Committee; State Regulatory Advisory Committee; and the Transportation Advisory Committee.

In addition, following consultation with the Office of Management and Budget, notice is hereby given of revisions to the charters of the above-listed advisory committees. The amendments provide for the establishment of subcommittees to the committees, state the term of appointment for members, provide for the election of a Chairman and/or Vice Chairman, and revise, where necessary, the estimated annual operating costs. These renewals and revisions are effective on the date the charters are filed in accordance with section 14(b) of the FACA.

The amended charters are published below.

Issued in Washington, D.C., on August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25114 Filed 8-24-76;10:57 am]

ADVISORY COMMITTEES

Merger and Establishment

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties imposed on the Federal Energy Administration by law, to merge the three committees formerly known as the Northeast, Retail Dealers and Wholesale Petroleum Advisory Committees and redesignate them as the Fuel Oil Marketing Advisory Committee and the Gasoline Marketing Advisory Committee. The establishment of these two committees is made effective upon filing of the charters in accordance with Section 9 of the Federal Advisory Committee Act.

A description of the nature and purpose of these committees is contained in their Charters which are published below.

Issued in Washington, D.C. on August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25125 Filed 8-24-76;10:58 am]

COAL INDUSTRY ADVISORY COMMITTEE

Charter

A. ESTABLISHED

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the matters related to the coal industry and related objectives of FEA is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Coal Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Coal Industry Advisory Committee are to provide the Administrator, FEA, with assistance in encouraging the expansion of a readily-usable energy source—coal—and maintaining fair and reasonable consumer prices for such supplies. The Committee will also advise on technical and economic factors affecting the coal industry.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $31,200 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92-463.

9. *Subcommittee(s).* To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

• Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25121 Filed 8-24-76;8:45 am]

CONSTRUCTION ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the construction industry as it relates to accomplishment of established national energy objectives is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Construction Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Construction Advisory Committee are to provide the Administrator, FEA, with advice concerning design and implementation of FEA policies and programs affecting the construction industry and its impact on national energy objectives.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $16,500 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate six months from the date ofr filing of this Charter pursuant to section 14(b) of Pub. L. 92-463.

9. *Subcommittees.* The Construction Advisory Committee shall have subcommittees as follows:

a. Energy Conservation Subcommittee.
b. Oil and Gas Regulation Subcommittee.
c. Construction Labor Availability Subcommittee.
d. Construction Materials Allocation Subcommittee.
e. Central Clearing House for Construction Projects Subcommittee.

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to matters concerning construction aspects of FEA policies and programs.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25120 Filed 8-24-76;10:53 am]

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the impact of FEA policies and programs on consumers and special impact groups is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Consumer Affairs/Special Impact Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Consumer Affairs/Special Impact Advisory Committee are to provide the Administrator, FEA, with the diversified expertise possessed by a wide range of highly qualified individuals who have been extensively involved in identifying and evaluating the impact of proposed or existing energy policies on the consumer, the poor, the elderly and the handicapped persons in rural and urban America, and planning, developing, and implementing policies and programs to remedy these problems.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $60,000 and will involve approximately 2 man-years of staff support.

7. *Meetings.* The Committee will meet approximately 12 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92-463.

9. *Subcommittees.* The Consumer Affairs/Special Impact Advisory Committee shall have Subcommittees as follows:

a. Subcommittee on Transportation Programs
b. Subcommittee on Home Energy Consumption Problems and Utilities
c. Subcommittee on Energy Legislation and Regulations
d. Subcommittee on Energy Efficiency Standards, Conservation, and Ecology
e. Subcommittee on Energy Consumption and the Disadvantaged
f. Subcommittee on Consumer Representation

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to matters concerning consumer aspects of FEA policies and programs.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25119 Filed 8-24-76;10:52 am]

ELECTRIC UTILITIES ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning electric utility interests is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Electric Utilities Advisory Committe pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectivs and scope.* The objectives of the Electric Utilitis Advisory Committee are to provide the Administrator, FEA, with advice with respect to the general electric utilities' aspects of interests and problems related to the policy and implementation of programs to meet the continuing national energy problem.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $30,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92-463.

9. *Subcommittee.* The Electric Utilities Advisory Committee shall have one subcommittee as follows:

a. The Executive Subcommittee. The objective of this Subcommittee is to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the Electric Utilities Advisory Committee. The Subcommittee shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee. All actions of the Subcommittee shall be consistent with the provisions of B-1 through B-11.

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10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25118 Filed 8-24-76;10:52 am]

ENVIRONMENTAL ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the environmental aspects of FEA policies and programs is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Environmental Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Environmental Advisory Committee are to provide the Administrator, FEA, with advice and information concerning environmental aspects of FEA policies and programs.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $24,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 6 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92-463, will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $37,500 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92-463.

9. *Subcommittees.* The Food Industry Advisory Committee shall have subcommittees as follows:

a. Distribution and Transportation Subcommittee
b. Equipment Efficiency Subcommittee
c. Retail Stores Subcommittee
d. Food Service Operations Subcommittee
e. Industrial Education Subcommittee
f. Government Regulations Subcommittee
g. Future Planning Subcommittee
h. Natural Gas Subcommittee
i. Energy Use Data Subcommittee
j. Energy Audit Programs Subcommittee
k. Federal Reporting Program (EPCA) Subcommittee
l. State Program/Contingency Plans Subcommittee
m. Agriculture Subcommittee
n. Financial Incentives Subcommittee

The objective of these subcommittees is to make recommendations to the parent committee with respect to matters concerning food industry aspects of FEA policies and programs.

The subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25116 Filed 8-24-76;10:48 am]

FOOD INDUSTRY ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning how the Government can promote increased energy efficiency within each sector of the food system and how proposed energy policies and ongoing programs impact on the food system is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Food Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Food Industry Advisory Committee are to provide the Administrator, FEA, with information and advice concerning food industry interests and problems as these relate to national energy policy and conservation programs.

2. *Committee tenure.* In view of the goals and purposes of the Committee it

FUEL OIL MARKETING ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the trade of selling fuel oil is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Fuel Oil Marketing Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Fuel Oil Marketing Advisory Committee are to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $36,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 6 times a year.

8. *Effective date and duration.* The establishment of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter.

9. *Subcommittee(s).* To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25126 Filed 8-24-76;10:58 am]

GASOLINE MARKETING ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the wholesale and retail selling of gasoline is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Gasoline Marketing Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Gasoline Marketing Advisory Committee are to provide the Administrator, FEA, with expert and technical advice concerning the wholesale and retail selling of gasoline.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee Reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $45,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 6 times a year.

8. *Effective date and duration.* The establishment of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having legislative jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter.

9. *Subcommittee(s).* To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recomemndations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76-25127 Filed 8-24-76;10:58 am]

LP-GAS INDUSTRY ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning independent review on matters related to the policy and implementation of programs that affect the LP-Gas industry is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the LP-Gas Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the LP-Gas Industry Advisory Committee are to provide the Administrator, FEA, with advice with respect to the implementation of programs that affect the LP-Gas industry.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $34,500 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is ef-

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fective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92–463.

9. *Subcommittees.* The LP-Gas Industry Advisory Committee shall have subcommittees as follows:

a. LP-Gas Supply and Demand Subcommittee
b. Government Policies & Regulations Subcommittee
c. LP-Gas Transportation & Storage Subcommittee

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to policy and implementation of programs that affect the LP-Gas industry.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B–1 through B–11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76–25115 Filed 8–24–76;10:48 am]

NATURAL GAS TRANSMISSION & DISTRIBUTION ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning natural gas transmission and distribution matters is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Natural Gas Transmission & Distribution Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Natural Gas Transmission & Distribution Advisory Committee are to provide the Administrator, FEA, with advice with respect to the implementation of programs that affect gas transmission and distribution activities.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $48,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92–463.

9. *Subcommittee(s).* To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B–1 through B–11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76–25123 Filed 8–2–76;10:56 am]

STATE REGULATORY ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning State related matters is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the State Regulatory Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the State Regulatory Advisory Committee are to provide the Administrator, FEA, with advice and information concerning its plans and programs which are related to the responsibilities of State regulatory commissions.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $33,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92–463.

9. *Subcommittees.* The State Regulatory Advisory Committee shall have subcommittees as follows:

a. Executive Subcommittee
b. Subcommittee on Legislation
c. Subcommittee on FEA State Energy Grants

The objectives of these Subcommittees are to make recommendations to the parent Committee with respect to policy and implementation of programs related to the responsibilities of the State regulatory commissions.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B–1 through B–11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76–25124 Filed 8–24–76;8:45 am]

TRANSPORTATION ADVISORY COMMITTEE

Charter

A. ESTABLISHMENT

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the energy impact of transportation policies and issues before the FEA is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Transportation Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. DUTIES, FUNCTIONS, AND ADMINISTRATIVE PROVISIONS

1. *Objectives and scope.* The objectives of the Transportation Advisory Committee are to provide the Administrator, FEA, with advice with respect to general transportation aspects of interests and problems related to the policy and implementation of programs to meet continuing energy problems.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated annual operating costs for the Committee are $30,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate one year from the date of filing of this Charter pursuant to section 14(b) of Pub. L. 92–463.

9. *Subcommittees.* The Transportation Advisory Committee shall have one subcommittee as follows:

a. The Executive Subcommittee

The objectives of this Subcommittee are to make recommendations to the parent Committee with respect to general transportation aspects of interests and problems related to the policy and implementation of programs to meet the continuing energy crisis.

The Subcommittee shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittee shall be consistent with the provisions of B–1 through B–11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1976.

JOHN A. HILL,
Acting Administrator.

[FR Doc.76–25117 Filed 8–24–76;10:51 am]

ISSUANCE OF DECISIONS AND ORDERS BY OFFICE OF EXCEPTIONS AND APPEALS

Week of July 12 Through July 16, 1976

Notice is hereby given that during the week of July 12 through July 16, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Batzell, Nunn & Bode; Washington, D.C.; FEA 0861; Freedom of Information

Batzell, Nunn & Bode (Batzell) filed an Appeal from an Order issued to it by the Information Access Officer of the FEA. In the Order which was issued, the Information Access Officer granted in part a Request for Information which Batzell had filed under the Freedom of Information Act (the Act) and released 13 documents which related to the policy determination of the Administration to abolish the Oil Import Appeals Board and to transfer its functions to the FEA Office of Exceptions and Appeals. However, 18 additional documents which fell within the scope of Batzell's request were withheld on the grounds that the material involved was exempt from mandatory disclosure under section 552(b)(5) of the Act. In considering Batzell's Appeal, the FEA noted that the Federal courts had held that (1) interagency and intra-agency memorandum which are used in formulating policies and reflect an agency's group thinking process could be withheld; and (11) the factual material which is summarized in those types of memoranda could also be withheld. Since the documents involved in the present case consisted of publicly available materials that had been summarized for the information of the FEA's decision-makers, the conclusion was reached that the material was an integral part of the deliberative process and therefore exempt from disclosure under the Act. It was further determined that the material requested was so inextricably intertwined with the opinions, recommendations and deliberations which comprised the majority of the documents that could not be reasonably segregated. On the basis of these findings the FEA determined that the Information Access Officer correctly withheld the factual material in the 18 documents and the Batzell Appeal was denied.

Empire State Fuel, Inc.; Brooklyn, N.Y.; FEA–0887; No. 2 Heating Oil

Empire State Fuel, Inc. appealed from the requirements specified in a Remedial Order which the Regional Administrator of FEA Region II issued to the firm on June 11, 1976. In the Order Empire was directed to correct the manner in which it calculated the maximum permissible price which it could charge for No. 2 heating oil. The firm was also directed to refund $27,641 to account for previous overcharges to customers. In considering the Appeal the FEA concluded that the firm's submission failed to present any facts or legal arguments in support of its allegation that the Order was erroneous and should be reversed. The Appeal was therefore summarily denied in accordance with the provisions of 10 CFR 205.105(b)(1)(11).

Lewis County, Wash.; Chehalis, Wash.; FEA–0849; Refined Products

Lewis County, Washington (Lewis County) appealed from an Interpretation which had been issued to Texaco, Inc. (Texaco) by the Regional Counsel of FEA Region X. In the Interpretation the Regional Counsel held that Texaco was not Lewis County's base period supplier and that Texaco was therefore under no obligation to supply the County with certain covered products. The Lewis County Appeal, if granted, would result in a contrary determination and the finding that Texaco is the County's base period supplier and must furnish it with those products. The Decision which the FEA issued recognized that the County had entered into a direct supply contract with Texaco in December 1971 which required Texaco to deliver petroleum products to the County during every month of 1972. It was also recognized that during the base period, Texaco met its contractual obligation to the County by arranging for R. T. Todd, an independent business man who functioned as a Texaco consignee to actually supply and deliver the products involved. Since Todd exercised a significant degree of autonomy over his business operations, the FEA considered that Todd fell within the scope of the definition of "wholesale purchaser-reseller" and was as a result the base period supplier of the County. The FEA further held that it is immaterial to the determination of a base period supplier/purchaser relationship whether the prime supplier retains title to a product which is actually delivered by a consignee who is an independent wholesale purchaser-reseller. Since no showing had been made that the Interpretation was erroneous, the Appeal was denied.

Taft, Stettinius & Hollister; Cincinnati, Ohio; FEA–0860; Freedom of Information

Taft, Stettinius & Hollister (Taft) filed an Appeal from an Order issued to it by the Information Access Officer of the FEA. In the prior Order, the Information Access Officer granted in part a Request for Information which Taft had filed under the Freedom of Information Act (the Act) and released 56

V41168 AUG 27 76 UMI

documents relating to certain Assignment Applications which were filed with the FEA by the Rural Natural Gas Company (Rural). However, several additional documents which fell within the scope of Taft's request were withheld on the grounds that the material contained was exempt from Mandatory disclosure under Sections 552(b)(4) and (b)(5) of the Act. In considering the Appeal, the FEA noted that the federal courts had held that documents which contain commercial or financial information of a privileged and confidential nature were exempt from mandatory disclosure under the Act. The FEA found that certain documents which the Information Access Officer withheld consisted of customer lists, lists of the quantities of propane which Rural's customers used, the amount of natural gas which Rural purchased and a list of Rural's suppliers of propane. The FEA concluded that the documents which were withheld contained the type of information which could cause substantial economic harm to the market position of Rural if released to its competitors, and were therefore properly exempted from mandatory public disclosure under Section 552(b)(4). The FEA further determined that the provisions of Section 14(b)(2) of the Federal Energy Administration Act of 1974 do not require disclosure of the material involved since it is not of the type which would not be excluded from public annual reports filed with the Securities and Exchange Commission. The FEA also determined that other documents had been properly withheld from Taft pursuant to Section 552(b)(5) of the Act since they consisted of intra-agency memoranda prepared for the use in the resolution of cases by FEA decision-makers. Finally, the FEA concluded that the release of the documents which had been withheld from Taft would not be in the public interest. Taft's Appeal was therefore denied.

REQUESTS FOR EXCEPTION

Arizona Fuels Corp.; Salt Lake City, Utah; FEE-2708; Crude Oil

Arizona Fuels Corporation (Arizona Fuels) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements in any month beginning with April 1976. In support of its exception request, Arizona Fuels submitted projected financial statements for its current fiscal year ending October 31, 1976, and projections of its monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Arizona Fuels' Application, the FEA determined that as a result the rescission of Special Rule No. 6 and Arizona Fuel's projected crude oil runs to stills and receipts of old oil during the firm's current fiscal year, Arizona Fuels would be required to purchase entitlements at a substantial cost commencing with the month of April 1976. The projected entitlements cost which Arizona Fuels would be required to bear during its current fiscal year would cause the firm's profit margin and return on invested capital to fall below historic levels. Under the criteria set forth in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976), exception relief to Arizona Fuels was therefore warranted. Accordingly, the FEA approved exception relief which reduced by $93,167 per month the value of the entitlements which Arizona Fuels would otherwise be required to purchase during the period July through December 1976. However, in considering the portion of Arizona Fuels' application which sought retroactive exception relief applicable to the firm's crude oil receipts and runs during the month of April 1976, the FEA determined that with respect to the rescission of Special Rule No. 6 ample notice had been provided to firms such as Arizona Fuels to enable them to make timely applications for exception relief. Arizona Fuels nevertheless failed to submit its exception request until July 1, 1976. The FEA noted that Arizona Fuels had consistently failed to meet its filing deadlines and obligations under the Entitlements Program. *See Arizona Fuels Corp.*, 3 FEA Par. 85,035 (May 18, 1976). Consequently, the FEA concluded that Arizona Fuels must make a very strong showing that despite the firm's lack of diligence, it would incur a severe and irreparable injury in the absence of exception relief for the month of April 1976. The financial data which Arizona Fuels submitted indicated that the firm had adequate cash to make the entitlement purchases for April. Accordingly, Arizona Fuels' request for retroactive exception relief was denied.

Atlantic Richfield Co.; Dallas, Tex.; FEE-2617 (Covington); FEE-2618 (Crane); FEE-2619 (Dayton); FEE-2620 (Drumright); FEE-2621 (East Village Mills); FEE-2622 (Eldorado); FEE-2623 (Hull); FEE-2624 (Longview); FEE-2625 (Midland); FEE-2626 (Nueces River); FEE-2627 (Ojai Timber); FEE-2628 (Riverton Dome); FEE-2629 (Seminole); FEE-2630 (Silsbee); FEE-2631 (South Hampton); FEE-2632 (Stevens-Calidon); FEE-2633 (Taft); FEE-2634 (Price); Natural Gas Liquids

Atlantic Richfield Company (Arco) filed 18 Applications for Exception from the provisions of 10 CFR 212.165, which if granted, would permit Arco to increase the amount of nonproduct costs which it includes in the prices of the natural gas liquid products produced at certain of its gas processing plants. In 17 of the Applications, Arco requested extensions of the exception relief previously granted in a Decision and Order issued to it on April 16, 1976. *Atlantic Richfield Co.*, 3 FEA Par. 83,167 (April 16, 1976). Arco's remaining Application requested prospective exception relief from the provisions of § 212.165 for its Price plant. In the April 16 Order, the FEA had denied exception relief for Arco's Price plant. In considering Arco's requests, the FEA determined that Arco had experienced non-product cost increases during the first quarter of 1976 at 17 of its gas plants which substantially exceeded the $.005 per gallon passthrough permitted under the provisions of Section 212.165. Based on the criteria set forth in previous Decisions, the FEA determined that prospective exception relief for the Price plant and continued exception relief for 16 other gas plants was warranted. The FEA therefore granted relief with respect to those plants for the period August 1, 1976 through September 30, 1976. With respect to the Nueces River plant the FEA found that the adjusted non-product cost increases which Arco experienced were less than $.005 per gallon and therefore not material for purposes of the exceptions process. Under the standards established in previous FEA Decisions exception relief was therefore denied for the Nueces River Plant.

Austral Oil Co., Inc.; Houston, Tex.; Fee-2193; Crude Oil

Austral Oil Company, Inc. (Austral) filed an Application for Exception from the provisions of 10 CFR, Part 212 which if granted, would permit Austral to sell at upper tier ceiling prices the crude oil which the firm produces from the Ackerly Dean Sand Unit (Ackerly Unit). Austral requested exception relief to be able to charge higher prices for the crude oil which it produces in order to provide the firm sufficient economic incentive to undertake an expanded waterflood project at the Ackerly Unit. In considering Austral's Application, the FEA determined that a substantial additional amount of crude oil could be recovered from the Ackerly Unit over a 25 year period if the investment necessary to undertake an additional waterflood project were made. The FEA also determined that since Austral would be required to charge lower tier ceiling prices for the incremental crude oil produced from the project, the revenues generated as a result of the investment would provide a very low rate of return on the capital required to undertake the project. In view of the alternative investment opportunity available to Austral, the FEA determined that Austral had no economic incentive to make the investment. On the basis of previous precedents, the FEA concluded that exception relief should be granted to Austral to provide the firm sufficient economic incentive to undertake the project while at the same time avoiding the possibility that windfall profits would be obtained as a result of the exception relief. The FEA concluded that in this particular case these objectives would be achieved if Austral were permitted to sell at upper tier ceiling prices 100 percent of the incremental crude oil produced for the benefit of the working interest as a result of the project. Exception relief was therefore granted to Austral for the years 1976 and 1977 permitting the firm to sell the additional crude oil produced at upper tier ceiling prices.

Eddy Refining Co.; Houston, Tex.; Fee-2243; Diesel Fuel

The Eddy Refining Company (Eddy) filed an Application for Exception from the provisions of 10 CFR 212.83 which, if granted, would permit it to prospectively adjust its May 15, 1973 selling price and thereby increase its maximum allowable price for No. 2-Diesel fuel. The firm also requested that the relief be made retroactive to September 1973 and that it be permitted to retroactively pass through certain unrecovered non-product costs which it incurred during the period September 1973 through December 1974. The approval of retroactive exception relief would reduce or eliminate Eddy's liability to refund alleged overcharges made to its diesel fuel customers during the period September 1973 through June 1975. Eddy contended that certain anomalous events occurred during May 1973 which made that month unrepresentative of its historical operations as a seller of diesel fuel. The firm claimed that the application of the provisions of § 212.83 would require it to sell diesel fuel at a loss. Eddy claimed that it would experience a serious hardship if it were required to refund any overcharges which might have occurred as a result if its failure to adhere to the provisions of § 212.83. In considering the request for prospective relief, the FEA noted that since recent amendments to the Mandatory Petroleum Allocation and Price Regulations exempted middle distillates including No. 2-D diesel fuel from price controls, Eddy's request for prospective relief related to the pricing of those products was therefore moot. With respect to retroactive relief, the FEA determined that Eddy had failed to explain its lengthy delay in requesting exception relief. Moreover, the operating data which Eddy submitted indicated that it had sold diesel fuel at a loss during each month of 1972 and 1973 so that contrary to the firm's assertions, the month of May 1973 reasonably represented its operations prior to the promulgation of FEA Price Regulations. The FEA also determined that Eddy's profitable financial and operating posture in recent years contradicted the firm's claim that

it would experience a severe and irreparable injury if it were required to make refunds to its diesel fuel customers. Accordingly, Eddy's Application for Exception was denied.

Frank H. McGehee; Natchez, Miss.; FEE-2412; Crude Oil

Frank H. McGehee (McGehee) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, on behalf of himself and the legatees of Clyde W. Alexander (Alexander). The exception request, if granted, would permit McGehee and Alexander to sell crude oil produced from the Parker No. 3 well at upper-tier ceiling prices. In considering McGehee's Application, the FEA determined that the costs of producing crude oil from the Parker well have increased substantially and now exceed the lower tier ceiling prices which McGehee and Alexander are permitted to charge. Consequently, McGehee and Alexander have no economic incentive to continue to operate the Parker well. The FEA also found that if McGehee and Alexander were to abandon the Parker well, a substantial amount of otherwise recoverable crude oil would be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to McGehee and Alexander of the lower-tier ceiling price rule resulted in a gross inequity and that exception relief should be granted. Based on an analysis of the specific financial and operating data which McGehee had submitted, the FEA determined that McGehee and Alexander should be permitted to sell 36.21523 percent of the crude oil produced for the benefit of the working interest owners at upper tier ceiling prices for a period of six months.

General Distributors, Inc., Snow Hill, Md.; FEE-2343; Propane

General Distributors, Inc. (General) filed an Application for Exception from the provisions of 10 CFR 212.93. The request, if granted, would permit General to increase its selling prices for propane to certain classes of purchaser to levels which exceed the maximum lawful prices permitted by § 212.93. General also requested that it be granted retroactive exception relief to permit it to retain revenues realized during the period December 28, 1973 through April 23, 1975 as a result of charging unlawful prices for propane. In its Application General stated that it had commenced selling propane on June 1, 1973 through its acquisition of the retail propane operations of the Eastern Shore Gas Company (Eastern Shore), a public utility. General claimed however that the propane selling prices which Eastern Shore had in effect on May 15, 1973 to certain classes of purchaser were insufficient to support the propane sales operations as a separate firm from the utility. General also stated that these May 15, 1973 selling prices were significantly lower than those which its competitors charged on that date. In considering General's Application, the FEA noted that despite its claims of financial hardship General's pre-tax profits had increased in every full fiscal year since its acquisition of the retail propane operations of Eastern Shore and that this trend was apparently continuing during the current fiscal year. The FEA also determined that the fact that propane resellers were charging higher prices on May 15, 1973 than those available to General did not form the basis for exception relief. The FEA therefore concluded that General had failed to demonstrate that the application of the provisions of § 212.93 were causing the firm to experience a serious hardship or a gross inequity and denied General's request for prospective exception relief. In considering General's request for retroactive relief, the FEA determined that the firm had not presented any compelling reasons why a denial of auch relief would cause it to incur a severe and irreparable injury and therefore denied the retroactive aspect of General's request.

George P. Rios; Los Angeles County; Calif.; FEE-2254; Motor Gasoline

George P. Rios (Rios), a gasoline retailer filed an Application for Exception which, if granted, would have resulted in the assignment of a new supplier to replace Rios' base period supplier, Ernst Distributing, Inc. (Ernst). In its submission, Rios alleged that in order to take advantage of a discount which Texaco offered to Rios Ernst had engaged in a cross-billing scheme whereby motor gasoline was purchased by Ernst but not delivered to Rios. In considering the exception application, the FEA noted that Rios' allegations of fraud have been raised in a civil action which the firm instituted against Ernst in a California State court, and a final judgment has not yet been entered in that litigation. The FEA therefore determined that exception relief was not appropriate under the precedent established in *Eagle Point School District No. 9*, 2 FEA Par. 80,622 (July 1, 1975). However, the FEA noted that even though a judicial determination has not been entered, it might nevertheless grant exception relief and terminate Rios' supplier/purchaser relationship with Ernst if substantial, uncontraverted evidence of fraud were presented and a persuasive showing had been made that Rios is currently incurring actual damages as a result of maintaining its base period supplier/purchaser relationship. The FEA found, however, that Rios had not made the requisite showing since the allegations of fraud were strongly contested by Ernst, and Rios did not contend that the fraud was continuing. In addition, Rios had not submitted evidence that it had incurred actual damages as a result of Ernst's alleged fraud. Consequently, the firm's request that it be assigned a new supplier to replace Ernst was denied.

Murphy Oil Corp.; El Dorado, Ark.; FEE-2386; Crude Oil

Murphy Oil Corporation (Murphy) filed an Application for Exception from the provisions of 10 CFR 214.31 (the Mandatory Canadian Crude Oil Allocation Program). Murphy's request, if granted would increase the quantity of Canadian crude oil which Murphy is entitled to purchase under the Program. In its Application, Murphy asserted that the volume of Canadian crude oil which it processed in its Superior, Wisconsin refinery during the base period was abnormally low. Murphy therefore contended that the base period did not represent a relatively normal period of business activity for that refinery. According to the Murphy submission, the firm reduced its level of Canadian crude oil puchases because of economic conditions which increased the cost of Canadian crude oil to domestic refiners during the base period. In considering Murphy's request, the FEA determined that the firm's reduced level of Canadian crude oil purchases during the base period resulted from economic conditions to which all refiners who were importing Canadian crude oil at that time were subject. The FEA further determined that the volume of Canadian crude oil which Murphy processed at the Superior refinery during the base period was not so far below its historical purchase levels as to constitute a gross inequity. In this regard, the FEA noted that the Canadian Program was not designed to ensure that a first priority refinery will be able to operate at a particular supply-to-capacity ratio. In view of objectives of the Program, the fact that Murphy's sources of supply may not enable it to operate its refinery at what the firm considers to be an advantageous supply-to-capacity ratio while it seeks additional sources of crude oil is not a basis for the approval of exception relief. With respect to Murphy's further claim that in the absence of exception relief the refinery would suffer a serious financial hardship which would force it to close in 1978, the FEA determined that Murphy's contention was too speculative to form a proper basis for the approval of exception relief. Finally, the FEA noted that since the exception relief which Murphy requested would necessarily reduce the amount of Canadian crude oil available to other priority users, the firm must make a particularly strong showing that exception relief is warranted. The FEA concluded that Murphy had not made the required showing. The Application for Exception was therefore denied.

Sabre Refining, Inc.; Bakersfield, Calif.; Fee-2689; Crude Oil

Sabre Refining Inc. (Sabre) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of May 1976. In support of its exception request, Sabre submitted projected financial statements for its current fiscal year ending October 31, 1976, and projections as to its monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Sabre's request, the FEA determined that as a result of the rescission of Special Rule No. 6 effective May 27, 1976, and Sabre's projected level of crude oil runs and receipts of old oil during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of May 1976. As a result of the projected entitlements cost which Sabre would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historic levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Sabre's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period July through December 1976 to account for its crude oil runs to stills and old oil receipts during the period May through October 1976. However, the FEA noted in the Decision which it issued that the relief approved to Sabre would be reevaluated if the firm requested an extension of exception relief beyond December 1976 and, as is the case with all Entitlements Program Exception decisions, as a matter of course at the conclusion of the firm's current fiscal year. The Decision further noted that an adjustment will be made and Sabre will be required to purchase entitlements if it received excess benefits in the past because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Texas Asphalt and Refining Co., Houston, Tex.; FEE-2478; Crude Oil

The Texas Asphalt and Refining Company (Tarco) filed an Application for Exception from the provisions of 10 CFR 212.94(b)(1) which, if granted, would permit it to increase the handling fee which it is permitted to charge in connection with its sales of crude oil made pursuant to the Mandatory Crude Oil Allocation Program. Tarco requested that it be permitted to charge a handling fee of $.30 per barrel rather than the $.05 per barrel specified in the FEA regulations. After

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considering Tarco's submission, the FEA found no basis upon which exception relief should be granted. The FEA noted that the handling fee permitted by § 212.94(b)(1) was not intended to afford refiner-sellers an opportunity to recover extraordinary costs or otherwise enhance their financial positions at the expense of refiner-buyers. It is designed only to compensate refiner-resellers of crude oil for administrative costs associated with the Buy-Sell Program, and Tarco had not demonstrated that it had experienced unusually high administrative costs. In its submission Tarco indicated that it would incur an expense of $.30 per barrel in purchasing crude oil in order to fulfill its sales obligation under the Buy-Sell Program. However, the FEA determined that this expense was the result of a prior agreement which Tarco had freely entered into with another firm. In addition, if Tarco were to receive the requested exception relief, it would be relieved of one of the consequences of its previous failure to comply with the requirements of the Buy-Sell Program. The FEA therefore determined that Tarco's Application for Exception should be denied.

REQUESTS FOR STAY

Gasco Gasoline Inc.; Oxnard, Calif.; FES–2686; Motor Gasoline

Gasco Gasoline, Inc. (Gasco) requested that the provisions of § 211.9 be stayed and the firm be immediately assigned a new supplier of motor gasoline to replace the Fletcher Oil and Refining Co. (Fletcher) pending a determination on the merits of an Application for Exception which Gasco had also filed. In considering Gasco's request, the FEA found that the data which Gasco provided indicated that Fletcher's prices for gasoline do not substantially exceed the prices charged by the suppliers of Gasco's competitors. Therefore, the FEA determined that Gasco had failed to show that any financial losses it may be incurring are directly attributable to the prices which it pays to Fletcher for gasoline. The FEA also determined that Gasco had failed to support its claim that it would be compelled to close 15 of its retail outlets unless a stay were granted. On the other hand, the FEA found that Fletcher, which strongly opposed approval of the stay, had submitted data which indicated that approval of the stay could produce a severe disruption in Fletcher's sales and marketing activities. Finally, the FEA determined that the record in the proceeding failed to contain sufficient financial data to justify a conclusion that Gasco would ultimately be successful on the merits of its exception application. The Application for Stay was therefore denied.

Guam Oil & Refining Co., Inc.; Washington, D.C.; FES–2696; Naphtha Base Jet Fuel; Marine Diesel Fuel

The Guam Oil & Refining Co., Inc. (Gorco) filed an Application for Stay of the provisions of 10 CFR, Part 212, pending a determination by the FEA on an Application for Exception which the firm filed. Gorco's Application for Stay, if granted, would permit it to increase its selling prices for the naphtha base jet fuel (JP–4) and marine diesel fuel which it markets. Gorco contended that it is unable to recover a substantial portion of the increased crude oil costs which it has incurred. It therefore requested that it be permitted to increase its prices for JP–4 and diesel fuel above the levels permitted under § 212.83. In considering Gorco's Application for Stay, the FEA determined that since the marine diesel fuel which it produces and sells recently became exempt from FEA Price Regulations, Gorco is not currently restricted by those Regulations in determining the prices which it may charge for that product. However, the financial material which Gorco submitted indicates that even if it charges prevailing market prices for marine diesel fuel, it will still incur losses on its total production and sales of refined petroleum products. The FEA also found that it is likely that if the firm's current level of losses continues through 1976, Gorco will incur a substantial pre-tax net loss during that period, which would represent a significant departure from the firm's historically profitable operations. The FEA concluded that Gorco's submission therefore makes a *prima facie* showing that there existed a significant possibility that it will succeed on the merits of its exception application. The FEA therefore granted Gorco temporary relief which permitted it to raise its prices for the JP–4 which it produces by an amount which is sufficient to eliminate the losses which it is currently experiencing.

Kern County Refinery, Inc.; Bakersfield, Calif.; FES–0872; Crude Oil

Kern County Refinery, Inc. (Kern) requested that the application to it of the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) be stayed pending a determination on an Appeal which the firm filed. The Stay request, if granted, would relieve Kern of the obligation to purchase 96,335 additional entitlements which resulted from certain retroactive adjustments to Kern's crude oil receipts and runs to stills for the months of February and March 1976. In considering Kern's request, the FEA determined that Kern made a *prima facie* showing that it would experience immediate financial hardship and irreparable injury if it were required to purchase the 96,335 additional entitlements. The FEA also found that Kern had demonstrated a substantial likelihood that its Appeal would be successful on the merits in view of the criteria for entitlement exception relief established in *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). The Application for Stay was therefore granted.

Little America Refining Co., Houston, Tex.; FES–2709; Crude Oil; Refined Products

Little America Refining Company (Larco) requested that the application to it of certain provisions of the FEA Mandatory Petroleum Allocation and Price Regulations be stayed pending a determination of the firm's Application for Exception. Larco's submission relates to an acquisition by the Sinclair Oil Company, a newly established subsidiary of Larco, of the refining and marketing assets of Pasco, Inc. Under the FEA Regulations, Larco and Sinclair are regarded as a single firm. The stay request, if granted, would permit Larco and Sinclair to be treated as separate firms for purposes of the refiner price regulations, the Crude Oil Buy/Sell Program and the Old Oil Entitlements Program. Larco also requested that the FEA reassign Pasco's base period purchasers to Sinclair, and permit Sinclair to assume Pasco's bank of unrecovered increased costs which existed as of July 1, 1976, the date on which the assets were acquired by Sinclair. In considering the stay request, the FEA observed that the requirement that Larco and Sinclair jointly determine their maximum allowable prices would necessitate a number of changes in the accounting and administrative procedures of the firms and it would be extremely difficult to immediately accomplish those changes without seriously disrupting their respective ongoing business activities. The FEA determined that it was therefore appropriate to preserve the *status quo ante* by permitting Larco and Sinclair to maintain separate pricing procedures pending a determination of Larco's exception application. The FEA also determined that, in order to ensure stability in the prices paid by Pasco's former customers and to avoid pricing distortions in the markets in which Sinclair operates, stay relief should be approved which permits Sinclair to utilize Pasco's bank of unrecovered increased costs to the extent necessary to maintain Sinclair's maximum allowable prices at the same levels as Pasco's actual selling prices as of June 30, 1976. With regard to Larco's request that the base period customers of Pasco be reassigned to Sinclair, the FEA observed that similar requests had been approved in a number of previous cases involving refinery acquisitions and that, in view of the fact that Pasco had completely terminated its refining operations and Sinclair is functioning in its place, it is unlikely that the reassignment of Pasco's customers to Sinclair would be disapproved. In order to avert a situation in which Pasco's customers might experience dislocations in obtaining an assured supply of refined products, the FEA reassigned those customers to Sinclair pending a final determination of the Larco exception application. The FEA noted, however, that Larco might have obviated the need for the stay relief which was approved by filing its exception application sufficiently in advance of the actual transfer of assets from Pasco to Sinclair.

With respect to the request that Larco and Sinclair be treated as separate firms under the Buy/Sell Program and that Sinclair be permitted to succeed to Pasco's rights under the Program, the FEA found that the data submitted by Larco appeared to indicate that the Sinclair refinery is receiving sufficient crude oil to permit it to operate at normal levels. Since Larco made no showing that it needs to purchase crude oil for the Sinclair refinery under the Buy/Sell Program, the firm failed to establish a basis upon which this aspect of the stay application should be granted. Similarly, since Larco will not be required to purchase entitlements based on the crude oil runs to stills and old oil receipts of the Sinclair refinery until the month of September 1976 and its present status under the Entitlements Program will not be altered until that time, the FEA determined that no basis existed for the approval of separate entity treatment with respect to the Entitlements Program at the present time. The FEA therefore denied Larco's stay request with respect to the Buy/Sell Program and Entitlements Program.

Tenneco Oil Co. Houston, Tex.; FES–0043; Crude Oil

The Tenneco Oil Company (Tenneco) filed an Application for Stay of a Remedial Order issued to it by the Deputy Regional Administrator of FEA Region VI on June 8, 1976. The Remedial Order found that during the period January 1974 through June 1975 Tenneco had improperly charged upper-tier prices for portions of the crude oil produced and sold from its "Fee C" property located in Kern County, California. The FEA also concluded that Tenneco had improperly revised the base production control level (BYCL) for the Fee C property in July 1974 and retroactively billed the West Coast Oil Company (West Coast) at upper-tier prices for the Fee C crude oil which was sold to it during the period September 1973 through June 1974. The FEA also found that on November 22, 1974 Tenneco had terminated its supplier/purchaser relationship with West Coast in violation of 10 CFR 211.63. On the basis of these findings, the Remedial Order directed Tenneco to (i) make refunds for previous overcharges on sales of Fee C crude oil to

West Coast and Kern Country Refinery, Inc. (Kern); (ii) reinstate the supplier/purchaser relationship between Tenneco and West Coast required to be maintained pursuant to 10 CFR 211.63; (iii) recalculate the base production control levels for all Tenneco crude oil producing properties in accordance with the principles set forth in the Remedial Order and prospectively determine the prices of all the crude oil which it sells according to the recalculations made. The Remedial Order further required Tenneco to identify each purchaser to which it sold Fee C crude oil at prices which exceeded the lower-tier ceiling price during the period June 30, 1975 through the present time. Tenneco was also directed to specify the volumes and prices of crude oil sold to each such purchaser.

After considering the contention raised by Tenneco in support of its Application for Stay, the FEA concluded that there was some merit to the firm's assertion that it could incur an irreparable injury if it were required to immediately refund to West Coast and Kern overcharges attributable to the period October 1973 through June 1975, since Tenneco could experience difficulty recovering these funds in the event that it ultimately prevails in its Appeal of the Remedial Order. In accordance with the precedent established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), the refund requirements were therefore stayed contingent on the establishment by Tenneco of an irrevocable escrow arrangement pursuant to which the disputed funds are placed in an interest bearing escrow account. To avoid possible supply disruptions, the requirement that Tenneco immediately reinstate its supplier/purchaser relationship for Fee C crude oil with West Coast was also stayed on the condition that Tenneco deposit into the escrow account the incremental per barrel cost to West Coast of the crude oil which it purchases to replace the Fee C crude oil during the pending of Tenneco's Appeal of the Remedial Order. In view of the significant impact of the requirement that Tenneco implement prospective price reductions for all of its crude oil production, and the possibility that Tenneco might be irreparably injured if it prevails on its Appeal but is unable to recover the funds involved from its crude oil customers, the FEA also determined that the requirement to implement prospective price reductions be stayed. However, the FEA also noted that if the Appeal is ultimately denied and the principles discussed in the Remedial Order are sustained, Tenneco will be expected to determine its base production control levels and crude oil prices accordingly. In order to determine the potential impact of these requirements at the present time, the FEA therefore denied Tenneco's request for a stay of the provisions of the Remedial Order which direct Tenneco to recalculate the BPCL for all of its crude oil producing properties. In all other respects the Application for Stay was denied.

SUPPLEMENTAL ORDER

Gulf Oil Corp.; Houston, Tex.; FEX–0056; No. 2 Fuel Oil

On January 26, 1976, the Regional Administrator of FEA Region III issued a Remedial Order to the Gulf Oil Corporation which directed Gulf to make refunds to the Virginia Electric Power Company (Vepco) and adjust its current and future selling prices for No. 2 fuel oil to Vepco to conform to the requirements of 10 CFR 212.82. On February 5, 1976, the FEA issued a Decision and Order to Gulf which granted a stay of the immediate refund requirements of the Remedial Order subject to Gulf nad Vepco entering into an appropriate escrow arrangement for the funds involved. *Gulf Oil Corp.*, 3 FEA Par. 85,013 (February 5, 1976). Similarly, the FEA determined that the requirement of the Remedial Order that Gulf immediately reduce its selling prices to Vepco should also be stayed provided that Gulf itemize on all billing statements sent to Vepco the price for No. 2 fuel oil as computed pursuant to the terms of the Remedial Order and the price which Gulf asserts is lawful. Vepco was in turn required to deposit the contested portion of its No. 2 fuel oil payments to Gulf into the escrow account. The requirements of the February 5, 1976 stay Order remain in effect at the present time. However, on June 15, 1976, the FEA proposed an amendment to its regulations to decontrol No. 2 fuel oil. 41 F.R. 24516 (June 18, 1976). Under the amendment which became effective July 1, 1976, No. 2 fuel oil is no longer subject to the FEA Mandatory Petroleum Allocation and Price Regulations. Consequently, the provisions of the January 26, 1976 Remedial Order which required Gulf to reduce its selling prices for No. 2 fuel oil to Vepco to lawful levels established pursuant to the FEA Price Regulations would no longer be effective following the date on which No. 2 fuel oil was decontrolled. On its own motion, the FEA therefore amended the February 5, 1976 Decision and Order to delete any requirement that further deposits be made to the escrow account which Gulf and Vepco have established with respect to sales of No. 2 fuel oil occurring between the parties on or after July 1, 1976.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mobil Oil Corp.; New York, N.Y.; FEE–2588; FEE–2599

The following submissions were dismissed after the applicants repeatedly failed to respond to requests for additional information:

Aminoil U.S.A., Inc.; Houston, Tex.; FEE–2465 through FEE–2471

The following submission was dismissed on the grounds that the request is now moot:

T. J. Fannin & Sons, Inc.; Washington, D.C.; FEA–0824

The following submission was dismissed on the grounds that the appeal to which the stay request was incident has been denied:

Lewis County, Wash.; Chehalis, Wash.; FES–0849

The following submission was dismissed on the grounds that it was untimely:

J & W Oil Refining, Inc.; Dallas, Tex.; FEE–2340

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

AUGUST 24, 1976.

[FR Doc.76-25161 Filed 8-24-76;12:15 p.m.]

INDUSTRY ADVISORY BOARD TO THE INTERNATIONAL ENERGY AGENCY; SUBCOMMITTEE A

Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (P.L. 94–163), notice is hereby provided of a meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on August 31 through September 3, 1976, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:00 a.m. on August 31. The Agenda for the meeting is as follows:

1. Opening remarks.
2. IEA Allocation Systems Test, including:
   - A. Review status of tasks preparatory to test (as outlined in Subcommittee A paper of July 1, 1976) including:
     - (1) Data processing, including review of "Dry Run" results and interaction of June/July data test results on systems test.
     - (2) Data preparation, including development of non-reporting company and allocation monitoring input information.
     - (3) Control group.
     - (4) Distribution of Japanese data reporting instructions.
     - (5) IEA facilities, including examination of data processing and other physical facilities.
     - (6) Assess technical readiness of system for test to proceed.
   - B. Expansion/clarification of test guide data base and use section, including: A) reporting of U.S. imports, B) applicable Questionnaire A reporting instructions for test.
   - C. Discussion and development of test appraisal procedures.
   - D. Recordkeeping requirements.
   - E. Discussion of key test topics/material to be presented at September 14–15 reporting company meeting.
3. Next meeting date/location.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by Section 209.32 of FEA regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual seven day notice period to be shortened.

Issued in Washington, D.C., August 26, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-25420 Filed 8-26-76;8:45 am]

FEDERAL MARITIME COMMISSION

[Agreement Nos. 10247, 10248, 10250]

ATLANTRAFFIK EXPRESS CO.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to

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section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearings, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 3, 1976. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Neal M. Mayer, Esq., Coles & Goertner, Attorneys and Counsellors at Law, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.

Notice of the filing of Agreements Nos. 10247 and 10248 was published in the FEDERAL REGISTER of July 7, 1976, (Vol. 41, No. 131, Page 27872), and Agreement No. 10250 was noticed in the FEDERAL REGISTER of July 14, 1976 (Vol. 41, No. 136, Page 29025).

By letter dated August 16, 1976, the Commission has been advised that Atlantraffik Express Service has been added as a party to Agreements Nos. 10247, 10248 and 10250.

By Order of the Federal Maritime Commission.

Dated: August 24, 1976.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76-25244 Filed 8-26-76;8:45 am]

[No. 76-45]

EASTERN CEMENT CORP. V. PORT OF PALM BEACH DISTRICT

Filing of Complaint

Notice is hereby given that a complaint filed by Eastern Cement Corporation against Port of Palm Beach District was served August 23, 1976. The complaint alleges that respondent has violated sections 15, 16 First and 17 of the Shipping Act, 1916 with respect to providing terminal facilities to complainant vis-a-vis other users of facilities at respondent's port.

Hearing in this matter shall commence on or before February 23, 1977.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76-25245 Filed 8-26-76;8:45 am]

PUERTO RICO MARINE MANAGEMENT, INC. AND SEA-LAND SERVICE, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 13, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mario F. Escudero, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

By a successive series of orders, the Commission has been approving Agreement No. DC-75 for limited periods of time. The most recent of these orders was an order issued June 23, 1976, approving the agreement upon the condition that it be amended to expire by its own terms midnight, September 23, 1976.

The agreement, which is between Sea-Land Service, Inc., (Sea-Land) and Puerto Rico Marine Management, Inc., (PRMM), as approved by the Puerto Rico Maritime Shipping Authority (Authority), is an interim services and facilities subcontract wherein Sea-Land will provide PRMM with virtually any services it would require for the performance of its contract to manage the Authority's common carrier service between U.S. Atlantic and Gulf Coast ports and Puerto Rico. Included within the scope of Agreement No. DC-75 are facilities for providing berthing and terminal services, repair and maintenance services and A & G functions.

The parties have filed several long-range terminal agreements with this Commission which, when approved, would negate any further need for Agreement No. DC-75. Accordingly, the parties to the agreement have requested that the Commission approve an extension of the agreement's termination date to December 23, 1976, to allow continued operations by the Authority under the agreement pending approval of the long-term agreements which have been filed with the Commission.

By Order of the Federal Maritime Commission.

Dated: August 23, 1976.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76-25243 Filed 8-26-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-854]

BOSTON EDISON CO.

Filing

AUGUST 20, 1976.

Take notice that Boston Edison Company ("Edison") on August 12, 1976, tendered for filing a rate schedule for Contract Demand service. The rate schedule is intended to permit customers to purchase a specified portion of their firm power requirements from the Company while obtaining the balance of their service requirements pursuant to other arrangements. The Contract Demand rate is intended to carry forward the same revenue level as the Company's existing S-4 rate.

Copies of the filing were served upon Edison's jurisdictional firm power customers and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25190 Filed 8-26-76;8:45 am]

[Docket No. ER76-856]

CANAL ELECTRIC CO.

Filing of Initial Rate Schedule

AUGUST 23, 1976.

Take notice that on August 13, 1976, pursuant to § 35.13 of the Commission's Regulations, Canal Electric Company ("Canal") tendered for filing a change in the currently effective Rate Schedules FPC Nos. 17, 18 and 19 governing its sales of unit power from Canal Unit No. 2 to:

(a) Cambridge Electric Light Company, New Bedford Gas and Edison Light Company (Rate Schedule FPC No. 17).

(b) Central Maine Power Company (Rate Schedule FPC No. 18).

(c) Vermont Electric Power Company, Inc. (Rate Schedule FPC No. 19).

By its filing, Canal proposes to reflect in the investment cost component of the cost of service provisions contained in the above-referenced unit power contracts the effect of the actual permanent capital structure and related investment return rate resulting from the permanent financing of Canal's 50% ownership share in Canal Unit No. 2. This permanent financing is scheduled to be completed on September 16, 1976.

Canal proposes an effective date of September 16, 1976 for the tendered rate filing in order to permit the change in investment return rate to become effective upon the same date that Canal will begin to incur the increased capital costs associated with the permanent financing of its 50% ownership share in Canal Unit No. 2. Canal alleges that based upon the test period ending September 30, 1977, the first full twelve months following completion of the permanent financing, its cost of service rates will increase by approximately $2,101,000 per year in accoradnce with the terms of the unit power contracts designated as Canal's Rate Schedules FPC Nos. 17, 18, and 19.

Canal states that the data submitted in support of the tendered filing are not in technical compliance with the requirements of § 35.13(b)(4)(iii) of the Commission's Regulations. Canal requests the Commission to waive the precise filing requirements of § 35.13(b)(4)(iii) of its Regulations to the extent necessary to permit acceptance of the tendered filing as submitted. If any waiver is considered necessary, Canal has petitioned for waiver of § 1.7(b) of the Commission's Regulations.

Copies of the tendered filing have been served upon all parties taking service under Canal's Rate Schedules FPC Nos. 17, 18, and 19 and additionally upon the Massachusetts Department of Public Utilities, the Maine Public Utilities Commission, and the Vermont Public Service Board, as required by § 35.2(d) of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25187 Filed 8-26-76;8:45 am]

[Docket Nos. ER76-229 and ER76-633]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Compliance Filing

AUGUST 20, 1976.

Take notice that on July 12, 1976, Central Louisiana Electric Company, Inc. submitted certain rate schedule supplements in Compliance with ordering paragraph (F) of the Commission's order issued in the above-entitled proceedings on May 28, 1976.

Any person wishing to do so may submit comments in writing concerning the above filing. Comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should be submitted on or before September 15, 1976. Copies of the company's filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25191 Filed 8-26-76;8:45 am]

[Docket No. RP72-122 (PGA 76-5)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

AUGUST 20, 1976.

Take notice that Colorado Interstate Gas Company (CIG) on August 13, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The increased jurisdictional cost of purchased gas proposed to be recovered herein amounts to approximately $13.9 million. Such amount reflects the increased jurisdictional cost of gas in this application over the amount contained in CIG's general revenue increase in Docket No. RP76-76, reduced by the purchased gas cost contained in CIG's PGA Nos. 76-2, 76-3, and 76-4, effective May 1, 1976, June 1, 1976, and July 1, 1976, respectively. The purchased gas adjustment is reflected in both the demand and commodity rates as specified in Section 21.1 of CIG's FPC Gas Tariff, Second Revised Volume No. 1. CIG states that such adjustment reflects actual and estimated increased purchased gas costs as prescribed by the applicable FPC rate orders. CIG has not included in this filing the effects of FPC Opinion No. 770. The filing is made pursuant to the provisions of Section 21 of CIG's FPC Gas Tariff, Second Revised Volume No. 1, and is proposed to be effective October 1, 1976.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25194 Filed 8-26-76;8:45 am]

[Docket No. CP73-5]

COLUMBIA GULF TRANSMISSION CO.

Petition To Amend

AUGUST 20, 1976.

Take notice that on August 16, 1976, Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP73-5 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to transport additional gas for Texas Gas Transmission Corporation (Texas Gas) by means of the Blue Water Project, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner requests authorization to transport for Texas Gas an additional 30,000 Mcf of gas per day, for a total contract demand of 81,600 Mcf at 14.73 psia of gas per day, under Petitioner's Rate Schedule X-13. It is stated that the additional gas is from production in the Ship Shoal Area, South Addition, offshore Louisiana, and that the gas would be delivered to Petitioner in the Ship Shoal Area for transportation through the Blue Water Project.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 20, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25195 Filed 8-26-76;8:45 am]

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[Docket No. R-427]

CONNECTICUT LIGHT & POWER CO.

Filing of Settlement Agreement

AUGUST 23, 1976.

Take notice that on August 6, 1976, the Connecticut Light and Power Company and the Connecticut Municipalities filed a proposed settlement agreement and a motion requesting approval thereof intended to resolve all controversies between the parties in the captioned proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 1, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25181 Filed 8-26-76;8:45 am]

[Docket No. ER76-859]

DETROIT EDISON CO.

Amendment to Interconnection Agreement

AUGUST 20, 1976.

Take notice that on August 16, 1976, The Detroit Edison Company (DE) tendered for filing an Amendment No. 1 to the Interconnection Agreement between Consumers Power Company, DE, and Ontario Hydro, dated January 29, 1975, designated as The Detroit Edison Company Rate Schedule FPC No. 21, according to DE.

DE states that Amendment No. 1 provides for a new supplement, Supplement SR—Short Term Power—Specific Reservation, which is defined as power and associated energy which is reserved by Consumers Power Company or DE from Ontario Hydro for specific periods of five or more consecutive weeks and arranged at least one year in advance.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25192 Filed 8-26-76;8:45 am]

[Docket No. CP76-475]

EL PASO NATURAL GAS CO.

Application

AUGUST 20, 1976.

Take notice that on August 11, 1976, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP76-475, an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, from October 25, 1976, through December 31, 1977, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any change in gas sales or transportation services presently rendered by Applicant. Applicant states that the proposed facilities would not exceed a total cost of $300,000 which would be financed with funds on hand.

Applicant requests a waiver of the provision of Section 157.7(c) which provides that budget-type authorization for construction is available for a 12-month period so that the requested authorization might extend through the calendar year 1977. Applicant states that its outstanding budget-type authorization under Section 157.7(c) extends to October 25, 1976, and for administrative convenience and to facilitate accounting and reporting procedures Applicant is desirous of receiving authorization on a calendar year basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before Sept. 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25193 Filed 8-26-76;8:45 am]

[Docket No. ER76-816]

GULF STATES UTILITIES COMPANY

Proposed Changes in Rates and Charges

AUGUST 20, 1976.

Take notice that on July 29, 1976, Gulf States Utilities Company, Inc. (Gulf States) tendered for filing proposed changes in its rates and charges for wholesale service to the Town of Erath, Louisiana (Rate Schedule FPC No. 20 [1]), the Town of New Roads, Louisiana (Rate Schedule FPC No. 101 [1]), the Town of Rayne, Louisiana (Rate Schedule FPC No. 105), Kirbyville Light & Power Company, Kirbyville, Texas (Rate Schedule FPC No. 110), the Town of Gueydan, Louisiana (Rate Schedule FPC No. 111), the City of Caldwell, Texas (Rate Schedule FPC No. 112), the Town of Kaplan, Louisiana (Rate Schedule FPC No. 113), the Town of Welsh, Louisiana (Rate Schedule FPC No. 114), the City of Newton, Texas (Rate Schedule FPC No. 115), the Town of Abbeville, Louisiana (Rate Schedule FPC No. 117), the Town of St. Martinville, Louisiana (Rate Schedule FPC No. 118), the Mid-South Electric Cooperative (Rate Schedule FPC No. 76), the Houston County Electric Cooperative (Rate Schedule FPC No. 116) and the Cajun Electric Power Cooperative, Inc. (Rate Schedule FPC No. 104 [2]). Gulf States also tendered for filing proposed changes in its rates and charges for wholesale service to the Town of Vinton, Louisiana (Rate Schedule FPC No. 24), the City of Livingston, Texas (Rate Schedule FPC No. 86), the City of Jasper, Texas (Rate Schedule FPC No. 95), the City of Liberty, Texas (Rate Schedule FPC No. 96), the Sam Houston Electric Cooperative (Rate Schedule FPC No. 69) and the Jasper-Newton Electric Cooperative (Rate Schedule FPC No. 71). These customers are not presently purchasing power from Gulf States under these rate schedules, as they are members of the Sam Rayburn Dam Electric Cooperative (Sam Dam) and are receiving power from Gulf States through Sam Dam under Rate Schedule FPC No. 98.

Gulf States Utilities Company states that increased costs of operation prevent it from obtaining an adequate rate of return from these customers under its presently effective rates, which are those rates proposed and presently being collected subject to refund pending decision in FPC Docket No. E-8121. The purpose of this filing is to enable Gulf States to recover its costs to serve these customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25197 Filed 8-26-76;8:45 am]

[1] Proposed contracts superseding Rate Schedules FPC Nos. 20 and 105 are currently on file with the Federal Power Commission.

[2] No power is contemplated to be sold under this schedule until 1978.

[Docket No. ER76-858]

GULF STATES UTILITIES CO.

Termination of Metering Point

AUGUST 20, 1976.

Take notice that on August 16, 1976, the Gulf States Utilities Company (Gulf States) tendered a notification of discontinuance of its temporary metering point to the City of Liberty, Texas. Gulf States states that the metering point was discontinued on July 19, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25196 Filed 8-26-76;8:45 am]

[Docket No. RP76-69]

MID-LOUISIANA GAS CO.

Certification of Proposed Stipulation and Agreement

AUGUST 20, 1976.

Take notice that on July 29, 1976, Presiding Administrative Law Judge Walter T. Southworth certified to the Commission for its consideration a Stipulation and Agreement of Settlement and attendant hearing record in Mid-Louisiana Gas Company (Mid-Louisiana), Docket No. RP76-69. The certification results from a motion made by Mid-Louisiana at the pre-hearing conference on July 27, 1976 and granted by the Presiding Administrative Law Judge.

The proposed settlement reflects modification of the tariff sheets filed by Mid-Louisiana on March 9, 1976, which would implement a curtailment plan for the pipeline system. The Stipulation states that the curtailment plan is based on the end use priorities established by the Commission in Order No. 467-B, except that firm industrial sales under 300 Mcf per day were included in Priority 2.

The first modification of the original tariff sheets revises subparagraph 13.6 to permit, during the summer period May through September, the balancing by buyers of daily volumes over the entire five month period. During the winter period, October through April, the balancing of daily volumes is permitted within each month.

The second modification establishes separate winter and summer Daily Base Requirements for Priorities 1 and 2 use and changes daily base requirements and temperature adjustment factors for several customers, based on revised data. The calculations of the revised Daily Base Requirements and temperature adjustment factors are shown on Schedules A and B, attached to the proposed settlement.

Mid-Louisiana states that the curtailment plan, if approved, shall continue in effect until December 31, 1979. However, Mid-Louisiana or any of its customers may seek revisions or earlier termination through appropriate proceedings.

All comments on the proposed stipulation and agreement shall be filed with the Commission on or before September 8, 1976. All responses to the Comments shall be filed before September 15, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25198 Filed 8-26-76;8:45 am]

[Docket No. ER76-585]

MISSOURI PUBLIC SERVICE CO.

Filing of Supplemental Data

AUGUST 20, 1976.

Take notice that on August 2, 1976, Missouri Public Service Company (Missouri) submitted certain additional information in the above docket requested by the Commission's Secretary in a letter dated April 30, 1976.

Any person wishing to do so may submit comments in writing concerning the above filing by Missouri. All such comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should be submitted on or before September 1, 1976. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25199. Filed 8-26-76;8:45 am]

[Docket No. ES76-65]

MONTANA-DAKOTA UTILITIES CO.

Application

AUGUST 20, 1976.

Take notice, that on July 30, 1976, Montana-Dakota Utilities Co. (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismarck, North Dakota, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of $10,000,000 in principal amount of First Mortgage Bonds, —% Series due October 1, 2001 and $10,000,000 in principal amount of First Mortgage —% Sinking Fund Bonds due October 1, 1996.

The new Bonds are to be issued under and pursuant to Applicant's presently existing Indenture of Mortgage dated as of May 1, 1939, to Chemical Bank of New York and S. Lasher, as Trustees, as supplemented and proposed to be supplemented by a (Thirty-Fifth) Supplemental Indenture to be dated as of October 1, 1976. The new Bonds are to bear interest at a rate to be fixed by competitive bidding.

The net proceeds from the issuance and sale of the new Bonds are to be used to repay $18,000,000 of promissory notes, due not more than one year after the dates of their respective issue, which were issued in 1975 and 1976 to provide temporary financing for part of the cost of Applicant's 1975 and 1976 Construction Programs.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to be-

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come parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25200 Filed 8-26-76;8:45 am]

[Project No. 606]

PACIFIC GAS AND ELECTRIC CO.

Application for Major License for Constructed Project

AUGUST 23, 1976.

Public notice is hereby given that application for a major license was filed on March 30, 1976, under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Company (correspondence to: W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106), for its constructed Kilarc-Cow Creek Project FPC No. 606, located in Shasta County, California, in the region of the communities of Whitmore and Millville, on Old Cow Creek, South Cow Creek and tributaries. The project affects lands of the United States. The original project minor-part license is scheduled to expire on March 28, 1977.

The Kilarc-Cow Creek Project has a total installed capacity of 4,400 kW and consists of two developments:

I. The Kilarc Development comprises a 1-foot high timber diversion dam on North Canyon Creek which diverts water into the .35-mile long North Canyon Canal that empties into South Canyon Creek, a 2.75-foot high concrete diversion dam on South Canyon Creek which diverts water into the .91-mile long South Canyon Creek Canal that empties into the 3.65-mile long Kilarc Main Canal; a 5.1-foot high concrete diversion dam on Old Cow Creek which diverts water into the Kilarc Main Canal that empties into Kilarc Forebay; Kilarc forebay with a surface area of 4.5 acres and a storage capacity of 30.4 acre-feet impounded by a 13-foot high earthfill dam; a 4801-foot long steel-wood penstock; a powerhouse located on Old Cow Creek containing two generating units aggregating 3,000 kilowatts operating under a maximum gross head of 1,192 feet; and a 60-kV transmission line extending 70 feet to the Applicant's interconnected transmission system.

II. The Cow Creek Development comprises a 2.6-foot high concrete diversion dam on Mill Creek which diverts water into the .17-mile long Mill Creek–South Cow Creek Canal that empties into South Cow Creek; a 12.5-foot high timber crib and rockfill diversion dam on South Cow Creek which diverts water into the 2.06-mile long South Cow Creek Main Canal that empties into Cow Creek Forebay; Cow Creek forebay with a surface area of 1 acre and a storage capacity of 5.4 acre-feet impounded by a 16-foot high earthfill dam; a steel-wood penstock 4,487 feet long; a powerhouse located in Hooten Gulch containing two generating units aggregating 1,440 kilowatts operating under a maximum gross head of 715 feet; a 60-kV transmission line extending 100 feet to the Applicant's interconnected transmission system; and other facilities and interests appurtenant to operation of the project.

Applicant estimates that the net project investment as of December 31, 1974 amounted to $466,221, and that it is currently paying property taxes of $65,065 per year on project properties in Shasta County. Applicant further asserts that taxes on income currently attributable to the project total approximately $22,644 per year, of which $18,777 is paid to the United States and $3,867 is paid to the State of California.

The power generated by this project is used for public utility purposes in northern and central California.

Kilarc-Cow Creek recreational facilities consist of an eight unit picnic area on the north side of Kilarc forebay. In cooperation with the United States Bureau of Outdoor Recreation the Applicant has developed plans to redesignate the current eight family units as four group picnic units, each capable of accommodating a party of ten. Five additional family picnic units will be constructed in an expansion area on the north side of Kilarc forebay.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wshing to become a party to a proceeding or participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825f, § 825h) and the Commission's Rules of Practice and Procedure, specifically § 1.32(b) (18 C.F.R. § 132(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25188 Filed 8-26-76;8:45 am]

[Project No. 935]

PACIFIC POWER AND LIGHT CO.

Application for New Major License for Constructed Project

AUGUST 20, 1976.

Public notice is hereby given that application for a new major license was filed on April 26, 1976, under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Power and Light Company, (correspondence to: Mr. G. Eldon Drennan, Senior Vice President, Pacific Power and Light Company, 1500 Public Service Building, Portland, Oregon 97204; with copies to: Leighton and Sherline, 1701 K Street, NW., Washington, D.C. 20006; Mr. Howard Arnett, World Center Building, Suite 404, 918 16th Street, NW., Washington, D.C. 20006; and Rives, Bonyhadi & Drummond, Attention: Mr. Hugh Smith, Esq., 1400 Public Service Building, Portland, Oregon 97204), for its constructed Merwin Project FPC No. 935, located in Cowlitz and Clark Counties, Washington, near the town of Woodland, on the North Fork of the Lewis River. The project affects 138.18 acres of United States lands and navigable waters of the United States. The original project license will expire on December 11, 1979.

The constructed Merwin Project consists of: (1) a concrete arch dam 313 feet high, with an arch length of 728 feet; (2) a reservoir, 14.5 miles long, with a surface area of 4,040 acres at maximum operating pool elevation; (3) three penstocks 15½ feet in diameter and 150 feet long, (4) a powerhouse containing 4 generating units, three rated at 45,000-kW and a 1,000-kW station service generating unit; (5) 9 single-phase 13.8/115-kV transformers located on the upper powerhouse deck and an adjacent switchyard; (6) two transmission lines, one which extends to the Cardwell substation and the other, to the St. John switching station near Portland; and (7) appurtenant facilities. The net investment in the Project is estimated to be $18,100,000, and the Applicant further estimates that severance damages in the event of takeover would be $434,300,000. Applicant states that annual taxes paid to Washington State were as follows: property tax, $224,185.78; state income tax, $10,040.47.

Power produced by this project is used by the Applicant to meet its system load requirements and any excess is sold on a "when and if available" basis.

The principal recreational features of the project are: Merwin Park, which can accommodate 2,000 people for picnics and swimming; Speelyai Bay Park, located 10 miles upstream from the dam, which provides swimming, boating and picnic facilities; and Woodland Park, consisting of private residential homesites.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 8, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically § 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25201 Filed 8-26-76;8:45 am]

[Docket No. ER76-857]

PENNSYLVANIA ELECTRIC CO.

Change in Rates Pursuant to Imposition of Gross Receipts Tax

AUGUST 20, 1976.

Take notice that on August 16, 1976, Pennsylvania Electric Company (Penelec) tendered for filing notice of its intention to activate a clause in Rate RP, Resale Power Service, applicable to all-requirements wholesale service under FPC Electric Tariff, Original Volume No. 1. The billings to six municipal customers (Boroughs of Berlin, East Conemaugh, Girard, Hooversville, Smethport and Summerhill, Pennsylvania) are affected. Penelec states that the clause is designed to recover revenues needed to pay for the imposition of the Pennsylvania Gross Receipts Tax. The demand and energy charges and the Fuel Cost Adjustment Clause charges will be increased by 4.712%. Penelec states that the tax will be imposed pursuant to a settlement dated May 12, 1976, for 1973 tax amount of $17,487.82 (of which $16,719.15 represented the tax for sales to municipalities), signed by the Secretary of Revenue and approved by the Auditor General of the State of Pennsylvania.

The proposed effective date is September 16, 1976. The clause will be activated prospectively from such date. The Company requests that the instant filing be treated as a rate schedule revision.

Copies of the filing were sent to each of the municipal customers served under the tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25202 Filed 8-26-76;8:45 am]

[Docket No. RP72-74 and RP74-6]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 20, 1976.

Take notice that Southern Natural Gas Company (Southern), on August 2, 1976, filed in Docket Nos. RP72-74 and RP74-6, proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, in compliance with the Commission's Opinion No. 747-B, Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part, issued on May 21, 1976, in the above noted docket proceedings. Southern indicates that the following revised tariff sheets to Sixth Revised Volume No. 1 have been filed:

Ninth Revised Sheet No. 40.
Fifth Revised Sheet No. 40-A.
Second Revised Sheet Nos. 61-67, 71-78, 82.
First Revised Sheet Nos. 68-70, 79-81.

Southern states that Ordering Paragraph (F) of the above order directed Southern to file by August 1, 1976, "appropriate tariff sheets to its FPC Gas Tariff reflecting the mandate of this order concerning the firm-interruptible distinction." The tariff sheets included in the filing are to comply with Ordering Paragraph (F) of that order. Southern states that the proposed tariff sheets comply with the Commission's order by adopting the priority-of-service categories as set forth by the Commission in its Order No. 747-B which priority-of-service categories reflect the elimination of the firm-interruptible distinction and reflect appropriate changes to the Index of Requirements to incorporate the proposed priority-of-service categories filed herewith. Additionally, the Audit Committee met on July 20–22, 1976, to examine and verify the requested changes to the Index of Requirements.

Southern proposes to make the effective date of the proposed tariff sheets on September 1, 1976.

Copies of Southern's filing were served upon all of Southern's jurisdictional customers, interested state commissions, and the parties in record in Docket Nos. RP72-74 and RP74-6.

Any person desiring to be heard or to protest the above-noted filing, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 27, 1976. Such protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make such protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene or notice of intervention. Copies of this filing are on file with the Commission, and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25203 Filed 8-26-76;8:45 am]

[Docket No. CP76-462]

SOUTHERN UNION GAS CO.

Application

AUGUST 20, 1976.

Take notice that on August 2, 1976, Southern Union Gas Company, a division of Southern Union Gas Company (Applicant), First National Bank Building, Dallas, Texas 75270, filed in Docket No. CP76-462 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Company (Respondent) to sell and deliver certain volumes of natural gas to Applicant for distribution and resale to Applicant's irrigation, residential, commercial, public authority, and industrial customers in Beaver and Texas Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that during the first three years of service, Applicant would require from Respondent a maximum of 1,360 Mcf of gas per day and a maximum of 496,400 Mcf annually for its customers in Beaver and Texas Counties and that these maximum volumes are within its presently authorized supply from Respondent.

The application indicates that Applicant acquired the facilities in Texas

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County from Peoples Natural Gas Division and that Respondent was authorized to continue service to Applicant for resale for irrigation and other incidental farm uses in and about Texas County. Applicant asserts that upon completion of the purchase of the Texas County facilities, its operating personnel rearranged certain of its facilities so that, in addition to providing service to the irrigation and other farm use customers, such gas could also be used to supply other similar customers in the same general area. Applicant states that soon afterward, however, the demand for gas for residential, commercial, public authority, and industrial purposes in the area reached a point where it exceeded the available supply, and Applicant's operating personnel, not realizing the restrictions on the use of gas bought from Respondent, then began diverting a portion of such gas to a number of small towns and communities in Beaver and Texas Counties, Oklahoma, commingling it with other gas so as to make it available for residential and other uses as well as the various farm usages for which it had originally been intended. It is indicated that as a result of these rearrangements, all of the gas for Applicant's said customers is transported from Respondent's pipeline to Applicant's distribution facilities by means of the East Line of Western Gas Interstate Company, a wholly owned subsidiary of Southern Union Company.

Applicant states that it is not requesting any gas from Respondent in excess of its contracted volumetric limitation, but is requesting only that the allowable usage of the gas be expanded from irrigation and incidental farm uses to include also residential, commercial, public authority, and industrial uses in Beaver and Texas Counties. Applicant asserts that without the requested expansion of service from Respondent, it would be unable to meet the needs of its residential and other customers in said counties.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25183 Filed 8-26-76;8:45 am]

[Docket Nos. RP72-156, (PGA76-3) (DCA76-2) and RP72-64]

TEXAS GAS TRANSMISSION CORP.

Filing

AUGUST 20, 1976.

Take notice that on August 13, 1976, the Texas Gas Transmission Corporation (Texas Gas) tendered for filing a revised tariff sheet reflecting the exclusion of costs associated with small producers in excess of the "130% formula" prescribed in Opinion No. 742 and costs associated with emergency purchases at rates in excess of those prescribed in Opinion No. 699-H, which costs were reflected in Texas Gas' filing of June 14, 1976. Texas Gas also filed a list of small producers from whom the company is purchasing gas at rates in excess of the "130% formula" in compliance with the Commission's order of July 30, 1976, whereby the Commission accepted the filing of June 14, 1976, and assigned it an effective date of August 2, 1976. Texas Gas requests that its revised tariff sheet becomes effective on August 1, 1976.

Texas Gas states that copies of the filing have been sent to all of its customers as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25184 Filed 8-26-76;8:45 am]

[Docket Nos. AR64-2, *et al.* and AR67-1, *et al.*]

TEXAS GULF COAST AREA RATE PROCEEDING ET AL.

Filing of Refund Distribution Plan

AUGUST 19, 1976.

Take notice that on July 30, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed its plan for distribution of refunds received from its producer-suppliers pursuant to the Commission orders of February 23, 1976, in these proceedings. Tennessee states that as of July 15, 1976, it had received total refunds (principal and interest) of $3,231,837.71.

Tennessee requests permission to flow-through to its customers $3,101,005.72 of the refunds by means of a credit to the Unrecovered Purchased Gas Cost Account maintained pursuant to its PGA clause. Tennessee states that it will retain the remaining $130,831.99 of refunds in accord with its Settlement Agreement in Docket Nos. G-11980, *et al.*, as interpreted by the Commission in *J. C. Trahan Drilling Contractor, Inc.*, 41 FPC 584 (1969).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25218 Filed 8-26-76;8:45 am]

[Docket No. ER76-855]

UNION ELECTRIC CO.

Revised Service Schedule

AUGUST 20, 1976.

Take notice that on August 13, 1976, Union Electric Company (Union) tendered for filing Second Amendment, dated June 22, 1976, to the Interchange Agreement dated July 17, 1967 between Iowa Power and Light Company and Union. Union states that said Amendment provides for System Participation Power and revises the rate for Emergency Energy and the reservation charge for Short Term Power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25185 Filed 8-26-76;8:45 am]

[Docket Nos. G-9547 *et al.*, RP61-18, RP63-1, RP65-1, RP70-13 and RP71-41]

UNITED GAS PIPE LINE CO.

Proposed Plan of Refund

AUGUST 23, 1976.

Take notice that on August 2, 1976 United Gas Pipe Line Company (United) tendered for filing, in accordance with the Commission's order issued February 23, 1976 directing disbursement and flow through of refunds, its proposed plan of refund to flow through monies received from producers pursuant to Opinion Nos. 595 and 607. United proposes to flow through $1,297,086, incuding interest, as the jurisdictional portion of producer refunds to its jurisdictional customers.

United states a copy of the tendered refund report would be sent to all its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25189 Filed 8-26-76;8:45 am]

[Project No. 2402]

UPPER PENINSULA POWER CO.

Request for Change In Minimum Flow Requirements

AUGUST 20, 1976.

Public notice is hereby given that a request was filed on February 13, 1976, by the State of Michigan, Department of Natural Resources (Correspondence to: Mr. Howard A. Tanner, Director, Department of Natural Resources, Stevens T. Mason Building, Lansing, Michigan 48926) for a change in the minimum flow requirements at Upper Peninsula Power Company's licensed Prickett Project, FPC No. 2402, located on the Sturgeon River in Houghton and Baraga Counties, Michigan.

Article 33 of the license for Project No. 2402 requires the licensee to discharge no less than 6 cfs from the project powerhouse into the Sturgeon River at all times. The State of Michigan, Department of Natural Resources submits that this minimum flow is insufficient to protect the downstream fish, acquatic, and wildlife resources, and that the licensee should be required to release continuously from the project powerhouse into the Sturgeon River a minimum flow of 70 cfs or the inflow into the project reservoir, whichever is the lesser amount.

The subject request was made pursuant to Articles 13 and 16 of the license for Project No. 2402. The Department of Natural Resources is supported in this request by the U.S. Department of the Interior, Fish and Wildlife Service.

Any person desiring to be heard or to make any protest with reference to said request should, on or before October 1, 1976, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The request is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25186 Filed 8-26-76;8:45 am]

FEDERAL RESERVE SYSTEM

REPUBLIC OF TEXAS CORP.

Order Approving Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares, less directors' qualifying shares, of First National Bank in Brownwood, Brownwood, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Texas, controls three subsidiary banks[1] with aggregate deposits of $2.9 billion, representing approximately 6.2 per cent of the total commercial bank deposits in the State.[2] The Board earlier approved Applicant's acquisition of three additional existing banks and one *de novo* bank.[3] The acquisitions of the existing banks have not yet been consummated, and the *de novo* bank has not yet opened for business. Consummation of this proposal would increase Applicant's share of State deposits by approximately 0.1 per cent and would not have a significant effect upon the conceneration of banking resources in the State.

Bank, presently a subsidiary of U.S. Bancshares, Inc., ("Bankshares") Brownwood, Texas, a registered bank holding company that is now in the process of liquidating its assets, is located in the city of Brownwood. Bank is the largest of four banks competing in the relevant banking market[4] and holds approximately $43.8 million in deposits, representing about 52.7 per cent of the total deposits in commercial banks in the market. Applicant's banking subsidiary closest to Bank is located in Dallas, which is part of a separate banking market approximately 150 miles northeast of Bank's market. Accordingly, no meaningful competition presently exists between Bank and any of Applicant's subsidiary banks, and it is unlikely that significant competition between these institutions would develop in the future in view of the distances involved and the State's restrictive branching law. In addition, the ratio of population to banking offices for the relevant market and the per capita deposits in the market are significantly below the State averages, and the market is viewed, at best, as only marginally attractive for *de novo* entry. Thus, consummation of this proposal would have only a slightly adverse effect on potential competition. In view of the foregoing, the Board concludes that the proposed acquisition would have no adverse effect on existing or future competition, and that its effect on potential competition would be slightly adverse but outweighed by considerations relating to the convenience and needs of the community to be served.

The Board has previously denied several applications by Texas' largest bank holding companies to acquire the leading banks in various banking markets in Texas.[5] Although the instant proposal involves Applicant's acquisition of the largest bank in the Brown County banking market, the Board notes that this proposal differs materially from those previously denied in that Bank and the

[1] In addition to its three subsidiary banks, Applicant indirectly controls interests of less than 25 per cent in each of fourteen banks.

[2] All banking and market data are as of December 31, 1975.

[3] On February 20, 1976, the Board approved Applicant's acquisitions of First National Bank of Henderson, Texas, and First Bank in Groveton, Texas, 62 Federal Reserve Bulletin 269 (1976); on March 23, 1976, the Board approved Applicant's acquisition of First Bank and Trust, Lufkin, Texas, 62 Federal Reserve Bulletin 378 (1976); and on October 31, 1975, the Federal Reserve Bank of Dallas, pursuant to delegated authority, approved Applicant's acquisition of Braes Bayou National Bank, Houston, Texas, a *de novo* bank.

[4] The relevant banking market is approximated by Brown County.

[5] For example, see the Board's Orders of December 28, 1973, denying the application of First International Bancshares, Inc., to acquire Citizens First National Bank of Tyler, Texas, 60 Federal Reserve Bulletin 43 (1974); March 1, 1974, denying the application of First International Bancshares, Inc., to acquire The First National Bank of Waco, Texas, 60 Federal Reserve Bulletin 290 (1974); and May 1, 1974, denying the application of First City Bancorporation of Texas, Inc., to acquire The Lufkin National Bank, Lufkin, Texas, 60 Federal Reserve Bulletin 450 (1974).

V41168 AUG 27 76 UMI

Brown County banking market are substantially smaller than the banks and markets involved in the denied proposals.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as satisfactory. Considerations relating to the banking factors are consistent with approval of the application. Consummation of the proposed affiliation is likely to result in the expansion and improvement of the range of services offered by Bank and in an increased availability of credit. It appears from the facts of record that the economic base of the Brownwood community has been shifting in recent years from agricultural and extractive activities to manufacturing activities. As a result, the community now has industries which require more sophisticated banking services and technical advice. Bank, through affiliation with Applicant, would be better able to meet these requirements. Accordingly, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and outweigh the slightly adverse competitive effect of the acquisition. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made, (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,* effective August 23, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25217 Filed 8-26-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL COUNCIL ON THE ARTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub-L. 92-463), notice is hereby given that a meeting of the National Council on the Arts wil be held on September 16, 1976 from 2 p.m.-5 p.m., on September 17 from 9 a.m.-6 p.m., on September 18 from 9:30 a.m.-5:30 p.m., and on September 19 from 9 a.m.-1 p.m. at the Fairmont Colony Square Hotel in Atlanta, Georgia.

A portion of this meeting will be open to the public on September 17 from 9 a.m.-6 p.m. and on September 18 from 9:30 a.m.-11:30 a.m. on a space available basis. Accommodations are limited. The agenda for September 17 will include: (1) State of the Arts Presentations, (2) Presentations by and discussions with SAA representatives and with the International Council on Fine Arts Deans, and (3) Program Guidelines. The September 18 agenda will include: (1) Challenge Grant Guidelines, and (2) Non-Federal support of the arts.

The remaining sessions of this meeting on September 16 from 2 p.m.-5 p.m., on September 18 from 11:30 p.m.-5:30 p.m., and on September 19 from 9 a.m.-1 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-25223 Filed 8-26-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING ADDENDUM

AUGUST 24, 1976.

The agenda for the meeting previously announced for September 14, 1976, in the FEDERAL REGISTER of August 12, 1976 (41 FR 34119), has been changed by the substitution of a preliminary report on the current Law of the Sea session for the presentation of Executvie Comments on NACOA's 5th Annual Report. The amended agenda is as follows:

0900-0915, Opening Remarks, Dr. William J. Hargis, Jr.
0915-1000, Preliminary Report on Current Law of the Sea Session, Dr. Donald L. McKernan and Mr. Marne A. Dubs NACOA.
1000-1115, Discussion of Draft NACOA Report on National Sea Grant Program, Dr. William C. Ackermann NACOA.
1115-1330, Discussion of NACOA Work Plan, Dr. William J. Hargis, Jr.

Adjournment at approximately 1:30 p.m.

The public is welcome at this session and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 377-3343.

DAVID A. KATCHER,
Acting Executive Director.

[FR Doc.76-25215 Filed 8-26-76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

EMPLOYMENT AND PERSONNEL RECORDS

Inquiry

The Privacy Protection Study Commission, established by Pub. L. 93-579, is required to:

Make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information;

Recommend to the President and the Congress the extent, if any, to which the requirements and principles of the Privacy Act of 1974 should be applied to the information practices of those organizations by legislation, administrative action, or voluntary adoption; and

Report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

One of the areas suggested in the Privacy Act for study by the Commission is employment and personnel record-keeping. The Commission feels that this record-keeping area warrants scrutiny for at least two reasons. First, most individuals are, at one time or another, the subject of a personnel record. Second, most of the organizations not currently subject to the Privacy Act of 1974 maintain employment and personnel records and, for many of these organizations, the bulk of the records about individuals they maintain concern individuals in their capacity as potential, current, or past employees.

Although this notice is addressed primarily to organizations in the private sector, the Commission's study of employment and personnel record-keeping practices will encompass public-sector organizations as well. A notice announcing Commission hearings on both public and private-sector practices will be issued at a later date.

The Commission encourages employers, employees, employee organizations (including labor unions), and employment service agencies and organizations engaged in the preparation of background investigative reports (including executive search services) to submit information concerning the employment and personnel record-keeping practices of private-sector organizations. All submissions should be made in writing no later than October 15, 1976, to:

Ms. Carole W. Parsons, Executive Director, Privacy Protection Study Commission, 2120 L Street NW., Suite 424, Washington, D.C. 20506.

The Commission's inquiry will include an examination of manual *and* computerized records, as well as record-keeping about *potential* employees (including individuals who have not applied for employment but who may be considered for recruitment), *applicants* for employment, employees, and *former* employees.

As a framework for analyzing the extent to which record-keeping practices are fair to both the data subject and the record-keeper in these contexts, the Commission initially wishes to use the five "fair information practice principles" of the [DHEW] Secretary's Advisory Committee on Automated Personal Data Systems as a yardstick against which to measure current practices. These five principles are:

There must be no personal data record-keeping system whose very existence is secret;

There must be a way for an individual to find out what information about him is in a record and how it is used;

There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent;

There must be a way for an individual to correct or amend a record of identifiable information about him; and

Any organization creating, maintaining, using or disseminating records of identifiable personal data must assure the reliability (i.e., accuracy, relevance, timeliness, and completeness) of the data for their intended use and must take precautions to prevent misuse of the data.

With these principles in mind, then, the objectives of the Commission's project on employment and personnel records can be described, as follows:

(1) To document the extent to which the existing employment and personnel record-keeping practices of private organizations already conform to the aforementioned principles. In making this assessment, one must bear in mind that there are many different ways of adhering to a fair information practice principle, and that the Commission is interested in learning about as many of them as possible. For example, practices constituting adherence to the "no secret systems" principle might range from the type of public notice required by the Privacy Act of 1974 to a policy of responding to inquiries about what record systems an organization maintains;

(2) To explore the reasons why practices that conform to these principles have been adopted. The Commission is particularly interested in learning whether and to what extent incentives and requirements other than laws or regulations specifically mandating the adoption of fair information practice safeguards have led private-sector organizations to adopt practices that are consistent with the five fair information practice principles. (For example, have laws barring discrimination in employment fostered the development of record-keeping practices that resemble those commonly required by fair information practices legislation?).

(3) To identify the areas in which existing record-keeping practices do not conform to one or more of the principles and, in each case, to understand why and what the consequences are or may be for the individual data subject. For example, an organization may disclose a record about an employee without his consent for a purpose unrelated to that for which the record was originally compiled in response to a request from a law enforcement agency. In such a case, the Commission would like to know not only if the disclosure is made without the consent of the record subject but under what conditions (e.g., in response to a subpoena) and the extent to which the individual is afforded an opportunity to participate in the process (e.g., whether he is notified of the subpoena before or after the information is disclosed, if at all).

(4) To assess the cost and feasibility of alternative means of adhering to the fair information practices principles (including, but not limited to, complying with one or more requirements of the Privacy Act of 1974) in areas where the principles are not now being adhered to.

There are two other employment and personnel record-keeping issues the Commission wishes to explore but which are not subsumed under any of the above stated objectives:

(1) To what extent is the Social Security number used as an identifier in record systems containing information about employees, applicants, and former employees? For what purposes is the SSN used? In which cases is its use required by law? And what other identifiers are used by private organizations in their employment and personnel record systems?

(2) To what extent do Federal and State laws and regulations (such as those governing equal employment opportunity, occupational safety and health, and employee pension plans), internal organization policies, and collective bargaining agreements mandate or prohibit the collection, or manner of collection, of certain information about employees or applicants for employment? In cases in which Federal and State laws and regulations mandate the collection of information, to what extent is the information collected relevant to employment and personnel decisions? In cases in which the collection of certain information is prohibited, are there compelling reasons why an organization would collect it if it were not prohibited from doing so? In particular, the Commission would like to learn about the impact of the Fair Credit Reporting Act on employment and personnel record-keeping practices and decision-making about applicants, employees, and former employees.

Although submissions providing information on the seven points of interest outlined above will necessarily contain references to the content of employment and personnel records maintained by an organization, the Commission would also welcome submissions containing summary information regarding:

(1) The type of information about potential, current, and former employees (e.g., work history; medical and psychological information; letters of recommendation; supervisors' evaluations; sex; race; ethnicity; criminal history records; military discharge evaluations) that is collected, maintained, and used by private-sector organizations;

(2) Whether information about a single individual is contained in more than one system of records and, if so, whether different policies and practices apply to the different record systems; and

(3) Whether different policies and practices apply to records about: (a) Individuals who are recruitment prospects; (b) applicants for employment; (c) current employees; and (d) former employees.

Finally, although the Commission is concerned primarily with the collection, maintenance, and use of information about employees and applicants for employment, it would also like to learn about the practices of private-sector organizations that maintain records about shareholders and vendors.

Although the Commission would prefer to have all submissions organized around the principles and questions outlined above, it also encourages organizations to bring to its attention record-keeping practices and problems that do not appear to fit within the suggested framework. The Commission also wishes to emphasize that it welcomes suggestions for ways in which the "fair information practice principles" might be reworded, modified, or supplemented in ways that would facilitate achievement of the policy objectives they embody.

Dated: August 24, 1976.

DAVID F. LINOWES,
Chairman.
CAROLE W. PARSONS,
Executive Director.

[FR Doc.76-25113 Filed 8-26-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2103]

AMERICARE GROWTH FUND, INC.

Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

AUGUST 20, 1976.

Notice is hereby given that Americare Growth Fund, Inc. ("Applicant"), 601 Sixth Avenue, Des Moines, Iowa 50334, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management company,

*Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

V41I168 AUG 27 76 UMI

filed an application on April 1, 1976, and an amendment thereto on July 19, 1976, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was incorporated under the laws of the State of Delaware on July 24, 1970, and registered under the Act on August 20, 1970. It states that it publicly offered its shares between June 30, 1971 and July 30, 1971 pursuant to a registration statement filed under the Securities Act of 1933.

Applicant further represents that on February 5, 1976, it was merged into Eaton & Howard Growth Fund, Inc. ("Growth") pursuant to an Agreement and Plan of Merger dated April 11, 1975 between Applicant and Growth, also an open-end, diversified management company registered under the Act, and that this transaction was approved by the Board of Directors of Applicant and Growth and was approved by the stockholders of Applicant on January 27, 1976 at a special meeting of stockholders. Pursuant to the Agreement and Plan of Merger, all of the outstanding shares of capital stock of Applicant were converted into a number of shares of Growth determined on the basis of the relative net asset values of Applicant and Growth. Applicant also represents that it filed a certificate of dissolution with the Secretary of State of the State of Delaware, which was approved on March 1, 1976; and that since February 15, 1976 it has remained in existence solely for the purpose of deregistering with the Commission and winding-up its activities.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 15, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a stateemnt as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–25142 Filed 8–26–76;8:45 am]

[Release No. 34–12726; File No. SR–CBOE–1976–17]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Brackets indicate deletions; italics, new material.

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

ANNUAL ELECTION MEETING

SEC. 3.2. An annual election meeting of members shall be held on the 2nd Monday in December of each year unless such day is a legal holiday, in which case on the next succeeding business day which is not a legal holiday, at such time as may be designated by the Board prior to the giving of notice of the meeting for the [sole] purpose of electing a Chairman and Vice-Chairman of the Board, electing directors to fill expiring terms and any vacancies in unexpired terms and electing members of the Nominating Committee *and Appeals Committee* to fill expiring terms and any vacancies in unexpired terms.

NOMINATING COMMITTEE

Sec. 4.1. The Nominating Committee shall be composed of seven individuals, six of whom shall be members or executive officers of member organizations of the Exchange and shall be elected by the membership, and one of whom shall be a member or executive officer of a member organization appointed by the Chairman of the Board with the approval of the Board. At least two of the elected members of the Committee shall be members who individually own or directly control their memberships on the Exchange and are primarily engaged in business on the Exchange floor (floor individuals), and at least two of the elected members of the Committee shall be executive officers of member organizations and shall individually not be primarily engaged in business activities on the Exchange floor (off-floor individuals). The remaining two of the elected members of the Committee shall be members who function in any recognized capacity either individually or on behalf of a member organization. At the annual election meeting, next occurring subsequent to the effective date of the Constitutional amendment changing the structure of the Nominating Committee, a total of two individuals, exclusive of vacancies, shall be elected, one of whom shall serve for a one year term, and one of whom shall serve for a two year term. At each subsequent annual election meeting, three members of the Committee shall be elected, at least one of whom shall be a floor individual and at least one of whom shall be an off-floor individual. All of such elected members of the Committee shall succeed those members of the Committee whose terms expire and shall serve for two years. The one member of the Committee appointed by the Board at the first regular meeting of the Board following the annual election meeting shall serve for one year. A member of the Nominating Committee shall be ineligible for election or appointment to the Committee for a period of two years after his term expires.

[SEC. 4.1. There shall be a Nominating Committee composed of seven members, and except for the members of the initial Nominating Committee each of the members shall be a member of the Exchange. The initial Nominating Committee, which shall select the nominees to be voted upon at the initial annual election meeting, shall be appointed by the Board. Thereafter, there shall be six elected members of the Nominating Committee chosen by the membership of the Exchange, and one member of the Nominating Committee appointed by the Chairman of the Board. At the first annual election meeting, the six elected members of the Nominating Committee shall be elected, two for a term expiring at the annual election meeting following the initial annual election meeting, two for a term expiring at the second annual election meeting following the initial annual election meeting, and two for a term expiring at the third annual election meeting following the initial annual election meeting. At each subsequent annual election meeting, two Committee members shall be elected to succeed those whose terms expire, to serve for a term expiring at the third succeeding annual election meeting. One Committee member shall be appointed each year, for a term of one year, at the regular Board meeting immediately following the annual election meeting. A member of the Nominating Committee shall be ineligible for election or appointment to the Committee for a period of three years after his term expires.]

NOMINATING PROCEDURE

SEC. 4.3. During October of each year the Nominating Committee shall hold at least three meetings, at least two of which shall be open to the membership for the purpose of selecting not less than one nominee for each of the following offices to be voted on at the following annual election meeting:

(a) (no change)
(b) (no change)
(c) (no change)
(d) (no change)
(e) *Appeals Committee members to fill expiring terms and vacancies.*

The Nominating Committee shall select nominees to fulfill the requirement of sections 6.1, *4.1,* and 2.3 of the Constitution with an obligation to have the various interests of the membership represented on the Board, [and] the Nominating Committee *and the Appeals Committee, respectively.* Notice of each of these metings shall be posted on the bulletin board on the floor of the Exchange.

COUNTING OF BALLOTS

SEC. 5.3. When all of the ballots properly submitted at the election have been placed in the ballot box, the election Committee shall open the ballot box and the sealed ballot envelope and shall count the ballots. A majority of all votes cast shall elect the Chairman of the Board and the Vice Chairman. A plurality of votes shall elect the Directors: *Provided however,* That where a plurality of votes cast do not elect at least 2 directors who shall be off-floor directors, as defined in Section 6.1, of which at least 1 shall be a member and at least 1 shall be a nonresident and at least 2 directors who shall be floor directors, as defined in Section 6.1, then the appropriate number of candidates from each of the above categories who receive the highest votes among all those candidates in each such category shall be elected in lieu of those candidates with the lowest winning pluralities. A plurality of votes shall elect members of the Nominating Committee: *Provided however, That where a plurality of votes cast do not elect at least 1 member of the Committee who shall be an off-floor individual, as defined in Section 4.1 and at least one member of the Committee who shall be a floor individual as defined in Section 4.1, then the appropriate number of candidates from each of the above categories who receive the highest votes among all of those candidates in each such category shall be elected in lieu of those candidates with the lowest winning pluralities. A plurality of votes shall elect the members of the Appeals Committee: Provided however, that where a plurality of votes cast do not elect at least 1 member of the Committee who shall be an off-floor individual as defined in Section 7.3 and at least 1 member of the Committee who shall be a floor individual as defined in Section 7.3 then the appropriate number of candidates from each of the above categories who receive the highest votes among all of those candidates in each category shall be elected in lieu of those candidates with the lowest winning pluralities.* If no candidate receives a majority vote for Chairman of the Board or for Vice Chairman, the annual election meeting shall be adjourned for a period of 10 business days. At such adjourned meeting, another vote of the members shall be taken on the offices not decided at the original meeting, in accordance with the procedures set forth in this Article for the conduct of elections. If again there shall be a failure to elect, the meeting shall be adjourned for a second period of 10 business days, and at the second adjourned meeting, a plurality of all votes cast shall elect the offices voted upon. The Election Committee shall cause election results to be posted on the bulletin board on the floor of the Exchange.

THE APPEALS COMMITTEE

Sec. 7.3. The Appeals Committee shall be composed of 10 individuals, 9 of whom shall be members or executive officers of member organizations of the Exchange and shall be elected by the membership of the Exchange, and 1 of whom shall be appointed from among the members of the Board of Directors by the Chairman of the Board with the approval of the Board to act as Chairman of the Appeals Committee. The Appeals Committee shall conduct all hearings and reviews applied for by members of the Exchange in accordance with the provisions of Chapter XIX of the Rules. The members of the Appeals Committee shall not serve on any other Exchange committee during their term of service on the Committee. At least 3 of the 9 elected members of the Committee shall be members who individually either own or directly control their memberships on the Exchange and are primarily engaged in business on the Exchange floor (floor individuals), and at least 3 of the 9 elected members of the Committee shall be executive officers of member organizations and shall individually not be primarily engaged in business activities on the Exchange floor (off-floor individuals). The remaining 3 of the elected members of the Committee shall be members who function in any recognized capacity either individually or on behalf of a member organization. At the annual election meeting, next occurring subsequent to the effective date of the Constitutional amendment establishing the Committee as an elected body, a total of 9 members of the Committee shall be elected of which 3 shall serve a term of 1 year, 3 shall serve a term of 2 years, and 3 shall serve a term of 3 years. At each subsequent annual election meeting, 3 members of the Committee shall be elected to succeed those members of the Committee whose terms expire and shall serve a term of 3 years. The member appointed as Chairman of the Committee by the Chairman of the Board at the first regular meeting of Directors following the annual election meeting shall serve for a term of 1 year.

APPEALS COMMITTEE VACANCIES

Sec. 7.4. Any vacancy occurring among the members of the Appeals Committee may be filled by the Chairman of the Board with the approval of the Board until the next annual election meeting, at which time a successor shall be elected to serve the unexpired term, if any, of his elected predecessor in office.

OTHER COMMITTEES

SEC. [7.3] 7.5. (no change)

CONDUCT OF PROCEEDINGS

SEC. [7.4] 7.6. (no change)

[APPEALS COMMITTEE]

[Rule 2.9. The Appeals Committee shall consist of at least seven members of the Exchange. The presence of a majority of the members of the Committee shall constitute a quorum for the transaction of business. The members of the Appeals Committee shall not serve on any other Exchange Committee during the term of their service on the Appeals Committee.]

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed Constitutional revisions is (1) to broaden the number of issues which may be considered at the Annual Election Meeting of the Membership, and (2) to ensure more balanced representation from among all Exchange members on the Nominating and Appeals Committees.

With respect to section 3.2 of the Constitution, a literal reading of the provisions of that section indicates that the Membership of the Exchange shall only consider the election of directors and the members of the Nominating Committee at the Annual Election Meeting. With a membership body which presently exceeds 1300, it is not administratively expedient to conduct an Annual Meeting of Members and be restricted from considering any business other than the election of certain officials. Therefore, in addition to some small word changes necessary to reflect the provisions of new section 7.3, the proposed revisions to section 3.2 will enable the Exchange to consider any other lawful business at its Annual Election Meeting.

The proposed revisions to section 4.1 would mandate that individuals with a number of different perspectives be elected to the Nominating Committee. Through the expansion of the categories of people required to be elected to the Nominating Committee, it is believed that the Committee's candidate selection process will result in the nomination of balanced slates of candidates for the Board, the Nominating Committee and, as proposed, the Appeals Committee. Furthermore, the proposed reduction in the term of office and the resultant higher rate of turnover will provide an opportunity for a greater number of people to serve on that Committee.

The proposed new section 7.3, dealing with the Appeals Committee, further reflects the Exchange's desire to ensure balanced representation on Exchange Committees. Since the Appeals Committee scope is so broad, i.e., hearing grievances resulting from all Exchange Committee and departmental actions, save only the Business Conduct and Arbitration Committees, it is important that members of the Appeals Committee reflect a fair representation of all Exchange members. Furthermore, since the jurisdiction of the Committee is so extensive, it was concluded that all Appeals Committee members, except the Chairman, should be elected by the membership. The Chairman of the Appeals Committee would, under the proposal, be chosen from among the members of the Board so as to provide a liaison capability between the Board and the Committee.

The remaining proposed changes to Constitutional section 3.2, 4.3, 5.3, 7.3, 7.4, Rule 2.9 and the introduction of new Section 7.4 reflect technical revisions required by the changes in the rules discussed above. It is proposed that section 3.2, Annual Election Meeting, be revised to add that expiring terms and vacancies in unexpired terms on the Appeals Committee would be filled at the annual election meeting. Section 4.3, Nominating Procedure, would be revised to require the nomination of persons to fill expiring terms and vacancies in unexpired terms on the Appeals Committee. In addition, the proposed section 4.3 revisions would require the nomination of persons to the Nominating and Appeals Committees which meet the requirements of section 4.1, as amended, and new section 7.3, respectively. It is proposed that section 5.3, Counting of Ballots, include the manner in which ballots would be counted with respect to the election of the members of the Nominating and Appeals Committees. Section 7.3, Other Committees, and section 7.4, Conduct of Proceedings, would be respectively renumbered as sections 7.5 and 7.6 and would otherwise remain unchanged. Rule 2.9 would be deleted, since the subject matter covered there is proposed to

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be replaced by new section 7.3. New Appeals Committee Vacancies, as proposed, would enable the Chairman of the Board to designate new members of the Appeals Committee when vacancies occurred.

The expansion of the number of issues which may be lawfully presented at an Annual Election Meeting of Members is consistent with section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which, in part, requires that an exchange's rules relate not only to the administration of the Exchange but also to the provisions of the Act.

Section 6(b)(3) of the Act which requires that the Exchange assure a fair representation of its members in the selection of its directors and administration of its affairs provides the basis for the proposed changes in the composition of the members of the Nominating and Appeals Committees.

The proposed Constitutional changes will be submitted to the vote of the Membership on September 13, 1976.

The proposed rule change will not impose any burden upon competition.

On or before October 1, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 23, 1976.

[FR Doc.76-25147 Filed 8-26-76;8:45 am]

[File Nos. 7-4867—7-4870]

COLT INDUSTRIES, INC. ET AL.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 23, 1976.

In the matter of applications of the Philadelphia Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Colt Industries, Inc., Common Stock, $1 Par Value, File No. 7-4867.
Gould, Inc., Common Stock, $4 Par Value, File No. 7-4868.
Inmont Corporation, Common Stock, $5 Par Value, File No. 7-4869.
McDermott (J. Ray) & Co., Incorporated, Common Stock, $1 Par Value, File No. 7-4870.

Upon receipt of a request, on or before September 8, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-25146 Filed 8-26-76;8:45 am]

[Release No. 34-12720; File No. SR-DTC-76-9]

DEPOSITORY TRUST CO.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976 the abovementioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change.

The following legend which is to be stamped on the coupon form of interchangeable corporate debt securities deposited at The Depository Trust Company (DTC) has been changed by addition of the italicized words.

This security is the property of The Depository Trust Company of 55 Water Street New York, New York *for deposit only with the bond/debenture registrar for exchange into fully registered bonds/debentures.*

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

3. *Purpose of proposed rule change.* The purpose of the proposed rule change is to comply with the recommendation of authenticating trustees, transfer agents and registrars for interchangeable corporate debt securities with respect to the legend to be stamped on the coupon form of such securities deposited at DTC. The addition to the legend strengthens the existing notice of adverse claim.

4. *Basis under the act for proposed rule change.* (a) Not Applicable.

(b) The proposed rule change relates to DTC's carrying out the purposes of section 17A of the Securities Exchange Act of 1934 (the Act) by increasing DTC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions in that the proposed rule change will encourage immobilization of interchangeable corporate debt securities.

(c) Not Applicable.

5. *Comments received from members, participants or others on proposed rule change.* DTC changed the legend to be stamped on the coupon form of interchangeable corporate debt securities deposited at DTC on the recommendation of authenticating trustees, transfer agents and registrars for such securities who had reviewed draft procedures for DTC's coupon bond deposit service.

6. *Burden on competition.* None.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 17, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 19, 1976.

[FR Doc. 76-25148 Filed 8-26-76; 8:45 am]

[812-3690]

LAFITTE COMPANY, INC.

Filing of Application for Exemption From All Provisions of the Act

Notice is hereby given that The Lafitte Company, Inc. ("Lafitte"), 6100 Dutchmans Lane, Louisville, Kentucky 40205, a Delaware corporation, filed an application on December 22, 1975, and amendments thereto on February 9, 1976, April 28, 1976, May 26, 1976, and July 20, 1976, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission exempting Lafitte, subject to certain conditions, from all provisions of the Act and the Rules and Regulations promulgated thereunder for a period of one year. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Lafitte was incorporated in Delaware in 1946 and has, to date, been primarily engaged in the business of exploring for and extracting oil and gas in Louisiana and Kentucky. Lafitte also owns a significant portfolio of investment securities.

Shortly after its organization, Lafitte issued shares of its common stock for certain assets of Louisville Refining Company. These assets consisted primarily of working interests in certain oil and gas properties located in Louisiana and fee interests in certain oil and gas properties located in Kentucky.

Lafitte directly explored for and extracted oil and gas from its Louisiana properties until April of 1947 when it entered into a unitization agreement with Texaco, Inc. Lafitte's primary activity in connection with the agreement, which is still in effect, is the monitoring of Texaco's field operations. The Louisiana properties have been the major source of Lafitte's income. The current fair market value of these properties is estimated to be between $1.6 million and $2.1 million. Lafitte estimates that these properties will be depleted in five to ten years.

Lafitte began developing certain of its Kentucky properties in 1952 and continued to operate portions of these properties until June 1, 1975, when it sold all of its producing working interests. Lafitte continues to own approximately 29,000 acres of oil and gas properties in Kentucky. Its income from these properties consists of rentals and oil royalties. Lafitte also owns approximately 23,000 acres of gas producing properties in Kentucky. These properties are being operated by unaffiliated gas companies, and Lafitte's income from these properties consists, primarily, of gas royalties. The current fair market value of Lafitte's Kentucky properties is approximately $250,000.

Lafitte's oil and gas operations have been consistently profitable and have generated substantial amounts of cash income which has been invested in securities. The curetailment of drilling and exploration activity in Kentucky during the late 1960's and early 1970's resulted in further capital accumulation and investment in securities.

Lafitte's stock is owned by 113 stockholders. It has never made, is not making, and does not propose to make a public offering of its securities.

Section 3(a)(3) of the Act, in pertinent part, defines an investment company to mean any issuer which is engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns investment securities having a value exceeding 40 percent of the value of such issuer's total assets, exclusive of Government securities and cash items, on an unconsolidated basis.

As of December 31, 1975, Lafitte owned investment securities having a market value of approximately $5.9 million. These securities represent approximately 70 percent of the value of Lafitte's total assets, exclusive of Government securities and cash items, on an unconsolidated basis. Lafitte therefore comes within the definition of an investment company set forth in section 3(a)(3) of the Act.

Lafitte contends that it is a private company; rather than a public company, and, thus, the type of company intended to be exempted from the Act. It therefore has requested an order of the Commission, pursuant to section 6(c) of the Act, exempting it, subject to certain conditions, from all provisions of the Act and the rules and regulations promulgated thereunder for a period of one year. Section 6(c) of the Act, as here pertinent, provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision or provisions of the Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Lafitte asserts that private investment companies were not intended to be within the purview of the Act and further asserts that section 3(c)(1) of the Act was designed to exclude such private investment companies from the definition of an investment company. Section 3(c)(1) of the Act, in pertinent part, provides that, notwithstanding the definition of an investment company set forth in section 3(a) of the Act, any issuer whose outstanding securities are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Lafitte is not making and does not presently propose to make a public offering of its securities, but its common stock is beneficially owned by 113 persons. Lafitte asserts that, even though it has 113 shareholders, it is a private company to which the exception provided by section 3(c)(1) was directed. Lafitte states that the 100 shareholder limitation is section 3(c)(1) of the Act is an arbitrary figure and that additional factors are to be weighed in determining whether an issuer is a public or a private company.

In support of its contention that it is a private company, Lafitte states that no public exchange or over-the-counter market exists, or has ever existed, in its common stock, and that disposal of shares by sale is rare with only 29 such transactions in the period from 1946 to 1975.

Lafitte further asserts that it has never made a public offering of its common stock and that all of its original shareholders were founders of Lafitte, their personal or business friends, or employees, or principals of small businesses which were acquired and subsequently operated by Lafitte. Lafitte represents that, while a total of 93 persons acquired shares directly from Lafitte during the period 1946 to 1975, only 29 of its present shareholders so acquired their shares and that 79 of its present shareholders acquired their shares as the result of intra-family devises and bequests. Lafitte states that only 6 of its present shareholders acquired their shares solely as a result of purchases from existing shareholders and that these transactions involved less than 1 percent of Lafitte's outstanding securities.

Lafitte states that 75 percent of its stock is closely held by members of three founding families and that a member or representative of each family is currently active in the conduct of Lafitte's business.

Lafitte asserts that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and purposes of the Act.

Lafitte consents and agrees that any order issued by the Commission pursuant to this Application shall be effective for a period of one year, subject to the conditions that Lafitte's securities are not beneficially owned by more than 135 persons and that no registered broker-dealer initiates a regular trading market in its securities.

At the end of the one-year period, Lafitte expects either to have less than 100 shareholders, to be primarily engaged in a non-investment company business, or to have taken substantial steps toward implementing a plan of liquidation, distribution and dissolution. If, at the end of the one year period, Lafitte is still an investment company within the meaning of the Act, Lafitte states that it will promptly register as such with the Commission.

Lafitte further represents that it is presently negotiating with Sabine Royalty Corporation ("Sabine") of Dallas, Texas concerning the sale of substantially all of Lafitte's assets to Sabine. If the proposed sale is consummated, Lafitte will be liquidated and all of Lafitte's assets, less those assets retained to meet claims, will be distributed in complete liquidation within a twelve month pe-

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riod beginning on the date of the adoption of Lafitte's plan of complete liquidation.

Notice is further given that any interested person may, not later than September 13, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 600 miles from the point of mailing) upon Lafitte at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 13, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–25143 Filed 8–26–76;8:45 am]

[70–5889]

MIDDLE SOUTH UTILITIES, INC. ET AL.

In the matter of Middle South Utilities, Inc., 280 Park Avenue, New York, New York 10017; System Fuels, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Arkansas Power & Light Company, Ninth and Louisiana Streets, Little Rock, Arkansas 72203; Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174; Middle South Energy, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Middle South Services, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205; New Orleans Public Service, Inc., P.O. Box 80340, New Orleans, Louisiana 70160.

Nuclear Fuel Procurement Program

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L") and New Orleans Public Services, Inc. ("NOPSI") (collectively referred to as "System Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("MSU"), a registered holding company, have filed with this Commission an application pursuant to Sections 12(b), 12(f) and 15 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 87(b)(4), 90 and 91 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to said application, which is summarized below for a complete statement of the proposed transactions.

System Fuels, Inc. ("SFI") is a jointly owned, nonutility, fuel supply subsidiary company of the System Companies. Pursuant to HCAR No. 17400 (December 17, 1971) SFI has carried out, during the period since its organization in 1972, an extensive program for the centralized procurement, storage and transportation of fuel for the system companies of MSU.

To date, SFI primarily has been engaged in programs related to fossil fuels. SFI now proposes to initiate a plan to extend the benefits of centralized procurement to nuclear fuel in order to accommodate MSU's increased commitment to nuclear power.

In effectuating the nuclear fuel procurement program, SFI will undertake the responsibility of contracting for the acquisition, conversion and enrichment of those nuclear materials required for the fabrication of nuclear fuel which may be utilized for any of the present or proposed system nuclear units. The System Companies have one nuclear unit that was placed in commercial operation in December of 1974 (Unit No. 1 of AP&L's Arkansas Nuclear One). Expenditures for nuclear fuel and related services are currently being made for four other nuclear units presently under construction.

SFI will establish an inventory of materials during their various stages of processing. Such components include U_3O_8 concentrates or yellowcake produced by the mining and milling of uranium ore, unenriched UF_6 produced by the conversion of yellowcake and enriched UF_6. It is proposed that SFI would inventory and sell to the System Companies enriched UF_6. Sales between SFI and the System Companies will be made at cost in accordance with Rules 90 and 91 of the Act. Each System Company will contract for the fabrication of its own nuclear fuel and continue to own (or sell and lease back) the nuclear fuel during its use. When shipped to a fabrication facility, enriched UF_6 is changed into UO_2, made into pellets and inserted into rods for a fuel assembly—which would typically be appropriate for use only in a specific unit.

Two alternatives have been proposed as to the use of the spent fuel residuals. Either SFI will purchase the spent fuel residuals from System Companies or one System Company may sell spent fuel residual to another System Company.

Should SFI purchase the spent fuel residuals, SFI may either sell the spent fuel residuals or dispose of nuclear waste to third parties. Any funds received by SFI from such sales would be used by SFI for its acquisition of other nuclear materials and would accordingly reduce the cost of nuclear materials sold by SFI to the system companies. Subsequent transfers of nuclear materials and spent fuel within the system by system companies will be at cost in accordance with Rule 87(b)(4). Such transfer sales will be reported to the Commission by a Rule 24 certificate filed on a quarterly basis.

In connection with the initiation of SFI's nuclear fuel procurement program, SFI will acquire certain nuclear materials and services from certain system companies.

AP&L has sufficient commitments for a supply of U_3O_8 and UF_6 through 1989. SFI proposes to purchase from AP&L, approximately 105,000 pounds of U_3O_8 ("yellowcake") and approximately 339,500 kilograms of unenriched UF_6, which are in excess of AP&L's requirements through 1989. SFI will pay AP&L an amount equal to the actual costs incurred by AP&L for this yellowcake, plus applicable allowance for funds used during construction ("AFDC"). As of May 31, 1976, this amounted to $835,382. The UF_6 is to be delivered by the Kerr McGee Corporation ("Kerr McGee") under a sales agreement between AP&L and Kerr McGee dated July 14, 1970. The estimated delivery schedule and the presently estimated cost associated with each delivery of UF_6 is as follows:

Estimated delivery date	Approximate quantity to be delivered (Kg U as UF_6)	Estimated cost (in thousands)
September 1976	119,000	$3,426
April 1977	36,000	1,037
August 1977	34,500	994
September 1977	150,000	4,320
Total	339,500	9,777

SFI will pay AP&L an amount equal to actual costs as incurred by AP&L for this UF_6. In addition, SFI proposes to acquire by assignment from LP&L an enrichment contract between LP&L and the United States of America ("USA") dated December 31, 1973, and to acquire from Middle South Energy, Inc. ("MSE"), a subsidiary of MSU two enrichment contracts with the USA dated May 24, 1974. These three enrichment contracts were originally intended to cover the enrichment requirements of LP&L's Waterford Unit Three and Unit One and Unit Two of MSE's Grand Gulf Generating Station, respectively. However, the separative work units (the units of enrichment services) to be provided under these three contracts may be used in connection with the supply of fuel for any nuclear reactor in the System.

SFI will pay LP&L $3,804,900 (plus AFDC amounting to $392,380 at May 31, 1976) as a refund of down payments made under the contract to be assigned by LP&L. Also, SFI will pay MSE a total of $8,593,200 (plus AFDC amounting to $701,167 at May 31, 1976) as a refund of down payments made under the two enrichment contracts to be assigned by MSE.

SFI also proposes to acquire by assignment an enrichment contract between AP&L and the USA dated April 12, 1971 and a conversion contract between AP&L and Eldorado Nuclear Limited, dated September 20, 1971. In addition, SFI proposes to acquire by assignment from Middle South Services, Inc. ("MSS") a yellowcake supply contract with an affiliated company of the Rio Tinto-Zinc Corporation, dated September 11, 1975, and a conversion contract with Allied Chemical Corporation, dated August 22, 1975.

In order to assure any party contracting with SFI that SFI will perform, the System Companies propose to take such action as may be appropriate to keep SFI in a sound financial condition. Any such indemnification will be based on the System Companies ownership of the common stock of SFI. Where the above assurances of the System Companies are inadequate, MSU will guarantee the performance of SFI. Any such assurances of the System Companies and/or MSU will be subject to the provisions of sections 12(b) and 12(f) of the Act.

Under its current program for the procurement of fuel for the System Companies SFI has a loan agreement with the System Companies which provides for the borrowing of up to $130,000,000 in 1976 (HCAR No. 19314, December 24, 1975). SFI also proposes to fund its 1976 expenditures for the nuclear fuel procurement program through loans from the system companies under the loan agreement. Estimated expenditures will be approximately $17,753,029 through calendar year 1976.

SFI proposes to utilize the expertise of the System Companies on a cost basis as and when requested in specialized areas. This is to avoid duplicated services within the system and to facilitate more efficient and economical nuclear fuel procurement activities for the system.

The Nuclear Regulatory Commission has jurisdiction over the ownership and possession of certain nuclear materials. It will be necessary for the Energy Research and Development Administration to consent to the assignment of the enrichment contracts. No other State commission and no Federal commission, other than this Commission, have jurisdiction over the proposed transaction. No fees and expenses are anticipated to be incurred in connection with this transaction.

Notice is further given that any interested person may, not later than September 13, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–25144 Filed 8–26–76;8:45 am]

[File Nos. 7–4871, 7–4872]

NICOR, INC. AND MGIC INVESTMENT CORP. (WISCONSIN)

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 23, 1976.

In the matter of applications of the Philadelphia Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

NICOR, Inc., Common Stock, $5 Par Value, File No. 7–4871.
MGIC Investment Corporation (Wisconsin), Common Stock, $1 Par Value, File No. 7–4872.

Upon receipt of a request, on or before September 8, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76–25145 Filed 8–26–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10–0152]

BRITTANY CAPITAL CORP.

Voidance of Approval of Transfer of Control of Licensed Small Business Investment Company

On June 9, 1976, the Small Business Administration (SBA) approved the transfer of control of Brittany Capital Corporation (Brittany), 4325 Republic Bank Tower, Dallas, Texas 75201, a Federal Licensee under the Small Business Investment Act of 1958, as amended, to Rambin Financial Corporation.

On August 10, 1976, SBA was notified that the proposed transaction was never consummated. Therefore, this notice will void the aforementioned approval.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 20, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76–25210 Filed 8–26–76;8:45 am]

[License No. 01/01–0031]

SCI-TRONICS FUND, INC.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Sci-Tronics Fund, Inc. (SBIC), 142 Main Street, Nashua, New Hampshire 03060, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

SBIC is wholly owned by Messrs. Carl H. Novotny and Robert P. Walker, Messrs. Novotny and Walker also own American Program Bureau (APB), a business located at 850 Boylston Street, Boston, Massachusetts, which is engaged in the business of management of speaking engagements and personal appearances. Mr. Alan Jacobs is an employee (clerk) of APB and is under the indirect control of Messrs. Novotny and Walker and is deemed an Associate of the SBIC pursuant to § 107.3 of the regulations.

Messrs. Alan Jacobs, Eugene Perkins and Sheldon Feinstein are equal partners in Tripart Associates (Tripart), a Massachusetts partnership located at 655 Boylston Street, Boston, Massachusetts. Tripartis comprised of Entertainment Resources, Inc., Franchise Management Corporation of America, Inc., and Advertising and Design Services, Inc., and is engaged in the business of providing marketing and sales consulting services which include engaging and booking talents in the entertainment business, locating people for buying franchises and fast food operations, and promoting credit cards. Tripart is being financed by the SBIC in the amount of $70,000.

V 41 168 AUG 27 76 UMI

Since Mr. Jacobs is a general partner in Tripart Associates, Tripart Associates is also an Associate of the SBIC, and the financing falls within the purview of § 107.1004(b) (1) of the Regulations and requires the written approval of SBA.

Notice is further given that any person may, not later than fifteen days from the date of the publication of this notice, submit to SBA, in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by SBIC in newspapers of general circulation in Nashua, New Hampshire, and Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 18, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-25211 Filed 8-26-76;8:45 am]

[License No. 09/09-5176]

SPACE VENTURES, INC.

Application for Approval of a Conflict of Interest Transaction

The Notice is hereby given that Space Ventures, Incorporated (Space), 500 East Carson Drive, Suite 214, Carson, California 90745, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to 13 CFR 107.1004 (1976) for approval of a conflict of interest transaction.

It is proposed that Space provide $50,000 in financing to Space Spin-Offs, Inc. (Spin-Off), Security Bank Building, 110 Pine Avenue, Suite 1216, Long Beach, California 90802, of which $40,000 will be in the form of a subordinated long-term loan and $10,000 for no more than 10 percent of the common stock of the small concern. The financing is part of a $360,000 package.

Spin-Offs obtained an exclusive license from the Rocketdyne Division (Rocketdyne) of Rockwell International Corporation (Rockwell) to manufacture and commercially introduce a Rocketdyne-patented water turbine called the "Hydrotool". Spin-Off agreed to pay Rocketdyne a license fee and royalties based on sales. Rocketdyne is a division of Rockwell and Space is a wholly-owned subsidiary of Rockwell.

Pursuant to the definition of Associate in § 107.3 of the regulations, Rocketdyne is considered to be an associate of Space. Consequently, the transaction falls within the purview of § 107.1004(b) (4) and (5) of the regulation requiring prior written approval of the Small Business Administration (SBA).

Notice is further given that any person may, on or before September 13, 1976, submit to SBA, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Program No. 59011 Small Business Investment Companies)

Dated: August 18, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-25212 Filed 8-26-76;8:45 am]

[Declaration of Disaster Loan Area No. 1270, Amdt. No. 1]

VERMONT

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 35107) is hereby amended as a result of severe storms and flooding associated with Hurricane Belle beginning about August 9, 1976, to include the additional counties of Addison, Caledonia, Chittenden, Franklin, Lamoille, Orleans, Washington, and Windham Counties and adjacent counties within the State of Vermont, and to extend the filing date for physical damage until close of business on October 14, 1976, and for economic until close of business on May 13, 1977.

Dated: August 18, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-25209 Filed 8-26-76;8:45 am]

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

FREEDOM OF INFORMATION ACT

Procedures

Anyone seeking information from the Harry S. Truman Scholarship Foundation under 5 U.S.C. 552, the Freedom of Information Act, should contact the Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006. Requests should be in writing, addressed to the Deputy Executive Secretary.

Dated: August 24, 1976.

ROBERT E. CLEARY,
Executive Secretary.

[FR Doc.76-25222 Filed 8-26-76;8:45 am]

PRIVACY ACT 1974

Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 Pub. Law 93-579, 5 U.S.C. 552a, the Harry S. Truman Scholarship Foundation hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Foundation. Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006. Comments should be submitted on or before September 27, 1976. The Foundation procedures for access to records in the systems are contained in 45 CFR Part 1800, as published in this issue of the FEDERAL REGISTER on page 36222.

Dated: August 24, 1976.

ROBERT E. CLEARY,
Executive Secretary.

TSF-1

System name: Payroll Records—Harry S Truman Scholarship Foundation.

System location: General Services Administration, Region 3 Office; copies held by the Foundation. (GSA holds records for the Foundation under contract.)

Categories of individuals covered by the system: Past and present Foundation employees.

Categories of records maintained in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W2 forms; overtime requests; leave data; retirement records. Records are used by Foundation and GSA employees to maintain adequate payroll information for Foundation employees, and otherwise by Foundation and GSA employees who have a need for the record in the performance of their duties.

Authority for the system: 31 U.S.C., generally.

Routine use of records: See appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

Records are also disclosed by providing a copy of an employee's Federal Treasury Form W-2, "Wage and Tax Statement" to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520 or in the absence thereof, in response to a written request for an appropriate official of the taxing jurisdiction to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006. In the latter case, the request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and the solicitation of the Social Security number, and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520) copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

(1) *Storage:* Paper and microfilm.

(2) *Retrievability and accessing:* Social Security Number.

(3) *Safeguards:* Stored in guarded building; released only to authorized personnel.

(4) *Retention and disposal:* Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006.

Notification procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting records procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Categories of sources of records in the system: The subject individual; the Foundation.

TSF-2

System name: General Financial Records—Harry S. Truman Scholarship Foundation.

System location: General Services Administration, Central Office; copies held by the Foundation. (GSA holds records for the Foundation under contract.)

Categories of individuals covered by the system: Employees of the Foundation and members of its Board of Trustees.

Categories of records maintained in the system: SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Foundation who have a need for the record in the performance of their duties.

Authority for the system: 31 U.S.C., generally; also, the Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine use of records: See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

(1) *Storage:* Paper and tape.

(2) *Retrievability and accessing:* Manual and automated by name.

(3) *Safeguards:* Stored in guarded building; released only to authorized personnel.

(4) *Retention and disposal:* Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006.

Notification procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting records procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Categories of sources of records in the system: The subject individual; the Foundation.

TSF-3

System name: General Informational Files—Harry S. Truman Scholarship Foundation.

System location: Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006.

Categories of individuals covered by the system: Foundation employees and members of its Board of Trustees.

Categories of records maintained in the system: General personnel information, including, among other data, copies of training and travel records, applications, suggestions, position descriptions, request for and notification of personnel action, employee performance ratings and promotion appraisals, time and attendance records, security clearances, titles, date of birth, grade, salary, employment history, home address, age, marital status, Social Security Number, home telephone number, resumes, general correspondence, and letters of recommendation. System also contains copies of official Civil Service Commission and Foundation personnel forms.

Authority for the system: 5 U.S.C., generally; also, the Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine use of records: See appendix. Completion of agency forms for requests for personnel actions, security clearances, training authorizations, travel authorizations, time and attendance records, reports, etc. Also used for issuing passes, motor pool ID, etc. Information is used "in house" for personnel evaluation and management. Information is disclosed to persons outside the agency for verifying employment/salary, preparing letters of reference at the request of the employee, making travel and training arrangements, and furnishing copies of performance appraisals to other government agencies when employees have applied for jobs elsewhere.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

(1) *Storage:* Paper files.

(2) *Retrievability and accessing:* Manual; by name.

(3) *Safeguards:* Stored in guarded building; released only to authorized personnel.

(4) *Retention and disposal:* Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006.

Notification procedures: Refer to Foundation access regulation contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting records procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Categories of sources of records in the system: Official personnel records, GSA Personnel and Finance Offices, Supervisors, letters of reference or recommendation furnished by agency officials or persons from private industry, educational information supplied by colleges and universities, the subject individual.

TSF-4

System name: Applicant's Records—Harry S. Truman Scholarship Foundation.

System location: Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006, and Educational Testing Service, Princeton, NJ.

Categories of individuals covered by the system: Persons nominated by colleges and universities in the United States, for consideration as potential Truman Scholars.

Categories of records maintained in the system: Documents and certifications to assist Foundation staff in evaluating a person's application for a Truman Scholarship, including, among other documents, a listing of leadership positions held in high school and college; and of public service activities; letters of recommendation; test results; personal essay on the applicant's interest in entering public service; a statement of intent to enter the public service; certifications as to U.S. citizenship and academic standings; test scores.

Authority for the system: The Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine use of records: See appendix. Records also are released to experts and consultants hired by the Foundation or its administrative agent, Educational Testing Service, for evaluation and recommendation with respect to applicants' qualifications for a Truman Scholarship.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

(1) *Storage:* Paper.

(2) *Retrievability and accessing:* Manual and automated by name.

(3) *Safeguards:* Stored in a guarded building; released only to authorized personnel.

(4) *Retention and disposal:* Foundation retains records only of those chosen as finalists in competition (Truman Scholars and alternates); all others are destroyed.

System manager: Executive Secretary, Harry S. Truman Scholarship Founda-

V 41 168 AUG 27 76 UMI

tion, 712 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting records procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Categories of sources of records in the system: The subject individual; the nominating institution; reference supplied by the subject individual.

Appendix—Harry S. Truman Scholarship Foundation

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or protential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

[FR Doc.76-25250 Filed 8-26-76;8:45 am]

VETERANS ADMINISTRATION

ADMINISTRATOR'S EDUCATION AND REHABILITATION ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Education and Rehabilitation Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on September 28, 1976, at 9:30 a.m. The meeting will be for the purposes of reviewing the Veterans Administration's educational program and actions taken to eliminate program abuse.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Mr. C. L. Dollarhide, Deputy Director, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202-389-2152), prior to September 23.

Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at 2:30 p.m. on September 28, 1976.

Dated: August 24, 1976.

By direction of the Administrator.

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

[FR Doc.76-25170 Filed 8-26-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list below. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924 (b), 1932, or 1942 (b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C., this 23d day of August 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending Aug. 20, 1976

Name of applicant	Location of enterprise	Principal product or activity
Farm Fresh Meats, Inc	Robertsdale, Ala	Custom meat processing.
Sport-Craft, Inc	Perry, Fla	Boat building and repairing.
Hanover Development Corp	Blackville, S.C	Textile plant.
Ira Higdon Grocery Co. (tenant of city of Cairo).	Cairo, Ga	Wholesale grocer.
Samnel Sales and Morris N. Stein	Seneca, S.C	Leasing of textile warehouse.
Tri-County Paving Co., Inc	Dickson, Tenn	Asphalt surfacing.
Albert Francis Harris, trading as Intermediate Care Facilities.	Stokesdale, N.C	Intermediate nursing care.
Yorde Machine Products Co	Nelsonville, Ohio	Manufacture of cylinder components.
Universal Sanitary Equipment Manufacturing Co., Inc.	Tomah, Wis	Manufacture of sewage pump stations and water booster plants.
Hollytex (tenant of Watonga Public Works Authority).	Watonga, Okla	Manufacture of carpet yarn.
Kruger Chemical Co	Firebaugh, Calif	Sales and application of agricultural chemicals
Tam Ply, Inc	Gold Beach, Oreg	Manufacture of box shook and wood chips.
Stein Bros., Inc	Rathdrum, Idaho	Sale of groceries.
Lyle H. Peterson	Big Springs, Idaho	Motel, restaurant, and grocery store.
G.I.W., Inc	Milroy, Pa	Manufacture and sale of electric wire, cable, and cordsets.

[FR Doc.76-25158 Filed 8-26-76;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Ending of Federal Supplemental Benefit Period in Montana

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Montana effective August 28, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Montana on January 26, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Montana has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on August 7, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Montana for the week ending on August 7, 1976, and that the Federal Supplemental Benefit Period in that State terminates on August 28, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Montana Division of Employment Security, Department of Labor, of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Montana should contact the nearest Employment Service Office of the Montana Employment Security Division in their locality.

Signed at Washington, D.C., on August 23, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-25242 Filed 8-26-76;8:45 am]

Office of Employee Benefits Security

EMPLOYEE BENEFIT PLANS

Advisory Opinion Procedure

It is the practice of the Department of Labor (the Department) to answer inquiries of individuals or organizations affected, directly or indirectly, by the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, hereinafter "the Act") as to their status under the Act and as to the effect of certain acts and transactions. The answers to such inquiries are categorized as "information letters" and "advisory opinions." This "ERISA Procedure" (ERISA Proc. 76-1) describes the general procedures of the Department in issuing information letters and advisory opinions under the Act, and is designed to promote efficient handling of inquiries and to facilitate prompt responses.

Section 7 of this procedure (instructions to individuals and organizations requesting advisory opinions relating to prohibited transactions and common definitions) is reserved. This section will set forth the procedures to be followed to obtain an advisory opinion relating to prohibited transactions and common definitions, such as whether a person is a party in interest and a disqualified person. In general, this section will incorporate a revenue procedure to be published by the Internal Revenue Service.

This advisory opinion procedure consists of rules of agency procedure and practice, and is therefore excepted under 5 U.S.C. 552(b)(3)(A) of the Administrative Procedure Act from the ordinary notice and comment provisions for agency rulemaking. Accordingly, the procedure is effective August 27, 1976.

SECTION 1. *Purpose.* The purpose of this ERISA Procedure is to describe the general procedures of the Department of Labor (the Department) in issuing information letters and advisory opinions to individuals and organizations under

V 41 168 AUG 27 76 UMI

the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406), hereinafter referred to as "the Act". This ERISA Procedure also informs individuals and organizations, and their authorized representatives, where they may direct requests for information letters and advisory opinions, and outlines procedures to be followed in order to promote efficient handling of their inquiries.

SEC. 2. *General practice.* It is the practice of the Department to answer inquiries of individuals and organizations, whenever appropriate, and in the interest of sound administration of the Act, as to their status under the Act and as to the effects of their acts or transactions. One of the functions of the Department is to issue information letters and advisory opinions in such matters.

SEC. 3. *Definitions.* .01 An "information letter" is a written statement issued either by the Pension and Welfare Benefit Programs (Office of Employee Benefits Security), U.S. Department of Labor, Washington, D.C. or a Regional Office or an Area Office of the Labor-Management Services Administration, U.S. Department of Labor, that does no more than call attention to a well-established interpretation or principle of the Act, without applying it to a specific factual situation. An information letter may be issued to any individual or organization when the nature of the request from the individual or the organization suggests that it is seeking general information, or where the request does not meet all the requirements of section 6 or 7 of this procedure, and it is believed that such general information will assist the individual or organization.

.02 An "advisory opinion" is a written statement issued to an individual or organization, or to the authorized representative of such individual or organization, by the Administrator of Pension and Welfare Benefit Programs or his delegate, that interprets and applies the Act to a specific factual situation. Advisory opinions are issued only by the Administrator of Pension and Welfare Benefit Programs or his delegate.

.03 Individuals and organizations are those persons described in section 4 of this procedure.

SEC. 4. *Individuals and organizations who may request advisory opinions or information letters.* .01 Any individual or organization affected directly or indirectly, by the Act may request an information letter or an advisory opinion from the Department.

.02 A request by or for an individual or organization must be signed by the individual or organization, or by the authorized representative of such individual or organization. See section 7.03 of this procedure.

SEC. 5. *Discretionary Authority to Render Advisory Opinions.* .01 The Department will issue advisory opinions involving the interpretation of the application of one or more sections of the Act, regulations promulgated under the Act, interpretive bulletins, or exemptions issued by the Department to a specific factual situation. Generally, advisory opinions will be issued by the Department only with respect to prospective transactions (i.e., a transaction which will be entered into). Moreover, there are certain areas where, because of the inherently factual nature of the problem involved, or because the subject of the request for opinion is under investigation for a violation of the Act, the Department ordinarily will not issue advisory opinions. Generally, an advisory opinion will not be issued on alternative courses of proposed transactions, or on hypothetical situations, or where all parties involved are not sufficiently identified and described, or where material facts or details of the transaction are omitted.

.02 The Department ordinarily will not issue advisory opinions relating to the following sections of the Act:

.02(a) Section 3(18), relating to whether certain consideration constitutes adequate consideration;

.02(b) Section 3(26), relating to whether the valuation of any asset is at current value;

.02(c) Section 3(27), relating to whether the valuation of any asset is at present value;

.02(d) Section 102(a)(1), relating to whether a summary plan description is written in a manner calculated to be understood by the average participant.

.02(e) Section 103(a)(3)(A), relating to whether the financial statements and schedules required to be included in the Annual Report are presented fairly in conformity with generally accepted accounting principles applied on a consistent basis;

.02(f) Section 103(b)(1), relating to whether a matter must be included in a financial statement in order to fully and fairly present the financial statement of the plan;

.02(g) Section 202 (other than section 202(a)(3) and (b)(1)) relating to minimum participation standards;

.02(h) Section 203 (other than sections 202(a)(3)(B), (b)(1) (flush language), (b)(2), (b)(3)(A);

.02(i) Section 204 of the Act (other than sections 204(b)(1)(B), (b)(1)(A), (C), (D), (E)), relating to benefit accrual requirements;

.02(j) Section 205(e), relating to the period during which a participant may elect in writing not to receive a joint and survivor annuity;

.02(k) Section 208, relating to mergers and consolidation of plans or transfer of plan assets;

.02(l) Section 209(a)(1), relating to whether the report required by section 209(a)(1) is sufficient to inform the employee of his accrued benefits under the plan, etc.

.02(m) Sections 302 through 305, relating to minimum funding standards;

.02(n) Section 403(c)(1), relating to the purposes for which plan assets must be held;

.02(o) Section 404(a), relating to fiduciary duties as applied to particular conduct; and,

.02(p) Section 407(a)(2) and (3) and (c)(1), relating to fair market value, as applied to whether the value of any particular security or real property constitutes fair market value.

This list is not all inclusive and the Department may decline to issue advisory opinions relating to other sections of the Act whenever warranted by the facts and circumstances of a particular case. The Department may, when it is deemed appropriate and in the best interest of sound administration of the Act, issue information letters calling attention to established principles under the Act, even though the request that was submitted was for an advisory opinion.

.03 Pending the adoption of regulations (either temporary or final) involving the interpretation of the application of a provision of the Act, consideration will be given to the issuance of advisory opinions relating to such provisions of the Act only under the following conditions:

.03(a) If an inquiry presents an issue on which the answer seems to be clear from the application of the provisions of the Act to the facts described, the advisory opinion will be issued in accordance with the procedures contained herein.

.03(b) If an inquiry presents an issue on which the answer seems reasonably certain but not entirely free from doubt, an advisory opinion will be issued only if it is established to the satisfaction of the Department, that a business emergency requires an advisory opinion or that unusual hardship to the plan or its participants and beneficiaries will result from failure to obtain an advisory opinion. In any case in which the individual or organization believes that a business emergency exists or that an unusual hardship to the plan or its participants and beneficiaries will result from the failure to obtain an advisory opinion, the individual or organization should submit with the request a separate letter setting forth the facts necessary for the Department to make a determination in this regard. In this connection, the Department will not deem a "business emergency" to result from circumstances within the control of the individual or organization such as, for example, scheduling within an inordinately short time the closing date of a transaction or a meeting of the Board of Directors or the shareholders of a corporation.

.03(c) If an inquiry presents an issue that cannot be reasonably resolved prior to the issuance of a regulation, an advisory opinion will not be issued.

.04 The Department ordinarily will not issue advisory opinions on the form or effect in operation of a plan, fund, or program (or a particular provision or provisions thereof) subject to Title I of the Act. For example, the Department will not issue an advisory opinion on whether a plan satisfies the requirements of Parts 2 and 3 of Title I of the Act.

SEC. 6. *Instructions to individuals and organizations requesting advisory opinions from the Department.* .01 If an advisory opinion is desired, a request should be submitted to: Advisory Opinion, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216.

.02 A request for an advisory opinion must contain the following information:

.02(a) The name and type of plan or plans (e.g., pension, profit-sharing, or welfare plan); the Employer Identification Number (EIN); the Plan Number (PN) used by the plan in reporting to the Department of Labor on Form EBS–1; or a copy of the first two pages of the most recent Form EBS–1 filed with the Department.

.02(b) A detailed description of the act or acts or transaction or transactions with respect to which an advisory opinion is requested. Where the request pertains to only one step of a larger integrated act or transaction, the facts, circumstances, etc., must be submitted with respect to the entire transaction. In addition, a copy of all documents submitted must be included in the individual's or organization's statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions.

.02(c) A discussion of the issue or issues presented by the act or acts or transaction or transactions which should be addressed in the advisory opinion.

.02(d) If the individual or organization is requesting a particular advisory opinion, the requesting party must furnish an explanation of the grounds for the request, together with a statement of relevant supporting authority. Even though the individual or organization is urging no particular determination with regard to a proposed or prospective act or acts or transaction or transactions, the party requesting the ruling must state such party's views as to the results of the proposed act or acts or transaction or transactions and furnish a statement of relevant authority to support such views.

.03 A request for an advisory opinion by or for an individual or organization must be signed by the individual or organization or by the individual's or organization's authorized representative. If the request is signed by a representative of an individual or organization, or the representative may appear before the Department in connection with the request, the request must include a statement that the representative is authorized to represent the individual or organization.

.04 A request for an advisory opinion that does not comply with all the provisions of this procedure will be acknowledged, and the requirements that have not been met will be noted. Alternatively, at the discretion of the Department, the Department will issue an information letter to the individual or organization.

.05 If the individual or organization, or the authorized representative, desires a conference in the event the Department contemplates issuing an adverse advisory opinion, such desire should be stated in writing when filing the request or soon thereafter in order that the Department may evaluate whether in the sole discretion of the Department, a conference should be arranged and at what stage of the consideration a conference would be most helpful.

.06 It is the practice of the Department to process requests for information letters and advisory opinions in regular order and as expeditiously as possible. Compliance with a request for consideration of a particular matter ahead of its regular order, or by a specified time, tends to delay the disposition of other matters. Requests for processing ahead of the regular order, made in writing (submitted with the request or subsequent thereto) and showing clear need for such treatment, will be given consideration as the particular circumstances warrant. However, no assurance can be given that any letter will be processed by the time requested. The Department will not consider a need for expedited handling to arise if the request shows such need has resulted from circumstances within the control of the person making the request.

.07 An individual or organization, or the authorized representative desiring to obtain information relating to the status of his or her request for an advisory opinion may do so by contacting the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C.

SEC. 7. *Instructions to individuals and organizations requesting advisory opinions relating to prohibited transactions and common definitions.* .01 [Reserved]

.02 [Reserved]

.03 [Reserved]

SEC. 8. *Conferences at the Department of Labor.* If a conference has been requested, and the Department determines that a conference is necessary or appropriate, the individual or organization or the authorized representative will be notified of the time and place of the conference. A conference will normally be scheduled only when the Department in its sole discretion deems it will be necessary or appropriate in deciding the case. If conferences are being arranged with respect to more than one request for an opinion letter involving the same individual or organization, they will be so scheduled as to cause the least inconvenience to the individual or organization.

SEC. 9. *Withdrawal of requests.* The individual or organization's request for an advisory opinion may be withdrawn at any time prior to receipt of notice that the Department intends to issue an adverse opinion, or the issuance of an opinion. Even though a request is withdrawn, all correspondence and exhibits will be retained by the Department and will not be returned to the individual or organization.

SEC. 10. *Effect of Advisory Opinion.* An advisory opinion is an opinion of the Department as to the application of one or more sections of the Act, regulations promulgated under the Act, interpretive bulletins, or exemptions. The opinion assumes that all material facts and representations set forth in the request are accurate, and applies only to the situation described therein. Only the parties described in the request for opinion may rely on the opinion, and they may rely on the opinion only to the extent that the request fully and accurately contains all the material facts and representations necessary to issuance of the opinion and the situation conforms to the situation described in the request for opinion.

SEC. 11. *Effect of Information Letters.* An information letter issued by the Department is informational only and is not binding on the Department with respect to any particular factual situation.

SEC. 12. *Public inspection.* .01 Advisory opinions shall be open to public inspection at the Public Disclosure Room, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

.02 Background files (including the request for an advisory opinion, correspondence between the Department and the individual or organization requesting the advisory opinion) shall be available upon written request. Background files may be destroyed after three years from the date of issuance.

.03 Advisory opinions will be modified to delete references to proprietary information prior to disclosure. Any information considered to be proprietary should be so specified in a separate letter at the time of request. Other than proprietary information, all materials contained in the public files shall be available for inspection pursuant to section 12.02.

.04 The cost of search, copying and deletion of any references to proprietary information will be borne by the person requesting the advisory opinion or the background file.

SEC. 13. *Effective date.* This procedure is effective August 27, 1976, the date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 24th day of August 1976.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76-25168 Filed 8-26-76;8:45 am]

Occupational Safety and Health Administration

[V-76-10]

AMERICAN TOBACCO CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of Application.* Notice is hereby given that the American Tobacco Company, 245 Park Avenue, New York, New York 10017 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84

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Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance from the standards prescribed in 29 CFR 1910.159(e)(2) Automatic Sprinkler Systems—Sprinkler Head Clearance—Type II Storage.

The address of the places of employment that will be affected by the application are as follows:

Richmond Leaf Department, The American Tobacco Company, Lucky Strike Storage, 14th and Ingram Street, Richmond, Virginia 23224.
Richmond Leaf Department, The American Tobacco Company, Tom Walker Storage, 800 Jefferson Davis Highway, Richmond, Virginia 23260.
Reidsville Leaf Department, The American Tobacco Company, Lucky Strike Storage, U.S. Route 29 North, Reidsville, North Carolina 27320.
Durham Leaf Department, The American Tobacco Company, Lucky Strike Storage, Ellis Road, Durham, North Carolina 27702.
Lexington Leaf Department, The American Tobacco Company, Lexington Storage, Leestown Pike, Lexington, Kentucky 40501.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have been informed of their right to petition the Assistant Secretary for a hearing.

In accordance with the regulation published in the FEDERAL REGISTER on June 6, 1976 (40 FR 25448–50) concerning Federal and State Variances from Identical Standards, the variance application was submitted to the States of Kentucky and North Carolina for their review. Both States concur with the granting of an interim order.

Regarding the merits of the application, the applicant contends that a variance is needed from the requirements of 29 CFR 1910.159(e)(2) which requires a clearance of at least 18 inches be maintained between sprinkler deflectors and top of storage to reduce the possibility of obstruction to the distribution of water. The applicant contends that it is providing a place of employment as safe as the standard by maintaining a clearance of 8 inches between the sprinkler deflectors and top of storage.

The applicant states that it operates 72 warehouses in Richmond, Virginia; 62 warehouses in Reidsville, North Carolina; 57 warehouses in Durham, North Carolina; and 26 warehouses in Lexington, Kentucky, which are used for the storage of tobacco hogsheads. They are constructed of wood, approximately 194' long, and two sliding doors (8'8" wide by 9'6" high and 8'9" wide and 7'6" high) are located at each end of the 9' center aisle. The entrance doors are left open whenever the warehouses are occupied. There is no employee occupancy except when the tobacco is brought into or removed from storage. When work is being performed, a maximum of two employees occupy any one of the warehouses; one operates an industrial truck while the other records the hogsheads being moved for inventory purposes. When the clerical work is completed, the second man operates an additional truck.

The applicant further states that there is little wiring in the warehouses, housekeeping is excellent with no debris or foreign material. "No Smoking" signs are posted, the employees have ample clearance on either side of the industrial trucks to use the aisles as exitways, and a freestanding four hour fire resistant brick wall separates adjacent warehouses.

The applicant asserts that the hogsheads are arranged 4 rows to a bay vertically and 15 rows horizontally with 8" x 8" wood columns separating each bay. The vertical spacing permits only two hogsheads to be stacked in the outer bays where the roof is sloped to allow drainage into eave troughs in approximately one-third of the warehouses where the sprinklers clear the hogsheads by 18 inches. In the remaining bays, where the roof comes to a high point in the center, three hogsheads are stacked and the distance (8 inches) between the sprinkler deflectors and the tobacco hogsheads are determined at that point.

The applicant further states that full clearance from the floor to the sprinkler head would exist in any area that an employee would be located because the hogshead pattern does not permit penetration of the storage area.

The applicant contends that the spacing and location of its sprinkler provides a better coverage than that required by the NFPA Standards. Its protection area per sprinkler is 97.5 sq. ft. and the storage heights never exceeds 13½ feet. The NFPA Standard permits a protection area per sprinkler not exceeding 130 sq. ft. for storage heights not in excess of 15 feet. The distance between its sprinkler branch lines is 10 feet and between sprinklers on a branch line is 9 feet 9 inches, thus providing complete coverage by the sprinkler. The NFPA Standard permits a maximum distance of 15 feet between sprinkler branch lines and sprinkler on a branch line.

The applicant's fire protection system is supplied with water from two connections to a 10 inch public water pipe; a 100,000 gallon water storage tank 150 feet above ground (for fire protection only) and a 200,000 gallon ground level water storage tank which provides suction for 100 psi, 1000 gpm fire pumps.

The NFPA Standard requires that a minimum of 750 gpm of water be distributed over an area of 3,750 sq. ft. with water available for a duration of two hours and a density of .20. The applicant contends that its sprinklers distribute water at 750 gpm over a 3,750 sq. ft. area for a duration of three and one-half hours with an average available density of .24, which is 20 percent greater than that required by the standards.

Data obtained from the fire tests conducted by Factory Mutual Laboratories at one of the applicant's facilities indicate that a fire in tobacco warehouses can be adequately controlled with a system designed and installed in the manner that the applicant has done.

The applicant uses dry pipe sprinkler systems that are filled with compressed air which releases when a sprinkler head opens, reducing the pressure at the control valve and allowing water to enter the sprinkler. The applicant states that it normally takes at least a minute before water reaches the open sprinkler head which activates the water flow alarm. The applicant contends that because of the long delay between ignition of a fire and operation of a sprinkler the existence or absence of a sprinkler has no real bearing on the safety and health of the employees from an escape standpoint. In the event of a fire, the two employees could safely evacuate the warehouse prior to any fusing of a sprinkler.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, Occupational Safety and Health Administration U.S. Department of Labor, 200 Constitution Avenue, N.W. Room N3603, Washington, DC 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, OSHA, Gateway Building, Suite 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104.
U.S. Department of Labor, OSHA, Federal Building, Room 8018, 400 North 8th Street, Richmond, Virginia 23240.
U.S. Department of Labor, OSHA, 1375 Peachtree Street, N.E.—Suite 587, Atlanta, Georgia 30309.
U.S. Department of Labor, OSHA, Federal Office Building—Room 406, 310 New Bern Avenue, Raleigh, North Carolina 27601.
U.S. Department of Labor, OSHA, 600 Federal Place, Suite 554–E, Louisville, Kentucky 40202.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than September 27, 1976. In addition employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than September 27, 1976, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim Order.* It appears from the the application for a variance and interim order, from the supporting data filed by the American Tobacco Company, and the results of a variance inspection performed by the Kentucky Department of Labor that, as required by section 6(d) of the Act, the use of the applicant's sprinkler system with 8" clearance above the hogsheads will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.159(e)(2). It further apears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore, it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in 29 CFR 1905.11(c), and in Secretary's Order No. 8–76 (41 FR 25059) that the American Tobacco Company be and it is hereby authorized to maintain at all of the warehouses listed in the application, a clearance of approximately 18 inches in one-third of the warehouses where the roof slopes to allow drainage into eave troughs and a clearance of 8 inches in the remaining area, provided that the following conditions are met:

(1) The sprinkler system shall be maintained to provide 750 gallons per minute of water flow over a 3,750 square foot area for a duration of three and one-half hours with an average denisty of .24.

(2) Employees occupying any of the listed warehouses shall be instructed to immediately evacuate the warehouse upon the detection of a fire. They shall also be instructed that re-entry into the warehouse is not permitted for any reason other than rescue. New employees shall receive orientation on the evacuation procedures at the time of employment.

(3) The conditions within the warehouses, particularly the storage of tobacco hogsheads and housekeeping, shall be maintained at all times as stated in the application.

The American Tobacco Company shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of August 27, 1976, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C. this 23rd day of August, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–25233 Filed 8–26–76;8:45 am]

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24804). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corporation, its customers, the American Iron and Steel Institute, the Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

Significant total or partial separations.

The average number of production workers declined 41 percent in 1975 compared to 1974 and further declined 48 percent in the first quarter of 1976 compared to the first quarter of 1975.

Sales or production, or both, have decreased absolutely.

Sales declined 42 percent in 1975 compared to 1974 and further declined 45 percent in the first quarter of 1976 compared to the first quarter of 1975.

Increased imports.

U.S. imports of silicon steel sheet and strip declined from 60.0 thousand net tons in 1973 to 35.8 thousand net tons in 1974 before increasing to 41.9 thousand net tons in 1975. The ratio of imports to domestic consumption declined from 8.5 percent in 1972 to 4.2 percent in 1974 before increasing to 7.4 percent in 1975.

Contributed importantly.

Armco's Zanesville plant processed silicon steel produced by the Butler, Pennsylvania plant. Processing capacity became available at the Butler plant and in June 1975, Armco shifted some of this processing from Zanesville to Butler.

Customers of Armco indicated that they did not increase purchases of imported silicon steel sheet and strip in 1975. The customers felt that reduced construction of electric generating plants, lower levels of production of electric equipment and the substitution of domestically produced carbon steel for silicon in some product designs contributed to reduce demand for silicon steel sheet and strip.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with silicon steel sheet and strip produced by Armco Steel Corporation at the Zanesville, Ohio plant did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 12th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76–25237 Filed 8–26–76;8:45 am]

[TA–W–894]

BABCOCK AND WILCOX CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–894: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing seamless steel tubes and fittings at the Beaver Falls, Pennsylvania plant, Tubular Products Division of Babcock and Wilcox Company.

The Notice of Investigation was published in the FEDERAL REGISTER on June 15, 1976 (41 FR 24232). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Babcock and Wilcox Company, its customers, the American Iron and Steel Institute, the American Pipe Fittings Association, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

Office of the Secretary

[TA–W–888]

ARMCO STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA–W–888: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by the Zanesville Armco Independent Organization, Incorporated on behalf of workers and former workers producing silicon steel sheet and strip at the Zanesville, Ohio plant of Armco Steel Corporation.

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(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant total or partial separations.

Employment of production workers at the Beaver Falls plant decreased 7.9 percent the first quarter of 1976 compared to the same quarter the previous year.

Sales or production, or both, have decreased absolutely.

Sales at the Beaver Falls plant declined 7.0 percent in 1975 compared to 1974 and 18.8 percent in the first half of 1976 compared to the first half of 1975.

Increased imports.

Imports of stainless steel pipe and tubing were 12.8 thousand net tons in 1971. These imports decreased every year during the next two years to 5.3 thousand net tons in 1973 before increasing each year for the next two years to 10.9 thousand net tons in 1975. Imports of alloy steel pipe and tubing increased in every year from 34.4 thousand net tons in 1971 to 81.0 thousand net tons in 1975. Imports of carbon steel forged flanges and butt welding fittings increased to 67.1 thousand pounds in 1972 from 66.8 thousand pounds recorded in 1971. These imports declined to 50.0 thousand pounds in 1973 before increasing in both of the next two years to 153.4 thousand pounds in 1975. Imports of carbon steel pipe and tubing relative to domestic shipments increased from 27.6 percent in 1971 to 28.6 percent in 1972, decreased to 20.3 percent in 1973 and increased for the next two years to 22.8 percent in 1975.

Contributed importantly.

Customers of Babcock and Wilcox Company's Beaver Falls, Pennsylvania plant that are distributors of steel tubing indicated that they now stock more imported steel tubes and fittings primarily because of customer demand for lower prices. Other customers reported that they were losing business to distributors who deal in imports.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with seamless steel tubing and fittings produced at the Beaver Falls, Pennsylvania plant of Babcock and Wilcox contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Beaver Falls, Pennsylvania plant of Babcock and Wilcox Company who became totally or partially separated from employment on or after January 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25240 Filed 8-26-76;8:45 am]

[TA-W-891]

BEAUNIT CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-891; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by three employees on behalf of workers and former workers producing nylon and acetate tricot knit fabric at the Humacao, Puerto Rico plant of Beaunit Corporation, Raleigh, North Carolina.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 24225) on June 15, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beaunit Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

Significant Total or Partial Separations.

The average number of production workers declined 4 percent in 1974 compared to 1973. The average number of production workers declined 18 percent in the first six months of 1975 compared to the same period of 1974. All production workers were laid off at the end of June 1975.

Sales or Production, or Both, Have Decreased Absolutely.

Sales at the Puerto Rico plant declined 35 percent in 1974 compared to 1973. In the first seven months of 1975 sales declined 6 percent compared to the same period one year earlier. No sales took place after July 1975.

Production declined 32 percent in 1974 compared to 1973 and further declined 48 percent in the first six months of 1975 compared to the same period in 1974. No production took place after June 1975.

Increased Imports.

Imports of acetate and nylon tricot knit fabric increased from approximately 1.5 million pounds in 1971 to 2.9 million pounds in 1972 before declining to 1.4 million pounds in 1973 and 0.9 million pounds in 1974. In 1975 imports increased to 1.2 million pounds. The ratio of imports to domestic production increased from 0.45 percent in 1971 to 1.01 percent in 1972 before declining to 0.49 percent in 1973 and 0.33 percent in 1974. In 1975 the ratio of imports to domestic production increased to 0.41 percent.

Contributed Importantly.

Customers of Beaunit are primarily lingerie manufacturers. Customers who reduced purchases of tricot knit fabric from Beaunit reported that this was due to a decline in their own sales. These customers reported that they do not purchase imported tricot knit fabric. Some customers indicated that they had reduced purchases of tricot knits because of style changes that favored other types of knits. These customers did not purchase any imported knit fabric.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with tricot knit fabric produced at the Humacao, Puerto Rico plant of Beaunit Corporation did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 20th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25238 Filed 8-26-76;8:45 am]

[TA-W-867]

BETHLEHEM STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-867: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners at the Lebanon, Pennsylvania plant of the Bethlehem Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20942). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations.

Employment of production workers at the Lebanon plant of the Bethlehem Steel Corporation decreased 39 percent in 1975 from 1974 and decreased 45 percent in the first quarter of 1976 compared to the first quarter in 1975.

Sales or Production, or Both, Have Decreased Absolutely.

Sales of industrial fasteners declined 44 percent in 1975 from 1974 and declined 60 percent in the first quarter of 1976 compared to the first quarter of 1975.

Production of industrial fasteners declined 52 percent in 1975 from 1974 and declined 73 percent in the first quarter of 1976 compared to the first quarter of 1975.

Increased Imports.

Domestic manufacturers of standard ferrous fasteners have experienced a steady erosion of their market in recent years as a result of increased import competition. Imports of ferrous bolts, ferrous screws, and ferrous nuts increased absolutely and relatively in each year from 1971 through 1974. Imports of ferrous bolts as a percentage of U.S. production increased from 13.8 percent in 1971 to 19.3 percent in 1975. Imports of ferrous nuts as a percentage of U.S. production increased from 62.0 percent in 1971 to 91.0 percent in 1975. Imports of ferrous screws as a percentage of U.S. production increased from 19.6 percent in 1971 to 38.2 percent in 1975.

Contributed Importantly.

Customers of the Lebanon, Pennsylvania plant of the Bethlehem Steel Corporation, who are buying from foreign sources, are reducing purchases of industrial fasteners from Bethlehem Steel while increasing purchases of imported industrial fasteners. The customers are able to purchase industrial fasteners from foreign sources at a lower cost.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the industrial fasteners produced at the Lebanon, Pennsylvania plant of the Bethlehem Steel Corporation contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lebanon, Pennsylvania plant of the Bethlehem Steel Corporation who became totally or partially separated from employment on or after April 15, 1975 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25235 Filed 8-26-76;8:45 am]

[TA-W-892]

CORPLEX INTERNATIONAL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-892: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed on behalf of workers and former workers of the Hillside, Illinois plant of the Corplex International Corporation.

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24795). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Corplex International Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

The basic question in this case is whether the Hillside, Illinois plant of Corplex International Corporation is engaged in the production of "articles" within the meaning of Section 222(3) of the Act.

Corplex International Corporation buys and installs video cameras, video tape recorders, telephones and antenna equipment. Corplex International does not produce any equipment used in its operations. It provides a service to its customers by purchasing and installing equipment according to their particular needs.

In order for there to be coverage by the adjustment assistance program, the workers' firm must be engaged in the production of an article. The Department of Labor has alreday determined that the performance of services is not covered by the program. See Notice of Negative Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639).

After careful review of the issues I have determined that services of the kind provided by the Corplex International Corporation, Hillside, Illinois are not

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"articles" within the meaning of Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25239 Filed 8-26-76;8:45 am]

[TA-W-927]

H. P. SNYDER MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-927: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 7, 1976 in response to a worker petition received on June 7, 1976 which was filed by the International Association of Machinists on behalf of workers and former workers producing bicycles at the Little Falls, New York plant of the H. P. Snyder Manufacturing Company.

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24796). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H. P. Snyder Manufacturing Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The H. P. Snyder Company, Little Falls, New York has one plant and is a subsidiary of O. F. Mossberg & Sons, North Haven, Connecticut. The Little Falls, New York plant closed on May 8, 1976. The H. P. Snyder Manufacturing Company produced only bicycles for men and women. Lightweight bikes, those with narrow tires 1¼ inches in cross-sectional diameter, and middleweight bikes, those with tires 1¾ inches in cross-sectional diameter, each accounted for 50 percent of H. P. Snyder's production.

Company officials indicated that the plant closed because of the new consumer product regulations concerning bicycles which went into effect on May 11, 1976. The additional money required to purchase new testing equipment and machinery and the additional labor costs of operating the new machinery would make production prohibitively expensive.

U.S. imports of bicycles have declined in each year from 1972 through 1975, both absolutely and relative to domestic production and consumption. Imports of bicycles were 5,156.1 thousand units in 1972, declining to 5,154.9 units and 4,018.9 thousand units respectively, in 1973 and 1974. Imports declined to 1,721.9 thousand units in 1975, a decline of 57.2 percent compared to the previous year.

The ratio of imports of bicycles to domestic production and consumption declined in each year from 1972, when the ratios were 58.9 percent and 37.1 percent, respectively, through 1975, when the ratios were 30.7 percent and 23.6 percent, respectively.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that increased imports of bicycles like or directly competitive with those produced by the Little Falls, New York plant of H. P. Snyder Manufacturing Company have not contributed importantly to the total or partial separation of workers at that plant, as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25241 Filed 8-26-76;8:45 am]

[TA-W-878]

TEXTRON INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-878: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 1, 1976 in response to a worker petition received on that date which was filed by the International Association of Machinists and Aerospace Workers, on behalf of workers and former workers producing slide fasteners for the Meadville, Pennsylvania plants of the Talon Division of Textron, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on June 15, 1976 (41 FR 24236). No public hearing wase requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Talon Division of Textron, Incorporated, its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that imports of slide fasteners declined absolutely and relatively in 1975 compared to 1974. Imports declined 29 percent from 146.6 million units in 1974 to 104.0 million units in 1975 and declined in value 24 percent from 23.8 million dollars in 1974 to 18.0 million dollars in 1975. The imports to production ratio declined from 8.5 percent in 1974 to 6.5 percent in 1976. The imports to consumption ratio declined from 8.2 percent in 1974 to 6.4 percent in 1976.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that slide fasteners like or directly competitive with those produced by the Meadville, Pennsylvania plants of the Talon Division of Textron, Inc., are not being imported in increasing quantities, either actual or relative to domestic production as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25236 Filed 8-26-76;8:45 am]

[TA-W-862]

VULCAN RIVET AND BOLT CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-862; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing standard and specialty steel fasteners at Vulcan Rivet and Bolt Corporation, Birmingham, Alabama.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20969). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vulcan Rivet and Bolt Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause

The investigation revealed that all four of the above criteria have been met.

Significant total or partial separations.

Employment at the Vulcan Rivet and Bolt Corporation declined 36 percent from 1974 to 1975 and decreased 49 percent during the first quarter of 1976 compared to the first quarter of 1975.

Sales or production, or both, have decreased absolutely.

Sales by the Vulcan Rivet and Bolt Corporation declined 51 percent from 1974 to 1975. Company production decreased 56 percent from 1974 to 1975 and declined 49 percent during the first quarter of 1976 compared to the first quarter of 1975. Standard fasteners account for approximately 87 percent of company sales while specialty fasteners account for approximately 13 percent of sales.

Increased imports.

Imports of ferrous bolts, nuts, and screws increased absolutely in quantity from 1971 through 1974. Imports of bolts as a percentage of U.S. production increased from 13.8 percent in 1971 to 19.3 percent in 1975. Imports of nuts as a percentage of U.S. production increased from 62.0 percent in 1971 to 91.0 percent in 1975. Imports of screws as a percentage of U.S. production increased from 19.6 percent in 1971 to 38.2 percent in 1975.

Contributed importantly.

Customers of Vulcan Rivet and Bolt Corporation who purchase imported fasteners indicate that their purchases of imports from 1974 to 1975 either remained the same or increased relative to their purchases of fasteners from Vulcan during the same period. A significant price differential exists between imported and domestically produced fasteners. Reduced sales by Vulcan Rivet and Bolt Corporation due to increased import competition resulted in employment and production declines at the Vulcan plant beginning early in 1975.

Conclusion.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with standard fasteners produced at Vulcan Rivet and Bolt Corporation contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Vulcan Rivet and Bolt Corporation, Birmingham, Alabama who became or will become totally or partially separated from employment on or after April 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-25234 Filed 8-26-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 130]

ASSIGNMENT OF HEARINGS

AUGUST 24, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141701, D & P Trucking, Inc. now being assigned December 6, 1976 (1 day) at New York, New York in a hearing room to be later designated.

MC 135684 (Sub 19), Bass Transportation Co., Inc. now being assigned December 7, 1976 (2 days) at New York, New York in a hearing room to be later designated.

MC 116763 (Sub 342), Carl Subler Trucking, Inc. now being assigned November 2, 1976 (1 day) at New York, New York in a hearing room to be later designated.

MC 141675 (Sub-No. 1), Economy Trucking Service, Inc., now assigned October 4, 1976, at New York, N.Y. is postponed to December 9, 1976, (2 days), at New York, N.Y., location of hearing room to be later designated.

MC 113528 (Sub 26), Mercury Freight Lines, Inc. now being assigned November 16, 1976 (7 days) at Atlanta, Georgia and will be held at the Federal Building, Interagency Conference Room 556, 275 Peachtree Street N.E.

MC 109533 (Sub 67), Overnite Transportation Company now being assigned November 16, 1976 (7 days) at Atlanta, Georgia and will be held in the Federal Building, Interagency Conference Room 556, 275 Peachtree Street N.E.

MC 105881 (Sub 50), M.R. & R. Trucking Company now being assigned November 16, 1976 (7 days) at Atlanta, Georgia and will be held in the Federal Building, Interagency Conference Room 556, 275 Peachtree Street N.E.

MC 136786 (Sub 91), Robco Transportation, Inc., now being assigned November 1, 1976 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 108207 Sub 435, Frozen Food Express, now being assigned November 2, 1976 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 141243 (Sub 1), Jaymar Trucking Corp. now assigned September 13, 1976 at New York, New York is now cancelled, application dismissed.

MC 128155 (Sub-No. 4), R. C. Van Lines, Inc., now assigned November 4, 1976, at Washington, D.C. is postponed indefinitely.

MC 117831 (Sub-No. 4), S. Siskind & Sons, Inc., now being assigned November 15, 1976 (3 days) at New York, New York, in a hearing room to be later designated.

MC-FC-74866, Stadium Transportation Co., Inc., Manville, New Jersey, Transferee and Sisser Bros., Inc., New Brunswick, New Jersey, Transferor and MC-FC-75923, Edward D. Pohutsky, d/b/a Edward Pohutsky Movers, Eynon, Pennsylvania, Transferee Stadium Transportation Co., Manville, New Jersey, Transferor, now assigned November 2, 1976 at New York, New York, has been canceled and reassigned November 16, 1976 (1 day) at Philadelphia, Pennsylvania; in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-25261 Filed 8-26-76;8:45 am]

[Notice No. 131]

ASSIGNMENT OF HEARINGS

AUGUST 24, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument ap-

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pear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

No. 36308, Norman Charles Brinke, dba N.C. Brinke, et al v. The Central Railroad Company of New Jersey, Robert D. Timpany, Trustee, et al now being assigned September 1, 1976 for pre-hearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

GORDON H. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25260 Filed 8-26-76;8:45 am]

[Notice No. 110]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 24, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

[1] This notice corrects the type of hearing to be held.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 283 TA), filed August 16, 1976. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo. 64142. Applicant's representative: Ivan E. Moody (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plantsite and/or warehouse facilities of Kraftco Corp., at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Virginia, Maryland and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraftco Corporation, 500 Peshtigo Ct., Chicago, Ill. 60690. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 52657 (Sub-No. 736 TA), filed August 13, 1976. Applicant: ARCO AUTO CARRIERS, INC., 2140 W. 79th St., Chicago, Ill. 60620. Applicant's representative: James Bouril (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foreign-made vehicles*, in secondary movements, in truckaway service, from the automobile unloading locations of the Armstrong Yard and the Muncie Station of the Union Pacific Railroad at Kansas City, Kans., to points in Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Toyota Motor Sales, U.S.A. Inc., Robert D. Walker, National Vehicle Traffic and Marine Claims Manager, 2055 W. 190th St., Torrance, Calif. 90504. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 107452 (Sub-No. 6TA) filed August 12, 1976. Applicant: R. D. BROWN, doing business as DAN BROWN TRUCKING, Greybull Heights, Greybull, Wyo. 82426. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products and *machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipelines), between Worland, Wyo., and points in Wyoming, within 75 miles of Worland, on the one hand, and, on the other, points in Wyoming beyond 75 miles from Worland and points in Colorado, Montana and Utah; (2) *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipelines) between points in Wyoming;

(3) *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and pet petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up of pipe in connection with main or trunk pipelines, between points in that part of North Dakota on and west of a line beginning at the United States-Canada Boundary line and extending along North Dakota Highway 30 through St John, York and Medina to Lehr, thence along unnumbered highway (formerly North Dakota Highway 30) to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; those in that part of South Dakota west of the Missouri River and on and north of U.S. Highway 12; and those in that part of Montana on and east of a line beginning at the Montana-Wyoming State line at or near Alzada, and extending along U.S. Highway 212 to Miles City, thence along Montana Highway 22 to Jordan, thence northwesterly in a straight line to Malta, and thence along unnumbered highway (formerly Montana Highway 19) to the United States-Canada Boundary line; (4) *Machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main or trunk pipelines), between points in those specified portions of North Dakota and South Dakota in part (3) above, on the one hand, and, on the other,

points within 75 miles of Worland, Wyo., including Worland.

(5) *Machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment and supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipelines, between points in Nevada, on the one hand, and, on the other, points in Wyoming, Colorado, Montana and Utah. Applicant seeks by this application to tack parts (1) through (5), one to the other, in any combination and with existing authority to provide through service, for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006 Federal Bldg., & Post Office, 100 East B St., Casper, Wyo. 82601.

No. MC 117639 (Sub-No. 7TA), filed August 16, 1976. Applicant: PICK'S PACK HAULER, doing business as PICK'S PACK HAULER, INC., 1214 East South St., Hastings, Nebr. 68901. Applicant's representative: Frederick J. Coffman, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick* from Pueblo and Trinidad, Colo., to North Plate, Nebr., under a continuing contract with Lumbermen's Brick and Supply Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dale Funk, President, Lumbermen's Brick and Supply Co., 900 S. 15th St., Omaha, Nebr. 68108. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 118989 (Sub-No. 142TA), filed August 16, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container components and ends, container closures, and materials, equipment and supplies* used in the manufacture and distribution of containers, ends and closures, from Worthington, Ohio, to LeRoy, Albany, Syracuse, Cicero, Buffalo and Rochester, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 150 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 125533 (Sub-No. 14TA), filed August 13, 1976. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, P.O. Box 6064, Ellet Station, Akron, Ohio 44312. Applicant's representative: John P. McMahon, 100 East Broad St., 18th Floor, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel conduit and metallic tubing, and fittings* for iron and steel conduit and metallic tubing (except pipe used in, or in connection with, the construction, operations, maintenance, servicing or dismantling of pipelines), from Carnegie, Pa., to points in Indiana, Illinois, New Jersey, Michigan, Ohio, New York, West Virginia, and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carnegie Conduit Company, P.O. Box 166, Carnegie, Pa. 15106. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 125950 (Sub-No. 10TA), filed August 16, 1976. Applicant: C. B. S. TRANSPORTATION, INC., 1207 Columbus Circle, Wilmington, N.C. 28401. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable containers*, from the facilities of Corbett Package Company, Wilmington, N.C., and Pierpont-Corbett Box Company, Savannah, Ga., to points in Tennessee on and east of U.S. Highway 231 (except Hamilton County, Tenn.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Corbett Package Company, P.O. Box 210, Wilmington, N.C. 28401. Pierpont-Corbett Box Company, Savannah, Ga. Send protests to: Archie W. Andrews, District Supervisor, 624 Federal Bldg., 310 New Bern Ave., P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 128555 (Sub-No. 13TA), filed August 13, 1976. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unfrozen foodstuffs* (except in bulk), from Owensboro and Henderson, Ky.; Austin, Ind. (not to exceed 5,000 lbs. per shipment), to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, Ohio, Rhode Island and Vermont; *and unfrozen foodstuffs* (except in bulk), from Henderson, Ky.; Austin, Ind. (not to exceed 5,000 lbs. per shipment), to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin; and (2) *Materials, supplies and equipment* used in the manufacture of the commodities in (1) above; from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to Owensboro and Henderson, Ky.; Austin, Ind. (not to exceed 5,000 lbs. per shipment), (except as presently authorized). Restriction: The authority listed in (1) and (2) above is restricted to traffic originating at or destined to the plantsites or warehouse facilities of Ragu Foods, Inc., under a continuing contract with Ragu Foods, Inc., for 180 days. Supporting shipper: Ragu Foods, Inc., 1680 Lyell Ave., Rochester, N.Y. 14606. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 128988 (Sub-No. 84TA), filed August 16, 1976. Applicant: JO/KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Los Angeles, Calif., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas, under a continuing contract with Earl M. Jorgensen Co., for 180 days. Supporting shipper: Earl M. Jorgensen Co., 8531 East Marginal Way South, Seattle, Wash. 98124. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 134387 (Sub-No. 35TA), filed August 16, 1976. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90280. Applicant's representative: Warren N. Grossman, 606 South Olive St., #825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper towels, paper napkins and toilet tissue*, from Halsey, Oreg.,

V 41 168 AUG 27 76 UMI

to Pacoima, Commerce and Corona, Calif., for 180 days. Supporting shippers: American Can Co., 355 Gellert Blvd., Daly City, Calif. 94015. Certified Grocers of Calif., Ltd., 2601 South Eastern Ave., Commerce, Calif. 90040. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 134922 (Sub-No. 190 TA), filed August 16, 1976. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hand and power lawn mowers and parts, garden cultivators and parts, black boards and bulletin boards*, from the plantsites and storage facilities of Great States Corporation, at or near Shelbyville and Muncie, Ind., to points in California, Oregon, Washington, Utah, Colorado, New Mexico, Arizona and Nevada, for 180 days. Supporting shipper: Great States Corporation, 818 Webster St., Shelbyville, Ind. 46176. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139754 (Sub-No. 2 TA), filed August 12, 1976. Applicant: SOFT DRINK CARRIERS, INC., 5820 Centre Ave., Pittsburgh, Pa. 15206. Applicant's representative: Robert R. Wertz, 2310 Grant Bldg., Pittsburgh, Pa. 15206. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soft drinks* (except in bulk); (2) *Materials, equipment and supplies* used in the production, sale, and distribution of soft drinks (except commodities in bulk); (1) from Youngstown, Ohio, the commodities named in (1) above, to points in Pennsylvania in and west of McKean, Cameron, Clearfield, Blair, Cambria and Somerset Counties, Pa., and from points in such destination territory the commodities named in (2) above, to Youngstown, Ohio; (2) from Twinsburgh, Cleveland, Akron and Youngstown, Ohio, the commodities named in (1) above, to points in and west of Orleans, Genesee, Wyo. and Allegany Countyes, N.Y., and from points in such destination territory the commodities named in (2) above, to the above named origin points; (3) from Twinsburg, Cleveland, Akron and Youngstown, Ohio the commodities named in (1) above, to points in the lower peninsula of Michigan and from points in such destination territory the commodities named in (2) above to the above named origin points; and (4) from Twinsburg, Cleveland, Akron and Youngstown, Ohio the commodities named in (1) Above to points in and west of Monongalia, Marion, Harrison, Doddridge, Ritchie, Wirt, Jackson, Kanawah, Putnam, Cabell and Wayne Counties, W. Va., and from points in such destination territory the commodities named in (2) above to the above named origin points, under a continuing contract with Quaker State Coca-Cola Bottling Co.; The Youngstown Coca-Cola Bottling Co., Inc.; Great Lakes Canning, Inc.; The Akron Coca-Cola Bottling Company, The Cleveland Coca-Cola Bottling Co., Inc., and Summit Supply Company, Inc., for 180 days. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 140435 (Sub-No. 3 TA), filed August 3, 1976. Applicant: DENNIS CHUTZ AND WAYNE CHUTZ, doing business as D & W TRUCKING COMPANY, P.O. Box 116, Slippery Rock, Pa. 16057. Applicant's representative: Donald E. Cross, 700 World Center Bldg., 918 Sixteenth St., N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points in Butler and Mercer Counties, Pa., to the plantsites of Cleveland Electric Illuminating Company, in Ashtabula and Cuyahoga Counties, Ohio, under a continuing contract with Pengrove Coal Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper. Pengrove Coal Company, R.D. 3, P.O. Box 3629, Grove City, Pa. 16127. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 140539 (Sub-No. 1 TA), filed August 16, 1976. Applicant: TENNESSEE EXPRESS, INC., 22 Stanley St., Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk those requiring special equipment, and telephone equipment, materials and supplies), between the facilities of the Tennessee Valley Authority Hartsville Nuclear Plant in Trousdale County, Tenn., on the one hand, and, on the other, points in Davidson County, Tenn. Applicant intends to interline with other carriers at Nashville, Tenn., and points within its commercial zone, for 180 days. Supporting shipper: Tennessee Valley Authority, 620 Commerce Union Bank Bldg., Chattanooga, Tenn. 37401. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 140693 (Sub-No. 9 TA), filed August 18, 1976. Applicant: BEER TRANSPORTATION COMPANY, 1120 Germantown Ave., Philadelphia, Pa. 19123. Applicant's representative: Edward J. Kiley, 1730 M St. NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Cliffwood, N.J., to points in New York, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 142348 TA, filed August 10, 1976. Applicant: FULTON TRUCKING CO., INC., 1195 Milton Terrace, Atlanta, Ga. 30315. Applicant's representative: Richard M. Tettelbaum, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic industrial contatners*, from the plantsite and warehouse facilities of Roper Plastics, Inc., Forest Park, Ga., to points in Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, under a continuing contract with Roper Plastics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roper Plastics, Inc., 175 Lake Mirror Road, Forest Park, Ga. 30050. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 142349 TA, filed August 12, 1976. Applicant: SE–BE TRUCK LINE, INC., 4101 Center St., Cedar Falls, Iowa 50613. Applicant's representative: Grant J. Merritt, 730 Second Ave., South, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, from the Service Center of Jones & Laughlin Steel Co Corporation, located in Chicago, Ill., to points in Iowa, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., Chicago S.S.C., 2250 W. 47th St., Chicago, Ill. 60609. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No, MC 142352 TA, filed August 17, 1976. Applicant: HAUSMAN TRUCKING, INC., 912 Cutler St., Waterloo, Iowa 50703. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Waterloo, Iowa, to points in Illinois and Missouri, for 180 days. Supporting shipper: The Rath Packing Company, Sycamore & Elm St., Waterloo, Iowa 50704. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25259 Filed 8–26–76;8:45 am]

[Finance Docket No. 28207]

SOUTHERN RAILWAY CO.

Discontinuance of Trains No. 5 and 6, "The Piedmont", Between Washington, D.C., and Charlotte, North Carolina

AUGUST 24, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed discontinuance by the Southern Railway Company of Trains 5 and 6 "The Piedmont," between Washington, D.C. and Charlotte, North Carolina, a distance of 375 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that passenger traffic handled by the affected trains is low and diversion to alternative modes would not significantly affect the environment. Most of the affected communities would continue to have rail passenger service from either Amtrak or applicant's "Southern Crescent." Moreover, alternative transportation is available by bus, automobile, and airplane. Several interstate highways also serve the region. Although the subject discontinuance and time schedules of alternative transportation may create some inconvenience, the action would not be expected to influence development within the affected corridor. An environmental benefit could be accrued by the savings of 459,000 gallons of fuel consumed annually by the subject trains.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.[1]

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, on or before September 10, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of this passenger train service. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25258 Filed 8–26–76;8:45 am]

[1] A copy of the survey is filed with the Office of the Federal Register as part of the original document.

[Ex Parte No. MC–43]

WHITFIELD TANK LINES, INC., ET AL.

Denial of Petition

AUGUST 24, 1976.

At a Session of the INTERSTATE COMMERCE COMMISSION, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 16th day of August, 1976.

It appearing, That a petition has been filed by Whitfield Tank Lines, Inc. (MC–114897 and numerous subs) and E. B. Law & Son, Inc. (MC–106278 and MC–106278 Sub-No. 35), under common control, for waiver of paragraph (e) of section 1057.5 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That the public interest requires motor carriers to identify the equipment operated by them;

It further appearing, That the reasons advanced by petitioners for relief from the vehicle identification requirements are insufficient to justify a diminution of the public benefit resulting from such identification requirements;

It is ordered, That waiver of paragraph (e) of section 1057.5 be, and it is hereby denied.

By the Commission, Motor Carrier Leasing Board, Board members Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–25257 Filed 8–26–76;8:45 am]

V 41 I 168 AUG 27 76 UMI

federal register

FRIDAY, AUGUST 27, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL DIRECT STUDENT LOAN PROGRAM, COLLEGE WORK–STUDY PROGRAM, SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

V 41 168 AUG 27 76 UMI

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

Amendments With Regard to Indian Students Eligible for BIA Grants-In-Aid and Financial Assistance From the Commissioner of Education

Notice of proposed rulemaking was published in the FEDERAL REGISTER on Friday, March 7, 1975 (40 FR 10686) setting forth the manner in which financial aid packages will be administered for Indian students also eligible to receive educational grants-in-aid from the Bureau of Indian Affairs (BIA).

The proposed rule required that Indian students eligible for assistance under OE administered programs be considered on an equal basis with other students, that BIA grants-in-aid supplement financial aid provided from other sources so long as the total amount of such aid does not exceed the student's financial need, and that if the combined amount of aid exceeded the level of need as determined by the institution, the following sequence of deductions was set forth: loans, work-study and grants except Basic Educational Opportunity Grants.

It had become apparent that, in the absence of the above regulation, the practices of institutions of higher education were not consistent, and in some cases, failed to carry out the purpose of the BIA supported program. Because of the special trust relationship which the United States has maintained with Indians and because of special consideration for Indians which Congress has expressed, particularly in the Snyder Act, (25 U.S.C. 13) from which the BIA grants-in-aid derive, it was proposed that BIA grants-in-aid be treated as entirely supplementary to awards made under the Supplemental Educational Opportunity Grants program (SEOG), the Basic Educational Opportunity Grant program (BEOG), and other programs administered by the institution, such as the College Work-Study (CWS) and the National Direct Student Loan (NDSL) programs, provided that the total amount of assistance thus made available to the student did not exceed his level of need for financial assistance. It was the Commissioner's intent that nothing contained in the regulation would affect the rights of Indians or Native Americans, by reason of their tribal membership or under Federal law, to any benefit which results from their status as Indians or Native Americans.

Interested parties were invited to comment on the proposed rule. Below is a summary of the comments made on the proposed rule and the responses of the Office of Education.

Comment. Numerous comments were received both pro and con, regarding the wisdom of treating BIA grants as supplementary to the other federal programs of student financial aid. On the pro side, commenters felt that the proposed regulation placed Indian students on an equal footing with other students when applying for Supplemental Educational Opportunity Grants, since, in the past, some financial aid officers had either not awarded Indian students Supplemental Grants because they anticipated that the student would get a BIA grant, or they deducted from the Indian student's Supplemental Grant, the amount he received or would receive from the BIA. On the con side, commenters felt that the regulation gave preferential treatment to Indian Students since they would receive a greater percentage of grant assistance than other equally needy students.

Response. The Commissioner of Education recognizes merit in the arguments on both sides of this question. However, the Commissioner is still of the view that, because of the special trust relationship which exists between the United States Government and the Indians and the special consideration for Indians which Congress has expressed in the Snyder Act, that the Office of Education should continue the policy expressed in the proposed rule.

Comment. A commenter questioned the Commissioner's authority for issuing this regulation.

Response. We have been advised by our Office of the General Counsel that the provisions contained in the proposed regulation are authorized under the Supplemental Educational Opportunity Grants Program.

Comment. Several commenters suggested that some flexibility be provided in the sequence of deductions provided in the proposed rule since there may be circumstances when it would be more beneficial for a student to receive a loan rather than work-study employment.

Response. We believe this comment is well taken and have amended the regulation accordingly.

Comment. One commenter asked whether the sequence of deductions apply if a student were potentially eligible for a Supplemental Grant but in fact, did not receive one or any other Federal financial assistance.

Response. Under the circumstances described above, the regulation would not apply.

Comment. One commenter asked whether BIA funds that were received by a student for an academic year before the institution prepared its package of financial aid for that student should be included by the institution in its package.

Response. The regulation provides in § 176.15(a)(1) that "in preparing such a package [of financial aid] *the institution shall not take into consideration any BIA grant-in-aid* which the student *has received* or is expected to receive . . ." (Emphasis added)

Comment. One commenter expressed the view that "the mandatory loan and work-study components forced on Indian postsecondary students is highly inadvisable."

Response. This commenter has misconstrued the proposed regulation. There is no requirement that Indian students be provided with work or loans. The regulation requires the financial aid officer to prepare a package of financial aid for an Indian student which is consistent, as to type and amount, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages. Furthermore, the regulation has been amended to encourage student financial aid officers to consult with BIA officials, who are responsible for administering BIA postsecondary financial assistance programs and who are familiar with the needs of Indian students, in determining an Indian student's need and the makeup of his package of financial assistance.

Comment. A commenter noted that if the BIA offers grant assistance to Indian students and such grant assistance replaces already packaged work-study and loan awards, the Supplemental Grant may no longer be matched.

Response. Indian students receiving BIA grants are probably eligible for Basic Educational Opportunity Grants in amounts sufficient to "match" Supplemental Grants.

Comment. A commenter stated that if BIA funds replace already packaged loan or work-study assistance, it may be too late to award those funds to other students, e.g., entering freshman who decided not to attend that institution because of the unavailability of student assistance.

Response. As we understand it, BIA grant-in-aid funds are not appropriated on a forward funded basis. However, since the amount appropriated for such grants is generally consistent over the years, BIA area officials can generally estimate which upperclass students will receive renewal grants and the amount of such grants at the time the student financial aid officers are preparing financial aid packages. Anticipating the grants for freshmen is a more difficult situation. However, the problem mentioned by the commenter can be alleviated if proper coordination is made with the appropriate BIA regional officials.

Other comments were received concerning the role and function of the BIA in the area of providing financial assistance to Indians in postsecondary education. These comments were referred to the Bureau of Indian Affairs.

Several comments were also received about a matter not covered by the proposed regulation. These comments concerned the treatment of the assets of Indians and Native Americans and specifically the treatment of funds received pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.) and the Indian Claims Commission Act (25 U.S.C. 1401, et seq.). It was the view of these commenters that funds received as settlements pursuant to that Act should not be considered as part of the assets of the student and his parents for the purpose of determining a student's financial need.

The treatment of this issue was not included in this final regulation because the subject matter of the comments was not included as part of the proposed rule; consequently the public was not invited to comment on a position proposed by the Office of Education with regard to this issue. Furthermore, how Indian assets are to be counted affects the Basic Educational Opportunity Grant, College Work-Study, National Direct Student Loan and Guaranteed Student Loan Programs as well as the Supplemental Educational Opportunity Grants Program. Accordingly a separate notice of proposed rulemaking concerning the treatment of the assets of Native Americans will be published.

In the FEDERAL REGISTER of October 14, 1975 there were published Notices of Proposed Rulemaking setting forth proposed regulations for the National Direct Student Loan (40 FR 48252–48264) and the College Work-Study (40 FR 48266–48277) Programs. Sections 114.10 (45 CFR 114.-10) of the proposed National Direct Student Loan Program Regulations and § 175.15 (45 CFR 175.15) of the College Work-Study Program Regulations contain language similar to the language proposed on March 7, 1975 for § 175.15. It is the intention of the Office of Education when these proposed regulations are republished in final form to amend those sections to correspond with § 176.15 as set forth below.

In light of the foregoing, § 176.15 of Part 176 of Title 45 of the Code of Federal Regulations is amended as set forth below.

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Number 13.418, Supplemental Educational Opportunity Grants)

Dated: March 31, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: August 13, 1976.

MARJORIE LYNCH
Acting Secretary of Health, Education, and Welfare.

Part 176 of Title 45 of the Code of Federal Regulations is amended by adding § 176.15 as follows:

§ 176.15 Coordination with Bureau of Indian Affairs grants-in-aid.

(a) In determining the amount, if any, of a Supplemental Grant to be awarded to a student who is eligible for such a grant and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 176.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a)(1) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a)(1) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assistance. Except as provided for paragraph (a)(4) of this section, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in paragraph (a)(3) of this section may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(c) Educational grants-in-aid made to students at an institution under a program administered by the Bureau of Indian Affairs shall be considered to be financial aid made available through such institution, for purposes of § 176.16, if:

(1) The institution reviews the applications for such grants; and

(2) The institution selects the recipients for, and determines the amounts of, such grants.

(20 U.S.C. 1070b–1)

[FR Doc.76–24658 Filed 8–26–76;8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 175 and 176]

NATIONAL DIRECT STUDENT LOAN PROGRAM, COLLEGE WORK-STUDY PROGRAM, SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

Determination of Financial Need

Notice is hereby given that, pursuant to the authority contained in Sections 464, 444, 413B, and 413C of the Higher Education Act of 1965 as amended (20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b–1 and 1070b–2), the Commissioner of Education with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Parts 144, 175, and 176 of Title 45 of the Code of Federal Regulations governing the operation of the National Direct Student Loan (NDSL) Program, College Work-Study (CWS) Program and Supplemental Educational Opportunity Grants (SEOG) Program, respectively.

Under the above programs a student receives financial assistance on the basis of financial need. Such need is generally defined as the difference between a student's costs of education and his expected family contribution, the latter being the amount the student and, where relevant, the student's parents are expected to contribute toward the student's educational costs. In determining a student's expected family contribution, both the income and assets of the student and, where relevant, the student's parents are taken into consideration. The proposed amendment, as set forth below, would exempt from consideration as either assets or income funds received by Indians and Native Americans under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.). Furthermore, Indian or tribal property that may not be sold or encumbered without the consent of the Secretary of the Interior or any Indian property held in trust for the student or his family by the United States Government would not be considered in determining the assets of the Indian or Native American student or his parents.

One of the goals of the Office of Education is to improve the educational opportunities of Indian and Alaska Native students by providing financial assistance to enable them to attend institutions of higher education. Among the causes which contribute to the proportionately small number of Indian and Alaska Native students attending such institutions has been limited financial resources of those students. Part of the limited resources of Indians is property that is owned by individual Indians or Indian tribes but which is either held in trust by the United States Government or is property which may not be sold without the express approval of the Secretary of the Interior. It has been the policy of the Office of Education not to consider such property to be an asset of the Indian student or his parent for purposes of determining that student's expected contribution since that property cannot be used by the student or his family to pay the student's educational costs. However this policy has never been established by regulation. Furthermore it is the policy of the Department of Health, Education, and Welfare to disregard funds received under the Distribution of Judgment Funds Act and the Alaska Native Settlement Claims Act with respect to determinations of eligibility for benefits under the Supplemental Security Income Act (42 U.S.C. 1382, et seq.) and the Aid to Families with Dependent Children Act (42 U.S.C. 601, et seq.). Consistent with this Department policy the proposed rule provides that funds received by Indians and other Native Americans under those two acts will be similarly disregarded as income and assets when calculating a student's expected family contribution under the above noted programs.

Under the Basic Educational Opportunity Grants Program, need is determined in a matter similar to that done in the programs described above. However, section 411(a)(3)(A)(i) and (ii) of Title IV require that the system used for determining the expected family contribution under the Basic Grant Program must be reviewed by the Congress before such system can become effective for each academic year. In order to alleviate the above stated concerns about the funds received under the Judgment Funds Act and the Alaska Settlement Claims Act, the Office of Education will propose a change in the need determination system for the Basic Grant Program, to become effective during the 1977–78 academic year.

Interested persons are invited to submit written comments, suggestions, or objections to this proposed rule to the Bureau of Postsecondary Education, Office of Education, Seventh and D Streets SW., Washington, D.C. 20202. All relevant comments must be received not later than September 27, 1976.

These comments will be available for public inspection in the above office between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday of each week.

(Catalog of Federal Domestic Assistance; No. 13.418, Supplemental Educational Opportunity Grants Program; No. 13.463, Higher Education Work-Study; No. 13.471, National Direct Student Loans)

Dated: May 10, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: August 13, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

The proposed rule which would amend 45 CFR Parts 144, 175, and 176 reads as follows:

In determining the expected family contribution of eligible Indian or Native American students the institution shall not consider (1) funds received pursuant to an award under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.) as income or as an asset of the student or his family; and (2) property which may not be sold or encumbered without the consent of the Secretary of Interior or any other property held in trust for the student or the student's family by the United States Government as an asset of the student or his family.

[FR Doc.76-24659 Filed 8-26-76;8:45 am]

federal register

FRIDAY, AUGUST 27, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

SULFUR DIOXIDE PLAN

Ohio

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Title 40—Protection of the Environment

[FRL 605-8]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio-Sulfur Dioxide Plan

On January 30, 1972, the Governor of Ohio submitted the "Implementation Plan for the Control of Suspended Particulate, Sulfur Dioxide, Carbon Monoxide, Hydrocarbons, Nitrogen Dioxide, and Photochemical Oxidents in the State of Ohio" to the Administrator of the Environmental Protection Agency. The plan was adopted by the Ohio Air Pollution Control Board following public hearings held on January 18, 1972, in Columbus, Ohio. This plan was submitted pursuant to Section 110 of the Clean Air Act, as amended, which requires States to adopt implementation plans to achieve and maintain the national ambient air quality standards (40 CFR Part 60). On May 31, 1972 (37 FR 10842), the Administrator approved the Ohio plan with specific exceptions. Subsequently, amendments were submitted which permitted full approval of the plan on September 22, 1972 (37 FR 19806).

On June 28, 1973, the United States Court of Appeals for the Sixth Circuit decided the case of Buckeye Power Company, et al. v. EPA, 481 F.2d 162. The court vacated the Administrator's approval of the Ohio plan and remanded the case to the Agency for compliance with Section 553 of the Administrative Procedure Act, as articulated in the court's opinion, viz., to take comments, data or other evidence from interested parties, and to express the basis for ensuing administrative actions.

On August 27, 1973, the Governor of Ohio withdrew from the proposed Ohio plan the control strategy and regulations for control of sulfur dioxide. The remainder of the plan was proposed on November 15, 1973 (38 FR 31543) and was approved on April 15, 1974 (39 FR 13530), with specific exceptions. Because the Governor of Ohio withdrew the originally submitted control strategy and regulations for control of sulfur dioxide, the plan was disapproved in that respect.

On May 30, 1974, the Governor of Ohio submitted a proposed sulfur dioxide strategy and regulations to the Administrator to cure the defects in the Ohio Implementation Plan noted in the April 15, 1974, FEDERAL REGISTER, cited above. However, on September 13, 1974, the Ohio Environmental Board of Review overturned a portion of these regulations, thereby rendering same unenforceable. Since the plan for control of sulfur oxides could no longer be effectuated as designed by the State, the Administrator deemed it an ineffective submission and no further rulemaking action was taken. The Governor of Ohio formally withdrew the proposed regulations on July 16, 1975.

Where the Administrator determines that a State plan or portions thereof do not meet the requirements of the Clean Air Act as amended, and 40 CFR Part 51, he is directed by Section 110(c) of the Act to propose and subsequently promulgate regulations setting forth a substitute implementation plan or portion thereof. Accordingly, on November 10, 1975, the Administrator proposed such an alternate plan for the control of emissions of sulfur dioxide in the State of Ohio (40 FR 52410 *et seq*). Hearings on the proposed rules were conducted by the Environmental Protection Agency in Cincinnati (December 18, 1975), Cleveland (January 6, 1976), Steubenville (January 8, 1976), and Columbus (January 13 and 14, 1976). Interested parties presented their comments at these hearings and through the mail. Each comment was carefully considered. In several cases, being responsive to comments necessitated a modification of the proposed regulation. The final rules as published herein are, however, completely in character with the original scheme. Each deviation from the proposed regulation resulted directly from public comment and/or a more precise, sophisticated method of analyzing the data.

Set forth below are the substitute sulfur dioxide control regulations designed to attain and maintain the ambient standards for sulfur dioxide in Ohio thereby correcting the deficiency in the Ohio Implementation Plan listed above. The maintenance portion of the plan is based on projected growth over the next ten years and the degree of control required of existing sources reflects the projected emission increase.

Because of the exceptional circumstances that surround this rulemaking, i.e., the vacation of the Administrator's original plan approval and the inability of the State to thereafter submit an approvable sulfur dioxide strategy, the rulemaking contemplated herein effectively constitutes the first federally operative plan for controlling sulfur dioxide within the State. Consistent, therefore, with the Clean Air Act's injunction that primary ambient standards be attained within three years of plan approval (or such earlier time as may be practicable), the attainment date promulgated herein is three years from this effective date of these regulations. Not all sources will require a full three years in order to achieve compliance; in given cases "expeditious as practicable" compliance may require compliance far in advance of the attainment date.

CONTROL STRATEGY DESCRIPTION

The control strategy promulgated today to attain and maintain the sulfur dioxide ambient air quality standards in Ohio was developed through both county-by-county and facility-specific analyses of air quality to determine the existence and severity of any sulfur dioxide problems. Where air quality problems were identified, appropriate regulations were developed for specific counties, groups of sources, or individual sources as necessitated by the extent of the air quality problem.

Growth projections were made for all areas through 1985, with the projected impact of such growth included in the developed control strategy. Within the eighty-eight counties comprising the state, approximately 150 individual facilities have been specifically identified for control. In addition, thirty-three counties were identified as possessing no existing or potential sulfur dioxide air quality problems from existing sources inasmuch as existing sources in those counties do not adversely affect air quality standards. No controls are being promulgated for sources located in these counties. However, it should be noted that, where applicable, sources in these counties will still be subject to state new source review requirements, federal new source performance standards, and non-significant deterioration requirements.

In response to public comments received regarding the application of county-wide emission limitations, which were derived from the analysis of a single isolated facility or group of facilities in that county, individual facilities in counties are now being specifically identified for control. No controls are being promulgated for the remaining sources in those counties for the same reasoning applied to the thirty-three uncontrolled counties referenced above. For the remaining counties, the promulgated control strategy establishes specific industrial process limitations for identified industry categories and/or a general industrial process requirement. In addition, fuel combustion sources are required to meet specified emission limitations as a function of the rated capacity and location. Certain sources have made representations to close down within the next 3 years—for these sources a zero emission rate was used in the dispersion modeling and is promulgated in the following rules. Should the present or any subsequent owner or operator desire to continue in operation any such source, the Administrator will consider a petition to establish an appropriate emission limitation.

INDUSTRIAL PROCESS REGULATIONS

In the development of the proposed regulations, the Administrator proposed to utilize a general industrial process emission limitation expressed in pounds of SO_2 per hour. The proposed limitation was standardized for application throughout the state (with the exception of the 32 unregulated counties). However, a substantial amount of concern was expressed regarding the application of preselected emission limitations. Instead, it was suggested that, in order to minimize the potential for controlling source emissions to a greater extent than may be necessary to assure the attainment and maintenance of the ambient air quality standards throughout the various counties in Ohio, the emission limits should vary according to the individual needs of each county.

In response to these concerns, the Administrator applied a revised methodology for control strategy development.

Under the new approach, a general industrial process emission limitation was applied only to those specific areas in which such a limitation was clearly shown to be necessary. Furthermore, the revised industrial process emission limitation now varies from county to county as a function of the air pollution problem, the existing emission rate of the contributing sources, and the overall emission reduction needed. The general industrial process limitation is now being expressed as pounds of SO_2 per ton of process weight in response to concerns expressed regarding the proposed regulation which was expressed in pounds of SO_2 per hour. The regulation is being applied both generally and/or specifically to identified sources depending upon the particular county.

Several specific industrial process emission limitations are being promulgated for certain industry categories. The industrial process regulations in this final rulemaking include sulfuric acid manufacturing plant regulations (expressed as pounds of sulfuric acid per ton of 100% acid produced); sulfur recovery plant regulations (expressed as pounds of SO_2 per 1000 pounds of sulfur processed); coke oven regulations (expressed as grains of sulfurous gases per dry standard 100 cubic feet of coke oven gas); and a zinc smelter regulation identical to the originally proposed regulation. The emission limitations for the industrial process operations vary from county to county.

In addition to the above industrial process regulations, regulations applicable to petroleum refineries are also included which are more specific than the proposed emission limitation. As a result of public comments received on the proposed regulation, the petroleum refinery regulations include emission limitations applicable to catalytic cracking units (expressed in pounds of SO_2 per 1000 pounds of charging stock); treating operations (expressed as an exhaust gas concentration in parts per million); and off-gas combustion (expressed in grains of sulfurous gases per dry standard 100 cubic feet of oil refining gas).

FUEL COMBUSTION REGULATIONS

In developing the final fuel combustion emission limitations, the Administrator reexamined the major fuel burning installations within each county in the state to reassess the degree of control required, if any, in light of public comments received. The final regulations are expressed in terms of pounds of SO_2 emitted per million BTU of heat input. Again, as with the industrial process regulations, the emission limitations vary from county to county and are both general and facility-specific depending upon the particular pollution problems, the size and distribution of the facilities, and the required overall emission reductions.

Several refinements were made to the methodologies applied to the various urban areas in Ohio, in arriving at the final emission limitations. For the Youngstown (Mahoning and Trumbull Counties), Cincinnati (Hamilton County), and Steubenville (Jefferson County) areas, the methodology utilized in the development of the proposed regulations (i.e., the "linear rollback" concept) was modified to more accurately assess air quality impacts by source category. Individual major facilities were also examined separately with computer dispersion models to arrive at the final facility-specific emission limitations. However, dispersion model techniques could not be applied on a broad basis in these areas due to the effects of the surrounding terrain.

In the Cleveland (Cuyahoga, Lake and Lorain Counties), Akron (Summit County), Toledo (Lucas County), Dayton (Montgomery County), Columbus (Franklin County) and Canton (Stark County) areas, refined, more sophisticated modelling techniques were applied to develop the final emission limitations. The revised methodologies were utilized to provide a more accurate assessment of the impact of source emissions on both the annual and short term air quality standards. No emission limitations are being promulgated for sources with capacities less than 10 million BTU per hour of heat input as these sources were found to have an insignificant impact upon air quality.

For all major isolated fuel combustion facilities in Ohio where no pollutant/plume interaction could be found between a particular facility and any surrounding facilities, control options are being included in the final emission limitations. These options are such that the source owner or operator may choose (within a specified period of time) between a uniform emission limitation applicable to all stacks at that facility or a series of stack-specific emission limitations. The latter choice provides for maximum flexibility of emission control sufficient to assure the attainment and maintenance of the air quality standards, coupled with the potential for minimum economic impact on a particular facility. Choosing an option will not relieve a source of the duty to comply with applicable emission limits as expeditiously as practicable but no later than the attainment date.

PUBLIC COMMENTS RECEIVED

The Agency believes that its responsibility following the public hearings and the period for comment is to consider seriously each and every piece of information and in certain justifiable instances, modify the regulations in reliance thereon. The Agency carried out that duty. Each modification to the proposed rule making has been made as the direct result of a specific comment thereon, as the result of a more detailed data base or as a result of a more exact, sophisticated modeling technique than was used in the proposal. None of these modifications, however, has substantively altered the character of the original regulatory scheme, and the Administrtor has therefore determined that the need for further hearings or comments is obviated. As the U.S. Court of Appeals for the first Circuit stated in *South Terminal Corp. v. EPA*, 504 F2d 646(1974): "A hearing is intended to educate an agency to approaches different from its own and in shaping the final rule it may and should draw on the comments tendered. . . . Parties have no right to insist that a rule remain frozen in its vestigial form." The Court of Appeals for the District of Columbia recently said: "The requirement of submission of a proposed rule for comment does not automatically generate a new opportunity for comment merely because the rule promulgated by the Agency differs from the rule it proposed, partly at least, in response to submissions. A contrary rule would lead to the absurdity that in rulemaking under the APA the Agency can learn from the comments on its proposals only at the peril of starting a new procedural round of commentary" (*International Harvester v. Ruckelshaus*, 478 F2d 615(1973)).

Set forth below in summary form is a discussion of the action taken by the agency in response to the knowledge gained by the agency as a result of public participation in the rulemaking process. A more detailed description of the difference between the proposal and the promulgation is set forth in the Executive Summary to the Technical Support Document.

The proposal was criticized for failure to use all available air quality data and for use of invalid or erroneous air quality data in developing the regulations. Therefore, the Agency reassessed all state, local and private industry data including data submitted during the public comment period in order to secure the most complete air quality data base possible in the circumstances.

The proposal was also criticized for use of erroneous emission data for both point and area sources in determining necessary controls. Accordingly, the Environmental Protection Agency reexamined all state and local agency data previously used and reviewed any new data submitted during the public comment period. Additionally, many facilities were specifically contacted to obtain the most accurate, up-to-date emission data. These tasks were undertaken to secure the most complete and accurate emission data available at this time.

The proposal was criticized for using "pre-designed" regulations since they resulted in substantial over-control in some instances. EPA modified the "Control Strategy Forecast Program" and developed the analytical tools mentioned below so that control requirements could be tailored to the source's contribution to ambient air quality and considerations of facility size in order to minimize overcontrol to the maximum extent possible.

The proposal was criticized for use of a proportional modeling technique (a/k/a "rollback") in some urban areas to determine necessary controls therein. With considerable effort, the Agency was able to identify and utilize more sophis-

V 41 168 AUG 27 76 UMI

ticated analytical tools in developing urban strategies, such as an urban short-term model (RAM) and a modified "roll-back" technique which is used in conjunction with source-specific dispersion modeling. This investigation was commenced so that EPA would use the most sophisticated analytical tools available in determining needed controls in the state's urban areas.

The proposal was criticized for use of a single SO_2 ambient air background value (concentration resulting from natural and/or area sources) throughout Ohio in developing the control strategy. The Agency responded to this comment by developing county-specific background values where possible and extrapolating SO_2 isopleths in areas where ambient air concentrations of SO_2 had not been measured, in order to assign the most pertinent background values possible to the various areas of the state, given the available information.

The proposal was criticized for using "value-added" source parameters in estimating industrial emissions growth to determine the need for controls in maintaining air quality standards. EPA and Ohio examined other methods of estimating emissions growth and reconfirmed the superiority of the "value added" approach. The Agency attempted to refine the results of this technique by collecting additional data from various State and major urban planning agencies in Ohio. These refinements were sought to assure maintenance of standards by the most reliable method available at this time.

Several local agencies criticized the proposed regulations because they would permit certain sources to emit greater amounts of SO_2 than would local regulations covering the same sources. The Administrator recognizes and respects the rights of any State or political subdivision thereof to adopt or enforce emission standards stricter than those required to achieve national ambient air quality standards. Whether adopted to allow for greater growth or as additional safeguards to the public health and welfare, the Administrator encourages continued enforcement of those local regulations. Nonetheless in formulating the regulations herewith promulgated, the Administrator was required to adhere to the standards set forth at § 110 of the Act.

Malfunctions

The proposed regulations did not include a section dealing with malfunctions, and the preamble requested comments on how the problem of malfunctions could be addressed. Several commentators offered sample regulations or suggested regulations presently utilized in other states as a means of dealing with the malfunction problem. After reviewing the comments, the Administrator has concluded that to penalize a prudent operator for emissions that are beyond his control is unreasonable. The issuance of an administrative order or the initiation of judicial action following a period of excess emission caused by circumstances beyond the control of the operator is not appropriate. However, automatic exemption for these periods of unavoidable excess emissions are also not appropriate.

The Administrator recognizes that some relief should be afforded during certain upset conditions, but the promulgation of an upset regulation could serve as a disincentive to develop better operating and maintenance procedures. The Administrator has concluded that malfunctions and upsets beyond the reasonable control of an operator can be raised in the context of a Section 113 enforcement proceeding and prior to the issuance of an administrative order. When a Notice of Violation is issued to an operator for a violation resulting from a malfunction or upset condition, the Administrator will consider any information developed by the source which more fully explains the circumstances of the violation, its seriousness, and efforts of the operator to comply. If the Administrator determines that the subject equipment was well maintained and operated, was repaired expeditiously, and that excess emissions were minimized, no further action would be warranted. In the Administrator's view this approach both encourages good operating practice and provides a forum for mitigating evidence in the context of the Agency's enforcement process.

Compliance Schedules

The regulations include categorical compliance schedules to be utilized by sources to attain compliance. Because this promulgation allows certain sources an "optional emission limitation" a provision has been added requiring notice to the Administrator of the option selected within eight weeks of promulgation. Alternate schedules may be submitted at the same time for approval by sources desiring to adjust the increments of progress within the promulgated schedules. Any source owner or operator failing to notify the Administrator of his selection within the allowed eight weeks will be subject to the specific emission limitation identified in the regulations. The Agency reserves the right to specify shorter schedules for those sources which can comply more expeditiously than the three year time frame.

The final regulations delete the requirement that sources sign contracts for fuel supplies for a minimum period of ten years. This change flows from a number of comments strongly questioning the propriety of requiring firm contracts for ten year supplies of coal. The above requirement relieves smaller fuel users of the necessity of committing resources for a long period. However, sources electing to comply by fuel changes must demonstrate that sufficient complying fuel can realistically be expected to be available. In cases of large coal users (generally utilities and utility size fuel users), the required demonstration may include a contract document. This distinction is consistent with the practice of utility and large industrial users of contracting for fuel supplies at least 10 years in advance of their needs.

Technical And Economic Feasibility

The proposal was criticized for failure to consider technological and economic feasibility in developing the proposed regulations. Although these factors were considered in developing this proposal, the Agency responded to this criticism by providing for site visits to twenty industrial or utility facilities. The bulk of this work was performed by a contractor pursuant to EPA specifications. The studies provide a basis for determining the feasibility of the final regulations and indicate that most site specific difficulties can be overcome. A detailed assessment of the technical feasibility of these regulations is included in the technical support document.

Consistent with the recent Sixth Circuit decision (*Big Rivers Electric Corp. et al.* v. *EPA*, 523 F. 2d 16 (1975), cert denied, —— U.S. ——, April 19, 1976), the proposed plan prohibits the operation of a source of pollutant emissions beyond three years from promulgation "without the application of one or more systems which control the kind and amounts' of its air contaminant emissions." The Sixth Circuit Court of Appeals reasoned that, absent a showing that measures which qualify as emission limitations (see *Train* v. *NRDC*, 43 L. Ed. 2d 731, 745, 1975, defining emission limitations as "regulation of the composition of substances emitted into the ambient air") are unavailable, the Administrator cannot approve (or, therefore, promulgate) measures other than emission limitations. Cf. *Big Rivers* v. *EPA*, 523 F. 2d at 22. Consistent with the Court's opinion, this rulemaking contains only emission limitations since, in the Administrator's judgment, such limitations are not only capable of attaining national standards but are also achievable through application of available technology.

Review of the record developed in this action reveals that all affected sources will be able to meet the established requirements. However, it may be, in exceptional circumstances, that available technology when applied to a given source will not achieve the applicable emission limitation. In such cases, the Administrator will consider a petition for a plan revision to those sources qualifying under the Agency policy set fourth at 41 FR 7450 on February 18, 1976. Such petitions should be submitted no later than 60 days after promulgation, should be adequately documented and will, under no circumstances, permit extension of the final compliance date.

Inflation Impact Statement

The Agency was criticized for failure to propose an inflation impact statement in connection with the proposed rules. The Agency's position in response to the President's order came out about the same time the proposal did and it was not possible to prepare a statement for the proposed regulations. In connection with determinations on the final rulemaking, EPA collected various types of information from the State of Ohio which have been used in conjunction with information gathered from the site visits to prepare an inflation impact statement which will be available for public inspection at (1) the Air Programs Branch, Air and Hazardous Materials Division, EPA Region V, 230 South Dearborn, Chicago, Illinois 60604; (2) the U.S. EPA Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460; and (3) the Council on Wage and Price Stability, Washington, D.C. 20503.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

The Technical Support Document will be available at the following locations: (1) Cincinnati Division of Air Pollution Control, 2400 Beekman Street, Cincinnati, Ohio 45214; (2) Cleveland Division of Air Pollution Control, 2735 Broadway Avenue, Cleveland, Ohio 44115; (3) Akron Air Pollution Control Agency, 177 South Broadway, Akron, Ohio 44308; (4) Canton Air Pollution Control Division, City Hall, Canton, Ohio 44702; (5) Northeast District Office, Ohio Environmental Protection Agency, 2110 East Aurora Road, Twinsburg, Ohio 44087; (6) Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216; (7) Montgomery County Health Department Regional Air Pollution Control Agency, 451 West Third Street, Dayton, Ohio 45402; (8) Southwest District Office, Ohio Environmental Protection Agency, 7 East Fourth Street, Dayton, Ohio 45402; (9) Mansfield-Richland County Health Department, 600 West Third Street, Mansfield, Ohio 44906; (10) Marietta City Health Department, 304 Putnam Street, Marietta, Ohio 45750; (11) Southeast District Office, Ohio Environmental Protection Agency, RR No. 3 Box 603, Logan, Ohio 43138; (12) Allen County Health Department, 405 East Market Street, Lima, Ohio 45802; (13) Portsmouth City Health Department, 740 Second Street, Portsmouth, Ohio 45662; (14) Sandusky-Erie County Health Department, Municipal Building, East Meigs Street, Sandusky, Ohio 44870; (15) North Ohio Valley Air Authority, 314 Adams Street, Steubenville, Ohio 43952; (16) Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605; (17) Northwest District Office, Ohio Environmental Protection Agency, 1035 Devlac Grove Drive, Bowling Green, Ohio 43402; (18) Ross County Health Department, Health Center-University East, 50 Pohlman Road, P.O. Box 465, Chillicothe, Ohio 45601; (19) Mahoning-Trumbull Air Pollution Agency, Central Tower Building, 11 Central Square, Room 404, Youngstown, Ohio 44503; and (20) Muskingum County Health Department, 735 Laurel Avenue, Zanesville, Ohio 43701; (21) The U.S. EPA, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the Technical Support Document and detailed background material are available for public inspection during normal working hours at the Air Programs Branch, Air and Hazardous Materials Division, EPA Region V, 230 South Dearborn, Chicago, Illinois 60604.

These regulations become effective September 27, 1976.

(Authority: 42 USC 1857c–5(a))

Dated: August 20, 1976.

Russell E. Train,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. In § 52.1875 the attainment dates for sulfur dioxide in the table are revised and additional notes are added as follows:

§ 52.1875 Attainment dates for national standards.

* * * * * *

Air Quality Control Region	Pollutant: Particulate Matter Pri-	Particulate Matter Secon-	Sulfur Dioxide Pri-	Sulfur Dioxide Secon-	Nitrogen Dioxide	Carbon Monoxide	Photochemical Oxidants (hydrocarbons)
Greater Metropolitan Cleveland Intrastate	•	•	•	f	•	•	•
Huntington (West Virginia)-Ashland (Kentucky)-Portsmouth-Ironton (Ohio) Interstate			f	f			
Mansfield-Marion Intrastate			f	f			
Metropolitan Cincinnati Interstate			f	f			
Metropolitan Columbus Intrastate			f	f			
Metropolitan Dayton Intrastate			f	f			
Metropolitan Toledo Interstate			f	f			
Northwest Ohio Intrastate			f	f			
Northeast Pennsylvania-Youngstown Interstate			f	f			
Parkersburg (West Virginia)-Marietta (Ohio) Interstate			f	f			
Sandusky Intrastate			f	f			
Steubenville-Weirton-Wheeling Interstate			f	f			

V 41 168 AUG 27 76 UMI

Air Quality Control Region	Pollutant: Particulate Matter, Primary	Particulate Matter, Secondary	Sulfur Dioxide, Primary	Sulfur Dioxide, Secondary	Nitrogen Dioxide	Carbon Monoxide	Photochemical Oxidants (hydrocarbons)
Zanesville-Cambridge Intrastate	•	•	f	f	•	•	•

f, 3 years from the date of promulgation
g, Notwithstanding the above, the following Ohio counties have already met the primary and secondary standards: Ashland, Brown, Carroll, Champaign, Clinton, Darke, Defiance, Fayette, Fulton, Geauga, Guernsey, Hardin, Harrison, Highland, Hocking Holmes, Jackson, Knox, Logan, Madison, Monroe, Morrow, Noble, Perry, Portage, Preble, Putnam, Shelby, Union, Van Wert, Warren, Williams, Wyandot.

2. Section 52.1881 is amended by adding a new paragraph (b) as follows:

§ 52.1881 Control strategy: Sulfur dioxide.

• • • • •

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

(1) *Definitions*—All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Clean Air Act or Parts 51, 52, or 60 of this Chapter.

(i) "By-product coke oven gas" means the gas produced during the production of metallurgical coke in slot-type, by-product coke batteries.

(ii) "Flue gas desulfurization" means any pollution control process which treats stationary source combustion flue gas to remove sulfur oxides.

(iii) "Fossil fuel" means natural gas, coke oven gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.

(iv) "Fossil fuel-fired steam generating unit" means a furnace or boiler used in the process of burning fossil fuel for the purpose of producing steam by heat transfer.

(v) "Heat input" means the total gross calorific value (where gross calorific value is measured by ASTM Method D2015–66, D240–64, or D1826–64) of all fossil and non-fossil fuels burned. Where two or more fossil fuel-fired steam generating units are vented to the same stack the heat input shall be the aggregate of all units vented to the stack.

(vi) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant for which a national standard is in effect.

(vii) "Primary zinc smelter" means any installation engaged in the production, or any intermediate process in the production, of zinc or zinc oxide from the zinc sulfide ore concentrates through the use of pyrometallurgical techniques.

(viii) "Process" means any source operation including any equipment, devices, or contrivances and all appurtenances thereto, for changing any material whatever or for storage or handling of any materials, the use of which may cause the discharge of an air contaminant into the open air, but not including that equipment defined as fossil fuel fired steam generating units in these regulations. Duplicate or similar parallel operations within a structure, building, or shop shall be considered as a single process for purposes of this regulation.

(ix) "Process weight" means the total weight of all materials and solid fuels introduced into any specific process. Liquid and gaseous fuels and combustion air will not be considered as part of the process weight unless they become part of the product. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for the number of hours in a given period of time by the number of hours in that period. For fluid catalytic cracking units, process weight shall mean the total weight of material introduced as fresh feed to the cracking unit. For sulfuric acid production units, the nitrogen in the air feed shall not be included in the calculation of process weight.

(x) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice as determined by the Administrator.

(xi) "Source operation" means the last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminant from process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and (b) is not primarily an air pollution abatement operation.

(xii) "Stack" means any chimney, flue, vent, roof monitor, conduit or duct arranged to vent emissions to the ambient air.

(xiii) "Sulfur recovery plant" means any plant that recovers elemental sulfur from any gas stream.

(xiv) "Sulfuric acid production unit" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge.

(xv) "Total rated capacity" means the sum of the rated capacities of all fuel-burning equipment connected to a common stack. The rated capacity shall be the maximum guaranteed by the equipment manufacturer or the maximum normally achieved during use as determined by the Administrator, whichever is greater.

(2) *Test Methods and Procedures*—Unless specified below, the test methods and procedures used for determining compliance with the applicable subparagraphs of § 52.1881(b) shall be those prescribed in Part 60 of this chapter. Compliance tests shall be conducted under such conditions as the Administrator shall specify based on representative performance of the affected facility. Notification and recordkeeping procedures shall be those prescribed in § 60.7 of this chapter. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. A compliance test shall consist of at least three runs.

(i) The test methods and procedures used for determining compliance for any sulfur recovery plant subject to applicable subparagraph, of § 52.1881(b) shall be those prescribed in § 60.46 of this chapter with the exception that the maximum amount of sulfur dioxide sampled by Method 6 shall not exceed 50 percent of the stoichiometric amount of hydrogen peroxide absorbent.

(ii) The test methods and procedures used for determining compliance for any sulfuric acid production unit, or any primary zinc smelter subject to the applicable subparagraphs of § 52.1881(b) shall be those prescribed in § 60.85 of this chapter.

(iii) The test methods and procedures used to determine the compliance of any stack venting any fossil fuel-fired steam generating units subject to the applicable subparagraphs of § 52.1881(b) shall be those prescribed in § 60.46 of this chapter. The test methods for determining the sulfur content of fuels shall be those specified in § 60.45 of this chapter.

(3) *Severability*—If any provision of these regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions or application, and to this end the provisions of these regulations and the various applications thereof are declared to be severable.

(4) *Submission of Information*—The submission of any information required under § 52.1882 shall be made to the Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Illinois, 60604, Attention Air Compliance Section.

(5) For purposes of this regulation, stack and boiler identification numbers used in this paragraph were derived from correspondence submitted to the U.S. EPA by the affected owners or operators, and may be found in the record supporting this rulemaking.

(6) This paragraph contains no applicable provisions in the following counties of Ohio: Ashland, Brown, Carroll, Champaign, Clinton, Darke, Defiance, Fayette, Fulton, Geauga, Guernsey, Hardin, Harrison, Highland, Hocking, Holmes, Jackson, Knox, Logan, Madison, Monroe, Morrow, Noble, Perry, Portage, Preble, Putnam, Shelby, Union, Van Wert, Warren, Williams and Wyandot, nor does it apply to facilities equal to or less than 10 million BTU per hour total aggregate rated capacity of all units at a facility.

(7)–(10) Reserved.

(11) In Adams County:

(i) The Dayton Power and Light Company or any subsequent owner or operator of the Stuart Power Plant in Adams County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Stuart Plant in excess of 3.16 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (11)(i), the Dayton Power and Light Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy the following equation:

(A) $0.0791\ (EL_1+EL_2+EL_3+EL_4 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation, each stack is identified as follows:

Stack No.:	Boiler identification
1	1
2	2
3	3
4	4

(12) In Allen County:

(i) The Ford Motor Company or any subsequent owner or operator of the Ford Motor Company facilities at Allen County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 3.40 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The present or any subsequent owner or operator of the Lima State Hospital at Allen County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 5.39 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Vistron Corporation or any subsequent owner or operator of the Vistron Corporation facilities at Allen County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 1.27 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The Standard Oil Company or any subsequent owner or operator of the Standard Oil Company facilities at Allen County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 100 pounds of sulfur dioxide per 1000 pounds of sulfur processed at the Claus unit.

(B) 0.30 pounds of sulfur dioxide per 1000 pounds of petroleum products at the Fluid Catalytic Cracker/Carbon Monoxide Boiler.

(C) 11.00 pounds of sulfur dioxide per ton of production at the Trolumen unit.

(D) 0.71 pounds of sulfur dioxide per million BTU actual heat input at the Iso Stabilizer and Split Heaters—B002.

(E) 0.21 pounds of sulfur dioxide per million BTU actual heat input at the Vac I Heater—B012.

(F) 0.13 pounds of sulfur dioxide per million BTU actual heat input from all remaining process heaters and fossil fuel-fired steam generators.

(13) In Ashtabula County:

(i) The Cleveland Electric Illumination Company or any subsequent owner or operator of the Ashtabula Power Plant in Ashtabula County, Ohio shall not cause or permit the emission of sulfur dioxide from any of the stacks 1, 2, and 3 at the Ashtabula Plant in excess of 2.40 pounds of sulfur dioxide per million BTU actual heat input. Emissions of sulfur dioxide from stack 4 at the Ashtabula Plant shall not exceed 9.10 pounds of sulfur dioxide per million BTU actual heat input. Emissions of sulfur dioxide from stack 5 at the Ashtabula plant shall not exceed 8.20 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The RMI Corporation, or any subsequent owner or operator of the RMI Corporation metal reduction plant in Ashtabula County, Ohio shall not cause or permit emissions of sulfur dioxide in excess of 4.80 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The RMI Corporation, or any subsequent owner or operator of the RMI Corporation sodium plant at Ashtabula County, Ohio shall not cause or permit the emissions of sulfur dioxide in excess of 2.70 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The General Tire and Rubber Company, or any subsequent owner or operator of the General Tire and Rubber Company Plant at Ashtabula County, Ohio shall not cause or permit the emissions of sulfur dioxide in excess of 1.30 pounds of sulfur dioxide per million BTU actual heat input.

(v) The New Jersey Zinc Company or any subsequent owner or operator of New Jersey Zinc Company Plant at Ashtabula County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of 1.50 pounds of sulfur dioxide per million BTU actual heat input at any oil burning unit.

(14) In Athens County:

(i) No owner or operator of any fossil fuel-fired steam generating unit, unless otherwise specified below, shall cause or permit the emission of sulfur dioxide from any stack in excess of 7.50 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Poston Power Plant in Athens County, Ohio shall not cause or permit the emission of sulfur dioxide from stacks 1 and 2 at the Poston Plant in excess of 3.94 pounds of sulfur dioxide per million BTU actual heat input. Stack number three is subject to New Source Performance Standards and is limited to 1.2 pounds of sulfur dioxide per million BTU of actual heat input.

(iii) In lieu of meeting subparagraph (14)(ii), the Columbus and Southern Ohio Power Company may elect in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.1607\ EL_1+0.0757\ EL_2 \leq 1$
(B) $0.1315\ EL_1+0.1219\ EL_3 \leq 1$
(C) $0.1067\ EL_2+0.1220\ EL_3 \leq 1$

where EL_i is the emission limitation (in pounds of sulfur dioxide per million BTU of actual heat input) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3, 4
3	5, 6

(15) In Auglaize County, the Goodyear Tire and Rubber Company, or any subsequent owner or operator of the Goodyear Tire and Rubber Company facilities in Auglaize County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 4.20 pounds of sulfur dioxide per million BTU actual heat input.

(16) In Belmont County:

(i) The Wheeling Pittsburgh Steel Company or any subsequent owner or operator of the Martins Ferry Steel Plant in Belmont County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Martins Ferry facility in excess of 2.60 pounds of sulfur dioxide per million BTU actual heat input.

(17) In Butler County, Ohio:

(i) No present or subsequent owner or operator of any fossil fuel-fired steam generating unit(s) located in Butler County, Ohio shall cause or permit sulfur dioxide emissions from any stack in excess of 1.40 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No present or any subsequent owner or operator of a by-product coke oven located in Butler County, Ohio, shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 100 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.50 pounds of sulfur dioxide per million BTU actual heat input.

(18) In Clark County:

(i) The Ohio Edison Company or any subsequent owner or operator of the Mad River Power Plant in Clark County, Ohio, shall not cause or permit the emission of sulfur dioxide from any of the stacks 1, 2, and 3 at the Mad River Plant in excess of 4.62 pounds of sulfur dioxide per million BTU actual heat input. Emissions of sulfur dioxide from stacks 4 and 5 at the Mad River Plant shall not be in excess of 1.00 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (18)(i), the Ohio Edison Company may elect for stacks 1, 2, and 3 only, in accordance with the compliance schedule provisions of § 52.1882, to comply with

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the emission limitations which will satisfy all of the following equations:

(A) $0.0995\ (EL_1+EL_2)+0.0173\ EL_3 \leq 1$
(B) $0.0498\ (EL_1+EL_2)+0.0516\ EL_3 \leq 1$
(C) $0.0735\ (EL_1+EL_2)+0.0190\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1
2	2
3	3
4	A (Turbine)
5	B (Turbine)

(19) In Clermont County:

(i) The Cincinnati Gas & Electric Company or any subsequent owner or operator of the Beckjord Power Plant in Clermont County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Beckjord plant in excess of 2.02 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of subparagraph (19) (i) the Cincinnati Gas and Electric Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.1426\ EL_1+0.1629\ EL_2+0.0667\ EL_3+0.0823\ EL_4+0.0122\ EL_5 \leq 1$
(B) $0.1252\ EL_1+0.1349\ EL_2+0.1003\ EL_3+0.1192\ EL_4+0.0155\ EL_5 \leq 1$
(C) $0.0337\ EL_1+0.0353\ EL_2+0.0382\ EL_3+0.0451\ EL_4+0.0709\ EL_5 \leq 1$
(D) $0.1334\ EL_1+0.1492\ EL_2+0.0740\ EL_3+0.0904\ EL_4+0.0247\ EL_5 \leq 1$
(E) $0.0249\ EL_1+0.0257\ EL_2+0.0283\ EL_3+0.0332\ EL_4+0.0841\ EL_5 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler Identification
1	1
2	2
3	3
4	4
5	5, 6

(20) In Columbiana County, no present or any subsequent owner or operator of any fossil fuel-fired steam generating unit(s) operating in Columbiana County, Ohio shall cause or permit emission of sulfur dioxide from any stack in excess of 4.40 pounds of sulfur dioxide per million BTU actual heat input.

(21) In Coshocton County:

(i) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Conesville Plant in Coshocton County, Ohio shall not cause or permit the emission of sulfur dioxide from any of the stacks 1, 2, and 3 at the Conesville Plant in excess of 3.78 pounds of sulfur dioxide per million BTU actual heat input. Stack 4 at the Conesville Plant is subject to New Source Performance Standards and is limited to 1.2 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (21) (i), the Columbus and Southern Ohio Power Company may elect for stacks 1, 2, and 3 only, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.1219\ EL_1+0.0906\ EL_2+0.0524\ EL_3 \leq 1$
(B) $0.0547\ EL_1+0.0327\ EL_2+0.0838\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3
3	4
4	5, 6

(22) In Crawford County, no present or any subsequent owner or operator of any fossil fuel-fired steam generating unit(s) operating in Crawford County, Ohio, shall cause or permit emissions of sulfur dioxide from any stack in excess of 9.60 pounds of sulfur dioxide per million BTU actual heat input.

(23) In Cuyahoga County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit emission of sulfur dioxide from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units between 10.0 and 350×10^6 BTU's per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU actual heat input shall be calculated by the following equation:

$$EL=7.014\ Q_m^{-0.3014}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired units equal to or greater than 350 million BTU per hour total rated capacity, 1.20 pounds of sulfur dioxide per million BTU of actual heat input.

(iii) (A) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cuyahoga County, Ohio shall not cause or permit the combustion of by-product coke oven gas at the basic oxygen furnace shop, open hearth shop, blast furnaces 1, 4 and 5, foundry, P-Anneals 1–4, and car thaw 1–1 through 1–4, containing a total sulfur content expressed as hydrogen sulfide in excess of 240 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at the above facilities in excess of 1.20 pounds of sulfur dioxide per million BTU actual heat input.

(B) The Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities located in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack attached to the Open Hearth precipitator units 111 and 112, 98-inch slab furnace units 1, 2, 3, 4, and 5, 84-inch slab furnace units 1 and 2, and the sinter plant at this facility in excess of 0.00 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The Cleveland Electric Illuminating Company or any subsequent owner or operator of the Lake Shore Power Plant located in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Lake Shore Plant in excess of the following rates:

(A) 1.30 pounds of sulfur dioxide per million BTU of actual heat input from unit no. 18.

(B) 1.90 pounds of sulfur dioxide per million BTU of actual heat input for units 91 through 94.

(v) The City of Cleveland or any subsequent owner or operator of the Division Pumping Station located at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Division Pumping Station in excess of 4.20 pounds of sulfur dioxide per million BTU of actual heat input.

(vi) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of 1.00 pounds of sulfur dioxide per million BTU of actual heat input:

Company	Boiler identification
(A) Cleveland Electric Illuminating Co., Hamilton Ave. Steam Plant	All boilers.
(B) Republic Steel	234, 1, 2, A, B, and C.
(C) Addressograph	1, 2, and 3.
(D) General Electric Co.	1 and 2.
(E) Jones and Laughlin Steel	30.

(vii) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of 0.50 pounds of sulfur dioxide per million BTU of actual heat input:

Company	Boiler identification
(A) Jones & Laughlin Steel	22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35.
(B) U.S. Steel, Cuyahoga-Lorain works	1, 2, 3, 4, 5, and 6.
(C) DuPont	18.
(D) Harshaw Chemical	7 and 8.
(E) Standard Oil of Ohio	7, 9, and 10.

(viii) The United States Steel Corporation, Cuyahoga Works or any subsequent owner or operator of the Cuyahoga Works in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack attached to boilers 3 through 7 at the Cuyahoga Works in excess of 1.30 pounds of sulfur dioxide per million BTU of actual heat input.

(ix) The Hupp Company or any subsequent owner or operator of Hupp facilities in Cuyahoga County, Ohio shall not cause or permit emission of sulfur dioxide from any stack attached to boilers 1 through 3 at this facility in excess of 3.50 pounds of sulfur dioxide per million BTU of actual heat input.

(x) The Chase Bag Company or any subsequent owner or operator of Chase Bag facilities in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack attached to boilers 1 & 2 at this facility in excess of 4.20 pounds of sulfur dioxide per million BTU of actual heat input.

(xi) The General Electric Company or any subsequent owner or operator of General Electric facilities in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack attached to boilers 3 and 5 at this facility in excess of 3.10 pounds of sulfur dioxide per million BTU of actual heat input.

(xii) The General Motors Corporation or any subsequent owner or operator of the Fisher Body plant at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack attached to boilers 7, 8, and 9 at this facility in excess of 2.10 pounds of sulfur dioxide per million BTU of actual heat input.

(xiii) No present or subsequent owner or operator of the Medical Center located in Cuyahoga County, Ohio shall cause or permit the emission of sulfur dioxide from any stack attached to boilers 3 through 8 at the Medical Center in excess of 4.60 pounds of sulfur dioxide per million BTU of actual heat input.

(xiv) The Ford Motor Company or any subsequent owner or operator of the Ford Motor Company facilities located at Cuyahoga County, Ohio shall not cause or permit emissions of sulfur dioxide from any stack at these facilities in excess of the rates specified below:

(A) 1.20 pounds of sulfur dioxide per million BTU actual heat input for boilers 1, 2, and 3 at the Stamping Plant.

(B) 4.20 pounds of sulfur dioxide per million BTU actual heat input for boilers 1, 2, 3, 4, and 5 at the Engine Plant #2.

(xv) No present or subsequent owner or operator of the Highland View Hospital shall cause or permit the emission of sulfur dioxide from any stack at the Highland View Hospital in excess of the rates specified below:

(A) 2.90 pounds of sulfur dioxide per million BTU of heat input for boilers 3 and 4.

(B) 1.50 pounds of sulfur dioxide per million BTU of heat input for boilers and 1 and 2.

(xvi) The Allied Chemical Company or any subsequent owner or operator of the Allied Chemical Company sulfuric acid production units at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any unit in excess of 4.8 pounds of sulfur dioxide per ton of 100% sulfuric acid produced.

(xvii) No owner or operator, unless otherwise specified in this subparagraph, shall cause or permit the combustion of byproduct coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 170 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas.

(xviii) No owner or operator of any process equipment, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide from any stack in excess of 6.00 pounds of sulfur dioxide per ton of actual process weight input.

(xix) The Harshaw Chemical Company or any subsequent owner or operator of the Harshaw Chemical Company facilities at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 1.90 pounds of sulfur dioxide per ton of actual process weight input.

(xx) The Dupont Company or any subsequent owner or operator of the Dupont Company sulfuric acid production units at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of 10.0 pounds of sulfur dioxide per ton of 100% sulfuric acid production.

(24) In Delaware County, no present or subsequent owner or operator of any fossil fuel-fired steam generating unit(s) operating in Delaware County, Ohio, shall cause or permit emission of sulfur dioxide from any stack in excess of 4.00 pounds of sulfur dioxide per million BTU actual heat input.

(25) In Erie County:

(i) No present or any subsequent owner or operator of any fossil fuel-fired steam generating unit(s) shall cause or permit emission of sulfur dioxide from any stack in excess of 1.60 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No present or any subsequent owner or operator of any process equipment, shall cause or permit the emission from any stack into the atmosphere of any process gas stream containing sulfur dioxide in excess of 9.50 pounds of sulfur dioxide per ton of actual process weight input.

(26) In Fairfield County:

(i) The Diamond Power Speciality Company or any subsequent owner or operator of the Diamond Power facility in Fairfield County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Diamond Power facility in excess of 6.90 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The Crown-Zellerbach Corporation or any subsequent owner or operator of the Crown-Zellerbach facility in Fairfield County, Ohio shall not cause or permit the emission of sulfur dioxide from the stack attached to #2 boiler at the Crown-Zellerbach facility in excess of 7.00 pounds of sulfur dioxide per million BTU actual heat input.

(27) In Franklin County, no owner or operator of the following types of facilities unless otherwise specified in this subparagraph, shall cause or permit emission of sulfur dioxide from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating unit between 10.0 and 50.0 x 10^6 BTU per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU actual heat input shall be calculated by the following equation:

$$EL=8.088Q_m^{-0.4307}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating unit(s) equal to or greater than 50.0×10^6 BTU per hour total rated capacity of heat input, the emission limitation shall be 1.50 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The present or any subsequent owner or operator of the Columbus State Institution in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 3.80 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The present or any subsequent owner or operator of the Columbus State Hospital in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 4.10 pounds of sulfur dioxide per million BTU actual heat input.

(v) The present or any subsequent owner or operator of Ross Laboratory in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 4.80 pounds of sulfur dioxide per million BTU actual heat input.

(vi) The present or any subsequent owner or operator of the Rickenbacker Air Force Base in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.20 pounds of sulfur dioxide per million BTU actual heat input.

(vii) The present or any subsequent owner or operator of the Capital City Products facility in Franklin County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 3.10 pounds of sulfur dioxide per million BTU actual heat input.

(viii) The present or any subsequent owner or operator of the Westinghouse Electric facility in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.20 pounds of sulfur dioxide per million BTU actual heat input.

(ix) The present or any subsequent owner or operator of the Naval Weapons Industrial Reserve facility in Franklin County shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.06 pounds of sulfur dioxide per million BTU actual heat input.

(x) No owner or operator of any primary zinc smelter shall cause or permit the emission of sulfur dioxide from the plant in excess of the amount prescribed by the following equation:

$$Y=0.564X^{0.85}$$

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where X is the total sulfur feed expressed as elemental sulfur in the smelter input stream in lbs/hour and Y is the allowable sulfur dioxide emission rate in lbs/hour from all stacks combined.

(xi) Except as provided in subparagraph (27)(x) of this paragraph, no owner or operator of any process equipment shall cause or permit the emission from any stack into the atmosphere of any process gas stream containing sulfur dioxide in excess of 2.40 pounds of sulfur dioxide per ton of actual process weight input.

(28) In Gallia County:

(i) The Ohio Power Company or any subsequent owner or operator of the Gavin Power Plant in Gallia County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Gavin facility in excess of 9.50 pounds per million BTU actual heat input.

(ii) The Ohio Valley Electric Company or any subsequent owner or operator of the Kyger Creek Power Plant in Gallia County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Kyger Creek facility in excess of 8.20 pounds of sulfur dioxide per million BTU actual heat input.

(29) In Greene County:

(i) No owner or operator of any process equipment shall cause or permit the emission of sulfur dioxide from any stack in excess of that permitted by the following equation:

$$EL = 563.3P^{-0.9327}$$

where EL is the allowable emission rate in pounds of sulfur dioxide per hour and P is the actual process weight input rate in tons per hour.

(ii) The present or any subsequent owner of the Wright Patterson Air Force Base in Greene County, Ohio shall not cause or permit emissions of sulfur dioxide in excess of 0.38 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 271; emissions of sulfur dioxide in excess of 0.81 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 6770; emissions of sulfur dioxide in excess of 0.33 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 666; emissions of sulfur dioxide in excess of 0.79 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 1240; emissions of sulfur dioxide in excess of 0.93 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 170.

(iii) No present or any subsequent owner of the Antioch College at Greene County, Ohio shall cause or permit the emissions of sulfur dioxide from any stack at Antioch College in excess of the rates specified below:

(A) 6.20 pounds of sulfur dioxide per million BTU actual heat input for any fossil fuel-fired steam generating unit burning coal.

(B) 1.40 pounds of sulfur dioxide per million BTU actual heat input for any fossil fuel-fired steam generating unit burning oil.

(iv) No present or any subsequent owner of Central State University at Greene County, Ohio shall cause or permit emissions of sulfur dioxide from any stack at Central State University in excess of the rates specified below:

(A) 4.30 pounds of sulfur dioxide per million BTU actual heat input from Stack 1.

(B) 0.30 pounds of sulfur dioxide per million BTU actual heat input from Stack 2.

(30) In Hamilton County:

(i) No owner or operator of any fossil fuel-fired steam generating unit(s) located in Hamilton County, Ohio, unless otherwise specified in this subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of 2.00 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The Cincinnati Gas and Electric Company or any subsequent owner or operator of the Miami Fort Power Plant in Hamilton County, Ohio shall not cause or permit the emissions of sulfur dioxide, from stack number 2 at the Miami Fort Plant in excess of 0.30 pounds of sulfur dioxide per million BTU actual heat input, from stacks 3 and 4 at the Miami Fort Plant in excess of 3.30 pounds of sulfur dioxide per million BTU actual heat input, from stack 5 at the Miami Fort Plant in excess of 5.50 pounds of sulfur dioxide per million BTU actual heat input. Stack number 6 is subject to Federal New Source Performance Standards and is limited to 1.20 pounds of sulfur dioxide per million BTU of actual heat input. Stacks at the Miami Fort Power Plant are identified as follows:

Stack No.	Boiler No.
2	3
3	4 & 5
4	6
5	7
6	8

(iii) No owner or operator of a sulfur acid production unit(s) shall cause or permit the emissions of sulfur dioxide from the unit(s) in excess of 21.0 pounds of sulfur dioxide per ton of 100% sulfuric acid produced.

(iv) No owner or operator of any fluidized catalytic cracking unit located in Hamilton County, Ohio shall cause or permit sulfur dioxide emissions from any unit in excess of 0.2 pounds of sulfur dioxide per thousand pounds of charging feed stock.

(31) In Hancock County:

(i) No owner or operator of any fossil fuel-fired steam generating unit(s) located in Hancock County, Ohio, unless otherwise specified in the subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of 5.20 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The Northern Ohio Sugar Company, or any subsequent owner or operator of the Northern Ohio Sugar Company facilities in Hancock County, Ohio shall not cause or permit sulfur dioxide emissions from any stack in excess of 2.50 pounds of sulfur dioxide per million BTU actual heat input.

(32) In Henry County:

(i) No owner or operator of any oil-fired fossil fuel steam generating unit, unless otherwise specified shall cause or permit emission of sulfur dioxide from any stack in excess of 2.10 pounds per million BTU actual heat input.

(ii) The present or subsequent owner or operator of the City of Napoleon Power Plant in Henry County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Napoleon Power Plant in excess of 0.0 pounds of sulfur dioxide per million BTU actual heat input.

(33) In Huron County, no owner or operator of any fossil fuel-fired steam generating unit shall cause or permit emission of sulfur dioxide from any stack in excess of 8.00 pounds of sulfur dioxide per million BTU actual heat input.

(34) In Jefferson County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating unit(s) burning coal: 1.80 pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating unit(s) burning oil: 0.80 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Kaul Clay Company or any subsequent owner or operator of the Kaul Clay Plant facilities in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack of this facility in excess of 2.82 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The Toronto Paper Board Company or any subsequent owner or operator of the Toronto Paper Board Company plant facilities in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 5.96 pounds of sulfur dioxide per million BTU actual heat input.

(v) The Ohio Edison Company or any subsequent owner or operator of the Toronto Power Plant in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Toronto Plant in excess of 8.10 pounds of sulfur dioxide per million BTU actual heat input.

(vi) The Ohio Edison Power Company or any subsequent owner or operator of the Sammis Power Plant in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Sammis Plant in excess of 2.91 pounds of sulfur dioxide per million BTU actual heat input.

(vii) In lieu of meeting subparagraph (34)(vi), the Ohio Edison Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which simultaneously satisfy all of the following equations:

(A) $0.1673\ EL_1+0.1670\ EL_2+0.0072\ EL_3+0.0022\ EL_4 \leq 1$

(B) $0.0557\ (EL_1+EL_3)+0.1106\ EL_4+0.0734\ EL_5 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3, 4
3	5, 6
4	7

(viii) The owner or operator of the Cardinal Power Plant in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Cardinal Plant in excess of 4.76 pounds of sulfur dioxide per million BTU actual heat input.

(ix) In lieu of meeting subparagraph (24)(vii), the owner or operator of the Cardinal Power Plant may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which satisfy the following equation.

(A) $0.0668\ (EL_1+EL_2)+0.0763\ EL_3 \leq 1$

where EL_i is the emission limitations (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1
2	2
3	3

(x) The Ohio Power Company or any subsequent owner or operator of the Tidd Power Plant in Jefferson County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Tidd Plant in excess of 1.58 pounds of sulfur dioxide per million BTU actual heat input.

(xi) In lieu of meeting subparagraph (24)(viii), the Ohio Power Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will simultaneously satisfy all of the following equations:

(A) $.1521(EL_1+EL_2)+.3267\ EL_3 \leq 1$
(B) $.1443(EL_1+EL_2)+.3338\ EL_3 \leq 1$
(C) $.1568(EL_1+EL_2)+.3169\ EL_3 \leq 1$
(D) $.1591(EL_1+EL_2)+.3143\ EL_3 \leq 1$

where EL_i is the emission limitations (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	11
2	12
3	21

(xii) No owner or operator of a by-product coke oven shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 50 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas.

(xiii) The Wheeling Pittsburg Steel Company or any subsequent owner or operator of the Yorkville Steel Plant facility in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the Yorkville facility in excess of 4.20 pounds of sulfur dioxide per million BTU actual heat input.

(35) In Lake County, no owner or operator of the following types of facilities, unless otherwise specified in this subparagraph, shall cause or permit emissions from stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units between 10.0 and 1000×10^6 BTU per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU actual heat input shall be calculated by the following equation:

$$EL = 14.976Q_m^{-0.2431}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating unit(s) equal to or greater than 1000×10^6 BTU per hour total rated capacity of heat input, 1.40 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The present or any subsequent owner or operator of the Ohio Rubber Company facility in Lake County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the facility in excess of 6.00 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The present or any subsequent owner or operator of the Painesville Municipal Power Plant in Lake County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) For boilers 1 through 4: 5.20 pounds of sulfur dioxide per million BTU actual heat input.

(B) Boiler number 5 is subject to New Source Performance Standards and is limited to 1.20 pounds of sulfur dioxide per million BTU actual heat input.

(v) The present or any subsequent owner or operator of the Diamond Shamrock facility in Lake County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 0.00 pounds of sulfur dioxide per million BTU actual heat input or 0.00 pounds of sulfur dioxide from any process.

(vi) The Cleveland Electric Illuminating Co. or any subsequent owner or operator of the East Lake Plant in Lake County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the East Lake Plant in excess of 1.43 pounds of sulfur dioxide per million BTU actual heat input.

(vii) In lieu of meeting subparagraph (25)(vi), the Cleveland Electric Illuminating Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which satisfy all of the following equations:

(A) $0.143(EL_1+EL_2+EL_3)+0.192\ EL_4+0.078\ EL_5 \leq 1.0$

(B) $0.174(EL_1+EL_2+EL_3)+0.108\ EL_4+0.078\ EL_5 \leq 1.0$

(C) $0.113(EL_1+EL_2+EL_3)+0.187\ EL_4+0.025\ EL_5 \leq 1.0$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.	Boiler identification
1	1
2	2
3	3
4	4
5	5

(viii) The Lubrizol Corporation, or any subsequent owner or operator of the Lubrizol facilities located in Lake County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at Lubrizol facility in excess of 20.00 pounds per ton of actual process weight input.

(36) In Lawrence County:

(i) No owner or operator, unless otherwise specified below, of any industrial process equipment or fossil fuel-fired steam generator unit(s) shall cause or permit the combustion of gasses containing a total sulfur content expressed as hydrogen sulfide in excess of 235 grains of hydrogen sulfide per 100 dry standard cubic feet of gas; or the emission of sulfur dioxide from any stack in excess of 1.22 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The Marquette Cement Company or any subsequent owner or operator of the Marquette Cement Company facilities at Lawrence County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of 73.0 pounds of sulfur dioxide per ton of actual process weight input.

(iii) The Dayton Malleable Iron Company or any subsequent owner or operator of the Dayton Malleable Iron Company facilities at Lawrence County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 2.00 pounds of sulfur dioxide per ton of actual process weight input at the holding furnaces.

(B) 5.40 pounds of sulfur dioxide per ton of actual process weight input at the Cupola.

(iv) The Allied Chemical Company or any subsequent owner or operator of the Semet Solvay Division at Lawrence County, Ohio shall not cause or permit the combustion of gases containing a total sulfur content expressed as hydrogen sulfide in excess of 165 grains of hydrogen sulfide per 100 dry standard cubic feet of gas, or 0.86 pounds of sulfur dioxide per million BTU actual heat input, at tar processing boilers 1, 2 and 3.

(37) In Licking County, no owner or operator of any oil-fired steam generating unit(s) shall cause or permit emission of sulfur dioxide from any stack in

V 41 168 AUG 27 76 UMI

excess of 1.50 pounds of sulfur dioxide per million BTU actual heat input.

(38) In Lorain County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units between 10.0 and 100 million BTU per hour total rated capacity of heat input, the maximum allowable emission rate from any stack shall be calculated by the following equation:

$$EL = 21.176 Q_m^{-0.5477}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating units equal to or greater than 100 million BTU per hour total rated capacity of heat input, the maximum allowable emission rate from any stack shall be 1.70 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Cleveland Electric Illuminating Co. or any subsequent owner or operator of the Avon Lake Plant in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at Avon Lake Plant in excess 1.15 pounds of sulfur dioxide per million BTU actual heat input.

(iv) In lieu of meeting subparagraph (38)(iii), the Cleveland Electric Illuminating Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.0891\ (EL_1+EL_2+EL_3+EL_4)+0.1198\ (EL_5+EL_6)+0.1578\ EL_7+0.1041\ EL_8 \leq 1$

(B) $0.0548\ (EL_1+EL_2+EL_3+EL_4)+0.0676\ (EL_5+EL_6)+0.1067\ EL_7+0.1240\ EL_8 \leq 1$

(C) $0.0909\ (EL_1+EL_2+EL_3+EL_4)+0.1356\ (EL_5+EL_6)+0.1546\ EL_7+0.0799\ EL_8 \leq 1$

(D) $0.0943\ (EL_1+EL_2+EL_3+EL_4)+0.1241\ (EL_5+EL_6)+0.1606\ EL_7+0.0844\ EL_8 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purpose of this regulation each stack is identified as follows:

Stack No.	Boiler identification
1	1 & 2
2	3 & 4
3	5 & 6
4	7 & 8
5	9
6	10
7	11
8	12

(v) The Cleveland Electric Illuminating Co. or any subsequent owner or operator of the Edgewater Plant located in Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Edgewater facility in excess of 3.40 pounds of sulfur dioxide per million BTU actual heat input.

(vi) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities at Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at those facilities in excess of:

(A) For fossil fuel-fired steam generating units number 001 through 009: 1.20 pounds of sulfur dioxide per million BTU of actual heat input.

(B) For fossil fuel-fired steam generating units number 010 through 013: 0.50 pound of sulfur dioxide per million BTU of actual heat input.

(C) For all other fossil fuel-fired steam generating units, subparagraph (38)(i) or (38)(ii) shall apply, as applicable.

(vii) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities at Lorain County, Ohio shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 75 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.40 pound of sulfur dioxide per million BTU of actual heat input with the exception that:

(A) For process operations 033 and 039, the United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities at Lorain County, Ohio shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 35 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.10 pounds of sulfur dioxide per million BTU of actual heat input.

(viii) The General Motors Corporation or any subsequent owner or operator of the Fisher Body Plant at Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Fisher Body Plant in excess of the rates specified below:

(A) 0.80 pounds of sulfur dioxide per million BTU of actual heat input for boiler number 001 and 002.

(B) 0.90 pounds of sulfur dioxide per million BTU of actual heat input for boiler number 004.

(C) For all other fossil fuel-fired steam generating units, subparagraph (38)(i) or (38)(ii) shall apply, as applicable.

(39) In Lucas County, no owner or operator of the following types of facilities, unless otherwise specified in this subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units burning coal the emission rate shall be 1.50 pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating units burning oil the emission rate shall be 1.00 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Toledo Edison Company or any subsequent owner or operator of the Bayshore Station in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Bayshore Station in excess of the rates specified below:

(A) 1.30 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units burning coal.

(B) 0.40 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units burning oil.

(iv) Standard Oil of Ohio or any subsequent owner or operator of the Standard Oil of Ohio facility located in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.50 pounds of sulfur dioxide per million BTU actual heat input for any fossil fuel-fired steam generating unit or process operation heater.

(B) 0.30 pounds of sulfur dioxide per 1000 pounds of charging stock for catalytic cracking units.

(C) 0.11 pounds of sulfur dioxide per ton of actual process weight input for any process unless otherwise specified in this subparagraph.

(v) Standard Oil of Ohio or any subsequent owner or operator of Standard Oil of Ohio facility in Lucas County, Ohio shall not cause or permit the combustion of gasses at any flare at this facility containing a total sulfur content expressed as hydrogen sulfide (H_2S) in excess of 46 grains of hydrogen sulfide per 100 dry standard cubic feet of gas.

(vi) The Coulton Chemical Company or any subsequent owner or operator of the Coulton Chemical facility in Lucas County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Coulton Chemical facility in excess of the rates specified below:

(A) 0.30 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units.

(B) 6.5 pounds of sulfur dioxide per ton of 100% sulfuric acid produced for sulfuric acid production units.

(vii) The Toledo Edison Company or any subsequent owner or operator of the Acme Power Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack in excess of the rates specified below:

(A) 2.00 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units burning coal.

(B) 0.80 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units burning oil.

(viii) Gulf Oil or any subsequent owner or operator of the Gulf Oil facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Gulf Oil facility in excess of the rates specified below:

(A) 0.30 pounds of sulfur dioxide per million BTU actual heat input for any fossil fuel-fired steam generating unit or process operation heaters.

(B) 0.30 pounds of sulfur dioxide per 1000 pounds of charging stock for catalytic cracking units.

(C) 32.2 pounds of sulfur dioxide per 1000 pounds of sulfur processed for sulfur recovery plants.

(ix) The Toledo Edison Company or any subsequent owner or operator of the Water Street Steam Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Water Street Station in excess of 0.80 pounds of sulfur dioxide per million BTU actual heat input.

(x) Phillips Petroleum Company or any subsequent owner or operator of the Toledo Philblack Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Toledo Philblack Plant in excess of the rates specified below:

(A) 0.80 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units.

(B) 5.45 pounds of sulfur dioxide per ton of actual process weight input for any process.

(xi) Interlake Steel or any subsequent owner or operator of the Interlake Steel facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.80 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units.

(B) 4.93 pounds of sulfur dioxide per ton of actual process weight input for any process.

(xii) Nabisco or any subsequent owner or operator of the Nabisco facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of 1.20 pounds of sulfur dioxide per million BTU actual heat input.

(xiii) The Toledo Hospital or any subsequent owner or operator of the Toledo Hospital in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of 3.50 pounds of sulfur dioxide per million BTU actual heat input.

(xiv) Sun Oil or any subsequent owner or operator of the Sun Oil facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Sun Oil facility in excess of the rates specified below:

(A) 0.50 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units or process operation heaters.

(B) 2.0 pounds of sulfur dioxide per ton of actual process weight input for any process.

(xv) Seneca Petroleum or any subsequent owner or operator of the Seneca Petroleum facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Seneca Petroleum facility in excess of 1.20 pounds of sulfur dioxide per million BTU actual heat input.

(40) In Mahoning County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units: 0.50 pounds of sulfur dioxide per million BTU of actual heat input.

(ii) For process operations: 1.00 pounds of sulfur dioxide per ton of actual process weight input.

(iii) No owner or operator shall cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 100 grains hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.50 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The Ohio Edison Company or any subsequent owner or operator of the North Avenue Steam Plant located in Mahoning County shall not cause or permit the emission of sulfur dioxide from any stack at the North Avenue Steam Plant in excess of 2.00 pounds of sulfur dioxide per million BTU of actual heat input.

(v) Lonardo & Sons Greenhouse or any subsequent owner or operator of the Lonardo & Sons Greenhouse facilities located in Mahoning County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at Lonardo and Sons Greenhouse in excess of 2.00 pounds of sulfur dioxide per million BTU actual heat input.

(vi) Whiteacre-Greer Fireproofing or any subsequent owner or operator of the Whiteacre-Greer facilities located at Mahoning County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at Whiteacre-Greer in excess of 20 pounds of sulfur dioxide per ton of actual process weight input.

(41) In Marion County:

(i) No owner or operator of any process equipment shall cause or permit the emissions of sulfur dioxide from any stack in excess of 4.20 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No owner or operator of any fossil fuel-fired steam generating unit(s) shall cause or permit the emission of sulfur dioxide from any stack in excess of 6.10 pounds of sulfur dioxide per million BTU actual heat input.

(42) In Medina County, no owner or operator of any fossil fuel-fired steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 8.00 pounds of sulfur dioxide per million BTU actual heat input.

(43) In Meigs County, no owner or operator of any process shall cause or permit the emission of sulfur dioxide from any stack in excess of 11.0 pounds of sulfur dioxide per ton of actual process weight input.

(44) In Mercer County, no owner or operator of any fossil fuel-fired steam generating unit(s) shall cause or permit the emission of sulfur dioxide from any stack in excess of 8.00 pounds of sulfur dioxide per million BTU actual heat input.

(45) In Miami County:

(i) No owner or operator of any fossil fuel-fired steam generating unit, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide from any stack in excess of 3.20 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No owner or operator of any process shall cause or permit the emission of sulfur dioxide from any stack in excess of 65.0 pounds of sulfur dioxide per ton of actual process weight input.

(iii) No present or subsequent owner of the Piqua Municipal Power Plant located in Miami County, Ohio shall cause or permit the emission of sulfur dioxide from any stack in excess of 4.78 pounds of sulfur dioxide per million BTU of actual heat input.

(iv) In lieu of meeting subparagraph (45)(iii), the Piqua Municipal plant may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(1) $.0730(EL_1+EL_2)+.0628\ EL_3 \leq 1$

(2) $.0700(EL_1+EL_2)+.0663\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3
3	4

(46) In Montgomery County, no owner or operator of any fossil fuel-fired steam generating unit(s), unless otherwise specified in this subparagraph, shall cause or permit sulfur dioxide emissions in excess of the rates specified below:

(i) 1.60 pounds sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units.

(ii) The Dayton Power and Light Company or any subsequent owner or operator of the Longworth Street Station, the Third Street Station, the Yankee Substation, and the Monument Substation located in Montgomery County, Ohio shall not cause or permit the emission of sulfur dioxide from any diesel oil-fired electric generating unit stack at these stations in excess of 0.65 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Dayton Power and Light Company or any subsequent owner or operator of the Tait Power Plant in Montgomery County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Tait Plant in excess of 1.25 pounds of sulfur dioxide per million BTU actual heat input for coal-fired units and 0.65 pounds of sulfur dioxide per million BTU actual heat input for diesel oil-fired electric generating units.

(iv) The Dayton Power and Light Company or any subsequent owner or operator of the Hutchings Power Plant in Montgomery County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Hutchings

V 41 168 AUG 27 76 UMI

Plant in excess of 1.20 pounds of sulfur dioxide per million BTU actual heat input for coal-fired units and 0.65 pounds sulfur dioxide per million BTU actual heat input for diesel oil-fired electric generating units.

(v) In lieu of meeting subparagraph (46)(iv), for the coal-fired units, the Dayton Power and Light Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will satisfy the following equation:

(1) $0.230\ EL_1+0.297\ EL_2+0.306\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purpose of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3, 4
3	5, 6

(vi) The Delco Corporation or any subsequent owner or operator of the Moraine facility in Montgomery County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the Moraine facility in excess of 1.30 pounds of sulfur dioxide per million BTU actual heat input.

(vii) The Defense Electronics Supply facility, or any subsequent owner or operator of this facility in Montgomery County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the facility in excess of .95 pounds of sulfur dioxide per million BTU actual heat input.

(viii) No owner or operator of any process equipment shall cause or permit the emission from any stack any process gas stream containing sulfur dioxide in excess of 2.60 pounds of sulfur dioxide per ton of actual process weight input.

(47) In Morgan County:

(i) The Ohio Power Company or any subsequent owner or operator of the Muskingum River Power Plant in Washington and Morgan Counties, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Muskingum River plant in excess of 6.48 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (47)(i), the Ohio Power Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy the following equation:

(a) $0.0902\ EL_1+0.0641\ EL_2 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2, 3, 4
2	5

(48) In Muskingum County:

(i) The Ohio Power Company or any subsequent owner or operator of the Philo Power Plant in Muskingum County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Philo plant in excess of 1.14 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (48)(i), the Ohio Power Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.3288\ EL_1+0.3301\ EL_2+0.1583\ EL_3 \leq 1$
(B) $0.3588\ EL_1+0.3605\ EL_2+0.1557\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
4	41, 42, 34, 38
5	51, 52
6	6

(iii) No owner or operator of any process equipment in Muskingum County, Ohio shall cause or permit the emission of sulfur dioxide from any stack in excess of 58.0 pounds of sulfur dioxide per ton of actual process weight input.

(49) In Ottawa County:

(i) No owner or operator of any fossil fuel steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 5.90 pounds of surfur dioxide per million BTU actual heat input.

(ii) No owner or operator of any process equipment shall cause or permit the emission of sulfur dioxide from any stack in excess of that permitted by the following equation:

$$EL=47.404P^{-0.639}$$

where EL is the allowable emission rate in pounds of sulfur dioxide per hour and P is the actual process weight input rate in tons per hour.

(50) In Paulding County, no owner or operator of any process equipment shall cause or permit the emission of sulfur dioxide from any stack in excess of 43.0 pounds of sulfur dioxide per ton of actual process weight input.

(51) In Pickaway County:

(i) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Picway Power Plant in Pickaway County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Picway plant in excess of 4.11 pounds sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (51)(i), the Columbus and Southern Ohio Power Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.0846EL_1+0.0844EL_2+0.0745EL_3 \leq 1$
(B) $0.0573EL_1+0.0569EL_2+0.0934EL_3 \leq 1$
(C) $0.0405EL_1+0.0402EL_2+0.1093EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purpose of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
3	3
4	4
5	5

(iii) No owner or operator of any oil-fired steam generating unit in Pickaway County, Ohio shall cause or permit the emission of sulfur dioxide from any stack in excess of 0.85 pounds of sulfur dioxide per million BTU actual heat input.

(52) In Pike County, no owner or operator of any fossil fuel-fired steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 7.00 pounds of sulfur dioxide per million BTU of actual heat input.

(53) In Richland County:

(i) No owner or operator of any process equipment shall cause or permit emissions of sulfur dioxide in excess of 7.10 pounds of sulfur dioxide per ton of actual process weight input.

(ii) The Westinghouse Electric Company, or any subsequent owner or operator of the Westinghouse Electric Company facility at Richland County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 4.50 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The General Motors Corporation, or any subsequent owner or operator of the Fisher Body Division Plant at Richland County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 3.10 pounds of sulfur dioxide per million BTU of actual heat input.

(iv) The City of Shelby, or any subsequent owner or operator of the Shelby Municipal Power Plant at Richland County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 9.3 pounds of sulfur dioxide per million BTU actual heat input.

(54) In Ross County, the Mead Corporation or any subsequent owner or operator of the Mead Corporation facilities at Ross County, Ohio shall not cause or permit emission of sulfur dioxide from any stack in excess of the following rates:

(i) 4.90 pounds of sulfur dioxide per ton of actual solids input.

(ii) 0.00 pounds of sulfur dioxide per million BTU actual heat input for stacks 1, 2, 3, and 4. For purposes of this regulation each stack is identified as follows:

Stack No.	Boiler identification
1	1.
2	2.
3	3.
4	Ohilpalco No. 5.

(55) In Sandusky County:

(i) No present or subsequent owner or operator of any fossil fuel-fired steam generator unit(s) shall cause or permit emissions of sulfur dioxide from any stack in excess of 7.00 pounds of sulfur dioxide per million BTU actual heat input.

(ii) The J.E. Baker Company or any subsequent owner or operator of the J.E. Baker Company facilities in Sandusky County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 48.75 tons of sulfur dioxide per ton of actual process weight input.

(iii) The Woodville Lime Company, or any subsequent owners or operator of the Woodville Lime Company facilities in Sandusky County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 8.48 pounds of sulfur dioxide per ton of actual process weight input.

(iv) The Martin Marietta Company or any subsequent owner or operator of the Martin Marietta facilities in Sandusky County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 15.42 pounds of sulfur dioxide per ton of actual process weight input.

(v) The Ohio Lime Company or any subsequent owner or operator of the Ohio Lime Company facilities in Sandusky County, Ohio shall not cause or permit emissions of sulfur dioxide from any stack in excess of 17.04 pounds of sulfur dioxide per ton of actual process weight input.

(56) In Scioto County:

(i) Empire Detroit Steel or any subsequent owner or operator of the Empire Detroit Steel coke oven facility at Scioto County, Ohio shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 800 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 4.10 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No owner or operator of any oil-fired steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 0.60 pounds of sulfur dioxide per million BTU actual heat input.

(iii) No owner or operator of any coal-fired steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 6.90 pounds of sulfur dioxide per million BTU actual heat input.

(57) In Seneca County:

(i) No present or any subsequent owner or operator of any fossil fuel-fired steam generating unit(s) at Seneca County, Ohio shall cause or permit the emissions of sulfur dioxide from any stack in excess of the limits specified below:

(A) 1.20 pounds of sulfur dioxide per million BTU actual heat input for oil fired units.

(B) 8.20 pounds of sulfur dioxide per million BTU actual heat input for coal fired units.

(ii) No present or any subsequent owner or operator of process equipment, unless otherwise specified in this subparagraph, shall cause or permit the emissions of sulfur dioxide from any stack in excess of 34.0 pounds of sulfur dioxide per ton of actual process weight input.

(iii) The Union Carbide Corporation, or any subsequent owner or operator of the Union Carbide Corporation facilities at Seneca County, Ohio shall not cause or permit emissions of sulfur dioxide from any stack in excess of the limits specified below:

(A) 552 pounds of sulfur dioxide per ton of actual process weight input at the calcining furnace.

(B) 176 pounds of sulfur dioxide per ton of actual process weight input at the activating furnace.

(58) In Stark County, no owner or operator of the following types of facilities, unless otherwise specified in this subparagraph, shall cause or permit emission of sulfur dioxide from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units between 10.0 and 60.0 million BTU per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU actual heat input shall be calculated by the following equation:

$$EL=18.48Q_m^{-0.4000}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating units equal to or greater than 60 million BTU per hour total rated capacity of heat input: 2.50 pounds of sulfur dioxide per million BTU actual heat input.

(iii) Republic Steel Corporation or any subsequent owner or operator of the Massillon facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the Massillon facility in excess of 4.40 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The present or any subsequent owner or operator of the Massillon State Hospital facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 5.20 pounds of sulfur dioxide per million BTU actual heat input.

(v) The present or any subsequent owner or operator of the Grief Board Company facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 0.50 pounds of sulfur dioxide per million BTU actual heat input.

(vi) The present or any subsequent owner or operator of the Timken Steel Company facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit(s) stack at this facility in excess of the rates specified below:

(A) 1.20 pounds sulfur dioxide per million BTU actual heat input for coal-fired unit(s).

(B) 0.60 pounds of sulfur dioxide per million BTU actual heat input for oil-fired unit(s).

(vii) No owner or operator of any by-product coke oven operating in Stark County, Ohio shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 350 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 1.70 pounds of sulfur dioxide per million BTU actual heat input.

(viii) No owner or operator of any process equipment in Stark County, Ohio shall cause or permit the emission of sulfur dioxide from any stack in excess of 80.0 pounds of sulfur dioxide per ton of actual process weight input.

(ix) The Ashland Oil Company, or any subsequent owner or operator of the Ashland Oil Company facilities in Stark County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the emission limitations listed below for the different sources;

(A) 97.5 percent removal of sulfur dioxide from the fluidized catalytic cracking unit.

(B) 1.20 pounds of sulfur dioxide per million BTU actual heat input to the stacks identified by Ashland Oil Company as 4–16–B–11, and 4–0–B–6.

(C) 0.85 pound of sulfur dioxide per million BTU actual heat input for all remaining stacks.

(59) In Summit County, no owner or operator of the following types of facilities, unless otherwise specified in this subparagraph, shall cause or permit emissions of sulfur dioxide from any stack in excess of the rates specified below:

(i) For fossil fuel-fired steam generating units between 10.0 and 300 million BTU per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU actual heat input shall be calculated by the following equation:

$$EL=17.55\ Q_m^{-0.2605}$$

where Q_m is the total rated capacity of heat input in million BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million BTU actual heat input.

(ii) For fossil fuel-fired steam generating unit(s) equal to or greater than 300 million BTU per hour total rated capacity of heat input, 1.80 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The present or subsequent owner or operator of the Diamond Crystal fa-

V41168 AUG 27 76 UMI

cility in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 6.10 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The present or subsequent owner or operator of the Akwell Industries facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 3.60 pounds of sulfur dioxide per million BTU actual heat input.

(v) The present or subsequent owner or operator of the Ohio Brass Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 4.20 pounds of sulfur dioxide per million BTU actual heat input.

(vi) The present or subsequent owner or operator of the Sieberling Rubber Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.00 pounds of sulfur dioxide per million BTU actual heat input.

(vii) The present or subsequent owner or operator of the Firestone Tire and Rubber Company facilities, Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.50 pounds of sulfur dioxide per million BTU actual heat input.

(viii) The present or subsequent owner or operator of the B. F. Goodrich Tire and Rubber Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.90 pounds of sulfur dioxide per million BTU actual heat input.

(ix) The Goodyear Tire and Rubber Company or any subsequent owner or operator of the Goodyear facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 1.00 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam generating units and 100 pounds of sulfur dioxide per 1000 pounds of sulfur process gas steam.

(x) The present or any subsequent owner or operator of the Tecumseh Company facilities in Summit County, Ohio shall not cause or permit sulfur dioxide emissions from fossil fuel-fired steam generating unit(s) in excess of the rates specified below:

(A) 1.70 pounds sulfur dioxide per million BTU actual heat input for coal-fired units, and

(B) 0.70 pounds sulfur dioxide per million BTU actual heat input for oil-fired unit(s).

(xi) The Ohio Edison Company or any subsequent owner or operator of the Ohio Edison Company's Beech Street Power Station in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Beech Street Plant in excess of 4.10 pounds of sulfur dioxide per million BTU actual heat input.

(xii) The Ohio Edison Company or any subsequent owner or operator of the Ohio Edison Company's Gorge Plant in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Gorge Plant in excess of 2.10 pounds of sulfur dioxide per million BTU actual heat input.

(xiii) No owner or operator of any process equipment, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide from any stack containing sulfur dioxide in excess of 17.0 pounds of sulfur dioxide per ton of actual process weight input.

(60) In Trumbull County:

(i) No owner or operator, unless otherwise specified in the subparagraph, shall cause or permit the emission of sulfur dioxide from any stack in excess of 3.00 pounds of sulfur dioxide per million BTU actual heat input for coal-fired steam generating units.

(ii) No owner or operator, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide from any stack in excess of 1.00 pounds of sulfur dioxide per million BTU actual heat input for oil-fired steam generating units.

(iii) The Republic Steel Company or any subsequent owner or operator of the Republic Steel facilities in Trumbull County, Ohio shall not cause or permit the emission of sulfur dioxide from fossil fuel-fired steam generating unit number B001 in excess of 0.20 pounds of sulfur dioxide per million BTU actual heat input and from process operation P001 in excess of 1.00 pounds of sulfur dioxide per million BTU of actual heat input.

(iv) Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facility in Trumbull County, Ohio shall not cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 300 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas.

(v) No owner or operator of any process, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide from any stack in excess of 2.00 pounds of sulfur dioxide per million BTU of actual heat input to the process operation.

(vi) The Ohio Edison Company or any subsequent owner or operator of the Niles Power Plant located in Trumbull County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 5.41 pounds of sulfur dioxide per million BTU of actual heat input.

(vii) In lieu of meeting subparagraph (60)(vi), the Ohio Edison Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy the following equation:

$$(A)\ 0.0923\ (EL_1+EL_n) \leq 1$$

where EL_i is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purpose of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1
2	2

(viii) The United States Steel Corporation or any subsequent owner or operator of the McDonald Mills in Trumbull County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the McDonald Mills in excess of 0.50 pounds of sulfur dioxide per million BTU actual heat input.

(61) In Tuscarawas County:

(i) The present or subsequent owner or operator of the Dover Municipal Power Plant in Tuscarawas County, Ohio shall not cause or permit the emission of sulfur dioxides from any stack at this facility in excess of 4.60 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No owner or operator of any process shall cause or permit the emission of sulfur dioxide from any stack in excess of 37.0 pounds of sulfur dioxide per ton of actual process weight input.

(62) In Vinton County, no owner or operator of any fossil fuel-fired steam generating unit shall cause or permit the emission of sulfur dioxide from any stack in excess of 4.80 pounds of sulfur dioxide per million BTU actual heat input.

(63) In Washington County:

(i) The Ohio Power Company or any subsequent owner or operator of the Muskingum River Power Plant in Morgan and Washington Counties, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Muskingum River Plant in excess of 6.48 pounds of sulfur dioxide per million BTU of actual heat input.

(ii) In lieu of meeting subparagraph (63)(i), the Ohio Power Company may elect, in accordance with the compliance schedule provisions of S52.1882, to comply with the emission limitations which will satisfy the following equation:

$$(A)\ 0.0902\ EL_1+0.0641\ EL_2 \leq 1$$

where ELi is the emission limitation (pounds per million BTU) per stack i and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2, 3, 4
2	5

(iii) The Shell Oil Company or any subsequent owner or operator of the Shell Oil facilities at Washington County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.50 pounds of sulfur dioxide per million BTU actual heat input.

(64) In Wayne County, no present or subsequent owner or operator of fossil fuel-fired steam generating units at the facilities listed below shall cause or permit emissions of sulfur dioxide in excess of 7.00 pounds of sulfur dioxide per million BTU actual heat input:

(A) Morton Salt Company

(B) Packaging Corporation of America

(C) Orrville Municipal Power Plant

(65) In Wood County, no owner or operator of any fossil fuel-fired steam generating unit or process operation heater shall cause or permit the emission of sulfur dioxide from any stack in excess of 1.10 pounds of sulfur dioxide per million BTU actual heat input.

3. A new Section 52.1882 is added as follows:

§ 52.1882 Compliance Schedules.

(a) Federal compliance schedules.

(1) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b), shall comply with the compliance schedule in paragraph (a)(2) of this section.

(2) Any owner or operator of any process equipment subject to applicable paragraphs of § 52.1881(b) of this Chapter shall take the following actions to comply with the requirements of said regulation with respect to that source no later than the date specified.

(i) 8 weeks from the date of promulgation—Submit preliminary control plans to the Administrator.

(ii) 25 weeks from the date of promulgation—Submit final control plan to the Administrator.

(iii) 34 weeks from the date of promulgation—Award contracts for emissions control systems or process modification, or issue orders for purchase of component parts to accomplish emission control or process modification and notify the Administrator in writing that such action was taken.

(iv) 52 weeks from the date of promulgation—Initiate on-site construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(v) 139 weeks from the date of promulgation—Complete construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(vi) 154 weeks from the date of promulgation—Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(3) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to § 52.1881(b) of this chapter shall comply the applicable compliance schedule in paragraph (a)(4) of this section.

(4) (i) The owner or operator of any stack venting any fossil fuel fired steam generating unit(s) subject to § 52.1881 (b) of this chapter who elects to comply with an applicable optional emission limitation specified in § 52.1881(b) of this chapter, shall notify the Administrator no later than eight weeks after the date of this promulgation of the specific emission limitations selected. Failure to select applicable optional emission limitations shall result in the facility being subject to the single uniform emission limitation for all stacks at that facility specified in § 52.1881(b). Notice received later than eight weeks after the date of promulgation shall be invalid.

(ii) The owner or operator of any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter shall notify the Administrator no later than eight weeks after the date of promulgation of his intent to utilize either low-sulfur fuel including blended or washed coal or flue gas desulfurization to comply with the requirements of said regulation.

(iii) Any owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize low-sulfur fuel including blended or washed coal to comply with the requirements of said regulation shall take the following actions with respect to that source no later than the date specified:

(a) 8 weeks from the date of promulgation—Submit to the Administrator a projection for 10 years of the amount of fuel by types that will be substantially adequate to enable compliance with § 52.1881(b) of this chapter, as applicable.

(b) 32 weeks from the date of promulgation—Submit data demonstrating the availability of the fuel meeting the requirements projected in subparagraph (a) to the Administrator.

(c) 36 weeks from the date of promulgation—Submit a statement to the Administrator as to whether boiler modifications will or will not be required. If modifications will be required, submit plans for such modifications.

(d) 50 weeks from the date of promulgation—Let contracts for necessary boiler modifications, if applicable, and notify the Administrator in writing that such action was taken.

(e) 60 weeks from the date of promulgation—Initiate on-site modifications, if applicable, and notify the Administrator in writing that such action was taken.

(f) 118 weeks from the date of promulgation—Complete on-site modification, if applicable, and notify the Administrator in writing that such action was taken.

(g) 122 weeks from the date of promulgation—Achieve final compliance with the emission limitation of § 52.1881 (b) of this chapter, as applicable, and notify the Administrator in writing that such action was taken.

(iv) Any owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize flue gas desulfurization to comply with the requirements of said regulations shall take the following actions with respect to the source no later than the date specified.

(a) 17 weeks from the date of promulgation—Let necessary contracts for construction and notify the Administrator in writing that such action was taken.

(b) 61 weeks from the date of promulgation—Initiate on-site construction and notify the Administrator in writing that such action was taken.

(c) 145 weeks from the date of promulgation—Complete on-site construction and notify the Administrator in writing that such action was taken.

(d) 156 weeks from the date of promulgation—Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(5) (i) None of the preceding subparagraphs of this paragraph shall apply to any owner or operator of a source which is presently in compliance with the applicable subparagraphs of § 52.1881 (b) of this chapter.

(ii) Any owner or operator of a source capable of emitting 100 tons of sulfur dioxide per year from all stacks at any facility who is presently in compliance with the applicable subparagraphs of § 52.1881(b) of this chapter shall so certify to the Administrator by four weeks from the date of promulgation.

(iii) Any owner or operator subject to a compliance schedule in this paragraph who elects to achieve compliance by means not covered by this paragraph may submit to the Administrator no later than six weeks from the date of promulgation a proposed alternative compliance schedule. For process equipment subject to applicable subparagraphs of 52.1881 (b) of this chapter no such compliance schedule may provide for final compliance after the final compliance date in subparagraph (2) of this paragraph. For any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter, which will utilize low-sulfur fuel including blended or washed coal to comply with the requirements of said regulations, no such compliance schedule may provide for final compliance after final compliance date in subparagraph (4)(iii) of this paragraph. For any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter, which will utilize flue gas desulfurization to comply with the requirements of said regulations, no such compliance schedule may provide for final compliance after the final compliance date in subparagraph (4)(iv) of this paragraph.

(iv) Any owner or operator of any process equipment subject to applicable

V 41 168 AUG 27 76 UM

subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882(a)(5)(iii) of this chapter shall remain subject to the provisions of § 52.1882(a)(2) of this chapter until the alternative schedule is approved by the Administrator.

(v) Any owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882(a)(5)(iii) of this chapter shall remain subject to the provisions of § 52.1882(a)(4) of this chapter until the alternative schedule is approved by the Administrator.

(6) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedules in paragraphs (d)(2), or (4) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this Chapter.

[FR Doc.76-25081 Filed 8-25-76;12:40 pm]

federal register

FRIDAY, AUGUST 27, 1976



PART IV:

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

U.S. SAVINGS BONDS, SERIES E

Dept. Circular No. 653, 9th Rev.
2nd Amendment

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Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

The Department of the Treasury is adopting a new schedule of interest accruals for United States Savings Bonds, Series E, bearing the issue date of September 1, 1976, or thereafter, to provide therefor the minimum investment yield required by section 4 of Public Law 94–232, approved March 15, 1976. Supplemental tables of redemption values and investment yields are also being published for bonds of various earlier issue dates which will be entering their next extended maturity period.

Accordingly, Department of the Treasury Circular No. 653, Ninth Revision, dated April 23, 1974, and the tables incorporated therein, as amended, (31 CFR, Part 316), are hereby further amended to prescribe interest accruals for bonds bearing issue dates of September 1, 1976, or thereafter; to provide the table of redemption values and investment yields therefor; and, to provide tables of redemption values and investment yields for the next extended maturity period for bonds bearing issue dates of December 1, 1946, through May 1, 1948; December 1, 1956, through January 1, 1957; December 1, 1957, through May 1, 1960; and December 1, 1970, through May 1, 1972. Section 316.2 (e) and Table 1 are revised, and Tables 15–A, 16–A, 17–A, 45–A, 49–A, 50–A, 51–A, 52–A, 53–A, 54–A, 55–A, 56–A, 57–A, 58–A, 91–A, 92–A, 93–A and 97 are added, as follows:

Section 316.2 *Description of bonds.*

* * *

(e) *Investment yield (interest).* The investment yield (interest) on a Series E bond will be approximately 6 percent per annum, compounded semiannually, if the bond is held to maturity, but the yield will be less if the bond is redeemed prior thereto. A bond bearing the issue date of September 1, 1976, or thereafter, beginning in the third month from such issue date, will increase in redemption value on the first day of each month up to and including the thirtieth month from issue date so as to provide for such period an investment yield of no less than 4 per centum per annum, compounded semiannually. Thereafter, its redemption value will increase at the beginning of each successive half-year period. The interest will be paid as part of the redemption value. See Table I.

* * * * *

The foregoing revisions and amendments were effected under authority of section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Dated: August 10, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

TABLE I

BONDS BEARING ISSUE DATES BEGINNING SEPTEMBER 1, 1976

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$56.25 / 75.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after issue)	(1) Redemption values during each period (values increase on first day of period) 1/								(2) From issue date to beginning of each period	(3) From beginning of each period to beginning of next period	(4) From beginning of each period to maturity
									Percent	Percent	Percent
0- 0 to 0- 2	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	——	4.19	6.00
0- 2 to 0- 3	18.88	37.76	56.64	75.52	151.04	377.60	755.20	7552	4.19	3.84	6.06
0- 3 to 0- 4	18.94	37.88	56.82	75.76	151.52	378.80	757.60	7576	4.07	3.83	6.10
0- 4 to 0- 5	19.00	38.00	57.00	76.00	152.00	380.00	760.00	7600	4.01	4.46	6.14
0- 5 to 0- 6	19.07	38.14	57.21	76.28	152.56	381.40	762.80	7628	4.10	3.81	6.17
0- 6 to 0- 7	19.13	38.26	57.39	76.52	153.04	382.60	765.20	7652	4.05	4.43	6.22
0- 7 to 0- 8	19.20	38.40	57.60	76.80	153.60	384.00	768.00	7680	4.11	5.05	6.25
0- 8 to 0- 9	19.28	38.56	57.84	77.12	154.24	385.60	771.20	7712	4.23	5.03	6.28
0- 9 to 0-10	19.36	38.72	58.08	77.44	154.88	387.20	774.40	7744	4.31	5.64	6.30
0-10 to 0-11	19.45	38.90	58.35	77.80	155.60	389.00	778.00	7780	4.45	4.99	6.31
0-11 to 1- 0	19.53	39.06	58.59	78.12	156.24	390.60	781.20	7812	4.50	4.97	6.34
1- 0 to 1- 1	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	4.95	6.37
1- 1 to 1- 2	19.69	39.38	59.07	78.76	157.52	393.80	787.60	7876	4.57	4.93	6.40
1- 2 to 1- 3	19.77	39.54	59.31	79.08	158.16	395.40	790.80	7908	4.59	4.91	6.43
1- 3 to 1- 4	19.85	39.70	59.55	79.40	158.80	397.00	794.00	7940	4.61	5.50	6.47
1- 4 to 1- 5	19.94	39.88	59.82	79.76	159.52	398.80	797.60	7976	4.67	4.86	6.49
1- 5 to 1- 6	20.02	40.04	60.06	80.08	160.16	400.40	800.80	8008	4.68	4.84	6.53
1- 6 to 1- 7	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.82	6.57
1- 7 to 1- 8	20.18	40.36	60.54	80.72	161.44	403.60	807.20	8072	4.70	5.41	6.61
1- 8 to 1- 9	20.27	40.54	60.81	81.08	162.16	405.40	810.80	8108	4.73	4.78	6.64
1- 9 to 1-10	20.35	40.70	61.05	81.40	162.80	407.00	814.00	8140	4.73	4.76	6.69
1-10 to 1-11	20.43	40.86	61.29	81.72	163.44	408.60	817.20	8172	4.74	5.34	6.74
1-11 to 2- 0	20.52	41.04	61.56	82.08	164.16	410.40	820.80	8208	4.76	4.72	6.78
2- 0 to 2- 1	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.30	6.83
2- 1 to 2- 2	20.69	41.38	62.07	82.76	165.52	413.80	827.60	8276	4.78	5.28	6.88
2- 2 to 2- 3	20.78	41.56	62.34	83.12	166.24	415.60	831.20	8312	4.80	5.25	6.92
2- 3 to 2- 4	20.87	41.74	62.61	83.48	166.96	417.40	834.80	8348	4.82	5.23	6.97
2- 4 to 2- 5	20.96	41.92	62.88	83.84	167.68	419.20	838.40	8384	4.83	5.21	7.03
2- 5 to 2- 6	21.05	42.10	63.15	84.20	168.40	421.00	842.00	8420	4.85	5.19	7.09
2- 6 to 3- 0	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3- 0 to 3- 6	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3- 6 to 4- 0	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4- 0 to 4- 6	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4- 6 to 5- 0	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5- 0 2/	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	——	——

1/ Not redeemable during first 2 months after issue.
2/ Maturity value reached at 5 years and 0 months after issue.

TABLE 15-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1946, THROUGH MAY 1, 1947

Issue price / Denomination	$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	Approximate investment yield (annual percentage rate)		
Period (years and months after Second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)*. THIRD EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6	1/(12/1/76)	$23.58	$58.96	$117.92	$235.84	$471.68	$1179.20	$2358.40	——	6.00	6.00
0-6 to 1-0	(6/1/77)	24.29	60.73	121.46	242.92	485.84	1214.60	2429.20	6.00	5.99	6.00
1-0 to 1-6	(12/1/77)	25.02	62.55	125.10	250.20	500.40	1251.00	2502.00	6.00	6.01	6.00
1-6 to 2-0	(6/1/78)	25.77	64.43	128.86	257.72	515.44	1288.60	2577.20	6.00	5.99	6.00
2-0 to 2-6	(12/1/78)	26.54	66.36	132.72	265.44	530.88	1327.20	2654.40	6.00	6.00	6.00
2-6 to 3-0	(6/1/79)	27.34	68.35	136.70	273.40	546.80	1367.00	2734.00	6.00	6.00	6.00
3-0 to 3-6	(12/1/79)	28.16	70.40	140.80	281.60	563.20	1408.00	2816.00	6.00	5.99	6.00
3-6 to 4-0	(6/1/80)	29.00	72.51	145.02	290.04	580.08	1450.20	2900.40	6.00	6.01	6.00
4-0 to 4-6	(12/1/80)	29.88	74.69	149.38	298.76	597.52	1493.80	2987.60	6.00	6.00	6.00
4-6 to 5-0	(6/1/81)	30.77	76.93	153.86	307.72	615.44	1538.60	3077.20	6.00	6.01	6.00
5-0 to 5-6	(12/1/81)	31.70	79.24	158.48	316.96	633.92	1584.80	3169.60	6.00	5.98	6.00
5-6 to 6-0	(6/1/82)	32.64	81.61	163.22	326.44	652.88	1632.20	3264.40	6.00	6.00	6.00
6-0 to 6-6	(12/1/82)	33.62	84.06	168.12	336.24	672.48	1681.20	3362.40	6.00	6.00	6.00
6-6 to 7-0	(6/1/83)	34.63	86.58	173.16	346.32	692.64	1731.60	3463.20	6.00	6.01	6.00
7-0 to 7-6	(12/1/83)	35.67	89.18	178.36	356.72	713.44	1783.60	3567.20	6.00	6.01	6.00
7-6 to 8-0	(6/1/84)	36.74	91.86	183.72	367.44	734.88	1837.20	3674.40	6.00	5.99	6.00
8-0 to 8-6	(12/1/84)	37.84	94.61	189.22	378.44	756.88	1892.20	3784.40	6.00	6.00	6.00
8-6 to 9-0	(6/1/85)	38.98	97.45	194.90	389.80	779.60	1949.00	3898.00	6.00	6.01	6.00
9-0 to 9-6	(12/1/85)	40.15	100.38	200.76	401.52	803.04	2007.60	4015.20	6.00	6.00	6.00
9-6 to10-0	(6/1/86)	41.36	103.39	206.78	413.56	827.12	2067.80	4135.60	6.00	6.00	6.00
10-0 2/	(12/1/86)	42.60	106.49	212.98	425.96	851.92	2129.80	4259.60	6.00 3/	——	——

1/ Month, day, and year on which issues of Dec. 1, 1946, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.39 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

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TABLE 16-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1947

Issue price / Denomination	$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	Approximate investment yield (annual percentage rate)		
Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(6/1/77)	$23.90	$59.76	$119.52	$239.04	$478.08	$1195.20	$2390.40	----	5.99	6.00
0-6 to 1-0	(12/1/77)	24.62	61.55	123.10	246.20	492.40	1231.00	2462.00	5.99	6.01	6.00
1-0 to 1-6	(6/1/78)	25.36	63.40	126.80	253.60	507.20	1268.00	2536.00	6.00	5.99	6.00
1-6 to 2-0	(12/1/78)	26.12	65.30	130.60	261.20	522.40	1306.00	2612.00	6.00	6.00	6.00
2-0 to 2-6	(6/1/79)	26.90	67.26	134.52	269.04	538.08	1345.20	2690.40	6.00	6.01	6.00
2-6 to 3-0	(12/1/79)	27.71	69.28	138.56	277.12	554.24	1385.60	2771.20	6.00	6.00	6.00
3-0 to 3-6	(6/1/80)	28.54	71.36	142.72	285.44	570.88	1427.20	2854.40	6.00	6.00	6.00
3-6 to 4-0	(12/1/80)	29.40	73.50	147.00	294.00	588.00	1470.00	2940.00	6.00	5.99	6.00
4-0 to 4-6	(6/1/81)	30.28	75.70	151.40	302.80	605.60	1514.00	3028.00	6.00	6.00	6.00
4-6 to 5-0	(12/1/81)	31.19	77.97	155.94	311.88	623.76	1559.40	3118.80	6.00	6.00	6.00
5-0 to 5-6	(6/1/82)	32.12	80.31	160.62	321.24	642.48	1606.20	3212.40	6.00	6.00	6.00
5-6 to 6-0	(12/1/82)	33.09	82.72	165.44	330.88	661.76	1654.40	3308.80	6.00	6.00	6.00
6-0 to 6-6	(6/1/83)	34.08	85.20	170.40	340.80	681.60	1704.00	3408.00	6.00	6.01	6.00
6-6 to 7-0	(12/1/83)	35.10	87.76	175.52	351.04	702.08	1755.20	3510.40	6.00	5.99	6.00
7-0 to 7-6	(6/1/84)	36.16	90.39	180.78	361.56	723.12	1807.80	3615.60	6.00	6.00	6.00
7-6 to 8-0	(12/1/84)	37.24	93.10	186.20	372.40	744.80	1862.00	3724.00	6.00	6.02	6.00
8-0 to 8-6	(6/1/85)	38.36	95.90	191.80	383.60	767.20	1918.00	3836.00	6.00	5.99	6.00
8-6 to 9-0	(12/1/85)	39.51	98.77	197.54	395.08	790.16	1975.40	3950.80	6.00	6.01	6.00
9-0 to 9-6	(6/1/86)	40.70	101.74	203.48	406.96	813.92	2034.80	4069.60	6.00	6.00	5.99
9-6 to10-0	(12/1/86)	41.92	104.79	209.58	419.16	838.32	2095.80	4191.60	6.00	5.99	5.99
10-0 2/	(6/1/87)	43.17	107.93	215.86	431.72	863.44	2158.60	4317.20	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1947, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.42 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 17-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1947, THROUGH MAY 1, 1948

Issue price / Denomination	$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	Approximate investment yield (annual percentage rate)		
Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(12/1/77)	$24.22	$60.56	$121.12	$242.24	$484.48	$1211.20	$2422.40	----	6.01	6.00
0-6 to 1-0	(6/1/78)	24.95	62.38	124.76	249.52	499.04	1247.60	2495.20	6.01	6.00	6.00
1-0 to 1-6	(12/1/78)	25.70	64.25	128.50	257.00	514.00	1285.00	2570.00	6.00	6.01	6.00
1-6 to 2-0	(6/1/79)	26.47	66.18	132.36	264.72	529.44	1323.60	2647.20	6.00	5.98	6.00
2-0 to 2-6	(12/1/79)	27.26	68.16	136.32	272.64	545.28	1363.20	2726.40	6.00	6.00	6.00
2-6 to 3-0	(6/1/80)	28.08	70.21	140.42	280.84	561.68	1404.20	2808.40	6.00	6.00	6.00
3-0 to 3-6	(12/1/80)	28.92	72.31	144.62	289.24	578.48	1446.20	2892.40	6.00	6.02	6.00
3-6 to 4-0	(6/1/81)	29.79	74.48	148.96	297.92	595.84	1489.60	2979.20	6.00	6.00	6.00
4-0 to 4-6	(12/1/81)	30.69	76.72	153.44	306.88	613.76	1534.40	3068.80	6.00	6.00	6.00
4-6 to 5-0	(12/1/82)	31.61	79.02	158.04	316.08	632.16	1580.40	3160.80	6.00	5.99	6.00
5-0 to 5-6	(12/1/82)	32.56	81.39	162.78	325.56	651.12	1627.80	3255.60	6.00	6.00	6.00
5-6 to 6-0	(6/1/83)	33.53	83.83	167.66	335.32	670.64	1676.60	3353.20	6.00	6.00	6.00
6-0 to 6-6	(12/1/83)	34.54	86.34	172.68	345.36	690.72	1726.80	3453.60	6.00	6.00	6.00
6-6 to 7-0	(6/1/84)	35.57	88.93	177.86	355.72	711.44	1778.60	3557.20	6.00	6.00	6.00
7-0 to 7-6	(12/1/84)	36.64	91.60	183.20	366.40	732.80	1832.00	3664.00	6.00	6.00	6.00
7-6 to 8-0	(6/1/85)	37.74	94.35	188.70	377.40	754.80	1887.00	3774.00	6.00	6.01	6.00
8-0 to 8-6	(12/1/85)	38.87	97.18	194.36	388.72	777.44	1943.60	3887.20	6.00	5.99	6.00
8-6 to 9-0	(6/1/86)	40.04	100.10	200.20	400.40	800.80	2002.00	4004.00	6.00	5.99	6.00
9-0 to 9-6	(12/1/86)	41.24	103.10	206.20	412.40	824.80	2063.00	4124.00	6.00	6.01	6.00
9-6 to10-0	(6/1/87)	42.48	106.19	212.38	424.76	849.52	2123.80	4247.60	6.00	----	----
10-0 2/	(12/1/87)	43.75	109.38	218.76	437.52	875.04	2187.60	4375.20	6.00 3/		

1/ Month, day, and year on which issues of Dec. 1, 1947, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.46 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 45-A

BONDS BEARING ISSUE DATE DEC. 1, 1956, or JAN. 1, 1957

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 19 years 8 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(8/1/76)	$43.27	$86.54	$173.08	$346.16	$865.40	$1730.80	$17308	----	6.01	6.00
0-6 to 1-0	(2/1/77)	44.57	89.14	178.28	356.56	891.40	1782.80	17828	6.01	6.01	6.00
1-0 to 1-6	(8/1/77)	45.91	91.82	183.64	367.28	918.20	1836.40	18364	6.01	5.97	6.00
1-6 to 2-0	(2/1/78)	47.28	94.56	189.12	378.24	945.60	1891.20	18912	6.00	6.01	6.00
2-0 to 2-6	(8/1/78)	48.70	97.40	194.80	389.60	974.00	1948.00	19480	6.00	6.00	6.00
2-6 to 3-0	(2/1/79)	50.16	100.32	200.64	401.28	1003.20	2006.40	20064	6.00	6.02	6.00
3-0 to 3-6	(8/1/79)	51.67	103.34	206.68	413.36	1033.40	2066.80	20668	6.00	6.00	6.00
3-6 to 4-0	(2/1/80)	53.22	106.44	212.88	425.76	1064.40	2128.80	21288	6.00	5.98	6.00
4-0 to 4-6	(8/1/80)	54.81	109.62	219.24	438.48	1096.20	2192.40	21924	6.00	6.02	6.00
4-6 to 5-0	(2/1/81)	56.46	112.92	225.84	451.68	1129.20	2258.40	22584	6.00	5.99	6.00
5-0 to 5-6	(8/1/81)	58.15	116.30	232.60	465.20	1163.00	2326.00	23260	6.00	6.02	6.00
5-6 to 6-0	(2/1/82)	59.90	119.80	239.60	479.20	1198.00	2396.00	23960	6.00	5.98	6.00
6-0 to 6-6	(8/1/82)	61.69	123.38	246.76	493.52	1233.80	2467.60	24676	6.00	6.00	6.00
6-6 to 7-0	(2/1/83)	63.54	127.08	254.16	508.32	1270.80	2541.60	25416	6.00	6.01	6.00
7-0 to 7-6	(8/1/83)	65.45	130.90	261.80	523.60	1309.00	2618.00	26180	6.00	5.99	6.00
7-6 to 8-0	(2/1/84)	67.41	134.82	269.64	539.28	1348.20	2696.40	26964	6.00	6.02	6.00
8-0 to 8-6	(8/1/84)	69.44	138.88	277.76	555.52	1388.80	2777.60	27776	6.00	5.99	6.00
8-6 to 9-0	(2/1/85)	71.52	143.04	286.08	572.16	1430.40	2860.80	28608	6.00	5.98	6.00
9-0 to 9-6	(8/1/85)	73.66	147.32	294.64	589.28	1473.20	2946.40	29464	6.00	6.00	6.01
9-6 to10-0	(2/1/86)	75.87	151.74	303.48	606.96	1517.40	3034.80	30348	6.00	6.01	6.01
10-0 2/	(8/1/86)	78.15	156.30	312.60	625.20	1563.00	3126.00	31260	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1956, enter each period. For issues of Jan. 1, 1957, add 1 month.
2/ Second extended maturity reached at 29 years 8 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 4.87 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 49-A

BONDS BEARING ISSUE DATE DEC. 1, 1957

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(11/1/76)	$43.35	$86.70	$173.40	$346.80	$867.00	$1734.00	$17340	----	6.00	6.00
0-6 to 1-0	(5/1/77)	44.65	89.30	178.60	357.20	893.00	1786.00	17860	6.00	6.00	6.00
1-0 to 1-6	(11/1/77)	45.99	91.98	183.96	367.92	919.80	1839.60	18396	6.00	6.00	6.00
1-6 to 2-0	(5/1/78)	47.37	94.74	189.48	378.96	947.40	1894.80	18948	6.00	6.00	6.00
2-0 to 2-6	(11/1/78)	48.79	97.58	195.16	390.32	975.80	1951.60	19516	6.00	5.98	6.00
2-6 to 3-0	(5/1/79)	50.25	100.50	201.00	402.00	1005.00	2010.00	20100	6.00	6.01	6.00
3-0 to 3-6	(11/1/79)	51.76	103.52	207.04	414.08	1035.20	2070.40	20704	6.00	6.03	6.00
3-6 to 4-0	(5/1/80)	53.32	106.64	213.28	426.56	1066.40	2132.80	21328	6.00	5.96	6.00
4-0 to 4-6	(11/1/80)	54.91	109.82	219.64	439.28	1098.20	2196.40	21964	6.00	6.01	6.00
4-6 to 5-0	(5/1/81)	56.56	113.12	226.24	452.48	1131.20	2262.40	22624	6.00	6.01	6.00
5-0 to 5-6	(11/1/81)	58.26	116.52	233.04	466.08	1165.20	2330.40	23304	6.00	6.01	6.00
5-6 to 6-0	(5/1/82)	60.01	120.02	240.04	480.08	1200.20	2400.40	24004	6.00	6.00	6.00
6-0 to 6-6	(11/1/82)	61.81	123.62	247.24	494.48	1236.20	2472.40	24724	6.00	5.99	6.00
6-6 to 7-0	(5/1/83)	63.66	127.32	254.64	509.28	1273.20	2546.40	25464	6.00	6.00	6.00
7-0 to 7-6	(11/1/83)	65.57	131.14	262.28	524.56	1311.40	2622.80	26228	6.00	6.01	6.00
7-6 to 8-0	(5/1/84)	67.54	135.08	270.16	540.32	1350.80	2701.60	27016	6.00	5.98	6.00
8-0 to 8-6	(11/1/84)	69.56	139.12	278.24	556.48	1391.20	2782.40	27824	6.00	6.01	6.00
8-6 to 9-0	(5/1/85)	71.65	143.30	286.60	573.20	1433.00	2866.00	28660	6.00	6.00	6.00
9-0 to 9-6	(11/1/85)	73.80	147.60	295.20	590.40	1476.00	2952.00	29520	6.00	5.99	5.99
9-6 to10-0	(5/1/86)	76.01	152.02	304.04	608.08	1520.20	3040.40	30404	6.00	6.00	6.00
10-0 2/	(11/1/86)	78.29	156.58	313.16	626.32	1565.80	3131.60	31316	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1957, enter each period.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.00 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

V 41 168 AUG 27 76 UMI

TABLE 50-A

BONDS BEARING ISSUE DATES FROM JAN. 1 THROUGH MAY 1, 1958

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(12/1/76)	$43.75	$87.50	$175.00	$350.00	$875.00	$1750.00	$17500	——	5.99	6.00
0-6 to 1-0	(6/1/77)	45.06	90.12	180.24	360.48	901.20	1802.40	18024	5.99	5.99	6.00
1-0 to 1-6	(12/1/77)	46.41	92.82	185.64	371.28	928.20	1856.40	18564	5.99	6.03	6.00
1-6 to 2-0	(6/1/78)	47.81	95.62	191.24	382.48	956.20	1912.40	19124	6.00	5.98	6.00
2-0 to 2-6	(12/1/78)	49.24	98.48	196.96	393.92	984.80	1969.60	19696	6.00	6.01	6.00
2-6 to 3-0	(6/1/79)	50.72	101.44	202.88	405.76	1014.40	2028.80	20288	6.00	5.99	6.00
3-0 to 3-6	(12/1/79)	52.24	104.48	208.96	417.92	1044.80	2089.60	20896	6.00	6.01	6.00
3-6 to 4-0	(6/1/80)	53.81	107.62	215.24	430.48	1076.20	2152.40	21524	6.00	5.98	6.00
4-0 to 4-6	(12/1/80)	55.42	110.84	221.68	443.36	1108.40	2216.80	22168	6.00	5.99	6.00
4-6 to 5-0	(6/1/81)	57.08	114.16	228.32	456.64	1141.60	2283.20	22832	6.00	6.03	6.00
5-0 to 5-6	(12/1/81)	58.80	117.60	235.20	470.40	1176.00	2352.00	23520	6.00	5.99	6.00
5-6 to 6-0	(6/1/82)	60.56	121.12	242.24	484.48	1211.20	2422.40	24224	6.00	6.01	6.00
6-0 to 6-6	(12/1/82)	62.38	124.76	249.52	499.04	1247.60	2495.20	24952	6.00	6.00	6.00
6-6 to 7-0	(6/1/83)	64.25	128.50	257.00	514.00	1285.00	2570.00	25700	6.00	6.01	6.00
7-0 to 7-6	(12/1/83)	66.18	132.36	264.72	529.44	1323.60	2647.20	26472	6.00	5.98	6.00
7-6 to 8-0	(6/1/84)	68.16	136.32	272.64	545.28	1363.20	2726.40	27264	6.00	6.02	6.00
8-0 to 8-6	(12/1/84)	70.21	140.42	280.84	561.68	1404.20	2808.40	28084	6.00	5.98	6.00
8-6 to 9-0	(6/1/85)	72.31	144.62	289.24	578.48	1444.20	2892.40	28924	6.00	6.00	6.00
9-0 to 9-6	(12/1/85)	74.48	148.96	297.92	595.84	1489.60	2979.20	29792	6.00	6.02	6.01
9-6 to10-0	(6/1/86)	76.72	153.44	306.88	613.76	1534.40	3068.80	30688	6.00	6.00	6.00
10-0 2/	(12/1/86)	79.02	158.04	314.08	632.16	1580.40	3160.80	31608	6.00 3/	——	——

1/ Month, day, and year on which issues of Jan. 1, 1958, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.04 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 51-A

BONDS BEARING ISSUE DATE JUNE 1, 1958

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(5/1/77)	$43.94	$87.88	$175.76	$351.52	$878.80	$1757.60	$17576	——	6.01	6.00
0-6 to 1-0	(11/1/77)	45.26	90.52	181.04	362.08	905.20	1810.40	18104	6.01	6.01	6.00
1-0 to 1-6	(5/1/78)	46.62	93.24	186.48	372.96	932.40	1864.80	18648	6.01	5.96	6.00
1-6 to 2-0	(11/1/78)	48.01	96.02	192.04	384.08	960.20	1920.40	19204	5.99	6.00	6.00
2-0 to 2-6	(5/1/79)	49.45	98.90	197.80	395.60	989.00	1978.00	19780	5.99	6.03	6.00
2-6 to 3-0	(11/1/79)	50.94	101.88	203.76	407.52	1018.80	2037.60	20376	6.00	6.01	6.00
3-0 to 3-6	(5/1/80)	52.47	104.94	209.88	419.76	1049.40	2098.80	20988	6.00	5.98	6.00
3-6 to 4-0	(11/1/80)	54.04	108.08	216.16	432.32	1080.80	2161.60	21616	6.00	6.00	6.00
4-0 to 4-6	(5/1/81)	55.66	111.32	222.64	445.28	1113.20	2226.40	22264	6.00	6.00	6.00
4-6 to 5-0	(11/1/81)	57.33	114.66	229.32	458.64	1146.60	2293.20	22932	6.00	6.00	6.00
5-0 to 5-6	(5/1/82)	59.05	118.10	236.20	472.40	1181.00	2362.00	23620	6.00	5.99	6.00
5-6 to 6-0	(11/1/82)	60.82	121.64	243.28	486.56	1216.40	2432.80	24328	6.00	6.02	6.00
6-0 to 6-6	(5/1/83)	62.65	125.30	250.60	501.20	1253.00	2506.00	25060	6.00	6.00	6.00
6-6 to 7-0	(11/1/83)	64.53	129.06	258.12	516.24	1290.60	2581.20	25812	6.00	5.98	6.00
7-0 to 7-6	(5/1/84)	66.46	132.92	265.84	531.68	1329.20	2658.40	26584	6.00	6.02	6.00
7-6 to 8-0	(11/1/84)	68.46	136.92	273.84	547.68	1369.20	2738.40	27384	6.00	5.99	6.00
8-0 to 8-6	(5/1/85)	70.51	141.02	282.04	564.08	1410.20	2820.40	28204	6.00	6.01	6.00
8-6 to 9-0	(11/1/85)	72.63	145.26	290.52	581.04	1452.60	2905.20	29052	6.00	5.98	6.00
9-0 to 9-6	(5/1/86)	74.80	149.60	299.20	598.40	1496.00	2992.00	29920	6.00	6.02	6.01
9-6 to10-0	(11/1/86)	77.05	154.10	308.20	616.40	1541.00	3082.00	30820	6.00	6.00	6.00
10-0 2/	(5/1/87)	79.36	158.72	317.44	634.88	1587.20	3174.40	31744	6.00 3/	——	——

1/ Month, day, and year on which issues of June 1, 1958, enter each period.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.03 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 52-A

BONDS BEARING ISSUE DATES FROM JULY 1 THROUGH NOV. 1, 1958

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(6/1/77)	$44.34	$88.68	$177.36	$354.72	$886.80	$1773.60	$17736	——	6.00	6.00
0-6 to 1-0	(12/1/77)	45.67	91.34	182.68	365.36	913.40	1826.80	18268	6.00	6.00	6.00
1-0 to 1-6	(6/1/78)	47.04	94.08	188.16	376.32	940.80	1881.60	18816	6.00	5.99	6.00
1-6 to 2-0	(12/1/78)	48.45	96.90	193.80	387.60	969.00	1938.00	19380	6.00	6.03	6.00
2-0 to 2-6	(6/1/79)	49.91	99.82	199.64	399.28	998.20	1996.40	19964	6.01	5.97	6.00
2-6 to 3-0	(12/1/79)	51.40	102.80	205.60	411.20	1028.00	2056.00	20560	6.00	5.99	6.00
3-0 to 3-6	(6/1/80)	52.94	105.88	211.76	423.52	1058.80	2117.60	21176	6.00	6.01	6.00
3-6 to 4-0	(12/1/80)	54.53	109.06	218.12	436.24	1090.60	2181.20	21812	6.00	6.02	6.00
4-0 to 4-6	(6/1/81)	56.17	112.34	224.68	449.36	1123.40	2246.80	22468	6.00	5.98	6.00
4-6 to 5-0	(12/1/81)	57.85	115.70	231.40	462.80	1157.00	2314.00	23140	6.00	6.02	6.00
5-0 to 5-6	(6/1/82)	59.59	119.18	238.36	476.72	1191.80	2383.60	23836	6.00	6.01	6.00
5-6 to 6-0	(12/1/82)	61.38	122.76	245.52	491.04	1227.60	2455.20	24552	6.00	6.00	6.00
6-0 to 6-6	(6/1/83)	63.22	126.44	252.88	505.76	1264.40	2528.80	25288	6.00	5.98	6.00
6-6 to 7-0	(12/1/83)	65.11	130.22	260.44	520.88	1302.20	2604.40	26044	6.00	6.02	6.00
7-0 to 7-6	(6/1/84)	67.07	134.14	268.28	536.56	1341.40	2682.80	26828	6.00	5.99	6.00
7-6 to 8-0	(12/1/84)	69.08	138.16	276.32	552.64	1381.60	2763.20	27632	6.00	5.99	6.00
8-0 to 8-6	(6/1/85)	71.15	142.30	284.60	569.20	1423.00	2846.00	28460	6.00	6.02	6.00
8-6 to 9-0	(12/1/85)	73.29	146.58	293.16	586.32	1465.80	2931.60	29316	6.00	6.00	5.99
9-0 to 9-6	(6/1/86)	75.49	150.98	301.96	601.92	1509.80	3019.60	30196	6.00	5.99	5.99
9-6 to10-0	(12/1/86)	77.75	155.50	311.00	622.00	1555.00	3110.00	31100	6.00	5.99	5.99
10-0 2/	(6/1/87)	80.08	160.16	320.32	640.64	1601.60	3203.20	32032	6.00 3/	——	——

1/ Month, day, and year on which issues of July 1, 1958, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.08 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 53-A

BONDS BEARING ISSUE DATE DEC. 1, 1958

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(11/1/77)	$44.54	$89.08	$178.16	$356.32	$890.80	$1781.60	$17816	——	6.02	6.00
0-6 to 1-0	(5/1/78)	45.88	91.76	183.52	367.04	917.60	1835.20	18352	6.02	5.97	6.00
1-0 to 1-6	(11/1/78)	47.25	94.50	189.00	378.00	945.00	2890.00	18900	5.99	6.01	6.00
1-6 to 2-0	(5/1/79)	48.67	97.34	294.68	389.36	973.40	1946.80	19468	6.00	6.00	6.00
2-0 to 2-6	(11/1/79)	50.13	100.26	200.52	401.04	1002.60	2005.20	20052	6.00	5.98	6.00
2-6 to 3-0	(5/1/80)	51.63	103.26	206.52	413.04	1032.60	2065.20	20652	6.00	6.00	6.00
3-0 to 3-6	(11/1/80)	53.18	106.36	212.72	425.44	1063.60	2127.20	21272	6.00	6.02	6.00
3-6 to 4-0	(5/1/81)	54.78	109.56	219.12	438.24	1095.60	2191.20	21912	6.00	5.99	6.00
4-0 to 4-6	(11/1/81)	56.42	112.84	225.68	451.36	1128.40	2256.80	22568	6.00	5.99	6.00
4-6 to 5-0	(5/1/82)	58.11	116.22	232.44	464.88	1162.20	2324.40	23244	6.00	6.02	6.00
5-0 to 5-6	(11/1/82)	59.86	119.72	239.44	478.88	1197.20	2394.40	23944	6.00	5.98	6.00
5-6 to 6-0	(5/1/83)	61.65	123.30	246.60	493.20	1233.00	2466.00	24660	6.00	6.00	6.00
6-0 to 6-6	(11/1/83)	63.50	127.00	254.00	508.00	1270.00	2540.00	25400	6.00	6.02	6.00
6-6 to 7-0	(5/1/84)	65.41	130.82	261.64	523.28	1308.20	2616.40	26164	6.00	5.99	6.00
7-0 to 7-6	(11/1/84)	67.37	134.74	269.48	538.96	1347.40	2694.80	26948	6.00	6.00	6.00
7-6 to 8-0	(5/1/85)	69.39	138.78	277.56	555.12	1387.80	2775.60	27756	6.00	6.00	6.00
8-0 to 8-6	(11/1/85)	71.47	142.94	285.88	571.76	1429.40	2858.80	28588	6.00	6.02	6.00
8-6 to 9-0	(5/1/86)	73.62	147.24	294.48	588.96	1472.40	2944.80	29448	6.00	6.00	5.99
9-0 to 9-6	(11/1/86)	75.83	151.66	303.32	606.64	1516.60	3033.20	30332	6.00	5.99	5.99
9-6 to10-0	(5/1/87)	78.10	156.20	312.40	624.80	1562.00	3124.00	31240	6.00	5.99	5.99
10-0 2/	(11/1/87)	80.44	160.88	321.76	643.52	1608.80	3217.60	32176	6.00 3/	——	——

1/ Month, day, and year on which issues of Dec. 1, 1958, enter each period.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.10 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

V 41 168 AUG 27 76 UMI

TABLE 54-A

BONDS BEARING ISSUE DATES FROM JAN. 1 THROUGH MAY 1, 1959

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 18 years 11 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(12/1/77)	$46.95	$89.90	$179.80	$359.60	$899.00	$1798.00	$17980	——	6.01	6.00
0-6 to 1-0 . . . . (6/1/78)	46.30	92.60	185.20	370.40	926.00	1852.00	18520	6.01	6.00	6.00
1-0 to 1-6 . . . . (12/1/78)	47.69	95.38	190.76	381.52	953.80	1907.60	19076	6.01	6.00	6.00
1-6 to 2-0 . . . . (6/1/79)	49.12	98.24	196.48	392.96	982.40	1964.80	19648	6.00	5.99	6.00
2-0 to 2-6 . . . . (12/1/79)	50.59	101.18	202.36	404.72	1011.80	2023.60	20236	6.00	6.01	6.00
2-6 to 3-0 . . . . (6/1/80)	52.11	104.22	208.44	416.88	1042.20	2084.40	20844	6.00	5.99	6.00
3-0 to 3-6 . . . . (12/1/80)	53.67	107.34	214.68	429.36	1073.40	2146.80	21468	6.00	6.00	6.00
3-6 to 4-0 . . . . (6/1/81)	55.28	110.56	221.12	442.24	1105.60	2211.20	22112	6.00	6.01	6.00
4-0 to 4-6 . . . . (12/1/81)	56.94	113.88	227.76	455.52	1138.80	2277.60	22776	6.00	6.00	6.00
4-6 to 5-0 . . . . (6/1/82)	58.65	117.30	234.60	469.20	1173.00	2346.00	23460	6.00	6.00	6.00
5-0 to 5-6 . . . . (12/1/82)	60.41	120.82	241.64	483.28	1208.20	2416.40	24164	6.00	5.99	6.00
5-6 to 6-0 . . . . (6/1/83)	62.22	124.44	248.88	497.76	1244.40	2488.80	24888	6.00	6.01	6.00
6-0 to 6-6 . . . . (12/1/83)	64.09	128.18	256.36	512.72	1281.80	2563.60	25636	6.00	5.99	6.00
6-6 to 7-0 . . . . (6/1/84)	66.01	132.02	264.04	528.08	1320.20	2640.40	26404	6.00	6.00	6.00
7-0 to 7-6 . . . . (12/1/84)	67.99	135.98	271.96	543.92	1359.80	2719.60	27196	6.00	6.00	6.00
7-6 to 8-0 . . . . (6/1/85)	70.03	140.06	280.12	560.24	1400.60	2801.20	28012	6.00	6.00	6.00
8-0 to 8-6 . . . . (12/1/85)	72.13	144.26	288.52	577.04	1442.60	2885.20	28852	6.00	6.02	6.00
8-6 to 9-0 . . . . (6/1/86)	74.30	148.60	297.20	594.40	1486.00	2972.00	29720	6.00	5.98	5.99
9-0 to 9-6 . . . . (12/1/86)	76.52	153.04	306.08	612.16	1530.40	3060.80	30608	6.00	6.01	6.00
9-6 to10-0 . . . . (6/1/87)	78.82	157.64	315.28	630.56	1576.40	3152.80	31528	6.00	5.99	5.99
10-0 2/ . . . . . (12/1/87)	81.18	162.36	324.72	649.44	1623.60	3247.20	32472	6.00 3/	——	——

1/ Month, day, and year on which issues of Jan. 1, 1959, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 28 years 11 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.13 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 55-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH AUG. 1, 1959

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(3/1/77)	$42.25	$84.50	$169.00	$338.00	$845.00	$1690.00	$16900	——	6.01	6.00 a
0-6 to 1-0 . . . . (9/1/77)	43.52	87.04	174.08	348.16	870.40	1740.80	17408	6.01	5.97	6.00
1-0 to 1-6 . . . . (3/1/78)	44.82	89.64	179.28	358.56	896.40	1792.80	17928	5.99	6.02	6.00
1-6 to 2-0 . . . . (9/1/78)	46.17	92.34	184.68	369.36	923.40	1846.80	18468	6.00	5.98	6.00
2-0 to 2-6 . . . . (3/1/79)	47.55	95.10	190.20	380.40	951.00	1902.00	19020	6.00	6.01	6.00
2-6 to 3-0 . . . . (9/1/79)	48.98	97.96	195.92	391.84	979.60	1959.20	19592	6.00	6.00	6.00
3-0 to 3-6 . . . . (3/1/80)	50.45	100.90	201.80	403.60	1009.00	2018.00	20180	6.00	5.99	6.00
3-6 to 4-0 . . . . (9/1/80)	51.96	103.92	207.84	415.68	1039.20	2078.40	20784	6.00	6.00	6.00
4-0 to 4-6 . . . . (3/1/81)	53.52	107.04	214.08	428.16	1070.40	2140.80	21408	6.00	6.02	6.00
4-6 to 5-0 . . . . (9/1/81)	55.13	110.26	220.52	441.04	1102.60	2205.20	22052	6.00	5.99	6.00
5-0 to 5-6 . . . . (3/1/82)	56.78	113.56	227.12	454.24	1135.60	2271.20	22712	6.00	6.00	6.00
5-6 to 6-0 . . . . (9/1/82)	58.48	116.96	233.92	467.84	1169.60	2339.20	23392	6.00	6.01	6.00
6-0 to 6-6 . . . . (3/1/83)	60.24	120.48	240.96	481.92	1204.80	2409.60	24096	6.00	6.00	6.00
6-6 to 7-0 . . . . (9/1/83)	62.05	124.10	248.20	496.40	1241.00	2482.00	24829	6.00	5.98	6.00
7-0 to 7-6 . . . . (3/1/84)	63.91	127.82	255.64	511.28	1278.20	2556.40	25564	6.00	6.02	6.00
7-6 to 8-0 . . . . (9/1/84)	65.82	131.64	263.28	526.56	1316.40	2632.80	26328	6.00	5.99	6.00
8-0 to 8-6 . . . . (3/1/85)	67.80	135.60	271.20	542.40	1356.00	2712.00	27120	6.00	6.00	6.00
8-6 to 9-0 . . . . (9/1/85)	69.83	139.66	279.32	558.64	1396.60	2793.20	27932	6.00	6.01	6.00
9-0 to 9-6 . . . . (3/1/86)	71.93	143.86	287.72	575.44	1438.60	2877.20	28772	6.00	6.01	6.00
9-6 to10-0 . . . . (9/1/86)	74.09	148.18	296.36	592.72	1481.80	2963.60	29636	6.00	5.99	5.99
10-0 2/ . . . . . (3/1/87)	76.31	152.62	305.24	610.48	1526.20	3052.40	30524	6.00 3/	——	——

1/ Month, day, and year on which issues of June 1, 1959, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.12 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 56-A

BONDS BEARING ISSUE DATES FROM SEPT. 1 THROUGH NOV. 1, 1959

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(6/1/77)	$42.62	$85.24	$170.48	$340.96	$852.40	$1704.80	$17048	——	6.01	6.00
0-6 to 1-0 . . . (12/1/77)	43.90	87.80	175.60	351.20	878.00	1756.00	17560	6.01	6.01	6.00
1-0 to 1-6 . . . . (6/1/78)	45.22	90.44	180.88	361.76	904.40	1808.80	18068	6.01	5.97	6.00
1-6 to 2-0 . . . . (12/1/78)	46.57	93.14	186.28	372.56	931.40	1842.80	18628	6.00	6.01	6.00
2-0 to 2-6 . . . . (6/1/79)	47.97	95.94	191.88	383.76	959.40	1918.80	19188	6.00	6.00	6.00
2-6 to 3-0 . . . . (12/1/79)	49.41	98.82	197.64	395.28	988.20	1976.40	19764	6.00	5.99	6.00
3-0 to 3-6 . . . . (6/1/80)	50.89	101.78	203.56	407.12	1017.80	2035.60	20356	6.00	6.01	6.00
3-6 to 4-0 . . . . (12/1/80)	52.42	104.84	209.68	419.36	1048.40	2096.80	20968	6.00	5.99	6.00
4-0 to 4-6 . . . . (6/1/81)	53.99	107.98	215.96	431.92	1079.80	2159.60	21596	6.00	6.00	6.00
4-6 to 5-0 . . . . (12/1/81)	55.61	111.22	222.44	444.88	1112.20	2224.40	22244	6.00	6.01	6.00
5-0 to 5-6 . . . . (6/1/82)	57.28	114.56	229.12	458.24	1145.60	2291.20	22912	6.00	6.00	6.00
5-6 to 6-0 . . . . (12/1/82)	59.00	118.00	236.00	472.00	1180.00	2360.00	23600	6.00	6.00	6.00
6-0 to 6-6 . . . . (6/1/83)	60.77	121.54	243.08	486.16	1215.40	2430.80	24308	6.00	5.99	6.00
6-6 to 7-0 . . . . (12/1/83)	62.59	125.18	250.36	500.72	1251.80	2503.60	25036	6.00	6.01	6.00
7-0 to 7-6 . . . . (6/1/84)	64.47	128.94	257.88	515.76	1289.40	2578.80	25788	6.00	5.99	6.00
7-6 to 8-0 . . . . (12/1/84)	66.40	132.80	265.60	531.20	1328.00	2656.00	26560	6.00	5.99	6.00
8-0 to 8-6 . . . . (6/1/85)	68.39	136.78	273.56	547.12	1367.80	2735.60	27356	6.00	6.00	6.00
8-6 to 9-0 . . . . (12/1/85)	70.44	140.88	281.76	563.52	1408.80	2817.60	28176	6.00	6.02	6.01
9-0 to 9-6 . . . . (6/1/86)	72.56	145.12	290.24	580.48	1451.20	2902.40	29024	6.00	5.98	6.00
9-6 to10-0 . . . . (12/1/86)	74.73	149.46	298.92	597.84	1494.60	2989.20	29892	6.00	6.02	6.02
10-0 2/ . . . . . (6/1/87)	76.98	153.96	307.92	615.84	1539.60	3079.20	30792	6.00 3/	——	——

1/ Month, day, and year on which issues of Sept. 1, 1959, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.15 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 57-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1959, THROUGH FEB. 1, 1960

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemptinn values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(9/1/77)	$42.72	$85.44	$170.88	$341.76	$854.40	$1708.80	$17088	——	5.99	6.00
0-6 to 1-0 . . . . (3/1/78)	44.00	88.00	176.00	352.00	880.00	1760.00	17600	5.99	6.00	6.00
1-0 to 1-6 . . . . (9/1/78)	45.32	90.64	181.28	362.56	906.40	1812.80	18128	6.00	6.00	6.00
1-6 to 2-0 . . . . (3/1/79)	46.68	93.36	186.72	373.44	933.60	1867.20	18672	6.00	6.00	6.00
2-0 to 2-6 . . . . (9/1/79)	48.08	96.16	192.32	384.64	961.60	1923.20	19232	6.00	5.99	6.00
2-6 to 3-0 . . . . (3/1/80)	49.52	99.04	198.08	396.16	990.40	1980.80	19808	6.00	6.02	6.00
3-0 to 3-6 . . . . (9/1/80)	51.01	102.02	204.04	408.08	1020.20	2040.40	20404	6.00	6.00	6.00
3-6 to 4-0 . . . . (3/1/81)	52.54	105.08	210.16	420.32	1050.80	2101.60	21016	6.00	6.01	6.00
4-0 to 4-6 . . . . (9/1/81)	54.12	108.24	216.48	432.96	1082.40	2164.80	21648	6.00	5.99	6.00
4-6 to 5-0 . . . . (3/1/82)	55.74	111.48	222.96	445.92	1114.80	2229.60	22296	6.00	5.99	6.00
5-0 to 5-6 . . . . (9/1/82)	57.41	114.82	229.64	459.28	1148.20	2296.40	22964	6.00	5.99	6.00
5-6 to 6-0 . . . . (3/1/83)	59.13	118.26	236.52	473.04	1182.60	2365.20	23652	6.00	6.02	6.00
6-0 to 6-6 . . . . (9/1/83)	60.91	121.82	243.64	487.28	1218.20	2436.40	24364	6.00	6.01	6.00
6-6 to 7-0 . . . . (3/1/84)	62.74	125.48	250.96	501.92	1254.80	2509.60	25096	6.00	5.99	6.00
7-0 to 7-6 . . . . (9/1/84)	64.62	129.24	258.48	516.96	1292.40	2584.80	25848	6.00	6.00	6.00
7-6 to 8-0 . . . . (3/1/85)	66.56	133.12	266.24	532.48	1331.20	2662.40	26624	6.00	5.98	6.00
8-0 to 8-6 . . . . (9/1/85)	68.55	137.10	274.20	548.40	1371.00	2742.00	27420	6.00	6.01	6.00
8-6 to 9-0 . . . . (3/1/86)	70.61	141.22	282.44	564.88	1412.20	2824.40	28244	6.00	6.00	6.00
9-0 to 9-6 . . . . (9/1/86)	72.73	145.46	290.92	581.84	1454.60	2909.20	29092	6.00	5.99	6.00
9-6 to10-0 . . . . (3/1/87)	74.91	149.82	299.64	599.28	1498.20	2996.40	29964	6.00	6.01	6.01
10-0 2/ . . . . . (9/1/87)	77.16	154.32	308.64	617.28	1543.20	3086.40	30864	6.00 3/	——	——

1/ Month, day, and year on which issues of Dec. 1, 1959, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.16 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

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TABLE 89-A

BONDS BEARING ISSUE DATES FROM MARCH 1 THROUGH MAY 1, 1960

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD**							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(12/1/77)	$43.10	$86.20	$172.40	$344.80	$862.00	$1724.00	$17240	——	5.99	6.00
0-6 to 1-0	(6/1/78)	44.39	88.78	177.56	355.12	887.80	1775.60	17756	5.99	5.99	6.00
1-0 to 1-6	(12/1/78)	45.72	91.44	182.88	365.76	914.40	1828.80	18288	5.99	6.04	6.00
1-6 to 2-0	(6/1/79)	47.10	94.20	188.40	376.80	942.00	1884.00	18840	6.01	5.99	6.00
2-0 to 2-6	(12/1/79)	48.51	97.02	194.04	388.08	970.20	1940.40	19404	6.00	5.98	6.00
2-6 to 3-0	(6/1/80)	49.96	99.92	199.84	399.68	999.20	1998.40	19984	6.00	6.00	6.00
3-0 to 3-6	(12/1/80)	51.46	102.92	205.84	411.68	1029.20	2058.40	20584	6.00	6.02	6.00
3-6 to 4-0	(6/1/81)	53.01	106.02	212.04	424.08	1060.20	2120.40	21204	6.00	6.00	6.00
4-0 to 4-6	(12/1/81)	54.60	109.20	218.40	436.80	1092.00	2184.00	21840	6.00	6.01	6.00
4-6 to 5-0	(6/1/82)	56.24	112.48	224.96	449.92	1124.80	2249.60	22496	6.00	5.97	6.00
5-0 to 5-6	(12/1/82)	57.92	115.84	231.68	463.36	1158.40	2316.80	23168	6.00	6.01	6.00
5-6 to 6-0	(6/1/83)	59.66	119.32	238.64	477.28	1193.20	2386.40	23864	6.00	6.00	6.00
6-0 to 6-6	(12/1/83)	61.45	122.90	245.80	491.60	1229.00	2458.00	24580	6.00	5.99	6.00
6-6 to 7-0	(6/1/84)	63.29	126.58	253.16	506.32	1265.80	2531.60	25316	6.00	6.00	6.00
7-0 to 7-6	(12/1/84)	65.19	130.38	260.76	521.52	1303.80	2607.60	26076	6.00	6.01	6.00
7-6 to 8-0	(6/1/85)	67.15	134.30	268.60	537.20	1343.00	2686.00	26860	6.00	5.99	6.00
8-0 to 8-6	(12/1/85)	69.16	138.32	276.64	553.28	1383.20	2766.40	27664	6.00	6.02	6.00
8-6 to 9-0	(6/1/86)	71.24	142.48	284.96	569.92	1424.80	2849.60	28496	6.00	5.98	5.99
9-0 to 9-6	(12/1/86)	73.37	146.74	293.48	586.96	1467.40	2934.80	29348	6.00	6.02	6.00
9-6 to10-0	(6/1/87)	75.58	151.16	302.32	604.64	1511.60	3023.20	30232	6.00	5.98	5.98
10-0 2/	(12/1/87)	77.84	155.68	311.36	622.72	1556.80	3113.60	31136	6.00 3/	——	——

1/ Month, day, and year on which issues of March 1, 1960, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.20 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 91-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1970, THROUGH MAY 1, 1971

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after original maturity at 5 years 10 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD**								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(10/1/76)	$26.00	$52.16	$78.24	$104.32	$208.64	$521.60	$1043.20	$10432	——	5.98	6.00
0-6 to 1-0	(4/1/77)	26.86	53.72	80.58	107.44	214.88	537.20	1074.40	10744	5.98	6.03	6.00
1-0 to 1-6	(10/1/77)	27.67	55.34	83.01	110.68	221.36	553.40	1106.80	11068	6.01	6.00	6.00
1-6 to 2-0	(4/1/78)	28.50	57.00	85.50	114.00	228.00	570.00	1140.00	11400	6.00	5.96	6.00
2-0 to 2-6	(10/1/78)	29.35	58.70	88.05	117.40	234.80	587.00	1174.00	11740	5.99	6.00	6.00
2-6 to 3-0	(4/1/79)	30.23	60.46	90.69	120.92	241.84	604.60	1209.20	12092	5.99	6.02	6.00
3-0 to 3-6	(10/1/79)	31.14	62.28	93.42	124.56	249.12	622.80	1245.60	12456	6.00	6.04	6.00
3-6 to 4-0	(4/1/80)	32.08	64.16	96.24	128.32	256.64	641.60	1283.20	12832	6.00	5.99	6.00
4-0 to 4-6	(10/1/80)	33.04	66.08	99.12	132.16	264.32	660.80	1321.60	13216	6.00	5.99	6.00
4-6 to 5-0	(4/1/81)	34.03	68.06	102.09	136.12	272.24	680.60	1361.20	13612	6.00	5.99	6.00
5-0 to 5-6	(10/1/81)	35.05	70.10	105.15	140.20	280.40	701.00	1402.00	14020	6.00	5.99	6.00
5-6 to 6-0	(4/1/82)	36.10	72.20	108.30	144.40	288.80	722.00	1444.00	14440	6.00	5.98	6.00
6-0 to 6-6	(10/1/82)	37.18	74.36	111.54	148.72	297.44	743.60	1487.20	14872	6.00	6.02	6.00
6-6 to 7-0	(4/1/83)	38.30	76.60	114.90	153.20	306.40	766.00	1532.00	15320	6.00	6.01	6.00
7-0 to 7-6	(10/1/83)	39.45	78.90	118.35	157.80	315.60	789.00	1578.00	15780	6.00	5.98	6.00
7-6 to 8-0	(4/1/84)	40.63	81.26	121.89	162.52	325.04	812.60	1625.20	16252	6.00	6.01	6.00
8-0 to 8-6	(10/1/84)	41.85	83.70	125.55	167.40	334.80	837.00	1674.00	16740	6.00	6.02	6.00
8-6 to 9-0	(4/1/85)	43.11	86.22	129.33	172.44	344.88	862.20	1724.40	17244	6.00	5.98	5.99
9-0 to 9-6	(10/1/85)	44.40	88.80	133.20	177.60	355.20	888.00	1776.00	17760	6.00	5.99	5.99
9-6 to10-0	(4/1/86)	45.73	91.46	137.19	182.92	365.84	914.60	1829.20	18292	6.00	5.99	5.99
10-0 2/	(10/1/86)	47.10	94.20	141.30	188.40	376.80	942.00	1884.00	18840	6.00 3/	——	——

1/ Month, day, and year on which issues of Dec. 1, 1970, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 10 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 5.90 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 92-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1971

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after original maturity at 5 years 10 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD**								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(4/1/77)	$26.15	$52.30	$78.45	$104.60	$209.20	$523.00	$1046.00	$10460	——	5.97	6.00
0-6 to 1-0	(10/1/77)	26.93	53.86	80.79	107.72	215.44	538.60	1077.20	10772	5.97	6.02	6.00
1-0 to 1-6	(4/1/78)	27.74	55.48	83.22	110.96	221.92	554.80	1109.60	11096	5.99	5.98	6.00
1-6 to 2-0	(10/1/78)	28.57	57.14	85.71	114.28	228.56	571.40	1142.80	11428	5.99	6.02	6.00
2-0 to 2-6	(4/1/79)	29.43	58.86	88.29	117.72	235.44	588.60	1177.20	11772	6.00	6.05	6.00
2-6 to 3-0	(10/1/79)	30.32	60.64	90.96	121.28	242.56	606.40	1212.80	12128	6.01	5.94	6.00
3-0 to 3-6	(4/1/80)	31.22	62.44	93.66	124.88	249.76	624.40	1248.80	12488	6.00	6.02	6.00
3-6 to 4-0	(10/1/80)	32.16	64.32	96.48	128.64	257.28	643.20	1286.40	12864	6.00	6.03	6.00
4-0 to 4-6	(4/1/81)	33.13	66.26	99.39	132.52	265.04	662.60	1325.20	13252	6.00	5.98	6.00
4-6 to 5-0	(10/1/81)	34.12	68.24	102.36	136.48	272.96	682.40	1364.80	13648	6.00	5.98	6.00
5-0 to 5-6	(4/1/82)	35.14	70.28	105.42	140.56	281.12	702.80	1405.60	14056	6.00	6.03	6.00
5-6 to 6-0	(10/1/82)	36.20	72.40	108.60	144.80	289.60	724.00	1448.00	14480	6.00	5.97	6.00
6-0 to 6-6	(4/1/83)	37.28	74.56	111.84	149.12	298.24	745.60	1491.20	14912	6.00	6.01	6.00
6-6 to 7-0	(10/1/83)	38.40	76.80	115.20	153.60	307.20	768.00	1536.00	15360	6.00	5.99	6.00
7-0 to 7-6	(4/1/84)	39.55	79.10	118.65	158.20	316.40	791.00	1582.00	15820	6.00	6.02	6.00
7-6 to 8-0	(10/1/84)	40.74	81.48	122.22	162.96	325.92	814.80	1629.60	16296	6.00	5.99	6.00
8-0 to 8-6	(4/1/85)	41.96	83.92	125.88	167.84	335.68	839.20	1678.40	16784	6.00	6.01	6.00
8-6 to 9-0	(10/1/85)	43.22	86.44	129.66	172.88	345.76	864.40	1728.80	17288	6.00	6.02	6.00
9-0 to 9-6	(4/1/86)	44.52	89.04	133.56	178.08	356.16	890.40	1780.80	17808	6.00	5.97	6.00
9-6 to10-0	(10/1/86)	45.85	91.70	137.55	183.40	366.80	917.00	1834.00	18340	6.00	6.02	6.02
10-0 2/	(4/1/87)	47.23	94.46	141.69	188.92	377.84	944.60	1889.20	18892	6.00 3/	——	——

1/ Month, day, and year on which issues of June 1, 1971, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 10 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 5.92 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 93-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1971, THROUGH MAY 1, 1972

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after original maturity at 5 years 10 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD**								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(10/1/77)	$26.21	$52.42	$78.63	$104.84	$209.68	$524.20	$1048.40	$10484	——	6.03	6.00
0-6 to 1-0	(4/1/78)	27.00	54.00	81.00	108.00	216.00	540.00	1080.00	10800	6.03	6.00	6.00
1-0 to 1-6	(10/1/78)	27.81	55.62	83.43	111.24	222.48	556.20	1112.40	11124	6.01	5.97	6.00
1-6 to 2-0	(4/1/79)	28.64	57.28	85.92	114.56	229.12	572.80	1145.60	11456	6.00	6.01	6.00
2-0 to 2-6	(10/1/79)	29.50	59.00	88.50	118.00	236.00	590.00	1180.00	11800	6.00	5.97	6.00
2-6 to 3-0	(4/1/80)	30.38	60.76	91.14	121.52	243.04	607.60	1215.20	12152	5.99	6.06	6.00
3-0 to 3-6	(10/1/80)	31.30	62.60	93.90	125.20	250.40	626.00	1252.00	12520	6.00	5.94	6.00
3-6 to 4-0	(4/1/81)	32.23	64.46	96.69	128.92	257.84	644.60	1289.20	12892	6.00	6.02	6.00
4-0 to 4-6	(10/1/81)	33.20	66.40	99.60	132.80	265.60	664.00	1328.00	13280	6.00	6.02	6.00
4-6 to 5-0	(4/1/82)	34.20	68.40	102.60	136.80	273.60	684.00	1368.00	13680	6.00	5.96	6.00
5-0 to 5-6	(10/1/82)	35.22	70.44	105.66	140.88	281.76	704.40	1408.80	14088	6.00	6.02	6.00
5-6 to 6-0	(4/1/83)	36.28	72.56	108.84	145.12	290.24	725.60	1451.20	14512	6.00	6.01	6.00
6-0 to 6-6	(10/1/83)	37.37	74.74	112.11	149.48	298.96	747.40	1494.80	14948	6.00	5.99	6.00
6-6 to 7-0	(4/1/84)	38.49	76.98	115.47	153.96	307.92	769.80	1539.60	15396	6.00	5.98	6.00
7-0 to 7-6	(10/1/84)	39.64	79.28	118.92	158.56	317.12	792.80	1585.60	15856	6.00	6.00	6.01
7-6 to 8-0	(4/1/85)	40.83	81.66	122.49	163.32	326.64	816.60	1633.20	16332	6.00	6.02	6.01
8-0 to 8-6	(10/1/85)	42.06	84.12	126.18	168.24	336.48	841.20	1682.40	16824	6.00	5.99	6.00
8-6 to 9-0	(4/1/86)	43.32	86.64	129.96	173.28	346.56	866.40	1732.80	17328	6.00	6.00	6.00
9-0 to 9-6	(10/1/86)	44.62	89.24	133.86	178.48	356.96	892.40	1784.80	17848	6.00	6.01	6.01
9-6 to10-0	(4/1/87)	45.96	91.92	137.88	183.84	367.68	919.20	1838.40	18384	6.00	6.01	6.01
10-0 2/	(10/1/87)	47.34	94.68	142.02	189.36	378.72	946.80	1893.60	18936	6.00 3/	——	——

1/ Month, day, and year on which issues of Dec. 1, 1971, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 10 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 5.94 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

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TABLE 97

BONDS BEARING ISSUE DATES FROM DEC. 1, 1973, THROUGH AUG. 1, 1976

Issue price / Denomination	$18.75 / 25.00	$37.50 / 50.00	$56.25 / 75.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	$ 7500 / 10000	Approximate investment yield (annual percentage rate)		
Period (years and months after issue)	(1) Redemption values during each half-year period (values increase on first day of period)								(2) From issue date to beginning of each ½-yr. period	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/	(12/1/73)	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	——	3.73	6.00
0-6 to 1-0	(6/1/74)	19.10	38.20	57.30	76.40	152.80	382.00	764.00	7640	3.73	5.34	6.25
1-0 to 1-6	(12/1/74)	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	5.00	6.37
1-6 to 2-0	(6/1/75)	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.98	6.57
2-0 to 2-6	(12/1/75)	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.24	6.83
2-6 to 3-0	(6/1/76)	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3-0 to 3-6	(12/1/76)	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3-6 to 4-0	(6/1/77)	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4-0 to 4-6	(12/1/77)	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4-6 to 5-0	(6/1/78)	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5-0 2/	(12/1/78)	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	——	——

1/ Month, day and year on which issues of December 1, 1973, enter each period. These are representative dates. For subsequent issue dates, substitute the month, day and year of issue on the first line, and the appropriate six-month accrual date on each succeeding line. For example: if the issue date of the bond is October 1, 1974, the entries on succeeding lines in this column would be 10/1/74, 4/1/75, 10/1/75, 4/1/76, 10/1/76, etc., to the maturity date of 10/1/79; if the issue date of the bond is July 1, 1976, the line entries would be 7/1/76, 1/1/77, 7/1/77, 1/1/78, 7/1/78, etc., to the maturity date of 7/1/81.

2/ Maturity value reached at 5 years and 0 months after issue.

[FR Doc.76-25018 Filed 8-26-76;8:45 am]

federal register

FRIDAY, AUGUST 27, 1976



PART V:

DEPARTMENT OF THE TREASURY

Fiscal Service,
Bureau of the Public Debt

■

U.S. SAVINGS BONDS, SERIES H

Dept. Circular No. 905,
6th Rev.
1st Amendment, 1st Supplement

V 41 168
AUG 27 76
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Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

The Department of the Treasury is announcing the interest payments and investment yields for United States Savings Bonds, Series H, of various issue dates which are entering their next extended maturity periods.

Accordingly, Department of the Treasury Circular No. 905, Sixth Revision, dated March 18, 1974, and the tables incorporated therein, as amended (31 CFR, Part 332), are hereby supplemented for the purpose of providing tables showing the schedule of interest payments and investment yields for the next extended maturity period for bonds bearing issue dates of February 1, 1957, through May 1, 1958; and December 1, 1966, through May 1, 1968. Accordingly, Tables 12-A, 13-A, 14-A, 32-A, 33-A and 34-A are added as set forth below.

The foregoing supplement was effected under authority of section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c), and 5 U.S.C. 301. Notice and public procedures thereon are unnecessary as the fiscal policy of the United States is involved.

Dated: August 10, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

TABLE 12-A

BONDS BEARING ISSUE DATES FROM FEB. 1 THROUGH MAY 1, 1957

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/	(8/1/77)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS	(2/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS	(8/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS	(2/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS	(8/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS	(2/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS	(8/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS	(2/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS	(8/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS	(2/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS	(8/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS	(2/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS	(8/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS	(2/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS	(8/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS	(2/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS	(8/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS	(2/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS	(8/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . .	(2/1/87)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF FEB. 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.58%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 13-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1957

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/	(12/1/77)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS	(6/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS	(12/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS	(6/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS	(12/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS	(6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS	(12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS	(6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS	(12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS	(6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS	(12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS	(6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS	(12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS	(6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS	(12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS	(6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS	(12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS	(6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS	(12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . .	(6/1/87)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.63%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 14-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1957 THROUGH MAY 1, 1958

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/	(6/1/78)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS	(12/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS	(6/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS	(12/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS	(6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS	(12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS	(6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS	(12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS	(6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS	(12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS	(6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS	(12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS	(6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS	(12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS	(6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS	(12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS	(6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS	(12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS	(6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . .	(12/1/87)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.68%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

V 41 168 AUG 27 76 UMI

TABLE 32-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1966 THROUGH MAY 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/77)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/77)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/86)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1966. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.40%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 33-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/77)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (6/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (12/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (6/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (12/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (6/1/87)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.46%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 34-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1967 THROUGH MAY 1, 1968

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/78)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/78)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/79)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/87)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.51%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

[FR Doc.76-25019 Filed 8-26-76;8:45 am]

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federal register

FRIDAY, AUGUST 27, 1976



PART VI:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Illinois	IL76–2108

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL76–1002	Jan. 9, 1976.
California:	
CA76–5063; CA76–5064	July 16, 1976.
Idaho:	
ID76–5066	July 23, 1976.
Kentucky:	
KY76–1028	Feb. 20, 1976.
Mississippi:	
MS76–1084	Aug. 20, 1976.
Montana:	
MT76–5072	Aug. 6, 1976.
Nevada:	
NV76–5065	July 2, 1976.
NV76–5069	July 30, 1976.
NV76–5074	Aug. 6, 1976.
New Mexico:	
NM76–4141	Aug. 6, 1976.
Oklahoma:	
OK76–4017	Feb. 6, 1976.
Tennessee:	
TN76–1071	June 11, 1976.
TN76–1083	Aug. 6, 1976.
Utah:	
UT76–5052	June 25, 1976.
Washington, D.C.:	
DC76–3226	July 30, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

Georgia:	
GA76–1025 (GA76–1089)	Feb. 13, 1976.
Hawaii:	
HI76–5078 (HI76–5081)	Aug. 13, 1976.
Kentucky:	
KY76–1031 (KY76–1086)	Feb. 27, 1976.
New York:	
NY76–3188 (NY76–3236); NY76–3200 (NY76–3238).	June 25, 1976.
North Carolina:	
NC76–1065 (NC76–1087)	June 4, 1976.
South Carolina:	
SC76–1007 (SC76–1088)	Jan. 9, 1976.

Signed at Washington, D.C., this 20th day of August 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

PAGE 2

DECISION NO. IL76-2108

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Coles, Clark, Cumberland, Edgar, Effingham Cos; Western ½ of Jasper Co., & Southern part of Douglas County:					
Carpenters & Soft Floor Layers	$10.55	.45	.30		.07
Millwrights & Piledrivermen	11.05	.45	.30		.07
Northern part of Douglas Co., including Tuscola & Newman:					
Carpenters & Soft Floor Layers	10.315	.35	.80		.08
Millwrights & Piledrivermen	10.815	.35	.80		.08
CEMENT MASONS:					
Clark, Edgar & Richland Cos; Cement Masons & Plasterers	9.50			.50	.01
Crawford, Lawrence & Wabash Cos: Cement Masons & Plasterers	8.90	.60	.50		
Clay, Edwards & Jasper Cos; & Remainder of Wayne County: Cement Masons & Plasterers	9.95				
Coles, Cumberland & Effingham Cos; & Southern part of Douglas County: Cement Masons	9.35				.01
Plasterers	8.85				
Northern part of Douglas County including Tuscola & Newman:					
Cement Masons	10.125	.30	.25		.025
Plasterers	10.365	.35			.025
Fayette Co; & S.W. Corner of Wayne County: Cement Masons & Plasterers	8.00	.30			
ELECTRICIANS:					
Wabash County	11.15	.60	1%		2%
Coles & Cumberland Cos; Southern ½ of Douglas Co; Tvps. of Bishop, Douglas, Lucas, Moccasin, St. Francis, Summit and Teutopolis in Effingham County	9.90	.40	1%+.20		.2%
Edwards, Wayne & Clay Cos; & Remainder of Effingham & Fayette Counties	10.80	.40	1%+.65		.25%

NEW DECISION

STATE: Illinois
DECISION NUMBER: IL76-2108
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette County	$11.38	.45	.62		.05
Clark, Douglas & Edgar Counties	10.66	.50	.35		.03
Remainder of Counties	10.70	.45	.40		.03
BOILERMAKERS	10.05	.65	1.10		.03
BRICKLAYERS:					
Fayette County:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers-Caulkers-Cleaners-Marble-Tile-Terrazzo Workers	10.20	.35	.50		
Coles & Cumberland Cos; Arcola & South Thereof in Douglas County: Bricklayers & Stonemasons	9.20	.30			
Edgar Co; & North of Arcola in Douglas County: Bricklayers & Stonemasons	10.62	.25			.03
Remainder of Counties: Bricklayers, Stonemasons, Blocklayers, Pointers-Caulkers, Cleaners-Marble-Tile-Terrazzo Workers	10.25				
CARPENTERS:					
Fayette County:					
Carpenters, Piledrivermen & Soft Floor Layers.	8.66	.45	.25		.02
Millwrights	9.01	.45	.25		.02
Crawford & Lawrence Cos; Eastern ½ of Jasper County:					
Carpenters & Soft Floor Layers	9.24	.50	.40		
Millwrights & Piledrivermen	9.64	.50	.40		
Jefferson & Wayne Cos; Northeastern & Western ½ of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	8.66	.45	.50		.02
Millwrights	9.01	.45	.50		.02
Clay, Richland & Wabash Cos; Southeastern part of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	8.66	.45	.50		.02
Millwrights	9.01	.45	.50		.02

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DECISION NO. IL76-2108

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Northern ½ of Douglas County	$10.60	.40	1%+.30		.3%
Twps. of Banner & Liberty in Effingham Co; Twps. of Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson & Loudon in Fayette County	10.19	.40	1%+.35		.0035%
Remainder of Counties	10.60	.40	1%+.40		.01
GLAZIERS:					
Fayette County	9.985	.45	.30		
Coles & Douglas	8.80	.25	.15		
Clark & Edgar Counties	10.84				
Edwards, Lawrence, Wabash & Wayne Counties	9.305	.48	.50	.25	
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	10.05	.30	1.00		.08
Avena & North thereof in Fayette County & Remainder of Effingham County	10.35	.35	.75		.05
Fayette Co., (Southern ½ below Brownstown	11.00	.55	.75		
Clark, Jasper, Crawford Cos; Northern ½ of Lawrence Co., North of Olney in Richland Co., Dexter & East thereof in Effingham Co; Remainder of Clay County	10.15	.75	1.70		.10
Wabash, Wayne, Edwards Cos; Louisville & South thereof in Clay Co; Olney & South thereof in Richland Co; Southern ½ of Lawrence Co., inlcuding Lawrenceville	8.15	.25	.25		
LABORERS:					
Fayette County	7.75	.30	.30		.035
Coles & Cumberland Counties:					
Unskilled	8.70	.55	.40		.035
Semi-Skilled	8.90	.55	.40		.035
Skilled	9.05	.55	.40		.035

DECISION NO. IL76-2108

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Douglas & Edgar Counties:					
Unskilled	$8.72	.45	.48		.035
Semi-Skilled	8.92	.45	.48		.035
Skilled	9.07	.45	.48		.035
Remainder of Counties	7.75		.30		.035
LATHERS:					
Richland County	11.585			.65	.01
Fayette County	9.90				
Effingham County	9.25				
Coles, Crawford, Douglas & Edgar Counties	10.14	.35	.20		.01
PAINTERS:					
Fayette County:					
Commercial	10.14	.45	.15		
Industrial	10.39	.45	.15		
Crawford County	8.05	.45			
Edgar & Clark Counties:					
Commercial & Industrial	6.15				
Edwards & Wayne Counties:					
Brush & Roller	5.55				
Clay County:					
Brush	7.00				
Roller	8.25				
Wabash County:					
Brush	7.75				
Roller	8.00				
Lawrence & Richland Counties:					
Brush	7.55				
Spray	8.55				
Remainder of Counties	9.97	.45	.40		.03
PLUMBERS & STEAMFITTERS:					
Clay & Fayette Counties	11.20	.95	1.05		.15
Edwards & Wabash Counties	11.705	.50	.80		.06
Lawrence & Wayne Counties	10.45	.35	.55		.04
Clark, Crawford, Edgar & Richland Counties	11.25	.40	.80		.10
Remainder of Counties	9.75	.35	.80		.12

DECISION NO. IL76-2108

ROOFERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette County:					
Roofers	$8.65	.47	.45	1.00	.03
Kettlemen	6.45	.47	.45	1.00	.03
Edwards & Wabash Counties	8.68	.40	.25		
Richland & Wayne Counties	7.20				
Clay, Effingham & Jasper Cos:					
Roofers	9.48	.20	.20		
Helpers	60%JR				
Coles, Cumberland & Douglas Cos:					
Roofers	9.90	.35	.30		
Helpers	80%JR				
Remainder of Counties	8.50	.40	.20		
SHEET METAL WORKERS:					
Crawford County	8.90	.31	.45		.02
Clark, Coles, Cumberland, Edgar & Douglas Counties	10.60	.45	.35		.12
Remainder of Counties	10.68	.25	.25	6%	.02
SPRINKLER FITTERS	11.40	.60	.90		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. IL76-2108

ILL-2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: FAYETTE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 11.08	.42	.90		.05
GROUP II	10.25	.42	.90		.05
GROUP III	9.60	.42	.90		.05
GROUP IV	9.50	.42	.90		.05
GROUP V	9.25	.42	.90		.05
GROUP VI					
a.	13.23	.42	.90		.05
b.	13.53	.42	.90		.05
c.	11.35	.42	.90		.05
d.	11.85	.42	.90		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oiler or firemen is not required) Hydraulic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournagulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pips wrapping or painting machines, Drills (other than derrick type) 1-dum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors (1), distribution pors., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in iar over 10 lbs pressure

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DECISION NO. IL76-2108

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
REMAINDER OF COUNTIES					
CLASS I	$10.25	.40	.50		.05
CLASS II	10.20	.40	.50		.05
CLASS III	10.00	.40	.50		.05
CLASS IV	7.00	.40	.50		.05

POWER EQUIPMENT OPERATORS:

CLASS I: Master Mechanic

CLASS II: Utility Operator

CLASS III: Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on Asphalt, Large rollers & rollers on asphalt, Gravel Macadam & Brick surface, Ross carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, Farm tractor with ½ yard bucket and/or backhoe attachment, Trench machines cutting over 24," Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 1½S capacity or less, Trench Machine cutting 24" & under, Backfiller, Elevating machine, Power Blade, Asphalt Plant Engineer, Well drilling Machines, Paint Machine, Pipe Cleaning Machine, Pipe wraaping machine, Pipe Bending Machine, Apsoo paver, Boring Machine, w/o winch, Head equipment, Greasers, Barber Green Loaders, Formless paver, Farm Tractor with less than half-yard bucket and other attachments except backhoe, Well Point System

CLASS IV: Power Sub-Grader, Bull Float, Form Grader, Finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air Tuggers, Truck crane drivers, House Elevators when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill, Flexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distrbutor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self Propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser

DECISION NO IL76-2108

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.60	.55	a14.00		
GROUP II	10.00	.55	a14.00		
GROUP III	10.20	.55	a14.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks haluing 16 ton or more, drivers on oil distributores, water pulls, mechanics & wroking foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL76-1002 - Mod. #1 (41 FR 1693 - January 9, 1976) Montgomery County, Alabama					
CHANGE: Electricians	$ 7.425	.30	1%	a	½%
ADD: FOOTNOTE: a. 1 Paid Holiday - Christmas Day					

MODIFICATIONS P. 2

DECISION NO. CA76-5063 - Mod. #1 (41 FR 29619 - July 16, 1976) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons: Fresno, Kings, Madera, Mariposa and Merced Cos.	$10.35	.95	$1.00		
Glaziers: Alameda, Contra Costa, Lake, Marin, Mendocino (Southern Half of County from North of Ft. Bragg), Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano (S. W. from East to Fairfield) and Sonoma Counties	11.23	.92	1.35		.02
Lathers: Butte, Colusa, Glenn, Humboldt, Lake (that portion of Co. from Lakeport up to County line), Nevada, Placer, Plumas, Shaste, Sierra, Tehama and Trinity Counties	11.00	.66	.50		.01
Calaveras and San Joaquin Cos.	10.55	.68	.55		.01
Painters: Lake Tahoe Area Brush	10.95	.70	.75		
Spray; Structural Steel; Tapers	11.20	.70	.75		

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MODIFICATIONS P. 3

DECISION NO. CA76-5063 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Del Norte, Humboldt, Lake, Lassen (Northwestern half), Marin, Mendocino, Modoc, Napa, Shasta, Siskiyou, Solano, Sonoma, Tehama and Trinity Counties	$ 9.80	.98	.50	$ 1.00	.01
San Francisco County	11.78	.90	$1.90		.03
Mariposa, Merced, Stanislaus and Tuolumne Counties	9.05	.90	1.55	1.20	
Plumbers:					
Alameda County	13.19	1.25	2.29		.12
Contra Costa County	11.87	1.25	2.29		.20
Del Norte and Humboldt Cos.	11.33	.71	1.12		.05
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	14.20	.90	1.65		.14
Lake, Napa and Solano Cos.	13.31	1.13	2.29		.16
Sheet Metal Wotkers:					
Alpine, Calaveras and San Joaquin Counties	11.77	.66	1.40		.02
Soft Floor Layers:					
Alpine, Amador, Butte, Calaveras, Colusa, El Dorado Glenn, Lassen (excluding Honey Lake Area), Merced (East of San Joaquin River), Plumas, San Joaquin, Shasta, Sacramento, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba Counties and those portions of El Dorado, Nevada, Placer and Sierra Counties (excluding Lake Tahoe Area)	9.93	.74	1.00	1.00	.10
Steamfitters:					
Alameda and Contra Costa Cos.	13.30	1.25	2.29		.165
Del Norte and Humboldt Cos.	11.64	.71	1.12		.05

MODIFICATIONS P. 4

DECISION NO. CA76-5064 - Mod #1
(41 FR 29637 - July 16, 1976)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Fresno, Mariposa and Merced Counties	$10.35	.95	$1.00		
Electricians:					
Shasta and Tehama Counties Electricians (Family residences, limited to 3 stories)	7.83	.75	1%+.45		.04
Glaziers:					
Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano (S.W. from east of Fairfield), and Sonoma Counties	11.23	.92	1.35		.02
Lathers:					
Humboldt, Nevada, Placer, Shasta and Tehama Counties	11.00	.66	.50		.01
Calaveras and San Joaquin Counties	10.55	.68	.55		.01
Painters:					
Lake Tahoe Area					
Brush	10.95	.70	.75		
Spray; Structural Steel; Tapers	11.20	.70	.75		

MODIFICATIONS P. 5

DECISION NO. CA76-5064 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Del Norte, Humboldt, Marin, Napa, Shasta, Solano, Sonoma and Tehama Counties	$ 9.80	.98	$ .50	$1.00	.01
San Francisco County	11.78	.90	1.90		.03
Mariposa, Merced and Tuolumne Counties	9.05	.90	1.55	1.20	
Plumbers:					
Alameda County	13.19	1.25	2.29		.12
Contra Costa County	11.87	1.25	2.29		.20
Del Norte and Humboldt Cos.	11.33	.71	1.12		.05
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	14.20	.90	1.65		.14
Napa and Solano Counties	13.31	1.13	2.29		.16
Sheet Metal Workers:					
Alpine, Calaveras and San Joaquin Counties	11.77	.66	1.40		.02
Soft Floor Layers:					
Alpine, Amador, Calaveras, Merced (East of the San Joaquin River), San Joaquin, Shasta, Sacramento, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties; and those portions of El Dorado, Nevada and Placer Counties (excl. Lake Tahoe Area)	9.93	.74	1.00	1.00	.10
Steamfitters:					
Alameda and Contra Costa Counties	13.30	1.25	2.29		.165
Del Norte and Humboldt Cos.	11.64	.71	1.12		.05

MODIFICATIONS P. 6

DECISION #ID76-5066 - Mod. #4
(41 FR 30515 - July 23, 1976)
Statewide, Idaho

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties	$8.37	.25	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1028 - Mod. #5 (41 FR-7905 - February 20, 1976) Franklin County, Kentucky					
Change:					
Carpenters	$9.75	.30	.30		.02
Millwrights	10.25	.30	.30		.02
Piledrivermen	10.25	.30	.30		.02
Tile setters	8.55	.25	.25		
Add:					
Line construction:					
Linemen & equipment operators	11.85	.45	1%		.005
Groundmen truck drivers	9.49	.45	1%		.005
Groundmen truck driver with winch or pole steel handling	10.08	.45	1%		.005
Marble setters	8.55	.25	.25		
Terrazzo workers	8.55	.25	.25		
DECISION #KY76-1079 - Mod. #2 41 FR-30529 - July 23,1976 Fayette County, Kentucky					
Change:					
Carpenters:					
Carpenters	$9.75	.30	.30		.02
Millwrights	10.25	.30	.30		.02
Piledrivermen	10.25	.30	.30		.02
Lathers	9.49		.10		
Line construction:					
Linemen and equipment operators	11.70	.45	1%		.005
Groundman truck driver	9.34	.45	1%		.005
Groundman truck driver with winch or pole steel handling	9.93	.45	1%		.005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS76-1084 - Mod. #1 (41 FR - August 20, 1976) Hinds County, Mississippi					
Change:					
Carpenters:					
Carpenters	7.50	.30	.25		.05
Soft floor layers	7.50	.30	.25		.05
Power saw operators (1 hp. or over)	7.75	.30	.25		.05
Skill saw operators	7.625	.30	.25		.05
Pneumatic nailer operator	7.625	.30	.25		.05
Millwrights	7.85	.30	.25		.05
Piledrivermen	7.85	.30	.25		.05
Painters:					
Brush; roller	6.95	.15			
Spray (except structural steel)	7.45	.15			
Structural steel (brush)	7.20	.15			
Swing stage or bosun chair	7.20	.15			
Structural steel (spray)	7.70	.15			
DECISION #MT76-5072 - Mod. #1 (41 FR 33148 - August 6, 1976) Statewide, Montana					
Change:					
Laborers					
Power Equipment Operators					
Truck Drivers					

DECISION NO. MT76-5072 (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$7.77	.50	.40		.03
Axeman	7.52	.50	.40		.03
Burning Bar	7.68	.50	.40		.03
Car and Truck Loaders, Scissorman	7.52	.50	.40		.03
Caisson Workers (free air)	7.68	.50	.40		.03
Carpenter Tender	7.52	.50	.40		.03
Cement Handlers	7.68	.50	.40		.03
Cement Mason Tender	7.68	.50	.40		.03
Choker Setter	7.68	.50	.40		.03
Chuck Tender and Nipper (above ground)	7.52	.50	.40		.03
Concrete Laborers (wet or dry); Bucketman and Signalman	7.68	.50	.40		.03
Concrete or Asphalt Saw	7.62	.50	.40		.03
Concrete Vibrator (5" and over)	7.82	.50	.40		.03
Cosmolene applying and removing	7.52	.50	.40		.03
Core Drill	8.12	.50	.40		.03
Curb Machine	7.62	.50	.40		.03
Drills, Air-tract, self-propelled, Cat, or Truck mounted air operated	7.78	.50	.40		.03
Drills, Air-tract, with Dual Masts	7.88	.50	.40		.03
Drills, Air-tract, self-propelled, Mustang type or similar	7.83	.50	.40		.03
Dumpman (Spotter)	7.52	.50	.40		.03
Dumpman (Grademan)	7.68	.50	.40		.03
Fence Erector and Installer (including Installation and Erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers)	7.52	.50	.40		.03
Form stripper	7.52	.50	.40		.03
Form Setter	7.62	.50	.40		.03
Grade Setter	7.87	.50	.40		.03
General Laborer	7.52	.50	.40		.03
Hand Faller	7.60	.50	.40		.03
High Scaler	7.88	.50	.40		.03
High Pressure Machine Nozzleman	7.72	.50	.40		.03
Heater Tender	7.52	.50	.40		.03

DECISION NO. MT76-5072 (Cont'd)

- LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanic Tamper, Vibrating Roller, hand steered and other Power Tools	$7.68	.50	.40		.03
Landscape Laborers	7.52	.50	.40		.03
Nozzleman-Air and Water, Gunite and Pleco Machine	7.62	.50	.40		.03
Pipe Layer (all types)	7.68	.50	.40		.03
Pipe Wrapper	7.68	.50	.40		.03
Post Hole Digger (power Auger)	7.62	.50	.40		.03
Power Saw, Bucking	7.68	.50	.40		.03
Power Saw, Falling	7.78	.50	.40		.03
Powderman Helper	7.62	.50	.40		.03
Powderman	8.08	.50	.40		.03
Power Driven Wheelbarrow	7.62	.50	.40		.03
Riprapper	7.68	.50	.40		.03
Riprap Helper	7.52	.50	.40		.03
Scaleman	7.68	.50	.40		.03
Sandblaster	7.72	.50	.40		.03
Sandblaster Tail Hoseman, Pot Tender	7.52	.50	.40		.03
Sodcutter-hand operated	7.52	.50	.40		.03
Spike Driver, single or dual or hand	7.68	.50	.40		.03
Stake Jumper for Equipment	7.52	.50	.40		.03
Switchman	7.68	.50	.40		.03
Tar Pot	7.62	.50	.40		.03
Tool Checker, Toolhouseman	7.52	.50	.40		.03
Welder	8.52	.50	.40		.03

DECISION #MT76-5072 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$9.20	.50	.50	.25	.05
Air Compressor, single	8.89	.50	.50	.25	.05
Air Compressor, two or more	9.06	.50	.50	.25	.05
Air Doctor	9.36	.50	.50	.25	05
Asphalt Paving Machine	9.36	.50	.50	.25	.05
Asphalt Paving Machine Screed	9.36	.50	.50	.25	.05
Automatic Finegrade, Gurries and other similar types	9.49	.50	.50	.25	.05
Belt Finish Machine	9.06	.50	.50	.25	.05
Bit Grinder	9.36	.50	.50	.25	.05
Bituminous Mixer Paving, Travel Plant	9.36	.50	.50	.25	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	8.95	.50	.50	.25	.05
Boring Machine (large)	9.36	.50	.50	.25	.05
Broom, Self-propelled	9.03	.50	.50	.25	.05
Cableway Highline	9.07	.50	.50	.25	.05
Cement Silo	9.15	.50	.50	.25	.05
Central Mixing Plants, Concrete dam and stationary	9.61	.50	.50	.25	.05
Chain Bucket Loader	9.08	.50	.50	.25	.05
Chip or Gravel Spreader, self-propelled	9.08	.50	.50	.25	.05
Concrete Batch Plant, one and two Mixers	9.36	.50	.50	.25	.05
Concrete Batch Plant, three and four Mixers	9.56	.50	.50	.25	.05
Concrete Batch Plant, five Mixers and over	9.76	.50	.50	.25	.05
Concrete Batch Plant Oiler, up to and including two Mixers	8.88	.50	.50	.25	.05
Concrete Batch Plant Oiler, three Mixers and over	9.19	.50	.50	.25	.05
Concrete Bucket Dispatcher	9.36	.50	.50	.25	.05
Concrete Curing Machine	9.36	.50	.50	.25	.05
Concrete Finish Machine Paving	9.36	.50	.50	.25	.05
Concrete Float-Spreader	9.36	.50	.50	.25	.05
Concrete Mixer, three bags and under	8.95	.50	.50	.25	.05
Concrete Mixer, four bags and over	9.12	.50	.50	.25	.05

DECISION #MT76-5072 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, Self-propelled	$9.36	.50	.50	.25	.05
Concrete Travel Batcher	9.36	.50	.50	.25	.05
Concrete Conveyor under 40 feet	8.94	.50	.50	.25	.05
Concrete Conveyor over 40 feet	9.69	.50	.50	.25	.05
Concrete Pump	9.69	.50	.50	.25	.05
Crane, to and including 80' boom	9.52	.50	.50	.25	.05
Crane, 81' to 130' boom	9.67	.50	.50	.25	.05
Crane, 131' to 150' boom	9.72	.50	.50	.25	.05
Crane, 151' boom and over	9.77	.50	.50	.25	.05
Crane Oiler	8.93	.50	.50	.25	.05
Crusher	9.36	.50	.50	.25	.05
Crusher Oiler and Helpers	8.85	.50	.50	.25	.05
Crusher Conveyor, when required	8.82	.50	.50	.25	.05
Distributor	9.36	.50	.50	.25	.05
DW 10, 15 or 20 Tractor pulling Roller	9.08	.50	.50	.25	.05
Electric Overhead Cranes	9.54	.50	.50	.25	.05
Elevating Grader	9.36	.50	.50	.25	.05
Farm Type Tractor, up to and including 50 HP Engine	8.82	.50	.50	.25	.05
Farm Type Tractor, over 50 HP Engine	8.90	.50	.50	.25	.05
Field Equipment Serviceman	9.28	.50	.50	.25	.05
Field Equipment Serviceman Helper	8.85	.50	.50	.25	.05
Fireman	8.95	.50	.50	.25	.05
Forklift, on construction job site	9.17	.50	.50	.25	.05
Form Grader	9.13	.50	.50	.25	.05
Gradall	9.36	.50	.50	.25	.05
Grade Setter	8.82	.50	.50	.25	.05
Heavy Duty Drill, all types	9.36	.50	.50	.25	.05
Heavy Duty Driller Helper	8.95	.50	.50	.25	.05
Herman-Nelson Heaters and similar type	8.90	.50	.50	.25	.05
Hoist, single drum	9.13	.50	.50	.25	.05
Hoist, two or more drums	9.36	.50	.50	.25	.05
Helicopter Hoist	9.86	.50	.50	.25	.05
Hot Plant	9.36	.50	.50	.25	.05
Hot Plant Fireman, when in operation	9.36	.50	.50	.25	.05
Hot Plant Oiler, 100 ton per hour or over	8.85	.50	.50	.25	.05

DECISION #MT76-5072 (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hydra Lift and similar types	$9.26	.50	.50	.25	.05
Industrial Locomotive all classes	9.36	.50	.50	.25	.05
Mechanic and/or Welder on job	9.46	.50	.50	.25	.05
Mechanic and/or Welder Helper on job	8.85	.50	.50	.25	.05
Mixermobile	9.44	.50	.50	.25	.05
Motor Patrol	9.49	.50	.50	.25	.05
Mountain Logger or similar type	9.36	.50	.50	.25	.05
Mucking Machine	9.36	.50	.50	.25	.05
Oiler-Driver, Rubber-tired Cranes	8.93	.50	.50	.25	.05
Oilers, other than Shovels and Cranes	8.85	.50	.50	.25	.05
Oiler, Hoist House, Dams	9.26	.50	.50	.25	.05
Pavement Breaker, Emsco and similar	9.36	.50	.50	.25	.05
Paving and Mixing Machine	9.49	.50	.50	.25	.05
Power Auger, Large Truck or Tractor mounted	9.36	.50	.50	.25	.05
Power Mixer, single or double drum	9.36	.50	.50	.25	.05
Power Saw, multiple cut, self-propelled	9.36	.50	.50	.25	.05
Pumpcrete or Grout Machine	9.36	.50	.50	.25	.05
Pumpman	8.89	.50	.50	.25	.05
Push Tractor	9.36	.50	.50	.25	.05
Quad Cat	9.66	.50	.50	.25	.05
Quad Loader and similar type	9.94	.50	.50	.25	.05
Raygo Giant	9.94	.50	.50	.25	.05
Refrigeration Plant	9.36	.50	.50	.25	.05
Retort	8.95	.50	.50	.25	.05
Roller, on blade or hot mix oil paving	9.36	.50	.50	.25	.05
Roller, on other blade or hot mix paving	9.06	.50	.50	.25	.05
Roller, 25 ton or over	9.36	.50	.50	.25	.05
Ross and similar type carriers, on construction site	9.36	.50	.50	.25	.05
Rubber-tired Dozer	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yard and under	9.07	.50	.50	.25	.05

DECISION NO. MT76-5072 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	9.48	.50	.50	.25	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	9.58	.50	.50	.25	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	9.68	.50	.50	.25	.05
Rubber-tired Front End Loader, over 15 yards	9.78	.50	.50	.25	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	9.36	.50	.50	.25	.05
Scraper, single or twin engine pulling belly dump trailer	9.74	.50	.50	.25	.05
Scraper, single engine	9.49	.50	.50	.25	.05
Scraper, twin engine	9.59	.50	.50	.25	.05
Scraper, tandem engine	9.85	.50	.50	.25	.05
Self-propelled Sheepfoot and similar type	9.36	.50	.50	.25	.05
Shovels, including all attachments, under 1 cu. yd.	9.36	.50	.50	.25	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	9.54	.50	.50	.25	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	9.81	.50	.50	.25	.05
Shovels, including all attachments, over 5 cu. yds.	9.94	.50	.50	.25	.05
Shovel Oiler, 3 yards and under	8.85	.50	.50	.25	.05
Shovel Oiler, over 3 cu. yds.	9.06	.50	.50	.25	.05
Slip Form Paver	9.49	.50	.50	.25	.05
Stiff Leg Derrick and Guy Derrick	9.81	.50	.50	.25	.05
Track-type Front End Loaders; up to and including 5 cu. yds.	9.36	.50	.50	.25	.05
Track-type Front End Loaders; over 5 cu. yds. to and including 10 cu. yds.	9.59	.50	.50	.25	.05

MODIFICATIONS P. 15

DECISION #MT76-5072 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	$9.69	.50	.50	.25	.05
Track-type Front End Loaders, over 15 cu. yds.	9.79	.50	.50	.25	.05
Track-type Tractor w/wo attachments	9.36	.50	.50	.25	.05
Track-type Tractor, on Euclid Loader	9.54	.50	.50	.25	.05
Trenching Machine	9.36	.50	.50	.25	.05
Turnhead Conveyor, or Head Tower on Batch Plant	9.36	.50	.50	.25	.05
Wagner Roller and similar type	9.36	.50	.50	.25	.05
Whirley Crane	9.89	.50	.50	.25	.05
Whirley Crane Oiler	9.26	.50	.50	.25	.05
Water Pull when used for compaction	9.36	.50	.50	.25	.05
Washing and Screening Plant	9.36	.50	.50	.25	.05
Washing and Screening Plant Oiler	8.85	.50	.50	.25	.05

MODIFICATIONS P. 16

DECISION #MT76-5072 (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION Truck; Concrete Mixer and Transit Mixer: To and including 4 cu. yds.	$8.26	.55	.45		
Over 4 cu. yds. to and including 6 cu. yds.	8.34	.55	.45		
Over 6 cu. yds. to and including 8 cu. yds.	8.42	.55	.45		
Over 8 cu. yds. to and including 10 cu. yds.	8.50	.55	.45		
Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER and HELPER	8.19	.55	.45		
DRY BATCH TRUCKS: 3 Batch or under	8.01	.55	.45		
Over 3 Batch to and including 5 Batch	8.14	.55	.45		
Over 5 Batch to and including 10 Batch	8.30	.55	.45		
Over 10 Batch to and including 15 Batch	8.46	.55	.45		
Over 15 Batch - additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	8.11	.55	.45		
DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers	8.01	.55	.45		
Warehousemen, Partsmen, Cardex Men, Warehouse Expediter	8.21	.55	.45		

MODIFICATIONS P. 17

DECISION #MT76-5072 (Cont'd)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS: 7 cu. yds. or less	$8.01	.55	.45		
Over 7 cu. yds. to and including 10 cu. yds.	8.14	.55	.45		
Over 10 cu. yds. to and including 15 cu. yds.	8.30	.55	.45		
Over 15 cu. yds. to and including 20 cu. yds.	8.44	.55	.45		
Over 20 cu. yds. to and including 25 cu. yds.	8.50	.55	.45		
Over 25 cu. yds. to and including 30 cu. yds.	8.56	.55	.45		
Over 30 cu. yds. to and including 35 cu. yds.	8.62	.55	.45		
Over 35 cu. yds. to and including 40 cu. yds.	8.68	.55	.45		
Over 40 cu. yds. to and including 45 cu. yds.	8.74	.55	.45		
Over 45 cu. yds. - additional (.06 per hour each additional 5 cu. yds. increment					
DUMPSTERS	8.14	.55	.45		
DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 OR SIMILAR DUMP WAGONS: To and including 25 cu. yds.	8.50	.55	.45		
Over 25 cu. yds. to and including 30 cu. yds.	8.56	.55	.45		
Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment					
SERVICEMEN	8.75	.55	.45		
POWER TRUCK DRIVER (bulk unloader type)	8.19	.55	.45		

MODIFICATIONS P. 18

DECISION #MT76-5072 (Cont'd)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FLAT TRUCKS: To and including 3 tons	$8.11	.55	.45		
Over 3 tons Factory rating	8.36	.55	.45		
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	8.55	.55	.45		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	8.36	.55	.45		
LUMBER CARRIERS, LIFT TRUCKS	8.26	.55	.45		
POWER BROOM	8.10	.55	.45		
WATER TRANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: 2,500 gallons and under	8.01	.55	.45		
Over 2,500 gallons to and including 4,500 gallons	8.30	.55	.45		
Over 4,500 gallons to and including 6,000 gallons	8.50	.55	.45		
Over 6,000 gallons to and including 8,000 gallons	8.56	.55	.45		
Over 8,000 gallons to and including 10,000 gallons	8.64	.55	.45		
Over 10,000 gallons - additional $.08 per hour each additional 2,000 gallons increment					
TRUCKS WITH POWER EQUIPMENT IF UNDER TRANSTERS JURISDICTION, SUCH AS: Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	8.26	.55	.45		
TRUCK MECHANIC	8.75	.55	.45		

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DECISION #NV76-5065 - Mod. #4
(41 FR 27628 - July 2, 1976)
Washoe County, Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders:					
Zone A: 0-35 miles from the Courthouse in Reno, Nevada	$9.10	.50	.90	.55	.05
Zone B: 35-75 miles from the Courthouse in Reno, Nevada	10.00	.50	.90	.55	.05
Cement Masons:					
Zone 1: Area within a 15 mile radius of the Main Post Office, Reno, Nevada, or within a 15 mile radius of the employee's permanent residence in the State of Nevada; also area within a 7 mile radius of the Main Post Office, Carson City, Nevada:					
Cement Masons	$8.90	.55	.60	$1.00	.03
Mastic, Magnesite and all Composition Masons	9.15	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	9.40	.55	.60	1.00	.03
Zone 2-Highway Construction:					
Area outside of Zone 1:					
Cement Masons	10.15	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	10.40	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.65	.55	.60	1.00	.03
Zone 2-Nonhighway Construction:					
2-A: Area over 15 but not over 50 miles to the center of the jobsite:					
Cement Masons	9.65	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	9.90	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.15	.55	.60	1.00	.03
2-B: Area over 50 miles to the center of the jobsite:					
Cement Masons	10.90	.55	.60	1.00	.03
Mastic, Magnesite and all Composition Masons	11.15	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	11.40	.55	.60	1.00	.03

DECISION #NV76-5065 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Drywall Installers:					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base.	$9.60	.65	$1.01	$1.00	.05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities.	10.20	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the above communities.	10.40	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the above communities.	11.10	.65	1.01	1.00	.05

DECISION #NV76-5069 - Mod. #3
(41 FR 32150 - July 30, 1976)
Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders:					
Remaining Counties:					
Zone A (0-35 miles from the Courthouse in Reno, Nevada)	$9.10	.50	.90	.55	.05
Zone B (35-75 miles from the Courthouse in Reno, Nevada)	10.00	.50	.90	.55	.05
Carpenters:					
Nye County (north of Hwy. #6, excluding the City of Tonopah), and all Remaining Counties:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Mindon, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Carpenter	9.35	.65	1.01	1.00	.05
Floor Layer; Patent Scaffold Erector; Power Saw Operator	9.50	.65	1.01	1.00	.05
Piledrivermen	9.55	.65	1.01	1.00	.05
Millwrights	9.95	.65	1.01	1.00	.05

DECISION #NV76-5069 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Carpenters (Cont'd):					
Nye County (north of Hwy. #6, excluding the City of Tonopah), and all Remaining Counties:					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Carpenter	$9.95	.65	$1.01	$1.00	.05
Floor Layer; Patent Scaffold Erector; Power Saw Operator	10.10	.65	1.01	1.00	.05
Piledrivermen	10.15	.65	1.01	1.00	.05
Millwrights	10.55	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Carpenter	10.15	.65	1.01	1.00	.05
Floor Layer; Patent Scaffold Erector; Power Saw Operator	10.30	.65	1.01	1.00	.05
Piledrivermen	10.35	.65	1.01	1.00	.05
Millwrights	10.75	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the above communities:					
Carpenter	10.85	.65	1.01	1.00	.05
Floor Layer; Patent Scaffold Erector; Power Saw Operator	11.00	.65	1.01	1.00	.05
Piledrivermen	11.05	.65	1.01	1.00	.05
Millwrights	11.45	.65	1.01	1.00	.05
Cement Masons:					
Remaining Counties:					
Zone 2-Highway Construction:					
Area outside of Zone 1:					
Cement Masons	10.15	.55	.60	1.00	.03
Mastic, Magneaite and all Composition Masons	10.40	.55	.60	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.65	.55	.60	1.00	.03

DECISION #NV76-5069 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Drywall Installers:					
Statewide except the Counties of Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6):					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base.	$9.60	.65	$1.01	$1.00	.05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities	10.20	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the above communities	10.40	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the above communities	11.10	.65	1.01	1.00	.05
Delete:					
Terrazzo and Tile Helpers: Clark, Esmeralda, Lincoln, Nye County (south half)	8.10	.45		1.00	

DECISION #NV76-5074 - Mod. #2 (41 FR 33162 - August 8, 1976) Clark County (excluding the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delete:					
Terrazzo, Tile and Marble Helpers	$8.10	.45		$1.00	

DECISION NO. NM76-4141 - Mod. #1 (41 FR 33166 - August 6, 1976) Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Cranes (crawler or mobile) under 20 tons	$5.54	.15	.10		.01

DECISION NO. OK76-4017 - Mod. #4 (41 FR 5548 - February 6, 1976) Pittsburg County, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change modification Number 2 dated August 20, 1976 to read "Modification No. 3"					

DECISION #TN76-1071 - Mod. #1 (41 FR 23927 - June 11, 1976) Hamilton County, Tennessee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Electricians	$ 8.75	.60	1%+.40		1%
Cable splicers	9.00	.60	1%+.40		1%
Sheet metal workers	9.34	.47	.50		.04

DECISION #TN76-1083 - Mod. #1 (41 FR 33180 - August 6, 1976) Shelby County, Tennessee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BUILDING CONSTRUCTION					
Laborers:					
Group A	$ 6.025	.20	.20		.05
Group B	6.125	.20	.20		.05
Group C	6.175	.20	.20		.05
Group D	6.375	.20	.20		.05
Group E	6.575	.20	.20		.05
Sheet metal workers	9.51	3%+.55	.25	.55	.08
ADD:					
BUILDING CONSTRUCTION					
Laborers:					
Group F	6.70	.20	.20		.05

GROUP F: Hod carriers, mason tenders and plasterers tenders

DECISION #UT76-5052 - Mod. #4 (41 FR 26537 - June 25, 1976) Statewide, Utah	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$9.00	.50	.60	.25	.03
Saw Operators, and Carpenters handling creosote materials	9.25	.50	.60	.25	.03
Millwrights	9.50	.50	.60	.25	.03
Cement Masons:					
Cement Masons	8.76	.50	.60	.25	
Machine Operator; Mastic Floor Materials; Swing Scaffold; Swing Stage	8.885	.50	.60	.25	
Glaziers	10.02	.51	.20		
Piledrivermen	11.38	.50	.60	.25	.03

Decision #DC76-3226 - Mod. # 1 (41 FR 32194 - July 30, 1976) Washington, D. C.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Wage Rate For - Sewer And Water Lines					
Ironworkers, reinforcing	$10.55	.55	.85		.03

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SUPERSEDEAS DECISION

STATE: Georgia COUNTIES: Clayton, Cobb, Fulton, & DeKalb

DECISION NUMBER: GA76-1089 DATE: Date of Publication

Supersedes Decision No.: GA76-1025 dated February 13, 1976 in 41 FR 6958

DESCRIPTION OF WORK: Building Construction (exoluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$9.25	.35	.50		.05
Boilermakers	8.80	.60	1.00		.02
Bricklayers:					
Bricklayers & stonemasons	8.85	.55	.40		.05
Marble masons, terrazzo workers, and ceramic tile setters	8.70	.55	.40		
Carpenters:					
Carpenters, drywall hangers, and resilient floor layers	8.75	.40	.45		.02
Carpet layers	6.80	.40	.45		.02
Millwrights	8.85	.45	.25		.05
Piledriverman	8.90	.40	.45		.02
Cement masons	8.35	.40	.55		
Electricians	9.95	8%	1% + 8%		½ of 1%
Elevator constructors	8.92	.495	.32	6%+a+b	.02
Elevator constructors' helpers	6.24	.495	.32	6%+a+b	.02
Elevator constructors' helpers (probationary)	4.46				
Glaziers	8.55	.55	.33		.105
Ironworkers:					
Structural, ornamental, & reinforcing	8.60	.45	.57		.07
Lathers	8.40	.40	.35		.05
Leadburners	7.80	.30		c	.01
Marble & tile workers' helpers	5.55				
Painters:					
Brush & dry wall finishing	8.70	.45	.55		.04
Spray & sandblasting	9.70	.45	.55		.04
Paperhanging	8.95	.45	.55		.04
Plasterers	8.57	.40	.55		
Plumbers & steamfitters	9.95	.65	.50		.11
Roofers:					
Roofers & weatherproofers	6.75	.30	.20		
Slate, tile, and asbestos shingles	7.00	.30	.20		
Roofers' helpers	5.00	.30	.20		
Sheet metal workers	9.40	.50	.66		.06
Sprinkler fitters	10.10	.60	.90		.08
Terrazzo workers' helpers:					
Helpers	5.55				
Terrazzo floor machine operator	5.65				

GA76-1089 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Terrazzo base machine operator	5.75				
Truck drivers	4.00				
Welders - Rate for craft					

PAID HOLIDAYS:
A-New Year's; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: A through F; Washington's Brithday, Good Friday, and Christmas Eve provided employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$5.80	.20	.25		.05
GROUP B	5.92	.20	.25		.05
GROUP C	6.02	.20	.25		.05
GROUP D	6.10	.20	.25		.05
GROUP E	6.30	.20	.25		.05
GROUP F	6.70	.20	.25		.05
GROUP G	6.55	.20	.25		.05
GROUP H (25c above rate for classification under which employed).					

GROUP A: Batch plant men, buggy rollers (Ga.,), oleaners (brick or lumber), clearing of right of way and building site (hand tools), concrete curer-sealer and liquid hardner, conveyer operator (used by tenders of plasterers and bricklayers), electrician laborer, excavator, backfiller grader (hand), forklift operator, walk type tending bricklayers and plasterers, form oiler, form stripper, metal pan handler, plumber-laborer, pipe doper, precast slab layer (floors, roofs, walks, curbs), concrete puddler, rail porter, railroad track laborer, reinforcing steel handler, scaffolds and staging for masons and plasterers, erecting and removing scarifyer, concrete (mechanical and hand), sheeting and shoring laborers, steam jennies (used in cleaning equipment), tenders (all crafts), truck spotter dumper, winch handler (manual), wrecking buildings and miscellaneous structures.

GROUP B: Bucket-dumpman (concrete), mixer-mortar, grout clay, etc, (hand or machine), power post hole digger, power cleaning machine operator, power wheel-barrow, mortar mixer-hose for gypsum roofs, plastering, asbestos fiber sound proofing, etc.

GROUP C: Burner-demolition, chain saw operator, power concrete saw operator, steel form setter, sewer pipe layer, yarner, wiper, potman, slip form raiser (steel or wood), jack or screw type.

GROUP D: Wagon drill operator (track or wheel type) and like used in drilling for blasting.

GROUP E: Powderman-helper

GROUP F: Powderman, nozzleman (concrete pneumatic)

GROUP G: Caisson holeman

GROUP H: Chimney or stacks isolated

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	8.50	.45	.50		.07
GROUP B	8.15	.45	.50		.07
GROUP C	6.48	.45	.50		.07
GROUP D	6.83	.45	.50		.07
GROUP E	5.93	.45	.50		.07
GROUP F	6.28	.45	.50		.07
GROUP G	5.26	.45	.50		.07

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent, mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the juriediction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-stationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tract or operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt, of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-truck or locomotive cranes

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of two 300 amps and over.

GROUP F: Conorete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator well drill operator

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less. water pump operator over 4" (one only), welding machine operator 300 amps and over.

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SUPERSEDEAS DECISION

STATE: Hawaii COUNTIES: Statewide
DECISION NUMBER: HI76-5081 DATE: Date of Publication
Supersedes Decision No. HI76-5078 dated August 13, 1976, in 41 FR 34488.
DESCRIPTION OF WORK: Building (including single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$9.03	.58	$1.40		.05
BOILERMAKERS	9.15	.40	1.00		.03
BRICKLAYERS; Stonemasons	7.45	.65	.75		.10
CARPENTERS:					
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Piledrivermen; Pnaumatic Nailer; Shinglers	8.24	.59	1.35	.80	.06
Millwrights	8.49	.59	1.35	.80	.06
Power Saw Operator (2 HP and above)	8.39	.59	1.35	.80	.06
CEMENT MASONS:					
Cement Masons	8.10	.85	1.00	.30	.10
Trowel Machine Operators	8.25	.85	1.00	.30	.10
DRYWALL APPLICATOR	8.24	.59	1.35	.80	.09
ELECTRICIANS:					
Cable Splicers	9.90	4% + .57	13%+ 1.74	11%	.20
Technicians	9.27	4% + .57	13%+ 1.74	11%	.20
Electricians - Linemen	9.00	4% + .57	13%+ 1.74	11%	.20
Line Equipment Men	8.10	4% + .57	13%+ 1.74	11%	.20
Groundmen	6.75	4% + .57	13%+ 1.74	11%	.20
ELEVATOR CONSTRUCTORS	10.68	.495	.32	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
FENCE ERECTORS (Chain link)	4.35	.20	.18	.09	.03
GLAZIERS	8.92	.73	.75	.72	.12
IRONWORKERS:					
Bridge; Ornamental; Reinforcing Structural	9.15	.60	.55	.75	.05
LATHERS	9.86	.60	.85		.04
LINE CONSTRUCTION WORKERS:					
Cable Splicers	9.90	4% + .57	13%+ 1.74	11%	.20
Technicians	9.27	4% + .57	13%+ 1.74	11%	.20
Electricians - Linemen	9.00	4% + .57	13%+ 1.74	11%	.20
Line Equipment Men	8.10	4% + .57	13%+ 1.74	11%	.20
Groundmen	6.75	4% + .57	13%+ 1.74	11%	.20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$7.95	.65	.75		.10
PAINTERS:					
Brush	8.81	.62	1.50		.10
Tapers	9.01	.62	1.50		.10
Spray	9.31	.62	1.50		.10
PLASTERERS	8.95	.85	1.00	.15	.16
PLASTERERS' HOD CARRIERS:					
Hod Carriers	7.06	.59	.76	.33	.13
Mortar Mixers	7.26	.59	.76	.33	.13
PLUMBERS: Steamfitters	9.30	.97	1.45	1.01	.15
ROOFERS	8.40	.70	.45		.10
SHEET METAL WORKERS	9.20	3% + .63	1.50	.82	.20 + .02
SOFT FLOOR LAYERS	8.31	.50	.40	.15	.08
SPRINKLER FITTERS	11.26	.60	.90		.08
TERRAZZO WORKERS:					
Terrazzo Workers and Tile Setters	7.95	.65	.75		.10
Terrazzo Base Grinder	7.19	.65	.75		.10
Terrazzo and Tile Helpers	6.14	.65	.75		.10
TRUCK DRIVERS:					
Flatbed	6.93	.65	.50		
Dump, 8 yds. and under; Water truck (up to and including 2000 gals.)	7.20	.65	.50		
Water truck (over 2000 gals.)	7.51	.65	.50		
Tandem, Semi-trailer or Semi-dump	8.16	.65	.50		
Slip-in or Pup	8.48	.65	.50		
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar) Tractor trailer (hauling equipment)	8.59	.65	.50		
RIGGER; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.					

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING:					
Hydraulic suction dredges; Clamshell dredges; Boat operators; Derricks:					
Leverman	$9.29	.65	$1.70	.70	.15
Operators (Derricks, Piledrivers, and Cranes)	9.54	.65	1.70	.70	.15
Assistant Engineer (steam or electric)	8.93	.65	1.70	.70	.15
Welder	8.93	.65	1.70	.70	.15
Boat Operator	8.99	.65	1.70	.70	.15
Deckmate; Barge Mate (seagoing)	8.48	.65	1.70	.70	.15
Winchman (stern winch on dredge)	8.16	.65	1.70	.70	.15
Fireman	7.20	.65	1.70	.70	.15
Oiler; Deckhand (can operate anchor scow under direction of deckmate)	6.93	.65	1.70	.70	.15
Boat Deckhand	6.98	.65	1.70	.70	.15
Leveeman; Bargeman	6.76	.65	1.70	.70	.15
Master Boat Operator	9.29	.65	1.70	.70	.15
LABORERS:					
Group 1	6.66	.59	.76	.33	.13
Group 1-a	7.16	.59	.76	.33	.13
Group 1-b	7.36	.59	.76	.33	.13
Group 1-c	7.41	.59	.76	.33	.13
Group 1-d	7.61	.59	.76	.33	.13
Group 1-e	5.75	.59	.10	.33	
Group 2	6.91	.59	.76	.33	.13
Group 3	7.11	.59	.76	.33	.13

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$6.65	.65	1.70	.70	.15
Group 2:	6.76	.65	1.70	.70	.15
Group 3:	6.93	.65	1.70	.70	.15
Group 4:	7.20	.65	1.70	.70	.15
Group 5:	7.51	.65	1.70	.70	.15
Group 6:	8.16	.65	1.70	.70	.15
Group 7:	8.48	.65	1.70	.70	.15
Group 8:	8.59	.65	1.70	.70	.15
Group 9:	8.70	.65	1.70	.70	.15
Group 9-A:	8.93	.65	1.70	.70	.15
Group 10:	8.99	.65	1.70	.70	.15
Group 10-A:	9.14	.65	1.70	.70	.15
Group 11:	9.29	.65	1.70	.70	.15
Group 12:	9.65	.65	1.70	.70	.15
Asphalt Paving Group:					
Asphalt Raker	7.20	.65	1.70	a	
Asphalt Roller	8.16	.65	1.70	a	
Asphalt Spreader	8.48	.65	1.70	a	

FOOTNOTE:
a. An employee who has completed two to five years service shall receive a vacation on one week with pay. Each additional year an additional one day vacation with pay; Ten or more years a vacation of two weeks each year; For each year of completed service thereafter to and including fifteen(15) years service, an addition of one day vacation with pay; Fifteen(15) or more years of service, a vacation of three weeks each year with pay.

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LABORERS

Group 1: All clean-up work of debris, grounds and buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers; Maintenance, repair (track and roadbeds)

Group 1-a: Mason Tenders

Group 1-b: High Scaler

Group 1-c: Gunnite Operator

Group 1-d: Powderman

Group 1-e: Landscape and Irrigation Laborers

Group 2: Asphalt Shovelers; Cement Dumpers; Choker Setter and Rigger (clearing work); Concrete Chipping; Driller's Helper; Chuck Tender; Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman - hydraulic monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers and Rakers; Barko and similar type tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete Laborers (wet or dry) including Bucket Tender for concrete; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator; Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held - gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (bull float in connection with Laborers' work); Vibrator, Burning, Welding, Signaling and Rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWH-2A, Gardner, Denver DH-143 and similar type drills; Track Drillers, Diamond Core, Wagon Drillers and Davis Trencher T-66 or similar types

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Pertsman (heavy duty shop parts room when needed); Repairman Helper

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (jobsite); Dinky Operator

Group 5: Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline or diesel); Agri-cat (Mini Cat)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals); Drilling Machinery (not to apply to waterliners, wagon drills or jackhammers); High-line Cable-way Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Pavement Breaker; Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Portable Crushers; Power Jumbo Operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Small Rubber-tired Tractors; Trencher (up to and including 6'); Slip Form Pumps (power driven hydraulic, electric, gas, etc., lifting device for concrete forms)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter; Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar)(Screedman required); Mine or Shaft Hoist; Pavement Breaker, Truck mounted, with Compressor combination; Pavement Breaker with Compressor Combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grader Plane; Slusher Operator; Trencher (over 6'); Water Tanker (pulled by Euclid, T-Pulls, DW-10, 20, 21 or similar); Mixermobile (over 5 tons); Small Tractor (with boom D-6 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch-Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yard to and including 3/4 yd.); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu, yds.); Wheel Trencher (over 6')

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons)(single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type Earthmoving Machine (single engine with tandem scraper); Tractor, Compressor, Drill Combination; Tractor (tandem scraper); Tractors (D-9 or equivalent)

Group 10-A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Skip Form Paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck "MRC"); Highline Cableway; Lift Slab Machine; Loader (over 12 yds.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power Blade Operator (16 or over); Pre-stress Wire Wrapping Machine; Self-porpelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, Mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

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SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NUMBER: KY76-1086
Supersedes Decision No.: KY76-1031 dated Feburary 27, 1976 in 41- FR8699
DESCRIPTION OF WORK: Building Construction, (exoluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: *See below
DATE: Date of Publication

*Counties: Boone, Campbell, Kenton, Pendleton

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.91	.45	.85		.02
Boilermakers	10.25	.60	.80	.55	.01
Bricklayers	11.245	.55	.35		.02
Carpenters:					
Carpenters	10.55	.60	.65		.075
Millwrights	10.44	.40	.85		.10
Piledrivermen	10.55	.60	.65		.075
Cement masons	10.67	.55	.60		.15
Electricians	11.30	.50	1%+.40		½ of 1%
Elevator Constructors	10.635	.495	.32	1%+a+b	.02
Elevator Constructors' helpers	70%JR	.495	.32	1%+a+b	.02
Elevator Constructors' helpers (prob.)	50%JR				
Glaziers	10.10		.35		.005
Ironworkers, Structural & Ornamental	11.08	.75	.85		.03
Ironworkers, Reinforcing	10.43	.75	1.45		.02
Laborers: (Demolition)					
Wrecking laborers	8.77	.55	.40		.05
Jackhammer operators	8.92	.55	.40		.05
Wallmen	8.92	.55	.40		.05
Burners	8.92	.55	.40		.05
Lathers	11.67		.25		.025
Lead burners	8.25	.30	0		.01
Linemen	11.30	.50	1%+.40		.5%
Marble setters	10.585	.55	.35		
Marble setters' helpers	9.435				
Painters, brush:					
Commercial	10.05		.25		
Industrial	10.20		.25		
Painters, spray:					
Commercial	10.30		.25		
Industrial	10.45		.25		
Pipefitters	10.80	.70	.975		.06
Plasterers	11.445		.50		.02
Plumbers & Gas fitters	10.92	.65	.90		.05
Resilient floor layers	8.95	.45	.55		.05
Roofers	11.47		.85		.01
Sheet metal workers	10.585	.76	.70		.02 +.02
Sprinkler fitters	9.25	.30	.50		.05

KY76-1086 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stonemasons	9.885	.45	.35		
Terrazzo Workers:					
Terrazzo workers	10.535	.55	.35		
Terrazzo workers' helpers & grinders	9.385				
Terrazzo base grinder	9.805				
Tile Setters	10.535	.55	.35		
Tile Setters' Helpers	9.335				
Tile Setters' Helpers (Prob.)	75%JR				

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Indenpendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 1% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

KY76-1086 - (Cont'd)

LABORERS: (exoluding demolition)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	9.30	.55	.40		.05
GROUP B	9.40	.55	.40		.05
GROUP C	9.45	.55	.40		.05
GROUP D	9.50	.55	.40		.05
GROUP E	9.65	.55	.40		.05
GROUP F	9.80	.55	.40		.05
GROUP G	10.05	.55	.40		.05

GROUP A - Common laborers, cement masons helpers, hand operator mechanical mule, mechanical sweeper, signal man

GROUP B - Bottom man, pipe layers

GROUP C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man

GROUP D - Plasterers' tender, mason tender, stone mason tender, bottom jackhammer man

GROUP E - Plaster mixer pump operator

GROUP F - Tunnel laborer

GROUP G - Gunnite nozzle operator

KY76-1086 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP A	$9.61	.46	.80		.11
GROUP B	9.45	.46	.80		.11
GROUP C	9.09	.46	.80		.11
GROUP D	8.31	.46	.80		.11
GROUP E	7.98	.46	.80		.11
GROUP F	7.23	.46	.80		.11

CLASSIFICATION DEFINITIONS

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat.

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under.

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator.

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishin machines, form trenchers, high pressure pumps over 1/2" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power).

GROUP F - Oiler, helper, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

NY76-1086 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tractor trailer combinations and drags	6.27	a16.50	a17.00	b&c	
Drivers	6.08	a16.00	a17.00	b&c	
Helpers	6.03	a16.00	a17.00	b&c	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Per week per employee on payroll 30 days or more.
b. Paid vacation: 1 year of employment - 1 week; 2 years - 2 weeks; 10 years-3 weeks;-15 years - 4 weeks.
c. Six paid holidays: A through F.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ERIE
DECISION NO. NY76-3236 DATE: Date of Publication
Supersedes Decision No. NY76-3188 dated June 25, 1976 in 41 FR 26451
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

15-New York-1-2-3-Z 1 of 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.41	1.02	.55		.04
Boilermakers	10.60	.70	1.00		.02
Bricklayers:					
Bricklayers and stone masons	11.49	.55	1.25		
Terrazzo workers & tile setters	11.11	.55	1.25		
Marble masons	11.205	.55	1.25		
Carpenters, Building:					
Grand Island north of White Haven Road					
Carpenters	9.15	.55	1.05		.02
Millwrights	9.26	.55	1.05		.02
Remainder of County, Building, Heavy and Highway:					
Carpenters, dock carpenters, drivers tenders, millwrights and piledrivermen	10.43	1.25	1.40		
Divers	16.87	1.25	1.25		
Soft floor layers, building	10.13	1.25	1.40		
Cement masons:					
Building	11.63		1.25		
Electricians	12.49	.55	1%+.80	g	.05
Elevator Constructors	11.825	.545	.35	4%+a+b	.02
Elevator Constructors' helpers	8.28	.545	.35	4%+a+b	.02
Elevator Constructors' helpers (prob.)	5.91				
Glaziers	9.74	1.40	.55		.10
Ironworkers, structural, ornamental & reinforcing:					
Grand Island to White Haven Road	10.47	.51	.82		
Remainder of County	10.88	.98	1.23		
Lathers	10.92		.10		.01
Lead burners	10.50	.40	.25	c	.01
Line Construction					
Linemen	11.10	.65	1%+.60	d	4%
Cable splicer	12.21	.65	1%+.60	d	4%
Groundmen digging machine operator	9.99	.65	1%+.60	d	4%
Groundmen mobile equipment	8.88	.65	1%+.60	d	4%

NY76-3236 p. 2

15-New York-1-2-3- Z 2 of 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction (Cont'd)					
Groundmen truck driver and mechanic and	$ 8.325	.65	1%+.60	d	4%
Groundmen dynamite man	8.88	.65	1%+.60	d	4%
Marble, Tile & Terrazzo workers' helper	8.91	1.55	.40		
Painters:					
Grand Island North of White Haven Road:					
Painters, brush	8.59	1.12	.35		.01
Spray, Steel steeple jacks, swing scaffold	9.24	1.12	.35		.01
Bridge-crossing the Niagara River	11.255	1.12	.35		.01
Sandblasting and waterblasting	9.24	1.12	.35		.01
Remainder of County:					
Painters, brush	10.255	.975	.30		.10
Steel tanks, towers, stacks, bridges , cranes, flag poles, radio TV towers	10.755	.975	.30		.10
Sandblasting, swing stage, scaffold spray, bosum chair, epoxy	10.505	.975	.30		.10
Bridges 35' high or in depth of 35' from road level	11.92	.975	.30		.10
Plasterers:					
Except Tonawanda & Grand Island	11.06				
Plumbers	11.53	.74	.85		.06
Roofers:					
Composition, damp waterproofers, sprayers, asphalt mastic, wood block floor workers, steep roofers and siders	9.74	.89	1.30		.02
Slate, precast tile roofers, tile asbestos	9.89	.89	1.30		.02
Sheet metal workers	11.48	1.00	.80		.08
Soft floor layers	10.13	1.25	1.40		
Sprinkler fitters	11.69	.60	.90		.06
Steam fitters	11.92	1.12	.93		.15
Truck Drivers, Building, Heavy & Highway:					
Contractor drivers	10.145	.60	.55	e+f	
Euclid	10.395	.60	.55	e+f	
Dump	8.80	.50	.55		
Ready-mix	9.39	.50	.55		

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Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-The Friday After Thanksgiving.

FOOTNOTES:

a. Holidays: A through G.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work day immediately preceding and following the holiday.

d. Holidays; A through F; Washington's Birthday; Election Day for President of the United States and election of Governor of New York State, provided employee works the day before.

e. After one year, one week vacation; 2 years, 6 days vacation; 3 years, 7 days vacation; up to 2 weeks maximum vacation after completion of the 5th year, full vacations are earned by a driver who works 1040 hours or more in the calendar year, if an employee works less than 1040 hours in any calendar year, vacation will be prorated for either 1 or 2 weeks of vacation on the basis of using the number of hours worked as the numerator and 1040 as the denominator.

f. Paid Holidays, A through F, Friday after Thanksgiving Day except where the employee is laid off 2 or more weeks prior to the holiday, however employees laid off less than 2 weeks prior to election Day will automatically be eligible for the subsequent Friday after Thanksgiving as a paid holiday even though laid off.

g. Employees shall be given time off with pay on Election Day in accordance with the New York State Elections Laws.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.27	1.00	.75	a	.15
GROUP II	11.185	1.00	.75	a	.15
GROUP III	11.03	1.00	.75	a	.15
GROUP IV	10.99	1.00	.75	a	.15
GROUP V	10.905	1.00	.75	a	.15
GROUP VI	9.15	1.00	.75	a	.15
GROUP VII	10.99	1.00	.75	a	.15
GROUP VIII	8.835	1.00	.75	a	.15
GROUP IX	8.88	1.00	.75	a	.15
GROUP X	10.135	1.00	.75	a	.15
GROUP XI	10.75	1.00	.75	a	.15
GROUP XII	9.305	1.00	.75	a	.15
GROUP XIII	10.595	1.00	.75	a	.15
GROUP XIV	8.535	1.00	.75	a	.15
GROUP XV	11.685	1.00	.75	a	.15
GROUP XVI	12.185	1.00	.75	a	.15
GROUP XVII	12.685	1.00	.75	a	.15

BUILDING --POWER EQUIPMENT OPERATORS:

GROUP I: Master Mechanic

GROUP II: all boom type equipment (100 ft or less), all pan and carry-all operators, Archer hoist, back and pull hoe operator, blast or rotary drill, track or cat mounted, boiler (when used for power), boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline operator, elevating grader (self-propelled), head tower operator, hot roller (finisher course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist, (more than 1 drum in use), Paine crane, pile dribing machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine

GROUP III: Back filling machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator

GROUP IV: Air hoist operator, cage hoist operator, conveyor operator, conveyor system, (belt-crete or similar), hoisting engine op., house elevator, (when used for hoisting), industrial tractor, locomotive op., (irrespective of power), push button hoist op., Strato tower, tractors (when using winch power)

GROUP V: Concrete mixer op., (½ c.y. or over), gasoline driven boring machine, hydraulic system pumps, hydro hammer, finishing machine op., (asphalt spreader), finishing machine op.

GROUP VI: Air compressor operator, (under 160 CFM), air compressor op., (over 160 CFM), generator mechanical heater, (when 3 are in a battery), power plant (in excess of 10KW), welding machine operator, (to and including 3 machines)

GROUP VII: Bulldozer & tractor, (50 h.p., drawbar or under), monorail

GROUP VIII: Firemen

GROUP IX: Truck crane driver

GROUP X: Aggregate bin op., cement bin op., concrete mixer op., (under ½ c.y.), tractor machines

GROUP XI: Grout Machine Operator, Heating Boiler Operator (used for temporary heat), lubrucatuib unit on truck, pneumatic mixer operator

GROUP XII: Pump Operator (4" or over); Pump Operator 2-3 in a battery)

BUILDING--POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP XIII: Bulldozer & tractor (50 H.P. drawbar and under), jeep trench, mulchers, power brooms 7 rakes, seeders

GROUP XIV: Apprentice Engineer or Oiler, Mechanical Heaters (when 1 or 2 are used), Pump Operators (one inch), Pump Operators (2 inches), Pump Operators (3 inches)

GROUP XV: Crane with boom over 100 feet

GROUP XVI: Crane with boom over 200 feet

GROUP XVII: Crane with boom over 300 feet

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, provided employee works the working day before and the working dat after the holiday.

15-New York-1-2-3-z 7 of 4

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Master Mechanic	$12.21	.50	.50+a	b	.15
Cranes:					
Boom over 100 ft	11.87	.50	.50+a	b	.15
Boom over 200 ft	12.12	.50	.50+a	b	.15
Boom over 300 ft	12.62	.50	.50+a	b	.15
All boom type equipment, all pan and carry-all operators, archer hoist asphalt spreader or paver, automatic fine grader machine (C.M.I. and similar type), back filling machine operators, back and pull hoe operator, belt placer (C.M.I. and similar type), black top plants, blast or rotary drill, track or cat mounted, boiler (when used for power), boom trucks, boring machine operator, bulldozers (all sizes), cableway operator, caisson auger, central mix plant (and all concrete batching plants), cherry picker, concrete paver machine, concrete pump, crane operator, derrick operator, dragline operator dredge, elevating grader (self-propelled), excavator (all purpose hydraulically operated), forklift, front end loader, gradall, grader, head tower operator, hydraulic booms, hydro crane, Lubrication Unit on Truck maintenance engineer, mucking machine operator, multiple drum hoist (more than 1 drum in use), overhead crane peine crane or similar type, pile driving machine operator, pump crete, push or snatch cats, quarry master or equivalent, ready mix					

15-New York-1-2-3-z 8 of 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
concrete plant, road windener, rock bit sharpener(all types), scoopmobile, shovel, side boom, skimmer operator, slip form paver (C.M.I. and similar type), test core drill machine, tire truck and repair, tractor drawn belt type graders trenching machine, tractor shovel operator truck crane, tunnel shovel machine, well drilling machine, winch, winch truck with A Frame	11.12	.50	.50+a	b	.15
Air hoist operator, automatic fine grade machine (C.M.I. and similar type), belt placer (C.M.I. and type), bending mach machine (pipe), boring machine operator, bituminous spreader and mixer, cage hoist operator, concrete finishing machine, concrete mixer operator - ½ cu yd or more, concrete saw - self-propelled, concrete spreader, conveyor operator, conveyor systems (belt crete or similar), hoisting engine operator, house elevator (when use for hoisting) hydraulic pipe jack machine or similar type machines, hydro hammer or similar types, industrial tractor, kolman loader or similar type machines, locomotive operator, mixer for stabilized base self-propelled, montail, plant engineer, push button hoist operator, roller machine operator, slip form paver (C.M.I. and similar type), snorkel, stone crushers, stratotower, towed or self-propelled					

15-New York-1-2-3-z 9 of 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
rollers, tractors (when using winch power), tractors (with towed accessories), tube finisher (C.M.I. and similar type)	10.98	.50	.50+a	b	.15
Air compressors, (under 160 cu. ft.) air compressors (over 160 cu. ft., generator, mechanical heaters (when 3 are in a battery) Pump Operator (4" or over), pump operator (2 or 3 in a battery, welding machine operator	9.24	.50	.50+a	b	.15
Mechanical heaters (when one or two are used), Apprentice Engineer or Oiler, Pump Operator (one inch), Pump Operator (2 inch), Pump Operator (3 inch)	8.64	.50	.50+a	b	.15
Asphalt curb & gutter machines, blower for burning brush, chipping machine and chip spreader, concrete curb and gutter machines, concrete curing machines, grout or gunite machines, heating boiler operator (used for temporary heat) hydraulic rock expander or similar type machines, hydraulic system pumps, motorized hydraulic pin puller, pneumatic mixer operator, post hole digger and post driver, power plant in excess of 10 K.W. (1 machine over 300 amps. or 2 or 3 machines regardless of amps), well point systems (electric, diesel or gas driven	10.69	.50	.50+a	b	.15

15-New York-1-2-3-z 10 of 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fireman, jeep trencher, motorized hydraulic seeders, mulching machines power broom and rake, truck crane driver	$ 10.54	.50	.50+a	b	.15
Aggregate bin operator C.M. and similar type concrete spreads, cement bin operator, concrete mixer operator (under ½ cu yd), revinius widener, steam cleaner, tractor machines	10.09	.50	.50+a	b	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Election Day

FOOTNOTE:

a. Employer contributes $.50 per hour to a Supplemental Unemployment Benefit fund.

b. Holidays: A through G, provided employee works the working day before and the working day after the holiday.

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING					
BLASTER; Plumbing Laborer, Wagon Drill Operator; Swing Scaffold	$ 8.405	1.30	1.30		.10
PNEUMATIC-GAS-ELECTRIC TOOL OP	8.255	1.30	1.30		.10
TOOL OPERATOR (over 8 feet deep)	8.355	1.30	1.30		.10
MORTAR MIXER	8.305	1.30	1.30		.10
FOUNDATION LABORER (over 8 feet deep): Hod Carriers; Plaster Tender; Plaster Scaffold Builder; Pneumatic Gas-Electric Tool Operator	8.255	1.30	1.30		.10
LABORER	8.155	1.30	1.30		.10
WRECKING					
WAGON DRILL OPERATOR	8.405	1.30	1.30		.10
PNEUMATIC-GAS-ELECTRIC TOOL OPERATORS Steel Burners	8.255	1.30	1.30		.10
WRECKERS	8.155	1.30	1.30		.10
OPEN CUT SEWER					
BLASTER: Wagon Drill Op	8.405	1.30	1.30		.10
BOTTOM MEN: Pneumatic-Gas-Electric Tool Op.	8.005	1.30	1.30		.10
LABORER: Top Man	8.155	1.30	1.30		.10
CAISSON-SHAFT-COFFERDAMS (OPEN CUT)					
BLASTER: Bottom Man; Wagon Drill Op.	8.405	1.30	1.30		.10
PNEUMATIC-GAS-ELECTRIC TOOL OP.	8.255	1.30	1.30		.10
TOP MEN	8.155	1.30	1.30		.10
STREET-ROAD-WORK					
PAVEMENT FORM SETTER; Wagon Drill Op.	8.405	1.30	1.30		.10
CONCRETE WORKER (Bootmen); Pneumatic-Gas-Electric Tool Op.	8.255	1.30	1.30		.10
LABORER	8.155	1.30	1.30		.10
SOFT GROUND TUNNEL OR JACKING					
MODMEN (reinforce); Welder	8.755	1.30	1.30		.10
LEAD MINER	8.555	1.30	1.30		.10
CONCRETE FORM MOVER: Monkey Hole Men: Side Miner	8.505	1.30	1.30		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT GROUND TUNNEL OR JACKING (CONT'D)					
BOTTOM SHAFT MEN	$ 8.455	1.30	1.30		.10
TUNNEL-SHAFT MUCKER: Shaft Miner	8.405	1.30	1.30		.10
CAR PUSHER: Concrete Placing Crew; & Bull Gangs	8.305	1.30	1.30		.10
ROCK TUNNEL					
MODMEN (Reinforce); Welder	8.755	1.30	1.30		.10
LEAD HEADING ROCK DRILLERS	8.555	1.30	1.30		.10
CONCRETE FORM MOVER: Side Heading Rock Drillers	8.505	1.30	1.30		.10
PLUG HOLE AND ROOF BOLT DRILLERS: Mucking Machine Tender; Tunnel & Shaft Mucker; Shaft Sinking Drillers	8.405	1.30	1.30		.10
BOTTOM SHAFT MAN	8.355	1.30	1.30		.10
CAR PUSHERS: Bull & Tract Gangs; Concrete Placing Crew	8.305	1.30	1.30		.10
TOP MAN	8.155	1.30	1.30		.10
ASPHALT WORKERS AND CURB SETTERS					
ASPHALT PLANT MEN, BLACKSMITH	8.005	1.30	1.30		.10
DUMPERS, GUTTERMAN, PAINTERS, & SMOOTHERS	8.33	1.30	1.30		.10
RAKERS, SCREED MAN	8.44	1.30	1.30		.10
STONE, WOOD & BRICK PAVERS	8.43	1.30	1.30		.10
SHOVELERS	8.235	1.30	1.30		.10
CURB SETTER HELPER	8.305	1.30	1.30		.10
CURB SETTER & FLAG LAYERS	9.09	1.30	1.30		.10

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: MONROE

DECISION NO.: NY76-3238 DATE: DATE OF PUBLICATION

Supersedes Decision No. NY76-3200 dated June 25, 1976 in 41 FR 26508

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY and HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 11.07	.83	.40		.03
BOILERMAKERS	9.85	.50	.95		.02
BRICKLAYERS, Plasterers and Stone Masons	11.115	.30	.58		.02
CARPENTERS, Heavy and Highway	8.88	.85	.59		.025
CARPENTERS, Building	10.30	.75	.99		.03
CEMENT MASONS, Building	10.915	.30	.58		.02
CEMENT MASONS, Heavy and Highway	8.82	.30	.58		
ELECTRICIANS	10.85	.70	1%+1.35		4%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	11.55	.545	.35	3%+a+b	.02
Elevator Constructors' Helpers	8.085	.545	.35	3%+a+b	.02
Elevator Constructors' Helpers (Prob.)	5.775				
GLAZIERS	9.40	.82	.56		.05
IRONWORKERS: Structural, Ornamental, Reinforcing	10.29	.74	.82		.10
LABORERS, Building					
Laborers	8.00	1.30	.84		
Blasters	9.37	1.30	.84		
Air track, Wagon drill operator, Asphalt rakers	8.40	1.30	.84		
Jackhammers, Mortar mixers, Concrete vibrator, Pipeleyers, burners and cutters for wrecking and demolition	8.30	1.30	.84		
LATHERS	10.78		.50		.01
LEADBURNERS	10.50	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.10	.65	1%+.60	d	4%
Cable splicer	12.21	.65	1%+.60	d	4%
Groundman digging machine op.	9.99	.65	1%+.60	d	4%
Groundman mobile equipment op.	8.88	.65	1%+.60	d	4%
Groundman truck driver	8.325	.65	1%+.60	d	4%
Groundman dynamite man & mechanic	8.88	.65	1%+.60	d	4%
MARBLE, TILE & TERRAZZO WORKERS	11.66				
MARBLE, TILE & TERRAZZO WORKERS HELPERS	8.75	1.64			
PAINTERS:					
Brush and roller	8.95	.60	.87		.04
Swing scaffold	9.45	.60	.87		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Structural Steel:					
Up to 40'	$ 9.45	.60	.87		.04
Over 40'	9.65	.60	.87		.04
Spray	9.55	.60	.87		.04
PILEDRIVERMEN & MILLWRIGHTS: Building	10.72	.75	.99		.005
PILEDRIVERMEN & MILLWRIGHTS: Highway & Heavy	8.88	.85	.59		.025
PLUMBERS & STEAMFITTERS	10.49	2.265	.62	.55+e	.16
ROOFERS: Roofers	10.67	.43	.43		
SHEET METAL WORKERS	10.61	.70	.90		.045
SOFT FLOOR LAYERS	9.42	.75	.66		.005
SPRINKLER FITTERS	11.61	.60	.90		.08
TERRAZZO MACHINE OPERATOR	8.85		1.64		
TRUCK DRIVERS, Building	9.20	.45	.50		
WELDER - Craft rate					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York, provided employee works the day before and the day after the holiday.
e. Holidays: C,D,E,F

19-LAB-2H

DECISION No. NY76-3238

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers					
Heavy Construction Excavating Paving:					
Laborers & chuck tenders	$ 7.62	1.40	.89	a	
Asphalt rakers, air track, wagon drill op., curb stone setters, powder monkeys	7.87	1.40	.89	a	
Curb cookmen, pipe layers, layers of conduit and all air, electric gas and deisel motor driven tool op.	7.82	1.40	.89	a	
Relining of all types of pipe	8.02	1.40	.89	a	
Blasters	9.32	1.40	.89	a	
Meter setters and meter changers	7.92	1.40	.89	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing employee works the working day before and the working day after the holiday.

DECISION NO. NY76-3238

Laborers, Tunnel Rock

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Top men	$8.51	.80	1.34		
Concrete bottom men, bull gang, cage men, bottom man, track gang, car pushers, compress air lines, fan lines, and water lines	8.81	.80	1.34		
Mucking machine tender, shaft mucker, shaft driller, tender air track driller tender	8.91	.80	1.34		
Air track driller, chuck tender (heading) powder monkey	9.01	.80	1.34		
Burning and welding	9.21	.80	1.34		
Rod men form work (metal), pile driving (wood or metal)	9.31	.80	1.34		
Set-up men and slusher men, electrical, heading driller (jack leg)	9.41	.80	1.34		
Blaster, form work (wood), and cement finishing	9.51	.80	1.34		

DECISION NO. NY76-3238

5-LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 6.80	1.40	.89	a	
CLASS B	7.00	1.40	.89	a	
CLASS C	7.20	1.40	.89	a	
CLASS D	7.40	1.40	.89	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

DECISION NO. NY76-3238

12-PEO-1 - A
(1 of 2)

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I - Cranes (cable and hydraulic, climbing and tower)
I - A 121 ft. and under
I - B 121 ft. and 151 ft.
I - C 151 ft. and 201 ft.
I - D 201 ft. and 251 ft.
I - E 251 ft. and 301 ft.
I - F 301 ft. and 351 ft.
I - G 351 ft. and 401 ft.
I - H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, ross carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar typer machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machines, bituminous spreading machine, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm combined capacity 3 or less with more than 1200 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), tournapull and similar types, dinky locomotives (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler, Exception: single electric pumps up to and including 4 inches not be manned.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned.

GROUP V - Truck crane oilers

DECISION NO. NY76-3238

12-PEO-1-B
(2 of 2)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I:					
I-A	$10.21	.50	.50+.30	a	.10
I-B	10.46	.50	.50+.30	a	.10
I-C	10.71	.50	.50+.30	a	.10
I-D	10.96	.50	.50+.30	a	.10
I-E	11.46	.50	.50+.30	a	.10
I-F	11.96	.50	.50+.30	a	.10
I-G	12.46	.50	.50+.30	a	.10
I-H	12.96	.50	.50+.30	a	.10
GROUP II	10.61	.50	.50+.30	a	.10
GROUP III	10.03	.50	.50+.30	a	.10
GROUP IV	8.935	.50	.50+.30	a	.10
GROUP V	7.80	.50	.50+.30	a	.10

FOOTNOTES:
PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES - POWER EQUIPMENT OPERATORS:

GROUP I: Automatic fine grader, backhoe (except tractor mounted, rubber tired), black-top plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker-over 5 ton capacity, crane cranes and derricks (steel erection), dragline, dual drum paver, excavator purpose hydraulically operated, front end loader (4 c. y. and over), hoist, two or three drum, pile driver, power grader with elevating loader attachment, quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

GROUP II: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, black-top plant (non-automated), boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker-5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs. and over), hoist, one drum, Kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance engineer, maintenance grease man, mixer for stabilized base self-propelled, monorail machine, plant engineer power grader, pump crete, ready mix concrete plant road widener, roller (all above sub-grader), side boom, tractor scraper, tractor with dozer and/or pusher, trencher, winch, mechanical slurry machine, power broom,

GROUP III: Compressors: 4 not to exceed 2,000 c.f.m. combined capacity; or 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (four of any type or combinations), concrete pavement spreaders and finishers, conveyors, drill, core, drill well electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine fork lift, gunite machine, hammer-hydraulic-self propelled, locomotive, post hole digger and post driver, roller, (grader and fill), tractor with towed accessories, vibrator compactor, vibro tamp, well point, pumps, regardless of motive power power, no more than 4 in number not to exceed 20" in total capacity, submersible electric pumps when used in lieu of well points

GROUP IV: Compressors (any size, but subject to other provisions for compressors, dust collectors, generators, welding machine (three or less of any type or combination) concrete mixer (16S or under), concrete saw self propelled, foreman, form tamper, mulching machine, oiler, power heater-man, revinius widener, steam cleaner, tractor, pumps regardless of motive power, no more than 3 in number not to exceed 12" in total capacity

DECISION NO. NY76-3238

EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.65	.80	.50	a	.10
GROUP II	9.45	.80	.50	a	.10
GROUP III	9.15	.80	.50	a	.10
GROUP IV	8.40	.80	.50	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, provided employee works the working day before the working day after the holiday.

27-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.69	.55	.60+a	b	.10
GROUP II	9.37	.55	.60+a	b	.10
GROUP III	8.69	.55	.60+a	b	.10
GROUP IV	7.96	.55	.60+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.30per hour to an Supplemental Unemployment Benefit Fund.

b. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CHI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CHI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY76-3238

1-TD-2-3

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$7.69	.65	.55	a	
CLASS 2	7.74	.65	.55	a	
CLASS 3	7.79	.65	.55	a	
CLASS 4	7.94	.65	.55	a	
CLASS 5	8.09	.65	.55	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: Transylvania
DECISION NUMBER: NC76-1087 DATE: Date of Publication
Supersedes Decision No.: NC76-1065 dated June 4, 1976 in 41 FR 22749.
DESCRIPTION OF WORK: Building Construction, (exoluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$7.00				
Bricklayers	7.00				
Carpenters	6.55				
Cement masons	5.75				
Electricians	7.00				
Ironworkers:					
Structural & Reinforcing	7.00				
Laborers:					
Laborers	3.50				
Millwrights	7.00				
Painters, brush	5.25				
Plasterers	4.25				.01
Plumbers & fitters	7.00				
Sheet metal workers	7.00				
Sprinkler fitters	7.92	.50	.70		.08
Truck drivers	3.80				
Welders - Rate for craft.					
Power Equipment Operators:					
Backhoe	5.10				
Crane	6.40				
Forklift	3.75				
Trenching machine	4.00				
Piledriver	5.50				

SUPERSEDEAS DECISION

STATE: South Carolina COUNTIES: See below*
DECISION NUMBER: SC76-1088 DATE: Date of Publication
Supersedes Decision No.: SC76-1007 dated January 9, 1976 in 41 FR-1698
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Clarendon, Darlington, Dillon, Florence, Lee, Marion, Marlboro, Sumter, and Williamsburg.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mehcanic	3.75				
Bricklayers	4.59				
Carpenters	3.60				
Carpet layers	4.00				
Cement masons	4.75				
Dry wall finishers	5.00				
Dry wall hangers	4.00				
Electricians	4.49				
Glaziers	3.50				
Laborers:					
Laborers	2.62				
Mason tenders	3.40				
Mortar mixers	3.40				
Painters, brush	3.31				
Plumbers & pipefitters	4.43				
Roofers	3.65				
Sheet metal workers	3.51				
Soft floor layers	4.00				
Tile setters	4.64				
Truck drivers	2.71				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.74				
Bulldozer	5.00				
Dragline	5.00				
Loader, front end	3.00				
Motor grader	3.11				
Roller	2.93				

[FR Doc.76-24852 Filed 8-26-76;8:45 am]

federal register

FRIDAY, AUGUST 27, 1976



PART VII:

FEDERAL POWER COMMISSION

CORPORATE AND FINANCIAL REPORT FOR CLASS C AND CLASS D ELECTRIC UTILITIES AND LICENSEES

Proposed New Form No. 163

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FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM76-30]

CORPORATE AND FINANCIAL REPORT FOR CLASS C AND CLASS D ELECTRIC UTILITIES AND LICENSEES

Proposed New Form No. 163

AUGUST 13, 1976.

Notice is hereby given pursuant to the Administrative Procedure Act, 5 U.S.C. 553 and sections 3(13), 4(a), 4(b), 4(c), 301(a), 302(a), 304, 309, 311 and 312 of the Federal Power Act, as amended, (41 Stat. 1064, 1065; 49 Stat. 839, 840, 854, 855, 856, 858, 859, 860, 16 U.S.C. 796(13), 797(a), 797(b), 797(c), 825(a), 825a(a), 825c(b), 825c(c), 825h, 825j, 825k), that the Commission proposes to add § 141.65 to Part 141 of the Approved Forms under the Federal Power Act to provide that new FPC Form No. 163 be required for reporting. Proposed new Form No. 163 would be entitled, "Corporate and Financial Report for Class C and Class D Electric Utilities and Licensees."

During the period of critical energy needs, such as the nation is currently experiencing, the public interest requires that the Commission have available to it current and continuing information on the operations of industrial companies generating electric energy. The interests of those industrial companies regulated by the Commission also require efficient and progressive means of regulation.

On September 26, 1973, in Docket No. R-438, the Commission issued Order No. 494, amending Part 2, Chapter I, Title 18 of the Code of Federal Regulations and setting forth Commission policy for the development of a fully automated computer regulatory system to provide such information. When developed and fully operative, the system will provide prompt and ready access to data contained in a central electronic data bank, eliminating the duplication of information now collected and reducing the quantity of existing manual files. This system will not only facilitate the evaluation and analysis of all data, but it will also accommodate the development of new regulatory techniques.

In Order No. 494, the Commission stated that all existing "hard copy" public use forms would be redesigned and consolidated to eliminate redundancies and that instructions for reporting would be clarified by use of Electronic Data Processing (EDP) Technology. Public use form information, as it is presently submitted, will be replaced by the submission of individual data elements within a general data element and code scheme. It is anticipated that this major system revision will result in the reduction of the total number of data items currently transmitted to the Commission by the respondents.

In Order No. 494, the Commission further stated that the development of the automated computer information system would be effected through the use of phased rulemaking proceedings in which various Commission reporting procedures and report forms would be restructured. To this end, Form No. 163 is designed to incorporate into a readily retrievable data processing system the corporate information and financial data currently submitted on FPC Form No. 1F.[1]

It is proposed herein that the Annual Report Form No. 1F would be subdivided into two separate and distinct reporting portions. The corporate information and financial data portion would be embodied in a new report Form No. 163 under a new reporting system, which is discussed further in this rulemaking. The operation data portion would be incorporated under a separate report system and will be the subject of a separate rulemaking.

The general changes which are being proposed to the Commission's reporting requirements for the new report Form No. 163 are as follows:

1. For the most part, the requirements for all beginning of year figures (or end of previous year figures) and all comparison figures (increases/decreases and previous year/month figures) have been eliminated.

2. Duplicative data elements (data elements appearing on more than one schedule) have been eliminated to the extent feasible.

3. The filing requirement for certain information that experiences little change from year to year (often referred to as fixed data) is proposed to be reported completely in the initial submission, with only changed values being reported in subsequent submissions.

In addition to the changes described above, the Commission's filing requirements contained in the proposed Form No. 163 have been arranged, for the purpose of achieving more efficiency in the collection process. Respondents would be asked to utilize newly established account numbers as a supplement to the accounts contained in the Uniform Systems of Accounts for reporting purposes. Respondents would not be required to maintain these new accounts in their books of accounts or in their recordkeeping system.

Specific details of the proposed reporting scheme and related procedures are included as separate attachments to this rulemaking as follows:

Attachment A contains general information about the preparation and submission of public use schedules. Specifically, the attachment covers the administrative background, standard definitions, general procedures for schedule preparation, rules for data preparation, data maintenance activities, and data keying and verification instructions, all known as Level I instructions.

Attachment B contains general subject instructions for corporate and financial schedules. Specifically, the attachment covers general information surrounding corporate and financial schedules, respondent coverage, standard definitions and codes, and general instructions, all known as Level II instructions.

Attachment C contains detailed instructions for each specific schedule to be submitted by the respondent, all known as Level III instructions.

Attachment D is a comparison and cross reference list. This list cross references current reporting requirements with that proposed, at the same time describing additions, deletions, and other pecularities related to the changeover.

Attachments E are data standards.

Attachment F contains a sample of schedules to be submitted by the respondent.

It is anticipated that a one-year period of parallel reporting will be required for system evaluation. Assuming successful operation of the new system within such time period, the present Form No. 1F for these respondents would then be eliminated.

All data and information submitted pursuant to this new form would be required to be subscribed and verified by a duly authorized executive officer of the respondent as being factually accurate and complete to the best of his or her knowledge according to the Commission's rules of practice and procedures (18 CFR, Part 1). An original and four copies of each completed Form No. 163 would be required to be sent to the Federal Power Commission.

The Commission is considering the possibility of making available, through the Office of Public Information, copies of the input schedules as received, copies of verified hard copy printouts of the input schedules, and hard copy printouts of certain financial statements in a format similar to pages of the current public use forms.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, to be received no later than October 8, 1976, data, views, coments or suggestions in writing concerning all or part of the proposed forms. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed form. The staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

In order to expedite and assist the Commission in its review and analysis of the comments it receives, all such submittals are to be presented according

[1] 18 CFR 141.2 (1975).

to response codes. Each segment of a respondent's comments is to be headed by one of the following code numbers.

Response code:		
	A.	Compliance burden:
01		1. Costs of implementing proposed program.
02		2. Time frame expected.
03		3. Cost—manhours aspect.
	B.	Comments with respect to the following considerations:
04		1. Hardware
05		2. Software
06		3. Schedule design or layouts
07		4. Media
08		5. Preparation difficulties
09		6. Certification
10		7. Others.
	C.	Specific schedule comments:
11		1. Field size
12		2. Field title
13		3. Addition of a field
14		4. Deletion of a field
15		5. Addition of data elements
16		6. Data standards
17		7. Deletion of data elements
18		8. Clarity of presentation
19		9. Instruction narrative
20		10. Combine schedules with other(s)
21		11. Add or delete schedule
22	D.	Duplicate reporting plan.
23	E.	Acceptability for Federal and State use.
24	F.	Acceptability for general public use.
	G.	General reaction:
25		1. Support the principles and purposes of the proposal
26		2. No objections to the principles and purposes of the proposals but offering suggestions regarding implementation.
27		3. Oppose and disagree with the principles and purposes.
28	H.	Other

The proposed amendments to Part 141 of the Commission's Approved Forms under the Federal Power Act would be issued pursuant to the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly sections 3(13), 4(a), 4(b), 4(c), 301(a), 302(a), 304, 309, 311 and 312 (41 Stat. 1064–1065; 49 Stat. 839, 840, 854, 855, 856, 858, 859, 860; 16 U.S.C. 796(13), 797(a), 797(b), 797(c), 825(a), 825a(a), 825c(b), 825c(c), 825h, 825j, 825k).

Effective for the reporting year 1976, the Commission proposes to amend Part 141, Statements and Reports (Schedules), in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new section 141.65 prescribing new FPC Form No. 163—Corporate and financial report for Class C and Class D electric utilities and licensees, in the form set out in Attachment F hereto. New section 141.65 will read as follows:

§ 141.65 Form No. 163—Corporate and financial report for Class C and Class D electric utilities and licensees.

(a) The form of the report for Class C and D electric utilities and licensees, designated herein as FPC Form No. 163, is prescribed for the reporting year 1976 and thereafter.

(b) Each public utility or licensee as defined in Section 3 of the Federal Power Act which is included in Class C or Class D as defined in the Commission's Uniform System of Accounts prescribed for public utilities and licensees (other than Federal projects filing under § 141.66) shall prepare and file with the Commission for the year beginning January 1, 1976, or subsequently during the calendar year 1976 if its established fiscal year is other than the calendar year, and for each year thereafter, on or before the last day of the third month following the close of the calendar year or other established fiscal year, an original and four conformed copies of the above-designated FPC Form No. 163, all properly filled out and verified. One copy of said report should be retained by the correspondent in its files.

(c) The report contains the following schedules:

General Corporate Information.
Control over Respondents.
Corporations Controlled by Respondent.
Corporate Officers/Directors.
Security Holders and Voting Powers—Total.
Security Holders and Voting Power.
Notes to Security Holders and Voting Power.
Annual Notes to Financial Data.
List of Accounts—Part III.
Capital Stock.
Long Terms Debt.
Investment Tax Credits.
Plant in Service or All Utility Plants.
Operating Revenues.
Detailed Accounts Data—Part I through III.
Accumulated Provisions for Depreciation—Deletion and Amortization of Utility.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

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Attachment A

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

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REGULATORY INFORMATION SYSTEM

LEVEL I

GENERAL INSTRUCTIONS

FOR THE

PREPARATION AND SUBMISSION

OF PUBLIC USE SCHEDULES

FPC Form 131
(3-76)

R&S | FEDERAL POWER COMMISSION
REGULATORY INFORMATION SYSTEM | ii

TABLE OF CONTENTS

		Page
I.	ADMINISTRATIVE BACKGROUND	1
	A. Data Collection Concepts	1
	B. Applicability of Instructions	3
II.	STANDARD DEFINITIONS	4
III.	GENERAL PROCEDURES FOR SCHEDULE PREPARATION	6
	A. Schedule Submission	6
	B. Reporting Media	8
	C. Supporting Documentation	8
	D. Attestation	8
	E. Respondent Comments and Suggestions	9
IV.	RULES FOR DATA PREPARATION	10
	A. Data Field Length	10
	B. Justification (Data Positioning)	10
	C. Alphabetic and Numeric	10
	D. Negative Entries	11
	E. Null Entries	11
	F. Percentages and Fractions	11
	G. Special Characters	12
	H. Multiple Pages	12
	I. List of Legitimate Values	12
V.	DATA MAINTENANCE ACTIVITIES	14
	A. Modification of Data	14
	B. Footnotes	15

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION · REGULATORY INFORMATION SYSTEM	
		iii

TABLE OF CONTENTS (cont'd)

		Page
VI.	DATA KEYING AND VERIFICATION INSTRUCTIONS	17
A.	Data Field Contents	19
B.	Data Field Separator	19
C.	Line Terminator	20
D.	Continuation Record	20
E.	Blank Lines	20
F.	Decimal Points in Numeric Data Fields	20
G.	Consolidated Example	21
H.	Character Set	21
I.	Magnetic Tape Submission	22

LIST OF FIGURES

Figure Number	Name	Page
III-1	Notification of Attestation	7
VI-1	Data Keying and Verification Instructions	18

FPC Form 151 (3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		1 of 22

I. ADMINISTRATIVE BACKGROUND

The Federal Power Commission (FPC) has established an information system designed to improve the decision-making capabilities of the Commission. This program, the Regulatory Information System (RIS), was authorized by Commission Order 494, September 26, 1973, and features the following characteristics and capabilities:

- A consolidated data collection system designed to eliminate unnecessary or redundant reporting and to provide standardized data collection schedules.
- A comprehensive system for transmitting, processing, and accessing data requested of respondents by the Commission.
- Establishment of a modern computer facility at Commission headquarters featuring consolidated regulatory data bases and the associated automatic data processing (ADP) equipment and programming software necessary to store, validate, and access that data.

These instructions are intended to aid each respondent to understand the scope and objectives of the RIS system regarding source data collection and to provide clear and concise guidance for the completion of the revised public use schedules.

A. DATA COLLECTION CONCEPTS

The FPC public use schedules are designed to be vehicles for data collection, rather than for data display, by the Commission. This objective has guided the design of the layouts and instructions so as to achieve maximum efficiency in both data collection and subsequent processing. Within this basic design philosophy, the public use schedule data collection concept embodies the following design characteristics, some of which are described in greater detail in the subsequent chapters.

FPC Form 151 (3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		2 of 22

1. Optical Character Recognition (OCR) - All schedules have been designed with OCR requirements as one of the design constraints. This will allow for transition to optical scanning as a future alternative for data entry.

2. Separation of Instructions - All instructions are separated from the schedules to which they apply, in order to make efficient use of form space. Instructions consist of three separate levels, as follows:

- Level I - General (applicable to all schedules).
- Level II - General subject (applicable to natural gas operations, electric operations, or financial data).
- Level III - Detailed (applicable to individual schedules).

3. Separation of Footnotes - Footnotes or other extraneous marks or comments intended to qualify or modify data must not be entered directly on any schedule. The public use schedules have been designed to minimize the need for footnotes through the establishment of distinct data elements which represent some data previously reported as footnotes. However where necessary to make the related data more meaningful, footnotes may be entered on a special footnote schedule designed for this purpose. On the primary data schedules, the respondent must enter only a unique footnote reference number to provide a link to the footnote schedule.

4. Reporting Requirements - Reporting frequencies of the new schedules vary from semi-monthly to biennially. For certain schedules, all data must be supplied with each submission. For the other schedules, all data must be supplied with an initial submission, and on subsequent submission of these schedules respondents need report only changes, additions and deletions. These requirements are specifically stated in the Detailed Instructions for each schedule in paragraph B under the heading "II. General Information".

FPC Form 151 (3-76)

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5. Consolidated Schedules - Many of the public use schedules have been designed to consolidate data previously collected on more than one schedule. The consequence of such consolidation is a reduction in the total number of schedules. Furthermore, portions of some schedules may be inapplicable to certain respondents, as specified in the detailed instructions.

B. APPLICABILITY OF INSTRUCTIONS

The Commission will provide to each respondent all three levels of instructions, appropriate to the type of operation. For example, an electric utility will receive:

- Level I - General Instructions
- Level II - General Subject Instructions (Electric Operating Data)
  - General Subject Instructions (Corporate and Financial Data)
- Level III - Detailed Instructions (Electric Operating Schedules)
  - Detailed Instructions (Corporate and Financial Schedules)

Each respondent will also receive footnote schedules (with instructions) and free form (blank) schedules for the submission of narrative or graphic support data that will not be loaded into the Commission's data bases.

As the public use schedules undergo change in future reporting periods through the rulemaking process, modified layouts and instructions will be prepared by the Commission and mailed to the respondents, together with appropriate documentation that describes the authorization and the details of all such changes, additions, or deletions. The Commission will prepare the instructions in a manner suitable for looseleaf binders, so that they can be easily maintained by the respondents.

II. STANDARD DEFINITIONS

The following standard definitions are provided to aid the respondent in understanding the data collection concepts contained in these instructions.

A. RESPONDENT - Each corporation, person, agency, authority, or other legal entity or instrumentality, whether public or private, which is required, under the provisions of the Federal Power Act, the Natural Gas Act, or Commission Order, to submit information to the Federal Power Commission via public use forms. Respondents also include those organizations that voluntarily or upon request, provide data to the Commission.

B. PUBLIC USE SCHEDULE - A collection of functionally related data elements organized and formatted into an arrangement suitable for the collection of data; the instructions for preparation of a schedule are included in this definition.

C. DATA FIELD - Within a record or schedule, a specific area used for representing a particular data value, i.e., the spaces provided for data entry on a schedule.

D. DATA ELEMENT - A basic unit of identifiable and definable information. Data elements identify the data fields within a schedule.

E. DATA ITEM - The expression of a particular value of a data element. In cases where a data element identifies a column or row on a schedule, a data item is a specific entry within the column or row.

F. LOGICAL ENTRY - A collection of related characteristics, defined by data elements, associated with a specific "key" item of information. For example, "name", "address", "date of incorporation", and "total assets" are all attributes of the key item "company", which is identified by a company code. This entire collection of data elements is called a logical entry. Within the public use schedules, logical entries are blocks of data that may be repeated several times on a page.

G. KEY ITEM IDENTIFICATION - A data element that provides a unique reference point for purposes of accessing or retrieving data. Within the public use schedules, the key item(s) uniquely identify groups of related data elements which by definition are logical entries. Normally, key items appear first within a logical entry and must always be completed by the respondent. The Detailed Instructions for each schedule explicitly identify those data elements that are "key".

Other, more specific, definitions of technical and financial data elements are contained in the Level II - General Subject Instructions.

III. GENERAL PROCEDURES FOR SCHEDULE PREPARATION

Many of the public use schedules have been designed so that different types of respondents can use the same basic schedules and instructions for the collection of identical data. For such schedules, the Detailed Instructions explain the unique data preparation requirements applicable to each type of respondent.

A. SCHEDULE SUBMISSION

The Commission will forward annually an appropriate number of copies of each schedule required of the respondent for the given reporting period.

All respondents shall forward the number of copies ordered by the Commission of each public use schedule to the Commission. Respondents submitting schedules on magnetic tape must also submit an attested working copy, appropriately completed, of the supplied schedules from which the tapes were prepared.

The specific report period for each schedule is listed in the General Subject Instructions (Level II) for the natural gas operations, electric operations, or financial data. The reporting period must be entered by the respondent on each schedule. Care must be exercised to ensure that the report period on each schedule (month, day, year) represents the ending date of the period to which the data applies, not the date the schedule was completed.

Prior to forwarding the schedules to the Commission, the respondent must complete Schedule 0100, Index of Public Use Schedules Submitted. A date field-by-data field instruction for Schedule 0100 shall be found in the Level III, Detailed Instructions for this schedule. All schedules should be carefully assembled, packaged, and forwarded to the following address:

Federal Power Commission
825 North Capitol Street, N.E.
Washington, D. C. 20426
Attn: Office of the Secretary

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FEDERAL POWER COMMISSION
825 North Capitol Street, N.E.
Washington, D.C. 20426

ATTESTATION UNDER OATH

This report must be attested to under oath by an officer of the company. _____ (Insert here the name of the attester)

being first duly sworn according to law, certifies that he is _____ (Insert here the official legal title of attester)

of _____ (Insert here the exact legal title or name of respondent); that he has full power and authority to make the attestation; that he has read this report and is familiar with the contents therein; that to the best of his knowledge, information and belief, all estimates and matters therein set forth are true and correct and the said report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the period from and including _____, 19__, to and including _____, 19__.

_____ (Signature of attester)

Subscribed and sworn to before me this _____ day of _____, 19__.

_____ NOTARY PUBLIC

(SEAL)

FIGURE III-1. NOTIFICATION OF ATTESTATION

B. REPORTING MEDIA

The acceptable media for reporting public use data are magnetic tape with a working copy of the schedules or typed schedules.

Many respondents are capable of preparing the data via magnetic tape and have been directed by the Commission to do so. In addition, the respondent must attach associated attested working copy of the FPC supplied schedules from which the tapes were prepared.

C. SUPPORTING DOCUMENTATION

Additional statements, maps, diagrams, charts or other documentation supportive to the data schedules not otherwise specifically required or provided for should be inserted directly behind the schedules to which they apply. Respondents shall utilize FPC Schedule Number 1000 in all cases except those requiring oversize documents such as large maps. In all cases, the schedule number and page number of the schedule to which the supporting documentation applies must be entered, as well as the reporting period. Supporting documentation must not be stapled to the corresponding schedules.

D. ATTESTATION

The complete set of schedules filed for a given reporting period must be subscribed and verified by the duly authorized executive officer of the respondent, or of one of the respondents where a consolidated schedule is filed, who is qualified and authorized to prepare or supervise the preparation of the schedules and to certify their accuracy, completeness, and truthfulness. Such attestation will be submitted in the format specified in the Attestation Under Oath, displayed in Figure III-1.

Information submitted on magnetic tape must be accompanied by a working copy of each schedule used to create the magnetic tape. A single Attestation Under Oath will apply to all information, regardless of filing medium, submitted in the reporting period.

FPC Form 131 (5-76)

E. RESPONDENT COMMENTS AND SUGGESTIONS

The Regulatory Information System represents a significant departure from the previous methods of gathering and using information by the Commission. Like all new systems, areas for improvement will undoubtedly be discovered during actual operation. All respondents are encouraged to supply comments and suggestions to the Commission of specific data collection or schedule design problems.

All questions concerning schedule design, data entry rules, filing requirements, or administrative matters, should be directed to the Office of Regulatory Information Systems at Commission headquarters. The telephone number for inquiries at the Commission is (202) 275-4138.

This telephone number and the schedule mailing address will be the main contact points between the Commission and the respondents for matters relating to the data collection. Questions that cannot be handled directly will be routed to the appropriate bureau or office personnel for resolution.

FPC Form 131 (5-76)

IV. RULES FOR DATA PREPARATION

The respondent is instructed to rigorously conform to the following general rules for data entry when preparing the schedules prior to the time that the schedules are forwarded for typing.

A. DATA FIELD LENGTH

Do not exceed the data field lengths allocated for each data element. When the data field size is inadequate, leave the data field blank and enter the true value in a footnote.

B. JUSTIFICATION (DATA POSITIONING)

Right justify every numeric data field; that is, place the data in the right portion of the data field so that no blank spaces follow the last character. Unfilled leading characters should be left blank. All alphabetic data fields must be left justified; that is, they begin at the left boundary of the data field.

C. ALPHABETIC AND NUMERIC

The Detailed Instructions for each schedule define each data field as either alphabetic (A) or numeric (N). The instructions also specify the data field length, including implied decimal positions for fractional numbers. For example, (N7.3) means a numeric field with seven characters to the left and three characters to the right of the implied decimal position. (N6) implies a six digit integer number and (A22) defines a twenty-two character alphabetic data field.

Do not enter alphabetic or special characters in a data field defined to be numeric by the instructions. The only exceptions to this rule are a minus sign or an asterisk, as described later. Numeric data fields must be right-justified and can be preceded by blank spaces. A data field defined as alphabetic may include any

FPC Form 131 (5-76)

UMI 69 12 GCA 8811 V41

combination of numeric and alphabetic characters. If necessary, words should be abbreviated to fit an alphabetic data field within the allocated space.

D. NEGATIVE ENTRIES

To indicate a negative numeric value, type over the preprinted minus sign in the right-most character of the data field immediately after the last significant digit; for example, 4917- . Positive numbers require no sign within the data fields; simply right-justify the number. Only certain data fields may legitimately contain negative numbers. Those data elements that may be expected to generate negative numbers are identified in the Detailed Instructions and in the schedules, where a character position is reserved for the minus sign, which is printed.

E. NULL ENTRIES

Data fields that are not applicable to a given respondent's situation must be left blank. Do not write in "N/A", or "NONE", or "NO DATA", or any other null response. Numeric data fields that do apply to the respondent but for which the respondent has a legitimate value of zero must be so entered with zero, including all decimal positions. Numeric, alphabetic, or alpha-numeric data fields that do not apply must be left blank.

F. PERCENTAGES AND FRACTIONS

Numeric data fields expressed in percentages may contain a variable number of decimal positions. In the schedules, all decimal points are implied by a preprinted character (▲) that does not occupy a character position within the data field. For example: NN▲NNN

The factional portion to the right of the decimal point should always be rounded to the last significant digit. For example, 11 2/3 should be entered as 11▲667 . Under no circumstances must a portion of a whole number be expressed in fractional notation for any numeric data field. Rather, use the decimal representation, as

illustrated by the preceding example of a percentage. For example, never enter 12 1/3 in a schedule; instead enter 12▲333 , assuming three decimal positions are requested.

G. SPECIAL CHARACTERS

As illustrated in the preceding section, all of the public use schedules have been designed with preprinted decimal point locators, where applicable. The respondent is specifically requested not to enter dollar signs, decimal points (.), commas (,), parentheses, technical symbols, or any other special characters on the schedules unless called for by the Detailed Instructions. For example, the number $53,429.48 would be entered as 53429▲48 and the number $45,237 would be entered as 45237▲00 .

H. MULTIPLE PAGES

Multiple pages may often be necessary for the respondent to provide all of the data for a particular schedule. Additional pages may be requested of the Commission at any time. To minimize such requests, the Commission will analyze historical submission patterns and volumes for each schedule and attempt to tailor the number of pages mailed out with the number of pages submitted in the past. Each page of a schedule must be numbered in the upper right hand corner.

I. LISTS OF LEGITIMATE VALUES

A copy of the Register of Data Standards will be made available to each respondent. The Register must be a standard reference tool for personnel completing the schedules to assure valid data entries. Respondent-entered data that is inconsistent with values contained in the Register will be rejected, since validation procedures are also based on the Register.

Normally, the Detailed Instructions will not contain the lists of legitimate values, but will refer to the Register of Data Standards. However, certain data item lists were incorporated directly in the Detailed Instructions for the convenience of the respondent. In these cases the data item list mnemonic appears in parenthesis.

The respondent must use the approved values and is also cautioned not to alter the units of measure (i.e., MMcf or KW) defined in the Detailed Instructions.

V. DATA MAINTENANCE ACTIVITIES

When preparing the public use schedules, the respondent must be familiar with the procedures necessary to modify data on the Commission's data bases and to prepare footnotes, where necessary. These topics are covered in this chapter.

A. MODIFICATION OF DATA

New data may be entered directly on any of the public use schedules by the respondent. The respondent must be certain that all data fields identified as key by the instructions are properly completed. For each new entry all data must be completed for the initial submission. For subsequent submissions of this data, the following general rules apply.

Changes to existing data residing in Commission's data bases can be entered directly on any public use schedule. To determine whether a data element has changed, the respondent is to refer to the data reported for the last submission.

For data identified by the Detailed Instructions as periodically required to be submitted, the respondent must completely resubmit all requested data regardless of whether or not the data have actually changed. In other Detailed Instructions subsequent submissions require the respondent to submit only appropriate identification (key data fields) and changed data fields. For this type of data, the Commission maintains only the latest current values in the data base, and the last reported data will continue to be propagated as the current data. To delete the current value of a data element, the respondent must enter an asterisk (*) in the left-most position of the data field, regardless of the numeric or alphabetic nature of the data. The following example illustrates how to delete any single occurrence of a data element:

Data Field Title
*

UMI

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		15 of 22

To delete a data element in more than one logical entry, an asterisk must be entered by the respondent for each occurrence of the data element.

To delete an entire logical entry, a retired generator for instance, the respondent must type a "D" over the preprinted "D" contained to the right of each logical entry and must specify all key items necessary to uniquely identify the logical entry. The Detailed Instructions indicate which data elements are key items. When processed, all of the data for the entire logical entry will be deleted from the data base. No facility is provided for deleting, in a single action, all of the data for an entire respondent or for any major grouping of data above the logical entry level, such as the data for an entire plant. To accomplish major delete actions, the respondent must delete each logical entry separately. If such step-by-step action proves cumbersome for the respondent in view of a major delete action (a plant closure, for example), the respondent should notify the Commission in writing of the delete action and request appropriate steps to update the data bases.

B. FOOTNOTES

Footnotes cannot be placed directly on any public use data schedule. Instead, a single, separate schedule (FPC Schedule Number 0000) is used for footnote entry. The preparation of a respondent supplied footnote requires entry on both the source schedule and the footnote schedule.

All data schedules contain two blocks to signify the presence of a footnote. These footnote indicator data fields are called the General Footnote and the Specific Footnote. The General Footnote data field enables the respondent to supply additional information that pertains to either the entire schedule and/or to a particular column (all occurrences of a data element) within the schedule. The Specific Footnote may be for either a complete logical entry and/or a specific data element within any logical entry.

FPC Form 151
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		16 of 22

The footnote number must be assigned uniquely and cannot be repeated across schedules. For example, if Schedule 0102 has footnote numbers 014 and 015 assigned, the footnotes for schedule 0103 should begin at 016. The respondent must not number the footnotes starting from 001 for each schedule. All footnote reference numbers throughout all schedules submitted in a single reporting period must have unique numbers.

FPC Form 151
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		17 of 22

VI. DATA KEYING AND VERIFICATION INSTRUCTIONS

Data keying may be utilized by respondents who submit data via magnetic tape. The following keying (and, therefore, verification) instructions apply to all redesigned public use schedules, regardless of actual data content. Keying will produce 80-character records (refer to magnetic tape submission requirements).

Each record must always contain the same control data fields in columns 1-11. These data fields are:

- Data Field A - Schedule Number (Record Position 1-4)
- Data Field B - Page Number (Record Position 5-8)
- Data Field C - Line Number (Record Position 9-10)
- Data Field D - Record Type (Record Position 11)

Data Keying and Verification Instructions are described in Figure VI-1.

When keying from the Public Use Schedules, follow the general rules given below.

- Data Field A, Schedule Number, (Record Position 1-4) and Data Field B, Page Number, (Record Position 5-8) are obtained from the header area of the schedule. The schedule number is obtained from the upper left corner of the schedule and the page number from the upper right corner of the schedule.
- Data Field C, Line Number (Record Position 9-10) is preprinted to the left of each line in the margin of the schedule (even numbers such as 2, 4, 6, etc. are the only valid entries).
- In Data Field D, (Record Type) an "A" should be keyed in Position 11 of the first record keyed for a line.
- In record positions 12-80 of the record, key all data field separators (|) and all data that has been filled in by the respondent.

FPC Form 151
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		18 of 22

DATA KEYING AND VERIFICATION INSTRUCTIONS

DATA FIELD	DATA FIELD NAME	COLUMNS FROM	COLUMNS TO	NUMBER OF COLUMNS	*	SPECIAL INSTRUCTIONS
	Common Data					
A	Schedule Number	1	4	4	N	Preprinted at the top left of all schedules
B	Page Number	5	8	4	N	Printed at top right of all schedules
C	Line Number	9	10	2	N	Preprinted on left margin of all schedules (even numbers)
D	Record Type (A = first record, B = second record)	11	11	1	A	A = First record for line B = Second record for line
E	Lina Data	12	80	69		Key all data fields and their data field separators. Compress data as described in keying instructions.

* A - Alpha
N - Numeric

FIGURE VI-1. DATA KEYING AND VERIFICATION INSTRUCTIONS

FPC Form 151
(3-76)

UMI

- At the end of each line on the schedule, key a line terminator symbol (@).
  Note: In some instances, a second record (Record Type B) will be required solely for the line terminator symbol (@).
- Normally, only one record will be required for a line. Should a second record be required for a line, duplicate Positions 1-10 from the "A" record, and key a "B" Position 11 of the second record.
- Do not key data fields which are preprinted including data field separators.
- Do not key odd numbered lines (i.e., 3, 5, 7, 9, etc.).
- Do not key lines in which the resondent has entered no data.

In the examples shown, a lower case b represents a blank.

A. DATA FIELD CONTENTS

The data keyed into Positions 1-11 of the keyed records is keyed according to the fixed format specified above. But the data keyed in the remainder of the positions of the records (12-80) are keyed in a variable format. That is, leading and trailing blanks in data fields are not keyed. For example, if a ten-position alpha-numeric data field on the schedule contains a single letter, only that letter is keyed:

"Abbb" is keyed "A|"

B. DATA FIELD SEPARATOR (|)

The variable format explained in A above, requires that the sum of each data field (in Positions 12-80) be indicated by following the data field contents with a data field separator symbol (|).

The data field separator is the vertical bar symbol, which is to be represented by a 12-7-8 punch, and a hexadecimal 4F in EBCDIC.

See the example in A above, or those that follow, for illustrations of the use of the data field separator.

FPC Form 151 (5-76)

C. LINE TERMINATOR (@)

The end of a schedule line must be represented in the keyed record. The vertical bar (data field separator) following the last data field is to be followed with a line terminator symbol. This can require that a "B" record be keyed to provide the line terminator symbol (@).

The line terminator is the "@" symbol, which is to be represented by a 4-8 punch, and a hexadecimal 7C in EBCDIC.

D. CONTINUATION RECORD

In most cases, one line on a schedule will be represented by one 80-character record, but in some cases two records will be necessary to represent a single schedule line. In the first (or only) record, an "A" is keyed into Position 11. In the continuation record (there will not be more than one per line), after duplicating Positions 1-10 from the "A" record, key a "B" in Position 11 then continue keying from the schedule line. (Note that for two-record lines, Position 80 of the "A" record may occur in the middle of a data field on the schedule.)

E. BLANK LINES

Every data field in a schedule line, including blank data fields, must be represented in the keyed records. For a blank data field, key only a data field separator symbol (|). For example, if the first three data fields on a schedule line were blank they would be represented in the keyed record by three consecutive data field separators (in Positions 12-14).

F. DECIMAL POINTS IN NUMERIC DATA FIELDS

Many numeric data fields contain decimal points, indicated on the schedules by a preprinted ▲. (The only valid indication of a decimal point is the preprinted ▲. Use of a period is an error on the part of the individual filling in the data.) Because it is preprinted, it is not keyed. In order that the data field contents be

FPC Form 151 (5-76)

properly entered in the RIS data base, all positions to the right of a preprinted decimal in a data field on a schedule must be keyed.

G. CONSOLIDATED EXAMPLE

This example illustrates the rules given above, as applied to an entry on line 16 of page 2 of a hypothetical Schedule 99.

Data Field Type:
a n n n n n n n n n n

Data Field Length:
35 10 10 8.2 3.3 10 10 10 10 10 10

Data Field Contents:
MIDWESTERN INTERNATIONAL 350 @ 673▲21 24▲2bb 750000 b b 550000 622490 3575829400

Keyed Records: A Record -
0099000216AMIDWESTERNbINTERNATIONAL|350|@|67321|24200|750000||550000|622490|

B Record -
0099000216B3575829400|@

H. CHARACTER SET

Keying should be accomplished using the standard EBCDIC alphabetic and numeric character set. The following are the only valid special characters which can be used:

EBCDIC SPECIAL CHARACTER

CHARACTER	EBCDIC HEX REP	CARD PUNCH	CHARACTER	EBCDIC HEX REP	CARD PUNCH
.	4B	12-3-8	-	6Ø	11
(	4D	12-5-8	/	61	Ø-1
+	4E	12-6-8	,	6B	Ø-3-8
&	5Ø	12	%	6C	Ø-4-8
$	5B	11-3-8	?	6F	Ø-7-8
*	5C	11-4-8	:	7A	2-8
)	5D	11-5-8	'	7D	5-8
;	5E	11-6-8	=	7E	6-8
			"	7F	7-8

Data Field Separator:
| 4F 12-7-8

Data Line Terminator:
@ 7C 4-8

FPC Form 151 (5-76)

I. MAGNETIC TAPE SUBMISSION

The magnetic tape to be submitted shall be compatible with IBM 370/OS using 9-track standard IBM OS labels or using 9-track non-labelled tapes in EBCDIC code format at 800 or 1600 bpi. The logical record length shall be 80 characters. The blocking factor should be compatible with IBM OS tape blocking conventions.

All respondents submitting magnetic tape(s) must enclose with the tape the following information: name of company, name of contact about the magnetic tape and telephone number. Additionally the following information must be specified for labelled and non-labelled tapes:

LABELLED AND NON-LABELLED TAPES
- whether 800 or 1600 bpi
- whether labelled or non-labelled

LABELLED TAPES
- internal volume/serial number of tape
- data set name

NON-LABELLED TAPES
- block size in characters (length of physical record)
- external volume/serial number of tape

FPC Form 151 (5-76)

UMI

Attachment B

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	

LEVEL II

GENERAL SUBJECT INSTRUCTIONS

FOR

CORPORATE AND FINANCIAL SCHEDULES

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		11

TABLE OF CONTENTS

		Page
I.	GENERAL INFORMATION	1
II.	STANDARD DEFINITIONS AND CODES	4
	A. Uniform Systems of Accounts	4
	B. Account Numbering System	4
	C. Supplemental Account Numbers	4
	D. Selected Definitions	7
III.	GENERAL INSTRUCTIONS	9
	A. All Schedules	9
	B. Annual Submission	9

FPC Form 131
(3-76)

APPENDIX 1. List of Corporate and Financial Schedules

Schedule Number	Schedule Name
0101	General Corporate Information
0102	Control Over Respondent
0104	Corporations Controlled by Respondent
0105	Corporate Officers/Directors
0106	Other Corporate Employees
0107	Security Holders and Voting Powers - Total
0108	Security Holders and Voting Powers
0110	Other Stockholder Information
0111	Notes to Security Holders and Voting Powers
0112	Annual Notes to Financial Data
0113	Descriptions of Construction Overhead Procedures
0114	Important Changes During the Year - Transmission or Distribution System
0115	Important Changes During the Year - Respondent Rate Proceedings
0116	Important Changes During the Year - Supplier Rate Proceedings
0117	Important Changes During the Year - New Sources of Gas
0118	Important Changes During the Year - New Generating Plants/Units
0120	Important Changes During the Year - Utility Plant Not Operated
0121	Company Employee Data
0122	Securities Issued During Year
0123	Securities Assumed, Refunded or Retired During Year
0124	List of Accounts - Part I (Electric Class A and Class B)
0124	List of Accounts - Part II (Natural Gas Class A and Class B)
0124	List of Accounts - Part III (Electric Class C and Class D)
0124	List of Accounts - Part IV (Natural Gas Class C and Class D)
0125	Investment in Subsidiary Companies - Equity Accounting
0126	Gas Stored Underground - Part II
0127	Gas Stored Underground - Part I
0128	Production Fuel Stocks
0129	Production Fuel Cost Data
0130	Gas Prepayments and Undelivered Gas Obligations
0132	Capital Stock
0133	Long-Term Debt
0134	Notes Payable
0135	Taxes Accrued, Prepaid and Charged During the Year
0136	Computation of Federal Income Tax Accruals for the Year
0137	Consolidated Federal Income Tax Return Information
0138	Accumulated Deferred Income Taxes
0139	Accelerated Amortization of Facilities
0140	Tax Deferrals Related to Other Property

FPC Form 151 (3-76)

Schedule Number	Schedule Name
0141	Investment Tax Credits
0142	Advances for Gas Prior to Initial Deliveries or Commission Certification
0143	Particulars for Estimating Depreciation, Depletion and Amortization of Utility Plant
0144	Plant in Service or all Utility Plants
0145	Completed Construction Not Classified
0146	Plant Purchased or Sold
0147	Experimental Plant Unclassified
0148	Utility Plant Leased to Others
0149	Plant and Production Properties Held for Future Use
0150	Construction Work in Progress
0151	Accumulated Provision for Depreciation of Utility Plant - Part I
0152	Accumulated Provision for Depreciation of Utility Plant - Part II (Electric and Gas)
0153	Accumulated Provision for Depletion and Amortization of Utility Plant (Account 111.00)
0154	Common Plant and Expense Data - Part II
0155	Common Plant and Expense Data - Part I
0156	Construction Overhead
0157	Natural Gas Reserves and Land Acreage
0158	Net Realizable Value of Estimated Hydrocarbon Reserves
0159	Operating Revenues
0160	Extraordinary Items
0161	Detailed Account Data - Part I
0162	Detailed Account Data - Part II
0163	Detailed Account Data - Part III
0164	Detailed Account Data - Part IV
0165	Monthly Statement of Electric Operating Revenue and Income - Part I
0166	Monthly Statement of Electric Operating Revenue and Income - Part II
0167	Revenue From Transportation of Gas of Others - Natural Gas
0168	Gas Purchases
0169	Professional and Other Consultative Services
0170	Lease Rental Charges - General Data
0171	Lease Rentals Charged
0172	Exploration and Development Expenses
0173	Regulatory Commission Expense
0174	Particulars Concerning Certain Income Accounts
0175	Exchange Gas Accounting - Part I
0176	Exchange Gas Accounting - Part II
0177	Research and Development Activities
0178	Natural Gas Production and Gathering Statistics
0179	Franchise Requirements
0180	Gas Used in Utility Operations - Credit
0181	Gas Account - Natural Gas

FPC Form 151 (3-76)

Schedule Number	Schedule Name
0182	Natural Gas Pipeline Company Monthly Statement - Revenues and Expenses - Part I
0183	Natural Gas Pipeline Company Monthly Statement - Revenues and Expenses - Part II
0184	Natural Gas Pipeline Company Monthly Statement - Operation and Maintenance Expenses
0185	Natural Gas Pipeline Company Monthly Statement - Supplemental Gas Supplies and Selected Data
0186	Natural Gas Pipeline Company Monthly Statement - Gas Revenues and Purchases
0187	Reconciliation of Reported Net Income With Taxable Income
0188	Accumulated Provision for Depreciation, Depletion, and Amortization of Utility Plant
0189	Changes in Estimated Natural Gas and Other Hydrocarbon Reserves
0190	Balance Sheet Accounts - Part I
0191	Balance Sheet Accounts - Part II
0192	Balance Sheet Accounts - Part III
0194	Income Statement Accounts
0195	Retained Earnings and Operating Revenues Accounts
0196	Operation and Maintenance Expenses Accounts
0197	Utility Plant - Municipal
0198	Long-Term Debt - Municipal
0199	Information Concerning Licenses and Location of Records
0200	Licensed Project Plant
0201	Licensed Project Plant - Classified by Developments
0202	Additions, Retirements and Adjustments - Licensed Project Plant
0205	Accumulated Provision for Depreciation of Licensed Project Plant - Balances and Changed During the Year
0206	Accumulated Provision for Depreciation of Licensed Project Plant According to Functional Classification
0207	Accumulated Provision for Amortization of Licensed Project Plant
0208	Accumulated Provision for Amortization of Licensed Project Plant According to Functional Classification
0209	Depreciation Expense for Licensed Projects
0210	Amortization Expense for Licensed Project
0211	Amortization Reserve - Federal
0212	Operation of Licensed Projects and the Sale or Use of Energy Produced
0213	Environmental Facilities and Expenses
0214	Notes to Environmental Facilities and Expenses
0215	Monthly Notes to Financial Data
0639	Monthly Net Generation by Licensed Project
0640	Licensed Projects Annual Energy Deductions

FPC Form 151 (3-76)

Schedule Number	Schedule Name
0695	Sales of Electricity by Rate Schedules
0696	Sales of Electricity by Communities
0697	Railroads and Interdepartmental Sales
0698	Sales of Water and Water Power
0704	Fish and Wildlife and Recreation Plants
0837	Taxes, Tax Equivalents, Contributions and Services During Year - Part I
0838	Taxes, Tax Equivalents, Contributions and Services During Year - Part II
0839	Expenditures for Certain Civic, Political and Other Related Activities

FPC Form 151 (3-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		1 of 11

I. GENERAL INFORMATION

These instructions apply to those schedules:

- Containing basic information on the respondent's corporate profile
- Providing detailed financial data about the Corporation's business activities.

The group of corporate and financial schedules represent a comprehensive selection of data covering the respondent's entire financial accounting operation.

The classification of respondents are:

a. Class A: Natural gas companies, public utilities, and licensees having operating revenues of $2,500,000 or more.

b. Class B: Natural gas companies, public utilities, and licensees having operating revenues of $1,000,000 or more but less than $2,500,000.

c. Class C: Natural gas companies, public utilities, and licensees having operating revenues of $150,000 or more but less than $1,000,000.

d. Class D: Natural gas companies, public utilities, and licensees having operating revenues of $25,000 or more but less than $150,000.

The schedules are organized into two subgroups based upon respondent reporting requirements: (1) annual or (2) monthly submissions. The grouping of schedules into their respective submission subgroups together with a reference to the old FPC form relationships is shown below:

FPC Form 151
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		2 of 11

Subgroup	Respondent Category	Schedule Number(s)	Old FPC Form	Submission Date
Annual Submissions				
1	Class A & Class B (Electric Utilities and Licensees)	0101-0187,0213-0214,0695-0698,0704(less 0103,0109,0115,0117,0119,0126,0127,0130,0131,0142,0153,0157,0158,0165,0166,0172,0175,0176,0178,0180-0186)	1	Annually (on or before March 31st
2	Class A & Class B (Natural Gas Companies)	0101-0181,0187,0189(less 0103,0109,0118,0119,0131,0165,0166)	2	Annually (on or before March 31st)
3	Class C & Class D (Electric Utilities and Licensees)	0101,0102,0104 0105,0108,0111,0112,0124,0132,0133,0141,0144,0159,0161-0163,0186	1F	Annually (on or before March 31st)
4	Federal Projects and Municipal (Electric)	0190-0192,0194-0198,0837-0839	1M	Annually (3 months following close of fiscal year for municipalities and Federal Projects report on fiscal year usually corresponding with FY of Government)
5	Class C & Class D (Natural Gas Companies)	0101,0102,0104,0105,0107-0108,0111,0112,0124,0132,0133,0141,0144,0159,0161-0163,0168,0181,0188	2A	Annually (on or before March 31st)
6	Licensed Projects (covers all major projects owned by the licensee)	0199-0202,0205-0212,0639-0640	9	Annually (on or before April 30th)

FPC Form 151
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		3 of 11

Subgroup	Respondent Category	Schedule Number(s)	Old FPC Form	Submission Date
Monthly Submission				
1	Class A & Class B (Electric Utilities)	0165,0166,0215	5	Monthly (40 days after end of reporting month)
2	Class A & Class B (Natural Gas Companies whose combined gas sales for resale and gas transported or stored for a fee exceeding 50 million MCF)	0182-0186,0215	11	Monthly (40 days after end of reporting month)

Each schedule is identified by a schedule number and title (see Appendix 1, List of Corporate and Financial Schedules).

FPC Form 151
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
		4 of 11

II. STANDARD DEFINITIONS AND CODES

A. UNIFORM SYSTEMS OF ACCOUNTS

The required submission for Class A, Class B, Class C and Class D natural gas pipeline and electric utilities and licensees will be prepared in conformity with the "Uniform Systems of Accounts for Natural Gas Companies" or "Uniform Systems of Accounts for Public Utilities and Licensees" prescribed by Part 101, 104, 201 and 204 of Title 18 CFR. All mention of accounts, accounting requirements and terminology are to be interpreted in accordance with the said classifications.

For Municipal Electric Utilities and Federal Projects, the required submissions should be filled out in accordance with the individual schedule instructions which provide titles of data requirements to fit special respondent cases. Account numbers are related to each of the data titles to assist internal processing of data.

B. ACCOUNT NUMBERING SYSTEM

The new reporting system requires five digit numbers. In reporting the account numbers for the Uniform Systems of Accounts, the respondent must add zeros, either one or two as appropriate, after the number to complete the five digit system. For example, Account 101, Plant in Service, must be reported as Number 101.00; Account 419.1., Allowance for Funds Used During Construction, must be reported as 419.10.

C. SUPPLEMENTAL ACCOUNT NUMBERS

A system of Supplemental Account Numbers have been developed to accommodate the processing of the following types of information:

- Required data items that do not have assigned Uniform Systems of Account numbers (e.g., total assets, net income, etc.)
- Respondents with several reporting departments (e.g., electric, gas, steam, common, other)

FPC Form 151
(3-76)

UMI

- Required additional breakdown of data from existing account numbers (e.g., depreciation expense, deferred taxes, etc.)

These categories of information add to and/or expand the data identified by the Uniform Systems of Accounts. The Supplemental Account Numbers are a necessary control to insure uniform reporting of certain data elements and will assist in the efficient processing of the various categories of information.

From the above considerations, many Supplemental Account Numbers are expressed using previously undefined numbers from the Uniform Systems of Accounts:

- A three digit code (e.g., 010.00 - Sources of Funds - Operation - Net Income) or
- A three digit code with decimal (e.g., 046.10 - Total Salaries and Wages)

Further, some existing accounts in the Uniform Systems of Accounts were expanded by addition of a decimal, as:

- Accumulated Deferred Income Taxes - Accelerated Amortization (281) expanded to
- Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities (281.20)

Finally, to indicate reporting by different departments internal to the respondent's operations, a second decimal place was added to any existing Uniform System of Account number or any new Supplemental Account number as shown in the following examples:

FPC Form 131 (3-76)

Example 1:

Uniform System of Account Number	Description
101	Plant in Service
expanded to -	
Supplemental Account	**Description**
Electric Respondents	
101.01	Plant in Service - Electric
101.02	Plant in Service - Gas
101.03	Plant in Service - Common
101.04	Plant in Service - Steam
101.05	Plant in Service - Other
Gas Respondents	
101.01	Plant in Service - Gas
101.02	Plant in Service - Electric
101.03	Plant in Service - Common
101.05	Plant in Service - Other

Example 2:

Supplemental Account	Description
281.20	Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities
expanded to -	
Electric Respondents	
281.21	Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities - Electric
281.22	Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities - Gas
Gas Respondents	
281.21	Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities - Gas
281.22	Accumulated Deferred Income Taxes - Accelerated Amortization - Pollution Control Facilities - Electric

FPC Form 131 (3-76)

The instructions for each schedule list the specific account numbers or indicate where the respondent is required to report departmental information on the basis of supplemental account numbers.

D. SELECTED DEFINITIONS

The following definitions pertain to the indicated subgroups of Corporate and Financial schedules:

1. Annual Submission (Natural Gas Pipeline Respondents)

a. Gas Volumes: All gas volumes will be reported in MMCF rounded to three decimal places. Pressure base of gas volumes reported will be 14.73 PSIA at 60° Fahrenheit, pursuant to Exhibit H of Circular No. A-46, of the Bureau of the Budget issued February 1966.

b. Natural Gas means either natural gas unmixed or any mixture of natural and manufactured gas.

c. BTU per Cubic Foot: The total heating value expressed in BTU, produced by the combustion, at a constant pressure, of the amount of the gas which would occupy a volume of one cubic foot at a temparature of 60° Fahrenheit if saturated with water vapor and under a pressure equivalent to that of 30 inches of mercury at 32° Fahrenheit and under standard gravitational force (980.665 cm. per second^2) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of gas and air when the water formed by combustion is condensed to the liquid state. (Sometimes called gross heating value or total heating value).

2. Annual Submission (Electric Operating Respondents)

a. Electric Plant: A unit or group of units of the same or different generating type as long as they can be considered at the same physical site.

b. Electric System: The physically connected generation, transmission, distribution, and other facilities operated as an integral unit under one control, management, or operating supervision.

FPC Form 131 (3-76)

c. Electric Utility: All enterprises engaged in the production and/or transmission and/or distribution of electricity for use by the public, including investor-owned, cooperatively-owned, government-owned (municipal systems, Federal agencies, state projects, and public power districts); and where the data are not separable, those industrial plants contributing to the public supply.

3. Annual Submission (Licensees)

a. The term "project" means all the property covered by a single license number.

b. The term "Federal Project" means those electric projects operating under the supervision of the Alaska Power Administration, Bonneville Power Authority, Bureau of Indian Affairs, Colorado River Storage Project, Southeastern Power Administration, Southwestern Power Administration, Tennessee Valley Authority, U.S. Bureau of Reclamation, and U.S. Corps of Engineers.

4. Monthly Submission (Natural Gas Pipeline Respondents)

a. Imports are gas receipts into the United States of America from a foreign country.

b. Exports are gas deliveries out of the United States of America to a foreign country.

c. Firm Gas Sales to industrial customers are those made under schedules or contracts which anticipate no interruption.

d. Off-Peak Gas Sales to industrial customers are those made under schedules or contracts on a firm basis for periods specified for other than times of seller's peak requirements.

e. Interruptible Gas Sales to industrial customers are those made under schedules or contracts which provide for curtailment by the seller in order to protect service to firm customers.

FPC Form 131 (3-76)

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III. GENERAL INSTRUCTIONS

A. ALL SCHEDULES

1. Information on Utility Departments

For companies having more than one utility department, report information on the basis of total company operations except where otherwise requested on the particular schedule.

2. Changes in Previous Year Reported Figures

Beginning of the year balances are not required on most of the financial schedules. Where amounts reported in the previous year (balance end of year) do not agree with beginning of year amounts for any reason, the respondent shall furnish an explanation of the reason in a footnote.

B. ANNUAL SUBMISSION SCHEDULES

1. Additional Submission

In addition to filing the Annual Submission of Schedules, each respondent shall also file with the Commission, immediately upon publication, five copies of its latest annual report to stockholders and of any annual financial or statistical report regularly prepared and distributed to bond-holders, security analysts, or industry associations. If reports to stockholders are not prepared, so state on Schedule 0112, "Annual Notes to Financial Data".

2. Letter by Certified Public Accountant

Class A and Class B respondents shall file with the original and each copy of the "Annual Submission of Schedules" a letter or report (required by Sections 41.10 - 41.12 of the Commission's Regulations under the Federal Power Act or Sections 158.10 - 158.12 of the Commission's Regulations under the Natural Gas Act) signed by independent certified accountants or independent licensed public accountant, certified or licensed

FPC Form 131 (3-76)

by a regulatory authority of a State or other political subdivision of the United States until December 31, 1975 and beginning January 1, 1976, and each year thereafter, only independent certified public accountants and independent licensed public accountants (licensed on or before December 31, 1970) will be authorized in attesting to the conformity, in all material respects, of the following schedules in this report with the Commission's applicable Uniform Systems of Accounts (statement certification includes applicable notes relating thereto) and published Commission accounting releases:

Schedule Number	Description
0124	List of Accounts (Part I or Part II)
0133	Long Term Debt
0136	Computation of Federal Income Tax Accruals for the Year
0137	Consolidated Federal Income Tax Return Information
0138	Accumulated Deferred Income Taxes
0139	Accelerated Amortization of Facilities
0140	Tax Deferrals Related to Other Property
0143	Particulars for Estimating Depreciation, Depletion and Amortization of Utility Plant
0144	Plant in Service or All Utility Plants
0145	Completed Construction Not Classified
0149	Plant and Production Properties Held for Future Use
0150	Construction Work in Progress
0151	Accumulated Provision for Depreciation of Utility Plant - Part I
0152	Accumulated Provision for Depreciation of Utility Plant - Part II
0154	Common Plant and Expense Data - Part II

FPC Form 131 (3-76)

Schedule Number	Description
0155	Common Plant and Expense Data - Part I
0159	Operating Revenues
0162	Detailed Account Data - Part II
0163	Detailed Account Data - Part III (Only Information Pertaining to Retained Earnings Accounts)
0164	Detailed Account Data - Part IV (Only Information Pertaining to Plant Materials and Operating Supplies and Prepayments (Gas Respondents))
0187	Reconciliation of Reported Net Income with Taxable Income

The letter or report shall be in the following form unless unusual circumstances or conditions, explained in the letter or report, demand that it be varied:

> In connection with our regular examination of the financial statements of for the year ended , on which we have reported separately under date of , we have also reviewed schedules of the annual submission for the year filed with the Federal Power Commission, for conformity in all material respects with the requirements of the Federal Power Commission as set forth in its applicable Uniform Systems of Accounts and published Commission accounting releases. Our review for this purpose include such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Based on our review, in our opinion the accompanying schedules identified in the preceding paragraph (except as noted below)* conform in all material respects with the accounting requirements of the Federal Power Commission as set forth in its applicable Uniform Systems of Accounts and published accounting releases.
>
> * Parenthetical phrase inserted only when exceptions are to be reported.

The letter or report shall state, additionally, which, if any, of the schedules set forth above do not conform to the Commission's requirements, and shall describe the descrepancies that exist.

FPC Form 131 (3-76)

UMI

Attachment C

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0100 INDEX OF FPC PUBLIC USE SCHEDULES SUBMITTED		1 of 2

I. DESCRIPTION

This schedule shall be used to identify the schedules which were submitted by each respondent.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all Federal Power Commission respondents.

B. This schedule shall be completed for each submission of schedules to the Federal Power Commission.

C. The report period date required on line two of this schedule shall he the final date of the period covered by the submission i.e., if data is reported on a calendar year basis, the date to be reported is December 31, 1976, in the format MMDDYY
123176.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1	Date Received in Mail Room (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
2	Date Received in DBCG (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
3 (Key)	Schedule Number (N4): Enter the schedule number of each schedule being submitted in this submission.
4	Schedule Contact Name (A35): Enter the name of the individual to contact about the schedule number reported in data field 3 above. The format for the name is: Last Name, First Name or Initial, Middle Initial. (IDNAME)
5	Schedule Contact Telephone Number (A12): Enter the area code and telephone number, in the format NNN-NNN-NNNN. Be certain to over strike the preprinted hyphens (-).
6	Number of Pages (N4) NO: Enter the number of pages submitted for the schedule reported in data field 3 above.
7	Indicate Primary Reporting Media, Hardcopy or Tape (N1): Enter "1" if hardcopy is being submitted; or enter "2" if tape is being submitted. (INETOR)

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0100 INDEX OF FPC PUBLIC USE SCHEDULES SUBMITTED		2 of 2

Data Field Number	Instructions
8	Name of Attestor: Enter the legal name of the individual who is attesting to the validity of the data content being submitted on each of the schedules reported in data field 3 above. (IDNAME)
9	Signature of Attestor: Enter the attestora legal signature in this data field. (IDNAME)
10	Date of Attestation: Enter the date of attestation, in the format MMDDYY. (TMDATE)

FPC Form 131
(3-76)

PROPOSED RULES

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RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0101	GENERAL CORPORATE INFORMATION	1 of 2

I. DESCRIPTION

This schedule is used to collect general corporate information for a basic profile on the respondent.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Class A and B respondents shall complete all data fields on this schedule in their first submission. Class C and Class D respondents complete data fields 1 thru 6 only. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions, however, if data fields 10 and 11 are not being submitted, do not complete them as key data fields.

C. Report in data fields 1-9 general information on location of books, incorporation data and public accountants. Report in both data fields 10 and 11 information on the type of service provided (10) and the state(s) where the service is provided (11).

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Name of Officer with Custody of Corporate Books (A22): (IDNAME)
2	Location of Main Books (A22): Enter the state and city where general corporate books are kept. Enter the state appreviation, from the Register of Data Standards, IDSTAT, in the first two postions of this data field, followed by the city name (IDCITY).
3	Location of Other Books (A22): Enter the state and city where any other corporate books of accounts are kept, if different from that at which the general corporate books are kept. Enter the state abbreviation, from the Register of Data Standards, IDSTAT, in the first two positions of this data field, followed by the city name (IDCITY).
4	Incorporation State (A2): Enter the state abbreviation, from the Register of Data Standards, IDSTAT.
5	Incorporation Date (N6) Enter the date the respondent was incorporated, in the format MMDDYY. (TMDATE)
6	Special Law Reference (A20): If incorporated under a special law, give reference to such law. If not incorporated, state type of organization. (IDDESC)

FPC Form 151 (5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0101	GENERAL CORPORATE INFORMATION	2 of 2

Data Field Number	Instructions
7	Public Accountant (A22): Enter the name of the respondent's independent certified public accountant or independent licensed public accountants (licensed on or before December 31, 1970). (IDNAME)
8	Address of Public Accountant (A22): Enter the state and city. Enter the state abbreviation, from the Register of Data Standards, IDSTAT, in the first two positions of this data field followed by the city name (IDCITY). Date Public Accountant Initially Engaged (N6): Enter the date the public accountant was initially engaged, in the format MMDDYY. The latest year should only be shown if a change in accountants was made during the year. (TMDATE)
10 (Key)	Type of Service (A3): Enter separately each type of utility service furnished, from the following alphabetic abbreviations: (TYUTIL) GAS = Gas ELC = Electric WTR = Water OTH = Other
11 (Key)	State of Service (A2): Enter the abbreviation for each state where respondent supplies the service listed in data field 10 above, from the Register of Data Standards, IDSTAT.

FPC Form 151 (5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0102	CONTROL OVER RESPONDENT	1 of 2

I. DESCRIPTION

This schedule is used to collect information on any corporations, business trusts or similar organizations or combinations of such organizations which held control over the respondent any time during the year.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents. Class C and Class D respondents complete data fields 1 thru 4 only.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

C. In completing this schedule refer to the Uniform System of Accounts for a definition of control.

To summarize:

Direct control is that which is exercised without interposition of an intermediary.

Indirect control is that which is exercised by the interposition of an intermediary which exercises direct control.

Joint control is that in which neither interest can effectively control or direct action without the consent of the other, as where the voting control is equally divided between two holders, or each party holds a veto power over the other. Joint control may exist by mutual agreement or understanding between two or more parties who together have control within the meaning of the definition of control in the Uniform System of Accounts, regardless of the relative voting rights of each party.

D. Report in data fields 1-3 information on companies who directly control the respondent. Report in data field 4 if control over respondent was held under a trust arrangement. For natural gas respondents, if other companies are controlled by the organization listed in data field 1, list in data field 5 the name of each such company and complete data fields 6 and 7. For electric respondents, if control over respondents was in a holding company, list in data field 5 the name of each company in the chain of ownership from respondent to parent organization and complete data field 7.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Name of Controlling Corporation or Organization (A35): (IDNAME)

FPC Form 151 (5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0102	CONTROL OVER RESPONDENT	2 of 2

Data Field Number	Instructions
2	Description of Manner of Control (A40): (IDDESC)
3	Extent of Control (N3) PCT: Enter the extent of control in per cent, rounded to the nearest per cent.
4	Description of Trust Arrangements (A40): If control was held by a trustee(s), state name of trustee(s), name of beneficiary or beneficiaries for whom trust was maintained, and purpose of trust. (IDDESC)
5 (Key)	Other Controlled Company (A35): If other companies are controlled by the organization which holds control over the respondent, list the names of such companies in this data field. (IDNAME)
6	Kind of Business (A27): State the kind of business engaged in by the company listed in data field 5 above. This data field is not applicable to electric respondent. (IDDESC)
7	Extent of Control (N3): State the tier placement of the company listed in data field 5, above, to the controlling corporation or organization reported in field 1, above, by the following example of codes: (NRCADL) OD1 - first tier-subsidiary OD2 - second tier-subsidiary of tier 1 OD3 - third tier-subsidiary of tier 2

FPC Form 151 (5-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0104	CORPORATIONS CONTROLLED BY RESPONDENT	1 of 2

I. DESCRIPTION

This schedule is used to collect information on all corporations, business trusts, joint ventures and similar organizations controlled directly or indirectly by the respondent at any time during the year.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

C. In completing this schedule, refer to the Uniform System of Accounts for a definition of control.

To summarize:

Direct control is that which is exercised without interposition of an intermediary.

Indirect control is that which is exercised by the interposition of an intermediary which exercises direct control.

Joint control is that in which neither interest can effectively control or direct action without the consent of the other, as where the voting control is equally divided between two holders, or each party holds a veto power over the other. Joint control may exist by mutual agreement or understanding between two or more parties who together have control within the meaning of the definition of control in the Uniform System of Accounts, regardless of the relative voting rights of each party.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Name of Company Controlled (A35): (IDNAME)
2	Kind of Business (A30): (IDDESC)
3	Per Cent Voting Stock Owned (N3) PCT: Enter the per cent of voting stock owned, rounded to nearest per cent.
4	Particulars for Corporation Controlled (A144): If control ceased at any time during the year, furnish particulars regarding companies involved, manner of disposition and any other important aspects.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0104	CORPORATIONS CONTROLLED BY RESPONDENT	2 of 2

Data Field Number	Instructions
4 (cont'd)	If control was by other means than a direct holding of voting rights, state the manner in which control was held, naming any intermediaries involved. If control was held jointly with one or more other interests, state the fact and name the other interests; however, state if corporation is inactive. (IDDESC)

FPC Form 131
(3-76)

FEDERAL REGISTER, VOL. 41, NO. 168—FRIDAY, AUGUST 27, 1976

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0105	CORPORATE OFFICERS/DIRECTORS	1 of 3

I. DESCRIPTION

This schedule is used to collect data on each general officer and director of the respondent who held office at any time during the year.

II. GENERAL INFORMATION

A. This schedule shall be submitted by the following categories of respondents:

Respondent Category	Data Fields
~~(1) Class A and Class B (Natural Gas and Electric)~~	~~All~~
(2) Class C and Class D (Natural Gas and Electric)	1-7,9,10

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

C. Report the particulars applicable to all officers and/or directors of the respondent for the reporting year. Other employees of the respondent whose annual salary is $25,000 per year or more ($35,000, if respondent's annual operating revenues are $50,000,000 or more) must also be reported on Schedule 0106, Other Corporate Employees.

D. If an individual is both an officer and director of the respondent, report separately the information called for in this schedule, once for the position of officer and once for the position of director.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Officer's/Director's Last Name (A15): (IDNAME)
2 (Key)	Officer's/Director's First Name and Middle Initial (A15): Enter the full first name and initial(s), separated by a space. (IDNAME)
3	Officer's/Director's Business Address (A22): For officers, enter the financial business address if different from the respondent's address. For directors, enter the principal business address if different from company address. Enter the two character abbreviation, from the Register of Data Standards, IDSTAT, followed by city name (IDCITY).

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0105	CORPORATE OFFICERS/DIRECTORS	2 of 3

Data Field Number	Instructions
4	Officer/Director Category (N1): Enter the one digit numeric code as follows: (TYOFDR) 1 = Officer 2 = Director 3 = Both 9 = Other
5	Officer/Director Title (A30): Enter the officer's and/or director's title at the end of the reporting year. If any officer/director retired during the year, write the word "retired" in this data field. If any officer/director otherwise left the respondent during the year, leave this data field blank. Abbreviate as necessary. Examples: V.P. - Vice President, Treas. - Treasurer, Sec. - Secretary, etc. (IDDESC)
6	Officer/Director Salary - Fee (N6) DOL: Report any salaries or regular fees paid during the year.
7	Director/Member of Executive Committee (N1): Indicate "1" for chairman of the executive committee; "2" for member of that committee; or "3" for neither. (TYEXCO)
8	Officer/Director Retirement Benefits (N6) DOL: Enter the annual benefits estimated to be payable to each of the three highest paid officers, and any director who is not an officer named herein, in the event of retirement at normal retirement date, pursuant to any pension or retirement plan.
9	Officer/Director Date Position or Term Began (N6): Enter the date, in the format MMDDYY, each officer first began the position listed in data field 5 above. Enter the date each director was first elected to the position of director. (TMDATE)
10	Officer/Director Date Retired or Otherwise Separated (N6): Enter the date, in the format MMDDYY, that any officer or director retired or otherwise left the respondent during the year. (TMDATE)
11	Director Meetings Attended (N2) NO: Enter the number of meetings each director attended during the past year.
12	Officer/Director Special Remuneration Value (N8) DOL: If any officer and/or director reported in this schedule received remuneration from respondent, directly or indirectly, other than from salary and/or fees reported in data field 6 above, enter the value of the remuneration (in dollars).

FPC Form 131
(3-76)

FEDERAL REGISTER, VOL. 41, NO. 168—FRIDAY, AUGUST 27, 1976

UMI

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0105	CORPORATE OFFICERS/DIRECTORS	3 of 3

Data Field Number	Instructions
13	Officer/Director Special Remuneratinn Type (A44): Enter the particulars concerning any special remuncration received by any officer and/or director reported in data field 12 above. Give the essentials of any plan for remuneration and/or the basis fnr determining the ultimate benefits received by such officer and/or director. (IDDESC)
14	Officer/Director Insurance Type (A126): State briefly any arrangement paid for by the respondent on behalf of any officer or director, such as life insurance and indemnity or liability insurance, etc., and the value of such arrangement. If the insurance benefits listed in this data field apply to all officers/directors, report the required information only once under the officer or director whose title is President or Chairman of the Board. (IDDESC)

FPC Form 151
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0108	SECURITY HOLDERS AND VOTING POWERS	1 of 1

I. DESCRIPTION

This schedule is used to collect detailed information on holders of the respondent's outstanding securities and voting power thereof, to include:

(a) the ten security holders with the highest voting powers and,

(b) the security holdings and voting powers of any officer or director of the respondent not included in (a) above.

II. GENERAL INFORMATION

A. This schedule shall be completed by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions and deletions.

C. In data fields 4-7, state the number of votes which each security holder would have had the right to cast on the latest record date, if a meeting were then in order. The latest record date should be reported on Schedule 0107, data field 7.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field numbers:

Data Field Number	Instructions
1 (Key)	Name of Security Holder (A35): (IDNAME)
2	Location of Security Holder (A22): Enter the state abbreviation in the first two positions of the data field, from the Register of Data Standards, IDSTAT, followed by the city name (IDCITY).
3	Officer/Director Indicator (N1): If the security holder named in data field 1 above, is an officer or director within the respondent's organization, enter "1"; if not, enter "0". (INYANO)
4	Total Number of Votes (N8) NO.
5	Votes - Common Stock (N8) NO.
6	Votes - Preferred Stock (N8) NO.
7	Votes - Other Voting Securities (N8) NO.

FPC Form 151
(3-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0111	NOTES TO SECURITY HOLDERS AND VOTING POWERS	1 of 2

I. DESCRIPTION

This schedule is used to collect additional information related to (a) stock options, warrants or rights outstanding at end of the year, and (b) the voting rights and privileges carried by any security other than the repondents common and preferred stock.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule annually as necessary to support schedule Nos. 0107 and 0108.

C. This schedule supports information included on two schedules:

Schedule 0107 - "Security Holders and Voting Powers - Total"

Schedule 0108 - "Security Holders and Voting Powers."

D. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent. Particulars should include names of the parties granted the options, warrants or rights, the prices to be paid, expiration dates, and other material information relating to the exercise of the securities or assets. Specify the name of any officer, director, associated company, or any of the ten largest security holders who hold stock options warranty or rights at the end of the year.

E. Give complete description of any other security carrying voting rights and explain the circumstances whereby the security became vested with voting rights. If any class or issue of security (other than common or preferred stock) has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain the extent and circumstances.

F. This schedule is not applicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

G. If the respondent needs additional space to complete the text information (data field 4) for any particular note, use a separate entry, repeating the same information in data fields 1 and 2 and using successive numbers (1, 2, 3, etc.) in data field 3.

III. DETAILED INSTRUCTIONS

The following data field-by data field instructions are cross-referenced to the corresponding schedule layouts by data field number:

Data Field Number	Instructions
1 (Key)	Type of Note (A60): Give a single word or short phrase identification such as: "options", "warrants," "rights," etc. (IDDESC)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0111	NOTES TO SECURITY HOLDERS AND VOTING POWERS	2 of 2

Data Field Number	Instructions
2 (Key)	Type of Note Sequence Number (N1): Use successive numbers to designate more than one occurrence of specific type of security or item listed in data field 1 above. If only one occurrence for a particular item, report "1". (NRCADL)
3 (Key)	Entry Continuation Number (N1): Use successive numbers to designate continuation entries of textual information for a particular item listed in data field 1. If only one textual entry is needed to report the required disclosure, enter "1". (NRCADL)
4	Text of Note (A249): (IDDESC)

74

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0112	ANNUAL NOTES TO FINANCIAL DATA	1 of 4

I. DESCRIPTION

This schedule is used to collect information deemed necessary for adequate disclosure to support the financial data, including the financial statements, presented to the Commission in the annual filing, to include the following aspects:

A. Disclosures of all important accounting policies.

B. Disclosure of accounting changes made during the year which had significant effect on the reported net income.

C. Disclosure of all contingent assets or liabilities or significant commitments existing at the end of the year which have not been reflected in the financial data.

D. Disclosure of any other important changes occurring during the year which have not been provided elsewhere in the filing.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. Respondents will use the following guidelines to report disclosure information, using titles underlined below as the Type of Note in data field 1:

1. Accounting Policies: In disclosing its accounting policies, the respondent should identify and describe the accounting principles it has utilized, the methods of applying those principles and the impact of such policies on the financial data submitted. Examples of accounting policies that may be considered significant together with suggested minimum disclosure requirements include:

(a) Plant and Depreciation

(b) Federal Income Tax Expense

(1) Details on the accounting treatment for Federal income taxes (flow through, full normalization, partial normalization).

(2) Details on the ratemaking treatment for Federal income taxes (flow through, full normalization, partial normalization).

(3) Details on accounting for the allocation of income taxes between utility and non-utility segments of company operations.

(4) Details on the accounting for IRS settlements as claim for refunds.

(5) Details on the accounting for recognition of operating loss carrybacks and carryforwards.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0112	ANNUAL NOTES TO FINANCIAL DATA	2 of 4

(6) If the provisions of the tax laws are being utilized with respect to plant property (ADR class life and liberalized depreciation, repair allowance, etc.) for Federal income tax purposes and the resultant benefits are being flowed through the income statement, disclose the effect of such on the income statement.

(c) Investment Tax Credits

(1) Details on the method of accounting adopted for investment tax credits utilized in the current year.

(2) Details on whether the respondent has consented or is required by a regulatory commission to pass the benefits of investment tax credits along to consumers.

(3) For each year beginning with 1971, details on the ratemaking treatment of these credits to include option for (1) rate base treatment, (2) ratable flow through, (3) flow through in accordance with Section 46 (f) of the Internal Revenue Code, or (4) other method.

(d) Equity Accounting

(e) Unbilled Revenues

(f) Deferred Fuel Cost

Details on the accounting and ratemaking treatment for deferred fuel cost, to include whether specific approvals have been received from regulatory commissions to defer and recover these costs for ratemaking purposes.

(g) Deferrals of Expense or Other Items

(h) Reacquisition of Long Term Debt

(1) Details on the amount of gains and/or losses for the year from reacquistion of long term debt.

(2) Details on the accounting for such gains or losses (included in income/amortized).

(3) Details on the accounting treatment of unamortized debt discount and expense if different from the requirements of the Uniform System of Accounts.

(i) Pension Plan

(1) Details on the method of funding.

(2) Details on the pension cost for the current year charged to expense and capital accounts.

FPC Form 131
(3-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0112	ANNUAL NOTES TO FINANCIAL DATA	3 of 4

(3) Details on the amount of unfunded vested benefits.

(4) Details on the effect of the Security Act of 1974 on annual pension cost.

(5) Details on any changes in method of funding for the year.

(j) Research and Development

(k) Other

2. Accounting Changes: Information on important accounting changes should include the nature of and justification for the change, and should include the dollar effect of the change on the reported financial data. The respondent should utilize the following definition of an accounting change taken from Opinion No. 20 of the Accounting Principles Board for purposes of this requirement.

The term accounting change means a change in (a) an accounting principle, (b) an accounting estimate, or (c) the reporting entity.

In considering the importance of an accounting change, the respondent should consider the impact (or estimated impact), on not only the financial data for the current reporting period, but should also consider the financial impact of the changes on subsequent years results of operations.

3. Contingencies or Commitments: Information on all contingent assets or liabilities or significant commitments shall include all pertinent facts surrounding such matters. Examples of matters that should be reported in this section include:

(a) Particulars of all important legal proceedings pending at the end of the year and the results of proceedings culminated during the year; including the related accounting for any settlements.

(b) Commitments related to the respondent's construction program.

(c) Long term commitments on the purchase of fuel supply.

(d) Short term bank borrowing arrangements including open lines of credit, compensating balance arrangements, commitment fees, and average annual effective interest rates.

(e) Details on obligations incurred or assumed by respondent as guarantor for performance by another of any agreement or obligation. Such information shall include the amount of the obligation and the name of the commission authorizing assumption, if any, and date of authorization.

4. Other Important Changes: Information on other important changes during the year shall disclose all significant changes occuring during the year not provided for elsewhere in the Schedules in this filing.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0112	ANNUAL NOTES TO FINANCIAL DATA	4 of 4

Examples of changes include changes in articles of incorporation or amendments to the corporate charter; acquisition of ownership in other companies; recognition, merger or consolidation with other companies, particulars if control over respondent was held by a receiver or trustee.

For securities assumed during the year, the name of the company from which the liability was assumed and other particulars of the transaction should be included in data field 4. For Class A and B respondents, if any unamortized discount, premium, expenses and/or gains or losses were taken over into the respondent's books, details of these amounts should be included in schedule 0123, "Securities Assumed, Refunded or Retired during the Year," data fields 5-9. Additional disclosure on the respondent's accounting policy with respect to gains and losses on security transactions should be included under item (h), above, of this schedule.

D. If the respondent needs additional space to complete the text information (data field 4) for any particular note, use a separate entry, repeating the same information in data fields 1 and 2 and using successive numbers (1, 2, 3, etc.) in data field 3.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Type of Note (A60): Examples: (IDDESC) Policies - Income Tax Expense Policies - Equity Accounting Changes - Unbilled Revenues Contingencies/Commitments - Construction Program
2	Note Number (N1): Use successive numbers to designate more than one occurrence of the type of note listed in data field 1 above. If only one occurrence is needed for a particular type note, enter "1". (NRCADL)
3	Entry Continuation Number (N1): Use successive numbers to designate continuation entries of textual information for a particular note. If only one textual entry is needed to report the required disclosure, enter "1" in this data field. (NRCADL)
4	Text of Note (A249): (IDDESC)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	1 of 9

I. DESCRIPTION

This schedule is used to collect the end of year balance or the amount for the year for certain accounts of the Uniform System of Accounts and certain other financial data that has been categorized as Supplemental Accounts. (For a discussion of the relationship between the two systems of accounts see General Instruction for Corporate, Economic and Other Financial Schedules.) This schedule replaces several former schedules which reported details of:

- Comparative Balance Sheet
- Statement of Income for the Year
- Statement of Retained Earnings for the Year
- Other supporting schedules including account balances from numerous schedules

The account numbers to be used from the two systems of accounts are listed in General Information, II-C.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class C and Class D Electric respondents.

B. Reapondents shall complete all data fields on this schedule annually.

C. The data to be reported is structured upon the account groupings from the Uniform System of Accounts augmented by a system of Supplemental Accounts to integrate related data. Included on this schedule are five account groupings, each identified by title and source:

Account Group	Title	Source
1	Balance Sheet Accounts	Uniform System of Accounts/ Supplemental Accounts
2	Income Statement Accounts	Uniform System of Accounts/ Supplemental Accounts
3	Retained Earnings Accounts	Uniform System of Accounts
4	Other Accounts	Uniform System of Accounts/ Supplemental Accounts
5	Departmental Accounts	Supplemental Accounts

Those respondents with only one utility department in their internal organizations shall report groups 1 through 4, while those with more than one department will report groups 1 through 5.

Respondents should start each account group on a new schedule collection sheet. Within each group, account numbers should be listed according to numerical sequence.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	2 of 9

1. Balance Sheet Accounts: Respondents shall report the applicable accounts of the Uniform System of Accounts and Supplemental Accounts:

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
		ASSETS AND OTHER DEBITS UTILITY PLANT	
101.00		Electric plant in service	0144
102.00		Electric plant purchased or sold	0144
103.00		Electric plant in process of reclassification	0144
104.00		Electric plant leased to others	0144
105.00		Electric plant held for future use	0144
107.00		Construction work in progress - Electric	0144
110.00		Accumulated provision for depreciation and amortization of electric utility plant	0188
114.00		Electric plant acquisition adjustments	
116.00		Other electric plant adjustments	
	116.90	Total Utility Plant and Adjustments	
117.00		Gas Stored Underground - noncurrent	
118.00		Other utility plant	
119.00		Accomulated provision for depreciation and amortization of other utility plant	
	119.90	Net Utility Plant	
		OTHER PROPERTY AND INVESTMENTS	
121.00		Nonutility property	
122.00		Accumulated provision for depreciation and amortization of nonutility property	
	122.90	Net (Accounts 121.00-122.00)	
124.00		Other investments	
125.00		Special funds	
	125.90	Total Other Property and Investments	
		CURRENT AND ACCRUED ASSETS	
131.00		Cash and working funds	
132.00		Temporary cash investments	
141.00		Notes receivable	
142.00		Customer accounts receivable	
143.00		Other accounts receivable	
144.00		Accumulated provision for uncollectable accounts - credit	
145.00		Notes receivable from associated companies	
146.00		Accounts receivable from associated companies	
150.00		Materials and supplies	
164.10		Gas stored underground - current	
164.20		Liquefied natural gas stored	

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	3 of 9

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
165.00		Prepayments	
170.00		Other current and accrued assets	
	179.90	Total Current and Accrued Assets	
		DEFERRED DEBITS	
181.00		Unamortized debt expense	
182.00		Extraordinary property losses	
183.00		Other deferred debits	
187.00		Deferred losses from disposition of utility plant	
189.00		Unamortized loss on reacquired debt	
190.00		Accumulated deferred income taxes	
	198.90	Total Deferred Debits	
	199.90	Total Assets and Other Debits	
		LIABILITIES AND OTHER CREDITS PROPRIETARY CAPITAL	
201.00		Common capital stock	0132
204.00		Preferred capital stock	0132
207.00		Other paid-in capital	
212.00		Installments received on capital stock	
213.00		Discount on capital stock	
214.00		Capital stock expense	
215.00		Appropriated retained earnings	0163
216.00		Unappropriated retained earnings	
217.00		Reacquired capital stock	
218.00		Noncorporate proprietorship	
	219.90	Total Proprietary Capital	
		LONG-TERM DEBT	
221.00		Bonds	0133
223.00		Advances from associated companies	0161
224.00		Other long-term debt	0161
225.00		Unamortized premium on long-term debt	
226.00		Unamortized discount on long-term debt - debit	
	229.90	Total Long-Term Debt	
		CURRENT AND ACCRUED LIABILITIES	
231.00		Notes payable	
232.00		Accounts payable	
233.00		Notes payable to associated companies	
234.00		Accounts payable to associated companies	
235.00		Customer deposits	
236.00		Taxes accrued	

FPC Form 131
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	4 of 9

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
237.00		Interest accrued	
238.00		Other current and accrued liabilities	
	249.90	Total Current and Accrued Liabilities	
		DEFERRED CREDITS	
252.00		Customer advances for construction	
253.00		Other deferred credits	
255.00		Accumulated deferred investment tax credits	0162
256.00		Deferred gains from disposition of utility plant	
257.00		Unamortized gain on reacquired debt	
281.00		Accumulated deferred income taxes - accelerated amortization property	
282.00		Accumulated deferred income taxes - other property	
283.00		Accumulated deferred income taxes - other	
	284.90	Total Deferred Credits	
		OPERATING RESERVES	
261.00		Property insurance reserve	
262.00		Injuries and damages reserve	
263.00		Pensions and benefits reserve	
264.00		Amortization reserve - Federal	
265.00		Miscellaneous operating reserves	
	269.90	Total Operating Reserves	
	299.90	Total Liabilities and Other Credits	

2. Income Accounts: Respondents shall report the applicable accounts of the Uniform System of Accounts and Supplemental Accounts. Respondents with more than one department report in this group the totals of operating expenses of all departments and in group 5, report separate details of operating expenses for each department.

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
		UTILITY OPERATING INCOME	
400.00		Operating revenues	
412.00		Revenues from plant leased to others	
401.00		Operation expense	
402.00		Maintenance expense	
403.00		Depreciation and depletion expense	

FPC Form 131
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	5 of 9

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
404.00		Amortization of limited-term electric plant	
405.00		Amortization of other electric plant	
406.00		Amortization of electric plant acquisition adjustments	
407.00		Amortization of property losses	
408.10		Taxes other than income taxes, utility operating income	
409.10		Income taxes, utility operating income	
410.10		Provision for deferred income taxes, utility operating income	
411.10		Provision for deferred income taxes - credit utility operating income	
411.40		Investment tax credit adjustments, utility operations	
411.60		Gains from disposition of utility plant	
411.70		Losses from disposition of utility plant	
413.00		Expenses of electric plant leased to others	
	413.90	Total Utility Operating Expenses	
	414.90	Net Utility Operating Income	
		OTHER INCOME AND DEDUCTIONS OTHER INCOME	
415.00		Revenues from merchandising, jobbing, and contract work	
416.00		Costs and expenses of merchandising, jobbing and contract work	
417.00		Revenues from nonutility operations	
417.10		Expenses of nonutility operations	
418.00		Nonoperating rental income	
419.00		Interest and dividend income	
419.10		Allowance for funds used during construction	
421.00		Miscellaneous nonoperating income	
421.10		Gain on disposition of property	
		OTHER INCOME DEDUCTIONS	
421.20		Loss on disposition of property	
425.00		Miscellaneous amortization	
426.10		Donations	
426.20		Life insurance	
426.30		Penalties	
426.40		Expenditures for certain civic, political and related activities	
426.50		Other deductions	

FPC Form 131
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	6 of 9

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
		TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS	
408.20		Taxes other than income taxes, other income and deductions	
409.20		Income taxes, other income and deductions	
410.20		Provision for deferred income taxes, other income and deductions	
411.20		Provision for deferred income taxes - credit, other income and deductions	
411.50		Investment tax credit adjustments, non-utility operations	
420.00		Investment tax credit	
	426.90	Net Other Income and Deductions	
		INTEREST CHARGES	
427.00		Interest on long-term debt	
428.00		Amortization of debt discount and expense	
428.10		Amortization of loss on reacquired debt	
429.00		Amortization of premium on debt - credit	
429.10		Amortization of gain on reacquired debt - credit	
430.00		Interest on debt to associated companies	
431.00		Other interest expense	
	431.90	Total Interest Expense	
	432.90	Income Before Extraordinary Items	
		EXTRAORDINARY ITEMS	
434.00		Extraordinary income	
435.00		Extraordinary deductions	
409.30		Income taxes, extraordinary items	
433.00		Balance transferred from income	

3. Retained Earnings Accounts: Respondents shall report the applicable accounts of the Uniform System of Accounts:

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
436.00		Appropriations of retained earnings	
437.00		Dividends declared - preferred stock	
438.00		Dividends declared - common stock	
439.00		Adjustments to retained earnings	

FPC Form 131
(5-76)

UMI

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	7 of 9

4. Other Accounts: Respondents shall report the applicable accounts of the Uniform System of Accounts and the Supplemental Accounts:

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
		a. Electric Operating Revenue Accounts	
		SALES OF ELECTRICITY	
440.00		Residential sales	0158
442.00		Commercial and industrial sales	0158
444.00		Public street and highway lighting	0158
448.00		Interdepartmental sales	0158
449.00		Other sales	0158
	448.90	Total Sales to Ultimate Consumers	
447.00		Sales for resale	0158
	449.90	Total Sales of Electricity	
		OTHER OPERATING REVENUES	
450.00		Forfeited discounts	0158
451.00		Miscellaneous service revenues	0158
453.00		Sales of water and water power	0158
454.00		Rent from electric property	0158
455.00		Interdepartmental rents	0158
456.00		Other electric revenues	0158
	457.90	Total Other Operating Revenues	
		b. Electric Operation and Maintenance Expense Accounts	
	506.90	Steam generation expense - operation and maintenance	
	535.90	Hydraulic generation expense - operation and maintenance	
	543.90	Other generation expense - operation and maintenance	
545.00		Purchased power (including interchanges, etc.)	
546.00		Other expenses	
	547.90	Total Production Expenses	
	553.90	Transmission expense - operation and maintenance	
	576.90	Distribution expenses - operation and maintenance	
	905.90	Customer accounts expenses	
	910.90	Customer service and informational expenses	
910.00		Sales expenses	
	939.90	Administrative and general expenses - operation and maintenance	
	949.90	Total Electric Operation and Maintenance Expenses	

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	8 of 9

5. Departmental Accounts: Respondents with more than one utility department in their internal organization are required to report the following plant and income accounts on the basis of operating utility departments. Supplemental Account numbers have been established to collect this data. The Supplemental Account numbers will consist of a second decimal place after the appropriate Uniform System of Account numbers as follows: Electric department - XXX.X1; gas department - XXX.X2; common - XXX.X3; other departments - XXX.X5. When the basic number from the Uniform System of Accounts is a whole integer (e.g., 101), the supplemental account number will add a zero in the first decimal place (e.g., 101.0) and then the department code (e.g., 101.01). This has been adopted to insure uniformity with those few accounts from the Uniform System of Accounts with a decimal place (e.g., 409.1).

Uniform System of Accounts	Supplemental Accounts	Description	Details on Related Schedules
		UTILITY OPERATING INCOME	
400.00	XXX.X1 to	Operating revenues	
401.00	XXX.X5 for	Operation expense	
402.00	each Uniform	Maintenance expense	
403.00	System of	Depreciation expense	
404.00	Accounts Basic	Amortization of limited-term plant	
405.00	Number	Amortization of other plant	
406.00		Amortization of plant acquisition adjustments	
407.00		Amortization of property losses	
408.10		Taxes other than income taxes, utility operating income	
409.10		Income taxes, utility operating income	
410.10		Provision for deferred income taxes - credit, utility operating income	
411.10		Provision for deferred income taxes - credit, utility operating income	
411.40		Investment tax credit adjustments, utility operations	
411.60		Gains from disposition of utility plant	
411.70		Losses from disposition of utility plant	
	411.80	Total Utility Operating Expenses - Total	
	411.90	Net Utility Operating Income	

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0124	LIST OF ACCOUNTS - PART III (ELECTRIC CLASS C AND CLASS D)	9 of 9

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-C.
2	Amount (N10) DOL.

FPC Form 131
(3-76)

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0132	CAPITAL STOCK	1 of 2

I. DESCRIPTION

This schedule is used to collect selected details on capital stock included in Account 201.00, Common Stock Issued, Account 204.00, Preferred Stock Issued, and Account 217.00, Required Capital Stock.

II. GENERAL INFORMATION

This schedule shall be submitted by the following categories of respondents:

Respondent Category	Data Fields
(1) Class A & Class B Natural Gas and Electric	All
(2) Class C & Class D Natural Gas and Electric	1-4, 6, & 7

B. Respondents shall complete all specified data fields on this schedule annually.

C. Report the particulars called for concerning common and preferred stock at end of year. Report separately each series of and class of preferred stock.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Class and Series of Stock (A40): The designation of each class of preferred stock shall show the dividend rate and whether the dividends are cumulative or noncumulative. Example: Preferred Series A 6% Cumulative. Shares authorized for each class of preferred stock should be shown once under the first series of each class as listed in data field 2. (IDDESC)
3	Number of Shares Authorized by Charter (N8) NO: Show the number of shares authorized by the articles of incorporation (as amended) at end of year.
4	Par or Stated Value Per Share (N5) DOL.
5	Call Price End of Year (N5) DOL.
6	Shares of Capital Stock Outstanding (N8) NO: State the total number of shares outstanding per balance sheet without reduction for amounts held by respondent.
7	Amount of Capital Stock Outstanding (N9) DOL. State the total amount outstanding per balance sheet without reduction for amounts held by respondent.

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0132	CAPITAL STOCK	2 of 2

Data Field Number	Instructions
8	Number of Shares Held by Respondent as Reacquired Stock (N6) NO: Enter the total number of shares held by the respondent as reacquired stock as of the balance sheet date.
9	Cost of Reacquired Capital Stock (N7) DOL: Enter the cost of reacquired capital stock included in Account 217.00.
10	Number of Shares Held by Respondent in Sinking and Other Funds (N6) NO.
11	Cost of Stock Held in Sinking and Other Funds (N7) DOL.
12	Other Stock Particulars (A72): Give particulars of any nominally issued capital stock. If stock is pledged, state name of pledgee and purpose of pledge. State the amount of stock authorized by a regulatory commission but not issued at end of year. (IDDESC)

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0133	LONG-TERM DEBT	1 of 2

I. DESCRIPTION

This schedule is used to collect selected details on long-term debt included in Accounts 221.00, Bonds and 222.00, Reacquired Bonds.

II. GENERAL INFORMATION

A. This schedule shall be submitted by the following categories of respondents:

Respondent Category	Data Fields
(1) Class A & Class B Natural Gas and Electric	All
(2) Class C & Class D Natural Gas and Electric	1, 2, & 5-9

B. Repondents shall complete all appropriate data fields on this schedule annually.

C. For any long-term debt retired during the year, complete information called for in data fields 1, 2, 6, and 8.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Class and Series Description of Obligation (A50): Enter class and series of long-term debt. For example: First Refunding Mortgage - Series B. (IDDESC)
3	Name of Issuing Company (A35): Enter the name of the company issuing the bonds for any bonds assumed by the respondent. (IDNAME)
4	Associated Company Indicator (N1): If company named in data field 3 above is an associated company, enter "1"; if not, enter "0". (INYONO)
5	Nominal Date of Issue (N6): Enter the date, in the format MMDDYY. (TMDATE)
6	Date of Debt Maturity (N6): Enter the date, in the format MMDDYY. (TMDATE)
7	Amount Outstanding (N9) DOL.
8	Amount of Interest for Year (N7) DOL: List the amount of interest expense for the year related to long-term debt listed in data field 2 above. Include any interest expense incurred

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0133	LONG-TERM DEBT	2 of 2

Data Field Number	Instructions
8 (cont'd)	during the year on any obligation retired or reacquired before end of year. Explain in a footnote, any difference between total of data field 8 and the total of Account 427.00, Interest on Long-Term Debt, and Account 430.00 Interest on Debt to Associated Companies.
9	Interest Rate of Debt (N2.3) PCT.
10	Reacquired Bonds Held by Respondent (N9) DOL: Enter the cost of reacquired bonds included in Account 222.00.
11	Sinking and Other Funds Held by Respondent (N9) DOL.
12	End of Year Redemption Price Per $100 (N3.2) DOL: Enter the redemption price (per $100) as of the end of the year. If noncallable, leave data field blank.

FPC Form 131

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0141	INVESTMENT TAX CREDITS	1 of 2

I. DESCRIPTION

This schedule is used to collect information related to investment tax credits for the years 1962 to date.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields and data fields 2 and 4) and changed values, additions, and deletions.

C. This schedule shall be prepared by the respondent regardless of the method of accounting adopted for the investment tax credits. The schedule collects details by years for all investment tax credits generated and utilized by the respondent beginning with 1962 through the current year. The required information for each year should be presented as adjusted at year end to reflect corrections of estimated amounts, carryback or carryforward of unused credits.

D. In the initial submission of this schedule, respondents will indicate Code "1" in data field 3 for each year's data. For subsequent submissions, respondents will use "1" (original) or "2" (corrected) as appropriate.

E. For electric respondents with more than one department, report tax credit for the electric department and the total of tax credits for all other departments. For natural gas respondents with more than one department, report tax credits for the gas department and the total of tax credits of all other departments.

II. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Year (N4): Beginning with 1962 enter the year. (TMYEAR)
2	Rate (N2) PCT: Indicate 03 percent, 04 percent, 07 percent, 10 percent, 11 percent credits or other appropriate percent credits.
3	Indicator Original/Corrected (N1): Enter "1" at time of original submission. On subsequent submissions, enter "1" (original) or "2" (corrected) as appropriate. (INETOR)
4	Department (A3): Enter one of the following abbreviations to indicate department or operation: (TYUTIL) ELC = electric GAS = gas OTH = other

FPC Form 151
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0141	INVESTMENT TAX CREDITS	2 of 2

Data Field Number	Instructions
5	Credit Generated (N10) DOL: Enter the amount of investment tax credits generated from properties used in utility operations.
6	Credit Utilized (N10) DOL: Enter the amount of generated credits utilized in computing the Federal income tax liability for the year.
7	Unused Credit Available (N10) DOL: Enter the amount of unused tax credits available at end of each year.
8	Weighted Average Life of Property (N3.2) PCT: Enter the weighted average useful life of all eligible properties subject to the credit.

FPC Form 151
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0144	PLANT IN SERVICE OR ALL UTILITY PLANT CLASS C AND CLASS D - PART II	1 of 2

I. DESCRIPTION

This schedule is used to collect detailed information on the additions, retirements, adjustments, transfers and end of year balances for utility plants.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. The following Uniform System of Accounts and Supplemental Accounts are to be reported by the appropriate respondents on this schedule.

Uniform System of Accounts	Supplemental Accounts	Description
Electric Respondents		
		ELECTRIC PLANT IN SERVICE
	303.90	Intangible plant
	319.90	Steam production
	339.90	Hydraulic production
	347.90	Other production
	359.90	Transmission plant
	379.90	Distribution plant
	399.90	General plant
101.00		Electric plant in service (total)
102.00		Electric plant purchased or sold
103.00		Electric plant in process of reclassification
104.00		Electric plant leased to others
105.00		Electric plant held for future use
107.00		Construction work in progress - electric
114.00		Electric plant acquisition adjustments
116.00		Other electric plant adjustments
118.00		Other utility plant
	119.90	Total Utility Plant
Natural Gas Respondents		
		GAS PLANT IN SERVICE
	303.90	Intangible plant
	320.90	Manufactured gas production plant
	339.90	Natural gas production and gathering plant
	347.90	Products extraction plant
	349.90	Total production plant
	359.90	Underground storage plant
	363.90	Local storage plant
	372.90	Transmission plant

FPC Form 151
(5-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0144	PLANT IN SERVICE OR ALL UTILITY PLANT CLASS C AND CLASS D - PART II	2 of 2

Uniform System of Accounts	Supplemental Accounts	Description
	389.90	Distribution plant
	399.90	General plant
101.00		Total gas plant in service
102.00		Gas plant purchased or sold
103.00		Gas plant in process of reclassification
104.00		Gas plant leased to others
105.00		Gas plant held for future use
107.00		Construction work in progress - gas
114.00		Gas plant acquisition adjustments
116.00		Other gas plant adjustments
118.00		Other utility plant
	119.90	Total Utility Plant

D. Credit balances in data fields 2, 4, 5 and 6 should be indicated by a minus sign (-). Debit balances for plant retired (data field 3) should also be indicated by a minus sign.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Enter the appropriate plant account number.
2 (Key)	Additions to Plant (N9) DOL: Enter additions for current year.
3	Retirements to Plant (N9) DOL: Enter retirements for current year.
4	Adjustments to Plant (N9) DOL: Enter the dollar amount of adjustments to plant account listed in data field 1 above.
5	Transfers of Plant in Service (N9) DOL: Enter reclassifications or transfers to plant within utility plant accounts or transfer from the detail plant in service function to another function.
6	Plant Balance End of Year (N10) DOL.

FPC Form 151
(5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0159	OPERATING REVENUES	1 of 2

I. DESCRIPTION

This schedule is used to collect information pertaining to sales of electricity or natural gas and the number of utility customers for the year.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. Natural gas respondents shall complete data fields 1-3 annually. Electric respondents shall complete data fields 1, 4 and 5 annually. Jurisdictional respondents for both natural gas and electric shall complete all data fields annually.

C. Report the requested information for the year for each of the following prescribed accounts:

1. Class A, Class B, Class C and Class D Electric respondents:

Uniform System of Accounts	Supplemental Accounts	Description
440.00		Residential sales
442.00		Commercial and industrial sales
	442.10	Small or commercial customers
	442.20	Large or industrial customers
444.00		Public street and highway lighting
445.00		Other sales to Public Authorities
447.00		Sales for resale
448.00		Interdepartmental sales
449.00		Other sales
	449.90	Total Sales of Electricity

2. Class A, Class B, Class C and Class D Natural Gas respondents:

Uniform System of Accounts	Supplemental Accounts	Description
480.00		Residential sales
481.00		Commercial and industrial sales
	481.10	Small or commercial customers
	481.20	Large or industrial customers
482.00		Other sales to Public Authorities
483.00		Sales for resale
484.00		Interdepartmental sales
	485.90	Total Sales of Gas

D. Number of customers shall be reported on the basis of number of meters, plus number of flat rate accounts, except that where separate meter readings are added for billing purposes, one customer should be counted for each group of meters so added. The average number of customers means the average of the 12 figures at the close of each month.

FPC Form 131
(5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0159	OPERATING REVENUES	2 of 2

E. Natural gas means either natural gas unmixed or any mixture of natural and manufactured gas.

F. The classification of commercial and industrial sales according to small customer or commercial and large customer or industrial, may be according to the basis of classification regularly used by the respondent, provided such basis of classification is not greater generally than 1000 KW of demand for electricity or 200,000 MCF per year for natural gas companies.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2	Average Number of Monthly Natural Gas Customers (N7) NO.
3	Annual MMCF of Natural Gas Sold (N9.3) MMCF: Enter the annual MMCF, rounded to three decimal places.
4	Average Number of Monthly Electric Customers (N7) NO.
5	Annual MWH of Electricity Sold (N10) MWH.

FPC Form 131
(5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	1 of 8

I. DESCRIPTION

This schedule is used to collect detailed information supporting the accounting entries of certain of the balance sheet accounts of the Uniform System of Accounts.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. The following accounts are included in this schedule:

Uniform System of Accounts	Supplemental Accounts	Description
123.00		Investment in associated companies
123.10		Investment in subsidiary companies
124.00		Other investments
136.00		Temporary cash investments
145.00		Notes receivable from associated companies
146.00		Accounts receivable from associated companies
181.00		Unamortized debt expense
187.00		Deferred losses from disposition of utility plant
189.00		Unamortized loss on reacquired debt
215.00		Appropriated retained earnings
223.00		Advances from associated companies
224.00		Other long-term debt
225.00		Unamortized premium on long-term debt
226.00		Unamortized discount on long-term debt
233.00		Notes payable to associated companies
234.00		Accounts payable to associated companies
256.00		Deferred gains from disposition of utility plant
257.00		Unamortized gain on reacquired debt

Class A and Class B respondents report the details for all accounts listed on this schedule. Class C and Class D respondents report the details for Account 215.00 only.

C. Respondents shall report the information for each account listed above as specified in Part III, Detailed Instructions. Not every data field is required for every account. The data fields for each account shall be reported annually.

D. Total debits and credits for each account listed on this schedule should be provided for as the last entry for each account in data fields 3 and 4. Report the word "Total" in data field 2. Then report in data field 3 the total debits to the account, and in data field 4 the total credits to the account.

III. DETAILED INSTRUCTIONS

Instructions, cross-referenced to the schedule layout by data field number, are given below for each account to be reported.

FPC Form 131
(5-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	2 of 8

Accounts 123.00, 123.10, & 124.00

Report particulars for investments in associated and subsidiary companies and in other investments.

Investments in amounts of less than $10,000 may be grouped. For grouped items, enter the word "Other" in data field 2 together with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 5.

In reporting Account 123.10, include information pertaining to all investments other than common stock accounted for on the equity basis of accounting. Common stock investments under equity accounting should be included on Schedule 0125.

In reporting Account 124.00, do not include information pertaining to advances which are reported on Schedule 0142.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2)
2 (Key)	Description (A50): List separately each investment included in these accounts at any time during the year by the following groupings: Stock Bonds Advances Notes Other Provide a brief description of each investment to include name of issuer and where appropriate, the date acquired, the date issued and interest rate, i.e., Stock - ABC Corporation - 8/25/75 Note - XYZ Co. - 5/10/75 - 8% Stock - BCD Inc. - 3/1/75 Advances - Jones Corp. Bonds - Industrial Development - 8% State "Total" as last entry for each account. (IDDFSC)
3	Debits - Amount (N9) DOL: Enter the amount of all purchases or other additions made during the year of the investment listed in data field 2 above.
4	Credits - Amount (N9) DOL: Enter the amount of all sales or other disposition made during the year of the investment listed in data field 2 above.
5	Balance End of Year (N9) DOL: Enter amount of investment at end of year.

FPC Form 131
(5-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	3 of 8

Data Field Number	Instructions
6	Particulars (N60): For advances which are open accounts, state "Open Account". For any investments which are pledged, state the name of the pledgee and the purpose of the pledge. For any investment which received the approval of a regulatory commission, give the name of the commission, date of authorization and the case or docket number. (IDDESC)
7	Principal Amount/Number of Shares (N9) NO.: For investments in bonds, enter the principal amount as of the end of the year. For investments in stock, enter the number of shares outstanding at the end of the year.
8	Revenues for Year (N8) DOL: Enter interest and dividends earned from investments during the year, including any revenues from securities disposed of during the year.
9	Date of Maturity (N6): Enter the date of maturity for each note or bund, in the format MMDDYY. (TMDATE)
10	Amount of Loss (N9) DOL: Enter the loss realized on disposition of the investment during the year.
11	Amount of Gain (N9) DOL: Enter the gain realized on disposition of the investment during the year.

Account 136.00.

Report information on temporary cash investments. Investments of less than $50,000 may be grouped. For grouped items enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 5.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): List separately each investment involved in this account by the following groupings: Notes Treasury Bills Commercial Paper Certificates of Deposit Other Provide a brief description of each investment to include name of issuer and where appropriate the date acquired and interest rate, i.e., Notes - General Motors Acceptance Corp. - 10/15/75 - 8%

FPC Form 151
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	4 of 8

Data Field Number	Instructions
2 (cont'd)	State "Total" as last entry. (IDDESC)
3	Debits - Amount (N9) DOL: Enter the amount of all purchases or other additions of the investment listed in data field 2 above, made during the year.
4	Credits - Amount (N9) DOL: Enter the amount of all sales or other disposition of the investment listed in data field 2 above, made during the year.
5	Balance End of Year (N9) DOL: Enter amount of investment at end of year.
8	Interest/Revenues for Year (N8) DOL: Enter the interest earned from the investment during the year.
10	Amount of Loss (N9) DOL: Enter the loss realized on disposition of the investment during the year.
11	Amount of Gain (N9) DOL: Enter the gain realized on disposition of the investment during the year.

Accounts 145.00, 146.00, 233.00, & 234.00

Report information on transactions with associated companies.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): For notes receivable or notes payable, state name of associated company, the date of note and interest rate. For accounts receivable or accounts payable, state name of associated company. State "Total" as last entry for each account. (IDDESC)
3	Debits - Amount (N9) DOL: Enter the total amount of debits for year for each note or account listed in data field 2 above.
4	Credits - Amount (N9) DOL: Enter the total amount of credits for year for each note or account listed in data field 2 above.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): For each note, state the purpose for which the note was issued or received. If any note was received in satisfaction of any open account, state the number of years the account was open. For any note or account pledged or discounted, state the name of the third party. (continued)

FPC Form 151
(3-76)

FEDERAL REGISTER, VOL. 41, NO. 168—FRIDAY, AUGUST 27, 1976

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	5 of 8

Data Field Number	Instructions
6 (cont'd)	If the respondent is holding collateral in connection with a note or open account, state the type and value of the collateral. (IDDESC)
8	Interest for Year (N8) DOL: Enter interest recorded during the year on accounts and notes listed in data field 2 above.
9	Date of Maturity (N6): For each note enter the date of maturity, in the format MMDDYY. (TMDATE)

Accounts 181.00, 225.00, & 226.00

Report information on unamortized expense, premium and discount on long-term debt.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): List the type of debt followed by the class and series of debt, i.e., First Mortgage Bonds - Series H - 6 1/8% Convertible Debentures - 6 1/4% Pollution Control Bonds - 7% State "Total" as last entry for each account. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): Explain the planned disposition for any undisposed amounts applicable to issues which were redeemed in prior years. (IDDESC) Explain the nature of any debits and credits other than amortization debited to Account 428.00, Amortization of Debt Discount and Expense, or credited to Account 429.00, Amortization of Premium on Debt - Credit.
9	Date of Maturity (N6): Enter the date of maturity of the related debt issue, in the format MMDDYY. (TMDATE)
12	Period of Amortization (A5): Enter the period amortization was debited to Account 428.00, in the format YY-YY. (IDDESC)

FPC Form 151
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0161	DETAILED ACCOUNT DATA - PART I	6 of 8

Accounts 187.00, & 256.00

Report information related to deferrals of losses or gains to disposition of utility plant. Losses or gains on property with an original cost of less than $50,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 5.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Give a brief description of the property creating the deferred loss or gain and the date the loss or gain was originally recognized. Enter "Total" as last entry for each account. (IDDESC)
3	Debits - Amount (N9) DOL: For Account 187.00, enter the total amount of losses incurred from the disposition of utility plant during the year. For Account 256.00, enter the total amount of amortizations (to Account 411.60) of previously recorded gains during the year.
4	Credits - Amount (N9) DOL: For Account 187.00, enter the amount of amortizations during the year (to Account 411.70) of previously recorded losses. For Account 256.00, enter the total amount of gains resulting from the disposition of utility plant during the year.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): Give the date of Commission approval of journal entries. Where approval has not been received, give explanation. (IDDESC)
10	Amount of Loss (N9) DOL: For Account 187.00, enter the amount of original loss on the disposition of the property.
11	Amount of Gain (N9) DOL: For Account 256.00, enter the amount of original gain on the disposition of the property.

Accounts 189.00 & 257.00

Report information on reacquired debt. Gains or losses of less than $25,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 5.

If certain series of debt were reacquired at different times during the year, the information should be summarized and the totals reported in data fields 2-11.

FPC Form 151
(3-76)

FEDERAL REGISTER, VOL. 41, NO. 168—FRIDAY, AUGUST 27, 1976

Gains and losses on particular class and series of debt reacquired during a year should not be netted, but the resulting gain or loss amounts should be classified and reported as either Account 189.00 or 257.00

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Enter the type, class of debt and the year(s) the debt was reacquired, i.e., Sinking Fund Debentures - 5% - 1974 Sinking Fund Debentures - 5% - 1975 Enter "Total" as last entry for each account. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): If gain or loss resulted from a refunding transaction, state the maturity date of the new issue. (IDDESC) Explain any debits and credits other than amortization debited to Account 428.10, Amortization of Loss on Reacquired Debt or credited to Account 429.10, Amortization of Gain on Reacquired Debt - Credit.
7	Principal Amount (N9) DOL: Enter the principal amount of debt listed in data field 2 above, reacquired during the year.
9	Date of Maturity (N6): Enter the maturity date of long-term debt, in the format MMDDYY. (TMDATE)
10	Amount of Loss (N9) DOL: Enter the amount of loss realized for the year for each class and series of debt listed in data field 2 above.
11	Amount of Gain (N9) DOL: Enter the amount of gain realized from the year for each class and series of debt listed in data field 2 above.

Account 215.00

Report information on appropriations of retained earnings.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)

FPC Form 151
(3-76)

Data Field Number	Instructions
2 (Key)	Description (A50): Describe the purpose of each appropriation of retained earnings. Enter "Total" as last entry. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): Explain the nature of any debit entries to this account during the year. (IDDESC)

Accounts 223.00 & 224.00

Report information on advances from associated companies and other long-term debt.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): For each advance made by an associated company included in Account 223.00, enter the name of the associated company. For other long-term debt included in Account 223.00, describe the nature of the debt. Enter "Total" as last entry for each account. (IDDESC)
3	Debits - Amount (N9) DOL: For advances, enter the principal amount repaid and any other debit entries during the year to the associated company listed in data field 2 above. For other debt, enter the principal amount and any other debit entries repaid during the year.
4	Credits - Amount (N9) DOL: For advances, enter the principal amount advanced and any other credit entries during the year by the associated company entered in data field 2 above. For other debt, enter the principal amount and any other credit entries issued during the year.
5	Balance End of Year (N9) DOL.
6	Particulars (A60): For associated company advances, state whether the advance is a note (demand or otherwise) or open account. If advance was authorized by a commission, state the name of the commission and date approved. For Account 223.00, enter the date the note was issued and the interest rate. (IDDESC)
8	Interest/Revenue for Year (N8) DOL: Enter the amount of interest for the year associated with the advances and other debt entered in data field 2 above.

FPC Form 151
(3-76)

PROPOSED RULES

36452

I. DESCRIPTION

This schedule is used to collect detailed information supporting the accounting entries to certain balance sheet and retained earning accounts of the Uniform System of Accounts and the Supplemental Accounts.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. The following accounts are included on this schedule:

Uniform System of Accounts	Supplemental Accounts	Description
114.00		Utility plant acquisition adjustments
115.00		Accumulated provision for amortization of utility plant acquisition adjustments
116.00		Other utility plant adjustments
120.10		Nuclear fuel in process of refinement, conversion, enrichment and fabrication
	120.11	Nuclear fuel in process - fabrication
	120.12	Nuclear fuel in process - nuclear materials
	120.13	Nuclear fuel in process - allowance for funds used during construction
	120.14	Nuclear fuel in process - other overhead
120.20		Nuclear fuel materials and assemblies - stock account
120.30		Nuclear fuel assemblies in reactor
120.40		Spent nuclear fuel
120.50		Accumulated provision for amortization of nuclear fuel assemblies
121.00		Nonutility property
122.00		Accumulated provision for depreciation and amortization of nonutility property
	144.10	Accumulated provision for uncollectable accounts - utility customers
	144.20	Accumulated provision for uncollectable accounts - merchandise, jobbing, and contract work
	144.30	Accumulated provision for uncollectable accounts - officers and employees
	144.40	Accumulated provision for uncollectable accounts - other
157.00		Nuclear materials held for sale
	157.10	Nuclear materials held for sale - uranium
	157.20	Nuclear materials held for sale - plutonium
	157.30	Nuclear materials held for sale - other
182.00		Extraordinary property losses
183.00		Preliminary survey and investigation charges
183.10		Preliminary natural gas survey and investigation charges

FPC Form 151
(3-76)

Uniform System of Accounts	Supplemental Accounts	Description
183.20		Other preliminary survey and investigation charges
186.00		Miscellaneous deferred debits
209.00		Reduction in par or stated value of capital stock
210.00		Gain on resale or cancellation of reacquired capital stock
~~211.00~~		~~Miscellaneous paid-in-capital~~
213.00		Discount on capital stock
214.00		Capital stock expense
216.10		Unappropriated undistributed subsidiary earnings
253.00		Other deferred credits
	255.10	Accumulated deferred investment tax credits - electric or gas department
	255.20	Accumulated deferred investment tax credits - other departments
261.00		Property insurance reserve
262.00		Injuries and damages reserve
263.00		Pensions and benefits reserve
264.00		Amortization reserve - Federal
265.00		Miscellaneous operating reserves
437.00		Dividends declared - preferred stock
438.00		Dividends declared - common stock
439.00		Adjustments to retained earnings

Class A and Class B Electric respondents report the detail for all accounts above except Accounts 183.10 and 183.20.

Class A and Class B Natural Gas respondents report the detail for all accounts above except Accounts 120.10 through 120.50, 157.00 through 157.30, 183.00 and 264.00.

Class C and Class D Natural Gas and Electric respondents report only the detail for Accounts 216.00, 255.10, 255.20, 437.00, 438.00 and 439.00.

C. Respondents shall report the information for each account as specified in Part III, Detailed Instructions. Not every data field is required for every account. The data fields for each account shall be reported annually.

D. Data fields 5 or 6 provide space for entry of one account number. If more than one account has been debited or credited for the item listed in data field 2, list the major account in data field 5 or 6 and the remaining accounts in data field 8, Particulars.

III. DETAILED INSTRUCTIONS

Instructions, cross-referenced to the schedule layout by data field number, are given below for each account to be reported.

FPC Form 151
(3-76)

PROPOSED RULES

36453

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	3 of 12

Accounts 114.00, 115.00 & 116.00

Report particulars for utility plant acquisition or other adjustments.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Explain the nature of each plant acquisition adjustment in Account 114.00 and plant adjustment in Account 116.00. For companies who utilize Account 115.00, provide the same description for each acquisition adjustment as provided under Account 114.00. Include the name of the company from which the property was acquired. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Contra Account Credited (N3.2): (ACCTML)
6	Contra Account Debited (N3.2): (ACCTML)
8	Particulars (A60): For acquisition adjustments occuring during the year, state date of transaction and date journal entries clearing Account 102.00, Plant Purchased or Sold, were accepted for filing by the Commission. Give the date Commission authorized the amortization of acquisition adjustments. Explain the plan of disposition of any acquisition adjustments not currently being amortized. (IDDESC)
9	Balance End of Year (N10) DOL.
10	Period of Amortization (A5): Enter the period of amortization by years, in the format YY-YY, i.e., 74-79. (IDDESC)

Accounts 120.10 through 120.14, 120.20 through 120.50, & 157.00 through 157.30

Report the costs incurred for nuclear fuel materials on hand, in reactor, and in cooling owned by the respondent.

If the nuclear fuel stock is obtained under leasing arrangements, details of the leasing arrangements should be included on Schedules 0170 and 0171.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
3	Debits - Amount (N9) DOL: Enter the amount of additions during year.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	4 of 12

Data Field Number	Instructions
4	Credits - Amount (N9) DOL: Enter the amount transferred, amortized during year or the amount of other reductions to the cost of nuclear fuel made during the year.
8	Particulars (A60): Explain the nature of all credit entries to Accounts 120.10 through 120.14, except transfers to Account 120.20. For Accounts 120.20, 120.30 and 120.40, state the estimated net salvage value of nuclear materials related to nuclear fuel included in each account. Explain the reason for any adjustments (data field 7) to the cost previously recorded in these accounts. (IDDESC)
9	Balance End of Year (N10) DOL.

Account 121.00

Report particulars for nonutility property.

Information on specific property having a cost under $100,000 should be grouped. For grouped items, enter the word "Other" in data field 2 with the number of item grouped, i.e., Other (12). Report data for the grouped items in data field 3, 4, and 9. Properties previously devoted to public service are separate and distinct from those allowed to be grouped under this instruction.

Total debits and credits should be provided for in data fields 3 and 4. Report the word "Total" as the last item in data field 2, in the first five spaces, and in data field 3, the total debits to the account and in data field 4, the total credits to the account.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Give a brief description and state the location (city, state) of nonutility property. (IDDESC)
3	Debits - Amount (N9) DOL: Enter the cost of any property described in data field 2 above, which was purchased or otherwise transferred to Account 121.00 during the year.
4	Credits - Amount (N9) DOL: Enter the cost of property described in data field 2 above, which was sold or otherwise transferred from Account 121.00 during the year.
8	Particulars (A60): List details of sales, purchases or transfers of nonutility property. For all property previously devoted to public service list date of transfer to Account 121.00. (IDDESC)
9	Balance End of Year (N10) DOL.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	5 of 12

Data Field Number	Instructions
11	Name of Company/Department (A35): If property is leased to another company, enter the name of lessee in this data field. (IDNAME)

Account 122.00

Report particulars for depreciation and amortization of nonutility property.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Enter the word "Total". (IDDESC)
3	Debits - Amount (N9) DOL: Enter the total debits to Account 122.00 for the year. Total debits include the book cost of plant retired, the cost of removal and any other debit adjustments to the reserve.
4	Credits - Amount (N9) DOL: Enter the total credits to Account 122.00 for the year. Total credits include depreciation and amortization accruals for the year, salvage and any other credit adjustments by the reserve.
9	Balance End of Year (N10) DOL: Enter the end of year balance for accumulated depreciation and amortization of nonutility property.

Accounts 144.10 through 144.40

Report particulars for uncollectable accounts.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
3	Debits - Amount (N9) DOL: Enter the total debits for the year to each supplemental account listed in data field 1 above. Total debits include all accounts written off and other debit adjustment to the reserve.
4	Credits - Amount (N9) DOL: Enter the total credits for the year to each supplemental account listed in data field 1 above. Total credits include the annual provision for uncollectable accounts for the year, collections of accounts previously written off and any other credit adjustments to the reserve.
9	Balance End of Year (N10) DOL.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	6 of 12

Account 182.00

Report particulars for extraordinary property losses.

Total debits and credits should be provided for in data fields 3 and 4. Report the word "Total" as the last item in data field 2, in the first five space, and in data field 3, the total debits to the account and in data field 4, the total credits to the account.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Provide a description of each property loss included in this account. (IDDESC)
3	Debits - Amount (N9) DOL: Enter the amount of any additional extraordinary property losses incurred during the year from property described in data field 2 above.
4	Credits - Amount (N9) DOL: Enter the amount of extraordinary property losses charged off during the current year relative to property described in data field 2 above.
6	Contra Account Debited (N3.2): Enter the contra account debited with losses charged off during the year (data field 4 above). (ACCTML)
8	Particulars (A60): Enter date of abandonment or loss and date of Commission authorizing for use of Account 182.00. (IDDESC)
9	Balance End of Year (N10) DOL.
10	Period of Amortization (A5): Enter period of amortization by year, in the format YY-YY, i.e., 74-84. (IDDESC)

Accounts 183.00 or 183.10 and 183.20

Report particulars for expenditures for preliminary survey.

Preliminary survey items with total expenditures to date under $50,000 should be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 9.

Total debits and credits should be provided for in data field 3 and 4. Report the word "Total" as the last item in data field 2, in the first five spaces, and in data field 3 the total debits to the account and in data field 4 the total credits to the account.

FPC Form 131
(3-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	7 of 12

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Describe the nature and purpose of each project for which preliminary survey and investigation work has been done for the purpose of determining the feasibility of projects under contemplation. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
6	Contra Account Debited (N3.2): (ACCTML)
9	Balance End of Year (N10) DOL.

Account 186.00

Report particulars for miscellaneous deferred debits.

Deferred debit items of less than $25,000 should be grouped. For grouped items enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12), Report data for the grouped items in data fields 3, 4 and 9.

Total debits and credits should be provided for in data fields 3 and 4. Report the word "Total" as the last item in data field 2, in the first five spaces, and in data field 3 the total debits to the account and in data field 4 the total credits to the account.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Give a brief description of the nature of the miscellaneous deferred debit item. Miscellaneous work in progress and regulatory commission expenses should be stated separately under the following titles: (IDDESC) Miscellaneous Work in Progress Deferred Regulatory Commission Expenses
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
6	Contra Account Debited (N3.2): (ACCTML)
9	Balance End of Year (N10) DOL.
10	Period of Amortization (A5): For any deferred debit being amortized, enter the period of amortization, in the format YY-YY, i.e., 74-79. (IDDESC)

FPC Form 131
(5-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	8 of 12

Accounts 209.00, 210.00, 211.00, 213.00 and 214.00

Report particulars for other paid-in capital accounts.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): For Accounts 210.00, 213.00 and 214.00, state the class and series of stock to which each debit and credit are related. For Accounts 209.00 and 211.00, state the general nature of transactions which gave rise to the reported amounts. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Contra Account Credited (N3.2): (ACCTML)
6	Contra Account Debited (N3.2): (ACCTML)
9	Balance End of Year (N10) DOL.

Account 216.10

Report particulars for unappropriated undistributed subsidiary earnings.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Enter the word "Total". (IDDESC)
3	Debits - Amount (N9) DOL: Enter the amount of dividend received from subsidiaries and any other debit entries to this account during the year.
4	Credits - Amount (N9) DOL: Enter the amount of equity in subsidiary earnings and any other credit entries to this account during the year. Subsidiary losses should be included in data field 5 below, with the notation "Subsidiary Loss" included in data field 8 below.
5	Contra Account Credited (N3.2): (ACCTML)
8	Particulars (A60): Explain the nature of any debit or credit amounts included in data fields 4 or 5, other than subsidiary earnings or dividends. (IDDESC)
9	Balance End of Year (N10) DOL.

FPC Form 131
(5-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	9 of 12

Account 253.00

Report particulars for other deferred credits.

Report under this account any advance billings or receipts for gas sales or service classified in Account 253.00, but not related to take-or-pay arrangements. Take-or-pay arrangements should be included on Schedule 0131.

Other deferred credits of less than $25,000 should be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data fields 3, 4 and 9.

Total debits and credits should be provided for in data fields 3 and 4. Report the word "Total" as the last item in data field 2, in the first five spaces, and in data field 3 the total debits to the account and in data field 4 the total credits to the account.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Give a brief description of the nature of the other deferred credit item. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Contra Account Credited (N3.2): (ACCTML)
9	Balance End of Year (N10) DOL.
10	Period of Amortization (A5): For any deferred credit being amortized, enter the period of amortization, in the format YY-YY, i.e., 74-79. (IDDESC)

Account 255.00

Report particulars for investment tax credits.

Information on investment tax credits should be stated separately for each of the applicable credit percentages. Do not group credit percentages.

Electric respondents with more than one utility department should report as the last entry for Account 255.10, the total of accumulated deferred investment tax credits for their electric department and as the last entry for Account 255.20, the total of accumulated deferred investment tax credits for all other departments combined. Natural Gas respondents with more than one utility department should report as the last entry for Account 255.10, the total of accumulated deferred investment tax credits for their gas department and as the last entry for Account 255.20, the total of accumulated deferred credits for all other departments combined.

FPC Form 131
(5-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	10 of 12

Respondents with only one utility department should report in data field 1, Account 255.00.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): In the first two spaces of data field 2, enter one of the following values: "03", "04", "07", "10" or "11" to indicate the appropriate investment tax credit rate. (IDDESC)
3	Debits - Amount (N9) DOL: Enter the amount of investment tax credits amortized to current year income related to each credit listed in data field 2 above.
4	Credits - Amount (N9) DOL: Enter the amount of investment tax credits deferred for the current year related to each credit listed in data field 2 above.
5	Contra Account Credited (N3.2): (ACCTML)
6	Contra Account Debited (N3.2): (ACCTML)
7	Adjustments - Amount (N9) DOL: Enter any adjustment of investment tax credit amounts previously recorded for this account.
8	Particulars (A60): Explain the reason for any adjustments (data field 7 above) to the account balance. Also include in this data field the amount of credits deferred for the year associated with leased property in the following manner: Leased property - $1,000,000. (IDDESC)
9	Balance End of Year (N10) DOL.
10	Period of Amortization (A5): Enter the average period over which the investment tax credits will be amortized to income, in the format YY-YY, i.e., 75-95. (IDDESC)

Accounts 261.00, 262.00, 263.00, 264.00, 265.00

Report particulars for operating reserve accounts.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): For accounts 216.00, 262.00, 263.00 and 264.00, state the nature of each entry included in data fields 3 and 4. For Account 265.00, identify each reserve therein separately and state the nature of the entry. If

FPC Form 131
(5-76)

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	11 of 12

Data Field Number	Instructions
2 (cont'd)	the entries in data fields 3-6 affect more than one department, indication of each department affected should be made by placing letter E (electric), G (gas) or O (other) at the end of this data field. (IDDESC)
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Contra Account Credited (N3.2): (ACCTML)
6	Contra Account Debited (N3.2): (ACCTML)
8	Particulars (A60): For Account 261.00, Property Insurance Reserve and 262.00, Injuries and Damages Reserve, explain the nature of the risks covered by the reserves. (IDDESC)
9	Balance End of Year (N10) DOL.

Accounts 437.00 & 438.00

Report particulars for dividends declared.

Data Field Numbers	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): For Account 437.00, state the class and series of stock and the type of dividend (cash, stock, other forms). For Account 438.00, state the type of dividend and the dividend rate per share. Provide a detailed description if dividends are in forms other than cash or stock. (IDDESC)
9	Amount for Year (N10) DOL: Enter the total amount of dividends for each class and series listed in data field 2 above.

Account 439.00

Report particulars for adjustments to retained earnings.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Describe briefly each debit or credit adjustment to retained earnings. The income tax effect of each adjustment to retained earnings should be included in data field 3 or 4 below, as appropriate. (IDDESC)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0162	DETAILED ACCOUNT DATA - PART II	12 of 12

Data Field Number	Instructions
3	Debits - Amount (N9) DOL.
4	Credits - Amount (N9) DOL.
5	Contra Account Credited (N3.2): (ACCTML)
6	Contra Account Debited (N3.2): (ACCTML)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	1 of 9

I. DESCRIPTION

This schedule is used to collect detailed information supporting end of year balances or amounts for certain of the Uniform System of Accounts and the Supplemental Accounts.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A, Class B, Class C and Class D Natural Gas and Electric respondents.

B. The following accounts are included on this schedule:

Uniform System of Accounts	Supplemental Accounts	Description
154.00		Plant materials and operating supplies
	165.10	Prepaid insurance
	165.20	Prepaid rent
	165.30	Prepaid taxes
	165.40	Prepaid interest
	165.50	Gas prepayments
	165.60	Other prepayments
174.00		Miscellaneous current and accrued assets
202.00		Common stock subscribed
203.00		Common stock liability for conversion
205.00		Preferred stock subscribed
206.00		Preferred stock liability for conversion
207.00		Premium on capital stock
208.00		Donations received from stockholders
212.00		Installments received on capital stock
242.00		Miscellaneous current and accrued liability
	252.10	Customer advances for construction - electric department
	252.20	Customer advances for construction - gas department
	252.30	Customer advances for construction - other
419.00		Interest and dividend income
421.00		Miscellaneous nonoperating income
	421.10	Gain on disposition of property
	421.20	Loss on disposition of property
425.00		Miscellaneous amortization
	426.10	Miscellaneous income deductions - donations
	426.20	Miscellaneous income deductions - insurance
	426.30	Miscellaneous income deductions - penalties
	426.41	Expenditures for certain civic, political and related activities - radio, television, and motion picture advertising
	426.42	Expenditures for certain civic, political and related activities - newspaper, magazine and pamphlet advertising
	426.43	Expenditures for certain civic, political and related activities - inserts in customers' bills or reports to stockholders

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	2 of 9

Uniform System of Accounts	Supplemental Accounts	Description
	426.44	Expenditures for certain civic, political and related activities - newspaper and magazine editorial services
	426.45	Expenditures for certain civic, political and related activities - other advertising
	426.46	Expenditures for certain civic, political and related activities - expenses other than advertising
426.50		Miscellaneous income deductions - other deductions
430.00		Income on debt to associated companies
431.00		Other interest expenses
436.00		Appropriations of retained earnings
813.00		Other gas supply expenses
858.00		Transmission and compression of gas by others
930.30		Industry association dues
930.40		Nuclear power, experimental and general research expenses
930.50		Stockholder expenses
930.60		Other expenses

Class A and Class B Electric respondents report detail for all accounts listed above except Account 165.10 through 165.60, 491.00, 813.00 and 858.00.

Class A and Class B Natural Gas respondents report detail for all accounts listed above.

Class C and Class D Electric and Natural Gas respondents report detail for Accounts 426.41 through 426.46 and 436.00.

C. Respondents shall report the information for each account as specified in Part III, Detailed Instructions. Not every data field is required for every account. The data fields for every account shall be reported annually.

III. DETAILED INSTRUCTIONS

Instructions, cross-referenced to the schedule layout by data field number, are given below for each account to be reported.

Account 154.00

Report information for plant materials and operating supplies.

UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	3 of 9

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2 (Key)	Description (A50): Furnish a breakdown of plant materials and operating supplies included in Account 154.00, according to the general character of the items. Examples: (IDDESC) Electric: Poles and pole materials; Steel tower and fittings; Conductor-wire-cable-insulators; Substation materials; Underground materials; Other operations: Maintenance materials, Auto parts & supplies, Stationery & supplies, Production M&S and spare Gas: Steel pipe line; Well casing; Valves and fittings; Meters, regulators and parts; Miscellaneous machine parts, tools & electrical supplies; Compressor station engine parts; Building materials, poles, paint, etc.; Miscellaneous equipment & supplies
3	Balance End of Year (N10) DOL.
4	Particulars (A60): State the amount of any important inventory adjustment made during the year to the classes of material listed in data field 2 above. For any class of material listed in data field 2 above, that pertains to other than the primary department, state in this data field the department affected. (IDDESC)

Accounts 165.10 - 165.60

Natural Gas respondents report information on prepayments.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2	Description (A50): Furnish a description for any prepayment reported in Supplemental Account 165.60, Other Prepayments. (IDDESC)
3	Balance End of Year (N10) DOL.

Accounts 174.00 & 242.00

Report information on miscellaneous current and accrued assets and liabilities or liabilities of less than $25,000 may be grouped. For grouped items, enter the word

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	4 of 9

"Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2 (Key)	Description (A50): Describe current and accrued assets or liabilities. (IDDESC)
3	Balance End of Year (N10) DOL.

Accounts 202.00, 203.00, 205.00, 206.00, 207.00, 208.00 and 212.00

Report information on other capital stock accounts.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2	Description (A50): For Accounts 202.00 and 205.00, enter the subscription price on each class of stock at year end. For Accounts 203.00 and 206.00, describe the agreement under which a conversion liability existed at end of year. For Account 208.00, provide an explanation of the origin and purpose of each donation. For Account 212.00, state each class and series of capital stock with an outstanding installment at year end. For Account 207.00, state the class and series of stock giving rise to the premium. Provide a brief explanation of any premiums arising from transactions with associated companies. If additional information is required for adequate disclosure, use data field 4, Particulars. (IDDESC)
3	Balance End of Year (N10) DOL: Enter the balance end of year associated with the item listed in data field 2 above.
4	Particulars (A60): Enter the number of shares at year end, if applicable. (IDDESC)

Accounts 252.10 - 252.30

For respondents with more than one utility department, report information on customer advances by departments.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
3	Balance End of Year (N10) DOL: Enter the balance of customer advances at the end of year for each account listed in data field 1 above.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	5 of 9

Account 419.00

Report information on interest and dividend income.

Interest and dividend items in amounts of less than $10,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Income from investments included in Accounts 123.00, 124.00 and 136.00, should be grouped and listed in this data field as: Income from Investments - Accounts 123.00 and 124.00 Income from Investments - Account 136.00 Provide a description of any other income or expense items included in Account 419.00. (IDDESC)
3	Amount for Year (N10) DOL.

Account 421.00

Report information on miscellaneous nonoperating income.

Amounts of less than $10,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Provide a description of each miscellaneous nonoperating income and/or expense item. (IDDESC)
3	Amount for Year (N10) DOL.

Accounts 421.10, 421.20

Report information related to disposition of property.

Individual gain or losses relating to property with an original cost of less than $50,000 may be grouped with the number of items in data field 2.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0163	DETAILED ACCOUNT DATA - PART III	6 of 9

Data Field Number	Instructions
2 (Key)	Description (A50): Provide a brief description of the location of property (city and state) and original cost of property disposed of during the year. (IDDESC)
3	Amount for Year (N10) DOL: Enter amount of gain or loss associated with the disposition of property reported in data field 2 above.
4	Particulars (A60): Enter the name of the party acquiring the property, when acquired by another utility or an associated company. Enter the classification of the property prior to its disposition (in-service, future use nonutility, etc.) Also enter the date of Commission approval of journal entries when approval is required, i.e., Commission approval 5.10.75. Where approval is required but has not been received, provide an explanation. (IDDESC)

Account 425.00

Report information on miscellaneous amortization.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Describe the nature of items being amortized. (IDDESC)
3	Amount for Year (N10) DOL: Enter the total amount amortization charges for the year for each item listed in data field 2 above.
4	Particulars (A60): Enter the period of amortization for any item listed in data field 2 above. (IDDESC)

Accounts 426.10, 426.20, 426.30, & 426.50

Report information on miscellaneous income deduction accounts.

Amounts of less than $1,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2 (Key)	Description (A50): Report the nature of the income deduction and the payee. (IDDESC)

FPC Form 131
(3-76)

UMI

Data Field Number	Instructions
3	Amount for Year (N10) DOL.

Accounts 426.41 - 426.46

Report all expenditures incurred by the respondent during the year for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification of existing referenda, legislation or ordinances); approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials which are accounted for as Other Income Deductions, Expenditures for Certain Civic, Political and Related Activities; Account 426.40.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2 (Key)	Description (A50): Indicate the nature and purpose of the activity. (IDDESC)
3	Amount for Year (N10) DOL.

Account 430.00

Report information related to interest on associated company debt.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): List the name of the associated company, the type of debt involved and interest rate: (IDDESC) Jones Company - Advance - 6% Ace Company - Note - 8%
3	Amount for Year (N10) DOL.

Account 431.00

Report information on other interest expense.

Amounts of less than $10,000 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

FPC Form 131 (3-76)

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Describe the nature of the selected debt or other interest expense item. Include also the interest rate, if not provided elsewhere in this filing. Examples: (IDDESC) Customer Deposits - 7% Notes Payable - Banks - 8-9% Notes Payable - Commercial Paper - 7% Notes Payable - Other Other
3	Amount for Year (N10) DOL.

Account 436.00

Report information on appropriations of retained earnings made during the year.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): State purpose of any appropriation of retained earnings made during the year. (IDDESC)
3	Amount for Year (N10) DOL.

Account 813.00

Natural Gas repondents only report information on other gas supply expenses.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): Provide a description of the nature of the other gas supply expense item. (IDDESC)
3	Amount for Year (N10) DOL.

Account 858.00

Natural Gas respondents only report information on expenses paid for transmission and compression of gas by others.

FPC Form 131 (3-76)

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): (ACCTML)
2 (Key)	Description (A50): State name of company and a description of the service performed. (IDDESC)
3	Amount for Year (N10) DOL.

Accounts 930.30 - 930.60

Report information on miscellaneous general expenses.

For Accounts 930.30 - 930.50, complete data fields 1 and 3 only.

Account 930.50, Stockholder Expenses, includes publishing and distributing information to stockholders.

For Account 930.60, list seperately in data field 2 each item of miscellaneous other expense of $500 or more. Amounts of less than $500 may be grouped. For grouped items, enter the word "Other" in data field 2 with the number of items grouped, i.e., Other (12). Report data for the grouped items in data field 3.

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): Refer to General Information, II-B. (ACCTML)
2 (Key)	Description (A50): Describe each item of miscellaneous other expenses. (IDDESC)
3	Amount for Year (N10) DOL.

FPC Form 131 (3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: ACCUMULATED PROVISION FOR DEPRECIATION, SCHEDULE 0188 DEPLETION, AND AMORTIZATION OF UTILITY PLANT		1 of 2

I. DESCRIPTION

This schedule is used to collect data relating to changes in accumulated provisions for depreciation, depletion and amortization of utility plants for the year according to utility departments.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class C and Class D Natural Gas and Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. The following Supplemental Account numbers are to be used as a means of grouping information for reporting purposes:

Uniform System of Accounts	Supplemental Accounts	Description
Natural Gas respondents		
	110.10	Accumulated provision for depreciation, deplation and amortization of utility plant - gas
	110.20	Accumulated provision for depreciation, deplation and amortization of utility plant - other
Electric respondents		
	110.10	Accumulated provision for depreciation, deplation and amortization of utility plant - electric
	110.20	Accumulated provision for depreciation, deplation and amortization of utility plant - other

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): State the Supplemental Account number listed in General Information, II-C. (ACCTML)
2 (Key)	Total Depreciation Accruals for the Year (N8) DOL: Report the total amount accruals for the year.
3	Net Charges for Plant Retired During Year (N8) DOL: State the net charges for plant retired, to include: book cost of plant, salvage and cost of removal.
4	Other Items - Net (N8) DOL: State the net amount of any other entries to the reserva during the year.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: ACCUMULATED PROVISION FOR DEPRECIATION SCHEDULE 0188 DEPLETION, AND AMORTIZATION OF UTILITY PLANT		2 of 2

Data Field Number	Instructions
5	Balance End of Year (N8) DOL: State the accumulated provision balance at the end of the year.
6 (Key)	Description of Other Debit/Credit (A40): Provide a description for each entry included in data field 4 above. (IDDESC)
7	Other Debit Items (N7) DOL: Enter the amount related to the debit item described in data field 6 above.
8	Other Credit Items (N7) DOL: Enter the amount related to the credit item described in data field 6 above.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000 FOOTNOTES TO FPC PUBLIC USE SCHEDULES		1 of 2

1. DESCRIPTION

This schedule is used to collect the text for all footnote references for a respondent submission.

II. GENERAL INFORMATION

A. This schedule shall be submitted when applicable by all respondents for reporting footnotes to FPC Public Use Schedules.

B. The footnote reference numbers must be unique within a particular submission.

C. The respondent has to indicate two major types of footnotes.

1. General Footnote - The General Footnote can refer to either the entire schedule or one data field on the schedule, i.e. all data which is reported for data field 5 on the schedule not just one specific value for data field 5.

2. Specific Footnote - The Specific Footnote can refer either to an entire logical entry, i.e. group of related data which separates as an entity on a schedule or a data item within the logical entry.

The following entries are provided as an example:

Type Footnote	Data Field 2 (Footnote No.)	Data Field 3 (Ref. ID)
1. General Footnote		
a. Entire schedule	001	GEN
b. All data values for data field 5 entries on this schedule	001	005
All data values for data field 6 entries on this schedule	001	006
2. Specific Footnote		
a. Entire logical entry	002	GEN
b. Data item entry	002	004
	002	006
	002	008

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number.

FPC Form 131
(3-76)

RAS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000 FOOTNOTES TO FPC PUBLIC USE SCHEDULES		2 of 2

Data Field Number	Instructions
1 (Key)	Schedule Number (N4): Enter the number of the schedule on which the footnote reference number was assigned, e.g., 0501 or 0505.
2 (Key)	Footnote Number (N3): Enter the unique footnote reference number from 001-999 for each particular submission.
3 (Key)	Reference Identification (A3): Enter "GEN" for Type 1a and 2a footnotes, i.e., footnotes that apply to the entire schedule (or to an entire logical entry) or enter the appropriate data field number for the specific data field value being footnoted (Type 1b or 2b).
4 (Key)	Line Sequence Number (N2): Enter 01, 02 etc., for each successive line of text.
5 (Key)	System Code (N6): This data field applies only to Electric respondents reporting data by system. Enter the six digit number code for the system, from the Register of Data Standards, IDSYST.
6 (Key)	Plant ID (N5): This data field applies only to Electric respondents reporting data by plant. Enter the five digit numeric code for the plant, from the Register of Data Standards, IDPLNT.
7 (Key)	Project Development Code (A5): This data field applies only to Electric respondents reporting data by license projects. Enter the five digit numeric code for the license project, from the Register of Data Standards, IDLPRJ.
8	Text (A72): Enter the text of the footnote. Use successive lines as required for text. Repeat Data Fields 1-3, 5 or 6 as applicable, and increment Data Field 4 (Line Sequence Number) by 1.

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 1000	SUPPORTING DOCUMENTATION	1 of 1

I. DESCRIPTION

This schedule is used to collect schedule related supporting documentation not required by the Public Use Schedules.

II. GENERAL INFORMATION

A. This schedule shall be submitted by any Federal Power Commission respondent who desires to provide supportive documentation or any additional information relating to the Public Use Schedules.

B. This schedule shall be completed only as deemed necessary by the respondent or where specifically requested by detailed instructions for other schedules.

FPC Form 131
(3-76)

Attachment D

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

Comparison and Cross-Reference of Proposed ORIS Schedules
with FPC's Annual Report Form No. 1-P

Proposed ORIS Schedule No.	Title	Replaces (whole or in part) Schedule Page No.	U. S. of A. Account No. Reference	Highlights of Proposed Changes from Previous Reporting Requirements
0101	General Corporate Information	1	-	Respondents will complete all data fields on this schedule in their first submission, and on subsequent submissions, respondents shall submit only appropriate changes, additions, or deletions.
0102	Control Over Respondent	1	-	Data to be filed on a one-time basis, see proposed 0101, above. Represents data required by last instruction on page 1 (old).
0104	Corporations Controlled by Respondent	1	-	Data to be filed on a one-time basis, see proposed 0101, above. Represents data required by last instruction on page 1 (old).
0105	Corporate Officers/ Directors	3	-	Data to be filed on a one-time basis, see proposed 0101 above. No apparent reporting requirement changes, only format.
0106	Security Holders and Voting Powers	3	-	Data to be filed on a one-time basis, see proposed 0101 above. Covers data presently required by page 3 instruction, no reporting requirement changes, only format.
0111	Notes to Security Holders and Voting Powers	3	-	Covers data presently required by page 3 instruction, no reporting requirement changes.
0112	Notes of Financial Data	4, 5, 9	-	This schedule is proposed so as to collect important information deemed necessary for adequate disclosure to support the data presently reported on the pages listed in column 3 and on the new proposed schedules containing financial data. No new or additional requirement, only the format and location of the notes to various schedules is proposed.
0124	List of Accounts - Pg.III			
	1. Balance Sheet Accounts	4, 5	101-299	Report only the balance end of year, by account number, for each account within the Uniform System of Accounts. Deleted the requirement for reporting Balance Beginning of year and Amount of Increase or (Decrease). Notes are to be reporting at proposed 0112. Detailed reporting by account in a few places which required Aggregate reporting on old schedule. Supplemental Account numbers have been established for reporting purposes.
	2. Income Statement Accounts	8, 9	400-433, 433, 434-435	Report only the amount for the year, by account number. Deleted reporting of "Change from Prior Year." Supplemental account numbers have been established for reporting purposes.
	3. Retained Earnings Account	10	433, 436-439	Report only amount for year for each account listed. Details to be reported on proposed 0161.
	4. Other E, Electric Operating Revenues	7	440-459	Report only amount for year for each account listed, details to be reported on proposed 0159.
	b. Electric Operation and Maintenance Expense Account	7	500-599, 900-949	Supplemental account numbers assigned for coding purposes. No new reporting requirements.
	5. Departmental Account	8, 9	400-411	Supplemental account numbers have been assigned to indicate the various departments, e.g., electric, gas, common, steam, other. Total for current year to be reported only. Deleted requirement for reporting "Change from Prior Year."

Proposed ORIS Schedule No.	Title	Replaces (whole or in part) Schedule Page No.	U. S. of A. Account No. Reference	Highlights of Proposed Changes from Previous Reporting Requirements
0112	Capital Stock	6	201, 204, 217	No new reporting requirements, only format.
0113	Long-Term Debt	6	221	No new reporting requirements, only format.
0141	Investment Tax Credits	13	-	Data to be filed on a one-time basis, with only changes, additions and deletions submitted thereafter, see proposed 0101, above. Information on the accounts for investment tax credits will be reported on proposed 0112.
0144	Plant in Service or all Utility Plants Class C and D - Part II	11	101-105.107, 118,119,118, 300,399	Deleted reporting of balance beginning of year. Supplemental account numbers have been assigned to "total" for reporting purposes.
0159	Operating Revenues	7	440, 442, 444, 447, 448, 449	This schedule reports only quantity and number of customers. Supplemental account numbers assigned for reporting purposes.
0161	Detailed Account Data - Part I	10	215	No new reporting requirements, only format.
0162	Detailed Account Data - Part II	10, 14	216, 255, 437, 438, 439	No new reporting requirements, only format. Supplemental account numbers have been assigned for reporting purposes only of different departments. Balance beginning of year has been deleted.
0163	Detailed Account Data - Part III	10, 15	438, 428.4	Supplemental account numbers have been assigned to the 428.4 account for reporting purposes. Deleted requirement of reporting accounting entries for account 438.
0188	Accumulated Provision for Depreciation, Depletion and Amortization of Utility Plant	6	-	Supplemental account numbers have been assigned for reporting purposes. No new reporting requirements.

{ The number of copies to be filed has been changed from "original and one" to "original and four." }

Attachment E

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

UMI 41 42 43 44 45 46 47 48

FEDERAL POWER COMMISSION / REGULATORY INFORMATION SYSTEM

REGISTER OF DATA STANDARDS

DATA ITEMS

FORM NO. 163

DATA ITEM LIST MNEMONIC: ACCTML

DATA ITEM LIST TITLE: FINANCIAL ACCOUNTS, MULTIPLE

DATA ITEM LIST DESCRIPTION: IDENTIFIES A MULTIPLE DATA ITEM FOR WHICH MORE THAN ONE DATA ITEM LIST MAY APPLY (SEE MULTIPLE LIST REFERENCES BELOW).

DATA ITEM LIST SOURCE: FPC STAFF

DATA ITEM LIST

SEE THE FOLLOWING DATA ITEM LISTS AS APPLICABLE:

FINANCIAL ACCOUNTS, ELECTRIC A & B	ACELAB
FINANCIAL ACCOUNTS, ELECTRIC C & D	ACELCD
FINANCIAL ACCOUNTS, GAS A & B	ACGSAB
FINANCIAL ACCOUNTS, GAS C & D	ACGSCD
FINANCIAL ACCOUNTS, MUNICIPAL	ACMUNI
FINANCIAL ACCOUNTS, LICENSEE	ACLPRJ

DATA ITEM LIST MNEMONIC: ACELCD

DATA ITEM LIST TITLE: FINANCIAL ACCOUNTS, ELECTRIC C & D

DATA ITEM LIST DESCRIPTION: IDENTIFIES THE FINANCIAL ACCOUNTS COMPRISING THE UNIFORM SYSTEM OF ACCOUNTS AND RIS SUPPLEMENTARY ACCOUNTS (# ANNUAL ONLY, ## ANNUAL OR MONTHLY) FOR CLASS C & D ELECTRIC UTILITIES

DATA ITEM LIST SOURCE: FPC STAFF

DATA ITEM LIST:	CODE
ELECTRIC PLANT IN SERVICE	101
ELECTRIC PLANT PURCHASED OR SOLD	102
ELECTRIC PLANT IN PROCESS OF RECLASSIFICATION	103
ELECTRIC PLANT LEASED TO OTHERS	104
ELECTRIC PLANT HELD FOR FUTURE USE	105
CONSTRUCTION WORK IN PROGRESS-ELECTRIC	107
ACCUMULATED PROVISION FOR	110
(REST TO BE SUPPLIED WHEN FORM IS DUE.)	

DATA ITEM LIST MNEMONIC: IDCNTY

DATA ITEM LIST TITLE: ID, COUNTIES OF THE US.

DATA ITEM LIST DESCRIPTION: IDENTIFIES THE COUNTIES OF THE US. COUNTIES, AS FIRST ORDER SUBDIVISIONS OF MOST STATES, ARE CONSIDERED SYNONYMOUS WITH PARISH, BOROUGH, OR CENSUS DIVISION USED IN OTHERS. FOR RIS USE, THIS LIST IS SUPPLEMENTED WITH NATURAL GAS OFFSHORE AREAS.

DATA ITEM LIST SOURCE: FIPS PUB 6-2, SEP 15, 1973 AND FPC

DATA ITEM LIST:

	CODE	ABBREVIATION
OFFSHORE, STATE	00990	990
OFFSHORE, FEDERAL	00995	995
OFFSHORE, GENERAL	00999	999

(REST ARE FIPS)

DATA ITEM LIST MNEMONIC: IORESP

DATA ITEM LIST TITLE: ID, FPC RESPONDENTS

DATA ITEM LIST DESCRIPTION: IDENTIFIES RESPONDENTS TO THE FPC AND OTHER PARTIES OF INTEREST

DATA ITEM LIST SOURCE: FPC STAFF

DATA ITEM LIST: (TO BE SUPPLIED WHEN FORM IS DUE.)

DATA ITEM LIST MNEMONIC: IDSTAT

DATA ITEM LIST TITLE: ID, STATES OF THE UNITED STATES

DATA ITEM LIST DESCRIPTION: IDENTIFIES THE 50 STATES, THE DISTRICT OF COLUMBIA, AND THE OUTLYING AREAS OF THE US. ALL OF WHICH ARE CONSIDERED FIRST ORDER SUBDIVISIONS OF THE US.

DATA ITEM LIST SOURCE: FIPS PUB 5-1, JUN 15, 1970

DATA ITEM LIST

	CODE	ABBREVIATION
ALABAMA	01	AL
ALASKA	02	AK
AMERICAN SAMOA	03	AS
ARIZONA	04	AZ
ARKANSAS	05	AR
CALIFORNIA	06	CA
CANAL ZONE	07	CZ
COLORADO	08	CO

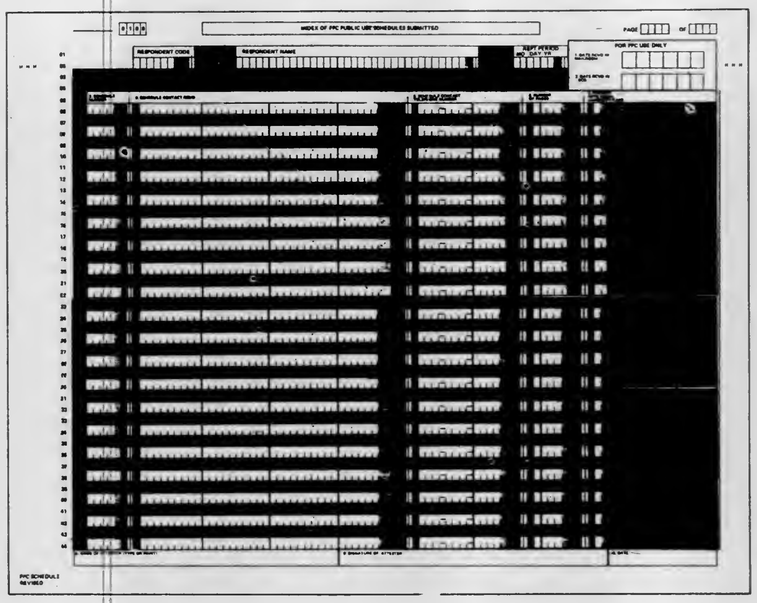
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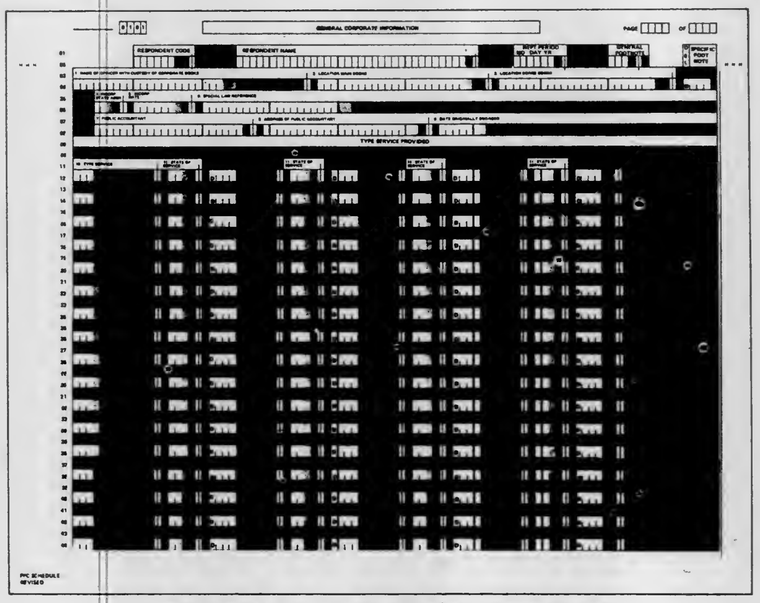
Attachment F

FEDERAL POWER COMMISSION

Corporate and Financial Reports for Class C and Class D
Electric Utilities and Licensees

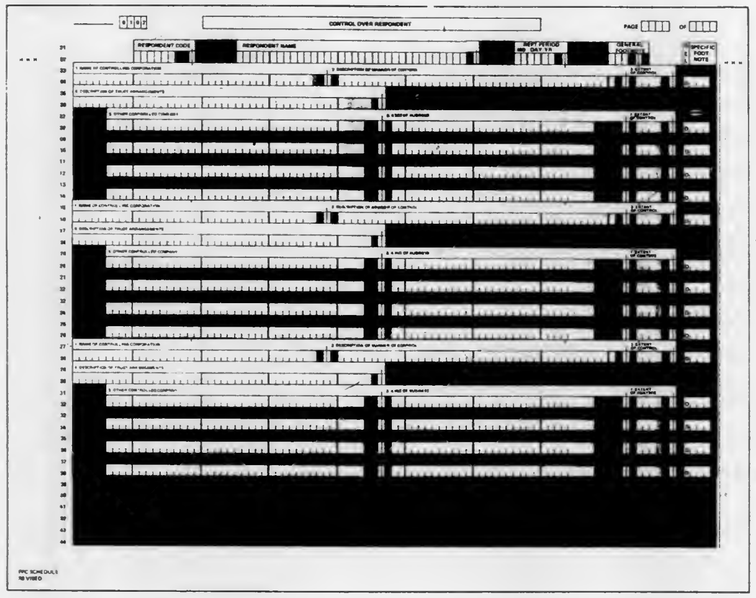
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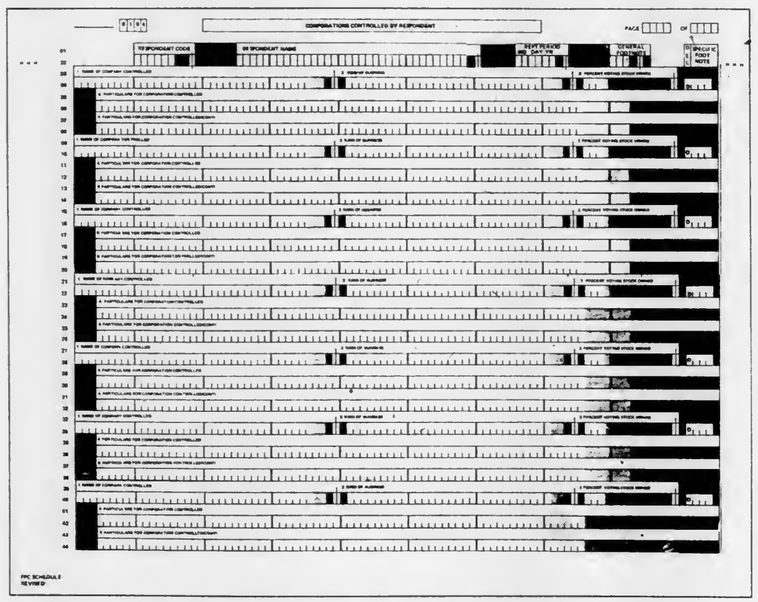




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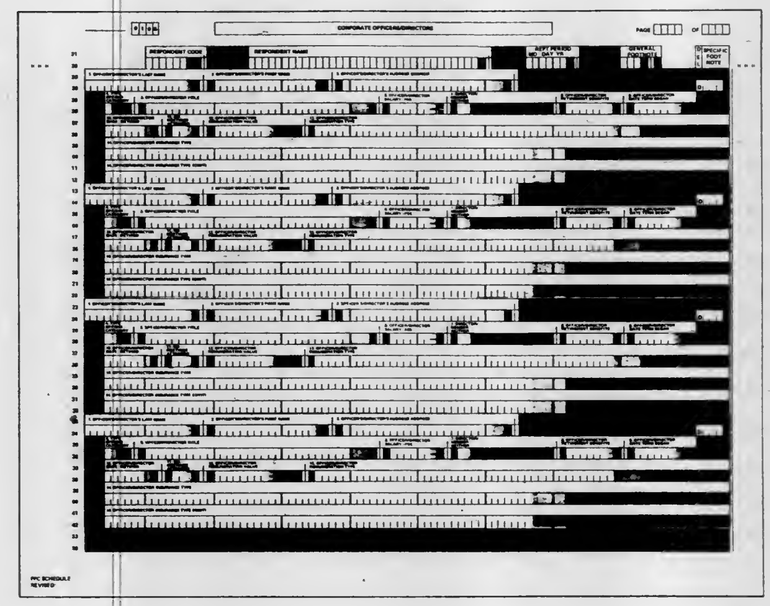
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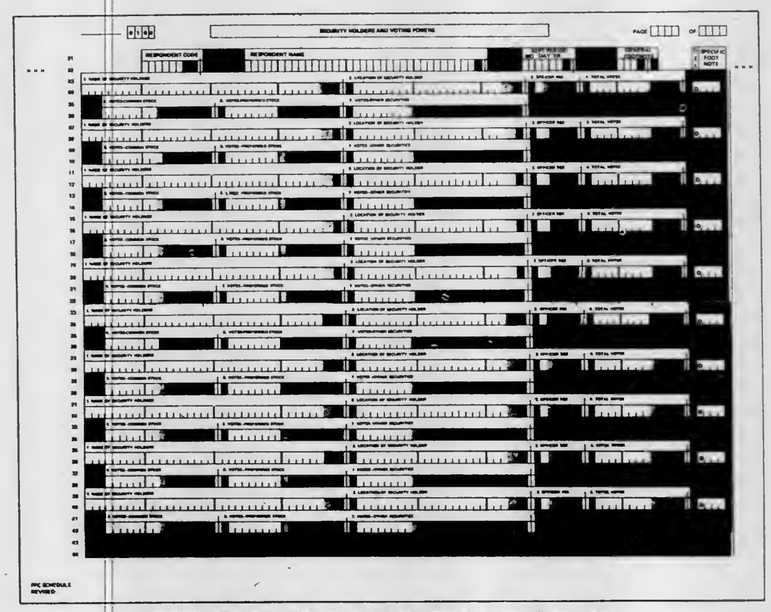




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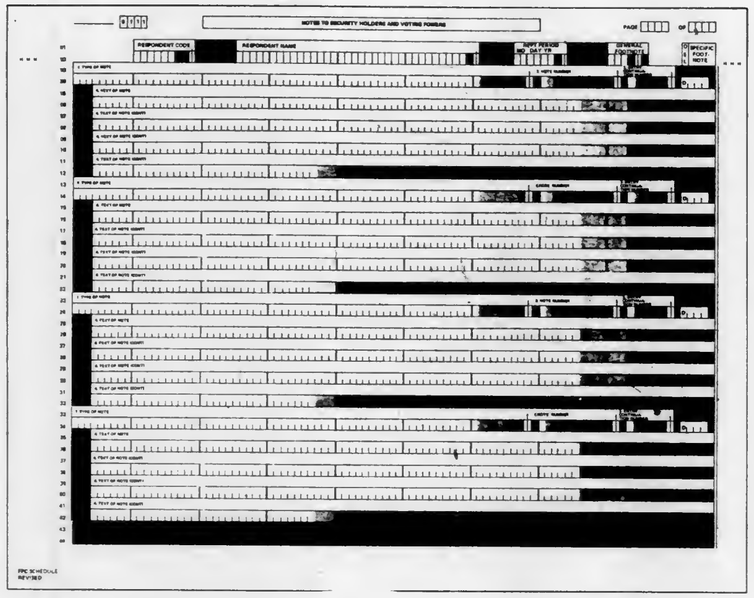
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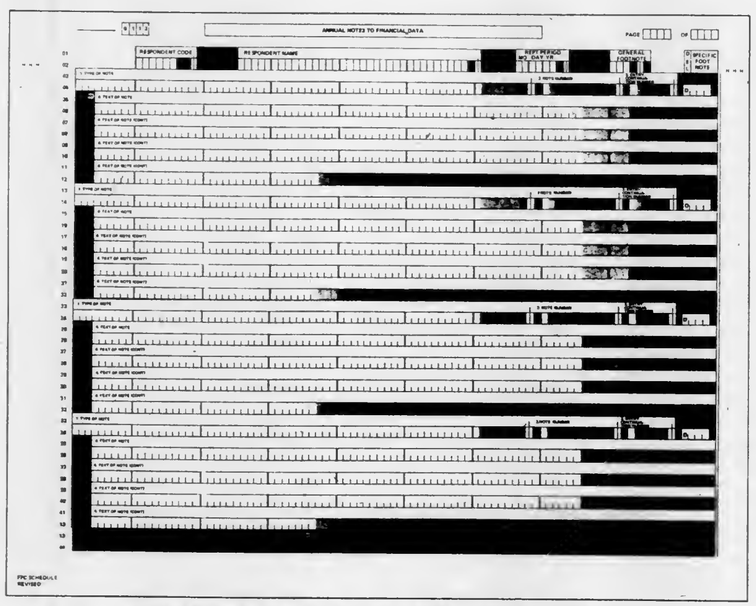


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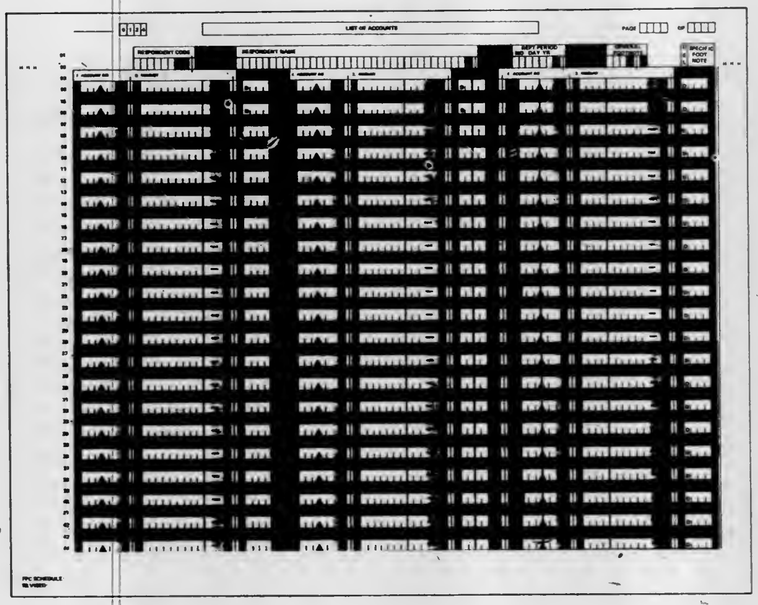
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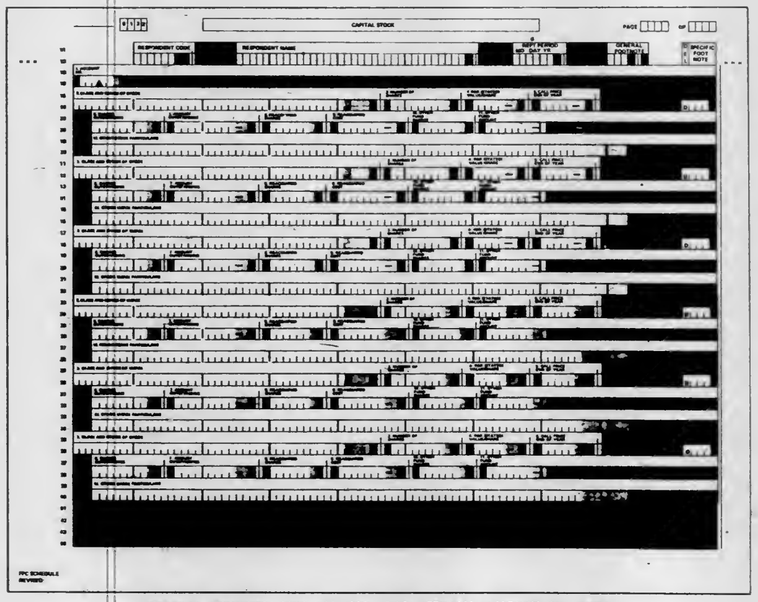
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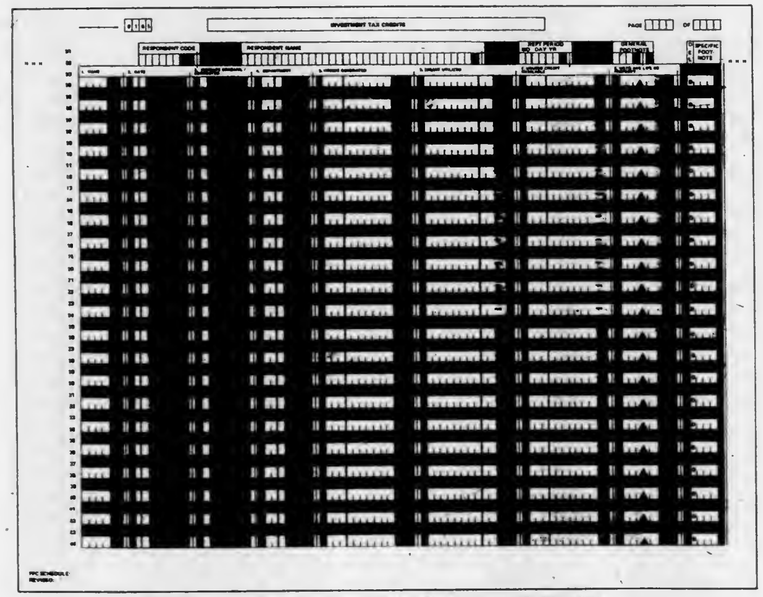


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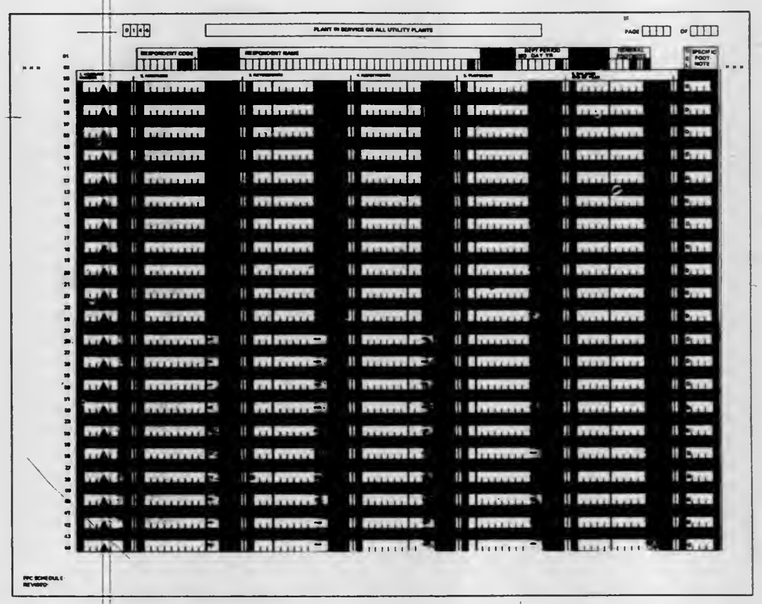
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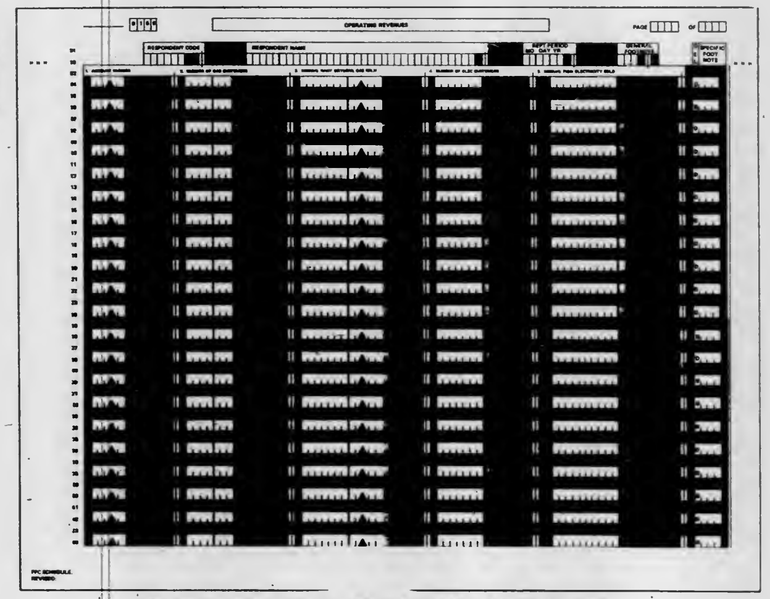
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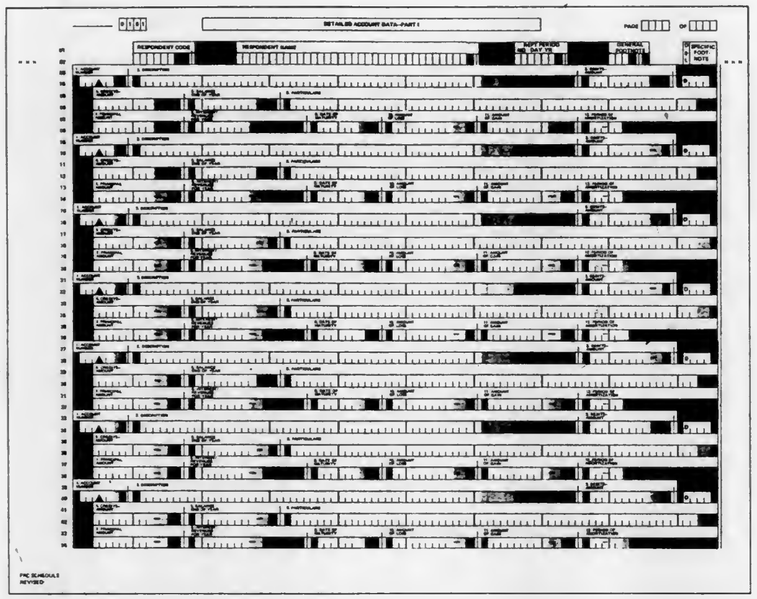


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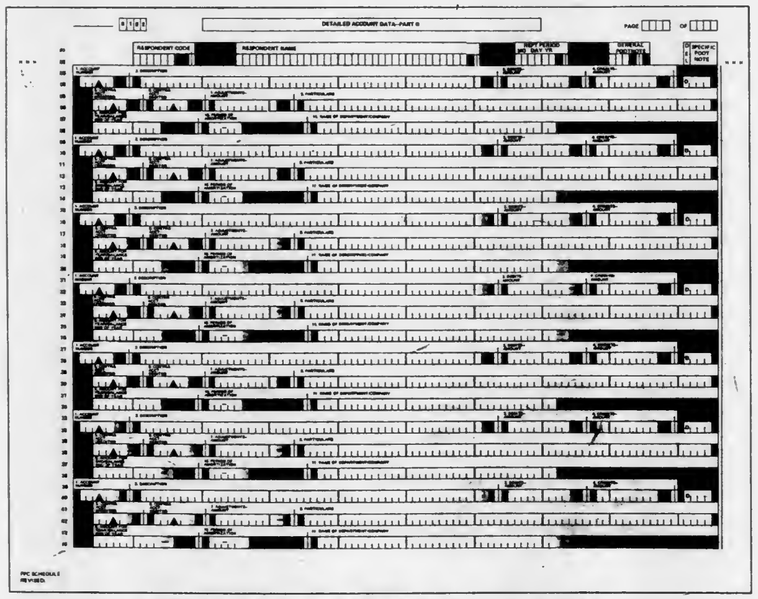


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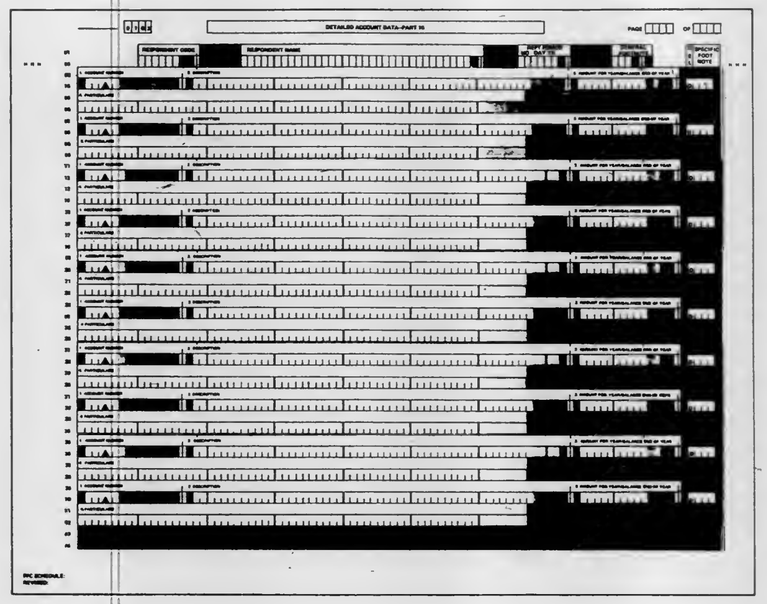
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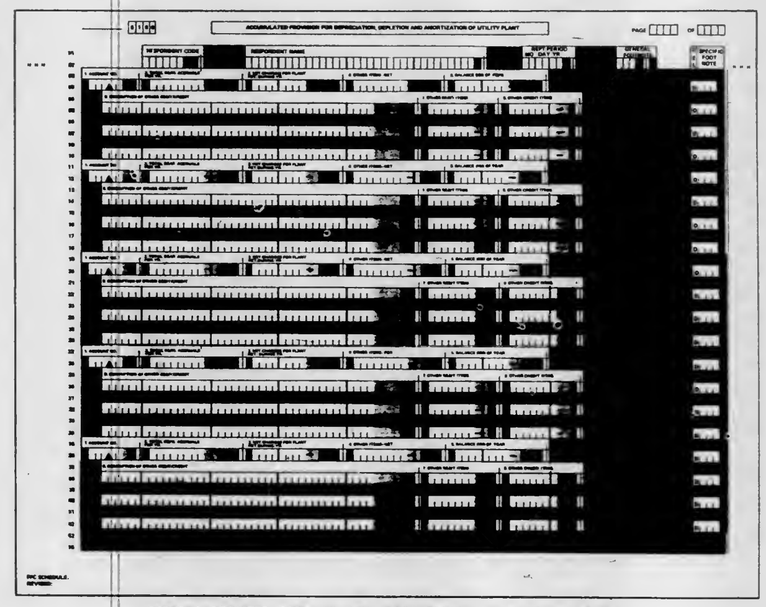
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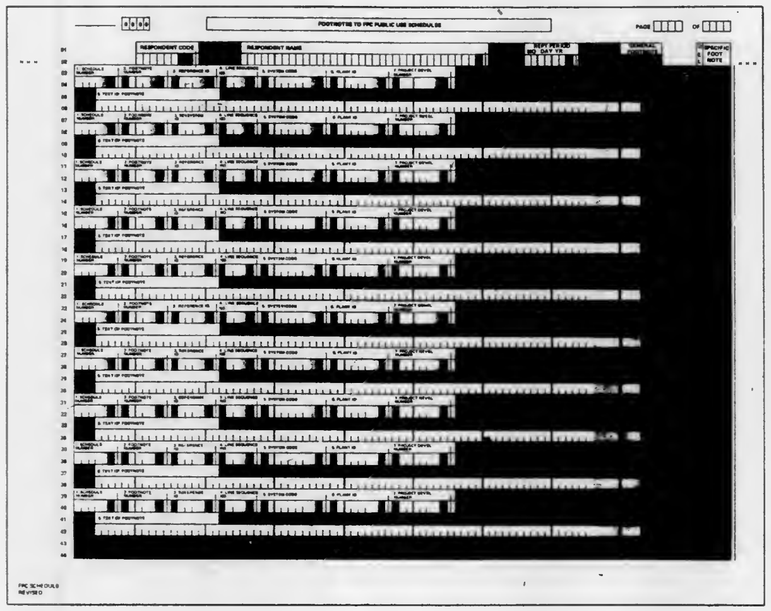


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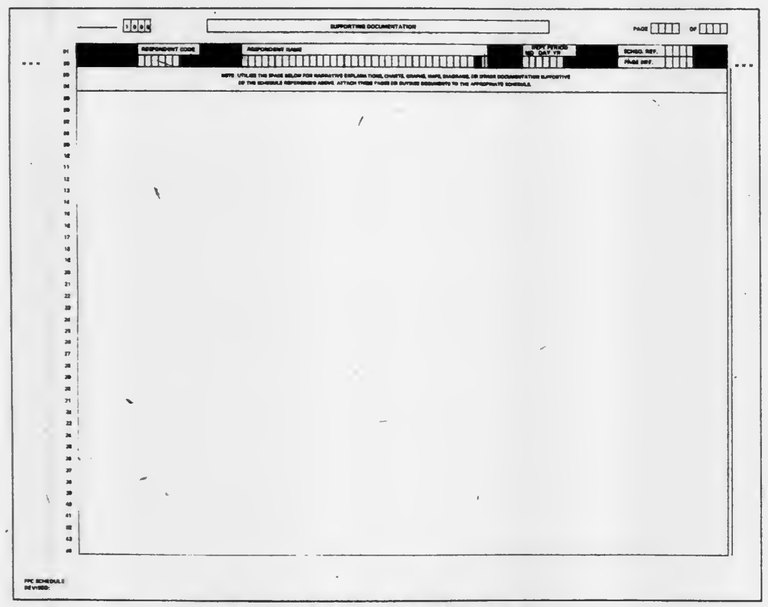


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[FR Doc.76-24953 Filed 8-26-76;8:45 am]

169

Vol.41–No.169
8–30–76
PAGES
36487–36637

federal register

MONDAY, AUGUST 30, 1976

highlights

PART I:

HOW TO USE THE FEDERAL REGISTER
OFR announces public briefings in Kansas City, Mo., 9–28 and 9–29–76..... 36546

DISTILLED SPIRITS
Treasury/ATF relaxes provisions relating to submission of supporting information in connection with applications for registration of plants; effective 8–30–76..... 36492
Treasury/ATF proposes adoption of metric standards of fill; comments by 9–29–76..... 36499

IMPORTED WINE
Treasury/ATF proposal requiring certificates of origin, identity and analysis unless foreign proprietors agree to inspection; comments by 10–29–76..... 36498

RED DYE
HEW/FDA postpones hearing scheduled for 9–13–76 on FD&C Red No. 2..... 36531

MOTOR VEHICLE SAFETY
DOT/NHTSA extends coverage of windshield mounting standard to certain vehicles, trucks and buses and establishes front barrier crash test procedures; effective 9–1–77..... 36493
DOT/NHTSA proposal establishing certain requirements for installation and accuracy of speedometers and odometers; comments by 11–29–76..... 36513
DOT/NHTSA amends occupant crash protection standard to continue present passenger car crash protection options until 8–31–77; effective 8–26–76..... 36494

PHYSICAL THERAPY
HEW/SSA issues schedule of guidelines for services performed on or after 4–1–76..... 36531

MARGARINE AND BUTTER
HEW/FDA proposes to establish common or usual name for substitutes that contain less fat and/or oil; comments by 10–29–76..... 36509

VETERANS BENEFITS
VA amends provisions relating to effective dates of awards; effective 8–24–76..... 36493

CONTINUED INSIDE

V41 I169 AUG 30 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

CAB—Air transportation competition; unfair methods..... 30112; 7–22–76
Post flight accounting reports. 31811; 7–30–76
DOT/CG—Drawbridge operations; Tex. 31534; 7–29–76
FHA—Construction contract equal opportunity compliance procedures. 34239; 8–13–76
Interior/FWS—Hunting; Mont..... 31539; 7–29–76

Rules Going Into Effect August 28, 1976

INT/FWS—Hunting; certain National wildlife refuges in Ore..... 32750; 8–5–76
Hunting; National wildlife refuges in certain states..... 32752; 8–5–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5286. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

FREEDOM OF INFORMATION AND PRIVACY ACTS

National Study Commission on Records and Documents of Federal Officials proposals on implementation; comments by 9–29–76 36514
DOD issues proposed guidelines for responding to requests for information or assistance; comments by 9–29–76 36523

MEETINGS—

Advisory Council on Historic Preservation, 9–14–76 36552
DOD/AF: Scientific Advisory Board, 9–21 through 9–24–76 (2 documents) 36523
EPA: Science Advisory Board, Environmental Health Advisory Board, 9–16 and 9–17–76 36538
Technology Assessment and Pollution Control Advisory Committee, 9–13 through 9–15–76 36539
FCC: 1979 WARC Broadcast Service Working Groups, 9–14, 9–15, 9–29, 9–30–76 36544
FPC: National Gas Survey, Transmission, Distribution and Storage-Technical Advisory Task Force–Rate Design, 9–14–76 36547
HEW/ADAMHA: Minority Advisory Committee, comments by 9–15 through 9–17–76 36530
CDC: Feasibility of Certifying Component Parts for Self-Contained Breathing Apparatus, 10–22–76 36530
Interior/NPS: Canaveral National Seashore Advisory Commission, 9–16–76 36528
NASA: Space Program Advisory Council, Space Systems Committee, 9–20 and 9–21–76 36553
NSF: Advisory Panel for Astronomy, Subpanel on Optical and Infrared Astronomy, 9–17 and 9–18–76 36553
State: Advisory Committee to the United States National Section of the International North Pacific Fisheries Commission, 9–27 and 9–28–76 36520
Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee (CCIR), 9–28–76 36520

PART II:

DEVELOPMENTAL DISABILITIES PROGRAM

HEW proposal on grants to States and non-profit organizations to improve and coordinate services to the disabled; comments by 10–14–76 36581

PART III:

STATIONARY SOURCES

EPA proposes revision to capacity standard of performance for new, modified and reconstructed petroleum refinery fluid catalytic cracking unit catalyst regenerators; comments by 10–29–76 36599

PART IV:

MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

HUD proposes to update rules and include servicing requirements; comments by 10–1–76 36603

PART V:

BUDGET RESCISSIONS AND DEFERRALS

OMB reports revisions 36613

PART VI:

NATIONAL FLOOD INSURANCE PROGRAM

HUD/FIA proposes clarification of Administrator and contractor-agent roles; comments by 9–29–76 36619

PART VII:

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Commerce/EDA amends regulations on implementation.. 36635

contents

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Almonds grown in Calif 36506

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Soil Conservation Service.
Rules
Procurement 36493

AIR FORCE DEPARTMENT
Notices
Meetings:
USAF Scientific Advisory Board (2 documents) 36523

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Advisory committee; renewal 36530
Meetings:
Minority Advisory Committee 36530

ALCOHOL, TOBACCO, AND FIREARMS BUREAU
Rules
Distilled spirits plants; registration, supporting information 36492
Proposed Rules
Wine labeling and advertising; certificates of origin, identity and analysis 36498
Metric fill standards, distilled spirits 36499

CIVIL AERONAUTICS BOARD
Rules
Practice and procedure, economic proceedings:
Public participation; clarification of intervention in Board activities 36491
Notices
Hearings, etc.:
Delta Air Lines, Inc 36536
Eastern Air Lines, Inc. and Piedmont Aviation, Inc 36537
Ohio/Indiana points nonstop service investigation 36537
Pan American World Airways, Inc. and Trans World Airlines, Inc 36538
United States-Latin America all-cargo service investigation 36538

COAST GUARD
Proposed Rules
Drawbridge operations:
Louisiana 36510
Notices
Deepwater port license applications:
Galveston, Port of 36534
Loop Inc. and Seadock, Inc 36534

COMMERCE DEPARTMENT
See Economic Development Administration; National Oceanic and Atmospheric Administration.

COMPTROLLER OF THE CURRENCY
Notices
Order of succession to act as Comptroller; First Deputy Comptroller of the Currency, et al 36520

CUSTOMS SERVICE
Rules
Air commerce regulations:
Shipper's export declarations; alternative procedure for filing 36497
Antidumping:
Acrylic sheet from Japan 36497

V 41 169 AUG 30 76 UMI

V41169 AUG 30 76 UMI

CONTENTS

DEFENSE DEPARTMENT
See also Air Force Department.
Proposed Rules
Ammunition and explosives safety standards ---- 36506
Notices
Privacy Act and exemption of the Freedom of Information Act; guidelines for release of personal information ---- 36523

DRUG ENFORCEMENT ADMINISTRATION
Notices
Applications, etc.; controlled substances:
Abbott Laboratories ---- 36525
Applied Science Labs, Inc ---- 36524
Arenol Chemical Corp ---- 36525
Registrations, actions affecting:
Anderson, Donald H., M.D ---- 36524
Hooker, John H. Perry, M.D ---- 36524
Shankwiler, Reed Albert, D.O ---- 36525

ECONOMIC DEVELOPMENT ADMINISTRATION
Rules
Local public works capital development and investment program ---- 36635
Notices
Import determination petitions:
Frank H. Guider, Inc ---- 36528

ENVIRONMENTAL PROTECTION AGENCY
Proposed Rules
Air pollution; standards of performance for new stationary sources:
Petroleum refinery fluid catalytic cracking units ---- 36599
Notices
Air pollution; ambient air monitoring reference and equivalent methods ---- 36538
Environmental statements, availability, etc.:
Jerome Waste Water Facilities Project ---- 36538
Olentangy Environmental Control Center and Interceptor System ---- 36538
Meetings:
Environmental Health Advisory Committee ---- 36538
Technology Assessment and Pollution Control Advisory Committee ---- 36539

FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Boeing (2 documents) ---- 36487
General Electric Co ---- 36488
Lockheed-California Co. (2 documents) ---- 36488, 36489
Societe Nationale Industrielle Aerospatiale ---- 36488
Control zones ---- 36490
Standard instrument approach procedures ---- 36490
Transition areas (2 documents) ---- 36489, 36490
Proposed Rules
Airworthiness directives:
Bell ---- 36511
Boeing ---- 36511
Lockheed-California Co ---- 36512
Control zones, transition areas ---- 36512
Notices
Committees; establishment, renewals, etc.:
Microwave Landing System Advisory Committee ---- 36535
Obstacle Clearance Requirements Advisory Committee for the United States ---- 36535
High Altitude Pollution Program Technical Advisory Committee ---- 36536
Committees; terminations:
Alaskan Region Air Traffic Control Advisory Committee ---- 36535
Boston Air Traffic Control Advisory Committee ---- 36535
General Aviation Accident Prevention Advisory Committee ---- 36535

FEDERAL COMMUNICATIONS COMMISSION
Notices
Domestic public radio services; applications accepted for filing ---- 36542
FM broadcast applications ready and available for processing ---- 36545
Meetings:
World Administrative Radio Conference; Broadcast Service Working Groups ---- 36544
Satellite communications services; applications accepted for filing ---- 36544

FEDERAL ENERGY ADMINISTRATION
Notices
Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants ---- 36539
Consent order; Martin Oil Service, Inc., et al ---- 36541
Crude oil, domestic, allocation program; proposed adjustments to 1975 exception relief ---- 36540

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Areas eligible for sale of insurance ---- 36492
Proposed Rules
Flood Insurance Program, National:
Standards flood insurance policies, etc ---- 36619

FEDERAL MARITIME COMMISSION
Notices
Investigations and hearings:
Puerto Nuevo, San Juan, Puerto Rico ---- 36546

FEDERAL POWER COMMISSION
Notices
Meetings:
National Gas Survey, Transmission, Distribution and Storage-Technical, Advisory Task Force-Rate Design ---- 36547

FEDERAL REGISTER OFFICE
Notices
How to use the Federal Register; public briefings in Kansas City, Mo ---- 36546

FEDERAL RESERVE SYSTEM
Notices
Board actions; applications and reports ---- 36547
Applications, etc.:
Bancal Tri-State Corp ---- 36549
First Maryland Bancorp ---- 36550
First National Financial Corp ---- 36550
Iola Bancshares, Inc ---- 36550
Michigan National Corp ---- 36550
Millikin Bancshares, Inc ---- 36550
Millikin, James; estate of ---- 36550
Security Bancshares, Inc ---- 36551
Standard Prudential Corp ---- 36552

FISH AND WILDLIFE SERVICE
Rules
Fishing:
Sand Lake National Wildlife Refuge, S. Dak ---- 36496
Hunting:
Ouray National Wildlife Refuge, Utah ---- 36495
Sand Lake National Wildlife Refuge, S. Dak. (3 documents) ---- 36495
Proposed Rules
Endangered and threatened species; fish, wildlife, and plants:
Falcon, American Peregrine ---- 36516
Rat, Morro Bay Kangaroo ---- 36517
Hunting:
Lake Alice National Wildlife Refuge, N.D ---- 36518

FOOD AND DRUG ADMINISTRATION
Proposed Rules
Margarine (oleomargarine) or butter substitutes; identity standards ---- 36509
Notices
FD&C Red No. 2; postponement of hearing ---- 36531

GENERAL ACCOUNTING OFFICE
Notices
Regulatory reports review; proposals, approvals, etc ---- 36552

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Alcohol, Drug Abuse and Mental Health Administration; Food and Drug Administration; Human Development Office; Public Health Service; Social Security Administration.

HISTORIC PRESERVATION, ADVISORY COUNCIL
Notices
Meeting ---- 36552

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Insurance Administration; Housing Production and Mortgage Credit, Office of Assistant Secretary.

CONTENTS

HOUSING PRODUCTION AND MORTGAGE CREDIT, OFFICE OF ASSISTANT SECRETARY
Proposed Rules
Mortgage and loan insurance programs:
Servicing requirements, etc ---- 36603

HUMAN DEVELOPMENT OFFICE
Proposed Rules
Developmental disabilities program ---- 36581

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Land Management Bureau; National Park Service.
Notices
Marine mammals; request of State of Alaska to waive moratorium ---- 36528

INTERSTATE COMMERCE COMMISSION
Notices
Hearing assignments ---- 36556
Increased freight rates west and interterritorial ---- 36556
Motor carriers:
Temporary authority applications ---- 36558
Transfer proceedings ---- 36560

JUSTICE DEPARTMENT
See Drug Enforcement Administration.

LAND MANAGEMENT BUREAU
Notices
Alaska native selections; procedures (2 documents) ---- 36525, 36527

MANAGEMENT AND BUDGET OFFICE
Notices
Budget rescissions and deferrals ---- 36619
Clearance of reports; list of requests (2 documents) ---- 36554, 36555

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Notices
Meetings:
Space Program Advisory Council, Space Systems Committee ---- 36553

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Rules
Motor vehicle safety standards:
Occupant crash protection ---- 36494
Windshield mounting ---- 36493
Proposed Rules
Motor vehicle safety standards:
Speedometers and odometers ---- 36513

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Rules
Marine mammals:
Seal skins, Cape fur, waiver of moratorium on importation ---- 36496
Proposed Rules
Marine mammals:
Pribilof Islands; administration of ---- 36507
Notices
Marine mammal permit applications, etc.:
Detroit Zoological Park ---- 36529
Kings Productions, Taft Broadcasting Co ---- 36529
Metroparks Zoo ---- 36529
Rutherford, Scott R., Port Elizabeth Museum ---- 36529

NATIONAL PARK SERVICE
Notices
Meetings:
Canaveral National Seashore Advisory Commission ---- 36528

NATIONAL SCIENCE FOUNDATION
Notices
Meetings:
Advisory Panel for Astronomy, Subpanel on Optical and Infrared Astronomy ---- 36553

NUCLEAR REGULATORY COMMISSION
Notices
Applications, etc.:
Babcock and Wilcox ---- 36553
Public Service Co. of New Hampshire, et al ---- 36554

PUBLIC HEALTH SERVICE
Notices
Meetings:
Feasibility of certifying component parts for self-contained breathing apparatus ---- 36530

RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS, NATIONAL STUDY COMMISSION
Proposed Rules
Freedom of Information and Privacy Act; implementation ---- 36514

SMALL BUSINESS ADMINISTRATION
Notices
Applications, etc.:
BanCal Capital Corp ---- 36555
Continental Capital Corp ---- 36555

SOCIAL SECURITY ADMINISTRATION
Notices
Health Insurance Program; schedule of guidelines for physical therapy services ---- 36531

SOIL CONSERVATION SERVICE
Notices
Environmental statements on watershed projects; availability, etc.:
Cane Creek, Tenn ---- 36528

STATE DEPARTMENT
Notices
Meetings:
Advisory Committee to the United States National Section on the International North Pacific Fisheries Commission ---- 36520
Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee ---- 36520

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.
Notices
Construction of I-66 between Capital Beltway (I-495) and Rosslyn, Va.; hearing ---- 36536

TREASURY DEPARTMENT
See also Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Customs Service.
Notices
Income tax treaties; discussions with Hungary ---- 36520
Antidumping:
Clear sheet glass from Romania ---- 36520
Knitting machines for ladies' seamless hosiery from Italy ---- 36521
Pressure sensitive plastic tape from West Germany ---- 36521
Notes, Treasury:
Series E-1980 ---- 36522

VETERANS ADMINISTRATION
Rules
Adjudication; pensions, compensation, dependency, etc.:
Benefit awards; effective dates ---- 36493

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR

PROPOSED RULES:
2505 ... 36514
2510 ... 36514

7 CFR

PROPOSED RULES:
981 ... 36506

13 CFR

316 ... 36636

14 CFR

39 (6 documents) ... 36487–36489
71 (3 documents) ... 36489–36490
97 ... 36490
302 ... 36491
PROPOSED RULES:
39 (3 documents) ... 36511, 36512
71 ... 36512

19 CFR

6 ... 36497
153 ... 36497

21 CFR

PROPOSED RULES:
102 ... 36509

24 CFR

1914 ... 36492
PROPOSED RULES:
203 ... 36604
1911 ... 36620
1921 ... 36620
1922 ... 36620
1923 ... 36620
1924 ... 36620

27 CFR

201 ... 36492
PROPOSED RULES:
4 ... 36498
170 ... 36499
173 ... 36499
194 ... 36499
201 ... 36499
250 ... 36499
251 ... 36499
252 ... 36499

32 CFR

PROPOSED RULES:
251 ... 36506

33 CFR

PROPOSED RULES:
117 ... 36510

38 CFR

3 ... 36493

40 CFR

PROPOSED RULES:
60 ... 36600

41 CFR

4–1 ... 36493

45 CFR

PROPOSED RULES:
1385 ... 36582
1386 ... 36582
1387 ... 36582

49 CFR

571 (2 documents) ... 36493, 36494
PROPOSED RULES:
571 ... 36513

50 CFR

32 (4 documents) ... 36495
33 ... 36496
216 ... 36496
PROPOSED RULES:
17 (2 documents) ... 36516, 36517
32 ... 36518
215 ... 36507

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 ... 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) ... 32399
EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) ... 34035
October 19, 1911 (Revoked in part by PLO 5598) ... 34035
April 16, 1912 (Revoked in part by PLO 5598) ... 34035
October 27, 1914 (Revoked in part by PLO 5598) ... 34035
6276 (Revoked in part by PLO 5596) ... 33267
11652 (See EO 11932) ... 32691
11790 (See EO 11930) ... 32399
11814 (See EO 11930) ... 32399
11912 (See EO 11930) ... 32399
11930 ... 32399
11931 ... 32689
11932 ... 32691
DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) ... 32693
July 30, 1976 ... 32693
MEMORANDUMS:
July 19, 1976 ... 32403

4 CFR

1 ... 35155

5 CFR

213 ... 32892, 33545, 34246, 34731, 35155, 36193
591 ... 32892
PROPOSED RULES:
2505 ... 36514
2510 ... 36514

7 CFR

2 ... 36193
35 ... 32877
52 ... 32222, 34751
103 ... 34005
105 ... 34005
106 ... 34005
108 ... 34006
111 ... 34006
220 ... 32405, 34757, 36013
225 ... 35685
230 ... 35686
235 ... 32405
271 ... 34760
331 ... 32229, 32409
354 ... 35693
409 ... 34973
722 ... 32878, 36193
728 ... 35694
775 ... 35694
729 ... 36194
790 ... 34247
791 ... 34247
905 ... 34248
908 ... 32229, 32695, 34006, 35053, 35520, 36013
909 ... 35843
910 ... 32827, 34248, 35156, 35521, 36195
911 ... 36013
915 ... 34973
916 ... 32410
917 ... 32410–32411, 34762
919 ... 35695
926 ... 34007
944 ... 34762
946 ... 36014
947 ... 32230, 32695
958 ... 36195
967 ... 35520
982 ... 34974
989 ... 32412
1012 ... 32417
1099 ... 32575
1207 ... 36197
1421 ... 32879, 35695–35702
1124 ... 32418, 35843
1427 ... 35521
1430 ... 32881
1472 ... 34248
1701 ... 33546
1806 ... 34571
1821 ... 32575
1822 ... 34577, 34578
1831 ... 32575, 32697
1861 ... 32576
1871 ... 32576
1872 ... 32577, 32578
1890c ... 32578
1901 ... 34583
1955 ... 32697
PROPOSED RULES:
16 ... 34777, 34977, 35072
47 ... 32231
51 ... 32896
909 ... 32234
910 ... 33922, 35187, 36211
911 ... 34049
912 ... 36212
919 ... 32234
926 ... 34647, 36035
927 ... 34050
930 ... 32606
931 ... 32757
932 ... 35722
946 ... 32758
953 ... 34766
981 ... 34647, 36034, 36506
991 ... 34648
993 ... 33275
1004 ... 34282
1006 ... 35187
1007 ... 33275
1011 ... 33275, 34444
1012 ... 35187
1013 ... 35187
1030 ... 33275
1032 ... 33275
1033 ... 34444, 35194
1046 ... 33275
1049 ... 33275
1050 ... 33275
1062 ... 33275
1063 ... 33275
1064 ... 33275
1065 ... 33275
1068 ... 33275
1070 ... 33275
1071 ... 33275
1073 ... 33275
1076 ... 33275
1078 ... 33275
1079 ... 33275
1090 ... 33275, 34444
1094 ... 33275
1096 ... 33275
1097 ... 33275
1098 ... 33275
1099 ... 33275
1101 ... 33275, 34444
1102 ... 33275
1104 ... 33275
1106 ... 33275
1108 ... 33275
1120 ... 33275
1124 ... 34286
1126 ... 33275
1131 ... 33275
1132 ... 33275
1138 ... 33275
1207 ... 32606
1260 ... 34772
1430 ... 32899
1701 ... 32419
1801 ... 33561
1813 ... 33922
1823 ... 34767
1861 ... 33561
1867 ... 35532
1980 ... 33561

8 CFR

100 ... 32419, 34937
103 ... 34937
316a ... 34938

9 CFR

73 ... 32882, 34731
76 ... 32882, 35156, 35675
83 ... 32432
113 ... 32882
201 ... 34007
303 ... 36197
381 ... 36197
PROPOSED RULES:
320 ... 36215
325 ... 36215
327 ... 34293, 36215

10 CFR

35 ... 34635
211 ... 33881
212 ... 34008, 36172
700 ... 34731
735 ... 34731
PROPOSED RULES:
9 ... 35073
70 ... 35537
205 ... 34783, 34981
210 ... 34784
211 ... 34784
212 ... 33282, 34080, 34784
705 ... 34778

11 CFR

Ch. I ... 35932

V 41 I 169 AUG 30 76 UMI

12 CFR

7 ... 36198
217 ... 32578
220 ... 34938
221 ... 35477
265 ... 36198
303 ... 35156
335 ... 35477
545 ... 35820
561 ... 32419, 35821
563 ... 32419, 35821
611 ... 33546
615 ... 33547
618 ... 33547

PROPOSED RULES:

16 ... 32864
225 ... 33306
226 ... 35536
556 ... 36039
569 ... 35827
584 ... 33566

13 CFR

102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670, 36636

PROPOSED RULES:

120 ... 33567

14 CFR

13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059, 36014, 36015, 36487–36489
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478, 36016, 36489–36490
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478, 36490
121 ... 35070
137 ... 35059
253 ... 34249
302 ... 36491
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:

39 ... 32238, 32239, 34076, 34649, 36511, 36512
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535, 36036, 36512
73 ... 34077, 34650
75 ... 34077
93 ... 35073
121 ... 36036
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941, 35843, 36198, 36199
15 ... 34594
433 ... 34594

PROPOSED RULES:

423 ... 35863
437 ... 35725
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167, 36199
249 ... 35167

PROPOSED RULES:

239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:

1 ... 34324
2 ... 32910, 36221
4 ... 36222
34 ... 36040
35 ... 32911
131 ... 36222
141 ... 36402
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
6 ... 36497
142 ... 33248
153 ... 32421, 32893, 34597, 34974, 36497
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:

1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
416 ... 36017
602 ... 35169

PROPOSED RULES:

404 ... 34060, 35861, 35862
405 ... 35197
416 ... 35862
701 ... 34294
702 ... 34294
725 ... 34972, 36219

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743, 35844, 36200
514 ... 36200
520 ... 32889
522 ... 32583, 32889, 33882, 36018
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:

1 ... 34051
2 ... 35855
4 ... 35282
6 ... 35282
102 ... 36509
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

64 ... 36203
102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:

130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253
633 ... 36204
635 ... 36204
655 ... 36206

PROPOSED RULES:

658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707, 36492
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556 33919–33921, 35844–35847
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174, 35847

24 CFR—Continued

1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:

201 ... 32564
203 ... 36604
205 ... 34977
570 ... 34301
710 ... 35978
720 ... 35978
868 ... 32370
1710 ... 34648
1911 ... 36620
1917 ... 34063–34075, 34305–34322
1921 ... 36620
1922 ... 36620
1923 ... 36620
1924 ... 36620
2205 ... 32237

25 CFR

41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:

41 ... 32756
221 ... 32757

26 CFR

1 ... 33262, 34025, 34619, 35490
20 ... 34627, 35490
25 ... 34628, 35490
31 ... 35174
53 ... 35514
141 ... 32889, 32890
301 ... 34025, 35174, 35490

PROPOSED RULES:

1 ... 33285, 35855
31 ... 32231
54 ... 32895

27 CFR

201 ... 36492

PROPOSED RULES:

4 ... 36029, 36498
5 ... 35531, 36029
170 ... 36499
173 ... 36499
194 ... 36499
201 ... 36499
250 ... 36499
251 ... 36499
252 ... 36499

28 CFR

0 ... 35183
16 ... 32423
20 ... 34949

PROPOSED RULES:

30 ... 36215

29 CFR

699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252, 36206
2520 ... 32522
2602 ... 32740
2606 ... 32741

29 CFR—Continued

PROPOSED RULES:

97 ... 35723, 35724
1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298, 36219
2200 ... 34657

30 CFR

55 ... 33263
56 ... 33263
57 ... 33263

PROPOSED RULES:

211 ... 35716

31 CFR

316 ... 36342
332 ... 36354

PROPOSED RULES:

210 ... 32605, 35855

32 CFR

581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:

251 ... 36506
256 ... 36030
505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR

109 ... 36018
110 ... 36018
117 ... 32217, 34034, 35521, 35522
127 ... 32742, 35066
207 ... 34034

PROPOSED RULES:

110 ... 34649
117 ... 32238, 35536, 36510
161 ... 32758

34 CFR

PROPOSED RULES:

Ch. I ... 34324

35 CFR

PROPOSED RULES:

133 ... 33307

36 CFR

7 ... 33263
50 ... 34748

38 CFR

3 ... 36493
4 ... 34256
21 ... 32217
36 ... 32218

PROPOSED RULES:

1 ... 32247

39 CFR

10 ... 35682–35685

39 CFR—Continued

111 ... 35682–35685
3002 ... 32742

PROPOSED RULES:

775 ... 35725
3003 ... 34792

40 CFR

51 ... 35676
52 ... 32743, 32890, 34259, 34749, 35184, 35676, 36324
60 ... 33264, 34628, 35184
61 ... 33264, 34629
86 ... 35626
87 ... 34722
180 ... 32426, 33265, 34629, 35677
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440

PROPOSED RULES:

52 ... 32241, 34422, 34782, 35725
60 ... 36600
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613
420 ... 32242
434 ... 34441

41 CFR

1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
4–1 ... 36493
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
9–3 ... 36021
28–1 ... 32426
29–60 ... 35186
101–18 ... 36206
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634
101–35 ... 36207

PROPOSED RULES:

3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR

51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR

419 ... 32427
2650 ... 33267
3302 ... 32891
3520 ... 36022
9230 ... 36022

PUBLIC LAND ORDERS:

5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267

V 41 1 169
AUG 30 76
UMI

43 CFR—Continued

PUBLIC LAND ORDERS:—Continued

5597 33267
5598 34035
5599 34749
5600 35067
5601 35067

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

11 35654
115 34962
117 35678
121a 35678
121d 33558
130 35678
141 35678
166 35678
173 35678
176 36320
177 33268
190 33868
233 ..... 35678, 35847
249 ..... 35847, 36207
801 33559
1069 33268

PROPOSED RULES:

73b 32235
103 35722
144 36322
146 34052
175 36322
176 36322
190 33962
228 36156
1385 36582
1386 36582
1387 36582
1800 36222

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
180 35072
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885, 36209
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849, 36022, 36023
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902, 35522
91 ..... 32680, 33889, 33903, 35068, 35522, 36209
93 ..... 32682, 33907, 35522, 36209
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534, 36219–36221
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242
89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849
81 32593
192 34598
195 34035
390 34968
571 ..... 32221, 35522, 36023–36026, 36493, 36494
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678, 36027, 36209

49 CFR—Continued

1038 32594
1109 32744
1124 ..... 34260, 36210
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 ..... 33280, 36037, 36513
801 34082
1067 33307
1106 36041
1109 32434
1125 35730
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849, 36027, 36495
33 ..... 32222, 32431, 32603, 32755, 36496
216 36496
217 34969
222 ..... 34969, 35682, 36028
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922, 35855, 36516, 36517
20 34273
26 32433
32 ..... 34049, 36211, 36518
215 36507
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date
32205–32398	Aug. 2	34571–34730	16
32399–32574	3	34731–34935	17
32575–32688	4	34937–35051	18
32689–32875	5	35053–35153	19
32877–33244	6	35155–35475	20
33245–33543	9	35477–35674	23
33545–33880	10	35675–35842	24
33881–34003	11	35843–36012	25
34005–34238	12	36013–36191	26
32239–34570	13	36193–36486	27
		36487–36637	30

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–NW–8–AD; Amdt. 39–2706]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727–100 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring either the reactivation of the static port heater or replacement of the deactivated heater with an elbow fitting and enlarging the static sensor holes on Boeing Model 727–100 series airplanes was published in FEDERAL REGISTER, Vol. 41, No. 113, page 23419, on Thursday, June 10, 1976.

Interested persons have been afforded an opportunity to participate in the making of the amendment. A number of comments requested additional time for compliance which has been provided. Some comments were against enlarging the static sense holes. However, tests conducted by the manufacturer indicate a need for hole enlargement whether heated or not, because water can be retained by the small holes under certain conditions.

A notice of proposed rule making will be issued in the near future to propose amending this AD to require enlargement of the .047 inch diameter static port sense holes to .125 inch diameter in all 727–100/200 series airplanes unless already accomplished.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 727–100 series airplanes certificated in all categories with static port heater circuits deactivated.

Compliance required as indicated unless already accomplished.

To prevent the loss of altitude and airspeed reference due to a small amount of water freezing in the static port system, accomplish either of (1) or (2) below:

(1) Within the next 1,000 hours time in service after the effective date of this AD reactivate the static port heater circuits to the original FAA approved Boeing 727–100 configuration; or

(2) Within the next 2,000 hours time in service after the effective date of this AD replace the deactivated heater assembly, P/N 10–60723–1, with elbow fitting MS21906D6 in accordance with Boeing Service Bulletin 725–34–95 dated September 2, 1976, or later FAA approved service bulletins, and enlarge the static port sensing holes from .047 inch diameter to .125 inch diameter in accordance with Boeing Service Bulletin 727–34–94 (to be released) or later FAA approved service bulletins.

Notwithstanding the provisions of the above paragraph (1) the heater elements in one static system may be inoperative provided the aircraft is not flown in icing or precipitation conditions.

Boeing 727–100 airplanes already incorporating Boeing Service Bulletin 727–25–42, Revision 1, dated March 4, 1968, with elbow fitting MS21908D6 and Boeing Service Bulletin 727–34–57 dated April 7, 1968, enlarging the static sense holes are in compliance with this AD.

Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 1, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c).))

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington on August 20, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc.76–25105 Filed 8–27–76;8:45 am]

[Docket No. 76–NW–5–AD; Amdt. 39–2698]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations, Amendment 39–2538 AD 76–05–05 to provide a repeat inspection requirement for all fuselage skin lap splices under the wing-to-body fairings on Boeing Model 747 airplanes was published in 41 CFR 27084.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One operator requested an expansion of the inspection interval for certain airplanes to 8,000 hours or 24 months and for certain other airplanes to 16,000 hours or 48 months. Several operators requested an extension of the 4,000 hour interval. Based on service experience, an expansion of the proposed inspection interval cannot be justified at this time.

One operator requested that terminating action be referenced in the AD. The AD may be amended to reflect terminating action when the proper terminating action is developed.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations, Amendment 39–2538 AD 76–05–05 is amended as follows:

A. Delete paragraph "D" and add the following paragraph:

"D. Repeat the inspection required in paragraph A above at an interval not to exceed 4,000 flight hours or 15 months whichever comes first."

B. Add the following paragraph:

"E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 24, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington, August 11, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc.76–25107 Filed 8–27–76;8:45 am]

V41I169 AUG 30 76 UMI

[Docket No. 15692; Amdt. 39-2710]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale (Formerly Sud Aviation) Alouette III Helicopter Models SE-3160, SA-316B, SA-316C and SA-319B

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the incorporation of tail rotor control cables, fittings, and guides, of improved design and repetitive inspections of the new cables for proper tension and condition on certain Societe Nationale Industrielle Aerospatiale (SNIAS) Alouette III helicopters was published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18681).

Interested persons have been afforded an opportunity to participate in the making of the amendment and no objections were received.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (formerly SUD AVIATION). Applies to Alouette III Models SE-3160, SA-316B, SA-316C, and SA-319B helicopters, Serial Nos. 2032 and below, certificated in all categories.

Compliance is required as indicated.

To prevent failure of tail rotor control cables and the consequent loss of directional control, accomplish the following:

(a) Within the next 300 hours time in service after the effective date of this AD, unless already accomplished, replace tail rotor control cables, fittings, and guides with improved cables, fittings, and guides in accordance with Alouette Service Bulletin No. 65.72, dated March 29, 1971, and Alouette Service Bulletin No. 65.93, dated November 14, 1972, or their equivalents approved by the Chief, Aircraft Certification Staff, c/o American Embassy, APO New York, N.Y. 09667.

(b) Within the next 100 hours time in service after the accomplishment of the modification specified in paragraph (a) of this AD, or within the next 100 hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, inspect the cables for the proper tension, for exposed or broken wire strands, and for tearing of the wirelon coating.

NOTE.—During the inspection required by paragraph (b) of this AD, particular attention should be directed to condition of cables in the areas of the fittings, pulleys, and cable guides.

(c) If an exposed wire strand or a broken wire strand is found in any cable or tearing of the wirelon coating of any cable is found as a result of any inspection required by paragraph (b) or (c) of this AD, before further flight, replace that cable with a serviceable cable of same part number and continue to inspect the cables in accordance with paragraph (b) of this AD at intervals not to exceed 100 hours time in service from the last inspection.

(d) If, as a result of any of the inspections required by this AD, improper tension is found in any cable, adjust that cable for proper tension and continue to inspect the cables in accordance with paragraph (b) of this AD at intervals not to exceed 100 hours time in service from the last inspection.

This amendment becomes effective on September 29, 1976.

Issued in Washington, D.C. on August 23, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-25270 Filed 8-27-76;8:45 am]

[Docket No. 76-NE-25; Amdt. 39-2702]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Engine Models CT58-100-2, CT58-110-1, CT58-110-2, CT58-140-1 Series A&L, CT58-140-1, and CT58-140-2

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive reducing the cyclic and hourly life limits of certain compressor rear shafts in CT58 engines used in external lift operations was published in 41 FR 27084.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One operator, Evergreen Helicopters, Incorporated, registered its objections on the grounds that:

1. The load being external, rather than internal, has no effect on the operation of the engine, and
2. The record-keeping requirements are unduly burdensome.

FAA file documentation shows that the two occurrences of CT58 engine compressor rear shaft failure were associated with external lift operations. CT58 engines in nonexternal lift operations have performed satisfactorily. Analysis indicates that the flight profile of external lift operations, which includes many partial cycles, differs sufficiently from nonexternal lift operations to have a cumulative effect on the engines' total cycle count. In regard to record keeping, it is FAA's judgment that the associated inconvenience will be far outweighed by the continued airworthiness of the engines. Accordingly, adjustment of the life limits for external lift operations is required.

GENERAL ELECTRIC CO. Applies to all Genreal Electric Company Models CT58-100-2, CT58-110-1, CT58-110-2, CT58-140-1 Series A&L, CT58-140-1, and CT58-140-2 turboshaft engines incorporating compressor rear shafts, P/N 4000T29P01, P/N 4000T29P03, P/N 4010T54P01, P/N 5013T86P03, or P/N 573D384P003, and subject to external lift operation conditions which comprise more than five percent (5%) of the total time recorded on the shaft.

To ensure adequate life limit margin of compressor rear shafts listed above, the cyclic and hourly life limits for these shafts, when used in external lift operations, have been reduced below the figures currently approved. Remove from service the compressor rear shafts prior to exceeding the revised life limits listed below:

Previous Life Limit	*Revised Life Limit*
5,200 hours	3,000 hours.
9,600 cycles	5,500 cycles.

As of the effective date of this AD, shafts which are within 100 hours or 200 cycles of the revised limits, or exceed the revised limits, must be removed within 100 hours time in service or 200 cycles whichever occurs first.

NOTE 1.—Operational time in hours is defined as the time from liftoff to touchdown. A cycle is defined as any engine operating sequence involving engine start, at least one acceleration to a power required for takeoff and a shutdown. The controlling life limit is the limit that occurs first (cycles or hours).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

NOTE 2.—General Electric Company Alert Service Bulletin No. (CT58) A72-146, titled "Compressor Section-Reduction of Service Life of Compressor Rear Shaft for External Lift Operators Only," pertains to this subject.

This amendment becomes effective September 7, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on August 18, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-25103 Filed 8-27-76;8:45 am]

[Airworthiness Docket No. 76-WE-16-AD; Amdt. 39-2704]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L-1011-385 Series Airplanes

There have been three incidents involving service damage to electrical wiring which resulted in fires in L-1011-385 series airplanes. Two of these incidents are believed to have been caused by electrical ignition of titanium bleed air ducting from the No. 2 engine, in the fuselage afterbody, Fuselage Station 1965, Waterline 310, on lefthand side. The third incident is believed to have been caused by the electrical ignition of hydraulic fluid just aft of the fuselage station 1860 bulkhead, left lower side in the area of the horizontal stabilizer servo, adjacent to the APU bleed air duct.

Since these conditions are likely to exist or develop in other airplanes of the same type, an airworthiness directive is being issued to require on a one-time basis: (a) Inspection of the electrical wire bundles for integrity and proper clearance in the aft fuselage as described in Lockheed Alert Service Bulletin 093-24-A058; and (b) inspection of electrical wire bundle outboard of access door at Fuselage Station 1860 and Buttock Line

240, left side; and (c) inspection during or after pressurization of the left and right hand horizontal stabilizer servo units and related hydraulic systems in Lockheed L-1011-385 airplanes. Reports of the inspection results are requested from the operators.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA. Applies to Lockheed L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent fires which may be ignited by damaged electrical wires, accomplish the following:

(a) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the No. 2 generator feeder cables located in the 1519938-103 ECS duct area on the left side of the No. 2 engine S-duct, between FS-1956 and FS-1975, at approximately WL-310, for a minimum clearance of one-half inch between the cables and the closest part of the ECS duct insulated cover in accordance with Lockheed Alert Service Bulletin 093-24-A058, dated June 3, 1976 or later FAA-approved revision.

(2) If the clearance is less than one-half inch, adjust to provide adequate clearance before further flight in accordance with Lockheed Service Bulletin 093-24-A058, dated June 3, 1976 or later FAA-approved revision.

(b) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the electrical wire bundles just aft of the lower left hand side of FS-1860 bulkhead which are routed adjacent to the APU bleed air duct, for proper clamping and condition of insulation. If insulation damage is found, check closely for wire damage.

(2) If damage to insulation or wires is found, before further flight, repair in accordance with FAA-approved maintenance procedures.

(c) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the left hand and right hand horizontal stabilizer servo units by applying 3,000 PSI hydraulic pressure to each hydraulic system and observing for signs of hydraulic fluid misting of spraying type of leakage, or examine left hand and right hand horizontal servo unit transfer tube areas for signs of external leakage immediately after hydraulic systems have been shut down.

(2) If hydraulic leaks are found, before further flight, repair in accordance with FAA-approved maintenance procedures.

(d) It is requested that a written report on the results of the inspections required by paragraphs (b) and (c), either positive or negative, be forwarded to:

Chief, Aircraft Engineering Division, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, CA 90009.

(Reporting approved by the Office of Management and Budget under OMB 04-RO174).

(e) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued per FAR's 21.197 and 21.199, to authorize flights to a base for accomplishment of the inspections required by this AD.

This amendment becomes effective September 2, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on August 18, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-25104 Filed 8-27-76;8:45 am]

[Airworthiness Docket No. 75-WE-25-AD; Amdt. 39-2703]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L-1011-385 Series Airplanes Excluding L-1011-385-1-14 and L-1011-385-1-15

Amendment 39-2186 (40 FR 17833), AD 75-09-12, requires that the autopilot be disconnected during a go-around in L-1011-385 series airplanes. After issuing Amendment 39-2186, the agency has determined that corrective equipment design changes developed by the Lockheed-California Company will preclude recurrence of the type of malfunction which resulted in the issuance of AD 75-09-12.

Therefore, the AD is being amended to (1) revise the applicability statement and (2) to permit an operator of Model L-1011-385 series airplanes to eliminate the operating limitation by removing the cockpit placard which states: "Autopilot must be disconnected for go-around," after complying with Lockheed Service Bulletins No. 093-22-077, dated December 11, 1975, and No. 093-22-082, dated May 5, 1976, or later FAA-approved revisions.

Lockheed models L-1011-385-1-14 and L-1011-385-1-15 were not type certificated at the time Amendment 39-2186 was published; these models were subsequently type certificated with, as part of type design, a placard like the one specified in paragraph number 1 of Amendment 39-2186 and with a corresponding Airplane Flight Manual Limitation. For these two airplane models, a type design change has been approved to permit removal of the limitation and placard after accomplishment of the appropriate modifications. Therefore, this amendment specifically excludes these models.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2186 (40 FR 17833), AD 75-09-12 is amended as follows:

(a) Revise the applicability statement to read:

"*Lockheed-California.* Applies to Lockheed L-1011-385 series airplanes, except models L-1011-385-1-14 and L-1011-385-1-15, certificated in all categories with Collins FCS-110 autopilot installed".

(b) Add a new paragraph 3:

"3. The operating limitation specified in paragraph 2. no longer applies and the cockpit placard may be removed by accomplishment of the following:

i. Replacing the AFCS Trim Augmentation Computer, Lockheed P/N 672443-109 or -113 with 672443-115 computer, in accordance with Lockheed Service Bulletin 093-22-077, dated December 11, 1975, or later FAA-approved revisions; and

ii. Replacing both AFCS Pitch Computers, Lockheed P/N672314-177, -179, -181, -183 and -185 with 672314-157, -159, -161, -163 and -165 computers, respectively, in accordance with Lockheed Service Bulletin 093-22-082, dated May 5, 1976, or later FAA-approved revisions".

This amendment becomes effective September 2, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on August 18, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-25100 Filed 8-27-76;8:45 am]

[Airspace Docket No. 76-WE-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On July 19, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 29715) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Window Rock Airport, Window Rock, Arizona.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 Gmt, November 4, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on August 19, 1976.

LYNN L. HINK,
Acting Director, Western Region.

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In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (41 FR 440) the following transition area is added:

WINDOW ROCK, ARIZONA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Window Rock Airport (latitude 35°39'29" N, longitude 109°03'28" W) and within 3 miles each side of the Gallup VORTAC 318° radial, extending from the 5-mile radius area to the Gallup VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on July 6, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76-25102 Filed 8-27-76;8:45 am]

[Airspace Docket No. 76-NW-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Modification of Control Zone

On July 12, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 28535) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would modify the description of the Port Angeles, Washington, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

Effective Date: This amendment shall be effective 0901 Gmt, November 4, 1976.

(Secs. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on August 18, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

In § 71.171 (41 FR 418), amend the description of the Port Angeles control zone to read:

PORT ANGELES, WASHINGTON

Within a 5-mile radius of Williams R. Fairchild International Airport (Latitude 48°07'10" N, Longitude 123°29'44" W), including the airspace within 2 miles either side of the Port Angeles VOR 083° radial extending from the 5-mile radius zone to 4 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.76-25106 Filed 8-27-76;8:45 am]

[Airspace Docket No. 76-EA-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Revocation of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the New Castle, Pa., Transition Area (41 FR 556).

The New Castle, Pennsylvania TVOR facility will be decommissioned on November 4, 1976. Two VOR instrument approach procedures to the New Castle Municipal Airport have been cancelled. Therefore, there is no longer a requirement for the 700-foot floor transition area.

Since the amendment relieves a restriction and imposes no additional burden on anyone, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, November 4, 1976.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to revoke the New Castle, Pennsylvania, 700-foot floor transition area in its entirety.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 10, 1976.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-25099 Filed 8-27-76;8:45 am]

[Docket No. 16031; Amdt. No. 1035]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPS are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective October 7, 1976.

Dothan, AL—Dothan Arpt., VOR-A, Amdt. 7.
Brunswick, GA—Malcolm McKinnon Arpt., VOR Rwy 4, Amdt. 10.
Macon, GA—Lewis B. Wilson Arpt., VOR Rwy 23, Original.
Kaanapali, Maui, HI—Kaanapali Arpt., VOR-A, Amdt. 2.
Bunkie, LA—Bunkie Muni. Arpt., VOR/DME-A, Amdt. 1.
DeQuincy, LA—DeQuincy Industrial Airpark, VOR/DME-A, Amdt. 3.
Lawrence, MA—Lawrence Muni. Arpt., VOR Rwy 23, Amdt. 4.
Taunton, MA—Taunton Muni. Arpt., VOR-A, Amdt. 5.
Wildwood, NJ—Cape May County Arpt., VOR Rwy 23, Amdt. 7.
Coatesville, PA—Chester County, G. O. Carlson, VOR Rwy 29, Amdt. 1.
North Myrtle Beach, SC—Myrtle Beach Arpt., VOR Rwy 5, Amdt. 12.
North Myrtle Beach, SC—Myrtle Beach Arpt., VOR Rwy 23, Amdt. 13.
Huron, SD—Huron Regional Arpt., VOR Rwy 12, Amdt. 16.
Sioux Falls, SD—Joe Foss Field, VOR Rwy 15, Amdt. 10.
Sioux Falls, SD—Joe Foss Field, VORTAC Rwy 33, Amdt. 1.
Carthage, TX—Panola County Arpt., VOR/DME-A, Amdt. 1.
El Paso, TX—El Paso Int'l Arpt., VOR Rwy 26, Amdt. 26.
Houston, TX—Lakeside Arpt., VOR-A, Amdt. 1.
Laredo, TX—Laredo Arpt., VOR Rwy 33, Amdt. 12.
Laredo, TX—Laredo Arpt., VOR/DME Rwy 15, Amdt. 10.
Longview, TX—Gregg County Arpt., VORTAC Rwy 31, Amdt. 7.
Longview, TX—Gregg County Arpt., VORTAC Rwy 35, Amdt. 4.
San Antonio, TX—San Antonio Int'l Arpt., VOR-A, Original.
Burlington, WI—Burlington Muni. Arpt., VOR Rwy 29, Amdt. 1.
Green Bay, WI—Austin-Straubel Field, VOR Rwy 12, Amdt. 14.
Green Bay, WI—Austin-Straubel Field, VORTAC Rwy 36, Amdt. 6.

Janesville, WI—Rock County Arpt., VOR Rwy 4, Amdt. 20.

• • • effective September 30, 1976.

Winona, MN—Winona Muni. Arpt., Max Conrad Field, VOR Rwy 29, Amdt. 7.
Winona, MN—Winona Muni. Arpt., Max Conrad Field, VOR-A, Amdt. 6.

• • • effective September 23, 1976.

Ontario, CA—Ontario Int'l Arpt., VOR Rwy 25(TAC), Amdt. 3.

• • • effective September 9, 1976.

Canton, IL—Ingersoll Arpt., VOR-A, Original.
Canton, IL—Ingersoll Arpt., VOR/DME-A, Amdt. 1, cancelled.
Evansville, IN—Evansville Dress Regional Arpt., VOR-B, Amdt. 1.
Des Moines, IA—Des Moines Muni. Arpt., VOR-A, Amdt. 16, cancelled.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective October 7, 1976.

Lawrence, MA—Lawrence Muni. Arpt., LOC Rwy 5, Amdt. 1.
Ponca City, OK—Ponca City Muni. Arpt., SDF/DME(BC) Rwy 35, Original.
Huron, SD—Huron Regional Arpt., LOC/DME(BC) Rwy 30, Amdt. 3.
Sioux Falls, SD—Joe Foss Field, LOC(BC) Rwy 21, Amdt. 15.
El Paso, TX—El Paso Int'l Arpt., LOC(BC) Rwy 4, Amdt. 1.
Longview, TX—Gregg County Arpt., LOC/DME(BC) Rwy 31, Amdt. 5.
San Angelo, TX—Mathis Field, LOC(BC) Rwy 21, Amdt. 8.
Green Bay, WI—Austin-Straubel Field, LOC (BC) Rwy 24L, Amdt. 11.

• • • effective September 9, 1976.

Little Rock, AR—Adams Field, LOC(BC) Rwy 22, Amdt. 8, cancelled.

• • • effective September 2, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., LOC (BC) Rwy 22L, Orig., cancelled.

3. Section 97.27 is amended by originating, amending, or cancelling the following NDB/ADF SIAPs, effective October 7, 1976.

Americus, GA—Souther Field, NDB Rwy 22, Amdt. 4.
DeRidder, LA—Beauregard Parish Arpt., NDB Rwy 18, Amdt. 1.
Plymouth, MA—Plymouth Muni. Arpt., NDB Rwy 6, Amdt. 1.
Taunton, MA—Taunton Muni. Arpt., NDB Rwy 30, Amdt. 2.
Coatesville, PA—Chester County Arpt., G.O. Carlson, NDB Rwy 11, Amdt. 3.
Quakertown, PA—Quakertown Arpt., NDB Rwy 29, Amdt. 6.
North Myrtle Beach, SC—Myrtle Beach Arpt., NDB Rwy 23, Amdt. 4.
Alpine, TX—Alpine Muni. Arpt., NDB Rwy 19, Amdt. 1.
Laredo, TX—Laredo Int'l Arpt., NDB Rwy 17R, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 3R, Amdt. 31.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 12R, Amdt. 16.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 21L, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 30L, Amdt. 6.
Clintonville, WI—Clintonville Muni. Arpt., NDB Rwy 32, Amdt. 2.
Green Bay, WI—Austin-Straubel Field, NDB Rwy 6R, Amdt. 12.
Sturgeon Bay, WI—Door County Cherryland, NDB Rwy 1, Amdt. 2.

• • • effective September 9, 1976.

Little Rock, AR—Adams Field, NDB Rwy 22, Original.
Canton, IL—Ingersoll Arpt., NDB Rwy 36, Original.
Evansville, IN—Evansville Dress Regional Arpt., NDB Rwy 22, Amdt. 8.
Des Moines, IA—Des Moines Muni. Arpt., NDB Rwy 30R, Amdt. 13.

• • • effective August 16, 1976.

El Paso, TX—El Paso Int'l Arpt., NDB Rwy 22, Amdt. 25.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective October 7, 1976.

Washington, DC—Dulles Int'l Arpt., ILS Rwy 1R, Amdt. 15.
Columbus, OH—Port Columbus Int'l Arpt., ILS Rwy 10L, Amdt. 8.
North Myrtle Beach, SC—Myrtle Beach Arpt., ILS Rwy 23, Amdt. 1.
Laredo, TX—Laredo Int'l Arpt., ILS Rwy 17R, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 3R, Amdt. 8.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 12R, Amdt. 5.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 30L, Amdt. 2.
Green Bay, WI—Austin-Straubel Field, ILS Rwy 6R, Amdt. 13.

• • • effective September 9, 1976.

Little Rock, AR—Adams Field, ILS Rwy 22, Original.
Evansville, IN—Evansville Dress Regional Arpt., ILS Rwy 22, Amdt. 16.
Des Moines, IA—Des Moines Muni. Arpt., ILS Rwy 12L, Admt. 1.
Des Moines, IA—Des Moines Muni. Arpt., ILS Rwy 30R, Amdt. 14.
Bremerton, WA—Kitsap County Arpt., ILS Rwy 19, Amdt. 4.

• • • effective September 2, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., ILS Rwy 22L, Original.
Franklin, PA—Chess-Lamberton Arpt., ILS Rwy 20, Original.

• • • effective August 16, 1976.

El Paso, TX—El Paso Int'l Arpt., ILS Rwy 22, Amdt. 26.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective October 7, 1976.

Macon, GA—Lewis B. Wilson Arpt., RADAR-1, Amdt. 12.
Sioux Falls, SD—Joe Foss Field, RADAR-1, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., RADAR-1, Amdt. 20.
Green Bay, WI—Austin-Straubel Field, RADAR-1, Amdt. 2.

• • • effective September 16, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., RADAR-1, Amdt. 30.

• • • effective September 9, 1976.

Evansville, IN—Evansville Dress Regional Arpt., RADAR-1, Original.
Des Moines, IA—Des Moines Muni. Arpt., RADAR-1, Amdt. 11.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective October 7, 1976.

Santa Barbara, CA—Santa Barbara Muni. Arpt., RNAV-A, Amdt. 3, cancelled.
Brunswick, GA—Malcolm McKinnon Arpt., RNAV Rwy 22, Amdt. 1.
Wildwood, NJ—Cape May County Arpt., RNAV Rwy 19, Amdt. 2.
San Antonio, TX—San Antonio Int'l Arpt., RNAV Rwy 21L, Amdt. 1.

• • • effective September 9, 1976.

Evansville, IN—Evansville Dress Regional Arpt., RNAV Rwy 4, Amdt. 2.
Des Moines, IA—Des Moines Muni. Arpt., RNAV Rwy 12L, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 19, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.76-25101 Filed 8-27-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-155, Amdt. 28]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Public Participation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 24, 1976.

The Civil Aeronautics Board hereby amends its rules of practice, 14 CFR Part 302, to add a provision that the rule for intervention will be liberally construed to facilitate public participation.

Under existing practice, the criteria for determining the propriety of formal intervention in hearing cases, as set forth in Rule 15(b), have been liberally construed with respect to public-interest groups. However, in order to remove any doubt as to whether the Board intends for its intervention rule to be so applied, we have determined to amend the rule so as to provide explicitly that it is to be interpreted liberally to facilitate participation by any members of the public.

Because this amendment merely clarifies existing practice and is interpretative in nature, it is found for good cause that notice and public procedure thereon are unnecessary, and an immediate effective date is in the public interest.

In light of the foregoing, in 14 CFR Part 302, Rules of Practice in Economic Proceedings, the following sentence is added at the end of § 302.15(b), effective August 24, 1976:

§ 302.15 [Amended]

• • • • • •

(b) • • •

These criteria will be liberally interpreted to facilitate the effective partici-

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pation by members of the public Board proceedings.

(Secs. 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-25344 Filed 8-27-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2241]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) will be suspended because of noncompliance with the program regulations. (24 CFR Part 1909 et seq.)

§ 1914.4 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Massachusetts	Barnstable	Falmouth, town of	July 23, 1971, emergency; May 18, 1973, regular; Sept. 20, 1976, suspended.	May 18, 1973	255211A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

Issued: August 24, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-25249 Filed 8-27-76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-29; Reference No. 296]

PART 201—DISTILLED SPIRITS PLANTS

Corporate Officers and Directors

On May 6, 1976, there was published in the FEDERAL REGISTER (41 FR 18676) a notice of proposed rulemaking setting forth proposed amendments to 27 CFR 201.148 and 201.163b. The purpose of the proposals was to relax the provisions relating to submission of supporting information in connection with applications for registration of distilled spirits plants. Specifically, it was proposed to replace the requirement for submission of certified extracts or digests of corporate minutes, showing election of officers and directors, with a simplified requirement for the submission of a certified list of officers and directors. Interested parties were given the opportunity to submit, not later than June 7, 1976, data, views, and recommendations regarding the proposed amendments.

No unfavorable comments have been received, and the proposed amendments are hereby adopted without change and are set forth below.

Effective date: August 30, 1976.

The regulations are to be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: August 12, 1976.

REX D. DAVIS,
Director.

Approved: August 19, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

(1) The regulations in 27 CFR 201.148 are amended to replace the requirement for submission of certified extracts or digests of corporate minutes, showing election of officers and directors, with a requirement for the submission of a certified list of officers and directors, showing their names and addresses. Subsection (a) (4) is amended, subsections (a) (6) and (a) (8) are deleted, and the other subsections are re-numbered accordingly. As amended, the pertinent parts of § 201.148 read as follows:

§ 201.148 Organizational documents.

• • • • •

(a) *Corporate documents.*

• • • • •

(4) Certified list of directors and officers, showing their names and addresses.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(7) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

• • • • •

(2) Section 201.163b is amended to add a requirement that any application for amended registration on form 2607, filed because of a change in the officers, must be accompanied by a new certified list of such officers. Also, the term, "assistant regional director" is replaced by the term "regional director". As amended, § 201.163b reads as follows:

§ 201.163b Changes in officers.

Where there is any change in the list of officers furnished under the provisions of § 201.148(a)(4), the proprietor shall submit, within 10 days of any such change, an application on Form 2607 for

amended registration, supported by a new certified list of officers and a statement of the changes reflected in such list: *Provided*, That, where the operations of a distilled spirits plant are conducted pursuant to an operating permit, but not a basic permit, the regional director may extend to 30 days the time within which applications for amended registration to cover such changes in officers shall be filed. Where the proprietor has shown to the satisfaction of the regional director that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the registration, the regional director may waive the requirements for submitting applications for amended registration to cover changes in such corporate officers.

[FR Doc.76-25355 Filed 8-27-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation; Effective Date of Awards

On page 27391 of the FEDERAL REGISTER of July 2, 1976, there was published a notice of proposed regulatory development to amend §§ 3.401 and 3.403 relating to effective dates of awards of benefits.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

(72 Stat. 1114; 38 U.S.C. 210.)

Effective date. These VA Regulations are effective August 24, 1976.

Approved: August 24, 1976.

By direction of the Administrator.

A. J. SCHULTZ,
Associate Deputy Administrator.

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

• • • • • •

(d) *Institutional awards* (§ 3.852).

• • •

(2) *Director of a Veterans Administration hospital or domiciliary.* From day following date of last payment to veteran where veteran previously received payments. On initial or resumed payments from date of entitlement to benefits subject to any amounts payable to or withheld for apportionments for dependents.

• • • • •

(g) *Tuberculosis, special compensation for arrested.* As of the date the graduated evaluation of the disability or compensation for that degree of disablement combined with other service-connected disabilities would provide compensation payable at a rate less than $67. See § 3.350(g).

(h) *Temporary increase—"General Policy in Rating," 1945 Schedule for Rating Disabilities*—(1) *Section 4.29 of this chapter.* Date of entrance into hospital, after 21 days of continuous hospitalization for treatment.

(2) *Section 4.30 of this chapter.* Date of entrance into hospital, after discharge from hospitalization (regular or release to non-bed care).

2. In § 3.403, paragraph (b) is revised to read as follows:

§ 3.403 Children.

Awards of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow (widower) on behalf of such child, will be effective as follows:

• • • • • •

(b) *Majority* (§ 3.854). Direct payment to child if competent, from date of majority or, date of last payment, whichever is the earlier date.

• • • • • •

[FR Doc.76-25323 Filed 8-27-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-1—GENERAL

Procurement; Miscellaneous Amendments

This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rulemaking under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

§ 4-1.453 [Amended]

1. Section 4-1.453 is amended by deleting paragraph (c) (3).

Effective date: August 30, 1976.

(5 U.S.C. 301, 40 U.S.C. 486(c))

Done at Washington, D.C., this 20th day of August 1976.

GEORGE C. KNAPP,
Acting Director, Office of Operations.

[FR Doc.76-25296 Filed 8-27-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 69-29; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Windshield Mounting

This notice amends Motor Vehicle Safety Standard No. 212, 49 CFR 571.212, Windshield Mounting, to extend its applicability to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating (GVWR) of 10,000 pounds or less, except for forward control vehicles and open-body type vehicles with folding or removable windshields, and to coordinate its test procedures with those of Standard No. 208, 49 CFR 571.208, Occupant Crash Protection.

An advance notice of proposed rulemaking was published September 16, 1969 (34 FR 14438), followed by notices of proposed rulemaking published on August 23, 1972 (37 FR 16979) and January 18, 1974 (39 FR 2274). This notice is based on the latter notice of proposed rulemaking, and responds to the comments submitted thereto.

The final rule retains the proposed rule's extension to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating (GVWR) of 10,000 pounds or less. However, forward control vehicles and open-body vehicles with fold-down windshields are excluded from the application of the standard because of the impracticability of complying with the requirements.

Many manufacturers objected to the requirement in the proposal that the dummies used in the test vehicle not be restrained by active restraint systems. Upon impact in a crash test, unrestrained dummies tend to fly about the passenger compartment, damaging the dummies.

In 1972 the NHTSA proposed the amendment of Standard No. 212 (37 FR 16979) to specify a 75 percent retention requirement using restrained dummies. The purpose of the proposal was to eliminate optional retention requirements and to permit dynamic testing consistent wih other safety standards. In 1974 another approach was taken with the NHTSA proposing (39 FR 2274) a 50 percent retention requirement using unrestrained dummies, in anticipation of the passive restraint requirements that were to be included in Standard No. 208. Having the benefit of a large number of comments on both proposals, the NHTSA has determined that both are suitable, the 1972 approach for vehicles equipped with active restraints, where dummy damage would be great if the dummy were unrestrained, and the 1974 approach for vehicles equipped with passive restraints, since the dummy would not contact the windshield.

The frontal barrier crash test conditions specified in the final rule are substantially similar to those of Standard

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No. 208, Occupant Crash Protection, Standard No. 219, Windshield Zone Intrusion, and Standard No. 301, Fuel System Integrity. This will allow compliance testing for these standards in one crash test under certain circumstances. In this way, much of the expense associated with crash testing can be reduced.

Most of the manufacturers who commented on the proposal objected to the requirement that the vehicle be tested at a temperature range of 15° F to 110° F. Some manufacturers objected that the higher temperatures would damage sensitive instrumentation. Others argued that the range should be coordinated with that of Standard No. 301 (49 CFR 571.301) or with ISO regulations. Some asserted that they would have to build expensive test facilities in order to conduct tests at the temperature extremes. The NHTSA has determined that testing over the specified range is necessary, in light of the fact that windshield moldings have significantly different retention capabilities at different temperatures. The NHTSA recognizes that certain additional expenses may be entailed in testing over the specified temperature range. However, the safety need to ensure adequate windshield retention justifies the additional expense.

Effective date: September 1, 1977.

(Sec. 103, 119, Pub. L. 89563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on: August 23, 1976.

JOHN W. SNOW,
Administrator.

In consideration of the foregoing, Standard No. 212, 49 CFR 571.212, is revised to read as set forth below.

§ 571.212 Standard No. 212; Windshield mounting.

S1. *Scope.* This standard establishes windshield retention requirements for motor vehicles during crashes.

S2. *Purpose.* The purpose of this standard is to reduce crash injuries and fatalities by providing for retention of the vehicle windshield during a crash, thereby utilizing fully the penetration-resistance and injury-avoidance properties of the windshield glazing material and preventing the ejection of occupants from the vehicle.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating of 10,000 pounds or less. However, this standard does not apply to open-body type vehicles with a folding or removable windshield, or to forward control vehicles.

S4. *Definition.* "Passive restraint system" means a system meeting the occupant crash protection requirements of S5 of Standard No. 208 by means that require no action by vehicle occupants.

S5. *Requirements.* When the vehicle traveling longitudinally forward at any speed up to and including 30 mph impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, under the conditions of S6, the windshield mounting of the vehicle shall retain not less than the minimum portion of the windshield periphery specified in S5.1 and S5.2.

S5.1 *Vehicles equipped with passive restraints.* Vehicles equipped with passive restraint systems shall retain not less than 50 percent of the portion of the windshield periphery on each side of the vehicle longitudinal centerline.

S5.2 *Vehicles not equipped with passive restraints.* Vehicles not equipped with passive restraint systems shall retain not less than 75 percent of the windshield periphery.

S6. *Test conditions.* The requirements of S5 shall be met under the following conditions:

S6.1 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) Except as specified in S6.2, a passenger car is loaded to its unloaded vehicle weight plus its cargo and luggage capacity weight, secured in the luggage area, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position.

(b) Except as specified in S6.2, a multipurpose passenger vehicle, truck, or bus is loaded to its unloaded vehicle weight, plus 300 pounds or its rated cargo and luggage capacity, whichever is less, secured to the vehicle, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position. The load is distributed so that the weight on each axle as measured at the tire-ground interface is in proportion to its GAWR. If the weight on any axle when the vehicle is loaded to its unloaded vehicle weight plus dummy weight exceeds the axle's proportional share of the test weight, the remaining weight is placed so that the weight on that axle remains the same. For the purposes of this section, unloaded vehicle weight does not include the weight of work-performing accessories.

S6.2 The fuel tank is filled to any level from 90 to 95 percent of capacity.

S6.3 The parking brake is disengaged and the transmission is in neutral.

S6.4 Tires are inflated to the vehicle manufacturer's specifications.

S6.5 The ambient temperature is any level between 15° F. and 110° F.

[FR Doc.76-25151 Filed 8-27-76;8:45 am]

[Docket No. 74-14; Notice 06]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

This notice amends Standard No. 208, Occupant Crash Protection, to continue until August 31, 1977, the present three options available for occupant crash protection in passenger cars.

This extension of the present occupant crash protection options of Standard No. 208 (49 CFR 571.208) was proposed July 19, 1976 (41 FR 29715), along with several other subjects that will be the subject of a future notice. Vehicle manufacturers supported the proposal but requested that the options be extended indefinitely instead of being limited to a 1-year extension. Mr. Benjamin Redmond advocated the use of an interlock system to increase usage of active belt systems. Ms. Lucie Kirylak expressed a preference for active occupant crash protection systems. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal.

The Secretary of Transportation has initiated a process for the establishment of future occupant crash protection requirements under Standard No. 208 (41 FR 24070, June 14, 1976). The Secretary's proposal addresses the long term issues involved, and this 1-year extension of requirements is intended to provide the time necessary to reach that decision. Because a 1-year extension is consistent with the process that has been established and because a longer extension was not proposed for comment, the NHTSA declines to extend the existing requirements as recommended by the manufacturers.

Other matters proposed in the notice that underlies this action will be treated at a later date, following the receipt of comments that are due on October 20, 1976.

The NHTSA notes that no effective date was proposed for the other matters addressed by the proposal. Those matters involve modification of the existing passive protection options so that they conform to the proposal of the Department of Transportation, and to reduce somewhat the femur force requirement. Also, further specification of dummy positioning in the vehicle was addressed. The agency proposes an immediate effective date for these changes, because they represent relaxation of the requirements. However, the views of interested persons, particularly Volkswagen (which is certifying compliance under one passive option), are solicited by October 20, 1976.

In consideration of the foregoing, the heading and text of S4.1.2 of Standard No. 208 (49 CFR 571.208) are amended by changing the date "August 31, 1976" to "August 31, 1977" wherever it appears.

Effective date: August 26, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on August 26, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-25428 Filed 8-26-76;1:15 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Ouray National Wildlife Refuge, Utah to Hunting of Migratory Game Birds

On July 7, 1976, there was published in the FEDERAL REGISTER 41 FR 27844 a notice of proposed ruelmaking adding Ouray National Wildlife Refuge, Utah to the list of refuge areas which are open for the hunting of migratory game birds. This list is published at 50 CFR 32.11. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

Pursuant to the authority of 16 U.S.C. 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director has determined that the opening of Ouray National Wildlife Refuge to public hunting would not be contrary to the provisions of law applicable to the area, would be compatible with the principles of sound wildlife management, would be in the public interest and would not be detrimental to the objectives for which the area was established.

The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection.

Two comments were received on the proposed rulemaking. Both supported the proposal.

Based on the preceding and an evaluation of the environmental assessment, it has been determined that the hunting of migratory game birds on the Ouray National Wildlife Refuge, Utah is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)). The preparation of an environmental impact statement on the proposed actions is, therefore, not required.

Accordingly, the proposed rulemaking is hereby adopted without change and § 32.11 is amended as set forth below:

§ 32.11 List of open areas; migratory game birds.

UTAH

OURAY NATIONAL WILDLIFE REFUGE

Effective date: August 30, 1976.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

AUGUST 25, 1976.

[FR Doc.76-25324 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, South Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the Refuge Headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable state regulations covering the hunting of deer, subject to the following conditions:

(1) Archery season—November 1 to November 19, 1976 and December 13 to December 31, 1976, all dates inclusive.

(2) Firearms season—Muzzle Loaders; November 20 to November 26, 1976 and rifle; November 27 to November 30, 1976, December 1 to December 5, 1976 and December 6 to December 12, 1976, all dates inclusive.

(3) All hunters must exhibit their hunting license, deer tag and vehicle contents to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25351 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of waterfowl on the Sand Lake National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. These open areas, totalling 275 acres, are designated on a map available from the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501.

Hunting shall be in accordance with all applicable State regulations concerning the hunting of waterfowl subject to the following conditions:

(1) The open season for hunting snow geese on the refuge is from October 2, 1976 through December 26, 1976 inclusive. The open season for hunting Canada and white front geese on the refuge is from October 2, 1976 through November 28, 1976, inclusive. The open season for hunting ducks and coots on the refuge is from October 2, 1976 through November 30, 1976, inclusive.

(2) Hunting will be from established blind sites only, without cost, with each site restricted to not exceed two hunters, and on a first-come, first-served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 26, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25352 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

V 41 169 AUG 30 76 UMI

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of pheasants on the Sand Lake National Wildlife Refuge, South Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the Refuge Headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable state regulations covering the hunting of pheasants subject to the following conditions:

(1) The open season for hunting pheasants on the refuge is from December 13, 1976, through December 31, 1976, both dates inclusive.

(2) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25353 Filed 8-27-76;8:45 am]

PART 33—SPORT FISHING

The following special regulation is issued and is effective on August 30, 1976.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Sand Lake National Wildlife Refuge, South Dakota is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 150 acres, are delineated on a map available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1977, inclusive.

(2) The use of boats is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25354 Filed 8-27-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Cape Fur Seal Management; Waiver of the Moratorium

On February 19, 1976, the Director, National Marine Fisheries Service (hereinafter the "Director") published: (1) A decision to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 et seq., to allow the importation of up to 19,180 skins of Cape fur seals harvested from each annual harvest commencing with the 1975 harvest within the Republic of South Africa, and (2) regulations to govern the waiver (41 FR 7510–7512 and 7537–7540).

The waiver provides for a monitoring mechanism, an annual review of the South African management program and a number of activities conducted thereunder.

On July 23, 1976, the Director published notice in the FEDERAL REGISTER (41 FR 30337) that he had received information from the Government of the Republic of South Africa pertaining to the annual review and invited the public to review and to comment on it. A copy of this information was forwarded to the Marine Mammal Commission for its review and comment.

The notice also indicated that the Director had received a petition from the Fouke Company, Greenville, South Carolina, which requested that the waiver of the moratorium be amended to allow an annual harvest level of 76,965 Cape fur seals rather than the 70,000 animal level currently provided in the waiver. Because an assessment of the Fouke Company's petition and materials submitted in support thereof required a review of scientific information which, in substantial part, would be the subject of the annual review, the Director indicated that consideration of the petition would occur in conjunction with the annual review. The public was invited to review and comment on the petition and supporting materials which included the Marine Mammal Commission's comments on the petition. Public comments received by August 11 on both the materials submitted for the annual review and the petition would be considered.

Public comments were received from the following: Lawyers' Committee for Civil Rights under Law on behalf of various Congressmen and others; Center for Law and Social Policy on behalf of Monitor, Inc.; the Society for Animal Rights, Inc.; and, the Committee for Humane Legislation, Inc. For various reasons all groups commenting on the Fouke Company's petition to amend the waiver recommended that either it be denied or, if there was a decision to proceed, any proposed amendments be the subject of a formal rule-making procedure. The Marine Mammal Commission opposed the Fouke Company's petition to amend the waiver retroactively so as to allow importation of skins from seals harvested in 1975.

None of the public comments directly addressed the information provided pertaining to the annual review. A number of groups reasserted their objection, raised at the public hearings held in September 1975 in connection with the initial waiver proposal, that no skins of Cape fur seals should be imported.

Having considered the petition of the Fouke Company and materials submitted in connection therewith, the information submitted by the Government of the Republic of South Africa pertaining to the Director's annual review, the comments received from the public, the comments received from the Marine Mammal Commission, and the record pertaining to the decision to waive the moratorium, the Director has (a) denied the petition and, therefore, will not propose rulemaking to implement the amendments requested by the Fouke Company in its petition; and (b) determined that conditions which gave rise to the Director's decision to waive the moratorium on the importation of skins of Cape fur seals continue to exist and, therefore, there is no reason to consider amending or revoking the waiver.

The decision on the petition is based primarily on the following:

Evidence of the increased Cape fur seal pup population (from 211,300 pups to 219,000 pups) submitted by the Fouke Company cannot be considered sufficient to support a conclusion that the pup population has increased. The evidence indicates an increase in pup population of 4 percent. However, because of the sampling methods used to determine the pup count, experience indicates that there may be as much as a 10 percent variance in the pup count from year to year. Taking this into consideration, one must, on the basis of a scientific approach, conclude that the pup population figures are in essence the same.

In summary, the information provided by South Africa for the annual review established that the scope of the South African inspection program pertaining to the humaneness of harvests has been expanded to include all rookeries, that additional tagging and aerial survey programs have been developed and that, in general, additional means to continue to implement a sound scientific management program consistent with the Marine Mammal Protection Act of 1972, as amended, have been provided.

The level of harvest in 1975 was 74,945 Cape fur seals. This exceeded the level of 70,000 animals established by the waiver. Consequently, no one can qualify for an application to import skins from Cape fur seals harvested in 1975.

The excess harvest (4,945 animals) is not considered adversely significant from a scientific point of view so as to constitute evidence of inadequate management practices. There is no evidence that the seal populations will be adversely affected by this one incident of an excess harvest; nor can the excess harvest be viewed as evidence of a disregard for appropriate harvest levels in view of the fact that the Director's decision on the harvest level was made after the harvest was complete.

The Director's decision is available for review at the Office of the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, D.C.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

AUGUST 25, 1976.

[FR Doc.76-25299 Filed 8-27-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-241]

PART 6—AIR COMMERCE REGULATIONS

Alternative Procedure for Filing Shipper's Export Declaration

Section 6.8(a) of the Customs Regulations (19 CFR 6.8(a)) presently provides for the filing with Customs of certain specified documents including individual shipper's export declarations on Department of Commerce Form 7525–V at the time of departure of an aircraft from any area from which clearance is required. Regulations of the Bureau of the Census and of the Office of Export Administration now provide an alternative procedure whereby certain qualified exporters may be exempt from filing individual shipper's export declarations if they have obtained approval to file summary monthly reports instead on a Shipper's Summary Export Declaration (Commerce Form 7525–M). In order to conform the Customs Regulations to the regulations of the Bureau of the Census and the Office of Export Administration, it is necessary to amend § 6.8(a) of the Customs Regulations to provide for this alternative procedure.

Accordingly, § 6.8(a) of the Customs Regulations (19 CFR 6.8(a)) is amended as follows:

§ 6.8 Documents for clearance, or for certain departures.

(a) At the time of departure of any aircraft from any area from which clearance is required by § 6.3 or § 6.5, the aircraft commander or an authorized person shall deliver to the Customs officer in charge an outward general declaration, a cargo manifest and any required shipper's export declarations for all cargo on the aircraft (also for the aircraft itself if it is being exported from the United States for foreign account). If required, any shipper's export declarations and cargo manifest may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, in which case completed shipper's export declarations and the completed cargo manifest are to be delivered pursuant to the bond not later than the fourth day after departure: *Provided*, That, during any period covered by a proclamation of the President that a state of war exists between foreign nations, no aircraft shall be cleared for a foreign destination until the completed cargo manifest and all required shipper's export declarations shall have been filed with the Customs officer in charge: *And provided further*, That no aircraft shall be cleared until the completed cargo manifest and all required shipper's export declarations have been filed with the Customs officer in charge if the aircraft is departing on a flight from the United States directly or indirectly to a country or other destination in country groups designated W, Y, or Z of the Export Regulations (15 CFR Part 370, Supplement No. 1). At the time of departure of an aircraft not required to clear which is transporting merchandise from one to another area or from an area to possessions of the United States, the documents prescribed in the regulations of the Bureau of the Census (15 CFR Part 30) must be filed before departure or a bond to produce the required documents timely and pro forma documents, when required by the district director, as prescribed in 15 CFR 30.24 must be filed. Clearance of the aircraft on such a flight is not required unless foreign residue cargo is being carried (see § 6.9), or unless the aircraft is of foreign registry and is not departing under the procedure provided for in § 6.2 (d) or unless the aircraft is to proceed to a foreign destination thereafter.

* * * * * *

(R.S. 251, as amended, secs. 624, 644, 46 Stat. 759, 761, as amended, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 1644, 49 U.S.C. 1509).)

Inasmuch as this amendment merely conforms the Customs Regulations to pre-existing regulations of the Bureau of the Census and of the Office of the Export Administration, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment will become effective on August 30, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved: August 20, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-25335 Filed 8-27-76;8:45 am]

[T.D. 76-240]

PART 153—ANTIDUMPING

Acrylic Sheet From Japan

The Secretary of the Treasury makes public a finding of dumping with respect to acrylic sheet from Japan. Section 153.46, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd., is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of April 29, 1976 (41 FR 17948)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on July 26, 1976, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd., that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of August 2, 1976 (41 FR 32294)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd.

Section 153.46 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

§ 153.46 [Amended]

Merchandise	Country	T.D.
Acrylic sheet, other than that produced and sold by Mitsubishi Rayon Company, Ltd	Japan	76-240

(Secs. 201, 407, 42 Stat. 11, as amended, 16; 19 U.S.C. 160, 173.)

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

AUGUST 20, 1976.

[FR Doc.76-25330 Filed 8-27-76;8:45 am]

V 41 169 AUG 30 76 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Notice No. 301]

IMPORTED WINE

Certificates of Origin, Identity, and Analysis

The Director of the Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury, is considering rulemaking with respect to 27 CFR Part 4, Labeling and Advertising of Wine Regulations, to require, as a condition for release of imported wine from customs custody for consumption, a full and accurate certificate of origin, identity, and analysis. At the option of the producer, in lieu of the filing of a certificate as stated above, ATF may be invited to inspect the producers records and operations for compliance.

The Bureau of Alcohol, Tobacco and Firearms has significant responsibilities, imposed by the Federal Alcohol Administration Act, to prevent consumer deception. Recently we have become aware of the need for further protection with respect to the contents of wines bottled abroad. The existing Bureau regulations under the Federal Alcohol Administration Act (27 CFR Part 4, Labeling and Advertising of Wine) do not appear to provide adequate protection to the consumer against mislabeling of imported wine, particularly as to the origin and contents.

In order to assure compliance with its responsibilities for insuring the accuracy of labeled information on domestically produced wine, ATF inspects domestic wine producers' facilities, books and records. However, as to imported wines, 27 CFR 4.45 presently requires a certificate of origin and identity issued by a duly authorized official of the appropriate foreign government regulating the production of such wine for home consumption, only if the issuance of such certificates has been authorized by that government.

The proposed amended certificate of origin, identity, and analysis would place domestic and imported wine on an equal footing. The certificate would apply to foreign producers regardless of whether their governments had authorized such certificates, and would be in lieu of ATF inspection of their facilities, books and records. This information would be required for importations of wine in lots of more than five cases, intended for consumption in the United States. The foreign producer would be relieved of this requirement if he invited ATF to inspect his facilities, books and records. Effective governmental control of wine labeling practices, in the United States or abroad, depends upon on-site inspections, certifying that U.S. statutory requirements concerning packaging, marking, branding, and labeling have been complied with, that the wine contains no substances deemed injurious to the health by the Food and Drug Administration, and that enological practices prohibited in the U.S. were not used in the production of the wine. The latter requirement, however, will be flexible enough to allow, by waiver, for enological practices traditionally used by foreign countries to continue to be used upon a showing that such use presents no health implications.

The proposed certificate of origin, identity and analysis would require that: (1) Wine labeled with a grape type designation was produced from at least 51 percent of the particular variety of grape indicated by such designation, and that the predominant taste, aroma, and other characteristics were derived from such grapes; (2) in the case of nonvintage wine labeled with an appellation or origin, that such wine was produced from grapes at least 75 percent of which were grown in the appellation area; and (3) in the case of vintage wine labeled with a viticultural area, that such wine was produced from grapes at least 95 percent of which were grown in that viticultural area during that vintage year.

Furthermore, the certificate would list all flavors (including nature-identical flavors), colors, and processing aids used in the production of wine, and, where considered necessary to enforce the provisions of the F.A.A. Act, would information as to the analysis of the following constituents: (1) Residual sugar; (2) alcohol content; (3) total solids; (4) total carbon dioxide; (5) volatile acid; (6) total sulfur dioxide; (7) extract; (8) fixed acid.

Persons who wish to participate in the rulemaking process are invited to submit written comments or suggestions on the proposed regulatory change. The written material should be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (Attn: Chief, Regulations and Procedures Division) by October 29, 1976. The provisions of 27 CFR 71.31(b) shall apply with respect to the designation of portions of comments as exempt from disclosure. Written comments which are not exempt from disclosure, may be inspected by any person upon compliance with 27 CFR 71.22. Any interested person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director by October 29, 1976.

The proposed regulations are to be issued under the authority contained in section 27 U.S.C. 205 (49 Stat. 981, as amended).

In consideration of the foregoing, it is proposed that 27 CFR 4.45, Certificates of origin and identity, be amended to read as follows:

§ 4.45 Certificates of origin, identity and analysis.

(a) *Origin.* Imported wine in lots of more than five cases shall not be released from customs custody unless the invoice is accompanied by a certificate of origin, identity and analysis certified by a duly authorized official (subject to ATF concurrence) of the appropriate foreign governmental agency vested with the authority to perform on-site inspections. The certificate shall state that: (1) The wine has been produced in compliance with the laws and regulations of the appropriate foreign government regulating the production of wine for home consumption, has been packaged, marked, branded and labeled in compliance with the Federal Alcohol Administration Act and regulations promulgated thereunder, and has not been subjected to enological practices which are prohibited by U.S. regulations; (2) the wine contains no substance which the Food and Drug Administration has determined to be injurious to health; (3) wine labeled with a grape type designation was produced from at least 51 percent of the particular variety of grape indicated by such designation, and that the predominant taste, aroma, and other characteristics were derived from such grapes; (4) nonvintage wine labeled with an appellation of origin was produced from grapes at least 75 percent of which were grown in the appellation area; and (5) vintage wine labeled with a viticultural area was produced from grapes at least 95 percent of which were grown in that viticultural area during that vintage year.

(b) *Identity.* The certificate shall also list, by their common and usual names, all flavors, colors, and processing aids used in the production of wine. Synthetic or artificial colors and flavors shall be listed as such, even if nature-identical.

(c) *Analysis.* Where it is considered necessary for the enforcement of provisions of the F.A.A. Act, a certificate of analysis containing the following information may be required: (1) Residual sugar expressed as mg./100 ml; (2) Alcohol content expressed as percent by volume, (7 percent minimum and 24 percent maximum); (3) Total solids—expressed as grams per 100 cubic centimeters, (22 gr./100cc. maximum); (4) Total carbon dioxide—expressed as grams carbon dioxide per 100 milliliters, (.393 gr. C02/100 ml. maximum for still wine); (5) Volatile acid—expressed as grams of volatile acid per 100 cubic centimeters calculated as acetic and exclusive of sulfur dioxide, (0.14 percent maximum for all wines); (6) Total sulfur dioxide—expressed as parts per million, (350 ppm. maximum for all wines); (7) Extract—expressed as grams per 100 milliliters (1.7 gr./100 ml. minimum for white wine and 1.8 gr./100 ml. for red wine); (8) Fixed acid—expressed as grams per 100 milliliters. (Total acid less volatile acid and calculated as tartaric, eight parts per thousand maximum calculated as tartaric if the wine acid has been corrected and five parts per thousand minimum if the wine has been ameliorated).

(d) *Exception.* (1) Imported wine in lots of more than five cases may be released from Customs custody without the certificate required by this section if accompanied by a statement signed by a person who has authority to authorize ATF officers the right of entry to the premises of the producing or bottling winery, as the case may be, and the right to examine the records thereof for the purpose of ensuring that such wine meets the origin and identity requirements of this section; (2) In lieu of an individual statement accompanying or being filed to cover each lot of wine, a continuing statement if authorization may be filed with ATF; (3) Upon petition of the appropriate foreign government, a waiver may be given by ATF to allow the use of enological practices prohibited in this country: *Provided,* That such practices are traditionally used in that country and present no health implications.

Signed: August 13, 1976.

REX D. DAVIS,
Director.

Approved: August 23, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-25358 Filed 8-27-76;8:45 am]

[27 CFR Parts 170, 173, 194, 201, 250, 251, and 252]

[Notice No. 302]

IMPLEMENTATION OF METRIC STANDARDS OF FILL FOR DISTILLED SPIRITS

Proposed Rulemaking

The Bureau of Alcohol, Tobacco and Firearms proposes to revise Parts 170, 173, 194, 201, 250, 251, and 252 to implement the recent adoption of metric standards of fill for distilled spirits.

BACKGROUND

On March 10, 1976, ATF published Treasury Decision ATF-25 in the FEDERAL REGISTER (41 FR 10217). That Treasury decision established metric standards of fill for distilled spirits which will eventually replace the current standards expressed in U.S. measure. Under the provisions of T.D. ATF-25, a bottler may optionally use the six new metric sizes during a transition period beginning on October 1, 1976. After December 31, 1979, which is the date the transition period ends, the metric standards of fill become mandatory, and bottlers will be prohibited from filling distilled spirits bottles according to non-metric standards.

Current ATF regulations require bottlers, liquor dealers, importers, and exporters to record and report transactions involving bottled distilled spirits in proof gallons, wine gallons, or the number of bottles or cases. With the adoption of metric standards of fill, a number of conforming changes are necessary to ATF regulations relating to recordkeeping requirements.

In addition to recordkeeping revisions, ATF regulations need to be amended in the following areas: (1) Case markings—to prescribe new marking requirements on cases of metric size bottles; (2) strip stamps—to require that standard size strip stamps be affixed on metric size bottles of 200 ml capacity or more; (3) liquor bottles—to replace the ½ pint size with the 200 ml standard as the maximum or minimum volume in the applicable sections of regulations; (4) conversion factor—to prescribe the method for converting liters to wine gallons; and (5) other areas—to show the metric equivalent of quantities stated in U.S. measurement, to update obsolete terminology, to add a definition of "liter", and to correct or revise references and statutory citations.

PROPOSALS

ATF proposes to implement the adoption of metric standards of fill for distilled spirits by amending its regulations as follows:

1. *Recordkeeping.* The recordkeeping changes proposed in this notice will, generally speaking, continue to call for amounts in proof gallons where current regulations now call for these amounts and, again generally speaking, will give proprietors the option of recording either wine gallon or liter amounts where current regulations now call for wine gallons.

Since current tax determination and payment procedures are based on proof gallon units, many of the present ATF required records, forms, reports and returns covering bottled goods prescribe reporting in proof gallons. Proposed regulations call for no changes in this area, and any metric units will have to be converted to wine gallons and then to proof gallons for the purpose of preparing such records, reports, etc.

Regulations which currently prescribe quantities to be recorded in wine gallons are being revised to allow proprietors to show these amounts in either wine gallons or in liters, to accommodate metrication. This flexibility is carried over to commercial records which may be maintained by proprietors in either unit of measure. It is our intent to permit enough flexibility in the proposed revisions to allow a proprietor to maintain his records in whichever unit (gallons or liters or a combination thereof) best suits his individual records system. It must be remembered, however, that these commercial record systems must be designed to facilitate conversion to proof gallons if and when required. A bottler, for example, would be given the option of maintaining his commercial records relating to his controlled stock inventory either in proof gallons or a combination of proof gallons and liters and proof. Since this is one of the most critical matters in these proposed revisions we particularly invite comments on and suggestions for improvement in this area. Please bear in mind, however, that any final regulation which ATF adopts must be versatile enough to apply to the entire industry—it cannot be tailored to suit the needs of an individual or a few proprietors.

[§§ *170.60, 170.61, 194.221, 201.618, 201.625, 201.626, and 252.250 are amended.*]

2. *Conversion factor.* As the transition to metric standards of fill takes place, it will become necessary for proprietors to convert from metric to U.S. measurements. Where a proprietor chooses to record metric sizes in U.S. measure, the liter quantities will have to be converted to wine gallons. Whenever quantities of distilled spirits in metric size bottles are required (by law, forms or regulations) to be shown in wine gallons or proof gallons, the quantity in liters will again have to be converted to wine gallons. For these reasons, and to achieve uniformity and accuracy in all conversions, ATF is proposing to add conversion factor sections in Parts 170, 194 and 201. These new sections will require that the quantity in liters be multiplied by 0.264172 to determine the equivalent volume in wine gallons whenever a conversion is required by regulations or optionally chosen by the proprietor. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

[§§ *170.64, 194.232 and 201.611a added.*]

3. *Strip stamps.* Red, green and blue strip stamps are currently printed in two sizes: the standard size strip stamp and the small, "less than ½-pint" size strip stamp. Since metric standards of fill will soon be in effect, ATF is removing the "less than ½-pint" designation from small strip stamps. After September 30, 1976, bottlers will be required to affix the new small strip stamp to the 50 ml size bottle and to all sizes less than ½-pint which are stated in U.S. measure. ATF proposes to revise the affected regulatory sections by eliminating references to "less than ½-pint" strip stamps and by requiring that small size strip stamps be affixed to sizes of less than 200 ml capacity.

[§§ *201.542, 250.137, 250.143, 250.146, 250.232, and 251.63 amended.*]

4. *Strip stamp records and reports.* ATF proposes to amend its regulations

V 41 1169 AUG 30 76 UMI

by requiring that the usage of strip stamps on metric size bottles be recorded separately from U.S. sizes. The proposed regulations specifically will require that all stamps used on bottles filled in accordance with the metric standards of fill prescribed by § 5.47a(a), must be recorded separately for each bottle size. Similarly, stamps used on bottles filled in accordance with the existing U.S. standards of fill prescribed by § 5.47(a), must continue to be recorded separately for each bottle size. The regulations will, however, continue to allow U.S. sizes of less than ½ point capacity to be recorded as one item.

[§§ *201.624, 250.270, and 251.130 amended.*]

ATF does not intend to revise those sections which prescribe regulations for strip stamp reports. The revised reporting format, which will require separate reporting of all metric sizes, will be accomplished by revising the quarterly strip stamp reports and by adding appropriate instructions to those forms. Proprietors, however, are advised that although these revised strip stamp reports will not have to be submitted until January, 1977, their strip stamp records covering the quarter beginning on October 1, 1976, will have to be kept in a manner which will enable them to prepare the new report forms. To adequately prepare the new strip stamp reports, a proprietor, who commences bottling distilled spirits according to metric standards on October 1, 1976, will have to record separately by size the usage of strip stamps on each metric size bottle. In effect, two separate reports of usage will be required; one covering the usage of stamps on bottles filled to the current U.S. standards and the other covering the usage of stamps on bottles filled in accordance with the metric standards of fill prescribed by § 5.47a(a).

5. *Case markings.* (a) The proposed regulations will require that cases of distilled spirits, containing bottles filled according to metric standards of fill, will show liters and proof in place of proof gallons. ATF is proposing this change to take advantage of one of the aspects of the metric system, i.e., working with whole numbers. For example, a case of liter bottles will show "12 liters—80 proof" and not "2.536 proof gallons" (12 liters x 0.264172 x .8 approximately equal 2.536 proof gallons). To eliminate having to show proof gallon amounts carried to three or more decimal places, cases of spirits bottled in metric measure will show "liters and proof" in place of proof gallons.

[§§ *201.527, 201.528, 250.40, 250.205, and 250.206 amended.*]

(b) Based upon ATF's experience with wine metrication, the proposed regulations will allow (but not require) bottlers to show on the government side of a case a statement indicating what U.S. size is replaced by a metric size.

[§§ *201.527 and 201.528 amended.*]

6. *Other proposals.* (a) ***Definition of liter.***—A definition of liter is proposed to be added to Parts 194, 201 and 252. (A definition of liter will be added to Parts 250 and 251 in a separate document relating to wine metrication.)

[§§ *194.11, 201.11 and 252.11 amended.*]

(b) *Equivalent volumes in metric measures.*—The proposed regulations show the metric equivalent of U.S. measurements where appropriate. For example, the phrase "20 wine gallons" appears in several sections in Part 194. ATF proposes to add, in parentheses, the metric equivalent of 20 wine gallons—75.7 liters. The quantities "1 gallon" and "10 gallons" also appear in Parts covered by this notice. The metric equivalents of those two amounts, 3.785 liters and 37.85 liters, will similarly be added to the appropriate regulatory sections. ATF is proposing these parenthetical references to metric equivalents to assist persons bottling or handling metric bottles.

[§§ *194.28, 194.188, 194.236, 194.239, 194.-251, 201.502, 201.503, 250.38, 250.99, 250.135, 250.185, 250.203, 250.203a, 250.312, 251.58, 251.120, 251.202, and 252.201 amended.*]

(c) *Applicability of liquor bottle regulations.*—Current liquor bottle regulations, in Parts 173, 201, 250, and 251, use the ½-pint standard in determining the applicability of certain requirements of those Parts. As an illustration, the liquor bottle regulations in Part 173 apply only to bottles of "½-pint capacity or more" unless a particular provision of Part 173 is expressly applied to bottles of "less than ½-pint capacity". Since the 200 ml standard is intended to replace the ½-pint standard, ATF is proposing that the phrases "200 ml capacity or more" and "less than 20 ml capacity" be substituted for the phrases "½-pint capacity or more" and "less than ½-pint capacity" in sections where those latter terms appear.

[§§ *173.31, 173.41, 173.42, 173.43, 201.-540a, 201.540b, 201.540f, 201.540i, 201.542, 250.137, 250.232, 250.311, 250.312, 250.316, 251.63, 251.201, 251.202, and 251.206 amended.*]

(d) *The 4 ounce, intrastate size.*—Section 201.540b allows proprietors to bottle distilled spirits in a 4 ounce size for intrastate sale only. One of the most important results from adopting metric standards of fill is the reduction in the number of bottle sizes. Because of cost considerations, reduction in the number of bottle sizes was supported by industry members when the metric standards were under consideration. Consumers will also benefit by the reduced number of bottle sizes available. These benefits include having the cost savings realized by the industry, passed on to the consumer in the form of lower prices (or at least a negation of price increases), and also, fewer standards of fill, with larger net contents spread between the sizes, should lessen the chances of consumer deception. For these reasons, AFT is proposing to eliminate the exception to standards of fill currently allowed in the case of 4 ounce bottles for intrastate sale only. ATF proposes to eliminate this exception so that 4 ounce bottles may only be used through December 31, 1979.

[§ *201.540b amended*]

(e) *Wine metrication changes in Part 201.*—Several sections in Part 201 are proposed to be amended to implement the adoption of wine metric standards of fill. Although a separate document is being prepared by ATF to implement most of the changes made necessary by the new metric wine sizes, ATF has decided to make the revisions for wine in Part 201 along with the changes proposed in this notice. ATF feels this is appropriate since several of the same sections in Part 201 are affected by both the wine and distilled spirits metric standards of fill. The proposed changes would require packages and cases of wine in metric sizes to show liters in place of wine gallons. The proposals would also allow the required wine records to be shown either in wine gallons or in liters.

[§§ *201.526, 201.527, 201.528, and 201.618 amended.*]

(f) *Proprietor's equipment.*—ATF is proposing to amend § 201.246 to reflect the adoption of metric standards of fill. New equipment may be needed in order to determine metric volumes.

[§ *201.246 amended.*]

(g) *Lables on spirits bottled for export.*—Current regulations require bottlers to provide the assigned officer with a statement of the equivalent U.S. units when net contents and proof are in the units of measurement of the foreign country to which the spirits are being exported. ATF proposes to amend this requirement by having this statement show the equivalent units as would be required on bottles for domestic consumption. Thus, the equivalent units for net contents could be ounces, liters or milliliters (or any other U.S. unit currently permitted on bottles for domestic consumption).

[§§ *201.331 and 201.467 amended.*]

(h) *Incorrect references and obsolete terms.*—ATF proposes to correct two references to "Subpart H of 27 CFR Part 5" in Parts 250 and 251 and to update terminology in Part 252.

[§§ *250.312, 251.202, 252.11, and 252.250 amended.*]

(i) *Samples.*—ATF is proposing that the limit on samples of beer, wine and distilled spirits, imported for quality control purposes, be raised from containers of 40 ounces to containers of 1.75 liters (59.2 ounces). ATF has decided upon the 1.75 liter size rather than the smaller size (33.8 ounces) in order to accommodate the "imperial quart", which contains 38.4 ounces.

[§ *251.75 amended*]

WRITTEN COMMENTS

ATF invites interested parties to submit written comments, data or arguments on any of the proposals contained in this notice. All written comments should be submitted in duplicate on or before September 29, 1976. Comments should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attn: Chief, Regulations and Procedures Division. Any written comments, arguments or data received in response to this notice will be made available for public inspection unless exempt from disclosure under 27 CFR 71.21(b).

Any interested person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director by September 29, 1976.

The following proposed regulations are issued under the authority contained in 26 U.S.C. 7805 and would become effective on October 1, 1976.

PROPOSED REGULATIONS

Based upon the foregoing considerations, ATF proposes to amend 27 CFR Chapter I, as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

Paragraph 1. Paragraphs (a) and (b) of § 170.60 are amended to read as follows:

§ 170.60 Record of inventories.

* * * * *

(a) As to containers (including uncased bottles), the kind, size, and serial number where applicable, of each container, and the kind, and quantity either in proof gallons or in liters and degree of proof, of spirits contained therein;

(b) As to cases of bottled spirits, the kind of spirits therein, the number and size of bottles per case, either the proof gallons per case or the liters per case and degree of proof, and the number of such cases; and

* * * * *

§ 170.61 [Amended]

Paragraph 2. Paragraph (b) of § 170.61 is amended by inserting the phrase "or liters" between the words "gallons" and "per".

Paragraph 3. A new Section, § 170.64, is added to read as follows:

§ 170.64 Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

PART 173—RETURNS OF SUBSTANCES, ARTICLES OR CONTAINERS

§§ 173.31, 173.41, 173.42, and 173.43 [Amended]

Paragraph 4. Sections 173.31, 173.41, 173.42, and 173.43 are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

PART 194—LIQUOR DEALERS

Paragraph 5. Section 194.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

§ 194.11 Meaning of terms.

* * * * *

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

Paragraph 6. Sections 194.28 and 194.188 are amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citations at the end of each section. As amended, §§ 194.28 and 194.188 read as follows:

§ 194.28 Sales of 20 wine gallons (75.7 liters) or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1413 (26 U.S.C. 5691).)

§ 194.188 Persons making casual sales.

* * * * *

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at a public auction in parcels of not less than 20 wine gallons (75.7 liters);

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters);

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters); or

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340 (26 U.S.C. 5113).)

Paragraph 7. Section 194.221 is amended (a) by inserting the phrase "or liters" between the words "wine gallons" and "if" and (b) by revising the statutory citation at the end of the section. As amended, § 194.221 reads as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition, as prescribed in §§ 194.225 and 194.226, respectively, of distilled spirits by him, and shall, daily, prepare a recapitulation record, as prescribed in § 194.230, showing the total wine gallons or liters if in bottles, or proof gallons if in packages, of distilled spirits received and disposed of during the day.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

Paragraph 8. A new section, § 194.232, is added to read as follows:

§ 194.232 Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 9. Section 194.236 is amended (a) by inserting the phrase "(37.85 liters)" at the end of the first sentence and (b) by revising the statutory citation at the end of the section. As amended, § 194.236 reads as follows:

§ 194.236 Entry of miscellaneous items.

Wholesale dealers in liquors may report on Form 52B as one item the total quantity of different kinds of distilled spirits made up from broken cases disposed of to the same person on the same day, provided such total quantity is not in excess of 10 gallons (37.85 liters). The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1395 (26 U.S.C. 5114).)

Paragraph 10. Section 194.239 is amended (a) by inserting in paragraph (b) the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 194.239 reads as follows:

§ 194.239 Requirements for retail dealers.

* * * * *

(b) *Records of sales of 20 wine gallons (75.7 liters) or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1345, 1348, 1395, 1413 (26 U.S.C. 5124, 5146, 5555, 5691).)

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Paragraph 11. Section 194.251 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" and (b) by revising the statutory citation at the end of the section. As amended, § 194.251 reads as follows:

§ 194.251 Strip stamps required on all bottles.

Except as provided in §§ 194.264, 194.271, and 194.272, all distilled spirits in the possession of wholesale or retail dealers in liquors shall be in bottles or similar containers of a capacity of 1 gallon (3.785 liters) or less which shall bear the prescribed strip stamps evidencing bottling in compliance with internal revenue law. The strip stamps shall be affixed in such manner as to be broken when the containers are opened.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5206).)

PART 201—DISTILLED SPIRITS PLANTS

Paragraph 12. Section 201.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

§ 201.11 Meaning of terms.

• • • • • •

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter of milliliters may be abbrevated as "ml".

• • • • • •

Paragraph 13. Section 201.246 is amended (a) by revising the last sentence and (b) by revising the statutory citation at the end of the section. As amended, § 201.246 reads as follows:

§ 201.246 Measuring devices and proofing instruments.

• • • The proprietor shall provide, for his own use, accurate hydrometers, thermometers, and other necessary equipment for determining proof or volume in either the U.S. or metric units of measure as may be required.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5204).)

Paragraph 14. Sections 201.331 and 201.467 are amended (a) by revising the third sentence in the final paragraph of both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.331 and 201.467 read as follows:

§ 201.331 Labeling of spirits bottled for export.

• • • • • •

(e) The plant number where bottled, unless the markings on the bottle indicate such number. The bottler may place on the label any additional information, including his name or trade name, that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the assigned officer is furnished an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the assigned officer is furnished a statement of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, 1374 (26 U.S.C. 5201, 5301).)

Paragraph 15. Sections 201.502 and 201.503 are amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.502 and 201.503 read as follows:

§ 201.502 Containers of 1 gallon (3.785 liters) or less.

The provisions of Subpart K of this part govern the containers to be used in bottling spirits in bond before determination of tax for export under section 5233, I.R.C., and bottling alcohol on bonded premises under section 5235, I.R.C. The provisions of Subpart Na of this part govern the containers to be used in bottling spirits in bond for export in accordance with the conditions and requirements of section 5233, I.R.C., but after determination of tax. The provisions of Subpart Pa of this part govern the containers to be used in bottling spirits in bond for domestic use under, or in accordance with, section 5233, I.R.C. The provisions of Subpart N of this part govern the bottling of spirits, other than spirits bottled in bond, and wines on bottling premises. Denatured spirits may be filled on bonded premises into metal or glass containers of a capacity of 1 gallon (3.785 liters) or less. Liquor bottles shall not be used for bottling denatured spirits. Spirits in bottles of a capacity of 1 gallon (3.785 liters) or less, except anhydrous spirits and spirits to be withdrawn from bond free of tax, are deemed to be for nonindustrial use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1315, 1360, 1374 (26 U.S.C. 5002, 5206, 5301).)

§ 201.503 Cases.

Spirits, denatured spirits, or wines which have been filled in containers of 1 gallon (3.785 liters) or less, in accordance with the provisions of § 201.502, shall be placed in cases so constructed as to afford reasonable protection against breakage or theft. • • •

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360 (26 U.S.C. 5206).)

Paragraph 16. Section 201.526 is amended (a) by revising paragraph (b) of that section and (b) by revising the statutory citation at the end of the section. As amended, § 201.526 reads as follows:

§ 201.526 Packages filled at bottling premises.

• • • • • •

(b) *Wine.* Packages of wine filled at bottling premises shall be marked with the following information:

(1) Tare, percent alcohol by volume, and wine gallons or, for containers filled according to metric measure, liters. In the case of rectified wine, proof gallons will be shown;

(2) Serial number;

(3) Kind of wine;

(4) Date of filling;

(5) If a rectified product, number of the approved formula under which rectified and the plant number of the rectifier, if other than the packaging proprietor;

(6) Name (or trade name) of proprietor; and

(7) Plant number.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5368).)

Paragraph 17. Sections 201.527 and 201.528 are revised to read as follows:

§ 201.527 Marks on cases of bottled-in-bond spirits.

(a) • • •

(4) Liters (if bottled according to the standards of fill prescribed by § 5.47a of this chapter);

(5) Proof gallons (if bottled according to the standards of fill prescribed by § 5.47 of this chapter);

(6) Plant number of bottler;

(7) Proof (if bottled in bond for export);

(8) Date filled.

Cases withdrawn for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter. Cases withdrawn tax-free shall be

marked to show the number of the permit of the tax-free user and the purpose of the withdrawal as provided in § 201.524(c).

(b) *Other marks.* In addition to the required marks, the proprietor may include on the Government side of bottled-in-bond cases other marks as follows:

(1) The real name and/or trade name of the producer of the spirits;

(2) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e. "Replaces Fifth", "Replaces Quart", etc.);

(3) Other material required by Federal, State, or local law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, 1366 (26 U.S.C. 5206, 5233); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066).)

§ 201.528 Marks on cases filled on bottling premises.

(a) *Mandatory marks.* The following information shall be plainly marked on the Government side of each case of wine or spirits filled on bottling premises, except cases of spirits bottled in bond under the provisions of Subpart Na of this part:

(1) Serial number;

(2) Kind of wine, or kind of spirits;

(3) Plant number where bottled;

(4) Date filled;

(5) Proof (for spirits);

(6) Percent of alcohol by volume (for wines);

(7) Proof gallons for:

(i) Spirits bottled according to the standards of fill prescribed by § 5.47 of this chapter or exempt from such standards under the provisions of § 5.48(b) of this chapter; and

(ii) Rectified wines bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(8) Wine gallons (for unrectified wine bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(9) Liters for:

(i) Rectified or unrectified wines bottled according to the metric standards of fill prescribed by § 4.73 of this chapter; and

(ii) Spirits bottled according to the metric standards of fill prescribed by § 5.47a of this chapter. Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter.

(b) • • •

(5) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e., "Replaces Fifth", "Replaces Quart", etc.);

(6) Other material required by Federal or State law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5363); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066).)

§ 201.540a [Amended]

Paragraph 18. Section 201.540a is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 19. Section 201.540b is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" in the first sentence and (b) by inserting the phrase "through December 31, 1979," between the words "used" and "for" in the second sentence. As amended, § 201.540b reads as follows:

§ 201.540b Bottles authorized.

Liquor bottles shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the packaging of distilled spirits for domestic purposes, except that 4-ounce liquor bottles may be used through December 31, 1979, for packaging any distilled spirits, other than spirits bottled in bond after determination of tax, on bottling premises for sale in intrastate commerce only. Bottles bearing the indicia required under Part 173 of this chapter may be used, but need not be used, in bottling spirits for export.

§§ 201.540f and 201.540i [Amended]

Paragraph 20. Sections 201.540f and 201.540i are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

Paragraph 21. Section 201.542 is amended (a) by substituting the phrase "200 ml" for the phrase "one-half pint" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 201.542 reads as follows:

§ 201.542 Strip stamp format.

All prescribed strip stamps, with the exception of the white alcohol stamp, shall be issued in (a) a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in (b) a small size for bottles or containers of less than 200 ml capacity. The white alcohol stamp shall be issued in a standard size only, serially numbered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205).)

Paragraph 22. A new section, § 201.611a, is added to read as follows:

§ 201.611a Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 23. Section 201.618 is amended (a) by revising paragraphs (a) and (d) and (b) by revising the statutory citation at the end of the section. As amended, § 201.618 reads as follows:

§ 201.618 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, or tax gallons if required by instructions on transaction forms, except that removals of bottled products from bottling premises shall be either in wine gallons or liters.

• • • • • •

(d) Wines shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. For wines bottled or packaged according to metric measure, the quantity may be recorded either in liters or in wine gallons. Wines received for and used in rectification shall be recorded by quantity in proof gallons.

• • • • • •

(Sec. 201, Pub. L. 85–859, 72 Stat. 1361 (26 U.S.C. 5207).)

Paragraph 24. Section 201.624 is amended (a) by revising the last sentence; (b) by adding a new sentence at the end of the section; and (c) by revising the statutory citation at the end of the section. As amended, § 201.624 reads as follows:

§ 201.624 Daily strip stamp record.

• • • The record shall also show, by size of bottle, the number of bottles to which each kind of strip stamps (green, blue, red, and white) were affixed. The record shall be in sufficient detail to enable proprietors to prepare the required quarterly strip stamp report.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, 1361 (26 U.S.C. 5205, 5207).)

Paragraph 25. Section 201.625 is amended (a) by revising paragraph (a) (3) and (b) by revising the statutory citation at the end of the section. As amended, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

• • • • • •

(a) • • •

(3) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons or liters if in bottles).

• • • • • •

(Sec. 201, Pub. L. 85–859, 72 Stat. 1343, 1361 (26 U.S.C. 5114, 5207).)

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Paragraph 26. Section 201.626 is amended (a) by inserting the phrase "or liters" immediately after the phrase "wine gallons" and (b) by revising the statutory citation at the end of the section. As amended, § 201.626 reads as follows:

§ 201.626 Sample record for bonded premises.

Proprietors shall maintain daily records of samples taken by them from bonded premises to show (a) the date taken, (b) the kind of spirits (formula number in the case of denatured spirits), (c) the quantity in wine gallons or liters, (d) the container from which taken, (e) the place from which taken, (f) the purpose for which taken, (g) the name and address of the consignee when samples are sent out, and (h) whether such samples are tax-free or tax-determined and if tax-determined, the proof and tax gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1361 (26 U.S.C. 5207))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 27. Section 250.38 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "shall" and (b) by revising the statutory citation at the end of the section. As amended, § 250.38 reads as follows:

§ 250.38 Containers of distilled spirits.

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374 (26 U.S.C. 5301))

Paragraph 28. Section 250.40 is amended by adding a sentence at the end of the section to read as follows:

§ 250.40 Marking containers of distilled spirits.

* * * Cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine gallon and proof gallon contents, be marked with the liter contents of the case and the proof of the spirits therein.

§ 250.99 [Amended]

Paragraph 29. Paragraph (c) of § 250.99 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of that paragraph.

Paragraph 30. Section 250.135 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" whever the latter term appears and; (b) by revising the second sentence and (c) by revising the statutory citation at the end of the section. As amended, § 250.135 reads as follows:

§ 250.135 Containers of distilled spirits to bear red strip stamps.

Immediate containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under the provisions of this part, shall have red strip stamps affixed thereto in accordance with the provisions of this subpart, prior to shipment to the United States. Except as provided in § 250.185, containers having a capacity of 1 gallon (3.785 liters) or less, containing distilled spirits which have not been taxpaid in Puerto Rico, may not have a red strip stamp affixed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 31. Section 250.137 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.137 reads as follows:

§ 250.137 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 32. Section 250.143 is amended (a) by deleting the phrase "(less than one-half pint)" from the second sentence of paragraph (b) and (b) by revising the statutory citation at the end of the section. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

* * * * *

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the insular revenue agent at the plant from the Bureau of Engraving and Printing. In such case, orders for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small size shall be in multiples of 50 stamps (one sheet). * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 33. Section 250.146 is amended (a) by revising the second and third sentences and (b) by revising the statutory citation at the end of the section. As amended, § 250.146 reads as follows:

§ 250.146 Record and report of red strip stamps.

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed. No form is prescribed for the daily records but such records shall be in sufficient detail and retained to support the quarterly report. * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 34. Section 250.185 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of the section and (b) by revising the statutory citation. As amended, § 250.185 reads as follows:

§ 250.185 Stamps.

* * * Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon (3.785 liters), distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 35. Section 250.203 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.203 reads as follows:

§ 250.203 Containers of 1 gallon (3.785 liters) or less.

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374 (26 U.S.C. 5301))

§ 250.203a [Amended]

Paragraph 36. Section 250.203a is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in § 250.203a.

Paragraph 37. Section 250.205 is amended by revising paragraph (c)(1) to read as follows:

§ 250.205 Certificate.

* * * * *

(c) The quantity thereof as follows:

(1) If distilled spirits—

(i) The wine and proof gallons, or

(ii) The liters and degree of proof for cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter.

* * * * *

Paragraph 38. Section 250.206 is amended by adding a sentence at the end of the section to read as follows:

§ 250.206 Marking packages and cases.

* * * Cases containnig bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine and proof gallon contents, be marked with the liter contents of the cases and the proof of the spirits therein.

Paragraph 39. Section 250.232 is amendde (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.232 reads as follows:

§ 250.232 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 40. Section 250.270 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 250.270 reads as follows:

§ 250.270 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205))

§ 250.311 [Amended]

Paragraph 41. Section 250.311 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 42. Section 250.312 is revised (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" in the first sentence; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 250.312 reads as follows:

§ 250.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart E of Part 5 or § 201.540b of this chapter, may be brought into the United States for packaging distilled spirits as provided in Part 201 of this chapter.

Paragraph 43. The first sentence of § 250.316 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 250.316 reads as follows:

§ 250.316 Bottles not constituting approved containers.

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

§ 251.58 [Amended]

Paragraph 44. Section 251.58 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the heading of the section.

Paragraph 45. Section 251.63 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 251.63 reads as follows:

§ 251.63 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205).)

§ 251.75 [Amended]

Paragraph 46. Section 251.75 is amended by substituting the phrase "1.75 liters" for the phrase "40 ounces" in the first sentence.

Paragraph 47. Section 251.120 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the word "through" for the word "to" in the last sentence and (c) by revising the statutory citation at the end of the section. As amended, § 251.120 reads as follows:

§ 251.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C. 206) and Regulation 3 (27 CFR Part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 251.133 through 251.134.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555).)

Paragraph 48. Section 251.130 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 251.130 reads as follows:

§ 251.130 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, multilated, destroyed or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205).)

§ 251.201 [Amended]

Paragraph 49. Section 251.201 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 50. Section 251.202 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 251.202 reads as follows:

§ 251.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart E of Part 5 or § 201.540b of this chapter, may be imported for packaging distilled spirits in the United States as provided in Part 201 of this chapter.

Paragraph 51. Section 251.206 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 251.206 reads as follows:

§ 251.206 Bottles not constituting approved containers.

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

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PART 252—EXPORTATION OF LIQUORS

Paragraph 52. Section 252.11 is amended (a) by revising the definitions of "Assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division"; and (b) by adding, in alphabetical order, definitions of "Director", "Liter", and "Regional director". As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

• • • • •

Assistant regional commissioner. A regional director as defined in this section.

• • • • •

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

Director, Alcohol, Tobacco and Firearms Division. The Director as defined in this section.

• • • • •

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

• • • • •

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director.

• • • • •

Paragraph 53. Section 252.201 is amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" and (b) by revising the statutory citation. As amended, § 252.201 reads as follows:

§ 252.20 General.

On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less tha 20 wine gallons (75.7 liters) each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

(Sec. 3, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85–859, 72 Stat. 1327 (26 U.S.C. 5009).)

Paragraph 54. Section 252.250 is amended (a) by substituting the term "regional director" for the obsolete term "assistant regional commissioner" in the first sentence of the section; (b) by inserting, in paragraph (a) (5), the phrase "or liters" immediately after the word "gallons"; and (c) by revising the statutory citation at the end of the section. As amended, § 252.250 reads as follows:

§ 252.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained and filed by the claimant or exporter with the regional director. • • •

(a) • • •

(5) The total quantity in wine gallons or liters.

• • • • •

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, 1335, 1336, as amended, 1362, 1380, (26 U.S.C. 5053, 5055, 5062, 5214, 5362); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066).)

Signed: August 5, 1976.

REX D. DAVIS,
Director.

Approved: August 20, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76–25356 Filed 8–27–76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 251]

TOXIC CHEMICAL HAZARDS OR COMBINED TOXIC AND EXPLOSIVES HAZARDS SAFETY STANDARDS

Proposed Toxic Chemical Safety Standards

There was published in the FEDERAL REGISTER (41 FR 20686, May 20, 1976) FR Doc. 76–14845, proposed toxic chemical safety standards. The purpose of this miscellaneous amendment to the proposed standards is to change the subject of Part 251 from "TOXIC CHEMICAL HAZARDS OR COMBINED TOXIC AND EXPLOSIVES HAZARDS SAFETY STANDARDSS to DoD AMMUNITION AND EXPLOSIVES SAFETY STANDARDS".

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 25, 1976.

[FR Doc.76–25292 Filed 8–27–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Proposed Salable, Reserve, and Export Percentages for 1976–77 Crop Year

Notice is given of a proposal to establish salable, reserve, and export percentages of 96.8 percent, 3.2 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1976–77 crop year. The proposal is in accordance with the provisions of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 41 FR 26852, 27827) regulating the handling of almonds grown in California. The amended agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Almond Board of California.

All persons who desire to file written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 17, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

This proposal would make 96.8 percent of the 1976 marketable almond production delivered to handlers 255.7 million pounds, available to supply normal domestic and export outlets, and to provide adequate carryover. The Board's marketable production estimate of 264 million pounds, is based upon its 1976 crop estimate of 280 million pounds minus an estimated weight loss of 16 million pounds. This weight loss is expected from the removal of inedible kernels from the crop by handlers and various manufacturing processes.

Trade demand is estimated at 215 million pounds—95 million pounds for domestic needs and 120 million pounds for export needs. A carryover adjustment of 40.7 million pounds is the result of an estimate of 100 million pounds for desirable handler carryover from the 1976 crop minus the 59.3 million pounds handlers carried over from the 1975 crop. Adding the inventory adjustment to the total trade demand estimate equals 255.7 million pounds, the quantity of almonds from the estimated marketable production made available for trade demand needs by the proposal.

The balance of 3.2 percent (8.3 million pounds) of the estimated marketable production delivered to handlers, would be available to develop new outlets noncompetitive with existing normal domestic and export outlets. The development of such new outlets is a long-term necessity for the industry because of anticipated larger crops.

The recent order amendment permits the Board to include export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable and reserve percentages for any crop year. This year, the Board included estimated exports in trade demand thereby making export a salable outlet, rather than a reserve outlet. Because of this action, no reserve almonds will be exported pursuant to § 981.66 and an export percentage of 0 is proposed.

On the basis of the foregoing, salable, reserve, and export percentages of 96.8 percent, 3.2 percent, and 0 percent, respectively, appear to be appropriate for the 1976–77 crop year.

The proposal is as follows:

§ 981.226 Salable, reserve, and export percentages for almonds during the crop year, beginning July 1, 1976.

The salable, reserve, and export percentages during the crop year beginning July 1, 1976, shall be 96.8 percent, 3.2 percent, and 0 percent, respectively.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Dated: August 24, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.76–25297 Filed 8–27–76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 215]

PRIBILOF ISLANDS

Proposed Rulemaking

The Fur Seal Act of 1966, 16 U.S.C. 1151–1187 (the Act), among other things, implements the Interim Convention on Conservation of North Pacific Fur Seals, 8 U.S.T. 2283, T.I.A.S. 3948.

On August 19, 1969, regulations (50 CFR Part 215) were published in the FEDERAL REGISTER (34 FR 13371), implementing certain provisions of the Act. These regulations addressed primarily the administration of the Pribilof Islands.

Section 103 of the Act provides for the taking, transportation, and possession of northern fur seals or their parts for educational, scientific or exhibition purposes. These provisions of the Act have not been implemented by regulations. It is proposed to revise 50 CFR Part 215 to implement them.

The proposed revision of Part 215 provides for three subparts. Subpart A sets forth the purpose of the regulations, several definitions and the penalties for violating the Act and regulations. Subpart B sets forth the procedures for authorizing the possession and transportation of fur seals for purposes of education or exhibition and the means by which fur seals may be acquired for this purpose. Subpart C provides for the administration of the Pribilof Islands.

More specifically, § 215.1 states that the purpose of these regulations is to implement the provisions of the Fur Seal Act of 1966. Section 215.2 defines, among other things, fur seal and public display. Section 215.3 sets forth the various penalties which apply for violations of different provisions of the Act and these regulations. Sections 215.4 thru 215.10 are reserved.

Section 215.11 provides that permits are required for obtaining fur seals and sets forth the fee to be charged for the capture, care and holding of the animal.

Section 215.12 authorizes the Director to issue permits and sets forth the information required in an application for a permit. Provision is made for a review of an application by the Marine Mammal Commission.

Section 215.13 sets forth the procedure for the issuance and modification, suspension or revocation of permits. This section provides for notice of receipt of an application for a permit to be published in the FEDERAL REGISTER and an opportunity for the public to submit comments on the application. It also provides for a hearing in the event the Director decides to issue, modify, suspend or revoke a permit.

Section 215.14 sets forth the requirement that a permit must be in the possession of whoever accompanies a fur seal in transit and affixed to the container carrying the fur seal.

Application and permit issuance requirements closely parallel the requirements for obtaining a permit for a marine mammal pursuant to the Marine Mammal Protection Act of 1972, as amended.

Subpart C, §§ 215.21 through 215.26, is a re-publication of the provisions that currently exist for administration of the Pribilof Islands. Generally, this subsection sets limitations on when there may be visits to fur seal rookeries, prohibits dogs on the islands, limits the importation of birds or other marine mammals, provides for the hunting of reindeer and foxes, and provides for the promulgation of local regulations.

Interested persons may submit written comments or views on this proposed rulemaking on or before September 29, 1976. Comments should be submitted to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

PART 215—PRIBILOF ISLANDS

Subpart A—General

Sec.
215.1 Purpose and scope.
215.2 Definitions.
215.3 Penalties.

Subpart B—Public Display of Fur Seals

215.11 Taking of fur seals for public display.
215.12 Public display permits.
215.13 Procedures for the issuance, modification, suspension or revocation of permits.
215.14 Possession of permits.

Subpart C—Administration of Pribilof Islands

215.21 Visits to fur seal rookeries.
215.22 Dogs prohibited.
215.23 Importation of birds or mammals.
215.24 Reindeer and foxes.
215.25 Walrus and Otter Islands.
215.26 Local regulations.

AUTHORITY: Pub. L. 89–702, 80 Stat. 1091 (16 U.S.C. 1151–1187); Reorganization Plan No. 4 of 1970, 84 Stat. 2090.

Subpart A—General

§ 215.1 Purpose and scope.

The purpose of these regulations is to implement the provisions of the Fur Seal Act of 1966. The provisions of these regulations apply to the administration of the Pribilof Islands, the take of fur seals, and the procedures for issuing, amending or rescinding display permits for fur seals.

§ 215.2 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this Part 215:

(a) Act means the Fur Seal Act of 1966, 80 Stat. 1091, 16 U.S.C. 1151–1187, Pub. L. 89–702.

(b) Convention means the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended by the Protocol signed at Washington on October 8, 1963, and as extended by Agreement of September 3, 1969. T.I.A.S. 3948, 5558, 6774; 8 U.S.T. 2283; 15 U.S.T. 316; 20 U.S.T. 2992.

(c) Director means the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) Fur seal means Northern fur seal scientifically known as *Callorhinus ursinus*.

(e) Public display means, with respect to fur seals, the display, whether or not for profit, of fur seals or fur seal parts for the purposes of education or exhibition.

§ 215.3 Penalties.

Any person who violates the provisions of Title I of the Act which relate to the protection of fur seals, or regulations thereunder as set forth in Subpart B of this part, shall be fined not more than $2000 or be imprisoned not more than one year, or both. Any person who violates or fails to comply with the regulations relating to the use and management of the Pribilof Islands or to the conservation and protection of the fur seals or wildlife or other natural resources located thereon, as set forth in Subpart C of this part, shall be fined not more than $500 or be imprisoned not more than six months, or both.

Subpart B—Public Display of Fur Seals

§ 215.11 Taking of fur seals for public display.

(a) Fur seals will be made available for public display only to holders of public display permits issued pursuant to § 215.13. All takings of fur seals will be by personnel of the National Marine Fisheries Service. The fur seals will thereafter be made available to a permit holder at a place and under such conditions as determined by the Director.

(b) A fee of $600 per animal will be charged for the services provided by the National Marine Fisheries Service in capturing, caring for and holding animals taken for public display, which shall include the fee for permit issuance. The fee is based upon a reasonable approximation of the costs involved in labor, supervision, administration, and overhead. The Director may change the amount of the fee at any time he determines that a different fee is reasonable. A change in fee may be accomplished by publication in the FEDERAL REGISTER of the new amount, without the necessity of amending these regulations.

§ 215.12 Public display permits.

(a) The Director may issue permits authorizing the possession and transportation of fur seals for public display. Any person desiring to obtain such a per-

V 41 169 AUG 30 76 UMI

mit may make application to the Director. The sufficiency of the application shall be determined by the Director and, in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The information requested will be used as the basis for determining whether an application is complete and whether a public display permit should be issued. An original and two copies of the complete application shall be submitted to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235. Assistance in preparing the application may be obtained by writing the above address to the attention of the Marine Mammals and Endangered Species Division, or by calling the Marine Mammals and Endangered Species Division, in Washington, D.C. (a/c 202/634–7529). In preparing an application for a public display permit, provide the following information:

(1) *Title:* Application for Public Display Permit pursuant to the Fur Seal Act of 1966;

(2) List the date of the application;

(3) If the applicant is a partnership or a corporate entity, set forth the details. If the fur seal to be displayed is to be displayed by a party in addition to the applicant, set forth the name of the party and such other information as would be required if such party were an applicant.

(4) Provide a statement on the purpose of the proposed display, including a brief description of:

(i) The need for the fur seal(s);

(ii) How they will be used.

(5) Provide a description of each animal desired, including the age, sex, and size; and a list of the desired dates of delivery.

(6) Describe the manner of transportation of fur seals including:

(i) Mode of transportation;

(ii) Name of transportation company;

(iii) Length of time in transit for the transfer of the animals from the capture site to the display facility;

(iv) Length of time in transit for any future move or transfer of the animals that is planned;

(v) The qualifications of the common carrier or agent used for transportation of the animals;

(vi) A description of the pen, container, cage, cradle, or other devices used to hold the animal before and during transportation; and

(vii) Special care before and during transportation, such as salves, antibiotics and moisture.

(7) Describe the contemplated care and maintenance of any fur seal sought, including a complete description of the the facilities where such anmials will maintained or displayed, including:

(i) The dimensions of the pools or other holding facilities, and the number of animals by species to be held in each;

(ii) The water supply, amount, and quality;

(iii) The diet, amount and type for all animals;

(iv) Sanitation practices used;

(v) Qualifications and experience of the staff; and

(vi) A written certification from a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animal(s) and that in his opinion they are adequate to provide for the well-being of the animal(s).

(8) Provide a detailed description of the proposed display, including:

(i) A description of the manner, location and number of times per day and per week the animal(s) will be displayed;

(ii) An indication as to whether the display is for profit;

(iii) An estimate of numbers and types of people who it is estimated will benefit by such display;

(iv) A list of any educational or scientific programs connected to the contemplated display; and

(v) A description of the applicant's enterprise and its connections with any governmental, educational, medical, or other scientific entities.

(9) For the year preceding the date of this application, provide the following:

(i) A list of all marine mammals captured, transported or maintained for any purpose by or on behalf of the applicant;

(ii) The numbers of mortalities among such mammals, by species, by date and location of such mortalities;

(iii) The cause(s) of any such mortalities including when available copies of post-mortem reports; and

(iv) The steps which have been taken by the applicant to avoid or reduce such mortalities.

(10) A certification in the following language:

> I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Fur Seal Act of 1966 and regulations promulgated thereunder, and that any false statement may subject me to the criminal panalties of 18 U.S.C. 1001.

(11) The applicant must sign the application.

(b) Upon receipt of an application for a public display permit, the Director shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals on the permit application. In order to comply with the time limits provided in these regulations, the Director shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Director shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Director may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Director may also consult with any other person, institution or agency concerning the application.

(c) Permits applied for under this section shall be issued, suspended, modified or revoked pursuant to § 215.13. In determining whether to issue a public display permit, the Director shall, among other criteria, consider whether the proposed taking will be consistent with the policies and purposes of the Act: whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of and the adequacy of his facilities.

(d) Permits applied for under this section shall contain terms and conditions as the Director may deem appropriate, including:

(1) The methods of transportation, care and maintenance to be used with live marine mammals;

(2) Any requirements for reports or rights of inspection with respect to any activities carried out pursuant to the permit;

(3) The transferability or assignability of the permit; and

(4) The sale or other disposition of the fur seal and its progeny.

§ 215.13 Procedures for the issuance, modification, suspension or revocation of permits.

(a) Whenever a complete application for a permit is received by the Director, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. Such notice shall set forth a summary of the information contained in the application. Any interested party may, within 30 days after the date of publication of the notice, submit to the Director his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If a request for a hearing is made within the 30-day period referred to in paragraph (a) of this section, or if the Director determines that a hearing would otherwise be advisable, the Director may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section) the Director shall issue or deny issuance of the permit. Notice of the decision of the Director shall be published in the FEDERAL REGISTER within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension or revocation by the Director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

(1) The action proposed to be taken and a summary of the reasons therefore;

(2) The steps, if any, which the permittee may take to demonstrate or achieve compliance with all lawful requirements;

(3) Shall advise the permittee that he is entitled to a hearing thereon, if a written request for such a hearing is received by the Director within 10 days after the date of receipt of the aforesaid notice or such other date as may be specified in the notice to the permittee. The time and place for the hearing, if requested by the permittee, shall be determined by the Director and written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of the hearing. The Director may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and others participating may submit all relevant material, comments and briefs at the hearing. A summary record shall be kept of the hearing.

(e) The Director shall make a determination regarding the proposed modification, suspension or revocation as soon as practicable after the close of the hearing or if no hearing is held as soon as practicable after the close of the 10-day period during which a hearing could have been requested. Notice of the Director's decision to modify, suspend or revoke shall be published in the FEDERAL REGISTER as soon as practicable.

(f) Any permittee shall have the opportunity to request modification of a permit. An application to modify a permit shall contain, to the extent relevant, the information requested in § 215.13. An application to modify a permit shall be processed in accordance with this section.

§ 215.14 Possession of permits.

(a) Any permit issued under these regulations must be in the possession of the permittee or his authorized representative who accompanies the transit of a fur seal for which the permit was issued.

(b) A duplicate copy of the permit must be physically attached to the container, package, enclosure, or other means of containment in which the fur seal is placed for the purpose of storage, transit, supervision or care.

Subpart C—Administration

§ 215.21 Visits to fur seal rookeries.

From June 1 to October 15 of each year, no person, except those authorized by a representative of the National Marine Fisheries Service, or accompanied by an authorized employee of the National Marine Fisheries Service, shall approach any fur seal rookery or hauling grounds nor pass beyond any posted sign forbidding passage.

§ 215.22 Dogs prohibited.

In order to prevent molestation of fur seal herds, the landing of any dogs at Pribilof Islands is prohibited.

§ 215.23 Importation of birds or mammals.

No mammals or birds, except household cats, canaries and parakeets, shall be imported to the Pribilof Islands without the permission of an authorized representative of the National Marine Fisheries Service.

§ 215.24 Reindeer and foxes.

(a) The reindeer herd on St. Paul Island is Government-owned. When it is determined that a surplus exists, hunting will be allowed to the extent of the surplus.

(b) Foxes may be hunted or trapped when prime during the months of December and January by holders of trapping licenses issued by the State of Alaska.

§ 215.25 Walrus and Otter Islands.

By Executive Order 1044, dated February 27, 1909, Walrus and Otter Islands were set aside as bird reservations. All persons are prohibited to land on these islands except those authorized by the appropriate representative of the National Marine Fisheries Service.

§ 215.26 Local regulations.

Local regulations will be published from time to time and will be brought to the attention of local residents and persons assigned to duty on the Islands by posting in public places and brought to the attention of tourists by personal notice.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

AUGUST 17, 1976.

[FR Doc.76–25304 Filed 8–27–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 76N–0336]

SUBSTITUTES FOR MARGARINE (OLEOMARGARINE) OR BUTTER

Common or Usual Name

The Food and Drug Administration (FDA) is proposing to establish a common or usual name for substitutes for margarine (oleomargarine) or butter that contain less fat and/or oil than margarine or butter. For a substitute that is not nutritionally inferior to margarine or butter the name proposed is "---------- spread" with the blank to be filled in with the common or usual name(s) of the fat and/or oil ingredient(s), or a collective (generic) term(s) describing the fat and/or oil ingredients, together with a declaration of the percentage by weight of total fat, e.g., "vegetable oil spread—contains 40 percent fat," "dairy spread—contains 40 percent fat," "vegetable oil and dairy spread—contains 40 percent fat." The proposal is made pursuant to the general principles and procedure in Part 102 (21 CFR Part 102) for establishing common or usual names for nonstandardized foods. Interested persons have until October 29, 1976 to submit comments.

DESCRIPTIVE NAME

In recent years a number of substitutes for margarine or butter have appeared on the market. The substitutes do not conform to the standard of identity for margarine (21 CFR 45.1) or the standard for butter (21 U.S.C. 321a (42 Stat. 1500)) in that the total fat content is less than 80 percent by weight. The substitutes currently on the market have various names: Those with 40 percent fat content may be labeled as "Diet Imitation Margarine," "Diet Spread Imitation Margarine" or "(brand name) Imitation Margarine"; products with 60 percent fat content may be labeled as "60 percent vegetable oil spread" or "(brand name) Spread." These products do not always bear a prominent declaration of fat content as part of the name. A lot of a margarine substitute has been seized on grounds that the food was misbranded because, among other things, the label did not bear a meaningful and descriptive name.

In response to inquiries, advisory letters have stated that a margarine substitute may be labeled with a descriptive common or usual name such as "vegetable oil spread—40 percent fat," and that a butter substitute may be labeled with a name such as "dairy spread—40 percent butterfat." Copies of these advisory letters are on file and may be seen in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. However, to remove the uncertainty that may exist in industry as to the correct common or usual name for substitutes for margarine or butter, the Commissioner on his own initiative proposes to establish one common or usual name for both these products.

Representatives from several manufacturers of margarine substitutes met with personnel from FDA and suggested a common or usual name for margarine substitutes. This suggestion has been considered. Copies of the memorandum of meeting and the common or usual name regulation suggested by the representatives of the manufacturers are on file at the office of the Hearing Clerk, Food and Drug Administration.

V 41 169 AUG 30 76 UMI

IMITATION DESIGNATION

Section 403(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343 (c)), as interpreted by § 1.8(e) (21 CFR 1.8(e)), requires a food to be labeled as an imitation of another food if it substitutes for and resembles the other food and is also nutritionally inferior to the other food; § 1.8(e) excludes a reduction in fat or caloric content as a criterion of nutritional inferiority.

The Commissioner of Food and Drugs notes that an intended effect of § 1.8(e) is to discourage the gradual nutritional deterioration of the American diet through the introduction of products that may replace traditional products but are nutritionally inferior to them. When a nutritionally inferior product is introduced, the requirement that it be labeled as an imitation in accordance with the provisions of § 1.8(e) will alert consumers to the inferiority.

A food which resembles margarine or butter in appearance and taste but which fails to meet the respective standards for margarine and butter is inherently a substitute. These products are usually displayed for sale adjacent to margarine and butter; pictorial representations of these products on packages frequently show uses that are identical to common uses of margarine and butter; and directions for use compare the products to margarine and butter. Therefore, the Commissioner concludes that a substantial likelihood of substitution exists and that any substitute that is nutritionally inferior to margarine or butter must be labeled as an imitation to inform consumers of the inferiority.

The nutrients that are present in significant quantities in a serving of approximately one pat of margarine or butter are vitamin A, and sometimes vitamins D and E.

Margarine is required by its standard of identity to contain 15,000 international units of vitamin A per pound, and butter is a natural source of vitamin A and contains an average of approximately 15,000 international units of vitamin A per pound. Consequently, under the proposal, a substitute that does not contain this amount of vitamin A would be considered to be nutritionally inferior to margarine or butter and would be required to be labeled as an imitation.

The Commissioner advises that the vitamin D content of butter varies according to the diet of the cows supplying the milk and that addition of vitamin D to margarine is optional under the standard of identity. Likewise, certain vegetable oils used as ingredients in margarine may contain high levels of vitamin E, but margarine manufactured from animal fats, and butter manufactured from milk produced in the winter may contain low levels of vitamin E. The Food and Drug Administration does not presently have enough information to be able to set a vitamin E value for nutritional equivalence. Therefore, the Commissioner advises that he will not regard a substitute to be nutritionally inferior to margarine or butter solely on account of its vitamin D or E content.

Fat is a valuable constituent in margarine and butter and in substitutes for these foods, and the fat content may have a material bearing on price and consumer acceptance. Because declaration of the fat and/or oil ingredient(s) by name alone would not enable consumers to distinguish among substitutes with different fat contents, the Commissioner proposes that a statement of the percentage by weight of total fat be included in the common or usual name of a substitute for margarine or butter.

The Commissioner advises that he will regard a spread that contains fats and/or oils other than milk fat and bears the common or usual name provided for in the proposed regulation to be a margarine substitute rather than a butter substitute. Accordingly, in the absence of other labeling that suggests the food is offered as a butter substitute, section 407 of the act (21 U.S.C. 347) would not be applicable to such a spread. Spreads containing milk fat as the sole fat and/or oil ingredient are not subject to section 407 of the act when offered as a butter substitute because the spreads are not within the definition of margarine (oleomargarine) found in 15 U.S.C. 55 and § 45.1 (21 CFR 45.1).

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation as required by Executive Order 11821, OMB Circular A-107, and the Guidelines issued by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended, 1047-1048, as amended, 1055 (21 U.S.C. 321(n), 343, 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)),

It is proposed that Part 102 be amended by adding new § 102.27 to read as follows:

§ 102.27 Substitutes for margarine or butter.

(a) The common or usual name of a substitute for margaine (oleomargarine) or butter that contains less than 80 percent by weight of total fat and/or oil shall include the term "----------spread" with the blank to be filled in with a listing (in the order of predominance) of either the specific common or usual name of each fat and/or oil ingredient, or a collective (generic) term(s) that describes the fat and/or oil ingredients, e.g., "vegetable oil spread," "dairy spread."

(b) The common or usual name of a substitute for margarine or butter shall include declaration, in the manner set forth in § 102.1(b), of the percentage by weight of total fat and/or oil, e.g., "vegetable oil spread—contains 40 percent fat."

(c) A substitute for margarine (oleomargaine) or butter that is nutritionally inferior to margarine or butter shall be labeled as an imitation pursuant to § 1.8(e) of this chapter. For purposes of § 1.8(e)(2) of this chapter, a substitute for margarine (oleomargarine) or butter shall not be considered nutritionally inferior due to its vitamin D or E content.

Interested persons may, or or before October 29, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 23, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-25286 Filed 8-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 76-168]

ATCHAFALAYA RIVER, LA

Proposed Drawbridge Operation Regulations

At the request of the Louisiana and Arkansas Railway Company, the Coast Guard is considering revising the regulations for the railroad drawbridge across the Atchafalaya River, mile 133.1, to require at least six hours notice from 4 p.m. to 8 a.m., Monday through Friday, and on Saturday and Sunday. From 8 a.m. to 4 p.m., Monday through Friday, the draw would open on signal. The draw is presently required to open on signal at all times. This change is being considered because of relatively few nighttime openings (an average of 1.4 per week) and weekend openings (an average of .31 per week) over a six month period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before October 1, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.570 immediately after § 117.560 to read as follows:

§ 117.560 Atchafalaya River, La., bridges.

The swing span of the Louisiana and Arkansas railroad bridge, mile 133.1 shall open on signal from 8 a.m. to 4 p.m. Monday through Friday. At all other times the swing span shall open on signal if at least six hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.50-1(c)(4)).

Dated: August 23, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25348 Filed 8-27-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 76-SW-46]

BELL MODEL 47K HELICOPTERS

Airworthiness Directives

Amendment 428 (27 FR 3844) AD 62-10-1 (published as an amendment to § 507.10(a) of Part 507 of the Regulations of the Administrator (14 CFR Part 507 (1962)) under Regulatory Docket No. 1085) required installation of clevis pins and repetitive inspections of the synchronized elevator on certain Bell Model 47J helicopters, After issuing Amendment 428, AD 62-10-1, the Bell Model 47K helicopters have entered civil service; and these helicopters use a synchronized elevator design similar to the Model 47J. Recently a Model 47K reportedly experienced a fatigue failure of the elevator spar.

Therefore, the agency is considering issuing a new AD for the Bell Model 47K helicopter prescribing requirements similar to those in Amendment 428, AD 62-10-1.

Interested persons are invited to participate in the making of the proposed rule my submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 30, 1976, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Office of Regional Counsel for examination by interested persons.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BELL. Applies to Bell Model 47K helicopters certificated in all categories.

Compliance required as indicated.

A report has been received of fatigue cracking of the tubular spar of the synchronized elevator at the Rollpin hole. To preclude possible separation of the elevator from the helicopter, accomplish the following:

(a) Within 25 hours' time in service after the effective date of this AD:

(1) Remove the elevators from the tail boom in accordance with the Bell Maintenance Manual.

(2) Clean the area around the Rollpin hole and remove any zinc chromate putty from any plugged hole in the tubular spar at B.L. 7.0 for both right and left elevators.

(3) Inspect for cracks in the tubular spar of both elevators at the Rollpin hole at B.L. 7.0 using a 5-power or higher magnifying glass.

(4) Inspect the inboard rib for cracks using a 5-power or higher magnifying glass.

(b) If cracks are found in the tubular spar, modify the elevator with Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA engineering approved equivalent prior to further flight.

(c) If no cracks are found in the tubular spar, install clevis pin in accordance with subparagraphs (1) through (4) below or in accordance with item 2 of Bell Helicopter Company Service Bulletin No. 135SB dated July 27, 1961, or later approved revision, and reinspect in accordance with subparagraph (5).

(1) Position coupling assembly P/N 47-267-483-1 on elevators and line drill through Rollpin holes with a "D" (0.2460-inch diameter) drill. Remove sharp edges from holes. Install MS 20392-3-49 clevis pins, AN 960-4162 washers, and AN 381-3-6 cotter pins. A finger tight slip fit of the clevis pins is desired, approximately 0.0005 inch loose.

(2) Reinstall the elevator on the helicopter, shim as required to prevent preload or end play at bearings.

(3) Check clearance between skin and end of clevis pins. Trim skin, if necessary, to obtain clearance.

(4) Rerig elevator is accordance with the Bell Maintenance manual.

(5) Reinspect in accordance with (a)(1) through (a)(3) within each succeeding 50 hours' time in service until Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA approved equivalent is installed.

(d) If cracks are found in the inboard rib, repair the elevator as specified below, or modify with Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, or FAA engineering approved equivalent prior to further flight.

(1) Remove the inboard rib by drilling out the rivets and remove the Bell P/N 47-267-404-7 shoulder from the rib by drilling out the rivets.

(2) Add a doubler of 0.032 thickness, or a new rib of 0.032 thickness, material aluminum alloy 2024-0, or a Bell rib P/N 47-267-453-7 (one required per elevator).

(3) Rivet Bell P/N 47-267-404-1 shoulder to the old rib and new doubler or to the new rib. Use the rivet pattern in the shoulder with AN 470-AD3 or -4 rivets.

Install the rib assembly, using the rivet pattern in the elevator skin with MS 20600 AD4 or -5 rivets.

(e) If no cracks are found in the inboard rib:

(1) Reinstall the elevator on the helicopter in accordance with Bell Maintenance Manual.

(2) Reinspect rib for cracks in accordance with (a)(4) within each succeeding 50 hours' time in service until Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA engineering approved equivalent is installed.

(f) Upon request of the operator, an FAA maintenance inspector subject to prior approval of the Chief, Engineering and Manufacturing Branch, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

Issued in Fort Worth, Texas, on August 19, 1976.

A. H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76-25095 Filed 8-27-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-EA-46]

BOEING VERTOL AIRCRAFT

Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Boeing Vertol type 107-II helicopters.

There have been reports of corrosion which could lead to cracks in the main rotor blade of the subject helicopters. Since this deficiency can exist or develop in helicopters of similar design, the proposed airworthiness directive would require a repetitive inspection and alteration or replacement of the main rotor blade.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, En-

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gineering and Manufacturing Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

BOEING VERTOL: Applies to Boeing Vertol Model 107–II Helicopters Certificated in all Categories.

Compliance required as follows:

To detect corrosion which could lead to cracking of the main rotor blade spars accomplish the following within the next 60 days unless already accomplished within the past 34 months and every 36 months thereafter.

(a) Inspect for corrosion, and alter if necessary, main rotor blades P/N's 107R1202 and SK24790 series in accordance with Boeing Vertol Co. Service Bulletin No. 107–333 (R–1) dated July 1, 1976, Section 2 "Accomplishment Instructions" or equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) If spar corrosion exceeds the limits in the service bulletin or those approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, replace the main rotor blade with one that has been inspected and altered if necessary, in accordance with the service bulletin and/or an acceptable equivalent procedure found acceptable.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, New York, on August 11, 1976.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.76–25098 Filed 8–27–76;8:45 am]

[14 CFR Part 39]

[Docket No. 76–WE–17–AD]

LOCKHEED-CALIFORNIA COMPANY L–1011–385 SERIES AIRPLANES

Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Lockheed-California Company L–1011–385 series airplanes which have C–1A cargo door installed. The latch pins on the latch fittings of the C–1A cargo door surround structure on Lockheed-California Company L–1011–385 series airplanes could be incorrectly installed during maintenance replacements and this could result in a possible in-flight loss of the C–1A cargo door.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require installation of latch pin guard assemblies and related components, reidentification of the latch fitting assemblies and check of proximity sensors adjustment on Lockheed-California Company L–1011–385 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is required. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 92007 Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before September 28, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA CO. Applies to Lockheed Model L–1011–385 series airplanes certificated in all categories having C–1A cargo door installed.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent the latch pins on the latch fittings of the C–1A cargo door surround structure from being incorrectly installed during maintenance replacement, which could result in a possible in-flight loss of the C–1A cargo door, accomplish the following:

a. Install latch pin guard assemblies and related components, reidentify the latch fitting assemblies and check proximity sensors adjustment as necessary, on the C–1A cargo door surround structure, in accordance with Lockheed-California Company Service Bulletin 093–52–083 dated May 25, 1976, or later FAA-approved revision or equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

b. Airplanes may be flown in accordance with FAR 21.197 to a base where the modification can be performed.

Issued in Los Angeles, California on August 20, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76–25096 Filed 8–27–76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76–SW–45]

CARLSBAD, N. MEX.

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Carlsbad, N. Mex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 29. 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

1. In § 71.171 (41 FR 355), the Carlsbad, N. Mex., control zone is amended to read:

CARLSBAD, N. MEX.

Within a 5-mile radius of Cavern City Air Terminal (latitude 32°20'14" N., longitude 104°15'46" W.) and within 3.5 miles each side of the Carlsbad VOR 336° and 156° radials extending from the 5-mile-radius zone to 10 miles southeast of the VOR and 2.5 miles each side of the Carlsbad VOR 334° radial extending from the 5-mile-radius zone to 12.5 miles northwest of the VOR.

2. In § 71.181 (41 FR 440), the Carlsbad, N. Mex., transition area is amended to read:

CARLSBAD, N. MEX.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cavern City Air Terminal (latitude 32°20'14" N., longitude 104°15'46" W.) and within 3.5 miles each side of the Carlsbad VOR 156° radial extending from the 8.5-mile-radius area to 11 miles southeast of the VOR.

These amendments will provide the necessary controlled airspace for the RNAV RWY 14R instrument approach procedure to Cavern City Air Terminal.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, TX., on August 10, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76–25097 Filed 8–27–76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 76–06 Notice 1]

SPEEDOMETERS AND ODOMETERS

Motor Vehicle Safety Standard

This notice proposes a new Federal motor vehicle safety standard that would require vehicles to be equipped with speed and distance indicators, establish accuracy requirements for the indicators, limit the speed indicator scale to 85 mph, and require that distance indicators be tamper-resistant.

On February 22, 1974 (39 FR 6765), the NHTSA published a request for comments on the question whether there should be a rule concerning maximum speedometer indication and, if so, the most appropriate maximum indication. The comments were to take into account the current lower speed limits, the corresponding highway fatality reduction, driver convenience, and the expected effectiveness of such a rule. That notice was not a step in rulemaking procedure and stated that no final action would be taken without further notice and opportunity to comment.

Developments since publication of the previous notice have provided further indications that a speedometer scale limitation would be beneficial. Definitive judgments can now be made concerning the effect of the speed limit reduction to 55 mph on high-speed-related fatalities. The 1974 statistics show 9,400 fewer motor-vehicle related fatalities than in 1973. Further, several studies concerning the effects of the nationwide 55 mph speed limit have shown that slower and more uniform speeds, and not reduced travel, are primarily responsible for the 17 percent drop in the fatality rate.

Congress has now made the 55 mph limit permanent, recognizing not only the fatality reduction and fuel conservation benefits, but also the generally favorable public reaction to lower speeds. This proposed standard for reduced maximum speedometer indication has been initiated to help maintain these lower speeds at minimum costs.

Benefits are expected to be achieved by the proposed standard in several ways. First, whatever temptation present speedometers provide immature drivers to test the top speed of their vehicles will be diminished. Second, shifting the indication for 50 or 60 mph from the center of the speedometer dial nearer to the right end should suggest to drivers that these speeds are near the legal limit. Existing speedometers which indicate speeds of 120 mph or more use more than half of the dial to indicate illegal and dangerous speeds.

Finally, limiting the maximum indication to 85 mph will allow speedometer dials to be more precisely graduated and more readable in the range of speeds normally driven. The NHTSA regards 85 mph as an appropriate maximum indication, since a much higher figure would defeat the desired effect of the rule.

The NHTSA has received indications from the four large domestic automobile manufacturers that they intend to voluntarily reduce maximum speedometer indications on most models in the near future. Two of the manufacturers plan reductions to an 85 mph upper reading, and the other two manufacturers plan reductions to 100 mph. The NHTSA appreciates these voluntary efforts, although a 100 mph maximum reading is not considered a sufficient reduction, as noted earlier. In conjunction with the voluntary efforts on the part of these manufacturers, the NHTSA believes this proposal is necessary to initiate meaningful discussion from the industry as a whole on reduction of the upper readings of their speedometer scales. Reasonable leadtime would be given so that the reductions could be accomplished during normal model-year changes.

The proposed standard also requires a tamper-resistant odometer for all vehicles having a gross vehicle weight rating of 16,000 pounds or less. Vehicles with a GVWR of more than 16,000 pounds are excluded from the odometer requirement. These larger vehicles are routinely driven hundreds of thousands of miles, and maintenance records rather than odometer readings are traditionally used as the means of determining condition.

The purpose of the odometer requirements is twofold. First, it is important that purchasers of used vehicles know the actual road mileage of the vehicle they are buying, in order to ascertain the probable condition of the vehicle. If an odometer has been rolled back to show a false road mileage, the purchaser might be lulled into a false sense of security and forego needed maintenance or repairs. Second, it is important that odometers be accurate so that owners can maintain preventive maintenance schedules and assure that their vehicles are in safe working condition.

In summary, this proposed standard requires all motor vehicles, with the exception noted above, to be equipped with speedometers and odometers. The standard specifies accuracy requirements for the indicators, and limits the speedometer indication scale to 85 mph. Finally, odometers are required to be designed so that they cannot be turned in the reverse direction, for the purpose of preventing consumer fraud and the presence of potentially dangerous vehicles on the nation's highways.

The preliminary Economic Impact Analysis of this proposed standard has been placed in the docket and is available for public inspection. The analysis discusses both the expected costs and the expected benefits of the proposed requirements. The analysis indicates that the limitation of speedometer scales to 85 mph would cause a decrease in high-speed driving and result in an estimated 175 fewer fatal accidents and 1,900 fewer injury accidents. The proposed odometer requirements would result in the prevention of a percentage of the accidents attributable to vehicular defects and mechanical problems resulting from neglected vehicle maintenance. The analysis estimates that the odometer requirements would result in the reduction of 660 accidents.

The economic impact of this proposed standard is estimated to be minimal. With sufficient leadtime, the majority of the requirements could be incorporated during normal model-year changes. The requirement that odometers indicate when 100,000 miles or 100,000 kilometers have been exceeded would result in an annual cost of $1.00 per vehicle, if a six-digit odometer is used to satisfy the requirement. However, if sufficient leadtime is given, the cost of this requirement should be negligible.

In consideration of the foregoing, it is proposed that a new motor vehicle safety standard be added to 49 CFR Part 571 as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: November 29, 1976.

Proposed effective date: September 1, 1979.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 6, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

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MOTOR VEHICLE SAFETY STANDARD NO. —

SPEEDOMETERS AND ODOMETERS

S1. *Scope.* This standard establishes requirements for the installation and accuracy of speedometers and odometers in motor vehicles, limits the speedometer indication scale to 85 mph, and requires that odometers be tamper-resistant.

S2. *Purpose.* The purpose of this standard is to provide each motor vehicle with the instruments needed to maintain safe driving speeds and to maintain proper maintenance schedules, to help ensure that the vehicle is in safe condition.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles, and to speedometers and odometers for use in these vehicles. Motor driven cycles whose speed attainable in one mile is 30 mph or less, and vehicles that are designed and sold exclusively for use by law enforcement agencies, are excluded.

S4. *Definitions.* "Speed attainable in 1 mile" means the speed attainable by accelerating at maximum rate from a standing start for a distance of 1 mile on a level surface.

S5. *Requirements.*

S5.1 *Speedometer.* Each vehicle shall have a speedometer graduated in miles per hour. There may, at the option of the manufacturer, be additional graduation in kilometers per hour.

S5.1.2 The speed indication shall not be more than 4 miles per hour above or below the actual vehicle speed when tested at any speed from 20 mph to a maximum of either (1) 80 mph, or (2) the speed attainable in 1 mile if less than 80 mph, under the test conditions specified in S6.

S5.1.3 The speedometer shall not display values that exceed 85 mph or 137 kph.

S5.2 *Odometers.*

S5.2.1 Each vehicle with a gross vehicle weight rating of 16,000 pounds or less shall have an odometer.

S5.2.2 Each odometer shall be capable of indicating distance traveled (1) from 0 to 99,999 miles in 1-mile units or (2) from 0 to 99,999 kilometers in 1-kilometer units.

S5.2.3 Each odometer shall clearly indicate when (1) the mileage indications have exceeded 100,000 miles or (2) when the kilometer indications have exceeded 100,000 kilometers.

S5.2.4 The odometer shall either indicate when it has been turned in the reverse direction or shall be designed so that it cannot be turned in the reverse direction.

S5.2 The indicated odometer distance shall not be more than 4 percent above or below the actual distance traveled by the vehicle when tested for a distance of 100 miles, at any speed between 20 and 80 mph or the speed attainable in 1 mile, if less than 80 mph, and under the test conditions specified in S6.

S6. *Test Conditions.*

S6.1 The vehicle is at unloaded vehicle weight plus 200 pounds (including driver and instrumentation) for motorcycles or plus 300 pounds (including driver and instrumentation) for other vehicles. The additional weight is distributed in the front seat area.

S6.2 The vehicle is equipped with tires recommended by the manufacturer.

S6.2.1 Tire tread depth is at least 90 percent of the original tread depth.

S6.3 Vehicle adjustments, including tire pressure, are made according to the manufacturer's recommendations.

[FR Doc.76-25109 Filed 8-27-76;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

[5 CFR Parts 2505, 2510]

FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Proposed Implementation

Pursuant to the Privacy Act, 5 U.S.C. 552a, and the Freedom of Information Act, 5 U.S.C. 552, the National Study Commission on Records and Documents of Federal Officials hereby offers the following proposed Regulations for Implementation of the Privacy and Freedom of Information Act for public comment. Any interested person may submit comments on the proposed Regulations on or before September 29, 1976. Such comments should be addressed to the General Counsel, Public Documents Commission, Department of Justice, Room 1127, Washington, D.C. 20530.

Signed this 16th day of August, 1976.

HERBERT BROWNELL,
Chairman.

It is proposed to amend Title 5 of the CFR by adding a new Chapter XV consisting of Part 2505 to read as follows:

PART 2505—PRIVACY ACT

Sec.

2505.1 Purpose and scope.
2505.2 Definitions.
2505.3 Procedures for requests pertaining to individual records in a record system.
2505.4 Times, places and requirements for the identification of the individual making the request.
2505.5 Disclosure of the requested information to the requester.
2505.6 Access to the accounting of disclosures from records.
2505.7 Request for correction or amendment of the record.
2505.8 Agency review of request for correction or amendment of the record.
2505.9 Appeal of an initial adverse agency determination on correction or amendment of the record.
2505.10 Disclosure of record to a person other than the individual to whom the record pertains.
2505.11 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 2505.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Study Commission on Records and Documents of Federal Officials (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him for the purpose of review, amendment and/or correction.

§ 2505.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history, and that contains his name, or the identifying number, symbol or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2505.3 Procedures for requests pertaining to individual records in a record system.

An individual may submit a request in writing, delivered by mail or in person, to the General Counsel to the Commission, Justice Department, Room 1127, Washington, D.C. 20530, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Commission maintains any system of records which pertains to the individual. An individual who requires assistance in identifying a system of records, or in preparing a request for access to a system of records, or who needs assistance in requesting amendment of a record, may address such requests to the General Counsel, Justice Department, Room 1127, Washington, D.C. 20530.

§ 2505.4 Times, places, and requirements for the identification of the individual making a request.

An individual who delivers a request in person to the General Counsel to the Commission pursuant to § 2505.3 shall present the request to the Commission office at the Justice Department, Room 1127, Washington, D.C. 20530 on any business day between the hours of 9 a.m. and 5:30 p.m. "The requester should be prepared to identify himself by signature and/or by other evidence of identity." Requests for access to a system of records will be acknowledged within ten (10) days of receipt. The acknowledgment will indicate (1) whether access will be granted, and, (2) that an approved access will be granted within 30 days unless, for good cause shown, the Commission is unable to do so.

§ 2505.5 Disclosure of the requested information to the individual.

Upon verification of a requester's identity by the General Counsel of the Commission, Justice Department, Room 1127, Washington, D.C. 20530, and in accordance with the identification provisions of § 2505.4, the Commission shall disclose to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his choosing; consent for a third party to review a record in any system of records must be in writing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available to him. In the event that the Commission denies any individual access to a record, the Commission will inform the individual of his right to judicial review.

§ 2505.6 Access to the accounting of disclosures from records.

An indivdual may request access to a list of those persons to whom records about the individual have been disclosed. An individual seeking access to the accounting of disclosures from records pertaining to him should follow the same procedures as established above for access to the records themselves (see §§ 2505.3, 2505.4, 2505.5).

§ 2505.7 Request for correction or amendment of a record.

An individual should submit a request in writing to the General Counsel to the Commission which states the individual's desire to correct or to amend his record. This request is to be made in accordance with the provisions of § 2505.4.

§ 2505.8 Commission review of request for correction or amendment of the record.

Within ten (10) working days of the receipt of the request to correct or to amend a record, the General Counsel to the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 2505.9 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the General Counsel to the Commission to correct or to amend his record may submit a request for a review of such refusal to the Chairman of the Commission, Justice Department, Room 1127, Washington, D.C. 20530. Not later than thirty (30) working days from the date on which the individual requests such review, the Chairman will complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty-day period. If, after his review, the Chairman determines not to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552 (g)(1)(A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Commission has an accounting of the disclosure of that information.

§ 2505.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, except as required or permitted under 5 U.S.C. 552a(b).

§ 2505.11 Fees.

The general policy of the Commission is to provide a copy or a portion of a record free of charge to an individual upon request. In cases where the records are voluminous, however, the Commission may, at its discretion, charge a fee when the cost would be in excess of five dollars ($5).

It is proposed to amend Title 5 of the CFR by adding Part 2510 to read as follows:

Sec.

2510.1 Purpose and scope.
2510.2 Requests for records.
2510.3 Commission response to requests for records.
2510.4 Appeal procedure within the Commission.
2510.5 Failure to meet administrative deadlines.
2510.6 Fee schedule.
2510.7 Prepayment of fees over $25.
2510.8 Form of payment.

§ 2510.1 Purpose and scope.

The purpose of these regulations is to establish a procedure, pursuant to the Freedom of Information Act, as amended 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502,) by which records of the National Study Commission on Records and Documents of Federal Officials (hereafter referred to as the Commission) may be obtained by interested individuals.

§ 2510.2 Requests for records.

(a) Any individual who wishes to inspect or obtain copies of any record of the Commission shall submit a request in writing, addressed to the General Counsel to the Public Documents Commission, Justice Department, Room 1127, Washington, D.C. 20530. To facilitate processing requests, the phrase "FOIA REQUEST" should be placed on the front of the envelope.

(b) A request must reasonably describe the records to enable Commission personnel to locate them with reasonable effort. Where possible, specific information regarding dates, titles, etc. which may help identify the records should be supplied by the requester.

(c) If the Commission determines that a request does not reasonably describe a record, it shall inform the requester of this fact and extend an opportunity to confer promptly with a knowledgeable Commission employee to attempt to identify the records he is seeking.

§ 2510.3 Commission response to requests for records.

(a) The Commission shall inform the requester of its determination concerning that request within ten working days, unless additional time is required because:

(1) The request requires the collection of a substantial number of specified records; or

(2) The request is couched in categorical terms and requires an extensive search for the records responsive to it; or

(3) The request presents a need for consultation, which shall be conducted with all practicable speed, with another Department, agency, or commission having a substantial interest in the determination of the request.

In no event shall the extension exceed a total of ten working days.

(b) If the Commission determines to grant the request, it shall notify the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the request, it shall treat the portion not granted as a denial.

(c) If the Commission denies the request, it shall immediately inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The requester's right to appeal such denial to the Chairman of the Commision's at Justice Department, Room 1127, Washington, D.C. 20530;

(3) The requirement that such appeal be made within forty-five days of the date of denial; and

(4) The name and title or position of each person responsible for denial of the request.

(d) If the reason for not fulfilling the request is that the records requested are the records of another commission, Department, or agency, the Commission shall inform the requester of this fact and shall forward the request to that commission, Department, or agency for processing in accordance with the latter's regulations. If the agency has no knowledge concerning the requested records it shall notify the requester of that fact.

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(e) 5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(ii) Related solely to the internal personnel rules and practices of an agency.

(iii) Specifically exempted from disclosure by statute.

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(v) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(vi) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(A) Interfere with enforcement proceedings;

(B) Deprive a person of a right to a fair trial or an impartial adjudication;

(C) Constitute an unwarranted invasion of personal privacy;

(D) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(E) Disclose investigative techniques and procedures; or

(F) Endanger the life or physical safety of law enforcement personnel.

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(ix) Geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 2510.4 Appeal procedure within the Commission.

(a) If a request for records is denied, the person making the request shall have the right to appeal the denial. This appeal must be in writing and addressed to the Chairman of the Public Documents Commission, Justice Department, Room 1127, Washington, D.C. 20530. To facilitate processing of an appeal, the phrase "FOIA APPEAL" should be placed on the front of the envelope.

(b) If an appeal from a denial of an initial request is made to the Chairman, the Chairman shall inform the requester of the determination regarding that appeal within twenty working days of receipt of the appeal, unless the Chairman extends this period for good cause.

(c) If the Chairman grants the appeal, he shall inform the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If he grants only a portion of the appeal, he shall treat the portion not granted as a denial.

(d) If the Chairman determines to deny the appeal, he immediately shall inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The right to judicial review of the denial in accordance with 5 U.S.C. 552 (a)(4); and

(3) The name and title or position of each person responsible for denial of the appeal.

§ 2510.5 Failure to meet administrative deadlines.

In the event the Commission fails to meet either of the administrative deadlines set forth in these regulations, it shall notify the requester, state the reasons for the delay, and the date by which it expects to dispatch determination. Although the requester may be deemed to have exhausted his administrative remedies under 5 U.S.C. 552(a)(6)(C), the Commission shall continue processing the request as expeditiously as possible and will dispatch the determination when it is reached within the applicable deadline.

§ 2510.6 Fee schedule.

In computing applicable fees, the Commission will consider the following costs in providing costs in providing the requested records.

(a) *Reproduction fees.* (1) The fee for reproducing copies of Commission records (by routine electrostatic copying up to and including material 8½ x 14 inches shall be $0.10 per page.

(2) The fee for reproducing copies of any Commission records over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) *Search fees.* (1) The standard search fee shall be $4 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be $8 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

§ 2510.7 Prepayment of fees over $25.

When the individual handling a request for Commission records determines that the anticipated total fee (search and reproduction) is likely to exceed $25, the requester shall be notified that the anticipated fee must be prepaid prior to the Commission's making the records available. The Commission will remit the excess paid by the requester or bill the requester for an additional amount according to the variations between the final fee charged and the amount prepaid.

§ 2510.8 Form of payment.

Payment shall be by check or money order payable to the National Study Commission on Records and Documents of Federal Officials and shall be addressed to the individual designated by the Commission in correspondence with the requester.

[FR Doc.76-25325 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the American Peregrine Falcon

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a Proposed Rulemaking which would determine a portion of the Critical Habitat of the American Peregrine Falcon (*Falco peregrinus anatum*). This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act).

BACKGROUND

The American Peregrine Falcon is among the rarest and most critically Endangered birds in the United States, and has been official listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable, undisturbed nesting sites. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in section 7 of the Act. A notice of intent to determine Critical Habitat for the American Peregrine Falcon was published by the Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499–21500). Subsequently, in late 1975, the Director was notified by the Region 1 Director of the Service in Portland, and by the Director of the California Department of Fish and Game, that certain areas of northern California, used for nesting by the Peregrine, should be designated as Critical Habitat for the species. After evaluating this recommendation and supporting data, the Director determined to proceed with the Proposed Rulemaking.

The areas delineated below have been utilized extensively by Peregrine Falcons within the last few years, and all contain many excellent nesting sites for the species. These areas also have or are adjacent to high concentrations of passerine birds, taken as prey by the Falcons. The named zones referred to below were so designated for convenience by field personnel. It is emphasized that these areas represent only small segments of what may be the overall Critical Habitat of the American Peregrine Falcon in the United States, and that additional areas may be proposed for designation in the near future.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of his Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the American Peregrine Falcon. The Director, therefore, desires, to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this Rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than October 29, 1976 will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 20, 1976.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart F of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.

. . . . . .

17.68 American peregrine falcon.

2. By adding a new § 17.68 reading as follows:

§ 17.68 American peregrine falcon.

The following areas are critical habitat for the American Peregrine Falcon (*Falco peregrinus anatum*).

CALIFORNIA—Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base Meridian): (a) T10N R11W W½ of SW¼ Sec. 6, W½ of NW¼ Sec. 6, NW¼ of NW¼ Sec. 7; T10N R12W Sec. 1, E½ of NE¼ Sec. 2, SW¼ of NE¼ Sec. 2, SE¼ Sec. 2, E½ of SW¼ Sec. 2, SE¼ of NW¼ Sec. 2, N½ of NE¼ Sec. 11, NE¼ of NW¼ Sec. 11, N½ of NE¼ Sec. 12, N½ of NW¼ Sec. 12; T11N R11W SW¼ of SE¼ Sec. 31, S½ of SW¼ Sec. 31; T11N R12W S½ of SE¼ Sec. 36, SE¼ of SW¼ Sec. 36; (b) T10N R11W NW¼ of SW¼ Sec. 1, W½ of NW¼ Sec. 1, N½ Sec. 2, N½ of SE¼ Sec. 2, N½ of SW¼ Sec. 2, N½ Sec. 3, N½ of SE¼ Sec. 3, N½ of SW¼ Sec. 3, NE¼ Sec. 4, N½ of SE¼ Sec. 4, NE¼ of SW¼ Sec. 4, E½ of NW¼ Sec. 4; T11N R11W E½ of SE¼ Sec. 33, S½ Sec. 34, S½ Sec. 35, W½ of SE¼ Sec. 36, SW¼ Sec. 36; (c) T11N R12W S½ Sec. 19, Sec. 30; T11N R13W SE¼ Sec. 24, E½ of SW¼ Sec. 24, E½ Sec. 25, E½ of SW¼ Sec. 25, E½ of NW¼ Sec. 25.

Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S½ Sec. 5, S½ Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E½ Sec. 12, E½ Sec. 13, NE¼ Sec. 24, E½ of SE¼ Sec. 24.

Mount St. Helena Zone: an area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W½ of NE¼ Sec. 3, W½ of SE¼ Sec. 3, W½ Sec. 3, Sec. 4, E½ Sec. 5, E½ of SW¼ Sec. 5, E½ of NW¼ Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W½ of NE¼ Sec. 22, W½ of SE¼ Sec. 22, W½ Sec. 22, W½ of NE¼ Sec. 27, W½ of SE¼ Sec. 27, W½ Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE¼ Sec. 32 east and south of Ida Clayton Road, SE¼ Sec. 32, E½ of SW¼ Sec. 32, that portion of the SE¼ of NW¼ Sec. 32 south of the Ida Clayton Road, Sec. 33, W½ of NE¼ Sec. 34, W½ of SE¼ Sec. 34, W½ Sec. 34.

Cobb Mountain Zone: an area of land, water, and airspace in Lake and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T11N R8W S½ of SE¼ Sec. 8, SE¼ of SW¼ Sec. 8, S½ of SW¼ Sec. 9, SW¼ of SE¼ Sec. 14, SW¼ Sec. 14, S½ Sec. 15, W½ of NE¼ Sec. 16, SE¼ Sec. 16, W½ Sec. 16, E½ Sec. 17, E½ of NW¼ Sec. 17, NE¼ Sec. 17, NE¼ of NE¼ Sec. 20, N½ of NE¼ Sec. 21, N½ of NW¼ Sec. 21, N½ Sec. 22, W½ of NE¼ Sec. 23, NW¼ Sec. 23.

[FR Doc.76-25327 Filed 8-27-76;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Morro Bay Kangaroo Rat

The Director, United States Fish and Wildlife Service, hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*) in coastal California. This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

BACKGROUND

A notice of intent to determine Critical Habitat for the Morro Bay Kangaroo Rat was published by the Fish and Wildlife Service in the FEDERAL REGISTER of

V 41 169 AUG 30 76 UMI

May 16, 1975 (40 FR 21499–21500). On January 16, 1976, the Director of the California Department of Fish and Game petitioned the Director of the U.S. Fish and Wildlife Service to designate the area delineated below as Critical Habitat for the Morro Bay Kangaroo Rat. This petition was examined by Fish and Wildlife Service biologists who found that substantial evidence had been presented warranting this Proposed Rulemaking. The designated area contains a significant population of Morro Bay Kangaroo Rats, within an overall biotic community that still exists in a relatively natural state. Studies by the California Department of Fish and Game have found that this area contains all the elements required for the survival and normal needs of the Morro Bay Kangaroo Rat, and that these elements stand a good chance of being maintained if the area can be properly protected. Additions or modifications to the designated area may be proposed in the future.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the Morro Bay Kangaroo Rat. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than October 29, 1976, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 20, 1976.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart F of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.

* * * * * *

17.69 Morro Bay kangaroo rat.

2. By adding a new § 17.69 reading as follows:

§ 17.69 Morro Bay kangaroo rat.

The following area is Critical Habitat for the Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*)

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S½ Sec. 14, those portions of Sec. 23–24 west of Pecho Valley Road.

[FR Doc.76–25328 Filed 8–27–76;8:45 am]

[50 CFR Part 32]

HUNTING

Proposed Opening of Lake Alice National Wildlife Refuge, North Dakota to Hunting of Migratory Game Birds, Upland Game, Big Game

Notice is hereby given that it is proposed that 50 CFR Part 32 be amended by the addition of the Lake Alice National Wildlife Refuge, North Dakota, to the lists of refuge areas open for the hunting of migratory game birds, upland game, and big game, which are published at 50 CFR § 32.11, § 32.21 and § 32.31.

Pursuant to the authority of 16 U.S.C. 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director may open refuge areas to public hunting upon a determination that it would be in accordance with provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such uses are compatible with the major purposes for which such areas were established. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. It is the purpose of this proposed rulemaking to allow the hunting of migratory game birds, upland game, and big game on the Lake Alice National Wildlife Refuge, which is presently prohibited.

Furthermore, pursuant to the requirements of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared on this proposal which will help determine whether this rulemaking constitutes a major Federal action significantly affecting the human environment. A copy of this assessment is available at the address below.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, on or before September 29, 1976. All relevant comments received will be considered by the Director prior to the issuance of final rulemaking.

Accordingly, it is proposed to amend §§ 32.11, 32.21 and 32.31 in Title 50 of the Code of Federal Regulations as set forth below:

§ 32.11 List of open areas; migratory game birds.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

§ 32.21 List of open areas; upland game.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

§ 32.31 List of open areas; big game.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

AUGUST 26, 1976.

[FR Doc.76–25487 Filed 8–27–76;9:12 am]

V 41 169 AUG 30 76 UMI

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-6/88]

ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

Meeting

Notice is hereby given, pursuant to the provisions of Public Law 92-463, that a meeting of the Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on September 27, 1976 in the conference center of the Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington at 9:00 A.M. The meeting is to review fishing operations in the Convention Area in 1975, and preparations for the November 1976 annual meeting of the Commission. The meeting on September 27 will be open to the public. Persons wishing to attend the open session may participate in the discussions subject to instructions of the Chairman.

The Advisory Committee will also meet in closed session on September 28, 1976. At this meeting documents classified in accordance with Executive Order 11652 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure as provided in 5 USC 552 (b)(1).

Dated: August 24, 1976.

ROZANNE L. RIDGWAY,
Deputy Assistant Secretary.

[FR Doc.76-25279 Filed 8-27-76;8:45 am]

[CM-6/87]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 28, 1976 in the Aspen Conference Room, Office of Telecommunications, U.S. Department of Commerce, 1325 G Street, N.W., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with: matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The agenda for the meeting will include the following:

1. Review conclusions of the 1976 International Meeting of Study Group 1;

2. Consider organization for work of U.S. Study Group 1;

3. Initiate program of work for U.S. Study Group 1 looking to the next international meeting.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: August 23, 1976.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.76-25283 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Delegation Order 19]

FIRST DEPUTY COMPTROLLER OF THE CURRENCY, ET AL.

Order of Succession To Act as Comptroller

By virtue of the authority contained in 12 U.S.C. 4 and by Treasury Department Order No. 129 (Rev. No. 2) dated April 22, 1955, it is hereby ordered as follows:

A. During the absence or disability of the Comptroller of the Currency, or during a vacancy in such office, the First Deputy Comptroller of the Currency, Robert Bloom, shall possess the power and perform the duties attached by law to the office of the Comptroller as provided by 12 U.S.C. 4. The order of succession following the First Deputy Comptroller of the Currency shall be as follows:

(1) H. Joe Selby, First Deputy Comptroller of the Currency for Operations.
(2) Thomas G. DeShazo, Deputy Comptroller of the Currency.
(3) Robert A. Mullin, Deputy Comptroller of the Currency.

B. In the event of an enemy attack on the continental United States, all regional administrators of national banks, including any acting regional administrators, are authorized in their respective regions to perform any function of the Comptroller of the Currency, or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to the carrying out of responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

C. Delegation Order No. 18 is hereby repealed.

Dated: August 24, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-25287 Filed 8-27-76;8:45 am]

Office of the Secretary

CLEAR SHEET GLASS FROM ROMANIA

Antidumping; Extension of Investigatory Period

On March 9, 1976, information was received in proper form that clear sheet glass from Romania was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 8, 1976 (41 F.R. 14909).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or the likelihood of injury to, or prevention of establishment of an industry in the United States.

Notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), cannot reasonably be made within 6 months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), will, therefore, be made within no more than 9 months.

The reasons and basis for the above conclusion are as follows:

The need for the collection of additional data, along with the need for analysis of all submissions, makes it inadvisable to take tentative action at this time.

(Sec. 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), and § 153.32 of the Customs Regulations (19 CFR 153.32))

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 24, 1976.

[FR Doc.76-25331 Filed 8-27-76;8:45 am]

HUNGARY

Income Tax Treaty Discussions

The Treasury Department announces that representatives of the United States and Hungary will meet in Budapest during the week of September 20, 1976 for preliminary discussions of a prospective income tax treaty between the two countries.

The proposed convention would deal with such issues as the taxation of income from business ventures, investment, and employment in the other country, and would include provisions for nondiscrimination in tax treatment and for administrative cooperation in resolving income tax questions.

Comments are invited on the income tax aspects of doing business in Hungary. Interested persons may wish to refer to the income tax conventions recently concluded by the United States with Romania and Poland and to the model draft treaty issued by the Treasury Department on May 18, 1976. Comments should be submitted in writing to Assistant Secretary for Tax Policy, Charles M. Walker, U.S. Treasury, Washington, D.C. 20220 as promptly as possible so that they may be taken into account in the September discussions.

Dated: August 24, 1976.

DAVID S. FOSTER,
International Tax Counsel and Director, Office of International Tax Affairs.

[FR Doc.76-25288 Filed 8-27-76;8:45 am]

KNITTING MACHINES FOR LADIES' SEAMLESS HOSIERY FROM ITALY

Antidumping; Determination of Sales at Less Than Fair Value

Information was received on July 15, 1975, from Rockwell International, Reading, Pennsylvania, alleging that knitting machines for ladies' seamless hosiery from Italy were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of August 15, 1975 (40 F.R. 34424).

The Secretary determined that it was inadvisable to take tentative action within the normal 6-month investigatory period. The investigatory period in this case was therefore extended to 9 months and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of February 12, 1976 (41 F.R. 6289).

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of May 21, 1976 (41 F.R. 20899).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, knitting machines for ladies' seamless hosiery from Italy are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that 95 percent of imports of the subject merchandise from Italy were manufactured by either Billi-Matec, S.p.A., Florence, Italy, or DiLonati Francesco & Figli, S.N.C., Brescia, Italy. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison for DiLonati Francesco &, Figli, S.N.C. is between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales were made to non-related customers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 C.F.R. 153.2), was used since such or similar merchandise appears to be sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

The proper basis for comparison for Billi-Matec, S.p.A., appears to be between purchase price and the constructed value of such or similar merchandise. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165), was used since all sales of such or similar merchandise in the home market and to third countries were at less than cost of production.

c. *Purchase Price.* For the purposes of this final determination of sales at less than fair value, adjustments have been made on the following bases. In accordance with section 153.31(b), Customs Regulations (19 C.F.R. 153.31(b)), pricing information was obtained concerning imports of knitting machines for ladies' seamless hosiery from Italy during the period March 1 through October 31, 1975, from both companies.

In the import transaction, all of the merchandise was purchased, or agreed to be purchased, prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of the Act. The purchase price has been calculated on the basis of the c.i.f., duty paid, price to unrelated U.S. purchasers. Deductions have been made for transportation expenses, including Italian inland freight, U.S. import duties, insurance and installation and interest expenses, where applicable. An addition has been made for rebates of indirect taxes made upon the exportation of this product, as appropriate.

d. *Home Market Price.* For the purposes of this final determination of sales at less than fair value, adjustments have been made on the following bases. The home market price for DiLonati Francesco & Figli, S.N.C. was calculated on the basis of the delivered price in the home market to unrelated purchasers. Adjustments have been made for installation expenses, for discounts, and for differences in commissions in the two markets, as appropriate. Adjustment for commissions relates to commissions paid on certain sales in both markets. Adjustment for discounts relates to quantity discounts actually given to home market purchasers.

e. *Constructed Value.* The fair value for Billi-Matec, S.p.A., was calculated on the basis of constructed value. The constructed value is the sum of the costs of materials and of fabrication or other processing involved in producing the merchandise, plus an amount for general expenses equal to that actually incurred by this manufacturer in sales of merchandise of the same general class or kind as the merchandise under consideration plus an amount for profit equal to that required by section 206(a)(2)(B) of the Act, plus the cost of all containers and coverings and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.

f. *Result of Fair Value Comparisons.* Using the above criteria, purchase price was found to be lower than the home market price or constructed value, as appropriate, of such or similar merchandise. Comparisons were made on approximately 100 percent of sales of the subject merchandise to the United States by both manufacturers during the investigative period. Margins were found, ranging from 45.6 percent to 93.3 percent, with a weighted average margin of 61.78 percent, for sales made by Billi-Matec, S.p.A., on 100 percent of the sales compared, and from 3 percent to 25 percent, with a weighted average margin of 17 percent, for sales made by DiLonati Francesco & Figli, S.N.C., on 95 percent of the sales compared.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 24, 1976.

[FR Doc.76-25332 Filed 8-27-76;8:45 am]

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping Proceeding Notice

On August 5, 1976, information was received in acceptable form pursuant to sections 153.26 and 153.27, Customs Regulations (19 C.F.R. 153.26, 153.27), from the Minnesota Mining and Manufacturing Company (3M), indicating the possibility that pressure sensitive plastic tape from West Germany is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. This evidence indicates that decreases in employment and underutilization of production facilities have occurred in the U.S. industry during the last 3 years. The evidence also indicates that the petitioner's share of the U.S. market has declined

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since 1972, and that 1976 imports of the subject merchandise from West Germany have increased more than threefold from 1973.

Having conducted a preliminary investigation as required by § 153.29 of the Customs Regulations (19 C.F.R. 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the constructed value.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 C.F.R. 153.30).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 25, 1976.

[FR Doc.76-25333 Filed 8-27-76;8:45 am]

[Public Debt Series No. 22-76]

TREASURY NOTES OF SERIES E-1980

Interest Rates

AUGUST 25, 1976.

I. INVITATION FOR TENDERS

Dated and bearing interest from September 14, 1976; Due September 30, 1980.

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series E-1980 (CUSIP No. 912827 FY 3). The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 31, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated September 14, 1976, and will bear interest from that date, payable on a semiannual basis on March 31 and September 30, 1977, and thereafter on March 31 and September 30 in each year until the principal amount becomes payable. They will mature September 30, 1980, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 31, 1976. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After a determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above 99.000. That rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,000,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price[1] (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before September 14, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by September 14, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Thursday, September 9, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Tuesday, September 7, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

[1] Average price may be at, or more or less than 100.000.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

EDWIN H. YEO III,
Acting Secretary of the Treasury.

[FR Doc.76-25483 Filed 8-26-76;4:56 pm]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 17, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Aeronomy will hold meetings on September 21–22, 1976 at Headquarters Air Defense Command, Colorado Springs, Colorado from 8:30 a.m. to 5:00 p.m. both days.

The Committee will receive classified briefings and hold classified discussions on Aeronomy.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-25282 Filed 8-27-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 18, 1976.

The USAF Scientific Advisory Board Information Processing Panel will hold meetings at Rome Air Development Center, Griffiss Air Force Base, New York on September 22, 1976 from 9:00 a.m. to 5:00 p.m. and at the Electronic Systems Division, Hanscom Air Force Base, Massachusetts on September 23 and 24, 1976 from 9:00 a.m. to 5:00 p.m.

The Panel will receive classified briefings and hold classified discussions on the Rome Air Development Center and Electronic Systems Division computer research programs.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-25281 Filed 8-27-76;8:45 am]

Defense Privacy Board

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION

Application of the Privacy Act and Exemption of the Freedom of Information Act

General notice is hereby given that the following Department of Defense proposed guideline shall govern the application of the Privacy Act (Public Law 93-579, December 31, 1974) and Exemption 6 of the Freedom of Information Act in responding to requests for information or assistance concerning Department of Defense personnel.

Interested persons are invited to participate in the formulation of the following proposed guideline by submitting written data, views, comments and arguments to the Executive Secretary, Defense Privacy Board, Room 7A-057, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20314. All material received on or before September 29, 1976 will be considered.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 25, 1976.

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION TO COMMERCIAL ENTERPRISES

1. *Scope.* The provisions of this guideline apply to all individuals requesting personal information or assistance concerning Department of Defense military and civilian personnel. The provisions also apply to all commanders, supervisors, personnel officers, Privacy Act, and Freedom of Information Act officials, administrators and legal counsels within the various components of the Department of Defense.

2. *Background.* It is the policy of the Department of Defense, consistent with the Freedom of Information Act (5 U.S.C. 552) to make available to the public the maximum amount of information concerning its operations and activities. Information may be disclosed without the written consent of the individual to whom the information pertains if such disclosure is required under the Act. Section 552(b)(6) of that Act, however, clearly states that information in personnel, medical and similar files is exempt from the provisions of the Act if disclosure to a member of the public would result in a clearly unwarranted invasion of personal privacy. This guideline attempts to strike a balance between the rights of all requestors under the Freedom of Information Act, to obtain information in Department of Defense records and the rights afforded to individuals pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) to avoid an unwarranted invasion of personal privacy by the release of personal information from Department of Defense records. This guideline attempts to advise what personal information concerning individuals of the Department of Defense can and cannot be disclosed. To comply with the Privacy Act, no record contained in a system of reords filed by name or personal identifier, maintained within the Department of Defense can, in general, be disclosed by any means of communication to any person, or to any agency outside the Department of Defense, except as a routine use or pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

3. *Policy guidelines.* Commercial enterprises hold the same position and relationship to their customers and to the Government as they did before the enactment of the Privacy Act. In this connection, banks, branch banks, military banking facilities, credit unions, or any type of commercial facility or concession operating on any Department of Defense installation or facility have no better standing than any other commercial enterprise or public requester in the private sector to obtaining personal information concerning Department of Defense personnel. Within their usual business relationships commercial enterprises are assumed to be responsible for safeguarding the information provided by their clients and for obtaining only such information as is reasonable and necessary to conduct business. This includes normal credit information and proper identification, which may include the Social Security number.

a. *Indebtedness.*—The Department of Defense policy towards personal indebtedness is set forth in DoD Directive 1344.9, July 1, 1969 (32 C.F.R. 43a) for military personnel and the Civil Service Commission Federal Personnel Manual (5 C.F.R. 735.207) for federal civilian employees. The established policy towards indebtedness expressed in these documents is unaffected by the Privacy Act. Department of Defense personnel are expected to pay all just financial obligations in a proper and timely manner.

b. *Releasable information.*—Information which would be released as required under provisions of the Freedom of Information Act is releasable to a member of the public. No vertification of identity shall be required of an individual or commercial enterprise seeking access to information from records which are otherwise available to any member of the public under the Freedom of Information Act (5 U.S.C. 552) unless this is relevant to determining whether a clearly unwarranted invasion of privacy would result from the requested release. Such

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information requests not involving research or duplication may be releasable by telephone. Examples of personal information pertaining to military personnel which normally are releasable under the Freedom of Information Act without an unwarranted invasion of personal privacy are: name, rank, date of rank, salary, present and past duty assignments, future assignments which are final, office phone number, source of commission, military and civilian educational level, and promotion sequence number. Disclosure of personal information pertaining to civilian Department of Defense employees shall be made in accordance with the Civil Service Commission Federal Personnel Manual (5 C.F.R. Part 294). There is nothing to preclude a written request for personal information pursuant to the Freedom of Information Act. However, a formal written request obligates the addressee to various automatic legal obligations should the request be delayed or denied. Search and duplication may require more time for processing and subject the requestor to search and duplication fees (32 C.F.R. 286.10).

c. *Restrictions on release of personal information.*—(1) *Social Security number (SSN)*—Disclosure of the SSN may constitute a clearly unwarranted invasion of personal privacy. The SSN is considered an individual identifier item in accordance with the Privacy Act, which need not be disclosed in all instances without the prior written consent of the individual concerned.

(2) *Home addresses*—The home address of an individual is considered to be personal information, the release of which may be considered a clearly unwarranted invasion of personal privacy. In this regard, an individual's name and address may not be sold or rented unless specifically authorized by law. Lists or compilations of names and home addresses, or single home addresses normally will not be disclosed, without the prior written consent of the individual concerned.

(3) *Home telephone numbers*—An individual's home telephone number falls within the same restrictions imposed on home addresses set forth in (2) above.

(4) *Individual consent*—Disclosure may be authorized for any personal information, including that set forth in c. above, when prior written consent for release is obtained from the individual concerned. There is nothing to preclude commercial enterprises in their direct bilateral negotiations from soliciting any personal information deemed necessary from the individual concerned or from incorporating consent to disclosure of personal information in agreements signed by their potential customers. Such an agreement might require the customer to sign a consent to the release of certain personal information at the time of a conditional sale, agreement or the like. Commercial enterprises may incorporate the following conditions of disclosure of personal information in all agreements honored by the Department of Defense as meeting the prior written consent condition for the release of information:

I hereby authorize the Department of Defense and its various departments and commands to verify my social security number or other identifier and disclose my home address to authorized (name of commercial enterprise) officials so that they may contact me in connection with my financial business with (name of commercial enterprise). All information furnished will be used solely in connection with my financial business relationship with (name of commercial enterprise).

When the commerical enterprise presents such signed authorizations, the military commands or installations shall provide the appropriate information.

e. *Providing locator assistance.*—In those cases where a Department of Defense member with a financial obligation is reassigned, and fails to inform a commercial enterprise or individual of his or her whereabouts, the remedy is to seek the locator assistance of the individual's last known commander or supervisor at the official position or duty station within that particular Department of Defense component. That commander or supervisor is obligated by the Freedom of Information Act to either furnish the individual's new official duty location address to the requestor or to forward, through official channels, any correspondence to the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed specifically to the individual concerned at his or her last official place of business or duty station is forwarded as provided by postal regulations to the new location, but the individual may choose not to respond. However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed. At most, the Department may at its discretion forward correspondence to the individual's last known home address. The individual may choose not to respond and the Department of Defense will not act as an intermediary for private matters concerning former Department personnel who are no longer affiliated with it.

[FR Doc.76-25326 Filed 8-27-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-19]

DONALD H. ANDERSON, M.D., PORTLAND, MICHIGAN

Hearing

Notice is hereby given that on April 30, 1976, the Drug Enforcement Administration, Department of Justice issued to Donald H. Anderson, M.D., Portland, Michigan an Order to Show Cause as to why the Drug Enforcement Administration should not deny the Applications for Registration under the Controlled Substances Act of 1970, of the Respondent executed on May 13, 1974 and May 24, 1975 pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. September 9, 1976 or as soon thereafter as other pending matters will allow in the Tax Court Courtroom No. 1017, Federal Building and Courthouse, 231 West Lafayette Street, Detroit, Michigan.

Dated: August 16, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-25365 Filed 8-27-76;8:45 am]

IMPORTERS OF CONTROLLED SUBSTANCES

Registration

By Notice dated May 28, 1976, and published in the FEDERAL REGISTER on June 7, 1976; (41 FR 22848), Applied Science Labs., Inc., 139 North Gill Street, Box 440, State College, PA 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug:	Schedule
3,4-Methylenedioxy amphetamine	I
Bufotenine	I
Diethyltryptamine	I
Dimethyltryptamine	I
Piminodine	II

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substances listed. The substances, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a) (2) (B) and 21 CFR Section 1311.42, and pursuant to Section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25321 Filed 8-27-76;8:45 am]

[Docket No. 75-30]

JOHN H. PERRY HOOKER, M.D.

Revocation of Registrations

On November 11, 1975, the Acting Administrator, Drug Enforcement Administration (DEA) issued to John H. Perry Hooker an Order to Show Cause as to why his registrations (AP1959963 and AP1123481) should not be revoked for the reason that he was convicted on

October 15, 1975, in the United States District Court for the District of Massachusetts of one count of conspiracy to distribute Schedule II controlled substances and twenty-six counts of unlawful distribution of controlled substances, all felonies related to the distribution of controlled substances.

On December 16, through counsel, Dr. John H. Perry Hooker (Respondent) requested a hearing on the Order to Show Cause and on May 18, 1976, a hearing was held in Boston, Massachusetts before Administrative Law Judge Francis L. Young.

On August 6, 1976, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65 his recommended findings of fact and conclusions of law, a recommended decision, and the record of the proceedings in this matter. The Administrator, pursuant to 21 CFR 1316.66 hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found, inter alia, that on October 15, 1975, in the United States District Court for the District of Massachusetts the Respondent was convicted of one count of conspiracy to distribute Schedule II controlled substances and twenty-six counts of unlawful distribution of a controlled substance. Furthermore, Judge Young stated that it was quite apparent that Respondent was simply selling prescriptions without any effort to prescribe these substances for any legitimate medical need or purpose. The Administrator adopts these findings of fact.

The Administrative Law Judge concluded, as a matter of law, that there is a lawful basis for the Administrator, pursuant to the Controlled Substances Act of 1970, 21 U.S.C. 801 et seq., to revoke the two DEA registrations previously issued to Respondent. The Administrator adopts this conclusion of law.

The Administrative Law Judge recommended that the Administrator revoke Respondent's Registrations AP1959963 and AP1123481. The Administrator accepts this recommendation.

Therefore, under the authority vested in the Attorney General by Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, Title 28 Code of Federal Regulations, the Administrator hereby orders that Certificates of Registrations of John H. Perry Hooker (DEA Registrations AP1959963 and AP1123481) be, and hereby are revoked, effective immediately.

Dated: August 24, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc.76-25319 Filed 8-27-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated June 14, 1976, and published in the FEDERAL REGISTER on June 18, 1976; (41 FR 24734), Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, N.Y. 11101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Amphetamine	II
Methamphetamine	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25320 Filed 8-27-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated June 14, 1976, and published in the FEDERAL REGISTER on June 18, 1976; (41 FR 24734), Abbott Laboratories, 14th & Sheridan Road, Attn: Customer Service D-345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of pentobarbital is granted.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25322 Filed 8-27-76;8:45 am]

[Docket No. 76-4]

REED ALBERT SHANKWILER, D.O., DETROIT, MICHIGAN

Hearing

Notice is hereby given that on January 8, 1976, the Drug Enforcement Administration, Department of Justice issued to Reed Albert Shankwiler, D.O., Detroit, Michigan an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AS 2767309 issued to him pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., September 8, 1976, in the Tax Court Courtroom No. 1017, Federal Building and Courthouse, 231 West Lafayette Street, Detroit, Michigan.

Dated: August 16, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-25366 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14836-A]

ALASKA

Alaska Native Claims Selection

AUGUST 5, 1976.

Pursuant to the order from the Alaska Native Claims Appeal Board dated May 26, 1976, the following decision of March 18, 1976 (Lands Proper for Selection, Approved for Interim Conveyance), as modified by decision of March 25, 1976 (Decision Modified in Part), is hereby published once in the FEDERAL REGISTER and once a week for four (4) consecutive weeks in THE TUNDRA TIMES.

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Ukpeagvik Inupiat Corporation, Box 427, Barrow, Alaska 99723—F-14836-A—Village Selection.

LANDS PROPER FOR SELECTION APPROVED FOR INTERIM CONVEYANCE

On November 15, 1973, the Ukpeagvik Inupiat Corporation, the village of Barrow, filed selection application F-14836-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, for the surface estate of lands in the Barrow area. On March 25, 1975, patent was issued for a portion of the lands selected containing 2.80 acres.

The application is properly filed and meets the requirements of the act and of the regulations issued pursuant to it. The selected lands described below are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands,

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aggregating approximately 153,791 acres, is considered proper for acquisition by the Ukpeagvik Inupiat Corporation and is hereby approved for interim conveyance pursuant to section 14(a) of the act:

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 20 N., R. 17 W.
Sections 5 through 8, inclusive;
Sections 17 through 20, inclusive;
Sections 29 and 30, all.
T. 20 N., R. 18 W.
Sections 1 through 4, inclusive;
Sections 9 through 16, inclusive;
Sections 21 through 28, inclusive;
T. 20 N., R. 19 W.
Sections 1 through 3, inclusive;
Sections 4 through 6, fractional;
Section 7, all;
Section 8, fractional;
Sections 9 through 30, inclusive.
T. 20 N., R. 20 W.
Sections 1 through 4, fractional;
Section 9, fractional;
Sections 16 and 17, fractional;
Sections 19 and 20, fractional;
Section 21, all;
Section 29, all;
Sections 30 and 31, fractional.
T. 21 N., R. 16 W.
section 1, fractional;
sections 2 through 10, inclusive;
sections 11 through 15, fractional;
sections 16 through 20, inclusive;
sections 21 through 23, fractional;
sections 24 through 27, inclusive;
section 28, fractional;
sections 29 through 36, inclusive.
T. 21 N., R. 18 W.
sections 1 through 36, inclusive.
T. 21 N., R. 19 W.
section 3, all;
sections 4 and 5, fractional;
section 8, fractional;
section 9, all;
section 16, all;
sections 17 through 19, fractional;
sections 20 and 21, all;
section 28, all;
sections 29 through 35, fractional.
T. 21 N., R. 20 W.
sections 25 and 36, fractional.
T. 22 N., R. 16 W.
sections 16 through 18, fractional;
section 19, all;
sections 20 through 23, fractional;
sections 26 and 27, fractional;
sections 28 through 32, inclusive;
sections 33 through 36, fractional.
T. 22 N., R. 17 W.
sections 4 through 6, fractional;
sections 7 and 8, all;
sections 9 and 10, fractional;
sections 12 through 16, fractional;
sections 17 through 36, inclusive.
T. 22 N., R. 18 W.
section 1, fractional;
section 2, all;
section 3, excluding right-of-way 44 L.D. 513, F–14738;
section 4, excluding U.S. Survey 4227;
section 5, excluding U.S. Survey 4227;
section 6, fractional, excluding U.S. Survey 2244, U.S. Survey 2979, U.S. Survey 4227, and U.S. Survey 4615;
section 7, excluding U.S. Survey 4227 and U.S. Survey 4615, and right-of-way 44 L.D. 513, F–18794 (VOR Site only);
section 8, excluding U.S. Survey 4227;
section 9, excluding U.S. Survey 4227;
section 10, excluding PLO 2344;
section 11, excluding PLO 2344;
section 12, fractional;
section 13, all;
section 14, excluding PLO 2344 and Special Land Use Permit F–7715;
section 15, excluding PLO 2344 and Special Land Use Permit F–7715;
sections 16 through 36, inclusive.
T. 22 N., R. 19 W.
section 12, fractional, excluding U.S. Survey 4615;
Section 13, fractional, excluding U.S. Survey 4615;
section 14, fractional;
sections 22 through 25, fractional;
section 26, all;
section 27, fractional;
sections 33 and 34, fractional;
sections 35 and 36, all.
T. 23 N., R. 16 W.
section 7, fractional;
sections 16 through 18, fractional;
sections 21 through 23, fractional;
sections 25 and 26, fractional.
T. 23 N., R. 17 W.
sections 3 through 5, fractional;
sections 7 and 8, fractional;
section 10, fractional, excluding PLO 2344;
section 11, fractional, excluding PLO 2344;
section 12, fractional;
section 18, fractional;
section 31, fractional.
T. 23 N., R. 18 W.
section 12, fractional;
section 13, fractional, excluding PLO 2344;
section 24, fractional, excluding PLO 2344;
section 25, fractional, excluding PLO 2344;
section 31, fractional excluding U.S. Survey 1432, U.S. Survey 4615;
section 32, fractional, excluding U.S. Survey 1432, U.S. Survey 4615, and PLO 2344;
section 33, excluding PLO 2344;
section 34, excluding PLO 2344;
section 35, excluding PLO 2344;
section 36, fractional, excluding PLO 2344.
T. 24 N., R. 17 W.
sections 32 and 33, fractional.

The interim conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391); 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 305); 43 U.S.C. 975(d).

3. The subsurface estate therein, and all rights, privilges, immunities and appurtenances, of whatsoever nature, accruing into said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688); 43 U.S.C. 1601–1624.

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688); the following easements referenced by easement identification number (EIN) on the easement map in case file F–14836–EE are reserved to the United States and subject to further regulation thereby:

a. A site easement for public purposes and a road easement for use by the public to gain access to said site. The locations of said easements are:

A five (5) acre site easement covering the Rogers-Post Monument (EIN 9–C4) and a road easement one hundred (100) feet in width to said site from the Barrow-Wainwright Road easement (EIN 3–C5, E), and its use is to be controlled by applicable State and Federal law or regulations.

b. A one (1) acre site easement for public purposes covering the site of the original village of Barrow at point Barrow (EIN 10–C4), and its use is to be controlled by applicable State and Federal law or regulations.

c. A trail easement twenty-five (25) feet in width for use by the public to gain access to and from public lands south of the selection. Said easement is located along the route of the existing winter trail along the Chukchi Sea coast from the Division of Aviation tract at Barrow, southerly to the public lands outside the selection and northerly from the boundary of the Navy Arctic Research Laboratory site along the existing truck trail to Point Barrow and extending beyond to the Arctic Research site at Plover Point (EIN 1–C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

d. A road easement one hundred (100) feet in width for the proposed Barrow-Wainwright Road for use by the public to gain access to and from public lands south of the selection. Said easement is located along the alignment proposed by the Alaska Department of Highways from the Emaiksoun Lake road southerly towards Wainwright and including a spur to Emaiksoun Lake (EIN 2–C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

e. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands east of the selection. Said easement is located along the existing 44 L.D. 513 right-of-way from the Navy Arctic Research Laboratory site to the Navy gas well and continuing easterly to public lands outside the selection (EIN 4–C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

f. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands south of the selection. Said easement begins from the Barrow-Wainwright Road easement and runs southeasterly along the west shore of Lake Sungovoak to lands south of the selection (EIN 4b–C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

g. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands to the south and east of the selection. Said easement begins at Barrow and runs southerly along the route proposed by the village corporation, past the east shore of Lake Sungovoak to lands south of the selection (EIN 5–C5, M), and its use is to be controlled by applicable State or Federal law or regulations.

h. The following existing 44 L.D. 513 rights-of-way and appurtenances thereto, constructed by the United States through, over, or upon the land herein described and the right of United States, its agents or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States (EIN 11–C4, 44 L.D. 513):
(1) F–013216;
(2) F–022945;
(3) F–026975;
(4) F–031617, Parcels A, B, and C;
(5) F–035319;
(6) F–12605;

(7) F–18794.

i. In addition to the foregoing, the United States reserves:

(1) The general right to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes, together with the right to do all things necessary in connection therewith.

(2) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide public access to and along the marine coastline and use of such shore for purposes such as the beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses (EIN 6–C5). Deviations from the waterline are permitted when specific conditions so require, e.g., impassible topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be ogligated to convey to the United States an acceptable alternate access route at no cost to the United States, prior to the creation of such obstruction.

(3) An easement for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement, provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

j. Furthermore, the United States incorporates by reference the agreement of May 14, 1974, between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, and reserves those easements necessary to implement said agreement. A copy of the agreement is located in Bureau of Land Management file F–14836–EE.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patient confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him.

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1613(c), that the grantee hereunder convey those portions of land hereinafter granted, as prescribed in said section.

Interim conveyance to the lands remaining in the application will be made at a later date. Conveyance to the lands in T. 22 N., R. 18 W., Umiat Meridian covered by special land use permit F–7715 will be made after the permittee has met the stipulations contained in the permit and the lands are restored to their former condition. It should be noted that no interim conveyance will be issued to the Arctic Slope Regional Corporation for the subsurface estate of these lands, since the lands involved are located within Naval Petroleum Reserve No. 4. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that when a village corporation selects the surface estate to lands within Naval Petroleum Reserve No. 4, the regional corporation may make lieu selections of the subsurface estate, in an equal acreage, from other lands withdrawn by subsection 11(a) of the act. Enclosed is a current status plat showing the lands approved for interim conveyance.

The Ukpeagvik Inupiat Corporation has the right of appeal to the Alaska Native Claims Appeal Board in accordance with the regulations in 43 CFR 4.900. If an appeal is taken, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99501 and a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501, within 30 days from receipt of this decision. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations. See enclosed ASO Form 2650–4.

ROBERT E. SORENSON,
Chief, Branch of Lands and Mineral Operations.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the THE TUNDRA TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until September 27, 1976 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc.76–25316 Filed 8–27–76;8:45 am]

ALASKA NATIVE SELECTIONS

Waiver of Regulations for Arctic Slope Regional Corp.

AUGUST 25, 1976.

This order permits Arctic Slope Regional Corporation (ASRC) selections F–19148–5, 12, 15, 28, and 30 to be in less than whole township sizes as described in the above-listed selections presently on file with the Alaska State Director, Bureau of Land Management.

The affected townships are:

UMIAT MERIDIAN

Tps. 9, 10, and 11 S., R. 61 W.
Tps. 7 and 8 S., R. 55 W.
Tps. 9 and 10 S., R. 57 W.
Tps. 4, 8, and 9 S., R. 45 W.
Tps. 5, 6, 8, and 9 S., R. 46 W.
Tps. 8 and 9 S., R. 44 W.
T. 1 N., Rs. 42 and 43 W.

Statement of findings. ASRC, a corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA), has requested a waiver of the regulations, 43 CFR 2652.3(c), to permit selections in less than whole township sizes in the above-listed townships and selection applications.

ASRC has offered in consideration for said waiver to contribute to the Department of the Interior pursuant to 43 U.S.C. 1364 the actual cost, up to $116,000, of any survey monumentation actually necessary in excess of the actual cost which would have been necessary if it were not for a waiver of regulations, 43 CFR 2652.3(c). Under this commitment, ASRC agrees to contribute the monies after the monumentation work has been completed and the amount of the contribution is established.

The Department has studied this request, decided to accept the offer, has

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concluded that in light of the agreement there is no adverse effect on the United States, and that the waiver is in the best interest of ASRC and the United States. Therefore, the Department has decided to grant the waiver.

Pursuant to 43 CFR 2650.0–8 and in consideration of the agreement between ASRC and the United States under 43 U.S.C. 1364: *It is hereby ordered*, That 43 CFR 2652.3(c) is waived for ASRC as to the above listed townships and selection applications.

Signed at Washington, D.C., on August 25, 1976.

KENT FRIZZELL,
Under Secretary of the Interior.

[FR Doc.76–25385 Filed 8–27–76;8:45 am]

National Park Service

CANAVERAL NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2 p.m., e.d.t., on September 16, 1976, at the Holiday Inn, 4951 South Washington Avenue, Titusville, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development, and operation of the Canaveral National Seashore.

The members or the Advisory Commission are as follows:

Mr. Ney C. Landrum (Chairman)
Mr. Robert H. Hudson
Ms. Doris Leeper
Mr. Thomas K. Wetherell

The matters to be discussed at this meeting will be input received at the public meetings of August 24 and 25, 1976, and consideration of planning alternatives for Canaveral National Seashore.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected than not more than 25 persons will be able to attend. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, FL 32780. Telephone 305–867–4675. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at Park Headquarters.

Dated: August 20, 1976.

DAVID D. THOMPSON, JR.,
Regional Director, Southeast Region.

[FR Doc.76–25284 Filed 8–27–76;8:45 am]

Office of the Secretary

[Docket No. WASH 76–1; Rulemaking Proceedings]

STATE OF ALASKA

Notice Revising Dates Previously Announced in Prehearing Order and Resetting Date of Hearing and Dates for Filing

On August 9, 1976, the Judge in the aforementioned proceeding issued an Order to all parties which amended his Prehearing Order published on page 21833 of the FEDERAL REGISTER on May 28, 1976.

The Amended Order reads as follows:

On the Judge's own motion—because of the late date of receipt of the 15 volumes of transcripts of the hearings held in Alaska during June and July—the dates for furnishing direct and rebuttal direct testimony are hereby extended and the previous dates published in the FEDERAL REGISTER, on page 21833 on May 28, 1976, within my Prehearing Order, are canceled.

Accordingly, the date for submission of direct testimony is hereby extended to September 9, 1976. The date for submission of rebuttal direct testimony is extended to September 30, 1976. In accordance with the aforementioned revised dates, the Washington hearings now scheduled to commence on September 21, 1976, are canceled and hereby rescheduled to commence on Tuesday, October 19, 1976, at a place to be announced at a later date.

After the above-quoted notice, the location for the hearings was established. The location is as follows: U.S. Courthouse, 3rd and Constitution Ave., NW., Washington, D.C., Courtroom 9, 4th floor.

MALCOLM P. LITTLEFIELD,
Administrative Law Judge.

[FR Doc.76–25298 Filed 8–2776;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

CANE CREEK WATERSHED PROJECT, LAUDERDALE COUNTY, TENN.

Availability of Negative Declaration

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Cane Creek Watershed Project, Lauderdale County, Tennessee.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, USDA, 561 United States Courthouse, Nashville, Tennessee 37203, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. Planned works of improvement, as described in this negative declaration, include completion of remaining conservation land treatment supplemented by completion of channel work on that portion of Cane Creek channel upstream from the U.S. Highway 51 bridge north of Ripley, Tennessee. This portion of Cane Creek has intermittent flow.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies as well as to interested individuals. Basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 561 United States Courthouse, Nashville, Tennessee 37203. A limited number of copies of the negative declaration are available from the same address to fill single-copy requests.

No administrative action on implementation of the proposal will be taken until September 14, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 USC 1001–1008)

Dated: August 16, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76–25280 Filed 8–27–76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

FRANK H. GUIDER, INC.

Petition for a Determination of Eligibility

A petition by Frank H. Guider, Inc., 39 Church Street, Port Jervis, New York 12771, whose subsidiary, Novelty Slipper Company, is a producer of footwear for women, was accepted for filing on August 23, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93–618). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the petitioning firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 9, 1976.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76–25293 Filed 8–27–76;8:45 am]

National Oceanic and Atmospheric Administration

DETROIT ZOOLOGICAL PARK

Issuance of Permit To Take Marine Mammals

On May 27, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 21665) that an application had been filed with the National Marine Fisheries Service by Detroit Zoological Park, 8450 W. Ten Mile Road, Royal Oak, Michigan 48068, for a permit to take ten (10) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on August 23, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Detroit Zoological Park, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 02673.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

AUGUST 23, 1976.

[FR Doc.76–25303 Filed 8–27–76;8:45 am]

KINGS PRODUCTIONS

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Kings Productions, Taft Broadcasting Company, 8050 Hosbrook Court, Cincinnati, Ohio 45326, to take eight (8) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

The dolphins will be taken by a professional collector from the waters off Melbourne, Florida, by means of an encircling net technique.

Of the 8 animals, 4 will be maintained and displayed at Kings Dominion, P.O. Box 166, Doswell, Virginia 23047, and 4 animals will be displayed at Kings Islands, P.O. Box 400, Kings Mills, Ohio 45034, during the operating season (April–October). Both parks are owned and operated by Taft Broadcasting Company.

The 4 dolphins being displayed at Kings Island will be maintained in a circular tank having a radius of fifteen feet with a nine foot depth, giving it a 47,685 gallon capacity. Two holding tanks, 14' x 28' x 5' and 14' x 32' x 5' are available for the animals.

The display at Kings Dominion will maintain the 4 dolphins in a circular tank having a 17'6'' radius with a depth of 9 feet, giving it a 64,905 gallon capacity. Two holding tanks are provided, 10' x 20' x 7'.

At the Kings Island and Kings Dominion facilities, the dolphins will work in teams of two, each team giving six shows daily. Both facilities are profit making organizations with approximately 4 million people visiting the parks seasonally.

During the off-season months, the animals will be maintained under training conditions in natural-water enclosures at Flipper's Sea School, Marathon Shores, Florida. Two enclosures, each having a surface area of 2,700 and 3,300 feet respectively. with an average minimum depth of 12 feet, will each house 4 dolphins. Although the 8 dolphins, being maintained and trained here during the winter months, will not be used as a scheduled part of the Sea School show, they will be displayed to the public. Flipper's Sea School is a profit organization, open year round to the public with four daily shows.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of the application to the Marine Mammal Commission and its committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before September 29, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing in this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

AUGUST 24, 1976.

[FR Doc.76–25300 Filed 8–27–76;8:45 am]

METROPARKS ZOO

Issuance of Permit To Take Marine Mammals

On June 21, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 24927) that an application had been filed with the National Marine Fisheries Service by Metroparks Zoo, Brookside Park, Cleveland, Ohio 44109, for a permit to take four (4) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on August 19, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Metroparks Zoo subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

AUGUST 19, 1976.

[FR Doc.76–25302 Filed 8–27–76;8:45 am]

PORT ELIZABETH MUSEUM

Receipt of Application for a Scientific Research and Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research and public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Scott R. Rutherford, Port Elizabeth Museum, Humewood, Port Elizabeth, South Africa, to participate in the taking of twleve (12) bottlenosed dolphins (*Tursiops truncatus* cf. *aduncus*), for the purpose of public display and scientific research.

Mr. Rutherford, a U.S. citizen is a Consultant Curator of the Oceanarium of the Port Elizabeth Museum. He will be involved in the capture of three (3) dolphins to be maintained at the ocea-

V 41 169 AUG 30 76 UMI

narium for display and research, and nine (9) dolphins to be taken, measured, freeze branded and released. The 3 dolphins to be captured for research and display will be freeze branded, measured, and weighed. In addition, along with digestive function and physiology studies, each animal will be given a week-long course of oxytetracycline daily to provide a marker for teeth age studies. Only animals between 2.0–2.3m in length will be considered for captivity.

Capture will be under the direction of Mr. Rutherford. Capture site will be Algoa Bay, off Port Elizabeth by means of a hoop-net technique.

At the facility the animals will be maintained in a quarantine circular pool, 1.6m in depth with a 6.43 square-meter surface area, until the animals are in satisfactory condition. After such time the animals will then be released into the main pool. The main pool, with resting areas, has a 1355 square-meter surface area with varying depths from 3 to 4.3m. The facilities daily display is for non-profit with annual attendance over 170,000 visitors.

Nine dolphins not less than 1.8m in length will be captured, freeze branded, given a 10mg/kg/body weight dosage of oxytetracycline that provides a dentine mark for later age determination in the event of recovery, and released. Copper brands will be applied to both sides of the dorsal fin. It is hoped the re-sighting of marked animals will provide insight into the seasonal population shifts, thus, compiling information essential for intended population estimates of this area.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above-described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following office:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before September 29, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

HARVEY M. HUTCHINGS,
Director for Resource Management, National Marine Fisheries Service.

AUGUST 24, 1976.

[FR Doc.76-25301 Filed 8-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1976:

MINORITY ADVISORY COMMITTEE, ADAMHA

September 15–17—OPEN Meeting
September 15, 1:00 p.m., Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md.
September 16, 9:00 a.m., Conference Room C, Parklawn Building
September 17, 9:00 a.m., Room 403, Marvin Center, George Washington University, 800 21st Street, NW., Washington, D.C.

Contact: Ernest F. Hurst, Parklawn Building, Room 13C–15, 5600 Fishers Lane, Rockville, Md. 20852, 301–443–3838.

Purpose. The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse and the National Institute of Mental Health.

Agenda. This meeting will be open to the public. On September 15, there will be a report from the Executive Secretary and discussion of administrative matters. On September 16, the agenda will include discussion on Health Planning Systems, Community Mental Health Centers Legislation, a presentation by staff of the Center for Minority Group Mental Health Programs, National Institute of Mental Health, and discussions with the Directors of the National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse, and National Institute of Mental Health. On September 17, the Committee will meet at the George Washington University for a planning session on fiscal year 1977 operations, priority issues, and objectives and responsibilities. Agenda items are subject to change as priorities dictate. Attendance by the public will be limited to space available.

Substantive program information may be obtained from the contact person listed above.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the committee members. Mr. Helsing is located in Room 16–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–3783.

Dated: August 24, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-25290 Filed 8-27-76;8:45 am]

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Minority Group Mental Health Programs Review Committee.

Authority for this committee will expire August 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: August 24, 1976.

FRANCIS N. WALDROP,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-25291 Filed 8-27-76;8:45 am]

Public Health Service

FEASIBILITY OF CERTIFYING COMPONENT PARTS FOR SELF-CONTAINED BREATHING APPARATUS

Public Meeting

The Secretary of the Interior, through the Mining Enforcement and Safety Administration (MESA) and the Secretary of Health, Education, and Welfare, through the National Institute for Occupational Safety and Health (NIOSH) conduct a testing and approval program for respirators used in hazardous atmospheres pursuant to regulations contained in 30 CFR Part 11 issued jointly by the Secretaries (37 FR 6244).

Section 11.30(a) of Part 11 states that "MESA and the Institute shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely assembled respirators which have been examined, inspected, and tested, and which meet the minimum requirements set forth in Subparts H through M of this part, as applicable." In accordance with this requirement, MESA and NIOSH have issued approvals only for complete respirators.

The National Institute for Occupational Safety and Health has received a request from The All-Gas and Equipment Company of Hartford, Connecticut, which desires to obtain approvals on replacement gas container (cylinder) and valve assemblies for use with approved self-contained breathing apparatus. The Institute has investigated this possibility and concluded that from an engineering standpoint, it may be feasible to use separate cylinder and valve assemblies manufactured by one company with approved self-contained breathing apparatus manufactured by another company. In such a case, component approval might be issued to one applicant, for example, for a cylinder and valve assembly that is identical in shape, size, material, and performance with the cylinder and valve assembly provided by another applicant as part of a complete approved apparatus. Each applicant would be subject to the same quality assurance requirements for construction and assembly of cylinder and valve assembly. However, there may be objections or legitimate reasons why certification of cylinder and valve assemblies for self-contained breathing apparatus should not be permitted under Subpart H of 30 CFR Part 11.

Notice is hereby given that NIOSH and MESA will hold a public meeting to obtain information and views on engineering feasibility, benefits, legalities, and liabilities associated with the intermixing of cylinder and valve assemblies or of other parts or components from different manufacturers. The meeting will be held on October 22, 1976, beginning at 9:30 a.m. in Conference Room E (3rd Floor) of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

Interested persons who wish to present pertinent oral comments at the meeting, should write to the Deputy Director, NIOSH, 5600 Fishers Lane, (Park Bldg. Rm. 3–32), Rockville, Md. 208582, not later than 14 days before the meeting, advising of the approximate time needed to present such comments. For those persons who cannot participate in the meeting, written comments may be submitted to the Deputy Director at the foregoing address. A verbatim transcript of the proceedings will be maintained and all written statements and data received by October 29, will be made part of the record.

All material received into the record will be reviewed and either a notice of proposed rulemaking to amend § 11.30 (a) and Subpart H of 30 CFR Part 11 to permit certification of component parts, or a notice setting forth the reasons why such an amendment is not feasible, will be published in the FEDERAL REGISTER.

Dated: August 23, 1976.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.76-25289 Filed 8-27-76;8:45 am]

Food and Drug Administration

[Docket No. 76C-0033]

FD&C RED NO. 2

Postponement of Hearing

The hearing on the denial of the petition for permanent listing of FD&C Red No. 2, formerly scheduled for September 13, 1976, as published in the FEDERAL REGISTER of July 20, 1976 (41 FR 29897), has been postponed. A new date for the hearing will be set at the continued prehearing conference presently scheduled to convene at 10 a.m. on September 13, 1976 in the Hearing Room, Rm. 4A–35, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20852.

Dated: August 26, 1976.

DANIEL J. DAVIDSON,
Administrative Law Judge.

[FR. Doc.76-25519 Filed 8-27-76;10:59 am]

Social Security Administration

PHYSICAL THERAPY SERVICES UNDER THE HEALTH INSURANCE PROGRAM

Schedule of Guidelines

Notice is hereby given of a revision in the effective date of the updated schedule of guidelines for evaluating the costs of physical therapy services furnished under arrangements in the Medicare program. As authorized in Part 405, Chapter III of Title 20 of the Code of Federal Regulations, § 405.432(b), the revised schedule was established by the Commissioner of Social Security, and published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7542).

The updated schedule for physical therapy services will be effective for services performed on or after April 1, 1976, without regard to the beginning dates of providers' cost reporting periods (rather than for provider cost reporting periods beginning on or after April 1, 1976), and will remain in effect until the effective date of any revised schedule that may be published. Providers with cost reporting periods that straddle the periods covered by the schedules will utilize both the guideline schedules. For example, for a provider in Maryland, regardless of the beginning date of its costs reporting period, the services performed before April 1, 1976, will be evaluated at the adjusted hourly salary equivalency amount of $9.80 and the services performed on or after April 1, 1976, will be evaluated at the hourly salary equivalency amount of $10.80.

The adjusted hourly salary equivalency amounts and the standard travel allowances in the updated schedule published in the FEDERAL REGISTER on February 19, 1976, remain unchanged, but are republished for reference.

This revision, establishing a uniform effective date, will avoid inequities both to physical therapists and providers that might have occurred had different rates been applied to providers in an area solely on the basis of the beginning dates of such providers' cost reporting periods. Thus, all providers will have the benefit of the higher limits at the same time.

V 41 169 AUG 30 76 UMI

3

Schedule of Guidelines for Physical Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Qualified Physical Therapists (Full Time, Regular Part Time, or Home Visits)

Effective for Services Furnished on or After April 1, 1976

(This schedule is not to be used for physical therapy assistants or aides.)

	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
ALABAMA	$ 9.90	$ 4.95
ALASKA[1]	13.20	6.60
ARIZONA	10.50	5.25
ARKANSAS	8.40	4.20
CALIFORNIA	10.50	5.25
COLORADO	8.40	4.20
CONNECTICUT	9.20	4.60
DELAWARE	10.70	5.35
DISTRICT OF COLUMBIA	9.80	4.90
FLORIDA	10.10	5.05
GEORGIA	9.80	4.90
HAWAII[2]	11.90	5.95
IDAHO	9.00	4.50
ILLINOIS	9.80	4.90
INDIANA	10.10	5.05
IOWA	9.30	4.65

[1]Adjusted for 25 percent salary differential.

[2]Adjusted for 15 percent salary differential.

4

	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
KANSAS	$ 9.30	$ 4.65
KENTUCKY	10.40	5.20
LOUISIANA	8.40	4.20
MAINE	9.20	4.60
MARYLAND	10.80	5.40
MASSACHUSETTS	9.20	4.60
MICHIGAN	10.40	5.20
MINNESOTA	9.30	4.65
MISSISSIPPI	9.90	4.95
MISSOURI	9.30	4.65
MONTANA	8.40	4.20
NEBRASKA	9.30	4.65
NEVADA	10.50	5.25
NEW HAMPSHIRE	9.20	4.60
NEW JERSEY	10.70	5.35
NEW MEXICO	8.40	4.20
NEW YORK	10.80	5.40
NORTH CAROLINA	10.40	5.20
NORTH DAKOTA	8.40	4.20
OHIO	10.10	5.05
OKLAHOMA	8.40	4.20
OREGON	9.30	4.65
PENNSYLVANIA	10.20	5.10

V 41 169 AUG 30 76 UMI

5

	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
RHODE ISLAND	$ 9.20	$ 4.60
SOUTH CAROLINA	9.90	4.95
SOUTH DAKOTA	8.40	4.20
TENNESSEE	10.40	5.20
TEXAS	8.40	4.20
UTAH	8.40	4.20
VERMONT	9.20	4.60
VIRGINIA	10.40	5.20
WASHINGTON	8.70	4.35
WEST VIRGINIA	10.40	5.20
WISCONSIN	9.80	4.90
WYOMING	8.40	4.20

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 313, as amended, 79 Stat. 331 (42 U.S.C. 1302, 1395f(b), 13951(a), 1395x(v)(5), 1395hh), sec. 17(a), Pub. L. 93-233, 87 Stat. 967.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged-Hospital Insurance, and 13.801, Health Insurance for the Aged-Supplementary Medical Insurance.)

Dated: August 20, 1976.

JAROLD KIEFFER,
Acting Commissioner of Social Security.

[FR Doc.76-25216 Filed 8-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-010 FH; CGD 76-011 FH]

LOOP, INC. AND SEADOCK, INC.

Deepwater Port License Applications; Final Public Hearing

Notice is hereby given that a final public hearing under section 5 (g) and (i) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504 (g) and (i) will be held beginning at 9:00 a.m. on Tuesday, September 21, 1976 in Room 2232, 400 Seventh Street, SW, Washington, D.C. 20590. The hearing will be informal and conducted jointly by the U.S. Coast Guard and the U.S. Department of Transportation, Office of Deepwater Ports.

The purpose of this hearing is to provide an opportunity for all interested parties to submit views not heretofore presented concerning the issuance or denial by the Secretary of Transportation of deepwater port licenses which would authorize the ownership, construction and operation of the LOOP, Inc., and Seadock, Inc. projects in the Gulf of Mexico, off the coasts of Louisiana and Texas, respectively.

The LOOP, Inc. and Seadock, Inc. deepwater port license applications have been the subject of draft environmental impact statements (EIS's) made available for public comment in April 1976 and general public hearings conducted in May 1976 in the States of Louisiana and Texas. Both license applications, including supporting materials, the draft EIS's and comments thereon, the transcripts of previous hearings, and other documents of the license application processes are available for public inspection during normal business hours in room 6125 at Coast Guard Headquarters, 400 Seventh Street, SW, Washington, D.C. 20590.

The final phase of the deepwater port license application process commences with this public hearing. Section 5(g) of the Act requires all public hearings on all applications for any designated application to be concluded not later than 240 days after notice of the initial application has been published in the FEDERAL REGISTER. Notices of the filing of both the LOOP, Inc. and Seadock, Inc. deepwater port license applications, the availability thereof for public inspection and the designation of the respective application areas, appeared in the FEDERAL REGISTER of January 26, 1976 (41 FR 3768-69). All public hearings in these license application processes must therefore be concluded by September 22, 1976.

Federal agencies and States having duties and responsibilities under the Act have a period of 45 days from the date of the final public hearing announced heerin, or until November 5, 1976, to submit their final recommendations, including recommended license conditions, as appropriate, to the Coast Guard application staff, Commandant (G-WDWP/61), 400 Seventh Street, SW., Washington, D.C. 20590. The Secretary of Transportation will thereafter approve or deny within 45 days, or by December 20, 1976, the license applications under consideration.

Any person desiring to appear and be heard at this public hearing may do so. However, only new information and material directly relevant to the issuance or denial of the deepwater port licenses and other related Federal authorizations is desired. Information and comments concerning either or both deepwater port proposals previously submitted in response to earlier notices, public hearings, and the EIS's should not be duplicated at this proceeding.

Interested persons may submit briefs and make oral arguments relevant to the subject matter of this hearing at a time determined by the Presiding Officer during the hearing. Time limitations, if necessary, may be imposed by the Presiding Officer on those making presentations, within his sole discretion, at any time during the hearing. The order of speakers at this hearing will generally be a random order, based upon registration cards filled out at the door immediately prior to the beginning of the hearing.

A transcript will be made of the hearing. This record will be available for examination by interested persons, during normal business hours, at the address listed in the fifth paragraph of this notice.

(88 Stat. 2134 (33 U.S.C. 1504(g)); (49 CFR 1.46)

Dated: August 25, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25346 Filed 8-27-76;8:45 am]

[CGD 76-011 PIN]

PORT OF GALVESTON COMPARATIVE DETERMINATION UNDER THE DEEPWATER PORT ACT OF 1974

Information Regarding Status

Notice is hereby given that the U.S. Coast Guard Deepwater Ports Application Staff, Commandant (G-WDWP/61), U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590, has prepared an examination of the request submitted by Galveston Wharves, Inc., on behalf of the Port of Galveston, Texas, under § 148.216 of Title 33, Code of Federal Regulations, for a comparative determination under section 4(d) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504(d)), in respect of the deepwater port license application filed by Seadock, Inc. (41 FR 3769). The purpose of this notice is to advise all interested persons of the 4(d) examination, its relation to the forthcoming decision of the Secretary of Transportation on the Seadock, Inc. deepwater port license application and the availability thereof for public inspection and comment.

Section 4(d) of the Act directs the Secretary of Transportation, before issuing a license for a deepwater port under the Act, upon appropriate application, to examine and compare the economic, social, and environmental effects of the construction and operation of a proposed offshore deepwater port with the similar effects of the construction, expansion, deepening and operation, pursuant to plans for a deep draft channel and harbor, of a port of the State which will be directly connected by pipeline with the proposed deepwater port, and to determine which project best serves the national interest or that both developments are warranted. The Secretary has delegated to the Commandant, U.S. Coast Guard, the responsibility for undertaking the required examination and comparison.

The Coast Guard's findings concerning the economic social and environmental effects of the construction and operation of the proposed Seadock, Inc. deepwater port project as compared with the construction, expansion, deepening and operation of the Port of Galveston are contained in a study, entitled "Section 4(d) Examination, Port of Galveston/Seadock, Inc." Conclusions and recommendations respecting which project best serves the national interest, or that both developments are warranted, will be derived from this study and provide the basis for the determination that must be made prior to the Secretary's decision on the Seadock, Inc. deepwater port license application. It is expected that the license decision will be reached by mid-December 1976 and the Secretary's determination with respect to the Galveston project will be made in concert with the license decision.

The application staff report of the 4(d) examination discussed herein has been provided to the principals involved and will be available about September 1, 1976 to all other interested persons for public inspection during normal business hours, in Room 6125, at the address listed in the first paragraph of this notice. Interested persons may, after review of the study, consult with, or submit comments to, the application staff.

(5 U.S.C. 552)

Dated: August 25, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25347 Filed 8-27-76;8:45 am]

Federal Aviation Administration

BOSTON AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Boston Air Traffic Control Advisory Committee. This committee was sponsored by the Air Traffic Division of the Federal Aviation Administration's (FAA's) New England Region, to provide a forum for discussion and solution of air traffic control service problems involving representatives of the military services, FAA and civil users of the air traffic control system. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25271 Filed 8-27-76;8:45 am]

ALASKAN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Alaskan Region Air Traffic Control Advisory Committee. This committee was sponsored by the Air Traffic Division of the Federal Aviation Administration's (FAA's) Alaskan Region, to provide a forum for discussion and solution of air traffic control service problems involving representatives of the military services, FAA and civil users of the air traffic control system. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25272 Filed 8-27-76;8:45 am]

GENERAL AVIATION ACCIDENT PREVENTION ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the General Aviation Accident Prevention Advisory Committee. This committee was sponsored by the Flight Standards Service of the Federal Aviation Administration (FAA) to assist in the effort to reduce the general aviation accident rate by providing FAA with advice and recommendations reflecting the knowledge and views of all levels of the general aviation community. The Secretary of Transportation has determined that continuation of this committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25273 Filed 8-27-76;8:45 am]

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Renewal

Notice is hereby given that the Microwave Landing System Advisory Committee is being renewed. The Systems Research and Development Service is the sponsor of the Committee, which consists of a group of 21 experts on the design and use of microwave landing systems. The Committee reviews the developmental efforts which are underway and advises the Director, Systems Research and Development Service, regarding the feasibility of such activities; keeps informed of the operational needs of the users; recommends Government and industry studies, tests, and simulations to verify the system capability for satisfying the operational needs of the users; and provides advice and ideas on, or methods to achieve solutions to, technical problems and concept choices.

The Secretary of Transportation has determined that the formation and use of the Microwave Landing System Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

Issued in Washington, D.C. on August 16, 1976.

GENE JENSEN,
Executive Director, Microwave Landing System Advisory Committee.

[FR Doc.76-25274 Filed 8-27-76;8:45 am]

OBSTACLE CLEARANCE REQUIREMENTS ADVISORY COMMITTEE FOR THE UNITED STATES

Renewal

Notice is hereby given that the Obstacle Clearance Requirements Advisory Committee for the United States is being renewed. The Flight Standards Service is the sponsor of the Committee which consists of a group of 14 experts on obstacle clearance requirements. The Committee develops information and data in support of proposals to be submitted by the United States to the ICAO Obstacle Clearance Panel for consideration and/or for positions to be taken by the United States with regard to proposed international standards and requirements for prevention of the erection or for the removal of obstacles to air navigation. The Committee's activity is limited to those obstacle clearance matters which have international implications.

The Secretary of Transportation has determined that the formation and use of the Obstacle Clearance Requirements Committee for the United States are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

V 41 169 AUG 30 76 UMI

Issued in Washington, D.C. on August 10, 1976.

GERALD E. GIBSON,
Chairman, Obstacle Clearance Requirements Advisory Committee for the United States.

[FR Doc.76-25275 Filed 8-27-76;8:45 am]

HIGH ALTITUDE POLLUTION PROGRAM TECHNICAL ADVISORY COMMITTEE

Establishment

Notice is hereby given of the establishment of the High Altitude Pollution Program Technical Advisory Committee. The Federal Aviation Administration (FAA) is the sponsor of the committee, and the membership includes foreign and domestic representatives from industry, universities, and governmental agencies. The committee will provide FAA with independent expert advice on the nature and direction of its technical efforts related to the conduct of its High Altitude Pollution Program.

The Secretary of Transportation has determined that the formation and use of the Technical Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the committee will be open to the public.

Issued in Washington, D.C. on August 16, 1976.

F. A. MEISTER,
Associate Administrator for Policy Development and Review (Acting).

[FR Doc.76-25276 Filed 8-27-76;8:45 am]

Office of the Secretary

CONSTRUCTION OF I-66 BETWEEN CAPITAL BELTWAY (I-495) AND ROSSLYN, VIRGINIA

Public Hearing

As the Secretary of Transportation, I will be deciding whether an application for a Federal grant should be approved for construction of Interstate Highway 66 between the Capital Beltway (Interstate Highway 495) and Rosslyn, Virginia. The current proposal represents a revision from an earlier proposal which I rejected on August 1, 1975.

The earlier proposal, jointly submitted by the Virginia Department of Highways and Transportation (VDHT) and the Federal Highway Administration of this Department, was for six highway lanes, with truck traffic excluded, and with the Metro line to Vienna running along part of the median of the proposed highway. In rejecting that proposal, I stated:

> This decision is without prejudice to any further consideration on the part of the VDHT of the need for a non-Interstate commuter highway in the I-66 corridor if, after consultation with appropriate metropolitan authorities, the state finds it in the best interest of the metropolitan area to build a highway in the corridor, and if the proposal meets all the appropriate legal tests.[1]

The proposal which is the subject of this public hearing has now been submitted to me for my consideration.

The proposal is set forth in "Proposed Four Lane Multi-Modal Concept, Final Supplemental Environmental/Section 4(f) Statement", which has been prepared jointly by the VDHT and the Federal Highway Administration. A limited number of copies of the statement are available and can be obtained by citizen groups, businesses and governmental bodies potentially affected by the decision. Copies may be obtained by writing to:

Office of Public Affairs (S-80), U.S. Department of Transportation, Washington, D.C. 20590.

Copies of the statement will also be available for review at the following locations:

Arlington County Public Library: Central Library and Shirlington, Westover and Cherrydale Branches.
Fairfax County Public Library: Main Library, Virginia Room, and Thomas Jefferson Branch Library.
Department af Transportation, Visitor Information Center (Room PL 413), 400 Seventh Street SW., Washington, D.C. (8:30 a.m. to 5:00 p.m.).
Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia (7:45 a.m. to 4:15 p.m.).
Fairbanks Highway Research Station, 6300 Georgetown Pike, McLean, Virginia (7:45 a.m. to 4:15 p.m.).
Federal Aviation Administration, 900 S. Washington Street (Room 200), Falls Church, Virginia (8:00 a.m. to 4:30 p.m.).

In light of the considerable interest and controversy which has surrounded the issue of construction of I-66, and the fact that I personally conducted a public hearing on the matter when it was previously presented to me and issued a decision on it, I shall now conduct a public hearing on the new proposal. Interested elected public officials and representatives of civic organizations will be permitted to express their views. The hearing will be conducted in a manner comparable to a Congressional hearing. It will be held on Saturday, October 2, 1976, at the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. I chose Saturday as that day ought to provide the opportunity for greatest public participation without undue inconvenience. The agenda will be:

9:30 a.m.-10:30 a.m.
Elected public officials favoring construction
10:30 a.m.-11:30 a.m.
Elected public officials opposed to construction
1:00 p.m.-2:00 p.m.
Representatives of civic groups favoring construction
2:00 p.m.-3:00 p.m.
Representatives of civic groups opposed to construction

Participants will be permitted a maximum of 10 minutes for each presentation. Those of the same point of view are urged to combine their presentations. Written copies of presentations will be helpful, but are not required. Additionally, written presentations by any interested persons, including those who may not have sufficient time to express their full views at the hearing, may be submitted directly to me (address Secretary of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and indicate "I-66 Presentation" on envelope), to be received no later than October 15, 1976.

Any elected public official or representative of a civic, public interest, or industry group desiring to participate at the hearing should write to: Secretary of Transportation (I-66 Hearing), 400 Seventh Street, SW., Washington, D.C. 20590 (telephone 426-4357), to be received no later than September 15, giving the following information:

1. Name.
2. Address.
3. Phone number during normal working hours.
4. Capacity in which presentation will be made (i.e., public official or civic, public interest, or industry group representative, with name of group represented).
5. Position—pro or con.
6. Time (maximum 10 minutes) desired for presentation.

A schedule will be prepared listing the participants in the order in which their presentations will be made. If more requests to testify are made than the time allotted will permit, we will attempt to obtain prior agreement on time allotments, or will allot time through the drawing of names by lot. The public and the press are invited to the hearing. The hearing will be transcribed electronically. The transcription and all written submissions will become a part of the record in this proceeding.

The holding of this hearing is not a precedent for the way in which I will handle similar matters in the future.

Issued in Washington, D.C., August 27, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-25500 Filed 8-27-76;10:07 am]

[1] "The Secretary of Transportation's Decision on Whether the Department of Transportation Should Approve the Construction of Interstate Route 66 in Arlington and Fairfax Counties, Virginia", August 1, 1975, p. 15.

CIVIL AERONAUTICS BOARD

[Docket No. 27936; Order 76-8-129]

DELTA AIR LINES, INC.

Order Regarding Certificate of Public Convenience and Necessity; Amendment

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of August 1976.

On June 11, 1975, Delta Air Lines filed an application, pursuant to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 8 so as to permit it to provide nonstop service between Memphis, Tennessee, and Tampa, Florida.[1]

[1] Eastern Air Lines filed a request for dismissal. Trans World Airlines filed an answer stating that it does not object to the grant of Memphis-Tampa authority but requests the imposition of restrictions in beyond-area markets. Broward County's Florida, Tampa, and Memphis filed answers in support of Delta's application.

By Order 75-9-95, September 25, 1975, the Board set Delta's application for further proceedings in accordance with Subpart N expedited procedures. Subsequently, the Board directed Delta to file additional information in support of its application (i.e., estimate of self-diversion and net financial impact and an environmental evaluation).[2] Delta submitted the requested information in the form of separate fiscal 1977 estimates of (1) on-segment results,[3] (2) total system impact of the proposal before self-diversion, and (3) the offsetting (negative) impact of self-diversion.[4]

For purposes of presenting the net results of the data submitted by Delta, we have combined its estimates in a profit and loss statement which is attached as an appendix[5] to this order. As can be seen, Delta projects an operating loss of $1.6 million on net added revenues of $2.8 million, after self-diversion. Concerning this loss, Delta states that the self-diversion represents a load-factor decrease of only four points on the Memphis-Atlanta segment and three points on the Atlanta-Tampa segment, and that these segments would remain profitable. However, no detailed analysis is furnished to substantiate the conclusion of profitability. Delta repeats its argument that (1) the Memphis-Tampa market is large enough to support nonstop service, (2) Delta is willing to provide the service, (3) Delta currently carries virtually all of the Memphis-Tampa passengers, (4) the new routing would contribute to a more efficient air transportation system, and (5) no other carriers would be adversely affected.

Answers in opposition to Delta's submission were filed by Eastern and TWA. Eastern objects to Delta's receiving improved authority in the St. Louis-Tampa market and states that Delta cannot show a profit for the proposed operation when self-diversion is considered. TWA alleges that, during the twelve months ended April 1976, its one-stop Kansas City-Tampa services incurred fully allocated losses in excess of $212,000 and its St. Louis-Tampa segment had a fully allocated loss of $417,00. TWA estimates that Delta would divert $366,000 in gross revenue from it and states that Delta should be two-stop restricted in the Tampa-Kansas City/St. Louis markets.

Upon consideration of the pleadings and of all relevant facts, we have determined that there is a sufficient basis for setting Delta's application for hearing under Subpart N. However, it is clear that the carrier's economic submission does not realistically reflect the service modifications that would have to occur if its application were granted and it were to integrate the new route into its system on a profitable basis. If Delta is to offer the level of service that it proposes[6] for a market of Memphis-Tampa's size,[7] it will surely make offsetting adjustments elsewhere.[8] We believe that the administrative law judge, the parties, and the Board are entitled to a record which fully reflects an applicant's scheduling plans. This is especially true in the oase of an expedited Subpart N proceeding. Therefore, while Delta's application is being set down for hearing, it will not be noticed until Delta submits an analysis of all actual service adjustments which it would make if it were awarded Memphis-Tampa nonstop authority and until interested parties have had a chance to respond.[9]

All information should be filed with the Board and served upon all parties within 30 days from the date of adoption of this order. Answers will be due 15 days thereafter.

Finally, we will deny TWA's request for pretrial restrictions in the Tampa-Kansas City/St. Louis markets. The imposition of such restrictions would limit the Board's flexibility to impose only those restrictions which are found necessary on the basis of an evidentiary record. Moreover, there appears to be no compelling reason here why ordinary beyond-segment rights should be excluded in advance. If there is, in fact, a need for such restrictions, it can be shown at the hearing and the Board will be free to impose them.

Accordingly, it is ordered, That:

1. Delta Air Lines, Inc., be and it hereby is directed to file additional information as set forth in this order within 30 days of the date of adoption of this order. Answers thereto will be due 15 days thereafter;

2. The application of Delta Air Lines, in Docket 27936, be and it hereby is set for hearing before an administrative law judge of the Board at a time and place hereafter disignated, but will not be noticed for hearing until Delta has filed the information ordered by paragraph 1 above and until interested parties have had the opportunity to file answers thereto; and

3. The request of Trans World Airlines, Inc., for pretrial restrictions be and it hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-25339 Filed 8-27-76;8:45 am]

[2] Order 76-5-23, May 7, 1976.

[3] A profit and loss statement strictly limited to revenues earned and expenses incurred on that portion of Delta's flights operated over the proposed new nonstop Memphis-Tampa segment.

[4] Delta presents self-diversion both on a projected participation and on a growth-offset basis. While the Board has utilized growth-offset as an alternative method of determining diversion from other carriers in route proceedings, the Board has not utilized growth-offset in computing self-diversion in the context of a forecast year profit and loss estimate. Accordingly, we have disregarded Delta's growth-offset self-diversion estimate.

[5] Filed as part of the original document.

[6] Two daily nonstop round trips with DC-9-30 equipment.

[7] In the year ended June 30, 1975, the Memphis-Tampa market generated 26,150 O&D plus interline connecting passengers or 36 passengers per day each way.

[8] For example, all of the Memphis-Tampa nonstop mileage represents new flying, and Delta has not made the necessary reductions in frequency or equipment gauge in the underlying Memphis-Atlanta and Atlanta-Tampa markets to offset the impact of self-diversion.

[9] In addition, Delta is requested to submit a profit and loss statement in the form set forth in the attached appendix.

[Docket No. 28194]

EASTERN AIR LINES, INC.-PIEDMONT AVIATION, INC.

Notice of Reassignment of Proceeding Regarding Route Exchange Agreement

This proceeding has been reassigned from Administrative Law Judge Arthur S. Present to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., August 24, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-25340 Filed 8-27-76;8:45 am]

[Docket No. 21162]

OHIO/INDIANA POINTS NONSTOP SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 30, 1976 at 10:00 a.m. (local time) at the Marriott Inn, 2124 South Hamilton Road, Columbus, Ohio. At the conclusion of the hearing in Columbus, the hearing will be recessed until October 5, 1976 at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C.

The civic parties will be heard in alphabetical order in Columbus. The remainder of the parties will be heard in Washington, D.C.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served May 27, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 24 1976.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.76-25341 Filed 8-27-76;8:45 am]

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[Docket No. 27114 etc.]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC. ROUTE AGREEMENT

Reassignment of Proceeding Regarding Route Agreement

This proceeding has been reassigned from the undersigned to Administrative Law Judge Arthur S. Present. Future communications should be addressed to Judge Present.

Dated at Washington, D.C., August 24, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-25342 Filed 8-27-76;8:45 am]

UNITED STATES-LATIN AMERICA ALL-CARGO SERVICE INVESTIGATION

[Docket No. 29295]

Postponment of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on September 14, 1976, (41 FR 24212, June 14, 1976) is hereby postponed to October 13, 1976 at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 24, 1976.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.76-25343 Filed 8-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 608-5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Equivalent Method Determination

Notice is hereby given that on August 3, 1976, the Environmental Protection Agency received an application from N. V. Philips' Gloeilampenfabrieken, to determine if its PW9771 ozone analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

Dated: August 24, 1976.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

[FR Doc.76-25371 Filed 8-27-76;8:45 am]

[FRL 608-1]

CITY OF JEROME WASTEWATER FACILITIES PROJECT

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the City of Jerome Wastewater Facilities Project, Jerome County, Idaho.

The proposed action is the awarding of grant funds to provide an adequate wastewater treatment and disposal program for the City of Jerome, Idaho, located near the Snake River in Jerome County, Idaho.

To receive additional public comments, the Environmental Protection Agency, Region X will hold an open public hearing on this DEIS on September 16, at 7:30 p.m. in the Jerome Junior High School Auditorium, Idaho. All interested persons are invited to express their views at these hearings. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on August 20, 1976. In accordance with CEQ's notice of availability, comments are due on October 4, 1976. Copies of the DEIS are available for review and comment from: Mr. Richard R. Thiel, Chief, Environmental Impact Section, M/S 443, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (telephone: 206-442-4011 or FTS 399-4011).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region X Library, 1200 Sixth Avenue, Seattle, Washington 98101.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.
Jerome Civic Club Memorial Library, 100 1st Avenue East, Jerome, Idaho.

Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: August 23, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76-25367 Filed 8-27-76;8:45 am]

[FRL 608-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a two-day meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held on September 16 and 17, 1976 in the Auditorium, Environmental Research Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. The meeting will start at 9:00 a.m. on September 16, 1976. The Environmental Research Center is located at the intersection of Highway N.C. 54 and T. W. Alexander Drive. The Auditorium is near the Visitors' Entrance.

The purpose of the meeting will be (1) to acquaint the members with the programs, facilities, and personnel of EPA's Health Effects Research Laboratory located at Research Triangle Park; (2) to hear and consider a report of the Ad Hoc Study Group on Toxic Substances Programs which reviewed certain health-related programs of the Agency's Office of Toxic Substances; and (3) to hear brief progress reports of the committee's Subcommittee on Epidemiologic Studies and Study Group on Mutagenicity Testing. The agenda will also include (4) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 13, 1976. Please ask for Miss Mary Ann Igou or Mrs. Shirley Smith.

The telephone number is (703) 557-7720.

Dated: August 25, 1976.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

[FR Doc.76-25376 Filed 8-27-76;8:45 am]

[FRL 608-2]

OLENTANGY ENVIRONMENTAL CONTROL CENTER AND INTERCEPTOR SYSTEM

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Olentangy Environmental Control Center and Interceptor System, Delaware County, Ohio.

The proposed action is the construction of a sewage treatment plant of 1.5 MGD to be expanded to 3.0 MGD by the end of the 20-year planning period in South-Central Delaware County, Ohio, between State route 315 and the Olentangy River, immediately above the Delaware County-Franklin County line. The treatment process is a two-stage activated sludge facility, including phosphorus removal measures and tertiary rapid sand filters. The effluent will be ozonated prior to discharge. Sludge will be aerobically digested at the treatment site and then hauled to a State-approved sanitary landfill site. The facility will discharge to the adjacent Olentangy River, just above the county line.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on August 10, 1976 and in accordance with the provisions of the CEQ Guidelines (40 CFR 1500.11), no administrative action will be taken by this Agency until thirty days after receipt of the FEIS by the Council.

Copies of the FEIS are available for review and comment from: Mr. Gene Wojcik, Environmental Protection Agency, Region V, 12th Floor, 230 S. Dearborn Street, Chicago, Illinois 60604 (telephone 312-353-2157).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region V, Library, 14th Floor, 230 S. Dearborn Street, Chicago, Illinois 60604.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the FEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the FEIS have been sent to various Federal, State, and local agencies, and interested individuals who made substantive comments on the draft EIS or requested a copy of the FEIS as outlined in the CEQ Guidelines.

Dated: August 23, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76-25368 Filed 8-27-76;8:45 am]

[FRL 608-3]

SCIENCE ADVISORY BOARD, TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Advisory Committee of the Science Advisory Board will be held beginning at 8:30 a.m., September 13, 14, and 15, 1976, in the auditorium in the visitor's center, U.S. Environmental Protection Agency, Environmental Research Center, Research Triangle Park, North Carolina.

This meeting is a regularly scheduled meeting of the Committee. The purpose of the meeting is to brief the Committee on selected activities of the Industrial Environmental Research Laboratory at RTP, on the control technology activities of the Robert S. Kerr Environmental Research Laboratory, and the Athens, Georgia Environmental Research Laboratory; to discuss control technology concerns relevant to EPA regulatory programs in air and water quality; to discuss the relationships between R&D in control technology with other R&D in EPA laboratories; to brief the Committee on relevant activities of the Science Advisory Board; to discuss plans for assessing the quality of the R&D work related to pollution control technology; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Lloyd T. Taylor, Executive Secretary, Technology Assessment and Pollution Control Advisory Committee, (703) 557-7720, by c.o.b. September 7, 1976.

Dated: August 25, 1976.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

[FR Doc.76-25369 Filed 8-27-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 6 Through August 13, 1976

Notice is hereby given that during the week of August 6 through August 13, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

AUGUST 24, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 6 through Aug. 13, 1976*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 9, 1976	Brinkerhoff Drilling Co., Inc., Denver Colo. (If granted: Crude oil produced from the track lease, Tule Creek south field, Roosevelt County, Mont., would be sold at upper-tier ceiling prices.)	FEE-2817	Price exception (sec. 212.74)
Do	Cities Service Co., Tulsa, Okla. (If granted: Cities Service Corp. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Adair, Bluitt, Bryans Mill, Chico, Citronelle, Crowley, Dollarhide, East Texas, Garrett, Halley, Lapeyrouse, Lefors, Lehman, May, Maysville, Mermentau, Myrtle Springs, North Cowden, North Rincon, Pampa, Price, Rio Grande City, Robstown, Rodman, St. Amelia, San Antonio Bay, Stonewall, Waco, and Wichita.)	FEE-2849 through FEE-2877	Price exception (sec. 212.165).
Do	Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: The FEA's July 9, 1976 decision and order would be modified and the exception relief permitting CORCO to allocate the increased costs incurred as a result of a tax on imports levied by the Commonwealth of Puerto Rico on the prices of refined petroleum products sold in Puerto Rico would be made retroactive to Dec. 22, 1975.)	FEA-0920	Appeal of FEA decision and order in Commonwealth Oil Refining Co., Inc., 3 FEA par. (July 9, 1976).
Do	Moody, Elmer, Macomb, Mo. (If granted: Elmer Moody would be assigned a new, lower-priced supplier of motor gasoline to replace his base period supplier, Cabool Oil Co.)	FEE-2879	Exception to change supplier.
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to transfer allocation entitlements among its company owned and operated service stations without regard to the 30 percent limitation provided in sec. 211.106(b)(3)(ii).)	FEE-2848	Allocation exception, sec. 211.106(b)(3)(ii).
Do	Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va. (If granted: The Wheeling-Pittsburgh Steel Corp. would be permitted to burn oil instead of coal in its Steubenville East plant boiler house.)	FEE-2846	Exception to part 215.3 (Note: Part 215 has been deleted from FEA regulations.)
Aug. 10, 1976	Consumers Fuel Co., Inc., Martinsburg, W. Va. (If granted: The FEA's June 23, 1976 remedial order would be rescinded and Consumers Fuel Co., Inc. would not be required to refund overcharges in its sales of heating oil.)	FEA-0921	Appeal of FEA remedial order dated June 23, 1976.
Do	M. J. Mitchell, Dallas, Tex. (If granted: Certain crude oil produced from the Pickrel Ranch Minnelusa Sand unit located in Campbell County, Wyo., would continue to be sold at prices above the lower tier ceiling price.)	FEE-2878	Extension of exception relief in M. J. Mitchell, 3 FEA par. 83, 146 (Apr. 2, 1976).
Do	Mobil Oil Corp., New York, N.Y. (If granted: The FEA's July 12, 1976 information request denial would be modified and Mobil Oil Corp. would receive access to those portions of the FEA Compliance Manual whose release was denied.)	FEA-0922	Appeal of FEA's information request denial.
Do	Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Buckeye, Coalinga Nose, Garvin, Handy, Kettleman Hills, Lisby, Lignite, Maurice, New Hope, Shiells Canyon, South Kermit, Van, and Wilson Creek.)	FEE-2880 through FEE-2892	Price exception (sec. 212.165).
Aug. 11, 1976	Diamond Shamrock Corp., Amarillo, Tex. (If granted: Diamond Shamrock Corp. would be permitted to increase its prices for the natural gas liquid products produced at its McKee plant to reflect non-product cost increases in excess of $.005 per gal.)	FEE-2894	Extension of price relief in Diamond Shamrock Corp., 3 FEA par. 83,212 (June 7, 1976).
Do	Oilco Eastern, Gresham, Oreg. (If granted: Oilco Eastern, Inc. would be assigned a new, lower-priced supplier of motor gasoline to replace its base period supplier, Lion Oil Co.)	FEE-2893	Exception to change supplier.

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Date	Name and location of applicant	Case No.	Type of submission
Aug. 12, 1976...	Cities Service Co., Tulsa, Okla. (If granted: Cities Service Co. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Ambrose, Kimball, and Midway.)	FEE-2806 through FEE-2807	Price exception (sec. 212.-165).
Do.....	Exxon Co., U.S.A., Houston, Tex. (If granted: The FEA's July 21, 1976 remedial order would be rescinded and Exxon Co., U.S.A. would not be required to sell crude oil to Husky Oil Co. and Coastal States Gas Corp.)	FEA-0924	Appeal of the FEA's July 21, 1976 remedial order.
Do.....	Hays, Landsman & Head, New York, N.Y. (If granted: The FEA's July 12, 1976 information request denial would be modified and Hays, Landsman & Head would receive access to those portions of the FEA Compliance Manual whose release was denied.)	FEA-0923	Appeal of FEA's information request denial.
Aug. 13, 1976...	Gulf Oil Corp., Houston, Tex. (If granted: The FEA's July 12, 1976 revised remedial order would be rescinded and Gulf would not be required to make a refund for overcharges in its sales of No. 2 fuel oil to VEPCO.)	FEA-0925	Appeal of the FEA's revised remedial order.
Do.....	Loop, Paul R., Tulsa, Okla. (If granted: Crude oil produced from the Dicey McIntosh lease sec. 12 located in Okmulgee County, Okla., would be sold at upper-tier ceiling prices.	FEE-2808	Price exception (sec. 212.74).

[FR Doc.76-25160 Filed 8-24-76;12:15 pm]

EXCEPTION RELIEF UNDER DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Proposed Adjustments to 1975

During 1975, a number of small refiners received exception relief from the purchase requirements of the FEA Old Oil Entitlements Program (10 CFR 211.67). The exception relief which was approved was generally designed to alleviate the adverse impact of the Entitlements Program which would otherwise prevent a firm from achieving the lesser of its historic profit margin or historic return on invested capital during the four fiscal quarters corresponding most closely to the 1975 calendar year. See Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975). Since the conclusions reached as to the nature and extent of exception relief were necessarily based on financial projections which could differ significantly from the actual financial results which each firm achieved, the FEA stated that a subsequent review would be conducted at the completion of the calendar year. The FEA also stated that additional benefits would be provided if the firm's actual financial results indicated that it received an insufficient measure of exception relief in the past. Similarly, if the firm's actual financial results indicated that the projections upon which exception relief was approved were erroneous and that an excessive measure of relief had been approved in the past, the firm would be required to purchase entitlements to offset the excess benefit which had been conferred. The listing below sets forth the determination of the FEA based upon its review of the actual financial data which each firm provided as to whether the particular firm received excessive benefits from the exception relief extended and should therefore be required to purchase additional entitlements or whether the firm should be granted additional benefits.

As an initial step in making these determinations, the FEA reviewed the historical and 1975 financial data submitted by each firm to determine whether any adjustments were necessary. In all cases, the entitlement expense (or revenue) reported for 1975 was adjusted to take into account the recalculation of entitlement obligations made by the FEA Office of Regulatory Programs in order to correct for prior reporting errors. In some instances, the profit reported by a firm had to be adjusted to reflect a change in its method of inventory valuation or to eliminate the effect of a substantial increase in the salary paid to an owner or officer who had an equity interest in the firm. In addition, extraordinary items and items not related to a firm's refining and marketing operations were excluded from the financial results reported.

A calculation was then made of the dollar amount by which a firm exceeded its historical profit margin or, in the event that the firm did not achieve its historical profit margin, the difference between its allowable pre-tax profit (the firm's 1975 sales revenue multiplied by its historical profit margin) and the pre-tax profit actually earned in 1975. A similar computation was performed to determine whether the firm had exceeded its historical return on invested capital. In addition, since a firm's entitlement purchase or sales obligation arises prior to any income tax effect, the dollar difference between the firm's allowable return on invested capital and its actual 1975 return was converted to pre-tax dollars by assuming that the firm's marginal tax rate was 48 percent. The FEA also calculated the firm's net entitlement purchase or sales obligation in 1975 and computed the dollar value of the exception relief which had been granted to the firm, i.e., the dollar value of the entitlements which the firm was excused from purchasing during the year as a result of the award of exception relief.

The determination of the entitlement obligations and benefits specified below was made in the following manner. Those firms which exceeded their historical profit margin or historical return on invested capital in 1975 and which were net purchasers of entitlements during the year will be required to purchase entitlements equal in value to the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The larger amount obtained when a calculation is made of the dollar value by which the firm exceeded its historical profit margin or return on invested capital.

In determining the additional obligation for those firms which exceeded their historical profit margin or historical return on invested capital in 1975 and which were net sellers of entitlements during the year, the FEA calculated the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The larger amount obtained when a calculation is made of the dollar value by which the firm exceeded its historical profit margin or return on invested capital.

A further calculation was then made of the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The net value of entitlements actually sold in 1975.

The value of the additional entitlements which a firm in this category will be required to purchase is equivalent to the greater of the dollar amounts arrived at through the two calculations.

Those firms which did not achieve either their historical profit margin or historical return on invested capital in 1975 and which were net sellers of entitlements will be required to purchase entitlements equal in value to the lesser of (i) the dollar value of the exception relief which they received in 1975, or (ii) the net value of entitlements sold in 1975. Firms which fall within this category are now being required to purchase entitlements because it was never the FEA's intention to permit a refiner to become a net seller of entitlements as a result of the approval of exception relief.

Finally, those firms which did not achieve either their historical profit margin or historical return on invested capital in 1975 and which were net purchasers of entitlements are being authorized to sell entitlements equal value to the lesser of (i) the dollar amount by which they were under their historical profit margin or historical return on invested capital whichever amount is smaller, (ii) the value of the exception relief which was denied, i.e., the dollar value of full exception relief for those months for which the firms requested relief on a prospective basis less the dollar value of the relief actually approved, or (iii) the net value of entitlements actually purchased in 1975.

A worksheet has been mailed to each firm listed below setting forth in detail the computation of its additional entitlement obligation or benefit for 1975.

Therefore, the Federal Energy Administration hereby gives notice of its intention to require the following firms to purchase entitlements in order to offset the excessive benefits which they received as a result of exception relief which was granted to them in 1975:

FIRMS RECEIVING EXCESSIVE ENTITLEMENTS RELIEF

Firm/Case No.:	*Entitlement obligation*
Beacon Oil Co., FEX-0059	$2,061,628
Delta Refining Co., FEX-0060	4,559,585
Edgington Oil Co., FEX-0061	1,021,372
Fletcher Oil & Refining Co., FEX-0062	578,336
Good Hope Industries, Inc., FEX-0063	21,981
Husky Oil Co. of Delaware, FEX-0064	5,270,560
Lunday-Thagard Oil Co., FEX-0065	221,377
Midland Cooperatives, Inc., FEX-0066	503,896
Mohawk Petroleum Corp., Inc., FEX-0067	245,602
Newhall Refining Co., FEX-0068	625,601
Pasco, Inc., FEX-0069	4,563,596
Powerine Oil Co., FEX-0070	638,000
Rock Island Refining Corp., FEX-0071	2,642,065
Southland Oil Co., FEX-0072	3,532,452
TOSCO Corp., FEX-0073	1,385,000
Warrior Asphalt Co. of Alabama, Inc., FEX-0074	156,051
West Coast Oil Co., FEX-0075	58,067
Young Refining Corp., FEX-0076	75,843

The FEA also intends to authorize the following firms to sell entitlements on the basis of the analysis set forth above which indicates that they did not receive a sufficient measure of exception relief in 1975:

FIRMS REQUIRING ADDITIONAL ENTITLEMENTS RELIEF

Firm/Case No.:	*Entitlement benefit*
Famariss Oil Corp., FEX-0077	$11,860
Laketon Asphalt Refining, Inc., FEX-0078	55,451
Navajo Refining Co., FEX-0079	697,881
North American Petroleum Corp., FEX-0080	532,965
OKC Corp., FEX-0081	546,643
San Joaquin Refining Corp., FEX-0082	361,059
Sound Refining, Inc., FEX-0083	24,916
Wickett Refining Co., FEX-0084	45,553

Since the following firms received full relief from the purchase requirements of the Entitlements Program for the months for which they sought exception relief and did not exceed either their historical profit margin or historical return on invested capital, the FEA is not requiring that any adjustment be made with respect to the exception relief previously granted these firms in 1975:

FIRMS WITH NO ADJUSTMENT TO ENTITLEMENTS RELIEF

NGL Supply, Inc. (C & H Refinery), Northland Oil & Refining Co.

The entitlement obligations and benefits specified above will become effective with the September 1976 Entitlement Notice which the FEA will issue in the month of November. Obligations and benefits which have a value less than $500,000 will be spread over a three month period; obligations and benefits which exceed $500,000 will be evenly distributed over a twelve month period.

This determination is proposed to be made pursuant to Subpart G of the FEA's procedural regulations. The Federal Energy Administration seeks comments with respect to this proposal. Specifically, the FEA seeks comments with respect to the appropriateness of (i) the FEA's proposed adjustment of 1975 expenses (or revenues) to take into account the recalculation of entitlements obligations made by the FEA Office of Regulatory Programs to correct for reporting errors (41 FR 31793 (July 29, 1976)); and (ii) the proposal that obligations and benefits which have a value of less than $500,000 be spread over a three month period and obligations and benefits which exceed $500,000 be spread over a twelve month period. In addition, any firm which believes that mathematical errors were made in the FEA's calculation of the amount of its additional obligation or benefit should specify the exact nature of those errors to the FEA.

Interested persons are invited to submit data, views, or arguments with respect to the subject of this notice to Executive Communications, Room 3309, Federal Energy Administration, Box IN, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to Executive Communications, FEA, with the designation "Corrections for 1975 Entitlement Exception Relief." Ten copies should be submitted. All comments received by September 27, 1976, and all relevant information will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Any person aggrieved by the FEA's final determination in this matter may file an appeal with the Office of Exceptions and Appeals in accordance with the provisions of 10 CFR, Part 205, Subpart H. A firm may also file an application for stay of the FEA's final determination in accordance with Subpart I. In addition, any firm may file an application for exception in accordance with Subpart D of Part 205.

Issued in Washington, D.C., on August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25317 Filed 8-27-76;8:45 am]

MARTIN OIL SERVICE, INC., ET AL.

Consent Order

I. INTRODUCTION

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which, on June 30, 1976, was executed between Martin Oil Service, Inc., Martin Oil of Indiana, Inc., Martin Oil Company of Texas, and Martin 4-Minute Auto Salon, Inc., (called collectively "Martin") and the FEA. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance of the Consent Order and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Martin Oil Service, Inc., and its named affiliates, is a firm engaged in the resale and retailing of petroleum products subject to FEA regulations. The home office of Martin Oil Service, Inc. is located at 4501 West 127th Street, Blue Island, Illinois 60658.

As a result of an audit conducted by FEA of Martin's pricing practices for the period of November 1, 1973 through August 31, 1974, FEA advised Martin that Martin had apparently sold motor gasoline through its retail outlets and to its wholesale purchasers at prices in excess of those permitted under the Cost of Living Council price rule in 6 CFR § 150.-359 and the FEA price rule in 10 CFR 212.93. FEA contended that those overcharges were the result of Martin's erroneous computations of inventory costs through its premature inclusion of anticipated product costs of certain exchange transactions.

In resolution of the issues raised by the audit results, the FEA and Martin executed a Consent Order on June 30, 1976, the significant terms of which provide that:

(1) Martin shall refund the amounts charged to its wholesale and retail purchasers of gasoline in excess of maximum lawful prices, together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $1,620,104.00. The refund shall be accomplished by a reduction of approximately 1.6¢ per gallon from Martin's average sales price charged to each class of purchaser during the month of February through July 1975. Martin may currently add increased product costs to these average prices only in the proportion that increased product costs were actually recovered during the period of February through July 1975. Martin shall directly refund $359.09 plus interest to its wholesale purchaser-consumers of gasoline.

(2) The total reduction to all affected purchasers shall average not less than $90,000.00 per month and the total time for completing all reductions or refunds shall not exceed 24 months.

(3) Martin shall, for purposes of computing inventory costs, value the product received in exchange transactions at the average unit cost of product in inventory, and shall make cost adjustment to inventory only when incurred exchange costs are known with certainty.

(4) Martin shall notify its refund recipients that the price reductions and refunds are made pursuant to the Consent Order between Martin and FEA.

(5) Martin shall be given credit for any price reduction or refunds made subsequent to January 1, 1976 and prior

V 41 169 AUG 30 76 UMI

to the Consent Order provided Martin demonstrates that such action was taken in expectation of this Consent Order.

(6) The provisions of 10 CFR § 205.-197, including the publication of this Notice, are applicable to the Consent Order.

III. Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. N. Allen Andersen, Regional Administrator, Region V, Federal Energy Administration, 175 West Jackson Boulevard, Chicago, Illinois 60604. Copies of this Consent Order may be received free of charge by written request to this same address or by calling (312) 353-8770.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Martin Consent Order." All comments received by 4:30 p.m. CDT, on or before the thirtieth calendar day following publication of this Notice will be considered by the FEA in evaluating the Consent Order.

Any information or data, which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR § 205.9(f).

Issued in Washington, D.C., August 25, 1976.

Michael F. Butler,
General Counsel.

[FR Doc.76-25318 Filed 8-27-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 820]

APPLICATIONS ACCEPTED FOR FILING

Common Carrier Services Information

August 23, 1976.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under Part 68, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

Federal Communications Commission,

[seal] Vincent J. Mullins,
Secretary.

Domestic Public Land Mobile Radio Service

22643-CD-P-(2)-76, Advanced Radio Communications Company (KQZ755) Resubmitted, C.P. for additional facilities to operate on 454.200 and 454.350 MHz at a new site described as Loc. No. 4 to be located at Riggs Road and First Street, N.E., Washington, D.C.

22644-CD-P-(2)-76, Phillips County Telephone Company (KAQ609), C.P. to change antenna system operating on 152.60 MHz: additional to operate on 152.57 MHz to be located at 249 West Denver St., Holyoke, Colorado.

22645-CD-P-76, Radio Relay Corp.—New Jersey (KEC935), C.P. to change antenna system operating on 35.58 MHz. located at 204 Mountain Horeb Road, Warren Township, New Jersey.

22646-CD-P-76, The Offshore Telephone Company (KUO637), C.P. to relocated facilities operating on 35.62 MHz to be located at Block 309A, High Island, Gulf of Mexico.

22647-CD-P-76, John Rex Wayland d./b. as Live Oak Communications (KUD230), C.P. to change antenna system operating on 152.09 MHz. located 0.75 miles West, George West, Texas.

22648-CD-TC-76, Mountain View Telephone Company Consent to Transfer of Control from Glen Hinkle and Jennie Lou Hinkle, Transferor to Glen Hinkle et cetera, Transferee. Station: KWH314, Mountain View, Arkansas.

22649-CD-P-(2)-76, General Telephone Company of Illinois (KSJ822), C.P. for additional facilities to operate on 152.66 MHz to be located at 0.25 miles South of Olney, Illinois.

22650-CD-P-76, Otis L. Hale d./b. as Mobilfone Communications (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located at Mount Nebo, 4.5 miles west of Dardenelle, Russellville, Arkansas.

22651-CD-P-76, T. D. Miller III (KRH660), C.P. for additional control facilities to operate on 454.350 MHz to be located 358 South Main Street, Burlington, North Carolina.

22652-CD-P-76, Statesboro Telephone Company (New), C.P. for a new 1-way station to operate on 152.84 MHz to be located 76 E Gray Street, Statesboro, Georgia.

22653-CD-MP-(3)-76, Southeast Mobilphone, Inc. (KCI308), C.P. to relocate, change antenna system, and replace transmitter operating on 454.025, 454.050, and 454.125 MHz to be located at View Park Drive, Knoxville, Tennessee.

22654-CD-P-P-76, Western California Telephone Company (KMM656), C.P. to relocate and change antenna system operating on 152.57 MHz to be located at Green Point, 3.3 miles East of Novato, California.

22655-CD-P-76, Mobilefone Northwest (KWT 917), C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2 to be located at Chelan Butte one mile south of Clelan, Washington.

22656-CD-P-76, James C. Wilson, d./b. as Message Central Telephone Answering Service (New), C.P. for a new station to operate on 454.225 MHz to be located at 815 Salinas Street, Laredo, Tex.

22657-CD-P-76, Southwestern Bell Telephone (New), C.P. for a new 1-way signaling station to operate on 152.84 MHz to be located at 1408 Broadway, Lubbock, Texas.

22658-CD-P-76, Westcol Radio Dispatch (KAD511), C.P. for additional facilities to operate on 152.21 MHz at Loc. No. 6 located 241 South 14th Street, Grand Junction, Colorado.

22662-CD-P-76, Airsignal International, Inc. (KMM703), C.P. to relocate facilities; 454.100 MHz (Base), 454.350 MHz Repeater to be located Mount Pluto, 6 miles SSE of Pluto, Truckee, at Loc. No. 1; 459.350 MHz (Control) at Loc. No. 2 to be located at 1014 Blue Lake Avenue, South Lake Tahoe, California.

22660-CD-P-76, Arnold E. Anderson (New), C.P. for a new station to operate on 152.06 MHz, base and 459.025 MHz, repeater to be located 2 miles west of Tenneyson on Lee Rranch, Tenneyson, Texas.

22663-CD-P-(2)-76, Airsignal International, Inc. (KWU278), C.P. to relocate facilities operating on 35.22 MHz, base to be located at Mount Pluto, 6 miles SSE of Pluto, Truckee, California, Loc. No. 1; and for additional facilities to operate on 72.76 MHz, control, to be located at a new site described as Loc. 2: 1014 Blue Lake Avenue, South Lake Tahoe, California.

22664-CD-P-76, Electronic Engineering Company (KAF242), C.P. for additional facilities to operate on 454.350 MHz to be located at a new site described as Loc. No. 3: 28th and Woodland Streets, Des Moines, Iowa.

22665-CD-P-76, James D. and Lawrence D. Garvey d.b.a. Radiofone (KUC975), C.P. to replace transmitter, change antenna system and relocate facilities operating on 454.150 MHz to be located 2 miles WNW of Tickfaw, Louisiana.

22666-CD-AL-76, Tel Car of Hollywood, Inc. Consent to Assignment of License from Tel-Car Hollywood, Inc., Assignor to Radiopaging, Inc., Transferee. Station: KUS 267, Hollywood, Florida.

22667-CD-AL-(4)-76, Vernon H. Johnson d.b.a. Grants Radiotelephone Service Consent to Assignment of License from Grants Radiotelephone Service, Assignor to Grants Radiotelephone Service, Inc., Assignee. Stations: KKT397, Grants, New Mexico; KUD201 and KUD202, Gallup, New Mexico; and KWU270, Milan, New Mexico.

22671-CD-P-76, H. Y. Robinson d.b.a. Robinson Enterprises (KUD221), C.P. to replace transmitter, change antenna systems and relocate facilities operating on 454.025 MHz to be located near Dogwood Lane and Boettcher Mill Road, Huntsville, Texas.

22673-C-P-76, Carlton L. Holland d.b.a. Mobaphone of New Mexico (KKM582), C.P. for additional facilities to operate on 152.212 MHz at Loc. No. 1; Sandia Mountain Crest, 9 miles NE of Albuquerque, New Mexico.

22674-CD-AL-76, Answerphone, Inc. Consent to Assignment of License from Answerphone, Inc., Assignor to Contact-Denver, Inc., assignee. Station: KFL930, Golden, Colorado.

22675-CD-AL-76, Airway Communications Consent to Assignment of License from Airway Communications, Assignor to Contact-Denver, Inc., Assignee. Station: KQZ796, Thornton, Colorado.

22676-CD-AL-76, Pagephone, Inc. Consent to Assignment of License from Pagephone, Inc., Assignor to Contact-Denver, Inc., Assignee. Station: KTS255, Golden, Colorado.

22661-CD-P-(4)-76, Imperial Communications Corp. (KMA262), C.P. for additional facilities to operate on 454.025, 454.225, 454.250, and 454.275 MHz. (Loc. No. 2) to be located at San Miguel Mountain, 13 miles E of San Diego, California.

22398-CD-MP-L-76, Mt. Shasta Radiotelephone, Inc. (KUS379), Modification of C.P. and License to change the frequencies of 72.02 and 72.22 MHz, Control station at KC Road, 0.25 mile east of Mount Shasta Boulevard, Mount Shasta, to 75.62 and 75.85 MHz respectively. Also change the frequencies of 75.62 MHz and 75.82 Repeater stations at Summit Gray Butte, 7.1 miles NE of Mount Shasta City, Mount Shasta, California to 72.02 and 72.62 MHz respectively.

CORRECTION

22573-CD-P-(2)-76, Lester B. Bibble, Jr. (New), C.P. to correct transmitter relocate to read 1100 Beck Ave., Panama City, Florida. All other particulars remain as reported on PN No. 818, dated August 9, 1976.

MAJOR AMENDMENT

22118-CD-P-(2)-76, Commercial Communications, Inc., Rock Spring, Wyoming (KUS-268), Amend Base frequencies 454.050 and 454.350 MHz to read 454.225 and 454.250 MHz. All other particulars are to remain the same as reported on PN No. 808 dated June 1, 1976.

INFORMATIVE

On July 27, 1976, The Commission adopted Docket 19905 (FCC 76-719). It was released August 10, 1976. Included in this Report and Order is revised Section 21.23. New section 21.23 is titled Amendment of Applications and more clearly defines "Major Amendment" as used in Part 21 of the Rules. New Section 21.27(c)(1) of Docket 19905 indicates new filed applications will also be considered major or minor pursuant to the provisions of Section 21.23, subjecting them to the Public Notice requirements of Section 21.27.

At present FCC Form 401 does not provide a convenient location to indicate whether an application should be considered major or minor pursuant to Section 21.23. Effective September 17, 1976 and until FCC Form 401 is revised, all applications to be considered minor and meeting, the requirements of Section 21.23 should include as part of exhibit No. 1 (The environmental statement) a request that the application be considered minor and not subject to the Public Notice requirements of Section 21.27 (a) and (b) of the Commission's Rules.

Rural Radio Service

60443-CR-AL-76, Vernon H. Johnson, d.b.a. Grants Radiotelephone Service, Consent to Assignment of License from Grants Radiotelephone Service, Assignor to Grants Radiotelephone Service, Inc., Assignee. Station: KOA47, temporary-fixed.

60550-CR-P/L-(2)-76, RCA Alaska Communications, Inc. (New), C.P. for new Rural Subscribed Temporary Fixed station to operate on 77.2 MHz to be located Various Points Within The Territory of the Grantee.

6041-CR-P-76, The Offshore Telephone Company (WGI77), C.P. to relocate facilities to operating on 454.550 MHz to be located at Block 309A, High Island, Gulf of Mexico.

Point to Point Microwave Radio Service

4814-CF-P-76, The Pacific Telephone and Telegraph Company (KMA40), Hollywood, 1429 North Gower Street, Los Angeles, California. Lat. 34°05'49" N., Long. 118°-19'16" W. C.P. to increase tower height and add a point of communication on frequencies 5989.7H 6049.0H MHz toward Beverly Hills, California on azimuth 290.7 degrees.

4815-CF-P-76, Same (new), 2555 Briarcrest Road, Beverly Hills, California. Lat. 34°07'-08" N., Long. 118°23'29" W. C.P. for a new station on frequencies 6241.7V 6301.0V MHz toward Hollywood, California on azimuth 110.7 degrees.

4821-CF-P-76, The Chesapeake and Potomac Telephone Company of Virginia (KJG53), 120 West Bute Street, Norfolk, Virginia. Lat. 36°51'11" N., Long. 76°17'25" W. C.P. to add frequency 11325.0V MHz toward Newport News, Virginia; replace transmitter and increase power output on 11245.0V MHz toward Newport News.

4822-CF-P-76, Same (KJG52), 3305 Huntington Avenue, Newport News, Virginia. Lat. 36°59'01" N., Long. 76°25'57" W. C.P. to add frequency 10875.0V MHz toward Norfolk, Virginia; replace transmitter and increase power output on 10795.0V MHz toward Norfolk.

The following renewal applications for the term ending February 1, 1981, have been received;

MIDWESTERN RELAY COMPANY[1]

File No.	Call sign	Station name	State
7767-CF-R-76	KQ4621	Temporary fixed (mobile/TV pickup)	(IL, IA, MI, MN, WI)
7768-CF-R-76	WOE84	Temporary fixed	(IL, IA, MI, MN, WI)
7769-CF-R-76	WSL36	Allens Grove	WI
7770-CF-R-76	WSL37	Apple Valley	MN
7771-CF-R-76	WIV45	Arden Hills	MN
7772-CF-R-76	WKR90	Baraboo	WI
7773-CF-R-76	WOF73	Bremer	IA
7774-CF-R-76	WLJ43	Chicago No. 1	IL
7775-CF-R-76	WAH426	Chicago No. 2	IL
7776-CF-R-76	WSL23	Chippewa Falls	WI
7777-CF-R-76	WLJ45	Crystal Lake	IL
7778-CF-R-76	WKR95	Curran	WI
7779-CF-R-76	WKR92	Davis Corner	WI
7780-CF-R-76	WLJ51	De Pere	WI
7781-CF-R-76	WOF71	Dexter	MN
7782-CF-R-76	WOF72	Elma	IA
7783-CF-R-76	WKR91	Engle	WI
7784-CF-R-76	WPF44	Galesville	WI
7785-CF-R-76	WLJ44	Glendale Heights	IL
7786-CF-R-76	WLJ49	Graham Corner	WI
7787-CF-R-76	WKS99	Hancock	WI
7788-CF-R-76	WLJ68	Jefferson	WI
7789-CF-R-76	WKR93	Kendall	WI
7790-CF-R-76	WLJ46	Lake Geneva No. 1	WI
7791-CF-R-76	WAU220	Lake Geneva No. 2	WI
7792-CF-R-76	WLJ69	Madison	WI
7793-CF-R-76	WSL21	Marshfield	WI
7794-CF-R-76	WLJ52	Milwaukee	WI
7795-CF-R-76	WIV43	Minneapolis Foshay	MN
7796-CF-R-76	WKR96	Montana Ridge	WI
7797-CF-R-76	WSL22	Neilsville	WI
7798-CF-R-76	WLJ47	North Prairie	WI
7799-CF-R-76	WKR98	Oak Ridge	WI
7800-CF-R-76	WLJ55	Rib Mountain	WI
7801-CF-R-76	WKR99	Tiver Falls	WI
7802-CF-R-76	WOF70	Rochester	MN
7803-CF-R-76	WLJ48	Rubicon	WI
7804-CF-R-76	WKR94	Sparta	WI
7805-CF-R-76	WLJ54	Stevens Point	WI
7806-CF-R-76	WLJ50	Stockbridge	WI
7807-CF-R-76	WKR97	Wabasha	MN
7808-CF-R-76	WOP82	Wausau	WI
7809-CF-R-76	WLJ70	WHA Madison	WI
7810-CF-R-76	WLJ53	WMVS Madison	WI
7811-CF-R-76	WIV63	Duluth	MN
7812-CF-R-76	WIV61	Hinckley	MN
7813-CF-R-76	WIV62	Duquette	MN
7814-CF-R-76	WIV46	Isand	MN

VIDEO SERVICE COMPANY[2]

7837-CF-R-76	KSO93	Wellsboro	IN
7838-CF-R-76	KSQ37	Attica	IN
7839-CF-R-76	KSQ36	Lafayette	IN
7840-CF-R-76	WQQ96	Kokomo	IN
7841-CF-R-76	WQQ98	Morristown	IN
7842-CF-R-76	WQQ97	Anderson	IN
7843-CF-R-76	KSP64	Monticello	IN
7844-CF-R-76	KVD52	Peru	IN
7845-CF-R-76	KSO94	Delong	IN
7846-CF-R-76	KSP68	Logansport	IN
7847-CF-R-76	SKO92	Scircleville	IN

MAINE MICROWAVE, INC.[3]

7859-CF-R-76	KCK58	Bear Mountain	ME

See footnotes at end of table.

V41I169 AUG 30 76 UMI

File No.	Call sign	Station name	State
MAINE MICROWAVE, INC.—Continued			
7860-CF-R-76	KCK59	Quoggy Joe Mountain	ME
7861-CF-R-76	WPE76	Van Buren	ME
TELEPHONE UTILITIES SERVICES CORPORATION [4]			
7827-CF-R-76	KRW84	Nix	TX
7828-CF-R-76	KRW83	Belton	TX
7829-CF-R-76	KLV63	Jonesboro	TX
7830-CF-R-76	KLV64	Copperas Cove	TX
7831-CF-R-76	KLV65	Walnut Springs	TX
7832-CF-R-76	WIV72	Taylor	TX
WESTERN TELEVISION RELAY, INC.[5]			
7848-CF-R-76	KLF85	Weatherford	OK
7849-CF-R-76	KLT80	Elk City	OK
GRAYSON ENTERPRISES, INC.[6]			
7680-CF-R-76	KLV73	Amarillo	TX
7681-CF-R-76	KLV74	Canyon	TX
7682-CF-R-76	KLV75	Nazareth	TX
7683-CF-R-76	KLV76	Hart Camp	TX
7684-CF-R-76	KLV77	Whitharrel	TX

[3] Filed Dec. 31, 1975.
[4] Filed Dec. 29, 1976.
[5] Filed Jan. 1, 1976.
[5] Filed Jan. 22, 1976.
[6] Filed Jan. 27, 1976.
[6] Filed Jan. 5, 1976.

4813-CF-76, American Television & Communications, Corp. (WBB 218), Poor Mtn., 12 miles SSW of Salem, Virginia. (Lat. 37°11'-37'' N. Long. 89°09'25'' W.): Construction permit to add 10935.0H and 11095.0H MHz toward Christiansburg, Virginia, on azimuth 265.2 degrees.

CORRECTIONS

4674-CF-P-76, Southern Pacific Communications Company (WQO 34), Southern Pacific Bldg., Midway Wells, California. (Lat. 32°-42'36'' N., Long. 115°07'33'' W.). This entry appearing in Public Notice dated Agust 16, 1976, No. 819 is corrected to show call sign as listed above. All other particulars remain the same.

4675-CF-P-76, Southern Pacific Communications Company (WQO 32), Southern Pacific Bldg., Telegraph Pass, Arizona. (Lat. 32°-40'13'' N., Long. 114°20'05'' W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show longitude listed as above. All other particulars remain the same.

4676-CF-P-76, Southern Pacific Communications Company (WQO 31), Southern Pacific Bldg., Oatman Mtn., Arizona. (Lat. 33°03'-06'' N., Long. 113°08'03'' W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show 3850.0H MHz toward White Tank and Telegraph Mountain, both in Arizona. All other particulars remain the same.

4677-CF-P-76, Southern Pacific Communications Company (WQO 30), Southern Pacific Bldg., White Tank Mtn., Arizona. (Lat. 33°34'31'' N., Long. 112°34'41'' W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show 3710.0V MHz toward Oatman Mtn., and 6301.0H MHz toward Phonenix, both in Arizona. All other particulars remain the same.

4734-CF-P-76, Midwestern Relay Co. (WLJ 43), Merchandise Mart, Chicago, Illinois. Lat. 41°53'18" N., Long. 87°38'07" W.): This entry appearing in Public Notice dated 8-16-76, No. 819 is corrected to show latitude as above listed. All other particulars remain the same.

[FR Doc.76-25177 Filed 8-27-76;8:45 am]

BROADCAST SERVICE WORKING GROUPS; 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meetings

AUGUST 25, 1976.

Pursuant to Public Law 92-463, notice is hereby given of the following meetings for September 1976.

WARC-79 AM BROADCASTING SERVICE GROUP

Wednesday, September 15, 1976—10:30 AM to 12:30 PM, Room 6331—2025 "M" Street, N.W., Washington, D.C.

Chairman: D.C. Everist
FCC Liaison: Dennis Williams

WARC-79 FM BROADCASTING SERVICE GROUP

Wednesday, September 29, 1976—2:00 PM to 4:00 PM, Room 8009—2025 "M" Street, N.W., Washington, D.C.

Chairman: Gary Hess
FCC Liaison: Hideyuki Noguchi

WARC-79 TV BROADCASTING SERVICE GROUP; WARC-79 AUXILIARY BROADCASTING SERVICE GROUP

A joint meeting of the TV Broadcasting Service Group and the Auxiliary Broadcasting Service Group will be held on: Thursday, September 30, 1976—1:30 PM to 4:00 PM, Room 6331—2025 "M" Street, N.W., Washington, D.C.

TV B/C

Chairman: James D. Parker
FCC Liaison: Charles H. Breig

AUX B/C

Chairman: John Serafin
FCC Liaison: Al Jarratt

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Thursday, September 30, 1976—9:30 AM to 12:00 PM, Room 6331—2025 "M" Street, NW., Washington, D.C.

Chairman: Edward E. Reinhart
FCC Liaison: Charles H. Breig

WARC-79 INTERNATIONAL BROADCASTING SERVICE GROUP

Tuesday, September 14, 1976—10:00 AM to 12:00 PM, Room A-205—1229 20th St., NW., Washington, D.C.

Chairman: Stanley Leinwoll
FCC Liaison: Lloyd R. Smith

The Agenda for each Service Group will be the same as follows:

1. Call to Order by the Chairman.
2. Approval of Minutes of the previous meeting.
3. Reports from Task Groups.
4. Further Discussion.
5. Next Meeting Date and Adjournment.

The above meetings are open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-25334 Filed 8-27-76;8:45 am]

[Report No. I-263]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

Common Carrier Services Information

AUGUST 23, 1976.

By the Chief, Common Carrier Bureau.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined that they are defective and not in conformance with the Commission's Rules, Regulations or its policies. Final action will not be taken on any of these applications earlier than 31 days from the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

471-DSE-P/L-76 Teleprompter Corporation Kalispell, Montana. To construct, own and operate a Domestic Communication satellite receive-only earth station. Lat. 48°12'34'' Long. 114°12'34'' Rec. Freq. 3700-4200 MHz, Emission 36000F9, 10 meter antenna.

472-DSE-P-76 Cox Cable Communications, Inc., El Cajon, California. To construct, own and operate a domestic receive-only earth station Lat. 32°48'39'' Long. 116° 58'41'' Rec. Freq. 3700-4200 MHz, Emission 36000F9 10 meter antenna.

INFORMATIVE

These applications represent the first 14 of as many as 165 construction permit applications for earth station to interconnect Public Broadcasting stations in the contiguous 48 states, Alaska, Hawaii, Puerto Rico and Virgin Islands. In addition to these specific earth station applications a comprehensive document supporting this proposal has been filed entitled "Description of Public Broadcasting Satellite Interconnection Plan." Western Union Telegraph Company has also filed an application (File No. I-T-C-2647) for such section 214 authority as may be necessary in conjunction with this proposal. (See Public Notice I-264)

456-DSE-P-76 Public Broadcasting Service Fairfax County, Virginia. For authority to construct, own and operate a domestic communications satellite transmit-receive earth station at this location. Lat. 38° 47'39'', Long. 77°09'55''. Trans. Freq. 5925-6425 MHz. Rec. Freq. 3700-4200 MHz. Emission 36000F9. Two 11 meter antennas.

457-DSE-P-76 University of Utah, Salt Lake City, Utah. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 40°45'58'', Long. 111°51'03''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

458-DSE-P-76 University of Houston, Houston, Texas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 29°42'52'', Long. 95°20'53''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

459-DSE-P-76 Florida Central East Coast Educational Television, Inc., Orlando, Florida. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 28°28'12'', Long. 81°25'01''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

460-DSE-P-76 Greater Washington Educational Telecommunications Association, Inc., Arlington, Virginia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 38°50' 36'', Long. 77°05'17'': Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

461-DSE-P-76 Greater New Orleans Educational Television Foundation, New Orleans, Louisiana. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 29°59'18'', Long. 90°06'20''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

462-DSE-P-76 Oklahoma Educational Television Authority, Oklahoma City, Oklahoma. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 35°32'53'', Long. 97°29'53''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

463-DSE-P-76 Mississippi Authority for Educational Television, Jackson, Mississippi. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 32°20'16'', Long. 90°08'47''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

464-DSE-P-76 Nebraska Educational Television Commission, Lincoln, Nebraska. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 40°52'19'', Long. 96°46'35''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

465-DSE-P-76 Educational Television Association of Metropolitan Cleveland, Cleveland, Ohio. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 41°25'12'', Long. 81°42'54''. Rec. Freq. 3700-4200 MHz. Emission 36000F9 10 meter antenna.

466-DSE-P-76 Arizona Board of Regents, Tempe, Arizona. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 33°25'10'', Long. 111°56'14''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

467-DSE-P-76 University of South Dakota, Vermillion, South Dakota. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 42°-47'07'', Long. 96°55'42''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

468-DSE-P-76 Georgia State Board of Education, Atlanta, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 33°42'49'' Long. 84°24'08''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

469-DSE-P-76 St. Louis Educational Television Commission, St. Louis, Missouri. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 38°28'55'' Long. 90°23'50''. Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

474-DSE-ML-76 220 Television, Inc. For modification of a receive-only earth station license (Call Sign KB96) to permit shared use of these facilities with KSD/KSD-TV, Inc., licensee of Station KSD-TV, St. Louis, Missouri.

[FR Doc.76-25176 Filed 8-27-76;8:45 am]

FM AND TV TRANSLATOR APPLICATIONS

Ready and Available for Processing Pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules

Adopted: August 17, 1976. Released: August 20, 1976. By the Chief, Broadcast Bureau.

Notice is hereby given pursuant to sections 1.427(c) and 1.573(d) of the Commission's rules, that on October 11, 1976, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(d) and section 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 8, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on October 8, 1976.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5567 (New), Plain & Lake Wenatchee area, Washington, Lake Wenatchee T.V., Inc. Req: Channel 10, 1 watt. Primary: KXLY-TV, Spokane, Washington.

BPTTV-5625A (K03CS), Broadus, Montana, Powder River County TV Board. Req: To add Upper Powder River Communities, Montana, to present principal community.

BPTTV-5626A (K07AI), Broadus, Rural Mizpah, Mid Powder River Communities & Upper Powder River Community, Montana, Powder River County TV Board. Req: To add Belle Creek & Biddle Communities, Montana, to present principal community.

BPTTV-5628 (New), Riverton, Arapahoe & Rural Fremont County, Wyoming, Riverton Fremont TV Club, Inc. Req: Channel 3, 10 watts. Primary: KOAT(TV), Denver, Colorado.

BPTTV-5629 (K02EW), Mescalero, New Mexico, Apache Tribe of Mescalero. Req: To change frequency to Ch-10, 192-198 MHz, and primary TV station to KOAT-TV, Albuquerque, New Mexico.

BPTTV-5630 (New), Mescalero Apache Reservation, New Mexico, Apache Tribe of Mescalero. Req: Channel 8, 10 watts. Primary:. KOAT-TV, Albuquerque, New Mexico.

BPTTV-5631 (New), Douglas Creek & Rural Area, Colorado, XYZ Television, Inc. Req: Channel 3, 10 watts. Primary: KREX(TV), Grand Junction, Colorado.

BPTTV-5633 (K08GT), Chadron, Nebraska, Nebraska Educational Television Commission. Req: To add Chadron Housing Dev., Nebraska, to present principal community

BPTTV-5634 (New) East Price, Utah, Carbon County. Req: Channel 4, 10 watts. Primary: KTVX(TV), Salt Lake City, Utah.

BPTTV-5635 (New) East Price, Utah, Carbon County. Req: Channel 7, 1 watt. Primary: KUED(TV), Salt Lake City, Utah.

BMPTTV-875 (K11NG) Silver Peak, Nevada, Silver Peak TV District. Req: To change primary TV station to KTVN, Reno, Nevada.

BMPTTV-876 (K13OA) Silver Peak, Nevada, Silver Peak TV District. Req: To change primary TV station to KCRL-TV, Reno, Nevada.

BMPTTV-876 (K06AA) Rural Mizpah, Broadus, Mid Powder River Communities & Upper Powder River Community, Montana, Powder River County TV Board. Req: To add Belle Creek & Biddle Communities, Montana, to present principal community.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3004A (K82AR) Durango, Colorado. XYZ Television, Inc. Req: To add Hermosa, Colorado to present principal community.

BPTT-3031A (New) Steamboat Springs, Colorado, Moffat County. Req: Channel 64, 100 watts. Primary: KWGN(TV), Denver, Colorado.

BPTT-3038 (New) Columbia, Missouri, New Wave Corporation. Req: Channel 56, 100 watts. Primary: KCPT(TV), Kansas City, Missouri.

BPTT-3039 (W64AB) Hawley, Pennsylvania, Northeastern Pennsylvania Educational Television Association. Req: To change frequency to Ch-62, 758-764 MHz.

BPTT-3030A (New) Pine Grove, Pennsylvania, Northeastern Pennsylvania Television Association. Req: Channel 59, 1,000 watts. Primary: WVIA(TV), Scranton, Pennsylvania.

FM TRANSLATOR APPLICATIONS

BPFT-333 (New) Cortez, Mancos & Dolores, Colorado, Music Man, Incorporated. Req: Channel 292, 106.3 MHz, 10 watts. Primary: KRWN(FM), Farmington, New Mexico.

BPFT-334 (New), Fremont, Ohio, Christian Laymen's Fellowship. Req: Channel 296, 107.1 MHz, 1 watt. Primary: WPOS(FM), Holland, Ohio.

BPFT-335 (New) Ft. Collins, Colorado, Fort Collins Friends of KVOD, Inc. Req: Channel 244, 96.7 MHz, 10 watts. Primary: KVOD(FM), Denver, Colorado.

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BPFT–336 (New) Yreka, California, Northern California Communications Corporation. Req: Channel 292, 106.3 MHz, 10 watts. Primary: KVIP(FM), Redding, California.
BPFT–337 (K252AH) Omak and Okanogan, Washington, Chiristian Translator Association. Req: To change output frequency to Ch-280, 103.9 MHz.
BPFT–338 (New) Rural Garfield County, Richfield & Rural Wayne County, Utah, Garfield County. Req: Channel 272, 102.3 MHz, 10 watts. Primary: KSOP–FM, Salt Lake City, Utah.
BPFT–339 (New) Boulder, Colorado, Capitol City Broadcasting Company. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KVOD (FM), Denver, Colorado.
BPFT–340 (New) Klamath Falls, Henley, Altamont, Keno, Merrill, Malin. all Oregon and Tulelake, California Inspirational Radio, Southern Oregon. Req: Channel 296, 107.1 MHz, 10 watts. Primary: KVIP(FM), Redding, California.
PMPFT–34 (K249AD) Imlay, Nevada, Western Inspirational Broadcasters, Inc. Req: To add Lovelock to present principal community.

Application deleted from Public Notice released June 15, 1976 (Mimeo #66289 41 FR 25049):

BPTT–3007 (New) Hamburg & Shoemakersville, Pennsylvania, Northeastern Pennsylvania Television Association. Req: Channel 51, 1,000 watts. Primary: WVIA(TV), Scranton, Pennsylvania.
(Assigned new file number BPTT–3030A.)
Applications deleted from Public Notice released June 3, 1976 (Mimeo #65650 41 F.R. 22626).
BPFT–320 (New) Boulder, Colorado, Capitol City Broadcasting Company. Req: Channel 275, 102.9 MHz, 10 watts. Primary: KVOD (FM), Denver, Colorado.
(Assigned new file number BPFT–339.)
BPTTV–5567 (K08FC) Plain Lake Wenatchee area, Washington, Lake Wenatchee T.V., Inc. Req: To change frequency to Ch–10, 192–198 MHz, and primary TV Station to KXLY–TV, Spokane, Washington.

[FR Doc.76–25175 Filed 8–27–76;8:45 am]

OFFICE OF THE FEDERAL REGISTER

HOW TO USE THE FEDERAL REGISTER

Public Briefings in Kansas City, Missouri

"The FEDERAL REGISTER—What It Is and How To Use It" will be the topic of two separate briefings to be offered by the Office of the Federal Register on Tuesday, September 28, and Wednesday, September 29, 1976, from 9:45 a.m. until 12:30 p.m.

The Wednesday briefing will be a repeat of the Tuesday briefing. These sessions will be held in Room 140 of the Federal Building at 601 East 12th Street, Kansas City, Missouri.

Both sessions are open to the general public and Federal agency personnel and should be useful to anyone who uses the FEDERAL REGISTER. Seating is limited and reservations are required. Reservations may be made by telephoning Mrs. Doris Huntington, 816–374–2466.

The sessions will last approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.

2. The difference between legislation and regulations.

3. The relationship of the FEDERAL REGISTER and the CODE OF FEDERAL REGULATIONS.

4. Important elements of a typical FEDERAL REGISTER document.

5. An introduction to the finding aids of the Office of the Federal Register.

In addition, attendees will undertake a practical problem-solving exercise and will be invited to provide information on their uses of FEDERAL REGISTER publications in order to help this office improve its services.

The Office of the Federal Register does not interpret specific agency regulations, and these sessions will not provide a forum for the discussion of substantive questions. Rather, the briefings are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

FRED J. EMERY,
Director of the Federal Register.

AUGUST 26, 1976.

[FR Doc.76–25488 Filed 8–27–76;9:04 am]

FEDERAL MARITIME COMMISSION

[Docket No. 76–46; Agreements Nos. T–3191, et al.]

SEA-LAND SERVICES, INC.

Order of Investigation and Hearing

Four agreements relating to the use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico, have been filed with the Commission for approval under section 15 of the Shipping Act, 1916. Agreement No. T–3191, which is between Sea-Land Service, Inc., (Sea-Land) the Puerto Rico Maritime Shipping Authority (PRMSA) and the Puerto Rico Ports Authority (Port) provides for Sea-Land's irrevocable option to substitute itself for PRMSA on the same terms and conditions as set forth in Agreement No. T–3210 (below), an agreement whereby PRMSA has preferential rights at and leases land adjacent to Berth F, Puerto Nuevo, San Juan. Agreement No. T–3193, which is between Sea-Land PRMSA, provides for the preferential interchange of cantainer cranes at Puerto Nuevo, San Juan. Agreement No. T–3199, which is between the Port and Sea-Land, provides for Sea-Land's preferential rights at and the lease of land adjacent to Berth E, Puerto Nuevo, San Juan. Agreement No. T–3210, which is between the Port and PRMSA, provides for PRMSA's preferential rights at and the lease of land adjacent to Berth F, Puerto Nuevo, San Juan. In addition, there exists an agreement entitled the "Puerto Nuevo Contract" which has not been formally filed for Commission approval and provides for various considerations in connection with PRMSA's and Sea-Land's arrangements at Puerto Nuevo under Agreements Nos. T–3193, T–3199 and T–3210.

Notice of the filing of Agreements Nos. T–3191, T–3193, T–3199 and T–3210 (hereinafter Agreements Nos. T–3191, et al.) was published in the FEDERAL REGISTER, and Seatrain Gitmo, Inc., (Seatrain Gitmo) has filed a Protest and Request for Hearing on these agreements. While the Puerto Neuvo Contract (hereafter Contract) has been supplied to our staff for informational purposes, it is the parties' position that the Contract is not subject to section 15, Shipping Act, 1916, and the Contract was not formally filed for Commission action pursuant to section 15, Shipping Act, 1916. Consequently, notice of the Contract has not been published in the FEDERAL REGISTER for comments.

Seatrain Gitmo states, that, as a competitor of Sea-Land and PRMSA, it is vitally affected by the effect that Agreements Nos. T–3191, et al., may have on its efforts to obtain a regular container berth and crane in San Juan, since these agreements' approval would act to aggravate the already untenable situation with which it is confronted in the Port as such approval may preclude Seatrain Gitmo's obtaining a berth or cranes in San Juan until sometime in the distant future. Seatrain Gitmo further alleges that Agreements Nos. T–3191, et al., are discriminatory among carriers and may act to the detriment of the commerce of the United States and be contrary to the public interest within the meaning of section 15, Shipping Act, 1916, and the agreements appear to violate section 16 First, Shipping Act, 1916, by granting the parties thereto various undue and unreasonable preferences and advantages to the detriment of Seatrain Gitmo and other competitors.

Seatrain Gitmo therefore submits that a hearing is required by *Marine Space Enclosures, Inc.* v. *F.M.C.*, 420 F.2d 557 (D.C. Cir. 1969), to determine whether the extent of the restrictions imposed by Agreements Nos. T–3191, et al., in connection with other existing arrangements for berths and cranes in San Juan serve any serious transportation needs which outweigh these agreements' alleged detriment to Seatrain Gitmo and the public interest.

PRMSA, however, argues that the protest is submitted only in the furtherance of Seatrain Gitmo's efforts to secure access to container cranes located at the Isla Grande portion of the ports, therefore the protest raises no issues bearing on the approvability of Agreements Nos. T–3191, et al., since these agreements relate to facilities located in an entirely different portion of the port. In PRMSA's opinion, the adverse impact Seatrain Gitmo claims that approval of Agreements Nos. T–3191, et al., would have on its efforts to obtain a crane at San Juan is nonexistent and wholly speculative; Seatrain Gitmo has failed to demonstrate, other than by conjecture, that the agreements' approval would have any discriminatory impact on Seatrain Gitmo or any other carrier. Further, PRMSA states that it is not aware of any statute, rule or decision requiring that the owner of certain shipping facilities must make those facilities available to its competitors; therefore, PRMSA contends that section 15, Shipping Act, 1916, does not require a hearing on the matters Seatrain Gitmo raises in its protest. Therefore, PRMSA urges the Commission to deny Seatrain Gitmo's request for a hearing and approve Agreements Nos. T–3191, et al., or in the alternative, requests that the Commission grant interim approval of Agreements Nos. T–3191, et al., pending the outcome of any proceeding.

Seatrain Gitmo's protest appears to raise legitimate issues with respect to the effect Agreements Nos. T–3191, et al., may have on the future use of marine terminal facilities at San Juan if they are implemented. Therefore, the Commission is of the opinion that Agreements Nos. T–3191, et al., should be made the subject of a public investigation and hearing to determine the effect these agreements may have on other users of the Port of San Juan, and to determine (a) whether these agreements should be approved, disapproved, or modified, under the standards set by section 15, Shipping Act, 1916; and (b) to determine whether these agreements violate section 16 First, Shipping Act, 1916.

We are including the Puerto Nuevo Contract in this proceeding since the considerations provided for by the Contract appear to be an integral component of the overall transactions contemplated by protested Agreements Nos. T–3193, T–3199 and T–3210. Accordingly, the investigation and hearing ordered herein will also determine (a) whether the Puerto Nuevo Contract is subject to section 15, Shipping Act, 1916, and, if so, whether it should be approved, disapproved or modified pursuant to section 15, Shipping Act, 1916; and (b) whether the Puerto Nuevo Contract, together with Agreements Nos. T–3191, et al., constitutes the parties' complete understanding with respect to their use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico.

As noted above, PRMSA has requested that we grant Agreements Nos. T–3191, et al., interim approval pending the outcome of any proceeding on this matter. We are denying this request since the parties have not shown that interim approval of Agreements Nos. T–3191, et al., is necessitated by any emergency condition or other overriding public interest consideration. Order Denying Petition for Reconsideration, Canadian-American Working Arrangement, et al., Docket No. 75–56 (February 26, 1976).

Now, therefore, it is ordered, That the Commission enter upon an investigation and hearing pursuant to sections 15, 16 and 22 of the Shipping Act, 1916, to determine whether Agreements Nos. T–3191, T–3193, T–3199 or T–3210 are unjustly discriminatory or unfair as between carriers, shippers, exporters, or importers, or operate to the detriment of the commerce of the United States, or are contrary to the public interest; or are otherwise in violation of the Shipping Act, 1916, and whether Agreements Nos. T–3191, T–3193, T–3199 or T–3210 should be approved, disapproved or modified;

It is further ordered, That it be determined whether the Puerto Nuevo Contract is subject to section 15 and, if so, whether it should be approved, disapproved or modified pursuant to section 15, Shipping Act, 1916;

It is further ordered, That it be determined whether Agreements Nos. T–3191, T–3193, T–3199, T–3210 and the Puerto Nuevo Contract constitute the parties' complete understanding with respect to their use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico;

It is further ordered, That it be determined whether Agreements Nos. T–3191, T–3193, T–3199, T–3210 or the Puerto Nuevo Contract together or separately make or give any undue or unreasonable preference or advantage to any particular person or subject any particular person to any undue or unreasonable prejudice or disadvantage in violation of section 16, First, Shipping Act, 1916;

It is further ordered, That PRMSA's request for interim approval of Agreements Nos. T–3191, T–3193, T–3199 and T–3210 be and hereby is denied;

It is further ordered, That in the event any modification of Agreements Nos. T–3191, T–3193, T–3199, T–3210 or the Puerto Nuevo Contract is filed with the Commission, such modification shall be made subject to this investigation for approval, disapproval or modification under the standards of section 15 of the Shipping Act, 1916;

It is further ordered, That the Puerto-Rico Ports Authority, the Puerto Rico Maritime Shipping Authority and Sea-Land Service, Inc., be named as Respondents herein;

It is further ordered, That Seatrain Gitmo, Inc., be named Petitioner herein;

It is further ordered, That a public hearing be held in this proceeding to commence on or before February 24, 1977, and that this matter be assigned for such hearing and Initial Decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges;

It is further ordered, That a copy of this Order be forthwith served upon Respondents and Petitioner herein, and upon the Commission's Bureau of Hearing Counsel, and be published in the FEDERAL REGISTER; and that the Respondents, Petitioner, and Hearing Counsel be duly served with notice of time and place of the hearing;

It is further ordered, That any person other than Respondents, Petitioner, and Hearing Counsel, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 C.F.R. § 502.72) of the Commission's Rules of Practice and Procedure.

Pursuant to these Rules, absent good cause shown, parties must commence discovery procedures on or before September 29, 1976, and any intervenor desiring to utilize the discovery procedures prescribed by Subpart L thereof, must commence doing so not later than 15 days after his petition for leave to intervene has been granted. If petition for leave to intervene is filed later than 30 days after the date of publication of this Order in the FEDERAL REGISTER, petitioner will be deemed to have waived his right to utilize such procedures unless good cause is shown for the failure to file the petition within the 30-day period (46 C.F.R. 502.72(b)).

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76–25349 Filed 8–27–76;8:45 am]

FEDERAL POWER COMMISSION

National Gas Survey

TRANSMISSION, DISTRIBUTION & STORAGE-TECHNICAL ADVISORY TASK FORCE—RATE DESIGN

Agenda of Meeting

North Building—Room 3401, Federal Power Commission, Union Plaza Building, 941 North Capitol Street, NE., Washington, D.C. 20426.

September 14, 1976, 9:30 a.m.

Presiding: Mr. John F. Craig, FPC Coordinating Representative and Secretary.

1—Call to order: Mr. John F. Craig.

2—Review of recommendations presented May 21, 1976, by Subgroups 1A and 1B.

3—Receive preliminary comments of the other Subgroups on remaining initial agenda items.

4—Discussion of procedure for drafting the report.

5—Establishing next meeting date and agenda.

6—Discussion of other matters.

7—Adjournment: Mr. John F. Craig.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–25442 Filed 8–27–76;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 32]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 7, 1976

ACTIONS OF THE BOARD

Notice of proposed rulemaking relating to providing management consulting advice; the Board will receive comment on the proposed amendment to its Regulation Y and on a related application through September 8, 1976.

Stanley Bancshares, Inc., Stanley, Kansas, extension of time to August 9, 1976, within which to file its registration statement.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to September 9, 1976, within which to consummate acquisition of the Stock Yards Bank, Oklahoma City, Oklahoma.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

V 41 169 AUG 30 76 UMI

Termination of registration under Regulation G for Anniston Production Credit Association, Anniston, Alabama.[1]

Bank of Suffolk County, Hauppauge, New York, extension of time within which to establish a public accommodation office at the intersection of First Avenue and Second Street, St. James, Suffolk County, New York.[1]

Bank of Lansing, Lansing, Michigan, to make an investment in bank premises.[1]

United California Bank, Los Angeles, California, extension of time to February 21, 1977, within which to establish a branch in the vicinity of the intersection of Stevens Creek Boulevard and Saich Way, City of Cupertino, California.[1]

Ahmanson Bank and Trust Company, Beverly Hills, California, proposed acquisition by California Overseas Bank, Beverly Hills, California; report to the Federal Deposit Insurance Corporation on competitive factors.

Central National Bank, Waterville, Maine, proposed merger with Canal National Bank, Portland, Maine; report to the Comptroller of the Currency on competitive factor.

Chester Bank, N.A., Chester, New York, proposed merger with The Chester National Bank, Chester, New York; report to the Comptroller of the Currency on competitive factors.

Heights Bank, National Association, Alamo Heights, Texas, proposed merger with Alamo Heights National Bank, Alamo Heights, Texas; report to the Comptroller of the Currency on competitive factors.

Hardwick Trust Company, Hardwick, Vermont, proposed merger with The Merchants Bank, Burlington, Vermont; report to the Federal Deposit Insurance Corporation on competitive factors.

Subsidiaries of City National Bank Corporation, Miami, Florida, proposed acquisition by City National Bank of Miami, Miami, Florida; report to the Comptroller of the Currency on competitive factors.

United Jersey Bank/City National, Vineland, New Jersey, proposed merger with The Cumberland National Bank of Bridgeton, Bridgeton, New Jersey; report to the Comptroller of the Currency on competitive factors.

NOTE.—The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Richwood Banking Company, Richwood, Ohio. Branch to be established at 601 West Main Street, Plain City, Union County.[2]

Capital City State Bank, Des Moines, Iowa. Branch to be established at 1237 Grand Avenue, West Des Moines.[2]

Peoples Bank & Trust Company, Russellville, Arkansas. Branch to be established at the intersection of D Street and North Arkansas Avenue, Russellville, Pope County.[2]

Valley Bank and Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of 2100 East & 1300 South in Salt Lake City.[2]

* * * * *

To become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Laurel Bank of Kansas City, Kansas City, Missouri.[2]

* * * * *

International Investments and Other Actions Approved Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

Citicorp: proposed plan of divestiture regarding various subsidiaries of IAC (Holdings) Limited, Melbourne, Australia.

Continental International Finance Corporation: investment—additional in Banco Atlantico, Barcelona, Spain.

Manufacturers National Bank of Detroit: for an indefinite extension of its recently expired authorization to acquire additional shares of Atlantic International Bank Limited, London, England.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

CUbank Corp., Columbus, Ohio, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Alexandria Bank Company, Alexandria, Ohio.

Peoples Bankshares, Ltd., Waterloo, Iowa, for approval to acquire 56 per cent or more of the voting shares of Peoples Bank and Trust Company, Waterloo, Iowa.[2]

First Yukon Bankshares, Inc., Oklahoma City, Oklahoma, for approval to acquire 84.77 per cent of the voting shares of The First National Bank of Yukon, Yukon, Oklahoma.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

DELAYED

Otto Bremer Company and Otto Bremer Foundation, St. Paul, Minnesota, notification of intent to engage in de novo activities (providing certain investment financial or economic information and advice) at 1300 Northern Federal Building, 385 North Wabasha Street, St. Paul, Minnesota, through a subsidiary, Bremer Service Company, Inc. (August 6, 1976).[3]

APPROVED

Fort Sam Houston Bankshares, Incorporated, San Antonio, Texas, for approval to acquire 100 per cent of the voting shares of Greenwood Life Insurance Company, San Antonio, Texas.

PERMITTED

Bank of Virginia Company, Richmond, Virginia, notification of intent to engage in de novo activities (making loans or extensions of credit such as would be made by a finance company; and acting as agent for credit life/accident and health insurance and other insurance written to protect collateral during the period of credit extension) at 3416 Jefferson Davis Highway, Richmond, Virginia, through a subsidiary, The Budget Plan Company of Virginia (August 7, 1976).[3]

Ashton Investment Company, Rock Rapids, Iowa, notification of intent to engage in de novo activities (leasing of real property on a one time basis where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated cost of financing the investment over the term of the lease) at 104 North Story Street, Rock Rapids, Iowa (8–2–76).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making of consumer installment loans, purchasing installment sales finance contracts, and making of loans to small businesses; acting as agent or broker for the sale of credit related life/accident and disability insurance, and credit related property and casualty insurance in connection with extensions of credit by FinanceAmerica Corporation, 1717 Main Street, Columbia to 17 Diamond Lane, Columbia, South Carolina, through its subsidiary, FinanceAmerica Corporation (South Carolina) (8–1–76).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multifamily and commercial properties for its own account or for the sale to others, and the servicing of such loans for others) from 10933 Valley Boulevard, El Monte to 1520 West Cameron, West Covina, California, through its subsidiary, Security Pacific Mortgage Corporation (8–1–76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit, servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance, and mortgage redemption life insurance and group mortgage disability insurance) at 201 East Monte Vista, Vacaville, California, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (8–6–76).[3]

WITHDRAWN

Liberty National Corporation, Oklahoma City, Oklahoma, notification of intent to engage in de novo activities (making or acquiring, for its own account or the account of others, loans or other extensions of credit) at 100 Broadway, Oklahoma City, Oklahoma (8/4/76).[3]

To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

The First Community Bancorporation, Joplin, Missouri, for approval to retain shares of First National Bank of Sarcoxie, Sarcoxie, Missouri.

[1] See footnote 1, p. 36547.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

First United Bancorporation, Inc. and The First National Bank of Fort Worth, both located in Fort Worth, Texas, for approval to retain 2,725 shares of University Bank, located in Fort Worth, Texas.

* * * * *

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Northern Virginia Bank, Springfield, Virginia. Branch to be established in the Saratoga Shopping Center in the 8000 Block of Rolling Road, Springfield.

American Guaranty Bank, Tampa, Florida. Branch to be established at 1315 South Dale Mabry, Tampa. To be known as American Guaranty Bank-Interbay Branch.

Davenport Bank and Trust Company, Davenport, Iowa. Branch to be established at the Southeast corner of Kimberly Road and U.S. Highway 6, Davenport.

Commerce Union Bank of Memphis, Tennessee. Branch to be established at 2930 Airways Boulevard, Memphis, Shelby County.

Platte Valley Bank, Brighton, Colorado. Branch to be established at 12th and Bridge Street, Brighton.

* * * * *

To Withdraw from Membership in the Federal Reserve System Without a Six-Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

Citizens Bank of Cape Vincent, Cape Vincent, New York.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

M & D Holding Company, Spring Lake Park, Minnesota, for approval to acquire 92 per cent of the voting shares of First State Bank of Spring Lake Park, Spring Lake Park, Minnesota.

Quivira Banc Shares, Inc., Hutchinson, Kansas, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas.

The Spalding City Corporation, Spalding Nebraska, for approval to acquire 80 per cent or more of the voting shares of Spalding City Bank, Spalding Nebraska.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia.

Dakota Bancorporation, Rapid City, South Dakota, for approval to acquire 80 per cent of the voting shares of First National Bank of Crosby, Crosby, North Dakota, a proposed new bank.

First Midwest Bancorp., Inc., St. Joseph, Missouri, for approval to acquire 80 per cent or more of the voting shares of Platte Valley Bank, Ravenwood, Missouri.

Sellon, Inc., Toledo, Ohio, for approval to acquire 5,509 additional shares of the voting shares of Nevada National Bancorporation, Reno, Nevada, and indirectly acquire additional shares of Nevada National Bank, Reno, Nevada.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Worcester Bancorp, Inc., Worcester, Massachusetts, for approval to engage de novo in the activity of providing management consulting advice to nonaffiliated savings banks, through a subsidiary, Empire Group, Inc., Worcester, Massachusetts.

Bancshares of North Carolina, Inc., Raleigh, North Carolina, notification of intent to engage in de novo activities (plan administration services for qualified corporate defined benefit and defined contribution plans, plan design assistance, employee participant benefit communication services, and plan allocation) at 3509 Haworth Drive and Branch Banking and Trust Building, Raleigh, North Carolina. (8/4/76)[3]

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency, or custodian nature and acting as investment or financial advisor in the manner authorized by State law without power to accept demand deposits or make commercial loans) at 5125 North 16th Street, Phoenix, Arizona, through its subsidiary, The Marshall & Ilsley Trust Company of Arizona. (7/30/76)[3]

Mercantile Texas Corporation, Dallas, Texas, for approval to acquire Financial Protection Insurance Company of Texas, Houston, Texas; with offices located in Austin, Texas; San Antonio, Texas; Corpus Christi, Texas; New Braunfels, Texas; and Houston, Texas (underwriting as a direct insurer and reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by the holding company system).

M & S BanCorp, Janesville, Wisconsin, notification of intent to engage in de novo activities (leasing of real property and acting as agent, broker, or adviser in leasing real property; provided, that at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than its full investment in the property over the term of the lease) at 12 West Milwaukee Street, Janesville, Wisconsin, through its subsidiary, M & S Leasing Company, Inc. (7/21/76)[3] (The above should have been included in the H.2 No. 31 for the week ending July 31, 1976.)

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

None.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 20, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25305 Filed 8-27-76;8:45 am]

BANCAL TRI-STATE CORP.

BanCal Tri-State Corporation "Tri-State"), San Francisco, California, a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(a)) ("Act"), by virtue of its ownership of 99.95 per cent of the issued and outstanding voting shares of The Bank of California, N.A. ("Bank"), San Francisco, California, has requested a determination, pursuant to Section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), that neither Tri-State nor Bank is in fact capable of controlling Western Pacific Financial Corporation ("West Pac"), San Bernardino, California, notwithstanding the fact that West Pac is indebted to Bank. Bank has sold all of its stock-holdings in BanCal Mortgage Company, formerly a direct subsidiary of Bank, pursuant to an agreement dated November 5, 1975.

Under the provisions of section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Tri-State has submitted to the Board evidence to support its contention that Tri-State does not in fact control West Pac.

Notice of an opportunity for hearing with respect to Tri-State's request for a determination under Section 2(g)(3) was published on January 15, 1976 (41 FR 2279 (1976)). The time provided for requesting a hearing has expired. No such request has been received by the Board.

It is hereby determined that neither Tri-State nor Bank is in fact capable of controlling West Pac. This determination is based upon the evidence of record in this matter, including the following facts. West Pac is a publicly-owned corporation of substantial size and is unaffiliated with Tri-State or Bank. West Pac has historically maintained a credit relationship with Bank, although this has not appeared to have conferred control by Bank over West Pac, but rather was established in the normal course of business to aid West Pac in the independent conduct of its mortgage financing operations. No security interest was retained in the assets of Mortgage transferred to West Pac, and although Bank increased the line of credit it made available to West Pac following the transfer, the increase was not extended to provide West Pac with funds for the purchase of Mortgage, but rather was made to assist West Pac in the servicing of the business it acquired through Mortgage. West Pac's initial borrowings on this increased line of credit have already been significantly repaid. Furthermore, the sale of Mortgage to West Pac appears to have been the result of arms-length negotiations, and there are no interlocking officer or director relationships between Tri-State or its subsidiaries and West Pac. The

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

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board of directors of West Pac has submitted a resolution disclaiming control over West Pac by Tri-State or its subsidiaries, and a similar resolution by the board of directors of Tri-State was submitted disclaiming control over West Pac.

Accordingly, it is ordered, That the request of Tri-State for a determination pursuant to Section 2(g)(3) be and hereby is granted: Any material change in the facts or circumstances relied upon by the Board in making this determination or any material breach of any of the commitments upon which the Board based its decision could result in the Board reconsidering the determination made herein.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), effective August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25312 Filed 8-27-76;8:45 am]

ESTATE OF JAMES MILLIKIN, DECEASED

Acquisition of Proposed Bank Holding Company

Estate of James Millikin, Deceased, Decatur, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 55 per cent of the voting shares of Millikin Bancshares, Inc., Decatur, Illinois, a proposed bank holding company. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 23, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25310 Filed 8-27-76;8:45 am]

FIRST MARYLAND BANCORP

Acquisition of Bank

First Maryland Bancorp, Baltimore, Maryland, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 51 per cent of the voting shares of The Hancock Bank, Hancock, Maryland. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 27, 1976.

Board of Governors of the Federal Reserve System, August 23, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25306 Filed 8-27-76;8:45 am]

IOLA BANCSHARES, INC.

Formation of Bank Holding Company

Iola Bancshares, Inc., Iola, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.6 per cent or more of the voting shares of The Iola State Bank, Iola, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 14, 1976.

Board of Governors of the Federal Reserve System, August 23, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25307 Filed 8-27-76;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Acquisition of Bank

First National Financial Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by consolidation to The National Bank of Ludington, Ludington, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 14, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25308 Filed 8-27-76;8:45 am]

MILLIKIN BANCSHARES, INC.

Formation of Bank Holding Company

Millikin Bancshares, Inc., Decatur, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Millikin National Bank of Decatur, Decatur, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 23, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25309 Filed 8-27-76;8:45 am]

MICHIGAN NATIONAL CORP.

Order Denying Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to Peoples Bank and Trust, National Association, Trenton, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the United States Department of Justice and the Financial Institutions Bureau of the Michigan Department of Commerce, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization and bank holding company in Michigan, controls 16 banks with aggregate deposits of approximately $2.9 billion, representing 9.9 percent of the total commercial bank deposits in the

State.[1] Acquisition of Bank ($119.0 million in deposits) would increase Applicant's share of Statewide deposits to 10.3 percent without changing its ranking in the State. Although consummation of this transaction would not significantly increase the concentration of banking resources in Michigan it would have adverse effects upon concentration in the relevant market.

Bank is the larger of the two banks located in the city of Trenton, a southern suburb of Detroit, and is the 14th largest of 36 banking organizations operating in the Detroit banking market (the relevant market).[2] Applicant has a significant presence in the Detroit market as it operates seven banks with 88 banking offices in the market, and controls $1.3 billion in deposits. Applicant is the fourth largest banking organization in the Detroit market controlling approximately 8.5 percent of total market deposits. Approval of the application would increase Applicant's market share to 9.2 percent.

The Detroit banking market is a concentrated market in which the four largest banking organizations hold approximately 71.0 percent of market deposits. Consummation of the proposal would result in a further increase in this concentration, to 71.7 percent. The facts of record show the proposal would result in the elimination of existing competition. Furthermore, in Wayne County, where the city of Trenton is located, Bank operates 15 out of its 16 banking offices and Applicant has three subsidiary banks with 45 offices. Thus, consummation of this transaction would eliminate existing competition between Applicant and Bank, and would increase the concentration of banking resources in the market.

Bank ranks among the top 10 percent of all Michigan banks in deposit size[3] and approval of the proposal would remove an attractive entry vehicle for a Michigan bank holding company not currently represented in the Detroit market, Michigan's largest market. Thus, approval would lessen the possibility of future market deconcentration through the entry of another banking organization into the market. This factor is even more significant when considered in light of the fact that the overall market is not particularly attractive for *de novo* entry by other banking organizations seeking to gain access to the Detroit banking market. Approval of the proposal would also continue the decline in the number of banking organizations competing in the market, which number has been reduced by 20 per cent from June 1970 to June 1975.[4] Furthermore, the proposal would foreclose the development of future competition by removing Bank as an independent competitor within the Detroit market. As an alternative to acquiring Bank, Applicant could enter *de novo* one of the townships contiguous to Trenton or by branching into one of those townships where home-office protection would not be a bar. On the basis of the foregoing and other facts of record, the Board concludes that approval of the application would have significantly adverse competitive effects.

In acting on this application, the Board has considered the comments of the Department of Justice and the Financial Institutions Bureau of the Michigan Department of Commerce and Applicant's responses thereto. The Justice Department indicated that, in its opinion, the proposed acquisition would eliminate existing and future competition and lead to an increase in the concentration of commercial banking in Wayne County. Applicant responded that, as set forth in the submission by the Michigan Financial Institutions Bureau, Trenton, where Bank is headquartered, is not part of the Detroit banking market and that the market in which to analyze the competitive effects of this proposal is defined as southern Wayne County and the majority of Monroe County, Michigan. It is the Board's opinion, however, that the relevant market for analyzing the competitive effects of this proposal is the Detroit banking market which is approximated by Michigan counties of Macomb, Oakland, and Wayne.[5] In making such an analysis the Board finds, based on the foregoing and other facts of record, that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the communities to be served.

The financial and managerial resources and prospects of Bank are satisfactory. The financial condition and managerial resources and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Although certain of Applicant's subsidiaries are in need of additional capital, Applicant has continued to show meaningful progress in strengthening the overall capital position of the holding company and its subsidiaries. Thus, the Board views banking factors as not providing any weight either toward approval or denial of the application.

Considerations relating to the convenience and needs of the communities to be served, at best, add only slight weight toward approval, as the only definite benefits that apparently will be derived from affiliation are some managerial and technical assistance that Applicant would provide Bank.[6] The Board finds that neither the considerations relating to banking factors nor to convenience and needs are sufficient to outweigh the significantly adverse competitive effects of Applicant's proposal.

On the basis of the facts in the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized above.

By order of the Board of Governors,[7] effective August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25311 Filed 8-27-76;8:45 am]

SECURITY BANCSHARES, INC.

Formation of Bank Holding Company

Security Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Security Bank, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25313 Filed 8-27-76;8:45 am]

[1] All banking data are as of December 31, 1975, and reflect banking holding company formations and acquisitions approved through June 30, 1976.

[2] The Detroit banking market is approximated by Macomb, Oakland and Wayne Counties.

[3] Bank ranks 35th out of the 351 banks in Michigan.

[4] In June 1970, there were 45 banking organizations operating in the Detroit market; by June 1975, there were 36 banking organizations in the market.

[5] The Federal Reserve Bank of Chicago undertook a field investigation in the Detroit area to determine the correct market. This investigation was in response to Applicant's defining the Detroit market as comprising the Detroit metropolitan area with the exception of the southern section of Wayne County which includes Trenton. As a result of the field investigation and analysis of all the facts of record, the proper definition of the market for analyzing the competitive effects of the subject proposal is the three-county market.

[6] Applicant has indicated that it intends to suggest certain changes to Bank concerning its operations which changes, if implemented by Bank's management, would result in some benefits to the public. Most of the changes could be made presently by Bank, but even if they were to be made only upon acquisition by Applicant, they would not provide significant support for approval.

[7] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

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STANDARD PRUDENTIAL CORP.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Standard Prudential Corporation, New York, New York ("Standard"), for a determination that it is not nor will be in fact capable of controlling Uintah National Corporation, Salt Lake City, Utah ("Uintah"), by virtue of the sale of 1,600,000 shares of Talcott National Corporation, New York, New York ("Talcott"), to Uintah.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the tranferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Boad, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 22, 1976. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25314 Filed 8-27-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 20, 1976 (SEC) and August 23, 1976 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC and CAB requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 17, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

SECURITIES AND EXCHANGE COMMISSION

SEC requests clearance of a new "Bank Study Questionnaire" pursuant to section 11A(c) of the Securities and Exchange Act of 1934 (15 U.S.C. 78k-1(e)) which authorizes SEC to make a study of the extent to which persons excluded from the definitions of "broker" and "dealer" maintain accounts on behalf of public customers for buying and selling securities registered under section 12 of the Securities and Exchange Act, and whether such exclusions are consistent with the protection of investors. The survey questionnaire relates to brokerage-type, investment management and advisory, and corporate financing services offered by banks and trust companies. The potential respondents for the questionnaire are banks as defined in Section 3(a)(6) of the Securities Exchange Act of 1934, including (a) banking institutions organized under the laws of the United States; (b) member banks of the Federal Reserve System; (c) any other banking institutions, whether incorporated or not, doing business under the laws of any State of the United States, a substantial portion of the business of which consists of receiving deposits or exercising a fiduciary power similar to those permitted to national banks under Section 11(k) of the Federal Reserve Act, as amended, and which are supervised and examined by State or Federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (a), (b), or (c) above. There are 14,500 banks of which 245 will be surveyed based on a stratified sampling. The reporting burden is estimated by SEC to average 66 hours per respondent.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of Form 41, Report of Financial and Operating Statistics for Certificated Air Carriers. Form 41 contains the basic data which the CAB uses in fulfilling its regulatory responsibilities under the Federal Aviation Act of 1958, as amended. Submission of Form 41 is mandatory under Section 407 of the Act. Respondents are approximately 44 certificated air carriers and CAB estimates the reporting burden (which includes the burden for all monthly, quarterly, semi-annual and annual filings of schedules in Form 41) to be 2,087 hours annually per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-25329 Filed 8-27-76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (P.L. 92-463) and § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R., Part 800) that on September 14, 1976, at 7:30 p.m., a public information meeting will be held at the Auditorium of the White Plains High School, North Street, White Plains, New York. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the Central Urban Renewal Project, an undertaking assisted by the Department of Housing and Urban Development as it affects the Westchester County Courthouse Complex, White Plains, New York, a property included in the National Register of Historic Places. The urban renewal project proposes the demolition of this National Register property.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An account of the history of the project, description of the undertaking, an evaluation of its effects on the property, and a presentation of the study of alternatives to demolition by the Department of Housing and Urban Development.

III. A statement by the New York State Historic Preservation Officer.

IV. Statements by other interested Federal and State agencies, if any.

V. Statements by a representative of the White Plains Urban Renewal Agency and of a representative of the City of White Plains.

VI. A statement by a representative of the Save the Courthouse Committee.

VII. Statements from the public on the undertaking as it affects the National Register property.

VIII. A general question period.

Members of the public who desire to speak at this meeting should notify the Director, New York Area Office, Department of Housing and Urban Development, 666 Fifth Avenue, New York, New York, 10019, by close of business Friday, September 10, 1976. Speakers should limit their statements to approximately five minutes. Written statements in lieu of or in furtherance of oral remarks will be accepted by the Council at the time of the meeting, and such statements may also be sent to the Director, New York Area Office, Department of Housing and Urban Development, 666 Fifth Avenue, New York, New York, 10019, where they will be received until close of business October 5, 1976. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, (202-254-3380).

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.76-25431 Filed 8-27-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 76-69]

SPACE PROGRAM ADVISORY COUNCIL, SPACE SYSTEMS COMMITTEE

Meeting

The Space Systems Committee of the NASA Space Program Advisory Council will meet on September 20-21, 1976, at the Rockwell International Space Division, Building 1, Executive Conference Room, 12214 Lakewood Boulevard, Downey, California.

The meeting is open to members of the public from 8:00 a.m. to 5:00 p.m. on September 20, 1976, and from 9:00 a.m. to 5:00 p.m. on September 21, 1976, on a first-come, first-served basis to about 40 which is the seating capacity of the room. Visitors will be requested to sign a visitor's register.

The NASA Space Systems Committee serves in an advisory capacity only. It is concerned with the development of space transportation systems and multi-disciplinary space-based systems including consideration of the man machine interface. The group also considers the interrelationships between such systems and their payloads in support of space flight missions. The current chairman is Professor Courtland D. Perkins. There are presently seven (7) members.

For further information regarding the meeting, please contact Mr. Daniel Nebrig, Executive Secretary to the Space Systems Committee on 202/755-2453, or Ms. Rose M. Lovelace, Executive Staff Assistant to the Associate Administrator for Space Flight, National Aeronautics and Space Administration, Washington, D.C. 20546, on 202/755-6919.

The agenda for the meeting is as follows:

September 20, 1976	Topic
9:00 a.m.-9:45 a.m.	Opening Remarks—(Purpose: Introductory Remarks.)
9:45 a.m.-10:00 a.m.	Space Transportation System (STS) Operations Overview — (Purpose: To present a current overview on STS Operations.)
10:00 a.m.-11:00 a.m.	Transition from Expendable Launch Vehicles to Space Shuttle — (Purpose: To obtain comments and suggestions on transition plans from expendable launch vehicles to Shuttle.)
11:00 a.m.-12:30 p.m.	Space Shuttle Program Overview including Space Shuttle Main Engine (SSME) Subsynchronous Whirl — (Purpose: To present current overview on Space Shuttle and to obtain comments and recommendations on the SSME rotor whirl situation.)
1:30 p.m.-3:00 p.m.	Orbiter Avionics Software Review—(Purpose: To continue discussions from the last meeting on computer software and to receive recommendations and suggestions.)
3:00 p.m.-4:00 p.m.	Planning for Approach and Landing Test (ALT) Program — (Purpose: To advise status of planning for ALT and to receive comments and recommendations.)
4:00 p.m.-5:00 p.m.	External Tank (ET)/Orbiter Interface — (Purpose: To discuss interface between the Orbiter and External Tank.)
5:00 p.m.	Adjourn.
September 21, 1976	**Topic**
9:00 a.m.-10:30 a.m.	General Discussion—(Purpose: To discuss issues and recommendations from the meeting.)
10:30 a.m.-5:00 p.m.	Tour of the On-Site Hardware and Facilities at Rockwell International, Downey, Rocketdyne, and Palmdale — (Purpose: To physically observe and review status of on-site Space Shuttle hardware and facilities.)
5:00 p.m.	Adjourn.

WILLIAM W. SNAVELY,
Assistant Administrator for DoD and Interagency Affairs.

AUGUST 24, 1976.

[FR Doc.76-25269 Filed 8-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ASTRONOMY, SUBPANEL MEETING ON OPTICAL AND INFRARED ASTRONOMY

Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Astronomy Advisory Subpanel Meeting on Optical & Infrared Astronomy.

Date: September 17-18, 1976.

Time: 9:00 AM.

Place: Steward Observatory, Room 108, University of Arizona, Tucson, Arizona 85721.

Type of meeting: Open—September 17 (9:00 AM-5 PM). September 18 (9:00 AM-3 PM/Adjourn).

Contact: Dr. Peter A. Strittmatter, Steward Observatory, University of Arizona, Tucson, Arizona 85721. 602 884-1764 or, Dr. James P. Wright, National Science Foundation, Division of Astronomical Sciences, Rm. 615, Washington, D.C. 20550. 202 632-4192.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 212, National Science Foundation, Washington, D.C. 20550.

Purpose: To review NSF programs in optical and infrared astronomy.

Agenda: Will include the following discussion and presentations:

SEPTEMBER 17, 1976

9:00 AM: Discussion of objectives to be accomplished.

10:00 AM: Review of current problems and opportunities in infrared and optical astronomy.

12 Noon: Lunch.

1:00 PM: Review of current problems and opportunities in infrared and optical astronomy (continued).

3:00 PM: Discussion of problems, alternatives, and solutions in the operation of groundbased observatories.

SEPTEMBER 18, 1976

9:00 AM: Discussion and review of prospective major new observatory facilities, their need and priority.

12 Noon: Lunch.

1 PM: Outline draft of recommendations emanating from this meeting.

Dated: August 25, 1976.

BECKY WINKLER,
Acting Committee Management Officer.

[FR Doc.76-25357 Filed 8-27-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-73-1]

BABCOCK & WILCOX

Denial of Petition for Rulemaking

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has denied a petition for rulemaking sub-

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mitted by letter dated November 10, 1975; by Babcock & Wilcox (B&W), 609 North Warren Avenue, Apollo, Pennsylvania. A notice of filing of petition, Docket No. PRM–73–1; was published in the FEDERAL REGISTER on January 20, 1976 (41 FR 2871). Interested persons were invited to submit written comments or suggestions on the petition. Letters from Transnuclear, Inc. and Westinghouse Electric Corporation were received which supported the petition.

B&W petitioned the Commission to amend its regulations 10 CFR Part 73, to (1) change the term "special nuclear material" to "strategic special nuclear material" wherever the term appears; (2) add a new paragraph to § 73.2 defining "strategic special nuclear material"; and (3) replace the phrase "either uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium, or any combination of these materials which is 5,000 grams or more computed by the formula, grams=(grams contained U–235) +2.5 (grams U–233+grams plutonium)" with the term "strategic special nuclear material" wherever the phrase appears.

The petitioner stated that the requested changes would clarify the contents and reading of 10 CFR Part 73 and that the use of the term "strategic special nuclear material" instead of "special nuclear material" would provide a clear line of demarcation between special nuclear material that must be protected by security measures and nuclear material that does not fall under the requirements of 10 CFR Part 73. The term "special nuclear material" is used in 10 CFR Part 73 in its statutory meaning which is, of course, not restricted to strategic quantities of special nuclear material. Although most of the sections in Part 73 apply to persons who possess strategic quantities of special nuclear material, other sections of Part 73 apply to substrategic amounts. For example, 10 CFR 73.1(B) (3) and 73.32, Shipment by Air, cover lesser quantities: (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium–233, or (2) 350 grams of uranium–235 (contained in uranium enriched to 20 percent or more of the U–235 isotope). The recommended change would leave the status of these substrategic quantities in doubt. Likewise, Sections 73.70 and 73.71, which require records to be kept and reports on theft to be made by Part 73 licensees, would be ambiguous with regard to those sub-strategic quantities.

While for these reasons, the specific recommendation made by Babcock & Wilcox has not been adopted, the Commission is engaged in a thorough reassessment of its safeguards rules and the question of more specific differentiation between various types of special nuclear material is being given close attention. Any proposed changes will be the subject of later notice of proposed rulemaking.

In view of the foregoing, the Commission has denied the petition for rulemaking filed by Babcock & Wilcox on November 10, 1975. Copies of the petition for rulemaking, the comments thereon, and the Commission's letter of denial are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

For the Nuclear Regulatory Commission.

Dated at Washington, D.C. this 24th day of August, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76–25393 Filed 8–27–76;8:45 am]

[Docket Nos. 50–443, 50–444]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 & 2)

Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of August 24, 1976, oral argument on the motion of the New England Coalition on Nuclear Pollution to suspend the construction permits for the Seabrook plant is calendared for 10:00 a.m., Wednesday, September 8, 1976 in the Nuclear Regulatory Commission Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: August 24, 1976.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.76–25394 Filed 8–27–76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of request for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 24, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, guide for interviews with unfunded investigators, NIH–OD–9, single-time, faculty of medical schools, Human Resources Division, Reese B. F., 395–3532.

National Center for Education Statistics, National Longitudinal Study of the High School Class of 1972—third follow-up questionnaire, NCES–2367–5, single-time, National Sample of High School Seniors of 1972, Kathy Wallman, 395–6140.

Office of Education, Indian Student Enrollment Certification, OE–506, annually, LEA's, SEA's, Kathy Wallman, 395–6140.

Health Resources Administration, Health Professions and Nursing Student Loan Repayment Programs (3 forms), on occasion, nurses and health professions, lenders, employers, Lowry, R. L., 395–3772.

Public Health Service:
Report of Construction Progress and Claim for Cost Reimbursement, other (see SF–83), Health Professions Schools and Research Institutions, Lowry, R. L., 395–3772.
Annual Evaluation of the Education and Training in Team Programs, annually, team program administrator's, students and faculty, Human Resources Division, Reese, B. F., 395–3532.

Office of Human Development, Program Progress Review Report, quarterly, tribal governments; Indian urban centers, Lowry, R. L., 395–3772.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, High Crime Area Survey, Series 2300 (8–76), single-time, local criminal justice planning units in jurisdictions of 250,000 or more, George Hall, 395–6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Statistical Sampling and Reporting of Review Findings, QC program (food stamp program), FNS–247–1, 2, 3 FNS–248, semi-annually, state agencies, Human Resources Division, Warren Topelius, 395–3532.

Law Enforcement Assistance Administration, High Crime Area Survey, series 2300 (8–76), single-time, local criminal justice planning units in jurisdictions of 250,000 or more, George Hall, 395–6140.

Household Data Sheet (Food stamp program), FNS–245, monthly, food stamp participants, applicants and state agencies, Human Resources Division, Warren Topelius, 395–3532.

DEPARTMENT OF COMMERCE

Bureau of Census, Privacy and Confidentiality Opinion Survey, Privacy and Confidentiality Objective Survey, PCS–100, 200, single-time, national probability sample of households, Maria Gonzalez, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Framingham Heart Study-Senile Dementia and Functional Disability, ISNIH–HL–22, single-time, persons aged 55–85 in Framingham, Mass., Richard Eisinger, 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, Behavior Checklist, single-time, Households in D.C. metropolitan area, Richard Eisinger, 395–6140.

Health Resources Administration, Influenza Supplemental Questionnaire to the 1976 Health Interview, NCHS 1014, other (see SF–83), sample of households in general population, George Hall, 395–6140.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration, Application for Working Capital Guarantee, ED 203, on occasion, banks or other commercial/individual lenders, Lowry, R. L. 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, Migrant Hospitalization Demonstration Program Referral Form, HSA–T1, on occasion, clients of migrant health centers requiring hospitalization, Lowry, R. L. 395–3772.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–25414 Filed 8–27–76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

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The list includes the title of each request received: the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Questionnaire for Sub-Regional Study of Citizen Attitudes Toward Geothermal Energy, single-time, individuals and sector interviews: 3 counties, George Hall, Maria Gonzalez, 395–6140.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Photocopying Characteristics Survey Forms: Volume LOG, Characteristics Form, ILL Borrowing Form, single-time, sample of academic, federal, public and special libraries, Kathy Wallman, 395–6140.

Photocopying Characteristics Survey Forms—Screening Form, single-time, sample of academic, federal, public and special libraries, Kathy Wallman, 395–6140.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Survey of Productivity and Human Resource Development, single-time, personnel managers private sector, Arnold Strasser, 395–5867.

DEPARTMENT OF AGRICULTURE

Farmer Cooperative Service, Questionnaire on Transportation by Farmer Cooperatives, single-time, Roye L. Lowry, 395–3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Survey Questionnaires for HUD Residential Solar Heating and Cooling Demonstration Program, other (see SF–83), HUD demonstration participants, community and veterans affairs, Milo Sunderhauff, 395–3532.

DEPARTMENT OF LABOR

International Labor Affairs, Questionnaire for Producers of Hanging Planters, ILAB–79, single-time, producers of hanging planters, Laverne Collins, 395–5867.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Survey Questionnaire "Collection of a Disaggregate Travel Demand Dataset," single-time, sample of households in the Baltimore area, Arnold Strasser, 395–5867.

REVISIONS

VETERANS ADMINISTRATION

Financial Statement, 26–6807, on occasion, borrower, Warren Topelius, 395–5872.

Matured Endowment Notification, 29–5767, on occassion, insured veteran, Warren Topelius, 395–5872.

VA Report of Nursing Home Care, 10–1204–B, monthly, community nursing homes, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, Veterinarian's Report of Excused Horse, VS–19–4, on occasion, Doctors of Veterinary Medicine—Designated Horse Show Judges, Roye L. Lowry, 395–3772.

EXTENSIONS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Personal History Statement, personal background information, ERDA–324, 324A, on occasion, U.S. ERDA and contractor employees, Roye L. Lowry, 395–3772.

RAILROAD RETIREMENT BOARD

Employee Registration, CER–1, on occasion, railroad employers, Warren Topelius, 395–5872.

Application for Childs Insurance Annuity—Full-Time Student, AA–19S, on occasion, annuity applicant, Warren Topelius, 395–5872.

Employer's Supplemental Report of Service and Compensation, G–88E, on occasion, railroad employers, Warren Topelius, 395–5872.

Application for Child's Insurance Annuity, AA–19, on occasion, annuity applicant, Warren Topelius, 395–5872.

Annuitant's Report About Dependents, AA–1E, on occasion, Railroad Act annuitants, Warren Topelius, 395–5872.

DEPARTMENT OF DEFENSE

National Security Agency, COMSEC Material Report, SF153, other (see SF–83), Roye L. Lowry, 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–25413 Filed 8–27–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/14–0085]

BANCAL CAPITAL CORP. (NOW OCEANIC CAPITAL CORP.)

Approval of Application for Transfer of Control of a Licensed Small Business Investment Company

Pursuant to the provisions of § 107.701 of the Small Business Administration's (SBA) Rules and Regulations (13 CFR 107.701 (1976)), a Notice of filing of an Application for Transfer of Control of BanCal Capital Corporation (BanCal), 845 South Figueroa Street, Los Angeles, California 91342, was published in the FEDERAL REGISTER on May 26, 1976 (41 FR 21531). Two Directors whose names were listed in the Notice, Messrs. Eijiro Hoashi and Yoshiyasu Iwasa, will not serve as Directors.

Interested parties were invited to send their written comments to SBA on the proprosed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of BanCal Capital Corporation and simultaneously the name change to Oceanic Capital Corporation, effective August 16, 1976. In connection with the transfer of control, the office of the licensee will be moved to 300 Montgomery Street, Suite 908, San Francisco, California 94104.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 20, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76–25336 Filed 8–27–76;8:45 am]

[License No. 09/12–0002]

CONTINENTAL CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Continental Capital Corporation (CCC), 555 California Street, San Francisco, California 94104, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed with the Small Business Administration (SBA) an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

CCC will purchase 250,000 shares of convertible preferred stock of Baron Data Systems (Baron), 2230 Livingston Street, Oakland, California 94606, for $2.00 per share. Upon conversion of the preferred stock, CCC would own 31.25 percent of Baron. The transaction falls within the purview of § 107.1004(b)(1) of the regulations and requires prior written approval by SBA because Mr.

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Charles G. Davis, Jr., is a director (resigned this position on July 16, 1976, but is considered an associate of CCC for six months after resignation) and stockholder of CCC and the president, a director, and a stockholder of Baron. Assuming consummation of the transaction described herein and conversion of the CCC preferred stock, Mr. Davis would initially own 38.8 percent of Baron's outstanding common stock.

Notice is hereby given that any person may, not later than 15 days from the date of this Notice, submit to SBA in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 19, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-25337 Filed 8-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 132]

ASSIGNMENT OF HEARINGS

AUGUST 25, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 33 (Sub-No. 9), Union Pacific Railroad Company Abandonment Between Arnold and Stapleton, Nebraska In Custer and Logan Counties, Nebraska, now assigned November 1, 1976, at North Platte, Nebr. is postponed to December 6, 1976 (1 week), at North Platte, Nebr.; in a hearing room to be later designated.

MC-C-9025, Kane Transfer Company-v-Jacobs Transfer, Inc., now assigned October 5, 1976 at Washington, D.C., is postponed to October 19, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115730 Sub 14, The Mickow Corp., now being assigned November 30, 1976 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 114211 Sub 257, Warren Transport, Inc., now being assigned December 1, 1976 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 129387 (Sub-No. 22), Bill Payne, d/b/a Bill Payne Trucking Company, now being assigned November 30, 1976 (2 days) at San Francisco, California; in a hearing room to be later designated.

MC 138274 (Sub-No. 29), Shippers Best Express, Inc., now being assigned December 2, 1976 (2 days) at San Francisco, California; in a hearing room to be later designated.

MC 129032 (Sub-No. 19), Tom Inman Trucking, Inc., now being assigned December 6, 1976 (1 week) at San Francisco, California; in a hearing room to be later designated.

MC 138018 (Sub-No. 28), Refrigerated Foods, Inc., now being assigned December 13, 1976 (2 days) at Seattle, Washington; in a hearing room to be later designated.

MC 114730 (Sub-No. 4), V. Van Dyke, d/b/a Van Dyke Truck Lines, now being assigned December 15, 1976 (3 days) at Seattle, Washington; in a hearing room to be later designated.

H. GORDON HOMME, JR.,
Acting Secretary.

[FR Doc.76-25361 Filed 8-27-76;8:45 am]

[Ex Parte No. 330]

INCREASED FREIGHT RATES—WEST AND INTERTERRITORIAL—1976

Authority To File Master Tariff

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 25th day of August, 1976.

It appearing, That by petition and verified statements filed August 20, 1976, the railroads listed in Appendix I of the petition and certain water and motor carriers having joint rates with the Appendix I railroads, request the Commission to institute an investigation into the adequacy of freight rates and charges of all railroad common carriers within the United States; to make all such railroad common carriers respondents therein; and to authorize and permit increases in freight rates and charges primarily within the West, and from, to, and within all territories of 5 percent, effective September 20, 1976, to offset labor cost increases and increases in the cost of materials, supplies, and certain other items, subject to exceptions and holddowns set forth in Appendix II of the petition;

It further appearing, That petitioners seek permission to make the proposed increases effective September 20, 1976, subject to the condition that refunds shall be made in the event that, after such investigation as the Commission deems necessary, no increase or a lesser increase than that requested in the present petition is authorized, and they seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges, and the entry of appropriate orders under Sections 4 and 6 of the Interstate Commerce Act;

It further appearing, That petitioners have filed and served 22 verified statements constituting their evidential case pursuant to the requirements set forth in Procedures Governing Rail Carrier General Increase Proceedings, 49 CFR 1102, including certain financial data suggested in Appendix B of the report and order in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288;

It further appearing, That petitioners have submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), Procedures—Rail Car General Increase Proceedings, 349 I.C.C. 22, namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase;

It further appearing, That petitioners have given notice of the petition and have furnished data to the public in compliance with Ex Parte No. 286, Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741;

It further appearing, That petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail;

It further appearing, That petitioners have submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969, 352 I.C.C. 451, and 49 CFR 1108, namely a supplemental evaluation of environmental considerations vis-a-vis petitioners' proposal herein;

It further appearing, That any person or persons believing that the requested increases, if allowed to become effective, would have a significant impact upon the quality of the human environment are hereby invited to comment upon this matter in the protests or verified statements authorized to be filed pursuant to this order, and that environmental matters and requirements of the National Environmental Policy Act of 1969 will be fully considered by the Commission in any subsequent action on the merits of the requested general increases;

And it further appearing, That by Special Permission Order No. 77-600 served herewith, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition, to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act, and modifying outstanding orders to the extent necessary to permit that filing, and good cause appearing therefor;

It is ordered, That all common carriers by railroad be, and they are hereby, made respondents to this proceeding.

It is further ordered, That pursuant to the special permission authority granted this date, the schedules shall be published and filed upon not less than 30 days' notice effective not earlier than September 27 nor later than November 1,

1976,[1] subject to protest and possible suspension by the Commission, said schedules to contain an appropriate refund provision. Protests and/or verified statements shall be filed on or before September 14, 1976, in accordance with procedures hereinafter set forth;

It is further ordered, That any person opposing or wishing to comment on the proposed 5 percent increase in rates and charges shall file and serve verified statements, complaints, and protests,[2] as provided below, on or before September 14, 1976.

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission and will be considered as submitted in evidence along with the verified statements of the respondents, as a basis for a decision by the Commission on the merits. Any submission on asserted environmental impact shall be set forth under an appropriate subheading in order to identify properly such subject matter.

(b) Verified statements may include arguments in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served. Request for oral argument, if any, will be disposed of by further order of the Commission.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 50 and Form No. 6 of the Commission's General Rules of Practice (See 49 CFR 1100.50 and Appendix B, Form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 24 copies of each such document for the use of the Commission shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon showing of good cause.

One copy shall be served upon the representative of the petitioning railroads, Harry L. DeLung, Jr., Esq., 527 American Railroads Building, 1920 "L" Street, N.W., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 25 copies upon the railroads' representative.

In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided, and verified statements not so served will not be considered.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

It is further ordered, That on or before September 20, 1976, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings seeking suspension, and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulation published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. Such statements shall, however, be furnished to other interested parties upon request.

It is further ordered, That the request for fourth-section relief will be considered following the filing of protests and statements in opposition and replies thereto;

And it is further ordered, That in all other respects the petition be, and it is hereby, denied.

SPECIAL PERMISSION No. 77-600

It is ordered, for good cause shown:

1. All railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, be, and they are hereby, except as otherwise provided herein, authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than September 27, 1976, nor later than November 1, 1976, providing for increased rates and charges as set forth in the petition:

(a) By publishing and filing a master tariff of increased rates and charges, and supplements thereto, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with ____ percent interest.[3]

In the event any increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with ____ percent increase.[3]

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the effective date, which may not be extended or cancelled except upon specific authorization of this Commission, and all relief herein expires with that date. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

(b) By publication and filing of a connecting link suplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs), provided each copy officialy filed is hand marked in the appropriate places as to the supplement number and the I.C.C. number of the tariff it supplements.

(c) The master tariff and connecting link supplements issued and filed hereunder shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) The provisions of connecting link supplements that apply in connection with the master tariff authorized may be brought forward, upon statutory notice, as numbered items, replacing the maintenance of separate connecting link supplements, subject to the restriction in (c) above.

(e) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) herein.

[1] In the event the tariff is not filed prior to August 29, 1976, the due date specified for filing of protests and verified statements will be extended to a date 13 days prior to the effective date. Replies will be due 6 days thereafter.

[2] Section 202 of the Railroad Revitalization and Regulatory Reform Act of 1976 specifically requires the filing of verified complaints seeking suspension of proposed rate changes.

[3] The interest rate in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 202 of the Railroad Revitalization and Regulatory Reform Act of 1976.

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(f) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended and all other tariffs and amendments to tariffs, that employ the short-form methods authorized herein shall bear the notation:

Form of publication authorized, I.C.C. permission No. 77–600.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading:

Publication made in accordance with I.C.C. permission No. 77–600.

3. Connecting-link supplements authorized herein shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed hereunder shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (49 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288, 336, and Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 188. The rate increase table on grain shall progress in one-half cent increments.

It is further ordered, That future orders and notices of the Commission in this proceeding will be sent only to those participating as herein provided, and those interested persons who specifically request to be included on the service list.

And it is further ordered, That notice of this order be given by serving a copy thereof on each party to the proceeding in Ex Parte No. 318, to the Governor and public utilitiy regulatory body of each State, the Environmental Protection Agency, the Special Assitant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

By the Commission (Commissioners Murphy, Hardin, and O'Neal did not participate).

H. GORDON HOMME, JR.,
Acting Secretary.

[FR Doc.76–25363 Filed 8–27–76;8:45 am]

[Notice No. 111]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 25, 1976.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2368 (Sub-No. 57TA), filed August 18, 1976. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils, animal oil products, by-products and blends*, in bulk, in tank vehicles, between Portsmouth, Va., on the one hand, and, on the other, points in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia and the District of Columbia, for 180 days. Supporting shipper: Crowder M. Epps, Traffic Manager, Murro Chemical Co., Inc., 910 Benjamin Fox Pavilion, Jenkintown, Pa. 19046. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 16903 (Sub-No. 43TA), filed August 16, 1976. Applicant: MOON FREIGHT LINES, INC., 120 W. Grimes, P.O. Box 1275, Bloomington, Ind. 47401. Applicant's representative: Donald W. Smith, Suite 2465—One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from the sawmill facilities of Empire Wocd Company, in Martin and Monroe Counties, Ind., to Hawesville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Empire Wood Company, R. R. 1, Williams, Ind. Send protests to: Fran Sterling, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, Room 429, 46 East Ohio St., Indianapolis, Ind. 46204.

No. MC 30887 (Sub-No. 226TA), filed August 18, 1976. Applicant: SHIPLEY TRANSFER, INC., 1550 E. Patapsco Ave., P.O. Box 3483, Baltimore, Md. 21225. Applicant's representative: William B. Eckels (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid natural latex*, in bulk, in tank vehicles, from Baltimore, Md., to Kingstree, S.C., for 180 days. Supporting shipper: C. C. Harless, Manager, Traffic Service, The Goodyear Tire & Rubber Company, 1144 E. Market St., Akron, Ohio 44316. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 71902 (Sub-No. 84TA), filed August 18, 1976. Applicant: UNITED TRANSPORTS, INC., 4900 N. Santa Fe, P.O. Box 18547, Oklahoma City, Okla. 73118. Applicant's representative: John R. Sims, Jr., 915 Penn Bldg., 425–13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New motor vehicles*, in initial movements, in truckaway service, from the plantsite or facilities of the Chrysler Corporation, at or near Belvidere, Ill., to points in Kansas and Kansas City, Mo., Commercial Zone, for 180 days. Supporting shipper: Chrsyler Corporation, P.O. Box 1976, Detroit, Mich. 48231. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 83539 (Sub-No. 437TA), filed August 18, 1976. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products and millwork*, from the plantsite and facilities of Willamette Industries, Inc., and Brooks-Willamette Corp., at Sweet Home, Foster, Lebanon, Griggs, Springfield, Albany, Millersburg, Dallas, Wilsonville, Redmond and Bend, Oreg., to points in North Dakota, South Dakota, Minnesota, Nebraska, Michigan, Illinois, Indiana and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Willamette Industries, Inc., P.O. Box 907, Albany, Oreg. 97321. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 98000 (Sub-No. 2TA), filed August 18, 1976. Applicant: HUNTER'S DELIVERY, INC., 500 Michigan Ave., Buffalo, N.Y. 14203. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to individual articles not exceeding 100 lbs. in weight, moving as shipments not exceeding 500 lbs. in weight from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders, between points in (1) Niagara Erie, Chautauqua, Orleans, Genesee, Wyoming, Cattaraugus, Monroe, Livingston, Alleghany, Wayne, Ontario, Steuben, Cayuga, Seneca, Yates, Schuyler, Chemung, Oswego, Onodaga, Cortland, Tompkins, Tioga and Broome Counties, N.Y.; (2) Erie, Crawford, Mercer and Venango Counties, Pa.; and (3) Geauga, Ashtabula, Trumbull, Portage, Mahoning, Cuyhoga and Lake Counties, Ohio, for 180 days. Supporting shipper: American Delivery Systems, Inc., 300 E. Seven Mile Road, Detroit, Mich. 48203. Send protests to: George M. Parker, District Supervisor, 910 Federal Office Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 106674 (Sub-No. 205TA), filed August 16, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Standard wheat Middlings*, from Indianapolis, Ind., to points in Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Acme-Evans Company, Division of General Grain, Inc., 902 West Washington Ave., Indianapolis, Ind. 46204. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107515 (Sub-No. 1020TA), filed August 18, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corporation, at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at the named origin points and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraftco Corp., 500 Peshtigo Ct., Chicago, Ill. 60609. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 109821 (Sub-No. 48TA), filed August 19, 1976. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main St., Wellsboro, Pa. 16901. Applicant's representative: Dewey Whiteford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel cans and tin cans and parts thereof*, from the facilities of the Borden Co., in Lyons, N.Y., to Allentown, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden, Inc., Can Operations, Borden Foods Division, Lyons, N.Y. 14489. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 113666 (Sub-No. 108TA), filed August 18, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry acrylic resin*, from ports of entry on the International Boundary line between the United States and Canada, located in New York and Michigan, to Buffalo, N.Y.; Sheffield, Mass.; Anderson, Ind.; Perkasie, Pa.; Edison and Linden, N.J.; Chicago and Franklin Park, Ill.; Saline, Mich.; Addison, Tex.; and Sandusky, Columbus and Xenia, Ohio, for 180 days. Supporting shipper: CY/RO Industries, a partnership of Cyanamid Plastics and Rohacryl, Inc., Berdan Ave., Wayne, N.J. 70470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 211 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 117119 (Sub-No. 592TA), filed August 17, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit drinks*, chilled, not frozen, in paper inner cartons, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from Anaheim, Calif., to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, Tex. 77001. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119118 (Sub-No. 52TA), filed August 16, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, R.D. No. 4, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and empty used malt beverage containers*, on return from Baltimore, Md., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carling National Breweries, Inc., 3730 Dillon St., Baltimore, Md. 21224. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Fedrael Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 119118 (Sub-No. 53TA), filed August 16, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, R.D. No. 4, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and empty used malt beverage containers*, on return from Rochester, N.Y., to Hainesport, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trentacoste Brothers, Inc., P.O. Box 268, Hainesport, N.J. 08036. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 123407 (Sub-No. 323TA), filed August 18, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, and millwork* (except commodities in bulk), from the facilities of Williamette Industries, at Dallas, Millersburg, Albany, Lebanon, Foster, Sweet Home and Springfield, Oreg., and the facilities of Brooks-Williamette Corporation, at Bend, Redmond and Wilsonville, Oreg., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Williamette Industries, Inc., P.O. Box 907, Albany, Oreg. 97321. Send protests to: J. H. Gray, District Supervisor, Interstate

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Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 128841 (Sub-No. 12TA), filed August 18, 1976. Applicant: MUR-GAIL, INC., 301 North Fifth St., Minneapolis, Minn. 55403. Applicant's representative: Samuel Rubenstein (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, (1) from Minneapolis, Minn., to points in Arkansas, Colorado, Minnesota, Montana, Oklahoma, Texas and Wyoming; and (2) from Omaha, Nebr., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming, under a continuing contract with Northern Printing Ink Corp., for 180 days. Supporting shipper: Northern Printing Ink Corp., 8360 10th Ave., North, Minneapolis, Minn. 55427. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133424 (Sub-No. 5TA), filed August 18, 1976. Applicant: AARON COPE, doing business as AARON COPE TRUCKING CO., P.O. Box 429, Old Morrison Road, McMinnville, Tenn. 37110. Applicant's representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, (1) from Chattooga County, Ga., to Henegar, Jamestown and Leesburg, Ala., and their commercial zones; and (2) from Henegar, Ala., to Jamestown and Leesburg, Ala., and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lookout Mountain Coal Company, Box 703, Franklin, Tenn. 37064. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 136315 (Sub-No. 10TA), filed August 16, 1976. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, piling, pallets, timbers and cross-ties*, treated and untreated, from points in Mississippi, to points in Kansas, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 142287 (Sub-No. 1TA), filed August 18, 1976. Applicant: TOM YOUNKIN, doing business as TOM YOUNKIN, INC., 821 Sandusky St., Ashland, Ohio 44805. Applicant's representative: Tom Younkin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex and liquid plastic* (except in bulk, in tank vehicles), between Ashland, Ohio on the one hand, and, on the other, Dalton, Ga.; Wichita, Kans.; St. Louis, Mo.; Trenton, N.J.; points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan (lower Peninsula), New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia and Wisconsin, under a continuing contract with General Latex & Chemical Corporation of Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: General Latex & Chemical Corporation of Ohio, Cleveland Road, Ashland, Ohio 44805. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 142321 (Sub-No. 1TA), filed August 12, 1976. Applicant: WESTSIDE TRUCKING, INC., 1508 Coalinga St., P.O. Box 864, Coalinga, Calif. 93210. Applicant's representative: Lowell E. Baker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos, shorts or waste*, from minesite of Atlas Asbestos Co., located approximately 32 miles northwest of Coalinga, Calif., and Coalinga, Calif., to points in Coalinga, Fresno, Hanford, Port of Stockton, Alameda, Oakland, Richmond, San Francisco, Long Beach, San Pedro, Terminal Island and Wilmington, Calif., under a continuing contract with Wheeler Properties, Inc., d/b/a Atlas Asbestos Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Wheller Properties, Inc., d/b/a Atlas Asbestos Co., S. 6th and West Gleen Ave., Coalinga, Calif. 93210. Send protests to: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 142353TA, filed August 16, 1976. Applicant: ADAMS SAND CO., INC., Highway 90, General Delivery, Mossy Head, Fla. 32434. Applicant's representative: Edward Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *High calcium lime and dolomite;* and (2) *Fertilizer;* (1) from Marianna and Mossy Head, Fla., to points in Alabama and Georgia; and (2) from Bottomdale and Pensacola, Fla., to points in Alabama and Georgia, for 180 days. Supporting shippers: Green Valley Lime Co., Inc., P.O. Box 1505, Marianna, Fla. 32446. Adams Sand Co., Inc., General Delivery, Mossy Head, Fla. 32434. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142354TA, filed August 18. 1976. Applicant: ALL-WAYS TRUCKING CO., INC., 7737 Hampton Blvd., Norfolk, Va. 23505. Applicant's representative: Henry U. Snavely, 410 Pine St., Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, in containers having a subsequent movement by water, from the facilities of the Hoerner Waldorf Corporation, at Roanoke Rapids, N.C., to Norfolk, Va., and (2) *Empty containers*, from Norfolk, Va., to the facilities of the Hoerner Waldorf Corporation, at Roanoke Rapids, N.C., under a continuing contract with the Hoerner Waldorf Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoerner Waldorf Corporation, Alonzo R. Harris, Mill Division, Plant Transportation Supervisor, P.O. Box 580, Roanoke Rapids, N.C. 27870. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

By the Commission.

GORDON H. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25362 Filed 8-27-76;8:45 am]

[Notice No. 21]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 30, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC–FC–76708. By application filed August 16, 1976, EAST COAST TRUCKING, INC., 90 Rentell Road, Hamden, CT 06514, seeks temporary authority to transfer the operating rights of PITTSFIELD FREIGHT LINES, INC., P.O. Box 824, Stockbridge, MA 01262, under Section 210a(b). The transfer to EAST COAST TRUCKING, INC., of the operating rights of PITTSFIELD FREIGHT LINES, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25364 Filed 8-27-76;8:45 am]

federal register

MONDAY, AUGUST 30, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

DEVELOPMENTAL DISABILITIES PROGRAM

Proposed Policies and Procedures Regarding Grants to States, Nonprofit Agencies, Organizations, Colleges and Universities

V 41 169 AUG 30 76 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

[45 CFR Parts 1385, 1386, 1387]

DEVELOPMENTAL DISABILITIES PROGRAM

Proposed Policies and Procedures Regarding Grants to States, Nonprofit Agencies, Organizations, Colleges and Universities

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Assistant Secretary for Human Development with the approval of the Secretary of Health, Education, and Welfare.

The purpose of the proposed regulations is to implement provisions of the Developmental Disabilities Services and Facilities Construction Act of 1970 (Pub. L. 91-517), as amended by the Developmentally Disabled Assistance and Bill of Rights Act of 1975 (Pub. L. 94-103), hereafter referred to as "the Act." The program is administered by the Developmental Disabilities Office, Office of Human Development.

The new Act is designed to assist States to develop a comprehensive plan which will bring together all available resources so that the developmentally disabled may be served in the most effective, efficient way. The new Act does not provide for separate funds to meet all the needs of the target population; rather it establishes the means for accessing the systems already in use for the general population and encourages special adaptations of these generic services. Funds are to be used to fill gaps in existing generic services and to expand the reach of existing services to new groups of individuals.

Other provisions include establishment of the State planning council as the means for accessing and coordinating generic services, for identifying gaps in services, and for planning ways of filling the gaps. State planning council requirements include supervision of the development of the State plan; approval, mointoring, and evaluation of the implementation of the plan; review, to the extent possible, of all plans in the State which relate to programs affecting persons with development disabilities; and submission of regular reports on its activities. The State planning council is required to serve as an advocate for persons with developmental disabilities. The Act calls for the State plan to designate one or more State agencies to administer the State plan.

The Act adds a new program of special projects and a new formula grant program for the protection and advocacy of *individual* rights of the developmentally disabled. Other changes brought about by the new Act include a broadened definition of developmental disabilities; increased emphasis on deinstitutionalization of the developmentally disabled by alternative community placement, where possible, and improvement of institutional services; establishment of a State data base and ongoing evaluation activities; increase in the program focus on urban and rural areas of poverty; and establishment and protection of the rights of persons with developmental disabilities (section 113 of the Act), including implementation of individualized habilitation plans and advocacy of individual rights.

Regulations for the new programs and concepts are herewith included. These regulations have been divided into separate Parts to make clear to the general public which specific regulations apply to the different programs administered by the Developmental Disabilities Office, and include a general part to make it easier for the public to locate those regulatory provisions which apply to all or almost all of the different program areas.

The principal purpose of these regulations is to ensure the continued targeting of funds and resources to developmentally disabled individuals through a national, State, and local partnership. To this end, the goal of the program is to enable States to increase the provision of quality services to persons with developmental disabilities through the designs and implementation of a comprehensive and continuing State plan which makes optimal use of Federal, State, local, and private resources, and assures the rights and dignity of all those being served.

A second, but not secondary, purpose is to specify the rights of the developmentally disabled: That developmentally disabled persons have the right to appropriate treatment, services, and habilitation; that programs should be designed to maximize the developmental potential of the person; and that the Federal Government and the States have an obligation to assure that public funds are not provided in programs which do not deliver appropriate treatment, services, and habilitation or do not meet appropriate minimum standards as specified in the Act.

Certain sections of the Act are not included in these proposed regulations. These parts of the Act direct the Secretary to carry out certain activities which are general and administrative in character and do not directly or immediately affect grantees. Accordingly, regulations are not developed for the amendments which revise the components and functions of the National Advisory Council on Services and Facilities for the Developmentally Disabled, hereafter referred to as the National Advisory Council; the conduct of special studies required by the Act, which will be guided by the general policies and procedures governing such activities, modified, as necessary, by the specific requirements of the law; and the administrative aspects of the special projects authority for projects of national significance. Additional information will be published in the FEDERAL REGISTER from time to time as necessary.

It should be noted that the regulations for formula grants to States and grants to university affiliated facilities are removed from Chapter IV of Title 45 of the Code of Federal Regulations and are relocated in Chapter XIII, which covers all programs administered by the Office of Human Development within the Department of Health, Education, and Welfare.

PART 1385—GENERAL

The purpose of this general part of the regulations is to bring together in one place those provisions which are applicable to the other parts of the regulations. The basis for this is the Department's belief that this will make it easier for members of the public to locate such provisions, and that it will avoid unnecessary duplication which would occur if each of the provisions of general applicability had to be repeated in the other parts of the proposed regulations.

This part sets forth the policies and procedures which apply to all of the subsequent parts, such as definition of terms, grant procedures, and other administrative concerns. Part 1385 essentially follows standard Federal policies and procedures, except where specific differences, such as assurances regarding an evaluation system, are required by the Act.

Section 1385.1 of these regulations is aimed at stating the Department's view of the purposes of the Act and is based on the Department's belief that such an expression clearly sets the ground rules and the context for the rest of the regulations.

Section 1385.2 contains definitions of terms applicable to all of the other parts of the regulations.

Section 1385.3 incorporates the provisions of 45 CFR Part 74 and is based upon the Department's belief that it is advantageous to all concerned to follow uniform administrative requirements and cost principles to avoid or minimize mistakes and misinterpretations of administrative provisions since States are generally familiar with Part 74 requirements.

Sections 1385.4, 1385.5 and 1385.6 incorporate into the regulations provisions contained in the statute itself. The Department believes that these provisions (judicial review, State control of operations, and employment of handicapped individuals) are mandatory and that it is helpful, from the standpoint of clarity, to restate these requirements in the regulations.

Sections 1385.7, 1385.8, 1385.9, and 1385.10 also incorporate provisions contained in the statute. The purpose of restating these requirements (recovery, good cause for other use of facility, cooperative or joint effort between States and agencies, and awards) is to avoid any possibility of oversight by the public about these requirements. The basis of these regulations is the belief that they will help alert public and private agencies and members of the public to the existence of these requirements.

Lastly, § 1385.11, concerning assurances regarding evaluation systems, is also for the purpose of incorporating in the regulations an express, statutory provision. The Department believes it is advisable to make clear that compliance with the requirement for the development of an evaluation system is a condition for the receipt of Federal financial assistance under the other parts of the regulations. The purpose of this regulation is to make that point absolutely clear. The Department believes that any condition of Federal financial participation or assistance should be expressly stated in regulations.

PART 1386—FORMULA GRANT PROGRAMS

The purpose of this part of the proposed regulations is to govern the conduct of the Formula Grant Programs and to take cognizance of and implement the changes brought about by the 1975 amendments. Part 1386 is divided into four basic Subparts as described below.

The general provisions of Subpart A, pertaining to State plans, consist of §§ 1386.1 through 1386.4. These regulations are designed to implement the requirements of section 133 of the Act pertaining to State plans, and to define further what that provision requires. The Department believes that these regulations give the greatest assurance that States will, in fact, submit approvable State plans prior to the beginning of the fiscal year, and that the Department will have adequate time to review such submissions properly.

In addition, the Department believes it necessary to make it clear to all States that submission of a State plan at the beginning of a fiscal year is a requirement for Federal financial participation, and that failure actually to submit such a plan will result in the loss of Federal funds for that period of time during which there is no approved State plan in effect.

It is the Department's belief that it is the intention of Congress that the State plan be a viable management tool that reflects the State planning process and the rationale through which expressed needs, priorities, and resource allocations are determined so as to provide the basis for the expenditure of funds under the program. Performance standards, to be issued by the Secretary, will provide criteria for evaluation and approval of the State plan. They may also be used as a tool by the State planning council to develop the State plan.

The Department further believes that Congress has intended that money be paid to States only pursuant to an approved State plan. In the past, some States have failed to submit their plans in a timely manner and this has resulted in a decreased ability on the part of the Department to assure that funds are, in fact, properly paid and properly utilized. Thus, § 1386.2 requires States to submit proposed plans 60 days prior to the fiscal year to which the plan applies. This time period was selected because of the Department's experience that such a time period would be reasonable to allow for review of proposed State plans.

Furthermore, to ensure that States comply with these requirements, this regulation is designed to make it clear that no Federal financial participation will be provided to a State for any period of time during a fiscal year in which an approved State plan is not in effect. The purpose of this regulation is to encourage States to do advance planning, and it is based on the Department's belief that such an approach is necessary to ensure compliance with the statutory requirement for an annual State plan. This position represents a departure from past practice and is believed necessary because several States have, in the past, failed to submit approvable plans until a significant portion of the fiscal year had elapsed.

This subpart also effectuates the amendments to the basic formula grant program which had been in operation for five years and details the requirements which a State must meet in its State plan to participate in the program. These proposed regulations are based on the Department's belief that they best implement key Congressional policies associated with the formula grant programs.

For example, based upon the legislative history, the Department believes that Congress wished to highlight the crucial advocacy role and strengthen the supervisory, planning, and monitoring functions of the State planning councils to meet increased responsibilities effectuated by the 1975 amendments, leaving the actual day-to-day administration of the programs to the designated State agencies. The Department also believes that the regulations in Subpart A accomplish that goal.

The next section under Subpart A is concerned with allotments, Federal share, and payments of Federal money to the States. These provisions, which encompass §§ 1386.10 through 1386.17, essentially are designed to implement various statutory provisions and do not constitute any major innovations brought about by the statute or by interpretations of the statutory provisions. However, particular attention is directed to proposed § 1386.10(b) which defines the need factor referred to in section 132(a) of the Act. The Act itself refers to allotments being made to States on the basis of the population, the extent of need for services and facilities for persons with developmental disabilities, and the financial needs of the respective States. The statute, however, does not define what is meant by "need" and the purpose of this regulation is to do so. It is based upon the advice of the National Advisory Council and represents what the Department believes to be the best approach available at this time based upon information and comments currently before the Agency.

For the first year of the program, the measure of need adopted was the incidence of developmental disability as reflected by the proportion of the population in the State under age 18. This age was substituted for the age 21 factor used in the former mental retardation program formula, because it corresponds to the age criterion in the definition of developmental disabilities in the Act. The data for measuring need utilized after the first year came from the Social Security Disability Applicant Statistics published by the Social Security Administration and updated periodically. The actual data selected are the number of beneficiaries in the State under the Adult Disabled Child Program as an index of relative need of the State for services and facilities for the developmentally disabled. It is the Department's belief that these data are the best that are available. Suggesions for alternative need data, or for definition of need to determine the extent of need for services and facilties for persons with developmental disabilities for State allocation purposes, are solicited during the comment period.

Further attention is directed to proposed § 1386.14 which relates to nonduplication of funds and which implements section 136 of the Act. This provision differs from preceding provisions due to a change in the law which no longer permits the use of Federal funds for matching even though other Federal legislation allows it:

> In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 133, there shall be disregarded (1) any portion under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

This will bring about a change in past Department practice, and funds which had been used in the past for matching will, in some cases, no longer be able to be used in such a manner. An example would be funds provided under the Appalachian Regional Development Act. All questions arising under this regulation will, absent an express reference to this Act in subsequent Federal legislation, be referred to the Department's Office of General Counsel for opinion and/or interpretation.

It should be noted that § 1386.17(a), "Standards for services for persons with developmental disabilities," will be published in the FEDERAL REGISTER upon completion of a special study mandated by the Act.

The next subdivision of Subpart A relates to "State Plan Requirements—Methods of Administration," and includes §§ 1386.20 through 1386.31. These regulations are based on the Department's belief that carrying out the purposes of the Act in this area is best accomplished by incorporating in the regulations the requirements and provisions of the Act, clarifying exactly what the Act requires, and, in the case of § 1386.24, specifying the reports which the Secretary deems necessary in this area for purposes of assuring proper operation of the State plan.

The regulations pertaining to personnel administration, special assistance to poverty areas. use of volunteers, protection of employees' interests, etc., are based strictly on the statute and upon the Department's belief that these essentially straightforward provisions allow the greatest flexibility in carrying out technical matters.

V 41 169 AUG 30 76 UMI

The purpose of § 1386.23 is to restate the statutory requirement that the State plan provide that special financial and technical assistance be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas. The Joint Conference Report No. 94–473 (page 28) notes that Congressional intent is that these regulations define the poverty areas in the manner required by the National Health Planning and Resources Development Act (Pub. L. 93–641.) Regulations implementing this latter Act have not yet been issued by the Department, and under that Act, until the areas can be determined for the entire country, it cannot be determined on a State-by-State basis. Accordingly, in the interim, until regulations are issued for Pub. L. 93–641, the Department in only requiring that State plans provide for this special financial and technical assistance to areas of urban or rural poverty.

This provides States the maximum flexibility possible until such time as Pub. L. 93–641 regulations are issued. When they are issued, such changes as may be necessary to these regulations will be announced through standard FEDERAL REGISTER procedures. It was deemed advisable not to attempt to spell out in § 1386.24 all of the reports that the Department would or might require, but rather to leave such additional detail to subsequent instructions from the Department.

Sections 1386.28 through 1386.31 incorporate substantive aspects required in the statute for a State plan: Membership of the State planning council, identification of State council staff, review of all other State plans, and systematic review of the State plan. The purpose of these regulations is to emphasize that State planning councils, the core planning authority in the State essential to the maximum effective utilization of available existing and potential resources, can best function when adequately staffed and in an environment of coordination and mutual cooperation with all State agencies concerned with planning or implementation processes related to the program. The basis for these regulations is the Department's belief that the Act is designed so that the State planning council can have the capacity for getting cross-agency cooperation in carrying out its duties.

The Department further believes that this requires that the State planning council and State agency(ies) complement each other's functions through effective working relationships. These regulations restate the statutory requirements to make it clear that planning council members and staff are required to review their own and other State plans, and that such analysis, as a component of a systematic planning process, contributes information on needs, actual and potential resources, and to the development of short-term objectives to meet long-term goals. It also contributes to the development of council insight into the best methods to effect cross-agency coordination to develop a reliable system of services for the developmentally disabled persons in the State.

The next major area of concern relates to the provision of services and construction of facilities and consists of the proposed regulations found in §§ 1386.40 through 1386.49. The purpose of this subdivision of Subpart A is to insure that, through the description of clearly defined long-range goals and measurable short-term objectives, with primary consideration given to implementing the goals of the Act (deinstitutionalization of the developmentally disabled, early identification of those needing assistance, and provision of protective services, advocacy, and follow-along services) allocations of funds can be based on State priorities. At the heart of these provisions are the regulations at §§ 1386.42 through 1386.45.

The Department believes that detailed requirements are advisable in § 1386.46, dealing with the quality, extent, and scope of services, based upon the assumption that knowledge of such requirements will compel careful consideration of the types of services and assistance being provided to the developmentally disabled.

Similar reasoning relates to § 1386.47, dealing with habilitation plans which are required by the statute. In order to eliminate or reduce the possibility of confusion as to what is meant by a habilitation plan, it was deemed advisable to incorporate the statutory details in the regulations in order to give the greatest guidance with respect to this requirement.

Section 1386.48, dealing with the program for construction of facilities, is designed to set forth the purposes for which such construction programs are proper, and to require assessment of relative need and assignment of priority in order of relative need. It is the Department's belief that such a requirement will help to ensure planning for the best use of limited funds.

The last regulation in this group is § 1386.49 which, consistent with the statute, requires States to afford opportunities for appeal and hearing to applicants for construction projects who are dissatisfied with any action of the State with respect to an application for such a project.

The last subdivision of this subpart, § 1386.50, deals with the design for the implementation of the State plan. This provision is based on section 133(b)(25) of the Act. The purpose of the regulation is to set forth the Department's view as to what must be included in a design for implementation of the State plan in order for it to meet statutory requirements through the selection of the best methodology to achieve the goals and objectives developed by the State planning council. The Department believes that this regulation accomplishes the purpose of informing the States of the essential elements of a valid design, especially the review of alternative strategies, without denying them the flexibility to tailor such a design for implementing the State plan to their specific needs.

Subpart B relates to State planning councils. Proposed §§ 1386.60 through 1386.63 are designed to implement section 137 of the Act which sets forth the duties and responsibilities of State planning councils. These provisions, especially those found in §§ 1386.60 and 1386.63, are based on the Department's belief that the 1975 amendments (Pub. L. 94–103) broadened the responsibility of State planning councils in advocacy, planning, and evaluation. These regulatory provisions provide the statutory specificity regarding the role of the State planning councils, membership, and duties of those councils.

The basis for specifying in § 1386.61(b) the Federal/ State program membership on State planning councils is section 133(b)(A) of the Act which requires that a State plan describe the quality, extent, and scope of services provided, or to be provided, under other State plans, but in any case to include the nine programs listed. It is the Department's belief that this requirement in the statute necessitates State council representation of at least these nine programs. The purpose of this regulation is to enable States to meet the statutory requirement to develop an approvable State plan. The Department further believes that this provision, which supports Congressional intent, allows for maximum flexibility in council membership since in many States one member could represent more than one of these program areas and since there is no restriction on the number of council members that may be appointed.

One of the purposes of the Department in promulgating § 1386.63 is to ensure that State planning councils supervise the development of State plans through the provision of guidance, the establishment of goals and objectives, identification of gaps, and the setting of priorities for the allocation of funds. The day-to-day implementation of the State plan is the responsibility of the State agency(ies) designated to administer it. The activities of these designated agencies will be monitored and evaluated through the methods established by the State councils to ensure that goals and objectives established in the State plan are being achieved.

Subpart C concerns the protection and advocacy of individual rights and consists of a single proposed regulation, § 1386.70. The purpose of this regulation is to implement section 113 of the Act by incorporating into the regulatory structure the statutory requirements. The regulation includes provisions for assurances that the States will have a system in effect by October 1, 1977, to protect and advocate the rights of individuals with developmental disabilities as specified in the statute, and that such a system will be independent of any State agency which provides treatment, services, or habilitation to such persons.

The regulation does not attempt to establish a single method of implementing the statutory provisions. It is the Department's belief that different approaches may be utilized in order to achieve the substantive goal of establishing an independent agency to pursue the rights of the developmentally disabled. The Department believes it desirable to give States flexibility in the development of such a system. However, guidelines which will assist in the development of an advocacy plan will be issued by the Department to insure that the statutory provisions of section 113 are implemented. This regulation imposes no restrictions on the choice of the agency to plan the system. Rigid restrictions, however, are placed on the agency to be selected or established to implement the system by the Act.

The basis for this is to avoid all possibility of conflict of interest because this system has been established in section 113 of the Act for the purpose of addressing problems of individuals. It is the Department's belief that the State council's advocacy role is to be carried out on behalf of the developmentally disabled population as a whole within a State, and that the basic principle underlying the establishment of the protection and advocacy system in each State is that individuals who are developmentally disabled need to be able to reach outside the system of services in order to assure that their rights are not violated or diminished.

The Act makes these findings respecting the rights of developmentally disabled persons:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) Does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) Does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) In the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 FR pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) In the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities are sanitary, and protect their rights; and

(C) In the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

Subpart D establishes the practice and procedure for hearings pertaining to State conformity with State plans for the developmentally disabled and with Federal requirements. These regulations are found in §§ 1386.80 through 1386.112. The purpose of these regulations is to create in advance of any hearing, regular procedures for the initiation of hearings, for the determination of the requisite notice and parties, and for the rules which will govern the conduct of the hearing itself and post-hearing actions of the parties and of the Presiding Officer and/or Director of the Developmental Disabilities Office.

The Department believes that these regulations, which are followed by other agencies within the Department, such as the Social and Rehabilitation Service and the Administration on Aging (the latter on an *ad hoc* basis), are fair to all the parties concerned and protect the interests of all potential parties with the least amount of delay and expense consistent with the protection of the rights of all concerned.

PART 1387—DISCRETIONARY GRANTS PROGRAM

Subpart A of proposed Part 1387 addresses university affiliated facilities and is divided into two subdivisions, "Demonstration and training grants" and "Construction programs." Sections 1387.1 through 1387.4 deal with demonstration and training grants. The essential purpose of these regulations is to incorporate the requirements of Part B, Subpart 1 of the Act, as amended. The Department believes that little material additional to that contained in the statute is required or desirable for the purpose of implementing this part of the Act. Section 1387.2 does detail what an application for a demonstration and a training grant must contain. The Department believes that this carries out the directive of section 122(a) of the Act which requires the Secretary to establish the form and manner of making an application and of the required contents of an application. Section 1387.4 is proposed for the purpose of implementing what the Department believes to be the Congressional purpose of section 122(b): Of giving priority to applications for programs which will provide services within a community rather than in an institutional setting. The Department believes that this Congressional purpose is best served by repetition of that priority in the regulations, even though the statutory provision just noted is clear.

Subpart 2 of Part B of the Act deals with construction programs and is implemented in §§ 1387.10 through 1387.14 of the proposed regulations. Section 1387.11 implements the statutory mandate found in section 126 of the Act, as amended, which directs the Secretary to establish the form and manner of submitting an application and the information which such an application must contain.

The purpose of the remaining regulations of this subdivision is to implement the statutory directives found in Subpart 2 of the Act. The Department bases these regulations on its belief that little change is necessary because the statute itself is clear with respect to assurances that are required and the purposes of the program. Section 1387.11, dealing with the form of the application, provides that it will be in such form and manner, and contain such information, as the Secretary may require. This is based upon the Department's belief that flexibility is required in the construction program. The applications will be expected to contain, as a minimum, however, the assurances regarding consistency with the State plan, State planning council review, construction standards, and other statutory requirements detailed in § 1387.12.

Subpart B of Part 1387 pertains to special project grants. The purpose of this Subpart, which consists of the regulations at §§ 1387.20 through 1387.23, is to incorporate into the regulations the statutory purposes for which such grants may be made as set forth in section 145(a) of the Act. These provisions are based upon the Departments' belief that the statute clearly sets forth what are acceptable purposes of special project grants.

Eligible applicants are described in § 1387.22 and are limited to public and other nonprofit agencies, organizations, and institutions. This definition is consistent with, and implements section 145(a) of the Act.

Section 1387.23 deals with the application content and the procedures for submitting applications. The purpose of this regulation is to make clear that the Secretary, through guidelines, has the authority to elaborate on the content and procedures. The reason for leaving this to guidelines is that, since this Subpart relates to specific applications for special projects, as opposed to Statewide

V 41 169 AUG 30 76 UMI

plans, greater diversity in permissible or required content is desirable; therefore criteria will be carefully developed. The Department believes that this can be accomplished more efficiently through guidelines than through the regulatory process, particularly since guidelines afford greater flexibility to both the Department and the applicant.

Paragraph (b), of § 1387.23 of this proposed regulation expressly requires a copy of any application for special project grant (other than projects of national significance) to be submitted to the State planning council for review and comment in order to ensure that the proposed project is consistent with the State plan goals and objectives and the comprehensive planning and monitoring responsibilities of the State planning council.

In summary, many of these proposed rulemaking provisions are restated from the Act. The Department has sought to provide States with maximum flexibility within the terms of the Act and to avoid imposing additional burdens beyond those required by the law. The detailed provisions concerning the content of State plans included in these proposed regulations are required by the statute itself.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Director, Developmental Disabilities Office, Department of Health, Education, and Welfare, 330 C Street, SW., Washington, D.C. 20201, on or before October 12, 1976. Comments received will be available for public inspection in Room 3070, Mary E. Switzer Building, of the Department's offices at 330 C Street, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202/245-0335).

(Catalog of Federal Domestic Assistance Program, Nos. 13.630 Developmental Disabilities—Basic Support; 13.631 Developmental Disabilities—Special Projects; 13.632 Developmental Disabilities—Demonstration and Training (University Affiliated Facilities)

Dated: June 21, 1976.

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development.

Approved: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

DEVELOPMENTAL DISABILITIES PROGRAM

PART 1385—GENERAL

Sec.

1385.1 Purpose of Act.
1385.2 Terms.
1385.3 Grants administrative requirements.
1385.4 Judicial review.
1385.5 State control of operations.
1385.6 Employment of handicapped individuals.
1385.7 Recovery.
1385.8 Good cause for other use of facility.
1385.9 Cooperative or joint effort between States and agencies.
1385.10 Awards.
1385.11 Assurances regarding evaluation system.

AUTHORITY: Pub. L. 91-517; Pub. L. 94-103.

§ 1385.1 Purpose of Act.

The purpose of the Act is to improve and coordinate the provision of services to persons with developmental disabilities and to establish a system for the protection and advocacy of rights for persons with developmental disabilities through:

(a) Grants to assist the States in developing and implementing a comprehensive and continuing plan for meeting the needs of the developmentally disabled;

(b) Support of activities which contribute to improving the condition of persons with developmental disabilities;

(c) Renovation and modernization of university affiliated facilities which demonstrate the provision of services for the developmentally disabled and support demonstration and training programs in institutions of higher education;

(d) Training specialized personnel needed for providing such services;

(e) Development of regional community programs for the developmentally disabled;

(f) Provision of technical assistance in the establishment of services and facilities for the developmentally disabled; and

(g) Development and demonstration of new and improved techniques for providing such services.

To these ends, Federal financial assistance is available through (1) basic support formula grants to States; (2) formula grants to States for effecting a system to protect and advocate the rights of developmentally disabled persons; (3) grants to university affiliated facilities and for satellite centers; and (4) grants to public and private nonprofit groups for demonstration projects and projects of national significance.

§ 1385.2 Terms.

(a) For purposes of Parts 1386 and 1387 of this chapter, the terms below are defined as follows:

(1) "Act" means the Developmental Disabilities Services and Facilities Construction Act, as amended by the Developmentally Disabled Assistance and Bill of Rights Act;

(2) "Construction" means (i) the construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, (ii) initial equipment for such buildings including medical and other transportation facilities, and (iii) architect's fees in connection with an approved project. Construction does not include the cost of offsite improvements or the cost of the acquisition of land;

(3) "Costs of administration and operation," for purposes of Part 1387 of this chapter, means those administrative and operating costs of university affiliated facilities which are necessary to support interdisciplinary training programs and demonstration facilities providing services to developmentally disabled persons. Eligible costs shall be specified in guidelines to be issued by the Secretary;

(4) "Cost of construction" means the amount found by the Secretary to be necessary for the construction of a project, approved under Parts 1386 and 1387 of this chapter;

(5) "Demonstration" means, for the purposes of Part 1387 of this chapter, (i) a pilot study or experimental attempt to provide more and better services than are available, for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in the developmental disabilities program; (ii) provision of a special type of service in order to test its value and to provide information on costs, methods of administration, methods of providing services, or techniques; or (iii) application in new settings of the results derived from previous research or practice for the purpose of determining the effectiveness of new procedures;

(6) "Developmental disability" means a disability of a person which (i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism; (ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or (iii) is attributable to dyslexia resulting from a disability described in paragraph (a) (i) or (ii); (iv) originates before such person attains age eighteen; (v) has continued or can be expected to continue indefinitely; and (vi) constitutes a substantial handicap to such person's ability to function normally in society;

(7) "Director" means the Director of the Developmental Disabilities Office, Office of Human Development.

(8) "Equipment," for the purposes of construction under Parts 1386 and 1387 of this Chapter, means those items which are necessary for the initial operation of the facility, but does not include supplies such as food, fuel, drugs, and paper;

(9) "Exemplary services" means those specialized services, including adaptation of generic services, for the diagnosis, treatment, education, training, habilitation, and care of persons with developmental disabilities, conducted in or in conjunction with a university affiliated facility (or satellite) for purposes of demonstration or training, which are of replicable high quality;

(10) "Facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities;

(11) "Interdisciplinary training" means an integrated educational program utilized reciprocally by two or more disciplines each of which is knowledgeable about or possesses, in relationship to common fields of endeavor, a basic language, a core body of knowledge, certain relevant skills, and an understanding of the attitudes, values, and methods of partcipating disciplines. Interdsciplinary training includes training with practicums which enhance the skills of the trainee in collaboration with or complementing the services rendered by members of other disciplines;

(12) "National Advisory Council" means the National Advisory Council on Services and Facilities for the Developmentally Disabled;

(13) "Nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations;

(14) "Population" as applied to any State means the population of that State as determined by the most recent official estimates by the U.S. Department of Commerce made available to the Secretary;

(15) "Project period" means the period of time, not exceeding three years, for which a project is approved for grant support with Federal funds. Such period may be extended by the Secretary beyond three years for a period not to exceed twelve months, and with or without additional funding, in order to permit continuation or completion of the same approved project. The approval and support of a project for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated, and approved on the same basis as a new or initial application in acordance with § 1387.22 of this chapter;

(16) "Projects of national significance" means projects (i) designed to have a direct impact on developmental disabilities programs throughout the country; or (ii) having an objective or objectives which if achieved could be replicated or result in an improved delivery system for developmental disabilities services or affect national policies or standards; or (iii) involving activities to be conducted in a number of sites in various parts of the country as part of a unified program;

(17) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing, including State institutions of higher education and hospitals, or any Indian tribal government;

(18) "Satellite center" means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities;

(19) "Secretary" means the Secretary of Health, Education, and Welfare, or a designee;

(20) "Services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability. Such services include: Diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with a developmental disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons of all ages with developmental disabilities;

(21) "State" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(22) "State agency(ies)" means the State agency or agencies designated in the State plan to administer or supervise the administration of all or designated portions of the State plan;

(23) "State agency for construction" means the sole State agency designated to administer or supervise the administration of grants for construction of facilities for the developmentally disabled under the State plan;

(24) "State plan" means the document or documents submitted by the State to comply with the requirements for participation under Parts 1386 and 1387 of this chapter;

(25) "State planning council" (referred to alternately as "State council" or "council") means that body, the members of which are appointed by the Governor, which is responsible for supervising the development of comprehensive planning for persons with developmental disabilities, monitoring of the plan, and evaluating its results, and which serves as an advocate for persons with developmental disabilities;

(26) "Substantial handicap" means a physical and mental disability of such severity that, alone or in connection with social, legal, or economic constraints, it requires the provision of specialized services over an extended period of time directed toward the individual's social, personal, physical, or economic habilitation or rehabilitation;

(27) "Technical assistance" means the furnishing of consultative, technical, and informational services to States, local or other public or private agencies, organizations, or individuals in matters pertaining to planning, provision of services, construction of facilities, and the organization and management of facilities and programs for developmentally disabled persons;

(28) "Title" (except when it refers to the Code of Federal Regulations) means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project;

(29) "University affiliated facility" means a public or other non-profit facility which is associated with, or is an integral of, a college or university, which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities, and which provides education and training (including interdisciplinary training) of personnel needed to render servces to persons with developmental disabilities;

(30) "Urban or rural poverty area" means a geographic area in which a percentage of the residents of the area have incomes below the poverty level as defined by the Secretary of Commerce;

(31) "Volunteer" means a person who provides a service on a non-paid basis, except for reimbursement of actual expenses, and who works in concert with other services toward shared objectives on an individual or group assignment.

§ 1385.3 Grants administrative requirements.

(a) The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles for grants to State and local governments, shall apply to all grants funded under Parts 1386 and 1387 of this chapter.

(b) Attention is called to the applicability, as cited therein, of the provisions of the following parts of Title 45 CFR to grants funded under Parts 1386 and 1387 of this chapter:

45 CFR Part 16—Department Grant Appeals Process
45 CFR Part 46—Protection of Human Subjects
45 CFR Part 75—Informal Grant Appeals Procedures, Subpart A—Indirect Cost Appeals
45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of Civil Rights Act of 1964
45 CFR Part 81—Practice and Procedure for Hearings under Part 80 of this Title.

(c) Each recipient of assistance under these Parts shall keep records (1) which fully disclose (i) the amount and disposition by such recipient of the proceeds of such assistance, (ii) the total cost of the project or undertaking in connection

V 41 169 AUG 30 76 UMI

with which such assistance is given or used, and (iii) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

§ 1385.4 Judicial review.

If any State is dissatisfied with the Secretary's action under § 1386.2 or § 1386.15 such State may appeal to the United States Court of Appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action, in accordance with 42 U.S.C. 2694.

§ 1385.5 State control of operations.

Except as otherwise specifically provided, nothing in Parts 1386 and 1387 of this chapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under these parts.

§ 1385.6 Employment of handicapped individuals.

As a condition for the receipt of financial assistance under Parts 1386 and 1387 of this chapter each recipient of such assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (a) by State rehabilitation agencies and rehabilitation facilities, and (b) under Federal contracts and subcontracts.

§ 1385.7 Recovery.

The State council shall promptly notify the Secretary in writing if, any time within 20 years after the completion of construction, any facility which received funds under Part 1386, Subpart A and Part 1387, Subpart A of this chapter is sold or transferred to any person, agency, or organization not qualified to file an application under the Act or not approved as a transferee by the State agency; or (b) ceases to be a public or other nonprofit facility for persons with developmental disabilities. Unless there is good cause, in conformance with § 1385.8, for releasing the applicant or other owner from obligation to continue such facility as a facility for developmentally disabled persons, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

§ 1385.8 Good cause for other use of facility.

If, within 20 years after completion of any construction for which a construction grant under the Act has been made, the facility shall cease to be a public or nonprofit facility for persons with developmental disabilities, the Secretary in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities, shall take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to use for another public purpose which will promote the purposes of the Act; or

(b) There are reasonable assurances that for the remainder of the 20 year period other facilities not previously utilized for the care of persons with developmental disabilities will be so utilized and are substantially equivalent in nature and extent for such purposes.

§ 1385.9 Cooperative or joint effort between States and agencies.

An application providing for participating in a joint effort between States or among public or private agencies, or by any combination of such entities, shall be in accordance with the agreements in writing between the entities involved.

§ 1385.10 Awards.

All awards under Parts 1386 and 1387 of this chapter shall be in writing and shall set forth the amount awarded. Awards under Part 1387 of this chapter shall also specify the project period for which support is contemplated.

(a) Federal financial participation shall be available under Parts 1386 and 1387 of this chapter only for those activities approved in the grant award and only in the total amount approved in the award.

(b) Under Part 1386, Subpart A of this chapter, Federal financial participation may be available in expenditures made under the State plan including expenditures for the State council and the administration of the State plan, in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local agencies. As a condition for Federal financial participation, the annual revision of the State plan and other required reports must be submitted by the State planning council and approved by the Secretary.

§ 1385.11 Assurances regarding evaluation system.

(a) Within six months after the development by the Secretary of an evaluation system in accordance with the Act, as a condition to the receipt of Federal financial assistance under Parts 1386 and 1387 of this chapter, each State shall submit to the Secretary a proposal for a time-phased method of implementing the system. Proposals shall be submitted in the form and at the time set forth in guidelines which will be issued by the Secretary.

(b) Within two years after the date of the development of such a system, each State shall provide assurances satisfactory to the Secretary that the State is using such a system.

PART 1386—FORMULA GRANT PROGRAMS

Subpart A—The State Plan

GENERAL

Sec.
1386.1 Purpose and assurances.
1386.2 Plan submission and approval.
1386.3 Designation of State agency(ies) for administration.
1386.4 Identification of administrative program unit.

ALLOTMENTS, FEDERAL SHARE, AND PAYMENTS

1386.10 Allotments to States.
1386.11 Reallotment of funds.
1386.12 Conditions on uses of allotments.
1386.13 Federal share.
1386.14 Nonduplication.
1386.15 Payments for planning, administration, services, and construction.
1386.16 Withholding of payments.
1386.17 Standards for services and construction of facilities.

STATE PLAN REQUIREMENTS—METHODS OF ADMINISTRATION

1386.20 Methods of administration.
1386.21 Personnel administration.
1386.22 Fiscal administration.
1386.23 Special financial and technical assistance to poverty areas.
1386.24 Reports.
1386.25 Methods of evaluation.
1386.26 Use of volunteers.
1386.27 Protection of employees' interests.
1386.28 Membership of State planning council.
1386.29 Identification of State planning council staff.
1386.30 Review of all other State plans.
1386.31 Review of State plan.

PROVISION OF SERVICES AND CONSTRUCTION OF FACILITIES

1386.40 Goals and objectives.
1386.41 Allocation of grant funds based on State priorities.
1386.42 Deinstitutionalization.
1386.43 Establishment of community program alternatives to institutionalization.
1386.44 Early screening, diagnosis, and evaluation.
1386.45 Counseling, program coordination, advocacy, follow-along, and protective services.
1386.46 Quality, extent, and scope of services being provided or to be provided.
1386.47 Habilitation plans.
1386.48 Program for construction of facilities.
1386.49 Opportunity for appeal and hearing.

DESIGN FOR IMPLEMENTATION

1386.50 Design for implementation of State plan.

Subpart B—State Planning Council

1386.60 Role of State planning council.
1386.61 Establishment of State planning council.
1386.62 Adequate staff.
1386.63 Duties of the State planning council.

Subpart C—Protection and Advocacy of Individual Rights

1386.70 State system for protection and advocacy of individual rights.

Subpart D—Practice and Procedure for Hearings to States on Conformity of Developmental Disabilities Plans to Federal Requirements

GENERAL

1386.80 Definitions.
1386.81 Scope of rules.
1386.82 Records to be public.
1386.83 Use of gender and number.
1386.84 Suspension of rules.
1386.85 Filing and service of papers.

PRELIMINARY MATTERS—NOTICE AND PARTIES

1386.90 Notice of hearing or opportunity for hearing.
1386.91 Time of hearing.
1386.92 Place.
1386.93 Issues at hearing.
1386.94 Request to participate in hearing.

HEARING PROCEDURES

1386.100 Who presides.
1386.101 Authority of presiding officer.
1386.102 Rights of parties.
1386.103 Discovery.
1386.104 Evidentiary purpose.
1386.105 Evidence.
1386.106 Exclusion from hearing for misconduct.
1386.107 Unsponsored written material.
1386.108 Official transcript.
1386.109 Record for decision.

POSTHEARING PROCEDURES, DECISIONS

1386.110 Posthearing briefs.
1386.111 Decisions following hearing.
1386.112 Effective date of decision by Secretary's delegate.

AUTHORITY: Pub. L. 91-517, Pub. L. 94-103.

Subpart A—The State Plan

GENERAL

§ 1386.1 Purpose and assurances.

(a) *General.* Any State wishing to take advantage of Federal financial assistance under this Subpart must have a State plan approved annually by the Secretary.

(b) *Form and content.* The State plan shall contain, in the form prescribed by the Secretary, a specific description of the State's program, the plans and policies to the followed in carrying out the program, a description of the planning process as developed by the State council and utilized in developing the program, and such other information as prescribed by the Secretary. Basic principles for the planning processes and suggested alternative models will be described in guidelines issued by the Secretary. The State plan shall consist of the following parts which shall be amended, reaffirmed, or updated annually as applicable:

(1) A part setting forth data necessary to comply with assurances required in the Act, and all regulations, policies, and procedures which shall be established by the Secretary;

(2) A part which describes the State goals, annual objectives to achieve the goals, priorities, evaluation methods, and the rationale for annual changes;

(3) A part containing measurable objectives and strategies (i) to reduce and eventually eliminate inappropriate institutional placement of people with developmental disabilities; and (ii) to improve the quality of care and state of surroundings of persons for whom institutional care is appropriate;

(4) A part containing a design for implementation of the plan as set forth in § 1386.50; and

(5) A part containing the following assurances: (i) Authority of the State agency(ies): The State plan shall certify that the State agency(ies) has authority to administer or supervise the administration of all or portions of the State plan, and that nothing in the State plan is inconsistent with State law;

(ii) Funds made available to other agencies: (A) Part of the funds paid to the State will be made available to other public agencies or other nonprofit private agencies, institutions, and organizations for the purposes of carrying out the Act; (B) Such funds shall be expended in accordance with State procedures and standards and in accordance with the requirements obtained in these regulations and policies established by the Secretary;

(iii) State participation in carrying out the State plan: That there will be reasonable State financial participation in the cost of carrying out the State plan. Reasonable State participation shall include evidence of the following: (A) That there is an organizational unit responsible for program administration; (B) That adequate staff is available for administration of the plan; and (C) That State appropriated funds will be used in part to support the activities included under the State plan;

(iv) Anticipated contribution toward strengthening services: That the funds paid to the State will be used to make significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State, in order to improve the quality, extent, and scope of services.

(v) Maintenance of effort: That funds paid the State under the State plan will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided, and not to supplant such non-Federal funds. Compliance with such assurance will be deemed to have been met if the aggregate level of State, local, and private non-profit funds available in the State for activities supported under the approved State plan is at least no lower for any fiscal year than it was for the immediately preceding fiscal year as reported in required financial reports, provided that the Secretary may also take into consideration the extent to which the level of such funds for any fiscal year may have included emergency or other funds for an activity of a non-recurring nature;

(vi) Human rights and welfare of individuals receiving services: That the human rights of all persons (especially those without familiar protection) receiving services under Parts 1386 and 1387 of this chapter will be protected;

(vii) Services for persons unable to pay: That a reasonable volume of services will be furnished to persons unable to pay therefor. As used in this section, "persons unable to pay therefor" includes persons who are otherwise self-supporting but are unable to pay the full cost of needed services. Such services may be paid for wholly or partly out of public funds or contributions of individuals and private and charitable organizations, or may be contributed at the expense of the provider of services itself. In determining what constitutes a reasonable volume of services to persons unable to pay therefor, there shall be considered the amount of services that may be available through generic agencies. The requirements may be waived if it is demonstrated to the satisfaction of the State agency, subject to subsequent approval by the Secretary, that to furnish such services is not feasible financially;

(viii) Financial support for facilities: That adequate financial support will be available to complete the construction of, and to maintain and operate the facility when such construction is completed. Compliance with this assurance may be made by a showing from the grantee that adequate funds are or will be on deposit in a bank, or that program income from services provided is or will be adequate, or that State and local funds will be made available for maintenance and operation upon completion of construction; (ix) Payment of construction workers: That all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with funds under this subpart and Subpart A, Part 1387 of this Chapter will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)"; and

(x) Compliance with assurance for habilitation plans for developmentally disabled persons: Each State receiving an allotment under this Subpart after September 30, 1976, shall satisfactorily assure the Secretary that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under this Subpart has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan and that such plans are reviewed annually.

(6) A part containing those requirements in §§ 1386.20 through 1386.49.

V 41 169 AUG 30 76 UMI

§ 1386.2 Plan submission and approval.

(a) The State plan (and its annual revisions) shall be submitted by the chairperson of the State council to the Secretary 60 days prior to the fiscal year for which the plan is applicable.

(b) Failure to submit an approvable plan or annual revision prior to the fiscal year for which the plan is applicable shall result in the loss of Federal financial participation in the cost of expenditures during the period of the fiscal year for which an approvable plan or annual or other revision has not been submitted.

(c) Any State plan, amendment, or revision meeting the requirements of the Act, this Subpart, and performance standards to be issued by the Secretary shall be approved.

(d) Final disapproval of any State plan or annual or other revision shall be determined by the Secretary; except that no State plan or any revision thereof shall be finally disapproved until after the State has been given reasonable notice and opportunity for a hearing in accordance with Subpart D of this part.

§ 1386.3 Designation of State agency(cies) for administration.

(a) The State plan shall name the designated State agency(ies) which shall administer all or designated portions of the State plan: provided, that a sole State agency is to be designated for administering or supervising the administration of grants for construction.

(b) If the State plan designates more than one State agency to administer the State plan, it shall set forth the portion of the program for which each State agency is responsible.

(c) The State may apportion its allotment among such agencies in proportion to the responsibilities assigned to such agencies for carrying out activities approved under the State plan. Funds so apportioned may be combined with other State or Federal funds authorized to be spent for other purposes of this part for which the funds are combined.

§ 1386.4 Identification of administrative program unit.

The State plan shall provide for and identify a program unit within the designated State administering agency, which has primary responsibility for proper and efficient administration of the State plan.

ALLOTMENTS, FEDERAL SHARE, AND PAYMENTS

§ 1386.10 Allotments to States.

The allotment to the several States shall be computed by the following formula:

(a) Two-thirds on the basis of total population weighted by financial need determined by the relative per capita income as shown by data supplied by the U.S. Department of Commerce for the three most recent consecutive years for which satisfactory data are available.

(b) One-third on the basis of a need factor based on the ratio of beneficiaries in the State receiving benefits under the Adult Disabled Child Program (section 202(d)(1)(B)(ii) of the Social Security Act) related to population of the State age 18–65 as bearing on the national total of such population weighted by the total population of the State.

(c) For the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, the allotment in any fiscal year beginning July 1, 1975, shall not be less than $50,000. The allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment received by the State for the fiscal year ending June 30, 1974.

(d) If the amount appropriated for State allotments for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

§ 1386.11 Reallotment of funds.

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as may be fixed (but not earlier than thirty days after notice has been published of the Secretary's intention to make such reallotment in the FEDERAL REGISTER), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

§ 1386.12 Conditions on uses of allotments.

(a) For the fiscal year ending June 30, 1976, not less than 10 per centum of each State's allotment shall be expended for the purpose of assisting in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities. For each succeeding fiscal year, 30 per centum of the State's allotment shall be used for these purposes.

(b) Designation of allotment for construction. The State plan shall specify the per centum of the State's allotment in any fiscal year which is to be devoted to construction of facilities. Such per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe.

(c) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State, the amount specified for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(d) Expenditures for proper and efficient administration of the State plan. (1) At the request of the designated State agency, a portion of the State's allotment shall be made available by the Secretary to pay not more than one-half of the expenditures described in this paragraph for proper and efficient administration of the approved State plan: *Provided*, That not more than 5 per centum or $50,000, whichever is less, shall be available for this purpose. (2) Payments under this section shall be made only on the condition that expenditures from State appropriations for administration of the State plan shall not be less than State expenditures for the fiscal year ending June 30, 1975. (3) Costs identified in the approved State plan as necessary for the administration of the program shall not include costs applicable to provision of services, planning or construction.

§ 1386.13 Federal share.

(a) Except as provided for in paragraph (b) of this section, the Federal share for a State may not exceed 75 per centum of the expenditures incurred by the State under the State plan.

(b) In the case of any project, program, or activity located in an area within a State determined by the Secretary to be an urban or rural poverty area, the Federal share may not exceed 90 per centum of the expenditures incurred by the State under the State plan.

(c) The non-Federal share of any project, program, or activity assisted by a grant under this Subpart may be provided in kind.

(d) For the purpose of determining the Federal share with respect to any activity, program, or project described in the State plan, expenditures on that activity, program, or project by a political subdivision of a State or by a nonprofit private entity shall be deemed to be expenditures by such State, subject to the condition that such expenditures may be included only when made by a political subdivision or nonprofit private agency, organization, or group to which the State agency has made available funds from Federal or State sources for carrying out

the approved State plan for the fiscal year.

§ 1386.14 Nonduplication.

In determining the amount of any State's Federal share of the expenditures incurred by it under its approved State plan, there shall be disregarded (a) any portion of such expenditures which are financed by Federal funds provided under any provision of the law other than this subpart, and (b) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds, except as otherwise provided by statute enacted subsequent to the effective date of Pub. L. 94–103, December 18, 1975.

§ 1386.15 Payments for planning, administration, services, and construction.

(a) From each State's allotment for a fiscal year under this subpart, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b)(1) Payments for construction projects shall be made upon certification by the designated State agency for construction that, based upon its inspection, work has been performed upon a project, or purchases have been made in accordance with plans and specifications approved by the State agency and payment of an installment is due. If the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant. Certification shall be submitted to the Secretary in such form and at such times as required. Final payment for a project shall be made only upon certification by the State agency authorized by State law and designated by the Governor to administer construction grants that appropriate, periodic, and final inspections have been made by appropriate authorities in the State and that all applicable construction standards and other applicable standards and codes have been met. (2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring withholding of payments (§ 1386.16) payment may be withheld in whole or in part, pending corrective action or action based on such hearing, after notice has been given to the designated State agency of opportunity for a hearing.

§ 1386.16 Withholding of payments.

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State council and the appropriate State agency(ies), finds that (1) there is a failure to comply substantially with any of the provisions required to be included in the State plan; (2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this Part, the Secretary shall notify such State council and agency(ies) that further payments will not be made to the State under this Subpart (or, in his discretion, that further payments will not be made to the State for activities in which there is such failure) until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment under this Subpart to the State or shall limit further payment under this subpart to such State to activities in which there is no such failure.

(b) The State council shall review the actions of the State for the purpose of determining if the State is complying with the requirements of the State plan and its design for implementation. For the purpose of assisting the Secretary in the implementation of this section, the State council shall notify the Secretary of the results of its review.

§ 1386.17 Standards for services and construction of facilities.

(a) Standards for services for persons with developmental disabilities. [Reserved].

(b) Standards for construction and equipment of facilities.

(1) *General.* (i) The standards set forth in this section shall apply to all projects receiving Federal assistance under Subpart A, Part 1386 and Subpart A, Part 1387 of this chapter for construction of new buildings, acquisition, modernization, expansion, remodeling, and alteration of existing buildings and initial equipment for such buildings.

(ii) The designated State agency for construction shall determine in writing the occupancy classification of the building under the Life Safety Code (National Fire Protection Association (NFPA) Bulletin No. 101) 1973 edition or such future revisions as may be approved by the Secretary, to ensure the capability of building occupants to respond in emergencies and for self-preservation.

(iii) The site location of any facility shall be community-based and comply with the National Environmental Policy Act, Pub. L. 91–190.

(2) *Design and construction of facilities.* (i) Project design and construction of facilities shall be done in accordance with one of the following model codes:

The Building Officials Conference of America—(BOCA).
The Uniform Building Code—(UBC).
The Southern Standard Building Code—(SSB).
The National Building Code—(NBC).

(ii) The codes listed below shall be used with respect to the following specific details:

Life safety: The National Fire Protection Association (NFPA), The Life Safety Code, Bulletin No. 101;
Air conditioning and ventilation systems: NFPA Standards, Nos. 90A or 90B;
Plumbing—National Standard Plumbing Code, (NAPHCC);
Electrical systems—National Electrical Code, NFPA Standard No. 70;
Elevators—American Standard Safety Code for Elevators, Dumbwaiters, and Escalators, ASA–A17 1960.

(3) *Special details.* (i) All doors to toilet rooms and bathrooms shall be equipped with hardware that will permit access in an emergency.

(ii) Hot water at the discharge spigot, faucet, or shower head where there is likelihood of direct skin contact (personal hygiene) shall not exceed 110 degrees Fahrenheit.

(iii) All paint and applied finishes used in furniture and furnishing shall be free of lead or other materials which may be harmful if ingested by humans, in accordance with Pub. L. 91–695, the Lead-Based Paint Poisoning Prevention Act;

(4) *Equipment.* Initial equipment of the kind and in the quantity necessary shall be provided for the complete functioning of the facility.

(5) *Architectural Barriers.* The building to be constructed, renovated, or modernized will comply with revised standards of the American National Standards Institute, Inc., adopted pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151–4156.

(6) *Hazards—Relocation.* The application, facility, and the operation thereof shall comply, as appropriate, with the following:

(i) Uniform Relocation Assistance Act— Pub. L. 91–646.
(ii) Historic Sites—Pub. L. 89–665.
(iii) Flood Insurance—Pub. L. 93–234.
(iv) Flood Hazards—Executive Order 11296.

STATE PLAN REQUIREMENTS—METHODS OF ADMINISTRATION

§ 1386.20 Methods of administration.

The State plan shall provide for such strategies, policies, and procedures as are necessary for the proper and efficient administration of the State plan. It shall include methods of informing the general public in the State of the kinds and locations of services and facilities which are available under the State plan, and that the State plan is available to interested parties in the State for their information.

§ 1386.21 Personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained (in the State agencies administering or supervising the administration of the program and in local agencies administering the program) in conformity with the standards for a Merit System of Personnel Administration, 45 CFR Part 70, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects

V 41 169 AUG 30 76 UMI

of personnel administration as specified in 45 CFR 70.4, Equal employment opportunity. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be made available for review upon request.

§ 1386.22 Fiscal administration.

The State plan shall provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this Subpart.

§ 1386.23 Special financial and technical assistance to poverty areas.

The State plan shall provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas.

§ 1386.24 Reports.

The State plan shall provide that the State agency will make such reports in such form and containing such information, and at such time, as the Secretary may require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports. These reports include, but are not limited to, (a) the Developmental Disabilities Office's program performance report and (b) financial reports.

§ 1386.25 Methods of evaluation.

(a) The State plan shall describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State.

(b) The State plan shall provide for the implementation of an evaluation system in accordance with § 1385.11 of this chapter.

§ 1386.26 Use of volunteers.

The State plan shall provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Services Act of 1973 (87 Stat. 394), and other appropriate voluntary organizations. The use of such services shall supplement, but shall not be in lieu of, paid employees.

§ 1386.27 Protection of employees' interests.

The State plan shall provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in § 1386.42 including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

§ 1386.28 Membership of State planning council.

The State plan shall contain a current listing of the members of the State council, their names, and the constituency, agency, or organization each represents.

§ 1386.29 Identification of State planning council staff.

The State plan shall provide that the State council will be adequately staffed consistent with its duties and responsibilities and shall identify the staff assigned to the council.

§ 1386.30 Review of all other State plans.

The State plan shall provide, to the maximum extent feasible, for an opportunity for prior review and comment by the State council of all State plans of the State which relate to programs affecting persons with developmental disabilities. The State council's responsibilities in obtaining timely access to these other State plans, and the council's recourse if the plans are not made available will be detailed in guidelines to be issued by the Secretary.

§ 1386.31 Review of State plan.

The State plan shall provide that the State council will from time to time, but not less often than annually, review and evaluate its State plan approved under this subpart and submit appropriate revisions to the Secretary.

PROVISION OF SERVICES AND CONSTRUCTION OF FACILITIES

§ 1386.40 Goals and objectives.

The State plan shall describe clearly defined long-range goals and measurable short-term objectives, with primary consideration given to §§ 1386.42 through 1386.45 and to goals which may be established by the Secretary.

§ 1386.41 Allocation of grant funds based on State priorities.

(a) The State plan shall set forth priorities, policies, and procedures for the allocation and expenditure of funds under the plan, based on the established goals and objectives.

(b) Special consideration shall be given to those activities (1) which are located in areas of urban or rural poverty, or (2) which provide services to the more severly handicapped persons.

(c) The State plan shall provide that high priority for approval shall be given to those activities that hold significant promise toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of individuals with such a disability.

§ 1386.42 Deinstitutionalization.

The State plan goals, objectives, and strategies shall address: (a) The elimination of inappropriate placement in institutions of persons with developmental disabilities, and (b) the improvement of the quality of care and the state of surroundings of persons who are appropriately placed in institutions.

§ 1386.43 Establishment of community program alternatives to institutionalization.

The State plan shall support the establishment of community programs as alternatives to institutionalization and support such programs designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities.

§ 1386.44 Early screening, diagnosis, and evaluation.

The State plan shall provide for early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps.

§ 1386.45 Counseling, program coordination, advocacy, follow-along, and protective services.

The State plan shall provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults.

§ 1386.46 Quality, extent, and scope of services being provided or to be provided.

(a) The State plan shall describe the quality, extent, and scope of services being provided, or to be provided, in implementing the State plan, under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including the following Federally assisted programs: Education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans.

(b) The State plan shall describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to person with developmental disabilities from funds under this part.

(1) *Quality.* The State plan shall provide that services and facilities furnished under the State plan for persons with developmental disabilities will be in accordance with the standards set forth in § 1386.17.

(2) *Extent.* The State plan shall describe the extent of services to be provided under the plan including: (i) The kinds of needs to be met, and individuals to be served (such as type and severity of disabilities, age groups, economic status), (ii) the geographic location, distribution, and accessibility of services, and (iii) other relevant factors.

(3) *Scope.* The State plan shall describe the scope of the services to be provided, taking into account Federally-aided State and local programs involved, manpower, and financial resources, and other factors, directed toward the alleviation of developmental disabilities, or toward the social, personal, physical or economic habilitation, or rehabilitation of individuals with such disabilities.

(c) The State plan shall describe how Federal funds allotted to the State will be used to complement and augment rather than duplicate or replace services and facilities which are eligible for Federal assistance under other State programs.

§ 1386.47 Habilitation plans.

For the purpose of complying with the assurance regarding individual habilitation plans (§ 1386.1(b)(5)(x)), the State plan shall describe the methods to be used to facilitate an annual review of the individual plans. The State plan shall also describe the requirements of the habilitation plan which shall include at least the following: (a) The plan shall be in writing.

(b) The plan shall be developed jointly by (1) a representative(s) of the program primarily repsonsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (2) such person, and (3) where appropriate, such person's parents or guardian or other representative.

(c) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainment of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavorial or other terms that provide measurable indices of progress. The plan shall (1) describe how the objectives will be achieved and the barriers that might intrefere with the achievement of them, (2) state objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved, and (3) provide for a program coordinator who will be responsible for the implementation of the plan.

(d) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(e) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(f) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

§ 1386.48 Program for construction of facilities.

When a specific portion of the State's allotment is set aside for construction, the State plan shall provide for the development of a program of construction, renovation, or modernization of facilities for the provision of services for persons with developmental disabilities. Such a program shall (a) be based on a statewide inventory of existing facilities and a survey of need; (b) set forth the relative need in accordance with § 1386.41; (c) assign priority to the construction of projects in order of relative need insofar as funds are available for costs of construction and costs of maintenance and operation of such projects.

§ 1386.49 Opportunity for appeal and hearing.

The State plan shall provide for an opportunity for appeal to and hearing before the State agency for construction to every applicant for a construction project who is dissatisfied with any action of the State agency for construction regarding its application.

DESIGN FOR IMPLEMENTATION

§ 1386.50 Design for implementation of State plan.

(a) The State plan shall contain a design for implementation which shall include (1) details of the methods to be used to implement the State plan, (2) specific objectives to achieve the goals set forth in the State plan, (3) a listing of the programs and resources to be used to meet such objectives, (4) priorities for spending of funds provided under this Subpart, (5) a detailed plan for the use of such funds, and (6) a method for periodic evaluation of the design's effectiveness in meeting such objectives.

(b) The designated State agency is responsible for selecting from alternative strategies those best methods which will achieve the goals and annual objectives as developed by the State council. The design for implementation shall identify the programs and activities related to each of the objectives set forth in accordance with §§ 1386.40 through 1386.45 and the amount of funds allocated to each objective. The expenses of the State council are to be included in the design for implementation.

(c) The design for implementation is to be submitted annually as part of the annual State plan revision. Revisions to the design for implementation may be made as necessary by the designated State administering agency and shall be approved by the State council prior to submission to the Secretary.

Subpart B—State Planning Council

§ 1386.60 Role of State planning council.

The role of the State council is to supervise the development of the State plan by the designated State agency(ies) by providing guidance through the establishment of goals and objectives, identification of gaps, and the setting of priorities for the allocation of funds. In order to establish credible goals, the State council shall be responsible for needs assessment, analysis of programs currently and potentially capable of providing services to the developmentally disabled, and establishment of priorities to deal with identified gaps. The State council shall establish methods for monitoring and evaluating the implementation of the State plan to ensure that established goals and objectives are being achieved.

§ 1386.61 Establishment of State planning council.

(a) Each State which receives assistance under this part shall establish a State council which will serve as an advocate for persons with developmental disabilities. The members shall be appointed by the Governor of the State.

(b) Membership. Each State planning council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. As a minimum, the following Federal/State programs must be represented by the State agency membership on the council: Education of the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, comprehensive health planning, and mental health. At least one-third of the membership of such a council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers or directors of an entity, or employees of any State agency or of any other entity, which receives funds or provides services under this part.

§ 1386.62 Adequate staff.

Each State receiving assistance under this Part shall engage for its State council personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

§ 1386.63 Duties of the State planning council.

The State council shall—

(a) Supervise the development of and approve the State plan required by this part;

(b) Monitor and evaluate the implementation of such State plan;

(c) To the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities;

(d) Submit to the Secretary, through the Governor, such periodic reports as the Secretary may reasonably request; and

(e) Submit revisions of the State plan to the Secretary.

V 41 169 AUG 30 76 UMI

Subpart C—Protection and Advocacy of Individual Rights

§ 1386.70 State system for protection and advocacy of individual rights.

(a) As a condition to a State's receiving an allotment under Subpart A of this part, the State shall provide assurances satisfactory to the Secretary that not later than October 1, 1977, (1) the State will have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system will have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (3) such system will be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary shall not make an allotment under Subpart A of this part to a State for any fiscal year beginning after September 30, 1977, unless the State has in effect such a system.

(b) The Governor shall designate the agency responsible for administering the protection and advocacy system and shall approve the advocacy plan prior to the approval of the Secretary. Such plan is to be submitted in accordance with this section and guidelines established by the Secretary.

(c) The allotment to the State shall be computed in accordance with § 1386.10 (a), (b) except that the allotment to a State in any fiscal year shall not be less than $20,000.

Subpart D—Practice and Procedure for Hearings to States on Conformity of Developmental Disabilities Plans to Federal Requirements

GENERAL

§ 1386.80 Definitions.

For purposes of this Subpart only:

(a) The term "DDO" means Developmental Disabilities Office.

(b) The term "designee" means any other individual so designated by the Secretary's delegate.

(c) The term "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

(d) The term "Secretary's delegate" means the Assistant Secretary for Human Development, or the Director, Developmental Disabilities Office.

§ 1386.81 Scope of rules.

(a) The rules of procedure in this Subpart govern the practice for hearings afforded by the Department to States pursuant to § 1386.2 or § 1386.15, and the practice relating to decisions upon such hearings.

(b) Nothing in this part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this subpart, except as expressly provided herein.

§ 1386.82 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the DDO Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington. D.C. 20201.

§ 1386.83 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 1386.84 Suspension of rules.

Upon notice to all parties, the Secretary's delegate or the presiding officer, with respect to matters pending before him and within his jurisdiction, may modify or waive any rule in this part, unless otherwise expressly provided, upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 1386.85 Filing and service of papers.

(a) All papers in the proceedings shall be filed with the DDO Hearing Clerk in an original and two copies. Originals only of exhibits and transcripts of testimony need be filed.

(b) All papers in the proceedings shall be served on all parties by personal delivery or by mail. Service on the party's designated representative will be deemed service upon the party.

PRELIMINARY MATTERS—NOTICE AND PARTIES

§ 1386.90 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing from the Secretary's delegate to the State. The notice shall state the time and place for the hearing, and the issues which will be considered, and shall be published in the FEDERAL REGISTER.

§ 1386.91 Time of hearing.

The hearing shall be scheduled not less than 30 days nor more than 60 days after the date notice of the hearing is furnished to the State.

§ 1386.92 Place.

The hearing shall be held in the city in which the regional office of the Department is located or in such other place as is fixed by the Secretary's delegate in light of the circumstances of the case, with due regard for the convenience and necessity of the parties or their representatives.

§ 1386.93 Issues at hearing.

(a) The Secretary's delegate may, prior to a hearing under § 1386.2 or § 1386.15, notify the State in writing of additional issues which will be considered at the hearing, and such notice shall be published in the FEDERAL REGISTER. If such notice is furnished to the State less than 20 days before the date of the hearing, the State or any other party, at its request, shall be granted a postponement of the hearing to a date 20 days after such notice was furnished, or such later date as may be agreed to by the Secretary's delegate.

(b) If, as a result of negotiations between the Department and the State, the submittal of a plan amendment, a change in the State program or other actions by the State, any issue is resolved in whole or in part, but new or modified issues are presented, as specified by the Secretary's delegate, the hearing shall proceed on such new or modified issues.

(c) (1) If at any time, whether prior to during or after the hearing the Secretary's delegate finds that the State has come into compliance with Federal requirements on any issue in whole or in part he shall remove such issue from the proceedings in whole or in part as may be appropriate. If all issues are removed he shall terminate the hearing.

(2) Prior to the removal of any issue from the hearing in whole or in part the Secretary's delegate shall provide all parties other than the Department and the State (see § 1386.94(b)) with the statement of his intention and the reasons therefor and a copy of the proposed State plan provision on which the State and he have settled and the parties shall have oportunity to submit in writing within 15 days, for the consideration of the Secretary's delegate and for the record, their views as to, or any information bearing upon, the merits of the proposed plan provision and the merits of the reasons of the Secretary's delegate for removing the issue from the hearing.

(d) The issues considered at the hearing shall be limited to those issues of which the State is notified as provided in § 1386.90 and paragraph (a) of this section, and new or modified issues described in paragraph (b) of this section, and shall not include issues or parts of issues removed from the proceedings pursuant to paragraph (c) of this section.

§ 1386.94 Request to participate in hearing.

(a) The Department and the State are parties to the hearing without making a specific request to participate.

(b) (1) Other individuals or groups may be recognized as parties, if the issues to be considered at the hearing have caused them injury and their is within the zone of interests to be protected by the governing Federal statute.

(2) Any individual or group wishing to participate as a party shall file a petition with the DDO Hearing Clerk within 15 days after notice of the hearing has been published in the FEDERAL REGISTER, and shall serve a copy on each party of record at that time in accordance with § 1386.85(b). Such petition shall concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses.

(3) Any party may, within 5 days of receipt of such petition, file comments thereon.

(4) The presiding officer shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the presiding officer may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The presiding officer shall give each petitioner written notice of the decision on his petition, and if the petition is denied, he shall briefly state the grounds for denial.

(c) (1) Any interested person or organization wishing to participate as amicus curiae shall file a petition with the DDO Hearing Clerk before the commencement of the hearing. Such petition shall concisely state (i) the petitioner's interest in the hearing, (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the presiding officer. He may submit a written statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs, and shall serve a copy on each party.

HEARING PROCEDURES

§ 1386.100 Who presides.

(a) The presiding officer at a hearing shall be the Secretary's delegate or his designee.

(b) The designation of the presiding officer shall be in writing. A copy of the designation shall be served on all parties.

§ 1386.101 Authority of presiding officer.

(a) The presiding officer shall have the duty to conduct a fair hearing, to avoid delay, maintain order, and make a record of the proceedings. He shall have all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon due notice to the parties. This includes the power to continue the hearing in whole or in part.

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him, including issuance of protective orders or other relief to a party against whom discovery is sought.

(6) Regulate the course of the hearing and conduct of counsel therein.

(7) Examine witnesses.

(8) Receive, rule on, exclude, or limit evidence or discovery.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(10) If the presiding officer is the Secretary's delegate, make a final decision.

(11) If the presiding officer is a hearing examiner, certify the entire record including his recommended findings and proposed decision to the Secretary's delegate.

(12) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559.

(b) The presiding officer does not have authority to compel by subpoena the production of witnesses, papers, or other evidence.

(c) If the presiding officer is a hearing examiner, his authority pertains to the issues of compliance by a State with Federal requirements which are to be considered at the hearing, and does not extend to the question of whether, in case of any noncompliance, Federal payments will not be made in respect to the entire State plan or will be limited to categories under or parts of the State plan affected by such noncompliance.

§ 1386.102 Rights of parties.

All parties may:

(a) Appear by counsel or other authorized representative, in all hearing proceedings.

(b) Participate in any prehearing conference held by the presiding officer.

(c) Agree to stipulations as to facts which will be made a part of the record.

(d) Make opening statements at the hearing.

(e) Present relevant evidence on the issues at the hearing.

(f) Present witnesses who then must be available for cross-examination by all other parties.

(g) Present oral arguments at the hearing.

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 1386.103 Discovery.

The Department and any party named in the Notice issued pursuant to § 1386.90 shall have the right to conduct discovery (including depositions) against opposing parties. Rules 26–37 of the Federal Rules of Civil Procedure shall apply to such proceedings; there will be no fixed rule on priority of discovery. Upon written motion, the presiding officer shall promptly rule upon any objection to such discovery action initiated pursuant to this section. The presiding officer shall also have the power to grant a protective order or relief to any party against whom discovery is sought and to restrict or control discovery so as to prevent undue delay in the conduct of the hearing. Upon the failure of any party to make discovery, the presiding officer may, in his discretion, issue any order and impose any sanction (other than contempt orders) authorized by Rule 37 of the Federal Rules of Civil Procedure.

§ 1386.104 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

§ 1386.105 Evidence.

(a) *Testimony.* Testimony shall be given orally under oath or affirmation by witnesses at the hearing. Witnesses shall be available at the hearing for cross-examination by all parties.

(b) *Stipulations and exhibits.* Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, shall be exchanged at the prehearing conference or otherwise prior to the hearing if the presiding officer so requires.

(c) *Rules of evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the presiding officer. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

§ 1386.106 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at the hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 1386.107 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the

V 41 169 AUG 30 76 UMI

proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 1386.108 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any stipulations, exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 1386.109 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

POSTHEARING PROCEDURES, DECISIONS

§ 1386.110 Posthearing briefs.

The presiding officer shall fix the time for filing posthearing briefs which shall not exceed 20 days after termination of the hearing. Such briefs may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

§ 1386.111 Decisions following hearing.

(a) If the Secretary's delegate is the presiding officer, he shall, when the time for submission of posthearing briefs has expired, issue his decision within 60 days.

(b) (1) If a hearing examiner is the presiding officer, he shall, within 30 days of the time for submission of posthearing briefs has expired, certify the entire record, including his recommended findings and proposed decision, to the Secretary's delegate. The Secretary's delegate shall serve a copy of the recommended findings and proposed decision upon all parties, and amici, if any.

(2) Any party may, within 20 days, file with the Secretary's delegate exceptions to the recommended findings and proposed decision and a supporting brief or statement.

(3) The Secretary's delegate shall thereupon review the recommended decision and, within 60 days of its issuance, issue his own decision.

(c) If the Secretary's delegate concludes:

(1) In the case of a hearing under § 1386.2, that a State plan does not comply with Federal requirements, he shall also specify whether the State's total allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his discretion, the allotment will be limited to categories under or parts of the State plan not affected by such noncompliance;

(2) In the case of a hearing pursuant to § 1386.15, that the State is not complying with requirements of the State plan he shall also specify whether further payments will not be made to the State or whether, in the exercise of his discretion, payments will be limited to categories under or parts of the State plan not affected by such noncompliance. The Secretary's delegate may ask the parties for recommendations or briefs or may hold conferences of the parties on these questions.

(d) The decision of the Secretary's delegate under this section shall be the final decision of the Secretary and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 and the "Secretary's action" within the meaning of section 138 of the Act. The Secretary's delegate's decision shall be promptly served on all parties, and amici, if any.

§ 1386.112 Effective date of decision by Secretary's delegate.

(a) If, in the case of a hearing pursuant to § 1386.2, the Secretary's delegate concludes that a State plan does not comply with Federal requirements, and his decision provides that the allotment will be authorized but limited to categories under or parts of the State plan not affected by such noncompliance, his decision shall specify the effective date for the authorization of the allotment.

(b) If, in the case of a hearing pursuant to § 1386.15, the Secretary's delegate concludes that the State is not complying with requirements of the State plan, his decision that further payments will not be made to the State, or payments will be limited to categories under or parts of the State plan not affected, shall specify the effective date for the withholding of Federal funds.

(c) The effective date shall not be earlier than the date of the decision of the Secretary's delegate and shall not be later than the first day of the next calendar quarter.

(d) The provisions of this section may not be waived pursuant to § 1386.84.

PART 1387—DISCRETIONARY GRANT PROGRAMS

Subpart A—University Affiliated Facilities

DEMONSTRATION AND TRAINING GRANTS

Sec.

1387.1 Purpose of grant funds.
1387.2 Application content.
1387.3 Eligible applicants.
1387.4 Priority.

CONSTRUCTION PROGRAM

1387.10 Purpose.
1387.11 Application form.
1387.12 Application assurances.
1387.13 Approval of applications.
1387.14 Priority.

Subpart B—Special Project Grants

1387.20 Eligible projects.
1387.21 Nonduplication of Federal funds.
1387.22 Eligible applicants.
1387.23 Application content and procedures.

AUTHORITY: Pub. L. 91-517; Pub. L. 94-103.

Subpart A—University Affiliated Facilities

DEMONSTRATION AND TRAINING GRANTS

§ 1387.1 Purpose of grant funds.

Demonstration and training grants authorized under the Act may be made for the purpose of:

(a) Assisting university affiliated facilities in meeting the cost of administering and operating demonstration facilities for the provision of exemplary services for persons with developmental disabilities, or for interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities;

(b) Supplementing one or more university affiliated facilities funded under these regulations to conduct a feasibility study of the ways in which a satellite center can be established and operated in areas not presently served by a university affiliated facility. These satellite centers shall provide services to persons with developmental disabilities in coordination with existing facilities funded under these regulations or from any other Federally supported program. Supplemental grants to university affiliated facilities for a feasibility study may not exceed $25,000; and

(c) Paying part of the costs of establishing and assisting satellite centers in meeting part of their administration and operation costs.

§ 1387.2 Application content.

Applications for demonstration and training grants may be submitted at the time and in the manner and detail prescribed by the Secretary in guidelines, and shall include the following:

(a) In the case of grants to university affiliated facilities for administration and operation and demonstration facilities and interdisciplinary training programs, evidence of how such university affiliated facility shall provide (1) interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, and (2) services for persons with developmental disabilities by the operation of demonstration facilities;

(b) In the case of applications for an increase in the amount of a demonstration and training grant to meet the cost of conducting a feasibility study, assurances that such study shall be carried out in consultation with the State planning council for the State in which the facility is located and where the satellite center would be established; and according to guidelines to be issued by the Secretary;

(c) In the case of an application for a grant to establish or to administer and operate a satellite center(s), a copy of the feasibility study which documents the need for such satellite, conducted in accordance with section 121(a)(2) of the Act;

(d) For all applications, an assurance that the services and training programs to be supported are licensed, if necessary, according to the applicable State law(s) and also meet appropriate accreditation standards;

(e) For all applications, reasonable assurance that the grant will not result in decreased State, local, or other non-Federal funds for services for persons with developmental disabilities and for the training of personnel to provide such services; and

(f) For all applications, a statement describing the general methodology by which the project will be evaluated to determine whether objectives have been achieved.

§ 1387.3 Eligible applicants.

The applicant must be a public or nonprofit university affiliated facility or a satellite which has been found eligible to operate such a center.

§ 1387.4 Priority.

In approving applications, the Secretary shall give priority consideration to those programs which demonstrate an ability and commitment to provide within a community, rather than in an institution, services for persons with developmental disabilities.

CONSTRUCTION PROGRAM

§ 1387.10 Purpose.

The Secretary may make grants to university affiliated facilities to assist (a) in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a demonstration and training grant; and (b) for the construction, renovation, or modernization of buildings to be used as satellite centers.

§ 1387.11 Application form.

An application shall be submitted in such form and manner and contain such information as the Secretary may require in addition to assurances required in § 1387.12.

§ 1387.12 Application assurances.

An application for a construction grant under this subpart may be approved by the Secretary only if it is supported by such reasonable assurances as may be required by law or executive order:

(a) The application for assistance is consistent with the appropriate State developmental disabilities plan;

(b) The application has been reviewed and commented upon by the appropriate State council;

(c) The facilities upon completion of construction will meet standards set forth in § 1386.17;

(d) The plans and specifications for the project to be assisted by the grant applied for are in accordance with § 1386.17(b);

(e) Title to the site for such project is or will be vested in the applicant or, in the case of a satellite center, in a public or other nonprofit entity which is to operate the center;

(f) Adequate financial support will be available in conformance with requirements of § 1386.1(b)(5)(viii) of these regulations;

(g) All laborers and mechanics will be paid in accordance with requirements set forth in § 1386.1(b)(5)(ix);

(h) No amendment to an approved application resulting in a substantial change in scope of work, function, or safety of the facility shall be put into effect without prior approval of the Secretary.

§ 1387.13 Approval of applications.

Applications under this subpart shall be reviewed by the Secretary who shall approve or disapprove the proposed project in whole or in part on the basis of established criteria.

§ 1387.14 Priority.

In approving applications under this subpart, the Secretary shall give priority consideration to university affiliated facilities funded under this Subpart for costs of renovating or modernizing existing buildings to enable them to comply with the Architectural Barriers Act of 1968.

Subpart B—Special Project Grants

§ 1387.20 Eligible projects.

Special project grants may be made to assist in meeting the costs of conducting an activity or program, hereinafter referred to as "project," that is intended and designed to benefit persons with developmental disabilities. No project (other than projects of national significance) shall be eligible unless the State or States in which it will be conducted has a State plan approved under Part 1386, Subpart A of this chapter, and unless it addresses one or more of the following:

(a) Demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community-based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(b) Public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(c) Coordinating and using all availability community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(d) Demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(e) Technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(f) Training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(g) Developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(h) Gathering and disseminating information relating to developmental disabilities; and

(i) Improving the quality of services provided in and the administration of programs for such persons.

The Secretary may establish criteria for projects designed to achieve the purposes of the Act to the fullest extent possible within the limitation of available Federal resources.

§ 1387.21 Nonduplication of Federal funds.

In determining the amount of any grant for the costs of any project under this subpart, there shall be excluded, except as otherwise provided by statute enacted subsequent to December 18, 1975, from such costs an amount equal to the sum of (a) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project under any provision of law enacted prior to October 4, 1975, and (b) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

§ 1387.22 Eligible applicants.

Applications may be made by public and other nonprofit agencies, organizations, and institutions.

§ 1387.23 Application content and procedures.

(a) Applications for grants under this subpart shall be submitted in the form and detail, and in accordance with procedures and deadline dates, as prescribed by the Secretary in guidelines.

(b) The applicant shall provide, concurrently, a copy of an application for a grant under this Subpart to the appropriate State planning council for review and comment at the time the application is submitted to the Secretary. Comment with regard to a particular application must be submitted to the Secretary by the State planning council within 30 days from the date of submission by the applicant in order to assure consideration of such comments.

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federal register

MONDAY, AUGUST 30, 1976



PART III:

ENVIRONMENTAL PROTECTION AGENCY

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PETROLEUM REFINERY FLUID CATALYTIC CRACKING UNIT CATALYST REGENERATORS

Proposed Standards of Performance for New Stationary Sources

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 594-4]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators

Under the authority of section 111 of the Clean Air Act, as amended, the Administrator is proposing a revision to 40 CFR 60.102(a)(2), and 60.105(e)(1), opacity standard of performance for new, modified, and reconstructed petroleum refinery fluid catalytic cracking unit catalyst regenerators.

PROPOSED REVISION

The proposed revision would change the opacity standard from 30 percent, except for three minutes in any one hour, to 25 percent, except for two six-minute average opacity readings in any one hour. The revised standard would be neither more nor less stringent than the present standard, but would be consistent with the new provisions for determining the opacity of emissions.

RATIONALE

On June 29, 1973, the U.S. Court of Appeals for the District of Columbia circuit remanded to EPA the new source performance standard for portland cement plants (40 CFR 60.62) promulgated under section 111 of the Clean Air Act (*Portland Cement Association v. Ruckelshaus*, 486 F. 2d 375). One of the issues remanded was the use of opacity standards. On November 12, 1974, EPA responded to the remand (39 FR 39872); and on May 22, 1975, the Court affirmed the use of opacity standards (513 F. 2d 506).

In the response, EPA reconsidered the use of opacity standards and concluded that they are a reliable, inexpensive, and useful means of ensuring that control equipment is properly maintained and operated at all times. EPA also made changes to the general provisions of 40 CFR Part 60 and to the test method for determining the opacity of emissions to eliminate the possibility of a properly maintained and operated source being in violation of the applicable opacity standard while concurrently meeting a mass or concentration emission standard applicable to the source.

The principal revisions to the regulations (40 CFR Part 60, Standards of Performance for New Stationary Sources) which apply to all opacity standards are as follows:

1. Reference Method 9 (the opacity test method) was revised to base compliance on the average of 24 consecutive opacity observations, each taken at 15-second intervals (six-minute average), and to define the maximum error associated with each set of opacity observtaions. The revision changing the averaging time to six minutes was included to require sufficient observation to ensure acceptable accuracy within the maximum average error referenced in Method 9. The use of sets of opacity data will preclude a single high reading from being cited as a violation.

2. Section 60.11(e) was added to provide a generally applicable mechanism for any owner or operator to petition the Administrator to obtain a higher opacity standard for any facility that demonstrates compliance with the mass or concentration emission standard concurrent with failure to comply with the opacity standard. This provision provides relief to those source owners and operators who install unusually large diameter stacks or whose emissions have unusual characteristics which could cause the opacity of the emissions to be greater than is typical for other plants in the same source category. The provision allows the promulgated opacity standards to be based on the maximum effects of particle characteristics and stack diameters at well-controlled new installations, and ensures that no owner or operator of an affected facility will be prejudiced if the facility is not able to meet the opacity standard while meeting the mass or concentration emission standard.

As a result of the revisions to Method 9, EPA has reevaluated the opacity standard for fluid catalytic cracking unit catalyst regenerators and concluded that it should be revised. This proposed revision of the opacity standard is consistent with the particulate emission standard for fluid catalytic cracking unit catalyst regenerators of 1.0 kilogram per 1000 kilograms of coke burn-off in the catalyst regenerator.

The proposed revision of the opacity standard is based primarily upon a reevaluation of the data gathered on facility A of the background document supporting promulgation of the opacity standard (*Background Information for New Source Performance Standards: Asphalt Concrete Plants, Petroleum Refineries, et al., Volume 3, Promulgated standards*, EPA-450/2-74-003, February 1973). Six-minute average opacity readings calculated from these data indicated that opacity seldom exceeded 20 percent, except during periods of soot blowing. Emission testing clearly indicated that this facility was meeting the particulate emission standard at the time these opacity data were gathered.

Three different emission control systems can be installed to comply with the particulate and carbon monoxide standards of performance. These systems are shown in Figure 1. The volume of gases discharged from control system 3 is about 30 percent greater than the volume of gases discharged from either control system 1 or 2. Consequently, the opacity of the gases discharged from system 3 is lower than that of the gases discharged from the other two systems. Facility A employed emission control system 3.

The opacity observed at facility A, therefore, is somewhat lower than that which would be observed at facilities which employed either emission control system 1 or 2. Extrapolating the opacity data from facility A using Bouger's Law indicates that the opacity at facilities using either of these other two emission control systems would not exceed 25 percent. Thus, the revised opacity standard is proposed at 25 percent.

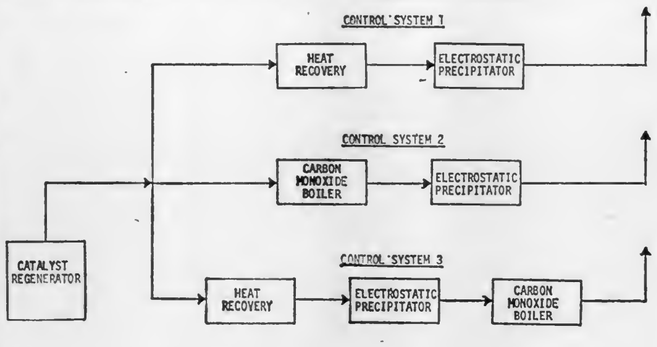


FIGURE 1. Alternative Emission Control Systems

Another factor which influences opacity, but not particulate emissions (in terms of the emission standard), is stack diameter. Generally, the larger the size of a fluid catalytic cracking unit, the larger the stack diameter. Facility A is about 50,000 barrels per day. Although the size of fluid catalytic cracking units may vary from 5,000 to 95,000 barrels per day, the typical facility within the petroleum refining industry is in the range of 25,000 to 50,000 barrels per day. The influence of this wide range in the size of fluid catalytic cracking units on opacity of the gases discharged from the catalyst regenerator can be calculated using Bouguer's Law. With particulate emissions of 1.0 kilogram per 1000 kilograms of coke burn-off, the opacity varies from as little as 10 percent for the smallest units (5,000 barrels per day) to as much as 40 percent for the largest units (95,000 barrels per day).

New fluid catalytic cracking units, however, are expected to be in the range of 25,000 to 50,000 barrels per day. Currently, there is only one 95,000 barrels-per-day unit, and only a few larger than 50,000 barrels per day. The proposed revision of the opacity standard, therefore, is based on the largest new fluid catalytic cracking unit that is likely to be built (i.e. 50,000 barrels per day). If fluid catalytic cracking units larger than

50,000 barrels per day are built, or existing units are modified or reconstructed, and these facilities have trouble meeting the proposed revised opacity standard, relief can be obtained through the mechanism of § 60.11(e).

At most fluid catalytic cracking units, carbon monoxide emissions are controlled by carbon monoxide boilers. Periodically, the boiler tubes require soot blowing to remove dust or soot deposited on these tubes. Soot blowing increases the opacity of the plume from the catalyst regenerator dramatically, although only momentarily. Rather than increase the level of the opacity standard to include soot blowing, therefore, it is more appropriate to provide an exemption from the standard. The opacity data indicate that an exemption of two six-minute average opacity readings per hour is necessary to permit soot blowing. Thus, an exemption for soot blowing is included in the proposed revision to the opacity standard.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such system. State implementation plans (SIP's) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. In addition, States are free under section 116 of the Act to establish more stringent emission limits than those established under section 111 or thos necessary to attain or maintain the NAAQS under section 110. Thus, new and existing sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111.

PUBLIC PARTICIPATION

Interested persons may participate in this proposed rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. The Administrator will welcome comments on all aspects of the proposed revision.

All relevant comments received on or before October 29, 1976 will be considered. Comments received will be available for public inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C.

Background information on this proposed revision of the opacity standard for petroleum refinery fluid catalytic cracking unit catalyst regenerators has been published in a document "Reevaluation of Opacity Standards of Performance: Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators." Copies of this document may be obtained by writing to the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify Reevaluation of Opacity Standards of Performance: Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators).

AUTHORITY

This notice of proposed rulemaking is issued under authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended by section 4(a) of Public Law 91-604, 84 Stat. 1678 and by section 15(c)(2) of Public Law 91-604, 84 Stat. 1713 (42 U.S.C. 1857c-6, 1857c-9, and 1857g(a)).

Dated: August 19, 1976.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 60, Chapter I of Title 40 of the Code of Federal Regulations as follows:

1. Section 60.102(a)(2) is revised to read as follows:

§ 60.102 Standard for particulate matter.

(a) * * *

(2) Gases exhibiting greater than 25 percent opacity, except for two six-minute average opacity readings in any one hour. Where the presence of uncombined water is the only reason for failure to meet the requirements of this subparagraph, such failure shall not be a violation of this section.

* * * * * *

2. Section 60.105(e)(1) is revised to read as follows:

§ 60.105 Emission monitoring.

* * * * * *

(e) * * *

(1) *Opacity.* All hourly periods in which there are three or more six-minute average opacity readings during which the average opacity of the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to § 60.102 exceeds 25 percent.

* * * * * *

[FR Doc.76-25080 Filed 8-27-76;8:45 am]

V 41 169 AUG 30 76 UMI

federal register

MONDAY, AUGUST 30, 1976



PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

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MUTUAL MORTGAGE INSURANCE

Servicing Requirements

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R–76–406]

MUTUAL MORTGAGE INSURANCE

Servicing Requirements

Notice is hereby given that the Secretary of Housing and Urban Development proposes to amend the regulations appearing in Part 203 of Chapter II of 24 CFR concerning Mutual Mortgage Insurance and Insured Home Improvement Loans to update these regulations and include therein certain mortgage servicing requirements. With minor exceptions all of these proposed changes reflect existing requirements developed over the course of years which heretofore have been set forth in HUD notices and handbooks without any corresponding revision of the program regulations. These proposed amendments would update some provisions of the regulations and establish a new Subpart C devoted to mortgage servicing concerns.

The numbering of the following discussion of the changes made by the proposed amendments corresponds to the paragraphs of the proposed amendments.

1. The table of sections for Part 203 of Chapter II of 24 CFR is modified to reflect certain changes in Subparts A and B and list the contents of the Subpart C on mortgage servicing.

2. Section 203.7 is amended to add as an additional basis for the withdrawal of mortgagee approval the breach of duties imposed by or the violation of prohibitions contained in any section of Part 203. This clarification of the existing rule is proposed in order to make mortgagees more clearly aware of the conduct expected of them and the availability of the sanction of withdrawal of mortgagee approval to deal with those whose conduct does not measure up to appropriate standards. It is proposed to make this clarification effective thirty days following publication of the final rule.

3. The substance of § 203.9 on mortgage servicing will be treated in Subpart C. See §§ 203.500(b), 203.502 and 203.604(a), for the disposition of the substance of § 203.9. A new § 203.9 dealing with approval requirements as to staffing and facilities is derived in part from Paragraph 5 of HUD Handbook 4191.1, "Administration of Insured Home Mortgagees," hereinafter "Handbook".

4. Section 203.23 dealing with the monthly charges to be paid by the mortgagor would be amended to protect against charging mortgagors with the premium for insurance which is solely for the benefit of the mortgagees. This requirement is currently stated in Paragraph 28 of HUD Handbook 4191.1.

5. Section 203.25 would be amended to increase the late charge from two to four per cent. While a late charge would not be deductible from the initial installment payment to which it is attributable, such a charge would be collectible by deduction from subsequent payments as provided in Section 203.554 of the regulations as amended. The increase in the amount of the late charge which can be provided for in future mortgages is intended to cover the increased expenses involved in collecting and handling delinquent payments. Increased charges will also encourage prompt payment and bring these charges in line with those obtaining in certain conventional and VA loans.

6. Section 10 of the Real Estate Settlement Procedures Act, 12 U.S.C. 2609, now governs advance deposits in escrow accounts. Section 203.26 of the regulations would be amended to make that Section consistent with RESPA particularly as the regulation is applied in jurisdictions where taxes are collected the year following the tax year.

7. Subpart B of the regulations constitutes the insurance contract between the mortgagee and HUD. The seventh amendment would make a technical correction consistent with this arrangement of the regulations.

8. Section 203.261 on calculation of the annual mortgage insurance premium is amended to add the substance of the last sentence of § 203.345. The remaining provisions of that Section are being moved to § 203.610 in Subpart C.

9. Section 203.330 would be amended to change its caption from "Definition of default" to "Delinquency and default" and to provide that a mortgage account is delinquent any time a payment is due and not paid. See Paragraph 102a of the Handbook.

10. Section 203.332 would be amended to conform to the installation of HUD's new Single Family Default and monitoring System. The caption would be amended consistent with the delinquency reporting provided for.

11. Section 203.333 on reinstatement of defaulted mortgages would be deleted from Subpart B as this subject will be dealt with in § 203.608 in Subpart C.

12. Sections 203.340 and 203.342 on conditions of special forebearance relief and recasting of mortgages would be deleted from Subpart B as the substance thereof will be included in §§ 203.614 and 203.616, in Subpart C.

13. Section 203.341 would be redesignated as Section 203.402a under the heading of "Payment of Insurance Benefits", a more appropriate location for this rule. The first sentence has been modified to cross reference § 203.614 on "Conditions of Special Forbearance" in Subpart C.

14. A new § 203.343 would be added dealing with the release, addition or substitution of security. These regulatory materials are now found in Paragraphs 45 and 47 of the Handbook.

15. Sections 203.345, 203.346 and 203.350 would be deleted from Subpart B as forbearance relief for military personnel would be treated in § 203.610 in Subpart C. Section 203.350a would be renumbered 203.350 and modified to refer to the provisions of Subpart C dealing with assignments of mortgages to the Secretary.

16. Section 203.355 on acquisition of mortgaged property would be amended to include requirements now found in Paragraphs 141 and 142 of the Handbook.

17. Section 203.375 would be renumbered 203.378 and a new § 203.377 would be added to set forth the duty of mortgagees to take appropriate action to inspect, protect and preserve vacant and abandoned properties. Compare Paragraphs 112 and 145 of the Handbook.

18. A new sentence would be added to § 203.375(b), redesignated as 203.378(b), to avoid any inconsistency with § 203.377 concerning the responsibility of mortgagees with respect to damage to or destruction of security properties. Fiscal responsibility would apply prospectively.

19. The section heading and first sentence of § 203.379 on adjustment for fire, flood, earthquake or tornado damage, would be amended to make this section consistent with §§ 203.377 and 203.378 as they would be added and amended respectively.

20. Paragraph (b)(3) of § 203.379 would be amended to update its language and to include requirements now contained in Paragraph 29 of the Handbook.

21. The first sentence of § 203.380 on certificate of property condition would be adjusted to require that the mortgagee's certification as to the condition of security property, when the property is transferred to HUD or the mortgage is assigned to HUD, include the condition of property which was damaged due to its failure to exercise the precautions required by § 203.377 on a prospective basis. Alternatively a copy of HUD's authorization to convey the property in damaged condition could be furnished.

22. A new paragraph (o) would be added to § 203.389 on waived title objections to deal with outstanding Federal Tax liens and associated rights of redemption. Compare Paragraph 144c of the Handbook.

23. Section 203.402(f) would be amended by adding a sentence making it clear that eviction costs are reimbursable in the insurance settlement. Compare Paragraph 145(a)(1) of the Handbook. Paragraph (g) would authorize reimbursement for reasonable costs of inspections required by § 203.377.

24. Amendment 22 would add a new Subpart C on mortgage servicing responsibilities to Part 203 of 24 CFR. The derivation or purpose of these Subpart C provisions is explained in succeeding subparagraphs.

a. Section 203.500(a) on mortgage servicing generally is taken from the first sentence of § 203.9 of the current regulations with the addition of a reference to the servicing requirements of Subpart C. Paragraphs (b), (c) and (d) dealing with servicing staff and the education of borrowers or mortgagors reiterate existing requirements found in Paragraphs 5 and 6 of the Handbook.

b. Section 203.502 sets forth existing practice with respect to the utilization of mortgage servicers. This Section restates requirements currently found in Paragraphs 3 and 4 of the Handbook and in Mortgagee Letter 75–10.

c. Section 203.506 dealing with assumption with or without the release of the mortgagor sets forth the mortgagees authority to release a mortgagor and related notice requirements. Compare Paragraph 94 of the Handbook.

d. Section 203.508 concerns the obligation of an insured mortgagee to provide information. See Mortgagee Letter 75–10.

e. Section 203.510 makes clear the mortgagee's obligation to inspect, protect and preserve vacant and abandoned security property regardless of the date on which the relevant loans were insured.

f. Section 203.550 dealing with escrow accounts includes requirements now found in Paragraphs 21 through 27 of the Handbook.

g. Section 203.552 on fees and charges after endorsement is derived from Paragraphs 61–62 and 64–71 of the Handbook.

h. Section 203.554 would direct that a mortgagee not institute foreclosure when the only default on the part of a mortgagor is his failure to pay a late charge or charges. A late charge would not be deductible from the installment to which the late charge is attributable. However, it could be collected by deduction from a subsequent installment or installments if the mortgagee gives notice as provided therein that the late charge is due and if this is not inconsistent with the terms of the mortgage.

i. Section 203.556 is derived primarily from Mortgagee Letter 75–10 with respect to the handling of partial payments. Adjustment has been made for the deduction of late charges as provided in § 203.554 but with the provision that the mortgagee not return or initiate foreclosure on account of payments which are rendered partial payments solely because of the deduction of late charges.

j. Section 203.558 includes instructions covering the handling of partial prepayments. See Paragraph 81 of the Handbook.

k. Section 203.600 on collecting mortgagee accounts follows Paragraphs 101 and 104 of the Handbook.

l. Section 203.602 imposes a definite duty upon mortgagees to furnish defaulting mortgagors a delinquency notice as a minimum notice requirement. Compare Paragraph 107c of the Handbook and the revised form of notice provided with Mortgagee Letter 75–10.

m. Section 203.604, which is taken primarily from Paragraph 107 of the Handbook and Paragraph 4b of Mortgagee Letter 75–10, specifies the actions which the mortgagee must take to contact the delinquent mortgagor and have a face-to-face meeting with him if possible.

n. Section 203.606 on pre-foreclosure review, which is added for the protection of mortgagors, restates the substance of Mortgagee Letter 75–10 and Paragraph 110 of the Handbook.

o. Section 203.608 incorporates requirements of Mortgagee Letter 75–10 with respect to reinstatement.

p. Section 203.610 on relief for mortgagor in military service reiterates the substance of Section 203.345 and that part of § 203.346, which would be eliminated from Subpart B.

q. Section 203.612 entitled "Forbearance by the mortgagee" is derived in part from Mortgagee Letter 75–10 and Paragraph 110 of the Handbook.

r. Section 203.614 on "Conditions for Special Forbearance" is derived from § 203.340 which would be deleted from Subpart B.

s. Section 203.616 on recasting is derived from § 203.342 now in Subpart B.

t. Sections 203.650 through 203.662 are taken from HUD's HM Mortgagee Letter 76–9 dated May 17, 1976 and HUD's HM Notice 76–43 dated the same date. Section 203.650 generally states that the Secretary will accept assignments of mortgages in order to avoid foreclosure under the conditions set forth in succeeding sections. Section 203.652 identifies Mortgages which are ineligible for such assignment. Section 203.654 defines the criteria which must be met for a mortgage to be eligible for assignment to HUD under this special program. Section 203.656 specifies when the mortgagor must be given notice by the mortgagee in connection with the assignment program. Section 203.658 outlines procedures for mortgagor applications to HUD when mortgagees do not request that HUD accept assignments under this forbearance program. Section 203.660 outlines requirements with respect to scheduling a conference involving HUD and defaulting mortgagors and the availability of records for examination. Ground rules for the conference are spelled out and provision is made for notifying the mortgagor of the results of the conference. Section 203.662 outlines the cooperation required of mortgagees in connection with the implementation of the assignment program.

u. Section 203.700 would make Subpart C effective thirty days following publication of a final rule in the FEDERAL REGISTER. Most of the requirements of this Subpart are already effective although not in rule form. While the failure of mortgagees to observe the requirements of Subpart C will not result in denial of their mortgage insurance claims, it is important that proper mortgage servicing standards be observed. Failure to observe such standards can be considered in conjunction with the possible withdrawal of approval of mortgagees. See § 203.7 discussed above.

Consideration has been given to the measures which can be taken to enforce mortgage servicing requirements. The strengthening of the sanction of withdrawal of mortgagee approval is the first line of approach to assuring mortgagee compliance with these regulations. As just noted, this strengthened sanction would be applied almost immediately. The sanction of requiring repair or the pro tanto denial of insurance claims for failure to inspect, protect and repair provided by §§ 203.277 through 203.279 would be applicable with respect to properties on which mortgages are insured or commitments to insure are issued after the effective date of these regulations. This specific sanction could not be made effective immediately because of Constitutional constraints. However, failure to properly inspect, protect and repair vacant and abandoned properties would be a factor which could be considered in connection with the possible withdrawal of mortgagee approval on an almost immediate basis. These sanctions should provide for substantially improved mortgage servicing performance by those mortgagees who do not already freely and voluntarily observe the standards set forth in the regulations as they would be modified by these proposed amendments.

Interested persons may participate in this rule making by submitting written data, views or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to this document by the docket number indicated in the heading and give reasons for any recommendation. Comments received by October 1, 1976, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of the comments received.

The Department has determined that an Environmental Impact Statement is not required wtih respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, the Secretary of Housing and Urban Development proposes to amend Part 203, of Chapter II of 24 CFR as follows:

1. The table of sections for Part 203 of Chapter II is amended in the following respects:

(a) Sections 203.333, 203.340, 203.341, 203.342, 203.345, 203.346, 203.350a, and 203.375, and the centered caption preceding § 203.345 are deleted.

(b) The following sections are retitled as shown:

Sec.	
203.9	Staffing and facilities.
203.330	Delinquency and default.
203.332	Notice of delinquency.
203.350	Assignment of defaulted mortgage.
203.377	Inspection and preservation of properties.
203.378	Property condition.
203.379	Adjustment for damage or neglect.
203.402a	Reimbursement for uncollected interest.

(c) A new section 203.343 is added as follows:

Sec.	
203.343	Partial release, addition or substitution of security.

2. Section 203.7 is amended by redesignating paragraph (a)(7) as (a)(8) add-

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ing a new paragraph (a)(7) and paragraph ( ) to read as follows:

§ 203.7 Withdrawal of approval.

(a) * * *

(7) The breach of duties imposed by or the violation of prohibitions contained in this Part.

* * * * * *

(c) Notwithstanding § 203.249 of this Subpart, Paragraph (a)(7) of this section shall be effective thirty days from the publication of this amendment.

3. Section 203.9 is revised to read:

§ 203.9 Staffing and facilities.

Mortgagees shall have or arrange for adequate staff and facilities with trained personnel competent in all aspects of mortgage lending activities, including underwriting, servicing and field collection activities.

4. Section 203.23 is amended by redesignating paragraph (b) as paragraph (c) and by inserting a new paragraph (b) reading as follows:

§ 203.23 Mortgagor's payments to include other charges.

* * * * * *

(b) The mortgagor shall not be required to pay premiums for fire or other hazard insurancee which protects only the interests of the mortgagee or for life or disability income insurance or fees charged for the furnishing of information necessary for payment of property taxes.

* * * * * *

5. Section 203.25 is revised to read:

§ 203.25 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed four per cent of the amount of each payment more than 15 days in arrears, to cover the extra expense involved in collecting and handling delinquent payments and as an incentive for timely payment.

6. Section 203.26 is revised to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the last date on which each such charge would have been paid under the normal lending practices of the lender and local custom (if each such date constitutes prudent lending practice), and ending on the due date of the first full installment payment under the mortgage, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment under the mortgage. The mortgagee may also collect from the mortgagor a sum not exceeding one-sixth of the estimated total amount of such taxes, special assessments, insurance premiums and other charges to be paid during the ensuing 12 month period.

§§ 203.251 and 203.257 [Amended]

7. Sections 203.251(j) and 203.257 are amended by changing the words "part" therein to read "Subpart".

8. Section 203.261 is amended to add the following sentence at the end thereof:

§ 203.261 Calculation of MIP.

* * * A written agreement to postpone payments during the military service of the mortgagor (§ 203.610) will in no way affect the amount of the annual MIP which will continue to be calculated in accordance with the original amortization provisions of the mortgage.

9. Section 203.330 is revised to read:

§ 203.330 Delinquency and default.

A mortgage account is delinquent any time a payment is due and not paid. If the mortgagor fails to make any payment, or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default for the purposes of this Part.

10. Section 203.332 is to read:

§ 203.332 Notice of delinquency.

Once each month the mortgagee shall report or cause to be reported all mortgages insured under this part which are 90 or more days delinquent and concerning the status of all mortgages which were reported as 90 or more days delinquent the previous month. Such reports shall be made on a form approved by the Commissioner.

§ 203.333 [Removed]

11. Section 203.333 is hereby deleted from Subpart B.

§§ 203.340 and 203.342 [Removed]

12. Sections 203.340 and 203.342 and the caption "Special Forbearance Relief" immediately preceding § 203.340 are hereby deleted from Subpart B.

13. A new § 203.343 is added reading as follows:

§ 203.343 Partial release, addition or substitution of security.

(a) Except as provided in § 203.389(n), a mortgagee shall not release the security, or any part thereof, wthout the prior consent of the Commissioner.

(b) A mortgagee may, with the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions:

(1) The mortgagee obtain a good and valid first lien on the property to which the dwelling is removed.

(2) All damages to the structure are repaired without cost to HUD.

(3) The property to which the dwelling is removed is in an area known to be reasonably free from natural hazards or, if in a flood zone, the mortgagor will insure or reinsure under the Federal Flood Insurance Program.

(c) A mortgagee may, without the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions.

(1) The dwelling has survived an earthquake or other disaster with little damage, but continued location on the property might be hazardous.

(2) The mortgagee reasonably believes that the conditions stated in paragraph (b) of this section exist.

(3) Immediately following the emergency removal the mortgagee notifies the Commissioner of the reasons for removal.

§§ 203.345, 203.346, and 203.350 [Removed]

14. §§ 203.345, 203.346 and 203.350 and the caption "Forbearance Relief for Military Personnel" preceding § 203.345 are deleted from Subpart B.

15. Section 203.350a is redesignated as § 203.350 and amended to read:

§ 203.350 Assignment of defaulted mortgage.

When the assignment of a defaulted mortgage to the Commissioner is accomplished pursuant to § 203.650 the mortgagee shall file the assignment of the mortgage to the Commissioner for record within 30 days of the Commissioner's written approval of such assignment.

16. Section 203.355 is revised to read:

§ 203.355 Acquisition of property.

The mortgagee shall take prompt action to acquire the mortgaged property when the mortgagor has defaulted and either cannot or will not resume and complete payments. In any event, one of the following actions shall be taken by the mortgagee within one year from the date of default, or within such additional period of time as may be approved by the Secretary or authorized by §§ 203.610 or 203.662(d).

(a) The mortgagee shall obtain a deed in lieu of foreclosure (see §§ 203.357, 203.389 and 203.402(f)) with title being taken in the name of the mortgagee or the Secretary:

(b) The mortgagee shall commence foreclosure; or

(c) If the laws of the State in which the mortgaged property is situated do not permit the commencement of foreclosure within one year from the date of default, the mortgagee shall commence foreclosure within sixty days after the expiration of the time during which such foreclosure is prohibited by such laws.

17. Section 203.377 is added as follows:

§ 203.377 Inspection and preservation of properties.

The mortgagee shall arrange for the periodic inspection of security properties which may be vacated or abandoned, if the loans thereon, which are insured under this Part, are in default. The mortgagee shall protect and preserve vacated or abandoned security properties until their conveyance to the Commissioner if such action does not constitute an illegal trespass.

18. Section 203.375 is redesignated as § 203.378 and paragraph (b) is amended by adding the following sentence at the end thereof.

§ 203.378 Property condition.

* * * * * *

(b) * * * However, the mortgagee shall be responsible for damage to or destruction of security properties on which the loans insured under this Part are in default and which properties are vacated or abandoned if the mortgagee fails to take action as required by § 203.377, as to all mortgages insured or for which commitments to insure are issued on and after ( ).

19. The section heading and the introductory text of § 203.379 are amended to read:

§ 203.379 Adjustment for damage or neglect.

If the security property has been damaged by fire, flood, earthquake, or tornado, or as to mortgages insured or for which commitments to insure are issued on or after , has suffered damage due to failure of the mortgagee to take action as required by § 203.377, such damage shall be repaired prior to conveyance of the property to the Secretary, except in the following instances:

* * * * * *

20. Paragraph (b)(3) of § 203.379 is amended to:

(a) Insert the words "including coverage under the FAIR Plan" after the words "competitive rates" in the last sentence, and

(b) Add the following additional language at the end thereof: A "reasonable rate" is a rate not more than 25 percent in excess of the rate or the advisory rate filed or used by the principal rating organization doing business in the State. When hazard insurance coverage has been cancelled or renewal has been refused after the mortgage is insured, and other hazard insurance coverage cannot be obtained in an amount equal to the unpaid principal balance of the loan but insurance can be obtained in a reduced amount from a FAIR Plan or another insurance carrier, the Commissioner will accept the reduced coverage without reduction of mortgage insurance benefits, if the rates do not exceed the guidelines stated herein. If coverage in any amount is only available at rates in excess of a reasonable rate as defined herein, the mortgagor shall be given the option of purchasing such coverage. If coverage is purchased, the amount of any claim for insurance benefits under this Part shall be reduced by the amount of any recovery of hazard insurance benefits.

21. The first first sentence of § 203.380 is amended to read:

§ 203.380 Certificate of property condition.

The mortgagee shall either certify that as of the date of the filing of deed for record, or assignment of the mortgage to the Commissioner, the property was (a) undamaged by fire, flood, earthquake, or tornado, and (b) as to mortgages insured or for which commitments to insure are issued on or after ----------, undamaged, due to failure of the mortgagee to take action as required by § 203.377, or its claim shall be accompanied by a copy of the Commissioner's authorization to convey the property in damaged condition. * * *

22. Section 203.389 is amended by adding a new paragraph (o) at the end thereof as follows:

§ 203.389 Waived title objections.

* * * * * *

(o) Federal Tax liens and rights of redemption arising therefrom if the following conditions are observed. If the mortgagee acquires the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if (1) the Federal tax lien was perfected subsequent to the date of the mortgage lien, and (2) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

23. Section 203.402 is amended by adding sentences at the end of paragraphs (f) and (g) to read as follows:

§ 203.402 Items included in payment—conveyed properties.

* * * * * *

(f) * * * Reasonable costs incurred in evicting occupants and the removing of personal property from acquired properties are considered to be foreclosure costs. Costs of acquiring the property otherwise than by foreclosure may include not to exceed $200 paid to the mortgagors as consideration for their execution of a deed in lieu of foreclosure.

(g) * * * Reasonable costs for performing the inspections required by § 203.377 are considered to be costs of protecting, operating or preserving the property.

* * * * * *

24. Section 203.341 is redesignated as § 203.402a and the first sentence thereof is amended to read:

§ 203.402a Reimbursement for uncollected interest.

The mortgagee shall be entitled to receive an allowance in the insurance settlement for unpaid mortgage interest, if the mortgagor fails to meet the requirements of a forbearance agreement entered into pursuant to § 203.614 and such failure continues for a period of 60 days. * * *

25. Subpart C is added to Part 203 to read as follows:

Subpart C—Servicing Responsibilities

GENERAL REQUIREMENTS

Sec.
203.500 Mortgage servicing generally.
203.502 Responsibility for servicing.
203.506 Assumption with or without release of mortgagor.
203.508 Providing information.
203.510 Care of properties.

PAYMENTS, CHARGES AND ACCOUNTS

203.550 Escrow accounts.
203.552 Fees and charges after endorsement.
203.554 Enforcement of late charges.
203.556 Return of partial payments.
203.558 Handling irregular prepayments.

MORTGAGEE ACTION AND FORBEARANCE

203.600 Mortgage collection action.
203.602 Delinquency notice to mortgagor.
203.604 Contact with the mortgagor.
203.606 Pre-foreclosure review.
203.608 Reinstatement.
203.610 Relief for mortgagor in military service.
203.612 Forbearance by the mortgagor.
203.614 Conditions of special forbearance.
203.616 Recasting of mortgage.

ASSIGNMENTS TO HUD FOR FORBEARANCE

203.650 Assignments to HUD for forbearance—generally.
203.652 Mortgages ineligible for assignment.
203.654 Mortgages eligible for assignment to HUD.
203.656 Notice to mortgagor.
203.658 Mortgagor's request that HUD accept assignment.
203.660 Mortgagor's conference with HUD.
203.662 Cooperation of mortgagees in assignment program.

AUTHORITY: Sections 203, 211 of the National Housing Act, as amended, 12 U.S.C. 1709, 1715b; Section 7(d) of the Department of HUD ACT, (42 U.S.C. 3535(d)).

Subpart C—Servicing Responsibilities

GENERAL REQUIREMENTS

§ 203.500 Mortgage servicing generally.

(a) This Subpart identifies servicing practices which the Secretary considers acceptable mortgage servicing practices of prudent lending institutions. Failure to comply with the provisions of this Subpart or instructions of the Secretary issued pursuant to this Subpart shall not be a basis for defense to foreclosure or ground for denial of the payment of insurance benefits but may be cause for withdrawal of a mortgagee's approval.

(b) All approved mortgagees are required to service insured loans in accordance with acceptable mortgage servicing practices of prudent lending institutions and in accordance with this Part.

(c) Mortgagees shall provide competent and aggressive servicing to reduce the number of defaults and required foreclosures.

(d) Mortgagees shall develop effective means of educating borrowers, including through face-to-face discussions, as early as the initial closing.

(e) Mortgagees shall develop and utilize effective controls to assure compliance with the fiscal requirements of the Secretary for the payment of fees and premiums, reporting sales of mortgages and transfers of servicing, reporting

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mortgage terminations and filing claims for insurance benefits.

§ 203.502 Responsibility for servicing.

(a) A mortgagee may utilize any individual or firm to service its Secretary-insured mortgage loans. However, the servicer employed must fully discharge the servicing responsibilities of the mortgagee as outlined in this Part. The Mortgagee shall remain fully responsible to the Secretary for proper servicing and the actions of its servicer shall be considered to be the actions of the mortgagee. If the servicer is an approved mortgagee, it shall also be fully responsible to the Secretary for its acts as a servicers as though it were the mortgagee, except to the extent that it acts in accordance with specific written instructions from the mortgagee.

(b) Whenever servicing of any mortgage is transferred from one mortgagee or servicer to another, or the mortgage is assigned to another, the mortgagee effecting the transfer or assignment shall notify or arrange to notify the mortgagor in advance of the transfer. The notification shall provide the mortgagor with the name, address and telephone number of the new servicer or mortgagee and include any special instructions for the handling of payments during the conversion period. Notification pursuant to this Paragraph must be mailed to reach the mortgagor no later than ten days prior to the due date of the first payment due the new servicer or mortgagee. The mortgagee effecting the transfer or assignment shall also notify the Secretary within thirty days thereof on a form approved by the Secretary.

§ 203.506 Assumption with or without release of mortgagor.

The mortgagee may effect the release of a mortgagor while retaining the benefits of insurance under this Part if it obtains the Secretary's approval of the substitute mortgagor (assumptor). If the mortgagee wishes to have further notices of annual mortgage insurance premiums reflect the name of the substitute mortgagor (assumptor), whether or not there is a release of the prior mortgagor, the mortgagee shall give notice to the Secretary on a form approved by the Secretary within thirty days of the record change.

§ 203.508 Providing information.

(a) Mortgagees shall provide loan information to mortgagors on request and arrange for individual loan consultation. The mortgagee must establish written procedures and controls to assure prompt responses to inquiries. One or more of the following means of making information readily available to mortgagors is required:

(1) An office staffed with competent personnel located in the area of the property, capable of providing timely responses to requests for information. Complete records need not be maintained in such an office if the staff is able to secure needed information and pass it on to the mortgagor.

(2) Toll-free telephone service, including WATS service, or acceptance of collect telephone calls from mortgagors, at an office capable of providing needed information.

All mortgagors must be informed of the system available for obtaining answers to loan inquiries, the office from which needed information may be obtained and reminded of the system at least annually. The mortgagee need not accept collect telephone calls from a mortgagor other than at the office designated to serve the mortgagor nor from points more distant than the security property.

(b) Mortgagees shall furnish an adequate statement of the interest paid and taxes disbursed from the escrow account on a timely basis each year to aid the mortgagor in filing income tax returns. At the mortgagor's request, the mortgagee shall furnish a statement of the escrow account sufficient to enable the mortgagor to reconcile the account.

(c) Mortgagees must respond to HUD requests for information concerning individual accounts on request.

§ 203.510 Care of properties.

Failure of the mortgagee to inspect, protect and preserve a vacated or abandoned security property on which the loan is in default (§ 203.377) shall be considered as one of the bases for withdrawal of mortgagee approval pursuant to § 203.7 regardless of the date upon which the loan for such property was insured by the Secretary.

PAYMENTS, CHARGES AND ACCOUNTS

§ 203.550 Escrow accounts.

(a) Mortgagees shall establish escrow accounts to assure timely payments in accordance with § 203.24. If the lender is a non-supervised mortgagee, escrow funds shall be deposited in a special account or accounts in a bank whose deposits are insured by the FDIC or in a savings and loan association whose deposits are insured by the FSLIC. As a part of the loan closing the mortgagee shall establish an adequate accrual amount for each escrow item which will be payable from the escrow fund.

(b) An escrow fund shall be used only for the payment of the expenses for which the fund was established and no other. It is the mortgagee's responsibility to make escrow disbursements as bills become payable. Mortgagees must establish controls to insure that bills are received on a timely basis. Penalties for late payments for items payable from the escrow account must not be charged to the mortgagor unless it can be shown that the penalty was the direct result of the mortgagor's error or omission. Early payment of bills to take advantage of discounts should be made whenever it is to the mortgagor's benefit, if escrow funds are available.

(c) Not later than the end of the second loan year the mortgagee shall establish a system for the periodic analysis of the escrow account which analysis shall be accomplished at least once a year thereafter. The monthly escrow payment shall be adjusted, after analysis, to provide a sufficient accumulation of escrow funds to make anticipated disbursements during the ensuing year. The mortgagor shall be given at least ten days notice of adjustment in monthly payments and an adequate explanation of the reasons for any change.

(d) The mortgagee's estimate of escrow requirements shall be based on the best information available as to probable payments which will be required to be made from the account in the coming year. If actual disbursements during the preceding year are used as the basis, the resulting estimate may deviate from those disbursements by as much as ten percent. The mortgagee may maintain a continuing surplus of up to one-sixth of the current total annual requirement, but larger amounts shall not be held by the mortgagee unless expressly requested by the mortgagor. When the escrow account is analyzed in accordance with paragraph (c) of this section, any surplus or shortage shall be refunded to or collected from the mortgagor as provided for in the security instrument. If a surplus is to be refunded, application of the surplus to delinquent payments shall be considered as a cash refund to the mortgagor.

(e) The mortgagee shall not institute foreclosure when the only default of the noncorporate mortgagor is his present inability to pay a substantial accrual escrow shortage in a lump sum. When the contract of mortgage insurance is terminated voluntarily as, for example, in the case of prepayment in full, sums in the escrow account to pay the mortgage insurance premium shall be retained pending notice from the Secretary. Sums held in escrow for taxes and hazard insurance shall be released immediately.

§ 203.552 Fees and charges after endorsement.

(a) The mortgagee may collect reasonable and customary fees and charges from the mortgagor after insurance endorsement only as follows:

(1) Late charges as set forth in § 203.25;

(2) Charges for processing or reprocessing a check returned as uncollectible; (Where bank policy permits, the mortgagee must process a check a second time before assessing a bad check charge.);

(3) Fees for recording a change of ownership of the mortgaged property;

(4) Fees and charges for arranging a substitution of liability under the mortgage in connection with the sale or transfer of the property;

(5) Charges for processing a request for credit approval of an assumptor or substitute mortgagor;

(6) Charges for substitution of a hazard insurance policy at other than the expiration of term of the existing hazard insurance policy;

(7) Charges for modification of the mortgage involving a recorded agreement for extension of term or reamortization;

(8) Fees and charges for processing partial release of the mortgaged property;

(9) Attorney's fee and expenses actually incurred when a case has been referred for foreclosure in accordance with the provisions of this Part after a firm decision to foreclose and foreclosure is not completed because of a reinstatement of the account; (No attorney's fee may be charged for the services of the mortgagee's or servicer's staff attorney or for the services of a collection attorney.)

(10) The service charge provided for by § 203.23(b) and escrow charges in accordance with § 203.23(a);

(11) A trustee's fee if the security instrument in deed-of-trust states provides for payment of such a fee when the deed of trust is paid in full; and

(12) Such other reasonable and customary charges as may be authorized by the Secretary. (This shall not include (i) charges for servicing activities of the mortgagee or servicer; (ii) fees charged by independent tax servicer organizations which contract to furnish data and information necessary for the payment of property taxes, (iii) "satisfaction," "termination," or "reconveyance" fees when a mortgage is paid in full, or (iv) the fee for recordation of a satisfaction of the mortgage in states where recordation is the responsibility of the mortgagee.)

(b) "Reasonable and customary" fees must be predicated upon the actual cost of the work performed including out-of-pocket expenses. Directors of HUD Area and Insuring Offices are authorized to establish maximum fees and charges which are reasonable and customary in their areas. Except as provided in this Part, no fee or charge shall be based on a percentage of either the face amount of the mortgage or the unpaid principal balance due on the mortgage.

§ 203.554 Enforcement of late charges.

A mortgagee shall not commence foreclosure when the only default on the part of the mortgagor is the failure to pay a late charge or charges (§ 203.25). A late charge attributable to a particular installment payment due under the mortgage shall not be deducted from that installment. However, if the mortgagee thereafter notifies the mortgagor of his obligation to pay a late charge, such a charge may be deducted from any subsequent payment or payments submitted by the mortgagor or on his behalf if this is not inconsistent with the terms of the mortgage. Partial payments shall be treated as provided in § 203.556.

§ 203.556 Return of partial payments.

(a) A partial payment is a payment of any amount less than the full amount due (including late charges authorized to be deducted in accordance with § 203.554) when the payment is tendered. If the mortgagee returns a partial payment before the account is in default (§ 203.330), the payment returned shall be accompanied by a letter of explanation. No payment which becomes a partial payment solely by virtue of the deduction of a late charge or charges therefrom as provided in § 203.554, shall be rejected or returned by the mortgagee. The mortgagee shall not initiate foreclosure action on account of a payment which is rendered a partial payment solely by virtue of the deduction of late charges. Foreclosure is initiated or commenced when the first action required for foreclosure under applicable law is undertaken.

(b) The mortgagee shall accept, identify with the mortgagor's account, and either apply or hold in a trust account for disposition any payment tendered on a mortgage account in default and before foreclosure action is commenced, if the payment aggregates 50 percent or more of the amount due, aside from late charges, unless (1) four or more monthly installments are due and unpaid, (2) there has been a continuing delinquency of any amount which has continued for at least six months since the account first became delinquent, or (3) a mortgagor submits less than the amount agreed to in a repayment plan. The foregoing requirement does not apply if the mortgagee knows that a tenant is paying rentals on the property and such rentals are not being applied to the mortgage payments.

(c) When partial payments accepted by the mortgagee for disposition aggregate a full monthly installment, they shall be applied to the mortgage account thus advancing the date of the oldest unpaid installment, but not the date on which the account first became delinquent.

(d) After foreclosure action has been commenced, the mortgagee is free to return any payment which represents less than the full amount due, including late charges, if the mortgagee has given advance written notice to the mortagor of the full amount due and the mortgagee's intention to return a payment which is less than the full amount due together with any late charges. Such advance notice must be mailed to the mortgagor at least fourteen days before the due date of the latest payment included in the statement of the full amount due. If the mortgagor thereafter continues to tender partial payments which are returned, the mortgagee shall maintain records of the amounts and the dates of both receipt and return of such payments.

§ 203.558 Handling irregular prepayments.

Notwithstanding the terms of the mortgage, the mortgagee may accept a prepayment at any time and in any amount so long as monthly interest on the debt is calculated on the actual unpaid principal balance of the loan as of the first date of the month. If a mortgagee will not accept a prepayment until the first day of the month following expiration of the thirty-day notice period (§ 203.22), unless interest is paid to that date, the mortgagee's response to the mortgagor's inquiry, request for pay-off figures, or tender must clearly advise the mortgagor of this fact. If the mortgagor's notice of intention to prepay or prepayment is required to be delivered on a nonworking day, the notice or prepayment shall be timely if delivered on the next working day.

MORTGAGEE ACTION AND FORBEARANCE

§ 203.600 Mortgage collection action.

Mortgagees shall take prompt action to collect amounts due from mortgagors to minimize the number of accounts in a delinquent or default status. Collection techniques must be adapted to individual differences in mortgagors and take account of the circumstances peculiar to each mortgagor.

§ 203.602 Delinquency notice to mortgagor.

The mortgagee shall give notice to each delinquent mortgagor on a form approved by the Secretary no later than the end of the second month of any delinquency in payments under the mortgage. If an account is reinstated and again becomes delinquent, the delinquency notice shall be sent to the mortgagor again, except that the mortgagee is not required to send a second delinquency notice to the same mortgagor more often than once each six months. The mortgagee may issue additional or more frequent notices of delinquency at its option.

§ 203.604 Contact with the mortgagor.

(a) The mortgagee shall be able to contact the mortgagor in the event of default. Contact with the mortgagor must be attempted as early as possible when there is a delinquency.

(b) The mortgagee must have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid after application of any partial payments which have been accepted but not applied to the mortgage account. If default occurs in a repayment plan arranged other than during a personal interview, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable attempt to arrange such a meeting, within thirty days after such default and at least thirty days before foreclosure is commenced.

(c) A face-to-face meeting is not required if (1) the mortgagor does not reside within 200 miles of the mortgagee, its servicer, or a branch office of either, (2) the mortgagor has clearly indicated he will not cooperate in the interview, (3) a repayment plan consistent with the mortgagor's circumstances is entered into with the mortgagor to bring the mortgagor's account current thus making a meeting unnecessary, and payments thereunder are current, or (4) a reasonable effort to arrange a meeting is unsuccessful.

(d) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall consist at a minimum of one letter sent to the mortgagor certified by the Postal Service as having been dispatched. Such a reasonable effort to arrange a face-to-face meeting shall also include at least one trip to see the mortgagor at

V 41 169 AUG 30 76 UMI

the mortgaged property or at the mortgagor's other place of residence, unless the mortgagor's residence is more than 200 miles from the mortgagee, its servicer, or a branch office of either.

§ 203.606 Pre-foreclosure review.

Foreclosure of a mortgage shall only be undertaken after the mortgagee or servicer has assured itself that the case has been handled in accordance with the servicing requirements outlined in Subpart C. The mortgagee shall not commence foreclosure unless at least three full monthly installments due on the mortgage are unpaid after application of any partial payments which may have been accepted but not yet applied to the mortgage account. No delay in the commencement of foreclosure is required if the mortgagee ascertains that the mortgaged property has been abandoned or the mortgagor has clearly stated that he has no intention of honoring his mortgage obligation.

§ 203.608 Reinstatement.

The mortgagee shall permit reinstatement of a mortgage, even after the institution of foreclosure proceedings, if the mortgagor tenders in a lump sum all amounts required to bring the account current, including foreclosure costs and reasonable attorney's fees properly associated with the foreclosure action, unless the mortgagee has accepted reinstatement after the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action. If the mortgage account is reinstated as provided in the preceding sentence, or notwithstanding the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action, the mortgage insurance shall continue as if a default had not occurred.

§ 203.610 Relief for mortgagor in military service.

(a) If the mortgagor is a person in the military service, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. App. 501–590), the mortgagee may, by written agreement with the mortgagor, postpone for the period of the mortgagor's military service and for three months thereafter any part of the monthly payments which represents amortization of the principal indebtedness. The agreement shall contain a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the mortgage indebtedness within its original maturity. The agreement shall in no way affect the amount of the annual mortgage insurance premium which shall continue to be calculated in accordance with the original amortization provisions of the mortgage.

(b) If at any time during default the mortgagor is a "person in military service" as such term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501–590), the period during which he is in such service may be excluded in computing the one-year period within which the mortgagee shall commence foreclosure or acquire the property by other means as provided in § 203.355 of Subpart B.

§ 203.612 Forbearance by the mortgagee.

(a) The mortgagee shall not initiate foreclosure until the relief measures outlined in this Part have all been considered and the mortgagee has determined that none of these measures is likely to make it possible for the mortgagor to avoid foreclosure of the security property.

(b) No delay in the foreclosure or acquisition of the security property is required if the property has been abandoned or if the mortgagor states that he has no intention of honoring his mortgage obligation.

§ 203.614 Conditions of special forbearance.

(a) The Secretary may approve special forbearance relief by the mortgagee with respect to any loan insured under this Part if the Secretary finds that default was due to circumstances beyond the mortgagor's control. Approval is conditioned on the execution by the mortgagor and mortgagee of a special forbearance agreement providing for:

(1) The reduction, or suspension of regular mortgage payments for a specified forbearance period;

(2) The resumption of regular mortgage payments after the expiration of the forbearance period; and

(3) The payment of the total unpaid amount accruing prior to and during the forbearance period on or before the maturity date of the mortgage or on or before a date subsequent to the maturity date which is approved by the Secretary.

(b) The mortgagee may grant special forbearance relief without the approval of the Secretary subject to the following conditions:

(1) The mortgagor shall establish to the satisfaction of the mortgagee, whose finding shall be conclusive, that:

(i) The mortgagor does not own other property subject to a mortgage insured by the Secretary; and

(ii) The default was caused by circumstances beyond the control of the mortgagor.

(2) The written forbearance agreement shall:

(i) Be limited to a period of 18 months;

(ii) Provide for the resumption of regular mortgage payments after the expiration of the forbearance period; and

(iii) Provide for repayment of the total unpaid amount accruing prior to and during the forbearance period on or before a date extending beyond the original maturity for a period no greater than the period of forbearance.

§ 203.616 Recasting of mortgage.

(a) In addition to the special forbearance relief afforded in § 203.614, if the Secretary makes the finding required in paragraph (a) of that section, the Secretary may approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due over the remaining term of the mortgage or over such longer period of time as the Secretary may approve. The modification agreement may be effective when executed or upon the termination of a forbearance period.

(b) The Secretary's approval for a recasting of a mortgage for the purpose of changing the amortization provisions shall not be required where the mortgagee make the findings prescribed in § 203.614(b)(1). In such instances, the recasting shall be limited to the remaining term of the mortgage or a term extending not more than 10 years beyond the original maturity date. The Secretary shall be given notice of such modification within 30 days of the execution of the modification agreement.

(c) When a mortgage is modified, the principal amount of the mortgage, as modified:

(1) Shall not include any amounts assessed against the mortgagor as a late charge; and

(2) Shall be considered to be the "original principal of the mortgage" as that term is used in § 203.401.

ASSIGNMENT TO HUD FOR FORBEARANCE

§ 203.650 Assignment to HUD for forbearance—generally.

The Secretary will accept assignments of mortgages insured under this Part which are in default in order to avoid foreclosure when the conditions set forth in §§ 203.650 through 203.662 are met.

§ 203.652 Mortgages ineligible for assignment.

In any case in which the mortgagor has voluntarily abandoned the mortgaged property, or states that he has no intention of honoring his mortgage obligation, the mortgage shall be ineligible for assignment under §§ 203.650 through 203.662 and the mortgagee may proceed with foreclosure.

§ 203.654 Mortgages eligible for assignment to HUD.

The mortgagee shall request that the Secretary accept assignment of a mortgage not otherwise ineligible for assignment pursuant to § 203.652 and the Secretary will accept such assignment, if the following criteria are fully met:

(a) The mortgagee must have informed the mortgagor that it intends to foreclose the mortgage;

(b) At least three monthly installments on the mortgage must be due and unpaid;

(c) The property must be the mortgagor's principal place of residence and mortgagor must not own other property subject to a mortgage insured or held by the Secretary, unless this latter criterion is waived by the Secretary.

(d) The mortgagor's default must have been caused by circumstances or a set of circumstances beyond the mortgagor's control and which temporarily

renders the mortgagor and his family unable to cure the delinquency within a reasonable time or make full mortgage payments; and

(e) There must be a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a temporary period of reduced or suspended payments not exceeding 36 months, and will be able to pay the mortgage in full by its maturity date, extended, if necessary, by up to ten years if on the date of assignment ten or more years have elapsed since the due date of the first payment under the mortgage.

§ 203.656 Notice to mortgagor.

A mortgagee shall notify the mortgagor when (a) it is considering whether or not to ask that the Secretary accept an assignment of the mortgage pursuant to §§ 203.650 through 203.662, (b) it asks that the Secretary accept such an assignment, and (c) it has decided not to ask that the Secretary accept an assignment. Notice shall be given on forms approved by the Secretary or by notices consistent with such forms.

§ 203.658 Mortgagor's request that HUD accept assignment.

If the mortgagee determines that it will not ask the Secretary to accept an assignment of the mortgage pursuant to §§ 203.650 through 203.662, the mortgagor may apply directly to the Secretary requesting that the Secretary accept such an assignment. The mortgagor's request must be received by the Secretary within fifteen calendar days of the date of the mortgagee's notice to the mortgagor that he may ask the Secretary directly to accept assignment of the mortgage. If the mortgagor's last day for contacting the Secretary falls on a Saturday, Sunday or legal holiday he may make that contact on the next following regular work day.

§ 203.660 Mortgagor's conference with HUD.

(a) The mortgagor seeking the assignment of his mortgage to the Secretary pursuant to §§ 203.650 through 203.662 should be entitled to a conference with a representative of the Secretary before the mortgage is foreclosed unless (1) the mortgage is ineligible for assignment pursuant to § 203.652, (2) the Secretary agrees to accept assignment without such a conference, or (3) the mortgagor responds to a notice of preliminary negative decision of the Secretary by indicating that he prefers to present his arguments by telephone or in writing.

(b) When the mortgagor eligible for a conference under paragraph (a) of this section indicates his desire for a conference prior to foreclosure to discuss the assignment of his mortgage to the Secretary, the Secretaary will schedule such a conference at an early date at the Area or Insuring Office, if within 200 miles of the mortgagor's residence, or, if he resides more than 200 miles from the Office, the conference will be held at a mutually convenient site.

(c) The mortgagor shall be entitled to examine the material on which the Secretary's preliminary negative decision is based.

(d) The mortgagor(s) may be present for the hearing and may be represented by one attorney or other representative. The Secretary's representative conducting the conference may prohibit the presentation of cumulative, repetitious or immaterial arguments or materials. When the Secretary's representative conducting the conference announces willingness to accept an assignment, the conference may be terminated immediately without the presentation of further arguments or evidence. The conference shall be informal and shall not be subject to rules of evidence or procedure except as herein provided.

(e) The mortgagor shall be advised by telephone or letter of the Secretary's determination to accept assignment of his mortgage. If it is determined that an assignment will not be accepted, the mortgagor shall be notified in writing of the Secretary's decision with a statement of (1) the Secretary's findings as to the mortgagor's default, financial status and situation, and (2) the criteria required for assignment as set forth in § 203.654 which were not met by the mortgagor. Field Office Directors shall act for the Secretary in all matters relating to such assignment determinations. The decision of a Field Office Director shall be final and not subject to further administrative review on the petition of the mortgagor.

§ 203.662 Cooperation of mortgagees in assignment program.

(a) Mortgagees shall cooperate in the implementation of the assignment program outlined in §§ 203.650 through 203.662 by reviewing each case in which it is decided to foreclose to determine whether or not the mortgage involved is eligible for assignment to the Secretary and requesting that the Secretary accept assignments of eligible mortgages when the criteria outlined in § 203.654 are met.

(b) No sooner than five days after the date when three full monthly installments are due and unpaid under a mortgage, but in any event prior to the commencement of foreclosure or the acquisition of the mortgage property, the mortgagee shall obtain data from the mortgagor, on a form approved by the Secretary or the substance of the information contained on such a form, relevant to the determination of whether the Secretary should be asked to accept an assignment.

(c) When the mortgagee determines that it will not ask the Secretary to accept an assignment of a mortgage, it shall notify the mortgagor on a form approved by the Secretary, or in substance as provided in such a form, which communication shall advise the mortgagor of the criteria set forth in § 203.654 which were not met in his case. The mortgagee shall also advise the mortgagor that he may petition the Secretary to accept an assignment of the mortgage, if such an application is filed within fifteen days of the mortgagee's communication as more fully set forth in § 203.660.

(d) The mortgagee shall cooperate by delaying foreclosure action on the Secretary's request until the Secretary's consideration of whether to accept an assignment is complete, if the mortgagor files a timely request pursuant to paragraph (c) of this section, and shall promptly provide the Secretary with information from its file which will enable the Secretary to reach a determination with respect to accepting an assignment of the mortgage.

(d) If the Secretary elects to accept an assignment of a mortgage pursuant to §§ 203.650 through 203.662, the mortgagee shall terminate any foreclosure action that may have been initiated and assign the mortgage to the Secretary.

Issued at Washington, D.C., August 23, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.76-25350 Filed 8-27-76;8:45 am]

V 41 169
AUG 30 76
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federal register

MONDAY, AUGUST 30, 1976



PART V:

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

V 41 169
AUG 30 76
UMI

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I report revisions to two deferrals previously transmitted.

Both of the revised reports reflect routine increases to the amounts deferred. The Federal Aviation Administration's Facilities and equipment deferral has been increased by $193.8 million, and a deferral for the State and local government fiscal assistance trust fund in the Department of the Treasury has been increased by $1.4 million.

The details of each revised deferral are contained in the attached reports.

Gerald R. Ford

THE WHITE HOUSE, *August 24, 1976.*

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Transportation:	
	Federal Aviation Administration	
D76-23B	Facilities and equipment (Airport and airway trust fund)	276,101
	Treasury:	
	Office of the Secretary	
D76-24A	State and local government fiscal assistance trust fund	82,407
	Total	358,508

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1976 AND THE TRANSITION QUARTER
(amounts in thousands of dollars)

	Rescissions	Deferrals
Nineteenth special message:		
New items	---	---
Changes to amounts previously submitted	---	195,168
Effect of the nineteenth special message	---	195,168
Previous special messages	3,455,314	8,140,128
Adjustments to eliminate double counting	---	-242,023
Total amount proposed in special messages	3,455,314 (in 49 rescission proposals)	8,093,273 (in 117 deferrals)

NOTE: All amounts listed represent budget authority except for $114,828,220 consisting of two general revenue sharing deferrals (of outlays only). Supplementary reports for these deferrals (D76-25F and D76-67A) are included in the seventeenth special message.

V 41 169 AUG 30 76 UMI

D76-23B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D76-23A transmitted to the Congress on July 6, 1976, and printed as House Document 94-548 and Senate Document 94-232.

The amount deferred for the Federal Aviation Administration's Facilities and equipment program has been increased by $193,761,000 to a new total of $276,101,000. This amount reflects a net increase resulting from: (1) budgetary resources available in the transition quarter that are higher than previously estimated (in part the result of the enactment of the Airport and Airways Development Act Amendments of 1976), and (2) an increased amount made available for obligation in the quarter.

Deferral No: D76-23B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L.) $ -0-
Bureau: Federal Aviation Administration	Other budgetary resources 578,777,754*
Appropriation title & symbol * Facilities and Equipment (Airport and Airway Trust Fund) 69X8107, 694/68107, 695/78107, 696/88107	Total budgetary resources (76&TQ) 578,777,754* 1/
	Amount to be deferred: Part of Transition Quarter $; Entire Transition Quarter 276,101,000*
OMB Identification code: 21-20-8107-0-7-405	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund:* ☐ Annual; ☒ Multiple-year 694/68107 Sept. 30, 1976, 695/78107 Sept. 30, 1977, 696/88107 Sept. 30, 1978 (expiration date); ☒ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

*Justification

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en-route airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1976 and prior years. None of the deferred funds lapse in the transition quarter. The estimated total cost for each project is traditionally included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

*1/ Of this amount, the budgetary resources available in the transition quarter equal $418,101,000. These resources include $416,101,000 in estimated unobligated balances and $2,000,000 in anticipated reimbursements.

* Revised from previous report.

D76-23B

2

Estimated Effects

This deferral action is consistent with normal operations for this program. The amount deferred could not be economically used if made available in the transition quarter because of the planned multi-year procurement, construction and installation cycle.

* Outlay Effect (estimated in millions of dollars)

Comparison with President's 1977 Budget:	
1. Budget outlay estimate for TQ	51.3
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for TQ:	
3. Without deferral	70.0
4. With deferral	70.0
Current outlay savings (line 3 - line 4)	-0-
Outlay savings for 1977	-0-
Outlay savings for 1978	-0-

* Revised from previous report.

D76-24B

Supplementary Report
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D76-24A transmitted to the Congress on July 6, 1976, and printed as House Document No 94-548 and Senate Document No. 94-232.

This report for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the amount deferred by $1,407,250. This is the result of a higher actual unobligated balance brought forward into the transition quarter than had been previously estimated.

V 41 169 AUG 30 76 UMI

Deferral No: D76-24B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-512 ...) $8,018,475,000
Bureau: Office of the Secretary	Other budgetary resources 93,156,016
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111	Total budgetary resources (for 1976 and the TQ) 1/ $8,111,631,016
	Amount to be deferred: Part of ~~XXXX~~ TQ 2/
	Entire ~~XXXX~~ TQ 82,407,250 *
OMB identification code: 15-70-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[ ] Other
Type of account or fund: [ ] Annual; [X] Multiple-year Appropriation 12/31/76 (expiration date); [X] No-year fund	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975.

This cumulative unobligated reserve, totaling $82.4 million* is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

1/ * Of this amount, the budgetary resources available on July 1, 1976, equaled $1,744,695,000 These resources include $1,662,287,750 in new budget authority and $82,407,250 in estimated unobligated balances.
2/ While some amount of this reserve may be released before September 30, 1976, as valid claims are approved, there is no sound basis for estimating that amount.
* Revised from previous report.

D76-24B

2

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1977 Budget:

1. Budget outlay estimate for the transition quarter	1,626.6
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for the Transition Quarter

3. Without deferral	1,626.6
4. With deferral	1,626.6
5. Current outlay savings (line 3 - line 4)	.0
Outlay savings for 1977	.0
Outlay savings for 1978	.0

[FR Doc.76-25411 Filed 8-26-76;11:03 am]

federal register

MONDAY, AUGUST 30, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

PART VI:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Rule Making

V 41 169 AUG 30 76 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Parts 1911, 1921, 1922, 1923, 1924]

[Docket No. R-76-414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Rule Making

The Secretary of Housing and Urban Development hereby proposes the amendment of Chapter X of Title 24 of the Code of Federal Regulations to clarify the respective roles of the Administrator of the Federal Insurance Administration and the National Flood Insurers Association (hereafter NFIA) which sells flood insurance policies and adjusts insurance claims. The regulations published for comment would prescribe the forms of Standard Flood Insurance Policy used in the program as part of the FIA regulations, and would clarify the role of the FIA in interpreting the Act and the Standard Flood Insurance Policies. The regulations would also prescribe requirements regarding subcontracting procedures for subcontracts let by the NFIA. The roles of the Administrator of the Federal Insurance Administration (hereafter FIA) and NFIA would be appropriately clarified.

Congress has entrusted the Secretary of Housing and Urban Development (hereafter the Secretary) with very broad power and responsibility "to establish and carry out a national flood insurance program." Section 1304(a), of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4011(a)), hereafter the Act. The Secretary is specifically authorized to provide "for the general terms and conditions of insurability" and "the nature and limits of loss or damage * * * which may be covered by such insurance." Section 1306(a) of the Act (42 U.S.C. 4013). It is the Secretary who establishes premium rates for such insurance. Sections 1307 and 1308 of the Act (42 U.S.C. 4014 and 4015).

The Secretary has broad authority to arrange for the financing and administration of the flood insurance program and the method or methods by which claims for losses may be adjusted and paid for. Sections 1309–1312 of the Act (42 U.S.C. 4016–4019). The Secretary is authorized to prescribe "appropriate requirements for insurance companies and other insurers" when they are permitted to participate in a pool to provide flood insurance coverage. Section 1331 of the Act (42 U.S.C. 4054). The Secretary is authorized to enter into such agreements with the pool as she deems necessary to carry out the purposes of the program. Section 1332(a) of the Act (42 U.S.C. 4052(a)).

The Secretary is authorized to utilize the facilities and services of insurance companies and other insurers, insurance agents, brokers or insurance adjustment organizations "on such terms and conditions as may be agreed upon." Section 1345 of the Act (42 U.S.C. 4081).

The Authority of the Secretary with respect to the National Flood Insurance Program (the Program) provided for by the Act has been delegated to the Administrator of the Federal Insurance Administration (34 F.R. 2680).

When the Program was originally established by Congress in 1968, the participation of communities and property owners was voluntary. In order to assure broader use of the original Program by the public, the promotional efforts of as large a group as possible of participating insurers was sought. The contract negotiated between FIA and NFIA, which is still in effect, was arrived at with a view toward encouraging such participation by insurers. The Flood Disaster Protection Act of 1973 (Public Law 93–234) made the purchase of flood insurance essentially mandatory by requiring that direct and indirect Federal financial assistance or federally related financial assistance, including any secured loan on improved realty from a federally regulated lender, be denied to any person with respect to property located in a flood hazard area of a participating community unless such person purchases insurance under the Program.

Under the existing arrangements between FIA and NFIA, the participating insurers are basically not at risk. The cost of any expense and flood insurance coverage is borne primarily by the insured property owners and the government. In fact, the "promised risk capital," upon the basis of which companies that are members of the NFIA receive a profit, is not paid in by the member insurers and since 1968, when the program began, no participating insurer has expended any of its promised risk capital.

An individual policyholder often may not be able to afford to litigate decisions of NFIA which deny or reduce benefits, particularly when the claims are not large. Also, unlike many other types of insurance which are subject to the jurisdiction of State insurance regulatory authorities, the flood insurance policyholder cannot obtain relief from State insurance regulatory officials since such officials lack authority with respect to this Federal Program.

In light of this background, FIA has an obligation to assure the fair treatment of policyholders. One of the means utilized to provide fair treatment for policyholders has been the exercise by FIA of the Secretary's authority to interpret the scope of coverage of the Standard Flood Insurance Policy. In former years NFIA followed these interpretations of FIA, in such matters as erosion and mudslide claims when disputes arose between insurers and policyholders. Recently, however, NFIA has asserted that it is not subject to FIA interpretations of flood insurance policy coverage. It is appropriate, therefore, to clairfy the respective roles of FIA and NFIA.

The need for the exercise of the FIA role to protect the best interests of the policyholder who has suffered a loss is illustrated by NFIA's refusal to comply with an interpretation that the FIA issued in connection with NFIA's disclaimer of coverage for the insured's expense in removing insured personal property from insured premises in imminent danger from flood. Upon initial consideration of this issue on a specific case, FIA accepted NFIA's opinion that such claims were not covered. However, upon thorough research and analysis, FIA determined that the Standard Flood Insurance Policy does cover such claims. Among other bases for the FIA interpretation in favor of coverage for removal expense under certain conditions, FIA considered the portion of the Standard Flood Insurance Policy which deprives the insured of coverage for flood loss "caused directly or indirectly by neglect of the insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of * * * [flood]." FIA also examined the financial implications and the FIA analysis indicated that coverage of such claims under the interpretation issued would possibly save money by reducing claims for flood loss. NFIA refused to comply with the FIA interpretation and at the time of the flooding in Minot, North Dakota, earlier this year NFIA caused announcements to be made throughout the affected area that removal costs would not be compensated under flood insurance policies, thus discouraging the filing of such claims.

The regulations published for comment would provide for issuance by the Administrator, from time to time, of interpretations of the terms of the Standard Flood Insurance Policy, as referenced at 24 CFR 1911.4(a)(1). When issued, such interpretations are to be published as appendixes to and incorporated by reference as a part of these regulations.

Legal authority for the issuance of such interpretations is implicit in the Administrator's authority to promulgate the policy and implement the Act. Such interpretations will be interpretative rules of general applicability under the terms of the Administrative Procedure Act, 5 U.S.C. 551, et seq (hereinafter referred to as the "APA"). As such, they are subject to the requirement that they be published in the FEDERAL REGISTER. 5 U.S.C. 552. However, they are not subject to the notice or hearing requirements of the APA applicable to rulemaking and need not be published in the FEDERAL REGISTER in advance of their effective date. 5 U.S.C. 553. As interpretations they apply to any Standard Flood Insurance Policy regardless of the date of execution of such policy, and apply to any claim under such a policy regardless of the date on which it arose.

From time to time, the Administrator may decide that there is a need to change the terms of the Standard Flood Insurance Policy. Such changes will be issued by the Administrator pursuant to the rulemaking requirements of the APA, including prior notice and public procedure, publication at least thirty (30) days prior to effective date where practicable, and prospective operation. 5 U.S.C. 553.

A further major concern relates to NFIA's subcontracting. The second part of the regulations published for comment would require all subcontracts to be in writing and would further require that prior to executing any subcontract involving an amount in excess of $10,000, NFIA must notify the Administrator of its intent to enter into or execute such subcontract and furnish a copy thereof to him together with a statement of the NFIA as to how the subcontractor was selected, the degree of competition entering into the selection, and an analysis as to the reasonability of subcontractor costs or price. The proposed rule would allow expenses incurred by NFIA in violation of the rule's requirements to be reimbursed by the Administrator only upon a determination made by him that the expenses were incurred for good cause shown and that NFIA had no reasonable opportunity to provide the required written documentation in advance.

The regulations would provide that any insurers, insurance agents and brokers, or insurance adjustment organizations servicing the Program may serve the Program only after being awarded the contract for such service under a competitive bidding process.

NFIA has refused to follow competitive bidding practices, notwithstanding the insistence of FIA, thereby lessening competition and possibly increasing the cost to the taxpayer of the Program. It has not made firm written contract arrangements which tie down requirements imposed on subcontractors, nor has it obtained firm contract terms regarding duration and pricing. FIA questions the adequacy of supervision by NFIA of the subcontracts which have been let.

HUD's Office of the Inspector General has found, as to one sizeable subcontract, that the agreement was quite informal; it was open-ended as to time and services; no rates were specified except generally as customary billing rates; and there was no provision for termination for default. The documents did not reserve the right to examine supporting records or billings, and did not specify a completion date.

The regulations published for comment with respect to competitive bid procurement for services are intended to enhance competition and promote fairness in the contracting procedures for procuring the services of insurers. At present sixteen members of the 124 members of NFIA share approximately 70 percent of the profit of NFIA. Of the sixteen, fifteen currently have representatives on NFIA's executive committee. FIA estimates that twelve of these stand to share, as individual servicing companies under subcontract to the NFIA, 80 percent of the servicing revenue which will be earned in the 33 jurisdictions producing the most fees. FIA estimates that five of these twelve can be expected to share 70 percent of the 80 percent servicing fee revenues and almost 30 percent of the profit.

The regulations published for comment are intended to clarify the respective roles of FIA and NFIA and to improve the Program in other respects as indicated above. It is the intention of the Secretary and FIA to negotiate a revised contract to conform with such revised regulations as they are published for effect and include other appropriate provisions in order to insure that the Program is carried out in accord with the intent of Congress.

Interested persons may participate in the instant rule making by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received by September 29, 1976 will be considered before final action is taken on the proposal. Copies of all written comments will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of the comments received.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A–107 and that these amendments do not have an economic impact. A copy of the Finding of Inapplicability is available for inspection at the above address.

Accordingly, the Secretary of Housing and Urban Development proposes to amend Chapter X of 24 CFR as follows:

PART 1911—INSURANCE COVERAGE AND RATES

1. § 1911.13 is added to Part 1911—Insurance Coverage and Rates to read as follows:

§ 1911.13 Standard Flood Insurance Policy.

(a) Each of the Standard Flood Insurance Policy forms included in Appendix "A" hereto ("General Property" and "Dwelling Building and Contents") and by reference incorporated herein shall, within its appropriate sphere, constitute the Standard Flood Insurance Policy.

(b) Any endorsements appended hereto in the said Appendix A, and by reference incorporated herein, are the amendatory endorsements through which the policy may be amended, and no other endorsements shall amend or modify such policy.

(c) The renewal certificate appended hereto, and by reference incorporated herein, shall be the only renewal certificate for use with the Standard Flood Insurance Policy, and no other renewal certificate form shall be effective. (Appendix "B").

(d) The application and renewal application forms appended hereto and by reference incorporated herein shall be the only application forms used in connection with the Standard Flood Insurance Policy. (See Appendix "C").

(e) The Standard Flood Insurance Policy and required endorsements must be used in the Flood Insurance Program, and no provision of the said documents, shall be altered or waived other than through the issuance of an appropriate amendatory endorsement approved by the Administrator as to form and substance for uniform use and countersigned by NFIA or the authorized servicing company.

(f) No oral binder or contract shall be effective in respect to NFIA or the servicing company. No written binder shall be effective unless issued with express authorization of, and countersigned by, NFIA or the authorized servicing company; the inception date of any new or added coverage or of any increase in the amount of insurance shall be at least 15 calendar days after the date of application, except that the 15-day waiting period shall not apply to renewal policies (except as to additions to coverage) nor during the initial 30 calendar days from the effective date of first availability of flood insurance in any designated community.

2. § 1911.14 is added to read as follows:

§ 1911.14 Standard Flood Insurance Policy Interpretations by the Federal Insurance Administrator.

The Administrator shall from time to time issue interpertative rules regarding the provisions of the Standard Flood Insurance Policy. Such interpretations shall be published in the FEDERAL REGISTER, made a part of Appendix D to these regulations, and incorporated by reference as part of these regulations. These interpretative rules shall be effective with respect to all policies regardless of the date of issuance, and with respect to all affected claims regardless of the date on which they arise. NFIA and other affected parties shall comply with such interpretative rules in the investigation and adjustment of flood insurance claims brought under the National Flood Insurance Program.

PART 1921—SUB-CONTRACTS

3. A new Part 1921—Sub-Contracts is added and a new § 1921.1—Sub-Contracts with the Department's Prime Contractor, the NFIA, is added under that new Part to read as follows:

§ 1921.1 Sub-contracts with the Department's prime contractor, the NFIA.

(a) The NFIA, prior to execution of any sub-contract, agreement or other arrangement, involving, or which may involve, an amount of $10,000.00 or more, shall provide the Administrator with written notification that it proposes to enter into and/or executive such sub-

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contract, agreement or other arrangement.

(b) The notification provided for in paragraph (a) of this section shall include a copy of the proposed sub-contract, agreement or other arrangement, a statement by NFIA relative to the scope of work to be performed under the subcontract, a statement as to how the proposed sub-cotractor was selected, including the degree of competition obtained, and NFIA's analysis of the reasonableness of the sub-contractor's cost or price.

(c) Expenses incurred by NFIA in violation of paragraphs (a) and/or (b) of this section may only be reimbursed to the NFIA by the Administrator upon a determination by the Administrator that such expenses were incurred for good cause shown and without a reasonable opportunity to provide the Administrator with the written documentation, in advance of the proposed sub-contract, required under paragraphs (a) and (b) of this section.

(d) All sub-contracts entered into by NFIA must be in writing.

PART 1922—SECRETARY'S AUTHORITY

4. A new Part 1922—Secretary's Authority is added and a new Section 1922.1—Services by Insurance Industry Under Agreements With Secretary is added under that new Part to read as follows:

§ 1922.1 Services by insurance industry under agreements with Secretary.

(a) The Secretary has established and carries out, as authorized by the Congress, all aspects, including the insurance facets, of the National Flood Insurance Program utilizing, among other things, insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations in accordance with the provisions of the National Flood Insurance Act of 1968 Pub. L. 90–448, (42 U.S.C. 4001–4128) relating to the Administration of the program, including the services to be provided by the insurance industry under the direction and control of the Secretary as to the program, including its insurance elements.

(b) The Secretary, in furtherance of the purposes of paragraph (a) of this section, has entered into an agreement with the NFIA under which the NFIA renders service and assistance to the Department in the marketing and selling of flood insurance policies and the adjustment of claims pursuant to the coverage afforded under the Standard Flood Insurance Policy, as interpreted when appropriate by the Administrator.

(c) National Flood Insurance Program functions and responsibilities not expressly delegated to NFIA by paragraph (b) of this section or expressly set forth in the current Agreement by and between the Department and NFIA, which may be examined at the Office of the Federal Insurance Administrator, Room 5138, Department of Housing and Urban Development, Washington, D.C., are reserved to the Secretary.

PART 1923—ADMINISTRATOR'S AUTHORITY OVER COMPETITIVE BIDDING

5. A new Part 1923—Administrator's Authority Over Competitive Bidding is added and a new § 1923.1—When Agreements for Services by Insurance Industry Are Subject to Competitive Bidding is added to that new Part to read as follows:

§ 1923.1 When agreements for services by insurance industry are subject to competitive bidding.

(a) In administering the flood insurance program, the Administrator is authorized to require that any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations servicing, under formal written contract or otherwise, the National Flood Insurance Program may serve the program only after being awarded the contract for such service under a competitive bidding process.

(b) At the Administrator's option and under such terms and conditions as the Administrator may deem proper, the Administrator is authorized to permit the National Flood Insurers Association to conduct any competitive bidding processes as may be required by the Administrator under paragraph (a) of this section, with the Administrator presiding over all elements of the competitive bidding process, including the preparation of the proposed contractual documents, the final form of which shall be subject to the prior approval of the Administrator; except that should the Administrator deem it necessary or appropriate, he may enter into any such contracts, agreements, or other arrangements, as may have been entered into by the NFIA under paragraph (a) of this section, with the use of competitive bidding processes or without regard to any provision of law requiring competitive bidding.

(c) Any services by the insurance industry which may be utilized pursuant to paragraphs (a) (b) of this section are deemed to be in furtherance of the purposes of the 1968 Act and the Agreement (referenced at § 1922.1(b) hereof) by and between the Department and the NFIA, which association of insurers shall continue to use its best efforts to market flood insurance policies and adjust claims utilizing the services obtained under paragraphs (a) and/or (b) of this section.

PART 1924—SECRETARY'S AUTHORITY OVER CLAIMS

6. A new Part 1924—Secretary's Authority Over Claims is added and a new Section 1924.1—Adjustment and Payment of Claims is added to that new Part to read as follows:

§ 1924.1 Adjustment and payment of claims.

(a) The Secretary, in establishing the general method or methods by which claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance, may direct the National Flood Insurers Association or any of its sub-contractors to submit, for review and approval or disapproval by the Secretary, complete documentation (the "claim file") with respect to any claim, series or types of claims made by any persons insured by the Standard Flood Insurance Policy;

(b) The Secretary, or her delegate, the Administrator, may, upon a review of a claim file made pursuant to paragraph (a) of this section, order and direct the National Flood Insurers Association or any sub-contractor of the association to pay, or not to pay, for damages claimed by an insured consumer to have been incurred as a result of a flooding event covered, as determined by the Secretary or the Administrator, by the terms and conditions of the Standard Flood Insurance Policy. Disaster Protection Act of 1973 (Pub. L. 93–234), National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), (33 FR 17804), as amended, 42 U.S.C. 4001–4128; and (34 FR 2680).

Issued: August 26, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF
NATIONAL FLOOD INSURERS ASSOCIATION
NEW YORK, N. Y.
(HEREIN CALLED THE COMPANY)

DWELLING BUILDING AND CONTENTS

APPENDIX A (1)

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. **Dwelling:** The term "dwelling" shall mean a residential building designed for the occupancy of from 1 to 4 families and occupied principally for dwelling purposes by the number of families stated herein.

When the insurance under this policy covers a dwelling, such insurance shall include additions in contact therewith; also, if the property of the owner of the described dwelling and when not otherwise covered, building equipment, fixtures and outdoor equipment, all pertaining to the service of the described premises and while within an enclosed structure located on the described premises; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such dwelling or appurtenant private structures on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the dwelling covered under this policy, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described dwelling and additions in contact therewith) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described dwelling, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. **Contents:** When the insurance under this policy covers contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a dwelling—except other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within an enclosed structure located on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the contents covered under this policy, not as an additional amount of insurance, as follows:

(a) If not the owner of the described premises, to cover loss to improvement, alterations, and additions to the described dwelling and appurtenant enclosed private structures as described above.

(b) If an individual condominium unit owner of the described premises, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described dwelling and appurtenant enclosed private structures as described above.

NFIA-1 (Ed. 7-74)

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ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A (1) DWELLING BUILDING AND CONTENTS

This Company shall not be liable for loss in any one occurrence for more than:

1. $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);
2. $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the dwelling, appurtenant enclosed private structures or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Animals, birds, fish, aircraft, motor vehicles (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

DEDUCTIBLES

A. With respect to loss to the dwelling, appurtenant enclosed private structures or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the dwelling, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

REPLACEMENT COST PROVISIONS

With respect only to a Single Family Dwelling Structure covered hereunder, the term "actual cash value" shall mean replacement cost, subject to following provisions. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from these provisions.

A. If at the time of loss the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such building structure is extended to include the full cost of repair or replacement (without deduction for depreciation).

B. If at the time of loss the whole amount of insurance applicable to said building structure is less than 80% of the full replacement cost of such building structure and less than the maximum amount of insurance available under the National Flood Insurance Program, this Company's liability for loss under this policy shall not exceed the larger of the following amounts:

1. the actual cash value of that part of the building structure damaged or destroyed; or
2. (a) that proportion of the full cost of repair or replacement without deduction for depreciation of that part of the building structure damaged or destroyed, which the whole amount of insurance applicable to said building structure bears to 80% of the full replacement cost of such building structure; or

   (b) the maximum amount of insurance available under the National Flood Insurance Program,

   whichever is larger.

C. This Company's liability for loss under this policy shall not exceed the smallest of the following amounts:

1. the limit of liability of this policy applicable to the damaged or destroyed building structure;
2. the replacement cost of the building structure of any part thereof identical with such building structure on the same premises and intended for the same occupancy and use; or
3. the amount actually and necessarily expended in repairing or replacing said building structure or any part thereof intended for the same occupancy and use.

D. When the full cost of repair or replacement is more than $1,000 or more than 5% of the whole amount of insurance applicable to said building structure, this Company shall not be liable for any loss under paragraph A or subparagraph 2 of paragraph B of these provisions unless and until actual repair or replacement is completed.

E. In determining if the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

F. The Named Insured may elect to disregard this condition in making claim hereunder, but such election shall not prejudice the Named Insured's right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

APPENDIX A (1) DWELLING BUILDING AND CONTENTS

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

O. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

P. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

Q. Abandonment—There shall be no abandonment to this Company of any property.

R. When Loss Payable—The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

S. Action Against the Company—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

T. Subrogation—In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. H. Williams

Attorney-in-Fact for the Insurance Companies
Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

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STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF
NATIONAL FLOOD INSURERS ASSOCIATION
NEW YORK, N. Y.
(HEREIN CALLED THE COMPANY)

APPENDIX A (2)

GENERAL PROPERTY

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. Building: When the insurance under this policy covers a building, such insurance shall include additions and extensions attached thereto; permanent fixtures, machinery and equipment forming a part of and pertaining to the service of the building; personal property of the insured as landlord used for the maintenance or service of the building including fire extinguishing apparatus, floor coverings, refrigerating and ventilating equipment, all while within the described building; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such building or appurtenant private structures on the described premises.

When the insurance under this policy covers a building used for residential purposes, the insured may apply up to 10% of the amount of insurance, applicable to such building, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described building and additions and extensions attached thereto) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described building, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover merchandise and stock, materials and stock supplies of every description; furniture, fixtures, machinery and equipment of every description all owned by the insured; improvements and betterments (as hereinafter defined) to the building if the insured is not the owner of the building and when not otherwise covered; all while within the described enclosed building.
2. When the insurance under this policy covers household contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a residence—except animals, birds, fish, business property, other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the insured or members of the insured's family of the same household, or for which the insured may be liable, or, at the option of the insured, belonging to a servant or guest of the insured; all while within the described building.

The insured, if not the owner of the described building, may apply up to 10% of the amount of insurance applicable to the household contents covered under this item, not as an additional amount of insurance, to cover loss to improvements and betterments (as hereinafter defined) to the described building.

The insured, if an individual condominum unit owner in the described building, may apply up to 10% of the amount of insurance on contents covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described building.

ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A (2)
GENERAL PROPERTY

This Company shall not be liable for loss in any one occurrence for more than:

(a) $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);

(b) $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

3. When the insurance under this policy covers improvements and betterments, such insurance shall cover the Insured's used interest in improvements and betterments to the described building.

(a) The term "improvements and betterments" wherever used in this policy is defined as fixtures, alterations, installations, or additions comprising a part of the described building and made, or acquired, at the expense of the Insured exclusive of rent paid by the Insured, but which are not legally subject to removal by the Insured.

(b) The word "lease" wherever used in this policy shall mean the lease or rental agreement, whether written or oral, in effect as of the time of loss.

(c) In the event improvements and betterments are damaged or destroyed during the term of this policy by the peril insured against, the liability of this Company shall be determined as follows:

(1) If repaired or replaced at the expense of the Insured within a reasonable time after such loss, the actual cash value of the damaged or destroyed improvements and betterments.

(2) If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged or destroyed improvements and betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such improvements and betterments were made to the expiration date of the lease.

(3) If repaired or replaced at the expense of others for the use of the Insured, there shall be no liability hereunder.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the building or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Automobiles; any self-propelled vehicles or machines, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the Insured; watercraft or aircraft.

E. Contents specifically covered by other insurance except for the excess of value of such property above the amount of such insurance.

DEDUCTIBLES

A. With respect to loss to the building or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the building, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

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APPENDIX A (2) GENERAL PROPERTY

L. Mortgagee Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Loss Payable Clause
(Applicable to contents item only and effective only when a loss payee is named In Application and Declarations Form.)
Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

O. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

P. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Q. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

R. Abandonment—There shall be no abandonment to this Company of any property.

S. When Loss Payable—The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

T. Action Against the Company—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

U. Subrogation—In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. H. Williams

Attorney-in-Fact for the Insurance Companies
Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

9.1 PREMIUM NOTICE (PAYOR)—NFIA-50—50-A — APPENDIX B

Approximately one and a half months before expiration of a policy for which the NFIA is able to determine rates and calculate renewal premiums, the payor (insured or mortgagee) is sent a premium notice advising him of the approaching expiration and specifying renewal premium amounts. The bottom of the form is a detachable renewal stub to be returned to the NFIA with the premium. Instructions for preparing the form are printed on its back. Samples of the front and back of the form are presented below and on the following page. NFIA-50A, marked "Agent's Copy," is sent to the agent at the same time as the premium notice is sent to payor; it is identical to the payor's copy.

NATIONAL FLOOD INSURANCE PREMIUM NOTICE

POLICY NR: | SERVICE COMPANY: | DATE:

IMPORTANT – YOUR CURRENT FLOOD INSURANCE POLICY WILL EXPIRE
SEE REVERSE FOR INSTRUCTIONS

A Shows your current level(s) of insurance and the total premium due to renew your insurance at these levels.

B Due to increased repair and replacement costs, it is recommended that you consider increasing your amount of building insurance as shown (see replacement cost provision of your policy). If you elect this option for the next annual term your renewal premium would be as shown.

		AMOUNT OF INSURANCE	PAYABLE PREMIUM
A	BUILDING CONTENTS		
			TOTAL DUE
B	BUILDING CONTENTS		
			TOTAL DUE

PAYOR NAME & MAILING ADDRESS | LOCAL AGENT NAME & MAILING ADDRESS

NFIA-50 — PAYOR COPY — — — —

DETACH HERE — **NATIONAL FLOOD INSURANCE RENEWAL FORM** — DETACH HERE

POLICY NR: | PLAN: | COMPANY NR: | COMMUNITY: | ZONE:

RENEWAL EFFECTIVE DATE: | RENEWAL EXPIRATION DATE:

1. CHECK EITHER A OR B FOR DESIRED AMOUNT OF INSURANCE.
2. DETACH THIS RENEWAL FORM AND RETURN IT WITH CHECK OR MONEY ORDER PAYABLE TO NATIONAL FLOOD INSURERS ASSOCIATION FOR THE EXACT AMOUNT SHOWN IN A OR B.
3. WE REQUEST YOUR RENEWAL PREMIUM PAYMENT BE MADE PRIOR TO

	TOTAL RENEWAL PREMIUM DUE	COMPANY USE
A ☐		
B ☐		

MORTGAGEE KEY

AGENT NUMBER

NATIONAL FLOOD INSURERS ASSOCIATION
P.O. BOX 2768
ARLINGTON, VA. 22202

INSURED NAME & MAILING ADDRESS

If you have any questions or wish to change your amount of insurance to other levels than in B shown above, CONTACT YOUR LOCAL AGENT.

NFIA-50 — **NATIONAL FLOOD INSURANCE COPY**

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APPENDIX C (1)

Regular Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

R REGULAR FLOOD INSURANCE PROGRAM

Insurance Companies Members of National Flood Insurers Association (In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

RENEWAL: YES ☐ NO ☐ (IF RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
Number, Street, City or Town, County, State, Zip Code)

_____

_____

_____

_____

Policy Term 1 Year, from _____ to _____

Inception (Mo. Day Yr.) Expiration (Mo. Day. Yr.) 12:01 AM. Standard Time at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ FIRM Zone # _____

ITEM NO.	AMOUNT OF INSURANCE a) First Layer b) Second Layer	RATES AND PREMIUMS ACTUARIAL RATES	ACTUARIAL PREMIUMS Check Box ☐ If $15 Expense Constant Included.	PAYABLE BY THE INSURED RATES a) Payable b) Actuarial	PAYABLE BY THE INSURED PREMIUMS	Description and Location of Property Covered (Location same as mailing address above unless otherwise indicated)
1. Bldg.	a) $_____ b) $_____ $_____ Total	_____	$_____ ☐ $_____ $_____ Total	a)_____ b)_____	a) $_____ ☐ b) $_____ $_____ Total	Occupied as _____ Located at _____
2. Cents.	a) $_____ b) $_____ $_____ Total	_____	$_____ ☐ $_____ $_____ Total	a)_____ b)_____	a) $_____ ☐ b) $_____ $_____ Total	On Contents consisting principally of _____ in the Enclosed Building Described Above ☐: or _____ Located at _____
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.			$_____	Grand Total Premium Payable By Insured →	$_____	Loss Payee (Contents): _____ INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Base Flood Elevation from FIRM = _____
First Floor Elevation — Certify = _____
Dift. Plus (+) or Minus (—) To Nearest Foot = _____

Does Insured Qualify as "Small Business?" Yes ☐ No ☐

Is Structure Single Family ☐; 2–4 Family ☐; Other Residential ☐; All Other ☐

Is This a Motel or Hotel Structure with normal occupancy of less than six (6) Months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story — Basement	☐	No Basement ☐
Two or more Stories — Basement	☐	No Basement ☐
Split Level — Basement	☐	No Basement ☐
Mobile Home on Foundation	☐	

Check only one box

Masonry walls-slab foundation	☐
Masonry walls-other foundation	☐
All other walls-slab foundation	☐
All other walls-other foundation	☐

Contents Rated as:	Residential	All Other
All in Basement —	☐	☐
All on First Floor —	☐	☐
All on First Two Floors —	☐	☐
All on First Floor & Basement —	☐	☐
All on First Two Floors & Basement —	☐	☐
All above First Floor —	☐	☐
All in Mobile Home on Foundation	☐	☐

_____ DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

_____ SIGNATURE OF INSURED OR AGENT

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

NFIA-2 (Ed. 7-74)

MORTGAGEE'S COPY

APPENDIX C (2)

Emergency Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

E EMERGENCY FLOOD INSURANCE PROGRAM

Insurance Companies Members of National Flood Insurers Association (In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

RENEWAL: YES ☐ NO ☐ (IF RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
(Number, Street, City or Town, County, State, Zip Code)

_____

_____

_____

_____

Policy Term 1 Year, from _____ to _____

Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM (Standard Time) at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ Property in Zone A? Yes ☐ No ☐

ITEM NO.	AMOUNT OF INSURANCE	RATE	PREMIUM	DESCRIPTION AND LOCATION OF PROPERTY COVERED (Location same as mailing address above unless otherwise indicated)
1. Bldg.	$_____	_____	$_____	Occupied as _____ Located at _____
2. Conts.	$_____	_____	$_____	On Contents consisting principally of _____ in the Enclosed Building Described Above ☐; or Located at _____ Loss Payee (Contents):
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.		Total Premium →	$_____	INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert Name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Does insured qualify as "Small Business" Yes ☐ No ☐

Is structure Single Family ☐; 2–4 Family ☐; Other Residential ☐; All other ☐

Is this a Motel or Hotel Structure with normal occupancy of less than six (6) months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story—Basement	☐	No Basement ☐
Two or More stories—Basement	☐	No Basement ☐
Split Level—Basement	☐	No Basement ☐
Mobile Home on Foundation	☐	

Check only one box

Masonry walls-slab foundation	☐
Masonry walls-other foundation	☐
All other walls-slab foundation	☐
All other walls-other foundation	☐

Contents Rated as	Residential	All Other
All in Basement	☐	☐
All on First Floor	☐	☐
All on First Two Floors	☐	☐
All on First Floor & Bsmt.	☐	☐
All on First Two Floors & Bsmt.	☐	☐
All Above First Floor	☐	☐
All in Mobile Home on Foundation	☐	☐

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

_____ DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

_____ SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

NFIA-4 (Ed. 7-74)

MORTGAGEE'S COPY

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APPENDIX D

(1) *Mudslide.* The term "mudslide" shall be interpreted to mean mudflow, a condition where there is actually a flow of mud down a slope.

The occasion for the amendment of the flood policy to include mudslides was the devastating mudflows that had occurred in a number of Southern California communities in 1969 (notably in Glendore, California, which mudflow catastrophe was graphically depicted in the October, 1969 issue of the "National Geographic" magazine), as a result of a record number of grass and brush fires during the summer of 1968, followed by record rains from mid-January until early March the next year. Homes were washed down hills or inundated by what were literally rivers of mud coming down from the hills. Unfortunately, the press and other media at the time characterized these mudflows as "mudslides," a term more identified, really, with landslides.

Thus, the "mudslide" peril was added to flood coverage in the 1969 Housing Act. But it was not added as a peril completely separate from the notion of flood; rather, it was considered analogous to, and essentially a part of, the flooding condition, and was therefore, added by the Congress as an additional meaning of the term "flood" itself. Consequently, we have construed the Congressional intent in the light of the context in which the peril was added, i.e., as a result of the mudflow losses that had occurred in Southern California. Blanket coverage for all types of earth movement was not intended to be covered, and no coverage is provided for improper building or use of fill where rainfall alone is the proximate cause of loss.

Mudflow, on the other hand, tends to involve an abnormal condition akin to flooding, where there would usually be a combination of loss of grass and brush cover, followed by a period of unusually heavy or sustained rains, causing the loosened soil to turn to mud and to begin its flow down the hillside. Such an occurrence is clearly the more fortuitous kind of event that property insurance is normally intended to cover. FIA has consistently adhered to the principle that under the definition of "flood" (which includes mudslides) in the policy there is no mudslide occurrence unless and until there exists a condition of inundation by mudslide in the area in which the insured property is located and that inundation by mudslide necessarily involves a mudflow and not merely a landslide or erosion, whether gradual or sudden. It is with these concepts in mind that the Standard Flood Insurance Policy was amended on July 1, 1974, to specifically add the "mudflow" concept by defining the mudslide peril as being a "flood," as follows: "A general and temporary condition of partial or complete inundation of normally dry land areas from * * * 3 Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground." Loss by landslide or any other earth movement is still excluded under the policy.

In recognition of the need for a restatement of the Congressional intent underlying the addition of the mudslide coverage to the policy, the United States Senate in its Report on the Flood Disaster Protection Act of 1973 affirmed that FIA had correctly construed the term "mudslide" in the 1969 amendment to mean "mudflow; namely, a condition where there is actually a river, or flow, of 'liquid mud' down a hillside, usually as a result of a dual condition of loss of brush cover and subsequent heavy rains" and that "Clearly, the committee intended this condition to be covered when it added the mudslide amendment to the Act in 1969." The Committee also stressed, at pages 13 and 14 of the Report, that FIA would be expected to pay for mudflow losses that occur unexpectedly while a landslide is in progress, so long as the mudflow and not the landslide is the proximate cause of the damage. See Senate Report No. 93-583, 93rd Congress, 1st Session (November 29, 1973).

(2) *Loss in progress.* Basically, under the Standard Flood Insurance Policy, buildings and contents are insured against all direct loss by flood. If a loss is in progress at the time of the inception of coverage, the coverage does not apply to such loss.

The determination as to whether a loss shall be considered to have been in progress at the inception of the contract of insurance turns on the test of when the damage occurred:

If the bulding had already sustained damage by flood, mudflow, or flood related erosion ("flow") at the time of the inception of the policy, coverage will not apply for that loss.

If the building had not been damaged at the inception time, even though the flood may already have entered the land of the owner or caused damage to the land, coverage will apply.

If the building had already sustained damage at the policy's inception time, then subsequently, due to a new flood occurrence, sustained additional damage, the additional damage occasioned by the new event is a covered loss.

Damage to the insured's land, or damage to his neighbor's land or buildings, is immaterial. The test is concerned with the time of damage to the insured's building or contents in relation to the inception time of the policy.

(3) *Flood related erosion.* Under the Standard Flood Insurance Policy, property damage resulting from wave action along a lake or other body of water would be considered a direct loss by flood if the proximate cause of the damage were a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual rapid accumulation or runoff of surface waters from any source.

When a sudden surge or force of nature, such as a severe storm, deluge, or hurricane, accelerates the normal wave action or otherwise causes an abnormally rapid and severe inundation and/or sudden washing away of normally dry land areas by water, any structural property damage proximately caused thereby would be covered under the flood insurance policy. However, where normal, continuous wave action, accompanied by ordinary erosion or the gradual and anticipated wearing away of the land, is the proximate cause of structural property damage, there is no coverage.

The Congress, in recognition of these principles, codified the definition of covered flood related erosion, in § 108 of the Flood Disaster Protection Act of 1973, which has been included in the Standard Flood Insurance Policy as follows: "Definition of 'Flood'—B. The collapse or subsidence of land along the shore of a lake or other body of water exceeding the cyclical levels which result in flooding as defined in A–1 above."

Thus, the concept of flood now includes a type of erosion; an erosion caused by high levels of water in a lake or other body of water. The fact situation for coverage to apply does not require surface flooding, nor severe storm conditions. The touchstone for coverage is a finding of waves or currents of water exceeding anticipated cyclical levels. This latter phrase admittedly presents certain technical difficulties in its application; however, we believe that the compilation and interpretation of the necessary data are not beyond the ken of particular experts in the field. The information can then be matched to the specific claim file, and if relevant, a showing of erosion or undermining causing collapse or subsidence with resulting property damage, would establish a prime facie case.

(4) *Sewer and drain back-up coverage.* First, it is clear that the program does not cover drain back-up that is unrelated to a general condition of flooding as defined in the policy. The two kinds of flooding (other than mudslide and erosion) defined in the policy, of course, are tidal, lake, or stream overflow and surface flooding.

Drain back-up related to surface flooding requires an actual condition of surface flooding in the community or area where the drain back-up occurs. Example. Thus, if a sudden heavy rain fills gutters and overloads sewer systems within a community, causing considerable damage from residential drain-back-up, but there is no evidence of damage from general surface flooding within the community (such as that caused by water entering through basement windows) then no coverage is provided under the policy.

On the other hand, if there has obviously been a flash flood and substantial damage from surface runoff is evident, then related sewer back-up losses are also covered, and there is no need for the adjuster to separate out damage caused by drain back-up from that caused, for example, by water entering through the basement windows, as long as he is satisfied that the damage has not resulted primarily from causes on the insured's own property.

Drain back-up directly related to rising waters or the overflow of natural bodies of water is similarly covered. All that must be shown is that the drain back-up loss was proximately caused by rising waters in an identifiable body of water that is at or above flood stage. "Flood stage" is generally defined as the stage or elevation at which the overflow of the *natural* banks of a stream or body of water begins, *in the reach or area in which the elevation is measured* (Emphasis supplied.)

Example. Thus, if the Mississippi River is at flood stage and is prevented from overflowing its banks at a particular location by a levee, but the waters back up into a nearby tributary, flooding adjacent properties either through the overflow of the tributary or the back-up of water into the sewers emptying into the tributary, then all of the resulting damage would be covered under the policy, since no damage would have occurred but for the fact that the Mississippi River was at flood stage.

To recapitulate, it is proper under the policy to pay drain back-up losses which, like erosion losses or mudslide losses (both of which have now been added by statute), are directly and proximately caused by a covered form of flooding. It makes no sense to deny coverage for the relatively minor damage to properties caused by drain back-up at locations where levees have been built, while at the same time paying for major structural damage to properties at locations where levees have not been built, when both types of losses are caused by the same water level in the same stream.

(5) *Seepage and high water table coverage.* The program does not cover losses which are causally related solely to high water tables or or seepage. The Standard Flood Insurance Policy only covers losses arising out of a general condition of flooding. The two kinds of flooding (other than mudslides and erosion) defined in the Standard Flood Insurance Policy are surface flooding, tidal, lake or stream overflow. For damage related to seepage or a high water table to be covered, in the case of surface flooding, the event must be proximately caused by and be a part of a natural condition of surface flooding in the

community or area where the seepage damage or high water table occurs. Example A. Thus, if a sudden, heavy rain increases the water table in a given area and causes seepage of water, resulting in considerable damage, but there is no evidence of damage from a general surface flooding within the community (such as that caused by water entering through basement windows), then no coverage is provided under the policy. On the other hand, if there has obviously been a flash flood and substantial damage from surface water runoff is evident in the community or area, then, related high water table and seepage losses, so long as they are part of the same flooding event are also covered. In addition, there is no need, in such cases, for the adjuster to separate out damage caused by seepage from that caused, for example, by water entering the basement window as long as he is satisfied that the damage has not resulted primarily from causes on the insured's own property and that there was a general condition of flooding in the community or area which was the proximate cause of the loss.

Seepage and high water table damage directly related to rising waters or the overflow of natural bodies of water is similarly covered. All that must be shown is that the loss was proximately caused by rising waters in an identifiable body of water that is at or above flood stage. "Flood stage" is generally defined as the stage or elevation at which the overflow of the *natural* banks of a stream or body of water begins, *in the reach or area in which the elevation is measured.* (Emphasis supplied.)

Example B. Thus, while an identifiable body of water is at or above flood stage and is prevented from overflowing its banks at a particular location by a levee, but the waters (either through back-up of a nearby tributary, or the creation of an unusually high water table) flood adjacent properties through seepage of water into buildings in the area, then all of the resulting damage would be covered under the policy, since no damage would have occurred but for the fact that the Mississippi River, for example, was at flood stage.

To recapitulate, it is proper under the policy to pay seepage and high water table losses which, like erosion losses or mudslide loses (both of which have now been added by statute), are directly and proximately caused by a covered form of flooding.

(6) *Coverage for expenses incurred in removing insured contents away from the peril of flood.* Insureds who take the precaution of removing insured contents or personalty away from the peril of flood are to be compensated for the reasonable expenses of removing the contents of an insured structure from the path of a flood which is of such imminence as to lead a person of common prudence to apprehend damage to such contents inasmuch as such loss or expense constitutes loss proximately resulting from flood under the Standard Flood Insurance Policy.

[FR Doc.76-25445 Filed 8-27-76;8:45 am]

V 41 169 AUG 30 76 UMI

federal register

MONDAY, AUGUST 30, 1976



PART VII:

DEPARTMENT OF COMMERCE

Economic Development Administration

■

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

V 41 169 AUG 30 76 UMI

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 316—LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

The Economic Development Administration, pursuant to Title I of the Public Works Employment Act of 1976, hereby amends 13 CFR 316.2, 316.10 and 316.13 for the purposes of defining a "general purpose unit of local government;" adding to the "basic rank" of the "project selection formula" the fourth factor, which was previously omitted; and to correct the references to specified subsections.

Section 316.2 is amended to add a definition for a "general purpose unit of local government."

Section 316.10(a)(2)(i) is amended by adding a new paragraph (D) to provide for consideration of the level of income prevailing in the project area as the fourth factor, constituting 15 percent, of a project's basic rank.

Section 316.13(a)(2) is amended to change the references to "subsections C and D" to "subsections (iii) and (iv)", respectively.

In that the material contained herein is a matter relating to an EDA grant program and because these amendments are corrections of existing regulations, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking opportunity for public participation and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding these amendments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230, on or before September 21, 1976. All suggestions will be considered in revising or amending these regulations. Until such time as further changes are made, however, the amended regulations shall remain in effect, thus permitting the public business to proceed more expeditiously.

Consideration has been given as to whether matters set forth in these amendments constitute a major proposal with an inflationary impact within the meaning of OMB Circular No. A-107 and the interpretative guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, 13 CFR Chapter III is hereby amended as follows:

1. Section 316.2 is amended by adding after the definition of "Assistant Secretary" the following new definition:

§ 316.2 Definitions.

* * * * *

General purpose unit of local government means any city, county, town, parish, Indian tribe, or any other "unit of general local government" as included within the definition of that term by section 4201(4) of the Intergovernmental Cooperation Act of 1968. (42 U.S.C. 4201 et seq.)

* * * * *

2. Section 316.10(a)(2)(i) is amended by adding the following new paragraph (D):

§ 316.10 General considerations and requirements for assistance.

(a) * * *
(2) * * *
(i) * * *

(D) The level of income prevailing in the project area. This factor will constitute 15 percent of a project's basic rank.

* * * * *

§ 316.13 [Amended]

3. Section 316.13(a)(2) is amended to change the references to subsections "C and D" to "(iii) and (iv)", respectively.

(Title I, Pub. L. 94-369 (July 22, 1976); 42 U.S.C. 6701 et seq.; 90 Stat. 999; and Department of Commerce Organization Order 10-4 (September 30, 1975) as amended (40 FR 56702, as amended at 40 FR 58878 and at 41 FR 35548).)

Effective date: This amendment becomes effective on August 30, 1976.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A-107.

JOHN W. EDEN,
Assistant Secretary for Economic Development.

AUGUST 26, 1976.

[FR Doc.76-25490 Filed 8-27-76;9:32 am]

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Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1976)

Title 32—National Defense (Parts 590–699)	$3.10
Title 32—National Defense (Parts 1000 to 1399)	2.20
Title 40—Protection of Environment (Parts 0 to 49)	3.15
Title 41—Public Contracts and Property Management (Chapter 7)	1.85

[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]

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170

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PAGES
36639–36785

federal register

TUESDAY, AUGUST 31, 1976

highlights

PART I:

WOMEN'S EQUALITY DAY
Presidential proclamation 36639

FEDERAL ENERGY OFFICE
Executive order terminating 36641

INNOVATIVE COMMUNITY DEVELOPMENT PROJECTS
HUD revises requirements, general criteria, and review factors for determining nature and relative merit of discretionary grant applications; effective 8–31–76 36650

MOTOR CARRIER SAFETY
DOT/FHA simplifies certificate of qualification filing and information requirements for drivers regularly employed by another carrier; effective 10–1–76 36656

IRRIGATION LOADS
USDA/REA proposes requirements, procedures, and guidelines for special studies of electric borrowers; comments by 9–30–76 .....

WATERCRAFT
Interior sets regulations and procedures for acquisition, management, and safe operation; effective 8–31–76 36654

GASOLINE
FEA publishes ruling on entitlement of retail sales outlet operators 36647

SALVAGE CLAIMS
DOD/Navy proposes increased per diem rates for services and revised procedures for leasing naval equipment; comments by 9–30–76 36666

MOTOR VEHICLE SAFETY STANDARDS
DOT/NHTSA permits new nonpassenger car vehicles to be equipped with tires not meeting certain labeling requirements; effective 8–27–76 36657

COMMERCIAL FISHERIES
Commerce/NOAA sets size limits for sea scallops; effective 8–31–76 36662

INTERNATIONAL VOLUNTARY AGREEMENTS
FEA revises administrative procedures 36646

SELECTIVE SERVICE
Selective Service System proposes amendments to public information provisions; comments by 9–30–76 36669

CONTINUED INSIDE

V41 170 AUG 31 76 UMI

170

Vol.41–No.170
8–31–76

PAGES
36639–36785

federal register

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PART I:

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USDA/REA proposes requirements, procedures, and guidelines for special studies of electric borrowers; comments by 9–30–76 .....

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DOD/Navy proposes increased per diem rates for services and revised procedures for leasing naval equipment; comments by 9–30–76 36666

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DOT/NHTSA permits new nonpassenger car vehicles to be equipped with tires not meeting certain labeling requirements; effective 8–27–76 36657

COMMERCIAL FISHERIES
Commerce/NOAA sets size limits for sea scallops; effective 8–31–76 36662

INTERNATIONAL VOLUNTARY AGREEMENTS
FEA revises administrative procedures 36646

SELECTIVE SERVICE
Selective Service System proposes amendments to public information provisions; comments by 9–30–76 36669

CONTINUED INSIDE

V 41 170 AUG 31 76 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

Commerce/PTO—Patent cases; interference practices..... 27832; 7–7–76

FCC—Broadcast stations; remote pickup. 29681; 7–19–76

FDIC—Securities of insured state nonmember banks; quarterly report. 25887; 7–23–76

SEC—Authority delegation; Directors, Division of Market Regulation; Office of Reports and Information Service. 32736; 8–5–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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HIGHLIGHTS—Continued

NATIONAL REGISTER OF HISTORIC PLACES
Interior/NPS publishes list of pending nominations; comments by 9–10–76 36675

MARINE MAMMAL RESOURCES
Commerce/NOAA provides standards and procedures for approving and reviewing State laws and management 36659

TRUTH IN LENDING
FRS publishes rule on identification of transactions 36662

MEETINGS—
Commerce/DIBA: National Industrial Energy Council, 9–29–76 36676
DOD: Board of Advisers of the Industrial College of the Armed Forces and the Board of Consultants of the National War College, 9–15 and 9–16–76 36671
HEW/OE: Advisory Committee on Accreditation and Institutional Eligibility, 9–22 thru 9–24–76 36679
National Advisory Council on Extension and Continuing Education, 9–22 thru 9–24–76 36679
CSC: Advisory Committee on Administrative Law Judges, 9–17–76 36682
ERDA: Advisory Committee on Geothermal Energy, 9–16–76 36688
EPA: Environmental Pollutant Movement and Transformation Advisory Committee, 9–20–76 36682
FEA: Public Forum on Coal, 9–20–76 36691
NCUA: National Credit Union Board, 9–23 and 9–24–76 36701
SBA: Houston District Advisory Council, 9–16–76 36702
Louisville District Advisory Council, 9–23–76 36702
National Commission on Electronic Fund Transfers, 9–9 and 9–10–76 36701
LSC: Committee on Appropriations and Audit, 9–9–76 36701

CHANGED MEETING—
HEW/NIH: National Advisory Eye Council, Vision Research Program Planning Subcommittee, 9–12–76 36678

PART II:

UNDERGROUND WATER SOURCES
EPA proposes minimum requirements for State programs controlling subsurface injection of contaminants 36726
EPA proposes regulations governing grants designed to assist States in funding protection programs; comments by 11–29–76 36730

PART III:

PRIVACY ACT OF 1974
PRC publishes notice of systems of records and proposed new routine use; comments by 9–30–76 36747

PART IV:

PRIVACY ACT OF 1974
Interior proposes revisions of routine uses of systems of records; comments by 9–14–76 36751

contents

THE PRESIDENT

Executive Orders
Federal Energy Office; termination 36641

Proclamations
Women's Equality Day 36639

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Authority delegations:
Director, Office of U.S. Foreign Disaster Assistance 36671
Holt Adoption Programs; voluntary termination of registration 36671
Holt International Children's Services, Inc.; registration as voluntary foreign aid agency 36671

AGRICULTURAL MARKETING SERVICE
Rules
Cherries grown in Mich. et al 36643
Prunes (dried) produced in Calif 36644
Proposed Rules
Milk marketing orders:
New York-New Jersey 36668

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules
Tobacco (flue-cured); marketing quotas and acreage allotments 36643

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service; Rural Electrification Administration.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Livestock and poultry quarantine:
Brucellosis 36644

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1976; addition; correction 36682

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Air Traffic Conference of America 36679
City of Lubbock, Tex., and Lubbock Chamber of Commerce 36680
Ephrata-Moses Lake Deletion case 36681
Memphis-Twin Cities-Milwaukee case 36682

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Small Business Administration 36643
Notices
Meetings:
Administrative Law Judges Advisory Committee 36682

COMMERCE DEPARTMENT
See Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY
Rules
Community development block grants:
Discretionary grants; applications and criteria 36650

CONSUMER PRODUCT SAFETY COMMISSION
Rules
Confidential information, safeguarding procedures:
Chemical formulations 36648

DEFENSE DEPARTMENT
See also Navy Department.
Notices
Meeting:
Board of Advisers of the Industrial College of the Armed Forces and the Board of Consultants of the National War College 36671

V 41 170 AUG 31 76 UMI

V41170

CONTENTS

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
Industrial Energy Council, National ---- 36676
Scientific articles; duty free entry:
University of Richmond, et al ---- 36677

EDUCATION OFFICE

Notices

Meetings:
Accreditation and Institutional Eligibility Advisory Committee ---- 36679
Extension and Continuing Education National Advisory Council ---- 36679

ELECTRONIC FUND TRANSFERS, NATIONAL COMMISSION

Notices

Meeting ---- 36701

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Meetings:
Geothermal Energy Advisory Committee ---- 36688

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
Wyoming ---- 36652
Water pollution; effluent guidelines for certain point source categories:
Mineral mining and processing; extension of time ---- 36653

Proposed Rules

Grants, State and local assistance:
Underground water source protection programs ---- 36726
Water pollution; effluent guidelines for certain point source categories:
Mineral mining and processing; extension of time ---- 36669
Water pollution control:
Safe drinking water; underground injection control programs ---- 36730

Notices

Air quality implementation plans; various States, etc.:
California; extension of time, correction ---- 36687
Meetings:
Environmental Pollutant Movement & Transformation Advisory Committee ---- 36682
Pesticide applicator certifications; State plans:
Guam ---- 36687
Pesticide programs:
Scientific Advisory Panel membership nominations, extension of comment period ---- 36682
Pesticide registration:
Applications (2 documents) ---- 36682, 36685

FEDERAL ENERGY ADMINISTRATION

Rules

Administrative procedures and sanctions; oil:
Voluntary agreements, international ---- 36646
Rulings:
Retail sales outlet operator's entitlement to motor gasoline ---- 36647

Notices

Appeals and applications for exemption, etc.; cases filed with Exceptions and Appeals Office:
Decisions and orders issued ---- 36690
List of applicants ---- 36689
Meetings:
Public Forum on Coal ---- 36691

FEDERAL HIGHWAY ADMINISTRATION

Rules

Motor carrier safety regulations:
Driver qualifications; regularly employed by another carrier ---- 36656
Tires; special permit vehicles; loading restriction exemption ---- 36656

FEDERAL MARITIME COMMISSION

Notices

Investigations and hearings:
Arctic Lighterage Co ---- 36692

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Alabama Power Co ---- 36693
Algonquin Gas Transmission Co. and Texas Eastern Transmission Corp ---- 36694
Arkansas Louisiana Gas Co. (2 documents) ---- 36694
Columbia Gas Transmission Corp ---- 36695
El Paso Natural Gas Co ---- 36695
John M. Haynes ---- 36695
Lone Star Gathering Co. and Lone Star Gas Co ---- 36696
Missouri Power & Light Co ---- 36696
Mountain Fuel Supply Co ---- 36696
Northern Natural Gas Co ---- 36697
Pacific Power & Light Co. (2 documents) ---- 36697
Public Service Company of Oklahoma ---- 36697
Transcontinental Gas Pipe Line Corp ---- 36698
Transcontinental Gas Pipe Line Corp. and Natural Gas Pipeline Company of America ---- 36698
United Gas Pipe Line Co ---- 36699
W. R. Grace & Co ---- 36699

FEDERAL RESERVE SYSTEM

Rules

Truth-in-lending:
Fair credit billing, open-end credit; identification of transactions ---- 36662

Notices

Applications, etc.:
Bancal Tri-State Corp ---- 36699
CCNB Bancshares Corp ---- 36700
First Freeport Corp ---- 36700
First Tennessee National Corp ---- 36701
Harvard State Co ---- 36701

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Pathfinder National Wildlife Refuge, Wyo. (2 documents) ---- 36659
Rice Lake National Wildlife Refuge, Minn ---- 36659

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Medicated blocks; correction ---- 36650

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Curtis Creek Unit Plan, Pisgah National Forest, N.C ---- 36676
Shasta-Trinity National Forest, Calif ---- 36676

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc ---- 36701

GENERAL SERVICES ADMINISTRATION

Rules

Procurement:
Federal ---- 36654

GEOLOGICAL SURVEY

Notices

Environmental statements; availability, etc.:
Montana; regional coal development ---- 36675
Utah; regional coal development ---- 36675

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Food and Drug Administration; National Institutes of Health.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Community Planning and Development, Office of Assistant Secretary.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

Rules

Property management ---- 36654

Notices

Privacy Act; systems of records; routine uses ---- 36751

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief ---- 36707
Hearing assignments ---- 36706
Motor carriers:
Temporary authority applications ---- 36707
Transfer proceedings ---- 36707

CONTENTS

JUSTICE DEPARTMENT

Rules

Organization, functions, and authority delegations:
Parole Commission; duties and powers transferred from U.S. Parole Board; correction ---- 36650

LABOR DEPARTMENT

See Occupational Safety and Health Administration; Wage and Hour Division.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
Alaska (2 documents) ---- 36671, 36672
Colorado ---- 36674
New Mexico ---- 36675

LEGAL SERVICES CORPORATION

Notices

Meetings:
Committee on Appropriations and Audit ---- 36701

NATIONAL CREDIT UNION ADMINISTRATION

Notices

Meetings:
National Credit Union Board ---- 36701

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Tire selection and rims for other than passenger cars ---- 36657

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
National Advisory Eye Council ---- 36678

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Atlantic fisheries, Northwest:
Sea scallops, size limit for ---- 36662
Marine mammals:
Taking and importation; State laws and regulations, approval and review ---- 36659

NATIONAL PARK SERVICE

Notices

Historic Places National Register; pending nominations ---- 36675

NAVY DEPARTMENT

Proposed Rules

Claims:
Salvage, affirmative ---- 36666

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

State plans for enforcement of standards:
Minnesota ---- 36650

Notices

Applications, etc.:
Interlake Stamping Corp ---- 36702

POSTAL RATE COMMISSION

Notices

Privacy Act of 1974; systems of records ---- 36747

RURAL ELECTRIFICATION ADMINISTRATION

Proposed Rules

Information, public:
Irrigation load studies; bulletin 145–1 issuance ---- 36668

SELECTIVE SERVICE SYSTEM

Proposed Rules

Information, public; availability, etc ---- 36669

SMALL BUSINESS ADMINISTRATION

Notices

Authority delegations:
Philadelphia District Office ---- 36702
Meetings:
Houston District Advisory Council ---- 36702
Louisville District Advisory Council ---- 36702

STATE DEPARTMENT

See Agency for International Development.

TRANSPORTATION DEPARTMENT

See Federal Highway Administration; National Highway Traffic Safety Administration.

WAGE AND HOUR DIVISION

Notices

Puerto Rico; various industry committees; appointment, convention, hearings ---- 36705

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: JANET SOREY, 523–5282

AUG 31 76 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4451 36639

EXECUTIVE ORDERS:
11930 (Revoked by EO 11933) 36641
11933 36641

5 CFR
213 36643

7 CFR
725 36643
930 36643
993 36644

PROPOSED RULES:
1002 36668
1701 36668

9 CFR
78 36644

10 CFR
Ch. II 36646
205 36646

12 CFR
226 36662

16 CFR
1017 36648

21 CFR
510 36650

24 CFR
570 36650

28 CFR
0 36650

29 CFR
1952 36650

32 CFR

PROPOSED RULES:
754 36666
1608 36669

40 CFR
52 36652
436 36653

PROPOSED RULES:
35 36726
146 36730
436 36669

41 CFR
1-16 36654
114-38 36654

49 CFR
391 36656
393 36656
571 36657

50 CFR
32 (3 documents) 36658, 36659
216 36659
240 36662

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:
18 32861

3 CFR

PROCLAMATIONS:
3279 (See EO 11930) 32399
4451 36639

EXECUTIVE ORDERS:
October 14, 1911 (Revoked in part by PLO 5598) 34035
October 19, 1911 (Revoked in part by PLO 5598) 34035
April 16, 1912 (Revoked in part by PLO 5598) 34035
October 27, 1914 (Revoked in part by PLO 5598) 34035
6276 (Revoked in part by PLO 5596) 33267
11652 (See EO 11932) 32691
11790 (See EO 11930) 32399
11814 (See EO 11930) 32399
11912 (See EO 11930) 32399
11930 32399
11930 (Revoked by EO 11933) 36641
11931 32689
11932 32691
11933 36641

DIRECTIVES:
May 17, 1972 (Amended by Directive of July 30, 1976) 32693
July 30, 1976 32693

MEMORANDUMS:
July 19, 1976 32403

4 CFR
1 35155

5 CFR
213 ..... 32892, 33545, 34246, 34731, 35155, 36193, 36643
591 32892

PROPOSED RULES:
2505 36514
2510 36514

7 CFR
2 36193
35 32877
52 ..... 32222, 34751
103 34005
105 34005
106 34005
108 34006
111 34006
220 ..... 32405, 34757, 36013
225 35685
230 35686
235 32405
271 34760
331 ..... 32229, 32409
354 35693
409 34973
722 ..... 32878, 36193
725 36643
728 35694
775 35694
729 36194
790 34247
791 34247
905 34248
908 ..... 32229, 32695, 34006, 35053, 35520, 36013
909 35843
910 ..... 32827, 34248, 35156, 35521, 36195
911 36013
915 34973
916 32410
917 ..... 32410-32411, 34762
919 35695
926 34007
930 36643
944 34762
946 36014
947 ..... 32230, 32695
958 36195
967 35520
982 34974
989 32412
993 36644
1012 32417
1099 32575
1207 36197
1421 ..... 32879, 35695-35702
1124 ..... 32418, 35843
1427 35521
1430 32881
1472 34248
1701 33546
1806 34571
1821 32575
1822 ..... 34577, 34578
1831 ..... 32575, 32697
1861 32576
1871 32576
1872 ..... 32577, 32578
1890c 32578
1901 34583
1955 32697

PROPOSED RULES:
16 ..... 34777, 34977, 35072
47 32231
51 32896
909 32234
910 ..... 33922, 35187, 36211
911 34049
912 36212
919 32234
926 ..... 34647, 36035
927 34050
930 32606
931 32757
932 35722
946 32758
953 34766
981 ..... 34647, 36034, 36506
991 34648
993 33275
1002 36668
1004 34282
1006 35187
1007 33275
1011 ..... 33275, 34444
1012 35187
1013 35187
1030 33275
1032 33275
1033 ..... 34444, 35194
1046 33275
1049 33275
1050 33275
1062 33275
1063 33275
1064 33275
1065 33275
1068 33275
1070 33275
1071 33275
1073 33275
1076 33275
1078 33275
1079 33275
1090 ..... 33275, 34444
1094 33275
1096 33275
1097 33275
1098 33275
1099 33275
1101 ..... 33275, 34444
1102 33275
1104 33275
1106 33275
1108 33275
1120 33275
1124 34286
1126 33275
1131 33275
1132 33275
1138 33275
1207 32606
1260 34772
1430 32899
1701 ..... 32419, 36668
1801 33561
1813 33922
1823 34767
1861 33561
1867 35532
1980 33561

8 CFR
100 ..... 32419, 34937
103 34937
316a 34938

9 CFR
73 ..... 32882, 34751
76 ..... 32882, 35156, 35675
78 36644
83 32432
113 32882
201 34007
303 36197
381 36197

PROPOSED RULES:
320 36215
325 36215
327 ..... 34293, 36215

V41170 AUG 31 76 UMI

10 CFR

Ch. II 36646
35 34635
205 36646
211 33881
212 ..... 34008, 36172
700 34731
735 34731

PROPOSED RULES:

9 35073
70 35537
205 ..... 34783, 34981
210 34784
211 34784
212 ..... 33282, 34080, 34784
705 34778

11 CFR

Ch. I 35932

12 CFR

7 36198
217 32578
220 34938
221 35477
226 36662
265 36198
303 35156
335 35477
545 35820
561 ..... 32419, 35821
563 ..... 32419, 35821
611 33546
615 33547
618 33547

PROPOSED RULES:

16 32864
225 33306
226 35536
556 36039
569 35827
584 33566

13 CFR

102 35675
105 33547
120 33245
122 33549
123 35675
316 ..... 35670, 36636

PROPOSED RULES:

120 33567

14 CFR

13 32205
36 35053
37 35070
39 ..... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059, 36014, 36015, 36487–36489
47 34009
49 34009
71 ..... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478, 36016, 36489–36490
73 ..... 34011, 34587
95 34011
97 ..... 32735, 34016, 35478, 36490
121 35070
137 35059
253 34249

14 CFR—Continued

302 36491
300 34587
310 32579
372 35157
372a 35158
373 35160
378 35160
378a 35160
1207 35479

PROPOSED RULES:

39 ..... 32238, 32239, 34076, 34649, 36511, 36512
45 34076
71 ..... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535, 36036, 36512
73 ..... 34077, 34650
75 34077
93 35073
121 36036
Ch. II 34979
300 34650

15 CFR

0 34938
905 34017

16 CFR

13 ..... 32420, 34019, 34249, 34742, 34939–34941, 35843, 36198, 36199
15 34594
433 34594
1017 36648

PROPOSED RULES:

423 35863
437 35725
456 33925
700 34654
704 32911
1145 33636
1150 33636
1500 33639

17 CFR

150 35060
200 32736
210 ..... 32737, 35479
211 35163
240 ..... 35167, 36199
249 35167

PROPOSED RULES:

239 32540
240 ..... 32856, 33004, 35073
270 32760

18 CFR

2 ..... 32883, 33364
154 33364
157 ..... 32212, 32883,

PROPOSED RULES:

1 34324
2 ..... 32910, 36221
4 36222
34 36040
35 32911
131 36222
141 36402
154 32911
260 ..... 33642, 33780

19 CFR

1 35061
6 33440
142 33248
153 ..... 32421, 32893, 34597, 34974, 36497
159 ..... 32230, 34250
158 33248

PROPOSED RULES:

1 ..... 34049, 34261
18 34271
101 34261
123 34271
144 34271
201 34081

20 CFR

404 32885
410 33549
416 36017
602 35169

PROPOSED RULES:

404 ..... 34060, 35861, 35862
405 35197
416 35862
701 34294
702 34294
725 ..... 34972, 36219

21 CFR

2 ..... 32738, 32886
5 ..... 33248, 34597
11 33249
27 32886
121 ..... 32580, 34598, 34742, 34942, 35170
193 32888
310 ..... 32580, 35171
436 34742
460 35061
510 ..... 32213, 34743, 35844, 36200, 36650
514 36200
520 32889
522 ..... 32583, 32889, 33882, 36018
555 ..... 32583, 33882
558 34943
620 35480
640 35062
701 32583

PROPOSED RULES:

1 34051
2 35855
4 35282
6 35282
102 36509
128f 35532
500 ..... 32434, 34052
510 34884
526 34884
540 34884
556 34884
558 34884
801 35282
812 35282
1301 32756

22 CFR

64 36203
102 34743
503 35480
606 33550

PROPOSED RULES:

130 33446

23 CFR

230 34239
420 33440
630 33253
633 36204
635 36204
655 36206

PROPOSED RULES:

658 32240
661 33280
1204 33280

24 CFR

10 33909
203 32216
207 32216
220 32216
260 ..... 34608, 35706
300 34611
570 36650
886 32686
891 35660
1914 ..... 32216, 32738, 33551, 34943, 35706, 35707, 36492
1915 ..... 33911, 35708
1916 ..... 32584–32587, 32739, 33253–33255, 33552–33556, 33919–33921, 35844–35847
1917 ..... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714, 33260–33262, 34611–34618, 35171–35174, 35847
1920 34618
1930 34618
1931 32359
2205 32359

PROPOSED RULES:

201 32564
203 36604
205 34977
570 34301
710 35978
720 35978
868 32370
1710 34648
1911 36620
1917 ..... 34063–34075, 34305–34322
1921 36620
1922 36620
1923 36620
1924 36620
2205 32237

25 CFR

41 33556
43h 32421
221 34743

PROPOSED RULES:

41 32756
221 32757

26 CFR

1 ..... 33262, 34025, 34619, 35490
20 ..... 34627, 35490
25 ..... 34628, 35490
31 35174
53 35514
141 ..... 32889, 32890
301 ..... 34025, 35174, 35490

PROPOSED RULES:

1 ..... 33285, 35855
31 32231
54 32895

27 CFR

201 36492

PROPOSED RULES:

4 ..... 36029, 36498
5 ..... 35531, 36029
170 36499
173 36499
194 36499
201 36499
250 36499
251 36499
252 36499

28 CFR

0 ..... 35183, 36650
16 32423
20 34949

PROPOSED RULES:

30 36215

29 CFR

699 34744
1601 34745
1602 33557
1910 35185
1952 ..... 32424, 34251, 34252, 36206, 36650
2520 32522
2602 32740
2606 32741

PROPOSED RULES:

97 ..... 35723, 35724
1601 33924
1910 ..... 32911, 32912, 35200
1952 ..... 32912, 34298, 36219
2200 34657

30 CFR

55 33263
56 33263
57 33263

PROPOSED RULES:

211 35716

31 CFR

316 36342
332 36354

PROPOSED RULES:

210 ..... 32605, 35855

32 CFR

581 34253
722 34745
725 32742
832 34951
889 34952
968 34962
1008 34962

PROPOSED RULES:

251 36506
256 36030
505 34764
642 32346
657 34924
754 36666
832 34976
1286 32231
1608 36669

33 CFR

109 36018
110 36018

33 CFR—Continued

117 ..... 32217, 34034, 35521, 35522
127 ..... 32742, 35066
207 34034

PROPOSED RULES:

110 34649
117 ..... 32238, 35536, 36510
161 32758

34 CFR

PROPOSED RULES:

Ch. I 34324

35 CFR

PROPOSED RULES:

133 33307

36 CFR

7 33263
50 34748

38 CFR

3 36493
4 34256
21 32217
36 32218

PROPOSED RULES:

1 32247

39 CFR

10 35682–35685
111 35682–35685
3002 32742

PROPOSED RULES:

775 35725
3003 34792

40 CFR

51 35676
52 ..... 32743, 32890, 34259, 34749, 35184, 35676, 36324, 36652
60 ..... 33264, 34628, 35184
61 ..... 33264, 34629
86 35626
87 34722
180 ..... 32426, 33265, 34629, 35677
402 33265
416 32578
420 32218
434 34440
436 36653

PROPOSED RULES:

35 36726
52 ..... 32241, 34422, 34782, 35725
60 36600
146 36730
180 32899
220 34078
229 34078
416 32613
420 32242
434 34441
436 36669

41 CFR

1–7 33265
1–12 33265
1–16 ..... 33265, 36654
4–1 36493
7–7 35067
8–1 32219

V 41 170 AUG 31 76 UMI

41 CFR—Continued

8–3 32219
9–3 36021
28–1 32426
29–60 35186
101–18 36206
101–20 34629
101–26 34630
101–32 34634
101–35 36207
114–38 36654

PROPOSED RULES:

3–3 32607
60–1 34298
101–2 34080
101–26 34080
105–61 32245
128–18 34636

42 CFR

51e 35140
101 33436
110 33557
122 34749

43 CFR

419 32427
2650 33267
3302 32891
3520 36022
9230 36022

PUBLIC LAND ORDERS:

5592 32589
5593 34962
5595 33267
5596 33267
5597 33267
5598 34035
5599 34749
5600 35067
5601 35067

PROPOSED RULES:

232 34299
302 34298
2800 34977

45 CFR

11 35654
115 34962
117 35678
121a 35678
121d 33558
130 35678
141 35678
166 35678
173 35678
176 36320
177 33268
190 33868
233 ..... 35678, 35847
249 ..... 35847, 36207
801 33559
1069 33268

PROPOSED RULES:

73b 32235
103 35722

45 CFR—Continued

PROPOSED RULES—Continued

144 36322
146 34052
175 36322
176 36322
190 33962
228 36156
1385 36582
1386 36582
1387 36582
1800 36222

46 CFR

91 32744
252 32589
536 32590

PROPOSED RULES:

93 32237
180 35072
531 32899

47 CFR

0 33272
1 ..... 33885, 33895, 34259
2 ..... 32680, 33885, 36209
15 32590
19 32891
21 ..... 33269, 33885, 33895
73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849, 36022, 36023
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902, 35522
91 ..... 32680, 33889, 33903, 35068, 35522, 36209
93 ..... 32682, 33907, 35522, 36209
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534, 36219–36221
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242
89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849
81 32593
192 34598

49 CFR—Continued

195 34035
390 34968
391 36656
393 36656
571 ..... 32221, 35522, 36023–36026, 36493, 36494, 36657
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678, 36027, 36209
1038 32594
1109 32744
1124 ..... 34260, 36210
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 ..... 33280, 36037, 36513
801 34082
1067 33307
1106 36041
1109 32434
1125 35730
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849, 36027, 36495, 36658, 36659
33 ..... 32222, 32431, 32603, 32755, 36496
216 ..... 36496, 36659
217 34969
222 ..... 34969, 35682, 36028
240 ..... 34047, 36662
285 32603

PROPOSED RULES:

17 ..... 32896, 33922, 35855, 36516, 36517
20 34273
26 32433
32 ..... 34049, 36211, 36518
215 36507
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
32205–32398	Aug. 2	33881–34003	11	35155–35475	20
32399–32574	3	34005–34238	12	35477–35674	23
32575–32688	4	32239–34570	13	35675–35842	24
32689–32875	5	34571–34730	16	35843–36012	25
32877–33244	6	34731–34935	17	36013–36191	26
33245–33543	9	34937–35051	18	36193–36486	27
33545–33880	10	35053–35153	19	36487–36637	30
				36639–36785	31

presidential documents

Title 3—The President

PROCLAMATION 4451

Women's Equality Day, 1976

By the President of the United States of America

A Proclamation

During this Bicentennial Year we celebrate a dynamic history which began with that inspirational declaration that all individuals are "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

To give substance and form to those self-evident truths, "We the People of the United States" created a constitutional republic to "secure the Blessings of Liberty to ourselves and our Posterity."

However, it was not until August 26, 1920, that the Nineteenth Amendment to our Constitution unambiguously secured for each of us, regardless of sex, that precious mark of liberty—the right to vote.

In October 1971 and March 1972, the House of Representatives and the Senate of the United States proposed a new amendment for our consideration—an amendment, completing the process begun by the Nineteenth, which would secure "equality of rights under the law" regardless of sex, for men and women.

Several more States need to ratify that Equal Rights Amendment before it becomes part of our Constitution. It would be most fitting for this to be accomplished as we begin our third century. In this Land of the Free, it is right, and by nature it ought to be, that all men and all women are equal before the law.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, to remind all Americans that it is fitting and just to secure legal equality for all women and men, do hereby designate and proclaim August 26, 1976, as Women's Equality Day.

I call upon all the citizens of the United States to mark this day with appropriate activities, and I call upon those States who have not ratified the Equal Rights Amendment to give serious consideration to its ratification and the upholding of our Nation's heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord nineteen hundred and seventy-six, and of the Independence of the United States of America the two hundred and first.

Gerald R. Ford

[FR Doc.76-25639 Filed 8-30-76;9:52 am]

V41I170 AUG 31 76 UMI

Executive Order 11933 • August 25, 1976

Termination of the Federal Energy Office

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Executive Order No. 11930 of July 30, 1976, which established the Federal Energy Office, is, consistent with the Federal Energy Administration Act Amendments of 1976 (Title I of Public Law 94-385), hereby revoked as of the date of its issuance.

SEC. 2. All orders, rules, regulations, rulings, interpretations, and other directives issued or pending, all rule making, judicial and administrative proceedings commenced or pending, all voluntary agreements, plans of action, and all other actions of whatever nature taken, continued, confirmed, ratified or made effective under Executive Order 11930, shall, in accordance with the Federal Energy Administration Act Amendments of 1976, be deemed to have been actions of the Federal Energy Administration and shall continue and remain in full force and effect, unless amended or revoked by the Federal Energy Administration.

SEC. 3. All authority and responsibility vested in the Federal Energy Administration by Executive order or proclamation prior to July 31, 1976 was not revoked by Executive Order No. 11930, subsists in the Federal Energy Administration, and shall be deemed to have been continuously vested in the Federal Energy Administration, whose existence has been retroactively extended by the Federal Energy Administration Act Amendments of 1976.

Gerald R. Ford

THE WHITE HOUSE,
August 25, 1976.

[FR Doc.76-25640 Filed 8-30-76;9:52 am]

V 41 170 AUG 31 76 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show that one position of Director, Office of Public Communications, is excepted under Schedule C.

Effective August 31, 1976, § 213.3332 (w) is added as set out below:

§ 213.3332 Small Business Administration.

* * * * * *

(w) One Director, Office of Public Communications.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–25587 Filed 8–30–76;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973–74 and Subsequent Marketing Years

1975–76 AVERAGE MARKET PRICE AND 1976–77 PENALTY RATE

This amendment contains the average market price received by producer for the 1975–76 marketings and the penalty rate for excess tobacco for the 1976–77 marketing year. Also contained in this amendment is a minor word deletion which does not materially affect the 1976–77 or subsequent crops of flue-cured tobacco.

1. Section 725.72(c) (4) (i) is amended to provide that the farm acreage allotment rather than effective farm acreage allotment will be used in determining the eligibility for approval of a transfer agreement.

2. Section 725.92 is revised to include the 1975–76 average market price producers received for flue-cured tobacco and to incorporate the 1976–77 penalty rate for excess flue-cured tobacco.

Since the 1975–76 average market price producers received for flue-cured tobacco and the rate of penalty reflect mathematical computations rather than substantive changes, it is hereby determined and found that compliance with the notice, public rulemaking procedure, and effective date requirements contained in 5 U.S.C. 553 is unnecessary and contrary to the public interest. Accordingly, this document shall become effective August 31, 1976.

The following changes and additions are made in 7 CFR Part 725:

1. Section 725.72(c) (4) (i) is amended to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * * *

(c) *Filing and approval of transfer agreement.* * * *

(4) *Transfers not to be approved.* (i) Except for transfer agreements filed after June 14, a transfer shall not be approved if after the transfer the lessee farm acreage allotment, plus the acres obtained by dividing the pounds transferred to the lessee farm by the current year's farm yield for such farm, would exceed 50 percent of the cropland on such farm.

* * * * * *

2. Section 725.92 is amended by revising paragraph (b) to read as follows:

§ 725.92 Rate of penalty.

* * * * * *

(b) (1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

Marketing year:	*Cents per pound*
1972 to 1973	85.3
1973 to 1974	88.1
1974 to 1975	105.0
1975 to 1976	99.8

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY

Marketing year:	*Cents per pound*
1973 to 1974	64
1974 to 1975	66
1975 to 1976	79
1976 to 1977	75

(Secs. 301, 313, 314, 316, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1054, as amended, secs. 106, 112, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e), 76 Stat. 606; (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372–1375, 1377, 1378, 1421, 1613, 1824, 1836, 16 U.S.C. 590p(e)).)

Effective date: August 31, 1976.

Signed at Washington, D.C., on August 25, 1976.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76–25477 Filed 8–30–76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Expenses and Rate of Assessment

This document authorizes expenses of $94,245 for the Cherry Administrative Board, under Marketing Order No. 930, for the 1976–77 fiscal period and fixes the rate of assessment of $1.50 per ton of cherries handled. Such assessment is to be paid to the committee by each handler as his pro rata share of program expenses.

On August 4, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 32606) regarding proposed expenses and the related rate of assessment for the period May 1, 1976, through April 30, 1977, under the marketing agreement and Order No. 930 (7 CFR Part 930) regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. The notice invited interested persons to file written data, views, or arguments through August 20, 1976. No such material was received. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Cherry Administrative Board (established under the marketing agreement and Order No. 930), and other available information, it is found and determined that:

§ 930.206 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Cherry Administrative Board during the

V 41 170 AUG 31 76 UMI

period May 1, 1976, through April 30, 1977, will amount to $94,245.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 930.41, is fixed at $1.50 per ton of cherries.

(c) *Terms.* Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective terms in the marketing agreement and order; and "ton of cherries" shall mean 2,000 pounds of raw unpitted cherries.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Handling of the current crop of cherries grown in the production area is now underway; (2) the relevant provisions of the marketing agreement and Order No. 930 require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable cherries handled from the beginning of that fiscal period; and (3) the current fiscal period began on May 1, 1976, and the rate of assessment will automatically apply to all such cherries beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 26, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-25476 Filed 8-30-76;8:45 am]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Expenses of the Prune Administrative Committee and the Rate of Assessment for the 1976–77 Crop Year

Notice was published in the August 9, 1976, issue of the FEDERAL REGISTER (41 FR 33275) regarding expenses of the Prune Administrative Committee and the rate of assessment for the 1976–77 crop year under §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (6 U.S.C. 601–674).

Interested persons were given until August 20, 1976, in which to submit written data, views, or arguments with respect to the proposal. None were received.

The proposal was based on a unanimous recommendation of the Prune Administrative Committee. Expenses of the Committee for the 1976–77 crop year were proposed at $222,500. Also, the assessment rate was proposed to be $1.51 per ton of assessable prunes.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Prune Administrative Committee, and other available information, it is found that the expenses of the Prune Administrative Committee and the rate of assessment for the crop year beginning August 1, 1976, shall be as hereinafter set forth.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all salable prunes handled by handlers as the first handlers thereof; and (2) the current crop year began on August 1, 1976, and the rate of assessment hereinafter fixed will automatically apply to all such prunes beginning with that date.

The expenses and assessment rate as set forth in § 993.327 are as follows:

§ 993.327 Expenses of the Prune Administrative Committee and rate of assessment for the 1976–77 crop year.

(a) *Expenses.* Expenses in the amount of $222,500 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1976, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.51 per ton of salable prunes handled by him as the first handler thereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 25, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.76-25422 Filed 8-30-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Van Zandt County in Texas.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Ashley County in Arkansas; Mesa County in Colorado; Butte, Elmore, Gooding, Jefferson, and Minidoka Counties in Idaho.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Jackson, Marshall, and Pottawattamie Counties in Iowa.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific counties within States.*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry Lee, Russell.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Conway, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Los Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa,

Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Cassia, Clearwater, Custer, Fremont, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Onida, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Black Hawk, Boone, Bremer, Buena Vista, Butler, Calhoun, Cass, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Davis, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Plymouth, Scott, Shelby, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota, Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Bledsoe, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Hardin, Houston, Jackson, Jefferson, Johnson, Knox, Lake, Lincoln, Meigs, Monroe, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Reeves, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja Trujillo, Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific counties within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Kiowa, Mesa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwannee, Union Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Ada, Bannock, Bingham, Bonneville, Butte, Clark, Elmore, Franklin, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Twin Falls.

Illinois. Brown, Effingham, Hardin, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Benton, Buchanan, Carroll, Cedar, Cerro Gordo, Crawford, Dallas, Decatur, Floyd, Guth-

V41170 AUG 31 76 UMI

rie, Harrison, Linn, Monona, Monroe, Poweshiek, Ringgold, Sac, Sioux, Story, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Davies, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, oMnroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Beadle, Jones, Stanley.

Tennessee. Bedford, Benton, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Humphreys, Lauderdale, Lawrence, Lewis, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific counties within States.*

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date. The foregoing amendments shall become effective August 31, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of August, 1976.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76–25359 Filed 8–30–76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Administrative Procedures Relating to International Voluntary Agreements

On July 1, 1976, the Federal Energy Administration issued proposed amendments to Part 205 of Chapter II, Title 10, Code of Federal Regulations, providing for administrative procedures applicable to Part 209 (International Voluntary Agreements) in accordance with section 523 of the Energy Policy and Conservation Act (EPCA), (41 FR 27976, July 8, 1976). The public hearing scheduled with respect to this proposal was cancelled for lack of interest, and no public comments were received. On the basis of the foregoing, FEA hereby adopts such amendments as proposed, with one technical change to be explained below.

Amendments to part 205. First, in accordance with section 523(a)(4) of the EPCA, which requires FEA to establish procedures "to prevent special hardship, inequity, or an unfair distribution of burdens" with respect to persons affected by Part 209, § 205.1 is amended so that the affected persons may utilize all of the procedures established in Part 205 to provide for such adjustments. Such procedures, which include exceptions, exemptions, interpretations, as well as other forms of relief, were established pursuant to a substantively identical mandate in the Federal Energy Administration Act, with regard to all regulations implemented by FEA. In addition, § 205.1 is amended to remove the list of provisions in Part 205 which are not of general application. In view of the fact that certain other limited provisions of Part 205 are not included in the list, it is potentially confusing, and therefore FEA has determined that in the interests of consistency, all such limitations will be set out under the specific provisions to which they relate.

Second, in accordance with the requirement in section 523(c) of the EPCA that any person may obtain a written opinion setting forth the facts and legal basis supporting the grant or denial of an exception or exemption, §§ 205.56 and 205.76 are amended so that any person may obtain a copy of the decision and order issued by FEA in such proceedings. Such decisions contain a detailed explanation of the facts and legal considerations applicable in each case, and are also available in accordance with the procedures for public inspection and copying contained in § 202.2. The address to which such requests should be sent has been changed from that given in the proposal, in order to reflect changes in FEA's organization.

Third, § 205.160 is amended to provide that rulemaking proceedings under the EPCA be undertaken in accordance with the procedures contained therein.

Finally, § 205.190 is amended, and a section on the purpose and scope of Subpart P (Investigations, Violations, Sanctions, and Judicial Actions) is added, in order to provide that the provisions relating to sanctions in Subpart P, as well as all of the provisions in Subpart O (Notice of Probable Violation, Remedial Order, Notice of Proposed Disallowance, and Order of Disallowance) do not apply with respect to Part 209. These provisions apply with respect to violations of regulations issued pursuant to the Emergency Petroleum Allocation Act, as amended by the EPCA. The sanctions provided in section 525 of the EPCA with respect to violations of Part 209 shall, of course, apply. The section on the purpose and scope of Subpart P now also contains the exemption from that subpart for proceedings under Part 213, which exemption had previously been contained in § 205.204, which is now deleted.

(Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended; E.O. 11790, 39 FR 23185; E.O. 11930, 41 FR 32399; Energy Policy and Conservation Act, Pub. L. 94–163; E.O. 11912, 41 FR 15825.)

In consideration of the foregoing, Part 205 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., August 27, 1976.

MICHAEL F. BUTLER,
General Counsel, Federal Energy Administration.

1. Section 205.1 is amended to read as follows:

§ 205.1 Purpose and scope.

This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 209 through 214 of this chapter.

2. Section 205.2 is amended by inserting the following text after the definition of "EPAA":

§ 205.2 Definitions.

* * * * * * *

"EPCA" means the Energy Policy and Conservation Act (Pub. L. 94–163).

* * * * * * *

3. Section 205.56 is amended by adding paragraph (d) to read as follows:

§ 205.56 Decision and order.

* * * * * * *

(d) In addition to the procedures provided in § 202.2 of this chapter, upon the written request of any person filed after any grant or denial of a request for an exception under Part 209, FEA shall furnish such person, within thirty (30) days after the date on which such request is filed, with a copy of the decision and order. All such requests shall be directed to the Office of Management and Administration, Federal Energy Office, Washington, D.C. 20461, and shall be clearly marked on the envelope: "Attention: Information Access Officer." The fees for providing such decision and order shall be determined in accordance with § 202.8 of this chapter.

4. Section 205.76 is amended by adding paragraph (c) to read as follows:

§ 205.76 Decision and order.

* * * * * * *

(c) In addition to the procedures provided in § 202.2 of this chapter, upon the written request of any person, which request is filed after any grant or denial of a request for an exemption under Part 209, FEA shall furnish such person, within thirty (30) days after the date on which such request is filed, with a copy of the decision and order. All such requests shall be directed to the Director of Public Affairs, Federal Energy Office, Washington, D.C. 20461, and shall be clearly marked on the envelope: "Attention: Information Access Officer." The fees for providing such decision and order shall be determined in accordance with § 202.8 of this chapter.

5. Section 205.160 is amended in paragraph (b) to read as follows:

§ 205.160 Purpose and scope.

* * * * * * *

(b) Rulemaking by the FEA shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551, et. seq. (1970)), the FEAA, and the EPCA.

6. Section 205.190 is amended in paragraph (a) to read as follows:

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance, except that it shall not apply with respect to violations of Parts 209 and 213.

* * * * * * *

§§ 205.200–205.203 [Redesignated]

7. Sections 205.200 through 205.203 are redesignated as 205.201 through 205.204 respectively.

8. A new section 205.200 is added to read as follows:

§ 205.200 Purpose and scope.

This subpart establishes the procedures relating to investigations, violations, sanctions, and judicial actions under this chapter, except that the provisions of this subpart shall not apply with respect to sanctions under Part 209, and with respect to investigations, violations, sanctions, and judicial actions under Part 213.

§ 205.204 [Removed]

9. Section 205.204 is deleted.

[FR Doc.76–25482 Filed 8–27–76;8:45 am]

[Ruling 1976–5]

Retail Sales Outlet Operator's Entitlement to Motor Gasoline

Facts. Firm A operates five branded retail sales outlets of motor gasoline. Each outlet has traditionally offered customers not only gasoline, but also lubricants, automobile accessories, including tires and batteries, and the services of a mechanic. As part of a change in marketing operations, Firm A is planning to remodel all of its stations and to offer self-service sales of gasoline only. Firm A will operate the stations under a different brand name than the name currently used. None of the other goods and services now offered will continue to be offered once the newly remodeled stations are put into operation. The changeover will require the closing of the stations for two months.

In addition to the five branded retail sales outlets it operates as described above, Firm A also leased one nonbranded retail sales outlet to Firm B. Firm B operated the retail sales outlet as a "full service" station until June 30,

V41170 AUG 31 76 UMI

1976. On that date, the lease expired and Firm A chose not to renew the lease. Firm B did not attempt to open another retail sales outlet. Firm A occupied the site and immediately made preparations to convert the station to "self service" only, consistent with its overall marketing operations.

Firm C, an independent, non-branded wholesale purchaser-reseller of motor gasoline, operated one retail sales outlet of motor gasoline until June, 1974, when Firm C went out of business and closed the station. The building and land comprising the station's site were sold to Firm D, which planned to erect an office building on the site. Firm D razed the building in preparation for the new construction. However, after experiencing delays for several months in making final arrangements with contractors, Firm D abandoned its plans to erect an office building and instead built a service station which it now wishes to operate as a non-branded independent marketer. The station will offer the same services as the station formerly operated on the site by Firm C.

Issues. (1) After remodeling its five retail sales outlets and changing marketing operations, will Firm A be considered a new wholesale purchaser-reseller at each station site?

(2) After taking over the retail sales outlet from its former tenant and changing its marketing operations, will Firm A be considered a new wholesale purchaser-reseller at that station site?

(3) Is Firm D considered a new wholesale purchaser-reseller at the site formerly occupied by Firm C?

Ruling. Issue (1).—The Mandatory Petroleum Allocation Regulations state that

> [e]ach firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of [the motor gasoline allocation regulations] and, therefore, shall be a separate wholesale purchaser-reseller. 10 CFR 211.106(b)(1).

The regulations further provide that

> [a] wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet • • • if it vacates the site on which it conducts such business. 10 CFR 211.106(c)(1).

Whether a particular retail sales outlet has gone out of business depends upon the facts in each case. However, in those instances where as part of an overall plan to alter marketing techniques, a marketer changes its retail outlets from traditional service stations to high volume sales outlets only, the remodeled stations would not be considered "new" retail sales outlets. It is true that a self-service station may very well appeal to a different type of customer than one who frequents the traditional outlet. However, the fact that different customers will be attracted to the remodeled, high-volume station does not lead to the conclusion that a new business has been established at the site of the old station. Retail sales of motor gasoline were conducted prior to and after the change in marketing.

Therefore, the operator of such a retail sales outlet, such as Firm A, is deemed to be conducting an on-going business and is not a new wholesale purchaser-reseller at the site of the old station.

Because Firm A is not a new wholesale purchaser-reseller, it may not apply for assignment of a supplier and base period volume as provided by 10 CFR 211.12(e). Each remodeled outlet which Firm A operates is entitled to the same quantities of motor gasoline it had a right to purchase under the Mandatory Petroleum Allocation Regulations prior to the changeover to gasoline sales only method of operations.

If Firm A wishes to obtain greater quantities of motor gasoline to be offered for sale to the public, it may take two steps. It may purchase surplus motor gasoline under 10 CFR 211.10(g). Firm A should bear in mind that § 211.10(g)(5) restricts a supplier from distributing surplus product through its owned and operated outlets until the supplier's purchasers who are independent marketers have been afforded the opportunity to purchase surplus product in an amount determined in accordance with 10 CFR 211.10(g)(5).

Firm A may also under 10 CFR 211.13(e) seek an exception to FEA's regulations to provide an adjustment to base period use for each retail sales outlet. Requests for exception should be prepared in accordance with Subpart D of Part 205 (Administrative Procedures and Sanctions, 10 CFR 205.50 et seq.).

Issue (2).—The Mandatory Petroleum Allocation Regulations provide that

> • • • [w]henever a wholesale purchaser-reseller of motor gasoline] is deemed to have gone out of business • • • the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEA, after its predecessor vacates the premises. 10 CFR 211.106(e).

Thus, when Firm B's lease expired and Firm A succeeded Firm B on the site, Firm B's entitlement was transferred to Firm A. The transferee on the site may be engaged in a new business, but it is not a new wholesale purchaser-reseller for purposes of the Mandatory Petroleum Allocation Regulations, since it is considered to be the continuation of an already existing entity. The amount of the entitlement at the site does not increase upon transfer. Hence, the amount of Firm A's entitlement will be the same as what it would have been if Firm B were still operating the retail sales outlet. Firm A would not have a right to an increased entitlement simply because it plans to modify the marketing operation at the site. Modifying the mode of marketing does not change the nature of the business, which is the retail sale of motor gasoline. As previously discussed, Firm A could supplement its entitlement by purchasing surplus motor gasoline pursuant to 10 CFR 211.10(g) or by seeking an adjustment to its base period use in accordance with 10 CFR 205.50 et seq.

Issue (3).—The situation presented by Firm D is significantly different from that presented by Firm A. The intent of the parties was clearly to cease operations of a retail gasoline sales outlet on the site. Firm C went out of business; Firm D razed the building and initially intended to erect a new building for purposes completely unrelated to the retail sale of motor gasoline. A relatively long period of time passed before Firm D changed its intention and built a new station. Under these circumstances Firm D may apply for assignment of a supplier and base period use pursuant to 10 CFR 211.12(e). Assignment of a base period supplier and determination of the station's base period use will be made by FEA in accordance with the "Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets" (40 FR 20342; May 9, 1975).

As in the case of Firm A, Firm D may operate its new station using surplus product. Of course, Firm D would not establish any supplier/purchaser relationship with the supplier of surplus product, nor would Firm D establish a base period use if it relied on the purchase of surplus gasoline to operate its retail sales outlet without requesting the assignment of a base period supplier.

Dated: August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25416 Filed 8-26-76;11:14 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER A—GENERAL

PART 1017—PROCEDURES FOR SAFEGUARDING CONFIDENTIAL INFORMATION

Chemical Formulations for Consumer Products

Pursuant to section 6(a)(2) of the Consumer Product Safety Act (14 U.S.C. 2055(a)(2)), 16 CFR Part 1017, setting forth the Consumer Product Safety Commission's procedures for safeguarding certain confidential information, is hereby promulgated.

Section 6(a)(2) of the act reads in part as follows:

> All information reported to or otherwise obtained by the Commission or its representative under this act which information contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this act or when relevant to any proceeding under this act.

The procedures described in Part 1017 below apply specifically to proprietary, product ingredient formula information reported to the Commission as required by its special order of August 21, 1975 (40 FR 36617). The information required by that special order is for the Commission's use in readily evaluating actual or potential hazards associated with the subject products or their composite ingredients. The procedures described below will also apply to formulae submitted in response to any future special orders issued by the Commission for the same purpose.

Because this addition to 16 CFR is intended solely to notify the public of procedures which have already been implemented within the Commission, notice and public procedure and a delayed effective date are considered unnecessary.

Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2)), a new Part 1017 is added to Title 16, Chapter II, Subpart A, as follows:

Subpart A—[Reserved]

Subpart B—Chemical Formulations for Consumer Products

Sec.
1017.11 Purpose and scope.
1017.12 Responsible officials.
1017.13 Internal Commission safeguards.
1017.14 Commission representatives' safeguards.

AUTHORITY: Sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2).

Subpart A—[Reserved]

Subpart B—Chemical Formulations for Consumer Products

§ 1017.11 Purpose and scope.

The procedures set forth in this Subpart B describe the measures taken by the Consumer Product Safety Commission (the Commission) to ensure the confidentiality of proprietary chemical product formula information submitted, in any form, to the Commission voluntarily or pursuant to its special order of August 21, 1975 (40 FR 36617), or any similar special order.

§ 1017.12 Responsible officials.

(a) The Director of the Bureau of Biomedical Science, or the Director's designee, in concert with the Executive Director or his designee, is responsible for implementing and supervising the procedures of this Subpart B.

(b) The Bureau Document Control Custodian designated by the Director, Bureau of Biomedical Science, is responsible for keeping a logbook record that shall account for the proprietary information. The logbook record shall also show which employees are authorized to have access to the information and shall reflect each instance of access to the information.

(c) The Commission Security Officer designated by the Executive Director, is responsible for providing facilitative support to the Bureau of Biomedical Science for the physical security of the proprietary information and for assisting in regulating the use of proprietary information by other Commission employees outside the Bureau of Biomedical Science.

§ 1017.13 Internal Commission safeguards.

(a) *Personnel.* In accordance with the statutory restrictions imposed by section 6(a)(2) of the Consumer Product Safety Act, only Commission employees concerned with carrying out the Consumer Product Safety Act may be authorized to have access to the proprietary information. The Director, Bureau of Biomedical Science, shall determine on an individual basis which employees are so authorized and to what information the employees may have access. These determinations shall be communicated in writing to the Bureau Document Control Custodian and the Commission Security Officer.

(b) *Facilities and other measures.* (1) Proprietary information shall be kept in a combination lock safe within a security area in the Commission. Additional (backup) copies of the proprietary information shall be stored in a commercial bank vault. The Commission security area shall be a room or rooms that are locked and electronically monitored. Also, after regular business hours, the security area shall be periodically checked by a member of the Commission's building security force. Anytime a Commission employee who knows a combination to a safe leaves the employ of the Commission, the combination will be changed.

(2) Information may be removed from the safe or bank vault only by the Bureau Document Control Custodian or, in the Custodian's absence, by the Director of the Bureau of Biomedical Science or the Commission Security Officer. At no time shall such information be out of the immediate possession of the authorized employee; it may not be removed from the security area except as described in paragraphs (b)(3) and (c)(2) of this section or when being transferred to the bank vault. The information shall be returned to the Bureau Document Control Custodian by the close of business each day or whenever not under the direct surveillance of the authorized employee. The Bureau Document Control Custodian, in turn, shall return the information to the safe or bank vault. Only the Bureau Document Control Custodian or the Bureau Director may authorize making a copy of proprietary information. Any copy made shall be safeguarded in the same manner as required for the original material by this Subpart B and records shall be kept by the Bureau Document Control Custodian on each copy produced.

(3) Disposal or destruction of any form of the proprietary information shall be carried out in the presence of the Bureau Document Control Custodian, the Bureau of Biomedical Science Director or the Commission Security Officer. Disposal or destruction shall be done in a manner that allows no possible extraction or compilation of information contained therein. Records shall be kept of all materials destroyed.

(4) The Bureau Document Control Custodian shall maintain complete records on the use or disposal of proprietary information as specified in § 1017.12(b).

(c) *Computer processing.* (1) Processing of proprietary information shall be done only at a government or contract facility having security procedures that meet or substantially exceed the standards of the DHEW Information Processing Standards Publication No. 3, entitled "ADP System Security Required by the Privacy Act of 1974," dated July 24, 1975 (HEW TN-75.4).

(2) Magnetic tapes containing proprietary information shall be hand-carried by an authorized Commission employee to the appropriate computer facility, and all processing shall be done under that employee's supervision and in that employee's presence. After completion of the processing, no proprietary information shall remain in the computer.

(3) The Bureau Document Control Custodian shall maintain complete records on instances of computer processing of the material, citing the location of the facility, the employee witnessing the computer processing of the material, and the date and time.

§ 1017.14 Commission representatives' safeguards.

A representative of the Commission, whether another governmental entity or a private contractor, when collecting or processing proprietary information for the Commission, shall be subject to the procedures of this section. Before any entity may act as the Commission's representative for collecting or processing proprietary information, the following requirements must be met:

(a) *Facilities and other measures.* The Director, Bureau of Biomedical Science, and/or the Bureau Document Control Custodian and the Commission Security Officer shall inspect and approve in writing the proposed representative's facilities and control measures to ensure that they are adequate to safeguard the confidentiality of the proprietary information.

(b) *Computer processing.* The Director, Bureau of Biomedical Science, and the Bureau Document Control Custodian shall inspect and approve the computer processing methods of the proposed representative to ensure that they are adequate to safeguard the confidentiality of the proprietary information. Approval shall not be given unless the methods meet the standards described in § 1017.13(c)(1).

(c) *Personnel.* The Director, Bureau of Biomedical Science, and the Bureau Document Control Custodian shall take steps to ensure that any access to information by employees of a Commission representative is strictly controlled. If the representative is a private contractor, these steps shall include requiring each employee who is permitted to have access to the proprietary information to first execute an affidavit of nondisclosure. The

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Commission Security Officer shall review records or affidavits relating to the use of proprietary information by Commission representatives sufficiently to ensure accuracy and completeness.

(d) *Subcontractors.* Use of a subcontractor by a Commission representative must have the approval, in writing, of the Director, Bureau of Biomedical Science, if the subcontractor will handle proprietary information. The Director, in concert with the Commission Security Officer, shall ensure that the requirement of paragraphs (a), (b), and (c) of this section are met as to each subcontractor.

(e) *Agreements.* Every agreement between the Commission and its representative and between the representative and a subcontractor which will handle proprietary information shall include provisions adequate to ensure that measures adequate to safeguard proprietary information are maintained.

(Sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2).)

Effective date. This new Part 1017 shall be effective on August 31, 1976.

Dated: August 27, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-25530 Filed 8-30-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 75N-0356]

PART 510—NEW ANIMAL DRUGS

Medicated Blocks

Correction

In FR Doc. 76-22225, appearing at page 32213 in the issue of Monday, August 2, 1976, the application approval date in the first paragraph reading "March 19, 1977" should read "February 28, 1977".

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants

On page 10592 of the FEDERAL REGISTER of March 11, 1976 there was published an interim rule revising 24 CFR § 570.406(b) and (c).

The revision describes the application requirements and the general criteria and review factors used to determine the innovative nature and the relative merit of applications for discretionary grants for innovative community development projects under section 107(a)(4) of the Housing and Community Development Act of 1974.

Interested persons were given 30 days in which to submit written comments, data and suggestions regarding the interim rule.

Environmental and economic and inflationary impact statements with respect to the interim rule remain applicable.

No substantive comments or objections have been received and the interim rule is hereby adopted without change and is set forth below.

Effective date: This regulation shall be effective August 31, 1976.

DAVID O. MEEKER, JR.,
Assistant Secretary for Community Planning and Development.

1. 24 CFR 570.406(b) and (c) are revised to read as follows:

§ 570.406 Innovative projects.

* * * * *

(b) *Criteria for selection.*—(1) *General.* An innovative community development project may take any of several forms. It may be a product, a process, an organizational arrangement or a technique. The innovation should encompass a concept that is untried, unique, and/or advances the state of the community development art. Proposed projects which have been demonstrated before or are in use elsewhere at the present may be considered for demonstration if the application identifies and addresses the question of the special nature or circumstances surrounding the proposed project which would warrant its consideration for funding under Innovative Projects.

(2) *Review Factors.* Applications for funding will be evaluated by such criteria as:

(i) The overall technical merit of the proposed project including the specific impact of the innovation.

(ii) The unique capabilities, related experiences, facilities or techniques and the commitment which the applicant possesses and offers for achieving the objectives of the project.

(iii) The extent to which the identified problem is common to a substantial number of communities and the proposed approach can be adopted and replicated in a significant number of other community environments.

(iv) The availability of discretionary grant funding for innovative projects in light of competing needs.

(3) *Priority Programs.* In view of the national scope of Innovative Projects and limitations on the amount of funds for projects, HUD in announcing each annual program, shall establish areas of national significance which will be given priority consideration in the review of applications in the Innovative Projects and may utilize specific selection criteria enumerated in the announcement of the annual program in the review of applications and the award of grants in lieu of, or in addition to, the above criteria.

(c) *Application Requirements.* Applications shall be submitted to HUD's Office of Policy Development and Research in accordance with the directions provided in the annual program announcement. Applications shall be in a format approved by HUD and shall include the following:

(1) A brief letter of transmittal containing the signatures of the Chief Executive(s) of the Applicant and designated project leader who will be primarily responsible for execution of the project.

(2) A one page abstract of the project summarizing the proposal.

(3) A project narrative statement describing the nature of the problem, the goals and objectives of the project, the proposed solution, the resources to be used, the management plan, the tasks to be carried out, the plan for evaluation and such other elements as are necessary to describe applicant activities for other elements which may be required in priority programs.

(4) A proposed budget clearly showing the proposed expenditure of HUD funds.

(5) The certifications required by § 570.303(e) except for (4) and (6). In addition, the applicant must certify that citizens likely to be affected by the project, particularly low and moderate income persons, have been provided an opportunity to comment on the application.

* * * * *

[FR Doc.76-25427 Filed 8-30-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 663-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

United States Parole Commission

Correction

In FR Doc. 76-24360, appearing at page 35183 in the issue of Friday, August 20, 1976, the sixth line of the first full paragraph on page 35184 should read "Appeals Board and to designate one Commissioner to serve as Regional Commissioner in each re-".

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Minnesota Plan—Approval of Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans for the enforcement of State occupational safety and health standards which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On June 8, 1973, a notice was published

in the FEDERAL REGISTER (38 FR 15076) of the approval of the Minnesota plan and of the adoption of Subpart N of Part 1952 describing the plan and containing the approval decision. On April 28, May 30, June 30, and September 10, 1975, the State of Minnesota submitted supplements to its plan involving State-initiated changes (see Subpart E of 29 CFR Part 1953) and on June 30, 1975 the State submitted supplements involving the completion of several developmental steps (see Subpart B of 29 CFR Part 1953). On October 23, 1975, a notice was published in the FEDERAL REGISTER (40 FR 49581) concerning the submission of these supplements to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) and the fact that the question of their approval was in issue before him. In addition, on August 20 and October 21, 1975, and January 16, 1976, the State submitted supplements to its plan involving the completion of developmental steps and on January 19, 1976, the State submitted a copy of its amended occupational safety and health poster.

2. *Description of the supplements.* The supplement submitted by the State on April 28, 1975, concerned a revision of the State's personnel structure. Among other things, the State will change the number of personnel in the consultation program from three (3) to no more than one-fifth of the number of personnel in the enforcement section.

The supplement submitted on May 30, 1975, concerned a number of revisions to the State's compliance manual. The manual was revised to incorporate all State policy directives which were issued since the original manual was published, correct inaccuracies in the original manual and to reflect changes to that date which have been made in the Federal compliance manual.

The supplement submitted on September 10, 1975, concerned amendments to the Minnesota Occupational Safety and Health Act, Chapter 182, Minnesota Statutes Annotated, regarding employee discrimination complaints and violations. The first amendment, HF 161, amends section 182.669 of the Minnesota Statutes to provide that upon the completion of an employee discrimination complaint investigation, the Commissioner of the Department of Labor and Industry may bring an action in the district court of the State for appropriate relief. This amendment became effective on July 1, 1975. A second amendment, HF 661, which became effective on August 1, 1975, amends sections 182.652, Subdivision 12; 182.66, Subdivision 2; and 182.661, Subdivisions 1 and 3 of the Minnesota Statutes to provide for the following:

1. Expansion of the definition of a serious violation to include violations of standards not of a de minimus nature which resulted in a fatality;

2. Posting of penalty notices as well as the citation;

3. Posting of the citation and penalty notices for at least 15 days;

4. Requirement that a copy of the notices of citation and penalty be furnished to an employee representative and, in the case of a fatality, to the next of kin or a designated representative, if requested;

5. Right of employees to contest the citation, type of violation and penalty, in addition to the right to contest proposed abatement periods.

The supplements submitted by the State on June 30, and August 20, 1975, concerned the completion of a number of developmental steps. Most of the steps were reviewed and approved at the time of plan approval. However, the State's regulations concerning variance procedures, Chapter 23 of the Minnesota Occupational Safety and Health Code, had not been approved previously and were in issue before the Assistant Secretary. Among the developmental steps completed were the retraining of State personnel, public employee/employer seminars, the management information system and the implementation of enabling legislation.

The supplements submitted by the State on October 21, 1975, and January 16, 1976, concerned the completion of developmental steps. The developmental steps which were completed under the October 21, 1975, supplement concerned the promulgation of the Rules of Procedure of the Minnesota Occupational Safety and Health Review Commission (Chapter 20, Minnesota Occupational Safety and Health Code), and regulations concerning inspections, citations and proposed penalties (Chapter 21, Minnesota Occupational Safety and Health Code).

The supplement submitted on January 16, 1976, concerned a downward revision of the projected increase in personnel for fiscal year 1976 due to a lesser than anticipated increase of funding by the Minnesota legislature. Instead of increasing enforcement personnel by 17 as contemplated at the time of plan approval, the enforcement staff will be increased with the addition of 3 safety and health investigators, still meeting the Federal compliance staffing requirements for the State.

The State poster was revised and resubmitted on January 19, 1976. The State originally submitted a poster on January 27, 1975, which was approved by the Assistant Secretary on March 25, 1975 (40 FR 13211). In response to the legislative amendments described above, a provision was added to the State poster providing that citations and notices of proposed penalties must be posted at or near the place of alleged violation for 15 days or until the violation is corrected, whichever is later. In addition, the locations of the Minnesota area offices were listed on the revised poster.

3. *Issues.* No public comments were submitted concerning the supplements of April 28, May 30, and June 30, 1975. However, our review raised some issues concerning the compliance manual and the variance regulations. With regard to the compliance manual, the State provided for a two-day limit on the number of days an employer may be cited for failure to abate penalties. This provision was in sharp contrast to the Federal practice of having no specific limit on the number of days an employer may be penalized for failure to abate a violation. By letter dated May 20, 1976, from Russell B. Swanson, Deputy Commissioner of the Minnesota Department of Labor and Industry, to Irving Weisblatt, Director, Office of State Programs, the State agreed to remove the two-day maximum from the failure-to-abate penalties.

With regard to the variance regulations, it was found that the Minnesota regulations did not precisely track the Federal variance regulations of 29 CFR Part 1905 in that there appeared to be no provisions for employers to request a hearing on their variance applications, no requirement that the applicant state the address of the place of employment involved in a variance application and interim renewals of variance applications could be longer than is the case under Federal practice. Although State regulations do not have to be identical to those under the Federal program, they must be at least as effective as the Federal regulations in assuring worker protection while providing for variances from State standards. By letter dated February 23, 1976, from Russell B. Swanson, Deputy Commissioner, to Thomas E. Levenhagen, Associate Assistant Regional Director, the State addressed these criticisms by stating that the Minnesota Statute provides for hearings on variance applications, the need for information concerning the address of the establishment for which a variance is requested is obvious months for an interim order 123456v-o-and that a maximum period of six months for an interim order and for a maximum of one year for a temporary order with the possibility of two renewals would be provided.

Public comments were received from the Conwed Corporation, the FMC Corporation and the United States Steel Corporation concerning the legislative amendments under HF 661. There were no requests for a public hearing. The comments particularly objected to the revision to the definition of a serious violation to include any violation of a standard which is not of a de mimimus nature but which is the proximate cause of the death of an employee, the posting requirements for penalties and citations and the provision requiring that copies of citations and proposed penalties be issued to employee representatives and in the case of the death of an employee, to the next of kin of the employee, if requested. The comments objected to the revision of the definition of a serious violation on the grounds that it would have an ex post facto result, that citations and penalties should result from violations observed by a competent inspector rather than an automatic provision based upon an occurrence and that the revision would serve no useful purpose.

In addition, the comments were critical of the requirement concerning the posting of proposal penalties and the 15-day

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posting requirement for citations and proposal penalties on the grounds that they would serve no useful purpose and would encourage employees to contest cases, that there are no similar Federal requirements, and that there is already a proliferation of materials and regulations requiring posting. With regard to sending copies of citations and proposed penalties to employer representatives and, in the case of the death of an employee, to the next of kin, the comments were critical on the grounds that they would encourage civil suits, invite criticism and cause further mental anguish to the survivor. Finally, the comments objected to the right of employees and their representatives to contest the citation and proposed penalty in addition to the abatement periods on the grounds that there is no comparable right under the Federal program and it would invite unnecessary conflict between employers and employees.

Although the amendments to the Minnesota enabling legislation under HF 661 result in an enforcement program somewhat different from that at the Federal level, they do not appear to detract from the requirement of 29 CFR 1902.3(d) that State enforcement programs are to be at least as effective as the Federal enforcement program. It is apparent that the revised definition of a serious violation as including a non-serious violation "which is the proximate cause of the death of an employee" is more stringent than that defined under section 17(k) of the Act. Practical considerations, including those raised in the comments, might mitigate against the effectiveness of the revised definition. However, the use of the definition by the State will be closely monitored and if experience indicates that the implementation of this definition has an adverse impact on the enforcement of standards under the Minnesota program, the State will be required to make the appropriate changes in its legislation.

With regard to the right of employees to contest citations and proposed penalties issued to employers, including the reasonableness of abatement periods fixed in the citation, State plans may provide for more stringent enforcement provisions if such additional provisions appear to be reasonably calculated to increase the effectiveness of the State's program and are consistent with the Act. The Minnesota employee contest provisions appear to meet this test in that they would serve as an added check to secure enforcement of safe and healthful working conditions. Such provisions have been approved in the past (see Tennessee approval decision 38 FR 17838). Any undue administrative burden resulting from this employee contest right would bring about a reconsideration in the course of evaluation of the actual operations under the plan.

With regard to sending copies of citations and proposed penalties to employee representatives and, in the case of the death of an employee, to the next of kin, it is observed that under Federal practice, copies of citations and proposed penalties are available under the provisions of the Freedom of Information Act (5 U.S.C. 552).

4. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Ave., NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; and the State of Minnesota, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

5. *Decision.* After careful consideration, the supplements submitted by the State on April 28, May 30, June 30 and September 10, 1975 are hereby approved under Part 1953. As indicated above, the application of the revised definition of a serious violation will be closely monitored to assure that it does not derogate from the effectiveness of the Minnesota enforcement program.

With regard to the supplements submitted on October 21, 1975, January 16 and 19, 1976, under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds good cause for approving the Rules of Procedure for the Occupational Safety and Health Review Commission and the regulations concerning inspections, citations and proposed penalties because they have been adopted in accordance with the procedural requirements of State law, which included public comment, and further public participation would be unnecessary and they are substantially identical to the comparable Federal regulations. With regard to the State occupational safety and health poster, further public participation is believed unnecessary because the poster had been approved previously (40 FR 13211) and merely incorporated a recent amendment to the Minnesota enabling legislation and is in conformity with the poster requirements of 29 CFR 1952.10(a)(5) and 29 CFR 1903.2(a)(3). Accordingly, § 1952.204 (c)-(k) of Subpart N of Part 1952 is amended to read as follows:

§ 1952.204 Completed developmental steps.

* * * * *

(c) State occupational safety and health personnel were retrained during March–May 1973.

(d) Training sessions for public employers and employees were held during April–June 1973.

(e) The Minnesota enabling legislation became effective on August 1, 1973. In addition, amendments to the legislation which concerned employee discrimination complaints and violations became effective on July 1, 1975, and a second amendment concerning the definition of a serious violation, posting of citations and penalties, right of employees to contest a citation and penalty, and furnishing copies of citations and notices of penalties to employer representatives and, in the case of a fatality, to the next of kin or a designated representative, became effective on August 1, 1975.

(f) Regulations on variances were promulgated on February 20, 1974, and were approved with assurances by the Assistant Secretary on August 31, 1976.

(g) The management information system became operable in August 1973.

(h) Coverage and enforcement of agricultural standards commenced on July 1, 1975.

(i) The Rules of Procedure of the Minnesota Occupational Safety and Health Review Commission, Chapter 20, Minnesota Occupational Safety and Health Code, and regulations concerning inspections, citations, and proposed penalties, Chapter 21, Minnesota Occupational Safety and Health Code, were approved by the Assistant Secretary on August 31, 1976.

(j) The downward revision of the projected increase in personnel for fiscal year 1976 due to a lesser than anticipated increase of funding by the Minnesota legislature, was approved by the Assistant Secretary as meeting current required staffing on August 31, 1976.

(k) The State poster approved on March 25, 1975 (40 FR 13211) which was revised in response to legislative amendments described above, to provide that citations and notices of penalties must be posted at or near the place of the alleged violation for 15 days or until the violation is corrected, whichever is later, and which lists additional Minnesota area offices, was approved by the Assistant Secretary on August 31, 1976.

(Secs. 8(g)(2), Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2) (667)).)

Signed at Washington, D.C., this 20th day of August 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-25471 Filed 8-30-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Wyoming Plan Revisions

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, the Wyoming plan for implementation of the national ambient air quality standards. On October 23, 1973 (38 FR 29296), July 3, 1974 (39 FR 24504) and on June 10, 1975 (40 FR 24726), the Administrator approved supplemental information and plan revisions submitted by Wyoming.

On February 19, 1976, Wyoming submitted further revisions to its Implementation Plan which had been adopted on September 11, 1975. Additional information was provided on March 15 and April 2, 1976 clarifying portions of the original submittal. These revisions amend the legal authority, public availability of emission data, and compliance schedule portions of Wyoming's plan. Although Wyoming has not complied with our requirement (§ 51.6(d) of this title) that plan revisions must be submitted no later than sixty days after their adoption, we are waiving this requirement inasmuch as the spirit and intent of the sixty day rule were not being circumvented.

On May 27, 1976 (40 FR 21651), the Administrator proposed to approve all the revisions submitted on February 19, 1976. No comments regarding the revisions were received.

The legal authority revisions include provisions for public availability of emission data, changes in variance procedures for granting variances to the state's sulfur dioxide emission standards, and a change in the state's enforcement procedures to allow for discretionary conferences after discovery of a violation. The revision relating to public availability of emission data complies with the requirements of 40 CFR 51.10(e) and hence replaces the Federal provisions discussed in 40 CFR 52.2624 which is subsequently revoked. With respect to the changes in variance procedures, it should be noted that EPA will treat all variances as plan revisions and will review them on a case by case basis.

The revisions to the compliance schedule portion of Wyoming's plan establish new dates by which an individual air pollution source must comply with a specified emission limitation for particulate matter. In § 52.2625 below, the final compliance date is listed for each source for which a compliance schedule has been proposed. While the table does not show incremental steps toward compliance, the actual schedules do. Three of the above listed sources—Black Hills Power and Light, Holly Sugar, and Wycon Chemical—have final compliance dates which go beyond the attainment dates for ambient standards. Such schedule changes are approvable, since the state has shown that secondary standards will not be exceeded in the vicinity of these sources after the attainment date. These compliance schedule revisions are consistent with the approved control strategies and satisfy the requirements of 40 CFR Part 51 concerning public hearings and plan revisions.

The Administrator finds that the Wyoming SIP revisions meet the substantive and procedural requirements of section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the Wyoming SIP revisions as set forth in this rulemaking.

This rulemaking will be effective August 31, 1976. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because it is already in effect under State law and Federal approval imposes no new burdens.

(Sec. 110 of the Clean Air Act; as amended, 42 U.S.C. 1857c-5.)

Dated: August 20, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart ZZ—Wyoming

1. In § 52.2620, paragraph (c)(9) is revised to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(9) Legal authority additions and compliance schedule revisions submitted on February 19, 1976, by the Governor.

2. § 52.2624 is revoked and reserved as follows:

§ 52.2624 [Reserved]

3. In § 52.2625, paragraph (a) is revised and paragraph (b) is deleted. As amended, § 52.2625 reads as follows:

§ 52.2625 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are found in the "Wyoming Air Quality Standards and Regulations, 1975."

Wyoming

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
Pacific Power & Light	Glenrock	14 (b), (e), (b)	Feb. 26, 1973	Immediately	Sept. 1, 1976
Montana-Dakota Utilities	Sheridan	14 (b), (e), (b)	do	do	Dec. 31, 1976
Utah Power & Light	Kemmerer	14 (b), (e), (b)	do	do	Do.
Black Hills Power & Light	Wyodak	14 (b), (e), (b)	do	do	May 1, 1978
Do	Osage	14 (b), (e)	do	do	May 15, 1977
American Oil	Casper	14 (b), (e), (b)	Jan. 26, 1973	do	Jan. 31, 1974
Basins Engineering	Wheatland	14 (b), (e), (f), (g)	June 6, 1974	do	Apr. 5, 1974
Stauffer Chemical Co	Green River	14 (b), (e), (f), (g)	do	do	Oct. 31, 1973
Do	Leefe	14 (b), (e), (f), (g)	Feb. 26, 1973	do	Nov. 1, 1976
Barold Division of National Lead	Osage	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Dec. 31, 1975
Do	Colony	14 (b), (e), (f), (g)	June 6, 1973	do	Mar. 1, 1974
Holly Sugar	Torrington	14 (b), (e), (f), (g)	do	do	Oct. 31, 1976
Do	Worland	14 (b), (d), (f), (g)	do	do	Do.
Reeves Concrete	Gillette	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Dec. 1, 1978
Do	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Do	Buffalo	14 (b), (e), (f), (g)	do	do	Do.
American Colloid	Lovell	14 (b), (e), (f), (g)	June 6, 1974	do	Apr. 30, 1974
Star Valley Swiss Cheese	Thayne	14 (b), (e), (b)	Jan. 26, 1973	do	Dec. 31, 1973
Sheridan Commercial	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Federal Bentonite	Upton	14 (b), (e), (f), (g)	June 6, 1973	do	June 30, 1974
Do	Lovell	14 (b), (e), (f), (g)	do	do	Do.
Wyo-Ben Products	Greybull	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Jan. 30, 1974
Do	Lovell	14 (b), (e)), (f), (g)	June 6, 1974	do	Do.
FMC	Kemmerer	14 (e), (f), (g), (i)	Jan. 26, 1973	do	Dec. 31, 1976
Do	Green River	14 (b), (e), (f), (g)	June 6, 1974	do	Oct. 31, 1974
Gunn-Quealy Coal	Rock Springs	14 (b), (e), (f), (g)	do	do	Mar. 31, 1974
Allied Chemical	Green River	14 (b), (e), (f), (g)	do	do	Aug. 1, 1976
IMC Corp	Colony	14 (b), (e), (f), (g)	do	do	Oct. 31, 1974
Wyodak Resources Develop	Gillette	14 (b), (e), (f), (g)	do	do	Feb. 28, 1974
Church and Dwight	Green River	14 (b), (e), (f), (g)	do	do	Nov. 1, 1973
Wycon Chemical	Cheyenne	14 (b), (e), (f), (g)	Sept. 11, 1975	do	June 1, 1976
Dresser Minerals	Greybull	14 (b), (e), (f), (g)	do	do	Feb. 15, 1976
Town of Byron	Byron	13	Jan. 26, 1973	do	July 1, 1974
Town of Chugwater	Chugwater	13	do	do	Do.
Town of Cowley	Cowley	13	do	do	Do.
Town of Lovell	Lovell	13	May 24, 1973	do	Do.
Big Horn County	Big Horn County	13	Jan. 26, 1973	do	Do.

[FR Doc.76-25265 Filed 8-30-76;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 601-3]

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Extension of Comment Period and Notice of Availability

On June 10, 1976 the Agency published a notice of interim final rulemaking (41 FR 23552) establishing effluent limitations and guidelines for the mineral mining and processing point source category, based upon use of best practicable control technology currently available. The due date for comments provided in the notice was August 9, 1976.

The Agency anticipated that the document entitled "Economic Impact for Interim Final and Proposed Effluent Guidelines for the Mineral Mining and Processing Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, At-

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tention: Distribution Officer, WH–552.

This extension and notice of availability is published pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b), and 1317(c); 86 Stat. 816 et seq.; P.L. 92–500 (the Act).

Accordingly, the date for submission of comments is hereby extended to September 30, 1976.

Dated: August 13, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76–24560 Filed 8–30–76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 168]

PART 1–16—PROCUREMENT FORMS

Report on Procurement by Civilian Executive Agencies

This amendment of the Federal Procurement Regulations revises § 1–16.804 to prescribe new reporting dates for the submission of Standard Form 37 (SF 37), Report on Procurement by Civilian Executive Agencies. In the past, the reports have been required at the end of 6- and 12-month periods during the fiscal year (July 1 through June 30). In the future, reports will be required at the end of 6- and 12-month periods during the new fiscal year (October 1 through September 30). In response to a request by the Office of Federal Procurement Policy, the amendment also requires a one-time 3-month report covering the period July 1, 1976, through September 30, 1976.

Section 1–16.804–3 is amended to add paragraph (a)(2)(iv) and to revise paragrah (f), as follows:

§ 1–16.804–3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) • • •

(2) • • •

(iv) Revise paragrah A of "General Instructions" to reflect the current reporting requirements, as follows:

(A) Submission of Reports. Cumulative reports are to be submitted semiannually within 45 calendar days after the end of each reporting period. One report for the 6-month period ending March 31, and the other report for the 12-month period ending September 30 of each year.

• • • • •

(f) *Frequency and due date for submission of Standard Form 37.* Standard Form 37 shall be prepared and submitted semiannually. One report shall be submitted for the 6-month period October 1 through March 31, and the other report for the 12-month period October 1 through September 30 of each fiscal year. In addition, a one-time report shall be submitted for the 3-month period July 1, 1976, through September 30, 1976. Each report shall be submitted (in the original copy) within 45 calendar days after the close of each period. The Office of Management and Budget Approval Number 29–R 0018 has been assigned to the report required by this regulation. Reports shall be addressed to the General Services Administration (BCC), Washington, DC 20405.

Effective date. This amendment is effective August 16, 1976.

It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 12, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–25433 Filed 8–30–76;8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–38—MOTOR EQUIPMENT MANAGEMENT

Watercraft

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), a new subpart 114–38.55 is added to Chapter 114, Title 41 of the Code of Federal Regulations, as set forth below.

It has been determined that the public rulemaking procedure is unnecessary because this subpart relates only to matters of internal Department practice. Accordingly, this new subpart shall become effective August 31, 1976.

ALBERT C. ZAPANTA,
Assistant Secretary of the Interior.

AUGUST 23, 1976.

Subpart 114–38.55—Watercraft

Sec.

114–38.5500 Scope of Subpart.
114–38.5501 Definition.
114–38.5502 Official use.
114–38.5503 Responsibility.
114–38.5504 Purchasing new watercraft.
114–38.5505 Modifying other than new watercraft.
114–38.5506 Displaying identification and other markings.
114–38.5507 Personal flotation devices.
114–38.5508 Firefighting equipment.
114–38.5509 Other associated equipment requirements.
114–38.5510 Inspection requirements.
114–38.5511 Operating requirements.

Subpart 114–38.55—Watercraft

§ 114–38.5500 Scope of subpart.

This subpart establishes uniform regulations and procedures for the acquisition, management, and safe operation of watercraft.

§ 114–38.5501 Definition.

As used in this subpart, the term "watercraft" means boats and ships collectively, including airboats and every description of watercraft (other than a seaplane) that is:

(a) Used, or capable to being used, as a means of transportation on water, and

(b) propelled by machinery whether or not such machinery is the principle source of propulsion.

§ 114–38.5502 Official use.

No officer or employee of the Federal Government is permitted to use, or authorize the use of, any Government-owned or -leased watercraft for other than official purposes (114–38.5004).

§ 114–38.5503 Responsibility.

The head of each bureau and office is responsible for the management of watercraft and shall:

(a) Establish operating programs and procedures to ensure compliance with this subpart.

(b) Establish requirements for records and reports needed for management purposes.

(c) Establish a program to ensure that all personnel assigned to watercraft receive training appropriate to the type of work performed, and:

(1) Require that all employees who operate or work in watercraft receive sufficient first aid instruction to ensure the availability of artificial respiration in an emergency. Permanent employees shall be required to take the Standard Red Cross First Aid Course or its equivalent.

(2) Require that all employees who operate watercraft participate, as appropriate, in one or more of the following courses:

(i) U.S. Coast Guard Auxiliary courses in boating safety and seamanship.

(ii) United States Power Squadrons (USPS) Boating Course.

(iii) Water safety courses offered by local chapters of the American National Red Cross.

(iv) State boating safety education programs as available.

(v) The "Skipper's Course", a programmed learning text. ($1.50 by mail. Order from the Government Printing Office, P.O. Box 1821, Washington, D.C. 20013, or from the Consumer Product Information Center, Pueblo, Colorado 81009.)

(Any employee operating watercraft should possess a certificate showing successful completion of either (i) or (ii). When carrying passengers other than bureau employees, the operator should possess a valid U.S. Coast Guard operator's license for the size and type of craft being operated.)

§ 114–38.5504 Purchasing new watercraft.

The requirements of Office of Management and Budget Circular A–76 shall be satisfied prior to the purchase of any watercraft 26 feet or more in length. Purchases shall be monitored and controlled to ensure that any new watercraft purchased:

(a) Meets or exceeds U.S. Coast Guard requirements for comparable watercraft. (Manufacturers of watercraft to which Coast Guard standards apply must affix a certification label on their watercraft attesting to the fact that they meet U.S. Coast Guard standards in effect on the date of certification.)

(b) Complies with environmental regulations concerning the discharge of waste materials into navigable waters.

(For example, the use of marine toilets with overboard discharge is prohibited.)

(c) Has, if less than twenty (20) feet in length, built-in solid positive flotation with sufficient buoyance to maintain the boat, motors, gear, and occupants in a level upright position when the boat is filled to the gunwales with water.

(d) Is powered by an engine that:

(1) Has a horsepower rating not in excess of that recommended by the manufacturer of the hull and shown on the hull identification plate, and

(2) If inboard, is equipped with a U.S. Coast Guard approved flame arrester or bears a label indicating that the Coast Guard has approved the use of that engine without an arrester.

§ 114–38.5505 Modifying other than new watercraft.

All existing watercraft shall be modified to meet the above requirements for new watercraft except in those instances where such modification is neither practicable nor economically feasible. Upon completion of modifications, they shall be inspected by qualified personnel and approved by the U.S. Coast Guard.

§ 114–38.5506 Displaying identification and other markings.

(a) Bureau or Office identification shall be conspicuously displayed on all watercraft except those used in connection with law enforcement undercover work.

(b) Registered watercraft shall have the registration number displayed on each side of the bow in accordance with U.S. Coast Guard instructions.

(c) All watercraft shall be marked to indicate the maximum horsepower allowed for propulsion, the maximum permissible number of occupants, and any other standards for safe loading that may be required to ensure safe operation.

(d) Emergency flotation information shall be prominently displayed on each watercraft when it is determined that such information will serve a useful purpose.

§ 114–38.5507 Personal flotation devices.

(a) Each watercraft shall have aboard, for the operator and each occupant, a wearable Personal Flotation Device (PFD) at least equivalent to Performance Type I, II, or III Personal Flotation Device as specified in U.S. Coast Guard "Requirements for Recreational Boats" (i.e., designed to keep a person afloat in a vertical or slightly backward position and having at least 15.5 pounds of buoyancy).

(b) The operator of each watercraft shall:

(1) Ensure that a serviceable Personal Flotation Device of suitable size is readily available for each occupant.

(2) Require that each occupant wear a Personal Flotation Device while on board any watercraft less than 26 feet in length. This requirement may be waived only when the working conditions are such that the PFD would unduly restrict the movement necessary to perform the work.

(c) Whenever operating watercraft alone, the operator shall be required to wear a Performance Type I Personal Flotation Device (or its equivalent).

(d) Each watercraft 16 feet or more in length shall also be equipped with at least one Type IV (throwable) Personal Flotation Device.

§ 114–38.5508 Firefighting equipment.

Fire Extinguishers (of the type approved by the U.S. Coast Guard) shall be carried in all watercraft constructed in such a manner as to permit the entrapment of explosive or flammable gases or vapors. Examples of such construction are:

(a) Closed compartments under thwarts and seats wherein portable fuel tanks may be stored.

(b) Double bottoms not completely sealed to the hull or which are not completely filled with flotation materials.

(c) Closed living spaces.

(d) Closed stowage compartments in which combustible or flammable material are stored.

(e) Permanently installed fuel tanks.

§ 114–38.5509 Other associated equipment requirements.

(a) *Distress signaling devices.*—Each watercraft shall have aboard distress signaling devices effective for all weather conditions.

(b) *Bailing device.*—Any open-type watercraft less than 26 feet in length shall have aboard and readily available a suitable bailing device.

(c) *Running lights.*—Each watercraft operated during hours of darkness shall display lights meeting U.S. Coast Guard standards for "Lights required on boats underway between sunset and sunrise".

(d) *Radio.*—All watercraft operated on open waters such as coastal areas and the Great Lakes should have ship to shore radio communications capability. For carriage and authorization of such radio equipment, refer to Part 313 of the Departmental Manual and the related Radio Communications Handbook.

(e) *Navigational aids.*—Any watercraft operated outside the sight of land shall be equipped with navigational aids suitable to the mission.

(f) *Dead-man's switch.*—Watercraft frequently used for solo operation shall be equipped with a dead-man's switch (to automatically stop the engine if something happens to the operator).

(g) *Anchor and anchor line.*—Each watercraft shall be equipped with an anchor of suitable weight and design, together with an anchor line of sufficient strength and scope as recommended by the anchor's manufacturer, to hold the watercraft under the most extreme conditions to be expected in the operating area.

§ 114–38.5510 Inspection requirements.

(a) Each watercraft shall be thoroughly inspected at least once annually to determine that the watercraft is seaworthy and being maintained in a safe operating condition. Inspections shall be more frequent in those situations where unusual conditions such as heat, humidity, or ice may have an effect on the hull or engine. Each inspection shall be made by qualified personnel, and U.S. Coast Guard inspection services shall be utilized to the extent they are available.

(b) Each inspection shall include an examination of Personal Flotation Devices to ensure they are being properly treated and maintained in a serviceable condition.

(c) All deficiencies affecting seaworthiness or safety shall be corrected before the watercraft is returned to service.

§ 114–38.5511 Operating requirements.

(a) Watercraft shall be operated at all times with safety as a primary requirement.

(b) The employee in charge of any watercraft shall be responsible for:

(1) Operating the watercraft in a safe manner with due regard to the safety of its crew, passengers and cargo.

(2) Complying with the regulations relating to use for official purposes only and the transportation of non-official passengers.

(3) Complying with Federal, State, and local laws and regulations.

(4) Reporting, without delay, all accidents and incidents in accordance with the following:

(i) Report all accidents and incidents involving watercraft on Form DI–134, Report of Accident/Incident, the Department's official report.

(ii) Use Coast Guard Form CG–3865, Boating Accident Report, to report any accident which results in the loss of life, injury causing incapacitation in excess of 72 hours, or property damage in excess of $100.

(c) The solo operator of any watercraft should, whenever practicable, wear a life line in conjunction with the dead man's switch.

(d) Airboat operators and occupants shall wear some type of hearing protection.

(e) The employee in charge of any watercraft with a crew of three or more (including the captain) shall:

(1) Hold safety meetings at least once each month during the operating season.

(2) Conduct fire and abandon ship drills at least once each month during the operating season, and record each drill in the ship's log.

(3) Post, in a conspicous place, a "Station Bill" covering fire drills, abandon ship drills, man overboard drills, and other emergency procedures.

[FR Doc.76–25381 Filed 8–30–76;8:45 am]

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Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Docket No: MC–55; Notice No. 76–20]

PART 391—QUALIFICATIONS OF DRIVERS

Certificate of Qualification for Drivers Who Are Regularly Employed by Another Carrier

● Purpose. This amendment: (1) Simplifies qualification file requirements under 49 CFR 391.51(e), for a carrier which uses a driver whose qualifications are certified by his regularly employing carrier; (2) prescribes, under 49 CFR 391.65, the minimum information for the certificate; and (3) makes clear the certifying carrier's responsibility for accurate information. ●

Under existing regulations, carriers commonly issue 49 CFR 391.65 qualification certificates to their regularly employed drivers to enable them to lawfully drive for other carriers, without limiting the duration of the certificate's validity. Such a certificate will not reflect an intervening lack of qualification, nor does it necessarily reflect the results of required periodic re-evaluations of qualifications. This practice, therefore, invites a misuse of the certificate which compromises operational safety.

This problem was addressed by a notice of proposed rulemaking, published February 12, 1975 (40 FR 6510). Due consideration, including review of comments in response to the notice, has resulted in the following conclusions:

1. The maximum duration of 2 years for the certificate is reasonable if the certifying carrier is responsible for recalling the certificate upon learning that the driver has become disqualified and the certifying carrier is permitted to restrict its certification.

2. It should be made clear that the certifying carrier is responsible for misrepresentation of fact in the certificate.

3. It should be made clear that a driver is in a carrier's employ when he is operating a vehicle under the carrier's control, whether or not the carrier owns the vehicle.

4. It is unnecessary to require the using carrier to retain a copy of the driver's current medical certificate if the regularly employing motor carrier certification is properly controlled.

5. The minimum information necessary in the certificate should be prescribed.

6. A reasonable time should be allowed for carriers to exhaust present forms and transition to the new form.

Accordingly, 49 CFR Part 391 (Part 391 of the Federal Motor Carrier Safety Regulations) is amended as follows:

1. Section 391.51(e) is revised to read as follows:

§ 391.51 Driver qualification files.

• • • • • •

(e) A using carrier's qualification file for a driver who is regularly employed by another motor carrier, and who is employed by the using carrier in accordance with § 391.65 of this part, shall include a copy of a certificate, as prescribed by § 391.65(a)(2) of this part, by the regularly employing carrier that the driver is fully qualified to drive a motor vehicle.

• • • • • •

2. Section 391.65 is revised to read as follows:

§ 391.65 Drivers furnished by other motor carriers.

(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the generally applicable driver qualification file requirements in this part, if—

(1) The driver is regularly employed by another motor carrier; and

(2) The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a motor vehicle in a written statement which—

(i) Is signed and dated by an officer or authorized employee of the regularly employing carrier;

(ii) Contains the driver's name and signature;

(iii) Certifies that the driver has been employed regularly to drive, as defined in § 391.3(c);

(iv) Certifies that the driver is fully qualified to drive a motor vehicle under the rules in Part 391 of the Federal Motor Carrier Safety Regulations;

(v) States the expiration date of the driver's medical examiner's certificate;

(vi) Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and

(vii) After April 1, 1977, is substantially in accordance with the following form:

---------- ----------
(Name of driver) (SS No.)

(Signature of driver)

I certify that the above named driver, as defined in § 391.3(c) is regularly driving a vehicle operated by the below named carrier and is fully qualified under Part 391, Federal Motor Carrier Safety Regulations. His current medical examiner's certificate expires on ---------
(Date)

This certificate expires:

(Date not later than expiration date of medical ceritficate)

Issued on ---------
(Date)

Issued by ----------
(Name of carrier)

(Address)

---------- ----------
(Signature) (Title)

(b) A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall retain a copy of that certificate in its files for 3 years.

(c) A carrier which certifies a driver's qualifications under this section shall—

(1) Be responsible for the accuracy of the certificate; and

(2) Recall the unexpired certificate carried by a driver immediately upon learning that the driver is no longer qualified under the rules in this part.

(Sec. 204, Interstate Commerce Act (49 USC 304); sec. 6, Department of Transportation Act (49 USC 1655); and the delegations of authority at 49 CFR 1.48(p) and 301.60 respectively.)

Effective date: These amendments become effective October 1, 1976.

Issued on August 20, 1976.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-25384 Filed 8-30-76;8:45 am]

[Docket No. MC–56; Notice 76–21]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Exemption From Loading Restrictions for Other Than Front Tires on Special Permit Vehicles

● Purpose. This document amends the conditions under which other than front tires may be loaded in excess of the tire manufacturer's rated capacity. ●

A Notice of Proposed Rulemaking (NPRM), published in the FEDERAL REGISTER on June 17, 1976 (41 FR 24608), proposed the modifications herein adopted to an exemption from tire loading restrictions for special permit vehicles. The present exemption appears in § 393.75(f)(2) of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 393.75(f)(2)). The present exemption, which would become effective on October 1, 1976, would permit continued loading in excess of the tire manufacturer's maximum load rating on other than front tires of those motor vehicles which are operated under the terms of a State-issued special permit that specifies a reduced speed. Since only 24 States now specify a reduced speed in special permits, motor carriers operating in interstate or foreign commerce in more than half of the States would be unable to take advantage of the exemption as presently worded.

To remedy the situation, this amendment permits overloading of other than front tires on vehicles which meet the following conditions:

1. The vehicle is being operated under the terms of a special overweight permit issued by the State; and

2. The vehicle is being operated at a reduced speed which is appropriate to compensate for tire loading in excess of the manufacturer's normal rated capacity. In no case shall the speed exceed 45 m.p.h.

The effective date of the revised exemption is October 1, 1976.

Effectively, this Notice establishes a Federal speed limit which is applicable only to a very special category of vehicles operated in interstate or foreign commerce. Should more of the States adopt reduced speed provisions in special permits, the need for the Federal requirement would be obviated.

Since the matter of establishing speed limits has traditionally been left to the discretion of the individual States, comments on the June 17 NPRM were solicited from appropriate officials in each of the 50 States and the District of Columbia. Thirty-three States and the District of Columbia responded; 10 were essentially opposed to the NPRM, 23 either endorsed or offered no opposition to the proposal, and 2 agencies in the remaining State responded, one having no objection, and the other being in opposition.

The most common argument used by the States against the proposal was that a special speed limit for special permit vehicles would be unenforceable. This argument is discounted by the fact that nearly half of the States presently have special speed provisions for these vehicles, and none of these States reported enforcement difficulties. Further, enforcement of the rule will be carried out by the Bureau of Motor Carrier Safety (BMCS) field staff so that additional enforcement burdens are not imposed on State enforcement activities.

Another concern expressed by several States was that a reduced speed for overloaded vehicles would interrupt the rhythm of the traffic flow. Again, those States with reduced speed limits now in effect for special permit vehicles made no mention of problems associated with speed differentials, and to our knowledge, the proposed upper limit of 45 mph does not conflict with posted minimums on the Nation's highway system.

Six of the States which are opposed to the Proposed Rule expressed the view that overloading of tires beyond the manufacturer's rated capacity should not be allowed under any circumstance. The negative economic implications of such a position are what led the Heavy Specialized Carriers Conference (HSCC) of the American Trucking Associations, Inc., to petition for the rule change at hand. As was indicated in the Preamble to the June 17 NPRM, within reason, tires may be safely overloaded if the vehicle speed is reduced sufficiently to prevent heat buildup.

Five States felt that only the individual States should set criteria for speed restrictions and permit issuance. As mentioned above, should more of the States enact a reduced speed requirement for special permit vehicles operated on overloaded tires, the Federal speed restrictions established by this Notice could be readily removed. In the meantime, however, the Federal Highway Administration's BMCS would be remiss in its responsibility if it condoned the overloading of tires without appropriate speed reductions in States where no speed controls for these vehicles are presently in effect. This Notice does not, and there is no intent on the part of BMCS to, establish criteria for special permit issuance.

Several States indicated confusion as to whether overloading of tires on front axles would be permitted. Available BMCS accident data indicates that front tire failures on heavy commercial vehicles are more likely to result in accidents, particularly severe accidents, than are tire failures at other wheel positions. For this reason, loading of front axle tires in excess of the tire manufacturer's maximum rated capacity is not allowed under any circumstance.

In addition to the States and the District of Columbia, 13 organizations submitted comments on the June 17 NPRM. One commenter, a university affiliate, neither supported nor opposed the proposal, but recommended caution in regulating weight distribution on motor vehicles because of a recent rollover incident involving a fully loaded truck tractor which was being tested. Two of the remaining commenters were opposed to the rule as proposed, and the other 10 commenters were generally supportive.

One supportive commenter, the Rubber Manufacturers Association, requested that a reference to tire industry publications be included in the final rule. These publications contain specific percentage load increases which the industry recognizes for specified reduced speed ranges. The BMCS has decided not to grant this request as it would have the effect of making industry publications into Federal regulations. However, BMCS endorses the use of these publications by motor carriers as a guide in determining what speed reduction is appropriate for an overloaded tire on a special permit vehicle to prevent heat buildup.

The HSCC, whose petition initiated this proceeding, was in favor of the relief granted by the proposed rule, but requested that if any speed restrictions were to be included in the final rule, the restrictions be applicable only to vehicles having gross weights in excess of 100,000 pounds. The BMCS in this proceeding, is not concerned with the gross weight of motor vehicles, only the extent to which individual tires are loaded in excess of the tire manufacturer's rated maximum capacity. Since this overloaded condition can easily occur on vehicles weighing considerably less than 100,000 pounds, the HSCC's request is denied.

One opponent of the proposed rule, Boat Transit, Inc., requested that the exemption be extended to oversize vehicles, as well as those which are overweight. In its operations, Boat Transit apparently loads its axles in excess of the combined rated capacity of the tires, but not necessarily in excess of State axle weight limitations.

The intent of this proceeding was to evaluate the merits of granting relief by allowing overloading of tires on special permit vehicles transporting unusually heavy cargoes if appropriate reductions in speed were observed. The BMCS does not find good cause for broadening the original intent by allowing the overloading of tires on vehicles which are merely oversize. Accordingly, the Boat Transit request is denied.

The final comments opposing the proposed rule were submitted by the law offices of Paulson and Humphreys on behalf of Fleetwood Enterprises, Inc., a manufacturer of mobile homes. A practice of long standing in the mobile home industry has been to load tires by as much as 50 percent in excess of the tire manufacturer's rated maximum capacity. Fleetwood is concerned because the proposed rule would prohibit this practice on mobile homes moved in interstate or foreign commerce.

The BMCS is well aware of mobile home industry practices and has been actively reviewing this particular issue with the U.S. Department of Housing and Urban Development, which is responsible for construction and safety standards for new mobile homes. Any relief the BMCS may decide to grant concerning overloading of mobile home tires would be the subject of another notice.

In view of the foregoing, paragraph (f)(2) of § 393.75 of the FMCSR, Subchapter B, Chapter III of title 49 CFR is amended to read as follows:

§ 393.75 Tires.

• • • • • •

(f) • • •

(2) Other than front wheels. After September 30, 1976, no motor vehicle shall be operated with tires on wheels other than the front wheels which carry a greater weight than that specified for the tire in any of the publications of the standardizing bodies listed in Federal Motor Vehicle Safety Standard No. 119 (49 CFR 571.119) except for a motor vehicle which meets the following conditions:

(i) The vehicle is being operated under the terms of a special overweight permit issued by the State; and

(ii) The vehicle is being operated at a reduced speed which is appropriate to compensate for tire loading in excess of the manufacturer's normal rated capacity. In no case shall the speed exceed 45 m.p.h.

• • • • • •

(Sec. 204 of the Interstate Commerce Act amended (49 U.S.C. 304), sec. 6 of the Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority at 49 CFR 1.48 and 301.60, respectively.)

Effective: October 1, 1976.

Issued on August 24, 1976.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-25562 Filed 8-30-76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71–19; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars

This notice amends Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars (49 CFR 571.120), to permit, until Febru-

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ary 28, 1977, the equipping of new non-passenger-car vehicles with tires that do not meet certain tire labeling requirements but that otherwise meet all requirements of Standard No. 119 (New Pneumatic Tires for Vehicles Other Than Passenger Cars).

Standard No. 120 was issued on January 19, 1976 (41 FR 3478; January 23, 1976; Docket No. 71–19, Notice 3). It specifies tire and rim selection requirements for multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles, and marking requirements for rims for use on these vehicles. It also adds tire and rim matching information to the items required to appear on such vehicles' certification labels. A staggered sequence of effective dates was set out in Notice 3, beginning with September 1, 1976.

In Notice 4 (41 FR 18659; May 6, 1976), the NHTSA delayed several of these effective dates, to permit manufacturers to defer preparation for compliance with the corresponding requirements pending action on petitions for reconsideration of Notice 3. The NHTSA expects to respond to those petitions in the near future. Notice 4 did not, however, change the basic September 1, 1976, effective date of the tire and rim selection requirements of S5.1. Beginning on that date, S5.1.1 of Standard No. 120 would require, with an exception that is not relevant here, new non-passenger-car vehicles to be equipped with tires that meet either Standard No. 109 (which is applicable to passenger car tires) or Standard No. 119 (which is applicable to all other tires). The practical effect is to require most such vehicles to be equipped with Standard 119 tires, because Standard 109 tires are appropriate for use only on certain non-passenger-car vehicles.

Standard No. 119 became effective on March 1, 1975, with an option to delay implementation of its labeling requirements until March 3, 1975 (see 40 FR 8188; February 26, 1975).

The NHTSA has received petitions for rulemaking from International Harvester (IH) and Ford Motor Company. International Harvester indicated that, in anticipation of the recent strike against the nation's four largest tire manufacturers, it had accumulated an excess inventory of "pre-Standard 119 tires." IH stated that these tires meet the performance requirements of Standard No. 119 but not the labeling requirements. It petitioned for a six-month delay of the September 1, 1976, effective date of Standard No. 120's tire selection requirements, to permit the orderly depletion of this inventory.

Ford's petition focused on the difficulty, due to the strike, in obtaining in the near future sufficient quantities of tires that comply fully with Standard No. 119. Ford indicated that there are similar pre-Standard 119 tires available to it. It petitioned for an amendment to Standard No. 120 to permit the use of such insufficiently labeled tires.

The NHTSA believes that the approach suggested by Ford, because it will provide the necessary relief while preserving the required level of performance, is preferable to a simple delay of the September 1, 1976, effective date. Safety of performance of such tires or of vehicles equipped with them is thus not a major issue. The NHTSA has determined that, while granting the relief requested by these petitions may temporarily make enforcement by this agency more difficult and may postpone the availability of certain tire labeling information to users of new vehicles subject to Standard No. 120, the avoidance of a serious disruption in the truck manufacturing process in this situation is appropriate and in the public interest. Accordingly, this notice adds a new section to Standard No. 120 that permits, for six months, the use of tires that are not properly labeled but otherwise meet all requirements of Standard No. 119.

In accordance with recently enunciated Department of Transportation policy encouraging adequate analysis of the consequencies of regulatory action (41 FR 16200; April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. This action imposes no new economic or environmental costs. It creates the benefit of avoidance of serious economic disruption. In light of this benefit and the fact that the required level of tire performance is preserved, any loss in safety benefits would be insignificant in this case.

Because of the imminent effective date of a requirement which would otherwise lead to serious economic disruption, the NHTSA for good cause finds that notice and public procedure on this amendment are impracticable and contrary to the public interest.

In consideration of the foregoing, 49 CFR 571.120 (Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars) is amended by the addition of a new section to read as follows:

§ 571.120 Standard No. 120; tire selection and rims for motor vehicles other than passenger cars.

* * * * *

S6. *Vehicles manufactured from September 1, 1976, to February 28, 1977.* Notwithstanding any other provision of this standard, a vehicle to which this standard applies that is manufactured during the period from September 1, 1976, to February 28, 1977, shall meet each requirement of this standard, with the following exception: In place of tires that meet Standard No. 119 (§ 571.119), the vehicle may be equipped with tires that meet every requirement of that standard other than the tire marking requirements of S6.5 of that standard.

Effective date: August 27, 1976. Because this amendment relieves a restriction, it is found, for good cause shown, that an immediate effective date is in the public interest.

(Secs. 103, 112, 114, 119, 201, 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407, 1421, 1422); delegation of authority at 49 CFR 1.50)

Issued on August 27, 1976.

ROBERT L. CARTER,
Acting Administrator.

[FR Doc.76–25586 Filed 8–27–76;3:20 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Pathfinder National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective August 31, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

WYOMING

PATHFINDER NATIONAL WILDLIFE REFUGE

Public hunting of antelope on the Pathfinder National Wildlife Refuge, Wyoming, is permitted on the entire refuge in accordance with dates and areas designated in the Wyoming 1976 Orders regulating antelope hunting. Portions of the refuge lying in Area No. 63 will be open from September 14 through September 26, 1976. Portions of the refuge lying in Area No. 48 will be open from September 25 through October 15, 1976. This open area, comprising 16,807 acres, is composed of four separate units and is delineated on maps available at refuge headquarters in Walden, Colorado and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 2215, Salt Lake City, Utah 84111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

The provisions of this regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 15, 1976.

V. CARROL DONNER,
Refuge Manager,
Pathfinder National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76–25379 Filed 8–30–76;8:45 am]

PART 32—HUNTING

Pathfinder National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective August 31, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

WYOMING

PATHFINDER NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Pathfinder National Wildlife Refuge, Wyoming, is permitted on the entire refuge in accordance with dates and areas designated in the Wyoming 1976 Orders regulating deer hunting. Portions of the refuge lying in Area No. 87 will be open October 15 through October 25, 1976. Portions of the refuge lying within Area No. 72 will be open October 1 through October 10, 1976. This open area, comprising

16,807 acres, is composed of four separate units and is delineated on maps available at refuge headquarters in Walden, Colorado and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 2215, Salt Lake City, Utah 84111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 25, 1976.

V. CARROL DONNER,
Refuge Manager,
Pathfinder National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76–25380 Filed 8–30–76;8:45 am]

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PART 32—HUNTING

Rice Lake National Wildlife Refuge, Minn.

The following special regulation is issued and is effective on August 31, 1976.

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

MINNESOTA

RICE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of ruffed and spruce grouse on the Rice Lake National Wildlife Refuge in Aitkin County, Minnesota, is permitted from September 18 through December 31, 1976 only in the hunting area designated by (green) signs as open to hunting. The open area comprises about 2,000 acres and is delineated on a map available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

DON E. ADAMS,
Refuge Manager,
Rice Lake National Wildlife Refuge.

AUGUST 23, 1976.

[FR Doc.76–25378 Filed 8–30–76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Approval and Review of State Laws and Regulations

The purpose of this amendment to Part 216, Subchapter C, Chapter II of Title 50, CFR, is to establish a new Subpart H, providing standards and procedures for approving and reviewing State laws and regulations for the management of marine mammal resources. This new subpart implements sections 109(a) (2) and (3) of the Marine Mammal Protection Act ("the Act") (16 U.S.C. 1361 et seq.) and applies to all States. However, because the Act divides jurisdiction over species of marine mammals between the Secretary of Commerce and the Secretary of the Interior, Subpart H is applicable only to whales, porpoises, seals, and sea lions. Section 109(a)(1) of the Act preempts State laws and regulations relating to the taking of marine mammals within the State's jurisdiction. However, section 109(a)(2) of the Act permits reinstatement of State laws and regulations which relate to the preservation and taking of marine mammals if the appropriate Secretary determines they are consistent with the Act and any applicable regulations. Section 109(a)(3) of the Act requires the appropriate Secretary to review and monitor any State laws and regulations approved under section 109(a)(2) of the Act and to resume responsibility for marine mammal management if there is substantial noncompliance.

The Secretary of Commerce has delegated his authority to approve State laws and regulations, as well as to waive the moratorium on the taking of marine mammals under section 101(a)(3)(A) of the Act, to the Administrator of the National Oceanic and Atmospheric Administration who has further delegated this authority to the Director of the National Marine Fisheries Service (NMFS).

The proposal to establish a new Subpart H was announced in a notice in the FEDERAL REGISTER on April 9, 1976 (41 FR 15173), describing the proposal and inviting submission of written comments in accordance with section 553 of the Administrative Procedure Act, 5 U.S.C. 553. Simultaneously, the U.S. Fish and Wildlife Service published a substantively identical proposal (41 FR 15166) to amend Part 18 of Title 50, CFR, by establishing a new Subpart F applicable to those species of marine mammals over which the Secretary of the Interior was given jurisdiction by the Act. A notice of final rulemaking as to the new Subpart F of Part 18 will be published very soon.

Comments were received from the Environmental Defense Fund, the Monitor Consortium, the Animal Protection Institute, the Committee for Humane Legislation, Inc., and Friends of Animals, Inc. After due consideration of these comments, the proposed Subpart H is modified as follows:

1. The title of Subpart H is modified for clarification.

2. Section 216.101 is reworded for clarification.

3. Paragraphs (b), (c) and (d) of § 216.104 are rewritten to show more clearly that a two-step process is involved: first, the Director determines whether a waiver of the moratorium is appropriate based on a formal hearing on the record, and then if a waiver is considered appropriate, the Director must approve the State's laws and regulations before the waiver may take effect.

4. A new § 216.106(d) is added to facilitate public access to material submitted by individual States pursuant to § 216.106 (a), (b), and (c). Because of this additional paragraph, § 216.106 (d), (e), (f), and (g) are redesignated § 216.106 (e), (f), (g), and (h), respectively.

5. Section 216.106 (f), (g) and (h) are broadened to allow increased public participation with respect to affirmative determinations by the Director of NMFS in his review of approved State laws and regulations under § 216.106.

6. Section 216.107 is rewritten to provide notice to the public of receipt by the Director of the notification required by that section.

7. Section 216.4(a) is retained and § 216.4(b) is replaced by a cross-reference to Subpart H. All other paragraphs of § 216.4 are deleted since they are duplicated in § 216.103.

Other recommended changes in the proposal have been carefully considered, but have not been accepted. The following suggestions were not adopted for the following reasons:

1. It was suggested that provision be made for an interagency appeal from the Director's decision under section 216.104 approving State laws which implement a waiver of the moratorium. This suggestion has been rejected on the ground that, because of the application of the Director's expertise to the complex issues raised by a State's request for a waiver of the moratoruim, the decision of the Director is not susceptible to meaningful review.

2. A number of recommendations were not applicable to the new subpart H. Rather these comments pertained to a request by the State of Alaska for a waiver of section 101 of the Act regarding certain marine mammal species, to enable the State to resume management over those species. Proposed regulations related to Alaska's waiver request, a new Subpart I of Part 216, are the subject of public hearings held at the times and places announced on May 28, 1976, at 41 FR 21832.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

AUGUST 19, 1976.

Accordingly, 50 CFR Part 216, is amended as set forth below.

1. A new Subpart H is added, reading as follows:

Subpart H—Approval and Review of State Laws and Regulations

216.101 Purpose of regulations.
216.102 Scope.
216.103 Review of state laws and regulations—General.
216.104 Review of state laws and regulations implementing waiver.
216.105 Approval of state laws and regulations—Criteria.
216.106 Review of approved state laws and regulations.
216.107 Notification.
216.108 Enforcement.
216.109 [Reserved]

Subpart H—Approval and Review of State Laws and Regulations

§ 216.101 Purpose of regulations.

(a) Section 109 of the Act provides that no State may adopt or enforce any law or regulation which relates to the

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taking of marine mammals unless such laws and regulations have been previously reviewed by the Director and determined by him to be consistent with the Act.

(b) This subpart fulfills the requirements of sections 109 and 112 of the Act by prescribing procedures to permit a State to adopt and enforce laws and regulations consistent with the Act which relate to the protection and taking of marine mammals.

§ 216.102 Scope.

(a) The provisions of § 216.103 of this subpart apply whenever a State has requested a determination from the Director, pursuant to section 109(a)(2) of the Act, that the State's proposed or existing laws or regulations relating to the protection and taking of any marine mammal are consistent with the Act and regulations contained in this part, regardless of whether the moratorium imposed by section 101 of the Act must be waived to allow such laws to take effect. The provisions set forth standards and criteria for such determination by the Director.

(b) The provisions of § 216.104 through 216.108 of this subpart apply only when both the Director has waived or is considering waiving the moratorium, and when a State has requested a determination from the Director, pursuant to section 109(a)(2) of the Act, that the State's laws and regulations relating to the protection and taking of any species or population stock of marine mammals are consistent with the waiver of the moratorium, the Act, and the regulations in this part which apply to such species or population stocks. The provisions set forth standards and criteria for such determination by the Director and for waiving the moratorium.

§ 216.103 Review of State laws and regulations—general.

(a) Nothing in this part, nor any permit issued under authority of this part, shall be construed to relieve a person from any other requirements imposed by any statute or regulation of the United States, including any applicable statutes or regulations relating to wildlife and fisheries, health, quarantine, agriculture, or customs.

(b) Section 109 of the Act provides that on or after December 21, 1972, no State may adopt any law or regulation, or enforce any existing law or regulation, which relates to the taking of marine mammals or which in effect nullifies an exemption or exception created by the Act, unless such laws or regulations have been previously reviewed by the Director and determined by him to be consistent with the provisions of the Act and the regulations in this part. In no event, however, will the Director approve any State laws or regulations which:

(1) Purport to authorize a State to issue permits in situations which would require a Federal permit under the Act, unless and until appropriate Federal regulations have been issued under section 103 of the Act, and where appropriate, the Director has waived the moratorium on such taking or importation under section 101(a)(3)(A) of the Act; or

(2) Purport to authorize a State to issue permits for scientific research or public display (except that a State may, under authority of a general scientific research permit granted by the Director, assign individual scientific research permits to State employees or representatives of State universities or other State agencies, subject to the provisions of the general permit).

(c) Any State may obtain a review and determination of its proposed or existing laws and regulations from the Director by submitting a written request to that effect to the Director, National Marine Fisheries Service (NMFS), accompanied by the following documents, unless otherwise specified by the Director.

(1) A complete set of the laws and regulations to be reviewed, certified as complete, true and correct, by the appropriate State official;

(2) A scientific description by species and population stock of the marine mammals to be subjected to such laws and regulations;

(3) A description of the organization, staffing and funding for the administration and enforcement of the laws and regulations to be reviewed;

(4) A description of the procedures to be used in granting or withholding such permits and otherwise enforcing such laws, where such laws and regulations provide for discretionary authority on the part of State officials to issue permits; and

(5) Such other materials and information as the Director may request or which the State may deem necessary or advisable to demonstrate the compatibility of such laws and regulations with the policy and purposes of the Act and the rules and regulations issued thereunder.

(d) In making a determination with respect to any State laws and regulations, the Director shall take into account:

(1) Whether such laws and regulations are consistent with the purposes and policies of the Act and the rules and regulations issued thereunder;

(2) The extent to which such laws and regulations are consistent with, or constitute an integrated management or protection program with, the laws and regulations of other jurisdictions whose activities may affect the same species or stocks of marine mammals; and

(3) The existence of, or preparations for, an overall State program regarding the protection and management of marine mammals to which the laws and regulations under review relate.

(e) To assist States in preparing laws and regulations relating to marine mammals, the Director will also, at the written request of any State, make a preliminary review of any proposed laws or regulations. This review will be advisory in nature and shall not be binding upon the Director. Notwithstanding preliminary review by the Director, once these proposed laws and regulations have been prepared in final form, they shall be subject to a final review under paragraphs (b) through (d) of this section. To be considered for preliminary review, a State shall submit the same documents as required in paragraph (c) of this section, unless otherwise specified by the Director.

(f) The implementation and enforcement of all States laws and regulations previously approved by the Director pursuant to this section shall be subject to continuous monitoring and review by the Director pursuant to such rules and regulations as he may adopt. Any modifications, amendments, deletions or additions to laws or regulations previously approved shall be deemed to be new laws and regulations for the purposes of these regulations and shall require review and approval by the Director before their adoption, except as provided in § 216.104.

(g) Nothing in this part shall prevent (1) the taking of a marine mammal by a State or local government official pursuant to § 216.22 of the regulations in this part, or (2) the adoption or enforcement of any law or regulation relating to any marine mammal taken or imported prior to the effective date of the Act.

§ 216.104 Review of State laws and regulations implementing waiver.

(a) Any State which requests a determination that its laws and regulations are consistent with the Act and applicable regulations in accordance with § 216.103(c) of this subpart, may also request a waiver of the moratorium imposed by section 101 of the Act to the extent necessary to allow such laws and regulations to take effect.

(b) If the Director, after opportunity for agency hearing as required by section 103(d) of the Act, decides to waive the mortorium so as to allow State laws and regulations to take effect, the waiver shall be contingent upon his approval of such State laws and regulations under paragraph (c) of this section and shall not be effective until publication of the notice specified in paragraph (d) of this section.

(c) The Director may approve State laws and regulations which implement a waiver of the moratorium if he determines them to be consistent with the Act, with regulations promulgated under section 103 of the Act, with the criteria of § 216.105 of this part and with all other rules or regulations promulgated pursuant to the Act with respect to marine mammals.

(d) Upon approval of such State laws and regulations, the Director shall publish his decision in the FEDERAL REGISTER. The decision will summarize the management program established by the State laws and regulations, state the extent to which the moratorium is waived in order to allow such State laws and regulations to take effect, and indicate the date the State's annual report is to be submitted.

(e) Any modifications, amendments, deletions, or additions to laws or regulations previously approved, except emergency closing of seasons, shall require review and approval by the Director pursuant to paragraphs (c) through (g) of § 216.106 of these regulations before their adoption.

(f) All determinations by the Director shall be final.

§ 216.105 Approval of State laws and regulations—criteria.

Any State which applies to the Director for approval of its laws and regulations under § 216.104 must demonstrate to the Director's satisfaction, that such laws and regulations:

(a) Provide for a modern scientific resource management program, including, but not limited to, research, census, law enforcement, habitat acquisition and improvement and, when and where appropriate, the periodic or permanent protection of the species of marine mammals affected by the State's application;

(b) Establish a program which is based upon the best scientific evidence available on the relevant marine ecosystem and the role of the affected species of marine mammals in that ecosystem;

(c) Establish a program which is consistent with the primary goal of the Act, to maintain the health and stability of the marine ecosystem;

(d) Establish a program which insures that the affected species or population stock of marine mammals shall not diminish below the range of optimum sustainable population;

(e) Require cessation of taking of the affected species of marine mammals whenever the population is determined to be below the range of optimum sustainable population;

(f) Provide appropriate maximum quotas and seasons, whenever a taking is proposed, unless the State can show that it is more consistent with these criteria to have no quota or season;

(g) Establish quotas, seasons, and other allowances and restrictions as necessary to be consistent with the criteria of this section and in accordance with the following factors:

(1) The seasonal distribution of populations;

(2) Segregation within populations by sex and age;

(3) Discreteness of populations;

(4) Population density;

(5) Critical periods in the species life cycle;

(6) Critical habitat areas;

(7) Productivity of the population;

(8) Species interactions;

(9) Percentage of retrieval by hunters;

(10) Maximization of the utilization of the species;

(11) Other uses of the species, such as recreational use or incidental catch; and

(12) Enforceability of the limitations.

(h) Contain suitable limitations on the means and methods of taking which assure that taking will be by humane means and will maximize the utilization of each animal taken.

(i) Contain provisions for significant public participation within the State in the process of implementing the waiver.

(j) Meet the criteria specified in § 216.103 of this part, to the extent such criteria may differ from those prescribed in this section.

§ 216.106 Review of approved State laws and regulations.

(a) All State laws and regulations and the conservation programs established thereby which have been approved shall be reviewed annually, unless circumstances indicate that an earlier review is appropriate.

(b) In order to facilitate such a review, each State having approved laws and regulations must submit an annual report not later than 60 days after the close of such State's first full fiscal year following the effective date of the waiver of the moratorium and at the same time each following year. The report shall contain the following information current for each reporting period:

(1) Any changes in the State laws or regulations;

(2) Any new data on the marine mammal stocks or the marine ecosystems in question;

(3) All available information relating to harvests under the terms of a waiver;

(4) A summary of all research activity on the stocks or ecosystem affected by a waiver;

(5) Any changes in the information provided with the original request for approval;

(6) A summary of all enforcement activity, including permits issued, skins sealed, reports under permits, investigations undertaken and their dispositions;

(7) Present budget and staffing level for the marine mammal activities; and

(8) Any other information which the Director may request, or which the State deems necessary or advisable.

(c) Each State having approved laws and regulations shall file a special report within 30 days, whenever any of the following occurs:

(1) A proposed change in a relevant State law or regulation (amendments, repealers, or new legislation or regulations), which, with the exception of emergency closing of seasons, shall not be effective until the Director makes a determination pursuant to paragraphs (e) through (g) of this section; or

(2) A significant natural or man-made occurrence affecting the marine ecosystem or the stocks of marine mammals; or

(3) A significant violation of the State management program including any quotas established thereby.

(d) All State laws and regulations and the conservation programs established thereby, as well as annual reports submitted under paragraph (b) and special reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235.

(e) Upon receipt of any report described in paragraphs (b) and (c) of this section, the Director shall, as soon as practicable, in consultation with the Marine Mammal Commission, determine preliminarily whether or not the State laws and regulations and any programs established thereby comply with the requirements of the Act and this subpart.

(f) Whenever the Director preliminarily determines, in consultation with the Marine Mammal Commission, that any State laws, regulations or programs established thereby are or are not in compliance with the requirements of this subpart, he shall publish notice of such preliminary determination in the FEDERAL REGISTER, inviting submission from interested persons, within 30 days of the notice, of written data, views, comments, or requests for hearings with respect to such preliminary determination.

(g) As soon as practicable after the 30-day comment period described in § 216.106(f), the Director, in consultation with the Marine Mammal Commission, shall determine whether to finally approve or disapprove the State laws and regulations. The Director's determination shall be made within 90 days after publication of the notice described in § 216.106(f), unless a hearing is held.

(h) If the Director makes a final determination to disapprove proposed changes in State laws and regulations, the State shall have the option of retaining its initially approved laws and regulations, in which case any waiver shall remain in effect. All final determinations of approval or disapproval shall be published in the FEDERAL REGISTER; upon publication of disapproval, unless a State elects within 30 days to retain its originally approved laws and regulations, any waiver conditioned upon approval of State laws and regulations as provided in this subpart shall terminate, and all provisions of the Act shall be reinstated and supersede such State laws and regulations.

§ 216.107 Notification.

The State shall immediately notify the Director when the mortality rate due to retrieved and unretrieved harvest for any species or population stock of marine mammal reaches 90 percent of the numerical extent of the waiver prescribed by subpart I of this part for that species or population stock. The Director shall publish a Notice of Receipt in the FEDERAL REGISTER concerning such notification as soon after receipt as practicable.

§ 216.108 Enforcement.

The appropriate official in each State shall utilize such methods as he deems appropriate to assure to the maximum extent practicable that the quotas, seasons, and other limitations in approved State laws and regulations are not exceeded. These methods may include, but are not limited to, patrols, surveillance, investigation, permit recordkeeping and

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reporting requirements, and tagging and marking requirements.

§ 216.109 [Reserved]

2. Section 216.4 is amended by revising paragraph (b) as follows:

§ 216.4 Other laws and regulations.

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(b) *State laws or regulations.* See Subpart H of this part.

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3. The introductory text of § 216.11 is amended as follows:

§ 216.11 Prohibited taking.

Except as otherwise provided in subparts C, D, and I of this Part 216, it is unlawful for:

• • • • • •

[FR Doc.76-25514 Filed 8-30-76;8:45 am]

PART 240—REGULATED COMMERCIAL FISHERIES

Size Limit for Sea Scallops

At its annual meeting held in Montreal, Canada, June 8–23, 1976, the International Commission for the Northwest Atlantic Fisheries (ICNAF) recommended that member governments implement conservation measures concerning the retention and landing of sea scallops (*Placopecten magellanicus*) in Division 5Z of Subarea 5 of the Convention Area. The Commission further recognized that in order to achieve the purposes and objectives of the Convention, fishing activity in Division 5Z of Subarea 5 for sea scallops must be conducted in accordance with this proposal as soon as possible in 1976. Therefore, the Commission requests member governments whose vessels conduct fishing operations in the area to implement this conservation measure no later than September 1, 1976. In order to effectively implement the recommendation of the Commission, the conservation measures for sea scallops will also apply in Statistical area 6.

Therefore, it is proposed to amend Subpart G—Squid Fisheries and Shellfish, in the present regulations (41 FR 1067), published in the FEDERAL REGISTER January 6, 1976, to incorporate the proposed conservation measures for sea scallops.

It is proposed in § 240.1 to include sea scallops as a regulated species in Subarea 5 and Statistical area 6. It is proposed in § 240.60 to include sea scallops under the definitions. It is proposed in § 240.66 to include the size restriction and level of incidental catch.

The proposed amendments are described below as follows:

1. Add new subdivisions (XIV) in § 240.1(c) (5) and (6) to read as follows:

§ 240.1 Definitions.

• • • • • •

(c) • • •

(5) • • •

(xiv) Sea Scallops (*Placopecten magellanicus*)

(6) • • •

(vii) § Sea Scallops (*Placopecten magellanicus*)

2. Amend § 240.60(b) to read as follows:

§ 240.60 Definitions.

(a) • • •

(b) Regulations of this section apply to all short-finned squid (*Illex illecebrosus*) and long-finned squid (*Loligo pealei*), and sea scallops (*Placopecten magellanicus*) in Subarea 5 and Statistical area 6, taken by persons or fishing vessels subject to the jurisdiction of the United States.

3. Add new § 240.66 size limits to read as follows:

§ 240.66 Size limits.

(a) Size and weight limitations are placed upon the lengths of shells and weights of the meats of sea scallops permitted to be taken or possessed by persons and fishing vessels subject to the jurisdiction of the United States.

(1) The taking or possession of sea scallops of a shell size of less than 95 mm, measured from the hinge to the opposite margin, is prohibited, except as provided in paragraph (3).

(2) The taking or possession of sea scallops having an average weight of meats less than forty (40) meats per pound is prohibited, except as provided in paragraph (3).

(3) A ten (10) percent allowance is permitted for lengths and weights less than those required in paragraphs (1) and (2), to be determined at the time of inspection by random sampling of the imported shipment or of the total amount of sea scallops on board the fishing vessel at sea or at the time of offloading.

These regulations are issued under the authority contained in the Northwest Atlantic Fisheries Act of 1950 (16 U.S.C. 986). Because of the need for immediate guidance with respect to the provisions contained in these regulations and the fact that they relate to a foreign affairs function of the United States under 5 U.S.C. 553(a)(1), it is found unnecessary to issue a notice of proposed rule making under 5 U.S.C. 553(b) or subject these regulations to the effective date limitation of 5 U.S.C. 553(d).

Therefore, under the provisions of 5 U.S.C. 553(d)(3) and 553(b)(3)(B), these regulations are effective on August 31, 1976.

Issued at Washington, D.C., and dated August 27, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-25515 Filed 8-30-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R–0036]

PART 226—TRUTH IN LENDING

Identification of Transactions; Miscellaneous Amendments

On September 19, 1975, the Board published amendments to Regulation Z in the FEDERAL REGISTER setting forth disclosure requirements for identifying transactions reflected on open end credit account periodic statements and for other purposes (40 FR 4320). Subsequently, questions were raised regarding these requirements and on May 18, 1976, the Board published for comment in the FEDERAL REGISTER (41 FR 20421) proposed amendments intended to clarify certain requirements, add flexibility as necessary, and insure that consumers would be able to procure complete information regarding their open end credit accounts quickly and without undue expense.

Comments were received and analyzed during the comment period, which ended June 18. On the basis of those comments and its own analysis the Board has adopted the regulations which follow:

IDENTIFICATION OF TRANSACTIONS

Under these amendments the requirements for identifying transactions on open end credit periods statements are changed in the following ways:

1. To enhance the clarity of the text, a new section 226.7(k) is added to the Regulation. This new section would contain the requirements for identifying transactions. Section 226.7(b)(1)(ii), which formerly contained the identification of transactions requirements, would merely reference § 226.7(k) and require that the disclosures set forth therein be made on or with periodic statements.

2. As adopted in the September 19 publication, the Regulation required the creditor to provide a reference number or identifying symbol (such as a sales voucher number) which appears on the document evidencing the transaction in those cases in which the primarily required information is not available. Because of questions that were raised regarding the usefulness of the number or symbol to the consumer and regarding the cost to creditors of instituting a capability to capture the number or symbol for potential use in all transactions when it may, in fact, be needed for only a few, the Board proposed in its May 18 publication to permit a creditor to provide an identifying number or symbol when any of the primarily required information is not available or, alternatively, to permit the creditor to disclose only that information which is available and treat any inquiry regarding the description or identification of the transaction as a billing error and an erroneous billing subject to the provisions of § 226.14. Further, under the proposal of May 18, the creditor would have been required to provide documentary evidence of the transaction without charge. These alternatives were to be available to those creditors that have procedures in place adapted to provide the primarily required information.

As finally adopted herein a creditor may not supply merely a voucher number when, despite the maintenance of procedures reasonably adapted to procure the primarily required information, the creditor fails to obtain it. In such cases these amendments require the creditor to treat any inquiry as a billing error and an erroneous billing and, unless previously furnished with a periodic statement, provide copies of documentary evidence of the transaction free of charge. Providing an identifying number or symbol would, of course, be permissible. Further, creditors that use "descriptive" billing systems are required to substitute the date of debiting the amount of a transaction to the account for the primarily required date whenever the primarily required date is not available and treat any inquiry regarding the absence of the date as a billing error and an erroneous billing under the procedures discussed previously herein. Previously, the regulations and proposals for comment had required that the identifying number or symbol be substituted whenever the primarily required date was not available. It seems that the debiting date is a more useful substitute for the primarily required date.

This addition to the Regulation is designed to provide an alternative to the requirement that an identifying number or symbol be provided in all cases when the primarily required information is not available. It is designed to insure a better and more complete description to the customer without financial disadvantage, to provide creditors with an alternative to the costly requirement of developing the additional capability to provide a voucher number for all transactions when their systems are designed to provide the primary information, and to supply an incentive for the creditor to provide a complete description in the first instance. As noted above, under this alternative the creditor remains obligated to maintain procedures reasonably adapted to procure the primarily required information.

3. In the May 18 proposal, the Board asked for comment regarding difficulties, and possible solutions to those difficulties, which creditors may have regarding describing property or services purchased in transactions at merchant establishments which sell a single homogenous line of merchandise or which use a central checkout facility. A significant proportion of the comments received addressed this issue, pointing out that in these two-party situations it is often inconvenient to the customer and burdensome and time consuming to the creditor to itemize the property or services purchased in such transactions. The regulation is, therefore, amended herein to provide that a two-party creditor may freely substitute a voucher number or other identifying symbol which appears on the document evidencing the transaction for the description of property or services. However, if this alternative is used customer inquiries must be treated as billing errors and erroneous billings under § 226.14 and, if a proper written notification of a billing error is received regarding the description of the goods or services, the creditor must provide the customer with documentary evidence of the transaction. This is meant to be a generally available alternative which a creditor may use to program its billing system in the first instance.

This alternative will allow the creditor to evaluate and make its own market judgment as to whether to provide the more complete description and avoid, to a large extent, the billing error resolution process which may otherwise result from using a voucher number system or, alternatively, to institute the voucher number system and face the potential expense of answering the inquiries which may be engendered thereby. This solution to the problem was suggested in some of the comments. As discussed further in a later paragraph herein, a transition period is provided to enable creditors to design systems which will comply with the ultimate requirements of the Act of the Regulation by October 28, 1977. During this transition period some experience may be gained using the voucher number alternative and, to the extent that it may be representative, may aid creditors in determining whether this type of system should be used.

4. This amendment provides an alternative similar to that discussed in paragraph 2 for the transition period which lasts until October 28, 1977, provided to enable creditors to adjust forms, procedures, and computer programs. During the transition phase these amendments allow the creditor to provide that information which is available while requiring that any inquiry regarding the identification of the transaction be treated as a billing error and as an erroneous billing when the primarily required information is not available. The amendments also retain the alternative of supplying the identifying number or symbol when primarily required information regarding the merchant's name and address or description of property or services is not available during the transition period. Further, during the transition period the date of debiting an amount to the account may be substituted for the otherwise required dates.

The language regarding the transition period for compliance, which ends October 28, 1977, has been changed from the September 19 publication in two respects. First, the language has been changed to further clarify the fact that the alternatives provided in the section are generally available and that creditors do not need to institute procedures reasonably adapted to procure the information which will be required to be disclosed after October 28, 1977, during this transition phase.

Second, because of the importance and complexities of the issues involved and the need for interested parties to fully evaluate the requirements of this regulation, the Board has extended the beginning date of the second transition period toward compliance with the ultimate requirements of the regulation to October 28, 1976. The Board believes this to be adequate time, given the earlier rulemaking proceedings on this subject, for interested parties to adapt their procedures to the rule. Because of the need for this added transition period as reflected by the issues raised by the comments, the Board herein rescinds its earlier suspension of the transition period. No requirements other than those embodied in earlier rulemaking proceedings have been imposed during the transition periods.

5. These amendments provide guidance regarding the disclosure of an address for certain types of three-party transactions which are not encompassed within the usual scenario of a purchase made at a fixed seller location. Recognizing that it is often problematic to assign one address or designation which is helpful to customers in all situations (for example, with a transaction that occurs by telephone, mail order, in the customer's home, or at a nonfixed location, such as aboard a public conveyance), the amendments provide some flexibility. They permit the creditor to (a) omit the address in cases where supplying an address would, in itself, be misleading, or (b) supply an address or appropriate designation (such as "mail order"), which, in the creditors opinion, is helpful in identifying the transaction or relating the transaction to a document previously furnished. Use of the disclosure provisions of this paragraph should not be for the purpose of evading or circumventing the Act or Regulation, however.

6. Guidance for disclosing the seller's name for three-party transactions is provided. Previously, the creditor was required to disclose a seller's name which appeared on the sales voucher. The May 18 publication provided that if the name on the voucher was alphabetically abbreviated a more complete spelling could be provided. It further provided that if the name was encoded on the sales voucher in a manner not understandable to customers the encoded symbol and a more complete spelling of the seller's name must be provided on or with the periodic statement. This provision was designed to provide certainty in the method of disclosure and to provide a description which a customer can verify and understand.

Some creditors commented that the regulation needed more flexibility in this respect and that they should be permitted to provide a seller's name other than by reference to what appears on the sales voucher. The regulation as finally adopted provides that disclosure of a seller's name which appears on the sales voucher (or a more complete spelling of such a name if it has been alphabetically abbreviated) is adequate. However, the regulation no longer *requires* that this be the name disclosed. Other names may be

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adequate for these purposes as well. The regulation, therefore, provides the certainty that some creditor desire and the flexibility others feel they need.

7. Footnote 9b (footnote 7c as it appeared in the September 19 amendments) has been positioned within the regulation to indicate that all references to "the same person or related persons" in § 226.7(k) are governed by the guidelines set forth in that footnote.

8. Section 226.7(k)(1) regarding "country club" billing has been changed from the May 18 publication by the addition of the words "at the creditor's option" immediately preceding the words "either the date of the transaction or the date the transaction is debited to the customer's account." This is intended to allow "country club" billers to program their systems and to choose between providing the date of transaction or the date of the debiting. Whichever method they choose for any particular types of transactions should be consistent. Should the date which they choose to disclose be unavailable despite procedures instituted to capture that date, the alternative to treat the absence of the information as a billing error and an erroneous billing, as discussed earlier, would be available to them.

9. Recognizing the difficulties of procuring the primarily required information for transactions in foreign countries, the amendment (a) allows the creditor to disclose the date on which the amount of the transaction is debited to the customer's account instead of any other required date and (b) use the error resolution procedure discussed in paragraph (2) in all cases without the obligation to maintain the procedures adapted to procure the information in every instance. This provision is meant to be permissive and a creditor may, of course, disregard it and fully comply with the requirements otherwise imposed by § 226.7(k).

10. The wording in § 226.7(k)(4)(ii) requiring that the creditor maintain procedures reasonably adapted to obtain the primarily required information has been changed from the May 18 proposal by substituting the words "received by" for the words "transmitted to." This is meant to clarify that the alternatives provided in § 226.7(k)(4)(i) are available to two-party as well as three-party creditors. The point was raised in the comments that there is no "transmittal," as such, of the sales voucher to the creditor in a two-party system. No change in the meaning of the Regulation is intended by this change in the wording.

MISCELLANEOUS AMENDMENTS

The miscellaneous amendments as proposed in the May 18 publication are herein adopted.

1. The proposal amends § 226.7(b)(1)(iii) to provide that the date of crediting a payment or credit to the customer's account need not be disclosed in those situations where the failure to credit on any particular day will not result in the imposition of any finance charges or other charges upon the customer. This amendment is adopted in the belief that such a disclosure is of little of no value or economic concern to the consumer but does impose a substantial cost upon creditors to make the necessary changeover for their billing systems if they have not provided such a date heretofore. The requirement that payments to a customer's account be credited promptly, however, are not changed or suspended.

2. The amendment to § 226.7(c)(1) is intended to clarify the Board's intent in its publication of September 19, 1975. The language of § 226.7(c)(1) permits certain information to be disclosed other than on the face of the periodic statement provided that the totals of the respective debits and credits under each of the paragraphs referenced therein are disclosed on the face of the periodic statement. Concern has been expressed that the section, as amended by the September 19 publication, required disclosure of the total of all purchases or other loan transactions and finance charges on the face of the periodic statement. This was not the Board's intent.

3. The amendment to § 226.13(i) adds a footnote to paragraph 4 specifically permitting a creditor to report disputed amounts under § 226.13(i) as "in dispute" but not as "delinquent." This is consistent with the treatment of credit reports under § 226.14 and avoids the implication that creditors must have a dual credit reporting system which would have to reflect the different kinds of disputes that may be raised.

In consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. § 1604 (1970) the Board amends Regulation Z, 12 C.F.R. Part 226 as follows:

1. To fully implement § 411, Title IV, Pub. L. 93-495, § 226.7(b)(1)(ii) will provide, and a new § 226.7(k) will be added, as follows:

§ 226.7 Open End Credit Accounts—Specific Disclosures.

* * * * *

(b) Periodic statements required (1) * * *

* * * * *

(ii) The information required by § 226.7(k)

* * * * *

(k) *Identification of transactions.* (1) Each extension of credit for which an actual copy of the document evidencing the credit transaction (which does not include a so-called "facsimile draft") accompanies the periodic statement on which the transaction is first reflected shall be identified by disclosing on the periodic statement, or on accompanying statement(s) or document(s), the amount of the transaction and, at the creditor's option, either the date of the transaction or the date the transaction is debited to the customer's account.

(2) Each extension of credit for which an actual copy of the document evidencing the credit transaction does not accompany the periodic statement shall be identified by disclosing on or with the periodic statement on which that credit transaction is first reflected at least:

(i) For transactions in which the creditor and the seller are the same person or related persons,[9b] the amount of the transaction, the date on which the transaction took place,[9c] and a brief identification[9d] of any property or services purchased or an identifying number or symbol reasonably unique for that transaction with that creditor which appears on the document evidencing the transaction given to the customer; provided, that, if the creditor discloses such an identifying number or symbol, the absence of the identification of the property or services otherwise required must be treated as a billing error under §§ 226.2(j) and 226.14 and as an erroneous billing under § 226.14(b) if the customer submits a proper written notice of a billing error relating to such absence, and the creditor must provide documentary evidence of the transaction to the customer free of charge whether or not the customer requests it.

(ii) For transactions in which the seller and the creditor are not the same person or related persons, the amount of the transaction, the date on which the transaction took place, and the seller's name and the address (city and State or foreign country, using understandable and generally accepted abbreviations if the creditor desires) where the transaction took place.

(3) Notwithstanding the provisions of §§ 226.7(k)(1) and 226.7(k)(2), transactions involving nonsale credit, such as a cash advance or an overdraft or other checking plan transactions, shall be identified on or with the periodic statement upon which the transaction is first reflected by providing at least:

(i) An actual copy of the document evidencing the transaction which shows the amount of the transaction and either the date of the transaction, the date the transaction was debited to the customer's account, or the date placed on the document or instrument by the customer (if the customer signed the document or instrument); or

(ii) A description of the transaction, which characterizes it as a cash advance, loan, overdraft loan, or other designation as appropriate, and which includes the amount of the transaction and the date of the transaction[9e] or the date which appears on the document or instrument evidencing the transaction (if the customer signed the document or instrument).

(4) If, despite the maintenance of procedures reasonably adapted to procure the information required by §§ 226.7(k)(1), (2) and (3) such information is unavailable to the creditor, the date of debitign the amount to the account shall be substituted for the date otherwise required (except that the date of debiting need not be provided if an actual copy of the document evidencing the transaction is provided with the periodic statement) and the creditor shall disclose as much of the other required information as is available and omit any information which is not available, provided, that, if the customer submits a proper written notification of a billing error relating to the absence of the primarily required date or other information, such absence shall be treated as a billing error under §§ 226.2(j) and 226.14 and as an erroneous billing under § 226.14(b) and, unless previously furnished with a periodic statement, documentary evidence of the transaction must be furnished whether or not the customer requests it, with in the time period allowed in § 226.14 for resolution of a billing error, without charge to the customer.

(5) In any case in which a transaction occurs other than in a State:

(i) The creditor may disclose the date of debiting the amount of the transaction to the open end credit account in place of any other date required elsewhere in § 226.7(k); and

(ii) The provisions of § 226.7(k)(4) shall apply and the creditor need not maintain procedures reasonably adapted to procure the information otherwise required by § 226.7(k).

(6) In complying with the disclosure requirements § 226.7(k)(1), (2), (3), or (4):

(i) The creditor may rely upon and disclose the information supplied by the seller with respect to the date and amount of transactions for which the creditor and the seller are not the same person or related persons.

(ii) With regard to disclosing the seller's address where the transaction took place for purposes of § 226.7(k)(2)(ii), the creditor may omit the address or provide an address or other suitable designation which, in the creditor's opinion, will assist the customer in identifying the transaction or in relating the transaction, as reflected, to a document(s) evidencing the transaction previously furnished when no meaningful address is readily available because the transaction took place at a location which is not fixed (for example, aboard a public conveyance), or in the customer's home (in which case "customer's home" or a similar description is sufficient) or because the transaction was the result of a mail or telephone order (in which case "telephone order," "mail order," or similar description is sufficient); provided that any such disclosure made or omitted shall not be for the purpose of circumvention or evasion of this Part.

(iii) With regard to disclosing the seller's name for purposes of § 226.7(k)(2)(ii), disclosure of a seller's name which appears on the document evidencing the transaction (or a more complete spelling of such a name if the name is alphabetically abbreviated on the document evidencing the transaction) is sufficient for purposes of § 226.7(k)(2)(ii).

(7)(i) As an alternative to the provisions of §§ 226.7(k)(1) through 226.7(k)(5), from October 28, 1976, until October 28, 1977: (A) the creditor may disclose the date of debiting the amount of the transaction to the customer's account for the date of the transaction or the date placed on the document evidencing a credit transaction if, due to operational limitations, either such date is unavailable to the creditor for purposes of billing; and the creditor may disclose an identifying number or symbol which appears on the document evidencing the credit transaction given to or used by the customer at the time of or in connection with the credit transaction in place of the seller's name and address or description of the property or services purchased if, due to operational limitations, such information is unavailable to the creditor for purposes of billing; or (B) the creditor may identify the transaction by disclosing such information as is reasonably available and treating the absence of the information required by §§ 226.7(k)(1), (2), or (3), as applicable, as a billing error, as provided in §§ 226.2(j) and 226.14. If a customer submits a proper written notification of a billing error relating to the absence of such information and the information was, in fact, not disclosed as required by §§ 226.7(k)(1), (2), or (3), as applicable, the transaction shall be treated as an erroneous billing under § 226.14(b) and documentary evidence of the transaction must be furnished whether or not the customer requests it (despite the provisions of §§ 226.2(j) and 226.14(a)(2)), within the time period allowed in § 226.14 for resolution of a billing error, without charge to the customer.

(ii) The effective date of §§ 226.7(k)(1) through 226.7(k)(7)(i), inclusive, is October 28, 1976. Until October 28, 1976, the creditor shall disclose the date of each extension of credit or the date such extension of credit is debited to the account during the billing cycle, the amount of such extension of credit and, unless previously furnished, a brief identification[9f] of any goods or services purchased or the extension of credit.

2. Section 226.7(b)(1)(iii) is amended by the deletion of the period at the end thereof and the addition of the following: ", except that the date of crediting to the customer's account need not be provided if a delay in crediting does not result in the imposition of any finance charges, late payment charges, or other charges for that billing cycle or a later billing cycle."

3. Section 226.7(c)(1) is amended to read:

(c) * * *

(1) The information required to be disclosed under paragraph (b)(1)(ii) of this section and itemization of the amounts and dates required to be disclosed under paragraph (b)(1)(iii) of this section and of the amount of any finance charge required to be disclosed under paragraph (b)(1)(iv) of this section may be made on the reverse side of the periodic statement or on a separate accompanying statement(s), provided that the totals of the respective debits and credits under each of those paragraphs are disclosed on the face of the periodic statement.

4. Section 226.13(i)(4) is amended to add a footnote as follows:

§ 226.13 *Credit Card Transactions—Special Requirements.*

* * * * *

(i) Right of cardholder to assert claims or defenses against card issuer. * * *

(4) If the cardholder refuses to pay the amount of credit outstanding with respect to the property or services which gave rise to the claim(s) or defense(s) under this section, the creditor may not report to any person that particular amount as delinquent until the dispute is settled or judgment is rendered.[9g]

5. Section 226.7(b)(1)(ii), as adopted by the Board on September 15, 1975, and published in the FEDERAL REGISTER on September 19, 1975 (40 FR 43200) is hereby rescinded. The suspension of the effective date of the transition period as adopted by the Board on May 7, 1976, and published in the FEDERAL REGISTER on May 18, 1976 (41 FR 20395) is hereby rescinded.

By order of the Board of Governors, August 27, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-25704 Filed 8-30-76;12:19 pm]

[9b] For purposes of paragraph 226.7(k) a person is not related to the creditor simply because the person and the creditor have an agreement or contract pursuant to which the person is authorized to honor the creditor's credit card under the terms specified in the agreement or contract. Franchised or licensed sellers of a creditor's product shall be considered to be related to the creditor for purposes of paragraph 226.7(k). Sellers who assign or sell open end customer sales accounts to a creditor or arrange for such credit under an open end credit plan which allows the customer to use the credit only in transactions with that seller shall be considered related to the creditor for purposes of § 226.7(k).

[9c] With respect to transactions which are not billed in full on any single statement but for which precomputed instalments are billed periodically, the date the transaction takes place for purposes of paragraph § 226.7(k) shall be deemed to be the date on which the amount is debited to the customer's account.

[9d] For purposes of paragraph § 226.7(k), designations such as "merchandise" or "miscellaneous" shall not be considered sufficient identification of property or services, but a reference to a department in a sales establishment which accurately conveys the identification of the type(s) of property or services which are available in such department shall be sufficient under this paragraph. Identification may be made on an accompanying slip or by symbol relating to an identification list printed on the statement.

[9e] In cases in which an amount is debited to a customer's open end credit account under an overdraft checking plan, the date of debiting the open end credit account shall be considered the date of the transaction for purposes of this paragraph.

[9f] Identification may be made on an accompanying slip or by symbol relating to an identification list printed on the statement.

[9g] Nothing in this paragraph prohibits a creditor from reporting the disputed amount or account as being in dispute.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Department of the Navy

[32 CFR Part 754]

NAVY AFFIRMATIVE SALVAGE CLAIMS

Proposed Miscellaneous Amendments

In accordance with public-participation procedures prescribed for the the Department of Defense in 32 CFR Part 296 (40 FR 4911), notice is hereby given that the Department of the Navy proposes to amend 32 CFR Part 754 pursuant to the authority conferred under 5 U.S.C. 301, 10 U.S.C. 5031 and 7361–7367. Part 754 is based upon an enclosure to a Naval Ships Systems Command Instruction [Enclosure (1) to NAVSHIPS Instruction 4740.4C]. This instruction will be revised by a proposed Naval Sea Systems Command Instruction (NAVSEA Instruction) and these amendments to Part 754 represent the proposed changes to the codified enclosure. The proposed amendments to Part 754 are as follows:

Section 754.1 will reflect the change in the name of the systems command from Naval Ships Systems Command to Naval Sea Systems Command, and the new address for the Assistant Supervisor of Salvage.

Section 754.2 will include the proposed increased per diem rates for salvage services and reflect the Department of the Navy's salvage policy and some changes in nomenclature and wording.

Section 754.3 will reflect the procedures for leasing of Navy salvage and oil pollution abatement equipment that are referred to in the proposed NAVSEA Instruction and are contained in Secretary of the Navy Instruction 4740.1 of August 15, 1975.

Interested persons are invited to participate in the formulation of the proposed amendments by submitting written data, views, comments, and arguments to the Judge Advocate General (Code 133), Navy Department, Washington, DC 20370. All written material received on or before September 30, 1976, will be considered before taking action on the proposed amendments and the proposed amendments may be changed in light of comments received. All comments received in response to these proposed amendments will be available for public inspection during normal business hours at the Law Library of the Office of the Judge Advocate General, room 2527, Navy Arlington Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Virginia.

These amendments are proposed under the authority of 5 U.S.C. 301; 10 U.S.C. 5031, and 7361–7367.

Accordingly, it is proposed to amend Part 754 of 32 CFR as follows:

1. In the table of contents, the fourth line is changed from "754.3 Per diem for salvage equipment rental." to "754.3 Leasing of Navy salvage and oil pollution abatement equipment."

2. The authority citations are amended to read as follows:

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 2667, 5031, and 7361–7367.

3. Section 754.1 is revised to read as follows:

§ 754.1 Settlement of Navy affirmative salvage claims.

(a) *Authority.* Under 10 U.S.C. 7365, the Secretary of the Navy, or his designee, may consider, ascertain, adjust, determine, compromise, or settle and receive payment of any claim by the United States for salvage services rendered by the Department of the Navy.

(b) *Delegation of authority.* Each of the following has been designated by the Secretary of the Navy to exercise the authority contained in 10 U.S.C. 7365:

(1) The Commander, Naval Sea Systems Command, Department of the Navy.

(2) The Supervisor of Salvage, Naval Sea Systems Command, Department of Navy.

(3) The Assistant Supervisor of Salvage, Naval Sea Systems Command, Department of the Navy, Room 1313, Federal Office Building, 90 Church Street, New York, New York 10007.

4. In § 754.2, paragraphs (a) and (e) are revised and a new paragraph (g) is added to read as follows:

§ 754.2 Per diem rates for salvage services.

(a) Effective (date of adoption), 1976, and subject to the rules set forth in paragraphs (b) through (g) of this section, the following vessel and deep dive system rates per day of 24 hours or part thereof have been established for salvage services rendered by the Department of the Navy:

(1) *Ships and Tugs:*

Salvage ships (ARS, ATS)	$7,000
Fleet tugs (ATF)	6,000
Large tugs (YTB)	4,000
Medium tugs (YTM)	3,000
Small tugs (YTL)	2,000

Rates for other types of ships used for search, communications, control, and the like will be established on a case by case basis, with consideration being given to their special features as required for the particular operation.

(2) *Harbor clearance craft:* Rates for harbor clearance craft, pulling barges, diving boats and barges, launches, and support equipment in general will be specified on a case by case basis.

(3) *Deep dive systems:* Deep Dive Systems (DDS) used in search and salvage work will be charged at the following rates per day or any portion thereof:

Mark I DDS (2-man)	$5,000
Mark II DDS (4-man)	7,000

Ship time in support of Deep Dive Systems will be charged as above. Bottom habitats, submersible vehicles, special surface navigation systems, and underwater search and navigation systems will be charged at rates to be determined on a case by case basis.

(4) *Supernumerary personnel.* The rates in paragraph (a) (1) of this section for ships and tugs include charges for their normal crews. Additional personnel such as Salvage Masters, Lift Masters, Harbor Clearance Team members, and extra diving crews will be charged for at rates established in the Navy Comptroller Manual and based on normal military pay scales. Per diem and travel expenses will be charged at cost.

* * * * *

(e) The extent of the salvage services rendered by naval activities in any given case will, of necessity, be governed by the magnitude of the salvage effort required and the problems encountered, and the availability of Navy salvage assets. Accordingly, the nature and amount of salvage equipment and other naval equipment, supplies, and materials will vary in each case. In addition, the number of naval personnel, both military and civilian (Civil Service), and their required specialized skills will also vary in each case. For these reasons it is not feasible to detail in this section the rates, costs, or charges for each item of naval equipment, material, supplies or personnel, that may be utilized in any given salvage operation. It is the policy of the Supervisor of Salvage to utilize the Navy Comptroller Manual (NAVSO P–1000) as the basis for determining the costs and charges for naval equipment for which there are no published rates established by this section or previously determined by the Supervisor of Salvage. The Navy Comptroller Manual also provides a basis for computing statistical charges where salvage services are rendered on in-house Navy salvage operations, and to Military Sealift Command, Maritime Administration, and other non-Navy public vessels and aircraft. However, in determining the costs and charges for equipment, supplies, materials, and personnel, the Supervisor of Salvage refers to the Navy Comptroller Manual for guidance only; he is not required to adhere to the rates set forth therein.

* * * * *

(g) The statutory authority of the Secretary of the Navy to provide salvage facilities for private vessels and to settle claims arising from such activity appears in 10 U.S.C. 7361–7367. This authority does not obligate the United States or the Department of the Navy to maintain salvage facilities in excess of its own needs nor to render salvage assistance on all occasions. The policy of the Department of the Navy, however, is to assist in the salvage of private commercial ships when such assistance is required and requested and where adequate privately owned salvage facilities do not exist or are not readily available.

5. Section 754.3 is revised to read as follows:

§ 754.3 Leasing of Navy salvage and oil pollution abatement equipment.

(a) *Purpose.* To delegate the authority for the lease of Navy salvage equipment and oil pollution abatement equipment under control of the Department of the Navy to private salvage companies and to establish policy governing such leases.

(b) *Background.* (1) 10 U.S.C. 7362 authorizes the Secretary of the Navy to charter, lease, or otherwise transfer to private salvage companies salvage equipment to be used to support organized offshore salvage facilities for periods of time that the Secretary considers appropriate. The phrase "offshore salvage" concerns situations involving refloating stranded or sunken ships in exposed locations along the coasts, or on reefs or islands. Leases under the authority of 10 U.S.C. 7362 may involve salvage equipment only.

(2) 10 U.S.C. 2667 authorizes the Secretary of a military department whenever he considers it advantageous to the United States to lease personal property upon such terms as he considers will promote the national defense or be in the public interest. For the purposes of this section, leases under the authority of 10 U.S.C. 2667 may involve both Navy salvage equipment and oil pollution abatement equipment.

(c) *Policies.* (1) Prior to negotiation of a lease pursuant to the authority of 10 U.S.C. 2667 or 7362 it must be determined that:

(i) The equipment is not needed for public use during the period of the lease;

(ii) The proposed lease should not render the property unsuitable for future military use;

(iii) The equipment is not "excess property" as defined by 4 U.S.C. 472;

(iv) The equipment or comparable equipment is not otherwise reasonably available from commercial sources.

(2) The term of any lease entered into pursuant to this section shall not exceed two years.

(3) Leases entered into pursuant to the authority of 10 U.S.C. 2667 require a determination that the lease will be advantageous to the United States and will promote the national defense or be in the public interest. The Secretary determines that such a finding has been made if one or more of the following situations is found to exist:

(i) The presence of a petroleum product or other hazardous substance in United States waters causes by any means which present an imminent danger to human life or property, public health, or the natural environment;

(ii) The grounding, standing, or sinking of any vessel in United States navigable waters or contiguous zones thereof which presents a danger to others, inhibits commerce, or poses an inconvenience to other vessels proceeding in the area;

(iii) The grounding, stranding, or sinking of any vessel which may present the danger of an oil spill of the character referred to in paragraph (c) (3) (i) of this section;

(iv) A situation in other than United States waters involving the grounding, stranding, or sinking of any vessel or the spillage of a petroleum product or other hazardous substance presenting an imminent danger to life, property, or the natural environment where

(A) A United States flag ship or other commercial vessel owned or operated by public or private U.S. interests is involved;

(B) United States treaty obligations require or permit such aid;

(C) The lease of Navy equipment would result in substantial good will being generated towards the United States;

(D) The situation might result in an international incident involving potential adverse consequences to the United States.

(4) Leases executed pursuant to this section shall contain comprehensive indemnification and hold harmless provisions whereby users of Navy salvage equipment or oil pollution abatement equipment shall assume liability, including liability for loss of or damage to the equipment, and for third-party bodily injury and property damage.

(5) The proposed lessee must stipulate in writing that comparable equipment is not reasonably available from commercial sources.

(d) *Lease.* (1) Leases entered into pursuant to the authority of 10 U.S.C. 2667 or 7362 shall contain the following provisions:

(i) A description of the specific commercial salvage operation or pollution incident in which the equipment may be used.

(ii) A stipulation that the equipment may be utilized only in accordance with its designed operational purpose.

(iii) A provision requiring the lessee to maintain, protect, and preserve the equipment in accordance with the best commercial practices.

(iv) A provision permitting the Government to revoke the lease at any time, unless the Secretary shall have determined that the omission of such a provision will promote the national defense or be in the public interest.

(v) A right in the Government to revoke the lease during national emergency declared by the President.

(vi) A provision prohibiting the lease from entering into a sublease without the prior written approval of the Supervisor of Salvage, Naval Sea Systems Command.

(2) In addition to the foregoing terms and conditions:

(i) A lease covering the use of salvage equipment under the authority of 10 U.S.C. 7362 shall provide that the equipment will be used to support offshore salvage facilities for the term of the lease or for such lesser period as the Supervisor of Salvage, Naval Sea Systems Command, considers appropriate.

(ii) A lease of salvage equipment or oil pollution abatement equipment under the authority of 10 U.S.C. 2667 shall provide that, if and to the extent that the leased property is later made taxable by state or local governments under an act of Congress, the lease shall be renegotiated.

(e) *Rates.* (1) Fair market value of the equipment to be leased shall be charged in accordance with Department of Defense Instruction 7230.7.

(2) With respect to salvage equipment leased pursuant to 10 U.S.C. 7362:

(i) Rental rates set forth in § 754.2 shall be used where applicable.

(ii) Money rental received shall be credited to appropriations for maintaining salvage facilities by the Department of the Navy. However, if the amount received in any year exceeds the cost incurred by the Navy during that year in giving and maintaining salvage services, the excess shall be covered into the Treasury.

(3) With respect to salvage equipment or oil pollution abatement equipment leased pursuant to 10 U.S.C. 2667:

(i) The lease may provide for the maintenance, protection, repair, or restoration by the lessee of the equipment leased as part or all of the consideration for the lease.

(ii) Money rentals received directly from the lease shall be covered into the Treasury as miscellaneous receipts.

(iii) Payment for utilities or services furnished to the lessee under the lease by the Government may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid.

(f) *Delegation.* (1) The Supervisor of Salvage, Naval Sea Systems Command, is authorized to take all necessary action in accordance with this section to grant, execute, amend, administer, and terminate leases of Navy salvage equipment and oil pollution abatement equipment to private salvage companies. The authority delegated herein will be exercised under the direction of the Chief of Naval Operations, the Chief of Naval Material, and the Commander, Naval Sea Systems Command.

(2) Proposed leases of salvage equipment or oil pollution abatement equipment under paragraph (c) (3) (iv) (C) and (D) of this Section or in situations that are of obvious sensitivity or that may be of Secretarial interest should be reported to the Assistant Secretary of the Navy (Installations and Logistics).

(g) *Maintenance of records.* The Supervisor of Salvage, Naval Sea Systems Command, will maintain a record system from which management information regarding leases executed pursuant to this

V 41 170 AUG 31 76 UMI

section may be compiled and furnished, when required.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General Civil Law).

AUGUST 25, 1976.

[FR Doc.76-25426 Filed 8-30-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1002]

[Docket No. AO-71-A72]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held in the Conference Room of the Market Administrator's Office, 205 East 42nd Street, New York, New York beginning at 10:00 a.m. on September 16, 1976. with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by: Eastern Milk Producers Cooperative Association, Inc., Allied Federated Co-ops, Inc., Amsterdam-Fort Hunter Dairy Cooperative, Inc., Fly Creek Valley Cooperative, Inc., Preble Milk Cooperative Association, Inc., and Sussex County Cooperative Milk Producers Association.

PROPOSAL No. 1

In § 1002.50a, amend the introductory language and paragraph (a) to read as follows:

§ 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives milk during the month from a cooperative association of producers which is also a handler shall pay such cooperative association as follows: For milk received during the first 15 days of the month, payment shall be made on or before the 5th day of the following month, at a rate per hundredweight not less than the Class II price for the preceding month, without adjustment pursuant to §§ 1002.80(b), 1002.81 and 1002.82. Final payment shall be made not later than the 16th day of the following month at the minimum class prices pursuant to this section, subject to only the following adjustments: partial payments made pursuant to subparagraph (1) of this paragraph; for receipts from a cooperative association handler which does not operate the plant or unit receiving the milk from producers, the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82(b) applicable at the location where the milk is received from producers; and for receipts from a cooperative association handler which also operates the plant or the unit receiving the milk from producers, the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82(b) applicable at the plant at which the milk first is received.

(a) For Class I-A milk the price shall be the basic formula price for the second preceding month plus $2.40.

* * * * *

PROPOSAL No. 2

Amend § 1002.80 by adding new paragraphs (a) and (b) and redesignating existing paragraphs (a) through (d) as (c) through (f). New paragraphs (a) and (b) would read as follows:

§ 1002.80 Time and rate of payment.

(a) Each handler shall make payment, pursuant to paragraphs (a) through (f) of this section, to each producer for all pool milk delivered by such producer as follows:

(1) On or before the 7th day of the month, not less than the amount determined by multiplying the pounds of milk received from such producer during the first 15 days of the preceding month by the Class II price for the second preceding month, without adjustment pursuant to paragraph (b) of this section, or §§ 1002.81 and 1002.82.

(2) On or before the 22nd day of the month, not less than the amounts determined by multiplying the pounds of milk received from such producer during the preceding month by the uniform price, subject to appropriate differentials set forth in §§ 1002.81 and 1002.82 minus the amount of the payment made to the producer pursuant to paragraph (a)(1) of this Section.

(b) For milk received in a bulk tank unit, there may be deducted from the payments pursuant to paragraph (a)(2) of this section, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service (transportation) charge up to ten cents per hundredweight, in no event to exceed in the case of Class II milk on which a transportation credit is applicable pursuant to § 1002.55, actual transportation costs in excess of ten cents and otherwise actual transportation costs in either circumstance only to the extent transportation was actually provided by the handler or at his expense. Any such deduction with respect to bulk tank milk must be made by the handler not later than the date on which the producer is required to be paid for the milk involved. If authorization for such deduction is cancelled by the producer or by the cooperative by notifying the handler in writing, such cancellation shall be effective on the first day of the month following its receipt by the handler.

* * * * *

Proposed by Northeast Dairy Cooperative Federation, Inc., and Dairylea Cooperative, Inc.

PROPOSAL No. 3

§ 1002.50a [Amended]

Amend § 1002.50a to provide for payment by a handler to a cooperative association of producers, from whom it receives milk, on or before the 19th day of the following month instead of as now provided on the 15th day of the following month.

PROPOSAL No. 4

§ 1002.85 [Amended]

Amend § 1002.85 to provide that on or before the 20th day of each month each handler shall make full payment of the debit balance, if any, instead of as now provided on the 18th day of each month.

PROPOSAL No. 5

§ 1002.86 [Amended]

Amend § 1002.86 to provide that on or before the 21st day of each month the market administrator shall make payment to each handler of the credit balance, if any, instead of as now provided on the 20th day of each month.

Proposed by the Dairy Division, Agricultural Marketing Service:

PROPOSAL No. 6

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 205 East 42nd Street, New York, New York 10017 or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on August 26, 1976.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.76-25423 Filed 8-30-76;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIC PROGRAM

Irrigation Load Studies

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue REA Bulletin 145-1, Development, Approval, and Use of Irrigation Studies. The proposed bulletin is designed to provide REA requirements, procedures and guidelines for special studies of the irrigation loads of REA electric borrowers where those loads are of major significance to the total projected power loads and operations of the borrowers. The Irrigation Studies, approved by REA, would be prerequisite to the development of overall system Power Requirements Studies essential to system planning and financing. Borrowers under the following circumstances would be required to have the Irrigation Studies:

1. Distribution borrowers whose power sales for irrigation purposes exceed or are projected to exceed 15 percent of total sales.

2. Power supply borrowers whose total sales to member distribution systems for irrigation purposes exceed or are projected to exceed 7.5 percent of their total sales.

Borrowers required to have separate Irrigation Studies in accordance with the above formula would no longer be required to prepare REA Form 343, Irrigation Projection, included in REA Bulletin 120-1, Development, Approval, and Use of Power Requirements Studies.

Persons interested in the provisions of proposed REA Bulletin 145-1 may submit written data, views or comments to the Power Survey Officer, Room 3863, South Building, Rural Electrification Administration, U.S. Department of Agriculture Washington, D.C. 20250, on or before September 30, 1976. All written submissions made pursuant to this notice will be made available for public inspection by the Power Survey Officer.

A copy of proposed REA Bulletin 145-1 may be secured in person or by written request from the Power Survey Officer.

Dated: August 23, 1976.

RICHARD F. RICHTER,
Assistant Administrator, Electric.

[FR Doc.76-25360 Filed 8-30-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 436]

[FRL 601-4]

MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Extension of Comment Period and Notice of Availability

On June 10, 1976 the Agency published a notice of proposed rulemaking (41 FR 23561) establishing effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable for existing sources, standards of performance for new sources and pretreatment standards for new sources for the mineral mining and processing point source category. The due date for comments provided in the notice was July 12, 1976.

The Agency anticipated that the document entitled "Economic Impact for Interim Final and Proposed Effluent Guidelines for the Mineral Mining and Processing Point Source Industry," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

This extension and notice of availability is published pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b), and 1317(c); 86 Stat. 816 et seq.; P.L. 92-500 (the Act).

Accordingly, the date for submission of comments is hereby extended to September 30, 1976.

Dated: August 13, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-24561 Filed 8-30-76;8:45 am]

SELECTICE SERVICE SYSTEM

Office of the Director

[32 CFR Part 1608]

SELECTIVE SERVICE REGULATIONS

Proposed Amendments

Pursuant to the Military Selective Service Act, as amended (50 App. U.S. Code sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

Several of the proposed amendments reflect the recent changes of address of the National Headquarters, Selective Service System. Additional and alternate places where information may be obtained are also stated.

Section 1608.13 would be revised in the interest of clarity.

Section 1608.18 would be revised to authorize the legal representative of a deceased as well as an incompetent person to obtain information from the record of the person to whom it pertains. The authority of the Director now stated in paragraph (d) of this section would be eliminated.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the Director, Selective Service System, Attn.: MPL(GC), 600 E Street, Northwest, Washington, D.C. 20435. Comments received on or before September 30, 1976 will be considered.

The proposed amendments follow:

1. In § 1608.4 paragraph (c) is revised and paragraph (i) is added to read as follows:

§ 1608.4 Available information.

* * * * *

(c) The Registrants Processing Manual may be inspected at any office of the Selective Service System including the National Headquarters.

* * * * *

(i) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, 600 E Street, N.W., Washington, D.C. 20435.

2. Section 1608.5(b) is amended to read as follows:

§ 1608.5 Places where information may be obtained.

* * * * *

(b) Requests for information concerning the national administration of the Military Selective Service Act should be directed to the National Headquarters, Selective Service System, 600 E Street, N.W., Washington, D.C. 20435.

* * * * *

3. Section 1608.5 is amended by adding paragraph (d) to read as follows:

§ 1608.5 Places where information may be obtained.

* * * * *

(d) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, 600 E Street NW., Washington, D.C. 20435.

4. Section 1608.9(b) is amended to read as follows:

§ 1608.9 Review of denials of requests for information.

* * * * *

(b) A requester whose request for information or documents has not been satisfied may appeal to the Director of Selective Service, 600 E. Street NW., Washington, D.C. 20435.

5. Section 1608.13 is amended to read as follows:

§ 1608.13 Disclosure of requested information to the individual to whom it pertains.

Information contained in records maintained on a specific individual and the records pertaining to such individual will be disclosed to or may be examined by the individual to whom it pertains without charge. Copies of such records will be provided to the individual to whom the records pertain upon payment of the fees prescribed in § 1608.22 of this part.

V 41 170 AUG 31 76 UMI

6. Section 1608.18 is amended to read as follows:

§ 1608.18 Disclosure of record to persons other than the individual to whom it pertains.

(a) Information contained in records in a registrant's file and records pertaining to a specific individual may be disclosed or furnished to, or examined by, the following in addition to the individual to whom they pertain:

(1) His legal representative duly appointed by a court of competent jurisdiction because of his demise or incompetence.

(2) Any person upon submission to the employee responsible for the system of records of the written consent of the individual to whom the record pertains. The authorization must bear a date not earlier than six months prior to the day of its submission to the Selective Service System and the signature of the individual concerned.

(3) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System who have a need for the record in performance of their duties.

(4) A U.S. Attorney and his duly authorized representative, including agents of the Federal Bureau of Investigation, whenever a registrant has been reported to the U.S. Attorney for prosecution for violating the Military Selective Service Act or the rules, regulations, or directions made pursuant thereto.

(b) No information shall be disclosed or furnished to, or examined by, any person under the provisions of this section, until such person has been properly identified as entitled to obtain such information.

BYRON V. PEPITONE,
Director.

AUGUST 26, 1976.

[FR Doc.76-25466 Filed 8-30-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 116]

DIRECTOR, OFFICE OF FOREIGN DISASTER ASSISTANCE

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104; as amended, dated November 3, 1961 (26 FR 10608), from the Secretary of State and in furtherance of my decision relating to the establishment of an Office of U.S. Foreign Disaster Assistance in the Agency for International Development, as announced in AID General Notice of May 26, 1976, it is hereby ordered as follows:

Section 1. There is hereby delegated to the Director, Office of U.S. Foreign Disaster Assistance all of the authorities and functions which are specified in any regulation (published or upublished), manual order, policy directive or determination, manual circular or circular airgram or instruction or communication of any nature, relating to the furnishing of international disaster assistance under Chapter 9 of Part I of the Foreign Assistance Act of 1961, as amended.

Section 2. The following delegations of Authority are amended as follows:

a. Delegation of Authority No. 95 dated May 24, 1972 (37 FR 11790) to the Assistant Administrator for Population and Humanitarian Assistance is amended by deleting paragraph 1.b.

b. Delegation of Authority No. 99 dated April 27, 1973 (38 FR 12834) concerning contracting and related functions is amended by deleting paragraph 1.D and inserting the following:

D. Authority to sign or approve the following for international disaster assistance purposes subject to the limitations set forth in Handbook 8.

(1) To the Director, Office of U.S. Foreign Disaster Assistance:

(a) Project Implementation Orders—Technical Services (PIO/T);

(b) U.S. Government contracts;

(c) Grants, and any country contracts financed by such grants;

(d) Obligations to reimburse other U.S. Government agencies for their operations in support of international disaster assistance.

(2) To each director of an AID Mission (or in countries where there is no AID Mission, the Chief of the diplomatic mission):

(a) U.S. Government contracts;

(b) Grants, and any country contracts financed by such grants.

Section 3. The authorities made available hereunder may be exercised by an officer serving in an acting capacity and may be redelegated by the Director, Office of U.S. Foreign Disaster Assistance.

Section 4. This Delegation of Authority shall be deemed effective as of May 26, 1976, and actions within the scope of this delegation and any redelegation hereunder taken prior hereto which are consistent with the terms and scope of this delegation of authority are hereby ratified and confirmed.

DANIEL PARKER,
Administrator, AID.

AUGUST 19, 1976.

[FR Doc.76-25438 Filed 8-30-76;8:45 am]

HOLT ADOPTION PROGRAM

Voluntary Termination of Registration

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (A.I.D. Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that registration with the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development has been voluntarily terminated by the following agency:

Holt Adoption Program, P.O. Box 2420, Eugene, Oregon 97402.

FRED O. PINKHAM,
Assistant Administrator for Population and Humanitarian Assistance.

AUGUST 23, 1976.

[FR Doc.76-25439 Filed 8-30-76;8:45 am]

HOLT INTERNATIONAL CHILDREN'S SERVICES, INC.

Register of Voluntary Foreign Aid Agencies

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (A.I.D. Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a Certificate of Registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

Holt International Children's Services, Inc., P.O. Box 2880, Eugene, Oregon 97402.

FRED O. PINKHAM,
Assistant Administrator for Population and Humanitarian Assistance.

AUGUST 23, 1976.

[FR Doc.76-25440 Filed 8-30-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

BOARD OF ADVISERS OF THE INDUSTRIAL COLLEGE OF THE ARMED FORCES AND BOARD OF CONSULTANTS OF THE NATIONAL WAR COLLEGE

Meeting

The President of the National Defense University has scheduled a joint meeting of the Board of Advisers of the Industrial College of the Armed Forces and the Board of Consultants of The National War College for Wednesday, September 15, 1976, from 0830 to 1630 and on Thursday, September 16, 1976, from 0830 until noon.

The morning meetings will be held in Seminar Room 127 of the Industrial College of the Armed Forces, with afternoon sessions in both The National War College and Industrial College Conference Rooms. The discussions will include a progress report on the National Defense University and the planned curriculums of both Colleges for Academic Year 1976–1977.

The meeting is open to the public, and the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write the National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319 or phone the Assistant to the President for External Programs at 693–1074.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 27, 1976.

[FR Doc.76-25621 Filed 8-30-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., September 30, 1976.

COPPER RIVER MERIDIAN

ALASKA

T. 8 N., R. 1 W.,
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1 to 7 inclusive, S½NE¼, SE¼NE¼, E½SW¼, SE¼;
Sec. 7: Lots 1, 2, 3, 4, 5, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 8: Lot 1, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 9: All;
Sec. 10: All;
Sec. 15: All;
Sec. 16: Lots 1, 2, N½, E½SW¼, SE¼;
Sec. 17: Lots 1 to 8 inclusive, NE¼NE¼;

V 41 170 AUG 31 76 UMI

Sec. 20: Lot 1;
Sec. 21: Lots 1, 2, 3, 4, NE¼, E½SE¼;
Sec. 22: All;
Sec. 27: All;
Sec. 28: Lots 1 to 5 inclusive, E½SE¼;
Sec. 33: Lots 1, 2, 3, 4, E½NE¼, SE¼SE¼;
Sec. 34: All.
Containing 7,837.89 acres.

2. The portion surveyed lies on the east side of the Gulkana River, south of Sourdough, Alaska. The Richardson Highway traverses sections 6, 7, 8, 16, 21, 28, and 33. The land is nearly level to gently rolling, with some steep bluffs along the east side of the Gulkana River. The timber is mainly spruce, with alder and willow undergrowth. U.S. Survey No. 4910 is situated in sections 21 and 28.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Pub. L. 92–203, December 18, 1971, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLYDE DUREN, JR.,
Acting Chief,
Division of Cadastral Survey.

AUGUST 17, 1976.

[FR Doc.76-25435 Filed 8-30-76;8:45 am]

[F–19148–3, F–19148–5, F–19148–8, F–19148–12, F–19148–15, F–19148–26, F–19148–27, F–19148–28 and F–19148–30]

ALASKA

Alaska Native Claims (Regional) Selection

Pursuant to section 12(c)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), the Arctic Slope Regional Corporation filed certain selection applications covering the surface and subsurface estates of the lands described herein. The applications were timely filed and are serialized as F–19148–3, F–19148–5, F–19148–8, F–19148–12, F–19148–15, F–19148–26, F–19148–27, F–19148–28 and F–19148–30.

Selections F–19148–8, F–19148–26 and F–19148–27 were made in accordance with paragraphs 9 and 13 of the agreement between the Department of the Interior and the Arctic Slope Regional Corporation dated February 26, 1974. Since selection numbers F–19148–5, F–19148–12, F–19148–15, F–19148–28 and F–19148–30 were not made in accordance with paragraph 9 of this agreement (selection of all available lands in any given township, (43 CFR 2652.3(e)), a waiver was requested from the Washington office and published in the FEDERAL REGISTER August 30, 1976.

It has therefore been determined that the applications have been properly filed and meet all the requirements of the act and the regulations issued pursuant to the act, as well as being within the provisions of the special agreement and waiver. The selected lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands are considered proper for acquisition by the Arctic Slope Regional Corporation, subject to valid existing rights, and are hereby approved for interim conveyance pursuant to section 14 (e) of the Act:

POINT LAY UNIT F–19148–3

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 4 N., R. 44 W.
T. 5 N., R. 43 W.

POINT HOPE UNIT F–19148–5

KATEEL RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 33 N., R. 30 W.,
Secs. 6, 7, and 8;
Secs. 16 to 20, inclusive;
Sec. 30.
T. 34 N., R. 30 W.,
Sec. 31.
T. 33 N., R. 31 W.,
Secs. 1 to 30, inclusive.
T. 34 N., R. 31 W.,
Secs. 7 and 8;
Secs. 21, 22, and 23;
Secs. 25 to 36, inclusive.
T. 33 N., R. 32 W.,
Secs. 1, 2, and 3;
Secs. 11 to 14, inclusive;
Secs. 23 and 24.
T. 34 N., R. 32 W.,
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 and 34;
Sec. 35, excluding native allotment F–16711;
Sec. 36.

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 9 S., R. 61 W.,
Sec. 15;
Sec. 22;
Sec. 27;
Sec. 34.
T. 10 S., R. 61 W.,
Sec. 3;
Sec. 10;
Sec. 15;
Sec. 22;
Sec. 27;
Secs. 33 and 34.
T. 11 S., R. 61 W.,
Secs. 3 and 4;
Secs. 9 and 10;
Secs. 15 and 16;
Secs. 21 and 22;
Secs. 27 and 28;
Secs. 33 and 34.
T. 12 S., R. 61 W.,
Secs. 3 and 4;
Secs. 23 to 26, inclusive.

UTUKOK UNIT F–19148–8

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 5 N., R. 40 W., excluding naval petroleum reserve No. 4.
T. 6 N., R. 40 W., excluding naval petroleum reserve No. 4.
T. 7 N., R. 40 W., excluding naval petroleum reserve No 4.
T. 8 N., R. 40 W., excluding naval petroleum reserve No. 4.
T. 5 N., R. 41 W.
T 6 N., R. 41 W.
T. 7 N., R. 41 W.
T. 8 N., R. 41 W.
T. 5 N., R. 42 W.
T. 6 N., R. 42 W.

ARCTIC COAST UNIT F–19148–12

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 1 N., R. 44 W.
T. 2 N., R. 44 W.
T. 1 S., R 45 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 1 S., R. 46 W. (fractional)
T. 2 S., R. 46 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 1 S., R. 47 W. (fractional)
T. 2 S., R. 47 W. (fractional)
T. 3 S., R. 47 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 2 S., R. 48 W. (fractional)
T. 3 S., R. 48 W. (fractional)
T. 4 S., R. 48 W. (fractional)
T. 4 S., R. 49 W. (fractional)
T. 5 S., R. 49 W.
T. 5 S., R. 50 W. (fractional)
Excluding Public Land Order 3780.
T. 6 S., R. 50 W.
T. 5 S., R. 51 W. (fractional)
T. 6 S., R. 51 W. (fractional)
T. 6 S., R. 52 W. (fractional)
T. 6 S., R. 53 W.,
Secs. 13 to 18, inclusive (fraction);
Secs. 19 to 29, inclusive;
Sec. 30, excluding native allotment F–16837;
Secs. 31 and 36, inclusive.
T. 7 S., R. 53 W.,
Secs. 1 to 6, inclusive.
T. 6 S., R. 54 W. (fractional)
T. 7 S., R. 54 W.,
Secs. 1 to 6, inclusive.
T. 6 S., R. 55 W.,
Sec. 25 (fractional) excluding native allotment F–13950 Parcel A;
Secs. 26 and 27 (fractional);
Secs. 31 to 34, inclusive (fractional);
Sec. 35;
Sec. 36 (fractional).
T. 7 S., R. 55 W.,
Secs. 1 to 12, inclusive.

WESTERN ARCTIC HILLS UNIT F–19148–15

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 1 N., R. 41 W., excluding Naval Petroleum Reserve No. 4.
T. 2 N., R. 41 W., excluding Naval Petroleum Reserve No. 4.
T. 4 N., R. 41 W., excluding Naval Petroleum Reserve No. 4.
T. 1 N., R. 42 W.,
Secs. 19 to 36, inclusive.
T. 1 N., R. 43 W.,
Secs. 19 to 36, inclusive.
T. 3 N., R. 43 W.
T. 4 N., R. 43 W.
T. 1 S., R. 41 W., excluding Naval Petroleum Reserve No. 4.
T. 1 S., R. 42 W.
T. 1 S., R. 43 W.
T. 1 S., R. 44 W.,
Secs. 1 to 18 inclusive;
Secs. 19 to 23, inclusive, excluding coal prospecting permit F–029746;
Secs. 24 and 25;
Secs. 26, 27, and 28, excluding coal prospecting permit F–029746;
Sec. 29, excluding native allotment F–16278 parcel B, native allotment F–16279 parcel A, and coal prospecting permit F–029746;
Sec. 30, excluding coal prospecting permit F–029746;
Secs. 31 to 36, inclusive.

T. 1 S., R. 45 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22, 23, and 24;
Secs. 25, 26, and 27, excluding coal prospecting permit F–033619;
Secs. 34, 35, and 36, excluding coal prospecting permit F–033619.
T. 2 S., R. 45 W.,
Secs. 1, 2, and 3;
Secs. 4 and 5, excluding coal prospecting permit F–033619;
Secs. 6 and 7;
Secs. 8 and 9, excluding coal prospecting permit F–033619;
Secs. 10 to 36, inclusive.
T. 3 S., R. 45 W.
T. 2 S., R. 46 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 3 S., R. 46 W.
T. 3 S., R. 47 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.

WINDY LAKE UNIT F–19148–26

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 9 S., R. 53 W.,
Secs. 9, 10, and 11;
Secs. 14, 15, and 16;
Secs. 21, 22, and 23.

MAKTAK UNIT F–19148–27

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 12 S., R. 57 W. (fractional)

KATEEL RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 33 N., R. 29 W.
T. 34 N., R. 29 W. (fractional)
T. 33 N., R. 30 W.,
Sec. 13;
Secs. 23 to 27, inclusive;
Secs. 33 to 36, inclusive.

NUIK UNIT F–19148–28

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 7 S., R. 53 W.,
Secs. 7 to 36, inclusive.
T. 7 S., R. 54 W.,
Secs. 7 to 36, inclusive.
T. 7 S., R. 55 W.,
Secs. 13 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs 33 to 36, inclusive.
T. 8 S., R. 55 W.,
Secs 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 9 S., R. 56 W.,
Secs. 1 to 35, inclusive;
Sec. 36, excluding native allotment F–13975 parcel B.
T. 10 S., R. 56 W.,
Sec. 1, excluding native allotment F–13975 parcel B;
Secs. 2 to 36, inclusive.
T. 9 S., R. 57 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 10 S., R. 57 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 11 S., R. 57 W.,
Sec. 1;
Secs. 2 and 3, excluding native allotment F–17007;
Secs. 4 to 9, inclusive;
Secs. 10 and 11, excluding native allotment F–17007;
Secs. 12 to 36, inclusive.

KUKPOWRUK UNIT F–19148–30

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 8 S., R. 44 W.,
Secs. 13 to 36, inclusive.
T. 9 S., R. 44 W.,
Secs. 1 to 18, inclusive.
T. 4 S., R. 45 W.,
Secs. 1 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 8 S., R. 45 W.,
Secs. 13 to 36, inclusive.
T. 9 S., R. 45 W.,
Secs. 1 to 18, inclusive.
T. 4 S., R. 46 W.
T. 5 S., R. 46 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 6 S., R. 46 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 8 S., R. 46 W.,
Secs. 13 to 36, inclusive.
T. 9 S., R. 46 W.,
Secs. 1 to 18, inclusive.
T. 4 S., R. 47 W.
T. 5 S., R. 47 W.
T. 6 S., R. 47 W.
T. 7 S., R. 47 W.
T. 8 S., R. 47 W.
T. 9 S., R. 47 W.
T. 5 S., R. 48 W.
T. 6 S., R. 48 W.
T. 7 S., R. 48 W.
T. 6 S., R. 49 W.

The area described aggregates approximately 1,503,055 acres.

The interim conveyance issued for the surface and subsurface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the Act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975(d).

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the following easements referenced by easement identification number (EIN) on the easement map in case file F–21780 are reserved to the United States and subject to further regulation thereby:

a. (EIN 1–D1, D9, C3, C5) A twenty-five (25) foot trail easement for use by the public to gain access to and from public lands via the existing winter trail along the coast between Barrow and Kotzebue. The use of this trail is to be controlled by applicable State or Federal law or regulations.

b. (EIN 4–C3, D1, D9, C5) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide public access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acecptable alternate access route at no cost to the United States, prior to the creation of such obstruction.

c. (EIN 5–C5 (5a–c)) A trail easement fifty (50) feet in width on an existing trail system for use by the public to gain access to and from public lands. The first segment begins at Point Lay and runs southerly to the Epizetka River. In section 30 of T. 3 N., R. 44 W., Umiat Meridian, the trail system branches into 5b and 5c. Segment 5b follows the Epizetka River to public lands; segment 5c cuts southerwesterly and follows the right bank of the Kukpowruk River south to public lands. Segment 5a leaves EIN 5–C5 approximately four miles east of the village and proceeds easterly to public lands. The use of this trail system is to be controlled by applicable State or Federal law or regulations.

d. (EIN 11–C5, L) A road easement one hundred (100) feet in width for use by the public to gain access from Point Hope EIN 1–C4, C5 to and from public lands in the Upper Kukpuk River area. The use of this road is to be controlled by applicable State or Federal law or regulations.

e. (EIN 15–C5, D9 (15 a & b)) Two (2) fifty (50) foot trail easements for use by the public to gain access to and from public lands, beginning at the southerly boundary of the military withdrawal (Public Land Order 3780) in T. 5 S., R. 50 W., Umiat Meridian. Trail 15a winds in a southerly direction to public lands, while Trail 15b follows Kahkatak Creek easterly to public lands. The use of this trail system is to be controlled by applicable State or Federal law or regulations.

f. (EIN 17–L) A trail easement fifty (50) feet in width for use by the public to gain access from the Arctic coast to and from public lands in the Utcukuk River area north of Point Lay. The trail begins near triangulation station 47 (named Saxon) in T. 7 N., R. 42 W., Umiat Meridian. The use of this trail system is to be controlled by applicable State or Federal law or regulations.

g. (EIN 18–L) A trail easement fifty (50) feet in width for use by the public to gain access from the Arctic coast near Cape Sabine southeasterly to and from public lands along the Pitmegea River, with a five (5) acre site easement on the coast for use by the public as a beaching area for access to public lands

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located in approximate section 22, T. 6 S., R. 54 W., Umiat Meridian. The use of this trail is to be controlled by applicable State or Federal law or regulations.

h. (EIN 22–C) The general right to enter upon the lands herein granted for cadastral, geodetic or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

i. (EIN 23–C) An easement for the transportation of energy, fuel and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement: *Provided, however,* That the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

j. (EIN 24–C4, E) A five (5) acre site easement at the outlet of Windy Lake for use by the public as a float plane tie up, camping and a staging area for access to public lands. Said easement is located in section 15, T. 9 S., R. 53 W., Umiat Meridian, with three (3) fifty (50) foot ATV trails for use by the public to gain access to and from public lands around Windy Lake. One trail extends to the northwest of the site easement to public lands and one trail extends southerly to public lands. A third trail extends easterly from the east end of Windy Lake to public lands. The use of this trail system is to be controlled by applicable State or Federal law or regulations.

k. (EIN 25–C4) A one hundred (100 foot road for use by the public to gain access to and from public lands, which is an extension of Point Hope EIN 1–C4 after it crosses the Kukpuk River and proceeds northerly into regional selected lands in section 15, 22, 27 and 34 of T. 11 S., R. 61 W., and section 3 of T. 12 S., R. 61 W., Umiat Meridian. The use of this road is to be controlled by applicable State or Federal law or regulations.

l. (EIN 26–C4) A proposed fifty (50) foot ATV trail for use by the public to gain access to public lands, which is an extension of Point Hope EIN 5–C4 as it crosses the Regional selection in an easterly direction through section 10 of T. 10 S., R. 61 W., Umiat Meridian, to public lands. The use of this trail is to be controlled by applicable State or Federal law or regulations.

m. (EIN 27–C4) A proposed fifty (50) foot ATV trail for use by the public to gain access to public lands, going generally along the left bank of Akalolik Creek as an extension of Point Hope EIN 7–C4. The trail leads in an easterly direction across regional selected lands in sections 15, 16 and 21 of T. 11 S., R. 61 W., Umiat Meridian, to public lands. The use of this trail is to be controlled by applicable State or Federal law or regulations.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341)), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him.

Interim conveyance to the remaining entitlement for the Arctic Slope Regional Corporation will be made at a later date.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Tundra Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until September 30, 1976 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and the requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-25429 Filed 8-30-76;8:45 am]

[Colorado 029008–RW]

COLORADO

Amendment to Pipeline Right-of-Way

AUGUST 18, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a 3-inch natural gas looping pipeline, which is approximately 1,844 linear feet of additional natural gas looping pipeline to be constructed within the existing 50-foot-wide right of way in Rio Blanco County, Colorado. The additional pipeline will be constructed in the NE¼SW¼ and the SE¼NW¼ of Section 3, T. 8 S., R. 104 W., Sixth Principal Meridian, Colorado. The facility will enable applicant to construct, operate and maintain the subject natural gas looping pipeline and meet applicant's customer requirements for additional natural gas. The primary purpose of the proposed pipeline is to enable Western Slope Gas Company to correct an existing fuel supply problem at the Baxter Compressor Station and provide more uniform BTU content than now exists in the natural gas coming from the several wells in the Carbonera Field.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any person asserting a claim to the lands or having bona fide objections to the proposed natural gas looping pipeline right of way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim or objections must be filed with the Chief, Branch of Land Operations, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado, 80202, as promptly as possible after publication of this notice.

ALAN D. CAMPBELL,
Acting Chief, Branch of Land Operations.

[FR Doc.76-25436 Filed 8-30-76;8:45 am]

[NM 28672 and 28673]

NEW MEXICO

Applications for Pipeline Rights-of-Way

AUGUST 23, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 6-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 15, NE¼SW¼.
T. 19 S., R. 32 E.,
Sec. 6, SE¼SW¼ and SW¼SE¼;
Sec. 7, N½NE¼ and SE¼NE¼.

These pipelines will convey natural gas across .980 of a mile of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-25437 Filed 8-30-76;8:45 am]

Geological Survey

REGIONAL COAL DEVELOPMENT IN CENTRAL AND SOUTHERN UTAH

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS), Department of the Interior, has commenced the preparation of draft environmental impact statements (EIS's) relating to the cumulative impacts of coal development in all or part of Carbon, Emery, Garfield, Grand, Sanpete, Sevier, Wayne, Iron, Kane, and Washington County, Utah.

These two EIS's are among seven regional coal environmental impact statements to be prepared over the next several years in connection with the Department of Interior's new coal leasing policy.

An interagency task force has been established to prepare the statements.

The draft statements will be circulated for public review, and comments received will be considered in the preparation of the final statements. The final statements will be used as a basis for the Secretary of Interior's selection of tracts to be offered for competitive coal leasing, approval of mining and reclamation plans, and approval of other coal-related development activities for which Federal approval must be given.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statements should submit them to the Director, U.S. Geological Survey, Mail Stop 108, National Center, Reston, Virginia 22092. Comments and views should be received on or before September 15, 1976.

Dated: August 26, 1976.

M. R. KLEPPER,
Acting Director.

[FR Doc.76-25424 Filed 8-30-76;8:45 am]

REGIONAL COAL DEVELOPMENT IN THE POWDER RIVER COAL BASIN OF MONTANA

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS), Department of the Interior, has commenced the preparation of a draft environmental impact statement (EIS) relating to the cumulative impacts of Federal and State coal development actions in all or part of Powder River, Rosebud, Custer, Big Horn, and Treasure County, Montana.

The EIS is among seven regional coal environmental impact statements to be prepared over the next several years in connection with the Department of Interior's new coal leasing policy.

Because of some duplicate or closely related actions pending before Federal and State agencies, and because the Montana Environmental Policy Act is identical to the National Environmental Policy Act, the State of Montana is joining in preparation of the EIS. A joint Federal/State task force has been established to prepare the statement.

The draft statement will be circulated for public review, and comments received will be considered in the preparation of the final statement. The final statement will be used as a basis for the Secretary of Interior's selection of tracts to be offered for competitive coal leasing, approval of mining and reclamation plans, and approval of other coal-related development activities for which Federal approval must be given, and will be used by the State in considering parallel and related permitting actions.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement should submit them to the Director, U.S. Geological Survey, Mail Stop 108, National Center, Reston, Virginia 22092. Comments and views should be received on or before September 15, 1976.

Dated: August 26, 1976.

M. R. KLEPPER,
Acting Director.

[FR Doc.76-25425 Filed 8-30-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 19, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted on or before September 10, 1976.

REX L. WILSON,
Acting Director, Office of Archeology and Historic Preservation.

CALIFORNIA

Sacramento County

Sacramento, *Johnson, J. Neely, House*, 1029 F St.

Santa Cruz County

Watsonville vicinity, *Castro, Jose Joaquin, Adobe*, 184 Old Adobe Rd., NW of Watsonville.

DELAWARE

New Castle County

Wilmington, *St. Mary of the Immaculate Conception Church*, 6th and Pine Sts.

IOWA

Clayton County

Garnavillo vicinity, *Valley Mills*, E of Garnavillo.

Crawford County

Denison, *Chamberlin, Clarence D., House*, 1434 2nd Ave. S.

Decatur County

Davis City, *Union Church*, Clark and Sycamore Sts.

Dubuque County

Dubuque, *Redstone*, 504 Bluff St.
Dubuque, *Washington Park*, bounded by 6th, 7th, Bluff, and Locust Sts.

Fayette County

Fayette vicinty, *Chicago, Milwaukee, St. Paul and Pacific Railroad Company Depot*, NE of Fayette off IA 150.

KENTUCKY

Jefferson County

Louisville, *Municipal College Campus (Simmons University)*, 1018 S. 7th St.

MARYLAND

Harford County

Perryman vicinity, *Old Baltimore Site*, about 7 mi. S. of Perryman.

MASSACHUSETTS

Essex County

Haverhill vicinity, *Rocks Village Historic District*, NE of Haverhill at Merrimack River.
North Andover, *Kittredge Mansion*, 56 Academy Rd.

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Worcester County

Lancaster vicinity, *Lane, Anthony, House*, NE of Lancaster on Seven Bridge Rd.
Worcester, *Greendale Village Improvement Society Building*, 480 W. Boylston St.

NEW YORK

Livingston County

West Sparta vicinity, *Kemp, E. P. No. 1*, W. of West Sparta.

Niagara County

Lockport, *Union Station*, 95 Union Ave.

Saratoga County

Waterford, *Waterford Village Historic District*, U.S. 4 and NY 32.

Suffolk County

Huntington vicinity, *Lloyd, Joseph, House*, NW of Huntington on Lloyd Harbor Rd.
West Bay Shore, *Sagtikos Manor*, Montauk Highway (NY 27A).

PENNSYLVANIA

Bucks County

Durham, *Durham Mill and Furnace*, Durham Rd.

Chester County

Knauertown vicinity, *Warwick Furnace/Farms*, S of Knauertown off PA 23 on Warwick Furnace Rd.

Cumberland County

Dickinson vicinity, *Pine Grove Furnace*, S of Dickinson on PA 233.
Wormleysburg, *Wormley, John, House*, 126 N. Front St.

Dauphin County

Middletown, *Cameron, Simon, House and Bank*, 28–30 E. Main St.

Delaware County

Media vicinity, *Ridley Creek State Park* NW of Media between PA 3 and PA 352.

Fulton County

McConnellsburg, *McConnell House*, 114 Lincoln Way West.

Lancaster County

Lancaster, *Hand, Gen. Edward, House (Rock Ford)*, 881 Rock Ford Rd.

Montgomery County

Ft. Washington vicinity, *The Highlands*, W of Ft. Washington at Skippack Pike and Sheaff Lane.

Northampton County

Easton, *Nicholas, Jacob, House*, 458 Ferry St.

Wyoming County

Nicholson vicinity, *Tunkhannock Viaduct*, 0.5 mi. E of Nicholson at Tunkhannock Creek.

TENNESSEE

Gibson County

Trenton, *Gibson County Courthouse*, Court Square.

Hamilton County

Ooltewah, *James County Courthouse*, Mulberry St.

TEXAS

Concho County

Salt Gap vicinity, *Bishop Site (X41CC2)*, 1 mi. W of Salt Gap.

WISCONSIN

Fond du Lac County

Fond du Lac, *Aetna Station No. 5*, 193 N. Main St.

[FR Doc.76-24823 Filed 8-30-76;8:45]

DEPARTMENT OF AGRICULTURE

Forest Service

CURTIS CREEK UNIT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Final Environmental Statement for the Curtis Creek Unit Plan, USDA–FS–R8 FES (adm) 76–10.

The environmental statement concerns a proposed ten-year management plan for the Curtis Creek Unit (14), Grandfather Ranger District, Pisgah National Forest, containing 20,690 acres of National Forest land in McDowell County, North Carolina.

This final environmental statement was transmitted to CEQ on August 23, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Room 804, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309.
USDA, Forest Service, National Forests in North Carolina, 50 South French Broad Avenue, Post Office Box 2750, Asheville, N.C. 28802.

A limited number of copies are available upon request to Forest Supervisor, National Forests in North Carolina, P.O. Box 2750, Asheville, N.C. 28802.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

ROBERT W. CERMAK,
Forest Supervisor.

AUGUST 23, 1976.

[FR Doc.76-25432 Filed 8-30-76;8:45 am]

SHASTA-TRINITY NATIONAL FOREST, LAND USE PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Use Plan, Upper Trinity Unit, Shasta-Trinity National Forest, California USDA–FS–R5 (Adm) 75–1.

The environmental statement concerns a proposed new land use plan for 27,730 acres of National Forest land located within the Shasta-Trinity National Forest. 17,715 acres would be principally managed for the production of wood; 5,600 acres would be principally managed for dispersed recreation and protection of the natural beauty of the sub-alpine area; 2,770 acres would be maintained in their natural environment; and 1,645 acres would be retained in their present condition pending further studies.

This final environmental statement was transmitted to the Council on Environmental Quality on August 24, 1976.

Copies are available for inspection during regular hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
U.S. Forest Service, 630 Sansome Street, Rm. 529, San Francisco, CA 94111.
Shasta-Trinity National Forest, 1615 Continental Street, Redding, CA 96001.
Weaverville Ranger District, P.O. Box T, Weaverville, CA 96093.
Shasta County Library, 1855 Shasta, Redding, CA 96001.
Shasta College Library, Old Oregon Trail, Redding, CA 96001.
Shasta Lake Ranger District, 6543 Holiday Road, Redding, CA 96001.
College of the Siskiyous Library, 719 4th, Yreka, CA 96097.

A limited number of single copies are available upon request to Forest Supervisor Richard Pfilf, 1615 Continental St., Redding, California 96001.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

T. W. KOSKELLA,
Deputy Regional Forester.

AUGUST 24, 1976.

[FR Doc.76-25376 Filed 8-30-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY COUNCIL Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974) notice is hereby given that the meeting of the National Industrial Energy Council will be held on Wednesday, September 29, 1976, from 1:30 p.m. to 3:30 p.m. in Conference Room 4830, Main Commerce Building, 14th & Constitution Avenue, NW., Washington, D.C. 20230.

The Council will report and advise the Secretary of Commerce on programs and problems within the industrial and commercial sectors relating to energy conservation; provide a forum for the exchange of views on conservation between government and the industry/commercial sectors; advise on policies, plans and actions of government agencies involving energy use and conservation. The Council may identify and evaluate current and potential energy conservation plans within industry.

Agenda items are as follows:

1. Opening remarks by the Secretary of Commerce;
2. Reports by Sub-Councils;
a. Business Awareness,
b. Industry Programs,
c. Prorgam Development,
3. Open discussion;
4. Closing remarks by the Secretary of Commerce.

The meeting is open to public attendance and a limited number of seats will be available on a first-come, first-serve basis. To the extent that time permits, members of the public may present oral statements to the Council. Interested persons are also invited to file written statements with the Council before or after the meeting. Copies of the minutes will be available 30 days after the meeting upon written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Dept. of Commerce, Wash., D.C.

Inquiries should be addressed to Ms. Kay Courtney, Committee Control Officer, Office of Energy Programs, DIBA Room 2211, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Tele: 202–377–5001.

Dated: August 25, 1976.

ROBERT M. JACKSON,
Acting Executive Director,
National Industrial Energy Council.

[FR Doc.76-25415 Filed 8-30-76;8:45 am]

UNIVERSITY OF RICHMOND, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before September 20, 1976.

Amended regulations issued under cited Act (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00491. Applicant: University of Richmond, Richmond, Virginia 23173. Article: Electron Microscope, Model 201C & Plate Camera. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of pigment cell differentiation in response to various hyperpigmenting agents. In the various conditions under study, there is particular interest in aspects of melansomes biosynthesis as influenced by stresses with nitrogen mustard, psoralens or ultraviolet light. Another project will involve an investigation into the origin of epidermal Langerhans cells. Application received by commissioner of customs: July 26, 1976.

Docket Number: 76–00492. Applicant: Bowman Gray School of Medicine of Wake Forest University, 300 South Hawthorne Road, Winston-Salem, North Carolina 27103. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for viewing biological tissue specimens of various types. Research to be conducted will include:

1. The identification and characterization of synaptosomes from specially treated and prepared nervous tissue.
2. The identification of myelin figures by negative staining procedures and research concerning muscle metabolism.
3. Effects of intrauterine devices and prostaglandines on the female reproductive system and regenerative repair in the vertebrate central nervous system.

The article will also play a major role in a training program and will be used as the teaching instrument in an electron microscope course entitled, "Methods in Histological Research—Anatomy 407." Application received by Commissioner of Customs: July 26, 1976.

Docket Number: 76–00493. Applicant: University of Rochester, 110 Hopeman Building, Rochester, New York 14627. Article: Photochron I Image Converter Streak Camera tube with S–1 spectral response photocathode. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in building a fast streak camera needed for the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. Application received by Commissioner of Customs: July 27, 1976.

Docket Number. 76–00494. Applicant: University of Illinois at the Medical Center, 833 South Wood Street, Chicago, Illinois 60680. Article: Model J–40A Automatic Recording Spectropolarimeter with Alternate Measurement accessory. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of article: The article is intended to be used for investigations of the circular dichroism spectra of the peptides and proteins and their complexes with non-covalently bonded molecules. Experiments will be conducted to relate the circular dichroism spectra to the arrangement of molecular groups in three-dimensional space. In turn, the three-dimensional arrangement of molecular groups will be used to derive the basic molecular forces which stabilize the arrangement and the relationships between molecular arrangement and effect of the molecules on biological systems. Application received by Commissioner of Customs: July 27, 1976.

Docket Number: 76–00495. Applicant: University of Rochester, Hopeman 110, Rochester, New York 14627. Article: Photochron I Image Converter Streak Camera tube with S–1 spectral response photocathode. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in building a fast streak camera needed for the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. Application received by Commissioner of Customs: July 27, 1976.

Docket Number: 76–00496. Applicant: University of Rochester, Hopeman 110, Rochester, New York 14627. Article: Photochron I Image Converter Streak Camera tube with S–1 spectral response photocathode. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in building a fast streak camera needed for the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. Application received by Commissioner of Customs: July 27, 1976.

Docket Number: 76–00497. Applicant: The Johns Hopkins University, Charles and 34th Street, Baltimore, Md. 21218. Article: T.V. Projector modified for special multiplex operation with Zenon Arc Lamp, Model PGP–561. Manufacturer: PGP Consultants Ltd., Canada. Intended use of article: The article is intended to be used for educational purposes in continuing medical education programs on medical grand rounds, conjoint clinic, clinical pathological conferences, i.e., to assist doctors, interns and students keep abreast of current and updated methods and procedures. The article will be a part of the equipment that will be used to televise information via microwave. Application received by Commissioner of Customs: July 28, 1976.

Docket Number: 76–00498. Applicant: Brookhaven National Laboratory Associated Universities. Inc., Upton, Long Island, New York 11973. Article: Cryogenic turbo-expander unit, equipped with two size C4 turbines, a control alarm with safety box and a gas safety box. Manufacturer: L'Air Liquide, France. Intended use of article: The article is to be incorporated into a cryogenic testing facility for research on superconducting magnet systems intended to operate at two discrete temperature levels. Application received by Commissioner of Customs: July 28, 1976.

Docket Number: 76–00499. Applicant: Brookhaven Natioinal Laboratory Associated Universities, Inc., Upton, Long Island, New York 11973. Article: Cryogenic turbo-expander unit, equipped with two size C3 turbines, a control alarm with

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safety box and a gas safety box. Manufacturer: L'Air Liquide, France. Intended use of article: The article is to be incorporated into a cryogenic testing facility for research on superconducting magnet systems intended to operate at two discrete temperature levels. Application received by Commissioner of Customs: July 28, 1976.

Docket Number: 76–00500. Applicant: Lovelace Foundation for Medical Education and Research, 5200 Gibson Blvd. SE, Albuquerque, New Mexico 87112. Article: Scanning Electron Microscope, Model JSM–35U and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used in studies of the health effects of inhaled effluents from power plants which use a variety of fuels, such as nuclear fuels or coal in the following three general areas:

(1) Characterization of aerosol particles, both those naturally occurring and those used in experimental studies.

(2) The characterization of normal anatomic structures of the respiratory tract, particularly those that can be correlated with physical and computer models of the lung.

(3) The characterization of lesions induced by inhalation of power plant effluents.

Application received by Commissioner of Customs: July 29, 1976.

Docket Number: 76–00501. Applicant: U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025. Article: Isotope Micromass Model 602C, VG Digital Printer Inlet option C6. Manufacturer: VG Micromass Ltd., United Kingdom. Intended used of article: The article is intended to be used to determine the stable isotope abundances of sulfur, nitrogen, oxygen, and carbon in minute samples of terrestrial and extra terrestrial materials. Application received by Commissioner of Customs: July 29, 1976.

Docket Number: 76–00502. Applicant: Univeristy of California, 405 Hilgard Avenue, Los Angeles, Ca. 90024. Article: Electron Microscope, Model EM 400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of structure of protein and nucleic acid molecules, microcrystals of protein, DNA-protein complexes, ribosome-antibody complexes. Experiments to be conducted will include the following: Isolation and purification of proteins; their crystallization; examination of crystals by minimum-beam exposure electron microscopy methods; binding of antibodies to ribosomes and viruses in order to localize the components; binding of glutamine synthetase and arabinose regulatory proteins to DNA; determination of the configuration of the bound complexes; both thin and thick sections of protein crystals. The article will also be used in the course Microbiology- 260A, B, Ultrastructure Methods in Molecular Biology to instruct students in research oriented use of high resolution electron microscopy in Molecular and Cell Biology. Application received by Commissioner of Customs: July 29, 1976.

Docket Number: 76–00503. Applicant: Association of Universities for Research in Astronomy, Inc., 950 North Cherry Avenue, P.O. Box 26732, Tucson, Arizona 85726. Article: 4-channel uvby photoelectric photometer, with associated electronic components and wiring. Manufacturer: University of Aarhus, Denmark. Intended use of article: The article is intended to be used for photoelectric uvby photometry of stars brighter than twelfth magnitude. Results from the observational programs will include the distribution of the stars in space, their age, their chemical composition, and the distribution of interstellar absorbing matter in the solar neighborhood. Application received by Commissioner of Customs: August 3, 1976.

Docket Number: 76–00504. Applicant: University of California, Lawrence Berkeley Laboratory, East End of Hearst Avenue, Berkeley, California 94720. Article: Electron Microscope, Model JEM 100C including Water cooled water recirculator, Model EM 100C–MW. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for studies of lipoproteins as biochemical entities specifically to investigate their chemical and physical properties, their structure and ultrastructure, their biochemical and physiological behavior, and their distribution patterns in individuals as related to states of health and disease. Experiments will be conducted to determine the effects of drugs, hormones, pollutants, heredity on fine structure of these macromolecules, tissues and membranes. Application received by Commissioner of Customs: August 3, 1976.

Docket Number: 76–00505. Applicant: M. D. Anderson Hospital and Tumor Institute, Department of Developmental Therapeutics, 6723 Bertner Avenue, Houston, Texas 77030. Article: Impulscytophotometer, ICP–11. Manufacturer: Phywe-AG, West Germany. Intended use of article: The article is intended to be used for analysis of DNA distribution of in vitro cell lines and patients' samples (solid tumor biopsies, bone marrow, and peripheral blood). Experiments to be conducted will include in vitro experiments on long-term cell lines to determine the effect of cancer chemotherapeutic agents on cell cycle progression as well as in vivo investigations on the effect of cancer chemotherapeutic agents on cell cycle progression as well as in vivo investigations on the effect of anticancer agents on cycle progression of malignant and normal tissue. The course in which the article will be used is cell kinetics (for post-doctorate students). Application received by Commissioner of Customs: August 3, 1976.

Docket Number: 76–00506. Applicant: Department of the Interior, U.S.G.S., Br. Electromagnetism and Geomagnetism, P.O. Box 25046, Stop 964, Denver Federal Center, Denver, Colorado 80225. Article: Fluxgate Magnetometers, Model FM 100B (6 each) and 100BR (17 each). Manufacturer: EDA Electronics Ltd., Canada. Intended use of article: The articles are intended to be used for measuring temperal variations in the earth's magnetic field as part of an international study of the magnetosphere to learn more about the morphology and dynamic processes of the magnetosphere. In particular the magnetometer network will be used in a concentrated study of the behavior of substorms. Data from the magnetometers will be used by graduate students in their research. Application received by Commissioner of Customs: August 3, 1976.

Docket Number: 76–00507. Applicant: University of Virginia, Department of Chemistry, McCormick Road, Charlottesville, VA 22901. Article: Split Coil Superconducting Solenoid and Matrix Isolation Accessory System. Manufacturer: The Oxford Instrument Company, Limited, United Kingdom. Intended use of article: The article is intended to be used to make the following measurements in order to increase fundamental knowledge order to increase fundamental knowledge of the magnetic and electronic structural properties of molecules cited below and related systems:

(1) Matrix isolation magnetic circular dichroism (MIMCD).
(2) Magnetic circularly polarized emission (MCPE).
(3) Magnetic linear dichroism (MLD).
(4) Transverse Zeeman effect.
(5) Magnetic linear polarized emission (MLPE).
(6) Optical double resonance.

Among the systems to be investigated are the following: O_2^-, O_3^-, Xe-F, Xe-Cl, Ca_2, ClO_2, SO_2^-, Cl_2^-, F_2^-, CaO, UF_6, CS_2GeF_6:Mn^{4+}, CS_2GeF_6:Ir^{4+}, Os^{4+}, Re^{4+}, Uranocene films, carboranes, UF_6. In addition, the article will be used by graduate students doing research work as part of the requirement for advanced degrees in chemistry (MS, and Ph. D.)

Application received by Commissioner of Customs: August 5, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

BERNARD ASCHER,
Acting Director,
Office of Import Programs.

[FR Doc.76–25430 Filed 8–30–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL ADVISORY EYE COUNCIL

Meeting Change

Notice is hereby given of a change in the meeting of the National Advisory Eye Council, September 13–14, 1976, Conference Room No. 7, Building 31, National Institutes of Health, which was published in the FEDERAL REGISTER on August 2, 1976 (41 FR 32284–32285).

There will be a meeting of the Vision Research Program Planning Subcommittee of the National Advisory Eye Council, National Eye Institute, on Sunday, September 12, 1976, National Institutes of Health, Building 31, Room 6A–21, Bethesda, Maryland.

The meeting will convene at 7:00 p.m., and will be open to the public until adjournment, approximately 10:00 p.m. The meeting will be devoted to review of the status of ongoing vision research program planning activities. Attendance by the public will be limited to space available.

Substantive information may be obtained from Mr. Julian Morris, Head, Office of Scientific Reports and Program Planning Coordination, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, Room 6A–27, telephone (301) 496–5248.

Dated: August 27, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health.)

[FR Doc.76–25686 Filed 8–30–76;11:27 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on September 22–24, 1976, beginning at 9:00 a.m., each day, local time at the Old Town Holiday Inn, 480 King Street, Alexandria, Virginia.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to Section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by education institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligatoin to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective State, pursuant to section 438(b) of the Higher Education Act of 1965, as amended by Pub. L. 92–318.

The meeting shall be open to the public. The Committee will review petitions by accrediting and State approval agencies for initial or continued recognition by the Commissioner, the Committee will hear presentations by representatives of the petitioning agencies and interested third parties and the Committee will review policy items pertaining to accreditation and institutional eligibility.

Records shall be kept of all Committee proceedings, and these will be available in the Office of the Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

Signed at Washington, D.C., on August 23, 1976.

JOHN R. PROFFITT,
Director, Division of
Eligibility and Agency Evaluation.

[FR Doc.76–25377 Filed 8–30–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463 that a meeting of the National Advisory Council on Extension and Continuing Education will be held on September 22–24, 1976, at The Wellington Hotel, 2505 Wisconsin Avenue, NW., Washington, D.C. The meetings on September 22 and 23 are scheduled from 9:00 a.m. to 5:00 p.m.; and on September 24, from 9:00 a.m. to 12:30 p.m.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89–329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council will be open to the public. The agenda for the meetings will include committee meetings to review and plan activites for the year; the Council's review of the status of the reauthorization of Title I of the Higher Education Act; and the discussion of plans for the Council's major project: a national invitational conference on continuing education and work. All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, NW., Washington, D.C.

Dated: August 23, 1976.

JAMES A. TURMAN,
Executive Director.

[FR Doc.76–25434 Filed 8–30–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29572, Agreement CAB 23870–A2, Order 76–8–137]

AIR TRAFFIC CONFERENCE OF AMERICA

Reduced Fees for Transmission of Automated Tickets

AUGUST 25, 1976.

The Air Traffic Conference of America (ATC) on behalf of its members has filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended (the Act), and Subpart P of the Board's Rules of Practice (14 CFR 302.1601–1608) a resolution (Agreement CAB 23870–A2) relating to a reduction in fees paid by agents for the transmission of individually priced itineraries utilized to mechanically produce tickets.

The effect of the resolution is to amend ATC Resolution 5.93 (Placement of Ticket Issuing Devices In Offices of Travel Agents and Customers) by reducing from $1.00 to 25 cents the fee which ATC members charge travel agents for each individually priced itinerary transmitted. In addition, nonpriced itineraries would now become subject to the same fee.

In support of the agreement, ATC states that several air carriers have performed internal analyses of the cost of transmitting individual itineraries for the preparation of automated tickets, which analyses have shown the cost of such transmissions to be approximately 25 cents per transmission. ATC further states that the purpose of Resolution 5.93 is to allow the carriers to recoup their costs incidental to the transmission of individually priced itineraries. Moreover, according to ATC, recent technological advances have significantly reduced itinerary transmission costs. ATC states that reducing the transmission charges will further encourage the use of automated ticketing devices thereby further reducing ticketing errors, improving the overall cost and efficiency of travel agency ticketing and improving ticketing service to the traveling public.[1]

No additional comments concerning the proposal have been received.

Upon consideration of the foregoing, it has been decided to approve Agreement CAB 23870–A2. In reaching this conclusion it is noted that the proposal now before the Board was adopted by the ATC carriers in an effort to resolve what those same carriers see developing as an undesirable and confusing situation insofar as itinerary transmission fees are concerned. Thus, the carriers acknowledge that transmission costs to certain members have decreased substantially from the $1 fee currently charged for each transmission, and, in an effort to maintain uniformity with respect to those charges, have agreed that a lower specific fee should be established. We believe the carriers proposal for a uniform fee is for the present the best approach for dealing with the matter and that the lower fees could, as ATC has pointed out, result in greater use of the service with consequent improved efficiency, and improved ticketing service to the public.

We have also considered the proposal to include nonpriced itineraries within

[1] ATC has urged prompt action on the proposal stating that two ATC members have withdrawn from Resolution 5.93 effective August 26, 1976, and that the instant agreement would obviate the need for withdrawal.

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the transmissions subject to the new fees. Apparently the transmission of such itineraries would also involve costs to the carriers and the application of the fees to such itineraries does not appear unreasonable.

Therefore, pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13 and 385.3, it is found that Agreement CAB 23870–A2 is not adverse to the public interest or in violation of the Act and should be approved.[3]

Accordingly, it is ordered that:

1. Agreement CAB 23870–A2 be and it hereby is approved.

2. This order shall be served upon the American Automobile Association, the American Society of Travel Agents, Inc., the Association of Retail Travel Agents, the Association of Bank Travel Bureaus, and the U.S. Department of Justice.

3. Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

4. This order shall be effective immediately and the filing of such petitions shall not stay its effectiveness.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-25469 Filed 8-30-76;8:45 am]

[Docket 28980, Order 76-8-124]

CITY OF LUBBOCK, TEX., AND THE LUBBOCK CHAMBER OF COMMERCE

Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of August, 1976.

On March 12, 1976, the City of Lubbock, Texas, and the Lubbock Chamber of Commerce petitioned the Board to institute an investigation to consider the issue of improved service between Lubbock and points to the east, west, north, and south of Lubbock.[1]

In support of its petition, Lubbock states that service to the West and Northwest is almost nonexistent insofar as direct and/or single-plane service is concerned; that substantially all service between Lubbock and points to the east, northeast, and southeast of Lubbock must go through the Dallas/Ft. Worth air terminal, with the attendant inconveniences of layovers, delays, and changes of plane; that much of the service to the South is hindered by the requirement of stops at Midland/Odessa, due to an impediment in the certificate authority of Continental Air Lines; that Continental is further subject to a point-of-origin restriction on southbound flights, which prevents convenient scheduling;[2] that Lubbock has had meetings with each air carrier now serving Lubbock, but has received little or no encouragement as to the possibility of improved service; and that the relief sought is justified by present and anticipated growth and generation of air travel to and from Lubbock.

Answers in support of Lubbock's petition were filed by the City of Albuquerque and the Albuquerque Chamber of Commerce, as well as the City of San Antonio and the San Antonio Chamber of Commerce. Albuquerque argues that, despite traffic growth averaging eight percent per year since 1970, service in the Albuquerque/Lubbock market has deteriorated from seven single-plane flights in 1971 to two in 1976, and that service in this market is now limited to one inconveniently timed[3] daily nonstop round trip offered by Continental and several connecting flights (via El Paso), requiring time-consuming, circuitous routing. The San Antonio civic parties state that, although traffic from Lubbock to San Antonio has grown 53 percent from 1970 to 1974, no nonstop service is available and the only single-plane service to Lubbock is two morning flights, one via Dallas with a 40 percent time circuity.

Braniff has filed in opposition to the petition. Braniff believes Lubbock receives adequate service given its size and urges the Board to deny its petition. Braniff also notes that the issue of improved service in Texas intrastate markets is the subject of a Southwest Airlines application now pending before the Texas Aeronautics Commission.[4]

Upon consideration of the pleadings and all of the relevant facts, we have decided to dismiss Lubbock's petition for an immediate hearing and to require all interested parties to show cause why the Board should not (a) eliminate the requirement that Continental flights on Route 29 stop at Midland/Odessa on flights in the Lubbock-Austin, Lubbock-Houston, and Lubbock-San Antonio markets, and (b) eliminate the point of origin restriction (condition 10) on Continental's segment 8 of Route 29 with respect to Lubbock-San Antonio/Austin/Houston flights.

In this case, no carrier has applied for authority at Lubbock. Furthermore, on the basis of the facts before us, the service deficiencies alleged by the civic parties do not appear to be so urgent as to constitute a present denial of reasonable access to adequate service by the citizens of the area and to warrant an evidentiary hearing at this time.

In looking at the potential economic self-sufficiency of the service proposed by Lubbock, we cannot ignore the fact that no carrier has indicated an interest in providing the service by filing an application in support of Lubbock's request. Absent a proposal by a carrier, we may conclude that no carrier has the incentive to effectively promote and develop new service to Lubbock, and that the potential economic viability of such operations at Lubbock is limited.

Lubbock does not appear to suffer from a lack of air service per se. Lubbock ranked 99th on the basis of O&D traffic in calendar 1974.[5] With 9,146 departures, Lubbock's quality of service, based on frequency of service, exceeded 16 of the 20 cities ranked just above it.[6] Lubbock's exhibits show that Lubbock ranks eighth in population among Texas cities, yet with 9,146 scheduled departures during 1974, Lubbock received 64 percent more service that Corpus Christi, the seventh ranked Texas city with a 37 percent greater population than Lubbock.[7] Lubbock service was only slightly below Austin, the sixth ranked city (10,579 scheduled departures), although Austin is approximately 69 percent larger than Lubbock.[8] Basing the comparison on in-

[1] It is found, pursuant to section 385.6 of the Board's Regulations, that the action taken herein is governed by prior Board precedent and policy and, because certain ATC members have withdrawn from ATC Resolution 5.93 effective August 26, 1976, immediate action on the agreement is required. Therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

[2] Specifically, Lubbock requests gateways other than Dallas/Fort Worth to the East, Northeast, and Southwest; additional direct service to the South through the removal of the necessity for southbound Continental Air Lines flights to stop at Midland/Odessa, a segment junction point, and the removal of point-of-flight-origin restrictions on those flights; nonstop service to San Francisco and Los Angeles and additional gateways to the West; nonstop service between Lubbock and Denver, Houston, San Antonio and Austin; nonstop service between Lubbock and Memphis; and improved direct service between Lubbock, on the one hand, and the previously mentioned points, and Little Rock, New Orleans, and Atlanta, on the other.

[3] The necessity for stops at Midland/Odessa on Continental flights is due to the fact that Midland is a segment junction point on Continental's Route 29. There is a point-of-origin restriction on Continental flights over segment 8 providing that flights cannot originate or terminate within Texas. The latter restriction does not apply to nonstop flights between El Paso and Houston, and one-stop flights between El Paso and Houston, via San Antonio.

[3] The flight leaves Albuquerque at 7:15 p.m. The return leg leaves Lubbock at 8:35 a.m. the following day.

[4] Southwest Airlines filed an application with the Texas Aeronautics Commission on March 24, 1976, requesting unrestricted nonstop authority between the terminal point El Paso, the alternate intermediate points Midland/Odessa and Lubbock, the intermediate point Dallas, the alternate intermediate points Austin and Houston, and the coterminal points Corpus Christi and Harlingen. If the application is approved, Southwest will become the fourth carrier operating at Lubbock. Initially, Southwest would offer service to Dallas and El Paso, with single-plane or connecting service available to the remaining points on its system. Southwest already serves Dallas, Houston, San Antonio, and Harlingen.

[5] Airport Activity Statistics, December 31, 1974.

[6] Id.

[7] Id.

[8] Id.

come, Lubbock, which ranked tenth among Texas cities,[9] had more air service in 1974 than the fourth, seventh, eighth and ninth ranked cities and was just behind Austin, the fifth ranked city.[10] Also, Lubbock has nonstop service from seven points, compared to four for Corpus Christi.[11] Finally, average load factors in Lubbock's then eight nonstop markets did not exceed 59 percent for fiscal 1975.[12]

Lubbock's most substantial complaint appears to be that it does not have direct service to more points. However, we note that of those markets in which Lubbock seeks new service, only six had more than 10,000 O&D plus connecting passengers in calendar 1974, and each of these markets had one-stop or better single-plane service.[12a] The largest of these, Lubbock-Houston, had 39,660 passengers. Braniff, which holds nonstop authority, presently provides one daily one-stop round trip in that market. With the elimination of Continental's route restrictions, discussed below, there would be a second carrier in this market authorized to provide nonstop service.

Although an investigation does not appear warranted, we intend to use the Board's show-cause procedures to eliminate the two impediments in Continental's certificate which presently prohibit nonstop service between Lubbock and Austin, Houston, and San Antonio. In 1974, Continental's share of local plus connecting traffic in the Lubbock-Houston and Lubbock-San Antonio markets was, respectively, 42 and 47 percent.[13] Given Continental's large market share, continuation of the route impediments in these markets would serve no useful purpose. Although Braniff holds nonstop authority in both markets, neither market has nonstop service and, in view of the fact that Continental has a different pattern of traffic flow from Braniff, the lifting of Continental's restrictions may increase the likelihood that these markets will receive improved service.

There similarly appears to be no sufficient justification to continue Continental's present route restrictions in the Lubbock-Austin market. In calendar 1974, Continental carried only five percent of the local plus connecting traffic.[14] However, the total market is only 17,440 local plus connecting passengers,[15] and elimination of the carrier's route restrictions would expose neither Braniff nor Texas International to substantial diversion. Braniff might be exposed to a maximum diversion of 6,000 annual passengers and Texas International to perhaps an equal amount,[16] and diversion would be even less should Southwest enter the market.

Although there is no basis for concluding that removal of Continental's route impediments will cause Continental to offer additional service, the Board has long adopted a policy that operating restrictions are economically wasteful and undesirable and should be removed in the absence of an affirmative showing that their retention is required.[17] We tentatively find that removal of Continental's route restrictions will not have any significant adverse impact on any other carrier, that there is no reason to maintain them, and that the public convenience and necessity require their removal.[18]

Interested persons will be given thirty days from the date of the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final.[19] We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. The petition of the City of Lubbock, Texas, and the Lubbock Chamber of Commerce for an investigation of air service be and it hereby is dismissed;

2. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Continental Air Lines, Inc., for Route 29 to authorize Continental to serve Lubbock-Austin, Lubbock-Houston, and Lubbock-San Antonio (a) without the necessity for stops at Midland/Odessa, a segment junction point, and (b) without application of condition (10), prohibiting the scheduling of flights over segment 8 which originate at one point in Texas and terminate at any other point in Texas;

3. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein, shall, within 30 days after the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; [20]

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

6. Copies of this order shall be served upon Braniff Airways, Inc., Continental Air Lines, Inc., Texas International Airlines, Inc., The Albuquerque Parties, The Lubbock Parties, and the San Antonio Civic Parties.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-25470 Filed 8-30-76;8:45 am]

[Docket 29684]

EPHRATA-MOSES LAKE DELETION CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled

[9] Survey of Current Business, May 1974.

[10] Id. and Airport Activity Statistics, December 31, 1974.

[11] Official Airline Guide, August 1, 1976.

[12] Fiscal year 1975 load factors in Lubbock's nonstop markets were as follows: Amarillo, 26%; Austin, 58.9%; Clovis, N.M., 22.6%; Dallas/Ft. Worth, 58.9%; El Paso, 42.8%; Midland/Odessa, 34.1%; and Wichita Falls, 42.4%. The average load factor in the Lubbock-Albuquerque market was 53 percent in FY 1975. Texas International discontinued nonstop service in December 1975, leaving only Continental, which had an average load factor of 63 percent in FY 1975. However, our most recent data show that Continental's load factor is trending downward. Furthermore, Continental recently added one one-stop flight daily in the market. Thus, although Texas International has dropped out of the Lubbock-Albuquerque market, Continental's service appears adequate.

[12a] Appendix filed as part of original document.

[13] O&D Survey, Table 10, Calendar Year 1974.

[14] Texas International, with 61% of the market, currently offers five daily nonstop flights, and Braniff, with 34%, offers one one-stop flight. O&D Survey, Table 10, Calendar Year 1974; Official Airline Guide, August 1, 1976. As noted previously, Southwest has petitioned to serve Lubbock also.

[15] O&D Survey, Table 10, Calendar Year 1974.

[16] Assuming Continental instituted two daily nonstop round trips—service comparable to Texas International—Braniff and Texas International retained their present level of service.

[17] Order 69–6–87, June 17, 1969. See also Order 75–7–15, July 2, 1975, page 2.

[18] We further tentatively find that Continental is a citizen of the United States within the meaning of the Act, and is fit, willing, and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[19] We find and conclude that the Board action here contemplated will not result in a major Federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969.

[20] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration will be entertained.

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matter is assigned to be held on October 26, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements and issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before October 7, 1976, and the other parties on or before October 18, 1976. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., August 26, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-25468 Filed 8-30-76;8:45 am]

[Docket 29186]

MEMPHIS-TWIN CITIES/MILWAUKEE CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on Octboer 13, 1976, at 9:00 a.m., Room 303, West Mezzanine, Main Public Passenger Terminal Building, Minneapolis-Saint Paul International Airport, Saint Paul, Minnesota, 55111, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served on July 26, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 26, 1976.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.76-25467 Filed 8-30-76;8:45 am]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Advisory Committee on Administrative Law Judges will meet at 9:30 a.m. on Friday, September 17, 1976. This meeting will be held in Room 5323 of the U.S. Civil Service Commission Building, 1900 E Street, N.W., Washington, D.C.

The Advisory Committee's agenda will consist of a discussion of rules and procedures for committee activities, since this will be the initial meeting of the Advisory Committee; of the fact-finding study report on Administrative Law Judges completed in July 1974 (the La Macchia report); of recruitment and selection procedures for Administrative Law Judges including qualifications, experience required, and the vouchering system; the desirability of continuing the selective certification procedures; such other matters as members of the Advisory Committee may wish to discuss; and, issues to be considered at future meetings.

This meeting will be open to the public.

Inquiries regarding this notice may be addressed to Arthur L. Burnett, Assistant General Counsel, Legal Advisory Division, Office of General Counsel, Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415, telephone: Area Code 202-632-5421 or 632-5422.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-25474 Filed 8-30-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Addition to Procurement List

Correction

In FR Doc. 76-24461 appearing on page 35210 in the FEDERAL REGISTER of Friday, August 20, 1976 the following correction should be made: Under the heading "Class 7105" the first line, third word now reading "Food" should read "Wood".

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL POLLUTANT MOVEMENT & TRANSFORMATION ADVISORY COMMITTEE

[FRL 608-7]

Meeting

Notice is hereby given that a meeting of the Environmental Pollutant Movement & Transformation Advisory Commitee will be held at the Southeastern Environmental Research Laboratory, Athens, Georgia on September 20, 1976 starting at 10:00 a.m. and ending at 12:30 p.m. The meeting is in conjunction with a site visit to the Laboratory by the Committee members.

The agenda topics are: introductions to the Laboratory's programs, a report of a meeting of an Ad Hoc Study Group of the Science Advisory Board which dealt with a review of the Office of Toxic Substances scientific programs, upcoming Science Advisory Board activities on catalytic converters and air standards for lead, and items of Committee member interest.

The meeting is open to the public. Persons desiring to attend should contact the Executive Secretary, Dr. Joel L. Fisher at (703) 557-7710 by close of business (c.o.b.) on September 10, 1976.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

AUGUST 25, 1976.

[FR Doc.76-25373 Filed 8-30-76;8:45 am]

[FRL 609-4; Opp-00025A]

PESTICIDE PROGRAMS

Nominations to the Scientific Advisory Panel; Extension of Comment Period

On August 3, 1976, the Environmental Protection Agency (EPA) published a notice which provided the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel established under section 25 (d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 et seq.). A copy of the charter of the Scientific Advisory Panel was appended to that notice, and the public was invited to comment regarding the qualifications of the nominees relative to the charter.

In order to allow the public adequate opportunity to comment on the nominations, the EPA has decided to extend the comment period until September 8, 1976. Again, to be assured of consideration, such comments should reach EPA on or before September 8, 1976, and should bear the identifying notation OPP-00025. Please address all comments to the Federal Register Section (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., SW., Washington, D.C. 20460. All written comments will be available for public inspection in Room 401 from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated August 25, 1976.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-25513 Filed 8-30-76;8:45 am]

[FRL 609-2; OPP-33000/454]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-7012
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before November 1, 1976. With the exception of 2(c) applications not subject to the new section 3, regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before September 30, 1976.

Dated: August 24, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/454)

EPA File Symbol 2749-UEU. Aceto Agricultural Chemical Corp., 126-02 Northern Blvd., Flushing NY 11368. PROPAZINE TECHNICAL HERBICIDE. Active Ingredients: 2-Chloro-4,6-bis (isopropylamino)-s-triazine 95%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA Reg. No. 241-243. American Cyanamid Co., Agricultural Div., PO Box 400, Prince ton NJ 08540. PROWL HERBICIDE. Active Ingredients: [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzamine] 43.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use. PM25

EPA File Symbol 39259-E. The Aluvis Co., 23996 Clawiter St., Hayward CA 94545. RAT-XP ALL WEATHER RAT BAIT READY TO USE BLOCKS. Active Ingredients: Pival 2-Pivalyl-1,3-Indandione 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39259-T. The Aluvis Co. RAT-XP FENCE BLOCK ALL WEATHER ROOF RAT BAIT READY TO USE BLOCKS. Active Ingredients: Pival 2-Pivalyl-1,3-Indandione 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 150-LA. Anderson Chemical Co., Box 1041, Litchfield MN 55355. ANDROCIDE-PINE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%; Pine Oil 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 150-LU. Anderson Chemical Co. TETRACIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 150-47. Anderson Chemical Co. COUNT-MINUS 5. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 10276-R. Applegate's Drug Stores, Inc., Highway 71-North, Bentonville, AK 72712. APPLEGATE'S NOSPROUT. Active Ingredients: Isopropyl m-chlorocarbanilate 47%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 5667-RNR. Barrett Chemical Co., "H" & Luzerne Sts., Philadelphia PA 19124. BARRETT'S CLEANER CONCENTRATE #15. Active Ingredients: alpha-(p-Nonylphenyl)-omega - hydroxypoly (oxyethylene)-iodine complex (Providing 1.75% titratable iodine) 18.05%; Phosphoric Acid 16.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 5667-RNN. Barrett Chemical Co. BARRETT'S CLEANER CONCENTRATE #16. Active Ingredients: alpha-(p-Nonylphenyl)-omega-hydroxypoly(oxyethylene)-iodine complex (Providing 1.75% titratable iodine) 18.05%; Phosphoric Acid 16.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 5667-00. Barrett Chemical Co. BARRETT'S CLEANER CONCENTRATE #18. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 5667-0I. Barrett Chemical Co. BARRETT'S CLEANER CONCENTRATE #17. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 7969-45. BASF Wyandotte Corp., Agricultural Chemicals Dept., 100 Cherry Hill Rd., Parsippany NJ 07054. BASAGRAN. Active Ingredients: Sodium salt of bentazon 42.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM25

EPA File Symbol 4313-LR. Carroll Co., 2900 W. Kingsley RD., Garland TX 75041. OCIDE HOSPITAL CLEANER-DISINFECTANT. Active Ingredients: Ortho - benzyl - para-chlorophenol 14.0%; Isopropanol 10.0%; ortho-phenylphenol 5.0%; para-tertiary-amylphenol 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA Reg. No. 802-485. The Chas H. Lilly Co., 7737 Killingsworth, Portland OR 97218. MILLER'S LAWN & TURF WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 10.01%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 4.54%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid 1.04%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-2414. Chevron Chemical Co., 940 Hensley St., Richmond CA 94801. PLICTRAN 50 WETTABLE. Active Ingredients: Tricyclohexyltin hydroxide 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM13

EPA Reg. No. 239-2355. Chevron Chemical Co. ORTHICIDE METHOXYCHLOR 65-5 SEED PROTECTANT. Active Ingedients: Captan 65%; Methoxychlor, Technical 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

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EPA Reg. No. 100–501. Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro NC 27409. SUPRACIDE 2E. Active Ingredients: Methidathion 0,0-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy - W2 - 1,3,4 - thiadiazolin-5-one 24.4%; Aromatic Petroleum derivative solvent 67.3%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12

EPA File Symbol 10810–A. Dacar Chemical Co., 1007 McCartney St., Pittsburgh PA 15220. DACARCIDE BLF. Active Ingredients: Dioctyl dimethyl ammonium chloride 10%; Ethylalcohol 2%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 3282–25. The d-Con Co., Inc., Distr., Subsidiary of Sterling Drug, Inc., 90 Park Ave., New York NY 10016. D-CON STAY/AWAY OUTDOOR FOGGER. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin 1) 0.10%; Piperonyl butoxide, technical 0.50%; Methoxychlor, technical 2.00%; 2-Hydroxyethyl-n-octyl sulfide 1.42%; related compounds 0.08%; Petroleum distillate 6.00%. Method of Support: Application proceeds under 2(a) of interim policy. PM13

EPA File Symbol 4643–GR. Dearborn Chemical Div., Chemed Corp., 300 Genesee St., Lake Zurich IL 60047. DEARCIDE 715 MICROBICIDE. Active Ingredients: n-Alkyl (60% C14, 5% C12, 30% C16, 5% C18) Dimethyl Benzyl Ammonium Chloride 5.0%; Copper Sulfate Pentahydrate 23.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 39296–R. De Vonque Products, Inc., 37–35 Vernon Blvd., Long Island City NY 11101. WALA 776. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625% Didecyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 17.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 39189–G. Envirochem, Inc., 317 St. Paul's Ave., Jersey City NJ. 07306. VIGILANCE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 8.4%; n-Dialkyl (60% C14, 30% C16, 5% C12, 5% C18) methylbenzyl ammonium chlorides 1.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 39189–R. Envirochem, Inc. POWER CLEANER DEODORIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Appplication proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 449–539. c/o Farmland Industries, Inc., Techne Corp., Agri. Chem. Div., PO Box 7305, Kansas City MO 64116. TECHNE WEED KILL+GREEN WITH "ENVY" LAWN FOOD. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, Isoctyl Ester 1.00%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 0.25%; Related acids of dimethylamine salt 0.04%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 1598–EUG. FCX, Inc., 121 E. Davis St., PO Box 2419, Raleigh NC 27602. FCX TOBACCO BUDWORM BAIT *BACILLUS THURINGIENSIS*. Active Ingredients: *Bacillus thuringiensis* Berliner, Potency of 320 International Units per mg. (at least 0.5 billion viable spores per gram) 0.064%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 4816–406. FMC Corp., 100 Niagara St., A.C.D., Industrial Sales Dept., Middleport NY 14105. PYRENONE SMALL ANIMAL & KENNEL INSECTICIDE. Active Igredients: Pyrethrins 1.18%; Piperonyl Butoxide, Technical 11.84%; Petroleum Distillate 72.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 2816–406. FMC Corp. NIAGARA PYRENONE SMALL ANIMAL & KENNEL INSECTICIDE. Active Ingredients: Pyrethrins 1.18%; Piperonyl Butoxide, Technical 11.84%; Petroleum Distillate 72.18%. Method of Support: Application proceeds under 2(a) of interim policy. PM15

EPA Reg. No. 8780–40. High Point Mills, Inc., 1225 Lehigh Station Rd., Henrietta NY 14467. TURF LINE ANTHIC LAWN WEED KILLER. Active Ingredients: 2-(2-methyl-4-chlorophenoxy) propionic acid, dimethylamine salt 0.43%; 2,4-Dichlorophenoxyacetic acid, sodium salt monohydrate 0.43%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8901–1. Kocide Chemical Corp., Houston TX 77045. KOCIDE 101. Active Ingredients: Cupric Hydroxide 77%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM22

EPA File Symbol 35317–E. Kuehne Chemical Co., Inc., PO Box 534, Linden NJ 07036. CHLORINE. Active Ingredients: Chlorine 100%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 777–LA. Lehn & Fink Products, Div. of Sterling Drug, Montvale NJ 07645. LYSOL BATHROOM DISINFECTANT TOWELETTES. Active Ingredients: Chlorine dioxide 0.150%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7558–RE. Leon Supply Co., PO Box 562, 17 W. Jefferson St., Montgomery AL. ROYAL MINT DISINFECTANT. Active Ingredients: Vegetable Oil Soap 10.00%; O-Benzyl-p-chlorophenate 8.33%; Isopropyl Alcohol 6.25%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA Reg. No. 72–508. Miller Chemical & Fertilizer Corp., PO Box 333, Hanover PA 17331. TURF FOOD PLUS 3. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 3417–EN. Mission Chemical Co., 4990 Naples St., PO Box 80608, San Diego CA 92138. MITO. Active Ingredients: ethyl alcohol 2.5%; n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chlorides 10%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 39151–R. Osmonics, Inc., 15404 Industrial Rd., Hopkins MN 55343. OSMONICS C–S. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0% n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 2169–185. Patterson Chemical Co., Div., Curry Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. PATTERSON'S WEED & FEED. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.50%; Dimethylamine salt of dicamba 0.28%; Dimethylamine salt of related acids 0.04%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8383–5. The R. Schattner Co., 4000 Massachusetts Ave. N.W., Washington DC 20016. SPORICIDIN COLD STERILIZER Active Ingredients: Phenol 7.05%; Sodium Tetraborate 2.35%; Glutaraldehyde 2.00%; Sodium Phenate 1.20%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New use. PM33

EPA File Symbol 11976–R. Southern Chemical Products, 2001 Summerville Ave., Charleston SC 29405. CHEMCO PINE ODOR DISINFECTANT COEF. 6. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14 58%, C16 28%; C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 5741–RU. Spartan Chemical Co., Inc., 110 N. Westwood Ave., Toledo OH 43607. SPARTAN'S T 'N T TUB & TILE CLEANER. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.075%; n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.075%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 476–2030. Stauffer Chemical Co., 400 S. 47th St., Richmond CA 94804. DYFONATE 15–G. Active Ingredients: O-ethyl S-phenyl ethylphosphonodithioate 15.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM16

EPA File Symbol 5991–GR. Time Chemical, Inc., 3950 S. Karlov Ave., Chicago IL 60632. TIME-O-SAN 1000. Active Ingredients: Phosphoric Acid 45%; Dodecyl Benzene Sulfonic Acid 3.73%; Na Xylene Sulfonate 10.00%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 5991–EO. Time Chemical, Inc. UDDER WASH P. Active Ingredients: alpha-(p-Nonylphenyl)-omega-hydroxy-poly (oxyethylene)-iodine complex (Providing 1.75% titratable iodine) 18.05%; Phosphoric Acid 16.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 1016–78. Union Carbide Corp., PO Box 1906, Salinas CA 93901. TERMIK ALDICARB PESTICIDE 15% GRANULAR. Active Ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)oxime] 15%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 1016–69. Union Carbide Corp. TERMIK 10% GRANULAR. Active Ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldelehyde O-(methylcarbamoyl)oxime] 10%. Method of Support. Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 876–205. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL BRUSH BUSTER HERBICIDE. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.90%; Dimethylamine salts of related acids 1.80%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 25.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–159. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL BANVEL 4–WS. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 49.0%; Dimethylamine Salt of related acids 7.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 876–118. Velsicol Chemical Corp. GOLD CREST BANVEL + 2,4-D. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 18.4%; Dimethylamine Salts of related acids 3.2% Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 36.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–54. Velsicol Chemical Corp. BANVEL D + 2,4-D GENERAL WEED CONTROL. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 3.18%; Dimethylamine salts of related acids 0.52%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 12.72%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–54. Velsicol Chemical Corp. VELSICOL GRANULAR BANVEL + 2,4-D. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 0.28%; Dimethylamine Salt of related acids 0.05%; Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 0.83%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–37. Velsicol Chemical Corp. VELSICOL BANVEL 4–S HERBICIDE. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 49.0%; Dimethylamine Salts of related acids 7.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 15749–R. Vermillion Chemical Service, Inc., 1306 Charity St., Abbeville LA 70510. V.C. ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 7401–33. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. FERTI-LOME LAWN WEED KILLER GRANULES. Active Ingredients: Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acide) 0.24%; Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 0.69%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 5815–GU. Wegro, Inc., PO Box 189, Grand Rapids OH 43522. WEGRO LAWN FOOD & CRABGRASS CONTROL. Active Ingredients: benefin (N-butyl-N-ethyl-α,α,α-trifluro-2,6 - dinitro - p - toluidine) 0.57%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 5815–GE. Wegro, Inc. XXX TRIPLE X PRODUCTS LAWN FOOD & CRABGRASS CONTROL. Active Ingredients: benefin (N-butyl-N-ethyl-α,α,α-trifluro-2,6-dinitro-p-toluidine) 0.57%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 7547–19. Western Chemical Co., 1345 Taney, North Kansas City MO 64116. ALGAE SLIME CONTROL EC. Active Ingredients: 2-(Thiocyanomethylthio) benzothiazole 32.0%; 2-Hydroxypropyl methanethiolsufonate 28.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA Reg. No. 5427–63. Wright Chemical Corp., 1319 W. Wabansia Ave., Chicago IL 60622. WRICO TDL. Active Ingredients: 2,2-Dibromo-3-nitrilopropionamide 20%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted PM34

EPA Reg. No. 5427–63. Wright Chemical Corp. WRICO TDL. Active Ingredients: 2,2-Dibromo-3-nitrilopropionamide 20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

[FR Doc.76–25485 Filed 8–30–76;8:45 am]

[FRL 609–1; OPP–33000/455]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., a Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755–9315
PM 21 & 22—202/426–2454
PM 24—202/755–2196
PM 31—202/426–2635
PM 33—202/755–9041
PM 15, 16, & 17—202/426–9425
PM 23—202/755–1397
PM 25—202/755–7012
PM 32—202/426–9486
PM 34—202/426–9490

The Interim Policy Statement requires that claims for compensation be filed on or before November 1, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before September 30, 1976.

Dated: August 24, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

EPA Reg. No. 2749–232. Aceto Chem. Co., Inc., Agricultural Chemicals Div., 126–02 Northern Blvd, New York NY 11368. DCPA 75W HERBICIDE. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

V 41 170 AUG 31 76 UMI

EPA Reg. No. 557–1778. Agricultural Chemicals Corp., 111 W. Jackson Blvd, Chicago IL 60604. VIGORO LAWN WEEDER & FEEDER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.180%; Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 0.046%; Dimethylamine salts of related acids 0.007%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1852. Agricultural Chemicals Corp. DEEP GREEN VIGORO LAWN FERTILIZER & WEED CONTROL. Active Ingredients: 2,4 - Dichlorophenoxyacetic acid 0.728%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.307%; Dicamba (3,6-dichloro-o-anisic acid) 0.065%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2337–64. DeMert & Dougherty, Inc., 5000 W. 41st St., Chicago IL 60650. DEMERT WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4–Dichlorophenoxyacetic Acid 1.59%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 430–18. Durham's Drug Products Co., Rear 114 South Houston, Comanche TX 76442. DURHAM's 5% MALATHION DUST. Active Ingredients: Malathion 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA File Symbol 1200–EO. Eagle Products, 2601 Industrial La., Garland TX 75041. AQUA–POLY 1000. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene - (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 1598–157. FCX, Inc., P.O. Box 2419, Raleigh, NC 27602. GRANULAR SELECTIVE PREEMERGENCE HERBICIDE. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 334–UEU. Hysan Corp., 919 West 38th St., Chicago IL 60609. DDFV 425B CLEANER - DISINFECTANT - DEODORIZER - FUNGICIDE - VIRUCIDE SANITIZER FOR HOSPITAL AND INSTITUTIONAL USE. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 334–UEE. Hysan Corp. DDFV 425A CLEANER - DISINFECTANT - DEODORIZER - FUNGICIDE - VIRUCIDE FOR HOSPITAL AND INSTITUTIONAL USE. Active Ingredients: Didecyl dimethyl ammonium chloride 4.25%; Tetrasodium ethylenediamine tetraacetate 1.60%; Sodium carbonate 2.00%; Sodium metasilicate, anhydrous 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 334–UEG. Hysan Corp. HY-Q 256. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14, 50%; C12, 40%; C16, 10%) Benzyl Dimethyl Ammonium Chloride 5.000%); Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 334–EL. Hysan Corp. DDFV–90. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50%; Dioctyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 334–UEO. Hysan Corp. DDFV19. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Dioctyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 407–364. Imperial Inc., P.O. Box 423, West 6th & Grass, Shenandoah IA 51601. IMPERIAL NO. 4 2,4-D LOW VOLATILE WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxy Propyl Esters 72.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 407–286. Imperial Inc. IMPERIAL 2,4-D BUTYL ESTER 600. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic acid 77.48%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 407–272. Imperial Inc. IMPERIAL 2,4-D LV400 WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 72.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 407–283. Imperial Inc. IMPERIAL 2,4-D LV600 WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 94.62%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1645–35. Knox Chemical Co., 900 N. Franklin St., Chicago IL 60610. KNOX FLY KILLER FLY BAIT. Active Ingredients: Malathion (0,0-Dimethyl dithiophosphate of diethyl mercaptosuccinate). Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 2491–321. Koos, Inc., 4500 13th Court, Kenosha WI 53140. ACE LAWN FOOD WITH WEED CONTROL 22–4–8. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 0.17%; Dimethylamine salt of 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.55%; Dimethylamine salt of Dicamba (2,6-dichloro-o-anisic acid) 0.07%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1381–78. Land O'Lakes, Inc., 2827 8th Avenue South, Fort Dodge IA 50501. GARDEN WEED PREVENTER WETTABLE POWDER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1381–71. Land O'Lakes, Inc. LAND O'LAKES FELCO 2,4-D WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 94.62%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1381–26. Land O'Lakes, Inc. LOW VOLATILE ESTER LV400 LAND O'LAKES FELCO 2,4-D WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid. 69.7%. Method of Support: Aplication proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–310. Lebanon Chemical Corporation, P.O. Box 180, Lebanon PA 17042. LEBANON 1–2–3. Active Ingredients: Dimethyl Tetrachloroterephthalate 4.87%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802–505. The Chas. H. Lilly Co., 7737 N.E. Killingsworth, Portland OR 97218. LILLY'S SUPER RICH FEED & WEED. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.25%; 2-(2-methyl-4-chlorophenoxy) propionic acid 0.15%; Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 0.09%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 746–43. Manufactured for MFA Oil, P.O. Box 519, Columbia MO 65201. NO. 6 WEED KILL (BUTYL ESTER 2,4-D). Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic acid 77.48%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 359–238. Rhodia Inc. Agricultural Div., P.O. Box 125, Monmouth Junction NJ 08852. 2,4-BUTYL ESTER 4E. Active Ingredients: Butyl ester of 2,4-dichlorophenoxyacetic acid 59.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23.

EPA Reg. No. 228–99. Riverdale Chemical Co., 220 E. 17th St., Chicago Hts IL 60411. 10% DACTHAL GRANULES. Active Ingredients: Dimethyl ester of tetrachlorotrephthalic acid 10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 572–194. Rockland Chemical Co., Inc., P.O. Box 809, West Caldwell NJ 07006. LAWN-A-MAGIC "D-WEED-R". Active Ingredient: Butoxy propyl ester of 2,4-dichlorophenoxyacetic acid 73.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1159–154. Seacoast Laboratories, Inc., 257 Hwy. 18, P.O. Box 157, East Brunswick NJ 08816. TWIN LIGHT CRABGRASS PREVENTER. Active Ingredient: Dimethyl Tetrachloroterephthalate 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1674–RE. M.D. Stetson Co., 168 "A" St., Boston MA 02210. STETCO IMPACT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethyl-benzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 557–1768. Swift Agricultural Chemical Corp., 111 W. Jackson Blvd, Chicago IL 60604. GOLDEN VIGORO 18–4–8 LAWN FERTILIZER AND WEED CONTROL. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.10%; Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 0.18%; Dimethylamine salts of related acids 0.02%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 567–1735. Swift Agricultural Chemcial Corp. DEEP GREEN VIGORO 23–3–7 LAWN FERTILIZER & WEED CONTROL. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.38%; Dimethylamine salt of dicamba 3,6-dichloro-o-anisic acid) 0.22%; Dimethylamine salts of related acids 0.03%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 226–156. Tobacco States Chemical Co., Inc., P.O. Box 479, Lexington KY 40501. TOBACCO STATES BRAND ESTER 410 CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, Isooctyl Ester 67.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1023–19. Tuco Div. of the Upjohn Co., 7171 Portage Rd., Kalamazoo MI 49001. BOTRAN 8% DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–42. Tuco Div. of the Upjohn Co. BOTRAN 4% DUST. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–41. Tuco Div. of the Upjohn Co. BOTRAN 10% DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–40. Tuco Div. of the Upjohn Co. BOTRAN 15% DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–39. Tuco Div. of the Upjohn Co. BOTRAN 12% DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 12%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–35. Tuco Div. of the Upjohn Co. BOTRAN 6% DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 168–492. Wasatch Chemical Div., 1979 South Seventh West, P.O. Box 6219, Salt Lake City UT 84106. MORGRO WEED & FEED. Active Ingredients: 2,4-dichloro-phenoxyacetic acid 0.73%; 2-(2-methyl-4-chlorophenoxy) propionic acid 0.31%; Dicamba (3,6-dichloro-o-anistic acid) 0.06%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 1270–ENA. Zep Manufacturing Co., Div. of National Service Industries, Inc., Atlanta GA 30301. ZEP X–2176. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 10.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

[FR Doc.76–25486 Filed 8–30–76;8:45 am]

[FRL 601–2]

STATE OF CALIFORNIA

Approval of State Implementation Plans; Time Extension

Correction

In FR Doc. 76–24090, appearing on page 34814 in the issue of Tuesday, August 17, 1976, the last line of the text reading "commence on or before October 18, 1976." should read "end on or before October 18, 1976.".

[FRL 608–8; OPP–42030]

TERRITORY OF GUAM

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Ricardo J. Bordallo, Governor of the Territory of Guam has submitted a Territory of Guam State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending enactment of legislation which has been proposed, and promulgation of regulations implementing this new legislation. Copies of the proposed legislation and a description of regulations to be promulgated are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA Region IX, to approve this plan on a contingency basis.

A summary of this plan follows. The entire plan, together with all attached appendices (except sample examinations), may be examined during normal business hours at the following locations:

Guam, Environmental Protection Agency Post Office Box 2999, Agana, Guam. 96910, (646–8863/64/65).

Room 360, 100 California Street, San Francisco, CA 94111 (Pesticides Branch, Air & Hazardous Materials Control Division, EPA Region IX, (415) 556–3352).

Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, (202) 755–4854).

SUMMARY OF TERRITORY OF GUAM STATE PLAN

The Guam Environmental Protection Agency (GEPA) has been designated as the Territorial lead agency for the Administration, implementation, coordination and enforcement of the pesticide applicator certification program.

A cooperating agency in the certification program includes the College of Agriculture and Life Sciences, Cooperative Extension Service, University of Guam. The Cooperative Extension Service, in cooperation with GEPA, will prepare a training program for pesticide applicators and oral and auto-tutorial reinforced learning programs for private applicators.

Legal authority for the program is contained in the Guam Pesticides Act of 1975 (proposed legislation). Anticipated date of passage is December, 1976, with final regulations promulgated by June, 1977.

The plan indicates that the Territorial lead agency and cooperating agency will have sufficient qualified personnel and funds necessary to carry out the proposed programs. The GEPA has been awarded an EPA grant for Fiscal Year 1976 in the amount of $39,200 to support certification programs. The University of Guam, College of Agriculture and Life Sciences under the USDA/EPA Cooperative Agreement is scheduled to receive in Fiscal Year 1976 $26,276 to support training programs for commercial and private applicators.

The GEPA estimates that 81 commercial and approximately 100 private applicators will need to be certified. Wallet size identification certificates containing information relating to the type of certification received and its duration will be furnished all applicators, to present to the dealer at the time of restricted use pesticide purchase.

The Territorial lead agency will submit an annual report to EPA by January 1 of each year and any special reports as required by the Administrator.

The commercial categories proposed are those which are listed in 40 CFR 171.3. The lead agency has proposed to utilize seven out of the ten categories listed in 40 CFR 171.3. No new categories are proposed. The categories not to be used in Guam are as follows:

(4) Seed Treatment,
(5) Aquatic Pest Control and,
(10) Demonstration and Research Pest control.

Due to particular agricultural and other pest control operations in Guam the lead agency feels that the three categories listed above will not be needed at this time.

The Territory of Guam plans to certify commercial applicators by means of a written examination that will cover both the Federal general standards or "core" materials and the specific standards as required by 40 CFR 171.4 and 171.6.

Under the authority of Guam Executive Order 75–29 the Territory of Guam has instituted an interim certification program to train commercial applicators in the general standards of competency to allow for partial control of the use of restricted use pesticides until the University of Guam training program in pesticides is available. Under the interim certification program commercial applicators attended a short training course held at the University of Guam and were given a written examination covering specific pesticides being used in Guam and general pesticide safety measures for storing, using, or disposing of pesticides.

For full certification applicators will attend training sessions conducted by the Extension Service. A written examination will be given at the training session and will cover Federal standards 40 CFR 171.4 and 171.6. The EPA core manuals and specific category manuals covering these standards will be utilized by the Extension Service. Information about the courses and examinations may be obtained from Cooperative Extension agents and the Guam Environmental Protection Agency.

Private applicators will be certified by one of two principal certification methods to be utilized in Guam. The Cooperative Extension agents will provide short courses based on the U.S. EPA private

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applicator manual which covers the requirements of 40 CFR 171.5(a) and 171.6. The Extension agents will ask review questions and the applicators will respond to these questions on the application for certification forms. The Extension agent will reinforce the learning of the applicator by reviewing and discussing the answers with the applicator. The applicant will correct any wrong responses. This is not intended as an examination, but as a review with reinforced learning to insure participation by the applicator in the training activity. When the application is signed by the Extension agent it will be sent to GEPA for approval and issuance of certificate.

Depending on the availability of funds, an auto-tutorial system may also be offered. A film-strip or slides together with a tape based on the EPA private applicator manual will be presented in the Extension Service office. The applicant will be given review questions to answer on his application form, and will be provided with the answers for correcting his own paper. The Extension agent will sign the application form indicating that the applicant was present, and successfully completed the training program.

Applicators with poor reading comprehension may have someone else read the EPA manual to them, and then take an oral examination given by the Extension Service. Alternatively, they may be tutored by the Extension agent with subsequent discussion of the review questions. Certification issued in this manner will be limited to the specific product for which the applicant is being questioned.

The Territory of Guam State plan indicates that applicators who cannot read pesticide labels will not be allowed to apply restricted use pesticides.

Sample examination questions from the interim certification program are attached to the Guam Plan. The examinations and review questions used in the formal certification program will be submitted to EPA at a later date for evaluation. To preserve the confidentiality of the examination, the Territory of Guam has requested that EPA not make any examinations available for public inspection.

The Territory of Guam State plan also indicates that within sixty days of the final approval of the Government Agency Plan (GAP) by EPA, a statement concerning the acceptance of GAP qualified Federal employees will be forwarded for inclusion in the Guam plan.

Territorial plans for the Trust Territory of the Pacific Islands are not sufficiently developed to properly address the issue of reciprocity; when such are developed Guam will give favorable consideration to the development of reciprocal agreements.

Other regulatory activities listed in the Guam plan which will supplement the Guam certification program are pesticide registration, inspection, and sampling of pesticide products. Under the proposed legislation, dealers handling restricted use pesticides will be licensed. Until enactment of proposed pesticide legislation, Guam has instituted an interim dealer licensing program that took effect on August 1, 1975.

Certified applicators will be required to renew their certificates annually. Although GEPA has not finally decided the method they will utilize for recertification, the Territory of Guam State plan indicates that two recertification options are being considered: re-examination without formal training, or a minimum of three hours training to be completed within the year before certification expires.

Enforcement of the Guam certification program will be carried out by an Environmental Health Specialist II. A regular program of monitoring will be performed and includes such activities as verification of the applicator's credential, review of the product label to assure use compliance, checks on the use of proper safety equipment, and observation of application of pesticides. Product sampling will also be undertaken. Follow-up reports on suspected violations encountered during the regular monitoring program will be considered for enforcement action by GEPA.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State plan for the Territory of Guam to the Chief, Pesticides Branch, Air and Hazardous Materials Division, Region IX, Environmental Protection Agency, Room 360, 100 California Street, San Francisco, California 94111. The comments must be received on or before September 30, 1976 and should bear the identifying notation (OPP-42030). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: July 28, 1976.

PAUL DEFALCO, JR.,
Regional Administrator,
Region IX.

[FR Doc.76-25484 Filed 8-30-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ADVISORY COMMITTEE ON GEOTHERMAL ENERGY

Meeting

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Advisory Committee on Geothermal Energy (ACGE) will hold its first meeting on Thursday, September 16, 1976, from 9 a.m. to 5 p.m., Suite 285, World Trade Center, 350 South Figueroa Street, Los Angeles, California. This meeting will be open to the public. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; to discuss and to provide advice on programs and approaches to effective government-industry cooperation in the development of geothermal energy. The tentative agenda for the meeting is as follows:

9:00 a.m.	Opening Remarks — Chairman ACGE, Carel Otte, and ERDA Representatives: J. C. Bresee, R. D. Thorne, F. Howe.
9:30 a.m.	Report on Actions of the Interagency Geothermal Advisory Council and Its Panels—ERDA Representative, J. C. Bresee; Federal Energy Administration, E. A. Kuhn.
10:30 a.m.	Review of Federal Geothermal Program Plans—ERDA Representative, M. N. Mansour.
11:30 a.m.	Status of Loan Guaranty Program — ERDA Representative, M. Silverman.
12:00 noon	Lunch.
1:30 p.m.	Summary of Commercial Activities—Committee Members.
3:00 p.m.	General Discussion of Government-Industry Cooperation—ERDA Representatives: J. C. Bresee, J. W. Salisbury, R. S. H. Toms, L. B. Werner. (a) Proposed Cost-Sharing Initiatives: 1. Role of Demonstration Plants. 2. Joint ERDA-Industry Reservoir Exploration and Assessment. (b) Alternate Cooperative Programs.
4:30 p.m.	Other business—Chairman ACGE, Carel Otte.
5:00 p.m.	Adjournment — Chairman ACGE, Carel Otte.

Practical considerations may dictate alterations in the above agenda or schedule.

The chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 10, 1976, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 14, 1976 to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on (202) 376-4843 between 8:30 a.m. and 5:00 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the Committee and ERDA officials assigned to participate with the Committee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W. Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee
Management Officer.

[FR Doc.76-25630 Filed 8-30-76;9:23 am]

FEDERAL ENERGY ADMINISTRATION

APPEALS AND APPLICATIONS FOR EXCEPTIONS

Cases Filed Week of August 13 Through August 20, 1976

Notice is hereby given that during the week of August 13 through August 20, 1976, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

AUGUST 25, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, Aug. 13 to Aug. 20, 1976*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 13, 1976	Arizona Fuels Corp., Salt Lake City, Utah (If granted: The FEA's July 16, 1976, decision and order would be rescinded and Arizona Fuels Corp. would be relieved of any obligation to purchase entitlements for the months of April through October 1976.)	FEA-0928	Appeal of the FEA's decision and order in Arizona Fuels Corp., 4 FEA par. ------ (July 16, 1976).
Do	R. M. Edwards, Tulsa, Okla. (If granted: The Oberle Lease wells located in Rice County, Kans. would be classified as stripper wells.)	FEE-2900	Price exception (sec. 212.74).
Do	Fred Goodstein, Casper, Wyo. (If granted: The crude oil produced from the Fred Goodstein Amoco Federal No. 1 well located in Crook County, Wyo., would be sold at upper-tier ceiling prices.)	FEE-2899	Do.
Do	Henry W. King, Childress, Tex. (If granted: The FEA's July 15, 1976, decision and order would be rescinded and crude oil produced from the Ackerly unit would be sold at upper-tier ceiling prices for the benefit of both the working interest owners and the royalty interest owners.)	FEA-0926	Appeal of the FEA's decision and order in Austral Oil Co., Inc., 4 FEA par. ------ (July 15, 1976).
Do	Redd Fuel Co., Inc., Boston, Mass. (If granted: The FEA's July 22, 1976, remedial order would be rescinded and Redd Oil Co. would not be required to refund any overcharges made in its sales of No. 2 heating oil.)	FEA-0927 FES-0927	Appeal of the FEA's remedial order dated July 22, 1976. Stay requested.
Do	Signal Petroleum, New Orleans, La. (If granted: Exception relief to permit Signal Petroleum to increase its prices for natural gas liquid products produced at the Lake Washington cycling plant to reflect nonproduct cost increases in excess of $0.005/gal. would be extended.)	FEE-2901	Extension of price relief granted in Signal Petroleum, 4 FEA par. ------ (July 19, 1976).
Aug. 16, 1976	Beacon Gasoline Co., Washington, D.C. (If granted: Exception relief to permit Beacon Gasoline Co. to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal. would be extended.)	FEE-2902	Extension of exception relief in Beacon Gasoline Co., 3 FEA par. 83,208 (June 7, 1976).
Do	National Helium Corp., Liberal, Kans. (If granted: National Helium Corp. would receive an extension of the exception relief granted on July 20, 1976, to permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2903	Extension of exception relief in National Helium Corp., 4 FEA par. ------ (July 20, 1976).
Aug. 18, 1976	Bryant Oil Co., Huntington Park, Calif. (If granted: Bryant Oil Co. would be assigned a new lower priced supplier of motor gasoline to replace its base period supplier, Tosco.)	FEE-2905	Exception to change supplier.
Do	Coline Gasoline Co., Washington, D.C. (If granted: Coline Gasoline Corp. would receive an extension of the exception relief granted on July 19, 1976, to permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2904	Extension of exception relief in Coline Gasoline Corp., 4 FEA par. ------ (July 19, 1976).
Do	Stone, Pigman, Walther, Wittmann & Hutchinson, New Orleans, La. (If granted: Stone, Pigman, Walther, Wittman & Hutchinson would receive access to portions of documents prepared in connection with a complaint against OKC Corp. filed with the FEA by Good Hope Refineries, Inc.)	FEA-0929	Appeal of the FEA's information request denial.
Aug. 19, 1976	Aminoil USA, Inc., Houston, Tex. (If granted: Aminoil USA, would receive an extension of the exception relief granted on July 30, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 for natural gas liquid products produced at its Aline, Fox, Huntington Beach, Inglewood, Taloga, and Tioga plants.)	FEE-2941—FEE-2946	Extension of exception relief in Aminoil USA, Inc., 4 FEA par. ------ (July 30, 1976).

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APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, Aug. 13 to Aug. 20, 1976*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 19, 1976...	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would receive an extension of the exception relief granted on July 13, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Covington, Crane, Dayton, Drumright, East Village Mills, Eldorado, Hull, Longview, Midland, Nueces River, Ojai Timber, Price, Riverton Dome, Seminole, Silsbee, South Hampton, Stevens-Calidon, and Taft.)	FEE-2906—FEE-2923	Extension of exception relief in Atlantic Richfield Co., 4 FEA par. ..... (July 13, 1976).
Do.....	Custom Oil Co., Inc., Garfield, N.J. (If granted: Custom Oil Co., Inc., would be assigned a new lower-priced supplier of motor gasoline to replace its base period suppliers, Ashland Oil Co., Allen Oil Co., Supreme Petroleum Co., and Tenneco Oil Co.)	FEE-2927	Exception to change supplier.
Do.....	Gary Operating Co., Englewood, Colo. (If granted: Gary Operating Co. would receive an extension of the exception relief granted on June 24, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Altonah and Bluebell gas processing plants.)	FEE-2925—FEE-2926	Extension of exception relief in Gary Operating Co., 3 FEA par. 83,241 (June 24, 1976).
Do.....	Newhall Refining Co., Inc., Newhall, Calif. (If granted: Newhall Refining Co., Inc.'s, entitlement purchase obligation for May 1976 would be reduced.)	FEA-0930	Appeal of the FEA's July 23, 1976 entitlement notice for May 1976.
Do.....	Sun Oil Co., Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the exception relief granted on July 7, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 for natural gas liquid product produced at its Burnell, Canales, Carney, Concho, Cowden, Dragon Trail, Heyser, Maurice, Mayfield, Mermentau, Peoria, Steedman, and Tonkawa plants.)	FEE-2928—FEE-2940	Extension of exception relief in Sun Oil Co., 3 FEA par. 83,269 (July 7, 1976).
Do.....	Superior Oil Co. (Rio Bravo), Houston, Tex. (If granted: Superior Oil Co. would receive an extension of the exception relief granted on June 7, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Rio Bravo plant.)	FEE-2924	Extension of exception relief in Superior Oil Co. 3 FEA par. 83,218 (June 7, 1976).

[FR Doc.76-25418 Filed 8-26-76;11:14 am]

APPEALS AND APPLICATIONS FOR EXCEPTIONS

Issuance of Decisions and Orders, Week of August 9 Through August 13, 1976

Notice is hereby given that during the week of August 9 through August 13, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

REQUESTS FOR EXCEPTION

City of Long Beach, Calif.; Long Beach, Calif.; FEE-2234; Crude Oil

The City of Long Beach, California (Long Beach) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D which, if granted, would permit Long Beach to sell the crude oil produced from Fault Block Units 2, 3, 4, and 5 located on the Wilmington Field at the upper tier ceiling price. In considering the City's contention that there was no economic incentive to continue to operate Fault Block Unit 2, the FEA noted that Long Beach had included in the financial projections for 1976 both a mining tax which it will not pay and production termination costs, which have no bearing on the City's economic incentive to continue production from the Unit. When these projected expenses were excluded, the FEA found that Long Beach's financial projections demonstrated that Unit 2 would generate a positive economic return until December 1976. However, the FEA concluded that since the production data indicated that the City would have no economic incentive to continue production after December 1976, the FEA would consider granting the City exception relief at that time if Long Beach could present additional data showing the Unit's actual operating results through September 1976. In denying without prejudice the City's exception application with respect to Units 3, 4, and 5 the FEA emphasized that Long Beach has projected that those Units will continue to generate economic profits for an even longer period of time than Unit 2. Thus, the FEA determined that it could not at this time determine if Units 3, 4, and 5 will actually incur losses in the months projected by Long Beach.

Great Southern Oil & Gas, Inc.; Lafayette, La.; FEE-2760; crude oil

Great Southern Oil & Gas Company, Inc. (Great Southern) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to Great Southern and would permit Great Southern to continue to sell a certain portion of the crude oil produced from the Elizabeth Longman No. 1 well (Longman well) at upper tier ceiling prices. See Great Southern Oil & Gas, Inc., 3 FEA Par. 83,124 (March 9, 1976). In considering the exception application, the FEA found that the Longman well was still incurring increased operating costs and the working interests continued to lack the incentive to produce crude oil from the property at the lower tier ceiling price. In view of this situation and on the basis of the operating data presented for the well for the previous six months, the FEA concluded that the working interest owners should be permitted to sell 100 percent of the crude oil produced from the well at upper tier ceiling prices in order to recover the increased operating costs.

J&W Refining, Inc.; Tucker, Tex.; FEE-2720; Crude Oil

J&W Refining, Inc. (J&W) filed an Application for Exception from the provisions of 10 CFR 211.67 (The Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. On June 10, 1976, J&W's entitlement obligations were stayed pending a determination of its exception request. In considering J&W's exception request, the FEA determined that J&W's operations have been conducted by a Receivor under Chapter XI of the Federal Bankruptcy Act since July 1975. The FEA further determined that although the firm's position under the Entitlements Program did not create its continuing financial difficulties, any entitlement purchases which the firm makes will reduce the amount of cash available to the firm to pay its outstanding debts. Moreover, J&W is currently experiencing a deficit in its working capital balance and even without entitlement purchase obligations during its current fiscal year ending March 31, 1977, it will continue to operate with an insufficient working capital balance. The FEA also found that a formal plan for repaying J&W's creditors would be delayed by the receivor until it was apprised of J&W's exact future obligation under the Entitlement's Program and consequently, without exception relief J&W would be operated by the receivor for a longer period of time. The FEA therefore determined that exception relief should be extended to the firm which relieved J&W of its entitlement purchase obligations during the firm's current fiscal year. The FEA also determined that J&W should be awarded sufficient entitlements for the months of August and September 1976 to enable it to satisfy its entitlement obligations for April and May 1976 which were stayed by the June 10, 1976 Order.

Laketon Asphalt Refining, Inc.; Evansville, Ind.; FEE-2558; Crude Oil

Laketon Asphalt Refining, Inc. (Laketon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The request, if granted, would have prospectively relieved the firm of any entitlement purchase obligations and retroactively relieved the firm of its obligation to purchase entitlements for its crude oil receipts, and runs to stills for the months of April and May 1976. In considering Laketon's exception request the FEA determined that Laketon's projected entitlements purchase obligations during the remainder of the firm's current fiscal year ending December 31, 1976 would cause it to realize profits which would be less than its historic profit margin and return on invested capital. Under the criteria set forth in Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA 83,209 (June 8, 1976), prospective exception relief was therefore appropriate. Accordingly, the FEA approved exception relief which relieved Laketon of its entitlements purchase obligations during the period August 1976 through January 1977. However, in considering Laketon's request for retroactive relief, the FEA determined that despite the ample notice which the FEA provided to firms such as Laketon to enable them to make timely filings for exception relief, Laketon failed to submit its exception application until July 12, 1976. Accordingly the FEA concluded that Laketon must make a very strong showing that it would be so adversely affected in the absence of exception relief for April and May 1976 as to result in severe and irreparable injury to the firm. Since the financial data submitted by Laketon indicated that the firm will have a positive cash flow for the quarter ending September 30, 1976, the FEA determined that Laketon had failed to make the requisite showing of severe and irreparable injury. Laketon's request for retroactive exception relief was therefore denied.

REQUESTS FOR STAY

Atlantic Richfield Co.; Los Angeles, Calif.; FES-0044; Assignment of Motor Gasoline Supplier

The Atlantic Richfield Company (Arco) requested a stay of a June 11, 1976 Decision and Order which granted the UCO Oil Company (UCO) exception relief, pending a determination on Arco's Appeal of that Decision. UCO Oil Company, 3 FEA Par. 83,219 (June 11, 1976). The June 11 Decision required the Regional Administrator of FEA Region IX to issue Assignment Orders directing appropriate firms to supply 10,279,566 gallons of motor gasoline to UCO during the months of June through August 1976. Accordingly on June 28, 1976, the Regional Administrator issued an Assignment Order to Arco directing the firm to supply UCO with 1,414,805 gallons of motor gasoline. In considering Arco's request for Stay, the FEA found that the firm had not submitted any information to demonstrate that the branded marketers which Arco supplies would experience any significant hardship as a result of the June 11 Exception Decision and the June 28 Assignment Order, or that the June 11 Decision erred in determining that the application or FEA regulations was causing UCO a serious financial hardship. The FEA therefore concluded that Arco had not shown a strong likelihood of success on the merits of its Appeal. Therefore the FEA denied Arco's request for a Stay.

Harris Enterprises, Inc.; Portland, Oreg.; FES-2820; Motor Gasoline

Harris Enterprises, Inc. (Harris) requested a stay of the provisions of 10 CFR 211.9 which if granted would result in the immediate assignment of a new supplier of motor gasoline to replace its base period suppliers: Aminoil Oil U.S. (Aminoil); Lion Oil Company (Lion); Powerine Oil Company (Powerine); and Mercury Oil Company (Mercury). Harris requested the stay pending a final determination on an Application for Exception which Harris submitted on the same date. In considering the Application for Stay the FEA determined that Harris had failed to meet the standards specified by Section 205.125(b) for the approval of a stay. In making this determination, the FEA found that the Harris submission did not even specify the overall weighted-average price which the firm was paying for motor gasoline and did not include a representative market sampling of its competitors' prices. Furthermore, Harris did not submit adequate documentation to support the firm's contention that it would be compelled to close certain of its retail outlets unless a stay were issued. In addition, the FEA found that the record in the proceeding indicated that approval of the stay could produce a severe disruption in the business activities of at least one of its base period suppliers. The Application for Stay was therefore denied.

SUPPLEMENTAL ORDERS

Little America Refining Co.; Evansville, Wyo.; FEX-0058; Crude Oil

On June 17, 1976 the FEA granted Little America Refining Company (Larco) exception relief which relieved the firm of any obligation to purchase entitlements under the provisions of 10 CFR 211.67 during June through November 1976. *Little America Ref. Co.*, 3 FEA Par. 83,227 (June 17, 1976). On July 19, 1976 the FEA informed Larco of its intention to rescind the exception relief granted in the June 17 Order regarding the firm's entitlement purchase obligations in September, October, and November 1976 on the ground that the factual basis underlying the approval of exception relief for those months has been considerably altered. In the present supplemental order, the FEA determined that on July 1, 1976 a Larco subsidiary had acquired certain assets of Pasco, Inc. which had tripled the firm's refining capacity and substantially changed the basis for its earlier projections of its crude oil runs to stills, receipts of old oil, and financial results during the period from July through September 1976. The FEA further noted that on August 2, 1976 Larco filed a new exception application and the firm's contention that it should not be required to purchase entitlements will be fully considered in that proceeding. However, the FEA determined that the filing of a new exception request did not justfy the continuation of the prior exception relief which had been approved on the basis of circumstances which have subsequently changed to a significant extent. The June 17 Order was therefore modified to revoke the exception relief for September through November 1976.

Pasco, Inc.; Denver Colo.; FEX-0057; Crude Oil

On June 18, 1976 the FEA granted Pasco, Inc. (Pasco) exception relief which reduced the firm's entitlement purchase obligation during June through November 1976 by $2,157,163 per month. *Pasco, Inc.*, 3 FEA Par. 83,232 (June 18, 1976). On July 21, 1976 the FEA informed Pasco of its intention to rescind the exception relief granted in the June 18 Order regarding the firm's entitlement purchase obligations in September, October, and November 1976 on the ground that the factual basis underlying the approval of exception relief with respect to those months no longer existed. In the present Supplemental Order the FEA determined that, as a result of Pasco's termination of its refining operation on July 1, 1976, the firm will not incur any obligation to purchase entitlements during the period from September through November 1976. The June 18 Order was therefore modified to revoke the exception relief for September through November 1976.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Hercules Petroleum Co., Inc.; Choudrant, La.; FEE-2702

PHD Corp.; Washington, D.C.; FEE-2568

Union Oil Co. of Calif.; Palatine, Ill.; FEE-2713

Zack's Gulf Service Station; Wilkes-Barre, Pa.; FEE-2766

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Dograffenreid's Store; Brumleg, Mo.; FEE-2711

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Kamur Industries, Inc.; Oakland, Calif.; FEE-2555

The following submission was dismissed on the grounds that the request is now moot:

Wheeling-Pittsburgh Steel Corp.; Wheeling, W. Va.; FEE-2846

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

AUGUST 25, 1976.

[FR Doc.76-25417 Filed 8-26-76;11:14 am]

PUBLIC FORUM ON COAL

Meeting

Notice is hereby given that a Public Forum on Coal will be held Monday, September 20, 1976, 9 a.m., Brown Palace Hotel, Grand Ballroom, 17th and Tremont Place, Denver, Colorado.

The one-day event will focus on the expanding role that coal will play in America's future. Top-level spokesmen for the Department of the Interior, the Environmental Protection Agency, State Energy agencies, utilities and public interest groups will discuss the issues facing coal development and utilization. About 4 hours will be provided for direct public participation.

The agenda for the meeting is as follows:

1. Keynote address.
2. Issues facing coal development—panel discussion and public discussion.
3. Luncheon.
4. Issues facing coal utilization—speech, panel discussion, and public discussion.
5. Open discussion.

The meeting is open to the public. The Program Chairman is empowered to conduct the meeting in a fashion that will, in his opinion, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Jackie Buckingham, Special Projects Coordinator, Energy Resource Development, at (202) 961-7681 at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda. Further information concerning the forum may be obtained from Mrs. Buckingham.

Transcripts of the proceedings will be made available for public inspection at the Federal Energy Administration.

Issued at Washington, D.C. on August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25419 Filed 8-26-76;11:14 am]

VOL 41 170 AUG 31 76 UMI

FEDERAL MARITIME COMMISSION

[Docket No. 76-32]

ARCTIC LIGHTERAGE CO.

Proposed Initial Tariff in the Western Alaska Trade; Modification of Order

The Commission instituted this proceeding on June 11, 1976, to determine the lawfulness of an initial joint FMC/ICC tariff filed by Arctic Lighterage Company (Arctic) which went into effect as scheduled on June 16, 1976. Arctic's Tariff FMC–F No. 1 provides lighterage rates between ship's anchorage and shore at Nome and Kotzebue, Alaska and commodity rates between ship's anchorage and shore at Nome and Kotzebue and various coastal points in Alaska on the Bering Sea and Arctic Ocean.

In view of the overriding public interest in providing immediate and full service to the western Alaskan points in the trade and notwithstanding its investigation of Arctic's proposed initial tariff, the Commission determined not to suspend that tariff but rather allowed it to go into effect as scheduled. Moreover, in order to take advantage of the financial and revenue data accumulated during the 1976 operating season, the Commission waived Rule 12(a) of the Commission's Rules of Practice and Procedure and postponed the commencement of discovery until the close of Arctic's 1976 operating season in the trade. The Commission likewise waived Rule 5(a) of its Rules requiring that hearings shall commence no later than six months from the date of publication of the Commission's Order in the FEDERAL REGISTER.

On July 12, 1976, attorneys for the twenty-two (22) Complainants[1] in the proceeding filed a Petition for Reconsideration and Modification of our June 11th Order to the extent that it,

"(1) waives two fundamental requirements of the Rules of Practice and Procedure pertaining to the commencement of discovery and oral hearing in a timely and expeditious manner; (2) fails to require Arctic to make prompt refund, without a further proceeding, of any increase charges in excess of those determined in the subject case to be just, reasonable and lawful; and (3) fails to require respondent to submit directly to complainants at the end of each month of the 1976 operating season true copies of all freight bills or billings for all services performed under its initial tariff, F.M.C.–F No. 1.

Specifically, with respect to Item 1 above, Complainants urge the Commission to modify its Order to provide for: (1) the immediate commencement and conclusion of discovery; (2) the prompt scheduling of a prehearing conference at the request of any party before or after completion of discovery; and (3) a hearing promptly upon completion of discovery.

Arctic in its reply argues that as a new carrier it has no operating results to be examined and therefore no useful purpose would be served by requiring discovery prior to the close of the 1976 operating season.

Arctic does agree that the proceeding should be expedited and suggests that a hearing be held as soon as the results of its operations are available following the close of the current navigation season. In this regard, Arctic further suggests that following the submission of briefs the Commission proceed directly to a determination of the case, foregoing the issuance of an initial decision and oral argument before the Commission.

With respect to Complainants' request that Arctic keep an accounting of all freight monies received and make a refund of all increased charges if they should be found to be in excess of those determined after investigation to be just, reasonable and lawful, Arctic takes the position that the Commission lacks the authority to prescribe such an accounting and refund procedure.

Arctic is also opposed to any procedure which would require any disclosure to Complainants of freight bills or billing services performed under its initial tariff, on the grounds that such disclosure would be inconsistent with the statutory provisions of confidentiality set forth in section 20 of the Shipping Act, 1916. Arctic argues that section 20 of the Act makes it unlawful for a carrier to disclose such information to anyone other than the shipper or consignee without such shipper's/consignee's consent because it might be used to the detriment or prejudice of such shipper or consignee or improperly disclose his business transactions to a competitor.

Hearing Counsel support Complainants' position with respect to the commencement and completion of discovery. Hearing Counsel are of the opinion that commencement of the primary phase of discovery prior to the end of the 1976 operating season would not hinder the Commission's effort to accumulate and analyze the financial data required to be submitted by Arctic and would expedite the hearing process by permitting all parties to obtain the basic information necessary to resolve the issues in this proceeding.

However, Hearing Counsel believe that adequate time must be given to the staff after receipt of all the required financial data from Arctic to enable it to fully examine and ascertain what the data reflects with respect to Arctic's service in the trade. Therefore, while they concur in Complainants' request that a prehearing conference be held at the request of any party before or after completion of discovery, they also believe that a hearing date can only be determined after consultations between the Presiding Officer and all the parties as to a reasonable and realistic date.

Hearing Counsel support Arctic's argument that the Commission lacks authority to include any provision for the accounting and refund of transportation charges in its Order of Investigation and Hearing and argues that, absent the filing of a complaint setting forth violations of the Shipping Act and a request for reparation for any injury or damage caused thereby, the Commission is powerless to award reparations.[2]

Finally, Hearing Counsel oppose Complainants' request to obtain copies of all freight bills and billings for Arctic's 1976 operating season. They submit that the proper method for obtaining the documents is through the Commission's discovery procedures and that the privilege of confidentiality, if asserted by Arctic, can be made directly to the Presiding Officer.

We have reviewed the various arguments with respect to Complainants' Petition and are of the opinion that certain modifications to our original June 11th Order are warranted.

First, we will allow discovery to commence immediately. While we believe that meaningful discovery cannot be completed prior to the close of Arctic's 1976 season, commencement of discovery at this time will enable the parties to obtain certain basic information necessary in the proceeding.

Second, while we agree with Complainants that hearings should commence "promptly upon completion of discovery," Hearing Counsel's concern that the staff be afforded sufficient time to review the financial data is well taken. Therefore, we are adopting both Compainants' request that a prehearing conference be held at the request of any party before or after completion of discovery and Hearing Counsel's suggestion that the Presiding Officer, after consultation with all parties at the prehearing conference, set the date for the commencement of the hearing, which should be as soon as possible after completion of discovery. We see no purpose to be served by foregoing the issuance of an initial decision nor do we see any reason to decide, at least at this time, that oral argument before the Commission in this proceeding should be dispensed with.

Third, with respect to Arctic furnishing to Complainants' counsel copies of all freight bills or billings for all services performed, it is our opinion that any determination as to the nature and extent of the material to be furnished should be left to the Presiding Officer, who can make any necessary rulings on the question of confidentiality.

Finally, we are denying Complainants' request that Arctic be directed "to keep accurate account of all monies received by reason of the increased rates permitted to go into effect prior to investigation and make prompt refund of the increased charges in excess of those determined, after investigation to be just, reasonable and lawful." The imposition of a refund requirement is beyond our statutory authority. In the past where accounting and refund provisions have been included in a rate investigation order it has been with the specific concurrence of the carrier involved. General Increases in Alaskan Rates and Charges, 7 F.M.C. 563, 565–66 (1963). While the Interstate Commerce Commission has the express authority to order refunds under section 15(7) of the Interstate Commerce Act, no such provision is contained in either the Shipping Act, 1916 or the Intercoastal Shipping Act of 1933. The absence of any specific authority in our regulatory statutes would appear to preclude our providing for refunds in this proceeding. Complainants' recourse would be to file a complaint under section 22 seeking reparations.

We see no need to pursue the issue whether Arctic should be directed to keep an accounting of funds. Without the refund requirement such as accounting for all shipments possibly affected by the rate increase would be burdensome and serve little purpose.

Therefore, it is ordered, That our June 11, 1976, Order of Investigation and Hearing in Docket No. 76–32 is modified by deleting, in its entirety, the eighth ordering paragraph pertaining to the waiver of Rule 12(a) of the Commission's Rules of Practice and Procedure.

It is further ordered, That prehearing may be held at the request of any party before or after completion of discovery with the date for commencement of hearing to be established by the Administrative Law Judge.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76–25475 Filed 8–30–76;8:45 am]

[1] Complainants are as follows:

Alaska Cab Garage
Alaska Gold Company
Alaska Native Industries Cooperative Association, Inc.
Alaska Village Electric Cooperative, Inc.
Bering Sea Saloon
Bering Straits Native Corporation
Bering Straits Regional Housing Authority
Board of Trade Saloon
Breakers Bar
Central Contsruction Company
City of Nome
Pagerstrom ENT, Inc.
Hanson Trading Company
Maynard McDougal Hospital
NANA Construction Company
NANA Regional Corporation, Inc.
June Nelson—Board of Northwest Regional Schools
Nome Business Ventures
Don Perkins—Perkins Rental
Riddell Garage
Sitnasuak Native Corporation
Tupic Building Supply

[2] Alaska Steamship Co.—General Increases in Rates in the Peninsula and Bering Sea Areas of Alaska; Northern Commercial Co. River Lines—General Increase in Rates in the Yukon River Area of Alaska, FMC Nos. 969/1067, 8 FMC 1. (1964)

FEDERAL POWER COMMISSION

[Project No. 2146]

ALABAMA POWER CO.

Application for Approval of Revised Exhibit R

AUGUST 24, 1976.

Public notice is hereby given that an application was filed on October 6, 1975, under the Federal Power Act (16 U.S.C. 791a–825r) by the Alabama Power Company (Correspondence to: Mr. Jesse S. Vogtle, Senior Vice President, Alabama Power Company, P.O. Box 2641, 600 North 18th Street, Birmingham, Alabama 35291) for approval of a revised Exhibit R for the constructed Coosa River Project No. 2146, located on the Coosa River, in Cherokee, Saint Clair, Etowah, Talladega, Chilton, Shelby, Coosa, Calhoun, and Elmore Counties, Alabama, and Floyd County, Georgia, near the cities and towns of Gadsden, Attalla, Anniston, Talladega, Montgomery, Sylacauga, Pell City, Wetumpka, Cedar Bluff, Centre, Childersburg, and Clanton, all in Alabama.

Applicant filed the revised Exhibit R in compliance with provisions of the license for Coosa River Project No. 2146. The existing and proposed recreational facilities are hereinafter described for each hydroelectric development comprising the project:

WEISS RESERVOIR

A fifteen acre tract near the tailrace, including the existing fishing pier and parking area, would be developed for use as a park. Weiss-Cherokee County, Causeway Park, a Company-owned tract located two miles south of Cedar Bluff, now includes a state-run boat launching ramp, with further development being contemplated by the County. The Town of Cedar Bluff is currently considering, with Applicant's technical assistance, development of a 12-acre park to provide picnicking and bathing facilities. The Town of Gaylesville has leased a tract of land from Applicant for development of a park and boat launching facilities. Applicant states that 27 recreational areas currently exist at the Weiss Reservoir, offering a total of 24 boat launching facilities, 15 bathing areas, 15 picnic areas, and camping areas.

H. NEELY HENRY RESERVOIR

Etowah County proposes to develop a 39-acre park on Applicant's land approximately 3.5 miles east of Gadsden (Tillison Bend) to include picnic facilities in addition to the existing boat launching facilities. Applicant states that 21 recreational areas currently exist at the H. Neely Henry Reservoir, offering a total of 23 boat launching ramps, four bathing areas, six picnic areas and five camping areas. The principal existing recreational facilities include a 20-acre park operated by the City of Gadsden and a 28-unit camping area near H. Neely Henry Dam.

LOGAN MARTIN RESERVOIR

Applicant has provided a fishing platform below the dam and proposes to develop an adjacent picnic area. Applicant also proposes to make available for development a 36-acre tract near the dam suitable for camping, swimming, and picnicking. Applicant states that a total of 39 recreational areas currently exist at the Logan Martin Reservoir, offering 38 boat launching ramps, 28 bathing areas, 19 picnic areas, and 15 camping areas.

LAY RESERVOIR

A 100-acre tract near Beeswax Creek, encompassing the existing State-operated boat launching facility, would be developed to include camping, picnicking, and swimming facilities. Applicant has reserved land at two sites (Peckerwood Creek and Talladega Springs) for the development of boat launching and picknicking facilities. Applicant states that 32 recreational areas currently exist at the Lay Reservoir offering a total of 28 boat launching ramps, 11 bathing areas, six picnic areas, and ten camping areas. The principal existing recreational facilities include the Lay-Shelby County Park, the recreational facilities developed by the State and Talladega County on Company-owned land at Glovers Point, three miles northeast of the dam, and the boat launching ramp developed by the State and Coosa County on Company-owned land at Paint Creek, where Applicant has set aside additional space for picnic facilities.

WALTER BOULDIN RESERVOIR

Applicant considers the physical characteristics of the shoreline at this development to be incompatible with any more than casual or limited recreational use. Prior to the 1975 failure of the dam, Applicant maintained and operated a visitors center with tours of the power plant. Applicant states that this activity will resume when the dam is returned to service.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 12, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 C.F.R. 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. The apllcant has requested that the shortened procedure provided for under Section 1.32(b) be used. If an issue of

VOL 41 NO 170 AUG 31 76 UM

substance is raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25451 Filed 8-30-76;8:45 am]

[Docket No. CP76-85]

ALGONQUIN GAS TRANSMISSION CO. AND TEXAS EASTERN TRANSMISSION CORP.

Motion

AUGUST 24, 1976.

Take notice that on July 6, 1976,[1] Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP76-85 a motion for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing a continuation of the exchange, transportation, and delivery of certain quantities of gas to The Brooklyn Union Gas Company (Brooklyn Union) through October 31, 1976, subject to the condition that the Commission approves the settlement of the Algonquin exchange-transportation charge in accordance with the settlement agreement (settlement) which was filed with the Presiding Judge herein for certification to the Commission on July 1, 1976, all as more fully set forth in the subject motion which is on file with the Commission and open to public inspection.

It is stated that on September 12, 1975, Algonquin and Texas Eastern filed in the subject docket an application pursuant to section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the transportation-exchange of natural gas for the benefit of Brooklyn Union during the period commencing November 1, 1975, and ending April 30, 1976. It is further stated that on November 10, 1975, Algonquin and Texas Eastern were granted a temporary certificate authorizing the services in the manner set forth in the application, upon the condition that Algonquin's charge for service rendered thereunder be collected subject to refund pending further Commission action. The proceeding was set for formal hearing and hearings were held on January 27, 28, and March 16, 1976, it is indicated. Algonquin and Texas Eastern state that subsequent to completion of hearings, a settlement was negotiated proposing a basis for resolving the Algonquin exchange-transportation charge issue.

Accordingly, subject to Commission approval of the settlement, Algonquin and Texas Eastern seek herein a permanent certificate to authorize the continuation of service for the benefit of Brooklyn Union for the term ending October 31, 1976. It is asserted that the affected parties (Algonquin, Boston Gas Company (Boston Gas), Brooklyn Union, and Texas Eastern) have entered into an arrangement reflected in a pro forma copy of the "Extension To Temporary Exchange-Transportation Agreement" (Extension Agreement) attached as an exhibit to the subject motion. It is indicated that the Extension Agreement has been entered into because the gas to be transported and delivered thereunder is required by Brooklyn Union: (1) To assure its ability to meet the requirements of existing firm customers; (2) to assist it in achieving the fullest and best possible use of available storage capacity; (3) to reduce, to the extent possible, its need for higher cost supplemental supplies; and (4) to mitigate, to the extent possible, current curtailments of human need requirements. It is submitted that deliveries under the extension are anticipated not to exceed 30 billion Btu's per day from July 1, 1976, through October 31, 1976.

It is indicated that the effectiveness of the Extension Agreement is further subject to Distrigas of Massachusetts Corporation's and Distrigas Corporation's having obtained all requisite authorizations for the sale to Brooklyn Union of the quantities of LNG which are the subject of the Extension Agreement, and additionally, the effectiveness of said Extension Agreement is subject to Brooklyn Union's and Boston Gas' having obtained all requisite regulatory authorizations required for the exchange and transportation of gas.

Any person desiring to be heard or to make any protest with reference to said motion should on or before September 22, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commmission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this motion if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or of the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25452 Filed 8-30-76;8:45 am]

[Docket No. RP76-10 (PGA76-2)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

AUGUST 23, 1976.

Take notice that on July 22, 1976, Arkansas Louisiana Gas Company tendered for filing in Docket RP76-10 (PGA76-2) Second Substitute Fourth Revised Sheet No. 185 in its Rate Schedule X-26, FPC Gas Tariff Original Volume No. 3. This revised tariff sheet is to become effective as of May 1, 1976.

The proposed tariff sheet is being filed to reflect the change agreed to in the settlement conference between Arkla and the FPC Staff on July 13, 1976, concerning the base cost of gas in Docket No. RP76-10 (PGA76-1) effective November 2, 1975.

The company states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25448 Filed 8-30-76;8:45 am]

[Docket No. RP76-10 (PGA76-3)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

AUGUST 23, 1976.

Take notice that on July 22, 1976, Arkansas Louisiana Gas Company tendered for filing in Docket RP76-10 (PGA76-3) Substitute Fifth Revised Sheet No. 185 in its Rate Schedule X-26, FPC Gas Tariff Original Volume No. 3. This tariff sheet is to become effective on July 1, 1976.

The proposed tariff sheet is being filed to reflect the change agreed to in the settlement conference between Arkla and the FPC Staff on July 13, 1976, concerning the base cost of gas in Docket No. RP76-10 (PGA76-1) effective November 2, 1975.

The company states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25449 Filed 8-30-76;8:45 am]

[Docket No. CP76-474]

COLUMBIA GAS TRANSMISSION CORP.

Application

AUGUST 24, 1976.

Take notice that on August 11, 1976, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP76-474 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of a portion of Applicant's Line 8059 in Randolph and Barbour Counties, West Virginia, and the service rendered therefrom, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon approximately 7.0 miles of 6-inch pipeline which is said to have been originally constructed in 1904 and consists primarily of bare iron pipe with no protection against corrosion. It is stated that the line was constructed to transport local production gas from the Buckhannon production area to the Elkins, West Virginia, market.

The application states that in 1950 Atlantic Seaboard Corporation, a predesessor of Applicant, placed in service a 26-inch high pressure transmission pipeline (B System) from West Virginia to the Washington-Baltimore market area. The B System is said to be located several miles south of the Elkins market area and to have become the principal supply source for that market, thereby replacing a function previously served by the portion of Line 8059 proposed to be abandoned. Further, it is stated, facilities have been constructed which connect the Buckhannon production area to the B System to permit the marketing of excess production by means of the B System. The latter interconnection would also serve as an alternate source to the Buckhannon market area at such time as local production becomes inadequate to maintain that market's requirements, the application states.

Applicant states that the proposed abandonment would result in discontinuance of service to an affiliate, Columbia Gas of West Virginia, Inc., at 19 points of delivery from which the latter serves 19 customers. The application indicates that Columbia Gas of West Virginia, Inc., has advised the customers that there is no reasonable alternative means for providing service and has offered cash payments to these customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25453 Filed 8-30-76;8:45 am]

[Docket No. CP61-92]

EL PASO NATURAL GAS CO.

Petition To Amend

AUGUST 24, 1976.

Take notice that on August 11, 1976, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP61-92 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act authorizing the exchange of natural gas with Northern Natural Gas Company (Northern), by which petition Petitioner requests authorization to exchange natural gas with Northern at an additional point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner proposes to deliver to Northern natural gas from the Campbell No. 1-B well in Hemphill County, Texas, in exchange for equivalent volumes to be delivered by Northern at an existing point of delivery. Petitioner states that both it and Northern are connected to the well and that as the result of a continuing decline in gas pressure from the well Petitioner can produce little or no gas into its system. Accordingly, Petitioner proposes to exchange gas from this well with Northern pursuant to Petitioner's Rate Schedule Z-1. It is estimated that 270,000 Mcf of remaining reserves are committed to Petitioner from the well which would be delivered at the rate of approximately 320 Mcf on an average day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25454 Filed 8-30-76;8:45 am]

[Docket No. ID-1786]

JOHN M. HAYNES

Supplemental Application

AUGUST 25, 1976.

Take notice that on July 26, 1976, John M. Haynes (Applicant), Vice President and Treasurer, Niagara Mohawk Power Corporation, Syracuse, New York, filed a supplemental application pursuant to section 305(b) of the Federal

[1] The motion was tendered for filing July 6, 1976; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 17, 1976. Thus, filing was not completed until the latter date.

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Power Act to hold the following positions:

Vice President and Treasurer, Niagara Mohawk Power Corp. (Niagara Mohawk), public utility.
Treasurer, Empire State Power Resources, Inc. (Empire State), public utility.
Treasurer and Director, Beebee Island Corp. (Beebee Island),[1] public utility.
Treasurer,[2] Moreau Manufacturing Corp. (Moreau),[3] public utility.

Empire State was formed by seven electric uitility companies in New York to construct, own and operate large-scale electric generating facilities within the State of New York. Substantially all of the energy generated will be sold to the sponsoring companies.

Beebee Island owns and operates a hydroelectric generating station located in Watertown, New York. Power generated by the Company is sold to Niagara Mohawk and Knowlton Brothers of Watertown.

Moreau owns and operates a hydroelectric generating station on the Hudson River at Moreau, New York. Power generated is sold to Niagara Mohawk and Finch, Pruyn & Company which owns 33⅓ percent of Moreau's common stock.

Niagara Mohawk furnishes electric and gas services to an area extending from the Pennsylvania line near Jamestown eastward to the Massachusetts boundary beyond Albany and north to the Canadian border. Within this area are 1,284,000 electric and 419,000 gas customers.

The application to hold an interlocking position as Treasurer of Empire State will be deferred at least until such time as a decision on the merits of the Empire State proposal is reached by the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25461 Filed 8-30-76;8:45 am]

[Docket No. CP71-274]

LONE STAR GATHERING CO. AND LONE STAR GAS CO.

Petition To Amend

AUGUST 25, 1976.

Take notice that on August 16, 1976, Lone Star Gathering Company (Petitioner), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP71-274 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to transport 55,000 in lieu of 45,000 Mcf of gas per day for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that by the order issued in the instant docket on February 9, 1973 (49 FPC 371), Petitioner is authorized to transport for Natural 34,332,995 Mcf of gas per year. Further, Petitioner states, the application for authorization in the instant docket contained a sample transportation agreement which showed a transportation contract demand of 55,000 Mcf of gas per day but the executed agreement on file with the Commission provides for a contract demand of 45,000 Mcf of gas per day. It is stated that the executed agreement contains a lower contract demand because of reduced delivery pressure on Natural's facilities and lower estimated availability of reserves from the Fashing Field in Atascosa County, Texas.

Petitioner states that Natural has acquired the right to purchase additional gas from the Fashing Field and has requested Petitioner to transport the gas. Accordingly, Petitioner proposes to transport for Natural from Gulf Oil Corporation's Warren Plant in the Fashing Field 34 miles to Natural's facilities in Atascosa County an additional contract demand of 10,000 Mcf of gas per day, for a total contract demand of 55,000 Mcf of gas per day, with no change in the annual volume of 34,332,995 Mcf of gas to be transported and with no need for additional facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 22, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25462 Filed 8-30-76;8:45 am]

[Docket No. ER76-539]

MISSOURI POWER & LIGHT CO.

Renotice of Filing of Proposed Settlement

AUGUST 24, 1976.

Take notice that on May 27, 1976, Missouri Power & Light Company (MPL) submitted a proposed settlement of all issues in this docket. MPL states that the proposed settlement would increase its rates for wholesale municipal customers by $80,647, resulting in $993,106 in total annual revenues from such customers. MPL further states that the Cities of Perry and Owensville, Missouri, will not be affected by the rate increase until such time as MPL is no longer contractually precluded from increasing the cities' rates.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 15, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25455 Filed 8-30-76;8:45 am]

[Docket No. CP74-64]

MOUNTAIN FUEL SUPPLY CO.

Petition To Amend

AUGUST 24, 1976.

Take notice that on August 5, 1976,[1] Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP74-64 a petition to amend the Commission's order issued February 11, 1976, in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing the enlargement of the dedicated area under the exchange agreement with Colorado Interstate Gas Company (CIG), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that the order of February 11, 1976, authorized an exchange of gas between Mountain Fuel and CIG and that in the original application it was noted that while the Spearhead Ranch Well No. 1 was the first producing well under the agreement, Mountain Fuel anticipated additional future development in the Anadarko-Fox area (since renamed the Spearhead Ranch area) in Converse County, Wyoming. Mountain Fuel requests authorization to enlarge the dedicated area under its Rate Schedule X-4 as set forth in Original Sheet No. 71-B and Second Revised Sheet No. 72 attached to the petition. Mountain Fuel indicates that four wells have been completed in the enlargement of the Spearhead Ranch Area and have been shut-in awaiting authorization. It is further stated that all of the production and gathering facilities necessary for producing these shut-in wells have been completed and that both Applicant and CIG are in need of this gas supply to offset declining supplies from existing sources of supply.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25456 Filed 8-30-76;8:45 am]

[Docket No. CP61-139]

NORTHERN NATURAL GAS CO.

Petition To Amend

AUGUST 25, 1976.

Take notice that on August 16, 1976, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP-61-139 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to exchange natural gas with El Paso Natural Gas Company (El Paso) at an additional point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner is authorized in the instant docket to exchange natural gas with El Paso. Petitioner states that both Petitioner and El Paso are connected to the Campbell No. 1-B well in Hemphill County, Texas, and that due to a recent decline in wellhead pressure relative to El Paso's gathering line pressure El Paso has been unable to receive gas owing to its dedicated interest. Accordingly, Petitioner proposes to receive El Paso's gas from the Campbell No. 1-B well and to add said well as an additional point of exchange between Petitioner and El Paso. The petition to amend states that there would be no increase in the authorized total daily exchange volume.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25463 Filed 8-30-76;8:45 am]

[Docket No. ER76-860]

PACIFIC POWER & LIGHT CO.

Initial Rate Filing

AUGUST 24, 1976.

Take notice that Pacific Power & Light Company (Pacific) on August 16, 1976, tendered for filing, in accordance with § 35.12 of the Commission's regulations, a new rate schedule providing for an exchange of services with Big Horn Rural Electric Company (Big Horn).

This rate schedule provides that Pacific will back up Big Horn 115/34.5 kv transformer at Nahne Jensen Transmission Substation located near Greybull, Wyoming, give up its present rights to all but 2,500 kilowatts in the United States Bureau of Reclamation Basin Substation for Big Horn's use, and pay Big Horn $4,400 annually for use of a section of Big Horn's distribution line. Big Horn grants Pacific the right to transfer up to ten megawatts from the Bureau 115 kv system through its Nahne Jensen Transmission Substation and distribution line to Pacific's system.

Pacific requests that the Commission permit this rate schedule to become effective September 16, 1976, which it claims is the date of commencement of service.

Copies of the filing were supplied to Big Horn Rural Electric Company, Basin, Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25457 Filed 8-30-76;8:45 am]

[Docket No. ER76-861]

PACIFIC POWER & LIGHT CO.

New Rate Schedule

AUGUST 24, 1976.

Take notice that Pacific Power & Light Company (Pacific) on August 16, 1976, tendered for filing, in accordance with § 35.12 of the Commission's regulations, a new rate schedule for power and energy sales to the Town of Torrington, Wyoming.

The proposed rate schedule is the same as Pacific's rate schedules for service to Cheyenne Light, Fuel and Power Company and Montana-Dakota Utilities Co. designated FPC Nos. 108 and 89 respectively. Torrington is taking service at Pacific's points of interconnection with the United States Bureau of Reclamation and is making transfer arrangements with the Bureau.

Pacific respectfully requests waiver of the Commission's notice requirements to permit the new rate schedule to become effective August 25, 1976, which it claims is the date of commencement of service.

A copy of this filing was supplied to the Town of Torrington, Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25458 Filed 8-30-76;8:45 am]

[Docket No. ER76-820]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Extension of Time

AUGUST 23, 1976.

On August 16, 1976, Grand River Dam Authority filed a motion to extend the date for filing a protest and petition to intervene, fixed by Notice issued August 10, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the date for filing a protest and petition to intervene in the above proceeding is extended to and including September 9, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25460 Filed 8-30-76;8:45 am]

[1] 82.78 percent owned by Niagara Mohawk.
[2] Elected to this position on May 13, 1976.
[3] 66.67 percent owned by Niagara Mohawk.

[1] The petition was tendered for filing August 5, 1976; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 20, 1976. Thus, filing was not completed until the latter date.

V 41 170 AUG 31 76 UMI

[Docket No. CP76-468]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 20, 1976

Take notice that on August 2, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-466 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing a transportation service for a two-year term for The Torrington Company (Torrington), an existing industrial customer of The City of Union, South Carolina (Union), one of the Applicant's resale customers, all as more fuly set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement, dated June 29, 1976, whereby Applicant has agreed to transport up to 250 Mcf of natural gas per day on an interruptible basis for Torrington. It is indicated that the gas to be transported by Applicant would be purchased from Glenda Petroleum Corporation (Glenda) from the Monroe Field, Union, Ouachita, and Morehouse Parishes, Louisiana, and would be consumed for Priority 2 uses and, to the extent served on an interruptible basis, Priority 3 uses at Torrington's Tyger River Plant in Union. It is further indicated that Torrington would arrange to have the gas delivered to United Gas Pipe Line Company (United) which would make equivalent quantities available to Applicant at a mutually agreeable existing authorized exchange point between the two companies and Applicant would redeliver the transportation volumes to the existing point of deliver to Union for the account of Torrington for delivery at Torrington's plant.

Applicant states that it would retain 3.8 percent of the volumes received for transportation as make-up for compressor fuel and line loss.

The application shows the following information submitted by Applicant:

1. Applicant proposes to transport up to 250 Mcf and 200 Mcf on a peak day and average day, respectively, and annual volumes of up to 71,400 Mcf.

2. Since the volumes to be transported under this and any similar transportation arrangements with customers of the distributors, when added to any volumes being transported for the distributors themselves and the distribution customers' scheduled daily deliveries, shall not exceed the contract entitlement of the distributors from Applicant, there exists sufficient pipeline capacity to perform the service on a peak day, average day and annual basis.

3. The proposed transportation service would have no impact on Applicant's ability to provide system-wide deliveries for Priority 1 markets.

4. The initial rate for the transportation service would be 22.0 cents per Mcf.

5. Applicant did not consider the subject natural gas supply to be available for purchase by it and did not attempt to purchase said gas.

The application shows that Torrington would pay Glenda $1.50 cents per million Btu's of gas purchased.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25446 Filed 8-30-76;8:45 am]

[Docket No. CP76-478]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

AUGUST 24, 1976.

Take notice that on August 13, 1976, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-478 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities offshore Texas and the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that in order to obtain additional supplies of natural gas for their systems from supply sources in adjoining blocks in the Brazos Area, South Addition, offshore Texas, they have agreed to construct jointly as co-owners a pipeline from the southern terminus of Transco's existing Central Texas Gathering System at Brazos Block A-76 to a point near the producer's platform in the Brazos Block A-105 Field where Natural will have a new source of supply available to it. It is stated that, although not proposed in the instant application, it is contemplated that the proposed pipeline would be extended in early 1978 from Block A-105 to the Brazos Block A-133 Field where Transco anticipates that it will have a significant new source of supply available to it.

The application states that the proposed facilities would be constructed and operated by Transco and would consist of approximately 6.66 miles of 20-inch pipeline and appurtenances. The facilities are estimated to cost $5,400,000, which would be shared, as would be ownership and capacity, two-thirds by Transco and one-third by Natural. The application states that financing initially would be by revolving credit, short-term loans, and available cash. It is stated that the costs of service of Applicants associated with the proposed facilities would be borne by Natural until Transco's gas comes on stream or two years from initial deliveries by Natural into the proposed block A-105 facilities, whichever occurs first. Subsequently, each Applicant would bear its own cost of service related to its ownership interest in the proposed facilities.

Applicants state that Natural has executed a gas purchase contract with Union Oil Company of California (Union) covering Union's interest in gas reserves underlying Brazos Blocks A-102 and A-105. It is estimated that initial deliveries from these reserves would be 25,000 Mcf per day. The application states that Transco has agreed to utilize its existing offshore pipeline system to transport Natural's gas onshore from the point of receipt in Block A-76 and to deliver equivalent quantities, less volumes attributable to line loss and processing, at an existing point of interconnection between Applicants at the La Gloria plant in Jim Wells County, Texas. The initial rate for the transportation service would be 6.8 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene, or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25459 Filed 8-30-76;8:45 am]

[Docket No. CP76-470]

UNITED GAS PIPE LINE CO.

Application

AUGUST 20, 1976.

Take notice that on August 6, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-470 an application pursuant to section 7(b) of the Natural Gas Act and §§ 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the 12-month period commencing October 1, 1976, direct sale service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25447 Filed 8-30-76;8:45 am]

[Docket No. RI76-142]

W. R. GRACE & CO.

Petition for Special Relief

AUGUST 24, 1976.

Take notice that on August 9, 1976, W. R. Grace & Co. through its subsidiary Teal Petroleum Company, 810 The Main Building, Houston, Texas filed a petition for special price relief in Docket No. RI76-142 pursuant to § 2.76 of the Commission's general policy and interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge $1.01 per Mcf for the sale of gas from the Seven Sisters Field, Duval County, Texas effective after completion of well reconditioning needed to restore them to full production. The gas from this field is sold to Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25460 Filed 8-30-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANCAL TRI-STATE CORP.

Order Granting Determination Under the Bank Holding Company Act

BanCal Tri-State Corporation, San Francisco, California ("Tri-State"), which proposes to transfer all of its legal and equitable stockholdings, as well as the stockholdings of The Bank of California, N.A., San Francisco, California ("Bank"), a subsidiary of Tri-State, in Bancal Capital Corporation ("Capital"), a small business investment company, to Oceanic Group, Inc., San Francisco, California ("Oceanic"), a joint venture between Overseas Technology, Inc. ("OTI"), (which is a subsidiary of Overseas Technology Investment Co., Inc., ("OTICI") a Japanese company owned by Industrial Bank of Japan, New Japan Securities Co., Central Glass Co., Toyo Soda Co., Ltd., Dai Nippon Securities and various individuals, all of which are either Japanese corporations or citizens) and Kibun California, Inc. ("KCI"), a subsidiary of Kibun Co., Ltd., ("Kibun") a Japanese corporation, has requested a determination, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), that Tri-State is not in fact capable of controlling Oceanic, notwithstanding the fact that the proposed sale agreement provides that a portion of the purchase price is to be paid by Oceanic in the form of a note, said note being secured by a pledge of the shares being sold.

Under the provisions of section 2(g)(3) of the Act, shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the the transferor is not in fact capable of controlling the transferee.

Notice of an opportunity for hearing with respect to Tri-State's request for a determination under section 2(g)(3) was published in the FEDERAL REGISTER on June 17, 1976 (41 FR 24630). The time

V41170 AUG 31 76 UMI

provided for requesting a hearing expired on July 9, 1976. No such request has been received by the Board, nor has any evidence been received to show that Tri-State is in fact capable of controlling Oceanic.

The aggregate amount of debt owed by Oceanic to Tri-State and its subsidiary bank does not constitute a substantial portion of the consolidated debt, consolidated assets or consolidated net worth of Kibun or the principal members of the consortium of corporations and individuals owning OTICI ("Consortium"). Kibun and the corporate members of Consortium are substantial, independent, publicly held corporations. There are no common directors, officers or owners between Tri-State and Oceanic. Although employees of Tri-State and its subsidiaries have been serving Capital as needed, this arrangement will terminate upon consummation of the proposed transaction. There have been no prior business transactions or relationships between Tri-State and Oceanic other than one investment by Capital that is associated with the proposed sale of Capital, and it appears that the proposed sale of Capital was negotiated at arm's length. The terms of the proposed contract of sale gives Tri-State no right to vote, transfer or sell the shares of Capital during the term of the indebtedness unless Oceanic should default on the indebtedness. The Executive Committee of the Board of Directors of Tri-State has passed a resolution to the effect that Tri-State does not, and will not attempt to, exercise a controlling influence over Oceanic and that Tri-State will immediately notify the Board should it exercise its rights to vote, transfer or sell the shares of Capital in the event of such a default or if Tri-State otherwise accomplishes a recision of the proposed transaction. The Board of Directors of Oceanic has passed a resolution to the effect that Tri-State is incapable of controlling Oceanic and that there will be no common directors or officers between Tri-State and Oceanic.

Based on these and other facts of record, it is hereby determined that Tri-State is not in fact capable of controlling Oceanic.

Accordingly it is ordered, That the request of Tri-State for a determination pursuant to section 2(g)(3) be and hereby is granted. Any material change in the facts or circumstances relied upon by the Board in making this determination or any material breach of any of the commitments upon which the Board based its decision could result in the Board reconsidering the determination made herein. In particular, this determination is conditioned upon Oceanic succeeding to the obligations, as well as the rights, of OTI under the Stock Purchase Agreement dated February 27, 1976 between OTI and the sellers of Capital.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), effective August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25388 Filed 8-30-76;8:45 am]

CCNB BANCSHARES CORP.

Formation of Bank Holding Company

CCNB Bancshares Corporation, Ozark, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of Christian County National Bank, Ozark, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25389 Filed 8-30-76;8:45 am]

FIRST FREEPORT CORP.

Formation of Bank Holding Company

First Freeport Corporation, Freeport, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger (to First National Bank of Freeport, Freeport, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 23, 1976.

Board of Governors of the Federal Reserve System, August 25, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25390 Filed 8-30-76;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Divestiture of Ownership of Real Estate

By Order dated September 5, 1973, the Board approved an application of First Tennessee National Corporation, Memphis, Tennessee ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, to acquire not less than 99 percent of the voting shares of Pence Mortgage Company, Louisville, Kentucky ("Company"). The Board's Order required divestiture of certain real property held for development by two of Company's subsidiaries within six months after consummation of the acquisition. The acquisition of Company by Applicant was consummated on October 1, 1973. By April 1, 1974, six months after consummation, Applicant had divested all of the property except one tract known as "Stray Winds." By letter dated August 1, 1974, Applicant requested that the Board grant an extension of time during which the remaining property would be divested. In view of the fact that Applicant demonstrated that it had made active efforts to sell the remaining tract of land and the fact that the sale of the tract had been hindered by economic conditions and natural forces in the form of a tornado, the Board granted Applicant's request. By Order dated August 28, 1974, the Board amended the Order of September 5, 1973, authorizing the retention of "Stray Winds" subject to the condition that such real property would be divested no later than 18 months after consummation of the proposal.

By letter dated June 17, 1975, Applicant requested that the Board extend the period for divestiture of the remaining property to December 31, 1975. Applicant indicated that active efforts to sell the property were continuing. By Amended Order dated July 22, 1975, the Board granted this second extension of time to divest "Stray Winds."

On December 26, 1975, Applicant wrote to the Board indicating that the divestiture of "Stray Winds" had still not been accomplished, despite continuous efforts to sell or donate the property. In this letter, Applicant requested an additional six-month extension in which to divest "Stray Winds." In connection with this request, Board staff undertook a detailed examination of the efforts Applicant had undertaken to divest "Stray Winds." After meeting with Board staff, Applicant proposed by letter of June 25, 1976, a plan whereby it remaining ownership interest in "Stray Winds" would be offered for sale at auction or otherwise disposed of before or by the end of 1976. In presenting to the Board a detailed plan of divestiture, Applicant amended its request for a six-month extension of time to divest by requesting an extension of time until December 31, 1976 to dispose of this property.

After examining the divestiture plan proposed by Applicant, the Board has concluded that the request should be granted. Accordingly, the Board's Order of July 22, 1975 is hereby amended to authorize retention of the remaining tract of land known as "Stray Winds," subject to the condition that Applicant divest such real property at the earliest possible date, but in no event later than December 31, 1976.

By order of the Board of Governors,[1] effective August 17, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25391 Filed 8-30-76;8:45 am]

HARVARD STATE CO.

Order Approving Formation of Bank Holding Company

Harvard State Company, Harvard Nebraska ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of Harvard State Bank, Harvard, Nebraska ("Bank").

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3 of the Act (41 FR 9936). Time for filing comments and views has expired and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Upon acquisition of Bank (deposits of $3.9 million), Applicant would control the 311th largest bank in Nebraska, holding .06 percent of total deposits in commercial banks in the State.[2] Bank is the fifth largest of the six banks located in Clay County, which approximates the relevant banking market, and controls 13.91 percent of deposits therein. Acquisition of Bank would result in no immediate change in banking services available in the relevant market.

Applicant and Bank are affiliated with Hastings State Corporation, a one-bank holding company in Hastings, Nebraska. The subsidiary bank of this holding company is located in a separate banking market. Inasmuch as the proposal to form a bank holding company represents a restructuring of the existing ownership of Bank into corporate form, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on other banks in the trade area.

The financial and managerial resources and future prospects of Applicant, which are dependent on those of Bank, are considered generally satisfactory and consistent with approval. The debt to be incurred by Applicant appears to be serviceable from the income derived from Bank without having an adverse effect on the financial condition of either Applicant or Bank. Accordingly, considerations relating to banking factors are consistent with approval of the application.

Consummation of the transaction would facilitate management succession on a community level by providing for continued local ownership. Convenience and needs considerations are consistent with approval. It has been determined that consummation of the transaction would be in the public interest and that the application to become a bank holding company should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction involving acquisition of shares of Bank shall not be made before the thirtieth calendar day following the effective date of this Order and Bank should not be acquired later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective August 25, 1976.

GRIFFITH L. GARWOOD.
Assistant Secretary of the Board.

[FR Doc.76-25392 Filed 8-30-76;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

[2] Unless other indicated, all banking data are as of December 31, 1975.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 25, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 20, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL TRADE COMMISSION

FTC requests clearance of a new single time "Special Report." The Bureau of Consumer Protection of the Federal Trade Commission has requested clearance from GAO of the issuance of a special investigatory report. FTC is proposing to send this report to market research firms and publishing companies as part of the Commission's investigation of the market research industry's use of undisclosed coding practices. There are approximately 300-400 market research firms and publishing companies of which a sample of 47 respondents will be asked to report. Reporting burden is estimated by FTC to average 20 hours per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-25441 Filed 8-30-76;8:45 am]

LEGAL SERVICES CORPORATION

COMMITTEE ON APPROPRIATIONS AND AUDIT

Meeting

The next meeting of the Committee on Appropriations and Audit of the Legal Services Corporation Board of Directors will be held on Thursday, September 9, 1976 in the Corporation offices at 733 15th Street NW. (Suite 700), Washington, D.C.

The meeting will convene at 10:00 a.m. for the purpose of discussing the budgets for fiscal years 1977 and 1978.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.76-25703 Filed 8-30-76;12:08 pm]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

EXPANDED MEETING

In addition to its regularly scheduled meeting on the second Friday of each month, the National Commission on Electronic Fund Transfers will, in the month of September, also meet on the preceding Thursday. The dates of the meetings are September 9 and 10, 1976. Each meeting will begin at 9:00 a.m. in the Commissioner's Room at the offices of the Federal Communications Commission, located at 1919 M Street NW., Washington, D.C.

The meetings are open to public observation on a first-call basis to the extent that limited space permits. Any person interested in observing the meetings should first call Ms. Janet Miller at (202) 254-7400 to check on the availability of space.

Dated: August 27, 1976.

JAMES O. HOWARD, JR.,
Advisory Committee Management Officer.

[FR Doc.76-25624 Filed 8-30-76;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on September 23-24, 1976, at the offices of the National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456. The meetings will commence at 9:00 a.m. daily in Room 4210.

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The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration, a briefing on share insurance activities, and other aspects of the Administration.

Matters for consideration will include a review of NCUA publications, reduction of Federal paperwork, and Board rules and/or policies, and a discussion of legislative activities.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, DC 20456.

C. AUSTIN MONTGOMERY,
Administrator.

AUGUST 24, 1976.

[FR Doc.76-25382 Filed 8-30-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Del. of Auth. No. 30, Rev. 15, Amdt. 10]

DIRECTOR, PHILADELPHIA DISTRICT OFFICE, ET AL.

Delegation of Surety Guarantee Authority

Delegation of Authority No. 30, Revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8240), as amended (41 FR 16234, 17829 and 28049), is hereby further amended to delegate certain Surety Guarantee authority to certain officials in the Philadelphia District Office.

Actions taken prior to the effective date of this document are hereby ratified to the extent they would have been authorized had this delegation been in effect.

Accordingly, Delegation of Authority No. 30, Revision 15, Part III, Section D, is amended as set forth below:

Effective date: August 31, 1976.

DANIEL T. KINGSLEY,
Associate Administrator for Operations.

PART III—COMMUNITY ECONOMIC DEVELOPMENT (CED) PROGRAM

• • • • • •

SECTION D—SURETY GUARANTEE

1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed $500,000.

• • • • • •

d. District Director, Philadelphia, New York, San Francisco and Region IV District Offices only.

e. Assistant District Director for F&I Philadelphia, San Francisco and Region IV District Offices only.

• • • • • •

g. Chief, Financing Division, Philadelphia D.O.

h. Senior Surety Bond Guaranty Specialist, Philadephia, and San Francisco District Offices only.

[FR Doc.76-25383 Filed 8-30-76;8:45 am]

HOUSTON DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration Houston District Advisory Council will hold a public meeting at 10:00 a.m., Thursday, September 16, 1976, in Suite 705, One Allen Center, 500 Dallas Avenue, Houston, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call John L. Carey, District Director, same address as above, (713) 226-4945.

Dated: August 26, 1976.

ANTHONY S. STASIO,
Acting Assistant Administrator, Advocacy and Public Communications.

[FR Doc.76-25386 Filed 8-30-76;8:45 am]

LOUISVILLE DISTRICT ADVISORY COUNCIL

Meeting

The Louisville District Advisory Council will hold a public meeting at 1:30 p.m., Thursday, September 23, 1976, and will conclude on September 24, 1976, at Lake Cumberland State Resort Park, Jamestown, Kentucky 42629, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call R. B. Blankenship, Federal Office Building, Room 188, P.O. Box 3517, Louisville, Kentucky 40202, (502) 352-5978.

Dated: August 25, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-25387 Filed 8-30-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-74-28]

INTERLAKE STAMPING CORP.

Grant of Variance

I. BACKGROUND

Interlake Stamping Corporation, 4732 East 355th Street, Willoughby, Ohio 44094 made application pursuant to section 6 (b)(6)(C) of the Occupational Safety and Health Act of 1970 (84 Stat. 1595; 29 U.S.C. 655) for an experimental variance from the safety standard prescribed in 29 CFR 1910.217(c)(3)(iii)(*b*) (formerly 29 CFR 1910.217(c)(3)(iii)(*c*)) which prohibits a presence sensing device from being used as a tripping mechanism in mechanical power presses.

Section 6(b)(6)(C) states:

> The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health, Education, and Welfare certifies, that such variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health, Education, and Welfare designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

The facility which would be affected by this application is: Interlake Stamping Corp., 4732 East 355th Street, Willoughby, Ohio 44094.

The application originally was noticed as a request for a permanent variance pursuant to section 6(d) of the Act (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11. This notice was published in the FEDERAL REGISTER on May 20, 1974 (39 FR 17806). The application was subsequently amended to include a request for an experimental variance as stated above, and a notice of this was published in the FEDERAL REGISTER on February 3, 1976 (41 FR 4994). Both notices invited interested persons, including affected employers and employees, to submit written data, views and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No requests for a hearing were received. Fourteen comment letters were received as a result of the first notice; thirteen supported granting the variance. Two comments were received in response to the second notice and both raised questions and expressed objections to granting the variance. These questions and objections will be addressed in more detail below.

II. FACTS

The variance requested by the applicant would permit the use of an Erwin Sick electronic light curtain to function as a combined presence sensing device and tripping mechanism on five Bliss-OBI mechanical power presses. Although § 1910.217(c)(3)(iii) permits the use of a presence sensing device to safeguard the point of operation, § 1910.217(c)(3)(iii)(*b*) prohibits the presence sensing device from being used as a tripping means in order to initiate slide motion.

The following presses will be equipped with the Erwin Sick electronic light curtain and covered by the variance request:

Bliss C-45, 1973 No. H65801—HP 49662
Bliss C-22, 1973 No. H65398—HP 49305
Bliss C-45, 1973 No. H65802—HP 49663
Bliss C-22, 1973 No. H65899—HP 49306
Bliss C-22, 1973 No. H64284—HP 48364

The electronic light curtain would be used by the applicant as a presence sensing device to prevent the press from stroking whenever the operator's hands are within the area protected by the light curtain. However, the light curtain also functions as a means of tripping the press, in that the removal of the operator's hands from the light curtain electronically signals the press to stroke. Rigid guarding surrounds the light curtain on all sides, preventing entry to the die area from any direction except that protected by the light curtain.

The Erwin Sick electronic light curtain is part of a sophisticated electronic system which automatically checks all systems between strokes. If any of the electronic or mechanical systems do not operate properly, the press will shut down without stroking. In addition, the press will automatically shut down if the brake does not stop the press within a predetermined period, or if the operating rhythm is interrupted so that the press does not cycle within a preset time. Before the press can be operated again, necessary repairs or adjustments must be made, and special operating means actuated to restart the press.

The system which the applicant is proposing to use has been used for many years in Sweden and West Germany, and detailed standards, including equipment approval, have been developed. The applicant will use equipment which meets the Swedish approval standards, and will operate the equipment in accordance with the Swedish safety standards governing the use of a light curtain as a means of tripping the press. All other relevant OSHA standards will also be complied with.

The applicant has informed OSHA of an accident that occurred in August 1974, during a demonstration of one of the presses equipped with the light curtain. The press was being operated by a two-hand control mounted above the die area. The top portion of the guarding around the light curtain had been removed for easier operation by the two-hand control method. The foreman switched the key lock to the light curtain trip position, but did not replace the top barrier guard. While operating the press from a standing position the foreman's arm passed into the light curtain, and, because of the angle, it passed through and above the curtain while his hand was in the die area. If the upper guard had been in place, the foreman would have had to lower his arm to reach the die and it would have remained in the sensing field. Investigations by the applicant indicate that there was no malfunction of the press or the light curtain.

As a result of this accident certain design changes have been made to improve the protection of the employees. Rather than being easily removable as before, all parts of the rigid guarding surrounding the light curtain are now screwed or riveted in place. Since this is an extremely sensitive system, it would be almost impossible to tamper with the guarding without disturbing the alignment of the light curtain. The press cannot operate with the light curtain even slightly out of alignment. A larger light curtain would be used which will provide sufficient die access height to eliminate any desire to remove the guarding. In addition, under this variance the presses will be operated exclusively by automatic tripping with the electronic light curtain, and will not be switched to other actuating means. This will also eliminate the need to change the position of the guarding. Access to the die area for maintenance or die change requires opening of the rigid guard and the swinging aside of the light curtain making it impossible to operate the press.

A visit was made to the Interlake Stamping Corporation by representatives from OSHA National, Regional and Area Offices for the purpose of observing the use of the electronic light curtain as a means of tripping the press.

The observations made during the visit verified the adequacy of the rigid guarding surrounding the light curtain; the fact that the light curtain assembly must be swung aside to give access to the die area for maintenance, thus shutting down the press; and the fact that failure of any single component of the system shuts down the press.

III. DECISION

Section 6(b)(6)(C) of the Act authorizes the granting of an experimental variance in situations where the Secretary of Labor or of Health, Education, and Welfare determines that it is necessary in order to allow an employer to participate in an experiment to demonstrate or validate new and improved techniques to safeguard the health and safety of the workers.

Therefore, before a variance can be granted under this section of the Act, the following determinations must be made:

1. There is a proposed experiment designed to demonstrate or validate a new and improved technique to safeguard the health or safety of workers;

2. That such experiment has been or should be approved by either the Secretary of Labor or the Secretary of Health, Education, and Welfare;

3. That, in order to carry out the experiment, the Secretary of Labor has determined, or the Secretary of Health, Education, and Welfare has certified, that it is necessary for the employer to deviate from compliance with the standard or portion thereof.

It is determined that the experimental variance requested by Interlake Stamping Corporation meets the criteria of the Act for granting an experimental variance in the following ways:

1. There is a proposed experiment designed to demonstrate or validate a new and improved technique to safeguard the health or safety of workers.

In the preamble to the revision of § 1910.217 which was published in the FEDERAL REGISTER on December 3, 1974 (39 FR 41841, 41844) OSHA considered and rejected the possibility of deleting the prohibition against using presence sensing devices as a tripping mechanism on mechanical power presses. The rejection at that time was based on the fact that European countries which authorize this method have procedures and facilities for approval of the self-tripping devices. OSHA was not equipped for such approval and thus did not delete the prohibition. However, OSHA further stated that the requirement may be reconsidered if a satisfactory means of approval and a regulation can be implemented.

An experiment of the type which is proposed is designed to demonstrate a total safety system employing an electronic light curtain as a tripping mechanism as it is used in certain European countries, and to validate the accident-free experience with this system. Although this is not a new technique in that it has been in use in Europe for many years, it is a new system in the United States and requires further study in order to determine whether it should be approved and what regulations would be necessary to govern its use.

It is the opinion of OSHA that the system may well prove to be an improved safety technique. A document submitted by the Swedish National Board of Industrial Safety, states that their experience has shown no accidents related to the functioning of the light curtain in this mode. It further appears that the simplicity of the system would reduce worker fatigue, a recognized cause of industrial accidents, by eliminating the need for the press operator to manually operate a two-hand control, foot pedal, or other permissible tripping device. In addition, minimizing the operator's task would appear to eliminate the common inclination of press operators to bypass or inactivate the safeguard. Thus, accidents from these causes could be reduced or eliminated.

The increased productivity possible under this system may also help provide safer working conditions for power press operators, if the experiment should justify general use of the system, in that it would provide an incentive for employers to voluntarily comply with the standard.

In this experiment the light curtain would be used as a tripping mechanism on a limited number of machines with careful records kept. It is anticipated that sufficient additional information will be developed in this way to enable OSHA to determine whether this system should be approved for general use and to develop appropriate regulations governing its use.

2. That such experiment has been or should be approved by either the Secretary of Labor or the Secretary of Health, Education, and Welfare.

The desired objective, in this instance, is the evaluation of the safety of the use of the electronic light curtain as a tripping mechanism on mechanical power presses, and the determination of whether the OSHA standard should be modified to authorize this use. This would include the obtaining of sufficient data to enable OSHA to develop necessary specific regulations governing the use of the electronic light curtain in this mode.

It is determined that the experiment as described is a valid means for OSHA

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to evaluate the system, to determine whether the standard should be modified, and to develop any necessary regulations. There is sufficient data from the European use of this system to enable Interlake Stamping Corporation to obtain proper equipment and to utilize operating methods which will serve to prevent the employees from undue exposure to hazards.

A one-year time period has been selected as an appropriate length for this experiment. This will allow the accumulation of a significant amount of data while restricting the length of time employees will be allowed to operate the presses in this mode. It is also desirable to use several presses, in this instance five, in order to accumulate sufficient data and to account for press operator differences and potential minor variations in the presses and their components. In addition, five other presses which will utilize permissible guards or devices will serve as a control group to which the experimental presses will be compared. To the extent feasible, runs on the control group will be similar to runs on the experimental group.

Mr. Wayne Groenstein, President of Interlake Stamping Corporation, has visited Sweden to observe this use of the electronic light curtain. He is familiar with, and will observe, the Swedish standards governing this use. In addition, Mr. Groenstein is a responsible member of the metal stamping industry and serves on the American National Standards Institute committee which writes national consensus safety standards concerning mechanical power presses. Even the comment letters objecting to granting the variance expressed support for the responsible way in which Mr. Groenstein would conduct this experiment. Thus, it is determined that he is a responsible person to be conducting such an experiment.

3. That in order to carry out the experiment, the Secretary of Labor has determined or the Secretary of Health, Education, and Welfare has certified that it is necessary for the employer to deviate from compliance with the standard in whole or in part.

Section 1910.217(c)(3)(iii)(*b*) states that a presence sensing device may not be used as a tripping means to initiate slide motion. This experiment will use an electronic light curtain, which is a presence sensing device, as a means of tripping the press. Thus, it is necessary for the employer to deviate from the standard in order to carry out the experiment as described.

As stated in the Background section above, a total of 16 comment letters were received as a result of notices published in the FEDERAL REGISTER. Thirteen of these letters supported granting the variance, while the other three raised questions or expressed objections to granting the variance.

The issues raised by the three comments objecting to granting the variance are addressed as follows:

1. The suggestion was made that the system described in the Interlake variance request is not truly equivalent to the European systems because of certain differences, such as the European certification of equipment and inspectors. While it is true that there are no facilities for such certification here, the applicant's system would be equivalent to the European system because Interlake has selected equipment which has been certified in Europe and is using it in accordance with the latest European standards.

2. Concern was expressed that a variance may be misinterpreted to mean that blanket permission is granted for the use of any type of automatic tripping device in any worksite. Although misinterpretation may occur, the conclusion is not valid. Any variance is granted only to the named applicant, at the named worksite, for the procedure described in the application and subject to the requirements contained in the Order.

3. The statement was made that nothing would be learned from such an experiment, and the issue of the accident which occurred during a demonstration of the press was raised. As discussed above, the accident was thoroughly investigated and steps taken which would prevent such an accident from happening again. Contrary to the statement that nothing will be learned from such an experiment, it is the opinion of OSHA that sufficient information and data can be obtained to enable the agency to determine whether the applicant's safeguarding system will result in improved safety and, if so, how appropriate modifications in the standard should be drawn so as to insure the integrity of the entire system. It should further be emphasized that there is a strong background of accident-free experience in Europe and standards have been developed governing its use. Therefore, it is not necessary to develop totally new information, but simply to validate this European information in American use.

4. There was disagreement with the idea that this method of tripping the press will "improve safety." OSHA believes that because of the potential for reduced fatigue and ease of operation which may eliminate the temptation to bypass the safety features, this tripping mechanism may indeed constitute an improved technique to safeguard employees.

5. There was objection to the term "new" in reference to the press design and the point was made that those new control features are now required on all presses where their use is appropriate. In terms of the requirements of section 3(b)(6)(C), it is the combination of this type of press with the total safety system employing the electronic light curtain used as a tripping mechanism which is new in this country.

6. One commentor suggested that since the system has been used virtually accident-free in Sweden and West Germany, that this implies that accidents have, in fact, occurred. As stated above, information obtained from Sweden states that there have been no accidents directly related to operation of the press or the light curtain in several years of operation. Accidents which have occurred have been related to lack of guarding around the light curtain to prevent other access to the die area, or to placement of a vertical light curtain at too great a distance from a large press, thus enabling an employee to step completely inside the light curtain triggering the press.

7. There was objection to the use of automatic tripping except in completely automatic operations. At the present time OSHA is in agreement with this, as reflected by the prohibition on the use of presence sensing devices to trip a press. We do believe, however, that technology could develop a method to safely and automatically trip the press. The record of the European use appears to be a good indication that this method of automatic tripping may prove to provide a safe method of automatically tripping a press.

8. The opinion was expressed that where automatic tripping is used and it is necessary for hands to enter the die area, redundant safeguarding should be required. However, the European experience indicates that the automatic self-checking of this system (without redundant safeguarding) does provide safe access to the die area.

9. The statement was made that the proper inspection and maintenance of the total system requires highly skilled technicians, who may not be available in small shops. Properly trained technicians are available to Interlake Stamping Corporation for the purposes of this experiment. This whole area is one that must be studied and evaluated through this experiment in order to determine the feasibility of general use of this system.

Although some of the objections raise questions as to whether it would be appropriate to grant a permanent variance, none are sufficient reason for not granting an experimental variance with the objective of obtaining additional information. For these reasons it is determined that this proposed experiment meets the criteria for an experimental variance and it is hereby approved.

IV. ORDER

Pursuant to the authority in section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that Interlake Stamping Corporation be, and it is hereby, authorized to conduct an experiment at its Willoughby, Ohio facility involving the use of Erwin Sick electronic light curtains as tripping means, as well as presence sensing devices, on five Bliss–OBI power presses in lieu of complying with 29 CFR 1910.217(c)(3)(iii)(*b*). The experiment shall be subject to the following conditions and requirements:

1. The use of the Erwin Sick electronic light curtain as both a protective and tripping device is limited to the following presses:

Bliss C–45, 1973 No. H65801–HP49662
Bliss C–22, 1973 No. M65398–HP40305
Bliss C–45, 1973 No. H65802–HP49663
Bliss C–22, 1973 No. H65899–HP49306
Bliss C–22, 1973 No. H64284–HP48364

2. The applicant shall comply with all other requirements of § 1910.217(c)(3)(iii) as amended in the FEDERAL REGISTER on December 3, 1974 (39 FR 41841) and shall comply with all other applicable OSHA regulations.

3. Rigid barrier guarding, interlocked with the light curtain so that removal or improper positioning will not allow the press to cycle, shall be provided.

4. One individual shall be designated as supervisor on the experiment for overall supervision and to enhance uniformity in the reporting and recordkeeping; one supervisor per shift shall be designated to assure compliance with all regulations.

5(a) All employees participating in the experiment shall be volunteers. "Volunteer" is defined to mean an employee who has willingly agreed to participate in the proposed experiment after being fully informed of the plan of the experiment, its attendant risks, his duties and responsibilities, his rights to refuse to participate or to terminate his participation at any time without adverse action, and any other pertinent information.

(b) The applicant shall obtain from each volunteer employee a signed statement indicating that the employee has been informed of the required information and has willingly agreed to participate in the experiment.

(c) If an employee refuses to participate in the experiment or terminates his participation at any time after signing a statement of voluntary participation, the applicant may not discharge or in any manner discriminate against him on account of such action.

6. The presses and the safeguards shall be inspected for proper adjustment and tested prior to the start of each shift, after the change of operators, and after any new die setup; a check-off/sign-off card shall be used to record these inspections.

7. All participating employees shall be trained in safe operating procedures; operating instructions shall be posted and observed; and Swedish safety standards relating to the light curtain as a tripping mechanism shall be observed. (Sweden's National Board of Industrial Safety, December 1972, Directive No. 35).

8. The routine maintenance and inspection schedules and procedures for the presses and the electronic light curtains which have been submitted to OSHA, shall be followed. All maintenance and inspection records shall be available for inspection.

9. Any injury occurring during operation or maintenance of these presses while equipped with an electronic light curtain used as a tripping device and any instance of malfunction of press, safeguards, or controls which could potentially cause an injury shall be immediately reported by telephone to the Division of Variance Determination, Occupational Safety and Health Administration. The operation of all presses by this mode shall cease immediately until the circumstances of the injury or malfunction have been investigated and permission is granted by OSHA to proceed. A written report shall also be made describing the incident which shall include the time of the incident, the length of time into the shift, the length of time the employee had been working that day, and all other pertinent information concerning the incident.

10. A record shall be made of any time the light curtain system worked to protect anyone in a non-routine situation, e.g., a passer-by, a fall, and the circumstances thereof.

11. A record shall be maintained of all repairs and replacements which are required on these five presses while they are equipped with the light curtain operating as a tripping means. This includes a record of brake functioning and any repairs or adjustments made to the brake.

12. The Occupational and Health Administration may visit the worksites to observe the experiment in operation, to examine records, and to obtain information concerning employee acceptance of the equipment.

13. A record shall be maintained of the productivity of each press while the light curtain is used as a tripping device. This shall include the number of strokes per shift, the number of parts produced per shift, and the number of hours of use.

14. The employer shall designate five other presses equipped with permissible guards or devices as a control group, to which the experimental presses will be compared. All data and records which are maintained for the experimental presses (except for number five of this order) shall be maintained for the control group. Such records shall include a description of the guard or device in use. To the extent feasible, the runs on the control group shall be similar to the runs on the experimental group.

15. A record shall be maintained of any set-ups where it is not feasible to use a light curtain to trip the press, or where additional safeguards were necessary.

16. Reports and records required by this order shall be available for inspection at Interlake Stamping Corporation's Willoughby, Ohio facility and shall be submitted quarterly to the Division of Variance Determination of the Occupational Safety and Health Administration.

17. This variance shall continue in effect for one year, unless revoked.

18. The Assistant Secretary for Occupational Safety and Health reserves the right to revoke or modify this variance for reasons of injury to employees, malfunction of presses or light curtain, failure to comply with the terms of this order, a previously unanticipated hazard being caused by the experiment, or for other good cause. Such revocation or modification shall be effective upon receipt of notice thereof.

Effective date. This order shall become effective on August 31, 1976, and shall remain in effect for one year, unless revoked.

Signed at Washington, D.C. this 23rd day of August, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–25472 Filed 8–30–76;8:45 am]

Wage and Hour Division

[Administrative Order No. 646]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Appointment; Convention; Hearings

1. Pursuant to section 5 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR 511, I hereby appoint the following industry committee for the indicated industries:

Committee No.:	*Industry*
135	Food and kindred products industry in Puerto Rico
136–A	Jewelry and miscellaneous products manufacturing industry in Puerto Rico
136–B	Rubber and miscellaneous plastics products industry in Puerto Rico

2. These industries are defined as follows:

a. (1) The food and kindred products industry in Puerto Rico is defined as follows: The canning, preserving (including freezing, drying, curing, pickling, and similar processes), or other manufacturing or processing, and the packaging in conjunction therewith, of foods, ice, alcoholic and nonalcoholic beverages; the handling, grading, packing, or preparing in their raw or natural state of fresh vegetables, fresh fruits, nuts, or edible field crops; and the gathering of wild plant or animal life; the production of raw sugar, cane juice, molasses, and refined sugar, and incidental by-products, and all railroad transportation activities carried on by a producer of any of these products (or by any firm owned or controlled by, or owning and controlling such producer, or by any firm owned or controlled by the parent company of such producer) where the railroad transportation activities are in whole or in part used for the production or shipment of the products of the industry, and any transportation activities by truck, vessel, or other vehicle performed by a producer of products of such producer: *Provided, however,* That the industry shall not include any product or activity included in the chemical, petroleum, and related products industry; or any transportation activity covered by the wage order for the communications, utilities, and transportation industry, or any transportation activity in which the agricultural exemption contained in section 13(a) of the Act was applicable prior to February 1, 1967; *And provided, further,* That the industry shall not include sugar and other food manufacturing activities covered by the wage order for the government service industry.

(2) The industry includes, but is not limited to, the manufacture or processing of meat products, poultry and poultry products, milk and dairy products, fish and seafood products, fruit and vegetable products, grains and grain products, sugar and confectionary products, fats and oils, bakery products, beverages, and miscellaneous food preparations and kindred products.

b. (1) The jewelry and miscellaneous products manufacturing industry in Puerto Rico is defined as follows: The manufacture of jewelry and jewelry products including the processing of natural or synthetic stone for jewelry or industrial use; the manufacture of artificial flowers except those made of molded plastic, party favors and similar products; straw, hair and related products; and all other manufacturing activities which are not included in the definitions of other manufacturing industries in

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Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

(2) This industry includes, but is not limited to, the manufacture of jewelry and jewelry findings; silverware, plated ware, and stainless steel ware; rosaries, beads, buttons, buckles and hair ornaments and accessories; the processing of stones for jewelry or industrial use; the manufacture of flowers, buds, berries, foliage, leaves, fruits, plants, stems, and branches which are commonly or commercially known as artificial; the manufacture of party favors and ornamnents and decorations for holidays except those made of molded plastics or metal other than metallic chenille, foil or tinsel; and the manufacture of products made wholly or chiefly of straw, raffia, sisal, maguey, palm leaves, rushes, grasses, hair bristles, feathers and similar materials.

c. The rubber and miscellaneous plastics products industry in Puerto Rico is defined as follows: The manufacture from natural, synthetic, or reclaimed rubber or latex rubber products such as, but not limited to, tires and tubes, reclaimed rubber, rubber and plastics hose and belting, industrial and mechanical rubber and plastic goods, rubberized fabrics, recapped and retreaded tires, rubber and plastics cut stock and findings for footwear, and miscellaneous rubber and fabricated plastics products: *Provided, however,* That the industry shall not include any activity in the rubber and plastics footwear industry; the chemical, petroleum and related products industry; the leather, leather goods and related products industry; the gloves and mittens industry; the men's and boys' clothing and related products industry; the corsets, brassieres and allied garments industry; the women's outerwear, needlework and miscellaneous fabricated textile products industry; the textile mill products industry; and the jewelry and miscellaneous products manufacturing industry.

3. Pursuant to section 8 of the Fair Labor Standards Act of 1938 (29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

a. Convene the above-appointed industry committees;

b. Refer to the industry committees the question of the minimum rates of wages to be fixed for the above-mentioned industries in Puetro Rico.

c. Give notice of the hearnigs to be held by the several committees at the times and place indicated. The committees shall investigate conditions in the industries, and the committees, or any authorized subcommittee thereof, shall hear witnesses and receive such evidence as may be necessary or appropriate to enable the committees to perform their duties and functions under the aforementioned Act.

Industry Committee No. 135 will meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 10 a.m. on Tuesday, October 12, 1976.

Industry Committee No. 136–A will meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 10 a.m. on Monday, October 18, 1976.

Following this hearing Industry Committee No. 136–B will immediately convene to conduct its investigation and begin its public hearing.

The hearings will take place in the offices of the Wage and Hour Division on the fourth floor of the New Federal Office Building, Carlos Chardon Street, Hato Rey, Puerto Rico.

4. The rate or rates recommended by the committees shall not exceed the rates prescribed by section 6(a) of the Act, namely $2.30 an hour after December 31, 1975, for those classifications covered before the Fair Labor Standards Amendments of 1966; nor those rates prescribed by section 6(b) of the Act, namely, $2.20 an hour during the year beginning January 1, 1976, nor $2.30 an hour after December 31, 1976, for those classifications brought under the Act by the Fair Labor Standards Amendments of 1966.

Each industry committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, or American Samoa; except that each committee shall recommend the minimum rates prescribed in section 6(a) or section 6(b), unless there is substantial documentary evidence including pertinent unabridged profit and loss statements and balance sheets for a representative period of years which establishes that the industry or a predominant portion thereof, is unable to pay the wage.

5. Whenever an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities in the industry than may be determined for other employees in that industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10 which will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classification, and in determining the minimum wage rates for such classifications, the industry committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

6. The Administrator shall prepare an economic report for the industry committees containing such data as he is able to assemble pertinent to the matters referred to them. Copies of such reports may be obtained at the National and Puerto Rican offices of the Wage and Hour Division of the U.S. Department of Labor as soon as they are completed and prior to the hearings. The industry committees shall take official notice of the facts stated in the economic reports to the extent that they are not refuted at the hearing.

7. The procedure of industry committees shall be governed by 29 CFR Part 511. Interested persons wishing to participate in the hearings shall file prehearing statements, as provided in 29 CFR 511.8 containing the data specified in that section not later than 10 days before the first hearing date set for each committee as set forth in this notice of hearing i.e. October 2, 1976 for matters to be considered by Industry Committee No. 135; and October 8, 1976 for matters to be considered by Industry Committees No. 136–A and 136–B.

Signed at Washington, D.C. this 26th day of August 1976.

W. J. USERY, Jr.,
Secretary of Labor.

[FR Doc.76-25473 Filed 8-30-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 133]

ASSIGNMENT OF HEARINGS

AUGUST 26, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 113908 Sub 241, Erickson Transport Corp., now assigned October 13, 1976, is postponed to January 18, 1977 (9 days) at Kansas City, Mo., in a hearing room to be later designated.

No. 36308, Norman Charles Brinke, dba N. C. Brinke, et al. V. The Central Railroad Company of New Jersey, Robert D. Timpany, Trustee, et al, now assigned September 1, 1976, at Washington, D.C. is postponed to September 8, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 114533 (Sub 341), Bankers Dispatch Corporation now being assigned October 13, 1976 for pre-hearing conference in the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 2359 (Sub 23), Dameo, Inc. and MC 124839 (Sub 27), Building Transport, Inc. now being assigned Novmeber 3, 1976 at the Office of the Interstate Commerce Commission in Washington, D.C.

MC 126276 (Sub 148), Fast Motor Service, Inc. now being assigned November 4, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 136964 (Sub 1), Howard Williams and Thomas Milton, dba Williams-Milton Bus Company now being assigned November 4, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 128582 (Sub 7), KLM, Inc. now being assigned November 4, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 107295 (Sub 813), Pre-Fab Transit Co. now being assigned November 11, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 116763 (Sub-No. 336), Carl Subler Trucking, Inc., now assigned September 14, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, NW.

MC 117956 (Sub-No. 10), Scott Transfer Co., Inc., now assigned September 15, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, NW.

MC 133937 (Sub-No. 16), Carolina Cartage Company, Inc., now assigned September 20, 1976 at Atlanta, Georgia; will be held in Room 305, 1252 West Peachtree Street, NW.

MC 126899 Sub 96, Usher Transport, Inc., now being assigned November 30, 1976 (1 day), at Louisville, Ky., in a hearing room to be later designated.

MC–F 12739, Wilson Freight Company—Purchase (Portion)—Red Star Express Lines of Auburn, Inc., DBA Red Star Express Lines, and MC 13123 Sub 82, Wilson Freight Company; now being assigned December 6, 1976 (1 Week), at Cincinnati, Ohio, in a hearing room to be later designated.

MC 141832, K.I.T. Motor Express, Incorporated, now being assigned December 1, 1976 (1 day), at Louisville, Ky., in a hearing room to be later designated.

MC 118959 Sub 134, Jerry Lipps, Inc., now being assigned December 2, 1976 (2 days), at Louisville, Ky., in a hearing room to be later designated.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25487 Filed 8-30-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 26, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 15, 1976.

FSA No. 43225—*Fertilizer Compounds from Wellsville, Colorado.* Filed by Southwestern Freight Bureau, Agent, (No. B–626), for interested rail carriers. Rates on fertilizer compounds (manufactured fertilizers), neibn, liquid or paste, in carloads and tank-car, as described in the application, from Wellsville, Colorado, to points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas. Grounds for relief—Market competition, short-line distance formula and grouping. Tariff—Supplement 55 to Southwestern Freight Bureau, Agent, tariff 273–G, I.C.C. No. 5188. Rates are published to become effective on October 1, 1976.

FSA No. 43226—*Asphalt and Related Articles to Points in WTL Territory.* Filed by Trans-Continental Freight Bureau, Agent, (No. 508), for interested rail carriers. Rates on asphalt and related articles, in tank-car loads, as described in the application, from Cut Bank and Kevin, Montana, to points in western trunk-line territory, and points in Illinois, Indiana, and Kentucky. Grounds for relief—Market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25480 Filed 8-30-76;8:45 am]

[Notice No. 21]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 31, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 20, 1976. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76163. By order of August 25, 1976, the Motor Carrier Board, on reconsideration, approved the transfer to Inter-Airport Airfreight, Inc., Queens, N.Y., of portion of the operating rights in Certificate No. MC 128383 (Sub-No. 13), issued January 22, 1973, to Pinto Trucking Service, Inc., Sharon Hill, Pa., authorizing the transportation of general commodities (except commodities in bulk and automobiles) between the Greater Buffalo International Airport, Erie County, N.Y., Rochester-Monroe County Airport, Monroe County, N.Y., Clarence E. Hancock Airport, Onondaga County, N.Y., Albany County Airport, Albany County, N.Y., Broome County Airport, Broome County, N.Y., Chemung County Airport, Chemung County, N.Y., Jamestown Municipal Airport, Chautauqua County, N.Y., Schenectady County Airport, Schenectady County, N.Y., Logan International Airport, Boston, Mass., Bowles Agawam Airport, Hampden, Mass., Tweed-New Haven Airport, New Haven County, Conn., Bradley International Airport, Hartford, Conn., and Cleveland-Hopkins Airport, Cuyahoga County, Ohio, restricted against the transportation of shipments between the Greater Buffalo International Airport, Erie County, N.Y., and the Clarence E. Hancock Airport, Onondaga County, N.Y., and to the transportation of shipments having a prior or subsequent movement by air. Steven L. Weiman, 303 N. Frederick Ave., Gaithersburg, Md. 20760, Attorney for applicants.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25479 Filed 8-30-76;8:45 am]

[Notice No. 112]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 26, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1515 (Sub-No. 218TA), filed August 19, 1976. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1602, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers*, in the same vehicle with passengers, (1) between the junction of Interstate Highway 94 and Business Route Interstate Highway 94 east of Benton Harbor, Mich., and the junction of Interstate Highway 94 and Business Route Interstate Highway 94 south of St. Joseph, Mich., serving all intermediate points; from the junction of Interstate Highway 94 and Business Route Interstate Highway 94 over Interstate Highway 94 to its junction with Business Route Interstate Highway 94 and return over the same route; (2) between the junction of Interstate Highway 94 and Business Route Interstate Highway 94 east of Benton Harbor, Mich., and Benton Harbor, Mich., serving all intermediate points; from the junction of Interstate Highway 94 and Business Route Interstate Highway 94 over Business Route Interstate Highway 94 to Benton Harbor, Mich., and return over the same route; and (3) between the junction of Interstate Highway 94 and Michigan Highway 139 and Benton Harbor, Mich., serving all intermediate points; from the junction of Interstate Highway 94 and Michigan Highway 139 over Michigan Highway 139 to its junction with unnumbered highway, thence over unnumbered highway to Benton Harbor, Mich., and return over the same route. Applicant intends to tack its existing authority with MC 1515 Sub-No. 6. Applicant also intends to interline at Benton Harbor, Mich., for 180 days. Supporting shippers: There are approximately 7 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 19945 (Sub-No. 58TA), filed August 19, 1976. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the plantsite of Cargill, Inc., at Cahokia, Ill., to points in Missouri, for 180 days. Supporting shipper: John Labriola, General transportation Manager, Cargill, Inc., Cargill Bldg., Minneapolis, Minn. 55402. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 107002 (Sub-No. 489TA), filed August 19, 1976. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123 (U.S. Highway 80 West), Jackson, Miss. 39205. Applicant's representative: Edward M. Regan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pine oil*, in bulk, in tank vehicles, from Hattiesburg, Miss., to Inspiration, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hercules Incorporated, 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 114789 (Sub-No. 56TA), filed August 20, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores (except foodstuffs), from Columbus, Ohio, to points in Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, South Dakota, and Wisconsin, under a continuing contract with Gamble-Skogmo Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gamble Skogmo, Inc., 5100 Gamble Drive, Minneapolis, Minn. 55461. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115311 (Sub-No. 193TA), filed August 19, 1976. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard and paneling*, from the facilities of Textone, Incorporated, at or near North Charleston, S.C., to points in Georgia, Indiana, Maryland, North Carolina, Ohio, Pennsylvania, Tennessee, Texas and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Textone, Incorporated, 3 Hock Ave., N. Charleston, S.C. 29406. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 117993 (Sub-No. 5TA), filed August 20, 1976. Applicant: FRUITBELT TRUCKING, INC., 12 Smith St., St. Catharines, Ontario, Canada L20 3H9. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen citrus concentrate*, from Dade City, Fla., to points in the Province of Ontario over Ports of entry on the International Boundary line between the United States and Canada in New York and Michigan, for 180 days. Supporting shippers: Jamay Imports Ltd., 25 Overlea Drive, Building No. 3, Thorncliff Square, Toronto, Ontario, Canada. Lykes Pasco Packing Company, P.O. Box 97, Dade City, Fla. 33525. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 910, 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 119789 (Sub-No. 297TA), filed August 20, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in mechanical refrigerated equipment (except in bulk), from the plant and warehouse facilities of Archer-Daniels-Midland Company, located in Decatur, Ill., to points in Arkansas, Louisiana, Texas, Oklahoma, and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archer-Daniels-Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 126118 (Sub-No. 22TA), filed August 19, 1976. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peppers, pimientos* (unfrozen), *and materials and supplies* used in the production, distribution, and sale of peppers and pimientos (except in bulk), (1) between the plantsite of Moddy Dunbar, Inc., near Limestone, Tenn., on the one hand, and, on the other, points in and west of Minnesota, Iowa, Arkansas, and Louisiana; and (2) from points in Indiana, Ohio, Florida, Maryland, Virginia, and Pennsylvania, to the plantsite of Moody Dunbar, Inc., near Limestone, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rex Pruitt, Vice-President, Moody Dunbar, Inc., Box 68, Limestone, Tenn. 37681. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg. & Courthouse, Lincoln, Nebr. 68508.

No. MC 133095 (Sub-No. 106TA), filed August 20, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in vehicles equipped with mechanical refrigeration, from Golden, Colo., to St. Louis, Mo., and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Don N. Lee, d./b./a. Lee Distributing, P.O. Box 1383, 3rd and Glover SE., Ardmore, Okla. 73401. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133221 (Sub-No. 23TA), filed August 18, 1976. Applicant: OVERLAND CO., INC., 1991 Buford Highway, Lawrenceville, Ga. 30245. Applicant's representative: Alvin Button, 2477 N. Decatur Road, Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Telephone cable*, for the account of the American Telephone and Telegraph Co., from points in Anderson, Greenville, Spartanburg, Cherokee, and York Counties, S.C.; and Gaston, Mecklenburg, Cabarrus, Rowan, Davidson, Guilford, Alamance, Orenge, Durham, Granville, and Vance Counties, N.C.; and Marion, Grundy, Coffee, Bedford, Rutherford, Davidson, Cheatham, and Robertson Counties, Tenn., and Todd, Christian, Hopkins, Webster, and Henderson Counties, Ky., and Vanderburg County, Ind.; near or adjacent to the right-of-way of cables of American Telephone and Telegraph Company, to the facilities of Nassau Recycling Corporation, at Gaston, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Telephone and Telegraph Co., 100 Edgewood Ave. NE., Atlanta, Ga. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 136343 (Sub-No. 90TA), filed August 26, 1976. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R.D. 1, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from Luke, Md., to Bristol, Danbury, Darby, Farmington, Crystal Lake, New Haven, Stamford, Trumbull, and West Haven, Conn.; Avon, Boston, Cambridge, Chareston, Clinton, East Longmeadow, Everett, Forge Village, Holyoke, Medford, North Abington, North Adams, North Plymouth, Salem, South Boston, South Braintree, Springfield, Taunton, West Hanover, Westford, Worcester, Mass.; Freeport, Lewiston, Maine; Concord, Hanover, Manchester, Nashua, N.J.; New York, N.Y., Commercial Zone as defined by the Commission, Providence, R.I., Brattleboro, Vt., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: Westvaco Corporation, 299 Park Ave., New York, N.Y. 10017. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Walnut St., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 136500 (Sub-No. 5TA), filed August 19, 1976. Applicant: HARRY D. DIEPHOLZ, doing business as DIEPHOLZ TRUCKING, 3453 Western Ave., Mattoon, Ill. 61938. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Equipment and machinery* used for manufacture of concrete products, for the account of Columbia Machine, Inc., from Mattoon, Ill., to Miami, Fla.; New Orleans, La.; Baltimore, Md.; New York City, N.Y.; Portland, Oreg., and Houston, Tex., restricted to traffic having a subsequent movement in foreign commerce, under a continuing contract with Columbia Machine, Inc., Applicant intends to interline to the extent that water carriers would receive the shipments that are all export, for 180 days. Supporting shipper: Kenneth Winings, Traffic Manager, Columbia Machine, Inc., East Route No. 16, P.O. Box 84, Mattoon, Ill. 61938. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 136818 (Sub-No. 11TA), filed August 20, 1976. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85031. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 E. McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grandular cheese*, from Tempe, Ariz., to Springfield, Carthage and Neosho, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Dairymen of Arizona, 2036 Hardy Drive, Tempe, Ariz. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 4327, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 138080 (Sub-No. 5TA), filed August 20, 1976. Applicant: EDWARD R. WOLFE, doing business as WOLFE TRUCKING, 20425 Ahha Lane, Bend, Oreg. 97701. Applicant's representative: Edward R. Wolfe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime sludge*, from points in Yakima County, Wash., to points in Linn, Marion, Benton, and Lane Counties, Oreg., under a continuing contract with Soil Conditioners, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Soil Conditioners, Inc., P.O. Box 206, Zillah, Wash. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

By the Commission.

GORDON H. HOMME, JR.,
Acting Secretary.

[FR Doc.76-25481 Filed 8-30-76;8:45 am]

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federal register

TUESDAY, AUGUST 31, 1976

PART II:

ENVIRONMENTAL PROTECTION AGENCY

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GRANTS FOR STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAMS

STATE UNDERGROUND INJECTION CONTROL PROGRAM

Proposed Regulations

V41-170 AUG 31 76 UMI

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 595-8]

GRANTS FOR STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAMS

Proposed Regulations

Notice is hereby given that pursuant to sections 1443(b) and 1450 of the Public Health Service Act ("the Act"), as amended by the Safe Drinking Water Act ("SDWA," Pub. L. 93-523) the Administrator of the Environmental Protection Agency (EPA) proposes to issue additions to 40 CFR Part 35 setting forth regulations governing grants to States to assist in the funding of underground water source protection programs.

The SDWA provides for both direct regulation of public water systems and regulation of underground injection practices which may endanger underground drinking water sources for those systems. The underground water source protection program and the public water system supervision program are two separate programs covered by separate regulations and any State may seek separate primacy for either one or both grant programs. In both cases, Congress sought to leave primary enforcement responsibility to the States, and provided for grants from EPA to State programs meeting certain requirements. Provisions for general program grants are contained in section 1443(b) of the Act.

Regulations for State programs regulating public water systems and for EPA grants supporting those programs were published in the FEDERAL REGISTER on January 20, 1976 at 41 FR 2916. Proposed regulations for State underground injection control programs pursuant to section 1421 of the Act are being published in the FEDERAL REGISTER concurrently with these regulations which contain the requirements for grants to the States to help support "underground water source protection programs." (See FR Doc. 76-24700, infra.)

Some confusion may result from the ues of the terms, "underground injection control program," and "underground water source protection program" found in sections 1421 and 1443 respectively of the Act. They refer to the same basic State program designed to provide broad protection to underground drinking water sources from endangerment by underground injection of contaminants. Thus, section 1443(c)(2) defines the term underground water source protection program as "a program or the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii)." Because the following regulations are proposed principally pursuant to section 1443 of the Act, they will be referred to by the term used in section 1443, "underground water source protection programs" but with the understanding that what is meant is basically the type of underground injection control (U.I.C.) program required under section 1421.

Section 1443(b)(2) of the Act provides that no State may receive its first grant until the Administrator determines that the State has established or will establish within two years from the date of the grant award an underground injection control program pursuant to section 1421 of the Act, and will, within two years, assume primary enforcement for underground water sources within the State.

Section 35.661-1 of the proposed grant regulations provides that an application for the initial grant must be accompanied by a letter from the chief elected official of the State stating whether the State has, or intends to establish within two years, an underground injection control program and affirming the State's intention to assume primary enforcement responsibility within two years. Pursuant to the requirements of the Act, proposed § 35.663 provides that a State cannot receive a grant for a period beginning more than two years after the date of the State's initial grant unless the State has assumed and maintains primary enforcement responsibility.

Section 1422(a) of the Act provides that within 180 days of enactment of the Safe Drinking Water Act the Administrator of the Environmental Protection Agency shall list in the FEDERAL REGISTER "each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources."

The Administrator's judgment with respect to each State must be reasoned judgment based on pertinent information. The designation of States requiring underground injection control programs is directly related to the development of regulations for State underground injection control programs pursuant to section 1421 of the Act and to the assessment of information on the incidence of ground-water contamination. The development of those regulations includes the collection of data pertinent to the designation of States requiring control programs. The list of States requiring UIC programs can be amended from time to time.

On July 24, 1975 (40 FR 31034) the Administrator published a notice in the FEDERAL REGISTER deferring designation of the States until the information described above is considered. This will be after publication of the proposed State program regulations, but prior to promulgation of those regulations. The proposed scheduling will enable States to understand the program requirements which would be applicable and to formulate plans for assuming primary program responsibility accordingly.

Those States not listed by the Administrator who wish to apply for a grant to operate a State underground injection control program, in compliance with the regulations promulgated under sections 1421, 1422, 1423 and 1450 of the Act, may do so by petitioning the Administrator to amend his list to include such State. The petition must clearly demonstrate to the Administrator that the State does have a program in operation which meets the requirements of the regulations and that there is substantial compelling evidence that the State needs such a program at this time.

Section 1443(b)(4) of the Act provides that the grant funds will be allotted among the 56 States on the basis of population, geographical area, and "other relevant factors." EPA proposes to allocate grant funds during fiscal year 1977 to the States named by EPA during the fiscal year as requiring underground water source protection programs. The allocation will be made on the basis of population (20 percent weight factor), geographic area (30 percent), and quantity of ground water used for drinking water purposes (50 percent). In subsequent years, EPA proposes to allocate funds to those States named as provided for in section 1422 of the Act, on the basis of the number of injection facilities within a State (30 percent weight factor) as well as on the population (20 percent), geographic area (20 percent), and ground-water withdrawals for drinking water purposes (30 percent) of the State. Statistics on population and geographical area are, of course, readily available. Also, statistics regarding the amount of ground water used for drinking water purposes are available from the most recent U.S. Geological Survey (U.S.G.S.) report on ground water use in the United States. These use figures will be used initially for documenting ground-water withdrawal. However, statistics on the number of underground injection facilities in each State are not yet entirely reliable. The comprehensiveness of underground injection facility inventories varies widely from State to State.

EPA is encouraging the States to complete their injection facilities inventories during the initial grant year. The inventory shall include all industrial and municipal waste disposal wells, subsidence control wells, barrier wells, recharge wells, mining wells, geothermal wells, disposal and recovery wells associated with production of oil or natural gas, agricultural drainage wells and urban run-off wells, as defined in 40 CFR 146.2, State Underground Injection Control Program Regulations, being published concurrently with these regulations. These may be drilled, bored or driven wells or dug wells where the depth is greater than their largest surface dimension. They must have as a principal function the subsurface emplacement of fluids. The inventory shall also include all other dug wells, such as pits, ponds and lagoons, which may function as injection wells.

In the interest of a fair distribution of available grant funds, proposed § 35.655 would define "underground injection facilities" for allocation purposes as underground injection facilities identified to EPA as of April 1, 1977. These regulations provide for the Regional Administrator to award grants based on need in accordance with § 35.655. In no event shall a State's allotment be less than $10,000. Comments on the proposed allocation formula are invited.

"State" is defined in the Act to include the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Trust Territories of the Pacific Islands.

Proposed § 35.657 would provide that the actual grant to the State will be determined by the Regional Administrator at the time of the grant award. The grant must not exceed 75 percent of the allowable costs of a State program.

Eligibility for grant awards is provided for in § 35.659. Each State named by the Administrator in accordance with the requirements of section 1422 of the Act is eligible to receive a grant award in an amount not to exceed the reasonable cost of carrying out its approved program.

Proposed § 35.655-1(c) provides that the Administrator will reallot, on a national basis, all unobligated funds among eligible States demonstrating a need for additional funds. For fiscal year 1977, this reallotment will be made as soon as possible after May 1, 1977. The unobligated funds will be allocated on the basis of each State's total allocation factor compared to the total allocation factor for the eligible States.

As soon as practicable after June 30 of each fiscal year, funds remaining unobligated and other funds available from reduction of grants will be reallocated to States demonstrating a need for additional funds in accordance with proposed § 35.655-1(d).

Proposed § 35.674 provides that the Regional Administrator may reduce a State's grant if the accomplishments achieved are substantially below the level approved in the State program plan. Any funds retrieved by reduction of a State's grant may be reallotted to other States in the same Region in accordance with proposed § 35.655-1(d).

Program elements of an underground water source protection program are listed in proposed § 35.676-1. Each of these elements is desirable and is an appropriate element for the use of grant funds. Although it is not necessary for a State program to include every element in proposed § 35.676-1 or to produce an accomplishment for every program element, the program of a State with primary enforcement responsibility must include the program elements required by § 146.10 of this chapter. In addition, a State may include other program elements if it can demonstrate that such other elements are appropriate to its program. A State can propose almost any mixture of program elements and accomplishments which can reasonably be considered part of an underground water source protection program. The Regional Administrator will have a great deal of discretion in determining if the amount requested by a State is consistent with the accomplishments the State proposes in its program.

EPA believes that routine monitoring should be the responsibility of the underground injection facility operator. Comments on the need for, or appropriateness of, the use of Federal grant funds for routine monitoring purposes are invited.

In accordance with § 35.663(c), Federal grant funds shall not be used to supplant non-Federal funding used for underground injection control efforts by the State.

Proposed amendments to Subpart B, §§ 35.400 thru 35.425, are being published concurrently with these proposed regulations. The regulations, applying to all EPA program grants, are amended to include the authority for State Underground Water Source Protection Program grants.

EPA has been appropriated $5 million for fiscal year 1977. In addition, $2.5 million in grant funds were appropriated for fiscal year 1976. EPA intends to propose that the unobligated fiscal year 1976 appropriation continue to be available for grant awards.

COMMENTS

Interested persons may participate in this rulemaking process by submitting written comments in triplicate to the Comment Clerk, Underground Injection Control Grant Program, Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460.

Comments on all aspects of the proposed regulations are solicited. In addition to considering public comments, the Agency will hold public hearings to receive comments and statements on the proposed regulations. The hearing room locations, dates and times should be confirmed by interested parties in advance by telephone.

October 6, 1976: EPA, Region VIII, 900 Lincoln Tower Building, 1860 Lincoln Street, Denver, Colorado 80202, Telephone: (303) 837-2731.

October 13, 1976: EPA, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 749-1962.

September 29, 1976: EPA, headquarters, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Telephone: (202) 426-3934.

All comments received on or before November 15, 1976 will be considered. A copy of all public comments will be available for inspection and copying from the EPA Freedom of Information Center. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with OMB Circular A-107.

Dated: August 13, 1976.

RUSSELL E. TRAIN,
Administrator.

40 CFR Part 35 is proposed to be amended by amending Subpart B as indicated below: [1]

Subpart B—Program Grants

Sec.
35.400 Purpose.
35.400-1 Air pollution control agency grant awards.
35.400-2 Water pollution control program grant awards.
35.400-3 Public water system supervision program grant awards.
35.400-4 Underground water source protection program grant awards.
35.404 Annual guidance.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of agency performance.
35.415 Report of project expenditures.
35.420 Payment.
35.425 Federal and grantee program support.

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State Underground Water Source Protection Program Grants

35.650 Scope and purpose.
35.653 Definitions.
35.655 Determination of allotments.
35.655-1 Notification of allotments and reallotments.
35.657 Rate of Federal assistance.
35.659 Eligibility for grant awards.
35.661 Application for grant.
35.661-1 State program plan/grant submission.
35.663 Limitation on grant award.
35.670 Allowable costs.
35.672 Budget period.
35.674 Reduction of grant amount.
35.676 State program plan.
35.676-1 Program elements of an underground water source protection program.
35.676-2 Regional administrator's action on grant application.
35.678 Program limitations.
35.680 Assignment of personnel.

AUTHORITY: Secs. 1443 and 1450 of Pub. L. 93-523, 88 Stat. 1660 (42 U.S.C. 300j-2 and 300j-9).

Sections 35.400 thru 35.425, applying to all EPA program grants, are proposed to be amended to include authority for State underground water source protection program grants as follows:

§ 35.400 Purpose.

This subpart establishes and codifies policy and procedures for air pollution, water pollution, public water system supervision program and underground water source protection assistance grants and supplements the EPA general grant regulations and procedures (Part 30 of this chapter). These grants are intended to aid programs for air pollution control, water pollution control, public water system supervision and underground water source protection at the State, interstate, or local level.

§ 35.400-1 Air pollution control agency grant awards.

No change. See 40 CFR 35.

§ 35.400-2 Water pollution control program grant awards.

No change. See 40 CFR 35.

§ 35.400-3 Public water system supervision program grant awards.

No change. See 40 CFR 35.

§ 35.400-4 Underground water source protection program grant awards.

Grants may be awarded to State agencies to assist them in developing or administering programs to protect under-

[1] Section numbers are not consecutively numbered to allow room for modification and insertion of new sections as needed.

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ground sources of drinking water by adoption and enforcement of a program which meets the requirements of regulations under section 1421, and for record-keeping and reporting required by section 1422(b)(1)(A)(ii) of the Act.

§ 35.403 Authority.

This subpart is issued under sections 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g); sections 106 and 501 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); and sections 1443(a), 1443(b) and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j–2).

§ 35.404 Annual guidance.

The Environmental Protection Agency will develop and disseminate annual guidance to be used by the grantee to structure air pollution, water pollution, public water system supervision and underground water source protection programs for the coming Federal fiscal year. The guidance will contain a statement of the national strategy including national objectives and national priorities for the year together with planning figures for Federal program grant assistance based on the EPA budget approved by the President. The annual guidance will be disseminated each year as soon as practicable during the month of February.

§ 35.405 Criteria for evaluation of program objectives.

(a) Programs set out in the application and submitted in accordance with these regulations shall be evaluated in writing by the Regional Administrator to determine:

(1) Consistency and compatibility of objectives and expected results with EPA national and regional priorities in implementing purposes and policies of the Clean Air Act, the Federal Water Pollution Control Act, or the Safe Drinking Water Act.

(2) Feasibility of achieving the objectives and expected results in relation to existing problems, past performance, program authority, organization, resources and procedures.

(b) Approval of the program developed pursuant to § 35.526 (air), or § 35.565 (water pollution), § 35.626 (public water system supervision), or § 35.676 (underground water source protection) shall be based on the extent to which the applicant's program satisfies the above criteria.

§ 35.410 Evaluation of agency performance.

(a) A performance evaluation shall be conducted at least annually by the Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved objectives and outputs described in the program. The evaluation shall be consistent with the requirements of § 35.538 for air pollution control agencies, § 35.570 for water pollution control agencies, § 35.626(d) for public water system supervision agencies, and § 35.676 for underground water source protection agencies.

(b) The Regional Administrator shall prepare a written report of the annual evaluation. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.415 Report of project expenditures.

No change. See 40 CFR 35.

§ 35.420 Payment.

No change. See 40 CFR 35.

§ 35.425 Federal and grantee program support.

(a) For purposes of establishing the amount of resources which will be committed by the Agency to particular budget categories or program elements under §§ 35.527 (air), 35.561(a) (water), 35.626–1 (public water system supervision) or 35.676–1 (underground water source protection), Federal and grantee financial contribution shall be considered as combined sums, and shall not be separately identified for each budget category or program element. For purposes of this subpart, and pursuant to § 30.700(a) of this chapter, all project expenditures by the grantee shall be deemed to include the Federal share.

(b) A grantee may not unilaterally reduce the non-Federal share of project costs. In the event of a significant proposed or actual reduction in the non-Federal contribution, the Regional Administrator must consider a reduction in the Federal share or an increase to the Federal percentage.

Subpart B is further amended by adding new §§ 35.650–35.680 as follows:

STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAM GRANTS

§ 35.650 Scope and purpose.

Sections 35.650 through 35.680 establish regulations and procedures for providing program grant funds to the States for the development and administration of underground water source protection programs as authorized by section 1443(b) of the Public Health Service Act. These regulations are intended to foster development of State program plans and programs to assist in implementing Title XIV of the Act (added by the Safe Drinking Water Act). This subpart supplements EPA General Grant Regulations and Procedures set forth in Part 30 of this chapter.

§ 35.653 Definitions.

As used in this part, and except as otherwise specifically provided:

(a) "Act" means the Public Health Service Act.

(b) "Allotment" means the sum reserved for each State from funds appropriated by Congress. The allotment represents the maximum amount of funds potentially available to each State from each annual appropriation.

(c) "State" means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(d) "State Underground Injection Control Program" (State UIC Program) means a State program for the regulation of the practice of underground injection to protect underground drinking water sources and meeting the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Act and regulations promulgated pursuant to those provisions of the Act.

(e) "Underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 of the Act and for keeping records and making reports required by section 1422(b)(1)(A)(ii) of the Act.

(f) Other terms used herein shall have the same meanings as prescribed in the definitions of terms contained in Part 146 of this chapter except as the context may otherwise require.

§ 35.655 Determinations of allotments.

Funds appropriated in each fiscal year will be allotted as follows:

(a) The initial allotment for fiscal year 1977 will be established on the basis of the following weighted factors:

(1) The population of each State in proportion to the total population of all States (weight factor: 20 percent). Population statistics will be drawn from the 1970 census and tables 4 and 11 of the 1974 Statistical Abstract of the United States.

(2) The land area of each State in proportion to the total land area of all States (weight factor: 30 percent). Land area statistics will be drawn from Table 290 of the 1974 Statistical Abstract of the United States.

(3) The quantity of ground-water withdrawals in each State used for drinking water purposes in proportion to the total quantity of ground-water used for drinking water purposes in all States (weight factor: 50 percent). Water use quantities will be taken from the most recent U.S. Geological Survey (U.S.G.S.) report on ground-water use in the United States.

(b) Initial allotments established for the States based on the weighted ratios in paragraph (a) of this section will be adjusted so that no State allotment will be less than $10,000.

(c) The total increase in initial allotments resulting from application of paragraph (b) of this section shall be offset by an equivalent total decrease in the initial allotments which exceed the $10,000 minimum, such decrease to be apportioned among the States in proportion to the extent to which each State's initial allotment exceeds the $10,000 minimum.

(d) The allotment for fiscal year 1978 and subsequent fiscal years will be established on the basis of the following weighted factors:

(1) The population of each State in proportion to the population of all States (weight factor: 20 percent). Population statistics will be drawn from the most recent census.

(2) The land area of each State in proportion to the total land area of all States (weight factor: 20 percent). Land area statistics will be taken from the latest Statistical Abstract of the United States.

(3) The quantity of ground-water withdrawals in each State used for drinking water purposes in proportion to the total quantity of ground-water used for drinking water purposes in all States (weight factor: 30 percent). Water use quantities will be drawn from the most recent U.S.G.S. report on ground-water use in the United States.

(4) The number of underground injection operations in each eligible State in proportion to the number of such systems in all States (weight factor: 30 percent). Underground injection operation statistics will be drawn from the Inventory of Underground Injection Operations compiled by the States pursuant to § 35.676. For fiscal year 1978 grants, the number of underground injection operations for which inventory data have been submitted on or before April 1, 1977 will apply.

(e) The allotted amounts will be rounded to the nearest hundred dollars.

§ 35.655–1 Notification of allotments and reallotments.

(a) Each year, within thirty days after the President delivers his budget to Congress, the Administrator will issue to each Regional Administrator a tentative regional allocation (planning target) for the next fiscal year. The tentative State allotment shall be promptly communicated to each State by the Regional Administrator. This tentative allotment will be based on the amount of funds requested in the President's budget for this purpose for the next fiscal year.

(b) As soon as practicable after funds are appropriated, the Administrator will issue to each Regional Administrator a final regional allowance for State allotments to all 56 States from funds appropriated for that fiscal year. This final allotment shall be promptly communicated to each State by the Regional Administrator.

(c) As soon as practicable after April 1 of each fiscal year, except for fiscal year 1977, the Administrator will reallot on a national basis all unobligated funds among States which can demonstrate a need for addidtional funds. The unobligated funds will be allocated on the basis of each State's total allocation factor compared to the sum of the total allocation factors for the eligible States. For fiscal year 1977, this reallotment of unobligated funds will be made as soon as practicable after May 1, 1977.

(d) As soon as practicable after June 30 of each fiscal year, funds remaining unobligated under § 35.655–1(c) and other funds made available by reduction of grant amounts shall be available for reallotment within the region to States which can demonstrate a need for additional funds.

§ 35.657 Rate of Federal assistance.

(a) The rate of Federal assistance furnished to a grantee shall not exceed 75 percent of the allowable costs of the State's underground water source protection programs as described in § 35.676.

(b) The actual amount of each State's grant, which shall not exceed the State's allotment, shall be determined at the time of the grant award by the Regional Administrator.

§ 35.659 Eligibility for grant awards.

Each State which is on the Administrator's list pursuant to section 1422 of the Act shall be eligible to receive a grant award from its final allotment in an amount not to exceed the reasonable cost of carrying out its approved program.

§ 35.661 Application for grant.

For fiscal year 1977, States identified on the Administrator's list as eligible applicants pursuant to section 1422 of the Act must submit their grant applications no later than January 1, 1977 for grant awards not to exceed their final allotments. All other States, petitioning the Administrator to amend the list for their inclusion as eligible applicants, must submit their grant applications no later than April 1, 1977. Regional Administrators shall negotiate grant amounts for each State added to the Administrator's list. Grant awards to new States will be prorated against each State allotment pursuant to § 35.655. States wishing to make application for a program grant shall comply with all applicable requirements set forth in Part 30 of this chapter.

(a) All States applying for program grants shall comply with all applicable requirements of Office of Management and Budget (OMB) Circular A–95, pursuant to § 30.305 of this chapter.

(b) Applications shall be made to EPA on such forms as the Administrator may prescribe pursuant to § 30.315 of this chapter.

§ 35.661–1 State program plan/grant submission.

Each State applying for a program grant shall:

(a) Develop an annual program plan (Part IV of the grant application) in accordance with § 35.676.

(b) For fiscal year 1977, submit an application and program plan to the Regional Administrator no later than April 1, 1977.

(c) The application for an initial grant shall include, in addition to the other submissions requested by this subpart, a letter from the chief elected officer of the State, stating whether the State has established or intends to establish, an underground water source protection program. The letter should designate the one State agency to administer the grant and serve as coordinator for dealing with EPA. However, the State may allocate funds among State agencies as it deems appropriate as long as such allocations are generally proportional to their respective share of the approved plan for conducting the State underground water source protection program. The letter shall also affirm the State's intent to assume, within two years from the approval of the initial grant, primary enforcement responsibility in accordance with the requirements of Subpart B, Part 146 of this title.

(d) For fiscal year 1978, or any later fiscal year, submit a (draft) State program plan pursuant to § 35.676 to the Regional Administrator no later than 90 days prior to the start of the Federal fiscal year.

(e) For fiscal year 1978, or any later fiscal year, submit an application which includes the annual State program plan submission for grant award to the Regional Administrator no later than 30 days prior to the start of the Federal fiscal year.

§ 35.663 Limitation on grant award.

(a) Notwithstanding any other provision of this part, the Regional Administrator may not approve an application of a State for its initial grant to carry out an underground water source protection program, unless he determines that the State (1) has established or will establish within two years from the effective date of the grant an underground water source protection program, as defined in section 1421 of the Act, and (2) will, within that two-year period assume primary enforcement responsibility for underground water source protection within the State pursuant to §§ 146.10 through 146.13 of this chapter.

(b) Notwithstanding any other provision of this part, no grant may be made to a State for any period beginning more than two years after the date of the approval of the State's initial grant unless the State has assumed and maintains primary enforcement responsibility within the State pursuant to §§ 146.10 through 146.13 of this chapter.

(c) No grant will be awarded if it is determined by the Regional Administrator that Federal grant funds will supplant rather than supplement non-Federal funding committed to underground water source protection efforts by the State.

§ 35.670 Allowable costs.

Allowable costs shall be determined in accordance with § 30.705 of this part by showing that the costs are reasonable and proper for carrying out an approved grant program.

§ 35.672 Budget period.

The budget period of the grant shall be for the Federal fiscal year.

§ 35.674 Reduction of grant amount.

(a) If the Regional Administrator determines that the grantee has substantially failed or will fail to achieve the planned accomplishments, the grant amount may be reduced accordingly. These funds will be available for use in accordance with § 35.655–1(d).

(b) States shall be notified prior to any reduction, pursuant to paragraph (a) of this section, in the amount of Federal support to that State. This notification should include the reasons for reduction and, if appropriate, what steps the State must take to regain funding including the time frame within which the steps must be taken.

§ 35.676 State program plan.

Any State wishing to apply for a grant shall prepare and submit to the Regional

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Administrator for approval a program plan which satisfies the requirements of this section and contains planned accomplishments. This program plan is Part IV of the grant application (see § 35.661–1). A State may include in the plan submitted to the Regional Administrator any program element listed in § 35.676–1, and any other program element if the State can demonstrate that such other program element is appropriate for the conduct of its underground water source protection program. The essence of the plan is to relate the utilization of available resources (both Federal and non-Federal) to the achievement of expected accomplishments. The program plan shall describe how the planned accomplishments address the problems in the State and are consistent with the objectives of the Act. Information on the program elements contained in each State's submission shall be presented in summary form and shall include:

(a) The planned accomplishments;

(b) The resources to be expended by the State to produce the planned accomplishments, including anticipated Federal financial and technical assistance;

(c) For fiscal year 1978 the grant application must include an inventory of underground injection facilities;

(d) After fiscal year 1978, an updated summary inventory of underground injection facilities must be provided to EPA prior to April 1 of the preceding calendar year; and

(e) For the second grant and subsequent grants, an analysis of the previous year's State program. This analysis shall compare the planned accomplishments with expected resources, the actual resources expended, and the actual accomplishments.

(f) There will be an annual program evaluation in accordance with § 35.410 of this subpart.

§ 35.676–1 Program elements of an underground water source protection program.

The following program elements are appropriate for carrying out underground water source protection programs. Other program elements may be included in the State program plan if the State can demonstrate that such other program element is appropriate for the conduct of its underground water source protection program. For a State with primary enforcement responsibility, the State program must include program elements satisfying the requirements of § 146.10 of this chapter.

(a) *Administration and program development.* Planning, development and coordination of program activities for the management of an underground water source protection program including general program direction and supervision; development of staffing and budget needs; and development and evaluation of basic underground water source protection legislation, regulations, policies, and public information.

(b) *Surveillance and technical assistance.* Surveys of underground injection operations on an established schedule with written survey reports to the well injection operators; technical assistance to well injection operators, water suppliers, and others regarding the planning, design, operation, maintenance, treatment, quality control; and assessment of underground injection operations.

(c) *Plan review and approval.* A plan review and approval activity for new or proposed underground injection operations and modifications or additions to existing underground injection operations.

(d) *Training.* An activity for the training of State surveillance personnel.

(e) *Enforcement.* An activity for the establishment and implementation of procedures for administrative and judicial enforcement of State primary underground water source protection responsibilities.

(f) *Data management.* A data management activity to maintain essential records needed for conduct of the underground water source protection program and for submission to the Agency; including the maintenance of an inventory for all underground injection operations.

(g) *Surveillance and investigation.* The maintenance of a coordinated activity with State and local agencies to detect, investigate and report suspected ground-water contamination cases.

(h) *Public participation.* Activities conducted by the State to encourage informed public involvement in the planning and conduct of the State underground water source protection program, and establishment of a system to handle citizen complaints.

(i) *Other.*

§ 35.676–2 Regional Administrator's action on grant application.

(a) Each State's final grant application and program plan shall be approved or disapproved by the Regional Administrator within 45 days of receipt.

(b) Should the Regional Administrator's evaluation of the final grant application reveal that the planned accomplishments are not consistent with the level of funding requested, he shall negotiate with the State either to increase the planned accomplishments or to reduce the grant amount. Funds freed by this procedure will remain within the Region to be available for use in accordance with § 35.655–1(c).

§ 35.678 Program limitations.

The provisions of §§ 35.650 through 35.680 are for the sole purpose of assisting the States in providing for protection of underground drinking water sources through an underground water source protection program. These provisions are not intended to assist States in the routine study and monitoring of aquifiers or to assist States to undertake broad geological studies.

§ 35.680 Assignment of personnel.

Upon the written request of a State agency, the Regional Administrator may assign personnel of the Agency to such State agency pursuant to section 1450(c) of the Act. As provided by Office of Management and Budget Circular A–97, the State agency must reimburse the Agency for the salaries and all other identifiable direct or indirect costs of providing the personnel.

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[40 CFR Part 146]

[FRL 595–7]

STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Proposed Regulations

INTRODUCTION

Notice is hereby given that pursuant to sections 1421, 1422, 1423 and 1450 of the Public Health Service Act, as amended by the Safe Drinking Water Act ("SDWA" or "the Act," Pub. L. 93–523), the Administrator of the Environmental Protection Agency (EPA) proposes to issue a new 40 CFR Part 146 setting forth regulations governing State underground injection control programs.

Approximately 100 million Americans are dependent upon drinking water from underground sources which have historically been relatively free from harmful contaminants. However, in recent years there has been increasing concern over the threat to public health posed by the underground injection of substances which degrade the quality of underground drinking water sources. As a result of this concern, Congress included in the Safe Drinking Water Act, enacted on December 16, 1974, a statutory mandate for the establishment of minimum requirements for effective State programs designed to protect underground drinking water sources from subsurface injection of contaminants.

The intent of the proposed regulations is to establish minimum requirements for effective State programs to protect existing and potential underground sources of drinking water from endangerment from underground injection of fluids.

It is clear from the Act and the legislative history of the SDWA that Congress intended that the States exercise primary enforcement responsibility for the protection of underground sources of drinking water to the extent possible. For this reason the regulations are designed to be administratively compatible with and non-duplicative of existing State programs. The regulations are intended to broaden and strengthen these existing State programs as well as to establish minimum national requirements which reflect good engineering practice.

It is also clear that many differences exist between States, including geological conditions, use and availability of ground water, and intensity of underground injection operations. For this reason the regulations are designed to allow a State to exercise maximum flexibility in order to prevent underground injection practices from contaminating drinking water sources.

LEGAL FRAMEWORK OF THE REGULATIONS

Section 1421 of the Act defines the basic requirements of EPA's regulations for State underground injection control programs. The Administrator must promulgate regulations which contain minimum requirements for effective programs to prevent underground injection practices which endanger potential or present drinking water sources. In accordance with this mandate, the principal purpose of the regulations is to prevent endangerment of underground drinking water sources, and the burden is placed on the underground injection operator to demonstrate that his operation will not result in endangerment. Section 146.2(x) of the proposed regulations seeks to clarify what is meant by "endangerment" by defining that term to include the contamination or potential contamination of an aquifer which may result in the need for additional treatment of water from the aquifer to make it suitable for drinking. Comments on this definition and suggestions for alternative approaches are welcome. EPA believes that the definition of endangerment should be construed liberally so as to effectuate the preventive and public health protection purposes of the Act. Therefore, the proposed regulations seek to prevent the injection of materials which may enter a present or potential drinking water source and pose a threat to human health or otherwise render a present or potential water source unfit for human consumption. Necessarily, the regulations seek to prevent the injection of materials which may force a public water system to expend funds to comply with any national primary drinking water regulation or otherwise to avoid endangerment to the public health.

Section 1421(b)(2) states that regulations for State underground injection programs may not prescribe a requirement which interferes with or impedes underground injection in connection with oil and natural gas production or the secondary or tertiary recovery of oil and natural gas unless such a requirement is essential to assure that underground sources of drinking water will not be endangered by such injection. The House Report accompanying the Act defines the term "interfere with or impede" to mean "stop or substantially delay" (Report 93–1185, at 31).

The Administrator need not demonstrate that a particular requirement is essential unless it can be first shown that the requirement interferes with or impedes oil or gas production. As indicated in the House Report, the Administrator does not have an "impossible" burden in establishing the essentiality of a requirement. (Report 93–1185, at 31) Moreover, as discussed above, the Agency intends to interpret the term "endangerment" broadly so as to effectuate the purposes of the Act. Recognizing the complexity, intensity, age and experience in regulating injection operations as they relate to oil and gas production and the fact that several alternative methods have been demonstrated to be equally effective in protection of underground sources of drinking water proposed § 146.42(c) provides that a State Director may approve an alternative method of protection to specific minimum requirements contained in § 146.42(a), if the operator clearly demonstrates that (i) the requirement would stop or substantially delay oil or natural gas production at his site; and (ii) the requirement is not necessary to assure the protection of an existing or potential source of underground drinking water. Section 146.42(c) applies only to specific wells or injections. Section 146.42(b) provides that the Director may designate specific geographical areas where an alternative method to the requirements in § 146.42(a)(1) or (a)(2) may be employed.

Section 1422(a) of the Act requires the Administrator to list in the FEDERAL REGISTER those States for which a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such a determination will not be based on the adequacy of an existing State program but will be initially based on the dependency of a State on ground water as a source of drinking water and the magnitude of underground injection operations in a State. All States will eventually be listed. Under section 1422(b) of the Act, a State so listed must submit a State program to the Administrator within 270 days after being named. If the State program does not fully meet the requirements of the Act and applicable regulations, or if no State program is submitted, the Administrator must prescribe a program for the State within 90 days. The States will be listed within 90 days of the publication of this notice (40 FR 31034, July 24, 1975).

If a portion of a State's program meets the requirements of the Act and these regulations, that fact will be taken into account in the Administrator's prescription and administration of a program for the State. EPA will administer only that portion of an underground injection control program for the State for which the State's program is not adequate. However, section 1421 of the Act makes clear that the State cannot assume overall "primary enforcement authority" unless all of its program is approved by the Administrator. If a State does not assume primary enforcement responsibility, it cannot be awarded program grant funds related to an underground injection control program after an initial two-year period, and the Administrator will have direct enforcement authority in the State pursuant to section 1423 of the Act.

State underground injection control programs under section 1421 of the Act are considered separately from State public water system supervision programs under section 1413. A State does not have to qualify for primary enforcement responsibility for public water systems to qualify for primary enforcement responsibility for underground injection.

Section 1421 of the Act requires the Administrator to promulgate regulations establishing minimum requirements for the State underground injection control programs. Section 1421 also specifies some of those requirements. The regulations must require that a State program, to be approved under section 1422—

(A) Shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) Shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

(C) Shall include inspection, monitoring, recordkeeping and reporting requirements; and

(D) Shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other persons whether or not occurring on property owned or leased by the United States.

Within the framework of section 1421(b), the Agency has based the proposed regulation on its review of thirty-one existing State programs and on technical and policy input from a diverse work group including four State officials (Texas, Kansas, Florida and Michigan), the U.S. Geological Survey, five regional EPA representatives (Regions VI, IX and X), three representatives from USEPA laboratories, and seven representatives from USEPA headquarters. Comments were also solicited from State program officials, industry representatives, and environmental groups.

SCOPE OF THE REGULATIONS

The Act defines "underground injection" as the "subsurface emplacement of fluids by well injection" (Section 1421(d)(1)).

The scope of the coverage of these regulations is determined by the definition of "well injection." The term is not explicitly defined in the Act or the legislative history. Upon examination of the purpose and legislative history of the Act, EPA is including the following definition in proposed § 146.2(r):

Well injection means subsurface emplacement through a bored, drilled, or driven well, or through a dug well where the depth is greater than the largest surface dimension, whenever a principal function of the well is the subsurface emplacement of fluids.

The term "well injection" is defined in terms of the function of a well. As well as including what is normally referred to as the "deep well" injection of industrial or municipal wastes, the proposed definition of "well injection" also includes a number of well injection practices other than "deep well" waste disposal, including the subsurface emplacement of fluids generally, not just waste disposal. This definition is supported by the House Report, which states:

The definition of underground injection is intended to be broad enough to cover any contaminant which may be put below ground level and which flows or moves, whether the

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contaminant is semi-sold, liquid, sludge or any other form or state.

This definition is not limited to the injection of wastes or to injection for disposal purposes; it is intended also to cover, among other contaminants, the injection of brines and the injection of contaminants for extraction or other purposes. (Report 93–1185, at 31.)

The proposed definition includes drilled wells, since these are the type of wells used in the practices most often mentioned in the legislative history as requiring regulation. It also covers bored and driven wells, which are similar in concept and are used for the same purposes in appropriate situations.

The proposed definition includes dug wells in the definition of well injection practices only when the depth of the well is at least greater than the largest surface dimension of the well. Imposing this depth-width limitation is an effort to adhere to a common view of a well, that it is substantially deeper than it is wide.

Several factors were considered and rejected in the development of the definition of "well injection." For example, as noted in the legislative history above, the nature of the fluid emplaced is not a controlling factor. Also, the legislative history does not suggest that subsurface emplacement of fluids becomes "underground injection" at some predetermined depth below the surface.

A simple way to define "injection" in the context in which it is used in the statute would be to relate it to mechanically induced pressure. However, the clear purpose of the Act is to prevent the endangerment of underground drinking water sources through the injection of fluids, and there is no reason to distinguish between mechanical pressure and gravity flow injection.

The proposed definition does not cover practices which in many cases endanger underground drinking water because they cannot be deemed to be "underground injection" within the meaning of section 1421(d)(1) of the Act. For example, leakage from sewer mains, septic systems, highway salting and leaching from landfills appear to be very serious sources of contamination of underground drinking water, but they are not underground injection practices and therefore are not regulated by Part C of the Act. It also does not cover a situation such as the construction of an oil or gas production well or those surface impoundments where incidental subsurface emplacement of fluids occurs but is not a principal function of the operation.

In § 146.2(r), the term "dug well" applies only to impoundments where the depth is greater than the largest surface dimension. However, the term "dug well" also can be applied technically to surface impoundments, such as pits, ponds and lagoons, where the depth is less than the largest surface dimension. (*See Meinzer, Outline of Ground-Water Hydrology with Definitions*). What is unclear is whether these dug walls which also have as a principal function the subsurface emplacement of fluids are also covered by the Act.

What is clear is that there are tens of thousands of dug wells—including industrial and municipal pits, ponds and lagoons used for waste treatament, storage or disposal—which pose a very serious potential hazard to underground drinking water. EPA proposes to attack the problem of these dug walls, including pits, ponds and lagoons, in the following manner:

1. Proposed § 146.16(b) requires States to undertake a survey of dug wells to determine the extent to which they function to emplace fluids underground and the hazards they pose to underground drinking water sources.

2. EPA will seek to obtain needed additional data on these dug wells through the study of pits, ponds and lagoons authorized by section 1442 of the Act.

3. When enough data is available to determine which dug wells should be regulated and how they should be regulated, EPA will endeavor to amend the definition of "well injection" to the extent possible to cover additional dug wells or will seek such additional legislation as may be necessary. It is EPA's intention that any broadening of the regulation of dug wells would not take effect for at least two years after the effective date of the initial underground injection control regulations, in the interest of orderly administration of the State programs.

However, it should be noted that EPA could act to prevent such endangerment under section 1431, the emergency powers provision of the Act. EPA is studying the effects of these and other sources of ground-water contamination. In the meantime, the States are encouraged to continue their efforts to regulate a broad range of sources of contamination which do not fall within the meaning of "underground injection" as that term is used in the Act.

Comments are encouraged on ways in which those dug wells which have as a principal function the underground emplacement fluids can be defined and included in an underground injection control program.

Framework of the Regulations

These regulations are established to provide the minimum requirements for regulating the underground injection of fluids by the practice of well injection. The practices which are covered by the proposed regulations include injection through any bored, drilled or driven well, or any dug well, where the depth is greater than the largest surface dimension, whenever a principal function of the well is the subsurface emplacement of fluids.

This covers several hundred industrial and municipal waste disposal wells, wells used to inject materials into underground strata for storage, recharge wells, barrier wells, subsidence control wells, mining wells, geothermal wells, brine disposal wells, injection wells used in connection with oil and gas recovery, and drainage wells used for the purpose of disposal of storm water runoff and irrigation return flow.

The proposed regulations include three categories for different types of underground injection practices. Subpart C includes waste disposal wells, wells used to inject materials into underground strata for storage, recharge wells, barrier wells, subsidence control wells, geothermal wells and mining wells. Permits would be required for all such wells, although wells in existence on the effective date of the State program could be regulated by general rule for a period of up to five years pending review of the well by the State. Subpart D includes underground injection wells associated with oil and gas production. Owing to the unique nature and diversity of these wells, Subpart D allows greater flexibility to the States in regulating these wells. As in the case of Subpart C, a permit would be required for these wells also. Subpart D wells in existence on the effective date of the State program could also be regulated by general rule for a period of up to five years pending review of the wells by the State. Review of existing wells could be conducted on a field-by-field or similar approach by the State to simplify the permitting of existing wells and to avoid duplicative data requirements. Subpart E governs drainage wells. These wells can be regulated by permit or by rule, at the option of the State. Maximum flexibility is given to the States for regulation of these types of underground injection wells.

Comments are invited on the categorization of well injection practices used in the regulations and the adequacy of coverage of the regulations.

Approval of State Programs

Subpart B of the proposed regulations sets forth the procedures for the approval of State programs. Proposed § 146.10 lists the basic requirements for approval. One of those requirements is that a State program must follow the pattern of regulations by rule or permit established in Subparts C, D, and E. In other words, a State program must follow the requirements of Subpart C in its regulation of waste disposal wells and engineering wells. The State program regulating injection wells related to oil and gas production must follow the requirements of Subpart D. With respect to other types of injection wells, the State program may regulate by a permit system or by rules of general applicability or by a combination of the two, so long as it meets the minimum requirements of Subpart E.

Proposed § 146.12 sets out the requirements for an application for a State program. It is not intended that a State include all possible information about its program, but a State must submit the relevant State statutes and regulations and a description of the State's enforcement procedures. This includes designation of geographical areas under §§ 146.11 and 146.42(b).

Under proposed § 146.13, the Administrator will give public notice of a request for approval of a State program, and will invite comment. Action must be taken on the State application within 90 days after its receipt. Opportunity for public hearing is required by section 1422(b)(4) of the Act.

Once a State program is approved by the Administrator, it will remain in effect until such time as the Administrator determines that the program no longer meets applicable requirements. To facilitate the Administrator's consideration of the continued compliance of a State program with applicable requirements, proposed § 146.15 requires that the State retain pertinent records on outstanding State-issued permits and on violations of State requirements. In addition, under proposed § 146.16 a State would be required to submit to the Administrator, for approval, information on any proposed material changes in the State program. This includes designation of geographical areas under §§ 146.11 and 146.42(b). The State also would be required to submit on April 1 of each year a brief annual report updating the State's inventory of underground injections (a summary, not a facility-by-facility description) and summarizing violations of State statutes and regulations and of enforcement actions taken by the State.

Key Provisions of the Proposed Regulations

A. Endangerment of Drinking Water Sources

The goal of any requirement for the protection of underground water sources is set by the statute as preventing the endangerment of drinking water sources. As provided by section 1421(d)(2) of the Act:

> Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

The House Report accompanying the Act provides some guidance as to which underground water sources can reasonably be expected to supply any public water system. The Report indicates that any underground source with a level of total dissolved solids of 10,000 mg/l or less should be protected (Report 93–1185, at 32). Proposed § 146.2(g) defines underground drinking water sources accordingly. However, EPA believes that there should be some means of excluding individual aquifers or parts of aquifers which are not in fact potential sources of drinking water even though they have total dissolved solids levels of less than 10,000 mg/l. For example, an aquifer may be oil-producing even with a TDS level of less than 10,000 mg/l, and in such a case it may be wise to give the oil-producing qualities of the aquifer precedence over its ability to provide drinking water. Also, some aquifers below the 10,000 mg/l level are so contaminated that as a practical matter they are not potential drinking water sources.

Because it would be a misallocation of resources to seek to protect as potential drinking water sources aquifers which in fact will not be used by public water systems, proposed § 146.11(a) provides that a State program may designate one or more aquifers or portions thereof in the State which have a TDS level below 10,000 mg/l but which will not be protected because they are oil-producing, are severely contaminated or located in such a way that use as drinking water is impracticable. The State must demonstrate by compelling evidence that an aquifer is and will continue to be unsuitable as a source of drinking water. As part of the State program, the designation would be subject to public notice and public hearing prior to submission to EPA. The regulations also provide, in § 146.11(b), that a State may designate geographical areas where no underground drinking water sources exist. In such geographical areas, the requirements of Subparts C, D, and E would not apply. Comment is requested on this approach to selecting aquifers which do not require protection as potential drinking water sources.

Once the aquifers to be protected are identified, the question remains as to the degree of protection to be given. The Act defines "endangerment of drinking water sources" to mean the presence of a contaminant which "may result in [a public water] system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons." In the case of existing system using an underground water source, the logical meaning of this provision is that contamination endangers drinking water if it requires the use of new or additional treatment by the system to meet a national primary drinking water regulation or otherwise to prevent a health risk. In many instances there would be a time lag between the time of contamination and the initiation of the new treatment. Diversion of water system resources to deal with such preventable contamination is an inefficient approach to the problem of providing safe drinking water to all persons.

The question of endangerment of underground drinking water sources is more difficult with respect to potential sources not currently used by public water systems. It could be argued that potential sources of underground water are endangered whenever they are degraded. In the case of a potential source of underground water which would meet primary drinking water regulations without treatment, degradation of that water may make treatment necessary. In the case of a potential source of underground water which will require treatment if it is used in the future, degradation may make further treatment necessary or may make the water unsuitable for use as drinking water.

The problem of what constitutes "endangerment" is further complicated by the fact that it is expected that several contaminants not covered by the national interim primary drinking water regulations will be covered within a few years by the revised regulations. It can also be anticipated that new contaminants will be added to the revised regulations from time to time thereafter. How can underground injection control programs protect underground water sources from "endangerment" by contamination with materials which are not now prohibited in any concentration in drinking water but which may be limited by future maximum contaminant levels?

Finally, there is the statutory mandate to protect underground water sources from any contamination which "may otherwise adversely affect the health of persons." The legislative history of the SDWA suggests that this language means, at the least, that contamination by underground injection which causes ground water to be unpalatable is prohibited (Report 93–1185), at 32). The justification for such a prohibition is that it makes little difference that water can meet applicable primary regulations if for aesthetic or other reasons it is undrinkable. Clearly there can be other types of contamination which "may otherwise adversely affect the health of persons." For example, water with offensive taste, odor, or color may force the use of alternative water sources of poorer quality. Also, even if a specific dangerous pesticide or other toxic chemical is not covered by the primary regulations because it is not usually found in drinking water supplies, the contamination of an underground drinking water source by that chemical could adversely affect the health of persons who obtain the drinking water from that source.

Despite the difficulty of defining endangerment of drinking water as that term is used in the statute, the task must be undertaken in these regulations. For although every effort will be made to permit consideration of local geological conditions, local laws and local procedures, the basic health standards to be applied in underground injection control programs should be uniform across the country. It was the intent of Congress to accommodate local differences within the framework of a national policy for the protection of the health of the Nation's citizens.

Endangerment of drinking water sources is defined in proposed § 146.2(x) as follows:

> Underground injection "endangers underground drinking water sources" if (1) such injection may make it necessary for a public water system using an underground drinking water source to increase treatment of the water, or (2) if such injection might make it necessary for a public water system which uses the source in the future to use more extensive treatment of the water than would otherwise have been necessary, or (3) if such injection may otherwise adversely affect the health of persons such as by adding a substance that would make water from the source unfit for human consumption.

It is expected that the application of the definition of endangerment will be different in the case of existing underground injection than in the case of new underground injection. An applicant for a permit for underground injection will be expected to demonstrate to the satisfaction of the State that the injection will not endanger underground drinking

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water sources. However, in the case of an existing injection, the applicant normally will be able to show, based on the history of the operation, that continued operation will not require additional treatment of ground water for drinking water use and will not otherwise adversely affect the health of persons such as by making the water unfit for use as drinking water. New underground injections, or a substantial change in an existing underground injection, will be expected to bear a heavier burden of proof.

Comments on the definition of the endangerment of drinking water sources and how that definition might be applied in the regulations are welcomed.

B. COMPARISON OF SUBPARTS C AND D

1. Standards for Existing and New Injection Wells. Existing wells under both Subparts C (waste disposal wells and engineering wells) and D (oil or natural gas production) could be regulated by rule for a period of up to five years after approval of the State program so long as such wells do not endanger underground drinking water sources. Proposed § 146.10(a) would prohibit new underground injection under both subparts without a permit. Section 1421(b)(1)(A) of the Act authorizes EPA to permit a State to regulate underground injection by rule or permit, and the legislative history of this provision states:

> In order to implement these controls to protect drinking sources with minimum administrative redtape, the Committee decided to allow EPA discretion to utilize a permit system, rulemaking, or a combination of the two to control underground injection. (Report 93-1185, at 30)

Accordingly, EPA believes that it is prudent to allow States to phase-in permit procedures for existing wells under Subparts C and D so long as underground sources of drinking water are protected by appropriate rules. Consistent with this effort to minimize redtape, proposed § 146.41(a)(1) provides that a State Director has discretion to require appropriate information in permit applications for existing underground injections under Subpart D. By comparison, the information set out in proposed § 146.47 is required in all permit applications for new injection sites under Subpart D. Similarly, the information set out in proposed § 146.24 under Subpart C is required in permit application for both new and existing operations. The reason behind this distinction is the large number of existing injection wells related to oil or gas production and the vast amount of data already on file in the States. By granting the Director discretion with respect to information requirements for these wells, EPA anticipates that a State will be able to focus its resources on critical existing injection sites without becoming enveloped in an unduly burdensome permit program for existing wells.

2. Permit System Subparts C and D. As noted above, permits would be required for all underground injections which commence operation in a State after approval of the State program ("New underground injections"). Permits would be required for all underground injection operations in operation prior to approval of the State program within five years of approval. Section 1421(b) of the Act does not specify any type of hearing as a prerequisite to the issuance of a permit, but the regulations provide for an opportunity for informal public hearing prior to the issuance of permits under Subparts C (§ 146.28) and D (§ 146.45). Proposed § 146.4 provides the Director with discretion in determining necessary requirements for the renewal of permits after five years. Public notice of the renewal of a permit would be required by proposed § 146.5. It is anticipated that State administrative procedures will provide for judicial review of permit proceedings.

3. Temporary Permits. Section 1421(c)(1) of the Act allows the Administrator to authorize a State to issue temporary permits for existing underground injection operations, effective until December of 1978, when the State is unable to process all permits within the time available. The authority can be given to a State only under the conditions spelled out in section 1421(c)(1), and only under an application for the authority from the Governor of the State. Under the proposed regulations, section 1421(c)(1) authority would not be necessary because the States would be allowed to regulate wells covered by Subparts C and D by rule rather than by permit for up to five years and to regulate drainage wells by rule indefinitely.

Section 1421(c)(2) of the Act permits the Administrator to authorize a State, again only under an application from the Governor of the State, to issue temporary permits amounting to variances from the prohibition of endangerment of underground drinking water sources. As in the case of the section 1421(c)(1) temporary permits, these permits cannot be effective later than December of 1978. Furthermore, a temporary permit under section 1421(c)(2) cannot be issued by a State until the State can find, based on the record of a hearing, that each of the following requirements are met:

(A) That technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) That injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) That available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potential adverse effect of the injection on the public health.

C. SUBPART E

Proposed Subpart E allows a State program to exercise great flexibility in designing a program for the control of drainage wells. A State may regulate these wells by either rule or permit, or a combination thereof. While seeking to prevent drainage wells from endangering underground water sources, EPA recognizes that the number and diverse characteristics of drainage wells make it extremely difficult to establish specific requirements under Subpart E. Accordingly, EPA has allowed State programs maximum flexibility to deal with drainage wells on a case by case basis, if necessary. As such, EPA intends to monitor State programs under Subpart E and carefully analyze the efficacy of this approach.

D. REMEDIAL ACTION UNDER SUBPARTS C, D AND E

Underground injection operations regulated under Subpart C, D, or E that are found to endanger underground drinking water sources are required to discontinue operations until remedial action is taken unless the Director determines that it is unreasonable and impracticable to discontinue operations while taking remedial action. If the Director permits an endangering operation to continue operation while taking remedial action, the Director must prescribe a compliance schedule which shall require remedial action to be taken as soon as practicable but in no case later than one year following the determination of endangerment. It is expected that State Director will require cessation of injection in cases where an imminent health problem may result from such an injection.

SPECIFIC PROVISIONS OF THE REGULATIONS

A. REVIEW OF COMPLETION AND PLUGGING REPORTS

Proposed § 146.22(f) requires that "all well completion and plugging reports" for wells penetrating the proposed injection zone within a two mile radius of the proposed well injection be reviewed to insure that all wells that, in the judgment of the Director, present a potential threat to underground drinking water sources are properly completed or plugged. In § 146.42(a)(6) dealing with oil and gas production this review is also required except that the radius is reduced to one-half mile. These requirements are intended to prevent the contamination of underground drinking water sources by formation fluids or injected fluids migrating up improperly completed or plugged wells into fresh water formations.

EPA feels that the same minimum regulations should apply to both waste disposal wells and engineering wells because they share common construction, engineering, and operational characteristics. Most States have defined policies for waste disposal wells but few policies exist on the engineering wells. Fourteen States entirely ban the use of waste disposal wells. Twelve States have specific regulations applying to waste disposal wells. The requirements relating to radius of review vary, but a two mile or greater radius is most common. Texas, which now regulates over 40 percent of all such wells, requires a two and one-half mile radius of review. Twenty other States have policies requiring a careful

case by case review of waste disposal wells. Therefore, on the basis of the Texas requirement and the fourteen States which ban waste disposal wells, EPA does not feel that a minimum radius of review below two miles would be appropriate. It is important to note that these regulations neither require those States which ban waste disposal wells to permit them in the future nor require a State such as Texas to adopt less stringent requirements. To the contrary, EPA encourages States to adopt more stringent requirements, if necessary, to prevent the endangerment of underground water sources.

State regulations demonstrate flexibility with respect to injection wells related to oil and gas production. Thirty of the thirty-one oil producing States require a plat denoting ownership and location of all wells including oil, gas, drilling and dry holes. Seventeen of the thirty-one States have specified that all wells within a one-half mile radius of the proposed injection wells should be indicated on a map or plat and that the injected fluid will not cause damage to oil, gas, fresh water or other natural resources. Further, it should be noted that the plugging or completion requirement applies only to those wells penetrating the injection zone which pose a potential danger to underground drinking water sources. It is incumbent on the injector to demonstrate that no hazard exists.

B. SURFACE CASING REQUIREMENTS

Proposed §§ 146.22(a) and 146.42(a)(1) require that "all underground drinking water sources of 3,000 mg/l total dissolved solids or less (be) protected by surface casing cemented to the surface."

The House Report accompanying the SDWA recommended that all ground water up to 10,000 mg/l TDS be protected as potential drinking water sources. Discussion with major oil producing States indicated that existing practice requires protecting ground water containing up to 3,000 mg/l TDS with surface casing as potential drinking water sources. In light of these existing provisions, the 3,000 mg/l limit has been established as a minimum standard. Of course, where underground injection would endanger a present or potential source of drinking water containing up to 10,000 mg/l TDS, EPA expects States to protect such a source.

It is recognized, however, that in oil producing States there are specific areas where alternate methods of protection have been utilized effectively in the past to protect ground water and can be used to do so in the future. Therefore, the Director is given discretion under § 146.42(b) to permit the continued use of this practice within specified areas of the State provided a public hearing is held. Compelling evidence must be adduced at such a hearing to demonstrate that the continued use of the practice will not endanger underground sources of drinking water. The alternative chosen will be applicable to all wells wtihin the specific area.

C. TUBING AND PACKER

Proposed §§ 146.22(c) and 146.42(a)(2) require that "injection is maintained through tubing with a suitable packer set immediately above the injection zone." Most State regulations and those knowledgeable in the field of underground injection recommend that tubing and packer or fluid seal be used to isolate the injection zone from potential drinking water sources which may be endangered as a result of the injection of fluids.

It is recognized, however, that there are some areas where alternative methods of protection have been used and can continue to be used effectively to protect ground water. For this reason, the Director is given the discretion to permit the continued use of this practice under § 146.42(b) provided a public hearing is held. Compelling evidence must be adduced at such a hearing to demonstrate that the continued use of the practice will not endanger underground sources of drinking water. The alternative chosen will be applicable to all wells within the specific area. The Director may also approve alternative methods under § 146.22(c) where they are demonstrated to be equally effective.

D. ANNULAR INJECTION

Section 146.2(z) defines "annular injection" as any injection between strings of casing, between tubing and casing, between strings of tubing and between casing and hole. The following sections deal with the differing types of protection necessary to protect drinking water sources from the three common types of annular injection.

Section 146.42(a)(7) prohibits annular injection between the casing and the hole. With this type of annular injection, there is no protection for underground sources of drinking water.

Section 146.42(a)(8) prohibits annular injection between strings of casing and between tubing and casing, except that the Director may approve such injection provided: (1) there is an annulus between the outer string of casing receiving the injection, and the surface casing which can and will be monitored for leaks; (2) that the surface casing is protected by cement to the surface; and (3) that the injector demonstrates to the satisfaction of the Director that the injection will not endanger underground sources of drinking water.

Section 146.42(a)(9) prohibits annular injection between the surface casing and the next innermost casing or between the surface casing and the tubing, or injection through the surface casing only; except that the Director may approve such injection where: (1) the injection was in operation prior to approval of the proposed State program, and; (2) the injector demonstrates to the satisfaction of the Director that, based on previous history and presentation of compelling evidence collected through fluid injection profile surveys or monitoring wells that the injection has not endangered underground sources of drinking water, nor will its continued use endanger underground sources of drinking water. Comments are solicited on the adequacy of these requirements in protecting underground sources of drinking water and on the impact of these requirements on existing wells.

E. MONITORING WELL

Section 146.42(a)(9) permits presentation of evidence gathered from monitoring wells in support of a demonstration of non-endangerment from an annular injection. These monitoring wells may be drilled specifically for this purpose or they may be producing water wells currently in place providing they draw water from the base of fresh water within the calculated zone of influence of the injection well.

F. SUPPLEMENTAL DATA ACQUISITION

Section 146.47(b) contains a list of additional data which is desirable to have in evaluating an application for well injection. It should be noted, however, that it is not necessary to collect this data in every case. This data should be collected only where necessary to make the necessary determinations.

G. PRESENTATION OF COMPELLING EVIDENCE

Sections 146.22(c), 146.42(a)(9), 146.42(c)(1) and 146.42(c)(2) require the presentation of "compelling evidence." "Compelling evidence" means the types and quantity of data necessary to provide a base such that reasonably qualified people would draw the same conclusion. In § 146.42(c)(1) and (c)(2) "written" compelling evidence is required. This may take the form necessary to satisfy the Director. However, in States where a formal public hearing, including the use of court stenographers and cross examination is required, this procedure may be utilized alone or in support of other requirements by the Director.

H. CATEGORIZATION ANOMALIES

There are several special types of wells such as certain recharge wells and mining wells, where current technology mandates utilization of annual injection, and multiple use wells such as those used for water flood and subsidence control which may not readily fit into the current categorization scheme. Comment is solicited on the extent and nature of these wells and on the necessity of developing different minimum requirements than those currently contained in the regulations.

I. SUMMARY OF SOLICITED COMMENTS

Comments are solicited on specific parts of the regulations. These are summarized below:

1. Definition of "underground drinking water source";
2. Definition of "well injection";
3. Definition of "endangers underground drinking water sources";
4. Requiring data to be kept by States in a form admissible as evidence in enforcement proceeding;
5. Adequacy of time for conducting inventory and analyses of surface impoundments;

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6. Combination rule-permit programmatic staging system for existing injection wells;

7. Handling of confidential information;

8. Adequacy of requirements in preventing endangerment and impact of these requirements on existing annular injection wells; and

9. Alternative methods of determining non-endangerment from wells penetrating injection horizon.

COMMENTS

Interested persons may participate in this rulemaking process by submitting written comments in triplicate to the Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460 Attention: Comment Clerk, State Underground Injection Control Program Regulations.

Comments on all aspects of the proposed regulations are solicited. In addition to considering public comments, the Agency will hold public hearings to receive comments and statements on the proposed regulations. The hearing room locations, dates and times should be confirmed by interested parties in advance by telephone.

October 6, 1976: EPA, Region VIII, 900 Lincoln Tower Building, 1860 Lincoln Street, Denver, Colorado 80202, Telephone: (303) 837-2731.

October 13, 1976: EPA, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 749-1962.

September 29, 1976: EPA, headquarters, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Telephone: (202) 426-3934.

All comments received on or before November 15, 1976 will be considered. A copy of all public comments will be available for inspection and copying from the EPA Freedom of Information Center. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

It is our judgment that these proposed regulations will not have a significant impact on inflation as specified in the Agency's Guidelines on Inflation Impact Statement. as specified in the Agency's Guidelines. Hence, these regulations are not considered major regulatory actions so that they do not require preparation of an Inflation Impact Statement as set forth in Executive Order 11821. However, an economic evaluation has been prepared.

It is hereby announced that a draft Environmental Impact Statement has been prepared on these proposed regulations. Copies of the statement may be obtained from the Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460, Attention: UIC-EIS.

The Council of Environmental Quality will publish in the FEDERAL REGISTER on the second Friday following proposal of these regulations the duration of the comment period. All comments received on or before the date specified by CEQ will be considered.

Comments should be submitted in triplicate to the Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460, Attention: Comment Clerk Environmental Impact Statement-UIC.

Dated: August 13, 1976.

RUSSELL E. TRAIN,
Administrator.

Subpart A General

Sec.
146.1 Scope and purpose.
146.2 Definitions.
146.3 Duration of permits.
146.4 Renewal of UIC permits.
146.5 Public notice of renewal of UIC permits.

Subpart B State Underground Injection Control Programs

146.10 Requirements for approval of a State underground injection control program.
146.11 Aquifers protected by a State program.
146.12 Request for approval of a State underground injection control program.
146.13 Action on request for approval of a State program.
146.14 Public hearing.
146.15 Records kept by States.
146.16 Reports by States.

Subpart C Requirements Applicable to Waste Disposal Wells and Engineering Wells

146.20 Underground injection to which subpart applies.
146.21 Review of existing underground injections.
146.22 Requirements for existing and new underground injections.
146.23 General permit procedures.
146.24 Application for UIC permit.
146.25 Formulation of preliminary determination and draft UIC permits.
146.26 Public notice of proposed issuance or denial of UIC permits for existing and new underground injections.
146.27 Notice to other Government agencies.
146.28 Public hearings on existing and new underground injections.
146.29 Public notice of hearings on existing and new underground injections.
146.30 Director action on UIC permit applications.
146.31 Prohibited underground injection.
146.32 Permit conditions and other requirements.
146.33 Monitoring and record-keeping.
146.34 Reporting requirements.

Subpart D Requirements Applicable to Injection Wells Related to Oil and Gas Production

146.40 Underground injection to which subpart applies.
146.41 Review of existing underground injections.
146.42 Requirements for existing and new underground injections.
146.43 Public notice of proposed issuance or denial of UIC permits for existing and new underground injections.
146.44 Notice to other Government agencies.
146.45 Public hearings on existing and new underground injections.
146.46 Public notice of hearings on existing and new underground injections.
146.47 Application for UIC permit for a new underground injection.
146.48 Permit conditions and other requirements.
146.49 Monitoring and record-keeping.
146.50 Reporting requirements.

Subpart E Requirements Applicable to All Drainage Wells

146.70 Underground injections to which subpart applies.
146.71 Regulation by rule or permit.
146.72 Regulation by permit.
146.73 Regulation by rule.
146.74 Remedial action.

Subpart A—General

§ 146.1 Scope and purpose.

(a) Part C of the Safe Drinking Water Act, Pub. L. 93-523, added to the Public Health Service Act ("the Act") provisions for the protection of present and potential underground drinking water sources from contamination by underground injection of contaminants. Public Health Service Act, sections 1421-1424, 42 U.S.C. 300-h through 300-h-3.

(b) Section 1422 of the Act provides that the Administrator shall list in the FEDERAL REGISTER each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Within 270 days after a State is listed, it must submit to the Administrator a State program adequate to protect underground sources of drinking water. If the State program is not submitted or is not approved by the Administrator, an underground injection control program for the State must be prescribed by the Administrator.

(c) Under sections 1421, 1422 and 1450 of the Act, this part sets forth procedural and substantive requirements which must be met by State programs to obtain the Administrator's approval. Any State program approved by the Administrator will be subject to the requirements of this part. A State with an approved program in effect shall have primary enforcement responsibility for all underground injection activities in the State, except as noted in paragraph (d) of this section.

(d) To qualify for primary enforcement responsibility, a State's program for enforcement of underground injection control regulations must apply to all underground injection practices in the State required to be regulated by this Part, except for:

(1) Underground injection practices on Indian land where the State does not have the necessary jurisdiction or its jurisdiction is in question; or

(2) An underground injection practice operated by or for a Federal agency where the Administrator has waived compliance with all or part of an applicable underground injection control program under section 1447(b) of the Act.

(e) Underground injection to be regulated includes underground injection by municipal and industrial waste disposal wells, storage wells, subsidence control wells, mining wells, geothermal wells, barrier wells, recharge wells; underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production and underground injection for the secondary or tertiary recovery of oil or natural gas; and underground injection by drainage wells.

§ 146.2 Definitions.

As used in this part, and except as otherwise specifically provided:

(a) "Act" means the Public Health Service Act.

(b) "Agency" means the United States Environmental Protection Agency.

(c) "Administrator" means the Administrator of the Agency or his authorized representative.

(d) "Regional Administrator" means a Regional Administrator of the Agency.

(e) "Director" means the chief administrative officer of a State groundwater pollution control agency. In the event responsibility for ground-water pollution control and enforcement is divided among two or more State agencies, the term "Director" means the State administrative officer authorized to take the action to which reference is made.

(f) "FWPCA" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314, et seq.

(g) Except as provided in § 146.11, "Underground drinking water source" means (1) an aquifer which currently supplies a public water system, or (2) an aquifer which contains water having less than 10,000 mg/l total dissolved solids.

(NOTE.—Comment is solicited on the adequacy of this definition.)

(h) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(i) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(j) "State Underground Injection Control Program" (State UIC Program) means a State program for the regulation of the practice of underground injection to protect underground drinking water sources and meeting the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Act and regulations promulgated under those provisions of the Act.

(k) "Underground Injection Control permit application" (UIC permit application) means the State application form including subsequent additions, revisions, or modifications duly promulgated by the Director for application for a UIC permit.

(l) "Underground Injection Control reporting forms" (UIC reporting forms) means any State reporting forms, including subsequent additions, revisions, or modifications duly promulgated by the Director for reporting data and information pursuant to monitoring and other conditions of UIC permits.

(m) "Underground Injection Control permit" (UIC permit) means any permit or equivalent document issued by the Director, setting forth the terms under which the applicant may inject fluids.

(n) "Aquifer" means a formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield or be capable of yielding significant quantities of water to wells or springs.

(o) "Total dissolved solids" means the entire quantity of inorganic and organic materials dissolved in water.

(p) "Underground injection" means subsurface emplacement of a fluid, or fluids by well injection.

(q) "Fluid" means material which flows or moves, whether semi-solid, liquid, sludge, or any other form or state.

(r) "Well injection" means subsurface emplacement through a bored, drilled, or driven well, or through a dug well where the depth is greater than the largest surface dimension, whenever a principal function of the well is the subsurface emplacement of fluids.

(NOTE.—Comment is solicited on the adequacy of this definition.)

(s) "Surface Impoundment" means any dug well which has a depth less than the greatest surface dimension and is used for collection, storage, treatment, or disposal of fluids.

(t) "Existing underground injection" means underground injection in operation in a State before the approval of the proposed State program pursuant to section 1422(b) of the Act.

(u) "New underground injection" means underground injection which starts operation in a State after approval of the proposed State program under section 1422(b) of the Act.

(v) "Person" means an individual, corporation, partnership, association, State, municipality, or Federal agency other than the Agency.

(w) "Municipality" means a city, town, or other public body created by or under State law, or an Indian tribal organization authorized by law.

(x) Underground injection "endangers underground drinking water sources" if (1) such injection may make it necessary for a public water system using an underground drinking water source to increase treatment of the water, or (2) if such injection might make it necessary for a public water system which uses the source in the future to use more extensive treatment of the water than would otherwise have been necessary, or (3) if such injection may otherwise adversely affect the health of persons such as by adding a substance that would make water from the source unfit for human consumption.

(NOTE.—Comment is solicited on the adequacy of this definition.)

(y) "Federal agency" means any department, agency, or instrumentality of the United States.

(z) "Annular injection" means any injection between strings of casing, between tubing and casing, between strings of tubing and between casing and hole.

§ 146.3 Duration of permits.

No UIC permit may be issued for a term greater than five years.

§ 146.4 Renewal of UIC permits.

Upon a request by the permittee, the Director may renew a permit, without requiring a formal reapplication by the permittee, after a determination by the Director that the continued operation of the underground injection will not endanger underground sources of drinking water. If the Director determines that the continued operation of the facility may endanger underground sources of drinking water the Director may require the permittee to submit information to demonstrate that the continued operation of the facility will not endanger underground sources of drinking water. If the Director finds that the permittee has failed to demonstrate the continued operation will not endanger underground sources of drinking water, the Director shall refuse to reissue the permit. The Director's decision shall be set forth in writing, and a copy furnished to the applicant.

§ 146.5 Public notice of renewal of UIC permits.

The director shall give public notice of the intent to renew a UIC permit or group of permits under either §§ 146.26(a), 146.43(a) and 146.72(b).

Subpart B—State Underground Injection Control Programs

§ 146.10 Requirements for approval of a State Underground Injection Control Program.

The Administrator will approve a proposed State Underground Injection Control Program under section 1422 of the Act if the State program:

(a) Prohibits, effective December 16, 1977, or as of the time of the Administrator's approval, any underground injection covered by Subparts C or D which is not authorized by a permit issued by the State; except that if underground injection in operation prior to the approval of the State program under section 1422(b) of the Act, the State program may authorize continued operation by rule for a period of up to five years from the date of designation;

(b) Prohibits, effective December 16, 1977, or as of the time of the Administrator's approval, any underground injection covered by Subpart E which is not authorized by a rule or permit issued by the State;

(c) Complies with Subparts C, D and E, which set forth requirements for the various categories of underground injection;

(d) Applies to underground injection by any person within the boundaries of the State, including any Federal agency, except for:

(1) Underground injection practices on Indian land which the State does not

V 41 170
AUG 31 76
UMI

have the necessary jurisdiction or its jurisdiction is in question; or

(2) An underground injection practice operated by or for a Federal agency where the Administrator has waived compliance with all or part of an applicable underground injection control program under section 1447(b) of the Act.

(e) Includes statutory or regulatory enforcement authority adequate to compel compliance with State requirements which seek to prevent the endangerment of underground drinking water sources by underground injection, such authority to include:

(1) Authority to sue in courts of competent jurisdiction to enjoin any threatened, or continuing violation of the State Underground Injection Control regulations;

(2) Right of entry and inspection of underground injection facilities, including the right to monitor or take samples, whether or not the State has evidence that the facility is in violation of an applicable legal requirement;

(3) Authority to require operators of underground injection facilities to keep appropriate records and make appropriate reports to the State; and

(4) Authority to assess civil or criminal penalties for violation of the State's Underground Injection Control regulations including the authority to assess daily penalties or multiple penalties when a violation continues;

(f) Insures that any information on file with the State and pertinent to UIC applications and permits shall be available to the public for inspection and copying subject to appropriate protection of trade secrets;

(g) Includes inspection and surveillance procedures which with reasonable assurance will determine, independent of information supplied by applicants and permittees, compliance or noncompliance with applicable standards and limitations, UIC permit filing requirements, and issued UIC permits or terms or conditions thereof. Such surveillance and inspection support procedures shall include the following:

(1) A supporting survey program with sufficient capability to make systematic surveys of operations subject to the Director's authority in order to identify and locate all operations subject to UIC permit filing requirements;

(2) A supporting inspection program for the periodic inspection of underground injection operations, systems, or facilities. Such inspection shall determine compliance or noncompliance with the terms, conditions, limitations and schedules of compliance in UIC permits; and

(h) Has been adopted after reasonable notice and public hearings.

§ 146.11 Aquifers protected by a State program.

(a) Notwithstanding § 146.2(g) which defines "underground drinking water sources" to encompass aquifers which do not currently supply a public water system but which contain water having less than 10,000 mg/l total dissolved solids—a State program which does not undertake to protect one or more such aquifers or portions thereof may meet the requirements for primary enforcement responsibility if the State can demonstrate to EPA that the aquifer or portion thereof is not an underground drinking water source because the aquifer is either oil-producing; is too contaminated for use as an underground drinking water source; or is in a location which makes future use of the aquifer as an underground drinking water source impracticable, and that the injection into such aquifer would not endanger underground drinking water sources in another part of the aquifer or in another aquifer.

(b) The State program may designate specific geographic areas which do not contain underground sources of drinking water as defined in § 146.2(g), in which underground injection is not subject to these regulations. The State must clearly demonstrate to EPA that within that specified area no underground drinking water sources exist, and further that underground injection in such a geographic area would not endanger underground drinking water sources outside that area.

(c) A complete record of all evidence as well as all analyses of such evidence related to designations under (a) and (b) above shall be submitted to the Administrator upon submission of the State program under section 1422(b) of the Act. All injection wells located in the designated area shall be identified as a part of the submission to the Administrator. Such designations are subject to the requirements of §§ 146.10(h) and 146.14(a). If an area is to be designated after approval of the State program the procedure contained in this paragraph must be followed.

§ 146.12 Request for approval of a State Underground Injection Control Program.

A State may apply to the Administrator for approval of its Underground Injection Control Program under § 146.10. The application shall be as concise as possible, shall describe and document the State's compliance with the requirements set forth in § 146.10, and shall include the following information:

(a) The text of the State's statutory authority and regulations pertaining to the State underground injection control program; and

(b) A brief description, accompanied by appropriate documentation, of the State's procedures for the enforcement of its underground injection control program, including State inspection, monitoring, recordkeeping and reporting requirements.

§ 146.13 Action on request for approval of a state program.

(a)(1) Upon receipt of a request for approval of a State program submitted under § 146.12, the Administrator shall publish notice of the request in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State involved, with a brief summary of the State program, and shall invite comments on the request.

(2) Within 90 days after receipt of the State's completed application, the Administrator shall either approve, disapprove, or approve in part and disapprove in part, the State program. The Administrator's action shall take effect in accordance with § 146.14.

(b)(1) If the Administrator approves the State program, the State shall have primary enforcement responsibility for underground injection control in the State until such time as the approval is terminated under this paragraph (b).

(2) The Administrator shall periodically review, with respect to each State determined to have primary enforcement responsibility, the compliance of the State with the requirements set forth in § 146.10.

(3) When the Administrator's periodic review, or other information available to him, indicates that a State no longer meets the requirements set forth in § 146.10, he shall notify the State in writing of that fact and shall summarize in his notice the information available to him which indicates that the State no longer meets such requirements.

(4) The State notified under subparagraph (3) of this paragraph may, within 30 days of receiving the Administrator's notice, submit to the Administrator evidence demonstrating that the State continues to meet the requirements for primary enforcement responsibility.

(5) After reviewing the submission of the State, if any, made under subparagraph (4) the Administrator shall either determine that the State no longer meets the requirements of § 146.10 or that the State continues to meet those requirements, and shall notify the State of his determination. Any determination that the State no longer meets the requirements of § 146.10 shall not become effective except as provided in § 146.14.

§ 146.14 Public hearing.

(a) Before any determination as to the transfer of authority to a State under § 146.13(a) becomes effective, or any determination pursuant to § 146.13(b) that a State program no longer meets the requirements of § 142.10 becomes effective, the Administrator shall provide an opportunity for public hearing on his determination under section 1422(b)(3) of the Act.

(b) The Administrator shall publish notice of any determination specified in paragraph (a) of this section in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State involved, within 15 days after making such determination, with a statement of his reasons for the determination. The notice shall inform interested persons that they may request a public hearing on the Administrator's determination. Such notice shall also indicate one or more locations in the State where information submitted by the State under § 146.11 is available for inspection by the general public. A public hearing may be requested by any interested person other than a Federal agency.

(c) Requests for hearing under paragraph (b) of this section shall be submitted to the Administrator within 30 days after publication of notice of opportunity for hearing in the FEDERAL REGISTER. Such requests shall include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Administrator's determination and of information that the person making the request intends to submit at such hearing; and

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

(d) If an appropriate request for hearing is submitted in accordance with paragraph (c) of this section, the Administrator shall give notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State involved, of any hearing to be held according to a request submitted by an interested person or on his own motion. Notice of the hearing shall also be sent to the person requesting a hearing, if any, and to the State involved. Notice of the hearing shall include a statement of the purpose of the hearing, information regarding the time and location for the hearing and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing. At least one hearing location specified in the public notice shall be within the involved State. Notice of hearing shall be given not less than 30 days prior to the time scheduled for the hearing.

(e) Hearings convened under paragraph (d) of this section shall be conducted before a hearing officer to be designated by the Administrator. The hearing shall be conducted by the hearing officer in an informal, orderly and expeditious manner. The hearing officer shall call witnesses, receive oral and written testimony and take such other action as may be necessary to assure the efficient conduct of the hearing. Following the conclusion of the hearing, the hearing officer shall forward the record of the hearing to the Administrator.

(f) After reviewing the record of the hearing and other relevant information, the Administrator shall issue an order affirming the determination referred to in paragraph (a) of this section or rescinding such determination. If the determination is affirmed, it shall become effective as of the date of the Administrator's order.

(g) If no timely requests for hearing is received and the Administrator does not determine to hold a hearing on his own motion, the Administrator's determination shall become effective 45 days after notice is issued under paragraph (b) of this section.

(h) If a determination of the Administrator that a State no longer meets the requirements of § 146.10 becomes effective, the State may later apply for a determination that it meets such requirements by submitting to the Administrator information demonstrating that it has remedied the deficiencies found by the Administrator without adversely affecting other aspects of its program required by § 146.10.

(i) Within 270 days after any amendment of a regulation, under section 1421, revising or adding any requirement, each State shall submit a notice to the Administrator containing a showing satisfactory to him that the State program meets the revised added requirement.

§ 146.15 Records kept by States.

(a) Each State which has primary enforcement responsibility under section 1421(b)(1)(c) of the Act shall maintain the following information with respect to each underground injection for which a permit is in effect or for which the Director has received evidence of a violation of applicable requirements:

(1) Reports of any monitoring required by the permit or other surveillance conducted by the Director;

(2) Copies of permits in effect and the applications for those permits; and

(3) Records of any enforcement actions or evidence of violation of applicable requirements.

(b) Records required to be kept under paragraph (a) must be in a form admissible as evidence in State enforcement proceedings.

(NOTE.—Comment is solicited on the feasibility of requiring data to be kept in this form.)

(c) Each State which has enforcement authority for the injection regulated under Subpart D of these regulations shall maintain complete records of all approvals granted under § 146.42(a)(8) and (9) and § 146.42(c).

§ 146.16 Reports by States.

Each State which has primary enforcement responsibility shall submit to the Administrator the following information:

(a) A complete inventory of all underground injections subject to regulation under Subpart C, D, and E of this Part within one year after approval of the program; and

(b) An inventory of existing surface impoundments, and an assessment of the extent to which they function to emplace fluids underground and an evaluation of the hazard they pose to underground drinking water supplies, within eighteen months after approval of the program, and

(NOTE.—Comment is solicited on the adequacy of the time for conducting this inventory and subsequent analysis in defining the problem of underground injection through dug wells including surface impoundments not currently covered by this Regulation.)

(c) An annual report to be submitted by April 1 of every year, consisting of:

(1) A summary of the number of violations of State underground injection control statutes and regulations and of enforcement actions taken by the State;

(2) An updated list of new and abandoned underground injection operations in the State;

(3) A listing of specific permits issued for underground injections in areas designated under §§ 146.11 and 146.42(b).

(4) A listing of specific permits containing approvals granted under §§ 146.42(a)(8), 146.42(a)(9) and 146.42(c).

(5) Information on any proposed material change in the State program, before adoption of the change.

Subpart C—Requirements Applicable to Waste Disposal Wells and Engineering Wells

§ 146.20 Underground injections to which subpart applies.

This subpart sets forth requirements for State programs of underground injection by industrial and municipal waste disposal wells, subsidence control wells, barrier wells, recharge wells, mining wells, storage wells and geothermal wells.

§ 146.21 Review of existing underground injections.

(a) Underground injections which were in operation under approval by the Director under an existing State program before the approval of the proposed State program under section 1422(b) of the Act may, for a period of up to five years after approval, be regulated by rule provided such underground injections will not endanger underground drinking water sources.

(1) The Director shall require applications to be filed under § 146.24 for each existing underground injection which is to continue in operation.

(2) The Director shall systematically review such underground injections to determine that they do not endanger underground drinking water sources. The method of review to be used must be indicated in the program submission to EPA along with a time schedule to assure that all existing underground injections will be reviewed within five years.

(3) Underground injection operations that are found to endanger underground drinking water sources shall discontinue operation pending remedial action unless the Director determines that it is unreasonable or impracticable to discontinue operating pending remedial action. If the Director permits an endangering operation to continue pending remedial action the Director shall prescribe a compliance schedule which shall require remedial action to be taken as soon as practicable but not later than one year following the determination of endangerment.

(b) Pending review by the Director, underground injections must comply at a minimum with State rules in effect on date of proposal of the program by the State.

(NOTE.—Comment is solicited on the practicality and impact of this regulatory approach.)

§ 146.22 Requirements for existing and new underground injections.

The Director shall review data on existing underground injections and on proposed new underground injections to assure that:

(a) All underground drinking water sources of 3,000 mg/l total dissolved

V41170 AUG 31 76 UMI

solids or less are protected by casing cemented to the surface;

(b) The long string is cemented with sufficient cement to assure no migration of injected fluid above or below the injection zone;

(c) Injection is maintained through tubing with a suitable packer set immediately above the injection zone; except that the Director may approve an alternative method of protection where compelling evidence has been presented demonstrating that the alternative method will prevent endangerment of underground drinking water sources. The Director must also offer the opportunity for informal public hearing.

(d) There are no leaks in the system;

(e) Surface injection pressure is limited to preclude the possibility of fracturing the confining strata;

(f) All well completion and plugging reports for wells of record penetrating the proposed injection zone within a two mile radius of the proposed well injection should be thoroughly reviewed to insure that all wells are properly completed and/or plugged that in the judgment of the Director present a potential threat to underground drinking water sources; and

(g) Annular injection is not practiced.

§ 146.23 General permit procedures.

State proceduers for permits subject to this subpart shall insure that every applicant for a permit complies with filing requirements to include the following:

(a) The applicant must submit a complete UIC permit application on forms prescribed by the Director, including data required by § 146.24 except that if the Director determines that the data required is on file with the regulatory agency regulating the injection under consideration, the Director may consider the application complete without resubmission of that specific data.

(b) In the case of new underground injections, a complete UIC permit application must be filed far enough in advance of the date on which it is desired to start the injection to allow adequate consideration of the application, and in sufficient time before starting the injection to insure compliance with any applicable requirement under section 208(b)(2)(K) of the FWPCA, and any other applicable regulations; and

(c) Procedures must be established which (1) enable the Director to require submission of additional information after an application has been filed, and (2) insure that, if any UIC permit application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

§ 146.24 Application for UIC permit.

Each application for a UIC permit covered by this subpart shall include the following information:

(a) Ownership and Location Data. The application shall identify the owner and operator of the proposed underground injection facility, and the location of the facility.

(b) An accurate map showing (i) location and surface elevation of the injection well, (ii) location of all facilities, (iii) property boundaries, and (iv) surfact mineral ownership.

(c) An accurate map showing the location of: water wells; surface bodies of water; oil, gas, exploratory or test wells (with depths of penetration); other injection wells; mines (surface and subsurface) and quarries; and other pertinent surface features including residences, roads, bedrock outcrops, and faults and fractures within a two mile radius of the injection operation.

(d) A tabulation of all wells requested under (c) penetrating the proposed injection zone, showing operator; lease or owner; well number; surface casing size, weight, depth and cementing data for surface, intermediate and long string casings; and plugging data.

(e) Maps and cross sections indicating the vertical and lateral limits of aquifers containing 3,000 mg/l and 10,000 mg/l TDS water quality levels, above and below the injection zone and direction of movement of the water in every underground drinking water source which may be affected by the proposed injection.

(f) Maps and cross sections detailing geologic structure for the local area and generalized maps and cross sections illustrating the regional geologic setting.

(g) Description of chemical, physical, and biological properties and characteristics of the fluid to be injected.

(NOTE.—Comment is solicited on the impact of this requirement. Since some information involves trade secrets, how can confidentiality be protected without unduly restraining public involvement?(1)

(h) Volume, injection rate and injection pressure of the fluid to be injected.

(i) The following geological and physical characteristics of the injection interval and the overlying and underlying confining beds:

(1) Thickness;
(2) Areal extent;
(3) Lithology;
(4) Location, extent and effects of known or suspected faulting, fracturing and natural solution channels;
(5) Formation fluid chemistry, including total dissolved solids; and
(6) Fracturing gradients.

(j) The following engineering data:

(1) Diameter of hole and total depth of the well;
(2) Type, size, weight, and strength of all casing strings;
(3) Proposed cementing procedures and type of cement;
(4) Proposed formation testing program;
(5) Proposed stimulation program;
(6) Proposed injection procedure;
(7) Plans of the surface and subsurface construction details of the system including engineering drawings;
(8) Plans for monitoring both well head and annular fluid pressure, fluids being injected in injection zone and other aquifers;
(9) Expected changes in pressure, native fluid displacement and direction of movement of injected fluid; and
(10) Contingency plans to cope with all shut-ins or well failures to prevent endangerment of underground drinking water sources.

(k) A written evaluation of alternative disposal practices in terms of maximum environmental protection.

§ 146.25 Formulation of preliminary determination and draft UIC permits.

(a) The Director shall prepare a preliminary staff determination with respect to a UIC permit application in advance of public notice of the proposed issuance of a UIC permit. The preliminary determination shall include at least the following:

(1) A proposed determination to issue or deny a UIC permit for the injection described in the UIC permit application;
(2) Name and address of the applicant; name of the facility or operation producing the contaminants to be injected; site or proposed site of the injection; and a list of the alternatives to underground injection which have been considered;
(3) Proposed injection limitations for each major parameter; and
(4) A brief description of any proposed special conditions which will have significant impact upon the injection described in the application.

(b) The Director shall organize the tentative determination, prepared under (a) of this section into a draft UIC permit.

§ 146.26 Public notice of proposed issuance or denial of UIC permits for existing and new underground injections.

(a) The Director shall give public notice of any preliminary determination to issue or deny a UIC permit. The public notice shall be circulated in a manner designed to inform interested persons of the proposed injection and of the preliminary determination to issue or deny a UIC permit for the proposed injection. At a minimum:

(1) The public notice shall be published in a local newspaper of general circulation;
(2) Notice shall be mailed to any person or group of persons upon request;
(3) The Director shall provide a period of not less than 30 days following the date of the public notice, during which time interested persons may submit written comments regarding the preliminary determination with respect to the UIC permit application. All written comments submitted during the comment period shall be retained by the Director and considered in the formulation of his final determination with respect to the UIC permit application.

(b) The contents of public notice of proposed issuance or denial of UIC permits shall include at least the following:

(1) Name and address of the applicant and a brief description of the location of the injection;
(2) Nature of the applicant's activities or operations which result in the fluid to be injected (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);
(3) A physical, chemical, and biological description the fluid to be injected and the rate and pressure of injection;

(NOTE.—Comment is solicited on the impact of this requirement since some information involves trade secrets. How can confidentiality be protected without unduly restraining public involvement?)

(4) Depth and geologic name of the injection zone or formation;
(5) A statement of the Director's preliminary determination to issue or deny the permit and a brief description of the procedures for the formulation of final determinations, including the comment period and any other means by which interested persons may influence or comment upon those determinations; and
(6) Name of the State agency issuing the public notice with address and phone number at which interested persons may obtain further information, and inspect and copy UIC application forms and related documents.

§ 146.27 Notice to other government agencies.

The Director shall also notify other appropriate government agencies of the proposed issuance of a UIC permit and shall provide such agencies an opportunity to submit their written views and recommendations or request a public hearing. Procedures for such notification shall include the following:

(a) At the time of issuance of public notice under § 146.25, a copy of the notice will be transmitted to the Director in any other State whose waters may be affected by the issuance of a UIC permit and, upon request, such State will be provided with a copy of the UIC permit application and a copy of the proposed permit. Each potentially affected State may submit written recommendations to the Director (with copies to the Regional Administrator(s) for the affected Region(s)(1). The Director shall provide the affected State or States (and the Regional Administator(s)) a written explanation of his reasons for failing to accept any such written recommendations;

(b) A procedure, similar to paragraph (a) of this section, for notifying any interstate agency or commission having ground-water quality control authority over waters which may be affected by the issuance of a permit; and

(c) A procedure for mailing a copy of the public notice of an application for a UIC permit to any other Federal, State, or local agency, or any foreign country, upon request, and providing an opportunity to respond, comment, or request a public hearing pursuant to § 146.29. Such agencies shall include at least the following:

(1) The agency responsible for the preparation of an approved plan under section 208(b)(2)(K) of the FWPCA; and

(2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under section 303(e) of the FWPCA, unless such agency is under the supervision of the Director.

§ 146.28 Public hearings on existing and new underground injections.

(a) The Director shall provide an opportunity for the applicant, any affected State, any affected interstate agency, any affected country, the Regional Administrator, or any interested agency, person, or group of persons to request an informal public hearing with respect to a UIC permit application.

(b) The Director shall hold an informal public hearing on a permit application if he finds there is a significant public interest (including the filing of requests or petitions for such a hearing) in holding such a hearing. Any hearing held under this subsection shall be held in the geographical area of the injection or proposed injection, and may, as appropriate, consider related groups of permit applications.

§ 146.29 Public notice of hearings on existing and new underground injections.

(a) Public notice of any hearing held under § 146.28 shall be circulated at least as widely as was the notice of the UIC permit application and shall be given at least 30 days prior to the hearing date.

(b) The contents of the public notice of any hearing held under § 146.28 shall include at least the following:

(1) A brief description of the nature and purpose of the hearing, including rules and procedures to be followed;
(2) Name and address of the applicant whose application will be considered at the hearing;
(3) Name of formation into which injection is proposed, the injection depth, and a description of the location of the injection;
(4) A description of the fluid to be injected and the rate and pressure of injection;
(5) Nature of the applicant's activities or operations which result in the fluid to be injected (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);
(6) The date, time and location of the hearing;
(7) A concise statement of the issues raised by the person requesting the hearing; and
(8) Name of the agency holding the public hearing with address and phone number at which interested persons may obtain further information.

§ 146.30 Director action on UIC permit applications.

After considering the application for a permit for a new or existing underground injection and all pertinent matters relative thereto, if the Director finds that the applicant has demonstrated that the proposed well injection will not endanger underground drinking water sources, the Director may issue a permit. If the Director finds that the applicant has not demonstrated that the proposed well injection will not endanger underground drinking water sources, the Director shall issue a permit under § 146.21(a)(3). The Director's decision shall be in writing, and a copy furnished to the applicant.

§ 146.31 Prohibited underground injection.

The Director shall insure that no permit shall be issued authoriizng underground injection unless the applicant can demonstrate to the satisfaction of the Director that such injection will not endanger underground drinking water sources.

§ 146.32 Permit conditions and other requirements.

State procedures must insure that the terms and conditions of each issued UIC permit comply with the following:

(a) Adherence to any applicable more stringent limitations including those (i) necessary to meet both treatment standards and schedules of compliance, established under State law or regulation, or (ii) necessary to meet other Federal law or regulation;

(b) Allowance of no underground injection of contaminants until after:

(1) The use of appropriate techniques for construction, operation and maintenance of the injection system; and
(2) Provisions for inspection, monitoring, record-keeping and reporting of the underground injection operation;

(c) Allowance of no contaminant to enter an existing or potential underground drinking water source if the presence of such contaminant may endanger such drinking water source;

(d) Adequate contingency plans to cope with malfunctions or failure of the underground injection system;

(e) Adequate procedures for detecting failure of the system in a timely fashion;

(f) Provisions for such measures as the Director finds necessary to assure the availability of adequate financial resources for dealing with underground injection systems which either are improperly abandoned or may otherwise cause contamination of underground drinking water sources;

(g) That all injections authorized by the UIC permit shall be consistent with the terms and conditions of the permit and that the injection of any contaminant at a greater rate or pressure than that authorized by the permit, or a volume in excess of that authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(h) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to, the following:

(1) The underground injection endangers underground drinking water sources;
(2) Violation of any material terms or conditions of the permit;
(3) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
(4) A change in any condition that may indicate failure of the underground injection system;

(i) That the permittee shall allow the Director or his authorized representative, upon the presentation of appropriate credentials:

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(1) To enter the permittee's premises in which a contaminant source or injection system is located and in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy records required to be kept under terms and conditions of the permit;

(3) To inspect the permittee's facilities, including any monitoring equipment or analytical devices; and

(4) To sample any fluids being injected, and if sampling of the injection zone and other aquifers is required by the permittee under the monitoring plan of the permit, to also have the right to sample those zones;

(j) That the permittee at all times shall maintain in good working order and operate efficiently facilities or systems of control installed by the permittee to achieve compliance with terms and conditions of the permit;

(k) That immediately following the permanent cessation of underground injection or where a well is not completed, the permittee shall notify the Director and follow the procedures prescribed by the Director for plugging and abandonment; and

(l) That the permittee shall submit reports of all remedial work actions to the Director.

§ 146.33 Monitoring and record-keeping.

Each permittee shall keep on forms prescribed by the Director complete and accurate records of:

(a) All monitoring required in the permit which will include, but not be limited to:

(1) Weekly readings of the surface injection pressure;

(2) Weekly readings of the tubing—long string annulus pressure;

(3) Weekly total volume of injected fluid; and

(4) Weekly average injection volume (bbls/day) (liters/day);

(b) All periodic well tests, including but not limited to:

(1) Water analyses;

(2) Measured or calculated bottom hole pressure readings of the injection zone; and

(3) Well conditions;

(c) All shut-in periods, times contingency measures used for handling the fluid to be injected;

(d) The permittee shall retain, for a period of five years, records of all information resulting from any monitoring activities required by the UIC permit or by regulation. This requirement shall continue in effect during the five year period following abandonment of the well. The period of retention shall be extended when requested by the Director; and

(e) Records of monitoring activities and results shall include for all samples; (1) the date, place and time of sampling; (2) the dates analyses were performed; (3) who performed the analyses; (4) the analytical techniques/methods; and (5) the result of such analyses.

§ 146.34 Reporting requirements.

(a) Each permittee shall submit at least the following reports or notification to the Director on forms precribed by the Director:

(1) Notification of the initial injection operation within ten days of the start-up date; and

(2) Quarterly reports which contain the data records required by the Director.

(b) Within ten days after the temporary discontinuance of disposal operations, the permittee shall notify the Director of the date and length of such discontinuance and the reason therefor. The Director will prescribe appropriate procedures to insure that underground drinking water sources are protected.

Subpart D—Requirements Applicable to Injection Wells Related to Oil and Gas Production

§ 146.40 Underground injections to which subpart applies.

This subpart sets forth requirements for State programs with respect to the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production; and underground injection for the secondary or tertiary recovery of oil or natural gas.

§ 146.41 Review of existing underground injections.

(a) Underground injections which were in operation under approval by the Director under an existing State program before the approval of the proposed State program under section 1422(b) of the Act may, for a period of up to five years, after approval, be regulated by rule provided such underground injections will not endanger underground drinking water sources.

(1) The Director shall obtain data necessary to make the determinations required under § 146.42.

(2) The Director shall systematically review such underground injections to determine that they do not endanger underground drinking water sources. The approach for review may be by county, field, age of well or other systematic approach decided upon by the Director.

The method of review to be used must be indicated in the program submission to EPA along with a time schedule to assure that all existing underground injections will be reviewed within five years.

(3) Underground injections reviewed by the Director that do not endanger underground drinking water sources may continue operation under a permit issued in compliance with §§ 146.42 and 146.47.

(4) Underground injection operations that are found to endanger underground drinking water sources shall discontinue operation pending remedial action unless the Director determines that it is unreasonable or impracticable to discontinue operating pending remedial action. If the Director permits an endangering operation to continue pending remedial action the Director shall prescribe a compliance schedule which shall require remedial action to be taken as soon as practicable but in no case later than one year following the determination of endangerment.

(b) Pending review by the Director, underground injections must comply with State rules in effect on the date of proposal of the program.

(NOTE.—Comment is solicited on the practicality and impact of this regulator approach.)

§ 146.42 Requirements for existing and new underground injections.

(a) The Director shall review data on existing underground injection and on proposed new underground injections to assure that:

(1) All underground drinking water sources of 3,000 mg/l total dissolved solids or less are protected by surface casing cemented to the surface;

(2) Injection is maintained through tubing with a suitable packer set immediately above the injection zone;

(3) The long string is cemented with sufficient cement to assure no migration of injected fluid above or below the injection zone;

(4) There are no leaks in the system;

(5) Surface injection pressure is limited to preclude the possibility of fracturing the confining strata;

(6) All well completion and plugging reports for wells of record penetrating the proposed injection zone within a one-half mile radius of the proposed well injection have been thoroughly reviewed to insure that all wells are properly completed and/or plugged that in the judgment of the Director present a potential threat to underground drinking water sources; and

(7) Annular injection between the casing and hole is not practiced.

(8) Annular injection between strings of casing and between tubing and casing is not practiced; except that in specific cases the Director may approve such annular injection providing: (i) there is an annulus between the outer string of casing receiving the injection and the surface casing which can and will be monitored for leaks; (ii) that the surface casing is protected by cement to the surface; and (iii) that the injector demonstrates to the satisfaction of the Director that the injection will not endanger underground drinking water sources.

(9) Annular injection between the surface casing and the next innermost casing or between the surface casing and the tubing, or injection through the surface casing only, is not practiced; except that in specific cases the Director may approve such injection where: (i) the injection was in operation prior to approval of the proposed State program, and (ii) the injector demonstrates to the satisfaction of the Director that, based on previous history and presentation of compelling evidence collected through fluid injection profile surveys and/or monitoring wells that the injection has not endangered underground sources of drinking water, nor will continued use endanger underground sources of drinking water.

(b) The Director may designate specific areas in the State where an alternative method of protection to those required

in paragraphs (a) (1) and (2) of this section has been used and has been demonstrated to be equally effective in the prevention of endangerment to underground drinking water sources provided:

(1) A complete record of all evidence, as well as all analyses of such evidence relative to a designation under this paragraph is submitted to the Administrator upon submission of the State program under section 1422(b) of the Act.

(2) All injection wells located in the designated area and the alternative to be used are identified as a part of the submission to the Administrator. Such designations are subject to the approval of the Administrator and the public hearing requirements of § 146.10(g) and 146.14 (a). If an area is to be designated after approval of the State program the procedure contained in this paragraph must be followed.

(c) The Director may approve an alternative method of protection for a specific well or injection in lieu of those required in paragraphs (a) (1), (2), and (3) provided:

(1) The injector can demonstrate to the Director with written compelling evidence that that specific requirement would interfere with or impede oil and gas production from the production well(s) serviced by that specific injection well;

(2) The injector can demonstrate to the Director with written compelling evidence that that specific requirement is not essential to prevent endangerment to underground drinking water sources resulting from that specific injection;

(3) The injector provides a written assessment of the alternative method of protection to be used; and

(4) The Director provides the opportunity for informal public hearing on that specific well or injection.

(NOTE.—Comment is solicited on the adequacy of these requirements in preventing endangerment to underground drinking water sources, and of the impact on existing wells.)

§ 146.43 Public notice of proposed issuance or denial of UIC permits for existing and new underground injections.

(a) The Director shall give public notice of the intent to issue or deny UIC permits for those existing and new underground injections reviewed under §§ 146.41 and 146.47. The public notice may contain more than one underground injection facility. The approach may be similar to that in § 146.41(a)(3). The public notice shall be circulated in a manner designed to inform interested persons of the proposed injection and of the determination to issue or deny a UIC permit for the proposed injection. Procedures for the circulation of public notices shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed injection by publication in a local newspaper of general circulation;

(2) Notice shall be mailed to any person or group upon request;

(3) The Director shall provide a period of not less than 30 days following the date of the public notice, during which time interested persons may submit written comments regarding the determination to issue or deny the UIC permit for an existing underground injection. All written comments submitted during the 30 days comment period shall be retained by the Director and considered in the formation of his final determination with respect to the UIC permit application.

(4) The Director shall provide a period of not less than 14 days following the date of the public notice, during which time interested persons may submit written comments regarding the determination to issue or deny the UIC permit for new underground injections. All written comments submitted during the 14 days comment period shall be retained by the Director and considered in the formation of his final determination with respect to the UIC permit application.

(b) The contents of public notice of issuance or denial of UIC permits shall include at least the following:

(1) Ownership and location data.

(i) Operator of injection well or project; and

(ii) Location by geographic area, or section, township, and range.

(2) Engineering Data.

(i) Purpose of Injection (Disposal, Recovery);

(ii) Estimated volume and type of fluid to be injected (by lease, pool, field or other suitable means); and

(iii) Number of injection wells.

(3) Depth and geologic name of the injection zone or formation;

(4) A statement of the Director's determination to issue or deny the permit and a brief description of the procedures for the formulation of final determinations, including the comment period and any other means by which interested persons may influence or comment upon those determinations; and

(5) Name of the State agency issuing the public notice with address and phone number at which interested persons may obtain further information, and inspect and copy UIC application forms and related documents.

§ 146.44 Notice to other government agencies.

The Director shall also notify other appropriate government agencies of the proposed issuance of a UIC permit and shall provide such agencies an opportunity to submit their written views and recommendations or request a public hearing. Procedures for such notification shall include the following:

(a) At the time of issuance of public notice under § 146.43, a copy of the notice will be transmitted to the Director in any other State or Territory whose waters may be affected by the issuance of a UIC permit and, upon request, such State will be provided with a copy of the UIC permit application and a copy of the proposed permit. Each potentially affected State or Territory may submit written recommendations to the Director (with copies to the Regional Administrator(s) for the potentially affected Region(s)). The Director shall provide the affected State or States (and the Regional Administrator(s)) a written explanation of his reasons for failing to accept any such written recommendations;

(b) A procedure, similar to paragraph (a) of this section, for notifying any interstate agency or commission having ground-water quality control authority over waters which may be affected by issuance of a permit; and

(c) A procedure for mailing a copy of the public notice of an application for a UIC permit to any other Federal, State, or local agency, or any foreign country, upon request, and providing an opportunity to respond, comment, or request a public hearing under § 146.46. Such agencies shall include at least the following:

(1) The agency responsible for the preparation of an approved plan under section 208(b)(2)(K) of the FWPCA, and

(2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under section 303(e) of the FWPCA, unless such agency is under the supervision of the Director.

§ 146.45 Public hearings on existing and new underground injections.

(a) The Director shall provide an opportunity for the applicant, any affected State, any affected interstate agency, any affected country, the Regional Administrator, or any interested agency, person, or group of persons to request an informal public hearing with respect to a UIC permit application.

(b) The Director shall hold an informal public hearing on a permit application if he finds there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Any hearing held under this subsection shall be held in the geographical area of the injection or proposed injection, and may, as appropriate, consider related groups of permit applications.

§ 146.46 Public notice of hearings on existing and new underground injections.

(a) At least 14 days prior to a public hearing held under § 146.45, the Director shall give notice of such hearing by publication in a newspaper of general circulation within the geographical area of the proposed injection and shall set forth the following:

(1) Ownership and location data.

(i) Operator of injection well or project; and

(ii) The location of the injection well or project by section, township and range, or by a location from the nearest village or town, or in such other manner as will identify the geographical area involved.

(2) Engineering Data.

(i) Purpose of injection (disposal, recovery);

(ii) Volume and type of fluid to be injected; and

V 41 170 AUG 31 76 UMI

(iii) Number of injection wells involved;

(3) Depth and geologic name of the injection zone or formation;

(4) A concise statement of the issues raised by the person requesting the hearing;

(5) The name of the agency issuing the notice and the date, time, and location of the hearing;

(b) The Director shall further supply the information set out above to each State, interstate or Federal agency and to each person or group of persons expressing an interest in the permit to be considered at a hearing.

§ 146.47 Application for UIC permit for a new underground injection.

An application for a UIC permit for a new underground injection shall be filed with the Director on forms prescribed by the Director.

(a) The application form for any new underground injection shall include the following:

(1) Ownership and Location Data. The application shall identify the owner and operator of the proposed underground injection facility, and the location of the facility;

(2) Engineering Data.

(i) A detailed casing and cementing program, or a schematic showing: diameter of hole, total depth of well and ground surface elevation; surface, conductor, and long string casing size and weight, setting depth, top of cement, method used to determine top; tubing size, and setting depth, and method of completion (open hole or perforated);

(ii) A map showing name and location of all producing wells, injection wells, abandoned wells, dry holes, and water wells of record within a one-half mile radius of the proposed injection well; and

(iii) A tabulation of all wells requested under (ii) penetrating the proposed injection zone, showing: operator; lease; well number; surface casing size and weight, depth and cementing data; intermediate casing size and weight, depth and cementing data; long string size and weight, depth and cementing data; and plugging data.

(NOTE.—Comment is solicited on other ways to demonstrate non-endangerment from wells penetrating the proposed injection zone where it is possible that the wells may be an open connection to an underground drinking water source.)

(3) Operating Data.

(i) Depth to top and bottom of injection zone;

(ii) Anticipated daily injection volume, minimum and maximum, in barrels;

(iii) Approximate injection pressure; and

(iv) Type, source and characteristics of injected fluids.

(4) Geologic Data—Injection Zone. Appropriate geologic data on the injection zone and confining beds including such data as geologic names, thickness and areal extent of the zone.

(5) Underground Sources of Drinking Water Which May be Affected by the Injection. Geologic name and depth (below land surface) of aquifers above and below the injection zone containing water of 3,000 mg/1 total dissolved solids or less and aquifers containing water of 10,000 mg/1 total dissolved solids or less.

(6) An electric log on all new wells and on existing wells where available.

(b) The Director may request any of these additional data necessary to make the determinations required in § 146.41.

(1) Engineering Data.

(i) Method to determine rate of corrosion;

(ii) Cement bond log;

(iii) List of all cement squeeze operations, giving interval and number of sacks of cement;

(2) Operating Data.

(i) Whether open or closed system;

(ii) Contingency plans to cope with all shut-ins or well failures;

(3) Geologic Data—Regional Structure. Location, extent and effects of known or suspected faulting, indicating whether faults are sealed or fractured avenues for fluid movement;

(4) Underground Sources of Drinking Water. Lithology of aquifers defined as underground sources of drinking water;

(5) Any surface retention facilities associated with the injection operation;

(6) Reservoir and Fluid Data on Entire Reservoir.

(i) Lithology;

(ii) Original and current bottom hole pressure;

(7) Reservoir and Fluid Data on Lease.

(i) Average horizontal permeability;

(ii) Average porosity;

(8) Production history of reservoir;

(9) Type of injection project and results expected; and

(10) Injection pattern and spacing.

§ 146.48 Permit conditions and other requirements.

State procedures must insure that the terms and conditions of each issued UIC permit including each permit for an existing underground injection, comply with the following:

(a) Adherence to any applicable, more stringent limitations including those (i) necessary to meet treatment standards, or schedules of compliance, established pursuant to State law or regulation, or (ii) necessary to meet other Federal law or regulation;

(b) Allowance of no underground injection of contaminants until after:

(1) The use of appropriate techniques for operation and maintenance of the injection system; and

(2) Provisions have been completed for inspection, monitoring record-keeping and reporting of the underground injection operation;

(c) Allowance of no contaminant to enter an underground drinking water source if the presence of such contaminant may endanger such drinking water source;

(d) Adequate contingency plans to cope with malfunctions or failure of the underground injection system;

(e) Adequate procedures for detecting failure of the system in a timely fashion;

(f) Provisions for such measures as the Director finds necessary to assure the availability of adequate financial resources for dealing with underground injection systems which either are improperly abandoned or may otherwise cause contamination of underground drinking water sources;

(g) That all injections authorized by the UIC permit shall be consistent with the terms and conditions of the permit and that the injection of any contaminant at a greater rate of pressure than that authorized by the permit, or a volume in excess of that authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(h) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to, the following:

(1) The underground injection endangers underground drinking water sources;

(2) Violation of any material terms or conditions of the permit;

(3) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

(4) A change in any condition that may indicate failure of the underground injection system;

(i) That the permittee shall allow the Director or his authorized representative, upon the presentation of appropriate credentials:

(1) To enter permittee's premises in which a contaminant source or injection system is located and in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy records required to be kept under terms and conditions of the permit;

(3) To inspect the permittee's facilities, including any monitoring equipment or analytical devices; and

(4) To sample any fluids being injected and if sampling of the injection zone and other aquifers is required by the permittee under the monitoring plan of the permit, to also have the right to sample these zones;

(j) That the permittee at all times shall maintain in good working order and operate efficiently the facilities or systems of control installed by the permittee to achieve compliance with terms and conditions of the permit;

(k) That immediately following the permanent cessation of underground injection or where a well is not completed the applicant shall notify the Director and follow the procedures prescribed by the Director for plugging and abandonment; and

(l) That the permittee shall report all remedial work to the Director.

§ 146.49 Monitoring and record-keeping.

Each permittee shall keep on forms prescribed by the Director complete and accurate records of:

(a) All monitoring required in the permit which will include, but not be limited to:

(1) Weekly readings of the surface injection pressure;

(2) Weekly readings of the tubing—long string annulus pressure;

(3) Weekly total volume of injected fluid; and

(4) Weekly average injection volume (bbls/day) (liters/day);

(b) All periodic well tests, including but not limited to:

(1) Water analyses; and

(2) Well conditions;

(c) The permittee shall retain, for a period of five years, records of all information resulting from any monitoring activities required by the UIC permit or by regulation. This requirement shall continue in effect during the five-year period following abandonment of the well. The period of retention shall be extended when requested by the Director; and

(d) Records of monitoring activities and results shall include for all samples; (1) the date, place and time of sampling; (2) the dates analyses were performed; (3) who performed the analyses; (4) the analytical techniques/methods; and (5) the results of such analyses.

§ 146.50 Reporting requirements.

(a) Each permittee shall submit at least the following reports or notification to the Director on forms prescribed by the Director:

(1) Notification of the initial injection operation within ten days of the start-up date; and

(2) Quarterly reports which contain the data records required by the Director.

(b) Within ten days after the temporary discontinuance of disposal operations the permittee shall notify the Director of the date and length of such discontinuance and reason therefor. The Director will prescribe appropriate procedures to insure that underground drinking water sources are protected.

Subpart E Requirements Applicable to All Drainage Wells

§ 146.70 Underground injections to which subpart applies.

This subpart sets forth requirements for State programs with respect to drainage wells used. Underground injections covered by this subpart include injections to dispose of storm water runoff, irrigation return flow, and excess ponded surface waters.

§ 146.71 Regulation by rule or permit.

A State program may regulate any category of underground injection covered by this subpart by rule or by permit system, at the option of the State.

§ 146.72 Regulation by permit.

If a State elects to regulate a category of underground injection covered by this subpart by permit, the permit requirements must include, as a minimum:

(a) That the applicant for the permit to inject must provide such information as the State may require regarding location and design of the facility, nature and volume of the fluid to be injected, and such other information as may be necessary to satisfy the State that the underground injection will not endanger underground drinking water sources.

(b) That the Director will give public notice and provide opportunity for comment and informal public hearing in cases where the Director determines that the application raises substantial question of possible endangerment of underground drinking water sources.

(c) That permits issued will be conditioned on compliance with specified inspection, monitoring, record-keeping and reporting requirements.

§ 146.73 Regulation by rule.

If a State elects to regulate a category of underground injection covered by this subpart by rule, the State regulations applicable to that category shall provide, but not be limited to, the following:

(a) That no underground injection that endangers underground drinking water sources is authorized;

(b) A mechanism for determining the nature and extent of the underground injection activity in the State;

(c) A mechanism for insuring that periodic testing is conducted and test records are maintained in appropriate cases; and

(d) That design, location or construction of underground injection facilities that would be inconsistent with good practice for the protection of underground drinking water sources is prohibited.

§ 146.74 Remedial action.

Underground injection operations that are found to endanger underground drinking water sources shall discontinue operation pending remedial action unless the Director determines that it is unreasonable or impracticable to discontinue operating pending remedial action. If the Director permits an endangering operation to continue pending remedial action, the Director shall prescribe a compliance schedule which shall require remedial action to be taken as soon as practicable but in no case later than one year following the determination of endangerment.

[FR Doc.76-24700 Filed 8-30-76;8:45 am]

V 41 170 AUG 31 76 UMI

federal register

TUESDAY, AUGUST 31, 1976

PART III:

POSTAL RATE COMMISSION

PRIVACY ACT OF 1974

Systems of Records

V 41 170
AUG 31 76
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POSTAL RATE COMMISSION

(Docket No. RM76-8)

PRIVACY ACT OF 1974

Notice Concerning Subject Systems of Records and Proposed New Routine Use for Systems of Records

August 11, 1976.

The Postal Rate Commission is required to publish at least annually a notice of the existence and character of its systems of records which are subject to the requirements of the Privacy Act of 1974 (5 U.S.C. Sec. 552a). The Commission published the first such notice on August 6, 1975 (40 FR 33186), and hereby provides an update. A full description of the Commission's system of records is provided at the conclusion of this notice.

Also included in the description of the subject system of records is a proposed routine use of those records relating to certain Congressional inquiries. The Office of Management and Budget has recommended that this Commission adopt as a routine use of the system a provision which allows disclosure to a Congressional office from an individual's record in response to an inquiry from that office made at the individual's request. A proposed routine use allowing such disclosure has been incorporated in that section of the system description headed "Routine uses of records maintained in the system, including categories of users and the purposes of such uses."

The proposed routine use will become effective (thirty days after publication) unless otherwise announced in the Federal Register. However, the Commission will entertain comments with respect to the proposed routine use which are received before September 30, 1976. Comments should be filed with the Commission's Secretary, at the offices of the Postal Rate Commission, 2000 L Street, N.W., Washington, D.C. 20268.

PRC-1

System name: Official Personnel files—PRC

System location: 2000 L St., N.W., Washington, D.C. 20268

Categories of individuals covered by the system: Personnel of the Postal Rate Commission.

Categories of records in the system: Personnel information, including information supplied on applications, references, records of employment, health records, payroll records, financial reporting records, and information required for affirmative action plans for employment of minorities and handicapped.

Authority for maintenance of the system: 39 U.S.C. 3603, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this record system is transferred to the U.S. Postal Service to process payroll and to the Civil Service Commission in compliance with financial reporting requirements. Information on the health of Commission employees is maintained by the Public Health Service in connection with its services as the health unit for the Commission. Information on security is developed by submission of appropriate forms with the Civil Service Commission. Other such housekeeping measures may require frequent inter-agency transfers of information.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Commission decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a Congressional office from the record of an indivíual in response to an inquiry from the Congressional office made at the request of that indivíual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy for official personnel folders and financial statements, mag-tape for payroll records.

Retrievability: Official personnel folders and financial statements by name of employee, payroll by Social Security number of employee.

Safeguards: Approved combination safe for record storage.

Retention and disposal: Official personnel records are maintained by the Commission for the duration of a person's employment with the Commission, follow the employee to new federal jobs, or are retired to the Federal Record Center upon termination of government employment. Financial reports are maintained for a period of four years after termination of the individual's employment with the Commission.

System manager(s) and address: Chief Administrative Officer, 2000 L St., N.W., Washington, D.C. 20268.

Notification procedure: Assistant Administrative Officer, 2000 L St., N.W., Washington, D.C. 20268.

Supply name, date of birth, facsimile of an identifying document such as a driver's license or employee identification card, last agency employing with dates, and a return address.

Record access procedures: Write or call Assistant Administrative Officer, 2000 L St., N.W., Washington, D.C. 20268, telephone (202) 254-3881.

Contesting record procedures: Write or call Assistant Administrative Officer, 2000 L St., N.W., Washington, D.C. 20268, telephone (202) 254-3881.

Record source categories: Applications for employment as submitted by the applicants; data supplied by employees in connection with their employment; records from other agencies in which employees worked; replies from references; responses to security investigations; supervisors' performance evaluations; grades from courses taken under Commission sponsorship; medical records.

By the Commission.

James R. Lindsay,
Secretary.

[FR Doc.76-25108 Filed 8-30-76;8:45 am]

V 41 170 AUG 31 76 UMI

federal register

TUESDAY, AUGUST 31, 1976



PART IV:

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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PRIVACY ACT OF 1974

Proposed Routine Uses

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

PRIVACY ACT OF 1974

Routine Uses

Pursuant to 5 U.S.C. 301 and 552a and 43 U.S.C. 1461, the Department of the Interior hereby proposes revision of the "Routine Use" paragraphs of the notices describing records which it maintains which are subject to section 3 of the Privacy Act of 1974. The "Routine Use" paragraphs, as they are proposed to be revised, are set out below.

The full texts of the notices to which these "Routine Use" paragraphs pertain may be found in the FEDERAL REGISTER for September 5, 1975 (40 FR 41432–41507), September 19, 1975 (40 FR 43467–43477), October 3, 1975 (40 FR 46066–46074), October 10, 1975 (40 FR 47985–47992), October 29, 1975 (40 FR 50434).

Comments on the revised "Routine Use" paragraphs may be submitted to the Departmental Privacy Act Officer, Office of Management Consulting, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. All comments received on or before September 14, 1976 will be considered. Copies of any comments which are received will be available for inspection in Room 5350 at the above address.

ALBERT C. ZAPANTA,
Assistant Secretary of the Interior.

AUGUST 23, 1976.

Interior/OS-- 1.

System name: Audit Files and Workpapers -- Interior, Office of the Secretary-- 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to develop audit reports which bring to the attention of management, contractors and grantees existing deficiencies and recommendations for correcting those deficiencies. Disclosures outside the Department of the Interior may be made: (1) to a Federal, State or local government agency who has funds involved to alert that agency to the deficiencies so the agency may take corrective action; (2) by transfer to another Federal agency or a State or local government body having partial or complete jurisdiction over the auditee; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) for transfer of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS-- 2.

System name: Investigative Records -- Interior, OFFICE OF THE Secretary-- 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to (a) conduct and report investigations stemming from specific complaints of serious misconduct or irregularities to ensure compliance by Departmental employees, prospective employees, contractors, subcontractors (prospective contractors and subcontractors), grantees, subgrantees, and persons doing business with the Department with Federal Statutes, regulations, policies, and procedures; and (b) conduct other fact finding studies as the Secretary may direct. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Interior/OS-- 3.

System name: Financial Interest Statements and Ethics Counselor Decisions - Interior, Office of the Secretary-- 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to review employee financial interests and determine employee compliance or non-compliance with applicable conflict of interest statutes and regulations; (b) to record the fact that the employee has been made aware of specifically directed legislation or regulations covering his organization and that he or she is in compliance with such specific legislation or regulations; and (c) to provide an adequate system of records for Interior auditors performing compliance audits within the Interior Department. Disclosures outside the Department of the Interior may be made; (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or, (3) to a Congressional office from the record of an individual in response to an inquiry made at the request of that individual, (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit, (5) to the Civil Service Commission to perform oversight reviews, (6) to the public for those records covered by 43 CFR 30.735-20(c).

Interior/OS-- 5.

System name: Aircraft Instructor Qualification File -- Interior Office of the Secretary -- 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain updated instructor qualification records (b) to refer instructors to DOI Bureaus/Offices. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (4) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, grant or other benefit.

Interior/OS-- 6.

System name: Aircraft Crew/Mechanic Information File (Commercial Operators) -- Interior, Office of the Secretary-- 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to determine aircraft crew/mechanic qualifications to comply with contract specifications. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, pilot qualification card, grant or other benefit, (4) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, pilot qualification card, grant or other benefit.

Interior/OS-- 7.

System name: Aircraft Crew/Mechanic Information File -- Interior, Office of the Secretary-- 7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to determine aircraft crew/mechanic qualifications to comply with OAS procedures and directives. Disclosure outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule regulation, order or license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, pilot qualification card, grant or other benefit, (4) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit.

Interior/OS-- 8.

System name: Aircraft Services Administrative Management and Fiscal Records - Interior, Office of the Secretary-- 8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are (a) for administrative and fiscal management. Disclosure outside the Department of the Interior may be made, (1) to the Department of the Treasury for preparation of (a) payroll checks, (b) payroll deduction and other checks to Federal, State and local and (c) checks for reimbursement of employees and others, (2) to the Internal Revenue Service and to the State, Commonwealth, Territorial and local governments for tax purposes, (3) to the Civil Service Retirement System and other contributions, (4) to another

V 41 170 AUG 31 76 UMI

Federal agency to which an employee has transferred, (5) to another Federal agency having a subject matter interest in the records, (6) to the U. S. Department of Justice when related to litigation or anticipated litigation, (7) of information indicating a violation or potential violation of a statute, regulation, rule, order, license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit.

Interior/OS--12.

System name: Private Relief Claimants, Department -- Interior, Office of the Secretary--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to support legislation for the relief of private claimants. Disclosures outside the Department of the Interior may be made (1) to Congress to report on the basis and validity of claims; (2) to another Federal agency having a subject matter interest in the claim; (3) to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that Circular; (5) to the Congressional sponsor of a private relief bill and to representatives of the individual who is the subject of the legislation; (6) to the U. S. Department of Justice when related to litigation or anticipated litigation.

Interior/OS--13.

System name: Private Relief Claimants, Bureau -- Office of the Secretary--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to support legislation for the relief of private claimants. Disclosures outside the Department of the Interior may be made (1) to Congress on the basis and validity of claims; (2) to another Federal agency having a subject matter interest in a claim; (3) to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular; (4) to the Congressional sponsor of a private relief bill and to representatives of the individual who is subject of the legislation; (5) to the U. S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--15

System name: Emergency Defense Mobilization Files -- Interior, Office of the Secretary--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to administer the NDER program. Disclosures outside the Department of the Interior may be made (1) to officials of participating departments and agencies relevant to reservists assigned to their units; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--18.

System name: Discrimination Complaints -- Interior, Office of the Secretary--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for the investigation and resolution of complaints of discrimination in violation of Title VI of the Civil Rights Act of 1964 (42 USC 2000D), in violation of Section 403 of the Trans-Alaska Pipiline Authorization Act (87 Stat. 576), or in violation of Executive Order 11246, as amended (3CFR 169 1974 Ed.)). Disclosures outside the Department of the Interior may be made (1) to the U. S. Equal Employment Opportunity Commission under the terms of the Office of Federal Constract Compliance Equal Employment Opportunity Commission Memorandum of Understanding dated September 11, 1974, (39 FR 35855); (2) to the Office of Federal Contract Compliance for the purpose of audit and evaluation; (3) to other Federal agencies charged with the enforcement of equal employment opportunity laws, orders and regulations, on a need-to-know basis to assist these agencies in their enforcement activities; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--20.

System name: Secretarial Correspondence Card File -- Interior, OFFICE OF THE Secretary--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of records is to ascertain status of correspondence to the Secretary of the Interior. Disclosures outside the Department of the Interior may be made (1) to a Federal agency so that the agency may respond to an inquiry from the named individual, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--25.

System name: Youth Conservation Corps (YCC) Enrollee Records -- Interior, Office of the Secretary--25.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) the identification of current and past enrollees and current alternates; (b) for the selection of alternate upon enrollee withdrawal from program; (c) to provide enrollee participation record for school credit. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Agriculture in connection with joint administration of YCC program; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--26.

System name: Youth Conservation Corps (YCC) Enrollee Payroll Records File - Interior, Office of the Secretary--26.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) the identification of current and past enrollees; (b) for payroll purposes for current enrollees; (c) to develop demographic characteristics of enrollee population for statistical purposes. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local government for tax purposes; (3) to the Civil Service Commission in connection with the Civil Service Retirement system; (4) to another Federal agency to which an employee has transferred; (5) to the U. S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--27.

System name: Youth Conservation Corps (YCC) Enrollee Medical Records -- Interior, Office of the Secretary--27.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for the adjudication of FEC medical claims, and (b) the adjudication of tort claims. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Agriculture in connection with joint administration of YCC program; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--28.

System name: Youth Conservation Corps (YCC) Research file -- Interior, Offiice of the Secretary--28.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for future research on long term values gained from the YCC experience. Disclosures outside the Department of th of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual. at the request of that individual.

Interior/OS--29.

System name: Youth Conservation Corps (YCC) Recruitment Files -- Interior, Office of the Secretary--29.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for selection among applications of all eligible applications. Persons selected are either offered employment in a YCC camp or placed on an alternate list to be used in case of declination. Disclosures outside the Department of the Interior may be made (1) to the U. S. Forest Service, States, counties, cities and other subgrantees for employment purposes; (2) to the U. S. Department of Jutice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--35.

System name: Library Circulation Control System -- Interior, Office of the Secretary--35.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is control of library materials. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--38.

System name: Privacy Act Files -- Interior, Office of the Secretary--38.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for action on requests and appeals of Privacy Act matters. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--39.

System name: Office Operations Records on Employees, Department System -- Interior, Office of the Secretary--39.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to administer thE 8 employee's relationship to the activities and functions of the office. Disclosures outside to the U. S. Department of Justice when related the Department of the Interior may be made (1) to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation security clearance, license, contract, grant or other benefit.

Interior/OS--46.

System name: Secretarial Subject Files -- Interior, OFFICE OF THE Secretary--46.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior, Solicitor, Assistant Secretaries, Deputy Assistant Secretaries, and their immediate staff. disclosures outside the department are (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--47

System name: Parking Assignment Records -- Interior, Office of the Secretary--47.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) internal control over the assignment of parking permits (b) assistance to individuals in locating carpools. Disclosures outside the department are (1) to a Federal agency that has jurisdiction over parking space, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--48.

System name: Employee Identification Card Files -- Interior, OFFICE OF THE Secretary--48.

V 41 170 AUG 31 76 UMI

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for internal control over the issuance of the cards. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) in the event there is information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--50.

System name: Motor Vehicle Operator's Identification Card Applications - Interior, OFFICE OF THE Secretary--50.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is internal control over the issuance of driver permits. Disclosures outside the Department are (1) to a Federal agency for the purpose of checking individual driving records, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--51.

System name: Property Accountability -- Interior, Office of the Secretary--51.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the internal assignment of property to offices and individuals. Disclosures outside the Department are (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license.

Interior/OS--52.

System name: Travel Management Records -- Interior, Office of the Secretary--52.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) making reservations (b) the generating of tickets (c) the transfer of travel tickets to fiscal services. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--53.

System name: Classified Documents -- Interior, Office of the Secretary--53.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the internal transmittal of the classified documents to individuals. Disclosures outside the Department are (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--60.

System name: Safety Management Information System -- Office of the Secretary--60.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) provide summary data of injury, illness and property loss information to bureaus in a number of formats for analytical purposes in establishing program to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to bureaus to insure that accidents occuring are reported through the Safety Management Information System, and (c) adjudicating tort and employee claims. Disclosures outside the Department of the Interior may be made, (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide to the Department of Labor quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--61.

System name: Safety Career Opportunity Plan for Employees -- Interior, Office of the Secretary--61.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of records are: (a) to obtain listing of safety professionals eligible for announced vacancies, and (b) to provide a copy of the vacancy announcements to all interested, eligible persons. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, and (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--65.

System name: Biography File -- Interior, Office of the Secretary--65.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to maintain biographic information on key officials of the Department. Disclosures outside the Department of the Interior may be made (1) to the news media and the public for public information purposes.

Interior/OS--68.

System name: Committee Management Files -- Interior, Office of the Secretary--68.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is administration of committee activities whithin the Department. Disclosures outside the Department of the Interior may be made (1) to OMB in connection with its committee management responsibilities; (2) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; (3) to a Federal, State or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--69.

System name: Freedom of Information Appeal Files -- Interior, Office of the Secretary--69.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to support review and decision-making for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation

of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--70.

System name: Applicant Files -- Interior, Office of the Secretary--70.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for the hiring of applicants. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--71.

System name: Freedom of Information Request Files System -- Interior, Office of the Secretary--71.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to administer Freedom of Information requests. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--75.

System name: Supervisors' Records of Employees -- Interior, Office of the Secretary--75.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as a source of data to initiate requests for personnel actions, to plan and schedule training, to counsel employees on their performance, to establish a basis for proposing commendations or disciplinary actions, and to carry out their personnel management responsibilities in general, and (b) to complete reference checks or supervisory appraisals. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--76.

System name: Employee EXPERIENCE, Skills, Performance and Career Development Records -- Interior, Office of the Secretary--76.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) by bureau officials for purposes of review in connection with transfers, promotions, reassignments, adverse actions, disciplinary actions, and determination of qualifications of an individual, and (b) by bureau officials for setting out career goals and objectives of the employee and for documenting attainment of these targets. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--77.

System name: Unfair Labor Practice Charges/Complaints -- Interior, Office of the Secretary--77.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to administer charges or complaints of unfair labor practices. Disclosures outside the Department of the Interior may be made (1) to the Department of Labor and to the Federal Labor Relations Council for settlement of the complaint or appeal; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--78.

System name: Negotiated Grievance Procedure Files -- Interior, Office of the Secretary--78.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to administer employee grievances. Disclosures outside the Department of the Interior may be made (1) to the Federal Labor Relations Council, or to the Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

Interior/OS--79.

System name: Personnel Data Files (AUTOMATED) -- Interior, OFFICE OF THE Secretary--79.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are in accordance with, or in addition to the records described by the Civil Service Commission. These systems are used (a) to provide data for the governmentwide and Departmentwide central personnel files; (b) to produce day-to-day personnel management action, such as notification of personnel actions, automatic notices (e.g. conversion to career tenure, length of service awards, within grade increases) and to provide input to produce payroll and financial management actions; (c) used as an employee locator file and to provide information for organization and position management matters; (d) to provide information on current and potential executive level employees in an executive retrieval system; and (e) as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records were collected and maintained or related personnel management functions or manpower studies. Disclosures outside the Department of the Interior may be made (1) to the Civil Service Commission to respond to their requests; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--80.

System name: Emergency Loan Fund Committee Loan Records -- Interior, Office of the Secretary--80.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for application, approval, processing and accounting of emergency loans. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicat-

V41170
AUG 31 76
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ing a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Interior/OS--81.

System name: Health Unit Medical Records -- Interior, Office of the Secretary--81.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for medical counseling and referral; (b) as a data source for management information for production of summary statistics and analytical studies in support of the function for which the records are collected and maintained, or for related management functions or manpower studies; and (c) to locate specific individuals for personnel research. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--85.

System name: Payroll, Attendance and Leave -- Interior, Office of the Secretary--85.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to administer payroll, attendance and leave matters. Disclosures outside the Department of the Interior may be made (1) to the U. S. Treasury to issue checks to employees and make distributions of pay according to employee authorizations for savings bonds, allotments and other authorized purposes; (2) to the Civil Service Commission to report retirement deductions; (3) to the Internal Revenue Service and appropriate State, Commonwealth, Territorial and local taxing authorities for tax purposes; (4) to the Social Security Administration to report FICA deductions; (5) to labor unions to report union dues deductions; (6) to the Civil Service Commission and insurance carriers to report withholdings for health insurance; (7) to State employment security agencies and the U. S. Department of Labor for unemployment insurance; (8) to other Federal agencies as required by laws and implementing regulations; (9) to the U. S. Department of Justice when related to litigation or anticipated litigation; (10) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible forinvestigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (11) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (12) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--86.

System name: Accounts Receivable -- Interior, Office of the Secretary--86.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for billing and follow-up. Disclosure outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--87.

System name: Cash Receipts -- Interior, Office of the Secretary--87.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to account for monies paid to the Office of the Secretary. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--88.

System name: Travel -- Interior, Office of the Secretary--88.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to process travel authorizations and claims. Disclosures outside the Department of the Interior may be made (1) to the U. S. Treasury for payment of claims; (2) to the State Department for passports; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Interior/OS--89.

System name: Position Control -- Interior, Office of the Secretary--89.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to provide management information on authorized positions. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Interior/OS--95.

System name: Interior, Office of the Secretary--95.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for administrative and fiscal management. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for the preparation of (a) payroll checks, (b) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals, and (c) checks for reimbursement of employees and others. (2) to the Internal Revenue Service and to State, commonwealth, territorial and local governments for tax purposes. (3) to the Civil Serivce Commission to report contributions to the Civil Service retirement system and other contributions, (4) to another Federal agency to which an employee has transferred, (5) to the U. S. Department of Justice when related to litigation or anticipated litigation, (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (10) to Federal, State or local agencies where necessary to obtain information relevant to the hiring, or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Interior/OS--96.

System name: Government of American Samoa Administrative Management and Fiscal Records -- Interior, Office of the Secretary--96.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for administrative and fiscal management. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of (a) payroll checks; (b) payroll deduction and other checks to Federal, State and local government agencieso non-governmental organizations and individuals; and (c) checks for reimbursement of employees and others; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Civil Service Commission to report contributions to the CIvil Service retirement system and other contributions; (4) to another Federal agency to which an employee has transferred; (5) to another Federal agency having a subject matter interest in the records; (6) to the U. S. Department of Justice when related to litigation or anticipated litigation; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA-- 1.

System name: Property Loan Agreement Files -- Interior, BIA--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify individuals responsible for government-owned real or personal property by agreement. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA-- 2.

System name: Safety Management Information -- Interior, BIA--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide complete record-keeping on qualified motor vehicle operators in BIA, employee accidents or incidents, Federal employees compensation claims and adjudication of tort claims. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA-- 3.

System name: Individual Indian Monies -- Interior, BIA--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to control individual Indian's money accounts and to disclose to them the status of those accounts. Disclosures outside the Department of the Interior may be made (1) granting of access or transfer to another Federal agency, a State or local government, Indian tribal group or to any individual or establishment that, under contract to the BIA or as the result of some form of legal transfer of the program to them, will have jurisdiction for the IIM program now under the jurisdiction of the BIA, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BIA-- 4.

System name: Indian Land Records -- Interior, BIA--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify individual Indians' and Indian Tribal Groups' interest in lands held in trust, (b) land acquisition and disposal and tenure and management purposes, (c) adjudication of rights to the land or resources (d) administration of leases, sales, rentals, transfers, (e) land statistics for BIA personnel information uses, and (f) to answer questions regarding land rights. Disclosures outside the Department of the Interior may be made (1) to transfer or disclose to another Federal agency, a State or local government, or to any individual or establishment that has been appointed to act as trustee for Indian lands, (2) to the Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual or tribe in response to an inquiry from a Congressional office made at the request of that individual or authorized tribal official.

INTERIOR/BIA-- 5.

System name: Indian Land Leases -- Interior, BIA--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to control leases on Indian trust lands and real property, (b) for the collection and distribution of lease income (c) protection of water, surface and subsurface rights on Indian trust lands, and (d) planning and implementing conservation, irrigation and land use projects on Indian lands. Disclosures outside the Department of the Interior may be made, (1) to another Federal contractor having jurisdiction of programs ordinarily the responsibility of the BIA, (2) to the Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA-- 6.

System name: Navajo-Hopi Joint Use Project -- Interior, BIA--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify improvements, locations, ownership and residents of the Joint Use Administration. Disclosures outside the Department of the Interior may be made (1) for Tribal Government use in adjudicating land disputes, (2) to the Relocation Commission to identify resident and location and ownership of improvements, (3) U. S. Federal Courts concerned with the project, (4) to the U. S. Department of Justice when related to litigation or anticipated litigation, (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA-- 7.

System name: Tribal Rolls -- Interior, BIA--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine eligibility of individuals who participate in or enjoy benefits from an interest in a tribal group, and (b) provide lists of approved enrollees used to distribute funds or income, or as a base to gather census or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made (1) to the Tribe, Band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the

V41170 AUG 31 76 UMI

record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, and (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA-- 8.

System name: Indian Social Services Case Files -- Interior, BIA--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide permanent individual records on social services and direct assistance to individual Indians. Disclosures outside the Department of the Interior may be made (1) granting of access or transfer to another Federal agency, a State or local government, Indian tribal group or to any individual or establishment that will have jurisdiction whether by contract to the BIA, by assumption of trust responsibilities or by other means, for social services programs now controlled by the BIA, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal,State, local or foreign Agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, and (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA-- 9.

System name: Traders License Files -- Interior, BIA--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify individuals authorized to trade on Indian reservations. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA--10.

System name: Indian Housing Improvement Program -- Interior, BIA--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain a management control of funds distributed to each individual and (b) to provide a progress report on housing improvements. Disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now controlled by the BIA, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, and (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BIA--11.

System name: Indian Business Development Program (Grants) -- Interior, BIA--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify individual receiving grant. Disclosures outside the Department of the Interior may be made (1) transfer or disclosure to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration in regard to participating funding packages between these agencies and BIA, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--12.

System name: Indian Trust Land Mortgages -- Interior, BIA--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to furnish lender with information on applicant and on status of land and (b) to maintain current information on payments and balances of loan. Disclosures outside the Department of the Interior may be made (1) to disclose or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration, in regard to participating funding between those agencies and BIA, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--13.

System name: Indian Loan Files -- Interior, BIA--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain a record of payments and unpaid balances and (b) to provide information on payments made for paying interest subsidy, credits obtained, service loans, and premiums paid by lenders. Disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now maintained by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration, in regard to participating funding between those agencies and BIA, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--14.

System name: Travel Accounting System -- Interior, BIA--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify individuals who are authorized to travel and be reimbursed by the government. Disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now controlled by the BIA and that require personal travel at program expense, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA--15.

System name: Trip Reports -- Interior, BIA--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide local files which identify staff officer trip reports by name of individual for each BIA program office. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA--16.

System name: Travel Files -- Interior, BIA--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide administrative copy files on each traveler for local office use. disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA--17.

System name: Payroll -- Interior, BIA--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to prepare payrolls for distribution by the Regional Disbursing Offices of Department of Treasury and (b) to report results to the Civil Service Commission. Disclosures outside the Department of the Interior may be made (1) granting of access or transfer to a Federal, State or local agency, or to an Indian tribal group or any establishment or individual that assumes jurisdiction, whether by contract to the BIA or by legal transfer, of any program under the control of the BIA, (2) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals, (3) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes, (4) TO THE Civil Service Commission in connection with the Civil Service Retirement System, (5) disclosure to another Federal agency to which an employee has transferred, (6) to the U. S. Department of Justice when related to litigation or anticipated litigation, (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, and (10) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA--18.

System name: Law Enforcement Services -- Interior, BIA--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify individuals who have been arrested on Indian Reservations and who have appeared in court for violations of 25 CFR regulations. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA--19.

System name: Indian Association Stock Purchase Records -- Interior, BIA--19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify individual Indians who have stocks in Indian Associations. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration in regard to participating funding between these agencies and the BIA, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--20.

System name: Correspondence Files System -- Interior, BIA--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide information for use by Department of the Interior; BIA; Indian Tribes; Indian Claims Commission; and the Indian Claims Division, Office of Finance, GSA. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government, an Indian Tribal Group or a contractor that will have jurisdiction over programs now controlled by the BIA, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--21.

System name: Correspondence Control System -- Interior, BIA--21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide control for prompt handling or priority correspondence by the Bureau of Indian Affairs. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BIA--22.

System name: Indian Student Records -- Interior, BIA--22.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to provide permanent individual student records on all phases of the education of indians in BIA schools or under Government Education Grants. Disclosures outside the Department of the Interior may be made to (1) another federal agency, a State or local government, Indian Tribal Group or to any individual or establishment that will have jurisdiction whether by contract to the BIA, by assumption of Trust Responsibilities or by other means for school programs now controlled by the BIA; (2) to any domestic recognized school, whether public, private, parochial or other, of those portions of students' records specified by the requesting school as being necessary for the acceptance, placement or satisfactory performance of the student at the requesting school, (3) to any individual or establishment of those portions of students' records specified by the requester as necessary for a decision concerning the hiring or retention of the student as an employee of the requester, (4) to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency

V 41 170 AUG 31 76 UMI

decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (6) to persons having official involvement in conjunction with a student's application for/or grant of financial aid, (7) to parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954, as amended, (8) to accreditation agencies in order to carry out their accrediting functions, (9) to the Department of Health, Education and Welfare and other governmental education officials when necessary to carry out their functions, (10) to an educational testing center or similar institution as part of validation research authorized by the school involved, (11) to the U. S. Department of Justice when related to litigation or anticipated litigation, (12) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (13) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BIA--23.

System name: Employment Assistance Case Files -- Interior, BIA--23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify individual Indians who are given direct employment or vocational training, and (b) to provide permanent records on Employment Assistance to individual Indians. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government, Indian Tribal Group or to any individual or establishment that will have jurisdiction whether by contract to the BIA, by assumption of Trust Responsibilities or by other means, for Employment Assistance Programs now controlled by the BIA, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of infromation indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BIA--24.

System name: Timber Cutting and Fire Trespass Claims Case Files -- Interior, BIA--24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify unauthorized timber cutting claims filed against trespassers and/or converters, (b) for property damage claims filed against careless or negligent originators of wildfire which trespasses Indian property, and (c) establishing amounts and types of timber trespassed and their value. Disclosures outside the Department of the Interior may be made (1) authorized legal representative of Tribal Groups or members if necessary for litigation, (2) to the Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (13) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/APA-- 1.

System name: Administrative Management and Fiscal Records -- Interior, Alaska Power Administration--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for the administrative and fiscal management of the Alaska Power Administration. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of (a) payroll checks; (b) payroll deduction and other checks to Federal, State and local government agencies, nongovernmental organizations and individuals; and (3) checks for reimbursement of employees and others; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Civil Service COmmission to report contributions to the Civil Service Retirement System and other contributions; (4) to another Federal agency to which an employee has transferred; (5) to another Federal agency having a subject matter interest in the records; (6) to the U. S. Department of Justice when related to litigation or anticipated ligation; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MINES-- 1.

System name: Payroll -- Interior, Mines--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide information and accounting records regarding employee pay and leave for the automated payroll data file; (b) to inform each Bureau office of the composition of their labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the Finance system. This reporting is made every two weeks on a regular payroll cycle. Disclosures outside the Department of the Interior may be made (1) to provide states with pay data relative to claims for unemployment; (2) to the Department of the Treasury for preparation of payroll checks and payroll deductions and other checks to Federal, state and local Government agencies, non-governmental organizations and individuals; (3) to the Internal Revenue Service and to state, commonwealth, territorial and local Governments for tax purposes; (4) to the Civil Service Commission in connection with the Civil Service Retirement System; (5) to another Federal agency to which an employee has transferred; (6) to the U. S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (10) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MINES-- 2.

System name: Travel Advance File -- Interior, Mines--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide an accounting record of obligations due to the U. S. Government from employees authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a backup authority and manually reconciled file to the entries for travel expenses in the automated Finance system; (c) computer data are reported to each Bureau office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MINES-- 3.

System name: Travel Vouchers and Authorizations -- Interior, Mines--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as backup entry data for obligations and disbursements in the automated Finance system of the Bureau of Mines; (b) computer data are reported to each Bureau office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office; (c) vouchers are used to determine allowability of expenses within the law authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the data is, Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MINES-- 4.

System name: Property Control -- Interior, Mines--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) identification, assignment, and control of Bureau property; (b) assistance in locating carpools; Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MINES-- 5.

System name: Personnel Identification -- Interior, Mines--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide identification cards to employees; (b) locator information provided for use by management to contact employees in case of an emergency. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MINES-- 6.

System name: Safety Files -- Interior, Mines--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for managerial review of safety related work situations, and (b) for authenticating work related accident, injury, illness, or fatalities for employee compensation purposes. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MINES-- 7.

System name: Security Files -- Interior, Mines--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify Mines personnel who have security clearances and their degree of clearance. Disclosures outside the Department of the Interior may be made (1) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (2) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, contract, license, grant or other benefit; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MINES-- 9.

System name: Distribution Center and Film Borrower Record Cards -- Interior, Mines--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for (a) reference by Bureau of Mines film distribution personnel in determining locations of films out on loan, (b) scheduling film shipments, and returns, and (c) checking borrower's treatment of films borrowed in the past. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MINES--10.

System name: Biographical Reference File -- Interior, Mines--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as a public information file on officials of the Bureau of Mines and (b) as background material in preparing public announcements on assignments, transfers or official activities of the named official. Disclosures outside the Department of the Interior may be made (1) to the public and news media seeking biographical information about named officials.

INTERIOR/BPA-- 1.

System name: Travel Records -- Interior, BPA -- 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for the establishment of employee travel or change of station claims for reimbursement; (b) for the determination of available lodging rates whenever BPA employees conduct official travel; and (c) control of amounts of travel advances and repayment of those amounts provided. Disclosures outside the Department of the Interior may be made (1) to the Department of Treasury for reimbursement of travel expenses; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 2.

System name: Payroll Files -- Interior, BPA -- 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are (a) to prepare schedule of net pay and record gross pay, leave, retirement, and payroll deductions; (b) to maintain payroll records for GAO and other audits; (c) to provide input for BPA cost accounting for budgeting systems. Disclosures outside the Department of the Interior may be made (1) to transfer earnings and withholding data to State employment agencies as requested for unemployment claims; (2) to transfer earnings for withholding, data to Federal and State income tax authorities; (3) to transfer leave and retirement records to other Federal agencies when employees transfer; (4) to transfer retirement records to the Civil Ser-

V41N170 AUG 31 76 UMI

vice Commission for employees retiring, terminating, or transferring outside the Department; (5) to GAO when BPA requests Comptroller General decisions; (6) to the Department of the Treasury for issuance of checks and distribution of pay according to employee authorizations for savings and allotments and other authorized purposes; (7) to IRS for tax levies; (8) to Office of Federal Employee Compensation for employees injured on duty; (9) to State welfare agencies on written request regarding qualifications for food stamps; (10) to financial organizations for net pay and payroll savings for employees making deposits; (11) to unions of listings of union dues deductions to unions; (12) to the Department of the Treasury for issuance of checks to satisfy court orders authorizing garnishment under provisions of P.L. 93-647; (13) to the U. S. Department of Justice when related to litigation or anticipated litigation; (14) of transfer in the event it is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal, or regulatory in nature, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (15) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 3.

System name: Audiometric Testing Forms -- Interior, BPA -- 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to advise employees that they have hearing deficiencies. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 4.

System name: Automotive Accident Files -- Interior, BPA -- 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine the classification of the accident, i.e. preventable, nonpreventable, or reportable incident; (b) to adjudicate tort claims; (c) to determine financial liability and disciplinary action. Disclosures outside the Department of the Interior may be made (1) to General Services Administration for reimbursement; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 5.

System name: Motor Vehicle Operator Identification Records -- Interior,BPA -- 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to determine eligibility for motor vehicle operator identification cards. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 6.

System name: Industrial Accident Files and Employee Claims Files -- Interior, BPA -- 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to analyze the facts and circumstances surrounding each accident for cause, (b) adjudication of tort and employee claims. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, or a State or local government having partial or complete jurisdiction over the claim or related claims; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

INTERIOR/BPA-- 7.

System name: Safety Training Files -- Interior, BPA -- 7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine which employees have valid first aid cards; (b) to determine which employees hold certifications to access BPA facilities and (c) to determine which drivers have completed defensive driver courses. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 8.

System name: Plant Services History Files -- Interior, BPA -- 8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide a detailed record of costs incurred for labor against any plant services requested on a monthly basis, (b) to provide backup for charges for work performed for other Federal agencies under the cross-servicing agreements authorized by GSA Bulletin FPMR 100.G-23 and (c) to provide backup for charges against contractors and other vendors for corrective work performed by the Branch of Plant Services. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA-- 9.

System name: Plant Services Personal Accountability Property System -- Interior, BPA -- 9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide inventories to satisfy other FPMR requirements; (b) to maintain a record of location of emergency equipment; (c) to control equipment assignments authorized under union contracts; (d) to provide management information necessary for the budgeting and allocation of equipment funds; and (e) to provide evidence of assignment, location, and value when government property is stolen. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA--10.

System name: Land Records--Interior, BPA -- 10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to answer questions regarding land rights which BPA has granted to individuals or land rights individuals have granted to BPA; and (b) as a data source used to update maps. Disclosures outside the Department of the Interior may be made (1) to

other Federal agencies as questions arise concerning specific tracts of land; (2) to individuals, companies, or private organizations to answer questions concerning tracts of land; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA--11.

System name: Accounts Receivable--Interior, BPA -- 11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to assure collection of amounts due; (b) to provide data for accounting results; (c) to verify payment activity by individuals; and (d) to verify accuracy of accounting results. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when relateE 8 to litigation or anticipated litigation; (2) of information indicating E 8 violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA--12.

System name: Report of Inventions--Interior, BPA -- 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine employee's rights to license invention; (b) to determine status of invention in process of securing patent. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate federal, State, local or foreign agencies responsible for innvestigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA--13.

System name: Parking Assignment Records--Interior, BPA -- 13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to assign parking permits and assist in locating car pools. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BPA--14.

System name: Security Clearance File--Interior, BPA -- 14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to document clearances granted to individuals. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/GS-- 1.

System name: Payroll, Attendance and Leave Records -- Interior, GS--1. (2) Input documents supplied by all facilities of the U.S. Geological Survey. (See Appendix for addresses.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Transmittal of data to U.S. Treasury to issue pay to employees and to distribute pay according to employee directions for allotments, financial institutions, savings bonds, charitable contributions and other authorized purposes. (2) Reporting tax withholdings to IRS and State and local taxing authorities; FICA deductions to SSA; withholdings for health insurance to the Civil Service Commission and carriers; contributions to agents of charitable institutions; dues to labor unions; annual W-2 statements to taxing authorities and the individual. (3) In the event that a system of records maintained by the Survey to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. (4) A record from this system of records may be disclosed, as a routine use, to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses if necessary to obtain information relevant to a Survey decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (5) A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (6) A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving the individual when the individual is a constituent of the Member and has requested assistance from the Member with respect to the subject matter of the record. (7) Transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of the records.

INTERIOR/GS-- 2.

System name: Authorized Cashier, Alternate Cashier, Certifying Officer and Cashierand Collection Officers -- Interiorand GS--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Transmittal to U.S. Treasury. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 3.

System name: Accounts Receivable -- Interior, GS--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Billing debtors. (2) Reporting to the Civil Service Commission. (3) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 5.

System name: Contract Files -- Interior, GS--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 6.

System name: RELOS Records -- Interior, GS--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Used to prepare National Center telephone directory, parking permit issuance, carpool assignments, space occupancy reports. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 7.

System name: Personal Property Accountability Records -- Interior--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To maintain control over bureau owned controlled property; maintain up-to-date inventory and accountability. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 8.

V41I170 AUG 31 76 UMI

System name: Accident Reports and Investigations -- Interior, GS--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS-- 9.

System name: National Research Council Grants Program -- Interior, GS--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--10.

System name: Lunar Sample -- Interior, GS--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--11.

System name: Security -- Interior, GS--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--12.

System name: Project Descriptions and Work Plans and Accomplishments -- Interior, GS--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--13.

System name: Manuscript Processing -- Interior, GS--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Use by Author, Branch Chiefs, Office Chiefs and Office of Scientific Publications staff. (2) Routine uses numbered 3 through 7 in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--14.

System name: Travel Files -- Interior, GS--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Transmittal to U.S. Treasury for payment and to State Department for passports. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--15.

System name: Cartographic Information Customer Records -- Interior, GS--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Reference by GS and GS contractor personnel in processing customer inquiries; (2) Transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of the records; (3) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

INTERIOR/GS--16.

System name: Office of Minerals Exploration (OME) Financial Assistance Applications -- Interior, GS--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--17.

System name: Management Information System, Publications Division -- Interior, GS--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Production control, program management, accumulation of costs for billing the pertinent GS divisions. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--18.

System name: Computer Services Users -- Interior, GS--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Billing and Mailing to Federal Employees who are Geological Survey Computer Services Users. (2) Transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of the records. (3) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

INTERIOR/GS--20.

System name: Photo File System -- Interior, GS--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Dissemination to public with press releases and in publications. (2) Routine uses numbered 3 through 7 in system notice for Geological Survey Payroll, Attendance and Leave Records System, Interior/GS--1.

INTERIOR/GS--21.

System name: Mineral Lease and Royalty Accounting Files -- Interior, GS--21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) mineral lease management - supervision of leases and permits, royalty account billings, revenue controls and statistical data. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsibility for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and, (2) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/GS--22.

System name: Correspondence - Interior, GS -- 22.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1)Maintain record of correspondence relating to policy and day-to-day activities of the Publications Division. (2) Routine uses numbered 3 through 7 listed in the system notice for the Geological Survey Payroll, Attendance and Leave Records System, Interior/GS-1.

INTERIOR/GS--23.

System name: Personnel Investigations Records -- Interior, GS--23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: (1) To designated officials, officers, and employees of the USGS, DOI, CSC, ERDA, CIA, FBI, and all other agencies and departments of the Federal Government who in the performance of their duties have an interest in the individual for employment purposes, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government. (2) To all law enforcement agencies, whether Federal, State, or local, who are charged with the responsibility of investigating or prosecuting any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule, or order issued pursuant thereto.

INTERIOR/GS--24.

System name: Employee Work Report Edit and Individual Employee Production Rates -- Interior, GS--24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are for analysis of cost and production rates by individual production employee. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MESA-- 1.

System name: Coal and Metal and Nonmetal Mine Accident and Injury -- Interior, MESA--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine probable cause of accidents, injuries, and illnesses and (b) to provide a statistical analytic data base for allocation of MESA and other resources to reduce occupational injuries and illnesses. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/MESA-- 2.

System name: Identification Cards -- Interior, MESA--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide identification cards to employees. Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/MESA-- 3.

System name: Metal and Nonmetal Mine Health and Safety Management Control -- Interior, MESA--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine the workload work scheduling and performance of mine inspection personnel; (b) to maintain records on violations of health and safety standards and regulations; (c) to determine contaminant exposure level; (d) employment data relative to metal and nonmetal mine workers, e.g., number of workers, etc. Disclosures outside the Department of the Interior may be made (1) to the National Institute of Occupational Safety and Health and the Environmental Protection Agency information resulting from special health studies; (2) to provide state agencies or bodies in state plan states applicable inspection reports, surveys on personal exposure and special health studies; (3) to furnish unions and company officials inspection reports containing exposure data pertaining to members and employees, respectively; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rules, regulation, order or license; (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MESA-- 4.

System name: Employee Conduct Investigations -- Interior, MESA--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to determine facts and circumstances relative to allegations. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; and (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

INTERIOR/MESA-- 5.

System name: Payroll Records -- Interior, MESA--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide information and accounting records regarding employees pay and leave for the automated payroll data file; (b) to inform each MESA office of the composition of the labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the finance system. This reporting is made every two weeks on a regular payroll cycle. Disclosures outside the Department of the Interior may be made (1) to provide states with pay data relative to plans for unemployment compensation; (2) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, state and local government agencies, nongovernmental organizations and individuals; (3) to the Internal Revenue Service and to state, commonwealth, territorial and local governments for tax purposes; (4) to the Civil Service Commission in connection with the Civil Service Retirement System; (5) to another Federal agency to which an employee has transferred; (6) to provide Social Security Numbers for use in identifying MESA employee travel advance accounts which are maintained in travel advance file; (7) to the U. S. Department of Justice when related to litigation or anticipated litigation; (8) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (9) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (10) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (11) to Federal, state or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of security clearance, contract, license, grant or other benefit.

INTERIOR/MESA-- 6.

System name: Travel -- Interior, MESA -- 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as backup entry data for obligation and disbursements in the automated finance system of MESA; (b) as an audit file for examining travel vouchers for travelers who travel on a continuing basis under area or general travel authorizations; (c) travel cost information is reported to each MESA office as part of the detailed composition of monthly expense reports for cost accounts within the finance system. Only data pertinent to individual MESA offices are available to that office. Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, state or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MESA-- 7.

System name: Personnel Security Files -- Interior, Mines-- 7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the

V41I170 AUG 31 76 UMI

records is (a) to provide an accounting record of obligation due to the U. S. Government from employees who have cost advances to defray expenses incurred in official travel. Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, state or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MESA-- 8.

System name: Accident and Injury Records -- Interior, MESA -- 8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify deficiencies in the Employee Safety Programs that must be corrected in order to maintain a safe and helthy work environment;(b) adjudication of tort, employee and similar claims against the government. Disclosures outside the Department of the Interior may be made (1) to General Services Administration when a GSA motor vehicle is involved in an accident; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, and or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/MESA-- 9.

System name: Security Clearance Records -- Interior, MESA--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the system is to determine qualifications of individuals for employment with MESA. Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MESA--10.

System name: Coal Mine Health and Safety Special Investigations -- Interior, MESA--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine validity of allegations and (b) for use in determining amount of civil penalty assessments against individuals and operators. Disclosures outside of the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) toFederal, state or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MESA--11.

System name: National Mine Health and Safety Academy Records-- Interior, MESA -- 11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are (a) by agency officials for purposes of review in connection with an employee's probationary period, transfer, promotion, or determination of qualifications of the individual. Disclosures may be made outside the Department the Interior (1) to provide information to prospective employers of a Government employee or former Federal employee or to an organization at the request of the student; (2) to provide statistical reports to Congress, agencies, and the public relative to health and safety training; (3) to provide information to another educational institution for training purposes; (4) to respond to requests from Labor organizations for names and training information; (5) to the U. S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or a potential violation of a statute, regulation, rule, order or license; (6) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implenting the statute, rule, regulation, order or license; (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (8) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/MESA--12.

System name: Property Control--Interior, MESA -- 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the identification and control of MESA property. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) disclosure from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MESA--13.

System name: Coal Mine Respirable Dust Program -- Interior, MESA--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records are (a) to determine respirable dust levels in every active working mine to insure compliance with dust leveE 8 made (1) transfer of respirable dust data to the U. S. Department of HEW in accordance with provisions of PL 91-173; (2) special studies relative to occupational types, mining methods, ventiilation, etc. (3) furnishing mine operators with information relevant to the respirable dust program as it applies to their operations as required by the law; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an individual.

INTERIOR/MESA--14.

System name: Coal Mine Noise Level Program -- Interior, MESA--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) determine noise levels in every active working mine to insure compliance with noise level standards; (b) special studies relative to occupational types, mining methods, ventilation, etc. Disclosures outside the Department of the Interior may be made (1) to furnish mine operators with information relevant to the noise program as it applies to their operations as required by the law; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MESA--15.

System name: Health and Safety Training Records including Qualifications and Certification Data --Interior, MESA--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to (a) issue certification cards to individual miners, mining industry personnel and State and Federal employees who have taken MESA's approved training courses and become certified and/or qualified under the law; (b) issue certification cards to instructors authorizing them to teach MESA training courses; (c) statistical reporting of training data in various formats for a variety of uses, e.g., reporting to Congress, publications, etc. Disclosures outside of the Department of the Interior may be made (1) to coal companies requesting information to verify training required by law; (2) Unions requesting information on the training status of its members; (3) coal operators associations requiring training for policy and programming utilization; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriaDe Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual. to individual miners, mining industry personnel and State and Federal employees who have taken MESA's approved training courses and become certified and/or qualified under the law; (b) issue certification cards to instructors authorizing them to teach MESA training courses; (c) statistical reporting of training data in various formats for a variety of uses, e.g., reporting to Congress, publications, etc. Disclosures outside of the Department of the Interior may be made (1) to coal companies requesting information to verify training required by law; (2) Unions requesting information on the training status of its members; (3) coal operators associations requiring training for policy and programming utilization; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/MESA--16.

System name: Employee Locator System, Department of the Interior, MESA--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) used to assist callers in locating MESA employees and for the use of other employees of MESA who have a need for the records in the performance of their duty; and (b) to complete agency telephone directory. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/SE-- 1.

System name: Administrative Management and Fiscal Records -- Interior, Southeastern Power Administration--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for administrative and fiscal management of the Southeastern Power Administration. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of (a) payroll checks; (b) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; and (c) checks for reimbursement of employees and others; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Civil Service Commission to report contributions to the Civil Service Retirement System and other contributions; (4) to another Federal agency to which an employee has transferred; (5) to another Federal agency having a subject matter interest in the records; (6) to the U. S. Department of Justice when related to litigation or anticipated litigation; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/SW-- 1.

System name: Payroll System -- Interior, Southwestern Power Administration -- 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses are (a) fiscal operations for payroll, leave, insurance, tax, retirement, and cost programs. Disclosures outside the Department of the Interior may be made (1) to the Treasury Department for issuance of payroll checks, (2) to Internal Revenue for audit of computations of income and social security taxes, (3) to State Governments in area of operations for audit of computation of income tax, (4) to Civil Service Commission in connection with retirement, life insurance, and health insurance accounts, (5) to authorized insurance carriers for use in balancing and reconciling payments, (6) to Federal Power Commission in connection with listing officers in the annual report of SPA to the FPC, (7) to the U. S. Department of Justice when related to litigation or anticipated litigation, (8) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (9) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (10) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/SW-- 2.

System name: Contracts System -- Interior, Southwestern Power Administration -- 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) processing requisitions and requests for purchasing materials and supplies and (b) processing invoices for payment. Disclosures outside the Department of the Interior may be made, (1) to the Treasury Department for issuance of checks for payment, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SW-- 4.

System name: Property Management System -- Interior, Southwestern Power Administration -- 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses are (a) processing survey reports of lost, stolen or worn out property and (b) assignment of property items, parking space and motor vehicles for official use. disclosures outside the Department of the Interior may be made (1) to the General Services Administration for assignment of parking space or motor vehicles, (2) to the Postal Service for assignment of parking space, (3) to the U. S. Department of

V41N170 AUG 31 76 UMI

Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (6) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (7) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/SW-- 5.

System name: Travel Record System -- Interior, Southwestern Power Administration -- 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use is (a) processing travel vouchers for reimbursement of official travel. Disclosures outside the Department of the Interior may be made (1) to the Treasury Department for issuance of travel reimbursement checks, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of security clearance, license, contract, grant or other benefit, (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/SW-- 6.

System name: Imprest Fund Cashiers -- Interior, Southwestern Power Administration--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use is (a) for control of funds handling appointments. Disclosures outside the Department of the Interior may be made, (1) to the Department of Justice when related to litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SW-- 7.

System name: Accidents -- Interior, Southwestern Power Administration--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses are (a) to identify deficiencies in the employee safety program that must be corrected in order to maintain a safe and healthful workplace for all employees, (b) determination of financial liability and disciplinary action, (c) input documents for Department of the Interior automated system for accident reporting and, (d) to Office of the Solicitor for use in determining tort, employee, and similar claims against the U. S. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/NPS-- 1.

System name: Special Use Permits -- Interior, NPS--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for (1) park management. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/NPS-- 2.

System name: Land Acquisition & Relocation Files -- Interior, NPS--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for (1) land acquisition and relocation purposes. Disclosures outside the Department of the Interior amy be made (1) to authorized title companies and closing agents for title policies and closings, (2) to the U. S. Department of Justice for preliminary and final title opinions and condemnation proceedings, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license. (6) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional office at the request of that individual.

INTERIOR/NPS-- 3.

System name: Land Acquisition Management Information System -- Interior, NPS--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for (1) land acquisition statistics for NPS personnel, Congressional or public information. Disclosure outside the department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license. (3) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional office at the request of that individual.

INTERIOR/NPS-- 4.

System name: Travel Records -- Interior, NPS--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for (1) travel advance control, control of GTR's and preparation of travel authorizations and vouchers. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS-- 5.

System name: Retirement Record -- Interior, NPS--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is (1) to keep current the employee's Federal employment history and retirement contribution. Disclosures outside the Department of the Interior may be made (1) to the Civil Service Commission in connection with administration of the Civil Service Retirement System, (2) to another Federal agency for the record of an employee who has transferred to that agency, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS-- 6.

System name: Audiovisual Performance Selection Files -- Interior, NPS-m6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to evaluate voice and photographic quality and to select performers and narrators for NPS productions. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS-- 7.

System name: National Park Service Historical Library -- Interior, NPS--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) evaluation of historical documents. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license. (3) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional office at the request in response to an inquiry from a Congressional office at the request of that individual.

INTERIOR/NPS-- 8.

System name: Property and Supplies Accountability -- Interior, NPS--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to identify the responsible individual for accountability of property and supplies. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign Aagencies responsible for investigating or prosecuting the violation or for for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS-- 9.

System name: Advisory Council on Historic Preservation Membership -- Interior, NPS--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to maintain the necessary records on expenses of members for the conduct of council business and to provide public information on the individual members of the council. Disclosures outside the Department of Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license. (4) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional office at the request of that individual.

INTERIOR/NPS--10.

System name: Central Files -- Interior, NPS--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to use a cross-reference in locating original correspondence, and to determine the action office that replied. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, or license.

INTERIOR/NPS--11.

System name: Congressional Correspondence, Advisory Council on Historic Preservation -- Interior, NPS--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to the Advisory Council staff for retrieval of correspondence between the Advisory Council and Congressional offices on Advisory Council business. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/NPS--12.

System name: U.S. Park Police Personnel Photograph File -- Interior, NPS--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) for management to aid in the investigation of personnel complaints. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS--13.

System name: Concessioners -- Interior, NPS--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to maintain a mailing list of concessioners for management information. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or Department of the Interior may be made (1) to the U. S. Department statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/NPS--14.

System name: Concessioner Financial Statement and Audit Report Files -- Interior, NPS--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to management for contract compliance and information. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/NPS--15.

System name: Concessions Management Files -- Interior, NPS--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to management for contract compliance and interpretation. Disclosures outside the department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) OF information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS--16.

System name: Position and Manpower Reporting System (PMRS) -- Interior, NPS--16.

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to issue reports on authorized positions and data related to positions and the incumbents. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS--17.

System name: Employee Financial Irregularities -- Interior, NPS--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to aid management in seeking recovery of funds stolen or otherwise misappropriated. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS--18.

System name: Collection, Certifying and Disbursing Officers, and Imprest Fund Cashiers -- Interior, NPS--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) the control of funds handling appointments. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license.

INTERIOR/NPS--19.

System name: Law Enforcement Statistical Reporting System, incident card reference and related files -- Interior, NPS--19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (1) to identify incidents in which individuals were involved, (2) to retrieve the report for information for the individual involved, such as accident reports and reports of found property, (3) to aid NPS law enforcement officers on a need to know basis. Disclosures outside the Department of the Interior may be made (1) to law enforcement officers from other agencies in their work on a need to know basis, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/NPS--20.

System name: Payroll --Interior, NPS -- 20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is (1) to maintain fiscal operations for payroll, leave, insurance, tax, retirement and cost programs. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of the Treasury for preparation of payroll checks and payroll deduction and other checks to Federal, State, and local government agencies, non-governmental organizations and individuals, (2) to the Internal Revenue Service and to State, commonwealth, territorial and local governments for tax purposes, (3) to the U. S. Civil Service Commission in connection with the Civil Service Retirement System, (4) to another Federal agency to which an employee has transferred, (5) to the U. S. Department of Justice when related to litigation or anticipated litigation, (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license; (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/NPS--21.

System name: Visitor Statistical Survey Forms -- Interior, NPS -- 21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (1) to evaluate existing management programs through statistical analysis of the replies furnished by the visitors, (2) to develop new thrusts that might be suggested by the visitors' comments. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BOR-- 1.

System name: Congressional Correspondence File -- Interior, BOR -- 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) easy retrieval for immediate response to telephone inquiries from members of Congress, staff members or constituents, on matters concerning L&WCF grant notifications. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, or appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BOR-- 2.

System name: Payroll System -- Interior, BOR--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to compute gross earnings; (b) to make deductions as applicable for items listed under category of records; (c) to have net pay checks issued to employees; (d) to furnish information to state agencies as requested for former employees applying for unemployment benefits. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BOR-- 3.

System name: Management by Objectives -- Interior, BOR--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) Project Management; (b) coordination and integration of BOR work plans with other participating Federal/State agencies. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BOR-- 4.

System name: Motor Vehicle Operations Program -- Interior, BOR--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the

records are (a) authorize a person to operate a government vehicle. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BOR-- 5.

System name: Financial Management System -- Interior, BOR--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) Labor Cost History; (b) work load analysis; (c) Project Management; (d) Manpower Analysis. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BOR-- 6.

System name: Property Hand Receipt File -- Interior, BOR--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) control of U. S. Government property consigned to an individual employee for temporary or short-term use; such as, hand calculators, transportation request books, rent-a-car cards, cameras, tape recorders, dictating equipment, and other portable items for which accountability records are required. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BOR-- 7.

System name: Travel and Transportation Automated Accounting System -- Interior, BOR--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide posting media for the accounting system; (b) to support payments, obligations, and other financial transactions; (c) provide support to the accountable officers accounts. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/FWS-- 1.

System name: Labor Cost Information Records -- Interior, FWS--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to serve as a tool in the financial and manpower management of service programs. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to on or anticipated litigation; (2) of information indicating a tion or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS-- 2.

System name: Travel Records -- Interior, FWS--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to form the legal basis for the disbursement of federal funds. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS-- 3.

System name: Security File -- Interior, FWS-- 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to (a) document security clearances granted to individuals, and (b) to document suitability determinations for Federal employment. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license; (3)from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS-- 4.

System name: Tort Claim Records -- Interior, FWS--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for evaluation by tort claims officers, attorneys in the Office of the Solicitor, Department of the Interior. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS-- 5.

System name: National Wildlife Refuge Special Use Permits -- Interior, FWS--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is identification of personnel having special use permits and cooperative farming agreements on National Wildlife Refuges. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS-- 6.

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System name: Hunting and Fishing Survey Records -- Interior, FWS--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the development of statistical analyses to assist in the management of the Nation's wildlife resources. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS-- 7.

System name: Water Development Project and/or Effluent Discharge Permit Application Review -- Interior, FWS--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to review and comment on permit applications. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of in individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS-- 8.

System name: Fish Disease Inspection Report -- Interior, FWS--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of fish disease inspection records maintained in the system is to certify the disease status of populations of fish in the case of transferring, marketing, or distribution control. Disclosures outside the Department of the Interior may be made (1) to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory: or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS-- 9.

System name: Farm Pond Stocking Program -- Interior, FWS--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to insure that the stocking policy is maintained and to keep track of where various species have been stocked. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--10.

System name: National Fish Hatchery Special Use Permits -- Interior, FWS--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to limit and control the use of the property at the National Fish Hatcheries. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--11.

System name: Real Property Records -- Interior, FWS--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) transfer of pertinent documents to authorized title companies or abstractors to obtain title evidence for closings; (b) transfer of pertinent documents to Regional Solicitors and the U. S. Department of Justice for title opinions and condemnation purposes; (c) for use of appraisal information in negotiations; (d) for permit and outgrant purposes; (e) reporting lands as excess to the General Services Administration for transfer or disposal. Disclosures outside the Department of the Interior may be made (1) to the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (3) Congressional inquiry.

INTERIOR/FWS--12.

System name: Fish Tag Returns -- Interior, FWS--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records is to (a) estimate population of large-mouth bass and other reservoir species of recreational, commercial and esthetic importance and (b) determine age structure of these species. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--13.

System name: North American Breeding Bird Survey -- Interior, FWS--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the annual monitoring of migratory bird populations to determine trends in their abundance. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--14.

System name: Great Lakes Commercial Fisheries Catch Records -- Interior, FWS--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine population levels of species of fish of commercial, recreational and esthetic interest and (b) to determine effects of man's activities on these species. Disclosures outside the Department of the Interior may be made (1) to the National Marine Fisheries Service, U. S. Department of Commerce for economic evaluations of Great Lakes commercial fisheries and for publication in its Standard Statistical Digests and related media as provided in a cooperative agreement, (2) to the Departments of Natural Resources or Conservation of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin for resource assessment, effective fishery management, economic and social considerations, regulatory purposes, and for ongoing biolgoical research, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation

or for enforcing or implementing the statute, rule, regulation, order or licensel and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--15.

System name: American Attitudes Toward Animals -- Interior, FWS--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to make policy decisions with respect to attitudes in general. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--16.

System name: Waterfowl Hunter Attitude Study -- Interior, FWS--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (1) the waterfowl hunting regulationE 8 and the (2) the adequacy of current management of waterfowl hunting used by service employees. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--17.

System name: Diagnostic-Extension Service Records -- Interior, FWS--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) internal use for identifying regional and national fish and wildlife disease patterns, occurrence and importance (b) as an aid in developing research priorities and (c) for comparison of pathological agents, disease pathology. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--18.

System name: Animal Damage Control Authorization Records -- Interior, FWS--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to document the use of service animal damage control (ADC) devices; (b) to gather data of predator, rodent, and bird damage; (c) to monitor service field employees' use of ADC devices and techniques; (d) to help determine the success of control devices; (e) to request and permit the service to conduct ADC work on the signator's lands; (f) to help protect the Government from tort claims, charges of trespass and other misunderstandings. Disclosures outside the Department of the Interior may be made (1) to cooperating Federal, State, county, and local governmental units; and cooperating private associations and organizations for administrative purposes, provided that such governmental units and cooperating organizations and associations have provided advance written assurance that the record will be used solely as a statistical research or reporting record and that such record will not be transferred in a form that is individually identifiable; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--19.

System name: Endangered Species Licensee System -- Interior, FWS--19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify licensees authorized to import or export fish and/or wildlife or products thereof. disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) publication in the Federal Register, as required by law.

INTERIOR/FWS--20.

System name: Investigative Case File System -- Interior, FWS--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to include all investigative and enforcement information reported to and investigated by the Division of Law Enforcement, U. S. Fish and Wildlife Service. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/FWS--21.

System name: Permits System -- Interior, FWS--21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify holders of permits which authorizes otherwise illegal activity having to do with fish and/or wildlife. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) publication in the Federal Register, as required by law.

INTERIOR/FWS--22.

System name: U.S. Deputy Game Warden -- Interior, FWS--22.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to identify holders of and applicants for U. S. Deputy Game Warden commissions. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS--23.

System name: Motor Vehicle Permit Log -- Interior, FWS--23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is a ready reference of names of holders of motor vehicle permits and date when permit must be renewed. Disclosures out-

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side the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS--24.

System name: Payroll -- Interior, FWS--24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) fiscal operations for payroll, leave, insurance, tax, retirement and cost programs; (b) disclosure to the Department of the Treasury for preparation of (1) payroll checks and (2) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (c) disclosure to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (d) disclosure to the Civil Service Commission in connection with retirement, life insurance and health insurance accounts; (e) disclosure to another Federal agency to which an employee has transferred. Disclosures outside the Department of the Interior may be made (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, grant or other benefit; and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/FWS--25.

System name: Contract and Procurement Records -- Interior, FWS--25.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is evaluation by contracting officers and technical representatives of operating (requesting) Division or Office placing name and address on bidders list for use in sending out future solicitations. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/FWS--26.

System name: Migratory Bird Population and Harvest Systems -- Interior, FWS -- 26.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records maintained in the system are (a) data are routinely used by biologists and/or law enforcement offices of the U. S. Fish and Wildlife Service, Canadian Wildlife Service, Mexican Department Fauna Silvestre, and State and Provincial Conservation Agencies to further understanding, protection, management and utilization of the North American migratory bird resource; (b) portions of the data files including name and address listings are used for research purposes and for guidance, planning and coordination of research on migratory birds; (c) reports of summarized and analyzed data originating from banding and surveys are analyzed and published by the U. S. Fish and Wildlife Service and other cooperating agencies: studies containing analyzed migratory bird population and harvest data also appear in the technical literature involving the records or the subject matter of the records. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information that may aid investigations or indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to the Canadian Wildlife Service, Environmental Management Service, Department of the Environment, Ottawa, Ontario, Canada K1A OH3 and Mexican Direccion General Fauna Silvestre, Aquiles Serdan 28-70, Pisa, Mexico 3, DF, Mexico, as part of cooperative agreements; (7) routinely or upon request all or portions of the files, including name and address listings, are supplied to cooperators and researchers in other Federal, State, and local agencies; members of national, regional or local conservation organizations, university researchers and private individuals who establish a bona fide need for the information; (8) to contributors of band recovery information related to the bander and banding of the banded bird they reported, likewide, contributors of survey and harvest information are sometimes supplied with reports of populations and harvest surveys to which they had contributed. (Routine uses (1) and (2) apply only to those individuals in nos. (1) and (2) of the above paragraph 'Categories of individuals covered by the system.' and not to individuals who supply voluntary information to aid the Service in migratory bird management and research).

INTERIOR/FWS--27.

System name: Correspondence Control System -- Interior, FWS--27.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to provide control for prompt handling of priority correspondence by the U. S. Fish and Wildlife Service. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC-- 1.

System name: Accidents -- Interior, Reclamation--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to analyze the facts and circumstances surrounding each accident for cause, (b) for compilation of statistical data, (c) adjudicating tort, appropriation act, and employee claims. Disclosures outside the Department of the Interior may be made (1) Office of Worker's Programs when a Federal employee has an accident; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevent or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/REC-- 2.

System name: Accounts Receivable -- Interior, Reclamation--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for documentation supporting Bureau's accounts receivable. Disclosures outside the Department of the Interior may be made (1) to the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC-- 3.

System name: Attendance at Meetings -- Interior, Reclamation--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to document attendance at meetings and provide opportunity for administrative overview of current organizational policy requirements. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/REC-- 4.

System name: Audiograms (Hearing Test Record) -- Interior, Reclamation--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for interpretation to take appropriate action to abate noise exposure hazard to employee. Disclosure outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC-- 5.

System name: Claims -- Interior, Reclamation--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to analyze the facts and circumstances surrounding each accident, (b) for compilation of statistical data, (c) adjudicating tort, appropriation act, and employee claims. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/REC-- 6.

System name: Collection Contracts -- Interior, Reclamation--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for (a) for the administration and negotiation of documents to collect money due the Bureau of Reclamation. Disclosures outside the Departmentof the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC-- 7.

System name: Concessions -- Interior, Reclamation--7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is administration of Reclamation facilities. Disclosures outside the Department of the Interior may be made (1) to State or local government agencies for taxation purposes; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC-- 8.

System name: Driver's License -- Interior, Reclamation--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to administer driver license program. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC-- 9.

System name: Foreign Visitors and Observers -- Interior, Reclamation--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is internal administration. Disclosures outside the Department of the Interior may be made (1) to news media as a contact; (2) to request or who may need to contact foreign visitors in case of emergency; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--10.

System name: Identification Cards -- Interior, Reclamation--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain control of identification cards issued. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or an-

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ticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--11.

System name: Individual Record of Issues -- Interior, Reclamation--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to collect I.D.'s, passes, drivers licenses, and keys when employees terminate employment; (b) to record I.D. numbers and drivers license numbers and expiration dates Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

INTERIOR/REC--12.

System name: Inventions and Patents -- Interior, Reclamation--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to administer internal program for determining rights of employee to invention and status of securing patent for invention. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--13.

System name: Irrigation Management Service -- Interior, Reclamation--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to assist farmers on Federal Projects in the selection of the proper amounts and timing of irrigation deliveries. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--14.

System name: Land Exchange -- Interior, Reclamation--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain a history of land exchange and to protect individual rights. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--15.

System name: Land Settlement Entries -- Interior, Reclamation--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to administer settler program and to determine if applicant is qualified to farm unit. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--16.

System name: Litigation -- Interior, Reclamation--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) show record of ownership of lands and right-of-way required for reclamation purposes; (b) for record of final disposition of case. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government body having partial or complete jurisdiction over the claim or related claims; (2) to State or local government agencies for taxation purposes; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--17.

System name: Lands - Leases, Sales, Rentals, and Transfers -- Interior, Reclamation--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) make known to interested individuals lands available for lease, sale, or rental; (b) to administer leases, sales, rentals, and transfers. Disclosures outside the Department of the Interior may be made (1) to appropriate Federal agency if it concerns other than reclamation lands; (2) to various counties for possessory interest tax; (3) anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--18.

System name: Lease of Housing -- Interior, Reclamation--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to administer leasing and utilization of housing. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security

clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies here necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--19.

System name: Mineral Location Entries -- Interior, Reclamation--19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine disposition of claims. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--20.

System name: Movable Property ADP Records -- Interior, Reclamation--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify responsible individuals for accountability of movable property. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--21.

System name: Movable Property Individual Responsibility -- Interior, Reclamation--21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to account for all property charged to individuals; (b) to record acquisition-relinquishments and other transactions. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--22.

System name: Oil and Gas Applications -- Interior, Reclamation--22.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for proof and purpose of applications, and land status information. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--23.

System name: Parking -- Interior, Reclamation--23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to assign parking space. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--24.

System name: Payroll, Attendance and Leave Records (PAYPERS) -- Interior, Reclamation--24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for leave records and to prepare payrolls. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of payroll checks and payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Civil Service Commission in connection with the Civil Service Retirement system; (4) to other Federal agencies to which employees have transferred; (5) to the U. S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license; (7) from the record of an individual in response to an Inquiry from a Congressional office made at the request of that individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--25.

System name: Personal Author Reports -- Interior, Reclamation--25.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to research technical reports by authors. Disclosures outside the Department of the Interior may be made to the general public.

INTERIOR/REC--26.

System name: Photographic Files -- Interior, Reclamation--26.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) in the administration of Bureau award and research programs. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--27.

System name: Publication Sales -- Interior, Reclamation--27.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to account for monies received for publications. Disclosures outside the Department of the Interior may be made (1) to the Government Printing Office for publications; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of

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an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--28.

System name: Real Property and Right-of-Way Acquisitions -- Interior, Reclamation -- 28.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain record of ownership of lands and rights-of-way acquired for Reclamation purposes. Disclosures outside the Department of the Interior may be made (1) to transfer administration of the land for transmission of power, recreation, fish and wildlife activities, and other purposes as required to another Federal agency, State and local government; (2) to transmit deeds to local County government to record ownership data; (3) to furnish copy of deed to appropriate irrigation district operating the irrigation system to advise right-of-way available in operating the system; (4) to transmit documents to Department of Justice for title opinion; (5) to the U. S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--29.

System name: Right-of-Way Applications -- Interior, Reclamation--29.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain land status information and proof of right-of-way permits for legal purposes. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--30.

System name: Safe Driving Records -- Interior, Reclamation--30.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is for reporting purposes and for safe driving awards. Disclosures outside the Department of the Interior may be made to (1) National Safety Council for issuance of safe driving awards; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/REC--31.

System name: Sale of Power to Individuals -- Interior, Reclamation--31.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for power accounting. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anitcipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--32.

System name: Special Use Applications, Licenses, and Permits -- Interior, Reclamation--32.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to administer Reclamation-owned lands and facilities; (b) to allow individuals, firms or other Government entities to use Reclamation lands for special limited uses. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--33.

System name: Speeches -- Interior, Reclamation--33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for reference purposes by Public Relations Officer.

INTERIOR/REC--34.

System name: Thefts Listing -- Interior, Reclamation--34.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to document reporting of loss or theft. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--35.

System name: Travel Approval Authorizations and Reports -- Interior, Reclamation--35.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to authorize employees to travel on official business. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--36.

System name: Travel Voucher Records -- Interior, Reclamation--36.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for payment of travel and transportation. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--37.

System name: Trespass Cases -- Interior, Reclamation--37.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to document final disposition of trespass. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/REC--38.

System name: Water Right Applications -- Interior, Reclamation--38.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for administration and negotiation of water right applications with individual landowners; (b) to entitle purchaser of water right certificate to final water right certificate upon completion of statutory requirements. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--39.

System name: Water Rights Acquisition -- Interior, Reclamation--39.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for administration and negotiation of individual water service and agreements on division of water. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--40.

System name: Water Sales and Delivery Contracts -- Interior, Reclamation--40.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) administration and negotiation of water sales contracts with individual landowner; (b) to sell water from Corps of Engineers dam and reservoir project. Disclosures outside the Department of the Interior may be made to State of California Water Resources Control Board for settlement of water rights; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--41.

System name: Permits -- Interior, Reclamation--41.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To allow Reclamation employees to perform required work on private lands. (2) To allow individuals to erect and maintain structures, on Bureau facilities or land. (3) Land status information, proof of permit and legal applications. (4) Transfer to U.S. Department of Justice in event of litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal, or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

INTERIOR/REC--42.

System name: Recordable Contracts -- Interior, Reclamation--42.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine value of excess land without reference to proposed construction of irrrigation works; (B) to determine eligibility of land to receive water; (c) to establish eligibility of landowner to receive federall-financed project water. Disclosures outside the Department of the Interior may be made (1) to various counties for recording of agreement pertaining to sale of excess lands; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--44.

System name: Vendor Payment Records--Interior, Reclamation -- 44.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for documentation to support disbursement of funds. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--45.

System name: Equipment, Supply and Service Contracts--Interior, Reclamation -- 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for administration of the contract. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order of license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--46.

System name: Employee Trip Reports--Interior, Reclamation -- 46.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to document suggested improvements in operations or structure modifications. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/REC--47.

System name: Employees' Compensation Records -- Interior, Bureau of Reclamation -- 47.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for reference to reply to employee requests. Disclosures outside the Department of the interior may be made (1) to the

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U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BLM-- 1.

System name: Mining Claim Title Clearance -- Interior, BLM--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify owners of record of mining claims on National Resource lands and (b) to establish the chain of title of ownership transfers between private individuals to validate the owner of record. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation,, order or license.

INTERIOR/BLM-- 2.

System name: Range Management System -- Interior, BLM--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify owners of grazing leases, licenses, and permits (b) to provide information concerning grazing leases, licenses, and permits for administrative use, and (c) for mailing of bills for rental due. Disclosures outside the Department of the Interior may be made, (1) to a member of the general public in response to a specific request for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 3.

System name: Mineral Lease Management -- Interior, BLM--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify ownership of mineral leases and the amount of acreage leased by each individual, (b) to mail courtesy bills for rental due and and receipts of payment, and (c) to document for administrative use, information for the management, disposal and use of National Resource lands and resources. Disclosures outside the Department of the Interior may be made, (1) to a member of the general public in response to a specific request for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 4.

System name: Coal Lease Data System -- Interior, BLM--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify ownership of Federal Coal Leases and (b) to document for administrative use information for the management, disposal, and us of National Resource lands and resources. Disclosures outside the Department of the Interior may be made (1) to a member of the general public in response to a specific request for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) FROM the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 5.

System name: Alaska Native Claims -- Interior, BLM--5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to process claims for rights and interests in National Resource lands,)b) for recordation of adjudicative actions pertaining to the claims and (c) to index documentations in case files supporting administrative actions and notations made on land status records. Disclosures outside the Department of the Interior may be made (1) to a member of the general public in response to a specific request for pertinent information, (2) to appropriate federal agencies when concurrence or supporting information is required prior to granting a right or interest in National Resource lands and resources, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 6.

System name: Mineral Surveyor Appointment File -- Interior, BLM--6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to process applications for appointment and (b) to issue notices of appointments. Disclosures outside the Department of the Interior may be made (1) to a member of the general public in response to a request for identification of appointed mineral surveyors within a particular state, (2) to Federal, State or local agencies when necessary to obtain information relevant to the application for appointment, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 7.

System name: Land and Resource Case File -- Interior, BLM-- 7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are, (a) to process applications for rights and interests in National Resource lands, (b) for recordation of adjudicative actions pertaining to the application, (c) to index documentations in case files supporting administrative actions and notations made on land status records, and (d) for recordation of acquisitions. Disclosures outside the Department of the Interior may be made, (1) to appropriate Federal agencies when concurrence is required prior to granting or acquiring a right or interest in lands or resources, (2 to a Federal, State or local agencies or a member of the general public in response to a specific request for pertinent information, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 8.

System name: Aircraft Passenger Manifest Records - Fire Control -- Interior, BLM--8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify individuals moved to or from a fire area. Disclosures outside the Department of the Interior may be made (1) to Federal, State or local agencies to verify the movement of an individual to or from a fire area, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM-- 9.

System name: Property and Supplies Accountability -- Interior, BLM--9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify responsible individuals for accountability of property and supplies. Disclosures outside the Department of the Interior may be made, (1) to federal, State, or local agencies to recover accountable property or supplies, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--10.

System name: Vehicle Use Authorization -- Interior, BLM--10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to maintain records of authorized uses of government vehicles. Disclosures outside the Department of the Interior may be made (1) to Federal, State or local agencies to verify an authorized use, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--11.

System name: Identification Cards and Passes -- Interior, BLM--11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to maintain records of employees and other individuals issued passes and identification cards and (b) to identify qualified trained fire fighters. Disclosures outside the Department of the Interior may be made (1) to Federal, State or local agencies to identify qualified fire fighters, law enforcement officers and special investigators, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, or license.

INTERIOR/BLM--12.

System name: Manpower Management -- Interior, BLM--12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for the management of manpower and position organization control. Disclosures outside the Department of the Interior may be made, (1) from the record for reports to appropriate Federal and State agencies, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BLM--13.

System name: Safety Management Information -- Interior, BLM--13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to document information for the Department of the Interior automated system for accident reporting. Disclosures outside the Department of the Interior may be made, (1) to the Department of Labor in the event there is a claim for compensation, (2) from the record to individuals and companies involved, responsible or sureties, (3) to the U. S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--14.

System name: Security Clearance Files -- Interior, BLM--14.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify employees having security clearance and their degree of security clearance. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

INTERIOR/BLM--15.

System name: Correspondence Control -- Interior, BLM--15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify correspondents and their subject matter of interest. Disclosures outside the Department of the Interior may be made, (1) to a member of the general public or a Federal official in response to specific requests for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BLM--16.

System name: Mineral and Vegetal Material Sales -- Interior, BLM--16.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify for administrationalresources lands. Disclosures outside the Department oof the Interior may be made (1) to a member of the general public in rresponse to a specific request for pertinent information, (2) from the record for a semi-annual report to Congress, (3) to the U. S. Department ofJustice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of astatute, regulation, rule, order or license, to appropriate Federal,State, local or foreign agencies responsible for invvestigating orprosecuting the violation or for enforcing or implementing thestatute, rule, regulation, order or license, (5) from the record of anindividual in response to an inquiry from a Congressional officemade at the request of that individual.

INTERIOR/BLM--17.

System name: Payroll -- Interior, BLM--17.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the

V 41 170 AUG 31 76 UMI

records are (a) for the recordation of pay data for the issuance of pay checks and (b) for the recordation of accumulated and used leave. Disclosures outside the Department of the Interior may be made, (1) to the Department of the Treasury for preparation of pay checks and checks for authorized deductions, (2) to the Internal Revenue Service and to State, commonwealth, territorial and local governments for tax purposes, (3) to the Civil Service Commission in connection with the Civil Service retirement system, (4) to another Federal agency to which an employee has transferred for accumulated leave, (5) to appropriate agencies, Federal and State for required reports, (6) to the U. S. Department of Justice when related to litigation or anticipated litigation, (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BLM--18.

System name: Criminal Case Investigation -- Interior, BLM--18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to accumulate investigative data to determine if there is an indication of a violation of a Federal law. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/BLM--19.

System name: Civil Trespass Case Investigations -- Interior, BLM--19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to accumulate investigative data to determine whether a trespass has been committed. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--20.

System name: Employee Conduct Investigations -- Interior, BLM--20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify employee and subject matter of allegation and (b) to accumulate investigative data to determine the validity of the allegation. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

INTERIOR/BLM--21.

System name: Travel -- Interior, BLM--21.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of records are (a) to process requests for and issue authorizations to travel at the government's expense and (b) to process expense vouchers upon completion of travel. Disclosures outside the Department of the Interior may be made, (1) to the U. S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--22.

System name: Financial Management -- Interior, BLM--22.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to designate payees to whom payments are to be made. Disclosures outside the Department of the Interior may be made (1) to Federal, State or local agencies in response to specific requests for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--23.

System name: Contract Files -- Interior, BLM--23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify contractors, prospective supplies, bidders and subject matter of interest. Disclosures outside the Department of the Interior may be made (1) to Federal, State or local agencies in response to specific requests for pertinent information, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

INTERIOR/BLM--25.

System name: Outer Continental Shelf Lease Sale -- Interior, BLM--25.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to identify successful bidders for each sale. Disclosures outside the Department of the Interior may be made (1) to the general public by the publication of information for all bids on each sale, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

INTERIOR/BLM--26.

System name: Incentive and Honor Awards -- Interior, BLM--26.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to accumulate information concerning an individual to be used as a basis for awarding and/or honoring employees and non-employees. Disclosures outside the Department of the Interior may be made, (1) to nominate individuals for non-government awards, (2) to the U. S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

INTERIOR/OHA-- 1.

System name: Hearings and Appeals Files - Interior, OHA--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for the adjudication and determination of issues in hearings and appeals proceedings. Disclosures outside the Department of the Interior may be made (1) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SOL-- 1.

System name: Litigation, Appeal and Case Files -- Interior, Office of the Solicitor--1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are to provide legal services to the Department of the Interior. Disclosures outside the Department of the Interior may be made (1) to another Federal agency or a State or local government having a subject matter interest in the records; (2) to an individual or entity aligned with the United States or the Department of the Interior or any official or constituent unit thereof as a plaintiff, petitioner, defendant or respondent in any judicial or administrative proceedings; (3) to a court, magistrate or administrative tribunal in the course or presenting evidence thereto, or to opposing counsel in the course of settlement negotiations; (4) to the U. S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SOL-- 2.

System name: Claims Files -- Interior, Office of the Solicitor--2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for the adjudication of tort, Federal employee, admiralty and irrigation claims. Disclosures outside the Department of the Interior may be made (1) to another Federal agency or a State or local government body having partial or complete jurisdiction over the claim or related claims; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation for for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SOL-- 3.

System name: Patent Files -- Interior, Office of the Solicitor--3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for ongoing retrieval and docketing purposes and intraoffice management and (b) for the preparation of patent applications for submission to the U. S. Patent Office. Disclosures outside the Department of the Interior may be made (1) to the U. S. Patent Office; (2) to inventors and others directly concerned with the government funded research and development information concerning filing dates, serial numbers and patent or trademark registration numbers; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

INTERIOR/SOL-- 4.

System name: Workload Analysis -- Interior, Office of the Solicitor--4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are for the management of workload of the Office of the Solicitor. Disclosures outside the Department of the Interior may be made (1) to the Office of Mnaagement and Budget in connection with preparation of the President's budget; (2) to another Federal agency having a subject matter interest in a case, proceeding or other matter described in the records; (3) to the U. S. Department of Justice when related to litigation or anticipated litigation.

[FR Doc.76-25338 Filed 8-30-76;8:45 am]

V 41 170 AUG 31 76 UMI

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(Revised as of July 1, 1976)

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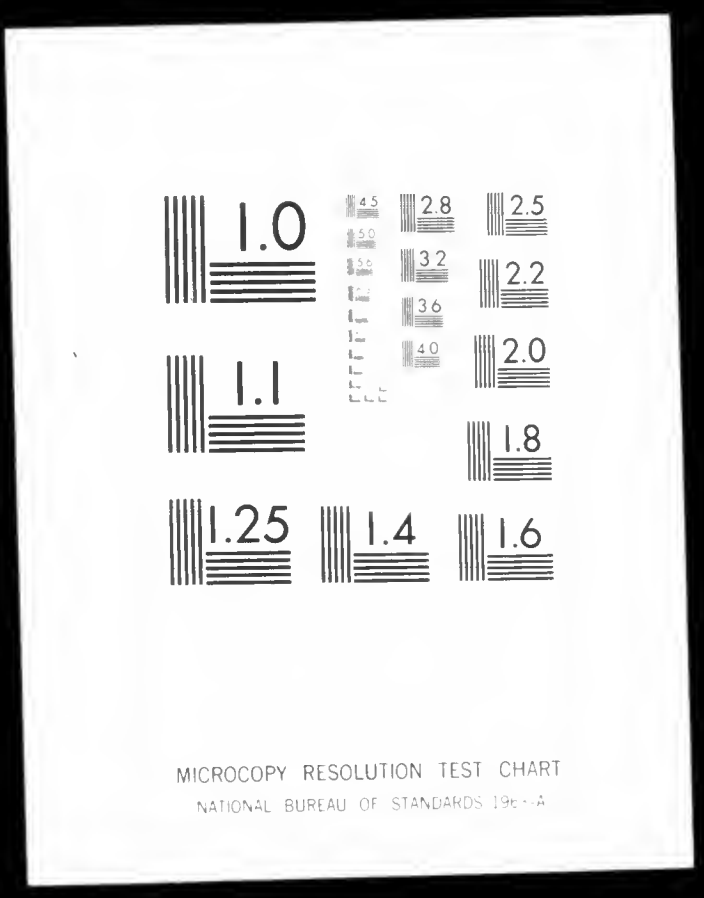
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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 ÷ 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.

THE END